

1 Mr. Vigna had gotten up to object,
2 but the witness says that he doesn't know.

3 I don't know if that was in the
4 evidence. That's what I am saying, it might have been
5 in the evidence that I heard in that case, Ms Kulaszka.

6 MS KULASZKA: If someone is a
7 respondent at a hearing, in a complaint before the
8 Commission, and they are also the subject of either a
9 criminal charge or a search warrant, do you have an
10 arrangement with the police to exchange information
11 regarding that person?

12 MR. VIGNA: Mr. Chair, I object to
13 the question.

14 THE CHAIRPERSON: Why?

15 MR. VIGNA: Unless the question is
16 made more clear, because I don't quite understand --
17 Maybe the question could be better
18 specified. Then I wouldn't have a need to object.

19 MS KULASZKA: It is clear that in
20 several of these cases this is to be remedial
21 legislation. It is to ameliorate discrimination, and
22 yet, when we look at these cases, very often police
23 officers are being called to testify, and they are
24 using evidence that police powers have been used to
25 garner, and this evidence is being put forward in front

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1 of hearings to do with remedial legislation.

2 So I am trying to get at: What is
3 the relationship between the police and the Commission
4 in these cases.

5 THE CHAIRPERSON: Right. So let's
6 hear your question.

7 MS KULASZKA: That's my question.
8 What is the relationship between the police and the
9 Commission in these types of cases?

10 MR. VIGNA: Mr. Chair, I would object
11 under section 37, in terms of information that is
12 provided as part of the investigation.

13 It is known to the Tribunal, as part
14 of several hearings, that police officers were called
15 in Tribunal hearings. I don't think we need to know
16 more than that.

17 In any civil proceeding, it doesn't
18 impede a police officer, as a witness of certain facts,
19 to be called before the civil proceeding, also.

20 But if we go further than that, in
21 terms of trying to find out about investigation
22 techniques, and what has been said between the police
23 and --

24 THE CHAIRPERSON: I think what is
25 being alluded to, if I understood Ms Kulaszka's

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1 comments just before the question, is whether some sort
2 of protocol exists, or an understanding, between these
3 two actors on this stage, if I could use the term.

4 I think that is the point of her
5 question.

6 Is that correct, Ms Kulaszka?

7 MS KULASZKA: Yes.

8 THE CHAIRPERSON: I don't know to
9 what extent --

10 Let me back up a bit. That would
11 also, for them, be part of their ultimate submissions
12 on the larger question.

13 That is the specific question, Mr.
14 Vigna. Are you invoking section 37 to prevent this
15 witness from telling us if there is some sort of
16 understanding in place between police forces in Canada
17 and the Commission on the exchange of information?

18 Would that be the question, Ms
19 Kulaszka?

20 MS KULASZKA: Yes, the exchange and
21 use of information.

22 THE CHAIRPERSON: That is the
23 question.

24 Are you objecting under section 37,
25 Mr. Vigna?

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1 If you are, I would ask you to
2 specify to me the specific public interest being
3 invoked.

4 MR. VIGNA: If the question is
5 limited to only that specific question, but not to go
6 any further into the details, I will not object. But
7 if it goes further, I will object based on public
8 interest and investigation techniques.

9 THE CHAIRPERSON: I am going to ask
10 you to specify that every time from now on, just so it
11 is clear on the record.

12 You heard the question, sir?

13 MR. STEACY: Yes, I think I am clear.

14 We don't have any specific written
15 agreements with any police forces on the sharing of
16 information.

17 MS KULASZKA: Is there any kind of
18 oral agreement?

19 MR. STEACY: Yes.

20 MS KULASZKA: What is that?

21 MR. VIGNA: I object, Mr. Chair, on
22 the grounds that I mentioned earlier, investigation
23 techniques and the public interest.

24 MS KULASZKA: The question is the
25 same, except, is it written or oral?

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1 He said there was no written. I
2 asked was there oral, and he said yes.

3 So it's the same question.

4 MR. VIGNA: But she is asking
5 further, in terms of what the agreement is.

6 THE CHAIRPERSON: Are you invoking
7 section 37 of the Canada Evidence Act, that the
8 information should not be disclosed on the grounds of a
9 specified public interest?

10 And that specified public interest
11 is...?

12 MR. VIGNA: Jeopardizing the
13 investigations and the operations of the Commission, as
14 well as potential criminal investigations.

15 THE CHAIRPERSON: That is the answer.
16 They have invoked section 37. You will have it on the
17 transcript, Ms Kulaszka.

18 MS KULASZKA: You were the
19 investigator on a complaint filed by Andrew Guille
20 against an Alan Dutton, were you not?

21 MR. STEACY: Yes, I was.

22 MS KULASZKA: During the course of
23 writing your report you contacted the police in London,
24 did you not?

25 MR. STEACY: Yes, I did.

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1 MS KULASZKA: I will read from your
2 investigator's report.

3 For the Tribunal, that is found in
4 R-3, at Tab 3. The pages aren't numbered, but the
5 investigator's report is four pages from the back.

6 Mr. Steacy, I am going to read from
7 paragraph 10 of your investigator's report. It is
8 found at page 3 of 5.

9 THE CHAIRPERSON: This is the
10 investigation report in the Andrew Guille file.

11 MS KULASZKA: That's right.

12 This was a complained filed by Andrew
13 Guille against Mr. Dutton. Right?

14 MR. STEACY: I believe it was
15 actually against "recomnet".

16 Mr. Dutton is the Executive Director
17 of the organization that runs that website.

18 MS KULASZKA: I am looking at page 1,
19 which is the actual complaint, and the respondents were
20 Alan Dutton, Helmut-Harry Loewen, Dale Cornish and
21 Analogue Echo.

22 MR. STEACY: I believe that Analogue
23 Echo was taken out of the actual complaint.

24 The rest of what you have there
25 sounds correct.

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1 MS KULASZKA: At paragraph 10 of your
2 investigator's report you wrote:

3 "On July 13, 2006, the
4 investigator interviewed Sgt.
5 Don McKinnon of the London
6 Police Force. He indicated that
7 Mr. Guille's contention that he
8 is not a member of any white
9 supremacist or neo-Nazi
10 organization is technically
11 correct because none of these
12 organizations compile membership
13 lists. However, he advised that
14 Mr. Guille is known by the
15 police to be closely associated
16 with white supremacist
17 organizations in the
18 southwestern Ontario region. He
19 indicated that he also has
20 pictures of Mr. Guille partying
21 with white supremacists at
22 several different rallies that
23 they have held in southwestern
24 Ontario."

25 To get that information did you just

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1 call up Sgt. McKinnon?

2 MR. STEACY: Yes.

3 MS KULASZKA: And he freely gave you
4 this information?

5 MR. STEACY: Yes.

6 MS KULASZKA: Is he a member of the
7 Hate Crimes Unit down there?

8 MR. STEACY: I believe so.

9 MS KULASZKA: Is it understood,
10 basically, that if you need information, they will
11 freely give that information to you concerning people
12 of interest?

13 MR. STEACY: I wouldn't characterize
14 it that they would freely give me any information.

15 MS KULASZKA: Are there any rules
16 about confidentiality of this type of information that
17 the police may have on people?

18 MR. STEACY: You would have to ask
19 the police.

20 MS KULASZKA: But as far as your
21 experience at the Commission is concerned, they will
22 basically give you any kind of information you want
23 about someone?

24 MR. STEACY: No, that's not correct.

25 MS KULASZKA: Have you been refused

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1 information?

2 MR. STEACY: Yes.

3 MS KULASZKA: What kind of
4 information?

5 MR. VIGNA: Objection, Mr. Chair.
6 Section 37. What kind of information is being obtained
7 or refused, I think it would be part of the
8 investigative privilege.

9 THE CHAIRPERSON: Say that again?

10 MR. VIGNA: Section 37. Public
11 interest. The information that would be disclosed or
12 not disclosed, I think, would be all part of the same
13 privilege, the public interest privilege, that this
14 type of information does not need to be put in the
15 public domain.

16 THE CHAIRPERSON: Okay. You have
17 mixed up the terms, but I gather you are invoking the
18 exact same reasons that you just invoked earlier,
19 section 37?

20 MR. VIGNA: Yes.

21 THE CHAIRPERSON: It is noted for the
22 record.

23 Ms Kulaszka?

24 MS KULASZKA: How often do you think
25 you would use the police as a source of information in

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