

THE ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

JILL HORNICK  
RACHAEL AITCHESON

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P R O C E E D I N G S   A T   C O U R T

BEFORE THE HONOURABLE MR. JUSTICE P. HYRN

On October 23, 2001, at Toronto.

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A P P E A R A N C E S :

Counsel for the Crown

K. Hart, Ms.

N. Zed, Ms.

Counsel for the Defendant Hornick

F. Addario, Esq.

Counsel for the Defendant Aitcheson

V. Simpson, Ms.

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Order made by the Honourable Mr. Justice P. Hyrn for the  
exclusion of witnesses with the exception of Detective Wilson.

A. Greenaway - re-ex

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THE ONTARIO COURT OF JUSTICE

T A B L E O F C O N T E N T S

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<u>WITNESSES</u>	<u>Exam. in-Chief</u>	<u>Cr.- Exam.</u>	<u>Re- Exam.</u>
RACHAEL AITCHESON	2	11	24
JANET HALL	25	41	56
DAVE WILSON	58	73	97
ADRIAN GREENAWAY	99	107	118

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THE COURT: Good morning.

MR. ADDARIO: Good morning, Your Honour.

THE COURT: Yes.

MR. ADDARIO: Your Honour, that's my case on the application. My colleague, Ms. Simpson has a witness.

THE COURT: Yes.

MS. SIMPSON: Good morning, Your Honour.

THE COURT: Good morning.

MS. SIMPSON: I have decided to call one witness, that's Ms. Aitcheson herself.

RACHAEL AITCHESON: SWORN.

EXAMINATION IN-CHIEF BY MS. SIMPSON:

Q. Good morning, Ms. Aitcheson.

A. Good morning.

Q. Could you tell us your age?

A. Thirty-three.

Q. And where do you live?

A. Toronto.

Q. I understand you're a student at George Brown College?

A. Yes.

Q. What is it that you study?

A. Human resources management.

Q. I understand that's a program leading to a diploma, is that correct?

A. Yes.

Q. And how long is the program?

A. Three years.

R. Aitcheson - in-ch

5

Q. And what year are you in?

A. One.

Q. You were one of the two individuals charged in these matters?

A. Yes.

10

Q. And I understand you weren't present for the arraignment yesterday?

A. No.

Q. You arrived later in the day?

A. Yes.

Q. And you saw some of the evidence that was given by the other women who testified yesterday?

15

A. Yes, I did.

Q. We spoke late yesterday afternoon, and I understand, just to explain for His Honour how you come to be here this morning, public speaking is a real challenge for you?

20

A. Yes.

Q. And you didn't think you'd be able to give evidence in a courtroom?

A. Correct.

Q. And you're nervous now?

A. Yes.

25

Q. And it was once you saw the women testify yesterday and realized that it was perhaps possible for you to testify?

A. Yes.

30

Q. You know that the microphone in front of you doesn't amplify, so you're going to have to keep your voice up?

A. Yes.

R. Aitcheson - in-ch

5 Q. And you know if you need a break, if you become concerned about giving evidence.

A. Yes.

Q. You were in attendance at the Pussy Palace event on the evening of September 14th, 2000?

A. Yes.

10 Q. What role did you play?

A. I obtained the special occasion permit and set up the bar, recruited the volunteers to work the bar, the volunteer bartenders, obtained the non-alcoholic beverages, the food, briefed the bartenders, and closed the bar at the end of the night, and then in the morning returned, like removed all of the empties and supplies in the morning at six.

15 Q. And those were your responsibilities that were arranged between you and the organizing committee before you arrived?

A. Yes.

20 Q. What time did you arrive at Club Toronto?

A. Around four o'clock.

Q. And what did you do upon your arrival there?

A. I went to find where the beer order had been delivered and to get together with the volunteers, they were going to load it into the serving area, set up the bar. I went out and got food, brought it back from a sponsor that had donated food.

25 Q. How long did that take?

A. Probably about give or take, 45 minutes.

30 Q. Did you have any other security responsibilities?

A. Yeah, once the bar was set up and the

R. Aitcheson - in-ch

5 first shift was on and they were good to go, I went down to the line-up outside, and was helping with checking ID's and doing searches of people's bags that they wanted to bring in.

Q. How long did you work at the front line-up?

10 A. Probably 'til like, when we started letting people in, like around 6:00 or 6:15-ish.

Q. Were there any men seeking entrance?

A. Yes.

Q. And how did you handle that?

15 A. Well it's usually a men's bathhouse, so the men that would come are regular patrons and we would just tell them that it was a women only night, and that they had to come back on another night?

Q. Had you been in attendance at previous Pussy Palace events?

A. Yes.

20 Q. Had men ever been invited?

A. No.

Q. Had they ever sought admittance before?

A. Yes, at each one there are usually regular patrons that want to come in but can't.

25 Q. How do the women that go know that it's a women's only event?

A. In the advertising it's clear that, you know, it's women only.

30 Q. In the September 2000 Pussy Palace, who had the ultimate authority to exclude or remove people from the premises?

A. Myself or JP.

Q. Why?

R. Aitcheson - in-ch

5 entrance?

A. Oh, on the main level there's a dance floor, so there's dancing there. That's also where you can go into the whirlpool and shower area.

Q. What were you wearing while you were setting up and working your security shift?

10 A. Shorts and a t-shirt and boots.

Q. Did you change at any point in the evening?

A. Yeah, when my shift was over, I went to my room and ditched my clothes, put a towel on.

15 Q. And how were you wearing the towel?

A. Around my waist.

Q. Did you ever go to the pool or sauna areas?

A. Yes.

20 Q. And when you were bathing, did you remove your towel?

A. Yes.

Q. Can you describe what other women were wearing that evening?

25 A. A variety of things. Some women were wearing like underwear, some women were wearing lingerie, some women were naked, some women had bathing suits on.

Q. And again, focussing particularly on the area near the entrance and the dance floor, were there women there that were topless or that were wearing revealing clothing?

30 A. Yes.

Q. At any point during the evening, did you become aware that police officers had arrived?

R. Aitcheson - in-ch

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A. Yes.

Q. Did you hear a general announcement on the PA system, or an intercom?

A. No.

Q. How did you become aware?

A. I was in my room and Regan came in.

10

Q. Is that the Regan that we heard give evidence yesterday?

A. Yes.

Q. And Regan told you that the police were attending?

15

A. Yeah, she said that they were, the police were there and that they were guys and that there were quite a few of them.

Q. What were you wearing at that time?

A. My towel.

Q. How did you feel when you heard that?

20

A. I was pretty panicky.

Q. What did you do?

25

A. We just tried to stay there for a minute, but I had to go out. I was panicky because I had to go out, so I put my clothes on and I told her like I'd be back in a minute, because I had to go and close the bar, and I ran out and I went up to the bar, there was a crowd of people there in front of the bar, and I just kind of slid in beside the two volunteers behind the bar and said, you know, close the bar, give me the cash box. So they gave me the cash box and I just grabbed it and hustled back to my room.

30

Q. What time was that?

A. It was before one, but not -- it was like five to one or something, because I spoke to Regan for a few



minutes.

5 Q. And was there still a line-up at the bar at the time you were closing and taking the cash box?

A. Yeah, there were, it was probably two or three deep around the bar. Yeah, the bartender actually had a beer in her hand when she was doing this and I said, no.

10 Q. And you made a gesture like she's holding a cup in her hand and hand it to a patron?

A. Yeah, she was holding a beer, she was going to hand it over and I said no more beer for anyone. Give me the cash box.

15 Q. Did you encounter any male police officers while you were out of your room closing the bar?

A. No.

Q. And what did you do when that was finished?

**THE COURT:** What was the last question? I just didn't get it.

20 **MS. SIMPSON:** Q. Did you encounter any male police officers while you were out of your room closing the bar?

A. No.

25 Q. And what did you do once that task was completed?

A. I went back to my room.

**THE COURT:** And the answer was -- I'm sorry.

**THE WITNESS:** Your Honour, no.

**MS. SIMPSON:** Q. Why did you return to your room?

30 A. There were guys in there and I wanted to just not deal with that.



5

Q. You had your clothing with you in your room, I understand?

A. I had it on when I closed the bar.

Q. Why did you have any concerns about encountering men?

10

A. It was a women's space. Like there weren't supposed to be any men there, so I just preferred not to see them, or be seen by them.

Q. Were you able to observe the reactions of any other women to the arrival of men in the bathhouse?

A. No, just Regan, because I stayed in the room.

15

Q. And how did you find out the police had left?

20

A. During the time we were in there, she didn't have her clothes. She had just a towel, and she wanted to get her clothes, and I was going to stay in the room, so I gave her my clothes and she went out to try and get her clothes and when she came back at one point, she said that they were gone. So it was safe, like we could go out because they were gone.

25

Q. Did you ever leave your room before you were told that the police had left the premises?

A. No.

Q. After the police left, and you were back out in the bathhouse, the body of the bathhouse again, did you have any opportunity to observe the reaction of women to the fact that men had been there?

30

A. After coming out?

Q. Yes.

A. Yeah, there were women -- a lot of the

5 women had left, like it pretty much put a damper on the evening and a lot of women had left, so the women that were left behind were pretty angry and they were talking about that.

**MS. SIMPSON:** Those are all my questions, thank you.

**THE COURT:** Any questions?

**MR. ADDARIO:** I have no questions, Your Honour.

**THE COURT:** Thank you. Yes.

**CROSS EXAMINATION BY MS. ZED:**

15 Q. I just have a few questions. I just want to basically clarify what you were doing and where you were at the time all the male police officers were there. You said that you at no time did you ever see a male police officer, is that correct?

A. Correct.

20 Q. Okay. And you didn't identify yourself, then to any of the male police officers?

A. No.

25 Q. Is that correct? Okay. And you considered yourself to be, because of your role with the SOP, is it fair to say that you considered yourself as being in charge of the event, or at least in part?

A. The duties -- JP and I split up the duties, and my part was to obtain the SOP, get the -- bring in the supplies, recruit the bartenders, you know.

Q. So you were ---

30 A. And then close the bar in the morning. Close the bar and return the supplies in the morning. It was like a split shift, like starting and closing and then clean-

5 up in the morning at about six, so it was an off period.

Q. Is it fair to say that you were responsible for the SOP and the alcohol serving?

A. Yes.

10 MS. ZED: Okay. May I just take a look at Exhibit 4, please. May I approach the witness. Oh no, that's the one, sorry, 5. May I approach the witness?

Q. I'm just showing you.

A. Sure.

Q. Did you have a chance to read?

15 THE COURT: This is Exhibit 5, sorry.

Q. Have you read the permit?

A. Yes. I'll just have a look at it now again.

Q. Sure, take your time.

20 A. There's a back to this that's missing. The reverse side of this, the SOP has a reverse side and it's not here.

Q. Okay.

A. There's a --

Q. From your memory could you tell the Court what you remember that back page to be?

25 A. Well the back side is about designating someone, and because I was going to be off in the middle of the evening, JP is the designate on the back so that while I'm on a break, while I'm off, she's on. So there's no -- like that's not here.

30 Q. Okay. So from reading that portion and from remembering that back portion, would you agree with me that you were responsible for the serving of alcohol, because

5 your name appears on that?

A. Yes.

Q. On the permit as the person responsible, okay. And you can only designate another person to be responsible in the case of emergency. Do you agree with that?

10 **MR. ADDARIO:** Well, I'd ask whether or not a legal proposition is being put to the witness, because that's not what the Liquor Licence Act says.

**THE COURT:** Do we have a copy of the back? Is there anything on the back that's relevant to this issue.

15 **MR. ADDARIO:** Yes, we do have a copy of the back here somewhere, but it's the Act itself that describes the circumstances under which a designate can be named.

**THE COURT:** I'm sorry, what's the objection?

20 **MR. ADDARIO:** My objection is that the question that's being put to the witness presupposes that there can only be a designate in circumstances of an emergency, but that's not what the Act says.

25 **MS. ZED:** Your Honour, the questions stems from the fact that on the permit itself it says that a designate is there in situations for emergency, and so I'm not here to really debate the law, just what Ms. Aitcheson felt in her mind having read the permit, and having -- that seeing that it indicates that it would be in situations of emergency where a designate is responsible, that's all I was trying to get at.

30

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**THE COURT:** Is that in Exhibit 5, or is that the part that's missing?

**MS. ZED:** It isn't on the part that we have provided.

**THE COURT:** All right.

10

**MR. ADDARIO:** Well, my answer to that is who cares, who cares what was in her mind if that's not what the legal requirement is in the Liquor Licence Act. So just give me a minute, I'm going to find the section and give it to Your Honour.

15

**THE COURT:** Yes.

20

**MR. ADDARIO:** Right. Section 36 of Ontario Regulation 389-91 provides the permit holder shall attend the event to which the permit applies, which is what happened here, or designate a person to attend in the permit holders place, which is what happens here. So whether or not some bureaucrat completing the form decided to use the term emergency is irrelevant, because that's not a legal obligation, and secondly what was in her mind is irrelevant unless, respectfully unless the Crown can justify the relevance of the answer.

25

30

**MS. ZED:** Your Honour, I'm just trying to establish that Ms. Aitcheson was ultimately responsible and she was present and she didn't identify herself to the police, and that certainly, I think it's arguable that that's relevant. She's the person in charge of the event, and her name is on the liquor licence

5

and she was present, so the Crown would submit that that's extremely relevant to the proceedings.

**THE COURT:** It's relevant to which issue?

10

**MS. ZED:** Well the reason that we're here is because of the liquor licence violations and this is the person who was responsible for the serving of alcohol, and for closing the bar and all of the issues that surround alcohol.

15

**MR. ADDARIO:** Well questions with respect to who was ultimately responsible have been asked and answered, the evidence is in, I don't quarrel with that. The question with respect to her presence there has been asked and answered, and the evidence is in, I don't quarrel with that.

20

**THE COURT:** What is it that you still want to cover?

**MS. ZED:** Perhaps I can just ask the question why Ms. Aitcheson didn't identify herself.

**THE COURT:** Yes.

A. Why I didn't identify myself to the police?

25

**MS. ZED:** Q. Considering that you were the person in charge, that your name is on the liquor licence, that this was a liquor inspection, why wouldn't you identify yourself to the police?

30

A. I wasn't interested in having an interaction with men in the women's bathhouse. I was not interested in being seen by men or seeing men on that evening.

Q. But you testified earlier that you were



5 fully clothed?

A. Correct.

Q. So it's your testimony that it's just the mere fact that there were men there?

A. Yeah.

10 Q. So you weren't -- are you saying that you weren't taking responsibility for the alcohol, you were kind of evading it just based on the fact that there were men there?

A. I don't understand how you put that together.

Q. Okay. Sorry, it was vague.

15 A. Okay, the bartenders -- I went out, I said close the bar, took the cash box. I went back to the room. Now they closed the bar and no alcohol was served. In my mind, there was no need to really -- like that was it, that was what I was supposed to do and I did it. After that my responsibilities were to clean up and take the empties back and deliver the proceeds to the Bill 7 Award. That's it.

Q. Okay.

A. In terms of dealing with the police at the door, or all that stuff ---

Q. Would you agree with me ---

25 A. --- like, I'm not a committee member.

Q. Right. Okay, would you agree with me that Ms. Hornick was the designate, so you were ---

A. During the time that I was off, yes.

Q. Okay, so you ---

30 A. We split it up, split up the duties.

Q. But you were the primary person responsible for the selling and, responsible for the selling

5 and regulation of alcohol.

A. Selling, yeah.

10 **MR. ADDARIO:** Well again, that's a legal proposition and we've already looked at the section of the regulations which provides that a designate can stand in, in effect as agent for the person who's on the permit.

15 **THE COURT:** Yes, was there -- well I don't know whether the issue is whether there was a -- although there was a splitting of the responsibilities whether one was in charge for most of the time, with one just spelling her for a short period of time, or whether it was evenly split, I don't know what the answer to that is.

20 **MS. ZED:** That's exactly what I'm trying to establish, Your Honour.

25 Q. The division of the responsibility between you and Ms. Hornick with respect to regulating the alcohol, would you say that it was -- that you were responsible like more than like fifty-fifty, or were you more responsible? Like would you say, like that you were eighty percent responsible for the ---

30 A. I can tell you what I did, like what I was supposed to do. My understanding of what I was supposed to do and what I did was to get the licence, obtain the alcohol, get food from sponsors, get bartenders who could bartend, women who would volunteer who had bartending experience, or who could be trained to serve the alcohol, ensure that there was -  
- I got the non-alcoholic beverages during the shift where there were, during the time there were bartenders on serving.

5 I went off shift. I came back on shift to close the bar and  
take the cash box. I took the cash box to my room. My next  
responsibilities were to -- once the volunteers had put the  
alcohol into the, like there's a set of double doors, and like  
a kitchen area where all of the unused alcohol and the empties  
were put. The doors were closed and it was locked. Once they  
10 completed those tasks, my next responsibilities were to go and  
in the morning clean out all of that stuff and take it at six  
in the morning back to the beer store. That's my  
understanding of my responsibilities and that's what I did on  
the night.

15 Q. It sounds like you had a lot of  
responsibilities.

A. Sure. Well yeah, it was a lot, it was  
four and six in the morning. It was a long time.

20 Q. And would you say that they were more  
responsibilities than Ms. Hornick that night?

A. Sure.

25 Q. If someone were to have an accident during  
the event, or get injured, would you be -- you wouldn't be  
surprised if male emergency crew showed up to assist the  
person, would you?

A. Nobody needed emergency attention on the  
night. There were no injuries.

30 Q. But it's not unreasonable, or completely  
out of the question that something could have happened?

A. Something could have happened, sure.

Q. Where someone was injured?

A. Sure.

35 Q. And there was the need for emergency crew  
at the event?

5

A. Yes.

Q. Okay. And you wouldn't have had a problem with male emergency crew coming in and assisting a person, would you?

A. That's like -- that's a different situation than actually happened.

10

Q. I agree, but if you could just answer the question?

A. Sure.

Q. Okay.

A. That might happen.

15

Q. So you'd agree with me that you wouldn't have a problem with male emergency crew entering?

A. Well if they had, you know, there would have been like, fire, fire, fire, or oh my God, someone's fallen down and couldn't get up. There would be some kind of, you know, acknowledgement that there's some kind of emergency and I would have had an opportunity to deal with that, right.

20

Q. Okay, but presumably the way you would have dealt with it would be to put clothes on, right?

A. It would -- that's a different situation. Like that's not what I was dealing with at the time. I don't know. I don't know, like I don't know how I would have felt. Right, all I know is how I felt then, and how I feel now about it, right, that's it, that's all I've got.

25

Q. Were you aware of the fact that there were reporters present at this event?

A. Only from being here yesterday, and hearing ---

30

Q. Okay, but at the time ---

A. No.

5

**MS. ZED:** You didn't hear that, okay.  
Yesterday you heard a lot and you heard us refer many times to lists that were given out at the door, I believe that's Exhibits 2 and 3. I'll just show the witness.

10

**THE COURT:** If it becomes relevant at some point, maybe I should know when she came into the courtroom, because all I know is she came in sometime yesterday. I have no idea what evidence she has heard and that may become peripherally relevant. So can I perhaps find out which witness was on the stand?

15

**MR. ADDARIO:** Why don't you just ask her?

**MS. ZED:** Yes.

**THE COURT:** Okay, you go ahead.

20

**MS. ZED:** Q. At what point in yesterday's proceedings did you arrive and what witnesses did you observe?

A. Regan.

Q. And did you see ---

A. It was around like 10:30.

**THE COURT:** And Regan was the first witness?

**MR. ADDARIO:** Janet Rowe was the first witness, Your Honour.

25

**THE COURT:** I'm sorry, that's true.

**MS. ZED:** Q. Were you here for ---

A. I'm not sure what happened before I got here.

Q. Okay.

30

A. And I don't remember who was on, because I was kind of in and out a little bit. But if somebody could just give me a complete list, I could say whether I was.

5

Q. Would it be fair to say that you were here from 10:30 on?

A. Yeah, around 10:30.

Q. For the rest of the whole day?

A. Yeah, in and out, yeah.

10

Q. Okay. Sorry, just to get back to Exhibit 2 and 3, have you seen these pieces of paper before?

A. Yes.

Q. Do you know who wrote them?

A. Nope. No, I don't.

**MS. ZED:** Brief indulgence.

A. This one was in Xtra.

15

**THE COURT:** I'm sorry, which one?

**THE WITNESS:** This one, it says as printed in Xtra, so perhaps somebody from there.

20

**MS. ZED:** Q. I just have a few more questions. I suggest to you that after the police left there was no mass exodus to leave the premise, the premises, do you agree with that?

A. No. No, there were ---

Q. So your testimony is that ---

25

A. There were tons of women there at the beginning and come in and I saw them all, and everyone was having a good time, and when I came out of my room again, they were mostly gone, so that's definitely not the case.

30

Q. Well, if I suggested to you that one of the female undercover police officers was standing outside and observed people coming and going during and after the police presence, and that they didn't notice any mass amount of exits, would that surprise you?

A. Yes.

5

Q. Because you were inside your room during most of the police presence, is it fair to say that you didn't really -- you didn't have the opportunity to really observe the women's reactions to the police presence?

A. Correct.

10

Q. So would you agree with me in general that as listed in, I believe it's Exhibit Number 2, what to do in case the police attended, or Exhibit Number 3, I believe that is, sorry.

A. Which part?

Q. I believe it's entitled what to do in case police ---

15

A. Oh, "If the Police come."

Q. "If the police come." Sorry. In that section it recommends to the patrons to be cooperative if the police attend. Do you agree with that? I'll give you a chance to read it over.

20

A. Well it says to be polite, you have the right to remain silent, you know like it's -- yeah, that suggests cooperation.

25

Q. Okay. So if I suggested to you that to the police the women appeared cooperative, like from the police perspective the women appeared cooperative, you'd agree with me that that would be reasonable, especially in light of the advice?

A. I'm not sure what women were doing because I was like, in the room. Just not coming out, you know, so I don't know.

30

Q. Okay, fair enough. You testified that you close down the bar at approximately five to one?

A. It was before one, yes.

5 Q. Okay. I suggest to you that female undercover officers were present at the time and observed the selling of alcohol after one o'clock.

A. No.

**THE COURT:** Yes, there's an objection.

10 **MR. ADDARIO:** Well, I started to mumble, but the witness answered anyway. Well, I just want to note again, the observation I made yesterday that first of all, since the application challenges the entry of the police, post facto observations are prima facie irrelevant to it anyway absence of showing the relevance.  
15 Second, this isn't a discovery proceeding for the Crown in relation to the merits on the guilt-innocence issue.

**MS. ZED:** Your Honour, we're just trying to establish a time line.

20 **THE COURT:** Well, if you're not going further into this, I don't need to hear any submissions.

**MS. ZED:** No, I'm not.

25 Q. Would it be reasonable to suggest that perhaps the women who left the bar, didn't leave the bar because of the police presence, but left the bar because they were no longer serving alcohol?

A. No. The event, I've been to all of them and they go till six, and you have to knock on doors to tell people it's time to go home, generally. So no way.

30 **MS. ZED:** No more questions.

**RE-EXAMINATION BY MS. SIMPSON:**



5

Q. You gave evidence earlier that you and Ms. Hornick divided responsibilities under the SOP?

A. Yes.

10

Q. What was your understanding, if you had one, of who would be responsible for difficulties during the time that you were off shift between 6:00 p.m. and 1:00 a.m.?

A. Jill.

**MS. SIMPSON:** Thank you.

**THE COURT:** Thank you.

**THE WITNESS:** Thank you.

15

... WITNESS RETIRES ...

**MS. SIMPSON:** I'm not calling any further witnesses, Your Honour.

**THE COURT:** Yes, thank you. Yes, prosecution?

20

**MS. HART:** Your Honour at this time the Crown is ready to proceed.

**MR. ADDARIO:** Detective Wilson apparently is not going to be called first, and so I'll be asking he be excluded here.

**THE COURT:** Yes, any submissions on that issue?

25

**MS. HART:** No, Your Honour, the Crown has no objection to that.

**THE COURT:** Yes, if you would advise the officer, please.

30

... DETECTIVE WILSON LEAVES COURTROOM ...

5 **JANET HALL: SWORN.**

**EXAMINATION IN-CHIEF BY MS. HART:**

Q. Good morning. Could you please tell the Court what is your position, what's your occupation?

A. I'm a police constable with Toronto Police Service.

10 Q. If I could just ask you to speak up. There's a little bit of background noise in this courtroom and we have a hard time hearing?

A. Police constable with Toronto Police Service.

15 Q. Okay, and for how long have you worked with the Toronto Police Service?

A. Ten and a half years.

Q. And at the time of the event in question, actually I'll direct your attention to September 15th, were you working in your capacity as an officer on that evening?

20 A. Yes, I was.

Q. And do you have an independent recollection of the events on or surrounding September 15th, 2000?

A. I have some, but I would like to refer to my notes on that day?

25 **MS. HART:** Your Honour, I ask permission that the officer refer to her notes for the purpose of refreshing her memory?

**THE COURT:** Do you have any other questions with respect to the making of the notes?

**MS. HART:** Yes, I do.

30 Q. So you did make notes of the events surrounding September 15th?

5

A. Yes, I did.

Q. Have you made any alterations, deletions or additions to these notes?

A. No, I haven't.

Q. And when did you make your notes?

A. That evening, or that morning.

10

Q. That evening?

A. Morning. When we came out it was morning, so that morning.

Q. And you need those notes for the purpose of testifying here today?

A. Yes.

15

**MS. HART:** Your Honour, with your permission?

**THE COURT:** Is there any issue with respect to the notes?

**MR. ADDARIO:** No issue, Your Honour.

**MS. SIMPSON:** None, Your Honour.

20

**THE COURT:** Thank you. Yes, the officer may use her notes to refresh her memory.

**THE WITNESS:** Thank you.

**MS. HART:** Q. And so you testified that you were indeed working the night of September 15th?

A. Yes.

25

Q. And in what capacity were you working?

A. In an undercover capacity that evening.

Q. Okay, again, I'll have to ask you to speak up, I'm sorry.

A. In an undercover capacity that evening.

30

Q. Okay, and how did you come to be involved in an undercover capacity that evening?

A. Our office and 52 Division, the two female

5 officers did a liquor inspection in a premise.

**THE COURT:** I'm sorry, I can't hear you now.  
So you said your office and 52 Division?

**THE WITNESS:** 52 Division.

**THE COURT:** Okay.

10 **MS. HART:** Q. And when you say your office,  
could you just clarify, could you just clarify for the Court  
what you mean?

A. Special investigation services morality  
office.

Q. And you said you were working in an  
undercover capacity?

15 A. Yes.

Q. Okay, and if you could just elaborate on  
what that means for the Court, please?

20 A. It means that I would go in in plain  
clothes, meaning to fit in with the crowd, like jeans, t-  
shirts, this kind of stuff, plain clothes and I would go in  
somewhere and be like one of the patrons at an establishment.

Q. And on the night in question is that what  
you did?

A. Yes, that's what I did.

Q. And why did you go to this establishment?

25 A. My function was to act as a back-up for  
the 52 Division officer.

Q. Okay.

A. Female officer at 52 Division, to do a  
liquor investigation.

30 Q. Okay, and who was this other female  
officer?

A. Chris LaFrance.

5

**THE COURT:** Could you spell that please?

**THE WITNESS:** L-A-F-R-A-N-C-E.

**THE COURT:** Thank you.

**MS. HART:** Q. And so at approximately what time did you and Detective LaFrance attend the event?

10 A. I think it was about quarter after twelve that evening when we entered. It was 12:12.

Q. And could you, just for the purpose of being clear, could you establish for the Court, what the address was?

A. 231 Mutual Street.

15

**THE COURT:** I'm sorry, when I was writing down the name of the other officer, I didn't write down why you went into the, or what your function was. I got part of it. You said my function was to back-up for 52 Division female officer and to do what?

20

**THE WITNESS:** To do a liquor investigation.

**THE COURT:** Thank you.

**MS. HART:** Q. And how did this event that was happening at 231 Mutual Street come to your attention in the first place.

25

A. Our office got two telephone anonymous complaints about the event.

Q. And could you describe those complaints?

30

A. They were both from females calling to say that they had been to the event the year before and that it was licensed and that they disapproved of the events that were going on inside the function. That they themselves were not going to be there, and they wanted police to attend.

Q. So then, I just want to be clear that you

5 had received complaints prior to attending?

A. Two.

Q. Thank you. And I believe you testified that it was at approximately 12:12, I think you said, 12:11, that you gained entrance to the premises?

A. Yes.

10 Q. And could you just describe for the Court that process, how you gained entrance?

A. We stood in line. We went, there's stairs to gain entrance, there was a stairway down, Chris LaFrance paid thirty dollars at a window. They were fifteen dollars each for the tickets for the entrance. Once we paid that, a female behind the counter buzzed the door, and the door unlocked.

MS. HART: Okay, if I could just stop you right there. Your Honour, if the witness could please be shown Exhibit Number 1.

20 Q. I'd ask you if you've seen those papers before?

A. Yes.

Q. And if you could describe to the Court what papers are these?

A. These are the tickets that we purchased to get in the premise. Chris paid the money, the girl took the tickets, ripped them in half, gave us half, we went in.

Q. Okay, thank you. And so again, if you could just describe what happened once you paid the money. How did you actually enter the premises?

30 A. Okay, we were also asked for identification before they opened the door, as far as a driver's licence, or anything to that effect. The door

5 buzzed, we went in. I was handed two pieces of paper.

Q. And if I could stop you one more time. When you say the door buzzed, what do you mean by that?

A. It's locked and you have to hit a release button for the door to open, and it buzzes, you can hear the buzz when it clicks to open.

10 Q. Okay, so then was there someone ---

A. On the other side of the door.

Q. --- in control of the door?

A. Yes.

Q. And then again, if you could just continue to describe what happened.

15 A. Once we went through the door, there was a female standing there that handed me two pieces of paper, and suggested that I read them.

**MS. HART:** Okay, and again, I'll ask you to stop and I'll ask for the witness to be given Exhibits Number 2 and 3, please.

20 Q. And have you seen those papers before?

A. Yes, I have.

Q. Both of them?

A. Both of them.

25 Q. And are these the papers you're referring to?

A. Yes, these are the papers I'm referring.

Q. Please continue.

A. I was also handed a key to a locker, and a towel.

30 Q. And at that point what did you do?

A. At that point we were on the ground floor where we went into the premise. There was a deejay and

5 dancing on that floor as well as a hot tub area. We went through there and we went to the second floor where there was a bar area.

Q. And if I could just take you back to the first floor for a moment, upon walking in did you have the opportunity to observe women in attendance?

10 A. Oh yeah.

Q. Okay, could you describe the women, please for the Court?

A. The majority of the women did not have tops on, their breasts were exposed, they were dancing, their were in the hot tub area, they were wandering around.

15 Q. And then please continue, you said you went to the second floor?

A. We went to the second floor where the bar area was, just kind of had a look around, had a look at the bar, then we continued up the stairs to the fourth floor. As we were coming up the stairs there was two females at the top of the stairs who directed our attention to a room that was off to our right. There was a metal door almost like a, I'd describe it almost like a cell door, with metal bars and inside it was a door that was open, like a regular door that was open, a bed, a dresser. There were two people in the room, two females. The sign on the outside said live sex show. The two females at the top of the stairs encouraged us to go and watch and at that time we observed the two of them, the two females. One was lying on the bed, and one was straddling over top of her. And the one on the bed was rubbing the genital area of the female over top of her. Then she pulled down the female's underwear and continued to rub the genital area, then the female on top got off the female,

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30



5 stood by the side of the bed, pulled up her underwear, got a blindfold from the dresser, put it on the female that was on the bed and then left the room.

Q. Okay, and so if I could just take you back again a step. Could you from the hallway observe this activity?

10 A. Oh easily. And the door was open. The barred door -- the inside door, which was like a, I don't know if it was wooden or steel, I don't know, but it was -- there was no windows in it, it was open, and all there was on the front of it was like bars, like a barred door. The bars would come down this way and there was space about like this in  
15 between.

Q. And when you say about this, could you clarify about how wide the bars were apart?

A. The bars were apart maybe six inches, approximately. There was a full view of what was going on.

20 Q. And again, could you just proceed with your observations?

A. Okay, from there we went down the hall in the other direction. There was two females sitting on a bench. We asked them -- there was a sign on the wall that said porno pictures and so my partner, Chris LaFrance asked  
25 what it was.

THE COURT: I'm sorry porno pictures?

THE WITNESS: Pardon me?

THE COURT: I'm sorry, it said which, porno?

THE WITNESS: Porno pictures.

THE COURT: Pictures.

30 THE WITNESS: So Chris asked the females on the bench what it meant and she, one of the females

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stated that you could get pornography pictures taken in a room around the corner. So we proceeded down the hallway, around the corner on the right hand side there was a room where there was, it was a well lit room. There was a female with a camera. There was a female lying on the bed totally naked. She was masturbating herself, digitally penetrating herself on the bed and at one point the female with the camera said, "Are you ready?" and she said, "Yes, I'm ready." And then she began to take pictures. From there -- do you want me to continue?

**MS. HART:** Q. Proceed.

A. From there we went down to, we went back down to, I believe it was the second floor, I just have to check this here for a second.

Q. If I could just stop you for a moment. You said you'd been on the third and fourth floors, I believe?

A. No, we were on the ground floor, we were on the second floor where the bar was, and then we went straight up to the fourth floor.

Q. Okay, so not on the third floor?

A. We hadn't been on the third yet.

Q. Okay, so if I could just ask you then, on the other floors, could you describe what the patrons, what the women present were wearing?

A. There were some that were fully clothed and there were some that were half naked, and there were some that just had towels on.

Q. And did you have the opportunity to observe the presence of any men on the premises?

5

A. I would say I saw two men there.

Q. Could you explain to the Court why you phrased it in that way, I would say I saw two men there?

A. The men that I saw there were what they call trannees.

10

Q. And would you explain to the Court what your understanding of that is?

A. It's a male who dresses, acts, would like to be a female, but still at this point has male genitals.

Q. Okay again, and I'm sorry, I stopped you at a point where I think you said you had been on the fourth floor and then you proceeded downstairs.

15

**THE COURT:** And I'm sorry, you said something what call, and I just didn't hear the word.

**THE WITNESS:** Pardon me?

**THE COURT:** When you asked to explain your phrase, when you said I saw two men there and you said something about what somebody called something, and I just didn't hear that.

20

**THE WITNESS:** Trannee.

**THE COURT:** Trannee. Thank you.

25

**MS. HART:** Q. Again, if I could just, I believe you said that you were on the fourth floor, and then you proceeded downstairs?

30

A. We proceeded down the stairs. We left the fourth floor, we went back down to the second floor where the bar was. I purchased two beers at that time. From there we went up to the third floor and there was body painting rooms that females could get art painted on wherever they wanted painted. And from there we went down a hallway and there was a room on the left hand side. There was benches that went

5  
around the room. There was a television monitor that was playing pornography movies at the time, and there was an apparatus which they called like a swing. It's a leather apparatus that is hung from the ceiling by chains. You lie on top of it. There was a female on the leather apparatus that was totally naked. There was a female who was masturbating her and digitally penetrating her that was fully clothed standing at the end of the swing.

10  
Q. If I could just stop you right there. If you could describe for the Court where you were and how it came that you could see this?

15  
A. As we rounded the corner, there was a room right to the left and there was a room beside it, so the door was open, there was other females sitting around on these benches and the swing and the females were in plain view as you walked towards the room. We stood in the doorway to observe what was going on. A female came up to us and said, "You know, you can't see very well from here, why don't you move in a little closer" and kind of ushered us in the door. When the females were finished ---

20  
Q. Okay, I'll stop you again, approximately how many people were there? You said that there was two females in the room?

25  
A. There was two females, one on the swing, and one standing up. There was I would say, four other females in the room sitting on the bench. When they were finished, the one girl got up off the swing, wiped off the swing, thanked the other female and the one female got dressed, the other one left and proceeded down the stairs. There was a stairway right there too.

30  
Q. And that stairway led?

5

A. Led downstairs.

Q. And then what did you do?

A. Then we noticed that it got kind of quiet, so we proceeded down the stairs.

Q. And did you notice any alcohol on any of the floors?

10

A. The alcohol was on all of the floors. I myself carried the beer on every floor around with me.

Q. And did anyone try to stop you?

A. No. No, nothing was said. Even when I bought it at the bar, nobody said, you know, you can only keep it on this floor, or anything to that effect.

15

Q. And if you could continue please. You said you proceeded to go downstairs?

A. Yes, we proceeded to the second floor where it seemed, the atmosphere had changed, it seemed to be somewhat quieter, so we went down to the first floor, like the main floor and that's where we observed the plain clothes officers had come in.

20

Q. If I could just stop you there, and I'll ask you to go back, actually. At some point, did you become aware of the fact that Detective LaFrance had called the male unit to attend?

25

A. When I was at the bar getting the beer, when I came ---

**THE COURT:** Just one second please. I'm sorry, the question was whether the witness became aware that the other officer had called who?

30

**MS. HART:** The unit.

**THE COURT:** The unit.

**MS. HART:** The male unit.

5 A. When I was at the bar buying the beer, when I came back, Chris had been on the phone. When she got off the phone she advised me that she had phoned Detective Wilson.

10 Q. And do you consider the fact that she called Detective Wilson a joint decision, or was it that she called Detective Wilson and then informed you of it after the fact?

15 A. She did call Detective Wilson and informed me after it. I was there as her back-up. She was the one making the calls because their office deals directly with the liquor licence most of the time. Our office dealt with bawdy houses and that sort of thing.

Q. And when you say that you were there for her back-up, could you explain why perhaps you would have been chosen to enter the premises as her back-up?

20 A. Being another female. It's a safety issue. You never send out a police officer anywhere on their own.

Q. And I'm sorry, you were saying that you observed a change in atmosphere?

A. A change in atmosphere.

25 Q. I just want to be clear, the change in atmosphere after this phone call was placed?

A. Not directly afterward. It was, I'd have to look at the time lines, but, she made the phone call, we went upstairs to the fourth floor, saw what we saw, and that's when we noticed that the atmosphere had changed.

30 Q. Okay. And I just want to take you back to the last point in your testimony. I think you said you then went down to the first floor and you observed the presence of

5 the male officers?

A. We observed the presence of the male officers from 52 Division. We followed them. They went through the main floor up to the fourth floor. We followed behind them, not identifying ourselves, but still as an undercover capacity.

10 Q. What were your observations of the other women present when you followed the officers?

A. They were fine. There was no mass hysteria. There was no one going to cover up. When we followed them up to the fourth floor and we came back down to the third, as we were coming down the stairs to the third, there was kind of like a landing, alcove on the stairway, there was a couple of females there.

15 THE COURT: Sorry, where was this again?

THE WITNESS: I'm sorry?

THE COURT: Where are you now?

20 THE WITNESS: We're coming from the fourth floor.

THE COURT: Yes.

THE WITNESS: Coming back down stairs. There's like a landing on the third floor before you get down to the third floor.

25 THE COURT: Yes.

30 THE WITNESS: There was a couple of females there that Chris stopped to talk to. They were laughing about the police being there. They weren't concerned at all. We came back downstairs. There was also a female with a steno pad following the plain clothes officers around. I'm not sure who she was, but she was

5 writing notes as they were wandering through. We followed them back downstairs. When we got back down to the second floor they were still serving beer. The atmosphere started to pick up again. The officers ---

**MS. HART:** Q. What do you mean by that?

10 A. Well when the officers first arrived, you could sense that they were there because it became somewhat more quiet. It wasn't as loud, it wasn't, you know, people were kind of whispering and this kind of thing, and a few minutes that we followed the officers around, the atmosphere began to pick up again, it started getting louder.

15 Q. And I just want you to be clear, so the male officers were present at this time when you noticed that the atmosphere changed again?

20 A. Yes, they were still there. We went down to the second floor where the bar area was, there were still females lined up at the bar. There were still females walking around half naked, there was no -- I mean nobody was screaming and running for cover or anything. We went back down to the first floor, they were still dancing and walking around half naked and they were dancing half naked without their shirts on and in towels and this kind of stuff.

25 Q. Again, I want you to be clear that these observations occurred at the time when the male officers were still inside the premises?

A. Yeah, they were still inside the premise, because we left before they did.

30 Q. And then I think you said that you went back down to the first floor?

A. We went back down to the first floor.



5 Q. And your observations there?

A. Well, on the first floor they were still, you know, the music was still playing, there was still females dancing. You know, they were dancing without their shirts on, the males were there because we saw them, the male officers were there. These females were still dancing, they were still in the hot tub area.

10 Q. And at that point what did you do?

A. At that point our function had more or less finished, so at that point we walked over, I handed in my key for the locker.

15 Q. And who did you hand that in to?

A. The female that was sitting behind the glass partition when you go in, you could talk to from the other side.

Q. Is this the same person that would have buzzed you in?

20 A. I can't recall whether it was the same person or not, but it's the same position

Q. Is the same place, let's say, whoever was sitting there?

25 A. Yeah, same position. So handed in my key, there were some magazines there, she said, you know, take these magazines they're free. Handed in the key, and we left. We walked up the street. I advised Constable Christie, Peter Christie who was standing outside of what I had observed on the third and fourth floors. Chris and I proceeded to walk up the street and sit on, there was like a small brick wall. We sat on the wall there, there was no mass exit of females.  
30 There was a group of four, I think it was four that came out that stopped to talk to us. You know, they thought it was

5 humorous, had conversation with Chris that it was humorous that the police were there. And those were the only ones we saw leave while we were sitting on that wall.

Q. So, I'm sorry, how many did you say, I just want to be clear?

A. There was four that came out.

10 Q. And for approximately how long did you stay outside ---

A. Sitting on the wall?

Q. Yes.

A. I don't know, I'd have to look. I would say possibly 10 to 15 minutes.

15 **MS. HART:** Those are my questions, thank you.

**THE COURT:** Would this be a good time for the morning recess? Twenty minutes.

\*\*\*\*\*

R E C E S S

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20 **UPON RESUMING:**

**CROSS EXAMINATION BY MS. SIMPSON:**

25 Q. Constable Hall, when were you first apprised that you were going to the Pussy Palace that evening?

A. I think it was the day of.

Q. And who was the officer that was in charge of the operations?

A. At the Pussy Palace?

Q. Yes.

A. Detective Wilson.

30 Q. And he briefed you what the plan of

5 operations was?

A. Yes.

Q. You knew that you and Officer LaFrance were going to go in plain clothes and do an inspection undercover?

A. Mm-hmm, yes.

10 Q. And you weren't the only members of the police team that were interested in the operation of the Pussy Palace?

A. Pardon me.

15 Q. You knew that you weren't the only two police officers that were interested in the operation of the Pussy Palace that evening?

A. What do you mean by interested?

Q. There were other members of the police team?

A. Oh, of our offices, yes.

20 Q. You were the only two women that were involved in the investigation that evening?

A. Yes.

Q. Did you ever have a request to call to find out if there were other women available?

A. No.

25 Q. Were you aware of Detective Wilson ever making calls to see if there were other women available?

A. I have no idea.

Q. You're not aware of any?

A. I'm not aware.

30 Q. You're not aware of Detective Demkiw making any calls to see if there were other women available?

A. I'm not aware.

5

Q. You understood that Detective Wilson would be close by outside the Pussy Palace while you were inside?

A. Yes, yes.

Q. And that he would have a number of male officers present with him?

A. Yes.

10

Q. And you knew that the plan was the male officers would follow you in after you did the undercover inspection?

A. The plan was if there was infractions that we would call them. If there were no infractions we would just leave.

15

Q. It was not part of the plan in advance for them to come in immediately?

A. No.

Q. The infractions that you were looking for were Liquor Licence Act infractions?

20

A. Yes.

Q. You'd seen the special occasion permit?

A. Not myself, no.

Q. Officer LaFrance had?

A. I can't speak for her.

25

Q. How were you looking for liquor licence infractions if neither of you had seen the special occasion permit?

A. I didn't say she didn't, I said I can't speak for her.

Q. You were aware that she ---

30

A. I was aware that she was the one, I was the back-up. I was back-up, okay, the inspection was hers. I would assume that she would have seen the special occasion

5 permit.

Q. You were aware that she had done Liquor Licence Act inspections previously?

A. Yes.

Q. You were aware that she had training and expertise in this area that you didn't?

10 A. I would assume so, yes. That's what their office dealt with.

Q. In this case you were also looking for public sexual activities, isn't that the case?

A. Did I go in there looking specifically for them?

15 Q. Mm-hmm.

A. We were told that it would be going on.

Q. When you received the called complaint, one of the things that one of these persons said or described it as free for all sex-o-rama, is that right?

20 A. Yes.

Q. When you were in the premises with Officer LaFrance, she didn't seem particularly confused or uncertain about whether or not she was seeing violations of the Liquor Licence Act?

25 **THE COURT:** I'm sorry, who was uncertain?

**MS. SIMPSON:** When Officer Hall was in the premises with Officer LaFrance.

**THE COURT:** Right.

**MS. SIMPSON:** She didn't seem confused about whether or not Liquor Licence Act violations were happening.

30 A. What do you mean by confused?

Q. Did she ever say to you I don't know about

5 this, I need help from someone else?

A. Oh no. No.

Q. She seemed perfectly competent to address those issues?

A. Mm-hmm.

10 Q. She didn't need the assistance of any male officers to tell her whether or not something was permissible under the Liquor Licence Act or not?

A. Not that I'm aware of.

Q. When you first entered in on the main floor, the first thing that you saw was the dance floor area?

A. Yes.

15 Q. And you said there were women that were topless on the dance floor?

A. Yes.

Q. Women that were scantily clad there?

A. Yes.

20 Q. And so it was apparent to you that as soon as a male walked in, he'd be able to see the same thing?

A. I would think so.

Q. You knew this was a bathhouse?

**THE COURT:** If you could slow down just a bit for me, please.

25 **MS. SIMPSON:** Yes.

Q. You knew this was a bathhouse?

A. Yes.

Q. You said a moment ago you expected sexual activity?

A. Yes.

30 Q. It didn't surprise you to see that women were topless or scantily clad?

- 5
- A. No.
- Q. It didn't shock or surprise you at all?
- A. No.
- Q. Are you aware of the Toronto Police Service policies with respect to women in custody and doing strip searches in particular of women in custody?
- 10
- A. Yes.
- Q. And isn't it the case that unless there's some extraordinary circumstance, female officers are always used to do strip searches of females in custody?
- A. Yes.
- 15
- Q. You entered at about 12:10, just past midnight?
- A. 12:12.
- Q. 12:12. And just to get the time line straight, by 12:50 you're aware that the male officers entered?
- 20
- A. Sorry by what time?
- Q. 12:50.
- A. Approximately.
- Q. And you leave the premises at 1:15 in the morning?
- 25
- A. I have to check my notes. Yes, 1:15.
- Q. Have you ever looked at the Notices of Summons in this case?
- A. No.
- Q. I've handed you up what appear to be 12 Notices of Infraction or Summons to J. Hornick and Rachael Aitcheson, is that correct?
- 30
- A. Well, I have to count them. Yes, there's twelve.

5 Q. And you'd agree with me that each are charged with six offences under the Liquor Licence Act?

A. Like I said, I haven't read them all, so I would have to sit here and read them all.

Q. Mm-hmm.

10 A. Okay. Yes, twelve, six each, all under the Liquor Licence Act.

Q. And you've seen having reviewed those summonses that each of them has a specific time attached to the offence alleged?

Q. Immediately underneath the address noted?

A. Yes.

15 Q. I wonder if you could just walk through each of the charges and the times?

A. Okay.

Q. You've described ---

A. Which do you want to do first?

20 Q. --- three incidents of sexual conduct. the first is the mutual masturbation you observed on the fourth floor?

A. Okay.

Q. That was at 12:18.

A. Okay.

25 Q. And that corresponds to a charge of disorderly conduct, permitting disorderly conduct.

**THE COURT:** Sorry, what time was that please?

**MS. SIMPSON:** 12:18.

A. Okay.

30 Q. And so that's one charge each for Ms. Hornick and Ms. Aitcheson?

A. Okay.



5

Q. Then you described an incident of a woman masturbating in the photo room?

A. Yes.

Q. That occurred at 12:25. And that again corresponds to one charge each for Ms. Hornick and Ms. Aitcheson of permitting disorderly conduct, is that correct?

10

A. Yes.

Q. A third incident?

A. Mm-hmm.

Q. Of women involved in sexual activity in the room with the swing?

15

A. Mm-hmm, yes.

Q. You describe that occurring at 12:40?

A. Yes.

Q. And that corresponds to again, an additional charge of disorderly conduct, one for Ms. Hornick and one for Ms Aitcheson?

20

A. Yes.

Q. So it's with respect to those six charges, all of the evidence is that collected by yourself and Officer LaFrance before the male officers appear?

A. Yes.

25

Q. By the way, with respect to each of those activities, they appear to be consensual between the women involved?

A. Pardon me?

Q. The sexual activities that you observed?

A. Yes.

30

Q. They appeared to be consensual?

A. Yes.

Q. Now turning to the other three sets of

5 charges?

A. Okay.

Q. You see the charge for failure to provide sufficient security?

A. Yes.

Q. And the time noted on that is 12:10 a.m.?

10 A. Okay.

Q. That again, is before the male officers arrived, is that correct?

A. Yes.

15 Q. The next one I'd like to look at is permit liquor to be removed from the premises. The time noted there is 12:12 a.m., is that correct?

A. Yes.

Q. And again before the male officers entered?

A. Yes.

20 Q. And then the final charge is permitting service of alcohol outside regulated hours?

A. Yes.

Q. That was at 1:10 in the morning?

A. Yes.

25 Q. And that's something you observed personally?

A. Yes.

Q. You didn't need male officers to help you on that either?

A. No.

30 THE COURT: Sorry, what time was the last one, please?

MS. SIMPSON: 1:10 a.m. I'll take those back.

5 Q. As far as you're aware, no arrests were made that evening?

A. Not as far as I'm aware.

10 Q. And did you ever see the male officers attempting to enforce compliance with the Liquor Licence Act, that is have women who had alcohol on the floor that you considered to be improper move down to the right floor?

A. No.

15 Q. Did you ever see male officers try to shut down the event?

A. No.

20 Q. And that wasn't part of your activities either?

A. No, that wasn't part of my function.

25 Q. Your male colleagues when they entered, they were in plain clothes?

A. Yes.

30 Q. You weren't instructed to warn any of the female patrons before they arrived that males were entering?

A. No.

35 Q. The males weren't really identifiable as police officers?

A. Were they, or weren't they?

40 Q. They weren't, were they? They didn't have badges, they weren't wearing uniforms?

45 A. Well they didn't, they don't wear uniforms, they do carry badges.

50 Q. Were the badges visible if you were standing and looking at them entering a room where you were?

A. I know that they have police jackets.

55 Q. Were the men wearing their jackets?

5

A. I know Officer Christie was.

Q. Officer Christie was the one you spoke to outside?

A. Yes.

10

Q. Did you hear any announcement over the public address system or intercom that male police officers had entered the building?

A. No.

Q. The only way that women were warned that male police officers had arrived, was through the word of mouth from other women?

15

A. I can't say how they were warned.

Q. Did you ever see conversations between two women in the bathhouse about whether or not there were male officers present?

A. Did I see a conversation?

Q. Or overhear one?

20

A. Yeah, the women on the third floor, or on the alcove, there's like a landing between the third and fourth floor were talking about it.

Q. Did you overhear any conversation in which a woman was told for the first time, apparently, that police officers were in attendance?

25

A. No.

Q. You said that when you were on the fourth floor, you noticed the atmosphere change somewhat?

A. Yes.

30

Q. But you observed no women trying to cover up?

A. No.

Q. Your evidence is they were completely

5 content to be seen in the state that they were?

A. I would assume if they weren't they would get their clothing.

Q. How many male officers entered the premises?

A. I can't be 100 percent sure.

10 Q. Four or five, does that sound right?

A. Yes.

Q. Were they all together at all times that you saw?

A. That I saw, no.

15 Q. When you say that you followed two of the officers up to the upper floors, again this wasn't the full complement of officers, there were male officers there in whose company ---

A. Those were the two I saw.

20 Q. So there were other officers in other parts of the premises that you did not see and you did not follow?

A. I didn't follow them. I didn't see them.

Q. And so you can't give any evidence about how women reacted to their appearance?

A. No.

25 Q. You didn't enter into any of the private rooms, is that correct?

A. No, I did not.

Q. So you couldn't have spoken to any women who felt that they had to hide in private rooms?

A. No.

30 Q. When the male officers first appeared inside the premises, you were on the upper floors?

5  
A. Yes.

Q. And so you can't tell us anything ---

**THE COURT:** Again, if I could ask you please, just a little bit slower, because you may be making points and I may be missing them, because I'm not getting them down.

10  
**MS. SIMPSON:** Absolutely.

**THE COURT:** So, I'm sorry, there was a train of questions there about the officer didn't enter any private rooms?

**MS. SIMPSON:** Yes.

15  
**THE COURT:** And the answer was no. And the next question was she didn't see the reaction of anyone in the private rooms.

**MS. SIMPSON:** That's correct.

Q. And you of course couldn't speak to anyone who felt like they had to hide in one of the private rooms?

20  
A. Right, if the door was closed, I wouldn't know they were there.

Q. You were on one of the upper floors when the men first entered?

A. I would say yes.

25  
Q. And so you can't tell us anything about the reaction of the women on the dance floor when the men first entered, can you?

A. No, I can't.

Q. You can't tell us anything about whether women immediately left upon the men's arrival?

30  
A. No.

Q. You remained inside until about 1:15?

A. Yes.

5

Q. And so how long had the male officers been in the premises at that point, roughly half an hour?

A. I can't tell you an exact time when they came in.

Q. We estimated earlier about 12:15?

A. That was an estimate.

10

Q. So again, estimating?

A. So, 20 minutes.

Q. Twenty to twenty-five minutes?

A. Possibly, yes.

Q. You didn't monitor the doors the whole time?

15

A. Pardon me?

Q. You didn't monitor the doors the whole time during the 25 minutes?

A. Which doors?

Q. The exit.

20

A. No.

Q. Did you hear any instructions made by the Pussy Palace security personnel to remain calm and stay where they were?

**COURT REPORTER:** Just a moment, please.

25

**MS. SIMPSON:** Q. So you didn't hear any instructions from women who were working in a security role for the Pussy Palace to the patrons to tell them to remain calm and stay where they were?

A. No.

30

Q. In your evidence in-chief, you described seeing two people you described as possibly men, transsexuals, is that correct?

A. Yes.

5 Q. You don't have descriptions of either of these people noted in your notes?

A. No.

Q. The only description you have is one female, possibly trannee, is that correct?

A. In my notes?

10 Q. Yes.

A. I'll check.

**THE COURT:** Sorry, could I have that quote again. One female possible?

**MS. SIMPSON:** One female possible trannee. It looks like this is at 12:18 to assist you in finding it in your notes.

15 A. Oh yes, okay.

Q. And you described that person as possible trannee?

A. Yes.

20 Q. You didn't see the person's genitals?

A. No, they had underwear on.

Q. You didn't speak to either of the people you described as possibly male?

A. No.

25 Q. You have no idea then if they self identify as female, or male?

A. I don't know.

Q. You knew however, that it was a female only event?

A. Yes.

30 Q. You knew that from the phone call, the complaint that you received earlier?

A. Yes.



5 Q. That was clearly described in the flyers that were handed to you at the door?

A. Yes.

Q. And it was also on the ticket that you purchased at the door?

A. I don't recall if it was on the ticket.

10 Q. You also knew that it must be female only because the reason that you and Officer LaFrance were able to go in undercover is it's only as females that you would be able to blend in with the other patrons?

A. Yes.

15 MS. SIMPSON: Thank you very much. Those are my questions.

THE COURT: Yes.

MR. ADDARIO: No, I have no cross-examination, Your Honour.

THE COURT: Yes. Any re-examination?

20 MS. HART: Yes, Your Honour, I'll be very brief.

**RE-EXAMINATION BY MS. HART:**

25 Q. You were just asked questions about whether Detective LaFrance was the person who was able to make decisions vis-a-vis the Liquor Licence Act, is that right?

A. Yes.

Q. And I believe you said that she was competent?

A. Yes.

30 Q. Okay, or that it was your opinion, your understanding, okay. Given those two things, could you explain for us then, why it was necessary to call for back-up?

5

A. For back-up for Chris, or back-up for us?

Q. For both of you?

10

A. It's an officer safety issue. Once you've gone in somewhere undercover you can't suddenly announce that you're a police officer. I mean we're not the best liked at the best of times, so nobody would have wanted us there. That's a safety issue. There's now 300 women in a premise, we now announce, that we've been wandering through, we are police officers. It's an officer safety issue that we wouldn't do. Also being undercover, if you want to be used in that capacity again, you can't identify yourself in front of a large group of people by saying you're a police officer, because if you ever have to do that again, you won't be able to.

15

Q. You were also asked some questions under cross-examination and asked to refer to your notes where you made the statement one female possible trannee?

A. Yes.

20

Q. Okay. And immediately thereafter you said that person that you were describing was wearing underwear?

A. Yes.

Q. Okay, and so why then would you describe them as a possible trannee?

25

A. They looked male as far as masculinity, size, there was a slight bulge in the underwear. Those were my observations as to why I said it was possibly a male.

30

Q. Okay. And lastly, in cross-examination, the idea of strip searches was mentioned to you in that there was a referral to a police policy I guess that only female officers conduct strip searches on other females. Did you have the opportunity to observe any officers conducting strip searches that evening?

5  
A. No, there was no strip searching. From what I observed there was no females that were asked to remove clothing as far as a search goes. There were no females touched in a search procedure.

MS. HART: Okay. Those are my questions, thank you.

10 THE COURT: Thank you.

... WITNESS RETIRES ...

DAVE WILSON: SWORN.

EXAMINATION IN-CHIEF BY MS. ZED:

15 Q. Can you please state for the record what your occupation is?

A. I'm a detective with the Toronto Police Service.

20 Q. Okay, and do you have an independent recollection of the events surrounding September 15th?

A. I certainly do.

Q. Do you remember making notes?

A. Yes, I did.

25 Q. During that event. And when were those notes made?

A. Prior to the completion of my tour of duty.

Q. Did you make any alterations, deletions or additions?

A. No, I did not.

30 Q. Your Honour, I'd ask that -- do you need these notes for the purposes of your testimony?

A. I may.

5  
MS. ZED: Your Honour, I'd ask that the officer be allowed to refer to his notes for the purposes of refreshing his memory?

THE COURT: Yes, any objection?

MR. ADDARIO: Sure, Your Honour.

MS. SIMPSON: No objection.

10  
THE COURT: Yes.

THE WITNESS: Thank you.

MS. ZED: Q. Detective Wilson, I understand that you were in charge of the investigation?

A. That brings me here today, yes, that's correct.

15  
Q. Yes. And how is it that this investigation then came about?

A. Well discussions took place prior to the September 14th date. I was made aware by way of a phone call from a detective in the porno section with the special investigative services on the preceding Tuesday, in which he made me aware of the fact that they had received, his unit was in receipt of a complaint. The complaint was in the nature of sexual conduct, inappropriate sexual conduct that was going on in the last Pussy Palace event. Detective Demkiw and I had discussions as to whether or not he or I could devote resources to the next event which was to be held a couple of days from that time, September 14th. I told Detective Demkiw that when I got into the office on Thursday evening, I would check with my teammates to make sure we're not committed elsewhere and that me -- and Detective Demkiw and I would later that evening have a discussion as to how we're going to approach this Pussy Palace event.

25  
30  
THE COURT: I'm sorry, the detective's name is

Demkiw. How do you spell that, please?

**THE WITNESS:** Demkiw. It's D-E-M-K-I-W.

**THE COURT:** Thank you.

**MS. ZED:** Q. And what action did you decide to take?

A. Well when I got into work I canvassed my teammates and we didn't have it in concrete, so I contacted Detective Demkiw and we agreed that later on in the evening we would both partake in a joint investigation of the Pussy Palace event. About ten o'clock in the evening I briefed my teammates as to what we -- of the information that I was in receipt of, and we prepared to go out and endeavour to investigate the Pussy Palace even further.

Q. So what did that investigation entail?

A. My interests were specifically with respect to the Liquor Licence Act. Detective Demkiw and his porno section were more interested in the illegal sexual conduct from the patrons. As a result of that, at 11:10 p.m. that evening, I and other members of the plain clothes office, attended the area of 231 Mutual Street in the City of Toronto.

Q. And what did you do once you attended?

A. Pardon me, Your Honour, at 11:10, I'm sorry, I took Constable LaFrance, a pre-designated undercover officer with me to go pick up your previous witness, Constable Hall, because she had also been designated an undercover officer, so I was in the process of picking up the second undercover officer at that time. Subsequently at 11:30 I attended the 231 Mutual Street address area, ensuring that my surveillance team was set up.

Q. And what were you doing at that point? Like you set up your surveillance, then what were you doing?

5 A. I had officers on the exterior of the premises maintaining observations and communications with me at all times. I briefed the undercover officers and then sent them in to the Pussy Palace event.

Q. And then what happened, once you sent them in?

10 A. Well chronologically, Your Honour, there was a vehicle that disturbed me parked out front with two occupants in it. While the undercover officers were in the line-up waiting to gain admittance to the event, I had this vehicle and occupants investigated. Subsequently they were identified as Colin Frieze and John Morstat, one was a photographer and one was a writer for the Globe and Mail. The driver was under suspension and was more than happy to leave when directed.

THE COURT: The driver was under suspension?

THE WITNESS: Yes.

15 MS. ZED: Q. Okay, so you sent the undercover police officers in?

20 A. That's right. At this point Detective Demkiw and his escort had not attended the area of 231 Mutual Street, but at 11:45 they did. And at 11:45 I had an opportunity to debrief Detective Demkiw and his escort, Constable Christie as far as what had taken place so far. One of my instructions to the undercover officers, Your Honour, was shortly after they were inside the premises they were to contact me and tell me what it was that they had observed inside.

25 Q. And did they?

30 A. Yes, at 12:25 a.m., now this would be the 15th of September, I spoke with LaFrance, Constable LaFrance.

**THE COURT:** 12:25?

**THE WITNESS:** a.m. And Constable LaFrance relayed information with respect to two women. One woman fondling the genitals of the other, in other words, the one woman was masturbating the first woman. She explained to me that there was, the patrons inside the premises were walking throughout the premises with alcoholic beverages. As a result of that information that I received, I had a discussion with Detective Demkiw. We came to the joint understanding that we were not going to escalate this into a criminal investigation based on a couple of women who in an isolated incident maybe got overheated, so we preferred to keep this more of a liquor inspection. That's when I decided to take the lead in this investigation because it was going to be just that. A liquor inspection is something that I would do on a regular basis, I have done hundreds of them, whereas Demkiw had not.

**MS. ZED:** Yes.

**A.** As a result, I had detailed two of my officers, Officers Petrie and Greenaway to attend 231 Mutual with me.

**THE COURT:** Sorry, Petrie and?

**THE WITNESS:** And Greenaway. G-R-E-E-N-A-W-A-Y.

**THE COURT:** Yes?

**THE WITNESS:** And Demkiw and his escort, Constable Christie, also accompanied me. I had

5 two other officers with me at the time, but I preferred not to take the extra two inside, I figured we had enough officers with us at the time, so I had them remain outside, keep the place under observations and of course they were another link to communications should something arise.

10 **MS. ZED:** Q. So just to be clear, there were five of you that entered the establishment?

A. That's right. That's right.

Q. And were all of these officers male?

A. Yes. Yes, they were.

15 Q. And just before you continue with your chronology, why did you send all male officers into a female event?

A. Well simply put, they were the best trained officers that I had available to me. I know Greenaway, I know Christie, I know Petrie. Demkiw would be the only one that I had never worked with, but by virtue of his rank, I felt that he was competent to do the job. I had supervised Christie, Greenaway and Petrie myself, and I know them to be more than competent to do the job and I wouldn't want anybody else other than the competent people.

25 A. And you mentioned that they were best trained. What do you mean by that?

A. Well, practically trained. Christie spent in excess of three years in the plain clothes environment, which is what I'm a part of. Petrie spent at this point in time, I'm estimating two years and Greenaway would have been there roughly eight months. I've worked with all of them and I know of their talents. So if I was going to be going into a



5 situation such as this, given its nature, given the history of  
the community with the plain clothes office, they were the  
most appropriate officers which to utilize.

**THE COURT:** I'm sorry, given the which?

10 **THE WITNESS:** Given the nature of the event,  
and the history of this community with the  
plain clothes office, they were the most  
appropriate officers to accompany me.

**MS. ZED:** Q. Why didn't the undercover police  
officer simply conduct further investigation and lay charges,  
why was it necessary for ---

15 A. Why were they not a part of the  
inspection?

Q. Why was it necessary, you had the  
undercover police officers in the establishment making  
observations?

A. Correct.

20 Q. Why was it necessary for the five male  
officers to even go in at all?

25 A. Well the role of the undercover officer  
was not to go in and get themselves identified. Their role,  
as directed by myself and Demkiw, was to go in and gather  
intelligence and report their observations to us so that we  
could make hopefully an intelligent educated decision as to  
30 how to handle the operation. They did. To expose them in  
this environment where they in all likelihood would have been  
unwelcomed, would have put them first in a -- would have  
jeopardized their safety. If there was other events such as  
this, we would not be able to use them again, because they  
would have taken a burn. So things of that nature. They were  
directed to do a job, they did it and they got out.

5 Q. Can you describe for the Court what you mean by take a burn?

10 A. Well if they were making their undercover observations, and then some time after that while still in the premises, if they were to identify themselves at the door, it would be revealed that they were officers inside. Besides the obvious where they may be assaulted, assuming for a second that they would be safe, we could never use them in that environment again because their identity would have been exposed.

15 Q. Okay, just to get back to the chronology, you're approaching the entrance of the club?

A. I'm sorry?

20 Q. You're approaching the entrance of the club?

A. Yes.

25 Q. What happens at that point?

30 A. This will be 12:49, Your Honour, a.m. At this point in time there was no line-up, so the five of us could quite easily gain access to the front or main door. As I've heard accurately described, as soon as you get in the main door, you make a hard left and walk down a small set of stairs to a cage. We did this. I identified myself with my police issued badge to the person behind the cage. I explained to the woman that I was here for the purposes of conducting a liquor inspection. I was advised that this was an all female event. I explained to her that I understood that, but that I was still here to conduct a liquor inspection and intended to do so.

35 Q. What observations did you make with respect to security at the door?

D. Wilson - in-ch

5  
A. With security at the door? Well it became very obvious to me at that point I couldn't have gained access to the premises without them allowing me, or me using force. The door accessing members of the public such as myself to gain access to the Pussy Palace event could only be done by the person behind the cage pressing a button releasing the locking mechanism in the door. Ultimately that did happen, 10 but it took a caution from myself to the person behind the cage, who I later identified as Pamela Hamilton. I cautioned her for obstructing my inspection, and failing to facilitate an inspection. I explained to her that the Alcohol and Gaming Commission takes a dim view of that. And at that point we 15 were able to gain access to the premises.

Q. And how much time passed between the time when you first got there to the time that you finally gained access?

20 A. Well I would say a couple of minutes anyway, two maybe three minutes. Yeah, between two and three minutes would be fair. The person behind the cage had a -- she was miked up, she had a headset on her. I don't know if she was communicating with anybody else at this time, but she had the appearance of being in some regard a security member.

25 Q. So once you gained access, what was the first thing you did?

A. Well the first thing I did, was I tried to identify who was in charge of the event.

Q. How did you do that?

30 A. Well through Pamela. Pamela for lack of a better term, seemed to be the receptionist, the person perhaps taking money at the door. She was my link to get to Jill Hornick. First of all, I was able to identify Pamela Hamilton

5 with a date of birth 67-03-27. She did advise me that she was a member of the security. She advised me that the person in charge of the event was a person by the name of JP. I requested JP's attendance. I remained at the front door, I waited for JP to show up.

10 Q. And where were the other officers at this time?

A. The other officers were somewhere else in the building. A short time later Jill Hornick, born 1970 November 14 arrived. I was in a position to interview JP, or Jill Hornick, and she revealed through my inquiries that, or pardon me, I inquired as to her experience in running an event such as this or any other liquor licensed establishment. Jill indicated that this was her first time, however she had done her homework. She indicated she had spoken to a lawyer, a city counsellor and to the Alcohol and Gaming Commission hotline in attempts to be compliant with the Liquor Licence Act.

20 Q. Did you at any point see the permit?

A. Pardon me?

Q. Did you at any point see the permit?

25 A. Yes, I did. Yes, I did. I inquired through Jill as to the number of employees that were working tonight. I must say, Your Honour, that she was quick to point out that everybody was volunteering, that nobody was formally working. They had volunteered to make this event possible, but she did go on to say that she thought -- excuse me, she did go on to say that she felt that there were three security officers, two bartenders, and a busboy. I was interested to find out who these people were that were employed or  
30 volunteered for the event. Jill was not in a position to

5 identify any of the employees or volunteers. She also  
indicated that none of the other volunteers or employees knew  
her name, they only knew her as JP. As a result, Jill was  
forced to summon all of the employees or volunteers that were  
in a working capacity that night, and one by one did so. The  
10 first female also identified as a security person was named  
Sarah Leslie. She was born in 1974, 11-09.

Q. Detective Wilson, maybe we can just go  
directly to the point in time where you viewed the permit.

15 A. Well I viewed the permit, as I recall  
while I was waiting for Jill -- or while I was waiting for,  
yeah, while I was waiting for Jill. I was speaking with Pam  
and Jill was several minutes before she attended the front  
door to speak with me, so I had an opportunity to inspect the  
licence at that time.

**MS. ZED:** Okay. Can I just -- I believe it's  
Exhibit Number 4.

20 A. I can tell you that the special occasion  
permit was made out to Bill 7, as in the number, not spelled  
out phonetically, but the number 7, Award. This licence had  
Bill 7 Award with the listed address of 563 Spadina Avenue in  
Toronto. It also on the front page of the special occasion  
25 permit was the person responsible for the special occasion  
permit.

Q. And who was that person?

A. Rachael Aitcheson.

Q. Did you speak to Ms. Aitcheson?

30 A. No. No, I did not. I was told by Jill  
she wasn't there that evening.

Q. So at no point throughout the night did  
you ever see Ms. Aitcheson?

5

A. That's correct.

Q. And how did it come about that you saw the permit? Where were you when you were looking at it?

10

A. I was just inside the -- I was in the cage is where it was. I found myself now on the inside portion of the cage where I first observed Pamela when I first entered the premises. I was there and I asked her to inspect, so I could inspect the SOP, and she provided one.

Q. And who provided it?

A. She, Pamela.

15

Q. When you spoke to Ms. Hornick, what was her demeanour?

A. I don't think she was particularly pleased that we were there, but she was polite, articulate, and she took on the painstaking chore of having to go and find all of her volunteers or employees, so cooperative.

20

Q. Approximately how many patrons were present?

A. In excess of 300. I think 330, that's my understanding. In the neighbourhood of 330.

Q. And from ---

A. Not including people that may have been behind closed doors.

25

Q. From what you've said so far, you've indicated that you were mainly at the entrance of the club?

A. Yes.

Q. At any point did you go anywhere else?

30

A. No. No, I was only in behind that back portion of the cage for a couple of minutes while I was waiting there for Jill. I asked to speak to Jill in a private setting. Jill and I then came outside, back to the outside

5 portion of the cage, and that's where I conducted my investigation.

Q. Okay. And how long was that period of time?

10 A. Well, the whole length of time that myself, plain clothes and special investigation officers were on scene was exactly 51 minutes. I would submit that the large portion, upwards towards 50 minutes were probably spent waiting to get the names of all the employees on scene. Once we had done that, I had an opportunity to ---

15 **THE COURT:** I'm sorry, how much? How much time was spent in there?

**THE WITNESS:** Fifty-one minutes exactly.

**THE COURT:** Right, and how much time was spent getting names?

**THE WITNESS:** The bulk of that, probably at least 45 minutes I'll say.

20 **MS. ZED:** Q. When you were within the club on the inside door, did you have the opportunity to observe patrons?

25 A. Well yes, and no. I was aware that there was a couple of women milling around the cage area, I suppose seeing what it was that I was doing there, but no, I didn't, I had no vantage point to determine what was going on inside the premises.

Q. That night did you conduct a strip search?

A. No, of course not.

30 Q. Did any of your officers, to your knowledge?

A. No.

Q. At any point with your conversations with

5 anyone, any of the patrons, any of the organizers, did you ever make a suggestion that they stay and that they were required to speak to you?

10 A. No. No, the whole exercise here with respect to my verbal liquor inspection, was to identify people responsible for the operations of the club. If you're suggesting that they were held against their will, that would be untrue. I just simply asked for their name, all of which I think almost all, were verbally identified. I needed something tangible, so that if there were deficiencies observed in the club that I could then go to the Alcohol and Gaming Commission and be somewhat educated as to who and what  
15 was going on in there.

Q. In your mind as a trained police officer who has conducted a number of liquor licence inspections, what do you think the purpose of Liquor Licence Act inspections are?

20 A. Well, first and foremost, safety, safety of the patrons, the general public, of all involved. Certainly compliance speaks to the safety of the event, so we're there to make sure that all the regulations and sections of the Liquor Licence Act have been met. And certainly if a premises is in compliance, then we will tell them just that, that they're running a good club. This was not.  
25

Q. Okay, and in your mind, over the course of the course of this today and yesterday, we've heard, the word raid has been used. What's the difference in your mind between what happened the night of September 14th, early morning September 15th, and what you would call a raid?  
30

A. Yeah, I've heard the raid mentioned several times. It seems to be, in my opinion, Your Honour, it



5  
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15  
seems to be a sensationalized way of suggesting the police were on scene. This was no different, Your Honour, than me pulling out my badge such as this, telling them I'm here for liquor inspection. We were permitted access to the premises and in we went. No force was used. A raid would be more of a tactical operation, probably authorized under the strength of a search warrant. I would submit that a raid would also be associated with rams and sledgehammers. A raid would be something conducted by way of surprising the persons involved in the event. Certainly the numbers would have been dramatically increased if we were going to conduct a raid. Guns would be drawn, likely vests would have been worn. A much different scenario than this. This was an inspection. Make no mistake about that.

20  
Q. Okay, I just have one final question. To your knowledge, how often are lesbian events or establishments investigated as compared to other establishment, heterosexual establishments?

A. I'm sorry, can you repeat that again? Events, that's what threw me. I've been in several ---

Q. Events or establishments?

25  
A. Well there's a large -- there's not a large contingent, but there's a contingent of lesbian bars on Church Street and I have frequented them, yes.

Q. Okay, and how would that compare to other establishments?

30  
A. Well that's difficult to say. Our job is to go and if they haven't already been identified, any bars or liquor licence establishments that have not been identified as being deficient or a safety hazard, those that have not been identified, we wouldn't visit. Ones that are chronic, or ones

5 that come to light by way of complaint, we would have a need to attend. This was associated to complaints. We attended.

Q. Okay, and just one last question. Why did you believe that you had authority to enter the premises?

10 A. Under the Liquor Licence Act. The Liquor Licence Act, I believe, permits a liquor inspector or an employee acting on behalf of the Alcohol and Gaming Commission, or their designate, which includes a police officer.

MS. ZED: Thank you very much. Those are my questions.

15 THE COURT: Yes, cross-examination.

**CROSS EXAMINATION BY MR. ADDARIO:**

Q. Who was making the operational decisions this evening?

20 A. That was jointly made by myself and Detective Demkiw.

Q. Who was making the operational decisions with respect to the enforcement of the Liquor Licence Act?

A. I would have been.

Q. And I take it you knew on the way in that this was normally a men's bathhouse?

25 A. Yes.

Q. And I take it that you know as well that in men's bathhouse there are frequently sexual activities?

A. Behind closed doors, yes.

Q. And I take it that you anticipated before you went in to this event that there would be persons in an either partial or a complete state of undress?

30 A. That was a possibility.

5

Q. You anticipated that?

A. I'm saying that was a possibility.

Q. You knew that before you went in?

A. Yes.

Q. And you had -- two women on your team were Constable Hall and Constable LaFrance?

10

A. Correct.

Q. And you made no effort to enlist the assistance of additional female police officers for this operation?

A. That's correct.

15

Q. There are of course, dozens of female police officers working for the Toronto Police Service?

A. That's correct.

Q. And there are of course dozens of female police officers with the Toronto Police Service who are qualified to conduct investigations?

20

A. Investigations? I'll agree with your assumption.

Q. And you testified a few moments ago that the whole point of this was to get the names of the persons responsible in case you needed to follow-up. Right?

A. Yes.

25

Q. Did you make any effort to find out whether or not there were other police officers qualified in relation to Liquor Licence investigations who also happened to be female?

A. No.

30

Q. And can you tell His Honour why if the whole point was to get the names, well let me back up, you extracted those names from Ms. Hornick during the course of

5 your interview with her?

A. No, I was able to identify the women who volunteered or were working by the individuals themselves. Jill Hornick retrieved them from various parts of the premises and brought them down to me.

Q. Right, and you stayed at the front door?

10 A. That's correct.

Q. And she got them and brought them to you?

A. Yes.

Q. All right. Well if that was the whole point of the investigation, why did you need the other four guys going up and down the stairs?

15 A. That wasn't the whole point of the investigation, that was my job with respect to the investigation. That would be the verbal portion of the liquor inspection.

Q. So I misunderstood your evidence earlier when you said the whole point of the investigation was simply to identify the persons responsible that evening?

A. Was that a question, I apologize. I didn't take that as a question.

Q. Almost everything you get from me will be a question.

25 A. Understood, what was it?

Q. Can I have the answer?

A. Can I have the question back, please?

Q. I misunderstood your evidence when you testified earlier that the whole point of the investigation was to identify the individuals responsible for the operation?

30 A. Well that's not, if I said that, and I don't think that I did, that's not what I meant. The whole

5 purpose of this investigation was to ensure that everybody in the premises was safe, first of all, and secondly, that the place was run in a compliant fashion.

Q. Well, excuse me, did LaFrance tell you the people inside were unsafe?

A. No.

10 Q. Did you have any reason to think that people inside were unsafe?

A. I wouldn't have known until we had somebody in.

Q. Well you had LaFrance and Hall in there?

A. Correct.

15 Q. And LaFrance had a cellphone?

A. Right.

Q. And she communicated with you?

A. Yes.

20 Q. Did she tell you anything unsafe was taking place?

A. No.

Q. What was the second reason?

A. To ensure compliance.

25 Q. And it's your evidence that the men who were going up and down the stairs were doing so to ensure compliance with the Liquor Licence Act?

A. I believe so, yes.

Q. Is that what you directed them to do when you asked them to go in?

30 A. I directed them to participate in a liquor inspection.

Q. And what were they looking for?

A. Oh well, I don't know what they were

5 looking for specifically. I know what I would look for.

Q. What would you look for as a person who's conducted hundreds of liquor licence investigations?

10 A. Well as it speaks to the safety, I would want to make sure that there was no minors on scene. That's not such an uncommon occurrence. I would want to make sure that none of the patrons were throwing up, or were drunk, or participating in maybe some sexual conduct that they didn't want to be a part of. There's a number of things. Exit doors I'd be looking at to make sure they're not locked. There's quite a wide variety of offences that could have been occurring that would place the public, the patrons in jeopardy.

15 Q. Well, Demkiw was not a member of your liquor licence team was he?

A. No.

20 Q. Well, he was with, I guess what you call morality?

A. Yes.

Q. When you dropped LaFrance and Hall off, you told them that the others were coming in at 11:45?

A. Yes, I believe I did.

25 Q. And then you had to move that back because their entry was delayed by the line-up?

A. That's right.

Q. But I take it you ---

30 **THE COURT:** I'm sorry, I don't want to miss this. The question was that when he dropped off the two undercover officers that he told them what?

**MR. ADDARIO:** That the rest of the team was

5

coming in at 11:45, and I put to him, and he agreed, Your Honour, that in fact had to be moved back because there was a line-up.

Q. But you knew that you were going in to do a liquor inspection before they went in?

10

A. No, I wouldn't say that's fair to say. If there was some criminal activity inside, then Detective Demkiw would have taken the lead in that investigation. It's quite possible that I would have followed that up with a liquor inspection, but that would depend on how serious the criminal offences were.

15

Q. But you knew that you and the other four guys were going in regardless of what Hall and LaFrance found?

A. No.

Q. You didn't know that?

A. No.

20

Q. Well, just give me a moment, would you? You are a plaintiff in a lawsuit involving a city counsellor at the moment?

A. Yes.

Q. And you've -- and the lawsuit relates in part to this inspection?

A. Yes.

25

Q. And you testified in examination for discovery?

A. I did.

Q. And you testified under oath?

A. Yes.

30

Q. All right. I want you to tell me if you recall being asked these questions and giving these answers. The question is 1, 2, 5, 7. "And if they found nothing going

5 on, referring to Hall and LaFrance, what were you going to do, depend on what they reported? Did what you were going to do depend on what they reported? Answer, no I was fully prepared to go in and do a liquor inspection to begin with."

10 A. Prepared, yes. I don't know if I would have done it. It depends on what the information we received. If for example, the place was running 100 percent tickety boo, then our interest in it would have been none, no interest in it.

Q. You were going to go in regardless?

15 A. No, as I said, it's quite possible that, that may have been the likely scenario, but if Chris LaFrance said the thing is running like a well oiled machine, then we wouldn't have gone in. There'd be no point.

20 Q. Well let me read you the question again. "Did what you were going to do depend on what they reported? Answer no, I was fully prepared to go in and do a liquor inspection to begin with."

25 A. That's right, and I'm saying I was fully prepared to do one. It was quite likely I would have anyways, but it would have depended on what Chris LaFrance had said. As I mentioned, if she said the place passed the inspection, her visual inspection with flying colours, then in all likelihood I wouldn't have gone in.

Q. The question continues. The question is, "Yes. Answer, but as far, I mean if there was any criminal activity I have to deal with that as well."

A. Yes.

30 Q. "Question, yes, you were going to go in, in any event to do a liquor inspection? Answer, my interest in this, yes. Detective Demkiw didn't see any, he didn't have



5 any objections to that. Question, to what? To us going in and doing a liquor inspection at any stage of this." Do you recall being asked those questions and giving those answers?

A. Well, I think I was asked pretty close to 2700 questions. That was likely some of them, yeah.

Q. Do you want to see it in writing?

10 A. Oh, you're an officer of the court, I'll take your word for it.

Q. All right. So, and those answers were truthful when you gave them?

A. Yes.

Q. And ---

15 **THE COURT:** I'm sorry, at some point, can I have a photocopy of that?

**MR. ADDARIO:** Yes.

Q. And what I'm trying to establish here is that you testified in that proceeding that your decision to go in wasn't dependent on what Hall and LaFrance saw?

20 A. The decision to go in depended on a variety of things.

**THE COURT:** I'm sorry, is there an objection?

25 **MS. ZED:** Your Honour, I don't believe that was just his testimony. His testimony was simply that he was prepared to go in.

**THE COURT:** Well, the officer can say that if he doesn't agree with the -- if he doesn't agree with the question, he'll tell us.

**MS. ZED:** Thank you, Your Honour.

30 **THE COURT:** Yes. And the question was that you put to the officer that he testified that his decision to go in did not depend on what the

5

two undercover officers saw. Is that the question?

**MR. ADDARIO:** Yes, but I think he got interrupted in the middle of his answer, so I'll just give you an opportunity to finish.

10

A. Perhaps I can best explain it, if, I was prepared to go in, yes. Was I going to go in for sure, no. Was I probably going to go in, yes. Given the fact that there may have been other issues on the street. For example, if for some reason I received information that there was a large fight in the south end of the division, I wouldn't have gone in, I would have gone and looked after that. There is other things than just the Pussy Palace out there.

15

Q. As it turns out there are.

A. Yeah.

20

Q. Yes, but assuming that the operation wasn't overtaken by some other significant event, your plan when you dropped off Hall and LaFrance, was to follow them in 15 minutes after their entry?

A. I'm sorry, say the beginning of that again?

25

Q. Assuming your investigation of the Pussy Palace wasn't overtaken by some other major police requirement, your intention when you dropped off Hall and LaFrance was to follow them in 15 minutes after their entry?

A. That's right.

Q. And that's what you told them?

A. That's right.

30

Q. Right. And that's the last thing they knew before they got in line and went in?

A. That's right. I should say us attending

5 does not necessarily mean we're conducting an inspection so  
that we're clear. I mentioned that complying premises also  
get told if they run a clean place, so it was quite possible  
that I was going to go in, if LaFrance said the place was  
gleaming, and identify ourselves at the door and let them know  
we had undercover officers in, and that they passed a visual  
10 inspection. That's also possible.

Q. Your purpose in going in, according to  
you, was to ensure Liquor Licence Act compliance?

A. Yes.

Q. Because you talked to Demkiw before he  
went in and the two of you decided that this was not a  
15 criminal investigation?

A. Correct.

Q. And I take it that when you spoke with the  
woman at the door who initially refused you entrance, that you  
told her that you were there under the authority of the Liquor  
Licence Act?  
20

A. Yes, something like that. Yes.

Q. Or I'm here to do a liquor inspection?

A. That's right.

Q. Now did it occur to you that the women who  
were in attendance that night might feel embarrassed or worse  
25 by the entry of male police officers?

A. I don't think it did.

Q. Okay. We've already agreed that you knew  
it was a bathhouse?

A. I knew it was a Pussy Palace 2000 event  
where women may be partially clothed, yes.  
30

Q. Right, and you knew there were kind of  
sexual overtones to the whole planned event?

5 A. Yes.

Q. And I guess you knew because you just volunteered it that some of the women would be in a state of partial or complete undress?

A. That's right.

10 Q. Do you understand now, having gone in, why women there might feel embarrassed or worse by the entry of five male police officers?

A. Well, certainly given the fact of some of the conduct that was going on, yeah, that would be embarrassing. You see ---

15 Q. I don't know what you're offering us here, but why don't you explain?

A. Well, I subsequently learned that there was three independent acts that I would consider to be indecent. If I was engaged in those acts and five policemen walked in the building, or four actually, walked in the premises, I might find myself in an embarrassing predicament.

20 Q. Well let me stop you. You didn't locate those women?

A. No.

Q. And no charge has been laid?

A. Correct.

25 Q. All right. So let's leave those women aside and let's say there's like six of them, there was at least 300 other women who were in there?

A. Okay.

30 Q. All right. Let me ask about those other 300. Do you understand now why some of them might have felt embarrassed or worse, by the entry of five male police officers?

5 A. I can see a point of view, but it's my submission that if you are running a licensed establishment, you've relinquished your right to privacy, unless you make it a private -- unless what you do is in a private setting. This was a one night bar, as it were.

10 Q. Well let me ask you about the point of view that you can see. What's the point of view from your perspective in which women might be embarrassed or worse by the entry of five male police officers into that event?

15 A. Well I had the opportunity to listen to these five women. They all have testified that they were quite shocked that the police would attend, and how embarrassed and humiliated. Frankly that's not what I've heard from my officers, the explanations that I've heard here, however.

20 Q. I'm asking you about you, the guy who was directing this whether you can understand having directed the investigation, why guests there might have felt embarrassed or worse by the entry and presence of five male police officers?

A. I've got compassion, I think I can envision why they might feel awkward.

25 Q. And would that be reasonable for them to feel awkward about the presence of five male police officers?

A. I don't know if that's reasonable or not.

Q. From your point of view, did the fact that some of them were already undressed or partially clothed, disentitle them to privacy in relation to men?

30 A. Many of them were not in private settings. They were walking throughout the bar in a public setting. When you have a public environment, you must be aware of the fact that police may attend, and we did.



required for submissions?

5  
**MR. ADDARIO:** Well, just give me a moment.

**THE COURT:** If we're going to come back anyways it would be preferable, I think for everyone, if we complete the evidence today and start the submissions fresh on another day.

10  
**MR. ADDARIO:** Indeed.

**THE COURT:** So a day?

**MR. ADDARIO:** Well we're estimating a half a day, so that's a lawyer's half a day, it would be a whole day.

15  
**THE COURT:** A whole day. Yes. Well you can speak to the trial coordinator.

**MR. ADDARIO:** Does Mr. Valerio have your dates?

**THE COURT:** He should, but I'll phone him, and he can contact me over the lunch hour.

20  
**MR. ADDARIO:** Okay.

\*\*\*\*\*

R E C E S S

\*\*\*\*\*

**UPON RESUMING:**

25  
**THE COURT:** I received a call from the trial coordinator that the continuation date will be the 29th of November, is that?

**MR. ADDARIO:** If that's agreeable to Your Honour.

**THE COURT:** Yes.

30  
**MR. ADDARIO:** It was a date that I proposed to him, and he had it and he even said we should

5 go to 111 Court that day.

**CROSS-EXAMINATION BY MR. ADDARIO: CONTINUED**

10 Q. Do you know what a complete search of the person is in Toronto Police Service parlance?

A. That sounds a lot like a strip search.

15 Q. Exactly so. What's the Toronto Police Service policy regarding complete searches of persons of a different gender?

A. They shall be searched by someone of the same gender.

20 Q. And was that the policy in effect on September 14, 2000?

A. Yes.

25 Q. And you'd agree with me the policy's a reasonable one?

A. Yes.

30 Q. And you understood that if you arrested someone at the Pussy Palace event and took them back to 52 Division, you couldn't conduct a complete search?

A. That's correct.

35 Q. And you'd agree with me that the policy would apply even if the person had been naked, or partially naked at the Pussy Palace earlier in the evening?

A. Correct.

40 Q. And that person would still be searched by a woman?

A. Yes.

45 Q. And no male officer would be permitted to lay eyes on that female in a state of total or partial



5 undress, right?

A. I'm not sure I understand what you mean by laying eyes on.

Q. No male officer back at 52 Division would be permitted to lay eyes on the female arrestee while she's in a state of total or partial undress?

10 A. Certainly no intentional. I mean the accused would be brought before the officer in charge of the station, presumably still naked, or partially naked at that time, and she would be lodged in a cell likely, and arrangements would be made to get her some clothes so she wouldn't remain nude or partially nude.

15 Q. I think you misunderstood my question. When a complete search is done at the station, no male officer is permitted to lay eyes on the female arrestee?

A. Certainly. When there's a complete search being done at the station, you're right.

20 Q. Done by a person of the same sex?

A. Correct.

Q. And you'd agree with me that simply because a woman has disrobed, or even got naked at the Pussy Palace, wouldn't disentitle her to be strip searched by someone of the same sex back at 52?

25 A. Right.

Q. And that policy that's in effect applies to all members of the Toronto Police Service, right?

A. Yes.

30 Q. Now when you first arrived at the premises of the Club Toronto, you were told by the person at the door that this was an all female event?

A. Yes.

5

Q. And you had to ask, I guess at least twice, in order to get in?

A. Yes.

Q. And she told you at least two times that you couldn't come in?

10

A. Certainly she told me the once, and I think after I requested again, that came with a caution, but she was reluctant to letting me in.

Q. Okay. And the caution that you gave to her related to obstructing a police officer in the course of an inspection and obligation to facilitate the inspection under the Liquor Licence Act?

15

A. That's right.

Q. And eventually you gained access?

A. Yes.

Q. And your men entered and fanned out and began the inspection?

20

A. Yes.

Q. What steps did you take before you and your colleagues entered the bathhouse to ensure that the patrons were notified men were there?

A. None.

25

Q. What steps did you take to delay your entry to enable guests to clothe themselves?

A. None.

Q. Would you agree with me that you had some responsibility as the person directing this to take those steps?

30

A. No.

Q. When you entered, LaFrance and Hall were still inside?

5  
A. Yes.

Q. Would you agree with me that the investigation conducted by the men on your crew could have been conducted equally well by qualified female members of the Toronto Police Service?

A. I don't think so.

10  
Q. Why not?

A. I knew of the capabilities of these officers that were with me at the time. I couldn't certainly speak to the officers that you're speaking of, somebody who's qualified, that doesn't necessarily mean they've got the same professionalism, integrity that my officers did.

15  
Q. Is it your evidence then, that these are the only four officers that you knew of who could conduct this search effectively?

A. These were the four officers that I would have gone with and I'd go with them again.

20  
Q. Just so I understand this, your evidence is the search and inspection that was done couldn't have been done equally effectively by female members of the Toronto Police Service?

25  
A. Well there's more to it than just the inspection. Like I mentioned at the start. There's a relationship between the plain clothes office and the Church Wellesley community. These officers had that expertise, had that knowledge, where other qualified, as you call them, officers, scholastically might be prepared to do a liquor inspection, practically speaking they wouldn't do as good a job.

30  
Q. Well, we'll come to this Church Wellesley thing in a minute. Are you telling us that there were no

5 female members of the force who would qualify to conduct the type of investigation that was done that evening?

A. Qualified, no I wouldn't know. There may have been.

Q. You don't know because you didn't call around to see who was ---

A. Correct.

Q. --- available. Now in relation to this Church Wellesley business, you say that your four officers had a special relationship with the lesbian community?

A. With the Church Wellesley community.

Q. Well this wasn't the Church Wellesley community, this was a women's bathhouse?

A. Well I would suggest to you that the patronage at the women's bathhouse are members of the Church Wellesley community.

Q. How do you know that? I don't know that, so I'm asking you how you know that?

A. There seems to be a concentration of gay and lesbian residents in the Church Wellesley community.

Q. Yes, and how do you know where the patrons of the Pussy Palace came from?

A. Well, I'm assuming that their sexual orientation would be lesbian.

Q. Well, why would you assume that?

A. Well, I've heard nothing but, and the advertisements spoke of women picking up women, and how to turn down a woman's advances. The first advertisement from the Pussy Palace, and I think there was a subsequent one that I was aware of, suggested just that. How to come with an open mind and don't feel bad if you're rejected by advances.

5 Q. Well, you saw the document that went in yesterday called the Pussy Palace Rules, Exhibit 2?

A. Yes, I have.

Q. All right, do you want me to just put it in front of you?

A. Okay.

10 Q. And do you agree with me that it doesn't indicate in here that this event is limited to lesbians, does it?

A. I'd have to read the whole thing in its entirety.

Q. Why don't you do that?

15 A. I'm on page 2 and there seems to be, on the second bullet down ---

**THE COURT:** Sorry, which exhibit again, please? Exhibit Number 2?

**THE WITNESS:** This would be page 2 of the Pussy Palace Rules, Your Honour.

20 **THE COURT:** Thank you.

**THE WITNESS:** The second bullet down says, "Public sex is illegal. If you want to have sex with someone, all rooms on the fourth floor are available for anyone to use. Please leave the door open when you are finished and remove your garbage and soiled linen."

25 **MR. ADDARIO:** Q. Well, you're kind of changing the ground here on me. My question was, is there anything that says this was an event that was limited exclusively to lesbians and you said yes, there was, so I said ---

30 A. Well, okay, maybe I misunderstood. Maybe I misunderstood. It may not be exclusive to just lesbians.

5 Exclusive to women, yes.

Q. Okay.

A. But suggesting that public sex -- since there's only women or transgendered individuals, that suggests to me that women are likely to have sex in here, and there's some rules governing where to have sex and what to do after sex.

10 Q. Sure. Now leaving aside whether or not this was an event for lesbians or simply for all women, what was the special expertise that your men were going to bring to this investigation based on their contact with the Church Wellesley community?

15 A. Well, all of these members, with the exception of Demkiw, have had several years experience placed in the Church Wellesley community. In particular they were involved with an incident involving a club called the -- licensed establishment called the Bijou Club. We learned from that point on that you had to be very sensitive, you had to make sure that your t's were crossed, your i's were dotted. That was a learning experience in itself.

20 Q. Can I ask you this. Do you feel that you and your men displayed sensitivity on this particular evening?

A. Yes.

25 Q. And you agree with me that the Bijou is not a lesbian bathhouse?

A. That's right.

Q. It's for men?

A. Right.

30 Q. Go ahead, you were describing the special experience that your men were bringing to this particular event?

5 A. There was some ten months later, we had an occasion to go into a bar called the Barn, and there were some men dancing nude in the premises. That too, had to be treated with sensitivity and understanding, and the same consideration was given to this premises.

10 Q. Well, the Barn also is a men's establishment?

A. That's right.

Q. And so you listed two there, but I haven't heard you describe their special expertise dealing with all women's bathhouse events?

15 A. Well, it's not just all women's, it's being sensitive to the needs, it's being sensitive to the people of that community. I would not want to bring somebody in from Scarborough and have to do an liquor inspection in the Pussy Palace. I don't think they would have near the understanding that we in 52 would have, having worked there.

20 Q. What was the special understanding and sensitivity that your men displayed on this particular evening?

A. Well, they were nothing but professional. They have integrity, otherwise they wouldn't have been in my office.

25 Q. Well, okay, let me just stop you there. But you're not suggesting that female members of the Toronto Police Service aren't capable of being professional?

A. Well that I wouldn't know. I'm not suggesting that they aren't, but I know my officers were.

30 Q. Well, come on, you're not suggesting that you couldn't have found female officers on the Toronto Police Service who would behave professionally and with integrity,

are you?

5 A. I would prefer to go in with the officers that I had, my officers, because I know how they work.

Q. Well, we know that, because you went in with them but ---

A. Right.

10 Q. --- what I'm asking you about is whether or not you're suggesting that there aren't women on the Toronto Police Service who are capable of behaving professionally and with integrity on an investigation?

A. Perhaps.

Q. You just don't know?

15 A. That's right.

Q. Go ahead.

A. What's the next question?

20 Q. Well, I interrupted you. You were describing what special sensitivity and expertise your men brought to this investigation. I interrupted you after you listed professionalism and integrity?

25 A. We know going into any premises in the Church Wellesley community, lesbian or gay, that it's quite likely we're going to get some negative feedback, regardless of whether charges are laid or not. So given that, we go in with an understanding that if we're going to act on something, we better be sure it's worth acting on, because it will create some media attention, so we have to be prepared to do it and do it well.

30 Q. And again, are you suggesting that you wouldn't have been able to find women on the Toronto Police Service who could do an investigation and do it well?

A. Well, no I'm not suggesting that, but that



5 would take a considerable amount of time to do that, assuming that I could.

Q. Why is that?

A. Well, I would have to search out the different women within the Toronto Police Service, and then interview them to determine whether or not they're first qualified, and then see if they would conduct an investigation up to my standards.

10 Q. You don't know how long that would take because ---

A. No, I don't.

Q. --- you didn't make the phone calls?

15 A. That's right.

Q. Was there a debriefing at the end of the night?

A. Yes, there was.

Q. Where was it?

A. 52 Division.

20 Q. Who was present?

A. Certainly all of my officers, that would be Petrie, Greenaway. Knott, Jones who were not a part of it, they remained on the outside as I mentioned in my initial testimony.

25 Q. Knott is K-N-O-T-T?

A. That's right. Janet Hall was there, Myron Demkiw and Peter Christie. So I think all the involved people, plus Knott and Petrie.

Q. And what's the purpose of the debriefing?

30 A. So that everybody has a pretty good handle when they go home at night what it is that we had, what deficiencies there were. Because I didn't. I didn't at that

5 time.

Q. You didn't know what had been observed by the officers who fanned out and went through the building?

A. That's right.

Q. And you learned that at the debriefing in detail?

A. In detail, yes.

Q. When in relation to that did you prepare the notes to which you referred today?

A. Likely at the end of the briefing.

MR. ADDARIO: All right. Those are my questions, thanks very much.

THE COURT: Yes, any other cross-examination?

MS. SIMPSON: No, thank you.

THE COURT: Yes.

MS. ZED: I just have a couple of questions.

20 **RE-EXAMINATION BY MS. ZED:**

Q. Defence asked you a series of questions with respect to complete searches?

A. Yes.

Q. Can you please describe for the Court exactly what goes on during a complete search? What is that?

A. That's a -- a complete search is done when you have a person under arrest, done by people of the same sex where you would search the articles of clothing, every article of clothing, and make sure that the individual does not have any articles of injury or escape. That's what I mean by a complete search.

Q. Okay, and did anything like that happen on the night in question?

5

A. No. Nobody was arrested.

Q. But was any of the search activity that you described ---

A. The complete search activities?

Q. Yes.

A. Oh no, no, certainly not.

10

Q. Okay, what about a frisk search?

A. No. No, this was a liquor inspection.

Q. Was there any touching at all?

A. No.

15

Q. Defence also asked you that before you entered the premise, whether you had a chance to ask the women, give the women a chance to put their clothes on or something to that effect?

A. Right.

Q. Why didn't you do that?

20

A. Well that would kind of defeat the purpose of the inspection. It would defeat the purpose of trying to establish whether or not there was any substance to the two complaints that we received regarding the behaviour of the last Pussy Palace. So this in effect was a spot inspection to see how they measured up. They didn't.

25

MS. ZED: Thank you, I have no further questions.

THE COURT: Thank you.

THE WITNESS: Thank you.

30

... WITNESS RETIRES ...

MS. HART: Your Honour, the next witness would be Detective Greenaway. A brief indulgence,

Your Honour.

5 **ADRIAN GREENAWAY: SWORN.**

**EXAMINATION IN-CHIEF BY MS. ZED:**

Q. Could you please state for the Court what your occupation is?

A. I'm a police constable.

10 Q. And do you have any independent recollection of the events -- I'm sorry, I'm getting -- the night of September 14th, early morning of September 15th, 2000?

A. Yes, I do.

Q. Did you make notes of this event?

15 A. I did. Those notes are in my own handwriting. There have been no additions, or deletions since the time of the alleged offence. I'd like to use them today to refresh my memory, although like I said, I do have an independent recollection of the incident itself.

20 **MS. ZED:** Your Honour, I'd like to ask permission to have the officer refer to his notes for refreshing his memory.

**THE COURT:** Yes, any objection?

**MR. ADDARIO:** No, I believe he touched all the bases there, Your Honour.

25 **MS. SIMPSON:** No objection.

**THE COURT:** Yes.

**MS. ZED:** Q. Where were you around midnight of September 14th, 2000?

30 A. I was in an unmarked police car in an alley just north of Gerrard Street in the City of Toronto.

Q. And why were you there?

A. I was there to stand by on direction of my

A. Greenaway - in-ch

5 team leader, Dave Wilson, in regards to a liquor inspection that we had anticipated to do.

Q. Okay. And what happened, you're sitting in your car, and were you given instruction, what instructions were you given at that point?

10 A. I received information from Detective Wilson that we were going to attend at a location named Club Toronto, which is on Mutual Street. I was in the vehicle with Detective Constable Jones. He remained in the vehicle and I attended Club Toronto with Detective Wilson, Detective Demkiw, Detective Constable Christie and Detective Constable Rich Petrie.

15 Q. And why did you attend?

A. We attended for the purpose of a liquor inspection.

Q. And what instructions were you given?

20 A. Earlier that evening Detective Constable Chris LaFrance from our office, and another detective constable all had attended, or were in fact at that location at the time I was talking about, and we received information that there had been infractions and Detective Wilson asked me to attend with him.

25 Q. How did you gain entrance to the club?

30 A. I attended with the officers. There's a main front door that comes off Mutual Street. Once you go through this front door which was open, there's a hallway that goes to the left, and downwards, approximately 15 metres. When you reach the end of that there is a booth that's caged at the front, and a door to the right of that. The door was locked and we stood by as Detective Wilson had conversation with the person who was on the other side of the queue.

A. Greenaway - in-ch

5 Q. And how long did it take for you to actually gain entrance from the minute you got to that point to the minute you actually entered?

10 A. It wasn't immediate. There was conversation between Detective Wilson and the person on the other side, and then eventually that door opened up from the inside and we entered.

Q. So how long did that take, approximately?

A. Thirty seconds to a minute.

15 Q. So once you gained access to the club, what did you observe?

15 A. There were a number of people in the place. As you went in, you had to turn left and there is a small doorway or half a doorway, where there is an attendant there, appeared to be security. I approached her and I identified myself with my police badge and warrant card. I advised her that we would be doing a liquor inspection and she basically said that's great, and we continued on.

20 **THE COURT:** I'm sorry, she said which?

**THE WITNESS:** She said that was fine, no problems.

**MS. ZED:** Q. And you continued on to what?

25 A. As you go forward, there is a main floor where there were a large amount of people dancing. There was music going.

Q. Can you describe those people?

30 A. They were females, some were half clad, some were dressed, they were all dancing having a good time. I had taken out my counter and I started doing a count, which is what I regularly do when I inspect a licensed area, so I started to go through the group of females and started to

count.

5

Q. Was anybody with you, or were you on your own at this point?

10

A. At this point Detective Constable Petrie was in front of me. Well actually there was one other person that was in company with me, and that was a female. She later identified herself as a Globe and Mail reporter. She had a steno pad out and a pen, and as we went through she was taking notes. I went through the ---

15

Q. All right. Just to go back for a second to your observations of the women on the dance floor. Could you tell if they noticed that you were there?

20

A. Well, of course people did notice as I went through the crowd, I'm a big person, tall, and I did have to make my way through the crowd. In fact I went through twice because I was doing the count. So while I was doing that I was saying, you know, excuse me, pardon me, and people were just dancing around me as I went through.

25

Q. So what were the reactions when the women saw you?

30

A. They just continued dancing. When I reached the far side, there was a hot tub area, that was a glass enclosure. On the glass it said no alcohol beyond this point, or no drinks, the sign posted said no drinks. In that area was, it was a ceramic tile place, there was an inground hot tub and in the back I believe there was some showers. I didn't enter into this area, I stayed away from there. There were people in the hot tub, so I let them be and I continued on to my left, which was the stairway going up to the second floor.

Q. Okay, why didn't you enter that area?

A. Greenaway - in-ch

5 A. Because there were females in the hot tub and I presumed that they were naked.

Q. Sorry, continue you were saying that you were going upstairs?

10 A. Went to the second floor, there was a bar set up in this area. Again, the area was crowded, there was a line-up at the bar. I continued my count. Detective Constable Christie was at the bar and so I just stood there, I made observations while I was continuing my count. I observed alcohol being sold to people who were lined up at the bar. The alcohol was poured into plastic cups.

15 Q. What time was it at this point?

A. I don't have an exact time, but I attended at 12:49 a.m., so this was probably six minutes, five minutes into there, because I'd done the count before. And I stood and I watched, just made my observations.

20 Q. What were your observations?

A. I had seen before entering this premises, a special occasions permit that was issued for that evening, and so I knew that there had been an area designated as a licensed area.

25 Q. Sorry, when did you view the permit?

A. Before I left the police station. Special occasions permits are faxed over by the Alcohol and Gaming Commission to 52 Division and we keep them on file.

30 Q. Okay.

A. So I was aware that it was a licensed area, I was aware that they had anticipated 300 people, and so I made my observations at that time in regards to an inspection would be to observe what their control of that liquor is, what the security is, the number of people, the age



A. Greenaway - in-ch

5 of the people, the demeanour in reference to intoxication. And when I'm standing there, those are the different things that are going through my mind as I do this inspection.

Q. Okay, so just to stop you there, at this point in your testimony you said that you were on the second floor?

10 A. Yes.

Q. Could you describe the demeanour of the women, and their reaction to you on the second floor?

15 Q. No reaction really. I was just standing there, people were still standing in the line-up, people were lounging around drinking, and the people, some people who had received their drinks from the line-up, went off to a set of stairs that were on the far side of the floor and they continued up the stairs. There was no monitoring by security or staff or any visible security or staff, and these people freely went up and down the stairs. At that point I continued across the floor and I went up the stairs myself. The stairs are tight in this place, they're not wide stairs, such as the ones in this building, and as I went up the stairs to the next floor, again continuing my count, the next floor had a lot of people, they were just lounging around, standing around, having their drinks. I continued my count there and then I went and continued up the stairs to the next floor. There were rooms on the next floor, but they were much smaller rooms. I continued the count. But I didn't go in any of these rooms?

25 Q. Why not?

30 A. The doors were closed, so I just counted the people that were in the hallways in that area.

Q. Okay.

A. Greenaway - in-ch

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A. At the end of the stairs, there are fire doors that lead to the outside. Signs on the fire doors were posted that said no alcohol beyond this point indicating to me that there's restriction now from alcohol going from the inside of this premise now to the outside, but there's no restriction going from floor to floor to floor. When I reached the top floor, which is the fourth floor, in fact there was only one door that was open. There were two people in there eating pizza and watching TV, and then just after that small room was the exit to the pool area. So I went out the fire exit where the sign I was describing was posted and I looked down to the pool area, it's a large swimming pool, nobody swimming. It was a cool night, and there were a few people standing around outside. I went down the fire escape to the pool area, which is a decked area. I observed that there were cups with alcohol in them sitting around at the side ledges, at the bottom of the stairs, I walked across, and there's another set of stairs that go back into the building. I went back into the building and this led me to the dance floor where I originally started. I walked through the dance floor, people were still dancing, the music was still going, and I exited the building. Actually I had to wait to exit the building because there was a fire door there, and you actually in fact have to be buzzed out, you couldn't just open the door to exit, so the person was behind, I put my head around, asked to be buzzed out, she buzzed me out. On the other side of the door was Detective Wilson and I stood there with Detective Wilson and one female who later identified herself or known to me as Jill Hornick.

Q. Okay, so you had an opportunity to kind of walk throughout the building?

A. Greenaway - in-ch

5 A. Yes.

Q. Did you talk to any of the patrons that night?

10 A. When I was going up the stairwell, each of these stairwells up, like I said, it was tight, so you end up stopping and letting people go past you as you go up, or they'd stop and let you go past them. As I was stopped, some people would stop me and say, actually they were joking, they would say, there was one person that said -- one person joked that she would never notice that I was an undercover cop and one person joked that I was overdressed. The patrons that I spoke to were all friendly. They were all approachable. Most of them stopped to talk to me, as opposed to me stopping to talk to them, and everybody was in a good mood. It was a good atmosphere.

15 Q. From the time that you first arrived to the time that you first left, did you notice that there were significantly fewer people throughout that time, or did you notice that a lot of people were leaving while you were there, or any type of ---

20 A. No, in fact when I came back through the stairs that led from the pool deck area back into the dance floor area, again, I had to make my way through the people, I couldn't just walk straight through. It was the same numbers as when I had gone through originally, didn't appear to be any change to me. My final count was 355 people in the building.

25 Q. To your ---

**THE COURT:** Sorry, what was the count again, I missed it?

30 **THE WITNESS:** Three hundred and fifty-five.

And that's not including the people who were in

A. Greenaway - in-ch

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the hot tub or shower area and that wouldn't include anybody that was behind any of the rooms that were on the third and fourth floor.

MS. ZED: Q. Because you didn't go into those rooms?

A. I didn't go in those rooms.

10

Q. Did you strip search anyone that night?

A. No.

Q. Did you do a complete search of anyone that night?

15

A. No. There was no arrest. There was no arrest made that night. There was no cause or need to search anybody.

MS. ZED: Okay. I have no further questions.

THE COURT: Thank you. Cross-examination.

**CROSS EXAMINATION BY MR. ADDARIO:**

20

Q. Is it your evidence you never became aware that people were upset by the presence of male police officers?

25

A. No one came to me and told me that they were upset. No one came to me and questioned why I was there until the very, very end when I was standing in the hallway with Detective Wilson, Jill Hornick, one of her security managers, and in fact by that time I believe the other officers were out and standing outside on the street, a person came out from behind the buzz door and told Ms. Hornick that she shouldn't say anything more to the police, she should call a lawyer and we respected that, and we said well that's fine and we left. And I believe it was either myself or Dave Wilson that we gave our business card and said to give us a

30

5 call the following week.

Q. Well that was the end of your stay there?

A. At the very end. So the only negative person that I found was the person that came out and interrupted our conversation saying don't say anything else.

10 Q. So you never became aware that women who were there were upset at the presence of male police officers?

A. Nobody approached me and I didn't feel that way. In fact, like I said, I felt like it was a good atmosphere.

15 Q. Right, so you never became aware you're saying that women were upset at the presence of male police officers?

A. Nobody demonstrated that in front of me, or approached me about it.

20 Q. Right, and you never saw any upset on people's faces?

A. No, in fact I saw a lot of smiles.

Q. And you feel you were warmly greeted?

A. Yes.

Q. And you never saw women attempting to cover up as you walked by?

A. No.

25 Q. You never noticed any apparent embarrassment at women being partially clad in the presence of men?

A. I can't describe how someone else feels.

30 Q. That's why I called it apparent embarrassment. Would it be apparent to you? You're paid to notice things, right?

A. If anybody was embarrassed, it was easy to

5 know that I was there and that I was coming because of my size and stuff. I was the only visible male, other than the other officers, so I guess if you saw me coming up the stairs, you had plenty of opportunity to go into one of the rooms that I didn't go into, or to cover yourself up. Not everybody was naked.

10 Q. Well, but a large number of women were, weren't they?

A. I would say approximately 60 to 70 percent were topless.

15 Q. Right, and you didn't make any general announcement as you were going up the stairs, did you?

A. No.

Q. And you didn't send someone ahead to make a general announcement?

A. No, however, the other two officers were in front of me, so I was ---

20 Q. Their presence would have been the announcement of your presence?

A. Technically, I suppose.

Q. And so you say that until the time you left, it just wasn't drawn to your attention that your presence made a number of the patrons uncomfortable?

25 A. No.

Q. Now you told us that you never went into the hot tub because there were females there naked?

A. Mm-hmm.

Q. Is that right? Have I got that right?

A. Yeah.

30 Q. Well why not? They could just cover up.

A. No, they were totally naked, so they were

5 in the water, as opposed to topless.

Q. And you didn't want to embarrass them?

A. No, it wasn't my place to go in there.

Q. Well, you were conducting a liquor  
inspection?

10 A. Yes, but there was a sign there that said  
no liquor beyond this point. I didn't see any liquor in  
there. I'm satisfied. There's no need for me to do, to walk  
through there.

Q. But you didn't look inside there?

A. Yeah, it's glass doors. I did look  
inside. I didn't go in.

15 Q. Well, I thought you just told us that you  
didn't go in because there were females naked in the hot tub?

A. Mm-hmm.

Q. Is that true?

A. Yes.

20 Q. And I'm suggesting that the reason you  
didn't is because you appreciated that it wouldn't be  
reasonable for you as a male police officer to go into an  
enclosed area where people were naked?

A. There was no cause for me to go in there.

25 Q. But well, didn't you just tell us that you  
didn't go in there because the females were in there naked?

A. Yes.

Q. All right. And why didn't you go in there  
because the females in there were naked?

30 A. There was nothing else, no further cause  
for me to go in there. For instance, if two females were  
fighting, whether they're naked or not, I'd have gone in to  
help and assist and break up a fight. If there were weapons

5 sitting on the floor, for example, then I would go in there to investigate that. There was no cause for me to investigate that. I was doing a liquor investigation. There was no liquor in there. No need for me to go in there. I continued.

Q. So the fact that they were naked was irrelevant to your decision to go in?

10 A. If it wasn't a hot tub area, and the door was open and it was just a lounge, I probably would have gone in.

Q. Whether or not they were naked?

A. Because I would have been looking for alcohol.

15 Q. No. You told us five minutes ago you didn't go in there because there were females in the hot tub that were naked, right?

A. Yes.

Q. All right. Is that your evidence?

20 A. To further that point, there was no need for me to go in there, so yes there were people in there naked, but there was no call for me to continue an investigation into that area because the sign on the door said no alcohol in here. I could see through the glass doors that there was no alcohol in there. No need for me to continue.  
25 If something had caused me to go in there regardless of people being naked, I would have continued in there.

Q. Well, if you'd seen alcohol in there, would you have gone in?

A. I'd have counted.

Q. Excuse me?

30 A. I'd have counted. I'd say okay, well there's five glasses, or something like that.



5 Q. So if you'd seen alcohol in there, in furtherance to your liquor licence investigation, you would have gone in, notwithstanding that there were also naked females in the hot tub?

A. If I could conclude through the window, I might not have, I might have just gone on my way.

10 Q. Why not?

A. If I could conclude, then I concluded, so there'd be no need to further continue.

15 Q. I guess what I'm trying to understand is whether or not the fact that there were naked women in that hot tub had any influence on your decision to enter the room?

A. Yes.

20 Q. And what influence did it have on your decision to enter or not enter the room?

A. That they were totally nude.

Q. Yes.

25 A. So I didn't go in. There was nothing else to cause me to go in there, so I continued.

30 Q. And the fact that they were totally nude meant what in terms of your decision, that it wouldn't be reasonable to go in?

A. I don't know if reasonable is the word, but a certain amount of respect, so ---

Q. For their privacy. Yes?

A. Yes.

Q. Did you know that this building, Club Toronto was a bathhouse before you got there?

A. Yes, I did.

35 Q. All right. And did you know it was ordinarily a men's bathhouse?

A. Greenaway - cr-ex

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A. Yes, I did.

Q. And I take it someone told you that on this particular evening that this men's bathhouse was being operated by women?

A. I was told that there was an event called Pussy Palace. I did not know if it would be all women.

10

Q. You didn't draw that inference from the title?

A. There's no guarantee. I did not know before I went in there that it was all women.

Q. And no one told you, not Detective Wilson or Constable LaFrance?

15

A. No.

Q. What you did know is that it was a liquor licence investigation?

A. Mm-hmm.

20

Q. And I take it that you were told that LaFrance who was inside, had reported that there were some infractions?

A. Mm-hmm.

Q. Yes?

25

A. There was cause for us to go in, yes. If nothing was going on in there, we wouldn't have gone in. We'd have gone about our duties otherwise.

Q. Your understanding was that something of interest to you as liquor licence inspectors was taking place inside?

A. Yes.

30

Q. And you didn't have anything more specific at that point?

A. No, I didn't.

5 Q. And I take it you assumed then when you got to the door that you were going to do a liquor licence inspection?

A. Yes.

Q. And I take it Detective Wilson was making the judgment calls and providing the direction?

10 A. Yes.

Q. Now when you entered, you looked to your left and saw a dance floor?

A. No, when you enter, there's an area where on the left is the booth, the other side of the collection gate, I guess. -

15 Q. Right.

A. There's a small, I don't want to call it a lounge area, but there's a small area there. If you walk to your left as you go through the door and you turn left, approximately ten feet, twelve feet, that's where the security person was standing, and that's where I approached her and then I went down onto the dance floor.

20 Q. So the dance floor is kind of the first area you see after you go past that security area?

A. Yes.

25 Q. And the women who are out on the dance floor, most of them are topless?

A. Yes.

Q. Did that give you pause?

A. Pause, did it give me pause?

30 Q. Yes, did you say to yourself Adrian, what am I doing here?

A. No, because I had a job to do, continued my job.

5

Q. Did you think, well maybe I shouldn't be here?

A. No.

Q. Did you think maybe I should go back and tell Detective Wilson there are naked women in here?

A. No.

10

Q. Do you know what the Toronto Police Service policy regarding complete searches is?

A. Search of persons?

Q. Right.

A. It would be search upon arrest, search regarding the bail format.

15

Q. You know what, I think it would be more fair to you if I put it in front of you and just ask you if you recognize it. It's at tab 30 of the authorities, Your Honour. I'll just show you this and see if you recognize that as TPS policy?

20

A. Mm-hmm, yes.

Q. And just turn it up here and first on page 3 of the policy, under point number 2 the title is complete search and it reads, "A complete search may include the removal of some or all of a person's clothing and a visual inspection of body. Due to the high degree of intrusiveness of this type of search, it shall only be conducted when it is reasonable and necessary considering the objective and purpose and the grounds that exist at the time." Do you see that?

25

A. Mm-hmm.

Q. And -- you've got to say yes.

30

A. Yes.

Q. Sorry. "Except in exigent circumstances, two officers of the same sex as the person being searched

5 shall conduct all complete searches. The search shall be conducted in a private area and must be out of the view of any person not involved in the search. If a person proves to be uncooperative or violent, additional officers may be required to assist with the search."

A. Yes.

10 Q. And then over on the following page, page 5, I guess these are instructions to the police officer about how to conduct such a search incident to arrest. Number 5 says, "When a complete search is deemed necessary the searching officers," the first bullet is, "Shall be of the same sex as the person being searched."

15 A. Mm-hmm.

Q. Yes?

A. Yes.

20 Q. And you have an occasional look at this policy before today?

A. I've seen it before, yes.

25 Q. And was it in effect on September 14 of 2000?

A. No. I didn't search anybody that night.

30 Q. Well no, I didn't ask you that. I asked you if the policy was ---

A. Oh the policy was in effect.

Q. Yes.

A. Yes.

35 Q. And you understood that if you'd arrested someone at the Pussy Palace and took them back to 52 Division in custody, you couldn't do a complete search?

A. Yes.

Q. And I take it you'd agree with me that

5 this policy would apply if you arrested someone and took them back to 52?

A. Yes.

Q. And I take it you'd agree with me that it's a reasonable policy?

A. Yes.

10 Q. And I take it you'd agree with me that simply because a woman was disrobed either partly or completely at the Pussy Palace wouldn't disentitle her to the benefit of this policy?

A. Nobody was arrested.

Q. That wasn't my question?

15 A. I'm sorry?

Q. Do you want me to ask again?

A. The policy doesn't come into play unless I arrested somebody.

20 Q. I take it you'd agree with me that the fact that someone at the Pussy Palace was either completely or partially disrobed wouldn't disentitle her to the benefit of this policy in the event she was arrested and taken back to the police station?

A. Yes.

25 Q. Now, the count that you made is made with the assistance of one of those little mechanical counters?

A. Yes.

Q. And you just carry that with you and try to look at each person and click the counter?

A. Yes.

30 Q. And you tried to count everyone you saw that was in open areas of the premises?

A. Yes.

5  
MR. ADDARIO: All right. That's all I have,  
thank you.

THE COURT: Any other cross-examination?

MS. SIMPSON: No, thank you.

THE COURT: Yes, any re-examination?

10  
MS. ZED: Yes. I just have a couple of really  
quick things.

**RE-EXAMINATION BY MS. ZED:**

15  
Q. In cross-examination you mentioned that  
when you were walking through the building, you didn't  
announce, make any kind of general announcement about your  
presence?

A. No.

Q. Why not?

20  
A. There was no need to. There was no need  
to, I was in a public place, a licensed place, I was  
conducting my duties as they were assigned to me, so I  
continued those duties.

Q. And you were also asked a series of  
questions with respect to complete searches?

A. Mm-hmm.

25  
Q. Did you or any of the other officers that  
you know of, ask anyone to remove any of their clothing?

30  
A. I was utmost professional. The officers  
that were with me that I observed were utmost professional.  
Nobody was asked to disrobe. They appeared as they were when  
we got there, and we just continued our duties as we normally  
would, as any other bar that we do, 2,500 bars in downtown  
Toronto that I'm responsible for and my office is responsible  
for. My conducted our inspection just as we conducted any

5 other inspection equally.

**MS. ZED:** Thank you, I have no further questions.

**THE COURT:** Thank you.

**THE WITNESS:** Thank you.

10 **MR. ADDARIO:** Your Honour, the Crown was going to call one additional witness to establish how officers approached the closed rooms on the fourth floor, and we simply agreed that the evidence would be as follows, and I'll just read it to you. When the doors to the rooms on the fourth floor were closed, the officers at first knocked and then waited for permission to enter. So that's an agreed fact.

15 **THE COURT:** Yes, thank you. Anything else?

**MR. ADDARIO:** I don't propose to call any reply evidence, Your Honour.

20 **THE COURT:** So November 29th, 111 Court to be traversed.

**MR. ADDARIO:** Yes. And unless there's an objection, Your Honour, I'll get that couple of questions and answers photocopied that I put to the detective and just send it to both Your Honour and to the Crown.

25 **THE COURT:** Yes, thank you.

30



MS. ZED: Thank you.

\*\*\*\*\*

THIS IS TO CERTIFY THAT  
THE FOREGOING IS A TRUE  
AND ACCURATE TRANSCRIPT  
OF MY RECORDINGS TO THE  
BEST OF MY SKILL AND  
ABILITY.

*Theresa Morris*  
THERESA MORRIS  
OFFICIAL COURT REPORTER

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