

Commission of Inquiry into Certain Allegations
Respecting Business and Financial Dealings
Between Karlheinz Schreiber and
the Right Honourable Brian Mulroney



Commission d'enquête concernant les allégations
au sujet des transactions financières et
commerciales entre Karlheinz Schreiber et
le très honorable Brian Mulroney

Public Hearing

Audience publique

Commissioner

L'Honorable juge /
The Honourable Justice
Jeffrey James Oliphant

Commissaire

Held at:

Bytown Pavillion
Victoria Hall
111 Sussex Drive
Ottawa, Ontario

Monday, April 20, 2009

Tenue à :

pavillion Bytown
salle Victoria
111, promenade Sussex
Ottawa (Ontario)

le lundi 20 avril 2009

APPEARANCES / COMPARUTIONS

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1 Ottawa, Ontario / Ottawa (Ontario)
2 --- Upon resuming on Monday, April 20, 2009,
3 at 9:30 a.m. / L'audience reprend le lundi
4 20 avril 2009 à 9 h 30
5 13531 COMMISSIONER OLIPHANT: Good morning,
6 counsel. Be seated, please.
7 13532 MS BROOKS: Good morning,
8 Mr. Commissioner. We are here today with Mr. Patrick
9 MacAdam.
10 13533 COMMISSIONER OLIPHANT: Yes. Good
11 morning, Mr. MacAdam --
12 13534 MR. MacADAM: Good morning, sir.
13 13535 MS BROOKS: -- who will be sworn.
14 13536 I wanted to let you know that Richard
15 Auger, because of another commitment, cannot be here
16 today.
17 13537 COMMISSIONER OLIPHANT: Okay.
18 13538 MS BROOKS: And he has asked us to
19 proceed in his absence.
20 SWORN: PATRICK MacADAM /
21 ASSERMENTÉ : PATRICK MacADAM
22 13539 MS BROOKS: We will be referring this
23 morning to a document brief, documents in support of
24 Mr. MacAdam's testimony, and I would ask that this be
25 entered as the next exhibit, which I believe is P-9.

1 13540 COMMISSIONER OLIPHANT: P-14.
2 13541 MS BROOKS: P-14.
3 13542 COMMISSIONER OLIPHANT: Again,
4 counsel, this document is going in by consent, I
5 assume. Thank you.
6 13543 Exhibit P-14 then is the Book of
7 Documents in support of Mr. MacAdam's testimony.
8 EXHIBIT NO. P-14: Book of
9 documents in support of Mr.
10 MacAdam's testimony
11 EXAMINATION: PATRICK MacADAM BY MS BROOKS /
12 INTERROGATOIRE : PATRICK MacADAM PAR Me BROOKS
13 13544 MS BROOKS: Mr. MacAdam, thanks for
14 being here this morning. We appreciate that you have
15 come this early on a Monday morning.
16 13545 You worked in Mr. Mulroney's office
17 while he was Leader of the Opposition, I understand.
18 13546 MR. MacADAM: Correct.
19 13547 MS BROOKS: I wonder if you could
20 just move the microphone a little bit closer to you.
21 Thank you.
22 13548 And you are the Caucus liaison
23 person?
24 13549 MR. MacADAM: Correct.
25 13550 MS BROOKS: And what was your

1 responsibility as Caucus Liaison Officer?

2 13551 MR. MacADAM: Mr. Mulroney wanted
3 someone on staff to send a signal to the caucus that
4 they had their man they could come to any time and he
5 had the office next door to the Leader.

6 13552 In government people ask me what I
7 did, and I would tell them that if everyone in the
8 Caucus wanted to see the Prime Minister for 15 minutes,
9 it would take 52 hours a week. So instead of seeing
10 him they saw me, and if I couldn't solve the problem I
11 would shoot them right in -- scoot them -- shoot them
12 right in to see him.

13 13553 He had an open door policy.

14 13554 MS BROOKS: And so you had an office
15 right next door to Mr. Mulroney --

16 13555 MR. MacADAM: Yes.

17 13556 MS BROOKS: -- as Leader of the
18 Opposition.

19 13557 Now, you have described yourself in
20 that position as a gatekeeper and the person who kept
21 the appointments for the Leader of the Opposition.

22 13558 MR. MacADAM: Yes. It was a shared
23 responsibility with his secretary, Ginette Pilotte, who
24 had the office on the other side of him.

25 13559 MS BROOKS: Did this mean that all

1 appointments with Mr. Mulroney would have come through
2 you or through Ms Pilotte?

3 13560 MR. MacADAM: Yes.

4 13561 MS BROOKS: So that nobody could get
5 to see Mr. Mulroney unless either you or Ms Pilotte
6 were aware of it?

7 13562 MR. MacADAM: That's right.

8 Sometimes his old friends would upset the schedule and
9 come in to see him.

10 13563 MS BROOKS: Were there times when
11 Mr. Mulroney himself would organize meetings with
12 people?

13 13564 MR. MacADAM: With his old friends,
14 like Paul Desmarais or Robert Campeau or people like
15 that, old friends from outside Ottawa.

16 13565 MS BROOKS: And if that were to
17 occur, if these meetings with -- the personal meetings
18 I will call them were to occur, would you have been
19 aware of them --

20 13566 MR. MacADAM: No.

21 13567 MS BROOKS: -- in advance?

22 13568 MR. MacADAM: No.

23 13569 MS BROOKS: When would you learn of
24 them typically?

25 13570 MR. MacADAM: Pardon me?

1 13571 MS BROOKS: When would you learn of
2 these private meetings typically?

3 13572 MR. MacADAM: As they happened.

4 13573 MS BROOKS: Okay.

5 13574 And where would they take place?

6 13575 MR. MacADAM: In the Leader's office.

7 13576 MS BROOKS: Would they ever take
8 place behind the curtains --

9 13577 MR. MacADAM: No.

10 13578 MS BROOKS: -- at the end of a
11 sitting day?

12 13579 MR. MacADAM: No, no. The only
13 people allowed behind the curtains are staff and MPs.

14 13580 MS BROOKS: Well, how would people
15 get access who wanted to meet with a politician behind
16 the curtain?

17 13581 MR. MacADAM: With difficulty. You
18 would have to get through the protective staff.

19 13582 MS BROOKS: Okay.

20 13583 MR. MacADAM: You have to have a pass
21 to get in behind the curtains.

22 13584 MS BROOKS: And what was the period
23 of time, then, that you held this gatekeeper role?

24 13585 MR. MacADAM: All through the years
25 in -- all through the months in Opposition, from

1 September '83 until the election of '84.

2 13586 MS BROOKS: Now, Mr. Schreiber met
3 with Mr. Mulroney, as I understand it from your
4 statements, while he was in Opposition. Is that
5 correct?

6 13587 MR. MacADAM: Incorrect.

7 13588 MS BROOKS: You have said that
8 Mr. Mulroney met with Mr. Schreiber and Max Strauss
9 during that period of time.

10 13589 MR. MacADAM: That's right. Bob
11 Coates, who was the Chairman of the German Canada
12 Parliamentary group phoned and asked if Max Strauss,
13 the son of the Bavarian Prime Minister Franz Joseph
14 Strauss, could pay a courtesy call, handshake, on
15 Mr. Mulroney after Question Period on a day and
16 certainly.

17 13590 So it was in his office in the Centre
18 Block. Mr. Strauss showed up and he had Karlheinz
19 Schreiber with him.

20 13591 It wasn't a photo op. It was just a
21 hello, courtesy call. I'm not even sure if Brian and
22 Karlheinz exchanged any pleasantries other than a
23 handshake.

24 13592 MS BROOKS: Was Mr. Coates present at
25 that meeting?

1 13593 MR. MacADAM: Mr. Coates? No.

2 13594 MS BROOKS: I looked at your
3 statements that you have made. A couple of them would
4 lead me to believe when I read them that there were
5 more than one meeting between Mr. Schreiber and
6 Mr. Mulroney while you were in that gatekeeper
7 function.

8 13595 I'm looking now at Tab 1 of your
9 Document Brief, if you would like to turn to that.

10 13596 It is the interview that you gave to
11 Fifth Estate and it was broadcast on October 20, 1999.
12 It's at Tab 1.

13 13597 In this interview you say, with
14 respect to Mr. Schreiber:
15 "They..."

16 13598 Mr. Mulroney and Mr. Schreiber:
17 "... knew each other long before
18 Mr. Mulroney became an MP and
19 leader of the opposition - I
20 don't know where they met, maybe
21 through the Strausses - and he'd
22 pay a courtesy call on Mr.
23 Mulroney in the Office of the
24 Leader of the Opposition. I was
25 the gatekeeper then and kept the

1 Mr. Mulroney?

2 13610 MR. MacADAM: Never.

3 13611 MS BROOKS: Would you have known
4 about it if he had?

5 13612 MR. MacADAM: Certainly.

6 13613 MS BROOKS: What if the meeting had
7 been a private meeting arranged by Mr. Mulroney
8 directly with Mr. Schreiber? Would you have known
9 about it?

10 13614 MR. MacADAM: He would have to walk
11 by my office to get in the door.

12 13615 MS BROOKS: Okay. Thank you. Thank
13 you, sir.

14 13616 What was Fred Doucet's position while
15 Mr. Mulroney was Leader of the Opposition?

16 13617 MR. MacADAM: Fred was Chief of Staff
17 and he was located across the street in the old Met
18 Life building which was called the South Block.

19 13618 MS BROOKS: Do you know if Mr. Doucet
20 knew Mr. Schreiber during this period of time?

21 13619 MR. MacADAM: No, I don't know.

22 13620 MS BROOKS: Did Mr. Doucet have any
23 involvement in setting up the meeting with
24 Mr. Schreiber and Mr. Strauss?

25 13621 MR. MacADAM: With Max?

1 13622 MS BROOKS: With Max Strauss.

2 13623 MR. MacADAM: No. It was Bob Coates.

3 13624 MS BROOKS: After Brian Mulroney
4 became Prime Minister in 1984, you moved with him into
5 the Prime Minister's office and had the same position,
6 as I understand it, Caucus Liaison Officer?

7 13625 MR. MacADAM: Yes.

8 13626 MS BROOKS: Where was your office
9 located in that role vis-à-vis in relation to
10 Mr. Mulroney's office?

11 13627 MR. MacADAM: My office was separated
12 from the Prime Minister's suite by the Cabinet Room.

13 13628 MS BROOKS: Did you perform the same
14 kind of gatekeeper function while you were in the Prime
15 Minister's office?

16 13629 MR. MacADAM: No.

17 13630 MS BROOKS: Who would have performed
18 that function?

19 13631 MR. MacADAM: He had two Executive
20 Assistants, Bill Pristanski and Hubert Pichet. They
21 had the office next door to him.

22 13632 MS BROOKS: Did you ever get involved
23 in setting up any meetings between Mr. Schreiber and
24 Mr. Mulroney while you worked in the PMO?

25 13633 MR. MacADAM: Never.

1 13634 MS BROOKS: And my understanding is
2 that you worked in the PMO from 1984 through 1988.

3 13635 MR. MacADAM: Until 1988.

4 13636 MS BROOKS: And when did you leave in
5 1988?

6 13637 MR. MacADAM: I left at the end of
7 '87 .

8 13638 MS BROOKS: In December 87?

9 13639 MR. MacADAM: Yeah.

10 13640 MS BROOKS: Are you aware of any
11 meetings that Mr. Mulroney had with Mr. Schreiber while
12 you were there from 1984 to 1987?

13 13641 MR. MacADAM: No.

14 13642 MS BROOKS: After you left the PMO at
15 the end of 1987, my understanding is that you went to
16 the High Commission. You worked in the High Commission
17 in London.

18 13643 MR. MacADAM: Yes.

19 13644 MS BROOKS: Until 1989.

20 13645 MR. MacADAM: Yes.

21 13646 MS BROOKS: And upon return to Canada
22 in -- when you came to Canada, I understand you worked
23 for Government Consultants International?

24 13647 MR. MacADAM: That's correct.

25 13648 MS BROOKS: And that was from 1990 to

1 1993?

2 13649 MR. MacADAM: Correct.

3 13650 MS BROOKS: What did you do at GCI?

4 13651 MR. MacADAM: I was the director of

5 the company and I a senior consultant and I suppose, in

6 all modesty, I could say I was counsel.

7 13652 I didn't do any active lobbying, but

8 I did a lot of advising.

9 13653 MS BROOKS: And did you --

10 13654 MR. MacADAM: I didn't feel

11 comfortable going to lobby my old friends in Cabinet.

12 13655 MS BROOKS: So if I can just clarify,

13 you would speak to the people who worked at GCI who

14 were lobbying out and lobbying against for their

15 clients' interest.

16 13656 MR. MacADAM: Yeah, I would give them

17 advice.

18 13657 MS BROOKS: You would give them

19 advice?

20 13658 MR. MacADAM: Sure.

21 13659 MS BROOKS: Did you ever have any

22 involvement with Mr. Schreiber or his companies in GCI?

23 13660 MR. MacADAM: Never.

24 13661 MS BROOKS: Were you ever involved in

25 giving advice on Mr. Schreiber's companies, Thyssen

1 Bear Head for instance?

2 13662 MR. MacADAM: Never. Never saw him
3 on the premises.

4 13663 MS BROOKS: You never saw
5 Mr. Schreiber on the premises at GCI?

6 13664 MR. MacADAM: No. No.

7 13665 MS BROOKS: Did you know Greg Alford
8 when you were at GCI?

9 13666 MR. MacADAM: I knew who he was, but
10 he had gone before I joined the company.

11 13667 MS BROOKS: Did you receive any
12 payments from Mr. Schreiber or any of his companies
13 while you were at GCI?

14 13668 MR. MacADAM: Never.

15 13669 MS BROOKS: At any other time?

16 13670 MR. MacADAM: Never.

17 13671 MS BROOKS: And after you left GCI --
18 I understand you left in 1993 -- you became a writer
19 and you are the successful author of a number of books
20 and a journalist.

21 13672 MR. MacADAM: Yes.

22 13673 MS BROOKS: Did you continue to have
23 a relationship with Mr. Mulroney after you left the
24 Prime Minister's Office?

25 13674 MR. MacADAM: Yes. I travelled with

1 him when he made speeches. We travelled North America.

2 He made speeches and I would go as an aide.

3 13675 MS BROOKS: This was while he was
4 still Prime Minister?

5 13676 MR. MacADAM: No. No, no.

6 13677 MS BROOKS: This was after he left
7 the office of Prime Minister?

8 13678 MR. MacADAM: Right. Right.

9 13679 MS BROOKS: On any of those trips was
10 Mr. Mulroney doing work for Mr. Schreiber or Thyssen
11 Bear Head, to your knowledge?

12 13680 MR. MacADAM: No. He was making
13 speeches. We went to Washington, Chicago, New York,
14 Naples, Florida, Vancouver, Toronto. They were all
15 speaking engagements.

16 13681 MS BROOKS: Okay. Thank you, sir.

17 13682 I would like you to take a look again
18 at Tab 1 of your Book of Documents, Mr. MacAdam, and I
19 want to just probe a little bit how long Mr. Mulroney
20 had known Mr. Schreiber before becoming Leader of the
21 Opposition.

22 13683 You mentioned and said on The Fifth
23 Estate that they, Mr. Schreiber and Mr. Mulroney that
24 is, knew each other long before Mr. Mulroney became an
25 MP and Leader of the Opposition.

1 13684 Can you tell me, based on your
2 knowledge, how long did Mr. Mulroney know Mr. Schreiber
3 before he became Leader of the Opposition?

4 13685 MR. MacADAM: I don't think he knew
5 him from a hole in the ground. I was referring to
6 Franz Joseph Strauss in that sentence, who was
7 mentioned in the preceding paragraph.

8 13686 MS BROOKS: Well, let's go back to
9 the preceding paragraph.

10 13687 Linden MacIntyre says:
11 "Brian Mulroney didn't
12 disappoint them. He won the
13 party leadership. Pat MacAdam
14 went way back with the new
15 leader, back to university days
16 in Nova Scotia."

17 13688 Is that correct, Mr. MacAdam?

18 13689 MR. MacADAM: Yes.

19 13690 MS BROOKS:
20 "Mulroney picked MacAdam to run
21 his office while he was in
22 opposition."

23 13691 Is that how you would describe it?

24 13692 MR. MacADAM: I wasn't running the
25 office. Fred Doucet was the Chief of Staff.

1 13693 MS BROOKS:
2 "An early visitor was Karlheinz
3 Schreiber, who would
4 occasionally show up with Max
5 Strauss, son of Franz Joseph
6 Strauss, Bavarian premier and
7 chairman."
8 13694 And this is what you say, you are
9 quoted as saying:
10 "They knew each other long
11 before Mr. Mulroney became an MP
12 and leader of the opposition - I
13 don't know where they met, maybe
14 through the Strausses..."
15 13695 It seems to me that you are referring
16 here to Mr. Mulroney meeting Mr. Schreiber and perhaps
17 he met them through the Strausses.
18 13696 Was that your understanding at the
19 time?
20 13697 MR. MacADAM: No, I -- I am convinced
21 in my mind that Mr. Mulroney did not know Karlheinz
22 Schreiber before he became Leader of the Opposition or
23 MP. I was referring to Franz Joseph Strauss.
24 13698 MS BROOKS: Do you know if Franz
25 Joseph Strauss ever paid a visit to Mr. Mulroney?

1 13699 MR. MacADAM: No.

2 13700 MS BROOKS: You don't know or he
3 didn't?

4 13701 MR. MacADAM: I don't know. When he
5 was President of the Iron Ore Company he made a lot of
6 connections in Europe, South America. He travelled
7 extensively.

8 13702 MS BROOKS: To your knowledge, did
9 they meet?

10 13703 MR. MacADAM: I can't truthfully
11 answer that. I don't know.

12 13704 MS BROOKS: Could you turn to Tab 4
13 of the book. This is the letter you sent to
14 Mr. Kaplan, Mr. William Kaplan, and it was sent to
15 Mr. Kaplan on the date of the letter, which is July 19,
16 2004.

17 13705 What was the purpose of this letter?

18 13706 MR. MacADAM: I felt a responsibility
19 for involving Mr. Mulroney with William Kaplan on the
20 basis of a book I read by Mr. Kaplan about Mr. Justice
21 Leo Landreville which totally blew me away.

22 13707 I think I may have mailed it down to
23 Mr. Mulroney in Montréal.

24 13708 I had lunch with Mr. Kaplan at a
25 restaurant on Elgin Street in Ottawa, and he asked me

1 if I would run interference for him with Mr. Mulroney
2 to convince him that he should see him. He wanted to
3 write a book.

4 13709 I recommended him very highly and
5 Brian eventually agreed and he was very generous with
6 his time. He gave Mr. Kaplan all kinds of interview
7 time in the back garden in Montréal.

8 13710 MS BROOKS: This was for the first
9 book that Mr. Kaplan wrote, "Presumed Guilty"?

10 13711 MR. MacADAM: Right. Correct.

11 13712 I felt responsible for being the
12 intermediary.

13 13713 MS BROOKS: And that explains why you
14 wrote this letter. What did you hope to accomplish by
15 this letter?

16 13714 MR. MacADAM: Mike Duffy e-mailed me
17 the website page from McGill, Queens, and it was pretty
18 devastating, so I --

19 13715 MS BROOKS: Just to clarify -- sorry
20 for interrupting. But just to clarify, that related to
21 Mr. Kaplan's second book, that webpage?

22 13716 MR. MacADAM: You have me confused
23 now, the first or second book.

24 13717 MS BROOKS: Okay. Well, the first
25 book was "Presumed Guilty" and the second book

1 Mr. Kaplan wrote, which came out in 2004, after the
2 date of your letter, was called "The Secret Trial".

3 13718 MR. MacADAM: Well, that's the one,
4 "The Secret Trial".

5 13719 MS BROOKS: Okay.

6 13720 MR. MacADAM: Yes.

7 13721 MS BROOKS: So you looked at the
8 website about The Secret Trial?

9 13722 MR. MacADAM: Yeah. And I e-mailed
10 it down to Mr. Mulroney and I followed it up with a
11 phone call. He was upset and he said at the time that
12 yes, he received money. It wasn't \$300,000; it was
13 225. He was examined by nine government lawyers and no
14 one ever asked him if he received any money and Bill
15 Kaplan never asked him.

16 13723 He said if they had asked me, I would
17 have answered yes, but no one asked me.

18 13724 MS BROOKS: Did you in this telephone
19 conversation ask Mr. Mulroney what the money was for?

20 13725 MR. MacADAM: No, none of my
21 business.

22 13726 MS BROOKS: When did that
23 conversation take place? Was it immediately before
24 this letter went out or sometime earlier?

25 13727 MR. MacADAM: I probably wrote the

1 letter the same day after the telephone conversation.
2 It was unsolicited. It was my own idea, because I felt
3 to blame for the book coming out.

4 13728 MS BROOKS: Why wouldn't you have
5 asked Mr. Mulroney what the money was for, because that
6 too was something that the book was dealing with?

7 13729 MR. MacADAM: I'm sorry, what is the
8 question?

9 13730 MS BROOKS: Why wouldn't you have
10 asked Mr. Mulroney what the money was for?

11 13731 MR. MacADAM: For services. He was
12 commissioned to act as a representative or an agent of
13 Mr. Schreiber. What he was selling, I don't know.

14 13732 The only thing I knew was what I read
15 in the paper, including Luc Lavoie.

16 13733 MS BROOKS: Is that what Mr. Mulroney
17 told you in the conversation, that he was commissioned
18 to sell products for Mr. Schreiber?

19 13734 MR. MacADAM: No. No.

20 13735 MS BROOKS: What did he say about
21 that?

22 13736 MR. MacADAM: He didn't volunteer
23 anything and I didn't ask. He's a very private person
24 and I have known him since 1955.

25 13737 MS BROOKS: You've known him since

1 1955?

2 13738 MR. MacADAM: Right.

3 13739 MS BROOKS: Would you call yourself a

4 close friend of Mr. Mulroney?

5 13740 MR. MacADAM: I would think so.

6 13741 MS BROOKS: Close friends often can

7 ask their close friends quite personal and probing

8 questions. You didn't ask him that question?

9 13742 MR. MacADAM: No, no.

10 13743 MS BROOKS: Did you ask him why

11 Mr. Schreiber would be saying its \$300,000 when it was,

12 as Mr. Mulroney told you, only \$225,000 that was paid?

13 13744 MR. MacADAM: Well, I think Luc

14 Lavoie answered that when he said that he was a liar.

15 13745 MS BROOKS: But did you ask

16 Mr. Mulroney that question?

17 13746 MR. MacADAM: No.

18 13747 MS BROOKS: Did you talk about the

19 figure \$300,000 in that conversation?

20 13748 MR. MacADAM: No.

21 13749 MS BROOKS: You say on page 2 of this

22 letter:

23 "I went through my old files,

24 correspondence and Emails last

25 night and found that:

1 1. Karlheinz hired Mulroney to
2 sell Bearhead armoured vehicles
3 to China. The vehicles were/are
4 top of the line. Former Chief
5 of the Defence Staff, Ramsey
6 Withers, told me Bearhead's
7 vehicle was the Cadillac of
8 armoured vehicles - heavily
9 armoured and capable of
10 performing for four days in air
11 conditioned comfort in the event
12 of a gas attack. Ramsey said
13 the vehicles the Canadian
14 military bought were so lightly
15 armoured that a bullet from a
16 standard NATO rifle could pierce
17 the skin. He also said that the
18 crew could be goners in a
19 chemical and biological attack."

20 13750 You go on in the second numbered
21 paragraph to say:

22 "2. Schreiber also engaged
23 Mulroney to explore the sale of
24 pasta machines."

25 13751 And you go on to talk about the

1 special kind of wheat.

2 "Mulroney was a consultant to
3 ADM."
4 13752 Archer Daniel Midland.
5 "I found this out from a former
6 Hill aide who went to work for
7 ADT in one of their
8 installations in the mid-West.
9 13753 Let's just go through this step by
10 step.
11 13754 What correspondence did you have that
12 dealt with Mr. Mulroney selling Bear Head armoured
13 vehicles to China?
14 13755 MR. MacADAM: Just a newspaper
15 clipping.
16 13756 MS BROOKS: Correspondence typically
17 means letters, faxes --
18 13757 MR. MacADAM: Yeah, I had no letters.
19 13758 MS BROOKS: You had no
20 correspondence?
21 13759 MR. MacADAM: No.
22 13760 MS BROOKS: And you say e-mails as
23 well. What e-mails did you have that dealt with
24 Mr. Mulroney selling Bear Head vehicles to China?
25 13761 MR. MacADAM: None.

1 13762 MS BROOKS: Why did you say you had
2 correspondence and e-mails and that you had gone
3 through --

4 13763 MR. MacADAM: I had files with
5 clippings from the Globe and Mail.

6 13764 MS BROOKS: The old files that you
7 had then consisted solely of newspaper clippings?

8 13765 MR. MacADAM: Yeah. I didn't conduct
9 much correspondence with anybody. It's all oral.

10 13766 MS BROOKS: So you had at the time
11 newspaper clippings that said Mr. Mulroney was selling
12 Bear Head armoured vehicles to China?

13 13767 MR. MacADAM: That he was in China.

14 13768 MS BROOKS: But that he was selling
15 Bear Head armoured vehicles to China?

16 13769 MR. MacADAM: I don't know what he
17 was doing in China, whether he was selling pasta or...

18 13770 MS BROOKS: Well, you say in this
19 letter that he was selling Bear Head armoured vehicles.
20 Are you saying that you knew this at the time?

21 13771 MR. MacADAM: I knew that he was
22 commissioned. The two products were pasta, pasta
23 machines to Archer Midland Daniel, because he was maybe
24 a Director of the company, I'm not sure, and Bear Head.
25 13772 I probably got this from Elmer MacKay

1 or Bob Coates.

2 13773 MS BROOKS: You probably did or do
3 you recall getting that information from Mr. MacKay?
4 13774 MR. MacADAM: No, I don't -- I don't
5 know.

6 13775 MS BROOKS: Could you just lean a bit
7 forward --

8 13776 MR. MacADAM: Sure.

9 13777 MS BROOKS: -- into the microphone,
10 Mr. MacAdam? Thanks.

11 13778 I'm sorry, what was your answer to
12 that? Did you speak to Mr. MacKay about this?

13 13779 MR. MacADAM: I speak to him often.
14 I speak to Bob Coates occasionally still.

15 13780 MS BROOKS: Did Mr. MacKay tell you
16 that Mr. Mulroney was selling Bear Head vehicles in
17 China?

18 13781 MR. MacADAM: No, but everybody in
19 Nova Scotia was pushing it. It would have been a big
20 job producer at Strait of Canso.

21 13782 MS BROOKS: Well, that's not my
22 question. My question is: Did Mr. MacKay tell you
23 that Mr. Mulroney was selling vehicles, Thyssen
24 vehicles, in China?

25 13783 MR. MacADAM: No.

1 13784 MS BROOKS: Did anybody tell you
2 this?

3 13785 MR. MacADAM: I only read it in the
4 newspaper that he was in China; that he had taken a
5 boat to China and he was in China.

6 13786 MS BROOKS: When did that happen, the
7 trip to China?

8 13787 MR. MacADAM: Oh boy, I don't know.

9 13788 MS BROOKS: Well, if you go to the
10 previous tab, which is the interview of you by
11 Mr. Kaplan, if you could look at the bottom of the
12 page --

13 13789 MR. MacADAM: Which one, CBC?

14 13790 MS BROOKS: No, I'm looking at Tab 3.

15 13791 MR. MacADAM: Tab 3.

16 13792 MS BROOKS: The heading is "Interview
17 with Pat MacAdam, Sunday, July 18".

18 13793 In this interview Mr. McAdam says,
19 your answer to this question:

20 "What did he do to earn the
21 money?"

22 13794 That is Mr. Kaplan's question. Your
23 answer:

24 "I have no idea, I read that
25 Schreiber was trying to sell

1 spaghetti...

2 I am still in touch with him.

3 He has been in China on a boat."

4 13795 Now, this interview took place in

5 2004.

6 13796 You said at the time, in answer to

7 the question:

8 "What did he do to earn the

9 money?

10 I have no idea. I read that

11 Schreiber was trying to sell

12 spaghetti."

13 13797 The next day you have an explanation

14 for what he was doing to earn the money and you put it

15 to Mr. Kaplan in this letter, that:

16 "Karlheinz hired Mulroney to

17 sell Bearhead armoured vehicles

18 to China."

19 13798 Did you call Mr. Mulroney after your

20 interview by Mr. Kaplan to ask him what he was doing to

21 earn the money?

22 13799 MR. MacADAM: No. No.

23 13800 MS BROOKS: Well, you told me earlier

24 that you spoke to Mr. Mulroney just before you sent off

25 this letter, likely the same date, which was July 19th.

1 13801 MR. MacADAM: Are we talking about
2 the interview with --

3 13802 MS BROOKS: Yeah.

4 13803 MR. MacADAM: -- Kaplan?

5 13804 MS BROOKS: The interview took place
6 on Sunday, July 18th.

7 13805 MR. MacADAM: Right.

8 13806 MS BROOKS: Your letter is sent out
9 the next day, July 19th.

10 13807 MR. MacADAM: Right.

11 13808 MS BROOKS: When you were interviewed
12 and you were asked what did Mr. Mulroney do to earn the
13 money, you said "I have no idea." The next day you
14 say:

15 "Karlheinz hired Mulroney to
16 sell Bearhead armored vehicles
17 to China."

18 13809 I'm asking you how you learned in
19 time to send a letter the next day that that was the
20 case, that he was selling Bear Head vehicles in China?

21 13810 MR. MacADAM: All I knew about the
22 Bear Head Project was what I read in the papers.

23 13811 MS BROOKS: Are you saying that you
24 learned about this in the paper between your interview
25 and your letter the next day?

1 13812 MR. MacADAM: My letter the next day
2 to Kaplan?

3 13813 MS BROOKS: Yes.

4 --- Pause

5 13814 MR. MacADAM: I can't explain where I
6 read it. I certainly didn't learn it from Mr.
7 Mulroney, because I didn't ask him.

8 13815 COMMISSIONER OLIPHANT: I think the
9 question, Mr. MacAdam, is: How is it that on Sunday
10 the 18th you had no idea what Mr. Mulroney did to earn
11 the money, and a day later you have an explanation?
12 13816 How is that?

13 13817 MR. MacADAM: Just based on what I
14 read in the papers, and that's hearsay.

15 13818 COMMISSIONER OLIPHANT: When did you
16 read it in the paper, between Sunday and Monday?

17 13819 MR. MacADAM: No. Before Luc Lavoie
18 was quoted as saying that he was selling spaghetti,
19 whereas it was a pasta machine.

20 13820 MS BROOKS: Yeah, we are going a
21 little bit in circles here, because that's not what you
22 say in your letter, Mr. MacAdam. You actually say that
23 he was selling vehicles to China.

24 13821 It's not a trick question. Mr.
25 Mulroney's position is that he was selling such

1 vehicles to China.

2 13822 My question for you is, how, in 2004,
3 July, did you know that?

4 13823 MR. MacADAM: Well, if he had taken
5 on the case, or the file, probably it was an assumption
6 of mine. Maybe I assumed incorrectly.

7 13824 MS BROOKS: What was your
8 relationship with Karlheinz Schreiber?

9 13825 MR. MacADAM: I liked him. He was
10 jolly. He was gregarious.

11 13826 MS BROOKS: You said that while Mr.
12 Mulroney was Leader of the Opposition you met him once.

13 13827 Is that correct?

14 13828 MR. MacADAM: That's right.

15 13829 MS BROOKS: You didn't meet him any
16 other times while Mr. Mulroney was Leader of the
17 Opposition.

18 13830 Is that correct?

19 13831 MR. MacADAM: That's correct.

20 13832 MS BROOKS: And while Mr. Mulroney
21 was Prime Minister -- and you worked in the PMO from
22 1984 to 1988 -- you say that you didn't meet him at
23 all.

24 13833 Is that correct?

25 13834 MR. MacADAM: That's correct. I

1 might have seen him at a caucus event, but just
2 "Hello".

3 13835 MS BROOKS: So at that point in
4 time -- and I am talking about 1987, the end of 1987,
5 when you left the PMO -- how would you describe your
6 relationship at that time with Mr. Karlheinz Schreiber?

7 13836 MR. MacADAM: Arm's length. I didn't
8 know him at all.

9 13837 MS BROOKS: And at GCI, you said that
10 you never ran into him in the office at GCI.

11 13838 MR. MacADAM: That's right.

12 13839 MS BROOKS: Did you meet him while
13 you worked at GCI outside the office?

14 13840 MR. MacADAM: I met him at dinner one
15 night.

16 13841 MS BROOKS: And what kind of dinner
17 was that?

18 13842 MR. MacADAM: Purely social, with
19 Gary Ouellet and Gerry Doucet and his wife, and my
20 wife.

21 13843 MS BROOKS: Did you meet him any
22 other times while you were at GCI?

23 13844 MR. MacADAM: No.

24 13845 MS BROOKS: So by the time you left
25 GCI in 1993, how would you describe your relationship

1 with Mr. Schreiber at that point?

2 13846 MR. MacADAM: Friendly.

3 13847 MS BROOKS: Did you know him well?

4 13848 MR. MacADAM: No.

5 13849 MS BROOKS: After you left GCI in
6 1993, did you get to know Mr. Schreiber better after
7 that point?

8 13850 MR. MacADAM: I think I met him once
9 in the next 15 years. It was at a birthday party for a
10 friend, and there were 75 people there, and he showed
11 up with his wife.

12 13851 MS BROOKS: If I could just recap,
13 you are telling us that you met him three times in all,
14 once was while Mr. Mulroney was Leader of the
15 Opposition --

16 13852 MR. MacADAM: That's right.

17 13853 MS BROOKS: -- the second time was at
18 a dinner at GCI, and the third time was at another
19 event, a birthday party for someone else.

20 13854 MR. MacADAM: Yeah.

21 13855 MS BROOKS: Could you look at Tab 1
22 of the documents, which is the CBC's the fifth estate,
23 and if you could turn to page 99, here you say -- and I
24 am looking toward the bottom quarter of the page -- Mr.
25 MacIntyre is saying on script:

1 "A year later Brian Mulroney was
2 the prime minister of Canada,
3 and Karlheinz Schreiber was keen
4 to capitalize on his proximity
5 to power."
6 13856 And you are quoted as saying:
7 "They're both honest, decent
8 men."
9 13857 I take it that you are referring
10 there to Mr. Schreiber and Mr. Mulroney.
11 13858 MR. MacADAM: Correct.
12 13859 MS BROOKS: Correct.
13 "I would have no hesitation in
14 going out in the desert if Brian
15 Mulroney or Karlheinz had the
16 water. I wouldn't be afraid.
17 That's how...you know, I trust
18 them implicitly."
19 13860 How is it, then, that you can say
20 this to Linden MacIntyre in 1999, based on what you
21 have told me today, that the relationship was three
22 meetings?
23 13861 Was there more that you knew about
24 Mr. Schreiber or that you can add to that description
25 of the three meetings?

1 13862 MR. MacADAM: Well, he seemed to move
2 very well among members of the caucus, and they all
3 spoke highly of him. Some knew him intimately.

4 13863 And I find that first impressions are
5 often lasting, and Karlheinz could light up a room when
6 he entered it. He was --

7 13864 MS BROOKS: But how could you say
8 that you, personally -- you are not saying that a
9 member of the caucus would have no hesitation going to
10 an island with Mr. Schreiber, you say, "I would have no
11 hesitation."

12 13865 MR. MacADAM: That's right.

13 13866 MS BROOKS: I need to know more about
14 why you would have no hesitation. What is it about
15 your relationship with Mr. Schreiber that puts you in a
16 position to say that in 1999 to Mr. MacIntyre?

17 13867 MR. MacADAM: He impressed me.

18 13868 MS BROOKS: How did he impress you?

19 13869 MR. MacADAM: As I said, he could
20 light up a room when he entered it. He was jolly and
21 gregarious and fun-loving.

22 13870 He never lobbied me, it was always
23 purely social.

24 13871 MS BROOKS: So on the basis of
25 someone being gregarious, you say that you would have

1 this level of trust in them.

2 13872 MR. MacADAM: Yeah.

3 13873 MS BROOKS: You are a friendly

4 person, and a trustful one, I would say.

5 13874 You are talking later about Mr.

6 Schreiber down the page:

7 "Oh, he's aggressive. He's very

8 aggressive without being pushy."

9 13875 How do you know that?

10 13876 MR. MacADAM: Hearsay.

11 13877 MS BROOKS: From whom?

12 13878 MR. MacADAM: People around GCI who

13 were familiar with the Bear Head file.

14 13879 MS BROOKS: And what discussions did

15 you have at GCI about the Bear Head file?

16 13880 MR. MacADAM: Very, very little.

17 13881 MS BROOKS: Who would that have been

18 with?

19 13882 MR. MacADAM: Gary Ouellet, Frank

20 Moores, Gary Leroux, some people who --

21 13883 MS BROOKS: Gerry Doucet?

22 13884 MR. MacADAM: Gerry?

23 13885 MS BROOKS: Gerry Doucet?

24 13886 MR. MacADAM: No.

25 13887 MS BROOKS: So you spoke about the

1 Thyssen Bear Head Project with Gary Ouellet, Mr.
2 Leroux --

3 13888 What was his position there?

4 13889 MR. MacADAM: He was a consultant at
5 GCI, Gary Leroux.

6 13890 MS BROOKS: And with Frank Moores?

7 13891 MR. MacADAM: Frank was the head
8 honcho at GCI.

9 13892 MS BROOKS: What was the nature of
10 those discussions?

11 13893 MR. MacADAM: Very peripheral,
12 because I was not involved in the file.

13 13894 MS BROOKS: Was it while you were
14 working for GCI?

15 13895 MR. MacADAM: It was ongoing, yes.

16 13896 MS BROOKS: What did Mr. Frank Moores
17 tell you about the project and what they were doing for
18 it?

19 13897 MR. MacADAM: Very little.

20 13898 MS BROOKS: Well, you are saying that
21 Mr. Schreiber is aggressive, but without being pushy,
22 so how did the discussions go about Mr. Schreiber in
23 those conversations?

24 13899 MR. MacADAM: Say again?

25 13900 MS BROOKS: In this interview with

1 Mr. MacIntyre you say:
2 "Oh, he's aggressive. He's very
3 aggressive without being pushy."
4 13901 You are being very vague with what
5 you were talking about with your colleagues at GCI, and
6 I am trying to learn more about what they told you
7 about the Thyssen project and Mr. Schreiber.
8 13902 What did they say about Mr.
9 Schreiber?
10 13903 MR. MacADAM: Very little.
11 13904 MS BROOKS: So are you just shooting
12 the bull when you say these things to Mr. MacIntyre?
13 13905 MR. MacADAM: No. No, I liked
14 Karlheinz initially. He was low-key. He wasn't --
15 13906 MS BROOKS: You go on to say --
16 excuse me --
17 "Yeah, and he's a person who
18 doesn't give up easily. He's
19 not a quitter. I don't know how
20 many years he had an office here
21 for Bearhead, fighting."
22 13907 What do you know about that?
23 13908 MR. MacADAM: Well, I wondered how
24 long it was going to go on, because it was just an
25 outlay of capital investments, capital costs --

1 13909 MS BROOKS: By --

2 13910 MR. MacADAM: -- and nothing was

3 happening.

4 13911 MS BROOKS: By Thyssen?

5 13912 MR. MacADAM: Yeah. They had an

6 office. I don't know what they were paying Greg -- Mr.

7 Alford -- but they had an office in Toronto, and they

8 were hiring lobbyists in Ottawa.

9 13913 MS BROOKS: I am focusing here on Mr.

10 Schreiber and your knowledge and relationship with him,

11 and you seem to be in a position to tell Mr. MacIntyre,

12 on the fifth estate -- to express opinions about him,

13 and this was in 1999. You describe him as a person who

14 can light up a room. You describe him as aggressive

15 without being pushy, and not a quitter.

16 13914 I am just trying to hear from you --

17 did you meet Mr. Schreiber on any other occasions

18 besides the three you have mentioned this morning?

19 13915 MR. MacADAM: No.

20 13916 MS BROOKS: Well, we will have to

21 move on and accept your evidence, although it doesn't

22 seem to fit with what you have been telling others

23 about that.

24 13917 Could you turn back to Tab 3, which

25 is the interview with Mr. Kaplan.

1 13918 Now, I want to look at the second
2 question from Mr. Kaplan:
3 "When you read the Globe & Mail
4 did you know about the money?"
5 13919 He is referring here to the Globe and
6 Mail article which would have been in November 2003.
7 13920 You say:
8 "I found out about it later.
9 Mulroney told me it was not
10 \$300,000. He told me it was
11 \$225,000 and that he paid tax on
12 it and declared it."
13 13921 Can you tell me what Mr. Mulroney
14 said about how this information became public?
15 13922 What did he tell you about how it
16 came to become public?
17 13923 MR. MacADAM: I believe he mentioned
18 Philip Mathias and Stevie Cameron and Frank Magazine;
19 not in the same breath, but...
20 13924 MS BROOKS: Were they in the same
21 conversation?
22 13925 MR. MacADAM: Yeah.
23 13926 MS BROOKS: Did you ever get the
24 Frank Magazine that mentioned it?
25 13927 MR. MacADAM: Probably.

1 13928 MS BROOKS: Did you? Do you recall
2 doing that?

3 13929 MR. MacADAM: It's so long ago, I
4 don't recall.

5 13930 MS BROOKS: Well, we are talking
6 about -- it would be sometime after 2003, because you
7 said that you found out about the payments later, so
8 it's not that long ago.

9 13931 Did you speak to Phil Mathias about
10 it?

11 13932 MR. MacADAM: No.

12 13933 MS BROOKS: Do you know Mr. Mathias?

13 13934 MR. MacADAM: No.

14 13935 MS BROOKS: Did Mr. Mulroney tell you
15 that he was paid in cash?

16 13936 MR. MacADAM: No.

17 13937 MS BROOKS: When did you learn that?

18 13938 MR. MacADAM: Oh, I can't recall.

19 13939 MS BROOKS: Did Mr. Mulroney tell you
20 where he had been paid, where the payments had been
21 made?

22 13940 MR. MacADAM: No.

23 13941 MS BROOKS: Did he talk about what
24 the format of the payment was at all?

25 13942 MR. MacADAM: No.

1 13943 MS BROOKS: One moment, please, Mr.
2 MacAdam.
3 --- Pause

4 13944 MS BROOKS: Those are my questions,
5 Mr. MacAdam. My friends across the aisle might have
6 some questions for you.

7 13945 MR. MacADAM: Could I just say one
8 thing?

9 13946 This interview with Pat MacAdam on
10 July 18th, 2004, by Mr. Kaplan -- those are his notes.
11 I didn't say those things. He made aide-memoire notes
12 to himself.

13 13947 MS BROOKS: Well, maybe we should,
14 then, just for clarification, go through what is here
15 in his notes and just find out where you differ with
16 what he has noted.

17 13948 MR. MacADAM: Maybe you could ask Mr.
18 Kaplan when you have him on the stand.

19 13949 MS BROOKS: We will do that, as well.
20 Thanks.

21 13950 Let's go through this, then. The
22 first question is:
23 "Apparently Mulroney and
24 Schreiber knew each other quite
25 well."

1 13951 Your answer here is:
2 "Brian Mulroney kept him at
3 arm's length..."
4 13952 MR. MacADAM: I don't know that --
5 13953 MS BROOKS: Is that true?
6 13954 MR. MacADAM: I don't know that Brian
7 Mulroney kept him at arm's length.
8 13955 MS BROOKS: So you didn't say that?
9 13956 MR. MacADAM: No.
10 13957 MS BROOKS:
11 "He used to show up with
12 Strauss's son."
13 13958 MR. MacADAM: He showed up once.
14 13959 MS BROOKS: Again you have used the
15 words "He used to".
16 13960 MR. MacADAM: H'm?
17 13961 MS BROOKS: Again you have used the
18 words "He used to", which is the same kind of language
19 you have used with Mr. MacIntyre.
20 13962 MR. MacADAM: He showed up once with
21 Max Strauss, unexpected and uninvited.
22 13963 MS BROOKS: Right. Why don't you
23 just tell me what here strikes you as being inaccurate?
24 13964 MR. MacADAM: Well, "Brian Mulroney
25 kept him at arm's length". I don't know that.

1 13965 "He used to show up with Strauss'
2 son." Incorrect. He came once.

3 13966 "I don't think Mulroney would have
4 seen him otherwise." Correct.

5 13967 MS BROOKS: Mr. Mulroney would not
6 have seen Karlheinz Schreiber if Max Strauss hadn't
7 been there?

8 13968 MR. MacADAM: No. I wouldn't have
9 booked him in.

10 13969 MS BROOKS: "Mulroney was pretty
11 thick with Franz Josef Strauss."

12 13970 MR. MacADAM: I don't know that. I
13 know that they knew each other.

14 13971 MS BROOKS: "Schreiber was a very
15 funny guy. A little guy. He could light up a room."

16 13972 MR. MacADAM: Correct, I said that.

17 13973 MS BROOKS: All right. Then go to
18 the next question: You have confirmed that Mr.
19 Mulroney told you it was \$300,000. You confirmed that
20 he told you it was \$225,000 and he paid tax on it.

21 13974 So all of the next paragraph you have
22 confirmed here.

23 13975 You have said that here.

24 13976 MR. MacADAM: Well, except for the
25 grammar, it's correct.

1 13977 "Would of said so" is not my way of
2 speaking.

3 13978 MS BROOKS: And the next two
4 questions are what you have said today that you said.

5 13979 MR. MacADAM: Well, Brian told me
6 that William Kaplan never asked him --

7 13980 MS BROOKS: Correct, and I have that
8 down there.

9 13981 So we move to the next page: "Why
10 did Mulroney take it in cash?"

11 13982 The answer mirrors what you have told
12 us here today.

13 13983 MR. MacADAM: M'hmm. Again, it's
14 hearsay, you know that. I just read that he was
15 commissioned to try to interest Archer Daniels
16 Midland --

17 13984 MS BROOKS: Right. This interview
18 doesn't say anything about that.

19 13985 MR. MacADAM: Yeah, but that's the
20 spaghetti --

21 13986 MS BROOKS: Finally, at the bottom of
22 the page, you have also said that today.

23 13987 So, except for those two issues that
24 we have just identified, the interview accurately
25 reflects your interview.

1 13988 MR. MacADAM: Yeah. There's a couple
2 of pieces blocked out. I don't know what they are,
3 but...

4 13989 MS BROOKS: They were not relevant to
5 this inquiry.

6 13990 MR. MacADAM: H'm?

7 13991 MS BROOKS: They were not relevant to
8 this inquiry.

9 13992 Mr. Commissioner, that is the end of
10 my questions.

11 13993 COMMISSIONER OLIPHANT: Thank you.

12 13994 Mr. MacAdam, I don't know if other
13 counsel have questions. I will ascertain that, and
14 then offer you an opportunity for a break, if you wish.

15 13995 Just give me half a second, okay,
16 please?

17 13996 Any questions on behalf of Mr.
18 Mulroney?

19 13997 MR. HUGHES: No, thank you,
20 Commissioner.

21 13998 COMMISSIONER OLIPHANT: All right.

22 13999 Mr. Vickery...?

23 14000 MR. VICKERY: No, thank you.

24 14001 COMMISSIONER OLIPHANT: Mr.
25 Houston...?

1 14002 MR. HOUSTON: No thanks, sir.

2 14003 COMMISSIONER OLIPHANT: All right.

3 14004 And there is no one here representing

4 Mr. Schreiber, so I take it, then, that Mr. MacAdam is

5 free to leave.

6 14005 MS BROOKS: He is free to leave, Mr.

7 Commissioner.

8 14006 COMMISSIONER OLIPHANT: All right.

9 14007 Mr. MacAdam, thank you very much,

10 sir, that is the extent of the need for you to be here.

11 I thank you for coming and for your assistance, Mr.

12 MacAdam. I appreciate it.

13 14008 MR. MacADAM: You're welcome.

14 14009 MS BROOKS: Mr. Commissioner, I am in

15 your hands. Our next witness is here, Mr. Donald

16 Smith, who is with the Executive Correspondence Unit at

17 PCO.

18 14010 My suggestion would be that you may

19 wish to take the morning break now, and we can continue

20 after the break with Mr. Smith.

21 14011 Then, our third witness is also here,

22 and she is on standby and can continue when I am

23 finished with Mr. Smith.

24 14012 COMMISSIONER OLIPHANT: All right.

25 14013 How long are you going to be with Mr.

1 Smith, any idea?

2 14014 MS BROOKS: I would estimate about an
3 hour.

4 14015 COMMISSIONER OLIPHANT: Okay, we will
5 take a break now, then, for 15 minutes.

6 14016 It is coming up on 20 after, so we
7 will come back at 25 to 11.

8 14017 MS BROOKS: Thank you.

9 --- Upon recessing at 10:20 a.m. / Suspension à 10 h 20
10 --- Upon resuming at 10:35 a.m. / Reprise à 10 h 35

11 14018 COMMISSIONER OLIPHANT: Be seated,
12 please.

13 14019 MS BROOKS: Thank you, Mr.
14 Commissioner.

15 14020 We have on the stand Mr. Donald
16 Smith, who will be sworn.

17 14021 COMMISSIONER OLIPHANT: Good morning,
18 Mr. Smith.

19 14022 MR. SMITH: Good morning.

20 SWORN: DONALD SMITH /
21 ASSERMENTÉ: DONALD SMITH

22 14023 MS BROOKS: A housekeeping matter,
23 Mr. Commissioner. I will be referring to three
24 documents during the course of this testimony, and I
25 would like to enter them as the next three exhibits.

- 1 14024 The first is P-15: Report by the
2 Privy Council Office on the Executive Correspondence
3 Procedures and the Handling of Letters from Karlheinz
4 Schreiber to Prime Minister Harper -- June 2006 to
5 September 2007.
- 6 14025 The second is P-16. This one is a
7 slim document, which is the Report by the Prime
8 Minister's Office on the Prime Minister's
9 Correspondence Unit Procedures and the Handling of
10 Letters from Karlheinz Schreiber to Prime Minister
11 Harper -- June 2006 to September 2007.
- 12 14026 The third, P-17, is a 3-inch binder
13 labelled: "Documents in Support of the Testimony of Ms
14 Sheila Powell and Mr. Donald Smith."
- 15 14027 And our Registrar, who, as we know,
16 broke a couple of ribs less than a week ago, has
17 brought you those documents.
- 18 14028 COMMISSIONER OLIPHANT: I am
19 surprised that he doesn't have a heart attack lugging
20 these binders around.
- 21 --- Laughter / Rires
- 22 14029 COMMISSIONER OLIPHANT: All right,
23 the three exhibits, then, Exhibits P-15, P-16 and P-17,
24 respectively, are entered on the record of the
25 Commission.

1 EXHIBIT NO. P-15: Report by the
2 Privy Council Office on the
3 Executive Correspondence
4 Procedures and the Handling of
5 Letters from Karlheinz Schreiber
6 to Prime Minister Harper -- June
7 2006 to September 2007
8 EXHIBIT NO. P-16: Report by the
9 Prime Minister's Office on the
10 Prime Minister's Correspondence
11 Unit Procedures and the Handling
12 of Letters from Karlheinz
13 Schreiber to Prime Minister
14 Harper -- June 2006 to September
15 2007
16 EXHIBIT NO. P-17: Binder
17 labelled: "Documents in Support
18 of the Testimony of Ms Sheila
19 Powell and Mr. Donald Smith"
20 14030 MS BROOKS: Thank you, Commissioner.
21 14031 COMMISSIONER OLIPHANT: Thank you.
22 14032 MS BROOKS: Since we are veering into
23 new territory with the next two witnesses, I thought it
24 would be useful for me to read into the record the
25 Terms of Reference questions that are at issue for Mr.

1 Donald Smith and for Ms Powell.

2 14033 I would note that Ms Powell is not in
3 the hearing room at this moment.

4 14034 The Terms of Reference Question 15
5 says:

6 "What steps were taken in
7 processing Mr. Schreiber's
8 correspondence to Prime Minister
9 Harper of March 29, 2007?"

10 14035 Your Question 16 in the Terms of
11 Reference, Commissioner, ask:

12 "Why was the correspondence not
13 passed on to Prime Minister
14 Harper?"

15 14036 And Question 17 of your Terms of
16 Reference says:

17 "Should the Privy Council Office
18 have adopted any different
19 procedures in this case?"

20 EXAMINATION: DONALD SMITH BY MS BROOKS /

21 INTERROGATOIRE: DONALD SMITH PAR Me BROOKS

22 14037 MS BROOKS: Mr. Smith, thank you so
23 much for being here this morning. We appreciate your
24 turning up today.

25 14038 You are a senior editor in the

1 Executive Correspondence Unit of the Privy Council
2 Office.

3 14039 Is that correct?

4 14040 MR. SMITH: That is correct.

5 14041 MS BROOKS: As I understand it, you
6 have worked in ECU, as I will call it, for 10 years?

7 14042 MR. SMITH: That's true, yes.

8 14043 MS BROOKS: Also, you were acting
9 manager of the Executive Correspondence Unit from the
10 end of September 2007 to the end of January 2008.

11 14044 Is that correct?

12 14045 MR. SMITH: Yes, that is true.

13 14046 MS BROOKS: Therefore, during the
14 period for the letters in question, which is between
15 June 2006 and September 2007, you were a senior editor
16 in the ECU.

17 --- Pause

18 14047 MR. SMITH: Yes.

19 14048 MS BROOKS: The last letter was on
20 September 26th, just to give you the timeline there.

21 14049 MR. SMITH: Yes, I am just trying to
22 think when I returned to my duties.

23 14050 COMMISSIONER OLIPHANT: Mr. Smith,
24 could I ask you to get a little closer to the
25 microphone and speak into it, please? It is important

1 that everybody be able to hear you.

2 14051 Thank you.

3 14052 MS BROOKS: Is that correct, you were
4 senior editor for the period of time that these letters
5 were received into the PCO?

6 14053 MR. SMITH: Yes, that's true.

7 14054 MS BROOKS: Just to clarify, the ECU,
8 or Executive Correspondence Unit, is the section that
9 processes all correspondence that is sent to the Prime
10 Minister -- to Prime Minister Harper -- at first
11 stance.

12 14055 MR. SMITH: Yes.

13 14056 MS BROOKS: Let's say processes at
14 first instance.

15 14057 MR. SMITH: Yes, it is set up to be
16 that way, and the vast majority of correspondence would
17 come through us first.

18 14058 MS BROOKS: Would it be fair to
19 describe it as the entry point for the correspondence
20 for the Prime Minister?

21 14059 MR. SMITH: Yes, that's right.

22 14060 MS BROOKS: Just focusing a little
23 bit on the organization of the Executive Correspondence
24 Unit, according to the report that you filed --

25 14061 And I should point out, Commissioner,

1 that the first two exhibits that were filed here today,
2 the reports from PCO and PMO, were filed at the request
3 of Commission counsel. We requested from both offices
4 a description of the procedures in their respective
5 offices, and now I am going to refer you to the PCO
6 report, and Appendix 1 of that report, which is an
7 organization chart.

8 14062 According to the report -- I will
9 just let you turn that up --

10 --- Pause

11 14063 MR. SMITH: The appendices are
12 coloured?

13 14064 MS BROOKS: Actually, Appendix 1 may
14 not be labelled. You will have the body of the report,
15 which is very slim, followed immediately by the
16 appendices, without tabs.

17 14065 This was the way the report was
18 produced.

19 14066 COMMISSIONER OLIPHANT: Appendix 1?

20 14067 MR. SMITH: It is page 8 in the first
21 section.

22 14068 MS BROOKS: That's right.

23 14069 Do you have that, Commissioner?

24 14070 COMMISSIONER OLIPHANT: Yes, thank
25 you.

- 1 14071 MS BROOKS: According to the body of
2 the report filed by PCO, there are 35 employees in the
3 Executive Correspondence Unit who are dedicated to
4 processing the correspondence.
- 5 14072 Is that correct?
- 6 14073 MR. SMITH: Yes, that's right.
- 7 14074 MS BROOKS: And that was at the time
8 that the report was filed, but was it the same number,
9 approximately, at the time this correspondence was
10 coming in?
- 11 14075 MR. SMITH: I believe so, it has been
12 fairly stable.
- 13 14076 MS BROOKS: Just to define the extent
14 of what is coming into PCO for the Prime Minister,
15 these employees would receive and process all of the
16 letters, e-mails, postcards, petitions, birthday
17 greeting requests -- in other words, the whole gamut of
18 correspondence directed to Prime Minister Harper.
- 19 14077 MR. SMITH: Yes, that's correct.
- 20 14078 MS BROOKS: And this ECU setup
21 predated Prime Minister Harper's tenure as Prime
22 Minister.
- 23 14079 Is that correct?
- 24 14080 MR. SMITH: Yes, it predates my time
25 there, as well. I think it was set up in '92.

1 14081 MS BROOKS: Okay. We will be getting
2 into this in much more detail, but just as a general
3 proposition, it is my understanding that ECU processes
4 the mail when it comes in -- triages it, in other
5 words -- classifies it, and certain classifications of
6 that correspondence are passed on to the Prime
7 Minister's Correspondence Unit in PMO, the Prime
8 Minister's Office.

9 14082 Is that a good general description of
10 that process, or overview?

11 14083 MR. SMITH: Yes, a small subsection
12 of the correspondence received would eventually make
13 its way to the Prime Minister's correspondence unit.

14 14084 MS BROOKS: And the Prime Minister's
15 correspondence in PMO, the Prime Minister's Office, is
16 something that --

17 14085 Have you ever worked in that office?

18 14086 MR. SMITH: No, I have not.

19 14087 MS BROOKS: We will, Mr.
20 Commissioner, be having witnesses from the PMO -- Prime
21 Minister's Correspondence Unit at some later point.

22 14088 I may have a few questions for you,
23 Mr. Smith, on your knowledge of procedures as they
24 impact on you.

25 14089 Dealing with the classification of --

1 to go back to the organization chart that is at
2 Appendix 1, this is an organization of the ECU, and I
3 see that under the Assistant Deputy Minister of the
4 Corporate Services Branch comes the Director of
5 Corporate Information Services.

6 14090 Is that Ms Sheila Powell?

7 14091 MR. SMITH: It is, yes.

8 14092 MS BROOKS: Then, the Manager of
9 Executive Correspondence Services. Was this the
10 position that you were filling on an acting basis?

11 14093 MR. SMITH: That's correct. The
12 previous manager had retired that September.

13 14094 MS BROOKS: Going down to the next
14 line -- I will go straight down to the Senior Editor,
15 English. That is the position -- one of the positions
16 that you hold?

17 14095 MR. SMITH: That is my substantive
18 position that I have held for the past 10 years.

19 14096 MS BROOKS: Is there one Senior
20 Editor, English?

21 14097 MR. SMITH: There is, yes.

22 14098 MS BROOKS: Then, under you are five
23 writers. Are the writers the same as analysts?

24 14099 MR. SMITH: No, those are IS
25 positions, IS-3. They are writer positions.

1 14100 MS BROOKS: What are the analyst
2 positions?

3 14101 MR. SMITH: They are currently
4 classified as AS-1.

5 14102 MS BROOKS: And they are described on
6 this sheet as coming under the Coordinator of Analysis
7 and Greetings?

8 14103 MR. SMITH: Yes, that's right.

9 14104 MS BROOKS: And there are 11
10 correspondence analysts?

11 14105 MR. SMITH: Yes, it fluctuates, but
12 there are 11 FTEs, full-time equivalents.

13 14106 MS BROOKS: Okay. It's very helpful
14 to know what an FTE is, from my perspective. Thank
15 you.

16 14107 At the time that the correspondence
17 in question was coming into the PCO, was the number 11
18 approximately the same number?

19 14108 There were 11 then?

20 14109 MR. SMITH: Approximately, yes.

21 14110 MS BROOKS: All right. That's
22 helpful, thank you.

23 14111 Dealing with the classification of
24 correspondence --

25 14112 COMMISSIONER OLIPHANT: I'm sorry, Ms

1 Brooks, but before you leave that, could we get on the
2 record what it is that the analysts do?

3 14113 MS BROOKS: We will be getting into
4 that.

5 14114 COMMISSIONER OLIPHANT: Okay. Fair
6 enough.

7 14115 MS BROOKS: If you would turn to Tab
8 28 of the other binder, Mr. Smith, it is the procedures
9 for the Mail Processing Unit.

10 14116 Are you familiar with this document?

11 14117 MR. SMITH: I have seen it before,
12 yes. I did not write it or contribute to writing it,
13 but I have seen it before.

14 14118 MS BROOKS: Are you able to say
15 whether the processes that are in this document are the
16 same ones --

17 14119 I note that it is dated June 13,
18 2008. Are they the same processes and procedures that
19 would be used at the time that the correspondence in
20 question came into PCO?

21 14120 MR. SMITH: I would think so.

22 14121 MS BROOKS: Who classifies the mail
23 that comes into the ECU, would that be the analyst?

24 14122 MR. SMITH: No, the first triage is
25 done in the mailroom by the mailroom and production

1 clerks.

2 14123 MS BROOKS: And what do they do?

3 14124 MR. SMITH: They will do the first

4 sort into general versus priority mail. They will also

5 separate invitations -- all of the various

6 classifications that we have for mail.

7 14125 MS BROOKS: And once they have sorted

8 it into general and priority, what happens with that

9 mail?

10 14126 MR. SMITH: Do you want me to go into

11 both?

12 14127 MS BROOKS: Yes, please.

13 14128 MR. SMITH: If they think it is

14 priority mail -- and that will be based on convention

15 and their experience -- it will go to the supervisor of

16 the Mailroom and Production Unit for further

17 processing.

18 14129 If it is general mail, it will get a

19 number stamped on it -- also, priority mail gets a

20 number stamped on it, a tracking ID -- and it will go

21 into the analyst section for processing.

22 14130 MS BROOKS: That is general mail that

23 goes into the analyst section?

24 14131 MR. SMITH: General mail, yes.

25 14132 MS BROOKS: And priority mail

1 goes...?

2 14133 MR. SMITH: First to the supervisor
3 of the mailroom. If she agrees that it is priority
4 mail, she will produce a transmittal form.

5 14134 MS BROOKS: And the transmittal form
6 would direct that piece of priority mail where?

7 14135 MR. SMITH: She wouldn't actually do
8 the directing of it. That would be either the English
9 editor or the French editor.

10 14136 MS BROOKS: So priority mail, once it
11 has been categorized by the supervisor of the mailroom
12 and she or he has confirmed that it's priority, she
13 attaches a transmittal form to it --

14 14137 MR. SMITH: Yes.

15 14138 MS BROOKS: -- and sends it to the
16 English editor or the French editor?

17 14139 MR. SMITH: Yes. That happens twice
18 a day.

19 14140 MS BROOKS: At that point, the French
20 editor or the English editor receives the priority
21 mail, and what do you do with the transmittal form?
22 What do you do with that mail?

23 14141 MR. SMITH: First we will look at it
24 and decide whether we agree that it is priority or not.
25 There is usually, sometimes, back and forth between

1 the mailroom supervisor and the editor as to what
2 constitutes priority.

3 14142 If we agree that it is priority, we
4 will fill out the transmittal slip, which essentially
5 means putting a distribution list on it. It is kind of
6 a code.

7 14143 MS BROOKS: We will have a look at
8 the transmittal form in a moment, and we will talk
9 about why mail gets classified as priority.

10 14144 That is a good general description of
11 what happens when it is taken in and when it gets to
12 you.

13 14145 When it gets to you and you determine
14 that it is priority mail, you fill out the transmittal
15 form and send it to the appropriate recipient.

16 14146 Is that correct?

17 14147 MR. SMITH: No, it will be sent to
18 the analysts for processing. At this point it has not
19 been scanned into the database.

20 14148 Once I have filled out the
21 transmittal form, the analysts will know who the
22 original should be sent to and who should receive
23 copies. Plus, they will scan in the transmittal form
24 and the original document.

25 14149 MS BROOKS: Does the analyst, him or

1 herself, actually physically scan in the document?

2 14150 MR. SMITH: They do, as long as it is
3 something that is not bound, for example. They would
4 not be able to scan that in.

5 14151 MS BROOKS: And if it is a bound
6 document, what would the process be?

7 14152 MR. SMITH: We have separate
8 procedures for attachments. They would fill in a form
9 saying that there is an attachment with this file, and
10 here is the tracking number, and it will be
11 cross-referenced to the accompanying letter.

12 14153 MS BROOKS: Thank you. As I say, we
13 will get into a little bit more detail about the
14 priority mail in a moment.

15 14154 You said that the other
16 classification, general mail, would be done at the
17 triage stage at the sorting room. What happens to
18 general mail?

19 14155 MR. SMITH: Once they have put a
20 tracking ID on it, it will go to the analyst section,
21 and it actually goes in boxes, depending on how many
22 there are -- or, sorry, what the volume is that week --
23 cardboard boxes.

24 14156 After that, each analyst, every day,
25 will take a certain amount of mail and profile it and

1 scan it into the system.

2 14157 MS BROOKS: At what point would
3 general mail be analyzed to determine if it falls into
4 the class of personal and political mail, or personal
5 or political mail?

6 14158 Perhaps you could just confirm that
7 there is a class of mail which is termed "personal or
8 political mail".

9 14159 MR. SMITH: Yes, that's true.

10 14160 MS BROOKS: At what stage would
11 general mail be considered to determine if it is
12 personal or political mail?

13 14161 MR. SMITH: It could be the analyst
14 or the analyst in conjunction with the writer who is
15 responsible for the topic, or it could be --

16 14162 Yes, that's the way it would be done.

17 14163 MS BROOKS: So the group of mail that
18 you have called general mail goes to the analysts, and
19 they work their way through it, and it is from that
20 group of general mail that an analyst, together with a
21 writer, might identify a particular piece of mail as
22 political or personal mail.

23 14164 Is my understanding correct?

24 14165 MR. SMITH: Yes, if it had not been
25 already identified as such in priority mail.

1 14166 MS BROOKS: Okay. That's a good
2 point.

3 14167 Now, if we could just look at what
4 correspondence analysts do -- and I would ask you to
5 turn to Tab 31 of the same binder that you are in.

6 14168 This is the binder -- documents in
7 support of the testimony, Commissioner, and there
8 should be a Tab 31 in your binder.

9 14169 I wonder if you could give me, in
10 reference to this job description --

11 14170 This job description is titled
12 "Correspondence Analyst - AS-1".

13 14171 AS-1, as I understand it, is a
14 clerical designation in the federal government.

15 14172 Is that correct?

16 14173 MR. SMITH: Technically, "Clerical"
17 would be "CR". "AS" is "Administrative Services", but
18 in the general public they would both be clerical in
19 nature.

20 14174 MS BROOKS: So it's "Administrative
21 Services".

22 14175 MR. SMITH: At that level, AS-1, it
23 would be, yes.

24 14176 MS BROOKS: Are there any other
25 levels below an AS-1 in the AS designation?

1 14177 MR. SMITH: No, that's the lowest.

2 14178 MS BROOKS: Can you give me a picture
3 of what an analyst's job is with respect to
4 correspondence coming into the ECU?

5 14179 MR. SMITH: Just a general
6 description, off the top of my head; they are in charge
7 of entering mail into the database, which is called
8 WebCIMS, which is the correspondence tracking system we
9 use. They also reply to e-mail sent to the Prime
10 Minister in the Prime Minister's e-mail account.

11 14180 MS BROOKS: They would draft the
12 replies and reply to the e-mails?

13 14181 MR. SMITH: They would use a library
14 of standards and reply to those that could be replied
15 with the standard.

16 14182 MS BROOKS: With respect to written
17 correspondence, and I mean by that paper correspondence
18 rather than electronic, what does the analyst do with
19 respect to that?

20 14183 Do they write -- for instance, do
21 they write the replies?

22 14184 MR. SMITH: They will send -- there
23 is also a library of standards for paper mail. The
24 standards are written by the writers and they are put
25 in the electronic library. They can pick from a

1 selection of standards if --

2 14185 MS BROOKS: They may, meaning the
3 analysts?

4 14186 MR. SMITH: The analysts, yes.

5 Sorry.

6 14187 If it is appropriate to reply to an
7 item of correspondence with a standard reply, they will
8 do so. And of course this is in addition to having
9 entered the profile of the correspondence and scanned
10 in the letter.

11 14188 MS BROOKS: Is the analyst the person
12 who reads the mail and decides what should be done by
13 way of reply or otherwise?

14 14189 MR. SMITH: They will be the first
15 level, I would say, once it has come from the mailroom.

16 14190 MS BROOKS: And is it the analyst's
17 task to decide whether that mail is personal or
18 political mail?

19 14191 MR. SMITH: I would say no, it's not
20 their principal responsibility. If they have been
21 informed that a topic "X" is of interest to the Prime
22 Minister's Correspondence Unit, they will have been
23 informed of that.

24 14192 For example, the most recent example
25 of that would be the Coalition. We received a lot of

1 general mail on the Coalition from Canadians.

2 14193 MS BROOKS: The Coalition in January
3 this year?

4 14194 MR. SMITH: Yeah, the proposed
5 Coalition of the Opposition parties. That was all
6 general mail and it was treated as political.

7 14195 MS BROOKS: And just to focus on that
8 as an example --

9 14196 MR. SMITH: Sure.

10 14197 MS BROOKS: -- not because of the
11 topic, but how did you learn that it was to be treated
12 as personal or political mail?

13 14198 MR. SMITH: The Manager of the
14 Correspondence Unit at PMO informed us. She probably
15 told the ECU Manager.

16 14199 MS BROOKS: That's Ms Salpainian(ph)?

17 14200 MR. SMITH: Yes.

18 14201 MS BROOKS: She would have told your
19 ECU Manager, meaning Ms Powell?

20 14202 MR. SMITH: No, no, she's not --
21 Ms Powell is the Director of the division; my manager
22 Ms Contois(ph).

23 14203 MS BROOKS: Would that have been
24 conveyed in writing or verbally?

25 14204 MR. SMITH: I am not sure. I think

1 it would be by e-mail usually. At least from our
2 manager to their staff would be by e-mail.

3 14205 From the manager of the Prime
4 Minister's Correspondence Unit, I'm not sure.

5 14206 MS BROOKS: Okay. What is the
6 definition of personal or political mail?

7 14207 I can refer --

8 14208 MR. SMITH: Yeah, I believe we have
9 it written down.

10 14209 MS BROOKS: This might help you.
11 It's in your book, the PCO Report, which is the other
12 binder, at page 3, if you wanted to turn that up.

13 14210 MR. SMITH: Generally it is dealing
14 with partisan political matters, Caucus affairs. Mail
15 from Caucus members would be --

16 14211 MS BROOKS: I will help you out
17 because the document speaks for itself but I would like
18 to probe this definition with you.

19 14212 I will just let you take the time to
20 turn to page 3 of the report, which is right at the
21 beginning of that binder.

22 --- Pause

23 14213 MS BROOKS: It says:
24 "Personal or political mail is
25 defined as mail that relates to

1 the Prime Minister's
2 constituency business and role
3 as Member of Parliament; party
4 political matters ... and the
5 private life and personal
6 interests of the Prime Minister.
7 In addition, PMC sometimes
8 identifies particular issues for
9 handling by their unit, either
10 because the Prime Minister knows
11 the individual or because the
12 issue is of particular concern
13 to the Prime Minister and his
14 staff."

15 14214 I would like to focus on the second
16 half of that definition, which is the one where the
17 issues are identified and how those issues get
18 identified and how that is conveyed to staff.

19 14215 So let's just deal with that. When
20 an issue is -- who is it that identifies issues as
21 particular issues for handling as personal or political
22 mail? Who is it that does that?

23 14216 Let me break it down for you; it
24 might assist.

25 14217 Is that process carried out in the

1 PCO, in Privy Council Office?

2 14218 MR. SMITH: Not to my knowledge, no.

3 It would be handled based on information we are
4 provided with from the Prime Minister's Correspondence
5 Unit. Or if the correspondent happens to mention, for
6 instance, that they met the Prime Minister at an event,
7 that would be sort of a flag to identify it as
8 political.

9 14219 MS BROOKS: It says on the same page
10 of the report that PMC, that is the Prime Minister's
11 Correspondence Unit:

12 "... determines on an ongoing
13 basis which issues are of
14 particular interest, and informs
15 ECU."

16 14220 Do you know how on a regular basis
17 this information is transferred to ECU?

18 14221 MR. SMITH: Yes. I mean I would call
19 it maybe more ad hoc than regular, but it would either
20 be via phone call or e-mail.

21 14222 MS BROOKS: Is there a regular report
22 that is issued on a weekly or biweekly basis that lists
23 the issues of the day, let's call them?

24 14223 MR. SMITH: No.

25 14224 MS BROOKS: Has there ever been any

1 thought given to having a more formalized process than
2 what you have described as an ad hoc process?

3 14225 MR. SMITH: I believe there used to
4 be a narrative report, weekly report on issues. At
5 some point in the past that was dropped at the request
6 of PMO -- well, Prime Minister's Correspondence Unit, I
7 should say.

8 14226 MS BROOKS: In this current
9 government or a former government?

10 14227 MR. SMITH: I think it was the
11 previous one.

12 14228 MS BROOKS: Is there a regular hot
13 issues report that is sent by PMO to PCO?

14 14229 MR. SMITH: No.

15 14230 MS BROOKS: What about the other way
16 around, communication going backwards?

17 14231 Let me put this scenario to you:
18 that you and PCO, you triage the mail, you receive it,
19 you process it, and you find an issue that you believe
20 could be an issue of concern to PMO.

21 14232 Do you -- and I mean you and ECS --
22 ECU, do you identify issues and pass them on to PMO, to
23 the Prime Minister's Correspondence Unit?

24 14233 MR. SMITH: If we are informed of an
25 issue of interest to them that they would -- I wouldn't

1 phrase it "of interest to them". They have told us
2 that they wish to handle a certain issue,
3 correspondence on that issue.

4 14234 MS BROOKS: I'm asking whether there
5 is a more proactive process whereby you and PCO --
6 let's say your analysts get a letter from somebody who
7 raises an issue that you believe could be of interest
8 or, one might say, should be of interest to PMC, would
9 the communication go from ECU to the Prime Minister's
10 Correspondence Unit suggesting that this is an issue
11 that needs to be looked at?

12 14235 MR. SMITH: No. We don't advise
13 really in any capacity.

14 14236 MS BROOKS: So the advice would
15 come -- is a one-way flow of advice from PMC to ECU?

16 14237 MR. SMITH: Pretty much.

17 14238 MS BROOKS: Moving from political
18 mail to priority mail, my understanding is that
19 priority mail can be deemed as such for two reasons:
20 one is the writer's position, for instance, if the
21 writer is a Head of State; and the second is because of
22 the nature of what is being communicated, in other
23 words that the issue is new, controversial or
24 politically sensitive; or that there are allegations of
25 corruption or scandal.

1 14239 If you turn to Tab 28 we can explore
2 this a bit more. Tab 28 is that procedures document
3 that I took you to before.

4 14240 If you look at page 4 of the
5 document, at the top of the page, this page is titled
6 "Procedures for Determining Priority Mail":

7 "Mail tends to be considered a
8 priority for three main reasons.

9 1. The person or his/her
10 position is such that they
11 warrant special attention
12 regardless of the issue, i.e. -
13 a Head of State.

14 2. The issue is new, explosive,
15 controversial or politically
16 sensitive."

17 14241 Or the combination of the two.

18 "3. The person's position
19 coupled with the issue."

20 14242 Then if you look over the page at
21 page 5, "Below are some examples of priority mail" and
22 they are listed from 1 to 10. And number seven is
23 "allegations of corruption or scandal".

24 14243 So am I correct in saying that "the
25 issue is new, explosive, controversial or politically

1 sensitive" or "there are allegations of corruption or
2 scandal" might -- are bases for determining mail to be
3 priority mail?

4 14244 MR. SMITH: They might. I would
5 disagree with the part saying the issue is new. I mean
6 there are new issues all the time. That does not make
7 it a priority item.

8 14245 MS BROOKS: Okay. What about
9 explosive?

10 14246 MR. SMITH: What is explosive? I
11 mean that's a --

12 14247 MS BROOKS: Is a pretty subjective
13 term.

14 14248 MR. SMITH: Let's say the allegation
15 of corruption or scandal, that would not necessarily be
16 a priority item. Members of the public write all kinds
17 of things to the Prime Minister about the government.
18 So it would have to be -- it would have to be something
19 pretty specific, I would think, for it to be considered
20 priority and then brought to the editor for routing.

21 14249 MS BROOKS: Well, let me help you out
22 with this.

23 14250 I would take it from what you have
24 said that if an issue is explosive, controversial or
25 politically sensitive or makes an allegation of

1 corruption or scandal, that there are times when such
2 mail would be classified as priority mail.

3 14251 Is that correct?

4 14252 MR. SMITH: It depends on the issue.

5 I mean, we deal with a lot of controversial issues.
6 If you cast your mind back a few years, the same-sex
7 marriage issue generated a ton of correspondence. That
8 was a controversial issue, mostly from members of the
9 public. It was treated as general mail, not priority
10 mail.

11 14253 MS BROOKS: Well, how is the
12 discretion exercised then?

13 14254 MR. SMITH: I would say it is
14 principally what is stronger there is the position of
15 the writer, the position they occupy in society for
16 example, whether it is a Cabinet Minister or an MP or
17 another VIP. That's really what determines the
18 priority nature of it.

19 14255 MS BROOKS: Are you saying, then,
20 that number two on page 4, in your experience, is one
21 that is not relied on very often to determine priority
22 mail?

23 14256 I'm looking at the top, the issue is
24 new, explosive, et cetera. I'm calling that number
25 two.

1 14257 Are you saying that that is really
2 not applicable to determining what is priority mail?

3 14258 MR. SMITH: I would say it's a
4 combination of the position of the person and what
5 they're writing about.

6 14259 MS BROOKS: All right.

7 14260 MR. SMITH: But, you know, as I said,
8 many controversial issues come in that are not
9 priority. So it's not quite nuanced.

10 14261 MS BROOKS: Once the senior editor
11 has filled out the transmittal slip for priority mail,
12 what happens to that mail?

13 14262 MR. SMITH: It would then be
14 processed by the analysts' section.

15 14263 MS BROOKS: And the analyst would
16 look at your transmittal slip, which simply means that
17 a copy of this letter has gone to somebody?

18 14264 MR. SMITH: Not yet. Nothing has
19 gone yet until the analysts do it. They would first
20 profile. That would mean entering the tombstone data,
21 that's the name of the correspondent and address,
22 et cetera. They would scan the letter and they would
23 append an action assignment and info copy assignments
24 in the software, which is called WebCIMS.

25 14265 MS BROOKS: Yes. And we will get

1 into look at some of those WebCIMS with respect to
2 Mr. Schreiber's correspondence.

3 14266 At Tab 26 there is something called
4 an Analyst's Standards Pick List. What is the purpose
5 of this list?

6 14267 MR. SMITH: I believe it's kind of a
7 shortcut list. The analysts have a lot of different
8 procedures and instructions to follow and I think it's
9 like a shortcut.

10 14268 This is -- what is it? It's a list
11 of all the standards in the standard library that they
12 can choose from to reply to correspondence.

13 14269 MS BROOKS: Standard to me means
14 something you measure something by. What do we mean by
15 "standard" here?

16 14270 MR. SMITH: A standard reply is a
17 preprepared reply.

18 14271 MS BROOKS: Oh I see. So if we can
19 take an example, let's take the third one on the list
20 "ACOA_1.E02". That's under the heading "CIMS
21 standard".

22 14272 What does that mean?

23 14273 MR. SMITH: Well, if someone were to
24 write in on an issue within the responsibilities of the
25 Atlantic Canada Opportunities Agency and they felt that

1 it could receive a standard, they could issue that
2 standard, and it would generate a reply which would be
3 printed in our Production Unit and would go out to the
4 correspondent and, in this case, a "cc" would go to the
5 responsible minister electronically.

6 14274 MS BROOKS: I see. That's under the
7 distribution list "LV-ACOA"?

8 14275 MR. SMITH: That's correct.

9 14276 MS BROOKS: And then the next one
10 just describes who the agency is, and the last one
11 describes "ACOA (Ashfield)", who I take it at the time
12 this was written was the Minister involved?

13 14277 MR. SMITH: Yes.

14 14278 MS BROOKS: And the analyst would
15 trigger the sending of a copy of this letter, plus the
16 standard reply that was sent out, to "LV-ACOA"?

17 14279 MR. SMITH: Yes. "LV" is the
18 supervisor of the analyst section.

19 14280 MS BROOKS: Okay. That's helpful.

20 14281 MR. SMITH: She would sign the letter
21 going out.

22 14282 MS BROOKS: All right. Is there a
23 similar list -- and I think I know the answer from your
24 previous testimony -- identifying the controversial or
25 politically sensitive issues of the day that is updated

1 on a regular basis?

2 14283 MR. SMITH: We have a white board in
3 the office which is, you know, updated regularly as
4 needed.

5 14284 MS BROOKS: And does that white board
6 contain the issues that have been identified by the
7 Prime Minister's Correspondence Unit?

8 14285 MR. SMITH: It could.

9 14286 MS BROOKS: Does it?

10 14287 MR. SMITH: I would say if we got
11 special instructions from the Prime Minister's
12 Correspondence Unit on an item, it would be because
13 they have asked to handle it and that would be
14 communicated to the analyst via e-mail most likely.

15 14288 MS BROOKS: How else could it be
16 communicated if it's not via e-mail? Would there be
17 weekly meetings about these things?

18 14289 MR. SMITH: The analysts do have
19 weekly meetings, yes.

20 14290 MS BROOKS: And would this kind of
21 topic be discussed at those meetings where they --
22 let's say PMC, the Manager of PMC has passed on to the
23 manager of ECU a hot item that they want dealt with to
24 deal with themselves. Would that be a subject of
25 conversation at those weekly meetings?

1 14291 MR. SMITH: I have never actually
2 attended one of those, but that would be the type of
3 thing that would be discussed, among other issues.

4 14292 MS BROOKS: And as a senior editor,
5 how do you come to know of what these hot issues are
6 that the PMC wants to handle itself?

7 14293 MR. SMITH: Probably the same way the
8 rest of the unit does, via an e-mail.

9 14294 You see, if it's regarding general
10 mail of a political nature, I don't deal with general
11 mail, so they wouldn't turn to me as the first resort.
12 I would just find out with the rest of the staff.

13 14295 MS BROOKS: Why would you not deal
14 with general mail of a political nature?

15 14296 I'm looking at the org chart and
16 there's only one senior editor, you.

17 14297 MR. SMITH: Yeah.

18 14298 MS BROOKS: So who would deal with
19 general mail of a political nature?

20 14299 MR. SMITH: That would be the
21 analysts and writers.

22 14300 MS BROOKS: Okay.

23 14301 MR. SMITH: With any advice from the
24 editor.

25 14302 MS BROOKS: And what is your

1 involvement then at the analyst stage? They have,
2 let's say, a letter before them that they are
3 scratching their head about. They don't know what to
4 do. They don't know if it should be sent to PMC or
5 not.

6 14303 Who would be analyst speak to?

7 14304 MR. SMITH: Probably the writer. The
8 letters that can't be replied to with a standard
9 template reply are assigned to writers for reply.

10 14305 MS BROOKS: All right. But I'm
11 talking about a letter that comes in that raises issues
12 that the analyst wants to get some guidance on.

13 14306 MR. SMITH: They would probably first
14 turn to their supervisor or to the writer who has
15 responsibility for that departmental area.

16 14307 MS BROOKS: Do you get involved as
17 senior editor in making those judgment calls?

18 14308 MR. SMITH: If they ask me, yes.

19 14309 MS BROOKS: Would they ask you often?

20 14310 MR. SMITH: It's not uncommon.

21 14311 MS BROOKS: I would presume that you,
22 with your long history at this unit, would be someone
23 who would be seen as a resource --

24 14312 MR. SMITH: M'hmm.

25 14313 MS BROOKS: -- just based on that

1 experience.

2 14314 Is that why an analyst might come to
3 you for guidance?

4 14315 MR. SMITH: Sure. They might, yeah.

5 14316 MS BROOKS: And you said they might
6 also go to their own manager. That I take it is the
7 coordinator of an analyst and greetings?

8 14317 MR. SMITH: Yes, and their
9 supervisor.

10 14318 MS BROOKS: Analysis and greetings?

11 14319 MR. SMITH: Yeah.

12 14320 MS BROOKS: And what is the name of
13 the coordinator today?

14 14321 MR. SMITH: You mean of greetings,
15 the greetings section?

16 14322 MS BROOKS: Yeah, the coordinator
17 analysis and greetings.

18 14323 MR. SMITH: Yeah, that would be --
19 her name?

20 14324 MS BROOKS: Yes.

21 14325 MR. SMITH: Laurie Viaux.

22 14326 MS BROOKS: Okay.

23 14327 The volume of mail that is processed
24 is quite staggering. If you look at Appendix 2 of the
25 report -- that would be pages 9 and 10 of the report --

1 it sets out in that chart the amount of correspondence
2 that comes into the Executive Correspondence Unit.

3 14328 We have here on the chart between
4 2000-2001 up to 2007-2008.

5 14329 That's page 9 of that report.

6 14330 So if you look at this report, in
7 2006-2007 there was more than 1.7 million pieces of
8 mail that came into the ECU addressed to the Prime
9 Minister.

10 14331 That number would include electronic
11 mail, e-mail?

12 14332 MR. SMITH: Yes, that's the whole
13 gamut: petitions, postcards, letters.

14 14333 MS BROOKS: And it says in the
15 report, in the body of the report, that the Executive
16 Correspondence Unit handled 35,564 letters.

17 14334 And I take it that letters are paper
18 letters?

19 14335 MR. SMITH: That's correct.

20 14336 MS BROOKS: And 1 million -- more
21 than 1 million e-mails?

22 14337 MR. SMITH: Yes.

23 14338 MS BROOKS: And I can take you to the
24 document, but I don't think I need to. It is a
25 question and answer piece that was prepared by PCO

1 where it says that of those numbers that I have just
2 mentioned, 35,564 letters, 3,224 of those letters were
3 forwarded to the Prime Minister's Correspondence Unit.

4 14339 That's the figure that's in the
5 question and answer. That's a lot of mail and you have
6 11 analysts.

7 14340 Do you have a statistic at hand to
8 tell me how many pieces of mail an analyst would have
9 to deal with on a daily basis?

10 14341 MR. SMITH: I understand from
11 speaking to their supervisor that they are expected to
12 handle between 80 and 100 e-mails a day and a minimum
13 of 25 letters. But that's a minimum. It could be up
14 to 40 letters, paper letters.

15 14342 MS BROOKS: At least with respect to
16 e-mails they are not only expected to analyze them and
17 determine where to classify it if necessary, further
18 classify it as priority or political, but they are
19 expected to deal with it.

20 14343 Do you mean respond? Read it and
21 respond in one day?

22 14344 MR. SMITH: The majority, yes.

23 14345 COMMISSIONER OLIPHANT: I've got 85
24 to 100 e-mails per day and in terms of letters,
25 hardcopy letters, what were the numbers?

1 14346 MR. SMITH: Twenty-five to 40,
2 approximately.

3 14347 COMMISSIONER OLIPHANT: Thank you.

4 14348 MS BROOKS: Given this volume of work
5 that an analyst is expected to accomplish each day,
6 would it be correct to say that their reading of
7 e-mails and letters would tend to be quick and cursory?

8 14349 MR. SMITH: Sure, yes.

9 14350 MS BROOKS: I mean, just by virtue of
10 the amount of mail coming into this office.

11 14351 MR. SMITH: Yes. Yes. I mean, they
12 are not all one-page letters.

13 14352 MS BROOKS: No. And we will see that
14 they are not all one-page letters and some of them will
15 also have enclosures, which I take it the analyst is
16 expected to look through the enclosures as well?

17 14353 MR. SMITH: Yes. They are expected
18 to read the letter and skim the enclosure.

19 14354 MS BROOKS: All right. I'm going to
20 move now just to what happens when mail is classified
21 as political or personal mail.

22 14355 What happens to the mail in that
23 case?

24 14356 MR. SMITH: That depends if it's
25 general or priority. So if you want me to address

1 priority first.

2 14357 MS BROOKS: As you wish.

3 14358 MR. SMITH: Okay. If it's priority

4 and it's political mail, it will go to the editor who

5 will assign -- it will also have a transmittal form. I

6 will write down the appropriate distribution list for

7 that item. Then it will go to the analyst and be

8 processed.

9 14359 Then the mail room will send paper

10 copies, if there are info copies to be sent to other

11 people.

12 14360 If it's being -- if it's something

13 that's general mail that is being handled strictly by

14 the analysts, for example that issue I brought up

15 earlier, the Coalition, it would simply be entered as

16 political and personal and forwarded by -- it would be

17 handled by them.

18 14361 MS BROOKS: Handled by --

19 14362 MR. SMITH: The analysts.

20 14363 MS BROOKS: -- the analyst.

21 14364 MR. SMITH: Yes.

22 14365 MS BROOKS: Does it go to Prime

23 Minister correspondence at the end of the day?

24 14366 MR. SMITH: The electronic

25 assignment -- there would be an electronic assignment

1 to the Prime Minister's Correspondence Unit and the
2 paper copy would also go.

3 14367 MS BROOKS: So at the end of the
4 process with -- let's talk about the general mail.

5 14368 When you have general mail that comes
6 in, you have had a message from PMC -- I'm just
7 recapping my understanding.

8 14369 MR. SMITH: M'hmm.

9 14370 MS BROOKS: You have had a message
10 from PMC that such and such an issue is one that we
11 want to deal with, so you attach a transmittal form.

12 14371 MR. SMITH: Not if it's general mail.
13 There's no transmittal form, no.

14 14372 MS BROOKS: Okay. Thank you. So if
15 it's general mail that is political or personal, the
16 analyst will have a look at it, fill in the WebCIMS --

17 14373 MR. SMITH: Yeah.

18 14374 MS BROOKS: -- work through the
19 WebCIMS and at the end of that process it goes to --
20 the paper copy of it goes to PMC.

21 14375 Is that correct?

22 14376 MR. SMITH: That is correct.

23 Actually, it would be the original; it would not be a
24 copy.

25 14377 MS BROOKS: All right. That's

1 helpful.

2 14378 And what does PMC keep -- I'm sorry,
3 what does Executive Correspondence Services keep by way
4 of a copy or electronic version of the letter?

5 14379 MR. SMITH: There are no copies kept.

6 14380 MS BROOKS: I had understood that the
7 analysts would typically scan in a letter --

8 14381 MR. SMITH: They scan it in, but if
9 it's going political and personal, the attachment is no
10 longer viewable by the ECU.

11 14382 MS BROOKS: It's no longer viewable,
12 but is it still there?

13 14383 MR. SMITH: It is there, yes.

14 14384 MS BROOKS: So why the distinction?
15 14385 And you have made that a distinction.

16 14386 MR. SMITH: Why it's not viewable,
17 you mean?

18 14387 MS BROOKS: Yes.

19 14388 MR. SMITH: I think it has something
20 to do with ATIP, the difference between a Political
21 Office in the Civil Service.

22 14389 MS BROOKS: Access to Information and
23 Privacy Act?

24 14390 MR. SMITH: Yes. Yes.

25 14391 MS BROOKS: So at the point the

1 original goes to PMC, it's no longer viewable on your
2 system.

3 14392 MR. SMITH: Right.

4 14393 MS BROOKS: And the analysts, if they
5 wanted to, or you, could not go and either see a copy
6 of the letter or the WebCIMS page.

7 14394 Is that correct?

8 14395 MR. SMITH: They could not see a copy
9 of the letter. At the time relevant to the inquiry
10 they would have been able to see the name of the
11 correspondent and that had been sent to the Prime
12 Minister's Correspondence Unit.

13 14396 As it stands now, we cannot even --
14 that would not even turn up in a search.

15 14397 MS BROOKS: Why has the process
16 changed?

17 14398 MR. SMITH: That would be best
18 answered by Ms Powell. I believe there was a change in
19 procedure precipitated by an unrelated event.

20 14399 MS BROOKS: Unrelated to the matters
21 before Mr. Commissioner?

22 14400 MR. SMITH: Yes, that is correct.

23 14401 MS BROOKS: And when the paper, the
24 original copy has left ECU, PMC then, Prime Minister's
25 Correspondence, then deals with it.

1 14402 Are you ever advised what they have
2 decided to do with that particular letter?

3 14403 MR. SMITH: No.

4 14404 MS BROOKS: So you don't know whether
5 they have replied to it?

6 14405 MR. SMITH: No. They have no -- they
7 do not have to account for their actions to us in any
8 way.

9 14406 MS BROOKS: I'm not suggesting that
10 we ought to should, but --

11 14407 MR. SMITH: No, no, but I mean we are
12 not informed. That's the short answer.

13 14408 MS BROOKS: My question would go more
14 to the process of another letter coming in from the
15 same writer.

16 14409 You have sent one letter up to PMC --
17 and I shouldn't say up to; it's probably across to
18 PMC -- and they have dealt with it in a certain
19 fashion. You then receive another letter from the same
20 writer.

21 14410 Do you feel that ECU, the Executive
22 Correspondence Unit, in PCO is at a disadvantage if
23 they don't know how the letter has been dealt with by
24 PMC?

25 14411 MR. SMITH: A disadvantage.

1 14412 MS BROOKS: Let me --

2 14413 MR. SMITH: Meaning not knowing what

3 to do with the new one?

4 14414 MS BROOKS: Yes. Let me just clarify

5 that.

6 14415 In the sense that they won't be as

7 well-informed. They could be better informed if they

8 knew what had happened so that they treat this next

9 letter appropriately.

10 14416 I'm just asking for your opinion.

11 14417 MR. SMITH: I suppose it could be

12 called helpful, yes, to know what happened to it.

13 14418 MS BROOKS: Right.

14 14419 MR. SMITH: But by virtue of the fact

15 that it's political, we never hear about it again.

16 14420 MS BROOKS: Okay. Are there times

17 when you have -- this is not necessarily in relation to

18 our current matter, but where you have sent or your

19 group has sent a letter over to PMC and they have

20 refined their directions with respect to how subsequent

21 correspondence or future correspondence from the same

22 writer should be treated?

23 14421 MR. SMITH: Well, they at times send

24 something back saying they disagree that it's not

25 political; that ECU should handle it.

1 14422 MS BROOKS: Right.

2 14423 MR. SMITH: Or they may send
3 something back saying please redirect to the Clerk's
4 office to prepare a reply.

5 14424 MS BROOKS: And why would they choose
6 to have the Clerk prepare a reply?

7 14425 MR. SMITH: You would have to ask
8 them. I would -- the instances that I could think of
9 probably touched on areas of foreign policy.

10 14426 MS BROOKS: Okay.

11 14427 Well, I would like to move on now to
12 the letters from Mr. Schreiber.

13 14428 For the clarification of the
14 Commissioner, there are two groups of letters in two
15 appendices to that report that was produced by PCO.

16 14429 Appendix 7 contains the four letters
17 that were passed on to the PMO, to the Prime Minister's
18 Correspondence Unit, and there are four letters there.

19 14430 And Appendix 8 contains the other 12
20 letters that were received from Mr. Schreiber that were
21 dealt with essentially by the PMC -- I'm sorry, by
22 the --

23 14431 MR. SMITH: ECU.

24 14432 MS BROOKS: -- ECU. Thank you. I'm
25 getting lost in acronyms here.

1 14433 COMMISSIONER OLIPHANT: Welcome to
2 Ottawa.

3 14434 MS BROOKS: I'm sorry?

4 14435 COMMISSIONER OLIPHANT: I said
5 welcome to Ottawa.

6 14436 MS BROOKS: Yes. Yes. All right.
7 14437 Were there any -- I will back up a
8 little bit.

9 14438 The payments that were made by
10 Mr. Schreiber to Mr. Mulroney became known in 2003, at
11 least, when Mr. Kaplan published an article in the
12 Globe and Mail and Mr. Kaplan, Mr. William Kaplan, had
13 published a book the following year, 2004, that
14 discussed these payments based on Mr. Kaplan's
15 knowledge of the events.

16 14439 So as we come up to 2006 -- and I'm
17 just providing this by way of background -- the
18 allegations of payments were certainly known.

19 14440 My question for you is: Would ECU
20 have identified this internally as an issue that could
21 be something that they would be receiving mail about?

22 14441 MR. SMITH: We don't identify ahead
23 of time issues that may come up.

24 14442 MS BROOKS: Do you know whether PMC
25 had identified these as issues to be treated by you in

1 any special way?

2 14443 MR. SMITH: I have never spoken to
3 PMC regarding Mr. Schreiber.

4 14444 MS BROOKS: Well, to be more
5 specific, was Mr. Schreiber or payments to Mr. Mulroney
6 made a hot issue by PMC?

7 14445 MR. SMITH: No.

8 14446 MS BROOKS: So as far as you knew in
9 Executive Correspondence Unit, mail that would come in
10 for Mr. Schreiber would just be treated as general mail
11 and processed by ECU?

12 14447 I'm talking about the period when the
13 first mail letter came, which is June 2006.

14 14448 MR. SMITH: Yes. The first letter,
15 the June 16th letter, was brought to me by the
16 mailroom. There was a binder attachment to it as well,
17 I believe, and they must have asked me whether it
18 should be treated as general or priority and I told
19 them general.

20 14449 MS BROOKS: Okay. So it comes into
21 ECU as general mail and it is seen by an analyst.

22 14450 The first letter is an interesting
23 one because in fact it is one of the four that went to
24 PMC.

25 14451 Why was it classified -- first of

1 all, can you confirm that it was classified as
2 political or personal mail?

3 14452 MR. SMITH: Yes.

4 14453 MS BROOKS: And why was it classified
5 that way?

6 14454 MR. SMITH: I think it was the -- I
7 don't recall what I thought at the time, but I'm sure
8 it must have been the reference to former Prime
9 Minister Mulroney in the letter that made me think it
10 might be political.

11 14455 MS BROOKS: If you could turn up that
12 letter, it is Appendix 7, Tab 1. It's directly behind
13 the report in the same book of documents.

14 --- Pause

15 14456 MS BROOKS: Do you have that?

16 14457 MR. SMITH: I have July 31st here.

17 14458 MS BROOKS: Well, if you go an
18 earlier tab, Appendix 7, it is Tab 1 of Appendix 7. Do
19 you see the white tab?

20 14459 MR. SMITH: Actually, I go from 4 to
21 8.

22 14460 MS BROOKS: You do?

23 --- Pause

24 14461 MR. SMITH: I think I may need a
25 little bit of assistance in finding it.

1 14462 MS BROOKS: Okay.

2 --- Pause

3 14463 MS BROOKS: Do you have that in front
4 of you?

5 14464 MR. SMITH: I do, yes.

6 14465 MS BROOKS: Now, when you look at
7 this --

8 14466 COMMISSIONER OLIPHANT: Are we
9 looking at the letter itself or the documents that
10 precede it?

11 14467 MS BROOKS: No. I'm going to start
12 from the start of this tab.

13 14468 COMMISSIONER OLIPHANT: Okay.

14 14469 MS BROOKS: The first page is just a
15 description of what is in the tab and then we come to
16 the WebCIMS folder page.

17 14470 Is this the WebCIMS folder page that
18 would have been done by the analyst in your unit, the
19 ECU?

20 14471 MR. SMITH: Originally, yes.

21 14472 MS BROOKS: And then if you turn over
22 the page, at the top it says in handwriting "PMC".

23 14473 MR. SMITH: Yes. That's my
24 handwriting.

25 14474 MS BROOKS: That's your handwriting?

1 And this is what you have referred to as a transmittal
2 form?

3 14475 MR. SMITH: Yes, that's correct.

4 14476 MS BROOKS: And it is a "T" form.

5 14477 And I see that it has been checked
6 off on this transmittal form as personal and political.
7 So this was the transmittal form where you inform the
8 analyst that it's now to be sent over -- the original
9 is to be sent over to PMC?

10 14478 MR. SMITH: That's correct.

11 14479 MS BROOKS: And then if you look
12 at -- I'm not going to go through every letter for
13 subject matter unless the Commissioner requests me to
14 do so.

15 14480 But you just said that this one was
16 sent to the PMC because it dealt with Mr. Mulroney who
17 was a former Prime Minister. I'm looking at this
18 letter which deals with many things, the Airbus
19 investigation, et cetera. It doesn't say anything in
20 particular about Mr. Mulroney.

21 14481 I'm just trying to understand again
22 why --

23 14482 MR. SMITH: Well, it does mention him
24 on this page 4.

25 14483 MS BROOKS: Page 4. What does it

1 say?

2 14484 MR. SMITH:

3 "I had to learn that the Liberal
4 bureaucracy with Paul Tellier
5 and Bob Fowler in Ottawa
6 undermined the policies of the
7 strong majority of government of
8 Brian Mulroney at every
9 opportunity."

10 14485 COMMISSIONER OLIPHANT: The Mulroney
11 government is also mentioned on page 1.

12 14486 MS BROOKS: Page 1.

13 14487 COMMISSIONER OLIPHANT: At the last
14 paragraph, talking about "the Liberal's consistent
15 strategy of undermining the Mulroney government".

16 14488 MS BROOKS: Right. Right. I'm
17 looking at these and I'm thinking to myself that these
18 are pretty general comments about the Mulroney
19 government.

20 14489 MR. SMITH: Sure.

21 14490 MS BROOKS: Similarly on page 4, in
22 the middle of that large paragraph where it is talking
23 about the Liberal bureaucracy, the mention of
24 Mr. Mulroney is also quite a bit in passim, as one
25 would say, in passing.

1 14491 So I'm trying to understand just from
2 the point of view of you have received this letter and
3 you decided that because of these references to
4 Mr. Mulroney it should be classified as personal and
5 political.

6 14492 MR. SMITH: I thought it was
7 borderline, but to be safe I sent it to the Prime
8 Minister's Correspondence Unit.

9 14493 MS BROOKS: And what would they do
10 with it when they got it, from your perspective?

11 14494 MR. SMITH: I have no idea.

12 14495 MS BROOKS: I have read in the
13 documents that it was sent to them to find out if they
14 had any specific instructions that they wanted to give
15 you or if they wanted to give you advice as to the fact
16 that they wanted to handle --

17 14496 MR. SMITH: Yes, but that is not to
18 say that we are waiting for feedback on an item.

19 14497 MS BROOKS: All right. But would it
20 be proper to characterize it then as you have
21 identified this as a borderline issue.

22 14498 MR. SMITH: M'hmm.

23 14499 MS BROOKS: To be safe you have sent
24 it to PMC to let them make a determination?

25 14500 MR. SMITH: Sure.

1 14501 MS BROOKS: And if they determined,
2 again from your perspective -- I don't want you to try
3 to put yourself in their heads. But if they determined
4 that it was a politically sensitive issue that they
5 wanted to handle, I take it that they would have
6 conveyed that information back to you?

7 14502 MR. SMITH: I would expect them to.

8 14503 MS BROOKS: And did they ever do
9 that?

10 14504 MR. SMITH: No, they did not.

11 14505 MS BROOKS: Okay. Now, dealing with
12 the 12 letters that were received from Mr. Schreiber
13 addressed to the Prime Minister, Prime Minister Harper,
14 that were dealt with by ECU, my understanding is -- and
15 we can go through each of the WebCIMS report if we need
16 to. My understanding is that there was no reply given
17 to Mr. Schreiber with the exception of one letter,
18 which was dated January 16th.

19 14506 MR. SMITH: 2007, yeah. That's
20 right.

21 14507 MS BROOKS: 2007. Is that correct?

22 14508 MR. SMITH: That is correct.

23 14509 MS BROOKS: And I want to just focus
24 on the period of time when you got the first letter,
25 the one we've just looked at, the June 16, 2006 letter,

1 which you sent up to PMC.

2 14510 I take it that you did not send an
3 acknowledgment of receipt to Mr. Schreiber?

4 14511 MR. SMITH: No, we don't do separate
5 acknowledgments.

6 14512 MS BROOKS: Ever?

7 14513 MR. SMITH: No. An acknowledgment
8 would be the reply, if we sent one. That would be the
9 reply. The bulk of our letters are just referrals to
10 departments.

11 14514 MS BROOKS: I take it, then, that
12 when, as occurred in this case, you have sent something
13 to PMC, you don't know whether they are going to reply.
14 So at the end of the day the writer, whoever it is,
15 could be left with having no reply to their letter?

16 14515 MR. SMITH: That is possible, yes.

17 14516 MS BROOKS: And help me out if I'm
18 wrong here, but it seems to me that if the letter had
19 stayed in ECU, my understanding based on my reading of
20 your processes -- and I can take it to you if you wish.
21 But my understanding is that typically one of your
22 goals is, as a service goal, to respond to a writer --

23 14517 MR. SMITH: M'hmm.

24 14518 MS BROOKS: -- at least initially.

25 14519 MR. SMITH: Sure.

1 14520 MS BROOKS: If they become a prolific
2 writer, which we will get into, but at least initially
3 you would like to respond.

4 14521 Is that correct?

5 14522 MR. SMITH: That is correct.

6 14523 MS BROOKS: So there is a bit of a
7 gap where, as in this case, you have sent something,
8 the very first letter, on to PMC and you don't know if
9 they replied. So you haven't done so.

10 14524 MR. SMITH: That is correct.

11 14525 MS BROOKS: Okay.

12 14526 Now, with respect to the 12 letters
13 that were not referenced or sent to PMC, why were they
14 not referenced or sent to PMC?

15 14527 MR. SMITH: Because they were just
16 copies of letters to third parties and also they
17 concerned his ongoing legal proceedings.

18 14528 In both cases it is our habit not to
19 reply.

20 14529 MS BROOKS: Let's focus on the legal
21 proceedings issue. I will ask you to turn one up just
22 because the Commissioner hasn't seen these documents.

23 14530 Let's go to the first tab after
24 Appendix 8.

25 14531 MR. SMITH: July 31st?

1 14532 MS BROOKS: That's right.
2 14533 Commissioner, it's Tab 1 after the
3 Appendix 8 label.
4 14534 I'm looking not at the first page,
5 which is just a summary of this letter. It's a letter
6 dated July 31st.
7 14535 Actually, I will take you to that
8 first page because it's interesting for the fact that
9 it lists on this cover page the enclosures that were
10 included with this July 31 letter, and you will see
11 that they number from A to N.
12 14536 So there are 14 enclosures with this
13 letter.
14 14537 If you turn over the page to the
15 WebCIMS folder, this tells me, if I look at it, that --
16 under "Classification", which is halfway down the page,
17 it says "ECU general mail" --
18 14538 MR. SMITH: That's right.
19 14539 MS BROOKS: -- "/SC". What does the
20 SC mean?
21 14540 MR. SMITH: That's incomplete
22 actually. It should be "SCHD". That's just the French
23 version of ECU, section de correspondance de la haute
24 direction.
25 14541 MS BROOKS: Okay. Thank you.

1 14542 Now, under "Notes", if you look at
2 the left-hand side of the page on the upper third, it
3 says "Direct to file as per DS overtaken by event."
4 14543 Are you the DS?
5 14544 MR. SMITH: I am DS.
6 14545 MS BROOKS: And what this note mean
7 and who put it there?
8 14546 MR. SMITH: This item and the one
9 received a few days later were handled the same way.
10 14547 It was filed without reply as per my
11 instructions or my permission. The writer and I
12 discussed what to do with it, the fact that it was just
13 copies. There wasn't anything really for her to answer
14 and there was really no point forwarding it to
15 Department of Justice.
16 14548 So she asked if we could file it and
17 I said yes.
18 14549 Now, whenever an analyst -- I'm
19 sorry, I'm speaking too loud. Whenever an analyst
20 files without reply, they are supposed to put in a
21 reason.
22 14550 MS BROOKS: All right. And how do we
23 know that it was closed without reply from this WebCIMS
24 form?
25 14551 MR. SMITH: If there would be a

1 reply, it would be showing on the attachments. There
2 would be a final reply attachment underneath where you
3 see "Letter".

4 14552 MS BROOKS: Yes.

5 14553 MR. SMITH: Yeah, that would be in
6 there.

7 14554 MS BROOKS: I see.

8 14555 MR. SMITH: Generated by the system.

9 14556 MS BROOKS: All right.

10 14557 If you turn the page and look at the
11 letter, this is the letter dated July 31st, 2006:

12 "Dear Prime Minister Harper:
13 I am taking the liberty of
14 sending you copies of my letters
15 to the Hon. Peter MacKay ... Mr.
16 Kevin Sorenson ... for your
17 personal information."

18 14558 And then come the 14 attachments.

19 14559 And it's on this basis, as I
20 understand your evidence, that there was no request for
21 any action. It is copies of letters therefore you
22 directed it to be closed without reply?

23 14560 MR. SMITH: That's correct.

24 14561 MS BROOKS: And the next letter, the
25 next letter at the next tab, which is a letter dated

1 August 4, 2006, it came with six attachments.

2 14562 MR. SMITH: That would have been
3 received at approximately the same time and it would
4 have gone to the writer at approximately the same time.

5 14563 MS BROOKS: And I turn over the page
6 and look at the August 4th letter from Mr. Schreiber,
7 which again takes the liberty of sending copies of a
8 number of letters and it ends:

9 "... for your personal
10 information.

11 The documents confirm the
12 content of my letter to you from
13 June 16, 2006 and the reason why
14 I can only turn to you."

15 14564 He says. So this one was also closed
16 with no reply; correct?

17 14565 MR. SMITH: Yes, that's correct.

18 14566 MS BROOKS: It says: "I can only turn
19 to you".

20 14567 COMMISSIONER OLIPHANT: Yes, okay.

21 14568 MS BROOKS: Is that how you read the
22 letter, Mr. Smith?

23 14569 MR. SMITH: That's what I think it
24 says, yes.

25 14570 MS BROOKS: Yes, okay.

1 14571 Now, I'm going to turn over a couple
2 of tabs because I want to get to one that refers to
3 legal case, and so I'm looking now at Tab 4.

4 14572 This is the letter dated September
5 26th -- September 24, 2006 is what the letter is dated.

6 14573 And on the WebCIMS folder page --

7 14574 I will let you get that,
8 Commissioner. Do you have that? I'm looking at Tab 4
9 at the WebCIMS folder page.

10 14575 It says under the "Notes". Again the
11 classification halfway down the page is "ECU general
12 mail" and the notes are:
13 "Personal legal case, direct to
14 file as per SR."

15 14576 Who would SR be?

16 14577 MR. SMITH: That's the writer,
17 Shelley Russell, in charge of Justice issues.

18 14578 MS BROOKS: Okay.

19 14579 And "personal legal case", what does
20 that designation tell you? What is it to mean?

21 14580 MR. SMITH: That it is ongoing
22 litigation, which we wouldn't comment on.

23 14581 MS BROOKS: I would like to just
24 focus a little bit on when mail is designated as
25 dealing with a legal issue.

1 14582 It is apparent from your reports that
2 when mail is designated as a legal issue, it is treated
3 in a certain way.

4 14583 How do you treat mail that deals with
5 legal issues?

6 14584 MR. SMITH: They may receive an
7 initial reply, but no more than that.

8 14585 MS BROOKS: And in this case
9 Mr. Schreiber hadn't received an original reply.

10 14586 Did you at any point subsequently
11 think that he ought to get a reply?

12 14587 MR. SMITH: Yes, that's the reason
13 for the January 16th reply.

14 14588 MS BROOKS: Letter which we find at
15 Tab 8 of Appendix 8.

16 14589 Let's move to that one then, Tab 8.

17 14590 MR. SMITH: Okay.

18 14591 MS BROOKS: This is one of the two
19 letters of the 12 dealt with by ECU that was dealt with
20 a little bit differently. At the end of the day there
21 is a letter sent to Mr. Schreiber, and I will just take
22 you to that tab, Tab 8.

23 14592 If you turn in a few pages, you will
24 see that there is a letter to Mr. Schreiber from
25 S. Russell and it says:

1 "On behalf of the Prime Minister
2 I would like to acknowledge
3 receipt of your correspondence
4 of January 16.
5 I have forwarded a copy of your
6 letter and enclosures to the
7 Honourable Robert Nicholson,
8 Minister of Justice and Attorney
9 General of Canada, for his
10 information."

11 14593 Why was this letter dealing with
12 legal issues treated differently from previous letters
13 that were dealing with legal issues?

14 14594 MR. SMITH: There was nothing
15 specific to this letter. The writer approached me and
16 said she felt badly that Mr. Schreiber had not received
17 an acknowledgment yet and she felt -- asked if it was
18 appropriate that she acknowledge the letter, and I said
19 sure, go ahead.

20 14595 MS BROOKS: Right. But there was
21 then nothing particular about the matters addressed in
22 the letter that --

23 14596 MR. SMITH: No, there was no special
24 trigger in what he had written in that letter.

25 14597 MS BROOKS: With letters that deal

1 with legal matters, I can see that in many cases you
2 would deem that the letter not be sent up to PMC.

3 14598 But do I understand you to say that
4 when a letter is classified or read and deemed to deal
5 with a personal legal case that it never would go up to
6 the PMC?

7 14599 MR. SMITH: Well, no. We sent four
8 of them over there.

9 14600 MS BROOKS: Right. I haven't looked
10 at those letters from this perspective, but let's say
11 that -- I'm just talking generally now and not with
12 respect to Mr. Schreiber. But when you designate
13 something as dealing with a legal matter, does it
14 happen that you both -- you do send it to PMC to be
15 dealt with?

16 14601 We have the four here. I don't think
17 they all deal with legal matters, all four of them, in
18 fact. For instance, the first one was more general
19 than that.

20 14602 What I'm getting at here is, is it a
21 bar to sending it to PMC if something is designated as
22 dealing with a legal case?

23 14603 MR. SMITH: No. No.

24 14604 MS BROOKS: All right.

25 14605 The other letter that is out of the

1 ordinary, that was treated a little bit out of the
2 ordinary, is the November 3rd letter, which is at Tab
3 6. This one was, as I understand it, sent to the Clerk
4 of the Privy Council Office, Mr. Lynch.

5 14606 Is that correct?

6 14607 MR. SMITH: That is correct, yes.

7 14608 It is Tab 6 of Appendix 8.

8 14609 If you look at the "T" form on this
9 one, the transmittal form, who has filled out this
10 form?

11 14610 MR. SMITH: Originally it would
12 have -- sorry, the transmittal form.

13 14611 MS BROOKS: Yes.

14 14612 MR. SMITH: That's me.

15 14613 MS BROOKS: There are actually two
16 transmittal forms here. One is the one on top and that
17 is your writing at the top?

18 14614 MR. SMITH: That's correct.

19 14615 MS BROOKS: What does it say there?

20 14616 MR. SMITH: That is a distribution
21 list. The action is appropriate to the Clerk's office
22 along with info copies to the Prime Minister's
23 Correspondence Unit, Chief of Staff's Office and Issues
24 Management.

25 14617 MS BROOKS: All right. So we are

1 deciphering here at the top. That is CLR.

2 14618 MR. SMITH: That is correct.

3 14619 MS BROOKS: Is that the Clerk?

4 14620 So that would be Clerk. Is that

5 right?

6 14621 MR. SMITH: Yes.

7 14622 MS BROOKS: And then PMC, that is

8 Prime Minister Correspondence Unit.

9 14623 Chief Of Staff would be

10 Mr. Mulroney's Chief of Staff.

11 14624 Is that correct, COS?

12 14625 MR. SMITH: Mr. Harper.

13 14626 MS BROOKS: I'm sorry, Mr. Harper,

14 thank you. Mr. Harper's Chief of Staff.

15 14627 MR. SMITH: Yes, his office.

16 14628 MS BROOKS: And IM, Issues

17 Management, who is that?

18 14629 MR. SMITH: I'm not totally sure.

19 14630 MS BROOKS: Okay. It's somebody in

20 PMO?

21 14631 MR. SMITH: Yes.

22 14632 MS BROOKS: All right.

23 14633 If you turn over the next page there

24 is another transmittal slip.

25 14634 Why are there two of them here?

1 14635 MR. SMITH: Well, it's a photocopy of
2 the one that I sent over and it has been annotated by
3 the Clerk's office, the Correspondence Coordinator in
4 the Clerk's office.

5 14636 MS BROOKS: Where do you see that?

6 14637 MR. SMITH: Well, I can see her
7 handwriting in --

8 14638 MS BROOKS: Under "Secretariat",
9 would that be --

10 14639 MR. SMITH: Under "PCO", "route to
11 PCO".

12 14640 MS BROOKS: Right.

13 14641 MR. SMITH: I think that is Office of
14 the Council to the Clerk, OCC.

15 14642 MS BROOKS: Yes.

16 14643 MR. SMITH: And then info copies
17 within PCO --

18 14644 MS BROOKS: Clerk.

19 14645 MR. SMITH: -- on the left side near
20 the bottom.

21 14646 MS BROOKS: Yes. And what does that
22 say?

23 14647 MR. SMITH: Clerk Bloodworth, Roy,
24 Yvon Roy, and David Mulroney.

25 14648 MS BROOKS: All right. And who was

1 David Mulroney?

2 14649 MR. SMITH: I'm not sure what his
3 title was then, but he was an official with PCO.

4 14650 MS BROOKS: And there is a stamp on
5 this version of the transmittal form that says:
6 "Should this correspondence be
7 replied by the Prime Minister or
8 the Minister?"

9 14651 Who would have put that there?

10 14652 MR. SMITH: That would have been the
11 Clerk's Correspondence Coordinator at the time who had
12 this stamp made up.

13 14653 MS BROOKS: Okay.

14 14654 MR. SMITH: It's no longer done that
15 way.

16 14655 MS BROOKS: And on your original
17 transmittal form you had classified this as "personal
18 and political mail". Why was that?

19 14656 What was it about this letter that
20 you thought --

21 14657 MR. SMITH: Did I -- was it
22 classified as personal and political?

23 14658 MS BROOKS: Well, I'm looking at the
24 form that you said you filled out. Down below there
25 are tick boxes and one of them says "personal and

1 political" and there seems to be --

2 14659 MR. SMITH: Yeah, that's an info
3 copy. The action copy is to the Clerk.

4 14660 MS BROOKS: Okay. But who has ticked
5 off "personal and political"?

6 14661 MR. SMITH: I did.

7 14662 MS BROOKS: Okay.

8 14663 MR. SMITH: Yeah. They are
9 automatically copied on items that are sent to the
10 Clerk's office.

11 14664 MS BROOKS: My question was: Why
12 would this letter have been classified as something you
13 were dealing with out of the ordinary?

14 14665 MR. SMITH: Again, similar to the one
15 in January that received a reply, there was no special
16 reason for sending this one to the Clerk. The writer
17 approached me and felt that we should bring the Clerk
18 on board and have them informed that Mr. Schreiber was
19 writing.

20 14666 MS BROOKS: And was that due to just
21 the volume of the mail that you were getting?

22 14667 MR. SMITH: Well, that he was
23 continuing to write, yes.

24 14668 MS BROOKS: All right.

25 14669 That November 30th letter also

1 deals -- well, deals, as did other letters, with the
2 extradition proceedings. So in fact this was a letter
3 dealing with a legal matter.

4 14670 MR. SMITH: Sure.

5 14671 MS BROOKS: And it was one that
6 nonetheless you felt that, by virtue of the amount of
7 letters you have been receiving, should be viewed by
8 someone higher up?

9 14672 MR. SMITH: Sure. We did a variety
10 of actions on his letters.

11 14673 MS BROOKS: So it was copied in this
12 case to Mr. Harper's Chief of Staff.

13 14674 Did you ever hear back from PMO --
14 not you personally, but the ECS ever hear back from the
15 Prime Minister Correspondence Unit or Chief of Staff on
16 this issue?

17 14675 MR. SMITH: No.

18 14676 MS BROOKS: What did the clerk decide
19 to do with this letter?

20 14677 MR. SMITH: According to what is
21 written on the third copy of the transmittal form, it
22 was returned to us saying, "No reply required."
23 Consequently, it was closed.

24 14678 MS BROOKS: Yes. It says, "Letter is
25 simply copy of materials submitted to Minister of

1 Justice. Matter still pending before Minister," and
2 there is a signature there. Whose signature is that?
3 14679 MR. SMITH: I believe it is Paul
4 Shuttle.
5 14680 MS BROOKS: And what would he be?
6 What is his position?
7 14681 MR. SMITH: I am not exactly sure.
8 He is in Legal with PCO.
9 14682 MS BROOKS: He is a lawyer?
10 14683 MR. SMITH: That's a "Yes".
11 14684 I had a nod from the audience.
12 14685 MS BROOKS: All right.
13 14686 So no reply required. Was one given
14 to Mr. Schreiber?
15 14687 MR. SMITH: No.
16 14688 MS BROOKS: Mr. Commissioner, I don't
17 think it serves any purpose for me to go through the
18 remaining letters in Appendix 8. The letters speak for
19 themselves. If you would like me to go through with
20 Mr. Smith the WebCIMS forms, I would be happy to do so,
21 but, in my view, I think you will have enough
22 information --
23 14689 COMMISSIONER OLIPHANT: What are the
24 options?
25 14690 MS BROOKS: Yes or no.

1 14691 COMMISSIONER OLIPHANT: If we don't
2 do that, what are we going to do?

3 14692 MS BROOKS: We are going to move on
4 to the letters that were passed on to PMO.

5 14693 COMMISSIONER OLIPHANT: Then let's do
6 that.

7 14694 MS BROOKS: All right.

8 14695 Appendix 7 contains the four letters
9 that were passed on to the Prime Minister's
10 correspondence unit. Were you consulted on how these
11 letters should be treated?

12 --- Pause

13 14696 MR. SMITH: I am trying to think --

14 14697 MS BROOKS: As I think you know, I
15 don't have any notes on these WebCIMS forms that have
16 your name.

17 14698 MR. SMITH: We don't annotate the
18 WebCIMS pages on items that we send over to Prime
19 Minister's correspondence.

20 14699 MS BROOKS: So any annotations on
21 these pages would be done by Prime Minister
22 correspondence.

23 14700 MR. SMITH: That's correct.

24 14701 MS BROOKS: Were you consulted with
25 respect to any of these four letters before they were

1 sent to PMC?

2 14702 MR. SMITH: Yes, all of them.

3 14703 On the first two I would have made

4 the decision. That would be the June 16th and the

5 August 30th letters.

6 14704 Actually, the August --

7 14705 MS BROOKS: August 23rd.

8 14706 MR. SMITH: -- the August 23rd and

9 30th are really the same one, essentially.

10 14707 MS BROOKS: Okay. The four letters

11 that I have going over to the Prime Minister's

12 correspondence unit are the letters of June 16th, 2006,

13 August 23rd, 2006, May 3rd, 2007, and the last letter

14 in this series received from Mr. Schreiber, which was

15 September 26th, 2007.

16 14708 Those four went over to PMC.

17 14709 I should point out that, to my

18 knowledge, there have been further letters sent to

19 Prime Minister Harper by Mr. Schreiber. They are

20 referenced in some of the documents here, but they were

21 not made the subject of this report.

22 14710 Is that correct?

23 14711 MR. SMITH: That's correct.

24 14712 MS BROOKS: We have talked about the

25 first letter that went over and why you sent it over.

1 14713 Why was the second letter sent over?

2 14714 MR. SMITH: If I recall, it was
3 entitled "Case File" and had a very large binder as an
4 attachment, similar to one of these.

5 14715 MS BROOKS: The letter of August
6 23rd, 2006, which is at Appendix 7.2, says:
7 "Dear Prime Minister,
8 I am taking the liberty to send
9 you a copy of the Case Report on
10 the 'Political Justice
11 Scandal'..."

12 -- and that is the heading of the letter for the
13 subject line, as well.

14 14716 MR. SMITH: That's right.

15 14717 MS BROOKS: The report only has a
16 couple of documents in it. Are you saying that there
17 was a binder, as well?

18 14718 MR. SMITH: Yes, a very thick binder.

19 14719 MS BROOKS: Which we don't have.

20 14720 Why did you decide that this one
21 should be sent over?

22 14721 MR. SMITH: Merely because it was
23 entitled "Case Report" and it sounded more important,
24 possibly definitive or perhaps final letter from Mr.
25 Schreiber.

1 14722 MS BROOKS: Right. Just to confirm,
2 at this point you have had no indication from PMC that
3 Mr. Schreiber's letters should be flagged in any
4 special way.

5 14723 MR. SMITH: No.

6 14724 MS BROOKS: So this was, really, you
7 exercising your discretion as an ECU --

8 14725 MR. SMITH: As editor, yes.

9 14726 MS BROOKS: Editor, okay.

10 14727 What about the next letter, which is
11 the May 3rd letter, 2007?

12 14728 MR. SMITH: I did not see the next
13 two, but I was consulted on those two by the writer.

14 14729 MS BROOKS: And why was the third one
15 sent over, the May 3rd letter, 2007?

16 14730 This one's subject is: "Child
17 Obesity - an Epidemic in Canada".

18 "Dear Prime Minister,
19 I take the liberty to send you a
20 copy of my letter April 15, 2007
21 to The Right Honourable Brian
22 Mulroney..."

23 14731 MR. SMITH: Yes, that is really why
24 we sent it over. Because it enclosed actual copies of
25 letters between Mr. Schreiber and Mr. Mulroney, the

1 writer was uncomfortable with simply directing it to
2 "File without reply", and she felt that it should be
3 sent over to the Prime Minister's correspondence unit.

4 14732 MS BROOKS: My copy of the report
5 produced by PCO does not have an attachment. It does
6 not have an enclosure of the letter to Mr. Mulroney.

7 14733 Was it similar, very large volume,
8 the letter to Mr. Mulroney that is referred to here,
9 the April 15th letter?

10 14734 MR. SMITH: There is the two-page --
11 or one-and-a-half-page letter about child obesity to
12 Mr. Harper, and enclosed with that is a letter from Mr.
13 Schreiber -- two and a bit -- regarding the same topic
14 to Mr. Mulroney.

15 14735 Then, there is a second letter -- one
16 paragraph -- to Mr. Mulroney.

17 14736 MS BROOKS: Thank you.

18 14737 Then, dealing with the final letter
19 that was sent to the PMC, this is the September 26th
20 letter?

21 14738 MR. SMITH: That's correct.

22 14739 MS BROOKS: Why was this letter sent?

23 14740 MR. SMITH: For the same reasons as
24 the preceding one. It enclosed correspondence between
25 Mr. Schreiber and Mr. Mulroney. There were increasing

1 references to Mr. Mulroney, and the writer was
2 uncomfortable with filing it without a reply.

3 14741 MS BROOKS: Okay. I am going to come
4 back to this letter, the September 26th letter, but I
5 would like to now move on to the March 29th letter,
6 which is the one that the Commissioner has directed us
7 to make findings on -- the steps that were taken to
8 process this particular letter -- and it is at Tab 10
9 of Appendix 8.

10 14742 So I would ask you to turn that up,
11 and we will spend some time on this one.

12 14743 The first page of this tab, Appendix
13 8, shows that there was the March 29th letter, 2007,
14 from Mr. Schreiber to Mr. Harper, and the enclosures
15 were three. The first one was a letter dated January
16 29, 2007, from Karlheinz Schreiber to Mr. Mulroney.

17 14744 You have told me why you sent two
18 other letters to PMC, it's because they enclosed
19 letters from Mr. Mulroney, and this one does as well.
20 Why would this one not have been treated the same way?

21 14745 MR. SMITH: I did not see this, and
22 the writer did not see this one. So this one was
23 missed.

24 14746 MS BROOKS: This one was only seen by
25 an analyst?

1 14747 MR. SMITH: Yes.

2 14748 MS BROOKS: Why would the analyst not
3 have brought this to your or a writer's attention, as
4 she did, or he did, subsequent letters?

5 14749 MR. SMITH: First of all, it's a
6 different analyst every time.

7 14750 MS BROOKS: Yes.

8 14751 MR. SMITH: They take items out of
9 the bin at random, so it may not have been the same
10 analyst dealing with the next letter.

11 14752 It should have been caught, and it
12 should have been brought to the attention of the
13 writer, but it was not.

14 14753 MS BROOKS: Would you, in any case
15 similar to this one, be issuing internal -- or sending
16 internal e-mails?

17 14754 It wouldn't have to be called a
18 directive, it could be as simple as sending an e-mail
19 to your analysts to say, "We have done this in this
20 case. If this occurs again, please bring it to our
21 attention and we will be doing the same thing. In this
22 particular fax, we have sent a letter from Mr.
23 Schreiber containing an enclosure of a letter to Mr.
24 Mulroney to PMC. Please be aware that we wish to do
25 that in future."

1 14755 Was that ever done?

2 14756 MR. SMITH: I did not send any
3 particular instructions to the analysts. I had spoken
4 on a number of occasions with the responsible writer
5 about the treatment of Mr. Schreiber's correspondence,
6 but not to the analysts.

7 14757 MS BROOKS: You had spoken to the
8 writers.

9 14758 MR. SMITH: That's right.

10 14759 MS BROOKS: When you look at the
11 WebCIMS page, there are no assignments here. On others
12 we have seen a list of people who have had their hands
13 on the letter --

14 14760 MR. SMITH: Sure.

15 14761 MS BROOKS: -- and have had various
16 interactions. Why would that not have occurred this
17 time?

18 14762 MR. SMITH: Because the analyst
19 decided to file it without reply and without giving it
20 to the writer.

21 14763 MS BROOKS: So we could characterize
22 this as an oversight by this particular analyst.

23 14764 MR. SMITH: That's correct.

24 14765 MS BROOKS: If you turn over to the
25 letter that Mr. Mulroney was sent, that is, the January

1 29th letter, which is enclosed with this letter, and if
2 you turn to page 3 of this letter, Mr. Schreiber is
3 writing to Mr. Mulroney as follows:

4 "You never told Elmer MacKay or
5 me that you killed the project
6 and I went on working on it to
7 fulfill your promises to bring
8 jobs to the people in Nova
9 Scotia.

10 During the summer of 1993
11 when you were looking for
12 financial help, I was there
13 again. When we met on June
14 23rd, 1993 at Harrington Lake,
15 you told me that you believe
16 that Kim Campbell will win the
17 next election. You also told me
18 that you would work in your
19 office in Montreal and that the
20 Bear Head project should be
21 moved to the Province of Quebec,
22 where you could be of great help
23 to me. We agreed to work
24 together and I arranged for some
25 funds for you.

StenoTran

1 Kim Campbell did not win the
2 election, but we met from time
3 to time."

4 14766 Then, later, at the last two
5 paragraphs on the page:

6 "When we met in Zurich,
7 Switzerland on February 2, 1998
8 at the Hotel Savoy, I left with
9 the impression that you were in
10 good shape.

11 On October 17, 1999 you
12 asked for an affidavit or
13 assurance from me which confirms
14 that you never received any kind
15 of compensation from me."

16 14767 Over the page:

17 "During the Christmas Holydays
18 1999 I visited Fred Doucet at
19 his home and told him that he
20 should tell you that I would not
21 commit perjury if I would have
22 to testify and that I cannot
23 understand why you don't simply
24 tell the truth. A few days
25 later, when I met with Fred

1 again, he asked me to sign
2 certain agreements concerning
3 our business relationship. I
4 refused to do so."

5 14768 Did you speak to your analyst after
6 these events had occurred to find out whether he had
7 read this letter?

8 14769 MR. SMITH: I did. After the
9 November events, yes, I did. He didn't remember it
10 specifically.

11 14770 It is not so much the content that
12 should have triggered with him; merely the fact that it
13 was a letter between Mr. Schreiber and Mr. Mulroney
14 would have been enough to send it to the writer, to let
15 her decide what type of response to do.

16 14771 MS BROOKS: So, again, we don't know
17 why or whether the analyst actually read the letter;
18 but, again, you would say that it was an oversight --

19 14772 MR. SMITH: I would.

20 14773 MS BROOKS: -- if he didn't do so.

21 14774 MR. SMITH: I would.

22 14775 MS BROOKS: There were no directions
23 from PMC or PMO to start ignoring letters from Mr.
24 Schreiber, or to treat them in any specific way?

25 14776 MR. SMITH: That's correct. This was

1 the 11th letter, I think, by that time.

2 14777 MS BROOKS: Yes. And notwithstanding
3 that you had already sent three letters, by my count,
4 to PMC, you still had not heard back anything from PMC
5 about how letters from Mr. Schreiber should be treated.

6 14778 Is that correct?

7 14779 MR. SMITH: That is correct.

8 14780 MS BROOKS: Did this strike you as
9 odd or out of the ordinary?

10 14781 MR. SMITH: I did not see all of Mr.
11 Schreiber's letters. I saw about three of them, I
12 think, in the course of this time period, so I did not
13 really have an overall view.

14 14782 So the answer is no, I did not find
15 it unusual. I was not waiting for a reply.

16 14783 MS BROOKS: Would ECU, when they get
17 a prolific writer, ever put together all of the
18 correspondence and decide: What should we be doing
19 with this person?

20 14784 Is that something that you do as a
21 matter of course?

22 14785 MR. SMITH: A writer would evaluate
23 on a case-by-case basis a prolific writer, whether he
24 or she merits a response at any particular time. If
25 the writer is on one topic month after month, and then

1 switches to a new topic, that might merit a response.

2 14786 MS BROOKS: If somebody is considered
3 a prolific writer, are they treated any differently
4 than otherwise?

5 14787 MR. SMITH: They would be more likely
6 to be filed without a reply if they are considered
7 prolific.

8 14788 MS BROOKS: I would like you to turn
9 to --

10 14789 Just a moment and I will find it.

11 --- Pause

12 14790 MS BROOKS: It is Tab 29 in the large
13 binder. This is a note dealing with "Prolifics", as
14 they are called -- prolific writers, "Prolifics" for
15 short.

16 14791 It says in this note that a frequent
17 writer, for instance -- "i.e., half a dozen letters in
18 the span of a month or two," would indicate that they
19 should be up for consideration as a prolific writer.

20 14792 If someone is a prolific writer, is
21 that indicated on their correspondence when it is
22 received?

23 14793 How does one analyst know that this
24 particular person has become a prolific writer?

25 14794 MR. SMITH: Any time they enter an

1 item in the database they have to check for previous
2 from the same correspondent.

3 14795 MS BROOKS: I see.

4 14796 MR. SMITH: There is a "List Related
5 Files" button which shows them, and the actions taken.

6 14797 MS BROOKS: Does the system force
7 them to do that check, or is that something that could
8 be forgotten from time to time?

9 14798 MR. SMITH: It is part of their
10 proper procedures, but I am not sure --

11 14799 MS BROOKS: Part of the protocol.

12 14800 MR. SMITH: -- if the system itself
13 forces them to do that.

14 14801 MS BROOKS: If an analyst has
15 received a letter -- and let's say that it's the 11th
16 letter from somebody -- and they do that check, does
17 the system tell them what has happened or what
18 treatment the other letters were given?

19 14802 MR. SMITH: Yes.

20 14803 MS BROOKS: "Filed without reply" and
21 that sort of thing?

22 14804 MR. SMITH: Yes.

23 14805 MS BROOKS: In your experience, would
24 that make the analyst, then, less likely to treat the
25 letter before him or her with care?

1 14806 MR. SMITH: It could.

2 14807 MS BROOKS: Now, it does say in this
3 note that:
4 "...even after someone has been
5 deemed a prolific, their mail
6 will, in man[y] cases,..."

7 14808 It says "in may cases", but I take
8 that to be "in many cases".
9 "...be passed on to analysts for
10 registration/further
11 consideration. If the person
12 makes a point, etc....,we
13 register it, noting that they
14 are prolific, and consider the
15 letter on its own merits."

16 14809 I take from this that, ideally, even
17 if someone is considered a prolific, their letter
18 should be dealt with the same way that it would be if
19 it were the first letter.

20 14810 MR. SMITH: Yes, it should be up to
21 the discretion of the writer. The analyst should not
22 really file -- close it I should say, we call it
23 filing -- should not close it without reply without
24 checking with the writer first, unless it is obviously
25 abusive or nonsense.

1 14811 MS BROOKS: Right. So in all of the
2 12 letters -- take away the two that were dealt with in
3 a particular manner -- with the 10 letters that were
4 closed without reply, and with no further action, in
5 every case the analyst would have checked with a writer
6 on what to do with that before closing it?

7 14812 MR. SMITH: They should.

8 14813 MS BROOKS: But in the case of the
9 March 29th letter, where we saw just Mr. D'Aoust -- I
10 think his name is D'Aoust.

11 14814 It's Appendix 8, Tab 10.

12 14815 MR. SMITH: That's right.

13 14816 MS BROOKS: We see "No assignments".
14 Does that mean that he did not check with the writer?

15 14817 MR. SMITH: That's what I assume.
16 There was no assignment to the writer made by him, and
17 he is the one who made the WebCIMS profile. So the
18 writer never got it.

19 14818 And I asked the writer if she had
20 seen it, and she said no.

21 14819 MS BROOKS: The September 29th, 2007
22 letter included this March letter as an attachment.
23 Correct?

24 14820 MR. SMITH: I believe so. I would
25 have to look at it, but I think I remember seeing that.

1 14821 MS BROOKS: Yes, it did.

2 14822 So the March 29th letter, in fact,
3 was passed on to PMC, albeit as an attachment to the
4 September 26th, 2007 letter. Correct?

5 14823 MR. SMITH: That is correct.

6 14824 MS BROOKS: Did you hear anything
7 back from PMC in relation to the September 29th letter
8 that was enclosing this March letter?

9 14825 MR. SMITH: No, nothing.

10 14826 MS BROOKS: Do you know whether the
11 PCO analyst flagged this September 27th letter as
12 personal/political because it contained that March 29th
13 letter?

14 14827 MR. SMITH: Could I check to see if
15 it's the same analyst?

16 14828 MS BROOKS: Sure.

17 --- Pause

18 14829 MR. SMITH: It's Tab 4, is that
19 correct?

20 14830 MS BROOKS: Yes, it's Appendix 7, Tab
21 4.

22 14831 First of all, if you look at the
23 WebCIMS folder page, it says, "Keyword Summary:
24 Personal and political - neutral." Who would have made
25 that entry?

1 14832 MR. SMITH: We don't put keywords in
2 for something --

3 14833 MS BROOKS: So this would be PMC?

4 14834 MR. SMITH: Yeah.

5 14835 MS BROOKS: And in "Notes" it says
6 "NR", which --

7 14836 MR. SMITH: That would be their
8 writing.

9 14837 MS BROOKS: "No reply", is that what
10 that means?

11 14838 MR. SMITH: I feel fairly certain
12 that's what it means.

13 14839 MS BROOKS: Okay. If you look down
14 below at these names, "David Poelzer" -- are they in
15 your group or in PMC?

16 14840 MR. SMITH: Oh, that is the analyst
17 in ECU.

18 14841 MS BROOKS: So that's ECU.
19 14842 So your answer to the question --
20 which was: Was this letter tagged as personal or
21 political because it contained the March 29 letter?

22 14843 MR. SMITH: This was one that the
23 writer was uncomfortable about and she asked me about
24 it, and I said, "By all means, send it over to PMC."

25 14844 COMMISSIONER OLIPHANT: Ms Brooks,

1 how long do you expect to be with Mr. Smith?

2 14845 MS BROOKS: Another 10 minutes.

3 14846 Less than 10 minutes.

4 --- Pause

5 14847 MS BROOKS: For letters that are

6 transmitted to PMC, does ECU maintain a tickler system

7 or a reminder system to follow up and find out what

8 their treatment of the letter is, or anything like

9 that?

10 14848 MR. SMITH: No, we don't.

11 14849 MS BROOKS: Would you say that it's

12 typical for you to refer letters to PMC and then not

13 hear anything back?

14 14850 MR. SMITH: That is correct.

15 14851 MS BROOKS: There is mention in some

16 of the e-mail documents -- and I will be going through

17 this with Ms Powell -- to a review of procedures that

18 was carried out in November 2007. Were you involved in

19 that review of procedures?

20 14852 These are the procedures for

21 handling --

22 14853 MR. SMITH: I wouldn't call it a

23 review, as in a formal review, this would be a recap.

24 We explained to all of the levels at PCO how his

25 correspondence had been treated, and we had not

1 received any indications that anything had been done
2 inappropriately.

3 14854 So, yeah, a formal review is not what
4 I would call that.

5 14855 MS BROOKS: As a result of that
6 review -- I take your point that nothing was done
7 inappropriately, but I think you have conceded that
8 there was a lapse --

9 14856 MR. SMITH: Yes.

10 14857 MS BROOKS: -- by the analyst who
11 dealt with the March 29th letter.

12 14858 Have any changes been made to how you
13 or the analysts or the writers would approach the same
14 kind of issue were it to arise again?

15 14859 MR. SMITH: Not to my knowledge.

16 14860 MS BROOKS: Was there, internally,
17 any -- I am not going to say investigation, because my
18 intent is merely to find out what kind of procedures or
19 review you carried out to determine whether the process
20 could be improved. Was there any meeting to do that?

21 14861 MR. SMITH: Not that I recall.

22 14862 MS BROOKS: Okay.

23 14863 Commissioner, I will just take a
24 minute to check my notes.

25 --- Pause

1 14864 MS BROOKS: Mr. Smith, those are my
2 questions.

3 14865 MR. SMITH: Good. Thank you.

4 14866 MS BROOKS: I don't know if anyone
5 else has questions.

6 14867 COMMISSIONER OLIPHANT: I intend to
7 break now for lunch, despite whatever the intentions of
8 other counsel are, but is there anyone who will be
9 asking questions of Mr. Smith in cross-examination?

10 14868 MR. HUGHES: No, Commissioner, thank
11 you.

12 14869 COMMISSIONER OLIPHANT: All right.
13 14870 Mr. Vickery...?

14 14871 MR. VICKERY: None, sir.

15 14872 COMMISSIONER OLIPHANT: None. Thank
16 you.

17 14873 Mr. Houston...?

18 14874 MR. HOUSTON: No, Mr. Commissioner.
19 14875 May I be excused for this afternoon?
20 I will have no questions for that witness either,
21 anticipating what her evidence is going to be.

22 14876 COMMISSIONER OLIPHANT: That's fine
23 with me, Mr. Houston. I will refrain from saying
24 anything further.

25 --- Laughter / Rires

1 14877 COMMISSIONER OLIPHANT: You are free
2 to excuse yourself for the afternoon.

3 14878 Is there any reason why Mr. Smith
4 cannot be excused at this time, if no one has questions
5 for him?

6 14879 MS BROOKS: I would ask that Mr.
7 Smith remain ready, in case we want him to come before
8 you for Part 2 of the Inquiry, which is the policy
9 phase.

10 14880 COMMISSIONER OLIPHANT: Okay, but in
11 terms of today --

12 14881 MS BROOKS: No, today there is no
13 reason.

14 14882 COMMISSIONER OLIPHANT: All right.

15 14883 Mr. Smith, you realize that this
16 Inquiry is divided into two parts, the second of which
17 is a policy review, and that evidence may be required
18 from you in respect of Part 2, and you will make
19 yourself available, if, as and when required.

20 14884 MR. SMITH: Certainly.

21 14885 COMMISSIONER OLIPHANT: All right.
22 Insofar as today is concerned, Mr. Smith, I am going to
23 excuse you. All that remains is for me to say thank
24 you very much for coming to assist the Inquiry. I
25 appreciate your help, thank you.

1 14886 MR. SMITH: You're welcome.

2 14887 COMMISSIONER OLIPHANT: Ms Brooks,
3 what do you suggest in terms of a luncheon break, two
4 o'clock?

5 14888 MS BROOKS: I am going to be,
6 probably, no more than half an hour with Ms Powell. I
7 don't know how many questions my friends will have for
8 her, but I think we can expect her to probably be
9 finished in half an hour.

10 14889 We could come back at 1:30 perhaps,
11 and be finished by two.

12 14890 COMMISSIONER OLIPHANT: I see that
13 all other counsel are nodding in the affirmative,
14 except for Mr. Houston, and he doesn't count because he
15 is not going to be here this afternoon.

16 14891 All right, then, we will break for an
17 hour and come back at 1:30.

18 14892 MS BROOKS: Thank you.

19 --- Upon recessing at 12:30 p.m. / Suspension à 12 h 30
20 --- Upon resuming at 1:30 p.m. / Reprise à 13 h 30

21 14893 COMMISSIONER OLIPHANT: Good
22 afternoon, counsel. Be seated, please.

23 14894 MS BROOKS: Mr. Commissioner, we have
24 this afternoon Ms Sheila Powell --

25 14895 COMMISSIONER OLIPHANT: Yes. Good

1 afternoon, Ms Powell.

2 14896 MS BROOKS: -- who can now be sworn.

3 SWORN: SHEILA POWELL /

4 ASSERMENTÉE : SHEILA POWELL

5 EXAMINATION: SHEILA POWELL BY MS BROOKS /

6 INTERROGATOIRE : SHEILA POWELL PAR Me BROOKS

7 14897 MS BROOKS: Thank you for being with

8 us this afternoon, Ms Powell.

9 14898 You are the Director of Corporate

10 Information Services Division with the Privy Council

11 Office?

12 14899 MS POWELL: Yes, I am.

13 14900 MS BROOKS: How long have you held

14 that position?

15 14901 MS POWELL: For six years.

16 14902 MS BROOKS: So you were there when

17 the correspondence that concerns the Commissioner was

18 being sent to the Prime Minister?

19 14903 MS POWELL: Yes.

20 14904 MS BROOKS: And the Executive

21 Correspondence Unit comes within your area

22 responsibilities?

23 14905 MS POWELL: Yes, it does.

24 14906 MS BROOKS: Would it be fair to say

25 that you yourself do not have day-to-day responsibility

1 for the day-to-day operations Of the Executive
2 Correspondence Unit?

3 14907 MS POWELL: Yes, that's correct.

4 14908 MS BROOKS: What would your
5 involvement be with that group?

6 14909 MS POWELL: From a Director level, I
7 am responsible for overseeing the policies, the
8 staffing, resourcing of the group, resolving any
9 problems that come up that have to be dealt with at a
10 more senior level, looking at the ongoing strategies,
11 forward strategies, plans of the group, but not the
12 day-to-day management of the correspondence.

13 14910 MS BROOKS: Okay. Would that
14 policymaking include how ECU should be dealing with
15 politically sensitive correspondence that would come
16 into it directed to the Prime Minister?

17 14911 MS POWELL: On an ongoing basis, no,
18 I don't get involved in that because we have the
19 procedures in place for dealing with that.

20 14912 If something particular came up that
21 the manager couldn't deal with according to the
22 standard way of handling correspondence, she would come
23 to me for advice and I might raise it further. But
24 that doesn't happen very often.

25 14913 MS BROOKS: Are there any written

1 procedures for dealing with the personal and political
2 correspondence?

3 14914 MS POWELL: Well, we have the
4 procedures in terms of what constitutes political
5 correspondence and where it should be routed to.

6 14915 MS BROOKS: Right. I drew to
7 Mr. Smith's attention a document called Procedures for
8 Mail Processing Unit. This document does not deal with
9 political mail, and I'm wondering where the written
10 policies would be for political mail.

11 14916 I have seen the definition, but where
12 would the policy be for dealing with that?

13 14917 MS POWELL: Other than the definition
14 of what political mail constitutes, I don't believe we
15 have a specific policy. I'm not aware of a separate
16 policy on it.

17 14918 MS BROOKS: All right. Now, with
18 respect to the Prime Minister's correspondence, I'm
19 trying to get a greater understanding of the
20 relationship between PMC in the Prime Minister's Office
21 and the ECU.

22 14919 I understood Mr. Smith to be saying
23 that once a letter has passed the divide, as it were,
24 going into PMO, that the ECU then thereafter has
25 nothing to do with it.

1 14920 MS POWELL: That's correct.

2 14921 MS BROOKS: And is it because once a
3 letter is designated as political that it then goes off
4 your radar screen altogether on the bureaucratic side?

5 14922 MS POWELL: That's right.

6 14923 MS BROOKS: Who sets down those kinds
7 of rules or barriers between -- you'll have to help me
8 as a layman with government. But who sets down those
9 barriers in that interaction between PCO and PMO?

10 14924 MS POWELL: I think it's something
11 that has evolved over time. It's a convention in terms
12 of how we separate the work that we do and that we
13 don't get involved in each other's business.

14 14925 There is no specific directive that I
15 am aware of that says how we are to behave. It is how
16 we have behaved over the years and my understanding of
17 how other departments behave as well. They maintain
18 that line between the public service bureaucratic arena
19 and the political.

20 14926 MS BROOKS: Okay. You can see that
21 where you are getting male in as the triage agent, if
22 you will, for of the Prime Minister's mail the ECU acts
23 as that first look at the correspondence. And if PMC
24 has not told it what to consider as political mail, do
25 you have any internal directives to direct people's

1 minds to thinking that through and thinking this might
2 be something that should be designated as political?

3 14927 MS POWELL: Well, we have the
4 definition that is set out as to what constitutes
5 political mail in terms of mail that relates to the
6 Conservative Party of Canada, the Prime Minister as
7 leader of -- head of the Conservative Party of Canada,
8 his own personal interests, anything relating to Party
9 business, that kind of thing.

10 14928 So the definitions are set out.

11 14929 MS BROOKS: Yes. That's the core
12 definition, but if you look at page 3 of the report
13 which you will find at the document brief in front of
14 you -- if you could pull up the one that is the PCO
15 report and in the first section, if you look at page 3,
16 not behind any of the tabs, the second paragraph, the
17 first and second paragraphs here, the section of your
18 report dealing with procedures for handling political
19 or personal mail, the definition that you have just
20 given me is the one that is outlined in the first
21 paragraph here.

22 14930 And the second definition, or the
23 second part of the definition is:

24 "In addition, PMC sometimes
25 identifies particular issues for

1 handling by their unit, either
2 because the Prime Minister knows
3 the individual or the issue is
4 of particular concern to the
5 Prime Minister or his staff.
6 PMC determines on an ongoing
7 basis which issues are of
8 particular interest, and informs
9 ECU."

10 14931 I'm just trying to understand a
11 little bit more about this interaction between PCO and
12 PMO in this regard.

13 14932 If correspondence is coming in that
14 your analysts, writers or senior editor might believe
15 raises a political issue, does PCO take a proactive
16 role in bringing that to the PMC's attention?

17 14933 MS POWELL: Yes. If the staff see
18 something that seems to them to be political in nature
19 according to their understanding of the definition, as
20 they are trained on that, they will flag that initially
21 in the mail and production unit when the triage, the
22 first level of triage takes place --

23 14934 MS BROOKS: Right.

24 14935 MS POWELL: -- and will put it in the
25 basket to send to PM Correspondence.

1 14936 MS BROOKS: Okay.

2 14937 MS POWELL: And then that could take
3 place as the male progresses. An analyst could see
4 that this really is political in nature and could raise
5 it at that point from our side to send it over to PM
6 Correspondence.

7 14938 MS BROOKS: All right. So that
8 happens on a letter by letter basis as the mail comes
9 in?

10 14939 MS POWELL: Yes.

11 14940 MS BROOKS: What about on an issue by
12 issue basis where -- we will take the example before
13 us.

14 14941 It was made public in 2003-2004
15 through Mr. William Kaplan in his article in the Globe
16 and Mail in November 2003 and through his book "A
17 Secret Trial", which was published the next year, it
18 was made public that there was this allegation or -- I
19 think it was posted there as an allegation. I'm not
20 sure one can say anything more than that. But it was
21 definitely an issue that was made public.

22 14942 Would it be possible, given your
23 procedures and the way you approach things in PCO, for
24 you to have put together a memo or an e-mail to
25 somebody on the political side saying this is something

1 that we may be seeing mail on. How do you want us to
2 handle it?

3 14943 MS POWELL: That normally doesn't
4 happen, from my understanding of how the unit operates.
5 We are not normally taking this broad look at issues
6 out there and upfront flagging for PM Correspondence
7 what issues they may want us to send to them or to
8 highlight issues.

9 14944 It's usually if we see a trend in an
10 item -- I am speaking beyond an individual item comes
11 in and we send it over. But if we see a bunch of
12 correspondence coming in on a particular issue that we
13 see as being political in nature, we would send them
14 over item by item or we could approach from the manager
15 of our unit to the manager of the PM Correspondence
16 unit to say we are getting these letters. Do you want
17 to handle them all?

18 14945 MS BROOKS: Right. And the lack of
19 that generic approach, if I could call it that, do you
20 think that is attributable to the fact that you are on
21 the civil service bureaucratic side, whereas what I
22 have discussed, what I have described as flagging
23 issues before they have actually come to pass, is it
24 because that would be characterized as political, in
25 your view?

1 14946 MS POWELL: It's not something I have
2 considered before whether -- because we just don't do
3 it. In my experience we haven't done it.

4 14947 I think it's a proactivity, a level
5 of productivity we just don't do, partly because we
6 don't have the time to do it.

7 14948 MS BROOKS: Right.

8 14949 MS POWELL: The level of
9 correspondence is so high. And yes, I mean we just --
10 we don't presume to flag these issues for PM
11 Correspondence. It is really not our role to do that
12 kind of issue scanning in that kind of proactive way.

13 14950 MS BROOKS: Okay. And just so that I
14 understand it better, it's not appropriate because that
15 is what you would call a political function as
16 something more properly located within the PMO?

17 14951 MS POWELL: I haven't really thought
18 about it before, whether I call it political, but I can
19 see it yes, because it would be a question of us
20 presuming that something would be a politically
21 sensitive issue.

22 14952 MS BROOKS: Right.

23 14953 MS POWELL: That is certainly not our
24 role.

25 14954 MS BROOKS: Okay. I think I

1 understand that better.

2 14955 Now, at Tab 16 of the other binder
3 which is in front of you, if you could look at Tab 16,
4 this is a series of questions and answers. I would
5 like you to look at page 3 of this document, if you
6 don't mind.

7 14956 What was this document prepared for?

8 14957 MS POWELL: This was prepared by me
9 in anticipation of needing to brief PCO officials who
10 would be called to testify before the House of Commons
11 Ethics Committee when they were reviewing the whole
12 Schreiber/Mulroney situation.

13 14958 MS BROOKS: Right. Okay. So you
14 prepared this obviously with input from some of your
15 people in your group?

16 14959 Is that correct?

17 14960 MS POWELL: Yes I did.

18 14961 MS BROOKS: On page 3 -- and this
19 goes to the this interaction between PCO and PMO -- the
20 question is: When staff read the serious allegations
21 in the March --

22 14962 Am I at the right place? No, I'm
23 not. I'm not at the right place. Yes, here it is.

24 "Both Sheila Copps and a former
25 head of correspondence in Mr.

1 Chrétien's PMO have stated that
2 all correspondence is sent to
3 PMO and that advice is sought on
4 the handling of all
5 correspondence. Now you are
6 telling us that this is not
7 true -- who are we to believe?"

8 14963 The answer is as is set out here:

9 "Only a small portion of letters
10 sent to the Prime Minister is
11 forwarded to PM Correspondence
12 in the PMO. In 2006-07, 3,224
13 letters and 19,803 e-mail
14 messages were forwarded to PM
15 Correspondence."

16 14964 And it talks about the same in the
17 same year the number that was handled.

18 14965 Further down the page it says:

19 "What kind of ongoing
20 relationship is there between
21 PMC and PCO Executive
22 Correspondence?"

23 14966 The answer here is:

24 "PMC Manager and the PCO ECS
25 Manager interact on a semi-daily

1 basis. The PMC Manager
2 identifies trends, provides
3 particular instructions in how
4 PMC wants individual letters or
5 specific topics treated, or
6 verifies if PCO ECS has received
7 a particular letter."

8 14967 This is what we are talking about
9 now.

10 14968 Is this an accurate statement of the
11 ongoing relationship between PCO and ECS?

12 14969 MS POWELL: Yes, it is.

13 14970 MS BROOKS: What do you mean by
14 "semi-daily basis"?

15 14971 I always get confused with bi-daily
16 and semi-daily. What is meant here?

17 14972 MS POWELL: I get confused by that as
18 well. The intention here is that we are not
19 interacting with -- or the manager of the PCO
20 Correspondence Unit isn't interacting every day or
21 multiple times a day, but on a fairly regular basis
22 throughout the course of a week as an issue arises and
23 the head of the Prime Minister's Correspondence Unit
24 wishes to inform the PCO Correspondence Manager that
25 she would want all letters on a specific issue that was

1 going on at that time to come over to them, that kind
2 of thing.

3 14973 MS BROOKS: Okay. So semi-daily in
4 the answer here means every second day or so.

5 14974 MS POWELL: Something like that, yes.

6 14975 MS BROOKS: Okay. And in this
7 semi-daily communication, is there a formal way that
8 these issues are addressed between the two managers as
9 they meet and talk?

10 14976 First of all, are they meetings or
11 are they phone conversations or e-mails?

12 14977 MS POWELL: They are usually phone
13 conversations or e-mails.

14 14978 MS BROOKS: And would they have a
15 systematic way of approaching what are the issues this
16 week going to be or what do you expect?

17 14979 This is what your person would be
18 asking PMC.

19 14980 MS POWELL: Normally it wouldn't be
20 our Manager of Correspondence asking PMC; it would be
21 the PMC Manager informing our manager as to what should
22 be handled, or how things should be handled, what
23 should be sent over to them.

24 14981 MS BROOKS: Right. And so as we look
25 to Mr. Schreiber and the issues he raises, was

1 Mr. Schreiber or Bear Head or payments to Mr. Mulroney,
2 were there any issues identified by the PMC manager --

3 14982 MS POWELL: No, there weren't.

4 14983 MS BROOKS: -- ahead of this
5 correspondence coming in in 2006?

6 14984 MS POWELL: No.

7 14985 MS BROOKS: Moving a little bit off
8 the issue of political mail and onto priority mail,
9 does PMC get involved in identifying what is priority
10 mail and what should be given priority?

11 14986 MS POWELL: Who is identified as
12 priority mail is based on a set guideline and they
13 wouldn't, as a letter comes in, be involved in
14 determining who that is. It would be done according to
15 this guideline.

16 14987 They could have input into changing
17 the guideline in terms of what type of position a
18 person holds.

19 14988 MS BROOKS: Head of State, for
20 instance, something like that?

21 14989 MS POWELL: That's right. If they
22 wanted to add some other type of individual to that
23 list, they would do that. But we don't consult letter
24 by letter, e-mail by e-mail, as to who constitutes a
25 priority.

1 14990 MS BROOKS: All right. If you look
2 at Tab 28 of the same book documents, this is the
3 procedures for handling mail and I would ask you to
4 look at page 4.

5 14991 The title on this page is "Procedures
6 for Determining Priority Mail".

7 14992 The first group of:
8 "Mail tends to be considered a
9 priority for three main
10 reasons."

11 14993 The one you have just mentioned,
12 which is the position of the person.

13 14994 The second one is:
14 "The issue is new, explosive,
15 controversial or politically
16 sensitive."

17 14995 And the third one is:
18 "The person's position coupled
19 with this issue."

20 14996 I wanted to know if you could give us
21 your perspective on how number two is applied. By that
22 I mean when your triage people are looking at mail or
23 when it gets to an analyst, how do they apply this
24 "explosive, controversial or politically sensitive"?

25 14997 Do they have instructions from

1 someone? Is it just discretion or is it based on
2 experience?

3 14998 Can you give me some insight into
4 that?

5 14999 MS POWELL: In this case, for
6 example, what we talked about before about the unit
7 head for Prime Minister's Correspondence would get in
8 touch with our manager of Executive Correspondence and
9 highlight any particular issue, individual, where that
10 item should go to if it were political in nature or
11 just something that they wanted to handle. It wouldn't
12 have to be political in nature.

13 15000 MS BROOKS: Right.

14 15001 MS POWELL: And they would identify
15 for our staff what should go over and then that would
16 be communicated to the staff who were doing the triage
17 and our correspondence analyst; that if something came
18 in, then it should be sent over to PMC.

19 15002 MS BROOKS: The advantage or the
20 consequence of labelling something priority is that it
21 moves through the system at a faster rate?

22 15003 MS POWELL: Yes. And it also
23 determines who it goes to, because there are -- there
24 are -- there is priority mail that isn't political in
25 nature that is sent to the Office of the Clerk of the

1 Privy Council, and then the preparation of the reply
2 for the Prime Minister's signature is managed there.

3 15004 MS BROOKS: I see.

4 15005 MS POWELL: And then there is
5 priority mail that is political in nature that goes to
6 the Prime Minister's Correspondence Unit.

7 15006 MS BROOKS: Okay, thank you. That
8 clarifies that.

9 15007 I would like to talk about what
10 happens when there is a change of government, because
11 in this case we have, as I earlier indicated, the
12 publicity coming out about Mr. Schreiber's alleged
13 payments to Mr. Mulroney was coming out in 2003-2004
14 and that was of course before the change of government
15 in 2006.

16 15008 What I want to know is: Was the
17 issue flagged as sensitive or political during Prime
18 Minister Martin's tenure when this would have come out?

19 15009 I guess it would have been Prime
20 Minister Chrétien's tenure in 2004.

21 15010 MS POWELL: Yes, that was Prime
22 Minister Martin in 2004. Not that I'm aware of.

23 15011 MS BROOKS: Okay. Are records kept
24 of the issues that are flagged so that you could today
25 look three months ago and see what was flagged then as

1 political?

2 15012 MS POWELL: Not to my knowledge.

3 It's something that's done -- it's done by e-mail; it's
4 done verbally over the phone. So it's not something we
5 necessarily would keep track of.

6 15013 MS BROOKS: Okay. So if I could just
7 place myself in the position of somebody receiving one
8 of those e-mails, it comes up on an issue by issue
9 basis, I'm dealing with it. At some point I have to
10 know that it's no longer a hot topic and I have to stop
11 treating it as political.

12 15014 How does that get passed on to ECU?

13 15015 MS POWELL: That would be
14 communicated by the head of the Prime Minister's
15 Correspondence Unit in PMO to the Manager. We don't
16 need to see this kind of mail any more and then she
17 would communicate that down to her unit heads and
18 staff.

19 15016 MS BROOKS: Do you think that there
20 is any positive reason why one would want to keep
21 better records of these things in the management of
22 correspondence?

23 15017 MS POWELL: It certainly hasn't come
24 up as an issue before. It's not something that has
25 occurred to me that we would have to go back and track

1 what came up.

2 15018 We may be able to go back into our
3 database that tracks correspondence to see what kind of
4 issue as reflected in the keywords might have been sent
5 over. That's one possibility.

6 15019 But, as I say, it just hasn't come up
7 until this point as an issue.

8 15020 MS BROOKS: Right. But would you
9 think it would be something that would be useful in
10 then helping you deal with mail that would come in down
11 the line?

12 15021 MS POWELL: It could potentially.

13 15022 MS BROOKS: Okay.

14 15023 MS POWELL: It's not something that I
15 have thought about.

16 15024 MS BROOKS: Okay. Are there
17 communications about this on occasion from the Chief of
18 Staff, at the Chief of Staff level to the Clerk level?

19 15025 MS POWELL: I wouldn't be in a
20 position to be aware of that kind of communication.

21 15026 MS BROOKS: But ultimately I suppose
22 it would trickle down.

23 15027 Let's say the Chief of Staff conveyed
24 to the Clerk that such and such an issue is one that we
25 want to be kept fully informed on any correspondence,

1 et cetera. Would or have you seen it happen that the
2 Clerk then passes that message on to his staff?

3 15028 MS POWELL: I'm not aware of that
4 kind of communication or guidance coming down through
5 the Clerk's office. It would normally just come
6 through the Head of the Prime Minister's Correspondence
7 Unit directly to our manager.

8 15029 MS BROOKS: Okay. Are there
9 transition policies when there is a change in
10 government on these hot issues? What happens when
11 there is a change of government?

12 15030 MS POWELL: Generally speaking or in
13 relation to an issue that has been highlighted?

14 15031 MS BROOKS: In relation to an issue
15 that would have been a hot issue for government "X" and
16 then government "Y" is coming in, are there transition
17 policies for how you would transition over to the new
18 government on questioning whether is this still a hot
19 issue?

20 15032 MS POWELL: When we have a change of
21 government, we normally wait for the Head of the
22 Correspondence Unit in the Prime Minister's Office to
23 contact us and express what the issues are.

24 15033 I'm just speculating now because I am
25 not aware of any hot issues being in place when we have

1 had a change of government.

2 15034 But what would happen in that case is
3 that when the contact is made from the Head of the new
4 Prime Minister's Correspondence Unit to our manager,
5 that would be one of the issues that our manager would
6 raise.

7 15035 But the way transitions have gone, we
8 wait until we are contacted. The incoming Prime
9 Minister's Office is given briefing materials on the
10 services that are provided by the Privy Council Office
11 and because they are so busy with setting their new
12 office up and their own priorities and the issues that
13 matter most to them to get started, we don't approach
14 them and bother them. We wait until they come to us.

15 15036 So if there had been any controversy
16 or anything really significant, we would wait until we
17 heard from them and then we would raise it with them.

18 15037 MS BROOKS: Okay. And I take it that
19 in this case with respect to Mr. Schreiber, there was
20 nothing in PCO that you raised with the incoming
21 government?

22 15038 MS POWELL: No, we didn't.

23 15039 MS BROOKS: You have spoken in one of
24 the e-mails that I have here that a review of
25 procedures was under way. I would just like to ask you

1 a few questions about that review.

2 15040 Who carried out the review?

3 15041 MS POWELL: What we did when we were
4 informed that this was an issue and we went into our
5 system and looked for all of the correspondence, we
6 looked at how the letters were handled to see if they
7 were done -- everything was done according to our
8 procedures. We looked at the whole thing, Don Smith
9 and I --

10 15042 MS BROOKS: You and Don carried out
11 the review?

12 15043 MS POWELL: Yes. Don and I looked at
13 how each of the items was handled and I was satisfied
14 that they had been handled according to our procedures.

15 15044 At that point we didn't undertake any
16 specific review. We didn't call anybody in, get
17 third-party advice. We decided that for the time being
18 looking at that we are happy and that any larger scale
19 review would wait until we have the results of this
20 Commission of Inquiry and the advice that it provides.

21 15045 MS BROOKS: I see. You have said
22 that the procedures were followed appropriately. Would
23 you say that the correspondence was handled well?

24 15046 I'm going to direct that question to
25 the March 29, 2007 letter.

1 15047 There can be instances where all the
2 procedures were followed properly, but in the end it
3 was not carried out well.

4 15048 Would you say with respect to the
5 letter of March 29th that there had been a lapse in
6 carrying out the job well?

7 15049 MS POWELL: No, I don't believe there
8 was. Looking at the whole trail of correspondence from
9 Mr. Schreiber and the nature of it, what he sent in the
10 March 29th mailing to us, I believe that the procedures
11 were carried out appropriately.

12 15050 MS BROOKS: Okay.

13 15051 On that, if you look at Tab 16, again
14 in that same binder, page 3, this speaks to what
15 happened to the March 29th letter and it says:

16 "When PCO staff read the serious
17 allegations in the March 29th
18 letter, why did they decide not
19 to send it to PMO?

20 - PCO Executive Correspondence
21 Services did not send the March
22 29 letter to PM Correspondence
23 because, as far as they could
24 tell, it was not significantly
25 different from the previous

1 letters that had been received.
2 The allegations contained in
3 the copy of the letter to Brian
4 Mulroney were not sufficiently
5 explicit for it to raise any red
6 flags at the time among ECS
7 staff, who had not received any
8 direction from PM Correspondence
9 regarding the handling of mail
10 from Mr. Schreiber ..."

11 15052 So we have established that there was
12 no directive from PMC. But what I'm interested in is
13 the assessment after the fact that this letter was not
14 significantly different, because if you look at the
15 March 29th letter it contains statements such as:

16 "When we met on June 23, 1993 at
17 Harrington Lake you told me you
18 would work in your office in
19 Montreal and that the Bear Head
20 project should move to Quebec,
21 where you would be of great help
22 to me. We agreed to work
23 together and I arranged some
24 funds for you."

25 15053 I think this is the first time that

1 this kind of allegation, or anything like it, was made
2 in any of Mr. Schreiber's correspondence. I will grant
3 you that it was voluminous and it was varied, but
4 having read this, do you agree that these allegations
5 are specific enough to raise red flags?

6 15054 MS POWELL: When I read through that
7 letter -- and I have read through it a number of times
8 over the course of figuring out how everything was
9 handled -- I think you would have to have a really
10 in-depth knowledge of, when Mr. Mulroney left office as
11 Prime Minister, what the situation was with Mr.
12 Schreiber to understand that there actually was an
13 allegation there.

14 15055 MS BROOKS: But we heard from Mr.
15 Smith that for the letters on which he was consulted,
16 and which were sent up to PMC, one of the indicia for
17 him to make that decision was the inclusion in the
18 package of a letter to Mr. Mulroney from Mr. Schreiber.
19 That, in itself, was something that triggered him, or
20 gave him the red flag, using the language in the Q&As,
21 that it should go up.

22 15056 If you look at this particular letter
23 within that context, it seems to me that it's very
24 difficult to say that this letter shouldn't have
25 triggered the same kind of reaction.

1 15057 Would you agree with that?

2 15058 MS POWELL: Could you repeat what you
3 said about what Don said, because I didn't quite
4 understand.

5 15059 MS BROOKS: Okay. What he said was,
6 for the letters that went to PMC on which he was
7 consulted in advance, one of the reasons that he
8 decided such-and-such a letter should go to PMC was
9 because, included in the package, was a letter from Mr.
10 Schreiber to Mr. Mulroney.

11 15060 One of the letters that went to PMC
12 that he saw, and recommended should go, was sent, he
13 said, because the presence of a letter from Mr.
14 Schreiber to Mr. Mulroney was enough for him to think
15 that that was a good enough reason to send it to PMC.

16 15061 In this letter, of course, we have
17 such a letter. The March 29th letter includes such a
18 letter from Mr. Schreiber to Mr. Mulroney. Not only
19 that, it includes allegations that we have never seen
20 before.

21 15062 Would you say today -- and we are not
22 here looking to point fingers, we are trying to think
23 of what might be better ways to do this -- can you say
24 today that the March 29th letter should have been
25 treated the same way that Mr. Smith treated the other

1 letters that went to PMC?

2 15063 MS POWELL: I think, if we had 20/20
3 hindsight and knew everything, then, yes, we may have
4 taken a different decision in terms of the allegation,
5 which I don't think could reasonably be seen to be an
6 allegation by our staff who are looking at that.

7 15064 In relation to whether the item of
8 correspondence should have been sent to PMC just
9 because it contained a letter from Mr. Schreiber to Mr.
10 Mulroney, from my understanding of how the decisions
11 are taken as to where the mail should be routed, I
12 don't think that should be, or that would be a primary
13 criterion, because most of Mr. Schreiber's mailings to
14 us really consisted of a cover letter and a whole
15 number of other letters sent to somebody else,
16 including cabinet ministers and Members of Parliament,
17 and that, in itself, is not enough to determine that it
18 should be sent to the Prime Minister's correspondence
19 unit.

20 15065 MS BROOKS: Okay, that's fair enough.

21 15066 We have talked about the volume of
22 mail, and Mr. Smith estimated that an analyst, on any
23 day, is expected to review 80 to 85 e-mails and 25 to
24 40 letters, and actually deal with them in a day. I
25 wanted to just focus a little bit on who the analysts

1 are, by way of their job description, and what they can
2 be expected to know and do.

3 15067 The analyst is an AS-1 position,
4 which is a low level administrative support position.
5 Do you think that it is appropriately staffed at that
6 level, or would it be better -- would you get a better
7 skill set if you got somebody at a higher level?

8 15068 And I am not talking economics here,
9 I am purely interested in the skill set that one needs
10 in order to carry out what turns out to be a task that
11 has a great range of discretion and knowledge.

12 15069 What is your view of that?

13 15070 MS POWELL: I think they are doing
14 the work -- the job at a level that is expected of
15 them, in terms of identifying who the letter is coming
16 from, being able to read through the letter and
17 identify whether there are any threats in the letter,
18 which is important for us --

19 15071 MS BROOKS: Right.

20 15072 MS POWELL: It depends on what we
21 expect of this unit. If we expect them to be able to
22 really analyze, you know, deep meaning -- and I use
23 this March 29th letter as an example of having a really
24 in-depth knowledge of, when a Prime Minister has left
25 office -- a deep knowledge of the business dealings and

1 the allegations that had been going on in the media,
2 yes, I think you would probably need to ensure that you
3 had people with a very specific educational background
4 and a degree of analytical skills to go through the
5 letters.

6 15073 But I think, for what we expect in
7 terms of our correspondence process, of making sure
8 that letters are sent to the departments that should be
9 handling them, that we identify what is political in
10 nature and send it to the Prime Minister's Office
11 correspondence unit -- I think we are at an appropriate
12 level.

13 15074 MS BROOKS: Right. It seems to me,
14 though, that one could argue that what would be helpful
15 here is a second tier, a second tier of analysts who
16 are perhaps at a higher level.

17 15075 I take your point about the January
18 29th letter. You do have to know a certain amount
19 about when Mr. Mulroney was supposed to have left
20 office, and what is appropriate or not, and what can be
21 an allegation of wrongdoing, et cetera, but, as I hear
22 you speak, I agree with you, you have this massive
23 amount of correspondence coming in at the first level,
24 where they are triaging it, and these analysts are
25 getting bombarded with a lot of mail that they have to

1 process in a day.

2 15076 In your view, as an experienced
3 manager, if you had the ideal system, would you see
4 that there is room in that system for the fruitful use
5 of somebody at a higher level, so that only certain
6 pieces of mail would go to those analysts, who would be
7 able to spend more time on them? These would be the
8 ones that would be flagged by the first level of
9 analysts.

10 15077 Would you see that, as a manager in
11 the public service, as something that might be a
12 positive thing to add to this process?

13 15078 MS POWELL: Yes, I can see that that
14 would be positive.

15 15079 MS BROOKS: For the analysts that you
16 have, what kind of training do they get to tell them
17 how they are supposed to do this job?

18 15080 MS POWELL: They get
19 on-the-job-training from the supervisor of the unit.

20 15081 I can't give you details on the
21 actual training that goes on, but I do know that
22 everybody is trained on the procedures.

23 15082 We have written procedures, but they
24 are also supplemented by verbal procedures that are
25 provided by the head of the unit.

1 15083 And they would get coaching from
2 their more experienced colleagues, as well.

3 15084 COMMISSIONER OLIPHANT: What is the
4 educational level of people that are retained to serve
5 as analysts in the Executive Correspondence Unit?

6 15085 MS POWELL: It would be the minimum
7 of a high school education. We likely have people with
8 university degrees there, but normally what we
9 establish when we are staffing is the minimal level of
10 education that somebody would have to have, and that
11 would be a high school education.

12 15086 COMMISSIONER OLIPHANT: Is
13 bilingualism a requirement?

14 15087 MS POWELL: It depends on the
15 position. We have bilingual positions and English-only
16 positions.

17 15088 MS BROOKS: Commissioner, subject to
18 any further questions that you might have for the
19 witness, I am finished.

20 15089 I would like to ask Ms Powell to stay
21 on standby in case we need her during Part 2 of the
22 Commission.

23 15090 COMMISSIONER OLIPHANT: Thank you, Ms
24 Brooks.

25 15091 Any questions from any other counsel

1 here?

2 15092 MR. HUGHES: Not for me, thank you,
3 Commissioner.

4 15093 COMMISSIONER OLIPHANT: Mr.
5 Vickery...?

6 15094 MR. VICKERY: None, thank you.

7 15095 COMMISSIONER OLIPHANT: All right.
8 Ms Powell, you appreciate that this Inquiry is divided
9 into two parts, the factual part and the policy part,
10 and that your attendance may be required at the policy
11 part.

12 15096 Do you understand that?

13 15097 MS POWELL: Yes, I do.

14 15098 COMMISSIONER OLIPHANT: All right.
15 Aside from your having to come back for the policy
16 part -- and that remains to be seen -- I am going to
17 excuse you, and I thank you very much for coming to
18 assist us today.

19 15099 MS POWELL: Thank you.

20 15100 COMMISSIONER OLIPHANT: Thank you
21 very much.

22 15101 Ms Brooks, do you have any further
23 evidence to call today?

24 15102 MS BROOKS: That is the end of our
25 witnesses for today, Commissioner.

1 15103 COMMISSIONER OLIPHANT: All right.
2 That being the case, we shall adjourn now until 9:30
3 tomorrow morning.

4 15104 What is the order of witnesses for
5 tomorrow, Ms Brooks?

6 15105 MS BROOKS: We have Mr. Alford first
7 in the morning. He is followed by Mr. Paul Smith, who
8 was the driver for Mr. Mulroney.

9 15106 Then, in the afternoon, we have Mr.
10 Harry Swain.

11 15107 COMMISSIONER OLIPHANT: And Mr. Swain
12 was a deputy minister of a department?

13 15108 MS BROOKS: Yes, he was, Industry and
14 Trade.

15 15109 COMMISSIONER OLIPHANT: All right.
16 Nine-thirty, then, and we will hear from Mr. Alford at
17 that time.

18 15110 Thank you very much. Good afternoon,
19 counsel.

20 --- Whereupon the hearing adjourned at 2:11 p.m., to
21 resume on Tuesday, April 21, 2009 at 9:30 a.m. /
22 L'Audience est ajournée à 14 h 11, pour reprendre
23 le mardi 21 avril 2009 à 9 h 30
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