

500-10-006048-159

Court of appeal of Quebec

Montreal

Appeal from a judgment of the Superior Court, District of Laval, rendered on December 4, 2015 by the Honourable Michael Stober

N°: (540-01-063428-141)

HER MAJESTY THE QUEEN

APPELLANT - prosecutrix

v.

VITTORIO MIRARCHI
CALOGERO MILIOTO
STEVEN FRACAS
FELICE RACANIELLO
JACK SIMPSON
PIETRO MAGISTRALE
STEVEN D'ADDARIO

RESPONDENTS - accused

APPELLANT'S FACTUM

VOLUME VIII – SCHEDULE III – DEPOSITIONS

Page 2655 to 3095

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500-10-006048-159

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Appeal from a judgment of the Superior Court, District of Laval, rendered on December 4, 2015 by the Honourable Michael Stober

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SCHEDULE III
DEPOSITIONS

C A N A D A

PROVINCE DE QUÉBEC

DISTRICT DE LAVAL

COUR SUPÉRIEURE

No : 540-01-063428-141

DEVANT L'HONORABLE MICHAEL STOBBER, J.C.S.

SA MAJESTÉ LA REINE,

Plaignante

- vs -

VITTORIO MIRARCHI & AL,

Prévenus

COMPARUTIONS :

Me ROBERT ROULEAU,
Me MARIE-CHRISTINE GODBOUT et
Me PAUL ALEXIS GAUTHIER.
Procureurs de la Couronne

Me FRANK ADDARIO,
Me WILLIAM THOMPSON et
Me MAXIME HÉBRARD,
Procureurs de la défense - V. Mirarchi

Me SHOOFY,
Procureur de la défense - C. Milioto

Me MACDONALD
Procureur de la défense - J. Simpson,

Me ROBERT POLNICKY POUR Me BORO,
Procureur de la défense - F. Racaniello,

Me ÉMOND,
Procureure de la défense - S. D'Addario

Me CORBO,
Procureur de la défense - S. Fracas
Me ANIL KAPOOR,
Amicus curiae

LE 17 JUILLET 2015

1 THE COURT :

2 Good morning. Just before we begin, in terms of
3 scheduling, perhaps for next Monday or Tuesday, the
4 Crown and defence counsel could let me know about
5 what I had asked for a few weeks ago, if there is
6 any dates in the fall that counsel are unavailable
7 and can't sit so that everybody could arrange their
8 schedules accordingly.

9
10 I may have some conflict. I can cancel but there is
11 things like Superior Court assemblies, conferences
12 and that that I can't cancel, but if it's agreeable
13 to everybody, I'll attend. I'm talking the 23rd of
14 September, the 30th of September and the 1st and 2nd
15 of October and now the 7th, 8th and 9th of October
16 tentatively. Let me know...

17 VOICE NON IDENTIFIED :

18 Sorry. Can you say those dates again, your Honour?

19 THE COURT :

20 Absolutely. The 23rd of September, 30th of
21 September, in October 1, 2, 7, 8, 9 and the same
22 thing goes if anyone else has conflicts, scheduling
23 conflicts to let me know. The dates that I've just

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1 given you if it's an issue... and then we'll sit
2 those dates. So, I'd like to know next week so I
3 can give an answer.

4 THE CROWN :

5 Alright. So, I want to indicate the presence of the
6 accused.

7 THE COURT :

8 Please do.

9 THE CROWN :

10 Alright. So, in the box, we have Mr. Mirarchi, Mr.
11 Milioto, Mr. D'Addario, Mr. Magistrale, video
12 conference Mr. Simpson.

13 THE COURT :

14 Very well.

15 THE CROWN :

16 The system is working and...

17 THE COURT :

18 Okay. First day, no need for interpreters.

19 THE CROWN :

20 Yes.

21 THE COURT :

22 Okay. Mr. MacDonald, on the day I will give the
23 judgment on the île Vaudry motion, it will be
24 Monday, Tuesday. You may want to consider having
25 your client present? That's up to you.

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Me MACDONALD :

Yes. I've indicated yesterday, your Honour, Tuesday morning, I'm...

THE COURT :

You're busy for two hours.

Me MACDONALD :

That's right. So, I'll...

THE COURT :

But I think what we'll do, because Mr. Kapoor is here. We need him. So, I'd probably do it at the end of the day.

Me MACDONALD :

Tuesday?

THE COURT :

Monday or Tuesday.

Me MACDONALD :

Monday or Tuesday, that's fine.

THE COURT :

Alright.

Me MACDONALD :

So, yes...

THE COURT :

So, if it's to be Monday, we'll discuss it just prior to the lunch break and our clerk could... you could have him here by the end of the afternoon,

PRELIMINARIES

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1 madam clerk.

2 THE COURT CLERK :

3 I honestly don't think so.

4 THE COURT :

5 No. Could you check that and let me know later
6 today?

7 THE COURT CLERK :

8 I will check. I will check.

9 THE COURT :

10 Alright. If it's not possible, then perhaps we'll
11 just have him here Monday.

12 Me MACDONALD :

13 Very well.

14 THE COURT :

15 Okay. Is that alright?

16 Me MACDONALD :

17 That's it. Thank you.

18 Me GAUTHIER :

19 So, everything is set up for the first witness
20 today.

21 THE COURT :

22 So, we're doing the public interrogation; is that
23 correct?

24 Me GAUTHIER :

25 That's correct.

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THE COURT :

Afterwards, it will be the ex parte.

Me GAUTHIER :

That's correct.

THE COURT :

Very well. Let's go.

Me GAUTHIER :

Okay. So, caporal Josh Richdale, please step forward.

THE COURT :

Good morning.

Mr. RICHDALÉ :

Good morning.

LA GREFFIÈRE :

Maître Gauthier, est-ce que nous procédons sur une nouvelle requête, une nouvelle preuve?

Me GAUTHIER :

We are proceeding in R-32.

LA GREFFIÈRE :

Est-ce que R-25, c'est clôt?

Me GAUTHIER :

Yes. And we could indicate to the Court that the evidence concerning R-25 has been completed yesterday with the end of the testimony of Mark Flynn.

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1 THE COURT :

2 Okay.

3 Me GAUTHIER :

4 We do not foresee any more evidence concerning that
5 motion.

6 THE COURT :

7 Alright. R-32-A was struck from the role based
8 on...

9 Me GAUTHIER :

10 Desjardins's motion, that's correct.

11 THE COURT :

12 That's right. Okay. What...

13 Me GAUTHIER :

14 So, the only motion that we have now is R-32.

15 THE COURT :

16 This is the MDI.

17 Me GAUTHIER :

18 Yes.

19 THE COURT :

20 Madam clerk, what is the time on your computer?

21 THE COURT CLERK :

22 Nine 52.

23 THE COURT :

24 Alright. The reason I ask that... for that is if I
25 have to verify something on CourtLog, our clock

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that's facing me at the back of the room has a time
which isn't always the same. There is always a few
minutes difference. It seems that it's the same
today. It's not the same every day. Go ahead.

PROOF OF THE CROWN ON R-32

HAS APPEARED :

JOSH RICHDALÉ,

RCMP police officer, badge number 51823,

WHO, being duly sworn in, doth
depose and say as follows :

EXAMINATION BY Me ALEXIS GAUTHIER,

For the Crown :

Q. Sir, I will show you a document. If you could
indicate to us if you are aware of this document?

A. Yes, your Honour.

Q. Am I right to say that it's a document that
summarizes the testimony that you are about to give?

A. Yes, it is.

Q. Okay. So, we would file this document under R-32.4.

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JOSH RICHDALÉ
Ex.
Me Alexis Gauthier

THE COURT CLERK :

Thank you.

LA COUR :

Merci, madame.

Me GAUTHIER :

It's just to help the Court following the testimony
of Mr. Richdale instead of taking a lot of notes.
Most of what will be said this morning is in there.

THE COURT :

Thank you very much for that.

Me GAUTHIER :

Alright.

Q. So, Mr. Richdale, could you give us an idea of your
background?

A. Yes. I'm a caporal with the Royal Canadian Mounted
Police. I've been a member of the Royal Canadian
Mounted Police since January 2005. So that makes
ten years of service and currently, I'm stationed in
the specialized section, in Montreal.

Q. And what are your principal responsibilities within
this unit?

A. Within this unit, right now, I'm the acting
operation sergeant and my responsibilities are
supervising the installers in our section. We're
responsible for installing covert surveillance

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JOSH RICHDALÉ
Ex.
Me Alexis Gauthier

equipment, as well as I'm a certified installer as well and I will complete some of the installations for covert surveillance equipment.

THE COURT :

Q. Okay. That's on Dorchester you do that?

A. Yes.

Me GAUTHIER :

Q. What about the MDI device?

A. The MDI device, I'm a trained operator on the MDI device.

Q. And do you have experience concerning this device in the field?

A. Yes. I've operated the equipment for approximately 300 working hours in the field and I've also completed in-house RCMP training, as well as vendor training on the equipment.

Q. Can you tell us a bit more about the in-house training that you've received concerning this device?

A. Yes. So, in 2011, I completed training in-house which was approximately about 80 hours worth of training, where I would ride along with someone who is certified to use the equipment and...

Q. Could you state his name?

A. Yes. It was Jocelyn Fortin, as well as other

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JOSH RICHDALÉ
Ex.
Me Alexis Gauthier

operators.

Q. And about the training you, you've received from the vendor, the manufacturer, obviously without getting into the specifics, but could you tell us when this training took place?

A. The training took place in the spring of 2012 and it was for approximately three days.

THE COURT :

Q. That's the in-house?

A. That's the vendor training. The in-house, your Honour, was...

Q. In 2011?

A. Yes.

Me GAUTHIER :

Q. The MDI device that was used here in "Projet Clemenza", it was... how many different models were used in "Projet Clemenza", to your knowledge?

A. To my knowledge, there is only one model.

Q. And it was on this model that you have received training?

A. That is correct.

Q. Alright. Before going further, did you... do you have any studies or credentials regarding the... or relevant to the task that you are involved in these days...

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JOSH RICHDALÉ
Ex.
Me Alexis Gauthier

- 1 A. Yes.
- 2 Q. ... concerning... Yes.
- 3 A. Prior to joining the RCMP, I completed a diploma in
4 networking and telecommunications at the Okanagan
5 University College, in Kelowna, British Columbia.
- 6 Q. So, you're from the west?
- 7 A. I was born in Alberta and I finished my studies in
8 British Columbia.
- 9 THE COURT :
- 10 Q. Where are you from in Alberta?
- 11 A. I was born in Fort McMurray.
- 12 Me GAUTHIER :
- 13 Q. And so, you are in Montreal since 2010?
- 14 A. That's correct.
- 15 Q. With Special I?
- 16 A. Yes.
- 17 Q. So, about the MDI device that was used in "Projet
18 Clemenza", could you state to the Court what were
19 the main objectives it was used for?
- 20 A. There were two main objectives of the MDI device, in
21 "Project Clemenza". The first objective was to find
22 an unknown device, in a known person's possession.
- 23 THE COURT :
- 24 Just one moment.
- 25

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Me GAUTHIER :

Q. And I think that you are referring to what is mentioned at paragraph 10 of the document that we have just filed?

A. Okay. I'll check that out.

Q. Yes. Do you have a copy?

A. Yes.

Q. You have a copy with you?

A. That's correct.

THE COURT :

Q. Okay. So, your answer was unknown devices in known person's possession?

A. That's correct.

Q. Thank you. Maître Gauthier, if there is other examples where there is a reference to a paragraph, let me know.

Me GAUTHIER :

Yes, sir, we will.

Q. The second objective?

A. The second objective was to confirm a device that... to be in the possession of a known person.

THE COURT :

Q. A known device?

A. A known device or a suspected device.

Q. In a known person's possession?

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- 1 A. In a known person's possession.
- 2 Me GAUTHIER :
- 3 Q. To achieve these objectives, the model of the MDI
- 4 device used in this case, did it have more than one
- 5 mode or how many... only one mode?
- 6 A. There were two basic modes of operation...
- 7 Q. Yes.
- 8 A. ... that were used to achieve those two tasks.
- 9 Q. Yes.
- 10 A. The first mode was what I would call a query mode.
- 11 Q. Whereas the second mode?
- 12 A. The second mode would be called a direction finding
- 13 mode.
- 14 THE COURT :
- 15 Q. So, these two modes of operation can be used to
- 16 achieve the goals in either paragraph 10A or 10B?
- 17 A. That's correct.
- 18 Me GAUTHIER :
- 19 Q. So, about the query mode, could you give us an
- 20 overview as to how this query mode is... this query
- 21 mode works and I think that you would refer to the
- 22 information mentioned in paragraphs 12 to 14 of the
- 23 document?
- 24 A. So, the query mode, your Honour, it basically will
- 25 gather the information of all the devices, when we

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1 turn the machine on, that are within the range of
2 the device.

3 Q. Okay. And when you mention the information that it
4 can gather during this mode, could you be a bit more
5 specific about what type of information that is
6 gathered by the device?

7 A. Yes, specifically for the device itself. We were
8 looking at gathering the IMSI and the IMEI which are
9 acronyms.

10 Q. Acronyms that are defined in paragraph 13 of your
11 document?

12 A. Those... so, basically the IMSI number is a number
13 that's associated to the SIM card of the cellular
14 device and that the IMEI number is associated to a
15 serial number of the actual cellular device.

16 Q. So, the IMEI is related to the cell phone device
17 itself?

18 A. That's correct.

19 Q. Whereas the IMSI number is related to the SIM card?

20 A. That's correct. And that SIM card is associated to
21 a network provider and an account.

22 Q. Like Rogers, Bell, Telus?

23 A. Exactly.

24 Q. When you are gathering the data related to a phone
25 or a cell phone, using the query mode, would you

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only gather the IMSI or the IMEI or both?

A. You would gather both of those.

Q. And is it possible for a user of a cell phone device to change the SIM card that is in his device?

A. Yes, it is, your Honour. You can... you could potentially take another SIM card and put that into another cellular device.

Q. What would happen with the results of your readings if a... for example, if a user of a device would change the SIM card between two readings, for example, and that you would get results for these two readings where the SIM card would not be the same into the same device? What would happen into the readings of the results that you would get with your device?

A. So, if you had two SIM cards and one cellular device, if SIM card A was inserted into the device, for the first reading, we would get data that would show the relation with those two. If you took another SIM card and put it in that same device, you would now get a new reading with the second SIM card associated with the same cellular device.

Q. So, two different readings, one common IMEI number?

A. That's correct.

Q. And two IMSI... two different IMSI numbers?

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1 A. That's correct.

2 Q. Could you also give the Court an overview as to the
3 other type of information that is gathered during an
4 MDI reading related to these identifiers, these
5 unique identifiers?

6 A. So, a database is created during the readings and
7 that database, amongst the IMSI number and IMEI
8 number, would also include some of the information
9 about the cellular networks and transmission
10 information related to those networks.

11 THE COURT :

12 Q. Information regarding cellular networks and?

13 A. Yes. So, the cellular...

14 Q. No, just, well, I didn't catch the second part of
15 what you said?

16 A. Yes. So, the cellular networks have transmission
17 information and there is many cellular networks.
18 All that information will be collected in the
19 database as well.

20 Me GAUTHIER :

21 Q. Do you also get to gather information related to the
22 frequency bands or channels of stuff like that, when
23 you are conducting a reading with your device?

24 A. Yes. So, when I say the network information and
25 transmission information, the frequency bands and

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channels are part of that transmission information.

Q. If we get back to these unique identifiers that you've mentioned, IMSI and IMEI numbers, are these IMSI and IMEI, are they common to all the different protocols of telecommunication, for example GSM, UMTS, CDMA, LTE? Are they common to all these different protocols?

A. No, they are not. There is... so basically, there is different cellular protocols which are rule sets for the communication on the cellular network. They're... the IMSI and IMEI identifying numbers are related to the GSM and UMTS protocol suites. Then there is the CDMA network...

Q. Yes.

A. ... which has different identifiers.

Q. Which are the equivalent of the IMSI and IMEI, but they are not called the same?

A. That's correct. And...

THE COURT :

Q. The CDMA is the equivalent of what?

A. So, the CDMA is a protocol suite that's used for cellular transmission.

Q. It's the equivalent of GSM or...

A. Exactly.

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Me GAUTHIER :

Q. So, that is for the query mode. What about the direction finding mode?

A. So...

Q. What can you tell us about this?

A. So, the direction finding mode, your Honour, is what we would use to locate a known device and we would be able to pinpoint the actual location of that device, using this mode.

Q. Corporal Richdale, have you reviewed the documentation that was submitted by the applicants in this case, concerning this motion?

A. Yes.

Q. Alright. We can see in the document that you have in front of you that some of the paragraphs are redacted, paragraphs 7, 8, 9, 16, 17, 19 and 20. Can you indicate if the information, that is redacted in these paragraphs, is addressed or is containing the material submitted by the applicant?

A. So, the specific information that's been redacted was not... I did not find that information within the disclosed information from defence.

THE COURT

Q. So, the redacted paragraphs, 16, 17, 19 and 20, that information is not in the material in the

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applicants' package; is that correct?

A. That's correct.

Q. Is that what you're saying?

A. Yes.

Q. It's the defence counsel's documents that... where
it doesn't show up?

A. Correct.

THE COURT :

Go ahead.

Me GAUTHIER :

Thank you.

Q. So, we have defined the query mode and the F mode.
How did... these two modes can be used to or were
used to attain the objectives that were stated
already in "Projet Clemenza", starting with
identifying unknown devices in possession of a
person?

Could you give an expose to the Court as to how you
conduct an MDI session and I think that you will
refer to the information mentioned between
paragraphs 24 and 34 of the document?

A. So, basically when... what we'll start with is a
physical surveillance of the person of interest.
Once we know where that person is located, the
operator will show up with the equipment in that

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1 area and he'll use the query mode to try and obtain
2 all the cellular devices in that location.

3 Then we will wait for the person of interest to move
4 to a new location and once he's at the new location,
5 again under physical surveillance, we'll conduct a
6 new reading in the query mode.

7 THE COURT :

8 Q. Sort of a confirmation?

9 A. Pardon me?

10 Q. A confirmation of what you already found?

11 A. No, it's not a confirmation. We're just gathering
12 the information at various locations at this point.
13 So, to continue with the process, we'll continue
14 these readings at different locations until we have
15 enough information to identify a common number
16 amongst the various locations.

17 Me GAUTHIER :

18 Q. What is the minimum number of readings that is
19 required to... for you to come to a conclusion?

20 A. You'd need at least... well, there is no minimum
21 number, your Honour. It's up to the operator to
22 decide, but..

23 Q. Is there a maximum?

24 A. There is no maximum number as well. And you're
25 basically trying to have reasonable grounds to

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1 believe that of all the locations, that there is one
2 number that's in possession of that person of
3 interest.

4 THE COURT :

5 Q. So, you use the query mode based on information from
6 the surveillance teams. When you follow the device
7 at different locations to confirm at the different
8 locations that you get the same identifying numbers?

9 A. Yes, your Honour. So, when we do a query more we're
10 gathering all the cellular devices in one location.
11 So, for example, if I were to use us in this
12 courtroom and I conducted a reading right now and
13 everyone had a cellular device, all the cellular
14 devices would be obtained and kept in our database.
15 Then if we went with you to your house and everyone
16 else went their own direction, theoretically, your
17 number should be the only one that shows up at your
18 house. So, when we conduct another reading at your
19 place, we will look for that one common number
20 between this location and that location.

21 Q. So, it's to zero in on one number. In a way, it's
22 a process of elimination of all the others?

23 A. Exactly.

24 Me GAUTHIER :

25 Q. And sometimes, do you conduct more than two

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1 readings?

2 A. Yes. So, depending on the distance, there is many
3 factors that will determine. You know, if there
4 is... again, if the distance, the... who is with the
5 person of interest at the time.

6 Q. Oh! So, meaning the... if the target on which you,
7 you want to ID the device is always with another
8 person, would that influence your conclusions?

9 A. Yes, it would. So, for example, if that same
10 scenario with us here, if you and myself went to
11 your place and we did another reading, it would be
12 difficult for (inaudible) as an operator to
13 determine whose phone is whose because you and I
14 would be common numbers at both locations.

15 So, we would continue doing more readings, at
16 different locations, until we knew you were by
17 yourself, to ensure that one common number would be
18 found or multiple common numbers would be found and
19 confirmed to be reasonable to be in your possession.

20 Q. And let's say, for example, that you have a target
21 who is alone in a field and there is nobody around,
22 how many readings would you make to come to a
23 conclusion?

24 A. If we did one reading and there was one device that
25 was found in that field, we could potentially come

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1 to the conclusion it belonged to him. We would
2 potentially use that... the second technique which
3 we'll talk about, the DF technique to confirm that
4 and so theoretically, we'd only have to do one
5 reading.

6 Q. Okay. So, for the same object, if... which would be
7 to ID the unknown number associated to a known
8 person, you can use both modes on occasions to come
9 to your conclusions?

10 A. That's correct.

11 Q. At the paragraph 32 of the document, you mention the
12 signal strength of the device, acronym RSSI,
13 received signal strength indicator. Could you tell
14 us how this RSSI is relevant to the MDI operations?

15 A. So, the signal strength indicator is... as with your
16 normal cell phone, it tells you how good the service
17 is and it's a good indicator for the distance
18 between yourself and that cellular device. So, we
19 could potentially use that as an aid to determine
20 how far away we are from the cellular device. It's
21 not an exact range, but it can be used to help
22 estimate the range.

23 Q. So, it's not an exact... as you mentioned, it's not
24 necessarily exact. So, you don't know the exact
25 distance between you, the MDI operator, and the cell

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phone that you are looking to ID?

A. Not based on the RSSI value.

Q. What about the other objective, confirming the position of a known device in a known person's possession. How do you proceed to do that?

A. So that would use the DF technique or the direction finding technique and what we'd do is we would search specifically for a specific IMSI or IMEI and then once our machine found that device or obtained the information from that device, then we would be able to use radio frequency direction finding techniques to pinpoint a location.

Q. Alright. What can you tell us about the range of the MDI device that was used in "Projet Clemenza"?

A. The range of MDI device. There is a limited range of that device.

Q. Is it always the same, in any circumstance?

A. It's not always the same. It's very difficult to say the exact range.

THE COURT :

Q. So the same device, the range is not always the same?

A. That's correct.

Me GAUTHIER :

Q. How is that...

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1 A. And the...

2 Q. ... so?

3 A. ... the reason being is because we're dealing with
4 radio frequency and the cellular signals and there
5 is many environmental factors that can change
6 those... the distance that those signals travel and
7 the quality of that signal.

8 Q. Okay. Any other factors that could have an impact
9 on the range of the device?

10 A. So, stuff like if you were inside of a city, you'd
11 have buildings that would affect that range. You
12 would have other transmitting devices that would
13 affect that range. You could have the weather that
14 could affect the range.

15 Q. The amount of noise in a city, can it have an impact
16 on the range?

17 A. By noise, if you are talking about noise from other
18 transmitting devices?

19 Q. Yes.

20 A. That would affect the range.

21 Q. You personally, what is the maximum range that you
22 were able to observe, practically speaking?

23 A. So, personally with the machine, I was able to
24 obtain a device into our database at approximately
25 two kilometres away and that's the furthest I've

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1 ever seen us pick up a device.

2 Q. Okay. And can you give us the... what was the
3 geographical circumstance when you were able to
4 observe that?

5 A. So, when I picked up that particular device, we were
6 outside of the city, you know, rural setting. It
7 was flat. There was no mountains, no trees. It was
8 in an open field near...

9 THE COURT :

10 Q. Not in the Okanagan?

11 A. No, it was not Okanagan. It was actually... it was
12 a firing range. So...

13 Me GAUTHIER :

14 Q. Alright. Normally, when you are in town, when you
15 are in downtown Montreal, do you have... do you get
16 to have a two kilometre range?

17 A. So, in the city, that range is significantly reduced
18 on any given reading simply because of the buildings
19 and the amount of radio frequency that's being
20 transmitted in the city. Generally, you're looking
21 at... you want to be at least under 500 meters.

22 Q. To get...

23 A. To get in the... to obtain information of the
24 cellular device that you're looking for.

25 Q. In "Projet Clemenza", what can you tell us about the

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1 procedure that was followed in order to get to an
2 MDI session? What did you need before getting into
3 the field and use your device?

4 A. So, internally, we would have a request for our
5 section's assistance and then the investigators
6 would obtain a general warrant, which would
7 authorize the use of our equipment.
8 Then we would also seek approval from our CROPS
9 officer which is the...

10 Q. CROPS?

11 A. ... CROPS which is the Criminal Operations Officer
12 who is in charge of all criminal operations in our
13 division.

14 THE COURT :

15 Q. And he does what?

16 A. So he's...

17 Q. Or she?

18 A. ... a senior management. He's the second officer in
19 charge of our division and he oversees all of the
20 investigations and criminal operations and he'll...
21 under his direction, we'll make major operational
22 decisions. So, with his approval... sorry. A memo
23 would go to the CROPS officer to explain the use of
24 the machine and why we wanted to use it and on who
25 specifically we would be using that and with his

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authority, we would then proceed with the operation.

Me GAUTHIER :

Q. You've mentioned that you, when you are using the device and conducting different readings, you gather the data from the cell phone devices that are within your reach; that's correct?

A. Correct.

Q. Okay. How do you manage the data that is gathered by the device?

A. So, the data that's gathered by our device is collected in a computer, specifically a database and all that data is kept on that, for the session is kept in that database.

Q. And do you give to the investigator unit all the data that is collected by the MDI device?

A. No, we do not. So, we will only give them confirmed numbers that the operator believes was in possession of one of the known persons.

Q. Okay. And all the data related to third parties that is collected by the device, what do you do with it?

A. So, we will keep those databases on a media, whether it's a CD or a USB key, and we'll keep that in our section, at our level. So, we don't destroy it, but we don't disclose that either.

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1 Q. You don't disclose that to?
2 A. Well, sorry, to the investigators.
3 Q. Alright. You've been involved as an MDI operator in
4 "Projet Clemenza"?
5 A. That's correct.
6 Q. Okay. When... could you give us a rough idea as to
7 when you started to be involved in "Clemenza"?
8 A. So, I was working in some training and operation in
9 December, in January of 2012. Sorry, December of
10 2011 and January of 2012.
11 Q. That's when you got in the field, using this device,
12 in this case?
13 A. That's correct.
14 Q. Okay. And I'm right that you are here today because
15 you are replacing sergeant Martin Dubois who is on
16 sick leave?
17 A. That's correct.
18 Q. Okay. So, you were asked a few weeks ago to replace
19 him?
20 A. That's correct.
21 Q. And you've been working since then with the material
22 that he had started to prepare?
23 A. That's correct.
24 Q. Did you review the reports that had been prepared by
25 Martin Dubois for the... concerning the MDI device

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1 in this case?

2 A. Yes, I have.

3 Q. I will show you another document and I would ask you
4 to explain to the Court what we... a general
5 overview of this document.

6 A. So, this document here is a...

7 Me KAPOOR :

8 Just before my friend (inaudible), I wonder if he
9 has a copy for me to follow?

10 A. He could have this one.

11 Me GAUTHIER :

12 Q. Do you have a copy for you?

13 A. Well, I have the PowerPoint and then (inaudible).

14 Q. Okay. Alright.

15 THE COURT :

16 Mr. Kapoor, do you have the other document, the...

17 Me KAPOOR :

18 Yes, I do.

19 THE COURT :

20 ... the 32.4?

21 Me KAPOOR :

22 Yes, I do.

23 THE COURT :

24 Okay. So, this document, analysis of data and...

25 A. Yes. So...

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THE COURT :

Just a moment. Are you filing that, maître
Gauthier?

Me GAUTHIER :

Yes, we will.

THE COURT :

So...

Me GAUTHIER :

Q. We will and you also have a DVD with you, sir?

A. Yes.

Q. So, the document that we just gave to the Court, is
it on this DVD as well?

A. Yes, it is.

Q. Okay. So, sir, we would file the DVD under R-32.5
and the paper copy, if you want, could be filed
under R-32.5A. And this DVD, sir, does it contain
another document?

A. Yes. So, it contains an Excel spreadsheet which is
a replica of the database that we will use and it's
the information that was obtained with the MDI
machine.

Q. Okay. So, I suggest to the Court that this
spreadsheet, sir, containing the data that is
related to the document, the paper document that you
have in front of you, could be filed under R-32.5B.

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1 LA GREFFIÈRE :

2 Est-ce que je peux avoir les documents, s'il vous
3 plaît?

4 THE COURT :

5 Alright. Just a minute. The DVD is 32.5.

6 Me GAUTHIER :

7 Yes.

8 THE COURT :

9 The paper copy analysis of data is point 5A?

10 Me GAUTHIER :

11 Yes.

12 THE COURT :

13 What's point 5B?

14 Me GAUTHIER :

15 The spreadsheet that is contained into the DVD.

16 THE COURT :

17 Is there a paper copy?

18 Me GAUTHIER :

19 There is no... it's not possible to have a paper
20 copy of that. It's not practically...

21 THE COURT :

22 But it's on the DVD?

23 Me GAUTHIER :

24 It's correct, sir.

25

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1 THE COURT :

2 But the DVD is 32.5?

3 Me GAUTHIER :

4 Five.

5 THE COURT :

6 So, what's B?

7 Me GAUTHIER :

8 B, it's the... well, it's if you want to
9 specifically ID the document into the DVD. That's
10 all I'm saying. If you don't want to, that's fine
11 with me also, sir. So, it's...

12 THE COURT :

13 I think that's a little difficult because the DVD is
14 an item.

15 Me GAUTHIER :

16 Alright.

17 THE COURT :

18 It's 32.5...

19 Me GAUTHIER :

20 Alright.

21 THE COURT :

22 ... which contains a separate item, 32.5A, the
23 analysis of data, the paper I have in my hands and
24 it contains an Excel spreadsheet for which we don't
25 have a paper copy.

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Me GAUTHIER :

That's correct.

THE COURT :

Why don't you just sprint it?

Me GAUTHIER :

As I mentioned, sir, it's practically speaking, you will understand that it has many columns. It cannot be printed. The only way to work with this...

THE COURT :

Okay. I understand.

Me GAUTHIER :

... in an efficient way is to look...

THE COURT :

Alright.

Me GAUTHIER :

... at an electronic copy.

THE COURT :

Alright. So, the DVD is 32.5. The paper copy analysis of data is 32.5A.

Me GAUTHIER :

Yes.

THE COURT :

And we know that the DVD contains 32.5A, this paper copy, and it goes further. It also includes an Excel spreadsheet confirming information obtained

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with the FDI (ph), but...

Me GAUTHIER :

Yes, but...

THE COURT :

Wait. Confirming information obtained with the FDI
when and...

Me GAUTHIER :

We will look... we will go there right away and it's
related to the dates that you have on the document
in front of you, March 15th, March 16th, 2011.

THE COURT :

Okay. So...

Me GAUTHIER :

Everything is related to these two dates.

THE COURT :

Thank you.

LA GREFFIÈRE :

Est-ce que je peux juste avoir les pièces pour les
coter? Je vais vous les remettre.

Me GAUTHIER :

Ok.

LA GREFFIÈRE :

S'il vous plaît.

Me GAUTHIER :

Oui.

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1 LA GREFFIÈRE :

2 Ainsi que l'autre pièce papier que je n'ai pas.

3 Me MACDONALD :

4 My Lord, I was able to find an electronic copy of
5 this document. So, I can give this back to the
6 witness to assist you.

7 Me GAUTHIER :

8 Thank you.

9 THE COURT :

10 Thank you.

11 LA GREFFIÈRE :

12 Est-ce que vous voulez que les inscriptions qui sont
13 dessus demeurent?

14 THE COURT :

15 Show that, please, madam clerk, to both counsels?

16 THE COURT CLERK :

17 Yes.

18 Me GAUTHIER :

19 Do you have a problem with these inscriptions?

20 THE DEFENCE :

21 No.

22 Me GAUTHIER :

23 You're sure. I don't think there is any objections?

24 Is there?
25

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THE DEFENCE :

No.

Me GAUTHIER :

No, okay. So, it will be R-32.5 and the other document, analysis of data collected for Mr. Colapelle, March 15th, 16th, 2011 will be filed under R-32.5A.

Q. So, please, could you enter this DVD into the computer?

A. Yes.

Q. You need a code?

A. I need a code.

Q. Alright.

THE COURT :

Is it going to go into the screen here?

Me GAUTHIER :

Yes, here, sir.

THE COURT :

Okay.

Me GAUTHIER :

(Inaudible) that. Are you okay?

VOICE NON IDENTIFIED :

Yes.

Me GODBOUT :

Avec votre assistance, madame clerk, if we can turn

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1 on the...

2 LA GREFFIÈRE :

3 Merci, maître Godbout. Alors, c'est diffusion de
4 preuve?

5 Me GODBOUT :

6 Diffusion de preuve.

7 LA GREFFIÈRE :

8 (Inaudible).

9 Me GODBOUT :

10 (Inaudible). There is no sound. So, there is no
11 need for the volume.

12 LA GREFFIÈRE :

13 Merci.

14 Me GAUTHIER :

15 Q. Alright. So, we have...

16 Me MACDONALD :

17 Your Honour, perhaps Mr. Simpson can follow on
18 maître Gauthier's screen. I'm not sure if he can
19 see from there.

20 Mr. SIMPSON :

21 No. I can see only a white, white screen.

22 THE COURT :

23 It's a disadvantage of doing it by video conference.

24 Me GAUTHIER :

25 Do you want to take a small recess to see if there

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1 is a way to make sure that Mr. Simpson is able to
2 see what...

3 THE COURT :

4 Yes.

5 Me GAUTHIER :

6 ... will be indicated on the screen?

7 THE COURT :

8 Yes, I think so, maître. I certainly don't want to
9 lose time, much time because of this but...

10 Me MACDONALD :

11 I can speak... if it's not possible, your Honour, I
12 will speak with Mr. Simpson and see if he waives his
13 capability of following on the screen.

14 THE COURT :

15 I'll withdraw for a few minutes and...

16 Me MACDONALD :

17 It will take two minutes, your Honour.

18 THE COURT :

19 Okay. Maître Gauthier, just in terms of time, at
20 what time did you want to take the mid-morning
21 break, approximately?

22 Me GAUTHIER :

23 I... we had thought that maybe at 11:15 we could
24 take a break but you know, we have about I would say
25 maybe half an hour to conclude the public

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examination with Mr. Richdale and then we will get
to the ex parte.

THE COURT :

Do I understand that, prior to the ex parte, just on
the public part, there won't be any cross-
examination today? No, okay. Alright. So, let's
take a couple of minutes and see if you can resolve
that issue.

VOICE NON IDENTIFIED :

I appreciate that.

Me MACDONALD :

Alright. May I address myself to Mr. Simpson?

THE COURT :

Yes, I'm just leaving the room.

Me MACDONALD :

Mr. Simpson...

THE COURT :

No, just a moment. I'm going to leave the room.

--- SUSPENSION

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--- UPON RESUMING

Me MACDONALD :

So, your Honour, following a discussion with Mr. Simpson, he will waive or renounce to his capability to follow on the screen and I will report to Mr. Simpson what the information was because we have part of it on document. So, I will meet with Mr. Simpson...

THE COURT :

But you also have... I presume you're going to get a CD?

Me MACDONALD :

Yes.

THE COURT :

Or a DVD, he's going to get a copy?

Me MACDONALD :

A DVD.

Me GAUTHIER :

We could... we have a copy of this that we can give...

THE COURT :

Okay. And...

Me GAUTHIER :

... right away to...

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1 Me GODBOUT :

2 He received it via email.

3 Me GAUTHIER :

4 You have...

5 Me MACDONALD :

6 If this is the one, yes, yes.

7 THE COURT :

8 And the...

9 Me GAUTHIER :

10 You already had a copy by email. If you want a
11 DVD...

12 THE COURT :

13 Yes. And, Mr. MacDonald, based on a judgment...

14 Me MACDONALD :

15 Perhaps if you have a... yes, I'm sorry, your
16 Honour.

17 THE COURT :

18 ... based on a judgment that you... for which you
19 pleaded last summer, Mr. Simpson has a computer.
20 So, he can always look at it.

21 Me MACDONALD :

22 That's right.

23 THE COURT :

24 Alright. So, you expressly renounce to him having
25 a screen, since it was his decision to be present by

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video conference?

Me MACDONALD :

It is. It was and it still is, your Honour.

THE COURT :

Okay. Mr. Simpson, you can hear me?

Mr. SIMPSON :

I beg your pardon?

THE COURT :

You can hear me? Can you hear me?

Mr. SIMPSON :

I can't hear you, your Honour.

THE COURT :

You can't hear me?

Mr. SIMPSON :

I can't hear you.

THE COURT :

Oh! You can't hear me. Can you hear me now?

Mr. SIMPSON :

Yes.

THE COURT :

Okay. Are you expressly renouncing the right to see
the...

Mr. SIMPSON :

Yes, I am.

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1 THE COURT :

2 ... the video screen for the purposes of this DVD?

3 Mr. SIMPSON :

4 Yes, I am.

5 THE COURT :

6 Alright. And Mr. MacDonald will brief you on
7 whatever is said and will provide you with a DVD, if
8 that's your wish. But for the purposes...

9 Mr. SIMPSON :

10 Yes.

11 THE COURT :

12 ... of the hearing today with this witness, you're
13 expressly making that renunciation in view of your
14 decision to appear by video conference; is that
15 correct?

16 Mr. SIMPSON :

17 That's correct, sir.

18 THE COURT :

19 Alright. Please note that for the procès-verbal.
20 We can continue.

21 Me GAUTHIER :

22 Thank you, your Honour.

23 THE COURT :

24 If it happens again in the course of the
25 proceedings, whether it's in this motion or any

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1 other motion that there is going to be material like
2 that to be shown on the screen, perhaps counsel can
3 discuss that in advance. Alright. Let's go ahead.

4 VOICE NON IDENTIFIED :

5 Thank you.

6 Me GAUTHIER :

7 Just for the Court to know and our friend here, for
8 Mr. Simpson, the next witness, Mr. Fortin, will also
9 refer to the spreadsheets, Excel...

10 THE COURT :

11 The same thing?

12 Me GAUTHIER :

13 The same document, yes, the same...

14 THE COURT :

15 Okay. When is he...

16 Me GAUTHIER :

17 ... spreadsheet.

18 THE COURT :

19 The same DVD?

20 Me GAUTHIER :

21 The same DVD, yes.

22 THE COURT :

23 When is he testifying?

24 Me GAUTHIER :

25 We foresee that he could testify starting on

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1 Tuesday, if the Court agrees that we would stop the
2 testimony of Mr. Richdale and start the testimony of
3 Mr. Fortin.

4 THE COURT :

5 So, Mr. Richdale will be ex parte this afternoon?

6 Me GAUTHIER :

7 That's right.

8 THE COURT :

9 And what is scheduled for Monday?

10 Me GAUTHIER :

11 Monday, it will be maybe... if we get the report
12 that was asked by the Court for R-34, I... we will
13 get an update later on this morning. If we have it,
14 I think that everybody agrees that we could make the
15 submissions related to...

16 THE COURT :

17 To 25?

18 Me GAUTHIER :

19 Correct.

20 THE COURT :

21 Okay. Alright. Okay. It sounds good. Let's go
22 ahead.

23 Me GAUTHIER :

24 Alright.

25 Q. So, sir, on this DVD, we have two different

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1 documents?

2 A. That's correct.

3 Q. Okay. So, if we could get back to the menu of it,
4 of the DVD, okay. So, the first document is the
5 paper copy we... an electronic copy of the document
6 that we already filed under... with paper, the
7 analysis of data collected for Mr. Colapelle?

8 A. That's correct.

9 Q. And what is the other document that we can see
10 there?

11 A. So, this one here where my mouse is over is a
12 spreadsheet...

13 Q. Alright.

14 A. ... which is a collection of the data and an Excel
15 version of the database from these particular
16 readings.

17 Q. Alright.

18 A. And the other document is the PowerPoint
19 presentation.

20 Q. So, we will start with the PowerPoint, please?

21 A. So, both of these documents... I mean as I go
22 through the PowerPoint, I'll flip to... back and
23 forth to them.

24 So basically, this PowerPoint is an analysis and a
25 guide for the operation of the MDI that was done on

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March 15th, 2011 and March 16th, 2011 by sergeant
Martin Dubois.

Q. And we do so to give the Court a concrete example as
to how the device was used in this project?

A. That's correct. And I prepared the PowerPoint based
on the data and the reports that I reviewed and...

Q. So, you were not part of this operation on these two
dates?

A. No.

Me ADDARIO :

So... and may be state for the record, your Honour,
our consent to the use of this is limited to the
voir dire and your Honour obviously could recognize
its potential hearsay implications, but we're not
objecting because it's much easier to have it go
through this witness than to wait for sergeant
Dubois to be available...

THE COURT :

Yes.

Me MACDONALD :

... from sick leave.

THE COURT :

Alright. So, you're reserving the right to contest
this witness giving this evidence at trial. But for
the purposes of the motion on the voir dire, you're

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consenting that he gives this evidence?

Me MACDONALD :

Yes, that's it, your Honour.

THE COURT :

That's fine. Thank you.

Me GAUTHIER :

Q. Very well. So, please go ahead with this
PowerPoint, sir.

A. Okay. So, as mentioned, this is the... it's an
explanation of the analysis of the data that was
collected for those two days, March 15th, 2011,
March 16th, 2011, on Mr. Colapelle. Sergeant Martin
Dubois was the operator of the machine at this time.
Going forward to the next slide...

Q. Yes.

A. ... this is just a basic overview of the readings
that were completed on that day. So, starting with
March 15th, 2011, there was a reading that was
completed at Mr. Colapelle's residence which is at
6600, rue Couture, at approximately 7:07 a.m.

Q. Okay.

A. Eventually, at 9:36, it was known that Mr.
Colapelle... sorry. I'll explain... I'll go through
and I'll explain the actual readings as they went
along.

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1 So, physical surveillance was set up at
2 approximately 7:00 a.m., at his residence and
3 sergeant Dubois went to that area and conducted a
4 reading. It was known that he eventually moved on
5 to the sports bar by the physical surveillance, at
6 around 9:36, which is down in the southern part of
7 your screen.

8 Q. Yes.

9 A. And another reading was completed there and that was
10 it for March 15th.

11 Q. Two readings?

12 A. Two readings.

13 Q. Yes, alright. In two different locations?

14 A. In two different locations. Alright...

15 Q. Where... if I understand, you correctly... where the
16 physical surveillance confirmed that Mr. Colapelle
17 was...

18 A. That's correct.

19 Q. Okay.

20 A. Okay.

21 THE COURT :

22 Q. So, one reading is home, at 6600, at 7:00 o'clock
23 and one reading at the sports bar, at 9:00 o'clock?

24 A. Approximately 9:36, yes.

25 Q. On Robert Boulevard?

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1 A. Yes.

2 Q. Nine 36?

3 A. Yes, that's when the readings started.

4 Q. Because it says on the document 9:00 o'clock?

5 A. It's the...

6 Me GAUTHIER :

7 Q. Yes. It seems, yes, that the... there is a
8 difference between the documents, the paper copy and
9 the electronic copy?

10 A. This electronic copy is the one that is to be used
11 for...

12 Q. It's the most recent one?

13 A. The most recent one.

14 Q. Okay. The final version of your document...

15 A. That's correct.

16 Q. ... that you've made? Okay.

17 A. I'm sorry for the mistake, your Honour.

18 THE COURT :

19 Okay.

20 A. The... on March 16th, if we continue forward, there
21 was four more readings that were conducted and all
22 those four readings were at his residence.

23 Me GAUTHIER :

24 Q. Okay. On the 16th?

25 A. That's correct. So, I'm going to move forward and

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1 I'll show you more specific on what was done at
2 those places and information about the exact
3 readings that were done. So ,first, after all those
4 readings were done, these were the four numbers that
5 were identified by sergeant Dubois at the end of
6 everything.

7 Q. Okay. So, at the end of these two days, these are
8 the conclusions of Mr. Dubois?

9 A. That's correct.

10 Q. Okay. So, what can you tell us about what we see on
11 the screen there?

12 A. So, you can see the top three numbers are identified
13 with a P and a number next to him. Those numbers
14 were part of a list of BlackBerry devices that were
15 identified to have a PIN number associated with them
16 and the one that says already known prior to the
17 readings conducted by sergeant Dubois, the
18 investigators had already known that number belonged
19 to Mr. Colapelle.

20 Q. Before March 15th...

21 A. Before March 15th...

22 Q. ... 16th? Okay. And the other two, the one that...
23 where the IMSI ends by 4780 and 7797, these two were
24 IDed during this MDI session?

25 A. That's correct.

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1 Q. Okay.

2 A. So now, what I'll explain to you is how he found
3 those numbers and the process of how we operate the
4 MDI machine and the analysis of that data. So,
5 going back to the first reading that was conducted
6 at 7:07, the way it would have started was physical
7 surveillance would have been set up around his
8 residence at that time.

9 They would have... and I have reviewed the
10 surveillance report for that day and things to
11 confirm that he would be there was... would be
12 things like his vehicle and his... at that residence
13 and the assumption that he would have slept at his
14 residence as well.

15 So, at that time, sergeant Dubois showed up at that
16 location and conducted a reading in the query mode
17 that we discussed earlier and this would have
18 gathered all the cellular devices around that area,
19 at that time.

20 Q. Okay.

21 A. Okay. So, what I'm going to do now is I'm going to
22 exit the PowerPoint and I'll show you what the
23 database looked like and the information that was
24 collected at that reading.

25 Q. With the other document that is on the DVD we found?

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1 A. That's correct.

2 Q. Alright.

3 THE COURT :

4 Q. Okay, just a minute, just because you have two
5 columns. The MC and the IMEI?

6 A. Yes.

7 Q. So, the MC is associated with the SIM card?

8 A. Yes.

9 Q. So, where you have, for example, the first one P30,
10 the P30 refers to what?

11 A. So, the P30 refers to the IMSI number that was like
12 found to be a number belonging to Mr. Colapelle.

13 Me GAUTHIER :

14 Q. So, P30... do you know how many BlackBerry devices
15 were connected throughout "Projet Clemenza",
16 approximately?

17 A. Approximately, I don't know the exact approximation.

18 Q. Okay.

19 THE COURT :

20 Q. But you mentioned something about a PIN number. But
21 the PIN number wouldn't be with respect to the IMSI
22 because that's a SIM card?

23 A. That's correct. So...

24 Q. So, the PIN number would be with the IMEI?

25 A. That is correct, but that was the associated IMSI

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number that was identified with... to be used with
a particular PIN.

Me GAUTHIER :

Q. Okay. For example...

THE COURT :

Q. No, just a minute. Elaborate a little more on that.

A. Okay. So...

Me GAUTHIER :

That's what I wanted to do, sir, if I may?

Q. So, for example, P36 that we have here, we have an
IMSI...

A. Yes.

Q. ... number ending by 7797?

A. That's correct.

Q. Alright. Could you indicate to the Court how... and
there is an IMEI that is next to it, ending by
1819... 1890; that's correct?

A. Correct.

Q. Alright. So, could you indicate to the Court how
the investigators were able to identify the PIN
number that was related to these two numbers?

THE COURT :

Q. Okay, just a minute. The column on the left, for
example, what Mr. Gauthier just said, the P36...

A. Yes.

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1 Q. ... relates to the number on the right that ends in
2 890?

3 A. Yes, and the IMSI as well because there would have
4 been a service, a SIM card that gave that phone
5 service and that particular IMSI number would have
6 been what was used with the device that had PIN P36
7 attached to it.

8 Q. Okay. So, which is the PIN number?

9 A. The PIN number is not shown on this document.

10 Q. So, the number on the right is a serial number?

11 A. The number on the right is a serial number, you
12 could say, that belongs to the actual cellular
13 device.

14 Me GAUTHIER :

15 Q. And...

16 THE COURT :

17 Q. And the number on the left?

18 A. The number on the left is a number that is
19 associated with a SIM card and an account, with a
20 provider, an account with a provider.

21 Q. And P36, P39, P30?

22 A. So, those are... they were PINs that were identified
23 and when those PINs were being used with a
24 BlackBerry device, there was a SIM card that gave
25 that device access to the network and the

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association would have been that that particular
IMSI number was what was used with the device that
had P36.

Q. Go ahead. Thank you, maître Gauthier.

Me GAUTHIER :

Alright.

Q. So, if we get back to the first reading?

A. So, as mentioned at the first reading, that reading
was conducted, and I'll show you an example of the
data that was collected. So, when I move forward to
the spreadsheet here.

Q. Okay. You have different tabs?

A. I have different tabs on the bottom...

Q. Yes.

A. ... and they've... what I've done is I've broken up
the data that was collected, based on the times
where the readings were completed.

So, when I go over to this first tab here, this is
an example of all the data that is obtained by the
machine. I'll slowly go through it so you can see
all the columns that are... with all the information
that our machine collects.

Q. So...

A. As you can see, there is some sections that have
been vetted and then there is some sections that are

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1 visible. I'll now go down and I'll show you for
2 this particular reading, at 7:00 o'clock, an idea of
3 how many numbers were picked up in that particular
4 location.

5 So, if you look at the first column here, in A, it's
6 the time. So, the machine began its readings at
7 approximately 7:07 and it continued onwards till
8 about 7:11. Okay.

9 Q. So, how many cell phone devices were gathered or
10 within the reach of the device, during that reading?

11 A. So, there is approximately 114 that were obtained by
12 the device at that time.

13 THE COURT :

14 Q. So, from 7:07 to 7:11?

15 A. Yes.

16 Me GAUTHIER :

17 Q. Okay. And you've mentioned that you have... you
18 know, you have a formation, but you're not an
19 engineer; right?

20 A. That's correct. So, the...

21 Q. You are an MDI operator?

22 A. That's correct. So...

23 Q. Can you give us a... you know, an overview of the
24 headings that the... we can see on this spreadsheet?

25 A. Yes. So, as you can see, there are... there is a

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1 lot of data here what we, as an operator, use. I'll
2 explain to you what is important to us as an
3 operator to know and then I'll explain to you what
4 the other columns mean.

5 So, for us, we're looking at the time that we're
6 doing the operation of the data. We're looking at
7 the... in column G, you have the RSSI value which
8 I've discussed, which is the cell strength.

9 Moving onwards, you have column I which is a list of
10 all the IMSI numbers. Column J which is a list of
11 the IMEI numbers and then a bit further ahead, you
12 will have column N which is called a target tag and
13 column O which is called the session tag. So, those
14 are the ones that we generally will use and are
15 important to us.

16 Now, to explain those columns more specifically, the
17 session tag is a value that we put in to the machine
18 and it's used to keep track of where the readings
19 were conducted. So, as you can see here, sergeant
20 Dubois chose to use 6600; Couture as a session tag.
21 He could have chosen any value he wanted, but it
22 could have been one, two, anything and what that
23 does is that associates all of these devices that
24 were found with that location. So, for him to say
25 6600, Couture, it's easy for him to know that all

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those were taken at that location.

Going to the target tag, if we have a device that we know, we can identify and associate a tag to it which will identify that device, so that amongst the big list of numbers that are collected, we can pick out certain devices.

So if it's, for example, my phone, I'll list Josh's phone or however I want to identify it so that I know that instead of identifying 13 digits of either the IMEI or IMSI, I can just see quickly that the target tag belongs to me.

I can also put that potentially in a potential phone that might belong to a... the known person. So, I could say possible target phone, so that at the next reading, that number, if it pops up, I know right away that that's a number that's of interest to us and it... this column is used to ease our analysis of the data that comes in.

Again, we've talked about the IMEI and the IMSI columns. Those are all the numbers that were related to devices that were found. Again, the signal strength gives us an indication of how far away roughly that device was when we picked up that phone.

Q.

And column C?

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1 A. So, I can go on and explain the other columns for
2 you as well and give you a brief overview. Some of
3 the technical details, I won't have all the answers
4 for but columns B and C, this is information about
5 the provider and the country of origin.

6 So, if we look at the PLMN, this is... it gives you
7 the country code, which are the first three digits,
8 and the provider code, which is the next three
9 digits.

10 Q. Okay. For... so, for any telecom provider in
11 Canada, the 302 is...

12 A. That's an international standard part of the IMSI or
13 ISMI number.

14 Q. Okay.

15 A. So, as you can see, 302, 302 is the country code for
16 Canada. So, all these devices were Canadian,
17 associated with a Canadian provider. 720 is the
18 network code for Rogers. So, all those devices that
19 you see there were associated with the Rogers
20 network, okay, or they were using the Rogers
21 network. Alright.

22 THE COURT :

23 Q. What does PLMN stand for?

24 A. The Public Land Mobile Network and it's an acronym
25 that is used just to explain the country code and

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the network provider.

Now, if we look at the IMSI number, you can see that the first six numbers will match generally speaking to the Public Land Mobile Network. So, the first one was a Canadian SIM, 302, with a Rogers network that offered the service.

The second one you can see has 370 and that indicates Fido which uses the Rogers network. So, that's how that gets done, the number gets found. Moving forward past the vetted columns, we have this column called timing advance. That's associated with the cellular transmission.

We have this column H, which is called the TMSI number, which is another identifier that the network uses to associate with the IMSI number. Moving forward again through K and L, again that's associating what's the provider of the SIM card and the country of origin. The manufacturer, under column M, is associated with the IMEI of the device. So, the IMEI number is broken up into different parts and the first eight digits of the IMEI can identify who or it is to identify who the manufacturer is.

So, you can see that this column is blank and what the machine does is inside the database, it will

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1 make a cross-reference based on the IMEI value, to
2 give you an indication of who that manufacturer is.
3 But if the numbers that were in the IMEI weren't
4 preset by the machine, then they won't be able to
5 make that cross-reference.

6 Me GAUTHIER :

7 Q. So sometimes you get it, sometimes you don't?

8 A. Sometimes you get it, sometimes you don't and it's
9 nice to know, but you can't really use that to
10 identify the exact make or brand of the phone
11 because if a phone is built from a third party
12 manufacturer part, you will get the manufacturer of
13 the cellular module, not necessarily the actual
14 phone.

15 Q. So, we looked at the session tag?

16 A. Yes.

17 Q. And then we get into more technical data?

18 A. Exactly. So, columns P through X are technical...
19 is very technical data that's gathered by the
20 machine and it's got... it's information about the
21 cellular network and transmission and the cellular
22 device.

23 Q. So, we could leave that to Mr. Fortin?

24 A. This would be better to be left to Mr. Fortin to
25 explain.

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1 Q. Alright.

2 A. And it's not stuff that we, as an operator, would
3 examine, when trying to identify numbers.

4 Q. Okay. So, you don't need this info to properly
5 operate the device?

6 A. That's correct. Here, we have some more vetted
7 columns. The ones where you can see the heading,
8 there is an option for us to potentially have our
9 location related to where our reading was taken,
10 have that information included in the database and
11 that's it for the columns that are not vetted.

12 Q. Alright. So, this is the data collected on the
13 first reading of the first day, meaning March 15th?

14 A. That's correct.

15 Q. Alright.

16 A. So, going back to the big picture of the operation
17 of our machine now, we have a base of data that we
18 can analyze, but we have to have something to
19 compare that to and that would be the second
20 location.

21 Q. Alright.

22 A. So, going back to the PowerPoint and moving
23 forward...

24 Q. Yes.

25 A. ... we could see at approximately 9:36, it was known

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1 that Mr. Colapelle went to the sports bar and at
2 9:36, sergeant Dubois went to that area and
3 conducted a second reading. So again, he used the
4 query mode to gather all the numbers within range of
5 the MDI machine in that location and he was
6 potentially ready to start analysing that data.

7 Now, after reviewing the surveillance reports, it
8 was known, at this time, that Mr. Colapelle's Common
9 Law was within... had travelled to this location as
10 well, during the times of the readings. So, that
11 would be... the data analysis wasn't conclusive at
12 this time because it could... any known identified
13 numbers could potentially belong to Mr. Colapelle or
14 his Common Law.

15 THE COURT :

16 Q. You mean his Common Law spouse; correct?

17 A. That's correct. So, if I go back into that
18 spreadsheet...

19 Me GAUTHIER :

20 Q. Yes.

21 A. ... here, I have, on the bottom tabs there, a
22 collection of the data that was included in the
23 second reading.

24 Q. Okay.

25 A. Okay. So you could see, it's the same database and

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1 this would have collected all that information,
2 added it to it.

3 Q. The same database, but for the second reading?

4 A. Correct.

5 Q. The same type of database?

6 A. Yes. As you can see in the time here, we have from
7 9:36 going all the way down to approximately 9:38.

8 Q. Alright.

9 A. You can see that I've highlighted a couple of
10 numbers in red here.

11 Q. Yes.

12 A. Those are the numbers that were common between the
13 first reading, at 7:07 and the second reading, at
14 9:36. There were four numbers and those four
15 numbers are the four that sergeant Dubois eventually
16 identified to have reasonable grounds to believe
17 they were in Mr. Colapelle's possession.

18 Q. I think that you've put these four numbers on
19 another tab?

20 A. That's correct. So, I'll get... I'll show you how
21 that was all compared, after I go through the last
22 few readings there, your Honour.

23 Q. Okay. Sorry.

24 THE COURT :

25 Q. Are you saying that these... the four highlighted

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numbers in red...

A. Yes.

Q. ... they're the same numbers you got at 7:00 a.m.?

A. Yes. So, if you look...

Q. So... so, just a minute. So, they could have been Colapelle's or his spouse?

A. Based on the analysis at that time because we knew that he was at his residence and his... him and his girlfriend both left at similar times and went to the sports bar.

Q. Okay. So, at this point in your analysis, those four highlighted numbers could belong to either one of them?

A. That's correct. Or they could have been something else maybe. Maybe someone travelled down to that location at the same time that the readings were done. You know, it could have been a neighbour. At this point, just looking at those common numbers, it wasn't... it wouldn't be enough to say those four, for sure, belonged to Mr. Colapelle.

Q. Okay.

A. There would have to be further analysis of the data and potentially more readings.

Q. So, this is where you go back to what you said earlier in response to my question, you'd have to

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1 zero in and eliminate other numbers?

2 A. Exactly.

3 Q. Yes, okay.

4 A. Either eliminate or just confirm that the ones that
5 we did find are, in fact, numbers that would have
6 been in possession of the person of interest.

7 So, I'll go back to the PowerPoint, go through the
8 next few readings here. So, the third and fourth
9 readings, they were conducted the next day, on March
10 16th, 2011. So again, the surveillance team would
11 have shown up at his residence, around 6:56 in the
12 morning.

13 Sergeant Dubois conducted two readings and then it
14 was known, according to the surveillance report and
15 Mr... or sergeant Dubois's notes, that it was seen
16 that the... his girlfriend had left for the last two
17 readings, which were done at 10:03 a.m. and 11:05
18 a.m. Alright.

19 So now, sergeant Dubois had the grounds to believe
20 that Mr. Colapelle was by himself at this location,
21 with the help of the physical surveillance and it
22 allowed him... because now, he had many readings, he
23 was able to do more analysis on the data and the
24 interesting thing about the data is that once it's
25 collected in that area is that myself, who went

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1 through the data, or anyone else can look at that
2 data and see how those common readings were
3 obtained.

4 So, to go back to the database, I can show you that
5 at 6:56, a reading was conducted. So, starting
6 again with the time, at 6:56, all the way down to
7 6:59. At 17:18, the second reading was conducted
8 and that's all the data that was gathered at that
9 time.

10 At 10:03, another reading was done at that same
11 location. That's all the data that was gathered and
12 then finally, at 11:05, sergeant Dubois's last
13 reading and this is all the data that was gathered.
14 So, our software allows us to sort the columns and
15 so we can see numbers that have come up at multiple
16 sessions or multiple times that it was obtained in
17 the database. But for the purpose of this data and
18 all the data (inaudible) seen, I've put together
19 here those common numbers that came up in the
20 locations.

21 Me GAUTHIER :

22 Q. And I think, sir, that if you look at the last page
23 of R-25... R-32.5A, you have a paper copy of the tab
24 that is shown here on the screen?

25 A. So....

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1 THE COURT :

2 Yes, I'm going to mark these pages because it will
3 make it a little easier on 32.5A. They're not
4 numbered. So, I'm going to number them.

5 VOICE NON IDENTIFIED :

6 Are you numbering the cover?

7 THE COURT :

8 Yes. Yes.

9 THE COURT CLERK :

10 You want the clerk...

11 THE COURT :

12 Yes.

13 THE COURT CLERK :

14 ... to number that one?

15 THE COURT :

16 Yes, please number the...

17 THE COURT CLERK :

18 The first one?

19 THE COURT :

20 ... the first page will be number one.

21 Q. So, the page that you're referring to is page 10, is
22 that correct, the last page?

23 Me GAUTHIER :

24 The last page, yes.

25

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1 THE COURT :

2 Okay. Unless I'm mistaken, it's number... it's ten.
3 Is that what you have? Okay.

4 A. Okay. So, I'll just zoom out a bit and go through
5 the... so upon analysing and combining all the data,
6 the common numbers that were pulled out,
7 specifically the ones that were identified to belong
8 to Mr. Colapelle are listed here.

9 You can see that all four numbers that were
10 identified showed up in the first reading. All four
11 showed up in the second reading. We had one that
12 showed up in the third reading, at 6:56.

13 Me GAUTHIER :

14 Q. The third reading was the second day?

15 A. On the second day.

16 Q. Yes.

17 A. And then the... all the numbers showed up in the
18 last three readings and at 10:03, one number came...
19 was obtained twice by the machine, but it was the
20 same number.

21 Q. Okay.

22 A. Okay. So, because there was only two readings and
23 they were close, another thing that sergeant Dubois
24 used to really confirm that those numbers were in
25 Mr. Colapelle's possession was he knew that... he

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1 looked at the RSSI value, which I've highlighted in
2 blue, and again using that as an approximate range,
3 you can see that the numbers are somewhat grouped
4 close together.

5 So, as he conducted different readings, at different
6 distances from where it was believed that Mr.
7 Colapelle was located, he helped... used this RSSI
8 value to determine whether he was... you know, if
9 all those numbers stayed together and if they were
10 obtained by the machine.

11 THE COURT :

12 Q. So, take the first one at the top, the RSSI number
13 minus 84, what does that mean?

14 A. So, the RSSI value is a ratio of the signal strength
15 and it goes from zero to minus 120. The closer that
16 it is... approximate... sorry. Approximately 120
17 and then the closer that it is to zero, the better
18 the signal strength is. So, the closer it is to
19 zero, that would indicate that you're closer to the
20 actual device as well.

21 Q. But what's the measurement?

22 A. It's in power. So, it's in decibels and then with
23 reference to watts. So here, it's DBM which would
24 be milliwatts.

25 Q. Say that again, DBM?

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1 A. Yes.

2 Q. So, you're saying it would be minus 84...

3 A. DBM.

4 Q. ... DBM. And DBM long form is what? Decibel what?

5 A. Milliwatts.

6 Q. Milliwatts, okay. Thank you.

7 Me GAUTHIER :

8 Q. So, the closer you are to zero, the closer or the

9 stronger the signal is?

10 A. Correct.

11 Q. So...

12 A. So...

13 Q. ... your conclusions about... and Mr. Dubois's

14 conclusion about this?

15 A. Yes. So again, we had two locations where Mr.

16 Colapelle was known. The four numbers came up at

17 those two locations where he was known to be.

18 The... based on the physical surveillance, it was

19 believed that only he and his girlfriend were common

20 at those two locations and then once she left and it

21 was known that she was no longer in the area, which

22 would have been the last two readings, the same

23 numbers came up and those were the grounds that

24 sergeant Dubois used to say that with confidence

25 that... and have reasonable grounds to believe that

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1 those devices were in Mr. Colapelle's possession.

2 Q. And one last question. The signal strength that we
3 have here on the screen, is it... can it be relevant
4 to the assessment that is made by the MDI operator?

5 A. Yes, I mean it is relevant.

6 Q. Can you tell us how it can be relevant to the
7 conclusion that you've just mentioned?

8 A. So, with reference to... for example, let's look at
9 the 9:36 reading.

10 Q. On the first day?

11 A. On the first day. So, you have...

12 Q. Yes.

13 A. ... signal strength indicators of 120... minus 120,
14 minus 117, minus 105 and minus 118.

15 Q. Alright.

16 A. Okay. Again, those numbers are similar in distance
17 or in value we could say. So, if we actually go to
18 the database for 9:36...

19 Q. Yes.

20 A. ... and we look at the actual RSSI values, you can
21 see how they've all changed. Specifically here,
22 this would have been a device that belonged to us
23 because the number has been vetted and you can
24 see...

25 Q. Us meaning?

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1 A. Well, the operator.

2 Q. Okay.

3 Me KAPOOR :

4 Q. I'm sorry, just to be clear. It's line 12 that...

5 A. Line 12, correct.

6 Q. Alright. Just for the purposes of the record so we
7 can follow on.

8 Me GAUTHIER :

9 Thank you.

10 A. Yes. Sorry. Sorry. I'm looking at the screen
11 there. So, line 12, you can see has an RSSI value
12 of minus 64 which would indicated we were very close
13 and you can see...

14 THE COURT :

15 Q. But that...

16 A. ... how they vary in distance.

17 Q. ... the zero means it's your device?

18 A. No, no, no. It's just a reference value of the
19 signal strength. So the closer it is to zero would
20 indicate the closer you are to the machine, but it's
21 not an exact value. It's just a measurement of the
22 signal strength.

23 Q. So, this line 12, minus 64 and the... all those Xs,
24 what is that?

25 A. So that was a vetted number which would belong to

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1 one of the investigators or the operator.

2 Q. Who wasn't with Dubois but was...

3 A. It could have been sergeant Dubois's number.

4 Me GAUTHIER :

5 Q. So...

6 THE COURT :

7 Q. Well, then how come it's minus 64? Shouldn't it
8 be...

9 A. Because it's just a measurement of the signal
10 strength and it's...

11 Q. No, but if I have an MDA sitting with me here on the
12 bench...

13 A. Yes.

14 Q. ... and I have a cell phone on me and you've
15 indicated that the RSSI, the ratio signal strength
16 goes from zero to 120. So, the MDI is here. The
17 cell phone is here. It should be zero?

18 A. It's... no, it's not because it's just a measurement
19 of the signal strength.

20 Me GAUTHIER :

21 Q. Is it possible, sir, also that it could be one of
22 the devices of the officers involved in the physical
23 surveillance on that day?

24 A. It could be as well, your Honour. It's a measure of
25 the signal strength. It's not... zero does not mean

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1 you're right beside the object. It's just a
2 measurement of how strong that radio frequency is
3 transmitting.

4 So, you can't... and again, it's used as an
5 approximation of the distance. It's not directly
6 proportional to the actual distance away from a
7 device.

8 THE COURT :

9 Q. Okay. I understand the minus 64, it's somewhere
10 with... well, it's about halfway between zero and
11 120?

12 A. Correct.

13 Q. But what's the zero there?

14 A. Where are we looking here?

15 Me GAUTHIER :

16 The next column?

17 A. Oh! That's...

18 THE COURT :

19 No, the...

20 A. That's another column, your Honour.

21 THE COURT :

22 Yes, maître Gauthier, when I intervene to ask
23 questions, let me ask the question.

24 Me GAUTHIER :

25 I'm sorry, sir.

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1 THE COURT :

2 Thank you.

3 Q. The zero to the left of minus 64...

4 A. Yes.

5 Q. ... what is that?

6 A. That's another column of data. That's not
7 associated to the RSSI value.

8 Q. What is it?

9 A. It's the timing advance up here and that's
10 associated to the transmission of the cellular
11 device.

12 Q. But what does it mean?

13 A. That's a technical question that I believe would be
14 better left for Jocelyn Fortin because it's really
15 about the actual transmission of the cellular
16 network and it's not something that I'm...

17 Q. Alright. So, the minus 64, halfway between zero and
18 120, considering your explanation of RSSI, the XX is
19 that it's a police phone; correct?

20 A. Correct.

21 Q. And you're saying that the police phone could have
22 been in the car with the operator of the MDI or it
23 could have been somewhere else?

24 A. Correct.

25 Q. Do you know if there was just Dubois doing the

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surveillance or if there was another car as well?

A. I could tell you that for sure, there would have been a driver with him and that there would have been a surveillance team that would have been in the area as well.

Q. So, wouldn't this lead you to believe, if it's minus 64, that the police phone would have been in another vehicle, not in the same vehicle?

A. Not necessarily. Again, it's just a measurement. It's a reference of the signal strength. It's not an exact measurement for the distance. It's just a value that you can use to estimate the distance.

Q. Okay. Thank you. Maître Gauthier.

Me GAUTHIER :

Thank you.

Q. So, you were saying using column J?

A. So, using column J, you can see that devices that are... were closer, well, had a value that was closer to zero and they're spread out. So, part of the grounds that were used by sergeant Dubois is going back or even looking at the highlighted numbers here, you can see that minus 120, minus 117, minus 105 and minus 118 are similar in signal strength.

Q. That... so, you could infer what from that?

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1 A. So, you could infer that they were somewhat grouped
2 together.

3 Q. So, this was part of the grounds of Mr. Dubois?

4 A. That's correct. And that's as far as the analysis
5 of that particular reading goes and that's the basic
6 operation of how we would operate the MDI in query
7 code.

8 Me GAUTHIER :

9 So, unless the Court has questions that would be the
10 end of the public examination of corporal Richdale.

11

12 --- END OF THE PUBLIC EXAMINATION OF Mr. RICHDALÉ

13

14

15

16 Me GAUTHIER :

17 I think it's time for a break and I think that
18 during the break, we will need to make a sweep of
19 the room, before getting to the ex parte.

20 Before getting to the break, sir, if we... you could
21 give us a few minutes for me to get an update from
22 Mr. Flynn as to when we think we could get the
23 report for R-34.

24 THE COURT :

25 Okay. How much time do you need?

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Me GAUTHIER :

I'm sorry?

THE COURT :

How much time do you need?

Me GAUTHIER :

I will... maybe five minutes and...

THE COURT :

Alright.

Me GAUTHIER :

... we could set the agenda for next week and then
I think that our friends could be freed up for the
rest of the day.

THE COURT :

Let me just ask you now. The... your questions and
Mr. Kapoor's questions, an approximation on the ex
parte, could you give me an idea?

Me GAUTHIER :

I think that for us, it will be, in chief, maximum
30 minutes, maximum.

THE COURT :

Mr. Kapoor?

Me KAPOOR :

Well, there is a lot of... I'm sorry. There is a
lot of information that's come across (inaudible)
this morning. So, some of it will be dealt with by

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1 my friends, public counsel that is, defence counsel.
2 I may have to deal with some of it, depending on
3 what the closed evidence is and I'd need some time
4 to think about some of the comments that have been
5 made here...

6 THE COURT :

7 Yes.

8 Me KAPOOR :

9 ... on the technical side, but I expect the cross
10 that I have planned right now could probably be done
11 in an hour or so, but I may need to reserve some
12 questions to take into account what he says in chief
13 and closed and how that relates to what he said in
14 open.

15 THE COURT :

16 Would it help you, instead of taking the break now,
17 it's 11:30, if we took the lunch break now. Maître
18 Gauthier can verify with inspector Flynn. You can
19 review your notes and prepare your cross-examination
20 for this afternoon and we could come back at a time
21 that you both agree, 1:00 o'clock, 1:15 and I think
22 the afternoon should be more than...

23 Me KAPOOR :

24 Yes, that's...
25

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1 THE COURT :

2 ... enough. Is that...

3 Me KAPOOR :

4 Yes, that's suitable to me. The only thing that
5 would hold my cross over and not complete is his
6 evidence in chief, in closed. I mean I've got an
7 unredacted version of that draft affidavit that's
8 now been filed. I don't know what more detail there
9 is going to be on the technical side...

10 THE COURT :

11 Alright.

12 Me KAPOOR :

13 ... that I might need to deal with.

14 THE COURT :

15 I'm not imposing that suggestion.

16 Me KAPOOR :

17 No, I understand.

18 THE COURT :

19 I'm just raising it. I'll tell you what. I'm going
20 to wait in the back, why don't you discuss it. If
21 you want to come back in 15, 20 minutes, that's
22 fine. If you want to break until some time after
23 1:00 o'clock, that's fine as well. Just let me
24 know.
25

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1 Me GAUTHIER :

2 Thank you. Just five minutes.

3 THE COURT :

4 Okay. So, you can have the bailiff let me know.

5 Either we'll be back in 15, 20 minutes...

6 Me GAUTHIER :

7 Yes.

8 THE COURT :

9 ... or we'll come back at a time that you'll let me
10 know.

11 Me GAUTHIER :

12 Yes.

13 THE COURT :

14 Alright.

15 Me GAUTHIER :

16 Thank you.

17 THE COURT :

18 Thank you.

19

20 --- SUSPENSION

21

22

23

24

25

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--- UPON RESUMING

Me GAUTHIER :

We have had discussions and we would have suggestions for the agenda of next week. First of, Mr. Flynn has indicated that he would be able to provide the report at the end of the day, Tuesday. So, we will not be in a position to make submissions on R-25 before that. So, submissions could be made later on that week, either Wednesday, Thursday or Friday and Mr. Kapoor might have... might want to reserve some questions, as we have discussed for Mr. Richdale for next Monday.

So, we could make the... start the ex parte with Mr. Richdale this morning, start the... complete the examination in chief, start the cross-examination by Mr. Kapoor and maybe complete that somewhere Monday, next Monday.

THE COURT :

Okay. So, begin the ex parte today with your questions.

Me GAUTHIER :

Yes.

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THE COURT :

Begin cross-examination today...

Me GAUTHIER :

Yes.

THE COURT :

... and continue cross-examination by maître Kapoor
on Monday in the ex parte hearing.

Me GAUTHIER :

That's correct. Alright. And for the next witness,
I think that everybody agrees that we could start
with Mr. Fortin, if you want to, Monday morning...
Tuesday morning, I'm sorry...

THE COURT :

Alright.

Me GAUTHIER :

... with Mr. Fortin and I think that with Mr.
Fortin, we could... we would have... we would need
the... all day Tuesday to maybe complete the ex
parte all together, depending as to the need for Mr.
Kapoor again to reserve some questions.

THE COURT :

Alright. In what language will Mr. Fortin be
testifying?

Me GAUTHIER :

He will testify in English. His mother tongue is

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1 French, but he is at ease in English and obviously,
2 for the ex parte, we need to proceed in English
3 because we don't have any translator for that.
4 So...

5 THE COURT :

6 Well, you could, if you wanted, but it's his choice.
7 But if he's decided. It's always the witness's
8 choice.

9 Me GAUTHIER :

10 Well...

11 THE COURT :

12 But if he's decided to do it in English, that's
13 fine.

14 Me GAUTHIER :

15 Yes, but the difficulty, sir, is a translator with
16 the security...

17 THE COURT :

18 Okay, I...

19 Me GAUTHIER :

20 ... clearance for the ex parte. That's the problem.
21 They are...

22 THE COURT :

23 Well...

24 Me GAUTHIER :

25 They are no availability of translators with...

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THE COURT :

I don't think we have to go any further in this.

Me GAUTHIER :

Alright.

THE COURT :

We've done it before. On another ex parte hearing,
we did a translation, I believe.

Me GAUTHIER :

No, sir. There were no interpreter in the room. It
was translated by RCMP members.

THE COURT :

Yes, but that's what I mean.

Me GAUTHIER :

Okay. No, but practically speaking for Mr. Kapoor,
he needs to understand what is said in French and we
don't have any interpreter in the court.

THE COURT :

No, you're right. You're right because there was no
amicus in the room on the previous occasion. In any
event, to avoid any further discussion on this, Mr.
Fortin is the witness. It's his choice and he
prefers to do it in English.

Me GAUTHIER :

For these reasons.

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THE COURT :

Well, for whatever reason, that's his choice. Is that right?

Me GAUTHIER :

It's his choice.

THE COURT :

Because I will ask him that when he comes if that's his decision to do it in English?

Me GAUTHIER :

Well, sir...

THE COURT :

I don't want to go into it further, but it's an important factor. It's...

Me GAUTHIER :

But, sir, I think that we might... we should address this right away because it might be a problem for you. Because if you ask the question to Mr. Fortin, he will say, sir, I would have preferred to testify in French but for the...

THE COURT :

I can't force him to do it in English.

Me GAUTHIER :

We are not forcing him. He agrees to do so. He understands the reason and he is able to express himself and to render a proper testimony in English.

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He is able to do so.

THE COURT :

The only thing I'm going to do is, I don't need all these explanations. A witness is coming before me...

Me GAUTHIER :

Yes.

THE COURT :

... I'm going to ask him in what language he prefers to testify at the ex parte hearing? I'll get an answer. We'll go from there.

Me GAUTHIER :

Alright.

THE COURT :

Alright. We'll leave it at that and whatever discussions you have with the witness outside of the courtroom, that's between you and the witness. Alright?

Me GAUTHIER :

Very well.

THE COURT :

Okay. Just in terms of the ex parte hearing Monday, so Monday, we're going to finish Mr. Richdale?

Me GAUTHIER :

If we don't finish today, yes.

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THE COURT :

Yes. And is that the schedule for Monday
regarding...

Me GAUTHIER :

Yes. The suggestion that we were going to make is
maybe if you want, you could render the...

THE COURT :

Well, that's what I was getting at. So...

Me GAUTHIER :

... the decision of Île Vaudry. Yes.

THE COURT :

Yes. I was going to do it at the end of the day, at
4:00, 4:30 and I checked with the staff. They were
prepared to stay late, but if the ex parte hearing
with Mr. Richdale is the only matter scheduled for
Monday, then it would be appropriate to do the
judgment. You figure that we'll be completed in the
morning approximately?

Me GAUTHIER :

The ex parte?

THE COURT :

Hum, hum!

Me GAUTHIER :

Ah! That's for sure.

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1 Me KAPOOR :

2 Yes, I would say so. I was just going to ask your
3 Lordship, and this is more a question of maintaining
4 domestic harmony for me. I'll be flying home
5 tonight when we're done. I'd like to avoid having
6 to fly back on Sunday night. So, if we could start
7 the remnant of Corporal Richdale's cross, if there
8 is one, in the afternoon session, that would be
9 great. That would certainly allow me to...

10 THE COURT :

11 I see.

12 Me KAPOOR :

13 ... discharge my divorce lawyer and allow me to
14 carry on in the present circumstance.

15 THE COURT :

16 So, you'd prefer to... okay. So, what you're saying
17 is you'd prefer that the Court renders a judgment in
18 the other matter, in the morning...

19 Me KAPOOR :

20 Yes.

21 THE COURT :

22 ... so that you could come in the afternoon.
23 Alright.

24 Me KAPOOR :

25 If that's okay with my friends and the Court.

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Me GAUTHIER :

Of course. Of course, no issue.

THE COURT :

Alright.

Me KAPOOR :

Or on the witnesses... well, I don't know the
witnesses... thank you.

THE COURT :

The way you put that, far be it for me to intervene
in those types of matters and...

Me KAPOOR :

Yes. Thank you.

THE COURT :

... we like to see you here smiling. I think we
could arrange that. Perhaps instead of starting at
9:30 Monday morning, we'll start a little later.
We'll decide that this afternoon and what time, just
so that you know now, are you suggesting to start?

Me KAPOOR :

One o'clock...

THE COURT :

I want to give you enough time to sleep in and...

Me KAPOOR :

Okay. Well, I see head shaking. Whatever the
normal session starts in the afternoon.

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Me GAUTHIER :

Two o'clock, sir, 2:00 p.m., Monday, for the... if there is a need to go ex parte with Mr. Richdale, we could do that at 2:00 o'clock on Monday.

THE COURT :

Okay. And we could go a little later, if need be.

Me KAPOOR :

Maybe. Thank you.

THE COURT :

Alright. So, good. With respect to the schedule in September, I don't know if all the counsel are aware because certain dates were fixed in your absence, Mr. Addario. I don't think you're aware. There is a bail hearing on September 3rd and 4th, on behalf of Racaniello... September 3rd and 4th on behalf of Racaniello and there is a bail hearing with respect to D'Addario on the 10th, 14th and 17th of September, 10, 14, 17 and defence counsels indicated that they... depending on the testimony of certain police witnesses, they may or may not need other days for other witnesses. So, I didn't know if you were aware of those days?

Me ADDARIO :

I did hear about them but thank you, your Honour.

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THE COURT :

Alright. And then I would like to hear next week though about the other days, if there is any position or... on the dates I proposed. As well, I'd like to hear if there is any dates... any Crown or defence counsel have the day of other conflicts. I'd like to know in advance, not just for me but for Court staff and for all the lawyers.

If we're not going to be sitting on certain days if someone asked for it and if it's granted, better know now in July than to find out a week or two before, if possible.

Me ADDARIO :

So, I think what I'll do this weekend is circulate an email among all counsel about proposed sitting dates for this case in September and once we got an agreement on that, we'll bring it to your Honour next week.

THE COURT :

Yes. Alright. The dates I proposed, if there is any objection to that, just say so and I'll work around that and be here. Okay.

Me ADDARIO :

Okay. So, Mr. Gauthier is not quite finished with

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1 next week's...

2 Me GAUTHIER :

3 Yes. Next week...

4 Me ADDARIO :

5 ... calendar.

6 Me GAUTHIER :

7 Yes. So...

8 THE COURT :

9 So Monday, the ex parte and the judgment.

10 Me GAUTHIER :

11 Yes. Tuesday, Mr. Fortin. I think that we could
12 finish the ex parte on Monday... on Tuesday with Mr.
13 Fortin.

14 THE COURT :

15 The public part, then the ex parte part for Fortin.

16 Me GAUTHIER :

17 Correct. Wednesday, maybe we could proceed with the
18 submissions for R-25. There might be... I think
19 that there will be a need for an ex parte part of
20 these submissions. So, we could do all that on
21 Wednesday and I think that Mr. Lacy is available for
22 that; right, confrere?

23 Me LACY :

24 Yes. Yes.

25

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Me GAUTHIER :

Yes. And then Thursday, depending as to the length of the testimony of Mr. Richdale's ex parte, we might be able to obtain the transcripts for next Thursday or next Friday. So, if this is possible and we can provide a redacted transcript in a timely fashion to the defence, we might be able to conduct the public cross-examination of Mr. Richdale towards the end of next week.

That would be it for next week and after that, unfortunately, Mr. Kapoor, the next week, the week of July 27th, is not available. So, we are in ignorance as to what could proceed on that week and maybe my friend has some comments to do.

THE COURT :

Well, were there still issues with respect to the Philippe Paul motion that was put on ice for the time being, but... was that something that was going to arise again?

Me GAUTHIER :

The Philippe Paul motion, I think that the issues that were remaining were issues that were raised by Mr. Labelle, I believe. So, I think that there is nothing that...

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THE COURT :

So, for... do I understand for all other counsel the motion with respect to the police officer, Philippe Paul, and you don't have to answer me now, is that not being raised any more?

Me ADDARIO :

Yes, we'll give you an answer about that...

THE COURT :

Yes, okay.

Me ADDARIO :

... on Monday, your Honour.

THE COURT :

So, I raise it only because Mr. Gauthier is asking what... how we can fill up the time on the first few days of... after next week. So, that's one possibility, unless it's resolved. Is there anything else you can... that comes to mind for you?

Me GAUTHIER :

No, sir.

Me ADDARIO :

I don't have any ideas for that week, your Honour.

THE COURT :

Alright.

Me ADDARIO :

Without Mr. Kapoor. I hadn't thought we were going

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1 to become quite so dependant on him but it has
2 turned out that way.

3 THE COURT :

4 It looks like we're not the only ones, from what he
5 said.

6 Me ADDARIO :

7 Yes.

8 THE COURT :

9 Alright. So, then it would be a good idea, Mr.
10 Addario, to do what you suggested for September
11 scheduling, fill in some of those dates to complete
12 this investigator privilege motion and the next
13 motion will be the PIN to PIN. The way it looks
14 now, it will probably start in October that one, I
15 would think.

16 Me GAUTHIER :

17 Yes, when we will get the rulings and everything,
18 yes.

19 THE COURT :

20 Alright.

21 Me ADDARIO :

22 Thank you, your Honour.

23 THE COURT :

24 Anything else?

25

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1 Me ADDARIO :

2 No, sir. We'll see... well, I'm not sure if we will
3 see you Monday then.

4 THE COURT :

5 Yes.

6 Me ADDARIO :

7 It doesn't sound like we're called upon to be here
8 Monday.

9 VOICE NON IDENTIFIED :

10 No.

11 THE COURT :

12 You're welcome to come.

13 Me ADDARIO :

14 Well, I think I can rely on Mr. MacDonald to tell me
15 what happened in his voir dire and...

16 THE COURT :

17 Yes.

18 Me ADDARIO :

19 ... it would probably make sense for us to come on
20 Tuesday.

21 THE COURT :

22 Yes.

23 Me ADDARIO :

24 Now, I wonder if Mr. Mirarchi can be put over to
25 Tuesday.

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THE COURT :

Yes. So, let's do that right away in terms of...
have you... you can canvass, madame clerk, with
respect to presences. On Monday, it's... basically,
it's going to be an ex parte hearing. So, there is
really no reason for you to come...

Me ADDARIO :

Right.

THE COURT :

... and for the judgment which I'm going to render,
you'll get a written copy sometime in the weeks or
months that will follow and Mr. MacDonald will
certainly brief you on what happened.

Me ADDARIO :

Thank you, sir.

THE COURT :

So, that's fine.

Me MACDONALD :

Concerning Monday, your Honour, is Mr. Simpson's
presence requested here for the judgment?

THE COURT :

Well, I think it's a good idea. The judgment is
being rendered with respect to a motion that took
over 14 days, including other days where I asked for
precisions. I would say it's a good idea that he'd

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be here, unless you have a very specific request.

Me MACDONALD :

No, I don't, your Honour, if it's...

THE COURT :

Then he'll be here Monday.

Me MACDONALD :

Okay. And as for Tuesday, I've mentioned this.

THE COURT :

Yes.

Me MACDONALD :

This is the third time. Monsieur Fortin is here.

I would like to be present, if possible. I don't want to paralyse the proceedings, but if it's possible to start, say, at 10:30 or 11:00 o'clock, I would appreciate that.

Me GAUTHIER :

No issue.

THE COURT :

Well, will that give us enough time? Yes.

Me GAUTHIER :

We might have to... there might be an overlap with... to Wednesday but yes, I think that we could still finish what we mentioned for next week's agenda, even if it would start a bit later on Tuesday, yes.

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THE COURT :

Alright. You have another proceeding in another
courtroom here?

Me MACDONALD :

Yes, here in (inaudible) in front of juge
Larochelle.

THE COURT :

And you think it will take an...

Me MACDONALD :

I think...

THE COURT :

... just an hour?

Me MACDONALD :

I think it will take an hour, yes, at least an hour
but...

THE COURT :

Because the lawyers are coming in from Toronto. So,
I don't want to ask them to come at 10:00 or 10:30
and we're going to start at 11:30.

Me MACDONALD :

Well, if I'm not here at 10:30, your Honour, I could
be represented by one of my colleagues. That's no
problem. But I'm expecting the hearing to be
terminated by 10:30...

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1 THE COURT :

2 Alright.

3 Me MACDONALD :

4 ... hopefully.

5 THE COURT :

6 Alright. So, having said that, we'll try to
7 accommodate you as best we can. Let's say we start
8 10:30, on Tuesday morning.

9 Me MACDONALD :

10 Yes.

11 THE COURT :

12 Just so that all the other counsel are aware. Mr.
13 Kapoor, it's starting late on Tuesday.
14 Unfortunately, you would have had a little more time
15 to relax, but you'll be in Montreal.

16 Me KAPOOR :

17 Yes, it will be lovely.

18 THE COURT :

19 Yes.

20 Me KAPOOR :

21 Ten 30 still allows me to stay a little bit later...

22 THE COURT :

23 Yes.

24 Me KAPOOR :

25 ... on Monday night.

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THE COURT :

I know, but... that's fine. Okay. So 10:30, we'll begin Tuesday. Monday, we'll begin... we'll decide that... we'll start at 10:30 on Monday as well, for the purposes of the judgment.

VOICE NON IDENTIFIED :

Very well.

THE COURT :

Is that alright? And, maître Gauthier, do you... if we started at 2:00 o'clock, Monday afternoon, does that give us enough time for the ex parte? Yes?

Me GAUTHIER :

Yes, I'm sure.

THE COURT :

And if need be, we'll go past 4:30.

Me GAUTHIER :

Alright.

THE COURT :

Alright. Okay. So then that's settled. Ten 30, Monday morning.

Me GAUTHIER :

Ten 30.

LA GREFFIÈRE :

Monsieur Simpson doit être présent.

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LA COUR :
Monsieur Simpson doit être présent.
LA GREFFIÈRE :
Et les autres, monsieur le juge?
THE COURT :
On Monday?
LA GREFFIÈRE :
Hum, hum!
LA COUR :
Non.
LA GREFFIÈRE :
Non.
VOIX NON IDENTIFIÉE :
Non.
LA GREFFIÈRE :
Non.
THE COURT :
It will be an ex parte hearing, unless I have a
particular request. Are there any request that any
accused want to be here on Monday?
VOICE NON IDENTIFIED :
No.
THE COURT :
Alright. On Tuesday?

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Me GAUTHIER :

Tuesday, I think that the four accused that are here
today would want to be here next Tuesday.

THE COURT :

Is that right? Okay.

Me GAUTHIER :

And I think that Mr. Fracas would like to be here as
well next Tuesday.

THE COURT :

Okay. So, let's just state the names of the four
that are here so that it's on record and the
clerk...

Me GAUTHIER :

Alright. So...

THE COURT :

... will do what she has to do.

Me GAUTHIER :

... Mr. Mirarchi, Mr. Milioto, Mr. D'Addario, Mr.
Magistrale.

THE COURT :

You have that, madam clerk?

THE COURT CLERK :

Yes.

THE COURT :

Okay. Maître Corbo?

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Me CORBO :

Yes. Mr. Fracas wishes to be there on Tuesday, sir.

THE COURT :

He'll be there Tuesday. So, Mr. Fracas.

Me GAUTHIER :

Yes. Mr...

THE COURT :

And...

Me GAUTHIER :

... Simpson, in person.

LA GREFFIÈRE :

Vidéo comparution.

Me MACDONALD :

No, video conference, please.

THE COURT :

Okay. So...

Me GAUTHIER :

There will be... there will be...

Me MACDONALD :

Yes, but what I may suggest is I will meet with Mr.

Simpson with respect to the video, your Honour, and

if it poses any problem, then I will advise Madam

Torre...

THE COURT :

Alright.

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Me MACDONALD :

... to have him brought here, but if not, he could
remain in Bordeaux.

THE COURT :

Alright. So, he's going to be here Monday...

Me MACDONALD :

Yes.

THE COURT :

... at 10:30. On Tuesday, you request at the
present time that he appears by video conference and
you understand and he understands that there might
be other DVDs or the same DVD that will be displayed
and he won't be able to see it.

Me MACDONALD :

That's right.

THE COURT :

So, you'll have to expressly renounce. Mr. Simpson,
did you understand that?

Mr. SIMPSON :

Yes, I did.

THE COURT :

Alright. So, you'll advise the clerk.

Me MACDONALD :

I will.

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THE COURT :

Okay. So, for the time being, you're saying he's appearing by video conference and he's waiving any right to see any material that's shown on a computer screen?

Me MACDONALD :

That's correct.

THE COURT :

Alright. Is there anything else to deal with?

Me GAUTHIER :

So, only Mr. Racaniello will not attend the hearing on Tuesday.

THE COURT :

That was the request from his lawyer

Me GAUTHIER :

I think so.

THE COURT CLERK :

Yes.

Me POLNICKY :

Yes, Mr. Racaniello does not wish to be present on Tuesday.

THE COURT :

He expressly renounces his presence...

Me POLNICKY :

He...

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THE COURT :

... maître Polnicky?

Me POLNICKY :

He sure does, yes.

THE COURT :

It's granted. Okay. All the other accused are
spoken for?

THE COURT CLERK :

Everyone is spoken for. Thank you.

THE COURT :

Alright. I wish you all a good weekend. Have a
good trip back to Toronto for those from Toronto and
a good weekend. See you next Tuesday. Mr.
MacDonald, we'll see you on Monday morning. Okay.
Are we continuing now?

Me GAUTHIER :

Well, it's 12:15. I think that it wouldn't be
appropriate to start now. So, we are ready, here on
our side, to start...

THE COURT :

Give me time.

Me GAUTHIER :

Whatever time suits the Court will be our time...
your... you know.

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LA GREFFIÈRE :

Il s'agit juste de laisser 15 minutes de plus pour
qu'on fasse la fouille de la salle.

Me GAUTHIER :

Can we... could we start the sweeping of the room at
1:30 and is it possible?

VOICE NON IDENTIFIED :

Yes, sir.

THE COURT :

Okay. Maître Gauthier, this afternoon, you
anticipate how much time to complete the
examination...

Me GAUTHIER :

As I mentioned, in chief, 30 minutes.

THE COURT :

Alright. We'll start at 2:15. Is that okay?

VOICE NON IDENTIFIED :

Sure.

Me GAUTHIER :

Well, yes, but maybe we could start sooner than
that. Because if they are able to search the room
at 1:30, we could even start at 15 to two, if you
want, sir. It's for you. Whatever you want, sir.

THE COURT :

Well, I'm going to ask Mr. Kapoor, who is the friend

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1 of the Court and in view of what he said before,
2 does it help you get out earlier, if we start
3 earlier?

4 Me KAPOOR :

5 Yes, yes, it does.

6 THE COURT :

7 Okay. What time would you suggest starting?

8 Me KAPOOR :

9 I'm going to let my friend suggest...

10 THE COURT :

11 Let's do that, 1:45.

12 Me GAUTHIER :

13 Thank you.

14 THE COURT :

15 Alright. Have a good lunch.

16 VOICE NON IDENTIFIED :

17 Thank you. You too, sir.

18 THE COURT CLERK :

19 I don't need to be present at a quarter to two if I
20 make sure that everything is done before or do you
21 want me to be here? Okay. Thank you.

22 THE COURT :

23 I mean I want you to be here, but it's not
24 necessary.

25 --- SUSPENSION

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Je, soussignée, RENÉE C.-DUPRAS,
sténographe officielle, certifie sous mon serment
d'office que les pages qui précèdent sont et
contiennent la transcription exacte et fidèle des
paroles recueillies au moyen de l'enregistrement
mécanique, le tout sans mon contrôle de la qualité
dudit enregistrement, conformément à la loi;

ET J'AI SIGNÉ :

RENÉE C.-DUPRAS,
Sténographe officielle

Josh Richdale, July 17, 2015, ex parte transcript

Investigative Techniques motion

Superior Court Ex Parte hearing at the Laval Courthouse, on 2015-07-17, presided by Superior Court Justice, The Honorable Michael STOBER

Justice Michael STOBER: The time when you put it on, once it's on, OK.

Corporal Caroline LÉONARD: So the device is recording and the time is 13:55... 13:55.

Justice Michael STOBER: All right. So we're continuing with another ex-parte hearing. We have Mr. Josh Richdale, an RCMP officer who's testifying who is in front of me uh... Justice Stober and the parties in the court room are the following, the Amicus Curae and Maître Kapoor, the three Crown prosecutors Maître Godbout, Maître Gauthier and Maître Rouleau. Uh, Caporal Caroline Léonard of the RCMP and the Special Constable Mr...

Constable Francis De Lasalle: Francis De Lasalle.

Justice Michael STOBER: Francis De Lasalle. Uh... there's no one else in the court room, the clerk, the uh... bailiff and everybody else has left. I understand that the Special Constable did a sweep verification of the whole court room, all the seats, clerk's area, jury area, accused area.

Constable Francis De Lasalle: Yes, I did.

Justice Michael STOBER: To make sure that nothing uh... inappropriate was found. Was anything found?

Constable Francis De Lasalle: No sir.

Justice Michael STOBER: All right. All other parties other than the individuals mentioned have left, there's a sign on the front door that says, "huît-clos"?

Constable Francis De Lasalle: Yes.

Justice Michael STOBER: And the door is locked?

Constable Francis De Lasalle: I will lock the door when I le...

Justice Michael STOBER: Very well...

Constable Francis De Lasalle: When I exit.

Justice Michael STOBER: So I think we're ready to proceed uh... with the ex-parte hearing, this is on R32 with respect to the MDI device, please proceed.

Maître Alexis GAUTHIER: Thank you. Could we uh... ask uh... all the... the uh... person uh... present to... to state their name just for the people who will make the transcript to uh... have a, uh... you know...

Justice Michael STOBER: All right.

Josh Richdale, July 17, 2015, ex parte transcript

Maître Alexis GAUTHIER: Uh... a knowledge of the... the names.

Justice Michael STOBER: All right...

Maître Alexis GAUTHIER: And the voices.

Justice Michael STOBER: OK, Justice Stober.

Maitre Marie-Christine GODBOUT: Marie-Christine Godbout.

Corporal Caroline LÉONARD: Caroline Léonard.

Maître Alexis GAUTHIER : Alexis Gauthier.

Maître Alexis GAUTHIER: Robert Rouleau.

Officer Josh RICHDALÉ: Josh Richdale.

Maître Anil KAPOOR: Anil Kapoor.

Maître Alexis GAUTHIER: Uh... OK, so in the same oath sir?

Justice Michael STOBER: No, this is... ex parte hearing Mr. Richdale uh... under oath uh... with the Bible or solemn affirmation?

Corporal Josh RICHDALÉ: With a Bible.

Justice Michael STOBER: All right. Um... you holding the Bible, do you swear to tell the truth, the whole truth, nothing but the truth?

(Clearing throat)

Corporal Josh RICHDALÉ: Yes.

Justice Michael STOBER: Uh... what's your name?

Corporal Josh RICHDALÉ: It's Josh Richdale.

Justice Michael STOBER: Your occupation?

Corporal Josh RICHDALÉ: I'm a Corporal with the Royal Canadian Mounted Police.

Justice Michael STOBER: Badge number?

Corporal Josh RICHDALÉ: 51823.

Justice Michael STOBER: Thank you, you're duly sworn, please proceed.

Maître Alexis GAUTHIER: Q1. Thank you, sir. Corporal, I will show you a document, could you indicate the court if it's the same uh... affidavit that was f... filed earlier uh... today, uh... but a un-redacted... an un-redacted uh... version of it?

(Shuffling of paper)

Corporal Josh RICHDALÉ: That is correct, it's the same document.

Maître Alexis GAUTHIER: OK. So, this document sir, and we have a copy for you, here, new version, un-redacted would be filed under EP32.10.

Josh Richdale, July 17, 2015, ex parte transcript

Justice Michael STOBER: OK, so EP32.10 is an un-redacted version of R32.4.

Maître Alexis GAUTHIER: Q2. That is correct. OK, um... and sir, uh... I will show you a uh... another DVD, uh... if you could uh... put it into the uh... the computer please?

(Unidentified sounds)

Corporal Josh RICHDALÉ: This one.

(Unidentified sounds)

Maître Alexis GAUTHIER: Q3. All right. So could you indicate the court uh... what uh... this DVD contains, please...?

Corporal Josh RICHDALÉ: Actually I think this is the wrong DVD uh... your Honor, it's uh... appears this is a vetted version.

Maître Alexis GAUTHIER: Oh, oh, oh, oh OK, I will give you another co... copy, I'm sorry... because it's written.

UM: _____ public on there.

Maître Alexis GAUTHIER: Oh! I'm sorry. This is the ex-parte. I'm sorry about this.

(Unidentified sounds)

Corporal Josh RICHDALÉ: All right.

Maître Alexis GAUTHIER: Q4. OK, sir.

Corporal Josh RICHDALÉ: So this uh... DVD has two documents on it.

Maître Alexis GAUTHIER: Q5. Yeah.

Corporal Josh RICHDALÉ: What is a... what I call the cell basic PowerPoint, which is a PowerPoint explaining basic cell operation as well as the operation as well as the operation of the MDI.

Maître Alexis GAUTHIER: Q6. Yes.

Corporal Josh RICHDALÉ: And the other is called the final analysis, 2015-07-13 un-vetted, which is the copy of uh... database information which is un-vetted.

Maître Alexis GAUTHIER: Q7. Uh-huh.

Corporal Josh RICHDALÉ: And it's the same database information that was shown in the public session.

Maître Alexis GAUTHIER: Q8. OK, so it's the same spreadsheet containing the data gathered during the DMI session on Mr. Colapelle on March 15th, 9:16, 2011?

Corporal Josh RICHDALÉ: That is correct.

Maître Alexis GAUTHIER: Q9. And it is the un-redacted version.

Corporal Josh RICHDALÉ: That is correct.

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Maître Alexis GAUTHIER:

Q10. All right. Uh... you mentioned that you have also PowerPoint uh... it... on this DVD, um... I will show you a uh... paper, here a documents uh... is this a paper copy of what uh... we have on the DVD?

Corporal Josh RICHDALÉ:

Yes, it is.

Maître Alexis GAUTHIER:

OK. So sir the... the DVD would be filed under uh, EP32.11. And the document just mentioned by, a paper document mentioned by Mr. uh, Richdale would be filed under EP32.11a. Sir...

Justice Michael STOBER:

Thanks.

(Shuffling of paper)

Maître Alexis GAUTHIER:

Q11. OK, so Corporal, could you please um... starting with the PowerPoint, uh... could you take us through this PowerPoint, please?

Corporal Josh RICHDALÉ:

Yes. OK, so this PowerPoint will explain uh... the basics of how a cellular will communicate on a network.

Maître Alexis GAUTHIER:

Q12. Yes.

Corporal Josh RICHDALÉ:
phone is.

How a network can identify where that cellular

Maître Alexis GAUTHIER:

Q13. Yeah.

Corporal Josh RICHDALÉ:

And then how our uh, MDI machine will obtain information from that cellular device.

Maître Alexis GAUTHIER:

Q14. All right. [REDACTED]

Corporal Josh RICHDALÉ:

Maître Alexis GAUTHIER:

Q15. [REDACTED]

Corporal Josh RICHDALÉ:

Maître Alexis GAUTHIER:

Q16. [REDACTED]

Corporal Josh RICHDALÉ:

Maître Alexis GAUTHIER:

Q17. [REDACTED]

Corporal Josh RICHDALÉ:

Maître Alexis GAUTHIER:

Q18. [REDACTED]

Corporal Josh RICHDALÉ:

Maître Alexis GAUTHIER:

Q19. [REDACTED]

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Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q20. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q21. So on the... on the... the second page of your document, [REDACTED]

Corporal Josh RICHDALÉ:

That is correct.

Maître Alexis GAUTHIER:

Q22. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q23. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q24. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q25. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q26. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q27. OK.

Corporal Josh RICHDALÉ:

And that's just a hypothetical example [REDACTED]

Maître Alexis GAUTHIER:

Q28. Yes.

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q29. [REDACTED]

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Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

[REDACTED]

Justice Michael STOBÉ:

Q30. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Justice Michael STOBÉ:

Q31. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q32. OK.

Corporal Josh RICHDALÉ:
explanation.

So, to move forward and continue with that

Maître Alexis GAUTHIER:

Q33. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q34. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

(Shuffling of paper)

Maître Alexis GAUTHIER:

Q35. [REDACTED]

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(Shuffling of paper)

Corporal Josh RICHDALÉ: [REDACTED]

Maître Alexis GAUTHIER: Q36. [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Alexis GAUTHIER: Q37 [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Alexis GAUTHIER:

Q38. OK. So the... the unique identifiers we've mentioned this morning, the IMSI and the IMEI will ID themselves to the network towers with these two identifiers?

Corporal Josh RICHDALÉ:

That is correct.

Maître Alexis GAUTHIER:

All right.

Maître Alexis GAUTHIER:

So...

Justice Michael STOBER:

All the... all these exhibits you're gonna have a... separate copies?

Maître Alexis GAUTHIER:

Yes.

Justice Michael STOBER:

An official record?

Maître Alexis GAUTHIER:

Yes sir, we will.

Justice Michael STOBER:

OK, OK 'cause...

Maître Alexis GAUTHIER:

As... as for the testimony of Mr. Flynn, we will file other copies uh... unmarked.

Justice Michael STOBER:

Q39. OK. Go ahead.

Corporal Josh RICHDALÉ:

All right. So that was the very, very basic explanation of how a cellular phone will be uh... communicate with the network, so that it's known uh... its position is known. So moving on now I'll explain how the MDI machine comes in play and works. (Shuffling of paper) [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Maître Alexis GAUTHIER: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

(Laughing)

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Corporal Josh RICHDALÉ:

[REDACTED]

[REDACTED] And then our computer will save that information in a database.

(Unidentified sounds and clearing throat)

Justice Michael STOBER:

Q40. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

(Clearing of throat)

Justice Michael STOBER:

[REDACTED]

Maître Alexis GAUTHIER:

Q41. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q42. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q43. And you, the... the MDI device gather these answers uh... and uh... these answers are uh... recorded into the data bank related to the MDI device?

Corporal Josh RICHDALÉ:

That is correct.

Maître Alexis GAUTHIER:

Q44. OK. So, if I would ask you to... to indicate the Court whether this MDI device, the model that was used in this case and uh... could you indicate if it's a...
[REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q45. And the device that was used, the MDI device that was used in Projet Cléménza, uh... could you state the uh... the name of the manufacturer of this device?

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q46. OK. And could you also mention the, the model that was used uh... in this case?

Corporal Josh RICHDALÉ:

[REDACTED]

Q47. [REDACTED]

Q48. [REDACTED]

Q49.

[REDACTED]
 [REDACTED] this PowerPoint is a very, very top
 level explanation um... I will also show you the un-
 vetted version of the data base from earlier and within
 that, those vetted sections I will be able to explain to
 you more of the technical aspect that those cellular
 phones uh... are able to communicate with our
 machine.

Q50. Before getting to the uh... these spreadsheets, the Exess (PH) spreadsheet um... at paragraph 16 of the new document we have filed under EP32.10, you mention there that [REDACTED]



Q51. Could you... could you explain to... to us

(Shuffling of paper)

OK. So going one more level deeper into how this device

Q52. All right, if we go to the un-vetted spreadsheet.5

(Shuffling of paper and unidentified sounds)

So I'll go to the visual aspect of the very first reading that was completed on March 15th...

Q53. Yes.

2011.

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Maître Alexis GAUTHIER: Q54. Yes.

Corporal Josh RICHDALÉ: So...

Justice Michael STOBER: So this is EP32.11?

Maître Alexis GAUTHIER: Yes, sir.

Justice Michael STOBER: Q55. All right, go ahead.

Corporal Josh RICHDALÉ: All right, so again, this is data that was collected at approximately at 7:07 on March 15th, 2011 and now you can see some of the columns that were previously vetted, specifically column D and column E.

Maître Alexis GAUTHIER: Q56. Uh-huh.

Corporal Josh RICHDALÉ:



(Shuffling of paper)

Maître Alexis GAUTHIER: Oops.

Corporal Josh RICHDALÉ: Did uh... did you guys all lose your...

Justice Michael STOBER: Yeah.

Maître Alexis GAUTHIER: Yeah.

(Shuffling of paper)

Maître Marie-Christine GODBOUT: If I can approach the witness sir?

(Unidentified sounds and shuffling of paper)

Maître Marie-Christine GODBOUT: I don't want to be intrusive Mr. Justice but if I can look at the...

Justice Michael STOBER: By all mean. (PH)

Maître Marie-Christine GODBOUT: Screen just beside you?

Justice Michael STOBER: Come on in.

Maître Marie-Christine GODBOUT: It shut down.

(Unidentified sounds and pause)

Maître Marie-Christine GODBOUT: _____.

Justice Michael STOBER: OK.

Maître Alexis GAUTHIER: Q57. Thank you.

Corporal Josh RICHDALÉ: So as I was saying I was scrolling forward to show you more columns that were vetted earlier.

Maître Alexis GAUTHIER: Q58. Yes.

Corporal Josh RICHDALÉ: So here you have Y and Z.

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Maître Alexis GAUTHIER: Q59. Uh-huh.

Corporal Josh RICHDALÉ: Y and Z... [REDACTED]

Maître Alexis GAUTHIER: Q60. [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Alexis GAUTHIER: Q61. Uh-huh.

Corporal Josh RICHDALÉ: Moving forward, columns AA I believe to AG were vetted.

Maître Alexis GAUTHIER: Q62. [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Alexis GAUTHIER: Q63. [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Alexis GAUTHIER: Q64. [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]
[REDACTED]
[REDACTED] And then here, columns AI through AO, these are also columns that are very technical um...
[REDACTED]
[REDACTED] Um... again, it... a better explanation can be given by Mr. Fortin.

(Shuffling of paper)

Maître Alexis GAUTHIER: All right.

Justice Michael STOBBER: Can you go...

Corporal Josh RICHDALÉ: I can tell you... Sorry?

Justice Michael STOBBER: Can you go back a bit?

Corporal Josh RICHDALÉ: Yeah.

Justice Michael STOBBER: Q65. To columns where you were before AA to AG?

Corporal Josh RICHDALÉ: AA to AG, yes.

Justice Michael STOBBER: OK, go ahead.

Maître Alexis GAUTHIER: Q66. These columns, AA to AG, [REDACTED]
[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q67. [REDACTED]

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Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q68. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q69. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q70. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q71. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q72. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q73. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q74. OK. For the uh... the other column that were uh... columns that were redacted...

Corporal Josh RICHDALÉ:

Yes.

Maître Alexis GAUTHIER:

Q75. Um and uh... keeping in mind that we... we... we understand that you are a... a MDI operator and not an engineer, when you can do so, could you explain to us why these... some of these columns were redacted? What would be the impact of this information; redacted in the other version (PH)? What this uh... the disclosure of this information; what impact would it have?

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q76. Uh-huh.

Corporal Josh RICHDALÉ:

And, more specifically, your Honor, if you look at column E.

Maître Alexis GAUTHIER:

Q77. Yes.

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Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q78. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q79. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Alexis GAUTHIER:

Q80. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

(Shuffling of paper)

Maître Alexis GAUTHIER:

Q81. All right, so this is column E.

Corporal Josh RICHDALÉ:

Yes.

Maître Alexis GAUTHIER:

Q82. Are there any other columns for which, that were redacted for which you would be in a position to uh... to explain uh... the reason uh... why they were redacted?

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Corporal Josh RICHDALÉ: The column D, as well as column Y and column Z
[REDACTED]

(Shuffling of paper)

Corporal Josh RICHDALÉ: And that's why those columns were vetted.

Maître Alexis GAUTHIER: Q83. Yes.

Corporal Josh RICHDALÉ: Um... the columns AB through AG [REDACTED]
[REDACTED]

(End of recording #1)

(Beginning of recording #2)

Corporal Josh RICHDALÉ: And, for a technique issue for wh... where our exact location was when we we're conducting these... these uh... readings.

Maître Alexis GAUTHIER: Q84. OK.

Corporal Josh RICHDALÉ: Column AK, I can explain to you.

Maître Alexis GAUTHIER: Q85. Go ahead, please.

Corporal Josh RICHDALÉ: And, as you can see with column AK, it explains uh...
[REDACTED]
[REDACTED]
[REDACTED]

(Shuffling of paper)

Maître Alexis GAUTHIER: Q86. [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q87. OK, any other columns that you are... that you would be at ease to... to comment on?

Corporal Josh RICHDALÉ: The other columns are fairly technical and I think that'd be better off left for uh, Mr. Fortin to explain.

Maître Alexis GAUTHIER: Q88. OK. You um... this morning you... you indicated that you... you had received uh... psst... training from the vendor, [REDACTED]?

Maître Alexis GAUTHIER: Q94. [REDACTED]
[REDACTED] What...
most of the time, or normally, what would be the distance
between you, yourself with your device the MDI device and

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the person uh... for whom you're trying to ID the devices in uh... in his possession?

Corporal Josh RICHDALÉ: Again, because we are unable to determine the exact range at any given time that we're operating due to the environmental issues and the transmitting uh... interference that we might see, [REDACTED]

[REDACTED] It's uh... we do rely on the physical surveillance and we want to make sure that the devices that we're trying to obtain are within the range of the MDI and [REDACTED]

[REDACTED]

Justice Michael STÖBER: Q95. [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

(Unidentified sounds and Shuffling of paper)

Maitre Alexis GAUTHIER: Q96. [REDACTED]

Corporal Josh RICHDALÉ: It is also relevant to the DF mode.

Maitre Alexis GAUTHIER: Q97. [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maitre Alexis GAUTHIER: Q98. [REDACTED]

(Shuffling of paper)

Corporal Josh RICHDALÉ: [REDACTED]

Maitre Alexis GAUTHIER: Q99. [REDACTED]

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Corporal Josh RICHDALÉ: [REDACTED]

Maitre Alexis GAUTHIER: Q100. [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maitre Alexis GAUTHIER: Q101. [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

(Shuffling of paper)

Maitre Alexis GAUTHIER: Q102. OK. [REDACTED]

Corporal Josh RICHDALÉ: That's correct.

Maitre Alexis GAUTHIER: Q103. What can you tell us about this?

Corporal Josh RICHDALÉ: [REDACTED]

Maitre Alexis GAUTHIER: Q104. These information that you... these explanation that you just mentioned and the ones that you... you... you... you gave about the... [REDACTED]

Justice Michael STÖBER: [REDACTED]

Maitre Alexis GAUTHIER: [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

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[REDACTED]

(Unidentified sound and shuffling of paper)

Justice Michael STOBER: Q105. But there's a document in there I think it's from Germany, it was translates in English. It's... gives some pretty specific information, no?

Corporal Josh RICHDAL: [REDACTED]

Justice Michael STOBER: Q106. All right.

UF: Uh-hum, uh-huh.

Corporal Josh RICHDAL: But I don't specifically remember anything that, explain that.

(Unidentified sounds)

Justice Michael STOBER: OK. I'll leave that to uh, Mr. Kapoor if he chooses to do that.

Corporal Josh RICHDAL: OK.

Maître Alexis GAUTHIER: OK. So, that would uh... conclude the uh... the examination Chief of uh, Mr. uh, Richdale for the Crown.

(Unidentified sounds and shuffling of paper)

Justice Michael STOBER: Mr. Kapoor do you need a break or?

Maître A.KAPOOR: No.

Justice Michael STOBER: Right away?

Maître Anil KAPOOR: We're... we're ____.

Justice Michael STOBER: OK.

Maître Anil KAPOOR: Q107. It... it... it's Corporal Richdale, right?

Corporal Josh RICHDAL: Correct.

Maître Anil KAPOOR: Q108. All right. Hum... from Alberta?

Corporal Josh RICHDAL: From Alberta.

Maître Anil KAPOOR: I'm from Saskatchewan.

Corporal Josh RICHDAL: Are you?

Maître Anil KAPOOR: Yeah...

Corporal Josh RICHDAL: Great.

Maître Anil KAPOOR: So uh... we're well represented.

Corporal Josh RICHDAL: (Chuckles)

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Maitre Anil KAPOOR: Q109. Uh... I wanted to ask you a few questions if I can. We talked about some training, [REDACTED]
[REDACTED] And that was in... was it January 2012?

Corporal Josh RICHDAL: No, it was in the spring um...

Maitre Anil KAPOOR: Q110. And how long [REDACTED]

Corporal Josh RICHDAL: It was uh... the training I believe was for three days, uh... so about a week [REDACTED]

Maitre Anil KAPOOR: Q111. Yeah, but the actual portion of training was three days.

Corporal Josh RICHDAL: Yes.

Maitre Anil KAPOOR: Q112. [REDACTED]
[REDACTED]

Corporal Josh RICHDAL: Correct.

Maitre Anil KAPOOR: Q113. All right. Um... if I can take you back then to the device that was u... deployed in this case, [REDACTED]
[REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Maitre Anil KAPOOR: Q114. [REDACTED]
[REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Maitre Anil KAPOOR: Q115. [REDACTED]
[REDACTED]

Corporal Josh RICHDAL: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maitre Anil KAPOOR: Q116. All right. Um... now is that just sort of a, uh... like a marketing name for the device or is there like a model number XP something, something...

Corporal Josh RICHDAL: No, there's a... psst... uh... it's... Sorry can you rephrase that?

Maitre Anil KAPOOR: Q117. [REDACTED]
[REDACTED]
[REDACTED]

Corporal Josh RICHDAL: [REDACTED]
[REDACTED]

Maitre Anil KAPOOR: Q118. Right.

Corporal Josh RICHDAL: That are capable of different things. [REDACTED]
[REDACTED]

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Maître Anil KAPOOR: Q119. I see. So, for purposes if his Lordship were of the view that there should be production of this information in this case, um... [REDACTED]

Corporal Josh RICHDALÉ: Yes.

Maître Anil KAPOOR: All right.

Justice Michael STOBER: [REDACTED]

Maître Anil KAPOOR: Sorry?

Justice Michael STOBER: Can you just repeat the ____.

Maître Anil KAPOOR: Sure. Um...

Justice Michael STOBER: [REDACTED] ..

Maître Anil KAPOOR: Q120. [REDACTED]

Corporal Josh RICHDALÉ: Yes and if I may...

Maître Anil KAPOOR: Yeah, certainly.

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: OK, great.

Corporal Josh RICHDALÉ: [REDACTED] ..

Maître Anil KAPOOR: Q121 [REDACTED]

Corporal Josh RICHDALÉ: I couldn't tell you the exact, exact...

Maître Anil KAPOOR: Q122. You could find out though?

Corporal Josh RICHDALÉ: I could find out.

Maître Anil KAPOOR: Q123. All right, thank you. (Clears throat) I just want to be sure that his Lordship understands what the model number is and... so he has that in his considerations as he decides this issue. So I'd like to take you then back to the training that you got, [REDACTED]

Corporal Josh RICHDALÉ: Yes.

Maître Anil KAPOOR: Q124. [REDACTED] Now, did that precede um... the Clemenza investigation?

Corporal Josh RICHDALÉ: The training that I received...

Maître Anil KAPOOR: Yes...

Corporal Josh RICHDALÉ: By the... vendor?

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- Maître Anil KAPOOR:** Q125. No, uh... in uh... I take it the only training from the vendor was in 2012?
- Corporal Josh RICHDALÉ:** Uh... correct.
- Maître Anil KAPOOR:** Q126. All right. So this would be your in-house training?
- Corporal Josh RICHDALÉ:** Correct.
- Maître Anil KAPOOR:** Q127. Did it precede the Clemenza investigation?
- Corporal Josh RICHDALÉ:** I believe... I can _____ say I had ridden with an operator.
- Maître Anil KAPOOR:** Uh-huh.
- Corporal Josh RICHDALÉ:** As part of training.
- Maître Anil KAPOOR:** Uh-huh.
- Corporal Josh RICHDALÉ:** And that during Clemenza I would have been doing more training, so, it would have been throughout the process of Clemenza that I was training on the device
- Maître Anil KAPOOR:** Q128. All right. And describe then for me the components of the RCMP training that you were um... fortunate enough to... to participate in.
- Corporal Josh RICHDALÉ:** So, the different types of training that we have, part of the understudy program, is several courses that we take uh... based out of Ottawa.
- Maître Anil KAPOOR:** Yes.
- Corporal Josh RICHDALÉ:** During one of those courses uh... Jocelyn Fortin came and he gave us an explanation of cellular theory and the evolution of cellular protocols.
- Maître Anil KAPOOR:** Uh-huh.
- Corporal Josh RICHDALÉ:** With the purpose of eventually going into the MDI operation.
- Maître Anil KAPOOR:** Q129. You said s... several courses. Are you able to give me any indication of how many?
- Corporal Josh RICHDALÉ:** OK, so... specifically about MDI training it was just the one.
- Maître Anil KAPOOR:** OK.
- Corporal Josh RICHDALÉ:** The several courses that I explain were the courses to become certified as an installer in the Special "I" section.
- Maître Anil KAPOOR:** Q130. And just for his Lordship's benefit, can you describe the difference between say, the MDI training on the one hand and what it means to become an installer?
- Corporal Josh RICHDALÉ:** So, as an installer, in the Special "I" section we deal with covert technology installed for the purpose of surveillance and that would include stuff from audio, video,

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interception techniques, tracking and... I guess, you can say the MDI operation falls under us. So, over the course of a two-year period, we complete many different courses specific to those types of techniques.

Maître Anil KAPOOR: Uh-huh.

Corporal Josh RICHDALE: In order to get certified as a installer with regards to the operation of the MDI device um... we would go um... we get some explanation of the cellular theory as part of the understudy program. And then there is more training specifically with an operator and Jocelyn Fortin in order to be able to use the actual device alone as the primary operator.

Maître Anil KAPOOR: **Q131.** All right. So for purposes of your evidence in this matter, um... all those covert installation um... techniques that you've described are really not your main to the MDI operator job.

Corporal Josh RICHDALE: Correct.

Maître Anil KAPOOR: **Q132.** So focusing then solely on the MDI operator job, I take it there's one course you took?

Corporal Josh RICHDALE: There's one course, yes, that was a lecture.

Maître Anil KAPOOR: **Q133.** Lecture. One lecture?

Corporal Josh RICHDALE: One lecture.

Maître Anil KAPOOR: **Q134.** All right, so there's one lecture and that was Jocelyn Fortin?

Corporal Josh RICHDALE: Yes.

Maître Anil KAPOOR: **Q135.** OK. And this is where he discusses cellular theory?

Corporal Josh RICHDALE: Correct.

Maître Anil KAPOOR: **Q136.** Architecture of cellular networks?

Corporal Josh RICHDALE: Correct.

Maître Anil KAPOOR: **Q137.** All right. Hum... and undoubtedly, this sort of uh... historical development of the mobile communication system?

Corporal Josh RICHDALE: Correct.

Maître Anil KAPOOR: **Q138.** OK. Going from... What did we use to have? Like... like a CDMA, let's see, 3G, it's 4G, LTE all of those?

Corporal Josh RICHDALE: Correct.

Maître Alexis GAUTHIER: OK. Including what we see in this case GCMU... (Shuffling of paper)

Corporal Josh RICHDALE: GSM and UMTS...

Maître Anil KAPOOR: **Q139.** GSM and UMTS... yeah...

Corporal Josh RICHDALE: Correct...

Josh Richdale, July 17, 2015, ex parte transcript

Maître Anil KAPOOR: Q140. OK. So, that's one lecture. Then after and... and... when did you... did you have that lecture?

Corporal Josh RICHDALÉ: (Sigh) I would venture into saying it was in, I couldn't tell you off the top of my head. I'd have to check.

Maître Anil KAPOOR: Fair enough.

CORPORAL JOSH RICHDALÉ: Yeah.

Maître Anil KAPOOR: Q141. Hum... and it, the lecture precedes you going on the ride alongs?

CORPORAL JOSH RICHDALÉ: Uh... not necessarily. I... I can't remember which of the two, um... the operation of the MDI had been in place from the time I got there.

Maître Alexis GAUTHIER: Uh-huh.

CORPORAL JOSH RICHDALÉ: And I would go as a driver...

Maître Alexis GAUTHIER: Uh-huh.

CORPORAL JOSH RICHDALÉ: And pay attention with the primary operator...

Maître Alexis GAUTHIER: Uh-huh.

CORPORAL JOSH RICHDALÉ: Um... with how it works. And, that particular lecture was not actually meant specifically as part of the training for the MDI per se...

Maître Alexis GAUTHIER: Oh, I see...

Corporal Josh RICHDALÉ: Q142. Like it wasn't... it wasn't I must do that and then....

Maître Anil KAPOOR: Oh, I see. It's wasn't like a pre-requisite

Corporal Josh RICHDALÉ: No.

Maître Anil KAPOOR: OK.

Corporal Josh RICHDALÉ: No.

Maître Anil KAPOOR: Hum...

Corporal Josh RICHDALÉ: It was part of the understudy program...

Maître Anil KAPOOR: Right.

Corporal Josh RICHDALÉ: And that helps facilitate the understanding of how the MDI device works.

Maître Anil KAPOOR: Q143. All right, so... the MDI specific training was essentially an apprenticeship with existing operators?

Corporal Josh RICHDALÉ: That's correct.

Maître Anil KAPOOR: Q144. All right. And then, in addition to that but not necessarily has a pre-requisite, you had this one lecture with uh... Jocelyn Fortin.

Corporal Josh RICHDALÉ: That's correct.

Josh Richdale, July 17, 2015, ex parte transcript

Maître Anil KAPOOR: Q145. All right, um... and, so I take it from that, that you could be... you could become an MDI operator without having attended the Jocelyn Fortin, part (PH), uh... lecture

Corporal Josh RICHDALE: Correct.

Maître Anil KAPOOR: Q146. OK. So, what... sorry, your Honor, I just can't see your pen; I'm just looking to fo... watch your pen...

Justice Michael STOBER: I'll stop you if I...

Maître Anil KAPOOR: Q147. OK, thank you. Hum... so when you um... start the ride alongs with an MDI operator you indicated you were the driver for the van.

Corporal Josh RICHDALE: Correct.

Maître Anil KAPOOR: Q148. Hum... you performed a bunch of functions, one of which is to be a lookout.

Corporal Josh RICHDALE: Correct.

Maître Anil KAPOOR: Q149. [REDACTED]

Corporal Josh RICHDALE: Psst... No, we... there's no uh... necessity to necessarily be in the back or front um...

Maître Anil KAPOOR: OK.

Corporal Josh RICHDALE: You'd sit next to whoever is...

Maître Anil KAPOOR: All right.

Corporal Josh RICHDALE: That's going to uh... mentor you. You could say.

Maître Anil KAPOOR: OK.

Corporal Josh RICHDALE: Hum... so you would not be as a trainee sitting in the back alone with your mentor in the front.

Maître Anil KAPOOR: Q150. And during the cou... during the course of these ride alongs and I take it you're sort of sided by each with the person who's the operator and you're the driver?

Corporal Josh RICHDALE: Correct.

Maître Anil KAPOOR: Q151. And this is because the device is relatively small?

Corporal Josh RICHDALE: It's be... the software is being run on... off of a laptop.

Maître Anil KAPOOR: Q152. Off of a laptop, OK. And, were there any ride alongs on investigations prior to Clemenza for you or did you start with Clemenza?

Corporal Josh RICHDALE: There were ride alongs uh... prior to.

Maître Anil KAPOOR: Q153. OK. And, how many ride alongs do you go on until you actually become the guy in the passenger seat with the laptop?

Josh Richdale, July 17, 2015, ex parte transcript

Corporal Josh RICHDALÉ: There's no set number of... of ride alongs for uh... for that purpose uh...

Maître Anil KAPOOR: Q154. In your experience, for... for... for you personally, did you have your recollection, was it?

Corporal Josh RICHDALÉ: (Sigh) For me personally, I think my first couple of uh... operations alone were probably in the fall, winter so around November, December of that year.

Maître Anil KAPOOR: Q155. Being 2011.

Corporal Josh RICHDALÉ: 2011, 2012...

Maître Anil KAPOOR: OK.

Corporal Josh RICHDALÉ: And, maybe half a dozen times I would guess.

Maître Anil KAPOOR: Q156. All right. So let's say then, six times before you became the operator?

Corporal Josh RICHDALÉ: Yes.

(Clearing of throat)

Maître Anil KAPOOR: OK.

Justice Michael STOBÉ: Q157. So, the... the device is separate, [REDACTED]

Corporal Josh RICHDALÉ: Yes.

Justice Michael STOBÉ: Q158. It's a separate device. So when you're the operator you have the computer with the software, is it wireless the device to the computer or it's... or it's hooked up?

Corporal Josh RICHDALÉ: It's a wired connection.

Justice Michael STOBÉ: It's a wire connection, OK. Go ahead.

Maître Anil KAPOOR: Q159. [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: Q160. OK. And, so you started operating this after... started being the operator after six times uh... apprenticing?

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q161. And uh... do you know whether or not the Fortin lecture was before you became the operator or after?

Corporal Josh RICHDALÉ: I cannot remember.

Maître Anil KAPOOR: Q162. All right. It could have been after.

Corporal Josh RICHDALÉ: It could have been after.

Josh Richdale, July 17, 2015, ex parte transcript

Maître Anil KAPOOR: Q163. OK. So, during the course of your training, um... now, focusing on the six ride alongs, OK? Hum... firstly, then I'll ask you about uh... Jocelyn Fortin. Was there any discussion with your... first of all, who... were you assigned to one person who was the operator?

Corporal Josh RICHDALE: No.

Maître Anil KAPOOR: Q164. OK. Uh... was there... was there... tell me who the operators were.

Corporal Josh RICHDALE: Psst... uh... I can remember there was uh, Corporal Martin Dubois at the time.

Maître Anil KAPOOR: Yes. That's...

Corporal Josh RICHDALE: And uh...

Maître Anil KAPOOR: You're... you're... unfortuna...

Corporal Josh RICHDALE: Yes.

Maître Anil KAPOOR: Fortunately for us, we get to meet you...

Corporal Josh RICHDALE: Yes...

Maître Anil KAPOOR: But unfortunately for Mr. Dubois...

Corporal Josh RICHDALE: Yeah. And there was uh, Corporal Martin Lamoine.

Justice Michael STOBER: Lam...

Corporal Josh RICHDALE: Lamoine.

Maître Anil KAPOOR: Lamoine.

Corporal Josh RICHDALE: Yeah.

Maître Anil KAPOOR: Q165. I don't know if you need that spelled for the report?

Justice Michael STOBER: L-a-m-o-i-n-e?

Corporal Josh RICHDALE: Correct.

Maître Anil KAPOOR: Thank you.

Corporal Josh RICHDALE: Hum... and there was a Corporal Dave Ouellette.

Maître Anil KAPOOR: Uh-huh.

Corporal Josh RICHDALE: And a Corporal Isabelle Trottier.

Maître Anil KAPOOR: Q166. OK. So, dispersed over six rides you were with these folks.

Corporal Josh RICHDALE: Correct.

Maître Anil KAPOOR: Q167. Do you recall there being any discussion with... with them, as part of your training, about how to assess a negative result?

Corporal Josh RICHDALE: Hum... I would say, no.

Josh Richdale, July 17, 2015, ex parte transcript

Maître Anil KAPOOR: OK.

Corporal Josh RICHDALÉ: But uh... if I may...

Maître Anil KAPOOR: Yes, yes, certainly yes...

Corporal Josh RICHDALÉ: If I may ask uh... I guess it'd be what the definition of negative results would be.

Maître Anil KAPOOR: **Q168.** Well, let me put it to you this way, I think your colleague uh, Mark Flynn ref... referenced it when I suggested negative. I think he called it a failed result. Does that... make more sense to you?

Corporal Josh RICHDALÉ: Yes.

Maître Anil KAPOOR: **Q169.** And just describe for his Lordship, uh... your understanding of failed results, make sure we're not cross
_____.

Corporal Josh RICHDALÉ: Yup. So, there's uh... by failed result is you can... as you're... you may be aware your Honor, there's times where we have completed uh... readings with the MDI machine and we were not able to identify uh... a specific device and associated with one of the known persons that we were following. Hum... we... there's many reasons why uh... we might not be able to confirm a device to belong to somebody. But uh... when I feel like the term negative result is uh... is incorrect in... in... in... in its term because, um... it's not because the machine didn't identify a potential device or it's not because um... there was a failure in the operation. It could more s... or less be uh... there was not enough time operated on the specific person of interest. Not enough readings were completed on the person of in... interest or there could have been ways the uh... person of interest was using his phone to uh... uh... prevent the numbers from being uh... obtained by our machine, or hum... psst... uh...

Justice Michael STOBER: **Q170.** So when he uses the phone, his device... cell device can't be picked up?

Corporal Josh RICHDALÉ: Psst... uh... not necessarily, not necessarily. It cou... it could be. It could be. Hum... but if for example it was powered off, our device won't pick it up. Hum... psst... and uh... There's one other point... sorry, just let me think for a second... Uh, I'm sure it'll come to me, but basically, um... psst... it's not meant to... to exclude numbers the... the machine. (Shuffling of paper) So a negative result for us to say, "We were unable to obtain uh... an actual device"...

(End of recording #2)

(Beginning of recording #3)

Josh Richdale, July 17, 2015, ex parte transcript

Corporal Josh RICHDALE: Does not mean that... we uh... it means that f... we did not have reasonable grounds to pinpoint a specific device to somebody.

Maitre Anil KAPOOR: Q171.Or... or meaning that the person doesn't have the device you're looking for?

Corporal Josh RICHDALE: Psst... that... could also be.

Maitre Anil KAPOOR: Q172.And like an innocent...

Corporal Josh RICHDALE: Ye...

Maitre Anil KAPOOR: Q173.Explanation?

Corporal Josh RICHDALE: Yeah, he could actually have no cellular device and...

Maitre Anil KAPOOR: Q174.Or have a different cellular device?

Corporal Josh RICHDALE: Or have a different cellular device.

Maitre Anil KAPOOR: Q175.So... it's possible that there's an innocent explanation for why you don't capture it?

Corporal Josh RICHDALE: That's correct.

Maitre Anil KAPOOR: Right. You...

Corporal Josh RICHDALE: Also...

Maitre Anil KAPOOR: Sorry, go ahead.

Corporal Josh RICHDALE: Yeah... And the... the... the last thing that I c... would explain is that uh... maybe our... we were out of range...

Maitre Anil KAPOOR: Sure...

Corporal Josh RICHDALE: Or we were... just, the machine did not pick it up.

Maitre Anil KAPOOR: Q176.So, to just borrow your term, if you're comfortable with it...

(Clearing throat)

Maitre Anil KAPOOR: Um... I think it said it was a f.... you prefer to say a f... f... a failed... uh... failed? Failed result? Or how would you to characterize (PH) it?

Corporal Josh RICHDALE: Uh... ah...

Maitre Anil KAPOOR: Q177.As you don't like negative result?

Corporal Josh RICHDALE: I would say inconclusive.

Maitre Anil KAPOOR: Q178.Inconclusive...

Corporal Josh RICHDALE: Is... is a... is a more appropriate term.

Maitre Anil KAPOOR: Q179.All right, so let's... let's say an inconclusive result which means that you don't reveal the device you're looking for.

Corporal Josh RICHDALE: Psst... the... well, who... I wou... inconclusive result would be that we didn't identify...

Josh Richdale, July 17, 2015, ex parte transcript

Maitre Anil KAPOOR: OK...

Corporal Josh RICHDAL: Uh... a device, a specific device.

Maitre Anil KAPOOR: **Q180.** Connected to the person of interest?

Corporal Josh RICHDAL: Correct.

Maitre Anil KAPOOR: **Q181.** Right. So, there are a number of reasons for that, you've articulated for his Lordship, atmospheric, buildings, weather, those sorts of things?

Corporal Josh RICHDAL: That could be a r... for the range issue.

Maitre Anil KAPOOR: **Q182.** Yeah. Combined with range?

Corporal Josh RICHDAL: Well yes, but if those radio frequencies, atmospheric issues, buildings, that wouldn't... prevent the range from us, potentially... obtaining the device in our database.

Maitre Anil KAPOOR: **Q183.** Hum... there could be uh... problems, if... if... if the person has the phone off for example?

Corporal Josh RICHDAL: Correct.

Maitre Anil KAPOOR: **Q184.** You mentioned also, I think some... if the person employed counter surveillance?

Corporal Josh RICHDAL: Well... by that if they uh... I mean, if they had some knowledge of the device I guess there's counter surveillance that they could do...

Maitre Anil KAPOOR: **Q185.** Right, right. And that would... that's not a possibility?

Corporal Josh RICHDAL: Is a possibility.

Maitre Anil KAPOOR: **Q186.** And then of course, the... the possibility is that the person has a different device?

Corporal Josh RICHDAL: By different device...?

Maitre Anil KAPOOR: **Q187.** Is... in other words, they have a device but... but... but it's not the device that you're trying to connect to them?

Corporal Josh RICHDAL: It would be... because it was on a protocol that our... our machine would not be able to obtain, the devices from. Or it would be because, we were not able to ana... obtain that device in our database, at enough locations in order to uh... confirm that is a device belonging to that person.

Maitre Anil KAPOOR: **Q188.** Right, but... but you're trying to associate a particular device with a particular person, right?

Corporal Josh RICHDAL: Well, if... if we've come down to uh... a narr... uh... OK. So if we're trying to identify an unknown device...

Maitre Anil KAPOOR: Uh-huh...

Corporal Josh RICHDAL: Then we would do those multiple readings, your Honor, and if we have a device of interest to us amongst

Josh Richdale, July 17, 2015, ex parte transcript

maybe two readings, then we could try and use the direction finding technique to really pinpoint that it's...

Maître Anil KAPOOR: Uh-huh...

Corporal Josh RICHDALÉ: In possession of that person.

Maître Anil KAPOOR: **Q189.** And that's for example of how you use both modalities...

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: **Q190.** Query and direct.

Corporal Josh RICHDALÉ: Correct. So... we wouldn't, we'd be specifically looking for a device at that time. Um... but it does not mean that he wouldn't have another, like another device would still be picked up by our machine...

Maître Anil KAPOOR: **Q191.** Right. But it may not trigger uh... an ability to associate it with that person?

Corporal Josh RICHDALÉ: Psst... correct. Like if... if we were only picked up that uh... phone at one location...

Maître Anil KAPOOR: Right.

Corporal Josh RICHDALÉ: And it was his device, but for whatever reason, we didn't pick it up at location B and we weren't able to pick it up at location C, then, we might say for that day, the results were inconclusive.

Maître Anil KAPOOR: **Q192.** Right. OK. Hum... So, I think you've... you've indicated that there's um... so it's part of your training, which is where we begin with this, there were no discussions or there was no particular training about how to assess a uh... inconclusive result, or what I call a negative result?

Corporal Josh RICHDALÉ: Correct. The training was based on how to analyze the data...

Maître Anil KAPOOR: Yeah...

Corporal Josh RICHDALÉ: To find positives results.

Maître Anil KAPOOR: **Q193.** And, there wasn't much... sorry... and, and in your lecture with Fortin, similarly, I'm going to suggest there was no discussion about how to evaluate the probative value of a negative result or inconclusive result?

Corporal Josh RICHDALÉ: No, the lecture by Jocelyn was simply on cellular technology.

Maître Anil KAPOOR: **Q194.** Correct. So your um... ability to assess and analyze an inconclusive result, essentially is the result of experience?

Corporal Josh RICHDALÉ: Ye... well, no. I mean, it... anyone can look any person, your Honor, can look at that database, pull it up and see that whether there were common numbers found across the locations.

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Maitre Anil KAPOOR: Uh-huh...

Corporal Josh RICHDAL: That's the technique to use to identify unknown devices.

Maitre Anil KAPOOR: Uh-huh... uh-huh...

Corporal Josh RICHDAL: And anyone can analyze the data that was taken, at each location and say there's no common device that we can have reasonable grounds to believe was in possession. If that's the case, then we inform the investigators, "Today we were unable to confirm a device, would you like to continue tomorrow?"

Maitre Anil KAPOOR: Uh-huh...

Corporal Josh RICHDAL: "Or another target?"

Maitre Anil KAPOOR: Uh-huh...

Corporal Josh RICHDAL: "Or is that it? And you don't want to look anymore?"

Maitre Anil KAPOOR: Uh-huh...

Corporal Josh RICHDAL: And that decision would be up to the investigators to make. So again, that's why I would say that they're inconclusive results...

Maitre Anil KAPOOR: Uh-huh...

Corporal Josh RICHDAL: Because, we can continue working and try to identify devices, but...

Maitre Anil KAPOOR: Q195. But if you have a.... if you have a message, associated with a particular IMEI, OK?

Corporal Josh RICHDAL: Yes.

Maitre Anil KAPOOR: Q196. And, you want to find out whether or not, I'm walking around with that a... that IMEI device?

Corporal Josh RICHDAL: Yes.

Maitre Anil KAPOOR: Q197. And you do your MDI sweep or... [REDACTED] and your surveillance tells you, I have a phone and I'm talking on a phone, in your range, then you don't capture the IMEI device that you think I have, that... that can happen?

Corporal Josh RICHDAL: That could happen.

Maitre Anil KAPOOR: Q198. And what that tells you is that, the person, your target, is using a different phone?

Corporal Josh RICHDAL: Not necessarily, no. And that's because, not always... the... [REDACTED] all the devices in that given area.

Maitre Anil KAPOOR: Q199. All right. So the machine... so there's... so there's within the range, [REDACTED]

Josh Richdale, July 17, 2015, ex parte transcript

Corporal Josh RICHDAL: Correct.

Maître Anil KAPOOR: Q200. And that, is that... is that for any reason, other than what you've already told us, about atmosphere, buildings, radio frequency interference, counter surveillance?

Corporal Josh RICHDAL: [REDACTED]

Maître Anil KAPOOR:

Q201 [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Maître Anil KAPOOR: Q202. And also, that the person is using a different phone. That's a possibility?

Corporal Josh RICHDAL: Psst... well...

Maître Anil KAPOOR: Q203. Then what your intelligence has told you he's using?

Corporal Josh RICHDAL: That c... yes, it could be. I mean uh...

Maître Anil KAPOOR: Right.

Corporal Josh RICHDAL: I... it depends I guess uh... to clarify your Honor, is if we're trying to identify an unknown device, 'cause if we were trying to identify an unknown device, then we notice that our... our uh... person of interest was talking on a cellular phone that did not appear to be picked up by our machine, then we would assume that that's a phone we haven't identify yet. And, if it's a particular phone that was trying to be used to DF or pinpoint to a specific person of interest, then uh... we c... would either continue with more readings, or determine that in fact, he does have another phone.

Maître Anil KAPOOR: Q204. OK. In this case, were you... were you deployed... to try and find particular devices with particular IMEIs?

Corporal Josh RICHDAL: Psst... I was not uh... specifically uh... um... involved in that particular um...

Maître Anil KAPOOR: Q205. OK. Others were?

Corporal Josh RICHDAL: Yes.

Maître Anil KAPOOR: Q206. OK, and who were they?

Corporal Josh RICHDAL: Um... I don't want to make the assumption, but I... I think I know...

Maître Anil KAPOOR: As best as you can recall...

Josh Richdale, July 17, 2015, ex parte transcript

Corporal Josh RICHDALÉ: I believe it was Martin Lemoine, was required to uh...

Maître Anil KAPOOR: OK...

Corporal Josh RICHDALÉ: To find a... or confirm uh... a possession of a phone.

Maître Anil KAPOOR: Q207. And do you know, well you might not know, even I... I... I... I just ask this 'cause... because I've got you here, do... do you know whether in those instances, uh... the DF mode would have been used exclusively or would they... or would also; the query mode had been used?

Corporal Josh RICHDALÉ: Um... I do not know if the query mode was used.

Maître Anil KAPOOR: OK.

Justice Michael STOBER: You... your question Maître Kapoor is, um... whether he was assigned to find a particular device?

Maître Anil KAPOOR: Q208. Yeah, with a particular IMEI.

Corporal Josh RICHDALÉ: Psst... I could uh... your Honor, if I could review um... the uh... reports, I would be able to specifically answer what was done uh...

Justice Michael STOBER: OK...

Corporal Josh RICHDALÉ: For the particular instance that uh... the Defense is trying to ask about.

Maître Anil KAPOOR: Sure, Am... Amicus over here, not Defense...

Corporal Josh RICHDALÉ: Amicus.

(Laughing)

Maître Anil KAPOOR: That as to be clear. Hum... so, OK, may... maybe that might be useful, maybe over the, uh... I won't finish today...

Corporal Josh RICHDALÉ: Uh-Huh...

Maître Anil KAPOOR: So maybe... on... o... on Monday uh... you can advise his Lordship of that to assist him in, uh... evaluating this... this matter.

Justice Michael STOBER: Q209. Is that, rel... uh... reviewing documents or do you have to speak to somebody?

Corporal Josh RICHDALÉ: I'd reviewed the documents.

Justice Michael STOBER: Q210. OK, 'cause... well... you make the order now, you're familiar anyway, you've been in the RCMP for a while so there's an order that you shouldn't talk to anybody about your evidence.

Corporal Josh RICHDALÉ: Yes, your Honor.

Justice Michael STOBER: But to review a document that's fine.

Maître Anil KAPOOR: Q211. Thank you. So, now I want to ask you, when you're out as an operator, and you've done many of these, uh... do you keep a notebook of what you're doing?

Josh Richdale, July 17, 2015, ex parte transcript

Corporal Josh RICHDAL: Psst... um... the... we keep notes about the operation, of the... of how uh... operating the machine...

Maître Anil KAPOOR: Q212. You mean like sort of technically... what you did?

Corporal Josh RICHDAL: Yeah, so when the readings occurred...

Maître Anil KAPOOR: Uh-huh...

Corporal Josh RICHDAL: [REDACTED]

Maître Anil KAPOOR: Uh-Huh...

Corporal Josh RICHDAL: At the... certain times, as well as it would include the date, the target uh... who is driving...

Maître Anil KAPOOR: Uh-huh...

Corporal Josh RICHDAL: Uh... those are the kind of things we would keep in notes.

Maître Anil KAPOOR: Q213. And do you keep... and, and how does it work? Do you get a briefing in the morning or do you get a call from the investigators uh... who are doing the surveillance and uh... requiring you to come out?

Corporal Josh RICHDAL: Psst... So, it's uh... the process starts with um... them expressing interest in certain targets. Then once the warrant is obtained...

Maître Anil KAPOOR: Uh-Huh...

Corporal Josh RICHDAL: To do the readings on those specific targets, a request will go to our uh... Criminal Operations um... psst... uh... Officer. And then, he will authorize the use of the machine on specific targets. Once we have all those authorizations, um... which could take let's say maybe a week...

Maître Anil KAPOOR: Uh-Huh...

Corporal Josh RICHDAL: To... to plan, then the investigators will plan um... you know, who, which target they would like to... to... do surveillance on. After that, they'll check on our availability and the availability of the machine, and we'll make a plan maybe a day to... maybe a week in advance, on when we're gonna go and work the certain targets.

Maître Anil KAPOOR: Q214. Th... Those communications, that the liaison between your side of the house...

(Clearing throat)

Maître Anil KAPOOR: And the investigators on their side of the house; are there notes about those communications?

Corporal Josh RICHDAL: There might be emails uh... they go back and forth, there could be uh... verbal, telephones calls um...

Maître Anil KAPOOR: Q215. Would there be a task action associated on the investigation side?

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Corporal Josh RICHDAL: There may be a task um... psst... I... I wou... our section specifically does not use the PROS section to um... document our work, um...

Maitre Anil KAPOOR: Q216.By PROS section you mean, the investigative protocols?

Corporal Josh RICHDAL: Sorry, there's a... uh... by task I'm assuming you're referring to our Police documentation system?

Maitre Anil KAPOOR: Yes, yes... Yeah.

Corporal Josh RICHDAL: Yeah, so we... our section will not include tasks in that particular uh... computer system.

Maitre Anil KAPOOR: Q217.So, I'm just trying to understand, what... contemporaneous notes there are, of what an operator does. Authored by the operator. What would we see?

Corporal Josh RICHDAL: You would see the date, generally and there's no real... set, uh... standard of what had to be included. Uh... more specifically, during the time of Project Clemenza, there's no set standards of you must include certain information. But the general information that you should and would see would be the date that we're working um... the target um... information on the location of where the readings are being done, uh... the times when the machine is being started and potentially any analysis that uh... the uh... operator had b... had done.

Maitre Anil KAPOOR: Q218.And that was the... the next question I was going to ask you, but before I do that, these notes that you're talking about uh... do you still have yours?

Corporal Josh RICHDAL: Psst... I... they were electronic copy...

Maitre Anil KAPOOR: Yeah...

Corporal Josh RICHDAL: And uh... I do have s... I had some that were in a notebook...

Maitre Anil KAPOOR: Uh-huh...

Corporal Josh RICHDAL: For one of the days that I worked. Um... again there were no set standard on how they were taken. So, I do have n... notes from when I was um...

Maitre Anil KAPOOR: Q219.So your notes for... for...

Justice Michael STOB: But... but the notes he's talking about...

Maitre Anil KAPOOR: Sorry...

Justice Michael STOB: Q220.Were they hand written?

Corporal Josh RICHDAL: Psst... some of them were uh...

Justice Michael STOB: Q221.OK, do you still have copies of the handwritten notes?

Corporal Josh RICHDAL: Do I?

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- Justice Michael STOBER:** Yeah.
- Corporal Josh RICHDAL:** Yes.
- Justice Michael STOBER:** Q222. All right. And there's others that were entered electronic...
- Corporal Josh RICHDAL:** Correct.
- Justice Michael STOBER:** Q223. Electronically? Yeah.
- Corporal Josh RICHDAL:** Correct.
- Justice Michael STOBER:** OK. Go ahead, sorry.
- Maitre Anil KAPOOR:** Q224. And do... and do you have... the... are the electronic ones archived?
- Corporal Josh RICHDAL:** Psst... they're saved uh... with the databases...
- Maitre Anil KAPOOR:** All right.
- Corporal Josh RICHDAL:** But uh... is...
- Maitre Anil KAPOOR:** Q225. For each day out?
- Corporal Josh RICHDAL:** Yeah, correct. So we, uh... as mentioned in the uh... public session, we will collect the data on a USB key or media and then keep that media and that will include the notes for the operators.
- Maitre Anil KAPOOR:** Q226. All right, so if we're... if his Lordship were minded to release information in this case, uh... you would have a complete set of your notes, um... that he could take a look at for purposes of vetting uh... to release to Defense?
- Corporal Josh RICHDAL:** Ye... that I believed that has already been done.
- Maitre Anil KAPOOR:** Q227. Your notes have been released?
- Corporal Josh RICHDAL:** Yes.
- Maitre Anil KAPOOR:** Q228. All right. Just to show you how much I didn't know. Um... and it's vetted?
- Corporal Josh RICHDAL:** Yeah, I don't think there was... they were vetted but I don't think there was much that was actually vetted for...
- Maitre Anil KAPOOR:** Q229. Although, _____ and they ask us, some of the content, you've reference that would be in there, uh... in the absence of an order from his Lordship, I think would have to be protected given the claim. Um... the analics (PH), an... analytics that you do, you say sometime it happens, sort of in real time when you're doing uh... the actual um... deploying the device?
- Corporal Josh RICHDAL:** Correct.
- Maitre Anil KAPOOR:** Q230. And... and does it happen afterwards?
- Corporal Josh RICHDAL:** Yes.

Josh Richdale, July 17, 2015, ex parte transcript

Maitre Anil KAPOOR: Q231.OK. And when the analytics happen, um...when you deploy the device, like in real time, uh... you mentioned that there... can on occasion be a record kept of what the operator's thinking?

Corporal Josh RICHDAL: That is correct.

Maitre Anil KAPOOR: Q232.And it... And I take that there's no protocol that the operator do that?

Corporal Josh RICHDAL: No... There's not.

Maitre Anil KAPOOR: Q233.For the analytics that are done afterwards, after the session, is similarly, is there a requirement that the operator take notes?

Corporal Josh RICHDAL: No, there is not.

Maitre Anil KAPOOR: Q234.Does the operator prepare a report to the investigators?

Corporal Josh RICHDAL: Yes, he does.

Maitre Anil KAPOOR: Q235.And that report is then given to the investigative side of the house?

Corporal Josh RICHDAL: That is correct.

Maitre Anil KAPOOR: Q236.And is it done for each session?

Corporal Josh RICHDAL: Psst... No, it's not uh... consistently done for each uh... um... inconclusive reading, so we will not do a report after every single day and say, "Today we found a number, tom... today we did not." Uh... generally, generally, the reports are done when we have a conclusive result.

Maitre Anil KAPOOR: Q237.So the investigators wouldn't... learn then, the number of days, you had inconclusive results?

Corporal Josh RICHDAL: We communicate over the air with the uh... over the radio with uh... the investigators, about how the readings are going. So we will tell them if we have a potential number, we will tell them if we have good results or we have no results.

Maitre Anil KAPOOR: Q238.Uh-hmm... So when you're telling me you have no results, then nobody on your side of the house, makes a note of that?

Corporal Josh RICHDAL: No.

Maitre Anil KAPOOR: OK.

Corporal Josh RICHDAL: Well, the... if they do, they choose to say I... they analyzed the data in the notes.

Maitre Anil KAPOOR: Q239.But there's no requirement to take notes, not following the regular...

Corporal Josh RICHDAL: Correct.

Maitre Anil KAPOOR: Q240.Stream.

Josh Richdale, July 17, 2015, ex parte transcript

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q241. But, for the system to work, on the investigator's side of the house, I should see a note there if there's an inconclusive result?

Corporal Josh RICHDALÉ: No.

Maître Anil KAPOOR: Q242. No? All right, so... there's no record of inconclusive results other than the data that may be produced?

Corporal Josh RICHDALÉ: That's correct. There's uh... like I said, there are maybe a couple of reports that explain that they were unable to find...

Maître Anil KAPOOR: OK.

Corporal Josh RICHDALÉ: Um... on our internal 1624 report or an email um... psst... I... that would be not out of the normal to say that there were no result, but uh... it's not something that is done after every session.

Maître Anil KAPOOR: Q243. Right. So, we... we can't say that if we saw three examples of inconclusive results, that we could say that's the sum total of all inconclusive results because the system isn't design to capture, or make a note of all inconclusive days.

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: All right. Um... well, I'm happy to take a short break if you'd like um... I... I can keep... keep going, I... I'm in your hands.

Corporal Caroline LEONARD: Stop it?

(Incomprehensible)

Justice Michael STOBER: _____ do you want to keep going or...? It's fine with me.

Corporal Caroline LEONARD: Depending on how much more time?

Maître Anil KAPOOR: No, no... I'm happy to keep going award (PH) if anyone else is, OK?

Justice Michael STOBER: Maître Godbout has to uh...

Maître Anil KAPOOR: I see I've... I see I've put Mister... Mr. Rouleau to sleep over there so...

(Chuckles)

Justice Michael STOBER: How much more time?

Maître Anil KAPOOR: I'm probably another... 45 minutes uh... maybe an hour tops.

Justice Michael STOBER: OK. Uh... let's keep going for a little longer...

Maître Anil KAPOOR: OK. And...

Justice Michael STOBER: And uh...

Maître Anil KAPOOR: When you wish...

Josh Richdale, July 17, 2015, ex parte transcript

Justice Michael STOBER: How are you doing Mr. Richdale? Do you need a break?

Corporal Josh RICHDALE: No, I'm good, your Honor.

Justice Michael STOBER: Let's go.

Maitre Anil KAPOOR: Q244. Good, thank you. So, you mentioned a couple times already this... the... the Crops Officer's report or the Crops Officer's authorization...

Corporal Josh RICHDALE: Yes.

Maitre Anil KAPOOR: Q245. All right. And, and... and that's sort of an internal mechanism whereby your Crops Officer uh... s... sets out the conditions under which assets are going to be deployed?

Corporal Josh RICHDALE: Correct.

Maitre Anil KAPOOR: Q246. And the asset here is your... you... you (chuckles) and the... and the MDI and the whole effort here.

Corporal Josh RICHDALE: That's correct.

Maitre Anil KAPOOR: Q247. And that document, um... is responsive to a request from the investigation side?

Corporal Josh RICHDALE: Correct.

Maitre Anil KAPOOR: Q248. And it's post the issuance of the warrant?

Corporal Josh RICHDALE: Um... I can't say it's uh... post issuance to the warrant all the time, um... psst... I'm not sure, I... it's not necessary to be...

Maitre Anil KAPOOR: OK.

Corporal Josh RICHDALE: After the warrant's written.

Maitre Anil KAPOOR: Q249. And, in this case, do you know whether it was after the warrant or before the warrant?

Corporal Josh RICHDALE: Psst... I'm not sure, specifically uh... if it was after or before.

Maitre Anil KAPOOR: Q250. And the Crops Officer um... sets out in the note, in his authorization, the purpose for which the assets being deployed?

Corporal Josh RICHDALE: Psst... ye... cor... It could be, um...

Maitre Anil KAPOOR: Q251. Have you seen the... the...

Corporal Josh RICHDALE: Yes, I have...

Maitre Anil KAPOOR: Q252. Yeah?

Corporal Josh RICHDALE: Reviewed the Crops authorizations, yes.

Maitre Anil KAPOOR: Q253. Yeah. S... sets out the purpose?

Corporal Josh RICHDALE: So, it'll explain generally uh... repeat of what the investigator uh... requested.

Josh Richdale, July 17, 2015, ex parte transcript

Maître Anil KAPOOR: OK.

Corporal Josh RICHALE: Yes.

Maître Anil KAPOOR: Q254. And do you know if that's been disclosed to the Defense?

Corporal Josh RICHALE: Yes, it has been.

Maître Anil KAPOOR: Q255. It has? OK. Um... and do you know... and I take it there's been some redaction on it, or no? Or do you know?

Corporal Josh RICHALE: I know that a couple had a bit of redaction on it, yes.

Maître Anil KAPOOR: OK.

(Pause and unidentified sounds)

Maître Anil KAPOOR: Q256. I wanted to ask also about um... the functionality of the device, of the MDI, [REDACTED]
Now, what I'm interested in... in understanding is um... whether there are other functionalities other than what you deployed in this particular case. And I want to ask you about the... the capability of intercepting um... telephone communications or mobile communications. Does [REDACTED]
[REDACTED] deployed in this case, have the capability to do that?

Corporal Josh RICHALE: No.

Maître Anil KAPOOR: Q257. Does [REDACTED] in this case have the capability to um... intercept SMS messages?

Corporal Josh RICHALE: No.

Maître Anil KAPOOR: Q258. Does it have the capability to essentially impersonate a mobile phone? One of the ones you log on to, uh... and send messages from that phone?

Corporal Josh RICHALE: No.

Justice Michael STOBER: Yeah, you're gonna have to uh... go through with these again...

Maître Anil KAPOOR: OK, sorry.

Justice Michael STOBER: Q259. These... these three points, start with the first one?

Maître Anil KAPOOR: First one, does it have the capability to intercept uh... voice communication from my mobile phone?

Corporal Josh RICHALE: Psst... No.

Justice Michael STOBER: Q260. The second one, it cannot capture SMS messages, text messages?

Maître Anil KAPOOR: Yes.

Justice Michael STOBER: OK.

Maître Anil KAPOOR: C... can... yes, cannot.

Josh Richdale, July 17, 2015, ex parte transcript

Justice Michael STOBER: No... third one?

Maitre Anil KAPOOR: **Q261.** The third one was, is it able to impersonate uh... a phone, by login on to its IMI... IMEI or IMSI? And send a, uh... a text message?

Corporal Josh RICHDAL: No.

Justice Michael STOBER: **Q262.** In other words, by impersonating another phone?

Corporal Josh RICHDAL: No.

Justice Michael STOBER: **Q263.** Is that what you me... is that what you mean?

Maitre Anil KAPOOR: That's... yes.

Corporal Josh RICHDAL: Yes. No it's not capable of doing that.

Maitre Anil KAPOOR: **Q264.** And, and the reason I ask that sir is, is... is that uh... those concepts or these... these things we've just cha... chatted about um... you're familiar that there are some devices that can do that?

Corporal Josh RICHDAL: Psst... my understanding is that there may be some devices that can do that. Um... this [REDACTED] device is the only one I know about...

Maitre Anil KAPOOR: Uh-huh...

Corporal Josh RICHDAL: And the only one, I've been trained on...

Maitre Anil KAPOOR: Uh-huh...

Corporal Josh RICHDAL: And the only one that we use.

Maitre Anil KAPOOR: **Q265.** And so, from... your understanding of this device, given your experience with it, as you've describe it to his Lordship, this is not a device, [REDACTED] does not have that functionality?

Corporal Josh RICHDAL: Correct.

Maitre Anil KAPOOR: OK.

(Pause and shuffling of paper)

Maitre Anil KAPOOR: **Q266.** Yeah, I'd like to take you to... now, a different topic, and in particular, um... it is marked in this proceeding uh... your Lordship as uh... exhibit EP32.10. That is uh... the a... the a... the affidavit, I guess. Do you have a copy of it there, sir?

Corporal Josh RICHDAL: Yes, I do.

Maitre Anil KAPOOR: **Q267.** OK. And, what I also liked to have... you to have uh... in your nearby, is exhibit R32 uh... with... do you have that at all? It's the material that's filed by the Defense?

Corporal Josh RICHDAL: Psst... No, I do not have uh... all the material...

Maitre Anil KAPOOR: I think uh...

Josh Richdale, July 17, 2015, ex parte transcript

Justice Michael STOBER: Well you'll get it in a moment?

Maître Anil KAPOOR: We'll... sorry, we'll have this... well she's getting it ready...

(Unidentified sounds, shuffling of paper and incomprehensible whispering)

Justice Michael STOBER: So the um... the binder, we call it the um... application record for R32?

Maître Anil KAPOOR: Yes.

(Clearing throat)

Maître Anil KAPOOR: **Q268.**Um... f... first of all, to your... to your um... I'm calling it an affidavit but it's exhibit... 32-10. Do you have that in front of you?

Corporal Josh RICHDALE: Yes.

Maître Anil KAPOOR: If I... if I can get you to turn to paragraph 21...

(Shuffling of paper)

Maître Anil KAPOOR: **Q269.**So, I want to understand um... clearly, why paragraph 7, 8, 9, 16, 17, 19 and 20 ought to be protected? And in your affidavit, you say that, if a person had that information, it could develop methods, software, or equipment to detect when the MDI's being deployed, essentially?

Corporal Josh RICHDALE: Correct.

Maître Anil KAPOOR: **Q270.**And, you also say, that you are not aware of any public information that is, that contains the information set out in 7, 8, 9, 16, 17, 19 and 20?

Corporal Josh RICHDALE: Correct.

Maître Anil KAPOOR: **Q271.**And... In terms of your search of... of what's out there, you've had regard to the Defense materials that were filed...

Corporal Josh RICHDALE: That's...

Maître Anil KAPOOR: **Q272.**That's the application record uh... R32?

Corporal Josh RICHDALE: Correct.

Maître Anil KAPOOR: **Q273.**You have that in front of you?

Corporal Josh RICHDALE: Yes.

Maître Anil KAPOOR: **Q274.**Beyond that, did you do any other research or?

Corporal Josh RICHDALE: I have seen uh... over the last uh... couple of years, um... are documents that uh... have disclosed some of the information in the States, about the... device.

Maître Anil KAPOOR: Uh-huh...

Corporal Josh RICHDALE: And uh... but um... Yeah. It's about it.

Maître Anil KAPOOR: Uh-huh...

Corporal Josh RICHDALE: I haven't specifically gone researching on my own.

Josh Richdale, July 17, 2015, ex parte transcript

Maître Anil KAPOOR: Q275.OK. So your assertion then that uh... it's not in the public domain, it's really restricted, to what the Defense have brought to Justice Stober?

Corporal Josh RICHDALÉ: Uh... Yes, that's correct.

Maître Anil KAPOOR: Q276OK. Um... to that end then, you see you've got paragraph 19 and 20 of your affidavit?

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q277.And I'm going to suggest that those paragraphs are about, as you described, the use of the MDI in the DF mode?

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q278.And that's when you have a set of no um... specifics about a particular device?

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q279Most commonly, you will have the... perhaps the IMEI? Would you have that?

Corporal Josh RICHDALÉ: Yes.

Maître Anil KAPOOR: Q280You would get some information from a... a... a... cell phone provider like Rogers, uh... about... about the relative location of the device?

Corporal Josh RICHDALÉ: Uh... d... I... I don't think that was relevant in this particular file.

Maître Anil KAPOOR: Q281.OK. But that's a possibility that you could get that information?

Corporal Josh RICHDALÉ: It's something f... that we could get for...

Maître Anil KAPOOR: Right...

Corporal Josh RICHDALÉ: The purpose of operating the _____, yes.

Maître Anil KAPOOR: Q282.And... So the... the way this operates then, is wh... when you have the known cellular device and you input into the MIDI... MIDI... sorry, forgive me... You input into the MDI, the specific information about the device, such as the IMEI? You...

Corporal Josh RICHDALÉ: Uh... the IMSI.

Maître Anil KAPOOR: Q283.IMSI?

Corporal Josh RICHDALÉ: Yes.

Maître Anil KAPOOR: Q284.OK. So you would... you would... you would input the IMSI, you would then go to the location where you believe the device to be?

Corporal Josh RICHDALÉ: Yes.

Maître Anil KAPOOR: Q285.You would then activate the device?

Corporal Josh RICHDALÉ: Yes.

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Maître Anil KAPOOR: Q286. And, your device [REDACTED]
[REDACTED]

Corporal Josh RICHDALE: Correct.

Maître Anil KAPOOR: Q287. And has you've described, [REDACTED]
[REDACTED]

Corporal Josh RICHDALE: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Corporal Josh RICHDALE: [REDACTED]

Maître Anil KAPOOR: Q288. [REDACTED]
[REDACTED]

Corporal Josh RICHDALE: Correct.

Maître Anil KAPOOR: Q289. OK. And so then you essentially, take your devi... the MDI and you follow where it takes you?

Corporal Josh RICHDALE: Correct. (Clearing throat)

Maître Anil KAPOOR: Q290 [REDACTED] you walk along that direction?

Corporal Josh RICHDALE: Yes, but w... w... we were in a vehicle for this.

Maître Anil KAPOOR: Q291. Yes, but I mean, practically, you could do it either way, or... or you could deploy somebody else to do it, by speaking on the phone?

Corporal Josh RICHDALE: Uh... no, I'd s... you... you're looking at... at an actual... image on the laptop to help you determine (PH)...

Maître Anil KAPOOR: Q292 [REDACTED]
[REDACTED]

Corporal Josh RICHDALE: [REDACTED]

Maître Anil KAPOOR: Q293. OK. So is it your position, that that sort of bundle of information that we've just described, is something that needs to be protected?

Corporal Josh RICHDALE: It's the f... details of that particular technique that uh... is important that we protect.

Maître Anil KAPOOR: Q294. So tell me what the details are, in 19 and 20 that need to be protected with reference... with reference to the paragraph and the sentence where the details are revealed?

Corporal Josh RICHDALE: So, the... fact that we were... using [REDACTED] similar to the query mode, in paragraph 19...

Maître Anil KAPOOR: OK.

Corporal Josh RICHDALE: On the second line. The fact that [REDACTED]
[REDACTED]

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Maitre Anil KAPOOR: Uh-huh...

Corporal Josh RICHDAL: So the entire second sentence, between line 2 and 4...

Justice Michael STOB: **Q295.** But isn't it public that these devices, the MDI devices, [REDACTED]? That seems to be in all the material?

Corporal Josh RICHDAL: It is, but it's the... the underlined technology that's important to protect. Because, they do not explicitly explain channels, frequencies, [REDACTED]
[REDACTED]
[REDACTED] Those are things that are not explained.

Maitre Anil KAPOOR: **Q296.** OK. Stopping you there, for a moment. This paragraph, paragraph 19...

(End of recording #3)

(Beginning of recording #4)

Maitre Anil KAPOOR: Doesn't state anything about frequencies.

Corporal Josh RICHDAL: Correct.

Maitre Anil KAPOOR: **Q297.** Doesn't say anything about a [REDACTED]
[REDACTED]

Corporal Josh RICHDAL: Correct.

Maitre Anil KAPOOR: I want you to focus on paragraph 19 and 20.

Corporal Josh RICHDAL: OK.

Maitre Anil KAPOOR: **Q298.** And I want to understand, where are the specifics and details in paragraph 19? First, beyond what you've told us, that you say, need to be protected.

Corporal Josh RICHDAL: [REDACTED]

Maitre Anil KAPOOR: OK.

Corporal Josh RICHDAL: Is specifically the one thing that is the most important in there.

Maitre Anil KAPOOR: **Q299.** Uh-huh... Anything else in 19...?

Corporal Josh RICHDAL: The fact that it says, [REDACTED] uh... would give indication that [REDACTED]
[REDACTED]

Maitre Anil KAPOOR: OK.

Corporal Josh RICHDAL: The fact that the MDI [REDACTED]

Maitre Anil KAPOOR: **Q300.** [REDACTED] you mean?

Josh Richdale, July 17, 2015, ex parte transcript

Corporal Josh RICHDAL: Well, it... just the term [REDACTED]

Maître Anil KAPOOR: OK.

Justice Michael STOB: Q301. Well, what about that?

Corporal Josh RICHDAL: That indicates that [REDACTED]
[REDACTED]
[REDACTED]

Maître Anil KAPOOR: Q302. But... but uh... [REDACTED]
[REDACTED] But, is your assertion that it's not a matter of public knowledge?

Corporal Josh RICHDAL: And it's assertion of... th... that is not uh... public knowledge.

(Clearing of throat)

Maître Anil KAPOOR: Q303. OK. Anything else in 19...?

Corporal Josh RICHDAL: And uh... in 19 I believe... that covers uh... I mean, the term [REDACTED] Um... it could be proprietary [REDACTED] how we enter a known device into the system.

Maître Anil KAPOOR: OK.

Corporal Josh RICHDAL: And then, at the end, [REDACTED] is a term that uh... is uh... again uh... could be a proprietary term for...

Maître Anil KAPOOR: Q304. So [REDACTED] could be's?

Corporal Josh RICHDAL: Yes.

Maître Anil KAPOOR: OK.

Corporal Josh RICHDAL: But, I also believe that the term [REDACTED] is uh... is something that indicates [REDACTED]

Maître Anil KAPOOR: Right. It's... It's descriptive, for sure.

Corporal Josh RICHDAL: Right.

Maître Anil KAPOOR: Q305. Um... paragraph 20. Sorry, I don't mean to move you to 20, are you done with 19?

Corporal Josh RICHDAL: Yeah, yeah. That's uh...

Maître Anil KAPOOR: Q306. OK. Paragraph... paragraph 20.

(Unidentified sounds)

Corporal Josh RICHDAL: So the fact [REDACTED]

Maître Anil KAPOOR: Uh-huh...

Corporal Josh RICHDAL: The fact that it r... sorry, I'll... I'll... I'll go _____. So, the fact [REDACTED]
[REDACTED]

Maître Anil KAPOOR: Yes.

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Corporal Josh RICHDALÉ: The fact [REDACTED]

Maître Anil KAPOOR: Uh-huh...

Corporal Josh RICHDALÉ: And, [REDACTED]

Maître Anil KAPOOR: Uh-huh...

(Shuffling of paper)

Corporal Josh RICHDALÉ: Um... [REDACTED] .. is and technique of DF is not uh... a hidden um... psst... uh... technique...

Maître Anil KAPOOR: Uh-huh...

Corporal Josh RICHDALÉ: But the fact that it's in part of the software uh... is a proprietary tool of the software.

Maître Anil KAPOOR: Q307. [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: OK.

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: Uh-huh...

Corporal Josh RICHDALÉ: As... and [REDACTED]

Maître Anil KAPOOR: Q308. OK. So, the concept that uh... you... you... you c... in DF mode, that you can [REDACTED]
[REDACTED] and as the signal becomes stronger, you can find the device. That's something you would release?

Corporal Josh RICHDALÉ: That is not necessarily something that I would suggest on releasing and that's because a standard radio frequency uh... direction finding technique uh... any signal can be found...

Maître Anil KAPOOR: Uh-huh...

Corporal Josh RICHDALÉ: Using the basic direction finding techniques. But the fact that we are able to s... uh... have [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

Maître Anil KAPOOR: Uh-huh...

Corporal Josh RICHDALÉ: That is uh... something that we would want to protect.

Maître Anil KAPOOR: Q309. OK. And it... I understand you want to protect it?

Corporal Josh RICHDALÉ: And it's...

Maître Anil KAPOOR: Q310. Is it your view that you... that it's not a matter of public knowledge.

Corporal Josh RICHDALÉ: It's not a matter of public knowledge.

Josh Richdale, July 17, 2015, ex parte transcript

Maître Anil KAPOOR: Q311. All right. Uh... and is it your... your view that if it were known, um... uh... it would compromise your ability to effectively execute on your investigations.

Corporal Josh RICHDALÉ: That is correct.

Maître Anil KAPOOR: Q312. All right. I'd like to take you to tab M of R32. Now, you've had a chance to review this before today. This is a transcript of a proceeding in Florida. [REDACTED]

Corporal Josh RICHDALÉ: OK.

Maître Anil KAPOOR: And I'd like to take you to the transcript...

Maître Alexis GAUTHIER: Just... sorry my friend. Uh... just for the record of it, I would want to mention that the uh... some of the uh... passages and this copy have been uh... on the line.

UF: _____.

Maître Alexis GAUTHIER: High... highlighted by myself it's my copy. (Sniffles) No notes, only highlighting.

Maître Anil KAPOOR: I'll compare it with mine later and see...

Maître Alexis GAUTHIER: Al right.

Maître Anil KAPOOR: If we thought the same things were important.

Maître Alexis GAUTHIER: (Chuckles)

Maître Anil KAPOOR: Q313. Um... I want... And I'm referencing my Lord, the top... the numbers in the top right hand page, in the top right hand of the page. So, if I can take you para... page 11

(Shuffling of paper and clearing of throat)

Corporal Josh RICHDALÉ: Yes.

Maître Anil KAPOOR: Q314. And, actually I could just, s... just put it in its context page 10 if I can first, and at the... at line 14. And if you read from line 14 to line 22 you will see what the nature of the investigation was. It was a sexual assault case. Just take a moment to read that. Just so you have the context for the... for what transpiring.

(Pause)

Corporal Josh RICHDALÉ: Yes.

Maître Anil KAPOOR: Q315. Al right. So this was a situation where a cell phone had gone missing, it was important to get the cell phone because it was connected to a sexual assault and the theory was, the perpetrator has it, OK? So, if you turn over to the next page, page 11 the cro... the prosecutor asks, at line two, "To tell the

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court how it is that you go about trying to track the location of a cell phone in this case." The officer whose name is, forgive me, I had it a second ago, "Corbett, Investigator Christopher Corbett. He says, "It varies by case, but specifically for this incident we would contact with the provider whose V... who was Verizon Wireless, they were able to provide us with the tower, the cell phone tower or the cell site for which that handset is currently registered in communicating with..." stopping there for a moment. So, that's... that kind of information that... that one would get from a... from a mobile phone company, you'd agree with me obviously is public?

Corporal Josh RICHDALÉ:

Correct.

Maître Anil KAPOOR:

Q316. And, I'm gonna suggest to you and you'll see this later on, that when it... when it talk... when he talks with a handset that's currently registered later on he will talk about subscriber information. So I want you to keep an eye out for that, OK?

Corporal Josh RICHDALÉ:

Yes.

Maître Anil KAPOOR:

Q317. Um... Carrying on, it says, "In addition they are able to provide us with a distance from that tower, an approximate distance but we're able to use that to define a general area that the handset would be located. From that point we will take equipment that it meant to intercept radio signals, enamate... emanating from that device and provide us with some direction finding capabilities and allow us to basically walk to the device, to the handset", stopping there.

[REDACTED]

Corporal Josh RICHDALÉ:

Yes.

Maître Anil KAPOOR:

Q318. In a sense that it talks about intercepting radio signals emanating from a device?

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

Q319 [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

Q320 [REDACTED]

Corporal Josh RICHDALÉ:

Correct.

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Maître Anil KAPOOR:

Q321.Right. Moving on to page 12... (Shuffling of paper) _____, the Prosecutor asks, "OK, and when we say 'used', does that mean somebody's actually using it? Or does it need to be on?" And the answer provided by the Officer is, "It varies by provider." But for this case, the handset nearly needed to be on and registered and they were able to determine that distance. Now, just moving to line 14 before I ask you the question, how does that work? "In essence, we emulate a cell phone tower," stopping there. _____

Corporal Josh RICHDALE:

Maître Anil KAPOOR:

OK.

Corporal Josh RICHDALE:

Maître Anil KAPOOR:

Q322.But, to... to be clear, it's public that you're using an MDI device?

Corporal Josh RICHDALE:

Yes.

(Clearing of throat)

Maître Anil KAPOOR:

Q323.All right. And it's public _____ therefore, there'd be no reason to dis... to... to prohibit disclosure of _____

Corporal Josh RICHDALE:

I would...

Maître Anil KAPOOR:

Q324.Without mentioning _____

Corporal Josh RICHDALE:

Maître Anil KAPOOR:

Uh-huh...

Corporal Josh RICHDALE:

Maître Anil KAPOOR:

Q325.The device used in this case.

Corporal Josh RICHDALE:

Yes.

Maître Anil KAPOOR:

Q326 _____

Corporal Josh RICHDALE:

Maître Anil KAPOOR:

_____ I wanna talk... I wanna talk, uh... sorry...

Justice Michael STOBER:

Just... just one minute. This transcript um... that you're reading right now.

Corporal Josh RICHDALE:

Yes.

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Justice Michael STOBER: Q327. Did you read that before coming to court? Have you ever read it before before...?

Corporal Josh RICHDAL: Yes, I've looked at this document before.

Justice Michael STOBER: Q328. You... you've read the paragraphs that the pages that Maître Kapoor is referring to?

Corporal Josh RICHDAL: I have seen them, I do not remember specifically, exactly seeing every single document, per word...

Justice Michael STOBER: Go ahead.

Corporal Josh RICHDAL: But I have looked at this.

Maître Anil KAPOOR: Q329. Carry on at line 15, the Officer says, "So, just as the phone was registered with the real Verizon tower, we emulate a tower and we force that handset to register with us", stopping there. That's intercepting and connecting, forcing the MDI device to connect. Sorry, forcing the mobile to connect to MDI device.

Corporal Josh RICHDAL: That's correct.

Maître Anil KAPOOR: Q330. All right. And then, carry on to line 19, "We identify that we have the correct handset, and then were able to, by just merely direction finding on the signal emanating from a handset, were able to determine a location." OK?

Corporal Josh RICHDAL: That's correct.

Maître Anil KAPOOR: Q331. Now, that last section, "They're able to identify the correct handset." That's related obviously to what he just previously said about registering with Verizon, having the particular coordinates. You'd agree with that?

Corporal Josh RICHDAL: Sorry, one... one more time.

Maître Anil KAPOOR: Q332. Is it... that... when he says, "We identify that with the correct handset." That's connected to the information from Verizon. They would have no other way of knowing, right?

Corporal Josh RICHDAL: Well, they...

Maître Anil KAPOOR: Q333. Unless... unless separate

Corporal Josh RICHDAL: It would be separate from the Verizon uh... provider. But if they had correct handset then, yeah, they would be able to.

Maître Anil KAPOOR: Q334. W... well they identify that they have it by the deployment of the device.

Corporal Josh RICHDAL: Correct. Yes.

Maître Anil KAPOOR: Q335. Which turns on the information provided by Verizon.

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Corporal Josh RICHDAL: Ah! I'd... Again, it depends on how they would. I.. I... maybe I'm misunderstand they ...

Maître Anil KAPOOR: Q336.Yes, what I'm saying is, Verizon provides the... the data, the information about the device.

Corporal Josh RICHDAL: Yes.

Maître Anil KAPOOR: Q337.They input it in the machine

Corporal Josh RICHDAL: Correct.

Maître Anil KAPOOR: Q338.And they run the machine and they get the device to register with them and then they identify that they have the correct device by comparing it, by having the information.

Corporal Josh RICHDAL: Correct. That's fair enough to say...

Maître Anil KAPOOR: Asking me...

Corporal Josh RICHDAL: _____ they did.

Maître Anil KAPOOR: Q339.Basically how it works.

Corporal Josh RICHDAL: Yes.

Maître Anil KAPOOR: Q340.OK? And then again the next bid (PH) about a direction finding on the signal emanating from that handset; see that... that's public? You agree with that, obviously?

Corporal Josh RICHDAL: Yes, it is.

Maître Anil KAPOOR: Q341.And, does it matter, is it matter, is it a matter of tradecraft [REDACTED]
[REDACTED]

Corporal Josh RICHDAL: [REDACTED]
[REDACTED]

Maître Anil KAPOOR: Q342. Stopping you there. I'm not...

Corporal Josh RICHDAL: Oh sorry!

Maître Anil KAPOOR: Asking...

Corporal Josh RICHDAL: Sorry... No! Is the answer.

Maître Anil KAPOOR: Yeah, OK.

Corporal Josh RICHDAL: That's... that's not uh... that is a publicly known technique to find radio frequency.

Maître Anil KAPOOR: Right.

Corporal Josh RICHDAL: Is that... does that answer your question.

Maître Anil KAPOOR: Yes, exactly. Thank you.

Justice Michael STOB: That... that was a bit confusing just put that out there again please.

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Maître Anil KAPOOR:

So in this evidence that we saw at tab M.

Justice Michael STOBER:

Page 12, line 5 to 21

Maître Anil KAPOOR:

Q343. Yes, in that frame the officer talks about using direction finding on the signal emanating from that handset, right?

Corporal Josh RICHDALÉ:

Correct.

Maître Anil KAPOOR:

Q344. OK. [REDACTED]

Corporal Josh RICHDALÉ:

Maître Anil KAPOOR:

Q345 [REDACTED]

Corporal Josh RICHDALÉ:

Maître Anil KAPOOR:

Q346 [REDACTED]

Corporal Josh RICHDALÉ:

Maître Anil KAPOOR:

Q347 [REDACTED]

Corporal Josh RICHDALÉ:

Maître Anil KAPOOR:

Q348. [REDACTED]

Corporal Josh RICHDALÉ:

That's correct.

Maître Anil KAPOOR:

Q349 [REDACTED]

Corporal Josh RICHDALÉ:

That is correct.

Maître Anil KAPOOR:

Q350. All right, [REDACTED]

Corporal Josh RICHDALÉ:

Maître Anil KAPOOR:

So... so, your....

Corporal Josh RICHDALÉ:

Maître Anil KAPOOR:

Q351. Well that's the point. In order to say that this could, could, and use the word could, that this could identify [REDACTED]

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Corporal Josh RICHDALÉ: That's correct. But that is what Jocelyn Fortin's testimonial will be able to explain.

Maître Anil KAPOOR: Q352. Short of that, and we'll deal with that separately, short of that. But just as a matter of investigative technique, [REDACTED] is hardly a matter of tradecraft, you would agree with me?

Corporal Josh RICHDALÉ: I agree with you.

Maître Anil KAPOOR: Q353. All right. And now, I wanna take you to, I'm not gonna be that much longer my Lord, um...

Justice Michael STOBER: Just the three are [REDACTED]
[REDACTED]

Maître Anil KAPOOR: [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]
[REDACTED]
[REDACTED]

Maître Anil KAPOOR: Q354 [REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Let's stick to Maître Kapoor's questions for now. If there's a redirect and then uh... elaboration on your answer the Crown will ask you.

Corporal Josh RICHDALÉ: Yes, your Honor.

Justice Michael STOBER: Go ahead.

Maître Anil KAPOOR: Q355. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q356. For example, um... you have [REDACTED]
[REDACTED]

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q357. And of course we saw that in the PowerPoint that you delivered earlier this afternoon.

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q358. Um... we also ha... the concept of... of... of [REDACTED] Wasn't expl... was not explicitly said.

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q359. OK. Um... and well I guess it is implicit but not when these words, uh... using [REDACTED]
[REDACTED]

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Corporal Josh RICHDALÉ: Correct.

Maitre Anil KAPOOR: Q360. All right. I'd like to now, take you to other

(Unidentified sounds and shuffling of paper)

Maitre Anil KAPOOR:

Justice Michael STÖBER:

Maitre Anil KAPOOR:

(Shuffling of paper, clearing of throat and incomprehensible whispering)

Maitre Anil KAPOOR:

Corporal Josh RICHDALÉ:

Maitre Anil KAPOOR:

Corporal Josh RICHDALÉ:

Maitre Anil KAPOOR:

Q362

Justice Michael STÖBER:

Corporal Josh RICHDALÉ:

UF:

Justice Michael STÖBER:

UF:

Justice Michael STÖBER:

Maitre Anil KAPOOR:

Q363.

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Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR:

Q364

[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR:

Q365

[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR:

Q366

[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

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Maitre Anil KAPOOR: Q368 [REDACTED]
[REDACTED]
[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]
[REDACTED]

Maitre Anil KAPOOR: Q369 [REDACTED]
[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maitre Anil KAPOOR: Q370 [REDACTED]
[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maitre Anil KAPOOR: [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Justice Michael STOBER: [REDACTED]

Maitre Anil KAPOOR: [REDACTED]

Justice Michael STOBER: Q371 [REDACTED]
[REDACTED]
[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]
[REDACTED]

Justice Michael STOBER: Q372 [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Justice Michael STOBER: [REDACTED]
[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Justice Michael STOBER: Q374 [REDACTED]
[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Justice Michael STOBER: [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maitre Anil KAPOOR: [REDACTED]

Justice Michael STOBER: [REDACTED]
[REDACTED]
[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maitre Anil KAPOOR: Q375 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR:

Q376 [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR:

Q377 [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR:

Q378 [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR:

Q379 [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

(Clearing of throat)

Q380 [REDACTED]
[REDACTED]



Q381 [REDACTED]
[REDACTED]
[REDACTED]

Q383 [REDACTED]

10

Q384 [REDACTED]
[REDACTED]
[REDACTED]

1

Q385 [REDACTED]

114

Q386 [REDACTED]

Q387 [REDACTED]

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Maître Anil KAPOOR:

Q388.

[REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

Q389

[REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

Q390

[REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

Q391

[REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

Q392

[REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

Q393.

[REDACTED]

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[REDACTED]

(End of recording #4)

(Beginning of recording #5)

Maître Anil KAPOOR:

[REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

Q394

[REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

Q395

[REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

UM:

[REDACTED]

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Justice Michael STOBER: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Justice Michael STOBER: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

(Incomprehensible whispering)

Maître Anil KAPOOR: [REDACTED]

Justice Michael STOBER: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Justice Michael STOBER: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

(Shuffling of paper)

Corporal Josh RICHDALE: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Corporal Josh RICHDALE: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Justice Michael STOBER: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Justice Michael STOBER: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Corporal Josh RICHDALE: [REDACTED]

Maître Anil KAPOOR: [REDACTED] Q397 [REDACTED]

Maître Anil KAPOOR: Q398. [REDACTED]

Maitre Anil KAPOOR: Q399

Maître Anil KAPOOR: Q400

Maître Anil KAPOOR: [REDACTED]

Maitre Anil KAPOOR: Q401 [REDACTED]

Maître Anil KAPOOR: Q402

Maître Anil KAPOOR: [REDACTED]

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Corporal Josh RICHDALÉ: [REDACTED]
[REDACTED]

Maître Anil KAPOOR: [REDACTED]
[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]
[REDACTED]

Maître Anil KAPOOR: Q404 [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Anil KAPOOR: Q405 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: [REDACTED]
[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]
[REDACTED]

Maître Anil KAPOOR: Q406 [REDACTED]
[REDACTED]
[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: Q407 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]
[REDACTED]

Maître Anil KAPOOR: [REDACTED]

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Corporal Josh RICHDALÉ:

Maître Anil KAPOOR:

Q408

Corporal Josh RICHDALÉ:

Maître Anil KAPOOR:

Q409

Corporal Josh RICHDALÉ:

Maître Anil KAPOOR:

Q410

Corporal Josh RICHDALÉ:

Justice Michael STÖBER:

Q411

Corporal Josh RICHDALÉ:

Justice Michael STÖBER:

Q412

Corporal Josh RICHDALÉ:

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Justice Anil KAPOOR: [REDACTED]

Corporal Josh RICHDAL: [REDACTED]
[REDACTED]

Maître Anil KAPOOR: Q413. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Marie-Christine GODBOUT: [REDACTED]

Maître Anil KAPOOR: Q414 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Corporal Josh RICHDAL: [REDACTED]
[REDACTED]

Maître Anil KAPOOR: [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Maître Anil KAPOOR: Q415 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Maître Anil KAPOOR: OK. OK. I'm uh... I've got till the... the end of as far as I can go uh... today. I don't know how much, if any I'll have more, but I would like to leave my uh... cross open if I can...

Justice Michael STOBER: Yeah.

Maître Anil KAPOOR: Just so that I can review my notes and review um... uh... what I f... what I remember I asked today and um... and um... I can let my friend uh... know over the break... over the break, sir, over the weekend, whether I'll need uh... well I guess you'll have to come back any way for uh... so...

Justice Michael STOBER: I... I don't want you to let you're uh... domestic issues affect whether or not you're going to have questions.

Maître Anil KAPOOR: (Laughs) In fact they may... they may result in me having nothing else to do, but... but search for questions.

Justice Michael STOBER: All right. Um, I... I... I have a question um... what you're saying is uh... particularly with the... the last group of questions of uh, Mr. Kapoor from uh... [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Justice Michael STOBER:

Q416

[REDACTED]

Corporal Josh RICHDALE:

[REDACTED]

Justice Michael STOBER:

Q417. Well... if I take that argument, it's... it's uh... similar to something I raised the other day, uh... wiretap's been used for 50 years. Um... it's almost like saying you... the police don't want the criminal element to know that in particular jurisdiction they're using wiretap devices because they'd be able to uh... the interactions among the criminals would be intercepted by the police. So the police in Medicine Hat or in Fort McMurray, or the Okanagan, or wherever... I'm just referring to places that you're familiar with, um... because they're not areas that are necessarily as sophisticated as the major urban centers in Canada, like Montreal and Toronto, Calgary, etc. Um... your argument is basically saying that uh... your position, you need to have these things privileged because, although they are out there in the public domain, if the criminals know that police were using that in a particular investigation, well then they... they may realize they might get caught, and they might not talk on the phone and provide evidence, uh... which would detect criminal offences. Is that r... your position?

Corporal Josh RICHDALE:

Well, my position on this is more uh... 'cause I mean, the fact that we do wiretaps, the fact that we do surveillance, those are, you know, secret techniques, the fact that we enter houses, those are uh... techsiniques (PH) that are uh... known, but uh... you know, that we would want to try and hide _____...

Justice Michael STOBER:

Q418. Trackers on cars?

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Corporal Josh RICHDAL: Exactly.

Justice Michael STOB: Q419. Are known techniques...

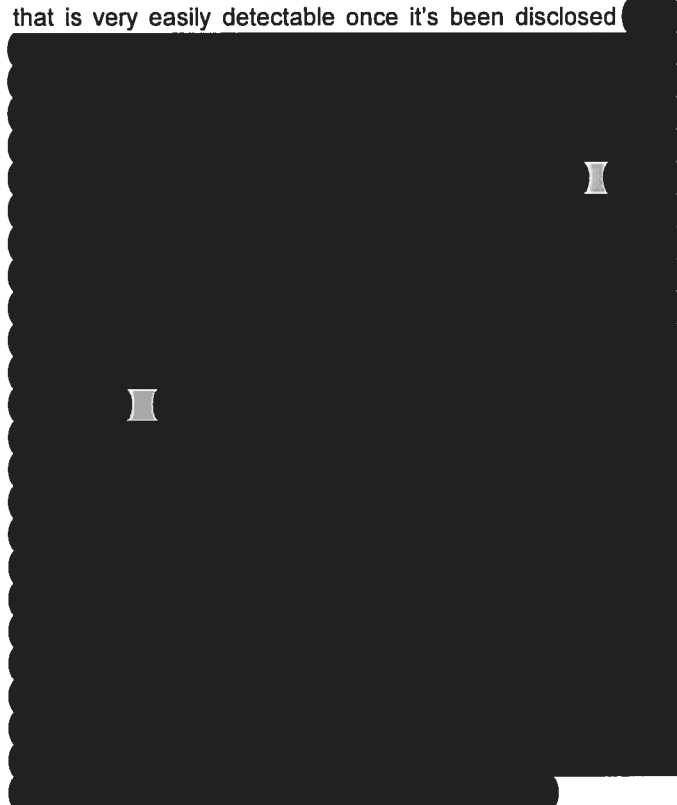
Corporal Josh RICHDAL: That's correct.

Justice Michael STOB: Q420. That the police use.

Corporal Josh RICHDAL: That's correct.

Justice Michael STOB: Uh...

Corporal Josh RICHDAL: However, this particular technique uh... is something that is very easily detectable once it's been disclosed (



Justice Michael STOB: Q421. But, you mentioned surveillance uh... everybody knows that police use surveillance techniques.

Corporal Josh RICHDAL: That's correct.

Justice Michael STOB: Q422. Um and uh... if there's a burn, if the uh... there's you know, usually one car, two cars, three cars, there's several cars that follow and get out of line and then...

Corporal Josh RICHDAL: That's correct.

Justice Michael STOB: Q423. And then another unknown vehicle replaces it. If there's a burn in a disclosure that there's a, uh... a surveillance and the criminals are gonna know that certainly endangers officer safety, they do it anyway.

Corporal Josh RICHDAL: That's correct. However, and then to say the same, you can switch a car, you switch an investigator uh... this technique there's no switch for it, there's no other way that we can uh... use this type of style of technique to uh... to try

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and identify mobile devices either. And, you know, I agree at the base, a lot of the uh... information we've disclosed uh... is out there. [REDACTED]

Justice Michael STOBER: Q424 [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Justice Michael STOBER: Q425 [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Justice Michael STOBER: Q426 [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Justice Michael STOBER: [REDACTED]

[REDACTED] And quite frankly, I have a problem with that. Not just as far as your concerned but as far as the Crown's concerned because if I didn't have an Amicus Curæ, I would be kept in the dark.

Maitre Alexis GAUTHIER: Sir...

Justice Michael STOBER: No, I'm not finished.

Maitre Alexis GAUTHIER: If you want to take a punch on somebody, take it at me.

Justice Michael STOBER: No, excuse me!

Maitre Alexis GAUTHIER: Take it at me.

Justice Michael STOBER: Excuse me, sit down please. Sit down, please.

Maitre Alexis GAUTHIER: This gentleman is not a lawyer.

Justice Michael STOBER: Sit down please! You're crossing the line here. I'm not saying you were aware of it Mr. Gauthier, but...

Maitre Alexis GAUTHIER: That's not what I'm saying, too.

Justice Michael STOBER: Please don't speak when the Court's speaking. I'm not saying it's this officer's responsibility to do that. He has a job as an operator, he takes courses and he has a very restricted function. [REDACTED]

[REDACTED]

[REDACTED] And if I do say something, it's not a question of punching anyone, I have a role here as do you as does the officer. [REDACTED]

[REDACTED]

[REDACTED] And I think it's an observation worth making, it's not a personal punch or attack at anybody. [REDACTED]

[REDACTED]

[REDACTED] So we're gonna take a break, what time is it uh...
Corporal Leonard?

Corporal Caroline LEONARD: _____, my Lordship. So, on the device it's uh
16:23... 16:23.

Justice Michael STOBER: You can turn...

Corporal Caroline LEONARD: You want me to...

Justice Michael STOBER: It off.

Josh Richdale, July 17, 2015, ex parte transcript

Corporal Caroline LEONARD: Stop it?

Justice Michael STOBER: Yeah.

(End of recording #5)

(Beginning of recording #6)

Corporal Caroline LEONARD: So, 16:33, beginning of recording.

Justice Michael STOBER: Very well, um... any other comment from you Mr. Kapoor?

Maître Anil KAPOOR: Uh... none, my Lord.

Justice Michael STOBER: OK. So, you'll determine on Monday whether you have any uh...

Maître Anil KAPOOR: Yes.

Justice Michael STOBER: Further cross-examination on your ex parte hearing and uh... we're beginning at 10 uh... no, we said at two o'clock?

Maître Anil KAPOOR: I think two o'clock, we said for Monday.

Justice Michael STOBER: Is that it two o'clock? All right.

Maître Robert ROULEAU: Yes.

Justice Michael STOBER: Have a good weekend.

Maître Anil KAPOOR: OK, thank you.

Justice Michael STOBER: But uh... we'll be a couple of minutes. Uh, Maître Gauthier, was there anything else that you wanted to say?

Maître Alexis GAUTHIER: No, not for the time being sir. We don't have any more comments.

Justice Michael STOBER: Well, you did try to make a comment so now is your time, but not while I'm speaking. We can't speak at the same time so I'm inviting you now to make the comment that you wish to make, unless you've decided to withdraw it.

Maître Alexis GAUTHIER: The only thing that I wanted to... to... to mention sir, is that uh...

Justice Michael STOBER:

Josh Richdale, July 17, 2015, ex parte transcript

Maître Alexis GAUTHIER:

And, this is the only thing that I want... I wanted to... to point out to the Court. I did interrupt you and I shouldn't have done so. Uh... but that was the only comment I wanted to make, sir.

Justice Michael STOBER:

OK. As far as you interrupting me, we've been together for over a year now, but things happen in the heat of the action, it's already forgotten. And we'll continue in the way we've been going. So, thank you for making that uh... comment. With respect to the other comment about uh, Corporal Richdale, there is no uh... there is nothing personal with respect to the officer [REDACTED]

Corporal Josh RICHDALÉ:

Justice Michael STOBER:

OK. Uh, I don't have to repeat the exchange in cross-examine that went on... the cross-examination that went on. Um, Corporal Richdale is involved in taking courses, he's an operator and uh... I can't comment to much more at this point, he's not finished and the motion is not terminated. [REDACTED]

Corporal Josh RICHDALÉ:

Justice Michael STOBER:

Maître Alexis GAUTHIER:

Justice Michael STOBER:

Um... and that was the point of my question with respect to the policeman. Did you Mr. Kapoor, notice anything personal with respect to this police officer?

Maître Anil KAPOOR:

Uh... no.

Justice Michael STOBER:

No. Uh... the other point, I wanted to make, is that uh... uh... [REDACTED]

[REDACTED] How many lawyers on this Crown team, in this case? Today?

Josh Richdale, July 17, 2015, ex parte transcript

Maître Alexis GAUTHIER: Today Sir, three.

Justice Michael STOBER: Three?

Maître Alexis GAUTHIER: Uh-huh...

Justice Michael STOBER: But I mean, there's you, there's Maître Godbout, there's Maître Rouleau, there's Maître Rondeau-Marchand, she's not on the team anymore?

Maître Alexis GAUTHIER: She is, but uh... not on this motion, sir.

Justice Michael STOBER: All right. But, I mean, I saw it from this motion, you say there's three, how many all together on the Crown case?

Maître Alexis GAUTHIER: Uh... full-time sir uh... I would say uh... uh... about five, sir.

Justice Michael STOBER: All right. Mr. Kapoor, are you working alone on this case?

Maître Anil KAPOOR: I... ye... uh... yeah.

Justice Michael STOBER: Yeah. OK.

Maître Anil KAPOOR: I mean I do sp... I... I... I speak with the Defense to understand the theory of their position for purposes of making submissions enclosed on the balancing but...

Justice Michael STOBER: OK. All right.

Maître Anil KAPOOR: But beyond that...

Justice Michael STOBER: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Justice Michael STOBER: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Justice Michael STOBER: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Justice Michael STOBER: [REDACTED]

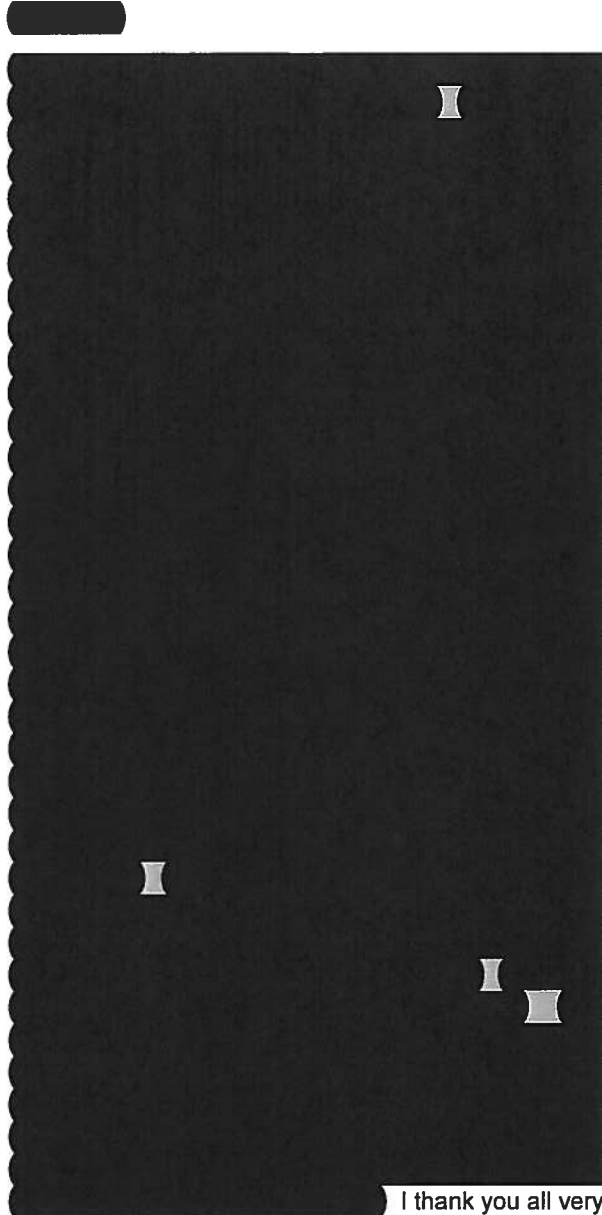
Maître Alexis GAUTHIER: [REDACTED]

Justice Michael STOBER: [REDACTED]

Josh Richdale, July 17, 2015, ex parte transcript

Maitre Anil KAPOOR:

Justice Michael STOBBER:



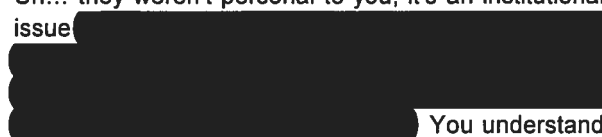
I thank you all very much for your collaboration today. The order I mentioned earlier Richdale at _____, you shouldn't discuss this with anybody, I think you were gonna look for a document at one point, you mentioned and um... if for some reason you feel you need to inquire or do something, you'll ask me Monday.

Corporal Josh RICHDALE:

Yes, your Honor.

Justice Michael STOBBER:

All right? Uh... you understood my remarks as well. Uh... they weren't personal to you, it's an institutional issue



You understand that?

Corporal Josh RICHDALE:

Yes, your Honor.

Josh Richdale, July 17, 2015, ex parte transcript

Justice Michael STOBBER: All right. So, thank you very much. I wish everyone a good weekend and uh... Corporal Leonard I'd ask you to turn off the machine uh... the tape recorder now.

Corporal Caroline LEONARD: Yes, I will. 16:41, end of recording.

Justice Michael STOBBER: OK.

(End of recording #5)

Josh Richdale, July 20, 2015, ex parte transcript

Investigative Techniques Motion

Superior Court Ex Parte hearing at the Laval Courthouse, on 2015-07-20, presided by Superior Court Justice, The Honorable Michael STOBER

15:37 hrs.

Justice Michael STOBER: On peut commencer.

Corporal Caroline LEONARD: 15h37 le début de l'enregistrement monsieur le juge.
15:37...

Justice Michael STOBER: So, it's uh... 3:37 pm, we're uh... going to continue with the ex parte hearing and Maître Kapoor's cross-examination. Um, I'm just going to have the Special Constable verify that uh... confirm that he swept the whole court room including the jury box, all the seats everywhere including the accuse (PH) box.

UM: Yes.

Justice Michael STOBER: He said... it's done?

UM: Yes, it's done.

Justice Michael STOBER: OK. So, you can leave the room and keep the door locked on the outside with a sign "huit-clôts."

UM: No problem.

Justice Michael STOBER: All right, thank you. We'll wait till he leaves. What's your name, sir?

Maître Robert ROULEAU: Sir?

Justice Michael STOBER: What... Qu'est-ce que c'est votre nom?

Monsieur PRÉVOST: Prévost, _____, Prévost.

Justice Michael STOBER: OK, merci. All right, so in continuation of this hearing before me, Justice Stober, um... present in the court room is the witness Josh Richdale from the RCMP, Maître Kapoor um... the Amicus Curae, the Crown Maître Godbout, Maître Gauthier, Maître Rouleau and uh, Caporal Léonard of the RCMP and um... all other persons have been excluded including the clerk and the bailiff, all the lawyers and all material as I've just mentioned uh... has been removed from the court, any papers or lawyer's bags or what have you, and the Special Constable has made a verification. Is there anything else before we continue?

Maître Robert ROULEAU: Uh... just for the uh... all the uh... person present to state their name for the uh...

Justice Michael STOBER: Yes.

Maître Robert ROULEAU: Recording the transcripts.

Josh Richdale, July 20, 2015, ex parte transcript

Justice Michael STOBER: Right. I'm Justice Stober. We'll start with Maître Godbout.

Maître Marie-Christine GODBOUT: Marie-Christine Godbout.

Corporal Caroline LÉONARD: Caroline Léonard.

Maître Alexis GAUTHIER: Alexis Gauthier.

Maître Robert ROULEAU: Robert Rouleau.

Corporal Josh RICHDALÉ: Josh Richdale.

Maître Anil KAPOOR: Anil Kapoor.

Justice Michael STOBER: OK. Maître Kapoor, go ahead.

Maître Anil KAPOOR: Thank you. (Clears throat) Corporal, there was a...

Corporal Josh RICHDALÉ: I'm sor...

Maître Anil KAPOOR: And you'll forgive me, you probably have a better mem... oh sorry...

Maître Alexis GAUTHIER: Just... excuse me.

Maître Anil KAPOOR: I'm sorry.

Maître Alexis GAUTHIER: Sh... should we swore in the uh... the witness?

Justice Michael STOBER: Yes, ____.

Maître Anil KAPOOR: Yeah, swear him ____.

Justice Michael STOBER: All right.

Maître Anil KAPOOR: I'm content, I'm... he doesn't need to be re-sworn but...

Justice Michael STOBER: No but... but Maître Gauthier knows I like to have the witness...

Maître Anil KAPOOR: OK sorry, forgive me...

Justice Michael STOBER: Re-sworn every day, once every day. Uh... you have your hand on the Bible, sir...?

Corporal Josh RICHDALÉ: Yes, your Honor.

Justice Michael STOBER: You want to be sworn on the Bible?

Corporal Josh RICHDALÉ: Yes, your Honor.

Justice Michael STOBER: OK and uh... your occupation?

Corporal Josh RICHDALÉ: I'm a Corporal with the Royal Canadian Mounted Police.

Justice Michael STOBER: Can you... you swear to tell the truth, the whole truth, nothing but the truth so help you God?

Corporal Josh RICHDALÉ: Yes, your Honor.

Josh Richdale, July 20, 2015, ex parte transcript

Justice Michael STOBER: All right, very good, merci Maître Gauthier uh, I forgot the oath today.

Maître Anil KAPOOR: Thank you.

Justice Michael STOBER: Go ahead.

Maître Anil KAPOOR: Q1. When we were um... last uh... before his Lordship, there was a document that you were gonna look for when you were away, away... when you went... huh... when you went back um... did you have an opportunity to look for that document?

Corporal Josh RICHDALÉ: Yes, your Honor.

Maître Anil KAPOOR: Q2. Were you able to find it?

Corporal Josh RICHDALÉ: It uh... I just wanted to uh... to clarify your Honor with exactly what uh... what uh... uh... psst... the report was exactly because I... I had noticed that there were a few um... reports with regards to direction funding...

Maître Anil KAPOOR: Right.

Corporal Josh RICHDALÉ: And I didn't have a specific person uh... that I was looking for, for uh... for that particular uh... uh... report that you were looking uh... that you wanted me to look at.

Maître Anil KAPOOR: Yeah, I think uh... my note um...

Corporal Josh RICHDALÉ: Cause I, I had mentioned your Honor...

Maître Anil KAPOOR: Sorry...

Corporal Josh RICHDALÉ: Sorry, I had mentioned your Honor that it was for uh, Corporal Lemoyne who I believe that uh... we were referencing.

Maître Anil KAPOOR: Yes, it was.

Corporal Josh RICHDALÉ: Is... is that correct?

Maître Anil KAPOOR: That's correct, yes...

Corporal Josh RICHDALÉ: OK.

Maître Anil KAPOOR: That's my note but...

Corporal Josh RICHDALÉ: OK, yeah uh... there was no report that I found uh... in the documents that were disclosed to the defense, your Honor.

Maître Anil KAPOOR: Q3. You mentioned th... that during your search you came across um... some documents, some reports.

Corporal Josh RICHDALÉ: Yes, your Honor.

Maître Anil KAPOOR: Q4. That had been disclosed to the defense.

Corporal Josh RICHDALÉ: Yes, your Honor.

Josh Richdale, July 20, 2015, ex parte transcript

Maitre Anil KAPOOR:

Q5. All right. And just in the interest of completeness for his Lordship's note, can you just indicate um... what those documents were?

Corporal Josh RICHDALÉ:

Yes, your Honor, so we had uh... operators notes as well as a 1624 Continuation Report.

Justice Michael STOBER:

Q6. What's that?

Corporal Josh RICHDALÉ:

That's a RCMP document where we document uh... uh... activities completed uh... by investigators uh... uh... actions taken on the file.

Justice Michael STOBER:

Q7. Like a log?

Corporal Josh RICHDALÉ:

Uh... yes.

(Clearing throat)

Justice Michael STOBER:

Q8. So you're saying these were given to the defense?

Corporal Josh RICHDALÉ:

Yes, they were.

Justice Michael STOBER:

OK.

Maitre Anil KAPOOR:

Q9. And when you mention operator's notes, you mean someone who was actually operating the MDI device.

Corporal Josh RICHDALÉ:

That is correct.

Maitre Anil KAPOOR:

Q10. And do you recall whose notes they were?

Corporal Josh RICHDALÉ:

Yes, I saw notes for uh... um... myself uh, Sergeant Mar... Martin Dubois, psst... uh, Corporal Isabelle Trottier, psst... Corporal Dave Ouellette, psst... and Civilian Member, Jocelyn Fortin.

Justice Michael STOBER:

Q11. Uh, Fortin is a Civilian Member?

Corporal Josh RICHDALÉ:

Yes.

Maitre Anil KAPOOR:

Q12. And these operator notes, I take it these are the notes that you reference during your testimony and cross-examination that are occasionally taken by operators in the field.

Corporal Josh RICHDALÉ:

That is correct.

Maitre Anil KAPOOR:

Q13. All right. And so they would be attached to particular sessions or events when you were out operating the device.

Corporal Josh RICHDALÉ:

That is correct.

Maitre Anil KAPOOR:

Q14. All right. Now, your colleague may be able to answer these questions but I thought I would ask you as well, are you ware... aware of any testing on this [REDACTED] To... to determine its efficacy, it's effectiveness.

Josh Richdale, July 20, 2015, ex parte transcript

Corporal Josh RICHDALÉ: Psst... uh... there is, as far as an operator and myself um... the only testing we have done is operational work.

Maitre Anil KAPOOR: OK.

Corporal Josh RICHDALÉ: Psst... uh... we have uh... tested with our own device on uh... different occasions to... to try and um... psst... uh... to show other members how the device works but nothing official as far as uh... testing.

Justice Michael STOBER: **Q15.** You mean... you mean you use [REDACTED] with your members' cell phones that kind of thing.

Corporal Josh RICHDALÉ: That's correct, amongst uh... exactly your Honor.
(Door closing)

Maitre Anil KAPOOR: **Q16.** So when you said, "own device" you mean [REDACTED]

Corporal Josh RICHDALÉ: Psst... sorry, I'll clarify that.

Justice Michael STOBER: **Q17.** I think you meant the cell phones, right...?

Corporal Josh RICHDALÉ: Yes.

Justice Michael STOBER: Yeah.

Corporal Josh RICHDALÉ: So we use [REDACTED] device uh... to test with our cell phone.

Maitre Anil KAPOOR: **Q18.** I see, all right. As a form of demonstration for uh... your colleagues who are operators or perhaps part of the Special "I" unit?

Corporal Josh RICHDALÉ: Exactly, your Honor.

Maitre Anil KAPOOR: **Q19.** OK. And, so I take it then that they're... those aren't formal tests with the results of which are recorded?

Corporal Josh RICHDALÉ: That is correct.

Maitre Anil KAPOOR: **Q20.** Do you know whether there are any formal tests the results of which are recorded?

Corporal Josh RICHDALÉ: I do not know that.

Maitre Anil KAPOOR: **Q21.** In um... both in open and in... and in closed proceedings or ex parte proceedings we heard from you about possible reasons for, I think what you termed an inconclusive result.

Corporal Josh RICHDALÉ: That is correct.

Maitre Anil KAPOOR: **Q22.** And one of them was interference from buildings uh... correct?

Corporal Josh RICHDALÉ: Psst... yes, your Honor.

Josh Richdale, July 20, 2015, ex parte transcript

Maitre Anil KAPOOR: Q23. Weather?

Corporal Josh RICHDAL: That is correct.

Maitre Anil KAPOOR: Q24. And... generally sort of the at... atmospheric or the atmosphere at the time at which you're trying to deploy the device?

Corporal Josh RICHDAL: That is correct.

Maitre Anil KAPOOR: Q25. And, another of course um... reason for an inconclusive result I think you told us was that the phone may be off.

Corporal Josh RICHDAL: Correct.

Maitre Anil KAPOOR: Q26. Um... or the person's using um... a different phone if you're looking for a known device?

Corporal Josh RICHDAL: Correct.

Maitre Anil KAPOOR: Q27. OK. Now, I wanted to ask you um... we heard from your colleague um, Inspector Flynn that there are other reasons why the device may yield what... what we've termed an inconclusive result that are connected to the... to technical explanations of how the device w... interacts with radio frequencies. Are you familiar with that?

Corporal Josh RICHDAL: Uh... yes, um... I would like, uh... guess a little more clarification on... because uh... psst... the... the examples that you had given before...

Maitre Anil KAPOOR: Yes...

Corporal Josh RICHDAL: Or that I had stated um... whether it be building, atmospheric pressure uh... or, the yeah, the environment um... radio f... uh... transmission um... interference, those would, are all combined to affect the radio transmission.

Maitre Anil KAPOOR: Q28. OK, _____ can we just get the wording that um... those _____ (Shuffling of paper) um... sorry... (Shuffling of pages) sorry, my Lord... (Shuffling of pages) In the note that I have and I'll p... guided by his Lordship's bench book obviously on this but the note that I have is that Mr. Rederio (PH) was asking Mr. Flynn or Inspector Flynn about all the different reasons why you could ris... uh... yield a... psst... what we were calling a negative result or you would say an inconclusive result and there was some reasons that Inspector Flynn was not prepared to disclose in public because they would reveal the technical workings of the device and, uh... I wanted to direct your mind to that area and see if you could help us with what those reasons are to assist his Lordship and appreciating the scope of the privilege claim.

Josh Richdale, July 20, 2015, ex parte transcript

Corporal Josh RICHDALÉ:

[REDACTED]

Justice Michael STÖBER:

Q29. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Justice Michael STÖBER:

Q30. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

Q31. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

Q32. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Maître Alexis GAUTHIER:

Q33. [REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

Q34. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

Q35. [REDACTED]

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

Q36. [REDACTED]

Josh Richdale, July 20, 2015, ex parte transcript

Corporal Josh RICHDALÉ:

Maitre Anil KAPOOR:

Q37.

Corporal Josh RICHDALÉ:

Justice Michael STOBÉ:

Q38. What do you mean when you say protocol?

Corporal Josh RICHDALÉ:

So, protocol is a specific set of rules within the technology (clears throat) and that would be, for example, like the IMSI number and IMEI number are specific to the identification in GSM and UMTS, whereas they'll... those identification um... tags if you would are different in what the CDMA protocol. So that's one part of the protocol and there's many different uh... technical rules that are specific for each protocol. Psst... so...

Justice Michael STOBÉ:

Q39. The G... GSM is a different protocol than CD...

Corporal Josh RICHDALÉ:

CDMA.

Justice Michael STOBÉ:

Q40. CDMA.

Corporal Josh RICHDALÉ:

Correct.

Justice Michael STOBÉ:

Q41.

Corporal Josh RICHDALÉ:

Justice Michael STOBÉ:

Q42.

Corporal Josh RICHDALÉ:

Justice Michael STOBÉ:

Corporal Josh RICHDALÉ:

Justice Michael STOBÉ:

Corporal Josh RICHDALÉ:

(Shuffling of paper, unidentified sounds and pause)

Josh Richdale, July 20, 2015, ex parte transcript

Justice Michael STOBER: Q43. [REDACTED]
[REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Justice Michael STOBER: Q44. [REDACTED]

Corporal Josh RICHDAL: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: [REDACTED]

Corporal Josh RICHDAL: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q45. When you s... the operator, you're referring to the MDI operator?

Corporal Josh RICHDAL: I'm sorry, the... the uh... cellular uh... whoever's using a cellular phone.

Justice Michael STOBER: Yeah.

Corporal Josh RICHDAL: [REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q46. [REDACTED]
[REDACTED]

Corporal Josh RICHDAL: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Unidentified sound)

Justice Michael STOBER: Q47. But, the um... specific identifier tags in GSM are different than CDMA.

Corporal Josh RICHDAL: Correct.

Justice Michael STOBER: Q48. You referred to, for example, a SIM card.

Corporal Josh RICHDAL: Correct.

Justice Michael STOBER: Yeah, but...

Corporal Josh RICHDAL: So the SIM card is a...

Justice Michael STOBER: Q49. The same SIM card will have a different ID in each one.

Josh Richdale, July 20, 2015, ex parte transcript

Corporal Josh RICHDAL: No. So CDMA is its own complete uh... protocol that's only used with the Bell and Telus networks and Rogers and Bell had uh, UMTS um... so, your Honor, to... to bring you back and... and kind of, so a SIM card would be part of the protocol for GSM and UMTS so that's one of the rules that you can say you are required to have in order to enable the communication under GSM or UTMS network.

Justice Michael STOBER: Q50 [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Justice Michael STOBER: Q51 [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Justice Michael STOBER: Q52. [REDACTED]

(Shuffling of pages)

Corporal Josh RICHDAL: [REDACTED]

Justice Michael STOBER: Q53. [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Justice Michael STOBER: Q54. [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Justice Michael STOBER: Q55. [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Justice Michael STOBER: Q56. [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Justice Michael STOBER: Q57. [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Justice Michael STOBER: Q58. OK, so whether it's G... uh... uh... G... uh... GMS, UMTS or CDMA the identifier of the SIM card, whether it's a number or what have you, alphanumerical, is it always the same?

Corporal Josh RICHDAL: Yes, for... for the IMSI and IMEI, on the CDMA network, it... there're two different terms and the numbers are different, it's not an IMSI or an IMEI. It's called and MSID or and ESM.

Josh Richdale, July 20, 2015, ex parte transcript

Justice Michael STOBER: Q59. But the SIM card won't... from one system to another uh... vary it's always the same number.

Corporal Josh RICHDAL: Th... there is no SIM card for the CDMA network.

Justice Michael STOBER: Q60. All right. What is it?

Corporal Josh RICHDAL: It's... it... it's a chip... it's just a chip that's embedded in the cellular device.

Justice Michael STOBER: Go ahead.

Maître Anil KAPOOR: Q61. [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Maître Anil KAPOOR: Q62. [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Maître Anil KAPOOR: Q63. [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Maître Anil KAPOOR: Q64. [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Maître Anil KAPOOR: Q65. [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Maître Anil KAPOOR: Q66. [REDACTED]

Corporal Josh RICHDAL: [REDACTED]

Maître Anil KAPOOR: Q67. Right, OK. Thank you. In dealing with the (clears throat) um... other limitations, interference from buildings, weather and generally atmospherics affecting radio frequencies, what does an operator do to limit the impact of those negative influences?

Corporal Josh RICHDAL: [REDACTED]

(Clearing of throat)

Josh Richdale, July 20, 2015, ex parte transcript

Corporal Josh RICHDAL:

[REDACTED]

Maitre Anil KAPOOR:

Q68. I see. Are there others... other [REDACTED]

[REDACTED] are there other things that an operator does to limit the impact of... of um... uh... negative influences on the operation of the machine... the machine, sorry, the MDI?

Corporal Josh RICHDAL:

Psst... um... There are a couple... there are a couple of settings that we can and change on the machine for how the cellular device will interact with the machine. Um...

Maitre Anil KAPOOR:

Q69. Can you describe those for us?

Corporal Josh RICHDAL:

[REDACTED]

Maitre Anil KAPOOR:

Q70. [REDACTED]

[REDACTED]

Corporal Josh RICHDAL:

[REDACTED]

Maitre Anil KAPOOR:

Q71. [REDACTED]

Corporal Josh RICHDAL:

[REDACTED]

Maitre Anil KAPOOR:

Q72. Throughout this investigation?

Corporal Josh RICHDAL:

For this particular investigation, correct.

Maitre Anil KAPOOR:

Q73. [REDACTED]

[REDACTED]

Corporal Josh RICHDAL:

[REDACTED]

Maitre Anil KAPOOR:

All right.

Justice Michael STOBER:

Q74. The... if the target is talking to somebody on the phone when you capture the identification information, is their call stopped?

Corporal Josh RICHDAL:

Potentially, if the... the device attaches to the machine their... their call will be stopped.

Maitre Anil KAPOOR:

Q75. And to be clear, they would attach the machine for the duration of the session.

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Corporal Josh RICHDALÉ: That's correct.

Maître Anil KAPOOR: Q76. And I wanted to get to that in a moment, that is the duration of the set... of the session but before I do, are there other things that an operator can do to deal with the negative impacts of the operation of the MDI?

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: Q77. Yes.

Corporal Josh RICHDALÉ: [REDACTED]

Justice Michael STOBÉ: Q78. The MDI?

Corporal Josh RICHDALÉ: The MDI machine. Um... but um...

Maître Anil KAPOOR: Q79. [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: Q80. [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: Q81. The consequence of the biggest ra... when you say, "biggest range", do you mean in terms of um... distance?

Corporal Josh RICHDALÉ: Yes.

Maître Anil KAPOOR: Q82. [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: Q83. Well, depending...

Corporal Josh RICHDALÉ: It depends.

Maître Anil KAPOOR: Q84. Where you are.

Corporal Josh RICHDALÉ: It, uh... it depends on where we are and again it depends on those factors that...

Maître Anil KAPOOR: Q85. Yes.

Corporal Josh RICHDALÉ: Affect the range.

Maître Anil KAPOOR: Q86. OK. These steps that we've just been discussing um... are these, in some way notated, like,

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where... would... would you make a note of steps that you take to minimize uh... the negative influences on the operation of the machine?

Corporal Josh RICHDALÉ: No.

Maitre Anil KAPOOR: OK. Now, (clears throat) I'd like to turn you to uh... an exhibit in these proceedings, it's exhibit 32.3 and um... I don't know if my friends have a copy uh... handy or not, if you don't uh... I have a copy.

(Shuffling of paper)

Maitre Anil KAPOOR: It was p... a public uh... document. Do you have it...?

Justice Michael STOBER: This one...?

Maitre Anil KAPOOR: My Lord...

Justice Michael STOBER: This one?

Maitre Anil KAPOOR: Q87. Yes. OK. And in particular following along the conversation, this is a policy uh, RCMP policy on the use of this device. You'll see that on the front page um... from um... OIC Technical Investigation Services, so I guess it's your Crops officers?

Corporal Josh RICHDALÉ: Correct.

Maitre Anil KAPOOR: Q88. All right. And the date of this is, January 5th, 2011.

Corporal Josh RICHDALÉ: Correct.

Maitre Anil KAPOOR: All right. Um... what I want to take you to is, um... sadly these pages are not consecutively numbered but um... it is, starting from the first page of the policy, not the cover page...

(Shuffling of paper)

Maitre Anil KAPOOR: Sixth page in which has uh... at the bottom my Lord, the num... bottom right the number one and the bottom... and the top right protected B.

(Clearing of throat)

Maitre Anil KAPOOR: Sixth page in.

Justice Michael STOBER: Got it.

Maitre Anil KAPOOR: Q89. And... and the heading is Mobile Device Identifier MDI Fact Sheet, do you have that, sir?

Corporal Josh RICHDALÉ: Yes, your Honor.

Maitre Anil KAPOOR: Q90. So if I can take you (clears throat), we've been talking about this a little bit, but you look at number three, MDI Impact on the Public uh... and you've just answered some questions fr... uh... from his Lordship

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about the impact on the public and you'll see those two paragraphs there. Just take a moment to just refresh your memory and read them to yourself.

Corporal Josh RICHDALÉ: OK.

(Pause and unidentified sounds)

Corporal Josh RICHDALÉ: Yes...

Maître Anil KAPOOR: Q91. Yes. OK, thank you. And if you turn over to the next page, you'll see the recommendation from the RCMP in the second full paragraph is, "That the range of the MDI be limited as much as is necessary, reasonably possible in order to avoid unnecessary interference with other mobile u... users in the area." Do you see that there?

Corporal Josh RICHDALÉ: Yes.

Maître Anil KAPOOR: Q92. And, I... I'd like to ask you about that in particular and how it was deployed in this case um... and whether th... whether that policy or policy recommendation was adhered to in this case. And in particular now I'm thinking of [REDACTED]

Corporal Josh RICHDALÉ: Yes, by having it um... psst... so, when uh... we... trained and uh... when we were taught to use the machine um... psst... I can tell you that we used uh...

[REDACTED]

(Shuffling of paper)

Corporal Josh RICHDALÉ: I obtained the device at approximately two kilometers (PH).

(Shuffling of paper)

Maître Anil KAPOOR: Q93. Yes.

Corporal Josh RICHDALÉ: To the average where we'd want to be within 500 meters.

Maître Anil KAPOOR: Q94. Yes.

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: Q95. [REDACTED]

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Corporal Josh RICHDAL:

[REDACTED]

Maitre Anil KAPOOR:

Q96. So...

Corporal Josh RICHDAL:

And...

Maitre Anil KAPOOR:

Q97. I'm sorry, go ahead.

Corporal Josh RICHDAL:

[REDACTED]

Maitre Anil KAPOOR:

_____.

Corporal Josh RICHDAL:

[REDACTED]

Maitre Anil KAPOOR:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maitre Anil KAPOOR:

[REDACTED]

Justice Michael STOBER:

Q98. [REDACTED]

Corporal Josh RICHDAL:

No, we... we did. We did, sorry uh... maybe...

Justice Michael STOBER:

Q99. So... so what were you referring to?

Corporal Josh RICHDAL:

[REDACTED]

Justice Michael STOBER:

Q100. [REDACTED]

Corporal Josh RICHDAL:

[REDACTED]

Justice Michael STOBER:

Q101. [REDACTED]

Corporal Josh RICHDAL:

[REDACTED]

Justice Michael STOBER:

Q102. OK.

Corporal Josh RICHDAL:

Sorry...

Maitre Anil KAPOOR:

Q103. [REDACTED]

Corporal Josh RICHDAL:

[REDACTED]

Maitre Anil KAPOOR:

Q104. [REDACTED]

Corporal Josh RICHDAL:

[REDACTED]

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Maître Anil KAPOOR:

Q105. OK.

Corporal Josh RICHDALÉ:

Maître Anil KAPOOR:

Q106. All right.

Corporal Josh RICHDALÉ:

Justice Michael STOBER:

Q107.

Corporal Josh RICHDALÉ:

Justice Michael STOBER:

Q108.

Corporal Josh RICHDALÉ:

Justice Michael STOBER:

Q109.

Corporal Josh RICHDALÉ:

Justice Michael STOBER:

Q110.

Corporal Josh RICHDALÉ:

Justice Michael STOBER:

Q111.

Corporal Josh RICHDALÉ:

Justice Michael STOBER:

Q112.

Corporal Josh RICHDALÉ:

Justice Michael STOBER:

Q113.

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Corporal Josh RICHDAL:

Justice Michael STOB:

Q114.

Corporal Josh RICHDAL:

Justice Michael STOB:

Q115.

Corporal Josh RICHDAL:

Justice Michael STOB:

Q116.

Corporal Josh RICHDAL:

When we picked up a number that was identified to belong to someone.

Justice Michael STOB:

Yeah. Go ahead.

Maitre Anil KAPOOR:

Q117.

Corporal Josh RICHDAL:

Maitre Anil KAPOOR:

Q118.

Corporal Josh RICHDAL:

Maitre Anil KAPOOR:

Q119.

Corporal Josh RICHDAL:

Hum... There were I guess none to... I mean... again when we start the readings, we're working with uh... you know, our person of interest in uh... in a position. Hum... if we don't know uh... as we're trying to identify those phones, hum... we're... the goal was to ob... just hum... make sure that the machine was able to identify that particular device. Hum... we weren't in a position and often time wise how long that person was there, or within a three minute reading...

Maitre Anil KAPOOR:

Q120. Uh-hum.

Corporal Josh RICHDAL:

To lower the range if we noticed that the person of interest was... was uh... uh... within uh... well within what our maximum distance was on that.

Maitre Anil KAPOOR:

Q121. So, but... but you're supported by surveillance on... on these operations?

Corporal Josh RICHDAL:

Correct.

Q122

Q123.

Q124.

Q125.

Q126.

Q127

Q128.

Q129. So, how do you comply with this policy? Or is this policy nonsensical?

Q130.

Q131. But as an operator, what steps would you take to limited? To limit the capture of uh... mobile

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telephone users? Pe... other than your target, which is what this, is directed too, correct?

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: **Q132.** It's a minimization concept right?

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: **Q133.** So what do you practically do when you're out there in the field to minimize? When you're sticking a thought, what else would... Do you do other things to minimize?

Corporal Josh RICHDALÉ: Yes your honor. So I can give you an example, if we know that our suspect as gone into uh... a location, let's say a hideout garage and we know that the whole area is known to be uh... under counter surveillance or uh... we don't feel that we can get our vehicle within a reasonable range. Instead of risking out uh... you know, assuming it's on the edge of our 500 meter or something of the sorts that we'd like to be within, we won't do a reading in certain areas. Hum... generally, we won't do readings when we're driving because of all the phones travelling in different directions. And generally, we won't do stuff in high populated area such as malls uh... or uh... you know like a transit stop. Hum... Those are places where there's a lot more concentration of phones.

Justice Michael STOBER: **Q134.** Uh-huh.

Corporal Josh RICHDALÉ: Hum... that's not uh... to say that we wouldn't do a reading in that areas hum... but those are areas that we would if we're... depending on where we are as an operator in analyzing our data, hum... we might not do readings in those locations.

Maître Anil KAPOOR: **Q135.** So, other than not doing a reading, there's nothing else that you do to minimize or limit the inference of other people mobile phones? Agreed?

Corporal Josh RICHDALÉ: Hum... (Pause) We have that uh... three minute rules as well.

Maître Anil KAPOOR: **Q136.** Yeah were gonna get to that...

Corporal Josh RICHDALÉ: Yes.

Maître Anil KAPOOR: **Q137.** In a second, it's next paragraph.

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: **Q138.** [REDACTED]

Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR: **Q139.** [REDACTED]

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Corporal Josh RICHDALÉ: [REDACTED]

Maître Anil KAPOOR:

Q140. OK, next paragraph then. Subsequent question from Mr. Lordship?

Justice Michael STOBÉ:

No, it's fine, thank you.

Maître Anil KAPOOR:

Q141. The next paragraph you'll see hum... "your force recommends that the MDI be used no longer than three minutes at a time with a rest period of at least two-minutes between each use" Stopping there. I take it you complied with this on all of your uh... deployments?

Corporal Josh RICHDALÉ:

We... Yes I would uh... I think there is a bit more explanation then just uh... that three minute and two minute uh... that was uh... uh... explained here.

Maître Anil KAPOOR:

Q142. OK so, as I understand this, the MDI is on for three minutes to capture phones over the course of three minutes, correct?

Corporal Josh RICHDALÉ:

Correct. We would use that with the protocol.

Maître Anil KAPOOR:

Q143. OK, so exp... just explain that for his Lordship.

Corporal Josh RICHDALÉ:

OK so, as I mentioned there's do different protocols, Rogers, Network has GSM and UMTS, and Bell at the time had CDMA and UMTS. So, each one of those protocols would have its own operating frequencies.

Justice Michael STOBÉ:

Q144. Sorry, Bell had what?

Corporal Josh RICHDALÉ:

CDMA.

Justice Michael STOBÉ:

Q145. And U... U... UNTS?

Corporal Josh RICHDALÉ:

Correct.

Justice Michael STOBÉ:

Q146. OK. Sorry.

Corporal Josh RICHDALÉ:

Each protocol has its own set of channels and frequencies. That the devices communicate on.

Justice Michael STOBÉ:

Q147. Referring to "band?"

Corporal Josh RICHDALÉ:

Correct. So, if we were doing readings on the GSM network, with GSM protocol of the Rogers network. That would not affect CDMA network with Bell, or the Bell, potentially they'd Bell UMTS _____.

Justice Michael STOBÉ:

Q148. What if uh... you're identifying someone on UNTS and Rogers and picking up someone on Bell UNTS?

Corporal Josh RICHDALÉ:

That could happen.

Justice Michael STOBÉ:

Q149. OK.

Corporal Josh RICHDALÉ:

Because the protocol is hum... the same and there is a bit of overlap on the frequencies. (Pause) But, that

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would be uh... that does not happen very often. So, what we would do is we would do three minute readings on each protocol... giving that two minute rest between protocols. So, for example, we would not... we would do a reading on CDMA for three minutes, then we would do a reading a GSM for three minutes and then we would potentially uh... depending on where the... the uh... it was before January or...

Maitre Anil KAPOOR:

Q150. Uh-hum.

Corporal Josh RICHDAL:

Hum... not, we would do a reading on UMTS for _____

Justice Michael STOBER:

Q151. So you... you set your device to GSM or UMTS?

Corporal Josh RICHDAL:

Correct, we choose the... the channels.

Justice Michael STOBER:

Q152. [REDACTED]

Corporal Josh RICHDAL:

[REDACTED]

Justice Michael STOBER:

Q153. [REDACTED]

Corporal Josh RICHDAL:

[REDACTED]

Justice Michael STOBER:

Q154. [REDACTED]

Corporal Josh RICHDAL:

Yeah, it's the same thing. We would choose the channels.

Justice Michael STOBER:

Q155. OK.

Corporal Josh RICHDAL:

And that two minute rest, before we go back to CDMA we would have that two minute uh... rest.

Justice Michael STOBER:

Q156. Is that only if you switch from one protocol to the other that you have to rest?

Corporal Josh RICHDAL:

That's how we would of using that particular uh... hum... explanation for the three minutes to limit the amount of time that uh... other phones would be affected and how we would affect the network in the area.

Justice Michael STOBER:

OK.

Maitre Anil KAPOOR:

Q157. So that first sentence is essentially is implemented by protocol?

Corporal Josh RICHDAL:

By our decision and protocol, correct.

Maitre Anil KAPOOR:

Q158. Right, so you would say, GSM three minutes then you're down off the GSM and that network gets at least a two minute break while you trundle through some other uh... protocol be at CDMA...

Corporal Josh RICHDAL:

Correct.

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Maître Anil KAPOOR: Q159. In a ____.

Corporal Josh RICHDALÉ: Or, if we knew that uh... you know later in the readings uh... we've decided that uh... there's no CDMA which was very much the case for these uh...

Maître Anil KAPOOR: Q160. Uh-huh.

Corporal Josh RICHDALÉ: These uh... persons of interest. Uh... after a certain point we would just focus on the GSM or UMTS Network, and...

Maître Anil KAPOOR: Q161. And when you did that, they... you would be up on that network for three minutes and then down?

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q162. And, for at least two...

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q163. Minutes.

Corporal Josh RICHDALÉ: That is what was supposed to happen yes, that's correct.

Maître Anil KAPOOR: Q164. Right OK. Hum... now maybe more than two minutes but it's never less two minutes?

Corporal Josh RICHDALÉ: That's correct.

Maître Anil KAPOOR: All right. Hum...

(Clears throat)

Maître Anil KAPOOR: Q165. And you mentioned before that you used the uh... constant connection uh... setting on your MDI?

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q166. That is mean... what I mean by that is the...

Corporal Josh RICHDALÉ: The device...

Maître Anil KAPOOR: Mobile phone would be connected to your MDI for the duration of the session?

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q167. And to be clear, the session is three minutes.

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q168. So, for three minutes the mobile phone will be connected to your MDI?

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q169. On a rotating basis be its CDMA, be it GSM, UMTS and so on?

Corporal Josh RICHDALÉ: Correct.

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Maître Anil KAPOOR:

Q170. All right. And they would be relieved from your device for at least two minutes between sessions?

Corporal Josh RICHDALÉ:

Correct.

Maître Anil KAPOOR:

Q171. All right. Uh... do you know whether or not the use of this device has been the subject of any internal audits by the RCMP to determine compliance with the policies, uh... efficacy in the field and its general usefulness as an investigative tool?

Corporal Josh RICHDALÉ:

Hum... No.

Maître Anil KAPOOR:

OK.

Justice Michael STOBER:

Q172. No, you're not aware, no it hasn't been done?

Corporal Josh RICHDALÉ:

[REDACTED]

Maître Anil KAPOOR:

Q173. Is it at RCM... is it headquarters?

Corporal Josh RICHDALÉ:

No, it's a Canadian uh... it's uh... like Canadian Radio Frequency Organization. I... I think Jocelyn would be able to give you....

Maître Anil KAPOOR:

Q174. OK, I'll ask Mr... uh... Mr. Fortin.

Corporal Josh RICHDALÉ:

And that's...

Maître Anil KAPOOR:

Q175. A regulator of some sorts at least to your recollection?

Corporal Josh RICHDALÉ:

Correct. And that's a newer policy which uh... started uh... maybe this year.

Justice Michael STOBER:

Q176. So, this regulator does what? They check the efficacy or the compliance with the RCMP policy?

Corporal Josh RICHDALÉ:

[REDACTED]

(Pause)

Justice Michael STOBER:

OK.

Maître Anil KAPOOR:

Q177. And just one last uh... que... question of area sir. You hum... you've certainly given evidence about this and your colleague Inspector hum... uh... Flynn

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did as well. About counter-surveillance measures that can be taken. Uh...

Corporal Josh RICHDALÉ: Correct.

Maître Anil KAPOOR: Q178. For lack of a better phrase by the bad guys. Hum... and I wanted to ask you about the extent to which the RCMP has detected the use of counter-surveillance on the MDI device that you're implying.

Corporal Josh RICHDALÉ: Is... if I may uh... clarify that question...

Maître Anil KAPOOR: Q179. Yeah certain, absolutely.

Corporal Josh RICHDALÉ: So, are you asking how often we have run into counter-surveillance?

Maître Anil KAPOOR: Q180. Yes.

Corporal Josh RICHDALÉ: I... as an operator and knowing in Special "I" for C Division, which is Québec

Maître Anil KAPOOR: Q181. Yes.

Corporal Josh RICHDALÉ: I have not seen any counter-surveillance encountered.

Maître Anil KAPOOR: Q182. And similarity, are you aware uh... nationwide of any information about the prevalence of counter-surveillance on the use of the MDI device?

Corporal Josh RICHDALÉ: I have not heard of any other sections uh... say that they have run into counter-surveillance with this device.

Maître Anil KAPOOR: Q183. All right. Those are my questions, thank you very much uh... Lord. I... I thank you Corporal.

Justice Michael STOBER: Crown re-direct?

Maître Alexis GAUTHIER: No. Thank you.

Justice Michael STOBER: OK.

(Clears throat)

Justice Michael STOBER: Mr. Richdale, thank you very much for your attendance and I know that you replaced an officer who's on uh... sick leave. Thank you very much for uh... your presence the other day and today. Uh... it's concluded for you.

Corporal Josh RICHDALÉ: Thank you your honor.

Maître Alexis GAUTHIER: Thank you. Non...

(Whispering, clearing throat)

Maître Alexis GAUTHIER: Thank you Mr. Richdale we'll uh... see you outside in a few minutes.

Corporal Josh RICHDALÉ: OK. Thanks.

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Maître Alexis GAUTHIER: Thank you. Of course there is the standing order for Mr. Richdale before is uh... cross-examination.

Justice Michael STOBER: Mr. Richdale?

Corporal Josh RICHDALÉ: Yes.

Justice Michael STOBER: Hum... the same order applies that uh... you're not to discuss your testimony with anybody, uh... the lawyers, other police officers, etcetera. You understand that as a police officer in the field for some period of time, you're aware of that?

Corporal Josh RICHDALÉ: Yes your honor.

Justice Michael STOBER: OK. Because you have to understand you're gonna be back for further questions.

Corporal Josh RICHDALÉ: Yes your honor.

Justice Michael STOBER: You're just being excused from the ex parte hearing. But you're gonna be back publicly where the lawyers are gonna cross-examine you.

Corporal Josh RICHDALÉ: Yes your honor.

Justice Michael STOBER: All right, thank you very much. OK. Mr. Richdale has now left the courtroom.

Maître Alexis GAUTHIER: Yes. Hum... so we uh... we have received uh... uh... this afternoon the transcripts of Mr. Richdale's testimony of last Friday.

Justice Michael STOBER: Uh-huh.

Maître Alexis GAUTHIER: I... we will uh... provide a un-vetted copy of it to Mr, our friend Mr. Kapoor uh... later on today. And uh... we will try to, _____ defence as soon as possible a vetted copy of this. Uh... so for the... maybe the defense be ready to contact the cross-examination of Mr. Richdale. Uh... maybe uh... either Wednesday or Thursday.

Justice Michael STOBER: All right. Do you have a copy for me?

Maître Alexis GAUTHIER: Not yet Sir. Uh... it... we are uh... putting it together right now.

Justice Michael STOBER: Right.

Maître Alexis GAUTHIER: Uh but uh... we could give you a copy tomorrow morning without problem.

Justice Michael STOBER: OK. That's fine.

Maître Alexis GAUTHIER: OK.

Justice Michael STOBER: Hum... so that concludes today.

Maître Alexis GAUTHIER: Yes.

Justice Michael STOBER: Sorry.

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Maître Alexis GAUTHIER: But we would have... I would have a few comments to make about uh... [REDACTED]
[REDACTED] last Friday Sir.

Justice Michael STOBER: So... the comments are the ex ____ Uh...

Maître Alexis GAUTHIER: Yes.

Justice Michael STOBER: You want to continue ex parte?

Maître Alexis GAUTHIER: Yeah please

Justice Michael STOBER: Go ahead.

Maître Alexis GAUTHIER: Please. Thank you. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Shuffling of papers, clearing throat)

Maître Alexis GAUTHIER: So, this material has been filed under R32 on ____ I believe.

Justice Michael STOBER: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: [REDACTED]

Justice Michael STOBER: [REDACTED]

Maître Alexis GAUTHIER: [REDACTED]

Justice Michael STOBER: [REDACTED]

Maître Alexis GAUTHIER: [REDACTED]

Justice Michael STOBER: [REDACTED]

Maître Alexis GAUTHIER: [REDACTED]

(Shuffling of papers - pause)

Justice Michael STOBER: [REDACTED]

Maître Alexis GAUTHIER: [REDACTED]
[REDACTED]

Justice Michael STOBER: [REDACTED]

Maître Alexis GAUTHIER: [REDACTED]

Justice Michael STOBER: [REDACTED]

Maître Alexis GAUTHIER: [REDACTED]
[REDACTED]

Justice Michael STOBER: [REDACTED]

Maître Alexis GAUTHIER: [REDACTED]
[REDACTED]

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Justice Michael STOBER:

[REDACTED]

Maître Alexis GAUTHIER:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Alexis GAUTHIER:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Alexis GAUTHIER:

[REDACTED]

Justice Michael STOBER:

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Maître Alexis GAUTHIER:

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Justice Michael STOBER:

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Maître Alexis GAUTHIER:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Alexis GAUTHIER:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Alexis GAUTHIER:

[REDACTED]

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Justice Michael STOBER:

[REDACTED]

Maître Alexis GAUTHIER:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Alexis GAUTHIER:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Alexis GAUTHIER:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Alexis GAUTHIER:

So, the... We... we... we just want to state to you Sir, that although you might not agree with you, uh... with us (Chuckles) sorry. With our position, [REDACTED] the position being, at the end of the day we don't want the public to know which, precisely which device the RCMP is using at the time and still is today.

Justice Michael STOBER:

OK.

Maître Alexis GAUTHIER:

That's... that's all I wanted to mention to you.

Justice Michael STOBER:

OK. Thank you for the clarification. Maître Kapoor you have something to say about that?

Maître Anil KAPOOR:

Yes sir.

Maître Alexis GAUTHIER:

Can I... can I mention? I'm sorry!

Justice Michael STOBER:

Go ahead.

Maître Alexis GAUTHIER:

[REDACTED]

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[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Alexis GAUTHIER:

[REDACTED]

And at the end of the day our position is that the more there is out there in the public domain, explaining how these devices work, the more there is a need for us to protect the device, the name that is used by the RCMP.

Justice Michael STOBER:

The other thing, the investigation was in 2011. And before hand uh... the police equipment is different now [REDACTED]

[REDACTED]

Maître Alexis GAUTHIER:

I could also... I could already tell you Sir that, and Mr. Fortin will explain that to you is that the technique... the techniques and the devices that were used in Clemenza four years ago, are still relevant today. And Mr. Fortin will explain that to you.

Justice Michael STOBER:

OK, I'm not gonna go further with that now. All right Maître Kapoor, do you have any comments on this?

Maître Anil Kapoor:

Uh... just for, very briefly I wasn't intending to say anything. But I... I... I hear my friend to say, and I just want to understand it, because it'll affect the position that I... that I take on this matter. That it... it... is the Crown interested only in protecting the name of the corporation and model number. If that's what the Crown is interested in protecting, solely, then... then it's very different that if they want to protect the sorts of things that... that Corporal Richdale as talked about, Inspector Flynn has talked about [REDACTED]

[REDACTED]

Josh Richdale, July 20, 2015, ex parte transcript

[REDACTED]

Maître Alexis GAUTHIER:

I'm sorry I wasn't clear enough. Uh... so no, our claim of privilege is broader than that.

Maître Anil KAPOOR:

OK.

Maître Alexis GAUTHIER:

We... we claim privilege as to the features and

[REDACTED]

Maître Anil Kapoor:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Anil KAPOOR:

[REDACTED]

Josh Richdale, July 20, 2015, ex parte transcript



and I take my friend's point that there are particular functions they wish to protect and we can address you on... on whether they are a matter of... of privilege at the appropriate time.

Justice Michael STOBER: OK, thank you. Anything else in the... uh... ex parte hearing, no, we can shut it down and Corporal Leonard what time do you have?

Corporal Caroline LEONARD: 16:46, so 4:42.

Justice Michael STOBER: 4:42 PM, so shut it down...

Corporal Caroline LEONARD: Yes...

Justice Michael STOBER: Then.

End of ex parte hearing (16:42)

Jocelyn Fortin, July 21, 2015, transcript

C A N A D A

C O U R S U P É R I E U R E
Chambre criminelle

PROVINCE DE QUÉBEC

DISTRICT DE : LAVAL

CAUSE NO : 540-01-063428-141

ÉTAPE : REQUÊTE EN DIVULGATION (SUITE)

PRÉSENT : L'HONORABLE MICHAEL STOBER, J.C.S.

SA MAJESTÉ LA REINE,

Plaignante,

-C.-

VITTORIO MIRARCHI & ALS

Accusés

NOM DES PROCUREURS :

Me ROBERT ROULEAU

Me ALEXIS GAUTHIER

Me MARIE-CHRISTINE GODBOUT

Procureurs de la Couronne

Me FRANK ADDARIO

Me MICHAEL LACEY

Me WILLIAM THOMPSON

Me MAXIME HÉBRARD

Me MACDONALD

Procureurs de la défense

Me ANIL KAPOOR

Amicus Curiae

DATE D'AUDITION : Le 21 juillet 2015

TRANSCRIPTION REMISE : Le 18 septembre 2015

FICHER : 540-01-063428-141-2015-07-21

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Jocelyn Fortin, July 21, 2015, transcript

VITTORIO MIRARCHI
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Le 21 juillet 2015

JOCELYN FORTIN
INTERROGATOIRE
Me ALEXIS GAUTHIER

1 LA COUR :
2 Okay, that's confirmed, Mr. McDonald?
3 Me MACDONALD,
4 Procureur de la défense :
5 Yes Your Honour.
6 LA COUR :
7 So let's go ahead.
8 LA COURONNE (Me ALEXIS GAUTHIER) :
9 All right. So Mr. Fortin?
10 LA COUR :
11 Well if it's going to be in English, give the
12 opening... which is all right, I would have made the made
13 oversight.
14 JOCELYN FORTIN
15 Telecommunication systems specialist
16 Déclaration solennelle
17 PREUVE DE LA COURONNE
18 INTERROGÉ PAR Me ALEXIS GAUTHIER,
19 Procureur de la Couronne :
20 Q. So Mr. Fortin, am I right to say that you have in front
21 of you a document that summarizes the testimony that
22 you're about to give to this Court?
23 A. That's correct.
24 Q. All right. So we will file this document under R-32.6
25 I believe, yes?

Jocelyn Fortin, July 21, 2015, transcript

VITTORIO MIRARCHI
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Le 21 juillet 2015

JOCELYN FORTIN
INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 LA COUR :
- 2 Q. Mr. Fortin, when was this prepared?
- 3 A. It was prepared end of June. Like the exact date I
- 4 don't...
- 5 Q. End of June two thousand fifteen (2015), this year?
- 6 A. I'll have to look in it.
- 7 Q. No, but was it two thousand fifteen (2015) or another
- 8 year?
- 9 A. Oh yes sorry, two thousand fifteen (2015).
- 10 Q. End of June two thousand fifteen (2015).
- 11 A. Correct.
- 12 Q. Okay.
- 13 LA COURONNE (Me ALEXIS GAUTHIER) :
- 14 Q. Okay. Mr. Fortin, you've been a member of the RCMP for
- 15 about ten (10) years, is that so?
- 16 A. Yes, I've been with the RCMP for over eleven (11)
- 17 years.
- 18 Q. Okay.
- 19 LA COUR :
- 20 Q. Are you a police officer?
- 21 A. No, I'm a civilian member with a peace officer status.
- 22 LA COURONNE (Me ALEXIS GAUTHIER) :
- 23 Q. So could you expand a bit on this? You're a civilian
- 24 member but you also have a peace officer status?
- 25 A. Yes.

Jocelyn Fortin, July 21, 2015, transcript

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JOCELYN FORTIN
INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 Q. Okay.
- 2 A. So to be able to conduct some of the portion of my work
3 like execute warrants, I needed to be a peace officer.
4 So from time to time, when I need to operate the
5 equipment under the jurisdiction of a warrant, I get
6 the peace officer status assigned to me.
- 7 Q. When you mention the equipment, are you referring to
8 the MDI equipment?
- 9 A. That is correct.
- 10 Q. Okay. So you have in the past operated this device in
11 the field?
- 12 A. That is correct.
- 13 **LA COUR :**
- 14 Q. Just one moment. So when you say that you... "in order
15 to be able to conduct some aspects of my work I need to
16 be a peace officer, for example, to operate equipment
17 like the MDI." But do you have a general status as
18 peace officer or do you get assigned from time to time
19 when you need it?
- 20 A. I get assigned from time to time when I need it.
- 21 Q. For example, today, are you a peace officer today?
- 22 A. Today, I am a peace officer.
- 23 Q. Okay.
- 24 **LA COURONNE (Me ALEXIS GAUTHIER) :**
- 25 Q. And doing *Projet Clemenza* over the year twenty-eleven

Jocelyn Fortin, July 21, 2015, transcript

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JOCELYN FORTIN
INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 (2011) or twenty-twelve (2012) did you have that
2 status?
3 A. Yes I did.
4 Q. And during *Projet Clemenza* did you in fact conduct MDI
5 surveillance?
6 A. Yes I did.
7 Q. So you've been with the RCMP for about ten (10), maybe
8 ten (10) years, a bit more?
9 A. Yes.
10 Q. Right. Can you give us an overview of your background
11 before joining the RCMP?
12 A. Before joining the RCMP, I went to college and got an
13 electronic engineering technology diploma.
14 **LA COUR :**
15 Q. How long was the course?
16 A. Three (3) years.
17 Q. Where was it?
18 A. In Ottawa.
19 Q. University of Ottawa?
20 A. No, *Cité collégiale*, it's a college.
21 Q. Okay.
22 **LA COURONNE (Me ALEXIS GAUTHIER) :**
23 Q. So you are not an engineer?
24 A. No.
25 **LA COUR :**

Jocelyn Fortin, July 21, 2015, transcript

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JOCELYN FORTIN
INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 Q. So what do you call that diploma, electronic
2 technology?
3 A. Electronic engineering technology.
4 Q. Okay. Thank you.
5 **LA COURONNE (Me ALEXIS GAUTHIER) :**
6 Q. And after your studies did you directly go to work to
7 the RCMP?
8 A. No, I worked in the private sector for different
9 telecommunication companies.
10 Q. Um-hum.
11 A. And then I joined the government in nineteen ninety-
12 nine (1999) with Industry Canada as a radio inspector.
13 Q. Okay.
14 A. So I worked for Industry Canada for about four (4)
15 years.
16 Q. Okay. Could you give us an idea as to what were your
17 responsibilities while you were working for Industry
18 Canada?
19 A. One of the responsibilities of a radio inspector, it's
20 to manage the frequency in Canada and enforce the
21 *Radiocommunication Act*.
22 **LA COUR :**
23 Q. Could you repeat that again, responsibility to manage
24 radio frequency in Canada?
25 A. Yes, radio frequency in Canada.

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JOCELYN FORTIN
INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 Q. Yes.
- 2 A. And enforce the *Radiocommunication Act*.
- 3 Q. Thank you.
- 4 LA COURONNE (Me ALEXIS GAUTHIER) :
- 5 Q. And then you moved to the RCMP eventually, in two
6 thousand and two (2002)?
- 7 A. That's correct.
- 8 Q. Okay. Since you've joined the RCMP, could you give the
9 Court an overview of your responsibilities and in which
10 units you have been working since two thousand and two
11 (2002)?
- 12 A. Since I joined the RCMP in two thousand and two (2002),
13 I've been working with the specialized section at the
14 headquarter.
- 15 Q. In Hull?
- 16 A. In Ottawa.
- 17 Q. All right. So is this the sole unit in which you've
18 been working all these years?
- 19 A. That's correct.
- 20 Q. Okay. And within this unit, could you give us, you
21 know, the main responsibilities that you have had
22 within it?
- 23 A. I had to deal with a service provider of
24 telecommunication, cellular service provider of
25 telecommunication.

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JOCELYN FORTIN
INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 Q. Um-hum.
- 2 A. To liaise with them to make sure that the data that we
- 3 would receive from them was compatible with our system
- 4 to collect content information. The other duty that...
- 5 **LA COUR :**
- 6 Q. Just one moment.
- 7 A. Okay.
- 8 Q. Go ahead.
- 9 A. And my other duty was to deal with mobile device
- 10 identifiers (MDI) to evaluate and purchase equipment
- 11 and be the main point of contact with the manufacturers
- 12 of MDI devices.
- 13 **LA COURONNE (Me ALEXIS GAUTHIER) :**
- 14 Q. Concerning this MDI device, the one that was used in
- 15 *Projet Clemenza*, can you tell us firstly what type of
- 16 training, if any, you have received concerning it?
- 17 A. On the device itself?
- 18 Q. Yes.
- 19 A. I received over two hundred and fifty (250) hours of
- 20 training on the device.
- 21 Q. Okay. And this training was provided by whom?
- 22 A. By the manufacturer of the device.
- 23 Q. Okay. You yourself, did you provide some training
- 24 concerning the usage of the same device?
- 25 A. Yes. I have provided about two hundred and fifty (250)

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JOCELYN FORTIN
INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 hours of training on this device.
- 2 Q. So all together you will say that you've received and
- 3 given about five hundred (500) hours concerning this
- 4 device?
- 5 A. On this particular device, yes.
- 6 Q. The device that was used in *Projet Clemenza*?
- 7 A. That's correct.
- 8 Q. And what could you tell the Court about the experience
- 9 that you have as a MDI operator in the field concerning
- 10 this device?
- 11 A. I have operated this device on over thirty (30)
- 12 different projects and I've used the device on over
- 13 fifty (50) different subjects.
- 14 Q. And could you give the Court an idea as to the -- you
- 15 know, how many hours these surveillances amount to?
- 16 A. Just on operation itself?
- 17 Q. Um-hum.
- 18 A. I would easily estimate that I've operated the
- 19 equipment for over five hundred (500) hours just in the
- 20 field.
- 21 Q. Okay, all right. Now if we go to the document we have
- 22 just filed under R-32.6 and if we go to paragraph 3 of
- 23 this document, you state different mobile technologies
- 24 that are currently deployed in Canada. So could you
- 25 expand a bit more about what we are able to see in this

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INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 paragraph?
- 2 A. Yes. So in paragraph 3 I have a list of the different
3 technologies that are being used in Canada for cellular
4 devices.
- 5 Q. Yes.
- 6 A. So the first one, GSM, it's the Global System for
7 Mobile communications. This is what sometimes is
8 referred to as a 2G network.
- 9 Q. Okay.
- 10 A. Then you have UMTS which is Universal Mobile
11 Telecommunication System.
- 12 Q. Um-hum.
- 13 A. That's an evolution of the GSM network. It is
14 sometimes referred as a 3G network. And then you have
15 LTE for Long Term Evolution. This is an evolution
16 again of the GSM and UMTS.
- 17 Q. Um-hum.
- 18 A. That is sometimes referred as 4G technology.
- 19 Q. Okay. Stopping you there, these three (3) technologies,
20 could they be compatible?
- 21 A. Yes. An LTE device would be compatible with the UMTS
22 network and would be compatible with the GSM network
23 because it's an evolution of the previous networks.
- 24 Q. It's the same protocol?
- 25 A. They are different protocols but they're compatible.

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INTERROGATOIRE
Me ALEXIS GAUTHIER

1 LA COUR :

2 Q. So all three (3), GSM, UMTS, LTE are compatible with
3 different protocols and different networks?

4 A. If there is a... you go to a different country which
5 won't have a LTE or a UMTS network, you're going to be
6 able to use your phone on the GSM network that is
7 present in this country. So it is backward compatible.

8 Q. So then my question from what you say, it seems that
9 GSM, UMTS, LPE are compatible with different protocols.
10 For example GSM is compatible with UMTS/LTE as well as
11 with the different network providers. And if you have
12 a country that has a different system, for example if
13 it's not GSM and the user travels and has UMTS or LTE,
14 the network provider in the foreign country will enable
15 the traveler to latch on to their system?

16 A. There are three (3) different networks. So the first
17 one they would implement is a GSM network; then they
18 would implement a second network to increase the speed
19 of the traffic on the network, so they would implement
20 a UMTS network. The cellular device that is capable of
21 GSM only will not be able to use the UMTS network. But
22 the cellular device that is capable of doing UMTS will
23 be able to use a GSM network because GSM is the legacy
24 system.

25 Q. Just so that I understand, the cellular which only has

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INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 UMTS cannot use the UMTS network, did I get that right?
- 2 A. A cell phone that is GSM only.
- 3 Q. GSM only?
- 4 A. Yes.
- 5 Q. All right. I misunderstood, I thought you said UMTS.
- 6 So a cell that's only GSM cannot use the UMTS network?
- 7 A. A phone that is GSM only. So we're talking about old
- 8 phones when they were first built, when UMTS didn't
- 9 exist, they're capable of GSM only.
- 10 Q. So when you say these three (3) devices are compatible,
- 11 what do you mean?
- 12 A. When there is a... when you have an old GSM phone, it's
- 13 capable of GSM only. If you bought a cell phone a few
- 14 years later that is capable of UMTS, you will be
- 15 backward compatible, it will be able to use the GSM
- 16 network as well. And if later on you buy those new
- 17 devices that are capable of doing LTE, this new LTE
- 18 phone you're going to be able to use it on UMTS and
- 19 you're going to be able to use it on GSM as well. But
- 20 your old phone that was manufactured at the beginning
- 21 for GSM only, will only be able to use GSM network.
- 22 Q. What about the later phone, the UMTS on the LTE, can it
- 23 go forward or it only goes backwards?
- 24 A. It only goes backwards.
- 25 Q. So the later phone, after the GSM, the UMTS is not

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INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 compatible with the LTE?
- 2 A. That's correct.
- 3 Q. Go ahead.
- 4 **LA COURONNE (Me ALEXIS GAUTHIER) :**
- 5 Q. To follow up on the question of Justice Stober, if we
- 6 take for example a brand new Roger device, okay?
- 7 A. Yes.
- 8 Q. That is capable of communicating on the LTE network.
- 9 A. Yes.
- 10 Q. All right. If for some reason this device is in an
- 11 area where the LTE network is unavailable for some
- 12 reason, what will happen? Will this device be able to
- 13 communicate with the network?
- 14 A. It will not because the LTE network is not present.
- 15 Q. Okay.
- 16 A. The cell phone would look for a lower technology.
- 17 Q. All right.
- 18 A. And try to use that network.
- 19 Q. Okay. And this lower technology could be?
- 20 A. That would be, the first one it will be looking for
- 21 logically will be UMTS.
- 22 Q. Okay. And if for some reason, in the same area the
- 23 UMTS network is not available, then what will this
- 24 device do?
- 25 A. Then the device will look for the lower technology

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INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 which will be GSM.
- 2 Q. Okay. And if we have an older phone, a GSM phone that
- 3 has only this capacity and if this GSM phone is an area
- 4 where there is only LTE network?
- 5 A. Yes.
- 6 Q. What will happen?
- 7 A. The cell phone is not going to work.
- 8 **LA COUR :**
- 9 Q. Same thing if it's a UMTS?
- 10 A. That's correct.
- 11 **LA COURONNE (Me ALEXIS GAUTHIER) :**
- 12 Q. So that's what you mean by backward compatible?
- 13 A. Yes.
- 14 Q. What can you tell us about the unique identifiers
- 15 related to these three (3) technologies, GSM, UMTS,
- 16 LTE?
- 17 A. Those three (3) technologies use the same thing for
- 18 unique identifiers.
- 19 Q. Okay.
- 20 A. So there's two (2) components of unique identifiers.
- 21 One identifier will identify the apparatus itself, the
- 22 cell phone.
- 23 Q. The device?
- 24 A. The device.
- 25 Q. All right.

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INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 A. This one is called the IMEI for International Mobile
2 Equipment Identity.
3 Q. Okay.
4 A. This is like the serial number of the device itself.
5 Q. Embedded into the device upon production?
6 A. That's correct. A unique number embedded in the
7 product. And then the second portion of unique
8 identifier, there is a second one, it's called an IMSI,
9 International Mobile Subscriber Identity. That is what
10 we call the SIM card, a little plastic piece that you
11 insert inside your cell phone. This one is tied to an
12 account.
13 Q. Okay. So the IMSI number is related to a SIM card?
14 A. That's correct.
15 Q. And to your knowledge, can we move a SIM card from one
16 device to another device?
17 A. Yes, of course.
18 **LA COUR :**
19 Q. Just a moment. Aren't there some cell phones, some
20 cell phones as we all know, you can open up the phone,
21 take the SIM card, years ago, when people would travel
22 to another country, they'd buy a SIM card and put it in
23 so it's compatible with the service provider in the
24 foreign country? I'm sure we've all done that. SIM
25 cards have developed and the SIM cards today that you

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INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 get here can work in foreign countries, correct?
- 2 A. That's correct.
- 3 Q. But there are some cell phones where you cannot open
- 4 the phone, they're sealed and there is a SIM card in
- 5 there that remains there. For example, there is newer
- 6 versions of the BlackBerry, you can't change the
- 7 battery because you can't open it. So when the battery
- 8 goes you have to change the phone, correct?
- 9 A. I'm not aware of that new BlackBerry and where this...
- 10 Q. Well they're not that mint.
- 11 A. Yes?
- 12 Q. They've been out for a while.
- 13 A. All the phones that I've seen so far, and even the
- 14 iPhone that I have that I cannot open and change the
- 15 battery, the SIM card is inserted on the side and can
- 16 be easily changed.
- 17 Q. So you're saying, to your knowledge, the devices that
- 18 can't be opened to change the battery, it doesn't
- 19 affect the SIM card access and removal?
- 20 A. To my knowledge, all the devices that I know, you're
- 21 able to change the SIM card.
- 22 Q. So that's the situation with your iPhone and with the
- 23 newer versions of BlackBerrys you're not aware?
- 24 A. I'm not aware of that with the BlackBerry.
- 25 Q. Just a moment. On this point, the cellular devices in

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INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 this case that were investigated, were they all
2 BlackBerrys?
- 3 A. I cannot answer that question.
- 4 Q. Okay. The devices that were BlackBerrys, to your
5 knowledge, what model of BlackBerry were they?
- 6 A. They were different, from what I recall they were
7 different models.
- 8 Q. Which ones?
- 9 A. I've seen a BlackBerry Curves and I'll have to look at
10 the data, I'm not sure exactly which specific models of
11 the phones that were...
- 12 Q. The most recent BlackBerry used in this investigation
13 for which we're in court today, to your knowledge which
14 was it?
- 15 A. A recent BlackBerry?
- 16 Q. The most recent BlackBerry used allegedly by one of the
17 accused in this case pursuant to your investigation,
18 what type was it?
- 19 A. Around that time, I would say it would be a BlackBerry
20 Torch.
- 21 Q. You're saying you would say, so you're not sure?
- 22 A. I would have to look at the date that they were
23 manufactured. I don't have that information right now.
- 24 Q. I'm not asking you the date, what BlackBerrys were sold
25 at that time. I'm asking from your personal knowledge

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INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 of the facts in this case, which type of model of
2 BlackBerry was investigated? Today, twenty-one (21)
3 July two thousand fifteen (2015), are you able to
4 answer?
- 5 A. I'm not able to answer.
- 6 Q. You're not? Okay. Sorry you said the most recent
7 BlackBerry pursuant to the date at that time you think
8 was which type?
- 9 A. A BlackBerry Torch.
- 10 Q. A Torch, right. Go ahead maître Gauthier.
- 11 **LA COURONNE (Me ALEXIS GAUTHIER) :**
- 12 Thank you.
- 13 Q. So you've indicated that the LTE, UMTS and GSM
14 protocols use the same unique identifiers?
- 15 A. It's correct.
- 16 Q. What can you tell us about the CDMA?
- 17 A. CDMA network is a totally different network that is not
18 compatible with LTE, UMTS or GSM.
- 19 Q. Okay.
- 20 A. CDMA, you have as well unique identifiers.
- 21 Q. Okay. Which these unique identifiers be mentioned in
22 paragraph 5 of the document that we have filed.
- 23 A. Yes. So the CDMA devices used two (2) unique
24 identifiers.
- 25 Q. Okay, which are?

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INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 A. First the equivalent of the IMSI on the CDMA world
2 would be the MSID which is the Mobile Station ID. This
3 is tied to an account.
4 Q. Um-hum.
5 A. Then the equivalent of the IMEI would be the ESN,
6 Electronic Serial Number which is the serial number of
7 the device itself.
8 LA COUR :
9 Q. It's called what? Sorry.
10 A. ESN, Electronic Serial Number.
11 Q. Okay.
12 LA COURONNE (Me ALEXIS GAUTHIER) :
13 Q. These two (2) sets of unique identifiers, the one
14 that's related to UMTS, GSM, LTE and the other one,
15 CDMA, are they any... do they have any relevancy to you
16 when you are operating the MDI device?
17 A. I'm not sure I follow your question.
18 Q. Well did you pick up these numbers when you are
19 operating the MDI device?
20 A. Yes.
21 Q. Okay. So just give an overview to the Court as to all
22 these numbers can be picked up by your device, the MDI
23 device used in this case.
24 LA COUR :
25 Q. Just so that it's clear for everybody, and correct me

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- 1 if I'm wrong, but your MDI device can pick up the IMEI
2 or the IMSI on the GSM, UMTS and LTE networks, correct?
3 A. That's correct.
4 Q. And your device, the MDI device -- and I'm talking
5 about the device used in this case and this
6 investigation -- can also pick up the MSID and the ESN
7 which are equivalent identifiers with respect to the
8 CDMA network?
9 A. That's correct.
10 Q. All right. Now go ahead.
11 **LA COURONNE (Me ALEXIS GAUTHIER) :**
12 Q. So your device can pick up these numbers?
13 A. Yes, the device is capable of picking up those numbers.
14 Q. Okay. The device that was used in *Projet Clemenza* in
15 twenty-eleven (2011) and twenty-twelve (2012), was it
16 capable of intercepting the content of communications,
17 whether verbal or text?
18 A. No. The content was not being able to be intercepted
19 with the equipment that we were using.
20 **LA COUR :**
21 Q. Okay. When you answer maître Gauthier's questions,
22 unless you say differently, you're referring to all the
23 networks: GSM, UMTS, LTE, CDMA. So regardless of which
24 network, your answer is that it cannot pick up content
25 of conversation, that answer applies to all the

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Me ALEXIS GAUTHIER

- 1 networks?
- 2 A. That's correct.
- 3 Q. All right.
- 4 Me FRANK ADDARIO,
- 5 Procureur de la défense :
- 6 But was it the content of conversation or
- 7 communication, Your Honour?
- 8 LA COUR :
- 9 Q. So let me go further. When you say the content, are
- 10 you referring to telephone conversations, texts, emails
- 11 or everything? Please be specific. Thank you maître
- 12 Addario.
- 13 A. We weren't able to capture the content which, voice
- 14 mail, emails, text message...
- 15 Q. Okay, not just voice mail, but voice conversations?
- 16 A. We were not able to intercept those conversations.
- 17 Q. So voice mail, voice... voice mail also, you can't get
- 18 that?
- 19 A. No.
- 20 Q. Voice mail, voice conversations, emails?
- 21 A. No.
- 22 Q. Texts?
- 23 A. No.
- 24 Q. Pin to pin?
- 25 A. No.

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INTERROGATOIRE
Me ALEXIS GAUTHIER

- 1 Q. BBM messages which are similar?
- 2 A. No.
- 3 LA COUR :
- 4 If I've missed something, since we're on the point
- 5 now, I'd allow any of the lawyers to intervene if there
- 6 is another type of communication you'd like the witness
- 7 to address. So we'll stop for one moment.
- 8 Me MICHAEL LACY,
- 9 Procureur de la défense :
- 10 NFC, Near Field Communications.
- 11 LA COUR :
- 12 Say it again?
- 13 LA DÉFENSE (Me MICHAEL LACY) :
- 14 Communicate through NFC, Near Field Communications
- 15 or Bluetooth...
- 16 A. No, no.
- 17 LA COUR :
- 18 Okay just a moment.
- 19 Q. So for Near Field Communications, NFC it's no? Mr.
- 20 Lacy, did you say another one?
- 21 LA DÉFENSE (Me MICHAEL LACY) :
- 22 Bluetooth.
- 23 LA COUR :
- 24 Q. Bluetooth?
- 25 A. No.

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Me ALEXIS GAUTHIER

- 1 Q. Is there any other content that was able to be picked
2 up that has not been mentioned in the questions?
3 A. No.
4 Q. Now when you're referring to no content picked up,
5 you're referring to the target?
6 A. Any content from any devices.
7 Q. Not from the target or not from any other device
8 untargeted, is that what you're saying?
9 A. That's correct.
10 Q. Very well. Please continue.
11 **LA COURONNE (Me ALEXIS GAUTHIER) :**
12 Q. If we go to paragraph 13 of the document that you have
13 in front of you.
14 A. Yes.
15 Q. So what were the two (2) objectives that this device
16 was used for in *Projet Clemenza*?
17 A. The two (2) main objectives of the device were to
18 identify unknown mobile devices that were in possession
19 of a known person. And it was also to confirm
20 possession of known devices in known persons'
21 possession.
22 **LA COUR :**
23 Q. So identify unknown cell phones and locate known cell
24 phones in the target's possession?
25 A. That's correct.

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Me ALEXIS GAUTHIER

- 1 LA COUR :
- 2 Go ahead.
- 3 LA COURONNE (Me ALEXIS GAUTHIER) :
- 4 Q. Now we go to paragraph 44 -- I'm sorry, 54 of the
- 5 document.
- 6 A. Yes.
- 7 Q. What do you state there? What do you explain there?
- 8 A. So basically I have put together two (2) charts for the
- 9 Court...
- 10 Q. Which are attached to this document?
- 11 A. Which are attached to this document.
- 12 Q. All right.
- 13 A. The first document labelled Appendix A...
- 14 Q. Yes.
- 15 A. ... has a list of different manufacturers and a list of
- 16 features and frequency that those devices are capable
- 17 of...
- 18 LA COUR :
- 19 Q. List of frequency?
- 20 A. Frequency and technology and features.
- 21 LA COURONNE (Me ALEXIS GAUTHIER) :
- 22 Q. So if we start with the first chart, Appendix A.
- 23 A. Yes.
- 24 Q. So if we go under the portion that is beige, what can
- 25 you tell us about the Layer 3 feature? What is that?

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- 1 A. So the Layer 3 feature are the message exchange that
2 the network is having with mobile devices.
3 Q. Okay. You mention underneath, *Content*.
4 A. Yes.
5 Q. Okay. So you indicated that some of the devices
6 mentioned there are able to intercept content?
7 A. There are some devices that are capable of intercepting
8 content.
9 **LA COUR :**
10 Q. But not the device used in this case?
11 A. Sorry?
12 Q. But not the device used in this case?
13 A. That's correct.
14 **LA COURONNE (Me ALEXIS GAUTHIER) :**
15 Q. Also the query, the query mode has already been
16 explained or exposed to this Court by your colleague,
17 Caporal Richdale. So can you indicate to the Court if
18 the query mode is a feature that is feasible with the
19 device that was used in this case?
20 A. Yes. The device that we used was capable of the query
21 mode.
22 Q. What about the DF which also has been explained to this
23 Court by Caporal Richdale?
24 A. The device that we used was capable of doing direction
25 finding.

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Me ALEXIS GAUTHIER

- 1 Q. And the last one, MITM, Man In The Middle, was is that,
2 Sir?
- 3 A. That is basically intercepting the content by being in
4 the middle of the conversation. So the device is an
5 intermediary between the real network and the cellular
6 device used by the target.
- 7 Q. And some of the devices that are listed there in the
8 redacted portion...
- 9 A. Yes.
- 10 Q. ... are they able of conducting the Man In The Middle?
- 11 A. Some of the devices are capable of conduction Man In
12 The Middle attack.
- 13 **LA COUR :**
- 14 Q. Sorry, some of which devices?
- 15 A. Some of the devices that are listed on my chart. Not
16 the devices that we used in *Clemenza*.
- 17 Q. Okay. So the devices that can do that, are they the
18 ones that are blacked out? Okay.
- 19 **LA COURONNE (Me ALEXIS GAUTHIER) :**
- 20 Q. But again, did the MDI device used in *Clemenza* was able
21 to conduct the Man In The Middle?
- 22 A. No, the device that we used could not do Man In The
23 Middle.
- 24 Q. All right.
- 25 **LA DÉFENSE (Me MICHAEL LACY) :**

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Me ALEXIS GAUTHIER

1 Q. Is it possible just to clarify now and maybe it's not,
2 but are all these devices that were in the possession
3 of the RCMP at the time and being utilized by the RCMP
4 in other projects at the time? I can save it for
5 cross, but it may be appropriate to...

6 LA COURONNE (Me ALEXIS GAUTHIER) :

7 Q. At the time of *Projet Clemenza*?

8 A. Yes.

9 Q. So in twenty-eleven (2011) and twenty-twelve (2012)?

10 A. Yes.

11 Q. How many devices or type of devices did the RCMP own?

12 A. We only had one.

13 Q. Only one device, only one type of device?

14 A. Only one type of device.

15 Q. Only one type of device, in twenty-eleven (2011) and
16 twenty-twelve (2012).

17 A. Yes. Just I want to clarify that we had the device
18 that had the same feature, it might not be in the same
19 format, it had maybe a different format, but the
20 softwares were the same and the manufacturer was the
21 same.

22 Q. All right.

23 A. And it was a single one.

24 Q. All right.

25 LA COUR :

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- 1 Q. So the device was the same, the manufacturer is the
2 same, the format may be different?
- 3 A. Yes.
- 4 Q. The format is something that the operator alters?
- 5 A. No.
- 6 Q. Okay. So the RCMP only had this one device from the
7 same manufacturer although it could have had different
8 formats throughout this whole investigation that we're
9 here for today?
- 10 A. That's correct.
- 11 Q. Alright.
- 12 **LA COURONNE (Me ALEXIS GAUTHIER) :**
- 13 Q. Okay. What about the second appendix, Appendix B. Oh!
14 I'm sorry, before going to this second appendix, I
15 think that we should first go to paragraph 4 of your
16 document. So can you tell the Court what is the
17 information that we are able to see there at paragraph
18 4 of your document?
- 19 A. In the paragraph 4 I'm listing all the current
20 frequencies that are being used right now in Canada for
21 cellular communication.
- 22 **LA COUR :**
- 23 Q. Used now?
- 24 A. Used now.
- 25 Q. We're now in two thousand fifteen (2015), what about

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- 1 when this case was being investigated?
- 2 A. When this case was investigated, you had A which is the
- 3 Band 5, the cellular band. You had band B, the PCS
- 4 Band. And I believe the AWS Band was also started
- 5 somewhere.
- 6 **LA COURONNE (Me ALEXIS GAUTHIER) :**
- 7 Q. So the C?
- 8 A. C. The first three (3).
- 9 **LA COUR :**
- 10 Q. Now it's all six (6)?
- 11 A. Sorry?
- 12 Q. Now it's all six (6)?
- 13 A. Now it's all six (6).
- 14 **LA COURONNE (Me ALEXIS GAUTHIER) :**
- 15 Q. But at the time, four (4) years ago, you had only the
- 16 first three (3)?
- 17 **LA COUR :**
- 18 Q. The first two (2) and maybe the third.
- 19 A. Exactly, the first two (2) and maybe the third.
- 20 **LA COURONNE (Me ALEXIS GAUTHIER) :**
- 21 Q. Okay. And now if we get... we go back to the second
- 22 appendix, Appendix B.
- 23 A. Yes. In Appendix B, I'm listing all the same
- 24 manufacturers.
- 25 Q. The same manufacturers as?

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- 1 A. Appendix A.
- 2 Q. All right.
- 3 A. But now I'm telling what are the frequencies that those
4 devices are capable of operating.
- 5 Q. All right. So Sir?
- 6 LA COUR :
- 7 Yes?
- 8 LA COURONNE (Me ALEXIS GAUTHIER) :
- 9 That would complete the public examination-in-chief
10 of Mr. Fortin.
- 11 LA COUR :
- 12 Q. Thank you.
- 13 LA COURONNE (Me ALEXIS GAUTHIER) :
- 14 So it's eleven thirty (11:30), thirty-five (35), we
15 will suggest maybe a recess until twelve (12:00) for
16 the security to conduct the sweep of the room and then,
17 if you want, at twelve (12:00) we could start the ex
18 parte, the ex parte portion of this witness.
- 19 LA COUR :
- 20 I know you gave me an idea yesterday, but you feel
21 that your portion of the ex parte will take the whole
22 afternoon?
- 23 LA COURONNE (Me ALEXIS GAUTHIER) :
- 24 It could be.
- 25 LA COUR :

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1 It could? Okay.

2 **LA COURONNE (Me ALEXIS GAUTHIER) :**

3 Also if you want, we could give the Court an idea
4 as to the agenda for this week and later on in
5 September. So if you let me, just for this week, so we
6 are confident that after the lunch break we will be
7 able to...

8 Q. Mr. Fortin, you can (inaudible).

9 **LA COURONNE (Me ALEXIS GAUTHIER) :**

10 We will be able to provide the defence with a
11 redacted version of the transcript of Mr. Richdale's
12 testimony last Friday, and so somewhere this afternoon.
13 And at the end of the day we will be also able to
14 indicate whether or not Mr. Flynn will have had the
15 opportunity to finalize the report asked by this Court
16 concerning R-34.

17 So tomorrow, as we have indicated previously, we
18 could either start the public cross-examination of Mr.
19 Richdale or make the submissions for R-25. The Crown
20 will be ready obviously for both so I guess that our
21 friends from the defence should indicate whether or not
22 they would be ready for either one of them.

23 **LA DÉFENSE (Me FRANK ADDARIO) :**

24 Well I won't be able to commit to any aspect of
25 that timetable till I've seen both the redacted

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1 transcript and Mr. Flynn's report which goes to the
2 heart of it.

3 LA COUR :

4 It's clear.

5 LA DÉFENSE (Me FRANK ADDARIO) :

6 So I'm afraid we'll have to address that with you
7 tomorrow.

8 LA COUR :

9 Okay.

10 LA DÉFENSE (Me FRANK ADDARIO) :

11 And Mr. Lacey has a submission I guess about
12 special eye. But could I just, before we leave for the
13 day, tell Your Honour, because it was the product of a
14 lot of work among counsel, the dates we have for
15 certain in September, that we want to grab in response
16 to the issue you raised the other way. And we do want
17 to nail them down because Mr. Kapoor's schedule is
18 particularly tight and slippery. At the same time...

19 LA COUR :

20 He has made that very clear the other day.

21 LA DÉFENSE (Me FRANK ADDARIO) :

22 Yes.

23 PROCUREUR DE LA DÉFENSE NON IDENTIFIÉ :

24 Although I personally know him as a slippery
25 character.

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1 LA DÉFENSE (Me FRANK ADDARIO) :

2 No. He did deny the tightness. Your Honour, eight
3 (8), nine (9) and eleven (11) are definitely dedicated
4 to this case and Mr. Kapoor is available, and the
5 eighteenth (18th). And all counsels are available on
6 those four (4) days. We are endeavouring to free an
7 additional day but right now we're asking you to
8 consider locking down those days for certain.

9 LA COUR :

10 All right. So I'll repeat, eight (8), nine (9),
11 eleven (11) and eighteen (18) September.

12 LA DÉFENSE (Me FRANK ADDARIO) :

13 That's right. We could also go on ten (10) but we
14 know that D'Addario has that bail hearing commencing
15 that day. So...

16 LA COUR :

17 Take into account that D'Addario's bail hearing,
18 it's three (3) days, but there is a reserve on it, it
19 might be extended. So we'll deal with that when we get
20 there. They had first asked for... I forget, I think it
21 was seven (7) days?

22 LA DÉFENSE (Me FRANK ADDARIO) :

23 Six (6).

24 LA COUR :

25 Six (6) days? And then it was reduced to three

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1 (3), depending upon what the police witnesses say. So
2 it might be extended and if we need more time we'll
3 deal with it then. But we're reserved these days,
4 eight (8), nine (9), eleven (11), eighteen (18).

5 **LA DÉFENSE (Me FRANK ADDARIO) :**

6 And I can just give you my undertaking that
7 counsels are working hard on getting additional dates
8 in that month as well Your Honour.

9 **LA COUR :**

10 Okay. That's it?

11 **LA DÉFENSE (Me FRANK ADDARIO) :**

12 That's it, thank you.

13 **LA COUR :**

14 The dates that I mentioned, I do have to respond.
15 Is there any discussion about that?

16 **LA DÉFENSE (Me FRANK ADDARIO) :**

17 Well counsels I believe are available the twenty-
18 eighth (28th) through the thirtieth (30th) which would
19 give you October one (1) and two (2), two (2) dates
20 that you mentioned. But we don't have Mr. Kapoor, so
21 if it's sensible to grab them in any case, we could do
22 that, mark it off.

23 **LA COUR :**

24 Okay. And in October?

25 **LA DÉFENSE (Me FRANK ADDARIO) :**

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1 I admit we didn't have that conversation
2 (inaudible).

3 LA COUR :

4 I'd appreciate it if you would. Seven (7), eight
5 (8), nine (9), I mean I'm available all days and I'll
6 come any day but the court has certain activities that
7 I've been asked to preside something. If I can't do
8 it... but it might be open dates because certain counsels
9 might not be available anyways. So before I say no...

10 LA DÉFENSE (Me FRANK ADDARIO) :

11 Sure.

12 LA COUR :

13 ... and also things like that, you understand.
14 Perhaps let me know. Are you here tomorrow?

15 LA DÉFENSE (Me FRANK ADDARIO) :

16 I think we're going to come back and deal with the
17 scheduling issue, at least one of us.

18 LA COUR :

19 All right. So let me know about that, I'd like to
20 deal with that. So for the time being, on top of the
21 eight (8), nine (9), eleven (11), eighteen (18), we'll...
22 unless I misunderstood you, we won't sit the first
23 (1st) and second (2nd) of October, is that right?

24 LA DÉFENSE (Me FRANK ADDARIO) :

25 Correct.

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1 LA COUR :

2 Okay. And the thirtieth (30th), we may not sit the
3 thirtieth (30th), it's one day. I know you're available
4 the twenty-eighth (28th) and twenty-ninth (29th).

5 LA DÉFENSE (Me FRANK ADDARIO) :

6 Could we mark those off for this case?

7 LA COUR :

8 The twenty-eighth (28th) and the twenty-ninth (29th)
9 of September we're going to mark off and the thirtieth
10 (30th) for now I'll keep in reserve, it's a date I may
11 not be available.

12 LA DÉFENSE (Me FRANK ADDARIO) :

13 Okay. And one (1) and two (2), you've mentioned
14 that you need to attend that judicial matter.

15 LA COUR :

16 One (1) and two (2). Well I need to... I can attend
17 to it but if it was not possible because the matter had
18 to proceed here and if there were the only days where
19 all of us were available then my priority would be
20 here. But what I understand today is those days are
21 available, the first (1st) and the second (2nd). And
22 the thirtieth (30th) we'll keep in the air and the
23 seventh (7th), eighth (8th) and ninth (9th) you'll let me
24 know.

25 LA DÉFENSE (Me FRANK ADDARIO) :

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1 Yes Sir.

2 LA COUR :

3 Is that okay? So if we can confirm that tomorrow,
4 if none of those dates are available, I'll be here for
5 every day.

6 LA DÉFENSE (Me FRANK ADDARIO) :

7 I think the challenge for us is trying to figure
8 out what we could do without Mr. Kapoor. So we're... but
9 I think that's the discussion amongst counsel is have
10 this wrapped up by the eighteenth (18th).

11 LA COUR :

12 All right. So...

13 LA DÉFENSE (Me FRANK ADDARIO) :

14 The part that relies on Mr. Kapoor.

15 LA COUR :

16 Okay. Very good. With the schedule, if possible
17 let's try and finalize that tomorrow or later this week
18 and I can give my response, I don't want to leave it to
19 the last minute. And if the days that I've indicated
20 are the only days Mr. Kapoor is available and has to be
21 here, I'll be here. If it can be accommodated so those
22 days are available, fine.

23 LA DÉFENSE (Me FRANK ADDARIO) :

24 Right. I don't think Mr. Kapoor's problems have
25 anything to do with the dates Your Honour has raised.

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1 He's got a hard stop for a homicide case towards the
2 end of September, that takes him right into November.

3 LA COUR :

4 Um-hum.

5 LA DÉFENSE (Me FRANK ADDARIO) :

6 So it's not going to conflict at all with your
7 scheduling. We need to get Mr. Kapoor through this
8 voir-dire in the month of September.

9 LA COUR :

10 Okay. You have the whole week of September twenty-
11 one (21).

12 LA DÉFENSE (Me FRANK ADDARIO) :

13 Twenty-one (21)?

14 LA COUR :

15 September twenty-one (21), twenty-two (22) and
16 following. You have the twenty-eighth (28th) and
17 twenty-ninth (29th). You have, after D'Addario's bail
18 hearing you have the eighteenth (18th). You also have
19 the fifteenth (15th) and sixteenth (16th) depending on
20 your scheduling and the other dates that you've already
21 mentioned. So just for the record, I'm available
22 September one (1), two (2), eight (8), nine (9), eleven
23 (11), fifteen (15), sixteen (16), eighteen (18). The
24 only reason three (3), four (4), ten (10), fourteen
25 (14), seventeen (17) are not available, because I'm

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1 sitting on other motions in this case. But I'm
2 available twenty-one (21), twenty-two (22), twenty-four
3 (24), twenty-five (25) of September and the twenty-
4 eighth (28th) and the twenty-ninth (29th). Would you
5 like me to repeat that?

6 **LA DÉFENSE (Me FRANK ADDARIO) :**

7 No, I got it, thank you.

8 **LA COUR :**

9 Okay. So I'm available all of those days. And I
10 understand that there's days that some of the counsels,
11 including Mr. Kapoor are not available and you need
12 him. So let's start with that. The days that I
13 mentioned were the subsequent days of the thirtieth
14 (30th), one (1), two (2) and the seven (7), eight (8),
15 nine (9) October. That's it. So let me know.

16 **LA DÉFENSE (Me FRANK ADDARIO) :**

17 We'll do Sir.

18 **LA COUR :**

19 I appreciate it. So we're done?

20 **LA COURONNE (Me ALEXIS GAUTHIER) :**

21 Concerning the time, we could have another
22 suggestion.

23 **LA COUR :**

24 Yes.

25 **LA COURONNE (Me ALEXIS GAUTHIER) :**

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1 Maybe we could take a lunch break right now and
2 resume, if you agree, at maybe one thirty (1:30) if
3 possible.
4 **LA COUR :**
5 Um-hum.
6 **LA COURONNE (Me ALEXIS GAUTHIER) :**
7 It might be more efficient to proceed this way Sir.
8 **LA COUR :**
9 Um-hum. Mr. Kapoor, how do you feel about that?
10 **Me ANIL KAPOOR,**
11 **Amicus Curiae :**
12 I'm okay with that.
13 **LA COUR :**
14 Okay. One thirty (1:30) enough time?
15 **LA COURONNE (Me ALEXIS GAUTHIER) :**
16 I'm sorry?
17 **LA COUR :**
18 One thirty (1:30) enough time?
19 **LA COURONNE (Me ALEXIS GAUTHIER) :**
20 Yes.
21 **LA COUR :**
22 It's okay?
23 **LA COURONNE (Me ALEXIS GAUTHIER) :**
24 One thirty (1:30) for the sweep or one thirty
25 (1:30) to start the testimony, madam Clerk? Can we do

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1 the sweep at one fifteen (1:15)? Is that possible?

2 LA COUR :

3 So we'll begin at one thirty (1:3). I'd ask you if
4 it's possible during the ex parte hearing, if I could
5 remain here. Counsel probably don't know but I sat
6 down below and the space was kind of confining because
7 there is a lot of papers, it's less space here where I
8 can spread out a lot of my material. If it can't be
9 done, I'll go to the clerk's seat and I'll sit there if
10 it's... It's much clearer on the tape and there is no
11 other way I will do that. But I have a lot more space
12 here to spread out.

13 LA COURONNE (Me ALEXIS GAUTHIER) :

14 Yes Sir, we will try but we might need the
15 computers this afternoon and it cannot be plugged in at
16 this location. So we will try to arrange something.

17 LA COUR :

18 All right, thank you very much. And for the rest
19 of counsel, I'll see you tomorrow morning? Tomorrow
20 morning nine thirty (9:30)?

21 LA COURONNE (Me ALEXIS GAUTHIER) :

22 Yes Sir.

23 Mme LA GREFFIÈRE :

24 (Inaudible) monsieur le Juge?

25 LA COUR :

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1 Just one moment. And unless we don't finish the ex
2 parte hearing then I'll take it you'll advise counsel
3 you may need some extra time.
4 **LA COURONNE (Me ALEXIS GAUTHIER) :**
5 Um-hum.
6 **LA COUR :**
7 It very well could go on for a while tomorrow
8 morning.
9 **LA COURONNE (Me ALEXIS GAUTHIER) :**
10 Yes, yes.
11 **LA COUR :**
12 Okay. Presences tomorrow, counsel? So let's go
13 through the list. Madam Clerk?
14 **Mme LA GREFFIÈRE :**
15 D'Addario?
16 **Me MAXIME HÉBRARD,**
17 **Procureur de la défense :**
18 Yes, I will represent maître Hémond and Mr.
19 D'Addario wishes to be present.
20 **Mme LA GREFFIÈRE :**
21 Fracas?
22 **LA DÉFENSE (Me MAXIME HÉBRARD) :**
23 He wishes to be present.
24 **Mme LA GREFFIÈRE :**
25 Magistrale?

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1 LA DÉFENSE (Me MAXIME HÉBRARD) :
2 Yes, I will represent maître Perducci, Mr.
3 Magistrale wishes to be present.
4 Mme LA GREFFIÈRE :
5 Milioto?
6 LA DÉFENSE (Me MAXIME HÉBRARD) :
7 Yes, he wishes to be present.
8 Mme LA GREFFIÈRE :
9 Mirarchi?
10 LA DÉFENSE (Me FRANK ADDARIO) :
11 Yes.
12 Mme LA GREFFIÈRE :
13 Racaniello?
14 LA DÉFENSE (Me MAXIME HÉBRARD) :
15 No, Mr. Racaniello does not wish to be present.
16 LA COUR :
17 Okay. The lawyer indicating that he has mandates
18 for all the others, that's maître Hébrard just for the
19 record. And so Mr. Racaniello expressly renounces his
20 right to be present, is that right?
21 LA DÉFENSE (Me MAXIME HÉBRARD) :
22 Yes.
23 LA COUR :
24 Okay, is there anyone else?
25 Mme LA GREFFIÈRE :

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1 And Mr. Simpson?
2 **LA DÉFENSE (Me MACDONALD) :**
3 Yes, by videoconference, please.
4 **LA COUR :**
5 Is that fine maître Gauthier?
6 **LA COURONNE (Me ALEXIS GAUTHIER) :**
7 Yes Sir.
8 **LA COUR :**
9 Okay, so that's agreed. C'est tout?
10 **Mme LA GREFFIÈRE :**
11 C'est tout monsieur le Juge.
12 **LA COURONNE (Me ALEXIS GAUTHIER) :**
13 Thank you.
14 **LA COUR :**
15 Everybody have a good lunch.
16
17 **SUSPENSION DE L'AUDIENCE**
18
19 -----
20
21 Je, soussignée, DANIELLE F. TASSÉ (# 289078-0),
22 sténographe officielle bilingue, certifie sous mon
23 serment d'office que les pages qui précèdent sont et
24 contiennent la transcription fidèle des témoignages
25 rendus dans cette cause, dont l'enregistrement audio a

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1 été effectué hors de mon contrôle et est au meilleur de
2 la qualité dudit enregistrement.
3 Le tout conformément à la loi.
4 Et j'ai signé,
5
6
7 *Danièle F. Tassé, s.o., o.c.r.*
8 DANIÈLE F. TASSÉ,
9 Sténographe officielle bilingue
10

Jocelyn Fortin, July 21, 2015, ex parte

Investigative Techniques motion

Superior Court Ex Parte hearing at the Laval Courthouse, on 2015-07-21, presided by Superior Court Justice, The Honorable Michael STOBER

13:54 hrs

Corporal Caroline Leonard: So time uh... on uh... record machine is 13:54, 13:54.

Justice Michael STOBER: OK, so we are continuing the ex parte hearing or beginning ex parte hearing or continuing the motion R... uh.... 32, am I correct?

Corporal Caroline Leonard: That's correct...

Justice Michael STOBER: R32 with respect to the investigative privilege and the mobile device uh... and end of _____ MDI and... on this motion we're now beginning the ex parte hearing this time uh... witness who uh... testified _____ may approach the questioning, we are about to embark upon the ex parte portion of his testimony uh... court room has been uh... thoroughly searched. Is that correct madam Leonard?

Corporal Caroline Leonard: Yes.

Justice Michael STOBER: Yeah, so room has been thoroughly searched by special constables hum... Monsieur pouvez-vous vous avancer et donner votre nom?

Constable Raoul Trinco (PH): Constable Spécial Raoul Trinco (PH).

(Whispering is heard throughout conversation)

Justice Michael STOBER: OK euh... monsieur hum... passer à English you can understand. Uh... the whole courtroom has been verified uh... every seat, every place in the room including the _____ box, including the accuse box and you're satisfied everything is secure?

Constable Raoul Trinco (PH): Yes. Yes.

Justice Michael STOBER: And so _____ leave the room now, make sure the door is locked and then there's a legal sign on the door. And then state that the court _____ and all other personal are now in the court room. Persons present and... what I'll do uh... as opposed to other days, I'll identify myself and then start with hum... Corporal Leonard and every other person in court will indicate their name and their role here. Uh... their counsel as a Crown counsel for Mister Kapoor is uh... is uh... _____ security, so I'm Justice Stober.

Corporal Caroline Leonard: I'm Caroline Leonard, I'm recording this uh... session ex parte.

Maître Marie-Christine GODBOUT: Marie-Christine Godbout, Crown Counsel.

Maître Alexis GAUTHIER: Alexis Gauthier, Crown Counsel.

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Maître Robert ROULEAU: Robert Rouleau, Crown.

Maître Anil KAPOOR: Anil Kapoor, advocates.

Justice Michael STOBER: OK.

Jocelyn FORTIN: And uh... Jocelyn Fortin, witness.

Justice Michael STOBER: OK and can you say that again Mr. Fortin, a little louder, 'cause you don't...

Jocelyn FORTIN: Yes... Jocelyn Fortin, witness.

Justice Michael STOBER: That's Jocelyn Fortin a Civilian Member uh... at the RCMP, uh... who is the witness in these ex parte proceedings. Uh... Are we ready to proceed?

Maître Alexis GAUTHIER: We are sir, uh... only two uh... two matters that we would like to uh... to address with you before that uh... the first is uh... we just realized that unfortunately the uh... the affidavit of Mr. Fortin, the version that was filed this morning under E32.6 uh... is not the most reas... recent version of it, so it's not the version that we intended to adduce, we are very sorry about this and we would uh... we would ask uh... the permission to file another copy uh... tomorrow or maybe later today uh... and you will notice when we will the... this other version that it... it is less redacted than the one that was filed this morning.

Justice Michael STOBER: Is it the same document just the redactions different?

Maître Alexis GAUTHIER: Yes I believe so... I believe so sir. But the most recent version, the one that I was working with when I was examining uh... Mr. Fortin, I thought there honestly that it was the one that...

Maître Anil KAPOOR: I...

Maître Alexis GAUTHIER: Uh... I was uh... using this morning but it wasn't.

Justice Michael STOBER: I understand but, what I wanted to be clear on the... the only differences between this 36.6 and the document monitor's tomorrow are that the new document contains the exact same material except certain redacted portions are underact, is that the only difference?

Maître Alexis GAUTHIER: I think so sir, I'm not sure about this, there were some modifications that were... were made to the affidavit of Mr. Fortin, and we'll make...

Justice Michael STOBER: OK, so tomorrow morning when you file it, make sure we all know what the differences are.

Maître Alexis GAUTHIER: Yes, and I thank uh... Mr. Kapoor for that, he's the one who uh... brought it to our attention. Uh... also uh... during the lunch break we have had some discussions among the parties and with Mr. Kapoor as well... and... all the parties

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would agree to suggest to you the following uh... all party... parties considered that uh... as a matter of efficiency hum... it would be better to make these submissions for both motions at the same time.

Justice Michael STOBER:

Yeah that's fine.

Maître Alexis GAUTHIER:

All right. So uh... so it would take place uh... somewhere in September during the... the... the four dates that we uh... set aside this morning for that.

Justice Michael STOBER:

So hum... I understood that Mr. Lacey was going to argue with the R25 motion...

Maître Alexis GAUTHIER:

Yeah.

Justice Michael STOBER:

Perhaps this week. Would you rather his argument being _____?

Maître Alexis GAUTHIER:

Yes, that's what we are saying sir.

Justice Michael STOBER:

It's because I think he could see your argument at least the un-redacted portions of the _____ argument.

Maître Alexis GAUTHIER:

Yeah.

Justice Michael STOBER:

All right, that's fine. Hum...

Maître Alexis GAUTHIER:

So that would mean that we would uh... start with the ex parte of Mr. Fortin this afternoon, we would continue for sure tomorrow and the next witness would be Mr. Richdale for the public cross-examination, we intend to uh... to transfer to the Defense the uh... the uh... redacted transcript later on today, and we have been told by Mr. Mirarchi (PH) representatives uh... that they would want to see the transcript before uh... indicating uh... when they would be ready to start the public cross-examination; but all parties agree that this could not... that... that this could play... take place at the soonest on Thursday morning.

Justice Michael STOBER:

All right, hum... and Mr. Kapoor is not available next week _____.

Maître Anil KAPOOR:

I uh... not, no, I'm sorry.

Justice Michael STOBER:

No that's fine; you already said that, it's OK. Hum... i... it seems to me that the hum... the conclusion of all testimonies, the prob... portions of the testimonies and the cross-examinations, we probably won't finish this week.

Maître Alexis GAUTHIER:

That's for sure sir.

Justice Michael STOBER:

OK.

Maître Alexis GAUTHIER:

We might finish Mr. Richdale this week, I think that we... we are thinking that we will do so, but uh... the public

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examination of uh... Mr. Fortin will take place in September.

Justice Michael STOBER: I think that's clear ____.

Maître Alexis GAUTHIER: Yeah, we need the time for the transcripts.

Justice Michael STOBER: Uh... We need the time for the transcripts, all right. And hum... aside from the bail hearings in September which is unrelated to this, the rest of the month will be dedicated to uh... the public portion of Mr. Fortin's testimony.

Maître Alexis GAUTHIER: Yeah.

Justice Michael STOBER: And the... there's no other witnesses...

Maître Alexis GAUTHIER: No.

Justice Michael STOBER: And... and the arguments.

Maître Alexis GAUTHIER: The arguments part of which would be ex parte.

Justice Michael STOBER: I un...

Maître Alexis GAUTHIER: Actually we... we... all the parties agreed that the public submission should be made first and then we would go ex parte for the final submissions.

Justice Michael STOBER: All right.

Maître Alexis GAUTHIER: Both by the Crown and by Mr. uh... Kapoor. And hopefully we would be able to conclude all this within the four days that we set aside uh... earlier today in September.

Justice Michael STOBER: You think?

Maître Alexis GAUTHIER: Well...

Justice Michael STOBER: Hmm...

Maître Alexis GAUTHIER: We'll do our best to... to proceed efficiently if it's not possible it's not possible.

Justice Michael STOBER: Uh... in the event perhaps hum... as we conclude this uh... testimony and we hear Mr. Kapoor's cross-examination uh... your questions, my questions, we learn things perhaps with a break it will give you some time to meet the Defense Counsel Mr. Kapoor and you will meet, perhaps the issues there outstanding will be screen lined and narrowed uh... before the argument _____. I'd ask you to look into that.

Maître Alexis GAUTHIER: Of course.

(Clears throat)

Justice Michael STOBER: All right. Was there any other discussion on the days that I had suggested since we left this morning, or not?

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Maître Alexis GAUTHIER: No... I don't think so.

Justice Michael STOBBER: OK Mr. Kapoor, proceed please.

Maître Anil KAPOOR: Yes...

Justice Michael STOBBER: In the fall...

Maître Anil KAPOOR: Uh-hum.

Justice Michael STOBBER: I understand you're available in September?

Maître Anil KAPOOR: Yes I have some availability in September.

Justice Michael STOBBER: All right. Uh... in October, are you available at all?

Maître Anil KAPOOR: I'm not; I'm starting a murder case in Ottawa on the 28th we start to call the jury to...

Justice Michael STOBBER: OK, you are not available at all in October?

Maître Anil KAPOOR: No, till the mid... till the... till the mid November.

Justice Michael STOBBER: After mid November you're available?

Maître Anil KAPOOR: I have some availability but I need to be in Vancouver in December, first week of December so...

Justice Michael STOBBER: All right, so you have availability the whole month of November, today as we speak?

Maître Anil KAPOOR: Uh... well... it depends how long this trial goes, I mean I expect the trial will co... it's with a jury; I expected it'll conclude mid November, which will give me a couple...

Justice Michael STOBBER: And you... you're here as Defense Counsel?

Maître Anil KAPOOR: I'm defending on that, yes.

Justice Michael STOBBER: All right. OK thank you for that, go ahead.

Maître Alexis GAUTHIER: OK, so Mr. Fortin, please?

(Pause)

Justice Michael STOBBER: So when we finish today, I'm gonna... I finish the testimony today I'm gonna ask you, mark down a case in September, Mr. Kapoor, you're available?

Maître Anil KAPOOR: Yes, I'll advise her of that, for sure. I can say that the dates that Mr. _____ gave you, are dates that I am available.

Justice Michael STOBBER: Are there any other dates other than those that you're available?

Maître Anil KAPOOR: Hum... no. Hum... the week of the 21st, I'm not in court but... it's the week before the start of this uh... murder case, I'd like to uh... hum... devote my sole attention to that brief, during that week, if... we ended up in a situation where we... I need to steal a day from that week, and if I'm

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pressed to do it, I will... I will do it but I would... I would prefer to be the 21st, but at... that is less than optimum for me just because hum... I wanna...

Justice Michael STOBER: And... and...

Maître Anil KAPOOR: Devote my time to that case...

Justice Michael STOBER: No you're well prepared and I understand that you want to do that for your other matter, I'll take that into account, but we have the hum... the 8th, 9th, 11th, 18th, 28th and 29th, that's six days. Should ____.

Maître Anil KAPOOR: Yes.

Justice Michael STOBER: OK Maître Gauthier ____ question?

Maître Alexis GAUTHIER: Uh... for the uh... yeah, OK.

Justice Michael STOBER: OK, all right. We'll do everything we can until you're through your trial preparation.

Maître Anil KAPOOR: Thank you.

Justice Michael STOBER: All right. And Mr. Fortin (clears throat) uh... would you swear on... on this ____ again it's a separate hearing. You swear by ____.

Jocelyn FORTIN: ____.

Justice Michael STOBER: Do you solemnly ____ to tell the truth, the whole truth and nothing but the truth?

Jocelyn FORTIN: I do.

Justice Michael STOBER: OK, your name.

Jocelyn FORTIN: Jocelyn Fortin.

Justice Michael STOBER: Your occupation.

Jocelyn FORTIN: Uh... Senior Tele Communications Specialist.

Justice Michael STOBER: And your employer?

Jocelyn FORTIN: Uh... uh... Royal Canadian Mounted Police.

Justice Michael STOBER: Thank you. You answered this morning with... you were asked this morning with the prosecuted, do you prefer to testify in French or in English, is it the same in this ex parte hearing?

Jocelyn FORTIN: Uh... it's the same, English.

Justice Michael STOBER: Very well, continue.

Maître Alexis GAUTHIER: Q1. Thank you sir. So sir, uh... you have in front of you a uh... document uh... it's a... it's an affidavit, hum... and I believe that this affidavit has... an un-redacted affidavit that has 54 paragraphs, is that correct?

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Jocelyn FORTIN: That's correct.

Maître Alexis GAUTHIER: Q2. Seven pages.

Jocelyn FORTIN: Seven pages.

Maître Alexis GAUTHIER: Q3. And two appendix.

Jocelyn FORTIN: And two appendix.

Maître Alexis GAUTHIER: Q4. Also un-redacted?

Jocelyn FORTIN: Yes.

(Clear throat)

Maître Alexis GAUTHIER: So we have copies sir of these, at least one copy for you sir.

Justice Michael STOBBER: So this _____ to mark it, we'll mark it _____...

Maître Alexis GAUTHIER: Yes.

Justice Michael STOBBER: And EP uh...

Maître Alexis GAUTHIER: We are at 14 sir... I think.

Justice Michael STOBBER: EP32.14.

Maître Alexis GAUTHIER: Yeah.

Corporal Caroline LEONARD: Right here, I'm not looking.

Justice Michael STOBBER: Thanks, it's all right.

(Clear throat, shuffling of papers)

Justice Michael STOBBER: And the voices manly _____ is all right?

Corporal Caroline LEONARD: Yes, think so...

Justice Michael STOBBER: _____ recorder it's OK?

Corporal Caroline LEONARD: It's good. Thank you.

Justice Michael STOBBER: All right.

Maître Alexis GAUTHIER: All right sir. So... we will start with...

Justice Michael STOBBER: When we say Maître Gauthier... is this the same exact document as the document that was produced this morning this 32.6 except it's not uh... redacted, do you know _____?

Maître Alexis GAUTHIER: As... as I mentioned (PH) sir, they... they might be small difference between the document that was of use this morning and this one, unfortunately we will confirm that tomorrow.

Justice Michael STOBBER: Thank you very much.

Maître Alexis GAUTHIER: But it should have been, so...

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Justice Michael STOBER:

Thank you.

Maître Alexis GAUTHIER:

OK, sir, we will go to the paragraph 11 of this affidavit, the un-redacted version, marked under EP32-14, all right?

Justice Michael STOBER:

I see that there's some portions in red, so just to expedite matters, is everything's that's written in red, what was uh... redacted on the other document, 32.6?

Maître Alexis GAUTHIER:

Absolutely sir.

Justice Michael STOBER:

OK. (Pause) Go ahead.

Maître Alexis GAUTHIER:

Q5. All right, paragraph 11 [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

That is correct.

Maître Alexis GAUTHIER:

Q6. OK, hum... so the... the device that you currently own [REDACTED] Is it similar to the one that was used in the past?

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q7. Yes.

Jocelyn FORTIN:

No, the... the one that we currently have has new uh... capabilities that we didn't have in the past.

Maître Alexis GAUTHIER:

Q8. OK, so no... new features?

Jocelyn FORTIN:

New capabilities.

Maître Alexis GAUTHIER:

Q9. Capabilities, so what is the difference?

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q10. Yeah.

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q11. Yes.

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q12. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q13. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q14. OK, but let's start... let's go back to... for example to hum... January 2011.

Jocelyn FORTIN:

Yes.

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Maître Alexis GAUTHIER:

Q15. All right. With the... so the... the device that you have at the time ca... it came from which manufacturer?

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q16. [REDACTED] so this is the device that you referred to this morning?

Jocelyn FORTIN:

That's correct.

Maître Alexis GAUTHIER:

Q17. OK, and uh... do you have the... the brand of this device, the... the type of this device?

Jocelyn FORTIN:

The one that we used in uh... Clemenza [REDACTED]

Maître Alexis GAUTHIER:

Justice Michael STOBER:

Q18. Just a minute... (Pause) [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

That's correct.

Justice Michael STOBER:

Q19. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q20. We will... if I may sir, we will get back... we will get to these questions shortly. Hum... but... go back in... if we go back from the start, January 2011.

Jocelyn FORTIN:

Yes.

Maître Alexis GAUTHIER:

Q21. OK... so you have [REDACTED]

Jocelyn FORTIN:

Yes.

Maître Alexis GAUTHIER:

Q22. OK. Hum... can you indicate to the court in January 2011 which were the technologies that this device in 2011, January 2011, that you were able to capture.

Jocelyn FORTIN:

Maître Anil KAPOOR:

Q23. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

Maître Anil KAPOOR:

Q24. [REDACTED]

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q25. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q26. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

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Maître Alexis GAUTHIER:

Q27.

Jocelyn FORTIN:

... so we talked this morning about GSM, UMTS, LTE, CDMA.

Maître Alexis GAUTHIER:

Q28. Yeah.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q29. It's a what?

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q30. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

OK...

Justice Michael STOBER:

Q31. OK, just...

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q32. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

That's correct.

Justice Michael STOBER:

All right.

Maître Alexis GAUTHIER:

Q33. OK. So at first, [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q34. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q35. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

(Clears throat)

Maître Alexis GAUTHIER:

Q36. OK. And... you also mentioned that you do have today the capacity [REDACTED]

Jocelyn FORTIN:

That is correct.

Maître Alexis GAUTHIER:

Q37. All right. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

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Justice Michael STOBER: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Justice Michael STOBER: [REDACTED]

(Laughs, shuffling of papers)

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Justice Michael STOBER: [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q38. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q39. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q40. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q41. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q42. OK. OK, now hum... to date, the RCMP, does it own

only devices from [REDACTED]

[REDACTED] or do you have other devices?

Jocelyn FORTIN:

I have other devices.

Maître Alexis GAUTHIER:

Q43. All right.

Jocelyn FORTIN:

We have another uh... uh... [REDACTED]

Maître Alexis GAUTHIER:

Q44. OK. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER:

Q45. OK. And uh... it... has it been used in projet Clemenza?

Jocelyn FORTIN:

It's... no we didn't have that devices in uh... the projet Clemenza.

Maître Alexis GAUTHIER:

OK.

Jocelyn Fortin, July 21, 2015, ex parte

Justice Michael STOBER:

Q46. You didn't have it at that time?

Jocelyn FORTIN:

We didn't have that at that time.

Maître Alexis GAUTHIER:

Q47. When did you buy this device?

Jocelyn FORTIN:

We put the purchase order in December 2011.

Maître Alexis GAUTHIER:

Q48. OK. Meaning that you got the device per say in your hands later on that year?

Jocelyn FORTIN:

We got the device later on that year. It was for delivery on March 31st of the fiscal year, so March uh... 31st 2011.

Justice Michael STOBER:

Q49. 2012?

Maître Alexis GAUTHIER:

2012.

Jocelyn FORTIN:

2012, sorry.

Maître Alexis GAUTHIER:

Q50. I'm sorry... thanks. OK. And... have you used this device in operation here in Canada?

Jocelyn FORTIN:

Yes I did.

Maître Alexis GAUTHIER:

Q51. OK. How many of these device [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

(Pause)

Maître Alexis GAUTHIER:

[REDACTED]
[REDACTED]

Justice Michael STOBER:

OK.

Maître Alexis GAUTHIER:

Q52. Hum... if we go to paragraph 14 of your affidavit.

Jocelyn FORTIN:

Yes.

Maître Alexis GAUTHIER:

Q53. OK. You mentioned in it uh [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q54. So... what can you tell us about this?

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Pause)

Jocelyn Fortin, July 21, 2015, ex parte

Maître Alexis GAUTHIER: OK.

Justice Michael STOBER: So...

Maître Alexis GAUTHIER: Q55. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Clears throat, shuffling of papers)

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q56. [REDACTED]

Jocelyn FORTIN: [REDACTED]

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q57. [REDACTED]

Jocelyn FORTIN: [REDACTED]

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q58. [REDACTED]

Jocelyn FORTIN: [REDACTED]

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q59. [REDACTED]

Jocelyn FORTIN: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q60. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q61. [REDACTED]

Jocelyn FORTIN: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q62. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn Fortin, July 21, 2015, ex parte

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q63. OK. If you don't do that?

Jocelyn FORTIN:

Then, if you don't do that, you're not gonna be able to

[REDACTED]

Maître Alexis GAUTHIER:

Q64. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q65. [REDACTED]

(Pause)

Maître Alexis GAUTHIER:

Q66. If we go to paragraph 17 of your affidavit.

Jocelyn FORTIN:

Yes.

Maître Alexis GAUTHIER:

Q67. You indicated that for most of the duration of projet Clemenza you didn't [REDACTED]

Jocelyn FORTIN:

That is correct; [REDACTED]

Maître Alexis GAUTHIER:

Q68. OK... But at the second sentence you mentioned that

[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q69. OK. Can you explain that to the court?

Jocelyn FORTIN:

Yes. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q70. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q71. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q72. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q73. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED]

14:25hrs

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q74. So, because you have

[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

That is exactly right.

Justice Michael STOBER:

Q75.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q76.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q77.

[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q78. OK, so who developed it... this technique?

Jocelyn FORTIN:

That was me.

Maître Alexis GAUTHIER:

Q79. You?

Jocelyn FORTIN:

Yes.

Maître Alexis GAUTHIER:

Q80.

[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

(Shuffling of paper)

Maître Alexis GAUTHIER:

Q81.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q82.

[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q83.

[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

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Maître Alexis GAUTHIER: Q84. So, maybe a question that might be, you know, be uh... obvious for you but, when... when... when a device, a UMTS device or LTE device which are, you know, backward compatible with LTE to uh... UMTS and UMTS to GSM, when they go backward the... their unique identifiers will they change?

Jocelyn FORTIN: No. The unique identifier will remain the same.

Maître Alexis GAUTHIER: OK.

Justice Michael STOBER: Uh... is that the same with all of the devices or all of the hum... protocols you mentioned this morning, whether GSM, uh... UMTS and the others. The...

Maître Alexis GAUTHIER: LTE...

Justice Michael STOBER: The two identifiers, excuse me?

Maître Alexis GAUTHIER: Sorry sir...

Justice Michael STOBER: _____.

Maître Alexis GAUTHIER: I was trying to help. I'm sorry, sir.

Justice Michael STOBER: Q85. OK. Hum... (Shuffling of paper) GSM, UMTS, LTE, CDMA are the _____ on your, in your paragraph 3 um... are the two identifiers uh... the same all the time regardless?

Jocelyn FORTIN: On UMTS, GSM, LTE the two identifiers, IMSI and IMEI will always be the same.

(Unidentified sounds and shuffling of paper)

Justice Michael STOBER: Q86. In CDMA it's not the same?

Jocelyn FORTIN: CDMA it's a totally different network.

Justice Michael STOBER: You mentioned that this morning. All right...

(Clearing of throat)

Justice Michael STOBER: Go ahead.

Maître Alexis GAUTHIER: Q87. When we... you look at paragraph 18 of your affidavit sir.

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q88. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q89. Can you... can you explain that to the court please?

(Shuffling of paper)

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Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q90. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q91. What do you mean by box?

Jocelyn FORTIN:

The MDI device.

Justice Michael STOBER:

OK.

Maître Alexis GAUTHIER:

Q92. Paragraph 20, you mention in a... a critical parameter.

Jocelyn FORTIN:

Yes.

Maître Alexis GAUTHIER:

Q93. What is that?

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q94. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

[REDACTED]

Justice Michael STOBER:

Q95. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Clearing of throat)

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q96. [REDACTED]
[REDACTED]

Jocelyn FORTIN: Which...

Justice Michael STOBER: Q97. And which...?

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Justice Michael STOBER: Q98. So you use those interchangeably.

Jocelyn FORTIN: Yes.

Justice Michael STOBER: Q99. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Justice Michael STOBER: Q100. So these are bands?

Jocelyn FORTIN: Those are frequencies inside the band.

Justice Michael STOBER: Q101. So how would you define a band?

Jocelyn FORTIN: The band is a whole portion of the RF spectrum that the...

Justice Michael STOBER: Q102. Of the what? .

Jocelyn FORTIN: Uh, RF spectrum.

(Shuffling of paper)

Jocelyn FORTIN: A... a service provider like Rogers is giving a... a band of frequency. And they manage that band so they decide which technology they put in and which frequency they are going to be using inside that portion of the band that they've been given or allocated.

(Clearing of throat)

Justice Michael STOBER: Q103. So how do you distinguish the frequency from the band?

Jocelyn FORTIN: Psst... inside a band you would have... if we... if we talk about frequencies, a band could be from 1930 megahertz to 1950 megahertz so you have a band to work with. Inside you would have channels or frequency that you are going to be using, so you can have multiple frequencies or... or channel inside a band.

Justice Michael STOBER: Q104. So a channel would be within this 1930 to 1950 megahertz?

Jocelyn FORTIN: That's correct.

Justice Michael STOBER: Q105. [REDACTED]

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Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q106. So give me uh... how would one describe a channel or a frequency, it would be what... 1931 megahertz?

Jocelyn FORTIN: Uh... if it's...

Justice Michael STOBER: Q107. How would you define a channel or frequency within the band?

Jocelyn FORTIN: A channel would be the way of communicating the... the... the cell phone use a channel to communicate with the tower. So it's like the conduit to get the information from the tower to the cell phone and vice versa.

Justice Michael STOBER: Q108. So, these band when uses megahertz within a certain range as you've described?

Jocelyn FORTIN: Psst... the band is... is fixed to every provider, they're giving a... a p... a portion of the... like, if... if we look at my affidavit, number four.

(Shuffling of paper and clearing of throat)

Jocelyn FORTIN: And we take the example for band 2, uh... so 4b. You have a pair of frequency from 1950 to 1910 megahertz.

Justice Michael STOBER: Q109. 1850.

Jocelyn FORTIN: 1850 to 1910.

Justice Michael STOBER: Q110. Yeah.

Jocelyn FORTIN: Paired with 1930 to 1900 megahertz. This is the whole portion of frequencies that are set aside for service providers in Canada... for that band. Industry Canada will then divide that whole band and give it to specific providers. So, Rogers would have their own portion of that band...

(Coughing)

Jocelyn FORTIN: Bell will have it, Telus will have it. And inside those bands this is where they're gonna put channels.

Justice Michael STOBER: Q111. Thank you.

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q112. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q113. [REDACTED]

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Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q114. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q115. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

(Unidentified sounds)

Maître Alexis GAUTHIER:

Q116 [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q117 [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q118 [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q119 [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q120. [REDACTED]

(Clearing of throat)

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q121. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q122. [REDACTED]

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Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q123.

[REDACTED]

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q124.

[REDACTED]

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q125.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

[REDACTED]

[REDACTED]

Maître Alexis GAUTHIER:

126.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Maître Alexis GAUTHIER:

Q127.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

[REDACTED]

[REDACTED]

Justice Michael STOBER:

Q128.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

[REDACTED]

[REDACTED]

Maître Alexis GAUTHIER:

Q129.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

[REDACTED]

[REDACTED]

(Clearing of throat)

Maître Alexis GAUTHIER:

Q130.

[REDACTED]

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q131.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

[REDACTED]

Justice Michael STOBER:

Q132.

[REDACTED]

Jocelyn Fortin, July 21, 2015, ex parte

Jocelyn FORTIN:

Maître Alexis GAUTHIER: Q133. OK. Is this a technique that was used in Projet Clemenza?

Jocelyn FORTIN: This is a technique that was used in Project Clemenza and this is a technique that it is still used today.

Maître Alexis GAUTHIER: OK.

(Clearing of throat)

Maître Alexis GAUTHIER: Q134.

Jocelyn FORTIN:

Maître Alexis GAUTHIER: Q135. And a... also, can you explain to the court... uh... uh... what's the difference between

Jocelyn FORTIN:

Maître Alexis GAUTHIER: Q136.

Jocelyn FORTIN:

Justice Michael STOBER: Q137.

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Jocelyn FORTIN:

Justice Michael STOBER: Q138. Just a minute. (Pause)

(Clearing of throat)

Justice Michael STOBER:

Jocelyn Fortin, July 21, 2015, ex parte

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q139 [REDACTED]
[REDACTED]
[REDACTED]

(Clearing of throat)

Justice Michael STOBER:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q140. [REDACTED]

(Shuffling of paper)

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q141. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q142 [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q143. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q144. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q145. [REDACTED] All right, makes sense.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

(Unidentified sounds)

Jocelyn Fortin, July 21, 2015, ex parte

Maître Alexis GAUTHIER: Q146. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q147. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: [REDACTED]

Maître Alexis GAUTHIER: Q148. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q149. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q150. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q151. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: OK. Psst... Today, do you in... in the... in the uh... the ongoing... ongoing uh... uh... projects...

(Clearing of throat)

Maître Alexis GAUTHIER: Q152. At the RCMP, uh... the... are they any uh, [REDACTED]
[REDACTED] that are relevant to your operations? [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: Yes, [REDACTED]

Maître Alexis GAUTHIER: Q153. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q154. [REDACTED]

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Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q155. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

(Clearing of throat)

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q156. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q157. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q158. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q159. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q160. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q161. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q162. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q163. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

[REDACTED]

14:56hrs

Maître Alexis GAUTHIER:

Q164. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q165. [REDACTED]

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Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Justice Michael STOBER:

Maître Alexis GAUTHIER:

Q166.

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q167.

Jocelyn FORTIN:

That's correct.

Maître Alexis GAUTHIER:

OK.

Justice Michael STOBER:

Q168. So just to, when, uh... Mr. Gauthier asked about Bell and Telus they do not offer GSM they did not offer GSM at the time of this investigation, uh... they did not offer HDMS.

(Clearing of throat)

Jocelyn FORTIN:

They had UMTS.

Justice Michael STOBER:

Q169. Sorry?

Jocelyn FORTIN:

They... they had UMTS...

Justice Michael STOBER:

Q170. They had it?

Jocelyn FORTIN:

Yes.

Justice Michael STOBER:

Q171. CDMA?

Jocelyn FORTIN:

Yes.

Justice Michael STOBER:

Q172. And LTE you just said, no (PH)...

Jocelyn FORTIN:

No.

Justice Michael STOBER:

Q173. They did not.

Jocelyn FORTIN:

At the time of the investigation, no.

Justice Michael STOBER:

Q174. OK. So all these answers were, at the time of the investigation 2011, 2012?

Jocelyn FORTIN:

Correct.

Justice Michael STOBER:

OK.

Maître Alexis GAUTHIER:

Q175. And today, they still don't offer the GSM, um... psst... they... the GSM uh... technology.

Jocelyn FORTIN:

Bell and Telus never had a GSM network and they don't have the GSM network. And they probably will never have a GSM network.

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Maître Alexis GAUTHIER:

Q176.

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q177.

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q178.

Jocelyn FORTIN:

Justice Michael STOBER:

Q179.

Jocelyn FORTIN:

Justice Michael STOBER:

Q180.

Jocelyn FORTIN:

Justice Michael STOBER:

Q181.

Jocelyn FORTIN:

Yes.

Maître Alexis GAUTHIER:

So...

Jocelyn FORTIN:

But...

Maître Alexis GAUTHIER:

Yeah, please go ahead, I'm sorry.

Jocelyn FORTIN:

But Bell and Telus doesn't have a GSM network.

Justice Michael STOBER:

Q182. I understand.

Jocelyn FORTIN:

Justice Michael STOBER:

Q183.

Jocelyn FORTIN:

Justice Michael STOBER:

Q184.

Jocelyn Fortin, July 21, 2015, ex parte

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q185. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

(Clearing of throat)

Maître Alexis GAUTHIER:

So the f... May I continue, sir?

Justice Michael STOBER:

Yes, please do.

Maître Alexis GAUTHIER:

Q186. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q187. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q188. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q189. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q190. So if we understand you correctly, even though [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

Yes.

Maître Alexis GAUTHIER:

Q191. You are still using the [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

That is correct. [REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q192. [REDACTED]

(Clearing of throat)

Jocelyn FORTIN:

[REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q203. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q204. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q205. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

(Clearing of throat)

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q206. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q207. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q208. [REDACTED]
[REDACTED]
[REDACTED] Is that right?

Jocelyn FORTIN:

That's perfect. That's correct.

Justice Michael STOBER:

OK, got it.

(Shuffling of paper)

Maître Alexis GAUTHIER:

Q209. [REDACTED]

(Clearing of throat)

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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(Shuffling of paper)

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

(Unidentified sounds, shuffling of paper and pause)

Justice Michael STOBER:

Q210. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q211. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Alexis GAUTHIER:

Q212. All right. Hum... So we... [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q213. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q214. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

(Unidentified sounds)

Maître Alexis GAUTHIER:

Q215. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q216. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q217. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q218. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

(Unidentified sounds)

Maître Alexis GAUTHIER:

Q219. [REDACTED]
[REDACTED]

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Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q220. OK.

Jocelyn FORTIN:

What... can you specify your... question...

Maître Alexis GAUTHIER:

Q221. To... to... to... to be able to [REDACTED]

[REDACTED]

What do you need?

Jocelyn FORTIN:

[REDACTED]

[REDACTED]

[REDACTED]

Justice Michael STOBER:

Q222.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q223.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Maître Alexis GAUTHIER:

[REDACTED]

Justice Michael STOBER:

Q224.

[REDACTED]

[REDACTED]

[REDACTED]

Jocelyn FORTIN:

Q225.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Justice Michael STOBER:

Q226. In the matter of sphere (PH), um... when somebody's telephone line's being intercepted by wiretap, uh... are there devices that um... the criminal of element uses to determine, that sweeps (PH) that you're aware of? Aren't they?

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Jocelyn FORTIN:

Q227. [REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q228. Yeah, but aside from the MDI, uh... just on a regular telephone. I'm not talking about the MDI, just in terms of wiretap interception by the police, that's a tool that's been used for a long time. Uh... are there devices in which people can put on their home landline or their own wireless phone... or their cell phone, nothing to do with the MDI, in order to determine if their telephone lines are being tapped?

Jocelyn FORTIN:

I'm not aware of any... it's not really my expertise.

Maître Alexis GAUTHIER:

All right.

Justice Michael STOBER:

Q229. And, are you aware of devices that are used to sweep phones in an office uh... not by the police but by just individuals, companies, the... the criminal element or anyone, in order to determine if there's bugs on their phones or if they're being tapped at some phone centre. Are you aware of that?

Jocelyn FORTIN:

I'm not aware of any of this.

Justice Michael STOBER:

All right. Thank you.

(Unidentified sounds and clearing of throat)

Justice Michael STOBER:

Q330. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q331. No, you said you don't know. It's not your field.

Jocelyn FORTIN:

Exactly.

Justice Michael STOBER:

OK.

Maître Alexis GAUTHIER:

Q332. OK. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

Yes. Hum... I have prepared some screen capture...

Maître Alexis GAUTHIER:

Yeah.

Jocelyn FORTIN:

Um...

Maître Alexis GAUTHIER:

Uh... yes, it could be maybe the right time to... to use that.

(Unidentified sounds and clearing of throat)

Maître Alexis GAUTHIER:

Uh... just a second, I will get to my copies.

Justice Michael STOBER:

Q333. Just... while Maître Gauthier is doing that. You've indicated that um... [REDACTED]

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[REDACTED]

Jocelyn FORTIN: Yes.

Justice Michael STOBER: All right.

(Unidentified sounds and incomprehensible whispering)

Justice Michael STOBER: While you're doing this Maître Gauthier, just uh... could you give me an idea, just approximately uh...

Maître Alexis GAUTHIER: It's... it's uh...

Justice Michael STOBER: How much longer your examination will be?

Maître Alexis GAUTHIER: Longer than we... we have thought, sir. Uh... so, if... if you're OK, and if Mr. Fortin's OK, we could be... uh... go on for maybe 10... 15 minutes to go through these... this document.

Justice Michael STOBER: I'm not...

Maître Alexis GAUTHIER: And then we could break.

Justice Michael STOBER: I'm not pressuring you, don't take...

Maître Alexis GAUTHIER: No, no, no...

Justice Michael STOBER: Maître _____ Kapoor (PH). I just asked approximately, all I asked was, approximately how much longer will your interrogation be (PH)?

Maître Alexis GAUTHIER: I think that we will need the rest of the afternoon, sir.

Justice Michael STOBER: Yeah, sometimes the afternoon goes to 5:00-5:30, sometimes it goes to 4:00-4:30. So, about how much more time will you need?

Maître Alexis GAUTHIER: Uh... I would say, (sigh) maybe two hours, sir. Maybe...

Justice Michael STOBER: All right. How's your schedule today Mr. Kapoor, are you all right?

Maître Anil KAPOOR: Um... at your pleasure, sir.

(Unidentified sounds and mostly incomprehensible whispering)

Maître Alexis GAUTHIER: Q334. So... the document that we have in front of you is a document that you've prepared, sir?

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: OK. So, this document sir, will be u... used under EP32...

Justice Michael STOBER: Seven (PH).

Maître Alexis GAUTHIER: Uh... EP32.15.

(Shuffling of paper)

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Justice Michael STOBER: Hum... 15, yeah.

(Shuffling of paper and clearing of throat)

Maître Alexis GAUTHIER: **Q335.** All right. So... without looking at the document at the... the... the graphic but just at the uh... the uh... the first page, the front page. Could you just give a brief overview to the judge as to what we are able to see in this... these graphics that you have prepared?

Jocelyn FORTIN: So basically the first page is, uh... I've conducted a MDI session. [REDACTED]

Justice Michael STOBER: **Q336.** _____ thing's parked?

Jocelyn FORTIN: I'm... the MDI device...

Justice Michael STOBER: **Q337.** Yeah.

Jocelyn FORTIN: Is installed in a vehicle.

Justice Michael STOBER: **Q338.** Right.

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: **Q339.** From the target?

Jocelyn FORTIN: From the target.

Justice Michael STOBER: **Q340.** All right...

Jocelyn FORTIN: Which is also my vehicle but... it's not a real target...

Justice Michael STOBER: **Q341.** Oh OK...

Jocelyn FORTIN: It's just a test.

Justice Michael STOBER: That's... that's what confused me, all right.

(Shuffling of paper)

Justice Michael STOBER: **Q342.** So... this is a simulation where you're... it's a simulation, it's a practice, it's not a real scenario and you [REDACTED]

Jocelyn FORTIN: That's correct.

Justice Michael STOBER: All right.

Maître Alexis GAUTHIER: **Q343.** When did you did this exercise, sir? Did you do this e... exercise?

Jocelyn FORTIN: Um... we've done this in the past to s... see uh... what our signal would look like, at target vehicles...

Justice Michael STOBER: **Q344.** No, but he's asking you when did you do this test?

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Jocelyn FORTIN: This particular one.

Justice Michael STOBBER: Q345. Yeah...

Maître Alexis GAUTHIER: Yeah.

Jocelyn FORTIN: I've done it last week.

(Shuffling of paper)

Justice Michael STOBBER: Do you want him to continue Mr. Fortin or do you need a break?

Jocelyn FORTIN: I... I'm good.

Justice Michael STOBBER: Q346. All right. Go ahead.

Jocelyn FORTIN: Thank you. So, I have in the... the target vehicle I had installed [REDACTED]

Maître Alexis GAUTHIER: [REDACTED]

Justice Michael STOBBER: Q347. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q348. But before getting to the, uh... the screenshots, on the third page of your document, could we just explain what we can see on the second page of the document please?

Jocelyn FORTIN: Yes.

(Shuffling of paper and clearing of throat)

Jocelyn FORTIN: So... the first s... uh... captured screen that I have, the first uh... I call it BMP file or... this is a view, I've used Google Earth to produce that image.

Maître Alexis GAUTHIER: Q349. Uh-huh.

Jocelyn FORTIN: And on top of the image from Google Earth...

(Clearing of throat)

Jocelyn FORTIN: There's a pinpoint in the middle that says, "Test location".

Maître Alexis GAUTHIER: Q350. Yes.

Jocelyn FORTIN: This is where I was... where both vehicles; the target vehicle and the MDI vehicle, were located when I conducted the tests.

Maître Alexis GAUTHIER: OK, and...

Justice Michael STOBBER: Q351. Sorry. Tests locations where both vehicles are?

Jocelyn FORTIN: Psst... yes.

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Justice Michael STOBER: Q352. [REDACTED]

Jocelyn FORTIN: Yes.

Justice Michael STOBER: OK.

Maître Alexis GAUTHIER: Q353. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q354. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q355. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Uh-huh.

Justice Michael STOBER: Q356. I can see that this is in Ottawa, the uh... not (PH)... names of the streets but, I find that... the diagram in the photo at the bottom, there's (PH) a parking lot, just in order to determine if there's high buildings, where is that?

Jocelyn FORTIN: Uh... that's like, at... at the test location, that's outside uh... our uh... the bit (PH)... the... the building that I work. So that's the parking lot, it's an exploded (PH) (coughing) zone (PH).

Justice Michael STOBER: Q357. It's Alta Vista?

Jocelyn FORTIN: Hum...

Justice Michael STOBER: Q358. It's not the RCMP Headquarters is it...?

Jocelyn FORTIN: St... St-Joseph Boulevard.

Justice Michael STOBER: Q359. Yeah, that's...

Jocelyn FORTIN: In Orleans.

Justice Michael STOBER: Q360. That's in Orleans?

Jocelyn FORTIN: Yes.

Justice Michael STOBER: Q361. OK. It's not the RCMP Headquarters?

Jocelyn FORTIN: It is Headquarter, but it's tech... ni... Technical Operation...

Justice Michael STOBER: Q362. All right.

Jocelyn FORTIN: Section.

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(Clearing of throat)

Justice Michael STOBER:

Q363. So, in Orleans it would be very flat, there's no high buildings?

Jocelyn FORTIN:

Psst... uh... that's correct, yeah. In that location it's very flat. So the bottom portion of that first page is an...

Maître Alexis GAUTHIER:

Q364. Yes...

Jocelyn FORTIN:

Exploded view of my test location.

Maître Alexis GAUTHIER:

Q365. Your parking lot?

Jocelyn FORTIN:

My parking lot.

Maître Alexis GAUTHIER:

Q366. OK. To the left, the cell phone of the target?

Jocelyn FORTIN:

Yes.

Maître Alexis GAUTHIER:

Q367. To the right, your MDI device?

Jocelyn FORTIN:

Correct.

Maître Alexis GAUTHIER:

Q368. All right.

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q369. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q370. All right. Turning to the third page...

(Shuffling of paper)

Jocelyn FORTIN:

On the third page, the first screen is...

Maître Alexis GAUTHIER:

Q371. To the left?

Jocelyn FORTIN:

The left, yes...

Maître Alexis GAUTHIER:

Q372. Yes.

(Shuffling of paper)

Jocelyn FORTIN:

So the first screen on the left um... [REDACTED]
[REDACTED]

(Shuffling of paper)

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q373. And, at...

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(Clearing of throat)

Jocelyn FORTIN:

And I have three markers in there, as well, in... if you look at marker M1...

Maître Alexis GAUTHIER:

Q374. Yes.

Jocelyn FORTIN:

So there's a r... little red dot...

Maître Alexis GAUTHIER:

Q375. Y... correct.

Jocelyn FORTIN:

That says M1.

Maître Alexis GAUTHIER:

Yup.

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q376. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q377. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q378. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q379. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q380. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q381. All right, and... if we look at M2...

Jocelyn FORTIN:

Yes.

Maître Alexis GAUTHIER:

Q382. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

(Clearing of throat)

Maître Alexis GAUTHIER:

Q383. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q384. [REDACTED]
[REDACTED]

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Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q385. OK. And we can see that in the first, the... the uh... second line from the top?

Jocelyn FORTIN:

Yes.

Maître Alexis GAUTHIER:

Q386. It's the blue line on top of the chart?

Jocelyn FORTIN:

That's correct.

Maître Alexis GAUTHIER:

Q387. OK. What about M3?

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q388.

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

(Clearing of throat)

Maître Alexis GAUTHIER:

.15:27hrs

Maître Alexis GAUTHIER:

Q389.

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q390. All right. Now we go to the screen shot to the right.

Jocelyn FORTIN:

Yes.

Maître Alexis GAUTHIER:

Q391. What can we see there?

Jocelyn FORTIN:

The three markers that we talked about M1, M2, M3's

Maître Alexis GAUTHIER:

Q392.

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Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q393. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q394. So what is M1 for example on the first screen? What does it mean?

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q395. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q396. If you compare that to the uh... data related to the M1 to the right.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q397. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q398. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

(Clears throat)

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q399. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q400. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q401. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q402. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: [REDACTED]

(Shuffling of papers)

Justice Michael STOBER: Go ahead.

Maître Alexis GAUTHIER: Q403. All right. And if we go to the last page of this document.

(Clears throat)

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q404. What can you tell us about these two uh...

(Clears throat)

Jocelyn FORTIN: That last page?

Maître Alexis GAUTHIER: Q405. Yeah.

Jocelyn FORTIN: I took the target vehicle?

Maître Alexis GAUTHIER: Q406. Yeah.

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q407. Yeah.

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q408. Uh-hum.

Jocelyn FORTIN: And I took a screen capture of the...

Maître Alexis GAUTHIER: Q409. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q410. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

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Maître Alexis GAUTHIER: Q411. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q412. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q413. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q414. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q415. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q416. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

(Clears throat)

Maître Alexis GAUTHIER: Q417. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: [REDACTED]

Justice Michael STOBER: Q418. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q419. [REDACTED]

(Shuffling of papers)

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q420. [REDACTED]

(Shuffling of papers)

Maître Alexis GAUTHIER: On the last page of your document...

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: All right.

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Maître Alexis GAUTHIER: Q421 [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: [REDACTED]

Justice Michael STOBER: Q422. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q423. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q424. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: [REDACTED]

Justice Michael STOBER: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q426. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q427. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Justice Michael STOBER: Q428. On page?

Jocelyn FORTIN: On page 3.

(Shuffling of papers, clearing throat)

Justice Michael STOBER: Q429. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q430 [REDACTED]

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Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q431. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

Yes.

Justice Michael STOBER:

OK, just a minute.

(Pause, shuffling of papers)

Justice Michael STOBER:

Q432. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q433 [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q434. So I mean previously on page 3 screen 1...

Jocelyn FORTIN:

Yes.

Justice Michael STOBER:

Q435 [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q436 [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q437. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q438. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q439. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q440 [REDACTED]

Jocelyn FORTIN:

[REDACTED]

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Justice Michael STOBER: Q441. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q442. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q443. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q444. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q445. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q446. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Justice Michael STOBER: Q447. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q448. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Thank you. (Shuffling of papers) Maître Kapoor is... is it clear to you now?

Maître Anil KAPOOR: Yes I guess, yes I think so, I think so.

(Shuffling of papers)

Justice Michael STOBER: _____, right?

Maître Alexis GAUTHIER: Yes sir.

Justice Michael STOBER: OK. So the... I'll probably repeat it again. This is the fourth time you're here; you know that uh... you shouldn't discuss this with anybody, police officers or lawyers or anybody. You're in examination _____ now, so I presume at this point uh... uh... if the Crown had something to say to you they could. But, I think

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we all agree that even once the _____ starts to ask questions, we better avoid communication with the prosecutors.

Jocelyn FORTIN: OK.

Justice Michael STOBER: And at all time you shouldn't speak to anybody else about the content of your testimony, whether it's with Mr. Richdale, inspector Flynn or anyone else; unless there's a special disposition to verify something, and that will come out possibly or possibly not.

Jocelyn FORTIN: OK.

Justice Michael STOBER: OK? And if you need any further direction or clarification, please let uh... one of the lawyers know. Mr. Kapoor may go to Maître Godbout, Maître Rouleau, there's three of them with the Crown, and they will bring it to my attention right away. So take a short break hum... Sent the original bailiff to come and get me and I'm doing that _____, thank you.

(Laughing)

Justice Michael STOBER: Uh... to get out of the door and we can _____.

(Clears throat)

Maître Alexis GAUTHIER: Well uh... it's maybe uh... until uh... 4 Sir; 4 and we could continue until uh... whatever time you... you want to continue. But, we won't be uh... we won't complete the examination in chief today.

Justice Michael STOBER: OK. Hum...

Maître Alexis GAUTHIER: Considering that we... we and it has been a long day, we would suggest maybe 30-45 minutes more, and then resuming at 9:30 if Mr. Kapoor is fine with this.

Maître Anil KAPOOR: I'm fine with that. Uh... I'm in... I know there's a lot of technical information coming your way lord, I don't know if you want to carry on or you want a break and start at 9:30 tomorrow. I'm in your hands, I'm... I'm taking notes and following along.

Justice Michael STOBER: But...

Maître Anil KAPOOR: They're not my friends but on the _____ the witness as well. I... I don't need to run till 5 o'clock if that's more... if that's easier for you, we will... I... I expect to complete tomorrow including my cross uh... given what I've heard that far anyway. But I'm in your hands Lord, I'm happy to stay late.

Justice Michael STOBER: No I... I think what Maître Gauthier proposes is reasonable as long as for the witness it's OK.

Jocelyn FORTIN: Yes your honor.

Justice Michael STOBER: So, we'll take a break till 4 and uh... as you said, 30-45 minutes and Mr. Fortin, you've been on your feet for awhile, so, if you feel that it's cause it gets very _____. If you feel it at a certain point of

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time you want to sit down just sit down, and if you feel that uh... you prefer to continue tomorrow since we're coming back anyway, we will do so. Hum... but I think at the end of the day today we should try to evaluate at what time we'll terminate uh... both interrogations tomorrow uh... but there's no point to all the lawyers coming back uh... at 9:30...

Maître Alexis GAUTHIER: We...

Justice Michael STOBER: If they're going to wait till 12.

Maître Alexis GAUTHIER: We uh... considering that we uh... we already indicated that we were... we were not able to start uh... Mr. uh... Richdale before Thursday. There will be only one lawyer will come here tomorrow.

Justice Michael STOBER: Who's that?

Maître Alexis GAUTHIER: Uh... I don't know, maybe Mr. uh... Ebrar (PH) uh... to... to set the agenda for the... the next few days. Uh... and we could also ask to Madame uh... Libaretore (PH) if you agree uh... to postpone the uh... returning of the uh... the accuse to Thursday. And I... I have the... the mandate from all uh...

Justice Michael STOBER: Perfect.

Maître Alexis GAUTHIER: Defense counsel to... to ask that to you.

Justice Michael STOBER: Go ahead. Later on he spoke to me and...

Maître Alexis GAUTHIER: Uh-huh.

Justice Michael STOBER: You will be back at... the schedule's change somewhat, they will meet in the morning, we can _____, that's fine you go ahead, you raised it with me and I agree.

Maître Alexis GAUTHIER: Thank you.

Justice Michael STOBER: Especially since all counsel agreed. So I've taken that tomorrow for most of the morning we'll be with Mr. Fortin?

Maître Alexis GAUTHIER: Uh-hum.

Justice Michael STOBER: And in the afternoon?

Maître Alexis GAUTHIER: Well uh... the afternoon uh... if we're not finished we'll go on with Mr. Fortin. We will complete Mr. Fortin tomorrow and then uh... the uh... once uh... the uh... the defense for the coun... the... the counsel for defense will have time to review uh... the transcripts of Mr. Richdale uh... they will indicate at the end of the day tomorrow or maybe sooner whether they are uh... ready to proceed on Thursday morning with Mr. Richdale or not.

Justice Michael STOBER: All right, so for tomorrow, I understand that uh... in terms of court time uh... we're gonna complete the ex parte hearing with this witness.

Maître Alexis GAUTHIER: Yeah.

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Justice Michael STOBBER: And uh... we'll continue the court hearing uh... possibly Thursday...

Maître Alexis GAUTHIER: Yeah.

Justice Michael STOBBER: But that will be the extended and tomorrow in other words if we finish Mr. Fortin tomorrow at noon uh... that will be it for the day.

Maître Alexis GAUTHIER: Yes Sir.

Justice Michael STOBBER: All right and you'll be able to have a response in terms of whether or not the public portion of Mr. Richdale will be Thursday or Friday or another time.

Maître Alexis GAUTHIER: That's correct Sir, exactly.

Justice Michael STOBBER: And we know that the public portion of uh... Mr. Fortin's testimony because the lawyers has to read and prepare as well as Mr. Kapoor the uh... transcript which won't be ready, that will be in September sometime.

Maître Alexis GAUTHIER: Exactly.

Justice Michael STOBBER: All right. OK, I understand and so, it could very well be that uh... none of the lawyers will be here on Thursday if they're not prepare to do the uh... public part the cross-examination of Mr. Richdale. In other words, we may not sit there so...

Maître Alexis GAUTHIER: It's a possibility Sir.

Justice Michael STOBBER: Yeah, right. All right so uh... it's a quarter to 4. Is 4 o'clock OK?

Maître Alexis GAUTHIER: Yeah.

Justice Michael STOBBER: All right.

Maître Alexis GAUTHIER: Thank you.

(Clears throat)

Maître Alexis GAUTHIER: So it's... what... what... what is the time?

Corporal Caroline LEONARD: Yeah, sorry my Lordship uh... 15:47 pausing.

16:06 hrs

Corporal Caroline LÉONARD: 16:06... 16:06.

Justice Michael STOBBER: OK, Mr. Fortin you're under the same uh, Solemn Affirmation.

Jocelyn FORTIN: Yes, your honor.

Justice Michael STOBBER: Q449. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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Jocelyn FORTIN:

Justice Michael STOBER:

Q450

Jocelyn FORTIN:

That is correct.

Justice Michael STOBER:

OK, um... OK, Maître Gauthier, go ahead.

Maître Alexis GAUTHIER:

Q451. Thank you.

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q452.

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q453.

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q454.

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q455

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q456

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q457.

Jocelyn FORTIN:

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Maître Alexis GAUTHIER: Q458. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: What's that paragraph, sorry?

Maître Alexis GAUTHIER: 22, sir.

Justice Michael STOBER: Uh-huh.

Maître Alexis GAUTHIER: Q459. OK, so this section go from... goes from 22 to paragraph 27. So, Mr. Fortin I would ask you to take... to take us through these paragraphs and explain to us what uh... you are uh... uh... mentioning there.

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q460. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q461. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q462. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q463. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q464. [REDACTED]

(Clearing of throat)

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q465. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q466. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q467. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

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[REDACTED]

Maître Alexis GAUTHIER: Q468. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q469. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q470. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q471. [REDACTED]

Jocelyn FORTIN: [REDACTED]

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Justice Michael STOBER: Q472. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q473. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: All right (PH).

Maître Alexis GAUTHIER: Q474. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q475. [REDACTED] relevant to the readings that were made too, in Clemenza.

Jocelyn FORTIN: That's correct.

(Shuffling of paper)

Maître Alexis GAUTHIER: Q476. OK. And this is what you explained uh... between paragraph 22 and 26 of your affidavit?

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q477. OK [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: That's correct.

Justice Michael STOBER: Q478 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Pause and unidentified sounds)

Justice Michael STOBER: OK.

(Shuffling of paper and clearing of throat)

Maître Alexis GAUTHIER: Q479. Go ahead.

Jocelyn FORTIN: [REDACTED]

(Unidentified sounds and coughing)

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]

Maître Alexis GAUTHIER:

Q480.

[REDACTED]

(Shuffling of paper)

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q481

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q482

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

[REDACTED]

Maître Alexis GAUTHIER:

Q483.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q484

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q485.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

[REDACTED]

Maître Alexis GAUTHIER:

Q486.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q487

[REDACTED]

[REDACTED]

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q488.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

[REDACTED]

Maître Alexis GAUTHIER:

Q489

[REDACTED]

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Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q490. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q491. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q492. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q493. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q494. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q495. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q496. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

[REDACTED]

Justice Michael STOBER:

Q497. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

(Pause and unidentified sounds)

Maître Alexis GAUTHIER:

OK, so we will go to the next section which is uh... [REDACTED]
[REDACTED]

Justice Michael STOBER:

Q498. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

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Justice Michael STOBER:

Q499 [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q500. [REDACTED]
[REDACTED]

Jocelyn FORTIN:



Maître Alexis GAUTHIER:

(Pause and shuffling of paper)

Justice Michael STOBER:

Go ahead.

Maître Alexis GAUTHIER:

Q501. Thank you [REDACTED]
[REDACTED] has been exposed to um... psst... to the court by your colleague Mr. Richdale, uh... but we will... later (PH) I'll get back to it. Uh... and uh, I would ask you to go through this section and explain, you know, the main features or the main, uh... aspects that need to be... to be known about this technique.

Jocelyn FORTIN:

OK. Hum... maybe I'll be a recap because I'm not sure of what...

Maître Alexis GAUTHIER:

Q502. Yes, go ahead, please!

Jocelyn FORTIN:

[illegible]

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Shuffling of paper)

Maître Alexis GAUTHIER: Q503. Uh... paragraph 31; [REDACTED]
[REDACTED]

(Incomprehensible whispering)

Jocelyn FORTIN: Correct.

Maître Alexis GAUTHIER: Q504. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q505. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q506. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q507. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q508. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q509. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q510. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q511. [REDACTED]

Jocelyn FORTIN: [REDACTED]

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Maître Alexis GAUTHIER: Q512.

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q513. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q514.

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q515. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q516. [REDACTED] And, is this what you are describing at paragraph 32 of your affidavit?

Jocelyn FORTIN: That's correct.

Maître Alexis GAUTHIER: Q517. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q518. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q519.

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q520. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn Fortin, July 21, 2015, ex parte

Justice Michael STOBER:

Q521.

Jocelyn FORTIN:

(Clearing of throat)

Jocelyn FORTIN:

16:37hrs

Jocelyn FORTIN:

(Clears throat)

Maître Alexis GAUTHIER:

Q522.

Jocelyn FORTIN:

No, I have never read anything about

Maître Alexis GAUTHIER:

Q523. In the public domain?

Jocelyn FORTIN:

In the public domain.

Jocelyn Fortin, July 21, 2015, ex parte

Justice Michael STOBER: Q524. What about [REDACTED]?

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q525. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: From time to time, I would surf the internet to try to find the information to see what's out there.

Justice Michael STOBER: Q526. When did you do that the last time?

Jocelyn FORTIN: Uh... I've done it again recently to prepare for this case and I would say that maybe every six months I would do that.

Justice Michael STOBER: Q527. Was the [REDACTED] done in this case? This investigation?

Jocelyn FORTIN: Yes.

Justice Michael STOBER: Q528. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Justice Michael STOBER: Q529. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Anil KAPOOR: [REDACTED]

Maître Alexis GAUTHIER: Q531. [REDACTED]

Jocelyn FORTIN: Uh no, sorry... sorry.

Maître Anil KAPOOR: I know it's late in the day...

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: I just want to get it out...

Jocelyn FORTIN: Yes it is, no I'm sorry...

Maître Anil KAPOOR: I wanted to get it clear, sorry...

Jocelyn Fortin, July 21, 2015, ex parte

Justice Michael STOBER: Q532. I wrote that, I wrote down hum [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: (Chuckles) Yes. No your Honor, I'm sorry [REDACTED]
[REDACTED]

Justice Michael STOBER: Thank you Mr. Kapoor.

Maître Alexis GAUTHIER: Sir, if you agree, considering the time.

Justice Michael STOBER: I agree.

(Clears throat)

Maître Anil KAPOOR: [REDACTED]

(Laughing)

Maître Alexis GAUTHIER: Yes, indeed.

Justice Michael STOBER: Might not ____ out there when ____.

(Laughing)

Justice Michael STOBER: Q533. Just before we go though, and later informally, uh... has an exhaustive study been done as to what's in the public domain
[REDACTED]
[REDACTED]

Jocelyn FORTIN: I can't say that exhaustive study has been done.

Justice Michael STOBER: Q534. You can say that it has?

Jocelyn FORTIN: I... I can't say that it hasn't. Do you mean by exin... extensive study like...

Justice Michael STOBER: Q535. I'll be more specific. What I want to know is has an exhaustive analysis but not an analysis hum... an adot... an exhaustive search been done with respect to what's in the public domain in the United States, in Europe, anywhere in the world, Asia wherever. With respect to what you've [REDACTED]
[REDACTED] Has such an exhaustive study where research been done to see what's out there publicly?

Jocelyn FORTIN: Yes the only portion that I'm not sure about the question is the definition of an exhaustive study. Uh... I've done the research myself.

Justice Michael STOBER: Q536. I don't just mean Googling [REDACTED]

Jocelyn FORTIN: OK, yeah.

Justice Michael STOBER: Q537. You're an expert in your domain or if you're not an expert you're someone with certainly a very specialized expertise, with respect to the things you're talking about hum... and you would certainly have a better ability and knowledge's as to where to search than any of us here in this room would have. So if you and the members of your team are perhaps outside specialists verified

Jocelyn Fortin, July 21, 2015, ex parte

and helped you for the purpose of this case because privilege is a factor and what's in the public domain is a factor. Hum... has such a verification or exhaustive research been done uh... with respect to printed material, internet material, what have you in the public domain.

Jocelyn FORTIN: To my knowledge it has not been done.

Justice Michael STOBER: Q538. All right. Just a moment. And that would be with respect to whether [REDACTED] is in the public domain, the answer to your question?

Jocelyn FORTIN: That's correct.

Justice Michael STOBER: Just a minute. (Pause) Anything following that? We done for the day?

Maître Alexis GAUTHIER: We are sir.

Justice Michael STOBER: Mr. Kapoor, on that specific question, is there anything else that you need at this point?

Maître Anil KAPOOR: No thank you my Lord.

Justice Michael STOBER: All right, it's uh... I don't have the clock in front of me, but when I look at the clock Mr. Fortin, I'm not trying to look through you, you might see me looking sometime, I'm not able to look through you, I'm looking at the clock. So it's 4:43 that I have. Is that what you have?

Corporal Caroline LÉONARD: On the record machine, it's 16:44 my Lordship.

Justice Michael STOBER: All right, so 16:44 we'll see ____.

Corporal Caroline LÉONARD: End of recording. Thank you.

Justice Michael STOBER: End of recording and I wish everybody a...

Jocelyn Fortin, July 22, 2015, ex parte transcript

Investigative Techniques motion

Superior Court Ex Parte hearing at the Laval Courthouse, on 2015-07-22, presided by Superior Court Justice, The Honorable Michael STOBER

10:00 hrs

Corporal Caroline LÉONARD: 10:00, start of recording.

Justice Michael STOBER: OK, so the um... recording has begun our ex parte hearing as we have been the last few days um, I'm Justice Stober, everybody uh... all the bar (PH) officials have left the room, _____ in front of me is Special Constable _____ and the bailiff, all defense counsel are absent. It's an ex parte hearing to continue the um... examination in chief of uh, Jocelyn Fortin. Examination will be _____ by the prosecutor Maître Gauthier. Um... so I would ask that um... everybody in the court room identify themselves by name and occupation. We'll start with Corporal Léonard.

Corporal Caroline LÉONARD: Caporal Caroline Léonard.

Maître Marie-Christine GODBOUT: Marie-Christine Godbout, Crown counsel.

Maître Alexis GAUTHIER: Alexis Gauthier, Crown counsel.

Maître Robert ROULEAU: Robert Rouleau, Crown.

Jocelyn FORTIN: Jocelyn Fortin, witness.

Maître Anil KAPOOR: Anil Kapoor, Amicus.

Justice Michael STOBER: All right, so there's no other persons present in the uh... in the courtroom uh... there's a sign on the door that says "huis clos" in camera and the door is locked. There's been a sweep done in the courtroom yesterday and _____ the room is sealed and the Constable has advised me that he's confident that um... the seal (PH) was maintained and there's nothing in... in the courtroom that shouldn't be in the courtroom or in any portion of the courtroom including the jury box, the accused box, etc... So we'll continue with Mr. Fortin who's before me uh... he wishes to have as in previous days to testify in French or English?

Jocelyn FORTIN: In English.

Justice Michael STOBER: In English and you're gonna get the solemn affirmation?

Jocelyn FORTIN: Yes, I do.

Justice Michael STOBER: As you did yesterday.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Jocelyn FORTIN:

Yes.

Justice Michael STOBER:

All right. Do you solemnly affirm to tell the truth, the whole, uh... put your hand up please, do you solemnly affirm to tell the truth, the whole truth and nothing but the truth?

Jocelyn FORTIN:

I do.

Justice Michael STOBER:

Your name?

Jocelyn FORTIN:

Jocelyn Fortin.

Justice Michael STOBER:

Your occupation?

Jocelyn FORTIN:

Senior Telecommunications Systems Specialist.

Justice Michael STOBER:

And your employer?

Jocelyn FORTIN:

Uh... with the RCMP.

Justice Michael STOBER:

Thank you, please continue Maître Gauthier.

Maître Alexis GAUTHIER:

Q1. Thank you, sir. Um... yesterday, Mr. Fortin, we... we left off with the uh... uh... these... the explanation regarding [REDACTED]

Jocelyn FORTIN:

That's correct.

Maître Alexis GAUTHIER:

Q2. OK. Um... and you've indicated that (Clears throat) the [REDACTED] was used in... in Projet Clemenza with [REDACTED]

Jocelyn FORTIN:

That is correct.

Maître Alexis GAUTHIER:

Q3. OK. Um... is there another technique that can be used with [REDACTED] to obtain the unique idedu (PH)... uh... identifiers of the cell phone devices [REDACTED]

Jocelyn FORTIN:

Yes.

Maître Alexis GAUTHIER:

Q4. OK.

Jocelyn FORTIN:

[illegible]

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[REDACTED]
[REDACTED] That technique is
different than [REDACTED]

Maître Alexis GAUTHIER: Q5. And it's called [REDACTED]?

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q6. OK. And this is a, uh... a... a... a feature that uh... the
[REDACTED] used in this case, in Clemenza uh... had?

Jocelyn FORTIN: [REDACTED] had that feature when uh... for
Clemenza.

Maître Alexis GAUTHIER: OK.

Justice Michael STOBER: Q7. Is this in your document?

Jocelyn FORTIN: Psst... it's not in the document because it wasn't used on
the Clemenza file.

Justice Michael STOBER: OK.

Maître Alexis GAUTHIER: Q8. Is this feature um... the... the existence of this
technique, to your knowledge is it um... documented in
the public domain?

Jocelyn FORTIN: [REDACTED]
[REDACTED] so, it is in the public domain.

Maître Alexis GAUTHIER: Q9. Um... psst... now if we get to the next section of your
affidavit uh... section D, it's called IMSI catcher detection
tools efficiency.

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q10. So, first off, could you give us an overview of what
you are exposing there in this section of your affidavit.

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q11. Uh-huh.

Jocelyn FORTIN: And [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Clearing of throat)

Maître Alexis GAUTHIER: Q12. OK. How did you learn about [REDACTED]

Jocelyn Fortin, July 22, 2015, ex parte transcript

Jocelyn FORTIN: Psst... Well, the manufacturers that we deal with, uh... colleagues that we deal with.

Maître Alexis GAUTHIER: Q13. Uh-huh.

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q14. Uh-huh.

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Uh-huh.

Jocelyn FORTIN: Q15. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
could have a... a lethal ending. So...

Justice Michael STOBER: Q16. Could have a what?

Maître Anil KAPOOR: _____, I'm sorry?

Maître Alexis GAUTHIER: [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Anil KAPOOR: OK.

Justice Michael STOBER: Q17. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Justice Michael STOBER: Q18. You're saying the IMSI catcher?

Jocelyn FORTIN: IMSI catcher.

Justice Michael STOBER: Q19. [REDACTED]
[REDACTED]

Jocelyn FORTIN: Correct.

Justice Michael STOBER: Q20. Continue.

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q21. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Justice Michael STOBER: Q22. Yes...

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q23. [REDACTED]

Jocelyn Fortin, July 22, 2015, ex parte transcript

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q24.

Maître Anil KAPOOR:

I just want to underscore here that this sounds an awful lot like hearsay to me.

Justice Michael STOBER:

Well...

Maître Anil KAPOOR:

Jocelyn FORTIN:

I can name you a...

Maître Anil KAPOOR:

Now if he... just one moment...

Justice Michael STOBER:

That's not the... just a minute. Um...

Maître Anil KAPOOR:

And... and I would... sorry my Lord...

Justice Michael STOBER:

When a lawyer has an objection and stands up uh... you may not be familiar in the _____ of being in court often uh... but I want to hear the lawyer, so don't interrupt him and _____ certainly speak once the Crown has responded.

(Clearing of throat)

Justice Michael STOBER:

That's the way it works here we don't all talk at once, although it's happened too often in this case. Go ahead, Maître.

Maître Anil KAPOOR:

Uh... thank you, my Lord. It... it's... I just want to uh... I just wanted to underscore that this evidence is hearsay evidence. My friend proposes to lead and he can't in this setting. Now I would just ask him to I... to... to tease out from the witness the sourcing of this information, um... so that we can at least have some understanding of what this is about to assist you rather than just throw the ball of desertion.

Justice Michael STOBER:

All right. Before we do that, but first did Maître Gauthier report (PH) it, let me go further... any response to that?

Maître Alexis GAUTHIER:

It was our intention to do so.

Justice Michael STOBER:

OK, very well.

Maître Anil KAPOOR:

Thank you.

Justice Michael STOBER:

Q25. That's good. Um... but before you answer those questions Mr. Fortin, when... you say

Jocelyn FORTIN:

Psst... is the MDI.

Justice Michael STOBER:

Q26. Uh-huh... OK, so what you're saying,

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Jocelyn FORTIN: [REDACTED]

Justice Michael STOBBER: Q27. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBBER: Q28. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBBER: Q29. OK. So, [REDACTED]
[REDACTED]

Jocelyn FORTIN: Correct.

Justice Michael STOBBER: Q30. All right. Um... since I'm on this point, with respect to them, where'd you get that information?

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: So you've been involve... involved....

Justice Michael STOBBER: Q31. Mr. Fortin (PH) uh... just... just a moment. So, your comment, that [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBBER: Q32. But before answering that question, he mentioned [REDACTED]

Jocelyn FORTIN: No... well.

Justice Michael STOBBER: Q33. What about [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBBER: Q34. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBBER: Q35. It could have what?

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBBER: Q36. [REDACTED]
[REDACTED]

Jocelyn FORTIN: Yes. [REDACTED]

Justice Michael STOBBER: Maître Gauthier, go ahead.

Maître Alexis GAUTHIER: Q37. Thank you. So since we are on topic of uh... [REDACTED]
[REDACTED]
[REDACTED] Jh... what can you tell us uh... about the uh... psst... the frequency uh... with which you uh... [REDACTED]
[REDACTED]

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Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q38. Uh-huh.

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q39. Uh-huh.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q40. Uh-huh.

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q41. Uh-huh.

Jocelyn FORTIN:

Psst... and uh... [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q42. OK. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q43. OK.

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q44. Yeah.

Jocelyn FORTIN:

And we have contacts [REDACTED]

Maître Alexis GAUTHIER:

Q45. [REDACTED]

Jocelyn FORTIN:

Yes.

Maître Alexis GAUTHIER:

Q46. Can you...?

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

OK. These...

Justice Michael STOBER:

Q47. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

[REDACTED]

Maître Alexis GAUTHIER:

Q48. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

[REDACTED]

Maître Anil KAPOOR:

Q49. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

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Maître Anil KAPOOR:

[REDACTED]

Maître Alexis GAUTHIER:

Q50. [REDACTED]

[REDACTED]

[REDACTED]

Jocelyn FORTIN:

Well just the...

Maître Anil KAPOOR:

Uh, just to be clear here, I think my friend is now asking me about conversations with unnamed persons, I have no objection if it's simply to list... this witness is understanding, but I do object if it is meant to put the conversations that he has had with unnamed persons in for the truth of its contents.

Maître Alexis GAUTHIER:

We just want to expose to the court what is the understanding of this witness as to [REDACTED]

[REDACTED]

[REDACTED]

Justice Michael STOBER:

That's pretty vague. Do you know Mr. Fortin who you spoke to when you spoke to them, where you spoke to them...?

Jocelyn FORTIN:

I have uh...

Justice Michael STOBER:

You're... you're here to testify on an ex parte hearing uh... the Crown is trying to keep privileged the use of the MDI and all of the other features that have been stated earlier. You're claiming that the use [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] so you obviously prepared and considered all of this in _____ the preparation of your testimony for this hearing this week. Who did you speak to that you got this information from? When was it and where was it? Is anything documented? The... I think this is, this formed part of the basis of Mr. Kapoor's objection, is that right?

Maître Anil KAPOOR:

Yes, my Lord.

Justice Michael STOBER:

And I'd like to know as well. To make a sweeping statement, [REDACTED]
[REDACTED]

[REDACTED] Might be so, but hard for me to render a decision based on sweeping statements like that and I'm not criticizing you, the objection is well founded and it's maintained. Please continue.

Jocelyn FORTIN:

So...

Maître Alexis GAUTHIER:

Q51. So you heard the judge?

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Jocelyn FORTIN:

Yes. Um...

Justice Michael STOBER:

Q52. Sorry? What?

Jocelyn FORTIN:

Justice Michael STOBER:

Q53. [REDACTED] is where?

Jocelyn FORTIN:

(Clearing of throat)

Jocelyn FORTIN:

Justice Michael STOBER:

Q54. [REDACTED]

Jocelyn FORTIN:

Yes.

Justice Michael STOBER:

Q55. Why do they call [REDACTED]

(Incomprehensible whispering)

Maître Anil KAPOOR:

Justice Michael STOBER:

Maître Anil KAPOOR:

Justice Michael STOBER:

Q56. OK. So, [REDACTED]

Jocelyn FORTIN:

(Clearing of throat)

Jocelyn FORTIN:

That I attend [REDACTED] was at [REDACTED] that was last...
October or November...

Maître Alexis GAUTHIER:

Q57. Of 2014?

Jocelyn FORTIN:

Of 2014. And I, that...

Maître Alexis GAUTHIER:

Q58. The DMI equipment?

Jocelyn FORTIN:

MDI equipment but not the one that was used in
Clemenza.

Maître Alexis GAUTHIER:

Q59. OK... another device.

Jocelyn FORTIN:

Another device.

(Pause)

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Alexis GAUTHIER:

Q60. Anything else that you could tell us on this topic?

Jocelyn FORTIN:

Psst... Think that's about it.

Maître Alexis GAUTHIER:

All right.

Maître Anil KAPOOR:

Lord, I wonder if I could just address you for a moment please, on something?

Jocelyn FORTIN:

Yes.

Maître Anil KAPOOR:

And the... the, um... um... the witness can have a seat, if he wishes, um... I suppose it's probably best if the witness is excluded, if he could be uh... if he can take a seat outside...

(Clearing of throat)

Justice Michael STOBER:

Mr. Fortin, uh... could I ask you to please uh... leave the room.

Jocelyn FORTIN:

OK.

Justice Michael STOBER:

Go ahead.

Maître Anil KAPOOR:

Yes, thank you. I'm concerned more that we're hearing information that has never been disclosed. It's not in the affidavit about these [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] If my friend

simply wants to sort of tease out from this witness his understand uh... I still have a concern but it's somewhat more att... attenuated. That if my friend wants to make the submission at the end of the day that your decision is going to put out [REDACTED] if that's going to be his submission, I want proper disclosure of this information before we go any further.

Justice Michael STOBER:

OK. Um, I think that we can say that um... all police work is dangerous.

Maître Anil KAPOOR:

Yes.

Justice Michael STOBER:

In and of itself. Uh... when a police officer arrests someone or follows someone, as I mentioned earlier, when there's a surveillance team, if police are using different techniques, all that work is dangerous and we know that. Um... and I suppose that [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] To go beyond that um... in a way that Maître Gauthier stated or even with... the way the witness stated, prior to your objection, um... I don't have any basis to go further than that. I... I... I just made a general statement; I think you'll agree with that.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Anil KAPOOR:

Yes.

Justice Michael STOBER:

To go further than that I don't have anything.

Maître Anil KAPOOR:

Right.

Justice Michael STOBER:

[REDACTED]

Maître Anil KAPOOR:

Yes, I mean, I guess my concern is what use is the Crown gonna put to this evidence, I appreciate that it's not anchored in any real evidence...

Justice Michael STOBER:

Well at this point, it's not very convincing to me.

Maître Anil KAPOOR:

All right, thank you. That's all.

Justice Michael STOBER:

Regardless what they plea (PH), at this point in time, now, it's not going very far.

Maître Anil KAPOOR:

Thank you.

Justice Michael STOBER:

But they might have uh... something else, I don't know.

Maître Anil KAPOOR:

Yes, we will see as it... as it transpires. My concern is, this isn't in the affidavit, I've got no production about this information, [REDACTED]

[REDACTED]

[REDACTED] My respective submission and this is the extent of it, it has no probative value. My friend wishes to invest it with some probative value, he ought to put the evidence before you make production first, thank you.

Justice Michael STOBER:

You're right. Any comment? You don't have to give any comment.

Maître Alexis GAUTHIER:

No, but we would like to maybe have a very short recess, five minutes if... you would allow, so.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Anil KAPOOR: I'll say this... that I'm watching the witness in front of me when these questions are asked of him uh... doesn't appear to me that uh... this is a question he was expecting. He's ex... he was answering everything in his affidavit that was pre-prepared before his testimony which I appreciated having, 'cause it uh... goes hand and hand with his testimony. Unless I've missed it, it's not in the affidavit...

Maître Alexis GAUTHIER: It's not.

Justice Michael STOBER: And watching the witness, it seems like he wasn't expecting this question.

Maître Alexis GAUTHIER: No, he was.

Justice Michael STOBER: He was? All right, very well. Uh...

Maître Alexis GAUTHIER: I don't work this way, sir.

Justice Michael STOBER: Well, I'm not... (Chuckles)

Maître Alexis GAUTHIER: Well I... just for you to know, because you are criticizing, uh...

Justice Michael STOBER: _____...

Maître Alexis GAUTHIER: Sometimes our work...

Justice Michael STOBER: _____...

Maître Alexis GAUTHIER: And I can tell you that he... he... he was expecting the question.

Justice Michael STOBER: This exchange isn't necessary...

Maître Alexis GAUTHIER: All right...

Justice Michael STOBER: Sometimes in... in an examination, questions are asked that a witness doesn't always know. So uh... my intention is not to criticize anybody, something might come up and of course of an examination then um... a witness might expect the witness can't answer but have him discussed it with the witness before, it can happen. I'm just giving my observations at this point, made... based on Mr. Kapoor's uh... objection and uh... I don't know why you're uh... getting all defensive about it. With respect to this point, it's not necessary. So I will permit a short break and um... psst... uh... well, how much time does everyone have to be out?

Maître Alexis GAUTHIER: _____ five to ten minutes, sir... maximum.

Justice Michael STOBER: Ten minutes.

Maître Alexis GAUTHIER: Thank you, sir.

Justice Michael STOBER: OK?

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Maître Alexis GAUTHIER: Thank you.

(Clearing of throat)

Corporal Caroline LÉONARD: 10:26, stopping recording.

10:42 hrs

Corporal Caroline LÉONARD: 10:42. Recording.

(Coughing)

Justice Michael STOBER: OK, so we're starting again. Hum... are you ready to continue or...?

Maître Alexis GAUTHIER: Yeah, we just wanted to mention that we... we... we won't go any further on this topic with the witness. What we wanted to add... to put to you was already said by the witness.

Justice Michael STOBER: All right.

Maître Alexis GAUTHIER:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: All right. Hum... I'm not preventing you from bringing further evidence if that's what you wish. Uh... so if you do wish to that, you're free to do that, your master of your case.

Maître Alexis GAUTHIER: Uh-huh.

Justice Michael STOBER: Hum... I just like to ask one question before we call the witness back in. Hum... the police often get general warrants for bugs in residences, your aware of that?

Maître Alexis GAUTHIER: Yeah.

Justice Michael STOBER: _____ a bug in residence and very often they'll be a police vehicle uh... down the street or across the street getting those conversations. There's a number of ways to do it, you're aware of that of course?

Maître Alexis GAUTHIER: Yeah.

Justice Michael STOBER: OK. Would it be your position that uh... that type of police technique should be covered by privilege?

Maître Alexis GAUTHIER: Uh... the fact that how they would place a bug into a room or how they do to uh... transmit the... the...

Justice Michael STOBER: Just a minute...

Maître Alexis GAUTHIER: What is uh... Catcher uh... by this bug to the uh... recording device that is elsewhere, yes, we would allege privilege on that Sir. How it is done, yes, we would privilege that.

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(Clearing of throat)

Justice Michael STOBER: OK.

Maître Alexis GAUTHIER: For example or where is the uh... the microphone placed on a person, uh... a double agent or a civilian agent that want... that wants to recorded a conversation that he has with a suspect, yes, we would claim a privilege on that, for sure.

Justice Michael STOBER: OK, that's different.

Maître Alexis GAUTHIER: It is difference but what?

Justice Michael STOBER: It's special privilege.

Maître Alexis GAUTHIER: All right.

Justice Michael STOBER: All right, thank you.

Maître Alexis GAUTHIER: All right.

Justice Michael STOBER: We'll continue with Mr. Fortin.

Maître Alexis GAUTHIER: Thank you.

(Pause, clearing of throat, whispering but incomprehensible)

Maître Alexis GAUTHIER: So Mr. Fortin is here Sir. We can resume?

Justice Michael STOBER: OK, you are under the same solemn information Mr. Fortin, Maître Gauthier please go ahead. Just... actually _____ just want to make note.

(Pause, whispering but incomprehensible)

Justice Michael STOBER: Thank you, please go ahead.

(Whispering but incomprehensible)

Maître Alexis GAUTHIER: Q61. Yes, thank you Sir. Hum... Mr. Fortin, so we uh... we will get back to the IMSI Catcher detection tools efficiency part of your affidavit. Hum... and so you indicated that you uh... you... you learned about these tools uh... from researches that you've made yourself? And...

Jocelyn FORTIN: Yeah. Hum... manufacturers.

Maître Alexis GAUTHIER: Q62. OK.

Jocelyn FORTIN: And colleagues.

Maître Alexis GAUTHIER: Q63. All right. Oh... OK. So before getting into the details of these three hum [REDACTED] uh... so we have the... [REDACTED] the other one is the...

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q64. OK.

Jocelyn FORTIN: [REDACTED]

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Maître Alexis GAUTHIER: Q65. All right. [REDACTED]

Jocelyn FORTIN: Correct.

Maître Alexis GAUTHIER: Q66. OK, so and for us that don't know much about uh... an [REDACTED] what can you tell us about these things. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q67. [REDACTED]
[REDACTED]

Jocelyn FORTIN: That's correct. [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q68. Yeah.

Jocelyn FORTIN: And uh... hum... provided that you have [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q69. OK. So if we start with [REDACTED]

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q70. OK. What can you tell us about [REDACTED]

Jocelyn FORTIN: [REDACTED] detecting IMSI catching... IMSI catcher, sorry.

Maître Alexis GAUTHIER: Q71. Uh-huh.

Jocelyn FORTIN: Uh...

(Clearing of throat)

Jocelyn FORTIN: [REDACTED]
[REDACTED] I'll try to be as clear as possible. [REDACTED]
[REDACTED]

Maître Alex GAUTHIER: Q72. Uh-huh.

Jocelyn FORTIN: In order to try to detect an IMSI catcher.

Maître Alexis GAUTHIER: Q73. [REDACTED]
[REDACTED]

Jocelyn FORTIN: That's correct.

Maître Alexis GAUTHIER: Q74. OK.

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q75. Yes.

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Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q76. OK.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q77. Oh...

Jocelyn FORTIN:

Things that are not relevant to uh...

Maître Alexis GAUTHIER:

Q78. [REDACTED] device used in this case. OK.

Jocelyn FORTIN:

[REDACTED]

(Clearing of throat)

Jocelyn FORTIN:

That's correct, [REDACTED] that was used in Clemenza.

Maître Alexis GAUTHIER:

Q79. OK, but is there among [REDACTED]
[REDACTED] Are they any that could be relevant [REDACTED]
device used in this case?

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q80. OK, if... if... if we get back to the how [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q81. OK.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q82. OK.

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q83. OK. OK. So... how... how...

Jocelyn FORTIN:

Another thing...

Maître Alexis GAUTHIER:

Q84. [REDACTED]
[REDACTED]

(Laughing)

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Maître Alexis GAUTHIER: Sorry. (Chuckles) [REDACTED]
[REDACTED]
[REDACTED]

(Clearing of throat)

Jocelyn FORTIN: Well, because the technique that we used, [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q85. Uh-huh.

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q86. Yeah.

Jocelyn FORTIN: Then the cell phones [REDACTED]

Maître Alexis GAUTHIER: Q87. Uh-huh.

Jocelyn FORTIN: [REDACTED]

(Coughing)

Maître Alexis GAUTHIER: Q88. Uh-huh.

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q89. Uh-huh.

Jocelyn FORTIN: And will notice that [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q90. OK. And... [REDACTED]

Jocelyn FORTIN: The...

Maître Alexis GAUTHIER: [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q91. Yeah.

(Clearing of throat)

Jocelyn FORTIN: And... they're looking [REDACTED]

(Coughing)

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: OK.

Justice Michael STOBER: Q92. Isn't the uh... [REDACTED]
[REDACTED]

Jocelyn FORTIN: That's correct.

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Justice Michael STOBER: Q93. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q94. Yeah.

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q95. So for example, [REDACTED]
[REDACTED]

Jocelyn FORTIN: You would not be able [REDACTED]

Justice Michael STOBER: Q96. So in that...

Jocelyn FORTIN: On a.. [REDACTED]

Justice Michael STOBER: Q97. So, in our case hum... Am I correct in saying then all of the cell phones involved in this investigation were Blackberry's?

Jocelyn FORTIN: I don't have that information. I only collected...

Justice Michael STOBER: Q98. All right. If they were Blackberry's, [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Yeah.

Maître Alexis GAUTHIER: Q99. But... the device that we use today, this device, it's still used today?

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q100. OK. And will... will it be only used on Blackberry device... today?

Jocelyn FORTIN: What would...?

Maître Alexis GAUTHIER: Q101. This... the MDI... the... the MDI device, are you only looking for Blackberry device with the MDI device?

Jocelyn FORTIN: No and when we use the MDI device we're not targeting specific device of phone, we're targeting all the phones.

Maître Alexis GAUTHIER: Q102. All the phones.

Jocelyn FORTIN: And we don't have control on which phone [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q103. So, you could [REDACTED]

Jocelyn FORTIN: I could [REDACTED]

Justice Michael STOBER: Q104. So, what... what you're saying to... go further in my question I said, _____ moments ago hum... if the MDI is looking for Blackberry's, [REDACTED]
[REDACTED] the MDI can certainly pick up other cell phones [REDACTED]
[REDACTED]

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Jocelyn FORTIN: That's exactly right.

Justice Michael STOBER: All right.

(Pause)

Maître Alexis GAUTHIER: Q105. You indicated that among [REDACTED]

(Clearing throat)

Maître Alexis GAUTHIER: Can monitor, uh... [REDACTED]

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q106. Uh... [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q107. Uh-huh.

Jocelyn FORTIN: [REDACTED] that we talked yesterday. So this, if you use [REDACTED]

Maître Alexis GAUTHIER: Q108. Uh-hum.

Jocelyn FORTIN: [REDACTED]

(Pause, coughing)

Maître Alexis GAUTHIER: Q109 [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q110. Yeah.

(Clearing of throat)

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q111. Uh-huh.

Jocelyn FORTIN: Hum... the problem with [REDACTED]

Maître Alexis GAUTHIER: Q112. Uh-huh.

Jocelyn FORTIN: [REDACTED]

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Maître Alexis GAUTHIER: Q113. All right. So, among [REDACTED]
[REDACTED] to your knowledge, [REDACTED]
[REDACTED]

Jocelyn FORTIN: I'm... when I'm qu... I'm on uh... query mode?

Maître Alexis GAUTHIER: Q114. Yeah.

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q115. Yeah.

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q116. [REDACTED]

Jocelyn FORTIN: Correct.

Maître Alexis GAUTHIER: Q117. OK. So... if you want to use [REDACTED]
[REDACTED]

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q118. What will you have to do [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q119. Yes.

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q120. And just to make sure that we understand, [REDACTED]
[REDACTED]

Jocelyn FORTIN: You turn on the device...

Maître Alexis GAUTHIER: Q121. Yeah. When you speak of the device you speak....

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q122. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q123. Yeah.

Jocelyn FORTIN: And, I'll give you an example [REDACTED]

Maître Alexis GAUTHIER: Q124. Uh-huh.

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q125. Uh-huh.

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q126. Yes.

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Jocelyn FORTIN: Every time [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q127. Correct.

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: OK.

Justice Michael STOBER: Q128. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q129. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q130. OK.

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q131. So you can select hum... some but [REDACTED]

Jocelyn FORTIN: Correct.

Maître Alexis GAUTHIER: Q132. [REDACTED]
use all of it.

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q133. What about the next tool, [REDACTED]

Jocelyn FORTIN: Again it's a... [REDACTED] uh... similar things.

Maître Alexis GAUTHIER: Q134. Uh-huh.

Jocelyn FORTIN: Hum... but instead of [REDACTED] hum...

(Pause, shuffling of papers)

Jocelyn FORTIN: Just reading my uh... my notes, I... I... I saw that, I see that there's
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q135. OK. But... it has... if I understand you correctly this.. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: Yes, so there are people...

(Clearing of throat)

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Jocelyn FORTIN:

Maître Alexis GAUTHIER: Q136. Uh-huh.

Jocelyn FORTIN:

Maître Alexis GAUTHIER: With your experience, what would be the impact [REDACTED] if what we are discussing here ex parte would be revealed to these people?

Justice Michael STOBER: Are you referring to [REDACTED]

Maître Alexis GAUTHIER: Yes Sir.

Justice Michael STOBER: You're going further than that?

Maître Alexis GAUTHIER: The... well... this one and... and the others as well.

Justice Michael STOBER: OK, so... for the question that the Crown asked you, in Paragraph 36 you refer to [REDACTED] so your question relates to the [REDACTED]

Maître Alexis GAUTHIER: Yes Sir, so a... and uh... thank you for pointing that out Sir, I will... I will wait for as... ask this question, I will wait that we'll have cover all these [REDACTED] and I will ask it later, thank you Sir, if I may?

Justice Michael STOBER: No problem.

Maître Alexis GAUTHIER: Q137. Thank you. So... uh... so among [REDACTED]

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q138. You indicated that one of these items [REDACTED]

Jocelyn FORTIN: Yes, one of the items [REDACTED]

Maître Alexis GAUTHIER: Q139. Yes.

Jocelyn FORTIN: Relates to the [REDACTED]

Maître Alexis GAUTHIER: Q140. OK. Any other item that could be uh... related to the uh... MDI device uh... used in this case?

Jocelyn FORTIN: From my recollection, that's the one from the ones [REDACTED]

Maître Alexis GAUTHIER: Q141. All right. And... what about the last one [REDACTED]

Jocelyn FORTIN:

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Maître Alexis GAUTHIER: Uh-hum.

Justice Michael STOBER: Q142. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Pause)

Jocelyn FORTIN: I don't have the details and I don't remember exactly what are the details but I remember that, from the reading that [REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q143. [REDACTED]

Jocelyn FORTIN: Yes that... I would have to go back an... [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: All right.

Justice Michael STOBER: Q144. The item... [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q145. But both your answers relate to the MDI on this... _____ case?

Jocelyn FORTIN: In the case that was used for Clemenza. So base...

Justice Michael STOBER: Q146. _____ in fact your answer would abide [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

(Clearing of throat)

Jocelyn FORTIN: The IMSI Catcher that was used during Clemenza.

Maître Alexis GAUTHIER: Q147. All right. Hum... Before asking you about the impact of disclosing the information, uh... I just wanted to get back to the uh... uh... to [REDACTED] uh... and to Paragraph 34 of your affidavit...

(Clearing throat)

Maître Alexis GAUTHIER: And we didn't hum... we didn't go t... (clearing of throat) through this... this paragraph yesterday and I would like you to... to explain to the court what there is to... to understand in this background.

Jocelyn FORTIN: When you... when the equipment is programmed or... or decides to uh... select his own feature to program the MDI device, one of

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the perimeters it's gonna select [REDACTED]
[REDACTED]

(Clearing of throat)

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q148. By the MDI?

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q149. Hum... (clearing of throat) this hum... this issue with this [REDACTED] to your knowledge is it documented in the public domain?

Jocelyn FORTIN:

No, it's not documented.

Maître Alexis GAUTHIER:

OK.

Justice Michael STOBER:

Q150. So the last portion of your testimony is not documented,
[REDACTED]

Jocelyn FORTIN:

[REDACTED] no it's not documented.

Maître Alexis GAUTHIER:

Q151. If we get back to the... [REDACTED] to your knowledge, is it in the public domain?

Jocelyn FORTIN:

That's a technique [REDACTED]

Maître Alexis GAUTHIER:

Q152. Uh-hum.

Jocelyn FORTIN:

To my knowledge that has never been disclosed anywhere.

Maître Alexis GAUTHIER:

Q153. OK. The fact [REDACTED] with their MDI device, to your knowledge...

(Clearing of throat)

Maître Alexis GAUTHIER:

Is that in the public domain?

Jocelyn FORTIN:

I never seen that information in a public domain.

(Pause)

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Maître Alexis GAUTHIER: [REDACTED]

Justice Michael STOBER: On your last point... uh... you never seen the... the issue but on the last point, that you've never seen the public domain the...

Maître Alexis GAUTHIER: Can I repeat the question Sir? The uh... if... if you look at paragraph uh... of the affidavit, so uh... Paragraph 26 of the affidavit, last sentence [REDACTED]

Justice Michael STOBER: All right.

Maître Alexis GAUTHIER: Q154. So to your knowledge Sir.

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q155. So on these three points, [REDACTED] is not in the public domain according to your testimony?

Jocelyn FORTIN: That's correct.

Justice Michael STOBER: Q156 [REDACTED] you were saying and has never been disclosed so you're _____ done in the public domain?

Jocelyn FORTIN: It's not in the public domain.

Justice Michael STOBER: Q157 And the third point, it... it never... seen the fact [REDACTED] correct?

Jocelyn FORTIN: That's correct...

Justice Michael STOBER: Q158. That you...

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q159. OK. I asked you yesterday a question and another point have you...

11:13 hrs

Justice Michael STOBER: Or anyone in your team and any except these _____ research, do you confirm as to whether or not your testimony on these 3 points is uh... accurately reflects what's out there? But there 3 things out there and you're just not _____, or as there been an active and exhaustive search what respected in these points, or are you testimony just in accordance with your general opinion?

Jocelyn FORTIN: I wouldn't say just my general opinion uh... as we deal with those equipment uh... on daily basis and that's what I've been doing for the last... I'm working with this equipment full time for at least 6 to 7 years now. And I've been working with this equipment for over 10 years. So, that is the experience that I have operating the equipment, dealing with the manufacturers of this particular device. Dealing with...

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Maître Alexis GAUTHIER: Q160. Wait... I'm sorry, I'm stopping you there. Dealing with manufacturers, [REDACTED]

Jocelyn FORTIN: And others but now we're talking [REDACTED]

Maître Alexis GAUTHIER: Q161. Yes.

Jocelyn FORTIN: It's specific about [REDACTED]

Maître Alexis GAUTHIER: Q162. Yes.

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q163. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q164. Uh-hum.

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q165. Uh-hum.

Jocelyn FORTIN: So it's not just... uh... it... it's based on... on numbers of sources hum... in conversation and contacts that I have so, it's not just an opinion.

Justice Michael STOBER: Q166. Yeah.

Jocelyn FORTIN: Well... you could say it is an opinion since... uh... because that's what I'm saying. (Chuckles). But I'm saying that it's not only just googling on the Internet, it's more than that it's... because of my relation with the manufacturers and uh... other partners and being uh... aware of the facts of what I could potentially damage or uh... the use of the equipment.

Justice Michael STOBER: Q167. OK, so that's the answer to my question?

Jocelyn FORTIN: That's my answer sir.

Justice Michael STOBER: Go ahead.

Maître Alexis GAUTHIER: Q168. So base on your research and your experience and the... the... the conversations and communications that you have had with your partners from the private sector and the public sector over the last 10 years; you've indicated that to your knowledge the... [REDACTED] was not part of the public domain.

Jocelyn FORTIN: That's right.

Maître Alexis GAUTHIER: Q169. And this thing goes from the [REDACTED]
[REDACTED]

Jocelyn FORTIN: That's correct.

Maître Alexis GAUTHIER: Q170. And you also indicated that the same goes for [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED] that's right.

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Justice Michael STOBER: Q171. In the prosecutor's question, he said based on your research and other things, but that first part based on your research, what research?

Jocelyn FORTIN: The research would be the research that I would do on my own uh... probing the Internet for documents that are out there.

Justice Michael STOBER: Q172. When was the last time you did that on these 3 points?

Jocelyn FORTIN: I did it recently about uh... uh... to prepare for this case.

Justice Michael STOBER: Q173. OK. And you checked on the Internet?

Jocelyn FORTIN: I checked on the Internet.

Justice Michael STOBER: Q174. Did you check any other sources?

(Clears throat, pause)

Jocelyn FORTIN: I try to remember, I had the conversation with [REDACTED]
I'm just trying to remember exactly what was the... the content of that conversation. Well [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q175. We being the RCMP?

Jocelyn FORTIN: The RCMP.

Maître Alexis GAUTHIER: Q176. Uh-hum.

Jocelyn FORTIN: Because of the way [REDACTED] So, even if I don't look for that feature on the Internet, I wouldn't understand how that would have been know or being out on the Internet.

Justice Michael STOBER: OK, go ahead.

Maître Alexis GAUTHIER: Thank you sir.

(Clears throat)

Maître Alexis GAUTHIER: Q177. Uh... what about the [REDACTED] technique that is used by the uh... that can be used with the [REDACTED]
[REDACTED]

Jocelyn FORTIN: The [REDACTED] from the all the devices that I had devaluated over the last 10 years. Uh... [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q178. And to your knowledge...

Jocelyn FORTIN: To my knowledge I haven't seen that technique being explain anywhere in the public domain.

Maître Alexis GAUTHIER: Q179. What about [REDACTED] you already uh... explain to the court yesterday?

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Jocelyn FORTIN:

Well with [REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q180. Uh-hum.

Jocelyn FORTIN:

But the way we're doing it...

Maître Alexis GAUTHIER:

Q181. Uh-hum.

Jocelyn FORTIN:

The way we're using the... and in the case of Clemenza the way we used [REDACTED] to do it.

Maître Alexis GAUTHIER:

Q182. Uh-hum.

Jocelyn FORTIN:

That couldn't be in the public domain [REDACTED]
[REDACTED] it would be protected information as far as I know, but it's a technique that we develop, that we used and that was not instructed [REDACTED]
[REDACTED] It was something we develop on our own [REDACTED] that we're currently using and that we develop...

Maître Alexis GAUTHIER:

Q183. Uh-hum.

Jocelyn FORTIN:

We put some hardware together and we wrote our own software to control the hardware that was developed by us at the RCMP. That couldn't be in the public domain.

Maître Alexis GAUTHIER:

Hum...

Justice Michael STOBER:

Q184. You changed the software; it became [REDACTED] so you could still use [REDACTED]

Jocelyn FORTIN:

Changed the software [REDACTED]

Justice Michael STOBER:

Q185. Yeah.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] that has not been used on Clemenza [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q186. OK. I will uh... now ask you to go to the uh... to the first appendix of your uh... affidavit, the un-vetted copy appendix A, and I would like you to... I would ask you to uh... explain to the

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court uh... what we are able to uh... to... to get out of this uh... table.

Jocelyn FORTIN: So, looking at appendix A, on the left you have the list of MDI manufacturers. Those devices, some of them have have... I had the opportunity to evaluate or attend a demo, some of them uh... I took the information from the literature that was available on the Internet.

Maître Alexis GAUTHIER: Q187. Uh-hum.

Jocelyn FORTIN: There's 5 different uh... I would say type of IMSI Catcher's, a lot of them on the Internet relates to the last column, what's called "man in the middle". This is the one that is capable of being between the cellular and the tower, remove the encryption on the cell phone and collect a content.

Maître Alexis GAUTHIER: Q188. And it's the one that is mention of these last line of this page, or explained...

Jocelyn FORTIN: That's correct. So...

Maître Alexis GAUTHIER: Q189. And you explained it to... to us yesterday.

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q190. And you... unless I'm... I'm... I'm mistaken, you... you already indicated [REDACTED] was not able to do man in the middle.

Jocelyn FORTIN: That's correct.

Maître Alexis GAUTHIER: Q191. OK.

Jocelyn FORTIN: The... that appendix was just to show that there's numerous MDI manufacturers out there.

Maître Alexis GAUTHIER: Q192. Uh-hum.

Jocelyn FORTIN: And their capability differs from one to another.

Maître Alexis GAUTHIER: Q193. Uh-hum.

Jocelyn FORTIN: Uh... so, I don't know if you want to go specific on each device and explain exactly what are the difference, I already explained what are the different columns...

Maître Alexis GAUTHIER: Q194. Uh-hum.

Jocelyn FORTIN: What they do, so basically the green is uh... it means that the device is capable of achieving or doing that feature.

Maître Alexis GAUTHIER: Q195. Uh-hum.

Jocelyn FORTIN: The red means, the device is not capable of doing uh... that feature...

Maître Alexis GAUTHIER: Q196. Yes.

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Jocelyn FORTIN: Or operate in that mode.

Maître Alexis GAUTHIER: Q197. Yes.

Jocelyn FORTIN: The black means, the device might be able to do it, might not be able to do it. I just didn't have the information. I... I wanted to make sure I gave... accurate information and when I didn't have the accurate information I just blacked out uh... those squares.

Maître Alexis GAUTHIER: Q198. OK.

Jocelyn FORTIN: As for the yellow uh... if we take the example of [REDACTED]
[REDACTED] in yellow [REDACTED]
capable of doing some DF'ing (PH), [REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q199. Uh-hum.

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q200. OK.

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q201. Yes.

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q202. Yes.

Jocelyn FORTIN: [REDACTED]

(Clears throat)

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q203. Yeah.

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Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q204. OK, and I'll do... how does this uh... technique is... all the uh... the operator is able to see the direction where uh... the signal is coming from?

Jocelyn FORTIN:

While he's operating the MDI, he would have the option of... of looking directly from his MDI software, you'll have the ability to see where the signal's coming from and what is the signal strength of that signal.

Maître Alexis GAUTHIER:

Q205. So, you would see that on the... on... on the screen?

Jocelyn FORTIN:

You will see that on the screen of the MDI software.

Maître Alexis GAUTHIER:

Q206. OK, so it would be an arrow or some... something like that?

Jocelyn FORTIN:

That would be an arrow.

Maître Alexis GAUTHIER:

Q207. OK. To your knowledge, this way of indicating the uh... uh... indicating where this signal is coming from with the arrow, is this something that you uh... seen with other devices?

Jocelyn FORTIN:

When I worked at Industry Canada?

Maître Alexis GAUTHIER:

Q208. Yeah.

Jocelyn FORTIN:

I... I did a lot of direction finding and they were some devices that would give you an arrow...

Maître Alexis GAUTHIER:

Q209. Uh-hum.

Jocelyn FORTIN:

And signals strength.

Maître Alexis GAUTHIER:

Q210. Uh-hum.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q211. OK. So when you were working for Industrie Canada, you were working with devices [REDACTED]

Jocelyn FORTIN:

That is correct.

Maître Alexis GAUTHIER:

Q212. [REDACTED]

Jocelyn FORTIN:

That is correct.

Maître Alexis GAUTHIER:

Q213. OK. Are they... MDI devices that are able to gather uh... unique identifiers [REDACTED]

(Clears throat)

Jocelyn FORTIN:

They are ways to capture uh... the IMSI and IMEI [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q214. OK.

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Jocelyn FORTIN: And if I look at uh... my appendix A.

Maître Alexis GAUTHIER: Q215. Yes.

Jocelyn FORTIN: The layer three, this is where your IMEI and IMSI would be transmitted.

Maître Alexis GAUTHIER: Q216. Uh-hum.

Jocelyn FORTIN: [REDACTED] had the capability to capture the IMSI and IMEI [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q217. OK. So... the [REDACTED] then if we look at your uh... table...

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q218. Has the capacity to uh... [REDACTED] these unique identifiers.

Jocelyn FORTIN: That's correct.

Maître Alexis GAUTHIER: Q219. And obviously when he does that, [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q220. [REDACTED]

Jocelyn FORTIN: The layer three column...

Maître Alexis GAUTHIER: Q221. Uh-hum.

Jocelyn FORTIN: And the content column...

Maître Alexis GAUTHIER: Q222. Uh-hum.

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

(Clears throat)

Maître Alexis GAUTHIER: Q224. OK. (Sighs) We will go now to the second appendix.

(Shuffling of papers)

Maître Alexis GAUTHIER: And again I would ask you to explain to the court what there is to understand on... in this second appendix please.

(Clearing of throat)

Jocelyn FORTIN: So, this is the same list of the MDI manufacturers that we've talked about on the appendix A. But now the appendix B uh... shows that which frequency they are capable of operating on.

Jocelyn Fortin, July 22, 2015, ex parte transcript

(Clears throat)

Jocelyn FORTIN: So as you can see uh... it's not all the manufacturers that are capable of cooperating all the bands that are currently in use in Canada.

Maître Alexis GAUTHIER: Q225. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q226. Uh-hum.

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: All right.

Justice Michael STOBER: Q227. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q228. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q229. It can.

Jocelyn FORTIN: Yes.

Justice Michael STOBER: Q230. [REDACTED]
[REDACTED]

Jocelyn FORTIN: Correct.

Justice Michael STOBER: OK.

Maître Alexis GAUTHIER: Q231. So... uh... and another question I'm not sure it... it goes well saying that uh... to your knowledge, is there a... is it public information that the RCMP is using [REDACTED]
[REDACTED]

Jocelyn FORTIN: Haven... we've never disclosed that information in court. I've never seen any documentation publically available that mention the fact that RCMP uses [REDACTED] We've received uh... I'm trying to find the... the term, the uh... you know when the media or uh... public and they're asking for accep...

Maître Alexis GAUTHIER: Q232. ATIP?

Jocelyn FORTIN: ATIPS...

Maître Anil KAPOOR: ATIP, right.

Jocelyn FORTIN: Exactly.

Justice Michael STOBER: Q233. What?

Jocelyn Fortin, July 22, 2015, ex parte transcript

Jocelyn FORTIN: ATIPS.

Maître Alexis GAUTHIER: Q234. Access to information?

Jocelyn FORTIN: Yes, access to information. So, we've receive ATIPS request that we've always been able to protect the fact that we were using those devices. And more recently the "Globe & Mail (PH)" had an article about devices that we didn't want to talk about, and they haven't found any information about us being able to or using [REDACTED]

Justice Michael STOBER: Q235. So, what was in the article?

Jocelyn FORTIN: The... the tools that the RCMP and CSIS won't talk about and I believe that has been...

Maître Alexis GAUTHIER: Q236. It has been filed sir among the uh... uh... the package from the applicant side I believe, I think that Mr. Kapoor is looking for it.

Maître Anil KAPOOR: It's tab "G" ...

Maître Alexis GAUTHIER: Yeah.

Maître Anil KAPOOR: My Lord if uh...

Justice Michael STOBER: Thank you.

Maître Anil KAPOOR: The record.

Justice Michael STOBER: Q237. Thank you. There is no information that the RCMP's using [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q238. Thank you.

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q239. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q240. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Sir... what would be the impact of this information being disclosed?

Justice Michael STOBER: Which information?

Maître Alexis GAUTHIER: Well... we will go uh... first off...

Justice Michael STOBER: You can... you can globalize on that in your question if you want or...

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Alexis GAUTHIER: It might be difficult for the witness to answer globally if we put them all together, we could be... we could go one by one if you want sir. We... we could try it globally first and then we could ask to uh... specify his answers.

Justice Michael STOBER: You may want uh... Mr. Fortin to make a note 'cause he's... I think the question might be uh... a large question so he may want to notes or...

Maître Alexis GAUTHIER: OK.

Justice Michael STOBER: So you'd have to provide him with a pen and paper.

Maître Alexis GAUTHIER: Yes.

Maître Anil KAPOOR: _____ pen here, it's neutral.

(Laughing)

Jocelyn FORTIN: Thank you.

Justice Michael STOBER: Go ahead.

Maître Alexis GAUTHIER: Q241. Thank you. So... first off, what would be the impact of disclosing that uh... what was use in this case, the technique what... that was used in this case uh... [REDACTED]
[REDACTED]

Jocelyn FORTIN: OK.

Maître Alexis GAUTHIER: Q242. What would be the impact of that?

Jocelyn FORTIN: You want to answer now?

Maître Alexis GAUTHIER: Q243. Well I will... I will list the items...

Jocelyn FORTIN: OK.

Maître Alexis GAUTHIER: Q244. And then you could answer.

Jocelyn FORTIN: OK.

Maître Alexis GAUTHIER: Q245. What would be the impact of disclosing the fact that you are using [REDACTED]? What would be the impact of the [REDACTED]? The impact of disclosing [REDACTED]
[REDACTED] The fact that this device use [REDACTED]
[REDACTED] And finally [REDACTED] what would be the impact of that?

Jocelyn FORTIN: OK.

Justice Michael STOBER: Before you answer, are you completed the questions?

Maître Alexis GAUTHIER: For the time being, yes.

Justice Michael STOBER: Q246. OK, so in end, did you get all that Mr. Fortin?

Jocelyn FORTIN: Yes.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Justice Michael STOBER: Q247. So, in answering your question, if your answer is the same of respect to all of the items, you can give an answer with respect to all of them, and specifying for each one. If your answer is different for different items and you can break your answer in 2, and explain why for each item.

Jocelyn FORTIN: OK.

Justice Michael STOBER: Q248. Go ahead.

Jocelyn FORTIN: Well first of all if you know... if somebody knows that we're using [REDACTED]
I've uh... I don't know what; who was filed as _____...

Maître Alexis GAUTHIER: Q249. It was filed under EP32.15.

Jocelyn FORTIN: EP32.15... so in the document that I've provided on EP32.15 page number 3, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

11:44 hrs

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q250. Uh-huh.

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q251. Uh-huh.

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q252. [REDACTED]
[REDACTED]

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[REDACTED]

Q254. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

The end result will be similar but the technique is... to me is totally different.

Yeah. Yeah.

Q255. And, [REDACTED]
[REDACTED]
[REDACTED] Would there be an impact,
on that?

[REDACTED]

Q256. Yeah.

Yes. Well, the second question you had was [REDACTED]
[REDACTED]

Q257. Yes.

(Unidentified sounds)

So, first thing [REDACTED]
[REDACTED]

Q258. Uh-huh.

[illegible]

Jocelyn Fortin, July 22, 2015, ex parte transcript

Justice Michael STOBER:

Q259. OK.

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q260.

Justice Michael STOBER:

Q261.

Jocelyn FORTIN:

Justice Michael STOBER:

Q262. Uh... what you're saying, the test that you're gonna show us now...

Jocelyn FORTIN:

Yes.

(Clearing of throat)

Justice Michael STOBER:

Q263.

Jocelyn FORTIN:

(Clearing of throat)

Jocelyn FORTIN:

Justice Michael STOBER:

Q264.

Jocelyn FORTIN:

Justice Michael STOBER:

Q265. Go ahead.

(Shuffling of paper)

Jocelyn FORTIN:

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Laughing)

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q266. [REDACTED]

[REDACTED]

Corporal Caroline LEONARD:

[REDACTED]

Jocelyn FORTIN:

Yeah, I'm not used to uh... court testimony. Hum...

Maître Alexis GAUTHIER:

Q267. In fact, uh... am I right to say that, it's your first testimony as a... employee uh... of the RCMP?

Jocelyn FORTIN:

Yeah, it is. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Clearing of throat)

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q268. Yes.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q269. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Jocelyn Fortin, July 22, 2015, ex parte transcript

Justice Michael STOBER:

Q270. OK.

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q271.

[REDACTED]

Jocelyn FORTIN:

That's correct.

Justice Michael STOBER:

Q272.

[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q273. Uh-huh.

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q274.

[REDACTED]

Jocelyn FORTIN:

Exactly.

Justice Michael STOBER:

Q275. OK.

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q276. Would you like to just repeat for me again the...

Jocelyn FORTIN:

Yeah...

Justice Michael STOBER:

[REDACTED]

Jocelyn FORTIN:

The...

Justice Michael STOBER:

[REDACTED]

Jocelyn FORTIN:

OK, we talked about channel, from the beginning of my testimony.

Justice Michael STOBER:

Q277. OK, that... it...

Jocelyn FORTIN:

[REDACTED]

Jocelyn Fortin, July 22, 2015, ex parte transcript

Justice Michael STOBER:

Q278. And the other term uh... before we _____ with yesterday, [REDACTED]

Jocelyn FORTIN:

10/10/2010

Justice Michael STOBER:

Q279. Uh... yes. What is that?

Jocelyn FORTIN:

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

(Unidentified sounds)

Justice Michael STOBER:

Q280. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Justice Michael STOBER:

Q281. OK.

Jocelyn FORTIN:

[illegible]

Jocelyn Fortin, July 22, 2015, ex parte transcript

(Clearing of throat)

Justice Michael STOBER:

Q282. OK.

(Unidentified sounds)

Corporal Caroline LEONARD:

Jocelyn FORTIN:

Justice Michael STOBER:

Q283. But the test mode that you just showed us

Jocelyn FORTIN:

Justice Michael STOBER:

Q284.

Jocelyn FORTIN:

That's correct.

Maître Alexis GAUTHIER:

Q285.

Jocelyn FORTIN:

Justice Michael STOBER:

Q286. I think what Maître Gauthier meant

Jocelyn FORTIN:

Yes.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Justice Michael STOBER:

And the... [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

Two possibility, may... or three I would say. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Unidentified sounds)

Maître Alexis GAUTHIER:

Q287. Please continue.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q288. Uh-huh.

Jocelyn FORTIN:

You asked me about [REDACTED]

Maître Alexis GAUTHIER:

Q289. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q290. Yeah.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q291. Uh-huh.

Jocelyn FORTIN:

To eliminate those false positive alarm [REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q292. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q293. [REDACTED] Go ahead.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Alexis GAUTHIER:

Q294. I think that we...

Jocelyn FORTIN:

The MDI, uh... I don't know if I have to go through... over it, but...

Maître Alexis GAUTHIER:

Q295.

Jocelyn FORTIN:

That's correct. I

Maître Alexis GAUTHIER:

Q296. Yes.

Jocelyn FORTIN:

Again, we are talking

Maître Alexis GAUTHIER:

Q297. Uh-huh...

Jocelyn FORTIN:

But instead of doing a

(Clearing of throat)

Jocelyn FORTIN:

Maître Alexis GAUTHIER:

Q298. OK.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q299. OK. While we are speaking about [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

Correct.

Maître Alexis GAUTHIER:

Q300. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q301. Yeah...

Jocelyn FORTIN:

That's correct.

Maître Alexis GAUTHIER:

Q302. And you were using as you have indicated [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q303. [REDACTED]

Jocelyn FORTIN:

Yes.

Maître Alexis GAUTHIER:

Q304. OK. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

OK.

Jocelyn FORTIN:

Um...

Maître Alexis GAUTHIER:

Q305. [REDACTED]

Jocelyn FORTIN:

Y... uh... well, of course, because that reveals the
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn Fortin, July 22, 2015, ex parte transcript

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q306. And you've already indicated [REDACTED]
[REDACTED] is something that
you consider to be privilege.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

(Shuffling of paper)

Justice Michael STOBER:

Q307. Why?

Jocelyn FORTIN:

And it's a technique that evolves [REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q308. So you are still using this technique today...?

Jocelyn FORTIN:

And I'm still using this technique today.

(Unidentified sounds and clearing of throat)

Maître Alexis GAUTHIER:

Hum... if uh... if the court uh...

Justice Michael STOBER:

Q309. Just... another... and that... and that's a technique
that you used uh... that was used in the investigation on
Clemenza?

Jocelyn FORTIN:

That's a technique that was used in the investigation of
Cle... uh, Clemenza.

Justice Michael STOBER:

Q310. 'Cause there were two types [REDACTED]
Were they both used in Clemenza?

Jocelyn FORTIN:

Psst... I had to use the first technique [REDACTED]
didn't exist uh... during Clemenza.

(Unidentified sounds and pause)

Justice Michael STOBER:

Sorry, go ahead.

Maître Alexis GAUTHIER:

Yes. Um... we could uh... we c... if we can plugged in the
computer we would want to go through the uh...
spreadsheets that were used by the previous witness, uh,
Mr. Richdale. And we would, want to go through the
redacted columns of the spreadsheet, sir.

12:15 hrs

Maître Marie Christine GODBOUT: [REDACTED]

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Alexis GAUTHIER: No. Well...

(Whispers - incomprehensible)

Maître Alexis GAUTHIER: I see. If you can't ____.

Maître Anil KAPOOR: Ah... there it is.

(Whispers, clearing of throat)

Justice Michael STOBER: Well that's been done Maître Gauthier, just uh... for your examination in chief, can you give me an evaluation of how much longer you have?

Maître Alexis GAUTHIER: Maybe half an hour, sir.

Justice Michael STOBER: All right.

Maître Alexis GAUTHIER: Approximately, half an hour.

Justice Michael STOBER: OK. Maître Kapoor, this afternoon uh... you have an evaluation, your cross-examination?

Maître Anil KAPOOR: Well this is probably as close as I'm ever going to get to being a trial judge, much of this evidence I'm hearing for the first time so... over the lunch break I'll have to take a look at it and see hum... whether I'll finish today or...

Justice Michael STOBER: OK, we...

Maître Anil KAPOOR: What I can accomplish today, I mean as I say...

Justice Michael STOBER: No, I'll ____.

Maître Anil KAPOOR: A lot of this stuff has just not been disclosed to me so.

Justice Michael STOBER: OK.

(Pause)

Justice Michael STOBER: So what you read this afternoon hum... if you're ready can be part of...

(Clears throat)

Justice Michael STOBER: Part of it...

Maître Anil KAPOOR: Sorry...

Justice Michael STOBER: And any event just before the end of the day, you will determine the appropriate time to return to allow you time to prepare for what you didn't get.

Maître Anil KAPOOR: Yes.

Justice Michael STOBER: And you can continue tomorrow.

Maître Anil KAPOOR: Yes. It needs to be over the lunch break; I'll take a look at it and figure it out.

Justice Michael STOBER: OK.

Jocelyn Fortin July 22, 2015, ex parte transcript

Maître Anil KAPOOR:

The significance of what... the witness has said much of what which I don't think is any note.

Maître Alexis GAUTHIER:

Q311. So hum... am I right to say sir that hum... this computer you have both versions of this spreadsheet of Mr. Richdale, the redacted one and the un-redacted one.

Jocelyn FORTIN:

Yeah that's correct.

Maître Alexis GAUTHIER:

Q312. OK and you are trying to put them next to each other.

Jocelyn FORTIN:

S... yes. (Clears throat)

Maître Alexis GAUTHIER:

OK.

Jocelyn FORTIN:

There it is.

Maître Alexis GAUTHIER:

Q313. OK, so just to make sure that the uh... we are properly recording uh... the uh... the number exhibit, if you could just go back to the menu of before, on the uh... the screen saving, OK, where are they... these two... here... OK, so you are referring to... you will be referring to the spreadsheets that were of use under R32.5 that was the... vetted version, is that correct? And you will also be referring to the spreadsheet that was of use under our EP32.11, which would be the un-vetted version of these two spreadsheets?

Jocelyn FORTIN:

That's correct.

Maître Alexis GAUTHIER:

Thank you. (Pause) All right.

Justice Michael STOBER:

Just so that I know were on the same page, the uh... the un-vetted is this one?

Maître Alexis GAUTHIER:

Yeah but we won't go through this thing sir, we will only go through the... the Excel spreadsheets.

Justice Michael STOBER:

This one?

Maître Alexis GAUTHIER:

This one is the un-vetted, yes.

Justice Michael STOBER:

That's the one you're using?

Maître Alexis GAUTHIER:

No we are looking at... if you look at the screen sir, we are looki... only looking at the uh... the Excel spreadsheets, the data that can... that was gathered by the device at the time.

Justice Michael STOBER:

Yeah... what document... would I have that on a document or it's not on a document?

Maître Alexis GAUTHIER:

No we don't have... uh... it... we... we can't print it sir, you only have electronic copies.

Justice Michael STOBER:

OK, very well, go ahead.

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Maître Alexis GAUTHIER:

Q314. Thank you. So hum... on top is the... uh... the hum... the ex parte version un-vetted. Bottom the vetted, is that correct?

Jocelyn FORTIN:

That's correct.

Maître Alexis GAUTHIER:

Q315. OK, so we can see that D and... column D and E have been redacted.

Jocelyn FORTIN:

That's correct.

Maître Alexis GAUTHIER:

Q316. All right, so why... why... why were they redacted sir?

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q317. Uh... and... and why...

Jocelyn FORTIN:

Yeah...

Maître Alexis GAUTHIER:

Would you want to protect that?

Jocelyn FORTIN:

Well because then you can set up [REDACTED]

[REDACTED]

Maître Alexis GAUTHIER:

Q318. Yes.

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q319. Uh-hum...

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q320. OK.

Jocelyn FORTIN:

Column E.

Maître Alexis GAUTHIER:

Q321. Uh-hum.

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q322. Uh-hum.

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Uh-huh.

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(Pause, Clears throat)

Maître Alexis GAUTHIER:

Q323. So you are bringing us to...

Jocelyn FORTIN:

Column Y and Z, I see that they're vetted.

Maître Alexis GAUTHIER:

Q324. Yes.

(Pause)

Jocelyn FORTIN:

[REDACTED]

(Pause)

Jocelyn FORTIN:

Next columns, AA, AB, AC. Well... le... let's just start with the uh... the AA, that's hum... hum... AA [REDACTED]

Justice Michael STOBER:

Well, didn't we not do this already with hum... the witness Richdale?

Maître Alexis GAUTHIER:

Uh... we did sir, but we thought that it might be useful to get uh... an explanation from... as well from Mister uh... Fortin, uh... but if you don't want to sir, you don't want...

Justice Michael STOBER:

No you're the master at your things...

Maître Alexis GAUTHIER:

OK... OK...

Justice Michael STOBER:

So if it's what you want to present go ahead...

Maître Alexis GAUTHIER:

Q325. OK...

Jocelyn FORTIN:

[REDACTED]

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Justice Michael STOBER:

Q326. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q327. All right... is this called AA?

(Clears throat)

Justice Michael STOBER:

Useful for the purpose of this motion on privilege?

Jocelyn FORTIN:

It has to be vetted because we don't wanna divulge the information about what we're doing [REDACTED]
[REDACTED]

Maître Anil KAPOOR:

Q328. So we're just looking to understand is the... the... the column is empty, the heading is disclosed?

Jocelyn FORTIN:

Yes.

Maître Anil KAPOOR:

Q329. So you would answer those questions and open as to what is a measurement report? That's been disclosed?

Jocelyn FORTIN:

Yeah, these are goods, yeah...

Maître Anil KAPOOR:

Thank you.

Maître Alexis GAUTHIER:

Q330. All right, if we go to the next columns. I think that the... the AB, AC, AD we went through them with your colleague hum... Mr. Richdale, so the same would be for... hum... AE but AF, AG, AH, what can you tell us about these?

Jocelyn FORTIN:

Those are information hum... related to the GPS that is connected to the MDI device.

Maître Alexis GAUTHIER:

Q331. All right. And now if we go to AI.

Jocelyn FORTIN:

Yes.

Justice Michael STOBER:

Q332. So AB to A... H deal with GPS co-ordinance or information.

Jocelyn FORTIN:

Correct.

(Pause, clears throat)

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

(Coughs)

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

(Pause, shuffling of papers)

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Maître Alexis GAUTHIER: Q333. AK?

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q334. By neighbors you're referring to...?

Jocelyn FORTIN: Towers that would be around us.

Maître Alexis GAUTHIER: And always...

Justice Michael STOBER: Q335. Not... not cell phones?

Jocelyn FORTIN: Not cell phones.

Maître Alexis GAUTHIER: Q336. [REDACTED]

Jocelyn FORTIN: Yes, you would see on some other occasions other channels.

Maître Alexis GAUTHIER: Q337. Uh-hum.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q338. All right.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q339. [REDACTED]

Jocelyn FORTIN: MDI device... yes.

Maître Alexis GAUTHIER: OK...

Justice Michael STOBER: Q340. Sorry... would you say that again.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q341. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

(Pause)

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Pause)

Justice Michael STOBER: Q342. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

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(Clears throat)

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q343. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q344. [REDACTED]
[REDACTED]

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q345. H?

Jocelyn FORTIN: Column H is TMSI.

Maître Alexis GAUTHIER: Q346. All right.

Jocelyn FORTIN: And I don't know uh... how much was explained about the TMSI
by my... my colleague.

Maître Alexis GAUTHIER: Q347. We... we might need a...

Jocelyn FORTIN: Refresher? (Chuckles)

Maître Alexis GAUTHIER: Q348. Yeah.

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Clears throat)

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q349. I'm gonna say the IMSI is given a log on when the cell
phone's turned on?

Jocelyn FORTIN: First time you turn on the cell phone.

Justice Michael STOBER: Q350. OK.

Jocelyn FORTIN: And just to clarify on this, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Clears throat)

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Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q351. Is there a hum... nickname for the IMEI in the same way?

Jocelyn FORTIN: No.

(Pause)

Maître Alexis GAUTHIER: Q352. So if we get back to the... column we were at.

(Clears throat)

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Pause)

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

(Pause)

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Column P... To Column X, this is the
information that... we get from the cell phone in that text
message; this is what you're seeing in the columns. P to X...

Justice Michael STOBER: Q353. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q354. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

(Pause)

Maître Alexis GAUTHIER: So A...

(Clears throat)

Maître Alexis GAUTHIER: Q355. AO?

Jocelyn FORTIN: AO is the serial number of the device that we use, the uh... MDI
device serial number.

Maître Alexis GAUTHIER: OK.

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Justice Michael STOBER: Q356. All right uh... so in the cell phone, the serial number of the... Excuse me, so these columns are in the... in your MDI?

Jocelyn FORTIN: There are.

Justice Michael STOBER: Q357. OK, so the AO is the serial number of the MDI.

Jocelyn FORTIN: Correct.

Justice Michael STOBER: Q358. [REDACTED]

Jocelyn FORTIN: Correct.

(Pause)

Justice Michael STOBER: Good time for a break.

Maître Alexis GAUTHIER: Yes. Maybe 20 minutes. What... what... the... the... the last portion of Mr. Fortin testimony will be uh... related to uh... documents if... essentially emails that contain uh... exchanges that he has had over the years with [REDACTED]

Justice Michael STOBER: OK.

Maître Alexis GAUTHIER: So about 20 minutes for that in chief and that will be... that will be it.

Justice Michael STOBER: So what I would like to know and maître Kapoor, is we're gonna break for lunch.

Maître Anil Kapoor: Yes.

Justice Michael STOBER: In order to uh... eat a normal lunch and have the time to prepare with a documents uh... for your cross-examination or at least part of it. Uh... what do you recommend in times of the time if we can begin? It's 12:40 almost.

Maître Anil Kapoor: I'm happy to start at and take the normal lunch period. I don't know, 2 o'clock I suppose. I'm... I'm happy to...

Justice Michael STOBER: OK.

Maître Anil Kapoor: To do that Lord.

Justice Michael STOBER: 2 o'clock, all right.

Maître Anil Kapoor: Thank you.

Corporal Caroline LEONARD: So...

Maître Alexis GAUTHIER: You can stop the device.

Corporal Caroline LEONARD: Yes uh... 12:39, stopping the device.

14:07 hrs

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Corporal Caroline LÉONARD: So, start of recording, 14:08... 14:08.

Justice Michael STOBER: You're under the same oath uh, Mr. Fortin?

Jocelyn FORTIN: I am.

Justice Michael STOBER: The same... actually (PH) uh... solemn affirmation.
(Clears throat)

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: So sir, just before resuming with the examination of uh, Mr. Fortin, Mr. Fortin you can have a seat for just a few minutes. Uh, I have here um... a copy of the uh... vetted transcripts uh... of Mr. Richdale's testimony of last...

Corporal Caroline LÉONARD: Friday.

Maître Alexis GAUTHIER: Last Friday. It's a see through copy.

Justice Michael STOBER: OK.

Maître Alexis GAUTHIER: And uh... of course Mr. Kapoor just got the same copy of you, uh... of yours and uh... the uh... defense has received also the fully vetted copy uh... by email uh... a... about a half hour ago.

Justice Michael STOBER: OK, he testified two days so the other day we already have.

Maître Alexis GAUTHIER: No... no, no sir, that's the first day.

Justice Michael STOBER: _____

Maître Alexis GAUTHIER: That's Friday.

Justice Michael STOBER: Yeah.

Maître Alexis GAUTHIER: Last Friday. His second day for uh... ex parte was last Monday.

Justice Michael STOBER: It was Monday, that's correct.

Maître Alexis GAUTHIER: Yes. And we just...we... we uh... we're informed by the RCMP that we would get the transcript of last Monday, for Richdale, at the end of the day today.

Justice Michael STOBER: All right.

Maître Alexis GAUTHIER: So uh... and we have some uh... we had some uh... uh... exchange of emails with the defense uh... over lunch. Um... so um... you know, it...it... i... in all likelihood, we won't complete the ex parte testimony of Mr. Fortin today. It will... you know, there will be an overlap to... with tomorrow morning. Um... so uh, Mr. Addario indicated that he would want to wait for this transcript before deciding when he would be ready to do so, to conduct the cross-examination of Mr. Richdale.

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Justice Michael STOBER: So what's the bottom line that you're saying?

Maître Alexis GAUTHIER: Bottom line sr... sir, is that, if we only start Friday for the public cross-examination of Mr. Richdale, we will, might be in a position to disclose to the defense the transcripts for last Monday. That way the defense would have the full package before getting to cross Mr. Richdale on Friday morning and we will discuss with our friends for... to the... of the defense later on this afternoon to uh... sug... suggest that to them and uh... we will get the answer tomorrow for you.

Justice Michael STOBER: So, what you're proposing is um... continuing today. Um... and when Mr. Kapoor decides to stop, we'll stop, he'll continue the ex parte hearing of Mr. Fortin tomorrow morning and from what you're saying, I'm deducing that you're gonna want to postpone it uh... until Friday morning.

Maître Alexis GAUTHIER: It... it will be at...what we are suggesting is that we will leave the choice to Mr. Addario of course with your agreement, uh... if he wants to start tomorrow afternoon uh... he could, uh... but we won't have had the time to give him the transcripts of last Monday if he does that.

Justice Michael STOBER: I... I understand, it's just he's in Toronto so his decisions are gonna have to be made pretty quickly.

Maître Alexis GAUTHIER: Uh... no, he's not in Toronto, he's around...

Justice Michael STOBER: Oh, he's here (PH)... He's here...

Maître Alexis GAUTHIER: He's around, sir.

Justice Michael STOBER: OK, all right. So tomorrow morning when Mr. Kapoor's finished, you'll let me know.

Maître Alexis GAUTHIER: Yes.

Justice Michael STOBER: Either we postpone until Friday.

Maître Alexis GAUTHIER: Yeah.

Justice Michael STOBER: To begin the uh... public uh... cross-examination of Mr. Richdale.

Maître Alexis GAUTHIER: Yeah.

Justice Michael STOBER: Hum... or not.

Maître Alexis GAUTHIER: Exactly.

Justice Michael STOBER: Uh... just keep me abreast, that's all. And thank you.

Maître Alexis GAUTHIER: All right. Mr. Fortin, please.

Maître Anil KAPOOR: Sir, just before Mr. Fortin comes _____, just to be clear on the transcript you just received. I received a version of

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that transcript yesterday, um... this version I received just moments before you did, so I have not had a chance to look at the version you have. What I ha... received yesterday, um... I understand was differently redacted than what this is so.

Maître Alexis GAUTHIER:

That's correct.

Justice Michael STOBER:

If you uh... the um... so you had it yesterday, a see through redaction also.

Maître Anil KAPOOR:

Yes, but it was differently redacted.

Justice Michael STOBER:

It was more extensively redacted than this one?

Maître Anil KAPOOR:

Uh... no less...

Justice Michael STOBER:

Less...

Maître Anil KAPOOR:

I gather less.

Corporal Caroline LÉONARD:

_____...

Maître Anil KAPOOR:

I have not compared them.

Justice Michael STOBER:

OK, very good. So, we'll continue the Crown has I suppose approximately half an hour this afternoon.

Maître Anil KAPOOR:

Yeah...

Justice Michael STOBER:

And um... and you'll go on for, uh... do you an idea this afternoon approximately?

Maître Anil KAPOOR:

Uh, I mean (PH)... uh... maybe an hour, hour and a half.

Justice Michael STOBER:

OK.

Maître Anil KAPOOR:

Hum...

Justice Michael STOBER:

Whether...

Maître Anil KAPOOR:

We'll see how it goes.

Justice Michael STOBER:

Whether you're finished or not, we'll stop.

Maître Anil KAPOOR:

Yeah.

Justice Michael STOBER:

And, at a certain point and we'll leave it open overnight, you may have other questions tomorrow.

Maître Anil KAPOOR:

OK, thank you very much, my Lord.

Justice Michael STOBER:

All right. Um... good, let's go.

Maître Alexis GAUTHIER:

All right, _____.

(Clearing of throat)

Maître Alexis GAUTHIER:

Q359. Um... on the same oath Mister uh, Fortin um... before getting into the uh... your uh... email exchanges with uh... that you've had uh... you have had with uh...

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[REDACTED] Hum... could you... give an overview to the court as to the nature of your relationship with uh... with the [REDACTED]? Uh... is it more a, you know, a technical relationship...

(Clearing of throat)

Maître Alexis GAUTHIER:

Or it... it is more of somewhat a business or legal relationship, could you describe that to the court please?

Jocelyn FORTIN:

Sure. Hum... the background that I have is a technical background so when I deal [REDACTED] is more on a technical level, um... I would evaluate their product.

Maître Alexis GAUTHIER:

Q360. Uh-huh.

Jocelyn FORTIN:

I would uh... recommend if we could if we should buy their product or not. Uh... I would prepare a purchase order [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q361. Uh-huh.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED] I'm the main point of contact [REDACTED]

Maître Alexis GAUTHIER:

Q362. Uh-huh.

Jocelyn FORTIN:

There's some information that would go through me as the main point of contact...

Maître Alexis GAUTHIER:

Q363. Uh-huh.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q364. OK, so you would relay the information to...

Jocelyn FORTIN:

I would relay the information to the appropriate persons.

Maître Alexis GAUTHIER:

Q365. All right. Uh... and since when have you been the uh... uh... contact uh... the RCMP fami... the RCMP representative uh... toward [REDACTED]

Jocelyn FORTIN:

I've been invited to uh... evaluate [REDACTED]

Maître Alexis GAUTHIER:

Q366. Uh-huh.

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q367. Uh-huh.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q368. That was around?

Jocelyn FORTIN:

Um... that was in 2002.

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Maître Alexis GAUTHIER:

Q369. OK.

Jocelyn FORTIN:

And then we um... purchase their product, I believe around 2005.

Maître Alexis GAUTHIER:

Q370. OK.

Jocelyn FORTIN:

I was not the only person working on this at that moment. There was another, there was an engineer working with me, [REDACTED] (PH).

Justice Michael STOBER:

Q371. Working with you on the...

Jocelyn FORTIN:

On uh... that topic, on the MDI we called it the uh... the MDI project.

Justice Michael STOBER:

Q372. What was it that took place in 2005?

Jocelyn FORTIN:

The first purchase of [REDACTED]

Justice Michael STOBER:

Q373. What was it, [REDACTED]

Jocelyn FORTIN:

It was a [REDACTED]

Justice Michael STOBER:

Q374. Which is the one you're using now?

Jocelyn FORTIN:

Psst... it's the

Justice Michael STOBER:

Q375. And that's the one you're using in Clem...
Clemenza?

Jocelyn FORTIN:

That's the one we used in Clemenza.

Justice Michael STOBER:

Q376. Did you ever used [REDACTED]

Jocelyn FORTIN:

I used [REDACTED] I don't believe it was used on Clemenza, not by me.

Justice Michael STOBER:

Q377. [REDACTED]

Jocelyn FORTIN:

[illegible]

Justice Michael STOBER:

Q378 [REDACTED]
[REDACTED]

Jocelyn FORTIN:

Justice Michael STOBER:

All right, thank you. Please, continue.

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Maître Alexis GAUTHIER:

Q379. All right. So, I would first want you to... ask you to uh... go through a document that was already... had (PH) used, uh... in evidence by your colleague Mr. Flynn under EP32.3. Uh... sir, if you don't have a copy with you, I have a copy for you. Do you want so?

Justice Michael STOBER:

Yes, please.

Maître Alexis GAUTHIER:

To f... all right. .

(Shuffling of paper and clearing of throat)

Maître Alexis GAUTHIER:

OK, uh... we see here that these are two emails that were sent to you by [REDACTED] in May, 2008 and February, 2009.

Jocelyn FORTIN:

That's correct.

Maître Alexis GAUTHIER:

Q380. All right. So, could you indicate to us what uh... you understand from these two emails?

Jocelyn FORTIN:

The first email that was sent on... on May 21st, 2008 uh,
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q381. Uh-huh.

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q382. Uh-huh.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q383. All right. What about the other email.

Maître Anil KAPOOR:

Sorry, my...my friend asked what he understood from these two emails and he just simply read the main 2008 email. I mean, Lord, you can read it. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] I mean, if he's gonna answer a question about his understanding that's what he ought to do then rather than just simply read something that you can read.

Justice Michael STOBER:

Yeah, I think the two emails speak for themselves unless there's something additional that the witness can bring to them.

Maître Alexis GAUTHIER:

Q384. All right. Uh, I understand that there was an attachment with the second email.

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Jocelyn FORTIN: Yes, the uh... the email from uh, February 4th, 2009, there's an attachment called, [REDACTED]

Maître Alexis GAUTHIER: Q385. OK. If we go to this uh... attachment that uh... has the page number two on the top le... right of the page.

Jocelyn FORTIN: Yes.

(Shuffling of paper and clearing of throat)

Maître Alexis GAUTHIER: Q386. What can we see here?

Justice Michael STOBER: First _____, is that an attachment to the February email or to the February '09 or to the May '08 email?

Jocelyn FORTIN: February 4th, uh... 2009.

Justice Michael STOBER: Thank you.

Jocelyn FORTIN: So on this pdf sheet, uh... the pdf page number two, on mine is labeled, it's circled number four, so I don't know...

Maître Alexis GAUTHIER: Q387. Yeah, yeah, that's right, that's the one.

Jocelyn FORTIN: You say... you _____... can [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q388. Uh-huh.

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q389. OK.

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q390. OK.

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q391. OK. So that was in...?

Jocelyn FORTIN: That was the 4th of February, 2009.

Maître Alexis GAUTHIER: Q392. [REDACTED]
[REDACTED]

Jocelyn FORTIN: That's correct.

(Shuffling of paper)

Maître Alexis GAUTHIER: Q393. OK. So now bring you to... another document, uh... that was filed by Mr. Flynn under EP32.8.

(Shuffling of paper)

Justice Michael STOBER: This _____ page three on the previous document [REDACTED]
that's also from uh, February '09, attachment?

(Shuffling of paper)

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Jocelyn FORTIN: Are we talking about this page here? Yes, that's the first page of the uh... uh... the pdf document.

Justice Michael STOBER: Q394. That's from your email February 9/09?

Jocelyn FORTIN: That's February uh...

Justice Michael STOBER: Q395. It's an attachment to that email.

Jocelyn FORTIN: That's correct.

Justice Michael STOBER: Interesting.

(Shuffling of paper)

Justice Michael STOBER: Q396. All right. So there were two attachments and they were both to the same email in February '09. The one was section 25.12 and the other one was the description [REDACTED]

(Shuffling of paper)

Jocelyn FORTIN: The one, 25.12, was an attachment um... from May 21st, 2008. The reason I... I know, it's because in the email at the bottom...

Justice Michael STOBER: Q397. Unless I'm mistaken, I asked you that and you said... maybe I wrote it down wrong and I wrote February 4/09. It's an attachment to that email.

Jocelyn FORTIN: OK, there's two attachment.

Justice Michael STOBER: Q398. OK, let's... let... let's go, you have two em... emails here. One is the 4th of February, 2009 and the other one is, May 21, 2008.

Jocelyn FORTIN: Correct.

Justice Michael STOBER: Q399. They're both indicated on the same page, 1 of 32.3. (Shuffling of paper) Let's turn the page and you have a document section 25.12.

Jocelyn FORTIN: Yes.

Justice Michael STOBER: Q400. Was that an attachment?

Jocelyn FORTIN: That's an attachment.

Justice Michael STOBER: Q401. To which email?

Jocelyn FORTIN: May 21st, 2008.

(Shuffling of paper)

Justice Michael STOBER: Q402. If you turn the page, there's another... document and I believe it has three pages, it's about [REDACTED] correct?

Jocelyn FORTIN: That's correct.

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Justice Michael STOBER: Q403. All right. So this was an attachment to which email?

Jocelyn FORTIN: March uh... sorry, February 4th, 2009.

Justice Michael STOBER: Thank you.

(Shuffling of paper)

Justice Michael STOBER: Go ahead.

Maître Alexis GAUTHIER: Q404. About the other email, was of use by Mr. Flynn uh... marked EP32.8, uh... we can see that's uh... it's an exag (PH)... uh... exchange of emails between Mr. Zarelli (PH) from the RCMP and [REDACTED] At the end of the uh... latest email, uh... you are mentioned toward the end of this email.

Jocelyn FORTIN: That is correct.

Maître Alexis GAUTHIER: Q405. OK. Uh... did you get eventually this email? Did you receive it?

Jocelyn FORTIN: Yes, that email was forwarded to me.

Maître Alexis GAUTHIER: Q406. All right. And... what did you do with it?

Jocelyn FORTIN: I have received a phone call from uh [REDACTED]

Maître Alexis GAUTHIER: Q407. Yes.

Jocelyn FORTIN: Telling me about this email.

Maître Alexis GAUTHIER: Q408. Yeah.

Jocelyn FORTIN: That there was a guy that wanted to purchase equipment and he wanted to...

(Coughing)

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q409. Yeah.

Jocelyn FORTIN: And he forward me the email.

Maître Alexis GAUTHIER: Q410. Yeah.

Jocelyn FORTIN: So I printed that email and I brought it upstairs to upper management.

Justice Michael STOBER: Q411. This is the 27th of January, 2011 email and its marked 32.8, is that right?

Jocelyn FORTIN: That's the email from 27th of January, 2011.

Justice Michael STOBER: OK.

Maître Alexis GAUTHIER: All right. Thank you. Now we will ____ documents, other emails of exchange that you have had with uh... with [REDACTED] I have a c... full copy of this package for the court.

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Justice Michael STOBER: Thank you.

Maître Alexis GAUTHIER: And we will go through them one by one. So...

Corporal Caroline LÉONARD: (Whispering: Martin (PH).)

Maître Alexis GAUTHIER: Q412. The first two emails that would... we would want to comment, you to comment uh... the first one is dated February 11th, 2009.

Jocelyn FORTIN: That's correct.

Maître Alexis GAUTHIER: Q413. Was sent by [REDACTED] to yourself.

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q414. And the second one which is attached to it is uh... sent also by [REDACTED] to yourself.

Jocelyn FORTIN: That's correct.

Maître Alexis GAUTHIER: OK.

Justice Michael STOBER: Do you want to mark this package now?

Maître Alexis GAUTHIER: Yes sir, we will. So it would be EP32 dot... just uh... one second... (Shuffling of paper) I think that we would be at...

Corporal Caroline LÉONARD: (Whispering: 16...)

Maître Alexis GAUTHIER: Q415. 16? Yeah, 16. (Shuffling of paper) OK, so uh... could you give us uh... some context about this first email, the one that uh... you receive at 1:40 pm?

Jocelyn FORTIN: At 1:40 pm on the 11th of February, uh... it's... this email follows a phone call that I made to [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q416. All right.

Jocelyn FORTIN: Then later on that day.

Maître Alexis GAUTHIER: Q417. Uh-huh.

Jocelyn FORTIN: And... and... and he's a... also asking, [REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q418. So that's the email that we can see at the bottom of the second page?

Jocelyn FORTIN: That's correct, February 11th, 2015 uh... two o'clock and 50 minutes.

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Maître Alexis GAUTHIER:

Q419. OK. And then [REDACTED] sent you an answer.

Jocelyn FORTIN:

And then he replied that uh... [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Shuffling of paper)

Maître Alexis GAUTHIER:

Q420. What did you do with this uh... suggestion by Mr. [REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q421. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q422. Uh-huh.

Jocelyn FORTIN:

[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q423. Uh-huh... uh-huh...

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER:

Q424. Uh-huh.

Jocelyn FORTIN:

Uh, I printed this email and bring it upstairs to upper management for them to deal with it.

Maître Alexis GAUTHIER:

All right.

(Shuffling of paper)

Maître Alexis GAUTHIER:

Q425. Then we will go to the next email that you have received from [REDACTED] on March 6, 2009 at 6:42 pm and we will mark... mark it under EP32.17.

(Shuffling of paper)

Maître Alexis GAUTHIER:

So again, uh, Mr. Fortin, could you provide some...

Justice Michael STOBER:

Uh... so you're... uh... I... you... you're marking each page separately.

Maître Alexis GAUTHIER:

Uh... yes, sir.

Justice Michael STOBER:

OK... all right.

Maître Alexis GAUTHIER:

We would do so. I think it would be...

Justice Michael STOBER:

All right.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Alexis GAUTHIER: More precise to uh... proceed this way.

Justice Michael STOBER: All right.

Maître Alexis GAUTHIER: All right. So could you give us some context about this email sir?

Jocelyn FORTIN: On this email um... it's about a month later and uh... it's an email from [REDACTED] and he's stating that [REDACTED]
[REDACTED]

Justice Michael STOBER: Q426. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Justice Michael STOBER: Q427. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: OK.

(Shuffling of paper)

Maître Alexis GAUTHIER: All right. OK, the next email... again from [REDACTED] uh... it's on January 4th, 2011 at 8:04 pm, we will mark it under EP32.18.

Justice Michael STOBER: I think I've got my numbering wrong. The February email, the first date is uh... 16?

(Shuffling of paper)

Maître Alexis GAUTHIER: Hum... the February... yeah, 8th... February 8th, 11th, is EP32.16.

Justice Michael STOBER: OK, then the next page uh... the 11th of February, 3:01 pm and 2:50 pm...

Maître Alexis GAUTHIER: We... we... we marked them together... because they... they were received on the same date, sir.

Justice Michael STOBER: All right, so 32.16, has two pages.

Maître Alexis GAUTHIER: Yes, sir.

(Shuffling of paper)

Justice Michael STOBER: And the one on March 6th, is 17?

Maître Alexis GAUTHIER: Yes.

Justice Michael STOBER: And the one on the 4th of uh...

Maître Alexis GAUTHIER: January 4th, 2011 at 8:04 pm.

Justice Michael STOBER: [REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]

(Shuffling of paper)

Maître Alexis GAUTHIER:

Q428. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Justice Michael STOBER:

Q429. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q430. But these dates that are written, do you... other than looking at the paper, do you remember the dates or the months?

Jocelyn FORTIN:

Roughly it... it... it seemed accurate. I don't... I don't see why they wouldn't be accurate like ...

Justice Michael STOBER:

_____...

Jocelyn FORTIN:

From what I recall, that's about the approximate date that it happened so.

Justice Michael STOBER:

OK, go ahead.

Maître Alexis GAUTHIER:

Q431. Thank you. So we were at EP32.18, January 4th, 2011, 8:04 pm. So, again...

Jocelyn FORTIN:

So that's an email that I received in uh... uh... 2011 and that follows a... I've a... I'd asked for a quote [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q432. Which was?

Jocelyn FORTIN:

I believe it was [REDACTED]

Maître Alexis GAUTHIER:

Q433. OK.

Jocelyn FORTIN:

To purchase to uh... to add to the current equipment we already had.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Alexis GAUTHIER:

Q434. Yes.

Jocelyn FORTIN:

And he's uh... in his email he's wondering if we're gonna still purchase that device um... based [REDACTED]

Maître Alexis GAUTHIER:

Q435. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER:

Q436. All right. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED] I would print this email and forward it to upper management.

Maître Alexis GAUTHIER:

Q437. All right. Then, we have a serie of uh... emails or ex... exchange of emails uh... the last one is dated March 1st, 2011 at 12:42 pm. It's an email that uh, [REDACTED] (PH) sent to you and before that we have emails between [REDACTED] and uh... one of your colleague whose name is Al Takasaki (PH)

Jocelyn FORTIN:

Psst... that's correct.

Maître Alexis GAUTHIER:

Q438. So, could you give us some context about these two email... these three email that we will, we would mark under EP32...

14:39 hrs

Maître Alexis GAUTHIER:

19

Justice Michael STOBER:

So, the page with two emails from 1st of March 2011, from [REDACTED] to Fortin and from [REDACTED] to Takasaki, and then at the bottom there's uh... beginning of another one. Hum, Takasaki to [REDACTED] and, from March 1 also, that page is 32.19?

Maître Alexis GAUTHIER:

Yeah, with the next page, ps... next page sure (PH) that goes with it.

Justice Michael STOBER:

So 32.19, has two pages?

Maître Alexis GAUTHIER:

Yes.

Justice Michael STOBER:

OK, go ahead.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Jocelyn FORTIN:

[REDACTED]

Maître Alexis GAUTHIER: Q439. Special "I" section within...

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q440. Ottawa Headquarters.

Jocelyn FORTIN: And he forwarded that email to me right after he answered back to uh, Mr. Takasaki.

Maître Alexis GAUTHIER: Q441. OK, and what did you do with this information?

Jocelyn FORTIN: Again, I... printed that email and forward it to upper Management.

Maître Alexis GAUTHIER: Q442. All right. (Shuffling of paper) Now, the next email that I... I would ask you to comment uh... are on two pages, the last one being sent by Yves Desjardins to yourself, on August 12th, 2013 at 1:05 pm. So it's uh... a... uh... exchange of emails uh... on two pages and we will mark these um... under EP32.20. And again, sir, could you give us some context about what we are able to... to read in these two... in these emails?

Jocelyn FORTIN: It started uh... with a conversation that I had with Mr. Yves Desjardins uh... I believe it was beginning of July 2013. And he indicated to me that [REDACTED]

[REDACTED]

Maître Alexis GAUTHIER: Q443. OK. Who was Mr. Desjardins? What position was he holding at the time?

Jocelyn FORTIN: I believe at that time he was uh... the Inspector in charge of Special "I".

Maître Alexis GAUTHIER: OK.

(Clearing of throat)

Maître Alexis GAUTHIER: Q444. So...?

Jocelyn FORTIN: So, I've sent uh... actually I've... I called [REDACTED]

Maître Alexis GAUTHIER: Q445. Uh-huh.

Jocelyn FORTIN: I'm more a... ph... phone call person than email person, so...

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Alexis GAUTHIER: Q446. Uh-huh.

Jocelyn FORTIN: I called [REDACTED]

Maître Alexis GAUTHIER: Q447. Yeah.

Jocelyn FORTIN: And I told him that, I heard that [REDACTED]
[REDACTED]

Justice Michael STOBER: Q448. That's after his first email?

Jocelyn FORTIN: Well, that's prior to the first email. The first email is his response to my phone conversation.

Justice Michael STOBER: Q449. So before his first email at uh... well, let's look at the dates here. So his first email was... it was at what time?

Jocelyn FORTIN: Looks like that first email was July 2nd, 2013

Maître Alexis GAUTHIER: Q450. At 4:56 pm?

Jocelyn FORTIN: At 4:56 pm.

Justice Michael STOBER: Q451. So, you spoke to him before that?

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q452. Asking him about [REDACTED]

Jocelyn FORTIN: That's correct.

Justice Michael STOBER: Q453. [REDACTED]
[REDACTED]

Jocelyn FORTIN: Yes.

Justice Michael STOBER: Q454. So the one that Mr. Gauthier just mentioned, are they... is it the same thing that you're saying?

Jocelyn FORTIN: No. [REDACTED]
[REDACTED]

Justice Michael STOBER: Q455. That's, so that's n... uh... uh... after [REDACTED]
[REDACTED]

Jocelyn FORTIN: That's correct.

Justice Michael STOBER: Q456. And then... (Shuffling of paper) I'm looking for... in the first document, 32.16, the 2009 email, um... that relates [REDACTED]
[REDACTED]

Jocelyn FORTIN: That's correct.

Justice Michael STOBER: Q457. So, now we're in 2013 we're talking [REDACTED]
[REDACTED]

Jocelyn FORTIN: That's correct.

Justice Michael STOBER: Q458. OK, which one is it? [REDACTED]

Jocelyn FORTIN: [REDACTED]

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Justice Michael STOBER: Q459. OK.

Jocelyn FORTIN: [REDACTED]

Maître Alexis GAUTHIER: Q460. Whereas [REDACTED]

Jocelyn FORTIN: That's correct. (Shuffling of paper) So in July 2013, uh... his answer was, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] So again, I forwarded the email uh... to upper management, this time, I believe I sent it straight to Mr. Yves Desjardins, and then I waited for an answer. [REDACTED] asking [REDACTED] that was on August 12th, 2013. Again I'm asking Mr. Desjardins, if he has [REDACTED]
[REDACTED] And his answer on August 12, 2013, because I... I... I'm asking him [REDACTED]
[REDACTED]
[REDACTED] Then again I left it to upper management to figure it out.

Maître Alexis GAUTHIER: Q461. All right. Now, the next exchanges of email, uh... is um... the... the... the last one of the top of the first page is dated November 18th, 2013. An email that [REDACTED] sent to you at 7:01 pm and we will mark these emails that can be shown on two pages under EP32.21. So again, Mr. Fortin please provides us with some context.

Jocelyn FORTIN: I have a colleague that works in the uh... same building as me but different section.

Maître Alexis GAUTHIER: Q462. That would be Mr. Watt?

Jocelyn FORTIN: That is Mr. Watt, Mr. Brett Watt and uh... he sent me an email saying that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q463. Uh-huh.

Jocelyn FORTIN: He's asking me if I can uh... give them the cost of the hardware.

Maître Alexis GAUTHIER: Q464. Uh-huh.

Jocelyn FORTIN: If it's available and uh... how much time it would take to get. So I forwarded that email to [REDACTED]

Maître Alexis GAUTHIER: Q465. Uh-huh.

Jocelyn FORTIN: And I ask him for a quote [REDACTED]
product. And he answered back [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Alexis GAUTHIER: Q466. And he's asking about [REDACTED]
[REDACTED]

Jocelyn FORTIN: That's correct.

Justice Michael STOBER: Q467. It's obvious that you spoken to him on the phone during these emails, because, you asked him for the quote for [REDACTED]
[REDACTED] one would think that, he thought that was for you, for the RCMP and you'll get back asking [REDACTED]
[REDACTED]

Jocelyn FORTIN: I don't believe I had phone conversation with him.

Justice Michael STOBER: Q468. So why...

Jocelyn FORTIN: I think I just forwarded the email and I went straight and asked for a quote.

Maître Alexis GAUTHIER: Q469. The email that you had received from Mr. Watt, that we can see on the... the... on the... the... at the end of this first page?

Jocelyn FORTIN: Yes. It was at 2:02 pm and I sent the email at 2:28 pm, on the same day.

Justice Michael STOBER: Q470. _____. It's a 613 number I presume Watts' with the RCMP?

Jocelyn FORTIN: Watts is with the RCMP.

(Shuffling of paper)

Maître Alexis GAUTHIER: Q471. OK. Now, if we go to the next document which is... is... is a one page document, one email, um... again from [REDACTED] to yourself, dated March 24th, 2014, 1:42 pm.

Jocelyn FORTIN: That's correct, so...

Maître Alexis GAUTHIER: Q472. So again, we uh... OK, so we will mark this under EP32.22. And what uh... what did you say...

Jocelyn FORTIN: Well, we're now in... end of March 2014, uh... it says tha [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER: Q473. [REDACTED]

Jocelyn FORTIN: Pst... they're... [REDACTED]

Justice Michael STOBER: Q474. When you...

Jocelyn FORTIN: Like... [REDACTED]

Justice Michael STOBER: Q475. When you use [REDACTED] how do you use it?

Jocelyn FORTIN: [REDACTED]

Jocelyn Fortin, July 22, 2015, ex parte transcript

Justice Michael STOBER: Q476. [REDACTED]
[REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Justice Michael STOBER: Q477. All right, [REDACTED]
[REDACTED]

Jocelyn FORTIN: Yes.

Justice Michael STOBER: Q478. [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Justice Michael STOBER: Q479. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q480. All right. In any event, it wasn't used in this investigation?

Jocelyn FORTIN: It wasn't used in this investigation.

Justice Michael STOBER: All right, go ahead.

Maître Alexis GAUTHIER: Q481. OK, so you were good to go for these two items and uh... in March of uh... 2014?

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: OK...

Justice Michael STOBER: Q482. Have you ever met [REDACTED]

Jocelyn FORTIN: Yes, many times.

Maître Alexis GAUTHIER: Q483. In uh, [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Justice Michael STOBER: Q484. When you say [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q485. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q486. [REDACTED]

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q487. [REDACTED]

Jocelyn FORTIN: Yes.

Justice Michael STOBER: Q488. He gave training, you said?

Jocelyn FORTIN: No, he gave a demonstration on his uh... on his product.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Justice Michael STOBER: Go ahead.

Maître Alexis GAUTHIER: Q489. All right. Uh... so, it would be, uh... two more documents that we want to adduce (PH), before doing so uh... and maybe my friend and the court will allow me some leeway here uh... to be suggestive a bit uh... am I right to say that uh... before you ordering your preparation to testify here, Mr. Flynn did [REDACTED]
[REDACTED]

Jocelyn FORTIN: Yes, that's correct

Maître Alexis GAUTHIER: Q490. OK. And what did Mr. uh, Flynn [REDACTED]

Jocelyn FORTIN: [REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q491. Uh-huh.

Jocelyn FORTIN: He was wondering if [REDACTED]

Maître Alexis GAUTHIER: Q492. OK.

Jocelyn FORTIN: And uh... if [REDACTED]

Justice Michael STOBER: Q493. How long was this discussion?

Jocelyn FORTIN: I can refer to you uh... the email [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q494. OK, so we will found the first exchanges of email, uh... the... the first one, first document is a three page document uh... it's an email from [REDACTED] dated June 22nd, 2015 at 4:18 pm, so we would mark this under EP32.23. So... could you give us, uh... some context about these emails, sir?

Jocelyn FORTIN: So, my job was to try to find a date so you filed those two documents on the... already under two different...?

Maître Alexis GAUTHIER: Q495. No, we will start with the one that you received...

Jocelyn FORTIN: OK! Perfect, yes.

Maître Alexis GAUTHIER: Q496. At... on uh... on uh, June 22nd, at 4:18 pm.

Jocelyn FORTIN: Yes.

Maître Alexis GAUTHIER: Q497. All right, only... and only these three page first and then we will go to the other one.

Jocelyn FORTIN: OK. So if we go to the last page um...

Maître Alexis GAUTHIER: Q498. The third page.

Jocelyn FORTIN: The third page...

Maître Alexis GAUTHIER: Q499. Yes.

Jocelyn FORTIN: [REDACTED] is uh... stating that I... [REDACTED]
[REDACTED]

Jocelyn Fortin, July 22, 2015, ex parte transcript

[REDACTED]
[REDACTED] I had forwarded him the email that was filed in the beginning, uh, EP32.3.

Maître Alexis GAUTHIER: Q500. Yes.

Jocelyn FORTIN: I had forwarded this email to [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q501. Yeah. So this...

Jocelyn FORTIN: So he's ...

Maître Alexis GAUTHIER: Q502. This email would reflect... would reflect your conversation that you had with him?

Jocelyn FORTIN: That's exactly right. And this email was sent to [REDACTED]
[REDACTED] on Wednesday, June 17th.

Maître Alexis GAUTHIER: Q503. All right. And then, you got an email, the last email of this exchange that we can see on the top of the first page from, [REDACTED]
[REDACTED]

Jocelyn FORTIN: That's correct. I had spoken with [REDACTED] the phone.

Maître Alexis GAUTHIER: Q504. Yes.

Jocelyn FORTIN: And, he indicated to his knowledge [REDACTED]

Maître Alexis GAUTHIER: Q505. Yeah.

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q506. Yeah.

Jocelyn FORTIN: But he wanted to...

Justice Michael STOBER: Q507. What time was the call...

Jocelyn FORTIN: [REDACTED]

Justice Michael STOBER: Q508. When was the call, when you spoke to him?

Jocelyn FORTIN: That was before that email, so...

Maître Alexis GAUTHIER: Q509. Before June 22nd?

Jocelyn FORTIN: Before June 22nd. And I would say...

Justice Michael STOBER: Q510. 2015?

Jocelyn FORTIN: In the days...

Justice Michael STOBER: Q511. 2015?

Jocelyn FORTIN: 2015, sorry.

Justice Michael STOBER: Q512. Yeah.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Jocelyn FORTIN: So, that call would of been taking place 2-3 days before that email, or uh... psst... the June 19, this is where he gave me the contact, so between the 19th and the 22nd.

Maître Alexis GAUTHIER: Q513. All right.

Jocelyn FORTIN: [REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q514. Now, the last document that we want to adduce (PH) it's a three page document again in exchange of emails, last one on the top of first, of the first page an email from [REDACTED] to yourself, dated July 15th, 2015 at 2:54 pm, and we would mark this document, sir, under EP32.24.

Justice Michael STOBER: Three pages, is that it?

Maître Alexis GAUTHIER: Yes, sir. So again, sir, could you take us through these emails?

Jocelyn FORTIN: So, that is uh... that email that I received from [REDACTED] at 2 thous... uh, 2:35 pm, on the 15th. He's saying that, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Alexis GAUTHIER: Q515. And you asked for a precision?

Jocelyn FORTIN: Well, since he's... he's talking about equipment purchased in, 2009 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(Shuffling of paper and pouring of water)

Maître Alexis GAUTHIER: So, sir... that would be the end of the Examination in Chief by the Crown for Mr. Fortin.

Justice Michael STOBER: Just help me out on the marking of the exhibits; the one dated 24 of March 2014, one page, uh... to Mr. Fortin from [REDACTED]
[REDACTED] Um... that's 32.22?

Maître Alexis GAUTHIER: Yes sir, that's correct.

Justice Michael STOBER: OK. So the next one, I got three pages, that's 32 twenty... 23?

Maître Alexis GAUTHIER: That's correct.

Justice Michael STOBER: So then there's another one, that I have three other pages at the end starting with an email the 22nd of June, three pages, is that 32.24?

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Alexis GAUTHIER: OK, we might have made the mistake with the package that we, uh... the... the answers, the... the... the one are dated either in uh... in 2015, either in June and then in July. You should have two sep... two different sets of email in 2015, sir. Can I approach the bench?

(Shuffling of paper)

Justice Michael STOBER: No.

Corporal Caroline LÉONARD: Do you have them?

Maître Alexis GAUTHIER: I do have copies, sir. Do you have copies, sir?

Maître Anil KAPOOR: I do, yes. I have copies.

Maître Alexis GAUTHIER: OK.

Justice Michael STOBER: OK, 15th of July 2015, 254 to 252, like I'm including the two emails from uh, 2008 and '09, that's three pages, 32.23.

Maître Alexis GAUTHIER: No, sir. The one... the le... the one that is, uh... uh... is dated on the top of the first page, July 15th, 2015 at 2:54 pm, would be EP32.24. And the one on the top of the first page dated, June 22nd, 2015 at 4:18 pm, would be marked, EP32.23.

Justice Michael STOBER: They were put in backwards in my package. Carry on.

Maître Alexis GAUTHIER: Sorry.

Justice Michael STOBER: It's all right. Thank you, for the clarification, there's _____ three pages.

Maître Alexis GAUTHIER: Correct, sir. So this uh... completes the uh, Examination in Chief, your Honor.

(Unidentified sounds)

Justice Michael STOBER: Mr. Kapoor do you want to a break or do you want to go right along.

Maître Anil KAPOOR: Happy to start, _____, unless people... wish a break.

Justice Michael STOBER: _____

Maître Anil KAPOOR: Or uh... if the witness wants to take a break, I'll use the washroom, I'm happy to take a break?

Jocelyn FORTIN: No, I'm good.

Maître Anil KAPOOR: OK.

Jocelyn FORTIN: Thank you.

Justice Michael STOBER: Do you want to sit Mr. Fortin?

Jocelyn FORTIN: Maybe.

Maître Anil KAPOOR: Yes, certainly.

Jocelyn FORTIN: Thank you.

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(Unidentified sounds and incomprehensible conversation)

Jocelyn FORTIN: Thank you.

Justice Michael STOBER: Better?

Jocelyn FORTIN: Yeah.

Justice Michael STOBER: Q516. OK. If you need a break just say so, and we'll stop, OK? You said earlier this is your first time testifying as a member of the RCMP, is this your first time testifying in court?

Jocelyn FORTIN: No, I've testified before.

Justice Michael STOBER: Q517. For Industry Canada?

Jocelyn FORTIN: No, for uh... personal matters.

Justice Michael STOBER: Q518. No, no, I'm not talking about that, I... I'm talking for...

Jocelyn FORTIN: For business...?

Justice Michael STOBER: Q519. Business (PH) and reasons with you, in... in terms of your capacity as a... a specialist in this field?

Jocelyn FORTIN: First time.

Justice Michael STOBER: It's your first time, OK. Parking tickets and things like that I'm not interested in, all right? Or whatever it is I don't care, at this point. Go ahead.

Maître Anil KAPOOR: Q520. Yes, thank my Lord. Um, I wanted to ask you some questions, uh... sir, about the last series of documents that have been filed in this proceeding, this is the emails and I think they number from EP32.16 through to EP32.24, we have those there, sir.

Jocelyn FORTIN: Yes...

Maître Anil KAPOOR: Q521. It should be...

Jocelyn FORTIN: Unfortunately, I didn't wrote down all the, all the number that we're using?

Maître Anil KAPOOR: Q522. All right if we go to particulars ones, I'll assist you as to which uh...

Jocelyn FORTIN: OK.

Maître Anil KAPOOR: Q523. I just want to direct your mind to the area I want to ask you about... Hum... this um... person [REDACTED]

Jocelyn FORTIN: [REDACTED]

Maître Anil KAPOOR: Q524. [REDACTED] this person [REDACTED] you speak to him on the phone?

Jocelyn FORTIN: Yes.

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- Maître Anil KAPOOR:** Q525. And I think you've indicated to his Lordship that there were a number of times through the course of this email correspondences where there had been phone calls, either preceding or after a... an email exchange?
- Jocelyn FORTIN:** That... that's right.
- Maître Anil KAPOOR:** Q526. And do you take notes of those uh... phone calls?
- Jocelyn FORTIN:** No.
- Maître Anil KAPOOR:** Q527. OK. So, you have other than the email exchange, you have no documents by which you can refresh your memory?
- Jocelyn FORTIN:** Hum... I would have quotes that I would receive from him.
- Maître Anil KAPOOR:** Q528. OK.
- Jocelyn FORTIN:** That would help me.
- Maître Anil KAPOOR:** Q529. OK.
- Jocelyn FORTIN:** Uh... or a purchase order that would, I would wrote...
- Maître Anil KAPOOR:** Q530. Uh-huh.
- Jocelyn FORTIN:** Um... that would be the only documents that I have.
- Maître Anil KAPOOR:** Q531. And in connection with these exchange of emails that I trust, that _____ my colleague is just taking you through. Hum... did you have recourse to any purchase orders to refresh your memory prior to testifying today?
- Jocelyn FORTIN:** Hum... Yes. I wa... I... I tried to find exactly when we purchased equipment uh... yes, _____.
- Maître Anil KAPOOR:** Q532. So you... so you... to... to understand this now, you... you looked at purchased orders prior to testifying to assist you in recalling what took place in these email exchanges?
- Jocelyn FORTIN:** Not what took place on those email exchange...
- Maître Anil KAPOOR:** Q533. OK.
- Jocelyn FORTIN:** I was trying to get the full picture, g... get a full history of what happened [REDACTED] the last 10 years that I've been dealing with them.
- Maître Anil KAPOOR:** Q534. I see. Well, I... I'm, just directing you to these emails particularly.
- Jocelyn FORTIN:** Yes.
- Maître Anil KAPOOR:** Q535. Uh... because you gave some evidence about what took place in phone calls and I want to understand whether that's your present recollection of what took place or do you look at any other documents prior...
- Jocelyn FORTIN:** No...

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Anil KAPOOR: Q536. To testifying to assist your recollection.

Jocelyn FORTIN: No. The, uh... the... the only item that I used for real, to recollecting...

Maître Anil KAPOOR: Q537. Uh-huh...

Jocelyn FORTIN: What happened with those emails or the emails that you're seeing right now.

Maître Anil KAPOOR: Q538. OK. Now, the email address that you're sending this from, it's your RCMP email address?

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q539. All right. And you're sending it [REDACTED] email in the instances when you're communicating with him?

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q540. Hum... Are you familiar with something called a "Stu phone"? S-t-u Morad (PH) uh... phone?

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: OK.

Justice Michael STOBER: S-t-u?

Maître Anil KAPOOR: Q541. S-t-u, an expert phone. And, that's a, um... a device that allows for secure communications telephone equipment (PH).

Jocelyn FORTIN: Yes. Yes...

Maître Anil KAPOOR: Q542. Yes? I'm sorry, you have to say yes.

Jocelyn FORTIN: No I know, sorry.

Maître Anil KAPOOR: Q543. For the record, sorry.

Jocelyn FORTIN: It... I... I'm familiar, I heard the term, never used them.

Maître Anil KAPOOR: Q544. All right. And are you similarly familiar with the analog for protected closed email correspondence?

Jocelyn FORTIN: Technical (PH)... no, I... no.

Maître Anil KAPOOR: Q545. Not familiar with at all?

Jocelyn FORTIN: No.

Maître Anil KAPOOR: Q546. You never used a secure email system in communicating with [REDACTED]

Jocelyn FORTIN: [REDACTED] never.

Maître Anil KAPOOR: Q547. No. So these are open email communications with [REDACTED]

Jocelyn FORTIN: That's correct.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Anil KAPOOR: Q548. And has a result, you know, you're... you... you're... you're at Special "I". These could easily be uh... surveilled (PH) if somebody were minded to do it.

Jocelyn FORTIN: Could be.

Maître Anil KAPOOR: Q549. So this email exchange with [REDACTED] is traversing over the public network?

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q550. So to that extent you'd agree with me, that the relationship with [REDACTED] that you indicate in these emails is publicly available?

Jocelyn FORTIN: Legally?

Maître Anil KAPOOR: Q551. Whether it's legally or not, you're... this is what... these emails are legally sent, aren't they?

15:10 hrs

Jocelyn FORTIN: That were sent over the regular email system.

Maître Anil KAPOOR: Q552. Yes. So, if somebody wanted to surveille (PH) your email traffic they could get access to it, it's in a public exchange form.

Jocelyn FORTIN: If you're asking me...

Maître Anil KAPOOR: Q553. Uh-hmm...

Jocelyn FORTIN: It doesn't fit the def... my definition of the public domain.

Maître Anil KAPOOR: Q554. All right, so but whether uh... assists... whether it fits your definition of public domain, you will agree with me, these are public correspondent... it's... by email.

Jocelyn FORTIN: There are private correspondence between me and [REDACTED]

Maître Anil KAPOOR: Q555. Through the public email system.

Jocelyn FORTIN: Through the public (PH)... public email system.

Maître Anil KAPOOR: Q556. No steps were taken to protect this correspondence beyond simply... well, some of them don't even say, "co... confidential", do they?

Jocelyn FORTIN: No.

Maître Anil KAPOOR: Q557. Well let's just go through it then, 32.16. It looks like this it's dated uh...

Jocelyn FORTIN: Yeah...

Maître Anil KAPOOR: Q558. 2009, to 11...

Jocelyn FORTIN: Yeah.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Anil KAPOOR: Q559. You see that there? OK, so that... do you have that there my Lord?

Justice Michael STOBER: Yeah.

Maître Anil KAPOOR: Q560. Page one of that. Do you have that email, sir?

Jocelyn FORTIN: Which one is it?

Maître Anil KAPOOR: Q561. I'm sorry, it's 32.16, dated 2009, 0 to 11.

Jocelyn FORTIN: Correct, yes.

Maître Anil KAPOOR: Q562. The time is 1:40 PM.

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: Q563. OK. Now that's an email from [REDACTED] to you.

Jocelyn FORTIN: Correct.

Maître Anil KAPOOR: Q564. OK. You'd agree there's no marking "confidential", "private communication" ...

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: OK.

(Clearing of throat)

Maître Anil KAPOOR: Q565. Then if you look at the next page, again, from [REDACTED] to you. Same exhibit number my Lord. There's no marking of "private", "confidential", is there?

Jocelyn FORTIN: Correct.

Maître Anil KAPOOR: Q566. So, rather than go through all of them, in the absence of any marking of "private" and "confidential" ... (Unidentified sound) Sorry, forgive me. You would agree, certainly on [REDACTED] part, you would interpret that as a non-indicating it's a "private" or "confidential" email?

Jocelyn FORTIN: I work with technical details and what you're asking me right now is a legal question about, if it needs to be written "confidential" or not, in order of not being public, and that I cannot answer that question.

Maître Anil KAPOOR: Q567. You can't help me with that.

Jocelyn FORTIN: No.

Maître Anil KAPOOR: Or his Lordship _____.

Justice Michael STOBER: Well then I have a question.

Maître Anil KAPOOR: Sorry.

Justice Michael STOBER: Q568. Y... you demonstrating a very profound knowledge um... with respect to uh... technical equipment, very sensitive equipment that these forces uses, used particularly in the RCMP.

Jocelyn Fortin July 22, 2015, ex parte transcript

You've mentioned that other [REDACTED]
[REDACTED]

Jocelyn FORTIN:

(Clearing of throat)

Justice Michael STOBER:

Q569. And [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

That's correct.

Justice Michael STOBER:

Q570. You've also referred to concerns [REDACTED]
[REDACTED] correct?

Jocelyn FORTIN:

Correct.

Justice Michael STOBER:

Q571. Um... well, with your profound know... uh... technical knowledge that I just referred to, I'm trying to reconcile that with the questions that Mr. Kapoor just asked you. Um... we all know that there's... people use the word surveillance (PH), somebody could surveille (PH) what you're sending but um... a common hacker could get in to a public email service and have access to all of these emails. Uh... it might be illegal uh... but, you know better than anyone in this room that that's something that a hacker can do, without very high level protective equipment, protecting any confidential and sensitive document, correct?

Jocelyn FORTIN:

That's correct

Justice Michael STOBER:

Q572. So in the course of your emails with [REDACTED] and in the course of your telephone conversations with [REDACTED] was any additional protective measures utilize to protect the confidentiality that would differentiate those emails and phone conversations than you calling up uh... uh... one of your colleagues at the RCMP, uh... for something that was not confidential. Was anything additional placed on the phone with your conversation with [REDACTED] or anything additional placed on the email channels between you and [REDACTED]

Jocelyn FORTIN:

No, there was not.

Justice Michael STOBER:

Q573. So, the email that you... the... these emails you sent to [REDACTED] would be no different if you sent an email to um... same channel as if you'd sent it to, your girlfriend, your wife, or a family member.

Jocelyn FORTIN:

That's correct.

Justice Michael STOBER:

Q574. And the phone calls you have with [REDACTED] were in the same format as if you'd make a phone call to one of the people I've just mentioned.

Jocelyn FORTIN:

That's correct.

Justice Michael STOBER:

Continue please.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Anil KAPOOR: Q575. Thank you. (Shuffling of paper) And just sticking with these emails then for a moment, um... there's reference in one of the emails... I'll just try and find it uh... my Lord, very quickly. Where the... where... I think it's [REDACTED] who says that [REDACTED] [REDACTED] Do you remember seeing that [REDACTED]? I'll just try and find it quickly, my Lord.

Jocelyn FORTIN: Um... we have, we're talking about [REDACTED] I believe.

Maître Anil KAPOOR: Q576. Yes, right, sorry. The exhibit number there, it's 32... E...EP32.20, my Lord.

Jocelyn FORTIN: OK.

Maître Anil KAPOOR: Q577. Sorry, looks like sir. And the second page is like that?

Jocelyn FORTIN: Yeah.

Maître Anil KAPOOR: Yeah, OK. Perfect, thank you.

Justice Michael STOBER: Um...

Maître Anil KAPOOR: Q578. So just to round this off, before I [REDACTED] on your evidence, uh... and on the second page of EP32.20, there's the email from [REDACTED] to you indicating uh... [REDACTED] do you see that sir?

Jocelyn FORTIN: Yes, I do.

Maître Anil KAPOOR: Q579. OK. I take it from your evidence that you have no evidence to give on [REDACTED] [REDACTED] am I correct?

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q580. So in terms of the, um... or your role in this, uh... you're sort of the point person with [REDACTED] is that correct?

Jocelyn FORTIN: That is correct.

Maître Anil KAPOOR: Q581. And that's primarily because of your job, you're involved in uh... maintaining the technical side of the house, if I can call it that...

Jocelyn FORTIN: That is correct.

Maître Anil KAPOOR: Q582. And, the people that you deal with at [REDACTED] on a regular basis are to assist you in that in doubt.

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q583. And along the lines that you've described to his Lordship, mainly ongoing exchanges of information, education and such. Correct?

Jocelyn FORTIN: That's correct.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Anil KAPOOR: Q584. _____ particularly with a view to um... running the technology uh... to use the _____, building a better mousetrap. Right?

Jocelyn FORTIN: Yes... sir.

Maître Anil KAPOOR: Q585. OK. You're not involved in _____

Jocelyn FORTIN: Nope, I'm not.

Maître Anil KAPOOR: Q586. _____

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q587. Purchase of hardware.

Jocelyn FORTIN: Correct.

Maître Anil KAPOOR: Q588. Um... essentially it comes to you and says, _____

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: All right, thank you.

(Shuffling of paper and brief incomprehensible whispering)

Maître Anil KAPOOR: Q589. So... I'd like to take you, I'd like to sort of ask a couple of questions about um... the... direct your mind now to um... psst... uh... the MDI. Uh... we've been... we've been giving evidence on it. And, first of all, it's in your affidavit but it's obvious that you, when I say, "You", um... uh... in this instance, I mean the RCMP, your Honor. That the RCMP has disclosed the fact that an MDI was used in this case, right?

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: Q590. OK. And indeed some of the results have disclosed as well, uh... and you went over some of them uh... earlier today, that the... that the redacted, psst... um... datasheets.

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: Q591. OK. And, you'd agree with me that when... as soon as you disclose that an MDI was used, you're essentially telling the defense that IMSI catcher was used?

Jocelyn FORTIN: Yes. Because if I can...

Maître Anil KAPOOR: Q592. Yes, certainly, certainly.

Jocelyn FORTIN: IMSI catcher it depends on the... your definition of a IMSI catcher and there's many devices out there...

Maître Anil KAPOOR: Q593. Uh-huh...

Jocelyn Fortin, July 22, 2015, ex parte transcript

Jocelyn FORTIN: On the internet...

Maître Anil KAPOOR: Q594. Uh-huh.

Jocelyn FORTIN: That claims to be IMSI catcher.

Maître Anil KAPOOR: Q595. Uh-huh.

Jocelyn FORTIN: But we talked about _____ a metal device.

Maître Anil KAPOOR: Q596. Uh-huh.

Jocelyn FORTIN: _____ the metal device is not really meant to catch IMSIs.

Maître Anil KAPOOR: Q597. Uh-huh.

Jocelyn FORTIN: It's meant to intercept voice communication regardless of the IMSI but, all the literature that I found on the internet says that, it is an IMSI catcher. So, the definition of IMSI catcher is fairly wide.

Maître Anil KAPOOR: Q598. All right. So, let me ask this to you again, when you disclosed that an MDI is used, you're disclosing that an IMSI is used?

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: Q599. And, as you pointed out the definition of IMSI catcher, can be quite broad?

Jocelyn FORTIN: Yes.

Justice Michael STOBER: Can be quite...

Maître Anil KAPOOR: Quite broad.

Justice Michael STOBER: OK.

Maître Anil KAPOOR: Q600. But is certainly doesn't exclude [REDACTED]

Jocelyn FORTIN: It would not exclude [REDACTED] that's correct.

Maître Anil KAPOOR: Q601. So, having done that, having disclosed that an IMSI catcher was used in this case, it follows also then, that... the relevancy of detection devices is also something that's being disclosed, by the very fact that you say, there was an IMSI catcher used, detection devices are also car... carry along with that disclosure.

Jocelyn FORTIN: Yes but, as explain in my uh... appendix, [REDACTED]
[REDACTED]

Maître Anil KAPOOR: Q602. Right. So again, similarly uh... those tools at a minimum include [REDACTED]

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: Q603. All right. But they also were broad enough to include the [REDACTED]

Jocelyn FORTIN: [REDACTED]

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Anil KAPOOR: Q604. I see. So, it will... [REDACTED]
[REDACTED]

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q605. Just on that point, uh... in this investigation um... Clemenza, am I right that... that the MDI was used [REDACTED]

Jocelyn FORTIN: That is correct.

Maître Anil KAPOOR: Q606. All right, [REDACTED]
[REDACTED]

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q607. All right, so... [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q608. OK. And, those devices [REDACTED] Right?

Jocelyn FORTIN: Which devices?

Maître Anil KAPOOR: Q609. The... [REDACTED]
[REDACTED]

Jocelyn FORTIN: OK.

Maître Anil KAPOOR: Q610. [REDACTED] I mean, you've said as much in your evidence today, those [REDACTED] Was there [REDACTED]
[REDACTED]

Jocelyn FORTIN: Uh... yeah, I said three, yeah...

Maître Anil KAPOOR: Q611. [REDACTED]

Jocelyn FORTIN: Yeah. [REDACTED]

Maître Anil KAPOOR: Q612. Those are [REDACTED]

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: Q613. Yeah. Those [REDACTED]

Jocelyn FORTIN: Those [REDACTED]

Maître Anil KAPOOR: Q614. In fact you just... you... [REDACTED]
[REDACTED]

Jocelyn FORTIN: Yes, that's correct.

Maître Anil KAPOOR: Q615. Right. And so, so... the MDI's been disclosed, that equals... you've disclosed that there's an IMSI catcher, right?

Jocelyn FORTIN: Psst... we disclosed it's an IMSI catcher.

Maître Anil KAPOOR: Q616. Right?

Jocelyn FORTIN: Yeah.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Anil KAPOOR:

Q617. OK. So, why would you... (Shuffling of paper) And... and given the fact that... and sorry, and also those detect... those detection [REDACTED] Right?

Jocelyn FORTIN:

Yes.

Maître Anil KAPOOR:

Q618. So why would you protect paragraph 36 or your affidavit?

(Shuffling of paper)

Jocelyn FORTIN:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Anil KAPOOR:
says...

Q619. No, but that's not what this paragraph says. This paragraph

Jocelyn FORTIN:

Yes.

Maître Anil KAPOOR:

Q620. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

Correct.

Maître Anil KAPOOR:

Q621. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

Yes.

Maître Anil KAPOOR:

Q622. That you researched [REDACTED]

Jocelyn FORTIN:

Because on this, I'm acknowledge the...

Maître Anil KAPOOR:

Q623. So, you researched on... [REDACTED]

Jocelyn FORTIN:

Correct.

Maître Anil KAPOOR:

Q624. Yes or no?

Jocelyn FORTIN:

Yeah I did, yes.

Maître Anil KAPOOR:

Q625. All right. This paragraph I'm gonna suggest to you, it does not reveal any sensitive investigative technique on the part of the RCMP, would you agree with that? Just this paragraph.

Jocelyn FORTIN:

Can... can you repeat the question.

Maître Anil KAPOOR:

Q626. This paragraph does not reveal any sensitive investigative technique used by the RCMP, does it?

Jocelyn FORTIN:

It doesn't, but it reveals...

Maître Anil KAPOOR:

Q627. Sorry, let me just stop you there. You said... what did you say? It doesn't. Is that what you said?

Jocelyn FORTIN:

Let me take a moment, I'm just gonna rer... re-read this and think about your question.

Maître Anil KAPOOR:

Q628. Take your time.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Jocelyn FORTIN: Thank you. All I'm saying in paragraph 36 is that there's tool [REDACTED] could detect IMSI catchers. That's all I'm saying in the... in there.

Maître Anil KAPOOR: Q629. Yes.

Jocelyn FORTIN: I'm not talking about, the technique that we use.

Maître Anil KAPOOR: Q630. No.

Jocelyn FORTIN: But, I'm pointing to the fact that those tools could detect our IMSI catcher.

Maître Anil KAPOOR: Q631. No, I... actually where does it say it could. Does it?

Jocelyn FORTIN: Claims they could detects IMSI catcher.

Maître Anil KAPOOR: Q632. Claim they could.

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: Q633. OK. So, you drafted this affidavit.

Jocelyn FORTIN: I did.

Maître Anil KAPOOR: Q634. All right. So, I'm gonna suggest to you that that doesn't mean that they can't, does it?

Jocelyn FORTIN: Psst... that's correct.

Maître Anil KAPOOR: Q635. It means, that they claim that they can't.

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q636. Right? So you didn't swear or you're not suggesting at all that these devices are effective in relation to the RCMP then, are you?

Jocelyn FORTIN: Not in this paragraph.

Maître Anil KAPOOR: Q637. No! But you prodec... protected the paragraph in exhibit 32...6, why?

(Shuffling of paper)

Jocelyn FORTIN: I'm not a lawyer...

Maître Anil KAPOOR: Q638. But no, no...

Jocelyn FORTIN: And this...

Maître Anil KAPOOR: Q639. I asked 'cause (PH) this is your affidavit, it's redacted. You...

Jocelyn FORTIN: Yes, I'm gonna give you an explanation for it.

Maître Anil KAPOOR: Q640. Yeah.

Jocelyn FORTIN: OK? I'm no lawyer, that's my first affidavit that I wrote my whole life.

Maître Anil KAPOOR: Q641. OK.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Jocelyn FORTIN: And to me, I felt that I needed to protect that those devices...

Maître Anil KAPOOR: Q642. Uh-huh.

Jocelyn FORTIN: Could detect our IMSI catcher. When I redacted that portion...

Maître Anil KAPOOR: Q643. Uh-huh.

Jocelyn FORTIN: That's exactly what I had in mind.

Maître Anil KAPOOR: Q644. Right. But now looking at it, and looking at what you wrote, it doesn't say they could detect your device, does it?

Jocelyn FORTIN: As you saw this morning, [REDACTED]

Maître Anil KAPOOR: Q645. No, no, I'm talking about this paragraph.

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: Q646. It doesn't say... for example you could have drafted it to say [REDACTED] right?

Jocelyn FORTIN: Yes, I could have.

Maître Anil KAPOOR: Q647. But you could not draft that.

Jocelyn FORTIN: That's...

Maître Anil KAPOOR: Q648. _____

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q649. All right. Would you agree with me now, that paragraph 36 can be released to the defense?

Jocelyn FORTIN: If that's the case, I would have written differently.

Maître Anil KAPOOR: Q650. I... I'm asking you, would you agree that paragraph 36 can be released to the defense as you drafted it, without compromising the RCMP use of the [REDACTED]

Jocelyn FORTIN: I don't agree.

Maître Anil KAPOOR: Q651. You don't?

Jocelyn FORTIN: I don't.

Maître Anil KAPOOR: Q652. Show me how this paragraph, where in this paragraph, just the release of this paragraph, would... show me... show me what information it imparts that would compromise the use of the [REDACTED]

Jocelyn FORTIN: Just the fact that, I acknowledge and I'm gonna be talking about those de... [REDACTED] And there's a page and a half of documentation and information about [REDACTED]

Maître Anil KAPOOR: Q653. But (PH) it's...

Jocelyn FORTIN: That... that I'm talking about in my affidavit. So, I'm revealing, if I'm... if I'm redacted the whole bunch things after that, I feel that I need to protect what I am talking about in my affidavit.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Anil KAPOOR: Q654. All right, so your point is, just so that I understand it clearly. Your point is, because you're redacting paragraph 37 through to paragraph 50, which is what you did, in exhibit 32.6.

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: Q655. You... you then must redact paragraph 36.

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q656. Even though, paragraph 36 is publicly avail... available information.

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q657. That's your position.

Jocelyn FORTIN: That's my position.

Maître Anil KAPOOR: Q658. All right. And did you get assistance in terms of what to redact and the approach to redaction... I don't wind... I don't want to know if you got any legal advice but I just want to know if you got any assistance from anyone. Did you speak to anyone about how to do this?

Jocelyn FORTIN: Um... First, when I was asked to provide document for the court here.

Maître Anil KAPOOR: Q659. Uh-huh.

Jocelyn FORTIN: I was supposed to provide only the appendix.

Maître Anil KAPOOR: Q660. Um... the appendix that you've... that you've provided, appendix A and appendix B, to...

Jocelyn FORTIN: Uh... that's correct...

Maître Anil KAPOOR: Q661. To your affidavit.

Jocelyn FORTIN: That's correct...

Maître Anil KAPOOR: Q662. OK.

Jocelyn FORTIN: And then, I started working on the PowerPoint presentation.

Maître Anil KAPOOR: Q663. Which PowerPoint presentation?

Jocelyn FORTIN: Well, I didn't finish it because...

Maître Anil KAPOOR: Q664. Oh, I see. Sorry, forgive me.

Jocelyn FORTIN: I'm teaching in College.

Maître Anil KAPOOR: Q665. Uh-huh.

Jocelyn FORTIN: So, when I have to explain stuff and, was explained that my purpose in course... in court was to explain to uh... your Honor, how the equipment works.

Maître Anil KAPOOR: Q666. Uh-huh.

Jocelyn Fortin July 22, 2015, ex parte transcript

Jocelyn FORTIN: And um... all the in uh... and the working of... of the equipment. So my approach was to... what I do when I teach is prepare a Prow... PowerPoint presentation. Except that, um... when I talk to Mr. uh... Rick Gendrick (PH), who...

Maître Anil KAPOOR: Q667. Who... sorry?

Jocelyn FORTIN: Rick Gendre (PH).

Maître Anil KAPOOR: Q668. Maître Gen... Gendre (PH), yes, ____ OK.

Jocelyn FORTIN: He said, "No, that's"...

Maître Anil KAPOOR: Q669. He's an RCMP officer ____...

Jocelyn FORTIN: Yes.

Justice Michael STOBER: Q670. Sorry?

Maître Anil KAPOOR: He's an RCMP officer.

Jocelyn FORTIN: Psst... he indicated that's not usually the format that is being used.

Maître Anil KAPOOR: Q671. OK.

Jocelyn FORTIN: And he showed me a, format of an affidavit, which I kind of tried to keep the same structure when I wrote my affidavit.

Maître Anil KAPOOR: Q672. OK.

Jocelyn FORTIN: And then after I sat down, uh... with Mr. Gendre and tried to uh... in... and write it in... in a way that we could had some portion that could be un-redacted.

Maître Anil KAPOOR: Q673. Uh-huh.

Jocelyn FORTIN: And some portion that could be redacted.

Maître Anil KAPOOR: Q674. Uh-huh.

Jocelyn FORTIN: But, um... I basically did this on my own.

Maître Anil KAPOOR: Q675. On your own. So, did this fellow, um... sorry, I just don't remember his rank, what... was he a Staff...

Jocelyn FORTIN: Rick Gendre.

Maître Anil KAPOOR: Yeah. I don't remember his rank... anyway.

Maître Alexis GAUTHIER: Sergeant...

Maître Anil KAPOOR: ____... Start... Sergeant?

Maître Alexis GAUTHIER: Yeah.

Maître Anil KAPOOR: Uh, Sergeant, uh...

Corporal Caroline LÉONARD: Staff Sergeant...

Maître Marie-Christine GODBOUT: Staff Sergeant...

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Alexis GAUTHIER: Staff Sergeant...

Maître Anil KAPOOR: Staff Sergeant, I thought right (PH), um, Rick Gendre.

Maître Alexis GAUTHIER: Gendre...

Maître Anil KAPOOR: Gendre, um...

Corporal Caroline LÉONARD: Gendre...

Maître Anil KAPOOR: Q676. Um... is um... he didn't assi... he didn't assist you with the redactions; you did them on your own.

Jocelyn FORTIN: He assisted me on the... when I looked at it and... and tried to rephrase some things but, I d... I did most of it on my own.

Maître Anil KAPOOR: Q677. All right. So the choice to redact paragraph 36 for example, was yours.

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: All right.

(Shuffling of paper)

Justice Michael STOBER: So...

Maître Anil KAPOOR: Sorry...

Justice Michael STOBER: Q678. I'm just looking (PH) to understand, um... I was under the impression that the redacting was done by the Crown after you provided a full affidavit. Are you saying that the, uh... redacted portions, it was not the Crown that did that, you did that?

Jocelyn FORTIN: Well, the stuff that are in red, and it was after... I'm sure there are stuff that I've put in red that had to be in black, uh... but it was in consultation with uh... the Crown as well as what uh... as an example, I have stuff in my affidavit that I suggested that should be vetted, I put it in... in red in my affidavit.

Justice Michael STOBER: Q679. So the affidavit that I have, 32... EP32.14, I can read everything. There's parts in black, there's parts in red; the red parts are blacked out in the defense copies, correct?

Jocelyn FORTIN: That's correct.

Justice Michael STOBER: Q680. But when you gave the affidavit to the Crown, um... you gave them the full un-redacted copy?

Jocelyn FORTIN: That's correct.

Justice Michael STOBER: Q681. And, before consulting with the Crown Prosecutors, were the red parts that, I have in my document, already in red put there by yourself?

Jocelyn FORTIN: That's correct.

Justice Michael STOBER: Q682. That was before speaking to the Crown.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Jocelyn FORTIN: That was... we had meetings in between redaction. They weren't (PH) agree on stuff, I would go back and rewrite my affidavit.

(Unidentified sounds)

Jocelyn FORTIN: Actually, when I first wrote my affidavit I thought, I didn't know that portion were to be vetted and some un-vetted, so... When I first... when I wrote my first... very first affidavit it was all black. I thought the whole document would be vetted. That was my understanding of a, affidavit.

(Shuffling of paper)

Justice Michael STOBER: Go ahead.

(Shuffling of paper)

Maître Anil KAPOOR: Q683. I want to just ask you something, if this makes any sense to you, sir? Um... query mode, is that how the w... a query (PH)... psst... query mode in using the MDI? Is that another way of describing [REDACTED]

Jocelyn FORTIN: Psst... [REDACTED] that's correct.

Maître Anil KAPOOR: Q684. Um... and, [REDACTED] am I correct?

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q685. And that wasn't employed in this case?

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q686. And you're aware, are you not that, uh... um... the rank I've lost it in my head (PH)... _____ inspector, is it? Or Staff Sergeant, Dubois? Staff Sergeant...?

Maître Alexis GAUTHIER: Sergeant...

Corporal Caroline LÉONARD: Sergeant...

Jocelyn FORTIN: Is he...

Maître Anil KAPOOR: Q687. Sergeant Dubois, um... has disclosed to the defense that query mode was used.

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Q688. You were aware of that?

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: Q689. OK. So the defense is aware that... the.. [REDACTED]

Jocelyn FORTIN: No. They're aware that the query mode was used.

Maître Anil KAPOOR: Q690. Right. But the query mode, [REDACTED]

Jocelyn Fortin, July 22, 2015, ex parte transcript

Jocelyn FORTIN:

No.

Maître Anil KAPOOR:

Q691. You don't think so? OK. Hum... so... [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

I don't know what conclusion it would come to query mode.

Maître Anil KAPOOR:

Q692. You have... you can't help us at all now? You can't help us _____ that?

Jocelyn FORTIN:

No, no I can't.

Maître Anil KAPOOR:

Q693. Dubois also told the defense, essentially, that in query mode the RCMP would capture everything in area, and they would do it in several locations. And after a few readings, the operator could find common... a common phone from all the locations. OK.

Jocelyn FORTIN:

That's correct.

Maître Anil KAPOOR:

Q694. Um... and I think you've described that, at least...

Jocelyn FORTIN:

Yeah...

Maître Anil KAPOOR:

Q695. Your colleagues have described that...

Jocelyn FORTIN:

Yeah, yeah...

Maître Anil KAPOOR:

Q696. In more detail. With that additional information, additional to be told it's query mode, [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

If I have no idea what is being used...

Maître Anil KAPOOR:

Q697. In other words, you know it's an MDI but you don't know the brand. You don't know the brand.

Jocelyn FORTIN:

I can, [REDACTED]

Maître Anil KAPOOR:

Q698. Uh-huh.

Jocelyn FORTIN:

Now, I don't know what your expert would come and think about this.

Maître Anil KAPOOR:

Q699. Uh-huh.

Jocelyn FORTIN:

But I'm using my MDI device.

Maître Anil KAPOOR:

Q700. Uh-huh.

Jocelyn FORTIN:

[REDACTED]

Maître Anil KAPOOR:

Q701. Yes.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Jocelyn FORTIN:

Maître Anil KAPOOR:

Q702. I'm gonna stop you there for a moment.

Jocelyn FORTIN:

Yes.

Maître Anil KAPOOR:

Q703. OK. Carry on.

Jocelyn FORTIN:

Maître Anil KAPOOR:

Q704. Uh-huh.

Jocelyn FORTIN:

Maître Anil KAPOOR:

Q705. All right, I see.

Jocelyn FORTIN:

Correct.

Maître Anil KAPOOR:

Q706.

Jocelyn FORTIN:

He should.

Maître Anil KAPOOR:

Q707. So an expert in this field would turn their mind to

Jocelyn FORTIN:

He could think that's it's

Maître Anil KAPOOR:

Q708. And, we know from your chart, exhib... appendix A, my Lord, to his uh... affidavit marked... I think 32.16 we once said...

Maître Alexis GAUTHIER:

14...

Maître Anil KAPOOR:

Q709. 14... thank you. And we know that in the query mode,

Jocelyn FORTIN:

Correct.

Maître Anil KAPOOR:

Q710.

Jocelyn FORTIN:

Correct.

Maître Anil KAPOOR:

Q711.

Jocelyn FORTIN:

Maître Anil KAPOOR:

Q712. I mean,

Jocelyn FORTIN:

Yeah.

Maître Anil KAPOOR:

Q713.

Jocelyn FORTIN:

Correct.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Anil KAPOOR: Q714. And, you know... I mean, you're familiar with those uh...

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: Q715. And

Jocelyn FORTIN: They described

Maître Anil KAPOOR: Q716. Yes, and in relation to

Jocelyn FORTIN: Correct.

Maître Anil KAPOOR: Q717.

Jocelyn FORTIN: Correct.

Maître Anil KAPOOR: Q718. They

Jocelyn FORTIN: Correct.

Maître Anil KAPOOR: Q719. So and expert such as yourself would understand that

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: Q720.

Jocelyn FORTIN: Correct.

Maître Anil KAPOOR: Q721. And I never s... to you, that

Jocelyn FORTIN:

Maître Anil KAPOOR: Q722. Yeah, not the...

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: Q723. And the one you used in this case?

Jocelyn FORTIN: We used the

Maître Anil KAPOOR: Q724. No, no, no... but that mo...

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: Q725. You used in this case?

Jocelyn FORTIN: Correct.

Maître Anil KAPOOR: Right.

15:41 hrs

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Anil KAPOOR:

Q726. So I'm gonna suggest to you that [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

A portion has been disclosed.

Maître Anil KAPOOR:

Q727. Yes. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

That's not the only technique out there.

Maître Anil KAPOOR:

Q728. No, no, no! I didn't ask that question.

Jocelyn FORTIN:

OK, OK.

Maître Anil KAPOOR:

Q729. But... th... the an... the question you answered was, "Are there other techniques out there?" I didn't ask that question.

Jocelyn FORTIN:

OK.

Maître Anil KAPOOR:

Q730. The question I asked you...

Jocelyn FORTIN:

Yes...

Maître Anil KAPOOR:

Q731. Was... that... that... that... [REDACTED]
[REDACTED]

Jocelyn FORTIN:

That's correct.

Maître Anil KAPOOR:

Q732. OK. And so... again, when you take a look at... (Shuffling pages) and the exhibit number for this is gonna, escape me, my Lord, it is what was referenced by Corporal Richdale...

Maître Alexis GAUTHIER:

The ex parte 1?

Maître Anil KAPOOR:

Yes, and I think it was on the um...

Maître Alexis GAUTHIER:

EP32.11A.

Maître Anil KAPOOR:

The... the...

Maître Alexis GAUTHIER:

Basic...

Maître Anil KAPOOR:

_____ maybe... this one? Yes.

Maître Alexis GAUTHIER:

Basic? Yeah.

Maître Anil KAPOOR:

Yeah.

Maître Alexis GAUTHIER:

EP32.11A.

Maître Anil KAPOOR:

EP32.11A.

Justice Michael STOBER:

Thank you.

(Unidentified sounds)

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Anil KAPOOR: I don't know if y... you... do you have that my Lord, it's uh... it looks like this?

Justice Michael STOBER: Yeah.

(Shuffling of paper)

Maître Anil KAPOOR: **Q733.** Thank you. I have an extra copy that... for you to follow along with uh... sir.

Jocelyn FORTIN: OK.

(Shuffling of paper)

Maître Anil KAPOOR: **Q734.** So this was marked and filed by your colleague, Corporal Richdale.

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: **Q735.** And so you look at this... going pass the first page to this... to the [REDACTED] the... the... the... heading is, do you see that there?

Jocelyn FORTIN: Yeah.

Maître Anil KAPOOR: **Q736.** OK, so this... these three slides...

(Incomprehensible)

Maître Anil KAPOOR: Yeah, um... taken together describe s... sort of [REDACTED] if I can call it that?

Jocelyn FORTIN: Yes, that's correct.

Maître Anil KAPOOR: **Q737.** All right. And I'm going to suggest to you sir, that these three slides [REDACTED]

Jocelyn FORTIN: That is... (Pause) That is the technique that has been described.

Maître Anil KAPOOR: **Q738.** Yes, and because we've dis.. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN: No, I don't agree.

Maître Anil KAPOOR: **Q739.** Releasing these slides does not [REDACTED] would you agree with that?

Jocelyn FORTIN: No, but it reveals [REDACTED]

Maître Anil KAPOOR: **Q740.** I didn't... I didn't ask you what it does reveal...

Jocelyn FORTIN: Yes, OK...

Maître Anil KAPOOR: **Q741.** I asked you, it doesn't [REDACTED] does it?

Jocelyn Fortin, July 22, 2015, ex parte transcript

Jocelyn FORTIN: It doesn't [REDACTED] no.

Maître Anil KAPOOR: Q742. It doesn't [REDACTED] does it?

Jocelyn FORTIN: It doesn't [REDACTED]

Maître Anil KAPOOR: Q743. Uh... or... or the things you talked about, [REDACTED]
[REDACTED] for example.

Jocelyn FORTIN: That's correct.

Maître Anil KAPOOR: Or the...

Justice Michael STOBER: Q744. When you say... when you say that's correct, you mean that it does not reveal [REDACTED]

Jocelyn FORTIN: Those slides?

Justice Michael STOBER: Q745. Yeah. You said that's correct...

Jocelyn FORTIN: OK, OK...

Justice Michael STOBER: Just a minute, when you said, "that's correct" you were agreeing with his question, because reading something with that can be ambiguous. So ask the question in a different way...

Maître Anil KAPOOR: Q746. Certainly. Do these slides reveal [REDACTED]

Jocelyn FORTIN: That does not reveal.

Maître Anil KAPOOR: Q747. OK. These slides do reveal [REDACTED]?

Jocelyn FORTIN: Correct.

Maître Anil KAPOOR: Q748. These slides um... do reveal essentially that the MDI [REDACTED] receive their INI...IMEI and their IMSI?

Jocelyn FORTIN: Yes.

Maître Anil KAPOOR: Q749. [REDACTED]

Jocelyn FORTIN: Correct.

Maître Anil KAPOOR: Q750. Again, covered by the... [REDACTED]

Jocelyn FORTIN: Yes, but...

Maître Anil KAPOOR: Q751. You can give me the "but" now.

(Chuckles)

Jocelyn FORTIN: OK.

Maître Anil KAPOOR: Q752. I know you... you've been waiting to give me the "but", lay it on me.

Jocelyn FORTIN: [REDACTED]
[REDACTED]

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Maître Anil KAPOOR: Q753. Uh-huh...

Jocelyn FORTIN: [REDACTED]

Maître Anil KAPOOR: Q754. Uh-huh...

Jocelyn FORTIN: [REDACTED]

Maître Anil KAPOOR: Q755. Uh-huh...

Jocelyn FORTIN: And they don't mention [REDACTED]

Maître Anil KAPOOR: Q756. No! Definitely, no!

Jocelyn FORTIN: They don't mention the RCMP...

Maître Anil KAPOOR: Q757. No.

Jocelyn FORTIN: And what I'm trying to protect here...

Maître Anil KAPOOR: Q758. Uh-huh...

Jocelyn FORTIN: Is the technique that we're using.

Maître Anil KAPOOR: Q759. Which is what?

Jocelyn FORTIN: The fact [REDACTED]

Maître Anil KAPOOR: Q760. This? You wanna protect [REDACTED]

Jocelyn FORTIN: I wanna protect the fact that [REDACTED]
[REDACTED]
[REDACTED]

Maître Anil KAPOOR: Q761. So let me get this straight, you wanna protect [REDACTED]
[REDACTED]

Jocelyn FORTIN: I wanna protect the fact that [REDACTED]
[REDACTED]

Maître Anil KAPOOR: Q762. OK, so we can release [REDACTED]

Jocelyn FORTIN: And then, if I cannot protect [REDACTED]

Maître Anil KAPOOR: Q763. Let's (PH) stop you there for a minute... you say, you wanna protect [REDACTED] I say, is that [REDACTED]
You say, [REDACTED]

Jocelyn FORTIN: I wanna protect the technique that we use.

Maître Anil KAPOOR: Q764. Which is what?

Jocelyn FORTIN: We use the [REDACTED]

Maître Anil KAPOOR: Q765. You wanna protect [REDACTED]

Jocelyn FORTIN: I wanna protect [REDACTED]

Maître Anil KAPOOR: Q766. You wanna protect what's public... right?

Jocelyn FORTIN: I wanna protect our technique, which is not public.

Jocelyn Fortin, July 22, 2015, ex parte transcript

Maître Anil KAPOOR:

Q767. This... is a s... is e... e... exactly what I'm gonna suggest to you sir, what's revealed in public, that's what I'm gonna suggest to you, you can agree or disagree, that this is what's already out there in the public, this technique.

Jocelyn FORTIN:

Technique is out...

Maître Anil KAPOOR:

Q768. OK. Let's talk about authorship then. Let's talk about the fact that the RCMP used this. OK. In other words, aut... the RCMP's authoring the [REDACTED] in this litigation... not litigation, investigation, right? So I take it you wanna protect the fact that the RCMP used [REDACTED] right?

Jocelyn FORTIN:

Correct.

Maître Anil KAPOOR:

Q769. It's not about the [REDACTED] particularly; it's about the fact that the RCMP used it, right?

Jocelyn FORTIN:

[REDACTED]

Maître Anil KAPOOR:

Q770. Well we'll get to [REDACTED] You've told his Lordship that.

Jocelyn FORTIN:

Yes.

Maître Anil KAPOOR:

Q771. You could ____ that ship has sailed, right?

Jocelyn FORTIN:

It's not... sorry?

Maître Anil KAPOOR:

Q772. That ship has sailed, [REDACTED]

Jocelyn FORTIN:

And I... [REDACTED]
[REDACTED]

Maître Anil KAPOOR:

Q773. Absolutely, so this notion that somehow you've gotta protect this thing [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

If... when I heard... hear argument like that, then, [REDACTED]
[REDACTED]
[REDACTED] they would do
heat check when surveillance is on them, they would do
everything possible to avoid being caught.

Maître Anil KAPOOR:

Q774. Hmm...

Jocelyn FORTIN:

[REDACTED]

Maître Anil KAPOOR:

Q775. Uh-huh...

Jocelyn FORTIN:

Even though [REDACTED]
[REDACTED]

Maître Anil KAPOOR:

Q776. Uh-huh...

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Jocelyn FORTIN:

I was able [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Maître Anil KAPOOR:

Q777. All right, so let's unpack that. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Anil KAPOOR:

Q778. Yes. Can you just... y... you... you'll do... do certainly
me a favor if nobody else to answer the questions, [REDACTED]
[REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Anil KAPOOR:

Q779. All right. You've already testified for this court
(clearing throat) that... [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

Correct?

Maître Anil KAPOOR:

Q780. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

Uh-huh...

Maître Anil KAPOOR:

Q781. The chart... and the [REDACTED]

Jocelyn FORTIN:

OK, yes.

Maître Anil KAPOOR:

Q782. Slide thing.

Jocelyn FORTIN:

Correct.

Maître Anil KAPOOR:

Q783. Right?

Jocelyn FORTIN:

Correct.

Maître Anil KAPOOR:

Q784. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

Correct.

Maître Anil KAPOOR:

Q785. All right. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

Correct.

Maître Anil KAPOOR:

Q786. OK. And... [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

Yes.

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Maître Anil KAPOOR:

Q787. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

I...

Maître Anil KAPOOR:

Q788. Yes or no?

Jocelyn FORTIN:

Can you repeat the question?

Maître Anil KAPOOR:

Q789 [REDACTED]
[REDACTED]

Jocelyn FORTIN:

I'm sorry, uh...

Maître Anil KAPOOR:

Q790. [REDACTED]

Jocelyn FORTIN:

[REDACTED]

Maître Anil KAPOOR:

Q791. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

Yes.

Maître Anil KAPOOR:

Q792. Right. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

As we speak, it is.

Maître Anil KAPOOR:

Q793. Y... uh... uh... it's well... yeah, maybe for the next ten minutes, [REDACTED]

Jocelyn FORTIN:

Yes.

Maître Anil KAPOOR:

Q794. OK! [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

That's correct.

Maître Anil KAPOOR:

Q795. Right. And in fact, has the RCMP done studies on the [REDACTED]
[REDACTED]

Jocelyn FORTIN:

No.

Maître Anil KAPOOR:

Q796. No! No audit at all at the RCMP on that issue, is there?

Jocelyn FORTIN:

No.

Maître Anil KAPOOR:

Q797. No! You just come to court and say it, right? Without any data to support it, right?

Jocelyn FORTIN:

Correct.

Maître Anil KAPOOR:

All right, those are my questions right now; I'll have to carry on tomorrow morning.

Justice Michael STOBER:

_____.

(Pause and shuffling of paper)

Jocelyn Fortin, July 22, 2015, ex parte transcript

Justice Michael STOBER:

Q798. I think after that exchange and, Mr. Fortin, uh... what we're trying to do is um... we're trying to protect the technique the RCMP is using, as you say, so that you can uh... gather evidence against criminal organizations. But um... it's kind of like a cat and mouse game because if it's... if... [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

That's correct.

Justice Michael STOBER:

Q799. OK. Um, I don't think it was with you, it was with, I... I believe um, Mr. Richdale, your colleague. And, I gave the example of uh... wiretap evidence, which is very effective in crime investigation everywhere in the world, particularly in North America, the United States and Canada are the most familiar with, correct?

Jocelyn FORTIN:

Correct, yes.

Justice Michael STOBER:

Q800. It's been used for about 50 years, would you say?

Jocelyn FORTIN:

Uh-huh...

Justice Michael STOBER:

Q801. OK, you have to say, yes or no.

Jocelyn FORTIN:

Yes, sorry, yes.

Justice Michael STOBER:

Q802. All right. And um... you'll agree with me that everyone involved in criminal activity they knows... they know the police have the capacity to intercept telephone conversations, whether on landline, wireless, cell phones, etc... They all know that, correct?

Jocelyn FORTIN:

Correct.

Justice Michael STOBER:

Q803. But, notwithstanding the fact that this investigation technique is well known in public, f... for decades, the police forces in Canada including the RCMP continue to intercept telephone conversations um... that lead to evidence, bringing people to court on criminal charges and leading to convictions, you're aware of that?

Jocelyn FORTIN:

Yes.

Justice Michael STOBER:

Q804. Many cases are... are based solely on wiretap evidence, correct?

Jocelyn FORTIN:

That... that's probably true, I cannot...

Justice Michael STOBER:

Q805. OK. But... and for the RCMP and other forces, police forces, they use this technique and those involved in criminal activity know about it. You've already answered, yes.

Jocelyn FORTIN:

Yes.

Justice Michael STOBER:

Q806. So, what Mr. Kapoor has been asking you, and I'm sure he's gonna revisit the issue tomorrow, is that personally um...

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those involved in criminal activity are aware that police forces have an MDI, and it's been disclosed here, it's been disclosed elsewhere in Canada as well, and it's been disclosed in the United States, it's been disclosed in a [REDACTED] and elsewhere, you're familiar with that?

Jocelyn FORTIN:

Yes.

Justice Michael STOBER:

Q807. And the technique, particularly the [REDACTED] that Mr. Kapoor just questioned you on, um... [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

Correct, yes.

Justice Michael STOBER:

Q808. So, although all of this is out in the public domain, y... your position is that you just don't want anyone knowing anything other than the fact that you use an MDI. You don't want them to know where you get it, you don't want them to know what kind (PH) it is, you don't want them to know um... the different features or techniques you use in order to uh... capture the serial number and the SIM card, um...
[REDACTED]
[REDACTED]

(Unidentified sounds)

Jocelyn FORTIN:

That's correct.

Justice Michael STOBER:

Q809. So what I'd like you to do, and I'm gonna leave this with Mr. Kapoor, I'd like you to consider that, what we just uh... are question and answering session here and you come back tomorrow, consider this, um... just compare the scenario with the MDI which has been on the market for how long...?

(Pause)

Jocelyn FORTIN:

Psst... I don't know, we uh... we act... acquired it in...

Justice Michael STOBER:

Q810. Parts of that process...

Jocelyn FORTIN:

Two thousand... ten years.

Justice Michael STOBER:

Q811. About ten years. All right, so the MDI is on the market for about ten years, and uh... you stated your position which I won't repeat and you've answered my questions in addition to Mr. Kapoor's arguments, under these um... variations. Um... wiretap evidence has been in existence for a lot longer than the MDI (PH), not just one decade but several decades as I mentioned before and you agreed with me, that the police continue to be successful, as you agreed, um... but that's out there and that's disclosed. Now whatever... technique or phone app or feature the police use in implementing wiretap uh... techniques, are notwithstanding the fact that the... those individuals involved in criminal

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activity know, they continue speaking on the phones and their conversations get intercepted in the forms of a basis of evidence.

Jocelyn FORTIN:

Yes.

Justice Michael STOBER:

Q812. And the issues of.. [REDACTED]

[REDACTED] whether it's a bug or whether it's a telephone intercept, very often the police are in a similar vicinity as they are with the MDI, do you agree?

Jocelyn FORTIN:

Psst... that is correct.

Justice Michael STOBER:

Q813. All right. So the danger's really... not higher with respect to the MDI, as it would be for some of these other techniques.

Jocelyn FORTIN:

When we are talking about installing the bug or tracking device and I'm not an installer, that's not what I do for a living, [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Justice Michael STOBER:

Q814. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

Sorry?

Justice Michael STOBER:

Q815. [REDACTED]

Jocelyn FORTIN:

Yes.

Justice Michael STOBER:

Q816. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

Correct.

Justice Michael STOBER:

Q817. [REDACTED]
[REDACTED]
[REDACTED]

Jocelyn FORTIN:

That's correct.

Justice Michael STOBER:

Q818. And uh... just one more question before we end for the day. Uh, Mr. Kapoor asked you about paragraph 36 about three types of um.. [REDACTED]
[REDACTED]

Jocelyn FORTIN:

Yes.

Justice Michael STOBER:

Q819. OK. Then um... and then that was um... blacked out and copied into the _____, paragraphs 37 to 50 were also blacked out, they described the um... the nature of the ch... [REDACTED] you d...uh... identified.

Jocelyn FORTIN:

Correct.

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Justice Michael STOBER: Q820. Um... [REDACTED]
[REDACTED]

Jocelyn FORTIN: They are.

Justice Michael STOBER: Q821. But, you don't want that disclosed either?

Jocelyn FORTIN: That's correct.

Justice Michael STOBER: Um... so it's uh... two minutes to four and the clock be... it might be... before we end for the day, uh, Mr. Kapoor is there anything you wanted to ask _____ or you want to save it for tomorrow?

Maître Anil KAPOOR: No I'm... I'm... I'm fine. I'll um... finish with the witness tomorrow.

Justice Michael STOBER: OK.

Maître Anil KAPOOR: I would just ask that he'd be _____.

Justice Michael STOBER: Very well. Maître Gauthier, anything else today?

Maître Alexis GAUTHIER: No thank you, sir.

Justice Michael STOBER: Q822. Um... uh... thank you very much for your patience today and uh... it's a long day for you, and um... and then tomorrow again if there's any need to sit down at some point uh... just uh... signal the court um... and uh... we'll arrange a seat for you.

Jocelyn FORTIN: Thank you.

Justice Michael STOBER: Q823. All right, um... I uh... I'm directing you not to discuss your evidence, the questions, the answers, uh... the documents, anything with respect to this case, um... because you're in cross-examination, now whether it's in the ex parte hearing, or anything that happened in public hearing, um... you can't discuss it with anybody, including the Crown lawyers.

Jocelyn FORTIN: OK.

Justice Michael STOBER: Q824. Or the police _____ or anyone else for that matter, I think you know that.

Jocelyn FORTIN: OK.

Justice Michael STOBER: Q825. All right. Uh... that's understood?

Jocelyn FORTIN: That's understood.

Justice Michael STOBER: Thank you very much. I wish you a goodnight and uh... we'll see you tomorrow at uh... 9:30? All right, 9:30.

Maître Anil KAPOOR: Can I just ask that we start at 10:00.

Justice Michael STOBER: Yeah.

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Maître Anil KAPOOR: I have a conference call that at 8:00 that I have to deal with?

Justice Michael STOBER: _____

Maître Anil KAPOOR: Thank you.

Justice Michael STOBER: I'll uh... let me just ask uh... you'll be just... approximately _____

Maître Anil KAPOOR: I'm probably...

Justice Michael STOBER: 9:00?

Maître Anil KAPOOR: Um... huh, no, I hope not!

(Chuckles)

Maître Anil KAPOOR: Uh... but to the break I would think.

Justice Michael STOBER: OK.

Maître Anil KAPOOR: I'm gonna try and... and _____ this little bit and sort of cross off what I don't need to deal with.

Justice Michael STOBER: OK, and um... just in terms of redirect, have you... if you don't know, you don't know Maître Gauthier, but do you have an idea?

Maître Alexis GAUTHIER: For the time being, we... we don't see any reason why.

Justice Michael STOBER: OK. Uh... and it's unknown if we're gonna commence the public portion of uh, Mr. Richdale's testimony tomorrow afternoon, we don't know at this point. Um... is it possible if we take a break, and you verify that, then we might have the answer or it's too early?

Maître Alexis GAUTHIER: I think that it's... it's too early...

Justice Michael STOBER: OK...

Maître Alexis GAUTHIER: And we don't know yet when we will get the transcript for Monday, for last Monday, so... I think that we will provide the answer to the court tomorrow morning, sir.

Justice Michael STOBER: All right, so it seems likely that we'll finish this ex parte hearing with this witness tomorrow morning.

Maître Alexis GAUTHIER: Yeah.

Justice Michael STOBER: Approximately.

Maître Alexis GAUTHIER: Yeah.

Justice Michael STOBER: And uh... we may have the public portion of Mr. Richdale's evidence tomorrow afternoon or Friday.

Maître Alexis GAUTHIER: Yeah.

Justice Michael STOBER: And if... they're still not ready, then it'll have to be at... in the fall.

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Maître Alexis GAUTHIER: That's correct.

Justice Michael STOBER: OK. So, uh... having said that um... is 10:15 better for you?

Maître Anil KAPOOR: Sure, yeah, yeah...

Justice Michael STOBER: All right (PH)...

Maître Anil KAPOOR: That... that's fine, yeah.

Justice Michael STOBER: Uh... and _____ do you have a matter in the morning?

Maître Anil KAPOOR: Yeah, I have a conference call at 8:00, so...

Justice Michael STOBER: Hum...

Maître Anil KAPOOR: Which could take half an hour or 40 minutes, so... maybe 10:15 with traffic?

Justice Michael STOBER: OK. 10:15 and um... if you know that you're gonna be uh... later than that for some reason, let uh, Mr. Gauthier know.

Maître Anil KAPOOR: I will, I don't expect so but if that happens I'll let him know...

Justice Michael STOBER: You could probably... you can text him?

Maître Anil KAPOOR: Yeah.

Justice Michael STOBER: And uh...

Maître Anil KAPOOR: Well I mean, I... I'm gonna download all those apps now, so I don't _____

(Laughing)

Justice Michael STOBER: I think you know how to do that and um... and then if that happens, Mr. Gauthier will advise the clerk.

Maître Alexis GAUTHIER: Yes, sir.

Justice Michael STOBER: Who will let me know, if it's well enough in advance I'll wait before coming.

Maître Alexis GAUTHIER: Yeah.

Justice Michael STOBER: So I appreciate that, 10:15 tomorrow morning.

Maître Anil KAPOOR: OK, thank you very much, my Lord...

Justice Michael STOBER: Thank you very much and have a goodnight...

Maître Alexis GAUTHIER: Same to you.

Maître Marie Christine GODBOUT: What time is it Mme Léonard?

Corporal Caroline LÉONARD: Yes... end of recording uh...

(Clearing of throat)

Corporal Caroline LÉONARD: 16:03. 16:03.