

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
TRIAL DIVISION
JUDICIAL DISTRICT OF FREDERICTON

BETWEEN:

HER MAJESTY THE QUEEN

- and -

ALLAN JOSEPH LEGERE

TRIAL held before Honourable Mr. Justice
David M. Dickson and a Petit Jury at Burton, New
Brunswick, commencing on the 26th day of August,
A. D. 1991, at 10:00 in the forenoon.

APPEARANCES:

Graham J. Sleeth, Esq.,)
Anthony Allman, Esq., and) for the Crown.
John J. Walsh, Esq.,)

Weldon J. Furlotte, Esq., for the Accused.
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VERNA PETERSON
COURT REPORTER

COURT RESUMES AT 9:30 a.m., SEPTEMBER 18, 1991.

(ACCUSED IN DOCK.)

THE COURT: O.K. for the jury?

MR. ALLMAN: Two very minor matters of housekeeping, My
5 Lord - actually three. One is that if you look at
the list you'll see that 109 is Corporal Clairmont
Tremblay.

THE COURT: Yes.

MR. ALLMAN: He isn't in this province and he's been
10 delayed, he'll be here tomorrow, so we'll have to
go ahead without him and I will undertake to come
back to him. He's basically just a continuity
aspect towards one of the items, so he'll be
tomorrow.

15 THE COURT: He's very short, anyway, I gather, is he?

MR. ALLMAN: I expect he'll be very short. Betty
Flanagan, #111, she is sick. We've advised Mr.
Furlotte, he says that she will not be required,
so Betty Flanagan can be taken off the list, and
20 the last matter for the moment, you may recall
that Pierre Lefebvre we have down earlier on to be
recalled but we didn't have a location where we -
by an omission we've not got the place where we
were to recall him. We propose to insert him
25 between #140, Leo Roy, and 141, Dr. McKay, so I've
called him on my list 140A.

THE COURT: That's Corporal Lefebvre?

MR. ALLMAN: Corporal Lefebvre - sorry, Constable.

THE COURT: That's everything?

30 MR. ALLMAN: Everything for now, yes.

THE COURT: I believe you indicated earlier #120 was sort
of the end of the Daughney phase?

MR. ALLMAN: Well, we're out of the Daughney phase now,
really. We're into the phase of what occurs

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Cpl. Gosselin - Direct

between Daughney and Flam.

THE COURT: Daughney and Smith.

MR. ALLMAN: Daughney and Smith, I'm sorry, yes.

5 THE COURT: And then?

MR. ALLMAN: Smith proper, I believe, would start with -
well, Ron Godin and Dan Chiasson.

THE COURT: All right, jury, please.

10 (JURY CALLED - ALL PRESENT.)

THE COURT: Now, you have another witness?

CORPORAL RONALD GOSSELIN, called as a witness,
being duly sworn, testified as follows:15 DIRECT EXAMINATION BY MR. ALLMAN:Q. Would you state your name and in case anybody
hasn't gathered it, occupation?A. My name is Corporal Joseph Ronald Gosselin. I'm
a peace officer, member of the Royal Canadian
20 Mounted Police. I'm presently stationed in
Westfield, Kings County, Province of New
Brunswick.Q. On the 29th of November, 1989, where were you
stationed?25 A. On the 29th of November, 1989, I was stationed in
Jacquet River, New Brunswick.Q. And on that date what if anything did you do that
has a connection to this matter that's now before
the Court?30 A. On the 29th of November, 1989, Mr. Antoine Guitard
which was the last witness yesterday afternoon
came to our office in Jacquet River and turned
over to me two empty boxes of rifles.35 Q. I'm showing you now what appears to be an empty
rifle box the Court has marked as PP. Can you

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5 look at that and tell me anything about it,
including a reference to any markings that are on
it?

A. Yes, this is one of the boxes I received from Mr.
Antoine Guitard on the 29th of November, 1989. At
the time I put my initials, I put an exhibit tag
on it, and the tag is bearing a file number, the
10 date, my initials, and the time I received it from
Mr. Antoine Guitard.

Q. After you received that item from Antoine Guitard
what did you do with it?

A. After I received this box from Mr. Antoine Guitard
15 I put it in what we call our exhibit locker room
which have - I was the member who was the only key
for that specific locker.

Q. And how long did it remain there?

A. I kept that item until the 18th of July, 1991. At
20 that time I made a patrol to Newcastle, New
Brunswick, and this box was turned over to
Constable Davis.

Q. And Constable Davis was a previous witness?

A. That's correct.

25 MR. ALLMAN: Subject to any objection, My Lord, I believe
we've proved continuity up on this item now and I
would ask that the PP, the rifle box, be marked as
an exhibit.

30 THE COURT: Well, you've proved continuity but have you
proved connection with the case? Perhaps there
may be future evidence coming.

MR. ALLMAN: There will be future evidence coming that I
believe will indicate its relevance, and if it
never becomes relevant, then it will be of no
35 assistance to the jury. This is always a

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difficult question with exhibits, do you mark them
as exhibits when they're continuity is proved up
5 or do you wait until they're -

THE COURT: Well, strictly nothing is admissible as an
exhibit until it's shown to have some relevance in
the case. You know, if - well, if defence counsel
wants to agree to it, it can be done, although you
10 shouldn't be asking him to make concessions.

MR. ALLMAN: Yes, I'll leave it as an identification and
we'll come back to it later.

THE COURT: If later you show that the rifle that it
contained has some bearing on this case - it's the
15 same with the rifles at this point.

MR. ALLMAN: Yes, I believe we'll be able to do that, My
Lord, and we'll deal with it at that time.

THE COURT: All right.

MR. ALLMAN: I'm showing you now another empty box,
20 apparently a gun box, marked as QQ, I believe,
by the Court. What can you tell us about that?

A. This is another rifle box which I received from
Mr. Antoine Guitard on the 29th of November, 1989.
Mr. Antoine Guitard came to our office in Jacquet
25 River and turned this box along with the other box
over to myself. I marked it with one of our
exhibit tags, I put a file number, the date,
the time and my initials. The tag is also bearing
my initials. I kept that box under key at the
30 R.C.M.P. in Jacquet River until the 18th of July,
1991, at which time I made a patrol to Newcastle,
New Brunswick, at the R.C.M.P. office in
Newcastle, and I turned this box to Constable
Davis.

35 Q. That's the same Constable Davis you turned the

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other box to and that's a previous witness?

A. That's correct, both boxes were turned over to him
5 at the same time.

MR. ALLMAN: Thank you, I have no other questions.

MR. FURLOTTE: I have no questions.

THE COURT: I hope you won't think I'm being too hard on
you but I just want to point out to the jury that
10 another quaint expression the R.C.M.P. officers
always use is, "We made a patrol". They never say
"We drove somewhere", or "We took somewhere", they
always make a patrol to Newcastle or wherever.
I'm not being critical of you, you all do it, but
15 it's fair enough. You use a patrol car, I suppose
that's where it originates. Thank you very much.

MR. ALLMAN: I suppose sometimes they walk and sometimes
they take dog sleds.

THE COURT: Yes, but it's still a patrol.

20 MR. ALLMAN: Still a patrol.

MR. LEGERE: Your Honour, I think there's been a mistake
with Mr. Guitard yesterday. I think my lawyer
would like to have a voir dire on that. We had an
error yesterday about Mr. Guitard, about the
25 knife.

THE COURT: Mr. Furlotte, do you have anything to say?

MR. FURLOTTE: My Lord, I intend to address this this
afternoon. I informed that to Mr. Legere and Mr.
Legere wants it done now but I prefer to do it
30 this afternoon in the absence of the jury.

THE COURT: Well, we'll do it this afternoon. Mr.
Allman, you have another witness.

Cst. Carnahan - Direct

CONSTABLE DEREK CARNAHAN, called as a witness,
having already been sworn, testified as
5 follows

DIRECT EXAMINATION BY MR. SLEETH:

- Q. Constable Carnahan, you were in court yesterday
and heard testimony being given by one Antoine
Guitard?
- 10 A. Yes.
- Q. And do you have matters which you wish to relate
to the jurors presently surrounding the circum-
stances of those dates and times?
- A. Yes.
- 15 Q. Please, then, continue, tell us what you did.
- A. October 29, 1989, as a result of a call at 6:35
a.m. I made a patrol to the Morada Motel at
64 King Street, Town of Chatham, County of
Northumberland, Province of New Brunswick, and
20 there on the motel property and adjoining
property I found various items which included two
empty rifle carrying cases, a web belt with a
knife, three empty shell boxes with calibres -
.270 calibre, .22-250 calibre, and .308 calibre
25 marked on them, a three-foot crowbar, an empty
prescription pill bottle, a roll of red tape, two
bags containing shot pellets, and an empty green
pouch.
- Q. When you found these what did you do with them?
- 30 A. I seized these items, transported them to the
Chatham Police Department, and called the Ident.
Section in Bathurst.
- Q. And by the Ident. Section in Bathurst do you mean
a particular member of that Section?
- 35 A. Sergeant Chiasson.

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- Q. O.K., and did you have contact with Chiasson later that day, or later on?
- 5 A. Yes, he arrived at the Chatham Police Station and fingerprinted the items.
- Q. You observed him doing these things?
- A. Yes.
- Q. What was done with the items, to your knowledge, after that?
- 10 A. They were returned.
- Q. To whom?
- A. Mr. Guitard.
- Q. And do you know by whom this was done?
- 15 A. Corporal Bruce, Chatham Police Department.
- Q. I wonder if you would just take this pointer for a moment, Constable, and if you could point out to the jurors where this Morada Motel is located, please?
- 20 THE COURT: That's on aerial photo - what was that P-1?
- MR. SLEETH: P-2, I believe, My Lord - pardon me, My Lord, you're correct, P-1.
- A. The Morada Motel is situated 64 King Street. It's just off the intersection from Howard Street.
- 25 We come in King Street and there's Howard cutting across here and then the Morada Motel is situated right there.
- Q. Thank you, Constable. Perhaps you'd just take this yellow pin and if you could just stick that in P-1 at the location of the Morada Motel. Now, in what year did you join the Chatham Police Force? You gave this earlier in your testimony but will you remind us?
- 30 A. I believe in my testimony earlier I said I started full time September, 1988. Originally I
- 35

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started part time with the Chatham Police Department in May, 1987.

5 Q. And were you aware at the time that you joined the Chatham Police Force where prior to that Mr. Allan Legere would have been living?

A. Yes.

10 Q. Would you be able to indicate to the jurors perhaps again using this pointer where that would have been?

A. To my knowledge he lived within this area right here, just off from the Kelly Road and the Morrissey Cove area.

15 Q. O.K., you're again pointing at P-1, and perhaps again you could just take this yellow pin, if you could point the location, indicate it by fixing that on P-1. Constable, I wonder if you could just put the number 5 with this blue pen on P-1
20 beside the location which you've indicated as being the Morada Motel, and if you would also, please, while you're up, Constable, if you would indicate with a number 6 beside the location which you've indicated to you is known to be the former
25 residence of Mr. Allan Legere.

THE COURT: Mr. Sleeth, incorporated in your question was something about a date. I wasn't quite clear on that. Will you clarify that, please?

30 MR. SLEETH: Pardon me, My Lord. What date was it that - this last question of mine, My Lord?

THE COURT: Well, yes. Well, when Mr. Legere may have lived at Morrison Cove or in that area.

MR. SLEETH: O.K., this would have been, to your knowledge, around what years that Mr. Legere
35 would have been living at that location?

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A. As years I'm not sure, I couldn't answer that question honestly.

5 Q. Would it be before '86?

A. It was before '86, yes.

MR. SLEETH: Thank you very much, Constable.

MR. LEGERE: '75 to '77.

THE COURT: Cross-examination, please, Mr. Furlotte?

10

CROSS-EXAMINATION BY MR. FURLOTTE:

Q. Could it have been before 1980 that Mr. Legere had lived at that spot?

A. It possibly could have.

15 Q. Could it have been before 1960?

A. I don't know, sir.

Q. How do you know Mr. Legere lived there, hearsay evidence, or do you know personally?

A. It would be hearsay, it was passed on to me, sir.

20 Q. So in other words you can't say that Mr. Legere ever lived there, personally?

A. I did not know him to live there, no.

MR. FURLOTTE: I have no further questions.

THE COURT: Re-examination?

25

REDIRECT EXAMINATION BY MR. SLEETH:

Q. Constable, in this court room did you hear Mr. Allan Legere address us saying about the dates that he lived at that location?

30 A. Yes, I did.

Q. They were?

A. I believe it was '75 to '77.

MR. SLEETH; Thank you.

THE COURT: Thank you very much, Constable. Now,
35 another witness?

Voir Dire

MR. ALLMAN: My Lord, my next witness is John McLean.

5 There is a portion of his evidence I believe I'll
have to voir dire. I could start him and then
stop when we get to that portion or we could
discuss it first in the absence of the jury before
we even get into it. I think probably the latter
would be a preferable course.

10 THE COURT: We'll have the jury go out, please, for a
few minutes. It will probably be just for a few
minutes so don't settle in too well.

(JURY WITHDRAWS.)

15 MR. ALLMAN: My Lord, I don't think I need to call Mr.
McLean unless indicated but I can tell Your
Lordship what he's going to say and then we can -

THE COURT: This is who?

MR. ALLMAN: John McLean, #112. Mr. McLean lives at 68
20 Tweedie Street, Chatham, and on the evening of the
28th of October he confronted a man outside his
house. The man pointed a rifle at him and told
him, "Go back in the house and go to sleep". He
gives a description of the man. He also says that
25 the man he confronted resembled a photograph that
he saw on the front cover of the book by Rick
McLean and Andre Veniot, "Terror on the
Miramichi". What I propose to do about that is
not to - I won't elicit what book it was but I
30 think he has to say that he saw - he had occasion
to see a photograph on a book which, when he saw
that photograph, caused the situation to come to
his mind. I don't want to put the book in, I
don't want to put the photograph of the book in,
35 but I do have an alternative which is that

Voir Dire

Corporal Godin has got an equivalent photograph -
not the book but the photograph itself. In fact,
5 I can show it to Your Lordship, if you wish.

THE COURT: The photograph that was used on the cover of
the book or -

MR. ALLMAN: I'm not sure it was the one that was
actually used on the photograph of the book but
10 it's taken at or about the same time and it's
basically the same as. Now, what I would propose
to do, therefore, is to work it in this fashion,
to have the witness say that he subsequently saw
a photograph on a book showing that photograph,
15 say how does that photograph compare to the man
that you saw or claimed that you saw on the
evening of the 28th. I'm trying to do it without
making too clear an allusion or reference to the
book which Mr. Furlotte has indicated he finds
20 offensive, and that's why I don't want to get into
that.

THE COURT: Well, I don't want to get into this book. I
don't want the book put in as an exhibit.

MR. ALLMAN: No, that's what I'm attempting to avoid.

25 THE COURT: What you're suggesting seems like a
reasonable thing. Presumably you'd have to
establish at some later stage that this is a
photograph of the accused.

MR. ALLMAN: Yes, that's a logistical problem. I can do
30 that in one of two ways. I could call Corporal
Godin now or I could call John McLean, stand him
aside, put Corporal Godin on to establish the
photograph, stand him aside, put -

THE COURT: Well, that's hardly necessary to do that.

35 MR. ALLMAN: Or, the other alternative, Corporal Godin,

Voir Dire

as you will see, is #124, and I could have him
confirm what this photograph is at that time,
5 though strictly speaking it's not part of the
evidence he was going to be giving at that time,
but I could do it. That's the way I'd like to
do it but I'm making these comments to Your
Lordship and I'm asking if Mr. Furlotte has any
10 observations or anything that would be of assist-
ance.

THE COURT: Have you anything, Mr. Furlotte, to add to
that or suggest?

MR. FURLOTTE: My Lord, the only thing I have to add is
15 that in the statement given by Mr. McLean he
simply describes the person as being under six
feet tall, slim build, black toque, turtleneck
sweater, off-red, black pants and black slacks on
his back, dark complexion, dark tan. He wasn't
20 hysterical when he was talking, he was as calm as
could be. My Lord, I would submit that any
suggestion to put in a picture as the Crown is
suggesting is very, very leading evidence. If
they wanted to know what this individual looked
25 like I believe they could have done a photo
line-up long beforehand, long before coming to
court, and advising myself of their intentions
long before today.

I just don't see any need of it. I don't see
30 how the Crown can get out of not admitting that it
would be leading the witness to give the answer
that the Crown wants him to submit. It's purely
improper to do so.

MR. ALLMAN: Well, the problem with that is that the way
35 it worked is this, we couldn't do a photo line-up

Voir Dire

and this is the reason; Mr. McLean sees this man,
he then reads the book.

5 THE COURT: Yes, well, concentrate on what Mr. McLean's
evidence is going to be. Just go through the
mechanics again.

MR. ALLMAN: Oh, well, Mr. McLean encounters this man
carrying a rifle. He gives a description of the
man. That description we will bring out. Mr.
10 Furlotte will -

THE COURT: He reports this to the police, does he, or
something?

MR. ALLMAN: Yes.

THE COURT: And he gives a description?

15 MR. ALLMAN: He gives a description which we will bring
out and Mr. Furlotte can bring out any details,
contradictions, whatever he wants. That's a fact.
The situation regarding the photograph is simply
this. Subsequently Mr. McLean sees the book. He
20 looks at the book and he says the fellow on the
front looks like the fellow I saw that night, so
it isn't that the police show him a photograph,
he sees that photograph. Now, you couldn't do a
line-up after that because he's already
25 committed himself to the proposition that, "The
man I saw looks like the man on the book", and
that's all we want him to say but we want to cut
out undue references to the book. It seems to me
that that's a fact, the jury's entitled to hear
30 it. Mr. Furlotte can make any comment or
elucidate anything by way of cross-examination
that he wants. He can bring out if he wants, for
example, the fact that there was no photo line-
up, although, of course, if he does that we'll get

Voir Dire

THE COURT: Well, I see nothing wrong with the evidence coming. There is just the question of how do you avoid use of the book, and it seems to me that the way that Mr. Allman suggests is a logical way of doing it.

5 MR. ALLMAN: And I'll lead Mr. McLean there. I won't let him get into it. I'll say, "Did you subsequently have occasion to see a book"; "Yes"; "Did you see a photograph"; "Yes", and then move on.

10 MR. FURLOTTE: I'm going to have to cross-examine him on the book.

MR. ALLMAN: Well, that's his decision.

THE COURT: Well, all right, if you want to get into the book, but I'm not going to allow the book into evidence here. I'm not going to have this book - I mean the book has been objected to sufficiently that it simply shouldn't be allowed in, and we're not going to get into contents of the book or anything else.

20 MR. ALLMAN: As Your Lordship will have gathered, I realize Mr. Furlotte doesn't like the book and I understand why, and that's the object of this exercise.

25 THE COURT: Well, you do it this way. If Mr. Furlotte wants to cross-examine on was it in fact on the cover of a book called "Terror" - whatever it is, all right, but it's - you will presumably have to bring out that this - or perhaps you should even point out that this is a - well, you'll have to decide how you're going to handle the fact that this isn't the actual photograph that he saw and it might not even be an identical photograph but somewhat similar. Well, all right, we'll bring the jury in.

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JOHN McLEAN, called as a witness, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ALLMAN:

- Q. What's your name, please?
- 5 A. John McLean.
- Q. And where do you live, Mr. MacLean?
- A. Chatham, New Brunswick.
- Q. What street?
- A. 68 Tweedie.
- 10 Q. Did you live on 68 Tweedie on the evening of the 28th of October, 1989?
- A. Yes.
- Q. What if anything happened - oh, before we get onto that let me just - have you seen an aerial plan or
- 15 an aerial photograph comparable to P-1 to your left?
- A. Yes.
- Q. Can you take this yellow pin and locate your residence on that aerial photograph. Take your
- 20 time, make sure you get it right. O.K., and also can you put a number 7 beside the yellow pin that you just inserted? Thank you. What, if anything, happened that day that you're here to explain to us about today?
- 25 A. I was watching the last inning of the World Series, the last game, and -
- THE COURT: I'm sorry, the date again?
- MR. ALLMAN: 28th of October.
- THE COURT: '89?
- 30 MR. ALLMAN: Yes. You were watching what?
- A. The last inning of the World Series.
- Q. The last inning of a -
- A. Oh, a baseball game, of the seventh game.
- Q. O.K., so what time would that be about?
- 35 A. It was just after twelve o'clock, that was the

John McLean - Direct

old time because it was the night they set the clocks back.

5 Q. O.K., so the evening of the 28th, the morning of the 29th, there would be a problem about time because of setting times back or not?

A. Right, but it would be probably 12:05, sort of around there, on the old time.

10 Q. So you were watching the ball game and what happened?

A. Well, between innings so I went out and I just was going to turn the tap on at the back kitchen sink to have a drink of water and I noticed something going by the window.

15

Q. Outside?

A. Outside the back window. The light was on over the back step but I thought it may have been kids taking a shortcut.

20 Q. You saw something at the back window and you assumed or thought it was a kid taking a shortcut?

A. Right.

Q. Was that something that happens at your house?

A. Once in a while.

25 Q. So what did you do after you'd formed that theory?

A. Well, I went out on the back step but there was no one around so I continued on down the side step and when I got to the front corner I looked at the front door and there was a man standing at the front door.

30

Q. O.K., you'd gone out the back door?

A. Yes.

Q. Turned right or left?

A. Right.

35 Q. Right again?

- A. Right.
- 5 Q. Now you're going to turn right again to come to your front door?
- A. Right.
- Q. As you made that last right turn around the corner and the front door comes into view what did you see?
- 10 A. I seen a man at the front door.
- Q. How far away would the man be from you at that moment?
- A. It's about 34 feet.
- Q. 34?
- 15 A. Yes.
- Q. How do you know that?
- A. I measured it the other day.
- Q. Was there any lighting on in the area where the man was?
- 20 A. There was a light on each side of the door.
- Q. Where is he in relation to those two lights?
- A. He was in between the two lights.
- Q. Take us on from there after you saw the man.
- A. Well, we sort of surprised each other, he seen me
- 25 at the same time I seen him, and I was about to say something but he turned around and pointed a gun at me.
- Q. O.K., you're making a gesture as you did that. Could you just stand up and show the jury how the man behaved and then put it into words so it gets
- 30 down on the tape recording.
- A. Right, well, I'm standing over there and these two lights are over his head so he's sort of like this and he turned around with the gun like this.
- 35 Q. You're making a gesture holding your two hands in

front of you?

A. Yes.

5 Q. The gun would be in the two hands, would it?

A. Right.

Q. O.K., sit down, please.

THE COURT: At waist level, the witness is indicating.

A. Yes.

10 Q. About stomach or belly button level.

THE COURT: Let's call it waist level.

Q. What happened after the man turned around and did that? What did you do?

15 A. Well, as soon as I seen the gun my hands were over my head and, like, I really got unnerved at the moment and -

Q. Were you and he any closer than the 34 feet? Did you get closer or stay the same distance?

20 A. No, same distance, so my hands went over my head right away because, like, I was unnerved, and he said, "Go back in the house and go back to sleep", so the shadow was right behind me so as I stepped back I was in the shadow and I think by reflex I got in the back door and had the door locked, because all the lights were off inside the house
25 except for the T.V. in the bedroom but the lights were on outside, so I got the phone, it was right on the counter beside the door, and I pulled it down on the floor and I really couldn't see to
30 dial so I lit my lighter and dialled zero, and no answer, so I dialled 555-1212 and got the operator right away.

Q. Who were you trying to get?

A. The Chatham town cops.

35 Q. And did in fact the Chatham Town Police arrive on

the scene?

A. Yes.

5 Q. About how long after your encounter with this man was it before the Chatham Police got there?

A. I think five minutes or less.

Q. Did you make any other observations about your house or any other of your possessions afterwards?

10 A. Well, it was later on after the cops had arrived and went in pursuit or whatever. We thought we'd go out and have a look around, my wife and I, and we went out the front door and actually we were going to go for a drive when we noticed both the
15 window in my truck and the window in her car was smashed out.

Q. How bad a shape was the glass in those windows?

A. Well, it was shattered completely, there was no glass left in the door, in the windows.

20 Q. When had you last seen those vehicles before that?

A. Oh, probably an hour before.

Q. How were the windows then?

A. They were O.K. then.

Q. Were the vehicles locked or unlocked at the time
25 that you left them?

A. They were locked.

Q. From the time that you came around your corner and first glimpsed this man to the time that you went back around the corner and lost sight of him,
30 and I know you didn't time this but how long would it be, do you think, that you and that man were encountering each other?

A. Five seconds.

Q. And you've already indicated from 34 feet with him
35 under the lights?

- A. Right.
- Q. When you first came around the corner and saw him
5 what view of his face would you get?
- A. It would be this side.
- Q. You're pointing to your right side?
- A. Yes.
- Q. After he pointed the gun at you what view of his
10 face would you have then?
- A. Well, just about full on.
- Q. Can you give us a description of the man as best
you can?
- A. Well, it was a dark tan, dark hair.
- 15 Q. Dark tan?
- A. Well, dark complexion.
- Q. O.K., dark complexion, dark hair?
- A. Dark hair, black packsack on his back, and to me
it appeared he had an off-red burgundy sweater on,
20 possibly turtleneck. He was slim, not overweight.
- Q. Slim, not overweight. Do you remember what height
he was?
- A. Under six.
- Q. Under six.
- 25 A. Under six feet, like close to six but under six,
I'd say, and what I remember most about his face
is just the jowls, as far as the shadows.
- Q. Do you remember if he - what the length of his
hair was at all?
- 30 A. It was sort of medium.
- Q. Do you remember what if any facial hair he had?
- A. No beard or mustache but possibly a day's growth
of beard.
- Q. You mentioned, I think, something about a packsack
35 on his back?

- A. Yes, to me it was a small black packsack high up on his back.
- 5 Q. You said that he uttered some words to you, something like go back in the house and go to sleep. You also told us that you've lived on Tweedie Street for a while. How long have you lived on the Miramichi?
- 10 A. Well, actually, it would be July 1st, 1989, I bought the house.
- Q. Where did you used to live before that?
- A. Bathurst.
- Q. What if any noticeable accent did the man have?
- 15 A. To me it was just the usual. What I'm used to.
- Q. O.K., you didn't notice anything unusual?
- A. No.
- Q. The gun that he pointed at you, did you get a chance to make any observations of that?
- 20 A. It was really short like a sawed-off rifle. To me, when I seen the cops I told them -
- Q. I don't want to know what you told the cops, just what you can tell this jury. To you it looked like a sawed-off -
- 25 A. - shotgun.
- Q. You mentioned that you bought this house when?
- A. July 1st, '89.
- Q. Who did you buy it from?
- A. Wally Jimmo.
- 30 Q. Subsequent to this incident - you told us you called the Chatham Police and they arrived within five minutes - subsequent to this incident did you ever have an occasion to read a book? I just want a yes or no to these answers for the
- 35 moment - or to look at a book?

A. Subsequent, is that meaning before or after?

Q. No, after.

5 A. Yes.

Q. When you looked at that book did you see a photograph?

A. Yes.

10 MR. ALLMAN; My Lord, I'd like to get this marked for identification.

THE COURT: That will be SS.

15 Q. I'm show you a photograph that's been marked by the Court as SS. Can you look at that photograph and tell me how that compares with the photograph that you saw on the book that you mentioned?

A. The lines on the face and the black hair.

Q. Can you give me a word, how does it compare? I'm talking now about the photograph, how does that compare with the photograph on the book?

20 A. Oh, it's very close.

Q. And now going back from that, how does the photograph on the book which you say is very close to that photograph compare with the man that you had seen on the evening we've all been talking about?

25 A. There's a resemblance.

Q. How close a resemblance, or how distant a resemblance, for that matter?

30 A. Well, I can't say for sure that is the person I seen.

Q. O.K., what can you say?

A. Very close resemblance.

35 Q. You can't say for sure but it's a very close resemblance to the person you saw. You mentioned that the man appeared - I'm trying to remember

John McLean - Direct

5 what your expression was. O.K., you mentioned something about the man's bodily appearance. Did you form any impression as to his state of fitness?

A. Oh, he appeared fit to me.

Q. What made you think that?

A. Well, no excess fat or -

10 Q. O.K., I think what you said was slim, not overweight. That was the expression I was trying to remember. I want to show you something else, P-54. Can you look at that for a moment, take your time, take as long as you feel you need, and
15 tell us how that compares, if at all, with the man you encountered after the ball game?

A. To me it - like, there's not much resemblance.

MR. ALLMAN: O.K., thank you. No further questions.

THE COURT: Cross-examination, Mr. Furlotte?

20

CROSS-EXAMINATION BY MR. FURLOTTE:

Q. Mr. McLean, I believe you stated before July 1st, '89, when you bought the residence where you're now living, that you were living in Bathurst?

25 A. Yes.

Q. Had you ever lived in the Newcastle area before, Chatham area before?

A. Yes.

Q. So you're from the Chatham area originally?

30 A. Newcastle, Millerton.

Q. Did you know Allan Legere before?

A. No.

Q. Now, in the statement you gave to the police of October 29, 1989, you just gave a general description of the person you saw as you did in court
35

here today?

A. Yes.

5 Q. You know, under six feet tall, slim build, dark complexion. Did you feel at that time that had you been given a photo line-up that you would have been able to pick somebody out or not?

A. I had my doubts.

10 Q. You had your doubts, but now you can come to court and you can say that the person you saw is similar to the picture you saw on the book?

MR. ALLMAN: I think the words used were close resemblance.

15 MR. FURLOTTE: Close resemblance? Now you can say that it's a close resemblance to the picture you saw on the book?

A. Yes.

20 Q. Which is purported to be the picture of Allan Legere, is that right?

A. Yes.

MR. ALLMAN: I don't think we ever said that.

MR. FURLOTTE: Where's the picture?

25 THE COURT: I think actually he said a very close resemblance.

MR. ALLMAN: I'm obliged, My Lord.

MR. FURLOTTE: So again, you say this item marked SS for Identification, it's a close resemblance of the picture you saw on the book?

30 A. Yes.

Q. O.K., now, I take it you read the book?

A. Yes, I did.

35 Q. Now, in the book is there also a description in that book as to the happening of events that you've come to court to testify to?

- A. Yes.
- Q. So basically the book writes about the event that
5 you experienced on the evening of October 28th?
- A. Yes.
- Q. And the book leads the reader to believe that it
was Allan Legere who told you to go back in the
house?
- 10 A. I guess so, yes.
- Q. You guess so, and from your reading the book did
you presume Allan Legere is the one who told you
to go back in the house?
- A. I think I had that notion before that.
- 15 Q. You had the notion before that?
- A. Yes.
- Q. Just because Allan Legere had escaped from lawful
custody?
- A. Well, I knew he was at large.
- 20 Q. So in other words you believe that everything
claimed in that book about Allan Legere is true?
- THE COURT: Oh, we're not going to get into that. We
don't want to get into this book business at all.
This is too all-encompassing a question you're
25 asking, Mr. Furlotte.
- MR. FURLOTTE: Do you presume Allan Legere guilty for the
crimes of which he's charged?
- MR. ALLMAN: I don't see the relevance of that question.
- THE COURT: Oh, no, that's not a fair - this man isn't a
30 jury or isn't a -
- MR. FURLOTTE: Well, I'm not asking him if he's a jury
but, My Lord, I would argue that it would have
effect on the weight of the evidence that the jury
have to put on this man's testimony.
- 35 MR. LEGERE: Can't have it both ways.

THE COURT: You've asked him about whether he had formed
a notion from the book that the man was Mr.
5 Legere who confronted him that night, and he says
he had formed that opinion or that notion, as he
put it, before looking at the book. Now, you've
asked him why and he said, well, the accused was
at large at that time. Perhaps there were other
10 reasons, I don't know, but we're not interested in
what opinions Mr. McLean may have as to whether
the accused is guilty of the crimes with which
he's charged or not.

MR. FURLOTTE: Mr. McLean, is it safe to say that the
15 book, aside from you having the notion before,
your reading the book helped influence you in
coming to court and saying that the person you
saw outside your home that night resembles the
picture that you saw on the cover of the book?

20 A. Can you repeat that?

Q. Is it safe to say that the book helped influence
you in coming to court and saying that the person
you saw outside your home that evening resembles
the picture that you saw on the cover of the book?

25 A. It didn't influence me coming to court.

THE COURT: He was subpoenaed, it has no bearing on his -
or I presume he was subpoenaed.

MR. FURLOTTE: You had an opinion or a suspicion before
you read the book?

30 A. Before.

Q. Which was it that you had, an opinion or a
suspicion?

A. Suspicion.

Q. It was a suspicion. After you read the book
35 would it be safe to say that your suspicion

became an opinion?

A. It stayed the same.

5 Q. Pardon?

A. The same.

Q. It's the same, so it's still just a suspicion,
then?

A. Yes.

10 MR. FURLOTTE: I have no further questions.

THE COURT: Re-examination?

REDIRECT EXAMINATION BY MR. ALLMAN:

15 Q. I don't think I elicited it from you but Mr.
Furlotte assumed that - this photograph was on
the cover of the book, was it?

MR. FURLOTTE: Well, My Lord, I believe the Crown covered
that in direct examination.

20 MR. ALLMAN: That's fine, I just wanted to check that
that was elicited somewhere. Wherever the photo-
graph was, on whatever portion of the book, at
what moment in time was it that you said to your-
self, the photo looks like -

25 MR. FURLOTTE: My Lord, again that's an area that was
covered by the Crown in direct examination.

THE COURT: I think Mr. Furlotte's objection is well
taken.

MR. ALLMAN: Fine, I won't press the point.

30 THE COURT: I'm going to ask one question, though. When
did you see the picture on the book in relation to
the October 28th incident at your house?

A. It would have to be - I'm not sure how long after
the book was published.

35 THE COURT: Well, I mean can you - I'm not interested in
when the book was published, I'm just wondering

14

was it two days, a month, five months?

A. Two months.

THE COURT: About two months?

5 A. Yes.

THE COURT: Any questions about that, Mr. Furlotte?

MR. FURLOTTE: No, My Lord.

THE COURT: Mr. Allman?

MR. ALLMAN: No other questions.

10 THE COURT: Thank you very much, Mr. McLean. That's all
for you, thank you. Now, you have another
witness, Mr. Allman?

CORPORAL ROBERT BRUCE, called as a witness, being
15 duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SLEETH:

Q. Would you please state your name and your occupa-
tion for the Court?

A. My name is Robert George Bruce and I've been
20 employed as a peace officer for the Town of
Chatham, County of Northumberland, Province of New
Brunswick, and I've been employed as such for a
period of approximately eight years.

Q. Are you originally from that area, Corporal Bruce?

25 A. I was born in the Newcastle Hospital, Newcastle,
New Brunswick.

Q. Corporal, I'd ask you to go back in your mind to
October of 1989, October 28th. There are matters
which you wish to relate to this Court?

30 A. Yes, on October 28, 1989, it was a Saturday night,
I was working a 6:00 p.m. to 4:00 a.m. shift as
the NCO in charge of the shift. At approximately
11:00 p.m. on that night I parked my police
cruiser and began to do a foot patrol of the
35 downtown area of Chatham. While walking at the

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- intersection or by the intersection at Henderson Street and Water Street at approximately 11:10 p.m. I heard a sound which resembled that of a shot being fired. The sound came from a direction south of me on Henderson Street and I turned to face that direction, this would be at approximately 11:10 p.m., and at a distance of approximately three blocks I viewed a large 3-ton hydro truck which was headed south on Henderson Street and it was just pulling away from an intersection.
- 5
- 10
- Q. Corporal, using this pointer would you be able to indicate to the jurors where roughly this Henderson Street is in Chatham?
- 15
- A. This street that runs from the river in a north-south direction is Henderson Street.
- Q. Thank you, if you'd just please continue, then?
- A. After viewing the hydro truck leaving the intersection I believed that the sound that I heard could have been the truck backfiring. I continued on my foot patrol and several minutes later I received a radio message which directed me to go to the residence at #92 Henderson Street.
- 20
- Q. Do you know whose residence that is, sir?
- A. That is the residence of Betty Flanagan.
- Q. O.K., you went there and when you got there what did you see and do?
- A. Upon arrival at that residence I was met by another officer, and as a result of a discussion with this other officer I was aware that I was to look for a prowler that had been toting a gun. I returned immediately to our office and at the office I summonsed assistance from my superiors as well as members of the R.C.M.P. I remained at our
- 25
- 30
- 35

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office until I was relieved. I coordinated things at our office to organize assistance from other members and I remained at our office until approximately 12:30 a.m. At 12:30 a.m. I left the office and resumed my patrol in my police car, returning to #92 Henderson Street, and again after receiving information there from the officers that were present, who was Constable McLaughlin, and at the time the dog master was there, Corporal Thomassin, he was there with his dog. After having a conversation with them I again began to patrol the area in attempts to locate and disarm the prowler.

At approximately 12:43 a.m. I received a radio message which directed me to go to a residence on Tweedie Street which is west of Henderson Street, the residence number being # 68.

Q. Do you know who resides there?

A. At the time I did not but I do know now that John McLean lives at that residence.

Q. That was the witness who spoke before you?

A. That's correct.

Q. O.K., you arrived there around what time?

A. I arrived there a couple of minutes after I was dispatched there, arriving at approximately 12:45 a.m., and I arrived at the same time as Corporal Thomassin and his dog arrived there, as well as some other members. We immediately exited our vehicles and I observed Corporal Thomassin and his dog to find a scent and he and the dog began to run west into the woods at the west end of Tweedie Street.

Q. Would you be able to indicate where that would be,

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approximately, with that pointer again for the jurors?

5 A. O.K., Tweedie Street is where this yellow marker
is, and we entered the woods at the west end of
this street, which would be on the west side of
that marker. Entering the woods were Corporal
10 Thomassin and his dog, myself, and Constable
Houle. We entered the woods at a quick paced run.
There was a trail which we appeared to be running
on. The visibility was quite poor but our footing
was good because we were on a well-worn path which
15 went into those woods. The woods were fairly
thick at that point, a lot of large trees and
that, but our progress wasn't slowed by those
trees because we were on this path.

 We continued westward weaving a little bit
north and south on the path but always in a
20 westward progress. We exited the woods into a
field and we crossed this field or crossing
behind the Texaco bulk plant. It's now an Ultra-
mar plant but at the time it was a Texaco bulk
plant.

25 Q. Would you be able to stop now for a moment,
please, and using the pointer indicate again to
the jurors where you're talking about when you
refer to a field and the bulk plant?

 A. We crossed this stretch of woods here on footpaths
30 and we entered these fields behind - you can see
the oil tanks which would be the Texaco bulk
plant.

 Q. Thank you. Would you continue, please, Corporal?

 A. O.K. I noted while we were crossing these fields
35 that the fields were separated by fences and there

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5 was - I believe as I recall there was three fields
and each had a fence line separating each from the
other. Each time that we would be following the
dog master across these fields his dog would be
leading us to holes in the fences. At no time did
we have to scale the fences to cross them. The
10 trail that we were following always had a hole
that allowed us to cross from field to field
without any opposition from any fences.

Q. What thoughts do you have about that?

A. I believed that whoever the dog was following knew
the area because I have been in the area myself
15 quite a few times and I wouldn't have been able to
find those holes in the dark at all. We were
running at a fast-paced run throughout this
pursuit and I fell behind the dog master while
crossing this strip of three fields. I viewed the
20 dog master enter the woods after crossing these
fields and he was at a distance of probably 100
feet from me in front of me, and the other
R.C.M.P. officer that was with us was behind me
again. At this point I lost sight of him. I
25 transmitted a radio message stating that we had
lost sight of the dog master and if anybody saw
him I would like a response. I waited for
Constable Houle to catch up to me. Not knowing
where the dog master went but knowing that we were
30 always going west I continued west through the
next stretch of woods. We could not find the dog
master so we emerged onto the Kelly Road which is
at the opposite side of the stretch of woods from
where we were running.

35 Q. Would you indicate, please, with your pointer

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where this Kelly Road is?

5 A. We continued westward from this last location, the
oil tanks, and we continued across this stretch of
woods here and came out onto the Kelly Road which
runs, again, north and south from the river.

Q. Do you know any people living on that particular
road?

10 A. Yes, I do. I know several people that live on
this road. At this end of the road is - the
Kellys live on this end of the road and further up
at this end there's a new residence belonged by -
I can't recall his last name now but his first
15 name is - Michael Sproul is his name. He lives at
the corner of the Kelly and the Gordon Road and
along here there's Henry Brown lives about here
and there's a residence here that belongs to the
Mercures.

20 Q. Thank you, sir. O.K.?

A. Constable Houle and I exited onto the Kelly Road
by a railroad crossing which is towards the north
end of the Kelly Road. We were met there by some
other officers who had a police vehicle parked on
25 that road and shortly after arriving there we
received a radio message - I received a radio
message which directed me to the Cleland Lane.

Q. Where is the Cleland Lane?

A. The Cleland Lane is further west of the Kelly
30 Road, it's just a little bit west of this yellow
marker here and it's a laneway which runs north
and south running from a gateway which is on
Route 117, Upper Water Street.

Q. O.K., you proceeded to that location where you
35 found and observed what?

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- A. Upon arrival at that location I met up again with
Corporal Thomassin and his police dog, and
5 Corporal Thomassin and his police dog began to
follow a scent southward on Cleland Lane and
Constable Houle and Constable Mike Kerr and I
accompanied him. We ran southward on Cleland Lane
past a dwelling house and into a field behind the
10 dwelling house to the south of the dwelling house.
It was a rather long field. We crossed this field
continuing - heading south but slightly in a
westward direction.
- Q. O.K., could you indicate possibly again with the
15 pointer what we're talking about when you say
south but in a westerly direction?
- A. O.K., we came - ran south on this laneway and into
this field, and as we entered this field we
continued south but again we were pointed slightly
20 west and we continued west across - in a southerly
west direction across this field.
- Q. Thank you. Please continue, Corporal.
- A. At the south end of that field there's a railway
line which runs east and west, and upon getting to
25 the railway line Corporal Thomassin and his dog
turned westward on the railway line and we all
followed him at a run west along the railbed. The
railbed is a raised railbed, there's a ditch along
both sides of it, and we were running two and two
30 along the railway but in a westward direction.
Constable Mike Kerr was running in front of me and
we were on the north side of the railbed and
Corporal Thomassin and Constable Houle were on the
south side of the railbed. Corporal Thomassin was
35 in the lead.

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- Q Would you be able to indicate with that pointer
 again where this railbed is that you're referring
5 to?
- A. This railbed is at the south end of this field and
 runs east and west and continues - actually, it
 comes from the river back here but it continues
 east and west right through the town of Chatham
10 and into the area known as Bushville.
- Q. Would you be able to indicate - perhaps you might
 have to get up and move over a little bit to
 indicate how far that railbed runs and where the
 area you call Bushville is.
- 15 A. Bushville, the area that I refer to as Bushville,
 starts at our town limits. Our town limits is
 actually the Kelly Road and we refer to that as
 Bushville. Bushville is actually R.C.M.P. juris-
 diction in that area.
- 20 Q. O.K., and the railbed which the group of you got
 onto proceeds on. Could you just trace it again
 for the jurors to see how far on it goes?
- A. It runs along behind all the residences in
 Bushville and it runs through a section of heavy
25 woods and it continues on heading west behind the
 area known as Bushville.
- Q. And how far down does it go, say, in relation to
 the Morrissey Bridge? Could you place that rail-
 bed, please?
- 30 A. The railway continues on heading west and it
 crosses the highway up here which leads to the
 Morrissey Bridge which goes into Newcastle.
- Q. And the railbed itself continues on how far?
- A. The railbed continues on and it keeps going in a
35 westward direction and eventually heads towards

Moncton.

Q. O.K., and are you aware of any hotels, inns, or
5 the like down in that area by that railbed?

A. In the Village of Nelson-Miramichi which is west
of the Morrissey Bridge there's an inn called the
Governor's Mansion.

Q. Thank you. O.K., if we could go back, then, to
10 the group of you on the railbed and proceeding?

A. From where we had entered onto the railbed from
the field we ran at a fast-paced run for a
distance of approximately 500 yards. All of a
sudden I heard one of the members that were
15 present, I don't know which member it was, I
believe it was one of the front two members, I
heard one of them yell what I believed to be the
word, "duck". At the same time as I heard the
word, "duck", I heard a shot being fired and the
20 four of us dived into the ditch bottom beside the
railbed. The ditch was approximately six feet
deep at this point and upon hitting the ditch
bottom we immediately got up to run again in a
westward direction, and as soon as we ascended the
25 ditch back to the railbed another shot was heard
being fired, I heard another shot being fired. I
believed that the shot came from a distance of
quite close to where we were. I believed that it
was from within a hundred feet of where we were,
30 it sounded very close. I believed that I had been
fired upon and again I dived into the ditch
bottom. I had my weapon drawn and pointed from
the direction I heard the sound being fired but I
did not see anything to return fire at.

35 I laid in the ditch bottom in a prone

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5 position with my weapon pointed from the direction
I heard the shot being fired from probably for a
period of approximately 30 minutes. At no time
during that 30 minutes did I hear any other sounds
or see anything further west of me. After this
approximate 30-minute period the members present,
10 Corporal Thomassin, Constable Kerr, Constable
Houle and I had a little discussion. As a result
of that discussion Corporal Thomassin and
Constable Houle and the police dog left heading
east along the railway line.

15 Constable Kerr and I remained at that
location to conduct surveillance on that rail line
for a period of approximately three hours. At no
time during that three-hour period did I view any
other persons or hear any other noises.

20 Q. Corporal, this pursuit that started off - you
talked at the very outset about going across three
fields, do you recall that at the very beginning?

A. Correct.

Q. How fast was that pursuit, how agile and quick-
moving was the person you were pursuing?

25 A. It was as fast as I could run, the pursuit was.
We were all running as fast as we could run, and
in fact, I believe why I lost sight of the dog
master and the dog was because the dog was
actually assisting the dog master by pulling him
30 somewhat, and I consider myself a fairly fast
runner and I couldn't keep up to him, it was a
fast run.

Q. And again this was all through the dark?

A. Correct, it was quite dark.

35 Q. But each time leading into breaks in fences?

24

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5 A. Correct, at all times we were on trails or foot-
paths and each time we would enter a field from
a - a separating field by a fence line, etc.
There was always a hole in the fence or there was
no opposition by anything at the time.

10 Q. And what was the lighting condition at that time,
throughout this pursuit? How dark was it, was
there moonlight?

15 A. I can't recall whether there was any moonlight or
not. I know it was very dark, I couldn't see too
far ahead, and as I recall in the fields there
seemed to be a little bit of ground fog that also
hindered my vision.

20 Q. And near the conclusion of your testimony a
moment ago you referred to having had your gun
out, your service revolver pointing in a
direction. Which direction would you have been
pointing that?

A. I would have been pointing it in a westward
direction.

25 Q. Corporal, I wonder if you could take one of these
yellow pins and point out or indicate - put the
yellow pin on P-1 at 92 Henderson, the Flanagan
residence, and possibly mark - I believe we're up
to #8, My Lord?

THE COURT: Yes.

30 Q. Could you also take one of those pins and mark
with it the point where your group finally came to
the railway tracks? Could you mark that, please,
with #9? Do you know the location known as Hay
Lane, sir?

A. Yes, I do.

35 Q. Would you be able to indicate to the jurors using

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that pointer where Hay Lane is?

5 A. Hay Lane is a lane which runs north and south off
of Upper Water Street in the town of Chatham.
It's towards the west end of Chatham, it's a dead-
end laneway and it's right here. It runs,
actually, to these bulk plants, but there's some
residents on its west side.

10 Q. And of your own personal knowledge is there any
particular residence or person who lived on or
near Hay Lane that you want to refer these jurors
to?

15 A. It's common knowledge to me that at one time Mr.
Allan Legere lived on Upper Water Street almost at
the foot of Hay Lane.

20 Q. Would you be able to take one of those yellow pins
again, please, and indicate on P-1 the location as
you understood it of the Legere residence? That
would be #10.

THE COURT: I'm sorry, which pin was that again?

MR. SLEETH; Number 10, My Lord, I believe.

A. Right here, My Lord.

THE COURT: Oh, yes.

25 Q. The distance between Henderson Street and Tweedie
would be about how much?

A. Probably in the vicinity of three-quarters of a
kilometre.

30 Q. And when we first spoke about this you indicated
how long that might be to walk; how long?

A. It would probably take you between six to nine
minutes to walk that distance depending on the
speed of your walk.

MR. SLEETH: Thank you. No further questions.

35 THE COURT: Now, cross-examination, Mr. Furlotte?

CROSS-EXAMINATION BY MR. FURLOTTE:

- 5 Q. Before I get into the main crux of your testimony, Corporal Bruce, you mentioned that it was common knowledge that Mr. Legere lived in the vicinity of Hay Lane?
- A. It was common knowledge to me.
- 10 Q. Common knowledge to you. Is it common knowledge as to when he lived there?
- A. I don't know exactly when he did live there.
- Q. Was it in the 70's?
- A. I don't know.
- Q. Between '75 and '77?
- 15 A. I don't know, sir.
- Q. You don't know?
- A. No. I know it's previous to my employment with the Town of Chatham Police Department.
- Q. And how long have you been employed with the Town of Chatham?
- 20 A. Since 1983.
- Q. Since 1983. Do you know whether or not he still had an apartment there?
- A. From that time on, my employment with the Chatham Police Department, the only thing that I know of being there is a basement, former foundation for a dwelling that used to be there.
- 25 Q. Well, you would hardly think Allan Legere was trying to return home if you figured that that was Allan Legere you were chasing, would you?
- 30 A. I did not know who I was chasing.
- Q. Now, as I understand from your testimony somewhere around a little after eleven o'clock in the evening you heard what you thought may have been a couple of shots while on patrol?
- 35

- A. One gunshot.
- Q. One gunshot?
- 5 A. Originally at approximately 11:10 p.m. one gunshot.
- Q. But you also thought that it may have been a truck backfiring?
- A. Correct.
- 10 Q. So you don't know if it was a gunshot or not?
- A. At first I - it was a sound similar to a gunshot being fired but I believed it could have been the truck backfiring when I viewed the truck from the location from where I heard the sound.
- 15 Q. And where were you again?
- A. I was by the intersection of Water Street and Henderson Street.
- Q. And where's that on the map again?
- A. It would be almost right here.
- 20 Q. Almost way up there, and this is the Morrissey Bridge or the -
- A. Centennial Bridge.
- Q. Centennial Bridge, that's the bridge when you're going to Newcastle. That's right in the middle of town, is it not, where you were?
- 25 A. It's approximately the centre of town.
- Q. Could you tell which direction the shot was coming from?
- A. I believed the sound emitted from a southern direction from where I was.
- 30 Q. From a what?
- A. Southern.
- Q. Southern direction, that would be back in this area here?
- 35 A. Correct.

- Q. And what time was it again when you met up with Corporal Thomassin and the dog?
- 5 A. It was at approximately - the first time that I met with him or -
- Q. Yes, the first time.
- A. The first time I met with him would be at the residence at 92 Henderson Street at approximately
- 10 12:30 a.m. One thing I would like to state about that 12:30 a.m. is that that midnight there was a time change that night, and when I made my notes I didn't include the hour - or delete the hour time change in my notes.
- 15 Q. You deleted the hour?
- A. I did not delete it.
- Q. No, you did not, O.K., so it would have been approximately an hour and fifteen minutes or an hour and a half after you heard something that
- 20 appeared to be either a gunshot or a motor vehicle backfiring?
- A. Correct, it would be about that time period before I met with Corporal Thomassin.
- Q. And when did you meet up with Corporal Thomassin again the second time?
- 25 A. The second time I met with him was at approximately 12:45 a.m. and that was at 68 Tweedie Street.
- Q. So about fifteen minutes later?
- 30 A. Correct.
- Q. And you were with Constable Houle, did you say?
- A. I met Constable Houle at that location.
- Q. Is it Houle or Hood?
- A. Houle.
- 35 Q. Houle? From the R.C.M.P. or from the Chatham Town

Police?

A. From the R.C.M.P.

5 Q. From the R.C.M.P., H-o-u-l-e?

A. Correct.

Q. And Constable Thomassin was with Constable Kerr?

A. No, not at that location.

Q. Not at that location?

10 A. No.

Q. Which four individuals or police officers were following along with the dog along the old railway line?

15 A. Constable Houle, Corporal Thomassin, Constable Kerr and myself.

Q. And were there other police officers in the area?

A. Yes, there was.

Q. How many?

A. I do not know how many.

20 Q. Approximately?

A. I know we had four others from our department in the area and I'd say upwards of six from the R.C.M.P.

25 Q. Upwards of six, so that might be about four others from your department, six from the R.C.M.P., so that would be an extra ten?

A. Correct.

Q. And besides yourselves, so that would be about fourteen in all?

30 A. Correct, and that's an approximate. I don't know how many members they had respond to my request.

35 Q. O.K. How long would the four of you along with the dog who were tracking a scent along the railway line - how long would you have been following that scent before what appears to have been a

shot?

- 5 A. We began immediately upon arriving at 68 Tweedie Street and that was at approximately 12:45 a.m., and we followed the scent westward, ending up along that railway line, and at the time of the shot being fired I did not look at my watch but after laying in the ditch for several minutes I
- 10 did look at my watch and it was 1:05 a.m.
- Q. And after the first time you jumped in the ditch I believe you say youse got up again and started following immediately?
- A. Immediately, correct.
- 15 Q. And that would be after about five minutes or immediately?
- A. It was immediately. As soon as we - I can't speak for the others but as soon as I hit the ditch bottom and I started up the bank again.
- 20 Q. You started up the bank again, and then how long did you continue the search or the tracking until you heard a second shot?
- A. It was as soon as I ascended the ditch bottom to the railbed, it was almost immediately.
- 25 Q. O.K., and then I believe that you said what, you stayed there for about 30 minutes?
- A. We stayed there in a prone position for about 30 minutes.
- Q. Just listening?
- 30 A. Just listening, correct, and looking.
- Q. And did youse have radio contact at that time with the other police officers?
- A. I did, yes.
- Q. So you informed the -
- 35 A. But - I did, but only if I wanted to transmit. I

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shut my radio off so it would not receive because we didn't want any noises coming across the radio.

- 5 Q. You didn't want whoever was out there to know where you were?
- A. Correct, and I believe that the person that was out there knew where we were.
- 10 Q. And the dog also was with you at the time on a leash or was the dog called back?
- A. The dog had run ahead of us further west along the railway tracks and I heard Corporal Thomassin call several times before the dog did come back to him.
- 15 Q. So Corporal Thomassin was calling the dog back?
- A. Correct.
- Q. After the 30 minutes I believe you mentioned that again the four of you split up?
- A. After, correct.
- 20 Q. And how did that split take place? You went with who?
- A. We had a discussion and as a result of that discussion Corporal Thomassin, his dog, and Constable Houle returned eastward along the railway line. Constable Kerr and I remained in
- 25 that position, each of us laying in a prone position on each side of the tracks, one on the north side and one on the south side, and we viewed westward from us. Occasionally I would check the surrounding area around me viewing
- 30 other ways but predominantly westward.
- Q. So what I understand, you and Constable - who was it again, Kerr?
- A. Kerr.
- 35 Q. Kerr, tracked westwards towards where the person you were tracking -

- A. No, we remained in the same position. We did not leave that position.
- 5 Q. Oh, you didn't, even after the 30 minutes?
- A. No, we remained there for over three hours.
- Q. O.K., so you stayed there for about three hours?
- A. Correct.
- Q. So nobody went to try and follow the person who you were originally tracking?
- 10 A. No, not from that location.
- Q. And how long did that - am I to understand that you stayed right in that general area without going west for about three hours after?
- 15 A. Correct.
- Q. What was the purpose of that?
- A. We believed that should other officers get ahead of this individual that we were pursuing that he might double back along the railway.
- 20 Q. He might double back and you'd catch him on the way back?
- A. Correct.
- Q. Now, in all that evening you heard what you really considered to be two gunshots and maybe a possible third one at around eleven o'clock?
- 25 A. Correct.
- Q. And you were - I understand from 12:30 on you were within close range of - is it Corporal Thomassin or Constable Thomassin?
- 30 A. Corporal.
- Q. Corporal Thomassin?
- A. Except for where I lost him at the wood line in the fields behind the bulk plants. I lost sight of him there.
- 35 Q. Sight of him, but you would have been within

earshot?

5 A. I don't know, I don't know which direction he went
from there. I continued west, I don't know which
direction he went. I assume he did not go west
because I did not encounter him when I continued
westward.

10 Q. But you stayed in the general area of the rail
line within that fifteen minutes?

A. When I lost sight of him?

Q. When you left Corporal Thomassin for the first
time where were you again on the map, P-1?

15 A. When I lost sight of him I was in this field area
here, someplace in this field area when I lost
sight of him. He was ahead of me going across
this last field.

Q. O.K., and then fifteen minutes later you met up
with him where?

20 A. I don't know how long it was after that I met up
with him. I didn't record the time that it took
me to catch up to him again. I know we began at
approximately 12:45 a.m. from this location and I
lost sight of him at approximately this location
25 and I continued west and as a result of a radio
message I caught up to him at approximately this
location, and after travelling on that Cleland
Lane through these fields and onto the rail line
that 500 yards down the rail line and the shots
30 being fired and waiting a couple of minutes before
checking my watch it was 1:05 a.m.

MR. FURLOTTE: O.K., I have no further questions.

THE COURT: Re-examination?

REDIRECT EXAMINATION BY MR. SLEETH:

- 5 Q. You mentioned for the first time during cross-examination a time change that occurred, changing of the hours?
- A. Correct.
- 10 Q. The hours, however, which you were giving were all in a chronology that you maintained in your notebook that night, is that right?
- A. That's correct.
- MR. SLEETH: Thank you very much.
- THE COURT: You spoke of a railbed; you mean a disused railway from which the rails had been removed?
- 15 A. No, My Lord, it's still an active railbed. The rails and the ties are still on it.
- THE COURT: No questions?
- MR. SLEETH: Ask to be excused, My Lord.
- THE COURT: Yes. You have no question, Mr. Furlotte,
- 20 arising out of my question about the railbed?
- MR. FURLOTTE: I'm afraid I didn't hear your question, My Lord.
- THE COURT: Well, I asked if the railbed were a disused railway line and he said no, the rails are still
- 25 there.
- MR. FURLOTTE: Oh, no, I have no questions.
- THE COURT: And Mr. Sleeth, you had no question arising out of that?
- MR. SLEETH: No.
- 30 THE COURT: You're excused, thank you. Now, it's ten past eleven. We'll have a morning recess for fifteen minutes.

(JURY WITHDRAWS.)

(BRIEF RECESS - COURT RESUMED AT 11:30 a.m.)

(JURY CALLED - ALL PRESENT - ACCUSED IN DOCK.)

THE COURT: Before the Crown calls its next witness I
5 just wanted to say one thing, and that is it has
come to my attention that on some newscast
yesterday that some of the jurors may have been
depicted in a videotape on a newscast, I didn't
see it myself. If that were the case, presumably
10 it was taken yesterday after I had reiterated that
no pictures were to be taken of any jurors. If
that is the case, or at least if this happens
again, video cameras will be put off the property
totally. I say that flatly. O.K., next witness.

15

CORPORAL GAETAN THOMASSIN, called as a witness,
being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SLEETH:

Q. Would you please state your name and occupation
20 for the jurors, witness?

A. I'm Corporal Joseph Jacques Gaetan Thomassin. I'm
a peace officer, member of the Royal Canadian
Mounted Police presently stationed in Moncton, New
Brunswick, and so stationed in October, 1989.

25 Q. And which particular unit are you assigned to,
sir?

A. My present duties with the R.C.M.P. at this time
and in October, 1989, are as a dog handler.

Q. And have you received special qualifications or
30 designation by courts in the handling of dogs
before, sir?

A. Yes, I have.

Q. As what?

A. I've been qualified as an expert in the handling
35 of this particular dog that I've handled, police

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service dog Sam, regimental number 304, and his
ability to relate to me his findings through body
movement in relation to human scent.

5 MR. SLEETH: My Lord, I'm going to move at this stage for
permission from the Court to lead with the purpose
at the end of having this witness qualified as an
expert witness entitled to give opinion evidence
as related by himself just a few moments ago.

10 THE COURT: But you're seeking to have him qualified as
an expert in dog handling?

MR. SLEETH; Yes, My Lord, and tracking. What was the
exact term you said was used before, Corporal?

A. The ability of police service dog Sam to relate to
15 me his finding by his body movement in relation to
human scent.

MR. SLEETH: O.K. Permission to lead, My Lord, to bring
us to that point where I'll ask that he be so
qualified.

20 THE COURT: All right.

MR. SLEETH: Deal first, Corporal, with yourself. How
many years have you been on the force?

A. Approximately 11 years with the R.C.M.P.

Q. And I understand that you worked on a regular
25 basis with members of the police dog service in
Richmond, B.C.?

A. That's correct.

Q. That would be for a period of some five years
prior to joining the R.C.M.P. police dog service?

30 A. That's correct.

Q. You acted as a quarry in assisting in the training
of numerous service dogs from '82 to '86?

A. That's correct.

Q. I also understand that during that five years you
35 raised animals for the police services?

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- A. I've raised a number of puppies, eight puppies, for the R.C.M.P. police dog services.
- Q. You also attended and successfully completed, as I understand it, the potential dog handling training course at Innisfail, Alberta, in 1986, in March of '86?
- A. That's correct.
- Q. What did that course consist of, sir?
- 10 A. It's a two-week period where you're evaluated by the head trainer and other trainer at the Innisfail Training Centre where our training centre for police dog services is located. They assess your ability to relate to animals, in particular dogs, and therefore upon completion of the course you either pass or fail and I did pass.
- 15 Q. O.K., How many police service dogs have you had?
- A. I've had only police service dog Sam that has successfully completed the course at Innisfail, Alberta. Prior to service dog Sam I had another dog which after four months of continuous training did not complete the training course and therefore was scrapped from the program at that time.
- 20 Q. O.K., what was the basis for the failure for that particular dog, Toro, I believe?
- A. That's correct, dog Toro did not meet the basic standards and different profiles, at the time was tracking and aggression, to successfully complete at the level of training that must be achieved prior to going into the field and working as a service dog in the field.
- 30 Q. O.K., the particular type of training which you would have received at Innisfail in March of 1986 consisted of - what specific areas did you narrow
- 35

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in on for your particular training?

A. In March of 1986, you're talking still about the potential dog handler course which I successfully completed?

5

Q. Yes.

A. After that course I attended the actual dog handler training course which started in July, 1986. The normal training period of a dog at that time was four and a half months. Dog Toro failed the course and was scrapped from the program in November, 1986. At that time I took on potential police service dog Sam at the time, took him home and got familiar with the dog and returned on the dog handler training course in January, 1987, with Sam. At that time I progressed with police service dog Sam to a level that was sufficient to work this dog in the field. I graduated from the training kennels in April, 1987, which is shorter than the normal expected period of time to train a dog because this particular dog was so receptive to training.

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Q. You yourself went on further continued training after the initial course that you referred to earlier?

25

A. That's correct.

Q. And those continued training courses would consist of what?

A. Once I left the training kennels with this police service dog, is that what you're referring to?

30

Q. For yourself, yes.

A. Yes, once you're in the field with the service dog you always try to improve your capabilities, meaning that there are different things that affect the performance of the dog and you're trying to

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improve on those capabilities. Therefore, there
are rigorous training that goes on after and this
training is upkept through the years to obtain
5 optimum performance from the animal.

Q. You yourself underwent further training and
operation in the use of police dog Sam?

A. That's correct. After completing the training
course at Innisfail, Alberta, I was stationed in
10 Surrey, British Columbia, for approximately three
months. After that I was stationed in Coquitlam
for approximately two years, and after that in
April, 1989, I got stationed to Moncton, New
Brunswick, and I've been there ever since.

15 Q. And throughout all those time periods you've just
been relating to us you would have been the
handler, as it were, for Sam; would that be right?

A. That's correct. From the time I left the training
kennels to October, late October, 1989, police
20 service dog Sam was involved in over 1,200 cases.

Q. Now, I understand you have testified in courts
before; which courts and with what qualifications
given to you by those courts before we turn more
directly to Sam himself?

25 A. I was qualified an expert witness in the B. C.
Supreme Court and also in the Provincial Court of
British Columbia. I've also been declared an
expert witness in that field in the New Brunswick
Provincial Court.

30 Q. Police dog Sam himself, we've heard much of his
name; he has a regimental number, too, I think?

A. Police service dog Sam's regimental number is 304.
He's approximately six years old, he's black and
tan in colour, and he's a purebred German
35 Shepherd.

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Q. What standards are set by the R.C.M.P. for police dogs in training?

A. When you attend the training academy, as I related earlier, prior to leaving there are certain tests in different profiles. What I mean by profile is the dog is trained in numerous different things such as tracking, aggression, searching for evidence, narcotics, etc. Prior to leaving the training centre there are set standards that the dog must be capable of completing in all the profiles prior to leaving. Now, after completing that course, a year after you are tested again to a higher standard by the trainers from the training kennels who attend training courses in the Maritimes and you are tested on a yearly basis. In 1989 I was tested in June, 1989, here in Fredericton, New Brunswick, by Sergeant Lynch, a trainer at the Innisfail training kennels.

Q. And you successfully completed that as well?

A. Yes, I did.

Q. And Sam himself, as I understand it, was validated by your head trainer in April of 1987?

A. That's correct.

Q. Having met all standards that you've been relating earlier?

A. That's correct.

Q. You subsequently worked as a team in the areas mentioned earlier in your testimony?

A. That's correct.

Q. Can you tell me if there are any particular propensities of Sam that must be related to the jurors?

A. Dogs, as we know, have numerous instincts, and one of their instincts is to track for food, a dog

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coming from the wolf, etc., and what we have done in dogs, in this particular case Sam, is we've converted his instinct to track animals into tracking human scent, and this is one of the instincts of the dog; also to locate different evidence such as human scent-related items, narcotics, etc.

5

Q. Is Sam capable of distinguishing the scent of particular persons?

10

A. Yes, he is.

Q. And in addition to human scent what other scents would Sam follow?

A. In regards to tracking, he is only trained to follow human scent. Once the dog is established on one human scent he will follow that human scent to the source, being the person.

15

Q. Once on a scent, however, would a training dog switch scents?

A. Police service dog Sam will not switch scent once he's on a track, he will stay on that one particular scent to the source.

20

Q. How would you describe scents and what effect scents would have in relation to Sam?

A. Scent is emitted by every person and basically what it is is dead particles that fall off your body. If I can use an example, while you're standing these dead particles fall off your body from the top of your head onto the ground. While it's falling from your body there is numerous things that do affect scent. Each and every one of us have a different scent, and that scent is composed of our personal odours being those dead cells that fall off the body, and the type of perfume or the type of clothing you're wearing, etc.

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All those things compose one scent to one person.

Q. How do weather conditions affect scents?

A. Scent being what it is is affected by weather
5 condition. For example, if it's very hot the
scent will dissipate. If it's raining heavily,
then the scent will be washed away. Now, time is
also very important. As time goes by scent will
disappear. Weather will make a difference whether
10 scent will stay longer or disappear quicker, as
well as terrain.

Q. O.K., how does terrain affect it?

A. Scent as it falls onto the ground must hang on to
something for the dog to follow it. Although we
15 cannot see this, the best example I could use is
as you're walking through the woods you're leaving
a trail of scent behind you and this scent will
not be affected by wind since it's a covered area,
and there would be more vegetation where scent
20 could grip onto, and scent would stay a long time.
Perhaps the reverse of that would be if a person
is walking on hard surfaces and scent has less
opportunity to grab onto something, for example, a
pavement, where it would be dissipated quicker.

Q. In relation to the particular areas and the
25 weather conditions under which you operated and to
which you will shortly be testifying, what effect
would they have had on scent?

A. The night of the 28th of October, 1989, the trail
30 was a very easy trail because most of the area was
bush area, trails which are covered from wind and
other weather condition. Fields of tall grass,
sandy beaches, and again basically a rural setting
which is very easy for an animal to follow scent.

Q. Are you able from observation of your police dog
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Sam to say with authority whether or not a trail the dog may be following is fresh or otherwise?

A. Yes, I am capable of doing so.

5 Q. And what would you look for that enables you to say you could do this?

A. How easy the dog can follow that particular scent. For example, if the scent is old the dog requires more effort, his nose must be pinned to the ground
10 in order to follow it. If the track is fresh, then the dog does not have to put his nose to the ground to follow it, as I explained earlier, scent falling from the top of your head, and there is some scent in the air and therefore in that regard
15 it would make it easier for the dog to follow the scent and he would progress quicker. As a result of that and because of the numerous training scenarios I have done with police service dog Sam his experience with actual cases, the type of
20 setting, being terrain, weather and time - pardon me, time, terrain and weather, I can determine the approximate time of a track.

Q. I just have a couple more questions for you, Corporal. The term track, does that have a
25 specialized meaning for a dog handler?

A. Yes, it does. What I mean by a track is following a scent from point A to the source, or point B, whatever point B might be. It could be an article, it could be an item, that's what I mean by track.

30 Q. And since Sam's validation in 1987 about how many tracks would Sam track per day in training or in actual experience?

A. Training is only done as required. Here in New Brunswick there are only three police dogs with
35 the R.C.M., and therefore training is somewhat

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limited because we are used so many times in actual cases. Therefore training is not needed on a daily basis but on a regular basis, which could be weekly or bi-weekly. Sam is used in actual cases in the tracking profile probably up to ten times a week.

5

Q. Finally, how would you compare, because of your experience and knowledge you've acquired by your training and observation of Sam, the capacity for recognition of scents between a dog and a human being?

10

A. Could you repeat that?

15

Q. Between a dog and a human being, what comparison would you make between the capacity for determining scent of a dog and a human being?

A. The dog has a much more developed nose, therefore making him capable of following different scent while human beings are not capable of doing so.

20

MR. SLEETH: My Lord, I have the motion before the Court, I believe, that this witness be qualified together with his dog - that he be qualified as an expert witness entitled to give opinion evidence in the field of tracking and determining from observation the behaviour of his dog, Sam.

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THE COURT: Well, I think we'll describe it as tracking with the assistance of a trained dog. Do you have any questions?

30

MR. FURLOTTE: I have no questions.

THE COURT: One question I want to ask, though, before I grant the motion is this, how is the dog told what scent to track? Does he pick this out on his own or does he - do you put a thousand scents in front of him and he decides he's going to follow that

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one or -

5 A. What would happen is upon arriving to a scene,
most of the time being a crime scene, that scene
has been secure, and the first human scent the dog
comes across is the scent that he will lock onto
and he will follow that scent to the source.

10 THE COURT: But if you come to a crime scene you must
surely do something to guide him onto - you take
him to where a suspect, say, or a person you want
to track was last seen or where he last stood or -
just how do you do that?

15 A. That's correct, yes, I would take - if the person
was last seen in a particular area I would take
Sam out of the vehicle, put his tracking harness
and his long line on him and direct him to that
area and cast him in a circular motion over the
area where the suspect was last seen.

20 THE COURT: Yes, well, perhaps you'll be going into more
detail when you get into your evidence here, but I
declare the witness an expert in tracking with the
assistance of a trained dog.

25 MR. SLEETH: Thank you, My Lord. Corporal, I should have
asked you because you have mentioned it to me
earlier, the expression casting the dog, what did
you exactly mean by that?

30 A. The dog when tracking is always on a leash. That
way he can communicate by body movement his
finding as far as tracking human scent. The dog
has a tracking harness and there's also a line
that's attached to that tracking harness. The
line itself is 25 feet, and what I mean by casting
the dog is me standing still or walking in a
35 circular motion and with the dog at the end of the

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tracking line on the harness making a circle, a
half-circle or full circle, attempting to locate
human scent being the start of the track.

5

Q. Corporal, I have just placed before you a
direction pointer and I wonder if you would please
relate to the jurors a particular casting and
tracking which you performed with your dog, Sam,
beginning with the date and the place, please.

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A. On the 28th of October, 1989, at approximately
11:10 p.m., I was on routine patrol in the Renous,
New Brunswick, area when I was requested to attend
the Chatham Town Police office. I did so immedi-
ately, and upon arrival I was taken to an area, 92
Henderson, in Chatham, New Brunswick. As a result
of a conversation I had with the Chatham Town
Police officer I casted police service dog Sam in
the area. Sam immediately located a track being
human scent and followed the track through a back
yard to the street. Once on the street service
dog Sam could not follow the track any longer.
What had happened is that time elapsed and the
terrain made it too difficult for the dog to
follow the track, the scent had dissipated at that
time. I then returned to the area of 92 Henderson
Avenue in Chatham, New Brunswick, and I searched
the area for shell casings. While doing so I was
advised that the prowler - a man described
similarly from the 92 Henderson address had been
seen in the Tweedie Avenue area in Chatham, New
Brunswick. I was escorted by the Chatham Town
Police to that area and upon arrival on Tweedie
Avenue I parked my police vehicle and immediately
took police service dog Sam, placed the harness on

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5 him and the long line and casted him in an area west, the far end of the street, which would be the west end of the Tweedie Avenue in Chatham, New Brunswick, this being the area where the suspect had last been seen.

10 Service dog Sam immediately picked up a scent or a track. He pursued the track immediately and we started running.

Q. Were you able to determine by observation of police dog Sam at that stage how fresh that track might have been?

15 A. Because of the way the dog indicated the track, what I mean by that, because of the way he came across the scent, his sudden body reaction, the way his tail came up, the way his ears peaked and the way he took off into that track, just being like a wall if you were to walk into a wall and
20 then walk along that wall is the indication that service dog Sam gave me at that point. That would directly relate to me because of the terrain that we were on at that time that the track was fresh, approximately, in my estimation, five to ten
25 minutes old.

Constable Houle of the R.C.M.P., Newcastle, and Corporal Bruce of the Chatham P.D. were my back-up men at that time. We immediately
30 proceeded down a path. We were running as fast as we could. The dog was at the end of the line and we were progressing extremely fast. I was running flat out, the dog pulling me along, and the two back-up policemen behind me. We proceeded through numerous trails going sometimes from south to
35 north, north and south, but always in a general

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5 westerly direction. Never were we off a beaten path, we were always on a trail. Sometimes the trail was very narrow but we were always on a trail.

10 We then proceeded through numerous fence holes. As we progressed from bush into fields I found that every time we got to a fence there was a hole. The dog would get through the hole, I would get through the hole, and so did the other officer behind me and we progressed. This happened more than one time, perhaps three to four times, at every fence. We proceeded through fields, and again there were barbed wire fences in those fields going along the field. Every time we got to a barbed wire or a fence I noticed that the fence had been pushed down, not only once but in numerous places. Like, the fence was not just pushed down once by the suspect going across the fence, but it was a well-used area where the fence had been pushed down numerous times. We progressed at a high rate of speed and we ended up in an open field near some Texaco tanks. I believe those tanks are now Ultramar tanks but at the time they were Texaco tanks. We proceeded through the field at a high rate of speed. Once I got to the end of the field, this particular field had extremely tall weeds, and as I got to the end of this particular field I found myself to be on another trail. The first question I asked myself at that time is there is no possible way a man not knowing that there was a trail there would have found this trail because of the tall weeds that were in the field.

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At that point I stopped and noticed that I had lost Corporal Bruce and Constable Houle. I then attempted to make numerous radio contact but those radio contacts were unsuccessful, I could not get through, the radio was not working. I then made the decision to continue tracking the suspect. I felt he was not far ahead of me at that time, but like I said, the track being in my estimation approximately five to ten minutes old.

I continued tracking with service dog Sam down this area. At that time I did not know where I was, being new to the area, the Moncton area, and being new to the Miramichi, Chatham, Newcastle area I did not know exactly where I was. We had been through so many trails and so many fields I was uncertain. I then found myself going downhill and as I was going downhill on this trail I recognized streetlights below me, and those to be the Upper Water Street, Chatham area in New Brunswick, lights.

Q. Corporal, would you be able with that pointer to indicate where this Upper Water Street area is that you're referring to where you suddenly saw those lights?

A. Yes, I am.

Q. On P-1 which is the aerial photograph.

A. These are the tanks I'm referring to. This is the Tweedie Avenue, Chatham, New Brunswick, address I'm referring to. These are the woods we crossed, fields we crossed, more woods. We came to this corner of that field, proceeded down this way. Now, there is a fence line here. Got to the corner of this fence line, proceeded through these fields where there is numerous fences and barbed

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wire fences, to the corner of this field here, and
this is where I said this particular field the
5 weeds were extremely tall and it was very diffi-
cult to locate that trail. Only a person knowing
that area, in my opinion, could find that trail,
there was nothing there. Proceeded down this way.
While I was proceeding down this way here on this
10 trail, this is where I realized in which area I
was, Upper Water Street being this area here, this
road here, along the water.

Q. Thank you very much, Corporal.

A. I continued, and prior to getting to the Upper
15 Water Street there is a thick bush area. At that
time the dog indicated a pool of human scent,
meaning that the person ahead of me had stopped
and therefore there was more scent than just a
trail, there was accumulated scent. I looked
20 around, I didn't see anybody, and the dog wanted
to continue on that same track. I continued on
that track, crossed the Upper Water Street, and
ended up in a front lawn, proceeded, the dog still
on the same scent, and on that track in between
25 two houses, through the back yard, and once I got
to the back yard I got to another fence. Again
this fence had been pushed down numerous times.
I jumped the fence, and as I jumped the fence I
found myself falling probably 20 to 30 feet down
30 this embankment.

Q. How steep was that embankment?

A. I would say approximately 20 to 30 feet. I fell
to the bottom of the embankment, the dog was ahead
of me, he had no problem going down it. Again
35 having the 25 feet lawn ahead of me he was able to

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5 get over the fence and get down before I realized
what was happening at that point. As I picked
myself up onto the beach, at that time we were
right along the Miramichi River, and along the
Miramichi River it's a sandy beach, some rocks.
I picked myself up and in the distance I would
estimate approximately 200 yards ahead of me there
10 is a point, the shoreline makes a point and then
it disappears again, and I thought just a moment
that I seen a shape go behind that point. Again
I tried to make radio contact with other officer;
unfortunately my portable radio was not working.
15 It was later found that this is a very poor area
for radio transmission because of the banks on
either side.

I continued tracking. At that time I felt
the dog did not have to put his nose down, the
20 track was extremely fresh, and I was running flat
out. When I got to the point where I thought I
had seen a shape I stopped, and if I can use that
expression, I reeled the dog in and I grabbed him
by the tracking harness. I had my gun in my right
25 hand, I come around the point and I faced an indi-
vidual at that time. By the edge of this embank-
ment there was a - the suspect was standing there.
He was in the shade area of the embankment. The
only lights at the time were lights reflecting on
30 the river from streetlights from across the river.
It was difficult to see but I could see that the
man had what appeared to be a rifle in his left
hand. That rifle at the time was pointing down
and I could see the chrome portion, the reflection
35 of the light on the metal as it was pointing down.

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I took cover at that time, identified myself to the man, and told him to give up. He did not, he fired one shot at that time. I leaned back against a rock and another shot was fired. I was approximately 10 to 15 feet from the suspect at that time. I saw the first muzzle flash of the weapon but I did not see the second one. As I leaned around the rock to shoot the man had then disappeared, climbed this ridge, and I got a glimpse of him as he was going up this ridge. I could not return fire at that point and it was too late to release the dog. I waited till he got to the top and I wanted to make sure I was not going to be ambushed so I waited a few extra seconds and I then heard the man running through the field. When I say I heard him, I could hear the vegetation crushing under his feet as he was running away. I then went up the ridge, the dog could see the suspect, and again he was at the end of the long line. I was going to return fire at that point but I saw the suspect going between two houses at that location, going back towards Upper Water Street.

Now, I saw the man cross the street and go between two white cement posts. Now, those big white cement posts are the entrance to a driveway. At that time I ran to one of the houses and I knocked on the door. I was going to ask the people to send more police officers down. I didn't get any answer but there was a house which is a trailer behind me, a lady came out and advised me that she had already called the police and that they were on their way. At that time I

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5 estimated that we had covered between four and
five kilometres through the woods and I was out of
the perimeter where the police were patrolling, I
was out of that area. Minutes later a police
vehicle started showing up and Corporal Bruce of
the Chatham P.D., Constable Kerr, and Constable
10 Houle of the R.C.M.P., Newcastle, joined me. This
was only a few minutes after I had talked to this
lady.

Picked up the scent and continued up this
driveway for a distance and then through a field
to a railroad track. We got onto this railroad
15 track, all the back-up men were close to me at
that time, and continued on this railroad track
in a westerly direction. Suddenly I saw the dog's
tail come up. Although the dog is 25 feet ahead
of me and he's black, under his tail is all white,
20 and when - again relating to my experience with
this particular animal, when his tail comes up I
know that he has the suspect nearby in sight or
close enough that he wants to get to him. He
doesn't have to track him any more, there he is
25 right ahead of him. I also felt a jolt in the
tracking harness saying that the suspect was
nearby close ahead.

I advised my fellow officer immediately. As
I recall I said, "Heads up, heads up", and the
30 second time I said heads up a shot was fired in
our direction. I estimated that shot to be fired
no more than 30 yards ahead of us. I saw the
muzzle flash, we were running a little bit on the
side, not down the middle of the track but to the
35 side. The railroad tracks are gravel and as

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you're running it makes a lot of noise, and therefore this is the reason why we were not running
5 right down the middle of the track. I jumped in the ditch and as I jumped in the ditch the line slipped out of my hand and the dog got loose. The dog is trained to attack under gunfire and took off towards the suspect. I could not see the
10 suspect, I was unable to return fire, therefore I called the dog back. After calling him back numerous times service dog Sam came back to me and we took cover in the ditch. This did not take very long and immediately as we took cover another
15 shot was fired towards us. I cannot say how far up the track this second shot was fired but it seemed like the loudness of the shot was considerably less loud than the first time.

At that time I discussed with my fellow
20 officer operational move. Corporal Bruce of the Chatham P. D. had radio contact with his department and we organized further action from there. We did not continue tracking the suspect at that point.

25 Shortly thereafter - I laid in the ditch for approximately 30 minutes to see what would happen and I returned to my police vehicle which was in the Tweedie Avenue area and I searched the track back, meaning I went through all the area that
30 we'd covered, and especially along the shoreline where shots had been fired at me. Unfortunately when I got there the tide had come up some and I was unable to locate any shells or shell casings at that time. The area where the dog had indicated pools of scent prior to crossing Upper Water
35

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Street the first time, I returned to that area and I was able to, although it was through woods,
5 locate the area very well because I had left my
toque as an indicator in the area. I searched
that area and nothing was found.

Q. What were the lighting conditions through all of
this?

10 A. In the woods it was dark, one could not see any-
thing. Just like if you close your eyes, you
couldn't see nothing. Through the fields there
were some lighting in that area since there are
some houses nearby as you cross the later portions
15 of the field. Very poor lighting throughout.

Q. Earlier, Corporal, you testified about a point
from which you were first able to observe the
lights of Upper Water Street. I wonder if you
could take this yellow pin and if you could indi-
20 cate that, please, on P-1. Could you please put
the number 11 beside that pin in blue ink? Also
you testified about going over a cliff. Could you
please take a yellow pin again and on P-1 indicate
that spot where you went over the cliff? Could
25 you please beside that mark 12 in blue ink on
P-1. You mentioned earlier that you had gone back
and checked the shoreline area. How many spots
were there in that particular area where you could
actually get down the side of the cliff safely?

30 A. Where you could get down in that particular area
where pin 12 has been placed, it's very difficult
to come down that ledge. There's no - it's a
ledge. You can scale it down but it's very diffi-
cult to walk down. It's actually impossible to
35 walk down. One would have to turn around and -

- Q. Would one have to know that area well to know it was there?
- 5 A. That's correct.
- Q. When you were down at the ledge area after the shot had taken place and the suspect went climbing back up the ledge was there anything said at that time by the suspect that you heard?
- 10 A. Yes, there was. The suspect said, "Don't come near me or I'll fuckin' kill you". The tone of voice was the same, there was no excitement whatsoever, he didn't appear to be out of breath, it was level tone of voice.
- 15 Q. Did you at any time have an opportunity to see the person whom you and Sam were pursuing, however vague or only an outline?
- A. When the confrontation took place on the edge of the river I was able to see more or less a
- 20 silhouette. The only reason I could see that is because of the somewhat reflection of the lights on the river in that area. What I could make out of the silhouette is that the man appeared to be approximately six feet. The reason I can say that
- 25 is I'm six feet and didn't appear to be taller or shorter than me and he appeared to have a lumberjack jacket, dark in colour, possibly green and black, like a mackinaw-type jacket. He also -
- because I was looking at the weapon in his hand at
- 30 the time he appeared to have work boots on his feet, but it was very difficult to tell precisely because of the lighting condition at that time.
- Q. How fast was this person moving? How agile was he as you actually pursued him down toward the cliff and in the ledge and cliff area?
- 35

23

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- A. When he climbed up the ridge at that location it's one of the - perhaps the only location in that area you can climb the ridge in that fashion. It's like a stairwell, a stairway, and it's one step onto another onto another and you're on top. Other areas in that area it's a straight cliff, there's no way up or no way down safely. It appeared to me like the man was waiting for me there at that particular area and then was able to get up the top quickly. There are bush there and weeds. It's difficult to see.
- Q. Did I hear you to say a moment ago that you thought you could observe work boots or something like that?
- A. That's correct.
- Q. When you went and checked the area afterwards did you make any particular observations in the beach area?
- A. Yes, I did. In the wet sand there appeared to be - there were footprints, not mine, and the footprints appeared to be ones of work boot, like a regular Greb work boot that are commonly used for construction work, etc.
- Q. Moments ago, Corporal, you pointed out a pin where you started this pursuit and you placed a pin #11 in the spot where you first saw Upper Water Street. About how much time would have elapsed from the time you first left that residence to the point where you first saw these lights? The running through the fields, how fast was that?
- A. Prior to getting to where I saw the lights?
- Q. That's right, sir.
- A. I cannot estimate a time, the reason being is your

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5 attention is directly related to the dog, what
he's doing, and you're continuously thinking of a
possible ambush and examining the situation,
10 thinking all the time. You are not thinking of
how much time would be elapsed or how much time
it would take you to get here. I can say that I
walked the area after, like the track entirely
15 after, and I estimate it to be approximately
four and a half to five kilometres in length.

Q. But that race was at all times at high speed
right to the point where you fell and stumbled?

A. As fast as I can run through the whole thing.

15 Q. When you were spoken to by the suspect what tone
of voice was he speaking to you in?

A. It was a level tone voice, there was no high
pitch or a low pitch indicating to me that he was
out of breath or anything like that. There was no
20 accent, he spoke in English.

Q. Between calm or agitated which would you select?

A. Very calm.

Q. When there had been a series of shots fired at you
what conclusion did you form once those had been
25 fired at you

A. Could you say that again, sir?

Q. O.K., there were four shots fired at you that
evening?

A. Total, yes.

30 THE COURT: I don't think he said at him, he said in his
direction.

MR. SLEETH: O.K., thank you, My Lord. You said, then,
there were four shots fired in your direction that
evening. What conclusion did you form as a result
35 of that?

25

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A. That it was a matter of time before we got
ambushed and that one of us would get seriously
5 hurt and that's why we stopped where we did.

Q. Could you see his face?

A. All I could see is that it appeared it was
darker around the chin area, possibly a beard
but I could not be sure, it was darker.

10 THE COURT: Cross-examination, please, Mr. Furlotte?

CROSS-EXAMINATION BY MR. FURLOTTE:

Q. Corporal Thomassin, you mentioned that after it
was all over you retraced your steps from the
15 time you first started tracking the suspect until
it was over and you said it was what length in
distance?

A. From the Tweedie Avenue address to the confronta-
tion is approximately four and a half to five
20 kilometres.

Q. You say the confrontation, is that the one on the
beach?

A. That's correct.

Q. Four to five kilometres, and how far would it be
from where you left the other police officers when
25 you went down to the beach, Corporal Barter?

A. Pardon me?

Q. Is it Barter or -

A. Bruce.

30 Q. Bruce, Corporal Bruce, sorry.

THE COURT: Loud enough, Mr. Furlotte, so the jury can
hear you.

Q. When you left Corporal Bruce, I believe somewhere
in this area?

35 A. Can I use this to show you?

Q. Yes, sure.

5 A. At this point here I realized that Corporal Bruce and Constable Houle were not with me any more, and the confrontation took place down here.

Q. Down on that point?

A. That's correct. I did not measure the distance from this area to that area.

10 Q. O.K., and you met up with Constable Bruce again right down by Water Street, Upper Water Street?

A. Yes, this area here, which is Upper Water Street, the two large cement white posts are in this area. This is where they met. The houses are located on the side of the road here where I asked for
15 assistance.

Q. And you followed the suspect back up the bank to Water Street and you stopped at the house and how soon after would you have met up with Constable
20 Bruce?

A. I knocked on the one door and there was no answer. A lady came from behind me at the trailer and she explained to me that she had heard bangs and that she called the police and the police was there. I can't say how long, it
25 was not very long, minutes.

Q. A minute?

A. I didn't say a minute, I said minutes.

Q. No, about. It was a very short time after, anyway?
30

A. Very short time, correct.

Q. So I would assume, then, that maybe Constable Bruce and the other police officer were working their way down towards Upper Water Street when
35 you were already down at the beach?

- A. I have no idea what what they did.
- Q. But they were attempting to follow you but you
5 got ahead of them?
- A. As I explained, when I got to that location I
pointed out to you, this is when I realized that
they were not with me any more.
- Q. Now, I understand that at the time when you say
10 there was two shots fired in your direction down
on the beach they were very close together?
- A. Yes, they were.
- Q. And at the time you - because of the flash and the
noise you thought it was a 12-gauge shotgun?
- 15 A. It appeared to be, yes, because of the loud of the
bang.
- Q. Because of the loud of the bang. A shotgun sounds
different than a rifle, anyway, does it not?
- A. It's louder.
- 20 Q. It's louder, a rifle has more of a crack to it?
- A. Like I say, sir, it's louder, and it was - I was
no further than 15 feet from the person at the
time.
- Q. But it was a very loud noise?
25 (Witness nods head.)
- Q. I'm just wondering, shouldn't Corporal or
Constable Bruce have heard those shots? He was
right there in the area.
- A. They may have.
- 30 Q. Well, I believe Constable Bruce testified he only
heard three shots that evening, one in Chatham up
around in this area, and two up along here after
following the suspect up the railway line.
- A. Sir, I don't know what Corporal Bruce said, I can
35 only relate what happened to me, and that's what

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took place.

- 5 Q. It appears from your testimony, Corporal, that
from the shots that you believe were fired in your
direction down on the beach that fired a couple of
shots in your direction and words something to the
effect, "Don't follow me", or "Fuck off", or,
"I'll shoot you"?
- 10 A. I related -
- Q. What were the words again that this individual
said?
- A. "Don't come near me or I'll fuckin' kill you", is
what he said.
- 15 Q. But it would be apparent he wasn't trying to kill
you, he was just trying to scare you off?
- A. I don't know, sir.
- Q. After two more shots up the railway line you
finally took the hint that this individual was
20 trying to scare you off and you didn't pursue the
chase any more, is that right?
- A. No, I wouldn't say that, sir. The shot on the
railroad track, muzzle flash, was directly towards
us, and it was within 30 metres from us, I estima-
25 ted, and it was directly pointed at us.
- Q. So you assumed he was trying to kill police
officers?
- A. I didn't assume anything. I can only relate to
what had happened in that incident, which is what
30 happened.
- Q. Did you at that time believe you were chasing
Allan Legere?
- A. I didn't know who I was chasing. After the
confrontation I felt that perhaps it may be Allan
35 Legere, but before I did not know who I was

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chasing.

- 5 Q. Who was a suspect for - but you believed at the time you were chasing Allan Legere?
- A. I just said what I believed, what I did.
- Q. And at that time he was a suspect - Mr. Legere had been a suspect for the murder of Flam and the killings of the Daughney sisters?
- 10 A. Sir, all I knew of the investigation at that time is that there was numerous suspects in those incidents and Allan Legere was one of them.
- Q. Up on the train track there was four police officers when you all hit the ditch, is that correct?
- 15 A. That's correct.
- Q. You all had your weapons? You all had weapons?
- A. I had my weapon.
- Q. You had your weapon. The other police officers had weapons?
- 20 A. I don't know, sir.
- Q. You don't know. It was too dark to tell or -
- A. I don't know. I know what I did.
- Q. And you called your dog back so your dog wouldn't get hurt?
- 25 A. No, sir, that's - the reason why the dog was called back - first of all, the dog was never meant to be released at that time. The line slipped out of my hand as I dove into the ditch.
- 30 The reason why the dog was called back is we could not see anything ahead of us, the dog was somewhat tired and I felt he would not give a knockdown type of attack where he would knock the man down, and I could not offer any assistance to
- 35 the dog at that time. Because of the shots that

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were fired the suspect had seen the dog and I felt
that he would be expecting the dog to come and
5 would have his weapon drawn and would shoot the
dog as he came near him. That is why the dog was
called back.

Q. That dog will also follow an order to attack, will
he not?

10 A. Yes, he would.

Q. So you were concerned that he might shoot the dog,
is that what you're saying? Is that why you
didn't order the dog to attack?

MR. SLEETH: My Lord, perhaps the witness could be given
15 a chance to answer instead of this whole series of
questions put to him.

THE COURT: All right, do you want the question repeated?

A. Yes, please, My Lord.

Q. Is the reason that you didn't order the dog to
20 attack is because you were scared the dog would
get hurt?

A. No, sir. In order - the dog and I work as a team.
I have to be able to render assistance to the
animal should he needs it. Suspects are known to
25 carry knife, in this case a gun, and because he
had fired upon us already three times at that
point and he had seen the dog, I felt that the dog
would come up to the suspect and of course he has
to run up to the man, and the man would be waiting
30 there and shoot the dog, and I would not be able
to render him assistance because it was pitch-
black at that time.

Q. But this suspect was close enough that you could
see a rifle pointing up so you could tell the
35 other people to duck?

- A. No, that's - you're not talking about the same incident, sir, I believe.
- 5 Q. I'm talking about the one up on the rail line, the old rail track.
- A. Yes, that's correct, I did not see the gun. I saw the muzzle flash and I said it was approximately 30 metres from us, which is nearly 100 feet.
- 10 Q. A hundred feet?
- A. That's correct.
- Q. Are you saying you told the other officers to duck or get down after you heard the shot and the muzzle flash?
- 15 A. No.
- Q. Before?
- A. I said heads up twice. The second time I said heads up that's when the shot was fired, simultaneously.
- 20 Q. And was the shot fired before you said heads up or after?
- A. Simultaneously.
- Q. Simultaneously?
- A. That's correct.
- 25 Q. And that's when you saw the individual about 30 metres ahead?
- A. I did not see the individual. All I saw was the muzzle flash of the weapon.
- Q. So you could see the weapon but you couldn't see a man behind it, or a flash?
- 30 A. Sir, muzzle flash of the weapon, not the man.
- Q. When you saw this individual on the beach how many rifles or guns did he have?
- A. I only saw the one. I could not see his other hand or arm. All I could see was the metal
- 35

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portion of the barrel, metal reflecting from the light at that location at that time.

- 5 Q. And you said he had the gun in his left hand?
A. That's correct.
Q. And he fired from the left hand?
A. I saw the rifle come up and the muzzle flash at that time, yes.
- 10 Q. You didn't see him hold it with two hands at any time, just the one hand?
A. No, I did not see him hold the weapon in two hands. I don't know if I would have been able to at that time.
- 15 Q. Would he have held it up like this and fired with the left hand?
A. Sir, I don't know. All I could see was the metal portion of the barrel pointing down and I saw the metal portion come up. I don't know if he was
- 20 holding it with one hand or with two hands, and then the shot was fired, all in one motion.
Q. I believe you said today that this individual was a tall individual and about six feet?
A. That's correct.
- 25 Q. Do you recall whether or not in your statement or your report that you felt the individual was over six feet?
A. Yes, I do.
Q. So at that time you felt the individual was over
- 30 six feet, is that right?
A. He was no taller than me and I'm six feet is what I meant to say.
Q. O.K., now, you mentioned also that the person was stocky in the shoulders?
A. That's correct.
- 35

Cpl. Thomassin - Cross

- Q. So he would have been a big man?
- A. I didn't say that, I said that the man appeared to
5 be stocky in the shoulders.
- Q. Is a six-foot man stocky in the shoulders, is that normally considered to be a big man, or average, or small?
- A. To me it's average, sir.
- 10 Q. Now, you also felt that he appeared to have a beard?
- A. He was darker in the facial portion which led me to believe that he appeared to have a beard.
- Q. Were there any impressions taken of the boot
15 prints in the sand?
- A. I don't believe so, or I don't know would be my answer, I don't know.
- Q. But the footprints were maybe, as you say, clearly showing the treads of a large work boot?
- 20 A. They appeared to be a work boot, yes.
- Q. And you felt at that time that some impressions were going to be taken from those footprints to be checked with possible suspects?
- A. Sir, I related the information to officers at the
25 scene. What they did after that, I am unaware of it.
- Q. You weren't curious to find out if it was followed up?
- A. Pardon me, sir?
- 30 Q. You weren't curious to find out if it was followed up?
- A. There was numerous other leads to be followed up every time, sir, and I did not follow up on that one, no.
- 35 Q. Now, from your description it appears that this

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man was in extremely great physical condition.

A. I never said that, sir.

5 Q. You said you chased him for four or five kilometres on the run full out and that he wasn't even out of breath.

MR. SLEETH: Objection, My Lord, the witness I don't believe ever said anything about the suspect never
10 being out of breath. It's another case where Mr. Furlotte - words exit from there, go through Mr. Furlotte's brain, and another word sorts out of his mouth. He never said that.

MR. FURLOTTE: That's usually the way it operates, My
15 Lord.

MR. SLEETH: Evidently.

THE COURT: Pretty good description.

Q. Did you or did you not in direct examination say
20 that the person had a level tone of voice, didn't appear to be out of breath and was very calm?

A. Yes, I did.

Q. Is that what I asked you before the Crown
Prosecutor interrupted?

THE COURT: Well, not quite, really. You asked if he was
25 ever out of breath. Now he's talking about a particular - this is sort of a play on words here.

MR. FURLOTTE: I guess we are playing on words, My Lord.

THE COURT: Well, your question, Mr. Furlotte, was you're
30 saying that he was never out of breath, and what you're quoting now from your notes is that he said at the time of the confrontation he didn't appear to be out of breath. These are different things you're asking.

MR. FURLOTTE: Were you out of breath at that time,
35 Corporal?

35

Cpl. Thomassin - Cross

A. Yes, I was.

5 Q. Do you consider yourself to be in good physical condition?

A. Average.

10 Q. Did it appear whether or not this - because of the condition it wouldn't appear to be somebody who was on a starvation diet for a couple of months, would it?

A. I'm sorry, sir, could you repeat that?

Q. If somebody hadn't eaten, wasn't eating for months, it wouldn't appear to be someone like that, would it?

15 A. Sir, I described what the silhouette, that encounter, looked like, and what led up to those events. I have no idea if that person was starving or on starvation or whatever.

20 Q. Do you know whether or not the person had a hat on his head, something like P-54 here?

A. No, I don't.

Q. Would it look to be a bigger, stockier man than - maybe a heavier man than this?

25 A. Sir, all I saw of the face is the darker area here which led me to believe that he may have had a beard. I never saw anything about his face. Neither did I see if he had something on his head or not.

30 Q. You wouldn't describe this individual as being thin built, though, would you, the one you saw?

A. Stocky in the shoulders is all I can say.

Q. You won't say that he wasn't thin built?

35 A. Sir, what I saw is a silhouette, and a silhouette, the man appeared to be stocky in the shoulders and the rest appeared totally normal. Whether the man

had a big belly I couldn't tell you or not.

MR. FURLOTTE: I have no further questions.

THE COURT: Re-examination, Mr. Sleeth?

5 MR. SLEETH: No, My Lord.

THE COURT: Thank you very much, Corporal Thomassin.

Now, we're past the lunch hour so we will recess
until two o'clock and we'll come back then,
please.

10

(JURY WITHDRAWS.)

(LUNCH RECESS - COURT RESUMES AT 2:00 p.m.)

(ACCUSED IN DOCK.)

15

MR. ALLMAN: My Lord, there were two matters before the
jury came back, one a matter that I wanted to
raise, the other is a matter that Mr. Furlotte
wants to raise. If it's acceptable perhaps we
20 could deal with my matter first?

THE COURT: Yes.

MR. ALLMAN: My Lord, when we were interviewing the
police artist who already gave evidence, that
would be Fournier, we discovered that there was
25 a sketch of another individual. Through some
misunderstanding or oversight or miscommunication,
and we're not quite clear what, we hadn't seen
this sketch and we're not aware that it had any
significance. When we saw the sketch we made some
30 further inquiries with the police and we now
believe it may have some significance. This
relates to an alleged sighting by two truckers, a
father and son both named, obviously, Williams.
The sighting according to them is in the general
35 area of the railroad tracks shown on D-1. We

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haven't shown them the photograph yet so I can't
be absolutely precise. It's the general area of
5 the railroad tracks as they cross the road. I'll
show Mr. Furlotte where I'm pointing to. This is
the photograph 32(1) that depicts the Daughney
scene, and the area, I understand - as I say, I
haven't seen - they haven't seen the photograph -
10 is somewhere around there. They gave a descrip-
tion of the - one of them went over the bridge and
the railroad tracks about 5:10, the other followed
afterwards, they were both going to the -

THE COURT: What day was this?

15 MR. ALLMAN: On the morning of the discovery of the
Daughney death. They both saw independently and
without commenting on it to each other at the time
an individual whom they gave a description -

THE COURT: Were they in separate vehicles?

20 MR. ALLMAN: They were going in separate vehicles. One
had a load of wood, I think it was, or something
to take to the mill, and then the other had
another load of wood to take to the mill so he was
following behind. They both saw this individual
25 separately, they gave descriptions of the indi-
vidual. I'm not going to read the entire
descriptions but they included a number of things
of significance such as that he had a beard, that
he looked like a big man 190 to 200 pounds but as
30 though he'd lost weight, so he was only actually
170. They gave estimates of height, they gave
estimates of age, 40 to 45 years, I believe one of
them said. They also provided a composite sketch
to the police officers, that's what alerted us to
35 the existence of this matter. As soon as we

became aware of this, which was Monday night -
Sunday night, I'm sorry, this was Sunday night -
we made inquiries the following day which was
Monday. We didn't alert Mr. Furlotte because
we weren't sure what we had here.

THE COURT: You hadn't known about these people before?

MR. ALLMAN: No. We made inquiries on the Monday to try
and find out how this had slipped by us and also
we got the Williamses down and we spoke to them
to check into their statements. We did that
Monday night. As a result of that we were of the
opinion that this is evidence that the jury should
hear. What its significance is, who it helps, may
be a matter for debate, but it's a sighting, it's
a sighting on that morning, it's a significant
sighting and we felt the jury should hear it. We
made that determination on Monday night. On
Tuesday morning we advised Mr. Furlotte of this,
we gave him copies of the statements of both these
witnesses, we gave him copies of the composite
drawings prepared under the direction of the
witnesses. We indicated to him that we would like
to call both the witnesses. We said we didn't
propose to put the composites in though of course
if we did call the witnesses and he wanted to,
then the composites could go in but it would only
be our intention to call the oral evidence of
those two witnesses. I'm now seeking, therefore,
to add the names Joseph Wayne Williams and Joseph
Roderick Allan Williams to the witness list.

What I would like to do is this. These two,
of course, relate to the Daughney matter. They're
not here today because there's no point in having

5 them here on a chance, so to speak. What we
would like to do, therefore, is go on today,
finish everything up to the beginning of the
Smith, which I think will probably take the
bulk of this afternoon. Then end and, with Your
Lordship's permission, call the Williamses first
thing tomorrow morning because they relate to the
10 Daughney matter.

 I don't know what Mr. Furlotte's position is
going to be. I suppose there are two positions.
The first is whether or not we should be permitted
to do this. My understanding on that is this,
15 there is no rule against adding witnesses to the
witness list at any stage provided their evidence
is relevant, of course, and that adequate notice
has been given to the defence to enable them to be
prepared to deal with these witnesses, so for the
20 proposition that we can and should be allowed to
add the names, I would submit there's really not
much argument about that. I accept that Mr.
Furlotte may need more time, if that's his
position, so be it, although we would like to call
25 them tomorrow to put them into the context in
which they fit.

THE COURT: Yes, but you say copies of their statements
did go to Mr. Furlotte?

MR. ALLMAN: They were provided Tuesday morning so if we
30 call them Thursday morning he'll have had 48 hours
to prepare for them.

THE COURT: Well, Mr. Furlotte, there's not much question
about the fact the Crown should be granted the
privilege of adding these to the list of witnesses
35 on the indictment. The only question is do you

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require further time or is it all right to call them tomorrow?

5 MR. FURLOTTE: Well, My Lord, as a defence lawyer and an officer of the court I can't argue against the Crown that - the Crown ought to be able to present the evidence it has in court so long as the defence has reasonable time to prepare full answer
10 and defence to this. Again there's also a position, I think the law is that the Crown is not supposed to take the defence by surprise. The defence is supposed to be fully aware of the case that it has to meet. With all due respect, I can
15 sympathize with the Crown Prosecutors that they only became aware of this Sunday evening. However, the statements of the two individuals were given on October 19, 1989. That statement was by Joseph Wayne Williams, given to Corporal D. J.
20 Lockhart, that's on October 19, 1989, and the statement of Joseph Roderick Allan Williams was given on October 23, 1989. The composite drawings was done on October 19, 1989. I think as I stated earlier taht while the Crown has a duty to
25 provide defence with full disclosure there doesn't appear to be any rules on the investigating police force to provide full disclosure to the Crown Prosecutors, therefore leaving, usually, the defence in the dark aside from what the investi-
30 gating police force wants to bring before the Court. However, under the circumstances, I believe the Crown Prosecutor is right, the Court is not to concern itself with whether or not the police force is acting properly or not but
35 whether or not the Crown is given the opportunity

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to a fair trial just as the defence is.

5 I believe, as I've stated earlier, that I
personally am not prepared for this trial as full
answer and defence, that I have not had time to
prepare for the civilian witnesses at this trial,
so definitely since I don't have even enough time
to prepare for the witnesses that are already on
10 the list I know you're going to find time for me
to add a couple more.

THE COURT: Couple more what?

MR. FURLOTTE: A couple more witnesses.

THE COURT: To what?

15 MR. FURLOTTE: To the ones that I'm not already prepared
for, to the witness list. I'm sure you'll think
that I can find time to squeeze these two in.

THE COURT: No, I say take all the time you want on it.
This is what I'm asking now is do you want - is
20 tomorrow sufficient time? If not, can we say a
week from now or -

MR. FURLOTTE: I would prefer to wait till next week for
one reason or another.

THE COURT: Well, let's do that, then. Are you agree-
25 able?

MR. ALLMAN: Yes, I understand my learned friend -

THE COURT: You're not seeking to put in the composite
drawings, Mr. Allman?

MR. ALLMAN: No, it's available. It will be here if Mr.
30 Furlotte wants it but that's up to him. We are
just simply going to call the two civilian
witnesses, and so far as the week is concerned, I
understand Mr. Furlotte's problem and we have no
difficulty with that. I'd like to do it tomorrow
35 but I don't want to press it.

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THE COURT: Well, why not say a week from next Monday and that gives two weekends in between.

5 MR. ALLMAN: A week from next Monday? Just one second, let me check. One idea that Mr. Walsh had that seems to me to be a good idea is this, very late on in the trial - quite late on in the trial, anyway, around 186, 187, 188, 189, that area, we
10 are going to be calling evidence relating to Daughney jewellery, so we're kind of getting back to the Daughneys there anyway and -

THE COURT: Why not bring them in there?

MR. ALLMAN: Exactly what Mr. Walsh suggested and exactly
15 the suggestion I'm passing on. We could bring them in, therefore, after the Geikies. I think Joanne Johnson is also part of that connection. We'd bring it in somewhere around 188, 189, 190.

THE COURT: All right. Now, do you feel you have every-
20 thing you need as far as disclosure statements, Mr. Furlotte?

MR. FURLOTTE: If I had everything the R.C.M.P. had, then I'd have everything I need.

THE COURT: Well, you have the composite drawing. You
25 don't intend to use the composite drawings, you say, Mr. Allman?

MR. ALLMAN: We don't.

THE COURT: But if Mr. Furlotte wants to examine on those -

30 MR. ALLMAN: I don't know what his argument will be but he may for instance feel that the composite doesn't reflect the description or - I don't know, it's available.

THE COURT: And if that gave rise to the necessity of
35 recalling the artist -

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MR. ALLMAN: He's on potential recall in any event, Your
Lordship may recall. He's one of the people that
5 Mr. Furlotte said he would let us know if he ever
wanted him back, so that's the situation anyway.

THE COURT: Oh, yes, but -

MR. FURLOTTE: Yes, well, I had anticipation of this
motion before the Court and since he was the one
10 who did this composite drawing -

THE COURT: Well, that's understood, then, that if -

MR. FURLOTTE: Yes, the Crown wasn't sure whether or not
they would want the composite drawing in yesterday
but now they're saying they don't need it, and
15 they're going to leave it up to me.

THE COURT: O.K., that's settled, then, you'll call those
two gentlemen somewhere along 190 or thereabouts.
Now, does that resolve that point?

MR. ALLMAN: That resolves my problem. Mr. Furlotte has
20 a situation to discuss.

MR. FURLOTTE: My Lord, after I went back to my motel
room and had supper last night I spent four hours
in the books here preparing for the evidence
that's going to come before the Court and I was
25 particularly concerned about a knife that was put
into exhibit yesterday, and as I mentioned before
when I asked for an adjournment because I wasn't
prepared for the civilian witnesses I found myself
coming up short on the cross-examination of
30 Antoine Guitard yesterday because I -

THE COURT: Which one was that?

MR. FURLOTTE: He was the last witness yesterday after-
noon.

THE COURT: Oh, yes, Mr. Guitard.

35 MR. FURLOTTE: He identified the knife as belonging to

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him and I believe there's evidence that's going to
come out as to where this knife was located later
5 on. Because I hadn't been prepared for this
witness I'm just doing it, you know, a day ahead
of time. Between myself and Mr. Legere we're
trying to get prepared that way the best we can.
I found myself that there was particular questions
10 I ought to have asked that individual. Matter of
fact, I didn't even have my police brief with me
yesterday, I had to take a quick look in Mr.
Allman's for that witness, and -

15 THE COURT: Well, what you're saying, you'd like to - you
have other -

MR. FURLOTTE: I'd like to recall him for examination,
and I'll tell you why, because in the will-say
statement by the police under Antoine Guitard
there's no mention of him going to identify the
20 knife that the police had in exhibit as his, and
however, he did come to court and testify that he
believes it is his knife. Now, in all fairness
to the Crown, this ought not to have taken me by
surprise had myself or co-counsel been able to
25 prepare for this witness because we did receive,
I believe in July of this year - we received some
additional information as to the new statement
that was given to the police by Mr. Guitard and he
had given that statement to the police I don't
30 know what date - hang on a second here - yes, it
was given on January 18, 1991, after I had
received the police briefs, where he was going to
identify that knife. While I had received that
statement in July of this year I did not have time
35 to put the whole thing into context as I was

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expecting even at that time -

THE COURT: Well, what you're saying is you'd like to ask
5 him further questions?

MR. FURLOTTE: I'd like to have him recalled for
re-examination, for cross-examination. This is
just one of the witnesses I've picked up where
I've failed badly to do a good job in cross-
10 examination. There was one other witness that
comes to my mind that after the cross-examination
was over was Wendy Ivory, and as a matter of fact,
Mr. Kearney pointed it out to me after the cross-
examination was all over that in her statement to
15 the police she said that, "I know before David
Tanasichuk was put in jail he threatened to burn
out Annie Flam", which I missed that in cross-
examination and I'll have to suffer the conse-
quences, but these are just examples of the poor
20 defence that Mr. Legere is getting because we
don't have time to prepare for trial, but I think
at least with Mr. Guitard maybe we could rectify
it since he had been the last witness called
yesterday and -

25 THE COURT: Well, what are you going to try to establish,
or at least what area of cross-examination of Mr.
Guitard?

MR. FURLOTTE: Well, I guess according to the statement
of January 1, 1990, or January 18, 1991, he had
30 already - he had given a statement to the police
on the 5th of December, 1989, which I was never
provided a copy with, where I believe he said in
that statement that the knife that he had lost had
"Buck" marked on the sheath and "Buck" was marked
35 on the knife, but the knife that was put into

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evidence does not have that, so I want to be able
to cross-examine him on that, and I would like a
5 copy of his statement that he gave of the 5th of
December, 1989.

THE COURT: When does the hunting season open again?

Perhaps you could delay it until he comes down to
hunt again.

10 MR. FURLOTTE: Well, I imagine he has a new knife by now.

THE COURT: No, but I meant he might be coming down.

It seems a dreadfully long way to bring him.

MR. FURLOTTE: The Crown may consent to this motion.

THE COURT: What is your attitude, Mr. Allman?

15 MR. ALLMAN: I'm a little ambivalent, My Lord, and there
is one thing I want to bring to Your Lordship's
attention. I wrote on January 28, 1991, to Mr.
Furlotte: "Dear Sir: I enclose the following
further materials relating to witnesses", and the
20 third of those was, "Statement from Antoine
Guitard taken by Corporal Tremblay". I believe
that's a reference to the statement we're talking
about here because we have other statements from
Mr. Guitard. Let me just check; one of those
25 wasn't witnessed, one of them was witnessed by
Constable Page, one of them was witnessed by
Constable Gosselin, and the only one that was
witnessed by Constable Tremblay is the one that
he's talking about in January, 1991, so he's had
30 that since January 28, 1991.

MR. LEGERE: But that knife was found, they found two of
them, they only entered one.

MR. ALLMAN: I'll continue addressing the Court. That
statement, the one of January 18, 1991, said:

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5 "Mr. Guitard, what can you tell me about
the knife I've just shown you?

10 Answer: It is identical to the one
stolen from my vehicle in Chatham
back fall, 1989. To me it is my
knife, however, I have no way to
prove it."

15 That, I would submit, is exactly what he said in
court.

"Question: What can you tell me about the
scratches on my blade?

20 Answer: They're consistent with the one on
my knife. You see, I was using a
stone to sharpen it and that's what
made scratches."

25 Again that's what he said in court. The only part
that I think Mr. Furlotte may have some point on
is this. It goes on:

30 "In a statement you gave to Corporal Gosselin
on the 5th of December, 1989, you said that
the name, "Buck", was wrote on the leather
case. What can you tell me about this today?

35 Answer on January 18th and when he'd now seen the
knife, I believe:

40 "After my knife was stolen I shopped around
to buy another one and I had seen that the
name, "Buck", was marked on all the leather
cases. This is why I thought it was marked
on mine also."

45 I think my position would be this - as Your Lord-
ship says, it's an awful bother for poor Mr.
50 Guitard to have to come back, and I don't suppose
he's very happy, but on the other hand we're not
here to convenience witnesses, we'll bring him
55 back, but I believe the cross-examination should
be limited to that question and that answer.

60 THE COURT: You would be content with that, Mr. Furlotte?

65 MR. FURLOTTE: I'd be content with limiting the cross-
examination as to how positive he is that that's
his knife and any contradictory evidence he may
have given in the past.

70 THE COURT: Yes, but I mean the further cross-examination

would touch only on the matter of the knife and the identification?

5 MR. FURLOTTE: Yes, that's it.

THE COURT: Well, let us say that the Crown will be obliged to bring Mr. Guitard back.

MR. ALLMAN: Yes, we'll certainly bring him back. I'm just wondering - our coordinator isn't here so I'm not sure when we could get him back, but we'll try and get him back tomorrow and slot him in at whatever point is convenient to Mr. Furlotte. I can't guarantee that. I mean, somebody's got to go -

10

MR. FURLOTTE: No, that's reasonable, whenever they can get him back, even at - you know, at some convenience to Mr. Guitard within the next week.

15

THE COURT: Well, presumably you'd like to get him back the sooner the better because the evidence is fresh in the jury's mind now.

20

MR. ALLMAN: We'll try and get him back tomorrow. It's just I can't promise it.

THE COURT: If you can't, bring him down the first of the week whenever you can. All right, so the Crown will bring Mr. Guitard back. Just on this matter, I appreciate that Mr. Furlotte may be having some difficulties here in sort of keeping ahead of this and so on. From the witness list, of course, you can tell, or Mr. Furlotte can tell, essentially what witnesses are going to be called next. I just wanted to ensure that if you're skipping somebody and calling them later you be sure to let Mr. Furlotte know so that he isn't wasting time reading the statements of -

25

30

MR. ALLMAN: Your Lordship will have noted that we have

35

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occasionally done some minor skips and I believe,
and Mr. Furlotte will correct me if I'm wrong
5 about this, that whenever we've contemplated doing
that we've advised him of it. Now, we intend to
continue to do so.

THE COURT: Yes, or if you're calling somebody from way
down the list -

10 MR. ALLMAN: Yes, whenever there are any changes we've
kept him informed, I believe. We'll continue to
do so.

THE COURT: You keep him advised so that he's putting his
time to the best use possible in preparation.

15 O.K., that's - you haven't got any complaint?

MR. WALSH: My Lord, you'll be happy to know I have a
little matter, it's non-contentious and more in
terms of housekeeping. I noticed at the lunch
time that the numbers that were assigned to the
pins that we're putting in, we have two number
20 fives. We must have started a duplicate. I've
shown it to Mr. Furlotte. I believe where the
glasses were found in Chatham was #5, and then
when we went to put the pin in, I believe that's
the Morada Motel, we've numbered it 5 again, and
25 it may be confusing later. I've explained it to
Mr. Furlotte, he's seen the map, and what we've
suggested is we could when the jury comes in, add
5A to that recorded on the record so we won't have
30 any confusion later.

THE COURT: Right, I'll make mention of that or you do,
you explain it to the jury.

MR. WALSH: Whatever you wish, My Lord. It's not
contentious, anyway.

35 THE COURT: No.

(JURY CALLED - ALL PRESENT.)

(ACCUSED IN DOCK.)

5 THE COURT: Mr. Walsh, you have something to say?
MR. WALSH: Yes, My Lord, a very minor matter, but it may
some confusion later to the jury. I checked the
map at lunch time. I noted that we have two pins
marked #5. Apparently we started with a duplicate
10 number. Where we end at #5 would have been the
location of the pin where the glasses were found
in Chatham, and where the next #5 is is where the
pin for the Morada Motel is. I've shown it to Mr.
Furlotte, he's seen the map, and he agrees, and we
15 would suggest to the Court if we could add 5A to
the pin showing where the Morada Motel is it may
save some confusion later to the jury.

THE COURT: Do you want to put 'A' after that, if you
haven't already?

20 MR. WALSH: Thank you, My Lord.

THE COURT: Thank you. Now, you have another witness,
Mr. Allman?

MR. ALLMAN: I have a witness, yes, My Lord. William
Skidd?

25

WILLIAM SKIDD, called as a witness, being duly
sworn, testified as follows:

DIRECT EXAMINATION BY MR. ALLMAN:

30 Q. What is your name, please?
A. William Skidd.
Q. Where do you live, Mr. Skidd?
A. Bushville, Northumberland County.
Q. Bushville is where in relation to Chatham and
35 Newcastle?

- A. Between Chatham and Newcastle.
- Q. Did you live there on the night of the 29th of
5 October, the morning of the 30th of October,
1989?
- A. Yes, I did.
- Q. I'm going to give you a yellow pin and ask you to
take your time - have you seen an aerial photo-
10 graph the same as that one before?
- A. Yes, I have.
- Q. So you've had some chance already to familiarize
yourself with it?
- A. Yes.
- 15 Q. Take a yellow pin and stick that pin where your
residence was located on that date and is now.
- A. Right here.
- Q. And so we don't make any more mistakes, My Lord,
can we just check with the Clerk what number that
20 is?
- MR. WALSH: It should be #13, if my memory serves me.
- THE COURT: You mean the next one is 13?
- MR. WALSH: Yes.
- MR. ALLMAN: O.k., could you take this pen and write the
25 number 13 beside your house?

(Witness Marking.)

- 30 Tell us, will you, please - oh, just one question
about that night, was there anything significant
about the timing or the times that night?
- A. The clocks were turned back an hour that night,
that was the last Saturday in October.

15

0

William Skidd - Direct

Q. When you're talking about times in the course of the evidence you're about to give are you going to take that into account or are you just going to keep it as though the hour hadn't changed?

5

A. Well, I turned my clock back at twelve o'clock and my story starts after twelve, the new twelve.

10

Q. O.K., given that problem and so it's hard to know when midnight was that night, could you tell us what happened that relates to this matter that's now before the Court?

A. My neighbour called me.

Q. I don't want you to get into conversation with your neighbour -

15

A. Yes, O.K., he woke me up and told me there was -

Q. No, don't tell us what the neighbour told you, O.K.?

A. O.K., I was in the bathroom window and I looked out my bathroom window -

20

Q. Is this before or after your neighbour called you?

A. This is after he called me.

Q. So we've got your neighbour calls you, you're in your bathroom?

25

A. No, I'm sorry, I'm in bed when he calls me so I get up and go into the bathroom. The reason he called me, because he has a scanner and there's -

Q. O.K., and -

30

A. So I'm standing in my bathroom looking out the window and there's no lights on inside my house but outside in the back yard there are two lights on, and as I'm looking out the window about twenty after twelve this person, a man, strides up onto my lawn and I pick him up under the light about

William Skidd - Direct

5 twelve feet away and he comes towards me, and when I was in the bathroom I could look out my front door and I seen police cruisers going up and down the street. They go up and turn and come down, so as this person come towards me - you want his description?

Q. Well, just tell us what he did first.

10 A. All right, as he come towards me he was carrying two rifles and my thoughts were that the policemen must have left this person out to set up a surveillance in my yard.

Q. Who did you think the person was at this stage and given that you'd seen police cruisers all over the place?

A. Well, I thought it was a policeman.

Q. Why did you think that?

A. Well, this person wasn't in any - he wasn't panicky, he wasn't running, and he's only about 70 feet from the street where the police cars actually are, and here he's striding along with two rifles, so I said, you know, this must be a policeman, he's very comfortable with the situation.

Q. Now, let me stop you there again and just go back a moment. You said that he was carrying two rifles. How was he carrying them?

A. One in each hand, yes, and so any rate he was up just about to my bathroom window, I see him about twelve feet or so, so at this time I said, I'm going to find out what's going on here, so I rapped on the window to - well, to ask this person questions, but the person - they just stop there and they just - they don't break their motion,

35

they just turn around -

Q. When you say they, I'm sorry, is -

5 A. Oh, I'm sorry, the person - the person, not plural. This person, they don't stop their motion, they just turn and go back on their tracks and go into the bushes, and I realize then - I assume then, I said, well, that couldn't have been
10 any policeman.

Q. I gathered from what you said a moment ago that you'd knocked on the window for the purpose of securing this person's attention?

A. Yes, I wanted to find out what was going on, I
15 started to -

Q. And from what you could see - did you succeed in doing that?

A. Well, he changes his direction, you know, so I thought at that time, I said, he can't be a
20 policeman.

Q. When you'd first seen him you told us that he was walking across your -

A. He was striding, yes.

Q. Striding?

25 A. He wasn't running and he wasn't casually walking but as if he had somewhere to go and he was going and he wasn't -

Q. After you'd knocked on the window and he changed direction did he change the fashion in which he was moving at all?
30

A. No. No, he didn't seem to speed up any, he just changed and changed his plan sort of thing.

Q. You said he was carrying the guns one in each hand?

35 A. Yes.

- Q. Was he carrying one in a different fashion from the other or both in the same fashion or how?
- 5 A. I believe, if memory serves me correct, the gun in the right hand was kind of pointed up a tad, you know, just - they weren't both pointing to the ground, I remember the one in the right hand just seemed to be kind of pointing up a little.
- 10 Q. When you first saw him how far away would he be from you, in terms of this court, if that is comfortable to you, or in feet or yards if that isn't.
- A. Well, probably where Mr. Walsh is there. I'd say
15 twelve feet, sort of, something like this.
- Q. And as he walked did he come any closer or go further away or remain about the same distance?
- A. No, he'd be coming closer. He was walking parallel to the back of my house.
- 20 Q. Were you seeing him full face, side face, or how?
- A. I'd be looking at him face on but I'd be looking down. I would be probably three or four feet above him, me being in a window and him down on the grass.
- 25 Q. You see him first walking towards you. Did you go away and come back or did you -
- A. No, I didn't. No, I was just kind of transfixed, you know, I couldn't apprehend, you know, this was running through my mind, I'm half asleep sort of
30 thing, you know, I just got out of bed, eh, but I said, what's this all about.
- Q. How long would it take him to walk from where you first saw him across your lawn to the place where you knocked on the window?
- 35 A. I think it only takes about six seconds. I paced

William Skidd - Direct

it afterwards myself and got someone to give me a rough timing on it.

5 Q. And then I gather that at that moment after the knock is when he turns and walks away?

A. Yes.

Q. How far away did he have to walk before you lost sight of him?

10 A. Well, not very far. He walks out of the light plus there's some bushes awful handy, like, oh, once again maybe from here to Mr. Walsh is some bushes you could go right into, apple trees sort of thing.

15 Q. So in total how long do you think you would have seen him in the light coming towards you?

A. Once again I would say six seconds is about - not much more.

20 Q. Can you as best you can describe your observations about this individual? Perhaps we could begin with him personally and then we'll move on to his clothing.

A. He had a - he was a thin face, thin narrow face, and looked to be patches of beard on it. Like he had a little stubble, there wasn't a - as if he hadn't shaved for probably, I don't know, let's say two or three days, I think, and he either had freckles or possibly pine needles on his cheeks, you know, because it looked something like
25
30
freckles in this light but once again it could have been pine needles or dirt, and that's what his face looked like but his -

Q. What colour was he, I mean what race?

A. Oh, he's Caucasian.

35 Q. Could you make any observation about his height,

William Skidd - Direct

given that you were looking down at him?

A. Yes, I believe it was around six feet.

5 Q. Could you make any observation about his hair?

I don't mean his face hair because you've already told us about that, I mean his head hair.

A. It looked brownish. It did look brownish at, you know, that time of night with the light and every-
10 thing. That's what it looked like, it was brownish.

Q. Was he wearing - I think this is probably an appropriate moment to come into the topic of his clothing - was he wearing anything on his head
15 that would cover some of his hair?

A. Yes, he was, and I wrestled with this for some time. I really don't know what he had on his head. It was - like, it could have been a liner out of a hard hat, but the only thing, it had two
20 metal tabs on it, and there seemed to be something like - in the back there seemed to be a bunch of it left hanging down his neck or some sort of thing like this.

Q. Is there any other object you can think of that
25 it might have been? I'm not asking - not necessarily who it was but consistent with what you've just been talking about.

A. Yes, that stayed in my mind. I'm recalling this
30 23 months ago. I remember it stayed in my mind, I remember saying, you know, what's this guy got on his head, and it looked like a darned knapsack stuck back here, like a brown knapsack, and these two metal tabs, but you know, to this day I don't know how he'd keep it on there but that's what it
35 looked like.

William Skidd - Direct

- Q. O.K., looked like a -
- A. Yes, like he stuck a knapsack on his head.
- 5 Q. I understand what you're saying, and what about the bit at the back? You said it looked as though there was something at the back.
- A. Well, I never did get a - you know, he never did pass me. I just seen frontal views, I never seen
- 10 anything behind him.
- Q. Do you remember what other clothing he was wearing starting from the top down? What would he be wearing on his top -
- A. He had a dark blue shirt and he had brown pants,
- 15 he had a pair of workman's - brown workman's boots.
- Q. Brown workman's boots?
- A. Well, it looked the Kodiak boots, those real tan boots that -
- 20 Q. O.K., do you remember what he was - I'm not sure if you said what he was wearing, what sort of pants he was wearing?
- A. Brownish.
- Q. Was there anything about the pants that attracted
- 25 your attention?
- A. No.
- Q. In general what sort of appearance did he give you both personally and in terms of his clothing, a word, an adjective to describe it?
- 30 A. Well, he did look sloppy.
- Q. Did you have any estimate about how old you thought he might be?
- A. Yes, made the statement that he was in his 20's, I thought around 25, and I got this what I
- 35 assumed - why I assumed this was his build, you

William Skidd - Direct

know, he was thin like a young man that hasn't filled out yet, eh?

5 Q. Like somebody who hadn't filled out?

A. Well, I mean, you know, as a person gets older they get - like, you get a pot belly, O.K.?

Q. Yes, I know what you mean, Mr. Skidd.

A. Yes, a man in his 20's still has his frame.

10 Q. So the expression you used about this man was he was like he hadn't filled out?

A. Yes, he was still, you know, just done growing sort of thing.

THE COURT: Some fill out more than others.

15 A. Yes, I know.

Q. As a result of what you'd observed what did you proceed to do?

A. This was after him and I parted company sort of thing?

20 Q. Well, let me go back, is there anything else you can add to what you've told us so far in terms of description of this person that you saw that night?

A. Yes, there's one other thing, sir, there was a -
25 he seemed to have a bandolier, he did have a strap of some sort hanging over one shoulder with a couple of shells in it. I say a couple - some shells in it.

Q. Could you actually see there were shells there or
30 was that - how did you get that opinion?

A. Well, now, this - I've got my statement in my back pocket, refer back to it - yes, if I remember correctly I remember seeing shells in it.

Q. O.K., anything else that you can add in terms of
35 description or basically is that it?

10

William Skidd - Direct

A. Boys, that's it.

Q. As a result of what you'd observed did you speak
5 to anybody?

A. Well, once I assumed that he wasn't a cop I just
had to go to the front door and signal the police,
they were right there.

Q. And subsequent to that, as a result of the conver-
10 sations you had with that police officer and other
police officers did you attend with a police
artist for the purpose of preparing a sketch?

A. Yes, I did.

Q. I'm going to show you now P-54. That's a number
15 the Court's put on it. You look at P-54 and tell
me how that compares to the sketch that the artist
drew when he met with you.

A. Yes.

Q. Does that appear to be the sketch or not?

20 A. Yes.

Q. Recognizing that when you gave that sketch you
were trying to give a description to the artist
how does the sketch compare with the person you
saw and that we've been talking about?

25 A. I'm just going to see if I have your question
right. What I remember in my mind and what this
is, are they the same thing?

Q. Yes.

A. Yes, as close as - yes. Yes.

30 Q. One thing you didn't mention and I'm going to ask
you about, did you make any observation and can
you give us any information about this person's
nose?

A. Well, I told the artist it was a long thin nose.

35 Q. So that's what you remember about the long thin

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William Skidd - Direct

nose?

- 5 A. Well, what the artist has there in proportion to his face, I guess it's pretty well it.
- Q. You've shown us on the aerial where your house is located. What kind of property is it located adjacent to?
- A. A golf course.
- 10 Q. Where's the #3 hole in relation to your house?
- A. It's right behind my - my property stops right on it, the back of my property is right on #3.
- Q. When the person disappeared from your view in what direction would he be heading?
- 15 A. When I seen him he was coming north to south and then he turned around and went - I'm sorry, he was coming south to north and after rapping the window he started going north to south. He went back in the bushes somewhere, I don't know where.
- 20 MR. ALLMAN: Thank you.
- THE COURT: Cross-examination, Mr. Furlotte?
- MR. ALLMAN: My learned friend has been kind enough to mention one thing to me. Could you remember what day of the week this was?
- 25 A. This was all taking place about 20 minutes after midnight on Sunday morning.
- MR. ALLMAN: It was Sunday morning, thank you.

CROSS-EXAMINATION BY MR. FURLOTTE:

- 30 Q. So this Sunday morning this would have been the morning of October 29th?
- A. That's right, sir.
- Q. Mr. Allman had mentioned first, he asked you about the night of the 29th, the morning of the 30th.
- 35 A. Yes.

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William Skidd - Cross

- Q. But it would actually be the night of the 28th and the morning of the 29th?
- 5 A. Exactly, yes.
- Q. Mr. Skidd, do you know Allan Legere?
- A. About 20 years ago Allan and I lived on the same street in Chatham, Queen Street, for - I don't know, just for a while we were both living there.
- 10 Q. So you would see him around town on occasions over the past 20 years or 15 years or whatever?
- A. Well, probably, yes, we must have, you know, seen each - that's the last time I remember, you know, seeing him sort of thing. We lived on Queen
- 15 Street together for a while.
- Q. O.K., and I believe this individual come something like about three feet in front of the window?
- A. Yes, approximately.
- Q. So you were pretty close to him when you got a look at him?
- 20 A. Yes.
- Q. You didn't recognize that person as being Allan Legere?
- A. No, sir, I did not, no.
- 25 Q. Now, you mentioned this person was tall, somewhere around six feet. Any idea of a weight indication or were you able to guess that?
- A. I didn't get into that at that time, I don't know. No, I -
- 30 Q. Maybe just a wild guess anyway, I suppose?
- A. Yes, really, I -
- Q. But he was a thin individual?
- A. Yes.
- Q. And the hair was kind of brownish?
- 35 A. Yes.

- Q. And even maybe a little reddish?
- A. Possibly, yes.
- 5 Q. And how about the colour of his face, it was -
- A. Well, it was brownish.
- Q. Brownish or reddish or -
- A. Well, you know, in all fairness, everything was
looking a little - that colour is underneath this
10 incandescent light and I have cedar clapboards on
the house so everything takes on a little brownish
tinge sort of thing.
- Q. You mentioned something, I believe - I believe you
said you had your statement in your back pocket?
- 15 A. Yes, I have.
- Q. Mr. Allman wanted you to read it, I assume you
read the statement before you come to court?
- A. I've been glancing at it. I've been waiting for
this, yes.
- 20 Q. O.K., now, when you said this individual was white
and kind of Scotch-Irish, what did you mean by
Scotch-Irish?
- A. Well, I'm referring back to the shade of - you
know, this brownish thing, that's what I seen that
25 night, everything was kind of a brownish and -
- Q. And this individual he - you didn't notice - aside
from a few patches of maybe a beard growing there
was no mustache?
- A. No. No.
- 30 Q. And you said at the time that this individual
could not be over 25 years of age?
- A. That was my -
- Q. - impression at the time?
- A. Impression, yes.
- 35 Q. Now, you said you had been woken up and you don't

recall what time it was?

A. I'm sorry, I didn't hear that, sir.

5 Q. You don't recall what time it was? You had been asleep and your neighbour woke you up on the phone?

A. It was around twenty after twelve when all this was happening.

10 Q. And that was the new time?

A. Yes.

Q. So that would have been twenty after one on the old time?

A. Yes, that's correct, yes.

15 Q. And this individual looked as if he was travelling from north to south - or I'm sorry, from south to north?

A. Yes.

Q. But he would have been heading towards the river?

20 A. Yes.

Q. And you didn't see a police officer chase him?

A. No, I just noticed cars going up and down the street and you could see the reflection of the red and blue lights in my living room.

25 Q. The person you saw had two rifles?

A. Yes.

Q. And you mentioned something maybe about a knapsack on his back or on his shoulders or -

30 A. Well, I'm getting back to his headdress, I'm still mystified by it. He had this thing on his head and two metal tabs on the two straps and once again I never did see his back, I just seen his face, but this object on his head seemed to be all clustered into the nape of his neck as if he had
35 stuck a knapsack up there. That sounds a little

weird but I remember that taking my thoughts for a while.

5 Q. So you're saying that apart from the hard hat liner that he may have had on top of his head there may have been a knapsack on his back?

A. Not really, sir, I'm saying - I don't believe it was a hard hat liner at all. It seems as if he had put a knapsack up there. I know that seems a little odd but this is what I seen, eh.

10 Q. Did you notice what this person was wearing for clothes again? What did you notice?

A. Starting with the shirt?

15 Q. Yes, may as well start from the shirt.

A. The shirt seemed to be a dark blue shirt, long-sleeved, buttons down the front, brown pants and a pair of those tan work boots, the ankle length, you know, the ones that - the ten-inch toppers sort of thing.

20 Q. You said he was dressed kind of sloppy?

A. Yes, that's correct.

Q. And you said he looked military. Does that mean just because he was sloppy or because -

25 A. No, I'm getting that from his physical condition. He was striding like, you know, it was no effort at all walking. He was just striding right along and, you know, he was very comfortable, you know, being out in the middle of the night with two rifles walking along, so I said, well, this guy must have been on maneuver, he's used to this, and this is where I'm getting it, eh?

30 Q. Didn't seem to be too concerned about the police chasing him, anyway?

35 A. No, this is why I thought he was a cop. He

seemed to be quite at home.

MR. FURLOTTE: I have no further questions.

5

REDIRECT EXAMINATION BY MR. ALLMAN:

Q. Just one matter that was raised by Mr. Furlotte.
Did I understand you to say that you knew Mr.
Legere some 20 years ago?

10 A. Well, not knew, just he lived on the same street
and I suppose I'd go by, we'd just, you know, say
hello to each other. I didn't know him person-
ally, we never had any -

Q. Oh, I see, you knew him to see him, you mean?

15 A. Yes, exactly, yes.

Q. Where was this street?

A. Queen Street, it's -

Q. Whereabouts is that? I'm not going to ask you to
put a pin in it but -

20 A. Oh, no, it's over - yes, there's Queen Street
right there.

Q. You're pointing to a place just up and to the
right of where the red pin is? See a red pin
there?

25 A. Yes, I'm way up here.

Q. And you were pointing to a place a little up and
to the right from there as you look at the
picture?

A. Yes, it's right there.

30 Q. O.K., thank you, and I didn't quite gather, Mr.
Furlotte asked you some question about the time
since then up till 1989. What if anything would
be your acquaintance with Mr. Legere during those
years?

35 A. None whatsoever, sir.

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William Skidd - Redirect

Q. O.K. I thought you said or Mr. Furlotte said, and I was writing a note, I didn't get it clear, did you see Mr. Legere ever during those years?

5 A. Not - I don't recall. We must have run into each other but I don't recall it.

Q. Why?

A. Well, you know, just like any other person, I don't recall. Mr. Walsh is from over in that
10 country and I don't know - did we ever meet before, Mr. Walsh? No, really.

Q. Unfortunately Mr. Walsh is not available to give evidence.

A. No, I'm just saying, you know, it's a small place
15 but you don't always meet everybody.

THE COURT: I take it the artist took a few liberties with that knapsack on top of the head, did he, when he prepared the sketch?

A. Well, no, My Lord, I kept telling him what it was
20 and this is the way he captured it from my memory but that's the way it looked to me.

THE COURT: Thank you very much. Another witness?

MR. ALLMAN: We're moving into a specific area next, My
25 Lord, and I'm just wondering about a break. We could take it now or in half an hour's time, but whatever suits you. The next three or four witnesses all relate to one issue.

THE COURT: Do they? Well, how many more did you plan on doing this afternoon?

MR. ALLMAN: I think we can get enough in to keep going
30 for a little while longer sensibly.

THE COURT: You mean right now?

MR. ALLMAN: Yes, I don't want to interrupt the jury too soon.

Cst. Kerr - Direct

THE COURT: The jury haven't been in too long here, they
were late getting in after we'd disposed of the
5 other matters and I think we'll go -

MR. ALLMAN: That's true, I'd forgotten that.

THE COURT: We'll go along with another witness yet and
then have a break.

10 CONSTABLE MICHEL KERR, called as a witness, being
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SLEETH:

MR. SLEETH: I have an item here as well, My Lord, I'd
like marked at this time. I believe it should be
15 TT.

THE COURT: TT is next.

Q. While that is being done, Constable, perhaps you
could give your full name and your occupation for
the jurors?

20 A. My name is Constable Michel Gilles Kerr. I'm a
peace officer with the Royal Canadian Mounted
Police. I'm currently stationed in Baie Ste.
Anne Summer Detachment which is out of Newcastle,
and I have been a peace officer since May, 1988.

25 Q. And in 1989 where were you stationed?

A. In 1989 I was stationed in Newcastle, New
Brunswick, County of Northumberland.

Q. Constable, I'm now passing to you an object which
is marked TT for Identification. Would you please
30 look at that and if you can, please, would you
relate to the jurors how it is you are able to
identify that object?

A. Yes, I could identify it. On the 28th day of
October, 1989, while on routine patrol in the
35 Newcastle area I was dispatched to assist Chatham

Cst. Kerr - Direct

Police Department for a shooting complaint. I proceeded towards the Chatham Police Department where I met with members of the Department. I was debriefed as to what the circumstances were. From there I was instructed to get in the same vehicle as Constable Derek Carnahan from the Chatham Police Department. Several patrols were made in the Chatham area. At the time I wasn't too familiar with the Chatham area, the name of the streets. We patrolled for approximately 45 minutes to an hour. I was later dispatched to assist a member of the Royal Canadian Mounted Police, Corporal Gaetan Thomassin, who was - his location at the time was on the Highway 117 in Bushville, on the outskirts of Chatham town.

Upon arriving on Cleland Lane on the outskirts of the Town of Chatham I met up with Corporal Gaetan Thomassin who at which time informed me that he needed -

Q. Well, perhaps you had conversation with him and as a result of the conversation which you had with Corporal Thomassin you did certain things.

A. As a result of the conversation with Corporal Thomassin I immediately followed him and we proceeded onto the tracks, the CN tracks. We emerged onto the tracks. I was following Corporal Thomassin. While following him on the tracks he instructed me - he gave me a signal, I should say. I don't recall exactly the words he used. He did say something that made me aware that he had spotted something. As he was saying that I was running behind him. As I put up my head to look straight ahead I immediately saw a

Cst. Kerr - Direct

5 muzzle flash as well as I heard the sound of a
rifle which was directly in front of me in the
centre of the tracks. At this time I immediately
hit the ditch along with Corporal Thomassin who
was directly in front of me. We got up and kept
on running. Once again I was still behind
Corporal Thomassin. We ran for a distance of
10 approximately a hundred metres at which time we
heard another gunshot. I heard another gunshot,
I can't say that I saw any muzzle flash, although
I can say that I heard a gunshot coming towards
our direction. Once again I hit the ditch and
15 stayed in place for a total period of three hours.

Afterwards we were - I was instructed to
break off and return to the main highway where
other members were waiting.

Q. Taking you then directly to TT, if we could for
20 a moment, please. Would you identify -

A. O.K., just before I'd like to say that at that
time once I exited the area where I heard the
gunshots I took down my notes at which time I
changed the time, because during the incident I
25 was going on the old time. I changed my watch and
from there I had the right time.

The next morning, or actually a couple of
hours later, I was instructed to go back exactly
where we had left - we had stopped our chase, and
I was with the Emergency Response Team. I came
30 upon this item which is right in front of me, the
knapsack. This item was seized at 8:43 a.m. in
the morning. I initialled it and kept it in my
continuity, in my possession.

Q. Where did you find it?

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Cst. Kerr - Direct

- 5 A. This item was found within two or three feet south, on the side side of the tracks in Bushville, New Brunswick. If you want I'll show -
- Q. Using the pointer and now going to Exhibit P-1, the aerial photograph.
- 10 A. O.K., I proceeded immediately to Cleland Lane which is situated right here. I proceeded right to the tracks here. Now, the next morning when I went back to the scene I started walking from Kelly Road which is the nearest road next to the track. From there I counted my steps. The total
- 15 distance of steps that I took from Kelly Road to the location where we first got on the tracks, I counted 239 steps.
- Q. By 239 steps what do you mean, actual steps or paces or what, exactly?
- 20 A. Step, I would say a pace, normal stride, if you wish, so 239 steps to the location where we got onto the tracks. I kept counting and I counted to 445 steps to the location where I first observed the shot and observed the muzzle flash. From that
- 25 location I counted 795 steps, and this is always counting from Kelly Road is to where the location where I stopped, we stopped the chase, and we took cover for three hours. 865 feet starting from the Kelly Road is where I located this item, the
- 30 knapsack. I immediately returned it to the police car after seizing it, and returning it to the Newcastle Detachment where I secured it in a locker.
- Q. Did you examine the knapsack before you took it
- 35 into that securing system?

Cst. Kerr - Direct

5 A. Yes, I did. Upon examining the bag I came upon
18 full and sealed bottles of beer which were
inside the bag, the knapsack. Those bottles of
beer were also secured in the same locker as the
knapsack.

10 Q. Thank you very much, Constable. Sorry,
Constable, to whom did you return the knapsack
over to?

A. The knapsack and the bottles of beer were handed
over to Constable Louis Dorais at the Newcastle
Detachment at eleven o'clock in the morning on
that same date.

15 Q. Have you seen them since that time, before this
date?

A. Seen the constable?

Q. The knapsack?

A. No, sorry. No, I haven't.

20 Q. Do you know where Constable Louis Dorais is at
the moment?

A. At this time I believe Constable Dorais is on
sick leave. I even believe he's in the hospital
at this time.

25 MR. SLEETH: Thank you very much.

CROSS-EXAMINATION BY MR. FURLOTTE:

Q. Constable Kerr, where did you meet up with
Corporal Thomassin?

30 A. I met up with Corporal Thomassin at the inter-
section of Cleland Lane and Highway 117, which I
do believe is on the outskirts of Chatham town
limit.

Q. Could you show where that would be on the map?

35 A. It would be this here lane. This would be the

- 117 Highway between Chatham and Newcastle and
this lane, this dark shaded area, would be
5 Cleland Lane.
- Q. O.K., and how long were you in that area before
you met up with Corporal Thomassin?
- A. Upon arriving with Constable Derek Carnahan I
was immediately instructed to follow Corporal
10 Thomassin.
- Q. O.K., I'll ask again, how long were you in this
area before you met up with Corporal Thomassin?
How long before did you get there before you
actually met him?
- 15 A. When I arrived at that intersection he was
waiting for the first member to arrive.
- Q. He was waiting for the first member to arrive,
O.K., and you went with him from there back up
to the track area?
- 20 A. Yes, I proceeded with Corporal Thomassin up the
Cleland Lane up onto the tracks.
- Q. And you found this bag marked TT for Identifi-
cation?
- A. Yes.
- 25 Q. About what, you said 855 feet from the Kelly
Road or -
- A. I believe 865 steps.
- Q. And there was 18 full bottles of beer in that?
- A. That's correct.
- 30 THE COURT: I'm sorry, did you say steps or feet?
- A. I said steps, My Lord.
- THE COURT: You said feet earlier, but is it steps you
meant?
- A. Well, it's a stride, if you wish, My Lord, a
35 normal pace that I would take.

THE COURT: It would be more than a foot?

A. I figure out around a metre per stride.

5 THE COURT: Yes.

Q. And there was 18 full bottles of beer in that?

A. That's correct.

Q. And what kind of beer was it?

A. I wouldn't be able to answer that, I don't
10 recall.

Q. Do you know whether or not there was beer stolen
from Antoine Guitard?

A. I don't know.

Q. Was there any broken ones in it?

15 A. No, there wasn't.

Q. Did you at any time get a glimpse or sight of the
person that you were following?

A. Yes, I must say that when I faced the muzzle flash
I did observe a silhouette, unable to say if it
20 was a man or a woman. The only thing I can say,
that it's a person who was standing behind the
muzzle flash.

Q. Did you see that person with a backpack?

A. No, I didn't.

25 Q. Did you see whether that person had one rifle or
two rifles?

A. I can't answer that, I don't know, sir.

Q. Out of all the time you were in that area how many
shots did you hear?

30 A. During the incident I heard three shots, sir.

Q. Where did you hear the three shots?

A. The first shot that I heard was when Corporal
Thomassin gave me the signal. The second shot was
once we got up from the first time, continued to
35 run. There I heard the second shot. The third

Cst. Kerr - Cross

5 shot I heard when I was in cover in the ditch for
the period of three hours, and I don't recall
exactly how long after but it was while I was
laying in a prone position that I heard the third
shot.

Q. All up in the track area?

A. Yes.

10 Q. You didn't hear any shots down around the beach
area?

A. No, I didn't, sir.

Q. Do you know whether or not the bag was checked for
fingerprints?

15 A. I immediately turned the bag over to Constable
Louis Dorais at the Newcastle Detachment. I
wouldn't be able to answer that, sir.

Q. Is it believed that the person you were chasing
was carrying this backpack?

20 A. I wouldn't be able to give you an answer on that,
I don't know, sir.

MR. FURLOTTE: I have no further questions.

THE COURT: Thank you. Re-examination, Mr. Sleeth?

MR. SLEETH; No redirect, My Lord.

25 THE COURT: Thank you very much, Constable, that's all
for you. Now we will have a recess for about
fifteen minutes and we'll go on for about three-
quarters of an hour before we break for the day.

30 (JURY WITHDRAWS.)

(BRIEF RECESS - COURT RESUMED AT 3:45 p.m.)

(JURY CALLED - ALL PRESENT. ACCUSED IN DOCK.)

THE COURT: Now, you have another witness, Mr. Sleeth?

35 MR. SLEETH: Yes, My Lord. The last witness, Constable

Kerr, you will recall referred to having turned
over item marked for identification TT, the
knapsack presently in the court, to Corporal Louis
5 Dorais. You will also recall, My Lord, that
Corporal Louis Dorais, he's #117 on the list, was
indicated by that same witness to be ill or at
least to be hospitalized. Mr. Furlotte
graciously advises that he will consent to
10 waiving the requirement that we present Corporal
Louis Dorais to whom these would normally be
turned over and I will move then to witness 118,
Constable Proulx on the chain of continuity, My
Lord.

15 THE COURT: Oh, you're going right along, yes. Well, if
you've satisfied your continuity, if that's
required on the thing, can you tender that in
evidence? Why don't you tender it in evidence?

MR. SLEETH: I have two more witnesses before that, My
20 Lord, still to complete the continuity chain,
Constable Proulx and Constable Charlebois, and
actually a third.

THE COURT: Yes, but what sort of continuity? Were there
tests done on it?

25 MR. SLEETH: No, My Lord.

THE COURT: Put it in evidence, offer it in evidence.
I mean it's been found, it's identified as
something that's relevant.

MR. SLEETH: I'm sorry, My Lord. I'm not going to avoid
30 following that direct, My Lord, I so tender that
item TT marked for identification at this moment
be accepted in evidence at this moment, and that
being the case we would dispose then of two
witnesses, My Lord.

35 THE COURT: All right. Well, you can still go on and

call your witnesses if you want to prove that it's intact and in the same condition, but not very much turns on that, surely.

5 MR. FURLOTTE: Well, My Lord, I don't even see in the end how the Crown is going to connect this packsack or whatever to the accused so -

10 THE COURT: Well, for what it's worth it was found at this location. The Crown, I take it, contends that the person being pursued could have been the accused.

15 MR. SLEETH: I think, My Lord, it will become a little clearer as the evidence comes out of later witnesses, the significance of this particular item.

THE COURT: Yes, but not the continuity witnesses. The continuity witnesses are only important if the condition of the bag or tests made on the bag are important.

20 MR. SLEETH: They would be particularly obviously so, My Lord, but again operating as we have from the outset with the requirement or the request that there be - insisted on by the defence there be careful accounting for each and every item and all its steps, we've been following those steps.

25 THE COURT: Well, I respect that attitude but technically there's nothing to prevent it. What are we doing, marking it now as an exhibit? TT, then, knapsack, becomes P-55. Now, you have another witness?

30 MR. SLEETH: I would just conclude, My Lord, by noting that the next two witnesses who would have been called for the continuity chain, Constable Marc Proulx and Constable Ron Charlebois, are both present in court for cross-examination on this

35

issue. They will be called later on other matters.

THE COURT: What you're doing now is giving Mr.

5 Furlotte the opportunity to cross-examine them if he wishes?

MR. SLEETH: On this, yes, if he wishes to. They're available in court now, My Lord.

THE COURT: Do you want to avail yourself of that, Mr.
10 Furlotte?

MR. FURLOTTE: Constable Proulx is being called later for another matter, I believe, so if you're allowing this in as an exhibit and it's in I have no reason to question him on continuity, then.
15 I'm sure you're not going to remove it.

THE COURT: Why don't you reserve your right to cross-examine both those officers on the knapsack?

MR. FURLOTTE: When they're recalled?

THE COURT: When they're recalled, yes, that's fair
20 enough. O.K., now you have another witness.

KEVIN PERDUE, called as a witness, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ALLMAN:

25 Q. What is your name?

A. Kevin John Perdue.

Q. Where do you live?

A. I live in Fredericton right now.

Q. In October, 1989, did you have occasion to be
30 residing temporarily somewhere other than Fredericton?

A. Yes, I was in the Governor's Mansion in Chatham.

Q. What's the Governor's Mansion?

A. A bed and breakfast.

35 Q. And were you staying there with anybody else?

- A. Yes, there was six others that were in the crew who I worked with.
- 5 Q. Why were you at the Governor's Mansion?
- A. I worked with TNB, we were doing a show in Chatham at the high school and we were just staying over-night, staying the night there.
- 10 Q. And I take it you had transportation up from Fredericton to the Newcastle area?
- A. Yes, that's true.
- THE COURT: And TNB is?
- A. Theatre New Brunswick.
- 15 Q. Did anything happen that you have information about?
- A. I'm sorry, you'll have to rephrase that question.
- Q. I'm showing you what is now - O.K., you said you were up there in October. Do you remember the dates?
- 20 A. I'm sorry, I really couldn't. I remember it was a Wednesday but that's -
- Q. Do you remember what part of the month?
- A. No, not really. I would need a calendar to go through the whole -
- 25 Q. O.K., I'm showing you now an item that's been marked P-55. Can you take a look at that and see if there's anything on it that enables you to identify it?
- A. Yes, it's mine, I know that's mine.
- 30 Q. How do you know it's yours?
- A. My name is on the back there.
- Q. K. Perdue written on the back?
- A. Yes.
- 35 Q. Any other markings on it that - I should think that's sufficient, but any others?

Kevin Perdue - Direct

- A. Yes, the U-2 logo and the other logos that are on it, and there's also a logo inside, there.
- 5 Q. When you went up to the Governor's Mansion where was that object?
- A. It was in the back of the vehicle we were in.
- Q. And what if anything happened to it while you were at the Governor's Mansion?
- 10 A. Well, that night we came in quite late, I wouldn't be able to recall the time, it must have been twelve, went up to the upstairs in the Governor's Mansion, sacked out, woke up quite early that morning -
- 15 THE COURT: What's that mean, sacked out?
- A. Oh, went to bed, sorry.
- THE COURT: You're 50 years ahead of me, you know.
- A. Went to bed, woke up quite early in the morning and found it was not in the van.
- 20 Q. How did you find that out?
- A. My dirty laundry was strewn about the van and that was carrying my dirty laundry.
- Q. O.K., so previously the knapsack with the dirty laundry had been in this van?
- 25 A. Yes, it had been.
- Q. And then when you wake up you find the dirty laundry but no knapsack?
- A. Yes.
- Q. When did you next see that knapsack?
- 30 A. I believe I saw a picture of it when a constable came and showed me and came for -
- Q. Asked you to look at it?
- A. Asked me to look at it, yes.
- Q. Apart from dirty laundry was there anything else
- 35 in there?

- A. There was a telephone bill that was in there that I don't really care about.
- 5 Q. Anything drinkable?
- A. Not in there when I saw it last.
- Q. Well, I'll leave it there and Mr. Furlotte might have some questions about that. Just a couple of things, I'm sure the jury can figure it out for themselves but what are the things at the back?
- 10 A. These are the harnesses that go around your arms to hold the knapsack on your back.
- Q. There's a -
- A. A kilt pin.
- 15 Q. A kilt pin, was that on it when you -
- A. Yes, it was, it's a - I had been carrying something in it that had torn it a bit and it was holding it together.
- Q. What are those things that I'm sort of jiggling around?
- 20 A. These are the brass flaps that hold the mouth of the knapsack closed.
- Q. You said you were there with a crew. Do you remember the names of any other members of the crew?
- 25 A. I can recall all of them.
- Q. Any names you can remember?
- A. Hiroshi Takahashi, Richard Burton, Chris Saad, David Westlake, Charlotte Saunders - there's somebody else, I can't -
- 30 Q. The first gentleman's name was a foreign name; what's that?
- A. Hiroshi Takahashi.
- Q. Hiroshi Takahashi. Thank you.
- 35 MR. FURLOTTE: I have no questions.

Roland Roach - Direct

MR. ALLMAN: May this witness be excused?

THE COURT: Yes, and a kilt pin, we used to call that a
5 blanket pin.

A. It might be a blanket pin. It got it from my
Mom so - she wants it back.

THE COURT: O.K., and I wore a kilt with a blanket pin
on it during the war.

10

ROLAND ROACH, called as a witness, being duly
sworn, testified as follows:

DIRECT EXAMINATION BY MR. ALLMAN:

Q. What's your name, Mr. Roach?

15 A. Roland Joseph Roach.

Q. Where do you live?

A. In Bushville, Northumberland County.

Q. Did you live at that address on the 15th of
November, 1989?

20 A. Yes, sir.

Q. Have you had a chance to look at an equivalent to
that aerial photograph?

A. Yes, once before.

Q. Take as long as you need to and taking this yellow
25 pin put it where your house is and was in 1989.
And before you sit down can you write the number
14 alongside that pin?

(Witness marking.)

Thank you. Can you take your mind back to that
30 date, the 15th of November, 1989, and tell us what
occurred that evening?

A. Well, around 6:30 in the evening my wife was
leaving to go out to an appointment and she came
back in the house telling me that the dog was
35 quite excited.

- Q. This is your dog, family dog?
- A. Our family dog was quite excited. It was running
5 back and forth to our neighbour's property and
back again and barking.
- Q. Did you check to see if your wife's version of
what the dog was doing was correct?
- A. Yes.
- 10 Q. And when you went out and checked what was the dog
doing?
- A. Running back and forth to the neighbour's property
and coming back to our house and going back again.
- Q. Is this usual or unusual behaviour for your dog?
- 15 A. Well, it's very unusual because usually it was a
quiet dog.
- Q. You said your wife was on her way to piano?
- A. An appointment, but it was a piano lesson, yes.
- Q. When your wife had reported this to you and you'd
20 found out for yourself what did you and your wife
proceed to do?
- A. Well, I took the flashlight out of the house and I
escorted her to the car and then I flashed around
our property and the neighbour's property but I
25 didn't see anything, but since this had happened
the night before almost at the same time I decided
I was going to call the police and I went in and
called the police.
- Q. So you called the police the night of the 15th?
- 30 A. November 15th, yes, in '89.
- Q. Did I gather from what you said a moment ago that
the incident you've just described with the dog
going back and forth that something similar to
that had happened previously?
- 35 A. Yes, the same thing happened the night before.

Q. On that occasion did you check to see if you could find what the cause of your dog's behaviour was?

5 A. Yes, the night before I done the same thing, I went out with the flashlight and scanned around the properties but I didn't see anything.

Q. As a result of your call on the 15th did anybody attend?

10 A. Yes, the police came.

Q. The police came as a result of that?

A. With the dog, with the tracking dog.

MR. ALLMAN: I have no other questions.

THE COURT: Cross-examination?

15

CROSS-EXAMINATION BY MR. FURLOTTE:

Q. The dog wasn't in heat by any chance, Mr. Roach?

A. No, sir, it was fixed.

MR. FURLOTTE: I have no further questions.

20 THE COURT: Thank you very much. No re-examination on that?

MR. ALLMAN: I think we'll leave that where it is.

THE COURT: Thank you very much, Mr. Roach, that's all.

25 FRANCOIS CORMIER, called as a witness, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ALLMAN:

Q. What's your name, please?

A. Francois Cormier.

30 Q. And where do you live, Mr. Cormier?

A. In Bushville.

Q. On the 15th of November, 1989, where were you living?

A. In Bushville, same place.

35 Q. In relation to the previous witness, Mr. Roach,

where is your house?

A. Next to the Roach.

5 Q. Next door to Mr. Roach's?

A. Yes.

Q. I'm not going to ask you to put a separate pin in there but your evidence is that you're the next-door neighbour?

10 A. Yes.

Q. How far next-door?

A. Seventy-five feet.

Q. What occurred on the evening of the 15th that you have to tell us about?

15 A. I was sitting in my front room reading the paper. First thing I heard is the dog barking in my front door and walking across the yard and I ran to the window and the dog was heading towards the wood same time -

20 Q. Whose dog is this?

A. My next-door neighbour's, Roland's dog.

Q. The Roach's dog?

A. Yes, and when I looked towards the woods I saw someone walking in the woods.

25 Q. Are you able to give us any description or any more detail about this person other than that it was someone walking into the woods?

A. No. It was wearing loose clothing, that's all, loose pants.

30 Q. Had you ever seen anybody else walk into the woods in approximately that location on another occasion?

A. No.

35 Q. As a result of what you'd heard the dog doing and what you'd seen the dog doing what did you do,

anything?

A. Then I went and called the police.

5 MR. ALLMAN: Thank you.

THE COURT: Cross-examination, Mr. Furlotte?

CROSS-EXAMINATION BY MR. FURLOTTE:

10 Q. Mr. Cormier, did you give the police a written statement or just verbal statement?

A. Verbal.

Q. And in your statement did you tell the police that you weren't sure whether it was a person or an animal, that you only saw the bottom part?

15 A. Told them it was a person, I'm sure of that.

Q. Are you sure you didn't tell them you didn't know if it was a person or an animal?

A. No.

20 Q. There was two police officers arrived, Constable Rivard and - did you say you don't recall giving a handwritten statement or you do?

A. Yes, I think I did, yes. Sorry, yes.

Q. You think you did?

A. Yes.

25 Q. And do you recall whether or not you just told the police officer you saw some thing?

A. No. I might have said something but I mean somebody, someone.

Q. But you mean someone rather than something?

30 A. Yes.

MR. FURLOTTE: I have no further questions.

MR. ALLMAN: I have no re-examination.

THE COURT: Thank you very much, Mr. Cormier. That's all. You're excused, thank you.

0 CORPORAL RICHARD KOHUT, called as a witness, being
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SLEETH:

- Q. Corporal, could you please state to the jurors
 your full name and your occupation?
- 5 A. It's Richard John Kohut. I'm presently a member
 of the Royal Canadian Mounted Police stationed in
 Prince George, British Columbia.
- Q. And you have been a member of the Royal Canadian
 Mounted Police for how long, sir?
- 10 A. Just over 18 years.
- Q. And is there a particular section to which you are
 assigned?
- A. I'm presently a dog handler stationed in Prince
 George.
- 15 Q. And how long have you been a dog handler, sir?
- A. Just over ten years.
- Q. During that time you've testified in court, I
 would take it, as to the handling of dogs?
- A. Yes, sir, I have.
- 20 Q. And you've been qualified as an expert witness
 during that time, and what title was given to you
 as an expert at the time?
- A. I've been qualified approximately a dozen times in
 County Court and regular court throughout British
25 Columbia as well as Manitoba.
- Q. And as what?
- A. As an expert in the handling and training of
 police service dogs.
- Q. Which would include?
- 30 A. Pardon?
- Q. Which includes -
- A. Which includes the training in six different
 profiles which includes tracking, searching,
 criminal apprehension, obedience, agility, and
35 retrieving.

2

Cpl. Kohut - Direct

Q. My Lord, I will be moving shortly - I will have a series of questions to ask this witness and I will at the end be asking that he be qualified by the Court as an expert in handling and training of police service dogs and specifically tracking.

THE COURT: Were you present when Corporal Thomassin testified this morning?

10 A. Yes, My Lord, I was.

THE COURT: Your expertise follows sort of the same general line as his, I take it?

A. Yes, sir.

MR. SLEETH: Perhaps, My Lord, my learned friend, Mr. Furlotte, might have other thoughts on it, given that this has already been done. You have been qualified as an expert, as you said earlier, in other courts in British Columbia?

A. Yes, sir.

20 MR. SLEETH: Perhaps I could simply make the motion. If Mr. Furlotte has specific objections or particular additional questions he might want to put, we could do it now.

THE COURT: Do you have any questions you want to put?

25 MR. FURLOTTE: No, I have no questions of this witness.

THE COURT: Well, we will qualify for the purpose of this trial only, mind you, the witness as an expert in the handling and tracking with the assistance of trained dogs.

30 MR. SLEETH: Thank you, My Lord. Corporal, you heard testimony given a few moments ago by Mr. Francois Cormier?

A. Yes, sir.

Q. And he related earlier to the jurors how he had placed a call to the police and the police came

35

Cpl. Kohut - Direct

- 5 as a result of that call. I'm now passing to you
a pointer and I'm going to ask if you recall that
particular incident and that particular evening?
- A. As a result of that call several police officers
attended a residence at the end of Dickson Road
and I attended along with him and was directed to
the end of the street, in particular in an area
10 right at the end of the street underneath a
streetlight that was there. It was requested that
I try and obtain a track from that location.
- Q. O.K., and by trying to obtain a track what do you
mean?
- 15 A. I'm talking about attempting to obtain a track on
a human being with the use of my police service
dog.
- Q. Now, the name of your police service dog, we know
they have specific names.
- 20 A. It's Bear, and he has a regimental number 338.
- Q. O.K., so you and Bear were there to find a track?
- A. That's correct.
- Q. What then takes place, please?
- A. Upon attending at the end of the street my dog
25 actually - he immediately indicated a track to
myself, and myself and Corporal Bourassa from the
Emergency Response Team attended with myself and
we started tracking. From the end of the street
from where we located the track we started
30 tracking in a southwest direction, and along an
old trail that was wide enough for a car, and it
continued along this trail for quite some time and
then entered the bush and proceeded through a bush
area. Upon coming out of the bush where we found
35 ourselves on some railway tracks and the track

Cpl. Kohut - Direct

proceeded westbound along the railway tracks. It
proceeded along the railway tracks until across
5 #126 Highway, and proceeded past 126 Highway along
the tracks for approximately 300 yards. At that
point the person who I believed to be a lone male
left the tracks and entered the bush on the right-
hand side which was then going in a northeast
10 direction, and we proceeded to track in a north-
east direction headed - parallelling and going
towards - now back towards #126 Highway. We
maintained that track for approximately 400 yards
and we got into a bit of a residential area at
15 that point and at that time I lost the track.

Q. O.K. Could you please, then, indicate your
starting point and the point at which you would
have then come to these railway tracks to which
you're referring, using that -

20 A. We would have started basically from this yellow
pin marked #14, and immediately at the south end
of the thing, south end of the pin, entered along
what you can see here is a bit of a trail, and I
believe that's the trail that we were on that
25 night. We followed that trail for quite some
time and then upon leaving the trail we cut
through an area of bush and out to the railway
tracks, it would have been in this vicinity here.
From the railway tracks then we continued along
30 the tracks the whole time in what I believed to be
a westerly direction, crossing #126 Highway here
to a point about 300 yards past the highway, and
at that point we cut directly back the other way
towards this residential area in here.

35 Q. O.K., at all times you are pointing with your

Cpl. Kohut - Direct

finger in front of the jury, Exhibit P-1, an aerial photograph?

5 A. Yes.

Q. And where is that residential area where you say you lost the track?

A. It would be in this vicinity here.

10 THE COURT: You wouldn't mind doing that again without the verbal description just for my benefit so I can see there? Just take your pointer and just run it along quickly where you started.

15 A. Basically from #14 along this trail and through a bit of a bush out to the railway tracks and then along the trail we tracked the entire time across #126 Highway, at which time the track cut back this way into this residential area in here.

THE COURT: Good, thank you.

20 Q. Corporal, before resuming your seat I wonder if you would take this pin and mark with this yellow pin where you finally intersected with the track after you had left your starting point, your first spot where you joined the track?

A. Where I started the track?

25 Q. Yes, please.

A. It would be right beside the -

Q. O.K., and where you joined the railroad track, if you would, please.

30 A. Well, I entered the railway tracks approximately here.

35 Q. O.K., if you would mark that with a pin, please, and using this blue ink pen would you mark 15 beside that? Now, if you would as well, please, Corporal, with this yellow pin indicate the spot where you lost the track of the subject you were

Cpl. Kohut - Direct

- 5 following, and would you, please, using this blue ink pen on P-1 indicate the number 16, and before you resume your seat, do you know where the Roman Catholic Church is in Chatham Head?
- A. Yes, sir.
- Q. Could you point that out, please, in relation to that yellow pin, that last 16?
- 10 A. I believe it to be this right here.
- Q. Thank you very much. Are you able to tell these jurors from your experience how fresh that track would have been that you were following?
- A. I would have said approximately an hour to two
- 15 hours old.
- Q. At what sort of pace were you travelling?
- A. Oh, we were travelling a fairly good pace but those were ideal tracking conditions as well, which usually the dog travels at a fairly good
- 20 pace if the conditions are good.
- Q. You said ideal tracking conditions. What do you mean by that, please?
- A. Well, it was night, at which time it's cooler, and as well again because there was a lot of bush area
- 25 along the trail and everything the scent is maintained a lot longer than if it was out in the open. If you think of scent as a fine liquid or a fine mist falling off the body at all times, when you get into a protected area like that where it's
- 30 cooler and everything it won't evaporate as quickly. If it's out in the open along pavement or something like that the sun has a chance to evaporate it. The pavement heats up, it can be dispersed a lot easier due to wind and everything
- 35 else. These were very good tracking conditions

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Cpl. Kohut - Cross

and that's why I say that.

5 Q. One last question possibly, Corporal. How long had you been in the Miramichi area - you indicated earlier you were from British Columbia - when you had to perform your first tracking in the area?

A. Approximately 24 hours.

Q. O.K., you're not very familiar with the area?

10 A. No, sir, I'm not.

MR. SLEETH: Thank you, Corporal.

CROSS-EXAMINATION BY MR. FURLOTTE:

15 Q. Corporal, you say you were only in the area about 24 hours and you're from B.C.?

A. That's correct.

Q. And on that evening of November 14th I assume you were out there because it was a possible sighting of Allan Legere?

20 A. That's correct.

Q. So because of what Mr. Roach had seen and Mr. Cormier had seen this was considered a sighting of Allan Legere?

25 A. My reason for attending the New Brunswick area was to assist in the tracking on any possible sightings of Allan Legere. As a result of that I assumed every track that I was on was a possibility that it might be him.

30 Q. And basically while you were here everything that moved was Allan Legere, was it not?

A. Everything that I attempted to track in my mind was, yes.

Q. Now, you mentioned you - you said this lone male track left the road where?

35 A. Approximately 300 yards past #126 Highway.

Q. And you described it as a lone male track?

A. Yes, sir. The reason I say a lone male is that
5 along the track in several areas I observed a
single footprint on a work-type boot from the
bottom of a sole, I believe a Vibrum-type sole,
and there were several areas where we could see in
the mud who we were tracking or the footprint in
10 the mud, and it was of a lone person as opposed to
two or three.

Q. And that's what the dog was tracking?

A. That would have been the person my dog was
tracking, yes.

15 Q. Were any foot impressions taken?

A. No, sir, not to my knowledge.

Q. But your dog can't distinguish between a female
scent and a male scent, can it?

A. He probably can but I can't read that between
20 them, no - and my dog wasn't in heat that night.

MR. FURLOTTE: I have no further questions.

THE COURT: Re-examination?

MR. SLEETH: No, My Lord.

THE COURT: Does your dog travel on the aircraft up with
25 the passengers or does he travel in a box?

A. Actually, in this particular case, My Lord, he
travelled beside me on the seat of the aircraft.

THE COURT: Thank you very much. That's all.

MR. SLEETH: I'd ask the witness be excused, My Lord.

30 THE COURT: Yes. Now, this witness presumably is going
back to British Columbia so there are no more
questions?

MR. ALLMAN: My Lord, the next two witnesses are Corporal
Godin and Sergeant Chiasson. They are going to do
35 for the next scene what they've already done for

the Flam and Daughney scenes. We know from
experience that that takes a substantial period
of time so this would be an appropriate though a
5 little early time to finish.

THE COURT: Does this involve videos?

MR. ALLMAN: Yes, the same type of scenario as before.

THE COURT: Well, it would be appropriate to leave the
start of that till the morning, so we'll adjourn
10 now till tomorrow morning. I caution the jury
again as I have done perhaps too many times
before, but I do want to tell you, don't talk to
people about this and if anybody tries to talk to
you about it and resist your efforts to dissuade
15 them, let me know and we'll take the necessary
action to have that corrected. Thank you very
much. We'll see you at nine-thirty.

(JURY WITHDRAWS.)

20 (COURT ADJOURNS TO 9:30 a.m., SEPTEMBER 19, 1991.)

25

30

35

with you.

THE COURT: Insofar as these still pictures go, just from
this very cursory examination it seems that
5 they're in keeping with the type of photograph
we've had so far.

MR. ALLMAN: I don't think they're worse than the others
so I would submit they are admissible.

THE COURT: Do you have any observation to make on those,
10 Mr. Furlotte?

MR. FURLOTTE: My Lord, the only thing that - aside from
the blood in the pictures which you allowed in in
the Daughney case, the thing Mr. Legere is
concerned about is that because the pictures
15 depict the body of a priest, and that aside from
the inflammatory effect that it has that added, I
suppose - I don't know what kind of word to attach
to it, but maybe added inflammatory effect because
the victim was a priest. To keep it in the minds
20 of the jury that James Smith was a priest may be -

THE COURT: They still put their trousers on one leg at a
time.

MR. FURLOTTE: Oh, there's no doubt. I have no doubt
about that and -

25 THE COURT: Yes, I don't think -

MR. FURLOTTE: Yes, some people it won't bother because
it's a priest and others it just might.

THE COURT: Well, it balances out. The fact is
presumably the evidence will show he was a priest.

30 MR. FURLOTTE: Yes, there's no way the evidence can get
around without showing that James Smith was a
priest.

THE COURT: No, as counsel are aware, I did require or
did propose, and my suggestion was adopted, that
35 in the indictment he had originally been referred

to as Reverend James Smith and I said that there shouldn't be any distinction between a priest and any other citizen or any other person, and I
5 directed that the title, Reverend, be removed from the description in the indictment, but that doesn't mean that the evidence won't disclose that he was a priest, he lived in a rectory and -

MR. LEGERE: Is that why you moved the trial?

10 THE COURT: And then as far as the video is concerned - well, I can see no objection to the video showing the body, it's off some distance away?

MR. ALLMAN: Yes, and lying on its face.

THE COURT: It's on its face and so on.

15 MR. ALLMAN: That's all I wanted to raise, My Lord.

THE COURT: Now, you were going to call Constable -

MR. ALLMAN: - Clairmont Tremblay, as soon as the jury is in he will be my first witness.

20 (JURY CALLED - ALL PRESENT.)

THE COURT: I might say just a word to the ladies and gentlemen of the jury. You recall that I believe the Crown Prosecutor or someone indicated at the start there that the indictment contained the
25 names of 243, I believe it was, Crown witnesses. Strictly not quite that many, the number actually is probably just over 200, because some are appearing two or three or four times, and they're listed separately but there would be 243 different
30 appearances of witnesses. You will be interested to know that at this point we have in fact reached - we have disposed of 124, I think it is, or something of that nature. Perhaps the appearances of witnesses have been a few less than that, but
35 some have been disposed of, the Crown finds it's

not necessary to call them, there have been two or
three excused, there were a couple of others ill
and their evidence has been covered by other
5 witnesses, as I understand, and so on, but we are
past the halfway point insofar as numbers are
concerned. I told you before we're not playing a
numbers game here and that doesn't necessarily
mean that the Crown's case is more than half
10 completed because as Crown counsel indicated at
the start there are five or six witnesses at the
end who would be somewhat longer, but I know that
you people must be sort of figuring ahead on where
you're going to be at Christmastime and that type
15 of thing and we're making good progress, not
exciting progress but steady progress in the
trial.

I would think a week and a half or two weeks
starting next week will finish off most of the
20 witnesses up to the point of the longer expert
witnesses who are being called, as I understand,
on the DNA aspect toward the end, and then
allowing for a week and a half for them, or
perhaps two weeks for that aspect of the trial,
25 and then allowing for other aspects of the trial
that will follow after that, it looks to me very
much as though we would come within the ten weeks
that I forecast for the duration of the trial in
the first instance, and we would be through by
30 Remembrance Day, November 11th. That isn't a
promise because one can't foresee every eventual-
ity, but I thought you'd be interested in knowing
just what rate of progress we're making and could
get some picture of what's happening.

35 Our progress has been good in the trial of

hearing the witnesses. I would even suggest that not tomorrow but next Friday we might even arrange not to meet on that Friday and that will give
5 counsel and yourselves a chance to catch up with your thinking and work and so on, and perhaps we might not sit on the Friday, and we might consider even taking a day off subsequently to that now and again if we're continuing the same rate of
10 progress.

Well, now, you have a witness?

MR. ALLMAN: Just while we're on that last topic, My Lord, I gather that we're going to finish at lunch time tomorrow because we've assumed that for the
15 purpose of calling witnesses.

THE COURT: Yes, tomorrow we'll go until one o'clock, and in arranging your witnesses for next week, we'll deal with it next week sometime, but I think tentatively you could plan that if we're keeping
20 up our steady progress that we'll perhaps plan on taking that Friday, not sitting on Friday of next week.

MR. ALLMAN: I'll probably revert to the matter on Wednesday and just check with Your Lordship then.

THE COURT: That's right, yes. This, I know, makes a longer weekend that you might have to hold surplus witnesses over but we can't -

MR. ALLMAN: No, these things happen. My next witness is Corporal Clairmont Tremblay, and just for the
30 jury's benefit, he's a witness that we had intended to call a little earlier but he wasn't available so we're going to have to go back in time briefly.

CORPORAL CLAIRMONT TREMBLAY, called as a witness,
being duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. ALLMAN:

Q. What is your name, please?

A. I am Corporal Joseph Marie Clairmont Tremblay, a
member of the Royal Canadian Mounted Police. I
have been a member of the Royal Canadian Mounted
10 Police since November of '74. I am presently
stationed with the General Investigation Section
in Bathurst, New Brunswick. I have been with the
General Investigation Section since May, '86.

Q. I'm showing you now an item that's been marked RR
15 for Identification. Can you look at it and tell
me what you know about it, including reference to
any markings on it that mean something to you?

A. Yes, O.K., on the 18th day of January, 1991, at
the request from Constable Ron Charlebois of the
20 General Investigation Section, Moncton, New
Brunswick, I proceeded towards Newcastle on
Highway #8 where I met Constable Houle from the
Newcastle R.C.M.P. Detachment. I met Constable
Houle on the south side of Chemin Laviolette and
25 it was at ten-hours-o-five in the morning and at
that time Constable Houle handed out to me a knife
in a black leather case. This is the knife I have
received from Constable Houle. From there I drove
to Jacquet River and I met with a Mr. Antoine
30 Guitard. I showed the knife to Mr. Guitard, I
took a statement from him, and I drove back to my
office in Bathurst, New Brunswick, and on that day
the knife was locked in my personal locker which I
am the only one who has access to, and on the 24th
35 day of January, 1991, I took the same knife and

Cpl. Tremblay - Direct

again I met Constable Houle from Newcastle Detachment on the road and I give him back the knife.

5 Q. And the markings on that confirm what you have just indicated?

A. Yes, the knife was bearing - on the back there was a tag bearing exhibit #100, and as I look at the number this morning it is the same number.

10 MR. ALLMAN: Thank you, Corporal.

THE COURT: What was the identification number on that?

MR. ALLMAN: Court Identification RR.

THE COURT: Thank you. Any cross-examination, Mr. Furlotte?

15

CROSS-EXAMINATION BY MR. FURLOTTE:

Q. Constable Tremblay, when you're asking witnesses to give possible identification to - of people rather than objects, what's the general procedure?

20 A. Of people?

Q. Yes.

A. I ask him a description of that person.

Q. And if you're going to show a person, a suspect, to a witness, what is the general procedure?

25 A. What I've done, I just show him the object.

Q. Yes, I know you just showed him the object, but I'm talking about now if you're going to try and get a witness to identify a person. What is the general procedure, do you just take that person and show it to the witness or do you do some kind of a line-up?

30

A. On some cases we do a line-up, other cases we just show him the object and we ask him what make him say it is his object.

35 Q. Let's leave the object, the knife, out of it for a

minute, I'm talking about people.

A. People, yes.

5 Q. If you want a witness to identify a person, a suspect, you never, never have that witness come to the suspect and say, is that the person you saw? You don't do that, do you?

A. Normally we do a line-up.

10 Q. You do a line-up, and why don't you just take the witness to the suspect and say, is that the person you saw? Why is that not done?

A. Because it is better if it is identified among other person.

15 Q. Right, that way you're not leading the witness to say that's the person, is that right?

A. Exactly, yes.

Q. Exactly, you don't want to suggest to the witness that that's the person he saw, is that right?

20 A. Yes.

Q. When you brought the knife to Mr. Guitard to show him the knife did you have any other knives with you?

A. No, this is the only one that I had.

25 Q. You only showed him that knife, isn't that right?

A. Yes.

Q. So did you not in that process suggest to him that that was his knife?

A. No, I did not.

30 Q. At least not purposefully?

A. I just showed him the knife and I asked him what make him say it was his knife.

Q. Is there any reason why you didn't have other knives with you to show him a bunch of knives and say, can you pick out one -

35

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Cpl. Tremblay - Direct

A. Because the knife had to be similar and I didn't have any similar knives.

5 Q. There's lots of those buck knives around, aren't there?

A. I don't have any myself.

Q. And you didn't check to see whether or not there's lots of them around?

10 A. The only way for me to get other knife was to go to the store and they would have been new, so they would have been different anyway.

Q. You didn't know whether or not the R.C.M.P. already had another buck knife as an exhibit?

15 A. Not to my knowledge.

Q. Not to your knowledge. Now, you say you picked up this knife from Constable Houle?

A. Constable Houle.

Q. Of the Chatham Police Department?

20 A. The R.C.M.P. Newcastle Detachment.

Q. R.C.M.P. Houle - H-o-u-l-e?

A. H-o-u-l-e, yes.

Q. The Newcastle R.C.M.P. Detachment?

A. Yes, sir.

25 MR. FURLOTTE: I have no further questions, My Lord.

THE COURT: Re-examination?

MR. ALLMAN: No, My Lord.

THE COURT: Thank you very much, then, Constable, you're discharged, free to go.

30

CORPORAL RONALD GODIN, called as a witness, having already been sworn, testified as follows:

DIRECT EXAMINATION BY MR. ALLMAN:

Q. Would you state your name and occupation just to remind the jury?

35

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- 5 A. Joseph Ronald Godin. I'm a member of the Royal Canadian Mounted Police, peace officer. I've been so employed since January, 1973.
- Q. And you've previously given evidence at this trial in which you indicated that you're a member of the Identification Section and explained what your functions were?
- 10 A. That's correct.
- Q. And you've given evidence regarding your activities at the scene of the Flam residence and at the scene of the Daughney residence?
- A. That's correct.
- 15 Q. Did you have occasion to perform similar activities at another residence?
- A. I have.
- Q. O.K., could you tell us about that, please, in your own words?
- 20 A. As a result of a telephone conversation on the 16th day of November, 1989, I patrolled to Chatham Head, County of Northumberland, New Brunswick, to an address at 306 Main Street in Chatham Head.
- Q. Which you understood to be the address of whom?
- 25 A. It's the rectory to the Church of the Blessed Virgin Mary in Chatham Head.
- Q. And who did you understand lived at the rectory?
- A. I was to understand that Reverend James Smith lived at the rectory.
- 30 Q. And about what time of day would you have gotten there?
- A. I got the call around 20:00 hours, which would be eight o'clock in the evening, and I arrived at the scene, I believe it was 21:45, 9:45 in the
- 35 evening.

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Q. And then and in the time thereafter what basically did you proceed to do?

5 A. Over a period of three days I videotaped the scene in question, I took aerial photographs, I assisted other identification technicians with the examination of the crime scene for physical evidence and fingerprint evidence, and assisted Staff Sergeant
10 Greg Gorman, the blood pattern analyst.

Q. I recall that at the Daughney and the Flam scenes you'd also done plan drawings of the locations in question. Did you do that at the rectory?

A. I did.

15 Q. Perhaps we could begin with the plan drawings. Do you have plan drawings with you?

A. I believe they're at the Crown's table.

MR. ALLMAN: My Lord, I understand there are no objections to these items going in as evidence.

20 These are just copies, My Lord, for Your Lordship.

THE COURT: How many are there?

MR. ALLMAN: Two.

THE COURT: You're marking the large ones, are you?

MR. ALLMAN: I'm going to mark the large ones. I have
25 copies for the jury as well.

THE COURT: What are these, Mr. Allman? You could perhaps describe them.

MR. ALLMAN: Yes, one is of the basement area, one is of the ground floor or main floor of the residence of
30 Father Smith, and they are so indicated on the bottom of each one.

THE COURT: The basement area would be P-56 and the plan of the ground floor would be P-57. I don't know whether the jury members have pens or pencils with
35 them but you could just mark P-56 on the basement

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plan in the corner, if you would, and P-57 on the other, or a copy of P-56.

5 Q. Just before we start getting into that could you look at P-1 and taking a green pin to distinguish it place that in the aerial plan at the location of the rectory to which you're referring, and after you've done that we'll - could you take a blue pen and put the number 17 by the green pin
10 which represents where the rectory is?

(Witness marking.)

15 Q. Thank you. Before I get into the video at all perhaps it would assist the jury if you could just give us a preliminary tour of the rectory by using your laser pointer and P-56 and P-57?

20 A. Yes, My Lord, members of the jury, before I get into the description of the two sketches I'd like to point out that in the information block on there and on this one here you will note that there's two different dates. One is the 18th and one is the 19th. These were taken, the measurements were taken, on a period of two days, so that's why there's two different dates. Another thing I'd like to point out, if we look at the
25 address on the first one here, the basement, you will note that it's marked 306 Main Street, Chatham Head, New Brunswick. It was an oversight on my part, that should read Chatham Head, New Brunswick, in the information block on P-57.

30 MR. ALLMAN: Perhaps, My Lord, just to avoid any confusion if the officer could write the word, "Head", wherever it would fit appropriately and the jury can do the same thing on their copies. You've written the word, "Head", in brackets
35 underneath the word, "Chatham", on P-57?

A. I have.

Q. All right, could you take us on the preliminary
5 tour, then?

A. We'll start with P-56. You'll note on the right-
hand side of each plan we have the directions.
North in both plan drawings is at the top of the
10 diagram. We have here at the bottom floor or
basement level a garage with two sliding doors.

Q. Two sliding doors on the west side?

A. That's correct, on the west side. This would be
at the front of the rectory facing the main
street. We have an entrance here from the garage
15 and then we go into a storage area. There's two
windows in the storage area. We come to here to
another door that leads into a large office.
Again two windows at the front on the west side
in this big office. As you go down the hallway
20 the first door to your right you would have a cold
room and then we have the staircase leading to the
first floor. Directly ahead of me we have a
closet and as you walk down the hallway to your
left we have a laundry room which has two windows.
25 This, by the way, will be the same path that I'll
be taking you with the video. I'll be starting
from the outside and coming through the garage
storage room, office, and up to the first floor.

Now, going to P-57, here's the same staircase
30 as depicted in P-56. We come up the stairs and it
turns here to the left and you enter the first
floor from this door right here. The opening that
we see here is another staircase that leads to the
second floor. This was not measured. From here
35 we have a corridor and your first door to your

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- right which is here will lead you into the kitchen area, which is this area right here. Then we have another door to the east which would be the rear entrance, and the rear entrance we have two more doors, one on the north side here and one on the south side that enters into the back porch.
- 5
- Q. That's an enclosed entrance, is it?
- 10 A. It is, yes.
- Q. And at the top of the entrance, what are those straight lines across the top there?
- A. These are steps at the back leading up to the porch on the north side here. Through this door we come into a dining room area. Then we go through a door on the left and we're into a short hallway, then we're into the sort of a living room area, living room, den area. I'd like to point out that up in here on the north side - now, this would be directly above the garage on P-56, these two patio doors that we see here. Here we have a large window.
- 15
- 20
- Q. Just to clarify that, if you walk out of the patio doors what do you walk onto?
- 25 A. You would walk on top of the garage area, on the roof of the garage. From the living room we have a bathroom, and there's another door that leads into the - this is being used as a den, there's another - as you'll see on the video and still photographs you'll see that this room here is a den with couches and some bookcases. Again we have a window on the east side, a closet, sliding doors. From here we go back down the short corridor and we have another door here that leads to this part of the corridor, and as we come here
- 30
- 35

15

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the first door on your right would be the office.
Now, I have here in what would be the southwest
5 corner I have the word, "safe", there's a safe
built into the wall here. This is the office
where the body of Reverend James Smith - who was
identified to me as the Reverend James Smith.
Here we have the front entrance, double doors.
10 Again we have - this will be shown on the video
and still photographs. So basically the path that
I showed you from P-56 to P-57 will be the same
path that I will be taking you through the video.

Q. And is there another floor besides the two that
15 you drew a plan on?

A. There was a third floor which I measured. It was
later decided not to do a plan drawing of the
third floor.

Q. Why would that be?

A. 20 Mainly because there was no signs of anything
touched or moved on the second floor, but it was
measured.

Q. You told us that you're going to take us in the
video on the path that you just plotted on the
25 two plan drawings. Do you have the video with
you?

A. I have.

Q. Could you produce it, please? Thank you. I
understand there's no objection to this being
30 entered as an exhibit.

MR. FURLOTTE: That's correct, My Lord.

Q. I'm showing you now what has become Exhibit P-58.
Can you tell me what it is, please?

A. 35 Yes, My Lord, P-58 is a video taken by myself of
the scene described on P-56 and P-57, the rectory

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at 306 Main Street, County of Northumberland, in Chatham Head, New Brunswick.

5 Q. I'm sorry, did you say when it was you took this video?

A. This video was taken the next day, the early morning hours on the 17th of November, 1989.

Q. And this accurately represents the scene you saw?

10 A. It does, yes.

Q. My Lord, I'm going to ask him to play the video in question. It lasts about half an hour. Again perhaps I could sit down because I'm not going to interrupt him with any questions.

15

(Witness commenting as video, P-58, is played.)

WITNESS: We're now at 9:55 a.m., November 17, 1989, panning from right to left showing the rectory at 306 Main Street, Chatham Head, County of Northum-
20 berland, New Brunswick. We're now looking at a close-up of the rectory. The two sides that we see here would be the west side and south, the front entrance, and we can see #306. We are now looking at this side of the residence, the south
25 side, in the back entrance. The rear of the rectory is the east side. This is the side we're looking at on P-57, at the back porch. Another view of the back entrance and the steps leading up to the back entrance, panning from left to right.
30 We are now looking at the garage on P-56 at ground level. Now we're looking at the west side and the north side, again showing the garage. This here is the north side of the residence which would be this side here on P-56, the top part of the plan
35 drawing. You will note on the garage there is two

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5 white sliding doors. A close-up of these two doors. Again I'm panning from left to right showing the Church of the Blessed Virgin Mary, showing the parking lot in front of the church, and where we see the cars on the road here, this is the main street in Chatham Head, New Brunswick.

MR. LEGERE: Turn the volume down.

10 WITNESS: We have here a few items that's been covered by the investigators. Again showing you the two sliding doors to the garage on the west side. A close-up of one of the doors to the garage. The locking mechanism, the lock on the door. Now, the door in question is open showing you the interior
15 of the garage. I'm in the corner of the garage to my left as I'm looking into the garage. I'm panning from left to right showing you the north wall in the garage which would be this wall here
20 at the top of the diagram. Now we're looking at the east wall at the back of the garage, and you will note a door here. This is the same door that we see here on the P-56 on the south side of the garage, inside the garage. I'm panning to an area
25 on the ground. I will show you a close-up of this piece of plastic and the ignition switch from a vehicle, and next to it we have a piece of plastic which is part of the steering column. Again the same area, panning from right to left to an area
30 where you'll note a lot of broken glass on the ground. All the little specks that we see here, it's broken glass.

Now, panning from that particular area to the entrance at the back of the garage on the south
35 side, a medium view of the back door to the

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another doorway.

5 Now, this here is a door that's closed. That
is the closet that we see here on the south side
of the residence. I'm panning down to an area in
the small corridor, in this area here. We have
here a stain, red in colour, which appeared to me
to be blood, same stain. Now, I'm panning from
10 that stain up to another archway which would be
the cold room in here. This is the cold room
depicted here just next to the staircase on P-56.
You will note that there's a freezer, some boxes
in front of the freezer, and a shelf above the
15 freezer. I'm panning from the same room back to
the closet, door to the closet, and then we have
another archway to the right, right here.

We are now looking inside the laundry room.
That will be just in front of the staircase
20 leading to the first floor. You will note that
there's a window in this room, and now I'm panning
to an area on the floor once again in this area
here, and again we have some staining red in
colour which appeared to be blood, transfer stain.
25 Again panning to another area closer to the
archway, this area here, and here. Again we have
some staining, red in colour, and here we could
barely see signs of footwear in the red staining.
Still we are in the laundry room. Some shelves
30 on the wall, and here you will note the doorway
and the archway.

Now I'm looking back into the main office
now, I'm standing in the small corridor looking
back into the big office in a northerly direction.
35 Again I'm panning down to an area on the floor

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5 just slightly right of the entrance to the back storage room. Again another stain on the floor, reddish in colour, which appeared to be blood. Panning from that same area back into the main office.

10 Now I'm panning to the left. We are now looking at the cold room, and if we go more to the left we come to the staircase, the same staircase depicted on P-56 and P-57. We have a landing halfway. We have a pair of boots and a short step-ladder, and here we have a ledge with books. Now, I'm walking up the landing here and I'll be going around. The same books that we see here
15 much closer, and I'm still turning to the left on the landing, and now we're looking at the remainder of the steps leading to the first floor. Now the doorway is right here next to the box.
20 You will note a coat hanging on the wall. Now, as mentioned in P-57, this is the area we're at right now, in the staircase. Showing you the first step, and again you will note a transfer stain red in colour which appeared to be blood.

25 Now I'm panning into the hallway on the first floor. You will note a door to your right. That's the door that we see here on P-57, the door leading to the kitchen area, and then you can see the corridor going towards the north part of the
30 building, residence. Here we have some more stains, red in colour, which appeared to be blood, and that's on the frame of the door leading to the kitchen area. I'm panning down now towards the floor area in the kitchen. You will note there's
35 a lot of papers on the floor, there's a radio,

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clock radio, radiator. We see another door here. This is the door that leads to the dining room area. Some red staining on the wall in this area here. Here there's a lot of red staining all over the floor in several areas and which appeared to be blood. I'm now pointing to this piece of paper here which I'll be giving you a close-up. Now, I have the video stopped here. This particular piece of paper, you'll note that there is a transfer stain and we can see the outline of a footwear. Now, this particular piece of paper was seized by Sergeant Chiasson, also a member of the Identification Section, and will later be introduced as an exhibit. Now, the same paper, and now I'm panning to the right. Again a lot of staining on the floor and under the chair in this area, also some on the mat. Now I'm showing you the doorway to the dining room and the back door in the porch area, this door here leading to the back porch.

Showing you the inside of the kitchen, cupboards, counter, stove. Showing you the window on the south side, sink, giving you the same view from a different view, the sink again. You will note that there's a couple of bottles here on the counter. You will note that there are two Bacardi bottles. These again were examined by Sergeant Chiasson and later will be discussed into his evidence. Again panning from the same two bottles, panning to the right, and here we have the same entrance previously mentioned leading to the corridor at the front of the rectory.

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5 Now, I'm panning to an area still in the
 kitchen left of the radiator, the radiator along
 the wall. Again we have some red staining on the
 wall which appeared to be blood. Now I'm panning
 from that area. Again we're still in the kitchen
 showing you the amount of papers on the floor,
 again showing you the red staining on the floor,
10 on the mat, and again towards the back entrance,
 underneath the chair. You will note that the
 table was collapsed, with the yellow top, and you
 can see the leg of another chair underneath. Here
 we have transfer stain in a red substance which
 appeared to be blood, and you can see the outline
15 of a footwear.

 Now I'm panning directly to the dining room
 area. Now, I'd be standing here panning inside
 the dining room area, giving you a view of the
20 dining room showing you there's a chair, tele-
 vision cabinet on the north wall. Here we see a
 door and then we can see the den area. That door
 is this door here that we're looking at. Now, I'm
 standing just outside the door from the dining
25 room and looking into the living room area. You
 will note that the T.V. is on, a lot of papers on
 the table, on the floor, on the couch, and you
 will note just behind the television there's a
 door. These are the patio doors previously
30 mentioned on the top of the garage, these patio
 doors. Now I'm panning towards the bathroom area
 and then to the small den that we have here. Now,
 this is the same den which would be at the north-
 east corner of the residence. Again you will note
35 a lot of papers on the floor, on the couches and

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chair. Again we're in the same room giving you a different view of the interior of the den.

5 Now, we're panning from the den back down
towards the corridor. The door that we see here
was the door to the dining room, and you can
barely see the door to the kitchen, and here we
have another doorway. Now, this is the doorway
10 that we see here in the hallway. Now, we can see
the staircase, the door that leads to the stairs
to go downstairs. Again I'm panning to the floor
area in this small corridor. Again I'm showing
you some staining on a piece of paper, a red
15 staining which appeared to be blood, the same
paper that we see here along the wall. I'm
panning back up towards the door that leads to the
staircase. You will note a door just past the
clothes rack right here, this is the door to the
20 front office.

 There is the front door of the rectory on
the west side. I'll be showing you an area here,
you can barely see in the wall there's some
damages done to the wall. This is a close-up of
25 the damages. The wall itself is made out of
sheetrock and you can see the debris from the
wall. Now, this is all located in this area right
here, at the front entrance.

 Now I'm panning from the front entrance to
30 the right, to the archway leading to the front
office where the body of Reverend James Smith, who
was identified to me as such, was found. You will
note an axe leaning against the wall, a broken
chair, a pick, pick-axe, the same axe leaning
35 against the wall and one on the floor, and we have

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a pick here leaning against a chair. You will
note a drill. Now, this particular piece of
5 paper, as you will note, has another transfer
stain, red in colour, which appeared to be blood,
and it was made by footwear. This particular
piece of paper again was seized by Sergeant
Chiasson who will be testifying on this particular
10 piece of paper and was seized as an exhibit. A
close-up of the door handle to the safe, a drill
on the floor. You will note that there's a lot of
debris on the floor. The same piece of paper
previously mentioned is here on the green mat.
15 Now we see a view of the Reverend James Smith.
You will note that one of his shoes is off and
it's next to his body under the leg of the chair.
A lot of red staining which appeared to be blood,
on the radiator also. A medium view of this area.
20 A close-up view of the transfer stain on the
radiator. You could just barely see the head of
Father Smith. Now I'm panning from right to left
towards the safe, a green door. Again we have
some transfer staining, red in colour, which
25 appeared to be blood, on the wall in this area
here. You will note that the back pocket to
Father Smith's pants has been torn, same pocket
here. Again some red staining on the door to the
safe. You will note that the handle has been
30 broken off. A close-up of these stains, again red
in colour which appeared to be blood, and you will
note the damage that has been done to the wall,
left of the safe, and again here. You will note a
crowbar and a pry bar and what appears to be a
35 chisel. Now, this office in question is on the

25

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front of the rectory on the west side.

This concludes the video, My Lord.

5 MR. ALLMAN: On the video the T.V. was on. Was that the
condition that it was in when you went in there?

A. The T.V. was on, yes.

Q. Do you remember if the sound was on?

A. The sound wasn't on.

10 Q. The sound wasn't on, just the picture?

A. Just the picture.

Q. In addition to the plan drawing and the video did
you in this case as at the other scenes take
aerial photographs?

15 A. I have.

Q. Do you have those with you or are they all back
here?

A. The jury's copy are in the back. I have the other
copies here.

20 Q. And I understand there's no objection to these
going in. A copy for Your Lordship and I have
copies for the jury.

THE COURT: There are eight copies marked S-1 to S-8 in
the corner. You're putting these into evidence,
25 are you?

MR. ALLMAN: Yes, I understand there's no objection.

THE COURT: P-59, 1 to 8.

MR. ALLMAN: I'm going to ask the jury as we go through
these to be very careful and if there's any of
30 them that have got the wrong 'S' numbers on, let
us know.

MR. LEGERE: Before you agree to anything let me know
what he's talking about.

MR. ALLMAN: My Lord, I'm just discussing one more item
35 that I'm going to be introducing and whether or

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5 not we need to prove continuity. I'm going through them one a time, My Lord, so that the ink on the back can dry. P-59(1) marked S-1, what can you tell us about that?

A. Yes, before I describe the aerials I'd like to point out these were taken the next day on the 17th day of November, 1989.

10 Q. Before you get into each one could you just show it to the jury to make sure that what we're talking about is the same one as they're talking about, or they're looking at?

A. This aerial photograph gives you an overall view
15 of the Church of the Blessed Virgin Mary which we have here, the large structure towards the bottom on the photograph, and just to the top of the large building we have another building much smaller. We are now looking in a northerly
20 direction. This particular building here is the rectory at 306 Main Street, Chatham Head, County of Northumberland, New Brunswick, and if you look to the left of the photograph we have a huge parking lot and then we have a roadway in the top
25 lefthand corner. Now, this would be the main street going through the community of Chatham Head.

Q. The street that we're talking about on that and, indeed, a number of the other photographs, can
30 you see it on P-1?

A. Yes. Where I put the green pin, the highway here that goes around this way towards Chatham.

Q. Up that way towards Chatham and down that way towards what bridge?

35 A. Towards the Morrissey Bridge in Newcastle.

27

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- Q. Thank you. Carry on with the next one which is P-59(2), jury's S-2, or your S-2, just show it to the jury.
- 5
- A. P-59(2), S-2 at the front, again if we look to the bottom righthand corner of the aerial photograph again the large building at the bottom right is the church, and just to the top of it in a
- 10
- northerly direction is the rectory. Again the large parking lot can be noted. To the left of the church and the rectory and the road that we see at the bottom left of centre going towards the left and back towards the centre of the photograph
- 15
- at the top is the main highway going through the community of Chatham Head, going towards Chatham.
- Q. The road you just pointed out a moment ago?
- A. That's correct.
- Q. P-59(3), jury's S-3.
- 20
- A. P-59(3), again showing almost the same angle of view as S-2, 59(2), but from a slightly different angle of view. We are now still looking in a northerly direction. Again we have the Church of the Blessed Virgin Mary. At the bottom right of
- 25
- the photograph the large building here, and just to the top north of the church we have the rectory. Again the same large parking lot in front of the church at the bottom of the photograph, and again the same highway that goes
- 30
- through the community of Chatham Head, the main street going towards the Chatham area. Now, the Miramichi River in relation to this aerial photograph would be to the top lefthand corner.
- Q. I think if we come on to the next one we'll see
- 35
- that more clearly. P-59(4), S-4 on the front,

just show it to the jury to confirm.

- 5 A. Again here we have another view in a northerly direction but at a higher altitude. Now we can see the body of water towards the top of the photograph. That's the Miramichi River that goes through the community of Chatham, Douglastown, Bushville, Newcastle, Chatham Head.
- 10 Q. And you can see that, of course, on P-1?
- A. That's right, on the opposite side of the river. The road that we see from the bottom centre of the photograph turning to the right, going to the righthand side, again that's the main street in Chatham Head. Now, if we look in the area to the bottom slightly to your right again we have the large building, the same church previously depicted in the previous photograph, and again just to the top on the north side is the rectory and again the huge parking lot at the front of the church.
- 15 Q. P-59(5), S-5 on the front.
- A. Again a slightly different angle of view of the church, rectory, the main street through Chatham Head. We are now looking in a westerly direction so the back of the church that we see here and the back of the rectory would be the east side of both buildings. Again the large parking lot at the front can be north and again the highway going from left to top right is the main street through the community of Chatham Head.
- 20 Q. And from that view of the rectory can you see the enclosed porch at the rear to which you've referred?
- 25 A. Yes, we can.
- 30
- 35

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- Q. That would be on the left towards the photographer
as you look at the rectory? You point it out to
5 the jury - sorry, the porch, the rear entrance.
- A. Yes, right here.
- Q. O.K., and also can you see the roof of the garage?
- A. Yes, we can.
- Q. And if I understand you right earlier you can walk
10 out onto the roof of that garage through the patio
doors that are shown in -
- A. P-57, these two patio doors that we see here.
- Q. And P-59(6), S-6 on the front.
- A. Again we have another view of the church and the
15 rectory and the main street going through the
community of Chatham Head, but we are now looking
in a southerly direction. Now, we have an inter-
section - if we follow the road from the centre at
the bottom going towards the centre of the photo-
20 graph we have an intersection. Now, this is the
intersection of the main street through Chatham
Head and highway which I believe is 126 going
towards Rogersville if you turn left at the inter-
section. If you were to turn right that would
25 take you into the Town of Newcastle which would
take you to the Morrissey Bridge going across
to Newcastle.
- Q. And I'm sure by now the jury know where the
Morrissey Bridge is on that aerial photograph
30 but maybe you could just point to that route on
the aerial, P-1.
- A. This photograph was taken - I'm in this area here
looking south. The intersection I was talking
about was here.
- Q. And if you turn right you do what?
35

30

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- 5 A. If you turn - looking at the map from this direction here if I'm turning right I would be going towards Rogersville, and if I turned left I'd go across the Morrissey Bridge into the Town of Newcastle.
- Q. And looking at it from the way the photographer was looking at it it's the other way around?
- 10 A. That is correct.
- Q. Right over the Morrissey Bridge and left to Rogersville?
- A. That's correct, and again the large parking lot can be noted on the east side of the highway, the main street, and again the church and the rectory.
- 15 Q. You told us what happens if you turn right or left of that intersection; what happens if you keep going straight on?
- A. Looking at the aerial if you go straight on I believe it's the community of Nelson-Miramichi, it's known to me as.
- 20 Q. And I take it that's still the Miramichi River over on the right of the picture?
- A. The body of water, yes.
- 25 Q. P-59(7), S-7 on the front.
- A. Again we're looking at basically the same area from a different viewing angle. Again at the bottom of the photograph we have the church and the rectory, the large parking lot can be noted at the front, and again the bottom road that starts from the bottom right towards the left is the main street going through the community of Chatham Head. Now, we don't see the intersection here at the bottom, it's likely more to your left,
- 30 but we can note the road that goes across the
- 35

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Morrissey Bridge into the Town of Newcastle, and the body of water again is the Miramichi River.

- 5 Q. The rectory and the church are at the bottom centre of P-59(7)?
- A. Yes.
- 10 Q. I realize that this is going back in time but just as a matter of interest, where you may not be able to identify it individually, is the area where the Daughney sisters lived visible in S-7?
- A. Yes, it is.
- Q. Where?
- 15 A. Again if you cross the Morrissey Bridge you enter the Town of Newcastle. You can still see the highway going into town and you can see the first intersection in this area here, as previously mentioned. The first intersection after you cross the bridge you would turn left and you can still
- 20 see the road but then you sort of lose it because of the distance, but the Daughney residence would be to the left of the first intersection in this area here, My Lord.
- Q. Go over the bridge, take the first left, and you're getting close to the Daughney residence?
- 25 A. Very close, yes.
- Q. P-59(8), S-8 on the front.
- A. P-59(8), if we look at the bottom of the photograph we have an intersection. The same one is
- 30 depicted in 59(6). We have the highway that comes from bottom left to the centre at the bottom. This is the highway going through the community of Chatham Head. If you go from the intersection to the right this would take you in
- 35 the direction of Rogersville, Moncton.

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Q. That's the right as the photographer is looking at it on S-8?

5 A. That is correct. If you turn - at the inter-
section if you were to turn right going towards
the bottom, now we're going towards Nelson-
Miramichi, and the highway from the bottom,
going towards the centre at the bottom here,
10 would be coming from the Town of Newcastle and the
Morrissey Bridge. Now, if I was coming across the
bridge, coming to the intersection, I would turn
right and I would be going on the main street
leading to the Town of Chatham along the
15 Miramichi.

Q. Could you just go over that? I think you got the
direction - imagine you've come over the Morrissey
Bridge, you're coming up the -

A. To the intersection.

20 Q. - intersection, turn which way?

A. You would turn left in a northerly direction.

Q. You said right.

A. Oh, excuse me.

Q. But you'd in fact turn left?

25 A. Turn left and then I know we can't see the highway
after we come to this area here but this
particular street follows the Miramichi along the
water here and goes into the Town of Chatham. The
Centennial Bridge can be noted crossing the river
30 at the top left of the photograph.

Q. That's the Centennial Bridge you were just
pointing to at the top left of the photograph, and
again I imagine the jury has got it by now, but
just show us the Centennial Bridge on the aerial,
35 P-1.

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- 5 A. The area we're looking at is this area right here.
We can see the body of water plus the intersection
and the rectory and church, so we're looking sort
of in an easterly, northeast direction.
- Q. We can see the rectory and the church whereabouts
on S-8?
- 10 A. If you go to the left of the photograph almost to
where the road ends at the left we will note a
large parking lot and to the right of the parking
lot we have the church and the rectory in this
area here.
- 15 Q. You were showing us a moment ago the total area,
and you remember when you first gave evidence you
put the red dot in the location where the Flam
sisters lived?
- A. That's correct.
- 20 Q. Would that - and again obviously you were far too
far away to focus on individual features, but
would that location in general terms be depicted
on S-8, and if so, where?
- 25 A. Yes, if we look at the Centennial Bridge at the
top of the photograph, that crosses the Miramichi
River. Now, if we go to - I guess I would call it
the south side of the river, in this area here, on
the right side looking at the photograph, and
where the bridge comes to land the Flam residence
is a few minutes just past the bridge in this area
30 here, in the Town of Chatham.
- 35 Q. If you could just look at that picture again,
about halfway down the righthand side there is
like a mark or something. I'll show you where I'm
talking about and then you can refer it to the
jury. There's a mark or something that proceeds

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5 from about a third or just a bit more than a
third down the righthand side proceeding up across
to the left and disappearing somewhere below what
look like storage tanks.

A. That's correct.

Q. What's that?

10 A. That's an opening in the wooded area where a
railroad line starts, or if looking at the photo-
graph, from the right centre, and you can see the
darker area and the wooded area and it's going
towards the tanks. You could see the three white
items side by side in this area here.

15 Q. And would that railway line also be depicted on
P-1, the aerial?

A. Yes, here's the rectory and church and the
opening in the wood that I was showing you on
P-59(8) would be in this area here. Now, if we
20 follow that, this is the railroad line -

Q. Past that yellow dot.

A. And the three white dots that we see are these
tanks that we see here.

25 Q. O.K. Is there anything else you want to tell us
about the plan drawing, the video, or the aerial
photographs or basically does that cover it?

A. For this particular scene, yes.

MR. ALLMAN: My Lord, I have an item that I would ask to
be marked for identification at this time and I've
30 got a copy for Your Lordship. We have some other
witnesses before we can put it in as an exhibit.

THE COURT: This would be UU.

Q. I'm showing you an item that was marked UU for
Identification. Can you tell me about that,
35 please?

- 5 A. Yes, this is a photographic line-up that I prepared at the request of the General Investigation Section at Newcastle.
- Q. O.K., when did you prepare that?
- A. This was prepared on the 24th day of November, 1989, at Newcastle, Northumberland County, New Brunswick.
- 10 Q. What's the process by which you prepared it?
- A. I have here the file folder with eight openings cut out which I've inserted colour Polaroid photographs in each of the openings, and each opening is numbered from 1 to 8. What I had done
- 15 here is a photographic line-up, the same profile, the left profile of each individual. One of the photographs amongst the eight is a photograph of the accused, Mr. Allan Legere.
- Q. The individual sitting in the prisoner's dock at the moment between the officers?
- 20 A. That's correct.
- Q. Which photograph is the one of Mr. Legere?
- A. Number 6.
- Q. The remaining seven photographs, how did you get
- 25 them?
- A. These are all peace officers, members of the Royal Canadian Mounted Police.
- Q. When you were looking for photographs of the individuals other than Mr. Legere what was your
- 30 object? What sort of person were you looking for?
- A. I was looking for a person with basically approximately the same age, same hair colouring, trying to be as close as possible to the more unbiassed, and the reason that I chose - usually
- 35 these are done with a front view of the

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- individual. Because of the fact that Mr. Legere at the time had what appeared to be a mark on his eye I decided to do the left profile not showing the mark on the eye.
- 5
- Q. If the mark on the eye had been visible would it have distinguished him from anybody else?
- A. That's right, it would have been a distinguishing mark that others would not have had.
- 10
- Q. O.K., so you chose to do the left profile for that reason?
- A. That is correct.
- Q. Is that item changed in any way from the condition it was when you first prepared it?
- 15
- A. Yes, this particular item was turned over to Sergeant Gaudet of the General Investigation Section in Bathurst, County of Gloucester, New Brunswick, on this same date, on the 24th day of November, 1989, and was returned to me on the 27th day of November, 1989, at which time I turned it over to Constable Proulx of the Moncton General Investigation Section. It was later on returned to me, I believe it was the 18th day of December, 20
- 25
- 1989, by Sergeant Poissonnier of the Moncton General Investigation Section. These are all peace officers, members of the Royal Canadian Mounted Police.
- Q. What I was asking though, I'm not sure if you - maybe I didn't put the question right or you didn't hear it, I'm not sure - have any changes been made? I mean are the pictures the same pictures, are they in the same numbers, or has that been changed, to your knowledge?
- 30
- A. They have not, they're exactly the same
- 35

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arrangement as they were when I first made it.

MR. ALLMAN: My Lord, I'm not sure what Your Lordship's
5 position on that is. My submission is that given,
as this officer says, that there have been no
changes at all, it's not necessary to call the
remaining officers to prove continuity. This
isn't like - but I don't know if Your Lordship
10 wants me to wait until the relevance of this
becomes apparent or get it entered now.

THE COURT: Well, perhaps you can describe orally, or
verbally, the significance of it, and perhaps
that would fill in the gap.

15 MR. ALLMAN: I think I'd sooner leave it till we come to
it.

THE COURT: All right, leave it if you like. It's marked
for identification, UU.

20 Q. I think ultimately it returned to you from which
officer, Gerry Gaudet, was it?

A. In the first instance, yes. Then in turn I
turned it over to Constable Proulx.

Q. O.K., and then who did you finally get it back
from?

25 A. From Sergeant Poissonnier.

Q. And where has it been since then?

A. In my possession ever since.

MR. ALLMAN: Thank you.

THE COURT: Cross-examination?

30 MR. FURLOTTE: I think it might be an appropriate time
for a break, My Lord.

THE COURT: Yes, I think perhaps that would be fair
enough. We'll have a 15-minute recess now and
then go on with cross-examination. If the jury
35 wish to take those photographs with them, you may.

Please don't discuss the matter and come to conclusions in the jury room. It's just for the purpose of looking at them and better familiarizing yourself with them.

(BRIEF RECESS - COURT RESUMED AT 11:35 a.m.)

(ACCUSED IN DOCK.)

10 MR. ALLMAN: I'm going to mention to the jury a minor housekeeping matter. I've talked to Mr. Furlotte. We're going to change the numberings. We haven't put numbers on the Flam and the Daughney scenes so what we're going to do is scratch 17 out from
15 Smith and it will become available for any more numbered sightings or views or whatever, and I'm going to ask Corporal Godin to put an 'S' by the Smith pin, a 'D' by the Daughney pin, and an 'F' by the Flam pin to distinguish them from any other
20 matters that we're concerned with.

THE COURT: Oh, yes, and what did 'F' have on it, the Flam had what on it?

MR. ALLMAN: It didn't have anything and I inadvertently asked him to put a 17 by Smith.

25 THE COURT: Well, Flam was a red and -

MR. ALLMAN: Flam is red, yes, but what occurred to us is this, we wanted to put something by all the pins just in case anything happens to the plan and a pin comes out or something like that, you can see
30 the sort of thing I mean, and then we'll be able to continue the evidence, so that's what I'm going to ask him to do as soon as the jury come back.

THE COURT: All right, we'll have the jury now, please.

(JURY CALLED - ALL PRESENT.)

5 THE COURT: You had a point, Mr. Allman?

MR. ALLMAN: Yes, just before Mr. Furlotte's cross-
examination, My Lord, I talked to Mr. Furlotte
over the interval. We inadvertently put a number,
#17, beside the green pin which indicates the
10 residence of Father Smith. We didn't put numbers
by the other residence scenes. I'm going to ask
Corporal Godin to take the pen, scratch the #17
out from beside the green pin. Then I'm going to
ask him to put an 'F' by the Flam pin which is
15 red, an 'S' by the Smith which is green, and a 'D'
by the Daughney which is blue, so we'll have
numbers for the yellow pins and initials for the
other coloured pins, if that's acceptable to Your
Lordship.

20 THE COURT: Yes, that's fine.

MR. ALLMAN: Could you do that, Corporal Godin?

A. Yes.

(Witness marking.)

MR. ALLMAN; That was the only matter I wanted, My Lord.

25

CROSS-EXAMINATION BY MR. FURLOTTE:

Q. Corporal Godin, there's a few matters I'd like to
review again on the video so if you wouldn't mind
replaying it, portions of it.

30 A. From the beginning?

Q. I would like to start on the video - I think it
was marked about ten o'clock on the video, where
the video depicts the ladder leaning against the
garage.

35 A. We're talking about the outside now?

40

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Q. The outside, yes. Your video started at 9:55 a.m.
and this is at 10:00. (Video playing.) O.K.,
5 that ladder on the side of the house.

A. Yes.

THE COURT: Is there any way of turning the sound down
lower, because it's not material to -

Q. Was that there whenever you first took the video
10 or do you know whether or not it was put there
after?

A. As far as I can recall that ladder was in that
position.

Q. That ladder was in that position? O.K., you
15 could run it, Corporal, and we'll get a better
look at it, and just above that ladder, is that
the patio doors?

A. That is correct.

Q. And those patio doors go into the living room, I
20 believe?

A. That's correct, yes.

Q. O.K., now maybe we could stop it here, or pause,
I should have said. O.K., I see some areas
covered there with yellow and red plastic or
25 whatever it is?

A. Yes.

Q. Do you know what's underneath those covers?

A. If my memory serves me correct, I believe that
there was a footwear impression and a tire
30 impression, but they weren't photographed or
looked at by myself.

Q. They weren't photographed or looked at by
yourself?

A. No.

35 Q. O.K., I notice there's a lot of leaves in the

area also?

A. Yes, there was.

5 Q. And do you know whether or not there was a fire alarm system in the rectory - or not a fire alarm system but a burglar alarm system in the rectory?

A. That I can't recall.

10 Q. Maybe if we could get a shot of the damaged door in the garage? I believe it's somewhere around ten, twelve.

A. Inside?

Q. Inside.

A. I'll put it on fast forward here.

15 Q. Maybe you could just hold it there - or back it up just a bit. Now, you're going to notice a red spot on the floor and I wonder if you could tell me what that is just in a few seconds, on to the right here. Just at the bottom righthand corner that's a red spot. Do you know whether or not that was blood?

20 A. I can't recall blood in that area. That could be a leaf. I notice there's a few leaves there inside the garage. I don't believe having any - from what I can recall, any blood under -

25 Q. You don't recall any blood stains in the garage area, O.K.

A. Not in that particular area.

Q. If you can get up to the twelve minute -

30 A. Now, this is the door you're referring to?

Q. That's the door I'm referring to, yes. O.K., is that boot marks on there or -

A. Yes, you can see -

Q. You can see it better later on?

35 A. You can see the handle to the door. It's smashed

and damage to the handle and to the bottom of the handle and to the left.

5 Q. Did they look like axe marks?

THE COURT: Loud enough, now, for the jury to hear, Corporal.

Q. Did those look like axe marks around the handle area?

10 A. O.K., you can see marks below the handle to the right of the handle, on top of the handle and on the handle itself. I can't really tell what would have caused the damages but it's a fairly sharp object that would have caused the damage.

15 Q. It looks like being struck with an axe?

A. It appears to be so, yes, and talking about the footwear again, you don't see them too well here. There's some to the left of the handle and some below the handle.

20 Q. I believe you get a better shot of the footwear in just a second. Do you have your laser pointer with you?

A. Now, this is the area to the left of the handle, and I'm panning to the right now, we can see the handle and we can see the marks caused by a sharp object consistent to an axe. Now I'm panning towards the bottom or below the handle in this area here, and again we can see marks here and there.

30 Q. O.K., there look to be boot marks up higher, too, wasn't there, if you want to back it up a bit? Just after we go off to the left, right there, are those also boot marks?

A. Those are footwear marks. I can't tell what kind of footwear they might be. These appear quite old

- 5 for some reason as compared to the other ones at the bottom, but again these - I didn't pay much attention to these footwear because they were actually looked at by Sergeant Chiasson and photographed by Sergeant Chiasson, a still photograph.
- Q. So you didn't do any comparisons yourself of the footwear?
- 10 A. No, I did not.
- Q. To see if they - both the top marks and the lower marks were made by the same boot?
- A. No, I did not.
- Q. They look to be a different impression from here, do they not?
- 15 A. It appears to be a different -
- Q. Appears to be a different boot?
- A. Well, they're partials, I can't tell for sure. Like I said, I didn't actually look at them in any detail. Again here we're looking at the bottom
- 20 part below the handle, and now we're into the storage area.
- Q. O.K., now, did you say there was a deadbolt on that door. Is that the door that had a deadbolt on it?
- 25 A. I did not say that in my evidence and I can't recall if there was or not. The video doesn't show it from the angles that I'm using.
- Q. At 10:39, the next portion I'd want you to view. It would be in the kitchen area or hall area, or
- 30 it may even be the office area, I just forget right now.
- A. 10:36 - you want to go straight to 10:39?
- Q. I believe it's about 10:39. I believe it's down on the corner of this wall. There looks to be a
- 35

- 5 whole bunch of little holes or something imbedded
like a shotgun blast, I suppose, down where those
blood smears are on the other side of the
radiator.
- A. Right here?
- Q. Right there, yes, those marks there. Did you ever
determine what those marks were?
- 10 A. That there is known as a splatter. It's actually
a red substance sort of splattered on the wall.
That's actually what it looks -
- Q. That's not indentured?
- A. No. These here, you're talking about?
- 15 Q. Right.
- A. These are all red dots. There's no indentation
on the wall whatsoever.
- Q. All right, that's fine. O.K., I guess that's fine
for the video.
- 20 THE COURT: Just while it's fresh in mind, was that a
Pepsi bottle under the chair?
- A. I believe it was, My Lord.
- Q. Corporal, I just want to go through your report of
your investigation and maybe you could explain
25 some of the statements or comments made in the
report. The pages are not numbered but on the
second page of your report in regarding - said a
footwear impression were noted on the door from
the garage and it said, "One of the footwear is
30 similar to the ones inside in pattern and design".
- A. That's correct.
- Q. Did that mean that one of them was not similar?
- A. From what I could see, yes.
- Q. So it appears that there was two different types
35 of boot marks on the door?

A. Yes, they were partials, they're not a full -

Q. Partials, not full, but -

5 A. From my experience in looking at the impressions on the door, the two patterns were different, the one to the left of the door, the handle, and the one to the bottom slightly -

MR. ALLMAN: Just to indicate, My Lord, I have no
10 objection to these questions being asked although this witness has not been declared an expert in footprint identification, but we will be calling towards the end, a later stage of the trial, an expert, or we'll be asking to have him declared
15 an expert specifically on all these footprints so that -

THE COURT: Yes, but this question is fair.

MR. ALLMAN: I say I'm not objecting, I'm just mentioning it.

20 MR. FURLOTTE: It just that, My Lord, these comments are under this officer's report and whenever I cross-examine the other officer that's coming he might not have those comments in there and I'm going to miss them.

25 MR. ALLMAN: I have no objection, I just wanted to make that clear.

THE COURT: O.K.

Q. I believe there were footwear impressions that were taken at the Chatham Marine Terminal
30 transportation garage. What was the purpose of that?

A. I was called to that particular area to photograph a footwear impression, which I did, and I was asked to see if it was similar to the ones
35 at the rectory, and they were totally different.

Q. Totally different?

5 A. Yes, I don't remember the circumstances as to surrounding that particular footwear impression but I was called to the Town of Chatham to photograph a particular footwear.

Q. And it was totally different from any of the footprints found at the Smith residence?

10 A. That's correct.

Q. Now, in relation to any footprints that were found at the scene, would you be the proper officer to ask about those or would that be another police officer?

15 A. There was more than myself involved in examining the scene for fingerprints. I believe there would have been four identification technicians examining the scene but - and I also assisted in some of the comparison of the fingerprint
20 impressions recovered at the scene to suspects, but the person that photographed and collected these impressions was Sergeant Chiasson, who is an identification specialist.

Q. But as far as you know there was a number of
25 fingerprints lifted from the scene which were of sufficient quality, I suppose, to be able to compare them with known suspects?

A. That's correct.

Q. And to your knowledge none of those fingerprints
30 compared with Mr. Legere's?

A. To my knowledge, no, not the ones that I compared, and I don't know personally of any that was identified to the accused, Allan Legere.

Q. Now, the fingerprints that you - you lifted some
35 of them yourself?

- A. No, I did not.
- Q. You didn't lift any of them yourself?
- 5 A. No, I was just assisting Sergeant Chiasson with the comparison.
- Q. I believe there was in your report mention of one hair sample and two buttons recovered in front of the safe. Did you recover those?
- 10 A. I believe so, yes.
- Q. And the buttons were black?
- A. That I can't recall. I have not seen those particular items since then.
- Q. Were you able to determine as to where the buttons
- 15 came from, whether they were off of James Smith or -
- A. No, I don't think so. It's vague. I remember collecting it but as to doing any comparison with it I don't recall.
- 20 Q. Now, the door itself from the garage to the storage area which was beaten up with what appears to be an axe and there was boot prints on it, is there any indication as to how long it might take to break through one of those doors?
- 25 A. I wouldn't know, to be honest with you, because I can't remember what was the locking mechanism. From what I can recall seems to me there's a place to put a key but I can't remember if there was a deadbolt at the back or not.
- 30 Q. The look of the door, it would look as if whoever was breaking the door in would have by necessity had to make a lot of noise?
- A. I would say, yes.
- Q. And it would have given anybody in the house the
- 35 opportunity either to get out of the house or to

phone the police if they were there?

A. I guess it would depend on where in the house.

5 I'd say if he was on the top floor, the second floor, he probably would not have heard it, but being on the first floor -

Q. Unless, of course, if Mr. Smith was in the house?

A. As I said, like, if he had been on the second
10 floor - there's three levels, you have the basement, the first floor and the second floor. Had he been on the top floor I would tend to say he probably would not have heard it, but had he been on the first floor I would say yes.

15 Q. When you arrived the blood smears, they appeared pretty well dried up, as if they'd been there for quite some time?

A. It's hard to say time because blood will coagulate quite fast when exposed to the elements. I
20 wouldn't be able to give you a time but it was dried, that I can say.

Q. And I believe the luma-light system was used to find fingerprints?

A. That is correct.

25 Q. That would be like a laser light that was explained earlier in court?

A. It's not as powerful a light as a laser but it's quite efficient when you're looking for fingerprints. Not only fingerprints, but you can
30 detect foreign material like fibres, and it was used at this scene.

Q. The picture of the photo line-up you have taken, you took all these pictures yourself?

A. Yes, I did.

35 Q. And did you take all the pictures of Mr. Legere

on the morning of his arrest? Were you the only police officer taking pictures?

5 A. As far as I can say, yes, from what I can recall I was the only one.

Q. Did you notice the book, "Terror in New Brunswick"?

A. I've seen it.

10 Q. And the picture of Mr. Legere on the cover, did you take that picture?

A. That I cannot say.

Q. Does it appear to be one of the pictures that you took?

15 A. It appears to be, yes.

Q. Do you know how that picture got in the hands of the press or the people who wrote the book?

A. No, I do not.

Q. You did not give it to them?

20 A. Not to the press, no.

Q. Did you pick up hair samples yourself aside from the one in front of the safe? Did you pick up other hair samples?

A. I remember searching for minute physical evidence.
25 If my memory serves me correct I know there was some more recovered during the search but I can't recall if I actually physically removed them myself and turned them over to the exhibit man. That I can't recall.

30 Q. O.K., but I believe you said that you picked up one piece of hair in front of the safe along with two buttons?

A. That I did do, yes.

Q. What about one piece of hair found on the body
35 area of the victim?

50

Cpl. Godin - Cross

A. That I can't recall offhand.

Q. Did you notice a pair of eyeglasses in the
5 kitchen?

A. That I can't recall offhand.

Q. You don't recall picking them up as an exhibit?

A. No, I do not.

Q. Did you view the area before you took the video or
10 did you just start the video right away?

A. No, I viewed it visually without doing any -

Q. The whole building, inside and out?

A. I would tend to say yes but one thing I'd like to
15 point out, the video that was presented in court
today as an exhibit, you'll note that it was taken
on the 17th, the morning of the 17th. Now, the
scene itself was visually examined the evening,
late hours of the evening on the 16th, by Sergeant
Chiasson and myself. That was a visual examina-
20 tion.

Q. Were there any other signs of forced entry aside
from that door in the garage?

A. None that I could see myself personally. Again
we had different - being more than one identifi-
25 cation specialist at the scene we had different
duties. I did not see any other forceful entry
into the rectory apart from the door in the
garage.

Q. O.K., what about the patio doors where the ladder
30 was up against the garage close to the patio
doors? Did you check that?

A. I can't remember looking or checking the locking
mechanism.

Q. Did you check to see if there was any blood smears
35 out there, around the patio door?

51

Cpl. Godin - Redirect

A. Around the patio door?

Q. Yes.

5 A. I did not see any personally, no, and I don't believe - had there been any I would have -

Q. Do you remember whether or not you looked?

A. I would have looked in that area, yes.

MR. FURLOTTE: I have no further questions.

10 THE COURT: Re-examination?

REDIRECT EXAMINATION BY MR. ALLMAN:

15 Q. My Lord, I have two questions, or three actually, but two of them I just wanted to mention. The officer wasn't qualified as an expert on fingerprints or on footwear but he was asked questions about it. I'd like to ask him first of all if he observed any difference or apparent difference in
20 the age of the boot prints on the garage door?

THE COURT: I think actually he did answer that already.

MR. ALLMAN: Did he? I didn't get the answer.

MR. FURLOTTE: He said that one seemed to be older.

25 THE COURT: Well, there's no harm, anyway. I think he indicated that the prints beside the handle appeared to be older than the ones lower down on the door.

MR. ALLMAN: Is that correct?

A. Yes, it is.

30 Q. Thank you. I'm sorry, I missed that. The second thing I wanted to ask was how long a fingerprint can remain after it's been placed on an object or in a place, is there any lifespan to a fingerprint?

35 A. It's very - there's an indefinite amount of time

- 5 because there's a lot of things that comes into
play, the elements, temperature, the surface, if
it was clean or dirty, the texture of the surface
rough or smooth, so there's no definite amount of
time that we can tell how fresh a fingerprint can
stay on a particular object. There's too many
factors that comes into play.
- 10 Q. And the last question I wanted to ask you was when
you were first viewing and then videoing the scene
were you taking any precautions in regard to the
blood that was in the house?
- 15 A. Oh, very much so. Like, we made a - we were quite
careful as to not disturb anything and not to walk
or disturb any of the evidence. For example, any
areas that had blood or what appeared to be blood,
we took great attention not to go near it.
- 20 MR. ALLMAN: Thank you. I have no other questions on
re-examination.
- THE COURT: One question the jury might wish me to ask
you. That is where the door - the damage to the
door was the door between the garage and the
storage room?
- 25 A. That is correct, My Lord.
- THE COURT: And did it appear that it was made breaking
into the storage room from the garage or was it
vice versa?
- A. Breaking in from the garage into the -
- 30 THE COURT: From the garage into the storage?
- A. Yes.
- THE COURT: Any questions arising out of that? Thank you
very much, Constable. You're stood aside, I
guess. You shouldn't discuss this aspect of your
evidence until your evidence is completed.
- 35

53

A. Yes, My Lord.

THE COURT: Your next witness is -

5 MR. ALLMAN: My next witness is Sergeant Chiasson. Among
other things he's going to do, we expect, and I
assume there's no objection, is to go through a
number, approximately 83, I think, or thereabouts,
10 photographs. That will obviously take quite a
while even in direct. I was just wondering
whether you wanted to break early -

THE COURT: Well, let's go for ten minutes and get a
start on it. I don't think a break in his
evidence is going to be too material, is it?

15 MR. ALLMAN: No, it isn't that so much. I just think -
yes, whatever Your Lordship suggests.

THE COURT: Well, let's go till half-past twelve. This
gorgeous lunch these people are going to get
won't be ready for another 15 minutes yet.

20 MR. ALLMAN: But will they pay attention to Sergeant
Chiasson while they're waiting for their gorgeous
luncheon? I'll call Sergeant Chiasson.

25

30

35

0 SERGEANT DANIEL CHIASSON, having already been
sworn, testified as follows:

DIRECT EXAMINATION BY MR. ALLMAN:

- Q. Would you state your full name and occupation,
 please?
- 5 A. My name is Frank Daniel Chiasson, the member in
 charge of the R.C.M.P. Forensic Identification
 Section in Bathurst, New Brunswick.
- Q. And you've already given evidence in this case
 relating to the Flam scene and the Daughney scene?
- 10 A. Yes.
- Q. And you explained your duties and the identifica-
 tion department's duties?
- A. Yes, that's correct.
- Q. Did you have occasion to perform similar duties in
15 respect of another duty and if so, what and when?
- A. On the 16th of November, 1989, as a result of a
 telephone conversation, I had occasion to patrol
 to the community of Chatham Head in the County of
 Northumberland, the Province of New Brunswick;
20 more specifically to 306 Main Street in that
 community which is the Parish of the Blessed
 Virgin Mary, a Catholic parish, and again more
 specifically to the rectory.
- Q. And among the things that you did at the rectory -
25 what was the first thing you did when you got to
 the rectory?
- A. When I arrived at the rectory I came into contact
 with a Sergeant Jacques Ouellette, and at that
 time, accompanied by Corporal Godin we had
30 occasion to view the exterior and the interior of
 the rectory.
- Q. I'll ask you the same question I asked Corporal
 Godin. When you were making your interior and
 indeed exterior views were you taking any
35 precautions?

2

Sgt. Chiasson - Direct

- 5 A. Yes, we were careful not to contaminate or to touch anything in the interior or the exterior of the building.
- Q. Did you have occasion to take a number of photographs?
- A. Yes, I did.
- 10 Q. I understand there's no objection to this booklet of 83 photographs going into evidence.
- THE COURT: So they would go in as number P-60, numbers 1 to 83.
- MR. ALLMAN: And I have six copies for the jury.
- 15 THE COURT: Perhaps the jury would write just "Copy P-60" on that, if they would.
- Q. I'm showing you court exhibit P-60. What are the photographs - just in general terms first what are the photographs contained in there?
- 20 A. Exhibit P-60 is a series of 83 photographs which I took myself on the 17th of November, 1989. They relate to exterior and interior photographs of the property at 306 Main Street in the community of Chatham Head in the County of Northumberland, the Province of New Brunswick.
- 25 Q. And do they actually represent the scene that you viewed?
- A. That's correct, yes.
- Q. Would you then take us through them numerically and explain what each one depicts?
- 30 A. Beginning with photographs #1, 2, 3 and 4, these are all exterior photographs taken of that residence, the rectory at the Blessed Virgin Mary Parish in the community of Chatham Head, and in photograph #1 we can see the actual front or the
- 35 west side of the residence showing the front

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entrance and the number actually 306 written on the front door.

5 In photograph #2 we are still viewing the front of the residence, but in photograph #2 we can see that there's a two-door garage attached to the residence, and in that photograph, at the far right of the photograph, you can see a piece
10 or a corner of the roof that belongs to the actual church, a driveway area between the church and the house, and then as you come back to the garage area you can see a brown ladder against the garage and also on the grass just beside the driveway you
15 will see there's two types of covering on the ground. There's a clear white one and also a yellowish type of covering with a red box, I'll come back to those in just a moment.

 In photograph #3, this is another exterior
20 photograph of the rectory but we're looking at the rear of the building. You can see the rear of the garage area that we previously saw in photograph #2, and as you look at the rectory, the dwelling itself, you can see one of the rear entrances
25 where it has a red railing plus red stairs leading to the rear of the entrance, and finally in photograph #4, the final exterior view of the rectory. This time we're looking again at the rear of the dwelling. This would be the east side
30 and the south side, the east side being where the two rear entrances are located. One we saw in photograph #3 with the red stairs and just across from that, this one we see at the bottom of the photograph with the sidewalk leading up to it.
35 We can still see a small corner portion of the

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garage in photograph #4.

5 Now, photograph #5, you view that in a
vertical position, up and down, and this again
we're back in the front of the dwelling and we're
looking at the front of the garage. We can see
the same two garage doors we previously saw plus
the brown ladder, but in this photograph, if
10 you'll go back to photograph #2, more specifically
to the yellow covering we see on the ground, this
yellow covering in fact is a cardboard box, a
yellow emergency blanket and a red first-aid kit,
and this is there to protect which was underneath
15 we noted to be a partial footwear impression.
Now, if you look at photograph #5, look at the
grassy area near the driveway, you'll see right
what looks like a mud puddle right beside the
grass. Just move up to what looks like a small
20 white line just alongside that mud puddle, and in
fact, if you look at photograph #6 you can more
closely see the mud puddle and that little white
line which is a gray scale, a small gray ruler.
Beside that gray ruler in photograph 6 you can
25 just barely see it but there's a partial heel
impression in the muddy area which, if you turn
to photograph #7, is much more closely and clearly
depicted. This particular footwear impression as
you see it, it's not very clear, but you can see
30 it's a herringbone, chevron-type pattern, it's
what we call a work boot pattern, and it's a Greb
type of work boot.

Now, photograph #8, it's a close-up view of
the same garage door as we previously saw in
35 photograph #2 and we saw in photograph #5. Once

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again you'll see the brown wooden ladder leaning
against the garage going to the top, and what
5 we're going to do now is slide back that first
garage door or the garage door on the far left of
the photograph and enter inside the garage, as
we're doing in photograph #9. We've slid back the
door. These doors don't open up and down, they
10 slide one into each other, and in photograph #10
we are standing just inside the garage door you
see open in photograph #9.

On photograph #10 we can see the garage is
littered with a variety of items from hoses to
15 signs and mops and so forth, but your attention is
drawn to this first support pillar, this first
beam that you see at the right side of the photo-
graph.

In turning to photograph #11 you can see the
20 base of that support beam or pillar that we saw
in photograph #10, and as you look at the base of
that pillar on the actual cement floor you'll see
a scattering or a sprinkling of fine particles of
glass on the ground, and -

25 Q. Where in relation to the pillar?

A. That's correct, just in front of the pillar on the
actual ground. Now, behind that pillar you can
see in photograph #11 there seems to be a green
garbage bag and so forth, and between the garbage
30 bag and the pillar there appears to be something
blue and something shiny right between those two
items, and if you go to photograph #12, a close-
up view of what those items are, you can still see
the green garbage bag and that bluish item is a
35 piece of steering wheel column, blue in colour,

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5 and that silver item right behind that in photo-
graph #12 is an ignition key tumbler from a car,
and those two items are right there behind that
pillar in photograph #11.

10 Now, turn to photograph #10 just for a moment
and in photograph #10 right in the back or in the
centre of the photograph you can see what appears
to be a white bucket on the ground in a tipped
position and a green lawnmower type handle
sticking out there just above the bucket.

15 If you'll turn to photograph #13 and view
that in a vertical up and down position you can
see that in that area behind that green lawnmower
handle was a door, and we can more clearly see
that door now in photograph 13 and we can also
see the green lawnmower handle right at the bottom
of the photograph. Now, in photograph 13 - we go
20 to photograph 14 and this photograph 14 is a
close-up view of that door in photograph 13 but
it's in a closed position. If you view the door
in photograph 14 you can see first of all there's
damage to the handle as we saw in the video.
25 There's also what appears to be some partial foot-
wear impressions and also you'll see in photograph
14 a small white scale or ruler being taped to the
door.

Q. Who taped that to the door?

30 A. I had occasion to put that there. In photograph
15 we are now isolating the area which we can see
in photograph 14 beside that small white scale or
ruler, and as we can see it's a heel type of
partial footwear impression very similar to the
35 one we saw in the mud in photograph #7.

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In photograph 16 again the same door we're looking at -

5 THE COURT: On 15 is that two heel marks or one?

A. They are superimposed, My Lord, there is two heel marks there, yes. In fact, there's three, My Lord, just above the number there as well - below the number, and in photograph 16 it's the same
10 door once again we saw in photograph 14, and this time the damage to the actual handle is being depicted. You can see there is what appears to be axe marks. One actually hit the handle. You can see the deadbolt still sticking out just on the
15 edge of the door, and if you come down that deadbolt area where the door handle is you can see that the plunger of the doorknob is actually jammed inside the door, it's not in an out position at all, and this kind of damage to the
20 door is very similar to the photographs we saw when we were looking at the wooden door in the Daughney residence, the plunger being jammed in the door and the damage to the wooden area.

In photograph 17 we're still looking at the
25 door and the door frame, but 17 isolates the door frame, and what I've done, I've gone just inside the door. The white bucket we saw a few moments ago in photograph #10 when it was tipped on its side, you can see it in the darkened area of
30 the photograph, just in the shadowed area, so this is a photograph of the same door frame but when looking at it from the inside out position, and you can see that the wood frame is completely split, again very similar to the wooden door we
35 saw at the Daughney's in the kitchen area when we

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came in.

5 Photograph #18, I've now turned around the
door we were just looking at in photographs 13
and 14. I'm now standing in that doorway and I'm
looking inside the residence at what appears to be
another storage area, and at the back of the
10 photograph we see a gray metal steel-type door in
an open position. This room here, as you can see,
is very cluttered with a variety of items and
there is nothing appears to be disturbed by
looking at the photograph.

15 Photograph #19, again view that in a vertical
position, up and down. I've gone to that metal
door that we just saw in photograph #18, you can
see it on the left side of the photograph, and I'm
now looking into the basement area which is
actually the front of the dwelling at another
20 large type room which you can see in photograph
20. Now, the two windows in photograph 20 that
you see in the upper righthand corner of the
photograph are the same windows if you go to
photograph #2 just for a moment. You'll see on
25 the front of the dwelling there's two small base-
ment windows in the foundation. These in fact are
the same windows we see in photograph #20, and in
this room you can see a variety of cardboard
boxes, there's stationery material, filing cabin-
30 ets, couches, lamps, and so forth. Now, in
photograph 20 at the very bottom of the photograph
I draw your attention to the small aerosol spray
can you see right here with the white cover, the
very bottom.

35 In photograph 21, if you view that photograph

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in a vertical position, you can see that same
aerosol type spray can, and what I've done, I've
5 just gone on the other side of the spray can,
that's why I pointed that out, and I'm now looking
back at, (a), the steel door you see on the left
which we just came in, plus now we're looking down
the hallway which leads to two other rooms plus a
10 stairwell. In photograph 21, if you'll notice on
the floor, there's another small gray scale, and
in photograph 22 it depicts what that gray scale
is there for and it's what we call a transfer
type red stain on the floor. It appears to be in
15 this case on the bottom of - you can't see a foot-
wear impression there but it seems to be trans-
ferred in that manner by a foot.

In photograph #23 once again we're in the
same bottom area of the rectory. We've gone down
20 the hallway we just looked at in photograph 21,
and again if you'll go back to photograph 21 just
for a minute you can see at the back of the photo-
graph a red fire extinguisher. You see one door
that's closed and you can see another door; in
25 fact, all you see is the doorway. Well, in
photograph #23 that's the doorway we're looking
into. In fact, it's a laundry room and other
storage room area, and in photograph 23 you can
see the washer, the dryer, and on the floor once
30 again we see another gray scale at the bottom of
photograph 23, and if you look at photograph 24 I
have now closed in or enlarged that view of the
gray scale and this time you can see the herring-
bone or the chevron-type pattern of a work boot
35 similar to the heel we had on the wooden door and

10

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the muddy boot print we saw outside.

5 Q. Can I stop you there just for one second? On 23
can you see the fire extinguisher the far right-
hand side, just so we've got a point of reference
on that?

10 A. Yes, it's not that visible but on the very
shattered area of photograph 23 if you look right
into the dark area there you can see a portion of
that fire extinguisher.

Q. And on photograph 24 what did you say, the
chevron?

15 A. You can see just a portion of the herringbone or
chevron-type footwear impression.

Q. Is that to the top or the bottom of the picture?

A. That would be the top of the photograph in the
lighter tile.

20 Q. Thank you. I'm sorry, I just wanted to clarify
that.

A. Photographs 25, 26, these are the same - this is
the room, in fact, we just entered in photograph
23 where we saw the washer and dryer. In photo-
graph 25 once again you can see the washer and
25 dryer plus another assortment of canned goods,
aerosol cans, and chairs, coolers, and so forth.
This room also was used for a storage type room,
and in photograph 26 I've just gone into that
room and in fact I've turned around and you can
30 see the hot water system, the hot water tank, and
shelving and storage behind the door. Now, in
photograph 26, if you look back out the doorway on
the far left side of the photograph you'll see a
portion of a stairwell that leads upstairs, but
35 you'll also see another room just across from the

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5 hall and in that photograph you see a portion of a
deep-freezer, and in photograph 27 I've crossed
the hallway and I've entered the room where the
deep-freezer is located. In photograph 27 once
again look down to the floor area just in front of
the bottles there and you'll see another gray
scale, a small gray scale, and in photograph 28 a
10 close-up view of that gray scale shows another red
staining on the floor area.

Photograph 29, I've now backed up back into
the storage room we saw on photograph 25. In
fact, in photograph 25 in on the floor there was a
15 cardboard box with a yellow can in it right in the
centre of the photograph in the bottom portion.
If you look at photograph 29 you can see again on
the bottom of the photograph a corner of that
yellow can and that cardboard box, and what this
20 photograph shows is the actual stairway that leads
up to a landing where you can see a stepladder and
a pair of rubber boots, we saw that in the video.

In photograph #30 I've now reached the
landing where the rubber boots are visible in
25 photograph 29, and once again there's another
small gray scale on the floor, and if you look at
photograph #31 it's a close-up view of that gray
scale, and we can see another partial footwear
pattern type design on that tile floor.

30 In photograph 32 I'm standing in the landing
that we see in photograph 30 where the toe rubbers
are and I'm looking up the final set of stairs
that will lead to the main living area of the
rectory.

35 Q. Could I just interrupt you for a moment there?

12

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Have we now gotten out of the basement area and into the top portion?

5 A. We're just about ready to go into the main living area, yes.

MR. ALLMAN: I'm just wondering, My Lord, if that might be a convenient moment to break.

10 THE COURT: Yes, so the jury out and we'll be back at two o'clock.

(JURY WITHDRAWS.)

(Lunch Recess - Court Resumed at 2:00 p.m.)

15 (Jury called - all present. Accused in dock.)

SGT. CHIASSON RESUMES STAND:

DIRECT EXAMINATION BY MR. ALLMAN CONTINUES:

20 Q. Sergeant, I believe we had got as far as #31. I can't remember if we had actually spoken about 31 so maybe you can just begin at 31 of Exhibit P-60?

25 A. O.K., photograph #31 - you'll have to back up to photograph #30 just for a moment. In fact, in photograph #30 we're coming up from the basement area going into the main living area, and in photograph #30 where you see a pair of rubber boots and toe rubbers there's a small gray scale on the floor. This is the landing between the two
30 sets of stairs that come up from downstairs. In photograph 31, that's a close-up view of what that small gray scale in photograph 30 is depicting which is a bloodstain or a partial footwear impression on the tile floor made in a reddish
35 substance.

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5 In photograph #32 I'm now standing at the
landing or where the toe rubbers are that we saw
in photograph #30, and I'm about ready to come up
the stairs to go into the main living area of the
rectory. In photograph #32 you can see the stairs
that lead up plus some coats are hanging up on the
wall, a shovel handle, but in photograph #32 you
10 can see the back of a small brown cardboard box,
and in photograph #33, if you look at photograph
33 you can just see that cardboard box inside the
doorway, so I've come up the stairs and I'm now
standing - I've come through that door, I'm now
15 standing just past that small cardboard box.

Q. Now we've come upstairs could you indicate on the
plan of the upstairs, or I suppose the ground
floor portion of P-57, where are we standing now?

A. In P-57 as we looked at photographs 30, 31, and
20 32, we came from this area here. We just went up
the stairs and we went like that and we are now
standing right where that red light is right
there. That's in photograph #33, it would be
right in this area here, and photograph #33, if
25 you look down at the bottom of the door you can
see some empty bottles while in photograph #34,
that's the same bottles that you see at the
bottom of the door. I've just turned around and
I'm standing actually at the foot of the stairs
30 coming in the upstairs direction. If you look in
photograph 34 you can look down the hallway, you
can see there's a variety of doorways and rooms
in the back of the photograph. On the right of
the photograph you can see a door plus a door
35 frame which has a reddish stain on the door frame,

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5 but in this photograph also on the left you see a
pinstriped coat hanging on the left of the photo-
graph and on the floor what appears to be a white
plastic type bag.

10 In photograph #35 you can now see that same
pinstriped coat, the far left side of the photo-
graph, and you can also see the white plastic bag
on the floor. In other words, between those two
items is a hallway that leads to the front door,
and the front door can also be seen in photograph
#1 as being the door right beside the numbers 306.
15 This is the other side of that front door, and
also if you look at the front door, just to the
right of the front door where the front door
handle is you can see there's some damage to the
wall area, and in photograph #36 we kind of
zoomed in on that damage to the wall area and you
20 can see it's a hole in the wall and the gyproc or
the sheetrock has all fallen on the ground in
front of the door.

25 Now, photograph #37 I've come back to the
area that we saw in photograph #34. I've pointed
to the transfer stain or the red staining on the
door and on the door frame, and if you look in
photograph 38 that's a close-up of that staining
that's noted on the door frame in photograph 37
and also in photograph 34.

30 Q. Which door is the one in 38 on the plan P-57?

A. On P-57 we were looking at the front door which
was here and the damage to the gyproc, it's this
door right here and the corner door frame that we
see in photograph 38.

35 Q. That's where the stain is?

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A. That's correct, and when you're just about ready to enter into the kitchen area, if you turn to photograph 39 I'm now standing in that doorway looking into the kitchen from inside the dwelling. Now, if you look right through the kitchen to the other side you see another door and another window in the back of the photograph #39, and just for a moment if you'll turn to photograph #4, and in photograph #4 we're showing a rear view of the rectory and you can see a small window right there, right between the two back doors. That's the same window we can see in photograph 39 when you look right through the kitchen to the back porch area. In photograph 39 also if you look on the floor of the kitchen you can see there's a great deal of debris, paper, there's a table knocked over, a blue plaid shirt, and red staining all through the floor which again is more closely depicted in photograph #40, and in photograph #40, in the papers that you see on the floor there's a gray scale there on the corner of the right side of the photograph, and just above that gray scale there's a white piece of paper which you can see there's a partial footwear impression on that white piece of paper which is very similar to the ones we saw outside on the door coming in and in certain areas of the bottom floor area of the rectory. It's the herringbone, chevron Greb type work boot pattern.

In photograph #41, this is another photograph taken in the kitchen, and this particular photograph is taken under the kitchen table that we can see in photograph #39. We can see two of the

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kitchen table legs but we also see a pair of glasses there caught underneath the table.

5 Photograph 42 -

THE COURT: Excuse me, the kitchen table in 39?

A. That's correct, My Lord. You can just see a portion of it just in front of the stove, it's in a tipped position.

10 THE COURT: Oh, it's down?

A. Yes, that's correct. Photograph 42, still in the kitchen area. I'm now standing where the table - if you look at photograph 40 you saw that grayish square at the right side of the photograph, that's actually the table in a down position, and photograph 42 I'm standing just above the table, again looking down at the debris and at the mess that's on the floor. You can see the blue shirt again that we saw in photograph 40, the paper, that same piece of paper with the chevron-type footwear impression, you can still see that in photograph 42, and also on this particular photograph you can see there's red staining on the baseboard area just around that radiator on the floor there. That's the same door, too, by the way, that we saw in photograph 39 that had the red transfer stains.

Q. Besides this red stains on the floor are there stains on the radiator and to the right and left of the radiator?

A. Yes, that's correct. The ones on the baseboard on the wall are not - they're more of a splatter, a misting type of stain, compared to a transfer stain that we saw before. In photograph #43 we're still in the kitchen area, and in photograph

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43 I'm now standing in the doorway that we saw in
photograph 39. In photograph 39 I had gone right
5 through the kitchen to the back porch area, to the
back door area. Now in photograph 43 you can see
a portion of that back door just on the right side
of the photograph. I'm now standing in that area
looking back towards the front door which we can
10 see at the back of photograph 43. You can see the
same coats that were hanging there that we
referred to earlier, and it gives you another view
of the damage from this side of the kitchen floor
area. You can see the chair, the blue plaid
15 shirt, an empty Pepsi bottle, towels and so forth.

Now, photographs #44, 45, 47 and 48, these
photographs are going to highlight the kitchen
counter, cupboard, stove area, and in photograph
44 we can still see that door with the back window
20 to the back porch, the same chair we've been
looking at in photograph 39, 40, 41, 42, but in 44
we can see the stove, the counter, the cupboard
space, and the items and paraphernalia that's all
over the top of the counter area, and in photo-
25 graph 45 we're still coming around the kitchen
counter. The same items we see in 44, the paper
towelling and so forth, you can see in 45, and 46
it shows one of the white porcelain sinks that we
can see in photograph 45. It's the one that does
30 not have the dishes in it, it's the empty one.
Photograph 46 is just to view inside that sink and
you can see a small dish mop type thing for
washing dishes, and finally in photograph 47 we're
going to finish the view of the cupboard, counter
35 area of the kitchen. You can still see the sink

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5 on the left of the photograph and now we've come to the end of the cupboard space and you can see again there's a small radio, a variety of items, plus in 47 you can see two empty small bottles of - it's labelled Bacardi Breezer, and if you come down to photograph #48 those two bottles are more closely depicted.

10 THE COURT: Bacardi what?

A. Breezer, My Lord.

THE COURT: Breezer?

A. B-r-e-e-z-e-r, Breezer, yes.

Q. What's that?

15 A. It's some form of a cooler, a Bacardi product, I'm not sure. Also on photograph 47 if you'll continue looking at that corner of the cupboards just underneath the two Bacardi bottles you can see there's drawers there, and if you come down to
20 drawer number two you will go to photograph 49 and we opened drawer number two and we saw that it was full of empty bread type bags, they were all stuffed in that drawer.

Q. Empty - did you say bread or lead?

25 A. Bread, I'm sorry, bread type, bread bags. Photograph #50, we're still in the kitchen area. That is the same refrigerator, the same door, and you can see on the lower righthand corner the same radiator we saw a few moments ago. We're now
30 going to leave the kitchen area through that door that you can see in photograph #50.

Q. Can you do that on the plan, too?

A. Yes. O.K., there's the fridge right here, and we're going to leave that door that we just saw
35 here. Now, right here on this corner if you look

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right through photograph 50 right through the door
you can see there's a book shelf type of piece of
5 furniture in the back of the photograph, in photo-
graph #50, and when you turn to photograph #51,
again you view that in a vertical position, you
can see in photograph 51 the bookcase just in the
lower lefthand corner of that photograph. Now,
10 here's the doorway that leads into the office on
the main floor of the rectory, and in photograph
#52 I'm now standing in front of that doorway
looking into the office, and as the video showed
you can see a variety of tools, there's damage to
15 the wall alongside that walk-in safe, that big
safe. The safe door is damaged, there is red
staining, there is white dust all over the place.
We can see the body of the victim at the back-
ground of the photograph laying on his stomach,
20 and if you turn and go to photograph 53 you get a
close-up of that victim as we saw him that day.

Q. Just going back to 52, the red to the left of the
green door, what's that?

A. The red markings on the left of the green door,
25 that's bricks. The sheetrock or gyproc or - has
been chipped away to reveal the bricks that are
underneath it. Photograph 53 we have the victim
laying on his stomach. You can see the two back
pockets are in fact ripped, one shoe is off, a
30 pool of blood at the head, underneath the radia-
tor, there's some transfer stains on the radiator
as well, and in photograph 54 we've turned the
victim over on his back, again showing the
condition of the body at that time as we found it
35 laying on his back.

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5 Photograph #55, we've taken a close-up photograph of the facial-neck area of the victim, and in photograph #56 we're showing an injury to the inside of the right hand in the palm area which we define as a defensive type wound. It's a long cut just beneath the thumb pad.

10 In photograph 57 and 58 we're still on the main rectory office, and this photograph is going to finish our tour or view of the rectory office and the shelving behind the desk, of the filing cabinets and so forth, and photograph 57 -

Q. Can you see the body in 57?

15 A. Yes, Father Smith is still on the lower lefthand corner. He hasn't been turned when we finished photographing the entire office. We see the desk, the papers, the telephone. There's a hammer and a screwdriver on top of the desk and papers on the floor and so forth, filing cabinets are open, and in photograph 58 we've reached the edge of the wall which still shows the same desk, the same shelving, the telephone, the hammer, the screwdriver and so forth.

25 In photograph 59, and to view that, the number 59, view it in a vertical position and put the number 59 on the bottom righthand corner.

Q. Could I just stop you a second? Number 59 depicts an area that is also shown in 52, am I right about that?

30 A. Yes, that's correct, that's what I was going to get at. In photograph 52 you can see on the floor there's an electrical drill, and the cord in 52 kind of surrounds what is in fact a church publication, a small magazine. Well, in photograph 59

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5 that publication and that electrical drill cord is
more closely seen, and in fact, if you look at
that church publication you can see there's a
partial footwear impression once again on the
magazine, the same chevron, herringbone type
pattern that we've seen throughout the entire
house. You can see it in stain on that piece of
10 paper.

THE COURT: Is that cord plugged in?

A. No, My Lord, it's not.

MR. ALLMAN: And what's the metal object slightly above
and to the left of the magazine?

15 A. That's the handle for the wall safe that we saw
in photograph number - one of the photographs
depicting the green door in photograph #52, and
you can see it in photograph 52 as well. Now
we're back in the kitchen - photograph #60 we're
20 back in the kitchen area. We can still see the
same radiator we saw a few moments ago. Standing
on the baseboard area, the back of the kitchen
chair, and that's the door that leads to the back
porch area, but this time we're now going to go
25 into the dining room area which we can see - if
you look right straight through the doorway you
see in photograph #60.

Q. Which doorway are you standing in on the plan?

A. On the plan? I'm standing right in front of the
30 door that goes into the dining room right here,
right in front of the chair, right in this area
here, and in photograph 61 I've entered the dining
room that we can see through the door in photo-
graph 60, and I'm more or less turning around and
35 showing you the kitchen from which I just came

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5 into, you can see the kitchen table there in its
broken position, plus you can see a portion of the
dining room table, and in photograph 61 you see a
microwave which, if you come down to photograph 62
you can see the same microwave as we work our way
along that wall. There's a piece of furniture
there, there's photographs and other paraphernalia
10 on top of that piece of furniture, and there's
another doorway there that leads to the living
room area.

Photograph 63, this is still in the dining
room area and it just shows basically the dining
15 room table and the items that are located on top
of the table. In the background of photograph 63
you can see a small television set with rabbit
ears. If you go to photograph 64 you can see that
same television set and what's on that wall which
20 shows a buffet for storing dishes plus there's
another small table and papers and chairs and so
forth, and finally in photograph 65 we've
finished the around the look room of the dining
room and we can still see that same television set
25 and that big window with the curtain shut. It's
the same window if you go back to photograph #3,
it would be the window just above the basement
windows that we see in the rear of the dwelling.
It's the big window right there, the bottom -

30 Q. Bottom righthand side?

A. That's correct, yes, of the dwelling.

Q. And 65 is the last of the dining room ones?

A. Yes, that's correct.

Q. In general terms in terms of messiness or tidiness
35 how was the dining room?

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A. The dining room in general appearance was untidy but certainly not as a result of a confrontation, it was just generally messy and untidy.

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Now, photograph #66, when we came up the stairs earlier on photograph number - I believe it was 32, if we go back to 32 just for a moment - 34, photograph #34. We came up the stairs from the basement and we stood at the foot of the stairs and we could see that there was doorways going straight down the hall and you could see there was a coat rack where the pinstriped jacket was attached, was hanging, but if you look right in the centre of the photograph you can see a doorway and there seems to be a coat with some white embroidering on the sleeve, while in photograph #66 you can see that doorway and you can see the corner of the jacket that has that white embroidery on the sleeve. This hallway will take us into the living room area, into - towards the patio area and into a small den, and if you look right through the photograph in 66 you can see there's a small bathroom there as well.

25 Q. Where were you standing on the plan when you were taking the photograph 66?

A. I was standing approximately right here looking in this direction here. There is the dining room, there is the bathroom we can see in the photograph up here, and the coat is right here with the embroidering on the sleeve.

30 Q. You can see the bathroom at the far end of photograph 66?

A. Yes, and in photograph 67, in fact, we've just gone by the door and we've moved closer to the

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bathroom, that same bathroom we saw on the plan.
In photograph 67 if you look to the left of the
5 photograph you can see an ashtray stand, there's a
portable radio there, and the back - on the other
side of the ashtray stand there's an easy chair
and then you can see a glass door. Well, that's
the patio doors, and in photograph 68 we're now
10 facing in that direction. We can see the same
ashtray stand, the same portable radio. Now we
see a television, tables with magazines on it, and
the curtain area that we see, this big curtain
area behind the television in fact are the patio
15 doors which we see better in photograph #69.

Q. And that's the area called living room on the
plan?

A. Correct, right here, the same television, same
curtain area, and the same patio doors. Photo-
20 graph #70, and you view that in a vertical
position with the number on the lefthand corner.
That in fact is a close-up photograph of the
patio door handle, and all it depicts here, the
door is not damaged and the handle is in an
25 unlocked position, it's not locked.

Photograph #71, we've now come through the
patio doors and we're standing on top of the
garage area, or I guess in this case it's the
patio area, and in photograph 72 we're now
30 looking towards the front of the dwelling outside
on the west, western view, and you can see in
photograph 72 some cars that are parked on the
street. In fact, that's Main Street in the
community of Chatham Head. Also on photograph 72
35 the same patio door that we can see in 71 is

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5 visible, and in photograph 72 you see on the
patio there's some plywood sheets that are stored
on the surface there. Well, on photograph 74,
and I'll just miss 73 for a moment, it's the same
plywood sheets that you see in the corner but
we've just turned around and we're now looking
towards the rear of the residence. It shows the
10 fields and the houses that are located at the back
of the rectory.

Going back to photograph 73, and you view it
vertically up and down with the number in the
lower righthand corner, this is a close-up photo-
15 graph of the same wooden ladder we saw in photo-
graph #2, I believe, that was leaning against the
garage doors going to the top of the garage.

Photograph #75, I've come back into the
living room area through the patio doors we just
20 saw. You can still see the same ashtray stand
that we spoke of earlier in photograph #67, and we
saw it again in 68. The same small portable radio
with the antenna can be seen just above the
ashtray stand, but you can see there's three doors
25 here, four doors in fact. Right here on the left
side of the photograph you can see a door frame,
that's the washroom we saw as we came down the
hall. There's an open doorway that leads to a
small den, this is the closet door, and this door
30 goes to the dining room area that we just came out
of a few moments ago, and in photograph 76 we're
going to just take one quick look inside the den
area that we see in photograph 75 with the open
door. It shows some chairs, newspapers, magazines
35 and other items scattered about the floor.

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5 In photograph 77 - if we'll go back to photo-
graph #34, in photograph 34 we came upstairs from
the basement area, we saw the same bottles in the
hallway, but just to the left of the photograph
there's one bottle, it's on the left side, and you
can see there's a stairway that starts to go up to
the upstairs level. Well, in photograph 77 that
10 photograph shows the stairways leading upstairs.
That's where that stairway is located.

15 In photograph 78 we've now gone to the rear
of the residence, to the backporch area that we
saw. We looked at photograph 39 we could see the
window and we saw that door again as we were in
the kitchen area, more specifically in photograph
#44 we could see that door, the rear porch area.
We've now entered that rear porch area from - and
we'll have to refer again to photograph #4. We
20 have now entered that rear porch area from the
door, the rear entrance you see in photograph #4.
It's an exterior entrance and we've just opened
the door and we walked into the porch area.

25 Q. Where are we on the plan, just to cross-reference
everything?

A. O.K., we are - in photograph 78 you can see the
door that's shut is this porch door here that
leads to the red stair -

Q. The northerly door?

30 A. Yes, but we are - with the door open we are in
this area right here.

Q. The southerly door?

A. Yes, that's correct, and in photograph #79 I've
now gone through the porch, come down the stairs
35 that we saw, and exterior photograph #3 you could

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see some red wooden stairs, I've now come down
those stairs and I've turned around and I'm
5 looking back into the porch area.

10 In photograph #80 which is still a photograph
of those stairs you see in photograph #79 but now
on the second stair you can see that on photograph
#80 on the second stair there's a small scale or
ruler placed there, and in photograph #81 you can
see that that scale is next to another partial
footwear impression in mud, again with the chevron
or herringbone pattern that we've seen from the
beginning in the exterior in front of the house,
15 through the house, and now finally on this
particular step, and photograph #82, this is an
exterior photograph again, we're on the same
aluminum door, back door area, that you can see in
photograph #79, and what in fact that is, that's a
20 plastic striker plate or catch that belongs to the
aluminum door we see in photograph #79, but you
can see once again between the two screws that
it's in a broken condition, again very much like
the Daughneys, when we were looking at their
25 aluminum door the plastic snap had been broken,
the plastic catch. The same thing happens here,
the catch is actually broken, and this particular
aluminum door was in a locked position, the
locking mechanism was locked, and in photograph 83
30 at the bottom of the stairs that we see in photo-
graph #80 and 79, just before the patio stone
starts, that little white item you see in the
centre of the photograph is in fact the piece of
plastic that fits between the two screws you see
35 on the plastic catch in photograph 82.

Q. That's an object that's almost exactly in the middle of the picture?

5 A. That's correct. It appears to be like a white little affair there. That would fit into the plastic catch that you see in photograph 82.

THE COURT: Where was that taken, 83?

10 A. 83, My Lord, it's just at the foot of the stairs of photograph 80 just in the grass area at the foot of the stairs.

Q. If you could look at photograph #2 and 73, the ladder that's shown in those two photographs, was that there in that position at all the times that you viewed the house?

15 A. Yes, it was.

Q. If you look at photographs 3 and 4, O.K., that's the rear porch?

A. Yes, with the two entrances.

20 Q. On photographs 3 and 4 that depicts the rear porch and you look inside the rear porch in photographs 78 and 79. Is there any exterior lighting facilities for that porch?

25 A. Yes, and if you look at photograph #4 you can see - it's not very easy to see but if you look on the entrance that's - the rear entrance that's shown in photograph #4 and you look up, up into the ceiling area of the porch just before the door, you can see there's a little - appears to be a little white dot. That in fact is a light bulb, it's very hard to see.

30 Q. I realize it's hard to see. Could you go over to the judge, show the judge, and then we'll go over and show the jury.

35 THE COURT: Well, you can just indicate it.

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A. O.K., it's just up here, My Lord, in the ceiling area. You can just see a little white -

5 THE COURT: Yes, I see.

Q. Take a pointed pen if that's -

A. A little white knob perhaps would be visible right there.

10 Q. O.K., would you come over and walk in front of the jury and show them where that is because it is hard to see on that picture, I know.

A. In photograph #4 you'd have to look right in this area, there's a little white dot.

15 Q. When you were making your examination of the scene did you make any observations about that exterior porch lighting fixture?

A. Yes, we observed that it was in a loosened condition.

20 Q. What was loosened, the fixture or the bulb inside the fixture?

A. The actual bulb inside the fixture.

Q. Was there a bulb in the fixture?

A. Yes.

25 Q. Was it connected electrically to - I don't know anything about electricians, was it in far enough to work?

A. It wasn't making contact with the outlet, no.

Q. How did that compare with the situation that you'd encountered at the Daughney's?

30 A. Similar situations had occurred there as well.

THE COURT: But the broken aluminum door was the door on the other side of the rear porch?

35 A. That's correct, My Lord, on the side where the stairs are, the red wooden stairs. You can see that in photograph #3. It's this door here.

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- Q. In photograph 46 what to your eyes was the coloured area to the right and above the dish mop?
- 5 A. In photograph #46 which actually shows the interior of that white porcelain sink we see in photograph 45, the empty one, it appears to be water staining and rust colouring, just discoloration from the water.
- 10 Q. And the thing to the left is an egg cup? There's something red, I just wanted to clear out what that is, to the left of the sink. I think if you look at 45 you can see it's an egg cup.
- A. Yes, it is, I'm sorry, that's correct.
- 15 Q. In terms of the living room which was depicted in pictures 66 to 69, how tidy or untidy was that?
- A. The living room as well as the entire house in general was not what would be considered to be a very tidy residence. It certainly wasn't filthy
- 20 but it was very untidy with papers left all over the place and things to that effect, and the living room was very much like that.
- Q. Was there any sign that the natural untidiness, so to speak, had been disturbed?
- 25 A. Not necessarily, not in these areas here, no.
- Q. Those are all the questions I have about the pictures. I'm going to turn to a different aspect of this officer's evidence now. You indicated that you saw a number of, or at least two, paper
- 30 items and you indicated that there were markings on them. Did you seize any of those items?
- A. Yes, I did.
- Q. And do you have them with you?
- A. Yes, I do.
- 35 Q. Could you produce one of them now and I'll - which

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one do you want first?

A. It doesn't matter.

5 MR. ALLMAN: I'll get this item marked for identification
unless there are any objections.

THE COURT: VV, I think is the next letter.

MR. ALLMAN: I'm going to ask the Clerk to put the
10 sticker on the back in an area where there's not
much colouring. I'm showing you now VV for
Identification. Can you tell me anything about
that, please, including any markings that you
made on it?

A. VV for Identification, if you turn, please, in
15 P-60 to photograph #40, and you can also see it
in photograph 39 but in photograph 40 that church
bulletin or that piece of paper you see on the
floor next to the gray scale, just above the gray
scale, is in fact this item marked VV. It is a
20 church bulletin and it is on that particular
church bulletin that we have that partial foot-
wear impression which has the same herringbone and
the same chevron-type of design, and this is it
here, right here.

25 Q. And when did that come into your possession?

A. It was marked as exhibit #72 and I took possession
of it on the 17th of November, 1989, at 4:30 in
the afternoon.

Q. And where has it been since that time?

30 A. It's been in my personal exhibit locker.

Q. Anybody else have access to that?

A. No.

Q. Subject to any objection I'd ask that that item
be entered as an exhibit at this time, My Lord.
35 I believe its relevance is obvious.

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MR. FURLOTTE: Well, My Lord, again I believe before the
Crown can put it in as an exhibit you have to show
5 some connection to the accused and -

MR. ALLMAN: No, I'm sure that's not the rule. We have
to show that it has a relevance to this offence,
and an item such as this found at the scen bearing
marks is certainly relevant.

10 THE COURT: Yes, I think that's right. It would be
P-61.

It's relevant to the homicide, I think that's
apparent.

MR. ALLMAN: Yes, whether it has any relevance to the
15 accused is a matter that we'll see later.

THE COURT: If you want to ask questions about it before
it's actually accepted, Mr. Furlotte, you may.

MR. FURLOTTE: Well, My Lord, I will admit that it does
have relevance to the investigation but whether
20 or not - I objected to its admission because it
doesn't have any - there's no proof that it has
any connection to the accused.

THE COURT: Well, surely it's relevant to the homicide,
though?

25 MR. FURLOTTE: Well, it may and it may not be.

MR. ALLMAN: Well, if it never proves to have any
relevance to the accused, then it won't have any
effect on the -

THE COURT: To come back to my old illustration, a hypo-
30 theoretical, if a sledgehammer had been found beside
a body or the body and it were obvious that the
victim had been killed by a sledgehammer blow,
surely the sledgehammer would be admissible in
evidence without proving that it had been held by
35 the accused when the victim was hit by it, and

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this is the same thing exactly. You wouldn't suggest that the sledgehammer wouldn't be -

5 MR. FURLOTTE: It may have relevance. My objection is that it does not have any - there's no proof that it has any connection to the accused and therefore I'm saying that it ought not to be allowed in as an exhibit until the Crown proves that it does
10 have a connection to the accused. That's my argument and you've ruled that I'm wrong, so therefore there's no point in my questioning this witness on that matter.

15 THE COURT: If there are any questions you want to ask about, you know, did the footprints come off Corporal Godin, you know - I mean if you want to ask him questions like that or -

MR. FURLOTTE: Well, we don't know who the footprints
20 come from, and that's my point. It may have come from somebody who's been there before the police officers and after the assailant.

THE COURT: You ask him about that if you want to.

MR. ALLMAN: This is probably a convenient point to
25 mention this, My Lord, I'm not going to be asking at this stage to have Sergeant Chiasson qualified to say anything about the footprints. Later on, at a different stage of this trial, we'll be having a number of witnesses, including Sergeant Chiasson, to deal with that aspect of the matter.
30 Obviously Mr. Furlotte can ask any questions he wants at this stage but I'm not qualifying him as an expert on footprints yet. I'm just getting them entered into -

35 THE COURT: I was wondering about this aspect. Sergeant Chiasson says that he maintained this and

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presumably he - I assume that there's going to be
some evidence linking this with something or
5 other.

MR. ALLMAN: Yes.

THE COURT: But he will be qualified later, you say?

MR. ALLMAN: Yes. At the moment I'm just putting the
object in through him and later I'll seek to have
10 him qualified and deal with other matters.

THE COURT: It's admissible in the same way, in my hypo-
thetical case, the sledgehammer would have been
admissible.

MR. ALLMAN: Yes. Let's just call it a footwear print to
15 avoid -

THE COURT: Well, paper, paper containing print, period.
We don't know yet whether it's footwear.

MR. ALLMAN: P-61, I think you've already indicated
basically where that came from. Could you do
20 so again just for the record?

A. Yes, Exhibit P-61, and we earlier referred to
photograph #40 of Exhibit P-60 and we could see
there was a piece of paper in photograph #40 just
above a small gray scale on the floor in the
25 kitchen area, and in fact this is the same piece
of paper that we see with the partial footwear
impression in the photograph, and there is the
partial footwear impression.

Q. In P-40, is that the way up that the paper was?
30 In other words, we can see the bit that was on top
and visible, the side that was on top and visible?

A. Yes, that's correct. As you see it in photograph
#40, that's how I found it.

Q. When you look at the exhibit, then, which side are
35 we looking at in P-40? Is it the side that's got

35

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the court exhibit stickers on or is it the side that's got, I take it, your stickers on?

5 A. That's correct, if you look at at it, in the photograph it was actually laying down. This was the exposed side up as we see it there now.

Q. That's the side which has the markings that you described as being what?

10 A. My exhibit sticker, number, date and initials and so forth.

Q. But you described those marks in a - I forgot what the word was.

15 A. Oh, as being a partial footwear impression, the herringbone, chevron-type pattern we've seen throughout the photographs.

Q. Thank you. Do you have another item?

A. Yes.

20 MR. ALLMAN: Can I get this marked for identification, please?

THE COURT: What is this, WW?

CLERK: WW, My Lord.

MR. ALLMAN: I'm showing you an item that's been marked WW. What can you tell us about that item?

25 A. Item WW, if you refer to Exhibit P-60, photograph #59, and again view this photograph with the number on the bottom righthand corner in a vertical position, you can see item WW in the centre of the photograph. In fact what it is, it's a small religious type of magazine or
30 publication called "The Candle Magazine", and you can see that it's right surrounded by the electrical cord we've previously referred to belonging to that electrical drill.

35 Q. And when you were talking about photograph 59

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you referred us back to photograph 52, same area
shot from further back?

5 A. That's correct, yes, and on WW, my initials, it's
dated the 17th of November, 1989, at 1300 hours,
the date that I took possession of this item.

Q. Where has it been since then?

A. In my personal exhibit locker.

10 Q. At all times?

A. Yes, that's correct.

Q. Except when people have been viewing it, I take
it?

A. Yes.

15 MR. ALLMAN: Again subject to any objection I would move
to have that entered as an exhibit.

MR. FURLOTTE: For the record, my same objection as I did
for Exhibit P-61.

THE COURT: Well, same ruling. P-62.

20 Q. WW has now become P-62 and you've already
explained to us where you found that in terms of
the photographs so I'm not going to take you
through that again. What can you see on P-62?

25 A. On P-62 as is visible on photograph #59, there is
once again a partial footwear impression made in a
red substance on top of the magazine and the the
same herringbone, chevron-type pattern that we've
seen throughout the photographs.

30 Q. If you look at the photograph I think you can tell
which way up it's visible because the words, China
Campaign, are visible on the photograph?

A. Yes, that's correct.

Q. And the words, China Campaign, are visible on the
exhibit?

35 A. Yes, that's correct.

37

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Q. So that would be the way it would be viewed?

A. Exactly.

5 MR. ALLMAN: I'd ask to have this item entered for
identification - marked for identification, I'm
sorry.

THE COURT: XX.

10 MR. ALLMAN: I show you XX for Identification. Can you
tell us anything about that including reference
to any markings on it and related to any
photographs?

15 A. Yes, item XX, if we refer to photograph number -
of Exhibit P-60, inside the garage area, photo-
graph #12, in photograph #12 on the floor of the
garage just behind that support beam we see in
photograph #11 we can see a blue steering wheel
piece of plastic off the steering wheel column.
This in fact is that same blue piece of steering
20 wheel column you see on the floor in photograph
#12.

Q. I take it photo 12 depicts where you first saw it?

A. That's correct.

25 Q. And after you had seen it and photographed it what
did you do with it?

A. I took possession of it and turned it over to
Constable Houle of the Newcastle Detachment who
was our exhibit man at the time.

Q. You took possession of it there and then?

30 A. Yes, my initials are on the container.

Q. And turned it over to Constable Houle when?

A. On that same date, on the 18th of November, 1989.

35 MR. ALLMAN: My Lord, this item is in - I'm going to ask
for this to be marked for identification. I'm not
going to open it, it's got biohazard written on

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5 the outside and we've been advised not to open
these things unless it's necessary. It's got some
writing on it but Mr. Furlotte isn't objecting to
that, and I'm only putting it for identification
at this stage.

THE COURT: Yes, but what does it purport to be or -

10 MR. ALLMAN: It purports to be, and indeed, this is what
it says on the outside, "Piece of outdoor wood
framing with bloodstain found on the north back
entrance door frame". It's a piece of door frame.

THE COURT: Piece of door frame? What did it say on it,
biodegradable?

15 MR. ALLMAN: Biohazard.

THE COURT: Biohazardous, what does that mean?

MR. ALLMAN: I take it it means that -

MR. FURLOTTE: It means you might catch AIDS if you
touch it.

20 THE COURT: Might get what?

MR. ALLMAN: I bow to Mr. Furlotte's superior knowledge
of these matters. I don't know, it means I'm not
going to open it unless I have to.

THE COURT: All right.

25 MR. ALLMAN: The Clerk is going to put the envelope
inside a plastic bag and mark the plastic bag.

CLERK: YY.

30 MR. ALLMAN: YY for Identification, and that's a clear
plastic bag containing a brown envelope. Can you
tell me anything about the brown envelope and its
contents?

35 A. Yes, the brown envelope marked as YY, if you refer
to photograph #79 in the Exhibit P-60, what we see
in photograph #79 is the rear entrance on the
north side; in other words, on the diagram it's

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5 the entrance where the stairs are. You can see
the stairs, in fact, in photograph #79. The
aluminum door, the door frame, you can see first
of all on the siding on each side of the door
frame there appears to be two little squares. The
square behind the door, that's the electric eye
for an alarm that was located at the back of the
10 house, and the square on the other side of the
door is just a small - it used to be a square, I
think, for taking a newspaper, but it's below and
just in that area on the door frame that this
exhibit comes from. It had a red smear or
15 transfer stain on it and we cut it out and this is
what this is, and I turned that over to Constable
Houle on the 18th of November at 10:25 hours. My
initials are on the paper.

20 Q. It was in your possession until such time as you
handed it right over to Constable Houle?

A. That's correct, yes.

THE COURT: Is that cut out of the aluminum or the wood?

A. That one, My Lord, I think is the wood. We took a
piece of aluminum as well.

25 MR. ALLMAN: Same situation, My Lord.

THE COURT: ZZ

MR. ALLMAN: Now I'm going to ask the Clerk to put that
into an envelope or a clear plastic envelope and
mark that for identification. ZZ for identifica-
30 tion, a clear plastic envelope containing inside
a brown envelope. What can you tell me about the
brown envelope and its contents?

A. Yes, that's correct. As we previously saw in
photograph #79, that same back entrance, and in
35 relationship to the other item just marked for

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5 identification, both a piece of aluminum siding
and a piece of wooden door frame were removed with
that reddish stain on it, and this is the piece of
aluminum that came off from that area.

Q. YY is the wood and ZZ is the aluminum?

A. That's correct, and it's dated the 19th of
November at 10:25 hours. My initials are on it.

10 Q. And how did that come into your possession and
where did it go next?

A. I removed it from the aluminum door casing and
turned it over to Constable Houle.

Q. There and then?

15 A. Yes, there and then.

MR. ALLMAN: I'd ask that this envelope containing two
empty bottles with labels that say Bacardi Breezer
be marked for identification.

20 THE COURT: AAA. That would be better than Silk Tassel,
would it?

MR. ALLMAN: Never tried either Silk Tassel or Bacardi
Breezer.

THE COURT: You haven't lived.

25 MR. ALLMAN: Triple A for Identification, what can you
tell me about that, please?

A. Yes, triple A, if you refer to photograph #47 and
48 in Exhibit P-60 - in fact, triple A, what it
is, it's two small 341 millilitre bottles of
Bacardi Breezer, and in photograph #47 and 48,
30 specifically 48, those two bottles are clearly
seen on top of the counter area there of the
kitchen in the rectory.

Q. And how did they come into your possession?

A. I took them off the counter area and retained
35 them.

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Q. Did you ever transfer them to anybody else?

A. I turned them to Constable Houle who was our
5 exhibit man at the time on the 19th of November,
'89, at 15:05 hours. My initials are on the
bottles.

Q. They were in your possession until such time as
you turned them over to Constable Houle?

10 A. That's correct, yes.

Q. Constable Houle is in court now, is he?

A. Yes, he is.

MR. ALLMAN: My Lord, subject to any objection I'd ask to
enter this item as an exhibit upon my undertaking
15 to call Constable Houle to prove up the aspect of
continuity.

MR. FURLOTTE: I have no objection, My Lord.

THE COURT: All right, then, that would be Exhibit P-63.
AAA becomes P-63.

20 MR. ALLMAN: My Lord, I'm going to ask to have Sergeant
Chiasson qualified as a fingerprint examiner
entitled to give expert evidence. I understand
there's going to be an objection to that.

THE COURT: Well, would you, though -

25 MR. ALLMAN: I'm going to take him through his qualifica-
tions briefly.

THE COURT: Well, take him through his qualifications.

MR. ALLMAN: I was going to do that. Sergeant Chiasson,
can you tell me, please, what your qualifications
30 and expertise are specifically as it relates to
identification, crime scene examination, and
involving the comparison of fingerprints and palm
prints, physical evidence.

A. Briefly my qualifications would be as follows.
35 My duties, first of all, do indeed consist of

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5 scenes of crime examination, photography, plan
drawing, chart preparation, the comparing of
physical evidence and footwear identification. In
10 October of 1974 after completing six years of
general detachment duties and highway patrol
duties in the Province of Newfoundland I applied
and I was accepted into the Identification Section
and I was transferred to Ottawa, Ontario. In
15 October of 1976 I attended and I successfully
completed a Royal Canadian Mounted Police identi-
fication methods and technique course at the
Canadian Police College in Ottawa, Ontario. At
this time detailed instructions pertaining to
20 photography, crime scene examination, fingerprint
work, chart preparation, footwear identification,
all these things were instructed.

Upon the completion of the identification
25 methods and technique course I underwent a one-
year understudy period at the Royal Canadian
Mounted Police Scenes of Crime Section in Ottawa,
Ontario. Under this Section all my identification
duties were performed under the supervision of
senior personnel.

In November of 1977 I attended and I success-
fully completed a Nikon School of Photography
course in Ottawa as well.

30 In July 1979 I was appointed as a fingerprint
examiner by the Ministry of the Solicitor General
of Canada by virtue of Section 665 of the Criminal
Code of Canada.

In September of 1980, I believe, I attended
and I successfully completed an advanced identifi-
35 cation methods and technique course at the

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Canadian Police College in Ottawa, Ontario. At this time new methodology pertaining to the development and detection and the identification of fingerprints and footwear was instructed.

10

Q. O.K., I understand from my learned friend I can lead on this. After that course in 1982 did you also attend a course in 1982 on homicide investigators and forensic pathology course under Dr. Hillsden Smith who was a previous witness in this case?

A. That's correct, at the Ontario Provincial Institute of Forensic Medicine.

15

Q. In 1984 did you attend and successfully complete a course on surveying principles at the Engineering School at Carleton University?

A. Yes, that's correct.

20

Q. A course in 1985 on forensic odontology at Dalhousie which I take it has to do with dental impressions?

A. Bite mark impressions, that's correct, yes.

Q. And have you given identification expert as in evidence in courts in this province and in Ontario and in Quebec and in Nova Scotia?

25

A. Yes, I have.

Q. And in the course of your activities as an identification officer how many - would you be talking tens, hundreds or thousands of crime scenes that you've developed, attended?

30

A. I have examined thousands and thousands of crime scenes in the course of my duties.

35

MR. ALLMAN: My Lord, subject to any objection I would ask that he be declared an expert in fingerprint and identification, fingerprints in the area of identification.

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THE COURT: Are you going to ask questions about the
fingerprinting techniques or will that come out
5 in the -

MR. ALLMAN: That will come out.

THE COURT: That will come out. Are you getting into
crime scene reconstruction here?

MR. ALLMAN: No.

10 THE COURT: Not into that, so you say fingerprint and -

MR. ALLMAN: Fingerprint and identification, fingerprint
comparison and identification.

THE COURT: Fingerprint comparison and identification, I
guess that's vague enough to cover all your
15 expertise?

MR. ALLMAN: That's the idea.

THE COURT: O.K.

MR. ALLMAN: Could you tell us a little bit about the
science of fingerprinting?

20 A. In what aspect would you be -

Q. What theories does it work on and how do you
perform the activities that go along with your
duties?

A. In view of attending a crime scene and what we
25 call a crime scene examination, certainly a
fingerprint examination is one of the foremost
things we do because fingerprints are by far the
most positive means of identification known to
man, and certainly when you attempt to examine a
30 crime scene there is a variety of surfaces and so
forth which are not receptive to fingerprints and
there are some surfaces that are indeed receptive,
if not through powders which we can apply but
through a variety of chemicals, and now in this
35 day and age with laser and other types of

45

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illumination and other chemicals for that matter.

5 Q. How does a fingerprint get, if it does get, from a human being's fingers or palms onto an object or portion of something?

10 A. In fact, at the end of our fingers we have ridges or fingerprint ridges, as we call them, and within those fingerprint ridges we have furrows or the deepest part between the ridges, and on the ridges we have small sweat pores which secrete if you do it without contamination from paint or blood and so forth - secrete a sweat or a film which, when you put your finger onto an object that's recep-
15 tive to that it will leave an impression of those small ridges and lines that are located on the tips of your fingers. They will be in form at that - at that time in a latent state which usually is invisible, so the application of a
20 powder or a chemical or a laser or something to that effect, they will now become visible and appear.

Q. Is there a theory about human beings' fingerprints one to another?

25 A. I don't understand your question.

Q. Are human beings - do human beings have the same or different fingerprints?

30 A. Human beings will in fact have similar patterns, but in fact when you make a fingerprint comparison you look for characteristics such as ridge endings, islands, bifurcations and lakes which are unique to a finger and no two people in the world have the same fingerprints.

35 Q. I take it that sometimes the quality of print left at a location may vary, some will be good, some

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will be bad, some will be in between?

5 A. That's correct, yes. When you examine a variety
of items - and you've got to keep in mind that
fingerprints as a rule are placed on an item very
much by accident. They will become smeared and
the item might slip, the hand is in contact with
that object very briefly. You will get all kinds
10 of different distorted and twisted shapes and at
times a real good and clear fingerprint, but you
don't need a complete fingerprint to make an
identification. As long as that portion is clear,
unique, and has enough characteristics you can
15 compare it and identify it.

Q. Can you, though, sometimes get what you can see is
a fingerprint but there isn't enough to make a
positive comparison?

A. On numerous occasions, yes.

20 Q. You mentioned that some surfaces are receptive,
others are not. Could you elaborate on that a
little bit?

A. Some surfaces, again, if you're strictly going to
rely on a fingerprint being deposited from the
25 sweat secreted at the tip of the fingers, or in
the cases where your fingers are full of blood or
paint you can leave a fingerprint on pretty well
anything you touch, but if you rely on the
secretion aspect only, substances like a piece of
30 wood, a rough piece of 2 x 4 or a rock or whatever
will not - the secretion just will not stick to it
and it won't leave a fingerprint.

Q. What other objects might be receptive?

A. Good receptive - paper, for example, is an
35 extremely good medium for receiving a fingerprint,

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- 5 glass, anything that's hard, shiny, a piece of wood that's painted or shellacked, anything that will receive a natural secretion, if I can use that word, is a good surface.
- Q. Is there a life, a necessary period of how long a fingerprint remains on a location after it's been put there?
- 10 A. There is no scientific way to determine the life of a fingerprint except through environmental factors. For an example, if I put a fingerprint on the table here, it's in a room, it's protected from the weather, from the elements, we're in a controlled temperature. That fingerprint will
- 15 last longer on that table than it would on a bottle outside in the rain, in the wind, in the heat and so forth.
- Q. Would it be possible just for example that there are in this room at the moment fingerprints on
- 20 objects that have been left behind from previous people to those who are in here now?
- A. Very conceivably, yes.
- Q. With regard to the scene at Father Smith's residence, did you perform fingerprinting work or
- 25 fingerprint-related work at that scene?
- A. Yes. Yes, I did.
- Q. I'm going to deal with one thing first because it's an item that's in as an exhibit, then you
- 30 can come on to the other items. P-63, the two Bacardi Breezers, what if anything did you do to those items?
- A. These two items which we saw in the photographs as being on the kitchen counter were, along with
- 35 a variety of other items, examined for finger-

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5 prints, and as a result, as you can see, it's a
good hard shiny surface so all I did was apply a
black powder to the bottles which would indeed
develop any fingerprints that would have been
present.

10 Q. Now, just going back to what you said a moment
ago, normally glass or a good hard shiny surface,
is that receptive or not receptive?

A. Very receptive. As a result, my examination of
these two bottles was negative. All I managed to
develop on that was what appeared to be fibre
prints or glove marks.

15 Q. Could you just explain to the jury what you mean
by what you just said? Go into it in a bit more
detail.

20 A. If I put a pair of gloves on and I touched these
two bottles, and indeed I come again and I take my
fingerprint brush and my fingerprint powder and I
try to develop a fingerprint on it, the material
that's between my fingers and the glass will
usually leave an impression. In some cases, even
a rubber glove, a surgical glove, or a woollen
25 glove you will be able to see the weave, the small
lines of the material actually impressed on the
glass once the powder is applied.

30 Q. In respect of that particular item when you
examined it, what was your opinion as to what had
come in contact with those two items?

A. It was my opinion that the hands of the individual
who had touched these two bottles had something
over his hands.

35 Q. Now, in addition to that item which is in as an
exhibit, could you relate to us the other finger-

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printing aspects of your involvement in this matter?

5 A. The other fingerprint aspects, there were at the time - there was approximately five identification specialists. There was two from Fredericton, myself and Corporal Godin from our section, and we had a Sergeant Misener who came down from our
10 Ottawa section and brought with him what is known as a luma-light which is just a concentrated light source which is one of our new technical pieces of equipment that the principle is that a fingerprint will fluoresce under the exposure of this particu-
15 lar light, it will glow, so with Sergeant Misener and the other four of us we each took an area and we conducted a fingerprint examination in all door frames, all doorknobs, all the rooms in the house, there was 18 rooms in that house, and we
20 examined all these particular areas where contact might have been made.

Q. And I'm not going to go through them one by one, Mr. Furlotte may wish to do so. Did you find fingerprints in various places in that house?

25 A. Yes, we did.

Q. And did you have available to you at that time any fingerprints from Allan Joseph Legere, the accused in this case?

A. Yes, I did.

30 Q. Did you compare the prints that you found in the 18 rooms with those prints?

A. Yes, I did.

Q. With what results?

A. Negative results.

35 Q. Did you make any other comparisons of the prints

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that you could find with anybody else?

A. Yes, I did.

5 Q. With what results?

A. The only other set of fingerprints I compared was
the - at the early stages, now, was Father Smith's
after the postmortem or the autopsy, and in fact
there was 14 identifiable fingerprints that we
10 developed in the main kitchen area and the rectory
office, door frames upstairs, in the living room-
patio door area, and on pieces of furniture in the
living room as well, and out of Father Smith's
fingerprints the ones that were developed in the
15 rectory in the telephone, door frame, and filing
cabinet, were identified as belonging to Father
Smith. The other ones were not identified.

Q. Not identified or non-identifiable?

A. Not identified. I later received other elimina-
20 tion fingerprints from other priests who had been
staying and coming and going through the house at
various times, and I did not identify them as
well.

Q. In order to make a comparison of a fingerprint
25 found at the scene what else do you need, to
compare it with what?

A. With a known. You need a set of fingerprints
from the individual you are comparing to, a
fingerprint form with fingerprints on it.

30 MR. ALLMAN: Thank you, I have no other questions.

THE COURT: Let me see, we're at quarter past three now.

MR. FURLOTTE: Good time for a break.

THE COURT: Yes, you're going to be a fair little time,
are you?

35 MR. FURLOTTE: I expect I'll be half an hour.

51

Sgt. Chiasson - Cross

THE COURT: Yes. Well, I think we'll have a break here,
then.

5

(JURY WITHDRAWS.)

(BRIEF RECESS - RESUMED AT 3:40 p.m.)

(JURY CALLED - ALL PRESENT. ACCUSED IN DOCK.)

10

SERGEANT CHIASSON RESUMES STAND:

CROSS-EXAMINATION BY MR. FURLOTTE:

Q. Sergeant Chiasson, in P-60 I believe you referred
to photograph 16. You mentioned the door and that
the - how did you state that - that the plunger
was jammed in similar to the Daughney incident?

15

A. Mr. Furlotte, may I have the P-60? Thank you.
Yes, photograph 16.

Q. And you mentioned that that was similar to what
was found at Daughney's residence?

20

A. The back wooden door, the plunger was jammed
inside the door, yes.

Q. I believe you also stated that you have investi-
gated thousands of cases?

25

A. Yes.

Q. And many break and enters, I would assume?

A. Yes, the majority of them are break and enters.

Q. Right. You're not suggesting that Daughney's and
Smith's are the only ones that are similar in this
nature that plungers for doors are stuck in?

30

A. No, not at all.

Q. No, so that's a common occurrence, really, isn't
it?

A. It happens on numerous occasions, yes, that's
correct.

35

- Q. And again you mentioned the different boot marks and we put in a couple of exhibits where they're on paper, where there's supposedly clear or identifiable impressions of boot soles?
- 5
- A. That's correct, yes.
- Q. Aside from these two and the mark that was out in the yard, a heel mark out in the yard -
- 10
- A. It was a complete outsole in the yard.
- Q. Complete sole out in the yard, O.K.
- A. Yes.
- Q. So aside from these two, the one out in the yard and the ones on the door in the garage leading to the storage, how many other clear print marks would there be where you could get either full prints or partial prints?
- 15
- A. You mentioned the one outside, the ones inside on the floor in the basement, plus there was one on the step in the back, the rear entrance going in, and certainly in photograph 16 of P-60 you can see another one on the doorway, on the door itself, on the wooden door.
- 20
- THE COURT: What photograph?
- 25
- A. Number 16, My Lord. Now, when I first started to look at the - I'll follow the exterior, we noticed all these footwear impressions that were mentioned, the chevron work boot type of footwear impression. When I entered the garage and I saw the one that you can see with the scale in photograph #15 and the one in photograph 16 that seems to be just to the left of the door, the damaged doorknob, we became quite elated that finally we might have some kind of physical evidence to work with because if you recall the other two scenes,
- 30
- 35

Sgt. Chiasson - Cross

we really didn't get any footwear impressions at all, but upon closer examination of this we found
5 that first of all the one with the ruler in photograph 15 is what we call a positive footwear impression. What that is, that's a partial where the residue off of footwear has come onto the door and left that heel impression, but in photograph
10 16, the one that's just to the left of the door-knob, even though it is a positive it's not a fresh positive. In other words, the material that made that footwear, the residue that was left on that door, is impregnated right into the door. In
15 other words, it could have been there for years when that piece of plywood was sitting in some lumber shop somewheres. It certainly wasn't fresh and as a result we became quite disappointed we couldn't use it at all.

20 Q. Could it have only been there for maybe two days prior?

A. No, in my opinion no, because it was right into the grain of the wood.

Q. Right into the grain?

25 A. That's correct.

Q. Not just something - dirt that was kicked in?

A. No, it was like a tar or something that had gone right into the wooden grain of the plywood.

MR. ALLMAN: My Lord, I'm very happy to have this
30 evidence go in but it is opinion evidence and if my learned friend wants it would also - I think it came out what he's already said to have him qualified as a boot print examiner. I'm going to get into all this later, I already mentioned
35 this, but I certainly have no objection. In fact,

Sgt. Chiasson - Cross

I'm glad to have that explanation go in.

5 THE COURT: Well, he's been qualified on identification
and while -

MR. FURLOTTE: Well, it would be going in later on, I
would assume. I imagine the Crown would be
soliciting that information.

10 MR. ALLMAN: I'm just being ultra-careful. I didn't
actually specify boot print or footprint identifi-
cation when I got him declared an expert, but if
Your Lordship's opinion and Mr. Furlotte's opinion
is that we've already gone far enough to do that,
then so be it, he can give this evidence.

15 THE COURT: I'm satisfied Mr. Furlotte can ask these
questions.

MR. ALLMAN: Thank you.

20 MR. FURLOTTE: Aside from the other footprint on that
door that you say was made maybe a long time
beforehand, anyway?

A. That's correct, yes.

Q. Were there any other footprints that differed from
the footprint - the lower footprint on that door?

25 A. No, there were not. It was the continual appear-
ance of this chevron work boot type of print.

Q. Photograph #57 - I'm sorry, let's start at photo-
graph 41. You'll notice there's a pair of glasses
lying on - and I assume that's the kitchen floor?

30 A. Yes, that's correct. This in fact - in 41 you're
under the kitchen table that we can see in photo-
graph #39 and 40.

Q. 39 and 40?

A. Yes.

35 Q. I believe there was a lens broken out in that
glass, was there?

55

Sgt. Chiasson - Cross

- A. I don't recall.
- Q. You don't recall, you didn't pick them up?
- 5 A. There was no lens, as you can see, around the frame. I don't recall if there was a lens out of it or not.
- Q. O.K., and in photograph 49 where it shows the drawer full of empty bread bags -
- 10 A. Yes.
- Q. Those are - did you take those bread bags out, by any chance, and inspect them?
- A. We took them out to check the particular brand name of the orange and brown striped ones. That's
- 15 all we did, if memory -
- Q. And what brand name is that, the orange and brown striped one?
- A. I'm -
- Q. Karnes?
- 20 A. Yes, seems to me that's correct, yes. I'm just going by memory now.
- Q. Was there only the one type in there?
- A. There was another type on the bottom, way on the bottom.
- 25 Q. Do you recall what that is?
- A. No, I can't, I'm sorry.
- Q. I notice in photograph 53 also, all that white stuff on the floor, that would be from the sheet-rock?
- 30 A. Yes, that's correct, that's what we thought it was, too.
- Q. And there also appears to be boot marks within that - to the righthand side of the picture, 53?
- A. Yes.
- 35 Q. Were those checked out for consistency with other

type boots?

- 5 A. That's correct. Are you referring to behind
Father Smith's leg?
- Q. Yes, just on the righthand side.
- A. Yes, that's correct. It was all the same
chevron -
- Q. All consistent?
- 10 A. - herringbone type of boot impression.
- Q. So I would assume nobody else walked in that area
until these pictures were taken?
- A. That's correct.
- Q. Yourself included?
- 15 A. Myself included, yes.
- Q. Now, photograph 57 shows the filing cabinet doors
open?
- A. Yes.
- Q. And were you able to lift fingerprints off those
20 filing cabinet drawers or in around the files?
- A. Yes, seems to me there was one or two identifiable
fingerprints developed on those drawers, yes.
- Q. And those prints that you lifted were not Father
Smith's?
- 25 A. I can't recall, I'd have to check my notes. Some
of the fingerprints that were developed in that
rectory office were indeed identified to Father
Smith. Some were not.
- Q. Would you check your notes to see whether or not
30 some of the prints on the filing cabinets were not
Father Smith's?
- A. On the filing cabinet specifically?
- Q. On the filing cabinet or the files, whichever ones
were lifted around the filing cabinet, on it.
- 35 A. There was two fingerprints developed on the

drawers and those two fingerprints were not identified to anyone.

- 5 Q. So they were not Father Smith's and they were not Mr. Legere's?
- A. That's correct, yes.
- Q. And in order to eliminate other possible people such as maybe visiting priests or employees or
- 10 other people that were known to come to the rectory, their fingerprints were obtained also for elimination purposes?
- A. Yes, that's correct, yes.
- Q. And they were not theirs either?
- 15 A. No, they were not.
- Q. Were those fingerprints checked against all other suspects?
- A. Yes, any unidentified fingerprint would have been checked with any incoming suspect fingerprints,
- 20 that's correct.
- Q. And do you have a list of the suspects that you checked them with?
- A. I'll refer a little further here. I don't have a list of specific names but what in fact we did do,
- 25 the clearer of the fingerprints that were suitable for computer search were sent to our computer section in Ottawa for a computer search.
- Q. So when you say you eliminated other suspects, you just run them through a computer search?
- 30 A. That's true. Any other suspects that would have a criminal record, their fingerprints would be in the Ottawa computer.
- Q. But any suspects who you did not have fingerprints for, you were not able to check them with them?
- 35 A. They would have been supplied by the investigator

if indeed the suspect was fingerprinted.

Q. If the suspects volunteered to give them?

5 A. That's correct, yes.

Q. Now, outside there was, I believe, a tire impression mark which was next to the footwear that you've identified?

A. That's correct, I noticed it, yes.

10 Q. Were you able to trace that tire print or eliminate it?

A. It was eliminated, yes.

Q. And who did that belong to?

A. Father Smith's car.

15 Q. That was Father Smith's car?

A. Yes.

Q. The fingerprints that you were not able to eliminate, where were they found?

A. The ones that I identified to Father Smith were
20 found in his office. The remainder of the entire house like I previously mentioned was examined for fingerprints and that varied from upstairs to the patio doors to a chair in the living room to items in the kitchen to the radiator near the kitchen;
25 in other words, throughout the entire house.

Q. Basically the entire house?

A. Yes.

Q. Around the safe area also?

A. There was no fingerprints developed around the
30 safe area.

Q. No fingerprints at all on the safe?

A. No.

Q. But the filing cabinet area?

A. The telephone -

35 Q. The patio doors?

59

Sgt. Chiasson - Cross

A. Yes, on the glass in the patio doors, etc.

Q. And I believe you mentioned that the patio door
5 was found in an unlocked position?

A. That's correct, yes, the handle was in an
unlocked position.

Q. And there seemed to be a ladder which was leading
up to the patio doors?

10 A. Yes.

Q. And with all the break and enters that you've
investigated, many break and enters occur through
patio doors, do they not?

A. Yes, that's correct, yes.

15 Q. And break and enters into patio doors, from what I
understand, a lot of them, they just shove a crow-
bar, pinch bar, underneath and pry it up so it
just slides past the catch?

A. That can work, yes, or they'll pry the mechanism.

20 Q. So you can open a patio door without having to
show any signs of break?

A. Usually if you place a pry bar or something under-
neath a door you'll leave some kind of indenta-
tion, some kind of scratch or a mark, but if you
25 look you will see it, yes.

Q. Are you going to say you checked for that?

A. No, I didn't check for that.

Q. Photograph #79, I believe you stated this was the
area or the door area where you had removed a
30 piece of the wooden frame and a piece of the
aluminum frame with what appeared to be blood-
stains?

A. That's correct, yes.

Q. And did you also mention that there was an alarm
35 system at this door area?

60

Sgt. Chiasson - Cross

A. Yes, that's correct.

Q. And what kind of an alarm system was that?

5 A. It seemed to be an electric eye system. If you
look at photograph 79, behind the aluminum door
you can see that this item right here is in fact
one part of the eye, and if you go back to photo-
graph #4 you can see hanging on the back of the
10 garage a black item. That was the reflector or
the receiver of the electric eye on the top there,
and what that did, when that alarm was tripped, if
you look on photograph 3, again at the back of the
house, right on top of the house, right up here
15 near the - on the upper window, you can see a
small loud-hailer. That would indeed let the
loud-hailer sound off.

Q. Do you know whether or not that alarm system was
operable or turned on at the time?

20 A. Yes, we checked it and it was working. I don't
know if it was turned off. We checked it and the
alarm worked. We tripped the beam and the
loud-hailer went off.

Q. But yet on the steps going up in 79 does there
25 appear to be boot marks or something going up
there?

A. Yes, that's correct, they're noted in photograph
#80 and 81 as well.

Q. Again it didn't seem to set the alarm off, or did
30 it?

A. I don't know.

Q. You don't know of any evidence of that alarm ever
having gone off?

A. No, I don't have any evidence of that at all. All
35 we know, that it was functioning.

- Q. But it was functioning?
- A. Yes.
- 5 Q. Aside from what appears to be boot marks going up the steps would those be bloodstains or - there seems to be some darker marks on the bottom steps in #80.
- 10 Q. O.K., #80, you're referring to this right beside the muddy boot print here?
- A. Yes.
- 15 Q. O.K., what's happened here, I referred to the footwear impressions as being positive footwear impressions where footwear impressions deposit a residue on top of the boot. The opposite of that is known as a negative footwear impression, and that's when the footwear removes dirt from an area. Those are my boots, and when I walked on that and my boots were wet I took dirt from the step and it left those darker looking spots.
- 20 Q. So those are not bloodstains?
- A. No, they're certainly not.
- 25 Q. Now, in 79, exactly where were the bloodstains, or what appeared to be blood stains, anyway, on the door frame?
- A. In the door frame - in photograph 79 you see -
- Q. Maybe we could show the jury.
- A. O.K., on the opposite side of the door, the door is open and you have the door frame and you can see a little square there. I previously said it was a hole for putting in newspapers and so forth. In fact what that is is an electrical outlet with two little covers. Just if you -
- 30 Q. Hard to shove a newspaper through that, eh?
- 35 A. Yes, that's correct. If you come across there to

- the door frame, the wood and the metal framing,
that's just where it was in that corner right
5 there.
- Q. That's where it was in that corner?
- A. That's correct.
- Q. And that would be both spots of blood would have
been there?
- 10 A. Yes. In fact, it's one transfer stain that just
touched the wood and the metal.
- Q. Now, you mentioned P-63 which is the two Bacardi
bottles, that you couldn't find any fingerprints
on it but you were able to find some glove smudges
15 or which would appear to be from fibre or gloves?
- A. That's correct, yes.
- Q. Did you find any gardening tools in the area?
- A. I'm sorry, Mr. Furlotte?
- Q. Gardening tools, rakes?
- 20 A. Yes, in the garage area was - had a large number
of those tools.
- Q. A large number. Did you find any work gloves in
the area?
- A. No, I can't recall.
- 25 Q. You didn't look for any, did you?
- A. No, I didn't.
- Q. But it would be possible, I suppose, if Father
Smith was doing some gardening or raking leaves
or anything like that that he would be wearing
30 gloves and maybe handling those bottles himself?
- A. It's possible, yes.
- Q. Now, in your expertise as a fingerprint analyst
you mentioned that people have similar patterns.
Nobody's two fingerprints are exactly the same but
35 they do have similar patterns?

63

Sgt. Chiasson - Cross

A. That's correct, yes.

5 Q. And it's the, I suppose, unusual patterns or characteristics which assist you to identify prints belonging to certain people?

A. It's the characteristics located within the patterns that establish identity, uniqueness.

10 Q. And those characteristics can come about how?

Are they born with them or are they created throughout their working process like scars or -

15 A. After four months of conception the fingerprints on the fingers begin to form, and they will remain with you until death. They get bigger as you get older but the characteristics remain the same unless you're injured or suffer a disease or something.

20 Q. And in order to positively identify anybody through fingerprints you need a certain number of characteristics, so-called points, to be able to make an identification?

25 A. That's not quite correct. There's no specific number of points required. A lot of it depends on the uniqueness of the characteristics, the clarity of the characteristics, the clarity and the uniqueness of the pattern, and what you have to compare with. A real unique pattern can be identified after five or six characteristics. The courts in New Brunswick are familiar with seeing ten points of comparison on the majority of fingerprints, but this is not a hard-set rule. A lot depends on, like I say, the uniqueness and clarity.

30 Q. So it's kind of subjective, I suppose?

35 A. That's correct, yes. Each specialist will have

Sgt. Chiasson - Cross

his own interpretation of when he's satisfied that a fingerprint has made an impression.

- 5 Q. So even maybe one different fingerprint examiner might identify a print as being positive when the other one might be a little more conservative and say, I'd really not rather call it?
- A. That's quite possible, yes.
- 10 Q. And I believe you said the courts in New Brunswick said well, we need ten identifying characteristics before they're positive?
- A. They haven't really said they need ten, they're used to seeing ten. Most of our fingerprint
- 15 charts that we introduce in courts will indeed show ten points of comparison and there's no problem with that but you don't always need ten.
- Q. But you don't need ten points or five points or three points even to eliminate somebody?
- 20 A. That's correct.
- Q. One point could eliminate somebody?
- A. No, one point is certainly not enough to eliminate anybody.
- Q. Well, if there was one certain characteristic on a
- 25 fingerprint on an individual and on the print that was lifted it wasn't there, would that not eliminate them?
- A. Not really, no. You'd have to - first of all, in order for me to form an opinion I'd have to see a
- 30 fingerprint of that nature and actually make a comparison, but one characteristic that's missing, it could be because the person who took the set of fingerprints didn't ink it properly, there was dirt in the way it filled in, it didn't record
- 35 properly. You really can't go on the one point.

Q. You guys don't make mistakes, do you?

MR. ALLMAN: I don't think that's -

5 A. All of our identifications are verified by each other, an in-house rule.

Q. Did you lift any hairs at the scene?

A. Yes, there was a variety of hairs from different rooms that were removed and turned over to
10 Constable Houle as an exhibit; hairs and fibres, in fact.

Q. Did you lift any hairs from the body of Mr. Smith?

A. Yes, on the back of the leg, seems to me we found a hair there.

15 Q. On the left leg?

A. Possibly, yes.

Q. Any other from the body area?

A. I can't recall for sure. There was several of us working around the body, I can't recall.

20 Q. Would you have it in your notes as to which hairs you found at the scene?

A. If I recall my notes, I would have mentioned a general statement to the effect that a variety of hairs were found and all turned over to Constable
25 Houle. He would be the one responsible for cataloguing and properly recording where everything was found and who found it.

Q. And who was that?

A. Constable Houle.

30 Q. Laurent Houle?

A. Yes, he was the exhibit man at the time.

Q. So he noted where you picked them up rather than yourself, is that it?

A. That's correct, yes.

35 Q. So if he takes the stand and he says, "Well, I

Sgt. Chiasson - Cross

- didn't pick that up, I don't know where it come from, I got that from Sergeant Chiasson" -
- 5 A. Well, that would be correct, he would have received it from me, the date, the time and where it was found.
- Q. And you didn't take notes, then, where you picked them up, you just picked them up and gave them
- 10 to -
- A. That's correct. When you're dealing with such a large volume you just can't - that's his job.
- Q. O.K., so if there was information that one piece of hair was found on the body area of the victim
- 15 that might be notes that he put rather than yourself?
- A. That's correct, yes.
- Q. And if one piece of hair was found on the left leg of the victim he would have made that note but not
- 20 necessarily you?
- A. That's right, I might have and -
- Q. But you do recall picking up a hair off the leg of the victim?
- A. I do recall doing that, yes.
- 25 Q. And what about one dark hair found in the rectory office on the floor near the safe door?
- A. Very possibly.
- Q. Very possible you picked that up?
- A. Yes.
- 30 Q. Were you in court when Corporal Godin testified?
- A. This morning?
- Q. Yes.
- A. Yes, I was.
- Q. And he stated that he only knew one point of entry
- 35 for the break and enter and that would be the door

in the basement, the garage?

A. Yes.

5 Q. So from what I understand your testimony, the possible second one would be the back porch door?

A. That's correct.

Q. Where the catch was broken off?

A. And the aluminum door was in a locked position.

10 Q. Right, and maybe another possible entry would be the patio doors where fingerprints were lifted which were -

A. Again, the locking mechanism as such was not tampered with or damaged. The door was unlocked.

15 It's a possible point of entry, yes.

Q. It's a possible point of entry?

A. Yes.

20 Q. From the appearance of the door in the garage that was busted in it would appear that it may have taken some time to break that door in?

A. Well, there was five axe-type marks on the door.

Q. Five, so at least five swings of an axe?

A. And a couple of good kicks.

Q. Couple of good kicks.

25 A. And the door frame split on the other side.

Q. Any other marks on that door besides the axe?

A. No, and the boot print.

Q. And the boot print?

A. Yes.

30 Q. There seemed to be a lot of tools in the safe area trying to -

A. In the rectory office.

Q. Did it look like an amateur's job?

35 A. Certain amount of hacking and banging going on in there, yes.

- Q. Somebody who didn't know much about safes, anyway?
- A. Certainly seems that way, yes.
- 5 Q. I notice there was two axes in the area?
- A. May I refer to the photographs?
- Q. Yes, check the photographs.
- A. You can't really see it, but on photograph #51 you
10 can see there was indeed two axes. There's one on
the floor and one leaning against the door. There
was a pickaxe. Also we found the head of an axe
that had come off the handle, a drill, crowbar,
another metal bar, chisels, hammers, screwdrivers,
and that's all I can recall offhand.
- 15 Q. Yes, in photograph 52 you see both axes right in
the bottom lefthand corner?
- A. Yes, that's correct, and photograph 58 you see the
axe-head that came off the handle on the small
T.V. tray table there in 58.
- 20 Q. Was it ever established whether those tools
belonged to Father Smith or it was the people that
broke in who dropped them, like maybe the crowbar
and the drill and -
- A. That would be another part of the investigation
25 usually done by the General Investigation members.
- Q. Were there fingerprints on the telephones?
- A. There was fingerprints on the telephone in Father
Smith's office, yes, that's correct. There was
another telephone downstairs in that room when you
30 come from the garage, you go into a storage room,
then you hit the metal door and there's another
great big room there. In the video this morning
we saw there was another telephone in that area
against the wall, the garage walls side, and that
35 phone did not have any fingerprints on it.

- 5 Q. In your report, R#6, which was a fingerprint on the rectory office telephone, that fingerprint was not able to be eliminated either?
- A. That was one of the fingerprints that was identified as belonging to Father Smith, yes.
- Q. That was one belonging to Father Smith?
- 10 A. Yes, that's correct. I can verify that just to be sure.
- Q. Yes, please do.
- A. Yes, that's correct, it was a right middle digit or finger of Father Smith, R6.
- 15 Q. The ladder, was there any muddy boot prints on the ladder to show that the ladder had been recently used?
- A. The ladder was examined for fingerprints and that met with negative results, and there seemed to be some muddy deposit on the rungs but not enough to say it was a boot print.
- 20 Q. You couldn't get a print off it, anyway?
- A. No.
- Q. But it appeared that the ladder had been recently used?
- 25 A. That's correct, yes.
- Q. I believe the area was muddy and wet around the area when you took pictures?
- A. Yes, that's correct.
- 30 Q. Sergeant, one last question, is it usual in police investigations that when you have evidence that may point towards a suspect that you use that evidence to - also to possibly eliminate all suspects?
- A. Oh, yes.
- 35 Q. That's standard procedure?

70

Sgt. Chiasson - Cross

- A. That's standard procedure. In some cases a piece of evidence can actually work for the accused or the suspect and eliminate him completely.
- 5
- Q. So if you found a hair sample or something to that effect of a suspect and you found that maybe it matched or was similar to that suspect you would continue to check it out against all suspects, wouldn't you?
- 10
- A. First of all, that's out of my discipline, I don't do any hair comparisons.
- Q. No, but I'm just using that as an example.
- A. Could you repeat the -
- 15
- MR. ALLMAN: My Lord, if it's out of his discipline, then he shouldn't comment on it.
- THE COURT: What question, now? That doesn't fall within his expertise but do you want to -
- MR. FURLOTTE: I was just using a hair sample as an
- 20
- example where hair samples all you can say is that they're similar to so-and-so, not a point of a positive identification but - yes, Mr. Allman?
- MR. ALLMAN: If he wants to use an example perhaps he could use an example that does fall within this
- 25
- officer's area. I'm sure there are some.
- THE COURT: Let's try to think of another example.
- MR. FURLOTTE: Oh, I have one, no problem. Let's take the fingerprints. If you have a fingerprint where it's not a positive I.D. but it's a partial I.D.,
- 30
- say rather than having five points or seven points you only have four points of identification, characteristics, and you say well, I can't positively identify it as being this suspect, but would you continue to check it out against the
- 35
- other suspects?

71

Sgt. Chiasson - Cross

- A. Well, first of all, the fingerprint that would be compared, and I'll use the term the unknown fingerprint, would have to have enough characteristics in it so that we can use it to identify somebody. It's not logical to say, well, there's not enough points in this for me to eliminate somebody. Either the print has enough points to work with to identify and therefore if I compare someone's elimination prints I eliminate him, or a suspect print, or identify him. That print has to have enough points to either eliminate or to incriminate.
- 15 Q. O.K., you know the Court of Appeal of New Brunswick says you have to have ten points for a fingerprint before it's positive identification?
- A. No, I wasn't aware of that.
- Q. You're not aware of that?
- 20 A. No.
- Q. I thought you told me that. I thought you said it was case law in New Brunswick that you needed ten points.
- A. No, I said the courts are accustomed to seeing ten points.
- 25 Q. Back again - if you find a fingerprint and it's only partial and you can only identify, say, five characteristics, in your mind -
- A. We're not going to use it, in my mind, if there's not enough.
- 30 Q. You're not going to use it for positive identification?
- A. If it cannot be positively identified unless there's a tremendous uniqueness with those characteristics and the clarity is exceptional we
- 35

- will use it, but if it's just a smudgy old print
you say I can see a little bit of five points,
5 that certainly wouldn't be suitable to work with.
- Q. I agree with you, it wouldn't be suitable to work
with for a positive identification, but for a
police investigative aid, so to speak, just - you
could possibly eliminate a suspect with only five
10 points although you could not positively identify
him?
- A. It's certainly - I think I know what you're coming
at. With those five points we would know whether
or not we were looking at the right individual.
- 15 Q. Possibly, yes.
- A. Yes, possibly, I agree.
- Q. So if you were able to find on one of your
suspects, well, there was kind of a match, it may
be but we can't positively identify him, would you
20 continue on to try and match that or compare that
to all the other suspects?
- A. If I understand your question correctly, you're
saying that with my five points it may be this
individual I'm comparing? It may be?
- 25 Q. It may be, yes.
- A. Well, I certainly would try to go a little further
and try to draw more points out of it.
- Q. Yes, but you would also check it against the other
suspects, would you not?
- 30 A. Not unless I was satisfied that print belonged to
this individual.
- Q. Yes, but you're not satisfied that print belongs
to that individual.
- A. Well, then, I can't work with it.
- 35 Q. I guess it was a poor example. What other field

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Sgt. Chiasson - Cross

of expertise do you have?

A. Well, we do physical comparisons.

5 Q. How about polygraph tests? They're used as an
investigative aid, you can't use it as evidence
against anybody; right?

A. Again that's out of my discipline.

Q. Oh, that's out of your discipline?

10 A. That's correct, yes.

Q. And of course you have no knowledge about it what-
soever?

A. Just that it's used as an investigative aid.

15 Q. But you know police use it as an investigative
tool?

A. Yes, that's true, that's correct.

Q. So if they take a polygraph test of one suspect -

20 MR. ALLMAN: I'm concerned that we're getting into an -
I hate to interrupt, but when Mr. Furlotte gets
into areas that I think are improper it's my duty
to do so, and I think this -

MR. FURLOTTE: Oh, you like to interrupt.

25 MR. ALLMAN: Well, sometimes, yes, but whether I like it
or not I think it's an improper area and I'm
objecting.

THE COURT: I must agree, Mr. Furlotte, that polygraph
testing is surely an area - you're asking the
witness -

30 MR. FURLOTTE: I'm just trying to find some kind of an
example that this -

35 THE COURT: Well, let's talk about something other than
polygraph. Polygraph tests are something that
police use as an investigative aid. If they have
a suspect and a suspect says he was not at the
scene of a crime and he disclaims any knowledge of

Sgt. Chiasson - Cross

5 it the police may apply a polygraph test to him
and if he acquits himself and the polygraph test
shows that he wasn't there, they very possibly
accept that as substantiating his claim, but they
can't prove the converse with it. If he fails it
they can't use that to show that he was there.

10 MR. FURLOTTE: That's correct, My Lord, and my argument
is if the polygraph test shows that he's lying
they don't say, oh, well, and then they don't try
that polygraph test on other suspects, they're
going to continue on with that investigative aid
to eliminate the best they can all suspects.

15 THE COURT: You're talking too fast, I'm not following
you.

MR. FURLOTTE: I'm trying to get out of here by 4:30, My
20 Lord. Just to reiterate, Sergeant, I believe you
did state that it is standard police procedure
that when they have evidence which may implicate
suspects that they will use that evidence to
eliminate all suspects?

A. That's correct.

Q. They won't just run it on one suspect and quit?

25 A. No, just perhaps for an example, if I have three
identifiable fingerprints and I'm brought a
suspect and identify that suspect and there may be
others involved and the other two are not identi-
fied, we'll certainly continue to check all
30 incoming suspects.

Q. Even though it's a positive identification?

A. Yes, on one print.

MR. FURLOTTE: Thank you.

THE COURT: Re-examination?

75

Sgt. Chiasson - Redirect

REDIRECT EXAMINATION BY MR. ALLMAN:

- 5 Q. I'll be very brief. You testified and Corporal Godin also testified, I think, that prints have an indefinite life, or there's no way of knowing how long the print has been there?
- A. That's correct, yes.
- 10 Q. Specifically would that apply to, say, the prints on the filing cabinet that Mr. Furlotte referred you to?
- A. The fingerprints on the filing cabinet, for example, were again inside a room, they were protected from the weather, protected from the elements. They could have been there for any
- 15 number of time. As a fingerprint gets older it will dry out, dehydrate and become even more latent in its nature.
- Q. Do you know when that cabinet got in there?
- 20 A. That's true, there's no way to tell how old that fingerprint is.
- Q. Do you know who delivered the cabinet?
- A. No, I do not.
- Q. Would the same sort of observation apply to, say,
- 25 the telephone?
- A. Yes.
- Q. Do you know if anybody ever fixed the telephone?
- A. No, I don't. I don't.
- Q. Did I understand you to say there were prints
- 30 upstairs on the top floor, the one that we have no plan of?
- A. That's correct, yes.
- Q. And in terms of messiness or tidiness how was the upstairs?
- 35 A. The upstairs -

MR. FURLOTTE: My Lord, I think the Crown Prosecutor
covered fingerprints in direct examination, I just
5 brought it up in cross-examination. It's not a
new area that I brought up. Heck, he had him
declared as an expert in fingerprint evidence.

MR. ALLMAN: He brought up in cross-examination where the
specific prints were.

10 THE COURT: Well, I think technically you're right, but
what are you - you don't really have very much
to - one more question.

MR. ALLMAN: O.K. Is there any way of telling simply
from a fingerprint, I'm not talking about time
15 now, but the circumstances under which it got
where it got?

A. No, not at all.

Q. For example, is there any way of knowing whether a
print on a patio door got there as part of a break
20 and enter or some other occasion?

A. There's no way to tell that, no.

Q. This is the last question. You were asked about
the possibility of fingerprint examiners disagree-
ing; if you came to a conclusion comparing a known
25 suspect's prints with a print found at the scene
and you checked with four fellow fingerprint
examiners and the four fellow print examiners all
agree with your opinion, how would that make you
feel in regard to your opinion?

30 A. It would certainly give me some confidence in my
talent and my ability to compare fingerprints.

MR. ALLMAN: Thank you.

THE COURT: In France they like 14 points of comparison
and in Italy 12, is that right?

35 A. That's correct, and Scotland Yard, I believe, My

Sgt. Chiasson - The Court

Lord, want 15 points of comparison. Different standards for different countries.

5 THE COURT: One question I had, in your photograph #8 of the garage doors the door is closed, and in photograph 9 the doors are open.

A. That's correct.

THE COURT: How did you get them open?

10 A. This particular sliding door, the padlock you see there, My Lord, is not locked. It's not locking anything, it's just on a little latch. That door just slides open quite easily, there's no resistance to it.

15 THE COURT: It wasn't locked when you arrived?

A. That's correct, My Lord, and there's no damage to it, it was always like that, it just opens.

THE COURT: Any questions arising out of that one?

MR. ALLMAN: No.

20 MR. FURLOTTE: No.

THE COURT: Thank you very much. We're all through with Sergeant Chiasson for now?

MR. ALLMAN: Yes, for now.

THE COURT: And he's subject to recall?

25 MR. ALLMAN: Yes.

THE COURT: We're one minute over the four-thirty deadline so I guess that cuts the Crown off from further witnesses tonight. What is your program for the morning, Mr. Allman, just - we're under a little more coercion for finishing tomorrow. We will go till about half-past twelve or quarter to one.

30 MR. ALLMAN: We'll certainly have enough witnesses to go till that time, My Lord, and we're going to discuss tonight - we may make some readjustments

35

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because -

THE COURT: Can you get rid of some of the civilian witnesses, perhaps?

5 MR. ALLMAN: There are problems, you see, My Lord. The civilian witnesses, of course we want to get rid of them because they're here against their will. On the other hand, we've got eight or nine police officers and we've denuded parts of the Miramichi
10 of it's police force and we've also got a police officer - I'm sorry, a doctor, who we're depriving the Miramichi of his services, so we're inconveniencing everybody and it's a question of who we stop inconveniencing, and we're going to sort that
15 out tonight.

THE COURT: All right. Well, I'll leave it up to you, so we'll recess now till tomorrow morning, 9:30.

(JURY WITHDRAWS.)

20

(COURT ADJOURNS TO 9:30 a.m., SEPTEMBER 20, 1991.)

25

30

35

2

Dr. Blanchard - Direct

- 5 A. '89, yes, and I received a call from the R.C.M.P.
to go over to the rectory at Chatham Head, Father
Smith's residence, and I did so and -
- Q. What was the purpose of you going there?
- 10 A. To - I'm not sure exacty what was stated on the
telephone but it was in relation to a crime that
had been committed, or an alleged crime, and to
pronounce a person dead.
- Q. And did you in fact go to the rectory?
- A. Yes, I did.
- 15 Q. And would you tell the jury, please, what happened
when you went there and who if anyone you met or
what if any instructions you received when you
were there?
- A. I went over by ambulance, it was past eight
o'clock in the evening, and arrived at the
rectory. The R.C.M.P. met us, there was quite a
20 crowd at the time, parishioners mainly, I think,
and several R.C.M.P. officers who were there.
- Q. This would have been outside the rectory?
- A. Outside, yes, just as we approached the driveway
and the church and the rectory setting, and the
25 R.C.M.P. confirmed my identity along with the
ambulance driver as we drove up in an ambulance.
We didn't have any sirens or lights on or
anything, it was just to drive there, and then
once my identity was confirmed the ambulance
30 driver stayed behind and I proceeded into the
house area, the rectory area, with the R.C.M.P.
officer, where there were several other R.C.M.P.
officers, and then one R.C.M.P. officer in
particular gave me specific instructions as to
35 how we would proceed into the house and to be

Dr. Blanchard - Direct

- 5 very careful of not disturbing evidence, not touching anything, only walking where I was directed to walk, that sort of thing.
- Q. You were to walk under whose directions?
- A. I'm not sure of the rank, but Ouellette, is it?
- Q. He was a police officer?
- A. Yes, R.C.M.P.
- 10 Q. And you were walking in the building - where you walked was under his direction?
- A. That's right, yes.
- Q. And do you know what rooms you walked through?
- A. I recall going into the entrance and one of the rooms that I recall immediately was there was -
- 15 the kitchen area had been certainly severely disrupted, and there was a lot of blood on the floor. We just looked into the room, we weren't to go in there, and we were looking in from the entrance of the room and certainly we didn't go in
- 20 there because it looked like there was a lot of potential evidence on the floor area, and then we made our way down through what looked like, as I recall it, a dining room area where there was a
- 25 lot of papers stacked up. Some of them looked like they were tipped over or strewn about a bit. In any case I remember thinking that this man gets a lot of mail or he certainly reads a lot or - that was sort of one of the impressions that went
- 30 through my mind at the time, there was a lot of paper in this particular room, and then we eventually came to the office where the body was lying on the floor and the scene as I recall it at the time was of the priest lying face down in this
- 35 room. There was certainly a lot of disruption in

Dr. Blanchard - Direct

5 this room as well. There was a lot of tools, axes
and that sort of thing, and a safe off to one
side, and the priest was lying apparently dead on
the floor.

Q. Was this police officer you mentioned, was he with
you as you went into the -

A. The whole time, yes.

10 Q. I'm going to ask you to refer to Exhibit P-60,
it's a large booklet, and particularly photographs
52 and 53, and would you look at that and tell us,
please, whether or not you recognize what's in
that photograph and how it compares to when you
15 looked in that room that evening?

A. 52 and 53 appear to be much as I recall them, yes.
Yes.

Q. What if anything did you do at that particular
location, Doctor?

20 A. Two priorities, really. One was to pronounce
this person deceased and the second was to avoid
tampering with any evidence even though it might
be inadvertent, so I had a pair of gloves on and
I wanted to get close enough to be able to listen
25 for any breathing sounds or any heart sounds and
I believe there was a - in order to do that I
requested some help in just turning the body
slightly to one side so that I could get my
stethoscope near the heart area just to be able
30 to confirm that there were no heart sounds in
fact.

Q. When you walked into that particular office were
you under the same instructions as to where to
walk?

35 A. Yes, specifically, yes.

5

Dr. Blanchard - Direct

Q. And how far was the body moved? Was it turned right over on its back, was it lifted up?

5 A. The body was only - it wasn't moved in terms of position, in terms of its general position in the room or anything, it was only tilted, you might say, just enough so that I could slip my stethoscope down around his chest area and try to
10 confirm that in fact he was dead even though by all appearances he was. I just wanted to confirm that.

Q. And did you in fact confirm he was dead at that time?

15 A. Yes.

Q. And what position was the body put back into or left?

A. Just laid right back down, you know.

Q. In the same position as before you went in?

20 A. Yes.

Q. And then what did you do, Doctor?

A. Let me think, now. At that point we made our way out of the room and back through our same tracks, same rooms, we didn't cover any new rooms on the
25 way out, and either the same R.C.M.P. officer or another one indicated that they'd like to just look at my shoes and they might at some later point request samples of hair or something to that effect, and we complied with all that and then
30 just carried on back to the hospital and continued on call.

Q. Were you still under the supervision of that same police officer as you went out of the building?

A. Yes.

35 MR. WALSH: I have no further questions.

THE COURT: Cross-examination, Mr. Furlotte?

MR. FURLOTTE: I have no questions.

5 THE COURT: Thank you very much, Doctor. That is the end
of you, I -

MR. WALSH: He can be excused, My Lord.

THE COURT: Yes, he's not required back?

MR. WALSH: No, he's not.

10 THE COURT: Thank you very much.

MR. ALLMAN: My Lord, I have a witness, he's been here
quite a while. Ignatius Verriker.

15 IGNATIUS VERRIKER, called as a witness, being duly
sworn, testified as follows:

DIRECT EXAMINATION BY MR. ALLMAN:

Q. What's your name, please?

A. Ignatius Verriker, 119 Brown Road, Chatham Head,
New Brunswick.

20 Q. I want you to take your mind back to the 16th of
November, 1989, the evening of that day. Tell us
where you went and what it was you were expecting
to do.

A. At about quarter to seven I went to church.

25 Q. What church is that?

A. The Nativity of the Blessed Virgin.

Q. Who was the priest?

A. Father Smith.

30 Q. I'm going to show you a photograph. The one I'm
showing you is P-59(5) which also has S-5 on the
front. Do you recognize the two buildings in the
middle?

A. Yes, I do.

Q. What are they?

35 A. It's the church and the rectory.

I. Verriker - Direct

- Q. The church being the one to the left, the rectory being the one to the right?
- 5 A. Right.
- Q. So that's the church you were going to?
- A. That's the church.
- Q. Did you go there by car?
- A. Went by car.
- 10 Q. So you'd park it on the parking lot?
- A. Parked right here in the parking lot.
- Q. Parked at the back?
- A. Yes.
- Q. And that would be about quarter to seven.
- 15 A. Right.
- Q. What time was the service supposed to be?
- A. Seven o'clock.
- Q. Did the service start at seven o'clock?
- A. No, it didn't.
- 20 Q. Did Father Smith appear at seven o'clock?
- A. Father Smith didn't appear.
- Q. How long have you been going to that church?
- A. Oh, since it was built in '58.
- Q. How long had Father Smith been the priest at that church?
- 25 A. He was the priest for 19 years.
- Q. So you would know about his punctuality over those 19 years?
- A. That's right.
- 30 Q. How was he for punctuality?
- A. He was always on time.
- Q. On this occasion I gather he wasn't on time?
- A. No.
- Q. What did that do to you and other parishioners?
- 35 A. Well, one of the parishioners, a lady, came out

I. Verriker - Direct

and asked me to go check and see if Father Smith was sick.

5 Q. So did you do that?

A. I did that.

Q. And in order to do that what did you have to do?

A. I went over to the house, I tried the door, and I couldn't get in, so I went down -

10 Q. Let me just stop you a minute, Mr. Verriker. If you look at photograph 4 in P-60 do you see the back of the house, the rectory, there?

A. I do.

Q. And the area to the right with the sloping roof is what?

15

A. That's the porch area.

Q. O.K., and is that the way you went?

A. That's the door I went in.

Q. How many entrances are there into that porch?

20 A. There's two.

Q. Which one did you go through?

A. I went in the front one, or the one on the south.

Q. O.K., the one you can see in #4 rather than the one you can see in #3?

25 A. That's right.

Q. So what's the first door you opened?

A. Just an aluminum porch door.

Q. And after you'd opened it - was there any problem opening it?

30 A. No.

Q. Did you notice anything unusual about it?

A. Not really, no.

Q. If you look at picture #8, that I understand is what you'd see after you've opened that first aluminum door?

35

- A. That's right.
- Q. When you've gone through there, if you wanted to
5 go on into the rectory what do you come to?
- A. I come to the kitchen door.
- Q. That's the wooden door that -
- A. That's the wooden door.
- Q. O.K., when you got to that door what condition was
10 it in?
- A. I didn't see anything wrong with the door. Of
course, it was kind of dusk in there.
- Q. So what did you do?
- A. I tried the door and I rang the bell.
- 15 Q. Did anybody answer the bell?
- A. There was no answer.
- Q. When you tried the door what happened?
- A. No.
- Q. O.K., so what happened then?
- 20 A. I went out and told the people that were waiting
outside I had to go home and get my keys.
- Q. So I take it that's what you did?
- A. I went home and got my keys.
- Q. You had a key to the rectory?
- 25 A. I had a key to the church and the rectory both.
- Q. And then I take it you returned with your key?
- A. I did.
- Q. How long does that take to go back to your place,
get the key and come back to the rectory?
- 30 A. Oh, about five minutes.
- Q. So approximately what time would we be talking
about by the time you got back with the key?
- A. Probably quarter past seven.
- Q. After you got back with the key what did you do
35 in terms of the wooden door?

10

I. Verriker - Direct

- A. I opened the top lock and then I opened the bottom one and opened the door.
- 5 Q. And when you opened the door what did you find?
- A. First I reached for the light and it wouldn't go on.
- Q. That's the light to what room?
- A. That's the light to the kitchen.
- 10 Q. O.K., then what?
- A. Then I seen that the kitchen was all in a mess and the table upset.
- Q. What light was it that was enabling you to see that?
- 15 A. That was just the reflection from the church lights and the lights outside.
- Q. That was sufficient for you to get an idea of the state of the room?
- A. That's right.
- 20 Q. I'm going to show you another picture. If you look at picture #39 and perhaps also 40, I understand from previous evidence that's looking into the kitchen area from the door that you'd opened?
- 25 A. That's what I saw.
- Q. How does that look in terms of the scene that met your eyes?
- A. Much the same.
- Q. I think you mentioned something about a table.
- 30 A. There's the table there.
- Q. You're pointing to the grey object on the right of the picture as you look at it?
- A. The grey object on the right of the picture.
- Q. Did you go into the kitchen?
- 35 A. No, I did not.

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I. Verriker - Direct

- Q. After you'd opened the door and done the things
you've just described and seen what you've
5 described what did you do next?
- A. I closed and locked the door. I went out and told
somebody to call the police.
- Q. Did the police arrive?
- A. Within five minutes.
- 10 Q. What did you do then?
- A. I went home. I stayed around for a little while,
then I went home.
- Q. I want you to look at some more pictures and just
give me some more pieces of information. First of
15 all we'll go back to the porch. I understand from
a previous witness if you look at picture 4
there's a light bulb, or light fixture, rather,
above the aluminum door that you mentioned?
- A. That's right.
- 20 Q. O.K., is there another one on the other side, do
you know?
- A. There's another one inside here.
- Q. Inside?
- A. Yes.
- 25 Q. But the one I'm talking about is an exterior one?
- A. Right, yes.
- Q. What's the situation about the - normally would
be the situation about those bulbs?
- A. They'd be on.
- 30 Q. What would cause it to be on? Was it on any
system or -
- A. Well, I guess Father never turned them off.
- Q. Sorry?
- A. Father never turned them off.
- 35 Q. O.K. On this particular occasion was the light

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I. Verriker - Direct

bulb on?

A. They were off.

5 Q. Off?

A. Yes.

Q. Do you know why?

A. I have no idea.

10 THE COURT: You say they. You're using one and you're
talking two.

MR. ALLMAN: Which two are you talking about that were
normally on?

15 A. There's two in the - there's one at the entrance
of the porch before you go through the aluminum
door and there's one inside.

Q. And neither of them were working on this occasion?

A. No.

Q. But you don't know why?

A. I have no idea.

20 Q. O.K., the next photograph I want you to look at is
a photograph #2. You can see there a ladder
propped up against the extreme right as you look
at it of the garage.

A. Right.

25 Q. Is that a normal fixture there?

A. No.

Q. Do you know if that ladder was Father Smith's or
not?

A. No, it was not.

30 Q. It wasn't Father Smith's. Did you ever see that
ladder?

A. I've seen it leaning up agin the house.

Q. When?

A. After the -

35 Q. After the incident?

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I. Verriker - Direct

A. After the incident.

Q. Had you ever seen it there before?

5 A. No.

Q. The garage doors, as I understand it, slide open and closed?

A. That's true.

10 Q. Do you know if Father Smith had any normal routine about those doors?

A. Well, you always knew that if Father Smith was away the door would be open.

Q. So when he went out he left the doors open?

A. Right.

15 Q. What about when he came back in with his car?

A. He closed the door.

Q. Did the church in the past used to hold Bingo sessions?

A. That's true.

20 Q. How many years would there have been Bingo going on there?

A. I'd say probably about 16 years.

25 Q. At the time of this incident - I hate using that word but I don't know a better one - was the church still holding Bingo sessions?

A. No.

Q. When had that stopped?

A. Stopped that spring. I don't know, it was in May or June, I think.

30 MR. ALLMAN: Thank you, Mr. Verriker.

THE COURT: Cross-examination, Mr. Furlotte?

35

CROSS-EXAMINATION BY MR. FURLOTTE:

- Q. You mentioned that you had a key to the directory?
- 5 A. That's right.
- Q. And why was it that you had a key?
- A. Pardon?
- Q. Why did you have a key?
- A. Father Smith gave them to me so I could check the
- 10 rectory out when he was away.
- Q. Did you do any work around the rectory at all?
- A. Oh, yes, I did a few jobs for him.
- Q. Did Father Smith do any of the yard work himself?
- A. A little, not too much.
- 15 Q. Now, you mentioned in photograph 2 of P-60 that there was a ladder up against the garage. Photograph 2, you were discussing that ladder. That's a red ladder?
- A. A reddish ladder, yes.
- 20 Q. And you say that it was not normally there?
- A. No, it didn't belong to the rectory.
- Q. It didn't belong to the rectory either?
- A. No.
- Q. Now, you mentioned about the lights that are
- 25 normally on in the back porch?
- A. Yes, that's right.
- Q. That's the one on the outside of the porch and the one on the inside?
- A. The one on the inside.
- 30 Q. And neither one of them was on?
- A. No, not that I can recall, they weren't.
- Q. I also notice in photograph #3 there's another light in the back that appears to be on. Photographs numbered 3 and 4 you can see it,
- 35 this light in the back?

15

I. Verriker - Cross

A. That's at the corner, yes.

Q. You can catch another glimpse of it here in #4?

5 A. Right.

Q. Is that usually on when the other ones are on or
is that -

A. No, that's usually on in the evening.

Q. That's usually on in the evenings?

10 A. Yes.

Q. And you can see from the picture that that one is
on?

A. That's right.

15 Q. The garage area of the rectory, were you often in
that garage area?

A. Oh, many's the time, yes.

Q. Many times, and you would use the door to go into
the storage room?

A. Yes.

20 Q. I show you photographs 15 and 16, right here. In
15 you see some boot marks there on the door?

A. Yes.

Q. This would be down here in this area?

A. Mm-hmm.

25 Q. And there's more boot marks in 16 up to the left
of the handle, and did you notice any boot marks
on the door before?

A. I never recall seeing them.

30 Q. You never recall seeing any boot marks on that
door before?

A. No.

Q. Do you know whether or not Father Smith would keep
the patio doors locked?

A. Yes, he always did.

35 Q. He always kept them locked?

16

I. Verriker - Cross

- A. Yes.
- Q. Along with his other doors?
- 5 A. Yes.
- Q. Back doors?
- A. Always locked.
- Q. Always kept the doors locked?
- A. Always locked.
- 10 Q. What about people visiting Father Smith? Would he have many visitors?
- A. Yes, quite a few.
- Q. Occasionally or all the time?
- A. I'd say mostly every day.
- 15 Q. Mostly every day. Do you recall giving a statement on November 22nd to the police, a written statement?
- A. Yes.
- Q. It was something like about a three-page statement, or at least typewritten?
- 20 A. Right.
- Q. Do you recall what you told the police at that time as the people that Father Smith would have over visiting?
- 25 A. I can't recall who I said would be visiting but I know he - probably other priests.
- Q. I read your statement here. Can you tell me if you recall making this statement? You say, "I don't think he ever had people over to the
- 30 rectory. He was a very private man. Occasionally he had other priests over".
- A. That's right.
- Q. "His brother, Leonard, would visit four or five times a year and stay for two, three weeks and
- 35 longer at a time".

I. Verriker - Cross

- A. That's true.
- Q. So are you saying different today, that he had
5 lots of visitors or -
- A. No, no.
- Q. So you would stick by that statement, then, that
you made at that time?
- A. I would, yes.
- 10 Q. So it would be relatively simple to keep track of
the people who visited Father Smith over the past
couple of months?
- A. That's true.
- Q. Were your fingerprints taken for elimination
15 purposes?
- A. They were.
- Q. And maybe also your boot marks?
- A. No.
- Q. Was Father Smith a stubborn man?
- 20 A. He wanted his own way.
- Q. And if somebody went there to rob Father Smith
he was likely to put up a fight?
- A. I would think so.
- Q. And would you describe him that he was likely to
25 put up a fight to his last breath?
- A. Yes, he would.
- Q. Father Smith would take the occasional drink,
alcohol?
- A. The odd one.
- 30 Q. Do you know what kind of alcohol he would drink?
- A. Oh, I think he'd take most anything.
- Q. Mostly anything?
- A. Yes, he wasn't very fussy.
- THE COURT: Is that typical of the Roman Catholic faith?
- 35 A. Typical of any faith, I think.

THE COURT: I think that you're right.

5 Q. I show you P-63, a couple of empty Bacardi Breezer
bottles. Did you ever see him drink those things
before?

A. Never did.

Q. Would you know anything about the burglar alarm
system that he had?

10 A. I did.

Q. How many sensors were there that you know of?

A. Just the one, just on the back side of the house.

Q. Just on the back side of the house?

A. Yes.

15 Q. Do you know how easy it was to set off or -

A. Yes, would go off quite easily.

Q. Blowing leaves would set it off?

A. Yes, or drifting snow.

20 Q. Did he leave it on most of the time or would he
turn it off because it was more of a nuisance than
anything?

A. Well, I used to turn it off if there was a big
storm because it was more of a nuisance than
anything, if he was away.

25 Q. Do you feel you know Father Smith fairly well?

A. Fairly well, yes. Yes.

Q. Do you have any idea what he might do if he heard
somebody chopping his door down? Would he leave
the house, call the police or -

30 A. I think he'd go check.

Q. You think he'd go check?

A. Yes.

MR. FURLOTTE: I have no further questions.

THE COURT: Re-examination?

19

I. Verriker - Redirect

REDIRECTION EXAMINATION BY MR. ALLMAN:

- 5 Q. You mentioned that you had occasions to go from
the garage into the storage area. Did you have a
key to that door?
- A. No, I never had a key to that door.
- Q. So how would you do that?
- 10 A. Well, Father Smith would be around and I'd go in
that direction.
- Q. So you wouldn't be able to do it without Father
Smith's cooperation?
- A. No.
- 15 Q. You were asked about his drinking habits. Do you
know what if any alcohol he kept at home?
- A. I wouldn't know.
- Q. Had you ever seen any alcohol in the rectory?
- A. No, never did, unless Leonard was there, a
visitor.
- 20 Q. Who's Leonard?
- A. That's his brother.
- Q. But in the ordinary course of events when you've
been in that house have you seen alcohol around?
- A. No.
- 25 Q. You mentioned that the burglar alarm used to go
off if leaves blew across it or snow blew across
it?
- A. That's right.
- 30 Q. Again, and you also told Mr. Furlotte that you
knew Father Smith pretty well, what would be his
response, do you think, if a burglar alarm did go
off?
- A. If Father Smith was there he'd turn it off
himself.
- 35 Q. Mr. Furlotte read to you a little bit of your

I. Verriker - Redirect

statement when you said - and I'm going to
 re-read it to you - "I don't think he ever had
 5 people over to the rectory. Occasionally he had
 other priests over. His brother, Leonard, would
 visit four or five times a year and stay for two
 or three weeks and longer at a time". What does
 the expression mean to you about having people
 10 over to the rectory?

A. Well, he was a very private person, he didn't have
 too many people in.

Q. What about parishioners, would they go there, do
 you know?

15 A. Oh, yes, the parishioners would go.

MR. ALLMAN: Thank you.

THE COURT: Thank you very much, Mr. Verriker. You're
 excused from further attendance.

20 CONSTABLE YVON LaFONTAINE, called as a witness,
 being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SLEETH:

Q. Would you please state your name and your occupa-
 tion for the jurors, witness?

25 A. My name is Joseph Yvon LaFontaine. I'm a police
 officer, a member of the Royal Canadian Mounted
 Police. I've been employed by the R.C.M.P. since
 February, 1987, and stationed in Newcastle, County
 of Northumberland, Province of New Brunswick,
 30 since October, 1989.

Q. Constable, I'm placing before you two exhibits.
 To your right a photo booklet which is P-60, 1
 through 83, and to your left a large aerial photo-
 graph which is P-59(5). It bears in the upper
 35 righthand corner the lettering S-5. Do you

Cst. LaFontaine - Direct

recognize the location shown in the large aerial
photograph which is labelled in the upper right-
5 hand corner S-5?

A. Yes, I do.

Q. It is where, please?

A. This is in Chatham Head, County of Northumberland,
Province of New Brunswick. This is an aerial view
10 of the Catholic church in Chatham Head, and the
rectory.

Q. Now, I understand you had particular involvement
with that location and I would wish you to relate
to the jurors starting with the date and the time
15 how it was you came to be involved with that site.

A. On the 16th of November, 1989, as a result of a
telephone conversation I was directed to attend
the Catholic church in Chatham Head. That was at
approximately 7:21 p.m. I learned from that
20 conversation that Father Smith was late for his
7:00 p.m. mass and that was quite unusual for him.
Drove to the Catholic church in Chatham Head and
arrived at the location at approximately seven,
seven-thirty p.m. still, 7:27 p.m. Outside there
25 were quite a few people and I met with a Mr.
Verriker and -

Q. This Mr. Verriker you refer to, that's the witness
who just preceded you, just left the witness box?

A. Yes. From a conversation I had with Mr. Verriker
30 I learned that parts of the rectory were
ransacked and he appeared quite shocked. He had
the keys for the back door leading in from the
porch. Proceeded with Mr. Verriker, he unlocked
that door, and it was getting dark at that time so
35 I used my flashlight to see the inside of that

Cst. LaFontaine - Direct

part of the rectory. By using the flashlight I noticed large red stains that appeared to be blood
5 to me. There was also quite a lot of papers on the floor, rags or clothing, some, and there were also - I remember seeing a chair and a table. At this time I then proceeded to close the door back and called for back up. We had several officers
10 already in the area and Sergeant Ouellette was there within minutes, if he wasn't already there behind us. He then proceeded to take over the scene and I left and started putting yellow tape around the perimeter after he had come out and
15 explained what he had seen inside.

Q. O.K., if you could, then, just indicate to the jurors, possibly by holding up that aerial photograph which you have in your hands right now being P-59(5), where did you put this yellow tape
20 around a perimeter, as you described it, and for what purpose?

A. If you can see, there is a fence behind the rectory so I guess you can see the yellow tape we put. We went up as far as - there's like a
25 dirt road here and some houses and we came back around. There's a line of trees here, we proceeded to continue up to the front or the side, that would be the west side of the rectory, and came back, put the tape around a tree and then
30 around - I believe it's a telephone post or - and then we came back towards the rectory. There's several trees on the front lawn and we proceeded to finish putting the tape in that area.

Q. You referred to we?

35 A. Oh, I had a partner with me that night, it was

Cst. LaFontaine - Direct

a Constable Rivard, so we did that together.

Q. And Sergeant Ouellette also was at the scene at
5 that moment, was he?

A. He was at the scene, he was near the rectory.

Q. And the placing of this tape and forming of that
perimeter was for what purpose?

A. To avoid having anybody contaminate the scene.
10 We were instructed that the dog master would be
there so we wanted to avoid anybody walking
around the rectory. That's the main purpose.

Q. Now, you and Constable Rivard arrived. Did you
arrive together?

A. Yes, we did.
15

Q. And you arrived, again, at what time, please?

A. At 7:27 p.m.

Q. And for how much longer did you remain at that
scene?

A. We departed the scene at approximately a quarter
20 to nine p.m.

Q. And during that time what did you do in terms of
observing the scene and the comings and goings
that took place?

A. Putting the yellow tape took quite a lot of our
time and we also had several conversations with
Sergeant Ouellette and we made sure that nobody
got close to the area. As I stated earlier,
there was quite a few people outside the church
25 when we got there and we made sure as possible
30 that these people didn't get close to the vicinity
of the rectory.

Q. During the time that you were there did you see
anybody other than police investigators go in or
35 out of that location, the rectory?

Cst. LaFontaine - Direct

- A. Of the rectory, no, I did not.
- Q. Now, if you would, please, if you could pick up
5 photo booklet 60 which is a booklet of some 83
photographs. If you would now turn to photographs
39 and 40, do you recognize the location shown in
those photographs?
- A. Yes, I do.
- 10 Q. Now, how does that relate to your testimony a
moment ago about your using a flashlight?
- A. It's obviously easier to see there, there's some
lighting, but from what I saw with my flashlight
that fits the description that I gave earlier,
15 what I saw.
- Q. O.K., and that is what portion of the rectory,
what area?
- A. I believe this would be the kitchen. We were
looking from the porch.
- 20 Q. Did you go in past the porch at all into the
kitchen yourself?
- A. No, I did not.
- Q. Now, I would ask you to turn back, if you would,
please, to photograph #4 in that same booklet.
25 That is of the porch area, you'll notice the light
fixtures there?
- A. Yes, I do.
- Q. What can you tell us about the condition of the
lights in that porch area when you arrived at the
30 scene?
- A. There were no lights.
- Q. You say there were no lights, were they on or off?
- A. They were off.
- Q. I'd ask you to go back one step further to
35 photograph P-60, photograph #2 in that booklet.

25

Cst. LaFontaine - Cross

Do you recognize the ladder that's shown there?

5 A. That was shown to me by Mr. Verriker upon our
arrival at the scene.

MR. SLEETH; Thank you very much.

THE COURT: Cross-examination, Mr. Furlotte?

CROSS-EXAMINATION BY MR. FURLOTTE:

10 Q. Constable LaFontaine, you mentioned there was no
lights on in the porch area?

A. Yes, I did.

15 Q. How about the other light? You still have the
book of photographs there, in photograph 3 there's
a light on in the back of the porch here.

A. That's correct.

Q. Was that on?

A. I don't recall seeing any lights that night.

20 Q. You don't recall. Did you try the light switch to
see if it would work after you got there?

A. No, I did not.

Q. I believe you also noticed a ladder up against the
garage when you first arrived, it was brought to
your attention?

25 A. That was brought to my attention, yes.

Q. And you thought at the time that that might be a
possible point of entry, up on top of the garage?

A. When that was brought up to me?

Q. Yes.

30 A. It was told to me that it was unusual to see that
ladder there. I didn't think of a point of entry
right at the time; maybe shortly after but not at
that time.

35 Q. And did you pass that information on to Sergeant
Poissonnier, check it out as a possible point of

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entry?

A. That night, yes, I did.

5 MR. FURLOTTE: I have no further questions.

THE COURT: Re-examination?

MR. SLEETH: No, My Lord. I'd ask this witness be stood
aside. He will be recalled.

10 THE COURT: Thank you. You shouldn't discuss your
testimony so far with anyone until after all your
testimony is completed.

SERGEANT JACQUES OUELLETTE, called as a witness,
being duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. WALSH:

Q. Would you give the Court your name, please, and
your occupation?

A. Jacques Antoine Ouellette. I'm a member of the
Royal Canadian Mounted Police. I've been a member
20 of the force since the 29th of September, 1971.
I'm presently posted since the month of March this
year at Buctouche Detachment, County of Kent,
Province of New Brunswick.

Q. And in relation to this particular matter what if
25 any duties did you have?

A. During that period of time in 1989 in the fall I
was assigned from an administrative position in
Fredericton to what we call the pro-active
policing unit in Newcastle.

30 Q. O.K., now, what if any involvement did you have in
this particular matter as a result of that posting
beginning with the date, the time, and the place?

A. On the 16th of November, 1989, I was on patrol in
the Miramichi area, County of Northumberland,
35 Province of New Brunswick, and I overheard a

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5 conversation on the police radio that there might
be a problem at the Blessed Virgin Mary Church
which is located in Chatham Head, again County of
Northumberland, Province of New Brunswick. I then
proceeded to that area. At approximately 7:32
that evening I arrived at 306 Main Street in
Chatham Head, at the rectory, and I noted many
10 people around the church area, in the parking lot.
There was another police vehicle there and I left
the vehicle and went to an area at the rectory and
if I could point out, My Lord, on the plan drawing
here, as indicated in P-57 I would have parked my
15 vehicle in this area here, and it's a south
entrance or the south side of the rectory, and a
little farther over here would be the church
itself.

Q. Just wait till we get ourselves oriented on this
20 particular diagram, officer. Just so I can
familiarize yourself so - I'm going to get you to
look at these photographs first before you look
at the plan.

A. O.K., photograph #1, I would -

25 Q. That would be in Exhibit -

A. Exhibit P-60. I would have arrived just to the
righthand side of that photograph. There's a
large parking area there, and then in P-60 again,
photograph #4, I would have approached the
30 rectory - I approached the rectory up those small
set of steps to the lefthand side and onto the
porch.

Q. O.K., I'm going to get you to look at P-59(5),
S-5. Would you look at that photograph and if
35 you can find out where you would have parked your

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vehicle in relation to that?

5 A. O.K., this again is an aerial photo of the church
and the rectory and I would have parked my vehicle
on the lower side, which I would say in the photo
is the south side of the photo where that blue
vehicle, that blue police vehicle is at that time.
That's where I would have parked.

10 Q. You're referring to this particular area here?

A. Yes.

Q. Now, what if anything did you do - using this
P-59(5), what if anything did you do after you got
out of your vehicle?

15 A. I proceeded directly up the small set of steps and
to the porch area where I met with two persons.

Q. Who were those people that you met with?

A. Constable LaFontaine and a Mr. Ignatius Verriker.

20 Q. Now, according to previous testimony of Corporal
Godin, on P-57 this would be the front of the
house, this would be the side of the house
approximately where you parked, and this would
be the entrance to the rear. Are you familiar
with that -

25 A. Yes, that is correct. I would have entered up
the small set of steps here into this porch area
near the screen door right here.

Q. Would you continue, please?

30 A. As I mentioned, I met with Constable LaPontaine
and Mr. Verriker and after a brief conversation
I took my flashlight and I stood at the door
entryway here, the rear entrance to the rectory,
and I looked inside this room here which I
considered as being the kitchen area.

35 Q. O.K., I'm going to ask you if you would take

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P-60, the large book of photographs, and I'll ask you to refer to photograph #43.

5 A. In P-60, photograph 43, that's what I would have seen - that's what I did see that evening when I flashed with my flashlight into that area, into the kitchen area. I noticed the chair, a broken table, stains on the floor which appeared to me to
10 be blood, stains as well on the walls, and on the small mat, the green mat that is shown there as well at the lower righthand side of the photo.

Q. What did you do as a result of making these observations, Sergeant?

15 A. I had a brief conversation with Constable LaFontaine again at that time. I instructed him to stay at that area.

Q. What area would that be?

A. Right at the entranceway to the kitchen area, the
20 rear entry, and then I left the porch area and I went over to the church where I made a brief phone call to the office in Newcastle requesting assistance of both the General Investigation Section and our Ident. services, and then I
25 continued back into the rectory to the same location again at the rear entrance door.

Q. And then what if anything did you do?

A. At that time I informed the members that I would
30 be - I informed Constable LaFontaine that I would be entering the residence and then I drew my revolver, I had a flashlight in my hand as well, and I entered very carefully staying as close as I could to the righthand side here and went directly into the dining room area, what I would consider a
35 dining room area.

30

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- Q. O.K., why were you staying to the righthand side?
What if any concerns did you have upon entering
5 that particular premises?
- A. O.K., throughout the entry that I did make into
the residence I was trying to be as careful as
possible not to destroy any evidence; not to walk
10 into any areas where I would destroy some of the
evidence that we could get in this scene, so that
was my chief concern at that time and that's why I
stayed as far to the right as I could.
- Q. In photograph 43 did you at any time when you
entered the kitchen area - did you any time walk
15 through to the opposite side of the kitchen or any
time enter into the centre of the kitchen?
- A. No, I did not.
- Q. Did you at any time walk where you see those
papers?
- 20 A. No, I did not, I did not approach that area
whatsoever. As I mentioned, I stayed exactly as
close as I could get to the righthand side of this
wall here and then skip into the dining room area.
- Q. O.K., now, I'll ask you to refer the jury to
25 photograph 60. What does that photograph show?
- A. Photograph 60 depicts the area that I came into,
the kitchen area, and looking right into the
dining room area. I would have come in again
30 hugging to the door, to the righthand side, and
then slipping into - taking a step onto the rug
into the dining room.
- Q. And what if anything did you do in the dining
room, how did you proceed in the dining room?
Would you show them on the plan drawing, please?
- 35 A. O.K., as I entered the door here it was in the

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5 evening and it was getting dark, the wind was
blowing, and I could hear all these things at the
same time, so as I entered I took my flashlight
and switched the light on because it was
completely dark in there. The windows, any
10 windows I noticed in those areas, the blinds were
drawn and it was quite dark, so I flipped the
light on and I slowly proceeded looking along the
floor for any evidence. The dining room table was
located about this area here, there was a hutch
15 along the wall here with papers and books and
whatever on it, so I was being careful coming
through this area here.

Q. Which side - would you have walked through the
centre of the dining room, would you have walked
any particular side?

A. Well, more to the lefthand side of the dining room
20 because there was a hutch here, so I would hug the
hutch and stay between the hutch and the table, I
was right there.

Q. Would you look at photograph 62, please, 61 or 62?

A. In photograph 61 I would have gone to the top of
25 the table where you would see over to the lefthand
side, by the microwave and between the hutch and
the table, I went through that area.

Q. And then where did you proceed?

A. I proceeded to the doorway which led to a small
30 hall. At this time I stopped and I could observe
a bathroom and a living room area. The reason why
I stopped is that I received sort of an eerie
feeling. The T.V. was on, there was no sound, and
the VCR was flashing twelve o'clock as if it
35 wasn't set, so I sort of stopped there for a few

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seconds and took a breath and then I walked to
this area here of the den and looked inside, made
5 a cursory search or observed as much as I could in
that area there, looked in the bathroom and then
in the living room.

Q. O.K., perhaps if you would look at photographs 66,
67, and 68 and 69.

10 A. O.K., for example in photograph 67 I could stand
right in this area here and that's what I would
observe, the bathroom area and the side of the
living room area. Where you see in 67 on the
left hand side, the lower left hand side where the
15 ashtray is on the small chair, it would have been
located right in this area right here, so I could
stand right in this area and I had a good view of
the full living room area, of the bathroom, and
then as I worked my way back a little bit I could
20 get a good area of the den as well. Again I was
being very careful where I would walk because I
was noticing - as we go along here in the photos,
you know, we can notice that there were stains,
like a red stain on the floor that appeared to me
25 that it could have been blood or whatever so I
was being very careful where I walked at that
time.

Q. These rooms, the living room and I think that's
the den marked there, were there lights on in
30 those rooms?

A. No, there weren't any lights on in those rooms.

Q. Were there any lights on in the bathroom?

A. There was no light on in the bathroom, no.

Q. Was there any light on in the dining room - you
35 say you turned the light on in the -

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- A. I turned the light on in the dining room.
- Q. And there was no light on in the kitchen?
- 5 A. No, there was no light on in the kitchen when I entered.
- Q. Now, would you look at photograph 69, please? Would you tell the jury what you see in that photograph?
- 10 A. In photograph 69 it would depict - it depicts the wall that I would call - the wall would be this area here where the patio doors are and the blinds were drawn when I went in there. The blinds were not - like the draperies were not open like that, they were closed when I went in.
- 15 Q. And did you have occasion to open those drapes or go anywhere near that door there?
- A. No, I did not at that time, and the T.V., you can see the T.V. in photo 69, it was on with no sound and with the VCR on the top of the T.V.
- 20 Q. O.K., did you notice anything else?
- A. In that room that's all I noticed at that time.
- Q. O.K., then what did you do?
- A. And at the time it was like I say, I really had a sort of an eerie feeling and I had a smell that there was something that was wrong, you know, and I could feel that, and so I looked down the hall, the small hallway here, and I could see a white substance all over the floor which appeared to me to be like gyproc or something along this area here, so I then started to proceed along this small hallway here, again being very careful where I would walk because of the debris, the gyproc, whatever there was on the floor there.
- 25 Q. I'll ask you to look at photograph 37. You had
- 30
- 35

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referred to a hallway. How does that photograph compare?

5 A. In photograph 37 I would be standing at that time at the upper part in that doorway, on the other side of the doorway.

Q. Perhaps if you'd just -

A. I'd be up in this area here looking down.

10 Q. Looking towards where the photographer would be -

A. Looking towards the top.

Q. Continue, officer.

A. So I would be in this area right here. Again I slowly proceeded down here along the side. There were coats as you see in the photograph 37 right
15 in this area here, and then I looked into this small office and then I noted the body of a male person lying on his stomach with the left hand turned up, pockets turned out, and a shoe that was
20 off.

Q. When you first noticed him where would you have been standing?

A. Right in the doorway, right in the doorway right here.

25 Q. And I'll ask you to refer the jury to photograph 52, please.

A. That's exactly what I saw when I got to that doorway, that photograph right there.

Q. In photograph 52?

30 A. Yes.

Q. O.K., what did you do next, officer?

A. O.K., in photograph 52 or where I'm indicating right here I entered the office staying as close as I could to the righthand side here. The body
35 was approximately in this area here near the safe

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5 so I stayed to the righthand side of the body and
my concern at that time was to see if this person
was still alive, so I approached the body from the
righthand side. I had put my revolver at that
time in my holster and then I reached over and
tried to obtain a pulse in the neck area of this
person but I could not get a pulse or anything
10 whatsoever.

Q. Did you move the body in any way?

A. No, I did not.

Q. O.K., would you explain to the jury how you -
what if any care were you taking in entering that
15 particular room in terms of where you were
walking?

A. As in photograph 52 there was much debris on the
floor. There were tools. I remarked that someone
had attempted to get into the wall safe, I noticed
20 the brick right away that was there in the middle
of the photo, in 52, so I stayed to the righthand
side and had to step over the legs of the chair.
There's a chair that's turned over there on the
right, around the middle near the body's feet. I
25 stepped over that area in order to get to the body
on the righthand side.

Q. Do you see in that photograph - appears to be a
piece of paper on a mat and the cord for that
drill is kind of wrapped around it or circling it.
30 Can you tell us whether or not you stepped on that
particular paper?

A. No, I paid some attention to that piece of paper
because I noted a transfer of some sort of stain
which appeared like blood again and it looked like
35 a footprint to me so I sort of stayed from that

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area, that's why I stayed to the righthand side as I went in.

5 Q. What did you do next?

A. After I could not find a pulse or while I was reaching for the pulse the phone rang at that time and I got quite a startle, so I zipped back up and I waited for a few seconds and then I came out of
10 the room exactly the way I went in, being very careful where I walked, and I came right up to the doorway here again.

Q. O.K., and then what did you do?

A. I then proceeded again down this hall, continued
15 down the little hallway, and I noticed on a door here - I noticed the door here, that there were stains on the door and on the frame, again a red stain in that area there, so I observed that and with my flashlight I pushed that door open and I
20 saw that it led again to the kitchen area and out to the porch.

Q. Did you enter the kitchen?

A. No, I did not.

Q. What did you do next?

A. I then looked to my right and I could see there
25 was another doorway here so I proceeded down that hall and again I noticed some gyproc or white substance on the floor, and it appeared to me that someone was trying to get to the safe from that
30 side. After I had seen the safe from the small office it appeared that they had tried to get into the safe from this side as well. Then I proceeded back out again into the small hallway and it led me to a set of stairs.

35 Q. Would you refer the jury, please, to photograph

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number 77?

5 A. O.K., that is the area that would be the foot of
the stairs right here when I arrived. I'm sorry,
right in this area here that went upstairs. The
other one, it went down to the lower basement. I
went down there a little later on.

Q. What if anything did you notice on those stairs?

10 A. O.K., again I noticed some kind of a red stain on
the carpet leading up to those stairs and I can't
recall how many stairs but I thought there was two
or three that had just a small stain around the
middle of the stairs as you went up.

15 Q. Continue.

A. I proceeded up the stairway. Again it was quite
dark and I flipped on another switch as I went in,
and when I got up onto the top floor there was a
long hallway with a bathroom down on the other
20 end.

Q. Were there any lights on upstairs?

A. No, I flipped on one more again using my flash-
light, and I noted at that time there were six
rooms, six bedrooms off to the left and right, so
25 I went through each one of those bedrooms
individually, checked the closets, under the beds,
and I slowly made my way around inside the house
upstairs, and then I started - there was nothing
there so then I came down the stairs again,
30 observing again where I walked, being careful
where I walked, and then I ended to the landing
here that led to the basement.

Q. Perhaps we could take the jury to photograph 32.

A. In photograph 32 it would be also in the drawing
35 here, in the plan drawing P-56. I would be

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5 standing at the top of the stairway which would
be - the top of the stairway right here, and in
6 photograph 32 that would be just commencing to go
down the stairs into the basement area. Again I
observed on the steps going down there was like a
stain which appeared to be blood, so I stayed away
from that and I carefully went down the steps and
10 came down into the area of the basement here.

Q. Refer the jury, please, to photograph 29.

A. Photograph 29 depicts exactly the stairway, but
that's about mid-section, there was a landing
where the rubber boots are, and then it proceeded
15 right down and that's the basement floor right
down at the bottom in the middle and you're right
down at the basement area then.

Q. Continue, please.

A. O.K., I looked into the laundry room area and that
20 time I could see stains again, what I thought was
stains again on the floor. I continued down to
this area here where I could observe, I could have
a real good look at the whole area here. Like,
there weren't any closets or any more doors, it
25 was quite wide open here, this main office area,
and then I went into the door here on the right-
hand side which was called the storage area and I
proceeded along there to about three-quarters of
the way down.

Q. I refer you to photograph 18.

A. That is a photo of the storage area as I went in.
Around the middle of the photo there's like a mat
rolled up on the floor, a black mat right in the
middle, and I stopped right at that area there.

Q. That would be - appears to be, you say, rolled up.

Sgt. Ouellette - Direct

There's something brown towards the right side?

5 A. There's like another brown piece of carpet right beside it.

Q. You didn't go past there?

10 A. I didn't go past there. I noted again an impression of footwear that was on top of that mat and so I stopped right in that area there and that's the farthest that I went.

Q. Then what did you do?

15 A. Then I backtracked exactly the same way I went down, came into this doorway here from the storage area and up the steps again, and then going again to P-57 that would bring me up the stairway right to the front entrance area right here, and then again I slowly made my way down the hall back into the living room area, came right here into the dining room which led to the kitchen, then across
20 that little mat and right out again into the rear entrance or into the porch area.

Q. Why did you take such a long route to get back out, Sergeant?

25 A. Because I didn't want to destroy - I knew where I went when I went in because I was very careful going in and I knew where - I had a very good idea where the steps I would come out the same way, and so when I saw the Ident. members I could tell them exactly what I did and remember exactly what I did
30 going in and out of the place.

Q. Then what did you do?

35 A. After that I came out to the porch area here, and by that time there was quite a bit of milling around the area and I noticed members were securing the perimeter of the area. I then left

Sgt. Ouellette - Direct

the porch area here, went down the sidewalk and along the front of the residence.

5 Q. O.K., would you refer the jurors, please, to photograph 2?

A. In photograph 2 I would proceed along that small walkway right along the side of the residence and then I came right across the front of it.

10 Q. Right across the front of the house there?

A. Right across the front of the house.

Q. On the lawn?

A. On the lawn, and it led down to the ladder that you see in photograph 2.

15 Q. What did you do there?

A. I then proceeded up the ladder and I went to the rooftop and I looked at the patio door. I was there.

20 Q. What if anything did you notice about the patio door?

A. I didn't notice anything unusual, I didn't notice that the lock was broken or anything, I didn't even try the door. I just looked at it, I looked at the immediate area, then I went down the ladder again and I took the same path across the front of the residence and I went back to the rear porch area again entering the southeast side, and I stayed right in this area here.

25 Q. O.K., in photograph #2 there appears to be something with a yellow covering and a white or plastic kind of covering on the other side of the driveway away from the ladder. Did you at any time walk in that particular area?

A. No, I did not.

35 Q. O.K., you went to that porch. What if anything

Sgt. Ouellette - Direct

did you do at the porch?

5 A. O.K., I waited at the porch area there and
controlled the area; in other words, made sure
that no one would go into the residence, and I
just waited in that area for help to arrive, as I
mentioned earlier, either our members from our
10 General Investigation Section or our Ident.
Services. Now, at approximately 8:45 p.m. I met
with Dr. Blanchard and a coroner, Jim Muck, and
after a brief conversation with them I led them
into the residence.

15 Q. O.K., what if any instructions did you give to
Dr. Blanchard and to Jim Muck?

A. I informed them to follow me as closely as
possible in the steps that I would take and not to
touch anything, not to touch any of the walls or
any of the furniture or anything on the way in,
20 so they followed me again exactly the same way
that I went in the first way and the same way that
I came out, into the dining room area, into this
area there. I didn't take them to this area at
all whatsoever, we stayed in the small hall, we
25 turned left and went up the hall and came to the
door entrance here to the office.

Q. What happened when you arrived at the entrance to
the office with the coroner and with the doctor?

A. O.K., the doctor wanted to go in to look and see
30 if this person were - to pronounce him dead, so at
that time I informed the coroner that he would
stay there, I wanted him to stay exactly in the
hallway and not touch anything, and that the
doctor would go in, so the doctor proceeded in but
35 before he went in I instructed him again to stay

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5 on the righthand side and I told him to make sure
he goes to the body and not touch anything in that
area, paperwork or anything like that that was on
the floor, so he proceeded that way to the body.

Q. Were you watching him when he did so?

A. I was watching him, yes.

10 Q. That particular paper that we had described before
where it had the cord from the drill around it,
could you tell what -

A. He would stay to the right, I told him to stay to
the right of that, stay to the right of the papers
or anything like that.

15 Q. Did you notice whether or not he stepped on it?

A. No, he did not. As he went in to the body he
said, "I need somehelp". At that time I
instructed again Mr. Muckto stay in that area and
I went in the same way.

20 I helped Dr. Blanchard lift the body so he
could get his stethoscope underneath to try to get
a pulse and then we proceeded - after he was done
we proceeded back the same way out to the hallway
here, and then they followed me again all the way
25 out through this area here and I instructed them
again to be careful where they walked, through the
dining room area, out to the kitchen here staying
close to our left and on the way out and then out
onto the porch.

30 Q. And when you lifted the body or helped the doctor
could you just clarify in the jury's mind exactly
what you did with the body and what position you
put it back in?

A. I just grabbed it by the belt, by the belt area
35 and just lifted to the side so he could get one

Sgt. Ouellette - Direct

hand underneath with a stethoscope.

Q. And then what did you do?

5 A. Just lowered the body down the same way it was and then we left.

Q. O.K., what if any notations did you make with respect to the people who entered, particularly Dr. Blanchard?

10 A. Dr. Blanchard, when we got outside again to the rear entrance here into the porch area, I asked him what type of footwear he was wearing. My chief concern was because he was in the area here of the office where he was -

15 Q. Did you take a note of his footwear?

A. Yes, I did.

Q. What footwear was he wearing?

A. He was wearing a Clark shoe and the underneath of it, it was almost like four lines like tic-tac-toe, and in the upper right corner of that there were two small circles. That was the footwear he was wearing.

Q. And would you describe for the jury what kind of footwear you were wearing and what if any pattern?

25 A. I was wearing the R.C.M.P. issue ankle boot and it has a cork sole with no - it's just a smooth sole, there's nothing underneath it, and -

Q. No tread design?

A. There's no tread design at all, and the heel of it has like four dots in it, or I should say circles, I'm sorry, four circles in the heel.

Q. Was that a new boot or an old boot?

A. No, I've been around a long while, they're quite old.

35 THE COURT: What size?

44

Sgt. Ouellette - Cross

A. Size 11, My Lord, 11D.

MR. WALSH: I have no further questions.

5 THE COURT: Now, cross-examination, Mr. Furlotte?

CROSS-EXAMINATION BY MR. FURLOTTE:

10 Q. Photograph #53, I assume it's on the righthand side of the body that you and Dr. Blanchard walked?

A. Yes, we did.

Q. Not on the lefthand side at all?

A. Not on the lefthand side at all.

15 Q. Now, it appears that there are some foot impressions in there on the righthand side. Were they there before you and Dr. Blanchard went in?

A. Which ones are you referring to, at this area here?

Q. No, on the righthand side.

20 A. On the righthand side here?

Q. Right there just below the heel and one up across from the ankle on the righthand side.

25 A. The ones that I marked in my mind were the ones that had a type of a red substance which appeared to be blood and that's what appeared to me very -

Q. That's what it appeared to you?

A. That's what it appeared to me, yes.

30 Q. So those ones I pointed out to you, you don't know if those were yours or Dr. Blanchard's or somebody else's?

35 A. Well, they couldn't be mine because I wasn't wearing that type of shoe, and if I could - it's hard to tell, I could see a couple of lines there, it could be a shoe mark. I'm not an expert in that area, I couldn't tell what exactly it is.

- Q. Now, you mentioned when you went into the living room, first went into the living room, the T.V. was on?
- 5 A. Yes, it was.
- Q. And was there any lights on in the living room besides -
- A. The only light that was in the living room was as a result of the T.V. and the flashing little light on the VCR.
- 10 Q. Now, when you first observed the body did you notice that the - anything that the left arm had been turned up or -
- 15 A. Yes, I noted the hand was turned back.
- Q. Back?
- A. Yes, like if a person would be laying flat the left hand was turned up and backwards like this, yes.
- 20 Q. As in #53?
- A. Yes, that is correct.
- MR. FURLOTTE: I have no further questions.
- THE COURT: Re-examination?
- MR. WALSH: No, My Lord.
- 25 THE COURT: Just one question, was there gyproc on top of the body?
- A. In what photo is that?
- THE COURT: 53.
- A. Yes, there was, My Lord, it was exactly like this when I arrived at the scene.
- 30 THE COURT: Yes, was it under the body, though, under the legs?
- A. The body was exactly lying the way it was there with the clothes being tainted with some kind of a - like gyproc or whatever it was, dust or
- 35

whatever.

THE COURT: Thank you very much. Any questions arising
5 out of those?

MR. FURLOTTE: Just one, My Lord. In #54 it looks like
when you turned the body over there was gyproc on
the front of the pants?

A. I don't know, I wasn't there when the body was
10 turned over.

Q. So you don't know how that gyproc got on the front
of the pants?

A. No, I don't know.

Q. Or you don't know how the gyproc got on where the
15 body was laying originally from 53 to 54?

A. When I went in the body was laying exactly the way
it was in 53 and that's the way I - when I left
that's the way the body was as well.

Q. But you stated you turned the body over a little
20 bit so that Dr. Blanchard could get the stetho-
scope on the chest area?

A. No, I just lifted the body so the doctor could get
the stethoscope but just enough so that he could
slide his hand underneath. It wasn't moved around
25 or -

Q. So you didn't know if there was gyproc underneath
the body at that time?

A. I didn't know, no, I didn't make that observation.

MR. FURLOTTE: That's all, My Lord.

THE COURT: Re-examination on that?

MR. WALSH: No, My Lord. Thank you.

THE COURT: Thank you very much, Sergeant. You're not
required back?

MR. WALSH: No, he's excused, My Lord.

S/Sgt. Ratelle - Direct

STAFF SERGEANT RICHARD RATELLE, called as a witness, being duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. WALSH:

Q. Would you give the Court your name, please, and your occupation?

A. My name is Richard Ratelle. I'm employed with the R.C.M.P. I'm presently stationed in Fredericton and I've been so employed for 24 years.

10 Q. And your rank?

A. Staff Sergeant.

Q. And would you tell the Court, please, in your own words, your involvement in this matter beginning with the date, the time and the place?

15 A. Yes, the 16th of November, 1989, at 23:49, Corporal Phil Doiron and myself arrived at the rectory of the Catholic church in Chatham Head, New Brunswick. We proceeded to a porch on the side of the residence and we met Constable Pierre Lefebvre who was standing on the porch. Shortly after Staff Sergeant Dino Gatto came out of the residence, he's a member of the Forensic Ident. in Fredericton whom I know, and gave us a

20

25 briefing.

Q. Without getting into the details of that briefing what if anything did you do?

A. As a result of this conversation I took a position to assume site security in front of the residence and to cover, I believe, the north and east side of the residence.

30 Q. What was your main duties at that particular location?

A. Site security.

35 Q. And would you explain to the jury what you mean by

site security?

- 5 A. It was to cover - observe all possible entrances to the residence and not to let anybody get in this residence. The perimeter had been already established with a yellow tape so our job was to observe from midnight till the next morning, 8:05 in the morning, all entrances to the residence.
- 10 Q. And you stayed there during that time?
- A. I stayed there till 8:05 in the morning.
- Q. And who did you turn it over to, if anyone?
- A. To Constable Lessard. He's now a corporal.
- 15 Q. Would you look at Exhibit P-59(5), please? Do you recognize the building in that area?
- A. Yes. On the righthand side is the rectory.
- Q. You're pointing to the small -
- A. The small building to the right of the church, and there's an attached garage to it. My position then was in a police vehicle in front of the lawn of this police vehicle near the tape, where there's kind of a perimeter with yellow tape, so that I could -
- 20 Q. Was anyone with you at that time, did you have a partner?
- 25 A. Not at that time.
- Q. Do you know if there was any other police officers at that time doing scene security during the same time you were?
- 30 A. Corporal Phil Doiron was covering the other side of the rectory.
- Q. Which side of the rectory would he be covering?
- A. He would have been at the back near the church, at the back here where you see this police car, so that he could observe this side and this side.
- 35

- Q. You're referring to the police car that would be farthest to the end of the church, that's the general location?
- 5 A. That's the general location, yes.
- Q. And during that time was there to your knowledge any unauthorized entry to that particular residence?
- 10 A. No, none whatsoever.
- Q. Did you have occasion to return to that particular location?
- A. No, I didn't. I left at 8:05 in the morning when I was replaced by Constable Lessard.
- 15 Q. Did you have any occasion to construct any barricades of any sort during the time you were on?
- A. I didn't construct a barricade, I just - between six and seven Mr. Palmer from the Department of Transport drove onto the main road and unloaded some wooden barricades, regular barricades, so I just helped him by holding one side when he was putting the crossbar.
- 20 Q. And where were the barricades put?
- 25 A. Alongside the sidewalk or the roadway, at the end of the parking lot towards the road, the main road.
- Q. You're referring in this particular direction here?
- 30 A. Yes.
- Q. Are these the barricades actually shown in that photograph?
- A. Yes.
- Q. And that would be at the end of the parking lot?
- 35 A. At the end of the parking lot.

Q. Where it meets the road?

A. Yes.

5 MR. WALSH: I have no further questions. Thank you.

THE COURT: Cross-examination, Mr. Furlotte?

MR. FURLOTTE: I have no questions.

THE COURT: Thank you very much, Staff Sergeant Ratelle.

10 Perhaps we should have a break now for fifteen
minutes.

MR. WALSH: Fine, My Lord.

(BRIEF RECESS - COURT RESUMED AT 11:20 a.m.)

(ACCUSED IN DOCK.)

15 (JURY CALLED - ALL PRESENT.)

THE COURT: Another witness, Mr. Walsh?

20 CORPORAL PHIL DOIRON, called as a witness, being
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WALSH:

Q. Would you give the Court your name, please, and
your occupation?

25 A. Yes, my name is Corporal Phil Doiron, I'm a
regular member of the Royal Canadian Mounted
Police presently stationed in Woodstock C. & E.,
I was so employed November, 1989.

Q. Would you tell the Court and the jury, please,
beginning with the date, the time and the place
30 your involvement?

A. On the 16th day of November, 1989, I was directed
to go to the Catholic church in Chatham Head. I
did so, arriving at 11:49. Upon my arrival I went
to the east side of the church - or between the
35 church and the rectory, parked. Upon exiting my

- 5 vehicle I met a group of Royal Canadian Mounted Police members. I was directed by Staff Sergeant Gatto of Fredericton Identification Section to provide site security from midnight until 8:00 a.m.
- Q. And did you in fact provide site security during that period of time?
- 10 A. I did.
- Q. And from what location?
- A. I parked my police car so I had a view of the east and -
- Q. I'll show you a photograph, perhaps it would be easier, P-59(5).
- 15 A. Yes, my police car was parked between the rectory and the church in this location, approximately here.
- Q. O.K., you're referring to where the police car would be, the police car that's shown there closest to the church?
- 20 A. Yes.
- Q. And that's the approximate location you would have been in?
- 25 A. Yes.
- Q. And what parts of the rectory would you have a view of from that location?
- A. Of the east side and the south side, this side and this side.
- 30 Q. You're talking about the rear of the rectory and the side between the church?
- A. Yes.
- Q. During that period of time was there any unauthorized entry into that particular rectory?
- 35 A. There was not.

Q. And did you turn your particular aspect over to anyone?

5 A. Yes, at approximately 8:00 a.m. on the 17th I turned it over to Constable Houle who was the exhibit man.

MR. WALSH: Thank you, I have nothing further.

THE COURT: Any cross-examination?

10 MR. FURLOTTE: I have no questions.

THE COURT: Thank you very much, Corporal Doiron, you're excused.

MR. WALSH: My Lord, I recall Corporal Rosaire Girard.

15 CORPORAL ROSAIRE GIRARD, called as a witness, having already been sworn, testified as follows:

DIRECT EXAMINATION BY MR. WALSH:

Q. You're Corporal Rosaire Girard, you're a member of the Royal Canadian Mounted Police and you're
20 presently stationed in Newcastle, is that correct?

A. Yes, I am.

Q. And you were so stationed in November of 1989, is that correct?

A. Yes, I was.

25 Q. Would you tell the jury, please, in your own words your involvement in this matter beginning with the date, the time and the place?

A. On the 17th of November, 1989, around eight o'clock in the morning, I proceeded to Chatham
30 Head in the County of Northumberland, Province of New Brunswick, to take over scene security.

Q. And did you in fact take scene security over from someone?

A. Yes, I did.

35 Q. From who?

Cpl. Girard - Direct

- A. From Corporal Doiron and Staff Ratelle.
- Q. And Staff Sergeant Ratelle?
- 5 A. Staff Sergeant Ratelle, yes.
- Q. And what if anything did you do to maintain scene security?
- A. I was positioned near the main highway just to keep the public from entering the parking lot.
- 10 Q. And how long did you stay in that particular maintaining scene security?
- A. From eight in the morning until eight at night.
- Q. And during that period of time was there any unauthorized entry into the rectory?
- 15 A. No, there wasn't.
- Q. And the position you would have taken in relation to Exhibit P-59(5)?
- A. It would be right in the middle of the parking lot, almost exactly where that car is.
- 20 Q. O.K., fine. There's a blue with a white door police car approximately in the centre of the parking lot?
- A. Approximately the same spot as I was, yes.
- Q. Towards the front of the rectory, between the
- 25 rectory and the road?
- A. That's right.
- Q. I have no further questions. Excuse me, who did you turn it over to, your scene security over to?
- A. Constable Davis and Constable LeBlanc, I believe.
- 30 On the next day I was back there again.
- Q. What time?
- A. On the 18th of November, 1989, at eight o'clock in the morning I was back there again.
- Q. For how long?
- 35 A. Until eight o'clock at night.

Q. And what position did you take -

5 A. This time I was parked between the rectory and the church.

Q. Covering what sections?

A. Covering where the entrance door was on the side of the rectory.

10 Q. Was there any unauthorized entry into the particular rectory during that period of time?

A. No, there wasn't. There was some Ident. members in the house at that time.

15 Q. And did you turn the scene over to anyone on that day?

A. Constable Davis and Constable Rivard, I believe.

MR. WALSH: I have no further questions.

MP. FURLOTTE: I have no questions.

20 THE COURT: Thank you very much, Constable Girard. I believe that's your last appearance so you're excused.

CORPORAL JEAN LESSARD, called as a witness, being duly sworn, testified as follows:

25 DIRECT EXAMINATION BY MR. WALSH:

Q. Would you give the Court your name and your occupation, please?

30 A. My name is Joseph Daniel Lessard, I'm a member of the Royal Canadian Mounted Police presently stationed in Newcastle.

Q. And would you tell the jury, please, in your own words, your involvement in this matter beginning with the date, the time and the place?

35 A. On the morning of the 17th of November, 1989, I was instructed to take duties as site security at

Cpl. Lessard - Direct

5 the church in Chatham Head, scene of a crime. I
proceeded to the scene in company of Constable
Houle and arrived at the scene at 8:05, taking
over from Sergeant Ratelle and Corporal Doiron.
I took position between the rectory and the
church. That would be on the south side of the
rectory. My position allowed me to have a view of
10 the east side and of the south side of the
rectory.

Q. And the south side being the rear of the rectory?

A. That's correct.

Q. And how long did you stay there?

15 A. I stayed there from the hours of 8:05 to 16:15
hours but three times I left the scene to return.
I may have to indicate here that I was accompanied
at that time by Constable Randy Walsh, who was
with me and who was left behind at that specific
20 position while I left.

Q. And would you have left for any appreciable
periods of time?

A. I think the longer I left here is three-quarters
of an hour for lunch.

25 Q. For lunch?

A. For lunch.

Q. And did you turn the scene over to anyone?

A. I did not. When I left Constable Walsh was still
at the post there in position at that time, and I
30 just left, was instructed to go and rest for the
midnight shift.

Q. Was there anyone else there other than Constable
Walsh and yourself maintaining security in any
other part of the property?

35 A. Well, Corporal Girard was positioned at the front

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of the rectory there by the main road.

Q. And who did you turn your duties over to? You say
5 that you left with Constable Walsh there?

A. No, I left Constable Walsh behind. I left all by
myself. Constable Walsh was left behind.

Q. Did you have occasion to return after that?

A. I did not.

10 MR. WALSH: I have no further questions, My Lord.

CROSS-EXAMINATION BY MR. FURLOTTE:

Q. Do you know if Constable Walsh is going to
testify for site security?

15 A. Pardon me?

Q. Do you know if Constable Walsh is going to be
testifying here today for site security?

A. I don't know if he's supposed to testify today.
I would assume he will testify.

20 MR. FURLOTTE: I have no further questions.

THE COURT: Thank you. Re-examination on that?

MR. WALSH: No, My Lord.

THE COURT: Thank you very much, Constable Lessard.

That's the end of you, I guess, you're excused.

25 MR. WALSH: I recall, My Lord, Constable Michel LeBlanc.

CONSTABLE MICHEL LeBLANC, called as a witness,
having already been sworn, testified as follows:

DIRECT EXAMINATION BY MR. WALSH:

30 Q. You're Constable Michel LeBlanc, you're a member
of the Royal Canadian Mounted Police, you're
presently stationed in Newcastle?

A. Presently stationed in Fredericton.

Q. Excuse me, but you were stationed in Newcastle in
35 November of 1989?

A. That's correct.

5 Q. And would you tell the jury, please, in your own words, your involvement in this matter beginning with the date, the time and the place?

10 A. Yes, My Lord and jurors, the 17th of November, 1989, according to instructions I received I was directed to the rectory of the Roman Catholic church in Chatham Head, Northumberland County, Province of New Brunswick, to fulfill my obligation as site security officer for the shift covering 8:00 p.m. until 8:00 a.m. the following morning of the 18th of November, 1989.

15 Q. Who did you replace?

A. I replaced Corporal Girard.

Q. And did you maintain site security during that period of time?

A. Yes, I did, positioned -

20 Q. From what location?

A. Positioned at the front of the church and rectory in the parking lot.

25 Q. And during that period of time was there any unauthorized entry into that particular - any of those premises, the church or the rectory?

A. No, there were not.

Q. And who did you turn your duties over to?

A. Again to Corporal Girard who relieved me at eight the following morning.

30 MR. WALSH: I have no further questions. Thank you, My Lord.

MR. FURLOTTE: I have no questions.

THE COURT: Thank you very much, Constable LeBlanc. I think that's the end of you, so you're excused.

Sgt. Theriault - Direct

SERGEANT ROBERT THERIAULT, called as a witness,
being duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. WALSH:

Q. Would you give the Court your name, please, and
your occupation?

A. Sergeant Robert Theriault, member of the Royal
Canadian Mounted Police and a peace officer
10 presently stationed headquarters Fredericton, New
Brunswick.

Q. And in November of 1989 you were stationed where?

A. In November, 1989, I was employed at the Newcastle
Detachment.

15 Q. And would you tell the jury, please, in your own
words, beginning with the date, the time and the
place, your involvement in this matter?

A. The 19th of November, 1989, I was directed to go
to the rectory, Roman Catholic rectory in Chatham
20 Head, and assume site security. My partner on
this occasion was Constable J. P. St. Laurent. We
arrived at the site approximately 8:00 a.m. Sunday
morning, replacing Constable Davis and Constable
Rivard. We stayed at the site until 8:00 p.m. the
25 same date where at that time we were again
replaced by Constable Davis and Rivard.

Q. Where did you position yourself during the period
of time that you were there?

A. The entire 12-hour shift we remained or the police
30 car remained in the position between the rectory
and the Catholic church.

Q. I see, and what about Constable St. Laurent, do
you know where he was during that time?

A. We remained together.

35 Q. Was there any unauthorized entry into the rectory

Cpl. St. Laurent - Direct

during that period of time?

A. No, there was not.

5 MR. WALSH: I have no further questions.

MR. FURLOTTE: I have no questions.

THE COURT: Thank you very much, then, Sergeant
Theriault. You're excused.

10 MR. WALSH: I recall Constable St. Laurent. He has
to be sworn, My Lord.

CONSTABLE J. P. ST. LAURENT, called as a witness,
being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WALSH:

15 Q. Would you give the Court your name, please, and
your occupation?

A. Jean Paul St. Laurent. I'm a member of the Royal
Canadian Mounted Police.

Q. And you're presently stationed where?

20 A. In Newcastle.

Q. And in November of 1989 where were you stationed?

A. In Newcastle.

Q. Would you tell the jury, please, in your own
words, your involvement in this matter beginning
25 with the date, the time and the place?

A. Yes, on November 18, 1989, I accompanied Corporal
Girard on site security from eight o'clock in the
morning to eight o'clock at night, and on the 19th
of November I accompanied Sergeant Theriault as
30 site security from eight o'clock in the morning to
eight o'clock at night.

Q. And during the time you were with Corporal Girard
where did you position yourself, where were you
maintaining security from?

35 A. We were positioned in the parking lot in between

Cst. Rivard - Direct

the rectory and the church.

Q. And when you were accompanying Sergeant Theriault?

5 A. The same thing.

Q. And during the period of time that you were there was there any unauthorized entry into the premises of the rectory?

A. No, My Lord, there weren't.

10 MR. WALSH: I have no further questions.

MR. FURLOTTE: I have no questions.

THE COURT: Thank you very much, Corporal St. Laurent, you're excused.

15 CONSTABLE YVON RIVARD, called as a witness, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WALSH:

Q. Would you give the Court your name, please, and your occupation?

20 A. My name is Joseph Edgar Yvon Richard, I'm a peace officer for the Royal Canadian Mounted Police engaged by that agency in March, 1989, and posted in Newcastle since October, 1989.

Q. And in November, 1989, you were stationed in Newcastle?

25 A. Yes, I was.

Q. Would you tell the jury, please, in your own words beginning with the date, the time and the place what involvement you had in this matter?

30 A. The 16th of November, 1989, after receiving a call at the detachment in Newcastle that a patrol was requested at the Chatham Head church myself and another member did that patrol at that church and where we did foot patrol around the rectory.

35 Q. Who was the member you were with?

Cst. Rivard - Direct

- A. Constable LaFontaine.
- Q. I see, and what happened?
- 5 A. We met with a Mr. Verriker who was the one had the key at that time and we went at the back door and opened that door and found the scene like it was described before.
- Q. Did you enter the premises at all other than the porch?
- 10 A. No.
- Q. O.K., did you have occasion to do anything later that evening?
- A. Yes, I was also assigned to the security of that scene on the night of the 18th and the 19th from 8:00 p.m. to 8:00 a.m.
- 15 Q. O.K., before we left there on the 16th after you found the premises did you have occasion to do anything that night in terms of scene security or anything of that nature?
- 20 A. Well, yes, I did, like, security at that scene that night. I also put some tape around the - do a perimeter around the scene with Constable LaFontaine.
- 25 Q. And how long did you stay there that night?
- A. We stayed there from 19:27 to 20:47 exactly.
- Q. And during that period of time was there any unauthorized entry into the rectory?
- A. No, there wasn't.
- 30 Q. O.K., would you go ahead, you had occasion to go back to that particular scene again, you said?
- A. Yes, I was, for security.
- Q. And what was the date, I'm sorry?
- A. On the 18th of November, 1989, at 8:00 p.m. to 8:00 a.m. That night I replaced Corporal Girard
- 35

Cst. Rivard - Direct

and Constable St. Laurent.

Q. And where did you maintain security from?

5 A. Well, we weren't specially at a specific place,
like, we were on foot patrol around the house all
night.

Q. And during that period of time was there any
unauthorized entry?

10 A. No, there wasn't.

Q. And did you have occasion to turn your duties over
to anyone?

A. Yes, it was turned over at 8:00 a.m. that day to
Constable St. Laurent and Corporal Theriault who
15 took over from us the same morning.

Q. And did you have occasion to return after that?

A. Yes, it was returned to Constable Dugas and
Constable Moore.

Q. And you finished at eight o'clock on the 18th?

20 A. On the 19th.

MR. WALSH: On the 19th, O.K. I have nothing further, My
Lord.

MR. FURLOTTE: No questions.

THE COURT: Thank you very much, Constable Rivard, and
25 you're excused.

CONSTABLE LINDA DUGAS, called as a witness, being
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WALSH:

30 Q. Would you give the Court your name, please, and
your occupation?

A. Marie Linda Dugas, I'm a member of the Royal
Canadian Mounted Police presently stationed in
Newcastle, New Brunswick.

35 Q. And would you tell the jury, please, you were so

stationed in November of 1989?

A. Yes, I was.

5 Q. Would you tell the jury, please, your involvement in this matter, this particular aspect of it, beginning with the date, the time and the place?

A. On the morning of the 20th of November, 1989, I was requested to take over scene security at the
10 Chatham Head Roman Catholic rectory.

Q. And did you do so, and if so, between what periods of time?

A. I took over - Constable Don Moore was my partner - we took over scene security from eight o'clock in
15 the morning until four o'clock in the afternoon.

Q. Who did you take it over from?

A. Constable Davis and Constable Rivard.

Q. And during the period of time that you were maintaining scene security was there any unauthorized entry into the premises?
20

A. No, there wasn't.

Q. And who did you turn your duties over to?

A. I was the last R.C.M.P. member to do security there, then it was turned over to Jardine
25 Security but the R.C.M.P. was done with the scene at that time.

Q. The R.C.M.P. was completed with the scene at the end of your shift?

A. For security purposes there was only Sergeant Bob
30 Hayward inside working on the safe.

MR. WALSH: I have no further questions.

MR. FURLOTTE: I have no questions.

THE COURT: Thank you very much, Constable Dugas, that's all for you. You're excused.

35 MR. WALSH: Excuse me, My Lord, she's being stood aside.

THE COURT: Oh, stood aside, sorry.

MR. WALSH: Yes, I think it's noted on the indictment.

5 Call Constable Don Moore.

CONSTABLE DONALD MOORE, called as a witness, being
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WALSH:

10 Q. Would you give the Court your name and occupation,
please?

A. My full name is Joseph Claude Donald Moore. I'm a
peace officer with the Royal Canadian Mounted
Police.

15 Q. And in November of 1989 were you stationed in
Newcastle?

A. Yes, I was.

Q. And would you tell the jury, please, in your own
words, your involvement in this matter beginning
with the date, the time and the place?

20 A. On the 20th of November, 1989, I was instructed to
go to the Chatham Head rectory to attend to site
security with Constable Linda Dugas.

Q. And did you so attend?

25 A. Yes, I did.

Q. And who did you replace, if anyone?

A. I replaced Constables Rivard and Davis.

Q. And did you maintain scene security there?

A. Yes, I did.

30 Q. For what period of time?

A. From eight o'clock in the morning until approxi-
mately one o'clock in the afternoon.

Q. And during that period of time was there any
unauthorized entry to those premises?

35 A. No, there wasn't.

65

Father Sullivan - Direct

Q. And who did you turn your duties over to?

5 A. I left the scene at one o'clock and I have never returned after that. Constable Dugas stayed at the scene.

MR. WALSH: I have no further questions, My Lord. Thank you.

MR. FURLOTTE: I have no questions.

10 THE COURT: Thank you, Constable Moore, and you're excused.

MR. ALLMAN: My Lord, we're going to move on in the witness list. We have a number of civilian witnesses who've been waiting quite a while to get on and I'd like to get them finished this week.

15

THE COURT: Fine, we've got about 45 minutes.

20 FATHER LEO SULLIVAN, called as a witness, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ALLMAN:

Q. What is your name, please?

A. Father Leo Sullivan.

Q. And where do you live, Father Sullivan?

25 A. As of August 1st I'm the pastor of St. Michael's Church in Chatham.

Q. In November, 1989, where were you living then?

A. I was the pastor of St. Patrick's in Nelson-Miramichi.

30 Q. Were you acquainted with Father James Smith?

A. Yes, I was.

Q. How long had you known him?

A. I've known Father most of my life. I was four years as pastor of St. Patrick's and I knew him quite well during that time when the neighbouring

35

parish.

Q. When did you last meet Father Smith?

5 A. That would be on Wednesday, November 15th.

Q. 1989?

A. Exactly.

Q. Under what circumstances?

A. Well, we were invited to visit a mutual friend for
10 lunch and which we did, and we arrived there at
around noon time for lunch and then immediately
around two o'clock we left and he had plans to
visit the hospital, Miramichi Hospital in
Newcastle. I had left my car at the rectory in
15 Newcastle and I left Father around between two and
three o'clock and he proceeded to the hospital and
that's the last contact I had with Father.

Q. On the 16th did you have occasion to visit the
rectory where Father Smith resided?

20 A. Yes, after supper, around 7:30, I received a phone
call from a neighbouring priest informing me that
he was informed that possibly Father was murdered
and that if I would proceed to the church to
administer the last rites of the church.

25 Q. When you got to the church and the rectory which,
as we know, are close together, who did you find
there?

A. The whole area was cordoned off and I was met by a
member of the R.C.M.P. I asked if it was possible
30 to enter the rectory to administer the last rites.
He informed me because of the nature of the events
that no one was permitted to enter the building
but if I could wait, with time I could receive
that permission. I asked permission if I could go
35 to the church into the sacristy which I proceeded,

Father Sullivan - Direct

- 5 and I would say several hours passed and then I was informed that I could then enter the rectory, which I did.
- Q. And I presume you did in fact go into the rectory?
- A. Yes, I did.
- Q. In the course of your entry into and travelling through the rectory what if any precautions were you taking?
- 10 A. I was asked to follow immediately behind and not to touch anything if possible and to follow his directions, which I did.
- Q. Who were you following immediately behind and whose directions were you following?
- 15 A. It was a member of the R.C.M.P., I'm not sure of names.
- Q. And did you eventually arrive at a room in which you could see a body?
- 20 A. Yes, I went to the office and he asked me if possible if I didn't have to enter the room to remain outside, which I respected, and I just at the entrance to the office recited the prayers of the church.
- 25 Q. And you didn't go into the office itself?
- A. No, I did not go into the office.
- Q. Were you able from that location to identify who the body was?
- A. Yes, I was.
- 30 Q. And who was it?
- A. It was Father Smith.
- MR. ALLMAN: Thank you, Father.
- THE COURT: Cross-examination?
- MR. FURLOTTE: I have no questions.
- 35 THE COURT: Thank you very much, Father Sullivan, and

Joseph Pineau - Direct

you're excused, or you may stay if you wish.

Thank you.

5

JOSEPH PINEAU, called as a witness, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ALLMAN:

- Q. What is your name, please?
- 10 A. Joseph Pineau.
- Q. What town do you live in, Mr. Pineau?
- A. Pardon me?
- Q. Where do you live, what town or city?
- A. 8 Adams Avenue in Newcastle.
- 15 Q. How long have you lived in that part of the world?
- A. In '89 it would be about ten, twelve years.
- Q. Did you know Father James Smith?
- A. I did.
- 20 Q. Do you remember the day that the discovery was made of what had happened to Father Smith?
- A. It was a Thursday.
- Q. Do you remember the day? I mean I'm not asking the date, just do you remember the fact?
- 25 A. Yes, sorry.
- Q. Do you remember the evening before that?
- A. I do.
- Q. Where were you that evening?
- A. I was at the Miramichi Hospital in Newcastle.
- 30 Q. And who visited you on that evening?
- A. Father Smith.
- Q. About what time would Father Smith have made his hospital visit?
- A. It was about 4:30, quarter to five.
- 35 Q. And about what time would he have left?

Joseph Pineau - Direct

- A. About - no more than 5:30, probably.
- Q. I'm sorry?
- 5 A. Five-thirty.
- Q. Were you the only person he visited or did he have other people to visit?
- A. No, he came in to see me and he was talking to the fellow next-door, or next bed, like. He stayed in the room roughly 15, 20 minutes.
- 10 Q. Do you know or did you know in past years Allan Joseph Legere?
- A. I did.
- Q. What time frame, and I'm not asking you for exact dates, but roughly speaking when would you have known Mr. Legere?
- 15 A. I've known him pretty well most of my life, going through school and that.
- Q. Pretty much most of your life where have you lived?
- 20 A. In Chatham Head.
- Q. Pretty much most of your life where to your knowledge has Mr. Legere lived?
- A. In Chatham Head at the time that I knew him or -
- 25 Q. Do you know whereabouts specifically?
- A. I couldn't - no, I don't really know exactly the house that he lived in. It was down Ferry Road, or in Verdun.
- Q. Ferry Road on Chatham Head?
- 30 A. In Verdun, like, they call it Verdun.
- Q. How do you spell that?
- A. Oh -
- Q. No, it doesn't matter.
- THE COURT: What did you call it, Verdun?
- 35 A. Verdun, yes, they call that Verdun, Chatham Head.

THE COURT: That's a little local district?

A. Yes, just down below the church area there.

5 MR. ALLMAN: Thank you.

THE COURT: Cross-examination, Mr. Furlotte?

CROSS-EXAMINATION BY MR. FURLOTTE:

10 Q. Mr. Pineau, you're not sure which day it was that
Father Smith went to visit you in the hospital -

A. Oh, yes, it was the -

Q. - except that it was the day before that his body
was found?

15 A. Right, the night - O.K., it would be November
15th. I knew about the accident the 16th.

Q. O.K., but you don't know if it's a Wednesday or
a Thursday or a Tuesday?

A. It was Wednesday evening.

Q. It was a Wednesday evening?

20 A. Yes.

Q. Did Father Smith tell you he had a meeting with
somebody else at seven o'clock?

25 A. He didn't say it to me directly. I think he -
when he was talking to the fellow next bed I
thought he mentioned something about having to go
to a meeting, but I couldn't say - I can't say for
sure if - like I say, he wasn't talking directly
to me at the time. It's just I overheard, like.

30 Q. O.K. Did you understand whether the meeting was
going to be at the rectory or someplace else?

A. No, I have no idea.

Q. And you don't know who that meeting was with?

A. No. No.

MR. FURLOTTE: I have no further questions.

35 THE COURT: Re-examination?

MR. ALLMAN: No, no re-examination.

THE COURT: You perhaps don't know this, was he right-
5 handed or lefthanded?

A. I couldn't say for sure, no.

THE COURT: O.K. Thank you very much.

10 VINCENT PINEAU, called as a witness, being duly
sworn, testified as follows:

DIRECT EXAMINATION BY MR. ALLMAN:

Q. What's your name, please?

A. Vince Pineau.

Q. And where do you live, Mr. Pineau?

15 A. 413 Main Street, Chatham Head.

Q. And did you know Father James Smith?

A. Yes, I did.

Q. How did you know him?

A. Well, when he arrived in Chatham Head I was only
20 approximately eleven years old and I was always
going there asking for a job, something to do,
because I was always active. Anyway, he said to
me, "Would you mind joining the altar boys",
because we were short, so I said, "Sure, that
25 would be great", and that's where I -

Q. That's how you first got to know him?

A. That's right.

Q. In later years did you acquire a role or a job
with Father Smith?

30 A. More or less. He was depending more or less on me
doing odd jobs, different things, because he was
the type of person that he wanted to, you know,
make sure that there was only one person that he
could trust, more or less, because he was the type
35 of person that didn't like people - too much of a

crowd, because it was his way of doing things.

5 Q. So what sort of things would you do for him over the years?

A. Over the years I would be - he would have me doing - serving mass, serving funerals, taking care of different things like this, and maintaining grounds, lights, different things, raking and shovelling and different things like this.

10 Q. So any odd jobs that were required?

A. Any old jobs, yes.

15 Q. Did you for the purpose of doing this sort of work have any keys?

A. Yes, I did.

Q. What keys did you have?

A. The keys I had were one key for the outside garage plus I had the keys for the actual church.

20 Q. What about getting into the house. Could you get into the house with a key?

A. No, I couldn't.

Q. How would you have to get into the house if you wanted to?

25 A. The only way I would get into the house, if he would ask me to get in to, you know, help him with different things, do the maintenance, the cleaning, different things.

30 Q. Can you tell us anything about any money that might be in the house, church funds or other funds?

A. Yes, he had a little bit of petty cash in the safe and there was some money laying around different things. Like, you know, I know myself I used to give him some money that if he would help me out

Vincent Pineau - Direct

- in different ways I would return, and I always gave him in round figures, fifties, hundreds, whatever the amount was, and if he was in a hurry he would put it in on his desk or something and then return and put it in the safe.
- 5
- Q. What about the money that would be taken at collection, services?
- 10 A. The collection was collected on Sunday morning and Saturday evening at Chatham Head church plus the Barnaby church, and he would bring that over to the safe, like, in the house, and then -
- Q. When would he bank it?
- 15 A. Pardon me?
- Q. When would he bank it, any particular time?
- A. He would bank the collection usually the next banking day.
- Q. Would there be any other collections ever apart from those?
- 20 A. No.
- Q. I take it you would have been in the rectory on a number of occasions?
- A. That's true.
- 25 Q. Do you know if Father Smith kept any alcohol in the rectory?
- A. Not have, no, not at all.
- Q. He didn't keep any at all?
- A. Not to my notice.
- 30 Q. In particular what about a brand called Bacardi Breezer? Have you ever seen any of that kind of bottle in the house?
- A. I don't know, I - no. No, I can't really recall.
- Q. What sort of a person was Father Smith in terms of punctuality and reliability?
- 35

Vincent Pineau - Direct

A. Well, he usually - if anything was planned he was the type of person that was always on time, because I remember one time there was a woman almost near death and this was like a Wednesday evening or in the evening masses. Anyway, he received the call approximately about six-thirty that this woman was almost to death and I seen him go right to the woman across the field, he wouldn't - you know, he wouldn't have to take the car because the woman lived nearby so he would run up to the house, and he stayed with that woman until approximately five minutes to seven and then at that point I figured there was no mass. He never said anything, he just went and done what he had to do, and then he returned back to the mass at approximately five to seven and he did do the mass and he mentioned to me that there was a woman that was near death and he had to be there. That is usually the only time he would ever leave a place. You know, if he had something planned he said it because, like I say, he never changed anything because that's the way he was, everything was by time.

Q. I want to ask you some questions about objects in the house. In picture 52 in bundle P-60, or photograph P-60 if you'll look at 52 -

A. Oh, yes, O.K.

Q. - there are a number of items that you can see there, there's a drill.

A. Yes.

Q. Do you know if there was a drill anything like that in the house?

A. Yes, there was.

75

Vincent Pineau - Direct

- Q. And an axe or what appears to be part of an axe?
- A. Yes.
- 5 Q. What about that?
- A. I had noticed those, too.
- Q. If you look over in 51, again I think you can see an axe and -
- A. A pick.
- 10 Q. A pick-axe?
- A. Yes.
- Q. A pick, is that right?
- A. Yes.
- Q. Again, what can you tell us about that?
- 15 A. I'm the one that purchased all those items.
- Q. So there would be equipment of that kind in the house?
- A. Well, in the garage.
- Q. In the garage?
- 20 A. Yes.
- Q. That was the next question I was going to ask you, where was it normally kept. O.K., another question about the house. If you look at photograph #2 in the same bundle there's a ladder,
- 25 looks red or brown on that picture, up against the garage.
- A. Yes.
- Q. Is that part of the equipment of the house or not?
- A. No, it isn't.
- 30 Q. Had you ever seen that ladder there on any other occasion?
- A. The only time I've seen that ladder is when the R.C.M.P. asked me to identify the ladder.
- Q. Prior to that you you'd never seen -
- 35 A. Prior to that, no.

- Q. Do you know how it got to be there?
- A. Not to my knowledge. I -
- 5 Q. I don't want you to guess. If you don't know,
just say so.
- A. No.
- Q. If you look at the back of the house; I understand
that there was some sort of security system or
10 alarm system?
- A. Yes, there was.
- Q. Would photograph 3 be a good one to look at?
- A. Yes, it is.
- Q. Where was the security system operating?
- 15 A. Approximately right behind the metal - well, the
screen door on the bottom, and the beam went right
across to the end of the garage where you can
see - more or less it's kind of like a dark item
in the corner of the garage. The reason why he
20 put that in was over previous years the house was
broken in before at different times, and that's
more or less why he had that put in there because
it was quite dark at those other days, you know.
- Q. Where would the beam of the security system run
25 from to?
- A. It run from approximately from the -
- Q. Take my pen and put where it begins.
- A. Right where the bottom - not the bottom, like
where the top of the step behind the door where
30 it shut, like where it was connected to the house?
- Q. Hold it, I'm going to show the judge and the
defence counsel and the jury. He's indicating the
area where the bush is, My Lord.
- THE COURT: Yes.
- 35 Q. And it would run over to where?

Vincent Pineau - Direct

A. Over to the end of the garage at the corner where
you see a dark object in that corner of the -

5 MR. ALLMAN: He's pointing, My Lord, to that corner
there. Members of the jury, do you see where I'm
pointing? Was there any problem, annoyance,
inconvenience about that alarm system?

A. The only time the alarm was inconvenience was more
10 or less in the winter time, because you see, where
the hill went down where the steps are it created
like a wind - some type of wind, and every time it
was a strong wind, leaves, it would set off the
alarm because the height of the hill and every-
15 thing was approximately about the height of this.
When you were standing it was approximately about
here, when you're standing up to where the steps
were, so anybody could turn it - you know, anybody
could just set it off, actually. That's the
20 reason why it was inconvenient being there but
like I said earlier, it's because where it was
broken in there before and that's the way people
were getting in, by the patio door.

Q. If you went into the house through the other door
25 on the patio - or I'm sorry, no, if you went in
the rear entrance, the door that you can see most
clearly in #4.

A. Yes.

Q. Would that involve breaking the beam in any way?

30 A. Not at all.

Q. Do you know if that beam was on all the time, part
of the time, or what?

A. Usually when he turns that on is when he is gone,
when he's on a vacation or business or something
35 like that, but like I say, in the evening when he

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went to sleep he had the alarm on.

5 Q. What about during the evening when he's awake and
around the house doing evening things?

A. Not really.

Q. So the alarm might well not be on?

A. He usually - before he went to bed he usually
turned the alarm on.

10 Q. Can you tell me about the lights in the porch, the
back porch that we just looked at a moment ago on
pictures 3 and 4?

A. Yes.

15 Q. Would there be lighting inside that, underneath
the roof anywhere?

A. Yes, there would be. There was approximately
three lights. One was in front of the porch -
well, like where you're going in from the church,
there was one light there.

20 Q. Above the door?

A. Yes, there was.

Q. O.K., you were pointing to an area?

A. Probably you can see it better -

Q. I don't know if it's shown on the plan.

25 A. He had one light here, one light there, and here.

Q. What would be the arrangement or the system
regarding those lights coming on and off?

30 A. Well, the way he had it, he had it like on a
timer, and this timer was always left on, and so
what happens at approximately four o'clock,
approximately around four o'clock the lights would
go on, and they would stay on until approximately
about eleven o'clock, or I would say around eleven
o'clock, eleven, eleven o'clock, and this is when
35 the lights would go off because he had them set at

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- that time, and he would have no other lights on in the house when he went to sleep. He had them all off, there was no security lights or anything.
- 5
- Q. After the police had finished with their activities and duties in respect of the rectory did you have some work to do?
- A. Yes, I did.
- 10
- Q. What was that?
- A. I was approached by Father Sullivan to try to - actually, I volunteered to help because I felt being there for 20 years was more or less my duty to help out.
- 15
- Q. O.K., what specifically were you doing?
- A. I went in to clean the mess.
- Q. When you did that did you make any observations about the porch lights, the three that you talked about?
- 20
- A. Yes, I did. I mentioned to another person -
- Q. I'm sorry, we don't want to get into conversation, just tell us what you saw.
- A. Oh, I noticed the lights, the centre light in the middle and the one towards where the alarm was,
- 25
- Q. Was there still a bulb in there or -
- A. There were bulbs in there. Actually, when we approached the house we thought maybe the light just burnt, so I told the other person to turn the light on, to change the light bulb, and he just
- 30
- turned it, he said it was loose, so he turned it and it was on.
- Q. What about the third one? I think you say that there were three lights?
- 35
- A. Yes, which one do you mean?

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- Q. Well, tell us which two were unscrewed.
- A. O.K., the two were this one and this one.
- 5 Q. The one on the north porch and inside where it's the rear entrance?
- A. Yes, that's right.
- Q. What about the other one, the one to the south?
- A. The other one was all right.
- 10 Q. Just show Mr. Furlotte again which were unscrewed.
- A. The ones that were unscrewed when we approached the house first was this one.
- Q. Rear entrance?
- A. Yes. We couldn't get into this one because there
- 15 was garbage and everything so we just, you know, never bothered with this, we just kept throwing garbage and whatever out onto the porch, and then during that few days I said, "Let's check the other light", and here it was unscrewed.
- 20 Q. What about the light in the south porch?
- A. It wasn't touched, the light was on.
- Q. If you look at picture 3 you can see what appears to be a light or something shining on the exterior.
- 25 A. Yes, he had lights put up there, too, quite a few years back.
- Q. Was there an arrangement or system about that light going on and off or would that just be -
- A. No, that's just when we were working outside or
- 30 something. Kind of when it starts to get dark or whatever I would usually sometimes turn it on or different things, you know.
- Q. This time when you got the opportunity and the permission to clean up and tidy up, how many days, approximately, would that be after the death of
- 35

Father Smith?

- A. The actual clean-up, it took -
- 5 Q. When did you begin, how long after?
- A. It was Wednesday morning, approximately about ten o'clock. We felt that for respect of Father Smith and everybody else we felt to go in and just do it, get it over.
- 10 Q. That may not mean very much to the jury. How many days are we talking about you waited before you started?
- A. Oh, I'm sorry, it took approximately eight hours.
- Q. Listen slowly. Maybe it's me, I'm not saying
- 15 clearly. There was a day when Father Smith was discovered to be dead.
- A. Yes.
- Q. There was a day when you started your clean-up.
- A. Yes.
- 20 Q. How long a time passed between?
- A. Oh, I'm sorry, it was approximately - let me see, they found the body on Thursday and the following Wednesday we started cleaning, so it must be about five days, I think, or something. I'm not
- 25 really - we weren't allowed to go into the house until everything was checked over.
- Q. Do you know if any work had been done on this house, I mean maintenance or structural work, prior to -
- 30 A. Yes, there was. I would say - I wasn't really too sure, it could have been about - oh, I - it could have been about three months or so because Father Smith was planning on a Holy Land retreat with bishops and priests and different things, and he
- 35 had this all done before that he left, and there

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5 was windows being changed and he had more or less
all the windows changed so they were all - the
people putting in the windows were more or less
all over that place, you know, putting in - in the
office, upstairs, everywhere, you know, but I
can't believe there was no windows put downstairs,
I don't think, it was just more or less the first
10 and second level.

Q. Over the years was that the only work that was
done on the house or was other work done from time
to time?

A. There was other work done over the years, yes.

15 Q. I want to turn to a different question or area
now, Mr. Pineau. You've lived, I gathered, in
this part of the world all your life?

A. Yes, I did.

Q. Do you know a place called the Governor's Mansion?

20 A. Yes, I do.

Q. What is it?

A. It's a building for people that want a room for
the night or people that are - you know, they want
bed and breakfast is all included, more or less.

25 It's more or less just a place for -

Q. It's a bed and breakfast?

A. Yes, more or less, yes.

Q. Could you take a yellow pin - have you seen a map
or an aerial plan the same as the one that's
30 behind you?

A. Yes, I did.

Q. Could you take the yellow pin that I'm giving you
and put that in - take a little time if you need
it - put that in where the Governor's Mansion
35 would be located?

MR. WALSH: I believe it's 17, My Lord.

MR. ALLMAN: Could you take this blue pen and write the
5 number 17 beside the yellow marker that you just
put for the location of the Governor's Mansion,
17.

A. You mean right here or -

Q. Right beside it, as close up to it as you can get
10 write 17. O.K. Do you know Allan Joseph Legere,
the accused in this case?

A. Yes, I do.

MR. LEGERE: His sister Della a lot better.

Q. How long have you known him?

15 A. I would say I've met Allan at the Zodiac when I
was more or less going to clubs and different
things.

Q. When would that be, what time frame?

A. Oh, when I was 19, so -

20 MR. LEGERE: '77.

A. Yes, roughly around that.

Q. Mr. Legere said '77, does that sound about right
to you?

A. It was around that, yes.

25 Q. And to your knowledge what part of the world was
Mr. Legere residing in at that time?

A. In Chatham.

Q. Just turn around and have another look at the map,
or the aerial, I'm sorry. From your #17, the
30 Governor's Mansion, up to Father Smith's, the
green marker, could you tell me how far that is
either in miles, kilometres, driving time, walking
time, whatever?

A. It's approximately - it's a little over a mile,
35 mile and a half.

THE COURT: I'm sorry, that was from where to where?

MR. ALLMAN: From the Governor's Mansion, #17, up to

5 Father Smith's, the green pin, so how far did you
 say?

A. Approximately about a mile, mile and a half.

Q. So if it's a mile or a mile and a half from there
 to - from those two locations, what would it be,
10 would you think, from -

A. One mile.

Q. About a mile?

A. Yes, one mile, yes.

Q. It would be about a mile from the blue pin which
15 represents where the Daughneys lived to the green
 pin which represents where Father Smith lived?

A. Yes.

Q. Do you know if there were any railroad tracks in
 the area that's shown on that plan?

20 A. Yes, I do.

Q. Let me show you this. Could you take that and
 trace a railroad track for us?

A. O.K., the railroad comes - I'm shaking like crazy.
 Anyway, the railroad's right there. I better get
25 up.

Q. Yes, O.K.

A. Right there.

Q. All right, take it further up. Keep it going as
 far as you can without doing yourself an injury.

30 A. The railroad starts from Chatham, comes along
 through here, through Chatham Head. The bridge
 road is here, the church is there, goes through
 the woods along Nelson-Miramichi - well, Lower
 Nelson, and it goes through the -

35 Q. It seems to finish just below the Governor's

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Mansion there.

A. Yes, it does.

5 Q. I suppose it keeps going?

A. Well, no, it goes a little farther than that.

Q. It finishes on that picture?

A. Yes, that's right.

10 Q. O.K. I don't know if you're good with aerial
photographs, Mr. Pineau, but I'm going to show you
P-59(6), which is also S-6. If you look at that
you can see what's been identified as the rectory
and the church?

A. Yes.

15 Q. And you see the road going down the middle of the
picture?

A. Yes.

20 Q. About where - I don't suppose you can actually
pick out the building but about where on that is
the Governor's Mansion?

A. Approximately right in this area.

Q. Do you want to show the judge and then I'll show
the -

THE COURT: Yes, I see where it is.

25 A. Somewheres around in this area, Judge.

MR. ALLMAN: I'm pointing, members of the jury, somewhere
around there, towards that next - just about right
across from what looks to be an island or a point
of land.

30 A. Yes, it is.

MR. ALLMAN: Thank you.

THE COURT: Cross-examination, Mr. Furlotte?

35

CROSS-EXAMINATION BY MR. FURLOTTE:

- 5 Q. Mr. Pineau, I believe you stated to the best of your knowledge Father Smith never kept any liquor in the house?
- A. Pardon me?
- Q. To the best of your knowledge Father Smith didn't keep any alcohol in the house?
- 10 A. That's true.
- Q. And to the best of your knowledge Father Smith didn't drink?
- A. That's right, that I - I've never seen him drinking at all. The only time I've seen him, if
- 15 he was at an occasion that they offered him a glass of wine or something like this, that's the only time I would -
- Q. You mentioned when you checked the back porch lights two of them were unscrewed?
- 20 A. Yes, there was.
- Q. And that would have been the one inside the porch?
- A. Yes.
- Q. And the one on the back?
- A. That's right.
- 25 Q. Where the -
- A. - the step is, the alarm.
- Q. And where the alarm is?
- A. Yes.
- Q. And this one was screwed in?
- 30 A. Yes, it wasn't - it was working.
- Q. But that was some six days after -
- A. That's precisely, yes.
- Q. And the police and everybody was around the area?
- A. Everybody was in and out.
- 35 Q. So as far as you know the police could have

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screwed or unscrewed any of the bulbs when they checked the place out?

5 A. I can't really say because I wasn't around there.

Q. Now, you mentioned there was some construction done on the house, new windows put in?

A. Yes, there was.

Q. And how long had that been done before?

10 A. Do you mean putting in the windows?

Q. Putting in the windows. Couple of years?

A. No, I would say it was about - it was less than six months, in that time frame. It could have been two months, I'm not really too sure.

15 Q. When you said they were just done upstairs you mean - what did you mean by that?

A. They were done like in his bedroom, upstairs, more or less all the rooms upstairs on the -

Q. - top floor?

20 A. - the top floor, and the office. The only one that wasn't done was the one in the kitchen.

Q. How many times had Father Smith been broken into before, the rectory?

25 A. I would say approximately twice, I believe, because the church besides that was broken into other times.

Q. So a robbery at the rectory wasn't that uncommon, was it?

MR. ALLMAN: Not a robbery, My Lord, that's -

30 MR. FURLOTTE: Or at least an attempted robbery was not all that unheard of?

A. What do you mean?

MR. ALLMAN: My Lord, I don't want to get into - there's a legal term to robbery in this, isn't there?

35 Robbery and break and enter aren't the same

things.

5 MR. FURLOTTE: Well, break and enter, then. A break and
enter was not that uncommon at the rectory or the
church?

A. Not at the rectory at all, no, it was more or
less -

10 Q. So is that one of the reasons the alarm was put
in?

A. Yes, it was. It was put in in the back because
that's where everybody was climbing up. If you
can see clearly on #3 there, there's a drain pipe
that runs along the bottom, like, you know, for
15 the drainage?

Q. Right.

A. Anyway, that's how they usually climbed up to get
into the -

Q. The eavestrough, you're talking about?

20 A. Yes.

Q. But other than construction people who put the
windows in sometime before, Father Smith generally
wouldn't invite people in and offer them coffee or
anything like that?

25 A. He wouldn't offer them coffee unless, like I say,
if it was another priest or a relative, but other
than that, no. He would - it would be people
visiting the house for mass cards or different
things like this, you know, but other than that,
30 no.

Q. The other break and enters, do you recall when
they were?

A. They were more or less in the summer time.

Q. And how long before this last event?

35 A. Oh, that was, I would say, three years.

Q. Three years?

5 A. Approximately around three years, three or four years.

Q. And do you know whether or not they caught the people who did it?

A. I'm not sure really, no. I don't know.

Q. And do you know what was stolen?

10 A. Yes, I do. It was a typewriter, there was a ghetto blaster of some sort, and that's about it. There was only a few little items that were missing, but like I say, they broke in through the patio door and they damaged up the door of the
15 patio that had to be re - put a new one in.

MR. FURLOTTE: I have no further questions.

THE COURT: Re-examination?

REDIRECT EXAMINATION BY MR. ALLMAN:

20 Q. Just on that last point, I gather from what you said that the stuff that was taken on the previous occasion was mostly electronic? I think you mentioned a radio and a camera?

A. Yes. Yes, that is.

25 Q. If you look at photograph 69 there's a T.V., looks like quite a big T.V. What are the two things on top of the T.V.?

A. VCR's.

Q. Were they normally there, to your knowledge?

30 A. Yes, he usually likes to tape different religious tapes, like if there was tapes to be recorded, and sometimes he would record shows that if he had to go to the hospital and he wanted to watch a movie when he came back from visiting he would watch the
35 movie that way, and sometimes he would have tapes

for religion teachers that would, you know, they would want to tape or something.

5 Q. Have a look at picture 48. Can you tell me what the black object is at the back of the counter?

A. It's a radio.

Q. Was that normally there, to your knowledge?

A. Yes, it was.

10 Q. Do you remember how long - how old the VCR's were when he got them? I don't mean exactly, I mean a word to describe.

A. I would say probably four or five years.

MR. ALLMAN: I have no other questions.

15 THE COURT: How do you start a VCR, the time blinking at twelve o'clock on a VCR? Do you know?

A. I'm not too sure on it.

THE COURT: Maybe you don't know.

A. No, that's right. No, I'm not too sure. The
20 only - the power was off or something, you know. I don't know, really, I'm not in that type of field.

THE COURT: You never tried to set one again like I have.

A. No, no, I just -

25 THE COURT: Any questions arising out of that?

MR. ALLMAN: No.

THE COURT: Thank you very much, and you're excused, Mr.
Pineau. Thank you very much for coming. We are
at 12:35, the jury might let you have some
30 emergency witness.

MR. ALLMAN: I'll tell you what my situation is, My Lord,
and then maybe you or the jury can give me some
guidance. I have three ladies, Katherine Johnston
and Anna May Chevarie and Clara Ramsay. All of
35 them I think will be very short, subject to

whatever Mr. Furlotte may advise to the contrary.
They've been here quite a while and I think we
could dispose of all of them in about ten or
5 fifteen minutes, unless Mr. Furlotte tells me I'm
wrong.

MR. LEGERE: No way.

MR. ALLMAN: I hear Mr. Legere say no way, I won't press
the matter.

10 MR. FURLOTTE: Well, My Lord, I guess it's because Mr.
Legere hasn't had time, or myself, to prepare for
these witnesses yet and -

THE COURT: Yes. Well, call your first witness if you
like.

15 MR. ALLMAN: Fine, My Lord, Katherine Johnston.

KATHERINE JOHNSON duly sworn.

MR. FURLOTTE: My Lord, for the record, I understood that
your instructions to the Crown Prosecutor was that
20 he would advise myself as to the order of the
witnesses he was calling in to give Mr. Legere and
myself time to prepare for trial, because there's
a lot of these witnesses that I haven't been able
to prepare for yet and we're going to have to do
25 it on an ongoing basis. Now, these witnesses are
being called well out of order and neither myself
nor Mr. Legere has had the opportunity to go over
their testimony and to consult with each other as
to the type of cross-examination that might be
30 necessary of these witnesses, so if you proceed at
this time it's just a fly-by-night chance.

MR. ALLMAN: I think that's a legitimate point.

THE COURT: Mr. Allman, may I just ask this. I don't
want to get into a great hassle before the jury on
35 this but what generally is the nature of the

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evidence that this witness would be giving? I
don't want you to get into detail but -

MR. ALLMAN: Observations, not of a major nature, of the
5 rectory before and around the time of the
discovery of what -

MR. LEGERE: Times are important.

THE COURT: But this lady and the others would be
parishioners or employees or -

10 MR. ALLMAN: Local residents, but I repeat, Mr. Furlotte
is right. What happened was that we didn't really
know this morning what the speed was going to go
and we've got numbers 140 down to 142 is a bunch
of or a collection of witnesses on a topic that
15 will take more time than we could do this morning
so we decided not to do them and to move into the
area we're now dealing with, but I don't want to
prejudice Mr. Furlotte or Mr. Legere, and while
it's a minor inconvenience to these people to have
20 to come back I'm sure they can, and I for my part
would sooner not proceed against Mr. Furlotte's
and Mr. Legere's wishes.

THE COURT: Well, I think we will do that, then, and
we'll stand you aside. Sorry, we tried to get you
25 on here, so Mr. Allman will be instructing you
about coming back. Thank you very much. You're
not nervous?

MRS. JOHNSTON: Oh, no, not a bit.

THE COURT: We have had a few ladies who've been a little
30 nervous and -

MRS. JOHNSTON: I imagine, yes.

THE COURT: Rather unusual, very few in number, actually.
Thank you very much, then. That's the end today?

MR. ALLMAN: We don't have any other witnesses that are
35 conveniently available at this time and it's

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12:37, so I think we could close now.

THE COURT: So we'll adjourn now until 9:30 on Monday
morning. I indicated earlier we are making steady
5 progress and keeping up to schedule here and if we
continue that next week, then we'll probably
consider not sitting on Friday of next week, and I
haven't discussed this with counsel yet but I'm
sure they will approve or go along with that, so
10 that will permit you to arrange - you will be on
duty at that time, you know, and subject to call
and all that sort of thing, as you will be until
the whole case is completed. In case you have
employers or anyone trying to get you back to work
15 just let them know that you're on duty 24 hours a
day, seven days a week. Please don't discuss the
matter, as I've told you before. Don't read the
newspapers or watch television reports or any of
those other things that I've warned you about
20 before. We'll see you on Monday morning.

(COURT ADJOURNED TO 9:30 a.m., SEPTEMBER 23, 1991)

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