

(9:10 a.m.)

MR. SAUNDERS, PRESIDING CHAIRMAN: Good morning all. A nice sunny morning. Any preliminary matters, Ms. Newman?

MS. NEWMAN: Mr. Chairman, I understand that there may be one matter that the Consumer Advocate wishes to speak to. I don't know if he wishes to speak to it now or later but ...

MR. O'FLAHERTY: Yes, just one matter. I'd just like to correct the record in one respect. Page 30 of the transcript yesterday, Mr. Whalen was questioning Mr. Simpson in redirect, and this concerns the Exhibit ... sorry, I'll wait for you to get to the excerpt at line 26 and following.

MR. SAUNDERS, PRESIDING CHAIRMAN: Yes.

MR. O'FLAHERTY: I think if we get to line 32, this is really the heart of it, Mr. Whalen is speaking, he says, "He says on line 14 of page 41, 'So when I look at the report, the Board's actuary concluded that the loss costs were,' and I'm quoting now from the report, 'consistently and significantly lower.'" And when he actually got to the report, I think the report, which is on the next page, page 42, "Now, the question I have ... no, I'm sorry, it's up above, it's on line 4," and he's quoting again and the words are, "appear to have significantly overestimated the loss costs. Do you know if there was anything in this report where they used the word consistently overestimated or consistently underestimated?" And you may recall, Mr. Chairman, that I was trying to look through the document ...

MR. SAUNDERS, PRESIDING CHAIRMAN: Yeah.

MR. O'FLAHERTY: ... but I didn't have the document. If I can refer you at, this is Information No. 6, page 13.

MR. SAUNDERS, PRESIDING CHAIRMAN: Info 6, page 13, yeah.

MR. O'FLAHERTY: This is the report, "On Review of Causes of Operating Surpluses." The third bullet point there indicates, "For accident years 1993 through 1996, the actual loss costs were consistently and significantly lower than the projected values," and that's the quote that I was reading to, back to Mr. Simpson on the, during my cross-examination, so I just wanted to place on the record that, you know, Mr. Simpson was not

provided with the incorrect quote by the Consumer Advocate and this report does conclude that the actual loss costs were consistently and significantly lower for the years indicated. That's the only preliminary matter.

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay, alright. Anything else by way of preliminary? If not, there were two questions that occurred to the panel members since we left here yesterday and I thought we would start by ... Mr. Martin, you have a question, I think.

COMMISSIONER MARTIN: I just have one question, Mr. Simpson, I should have asked you yesterday, but I think a couple of times in your testimony yesterday and also the day before, and I think it was in the context of discussing dislocation and that sort of thing, you made the comment that in FA's clientele or FA's insureds from year to year there's about a 50 percent turnover. I was wondering if you had any statistical basis or evidence for that comment or where does it come from?

MR. SIMPSON: That's what I've been told by the servicing carriers in two jurisdictions, this one and Alberta, so we don't keep that type of information but the servicing carrier representative that will be before you I think has some more precise statistics, but that's what I've been told.

COMMISSIONER MARTIN, Q.C.: Okay. So we can expect to hear something from them on it.

MR. SIMPSON: I would expect so, sir, yes.

COMMISSIONER MARTIN, Q.C.: That's all I have.

MR. SAUNDERS, PRESIDING CHAIRMAN: Thank you, Commissioner Martin. The other question, Mr. Simpson, has to do with the manner in which the assessments and distributions are dealt with. Now, I have an understanding of it but I just wanted for you to confirm for the record in relation to member companies if a company does not write any FA business or doesn't funnel any business through FA, is that company dealt with any differently in respect of distributions or assessments?

MR. SIMPSON: As I understand the question, sir, no, if they're licenced to write auto insurance in a province, they are subject to an assessment or distribution based

1 on ... it's detailed in the plan of operation but roughly
2 there's ...

3 MR. SAUNDERS, PRESIDING CHAIRMAN: Yes, on
4 the total industry premiums written.

5 MR. SIMPSON: Their share of the industry premiums
6 written ...

7 MR. SAUNDERS, PRESIDING CHAIRMAN: Yes, right.

8 MR. SIMPSON: ... regardless of their contact or
9 conduct vis-a-vis Facility Association.

10 MR. SAUNDERS, PRESIDING CHAIRMAN: Yes,
11 exactly.

12 MR. SIMPSON: Yes.

13 MR. SAUNDERS, PRESIDING CHAIRMAN: Thank
14 you. Okay, are you ready ... I'm sorry, questions
15 arising?

16 MR. O'FLAHERTY: Yes. I just have a couple of areas
17 that I want to have clarified arising from Board
18 questions. Good morning, Mr. Simpson.

19 MR. SIMPSON: Good morning.

20 MR. O'FLAHERTY: Can I refer you to page 35 of the
21 transcript, please? Do you have a copy of the
22 transcript of January 9th, 2003, in front of you?

23 MR. SIMPSON: Yes, I do. Page 35, yes.

24 MR. O'FLAHERTY: At line 61.

25 MR. SIMPSON: "Yes, Commissioner Powell," is that
26 the line you're talking about?

27 MR. O'FLAHERTY: Yes, this is a question ... if you just
28 want to refresh your memory as to that question, you
29 don't have to read it out loud. Just to orient ourselves,
30 Commissioner Powell is referring to the scatter chart, as
31 you've called it, which is the, one of the exhibits that
32 was entered previously in the hearing.

33 MR. SIMPSON: BGP No. 4, is that the ...

34 MR. O'FLAHERTY: BGP No. 4, yes.

35 MR. SIMPSON: Right.

36 MR. O'FLAHERTY: Perhaps we can bring that up as
37 well. Now, when I heard your answer to Mr. Powell's
38 question yesterday, I was left with the impression that
39 somehow the implementation of the accident and
40 conviction surcharge would see the Newfoundland
41 numbers move down and to the right. Now, I had
42 understood that this was meant to be a revenue neutral
43 change to Facility's rates in the province. Am I correct
44 on that?

45 MR. SIMPSON: Yes.

46 MR. O'FLAHERTY: And I also understood that, you
47 know, from hearing the evidence, that the numbers of
48 persons in Facility that are in renewal business are
49 about 60 percent, no accidents and no convictions.

50 MR. SIMPSON: As we discussed yesterday, yes.

51 MR. O'FLAHERTY: As we've discussed, okay. Now,
52 I'm wondering how it is that the accident and
53 conviction surcharge would move the numbers down
54 and to the right of this chart.

55 (9:15 a.m.)

56 MR. SIMPSON: To the extent that there are factors
57 predictive of loss, you know, we're talking about
58 relatively lower rates for clean drivers, that's the idea of
59 the clean driver discount, and higher rates, so over time
60 one would hope that you've got really the higher risk
61 driver insured through Facility Association, so
62 intuitively, to borrow the actuary's phrase, you would
63 hope that over time that that would assist in the effort
64 to depopulate Facility Association. There's also the
65 behaviour modification aspect we talked about where
66 there's a bit of a carrot and stick approach by going to
67 a more gradual surcharge schedule and offering that
68 clean driver discount and the fact that our servicing
69 carriers do order motor vehicle abstracts on renewal,
70 (inaudible) behaviour modification aspect, the whole
71 thing is geared towards helping those drivers that are
72 insured through FA because of their driving behaviour
73 rather than other risk characteristics as we described
74 yesterday to improve that driving behaviour and to
75 therefore exit the Facility mechanism and find a home,
76 if you will, in the voluntary market, so over time we'd
77 hoped to see that result. I don't know how you draw a
78 connection between that and the revenue neutral
79 aspect of it but the filing has been developed on a
80 revenue neutral basis, but because it is ... part of the
81 motivation is behaviour modification if we're successful

1 in that. Over time then we're hoping to help more of
2 these drivers restore their eligibility for the voluntary
3 market.

4 MR. O'FLAHERTY: Well, perhaps I could be more
5 specific. I understood this chart to show the
6 representation of the gap between the industry
7 premiums and the FA premiums.

8 MR. SIMPSON: That's true.

9 MR. O'FLAHERTY: So if the industry premium was
10 \$100 and the FA premium was \$300, then there would be
11 a 300 percent difference in the premium.

12 MR. SIMPSON: I'll accept that.

13 MR. O'FLAHERTY: And the further out you get on the
14 chart to the right, the higher the percentage gap.

15 MR. SIMPSON: Yes.

16 MR. O'FLAHERTY: So then if the implementation of
17 the accident and conviction surcharge is revenue
18 neutral, then one assumes that that doesn't have any
19 effect on the rates that are being charged to the FA
20 drivers.

21 MR. SIMPSON: On the overall rate level, it does not
22 have an effect. It certainly has an effect on the rate
23 being charged to individual FA drivers, and I'm
24 presuming that's what's driven a lot of the capping
25 discussion that's taken place at the hearing, but on the
26 basis of the overall rate level, it's intended to, you
27 know, be revenue neutral in order to achieve that 41.3
28 percent that we filed for, but, as I say, over time it's
29 designed to impact individual drivers differently
30 through the accident surcharge schedule, so on a going
31 forward basis we would expect to see then that, as more
32 and more of those drivers hopefully clean up their
33 behaviour, then what we've got is more people in the
34 surcharge arena paying those higher premiums relative
35 to the voluntary market because they're the higher risk.

36 MR. O'FLAHERTY: Right, okay. And ...

37 MR. SIMPSON: So over time we'd expect, you know, I
38 think that's a reasonable expectation to see.

39 MR. O'FLAHERTY: I think I got, I've got your point,
40 and in terms of the volume of the FA, which is the other
41 side, the market share of the FA, what impact does the

42 accident and surcharge, the imposition, sorry,
43 implementation of that particular measure have on the
44 number of persons or the population of FA or does it
45 have any impact on it whatsoever?

46 MR. SIMPSON: I don't think you're going to see an
47 impact tomorrow, as I've said, or today. As I said, over
48 time we would hope that the behaviour modification
49 aspect of that would lead to a lower market share and
50 therefore a higher average premium as the drivers with
51 truly worse records, that are truly unable to find
52 insurance anywhere else other than Facility
53 Association, are pretty much what's left of the driving
54 population insured through Facility Association.

55 MR. O'FLAHERTY: Now, just so I understand then
56 this chart, this is dependent upon the average industry
57 premium as well, isn't it?

58 MR. SIMPSON: Yes, and total average industry
59 premium includes FA premiums as well.

60 MR. O'FLAHERTY: So if the average industry
61 premiums in a given jurisdiction are lower than another
62 jurisdiction, then that's got to be taken into account on
63 the gap as well.

64 MR. SIMPSON: Well, I'll refer you to these data points,
65 the relativity is jurisdictional specific, so it's the
66 relationship between the FA average private passenger
67 premium in Newfoundland and Labrador relative to the
68 total industry average premium for Newfoundland and
69 Labrador, so it's the relationship between those two
70 that's illustrated here and for those data points it's the
71 information for the jurisdiction.

72 MR. O'FLAHERTY: Sure, and equally it's the
73 relationship between, for example, the Nova Scotia
74 industry premium and the FA premium in Nova Scotia.

75 MR. SIMPSON: That's precisely correct and as we've
76 talked about in Nova Scotia, New Brunswick, and
77 Alberta, we got down below one percent for a couple of
78 years. We're seeing that increase again.

79 MR. O'FLAHERTY: Okay, those are my questions on
80 that particular area. Actually, I think that's it, Mr.
81 Chairman. Thank you.

82 MR. SAUNDERS, PRESIDING CHAIRMAN: Okay,
83 thank you, Mr. O'Flaherty. Any questions arising, Ms.
84 Newman?

MS. NEWMAN: No, Mr. Chairman, there are not.

MR. SAUNDERS, PRESIDING CHAIRMAN: So we're back to you, Mr. Whalen.

MR. WHALEN, Q.C.: I have just two very brief areas to deal with. But, Mr. Simpson, I understood yesterday there was a few things you were asked to do. Maybe before I tidy up you could tell us how you've made out with that.

MR. SIMPSON: Certainly, if now is an appropriate time. There's a number of, for want of a better term, I'll describe as paper undertakings, various documents we have back at our office. We'll have that for the, have those down here Monday morning. The staff is in the process of compiling them on a more detailed note, and my assistant is taking a well-earned, well-deserved couple of days' vacation that she's still earned from last year, so I'm unable to pick up the phone and rely on her good auspices as I usually am, so ...

MR. SAUNDERS, PRESIDING CHAIRMAN: So she thought with you away she wouldn't have any work to do.

MR. SIMPSON: Well, we both ... she made the offer to stay behind in case such a situation arose but we moved our office in December, Mr. Chairman, she was key in that. A person needs some time off and she's taken it, but we will have that material on Monday.

MR. SAUNDERS, PRESIDING CHAIRMAN: Carry on.

MR. SIMPSON: There was some actuarial, things of an actuarial nature. I was able to contact Mr. Pelly by phone yesterday and I had it down as three different ones. The first one was regarding the inquiry from Ms. Newman on the commercial uninsured auto premium, \$19, and I was able to confirm with Mr. Pelly that that is, it is \$19 in Nova Scotia in the filing that is currently under review in that province, and that we will be submitting a commercial vehicle filing in Prince Edward Island likely by the end of this month and that will be \$19 as well in that filing, and they're all based on New Brunswick, and the reason for that is the brevity of history in the other three jurisdictions, there's a longer history in New Brunswick which lends, in Mr. Pelly's language, stability to the indications, and there's the additional justification that the statutory language around this coverage is very very similar across the four jurisdictions, so to the extent that the experience,

I think he would term it immature in the other three jurisdictions. New Brunswick is felt to be far more reliable. As the experience develops and emerges in the jurisdiction, one would hope that jurisdictional specific information can be used. So that's ... does that answer your inquiry?

Commissioner Powell had a question, we were talking about the impact of the profit provision on the rate as filed. A 10 percent return on equity calculation done by Mr. Pelly would cause the proposed rate to go from 41.3 percent to 51.8 percent, so about 10 1/2 percent, I had about 50 percent on my mind, I think, as I recalled yesterday, it's my understanding that the return on equity in the benchmarks used by the Board has been around the 8, 8 1/2 percent level the last couple of years, so kind of a back of the envelope calculation would probably bring you back around that 49 or 50 percent level, so that's the scope or the magnitude as calculated by Mr. Pelly of the impact of not filing for a return on equity with the application.

There was the additional matter of the drop in taxi market share in 1998 and the financial results, and he assured me that that was coincidental rather than causal and the shift in overall taxi premium was not of a magnitude to impact the financial results to any great degree, so that's what I have from him on those two matters, Commissioner Powell.

MR. WHALEN, Q.C.: Okay. Just two brief areas. There was a very brief discussion on the plan of operation. Has there been any substantial change to the plan of operation between our last hearing and now?

MR. SIMPSON: Other than the ones that I described as being of a housekeeping nature to incorporate the Territory of Nunavut. The language has changed to make the President and CEO gender neutral, although I have no particular plans in ...

MR. WHALEN, Q.C.: In that direction.

MR. SIMPSON: In that direction. But they were only of a housekeeping nature. There weren't any material changes to the plan. Forgive my brief attempt at humour here. It's been ... I'll try and keep that in check.

MR. WHALEN, Q.C.: So that's substantially the same. And there was some brief discussion of your financial

1 statements. Are they distributed and to whom are they
2 distributed on a regular basis?

3 MR. SIMPSON: Following their adoption at the annual
4 general meeting, which is typically April or May of
5 every year, they're distributed to all the members, the
6 regulatory community and, for that matter, they're
7 posted on our web site if any member of the public
8 would have an interest in looking at them.

9 MR. WHALEN, Q.C.: And these financial statements
10 report on, as the Chairman indicated, your in-house
11 operations, there's (unintelligible) for that, and your
12 operations in all of the jurisdictions in which you
13 operate.

14 MR. SIMPSON: Yes, and in my recollection, the
15 administrative expenses and various other matters are
16 broken out by jurisdiction in the financial statements.

17 MR. WHALEN, Q.C.: Okay. So for that, have to be
18 complex ... and have you had expressed to you any
19 concerns or comments about them, as to their
20 presentation since ...

21 MR. SIMPSON: Prior to yesterday, in my tenure as
22 President, no, neither from the members or, member
23 companies or the regulatory community.

24 MR. WHALEN, Q.C.: And I take it you'll take those
25 back to your auditors.

26 MR. SIMPSON: I made that promise yesterday and I'll
27 take it back to the auditors, I'll take it back to the Board
28 of Directors.

29 MR. WHALEN, Q.C.: Thank you. That's all I have.

30 MR. SAUNDERS, PRESIDING CHAIRMAN: Thank
31 you, Mr. Whalen. So, Mr. Simpson, I guess we're done
32 with you. Thank you very much.

33 MR. SIMPSON: Thank you, Mr. Chairman.

34 MR. SAUNDERS, PRESIDING CHAIRMAN: You're
35 very helpful.

36 MR. SIMPSON: Thank you.

37 MR. SAUNDERS, PRESIDING CHAIRMAN: Mr.
38 O'Flaherty, you have some ... I'm sorry, do you have
39 any other witnesses, Mr. Whalen?

40 MR. WHALEN, Q.C.: No. That's the case for Facility
41 unless there's something that the Board needs that we
42 haven't told you.

43 MR. SAUNDERS, PRESIDING CHAIRMAN: Okay. I
44 don't think ...

45 MR. WHALEN, Q.C.: I think that some of the day to
46 day housekeeping matters will probably be more clear
47 when we hear from the brokers and from the service
48 carrier.

49 MR. SAUNDERS, PRESIDING CHAIRMAN: Yes.

50 MR. WHALEN, Q.C.: It's a bit unfortunate that it's in
51 this fashion but ...

52 MR. SAUNDERS, PRESIDING CHAIRMAN: Yes, I
53 appreciate that.

54 MR. WHALEN, Q.C.: Thank you, Mr. Chairman.

55 MR. SAUNDERS, PRESIDING CHAIRMAN: Okay, Mr.
56 O'Flaherty, you have witnesses to call?

57 MR. O'FLAHERTY: Yes, Mr. Chairman. I do have a
58 brief opening statement which I deferred to this stage.

59 MR. SAUNDERS, PRESIDING CHAIRMAN: Very well.

60 MR. O'FLAHERTY: I won't be very long. Mr.
61 Chairman, Commissioners Martin and Powell, as you
62 are aware, myself and my partner represent the interests
63 of the province's consumers at this rate hearing and
64 you have before you an application by Facility
65 Association to approve rate revisions for both its
66 private passenger vehicle and commercial vehicle
67 business in this province. These rate revisions would,
68 and I'm going to focus on the mandatory coverages,
69 with respect to the mandatory third party liability
70 coverage, mean average overall changes of 60.5 percent
71 for private passenger vehicle coverage in Territory 1,
72 38.4 percent in Territory 2, and 54 percent in Territory 3,
73 as well, 59.2 percent for commercial vehicle coverage in
74 all territories in this province. The other mandatory
75 coverage increase that's sought is that of a commercial
76 vehicle uninsured and underinsured motorist coverage
77 to 216 percent. Now, these increases, in our
78 submission, are massive increases and they will have
79 very substantial impacts on a significant portion of our
80 population. It will be our submission that it is the
81 population that must primarily rely upon private

1 automobiles for transportation as a matter of practicality
2 in this province, and, as the intervenor's submission
3 indicates, our fundamental position is that increases of
4 this magnitude are simply not justified based on the
5 evidence that's been placed before you by Facility
6 Association and they should not be approved by the
7 Board.

8 It's not my purpose to argue the case at this
9 stage, merely to outline what evidence that we intend to
10 call in support of this proposition. We will call
11 evidence to establish that, firstly, the winter of 2000 and
12 2001 was an aberration both in terms of the
13 climatological conditions and in terms of the number of
14 accidents that occurred during that period. You already
15 have before you the raw numbers in terms of the loss
16 experience or the loss costs for that time period. We
17 will place before you evidence that shows that these
18 climatological conditions were an aberration, were, in
19 our submission, the 100 year storm, and did have an
20 impact, a direct impact on the number of accidents that
21 occurred in this jurisdiction in that time period, and for
22 those reasons and based on the evidence that we will
23 present, we will ask that you not consider this period of
24 time for the purpose of setting rates for the future.

25 Secondly, we also know from the evidence that
26 the residual market is no longer primarily made up of
27 high risk drivers in this province and we will outline for
28 you what the measures are in place from the
29 Government's perspective in order to address this
30 concern, which is a concern of the consumers in the
31 province.

32 Thirdly, we will outline for you that elderly
33 persons in this province will shoulder a
34 disproportionate burden of these increases on a
35 proportionate basis, and we will show that these rate
36 increases will make insurance to some of these persons
37 effectively unaffordable. Next, we will indicate that the
38 FA's operations in this province have been premised on
39 actuarial estimates in this province that have
40 consistently and significantly resulted in rate levels
41 that are in excess of the needs of FA and that the
42 overall impact on the companies that form the
43 membership of FA in this province since it's
44 commenced its operations has been a positive impact,
45 and the Board need not concern itself with these issues
46 that have been raised regarding cross subsidization and
47 impacts on member companies because when you look
48 at the numbers that we will present to the Board, at the
49 end of the day this has been a positive impact for the

50 insurance industry, whether in terms of the capital of
51 the company or whether in terms of the assessments
52 versus the distributions that have been made by
53 Facility Association. I will now turn the presentation of
54 the first witnesses in the Consumer Advocate's case to
55 my partner, David Goodland. Thank you for your
56 patience.

57 MR. SAUNDERS, PRESIDING CHAIRMAN: Thank
58 you.

59 *(9:30 a.m.)*

60 MR. GOODLAND: Thank you, Mr. Chairman and
61 Board members. The first witness of the Consumer
62 Advocate will be Thomas Beckett.

63 MR. SAUNDERS, PRESIDING CHAIRMAN: Good
64 morning, Mr. Beckett.

65 MR. BECKETT: Good morning.

66 MR. SAUNDERS, PRESIDING CHAIRMAN: Would
67 you take the Bible in your right hand, please? Do you
68 swear that in the evidence you're about to give you will
69 tell the truth, the whole truth and nothing but the truth,
70 so help you God?

71 MR. BECKETT: I do.

72 MR. SAUNDERS, PRESIDING CHAIRMAN: Thank
73 you.

74 MR. GOODLAND: Thank you, Mr. Chairman. Mr.
75 Beckett, could you indicate your residence, please?

76 MR. BECKETT: My residence.

77 MR. GOODLAND: Yes.

78 MR. BECKETT: St. John's.

79 MR. GOODLAND: Okay. And your occupation?

80 MR. BECKETT: I'm the Deputy Registrar, Motor
81 Vehicle Registration, Acting.

82 MR. GOODLAND: And is that a division of an office of
83 Government or department of Government?

84 MR. BECKETT: It's a division of Government Services
85 and Lands, Department of Government.

MR. GOODLAND: How long have you been a Deputy Registrar?

MR. BECKETT: Since September 4th, 2001.

MR. GOODLAND: And did you work with the Department of Motor Vehicle Registration prior to that?

MR. BECKETT: Prior to that I didn't work for them but for many years when they were part of the Department of Transportation where I'd worked prior we worked very collectively on a number of issues. Prior to working at Motor Registration, I was the Director of Policy and Planning with Works, Services, Transportation, which is where my permanent job is in the civil service.

MR. GOODLAND: Okay. Can you just briefly outline what some of your key duties and functions are as Deputy Registrar?

MR. BECKETT: I'm responsible for the processing of driver's licences and vehicle registrations through the mail, the internet and the front counter services in Mount Pearl. I am responsible for the highway enforcement throughout the eastern region and I'm responsible for driver examination through the eastern region of the province.

MR. GOODLAND: So the registration of motor vehicles within the province is one of your responsibilities or one of the responsibilities that you oversee?

MR. BECKETT: Yes, it is.

MR. GOODLAND: Okay. I guess it's common knowledge, but for the record ours is, Newfoundland and Labrador is a provincial registry, it's a mandatory provincial registry system for motor vehicles?

MR. BECKETT: Yes, it is. If you own a motor vehicle, we require you to register.

MR. GOODLAND: Okay.

MR. BECKETT: We also require you to licence it.

MR. GOODLAND: Okay. You recall being contacted by the Consumer Advocate in late November of 2002 ...

MR. BECKETT: I do.

MR. GOODLAND: ... regarding information surrounding the registration of certain types of vehicles in the province?

MR. BECKETT: I do.

MR. GOODLAND: And do you recall providing information or evidence to the Consumer Advocate at or around that time?

MR. BECKETT: I do.

MR. GOODLAND: Just behind you, Mr. Beckett, in the blue binder, I believe it'll be marked pre-filed evidence of the Consumer Advocate, do you have that?

MR. BECKETT: Yes.

MR. GOODLAND: And do you see a tab with your name on it, one of the first tabs in the binder?

MR. BECKETT: Yes.

MR. GOODLAND: Okay. I'm just going to ask you if you can just briefly review that document and familiarize yourself with it.

MR. BECKETT: Yes, I'm familiar with it.

MR. GOODLAND: The document, that's entitled, "The Pre-filed Evidence of Thomas Beckett Given December 3rd, 2002," correct?

MR. BECKETT: Given December 3, 2002.

MR. GOODLAND: Yes. And did you review that document prior to it being filed ...

MR. BECKETT: Yes, I did.

MR. GOODLAND: ... or the contents of it? Yes. And the information contained therein, was that accurate at the time you gave it?

MR. BECKETT: Yes, it was.

MR. GOODLAND: And have you reviewed it recently?

MR. BECKETT: I reviewed it, yes.

MR. GOODLAND: Okay. And the information contained therein, it's six or seven weeks old, can you comment on its accuracy for today's purposes?

MR. BECKETT: There may be a handful of vehicles different but generally the numbers are very close.

MR. GOODLAND: Okay. Now, just before we get into the actual information, any information contained in that document then, would you adopt that as being accurate?

MR. BECKETT: Yes, I would.

MR. GOODLAND: Okay. Can you just indicate to the Board members the types of ... are there types of, different types of licence plates issued for various types of vehicles within the province?

MR. BECKETT: Yes, there are. For example, at this point in time the current registration plates for personal passenger vehicles are an "A" series or an "H" series, our commercial vehicles, vehicles over 4,500 kilograms, are a "C" series, Government vehicles are ...

MR. GOODLAND: So these would be the plates which we would see the letter "C" for commercial vehicles, for instance, over 4,500 kilograms.

MR. BECKETT: Right.

MR. GOODLAND: "A" would be private passenger?

MR. BECKETT: Right.

MR. GOODLAND: "H" would also ... licence plates beginning with those letters.

MR. BECKETT: Right.

MR. GOODLAND: Okay. You can just carry on.

MR. BECKETT: Okay. Taxis would be a "TX" plate, motorcycles an "MC" plate, and then we have strange little plates for ATVs and snowmobiles.

MR. GOODLAND: What about buses, are they identified?

MR. BECKETT: Buses are identified. Predominantly the school buses are identified as a "BA" plate, although we do have some confusion with some of

them, particularly with St. John's Metro Bus. We also have a situation where the "BA" plates that were assigned to a school bus, if that bus no longer retains a school board contract, can remain on that bus until such, and they will operate as a public passenger service bus until we find out and then try and get them to change their plate to a "BP" plate, meaning a bus passenger plate.

MR. GOODLAND: Now, in your pre-filed evidence you have indicated or you have outlined the number of vehicles in certain, for certain types of vehicles that were specifically requested of you from the Consumer Advocate. First off, can you indicate how you accessed that data or what your database was?

MR. BECKETT: This is a database that's maintained by Xwave as a mainframe computer database and we simply keep a monthly run of a summary of the data relative to how many "AH," "TX," those kinds of plates that we have in the system.

MR. GOODLAND: And then that information is accessible to you in your capacity as the Deputy Registrar, is it?

MR. BECKETT: Yes, accessible by the public should they wish to obtain it.

MR. GOODLAND: So it's public information as well.

MR. BECKETT: Yes.

MR. GOODLAND: Okay. Now, can you indicate, and I'm going to ask you for certain types of vehicles, first off, and you've listed in your evidence the number of private passenger motor vehicles, commercial, and commercial vehicles.

MR. BECKETT: Yes.

MR. GOODLAND: And for the record can you indicate what the numbers for private passenger motor vehicles registered in the Province of Newfoundland and Labrador would be today?

MR. BECKETT: At the time that we did this, which would have come off of a run in late November ...

MR. GOODLAND: Yes.

MR. BECKETT: ... the number that we found was there's 226,292 "A" plates, "H" plates, and I wouldn't expect that number today to be significantly different from that. A few vehicles would have not been registered in the December period and a few new vehicles would have been purchased and added in.

MR. GOODLAND: So they largely set off, those numbers would ...

MR. BECKETT: Yeah, the numbers are generally consistent. You're talking a handful in the difference. 89,598 "C" plates. I didn't mention it before but there is another plate which we call a "PR" plate or a prorate plate. There's 441 vehicles registered under that plate. These may be either the large commercial vehicles which run interprovincially and we prorate their licence fee throughout ...

MR. GOODLAND: Your transportation trucks, for instance, is that what you're speaking of?

MR. BECKETT: Right, and there will also be some interprovincial motor coaches that are base plated in Newfoundland.

MR. GOODLAND: Okay. Their home registration province would be Newfoundland and Labrador.

MR. BECKETT: Yes, and they would operate in other provinces and we would share the registration revenues with the other provinces.

MR. GOODLAND: And the numbers of those vehicles, as you've indicated, would be, it was 441 as of late November 2002.

MR. BECKETT: Yes. Well, we can't differentiate between which of those are motor coaches and which of those are goods carriers other than to say that we don't believe there are a lot of motor coaches in there.

MR. GOODLAND: Now, in your pre-filed evidence you didn't deal with the number of taxi plates or taxis registered in the jurisdiction. Have you been able to access that information since then?

MR. BECKETT: Yes, we have 1,368 taxi plates and that was a late December number, so it's not the same but again it's going to be very similar.

MR. GOODLAND: Motorcycle plates, again that's not referenced in the pre-filed evidence, but have you been able to access the number of motorcycles registered?

MR. BECKETT: The same time frame, 5,684.

MR. GOODLAND: And that, when you say same time frame, that'd be a late December ...

MR. BECKETT: Yes.

MR. GOODLAND: ... review of your data?

MR. BECKETT: Right.

MR. GOODLAND: Okay. And for completeness sake, the ATV plates and then snow machine plates?

MR. BECKETT: First of all, there is a difference in terms of the quality of these data inasmuch as we do know that there are a lot of unregistered vehicles in both of these categories within the province. We do have 31,901 ATV plates registered and we have 54,520 snow machine plates.

MR. GOODLAND: And is it a mandatory requirement that the ATV and snow machines be registered or only under certain conditions?

MR. BECKETT: It is mandatory that they be registered. They are normally registered once and that registration change when they are sold, however, we don't have the same control over the dealers or the same control over purchase and registration as we do over motor vehicles.

MR. GOODLAND: Okay. Can you indicate the ... you've defined private passenger vehicles for those vehicles being under 4,500 kilograms, is that accurate ...

MR. BECKETT: Yes.

MR. GOODLAND: ... and commercial being those in excess of 4,500?

MR. BECKETT: In excess of 4,500.

MR. GOODLAND: Is there a definition for taxi cabs?

MR. BECKETT: A taxi will be a vehicle with less than ten passenger places excluding the driver and a bus will be greater than that.

MR. GOODLAND: Less than ten excluding the driver and, for taxi cab, greater than ten plus the driver for a bus.

MR. BECKETT: Right, ten or greater.

MR. GOODLAND: Ten or greater, yes. Now, if you can go to Point 2 on page two of your, it's answer to, page two of your pre-filed evidence, you say, "At present there are 277 vehicles registered that provide either public passenger or disabled passenger services registered with licence plates beginning with "BP." What type of vehicles are these we're speaking of?

(9:45 a.m.)

MR. BECKETT: These will be vehicles that we would call a bus, okay, so there's ten passenger seats in addition to the driver. There'll be a mixture of coaches, retired school buses, large vans. They will include the disabled vans, for example, that Wheelway operates within the St. John's area.

MR. GOODLAND: So you're suggesting these would be commercial bus vehicles as opposed to school bus vehicles?

MR. BECKETT: Yes. Now, there may be a number of the commercial bus vehicles who bear a "BA" plate, but the majority of them are these bearing the "BP" plates.

MR. GOODLAND: The "BA" plate representing generally what?

MR. BECKETT: A school bus.

MR. GOODLAND: Okay. And you indicate then in Point 3 that there are 177 persons ... so just before we leave that, so you're suggesting there are presently 277 vehicles registered as buses, non school buses throughout the Province of Newfoundland and Labrador.

MR. BECKETT: Yes.

MR. GOODLAND: Then you indicate in Point 3 there are 177 persons or corporations registered to provide public passenger transportation. What are we referencing there?

MR. BECKETT: These are the owners of those 277 vehicles.

MR. GOODLAND: So, for instance, would the City of St. John's be one entity in this group of 177?

MR. BECKETT: Yes, they would be.

MR. GOODLAND: And offhand do you know the number of buses, for instance, that the City would have registered under its corporate name?

MR. BECKETT: I believe it's somewhere in the 30s but that is a bit of a guess.

MR. GOODLAND: Okay.

MR. BECKETT: Also, a number, as I did mention, of the city buses do have "BA" plates.

MR. GOODLAND: Those would be all my questions, Mr. Beckett, thank you. The counsel for the Applicant, the Board or the Board's counsel may have some questions.

MR. SAUNDERS, PRESIDING CHAIRMAN: Thank you, Mr. Goodland. Mr. Stamp?

MR. STAMP, Q.C.: Yes, just a couple of questions, Mr. Chairman, thank you. Mr. Beckett, do you keep a record of the number of licenced operators in Newfoundland?

MR. BECKETT: The number of the licenced operators?

MR. STAMP, Q.C.: Right. I mean, I have a driver's licence and I may not own a vehicle. That wouldn't be picked up here in this discussion, I guess?

MR. BECKETT: Yes, we do.

MR. STAMP, Q.C.: And how many licenced operators would there be in the province?

MR. BECKETT: I'm going on memory here without the records at hand.

MR. STAMP, Q.C.: I understand.

MR. BECKETT: I'd say it's somewhere in the vicinity of about 350,000.

MR. STAMP, Q.C.: And, Mr. Beckett, do you know, again I know it's from recollection probably, how many

1 of those would be licenced to operate commercial
2 vehicles as opposed to private passenger?

3 MR. BECKETT: There's a range of commercial vehicles.
4 Offhand I would say that between operating buses and
5 the light range and the heavy range, we're probably
6 talking somewhere in the vicinity of 50,000.

7 MR. STAMP, Q.C.: Okay. So, and would that 50,000,
8 did you include those in the approximate number of 350
9 that you referred to earlier.

10 MR. BECKETT: Yes, I did.

11 MR. STAMP, Q.C.: So about 300,000, I guess, regular
12 private passenger type licences and 50,000 or so
13 commercial licences.

14 MR. BECKETT: If I can slightly rephrase that, roughly
15 300,000 licences that are limited to the operation of a
16 private passenger vehicle. Any of the licences that are
17 issued for a higher class of vehicle are also eligible to
18 operate a private passenger vehicle.

19 MR. STAMP, Q.C.: And does your department keep,
20 Motor Vehicle Registration Division, keep any statistics
21 with respect to, I guess, income or net worth or
22 anything of that nature for people who have licences or
23 own vehicles?

24 MR. BECKETT: We do not.

25 MR. STAMP, Q.C.: So you don't, know nothing about
26 that type of circumstance.

27 MR. BECKETT: Not from a professional basis, no.

28 MR. STAMP, Q.C.: That's fine, Mr. Chairman, thank
29 you. Thank you, Mr. Beckett.

30 MR. SAUNDERS, PRESIDING CHAIRMAN: Thank
31 you, Mr. Stamp. Ms. Newman?

32 MS. NEWMAN: I don't have any questions for this
33 witness. Thank you, Mr. Beckett.

34 MR. SAUNDERS, PRESIDING CHAIRMAN: Do you
35 have any questions, Commissioner ... oh, I'm sorry, I
36 guess we go back to Mr. Goodland for redirect.

37 MR. GOODLAND: I have nothing arising.

38 MR. SAUNDERS, PRESIDING CHAIRMAN: Nothing
39 on redirect? Commissioner Powell?

40 COMMISSIONER POWELL: Just a curiosity, how
41 many types of licences are there? You were saying that
42 300,000 operate private passenger, but how many
43 different classes of licences do we have in the
44 province?

45 MR. BECKETT: There are six classes of licences and
46 one of those classes is further subdivided into three
47 groups, that being the learner's permit as a Class 5-1
48 licence, the novice driver as a Class 5-2, and then finally
49 the full driving privileges of the Class 5 licence. In
50 addition there are a number of endorsements that allow
51 you to operate different pieces of equipment. There's
52 an endorsement, for example, for air brakes that is
53 required for certain pieces of equipment, but you can
54 get that with a Class 5 or a Class 3 licence.

55 COMMISSIONER POWELL: In the province we have,
56 for insurance purposes, we have territories. Do we
57 have any break out of the number of licences in each
58 territory or just provincially?

59 MR. BECKETT: The numbers that I have available now
60 are province wide. We do have the ability, provided we
61 have the money to do it, to allocate licences by postal
62 code within the province.

63 COMMISSIONER POWELL: But you don't do it as a
64 matter of ...

65 MR. BECKETT: No, we don't.

66 COMMISSIONER POWELL: Thank you.

67 MR. SAUNDERS, PRESIDING CHAIRMAN:
68 Commissioner Martin? Mr. Beckett, I just wanted to ask
69 you a couple of questions in connection with trying to
70 tie in the mandatory insurance coverages with your
71 office, if you like. Would you explain to the Board how
72 that's administered in terms of enforcement and how, if
73 any, follow-up is done in respect of cancellation of
74 policies from time to time? Do you want to deal with
75 the provision itself first?

76 MR. BECKETT: Okay. With the exception of the
77 snowmobiles and the ATVs, there is the requirement for
78 every vehicle to be insured. The Automobile Insurance
79 Act, which is not ours, and various parts of the
80 regulations of the Highway Traffic Act, set out the

1 minimum requirements for some of those insurance
2 requirements. With the ATVs and snow machines,
3 there's an age requirements under which there's
4 requirement to have insurance, and above that age
5 there's no requirement for insurance unless they're
6 being operated on or across highway rights of way.
7 With all of the vehicles, with the exception of the
8 snowmobiles and ATVs, the first level of enforcement
9 of that comes the annual registration period where we
10 require the submission of the insurance information
11 appropriate to that vehicle, and then the further
12 enforcement of that takes place at roadside by a
13 combination of the enforcement officers and the police
14 forces to ensure that either in periods of violation or
15 during periods of check stops the public are indeed
16 maintaining their insurance on those vehicles. Within
17 the whole concept of the annual and bi-annual or twice
18 annual, I should say for clarity, inspections that take
19 place of vehicles at their place of operation, the
20 highway enforcement officers will also check on
21 insurance. And then finally for carriers who are either
22 randomly selected or evidence themselves to have
23 problems meeting our regulations, there are facility
24 audits that are carried out and again the insurance
25 package for those fleets or vehicles is enforced at that
26 point in time.

27 MR. SAUNDERS, PRESIDING CHAIRMAN: Is there
28 any mechanism in place to requiring the insurance
29 companies to advise Motor Registration or your office
30 of cancellations that occur?

31 MR. BECKETT: I do not know.

32 MR. SAUNDERS, PRESIDING CHAIRMAN: Are you
33 notified of cancellations by insurance companies? Is
34 there any provision for them to notify you?

35 MR. BECKETT: I apologize, Mr. Chairman, but I don't
36 know that.

37 MR. SAUNDERS, PRESIDING CHAIRMAN: You don't
38 know that.

39 MR. BECKETT: No.

40 MR. SAUNDERS, PRESIDING CHAIRMAN: Was there
41 ever a provision in place requiring advice from
42 insurance companies to go to Motor Registration in the
43 event of a cancellation of an automobile insurance
44 policy?

45 MR. BECKETT: I believe, and I believe at one point in
46 time there was. My experience at MRD has been, has
47 not incorporated the finding that we do have an
48 insurance company reporting to us that insurance is
49 being cancelled.

50 MR. SAUNDERS, PRESIDING CHAIRMAN: Wouldn't
51 that be ... since certain insurance is required by law,
52 wouldn't it be reasonable to have notification from
53 insurance underwriters to Motor Registration as a
54 matter of course?

55 MR. BECKETT: Yes, and I do want to apologize, I think
56 I have misstated something. Yes, I have knowledge
57 that for our school buses, if insurance is cancelled, the
58 bus is then placed out of service and the registration
59 cancelled. I haven't been close enough to the
60 operations elsewhere to know whether we do that for
61 commercial vehicles and I'm almost certain we're not
62 doing it for private automobiles.

63 MR. SAUNDERS, PRESIDING CHAIRMAN: So if a
64 person registers his vehicle with you today and shows
65 that he has insurance or gives proof of insurance and
66 cancels it tomorrow, you would never know that until
67 he's checked or until he comes back to register again in
68 a year's time.

69 MR. BECKETT: For a public passenger vehicle ...

70 MR. SAUNDERS, PRESIDING CHAIRMAN: For a
71 public passenger vehicle, which constitutes most of the
72 vehicles that you have in your data bank.

73 MR. BECKETT: I would say that's the case.

74 MR. SAUNDERS, PRESIDING CHAIRMAN: You also
75 mentioned that some ATVs and some snowmobiles are
76 not required to have insurance or don't have insurance?

77 MR. BECKETT: Both, sir.

78 MR. SAUNDERS, PRESIDING CHAIRMAN: Both.
79 Would you explain the difference in terms of those that
80 are required and those that aren't?

81 MR. BECKETT: First of all, if the operator is under the
82 age of 19, insurance is required. If I own a vehicle,
83 being over 19 by a couple of years, I wouldn't have that
84 requirement on me. However, that requirement comes
85 back into force if I decide that I want to operate that
86 vehicle across or in the right of way of a highway, so if

1 I'm operating in my Back 40 or not crossing highways,
2 then there's no requirement for insurance.

3 MR. SAUNDERS, PRESIDING CHAIRMAN: Okay,
4 thank you, Mr. Beckett, Mr. Goodland.

5 MR. GOODLAND: I have nothing arising, Mr.
6 Chairman.

7 MR. SAUNDERS, PRESIDING CHAIRMAN: Anything
8 arising, Mr. Stamp?

9 MR. STAMP, Q.C.: Just one question, Mr. Chairman,
10 if I may. Mr. Beckett, with respect to the issue of, I
11 guess, your department having evidence of insurance
12 on motor vehicles, is there a requirement to disclose
13 that when you obtain your vehicle plates or licence?

14 MR. BECKETT: Yes, and it's a requirement to disclose
15 annually when you licence or pay your registration fee.

16 MR. STAMP, Q.C.: And does your department check
17 that, whenever it's disclosed, do you check it to make
18 sure that what is being told or shown to you is valid?

19 MR. BECKETT: In terms of the public automobile, no,
20 we do not.

21 MR. STAMP, Q.C.: Just take it on good faith?

22 MR. BECKETT: Yes.

23 MR. STAMP, Q.C.: So I know, for example, and I think
24 it's a great thing, you can actually re-licence yourself on
25 the internet, and so I can tell you I have a policy with
26 any company at all and give you a policy number, it
27 could be fictitious, the Department doesn't check it, it
28 relies on the honesty of the people who are looking for
29 licences.

30 MR. BECKETT: Yes. You can do the same thing at a
31 bank, you can do the same thing when you come to one
32 of our counters.

33 MR. STAMP, Q.C.: Okay, thank you.

34 MR. SAUNDERS, PRESIDING CHAIRMAN: Mr.
35 Stamp. Sorry, Ms. Newman, did you have anything
36 further?

37 MS. NEWMAN: Nothing arising, no.

38 MR. SAUNDERS, PRESIDING CHAIRMAN: Nothing
39 arising. Mr. Goodland, back in your hands.

40 MR. GOODLAND: That'll be fine, Mr. Chairman.

41 MR. SAUNDERS, PRESIDING CHAIRMAN: Thank
42 you, Mr. Beckett.

43 *(10:00 a.m.)*

44 MR. GOODLAND: Mr. Mercer, Cluney Mercer is next.
45 The next witness will be Cluney Mercer.

46 MR. SAUNDERS, PRESIDING CHAIRMAN: Thank
47 you, Mr. Goodland. Good morning, Mr. Mercer.

48 MR. MERCER: Good morning, sir.

49 MR. SAUNDERS, PRESIDING CHAIRMAN: Would
50 you take the Bible in your right hand, please? Do you
51 swear that in the evidence you are about to give you
52 will tell the truth, the whole truth and nothing but the
53 truth, so help you God?

54 MR. MERCER: I do.

55 MR. SAUNDERS, PRESIDING CHAIRMAN: Thank
56 you. Mr. Goodland?

57 MR. GOODLAND: Mr. Mercer, are you presently
58 employed?

59 MR. MERCER: Yes, I am.

60 MR. GOODLAND: And where are you employed?

61 MR. MERCER: I'm employed as the Acting Executive
62 Director for the Department of Works, Services and
63 Transportation.

64 MR. GOODLAND: Okay. Do you have any special
65 functions in the Department?

66 MR. MERCER: Special functions as?

67 MR. GOODLAND: You indicated ... okay, well, I'll just
68 bring you to it. Do you recall in November of 2002
69 being contacted by the Consumer Advocate regarding
70 certain information about our road systems throughout
71 the province?

72 MR. MERCER: Yes, I do.

1 MR. GOODLAND: Okay. Did you provide information
2 to the Consumer Advocate in late November 2002?

3 MR. MERCER: Yes.

4 MR. GOODLAND: Okay. Do you recall the Consumer
5 Advocate generating a document entitled, "Pre-filed
6 Evidence" ...

7 MR. MERCER: Yes.

8 MR. GOODLAND: ... on your behalf?

9 MR. MERCER: Yes.

10 MR. GOODLAND: And did you see a copy of that
11 document prior to or in late November of 2002?

12 MR. MERCER: Yes.

13 MR. GOODLAND: If you could open the binder in
14 front of you, sir, and you'll see your name. The names
15 are listed in alphabetical order. Do you see a tab with
16 your name on it?

17 MR. MERCER: Yes.

18 MR. GOODLAND: You have that? Okay. And the
19 document is entitled, "Pre-filed Evidence of Cluney
20 Mercer Given December 3rd, 2002."

21 MR. MERCER: Correct.

22 MR. GOODLAND: Can you just review that for a
23 second, sir, to familiarize yourself with it, please?

24 MR. MERCER: Yes.

25 MR. GOODLAND: Does that accurately reflect the
26 information you provided the Consumer Advocate in
27 November?

28 MR. MERCER: Yes, it does.

29 MR. GOODLAND: Now, in the opening paragraph of
30 that document you indicate you are the Director of
31 Highway Design and Construction within the
32 Department of Works.

33 MR. MERCER: At that time I was the Director.

34 MR. GOODLAND: Oh, you're no longer?

35 MR. MERCER: No. I was appointed Executive Director
36 on the 23rd of December.

37 MR. GOODLAND: Okay, fair enough. That was I
38 guess the first question or one of the first questions I
39 was getting to, and that's why there's a little
40 miscommunication. The information contained in your
41 pre-filed evidence, I'm just going to ask you a little bit
42 about that. Obviously the current inventory of public
43 roads, you've listed here as 9,322 kilometers.

44 MR. MERCER: Correct.

45 MR. GOODLAND: Okay. You say municipal, private
46 and forest access roads are not included in the current
47 inventory, correct?

48 MR. MERCER: That's correct.

49 MR. GOODLAND: Do you have any sense as to what
50 extent or what level of inventory is excluded from your
51 inventory?

52 MR. MERCER: I know that the total road inventory in
53 the province, including all types of roads, private,
54 municipal and forest access roads, as well as
55 provincially maintained roads, is in the vicinity of about
56 16,000 kilometers.

57 MR. GOODLAND: 16,000. So 9,322, your reference
58 would be those that are provincially maintained.

59 MR. MERCER: Correct, maintained primarily by
60 Department of Works, Services and Transportation.
61 Municipal roads, of course they are maintained by
62 municipal governments, just another form of
63 government, but that's correct.

64 MR. GOODLAND: And when we talk about maintain,
65 what do we mean by that?

66 MR. MERCER: Maintain means that we provide snow
67 clearing services, we do upgrading as necessary,
68 anything that involves routine maintenance to that road
69 or reconstruction.

70 MR. GOODLAND: Reconstruction as well, okay. And
71 then the items ... your answers 3, 4, 5 and 6, and I guess
72 we can include answers 1 and 2, are they still accurate
73 for today's purposes or as of today?

MR. MERCER: Yes, with ... Item No. 3 said that all communities in the province were connected by road inventory. I believe there may be a handful of communities on the south coast of Labrador and northern Labrador and in southern Newfoundland that are isolated and they don't really have any roads whereby passenger vehicles or commercial vehicles could travel on them. With the exception for those, all the other communities are connected.

MR. GOODLAND: So when you say in Item 3, "All communities in the province are serviced by this inventory," what you're suggesting, often the roadways leading into the community would be under your provincial jurisdiction.

MR. MERCER: That's correct.

MR. GOODLAND: Once you get to the boundary of the municipality, then that would be the municipality's responsibility.

MR. MERCER: In general, in municipal, in areas that are incorporated as municipalities. In unincorporated areas we maintain those roads as well.

MR. GOODLAND: Okay. So these would be for incorporated municipalities. Those would be the exclusions.

MR. MERCER: Correct.

MR. GOODLAND: Those would be my questions for this witness, Mr. Chairman.

MR. SAUNDERS, PRESIDING CHAIRMAN: Thank you, Mr. Goodland. Mr. Whalen?

MR. WHALEN, Q.C.: Thank you, Mr. Chairman. We're playing tag team here today.

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay. I'm confused anyway.

MR. WHALEN, Q.C.: I just have one question for the witness. I don't know if this is, the witness can answer it, but we have to ask it to somebody. Mr. Mercer, do you know in what way this information that you're providing is relevant to this Board and this inquiry about insurance rates for one small four percent of the drivers as opposed to the other 96?

MR. GOODLAND: Mr. Chairman, I'm not sure if that's a proper question put to this witness. If there was a objection as to the relevancy, we should have dealt with that prior to the answers being given by the witness.

MR. WHALEN, Q.C.: If the witness can't answer it, I'll ask somebody else, that's not a problem. Thank you.

MR. SAUNDERS, PRESIDING CHAIRMAN: I don't think the witness is able to answer that. Maybe I'm wrong.

MR. MERCER: Could you repeat the question?

MR. WHALEN, Q.C.: I'm wondering if in your preparing this document and being questioned, if you know what, how this information, which I don't question, is relevant?

MR. SAUNDERS, PRESIDING CHAIRMAN: He wouldn't have knowledge of the application.

MR. GOODLAND: It's the same objection, Mr. Chairman.

MR. SAUNDERS, PRESIDING CHAIRMAN: Yeah, I agree.

MR. WHALEN, Q.C.: Fine. That's fine, we'll ask somebody else.

MR. SAUNDERS, PRESIDING CHAIRMAN: Any questions, Ms. Newman?

MS. NEWMAN: No questions. Thank you, Mr. Mercer.

MR. SAUNDERS, PRESIDING CHAIRMAN: Commissioner Powell? I'm sorry, anything on redirect? Nothing on redirect?

MR. GOODLAND: There were no questions asked.

MR. SAUNDERS, PRESIDING CHAIRMAN: That's right. I'm trying to keep this going here. Commissioner Powell?

MR. WHALEN, Q.C.: Well, there were questions asked, there were just no answers, Mr. Chairman.

MR. SAUNDERS, PRESIDING CHAIRMAN: I know.

1 COMMISSIONER POWELL: I only have one question,
2 much curiosity. Do you keep any inventory or any
3 stats on where accidents happen on your roads?

4 MR. MERCER: Yes, we do.

5 COMMISSIONER POWELL: You do have available
6 stats showing cumulative accidents that do happen on
7 roads throughout the province.

8 MR. MERCER: Only accidents whereby police, an
9 official police report has been filled out.

10 COMMISSIONER POWELL: Is that shared with the
11 insurance industry, do you know? If they come looking
12 for that, is there any ...

13 MR. MERCER: I'm not aware that they come looking for
14 it. I wouldn't suspect we'd have any objection in
15 sharing it but I'm not aware at this point in time ever
16 being asked to share that information.

17 COMMISSIONER POWELL: So you compile it just
18 from a public safety point of view in terms of looking at
19 ...

20 MR. MERCER: Yes, and from a point of view whereby
21 if we go out to upgrade and reconstruct a highway, if
22 we have spots that have high accident frequency, and
23 we can deal with that during an upgrading or
24 reconstruction of that particular section of highway.
25 We can do some investigation to determine whether
26 design changes may very well help in reducing the
27 number of accidents that occur at a particular location.

28 COMMISSIONER POWELL: And those stats you
29 keep, is that just the provincial ... you would ... do you
30 keep stats within municipalities as well or ...

31 MR. MERCER: Our system, as far as I'm aware, it's only
32 for roads that are within our inventory, so I'm not aware
33 of accident statistics, say, within the City of St. John's.

34 COMMISSIONER POWELL: Thank you.

35 MR. SAUNDERS, PRESIDING CHAIRMAN:
36 Commissioner Martin?

37 COMMISSIONER MARTIN, Q.C.: No, I haven't any.

38 MR. SAUNDERS, PRESIDING CHAIRMAN: Just to
39 follow up on Commissioner Powell's question, either
40 representation from the insurance industry in respect of
41 any particular design problems or areas that are
42 yielding a lot of accidents, any of that kind of, let's say,
43 discussion or correspondence between your
44 department and the insurance industry, auto insurance
45 industry?

46 MR. MERCER: No, sir, I'm not aware of any.

47 MR. SAUNDERS, PRESIDING CHAIRMAN: You're not
48 aware of any, okay. The information that you talked
49 about in answer to Commissioner Powell's question,
50 you said as far as you know it's available if the
51 insurance industry wanted it.

52 MR. MERCER: Yes, it's in a database that's maintained
53 by the Provincial Government and I would not expect
54 that there would be difficulty in them acquiring that
55 information. There may be some cost involved but ...

56 MR. SAUNDERS, PRESIDING CHAIRMAN: What do
57 you do with the information in terms of ... you already
58 explained that it has an impact on your reconstruction
59 program, I guess, design and so on. What else would
60 you do with the information? Do you provide it to any
61 other interested parties or ... like the police themselves,
62 would they be, say, one of the parties that you might
63 provide that information to?

64 MR. MERCER: On occasion they've requested
65 information for some particular areas, but I do believe
66 they have some data of their own as well.

67 MR. SAUNDERS, PRESIDING CHAIRMAN: I think
68 similar information, and you may be aware of it, is
69 maintained, say, by the City of St. John's, I don't know
70 of any other municipality that may maintain it, and that
71 has an impact on traffic light configurations and so on
72 within the city. You probably are aware of that.

73 MR. MERCER: Yes.

74 MR. SAUNDERS, PRESIDING CHAIRMAN: Yes. Is
75 that information compiled by you or by the city?

76 MR. MERCER: Not by us.

77 MR. SAUNDERS, PRESIDING CHAIRMAN: Not by
78 you, because you wouldn't consider the roads in the
79 city as being your roads.

80 MR. MERCER: Correct.

1 MR. SAUNDERS, PRESIDING CHAIRMAN: Right,
2 okay. Any questions arising? No questions arising?
3 Then thank you, Mr. Mercer.

4 MR. GOODLAND: The next witness will be Mrs. Joan
5 Marshall. Ms. Marshall is present.

6 MR. SAUNDERS, PRESIDING CHAIRMAN: Good
7 morning, Ms. Marshall.

8 MS. MARSHALL: Good morning.

9 MR. SAUNDERS, PRESIDING CHAIRMAN: How are
10 you?

11 MS. MARSHALL: Good, thank you.

12 MR. SAUNDERS, PRESIDING CHAIRMAN: Thank
13 you. Would you take the Bible in your right hand,
14 please? Do you swear that in the evidence you are
15 about to give you will tell the truth, the whole truth and
16 nothing but the truth, so help you God?

17 MS. MARSHALL: I do.

18 MR. SAUNDERS, PRESIDING CHAIRMAN: Thank
19 you. Mr. Goodland.

20 MR. GOODLAND: Thank you, Mr. Chairman, and
21 good morning, Ms. Marshall.

22 MS. MARSHALL: Good morning.

23 MR. GOODLAND: Can you indicate your residence,
24 please, where you live?

25 MS. MARSHALL: I'm a resident of St. John's. I live at
26 9 Smithville Crescent.

27 MR. GOODLAND: Are you familiar with an association
28 known as the Seniors Resource Centre Association of
29 Newfoundland and Labrador?

30 MS. MARSHALL: Oh, yes, very.

31 MR. GOODLAND: And why are you familiar with that
32 association?

33 MS. MARSHALL: Well, I'm the Chairperson, or the
34 Acting Chairperson of the organization and that's my ...

35 MR. GOODLAND: That's your role?

36 MS. MARSHALL: My role, yeah.

37 MR. GOODLAND: Can you indicate to the Board what
38 exactly the Seniors Resource Centre Association of
39 Newfoundland and Labrador is and its purposes?

40 MS. MARSHALL: The Centre is a non-profit charitable
41 volunteer organization and the membership in the
42 Centre is restricted to citizens 50 and over. Did you ask
43 me ...

44 MR. GOODLAND: Yes, the purpose or the goals of the
45 Association.

46 MS. MARSHALL: The purpose of the Centre is to
47 enable the community-based older adults to increase
48 their independence, health and wellbeing through
49 consultation or collaboration, information, education
50 programs and service delivery.

51 MR. GOODLAND: And do you know how long the
52 Association has been around?

53 MS. MARSHALL: Since the 19, early 1990s, 1990
54 actually.

55 MR. GOODLAND: You indicated one of the purposes
56 would be for service delivery. This would be service
57 delivery to residents of our province who are age 50
58 and over?

59 MS. MARSHALL: Yes.

60 MR. GOODLAND: Okay. What type of service ... can
61 you give us some examples of the service delivery that
62 you'd be involved in?

63 MS. MARSHALL: Well, we essentially bring isolated
64 seniors, we advocate for the isolated seniors and bring
65 them out of isolation into the mainstream.

66 MR. GOODLAND: And what do we mean by isolated
67 seniors?

68 MS. MARSHALL: Yes. Isolated seniors are seniors
69 who have had very little contact because of lack of
70 association with family and community, and these are
71 our target base.

72 MR. GOODLAND: And when you indicate you
73 advocate and then make efforts to bring them out of

1 isolation, what exactly do we mean by that? What
2 physical assistance do you provide, if any?

3 MS. MARSHALL: Well, it's not just physical
4 assistance. We offer programming and opportunity
5 through an information line that we have at our Centre.
6 The word has gotten out throughout the island and
7 Labrador through our peer advocate program, Seniors
8 Helping Seniors, and in this way we find out what the
9 needs of the seniors are and act accordingly or direct
10 them to the agencies that will be of value to them or
11 purpose to them.

12 MR. GOODLAND: Okay. And if you can just explain
13 a little bit about the peer advocate program, exactly
14 what that might be?

15 MS. MARSHALL: Well, the peer advocate program is
16 a program that was established, it's funded federally but
17 it's a peer, a program that has been established since
18 1999 and we have travelled or we have a coordinator
19 who travels around the island searching out seniors
20 and seniors' needs and we set up programs in particular
21 communities, actually we've travelled from all, all the
22 regions of Newfoundland and Labrador and we develop
23 programs whereby the seniors in the community can
24 conduct their own needs assessments, so this is what
25 we mean by seniors helping seniors, and of course our
26 coordinator travels and keeps in contact with these
27 particular communities.

28 *(10:15 a.m.)*

29 MR. GOODLAND: Now, you've indicated in ...

30 MS. MARSHALL: Is that clear?

31 MR. GOODLAND: That's fine.

32 MS. MARSHALL: Okay.

33 MR. GOODLAND: And you've suggested in several
34 instances now that the work of your association is
35 province wide, is that correct?

36 MS. MARSHALL: Oh, yes, yes.

37 MR. GOODLAND: Okay. And early on you say you
38 provide, one of the purposes of the Association is to
39 provide service delivery to seniors in need.

40 MS. MARSHALL: Yes.

41 MR. GOODLAND: Do you know how many seniors
42 that you would provide or approximately how many
43 seniors your association could provide service delivery
44 to?

45 MS. MARSHALL: Well, actually we don't ... numbers
46 are incidental or membership per se is incidental, but
47 thousands.

48 MR. GOODLAND: Thousands of seniors.

49 MS. MARSHALL: Thousands of seniors, yeah, and
50 their families.

51 MR. GOODLAND: Now, do you ... Ms. Marshall, do
52 you recall in late November 2002 being contacted by
53 myself regarding information regarding an application,
54 I suppose, for insurance rate increases that may or may
55 not affect some of the senior drivers in the province?

56 MS. MARSHALL: Yes.

57 MR. GOODLAND: As a result of that contact did you
58 provide certain information to me?

59 MS. MARSHALL: I did.

60 MR. GOODLAND: Okay. Do you recall reviewing a
61 document entitled "Pre-filed Evidence" in late
62 November 2002?

63 MS. MARSHALL: I do.

64 MR. GOODLAND: Okay. If you open the blue binder
65 in front of you and if you could, I could refer you to the
66 tab with your name on it. It's put in alphabetical order,
67 last name first.

68 MS. MARSHALL: Yeah, I see it.

69 MR. GOODLAND: If you could just go to that
70 document, please.

71 MS. MARSHALL: Yeah.

72 MR. GOODLAND: And can you just briefly review that
73 document and see, to determine if you can identify it?

74 MS. MARSHALL: Yes. There's just one thing that I'd
75 like to add to that document if I may.

76 MR. GOODLAND: Yes, and you'll get an opportunity.

1 MS. MARSHALL: Or will the time ... opportunity, okay.

2 MR. GOODLAND: My first question, I suppose,
3 regarding this document, the information provided by
4 you and contained in that document, is that accurate
5 information to the best of your knowledge, information
6 and belief?

7 MS. MARSHALL: To the best of my knowledge, yes.

8 MR. GOODLAND: Now, you'll see with that document
9 as well there are two appendixes. If you go to Tab 1,
10 your information, we have a document from the
11 Government of Canada, National Council of Welfare.
12 Are you familiar with that document?

13 MS. MARSHALL: Yes, I am. That's a portion of the
14 document and really it was just, it was passed on or
15 given to you or I brought it to you for statistical
16 purposes primarily.

17 MR. GOODLAND: Okay. So that was a document you
18 provided to me, and I refer you to Tab 2 of your pre-
19 filed document. Are you familiar with that document?

20 MS. MARSHALL: Yes, yes, I am.

21 MR. GOODLAND: Okay. And how are you familiar
22 with that document?

23 MS. MARSHALL: Well, we were part of the
24 development of that document at the Centre.

25 MR. GOODLAND: We being the Association, Seniors
26 Association.

27 MS. MARSHALL: Yes, the Centre.

28 MR. GOODLAND: Okay. And that was provided to me
29 as well through your office at the Seniors Resource
30 Centre.

31 MS. MARSHALL: Yes.

32 MR. GOODLAND: Okay. Ms. Marshall, do you know
33 ... I'll take you back to the beginning of your pre-filed
34 document. Do you know, and I'll concentrate on at this
35 point seniors within the province who are 65 years or
36 greater, okay. Are you familiar with the Old Age
37 Security Pension?

38 MS. MARSHALL: Yes, I am actually, very.

39 MR. GOODLAND: Can you indicate, is it ... what's your
40 knowledge regarding who is entitled to that?

41 MS. MARSHALL: Everybody.

42 MR. GOODLAND: Everybody.

43 MS. MARSHALL: Every senior, well, everybody 65
44 and over.

45 MR. GOODLAND: Okay. Regardless of income or
46 status.

47 MS. MARSHALL: Oh, yes, yeah, yeah.

48 MR. GOODLAND: Now, are you familiar with a
49 guaranteed income supplement?

50 MS. MARSHALL: Yes.

51 MR. GOODLAND: Okay. Can you indicate what your
52 understanding of that is?

53 MS. MARSHALL: Well, my understanding is these are
54 the people who require the, more than the ...

55 MR. GOODLAND: The Old Age Security?

56 MS. MARSHALL: The Old Age Security in order to
57 reach a level of a livable wage.

58 MR. GOODLAND: Okay. Now, in your pre-filed
59 evidence you're suggesting that people receive or
60 certain seniors would receive GIS, which is the
61 guaranteed income supplement, in order to bring their
62 income up to a certain level.

63 MS. MARSHALL: \$10,800.

64 MR. GOODLAND: Okay. And that's your
65 understanding, is that correct?

66 MS. MARSHALL: That's right, yes.

67 MR. GOODLAND: Okay. And your document at Tab
68 1 suggests 69 percent, and this is as of January 1999 ...

69 MS. MARSHALL: Yeah, it's now 70 ...

70 MR. GOODLAND: 69 percent ...

71 MS. MARSHALL: ... in 2001.

1 MR. GOODLAND: 69 percent as of that time were
2 receiving GIS on top of their Old Age Security, correct?

3 MS. MARSHALL: Yes.

4 MR. GOODLAND: Do you know why this document at
5 Tab 1 was developed or issued by the Federal
6 Government? Is there any particular, anything
7 particular about this year, it was '99, I believe?

8 MS. MARSHALL: Yes. It was the international year of
9 the older person and it was felt, that was celebrated that
10 year and it was felt that this would probably be a very
11 good time to see if we could do or if government could
12 do anything about the elevation of poverty level,
13 elevation of the poverty level or lowering of the
14 poverty level, I'm sorry.

15 MR. GOODLAND: Elevation of income.

16 MS. MARSHALL: Yes, elevation of income, right.

17 MR. GOODLAND: Okay.

18 MS. MARSHALL: For seniors who ...

19 MR. GOODLAND: So this is an awareness of ...

20 MS. MARSHALL: ... weren't at that level.

21 MR. GOODLAND: ... certain levels of income.

22 MS. MARSHALL: Yeah.

23 MR. GOODLAND: Do you know if in fact there's been
24 any significant increase in income levels among seniors
25 since this document was generated?

26 MS. MARSHALL: Not to my knowledge.

27 MR. GOODLAND: Okay. And I'm asking of course in
28 your capacity as the Director ...

29 MS. MARSHALL: Yes.

30 MR. GOODLAND: ... Acting Director of the Seniors
31 Resource Centre.

32 MS. MARSHALL: Yeah. Not to my knowledge.

33 MR. GOODLAND: So this \$10,800 that you referenced
34 in your pre-filed document ...

35 MS. MARSHALL: Seems to be the set amount.

36 MR. GOODLAND: ... still largely reflects the levels for
37 maybe upwards of, you're suggesting, close to 70
38 percent of the population of seniors over 65.

39 MS. MARSHALL: Yes, yeah.

40 MR. GOODLAND: As a result of the position you're in
41 with the Seniors Resource Centre, can you offer any
42 comments as to the levels of disposable income or
43 discretionary spending that many seniors have within
44 the province?

45 MS. MARSHALL: I'm sorry, just ...

46 MR. GOODLAND: I say based on your, from the
47 position you've been in as Director in dealing with
48 seniors throughout the province, can you offer any
49 comments regarding the levels of disposable income or
50 discretionary spending that many seniors have within
51 our province?

52 MS. MARSHALL: Very limited.

53 MR. GOODLAND: And why do you say that?

54 MS. MARSHALL: Well, the amount that they receive
55 per year is taken up largely with food, shelter,
56 medication, that's a big consideration in seniors, and
57 there's very little ... yeah, what else? Medication,
58 clothing, if there's anything left over, transportation,
59 and there's very little left over for anything else.

60 MR. GOODLAND: Do you have any idea, this level of
61 income of \$10,800, do you have any knowledge whether
62 this is taxable, any portion of it is taxable or not?

63 MS. MARSHALL: Yes. My own mother was in that
64 category and I think it's in the vicinity of \$900 a year is
65 the amount that is taken for taxes.

66 MR. GOODLAND: Okay. So the disposable income is
67 something less than the ...

68 MS. MARSHALL: Oh, it's incredible.

69 MR. GOODLAND: In the vicinity of \$10,000.

70 MS. MARSHALL: Yeah, incredibly low.

71 MR. GOODLAND: Or the net income, I should say.

1 MS. MARSHALL: Yes.

2 MR. GOODLAND: Now, there's been a document,
3 Information Document No. 4 provided to the Board. I
4 don't know if, where that would be. Maybe the Board
5 will give you some assistance.

6 MR. SAUNDERS, PRESIDING CHAIRMAN: What was
7 the document again, Mr. Goodland?

8 MR. GOODLAND: Information Document No. 4, Mr.
9 Chairman.

10 MR. SAUNDERS, PRESIDING CHAIRMAN:
11 Information No. 4.

12 MR. GOODLAND: Do you have that document, Ms.
13 Marshall?

14 MS. MARSHALL: I guess, yes.

15 MR. GOODLAND: It may be a little bit confusing.

16 MS. MARSHALL: Yeah. I haven't seen it ...

17 MR. GOODLAND: I'm just going to take you through
18 the section. Really I just want to have it in front of you
19 while I identify certain numbers for you. Do you see
20 the column, "Year 1999," to the far left?

21 MS. MARSHALL: Yes.

22 MR. GOODLAND: And three lines down you see
23 under "Age Range," the age range over 65.

24 MS. MARSHALL: Uh hum.

25 MR. GOODLAND: Okay. You see across from that to
26 the immediate right 720?

27 MS. MARSHALL: Yeah.

28 MR. GOODLAND: Okay. That suggests out of about
29 15,700 persons over 65 who have premiums, written
30 premiums within the province, 720 of them or 9.7
31 percent in 1999 were receiving insurance through
32 Facility Association, okay, and then that, if you go
33 down to 2000, goes up, it's still at 9.7 percent, and then
34 in 2001, 10.5 percent of the seniors driving, I believe I'm
35 reading it correctly, would be placed through Facility.
36 Now, this application suggests that there be rate
37 increases of a little better than 40 percent for private
38 passenger insurance, for insurance placed through
39 Facility. Do you have any ... can you offer any
40 comments regarding the potential ability for seniors to
41 pay, seniors who are placed through Facility insurance,
42 to pay for insurance rate increases to that extent?

43 MS. MARSHALL: They can't.

44 MR. GOODLAND: And why do you say that?

45 MS. MARSHALL: They just don't have the means.

46 MR. GOODLAND: It's as simple as that?

47 MS. MARSHALL: Yeah, yeah. I mean, they wouldn't
48 be able to have a vehicle and that's what really it
49 amounts to.

50 MR. GOODLAND: And what's the concern if in fact
51 certain seniors no longer have the, no longer have
52 access to vehicles?

53 MS. MARSHALL: Well, they will return to social
54 isolation and there will be very little social interaction in
55 the community for them. Where we have brought them
56 will have regressed as a result of lack of, well, lack of
57 transportation, and while we as a centre provide a
58 certain amount of transportation, we are not an
59 independently funded organization so that our financial
60 contribution would be limited as well as far as getting
61 them to and from.

62 MR. GOODLAND: And just for the record, where
63 generally do you see the bulk of your funding? What's
64 your source of funding?

65 MS. MARSHALL: Well, we have ... the bulk of our
66 funding is received through, we have two sources
67 actually. We have a fund development officer who
68 goes to the public for donations and this is for our
69 regular, well, our regular, every day work of the Centre,
70 and we do receive grants from Federal Government, but
71 these are for specific programs that may last for
72 anywhere from six months to three years, and when
73 they're over, they're over, so we are, we don't have any,
74 you know, self, well, any funding, any sustained, any
75 sustainable funding per se.

76 (10:30 a.m.)

77 MR. GOODLAND: You indicate in your pre-filed
78 evidence as well that based on the information you've

1 provided, close to 50 percent of the seniors in the
2 province live in rural areas of Newfoundland ...

3 MS. MARSHALL: Yes.

4 MR. GOODLAND: ... where public transportation is an
5 issue. Is that ... what are your comments regarding lack
6 of public transportation coupled with further
7 restrictions on private passenger ability to drive?

8 MS. MARSHALL: In the rural areas?

9 MR. GOODLAND: Yes.

10 MS. MARSHALL: I do feel that the rural areas though
11 have, where they're smaller, have, well, very little, they
12 have an opportunity, I suppose, to get to and from by
13 their own means or relatives but I have more concern
14 with the urban area.

15 MR. GOODLAND: Because of the same network of ...

16 MS. MARSHALL: See, frail elderly are not going to
17 stand in the winter or any time really and wait for a bus
18 and they're just not well enough, a lot of them, and then
19 there's the, the minority of them, well, some of them
20 have vehicles, which is wonderful but of course if the
21 insurance is increased there won't be any and they
22 won't be able to afford them, and then there's the
23 chance of or the opportunity for our own organization
24 to transport some of them, but we have limited funds
25 also and we always have to pay taxis or buses,
26 whichever, you know, a group bus.

27 MR. GOODLAND: Do you have seniors who presently
28 are operating private passenger vehicles who volunteer
29 transportation services to other seniors?

30 MS. MARSHALL: Yes, we do have some of that.

31 MR. GOODLAND: Those will be my questions for Ms.
32 Marshall.

33 MR. SAUNDERS, PRESIDING CHAIRMAN: Thank
34 you, Mr. Goodland.

35 MR. WHALEN, Q.C.: I don't know if you want to take
36 the morning break. I won't be ...

37 MR. SAUNDERS, PRESIDING CHAIRMAN: I think
38 we'll try and finish with Ms. Marshall and ...

39 MR. WHALEN, Q.C.: Sure, okay. Good morning, Mrs.
40 Marshall.

41 MS. MARSHALL: Good morning.

42 MR. WHALEN, Q.C.: And I look at your affidavit, and
43 I think I might have mentioned this to you, on page
44 three, or page one, paragraph three, and I see that in the
45 65 and over category there are 35,000 females and
46 28,000 males.

47 MS. MARSHALL: Yes.

48 MR. WHALEN, Q.C.: And that immediately causes me
49 concern as a male. (*laughter*) But when I ...

50 MS. MARSHALL: Get yourself in shape.

51 MR. WHALEN, Q.C.: I'll have to get in shape. I know
52 you've already admonished me to that.

53 MS. MARSHALL: Yeah.

54 MR. WHALEN, Q.C.: When I look at the number, I
55 have 63,000 people in that category, and that's what I
56 want to talk about, that bigger number, and you've
57 indicated that of that group 69, and we'll call it 70
58 percent ...

59 MS. MARSHALL: Yes.

60 MR. WHALEN, Q.C.: ... receive the guaranteed annual
61 supplement ...

62 MS. MARSHALL: Yes.

63 MR. WHALEN, Q.C.: ... and we'll take that as a given
64 that that shows a certain degree of need, certainly
65 based on income and so on.

66 MS. MARSHALL: Oh, yes, desperately so.

67 MR. WHALEN, Q.C.: Now, I would presume that that
68 group of people is also in need for things that are
69 probably more important like heat and light.

70 MS. MARSHALL: That's right. The general comforts
71 of ...

72 MR. WHALEN, Q.C.: Yeah. And I'm wondering if your
73 organization, for instance, is making or will make or has
74 made similar applications in terms of special provisions

1 for seniors in that category, that is a reduction in their
2 utility rates or some special provision.

3 MS. MARSHALL: Not through here but, not through
4 the Public Utilities Board, but we have gone to private
5 enterprise and in this way some banks have come
6 forward, various agencies have come forward to assist
7 if the need is desperate.

8 MR. WHALEN, Q.C.: Okay. So do I take it then that
9 your focus is here a combination of age and financial
10 need, because there was obviously some people who
11 are over 65 who don't have financial need ...

12 MS. MARSHALL: Yes, yes, of course.

13 MR. WHALEN, Q.C.: ... but for the purposes of our
14 discussion, we can assume that 70 percent of them do
15 ...

16 MS. MARSHALL: No question.

17 MR. WHALEN, Q.C.: ... have financial need.

18 MS. MARSHALL: Yeah.

19 MR. WHALEN, Q.C.: Okay?

20 MS. MARSHALL: Yeah.

21 MR. WHALEN, Q.C.: That's your 69 percent number.

22 MS. MARSHALL: Yes.

23 MR. WHALEN, Q.C.: Okay. Now then, Mr. Goodland
24 took you to Information 4, and I'd just like you to look
25 at that for a minute, because you said something in
26 your evidence which is very interesting. You said some
27 of these people have vehicles.

28 MS. MARSHALL: Yes.

29 MR. WHALEN, Q.C.: Because, and it's hard for us to
30 try to figure out who these people are because as I see
31 it we have, and I don't want to get too many numbers in
32 here, but we have 63,000 people in the senior category.

33 MS. MARSHALL: Yeah.

34 MR. WHALEN, Q.C.: If you look at, and for
35 convenience we can take the last year, 2001, at

36 Information 4. Of those 63,000 people 65 and over, we
37 have 18,000 people with vehicles total in the industry.

38 MS. MARSHALL: Uh hum.

39 MR. WHALEN, Q.C.: I think we can agree that that's
40 accurate. Now, as it turns out, when 70, or 69 or 70
41 percent are in the income need category, that leaves 30
42 percent who are not, they're well off, they're
43 comfortable, one assumes, and that number happens to
44 be 19,000 people, 18,900, and the number that we have
45 here in the total industry with vehicles is 18,800, so that
46 I presume that your concern for insurance rates is for all
47 seniors who are in need.

48 MS. MARSHALL: Absolutely.

49 MR. WHALEN, Q.C.: Okay.

50 MS. MARSHALL: Yeah.

51 MR. WHALEN, Q.C.: And that group is ...

52 MS. MARSHALL: Excuse me, that's seniors with whom
53 our organization has association.

54 MR. WHALEN, Q.C.: Okay, has ...

55 MS. MARSHALL: But certainly seniors in general who
56 are in need ...

57 MR. WHALEN, Q.C.: Are in need.

58 MS. MARSHALL: ... we represent ...

59 MR. WHALEN, Q.C.: But your concern is for your
60 membership who may need to get to your meetings and
61 get out generally and be involved.

62 MS. MARSHALL: Well, that, but we're concerned for,
63 we're advocating for seniors in need overall though.

64 MR. WHALEN, Q.C.: Okay. That's my point, I thought
65 you said ...

66 MS. MARSHALL: But in particular ...

67 MR. WHALEN, Q.C.: Yeah.

68 MS. MARSHALL: Yes, but in particular ...

69 MR. WHALEN, Q.C.: So if we look at ...

1 MS. MARSHALL: ... for our own organization.

2 MR. WHALEN, Q.C.: Yeah, okay. If we look at the
3 document that Mr. Goodland took you to, which is Info
4 4, and the year 2001 and the over 65 category, there are
5 in Facility, in these statistics, 649, and there are in the
6 general driving population, as I read this, over 65,
7 18,000 people. Now that, I think industry here may
8 involve both of those, I'm not sure. It's a small number
9 so it doesn't make a lot of difference. Is your concern
10 for all of the drivers over 65?

11 MS. MARSHALL: Yes. Well, you know, some ... yes,
12 I was speaking to a gentleman recently who is retired
13 and is more comfortably off than \$10,800, you know,
14 income, but he has retired, has budgeted for his
15 retirement, and because of the pending insurance
16 increase, he has to give up the particular sport that he
17 was interested in because he can't afford it, he won't be
18 able to afford it.

19 MR. WHALEN, Q.C.: Okay. And do ... okay, do you
20 know where he is in terms of what category of
21 insurance he falls into in this spectrum we have here?
22 I mean, did he tell you that?

23 MS. MARSHALL: No, he didn't tell me that but I just
24 gleaned that he wasn't in the Facility bracket.

25 MR. WHALEN, Q.C.: Yes, so, in other words, he's in
26 the general market, you guess, you glean ...

27 MS. MARSHALL: Yes.

28 MR. WHALEN, Q.C.: ... so he's in the 18,000 and he
29 doesn't want his rate to go up.

30 MS. MARSHALL: No.

31 MR. WHALEN, Q.C.: And I don't want my rate to go
32 up either, but ...

33 MS. MARSHALL: Nor do I.

34 MR. WHALEN, Q.C.: So I guess what I'm asking you
35 is, first of all, when we look at that 649 bracket there,
36 that 650 people, we can't really tell, there's no way that
37 I can see that this Board or anyone can conclude that,
38 first of all, they fall into 70 percent of the olders (*sic*)
39 who are in need because those people perhaps are less
40 likely to even have a vehicle, much less have a vehicle
41 that somebody would categorize as high risk. How do
42 you draw those conclusions or how does the Board
43 draw them or are you prepared to speak to that, Mrs.
44 Marshall?

45 MS. MARSHALL: No, I'm not.

46 MR. WHALEN, Q.C.: You're not. You're just in here
47 keeping rates down for seniors generally.

48 MS. MARSHALL: Yes.

49 MR. WHALEN, Q.C.: Thank you very much and good
50 luck. I'm getting ... by the way, I qualify for membership
51 in your organization, so ...

52 MR. SAUNDERS, PRESIDING CHAIRMAN: I gather
53 you're going to make a separate argument on behalf of
54 Norm Whalen. Ms. Newman?

55 MS. NEWMAN: Yes, I do have a couple of questions.
56 They shouldn't take too long.

57 MS. MARSHALL: Yes.

58 MS. NEWMAN: Ms. Marshall, good morning. I just
59 want to ask you, I don't know if I missed it, how long
60 you have been Acting Chairperson of the Seniors
61 Resource Centre?

62 MS. MARSHALL: Oh gosh, I can't remember, I'm sorry.
63 It's been many years.

64 MS. NEWMAN: Many years.

65 MS. MARSHALL: Yeah, many years. Maybe seven,
66 eight years.

67 MS. NEWMAN: Okay. And were you involved with
68 the Association before that?

69 MS. MARSHALL: Oh, yes. I've been involved with
70 the Association since its inception.

71 MS. NEWMAN: And Mr. Whalen had asked you a
72 question about whether you had appeared before this
73 Board ...

74 MS. MARSHALL: I'm sorry?

75 MS. NEWMAN: Mr. Whalen had asked a question as
76 to whether you had appeared before this Board with

1 respect to the cost of power and electricity in general
2 for seniors and you had said no, is that correct?

3 MS. MARSHALL: I have never, no.

4 MS. NEWMAN: And are you aware if your
5 organization has done so in the past?

6 MS. MARSHALL: No, we haven't.

7 MS. NEWMAN: But it's possible that other
8 organizations have appeared before this Board on
9 behalf of seniors. Are you aware of that?

10 MS. MARSHALL: Not really, but our ... we don't
11 generally appear, as a matter of fact, we advocate, and
12 we advocate and we have other agencies perhaps
13 appear on our behalf. That has been the practice.

14 MS. NEWMAN: So you may in fact talk to other
15 agencies and indicate your concerns and they may take
16 them forward.

17 MS. MARSHALL: Yes.

18 MS. NEWMAN: What other agencies might you be
19 speaking of?

20 MS. MARSHALL: Well, government agencies, health
21 mainly.

22 MS. NEWMAN: Okay, perfect. Thank you very much.

23 MS. MARSHALL: Fine.

24 MR. SAUNDERS, PRESIDING CHAIRMAN: Anything
25 on redirect?

26 MR. GOODLAND: Nothing on redirect, Mr. Chairman.

27 MR. SAUNDERS, PRESIDING CHAIRMAN:
28 Commissioner Powell?

29 COMMISSIONER POWELL: Just a couple of
30 questions, Ms. Marshall. Do you look upon the senior,
31 do you look upon the right to have a driver's licence
32 and a vehicle as a right? Regardless of age, you have
33 the right to have a driver's licence and a vehicle? There
34 should be no discrimination saying when you're a
35 certain age you should not?

36 MS. MARSHALL: Absolutely, yeah.

37 COMMISSIONER POWELL: And of course if you
38 have a ...

39 MS. MARSHALL: If you can afford it, of course.

40 COMMISSIONER POWELL: Absolutely, yes.

41 MS. MARSHALL: That goes without saying, I
42 suppose.

43 COMMISSIONER POWELL: And by default in this
44 province, if you have a vehicle you have to have
45 insurance, so ...

46 MS. MARSHALL: Yes, yes.

47 COMMISSIONER POWELL: Do you also agree with
48 the principle that if you cause an accident you should
49 pay as opposed to a person who never caused any
50 accident should have lower insurance rates versus
51 someone who caused an accident, regardless of age
52 now?

53 MS. MARSHALL: Yeah, that's an interesting ... that I
54 should pay or that we should pay ...

55 COMMISSIONER POWELL: If I'm ...

56 MS. MARSHALL: ... regardless of age.

57 COMMISSIONER POWELL: Regardless of age.

58 MS. MARSHALL: Yes, I do. I can't subscribe to the
59 theory that because you're senior, just because you're
60 senior you ...

61 COMMISSIONER POWELL: Should pay more?

62 MS. MARSHALL: ... you've earned the right, you
63 know, to not pay or ... no, I ...

64 COMMISSIONER POWELL: That's right, yeah.

65 MS. MARSHALL: I feel you have the same
66 responsibilities as a driver at 70 as you do at 27.

67 (10:45 a.m.)

68 COMMISSIONER POWELL: And there's always a
69 possibility that there are people over 65, just like there
70 are people between the ages of 16 and 25, shouldn't be

1 driving because they're accident prone, either because
2 of behaviour or because of things unique to them.

3 MS. MARSHALL: Ill health. Yeah, yes.

4 COMMISSIONER POWELL: Yeah, may or may not be
5 health related, just may be the fact of life there's some
6 people, regardless of age, have insurance problems,
7 they have accidents ...

8 MS. MARSHALL: Yes.

9 COMMISSIONER POWELL: ... regardless, so there
10 should be no age discrimination on that.

11 MS. MARSHALL: No.

12 COMMISSIONER POWELL: So do you have any
13 reason to believe that the insurance industry
14 discriminate the fact that you're over 65?

15 MS. MARSHALL: Well, I ...

16 COMMISSIONER POWELL: Other than people tell that
17 insurance rates have gone up?

18 MS. MARSHALL: Well, I suppose not really except for
19 the fact that I feel that if, when they're targeting seniors
20 who are on fixed incomes, it's really a form of elder
21 abuse, you know, victimization, all these things.
22 They're taking the few pleasures that these seniors can
23 afford and most of them, if the insurance does increase
24 as is planned, will have to forego their vehicles unless
25 they have relatives who can perhaps support the
26 insurance, support them insurance wise like I did in the
27 case of my own mother, but was able to fortunately, but
28 I really feel it's, I feel very strongly that it's a form of,
29 they're targeting seniors because they're a vulnerable,
30 they're the more vulnerable of society because the
31 majority of them are on fixed incomes. Is that
32 answering your question?

33 COMMISSIONER POWELL: Yes, but ...

34 MS. MARSHALL: Yeah. Well, I'm getting my points
35 across.

36 COMMISSIONER POWELL: Yeah, that's right. But
37 those seniors would be no more impacted than a couple
38 working for the minimum wage that have two children
39 that need transportation to take their kids to the various
40 venues that they try to get them to participate, to the

41 extent that their income will allow. I mean, the seniors
42 ... the problem with the insurance is as much a lack of
43 income, just like we ... there's another class of people
44 called the working poor. They'll be impacted
45 proportionately probably just as much as an older
46 person on a fixed income.

47 MS. MARSHALL: I see your point. I'm speaking for
48 seniors ostensibly.

49 COMMISSIONER POWELL: I appreciate that.

50 MS. MARSHALL: But as far as the younger couple is
51 concerned, I can't comment.

52 COMMISSIONER POWELL: No. Well, I guess the
53 point I'm trying ...

54 MS. MARSHALL: I know what you're saying.

55 COMMISSIONER POWELL: You don't think the
56 insurance industry just singled out the seniors any
57 differently than they ... if an advocate was there for the
58 working poor, would comment, maybe suggest that
59 they've singled out the working poor in terms of
60 increasing rates. The rates are just going up and it'll
61 impact your population the same as they would impact
62 the working poor population.

63 MS. MARSHALL: I suppose, but I still feel that ... well,
64 society in general, some are more vulnerable than
65 others, but I can't back down from my ...

66 COMMISSIONER POWELL: Do you think though that
67 it's the basis of the insurance industry to look at ...

68 MS. MARSHALL: To me ...

69 COMMISSIONER POWELL: ... subsidizing the senior
70 component of the insurance industry?

71 MS. MARSHALL: The insurance ... as I read the article
72 in the paper last night, when the CEO for Facility's
73 Association was interviewed, I think he indicated that,
74 or, no, maybe he was asked the question that
75 insurances are for profit, insurance companies, they're
76 out for profit and they want to get the Facility's
77 Association, well, they're for the high risk, but I just feel
78 that 41.3 percent increase is astronomical for anybody
79 at this point in time.

1 COMMISSIONER POWELL: Do you accept the
2 premise that if that 41 percent was based on the fact
3 that those people had caused all the accidents, so if
4 they don't pay, the seniors who are not in Facility will
5 have to pay?

6 MS. MARSHALL: No, it's not 41 percent. It's a 41
7 percent increase, 41, wasn't it a 41 percent increase in
8 insurance?

9 COMMISSIONER POWELL: FA ...

10 MS. MARSHALL: I'm sorry?

11 COMMISSIONER POWELL: We're dealing with just
12 FA, the high risk drivers, those figures are quoted,
13 applicable ...

14 MS. MARSHALL: Oh, maybe I misinterpreted.

15 COMMISSIONER POWELL: I'm not sure what was in
16 the paper, I haven't read it, but that's what we're ...
17 anyway, thank you very much.

18 MR. SAUNDERS, PRESIDING CHAIRMAN: Mr.
19 Martin? Just one or two questions, Ms. Marshall.

20 MS. MARSHALL: Yes.

21 MR. SAUNDERS, PRESIDING CHAIRMAN: Do you
22 understand what FA is, Facility Association, what
23 function they perform in the insurance industry?

24 MS. MARSHALL: I think so.

25 MR. SAUNDERS, PRESIDING CHAIRMAN: Okay.
26 Are you also able to say that any of the people that
27 you represent here today, specifically do you know of
28 anyone who is insured through the Facility, through
29 Facility Association? I shouldn't say it that way.

30 MS. MARSHALL: No.

31 MR. SAUNDERS, PRESIDING CHAIRMAN: Do you
32 know of anyone whose insurance has been placed
33 through Facility?

34 MS. MARSHALL: I can't honestly say that I do
35 specifically.

36 MR. SAUNDERS, PRESIDING CHAIRMAN: So then
37 my next question I guess you've answered it too, you
38 don't know how many of your group that you represent
39 here are impacted by the rates proposed by Facility
40 should they be approved?

41 MS. MARSHALL: All I know is ... in answer to your
42 question, no, but all I do know is that the majority of
43 the people that we represent in our organization would
44 certainly be affected adversely if the insurance went up
45 and ...

46 MR. SAUNDERS, PRESIDING CHAIRMAN: But you're
47 talking of the whole of the insurance industry, you're
48 not talking about the high risk part of the industry.

49 MS. MARSHALL: No.

50 MR. SAUNDERS, PRESIDING CHAIRMAN: I gathered
51 that. I'm not trying to put words in your mouth.

52 MS. MARSHALL: No, you're not.

53 MR. SAUNDERS, PRESIDING CHAIRMAN: Okay. So
54 your understanding is that we are dealing here with the
55 high risk group and that high risk group, it's been
56 proposed by Facility, to increase rates to the high risk
57 group by 40 something percent. That's not to say that
58 all of the insurance rates in the province are going to
59 rise by 40 percent. It's those insureds, those people
60 that are high risk, that end up being insured through
61 Facility Association that are impacted by this
62 application, not all the people in the province, not all
63 the people who are drivers or who own vehicles. Do
64 you understand that clearly?

65 MS. MARSHALL: I must say I did think that the ... I
66 did think that it was insurance overall, seniors overall.

67 MR. SAUNDERS, PRESIDING CHAIRMAN: You
68 thought that the matter we were dealing with had to or
69 would impact all seniors.

70 MS. MARSHALL: Hmm.

71 MR. SAUNDERS, PRESIDING CHAIRMAN: Okay,
72 alright. Anything coming out of the questions from the
73 Board?

74 MR. WHALEN, Q.C.: Not from us, Mr. Chairman.

75 MR. GOODLAND: I just have one issue arising.

1 MR. SAUNDERS, PRESIDING CHAIRMAN: Mr.
2 Goodland.

3 MR. GOODLAND: Ms. Marshall, in ... I suppose just to
4 clarify the last point, did we make efforts or did I make
5 efforts to explain Facility Association to you ...

6 MS. MARSHALL: Yes.

7 MR. GOODLAND: ... and what in fact it meant and in
8 dealing with the high risk drivers?

9 MS. MARSHALL: You did.

10 MR. GOODLAND: And what understanding did you
11 take away from that? What's your ...

12 MS. MARSHALL: People who were at high risk who
13 couldn't afford to pay the additional insurance.

14 MR. GOODLAND: People who were high risk drivers?
15 Did we speak about ...

16 MS. MARSHALL: No, no. I knew I'd get into trouble
17 on this one.

18 MR. GOODLAND: If you look at the page two of your
19 ...

20 MS. MARSHALL: Yeah, page two, the second
21 paragraph.

22 MR. GOODLAND: Yes. If you just want to read,
23 review that.

24 MS. MARSHALL: "If the seniors of the Province of
25 Newfoundland and Labrador who presently receive
26 their private passenger automobile insurance through
27 Facility Association or those seniors who will in the
28 future for one reason or another have the private
29 passenger automobile insurance placed through
30 Facility Association incur an increase to their insurance
31 premiums as sought by Facility Association, it is my
32 opinion that many of those seniors will be required to
33 abandon their driving privileges simply because they
34 will not be able to afford to pay."

35 MR. GOODLAND: Now, did you ... was it explained to
36 you that there was a difference between Facility
37 Association insurance policy versus a normal one?

38 MS. MARSHALL: Yeah.

39 MR. GOODLAND: You were aware that there was a
40 distinction?

41 MS. MARSHALL: Yes.

42 MR. GOODLAND: And what did you think that
43 distinction was? What's the difference between
44 someone insured through Facility Association versus
45 somebody not insured? And if you're unclear about it,
46 that's fine.

47 MS. MARSHALL: Yeah.

48 MR. WHALEN, Q.C.: Yeah. Mr. Chairman, I think
49 there's obviously a confusion here. I don't think it's
50 necessary ...

51 MS. MARSHALL: I think ...

52 MR. WHALEN, Q.C.: ... for Mr. Goodland to cross-
53 examine his own witness. We accept that as an
54 innocent misunderstanding.

55 MR. SAUNDERS, PRESIDING CHAIRMAN: If you're
56 confused you're not the only one confused, Ms.
57 Marshall. We've all been confused at times during this
58 proceeding.

59 MR. WHALEN, Q.C.: Yeah. We've been here for years
60 and months at this.

61 MS. MARSHALL: Well, that's very kind of you but the
62 Facility Association was, in my opinion, a resource that
63 they would have to go to in order to be able to continue
64 with their transportation.

65 MR. GOODLAND: Thank you.

66 MS. MARSHALL: Does that answer it?

67 MR. GOODLAND: Yes.

68 MR. SAUNDERS, PRESIDING CHAIRMAN: Okay.
69 We'll break now till 11:15. Was there anything else?

70 MS. NEWMAN: No. Just I wondered if we wanted to
71 resort to a half an hour break rather than two 15 minute
72 breaks. It's an option I throw out there to parties.

73 MR. SAUNDERS, PRESIDING CHAIRMAN: So we
74 come back at 11:30 and go for two hours? I'd rather go
75 15 minutes.

1 MS. NEWMAN: Sure.

2 MR. WHALEN, Q.C.: Yeah, two 15s, even if we could
3 take a shorter one later.

4 MR. O'FLAHERTY: Mr. Chairman, I realize we've been
5 here a long time. I just want to think about the timing of
6 witnesses.

7 MR. SAUNDERS, PRESIDING CHAIRMAN: Yes.

8 MR. O'FLAHERTY: We have three other witnesses.

9 MR. SAUNDERS, PRESIDING CHAIRMAN: You have
10 three others?

11 MR. O'FLAHERTY: Yes, we do.

12 MR. SAUNDERS, PRESIDING CHAIRMAN: I have Mr.
13 Morris, I have Mr., Sergeant Hill, and who's the other?

14 MR. GOODLAND: A Mr. Whiffen from Environment
15 Canada.

16 MR. O'FLAHERTY: The weatherman.

17 MR. SAUNDERS, PRESIDING CHAIRMAN: Oh, Mr.
18 Whiffen, yes, sure. Yes, his tab was hidden at the
19 bottom here. I say his tab was hidden at the bottom.

20 MR. O'FLAHERTY: I suppose the issue is that our
21 credibility regarding the timing of the witnesses has
22 somewhat been diminished by yesterday having them
23 all here, and I'm wondering if it's ... the order of
24 witnesses was intended to be ...

25 MR. GOODLAND: Mr. Whiffen will be next, followed
26 by Sergeant Hill.

27 MR. O'FLAHERTY: Mr. Whiffen and Sergeant Hill will
28 be dealing with the issue of the weather and the issue
29 of the accidents, and I'm wondering if I should summon
30 Mr. Morris, who will be the last witness, to be here
31 today or will I just push him off into Monday? I'd just
32 like to solicit your views on that and perhaps of
33 counsel because, as I say, yesterday we had everybody
34 here and ...

35 MR. SAUNDERS, PRESIDING CHAIRMAN: Yes, I
36 understand your dilemma. We have approximately two
37 hours of sitting time left, if we keep our breaks to the

38 time that we've agreed on. I don't know ... Mr. Whalen
39 ...

40 MR. WHALEN, Q.C.: We don't expect to be very long
41 with Mr. Hill. I mean, this is just statistical information.
42 The weatherman, the weather is the weather. I can't
43 guarantee but it's possible we could get to Mr. Morris,
44 but why don't we go to the next coffee break and then
45 if ...

46 MR. SAUNDERS, PRESIDING CHAIRMAN: Is Mr.
47 Morris on the premises?

48 MR. O'FLAHERTY: No. I indicated I'd call him.

49 MR. SAUNDERS, PRESIDING CHAIRMAN: So you
50 have to get him here.

51 MR. WHALEN, Q.C.: Well, we'd have a 15 minute
52 break then anyway.

53 MR. SAUNDERS, PRESIDING CHAIRMAN: Yeah. We
54 could wait for him if necessary.

55 MR. WHALEN, Q.C.: I'd hate to have the time not
56 used.

57 MR. SAUNDERS, PRESIDING CHAIRMAN: Sure, and
58 I too. So we'll resume at 11:15 and take stock where we
59 are around noon.

60 MR. O'FLAHERTY: Thank you, Mr. Chairman.

61 MR. SAUNDERS, PRESIDING CHAIRMAN: Okay,
62 thank you.

63 (break)

64 (11:25 a.m.)

65 MR. SAUNDERS, PRESIDING CHAIRMAN: Okay,
66 gentlemen and ladies, are you ready to call your next
67 witness, Mr. Goodland?

68 MR. GOODLAND: Yes, Mr. Chairman, Bruce Whiffen,
69 please?

70 MR. O'FLAHERTY: Mr. Chairman, just for information
71 purposes, I can advise that I have called Mr. Morris and
72 asked him to be here at the building this morning, so in
73 the event that he's needed, then he will be available, so
74 that we don't waste any time.

1 MR. SAUNDERS, PRESIDING CHAIRMAN: Good,
2 thank you, Mr. O'Flaherty. Okay, Mr. Whiffen, would
3 you like to take the Bible in your right hand, please?
4 Do you swear that in the evidence you are about to
5 give, you will tell the truth, the whole truth, and nothing
6 but the truth, so help you God?

7 MR. WHIFFEN: I do.

8 MR. SAUNDERS, PRESIDING CHAIRMAN: Thank
9 you. Okay, Mr. Goodland.

10 MR. GOODLAND: Thank you, Mr. Chairman. Mr.
11 Whiffen, can you indicate your occupation, please?

12 MR. WHIFFEN: I'm a meteorologist with Environment
13 Canada.

14 MR. GOODLAND: How long have you been a
15 meteorologist with Environment Canada?

16 MR. WHIFFEN: Since 1984.

17 MR. GOODLAND: 1984, did you receive any special
18 training in meteorology?

19 MR. WHIFFEN: Yes, I did.

20 MR. GOODLAND: Can you explain to the Board what
21 that would be?

22 MR. WHIFFEN: Well, originally I went to Memorial
23 University and obtained both a Bachelor and Master of
24 Science degrees. From there I went to Dalhousie
25 University and did a one year diploma in the
26 meteorology program, and after that I was hired by
27 Environment Canada, and the first part of that work is
28 an eight month training program in meteorology.

29 MR. GOODLAND: In the program at Dalhousie, the
30 one year meteorology program, are there any other, are
31 there any other programs in meteorology offered in
32 Atlantic Canada?

33 MR. WHIFFEN: No, there are not.

34 MR. GOODLAND: That's the only one?

35 MR. WHIFFEN: Yes.

36 MR. GOODLAND: Okay, any pre-requisites before
37 entering, educational requirements or pre-requisites
38 before entering that program?

39 MR. WHIFFEN: Yes, there are, you have to have a
40 Bachelor of Science degree, preferably with, the
41 preferable courses are physics and mathematics, or
42 meteorology if you're from a university outside of
43 Atlantic Canada.

44 MR. GOODLAND: Okay, and can you just briefly
45 outline, and I'm sure we all have a pretty good sense of
46 it, but just indicate what your definition of a
47 meteorologist, or what meteorology is.

48 MR. WHIFFEN: Well, the science of meteorology deals
49 with the understanding of the atmosphere, the earth's
50 atmosphere, and attempting to predict what will happen
51 to the atmosphere over time.

52 MR. GOODLAND: Okay, now you indicated you're
53 working with, presently with Environment Canada?

54 MR. WHIFFEN: Yes.

55 MR. GOODLAND: And in what capacity again?

56 MR. WHIFFEN: Well, at the moment, I'm working at the
57 Environment Canada building in Donovan's in Mount
58 Pearl. I've been there for the past two and a half years.
59 Before that time most of my work was directly in
60 forecast operations, so from 1984 for the most part, up
61 to 2000, I was working at the Newfoundland Weather
62 Centre in Gander, where I was mostly involved with
63 forecasting. Since that time I've been, as I said, at the
64 Environment Canada building in Donovan's, and my
65 work there is not ... it's still as a meteorologist with
66 Environment Canada, but I'm not directly involved with
67 forecast operations.

68 MR. GOODLAND: Okay, and what are the primary
69 duties of your present position?

70 MR. WHIFFEN: Well, I still report to the manager of
71 the Newfoundland Weather Centre in Gander, and most
72 ... in most areas across the country the weather centres
73 are co-located with high population areas, such as
74 Halifax, Fredericton, Montreal, and so on, out to
75 Vancouver. Here in Newfoundland, that's not the case,
76 so to some extent my job is to represent the manager at
77 the weather office in Gander here in St. John's.

MR. GOODLAND: Which is the largest weather office, weather office in Newfoundland, the St. John's branch?

MR. WHIFFEN: The Newfoundland Weather Centre in Gander has the responsibility for weather forecast services for all of Newfoundland and Labrador.

MR. GOODLAND: Are there any other meteorologists in the St. John's office other than yourself?

MR. WHIFFEN: There are no other meteorologists with Environment Canada in St. John's.

MR. GOODLAND: Yes, okay, now, can you indicate whether Environment Canada compiles weather data?

MR. WHIFFEN: That's correct.

MR. GOODLAND: It does, and can you explain that process?

MR. WHIFFEN: Well, Environment Canada collects data from a variety of sources. Well, once source of information is routine data collection at major airports. Here in Newfoundland and Labrador those are at primarily St. John's, Gander, Stephenville, Deer Lake, Goose Bay, Wabush, that sort of thing, but that data is collected mostly on a 24/7 basis by observers dedicated to that job. There are also a number of automatic stations around the province that report weather conditions in real time. That data is not as detailed as what an observer would report. There are things such as cloud cover and cloud type and precipitation type that is, that's not as accurately recorded by an automatic station, so those are two sources of information. There is also data collected by the network of radar sites across Canada. The two on the island of Newfoundland are in Holyrood and Marble Mountain.

Satellite imagery is another source of data collection, but that's mostly from what's called a go-satellite (*phonetic*), which is administered by the United States.

MR. GOODLAND: The data that's collected, for instance, at the airports throughout the province, can you explain how that data is stored and then accessed by people like yourself?

MR. WHIFFEN: Well, the observers at the airport are required to report weather conditions once every hour,

and that's part of a standard throughout Canada, and for that matter, around the world, so at a specific, at once per hour at a specific time, a number of parameters are measured and input into the communications system, and that's the ...

MR. GOODLAND: Input into what communications system?

MR. WHIFFEN: Well, it's input into Environment Canada's software.

MR. GOODLAND: Okay.

MR. WHIFFEN: On site, and from there it's transmitted to a central collection location with Environment Canada, and from there it's disseminated to whoever requires it, and you know, one group that requires that data would be meteorologists, but it's also disseminated to others as well.

MR. GOODLAND: So you would have the ability or capability of accessing that data that's compiled?

MR. WHIFFEN: That's correct, and that would be available to us in a matter of minutes after it has been input by the observers at the airports.

MR. GOODLAND: And these types of techniques and the software used for gathering and storing this data, how do these techniques compare to other national or international standards?

MR. WHIFFEN: Well, it's all part of a national standard, to my knowledge, although I'm not an expert on the data collection side of what Environment Canada does. I think it's ... in the case of the airports, there are standards with respect to Transport Canada as well that have to be met because a lot of the data that's collected is necessary for airport operations and for airline operations. The things such as visibility and ceilings are important for landing and take off requirements, so there are certainly, you know, rigid standards with respect to measuring of data and inputting and disseminating the data, both nationally, and for that matter, around the world.

MR. GOODLAND: Okay, and meteorologists such as yourself, you're trained to access and interpret this data?

MR. WHIFFEN: That's correct.

1 MR. GOODLAND: Okay, and how long have you been
2 accessing and interpreting this type of data?

3 MR. WHIFFEN: Since 1984.

4 MR. GOODLAND: Okay, and before I get into the
5 particular questions, Mr. Chairman, I'm not certain if we
6 need to qualify Mr. Whiffen to answer or to pass on the
7 information he ultimately will, but if in the event we do,
8 I would ask that he would be qualified as a
9 meteorologist to provide to the Board weather
10 information over certain periods of time for the,
11 generally the greater St. John's area, the Avalon
12 Peninsula.

13 MR. WHALEN, Q.C.: I have no, I don't know if he
14 needs to be qualified as an expert in the formal sense
15 but certainly I have no difficulty with the evidence that
16 Mr. Whiffen is going to be able to give and it will be as
17 authoritative as it turns out to be, so that's ... if ...

18 MR. SAUNDERS, PRESIDING CHAIRMAN: I don't
19 have any problem with his qualifications.

20 MR. GOODLAND: Yes, and ...

21 MR. WHALEN, Q.C.: He can give opinion evidence
22 certainly, if that's the concern of counsel.

23 MR. GOODLAND: Thank you. Mr. Whiffen, do you
24 recall being contacted by the Consumer Advocate in
25 late November 2002 regarding weather information for
26 the St. John's region?

27 MR. WHIFFEN: Yes.

28 MR. GOODLAND: And do you recall providing such
29 information?

30 MR. WHIFFEN: Yes.

31 MR. GOODLAND: Okay, do you recall a document
32 generated as a result of your contact with the Consumer
33 Advocate entitled "Pre-filed Evidence"?

34 MR. WHIFFEN: Yes.

35 MR. GOODLAND: Okay, if you could open the blue
36 binder in front of you, and yours would be the last tab,
37 you can see your name at the very last tab at the back
38 of that binder, do you have that?

39 MR. WHIFFEN: Yes.

40 MR. GOODLAND: Do you want to just review ... there
41 is the document entitled, "Pre-filed Evidence of Bruce
42 Whiffen, given December 3rd, 2002", and there's two
43 attachments, Tab 1 and Tab 2, can you just briefly look
44 at those and confirm your familiarity with those?

45 MR. WHIFFEN: Yes.

46 MR. GOODLAND: This is the information that you
47 provided to the Consumer Advocate?

48 MR. WHIFFEN: Yes.

49 MR. GOODLAND: Okay, is it accurate to the best of
50 your knowledge?

51 MR. WHIFFEN: Yes.

52 MR. GOODLAND: First off, if you could define the ...
53 and you adopt this as being your evidence, do you?

54 MR. WHIFFEN: Yes.

55 MR. GOODLAND: Okay, if you could define a weather
56 season, when does a weather season begin and end
57 from a meteorological perspective?

58 MR. WHIFFEN: A weather season?

59 MR. GOODLAND: Yes.

60 MR. WHIFFEN: I'm not sure ...

61 MR. GOODLAND: From what date does it run and
62 what's the end date?

63 MR. WHIFFEN: The weather season, or winter season?

64 MR. GOODLAND: Well, the weather season first or the
65 ...

66 MR. WHIFFEN: Well, I mean weather conditions
67 occur, you know, throughout any time of the year.
68 With respect to ...

69 MR. GOODLAND: We'll say the winter season.

70 MR. WHIFFEN: Weather conditions are more active
71 beginning in the fall and continuing through the winter
72 and spring, and in Newfoundland and Labrador,

1 weather conditions are relatively quiet during the
2 summer season, with some qualifications, but certainly
3 the weather conditions are more active towards the fall
4 and the winter, and then late spring, or early spring.

5 MR. GOODLAND: Does Environment Canada, do they
6 compile data regarding snowfall accumulation?

7 MR. WHIFFEN: That's correct.

8 MR. GOODLAND: Okay, and other forms of
9 precipitation as well?

10 MR. WHIFFEN: Yes, that's right, rainfall, freezing rain,
11 hail, you know, any type of precipitation is recorded
12 and measured.

13 MR. GOODLAND: Okay, and we've heard, and I'll bring
14 you to the questions a little later, the more particular
15 questions. We've heard the winter season of 2000/2001,
16 we've heard about that and all of the, you know, all of
17 the record breaking components and so on. What
18 timeframes or ranges of months are we speaking of
19 when we talk about the winter season of 2000/2001?

20 MR. WHIFFEN: Well, in general, I mean from an
21 astronomical perspective, the winter begins December
22 21st to March 21st, more or less. For climatological
23 purposes, the winter season is from, includes the
24 months of December, January, and February, from the
25 1st of December to the end of February, February 28th
26 or 29th. That's for climatological purposes. From my
27 perspective, from the paper that was written, I defined
28 the winter season to include the entire year from, I
29 think, July 1st, to the end of June, obviously
30 recognizing that snowfall is very unlikely during the
31 summer months and late spring and early fall, but for
32 completeness purposes, that's how I defined it for that
33 paper.

34 MR. GOODLAND: So it was July 1st, 2000, through to
35 June 30th, 2001.

36 MR. WHIFFEN: That's correct, and in comparison with
37 the other years, that same definition applies.

38 MR. GOODLAND: Can you indicate how long weather
39 records have been kept for precipitation, and in
40 particular, snowfall and rainfall, how many years back
41 in keeping records?

42 MR. WHIFFEN: For St. John's?

43 MR. GOODLAND: Yes.

44 MR. WHIFFEN: At the airport in St. John's, the data
45 has been collected since 1942 when the airport was first
46 established. Weather conditions were reported and
47 recorded, and snowfall amounts was one of those
48 parameters that was measured, so the data from the
49 airport in St. John's has been recorded continuously
50 since that time. There has also been data reported from
51 what's referred to in my paper as the climate station,
52 which is data that's been collected since the 1870s, and
53 continued through until around the, through the 1950s,
54 and that was obviously not at the airport. That data
55 was reported for the most part in a couple of locations
56 in downtown St. John's.

57 MR. GOODLAND: Downtown, okay, now, you have
58 reviewed the snowfall records for the, we'll call it the
59 winter of 2000/2001, and can you indicate to us what the
60 total snowfall accumulation was for that period?

61 MR. WHIFFEN: I think it was 648.4 centimeters.

62 MR. GOODLAND: 648 point?

63 MR. WHIFFEN: Point four, I believe.

64 MR. GOODLAND: Okay, point four, yes. Okay, now
65 what typically is the average range of snowfall that we
66 see in the St. John's region in a normal winter would
67 you say is an average snowfall amount?

68 MR. WHIFFEN: If you go back through the period of
69 records for the airport in St. John's over the past 60
70 years, the average snowfall is about 300 ... I think it's
71 about 347 centimetres, so that would, that's about the
72 average snowfall for a given year for the airport.

73 MR. GOODLAND: And can you indicate how the total
74 accumulated snowfall for the year 2000/2001 ranked
75 with other winters, recorded winters for snowfall
76 accumulation?

77 MR. WHIFFEN: Well, it was higher than any snowfall
78 recorded either at the airport at the climate stations.

79 MR. GOODLAND: And that covers a period of ...

80 MR. WHIFFEN: From about 1874 up to the present
81 time.

1 MR. GOODLAND: Okay, so we're looking at around
2 130 years or so?

3 MR. WHIFFEN: There are a couple of years in the
4 record of data for the climate station that are missing, I
5 believe, but for the most part, that's correct.

6 MR. GOODLAND: Apparently none are missing since
7 the time we commenced recording the data from the St.
8 John's airport.

9 MR. WHIFFEN: That's right, from 1942 the data is
10 continuous.

11 MR. GOODLAND: Okay, can you indicate, do you
12 have any indication how this snowfall ranks with other
13 major cities throughout the country?

14 MR. WHIFFEN: Well, I'm told by the, by Environment
15 Canada's senior climatologist, that it's the ... that event,
16 the winter of 2000/01 in St. John's was the highest
17 snowfall ever recorded among major Canadian cities.

18 MR. GOODLAND: And do you know how major
19 Canadian cities, or regions would have been defined?

20 MR. WHIFFEN: I think it's population more than, an
21 area population of more than 150,000, I think that's the
22 case, but I'm not certain.

23 MR. GOODLAND: What generally is the weather
24 pattern, or the weather pattern we'll see in St. John's,
25 geographically how far reaching is that across the
26 island?

27 MR. WHIFFEN: How well do weather conditions in St.
28 John's represent the rest of Newfoundland?

29 MR. GOODLAND: Yes, or what other regions outside
30 of St. John's would be accurately represented by the St.
31 John's weather data?

32 MR. WHIFFEN: I think as far as snowfall goes, I think
33 that would accurately represent what happens on the
34 Avalon Peninsula generally, but as you go further ... it's
35 a very sensitive area because a lot of storms track very
36 close to the Avalon Peninsula, and variations in track
37 and speed and intensity can have a fairly significant
38 impact on snowfall. There are also topographic
39 influences, so even over relatively short distance,
40 snowfall amounts can vary, but in general, I think, the

41 data for St. John's is a good representation of the
42 Avalon Peninsula.

43 MR. GOODLAND: Did you make any, during this
44 particular winter of interest, did you make any
45 observations regarding the pattern of snowfalls
46 experienced that year?

47 MR. WHIFFEN: I didn't do a rigorous analysis of storm
48 tracks, but it's part of my job to always be aware of
49 weather conditions almost on a day-to-day basis, and
50 certainly from knowing, living in the St. John's area
51 during the time, watching conditions as they evolved
52 during the winter, and looking at the data
53 subsequently, it was clear that there was significant
54 climatological differences during that year as opposed
55 to what would normally happen with respect to storm
56 behaviour.

57 (11:45 a.m.)

58 MR. GOODLAND: And can you indicate what the
59 differences regarding storm behaviour would be?

60 MR. WHIFFEN: Well ...

61 MR. GOODLAND: And you can refer to your
62 documents in front of you, if necessary.

63 MR. WHIFFEN: Okay, in general, the Avalon
64 Peninsula lies along perhaps two or three different
65 storm tracks, and meteorologists can debate the
66 average storm track, but in general storms are generated
67 in a couple of different areas. Over North America they
68 tend to track towards Atlantic Canada. Many of them
69 pass very near to the Avalon Peninsula when they are
70 enroute to the climatological low near Iceland, so the
71 Avalon Peninsula gets a high frequency of storms and
72 that's well recognized. The amount of precipitation that
73 falls and the type of precipitation that falls when these
74 storms pass depends on how many storms we get, how
75 intense they are, the track they take, the speed they
76 travel, so there can be a fair amount of variability from
77 week to week, or month to month, or even year to year,
78 but it's a general pattern climatologically that most of
79 the precipitation that occurs on the Avalon Peninsula
80 in the wintertime is a consequence of these passing
81 storms.

82 If, and we've seen this recently, if these storms
83 ... in a worst case scenario as far as low snowfall is
84 concerned, if we have very few storms and they all pass

north of the Avalon Peninsula, we would get very low snowfall amounts, and if that persisted for a long period of time, then you would go through a long period of time with very little snowfall. If we had a high frequency of storms passing just south of the Avalon Peninsula, then we would see very high snowfalls, and in fact, it's that latter scenario that we saw in 2000/2001.

MR. GOODLAND: And can you just explain then the frequency of the snowfalls, severity and so on, if there was anything different in that year, the winter of interest versus what we normally see.

MR. WHIFFEN: Well, the, for purposes of that paper, I looked at the number of times when we had 10 centimetres of snow or more on a single day, and prior to 2000 and 2001, the highest frequency, we had 14 days of more than 10 centimetres of snow, and I think that occurred sometime in the 1990s. That was the highest frequency of 10 centimetre snowfall events prior to 2000 and 2001. In 2000 and '01, we had 19 of those storms, so I think that gives an indication of the, you know, the frequency of significant snowfall events on the Avalon Peninsula.

MR. GOODLAND: Were you able to determine what the, what normally we see as the average number of days in the winter season with 10 centimetres of snow or greater?

MR. WHIFFEN: I think that's in the paper. I don't, I don't recall it off the top of my head. I believe it's about six events per year, although I'm not certain. On page, well the pages aren't marked, but in the ...

MR. GOODLAND: Under storm frequency, I guess, is it, and significant events.

MR. WHIFFEN: Under storm frequency and significant events section, on the following page ...

MR. GOODLAND: So you're referring to now, Tab 2 of your filed information.

MR. WHIFFEN: That's correct.

MR. GOODLAND: Okay.

MR. WHIFFEN: Yeah.

MR. GOODLAND: And you were about to indicate?

MR. WHIFFEN: Well, in the section entitled "Storm Frequency and Significant Events", on the following page, in the second paragraph, it states in particular, 19 days during the December, January, February timeframe had at least 10 centimetres of snow, whereas on average one event would occur every 15 days, so on average, we would see a 10 centimetre snowfall event every 15 days, but during the winter of 2000/01, we saw one of those events every 4.8 days, so in other words, there was a three-fold increase in frequency of significant snowfall events during the winter of 2000/01.

MR. GOODLAND: So how would you best describe the winter in relation to frequency and severity?

MR. WHIFFEN: Well, I think it's the worst that we've seen, certainly since 1942, and perhaps even since the 1870s.

MR. GOODLAND: And you characterize it, I believe, in your paper as a relentless series of relatively shortlived snowfall and/or blizzard events, is that correct?

MR. WHIFFEN: That's correct. We had, we only had one snowfall day when we had more than 30 centimetres of snow, and that was on December 1st. Most of the snowfall events fell within, between the 10 and 30 centimetre range, which is, I mean 20 centimetres of snow is significant but St. John's has had, just a couple of years ago, we had over 80 centimetres of snow from one single storm, so ... and we did not see that during the winter of 2000/01. We only had one event that was more than 30, so even though we had a record snowfall for the entire winter, that wasn't a consequence of a single storm as much as it was a consequence of a series of smaller but frequent storms.

MR. GOODLAND: Do you, was precipitation in the form of rainfall recorded for the winter of interest?

MR. WHIFFEN: Yes, it was.

MR. GOODLAND: And can you indicate the details of how the rainfall amounts during that winter ...

MR. WHIFFEN: It was below normal during certain months and near normal in other months, but the most striking aspect was the very low rainfall during the month of January. I think we had about five millimetres of rain during the month of January, which was well below, well below average, but it was not a record, but it was much less than what we would normally see.

MR. GOODLAND: And did you make any observations, or is there any record kept of snow depth?

MR. WHIFFEN: Yes.

MR. GOODLAND: And can you indicate what we mean by snow depth and how is that recorded?

MR. WHIFFEN: Well, that's recorded once daily by the observer at the airport. It's reported at 12:00 Greenwich, or 8:30 Newfoundland Standard Time during the winter season, and that's reported physically by the observer, the observer records the snow depth, the average snow depth on the ground.

MR. SAUNDERS, PRESIDING CHAIRMAN: Mr. Goodland, I'm just wondering where you're going with this. I don't know if anyone can test the fact that the winter of 2000/2001 was a very severe winter, and while all this information is very interesting and informative, I'm not sure it's a great help unless you can tie it in for me. No one has contested the fact that we had the most severe winter, so can you relate that to the issue that we're dealing with?

MR. GOODLAND: Well, I'm going to pass on the ... I was just, I guess, for the interest of putting it on the record, but I guess it is on the record because the witness has adopted his pre-filed evidence, so I'll just go to the last issue for the witness, and that would be regarding the number of school closures that he has had, and I would suggest that will have some relevance and will be tied and connected to the next witness being Sgt. Hill, regarding the traffic volumes and so on that may or may not have been on the road during the ...

MR. SAUNDERS, PRESIDING CHAIRMAN: I assume you're going to tie this together in your argument at least. I am struggling trying to find the connection between the evidence the witness is giving and the issue that we're dealing with.

MR. GOODLAND: Well, the relevance, I would suggest, Mr. Chairman, is, as the Chairman may recall, the Board's actuary suggested that the winter season of 2000/2001 should be looked at, I suppose, carefully and possibly considered an outlier for certain aspects of the actuarial evidence, and to, I suppose, to be able to invite the Board at the end of the day to do that, it would be our position that we would have to establish

that the winter, in fact, was of such a unique nature that it should be discounted in certain circumstances when looking at the overall application and how the accident losses or the losses within that particular year may impact on the rate increases sought. I mean, I think that's the ... Ms. Elliott has suggested that in her report that that winter should be looked at very critically or ...

MR. SAUNDERS, PRESIDING CHAIRMAN: Yes, okay.

MR. GOODLAND: ... as an outlier, as (inaudible) has suggested.

MR. SAUNDERS, PRESIDING CHAIRMAN: I don't want to get into an argument with you but all I'm saying is that the discussion or the argument or the disagreement, if you like, as I recall during the course of the actuarial evidence was not so much on the fact that we had a bad winter. I think the discussion centred more around the impact it had, and we got into talking about the impact on commercial and public passenger vehicles. The impact is as a result of an analysis of the information that came out of that winter which, which I would assume are somewhat factual in terms of, yes, it was a bad winter, but here is what the impact was on our loss cost, and it was broken down into commercial and public passenger. Nobody disagreed with the fact that it's a bad winter, and so if you're trying to get on the record through this witness the fact that it was a bad winter, you know, we're hard pressed for time, and ...

MR. GOODLAND: Fair enough and I'll expedite the ...

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay.

MR. GOODLAND: Mr. Whiffen, were you, were you able to make, or the paper that you authored at Tab 2 of your pre-filed document, did you make any inquiries as to the number of school closures or business closures in that year when formulating that paper?

MR. WHIFFEN: Yes, I did.

MR. GOODLAND: Can you indicate to the Board what your findings were?

MR. WHIFFEN: Well, I contacted, I contacted somebody with the Avalon East School Board.

MR. GOODLAND: Yes.

MR. WHIFFEN: And with respect to the number of school closures, and I don't have the numbers here in front of me, but I think ... and it was very difficult to get rigorous numbers from the Board, but I think on average there were about 2 1/2 school closures per year, and ...

MR. GOODLAND: Can you identify that document?

MR. WHIFFEN: Yes, that's correct, that's the document I developed. I was told that the average numbers were about 2.5 closures per year but that there had been six closures in the year 2000/01. I also spoke with the principal of Crescent Collegiate.

MR. GOODLAND: Where is Crescent Collegiate?

MR. WHIFFEN: It's near Whitbourne.

MR. GOODLAND: Okay.

MR. WHIFFEN: And the principal there had told me that there had been about, I think, 15 closures of that school during the winter of 2000/01.

MR. GOODLAND: 15?

MR. WHIFFEN: Yes.

MR. GOODLAND: Okay, if I could have ...

MR. WHALEN, Q.C.: Mr. Chairman, you know, it's hard for us to, you know, I accept the learned paper that the witness has put forward, but we're now getting into, reaching out for school closures, and I don't argue with the fact that schools were closed, I mean schools were closed, I think Wednesday or Thursday, but ... and that they were closed more often when there was a storm, but you know, and maybe this is all accurate and he gets it from another source that we don't know about so it's of limited value.

MR. SAUNDERS, PRESIDING CHAIRMAN: I'm at a loss myself as well, Mr. Whalen, I'm trying to give Mr. Goodland the benefit of the doubt here in terms of how we're going to tie this together, and I'm hoping that he'll do that at the end of the day.

MR. WHALEN, Q.C.: Anyway, let's let it go in but just be cautious as to its weight, and it's not, of course ...

MR. SAUNDERS, PRESIDING CHAIRMAN: Do you have any comment, Mr. Goodland?

MR. GOODLAND: Just to say, Mr. Chairman, early on, and I believe Mr. O'Flaherty put it to the Applicant's actuary, Mr. Pelly, some suggestions about the types of vehicles that were operating when the weather was particularly poor, whether certain vehicles were off the road versus a vehicle staying on the road and so on. This information that we're presenting now will impact, or is relevant to that particular issue because my understanding is the Applicant may have some evidence, or has put evidence before the Board dealing with commercial losses during that winter, a number of commercial accidents and losses versus the number of private passenger accidents, and we believe it's information that the Board may be able to rely on at the end of the day if, in fact, it has before it, some factual basis for determining what vehicles may or may not have been on the road for, more often than not during that particular winter season, and that's simply what it's designed to do, and I do believe that it would be relevant in some capacity for the Board at the end of the day. And Sgt. Hill will testify as well as to, on this topic in a general, in a general way.

Mr. Pelly, you will recall, suggested that it was incomprehensible to him to suggest that commercial vehicles would stay on the road longer than private passenger vehicles, for instance, during times of stormy weather, and this is the information, the type of information that, you know, we would propose that the Board receive and use it in ...

MR. SAUNDERS, PRESIDING CHAIRMAN: In whatever way we see fit.

MR. GOODLAND: In whatever way you see fit.

MR. SAUNDERS, PRESIDING CHAIRMAN: On that basis then I will let you carry on.

MR. GOODLAND: Thank you.

MS. NEWMAN: Can we label this then BW-1?

EXHIBIT BW-1 ENTERED

MR. SAUNDERS, PRESIDING CHAIRMAN: What was that labelled again, BW-1?

MS. NEWMAN: BW-1.

(12:00 noon)

MR. GOODLAND: The last question I would put to you, Mr. Whiffen, regarding, did you make inquiries as to business closures in the greater St. John's area during this winter?

MR. WHIFFEN: Yes, I did.

MR. GOODLAND: And can you indicate what information you were able to uncover?

MR. WHIFFEN: I contacted the Board of Trade here in St. John's, and they told me that they didn't have any numbers, or numbers on the number of closures in the St. John's area.

MR. GOODLAND: And do you know, were you given an explanation as to why?

MR. WHIFFEN: I may have been, but I don't recall.

MR. GOODLAND: Okay, can you offer any opinion regarding the likelihood of seeing a winter like this again in the near future?

MR. WHIFFEN: Well, it's ... we can only base probability of that event happening on the duration of the period of record, and just based on the fact that, you know, we have one event of more than 600 centimetres of snow over the past 60 years at the airport, then that would give, you know, a probability of about one to two percent of it happening in any given year.

MR. GOODLAND: Thank you, those would be my questions.

MR. SAUNDERS, PRESIDING CHAIRMAN: Mr. Whalen?

MR. WHALEN, Q.C.: Thank you, Mr. Whiffen. Probabilities, are they your area of expertise, calculation probabilities, or are you into meteorology?

MR. WHIFFEN: No, I wouldn't say it's my area of expertise.

MR. WHALEN, Q.C.: That might be the area for actuaries.

MR. WHIFFEN: I couldn't comment on that.

MR. WHALEN, Q.C.: Okay, now let's try to get through this fairly quickly, and I must say I enjoyed reading your paper. There's a reference in your affidavit and in your paper to ... at the bottom of page one, to an abnormally high frequency of winter storms and record high snowbanks. Is that a meteorological term that you measure snow in, or is that just an observation?

MR. WHIFFEN: Which statement?

MR. WHALEN, Q.C.: The bottom of page one of your affidavit, and there's also a reference in your paper on page one, high snowbanks.

MR. WHIFFEN: Snowbanks are not part of the meteorological ...

MR. WHALEN, Q.C.: So that's just your observation of a snowbank being on the side of the road ploughed up by a plough, that's what it means to me?

MR. WHIFFEN: That's correct.

MR. WHALEN, Q.C.: Okay, so you didn't go out and measure these. This is just your recollection or observation.

MR. WHIFFEN: That's correct.

MR. WHALEN, Q.C.: The other parts of the paper, you measure snow, you do it in a scientific manner.

MR. WHIFFEN: Well, not me personally, but it's ...

MR. WHALEN, Q.C.: Somebody.

MR. WHIFFEN: Yes, that's correct.

MR. WHALEN, Q.C.: So in terms of snowbanks, for part of that period of time there was a high snowbank in front of my house, and I live in St. John's, and for a large part of the time it was better than ever, there was no snowbank because Mayor Wells sent along a snowblower, which he never does, and cleared it out, so that was just your recollection as opposed to a time (*phonetic*).

MR. WHIFFEN: That's correct.

MR. WHALEN, Q.C.: Yes, okay, now if we can go to page two of your report, Mr. Whiffen, your article, and we'll go through this fairly quickly, and as I say, I found

1 it very interesting. You've got there a chart of some
2 storms, I guess you call them significant storms.
3 You've got 2001, 1881 (*phonetic*), and there are three of
4 those storms that you have there that are at the climate
5 station. Now that's the older measurement, closer to the
6 water level, sea level, I'm sorry?

7 MR. WHIFFEN: That's correct.

8 MR. WHALEN, Q.C.: And when I read that page, do I
9 infer correctly, or read it correctly that you've sort of
10 done a calculation of the average at the airport, which
11 is at a higher elevation, and the average at the climate
12 station, which is a lower elevation, and you've kind of
13 deduced, which again is, I think, common sense, that
14 there's a difference in measurement that may be
15 attributable to the elevation?

16 MR. WHIFFEN: Well, I went to some length, I think, in
17 the paper of measuring the difference in total snowfall.

18 MR. WHALEN, Q.C.: Yeah.

19 MR. WHIFFEN: Between the airport site and the
20 climate station.

21 MR. WHALEN, Q.C.: Yes.

22 MR. WHIFFEN: And I believe I was careful not to draw
23 conclusions as to why there was that difference, but I
24 think I made the point that one of the issues would very
25 well likely be the difference in elevation.

26 MR. WHALEN, Q.C.: Yes.

27 MR. WHIFFEN: Between the climate station and the
28 airport.

29 MR. WHALEN, Q.C.: Yes, and I kind of accept that as
30 common sense, that you're measuring at two different
31 elevations. You get more snow at a higher point, one
32 would presume, and the St. John's airport is at a fairly
33 high elevation compared to the Avalon.

34 MR. WHIFFEN: Compared to the Avalon in general?

35 MR. WHALEN, Q.C.: Yes.

36 MR. WHIFFEN: Certainly higher than the immediate St.
37 John's area. I couldn't comment on average elevation of
38 the Avalon.

39 MR. WHALEN, Q.C.: But you've said that you, in your
40 evidence, that you thought that the measurements that
41 we now have from the airport were acceptable,
42 representative of the whole St. John's area, that was
43 you evidence, and I don't dispute that.

44 MR. WHIFFEN: Well, with qualifiers with respect to
45 elevation, I think that, you know, in general if a snowfall
46 event is reported at St. John's, I think that that's a safe
47 assumption that that same system is affecting the St.
48 John's area, and affecting the Avalon Peninsula.

49 MR. WHALEN, Q.C.: Sure.

50 MR. WHIFFEN: There are many aspects with respect
51 to topography around the St. John's area that have
52 secondary impacts on weather conditions.

53 MR. WHALEN, Q.C.: Okay.

54 MR. WHIFFEN: A storm might go through the Avalon
55 Peninsula, and might give more snow or more rain to
56 different areas. Temperatures might be somewhat
57 different, but the overall impact of the storm would be
58 felt throughout the Avalon Peninsula, but the fine
59 details could certainly be somewhat different in
60 different areas.

61 MR. WHALEN, Q.C.: Okay, now, sir, in this page that
62 you have there, you have a note that if you assume that
63 the measurements were to be a factor, you have a 1.34,
64 in other words, about a one third higher ratio, there
65 might be a one third difference in those measurements,
66 so if you were to factor that to your three climate
67 station measurements that you have here, 598, 576, and
68 523, and just add on a third to each of those, because
69 they were taken at the lower elevation, and one
70 assumes that if someone were measuring back at the
71 airport in those days, higher up, there probably might
72 have been more snow ... we kind of (inaudible) on a
73 record, I mean I was like all of us in St. John's, after we
74 had all that snow, the last couple of days we were
75 hoping we'd get another storm so we could break a
76 record, you know, in the paper, but that may not be a
77 fair measurement. The St. John's station in 2001 versus
78 the climate station in St. John's in 1881, because they're
79 in two different places, aren't they?

80 MR. WHIFFEN: That was the point of going through
81 that analysis, and I think in the paper there were three
82 or four ways in which I compared the numbers.

1 MR. WHALEN, Q.C.: Yeah.

2 MR. WHIFFEN: And in each case there was about a 30
3 percent difference between the sources.

4 MR. WHALEN, Q.C.: Sure.

5 MR. WHIFFEN: And if, you know, if you were to
6 extrapolate that severe winter of '81 and add an extra 30
7 percent, then it would certainly be more than what we
8 had in 2000/2001.

9 MR. WHALEN, Q.C.: Yeah.

10 MR. WHIFFEN: But ...

11 MR. WHALEN, Q.C.: We don't know.

12 MR. WHIFFEN: So, but there are many questions
13 regarding as to whether or not that would be a fair
14 practice to do that.

15 MR. WHALEN, Q.C.: Yeah, that's right, and if that were
16 to be reasonable, all three of those climate station
17 measurements in the 1800s would have beaten the ...

18 MR. WHIFFEN: If you add 30 percent on, that would
19 exceed that.

20 MR. WHALEN, Q.C.: Right.

21 MR. WHIFFEN: Right.

22 MR. WHALEN, Q.C.: Now, I just want to point you to
23 one thing here, in 1954 and '55, and in 1955 and '56, we
24 had two years in a row where we had 576 and 567
25 respectively, inches of snowfall.

26 MR. WHIFFEN: Centimetres.

27 MR. WHALEN, Q.C.: Which you put in here as being
28 pretty well up there, and how do we know that we're not
29 going to get 550 centimetres next year, or even this
30 year? We had almost 400 last year, did we not?

31 MR. WHIFFEN: That's correct, we've looked at the
32 correlation between snowfalls in succeeding years, and
33 I've contacted the Department of Geography at
34 Memorial University about this because there was some
35 discussion from others about the probability of having
36 two successive heavy snowfall years.

37 MR. WHALEN, Q.C.: Yes.

38 MR. WHIFFEN: And some comments had been made
39 that because of the heavy snowfall years in the 1950s,
40 that we could see the same thing again last year
41 because there was a lot of concern about that. The
42 results of that analysis was that there was no
43 correlation between snowfalls in successive years. In
44 essence, the atmosphere does not remember what it did
45 the year before.

46 MR. WHALEN, Q.C.: Sure, it's random.

47 MR. WHIFFEN: Yes.

48 MR. WHALEN, Q.C.: Pretty much.

49 MR. WHIFFEN: Yes.

50 MR. WHALEN, Q.C.: Now, you started in '84, and my
51 recollection from my snow shovelling, was in the winter
52 of '86/'87, we, at least in St. John's, we had another
53 pretty heavy year of snow. Were you working in the
54 city at that time?

55 MR. WHIFFEN: No, I was in ... in '86 and '87, I was in
56 Gander, and then I transferred to Halifax.

57 MR. WHALEN, Q.C.: So you have no direct memory of
58 that year, or do you?

59 MR. WHIFFEN: I can't recall specifically the amount
60 for that year, no.

61 MR. WHALEN, Q.C.: Okay, and one of the things that
62 ... you just mentioned you had a new site at Marble
63 Mountain?

64 MR. WHIFFEN: Radar site at Marble Mountain.

65 MR. WHALEN, Q.C.: But does that record this
66 information, snowfall?

67 MR. WHIFFEN: Well, the radar itself doesn't record
68 snowfall.

69 MR. WHALEN, Q.C.: Okay.

70 MR. WHIFFEN: Amounts, it records the occurrence of
71 precipitation in real time.

MR. WHALEN, Q.C.: Okay, so that's that big, big site that's up by Sam's boulders (*phonetic*) up there on the back of the lift.

MR. WHIFFEN: I'm not sure exactly where it is.

MR. WHALEN, Q.C.: So you don't know where it is, okay, but it doesn't record ... I wondered if you could tell us what the snowfall was at Marble Mountain, for instance, last year?

MR. WHIFFEN: Well, there are snowfall records kept at Deer Lake and Stephenville on a routine basis.

MR. WHALEN, Q.C.: But not at Marble Mountain itself?

MR. WHIFFEN: No.

MR. WHALEN, Q.C.: Okay, just in terms of this exhibit, and I don't want to spend a lot of time at it, your school closures and your business closures, you just contacted people and got some information for the purposes of your paper.

MR. WHIFFEN: That's correct.

MR. WHALEN, Q.C.: And if we want to have, I presume, detailed school information, or detailed business closure information, we'd have to go to the Board of Trade or somebody in the school office.

MR. WHIFFEN: That's correct.

MR. WHALEN, Q.C.: You're not giving your own personal statistical information about that, the way that you are about the weather?

MR. WHIFFEN: Well, I'm just relating discussions I had with ...

MR. WHALEN, Q.C.: With somebody over the phone.

MR. WHIFFEN: Right.

MR. WHALEN, Q.C.: Thank you very much for your help, sir, it was interesting.

MR. SAUNDERS, PRESIDING CHAIRMAN: Thank you, Mr. Whalen. Ms. Newman?

MS. NEWMAN: Yes, Mr. Chairman, I do have a couple of questions. Good afternoon, Mr. Whiffen, on this chart that you provided with reference to school closures, just a quick question for your clarification, you said that the average school closure was 2.5, that was the average where?

MR. WHIFFEN: The Avalon East School Board.

MS. NEWMAN: Okay, and I note on the chart that there's a little graph there, a little record for Crescent Collegiate. Do you know what the average was for Crescent Collegiate in other years?

MR. WHIFFEN: No, I don't.

MS. NEWMAN: So it could very well have been much higher than 2.5?

MR. WHIFFEN: That's quite likely. Crescent Collegiate, it serves a fairly large area, and I think the reason it was larger than the average for the Avalon East is because a lot of students are bussed in from outlying areas, so there's an issue there with respect to the degree of sensitivity for any given storm.

MS. NEWMAN: Okay, and lastly, I just want to have you clarify that the information that you collected with regard to the record winter relates to the St. John's area only?

MR. WHIFFEN: Yes, that's correct.

MS. NEWMAN: And you've said in your testimony, I think, that you think that's a good representation for the Avalon as well?

MR. WHIFFEN: Yes, that's correct.

MS. NEWMAN: So you would say that the information that you found, or the conclusions that you reached would also apply to the Avalon Peninsula?

MR. WHIFFEN: I can't say that, you know, that the total snowfall ... I'm sure that it was an abnormal year for the entire Avalon Peninsula.

MS. NEWMAN: Okay, but you haven't done any analysis on areas other than St. John's?

MR. WHIFFEN: That's correct.

MS. NEWMAN: And not, would this information or this conclusion apply at all to other than the Avalon Peninsula?

MR. WHIFFEN: The conclusion that this was an abnormal year for the Avalon Peninsula?

MS. NEWMAN: Yes, did you reach any ... we'll rephrase that. Did you reach any conclusion as to the experience of the winter in areas outside of the Avalon Peninsula?

MR. WHIFFEN: Not as part of that paper, but just from recollection ...

MS. NEWMAN: Sure.

MR. WHIFFEN: And being part of the service during that time, the Gander area, which also, which is the next closest most reliable data source, snowfall amounts at Gander were well above normal. It was not a record for Gander, but it was well above normal. I believe data from St. Lawrence was also well above normal, but I can't quote you numbers and I'm not sure, you know, how much above normal the snowfall was, but you know, as you go further and further away from the Avalon Peninsula, the impact was obviously less.

MS. NEWMAN: Could you speak to Labrador?

(12:15 p.m.)

MR. WHIFFEN: My recollection is that snowfall in Labrador was less than average, and that's consistent with the track of these storms. In years when St. John's has less than normal snowfall, that's a consequence of the fact that storms are tracking north of the Avalon, they're tracking through the Central Newfoundland or Northern Peninsula area. That would mean that Labrador would get more snowfall, so my recollection is that snowfall in Labrador was less than normal, but that's just from my own memory and recollection. I can't be certain of that.

MS. NEWMAN: And would the same apply to the west coast of Newfoundland as is proposed with reference to Labrador?

MR. WHIFFEN: Not necessarily. Snowfall amounts on the west coast are driven by two factors, one of them is the passage of storms, the other one is circulation, what we refer to as circulation weather or precipitation

generated by cold northwesterly winds behind a storm running over the Gulf of St. Lawrence, so that's not from a storm per se, it's from cold air from Labrador and Northern Quebec, passing over warm Gulf waters, and that generates a separate process which generates precipitation and snowfall as well, so if ... so storm tracks are not the only factor on the west coast, and that's why I can't say that the same would apply to Western Newfoundland as would apply to Labrador.

MS. NEWMAN: Thank you, those are all my questions.

MR. SAUNDERS, PRESIDING CHAIRMAN: Redirect, Mr. Goodland?

MR. GOODLAND: Nothing, Mr. Chairman.

MR. SAUNDERS, PRESIDING CHAIRMAN: Commissioner Powell?

COMMISSIONER POWELL: Just one question, Mr. Whiffen, do you, or have you been consulted or contacted by anybody in the insurance industry or anybody on behalf of the insurance industry, like actuaries, about opinions on weather as it relates to ...

MR. WHIFFEN: I've given presentations to the Insurance Institute of Newfoundland.

COMMISSIONER POWELL: Is that a regular thing or was that a one time ...

MR. WHIFFEN: Well, no, that happened twice. That happened in November of 2001 and 2002.

COMMISSIONER POWELL: Was their curiosity on the winter of 2000, you think, controlled that?

MR. WHIFFEN: In both cases I think it was the impression, as I recall, it was that they were interested in somebody to give a presentation on, on the weather. I don't recall there being a specific interest in asking me to speak specifically on the specific issue, but in the case of two years ago, I spoke on, I spoke on the winter of 2000/01 and what the forecasts were for this coming winter, and that was part of a presentation I had given to others as well because there was a lot of interest in, in the fall of 2001 on what the forecasts were for that coming winter. And then this past November I gave a presentation primarily on climate change.

1 COMMISSIONER POWELL: Do you, in the course of
2 your ongoing work, do you get requests from, for stats
3 from the insurance industry on weather patterns as a
4 normal course of events?

5 MR. WHIFFEN: No.

6 COMMISSIONER POWELL: Have you been contacted
7 by any actuaries to ...

8 MR. WHIFFEN: I've been contacted on occasion and
9 when that happens that's redirected to the Atlantic
10 Climate Centre in Fredericton.

11 COMMISSIONER POWELL: So you don't know
12 whether there's an ongoing liaison with the industry
13 and the department at a higher level?

14 MR. WHIFFEN: No.

15 COMMISSIONER POWELL: Thank you.

16 MR. SAUNDERS, PRESIDING CHAIRMAN:
17 Commissioner Martin?

18 COMMISSIONER MARTIN: I have nothing.

19 MR. SAUNDERS, PRESIDING CHAIRMAN: I have no
20 questions. Anything arising? No? Thank you, Mr.
21 Whiffen.

22 MR. WHIFFEN: Thank you. It's now 20 after 12:00.
23 You have one, two more witnesses to call. I think we'll
24 break for 15 minutes at this stage and come back at 25
25 to, thank you.

26 (break)

27 (12:40 p.m.)

28 MR. SAUNDERS, PRESIDING CHAIRMAN: Okay,
29 gentlemen, ladies, are you ready to resume, Mr.
30 Goodland?

31 MR. GOODLAND: Yes, Mr. Chairman.

32 MR. O'FLAHERTY: Mr. Chairman, one matter prior to
33 Mr. Goodland resuming with this witness. I had asked
34 Mr. Morris to come here today, as you're aware.
35 However, he is not feeling well, and he's feeling poorly,
36 and I've spoken to counsel for the Board and to
37 counsel for Facility, and I'm wondering if with the

38 Board's permission we might excuse him for today
39 because he's not going to finish his evidence today
40 anyway, is that okay?

41 MR. SAUNDERS, PRESIDING CHAIRMAN: I have no
42 problem with that.

43 MR. O'FLAHERTY: Thank you, Mr. Chairman.

44 MR. GOODLAND: Sergeant John Hill will be the next
45 witness.

46 MR. SAUNDERS, PRESIDING CHAIRMAN: Sgt. Hill,
47 will you take the Bible in your right hand please? Do
48 you swear that in the evidence you are about to give
49 you will tell the truth, the whole truth, and nothing but
50 the truth, so help you God?

51 SGT. HILL: I do.

52 MR. SAUNDERS, PRESIDING CHAIRMAN: Thank
53 you. Mr. Goodland?

54 MR. GOODLAND: Sgt. Hill, your present employer?

55 SGT. HILL: The Royal Newfoundland Constabulary.

56 MR. GOODLAND: And you've been employed for how
57 long?

58 SGT. HILL: Approximately 21 years.

59 MR. GOODLAND: How long have you been employed
60 as a sergeant?

61 SGT. HILL: 11 years.

62 MR. GOODLAND: And your present position within
63 the police force?

64 SGT. HILL: Presently I'm charge of the Traffic
65 Enforcement Unit.

66 MR. GOODLAND: And how long have you been
67 involved with the Traffic Enforcement Unit?

68 SGT. HILL: I've been in charge of the Traffic
69 Enforcement Unit since October 1st, or I'm sorry,
70 October 6th, 2001.

1 MR. GOODLAND: Okay, now do you recall being
2 contacted by the, by myself, I guess, in late November
3 2002?

4 SGT. HILL: Yes.

5 MR. GOODLAND: Regarding information dealing with
6 numbers of traffic accidents over the last, approximately
7 six years?

8 SGT. HILL: Yes, that's correct.

9 MR. GOODLAND: Okay, and as a result you provided
10 information to me regarding that data?

11 SGT. HILL: I did.

12 MR. GOODLAND: And as a result of that, a pre-filed
13 evidence document was filed on your behalf?

14 SGT. HILL: That is correct.

15 MR. GOODLAND: If you could turn to the tab in the
16 blue binder with your name on it, do you have that?

17 SGT. HILL: Yes, I do.

18 MR. GOODLAND: Can you just review that document
19 entitled "Pre-filed Evidence of Sgt. John Hill, given
20 December 3rd, 2002"?

21 SGT. HILL: Done, sir.

22 MR. GOODLAND: That does accurately reflect the
23 information you provided me?

24 SGT. HILL: That is correct.

25 MR. GOODLAND: Okay, I would also indicate you've
26 been with traffic law enforcement, or you were the
27 Traffic Law Enforcement Co-ordinator since 1996,
28 correct?

29 SGT. HILL: That is correct, in 1996, I was assigned the
30 position of Traffic Law Enforcement Coordinator. It
31 was a solo position that I was responsible for
32 monitoring accident patterns, trends, and to come up
33 with types of remedial action in efforts to attempt to
34 reduce the numbers of accidents. Back in 1996 I wasn't
35 assigned any constables as such. In 1998, I also took
36 over the role as sergeant in charge of Accident
37 Investigation Division. In October of 2001 the

38 Constabulary started a Traffic Enforcement Unit
39 consisting of eight constables and one sergeant, and
40 that is the position I presently hold today.

41 MR. GOODLAND: So the primary function of that
42 office is to deal with traffic enforcement and matters
43 related to that.

44 SGT. HILL: Currently, my position is the supervision of
45 eight constables, and our job is to become involved in
46 selective quality enforcement with a view of focusing in
47 areas where we have traffic related problems and to try
48 and come up with remedial type action to education and
49 enforcement.

50 MR. GOODLAND: Traffic related problems such as?

51 SGT. HILL: Areas where we experience high volumes
52 of accidents.

53 MR. GOODLAND: Okay, does the department maintain
54 records regarding motor vehicle accidents?

55 SGT. HILL: Yes, they do.

56 MR. GOODLAND: Okay, and can you indicate how
57 those records are compiled and what they consist of?

58 SGT. HILL: Every accident that's reported to the Royal
59 Newfoundland Constabulary has a file number attached
60 to it, and these accidents reports are subsequently
61 forwarded to the Accident Investigation Division where
62 they are subsequently recorded as well, and it's
63 through that process that we're able to determine the
64 number of accidents that have been recorded each year.

65 MR. GOODLAND: And that's a system maintained by
66 the RNC?

67 (12:45 p.m.)

68 SGT. HILL: Yes, there is a system currently in place
69 called the ICAN system, that records volumes of
70 accidents.

71 MR. GOODLAND: The ICAN system?

72 SGT. HILL: Yes, that is correct.

73 MR. GOODLAND: And what is, that is an acronym for
74 what?

SGT. HILL: That's the ... I'm not even sure what it stands for. It's just basically, it's a recording system that records all files of all complaints within the Royal Newfoundland Constabulary.

MR. GOODLAND: And what regions are, within what regions are these accidents, motor vehicle accidents recorded?

SGT. HILL: The ICAN system is a province-wide system that records accidents throughout all of our jurisdictions. However, it is able to breakdown accident volumes in specific areas such as the St. John's region specifically, and then you go to other areas that we police, such as Corner Brook, Labrador, and Churchill Falls.

MR. GOODLAND: Those are your four areas of policing for the RNC, is that correct?

SGT. HILL: Yes, that is correct.

MR. GOODLAND: Okay, are there any other forms of records kept within the department or within the police force for motor vehicle accidents?

SGT. HILL: Yes, there are, there is a database that was designed for me back in October of 1995 when I assumed the position of Traffic Law Enforcement Coordinator. I felt that the information that I was getting from the mainframe system, which is our ICAN system, didn't satisfy my queries as to things such as causes of motor vehicle accidents, and as a result of that I set up a databank dealing specifically with motor vehicle accidents, and as each and every accident that was recorded came through my office, this information was put on another databank, a databank specific to accidents.

MR. GOODLAND: And what's the difference between the second set of data versus the first?

SGT. HILL: Well, the databank that I set up basically gave the exact locations of motor vehicle accidents, and as well, upon reviewing the accidents, I was able to include a column noted as contributing factors, where I could determine from reading the accident file what the probable cause of the particular accident was, so that allowed me an opportunity to explore areas where we were experiencing high rates of accidents. The mainframe basically recorded the accident and the names and stuff like that, but it didn't get into specifics

such as different types of accidents such as rear-end collision, or fail to yield turning left, and different sources like that, so I felt that there was a need in my position at that time to be able to accurately identify areas where we had high volumes of accidents, and what the causes of those accidents actually were.

MR. GOODLAND: Now, did you provide some accident data to my office for the purposes of this hearing?

SGT. HILL: Yes, I did.

MR. GOODLAND: And the data you provided, what region did that cover?

SGT. HILL: That covers the area policed by the Royal Newfoundland Constabulary in St. John's, which covers the northeastern Avalon.

MR. GOODLAND: And what are the communities encompassed, say in the northeast Avalon?

SGT. HILL: We go as far as Seal Cove, we go as far as Bay Bulls, and we go as far east as Pouch Cove and all areas in between.

MR. GOODLAND: Okay, I'm just going to ask you to have a look at this document and identify it please.

SGT. HILL: This is a document that was prepared by my office and forwarded to your attention.

MR. WHALEN, Q.C.: Mr. Chairman, we haven't seen that, so if we could probably have a minute before the witness ...

MR. GOODLAND: If Mr. Whalen can let me know when he's finished reviewing that and I'll commence my questioning.

MR. SAUNDERS, PRESIDING CHAIRMAN: What is the data here, Mr. Goodland?

MR. GOODLAND: Well, I'm going to have the Sergeant explain, Mr. Chairman.

MR. SAUNDERS, PRESIDING CHAIRMAN: No, there's no title in terms of ...

MR. WHALEN, Q.C.: Okay, carry on.

1 MR. GOODLAND: Well, it says accidents ... okay, can
2 you indicate what this document represents, Sgt. Hill?

3 SGT. HILL: Yes, this is a month by month breakdown
4 of the accidents that have been recorded through the
5 Accident Investigation Division, a month by month
6 breakdown commencing January of 1996 up to and
7 including October of 2002.

8 MR. GOODLAND: Now, is this information, this data,
9 does that come from the RNC's ICAN database or the
10 one that you've devised?

11 SGT. HILL: This came from the database that's
12 currently in the Accident Investigation Division office.

13 MR. GOODLAND: Which is different from the ICAN?

14 SGT. HILL: Yes, it is.

15 MR. WHALEN, Q.C.: This is not ICAN.

16 MR. GOODLAND: Pardon me?

17 MR. WHALEN, Q.C.: Is this or is this not ICAN?

18 MR. GOODLAND: No, no, and this indicates, so the
19 numbers we're looking at, for instance, if we look at the
20 top left-hand corner, 1986 and in January, 317, what
21 does that represent?

22 SGT. HILL: That's the total number of accidents that
23 were reported to the Royal Newfoundland
24 Constabulary.

25 MR. GOODLAND: For that month.

26 SGT. HILL: Yes.

27 MR. GOODLAND: And then over to the far right under
28 the total for 1996, that would give you the number of
29 accidents for 1996, that 3,157?

30 SGT. HILL: That is correct.

31 MR. GOODLAND: And the rest of the numbers are
32 self-explanatory, but they all mean the same thing in the
33 sense, the number under the month and year represents
34 the number of accidents reported to the RNC for that
35 month.

36 SGT. HILL: Yes, that's correct.

37 MR. SAUNDERS, PRESIDING CHAIRMAN: Mr.
38 Goodland, and in what area are we talking about?

39 MR. GOODLAND: And what area does this represent?

40 SGT. HILL: This is the St. John's jurisdiction.

41 MR. GOODLAND: Which is the Avalon, the northeast
42 Avalon?

43 SGT. HILL: Yes.

44 MS. NEWMAN: And can we label this then?

45 MR. GOODLAND: Yes.

46 MS. NEWMAN: JH-1.

47 **EXHIBIT JH-1 ENTERED**

48 MR. GOODLAND: Now Sgt. Hill, I'm going to ask you
49 to focus on the period, we'll say December 2000
50 through to April 2001, okay. Can you offer, in
51 December 2001 or 2000, rather, we see 433 accidents
52 reported.

53 SGT. HILL: That is correct.

54 MR. GOODLAND: Okay, how does that month
55 compare to the average accidents that would normally
56 occur in December, certainly since 1996?

57 SGT. HILL: Well, obviously the number appears quite
58 higher than the preceding years, and the year that
59 follows 2000.

60 MR. GOODLAND: And if we just look at the ... then
61 you go to January through April 2001, do we see a
62 trend for those months, as compared to similar months
63 in other years.

64 SGT. HILL: Yes, those numbers are higher than
65 previous years and the year that followed 2001.

66 MR. GOODLAND: So both the years that preceded and
67 followed.

68 SGT. HILL: Yes.

69 MR. GOODLAND: Okay, now we've had evidence from
70 Mr. Whiffen ... are you familiar with the winter of
71 2000/2001?

1 SGT. HILL: Yes, I am.

2 MR. GOODLAND: And what's your recollection of that
3 winter?

4 SGT. HILL: Snow, snow, and more snow.

5 MR. GOODLAND: Did you hear Mr. Whiffen's
6 testimony earlier today?

7 SGT. HILL: Yes, I did.

8 MR. GOODLAND: Okay, can you offer any comments
9 regarding the number of accidents that were reported to
10 the RNC during the six month period I have asked you
11 to focus on, or five month period, rather, from
12 December of 2000 through to April 2001, did you make
13 any observations forming any opinions as to why the
14 numbers were consistently higher during that period
15 than in other months from other years?

16 SGT. HILL: Yes, there's no doubt in my mind that the
17 weather and the frequency of snowfall played a
18 contributing factor in the numbers of accidents that we
19 had over that period of time, and there was a sharp
20 increase, there was notice of sharp increases in
21 numbers of accidents because these accidents have to
22 be assigned to investigators and it was certainly
23 brought to my attention by the investigators, the high
24 numbers of files that they were receiving and, you
25 know, there certainly appeared to be, the major reason
26 was the large amount of snowfall that we had that
27 contributed to a number of these accidents.

28 MR. GOODLAND: Based on your ... so you're
29 suggestion the snowfall, there was a link between the
30 amount of, or the winter we had, coupled with the
31 number of motor vehicle accidents reported.

32 SGT. HILL: Yes, I think that in that particular winter,
33 the frequency of snowfall combined with more major
34 obstructions through high snowbanks and things of
35 that sort, roadways being snowcovered more often than
36 years gone by, certainly would have contributed to a
37 higher volume of accidents.

38 MR. GOODLAND: Now, based on your years with
39 Traffic Enforcement, have you made any observations
40 as to the types of vehicles that would remain on the
41 road, or the types of vehicles that will remove
42 themselves from the road during stormy periods?

43 SGT. HILL: I don't have any breakdown of the types of
44 vehicles that were involved in accidents. These
45 numbers basically just spell out the numbers, the total
46 numbers of collisions. I don't have the breakdown. I
47 guess based on my experience over the years, having
48 been out in a number of storms over the course of 20
49 years, usually the first vehicles off the road are private
50 passenger vehicles, followed by commercial vehicles,
51 and usually Metrobus usually are the last ones off the
52 road outside of the emergency response units such as
53 ourselves. We usually end up being the very last
54 people off the road, so, you know ...

55 MR. GOODLAND: Under the umbrella of commercial,
56 what types of vehicles would you place under that?

57 SGT. HILL: Well, I guess when we are out there
58 ourselves in the snowstorms ...

59 MR. WHALEN, Q.C.: Before the witness answers that,
60 I understood he just said he didn't have a breakdown
61 between private passenger and commercial in his
62 statistics.

63 MR. GOODLAND: We're talking about observations
64 that the witness has made in the course of his career in
65 traffic enforcement.

66 MR. WHALEN, Q.C.: I mean it doesn't seem that it
67 takes us anywhere.

68 MR. GOODLAND: Of the vehicles that are on the road,
69 the types of vehicles on the road, not the
70 quantification.

71 MR. SAUNDERS, PRESIDING CHAIRMAN: You're
72 asking for his opinion.

73 MR. GOODLAND: Well ...

74 MR. WHALEN, Q.C.: No, I don't know if he is.

75 MR. GOODLAND: No, no, well I would suggest his
76 opinion based on his years of experience with the RNC
77 and the particular positions he has held, which would
78 put him in a position that would be a little different from
79 the average layperson, I would suggest, therefore I
80 think there would be value in that.

81 MR. SAUNDERS, PRESIDING CHAIRMAN: We'll
82 allow the question.

MR. GOODLAND: Can you indicate, sir, then when you refer to commercial vehicles remaining on the road, what type of vehicles are you speaking of?

SGT. HILL: Well, taxis seem to be out on the road more frequently than private passenger vehicles for sure, and plus you have, I guess, commercial vehicles that are involved in the transport of goods to various commercial establishments as well, usually remain out on the road a little bit longer than the private passenger vehicles.

MR. GOODLAND: Those would be my questions, Sgt. Hill, thank you, sir.

MR. SAUNDERS, PRESIDING CHAIRMAN: Thank you, Mr. Goodland. Mr. Whalen?

MR. WHALEN, Q.C.: Thank you, Mr. Chairman, we're a little surprised by this late exhibit, I think it would have been helpful if we had had it before, and we may need more, but I'd like to start with this witness but I'm not sure I'm going to be able to finish with him, because I think I may want him to bring us some more statistical information. First of all, Sgt. Hill, I'm going to ask you this because we've just had a witness and found out at the end of questioning that she wasn't sure why she was here, or she was a bit confused. Do you know what Facility is, what the Facility Association is?

SGT. HILL: Only through what I've read in the paper and heard on the news.

MR. WHALEN, Q.C.: Okay, well so that you'll understand where I'm coming from with this questioning, Facility Association is a vehicle where all of the insurance companies in Newfoundland collectively have to assume the risk of high risk drivers, or I'll rephrase that, it's not high risk drivers, it's high risk vehicles for whatever reason. It may be because of the driver, it may be because of the vehicle. In other words, it's people that nobody wants to insure, but you've got to insure because everybody has a right to drive, so we're talking about four percent of the driving population in Newfoundland, and in some provinces it's down to as low as one or two percent, so we're talking about the rate of insurance just for those people. Were you aware of that when you were asked to provide this information?

SGT. HILL: I was informed that the, that was the general gist of what the inquiry was dealing with

because when I had heard about the increase of 40 or whatever the rate was ...

MR. WHALEN, Q.C.: How did you hear about that?

SGT. HILL: Well, I heard through, through selective media, and I also was informed through speaking with Mr. Goodland.

MR. WHALEN, Q.C.: Okay.

SGT. HILL: And I guess the first thing that came to mind for me was is this impacting me, something that I guess everybody probably asked themselves the same question, and I guess it was through further inquiry that it was determined that it dealt with high risk drivers.

MR. WHALEN, Q.C.: So presumably did you conclude that it didn't impact you?

SGT. HILL: I would hope so.

MR. WHALEN, Q.C.: Well, it may impact you even if you're not in Facility, so we'll find out ... that's a matter of argument for the Board, depending on who pays for the accidents. Now, let's go to your ... do I understand that the position that you are now in, you took over that position in October the 6th of 2001?

SGT. HILL: Yes.

(1:00 p.m.)

MR. WHALEN, Q.C.: So that was after this year that you appear to be talking about in your exhibit?

SGT. HILL: Yes.

MR. WHALEN, Q.C.: Okay, and what was your role before that, was it somehow similar?

SGT. HILL: I was the sergeant in charge of Accident Investigation Division, which is comprised of a unit, at the time, of six accident investigators who were responsible for investigating the accidents. Okay, those ...

MR. WHALEN, Q.C.: Yes, yes.

1 SGT. HILL: They investigated accidents after they
2 happened. Currently, I'm in charge of the unit that's
3 trying to prevent these accidents from occurring.

4 MR. WHALEN, Q.C.: Okay, okay, now you talked
5 about when you went there first there was a database
6 designed for you, you said, called ICAN.

7 SGT. HILL: Well, the ICAN is the mainframe system for
8 the whole Royal Newfoundland Constabulary.

9 MR. WHALEN, Q.C.: Okay, and but I understood that
10 you said there was information coming in and you
11 added a category to that information which was cause
12 of accident.

13 SGT. HILL: Yeah, I added, because, I guess, I was
14 receiving a lot of inquiries from various media and
15 councils within our jurisdiction and that, that were
16 looking for information, data specific to their town or
17 community, then I felt that by creating a database of my
18 own, I could include a couple of fields there that would
19 help answer those questions, so ...

20 MR. WHALEN, Q.C.: So what is the information that
21 you get now, before you add that cause of accident,
22 what do you get? You get a report that there's been an
23 accident between two vehicles in a certain place, you
24 send someone out?

25 SGT. HILL: From my databank or the ...

26 MR. WHALEN, Q.C.: Yeah, yeah.

27 SGT. HILL: Okay, what we do is when we get an
28 accident, it comes in, currently ... what I did when I was
29 there and what the officer does there now is basically
30 he takes the file, looks at the file and reads through it,
31 and he'll data entry that particular file, and he'll note if
32 there was an injury in the accident, he'll note if there
33 was alcohol involved in that accident, and he'll also
34 include a comment as to what the major contributing
35 factor may have been.

36 MR. WHALEN, Q.C.: But let's just go back to an
37 accident, an accident occurs, you get called, do you ...
38 all these numbers you have here, did you send an
39 officer to every ... for instance, 1996 January, 317, did
40 you send someone out to 317 locations in St. John's to
41 accidents, or were some of these reported later?

42 SGT. HILL: Yes, there are accidents that are walk-ins,
43 what we call walk-ins, which means they come in after
44 the fact and report the accident.

45 MR. WHALEN, Q.C.: Yeah, so that you, you have a
46 form, I guess, that the police fill out when there is an
47 accident.

48 SGT. HILL: Yes.

49 MR. WHALEN, Q.C.: And that would be as a result of
50 going to the scene in some cases?

51 SGT. HILL: Yes.

52 MR. WHALEN, Q.C.: Or taking the information in some
53 cases without going to the scene.

54 SGT. HILL: Correct.

55 MR. WHALEN, Q.C.: And people can come in and tell
56 you about that a couple of days later.

57 SGT. HILL: Yes.

58 MR. WHALEN, Q.C.: And can they phone this
59 information in to you?

60 SGT. HILL: No.

61 MR. WHALEN, Q.C.: Why not?

62 SGT. HILL: It's our policy that if you're involved in a
63 motor vehicle accident and you wish to make a report,
64 that you have to come in to Fort Townshend to provide
65 the accident for purposes of providing documentation
66 such as your driver's license, registration, and proof of
67 insurance.

68 MR. WHALEN, Q.C.: Okay, so you want, you want to
69 have, if you get the information on an accident, you
70 also want to have insurance and a license as well as the
71 information.

72 SGT. HILL: That's correct.

73 MR. WHALEN, Q.C.: Okay, and so now, so in '96, you
74 added a new category, which is the cause of the
75 accident.

76 SGT. HILL: Yes, it wasn't cause, it's contributing factor.

1 MR. WHALEN, Q.C.: Okay, well you used the word
2 "cause".

3 SGT. HILL: Yes.

4 MR. WHALEN, Q.C.: Contributing factor, and who
5 decides, you know, what the contributing factor is, or
6 are there more than one, or ...

7 SGT. HILL: Well, there could be more than one
8 contributing factor in an accident. Basically what
9 would happen is myself or the person who is doing it
10 out would review the accident when it came in and
11 things such as, I guess, if an accident report had ...
12 there's got to be notes made on the accident report by
13 the officer that's taking the report, either through him
14 being at the scene or through information that he
15 receives while taking the accident report, so there has
16 to be, besides what we call filling in the blanks on an
17 accident report, there also has to be a notation there
18 that would say something such as vehicle number one
19 proceeding east on Elizabeth Avenue was struck by
20 vehicle number two also travelling east on Elizabeth
21 Avenue, so we would make the presumption there that
22 we're dealing with a rear-end collision, so he would put
23 in rear-end collision as the contributing factor.

24 MR. WHALEN, Q.C.: Now, in your causes or
25 contributing factors, do you have a category, weather?

26 SGT. HILL: No.

27 MR. WHALEN, Q.C.: So you didn't record any of these
28 during that year as caused by the weather. They were
29 caused by human beings in weather.

30 SGT. HILL: We would have, yeah, we would have
31 included, we would have probably classified that as
32 something such as ... again, depending on whether or
33 not we attended the scene and/or what the person
34 involved in the accident, or the witnesses, if there were
35 any, had to say, and we'd probably put that in as ... and
36 again, it's based strictly on observation of the data
37 entry officer, such as myself, based again on what
38 information is available to him. We could include
39 something as driver inattention, we could include it as
40 slippery road conditions, we could include it as driving
41 too fast for road conditions, things along that nature.

42 MR. WHALEN, Q.C.: But you've designed this
43 category as a method of helping you in determining

44 things such as whether they're rear-end, failure to yield,
45 these kinds of things for categories.

46 SGT. HILL: Yes.

47 MR. WHALEN, Q.C.: And have you found anything
48 for that timeframe for those categories that stand out?
49 Have you analyzed that?

50 SGT. HILL: I haven't, I just ... basically what I did was
51 I did the numbers and had them put on the document
52 that you have before you. I didn't get into ...

53 MR. WHALEN, Q.C.: Okay.

54 SGT. HILL: ... specifically exactly what the causes of, or
55 contributing factors were in all these particular
56 accidents.

57 MR. WHALEN, Q.C.: Now, I just want to understand
58 what area this information in JH-1 is for. What area is
59 that for?

60 SGT. HILL: It's for the area that the Royal
61 Newfoundland Constabulary police out of St. John's.

62 MR. WHALEN, Q.C.: And that is from Seal Cove to
63 Pouch Cove.

64 SGT. HILL: And out as far as Bay Bulls.

65 MR. WHALEN, Q.C.: And Bay Bulls.

66 SGT. HILL: Yes.

67 MR. WHALEN, Q.C.: So it doesn't cover the Avalon
68 Peninsula?

69 SGT. HILL: No sir.

70 MR. WHALEN, Q.C.: It covers all the city?

71 SGT. HILL: Yes.

72 MR. WHALEN, Q.C.: Now, you also seem to cover,
73 you have here the northeast Avalon, so that's the area
74 we've got here. You have Corner Brook, you have Lab
75 City, and you have Churchill Falls.

76 SGT. HILL: We police those areas.

77 MR. WHALEN, Q.C.: Those areas.

1 SGT. HILL: Yeah.

2 MR. WHALEN, Q.C.: So do I understand that you just
3 punched a number in the computer and this information
4 comes out.

5 SGT. HILL: Yes.

6 MR. WHALEN, Q.C.: Now, can I just take you to your
7 affidavit, or your pre-filed evidence? You say the RNC,
8 as a matter of course, maintains records of all motor
9 vehicle accidents reported to it for each calendar year.

10 SGT. HILL: Yes.

11 MR. WHALEN, Q.C.: And these records are
12 maintained, so you actually do them month by month
13 based on this.

14 SGT. HILL: Well, the Accident Investigation Section
15 data entries the accidents every day, every morning,
16 and the officer, he gets the accident files from our
17 records, our readers' department, because all files when
18 they're done by the officer, go to the reader's office, and
19 they disseminate them to the various units that they
20 require the attention of ... such as, obviously accident
21 files come to our division, files involving break and
22 entries would be forwarded to break and entry and so
23 on.

24 MR. WHALEN, Q.C.: Yeah.

25 SGT. HILL: And all accident files would go to the
26 Accident Investigation Division, and they would then
27 be recorded and data entried on the mainframe that we
28 have. They'd also be recorded on the ICAN system as
29 well.

30 MR. WHALEN, Q.C.: How is this record different than
31 the ICAN system?

32 SGT. HILL: Actually there's very little difference. What
33 I found was with the ICAN system was that you may
34 have a very small margin of error, and an example would
35 be where a person reported an accident and came in to
36 headquarters and reported the accident, and three days
37 later the other person came in and reported the
38 accident, but he doesn't know the name of the person
39 he was involved in the accident with, so you end up
40 with two files basically dealing with one accident, and
41 a similar type situation would be where you have
42 multiple vehicles involved in collisions where persons

43 at the scene didn't, where the police don't attend, don't
44 record the proper information, that when they report in
45 to Fort Townshend to the police department, they don't
46 have the information that we can link it to a specific, to
47 that particular accident, until the investigator gets it
48 and he calls one person and says you were involved in
49 an accident here at this place, and then he calls another
50 person, and he says you were involved in an accident,
51 and (inaudible) well, obviously this is the same
52 accident, so basically my point is that you may have
53 multiple files recorded by ICAN, and also if there's an
54 accident that happens in an RCMP jurisdiction, and
55 people come into our headquarters to report the
56 accident, again, there's a file number generated, and that
57 accident is forwarded to the RCMP, so my databank
58 basically weeds out the multiple files, and it weeds out
59 the files that were, that happened in an RCMP
60 jurisdiction. But in saying that, in proportion over the
61 course of 12 months, you know, the numbers that
62 happened are equal over the 12 months, so basically
63 what you'd see, I guess, this here as opposed to ICAN
64 is you'd probably see numbers slightly higher, but
65 they'd be in the same proportion throughout the 12
66 months.

67 MR. WHALEN, Q.C.: Okay, so there may be ... now,
68 these are, these are not the number of vehicles involved
69 in an accident, these are the number of accidents.

70 SGT. HILL: Yes.

71 MR. WHALEN, Q.C.: So there might have been, as you
72 say, two or three vehicles involved in an accident.

73 SGT. HILL: Yes.

74 MR. WHALEN, Q.C.: And when in your affidavit you
75 refer to my own statistical information, you're referring
76 to this system that you set up for your department,
77 your division.

78 SGT. HILL: Yes, I did the data entry from January 1996
79 up to the end of September in 2001.

80 MR. WHALEN, Q.C.: When did you do it?

81 SGT. HILL: Well, I do it, every day I went to work I'd
82 have the files there and I'd do the entry.

83 MR. WHALEN, Q.C.: So you do this on a daily basis.
84 Now, the statistic that we have there again, we'll take
85 the very first one, 1996 January, 317. Are those

1 accidents that occurred in January, or are they
2 accidents that were reported in January?

3 SGT. HILL: Those are accidents that actually occurred
4 in January.

5 MR. WHALEN, Q.C.: Okay, regardless of when they
6 were reported.

7 SGT. HILL: Yes, like if you look at October 2002, then
8 you look at November, it's blank, and the date on the
9 document is December 10th. November actually, and
10 you don't have the number there, there were 272
11 accidents reported up till a couple of days ago that I
12 received the information, but it's possible that number
13 could be and would be higher because people
14 sometimes tend to delay their reporting process, and I
15 guess there are situations where people don't report to
16 insurance, they make deals without going to the police
17 and deals go awry and then they decide they're going
18 to report accidents, and things along that nature, so if
19 an accident came in today and it happened in
20 November, well that would be recorded as an accident
21 that actually happened in November.

22 MR. WHALEN, Q.C.: Okay, now Sergeant, as I
23 understand it from your evidence, you didn't record
24 whether these accidents were private passenger
25 accidents or commercial accidents, or combinations of
26 accidents.

27 SGT. HILL: No.

28 MR. WHALEN, Q.C.: Can you tell us what, the relevant
29 percentage of private passenger vehicles on the road
30 generally compared to commercial vehicles at any of
31 these times?

32 SGT. HILL: No.

33 MR. WHALEN, Q.C.: Can you say if the increased
34 frequency of accidents in 2000 and 2001 were primarily
35 an increase in private passenger vehicles as compared
36 to anything else?

37 SGT. HILL: I don't have those numbers.

38 MR. WHALEN, Q.C.: Okay, and just so that I'm clear,
39 you have provided this and forwarded it in December,
40 and it's up to that ... you have just given us a new
41 figure, maybe if we can jot that in, I wouldn't object to
42 that if it would be helpful to the Board.

43 SGT. HILL: Sure, yeah, actually on Wednesday,
44 Wednesday morning I queried November 2002 on our
45 databank and it came back as ...

46 MR. WHALEN, Q.C.: What was that figure, you can
47 give it to the Board?

48 SGT. HILL: 272.

49 MR. WHALEN, Q.C.: Anything that adds additional
50 information that's helpful, I don't object to that. Do you
51 have any evidence on the severity of the accidents
52 during this period of time?

53 SGT. HILL: No.

54 MR. WHALEN, Q.C.: As to whether there were more
55 bodily injuries or less or, you don't have that.

56 SGT. HILL: There is a field on the databank, and I
57 guess as well on the ICAN system that would indicate
58 whether or not an injury was reported in that particular
59 accident. I don't have that information here to provide
60 to the Board.

61 MR. WHALEN, Q.C.: Do you see a general increase in
62 accidents generally in December when you get your
63 first snowfall, is that ... or whenever your first snowfall
64 happens?

65 SGT. HILL: I think usually the winter season, and the
66 numbers indicate that during winter seasons we do
67 experience higher volumes of accidents, so my answer
68 would be yes.

69 MR. WHALEN, Q.C.: Just a general occurrence, okay,
70 yeah. Thank you very much, Sergeant.

71 MR. SAUNDERS, PRESIDING CHAIRMAN: Thank
72 you, Mr. Whalen. Ms. Newman?

73 MS. NEWMAN: Yes, I do have a couple of questions
74 just to clarify the matter. Sgt. Hill, can you please
75 indicate how the data is collected by an officer with
76 respect to a particular accident, is there a special form
77 that he would use, he or she?

78 (1:15 p.m.)

79 SGT. HILL: Yes, our forms are provided by Motor
80 Registration Division.

1 MS. NEWMAN: Okay.

2 SGT. HILL: And that is the form that we use to collect
3 information related to an accident, and there's ... I don't
4 have one here with me but anyway, basically an officer
5 would go to an accident scene and he would record all
6 the information that is requested on this motor vehicle
7 accident report form, and also there's a section on that
8 that would include comments and a description of that
9 accident and what happened basically.

10 MS. NEWMAN: So on this form, I presume there is a
11 place for the officer to offer a reason for the accident,
12 you spoke of earlier?

13 SGT. HILL: He would offer a reason only if he has, if he
14 knows what that accident, the cause of that accident
15 through one of three things, through what the parties
16 involved in the accident are saying, through what a
17 witness may be saying, and/or through any physical
18 evidence at that particular accident scene.

19 MS. NEWMAN: Okay, does this form also set out a
20 field or a place for the officer to record the weather
21 conditions at the time?

22 SGT. HILL: Yes.

23 MS. NEWMAN: And the road conditions?

24 SGT. HILL: Yes.

25 MS. NEWMAN: And would this information then be
26 compiled as part of the ICAN system?

27 SGT. HILL: No, this information that we record
28 basically is for Motor Registration statistical
29 information. Our ICAN system basically is designed to
30 record the fact that an accident happened. Our
31 department is not interested in why accidents happen.
32 The ICAN system doesn't get into weather conditions
33 and stuff like that. It's a generic system that records
34 accidents.

35 MS. NEWMAN: Okay, and you had said that you did
36 a different type of compilation of data because you
37 wanted further information than the ICAN system.

38 SGT. HILL: Yes, I guess the main reason why I set up
39 my system was because part of my duties was to
40 determine accident patterns and why they were being
41 caused, and that would relate specifically to accidents

42 at intersections where we're dealing with stop signs and
43 red lights, and if we were having high volumes of
44 accidents at those particular intersections, then I would,
45 you know, alert the boys on the Patrol Division, that
46 look, you know, we're having a problem here with
47 people running amber or red lights, is there any way
48 you can put some extra attention into this particular
49 area.

50 MS. NEWMAN: Okay, so underlying this chart that
51 you've provided then, you have some details as to each
52 of these accidents in terms of whether it was at a red
53 light, or a stop sign, or something of that nature.

54 SGT. HILL: Yes, I do.

55 MS. NEWMAN: Would you have also collected the
56 data with reference to the road conditions or the
57 weather conditions?

58 SGT. HILL: No.

59 MS. NEWMAN: Okay, so then that data is not
60 available in a compiled form to your knowledge.

61 SGT. HILL: I would suggest the information is available
62 through Motor Registration Division. I would hope it
63 is. We record the information to those guys for that
64 reason, so I would hope what we're doing is not in vain,
65 so I would hope that they do have that information.

66 MS. NEWMAN: But you're not aware of them
67 compiling that information into a concise summary.

68 SGT. HILL: I could go on record as saying that they, if
69 it's on that form I would suspect or expect that they do
70 have access to that information.

71 MS. NEWMAN: Okay, and can you please explain for
72 us what accidents, I guess, probably would not be
73 included in this chart? Are every accident that occurs
74 in the St. John's region reported to the RNC, do you
75 know?

76 SGT. HILL: I would say no. Every accident that occurs
77 reported to us, absolutely not. As I mentioned earlier
78 there are deals that are swung between parties involved
79 in accidents that tend not to find their way to the police
80 department.

81 MS. NEWMAN: But do you know, are people obliged
82 to report all accidents to the RNC?

1 SGT. HILL: Yes, people who are involved in accidents
2 where damages exceed, total damages exceed \$1,000 are
3 required to report the accident to the police.

4 MS. NEWMAN: Okay, where damages are in excess of
5 \$1,000 you said?

6 SGT. HILL: Yes.

7 MS. NEWMAN: So accidents where vehicles weren't
8 damaged significantly then people are not obliged to
9 report it?

10 SGT. HILL: People are not obliged to report if the
11 damages are less than \$1,000. Now, I will add that if
12 there is a personal injury regarding the amount of
13 damage, that also has to be reported.

14 MS. NEWMAN: Okay, so there, I guess, would be
15 more accidents probably in the province, certainly, as
16 you said, than is on that chart. I guess then, could we
17 reach the conclusion, and I don't want to go further
18 than is proper, can we reach the conclusion then the
19 accidents that aren't reported are probably for the most
20 part, more minor accidents, more fender bender type
21 accidents where there's not a lot of damage or not
22 bodily injury.

23 SGT. HILL: Yes.

24 MS. NEWMAN: Do you have a similar chart for other,
25 the other remaining regions policed by the RNC?

26 SGT. HILL: I don't.

27 MS. NEWMAN: So you don't compile the information
28 for the other regions then?

29 SGT. HILL: No, I don't.

30 MS. NEWMAN: Okay, would there be another officer
31 that would do that?

32 SGT. HILL: There would be, access to that particular
33 information would be available through our ICAN
34 system.

35 MS. NEWMAN: Okay.

36 SGT. HILL: That information is available, I don't have
37 it with me but it is available.

38 MS. NEWMAN: Okay, do you, in addition to the
39 number of vehicles, sorry, the number of accidents that
40 are recorded here and kept track of, do you keep track
41 of the number of offences, motor vehicle offences that
42 occur in your region?

43 SGT. HILL: Yes.

44 MS. NEWMAN: Okay, so you would have a record of
45 the number of offences, fines or probably just the
46 offences in terms of people driving without insurance?

47 SGT. HILL: Yes, I have it here actually.

48 MS. NEWMAN: Could you advise the Board of the
49 number of offences last year, do you keep it annually,
50 or monthly, how does that information ...

51 SGT. HILL: I've recorded some of the information on
52 number of summonses issued over the last number of
53 years, and the reason why I've done that is because I
54 was curious to determine if there was a correlation
55 between traffic summonses issued, and accidents, so I
56 did a report in December of 2001 relating to the number
57 of summonses that were issued and the number of
58 accidents from when our traffic unit started on October
59 6th, to October 2001.

60 MS. NEWMAN: Uh hum.

61 SGT. HILL: And certainly, three months doesn't tell
62 very much of a tale, but the information will be useful as
63 we move into, when I compile the data for 2002, and
64 certainly as we move into future years to determine if
65 there has ... because there was a significant decrease in
66 the numbers of summonses issued. When you look at
67 1998 and 1999, there was a huge decrease in the
68 volumes of summonses that were issued, and an
69 increase in the, a slight increase in the number of
70 accidents, and now we're only looking at a small
71 number of years, so it's kind of difficult to make a
72 definitive correlation at this time, but I suspect in three
73 or four years we may be able to make some type of a
74 correlation between accidents and summonses, if
75 enforcement is done through selective quality
76 enforcement as opposed to random enforcement.

77 MS. NEWMAN: So you're hypothesizing that there
78 may be a correlation, and what would the reason for the
79 correlation be in your opinion?

SGT. HILL: Well, I think, I think with ... and with visibility, number one, with a unit, traffic enforcement units out specifically dealing with traffic enforcement and with volumes of tickets being issued for various offences, and once you reach a certain number of summonses, you're affecting a fairly substantial number of the public through either being affected yourself, through being having been issued a summons, or through informing a relative or friend that you have been stopped, as well as just by the public seeing the police out there stopping motorists certainly rings a bell to people, and I'm sure that most people here when they see a police car with a vehicle stopped, it probably would make them, number one, to have a look to see if their seatbelt is on, and they'd be a little bit more apt to stop at the next light as opposed to proceeding through on a yellow or amber light, so just general visibility and the enforcement through education and through selective enforcement. I personally believe that there is a correlation between selective enforcement and accident volume, accident rates.

MS. NEWMAN: Okay, those are all my questions.

SGT. HILL: Time will tell.

MS. NEWMAN: Thank you.

MR. SAUNDERS, PRESIDING CHAIRMAN: Anything on redirect, Mr. Goodland?

MR. GOODLAND: Nothing arising.

MR. SAUNDERS, PRESIDING CHAIRMAN: Commissioner Powell?

COMMISSIONER POWELL: Just to follow up on what the Board's legal counsel, one of the questions, I was going to ask you if your database, that when an accident gets reported, do you do any correlation to determine if I had an accident, whether I had a prior conviction, to see if accidents, (inaudible) accidents caused by people who got a speeding ticket in the past provided.

SGT. HILL: No.

COMMISSIONER POWELL: You don't see this. Do you think that would be of interest, to see if ...

SGT. HILL: It could be, it could be of interest, but I guess it wasn't something that I was interested in

doing. I guess the main reason for me setting up my databank was to give me easy access to a particular area that an accident occurred, and what the probable cause of that particular accident was. I don't have any information as to how many times a particular individual has been involved in X number of accidents because I don't have any control over what I can do about that.

COMMISSIONER POWELL: Well, you had said about selective enforcement of regulations may help you reduce accidents, so I'm just wondering if there's any database to show that 50 percent of the people that got involved in accidents had gotten a ticket or something ... no, the reason why I mentioned it, one of the ... (inaudible) refer to it, but one of our, our evidence here showed that 21 percent of the new business that goes into Facility, which is the high risk drivers, are people that had convictions but no accidents, so the broker, the insurance industry decided that for a reason that I had a conviction, therefore, I wasn't eligible for voluntary insurance, they put me into Facility because their ... based upon their experience, they're anticipating that I'm going to have an accident, so I'm going to pay my insurance up front. You have no data to say yeah, that's a valid point?

SGT. HILL: No, I don't, I guess the only thing I can say is that, you know, if we have a person that has convictions for traffic offences, and I'll use the stop sign/red light, as an example, in my opinion would be more likely to some day be involved in an accident as opposed to someone who regularly obeys the law. I don't have any ...

COMMISSIONER POWELL: Statistical ... do you have any idea, these stats you have there, as a percentage of the total accidents in the province, because the RCMP element is (inaudible).

SGT. HILL: The RCMP element is not included. I guess the only thing I could advise the Board is that these accidents here include an area that's policed by approximately 250,000 people (*sic*).

COMMISSIONER POWELL: So this is half the accidents (*phonetic*).

SGT. HILL: I would say that, yes.

COMMISSIONER POWELL: Have you studied these? When you were talking, you put a bunch of figures down in front of an accountant (inaudible), and I

1 yellowed out all the high ones, and I noticed each
2 month, all the high ones are either in ... there's one in
3 1999 and the rest are in 2000 and 2001, but I was
4 intrigued by a couple of other figures, that I went and
5 did the next highest, and half of them are before 2000,
6 but there's, then the lowest ... but I was intrigued, and
7 if your November 2002 estimate is right, that will be the
8 lowest number of accidents in November since you've
9 been keeping this data, and also in October of 2001,
10 that's the lowest.

11 SGT. HILL: I mean I can offer a thought on that, and it
12 was in October, October 6th of 2001 when the
13 announcement was made that our Traffic Enforcement
14 Unit was commencing and there was a fair bit of
15 publicity surrounding the commencement of the unit
16 and I don't think it's a secret that the level of traffic
17 enforcement within the Royal Newfoundland
18 Constabulary was not where it should have been for
19 reasons we need not get into today, but I think the mere
20 fact that there was a heightened awareness about the
21 commencement of the Traffic Enforcement Unit,
22 sharpened a few driving skills of the motoring public,
23 and I think when you look at 2002, I think you'll start to
24 see, and I'm hoping, again, I'm making an assumption
25 here, that as we get into 2003 that through our program,
26 Traffic Enforcement Program, that we will see a further
27 reduction in the numbers of accidents.

28 COMMISSIONER POWELL: Do you, one final
29 question, do you have any, your department, any
30 interaction with the insurance industry or anybody on
31 their behalf in terms of this data, and discussions about
32 patterns, traffic accidents, things like that?

33 SGT. HILL: I guess my involvement with the insurance
34 industry would be frequent phone calls from adjusters
35 inquiring about accidents that their clients have been
36 involved in, and I guess often they call and request
37 some assistance in determining information as to what
38 contributing factors in accidents may have been. We
39 are, as a department, guarded in providing that type of
40 information to the insurance industry. That's not to
41 say, I guess, that they don't receive a few titbits here
42 and there kind of thing, but we do have a liaison with
43 the insurance adjusters. Me personally, I've done a
44 presentation last year with the Insurance Institute
45 dealing generally with traffic patterns and trends within
46 the jurisdiction that we placed in St. John's, and I've
47 been asked again to do the same type of presentation
48 later this month, but it's generic, it's not specific to any
49 types of collisions, that kind of thing, it's just some

50 numbers and some general discussion about the, about
51 traffic trends and patterns within our jurisdiction.

52 COMMISSIONER POWELL: Do you think that is
53 because of the higher claim rates versus the weather
54 patterns that we experienced a couple of years ago?

55 SGT. HILL: I just think, I guess, and I asked the same
56 question, like why do you want me to come back again
57 for because I did a presentation last year, but I think it's
58 because, I guess, the insurance industry deals a lot
59 with insurance, with accidents and things along those
60 nature and I guess just to me, numbers seem to attract
61 more attention when you get into numbers of accidents
62 and violations, and when you try to make some
63 correlations and stuff, I guess it creates an interest in
64 the people, I guess, because they're involved in the
65 insurance industry.

66 COMMISSIONER POWELL: Have there been any
67 specific communications with the insurance industry
68 from the perspective FA, which is a smaller portion of
69 the industry, four percent, but looked upon as being
70 the, for lack of a better word, higher risk drivers, has
71 anybody been ...

72 SGT. HILL: I have never had any dealings with anyone.
73 As a matter of fact now, the FA, Facility Association,
74 I've only recently heard about that myself since the
75 media surrounding this particular hearing here that
76 we're having now, so I didn't know it existed to be
77 honest with you.

78 COMMISSIONER POWELL: Thank you very much.

79 MR. SAUNDERS, PRESIDING CHAIRMAN: Thank
80 you, Commissioner Powell. Commissioner Martin?

81 COMMISSIONER MARTIN: Nothing for me, no.

82 MR. SAUNDERS, PRESIDING CHAIRMAN: It seems
83 to me, Sgt. Hill, you have a pretty strong case for
84 getting the insurance industry to contribute to your
85 public awareness program.

86 SGT. HILL: If I could take a moment to discuss that, I'd
87 like to (*laughter*).

88 MR. SAUNDERS, PRESIDING CHAIRMAN: Sgt. Hill,
89 very interesting information that you've given us here.
90 I'm just wondering too, you mentioned that the

1 information is supplied to Motor Registration Division
2 through the ICAN system?

3 SGT. HILL: What happens is these forms, Motor
4 Vehicle Registration forms that are filled out by the
5 officer ...

6 MR. SAUNDERS, PRESIDING CHAIRMAN: Yes.

7 SGT. HILL: When that investigation is concluded, we
8 forward, we forward two copies of the accident report
9 to Motor Registration, and then they take the
10 information and they do the data entry on that
11 particular file.

12 MR. SAUNDERS, PRESIDING CHAIRMAN: Is there
13 any feedback from Motor Registration to you in respect
14 of an analysis of that information?

15 SGT. HILL: No sir.

16 MR. SAUNDERS, PRESIDING CHAIRMAN: Do you
17 request any information from time to time from that data
18 source, or is it something that would be duplicative of
19 what you already have?

20 SGT. HILL: Yeah, no, I don't, I don't ask for that
21 information.

22 MR. SAUNDERS, PRESIDING CHAIRMAN: No.

23 SGT. HILL: Again, I think it is because we've dealing
24 with the city here in St. John's, as they have a genuine
25 interest in data and the causes of accidents, and they
26 have a GPS system, and we're presently trying to
27 negotiate with the city that they would actually be able
28 to record information, if they could access the MRD
29 form themselves, that they would have very accurate
30 information as to an accident that occurred, as to all
31 information actually.

32 MR. SAUNDERS, PRESIDING CHAIRMAN: Would
33 one of the information fields on the form that you're
34 talking about, I guess the accident report form, or
35 whatever you call it, would one of those fields require
36 information respecting whether or not anyone involved
37 in the accident, whether it's one, two, or three parties, or
38 more, had insurance or didn't have insurance?

39 SGT. HILL: Yes.

40 MR. SAUNDERS, PRESIDING CHAIRMAN: And you
41 don't have any statistics though in terms of the number
42 of accidents that you have and the number of accidents
43 that involve people without insurance.

44 SGT. HILL: No.

45 MR. SAUNDERS, PRESIDING CHAIRMAN: You don't
46 keep that as a statistic.

47 SGT. HILL: I don't keep that information, but that
48 information would be available because if a person who
49 was involved in an accident didn't have insurance, then
50 he would subsequently be charged with that offence,
51 and that information would be included on the motor
52 vehicle accident report form that is forwarded to Motor
53 Registration, so I would suggest that Motor
54 Registration would be able to supply that information.

55 MR. SAUNDERS, PRESIDING CHAIRMAN: So you
56 see this information on the forms that comes through
57 your office.

58 SGT. HILL: Yes.

59 *(1:30 p.m.)*

60 MR. SAUNDERS, PRESIDING CHAIRMAN: From your
61 own experience, and just as a general observation, is
62 there a high percentage without insurance that get
63 involved in accidents, or is it an unusually high
64 percentage?

65 SGT. HILL: There are a fair number of people, and
66 again, I guess I'm basing it on my opinion, there are ...
67 I often argue about the number of uninsured drivers in
68 our province, and I think there is a number out there
69 from Motor Registration as to the percentage of
70 uninsured drivers in the province. I argue that the
71 number is much higher, I guess just based on personal
72 experience being out in the field, and I really couldn't
73 tell you, but I know there are a certain percentage of
74 people that are involved in accidents that don't have
75 insurance. What the exact figures are, I am unable to
76 tell you, but I can tell you the numbers of charges that
77 we laid in 2001 for uninsured motorists, and that was
78 790.

79 MR. SAUNDERS, PRESIDING CHAIRMAN: 790 in
80 2001?

81 SGT. HILL: Yes.

MR. SAUNDERS, PRESIDING CHAIRMAN: And is there a relationship between that number and the 3,901 that shows up here in total accidents? In other words, are you saying 700 and some odd out of that 3,900?

SGT. HILL: I would say out of the 790 persons that were charged with operating without insurance, there is a number, a certain percentage amongst the total number of accidents, because the reason why I say it is that the only way a police agency is going to determine the person has no insurance is through a traffic stop for another reason, or an accident. We don't stop cars just for purposes of asking for insurance.

MR. SAUNDERS, PRESIDING CHAIRMAN: No, it would come about as a result of another reason to stop, or to investigate.

SGT. HILL: Yes.

MR. SAUNDERS, PRESIDING CHAIRMAN: Whether it's an accident or a stop sign or something like that.

SGT. HILL: Yes, yes.

MR. SAUNDERS, PRESIDING CHAIRMAN: Yeah, so there were 791 charges laid for operating a vehicle without insurance, all of which were not involved with accidents is what you're saying.

SGT. HILL: Oh yes.

MR. SAUNDERS, PRESIDING CHAIRMAN: Some of which were.

SGT. HILL: I would, I would be very safe in saying that there's a number of those 790 that were uninsured.

MR. SAUNDERS, PRESIDING CHAIRMAN: Uh hum, but you don't keep that as a separate statistic whereby your databank can yield that, say with the press of a button or something.

SGT. HILL: No, sir.

MR. SAUNDERS, PRESIDING CHAIRMAN: No, other information that may be included on your accident report form I'm assuming would include age of the driver?

SGT. HILL: Yes.

MR. SAUNDERS, PRESIDING CHAIRMAN: And do you keep any statistics in relation to age of the driver, for instance, again, looking at your 3,901 which is the last complete year for 2001, would you be able to determine from your databank or from ICAN, what the age of these drivers is or was at the time of the accident?

SGT. HILL: No, no.

MR. SAUNDERS, PRESIDING CHAIRMAN: No.

SGT. HILL: Motor Registration would be able to supply that information.

MR. SAUNDERS, PRESIDING CHAIRMAN: But then Motor Registration doesn't give you back any information, and you don't know what they do with it?

SGT. HILL: They do, it's sent off to, the information, they have it sent off to a national databank and every year I get a big thick book there with all types of information on it, such as age groups and different ...

MR. SAUNDERS, PRESIDING CHAIRMAN: So it is compiled on a national basis.

SGT. HILL: Yes.

MR. SAUNDERS, PRESIDING CHAIRMAN: By region, by province?

SGT. HILL: Again, I'm not really sure.

MR. SAUNDERS, PRESIDING CHAIRMAN: No.

SGT. HILL: Like I know that the information is there because I get it, but whether or not the information I get is through provincial sources or it's sent down from the national thing, but like the people at Motor Registration will tell you that to capture the information for statistical purpose that they have to send away. Now who actually assembles all that information, I have no idea.

MR. SAUNDERS, PRESIDING CHAIRMAN: Yes, how about age of vehicle, is that a factor that you include in your data field?

SGT. HILL: I don't.

MR. SAUNDERS, PRESIDING CHAIRMAN: No.

1 SGT. HILL: No, it's included on the accident report, the
2 year of the vehicle.

3 MR. SAUNDERS, PRESIDING CHAIRMAN: Yes, that
4 goes to Motor Registration.

5 SGT. HILL: I'm not sure if that's one of the ... it possible
6 is again another field where they may be able to access.

7 MR. SAUNDERS, PRESIDING CHAIRMAN: You also
8 mentioned, I think, in response to a question from either
9 Mr. Whalen or Commissioner Powell, that the RCMP
10 keep their own records of accident frequency and
11 locations, I suppose, and so on.

12 SGT. HILL: Well ...

13 MR. SAUNDERS, PRESIDING CHAIRMAN: Are you
14 aware that they do?

15 SGT. HILL: Well, I know that through the course of
16 duty that they would have to, they record all accidents
17 in the same fashion that we do.

18 MR. SAUNDERS, PRESIDING CHAIRMAN: But do
19 they keep any kind of an ongoing statistic similar say to
20 this for their area? I'm looking at JH-1.

21 SGT. HILL: Yes, I really don't know.

22 MR. SAUNDERS, PRESIDING CHAIRMAN: No, you
23 haven't seen any.

24 SGT. HILL: No, I know that they keep their mainframe
25 for accidents ... I don't know how specific they are in
26 relation to their accidents and exactly what types of
27 information that they keep.

28 MR. SAUNDERS, PRESIDING CHAIRMAN: Right.
29 Okay, that's all I had. Any questions arising?

30 MR. GOODLAND: I just have ...

31 MR. WHALEN, Q.C.: Perhaps I should go first.

32 MR. GOODLAND: Sure.

33 MR. SAUNDERS, PRESIDING CHAIRMAN: Sorry, Mr.
34 Whalen?

35 MR. WHALEN, Q.C.: And let Mr. Goodland go last. I
36 just have a couple of things arising from Commissioner

37 Powell's and yours. There's been sort of a focus on the
38 possible convictions or things of drivers, and I'm just
39 wondering if during periods of time when you see high
40 occurrences of accidents such as if it's winter and so
41 on, and you've kind of said to people, you know, stay
42 off the highway, you get these announcements, and
43 sometimes you don't need an announcement, common
44 sense tells you to stay off, do you see, during those
45 periods of time, you know, higher frequencies of people
46 who, for instance, are impaired, or does that show up in
47 these statistics or ...

48 SGT. HILL: No, there's, I guess, from my experience in
49 the traffic unit, we experience snowy weather
50 conditions and that, we consider them as down days
51 because there's a lot less offences occurring during
52 those particular times.

53 MR. WHALEN, Q.C.: So it's less likely of an impaired
54 driver being out on a down, you called a down day.

55 SGT. HILL: Well, I won't speak for impaired drivers, but
56 I will speak for traffic offences, and there's certainly a
57 marked decrease in the number of offences during
58 stormy weather conditions.

59 MR. WHALEN, Q.C.: But there's more accidents, but
60 less offences.

61 SGT. HILL: Yes.

62 MR. WHALEN, Q.C.: That's an interesting thing
63 you've just told us, isn't it?

64 SGT. HILL: Uh hum.

65 MR. WHALEN, Q.C.: Okay, so there's less offences but
66 more accidents. Now, can you help us with this, the
67 people that are out, and if we followed the thesis of
68 these numbers ...

69 SGT. HILL: Yes.

70 MR. WHALEN, Q.C.: On these supposedly snowy
71 days and having these supposedly greater accidents,
72 although less offences, are they a certain type of
73 person? I mean are they people that are generally a
74 little more reckless, younger people, people driving
75 muscle machines, or are they people who kind of say,
76 well I'm safe, don't worry about me, Jack, and they ... in
77 other words, my question quite directly is, they are the,
78 quote, unquote, risk people.

1 SGT. HILL: That's a tough question.

2 MR. WHALEN, Q.C.: Sure it is, and the Board is going
3 to have to deal with it.

4 SGT. HILL: Yeah, it is a tough question to answer. I
5 mean I've dealt with people that have been involved in
6 accidents in weather conditions through driver
7 inexperience, through people who think that because
8 the maximum speed limit is 60 kilometres, that they got
9 to go 60 kilometres regardless of weather conditions.
10 You have the nervous operators, and you have the
11 wanton and reckless group as well, so ...

12 MR. WHALEN, Q.C.: You just described the class,
13 thank you very much, Sergeant.

14 SGT. HILL: Yes.

15 MR. SAUNDERS, PRESIDING CHAIRMAN: Okay,
16 anything ... no, anything by way of ...

17 MR. GOODLAND: Just one question arising.

18 MR. SAUNDERS, PRESIDING CHAIRMAN: Yes, okay.

19 MR. GOODLAND: From Commissioner Powell's
20 inquiry. You have offered the opinion that the trend we
21 see in 2002, and really I suppose since October of 2001,
22 you believe in part at least, it's as a result of the Traffic
23 Enforcement Unit, the creation of that?

24 SGT. HILL: There was a, I think it was around an 18
25 percent decrease in the numbers of accidents and I
26 think when I did my report I ... to the Chief, I didn't want
27 to take credit for our unit being responsible for such a
28 marked decrease in the volumes of accidents because
29 the numbers were just too high, that there's no way that
30 we could be responsible for reducing that number of
31 accidents, and I actually used the, in my report, used
32 the winter of 2000/2001 as a contributing factor in why
33 we had higher numbers of accidents, and why they've
34 been much lower, so I did accept credit for about 8 or 9
35 percent.

36 MR. GOODLAND: And the, and the Traffic
37 Enforcement Unit, that was only created in the fall of
38 2001, correct?

39 SGT. HILL: Yes.

40 MR. GOODLAND: Is there a commitment that you're
41 aware of by the RNC to continue with that unit?

42 SGT. HILL: There is certainly a commitment from within
43 the management and staff of the Royal Newfoundland
44 Constabulary, yes.

45 MR. GOODLAND: Thank you, that will be my only
46 issue.

47 MR. SAUNDERS, PRESIDING CHAIRMAN: I think I
48 missed you on the last round.

49 MS. NEWMAN: That's fine, Mr. Chairman, I had no
50 questions.

51 MR. SAUNDERS, PRESIDING CHAIRMAN: No
52 questions. Okay, thank you, Sgt. Hill, we appreciate the
53 information. So we're gone over time a little. We'll
54 resume on Monday morning at 9:00 and I guess you'll
55 be calling Superintendent Morris.

56 MR. O'FLAHERTY: Yes, there is one matter before we
57 break. Yesterday or the day before I was advised that
58 the schedule for, sorry, to Mr. Morris' pre-filed evidence
59 had some minor changes to it.

60 MR. SAUNDERS, PRESIDING CHAIRMAN: Uh hum.

61 MR. O'FLAHERTY: And provided with this document,
62 so I think it's probably appropriate that I distribute that
63 now so that over the weekend if anybody wishes to
64 look at this, that they'd be in a position to do so. Thank
65 you. I don't know if the Board requires copies, but I'll
66 provide them to the Clerk.

67 MR. SAUNDERS, PRESIDING CHAIRMAN: Yes, the
68 Clerk will look after us, I'm sure. Thank you very much,
69 gentlemen and ladies.

70 MS. NEWMAN: Mr. Chairman, will we label that?

71 MR. SAUNDERS, PRESIDING CHAIRMAN: We'll label
72 it ...

73 MS. NEWMAN: Do you want to label that or will we
74 just replace the earlier pages?

75 MR. O'FLAHERTY: Yeah, just replace it.

76 MS. NEWMAN: Certainly, we'll do that.

1 *(hearing adjourned to January 13, 2002)*