

FUERST, J.

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INTRODUCTION

[1] Steven Patrick Lindsay and Raymond Lawrence Bonner are members of the Hells Angels Motorcycle Club. Following an investigation by the police, they were arrested on January 31, 2002. They are jointly charged with the offence of extortion. They also are jointly charged with the offence of committing extortion for the benefit of, or at the direction of, or in association with a criminal organization. Mr. Bonner alone is charged with breach of recognizance.

PART I: THE EXTORTION CHARGE

A. The Participants

[2] In January 2002 M.M. lived with his wife and two sons in a quiet residential community. Their house was located at the end of a dead-end street, immediately beside a park.

[3] Mr. M. sold satellite television equipment. Satellite systems initially were unavailable in Canada, so he imported repossessed systems from the United States, fixed them up and sold them. After about a year, he started selling new systems. A system consisted of a receiver, a remote control, a card, and a dish. The dish received the signal, and the receiver processed it and displayed it on television. The card was needed to access programming. It had to be activated to work.

[4] The source of the signal for the satellite provider Direct TV was in the United States. Direct TV activated cards for its subscribers, who paid a monthly fee.

[5] Mr. M. created a device that enabled him to program cards so that they were activated without the customer paying the monthly subscription fee to Direct TV. He recognized that this was dishonest, but contended it was not illegal because of the unsettled state of the law at the time.

[6] Direct TV sent out a signal from time to time that rendered such unauthorized cards inoperable. When that happened, Mr. M. fixed customers' inoperable cards so that they would work again.

[7] In January 2002 Steven Lindsay and Raymond Bonner were both full members of the Hells Angels Motorcycle Club. They belonged to the Woodbridge chapter. Mr. Lindsay also was known by his club name "Tiger". Mr. Lindsay had been a full member, and Mr. Bonner a prospect member of the Para-Dice Riders Motorcycle Club, prior to December 29, 2000, when they joined the Hells Angels.

[8] It was admitted that on January 23 and 31, 2002, Mr. Bonner was bound by a condition of a recognizance to keep the peace and be of good behaviour.

B. Mr. M.'s Business Dealings with Christopher Maskell

[9] Mr. M. met Christopher Maskell in late 1997 or early 1998. After several meetings, he traded one of the programmer devices to Mr. Maskell in return for circuit boards.

[10] Mr. M. put together a box that activated cards so that programming for another American satellite provider, Dish Network, could be accessed without payment of a subscription fee. Internet software was available that would do the same thing, but it was hard to use. The activation box was user friendly. Mr. M. made four such boxes. The hardware for a single activation box cost him \$200. About two hours of labour was involved in creating a box.

[11] Mr. Maskell saw Mr. M. use one of the boxes, and wanted to buy it. Initially Mr. M. did not want to sell the box. He told Mr. Maskell that all the cards would become inoperable at some point because Dish Network could disable them, and he could not fix them once that happened. Eventually he agreed to sell one box to Mr. Maskell for \$20,000. Mr. Maskell did not have the cash. He gave equipment and cards to Mr. M., and agreed to pay him \$8000 cash in addition. This was the biggest sale that Mr. M. had made to that point. He did not agree that it represented a "ripoff" of the purchaser.

[12] On the evening of December 23, 2000, he met Mr. Maskell at the Barrie Drive-In. Mr. M. arrived first because he had to set up equipment to demonstrate that the box worked. Mr. Maskell arrived with two young men and an older man. Mr. Maskell got into Mr. M.'s truck. Mr. Maskell told him not to talk about money with the other men, because he was making a profit on the transaction.

[13] Mr. M. demonstrated the operation of the box to the two younger men in Mr. Maskell's presence. The two men went back to their car. Mr. Maskell spoke to them there. He came back to Mr. M. and gave him \$8000 in exchange for the box.

[14] Mr. M. was cross-examined about whether the cash and value of product totalling \$20,000 went through his books. He said that he was not sure about the portion that was product, it probably went into inventory. At the preliminary inquiry, he initially testified that the cash was deposited in the bank. Later he testified that he loaned it to his brother-in-law without recording the loan, and was not sure if tax and GST were paid on the money. At trial, he said that he realized after the preliminary hearing that he was mistaken, he did not deposit the cash in the bank because he loaned it to his brother-in-law. It did, however, go through the books, tax and GST were paid on it, and his wife recorded the loan.

[15] By January 2001 the Internet software was easier to use. Mr. Maskell repeatedly telephoned Mr. M. on the latter's cellular telephone. Mr. Maskell did not have Mr. M.'s home telephone number. Mr. Maskell said "those kids" were pretty mad. He told Mr. M. that some guys came to his home at 1:00 a.m., put the activation box on the table, and said they wanted the money back. He described the guys as "bad dudes". He said they were "bikers". When Mr. M. suggested that the kids had hired bikers, Mr. Maskell agreed.

[16] Mr. Maskell wanted the money back from Mr. M. Mr. M. refused, and said there was no warranty. Instead, he gave Mr. Maskell another activation box for free, along with some programmers and things that could be sold. Mr. Maskell was happy with this.

[17] In spring or early summer 2001, Mr. Maskell purchased another activation box from Mr. M. for \$5000. Mr. Maskell brought a man from Tennessee with him when the sale took place. Later that summer they returned, and Mr. M. upgraded the box for free.

[18] Subsequently, Mr. M. told Mr. Maskell about a cloner box he had made. It could both activate cards and copy information from one card onto another. Mr. Maskell agreed to buy one hundred cloner boxes. He did not stand by that agreement, however, and purchased only six or seven boxes, at a price of \$500 per box. Mr. M. sold another dozen boxes elsewhere, and the rest went to the dump.

[19] Mr. M. created unlooper software to resurrect cards rendered inoperable by Dish Network. In October 2001 he offered to sell the software to Mr. Maskell, because he wanted to get out of the satellite business. He gave Mr. Maskell five days to decide whether to make the purchase. Mr. Maskell agreed to pay \$150,000 for the software, which he was going to resell to someone else. The sale did not go through, because Mr. Maskell did not have the money by the appointed date and time. Subsequently Mr. Maskell left messages that he had the funds, but Mr. M. refused to sell him the software. Mr. M. was concerned that Mr. Maskell was not being truthful about whether he had the money to complete the sale.

C. Emerging Problems

[20] Some time later, Mr. Maskell started to leave nasty threatening messages for Mr. M., such as, “These guys know where you live, it’s out of my hands”. Mr. M. telephoned Mr. Maskell and asked who the people were, but Mr. Maskell would not say. Mr. M. continued to refuse to sell the software to Mr. Maskell.

[21] Mr. Maskell came to Mr. M.’s place of business when the latter’s brother-in-law, M.D., was there. Mr. D., a former police officer, had a store at the same address. Mr. Maskell said that his “guys” wanted the software and they would not take no for an answer. He said it was not about the activation box. Mr. M. again refused to sell the software. He said he would call 911 if anyone came to his house. Mr. Maskell said that it was out of his hands, and left.

[22] Mr. D. testified about an occasion in the fall of 2001 when Mr. Maskell told Mr. M. in his presence, "You don't understand, these guys are Hells Angels". This did not appear to upset Mr. M. Mr. D., however, had basic knowledge about the Hells Angels from his past as a police officer. He was concerned about the safety of Mr. M. and the family. He and Mr. M. agreed that he would gain Mr. Maskell's confidence by bad-mouthing Mr. M., and find out if his brother-in-law was in danger. Mr. D. testified that he did not tell the police about this plan when he gave his first statement after January 23, 2002, but he did tell them before the preliminary hearing.

[23] As a palliative, in November 2001 Mr. M. sold Mr. Maskell five unlooper boxes that would resurrect cards. Mr. Maskell paid around \$50,000 cash. Mr. Maskell was happy, and Mr. M. thought their differences were resolved.

[24] Mr. M. went on vacation at the end of November. He testified that while on vacation he received a disturbing telephone call from his brother-in-law. Mr. D. reported to him that Mr. Maskell said Mr. M. had made enemies, and the Hells Angels would come after him. Mr. M. did not know whether Mr. Maskell was lying. He and Mr. D. did not discuss contacting the police.

[25] Mr. D. testified that he had several conversations with Mr. Maskell that he reported to Mr. M. A week or two before January 23, 2002, Mr. Maskell told Mr. D. to stay away from Mr. M. because the Hells Angels were very serious about going to see him. Mr. D. told Mr. M. this. Mr. D. thought about going to the police, but did not do so.

[26] After Mr. M. returned from vacation in mid-December, there were nasty messages from Mr. Maskell on his voicemail. When he telephoned back, Mr. Maskell seemed upset. Mr. M. thought it was because other people were selling unlooper boxes. Nothing was said about the activation box. They discussed Mr. Maskell coming to get something of his from Mr. M., or Mr. M. mailing something to Mr. Maskell.

[27] Evidence was adduced that during 2001, numerous calls were placed from telephones owned by Mr. Maskell, to Mr. M.'s cellular telephone number. In May there were eight calls. Mr. M. was not sure what business they were transacting then. In June there were over 70 calls.

Mr. M. thought the calls were about getting software reprogrammed. In July there were seven calls, and in August 14 calls. In September there were over 40 calls. Mr. M. said this was probably when he sold the six or seven cloner boxes. In October there were nine calls, all at the end of the month. That is when the threats started, with Mr. Maskell saying things like, “They know where you live”, or, “It’s out of my hands”. Prior to these calls, they discussed the sale of the unlooper software. In November there were over 50 calls. At that point Mr. Maskell wanted to buy the software, and he bought some unlooper boxes. In December there was one call, about buying the software. There were no calls in January 2002. Mr. M. cancelled his cellular telephone service, effective around that time.

D. The Visit on January 23, 2002

[28] On January 23, 2002, Mr. M. was at home with his sons, who were then three and five years old. His wife was at work. About 2:00 p.m. he was on the telephone with his brother-in-law when a truck pulled into the driveway. He thought it was his neighbour, and said he would call Mr. D. back. Then he saw Mr. Maskell and two men standing at his door.

[29] Mr. M. did not invite business associates to his home. Mr. Maskell had never been to his home before, nor did he have the unlisted telephone number for the house.

[30] Mr. M. opened the door, outward and to his right. Mr. Lindsay was standing right at the threshold and was the person closest to him. Mr. Bonner was two feet back and a bit to Mr. M.’s right. Mr. Maskell was behind and to the side of Mr. Bonner.

[31] Mr. M. had never seen Mr. Lindsay or Mr. Bonner before. They did not introduce themselves, nor did Mr. Maskell introduce them to Mr. M.

[32] Mr. Maskell said they had to talk. Mr. M. said, “Okay”. Mr. Lindsay said, “You’ve got \$75,000 of my money”. Mr. M. testified in examination-in-chief that he thought this was about the sale to the two kids, that Mr. Maskell had resold the box he purchased for \$20,000 to the kids for \$75,000, and now these people were coming to collect for the kids. In cross-examination, he agreed that he thought the men at his door had bought the box and paid Mr.

Maskell a lot of money for something that ended up on the Internet. Later in his evidence, he again said that he thought the kids had bought the box from Mr. Maskell, and then hired the men to get the money back.

[33] Mr. M. felt that he was in danger once Mr. Lindsay started to talk. He did not remember what happened next, but he asked why they had not come to his office. His children were running up and down the hallway, playing Spiderman, and he did not want any violence in front of them.

[34] Mr. Lindsay said, “I want my fucking money right now”. Mr. M. said he did not have that kind of money in his home. He tried to negotiate with the men. He did not remember all that Mr. Lindsay said and did, but his hair was tucked behind his jacket and he kept coming toward the door as if he were deciding to use violence on Mr. M.

[35] Mr. Bonner was saying things like, “You’re lucky you’re here”, gritting his teeth, and trying to intimidate Mr. M. Mr. M. could not recall exactly what Mr. Bonner said, but it was the same kind of threats as Mr. Lindsay made.

[36] Mr. M. was afraid because there were three against one, and he did not want any violence in front of his children.

[37] Mr. Lindsay said he would be back in a week, and, with a gesture toward Mr. Maskell, if Mr. M. did not have the money, he and Mr. Maskell would end up in the hospital. Mr. M. said that he did not want any trouble. Then the men turned around, and left in Mr. Maskell’s truck.

[38] Mr. M. testified that Mr. Bonner wore black dress pants and a black “bomber” style waist length jacket. Mr. Lindsay wore the same jacket. He could see an emblem on the front of Mr. Lindsay’s jacket, but the doorframe was there and he was not looking at the writing. When the men turned to go, Mr. M. saw “Hells Angels” on the emblem on the backs of the jackets. He was still standing at his door. Had he gone back into the house, he would not have seen the emblem. This was the first he knew of the involvement of the Hells Angels in the matter.

[39] Mr. M. was shown Exhibit 6 during the trial. He testified that it looked like the jackets worn by Mr. Lindsay and Mr. Bonner on January 23, 2002.

[40] Exhibit 6 is a black “bomber” style waist length jacket. On the front upper left side of the jacket there is a winged death head logo with the initials MC underneath. The logo is encircled by the words “Hells Angels East End”. The words “Hells Angels” appear in an arc above the death head, and the words “East End” in a semi-circle below it. The circular emblem is approximately four inches in diameter in its entirety. An enlarged version of the circular emblem is centred on the back of the jacket. It measures approximately 9 inches in diameter.

[41] The front of the jacket was displayed to Mr. M. in the courtroom from a distance of three feet away. He agreed that he could see the emblem and the words “Hells Angels”.

[42] Mr. M. did not know what to think when he saw the emblem, but he was very scared and confused. He did not know much about the Hells Angels, as he did not pay attention to bad news at the time. He just knew they were a bike gang, and he had heard they used violence to collect money for people. He thought they were there to collect money. He had done nothing wrong, but he thought he must be in trouble because he was told he would be put in the hospital.

[43] In cross-examination, Mr. M. agreed that at the preliminary hearing, he testified that at the time of the visit to his house, he was totally unaware of the Hells Angels, how they operated and what they did. That testimony was true.

E. Mr. M.’s Reaction

[44] The men were at the house for about five minutes. After they left, Mr. M. locked all the doors and windows. It crossed his mind to call the police, but he did not know what would happen to him if he did so. He was worried about the safety of his children, and the men coming back, as they knew where he lived. He did not want the police at the house. He did not call them.

[45] Mr. M. made a number of telephone calls, but was not sure of their order. He called his brother-in-law as soon as he got the house locked up. As Mr. D. was an ex-police officer, he

would know what to do. Mr. M. did not remember if he made more than one call to Mr. D. Mr. M. told Mr. D. that Mr. Maskell and two bikers had just showed up. He did not recall telling Mr. D. that the men said if he did not pay, they would put him in the hospital, but he did not remember his exact words. As a result of speaking to Mr. D., he resolved to get out of the house. He asked if the family could stay at Mr. D.'s home.

[46] Mr. D. testified that he spoke on the telephone with Mr. M. on the afternoon of January 23, but they did not complete their conversation. Mr. M. telephoned him back no more than half an hour later. Mr. M. told Mr. D. that Mr. Maskell and two bikers came to his door and demanded money. They said that if he did not pay, they would put him in the hospital. Mr. M. said he knew they were bikers because they had an emblem on the back of their jackets. Mr. M. was nervous, surprised, agitated and scared. He was concerned for his safety. He did not know what to do.

[47] As a result of that call, Mr. D. was quite concerned, and said they should meet to discuss it further. They had several subsequent telephone conversations. Mr. D. did not think that Mr. M. fully comprehended the seriousness of dealing with the Hells Angels. He told Mr. M. more about the Hells Angels as the day went on. Mr. M. became increasingly frightened.

[48] Mr. M. testified that he telephoned his wife at work. He told her what had happened and asked her to come home, they would have a drink, relax and decide what to do. She was home in half an hour. He called another man who knew Mr. Maskell.

[49] Mr. M. testified that he called Mr. Maskell. Initially he was not sure if he called before or after his wife got home. Then he said he remembered that he called Mr. Maskell at 5:00 p.m. In cross-examination, he was reminded that he told the police on January 26 in a videotaped interview that he called Mr. Maskell half an hour after the men left his house. He then said that he was wrong when he testified that he called at 5:00 p.m., he thought it was later in the day because it was dismal and cloudy outside.

[50] He asked Mr. Maskell, “Why did you do this to me”. Mr. Maskell would not answer. He said he had to get his ribs checked out, intimating that he had been injured by the men seeking the money. Mr. M. asked if it was about the black box. Mr. Maskell said yes. Mr. M. said that he had made good on the deal. Mr. Maskell told him to just pay the money, and hung up. Mr. M. testified that Mr. Maskell was a liar who could not be believed, and he thought he was in on what was happening. He agreed in cross-examination that he chose to telephone Mr. Maskell before he spoke to any police officer.

[51] Mr. M. testified that he tape recorded the call, but he no longer had the tape. His family moved quickly, in early February. Things were thrown around and items went into storage. He looked for the tape later and could not find it. He agreed in cross-examination that he did not tell any police officer or prosecutor that he had tape-recorded the conversation, until September 2004. He explained that he had not thought it important when he met with the police in January 2002, so he did not mention it then. He thought it was relevant to mention it in 2004, because Mr. Maskell’s charges had been dropped at the preliminary hearing. He denied the suggestion that there never was a tape.

[52] Mr. M. was sure that he told Mr. D. he called Mr. Maskell. Mr. D. testified that Mr. M. did not tell him that he called Mr. Maskell.

[53] The M. family left their house the night of January 23, and went to stay at Mr. D.’s home.

F. The Involvement of the Police

[54] Mr. M. testified that after his family got to his brother-in-law’s home, Mr. D. said the police had to be called. Mr. D. telephoned an officer he knew. Mr. M. denied the suggestion put in cross-examination that before January 23, he and Mr. D. had made a scheme whereby Mr. D. would ask the police how they would respond if Mr. M. were being blackmailed by the Hells Angels. He did not think that Mr. D. contacted the police before January 23.

[55] Mr. M. also denied the suggestion put in cross-examination that he had invited Mr. Maskell to come to his home with the purchasers to settle up about the box, as part of the scheme with Mr. D. to falsely report to the police that he was being blackmailed.

[56] Mr. D. testified that after Mr. M. arrived at his house, a decision was made to seek the advice of the police. It was his idea to do so. Mr. M. was apprehensive about calling the police, because of the nature of the business he was in. Mr. D. told him they could just telephone and get general advice without disclosing his business.

[57] Mr. D. telephoned an officer he knew, Paul McGarry of the Barrie City Police. He had not spoken to Detective Sergeant McGarry about Mr. M. at any earlier time. Specifically, he had not spoken to Detective Sergeant McGarry on January 22. He wanted to get advice concerning the Hells Angels. He and Mr. M. were trying to come to a decision about what course to take. He was concerned that if the police were contacted, the Hells Angels might take some action, and Mr. M.'s safety might be jeopardized. After he spoke to Detective Sergeant McGarry, he talked to Mr. M., who was more agitated and nervous. Mr. M. wanted further information, and a chance to meet with the officer. Mr. D. telephoned the officer again that evening, but Detective Sergeant McGarry did not want to become officially involved. He offered to put them in touch with the appropriate people in the Ontario Provincial Police ("OPP"). Mr. D. accepted the offer.

[58] Detective Sergeant McGarry testified that in January 2002, he received a telephone call at home from Mr. D. Mr. D. asked his advice about what a friend should do who had an issue with the Hells Angels. The officer suggested that Mr. D. speak to Detective Constable Fisher of the OPP. There was a second call, in which Mr. D. indicated that his friend would be contacting officer Fisher. Detective Sergeant McGarry provided Detective Constable Fisher's contact information. At some point he contacted Detective Constable Fisher to tell him to expect a call, or to confirm that he had received one.

[59] Detective Sergeant McGarry did not make notes of the conversations. He did not recall the date of either call, or the length of time between them.

[60] Detective Sergeant McGarry was asked on February 5, 2002, to prepare a Will Say statement for the OPP. He did so some time between that date and March 22, 2002. He testified that he wrote his best recollection of the conversations. In the Will Say, he wrote that Mr. D. contacted him on January 22, 2002, explained that his brother-in-law had been involved in a business deal with people associated with or members of the Hells Angels who believed they had been “ripped off”, inquired as to how serious a perceived slight like this could be taken, and said it appeared his brother-in-law was being blackmailed. He wrote that he advised any threat should be taken seriously, and suggested contacting the OPP. He also wrote that on January 23 he again spoke with Mr. D. and urged him to have his brother-in-law speak to officer Fisher; that Mr. D. said he would speak to his brother-in-law; that he contacted officer Fisher; that he and Mr. D. spoke again that day and Mr. D. said his brother-in-law had agreed to report the matter to the police; and that he arranged the contact with officer Fisher. In cross-examination, Detective Sergeant McGarry testified that he believed the statement was true and accurate when he wrote it, but he no longer recalled all of the information. In particular, he did not have an independent recollection of the dates.

[61] The officer acknowledged that Detective Constable Hoath telephoned him a few days before he testified, and asked him if he recalled the dates of the calls from Mr. D. He told her he did not, but to the best of his recollection the calls took place over two consecutive nights. Officer Hoath asked him if he was sure about that, and he said he was not sure, but he thought it was so. Then she asked whether it was possible the calls were received on the same evening, and he said it was possible. He agreed that he was aware from her questions that the calls were an issue, but this did not have any effect on his answers.

[62] Mr. M. testified that he called a friend who was an OPP officer, Dave McClocklin. Senior Detective Constable McClocklin called back and told Mr. M. to go to the Barrie OPP station the next morning.

[63] In cross-examination, Mr. M. testified that he did not remember his conversation with Detective Constable McClocklin. He did not remember telling officer McClocklin that two men visited him and one of them was wearing a Hells Angels crest on his coat. He saw emblems on

the backs of two coats, but he was shaken up and scared when he spoke to Detective Constable McClocklin and did not know if he conveyed that information to him. It was not true, however, that Mr. Bonner was the only man wearing a jacket with the Hells Angels logo on it.

[64] He denied that he told Detective Constable McClocklin there was a demand for \$20,000. He told him there was a demand for \$75,000. He denied that he told Detective Constable McClocklin that he had sold equipment to a guy in Hamilton.

[65] It was admitted at trial that had Senior Detective Constable McClocklin testified, he would have said that Mr. M. told him he had sold some satellite software to a guy in Hamilton named Chris Maskell who sold it to someone else, that he had been visited by two males, one of whom wore a Hells Angels crest on his coat, and that they told him he owed them \$20,000 and had a week to get it.

[66] Detective Constable Brian Fisher from the OPP telephoned Mr. M. on the evening of January 23. Mr. M. told him that two men wearing Hells Angels regalia had come to his house. He denied telling the officer that he had one week to come up with \$20,000 or they would put him, his family, and Mr. Maskell in the hospital. That was not true, the amount was \$75,000 and there was no mention of his family.

[67] It was admitted at trial that had he testified, Detective Constable Fisher would have said that Mr. M. told him that Mr. Maskell and two unknown males wearing Hells Angels regalia showed up at his house, and the unknown males told him he had one week to pay \$20,000 or they would put him, his family, and Mr. Maskell in the hospital.

[68] On January 24 Mr. M. met with the police. He was really scared and confused, as he was for days afterward, and he was not thinking straight at that time. The police told him that the Hells Angels are organized crime and can be violent. He was advised to move out of his house. The house had been put up for sale before January 23 because the family intended to move, but because of the advice, the family never returned to the house to sleep.

[69] With Mr. M.'s consent, constant video surveillance of the house began on January 25, and continued until January 31. Neither Mr. Lindsay nor Mr. Bonner was seen on the video surveillance.

[70] In cross-examination, Mr. M. testified that he made a few visits to the police station before January 31, and he may have heard the police mention the name "Tiger" in reference to Mr. Lindsay. He told the police that he wanted to get the guys, meaning he wanted to get justice. It was admitted at trial, however, that Mr. Lindsay was not known to the police in connection with this investigation until the point of his arrest on January 31.

[71] Mr. M. testified that he did not remember asking the police whether they were looking at his satellite business, although an officer assured him that they had no interest in it. He was not concerned that the police would think his business was conducted illegally.

[72] In the days preceding January 30, Mr. M. and Mr. D. talked repeatedly about the incident. Mr. D. testified that Mr. M. got more nervous the more they talked about it.

G. The Events of January 30, 2002

[73] On January 30, 2002, Mr. M. was at the house with police officers for more than eight hours. He initially testified that he was sure he was not wearing a body pack recording device that day. After hearing a tape recording of conversation at his home that day, he said it could be that he wore a body pack, and if so something that he was sure about was wrong.

[74] He agreed that on January 30, he told the police that he had gone on the Internet and found the crest that "the guy" was wearing on "the jacket". He explained that he was referring to the one person he talked to that day, but that both men wore the jackets.

[75] Mr. M. testified that the police directed his actions. There was a plan, with which he was cooperating. A police officer told him that if Mr. Maskell alone showed up, Mr. M. was to refuse to deal with him, but if Mr. Lindsay and Mr. Bonner showed up, he would go ahead. Mr. M. told the officer he hoped that happened, because he had no doubt the men would threaten him.

[76] Nothing happened that day. The police would not let him leave the house. He asked the police whether they should telephone Mr. Maskell. An officer replied, “No not today”, and Mr. M. responded, “Not today, tomorrow”.

H. The Meeting on January 31, 2002

[77] On January 31, 2002, Mr. M. went to the house with the police again. He wanted to call Mr. Maskell and find out why the men had not shown up, and when they were coming back. He did not want to just sit there and wait.

[78] He placed a telephone call to Mr. Maskell, which the police tape recorded. Mr. M. testified in examination-in-chief that it was his decision to call Mr. Maskell. In cross-examination, he agreed that the police directed him to call Mr. Maskell to set up a meeting with Mr. Lindsay and Mr. Bonner. They directed Mr. M. about things to say in the conversation. The tape and a transcript were entered as exhibits in these proceedings..

[79] It was admitted at trial that on January 28, the police determined that if no one showed up at the house within a week of January 23, Mr. M. would call Mr. Maskell. Alternatively, if Mr. Maskell showed up alone, Mr. M. would refuse to deal with him, and insist on seeing the Hells Angels. The police provided a list of questions for Mr. M. to use during the January 31 telephone call to Mr. Maskell.

[80] Mr. M. told Mr. Maskell that he was worried whether the men who came to his house were “for real”, meaning criminals who would harm him. He said that he wanted to know how to get it over with. Mr. Maskell told him that all the guys wanted was their money back for the box, that they were the ones he sold it to through somebody else, and that he had “ripped them off”. Mr. M. thought he meant that the two young men who purchased the black box in December 2000 felt they had been “ripped off” because software that would do the same thing had become available for free on the Internet. He told Mr. Maskell that the jackets had flipped him out. That was accurate. He also said that the guy had threatened him. Mr. Maskell said that he was to exchange the box for the money, but Mr. M. said that he wanted the other guys to come back so that he could pay them the money. He testified that he said this under instructions

from the police. The police wanted proof that he was threatened, and he wanted to meet with the men that day to prove that he was telling the truth, and end the situation.

[81] Mr. M. told the police that Mr. Maskell was coming from Midland, then called him and gave him a cellular telephone number in case something happened. The weather conditions were bad that day due to a heavy snowfall. Mr. Maskell called the number and said that Mr. Lindsay wanted to meet in a public place. He and Mr. M. agreed to meet at a restaurant on the highway.

[82] An officer gave Mr. M. instructions. If only Mr. Maskell showed up at the restaurant, he was to leave. He was to refuse to go anywhere to meet anybody. If Mr. Lindsay and Mr. Bonner showed up, he was to say that he had money back at the house, but not all of it, and he was to ask what was going to happen. Either way, he was to give the police, who would be conducting surveillance, a signal when he left the restaurant.

[83] Mr. M. drove alone to the restaurant around 2:00 that afternoon. He wore a body pack recording device with which the police had fit him. He went into the restaurant, and sat down in a booth with Mr. Maskell. He asked Mr. Maskell if the men were real Hells Angels, but did not get a response. He commented that Mr. Maskell did not look beaten up.

[84] Mr. Lindsay and Mr. Bonner arrived at the restaurant address together in Mr. Lindsay's vehicle, at 2:33 p.m. Mr. Lindsay went into the restaurant alone, while Mr. Bonner stayed in the vehicle. Mr. Lindsay wore a long coat and a baseball cap. He sat down beside Mr. Maskell, across from Mr. M.

[85] Unknown to Mr. Lindsay and Mr. Maskell at the time, the conversation was recorded. The tape recording and the transcript were made exhibits in these proceedings.

[86] Mr. M. said he did not want any trouble. Mr. Lindsay replied, "You got my money you'll have no trouble". Mr. Lindsay said he wanted all his money back, he did not care how Mr. M. got it, if it was not paid Mr. M. would have "fucking problems", and Mr. M. was lucky to be "fucking standing here". Mr. M. said he had some money out in his truck. Mr. Lindsay said

he wanted a minimum of \$5000 a month, or else he would send “people” to Mr. M.’s house. Mr. M. took this to mean that other Hells Angels would come to his house to “pound the hell” out of him. Mr. Lindsay said that he knew everything about Mr. Maskell, just like he was learning about Mr. M. Mr. Lindsay referred to going up and stepping towards Mr. M. at the house. He stated that the only reason he had not punched Mr. M. in the mouth was that he saw Mr. M.’s child there. Mr. Lindsay referred to losing \$75,000.

[87] Mr. Lindsay told Mr. M. to go out and count his money. Mr. M. went outside, and then came back into the restaurant, pretending to look for his keys. Mr. Lindsay accompanied him out to his truck. Mr. Lindsay got into the vehicle with him. Mr. M. pretended that he had accidentally left the money at home. Mr. Lindsay warned Mr. M. not to “play” with him. When Mr. M. complained that he was nervous, Mr. Lindsay replied that Mr. M. should be nervous, he owed Mr. Lindsay \$75,000, and if he “fucked up” he was in a lot of trouble. Mr. Lindsay stated that the money was his and that of five other guys “that are fucking the same kind of mother fuck as I am”. He added, “If you toy with me man your days are numbered”.

[88] Mr. Lindsay said he would follow Mr. M. to the house to get money. He left the truck. Mr. Maskell tried to get into the vehicle, saying that Mr. Lindsay wanted him to accompany Mr. M. Mr. M. locked the doors and drove off without him.

I. The Arrests of Mr. Lindsay and Mr. Bonner

[89] Mr. Lindsay, Mr. Bonner and Mr. Maskell were arrested outside the restaurant. Mr. Maskell was in his own vehicle, and Mr. Bonner and Mr. Lindsay were in the latter’s vehicle. Mr. Bonner wore Exhibit 6, the jacket bearing the Hells Angels death head logo and the words “Hells Angels East End”, and a black t-shirt bearing two death heads and the words “Hells Angels First Anniversary”. Mr. Lindsay wore boots with the words “Hells Angels North Toronto” and the death head logo on the foot, a belt bearing the words “Hells Angels” embroidered on it and a death head on its buckle, a t-shirt bearing the Hells Angels death head logo and the words “Hells Angels Singen”, and a necklace with a pendant of the Hells Angels

death head logo. There is no evidence that Mr. M. saw these items of clothing on January 31, 2002.

[90] A number of items were seized from Mr. Lindsay's vehicle, including cards with telephone numbers for various Hells Angels chapters, members, prospects and hangarounds in Canada and other countries, two rings with faces bearing the words "Hells Angels Sherbrooke" and "Hells Angels Woodbridge" respectively, photographs of Mr. Lindsay wearing Hells Angels clothing including attire bearing the words "Nomads", "East End", and "Sherbrooke", and his driver's licence showing his address as that of the Hells Angels Woodbridge clubhouse.

[91] Mr. Lindsay's arms and chest bore tattoos that read "Hells Angels", and "Para-Dice Riders M.C. 1%".

[92] Items seized from Mr. Bonner's residence included a belt bearing the words "Hells Angels 1%", and a telephone directory listing the name "Tiger" and a telephone number.

[93] Later that day Mr. M. viewed a photographic lineup, from which he correctly identified Mr. Bonner.

[94] Mr. M. was offered entry into the witness protection program, but declined. He did receive a secure name change. As a result, he had to liquidate anything registered to his old identity. He must stay away from his family and friends. He denied the suggestion that he was able to walk away from his debts as a result of the name change.

[95] Mr. M. testified that in July 2002 when he appeared at the preliminary hearing, he was standing in the witness box when Mr. Bonner mouthed the words "You're dead" at him. He did not have a chance to speak to Crown counsel or the investigating officer, Detective Constable Hoath about it, because they did not want to speak to him until the end of his testimony. He tried to tell one of the officers guarding him, but that person was only concerned with getting him out of the building safely.

[96] He also testified that during the preliminary hearing, one of the former defence lawyers gritted his teeth and cursed at him in open court.

[97] Mr. M. said that after the preliminary hearing was over, he spoke by telephone in a three-way conversation with Crown counsel and Detective Constable Hoath. He told them about Mr. Bonner's behaviour. He also told them about the conduct of the defence counsel. He did not follow up later to find out what had been done about his information. He agreed that it seemed nothing was done. In September 2004, he had a telephone conversation with Detective Constable Hoath. He told her about the defence lawyer, and about Mr. Bonner's behaviour during the preliminary hearing. She indicated to him that she had not heard about this before. He tried to remind her of the earlier telephone conversation.

[98] It was admitted at trial that on December 12, 2003, there was a telephone conversation between Detective Constable Hoath, Crown counsel Mr. Leibovich, and Mr. M. Mr. M. did not mention that Mr. Bonner had mouthed the words "You're dead" during the preliminary inquiry. He said that he had felt intimidated by one of the defence counsel, but he did not allege that that counsel had cursed at him, nor did either the officer or Crown counsel recall him alleging that that counsel had gritted his teeth. On September 11, 2004, Detective Constable Hoath spoke with Mr. M. over the telephone. Mr. M. alleged that Mr. Bonner had mouthed the words "You're dead" during the preliminary hearing. This was the first time the officer heard that allegation.

[99] The charges against Mr. Maskell were dismissed at the conclusion of the preliminary hearing.

J. The Positions of the Parties

[100] On behalf of the Crown, Mr. Cameron submits that the evidence is clear that Mr. Lindsay and Mr. Bonner committed extortion. On January 23, 2002, threats were uttered by both Mr. Lindsay and Mr. Bonner wearing jackets bearing the name and insignia of the Hells Angels Motorcycle Club, and demands made that Mr. M. pay \$75,000. On account of the threats and demands and the display of the Hells Angels name and insignia, Mr. M. feared for his life and

safety and that of his family. He moved the family from their residence. On January 31, 2002, Mr. Lindsay and Mr. Bonner drove to a restaurant near the M. residence. Both were wearing clothing and paraphernalia bearing the name and insignia of the Hells Angels Motorcycle Club. Mr. Lindsay met with Mr. M. and Mr. Maskell, while Mr. Bonner waited outside. Mr. Lindsay made threats and demands similar to those that Mr. M. had reported to the police, including that if Mr. M. did not pay, Mr. Lindsay would send “people” to his house.

[101] Mr. Cameron contends that while it is an essential element of the offence of extortion that a threat was made, it is not necessary to establish that the victim, in this case Mr. M., appreciated the full extent of the words or conduct, or was even aware of the existence of the threat. Further, given the threats made, it is unnecessary to inquire whether Mr. Lindsay and Mr. Bonner had a lawful right to the money demanded, or whether the money was ever given in response to the threats and demands.

[102] Mr. Cameron concedes that there are frailties in Mr. M.’s evidence, but he asks me to bear in mind that Mr. M. was and continues to be shaken by the events of January 2002. His whole life was changed by the visit of Mr. Lindsay and Mr. Bonner to his home on January 23. His family never again spent a night in that house, and had to move away from their family and friends. It is not surprising that Mr. M. is not a perfect historian, given that his life was upended.

[103] Mr. Cameron argues that Mr. M. never wavered on the core allegations, that Mr. Lindsay and Mr. Bonner threatened him when they appeared together on January 23, that the Hells Angels name and insignia were prominently displayed that day, and that Mr. Lindsay threatened him on January 31.

[104] Further, Mr. Cameron points to evidence that confirms Mr. M.’s testimony, both about events that preceded the visit to the house, and his account of the events that form the basis of the charge. These include: the telephone records of Mr. Maskell’s calls; the wearing of a jacket by Mr. Bonner on January 31 that perfectly matched Mr. M.’s description of the jackets worn on January 23; photographs seized from Mr. Lindsay that showed him wearing attire bearing the name “East End”, as appeared on the jackets Mr. M. described; Mr. M.’s actions after January

23 including moving his family out of the home; Mr. M.'s emotional condition following the visit on January 23; Mr. M.'s demeanour when he testified at trial about the presence of his children on January 23; the telephone calls that Mr. M. made on January 23; Mr. Lindsay's comments on January 31 and the tone of voice he used, including his explanation for not punching Mr. M. in the mouth on January 23; and Mr. Lindsay's demand on January 31 for \$75,000, the amount that Mr. M. said had been demanded on January 23 notwithstanding it bore no resemblance to the amounts involved in his transactions with Mr. Maskell.

[105] Mr. Cameron contends that the defence theory, that Mr. M. and Mr. D. concocted a plan to falsely report that Mr. M. was being blackmailed by the Hells Angels so he could obtain a new identity and escape his financial difficulties, is unsupported by any evidence. Mr. M. denied the suggestions put to him. The alleged plan was not put to Mr. D. in cross-examination. While Detective Sergeant McGarry reported in his Will Say that he received calls on two separate dates, he testified that he could not remember the date of either call or the interval between them. The Will Say does not meet the conditions of present recollection recorded. Further, calls on two separate dates are inconsistent with all the other evidence. The Crown's position is that Detective Sergeant McGarry was in error.

[106] Mr. Cameron submits that the case against Mr. Lindsay is extremely strong based on his own words and actions. He also relies on the co-conspirator's exception to the hearsay rule, particularly as against Mr. Bonner. He argues there is evidence that Mr. Lindsay and Mr. Bonner shared a common purpose to commit extortion. Mr. Lindsay and Mr. Bonner belonged to the same chapter of the Hells Angels, they presented themselves together to Mr. M. on January 23 without identifying themselves, they both wore jackets bearing the Hells Angels name and insignia, Mr. Bonner agreed with Mr. Lindsay's threats, they went together to the restaurant address on January 31 notwithstanding the terrible weather, and Mr. Lindsay was to go to Mr. M.'s house in the vehicle with Mr. Bonner on January 31. Acts and declarations of one in furtherance of the common criminal enterprise are attributable to the other, and those declarations are admissible for the truth of their contents.

[107] On behalf of Mr. Lindsay, Mr. Skurka submits that Mr. M.'s evidence is fundamentally unreliable. There are so many inconsistencies in his testimony that it would be unsafe to rely on his evidence. Mr. Skurka asks me to consider certain inconsistencies in particular. He points out that Mr. M. testified that Mr. Lindsay said he would return in a week, but neither he nor Mr. Bonner did so. It was only through luring at the direction of the police that Mr. Lindsay and Mr. Bonner went to the restaurant on January 31. Mr. M. was inconsistent about whether he thought the men were collecting money for the purchasers of the activation box, as he testified in examination-in-chief, or whether they were the purchasers seeking the repayment of their own money. The distinction is important, because to say they were collecting money for someone else casts them in a worse light. Mr. M. testified in examination-in-chief that he understood the Hells Angels collected money, but later said he was unaware at the time of what the Hells Angels did, which was confirmed by Mr. D.'s testimony. The difference is significant, because saying they collected money portrayed the events in a more sinister light. Mr. M. was inconsistent about when he became frightened, first saying it was when Mr. Lindsay spoke, and then saying it was when he saw the emblems as they walked away. Although Mr. M. insisted at trial he saw two jackets, Senior Detective Constable McClocklin recalled him mentioning only one, and on January 30 Mr. M. spoke of seeing "the jacket" on the Internet. It is Mr. Skurka's position that only Mr. Bonner wore the jacket on January 23, and that Mr. M. embellished his account to make it more sinister. Both Senior Detective Constable McClocklin and Detective Constable Fisher reported that Mr. M. said the amount demanded was \$20,000, comments that Mr. M. denied. Mr. Skurka argues that the officers had no reason to get the amount wrong, and that the figure coincides with the price at which Mr. M. sold the box, so he must have said it. Detective Constable Fisher also reported that Mr. M. said he had one week to come up with the money, or he, his family and Mr. Maskell would be put in the hospital, another comment that Mr. M. denied. Mr. Skurka suggests that Mr. M. embellished to add his family into the threat to make it sound more sinister. On the other hand, Mr. D. said Mr. M. told him that he would be put in the hospital, a statement that Mr. M. denied. Mr. Skurka contends that in cross-examination Mr. M. agreed he took as a threat the words that Mr. Lindsay was coming back in a week and he better have the money.

[108] Mr. M. was inconsistent as to whose idea it was to call the police on January 23. Mr. D. testified that Mr. M. was reluctant to call the police because of the nature of his business, but Mr. M. failed to mention this concern in explaining why he hesitated to contact the police. Mr. M. said several times that he called Mr. Maskell at 5:00 p.m., then after being reminded about his statement to the police, he said he was wrong about the time, and that he called half an hour after the men left. He said that he tape recorded his conversation with Mr. Maskell, yet even though he met with the police several times before he moved, he did not mention the tape to them. He did not mention it until he told Crown counsel in 2004. Mr. M. denied that he wore a body pack device on January 30, and then later admitted that he was wrong about this. Mr. M. testified that officers knew Mr. Lindsay's identity before January 31, but the police contradicted this. Mr. M. initially contended that it was his idea to call Mr. Maskell on January 31, but later said that the police directed him to make the call. At first he did not recall the police telling him what to say to Mr. Maskell, then he said the police directed him as to what to say.

[109] Mr. Skurka contends that the matters that Mr. Cameron relies on as confirmatory of Mr. M. do not serve that purpose. It was only coincidence that Mr. M. saw the jacket as the men turned to leave. Mr. M.'s surprise and concern after the men left the house is explainable by his belief that they had paid \$75,000 for an obsolete piece of equipment. Mr. Lindsay's comments on January 31 about events at the house are equally consistent with him using control and restraint on January 23. His tone on January 31 is not indicative of his manner on January 23 in a different situation. Mr. Skurka cautions me about the danger of relying on Mr. M.'s demeanour in the witness box.

[110] Mr. Skurka asks me to consider the sophisticated planning that was necessary to lure Mr. Lindsay and Mr. Bonner to the restaurant on January 31. There is no evidence that Mr. Lindsay or Mr. Bonner intended to meet Mr. M., had it not been for his telephone call to Mr. Maskell. This is important in considering whether a threat was made on January 23. Mr. Skurka contends that that there was no threat made on that date.

[111] On behalf of Mr. Bonner, Mr. Grys submits that Mr. M. and Mr. D. came up with a ruse to gain the confidence of Mr. Maskell to find out how serious the purchasers of the box

were about getting their money back. Mr. D. admitted this. Mr. Grys contends that they then “cooked up” a scheme to get the purchasers to come to Mr. M.’s house so that he could falsely report that they had threatened him, in order to avoid paying them back the money. Detective Sergeant McGarry recorded in his Will Say, which is admissible for the truth of its contents as past recollection recorded, that Mr. D. telephoned him on January 22 and again on January 23, 2002. There was no reason for Mr. D. to call on January 22, other than the scheme. Mr. M. agreed that he telephoned Mr. Maskell on January 31 because he had come the last time, meaning Mr. Grys says, on January 23.

[112] Mr. Grys contends that the evidence reveals Mr. M. to be a dishonest person engaged in a dishonest business. He had the ability to, and did lie and embellish his evidence. There are inconsistencies in his evidence, and contradictions between his testimony and the accounts of others, in addition to those mentioned by Mr. Skurka, which adversely affect his credibility and reliability. Those inconsistencies and contradictions are not explainable by emotional upset. Mr. M. was inconsistent about whether his business was illegal. He was inconsistent about whether he deposited the cash he received from Mr. Maskell for the activation box. He denied that the sale of the activation box was a “rip-off”, but he told the police he sold it for an outrageous price. He was inconsistent about whether the issue in January 2002 was software, or the activation box. He said he told Detective Constable Hoath and Mr. Liebovich about previous defence counsel gritting his teeth and cursing at him, but they do not recall it. He said he told them about Mr. Bonner mouthing a threat to him at the preliminary inquiry, but they deny it. He did not mention it to the police until 2004, two years later. This is not credible.

[113] Mr. Irving submits on behalf of Mr. Bonner that the co-conspirator’s exception to the hearsay rule does not apply because there was no common criminal enterprise resulting from preconcert by Mr. Lindsay and Mr. Bonner. Further, if there was an extortion on January 23 and Mr. Bonner is guilty as a principal or a party, there is no need to apply the co-conspirator’s exception. If there was no extortion on January 23, then there is no basis to find that Mr. Bonner was part of a common criminal enterprise. On January 31, Mr. Lindsay did not refer to “we”, but

spoke of himself. On January 31 Mr. Bonner stayed in the vehicle. The fact that he traveled to the restaurant with Mr. Lindsay is not evidence of a common goal.

[114] There is no dispute that if I find Mr. Bonner guilty of extortion, he also is guilty of breach of recognizance, in that he failed to comply with a condition that he keep the peace and be of good behaviour.

K. The Offence of Extortion

[115] The essential ingredients of the offence of extortion under s. 346 of the Criminal Code, as held by the Supreme Court of Canada in *R. v. Ntarelli*, [1968] 1 C.C.C. 154 are that:

1. The accused used threats;
2. He did so with the intention of obtaining something by the use of threats; and
3. Either the use of the threats or the making of the demand for the thing sought to be obtained was without reasonable justification or excuse.

[116] The court held that the commission of extortion is established when it is proved that threats were made for the making of which there could be no justification or excuse, that the threats were made with intent to gain something, and were calculated to induce the person threatened to do something. Only if there was reasonable justification or excuse for making the threats could the honest belief of the accused that he had a lawful right to the thing demanded constitute a defence.

[117] Accordingly, where there is no reasonable justification or excuse for the making of threats, it is irrelevant under s. 346 that the person demanding money believed that the victim owed him it.

[118] Extortion under s. 346 includes an attempt to induce the victim to do anything or cause anything to be done. The offence is complete once the perpetrator threatens the victim with a view to gaining or extorting anything: *R. v. Davis* (1999), 139 C.C.C. (3d) 193 (S.C.C.). The perpetrator need not receive the thing sought.

[119] In determining whether a threat was made, it is useful to consider the caselaw under s. 264.1. Like s. 346, the purpose of that provision is to protect the exercise of freedom of choice by preventing intimidation: *R. v. Davis, supra*; *R. v. Clemente* (1994), 91 C.C.C. (3d) 1 (S.C.C.); *R. v. McCraw* (1991), 66 C.C.C. (3d) 517 (S.C.C.). In *R. v. Clemente*, the court referred to the definition of “threat” in the *Shorter Oxford English Dictionary, 3rd ed.* (1987): “A denunciation to a person of ill to befall him; esp. a declaration of hostile determination or of loss, pain, punishment or damage to be inflicted in retribution for or conditionally upon some course; a menace”. The Supreme Court of Canada held that to determine whether words spoken constitute a threat, they must be considered objectively and in light of the circumstances in which they were uttered, the manner in which they were spoken, and the person to whom they were addressed. It is not necessary that the intended victim actually fear for his or her safety as a result of the threat, or even know that the threat was made: *R. v. MacDonald* (2002), 170 C.C.C. (3d) 47 (Ont. C.A.). As the Ontario Court of Appeal pointed out, the reaction of the intended victim is of evidentiary significance only.

L. Analysis

[120] There is some common ground between Crown and defence counsel. First, it is not disputed that on January 31, Mr. Lindsay met with Mr. M. and Mr. Maskell in the restaurant, while Mr. Bonner remained outside in Mr. Lindsay’s vehicle. The meeting on January 31 was tape recorded, and the words of Mr. Lindsay largely speak for themselves. As I will discuss later in these Reasons, Mr. Lindsay entered a guilty plea to the charge of extortion, based on certain admissions about events on January 31.

[121] Second, although it was not specifically admitted, defence counsel did not vigorously contest that Mr. Lindsay and Mr. Bonner were at Mr. M.’s home on January 23, 2002. The position taken by Mr. Grys was that Mr. M. asked Mr. Maskell to bring Mr. Lindsay and Mr. Bonner to the house to discuss repayment of money owed, as part of a scheme to falsely complain that they had threatened him. In a similar vein, Mr. Skurka contended that regardless

of what occurred on January 31 (when, he argues, Mr. Lindsay was “lured” to the restaurant meeting), there was no threat made at the house on the earlier date.

[122] The events at the house on January 23 are very much in issue, as is Mr. Bonner’s participation in the extortion charged in the indictment.

[123] The evidence of Mr. M. is central to the prosecution’s case. In assessing his credibility, it is appropriate to consider the alleged inconsistencies in his testimony, aspects of his evidence that may be at odds with the accounts of other witnesses, matters about which his recollection may be faulty, any evidence of a scheme to falsely accuse Mr. Lindsay and Mr. Bonner, and any evidence that is confirmatory of his account. I appreciate that I must consider the evidence against Mr. Lindsay and Mr. Bonner separately, but in assessing Mr. M.’s credibility, there obviously is overlap.

Testimonial Inconsistencies

[124] The credibility of a witness may not be diminished by testimonial inconsistencies that are minor, or that do not go to the core allegations in a case. A series of inconsistencies, or inconsistencies on matters that lie at the heart of the witness’ testimony, however, may be significant: *R. v. C. (W.B.)* (2000), 142 C.C.C. (3d) 490 (Ont. C.A.); *R. v. G. (M.)*, [1994] O.J. No. 2086 (Ont. C.A.).

[125] I have considered *all* the inconsistencies that defence counsel contended existed in Mr. M.’s evidence. Some obviously are more important than others, particularly those concerning the events of January 23. In these Reasons, I have focused on those that I have concluded are the most significant.

[126] Mr. M. appeared to vacillate about whether, on January 23, he thought the men at his house were collecting money for the purchasers of the activation box, or were themselves the purchasers. I accept, however, that there was confusion in his mind at the time and in the days following about the role of Mr. Lindsay and Mr. Bonner, since they were not the men he met at

the time of the sale. I am satisfied that the apparent vacillation in his answers reflects that confusion.

[127] Mr. M. was inconsistent about his knowledge of the Hells Angels on January 23. In examination-in-chief, he said that he did not know much about them, he knew they were a bike gang and collected money for people using violence. In cross-examination, he adopted his testimony at the preliminary inquiry that he was totally unaware of the Hells Angels, how they operate and what they do. This inconsistency was not explained.

[128] I agree that there was some inconsistency about whether making the January 31 telephone call to Mr. Maskell was his decision, or that of the police. I am satisfied, however, that he wanted to telephone Mr. Maskell, and indeed asked the police about doing so on January 30. Being directed by the police to make the call is not inconsistent with having resolved in his own mind that a call should be made.

[129] I do not find any inconsistency between Mr. M.'s testimony in cross-examination that he did not feel he was in danger until Mr. Lindsay spoke, and his testimony in re-examination that he felt very scared once he saw the emblems on the jackets.

[130] Defence counsel relied on a specific portion of cross-examination to argue that Mr. M. took as the threat Mr. Lindsay's assertion that he was coming back in a week and Mr. M. better have the money. Because of the way the cross-examination was developed, I do not take that portion of Mr. M.'s evidence to be a retraction of his evidence-in-chief that Mr. Lindsay said that he and Mr. Maskell would end up in the hospital if he did not have the money, or as inconsistent with his evidence-in-chief.

[131] I do not find any inconsistency in Mr. M's testimony about whose idea it was to contact the police on January 23. He agreed that it was Mr. D.'s idea to make the contact through an officer he knew, but it was his own idea to call his friend Senior Detective Constable McClocklin.

[132] In summary, there was some testimonial inconsistency.

Contradictions of Mr. M.'s Testimony

[133] I have considered *all* the contradictions defence counsel pointed out between the evidence of Mr. M., and the accounts of other witnesses. Again, some are more important than others, particularly those concerning the events of January 23. In these Reasons, I have focused on those that I have concluded are the most significant.

[134] Mr. M. testified that both Mr. Lindsay and Mr. Bonner wore the Hells Angels jackets. Senior Detective Constable McClocklin would have testified that Mr. M. said one man wore a Hells Angels crest, a statement that Mr. M. does not remember making. This is at odds, however, with what Mr. M. said to Mr. D. soon after the men left, that both wore emblems on their jackets. It is at odds with what Mr. M. told Detective Constable Brian Fisher the same evening, that two men wearing Hells Angels regalia had come to his house. It is at odds with Mr. M.'s recorded comment to Mr. Maskell during their January 31 telephone conversation, that, "they come with the jackets that that flipped me right out", with which Mr. Maskell did not take issue. Defence counsel pointed out that Mr. M. said while body packed on January 30, "I found a crest um that the guy was wearing on the Internet I finally got to go on the Internet and I went and I found it right away so I'm sure that's what it was exactly the jacket that he was wearing". Mr. M. explained that he was referring in this passage only to the man who spoke to him, Mr. Lindsay. I accept Mr. M.'s explanation. It appears that Mr. M. was speaking to his wife when he made that comment. Shortly after, in the course of discussing with the police whether anyone would remain at the house that night, Mr. M. said, "They were stupid to come through the day already with their coats on like with those jackets on".

[135] Senior Detective Constable McClocklin spoke to Mr. M. over the telephone informally as a friend. I am satisfied that he was mistaken in recalling that Mr. M. said one man wore a Hells Angels crest.

[136] Mr. M. testified at trial that the demand was for \$75,000, although he sold the activation box to Mr. Maskell for \$20,000. Detective Constable Fisher and Senior Detective Constable McClocklin would have testified that they were told the amount demanded was \$20,000. Mr. Lindsay's recorded comments on January 31 made it clear that the demand was for

\$75,000. Both officers Fisher and McClocklin spoke with Mr. M. over the telephone on the evening of January 23, at a time when he was shaken up and nervous. The conversations did not represent the taking of formal statements. I am satisfied that the reference to \$20,000 as the amount demanded was the result of miscommunication.

[137] Mr. M. testified that he was told that if he did not pay, he and Mr. Maskell would be put in the hospital. Mr. D. testified that Mr. M. said *he* would be put in the hospital. If Detective Constable Fisher had testified, he would have said Mr. M. told him over the telephone that he, his family and Mr. Maskell would be put in the hospital. I do not find the difference in the accounts to be significant. Mr. M. maintained throughout that he would be put in the hospital, whether or not he made mention of Mr. Maskell. By the time he spoke to Detective Constable Fisher, he was concerned for the safety of himself and his family. Given Mr. M.'s emotional state, this discrepancy in accounts is understandable.

[138] Mr. M. testified that he telephoned Mr. Maskell around 5:00 p.m. on January 23. After his January 26 statement to the police was put to him, in which he said that he called half an hour after the men left, he agreed that that was the timing, and that his earlier testimony was wrong. I do not find it significant that he was inconsistent about the time of the call, as opposed to whether there was a call, given the passage of two and a half years since January 2002.

[139] I do not find it significant that Mr. M. testified he might have heard the police mention the name "Tiger" before January 31, while the police acknowledged that Mr. Lindsay's identity was not known until his arrest. It is apparent that Mr. M. had extensive dealings with the police and gave multiple statements after January 23, 2002. I am satisfied that he is simply in error about when he heard the name.

[140] There are other contradictions that are not capable of explanation on the evidence I have heard. They do cause me concern. Mr. M. said that he tape recorded the January 23 telephone conversation with Mr. Maskell, yet he made no mention of it to the police or prosecutor until 2004, after Mr. Maskell was no longer before the court. The fact that he and his family moved hastily does not explain his failure to mention or produce the tape recording to the

investigating officers in 2002. His explanation that he did not mention it in 2002 because nothing of significance was said and he did not think the recording was important does not make sense given that he mentioned it in 2004.

[141] Mr. M. testified that Mr. Bonner mouthed a threat to him during the preliminary hearing. He said that he told a prosecutor and an investigating officer about it at his earliest opportunity, during a three-way telephone call months later. Those individuals contended that he did not mention it to them. It is unlikely in the circumstances of this case that they would have disregarded or forgotten the information, had they received it.

[142] Similarly, Mr. M. testified that a former defence counsel gritted his teeth and cursed at him during the preliminary hearing. He said that he told a prosecutor and an investigating officer about it during the same three-way telephone call. Those individuals do not recall hearing that counsel gritted his teeth, and deny that Mr. M. said counsel cursed at him, but Mr. M. did say he felt intimidated by one of the defence counsel. It is unlikely that they would have disregarded or forgotten the more specific information, had they received it.

[143] Mr. M. was not forthcoming about his concern about contacting the police because of the nature of his business, as Mr. D. described.

[144] I do not find it significant that Mr. Lindsay and Mr. Bonner failed to return to Mr. M.'s home in precisely one week. No specific date or time had been set for a return visit. This is consistent with an effort to keep a victim of intimidation on edge.

[145] I also am unable to agree that Mr. Lindsay and Mr. Bonner were "lured" to the meeting at the restaurant. It took only one telephone call by Mr. M. to Mr. Maskell to arrange to meet that same day. There is no evidence that Mr. Lindsay and Mr. Bonner were reluctant, or had to be importuned to go to the restaurant. Mr. Lindsay made no complaint to Mr. M. about meeting with him that day. Rather, his first words to Mr. M. were, "You got my money you'll have no trouble". Notwithstanding the bad weather, he was prepared to follow Mr. M. from the restaurant back to the house, to pick up money.

[146] In summary, there are some contradictions that I find to be significant.

Memory Lapses

[147] Mr. M. had some curious memory lapses while he testified. He did not initially remember wearing a body pack recorder on January 30. He did not initially remember that the police directed him about what to say to Mr. Maskell in the telephone call the following day. Unlike, for example, the order in or time at which he made certain telephone calls while under emotional pressure, it is reasonable to expect he would remember these unusual occurrences.

The Existence of Confirmatory Evidence

[148] In *R. v. Vetrovec* (1982), 67 C.C.C. (2d) 1 the Supreme Court of Canada held that as a matter of common sense, something in the nature of confirmatory evidence should be found before the trier of fact relies on the evidence of a witness whose testimony occupies a central position in the prosecution's case, but may be suspect because of his or her disreputable character or demonstrated moral lack. Juries should be given a clear sharp warning of the risks of adopting the evidence of the witness without more. Dickson J., on behalf of the court, concluded that what is required to render the testimony of the witness credible is evidence that confirms the testimony of the witness in a *material particular*. Confirmatory evidence need not be evidence implicating the accused, nor must the whole of the witness' testimony be corroborated. The question is not how the trust of the trier of fact in the witness is restored, but whether it is restored at all.

[149] More recently, in *R. v. Kehler* (2004), 181 C.C.C. (3d) 1 at paragraph 12, the Supreme Court of Canada agreed that confirmatory evidence "need not directly implicate the accused or confirm the Crown witness' evidence in every respect", but it should "be capable of restoring the trier's faith in the *relevant* aspects of the witness' account".

[150] The decision whether to give a *Vetrovec* warning is within the trial judge's discretion. The greater the concern about the witness' credibility and the more important the evidence, the more likely the warning is required: *R. v. Brooks* (2000), 141 C.C.C. (3d) 321 (S.C.C.).

[151] Mr. M. is a person of some demonstrated moral lack. While the nature of his business may not have been illegal at the time, it was dishonest, by his own admission. He spent considerable time and effort devising ways by which his customers could enjoy the benefits of satellite television, without paying for it. He knowingly deprived the satellite providers of at least the opportunity to seek payment of the usual subscription fees, while profiting himself. He made his products available for sale to others, so that they too could profit as he had done. In cross-examination, he vacillated about what he did with the cash he received for the activation box.

[152] I conclude that because of the combination of Mr. M.'s moral deficiency with the testimonial inconsistency, contradictions, and memory lapses I noted earlier, it is appropriate to proceed with caution and look for confirmatory evidence before I rely on his testimony.

[153] Confirmatory evidence does exist.

[154] The recorded comments of Mr. Lindsay on January 31 support Mr. M.'s account of events on January 23 in significant aspects. I appreciate that these out-of-court statements were made in Mr. Bonner's absence. They can be used to support Mr. M.'s evidence against their maker, Mr. Lindsay. They cannot be used to support Mr. M.'s evidence against Mr. Bonner, unless they are admitted under the co-conspirator's exception to the hearsay rule: *R. v. Perciballi* (2001), 154 C.C.C. (3d) 481 (Ont. C.A.). I will consider the co-conspirator's exception to the hearsay rule later in these Reasons.

[155] In respect of Mr. M.'s evidence against Mr. Lindsay, the recorded comments confirm that:

1. Mr. Lindsay was at Mr. M.'s home on January 23;
2. A demand for payment of \$75,000 was made;
3. Mr. Lindsay came towards Mr. M., but stopped short of assaulting him;
4. Mr. M.'s child was visible, dressed in a Spiderman costume;
5. Mr. M. was at risk of physical harm if the money was not paid;

6. Mr. Maskell, a person about whom Mr. Lindsay “kn[e]w everything...just like I’m learning about you”, was vulnerable.

[156] Mr. Lindsay’s language and tone of voice, as captured on the audio recording, were menacing, notwithstanding that he was speaking to Mr. M. in a public place. This provides some support for Mr. M.’s account of events on January 23. It is a reasonable inference, and one that I draw, that Mr. Lindsay spoke to Mr. M. at his private residence on January 23 in at least as aggressive a manner as he did in a public place on January 31.

[157] There is other significant confirmatory evidence. Mr. M. spoke to Mr. Maskell by telephone later on January 23, and on January 31. Mr. Maskell was not called as a witness. I appreciate that his statements are hearsay if introduced as proof of the truth of their contents. I do not make that use of them. They are admissible, however, and do have probative value for the fact that they were made, regardless of whether their contents were true. Mr. M. testified that when he spoke to Mr. Maskell on January 23, Mr. Maskell said that he had to get his ribs checked out, intimating that he had been injured by Mr. Lindsay and Mr. Bonner. On January 31, while waiting at the restaurant, Mr. M. asked Mr. Maskell, “What did they do to you?” Mr. Maskell responded that he did not want to discuss it. Mr. M. said, “You don’t look beat up”. Mr. Maskell replied, “I haven’t seen you in a week”. Regardless of the truth or falsity of Mr. Maskell’s statements, the fact they were made confirms Mr. M.’s testimony about the telephone discussion on January 23, and in turn supports his evidence about the menacing nature of the visit by Mr. Lindsay and Mr. Bonner.

[158] The jacket worn by Mr. Bonner on January 31 confirms Mr. M.’s evidence. He testified that both Mr. Lindsay and Mr. Bonner wore the jackets on January 23. Defence counsel took issue with his assertion that both men wore the jackets, and I will address that matter later in these Reasons. It is significant that the jacket worn by Mr. Bonner matched the description that Mr. M. gave of the jackets he saw on January 23. He described a black “bomber” style waist length jacket bearing an emblem on the front and the Hells Angels emblem on the back. The jacket worn by and seized from Mr. Bonner on January 31 was a black “bomber” style waist

length jacket with the name and logo of the Hells Angels on the front, and in larger size on the back.

[159] I agree that it can be dangerous to place weight on a witness's demeanour when he or she testifies. It is well-established, however, that evidence of a complainant's emotional state after an alleged offence may constitute circumstantial evidence confirming that the offence occurred, depending on the circumstances of the case, including the temporal nexus to the alleged offence and the existence of alternative explanations for the emotional state: see, for example, *R. v. F. (J.E.)* (1993), 85 C.C.C. (3d) 457 (Ont. C.A.); *Murphy and Butt v. The Queen* (1976), 29 C.C.C. (3d) 417 (S.C.C.). Mr. D. testified about his assessment of Mr. M.'s emotional state when they spoke by telephone on January 23, very soon after the visit by Mr. Lindsay and Mr. Bonner. He described Mr. M. as nervous, surprised, agitated, scared, and not knowing what to do. There is no evidence that Mr. D., who on the evidence had frequent contact with Mr. M. and knew him well, thought that Mr. M.'s emotional state was feigned. This evidence supports Mr. M.'s testimony that he was threatened on January 23.

[160] Mr. M. testified about his business dealings with Mr. Maskell, the problems that developed in the fall of 2001, and the deterioration of their relationship. This evidence is confirmed by Mr. Maskell's telephone records, and by the testimony of Mr. D. The telephone records indicated that Mr. Maskell placed a large number of telephone calls to Mr. M.'s cellular telephone during 2001. This confirms both the ongoing relationship, and Mr. M.'s evidence that Mr. Maskell contacted him on his cellular telephone rather than at home. The records show a group of calls at the end of October, followed by more than 50 calls in November. This is consistent with Mr. M.'s evidence about the period when he received nasty messages from Mr. Maskell. Mr. D. testified that he was present during a meeting between Mr. M. and Mr. Maskell, that he and Mr. M. agreed that he would try to gain Mr. Maskell's confidence to determine whether Mr. M. was in any danger, and that as a result he relayed to Mr. M. information he had been given that concerned the Hells Angels. This supports Mr. M.'s evidence about the state of his relationship with Mr. Maskell in late 2001 and early 2002.

The Scheme Alleged by Defence Counsel

[161] There is no burden on the defence to prove anything in this case. However, because Mr. Grys asserted that Mr. Lindsay and Mr. Bonner were “set up” by Mr. M. in concert with Mr. D., I will comment on that position.

[162] I find that the evidence does not support the contention that Mr. Lindsay and Mr. Bonner were the innocent victims of a scheme orchestrated by Mr. M. and Mr. D. If it were so, the recorded comments that Mr. M. made to Mr. Maskell on January 31 make absolutely no sense. During their telephone conversation that day, Mr. M. told Mr. Maskell, “I’m worried that if these guys are for real that you know...I want to know how I can get this over with okay and as fast as I can so that my wife and kids can live here again and number two I want to know if I pay these guys are they going to come back again and keep bugging me...the guy threatened me...now they know where I live...my kids are flipping right out, I’m flipping right out”. Mr. Maskell’s response revealed no surprise at, or issue with Mr. M.’s statements. Further, while they waited in the restaurant for Mr. Lindsay, Mr. M. specifically asked Mr. Maskell, “Why did you bring them to my house?” and added, “We’re moving faster now”. This would be a particularly curious question to ask if Mr. M. in fact had invited Mr. Maskell to bring the men to his home.

[163] It is undisputed that Mr. M. removed his family from their home to stay with relatives, they never again slept in that house, and his children were taken out of school. After the men left, he made a flurry of telephone calls to his brother-in-law, his wife, someone else who knew Mr. Maskell, Mr. Maskell, and later a friend who was a police officer. There is no evidence that Mr. M. took these measures to avoid honouring debts. While his house already was for sale, deciding as a family to move to another home is far different from being forced to leave home and community.

[164] I do not accept the defence contention that Mr. M. made a “devastating admission” at the end of his cross-examination by Mr. Grys. Counsel put the following triple-barrelled question to Mr. M.: “On the 31st you said to the police, “How about I call Chris Maskell, get him down here?” And you did that because you knew full well he’d come. He came the last

time you called him?” Mr. M. responded. “Yes”. It is difficult to tell whether Mr. M. was agreeing with all, some or one of the three assertions contained in that question. No additional clarifying question was put. I do not accept that by his answer Mr. M. was confirming that he called Mr. Maskell to come to the house on January 23, given that he disagreed with the specific suggestion that he called Mr. Maskell and invited him to the house on January 23.

[165] The defence allegation that Mr. M. and Mr. D. concocted a scheme to falsely accuse Mr. Lindsay and Mr. Bonner was put to Mr. M. in cross-examination. He denied it. The scheme was not put to Mr. D. in cross-examination. It was suggested to him that he spoke to Detective Sergeant McGarry on January 22. He denied it.

[166] Defence counsel rely on Detective Sergeant McGarry’s Will Say statement about his telephone contact with Mr. D. They contend that it meets the preconditions to be admissible as past recollection recorded. I have reservations that this is so. To be admissible under this doctrine, the record must have been made or reviewed within a reasonable time: *R. v. Richardson* (2003), 174 O.A.C. 390 (Ont. C.A.). The earliest that the Will Say could have been made is two weeks after the telephone contacts, and perhaps as late as almost two months later. The officer made no notes of the telephone contacts when they occurred.

[167] Even if I accept that Detective Sergeant McGarry’s Will State is admissible as past recollection recorded, I prefer the evidence of Mr. D. about their telephone conversations, including the timing. Mr. D. had every reason to recall the events and their timing. The events were significant to him, as Mr. M.’s brother-in-law, and someone obviously concerned with Mr. M.’s well being at the time. Detective Sergeant McGarry was contacted on a casual rather than an official basis, about a matter that was not within his jurisdiction. He did not even make notes of the conversations. I am satisfied that Detective Sergeant McGarry is mistaken about speaking to Mr. D. on January 22.

M. Findings

Steven Lindsay

[168] On January 11, 2005, at the conclusion of all of the evidence, Mr. Lindsay pleaded guilty to the charge of extortion. Through his lawyer, he admitted that on January 31, 2002, he met with Mr. M. at the restaurant; Mr. M. had contacted Mr. Maskell on the instructions of the police, and offered to make repayment although he had no intention to do so; Mr. M. wore a body pack recording device at the restaurant, and continued to act on the instructions of the police; while seated across from Mr. M., Mr. Lindsay demanded “his” money back and mentioned \$75,000 as the amount owed; it became obvious that Mr. M. did not have the money; and Mr. Lindsay threatened Mr. M., saying, “If you toy with me your days are numbered. I’m going to follow you there”. Mr. Lindsay specifically denied that he made any threat to Mr. M. on January 23, 2002.

[169] On behalf of the Crown, Mr. Cameron submitted that I should not accept the guilty plea, because it was a plea to a case different than that advanced by the prosecution. Counsel agreed that my decision be reserved, and incorporated in these Reasons. It is undisputed that Mr. Lindsay’s guilty plea is not evidence against Mr. Bonner.

[170] Mr. Lindsay’s guilty plea contains an admission of the essential ingredients of the offence of extortion identified in *R. v. Natarelli, supra*, and comes within the parameters of count one in the indictment. For those reasons, I have concluded that I am bound to accept the guilty plea, even though I agree that it falls far short of the case advanced by the Crown. A number of factual matters remain in dispute between the parties.

[171] On the evidence, I find beyond a reasonable doubt that Mr. Lindsay and Mr. Bonner both were at Mr. M.’s house on January 23, along with Mr. Maskell. Mr. Lindsay acknowledged being there in his recorded comments on January 31. It was admitted that Mr. M. identified Mr. Bonner (with whom he had no contact on January 31) after viewing a photographic lineup following the arrests.

[172] In respect of Mr. Lindsay, I accept the testimony of Mr. M. about the events of January 23 and 31, in light of the confirmatory evidence, particularly the tape recorded meeting on January 31. In particular, I find beyond a reasonable doubt that:

1. The three men were positioned outside the front door of the house as Mr. M. described;
2. Mr. Lindsay wore a jacket similar to that entered as Exhibit 6, bearing the Hells Angels name and death head logo on the front and back;
3. Mr. Lindsay did not identify himself to Mr. M.;
4. Mr. Lindsay made the comments attributed to him by Mr. M. in his examination-in-chief;
5. Those comments included a demand that Mr. M. pay \$75,000, and a threat that if he did not have the money in a week he and Mr. Maskell would end up in the hospital;
6. Mr. Lindsay stepped toward Mr. M. as if he were deciding whether to use violence against him;
7. When the men turned to go, Mr. M. saw an emblem with the words "Hells Angels";
8. Mr. M. was scared and confused;
9. The police were notified that evening of the visit and became involved;
10. Mr. M. and his family left their home and never again slept there;
11. Neither Mr. Lindsay nor Mr. Bonner returned to the house by January 31;
12. The police decided that Mr. M. would telephone Mr. Maskell and arrange a meeting;
13. Acting under the direction of the police, Mr. M. spoke with Mr. Maskell and asked him to arrange a meeting so that he ostensibly could pay the money;
14. Mr. Maskell acted as the go-between and arranged a meeting for later that same day at a local restaurant;
15. Mr. Lindsay met with Mr. M. and Mr. Maskell inside the restaurant, while Mr. Bonner waited outside;
16. Mr. Lindsay wore a long coat, with boots, a t-shirt, and other paraphernalia bearing the name "Hells Angels";

17. The tape recording is an accurate record of the conversation, in which Mr. Lindsay again demanded \$75,000 and made threats to the effect that Mr. M. would be harmed if he did not pay;
18. Mr. Lindsay and Mr. Bonner began to follow Mr. M. to his house from the restaurant, but were intercepted by the police.

[173] I find beyond a reasonable doubt that Mr. Lindsay used threats on January 23 and January 31, that he did so with the intention of obtaining money from Mr. M., that the threats were calculated to induce Mr. M. to pay him money, and that the use of the threats was without reasonable justification or excuse. I am satisfied beyond a reasonable doubt that Mr. Lindsay is guilty of the offence of extortion charged, as a principal offender, based on his own words and conduct.

Raymond Bonner

[174] In considering the evidence against Mr. Bonner, I leave aside for all purposes Mr. Lindsay's statements of January 31. I accept the testimony of Mr. M. about Mr. Bonner's involvement on January 23 and 31, in light of the other confirmatory evidence.

[175] Mere, or accidental presence at the scene of a crime and passive acquiescence without more does not render a person a party to an offence: *Dunlop and Sylvester v. The Queen* (1979), 47 C.C.C. (2d) 93 (S.C.C.). I find, however, that on January 23 Mr. Bonner was not merely present at the M. home. Mr. Bonner and Mr. Lindsay were members of the same chapter of the same group, the Hells Angels Motorcycle Club. They arrived at the house together, along with Mr. Maskell. They left the house together, along with Mr. Maskell. Mr. Bonner was there throughout the events. He positioned himself near the front door and near to Mr. Lindsay. He was attired in the jacket bearing the Hells Angels name and death head logo on the front and back. He did not identify himself to Mr. M. Although it was Mr. Lindsay who confronted Mr. M., demanded money, and threatened him, Mr. Bonner indicated his agreement with Mr. Lindsay's comments. In particular he said that Mr. M. was lucky he was here, and gritted his teeth in an intimidating way. It is a reasonable inference and one that I draw, that Mr. Bonner

went to the house knowing that Mr. Lindsay intended to attempt to induce Mr. M. to pay money by threatening him with harm, and that Mr. Bonner intended his own words and conduct to assist Mr. Lindsay in that enterprise.

[176] I further find, in light of the events on January 23, that Mr. Bonner's presence outside the restaurant on January 31 was not accidental. It was barely a week later, Mr. Bonner went with Mr. Lindsay to the restaurant address in the same vehicle, he again wore the jacket bearing the name and logo of the Hells Angels, along with other Hells Angels attire, and he was in the process of accompanying Mr. Lindsay to Mr. M.'s home when the police intervened. I find that Mr. Bonner was present outside the restaurant with knowledge that Mr. Lindsay again intended to attempt to induce Mr. M. to pay money by threatening him with harm, and for the purpose of assisting Mr. Lindsay in that enterprise.

[177] I am satisfied beyond a reasonable doubt that Mr. Bonner is guilty of the offence of extortion charged, as an aider.

[178] I am further satisfied beyond a reasonable doubt that he is guilty of the offence of breach of recognizance, specifically that he failed to comply with the condition that he keep the peace and be of good behaviour during the period specified in count three of the indictment.

[179] This analysis has not taken into account the co-conspirator's exception to the hearsay rule. Resort to that rule buttresses my conclusion of guilt.

[180] As I indicated earlier, the statements made by Mr. Lindsay on January 31, 2002, are not admissible against Mr. Bonner, nor can they be used as confirmatory of Mr. M.'s evidence as it relates to him, unless they fall within the co-conspirator's exception to the hearsay rule. The exception applies equally to a case like this of a substantive offence alleged to be committed pursuant to a common criminal enterprise, as it does to a conspiracy: *R. v. Koufis* (1941), 76 C.C.C. 161 (S.C.C.).

[181] The application of the rule requires a three-step analysis: *R. v. Carter* (1982), 67 C.C.C. (2d) 568 (S.C.C.). First, the Crown must prove beyond a reasonable doubt on all the

evidence that there was a common criminal enterprise. Second, the Crown must prove on a balance of probabilities on evidence directly admissible against the particular accused that he was a member of the common criminal enterprise. If the Crown satisfies both pre-requisites, then the trier of fact can consider the acts and declarations of any members of the common criminal enterprise that are made in furtherance of it as evidence against the particular accused on the issue of his guilt. A declaration admitted into evidence under the co-conspirator's exception can be used as proof of the truth of its contents.

[182] As pointed out in *R. v. Comeau*, [1992] R.J.Q. 339 (C.A.), affd [1992] 3 S.C.R. 473 the *Carter* approach is difficult to apply to a common criminal enterprise involving only two people. If the Crown succeeds at the first step, as I find it has in this case, it necessarily succeeds at the second stage.

[183] I find that Mr. Lindsay's acts and declarations in Mr. Bonner's absence, which I have reviewed in detail already, were in furtherance of the common criminal enterprise. Many of the statements concerned what would happen to Mr. M. if he did not pay. Mr. Lindsay's comments about the visit to the house on January 23 were not purely narrative describing past events. Their purpose was to frighten Mr. M., by causing him to believe that his physical well being was in jeopardy if he did not produce the money demanded. They were made to advance the objectives of the common criminal enterprise: *R. v. Lynch* (1978), 40 C.C.C. (2d) 7 (Ont. C.A.).

[184] When Mr. Lindsay's January 31 statements are considered as evidence admissible against Mr. Bonner, and also as evidence supportive of Mr. M.'s testimony, the proof of Mr. Bonner's guilt becomes that much stronger.

N. Conclusion

[185] I find Mr. Lindsay guilty of extortion beyond a reasonable doubt. I find Mr. Bonner guilty of both extortion, and breach of recognizance beyond a reasonable doubt.

PART II: THE “CRIMINAL ORGANIZATION” OFFENCE

A. Introduction

[186] In support of the charge under s. 467.12(1), the Crown relied primarily on the *viva voce* evidence of five witnesses, four of whom were qualified to give expert evidence; a large quantity of documents, some admitted in their own right and some admitted for the limited purpose of showing the basis for the experts’ opinions; and admissions made by the defence.

[187] The following paragraphs contain a summary of the *viva voce* evidence, with reference to some of the documentary evidence and admissions.

B. The Evidence of Staff Sergeant Jacques Lemieux

Qualifications

[188] Staff Sergeant Jacques Lemieux is currently a supervisor with the Royal Canadian Mounted Police (“RCMP”) Ottawa Drug Section. I permitted him to give expert opinion evidence about the nature and characteristics of the Hells Angels organization, and the main purposes and activities of the Hells Angels organization and whether they constitute the facilitation or commission of serious criminal offences that afford a material benefit to its members.

[189] Staff Sergeant Lemieux was first exposed to outlaw motorcycle clubs when he worked with the Chicoutimi Drug Section from late 1978 until early 1981, and then with the Quebec City Drug Section from 1981 to 1987. He became familiar with several clubs that were involved in the drug trade. None of the clubs had a formal affiliation with the Hells Angels at the time. However, Staff Sergeant Lemieux found similarities between the various groups in their structure, internal rules, involvement in criminal activities, and display of a three-piece patch by members.

[190] In 1987 Staff Sergeant Lemieux became a criminal intelligence investigator of organized crime in Quebec City. His main mandate was the Quebec City chapter of the Hells

Angels. For almost four years he gathered information on members of the chapter, surveilled members and associates of the chapter at the clubhouse and elsewhere, listened to intercepted private communications, and participated in a search of the clubhouse. He obtained information about the structure and operation of the Hells Angels, the meaning of tattoos and patches, the jargon used, the identities of members of the chapter, and the security measures used at the clubhouse. He participated in two projects that involved the importation or attempted importation into Canada of cocaine by chapters of the Hells Angels in the province of Quebec.

[191] Staff Sergeant Lemieux became a National Coordinator concerning outlaw motorcycle gangs at Criminal Intelligence Service Canada (“CISC”) in 1992. This is an entity staffed by representatives of various Canadian police forces, and funded through the RCMP. He held the position of National Coordinator until October 2000. His duties involved gathering and analyzing information from law enforcement and government agencies across Canada about outlaw motorcycle clubs in general, and also from the United States and Europe. He also was responsible for disseminating information about these groups. He focused on the Hells Angels in particular.

[192] Staff Sergeant Lemieux testified that he made it a practice to confirm any information that he received, by contacting different sources. He did this to ensure that the data he gathered and disseminated was factual.

[193] While he was with CISC, he received a quantity of documentary information about the Hells Angels, including minutes of chapter meetings, surveillance photographs, and letters of agreement signed by members. He attended numerous meetings of field investigators on the provincial, national and international levels, at which the criminal activity of outlaw motorcycle clubs was discussed. As well, he was privy to information received from former members of the Hells Angels. From a former member of the Laval chapter of the Hells Angels who had become a police informant, Staff Sergeant Lemieux received confirmatory information about the structure of the Hells Angels, their participation in criminal activities, and the significance of certain patches and tattoos. He read the sworn testimony and debriefing of another ex-member of the Laval Hells Angels. He also met with a former member of an American chapter of the

Hells Angels, who provided confirmatory information about club structure, rules, and criminal activities.

[194] In addition, Staff Sergeant Lemieux observed members of the Hells Angels and their associates at several motorcycle runs, including both the Hells Angels Fiftieth Anniversary, and the first major run held in Ontario. He participated in a search of the clubhouse of a Hells Angels puppet club in Quebec.

[195] In 2000 Staff Sergeant Lemieux joined the Integrated Proceeds of Crime Section. He investigated organized crime groups, including outlaw motorcycle clubs. While with the Section, he participated in a search of the clubhouse of a puppet club of the Hells Angels South chapter in Quebec.

[196] In 2003 he moved to the Combined Forces Special Enforcement Unit, which investigated organized crime groups, including outlaw motorcycle clubs. He oversaw all projects of the unit, until he joined the Ottawa Drug Section in 2004.

[197] Staff Sergeant Lemieux has lectured on the topic of outlaw motorcycle clubs including the Hells Angels, both through CISC and at the Canadian Police College. He has attended conferences in Canada and the United States for law enforcement personnel involved in outlaw motorcycle club investigations. He has contributed to various publications aimed at law enforcement officers, on the topic of outlaw motorcycle clubs. Some of the publications are available to the public, but some are restricted to law enforcement personnel. These publications are not peer reviewed, but Staff Sergeant Lemieux has never been told that something he wrote was erroneous, or a misinterpretation of the facts. In 2000, he organized an expert witness course on outlaw motorcycle clubs, specifically the Hells Angels, for law enforcement officers. He participated in the course again in 2002.

[198] He was qualified as an expert witness concerning the activities and characteristics of the Hells Angels and their puppet clubs in the Manitoba Court of Queen's Bench in 2003; in the organization, structure, and characteristics of the Hells Angels nationally and their activities in

Quebec in the Alberta Court of Queen's Bench in 2001; and in the organization, structure and activities of the Hells Angels in the Superior Court of Quebec in 2001. He was permitted to give expert opinion evidence about the activities and characteristics of the Hells Angels in the preliminary inquiry for this case in 2002.

[199] Staff Sergeant Lemieux testified in cross-examination that he has not personally investigated the Hells Angels in Ontario, as the club did not exist in Ontario when he was working in the field. It did not come into existence in Ontario until December 2000. He discussed the activities of the Hells Angels in Ontario with Ontario investigators during conferences in 2002, 2003 and 2004. He conceded that he has no direct knowledge about the Hells Angels in Ontario, although he received information from other investigators that Ontario members are involved in illegal activities including drug trafficking.

Background Materials

[200] Before he testified, Staff Sergeant Lemieux reviewed various documents that were presented during the trial, including minutes of meetings, and intercepted private communications. From time to time he referred to a binder of typed notes while testifying. The notes were reminders to him of material he wanted to use to illustrate the basis of his opinion. He did not prepare the typed notes, but the contents consisted of information that he knew, and included things he had mentioned to Crown counsel in meetings.

[201] The notes were disclosed to defence counsel. They did not object to Staff Sergeant Lemieux referring to them as he gave evidence. It became apparent during his testimony that he had annotated the notes in handwriting. He said that he did so prior to and during the trial.

Overview of The Hells Angels Motorcycle Club

[202] Staff Sergeant Lemieux testified about the background and structure of the Hells Angels Motorcycle Club ("HAMC"). It began in California in 1948. By 1957 it consisted of three chapters, or units, all located in California. The organization expanded over time. Staff Sergeant Lemieux testified that the HAMC currently has 2500 members located in 29 countries

in North America, Asia and elsewhere in the world. It consists of 227 chapters, plus 9 prospect and 15 hang-around chapters.

[203] The HAMC is an incorporated entity with an address in Oakland, California. The Oakland chapter is the “mother” chapter, meaning that matters concerning the club must go through it.

[204] Ralph “Sonny” Barger, who founded the Oakland chapter, is the unofficial world president of the HAMC. He has criminal convictions for drug trafficking and attempted murder. Barger is the author of a book about the HAMC, entitled *The Life and Times of Sonny Barger and the Hells Angels Motorcycle Club*.

[205] The HAMC logo is the winged death head, a skull with plumage behind it. The club colours are red and white. The club uses the number 81 to signify Hells Angels.

[206] The HAMC is a self-identified one percenter or “outlaw” motorcycle club, along with its rivals the Bandidos, the Outlaws, and the Pagans. Each of the four clubs have one percenter patches that members wear to identify themselves as part of such a club. Staff Sergeant Lemieux explained that one percenter motorcycle clubs are those that do not want to abide by society’s laws, as distinct from mere motorcycle enthusiasts. In his opinion, at present, a one percenter motorcycle club is a criminal organization. In his opinion, the Hells Angels worldwide is a criminal organization.

[207] Staff Sergeant Lemieux referred to one percenter club members and associates as “bikers”, as did the other witnesses.

[208] Staff Sergeant Lemieux testified that there has been strife between the Hells Angels, the Outlaws, and the Bandidos over control of the drug trade in various territories.

Movement into Canada

[209] The Hells Angels came into Canada in 1977, forming an initial chapter in Montreal, and then another in Laval. At that time, the Outlaws was the only other major outlaw motorcycle club in Canada. It was in Ontario.

[210] In 1983 the Hells Angels opened a chapter in Vancouver, followed by other chapters in British Columbia. In 1984 the Sherbrooke and Halifax chapters were created. In 1985 members of the Montreal, Sherbrooke, and Halifax chapters murdered members of the Laval chapter who had attracted police attention. The Montreal and Sherbrooke chapters absorbed the Laval chapter.

[211] The Montreal chapter, which has its clubhouse in Sorel, is the mother chapter of the Canadian HAMC.

[212] In 2002, there were 178 full members of the HAMC in Ontario, plus some prospects and hang-arounds, for a total of 244 individuals.

Structure of the HAMC

[213] The HAMC is organized on a chapter, regional, national and world basis.

[214] The chapter, or charter, is the basic unit. A chapter is located in a specific geographic area assigned to it as the territory in which to conduct its business, which Staff Sergeant Lemieux testified is criminal activity. There may be multiple chapters in a single country. This is the case in Canada, but all Canadian chapters are governed by the same rules. The chapter has an executive comprised of a president, vice-president, sergeant-at-arms, secretary and treasurer. A chapter meets once a week.

[215] The HAMC divided both Canada and the United States into regions. The United States is divided into East, and West Coast Regions. Canada is divided into East, Central, and West Coast Regions. The East Coast Region consists of Quebec, the Central Region consists of Ontario, and the West Coast Region consists of Manitoba through to British Columbia. Before

the Ontario chapters were formed, there were just two regions, East and West Coast, with Halifax and Quebec constituting the East Coast Region. The Halifax chapter ultimately closed.

[216] Each region has its own web page, and its own bank account.

[217] Officers attend regional meetings once a month.

[218] Canadian national meetings are held four times a year. Every Canadian chapter sends one or two members of its executive to a Canada officers meeting.

[219] Representatives from each country attend world meetings twice a year. One of the world meetings is held at the same time as a world motorcycle run. World meetings deal with matters affecting the HAMC as a whole. Any motions being proposed are circulated in advance.

The Chapter

[220] Chapters are created by vote. If no chapter exists in a country, all members worldwide must vote to open a chapter there. If a Canadian province does not yet have a chapter, then all chapters in Canada must vote on whether to bring it into existence.

[221] Once there is a chapter in a province, it must exist for one year before it can decide to open other chapters in that province. Subsequently, the chapters in the province make the decision to create others there. For example, by June 2002 Ontario decided to open a chapter in London, by donating or transferring members from existing chapters. Staff Sergeant Lemieux testified that the point of creating a new chapter is to exert control over criminal activities in the area.

[222] A new chapter must have a sponsoring chapter that will be responsible for it for one year while it is on probation. The sponsoring chapter makes sure that the new chapter obeys all the HAMC rules.

[223] Another one percenter club can become part of the HAMC, if it has been in existence at least five years. It first becomes a hangaround club, then a prospect chapter, and finally a full-fledged chapter.

[224] The only chapter that does not have a specific territory assigned to it is a Nomads chapter. There can be only one Nomads chapter per province. Nomads chapters exist in Quebec, Ontario, Alberta and British Columbia. The members of a Nomads chapter are influential Hells Angels who conduct an enormous amount of business. Although Nomads are not restricted to a specific area, if they want to do business in a chapter's territory, they first ask permission, which usually is granted.

[225] There is a degree of autonomy among chapters. Each is self-sufficient in that all its members have a say in the chapter's decisions, internal disciplinary measures, and criminal activities. Each chapter is somewhat independent and responsible for its own criminal activities. Chapters do not share profits with one another.

[226] In Canada, each chapter has its own bank account and takes care of its own defence fund. Each chapter sets the date by which motorcycles are to be on the road, and the penalty for violators.

[227] Each chapter has a clubhouse, with the exception of the Nomads. The chapter is responsible for the upkeep of the clubhouse. Some clubhouses have a 24-hour watch. All have security such as steel fences, barbed wire, and video cameras. Staff Sergeant Lemieux testified that these measures are taken to defend the chapter from attack by rival groups, and to prevent infiltration by law enforcement.

[228] Staff Sergeant Lemieux testified that the Hells Angels are very conscious of police surveillance techniques, such as listening devices. He has seen signs in clubhouses warning occupants to be careful about what is said because it is not known who is listening.

[229] A chapter consists of a minimum of six full-fledged members who are not in jail or bound by restrictions. If it falls below six members, the chapter is closed, or frozen meaning put on standby, or members of other chapters transfer to it. Staff Sergeant Lemieux explained that six members are required so that the chapter can control its territory and avoid losing it to a rival group.

[230] An individual who wants to join an existing chapter usually must be known by the organization for five years. He must be sponsored by a HAMC member. The sponsor remains responsible for him until he becomes a member, and even after that should the individual draw attention to himself and the club.

[231] There is a ladder to membership in the club. First the individual becomes a “friend”. He does menial tasks to test his loyalty to the club, and his worthiness as a member. After six months to a year he becomes a “hangaround”. He is asked to do more to prove his worthiness, meaning that he has something to bring to the organization. He may commit criminal acts directed by others. Usually after one year as a hangaround he becomes a “prospect”. An individual usually is a prospect for a minimum of one year. In order to move from prospect to full member, he must be completely loyal to the club and not bring undue attention to the club. Staff Sergeant Lemieux testified that a prospect will be asked to commit certain criminal acts, so that the club is assured that he will not become a police informant.

[232] One hundred per cent of existing chapter members must vote in favour of promoting an individual from one stage to the next. It usually takes three to four years to move through the stages to become a full member. Staff Sergeant Lemieux testified that one of the reasons for this lengthy process is to prevent infiltration of the organization by law enforcement.

[233] Photographs are taken of all members, prospects and hangarounds of a chapter, and sent out to chapters worldwide. This is to ensure that individuals are known.

[234] Only full members are entitled to attend the weekly chapter meetings, called “church” meetings, at which chapter business is discussed. Minutes are taken as a record of the meetings. Members vote on issues raised, on the basis of one man, one vote.

[235] Only full members are allowed to wear HAMC colours. A set of colours consists of a three-piece patch sewn onto a vest. The top portion, or rocker has the name Hells Angels. In the middle is the death head logo, and the letters MC, for Motorcycle Club. The bottom portion, or

rocker has the name of the territory, which in Canada is the province. A member also wears a crest on the front of the vest with the name of his chapter.

[236] A hangaround wears a small patch that names the chapter he is hanging around for, with the words “hangaround”. A prospect wears a bottom rocker, and also a patch with the word “prospect” and the name of the chapter.

[237] Colours belong to the club. Each member signs documentation to this effect. In Staff Sergeant Lemieux’s opinion, this practice started to prevent law enforcement from retaining seized colours. Each chapter keeps track of its own count of colours.

[238] If an Ontario member wears a sticker such as, “Support Your Local Big Red Machine Quebec” it signifies an association with that chapter.

[239] Photographs of Mr. Lindsay showed him wearing his colours. In one photograph he had a bottom rocker on the front of his vest with the name Sherbrooke, indicating that he was a close friend of the chapter, and another bottom rocker with the name World, indicating that he went to a world meeting. In another photograph, he had a bottom rocker with the name Nomads on the front of his vest. In a further photograph he wore a bottom rocker with the name East End on the front of his vest. Such bottom rockers can be worn as decoration, or to show association with another chapter.

[240] Staff Sergeant Lemieux was shown the jacket worn by Mr. Bonner on January 31, 2002. It is not a set of colours, although it bears similarity to colours. It is a jacket that members of the East End (Vancouver) chapter would sell or give to friends. The top rocker has the name Hells Angels. The winged death head in the middle is one that is particular to the East End chapter. The bottom rocker has the name East End, rather than that of the province. The person who wears this jacket is definitely a member of the Hells Angels, because only a member can wear an item that bears the insignia or the organization’s name.

[241] Staff Sergeant Lemieux was referred to a text, *The Rebels: A Brotherhood of Outlaw Bikers*, written in 1991 by Dr. Daniel Wolf. Dr. Wolf was an anthropologist who spent several

years with the Rebels motorcycle club in Alberta. Staff Sergeant Lemieux agreed with the author that wearing the colours of an outlaw club gives the member a psychological edge, in that the power and reputation of the club becomes part of the member's personal force. Because of the outlaw biker reputation for violence, members can crush opponents and suppress witnesses with fear. In Staff Sergeant Lemieux's opinion, merely wearing the colours of the Hells Angels will intimidate outsiders, because of the organization's reputation for extreme violence.

[242] Staff Sergeant Lemieux learned through informants and ex-members that the Hells Angels have a Filthy Few patch. It identifies the wearer as someone who has killed for the club. Photographs of members David Carroll and Denis Houle showed their Filthy Few tattoos. The Hells Angels also have a Dequiallo patch. It signifies that the wearer has fought law enforcement on arrest. A photograph showed a member of the Haney, British Columbia chapter wearing that patch.

[243] Every chapter is supposed to have an email address, so that it can communicate with members worldwide.

[244] Chapter cards list the clubhouse address and contact information, as well as the members of the particular chapter, usually by their club pseudonyms, and their telephone numbers.

[245] Staff Sergeant Lemieux identified some items seized from Mr. Lindsay's vehicle as a complete list of all Hells Angels chapters worldwide with telephone numbers, a list of all chapters in British Columbia with names of members and associates with telephone numbers, and various chapter cards including those for Oshawa, Nomads Ontario, Woodbridge, Sherbrooke, and Niagara. He testified that it is common for members to have such cards.

[246] Staff Sergeant Lemieux was shown and commented on minutes of certain meetings. Minutes of a Canada Officers meeting in January 2002 referred to Halifax proposing a New Brunswick club as a prospect chapter. All of Canada had to vote on this proposal.

[247] Minutes of an Ontario Presidents meeting in March 2001 stated that chapters including Sherbrooke were satisfied with the progress of the Niagara prospect chapter. This indicated that Sherbrooke was directly involved with the chapter.

[248] The agenda of an Ontario Presidents meeting in January 2002 referred to the London prospects becoming eligible for membership, and asked whether they would be good for the HAMC as a whole. If certain members of a prospect chapter do not meet the organization's requirements for membership, the chapter's move to membership may be postponed.

[249] Minutes of an Ontario Presidents meeting in March 2002 stated that Ontario was prepared to pay for the New Brunswick club's prospect patches, but the group was turned down for prospect status.

[250] The agenda of an Ontario Presidents meeting in April 2002 referred to a run held by the New Brunswick club. This indicated that the club was still associating with the HAMC.

[251] Minutes of an Ontario Presidents meeting in April 2002 referred to the London prospects having been promised a patch within months by their Quebec overseer, meaning they would become full members within months. That would be unusual, because the probationary period is at least one year.

[252] Minutes of an Ontario Presidents meeting in April 2001 stated that the North Toronto chapter would be allowed to have prospects. The minutes also stated that a chapter must notify the presidents meeting in advance before a hangaround or a prospect moved up. In Staff Sergeant Lemieux's opinion, this was to allow any objection to be voiced in advance. Every prospect is required to visit every Ontario chapter before he is proposed for membership, so that every prospective member is known before a vote about membership is taken.

Rules

[253] Staff Sergeant Lemieux testified that the HAMC have written world, country and chapter rules. Although there are separate rules for separate countries, and a degree of autonomy among countries, all must abide by the world rules.

[254] In Canada, the chapter rules mimic the country rules.

[255] Exhibit 28(15) consists of copies of written rules seized from various locations, including the Thunder Bay clubhouse. Some are specifically headed as Guidelines for Canada. Among the rules listed are “No rapes”, “A member retired in bad standing or kicked out must get his Hells Angels tattoos dated out”, and “All contact or use of heroin is strictly forbidden”. The rule that reads “No dealings of any kind that will reflect badly on the club” also appears as “No burns or dealings of any kind that will reflect badly on the club”. Staff Sergeant Lemieux testified that “burns” refers to bad drug deals. He said that according to Barger, the rule was amended so that it could not be relied on in criminal prosecutions of Hells Angels members.

[256] Staff Sergeant Lemieux agreed that there was nothing in the Guidelines for Canada requiring chapters, or their members to engage in criminal activity. He confirmed that the minutes of an Ontario Presidents meeting in November 2000 asked that any money owed be paid by cheque, so that a paper trail could be created to prove where the money came from.

[257] Any change to the Canada rules requires approval of all chapters, or a two-thirds majority if there is a deadlock.

[258] Exhibit 28(14) consists of a list of HAMC World Rules collected by the World Secretary Michael McCrae, who was a member of the Halifax chapter. In May 2002, he suggested that rules that were redundant or no longer politically correct could be removed. Those World Rules included “No snitches in the club”; “No cops or ex-cops in the club”; “No niggers in the club”; and “To remove all Death heads from internet sites with the exception of ones that CANNOT be downloaded”. Staff Sergeant Lemieux testified that even a person who once applied to become a police officer cannot join the HAMC. In his opinion, this is because of fear of infiltration by law enforcement. Similarly, an individual who is identified as a “snitch” is automatically kicked out of the club, and his photograph is circulated worldwide.

[259] A country can make a motion to change a world rule. Canada did so in 1996, to increase the number of world meetings per year and separate them from world runs. Canada

wanted world meetings to deal with the concerns of the HAMC rather than partying. In 2001, Canada suggested 14 world rules.

[260] Staff Sergeant Lemieux testified that the HAMC also has unwritten rules. They include no criminal activity in the clubhouse, not to disgrace the organization by bringing attention to oneself, and no women as members.

[261] He has never seen criminal activity discussed in minutes of meetings.

[262] Staff Sergeant Lemieux testified that in light of the long period it takes to become a HAMC member, there is no doubt in his mind that an individual knows exactly what the organization is about by the time he becomes a full-fledged member.

Protection of Symbols

[263] Staff Sergeant Lemieux testified about efforts made by the Hells Angels to protect their name and the death head logo.

[264] Hells Angels members often have tattoos of the death head. Staff Sergeant Lemieux testified that when a member leaves the club honourably, he must put the out date on the tattoo. If he is kicked out of the club, he must have the tattoo covered over. In the opinion of Staff Sergeant Lemieux, this is to ensure that ex-members no longer receive information about the club, and can no longer portray themselves as Hells Angels. The name and photograph of anyone who is kicked out is circulated to chapters worldwide, for this reason.

[265] An individual who leaves the club honourably is not permitted to have anything that bears the Hells Angels name, other than his tattoos. This is to prevent him from using the Hells Angels name to his own benefit once he is out of the club.

[266] Staff Sergeant Lemieux testified that the Hells Angels go to great lengths to make sure that only members wear the club's colours or "patch". The patch signifies that the wearer is part of a sophisticated organized crime group, and anyone who deals with the wearer deals with the

whole organization. The Hells Angels do not want the intimidation value of the patch to be diminished by non-members wearing it.

[267] Prospects are not permitted to use the name Hells Angels.

[268] Staff Sergeant Lemieux was referred to and commented on minutes of meetings entered as exhibits in these proceedings. They indicated concern about the return of colours confiscated by law enforcement, other clubs having logos resembling that of the Hells Angels, and non-members having paraphernalia bearing the name Hells Angels. Staff Sergeant Lemieux testified that the Hells Angels go to extreme lengths to make sure only its members wear its name and logo. They do not want outsiders portraying themselves as members of the organization and diminishing its reputation. As well, a trademark must be monitored by its owner to protect against its loss. The Hells Angels protect their name and logo in the same way around the world.

[269] Documents seized by the police show that the HAMC has trademarked its name and the death head logo. The HAMC Corporation is the registered owner of those trademarks. Each chapter in Canada must sign a licensing agreement with the HAMC Corporation, permitting its members to use the trademarks in accordance with the rules and policies of the HAMC. The agreement is sent out from and returned to Oakland.

[270] The trademarks have been registered in various countries, including the United States and Canada.

[271] Minutes of a Canada Officers meeting in January 2002 indicated that there is a member to whom all Canadian chapters must send a fee of \$200 per year in relation to the trademarks. He in turn sends the money to the Oakland mother chapter. Every person who is part of the Hells Angels organization worldwide must pay \$20 per year toward the cost of registering the trademarks. Trademark infractions are reported to the mother chapter.

[272] The HAMC makes money from the sale of support merchandise or “biker gear”. Nothing is sold that bears the death head or the name Hells Angels.

Territoriality

[273] Staff Sergeant Lemieux testified that territoriality is a feature of the four major outlaw motorcycle clubs, including the HAMC. It is used to protect criminal profit. The main criminal activity of the Hells Angels is drug trafficking, although members and associates are involved in other criminal activities. In Staff Sergeant Lemieux's opinion, the Hells Angels establish new chapters in new areas to gain control of that territory for the purpose of conducting criminal activity there. Sometimes the HAMC takes over a formerly independent club as a way of expanding into new territory.

[274] Staff Sergeant Lemieux did not agree with Dr. Wolf that the Rebels of the 1980s were a one percenter club who guarded their territory jealously, but were not involved in criminal activity.

[275] Minutes of a World Officers meeting in November 2001 indicated that there was discussion about the Thailand chapter. It made prospects full members after only a short time. Other countries, including Canada, objected. The Thailand chapter explained that this was done to "secure" Asia for the HAMC. The Bandidos and the Outlaws each had a chapter in Thailand already. In Staff Sergeant Lemieux's opinion, the HAMC was competing for territory in which to conduct the drug trade.

[276] Staff Sergeant Lemieux testified that motorcycle runs, in which all members wear their colours, and go from one place to another, are a way of demonstrating territory. Each HAMC chapter is to have two mandatory runs a year.

[277] Staff Sergeant Lemieux commented on a t-shirt seized from the Ontario home of Donald Stockford. It was the official t-shirt for the HAMC World Run held in Sherbrooke in 1992. It showed a demon holding a map of Canada. Within the map is the death head. In his opinion, the Hells Angels were making a statement that they would control outlaw biker groups in Canada.

[278] He commented on another t-shirt seized from the residence of Donald Stockford. It showed the CN Tower with the name Hells Angels Ontario, the death head, and the words “The First Wave” over top. In his opinion, the Hells Angels were making a statement that they were going to establish themselves in Ontario.

[279] He commented on a poster seized from the Ontario residence of Walter Stadnick. It showed Canada and the maple leaf, with the death head swooping across the country. In his opinion, it demonstrated the Hells Angels moving across the country.

Security

[280] Staff Sergeant Lemieux agreed with Dr. Wolf that the characteristics of outlaw motorcycle clubs make police infiltration virtually impossible.

[281] The minutes of various HAMC meetings revealed concern with secrecy of operations and control of information. Sensitive club materials including minutes are not faxed, because they are intercepted by the police on occasion. Chapters are obliged to encrypt emails. Chapters that do not encrypt are removed from mailing lists. Encryption makes it difficult for law enforcement to intercept information.

[282] HAMC members also meet to discuss business in person, and use members of puppet clubs to hand deliver documents.

[283] Staff Sergeant Lemieux was shown and commented on minutes of various HAMC meetings. Minutes of a Canada Officers meeting in February 2000 specified that notices of members leaving or joining the club should not be faxed. These notices go to chapters worldwide.

[284] Minutes of World Officers meetings in April and December 2000 expressed concern about faxes, ex-members getting emails, and the need for encryption.

[285] An email sent by the Ontario Secretary, Donny Petersen, in December 2002 advised that various people were removed from the email list because they were not encrypted, and reminded chapters that it is an Ontario requirement to become encrypted.

[286] Minutes of an East Coast Officers meeting in February 2001 stated that no faxes or emails were to be sent about members being kicked out of or joining the club.

[287] Minutes of an Ontario Presidents meeting in June 2001 referred to a security officer for major functions. This person ensures that doors are guarded, members are protected, motorcycles are secured, and law enforcement does not gain access to the function.

[288] Minutes of a World Officers meeting in November 2001 provided that all mobile telephones are to be taken out of the room. It is now an unwritten rule that telephones and pagers are to be left outside during meetings, because of an instance where an agent used his telephone to record a meeting. This is to ensure that nobody but members knows what goes on at meetings.

[289] Staff Sergeant Lemieux testified that there are various security measures in place at clubhouses, including closed circuit television to monitor the exterior, motion detectors, steel doors, numeric entry codes, bullet-proof glass, barbed wire, windows with steel shutters, barricades in front of the clubhouse, and gates.

[290] The reason for the security is to prevent law enforcement easy access to the clubhouse, and to prevent attack from unfriendly outlaw motorcycle groups.

[291] Each clubhouse has a watch room that is supposed to be manned at all times, from where access to the clubhouse is monitored. Usually entrance to the watch room is restricted to members, and individuals assigned to the watch.

[292] A document seized from the Quebec City clubhouse in November 1997 listed rules for the person on “watch”, such as to be alert to movement around the clubhouse. This was to ensure that law enforcement did not try to install devices, and other gangs did not try to blow up the clubhouse.

[293] Minutes of an Ontario Presidents meeting in November 2001 stated that Toronto had gone to a 24-hour security system.

[294] A video recording of a police raid on a Para-Dice Riders (“PDR”) clubhouse in December 1999 showed windows that the police could not break with sledgehammers, and cement pillars in front of the building. A video recording of the HAMC Thunder Bay clubhouse made in January 2002 showed that it had a numeric lock, and an exterior camera monitored from the watch room. A video recording of the HAMC London clubhouse made in December 2002 showed that it had a reinforced steel door, and an exterior motion detector or video camera.

[295] A video recording of the Thunder Bay clubhouse showed a sign inside reading, “What you hear here, what you see here, what you do here stays here”. Staff Sergeant Lemieux has seen this sign in other clubhouses. He also has seen signs reading, “You never know who’s listening”, and, “Be careful what you say”.

[296] The HAMC are extremely self-conscious of the police being able to intercept communications. Staff Sergeant Lemieux is aware of members changing cellular telephones regularly to prevent interception. Protection of communications is a frequent practice among all HAMC chapters.

[297] A photograph of a telephone in Walter Stadnick’s house showed a sticker reading, “Be careful what you say over this phone”. Staff Sergeant Lemieux has seen similar warning stickers at the Quebec City clubhouse.

[298] Staff Sergeant Lemieux was shown and commented on minutes of various meetings. The agenda of an Ontario Presidents meeting in January 2002 referred to security during a run. It noted that police officers were taking the shifts of some hotel staff and warned that in the future, staff should be observed in advance. This indicated concern that law enforcement might infiltrate HAMC functions.

[299] Minutes of an Ontario Presidents meeting in April 2002 referred to a sergeant-at-arms for each chapter being notified about security meetings. This person is the unofficial enforcer.

He carries out sanctions against those who break the rules, and keeps order during club meetings. The minutes commented that the HAMC would be vulnerable during the Canada Run, meaning to retaliation by other clubs.

[300] Minutes of an Ontario Presidents meeting in June 2002 stated that members who did not carry out their duties at the Canada Run could be demoted to prospect status, and that members had to stay in secured hotels, meaning hotels where the HAMC had put security measures in place.

[301] Guard duty at functions is performed by prospects, hangarounds and friends.

[302] The agenda of an Ontario Presidents meeting in August 2002 expressed concern that the police may have listened to meetings, and suggested that future meeting places be revealed only at the last minute. Staff Sergeant Lemieux has seen this done by the HAMC in Quebec, to avoid police detection.

[303] The agenda of an Ontario Presidents meeting in November 2002 stated that it would be recommended at the World meeting that when travelling, members be checked with their home chapters. This is to ensure that individuals are whom they say. There was a reminder that it is a Canadian rule not to email the names of those who have left the club. Concern was expressed about Denmark having many new members, meaning that Ontario wanted to know that these people had been properly checked.

[304] Minutes of an Ontario Presidents meeting in November 2002 stated that there was leakage of information from members talking too much on the telephone. The North Toronto chapter suggested that new people should be checked back to public school, in addition to being known by a member for five years. Staff Sergeant Lemieux has seen documents reflecting that detailed inquiries were made about an individual's background.

[305] Minutes of an Ontario Presidents meeting in March of an unspecified year suggested that photographs of a member who is out of the club should be removed from web sites.

Concern was expressed about persons outside the club knowing things before members were told.

[306] A document seized from the Calgary clubhouse in August 1999 indicated concern that the person in the photograph might be a police agent.

[307] Staff Sergeant Lemieux has seen security files from different chapters. A security file usually contains an individual's photograph, description, and as much information as can be gathered. He identified one seized from McCrae's residence about an individual from Fairbanks.

[308] Documents seized from the residence of William Miller in December 2002 included a list of unmarked police cars, and a list of individuals working at the London RCMP detachment with telephone numbers. Staff Sergeant Lemieux has seen similar information posted in HAMC clubhouses. In his opinion, the HAMC collects this information to detect any surveillance, and to intimidate individuals if the need arises. During a search of the Sherbrooke clubhouse, he saw a video recording of officers and their vehicles at the rear of the local RCMP detachment, and a video of civilian personnel who worked there.

[309] Staff Sergeant Lemieux testified that photographs of police officers were posted on a website linked to the HAMC.

Cooperation With Law Enforcement

[310] Staff Sergeant Lemieux testified that the HAMC shuns individuals who give information to law enforcement. Sanctions are applied to them, ranging from being kicked out of the club, to being beaten, to death.

[311] Staff Sergeant Lemieux does not consider Barger's book as a whole to be authoritative, but there are passages that confirm other information he has gathered and considers reliable. This includes Barger's assertion that rules about transfers between chapters were changed because of informants and infiltrators.

[312] Minutes of various meetings filed as exhibits indicated concern with informants, and named individuals who were not permitted to associate with the club any more. Minutes of the following meetings were typical:

- An East Coast Officers meeting in June 1998 suggested setting up a website to post photographs of informants, and referred to “rats” who would testify in a Quebec City case;
- A Canada Officers meeting in February 1999 named a “rat” in Alberta;
- An Ontario Presidents meeting in December 2001 named a person who was no good;
- An Ontario Presidents meeting in March 2002 named a person who was no good;
- An Ontario Presidents meeting in April 2002 named a person who was no good.

Leaving the Club

[313] Staff Sergeant Lemieux testified that a member of one chapter has full rights in another chapter, and with the consent of members of the other chapter can carry on criminal activities in that area. One chapter may call on another chapter to assist with criminal activities.

[314] An individual can leave the club honourably, by quitting. He must forfeit anything that belongs to the Hells Angels, or bears the name “Hells Angels”.

[315] An individual who is kicked out of the club in bad standing is kicked out dishonourably. His name and photograph are sent to all chapters worldwide, so they know he no longer has the privileges of membership.

[316] Individuals are automatically kicked out of the club for lying to or stealing from those within the organization.

[317] A person who leaves the club honourably must put an “out” date on his tattoo. If he is kicked out, he must cover his tattoo.

[318] Minutes and agenda of meetings filed as exhibits demonstrated the practice of communicating the names of those kicked out, including:

- A Canada Officers meeting in January 2002;
- An Ontario Presidents meeting in April 2002;
- An Ontario Presidents meeting in June 2002;
- An Ontario Presidents meeting in November 2002.

[319] Minutes of an Ontario Presidents meeting in August 2002 stated that individuals who had left the club dishonourably are shunned. Members can only associate with those who left honourably.

Canada and the World

[320] Staff Sergeant Lemieux testified that the HAMC has regular meetings within regions. On occasion a representative of one region will attend a meeting in another region. He has seen documents recording that American representatives attended Canadian meetings, and Canadian representatives attended American meetings.

[321] Until HAMC chapters in Alberta and Saskatchewan were created, British Columbia was part of the U.S. West Coast Region and attended its meetings. Minutes of meetings of the officers of that region showed that Vancouver participated in the discussions.

[322] In 1992, the Sherbrooke chapter hosted a World Run.

[323] Minutes of meetings of the Oakland chapter in 1992, 1993 and 1994 recorded that minutes of the East Coast Canada Officers, West Coast Canada Officers, and Canada Officers meetings were read.

[324] Minutes of an East Coast Officers meeting in November 1997 recorded that Donald Stockford was to represent East Coast Canada at the next World Officers meeting. Minutes of another meeting in August 1998 recorded that he would attend a U.S. East Coast Officers meeting. Minutes of various meetings showed that he was a frequent representative of Canadian chapters in other countries. Staff Sergeant Lemieux testified that Stockford was involved in drug trafficking.

[325] Minutes of an East Coast Officers meeting in June 1998 recorded that Michael McCrae of the Halifax chapter would go to all World meetings.

Members and Associates in Jail

[326] Staff Sergeant Lemieux testified that the HAMC refers to members in prison as the Big House Crew. Everyone in the organization who is incarcerated receives a newsletter about the club and where individuals are imprisoned, so that they can correspond. Prospects and hangarounds are obliged to write to those in jail. In the opinion of Staff Sergeant Lemieux, this is to prevent those in prison from feeling abandoned and becoming informants.

[327] When an individual is jailed, that information is distributed throughout the organization. In the opinion of Staff Sergeant Lemieux, this is so that everyone knows the individual is not on the street.

[328] Canada Big House Crew Lists dated June 2001 and February 2002 were seized from the residence of McCrae. They appeared to be lists prepared by him of members and prospects in prison. Most of those on the February list were from Quebec, and only three were from Ontario.

[329] Another list dated September 2001 for the Big House Crew World was seized from the Halifax clubhouse.

[330] The Hells Angels in Canada maintain two defence funds. The C-95 Defence Fund is used to defend those charged with a criminal organization offence. Every individual who is part of the organization pays \$50 per month to this fund. It was referred to in minutes of a Canada Officers meeting in January 2002. The second fund is for individuals who are arrested. The chapters have parties and sell support items to assist in the defence of those charged.

Expansion into Ontario

[331] On rare occasions, the HAMC will “patch over” existing outlaw motorcycle clubs, by offering them “patch for patch”, meaning that a full member of that club becomes a full member of the HAMC without having to go through the normal steps. That process, which had occurred

before elsewhere, was followed with Ontario clubs. Full members of existing Ontario outlaw motorcycle clubs became full members of the Hells Angels at a patchover ceremony in Sorel on December 29, 2000. Patches of members of Ontario clubs were exchanged for Hells Angels patches, on a “patch for patch” basis.

[332] Staff Sergeant Lemieux expressed the opinion that when the HAMC decided to expand into Ontario, they courted existing outlaw motorcycle clubs there rather than simply opening up a new chapter, to avoid starting a war over territory. The HAMC had become involved in a war with the Rock Machine (“RM”) in Quebec in 1994, and did not want another one.

[333] By December 2000 the war in Quebec had subsided. It was the opinion of Staff Sergeant Lemieux that the Ontario clubs were patched over because the RM in Ontario had become probationary Bandidos. The HAMC, which had no chapters in Ontario, wanted to counteract that move, and gain control of the territory held by the Ontario clubs, for the purpose of conducting criminal activity there.

[334] Staff Sergeant Lemieux testified that when the HAMC considers taking over an existing club, it takes the time to make sure the club is worthy and shares the HAMC mentality. HAMC members visit the club regularly, and invite it to HAMC parties. This is for the purpose of assessing the club’s members.

[335] All Canadian HAMC members had to vote in favour of the Ontario clubs joining the HAMC. Individuals with the Ontario clubs had to become known to all HAMC members across the country.

[336] The process of courting the Ontario clubs and getting to know their members was reflected in minutes of various meetings filed as exhibits in these proceedings.

[337] Minutes of a Canada Officers meeting in June 1994 mentioned that Stadnick and Stockford visited clubs in Ontario and made good headway. In Staff Sergeant Lemieux’s opinion, this referred to Ontario clubs joining the HAMC.

[338] Minutes of an East Coast Officers meeting in June 1994 referred to HAMC members being present at events that would be attended by the PDR. In Staff Sergeant Lemieux's opinion, the HAMC was courting the PDR.

[339] Minutes of a Canada Officers meeting in October 1997 instructed members to start visiting Ontario slowly, with brothers who knew the other clubs there, and not to be aggressive. In Staff Sergeant Lemieux's opinion, HAMC members were going to assess the Ontario clubs with the possibility of taking them over, and they did not want to strain existing relationships.

[340] Minutes of a British Columbia Officers meeting in December 1997 and of an East Coast Officers meeting in April 1998 referred to inviting Ontario clubs to a HAMC anniversary party. In Staff Sergeant Lemieux's opinion, the HAMC was trying to associate with the Ontario clubs in order to assess their members.

[341] Minutes of an East Coast Officers meeting in June 1998 referred to PDR members not being allowed in HAMC and support group clubhouses. Minutes of a Canada Officers meeting in December 1998 referred to the PDR no longer being banned from HAMC clubhouses because the situation between the groups was better.

[342] Minutes of an East Coast Officers meeting in July 1998 referred to Stadnick and Stockford having met with the PDR.

[343] Minutes of an East Coast Officers meeting in August 1998 referred to Sherbrooke suggesting that all Quebec chapters should be represented at the next event with the PDR, and to Montreal suggesting a push for the PDR to get a HAMC bottom rocker, meaning that they should become HAMC members.

[344] Minutes of a Canada Officers meeting in February 1999 referred to Rick Ciarniello of the Vancouver chapter talking to Petersen of the PDR about abandoning a court case so that bad law was not created. The same minutes referred to members of the East Coast chapters meeting regularly with the PDR and other Ontario clubs.

[345] Minutes of an East Coast Officers meeting in January 2000 referred to Stockford, Jacques Emond, and Richard Mayrand, all prominent HAMC members, being around in connection with a discussion about Ontario.

[346] Minutes of a Canada Officers meeting in March 2001 referred to the Satan's Choice ("SC"), an Ontario club, wanting to meet about coming closer.

[347] Minutes of an East Coast Officers meeting in March 2000 referred to a very good meeting in Ontario, and to members of the Halifax chapter going to a PDR party. At that time, the HAMC were speaking to Ontario clubs about patching them over.

[348] Minutes of an East Coast Officers meeting in April 2000 referred to Stockford going to see the SC to explain how the HAMC organization operates, and to bring them around to becoming members.

[349] Minutes of a Canada Officers meeting in September 2000 referred to members of the SC and the Vagabonds, another Ontario club, going to a HAMC party.

[350] Minutes of an East Coast Officers meeting in October 2000 referred to discussion about the PDR, Vagabonds and SC, all Ontario clubs.

[351] HAMC chapters in Ontario were created in December 2000. The Vagabonds and some members of the PDR did not join the HAMC.

[352] Minutes of an East Coast Officers meeting in January 2001 stated that the anniversary date for all Ontario chapters would be December 5, 2000. This is the anniversary date of the Montreal chapter. The minutes also referred to discussing with Ontario how HAMC meetings are conducted.

[353] Minutes of an East Coast Officers meeting in February 2001 referred to working out the issues with the Vagabonds. The HAMC was going to coexist with them.

[354] Minutes of a Canada Officers meeting in March 2001 referred to patch for patch being over, and continuing with the original HAMC way, meaning the usual membership process. The minutes showed that Petersen had been appointed the Ontario secretary, responsible for taking minutes, distributing them, and keeping the books.

[355] Minutes of a Quebec Officers meeting in March 2001 referred to Ontario brothers travelling like crazy. The new Ontario members had an obligation to become known to HAMC chapters worldwide.

[356] A letter written by an individual from the West Toronto chapter on January 23, 2002, stated that the Ontario bikers were patched over because the HAMC liked what they saw in them, and told them to continue as they had always done, but now under one banner. In Staff Sergeant Lemieux's opinion, this meant the HAMC found the Ontario bikers had something to offer the organization, and they were now conducting their normal business under the HAMC.

[357] On December 30, 2002, McCrae of Halifax, the HAMC international secretary, sent all national secretaries worldwide a list of the new Ontario chapters. He stated this had been in the works for many years and because of the situation in Canada it would be explained later, meaning that because of the problems between the HAMC and the RM it was imperative that the HAMC make a move before the Bandidos expanded further in Ontario. Staff Sergeant Lemieux testified that once a new chapter is created, all chapters worldwide are notified.

[358] Staff Sergeant Lemieux has not seen reference in any minutes to the level of violence between the HAMC and RM in Quebec.

[359] In an intercepted telephone call on January 1, 2001, David Carroll asked McCrae about the response to his email. Carroll was a member of the Quebec Nomads. His principal occupation was drug trafficking. McCrae said it was one hundred per cent positive. Carroll told McCrae that they had some good guys in Ontario, and what could he teach to guys like Lorne Brown or John Gray. Carroll referred to everybody getting their lesson with Germany, meaning

a HAMC patchover of a German club that led to the Bandidos and Outlaws patching over other clubs because the HAMC did not have control there.

[360] A document seized from McCrae's residence dated March 2001 headed "World Charters & Clubs" showed Canada divided into Canada East Coast, and Canada West Coast. The Ontario chapters were listed under Canada East Coast, because the Quebec Hells Angels of the East Coast sponsored them. Usually sponsorship lasts one year, or until the sponsor is satisfied that the new chapter can take care of its own territory. Another document dated March 2001, headed "World Charters and Club Mailing Address List" showed the same division. A document dated May 2001 about a web page anticipated the creation of a Central Region. A document dated June 2001 headed "Hells Angels National Secretaries" showed Canada divided into East Coast, West Coast and Central (Ontario) Regions, with McCrae, Ciarniello, and Petersen as the respective secretaries.

Expansion in Western Canada

[361] Minutes of various meetings recorded the expansion of the HAMC in western Canada. Minutes of a Canada Officers meeting in June 1994 referred to setting up a ride with the Grim Reapers, an Alberta club the HAMC were courting. They also referred to two clubs in Manitoba in which the HAMC was interested.

[362] Minutes of an East Coast Officers meeting in June 1994 referred to Stadnick going to Winnipeg. He was trying to persuade bikers there to join the HAMC. At the time, he was the national president of the HAMC in Canada. He was involved in drug trafficking, according to Staff Sergeant Ouellette.

[363] Minutes of a Canada Officers meeting in October 1997 referred to the possibility of the Rebels in Alberta and Saskatchewan receiving HAMC bottom rockers, as HAMC prospects. There also was reference to the East Coast going to a Los Brovos anniversary, consistent with assessing that group for HAMC membership.

[364] Minutes of a Canada Officers meeting in December 1997 referred to the Rebels visiting HAMC chapters, the British Columbia chapters being opposed to giving prospect status to the Alberta bikers, and the desirability of the East Coast attending a meeting with the Alberta prospects. As there were no Hells Angels in Alberta, everyone in Canada had to vote to make the Alberta bikers prospects.

[365] Minutes of a British Columbia Officers meeting in December 1997 referred to problems with the Edmonton prospects, and to the Rebels. In Staff Sergeant Lemieux's opinion, British Columbia was overseeing Alberta.

[366] Minutes of a Canada Officers meeting in February 1998 referred to problems with the Edmonton Rebels, which British Columbia would handle, and to the Los Brovos wanting to be part of the HAMC.

[367] Minutes of an East Coast Officers meeting in April 1998 referred to discussion about the Edmonton prospects and the Edmonton chapter. In 1998 the East Coast was composed of the province of Quebec, and Halifax. The East Coast chapters were mainly involved in drug trafficking.

[368] Minutes of an East Coast Officers meeting in May 1998 referred to the Los Brovos getting along well with the friends of the Quebec Nomads, meaning independent drug traffickers. At the time, the Nomads were principally involved in drug trafficking. They supplied most of the East Coast Hells Angels with drugs.

[369] Minutes of an East Coast Officers meeting in June 1998 referred to the East Coast wanting to sponsor the Manitoba clubs that the HAMC was courting. This would be a way for the East Coast to extend its territory to conduct criminal activities in Manitoba.

[370] Minutes of a Canada Officers meeting in December 1998 referred to the East Coast suggesting that the Los Brovos be a hangaround club, and the West Coast giving an answer later. The East Coast wanted to sponsor the Los Brovos to join the HAMC. It also referred to the HAMC allowing the Untamed, who they were courting, to wear a Winnipeg bottom rocker.

[371] Minutes of a Canada Officers meeting in February 1999 referred to the East Coast wanting to make the Los Brovos a hangaround club.

[372] Minutes of a Canada Officers meeting in June 1999 stated it was agreed to make Los Brovos a hangaround chapter. Members from each chapter would visit them, to educate them on the operation of the HAMC.

[373] Minutes of a Western Canada [sic] Officers meeting in July 1999 confirmed that the Los Brovos were made hangarounds.

[374] Minutes of a Canada Officers meeting in June 2000 stated that the East Coast had approved the Los Brovos as prospects, and the West Coast would vote on it.

[375] In July 2000 the Los Brovos club became a prospect chapter of the HAMC in Winnipeg. In December 2000 the Los Brovos became full members of the HAMC.

Puppet/Support Clubs

[376] Staff Sergeant Lemieux testified that a puppet or support club is a subservient club to the HAMC. Usually a HAMC chapter creates a puppet club in a territory where there is no HAMC chapter, and uses it to gain the profit of criminal activity there. Once the puppet club has proven itself, it can open other chapters and they in turn can report to different HAMC chapters. In other instances, an existing outlaw motorcycle club becomes a HAMC puppet club.

[377] The advantages of a puppet club include the expansion of HAMC territory without having to open another chapter, and the distancing of HAMC members from the commission of crime. For example, in 2002 Sweden reported to HAMC World that it had created a support club called the Red Devils, to have better control and expand without itself expanding.

[378] Staff Sergeant Lemieux was not aware of Ontario motorcycle clubs using support clubs before the patchover. It was common in the 1990s for the Quebec chapters of the HAMC to open puppet clubs to assist in their criminal activities. After the patchover of the Ontario

clubs, the new Ontario chapters created support clubs. They continued to exist after January 2002.

[379] Staff Sergeant Lemieux reviewed and commented on minutes of various meetings. Minutes of an East Coast Officers meeting in February 2000 referred to the Halifax chapter forming a coalition of clubs in Atlantic Canada, and teaching them to show support and understand the HAMC way. Drug trafficking was the main activity of the Halifax chapter. In Staff Sergeant Lemieux's opinion, the Halifax chapter was creating alliances to conduct drug trafficking.

[380] Minutes of Canada Officers meetings in June and September of 2000 referred to a club called the Damners that the Quebec chapter created there and in New Brunswick, as a puppet club. This was a way for the Quebec chapter to expand its criminal activity into New Brunswick, where there was no HAMC chapter. The Damners later disbanded after most of its members were convicted of drug trafficking.

[381] Minutes of an East Coast Officers meeting in October 2000 stated that they had made progress with meetings of clubs in the Maritimes.

[382] Minutes of an East Coast Officers meeting in November 2000 referred to the Maritime clubs supporting the HAMC.

[383] Minutes of an East Coast Officers meeting in February 2001 stated that the HAMC had been having good meetings with the Maritime clubs.

[384] Minutes of an Ontario Presidents meeting in April 2001 stated that no support clubs would have an Ontario bottom rocker. This prohibition was to demonstrate that the clubs worked for the HAMC, rather than controlling Ontario themselves.

[385] The agenda for an Ontario Presidents meeting in November 2001 referred to exploring whether the Red Devils wanted to be "on the Program", meaning to associate with the HAMC. The agenda also stated that support clubs were needed in every major city in the province not

currently represented, and concluded, “This is part of the Big Squeeze”. Staff Sergeant Lemieux testified that in order to control Ontario, the HAMC wanted to create support clubs in every major city.

[386] Minutes of an Ontario Presidents meeting in March 2002 stated that Toronto was educating their support clubs. Staff Sergeant Lemieux testified this meant that Toronto was telling the support clubs the rules.

[387] Handwritten notes in the style of minutes, seized from William Miller’s residence, stated that the Red Devils were to become a worldwide support club at the recommendation of Sonny Barger, and that it was not to be discussed outside of the chapter. In an agenda for an Ontario Presidents meeting in April 2002 there was reference to a Red Devils support club in the United States. Attached is a document about the Red Devils, indicating that it was intended to be a worldwide support club. The document listed its purposes, which included getting new territory ready for the set up of new HAMC chapters, and acting as support for existing chapters. This group is not the same as the Red Devils in Ontario.

[388] Minutes of an Ontario Presidents meeting in April 2002 stated that certain chapters did not want the Foundation, which was a support club, in their areas.

[389] As of April 2004, the HAMC abolished all puppet clubs in Quebec. Staff Sergeant Lemieux stated that was because of infiltration of those clubs by agents.

[390] In Manitoba there is one HAMC chapter. The Zigzag Crew is associated with it.

[391] In Saskatchewan there are two HAMC chapters. There are two Free Wheelers puppet clubs under the supervision of the Saskatoon chapter of the HAMC.

[392] In Alberta there are three HAMC chapters.

[393] In British Columbia there are seven HAMC chapters, and a chapter of the Renegades, which is a puppet club for the Vancouver HAMC chapter.

[394] There is no HAMC chapter in Atlantic Canada. There are four other clubs, all of which support the HAMC.

[395] In Ontario there are 15 HAMC chapters. Four chapters of a puppet club called the Red Line Crew are under the supervision of the West Toronto HAMC chapter, and the Nomads in Ottawa supervise another chapter of that support club. There are three chapters of a support club called the Foundation, one supervised by the Oshawa chapter and another by the Niagara chapter of the HAMC.

Concerns About Other Clubs

[396] Staff Sergeant Lemieux testified that when the HAMC moves into an area, it takes complete control of it for the purpose of criminal activity. No other outlaw motorcycle group is to conduct criminal activity in that area. If it goes into the area, the HAMC will take any measures necessary to remove it. It will not allow another club to establish itself in HAMC territory. However, the HAMC will sometimes make alliances with other clubs in the area, instead of starting a war.

[397] Minutes of meetings of American chapters and West Coast Officers showed concern about the activities of the Bandidos, Pagans, Outlaws and other groups, including where they had opened chapters.

[398] In the 1980s, the HAMC was at war with the Outlaws in the United States over territory. In the 1990s the HAMC and the Bandidos were at war over territory in France, and in Scandinavia.

[399] Minutes of an East Coast Officers meeting in June 1994 referred to the RM as a clic and not a motorcycle club. A clic is a street gang that does not have colours, and is not a one percenter club.

[400] During the 1990s and into 2000, the RM were involved in drug trafficking in the Montreal and Quebec areas.

[401] Minutes of a Canada Officers meeting in December 1997 referred to RM members being seen wearing Bandidos support shirts. The Bandidos had no chapters in Canada, and the RM was associated with independent drug dealers rather than an outlaw motorcycle club. The HAMC was wondering if the Bandidos would patch over the RM, who were fighting the HAMC for territory in Quebec.

[402] Minutes of a U.S. West Coast Officers meeting in November 1997 stated that they had a video of Bandidos international president George Weggars with the RM. This reflected concern that the RM would become Bandidos. The Hells Angels share this kind of information among themselves.

[403] Minutes of a British Columbia Officers meeting in December 1997 referred to Stockford, Mayrand, and Ciarniello meeting with Weggars. This was to try to end the war between the HAMC and the RM. There also was a reference to RM being seen in Regina.

[404] Minutes of a Canada Officers meeting in February 1998 referred to giving Weggars the time he needed. In the opinion of Staff Sergeant Lemieux, the HAMC was trying to reach peace with the RM. Weggars had the final say because the Bandidos were courting the RM.

[405] Minutes of a West Coast Officers meeting in March 1998 indicated that the HAMC World meeting agreed to wait for Weggars to decide if the Bandidos would patch over the RM.

[406] Minutes of an East Coast Officers meeting in July 1998 indicated that the HAMC was still waiting to hear from Weggars, and that British Columbia would be asked to pressure him for an answer.

[407] Minutes of a Canada Officers meeting in December 1998 indicated that Ciarniello set up a meeting with Weggars.

[408] Minutes of a Canada Officers meeting in February 1999 referred to concern about whether the Loners in Italy were hangarounds or prospects for the Bandidos. The Loners in Ontario formed the Loners in Italy, so this could affect the HAMC in Canada.

[409] Minutes of a Canada Officers meeting in June 1999 stated that the Bandidos and RM were seen together in Quebec, and the RM were wearing a three-piece patch in the opposite colours of the Bandidos. This indicated that the RM were associating with the Bandidos, and were closer to becoming an outlaw motorcycle club.

[410] In December 1999 the RM became members of the Bandidos.

[411] Minutes of an East Coast Officers meeting in January 2000 indicated that the Outlaws and the RM were seen together on New Year's Eve. This suggested an alliance between the two groups.

[412] Minutes of a Canada Officers meeting in June 2000 stated that there were new chapters of the RM in Kingston and Ontario. The HAMC was negotiating with Ontario clubs, and this expansion of the RM into Ontario was threatening. The RM did not have chapters elsewhere in Canada.

[413] Minutes of an East Coast Officers meeting in October 2000 and a Canada Officers meeting in early 2001 indicated there was discussion about the Outlaws.

[414] Minutes of an East Coast Officers meeting in February 2001 indicated concern that the Bandidos were associating with the Outlaws in London. They also indicated that the Loners would support the HAMC Woodbridge chapter, meaning they would be under its control, and they would not have another chapter in Canada. The minutes stated that the only Bandidos in Ontario were in Kingston, and that the Outlaws in Ottawa would not allow Bandidos in their clubhouse, meaning they would not cooperate with them. This was of concern to the HAMC Ontario Nomads, who were located in the Ottawa area. The Niagara chapter indicated that it had good relations with the Outlaws.

[415] Minutes of a Canada Officers meeting in March 2001 indicated that the Loners wanted to be a support club for the Woodbridge HAMC, but it depended on what the HAMC in Italy decided about the Loners there.

[416] Minutes of an Ontario Presidents meeting in March 2001 indicated that the Woodbridge chapter would discuss policies about the Loners, and report back. There was reference to an alliance meeting with the Vagabonds. A question was raised about whether Outlaws should be allowed in HAMC clubhouses in Ontario. Staff Sergeant Lemieux testified that the Outlaws and the HAMC were enemies, but they had agreed to coexist in Ontario. Allowing the Outlaws to attend HAMC clubhouses would indicate that the two had no problems, but there was a concern that the Outlaws not gain information about the HAMC.

[417] Minutes of an Ontario Presidents meeting in June 2001 stated that RM members in jail at the time of the switch to the HAMC could become full members. A person who is in jail is not supposed to be given full membership in the HAMC until he is out of prison.

[418] The agenda for an Ontario Presidents meeting in November 2001 stated that Bandidos chapters in Quebec City and Germany were defunct. The Hells Angels were concerned about the Bandidos in Ontario, and were looking at what was happening elsewhere. The minutes also stated that the Bandidos approached the Vagabonds, but were turned down, meaning they would not join the Bandidos.

[419] Minutes of an Ontario Presidents meeting in December 2001 referred to members of the Outlaws joining Ontario HAMC chapters. In the opinion of Staff Sergeant Lemieux, this was a way of diminishing the Outlaws. The minutes also recorded that the Outlaws had started support clubs in Ontario. There was discussion about the precise numbers of Outlaws in Ontario and Bandidos in Canada, indicating that the HAMC was gathering information about its rivals.

[420] The agenda for an Ontario Presidents meeting in January 2002 indicated that the American Outlaws were upset that the HAMC in Ontario had forced some of their members to patch over, or quit. This threatened the truce in place between the HAMC and the Outlaws in the United States. Petersen had to send an explanation to Sonny Barger. There also was reference to the Bandidos and the Outlaws associating in Ontario.

[421] Minutes of an Ontario Presidents meeting on an unknown date indicated that the Outlaws would be at a motorcycle show, and all HAMC chapters would send as many members as possible. In the opinion of Staff Sergeant Lemieux, the HAMC wanted to demonstrate their presence and that there were no problems with the Outlaws. Another entry referred to the HAMC policy that a chapter cannot deal with another club about issues that affect more than that chapter, as a reminder because of relationships that existed between clubs before the patchover. It was indicated that the Loners wanted to be resurrected as a support club for the HAMC, but the HAMC members would have to agree, the HAMC would allow only one chapter, and there would be no Ontario bottom rocker, because the HAMC controlled Ontario.

[422] Minutes of an Ontario Presidents meeting in March 2002 referred to policies about the Outlaws and Bandidos being an issue.

[423] The agenda for an Ontario Presidents meeting in April 2002 referred to the Bandidos and Outlaws having an agreement not to take each other's members. The HAMC was concerned about these clubs coexisting, and was gathering information about them, because they were not under HAMC control. The minutes also recorded that Ontario members were warned not to go to certain meetings in the United States, as it would be dangerous because the American Outlaws were angry.

[424] Minutes of an Ontario Presidents meeting in April 2002 referred to everyone wanting to keep the peace, keeping the Outlaws at arms length, and not wanting to be friends with the Bandidos but wanting to avoid problems.

[425] Minutes of an Ontario Presidents meeting in June 2002 referred to the Loners, and indicated that they would be a support club for the HAMC. There was no objection to the Outlaws attending the Canada Run in Ontario. An outlaw group called the Saddle Tramps were seen with the Bandidos. The Legionnaires from Mexico wanted to associate with the Kitchener HAMC to avoid pressure from the Bandidos. Staff Sergeant Lemieux testified that both groups had problems with the Bandidos. He has seen instances of a HAMC chapter associating with a group in another country, and trading information.

[426] The agenda for an Ontario Presidents meeting in November 2002 stated that the Kingston Bandidos quit and wanted permission to become RM and support the HAMC. Staff Sergeant Lemieux testified that once the HAMC takes control of a territory, any other outlaw motorcycle group that wants to exist has to ask its permission. The former Bandidos had to ask permission to become RM as a support club. Another entry indicated that Ontario representatives were negotiating in Italy as to whether the Loners there could be a HAMC support club. Staff Sergeant Lemieux testified that this was because the Loners in Ontario created the Loners in Italy, and the HAMC wanted to prevent them from associating with the Bandidos.

[427] Minutes of an Ontario Presidents meeting in November 2002 stated that East Canada [sic] was considering whether former Kingston Bandidos could become RM and support the HAMC. The East Coast had a say because Quebec had been at war with the RM.

[428] Minutes of an Ontario Presidents meeting in March of a year unspecified stated that the Bandidos were interested in Winnipeg and Calgary. At that time, the Bandidos were not there, but later they set up probationary chapters in Calgary and Edmonton, which no longer exist. The HAMC is presently the only outlaw motorcycle club in Alberta.

Intercepted Communications of William Miller

[429] William Miller is a member of the North Toronto chapter of the HAMC. He was formerly a member of the Outlaws, and then the RM. A number of his private communications were intercepted by the police, and produced in these proceedings.

[430] Staff Sergeant Lemieux relied on certain passages of those communications in forming his opinion about the Hells Angels organization.

[431] On January 13, 2002, Miller spoke to Rob Barletta, another HAMC member, in the presence of their girlfriends. He said that the Hells Angels are everywhere. In Staff Sergeant Lemieux's opinion, this referred to their criminal activity. Miller spoke about the Nomads, and England. In the witness' opinion, this referred to the Quebec Nomads travelling to England for

drug trafficking. Miller referred to “Quebec style biking”, meaning that the Hells Angels in Quebec take complete control of territory, and there is retribution if someone operates there without their consent. He spoke about the Hells Angels being far more sophisticated than the Outlaws. He spoke about McCrae viewing the Hells Angels as a corporation, and expressed his own view that Ontario will be more selective about its members in the future. He felt that a colleague made the right decision to switch to the Hells Angels “as far as business and the chance to expand”. In the witness’ opinion, this referred to criminal activity. Someone involved with the Outlaws is restricted to Ontario, but the Hells Angels are Canada-wide, so an individual who wants to expand his criminal activities can do it with the Hells Angels.

[432] On August 2, 2002, Miller spoke with Paris Christoforou, a prospect member, and discussed concern about a prospect Outlaws chapter in Richmond Hill. Staff Sergeant Lemieux testified that the attitude expressed, that they will take measures to get the Outlaws out of the territory, is common among the Hells Angels. If another club goes into Hells Angels territory, it diminishes their power.

[433] On May 15, 2002, Rob Barletta spoke to a man named Eric. He spoke about whether Eric wanted to start “hanging around” and said he would open the door for him. In Staff Sergeant Lemieux’s opinion, Eric was at the stage of becoming a friend, and had to be sponsored by someone to move up in the organization. The information that Barletta passed on is consistent with the specificity that Staff Sergeant Lemieux would expect. As an individual moves up the ladder, he learns more about the organization. Once he has proven his complete loyalty to the club, and becomes a full member, he is told everything that the club is about. Barletta said that Eric would be welcomed once he was known, and that he was sure Eric was not a “cop”. This is consistent with Staff Sergeant Lemieux’s evidence that the Hells Angels do not want anyone associated with law enforcement. Barletta said that most of the guys in his chapter had employment, and they were not all “high flying”. Staff Sergeant Lemieux testified that Eric would not be given much information about criminality, as he was not a member of the club. Barletta said that Ontario had distanced itself from what was going on in Quebec, meaning violence according to Staff Sergeant Lemieux.

[434] On June 25, 2002, Miller spoke to Shawn Boshaw, a prospect with the London chapter, about someone with the Foundation, a HAMC puppet club, who gave a statement to the police. Miller wanted to see the court transcripts. Staff Sergeant Lemieux testified that when an individual voluntarily speaks to the police, there are sanctions ranging from a fine, to being kicked out of the club. He tried to speak to members of the Hells Angels about the club, for example at events, and they laughed at him. He never contacted a member to gather information.

[435] In his opinion, a member of the HAMC who is questioned by law enforcement or subpoenaed to testify will avoid incriminating himself or another member of the organization. Becoming an informant results in being kicked out of the club.

[436] On October 23, 2002, Miller spoke to his girlfriend. He said the Bandidos in Kingston had handed in their patches and were going to wear a RM patch in black and white with the words "Support the Red and White". The colours meant they were distancing themselves from the Bandidos and were supporting the HAMC.

[437] On October 27, 2002, Miller spoke to Laurie Harrington, apparently the mother of his child. He said that Quebec told him to cover up his tattoo. In Staff Sergeant Lemieux's opinion, Miller had a tattoo other than that of the Hells Angels. He is entitled to have a tattoo only of the Hells Angels, to identify himself as a member.

[438] On November 27, 2002, Miller spoke to his girlfriend about the Hells Angels ending the war in Quebec by offering patches to the RM on the understanding they could keep their business. He said that would not have been offered unless every Hells Angel agreed to it. According to Staff Sergeant Lemieux, there was an offer made of this nature. Maurice Boucher, a prominent member of the Nomads, met with Fred Faucher, a prominent member of the RM, at the courthouse in Quebec City. Later there were other meetings that included Paul Porter of the RM. Those meetings ended the war. In early December 2000, the RM patched over to the Bandidos, in the witness' opinion to put pressure on the Hells Angels to negotiate. On December 29, 2000, the Hells Angels patched over Ontario clubs, in the witness' opinion to counteract the

Bandidos and prevent their expansion in Ontario. Shortly after that event, some members of the RM, who were by then Bandidos, patched over to become members of the HAMC.

[439] On December 7, 2002, Miller spoke to his girlfriend. He said the Outlaws grabbed border crossings, but the Hells Angels grabbed ocean ports. He talked about “it” coming in to docks controlled by others, and said it was like a grocery store being surrounded and unable to sell to anybody else, so it can only go one place. In Staff Sergeant Lemieux’s opinion, the HAMC established itself in port areas in Canada, including Montreal, Vancouver and Halifax. It uses the ports to import drugs. Even though it does not control the docks in Montreal, it has arrangements with the Italian Mafia and the Irish West End Gang who do, in order to bring the drugs in.

[440] Staff Sergeant Lemieux has listened to hundreds of intercepted communications. He stated that drugs are not mentioned overtly by HAMC members, because of fear of wiretaps.

[441] Miller referred to John Coates being accepted back in Niagara, that it’s their entire business, and Niagara is making a lot of “dough” because Coates keeps coming in. In Staff Sergeant Lemieux’s opinion, Miller was talking about drug dealing. Miller talked about Quebec having people in British Columbia, and mentioned David Giles, who used to be a member of the Montreal chapter and moved to British Columbia.

[442] Miller spoke about Boucher offering the RM a HAMC patch to end the war, but it was turned down. That is consistent with Staff Sergeant Lemieux’s understanding. The RM patched over to the Bandidos instead. Miller referred to the Dark Circle. During the war, the RM created an alliance with independent drug traffickers, and with the Dark Circle group, who described themselves as killers for the RM.

[443] Miller spoke about being responsible for an individual one brings in, until he dies. This is consistent with Staff Sergeant Lemieux’s understanding of the role of a sponsor of an individual who joins the club. In his opinion, the sponsor makes sure that the individual keeps in line with HAMC policies and rules. If he does not, the sponsor must correct the problem.

[444] On December 12, 2002, Miller spoke with his girlfriend about his involvement in loan sharking. He mentioned “factoring”, which Staff Sergeant Lemieux testified meant buying debts from other groups and collecting them. He is aware that the Hells Angels are involved in this activity.

[445] Miller spoke about Sherbrooke bringing him in to London. In the witness’ opinion, the Sherbrooke chapter had a certain amount of control over London, which was a prospect chapter. Miller said it was an attractive prospect to be a London Hells Angel, “it’s not like there’s no money”. Miller said that North Toronto was not needed in Toronto, but the Hells Angels would never accept losing it. In the witness’ opinion, the Hells Angels would not close down a chapter for fear of losing territory. Miller referred to Ciarniello, the West Coast secretary, talking about London at the Canada Officers meeting. Miller said he had no choice but to go to the London chapter, and if he left, Quebec would fast track someone in and he would have no say, “they” know it’s huge business. In the witness’ opinion, Miller was referring to being unable to leave London because Quebec would send someone in, and he would be unable to continue his business. Miller referred to “Quebec mentality”, meaning that when there are problems within the HAMC, Quebec resorts to violence. Miller suggested that mentality could not be instilled in Ontario. Miller said “everything is money”. That is consistent with the witness’ view of the HAMC.

[446] The agenda for an Ontario Presidents meeting in April 2002 referred to “Ontario attitude”. Minutes of an Ontario Presidents meeting that month indicated that Ontario was taking control of the London prospect chapter from a Quebec representative. On February 3, 2002, Miller spoke to Coates about the London chapter. He said that others from Ontario wanted it to be like Ontario, not like Quebec. Coates said that Ontario’s biggest problem was individualism, and people doing things on an individual basis.

The Reputation of the HAMC

[447] Staff Sergeant Lemieux testified that the HAMC has a reputation for intimidation and violence. It is one of the organization’s most powerful tools. It has cultivated that reputation. When it first came into Canada, other organized crime groups used it for criminal activities,

including debt collection and drug trafficking. Because of its reputation, it was able to conduct criminal activities more easily. Now it is considered a partner with other organized crime groups, including the Italian Mafia, the West End Gang in Montreal, and Asian groups.

[448] One of the advantages of the HAMC is its ability to adapt to situations quickly. Members look more and more like average citizens, and when travelling to other countries, make an effort not to be identified as Hells Angels.

[449] The reputation of the HAMC is not just within the criminal milieu, but also among the public. Members will identify their motorcycles as belonging to a Hells Angel.

Opinion

[450] In the opinion of Staff Sergeant Lemieux, the main purpose of the Hells Angels organization is to facilitate the commission of criminal activity by its members. The Hells Angels have a reputation for violence and intimidation. By wearing the three-piece patch, an individual identifies himself as a member of that organization, an organization that is reputed to be violent and involved in intimidation. He does not have to identify himself in order to commit criminal activities.

[451] The individual also enjoys the benefit of the organization backing its members. Barger referred to this in his book as “one on all, all on one”, meaning when a person fights with one Hells Angel, he fights with them all.

[452] The organization also offers its membership territory. A chapter has a monopoly over criminal activities in its area. Because the organization is worldwide, members have the opportunity to carry on their criminal activity anywhere in the world, and even to be harboured elsewhere if the police want them, as happened with a Sherbrooke member who hid in Amsterdam.

[453] The HAMC rules, including the process to full membership and identification of who is in and out of the club facilitate the commission of criminal activity by the organization’s

members, because they provide assurance that others in the organization with whom they deal are not police officers.

[454] In Staff Sergeant Lemieux's opinion, the main activities of the Hells Angels organization are drug trafficking, and other crimes including money laundering, loan sharking, extortion, assaults, and homicides. He bases his opinion on investigations in which he was involved, thousands of reports he read from investigators in Canada and internationally, listening to thousands of hours of intercepted private communications of members and individuals associated with members, as well as debriefings of agents, and meetings with investigators.

[455] In cross-examination, Staff Sergeant Lemieux agreed that a portion of the minutes of meetings of the Ontario Presidents dealt with parties. He said that one of the main purposes of the Hells Angels in Ontario may be social gatherings, but it is not their main purpose. He agreed that the Hells Angels in Ontario and elsewhere have toy runs, in his opinion to reduce some of the bad publicity about them. He agreed that some minutes of meetings of the Ontario Presidents in 2001 and 2002 referred to the financial burden on members being eased, concern about costs of certain activities, and a particular clubhouse being too expensive, which indicated financial difficulties. He testified that he is not aware of the level of violence that occurred during the war in Quebec happening anywhere else.

[456] He agreed that in the minutes of an Ontario Presidents meeting in March 2001, it was indicated that it was a goal to demonstrate that the Hells Angels are not a criminal organization. He has general information from investigators that members of the Hells Angels in Ontario are involved in criminal activity, including members of the Thunder Bay chapter who are charged with drug trafficking, but no detailed knowledge. He agreed that not many Hells Angels in Ontario have been charged with criminal offences. However, things are happening with the HAMC in Ontario as they have elsewhere, including gaining a monopoly on territory, and using puppet clubs.

[457] Staff Sergeant Lemieux was asked about a hypothetical scenario in which one or two members of the Hells Angels went to a residence wearing a jacket like that worn by Mr. Bonner

on January 31, 2002, and demanded money from the alleged victim. In his opinion, an individual wearing that jacket was identifying himself as part of the Hells Angels organization, and so was demonstrating that he was part of a sophisticated criminal organization that will use the reputation behind the patch to obtain whatever was sought.

[458] He was asked a further hypothetical in which one of the two members later met with the alleged victim in the company of a third man. The member said, “I know everything about this guy just like I’m learning about you”. In the opinion of Staff Sergeant Lemieux, the Hells Angels will go to extreme lengths to learn everything about an individual with whom they are dealing. They have a security intelligence officer whose main role is to gather intelligence on individuals who oppose the club, and on law enforcement. He has seen instances where the HAMC conducted surveillance of the individual. In Quebec, the HAMC used an internal contact to get the vehicle licence plate for a Montreal journalist who was adverse in interest. He agreed that he has no knowledge of anything like that occurring in Ontario.

[459] Staff Sergeant Lemieux was asked about a further hypothetical comment by the member, “You’re going to get real fucking smart after this cause I want minimum five thousand dollars or I’ll send people to your house”. In his opinion, the speaker had the power over individuals to carry out the threat. This is within the characteristics of the Hells Angels.

C. The “War” in the Province of Quebec

[460] It was admitted that from 1995 until 2001, an internecine conflict was conducted in the province of Quebec, between the Hells Angels organization and its various subordinates and associates on one side, and the Rock Machine and Bandidos organizations and their subordinates and associates on the other. Various witnesses referred to this conflict as the “biker war” in Quebec.

[461] It was further admitted that the conflict was fuelled by each side’s goal to increase its respective profits from drug trafficking, the primary activity of each group, by gaining and maintaining control over various territories in and around Montreal.

[462] The conflict resulted in many murders on both sides by shootings, detonation of explosives and other means, as well as many attempted murders and assaults.

D. The Evidence of Sergeant Pierre Boucher

[463] Pierre Boucher is a Sergeant with the Sûreté du Québec. In the fall of 1999 he was assigned to the Carcajou Task Force, which was formed in response to the war between the HAMC and the RM. He was one of the investigators involved in Project Ocean, which resulted in the discovery of a banking system for drug trafficking activities operated by members and associates of the HAMC out of various apartments in Montreal. Over the course of four months of police investigation, Sergeant Boucher made many surreptitious entries into those apartments. Video cameras and audio devices were installed, and copies of accounting records were made.

[464] Sergeant Boucher gave evidence that supplemented admissions made about Project Ocean.

[465] Sergeant Boucher testified that the operation of which the banking system was a part was known as “the Table”. All chapters of the HAMC in Quebec purchased cocaine and hashish through the Table. Drugs were supplied on credit, and payment provided later. It was admitted that the banking system involved was elaborate. It received payments for drug sales, made payments for large-scale drug purchases, and paid profits to different individuals.

[466] Project Ocean began in 2000, as a result of police surveillance of Jean-Richard Larivière. Larivière had been a member of the Rockers, and was a prospect for the Quebec Nomads. He was identified as a drug dispatcher for the Nomads. Larivière was seen going to an apartment building at 7415 Beaubien Street East in Montreal.

[467] Over the months of police monitoring, certain patterns were observed. From September 6, 2000, until December 11, 2000, the Beaubien address was a money drop-off point for drug purchasers, and a money pick-up point for drug suppliers. Individuals picked up money from, or dropped off money to Robert Gauthier at apartment 504. Those who dropped off money were members of the Hells Angels Quebec chapters, along with some individuals who were

independent. When money was delivered, Gauthier wrote a note identifying the amount, and a code name or code number identifying the client to whose account the money would be credited. He then took the money to apartment 403, where it was stored until it was counted. The amount and the account to which it was to be credited based on the code name or number were recorded electronically by computer. The money was later taken to 8101 Place Montoire, Montreal, counted, and stored in a safe.

[468] Money drop-offs also were made at the Place Montoire address, to Lise Gelinat at apartment 308. She took the money to apartment 309, where it was counted and stored in a safe. Some drug suppliers picked up money at apartment 309.

[469] During this period, Stadnick was seen at the Place Montoire address.

[470] On December 11, 2000, the operation at Place Montoire was moved. From then until January 11, 2001, money drop-offs that had been made to Place Montoire were made to apartment 303 at 3272 de la Pepinière. The counting and storage operations were moved to apartment 403 at the Beaubien address. Apartment 504 at the Beaubien address continued to be used as a money drop-off and pick-up point. On January 9, 2001, Sergeant Boucher saw and photographed almost four million dollars cash in a safe in apartment 403.

[471] On January 11, 2001, all banking operations at the Beaubien address ceased. Money drop-offs took place at the de la Pepinière address. Counting, storage and money pick-ups moved back to apartment 309 at the Place Montoire address.

[472] On January 30, 2001, the police raided all of the addresses involved. A number of items were seized. Those found in apartment 309 at 8101 Place Montoire included a safe containing in excess of 3.9 million dollars cash, an address book containing telephone numbers for Stadnick and Stockford, and a balance sheet in the code name for Stadnick indicating an amount in excess of two million dollars for January 9, 2001. Items found in apartment 303 at the de la Pepinière address included documents containing telephone and pager numbers for certain members of the Hells Angels, and cash in excess of \$800,000. Items found in apartment 403 at

the Beaubien address included accounting documents referring to Stadnick and Stockford, and cash in excess of \$700,000. Items seized from one of the money counters who was arrested included a piece of paper with the names and numbers of the various chapters of the Hells Angels, and an address book containing telephone numbers for Stadnick and Stockford under their code names and numbers.

[473] The detailed electronic accounting records tracked cocaine and hashish transactions totalling millions of dollars. They referred to drug purchasers by code names and numbers. They included Stadnick, Carroll, Gilles Mathieu and Louis Roy of the Nomads, Dany Kane of the Rockers, and members of the Sherbrooke, Trois Rivières, Montreal, South, and Quebec City HAMC chapters.

[474] A note containing the telephone number, address and code for apartment 504 at the Beaubien address was seized from Stockford's residence on March 28, 2001.

[475] The electronic accounting records also included information about drug suppliers. Gerald Matticks and his partner sold several hundred kilograms of hashish and 63 kilograms of cocaine to the Hells Angels through Normand Robitaille. Sandra Craig sold in excess of 4000 kilograms of cocaine to the Hells Angels from late 1996 on, through Michel Rose, André Chouinard, and Boucher.

[476] The Sherbrooke chapter also was a supplier of drugs to the Table. René Bibeau, who along with John Coates belonged to a clic associated with that chapter, was seen leaving the Beaubien and Place Montoire addresses with boxes on several occasions in late 2000 and early 2001. His residence was searched on January 27, 2001. Over one million dollars cash was found.

[477] Notes made by Dany Kane indicated that Carroll owed money to the Table in the spring and early summer of 2000. They also indicated that Kane bought drugs through the Table. This information was consistent with the electronic accounting records.

E. The Evidence of Detective Sergeant Benôit Roberge

Qualifications

[478] Benôit Roberge is a Detective Sergeant with the Montreal City Police (“PVM”). I permitted him to give expert opinion evidence about the nature and characteristics of the Quebec chapters of the HAMC, and the main purposes and activities of the Quebec chapters of the HAMC and whether they constitute the facilitation of offences that would result in the receipt of a material benefit by the HAMC.

[479] After he joined the PVM in 1985, he was a patrol and intelligence officer until 1990. In the fall of that year, he became an analyst with the Intelligence Section. He worked specifically on outlaw motorcycle clubs, the Outlaws, the HAMC and the RM, although the latter was not a traditional motorcycle group. His role was to analyze information received from others. When he received reports, he verified the information by contacting the investigators and the victims. He also verified the credibility of witnesses. He shared information with investigators at provincial, national, and international levels. He began to act as an expert witness on outlaw motorcycle clubs.

[480] One aspect of his work was to receive informant reports, meet with informants, and develop them. The informants always related to outlaw motorcycle clubs, including puppet clubs.

[481] From January 1995 to October 1995 he was a Strategic Analyst with the PVM Anti-Gang section, working specifically on the war between the HAMC and the Alliance to which the RM belonged. He analyzed and managed information he received from police, reports by informants, and exchanges with other police bodies. He also gathered information by attending crime scenes, meeting with witnesses and victims, and conducting surveillance. He obtained information on all chapters of the HAMC and other outlaw motorcycle clubs in Quebec, but he had more information about those in Montreal.

[482] From October 1995 to February 1998 he was an analyst with Carcajou, a joint task force created by the police forces in Quebec, to investigate the war between the HAMC and the

Alliance. He was part of a team that gathered information, managed it using information systems, and passed it on to police investigators.

[483] From February 1998 to September 1998 he did the same kind of work with the PVM Intelligence Division, as Carcajou was being restructured. His mandate was still the war between the two groups. The majority of the information he gathered concerned the greater Montreal area, but there also was an information line for the entire province of Quebec.

[484] From September 1998 to May 1999 he was an investigator with the PVM Anti-Gang Section, working on Project Harm. It involved various investigations relating to the war between the two groups in the Montreal and greater Montreal area. He worked on an investigation about the HAMC and drug trafficking and arson, and another about the RM and drug trafficking and bombing attempts.

[485] From 1990 on he handled approximately 50 informants, all related to outlaw motorcycle clubs, and all for the purpose of gathering intelligence on the clubs, including the HAMC. One of his roles with Carcajou was to meet with informants, including paid informants, and evaluate them and their information. That involved verifying the information with the database, and contacting other police forces.

[486] From May 1999 to October 2001 he was an investigator with the Montreal Joint Regional Squad, which was Carcajou reorganized on regional lines. He worked on Project Rush. His main role was to control an informant, Dany Kane, who became an agent. Kane was a member of the Rockers, a puppet club for the HAMC Quebec Nomads chapter. The war was still ongoing.

[487] The police used a variety of investigative techniques to verify information received from Kane, and to enhance security. Those techniques included electronic surveillance of land and cellular telephones, hidden microphones in cars and homes, body packing, physical surveillance by professional teams and other investigators, data banks, information from investigators such as documents and photographs, information from police seizures, reports on

informants and agents, the testimony of those who became government witnesses, and video and audio interceptions of the Rockers.

[488] The information he received from Kane contributed to his knowledge base about the HAMC.

[489] As a result of Project Rush, 42 people, including all the Quebec Nomads and Rockers, were charged. A number were found guilty. Rush brought about other projects, the biggest of which was Project Ocean, in which 49 people were charged, 14 of them members of the HAMC Quebec chapters. Ocean involved a vast distribution network of cocaine and hashish, operated by the Quebec Nomads.

[490] From October 2001 to January 2003 Detective Sergeant Roberge worked in the PVM Anti-Gang Section on Project Amigos, concerning the Bandidos. It led to charges against 64 Bandidos members and associates.

[491] From January 2003 to August 2004 Detective Sergeant Roberge returned to Carcajou, working on a project on the HAMC.

[492] Since August 2004 he has been an investigator with the Special Investigations Division. His work does not involve outlaw motorcycle clubs.

[493] From 1990 to August 2004, Detective Sergeant Roberge worked full-time on the HAMC and other outlaw motorcycle clubs in Quebec.

[494] In the course of his work, he wrote documents for law enforcement about the history, structure, operations and activities of outlaw motorcycle clubs. He prepared photograph albums of the HAMC, the Rockers and the Alliance for police use. He wrote thousands of reports. He participated in searches of clubhouses, bars, and residences of members and associates. There the police found things of assistance including membership lists, minutes of meetings, rules, and watch rules. He saw photographs of members. He saw how clubhouses were fortified. He attended more than 50 crime scenes related to the war, and more than 40 gatherings in Quebec

and Ontario where members of the HAMC Quebec were present. He has spoken at conferences about the war in Quebec. He has had training as an expert witness, and he has testified as an expert witness in Quebec and Ontario.

Overview of the HAMC in Quebec

[495] Detective Sergeant Roberge described an outlaw motorcycle club as a “gang” of outlaws. Such a group is identifiable by the letters MC, for motorcycle club. In Quebec, there was an evolution over time, and the majority of these groups became HAMC members.

[496] According to Detective Sergeant Roberge, the Hells Angels in Quebec are involved mainly in the narcotics trade. Some members are involved in loan-sharking.

[497] Detective Sergeant Roberge testified that while historically the HAMC liked to have motorcycle outings, in the last few years many new members are not part of the group to bike, but to be part of a powerful criminal organization. The police have intercepted conversations to the effect that today there is too much business involved, and the biking aspect is forgotten. Hells Angels in Quebec are still required to have motorcycles.

[498] Detective Sergeant Roberge testified that Montreal was the first HAMC chapter in Canada. It was created in 1977 in Sorel, after the Outlaws came to Montreal.

[499] The North chapter was created in 1979. It was located in Laval. It no longer exists. In 1985, Hells Angels from the Montreal, Sherbrooke and Halifax chapters murdered many of the Laval members, because they had narcotics debts and narcotics problems that interfered with the HAMC image.

[500] In 1984 the Sherbrooke and Halifax chapters were created. In 1988 Quebec City formed, followed by Trois Rivières in 1991.

[501] New chapters often were created from members of other clubs. Sherbrooke involved the Gitanes, Quebec City the Vikings, and Trois Rivières the Missiles.

[502] In 1995 the Quebec Nomads chapter was created by six Montreal members (Boucher, Mathieu, Norman Hamel, Stockford, Stadnick, and Carroll) and two Trois Rivières members (Louis Roy and Richard Vallée). Denis Houle was added when he got out of prison. These members shared the same characteristics. According to Detective Sergeant Roberge, they were involved in drug trafficking and wanted to expand their narcotics network. As well, they favoured the war between the HAMC and the RM.

[503] The South chapter was formed in 1997, mainly by members of a puppet club called the Evil Ones, along with some HAMC members from Montreal. No new chapters have been created since.

[504] Currently there are five active HAMC chapters in Quebec. Project Rush dismantled the Nomads chapter, because its members were jailed. There are now 118 members, including the jailed Nomads.

[505] The Quebec chapters are part of the East Coast Region.

[506] Detective Sergeant Roberge testified that the Hells Angels aspire to be the only outlaw motorcycle club in the province of Quebec.

The Membership Process

[507] Detective Sergeant Roberge testified that the traditional process for membership in the HAMC is a long one. An individual must be a friend, then a hangaround for one year, and then a prospect for another year, before becoming a member.

[508] All members of a chapter must agree before an individual becomes a member.

[509] The majority of Quebec members were selected from puppet clubs. The puppet clubs had a similar requirement that an individual be a friend, hangaround for one year, and then striker for another year before achieving full membership. When a puppet club member graduated to the HAMC, he could come in as a hangaround or a prospect, because he already had been observed for many years in the puppet club.

[510] In the opinion of Detective Sergeant Roberge, the reasons for the long membership process are that the HAMC wants to observe the individual to be sure that he meets their criteria, and wants to ensure that the club is not infiltrated by the police.

[511] There are three unwritten criteria for HAMC membership:

1. The individual must be 100% devoted to the HAMC organization. His first family is the HAMC. He must always be available, and he must have the organization at heart completely;
2. The individual must have a good criminal network;
3. During the war with the RM, there was a requirement that the individual had encouraged murder, or been involved in conspiracy to commit murder. This was regarded as proof of solidarity with the club. Claude Lavigne of Montreal revealed this criterion to Kane, during a meeting at a clubhouse.

[512] Detective Sergeant Roberge testified that to become a prospect for the Nomads, an individual had to kill for the organization.

[513] An individual moving through the stages to membership requires a sponsor, and often has two or three.

[514] The Hells Angels decided which members of a puppet club to take on as hangarounds or prospects. Not all puppet club members necessarily wished to join the HAMC. A videotape of a meeting of the management committee of the Rockers, a HAMC puppet club, in December 1999 was played during the proceedings. Pierre Provencher, the president, commented that to become a Hells Angel was a 24 hour a day commitment for two or three years. Another Rocker told an agent in a recorded conversation that although he had a good narcotics network, he did not wish to go through all the stages to become a Hells Angel, to work 24 hours a day, and to commit murder.

Relationship with Law Enforcement

[515] Detective Sergeant Roberge testified that to his knowledge, no police officer has ever infiltrated the Quebec Hells Angels or their puppet clubs. It is too dangerous, and takes too much time given the membership structure and requirements. The Hells Angels constantly check who an individual is, and whether he has a criminal record. Additionally, during the war with the RM, it was extremely dangerous to be in the company of a HAMC or puppet club member, or a drug trafficker.

[516] No HAMC member will speak to law enforcement about his criminal activities.

[517] To counter police surveillance, the Hells Angels use signs to refer to matters such as cocaine, hashish, pistol, murder or attempt, placement of a bomb under a vehicle, arson, surveillance, the patch, and the RM. This was demonstrated in a videotape of a committee meeting of the Rockers in February 2000 that was played during these proceedings. The Hells Angels also use veiled language. For example, a kilogram of cocaine or hashish is referred to as “one package”.

[518] As a result of these difficulties, the police use informants or agents to infiltrate the HAMC. Being an informant or agent is very risky, as motorcycle clubs try to identify such people. One agent, Claude DeSerres, was killed while wearing a body pack. Risk is a factor that can affect the kind of contract the police make with an agent, and the amount of money he is paid.

The Chapter

[519] Before a new chapter is opened in Quebec, each member of the HAMC in the province has a vote. Each chapter must be 66% in favour of the new chapter, so that all chapters are in agreement.

[520] A chapter must have six members.

[521] A chapter has a designated territory. According to Detective Sergeant Roberge, each Quebec chapter attempts to control the narcotics trade in its area.

[522] In general, the members of a chapter carry on their activities and reside in the area of the chapter, but there are many exceptions. Members are not obliged to carry on all of their activities in that area, and there is no rule that prevents them from expanding. There are examples of members conducting activities outside their own chapters. While Boucher was a member of the Montreal chapter, he developed a puppet club called the Rockers in northern British Columbia. While Carroll was a Montreal member and then a Nomad, he had a trafficking network in Nova Scotia.

[523] Detective Sergeant Roberge was shown photocopies of cards listing members, prospects and hangarounds of each chapter by their club names, with telephone numbers. He has seen these chapter cards often during searches, and from agents who gave copies to the police.

[524] A chapter generally meets once a month, but meetings may be required at any time. Usually chapter meetings are held at the clubhouse. Clubhouses are considered secure, because there is 24 hour a day security to prevent the police from installing wiretapping devices. If a chapter does not have a clubhouse, meetings are held at hotels, restaurants or other places judged appropriate for avoiding police observation.

[525] Detective Sergeant Roberge was shown a photocopy of a card bearing a list of printed names and numbers. He testified that each name is a restaurant in the Montreal area. The numbers are a code to indicate meeting places. A code is used because members are aware that police surveillance of them, including electronic surveillance is often done at these restaurants.

[526] Only full members can attend chapter meetings.

[527] In addition to chapter meetings, meetings are held at provincial and regional levels, and also at Canada and world levels. Quebec members attend these meetings.

[528] In cross-examination, Detective Sergeant Roberge agreed that every chapter has great autonomy, notably in the commission of criminal offences. This autonomy applies in the same sense to individual members.

Rules

[529] The Hells Angels have both written and unwritten rules. Sometimes they overlap, for example, rules that those who are part of the organization must not obstruct the image and operation of the club.

[530] There are many unwritten rules, including the criteria to become a member. They vary according to the times, the chapters, and members. Many, but not all unwritten rules are related to criminal activities. They include that a member must be ready to help another if needed; must put aside his family and be dedicated to the Hells Angels 24 hours a day; must not make a statement to the police; and must not give out information to betray the club. In Quebec there is an unwritten rule that members must not use cocaine. These rules are unwritten so that the Hells Angels can manage their criminal activities, while protecting themselves against prosecution.

[531] There is no written rule requiring that a member participate in a particular criminal endeavour, such as narcotics trafficking or loan-sharking. Some written rules prohibit certain criminal activity, for example participation in rapes, or use of heroin. It is, however, an unwritten rule that a member must have a good criminal activity.

[532] The most important consequence for breach of an unwritten rule is an internal purge.

Clubhouses

[533] Generally, clubhouses in Quebec are protected by a gate or wall. They often have fortified doors and windows, cameras, dogs, and an intercom system to address people outside. They are painted the traditional HAMC colour, red and white. They often have a HAMC flag on the roof. There may be a sign identifying the building as the clubhouse.

[534] Inside, there is a watch room reserved for those who look after surveillance of the clubhouse. Usually it is in an area that allows good observation. The watch room is always equipped with a camera and television. Any exterior cameras can be manipulated from the watch room. The watch room has a telephone, a book with the telephone numbers of members,

their lawyers, caretakers and others who look after the clubhouse, and member cards of other chapters. Each chapter has a sergeant-at-arms who is in charge of security. When he is not at the clubhouse, another person will perform the watch. There is always someone present to look after security.

[535] The clubhouse typically has a conference room with a blackboard and erasers, so that confidential information can be written and erased, a bar and poolroom, kitchen, living room and bedrooms. The clubhouse is used to display trophies identifying the chapter and members' anniversaries, plaques, photographs of members of various chapters, maps from other chapters, and a message board.

[536] There is always a garage with lockers where each member may place clothing.

[537] Staff Sergeant Roberge identified a Watch List. It is a set of rules for the person in charge of the watch. It specifies his duties, including verifying the "watch tool", meaning a hidden pistol.

[538] Security is maintained at anniversary parties, funerals, and marriages, to protect members when there is a war with another club, and to identify surveillance if the police are present. Puppet club members often look after protection of HAMC members, as individuals and as a group. During the war with the RM, a Rocker guarded each HAMC member at meetings.

Reputation of the HAMC

[539] Detective Sergeant Roberge testified that the general reputation of the HAMC in Quebec is that it is a structured criminal organization that is very violent. Citizens, as well as the criminal milieu have a lot of information about HAMC activities through the written and televised media, including coverage of police investigations and court proceedings.

[540] The wearing of colours by HAMC members indicates who they are, to show their strength and power. Only a member can wear the HAMC colours, which in Quebec consist of a top rocker with the name "Hells Angels", a bottom rocker with the word "Quebec", and the

winged death head in the middle with the letters MC for motorcycle club. On the front of his vest, a member wears the name of his chapter.

[541] A prospect can wear only the bottom rocker and the initials MC on the back, and a prospect crest and the chapter name on the front.

[542] The police have seen Hells Angels wearing their colours in areas where they are about to take over narcotics trafficking.

[543] Detective Sergeant Roberge attended HAMC motorcycle runs. A run is a motorcycle parade, with meeting places at clubhouses. A run can be organized by a chapter, or on a provincial, national or world basis. A member can participate with or without his colours.

[544] The rules require that runs be held, and there are compulsory outings. Rules also require that all members have a Harley Davidson motorcycle, and all chapters have a road date.

[545] In the opinion of Detective Sergeant Roberge, these outings where many members are present indicate the power and numbers of the HAMC. Motorcycling is very important to the HAMC, as a means of making a show of force.

[546] During the war in Quebec, many runs did not occur.

[547] Detective Sergeant Roberge attended funerals of HAMC members. It was common to see members of other HAMC chapters and countries at funerals. Colours are worn at funerals, members are present in great numbers, and there is a motorcycle parade between the funeral home and the cemetery. According to the witness, this is deliberately done to demonstrate the power and force of the HAMC.

[548] Detective Sergeant Roberge expressed the opinion that all actions from intimidation to murder are used as tools to manage and enlarge the HAMC network of drug trafficking, and to maintain its standing among criminal organizations.

Puppet Clubs

[549] Detective Sergeant Roberge testified that the Hells Angels use puppet clubs to create a base to study who will become HAMC members, and to extend the HAMC network of narcotics trafficking to broader territory.

[550] A puppet club has certain autonomy from the HAMC, but the HAMC chapter directing it must approve every important decision it makes. The HAMC decides what activities the puppet club can carry out. If a decision of the puppet club might affect the image of the HAMC, it must consult the HAMC.

[551] Puppet clubs never use the red and white colours of the HAMC, but their members always wear the initials MC to indicate motorcycle club.

[552] In Quebec, various puppet clubs supported the HAMC chapters. The Rockers were a puppet club for the Nomads, the Evil Ones for South, the Rowdey Crew, Jokers, Blot Lois, and Satin Guard for Trois Rivières, the Damners for Quebec City, and the Rowdey Crew Richelieu, Evil Ones Drummondville, and Death Riders Laval (also known as the Rockers North) for Montreal.

[553] The use of puppet clubs changed after the spring of 2001, when Projects Rush and Ocean finished. The Quebec Hells Angels eliminated puppet clubs because the police had infiltrated the Rockers with two agents and some repentant witnesses, in order to shut down the Nomads.

The Rockers

[554] Boucher and Hamel established the Rockers motorcycle club in 1992. It became a puppet club for the Montreal chapter of the HAMC. The Rockers were an integral part of the HAMC. They were used as a pool from which to recruit new HAMC members. Their criminal activities were supervised by the HAMC.

[555] The principal activities of the Rockers were drug trafficking, and related violent activities including threatening, murder, attempted murder, and conspiracy to commit murder.

[556] In 1994 many new members were added to the Rockers and they formed a clubhouse in the east end of Montreal. The Rockers declared that they were the leaders of the various HAMC puppet clubs.

[557] During the war with the RM, the Rockers were under the supervision of the Nomads. The police saw them in possession of weapons on a regular basis when they acted as bodyguards for the Hells Angels. The Rockers referred to the Hells Angels as their “uncles”.

[558] All Rockers had to get involved in the war, but at various levels. All had to participate in getting information about the enemy. Those who wanted to become Hells Angels had to become involved in murders. This was an important step in advancement to the HAMC. A pre-established amount was payable to a Hells Angel or Rocker who killed a member of the RM. The Rockers were involved in murders, attempted murders, bombing attempts, and arsons in the Montreal area.

[559] The police learned about the location of Rockers meetings through Kane, and installed electronic surveillance equipment there. Kane was met by a member, striker or hangaround a few hours before the meeting, and given a business card with the name of a hotel and the meeting time. He then called his police controllers and gave them the card.

[560] It was common for a member or members of the Nomads to attend Rockers meetings.

[561] At a December 1999 meeting of the Rockers decision-making committee, Provencher referred to the “bikes side”, meaning the social activities, and then to the “other side” meaning criminal activities. At a Rockers meeting in March 2000, there was discussion about separating the Rockers into east and west. One of the conditions would be that each have a clubhouse. The main reason for the separation was there were more than 30 members, and by dividing in two, greater strength would be demonstrated. The reason for requiring clubhouses was that, as a Nomads member who was present suggested, having a clubhouse establishes presence in an area. According to Detective Sergeant Roberge, the HAMC and its puppet clubs like to intimidate other criminal organizations and the authorities by showing presence through clubhouses and

colours. At the same meeting, Provencher said that the Nomads would approve all decisions and exceptions. Detective Sergeant Roberge testified that the Hells Angels Nomads had authority over the Rockers.

The “Biker War”

[562] The “biker war” in Quebec lasted from 1994 to 2002, with some peace periods. More than 150 people were killed, including innocent victims who were not associated with the protagonists. There were many murder attempts, bombing attempts of businesses and clubhouses, and arsons.

[563] Detective Sergeant Roberge testified about the history leading up to the war, and the war itself.

[564] The RM came into existence in 1989. It was friendly with the HAMC. The RM was a non-traditional motorcycle club in that it had some characteristics of an outlaw motorcycle club, but its members did not wear colours. They had an insignia with the initials MC, and a ring. The RM was referred to as a clic, signifying a small gang.

[565] The RM was associated with other groups in Quebec, namely the Dark Circle, the Palmer clan, and the Pelletier clan, which were all clics involved in drug trafficking, and also with some independent drug traffickers. In 1994 those groups and the RM formed the Alliance, and war began with the HAMC. The war lasted until 2002.

[566] In 1996 the RM developed contacts with and eventually began the process of becoming a chapter of the Bandidos. The Bandidos required that the RM become a traditional motorcycle club with colours. This association appealed to the RM because they were only a local group, and joining the Bandidos would give them more power. A leader of the Bandidos told Detective Sergeant Roberge that this was a way to bring peace with the Hells Angels.

[567] In the opinion of Detective Sergeant Roberge, the RM approached the Bandidos both as a strategy to make peace with the HAMC, but also to increase their own power because the Bandidos were known worldwide. The Bandidos and the Hells Angels would want to avoid a

war because it would have international implications. The Bandidos were interested in the RM because they wanted to expand.

[568] The police first saw RM members wear colours in June 1999. They were the reverse of the Bandidos colours.

[569] There was a truce between the groups in October 2000 after a lot of negative publicity following the attempted murder of journalist Michel Auger. First there was a meeting at the Quebec City courthouse. Then there was a follow-up meeting at a restaurant in October, when the RM was invited to join the HAMC. A journalist was invited to photograph the meeting, to show the public that there was a truce. HAMC representatives at the restaurant included Nomads members Boucher, Mayrand, and Robitaille. RM representatives included Nelson Fernandez, Porter, and Faucher.

[570] Some RM wanted to join the HAMC, but some joined the Bandidos. In December 2000 the RM obtained probationary status as Bandidos. There were four probationary chapters created, in Quebec City, Montreal, Kingston and Toronto.

[571] By February 2001 the war was on again.

[572] The RM became full Bandidos in 2001.

[573] Both the RM and the HAMC suffered casualties during the war, and both were hurt by police activities. The result of the war was that the RM and the Bandidos were eliminated or absorbed.

Expansion of the HAMC into Ontario

[574] Since 1990, Detective Sergeant Roberge received information and made observations that Quebec members of the Hells Angels got together with various outlaw motorcycle clubs in Ontario. In January 1994 members of the Montreal chapter supervised the creation of the Demon Keepers in Ontario, in order to expand their network of drug trafficking in Ontario and to eliminate members of the Outlaws. Stadnick, Stockford, Carroll and Boucher were responsible,

along with others who became Quebec Nomads. Four chapters of the Demon Keepers were created in Toronto, Ottawa, Kingston, and Niagara. Kane was president of the Toronto chapter. The Demon Keepers were dismantled in the spring of 1994, mainly because the war with the RM began and the Hells Angels decided to focus their energy on expansion in Montreal.

[575] Detective Sergeant Roberge testified that expansion of the RM into Ontario via the Bandidos forced the Hells Angels to assimilate motorcycle clubs in Ontario. The Quebec Hells Angels wanted chapters in Ontario to expand their organization. They wanted to increase their visibility and their capacity for criminal activities, mainly drug trafficking. The Nomads, especially Stadnick and Stockford, were preoccupied with expansion of the Hells Angels across Canada.

[576] The police confirmed that the HAMC wanted to expand into Ontario, through minutes seized in Quebec, electronic surveillance, agents, and informants. All Quebec HAMC members supported expansion.

[577] The Hells Angels from Quebec created 12 chapters in Ontario, plus one prospect chapter. This took place by patching over members of existing Ontario clubs, at a ceremony at the Montreal chapter's clubhouse in Sorel, on December 29, 2000. Members of every chapter in Quebec plus various puppet clubs were present at the patchover, as were members of other HAMC chapters in Canada.

[578] The new Ontario members did not have to go through the hangaround and prospect stages, as their clubs had existed for quite awhile. Detective Sergeant Roberge saw this on a smaller scale in 1991, when the Trois Rivières chapter was created from the Missiles. Also, a majority of the members of the Montreal chapter came from other clubs. However, Ontario was the first time so many chapters were created by members of other clubs.

HAMC Alliances During the “Biker War”

[579] According to Detective Sergeant Roberge, the HAMC deals with other criminal organizations by associating with them, absorbing or integrating them, or eliminating them by killing them.

[580] The HAMC associated with the Italian Mafia in Montreal, which managed networks of drug trafficking. The two groups agreed that in certain territories in Montreal where the Mafia was already established, it would not expand its drug market, but the HAMC could do so. A map sized from Mayrand in March 2001 depicted the territories in Montreal assigned to HAMC chapters and the Mafia, for drug trafficking. The Mafia controlled Little Italy and other densely Italian neighbourhoods.

[581] In a videotape of a Rockers meeting in July 2000, Robitaille of the Nomads spoke about not touching the Italians. According to Detective Sergeant Roberge, the Nomads had an agreement with the Mafia to control drug trafficking. Together they set the price of a kilogram of cocaine at \$50,000, in order to identify independent sellers. The HAMC wanted to find out who was supplying the RM with drugs, so they could eliminate or assimilate those suppliers.

[582] Notes made by Kane dated July 4, 2000, reflected that the Mafia could keep what they had but had no right to expand, and that everyone had to sell for \$50,000 a kilogram. This is consistent with the discussion at the Rockers meeting. In Kane’s notes dated June 7, 2000, the Mafia were described as being very strong. In the opinion of Detective Sergeant Roberge, this was a reason for the Hells Angels to associate with them.

[583] The effect of the HAMC association with the Mafia was that it took control of drug trafficking in Montreal, and left the RM with minimal drug networks there.

Dany Kane

[584] Detective Sergeant Roberge first met Kane on August 23, 1999. Kane had been a member of the Rockers in Montreal since July 1999. He had had contact with the HAMC since the early 1990s, but was more involved as of 1994. Kane lost his colours in February 2000, a

few weeks before he signed a contract with the police. He was demoted to striker until he became a full member again in June 2000.

[585] Kane worked mainly for Carroll, Stadnick and Stockford, but during the investigation, he started to work a lot with Robitaille. All were Nomads. Kane met them through a former member of the Demon Keepers. Stockford and Stadnick were involved in drug trafficking, and their network was principally in Ontario, and Winnipeg. Kane also was close to the English members of the Montreal HAMC.

[586] Kane was mainly involved in drug trafficking, but he also collected money, participated in two murders and several murder conspiracies, and took part in bomb attempts.

[587] Kane initially was a police informant. The goal of the police was to obtain information about the Nomads and the Rockers, for Project Rush. Detective Sergeant Roberge had regular contact with Kane as an informant, by telephone every couple of days, and in person meetings once a week. Kane was an informant for six months.

[588] In March 2000 Kane became a source agent. He signed a contract with the police on March 18, but began taking notes as part of his obligation as an agent on March 7. Detective Sergeant Roberge was one of Kane's two main supervisors and managers of his activities. He continued to have regular contact with Kane.

[589] Kane disclosed his criminal background in a Statutory Declaration, as a precondition to entering into a contract as an agent.

[590] The contract with Kane specified that he was to provide information about all criminal activities of the Rockers and the HAMC, including drug trafficking, conspiracy to murder, murder, gangsterism, and possession of weapons. He also was to provide information about their social activities, as it could be important in establishing gangsterism. Kane was to tell the truth at all times, be available to the police, give the police information about the criminal activities he was involved in directly or indirectly, submit to a lie detector test if the police had reason to

believe he was not telling the truth, and take personal notes to prepare his testimony in court. If Kane did not live up to expectations, his contract could be annulled.

[591] The police told Kane throughout that he was not to decide what he would do. Rather, he was to take direction from the police.

[592] On March 18 and 19, 2000, Kane gave a KGB statement, in which he described his activities since March 7. The police took a KGB statement because another agent had been assassinated, and the police wanted to preserve Kane's evidence in case he was discovered by his associates, or killed by enemies in the war.

[593] The contract ended August 7, 2000, when Kane committed suicide.

[594] If the contract had come to fruition, Kane would have been paid approximately one and three quarter million dollars over three payments. Additionally, all expenses that had to do with his information were reimbursable.

[595] Kane provided information on the Nomads, Rockers and other HAMC members, and members of affiliate groups. The police had controls in place to confirm his information. Those controls included electronic surveillance, physical surveillance, documents seized in searches, documents brought by Kane, criminal data bases, the personal knowledge of Detective Sergeant Roberge and that of other investigators, information from other informants and agents, and declarations of repentant witnesses. Kane did not know when or how the police were conducting surveillance, but he knew their investigative techniques in a general way. He wore a body pack on numerous occasions.

[596] To the knowledge of Detective Sergeant Roberge, all the information received from Kane turned out to be true.

[597] In his KGB statement, Kane explained that the mentality of the HAMC is that either you are with them or against them, there is no grey zone. This is consistent with the opinion of Detective Sergeant Roberge about the attitude of the HAMC toward rivals.

[598] Copies of the notes kept by Kane were produced in these proceedings. The purpose of requiring him to keep notes was to have him testify in court. Kane made the notes regularly once or twice a week, at debriefings with the officers. He provided items such as receipts to confirm his information.

[599] Kane's notes recorded that in April 2000, Carroll wanted him to go to Toronto to meet Eugenio Reda of the PDR. Reda was to provide information about members of the Loners, who were to be killed. Kane noted that he did meet with Reda, and provided a receipt from the restaurant where the meeting took place. Detective Sergeant Roberge travelled to Toronto and on April 19, 2000, saw Kane meet with Reda. Kane noted that over the following days, he looked after Reda and other PDR members who attended Hamel's funeral in Montreal. Detective Sergeant Roberge saw Kane with Reda in Montreal. Kane noted that Carroll spoke to him again about killing members of the Loners. According to Detective Sergeant Roberge, the reason behind this was the expansion of the Quebec Hells Angels.

[600] Kane noted that he later met Reda in the Toronto area and was given photographs of the Loners. Surveillance officers saw him with Reda. He later showed the photographs to the police. Several days later, while wearing a body pack, Kane met with Boucher, Carroll, Stadnick and Mayrand. The meeting was surreptitiously videotaped. Carroll opened the package of photographs given to him by Kane, and Kane described some of the members of the Loners.

[601] Kane noted that Carroll was upset that Reda brought other people to the meeting, who saw Kane. The plot was supposed to be secret. Carroll told Kane to forget about the job, as he had arranged for hangarounds from Halifax to do it instead. According to Detective Sergeant Roberge, Carroll had the authority to enlist help from Halifax.

[602] Kane's notes referred to a laptop computer that was stolen from the hotel room of an OPP officer during a HAMC gathering in Sherbrooke. The laptop contained a lot of information about outlaw motorcycle gangs in Ontario and Quebec, including photographs of members.

[603] In a note for May 2, 2000, Kane said that he and Carroll discussed splitting the profit on the sale of some drugs. According to Detective Sergeant Roberge, Kane and Carroll had agreed to divide the proceeds of their drug trafficking in Ontario.

[604] Kane noted that on May 10, 2000, Stadnick talked about the RM having a clubhouse in Ontario.

[605] In a note for June 5, 2000, Kane noted that Carroll wanted to kill RM members, because he owed money and wanted to bring his bill to zero. According to Detective Sergeant Roberge, Carroll owed money to “the Table”, a committee of Nomads members who managed the selling of cocaine and hashish by the kilogram. As he could not pay, his alternative was to assist the organization by killing enemies. It was an unwritten rule that such acts could result in the erasure of debts.

[606] Kane noted that on June 21, 2000, Stadnick told him that Salvatore Brunetti, a member of the Dark Circle, was likely in Kingston, and that Paul Porter was president of the RM. According to Detective Sergeant Roberge, Stadnick cared about this because he supervised activities in Ontario. In his KGB statement, Kane told the police that Sylvain Vachon, a member of the Sherbrooke chapter, had come to the Toronto area to kill Brunetti. Detective Sergeant Roberge testified that conspiracies to murder were carried out outside of Quebec, in Ontario and Nova Scotia.

[607] In a note for July 10, 2000, Kane recorded that a prospect for the Nomads told him he saw Porter in Ontario, but did not do anything because he did not want the RM to start hiding in Ontario. Detective Sergeant Roberge testified that the RM rarely wore their colours in Quebec, but did wear them in Ontario where they were easily identified.

[608] In an audio recorded conversation between Stadnick and Kane on May 10, 2000, there was discussion about the murder conspiracy against the Loners. According to Detective Sergeant Roberge, Stadnick and Stockford were partners in drug trafficking, mainly in Ontario. For a number of years they were in touch with several outlaw motorcycle clubs in Ontario and

Manitoba. The purpose of the conspiracy against the Loners was to expand territory for drug trafficking by the Quebec Hells Angels, particularly the Nomads whose main activity was drug trafficking. Stadnick also discussed whether the Outlaws would associate with the RM. Detective Sergeant Roberge testified that Stadnick and Carroll were very interested in knowing about unions between groups in Ontario that affected drug trafficking networks there. They wanted to avoid the RM coming to Ontario. Detective Sergeant Roberge was of the opinion that HAMC concern about other groups is always related to crime.

[609] A video recording of a Rockers meeting in July 2000 contained references to the Loners, SC, and the Outlaws in Ontario, and their affiliation with the RM. Detective Sergeant Roberge testified that the Rockers worked for the Nomads, and developing their drug market in Ontario developed the HAMC drug market there.

The End of the “Biker War”

[610] Detective Sergeant Roberge testified that the war ended on June 5, 2002, when Montreal police concluded Project Amigos. They arrested almost all active members of the Bandidos in Quebec, and also members of the Toronto and Kingston chapters. The majority were charged with participating in gang activity, drug trafficking or conspiracy, or conspiracy to commit murder in relation to the Hells Angels. After June 2002, Bandidos members joined the HAMC, or quit criminal activities altogether.

[611] Project Ocean concluded on March 28, 2001, when 63 arrests were made, all of HAMC members, or associated persons, or independent drug traffickers. A list of those arrested was filed as an exhibit in these proceedings. All were convicted, except one person who is still wanted.

[612] Project Rush resulted in charges against 44 members and associates of the Rockers and the HAMC for murder, conspiracy to murder, drug trafficking and conspiracy, and participating in gang activities. The murder and conspiracy charges were in respect of RM and other Alliance members. Most of those charged pleaded guilty or were found guilty. There are a few individuals still to be tried.

[613] Today the HAMC is the predominant motorcycle club in Quebec. It is the only active outlaw club there. Several criminal organizations control drug trafficking in Quebec, among them the HAMC. Arrests in Projects Ocean and Rush had a major impact on the leaders of the network of drug trafficking, but the police did not arrest street traffickers or those involved in transportation. The structure of the HAMC is such that other members or chapters replaced those arrested, as the organization restructured itself. For example, the Trois Rivières chapter took over some Nomads territory.

Opinion

[614] It is the opinion of Detective Sergeant Roberge that one of the main purposes or activities of the HAMC chapters in Quebec is the commission of serious offences that afford a material benefit to members. From 1990 on, one of the main activities of the HAMC in Quebec has been drug trafficking. This holds true today. The principal criminal activity of the HAMC in Quebec is drug trafficking. It is the main source of revenue of HAMC members there. Quebec chapters have been involved in other criminal offences to make money such as loan-sharking, and in activity involving violence, such as threatening, murder, attempted murder, bombings and arson. Those violent activities occurred during the war with the RM, and were tools to expand the HAMC network of drug trafficking.

[615] It is the opinion of Detective Sergeant Roberge that one of the main purposes or activities of HAMC chapters in Quebec is the facilitation of serious offences which afford a material benefit to members. First, the HAMC present a powerful image by wearing colours that identify them as HAMC, wearing jewels with the death head logo, having motorcycle runs with a large number of people, and having fortified clubhouses identified with flags. That image is presented to citizens, and also within the criminal world. It facilitates criminal activities by members because it creates intimidation. Second, the HAMC structure, involving written and unwritten rules, titles and functions, is important. It, along with the fact that members encourage each other, travel throughout the world, and support members in prison and their families, facilitates the activities of each member. Third, criminal activities are carried out as a common goal, and with the help of one another. The fact that individuals are partners in drug trafficking

networks and perform acts such as murder with the goal of expansion, facilitates the continuity of drug trafficking.

F. The Evidence of Guy Ouellette

Qualifications

[616] Guy Ouellette is a retired member of the Sûreté du Québec. I permitted him to give expert opinion evidence on the nature and characteristics of the Hells Angels organization, and the main purposes and activities of the Hells Angels organization as it exists throughout Canada, and whether they constitute the facilitation or commission of serious criminal offences that afford a material benefit to its members.

[617] Mr. Ouellette joined the Sûreté du Québec in 1969. In 1981 he became head of the drug unit in St. Hyacinthe, which covered Sorel where the Montreal chapter of the HAMC had their clubhouse. He was involved in a criminal investigation of the Montreal chapter. In 1986 he became head of the drug unit in St. Jerome, where he covered activities of groups affiliated with the Montreal HAMC chapter.

[618] In 1990 he joined Criminal Intelligence, and in 1993 became head of its intelligence gathering section. He was involved in gathering information on organized crime of every kind, to help investigators around the province and elsewhere. Intelligence was collected on outlaw motorcycle clubs in Quebec, and also outside Quebec, especially Nova Scotia and British Columbia, which had HAMC chapters at the time.

[619] Mr. Ouellette prepared a colour photograph album on the HAMC that included all clubs in Quebec affiliated with it, and the HAMC chapters in other provinces, so that officers could recognize those linked to the clubs. He also reviewed reports of officers he supervised.

[620] Mr. Ouellette said that throughout his career, he endeavoured to ensure that information gathered was factual, and confirmed by more than one source. He looked for independent confirmation of information he received.

[621] In 1994 Mr. Ouellette was loaned to a multi-disciplinary unit of the Sûreté. The war between the HAMC and the Alliance composed of the RM, the Dark Circle and independent traffickers had begun, mainly in the Montreal area. Mr. Ouellette investigated events related to the war, and was the resource person on bikers. He acquired information about the HAMC and affiliated clubs in and outside Quebec, and also about other clubs outside Quebec.

[622] From 1994 until his retirement, Mr. Ouellette spent 100 per cent of his time on outlaw motorcycle clubs.

[623] In 1995 Carcajou was created to pursue outlaw motorcycle clubs and charges against members. Mr. Ouellette joined Carcajou, where he was a resource person on outlaw motorcycle clubs for investigators there and elsewhere in the province

[624] In 1997 he became the counsellor to the Director of ERM, the provincial task force on organized crime that replaced Carcajou. He was a resource person to investigators in the various regions, on outlaw motorcycle clubs. He was chosen because of his knowledge about the clubs. He continued to gather information on the HAMC in Quebec and elsewhere in Canada, and on other clubs outside Quebec including in Ontario.

[625] In 1999 he returned to Criminal Intelligence as counsellor to the Director. He was chosen because of his knowledge of outlaw motorcycle clubs. He went everywhere in the province to assist investigators. He continued to collect information on the HAMC in and outside Quebec, and on other clubs outside Quebec including in Ontario. He was assigned to the Provincial Biker Intelligence Joint Unit in 2000. He retired in 2001.

[626] During his career, he was involved in the execution of search warrants at every HAMC clubhouse, and those of some affiliated groups, in Quebec. He attended HAMC official functions such as the 1992 World Run in Sherbrooke, funerals, parties, anniversaries, and patchovers. In 1998 he was at the HAMC 50th anniversary in California. In July 2000 he was present at the patchover of Los Bravos members to prospect HAMC status in Winnipeg. He was present at the RM patchover to probationary Bandidos status in Vaughan in December 2000. He

was present and in charge of police operations at the December 29, 2000, patchover of Ontario club members to the HAMC. After that patchover, one of his duties was to find out who was patched over, so he covered various HAMC events attended by Ontario members.

[627] He was a resource person to CISC, and also received information from it, for example about HAMC members from other countries who attended the 1992 World Run. He was consulted by other police agencies in Canada and the world. For example, if Ontario police officers videotaped a bike show, they would send him a copy to identify the attendees.

[628] Mr. Ouellette exchanged information with the OPP Special Squad, particularly about Quebec bikers in Ontario, and lectured at the OPP Academy. He had good knowledge of Ontario outlaw motorcycle clubs from 1992 on. He conducted a road check of them in Quebec in 1995 and 1999. He knew some of the SC, who showed up at a 1994 HAMC funeral. Some Ontario bikers were involved in criminal activities with bikers in Quebec. He received information from Ontario investigators, for example about the SC in 1996, and about a drug link between the PDR and the HAMC Trois Rivières chapter in 1994.

[629] After his retirement, Mr. Ouellette was hired by TV station RDI and CBC Radio-Canada to cover motorcycle club events, and by Journal de Montreal to write articles on bikers. He was hired by Concordia University in 2002 to lecture in a course on organized crime. He has lectured at the International Outlaw Motorcycle Gang Investigators Association, the Criminal Intelligence Service Ontario, and the Canadian Police College. He was invited to and did testify before the House and Senate committees on Bill C-24, about outlaw motorcycle clubs in Canada.

[630] Mr. Ouellette has testified in more than 130 cases in Canada and the United States, as an investigator or as an expert. This includes over a dozen criminal cases in which he gave expert evidence at trial about outlaw motorcycle clubs. As part of his role as an expert witness, he has reviewed disclosure in various criminal cases, including Operation Springtime (the combination of Projects Rush, Ocean and Bobcat). He testified in proceedings resulting from Project Rush.

[631] Mr. Ouellette conceded that prior to his retirement, his information about members of the HAMC in Ontario related to their identities. He does not have specific information as an investigator about HAMC activities in Ontario since his retirement. He has some information from reviewing disclosure in other cases, including Project Overstay in London involving William Miller, Project Shirley involving drug related charges in Oshawa, and a Thunder Bay investigation involving drug charges, and from media reports about the execution of search warrants. Other than that Miller was convicted, he did not know the outcomes of those cases.

[632] He testified that he has spoken to members of the HAMC, who acknowledged that some members of the organization are involved in criminal activities. Mr. Ouellette did not specifically identify those sources. He had a professional relationship with some members of the Quebec HAMC, including most of the Quebec Nomads, and also some Ontario Nomads. He solved problems at road stops about identification, as he knew their identities, and he advised them of problems, such as possible acts of violence against them by other bikers.

[633] In the course of his testimony, Mr. Ouellette sometimes responded that he was not “factual” about a matter, meaning that he did not have sufficiently reliable information to provide an answer.

Mr. Ouellette’s Fee

[634] Mr. Ouellette stated in cross-examination that since he retired in May 2001, he has testified as an expert witness a number of times and has been paid a fee. Initially he said that in this case, he was to be paid \$100 per hour for up to 250 hours, plus expenses. He agreed that this is probably the most he will be paid to date as an expert witness. At the end of his cross-examination, he was confronted with information that in the summer of 2004, the Crown agreed to increase his maximum number of billable hours on the case to 400. He denied that he tried to conceal this information in his earlier answer.

Structure of the HAMC

[635] Mr. Ouellette testified that individual members of chapters are entitled to vote on activities, on the basis of one man, one vote. Votes are taken on chapter motions, regional

motions, and world motions. World motions are considered at world meetings, and need two-thirds approval to pass.

[636] There is autonomy of individuals in the HAMC, of chapters, and of regions. Nonetheless, no-one can contravene the rules, which include written rules. A rule made by one chapter does not affect other chapters, and a rule made by one region does not affect other regions. However, international rules must be followed by each member and by the chapters, and national, regional, and chapter rules also must be followed. Just as a Canadian rule cannot conflict with a world rule, a regional rule governs chapters in that region, but cannot be inconsistent with the world or Canadian rules. Ontario has to follow the written and unwritten rules.

[637] A chapter has its own criminal activities, which have nothing to do with those of another chapter. Each member is autonomous as to which criminal activity he chooses, but he has to operate under the HAMC rules.

[638] Minutes of meetings do not record discussion or votes about criminal activity. They deal with bureaucratic matters. Mr. Ouellette testified that during a search of a puppet club's clubhouse, he saw a written requirement that members of the organization give 10% of the proceeds of their criminal activity to the club on a monthly basis.

[639] It is an international rule that to open a new country, there must be a world vote based on one man one vote; to open a province there must be a national vote; and to open a new chapter in a province there must be a provincial vote.

[640] Six members who are "on the street " are needed to form a chapter. If the number of members falls below six, the chapter is put under the supervision of another chapter. If all members of the chapter are in jail, the chapter is frozen.

[641] A normal citizen cannot just apply to join the HAMC. The organization has strict rules, including that ex-police officers, and black men cannot join the club. In 2001 the Oshawa

chapter decided to make a black man a hangaround. After this was brought to the attention of HAMC World, he had to be removed, because his involvement contravened a world rule.

[642] According to Mr. Ouellette, members are recruited for their criminal abilities. He bases this statement on police investigation, and wiretaps.

[643] The chapter has a president, who is one of its members. He presides over the chapter (“church”) meetings, looks after chapter administration, signs cheques, holds a veto and so has the last word in votes, and leads the chapter.

[644] A national president presides over Canada Officers meetings, and has talks with national presidents of other organizations like the Bandidos. It is an important function in the HAMC. In Canada, all national presidents must come from the Montreal chapter. The past presidents up to 2000 included Stadnick and Mayrand. Mr. Ouellette does not know who took over after 2000.

[645] Stadnick was able to become national president because he had leadership ability. He had been a mediator in conflicts, he was well respected across the country, and he had credibility in that people listened to him and sought his advice. He was removed as national president in July 1994 when the war with the RM began.

[646] Canada has the second largest HAMC membership in the world.

[647] Canada is divided into three administrative regions, East Coast, West Coast, and Central Canada. Central Canada consists of Ontario. The Central Canada Region was created officially in March 2001, just before the Operation Springtime arrests of HAMC members and associates in Quebec. The decision to create a Central Canada Region was made on a national basis. Central Canada is a separate administrative region, but is under the HAMC umbrella. It is autonomous to govern the chapters in its region, but under the administrative rules of the HAMC.

HAMC Paraphernalia

[648] Only a HAMC member can wear paraphernalia bearing the name Hells Angels. Mr. Ouellette was shown Exhibit 6, the jacket worn by Mr. Bonner on January 31, 2002. In the centre of the death head are two lightening bolts that seem to have a double E attached, for East End. Mr. Ouellette has seen jackets like this at unofficial HAMC functions. He saw them worn when he was at court in Barrie in January 2001.

[649] Each chapter uses its own design of the death head on clothing.

[650] In Canada, the bottom rocker of the patch has been the province, in the United States the state, and elsewhere the country.

[651] Mr. Ouellette testified that the Filthy Few patch can be worn only by a member who has killed for the club, although not all who are entitled will wear it. A photograph of Sylvain Vachon showed him wearing the Filthy Few patch. He became a member of the Sherbrooke chapter in 1998. In 2000 he was involved in drug activities in Ontario, in the north and in Windsor.

[652] In cross-examination, Mr. Ouellette conceded that he has not seen an Ontario HAMC member wear the Filthy Few patch or its replacement the 666 flasher, or the Dequiallo patch.

History of the HAMC in Canada

[653] Mr. Ouellette testified that the Outlaws came to Canada in 1977. They were at war with the HAMC in the United States, and expanded to add resources to their organization and get a foothold in another country. They opened chapters in Montreal and St. Catharines, then Ottawa and Windsor, by taking over chapters of the SC.

[654] There were numerous outlaw motorcycle clubs in Ontario in the 1970s, but the SC, PDR and Vagabonds had a strong influence over the others. The Outlaws made sure that the SC banded with other groups to keep the HAMC out of Ontario.

[655] The Outlaws were involved in methamphetamine manufacturing, trafficking and importing. So too were the HAMC, the SC and the PDR. This information was contained in a 1977 CISC report, and was referred to in Wolf's book. Ontario was a lucrative drug market. In the mid-1980s the HAMC became involved in cocaine importation, through Columbian cartels.

[656] In December 1977 the HAMC formed its first chapter in Canada, in Montreal, by patching over members of the Popeyes. The Popeyes were well known as killers. Mr. Ouellette acquired this knowledge from police reports, investigators and seized documents.

[657] The Hells Angels and Outlaws in Quebec then began a war that lasted until 1990. According to Mr. Ouellette, war between outlaw motorcycle clubs is always for control of drug territory.

[658] In September 1979 the Montreal chapter split. About half of its members opened the North chapter. Those members were heavily involved in drug trafficking, and wanted to open their own chapter to become richer. Mr. Ouellette testified that HAMC chapters will split to gain a foothold in an area. Taking over an existing club also enables expansion and territorial control.

[659] In 1982 the Outlaws took over a motorcycle club in Sault Ste Marie. They covered the border entrances into Ontario.

[660] In an intercepted communication on December 7, 2003, Miller spoke to his girlfriend about the HAMC taking control of ocean ports. Miller's description is consistent with Mr. Ouellette's understanding. The Outlaws put their chapters at border crossings, but the HAMC put their chapters at ports in Halifax, Vancouver, and Montreal. Mr. Ouellette testified that groups including the Matticks, who are involved with cocaine and hashish, control the docks in Montreal.

[661] December 5, 1982, was the fifth anniversary of the HAMC in Canada. The national president invited various Canadian outlaw motorcycle clubs to Sorel to celebrate. Individuals arrested at the clubhouse included members of the Manitoba Los Brovos, the Rebels from

western Canada, and the Satan's Angels from British Columbia. All these groups later joined the HAMC. No Ontario bikers were there, because they were allied with the Outlaws.

[662] In May 1983 the Outlaws took over a London, Ontario group.

[663] In July 1983 the Montreal Hells Angels opened three chapters in British Columbia by patching over the Satan's Angels, to give them immediate full membership. This was unusual. Normally a club must be a hangaround club for one year, and then a prospect club for a further year. According to Mr. Ouellette, the purpose of the graduated route to membership is to learn the rules, tradition and vision of the HAMC. It is an educational program. Offering patch for patch gave the HAMC a foothold in another part of the country, and a better network for criminal activities, especially those involving drugs.

[664] In December 1983 the HAMC opened the East End chapter in British Columbia.

[665] In September 1984 the Outlaws took over a group in Toronto. In November 1984 they took over a group in Danville, Quebec.

[666] In December 1984 the HAMC took over a Halifax club that controlled the port. Its members received immediate membership in the HAMC. The Sherbrooke chapter, which had been a prospect chapter for one year, became a full member chapter. The Sherbrooke chapter had been formed by the takeover of another group that was involved in drugs.

[667] The Montreal chapter sponsored both Halifax and Sherbrooke. A national vote was needed to create the Halifax chapter, but only a provincial vote to create the Sherbrooke chapter.

[668] At a meeting at the Sherbrooke clubhouse in 1985, members of the North chapter were voted out of the HAMC for lying to members and stealing. Following the meeting, they were killed by members of the Sherbrooke and other chapters, and their bodies dumped in a river. Mayrand's brother was killed in front of him, but he did not call the police. The HAMC did not take a public position about its missing members. The bodies were later found. Members of the HAMC were convicted of first degree murder, and related offences. All those convicted

continued to be HAMC members, but several retired in good standing when it was time to seek parole review.

[669] Of the remaining North members, some transferred to the Montreal chapter, some became informers, and some disappeared.

[670] Lying to other members is treated seriously, because Hells Angels need to trust their brothers, especially in criminal activities. The HAMC talk about trust of their brothers publicly. The North chapter members were voted out in bad standing before they were killed, because a Hells Angel cannot kill a brother.

[671] The North chapter closed in March 1985.

[672] The Outlaws did not continue to open chapters. Many of them in Ontario and Quebec were arrested for drugs, and some were murdered in the war with the HAMC. By 1991 they were not a big threat to the HAMC, and the war ended.

[673] In June 1987 the Haney chapter opened in British Columbia. There was no expansion in Quebec at the time, because of the arrest of those involved in the murders at Sherbrooke.

[674] In May 1988 the Quebec City prospect chapter, which Sherbrooke created by taking over a club, was given full member status.

[675] In June 1991 the Trois Rivières prospect chapter, which Montreal created by taking over two groups, was given full member status.

[676] The RM formed in January 1989. Its members included Paul Porter, who is now a HAMC Ontario Nomad. The RM was a non-traditional biker club in that its members wore an emblem and a ring rather than colours. The main activity of the RM was the drug trade. Boucher was its main supplier of drugs from 1989 to 1992.

[677] Over time, other motorcycle clubs in Quebec closed, at the behest of the HAMC.

[678] The Outlaws lost the war with the HAMC. By the mid-1990s they did not have enough members to stay active

[679] By 1990, the HAMC was the predominant international club in Canada. The SC, followed by the PDR were predominant in Ontario.

[680] In June 1995 some members of the Montreal and Trois Rivières chapters created the Quebec Nomads. Denis Houle told Mr. Ouellette that the Nomads were created by members who wanted to be millionaires, and to go wherever they wished in the province. They were members who had credibility in the organization. Boucher had been president of the Montreal chapter, and became president of the Nomads. Stadnick, Stockford, Carroll, Giles, Hamel, Houle, Mathieu, Mayrand, and Roy also were founding members of the Nomads.

[681] In 1982 Stadnick became a member of the Montreal chapter while living in Hamilton. From the time he joined the HAMC, he was involved in drug trafficking. In the early 1990s he began developing a drug trafficking network, mainly in Ontario and also in Manitoba. He had no network in Quebec. His partner Stockford, who also lived in the Hamilton area, became a member of the Montreal chapter in 1993. Police investigation revealed that in 1993 and 1994 Stadnick and Stockford had people trafficking drugs for them in Ontario, especially in Toronto and Niagara. Carroll had been a founding member of the Halifax chapter, and then a member of the Montreal chapter. He was involved in Ontario with Stadnick and Stockord. He has a Filthy Few patch. Houle has a lightening bolts tattoo, which means the same thing as a Filthy Few patch. Giles was a founding member of the Halifax chapter who transferred to Montreal, and later to the East End chapter in British Columbia.

[682] The Nomads used the Trois Rivières clubhouse initially, then the Rockers Montreal clubhouse, and later shared the Sorel clubhouse of the Montreal HAMC.

[683] The Sorel clubhouse had a big illuminated sign "Hells Angels Montreal". The watch room was the center of command, with monitors, fax, and telephone to make sure there were no

entries onto the property. Mr. Ouellette testified that clubhouses in Quebec had steel doors and sometimes, bulletproof windows.

[684] Sherbrooke was pre-eminent in the drug market. Its members had a network in Ontario, British Columbia and also England. They wanted to establish an international distribution center for cocaine. Sherbrooke, and Jacques Emond in particular, was very close to the East End chapter in British Columbia, which in turn had ties to the Rizzuto Mafia family in Quebec. In 1995 Stadnick transferred Giles to the East End chapter, because he wanted to operate in western Canada.

[685] Exhibit 4-42 is a photograph of Mr. Lindsay wearing side rockers of the Sherbrooke and East End chapters. Exhibit 4-36 is a photograph of Mr. Lindsay wearing a shirt labelled "Hells Angels South".

[686] In 1997 the South chapter opened. Its lawyer told Mr. Ouellette that the chapter was formed with members who had no criminal convictions for five years, to avoid the application of Bill C-95.

[687] In 1997 Vancouver opened the Edmonton and Calgary chapters by taking over other clubs that had been HAMC hangarounds and then prospects. Because Alberta was a new province for the HAMC, all Canadian members had to vote unanimously to open those chapters. The same applied when Saskatoon and Winnipeg opened later.

[688] Winnipeg was composed of the Los Brovos, who were HAMC prospects for only five months, because they had been around the HAMC so long. They also were close to Stadnick, who had criminal business in Winnipeg. At the patchover of the Los Brovos to HAMC prospects in 2001, Mr. Ouellette saw members of the SC in deep discussion with Stadnick and Stockford.

[689] After March 1997, the Hells Angels in Quebec voted not to open any more chapters in that province.

The Use of Puppet Clubs

[690] Mr. Ouellette testified that the HAMC in Quebec used affiliated clubs as a recruitment pool. They served as “schools” that taught individuals how to become Hells Angels. They also were used to get a foothold for criminal activities in different areas of the province, and to increase the number of people who could be used for criminal activities.

[691] An affiliated club exists only to serve the HAMC and its members. It must obey the HAMC, and cannot engage in violence or criminal activities without the permission of a HAMC member. The Hells Angels in Quebec referred to a member of an affiliated club as a “nephew”. The affiliated club referred to a Hells Angel as an “uncle”.

[692] Not all members of an affiliated club will become Hells Angels. HAMC members are all kinds of people, but they share the same goal: to follow the vision of the HAMC, and make money. The Hells Angels recruit the best from an affiliated club, for whatever criminal ability is needed.

[693] The HAMC became the predominant motorcycle club in Quebec. The only other clubs were their puppet clubs. The Rockers were founded in 1992, sponsored by Boucher. The Montreal and Trois Rivières chapters also had puppet clubs.

The “War” in Quebec

[694] The RM had chapters in Montreal and Quebec City. It was not a competitor of the HAMC until 1993, when Boucher sent people into areas controlled by the RM and independent drug traffickers, to take over that territory. The RM, the Dark Circle, and independent drug traffickers formed an Alliance in response. The principal activity of the Alliance was drugs, in areas where the HAMC wanted to gain control.

[695] The violence between the HAMC and the RM started in Montreal in 1994, and in Quebec City in 1996. The Hells Angels were the aggressors in the war.

[696] Once the Nomads were created, they were deeply involved in the war.

Expansion into Ontario

[697] The HAMC first tried to persuade Ontario bikers to join them in 1977, after they opened in Quebec. This was unsuccessful. The Outlaws, SC, PDR and Vagabonds united to prevent the HAMC from opening in Ontario. In Mr. Ouellette's opinion, the HAMC made another attempt in 1983, and then again in 1993 when Stadnick, Stockford and Carroll dealt with the Loners in Ontario and its president Frank Lenti.

[698] A t-shirt from the 1992 World Run hosted by Sherbrooke bore a skulled figure taking all of Canada in his hand. In Mr. Ouellette's opinion, that symbolized control of the country by the HAMC. Another t-shirt that Mr. Ouellette saw in 1993 bore the words "The First Wave". In his opinion, that meant that the HAMC were coming to Ontario.

[699] In June 1993, the police stopped Hells Angels from Quebec on Highway 401. They were in a large convoy heading to Wasaga Beach. Mr. Ouellette was there. Carroll was the ride captain, wearing HAMC colours and a Filthy Few patch. Stadnick was beside him in the position of president, wearing his colours, a Filthy Few patch, and a helmet with lightening bolts. The purpose of a large procession like this in the biker milieu is to make a show of force. The group went on to Wasaga Beach, where some arrests were made and guns found.

[700] In 1993 Stadnick, Stockford and Carroll spoke to Lenti about the Loners joining the HAMC. In 1994 Mr. Ouellette saw the Loners wearing colours structured like those of the Demon Keepers, a club affiliated with the HAMC.

[701] Lenti quit the Loners, and formed another club. There was a bombing attempt on Lenti's vehicle shortly after some Loners were seen at an HAMC funeral. Although no one was arrested, to Mr. Ouellette's knowledge the bomb used was the same kind that the HAMC employed during the war with the RM. In Mr. Ouellette's opinion, the Loners were connected to the HAMC.

[702] In January 1994 Stadnick, Stockford and Carroll formed four chapters of the Demon Keepers in Ontario. Their colours and those of the Loners were in the same style. The

establishment of the Demon Keepers was an attempt to open Ontario for the HAMC, but the group disbanded after less than a year.

[703] Minutes of meetings show that the HAMC expressed interest in Ontario on numerous occasions.

[704] Minutes of a Canada Officers meeting in June 1994 referred to Stockford and Stadnick visiting lots of clubs in Ontario and making good headway. It was important that Hells Angels countrywide knew about this. The minutes mentioned future visits by Ontario clubs to various cities, so that Hells Angels members who wanted to meet the clubs would know. Members from the East Coast Region went to Toronto and had a party there with other clubs.

[705] Minutes of an East Coast officers meeting in June 1994 referred to the PDR going to the Edmonton drag races and a Rebels party. The Rebels were a major group in Alberta at the time, with which the HAMC always had good ties.

[706] Minutes of a Canada Officers meeting in June 1994 instructed members to start visiting Ontario clubs slowly, but not to be aggressive with them. There was renewed interest in Ontario because of the war in Quebec.

[707] In 1994 a cocaine courier for a member of the PDR was charged and convicted, as were members of the HAMC Trois Rivières chapter.

[708] Minutes of a Canada Officers meeting in October 1997 indicated that a lot of East Coast members would be present at the Los Broyos anniversary that month. Lots of SC attended the event.

[709] The police saw Stephan Gagné there, wearing a striker patch for the Montreal Rockers, and Paul Fontaine wearing a prospect patch for the Nomads. In June 1997 Gagné killed a jail guard in Quebec on Boucher's instructions, and was promoted to striker in return. In September 1997 he killed a second jail guard, for which he was to receive full membership in the Rockers. Fontaine was involved in both murders. Boucher was arrested for the killings in

December 1997, and convicted at his retrial in May 2002. Gagné was arrested, and Fontaine went on the run. During Fontaine's absence, the HAMC promoted him to full membership in the Nomads.

[710] The HAMC avoided expansion in 1994 because the war with the RM erupted. It was mid-1998 when the HAMC again attempted to expand into Ontario. The Sherbrooke chapter made overtures to Ontario clubs. Sherbrooke was heavily involved in drug distribution, and was setting up an international cocaine distribution network. It was not involved in the war.

[711] Minutes of a West Coast Officers meeting in December 1997 recorded a query whether Ontario clubs should be invited to the British Columbia anniversary. This question also was recorded in minutes of an East Coast Officers meeting in April 1998. According to Mr. Ouellette, the fact that this appeared in both minutes indicated a concern that everyone in the country be of the same view.

[712] Minutes of an East Coast Officers meeting in July 1998 indicated that Stadnick and Stockford were to meet with the PDR. Mr. Ouellette testified that based on police investigations, Stockford and Stadnick were the two main Nomads with drug networks in Ontario, as Carroll was out of the picture. They had no criminal business in Quebec.

[713] Minutes of an East Coast Officers meeting in August 1998 recorded Sherbrooke saying that each chapter should be represented at the next event with the PDR. Sherbrooke members had gone to Ontario and met with clubs there. Members of the Sherbrooke chapter such as Sylvain Vachon had drug networks in French communities in Ontario. In September 1997 Vachon was arrested in Toronto, and numerous members of the SC appeared at the scene.

[714] It was admitted that on January 30, 1999, Stadnick and other HAMC representatives from all the Quebec chapters met with the PDR in Ontario.

[715] Minutes of a Canada Officers meeting in February 1999 reported that the East Coast was having good communication with Ontario clubs and going there regularly. Mr. Ouellette

testified that the East Coast was debriefing the whole country about its efforts with the Ontario clubs.

[716] It was admitted that on March 6, 1999, several members of the PDR met with representatives of the HAMC Montreal, Quebec City and Sherbrooke chapters, in Toronto. On July 10, 1999, the PDR hosted a party at Caesarea, Ontario. Stadnick and other Hells Angels from Quebec attended, along with some Montreal Rockers. Mr. Ouellette was present and saw Eugenio Reda of the PDR and Sylvain Vachon of the Sherbrooke HAMC chapter in discussion, but he did not know what was said.

[717] In August 1999 Stadnick and other representatives of the HAMC attended an event in Port Dover, Ontario, as did members of the PDR including Donny Petersen.

[718] It was admitted that on August 3, 1999, the police stopped a convoy of PDR in Quebec. One of the motorcycles bore a sticker that said, "Support your local Hells Angels Sherbrooke". Mr. Ouellette testified that the sticker was given out by that chapter to show support of it. Mr. Ouellette was present and gave directions to one rider who had a map with Sherbrooke marked. He noticed that the PDR representatives were wearing bottom rockers that said Ontario or Toronto. Previously the PDR did not wear a bottom rocker. According to Mr. Ouellette, this change showed an alliance between the PDR and the HAMC. The police saw the PDR representatives go on to Nova Scotia the next day with representatives of the Sherbrooke HAMC chapter.

[719] Minutes of an East Coast Officers meeting in January 2000 indicated that there was discussion about Ontario in which Stockford and representatives of the South and Sherbrooke chapters were involved.

[720] Minutes of a Canada Officers meeting in February 2000 indicated that the Montreal chapter reported that all major clubs on the east coast would be spoken to, and this was ongoing. According to Mr. Ouellette, this referred to a briefing of all major clubs on the east coast including Ontario. The minutes also recorded that the SC wanted to have a meeting about

coming closer to the HAMC. Mr. Ouellette testified that all of Canada was being advised, because everyone had to approve of the HAMC opening in Ontario.

[721] Photographs taken by Mr. Ouellette showed that on February 26, 2000, representatives of the PDR arrived at the HAMC South clubhouse for that chapter's anniversary. The president of the Toronto chapter of the PDR attended. According to Mr. Ouellette, chapters have anniversary parties throughout the year. Hells Angels across Canada are invited, along with some other clubs. This was not the first HAMC party at which Mr. Ouellette saw representatives of the PDR. Members of the Los Brovos did guard duty at this anniversary. They were then hangarounds for the HAMC Canada, serving the interests of the HAMC across Canada, but permitted to wear their own patch. A few weeks later, they did guard duty at Hamel's funeral. In July 2000 they received prospect chapter status.

[722] Mr. Ouellette testified that he saw things related to the PDR during a search of the Sorel clubhouse, including a piece of paper found posted in the watch room that listed the address and telephone number of the PDR Toronto chapter, and of Reda.

[723] Minutes of an East Coast Officers meeting in March 2000 recorded that the meeting in Ontario was very good. Malin of Sherbrooke was to get in touch with the Los Brovos to come to a motorcycle show in Toronto in March. He had criminal business in Manitoba and Ontario, according to Mr. Ouellette. All members of the Halifax chapter would attend a PDR party in Toronto before the Canada Run in Winnipeg in July.

[724] The OPP asked Mr. Ouellette to identify people who attended the motorcycle show in Toronto in March 2000. Mr. Lindsay was there from the PDR, doing guard duty with a member of the Los Brovos.

[725] It was admitted that members of the Los Brovos were patched over, and became prospects of the HAMC at the time of the Canada Run in July 2000. Stadnick, Stockford and Mathieu of the Quebec Nomads were present, along with several other Hells Angels from

Quebec and western Canada. Some members of the SC attended, and were seen in discussions with Stadnick, Stockford and Mathieu.

[726] Minutes of an East Coast Officers meeting in April 2000 indicated that someone met with André Watteel, the president of the SC, at the Toronto motorcycle show. Sylvain Vachon from the Sherbrooke chapter was looking into a report that colours were not allowed in Toronto bars. There was discussion about Ontario. A second set of minutes for the same date, but in French, recorded that there was discussion about the smaller clubs in Ontario, meaning those other than the PDR, SC and Vagabonds. Stockford would see the SC and tell them to “wake up”. Mr. Ouellette testified that the HAMC was not happy with the way the SC were doing things.

[727] Mr. Ouellette attended the funeral of Hamel, who was killed by the RM. It was a national funeral and Hells Angels from chapters across Canada were there. The Rockers and Los Brovos did guard duty. Mr. Ouellette testified that a funeral is an official HAMC function. People off the street cannot attend. Mr. Ouellette saw Kane arrive, driving Reda of the PDR. Reda and other PDR representatives were the only attendees who were not Hells Angels or affiliates, indicating that they were close to the HAMC.

[728] Minutes of a Canada Officers meeting in September 2000 recorded that the SC were at Saskatoon and Mission City HAMC anniversary parties. They had been invited, according to Mr. Ouellette. This was after their discussion with Stadnick in Winnipeg.

[729] Minutes of an East Coast Officers meeting in October 2000 indicated that there was discussion about the SC, PDR, and Vagabonds. Trois Rivières was going to a party with the SC.

Relationship between the HAMC and the Rock Machine

[730] The minutes of various meetings showed that the HAMC had concerns about the Bandidos over the years. Mr. Ouellette testified that they were first seen in Quebec in 1997, when the president of the Australian Bandidos visited, and the RM took care of him. In October 1997 the police interrupted a meeting of George Weggars, who was the international president of

the Bandidos, with a Danish Bandido who held Canadian citizenship, and members of the RM, in Quebec City.

[731] Minutes of a West Coast Officers meeting in December 1997 recorded that Weggars met with Stockford, Mayrand and Ciarniello. The meeting took place at the Peace Arch Park at the British Columbia/Washington border. According to Mr. Ouellette, the meeting was prompted by HAMC concern about the Bandidos' relationship with the RM. The RM had been like a clic when their war with the HAMC began. By affiliating with the Bandidos, they would rise to the level of an international club. Killing them would have international repercussions for the HAMC.

[732] A Canada Officers meeting in February 1998 indicated that it would be recommended to the World meeting that Weggars get the time he needed. Minutes of a West Coast Officers meeting some time in 1998 recorded that the World meeting agreed with Canada to wait for Weggars to make a decision. Minutes of an East Coast Officers meeting in July 1998 indicated that the Bandidos would answer on August 13. Minutes of an East Coast Officers meeting in August 1998 recorded that there had been no news from the Bandidos. The Nomads wanted British Columbia to pressure for an answer. Stockford would call Ciarniello, the British Columbia president. Minutes of a Canada Officers meeting in December 1998 recorded that Ciarniello set up a meeting with Weggars. In the opinion of Mr. Ouellette, the HAMC worldwide organization was very concerned about the Bandidos opening chapters in Canada. The HAMC had a monopoly over Canada, but if the RM became Bandidos, the HAMC would have to treat them at an international level. Weggars was delaying telling the HAMC whether the Bandidos were opening in Canada.

[733] Minutes of a Canada Officers meeting in February 1999 recorded concern about whether the Loners in Italy were connected to the Bandidos. The Loners had a chapter in Ontario and the Hells Angels were worried that if the Bandidos patched them over in Italy, it could happen in Ontario as well.

[734] Minutes of a Canada Officers meeting in June 1999 reported that the RM were wearing a patch in the reverse colours of the Bandidos. A photograph produced in these proceedings showed RM members wearing a RM Canada patch in gold and red, and a crest that read, "I support the Bandidos worldwide". According to Mr. Ouellette, this signified that the RM were in the process of becoming Bandidos.

[735] Minutes of an East Coast Officers meeting in January 2000 recorded that the Outlaws and the RM were together on New Year's Eve.

[736] It was admitted that Claude DeSerres, who worked as a drug trafficker for a member of the Montreal Rockers under the supervision of Robitaille of the Nomads, and who acted as an agent for the Quebec police, was murdered on February 3, 2000. Information about him was found on an OPP office's computer, which was stolen from his hotel room by members of a Hells Angels puppet club on instructions of the Nomads. Copies of photographs of RM members and other information from the computer were found when police executed search warrants at various HAMC clubhouses in Quebec. René Charlebois, a prospect of the Nomads, later pleaded guilty to the murder of DeSerres.

[737] Minutes of a Canada Officers meeting in June 2000 recorded that there were two new RM chapters in Ontario, and that a RM member told the media the RM was now a motorcycle club and would expand in Canada to force the HAMC to negotiate with it. The war had been going on for six years. This was the first expansion of the RM out of Quebec. In August, the RM opened a third Ontario chapter. Mr. Ouellette was present, and spoke to Faucher and Porter of the RM, who confirmed the RM's intention to open elsewhere in Canada. Mr. Ouellette saw Miller and Faucher wearing RM Canada patches.

[738] That same night, the HAMC Trois Rivières chapter had a party with the SC. This signified that the clubs were coming closer.

[739] On September 13, 2000, the Nomads attempted to murder journalist Michel Auger. Auger had written about the war and had linked the HAMC to the bomb that killed a child. After Auger was shot, there was a large public protest against the war.

[740] On September 26, 2000, Boucher, Mayrand, and Robitaille of the Nomads and the acting president of HAMC Quebec City chapter met with Faucher, Fernandez and other representatives of the RM at the Quebec City courthouse. Mr. Ouellette found out about the meeting when the security supervisor at the courthouse telephoned him. Faucher telephoned Mr. Ouellette that night, asking how he could get in touch with RM members in jail. He said that Boucher had made an offer, and he needed advice. Faucher told Mr. Ouellette who was at the meeting.

[741] Boucher offered the RM patch for patch if they joined the HAMC. The HAMC wanted to stop the war, because of the risk of losing assets under Bill C-24, and because of the public pressure. The RM representatives responded that the Hells Angels had a reputation of killing their own brothers, and said they would have to take a vote of all their members.

[742] The RM refused the offer on October 4 or 5, 2000. In an intercepted communication on December 7, 2002, Miller told his girlfriend that Boucher responded to the RM that the war would continue.

[743] According to Mr. Ouellette, another meeting of the HAMC and the RM was held on October 8 at a restaurant in Montreal. The HAMC invited a journalist and a photographer to the meeting. The media published a photograph of Boucher and Faucher. When everyone left the meeting, they made sure they were seen and checked by the police, so that information was disseminated that there was a truce. The truce was that the RM would not join the Bandidos, and would reconsider the Hells Angels' offer to be patched over, but in the meantime the RM would remain RM and everyone would keep their territory. After the truce, the police covered numerous meetings between the HAMC and the RM about territory.

[744] In an intercepted communication on November 27, 2002, Miller explained to his girlfriend that the Hells Angels offered the RM patch for patch to join the HAMC on the understanding that the RM could keep their business. It was hard for the RM to be sure about the sincerity of the Hells Angels, but ultimately in Miller's view this was the "poison pill" that destroyed the RM. To make such an offer to the RM, Boucher had to have the agreement of every HAMC member in Quebec.

[745] In an intercepted communication on December 7, 2002, Miller told his girlfriend that the expansion of the RM made the HAMC nervous. According to Mr. Ouellette, the HAMC printed out names of people who left messages about expansion on a RM website.

[746] On October 10, 2000, Boucher was re-arrested for murder, following an appeal to the Quebec Court of Appeal.

[747] Mr. Ouellette testified that he learned from members of the RM that in November 2000 some of their members travelled to Europe for a Bandidos run, and Weggars offered to make the RM probationary Bandidos. The RM voted that month to accept the Bandidos offer, except for Porter and Fernandez. In Mr. Ouellette's opinion, the RM wanted to stop the war, but they had more faith in the Bandidos than in the HAMC because they saw the latter as having killed their own brothers.

[748] Mr. Ouellette learned through an intercepted communication that on November 27 a member of the RM told Robitaille of the Nomads about the decision. Robitaille was not happy.

[749] Intercepted telephone calls on November 28 and 29, 2000, indicated that:

- Carroll told Stockford that things had changed with the RM. Mr. Ouellette opined that Robitaille passed on the information about the RM decision to others, and Carroll did not want Stockford to be caught in a situation where he could be killed;
- Mayrand arranged to meet with Weggars on November 29, 2000;

- Mayrand asked Giles to arrange for Ciarniello, the West Coast Secretary, and John Bryce, the president of the East End chapter, to go with him to the meeting. Mr. Ouellette testified that Ciarniello had spoken to Weggars in the past.

[750] It was admitted that Mayrand, Ciarniello and Bryce met with Weggars at the British Columbia/Washington border on November 30, 2000. The police conducted surveillance. According to Mr. Ouellette, Mayrand was concerned about the offer to the RM of probationary status in the Bandidos, because this would put the RM at the same level as the HAMC. It would introduce another international group to Canada.

[751] It was admitted that on December 1, 2000, the RM patched over to become probationary Bandidos, in Vaughan. Mr. Ouellette was there. Miller was among those present. Porter did not patch over. The patchover created five Bandidos chapters, Toronto, Kingston, Montreal, Quebec City, and the Nomads.

[752] It was admitted that on February 15, 2001, the police found sets of photographs of RM members who had joined the Bandidos, in a Montreal hotel room occupied by several Nomads, and in a car in which Mayrand was a passenger. Loaded handguns were found in each location.

[753] Mr. Ouellette testified that had the RM accepted the HAMC offer, the war would have been over. By joining the Bandidos, the RM were in a better position to negotiate the end of the war. To counter them, the HAMC patched over the Ontario clubs. This strengthened the HAMC position, and caused the demise of the Bandidos in Ontario.

The Creation of HAMC Chapters in Ontario

[754] In an intercepted telephone conversation on December 7, 2000, Mayrand told Mathieu to prepare 100 full patches with the bottom rocker Ontario, and another 40 Ontario bottom rockers. The disk to make the patches had to be sent to British Columbia, according to Mr. Ouellette.

[755] In another intercepted telephone conversation on December 7, Stockford told Mayrand the reaction in Ontario was very positive. Mr. Ouellette testified that Stadnick and Stockford had a drug network in Ontario and were well known there by the Ontario clubs. They were the driving forces behind the expansion into Ontario, so that they could expand their drug network. There had to be Canada-wide acceptance of the offer of a patchover to the Ontario clubs.

[756] It was admitted that on December 7, Stadnick and Stockford met with the president of the Last Chance in Toronto, and members of the PDR at the Woodbridge clubhouse. They then went on to Cambridge. Mr. Ouellette testified that the HAMC offer of patch for patch was made to the PDR, the SC, the Last Chance and the Vagabonds on December 7, and accepted by all the clubs but the Vagabonds. By patching over existing clubs, the HAMC sank the Bandidos. The HAMC covered most areas of Ontario, and put its chapters around those of the Bandidos.

[757] In an intercepted telephone conversation on December 12, 2000, Mayrand told Jacques Emond from the Sherbrooke chapter that Lorne Brown of the PDR would visit and present himself as an HAMC member.

[758] In an intercepted telephone call on December 12, 2000, Mathieu told Stockford that Weggars made a courtesy call to Mayrand. In Mr. Ouellette's opinion, Weggars called to say that the Bandidos patches were en route to Canada, and the club's presence was official.

[759] In an intercepted telephone call on December 15, 2000, Mathieu and Mayrand discussed when the new patches would arrive.

[760] In an intercepted telephone conversation on December 16, 2000, Mayrand told Robitaille that he went to see Porter, who would see Miller. Porter was sure that Miller would join the HAMC. Mr. Ouellette testified that Miller was the president of the Toronto RM and was at the December 1, 2000, patchover to probationary Bandidos status, but did not show up in January to receive his patch. In February 2001 he and the Toronto chapter joined the HAMC, and he became president of its North Toronto chapter.

[761] It was admitted that on December 29, 2000, the patchover of Ontario clubs the PDR, SC, Last Chance, and Lobos took place at the HAMC clubhouse in Sorel. Mr. Ouellette was present outside. Other officers made a video recording of individuals arriving, which was played in these proceedings. Montreal Rockers guarded the entrance to the clubhouse. Ontario bikers arrived by bus, cars and Winnebago. Mr. Lindsay and Mr. Bonner were among them. Mr. Lindsay was a full member of and Mr. Bonner a prospect for the PDR. Many members of HAMC Quebec chapters were present, including Stadnick, Stockford and the other Nomads. The journalists who were present at the truce meeting with the RM were invited to attend, and they gave information about events to the police. A total of 168 patches plus 11 prospect patches were given out that night. Ten chapters and one prospect chapter from Niagara were created in Ontario. Niagara was part of Stadnick's drug network, and he was primarily responsible for it, according to Mr. Ouellette.

[762] The night of the Ontario patchover, Mayrand told Mr. Ouellette that there would be a second wave of new members, consisting of the Vagabonds and Red Devils. This has not happened yet.

[763] It was admitted that in January 2001 a chapter in Thunder Bay was added, followed by a chapter in North Toronto in February 2001. In July 2001 the Niagara prospect chapter became a full chapter, and later an additional prospect chapter formed in London.

[764] According to Mr. Ouellette, intercepted communications indicated that Montreal, Sherbrooke and the Quebec Nomads were mainly responsible for creating the Ontario chapters.

[765] In an intercepted telephone conversation on December 30, 2000, Boucher spoke to Pierre Provencher from jail. Provencher was president of the Montreal Rockers and was at the patchover. They discussed the patchover with approval. Provencher said that he told Stadnick the latter's dream was real now. According to Mr. Ouellette, Stadnick and Stockford were behind the patchover. Boucher said it would take another two or three years, meaning to expand by taking over the remaining Ontario groups. Provencher said that more were coming, meaning

others in Ontario would realize they should join the HAMC. They discussed that the Bandidos would not be able to go to Ontario.

[766] In an intercepted telephone conversation on January 3, 2001, Boucher spoke to Louis Brochu, a member of the Sherbrooke chapter. They discussed that those who were patched over were good people. According to Mr. Ouellette, this meant good members for criminal activities.

[767] On December 30, 2000, McCrae sent an email to all national secretaries about the new Ontario chapters. It is a rule that information is sent to the national secretary, and he advises each chapter in his country. Every chapter name must be sent to the United States. All Ontario chapters would have the same anniversary dates as Montreal and Sherbrooke. This was because a new chapter usually has the same anniversary date as its sponsor. McCrae wrote that this had been in the works for many years and because of the situation in Canada, it would be explained at the World Officers meeting. According to Mr. Ouellette, with the war going on and Bill C-24 pending, McCrae did not want to put the explanation in an email.

[768] An email dated January 2, 2001, from the national secretary of Denmark showed pride in the number of new chapters and members, worldwide.

[769] A seized document dated January 23, 2002, entitled Support Clubs, criticized the use of support clubs in Ontario. It stated that “we were given the privilege to become Hells Angels after years of scrutiny by Quebec, Eastern Canada and Western Canada” and “we were told to continue on in the same manner”. It likely was written by John Pearce, the president of the West Toronto chapter. By that date, the HAMC had closed all support clubs in Quebec because of infiltration by police agents.

[770] In an intercepted telephone conversation on January 1, 2001, Carroll and McCrae discussed other countries’ favourable reaction to the Ontario patchover. Carroll said they got some “good guys”, and queried what he could teach to guys like John Gray, Bob Gray, or Lorne Brown. All three belonged to the Woodbridge chapter and had been bikers for a long time. According to Mr. Ouellette, the discussion referred to their knowledge about criminal activities.

[771] Photographs were produced in these proceedings of the members and associates of the West Toronto and Woodbridge chapters. They were accompanied by schematic drawings. Mr. Ouellette testified that this was to assist others in knowing the individuals.

[772] Mr. Ouellette testified that it is common for chapters to have cards listing pager numbers for members and associates that are reachable all the time. He identified a chapter card for the Woodbridge chapter that referred to Mr. Lindsay as “Tiger”, and Mr. Bonner as a prospect, “Ray”. Mr. Ouellette saw Mr. Bonner at a bike show in January 2001 wearing a HAMC prospect patch, and at an anniversary in January 2002 wearing a full patch. It was admitted that Mr. Bonner became a full member in March 2001.

[773] Mr. Ouellette testified that the address of the Woodbridge clubhouse begins with the number 81, which is a significant number to the HAMC. It is used in telephone numbers, on rings, and in signatures, for example McCrae signed as “Mike 81”. In cross-examination, he agreed that the Woodbridge clubhouse used to be a PDR clubhouse, so the number is a coincidence. In his opinion, it is useful to the HAMC.

[774] Mr. Ouellette was shown a North Toronto chapter card seized from Mr. Lindsay on his arrest. HAMC tradition is to list the president first, although this later changed to alphabetical order. Miller was the president of North Toronto.

[775] Members of the North Toronto chapter had been Outlaws, and then as of June 2000, RM Toronto. On December 1, 2000, they became probationary Bandidos, with their patches being given in January 2001. Miller was not there in January and did not get his patch. In February 2001 they became the HAMC North Toronto chapter.

[776] Minutes of an East Coast Officers meeting in February 2001 stated that the North Toronto chapter would be formed that night at the Woodbridge clubhouse, and would not have prospects for a year. This was because a new chapter is on probation for a year, this group had changed allegiances several times, and this was a way to control them. It was indicated that Woodbridge would take them under their wing, meaning the Woodbridge chapter would

supervise them. Woodbridge had been the Woodbridge PDR chapter. John Gray, Bob Gray and Lorne Brown were with the Woodbridge chapter.

[777] In an intercepted communication on December 7, 2002, Miller spoke with his girlfriend about opening the North Toronto chapter. He had to go to a Canada Officers meeting. Representatives of the Sherbrooke and Nomads chapters were not happy he was there, because they thought of him as a Bandido. He had to convince them that he never took the Bandidos patch.

[778] It was admitted that on March 2, 2001, Miller, John Gray, Robert Gray, Lorne Brown and John Gladding all met at the South chapter clubhouse. According to Mr. Ouellette, this was a Canada Officers meeting, and they were all officers of their chapters.

[779] Minutes of a Canada Officers meeting at the South clubhouse on March 2, 2001, stated that the North Toronto chapter had hangarounds but no prospects. Petersen was the Ontario secretary. His job was to gather all information about Ontario, and to collect money. He also was the media spokesperson. Representatives of the South chapter indicated that patch for patch was over, and they would continue the traditional Hells Angels way. Mr. Ouellette testified that this meant following the progressive steps from hangaround to prospect to member. The advantage to the organization was it allowed members to get to know new recruits, and teach them about the organization and the rules. Recruits could show that they were proficient at criminal activities, and good for the organization. The White Rock chapter indicated that it wanted the Ontario chapters to get their photographs out. Mr. Ouellette testified that this was so others knew the new members, and no one was fooled by someone falsely presenting himself as a Hells Angel. The minutes referred to keeping a good alliance with the Vagabonds, PDR, and Red Devils who did not join in the patchover, but could be part of a second wave. There was reference to the Ontario Loners forming the Loners in Italy. Later in June 2001, the Loners in Ontario became Bandidos to replace Miller's old Toronto chapter.

[780] Mr. Ouellette testified about the creation of the Ontario Nomads. In an intercepted telephone conversation on December 16, 2000, Mayrand told Robitaille that he went to see

Porter, and gave him a velour vest. According to Mr. Ouellette, the Quebec Nomads were patching over the Ontario Nomads. On December 19, 2000, Porter and others were given HAMC Nomads patches by Mayrand, and on December 29 they began wearing an Ontario bottom rocker.

[781] Porter became the president of the Ontario Nomads. Mr. Ouellette testified about that chapter's membership. Porter was a founding member of the RM Montreal, and a prominent RM member in the 1990s. According to Mr. Ouellette, he was involved in drug activities. He moved to the Ottawa area during the war, and was an assassination target of the HAMC twice. He influenced Miller to join the HAMC. Porter was arrested for carrying a gun in 2000 and convicted. Porter and others are facing drug-related charges in Quebec. Ouellet was a member of the Sherbrooke chapter who operated a drug network in the Ottawa area. He transferred to the Ontario Nomads in January 2001, and later went back to Sherbrooke. Goupil operated a drug network in Iqaluit, and transferred to the Ontario Nomads with Ouellet. Sauvageau was a RM member who was involved in drug activities in Montreal. He was with the Ontario Nomads until December 2003, when he transferred to Montreal. Langlois was a member of the RM Montreal who killed during the war. He became a HAMC member at the request of Porter, but was kicked out in 2003. Spezzano had been an Outlaw, and then a RM. Burns had been an Outlaw. LeClair was a member of the RM Montreal. He was in jail until 2002, and then bound by a non-association clause. He received his Ontario Nomads patch in 2003. Geneau was a prospect of the Ontario Nomads who came from Sherbrooke. Trudel was a prospect of the Quebec Nomads, who transferred to the Ontario Nomads as a member, and is now a member of the Montreal chapter. He was heavily involved in drugs in Ontario and Quebec.

[782] The agenda for an Ontario Presidents meeting in November 2001 stated that the Nomads were left with only five members. Mr. Ouellette testified that six were required. The group could borrow one from another chapter, or be under the tutelage of another chapter. Minutes of an Ontario Presidents meeting in December 2001 stated that the Nomads would report to Woodbridge. According to Mr. Ouellette, the Nomads could not make decisions without bringing them before the Woodbridge chapter. This continued until March 2002, when

the Nomads had seven members. Mr. Ouellette testified that the Ontario Nomads are involved in criminal activities, but agreed in cross-examination that they have not been convicted of offences in Ontario.

[783] Mr. Ouellette testified that the Niagara prospect chapter had not been an outlaw motorcycle club. Its members were not known, so their photograph bore full names, which is unusual. Mr. Ouellette identified a Niagara chapter card found in Mr. Lindsay's possession.

[784] In intercepted communications on December 7, 2002, Miller talked to his girlfriend about John Coates and Eric Jacques, who were transferred to Niagara from London in the summer of 2002. Previously they had been members of a Sherbrooke clic, according to Mr. Ouellette. By the date of this conversation, Coates was out of the Niagara chapter, but Miller expressed concern that he was being allowed back into Niagara's clubhouse.

[785] In an intercepted telephone conversation on April 3, 2001, McCrae and Lorne Brown discussed Stadnick's arrest in Jamaica. Brown said that John Gray sent someone from Niagara to check Stadnick's house. McCrae suggested sending someone from Niagara to Jamaica to assist Stadnick's wife. According to Mr. Ouellette, Stadnick was Niagara's sponsor. McCrae dealt with East Coast matters because he was the secretary.

[786] Minutes of an Ontario Presidents meeting in March 2001 referred to the Niagara prospects as doing better. Mr. Ouellette testified that to gain full status, members of a prospect chapter visit other chapters so they become known. In the minutes, other chapters commented on Niagara's progress.

[787] Mr. Ouellette testified that the London prospect chapter opened in April 2001. It was sponsored by George Beaulieu of the Sherbrooke chapter. He sent John Coates and Eric Jacques to London. Coates and Jacques were involved in drugs and violent activities for the Sherbrooke chapter. It was admitted that in October 1999, Coates was stopped by police in a car in the Woodbridge, Ontario area. He was in possession of a loaded gun and related paraphernalia, as well as items linking him to the Sherbrooke chapter of the HAMC, and information about

members of the Loners. He was convicted of various offences, including conspiring to commit an assault causing bodily harm on a member of the Loners. According to Mr. Ouellette, Coates and Jacques had been sent to kill certain Ontario bikers.

[788] Mr. Ouellette testified that when the London prospect chapter opened, the Outlaws were in that city. Establishing a presence in London ensured that the Outlaws did not interfere in HAMC activities there.

[789] Minutes of an Ontario Presidents meeting in March 2001 indicated that the North Toronto chapter would be allowed prospects, which would permit Miller to oversee the London prospect chapter.

[790] On March 2, 2001, 122 people were arrested in projects Rush (concerning the Nomads), Ocean (concerning suppliers to and buyers from the Table), and Bobcat (concerning the Evil Ones). These projects were compendiously known as Operation Springtime. Some members of the Sherbrooke chapter were arrested. Mr. Ouellette agreed in cross-examination that these arrests decimated the influence of the Nomads in Quebec.

[791] The agenda for an Ontario Presidents meeting in January 2002 stated that the London prospects would be eligible for membership after April 2002, as they had been prospects for one year.

[792] Minutes of an Ontario Presidents meeting in February 2002 stated that Coates and another London member were to attend each Presidents meeting. Mr. Ouellette testified that this was to make sure London followed the rules.

[793] The Agenda for an Ontario Presidents meeting in April 2002 stated that Coates apologized, and said he wanted to conduct himself with Ontario attitude. Miller said in intercepted communications that Ontario attitude was different from Quebec. If the Quebec Hells Angels wanted to start a chapter in Ontario, they did it even though it might conflict with the views of the Ontario Presidents.

[794] Minutes of an Ontario Presidents meeting in April 2002 stated that the overseer of the London prospects had promised them a patch within months. According to Mr. Ouellette, this was a reference to Beaulieu, who made his living from criminal activities. All Ontario clubs were on probation for one full year after the patchover in December 2000, even though Central Canada was created as an administrative region in the meantime. Beaulieu had no more interest in London after Ontario reacted to him telling London that it was not to bother with Ontario. He then left London to the Ontario Presidents to manage. They looked for volunteers to move to London because six members were needed. The minutes referred to a 100% vote on London being required. According to Mr. Ouellette, this meant that everyone had to be in favour of making London a full member chapter.

[795] In an intercepted telephone conversation on February 3, 2002, Coates told Miller that London was closing its clubhouse. Coates said it was too public, and London was passing a bylaw against fortified places. Mr. Ouellette testified that the clubhouse had been raided twice and was attracting too much attention. By late February, the police did not know the location of the clubhouse. Miller and Coates talked about the Sherbrooke chapter splitting. According to Mr. Ouellette, there were internal problems in Sherbrooke, and some members left and opened an Estrie chapter. It closed in July 2002, and everyone came back to Sherbrooke.

[796] In their telephone conversation, Miller and Coates referred to Quebec attitude. According to Mr. Ouellette, the attitude of the Quebec Hells Angels is if they have something in mind, they go for it and ask questions later, whereas the Ontario Hells Angels will ask questions first, and then make a decision. Coates said that Ontario's biggest problem was individualism. Miller explained that there had been so many Ontario clubs, and so many people who just did what they wanted. According to Mr. Ouellette, this is not the way things work in the HAMC. Minutes of meetings showed the East Coast Officers reminding Ontario about HAMC rules and traditions. Some of the main players in the expansion into Ontario such as Stadnick were in jail, so others like Ciarniello had to take over and ensure that Ontario followed the rules. For example, Miller had to contact Petersen when something was stolen from the London clubhouse.

[797] In June 2002 Ontario opened a Richmond Hill chapter. It disbanded in December 2002.

[798] In June 2002 Ontario decided to open chapters in Hamilton, Guelph, and Pickering once there were enough members. Minutes of an Ontario Presidents meeting in June 2002 stated that Kitchener might want to start a chapter in Guelph, the Richmond Hill chapter was approved, and the Pickering chapter was approved to open when Oshawa was ready. Minutes of an Ontario Presidents meeting in August 2002 indicated that London, Pickering, Hamilton, and Sudbury chapters would happen when the time was right.

[799] In an intercepted telephone conversation on May 16, 2002, Donny Petersen, the Central Canada Region secretary, told Miller he wanted to see him, he had a proposal for him. Miller was in a chapter meeting. He had to leave the meeting to go to see Petersen. Mr. Ouellette testified that very little was said in the telephone conversation. This is consistent with the way members talk to each other on the telephone.

[800] In Mr. Ouellette's opinion, not everything is recorded in minutes of HAMC meetings. Miller referred to this in his February 3, 2002, conversation with Coates.

[801] Minutes of an Ontario Presidents meeting in June 2002 stated that a decision was made to form a London chapter, Miller was trying to find a new clubhouse, and other chapters were to donate members to London. Chapters were to send members to London weekly, to provide a strong presence. Mr. Ouellette testified that in July 2002 a sign reading "Hells Angels Ontario" appeared on the old clubhouse.

[802] It was admitted that on July 4, 2002, Miller was seen at a hotel in Vaughan with others including Coates, and Beaulieu of the Sherbrooke chapter. The purpose of the meeting was to determine if Coates or Miller would take control of the London chapter. Miller took control, and Coates transferred to Niagara.

[803] In an intercepted communication on December 12, 2002, Miller told his girlfriend that the question was asked in Quebec whether anyone was allowed to be without a clubhouse, as

North Toronto did not have one, and the answer was no. He told her that he and another member were asked to go to London, but the latter declined. Miller was told that if he did not go, someone would be sent in, and he would have no say. He told his girlfriend that Quebec would fast track somebody else in there, because they know it is huge business. Miller said he was a PDR member 20 years ago and was sponsored by John Gray, now of the Woodbridge chapter. Mr. Ouellette testified that the Woodbridge chapter supervised North Toronto when it formed, because Miller and Gray knew each other. Miller referred to the Quebec mentality, which Mr. Ouellette testified was to believe in one's superiority to everything, and to use violence first and ask questions later, in order to advance the goals of the HAMC and gain a monopoly over a province. Miller said it was attractive to be a London Hells Angel, it was not like there was no money. Miller referred to Sherbrooke's involvement in London. Mr. Ouellette testified that the Sherbrooke chapter is in the drug business.

[804] Mr. Ouellette testified that Miller was arrested in a drug investigation in December 2002.

[805] Mr. Ouellette testified that the HAMC and its members are heavily involved in the drug business and the stripper business.

[806] According to Mr. Ouellette, it is an unwritten HAMC rule that members must give the club 10% of their gross from criminal activities. He explained that the SC had the same rule, and the HAMC told the Ontario clubs to keep on doing their same business, so in his opinion the HAMC applied the 10% rule to its Ontario chapters.

[807] The agenda for an Ontario Presidents meeting in November 2001 stated that Miller was to update the presidents about the Jackals, as he oversaw London. It was stated that support clubs were needed in every major Ontario city. Mr. Ouellette testified that some cities did not have HAMC chapters, so support clubs were needed there to gain a foothold. This was part of the "Big Squeeze", meaning to leave no space for the Bandidos or Outlaws in Ontario.

[808] Mr. Ouellette testified that the Jackals of St. Thomas, who were affiliated with the London prospect chapter, formed with the influence of the clic associated with the Sherbrooke chapter. This demonstrated the influence of Beaulieu, Coates, and Jacques. The Jackals wore a logo similar to that of the Sherbrooke clic.

[809] Minutes of an Ontario Presidents meeting in December 2001 stated that members of the London Outlaws support club had joined the Jackals. By taking in the Outlaws, the Ontario Hells Angels created potential problems worldwide. The American Outlaws were upset, and Petersen had to explain matters to Sonny Barger.

[810] After the Ontario patchover, probationary Bandidos chapters continued to exist in Ontario. There was no violence between them and the HAMC, because any move by the Hells Angels in Ontario had international repercussions, as the Bandidos were another international organization.

[811] In July 2002 a hangaround of the East Toronto chapter was shot in Quebec. Mr. Ouellette testified that the individual was involved in the importation of steroids. The shooting had the hallmarks of a HAMC killing, and there was no HAMC funeral. This signified that it was an internal “hit”. In an intercepted communication on December 7, 2002, Miller told his girlfriend about the shooting.

[812] It was admitted that Mr. Lindsay attended a motorcycle show in Peel Region on January 6, 2001, wearing a jersey bearing the name “Sherbrooke” on the sleeve. Mr. Ouellette saw Mr. Bonner and also Stadnick at the same show. It was admitted that in March 2001 Mr. Lindsay visited a HAMC chapter in Massachusetts, wearing his colours, which had a right side front rocker reading “World” and a left side front rocker reading “Sherbrooke”.

[813] A document with 25 points, headed “Things to Bring Up for meeting” accompanied the minutes of an East Coast Officers meeting in February 2001. Mr. Ouellette testified that the new chapters needed to be informed of HAMC rules and guidelines. These included a requirement to keep club information, minutes and guidelines in a safe place, so that the police

and other organizations would not find them; a prohibition against using the SS or swastika symbols because of the World Rule for the Germany Brothers; a prohibition against talking about Canada politics when travelling, meaning no discussion of HAMC business; and a prohibition against sending faxes or emails about members kicked out or new prospects, because of concern the police were getting these documents. Mr. Ouellette testified that because the Ontario patchover did not follow HAMC tradition, the Ontario chapters had to be taught the Canadian and world rules. Ontario was constantly reminded of the rules.

[814] Minutes of a Quebec Officers meeting in March 2001 indicated that there was discussion about how fast the move was made in Ontario.

[815] Minutes of an East Coast Officers meeting in February 2001 indicated that as of January 2001 there were two probationary Bandidos chapters in Ontario, in Toronto and Kingston. Mr. Ouellette testified that Miller was the President of the Bandidos Toronto chapter, which in February 2001 became the HAMC North Toronto chapter. In June 2001 the Loners of Woodbridge became the Toronto Bandidos to replace the missing chapter. Although in December 2001 the two probationary chapters became full member chapters, the Bandidos did not expand in Ontario. In June 2002 about 60 Bandidos in Quebec and Ontario were arrested in Project Amigos, and the main members were jailed. This damaged the Bandidos organization.

[816] Mr. Ouellette testified that in August 2003 HAMC members in jail convinced Bandidos members in jail to merge, and most Bandidos joined the HAMC. Those who did not transferred to the Toronto Bandidos, and the two Quebec chapters closed. Toronto was then the only Bandidos chapter in Canada. In September 2003 the Toronto Bandidos opened a probationary chapter in Edmonton. In September 2004 the Toronto Bandidos opened a probationary chapter in Calgary. In October 2004 both those probationary chapters merged with the HAMC, leaving Toronto as the only Bandidos chapter in Canada.

[817] Minutes of an Ontario Presidents meeting in 2002 noted that former Kingston Bandidos wanted to become RM and support the HAMC. The Ontario Nomads were in that area. After December 2000, there were no RM chapters in Canada, because the RM took

probationary Bandidos patches. Other than this reference, Mr. Ouellette had seen no reference to the re-emergence of the RM. There is no RM group now.

[818] The Loners had chapters in Ontario, Italy and Colorado. After the Ontario clubs patched over to the HAMC, the Loners continued to exist. They had turned down the HAMC offer to be patched over. In June 2001 the Loners of Woodbridge became probationary Toronto Bandidos.

[819] Minutes of an Ontario Presidents meeting some time in 2002 referred to someone wanting to resurrect the Loners as a support club for the HAMC. It was indicated that the HAMC would have to agree, and there would be no Ontario bottom rocker. The only club that wore an Ontario bottom rocker was the HAMC.

[820] Minutes of an Ontario Presidents meeting in June 2002 stated that the Loners website would say, "Support Red and White", referring to the HAMC. Mr. Ouellette testified that this never came about.

[821] The agenda for an Ontario Presidents meeting in November 2002 referred to negotiations between Woodbridge, Petersen and Italy about the Loners there being a support club for the HAMC in Italy.

[822] Fernandez got his HAMC patch in December 2000, and died in January 2001. Mr. Ouellette testified that even though Fernandez was a former RM, he had a HAMC funeral, because he was then a brother. The police photographed Ontario members John Foote and Zavisla Drecic at the funeral.

[823] The police took photographs of the opening of the Halifax clubhouse and McCrae's anniversary in May 2001. Many Hells Angels from Quebec and other provinces were there. Miller, Lindsay, Petersen, John Gray and others from Ontario attended. This was a few months after the Springtime arrests in March. It was the first time since the arrests that Quebec Hells Angels were seen wearing their patches.

[824] In June 2004 the police photographed Ontario members John Gray and Foote at the Trois Rivières clubhouse, with members of the Sherbrooke chapter.

[825] Mr. Ouellette identified a number of items found in Mr. Lindsay's possession on his arrest, including a list of faxes for every HAMC chapter in the world, bearing the stamp of the Montreal chapter; a list of Hells Angels members and associates in British Columbia; various chapter cards including those of Woodbridge, London, Niagara, Sherbrooke and Halifax; a membership list for the Evil Ones Outaouais all of whom were jailed in Project Bobcat; photographs of Mr. Lindsay wearing Hells Angels regalia with other HAMC members and associates including Miller; and photographs of Mr. Lindsay wearing Hells Angels regalia taken in the Liechtenstein clubhouse, and in Austria where all HAMC patches used to be made.

[826] Two large rings were seized from Mr. Lindsay on his arrest. One was embossed "Hells Angels Sherbrooke", and the other "Hells Angels Woodbridge". Mr. Ouellette testified that the rings indicated that the wearer is a member of the HAMC. The fact that Mr. Lindsay wore HAMC regalia bearing the name Sherbrooke indicated that he had a special relationship with the Sherbrooke chapter.

Revitalization of the HAMC in Quebec

[827] Stadnick and Stockford were convicted on June 23, 2004. The major trials arising out of Springtime were finished by then. There are only five people remaining to be tried.

[828] Mr. Ouellette testified that after the Springtime arrests, members of the Sherbrooke, Trois Rivières and South chapters took over the drug operation. They formed a new Table for loan-sharking and money laundering. The main activities of those chapters now are drugs, prostitution, money laundering and loan-sharking.

[829] In 2002, the police investigated the Quebec City chapter. It was heavily involved in drugs. In February 2002, five of its 25 members were arrested and pleaded guilty under the anti-gang legislation with respect to their activities in Quebec and New Brunswick. In November 2002, four of 20 Trois Rivières members were arrested for drug matters. They had taken over

the activities of the Quebec Nomads. The Sherbrooke chapter was investigated for loan-sharking. The Sherbrooke members who had a drug network in Ontario continued on, and are still involved in the business. As fast as the police investigate them, members of one chapter are replaced with members of other chapters. There is constant renewal, according to Mr. Ouellette.

Opinion

[830] Mr. Ouellette testified that he read the French version of Wolf's book on the Rebels. He regards it as authoritative. Wolf rode with the Alberta Rebels in the late 1970s and early 1980s. At that time the HAMC were only in Quebec, and Mr. Ouellette has no information that Wolf interacted with them. The Alberta Rebels became Hells Angels in July 1997 along with the Grim Reapers, and in September 1998 the Saskatchewan Rebels became Hells Angels. Wolf did not ride with the SC, the PDR or the Vagabonds, but he talked about these groups in his book and Mr. Ouellette regards his comments about them as authoritative.

[831] Mr. Ouellette applied some of Wolf's conclusions to the HAMC. He agreed with Wolf's statements that wearing colours can be as effective as a cocked shotgun, brothers will always protect brothers, and the patch told outsiders that if you start a fight with the club, you lose. Mr. Ouellette agreed with Wolf's statements that the reputation for violence of outlaw bikers renders them able to suppress enemies, and that reputation is a marketable commodity. According to Mr. Ouellette, the reputation of the HAMC is the same. In the Canadian community, the HAMC patch means violence. It creates fear and insecurity. That reputation is deliberately promoted by the HAMC. For example, the organization's New York City website, which was displayed during these proceedings, warns that those who use the HAMC name or logo will be hunted down and hurt. Mr. Ouellette testified that at Boucher's trial in 1998, the Crown surveyed prospective jurors, and 82% of them said they did not want to act as a juror because they feared the HAMC would go after them. In the opinion of Mr. Ouellette, that fear extends beyond the province of Quebec, because the HAMC is an international organization.

[832] Mr. Ouellette agreed with Wolf that because of the way motorcycle clubs are set up and structured, they are ready-made for crime. They avoid police infiltration. For example,

signs in clubhouses remind members to be as secretive as possible, and to keep their criminality inside the club.

[833] Mr. Ouellette was cross-examined about Wolf's statement that the Rebels were not professional criminals, in that while some dealt in drugs on a personal basis, the Rebels had chosen not to follow the path of criminality. Mr. Ouellette testified that he did not accept everything that Wolf wrote as authoritative. While that may have been true of the Rebels at the time Wolf rode with them and even though they were a one percenter club, they had the rules and structure of a puppet club rather than an international club. They did not operate at the same level as an international club. Mr. Ouellette maintained his opinion that the international one percenter motorcycle clubs are involved in crime. The Rebels could change their rules, and by 1982 the Edmonton Rebels had a relationship with the HAMC.

[834] Mr. Ouellette expressed the opinion that the main purposes or activities of the Hells Angels in Canada constitute the commission of serious criminal offences that afford a material benefit to its members. Using the HAMC power, logo, and name assists the Hells Angels in Canada in their criminal activities, because of the feeling it creates in citizens, and the people the Hells Angels deal with. Hells Angels must give 10% of their criminal profits back to the organization. In Quebec he has seen reference to 10% of criminal proceeds going back to the organization in the course of projects Rush and Ocean, the debriefing of informants, minutes of meetings of puppet clubs of the Montreal Hells Angels, and videotapes of chapter meetings of the Rockers. The SC in Ontario had the same rule. As ten SC chapters joined the HAMC, it is his opinion that the Hells Angels in Ontario have the same 10% rule. The international outlaw motorcycle clubs are all about money.

[835] Mr. Ouellette was of the opinion that one of the main purposes or activities of the Hells Angels in Canada is to facilitate the commission of serious criminal offences that afford a material benefit to its members. When a Hells Angel wears the HAMC insignia, he does not have to say a thing. He creates fear and insecurity by what he wears. Hells Angels are jealous of their name and image, because it is a benefit for members and the organization.

[836] Mr. Ouellette testified that he had no evidence of the commission of crimes in Ontario. He had no evidence of any Hells Angels committing murder in Ontario, unlike in Quebec. However, he stated that becoming part of the HAMC is to become part of a big organization. It is a huge opportunity that he likened to winning the jackpot.

Testimony in Other Cases

[837] Mr. Ouellette was cross-examined about his testimony in other cases. He said that anytime a Crown attorney asked, he prepared a Will Say. In *R. v. Malec*, he was not asked to provide a Will Say. He had a pre-case interview with the defence counsel, which was taped. In that case, he said that he could not answer whether he dislikes the Hells Angels, that it is nothing personal, and “It’s a game. I do my job and they do their job”. He explained that saying “it’s a game” is a French expression.

[838] While defence counsel in that case was interviewing him, he saw a Hells Angels support sticker in the lawyer’s briefcase. He told the lawyer it might not be professional to have it. The lawyer tore it up, and they laughed about it. The next day Mr. Ouellette lectured to police in Leduc and told them about the incident, but he denied that he said the lawyer was associated with the Hells Angels. To the extent this allegation was made about him by a witness in the *R. v. McCurrach* case, he explained that he had never been asked to testify and give his own account of the incident.

[839] Mr. Ouellette was to testify as an expert witness in *R. v. McKay*. The same defence counsel who was involved in *R. v. Malec* suggested to the judge that Mr. Ouellette stood behind counsel table at a break and appeared to be reading counsel’s notes. The judge told Mr. Ouellette to leave the courtroom. Mr. Ouellette denied that he had behaved as alleged. He explained that he was not given a chance to respond before the judge told him to leave the courtroom. When he returned to court later to testify as an expert witness, there was a change. He testified, but not as an expert witness. The *McKay* case is not listed in his curriculum vitae. He explained that this is because he was not called as an expert witness. He agreed in cross-examination that his *curriculum vitae* refers to testimony given as an ordinary witness in other cases.

Mr. Ouellette's Media Comments

[840] As a result of information that came to the attention of defence counsel after all the evidence in the case had been completed and closing submissions had begun, I permitted Mr. Ouellette to be recalled for further cross-examination.

[841] Mr. Ouellette agreed that after he finished testifying, he rendered an account to the Crown for 355 hours of work at a fee of \$100 per hour, which was in addition to 228 hours that he had previously billed, for a total of 583 hours. He explained that when he was asked about his expert witness fee during his earlier cross-examination, he had not known that his hours would exceed 400.

[842] Mr. Ouellette agreed that on January 5, 2005, after he completed his testimony, he gave a lecture to students in a political science course at Concordia University. The lecture was videotaped and posted on a university website. He agreed that a previous lecture he gave to the students in September 2004 was not posted on the website, but explained that it was because that lecture did not cover material that was examinable, unlike the material covered in the January 2005 lecture. He was confronted with a comment he made to the students in January, that the September lecture was not posted on the website because he had answered questions and he did not want his answers on the website and in court. He agreed in cross-examination that he made the comment, but the main reason the September lecture was not posted was that the content was not examinable. Any concern that he had about court was about court cases in general, and not this trial in particular, even though he knew in September that he was to be called as an expert witness in these proceedings.

[843] Mr. Ouellette agreed that during the January 2005 lecture he made the following comments, for which he gave explanations:

- Regarding a court case concerning the Bandidos in which he will be testifying, “their job is to be smarter...to avoid me to arrest them...it’s a game”.
- The two weeks that he spent giving testimony in these proceedings was worth it, because if “we’re” successful it will be easier to charge “these guys” under the criminal

organization legislation. Mr. Ouellette explained that he used “we” because he was referring to the system rather than to himself personally, meaning the population as a whole, and he is part of the system. He conceded that he wants this prosecution to succeed, because of the consequences across the country.

- It is not illegal to be a member of the Hells Angels for now, but if “we’re” successful in this case, it is going to be easier to make it so. Mr. Ouellette testified that he is personally convinced that the HAMC is a criminal organization, but the decision in the case is up to the judge. He believes that he is an objective witness.
- The crime in this case was extortion, “they” were wearing t-shirts, buckles and boots with the name Hells Angels on them, one was just wearing the stuff and did not say a word, “we” have to prove guilt just by wearing the stuff. He saw no problem in speaking to the students about the case, although he knew that whether extortion was committed was a live issue in these proceedings. He was updating them since he last saw them in September, and there was no publication ban in force. He got information from the newspapers. He never spoke to a police officer or prosecutor about the details of the case.
- “We” need to prove an infraction in the clubhouse, any “shitty” infraction. Mr. Ouellette testified that he was referring to the requirements to obtain forfeiture of a clubhouse, and that he meant that any infraction committed there would suffice.
- Toronto Hells Angels went to a patchover in Russia, they have access to a world network of criminals. In his opinion, by being Hells Angels, members have access to that network. He is aware from research he did in 1992 that large numbers of Hells Angels worldwide have criminal records. Although he is not factual about Ontario, he was aware before he retired that 80% of Ontario Hells Angels members and prospects had criminal records. He also was aware of arrests of Hells Angels and police searches that occurred in recent weeks.
- The 227 chapters and 2500 members of the HAMC are autonomous, they share only the HAMC organization and logo, their only obligation as a chapter is to pay yearly for the name and the logo, and every chapter is self-sufficient in criminal activities. Every

chapter is autonomous and run by a numbered company. His opinion is that every chapter is self-sufficient in criminal activities, and can choose the activities in which it wants to be involved. There are no written rules ordering chapters to be involved in criminal activity.

- If “we’re” successful, it will change the picture. Mr. Ouellette agreed that he would consider it a success if the accused were convicted, meaning a success for the system. It may help other provinces to use the anti-gang legislation in prosecutions.
- He was able to testify in these proceedings based on conversations with Boucher, Petersen and others. He last spoke to Petersen in June 2004, about a court case involving Petersen, and about Emond of the Sherbrooke chapter.
- It is one man, one vote, and it is an unwritten rule that members pay the club 10% of their criminal activities each month. One man, one vote is an international rule. The 10% rule applies in Quebec, and was a rule for the SC in Ontario, most of whom joined the HAMC.
- After an investigation is finished, “I’ll” jump in. This is a reference to when he was a police officer. He became involved after the investigators collected their evidence.
- Everybody has a will, and life insurance payable to the club. When a member dies, the club buries him. Mr. Ouellette saw these documents as a result of search warrants executed in Quebec.
- When someone is kicked out. “I” expect him to give “me” a call, and “I” will pass him to an investigator. Mr. Ouellette testified that he was referring to the period when he was a police officer. The students knew he is retired.
- Everybody is autonomous, they all have their own networks, and they use the name and the reputation of the Hells Angels to achieve their criminal goals. When he mentioned autonomy during the lecture, he meant there is autonomy to choose the criminal activity to be involved in, but it must be done under the umbrella of the organization and according to the written and unwritten rules.
- A billboard posted on the Don Valley Parkway was shown with the address www.ontariohellsangels.com and the logo for Hells Angels World, and Mr. Ouellette

commented, “Because of the case in Barrie they’re scared to death to be recognized as a criminal organization”. It is Mr. Ouellette’s opinion that the Hells Angels do not want to be recognized as a criminal organization, although he has no factual basis for this opinion. He took from the presence of the Hells Angels World logo that it was the HAMC worldwide that was sending the message.

- A cartoon of the Hells Angels was shown during his lecture. He showed it because the Hells Angels try to sanitize their image, but yet they commit murder and sell drugs.

[844] On February 2, 2005, Mr. Ouellette was a guest on a Toronto radio program. He was asked what the Hells Angels in Ontario were planning or what they would get into. He replied, “We will have to wait and see”. He did not want to answer that question on the radio, as he is not factual about the matter. If the Hells Angels in Ontario break the law, the police response will provide the answer.

[845] Mr. Ouellette testified that Detective Constable Hoath asked him if he had given any interviews or media presentations concerning the Hells Angels in Ontario other than the February 2005 radio interview. He did not mention that he left comments in the voicemail box of a Toronto Star newspaper reporter in December 2004, after he finished testifying. He explained that he did not consider that an interview. The reporter asked him for the name of the Hells Angel who shook hands with former Mayor Lastman, and he provided it. Although the newspaper reported that he said, “Toronto is so unusual...the mayor shook hands...you have a billboard...what the hell is going on in Toronto”, he did not recall saying more than, “What’s going on in Toronto”. This was a comment about a billboard that had been put up in Toronto around that time.

G. The Evidence of Dr. Howard Abadinsky

Qualifications

[846] Dr. Howard Abadinsky is a professor of criminal justice and legal studies at St. John’s University, Jamaica, New York. Previously he was a professor at Saint Xavier University, Chicago, Illinois where he taught for 22 years. Throughout his career, his field of study has been

professional and organized crime. Dr. Abadinsky is the author of *Organized Crime*, now in its seventh edition. It is a leading university text on organized crime and criminal organizations. It explains the existence and structure of organized crime, and examines organizations such as Colombian cartels, American crime families, Chinese triads, and outlaw motorcycle clubs including the Hells Angels.

[847] Dr. Abadinsky is the author or co-author of other books, including *Understanding Crime: An Introduction to Crime Theory*, which explores theories of criminal behaviour, and *The Criminal Elite: Professional and Organized Crime*, which is a study and comparative analysis of people involved in professional crime and organized crime. He is the author of a number of journal articles and encyclopedia entries.

[848] All of Dr. Abadinsky's publications have been peer reviewed.

[849] Dr. Abadinsky is the founder of the International Association for the Study of Organized Crime, a group of investigators, prosecutors, and academics. He is a member of the advisory board of the *Encyclopedia of International Organized Crime*.

[850] In addition to his knowledge of criminal organizations generally, Dr. Abadinsky has examined outlaw motorcycle clubs, and specifically the HAMC. He has an understanding of the nature and characteristics of motorcycle clubs, and the HAMC in particular.

[851] Dr. Abadinsky has never testified in Canada concerning the Hells Angels, or been qualified in Canada as an expert on them.

[852] The Crown agreed to pay Dr. Abadinsky a fee as an expert witness, of \$100 U.S. per hour, to a maximum of 100 hours.

[853] Dr. Abadinsky was permitted, without objection by the defence, to give expert opinion evidence about the nature and characteristics of criminal organizations, and whether one of the main purposes of the Hells Angels as an organization is the facilitation of serious criminal offences that afford a material benefit to its members.

The Characteristics of Criminal Organizations

[854] In the course of his studies, Dr. Abadinsky identified eight common characteristics of criminal organizations. He agreed that this is a theoretical construct that can be applied to more than one group. He testified that a group can be a criminal organization even though it does not possess each of these characteristics. However, if there is no evidence of involvement in criminal activity, then the group does not fit the theoretical construct.

[855] The first characteristic is that the group is non-ideological, meaning any involvement in a political cause is for self-interest, rather than higher ideals. The group acts out of pecuniary self-interest, to advance its own economic interests, or for status, meaning to be viewed as successful, envied and perhaps feared in the culture where it exists. The Yakuza of Japan is an exception because it is very ideological, supports right wing political issues, yet it is highly territorial and controls gambling activities.

[856] The second characteristic is that the group is hierarchical. Dr. Abadinsky requires a hierarchy of at least three permanent positions, meaning they are not dependant on a particular person holding them at any given time. Hierarchy can be bureaucratic/corporate, or patron/client. The first is a very formal structure, like police forces. The second is a less formal structure, with individuals connected by kinship, or an oath that binds them to the organization, like political parties. A criminal organization tends toward one or the other, and may combine both aspects. Outlaw motorcycle clubs are bureaucratic/corporate entities, while American crime families are patron/client in structure.

[857] The third characteristic is limited or exclusive membership. The group is careful about who it admits to membership. It needs to exclude people who may be a threat to its security, such as the police. It also needs to exclude those who are not up to membership and can damage its reputation as an organization capable of protecting its members and its members capable of protecting the organization.

[858] The fourth characteristic is that the organization perpetuates itself. It is worth the effort to a potential member to join, as the group will exist in the future. Most criminal

organizations Dr. Abadinsky has studied have been in existence for decades. Often the strength of an organization depends on the charisma and ability of a single person. The test of the organization is whether it survives once that person is no longer available.

[859] The fifth characteristic is that the group exhibits a willingness to use illegal violence and bribery. Legitimate organizations do not have this willingness. The only limitation on violence and bribery in a criminal organization is practical, not ethical.

[860] The sixth characteristic is that the group demonstrates a specialization or a division of labour. Individuals assume specialized activities within the organization, and use their skills to advance the ends of the organization. In Colombian cartels, for example, responsibilities are divided for functions such as transportation and enforcement.

[861] The seventh characteristic is that the group is monopolistic. The organization attempts to dominate a territory, an industry or both. It tries to reduce competition to increase profits. For example in gambling, if competition can be restrained, odds can be set at non-competitive rates and profits improved. Drug trafficking is more difficult because it is an easy entry business, and a lot of violent resources need to be expended to try to restrain trade, so criminal organizations often try to reach accommodations with one another.

[862] The eighth characteristic is that the group is governed by explicit rules and regulations. Rules such as non-cooperation with law enforcement are indicative of criminal organizations. Rules may be written, or implicit and verbally transmitted. Rarely are they written, because of fear of interception of them by law enforcement. Unwritten rules may be more important than written ones. An example is the HAMC prohibition on accepting anyone as a member who had applied for a law enforcement position. This runs contrary to conventional society, where members of law enforcement are respected, not excluded. In Sonny Barger's book, the author stated that it was not good to make the "no drug burns" a written rule, because it allowed law enforcement to argue that the essence of the HAMC was drug dealing, so it no longer appears in the written rules. Barger wrote that the purpose of the rule was to say to members if you make a deal, go through with it. Dr. Abadinsky testified that in the criminal

world, a reputation for violence is everything. If two parties have an equal ability to do violence one to the other, there is a balance of power and business arrangements can be made between them. But if an organization has a fearsome reputation based on its willingness to use violence, as the HAMC does in his opinion, then people may not want to do business with it out of concern about being “ripped off”. A rule prohibiting drug burns is a kind of insurance policy for anyone in the drug business. The Hells Angels are saying it is safe to do business with us.

[863] According to Dr. Abadinsky, the significance of a reputation for a willingness to use violence is that in the criminal world, it is the only way to protect against being victimized by others. The organization’s reputation is an insurance policy that others will carry out their end of business transactions with it.

[864] He regards Wolf’s research on the Rebels as reliable, and his book as authoritative. He agrees with Wolf that an outlaw biker’s reputation for violence is a marketable commodity. The reputation is the insurance policy that facilitates illegal transactions.

[865] The communication of a reputation for violence is significant to criminal organizations. The nature of the recruitment process indicates the nature of the individuals who belong to the group. The reputation is known within the subculture. The popular media also help to promote that reputation. In the case of American crime families, the media have communicated the reputation as violent entrepreneurs. Colombian cartels promote their reputation for violence through extreme acts. Barger’s book indicates that the HAMC is a dangerous and violent organization.

Application of the Characteristics to the HAMC

[866] Dr. Abadinsky applied the eight criteria to the HAMC.

[867] The HAMC is primarily non-ideological. There is nothing in the minutes of meetings about an ideology that would transcend the organization’s activities. There is emphasis on patriotism, which might be considered ideology, so there are some ideological aspects, but it is not a primary motivator for the HAMC. The essence of the HAMC is to promote the ability of

its members to gain status in the outlaw biker subculture, and to promote a lifestyle that deliberately confronts conventional lifestyles. There is an outlaw biker subculture in the United States, and elsewhere including Canada, that involves the mocking of conventional behaviour, the use of symbols that raise distaste in conventional society to promote an anti-conventional lifestyle, and a willingness to engage in violence. The more violent the individual, the higher his status in the outlaw biker community. The achievement of higher status is motivated by ego, but there is a utility to it, in that the person can engage in criminal activities he could not without that status and affiliation with the organization.

[868] He agrees with Wolf that wearing colours means the power of the club becomes part of an individual's personal force. Minutes of HAMC meetings showed a preoccupation with defending the death head logo. Barger alluded to it in his book. Usually something is copyrighted because there is pecuniary interest in it, but the HAMC will not allow money to be made from its death head logo. Although paraphernalia with the words "Big Red Machine" on it is sold, the death head is not subject to sale to anyone who is not a Hells Angel. Dr. Abadinsky believes that the value of the logo is that it represents and inspires fear to those who recognize it as the symbol of the HAMC. The logo indirectly provides pecuniary benefit, because it intimidates competitors and provides an insurance policy in business dealings.

[869] Dr. Abadinsky was shown the back of the jacket made Exhibit 6 in these proceedings. He stated that it was not a set of colours, and he had not seen anything like its format before. The HAMC death head symbol is in the middle, and also on the front. The death head is linked to the HAMC reputation for violence. A skull alone has implications, in that it is a scary symbol. It comports with the HAMC reputation for violence. If non-members were allowed to use the symbol, it would dilute the organization's reputation for ferocity, and the symbol would lose its inherent intimidating value.

[870] Dr. Abadinsky testified that the official structure of the HAMC, or the public face of the organization, is hierarchical, and like a corporation. The criminal activities of its members is not structured in the same manner. There is a firewall between the public face of the organization, and the private side, meaning the criminal activity. The corporate face of the

organization does not direct members' criminal activities. There are partnerships and groupings of members participating in criminal activities. It is a networking model reminiscent of patron/client relationships, and similar to the American Mafia. The basic qualification for membership in the American Mafia is involvement in criminal activities, but theoretically one could become a member and not engage in criminal activity. The organization does not direct members into particular criminal activities. Members do, however, use their affiliation with the organization to carry out criminal activities that could not occur were it not for that affiliation. There are members who moved illegitimate profit into legal business, and are so successful at legitimate business they no longer need to engage in illegal activities. Nonetheless the member is a career criminal, and if directed by the leadership to commit a crime he could not say no. The absence of criminal convictions for some Mafia members is not determinative of whether the organization is criminal in nature. Some individuals are more successful at eluding conviction than others.

[871] Similarly, the HAMC hierarchy does not direct members to engage in criminal activity. The organization is, however, a kind of umbrella under which members use their affiliation with it to engage in criminal activity they could not otherwise carry out. As well, the organization provides members with an element of credibility. There is an entrepreneurial advantage to the organization's logo.

[872] Dr. Abadinsky agreed that members commit criminal offences on an independent basis. Some may choose to commit no crime. In response to a suggestion made in cross-examination that there is a degree of autonomy among members, Dr. Abadinsky responded that it is difficult to conceive of an organization where there is not some level of autonomy, other than a prison.

[873] The public face of the HAMC aids members in their criminal activities. The HAMC leadership will call on members to come to the aid of another member, whether he is legally or morally right or wrong. Barger referred in his book to the HAMC credo, one on all, all on one, and said the HAMC is a select brotherhood of men who will fight and die for each other no matter what the cause. This is a valuable asset for anyone wanting to engage in criminal

activities. The organization selects members based on a willingness to engage in violence, and ensures that all will come to the individual member's aid, whether he is right or wrong. The hierarchy will mobilize the brotherhood to protect the individual even though the transaction involved is criminal. The public face of the HAMC is "we stick up for our own, right or wrong".

[874] The HAMC has an exclusive membership. It is not in the bylaws or minutes of meetings that a person needs to commit crimes to become a member, but a person who behaves like a boy scout would not be trusted enough to be voted into the organization. The HAMC do not want anyone interested in law enforcement as a member. They do not want conventional people. Additionally, the aspirant might not have got law enforcement out of his system, and would be a threat to members' criminal activities. The response to cooperation with law enforcement to the detriment of the organization will be violence. This maintains discipline over cooperation.

[875] Dr. Abadinsky agreed with Wolf that outlaw motorcycle clubs are preadapted as vehicles of organized crime, because they are capable of enforcing discipline, there is cohesion and mutual dependency, and anti-establishment attitudes are present. Infiltration of the club by a police officer is a virtual impossibility, because of the lengthy socialization required to become a member. Dr. Abadinsky testified that while the HAMC did not originate to perpetuate criminal activities, its structure and attitudes lends itself to them. Being an outlaw biker provides a credential that the individual is safe to deal with in crime, and being a Hells Angel provides an insurance policy against being "ripped-off".

[876] The HAMC conforms to the fourth criteria, to perpetuate itself as an organization. It has met the test of time, in that it was founded after World War II and still exists.

[877] A willingness to use bribery is a feature of a criminal organization, because compromising the criminal justice system provides enormous rewards for the group. It is a means of protecting members against the criminal justice system. Bribery may not be achievable, but it is the willingness to engage in it if available that is a characteristic of a criminal organization.

[878] A willingness to use violence is linked to an economic benefit. Once a reputation for violence is established, actual violence with all of its dangers may not have to be used. It becomes a given. For that to occur, there must be communication of the organization's reputation for violence. Dr. Abadinsky testified that Barger himself wrote that the HAMC is a violent organization, and that is what its symbol, the death head, stands for.

[879] The HAMC publicly demonstrates a division of labour. Members have titles, and individuals have responsibilities, for example for security on a run. Dr. Abadinsky testified that he was not familiar with specialization of the HAMC in private.

[880] The HAMC is monopolistic. It attempts to dominate based on geography, and industry, for example in drug trafficking in a particular area. It exerts territoriality over an area, in that it will not allow another of the major clubs to open a chapter there, or patch over an exiting club, without violence. In the minutes made exhibits in these proceedings, there is concern expressed about the Outlaws and the Bandidos. Legitimate groups do not care about other organizations setting up in the same area, but outlaw motorcycle clubs see it as a challenge and go to extremes to protect their turf.

[881] Dr. Abadinsky testified that there are two reasons for this. There is a sub-cultural dimension to territoriality. It would be a blow to the club's reputation in the outlaw sub-culture to allow another group to operate in its territory. There also is a business dimension. If another club is in the same territory, there will be competition for criminal opportunity. Excluding competition makes it easier to secure greater levels of profit. Dr. Abadinsky's inclination is that with the HAMC, the sub-cultural dimension is more important than the business dimension.

[882] The HAMC has rules and regulations. The difference between a legitimate organization and an illegitimate organization is the consequences for breach of the rules. In a legitimate organization, the individual is thrown out, but in a criminal organization the individual is killed.

Opinion

[883] As the Hells Angels organization presently exists, one of its main purposes is the facilitation of serious criminal offences that afford a material benefit to its members. The extensive involvement in crime, as indicated by convictions of its leading members in the United States and elsewhere could not be just by chance. Affiliation with the HAMC provides a member with opportunities for criminal activity at a level that would not otherwise be possible. Membership provides networking with individuals involved in criminal activity, and the ability to form business enterprises on a national and sometimes international basis. Membership also provides an entree into criminal activity in that the member has been certified as safe to deal with. Further, the organization is a form of intimidation, which is very important for a member's survival in the predatory world of criminal activities.

The Hells Angels in Ontario

[884] Dr. Abadinsky testified in cross-examination that he received the Crown disclosure in this case, and met with law enforcement representatives about it. He did not know when the HAMC chapters in Ontario were created, or the number of chapters in Ontario, or the name of the Ontario law enforcement unit that deals with the HAMC. He did not know the number of cases involving the Hells Angels that are before the courts in Ontario, or the number of HAMC members incarcerated in Ontario, or the number of HAMC members in Ontario.

[885] Until the members of a group are involved in criminality, it cannot be a criminal organization. He had no knowledge of the Hells Angels being involved in criminal activity in Ontario. He was not aware of the existence of the Woodbridge chapter of the HAMC. Before he could say that the Woodbridge chapter of the HAMC is a criminal organization, the members would have to commit crime.

H. The Positions of the Parties

[886] Crown counsel provided detailed written submissions, in addition to oral argument by Mr. Cameron. Counsel for both Mr. Lindsay and Mr. Bonner relied on oral submissions only.

[887] The Crown submits that the HAMC is a criminal organization under s. 467.1(1) of the Criminal Code. While the original impetus for establishing the HAMC may not have been the pursuit of organized criminal activities, the club has evolved such that in its present form, the facilitation of illicit business and criminal profit for its membership are primary among its purposes.

[888] The primary position of the Crown is that the HAMC constitutes a group that has as one of its main purposes or activities the facilitation of serious offences for the economic benefit of its membership. The secondary position of the Crown is that the HAMC constitutes a group that has as one of its main purposes or activities the commission of serious offences for the economic benefit of its membership. The Crown relies on the testimony of the experts, and the related evidence. The Crown asserts that the smallest subset that should be considered as the “group” under s. 467.1(1) is the HAMC as it exists in Canada.

[889] The Crown relies on the “in association with” branch of s. 467.12(1), and argues that that element is satisfied by the manner in which Mr. Lindsay and Mr. Bonner chose to present themselves to Mr. M.

[890] The Crown submits that the HAMC facilitates the commission of serious criminal offences by its members in three ways. The first is its deliberately fostered reputation for violence. That reputation has two elements: the willingness of its members to engage in violent and aggressive acts, and the retaliatory power of the organization if one of its members is attacked. The organization administers its reputation as an economic asset, refining it when necessary to ensure that it is an advantage and not an obstacle to the ability of its members to pursue illicit economic activity such as drug trafficking. The evidence demonstrates that members use the reputation as a business tool, drawing on it to achieve direct or indirect economic benefit, but lowering their profile when necessary to sidestep unwanted public scrutiny.

[891] The second way in which the HAMC facilitates the commission of serious criminal offences by its members is by its strategic territorial expansion in Canada for the economic

benefit of its membership, and to the detriment of its competitors. The evidence shows that the organization's purpose in procuring additional territories was to further criminal activities by its members, particularly drug trafficking. The principal mechanism used to acquire new territories in Canada has been the assimilation of existing outlaw motorcycle clubs. The evidence establishes that securing control over Ontario and its lucrative drug markets was a longstanding goal of the HAMC. When the war with the RM in Quebec over drug trafficking territories in the Montreal area led that group to align itself with the Bandidos and open chapters in Ontario, the HAMC determined to assimilate the existing major clubs in Ontario, and squeeze out rivals such as the RM, to take control of the province. That plan was completed successfully by the HAMC.

[892] The third way in which the HAMC facilitates the commission of serious criminal offences by its members is through its operational structure and basic tenets. The structure of the organization is centralized and para-military, enabling it to maintain internal discipline over its membership. It assigns territories to its chapters, within which members may carry out illicit activities. Although there is a structure with regional, national and world levels, this is for administrative purposes only. Chapters, regions and countries do not operate as autonomous entities. The organization strictly maintains written and unwritten rules. Many of them have nothing to do with motorcycling. Some of the written rules are antithetical to conventional organizations. The unwritten rules primarily govern criminal activities of members. The rules are enforced by sanctions for their breach, which can include physical beatings and even death. The evidence shows that Canadian chapters, including those in Ontario, adhere to the rules. Additionally, the organization's scrupulous screening and graduated membership processes enable the HAMC to resist infiltration by law enforcement. The evidence shows that the Ontario chapters adhere to the same membership process and have the same security concerns as chapters elsewhere in Canada and around the world. The organization provides an umbrella under which members can network and form partnerships with "brothers" who can be trusted. The organization fosters a high degree of communication and cooperation among its members, through regular meetings and a system of information sharing.

[893] The Crown asserts that there is a substantial body of evidence about organized criminal conduct by HAMC members in Canada that is relevant to its secondary position. This includes the evidence about the war with the RM in Quebec, the sophisticated drug trafficking operation that was uncovered by the police there, the involvement of prolific drug traffickers such as Stockford and Stadnick in the organization's expansion into Ontario, and the close ties between HAMC chapters and members in Ontario and those in Quebec.

[894] The Crown submits that on January 23, 2002, Mr. Lindsay and Mr. Bonner wore the primary symbols of the HAMC to Mr. M's home. They presented themselves not as individuals, but as members of an organization with a reputation for violence and retaliation. Other allusions to the organization were made on January 31, 2002, when Mr. Lindsay spoke of the consequences of not receiving the money he sought. It is the position of the Crown that by deliberately invoking their membership in the HAMC to inspire fear during the course of their threats, Mr. Lindsay and Mr. Bonner committed the offence of extortion in association with a criminal organization.

[895] On behalf of Mr. Lindsay and Mr. Bonner, defence counsel submit that the "group" to be considered is not the HAMC as it exists in Canada, but rather the HAMC as it exists in Ontario. Defence counsel contend that the Crown failed to prove that this group is a criminal organization.

[896] On behalf of Mr. Lindsay, Ms. Bojanowska submits that the Crown failed to call any expert evidence about the nature and activities of the Hells Angels in Ontario. The evidence of the experts who were called should be given no weight. The expert witnesses spoke mainly about Quebec. They were unable to give specifics about the activities of the HAMC in Ontario. The evidence may show that the HAMC in Quebec is a criminal organization, but it has no bearing on whether the HAMC in Ontario is a criminal organization. There was no evidence that large numbers of Ontario members had been convicted of, or even charged with criminal offences. There was no evidence of the violence that occurred in Quebec happening in Ontario. After the arrests of HAMC members in Quebec, it was other Quebec chapters that took over drug trafficking networks, not the Ontario chapters. There was no evidence that the Ontario chapters

were benefiting from the proceeds of crime, or that the Quebec chapters were sponsoring them financially. Rather, the minutes referred to Ontario members and chapters having difficulties with their financial obligations. There was evidence of the Hells Angels making efforts to defeat the intimidating nature of the patch, through activities such as toy runs.

[897] Further, there was evidence that while world rules must be followed, countries, regions, chapters and members do enjoy a degree of autonomy. The patchover of the Ontario clubs, for example, was a breach of HAMC tradition. Each chapter has its own bank account, and administers its own defence fund. Unwritten rules can vary from one chapter to another. Staff Sergeant Lemieux and Mr. Ouellette agreed that there are differences in attitudes between Ontario and Quebec members. On the evidence, the HAMC does not function as an integrated whole.

[898] Ms. Bojanowska argues that the evidence of Mr. Ouellette is suspect. He lacked the impartiality and independence of an expert witness. His lecture at Concordia University revealed that he sees himself as a stakeholder in these proceedings. He wants to see Mr. Lindsay and Mr. Bonner convicted. His explanations for comments he made, including why his earlier lecture was not webcast, were contradictory and ridiculous. It was misleading for him to say that his message for the Toronto newspaper reporter was not an interview. His comment went beyond the question the reporter had asked him. In court he did not want to adopt the answer he gave on the radio when asked about the Hells Angels in Ontario, because it was an admission that the HAMC in Ontario is not a criminal organization.

[899] Ms. Bojanowska submits that the evidence shows that the HAMC in Ontario is independent and autonomous. There is a lack of evidence that its members engage in criminal activity.

[900] Ms. Bojanowska further submits that the Crown failed to prove that Mr. Lindsay acted in association with a criminal organization. She argues that section 467.12(1) has an implicit requirement that the accused commit the substantive offence with the intent to do so in association with a group he knew had the composition of a criminal organization. The accused

must do something active to associate himself with the criminal organization. It is her position that Mr. Lindsay did not wear the “bomber” jacket on January 23. Even if I find that he did, the evidence was that Mr. M. saw the logo only by chance as Mr. Lindsay turned around. It was unintentional on the part of Mr. Lindsay. There was no evidence that Mr. M. saw any Hells Angels paraphernalia on Mr. Lindsay on January 31. Mr. Lindsay made no mention of the Hells Angels on either January 23 or 31. Rather, he spoke about wanting “his” money back. He did nothing active on either date to associate himself with the HAMC.

[901] On behalf of Mr. Bonner, Mr. Irving additionally submits that the expert evidence should be given no weight. Staff Sergeant Lemieux had to use the binder of typed notes as an aide memoire while he testified, and inserted his own handwritten notes into it. He was simply following a script of the Crown’s theory, rather than giving evidence as an impartial expert. He conceded a degree of autonomy within the HAMC, and that there are differences between Ontario and Quebec, but he otherwise resisted suggestions that were contrary to his theories. He had no evidence to give about criminal acts being committed by Hells Angels in Ontario. His evidence had nothing to do with Ontario.

[902] Detective Sergeant Roberge was qualified only as an expert concerning the Hells Angels in Quebec. He had no evidence to give about the Hells Angels committing crimes in Ontario. He too conceded the existence of autonomy.

[903] Dr. Abadinsky agreed that in order to apply his theoretical construct to a group, one would need evidence of criminal activity. There is no such evidence about the Hells Angels in Ontario.

[904] Mr. Irving argues that the evidence of Mr. Ouellette lacked objectivity and professionalism. At times his evidence was misleading, and there are indications of bias on his part. For example, he claimed that he had spoken to certain HAMC members, whom he had simply seen. During his lecture at Concordia University, he spoke as if he were still a police officer. He gave irrational explanations for some of the comments he made during that lecture. Mr. Grys added that Mr. Ouellette was disingenuous in accepting part of Wolf’s book as

authoritative, but rejecting other parts that did not support the Crown's theory. When asked certain questions about criminal activities of the Hells Angels in Ontario, he answered, "Not yet", as if to suggest that the police just have not caught them. He did not reveal the true amount of his retainer until he was caught out in cross-examination. His evidence lacks reliability and credibility.

[905] Mr. Irving emphasizes that Mr. Ouellette agreed that he had no evidence to give about criminal activities by the Hells Angels in Ontario. He conceded that the criminal activity of one chapter has nothing to do with the criminal activity of another.

[906] Mr. Irving argues that the experts took the position that all one percenter motorcycle clubs are criminals, and that the HAMC is a worldwide network imbued with a criminal nature. That position cannot be reconciled with the evidence about autonomy within the HAMC.

I. Analysis

Overview

[907] Section 467.12(1) creates the offence of "committing an indictable offence for a criminal organization".

[908] Under s. 467.12(1), it is an indictable offence for a person to commit

- an indictable offence under the Criminal Code or any other federal statute
- for the benefit of, at the direction of, or in association with
- a criminal organization.

[909] The offence is punishable by a maximum of fourteen years' imprisonment.

[910] Section 467.12(2) provides that it is not necessary for the prosecutor to prove that the accused knew the identity of any of the persons who constitute the criminal organization.

[911] In this case, the Crown relies on the "in association with" branch of s. 467.12(1).

[912] The term "criminal organization" is defined in s. 467.1(1) to mean

- a group, however organized, that
- is composed of three or more persons in or outside Canada, and
- has as one of its main purposes or main activities
- the facilitation or commission of one or more serious offences, meaning an indictable offence under the Criminal Code or other federal statute punishable by a maximum of five years' imprisonment or more, or another offence prescribed by regulation
- that would likely result in the direct or indirect receipt of a material benefit, including a financial benefit
- by the group or any of the persons who constitute the group.

[913] A group of persons that forms randomly for the immediate commission of a single offence is specifically excluded from the definition of “criminal organization”.

[914] Under s. 467.1(2), facilitation of an offence does not require knowledge of the particular offence, or that an offence is actually committed. Commission of an offence is defined in subsection (3) to mean being a party to it, or counselling any person to be a party to it. Subsection (4) authorizes the making of regulations prescribing offences as “serious offences”.

[915] The onus is on the Crown to prove each element of the offence under s. 467.12(1) beyond a reasonable doubt.

[916] There is no dispute that the offence of extortion with which Mr. Lindsay and Mr. Bonner are charged is an indictable offence under the Criminal Code. The matters that are in issue are the scope of the group involved, whether that group constitutes a criminal organization, and if it does, whether the extortion was committed in association with the criminal organization.

[917] I will consider each of these issues in turn.

The Expert Evidence

[918] The expert opinion evidence in these proceedings was based on a mix of hearsay and non-hearsay information. The non-hearsay information included events that the experts witnessed, extensive admissions of fact made pursuant to s. 655 of the Criminal Code, minutes of meetings the admissibility of which was not challenged by the defence, the notes and utterances of Dany Kane that were ruled admissible under the principled exception to the hearsay rule, intercepted communications that were ruled admissible for a limited purpose, and passages from texts that the witnesses accepted as authoritative. The hearsay information included events described by the witnesses to which they were not privy, and various documents reviewed by the witnesses such as documents found in the possession of HAMC members other than Mr. Lindsay or Mr. Bonner.

[919] Hearsay evidence is admissible to show the information on which an expert opinion is based, but it is not admissible to prove the truth of the facts stated. There is *no* requirement that each and every fact relied on by the expert must be independently proven before the entire opinion can be given any weight. The weight attributable to the expert testimony is, however, directly related to the amount and quality of admissible evidence on which the opinion relies. The more the expert relies on facts not proved in evidence, the less weight may be attributed to the opinion by the trier of fact: see, *R. v. Lavallee* (1990), 55 C.C.C. (3d) 97 (S.C.C.).

[920] Each of the four expert witnesses testified that one of the main purposes or activities of the Hells Angels organization is to facilitate the commission of serious criminal offences by its members, with Detective Sergeant Roberge referring specifically to the HAMC in Quebec.

[921] Staff Sergeant Lemieux and Mr. Ouellette also testified that one of the main purposes or activities of the Hells Angels in Canada is the commission of offences relating to drug trafficking. Detective Sergeant Roberge agreed with this view in respect of the Hells Angels in Quebec.

[922] In general, I accept the evidence of Staff Sergeant Lemieux, Detective Sergeant Roberge, and Mr. Ouellette. Each of them has spent years of their professional careers investigating the operations of outlaw motorcycle clubs in general and the HAMC in particular,

in Canada and/or the province of Quebec. Their evidence was detailed and comprehensive. Their expert opinions took into account a large body of non-hearsay evidence. They provided specific references drawn from their own investigative work and the materials filed in these proceedings, to ground and illustrate their opinions.

[923] Staff Sergeant Lemieux is a veteran member of the RCMP. He has spent the majority of his career investigating and studying outlaw motorcycle clubs, with a particular focus on the HAMC. As a National Coordinator concerning outlaw motorcycle clubs at Criminal Intelligence Service Canada for eight years, he received and analyzed information from law enforcement and government agencies in Canada, and also internationally. He also received and reviewed information from former members of the Hells Angels. As an investigator, he was involved in physical surveillance, listened to intercepted communications, and participated in searches of HAMC clubhouses in Quebec. He testified, and I accept that throughout his career he scrutinized the information that he received to ensure its reliability, and made it a practice to confirm information by contacting multiple sources. Staff Sergeant Lemieux reviewed the disclosure provided to the defence, including documents and other materials filed in these proceedings, before he testified.

[924] Staff Sergeant Lemieux gave his evidence in a straightforward manner. He made reference to specific information throughout his testimony, and did not simply speak in generalities. Rather than attempting to embellish his testimony, he acknowledged at times that he had insufficient information to provide an opinion.

[925] Staff Sergeant Lemieux was frank in admitting that he had no direct knowledge about the Hells Angels in Ontario. This does not mean that his opinions are deserving of no weight. His evidence is relevant to the operation of the HAMC in Canada. Further, the exhibits contained a quantity of information about the Hells Angels in Ontario, to which Staff Sergeant Lemieux's opinions can be applied.

[926] I have considered Staff Sergeant Lemieux's use of notes during his testimony. Although at first blush this seemed unusual, it became obvious as his lengthy and detailed

testimony unfolded that it involved reference to a mass of information, including the many volumes of documents filed in the proceedings. I accept his explanation that he used the typed notes as a guide to avoid omitting information he thought was necessary to illustrate his opinions. While he did not prepare the typed notes, he testified and I accept that they consisted of information already known to him, as opposed to constituting a script for his testimony. The notes were disclosed to defence counsel, and no objection was taken to Staff Sergeant Lemieux referring to them, until the issue of the handwritten annotations arose. The annotations were his own, and again I accept that their purpose was to remind him of matters he intended to mention during his testimony. He did not breach any court order by reviewing and annotating the notes during the breaks in his testimony.

[927] Detective Sergeant Roberge was an impressive witness. For fourteen years he worked exclusively on the investigation of outlaw motorcycle clubs in the province of Quebec, including the HAMC. His mandate included the war between the HAMC and the RM and their respective affiliates. He gathered and analyzed information, and participated in major police projects including Project Rush. One of his roles was to deal with and evaluate information provided by informants and agents. He dealt with approximately 50 such individuals, including Dany Kane. He spoke with witnesses, conducted surveillance, and participated in searches of clubhouses and residences. He testified that he made it a practice to verify information that he received from others.

[928] Detective Sergeant Roberge gave his evidence in a precise and careful manner, without overstatement.

[929] Detective Sergeant Roberge did not testify specifically about the Hells Angels in Ontario. His evidence is important, however, in understanding the nature and operation of the Hells Angels in Quebec, and the context for the patchover of members of Ontario clubs. His opinions about the Hells Angels in Quebec are relevant to an assessment of the operation of the Hells Angels in Canada. His opinions can be applied to the body of information about the Hells Angels in Ontario.

[930] Mr. Ouellette exhibited an encyclopedic knowledge about the Hells Angels. His evidence was particularly detailed. From 1994 until 2001 he spent 100 per cent of his professional time as a police officer in Quebec on outlaw motorcycle clubs including the HAMC, as an investigator, intelligence officer and expert adviser. He was involved in investigating the war between the HAMC and the RM and their respective affiliates. He assisted other officers throughout Quebec, and elsewhere in Canada, because of his knowledge about the HAMC. He testified by invitation before both the House of Commons and Senate Committees on Bill C-24.

[931] Mr. Ouellette testified that he sought independent confirmation of information he received, to ensure that it was factual.

[932] Mr. Ouellette conceded that he had no specific information acquired as an investigator about the activities of the Hells Angels in Ontario. This does not mean that his opinions are deserving of no weight. His evidence is relevant to the operation of the Hells Angels in Canada. Further, the exhibits contained a quantity of information about the Hells Angels in Ontario, to which his opinions can be applied.

[933] I have considered all of the matters raised by the defence as grounds to reject Mr. Ouellette's testimony. Three of them caused me to approach his evidence with caution.

[934] Unlike Staff Sergeant Lemieux and Detective Sergeant Roberge, Mr. Ouellette is no longer employed as a police officer. He initially charged a fee in excess of \$50,000 for his involvement as an expert witness in this case. There is nothing inherently wrong about an expert witness being paid for the work necessarily involved in preparing an opinion, and testifying to it in court. The quantum of the expert's fee, however, may raise questions about his or her objectivity. It may well be that Mr. Ouellette's fee is justifiable given the length of his testimony, and the amount of background material he reviewed. The fact remains that the amount of his fee is significant.

[935] Second, Mr. Ouellette obviously has taken steps to use the expertise he acquired as a police officer to launch a new career as a media commentator. There is nothing inherently

wrong with this. However, the fact that Mr. Ouellette participated in a Toronto radio program, and provided information to a Toronto newspaper reporter while this trial was ongoing is of some concern, as it suggests an interest in self-promotion at odds with the role of an expert witness.

[936] Third, Mr. Ouellette's comments during his January 2005 lecture at Concordia University, particularly his use of the pronoun "we" in his references to these proceedings, suggests that he identifies with the prosecution. He conceded in cross-examination that he wants the prosecution to succeed.

[937] Notwithstanding these concerns, I determined to accept Mr. Ouellette's evidence in large measure, for three reasons. First, his testimony exhibited detailed and exhaustive knowledge about the Hells Angels. Second, on various occasions, he declined what might have become opportunities to embellish his evidence, and instead responded to questions by stating that he had insufficient reliable information to provide an answer. Third, his testimony is consistent with that of Staff Sergeant Lemieux and Detective Sergeant Roberge in many respects.

[938] Dr. Abadinsky is an academic who has studied and lectured about professional and organized crime for more than two decades. He is the author of many publications in this field of study, including a leading text on organized crime. It is now in its seventh edition, and is used in universities throughout North America. He is the founder of the International Association for the Study of Organized Crime.

[939] Dr. Abadinsky has studied the nature and operations of major criminal organizations around the world, including the four principal outlaw motorcycle clubs. He is familiar with and knowledgeable about the HAMC. As a result of his studies, he identified eight characteristics that he uses to measure whether a group should be characterized as a criminal organization. He concluded that the HAMC satisfied these criteria.

[940] Dr. Abadinsky testified in a forthright manner. He was able to illustrate his opinions with specific references to the HAMC. He was candid in admitting that he was not

knowledgeable about the specifics of the operation of the Hells Angels in Ontario. Although he charged a fee for his involvement as an expert witness, it was relatively modest. In general, I accept his evidence.

[941] Dr. Abadinsky's construct does not constitute the definition of a criminal organization under the Criminal Code. The features that he identified, however, are useful in understanding the operation of the HAMC, and permit the drawing of inferences about the main purposes and activities of the HAMC from the body of evidence adduced during the trial.

The Scope of the Group

[942] The indictment did not specify the group alleged to be the criminal organization. At all times, counsel understood that the Crown took the position that it was the HAMC as it exists in Canada, while the defence contended that it was appropriate to consider only the HAMC as it exists in Ontario.

[943] I am satisfied beyond a reasonable doubt on the evidence that the scope of the group is the HAMC as it exists in Canada. Evidence about the manner in which the Ontario chapters of the HAMC were created, the adherence of Ontario chapters to Canada as well as world rules, policies and practices, the relationship of Ontario chapters to others in Canada, and the recognition of Canada as an entity at the world level all support this conclusion. Ontario, also known as the Central Region, is an administrative subdivision of the larger entity. The fact that it, like individual chapters, and individual members, enjoys some degree of autonomy does not render it autonomous. As Dr. Abadinsky testified, it is difficult to conceive of an organization where there is not some degree of autonomy, other than a prison.

[944] I am conscious that the relevant time frame for consideration of the HAMC in Canada is the period in January 2002 specified in count two of the indictment. Events before and after that date are relevant, however, in establishing the character of the group at that time.

[945] The evidence is clear and the Crown has established beyond a reasonable doubt that during that period in January 2002, the HAMC in Canada consisted of many more than three

members in Canada. This also was true of the HAMC in Ontario. The defence raised no issue about this.

The Facilitation of One or More Serious Offences

[946] I am satisfied beyond a reasonable doubt that during the relevant time period, the HAMC in Canada had as one of its main purposes or main activities the facilitation of one or more serious offences that would likely result in the receipt of a financial benefit by its members, in particular drug trafficking.

[947] The concept of “facilitation” in s. 467.1(1) is broader than the actual commission of an offence. Like the concept of conspiracy, it does not require that a substantive offence actually be committed.

[948] The word “facilitate” has a clear meaning. It is defined in *The Concise Oxford English Dictionary (10th ed.)* to mean, “make easy or easier”. *Black’s Law Dictionary (7th ed.)* indicates that the word “facilitation” has a recognized meaning in the context of criminal law, as follows: “The act or an instance of aiding or helping; esp. in criminal law, the act of making it easier for another person to commit a crime”.

[949] I accept that the original impetus for establishing the HAMC may not have been the commission of criminal offences by its members. On the evidence, however, the club evolved in a sophisticated way, such that by 2002 the facilitation of criminal conduct for the economic benefit of its members was one of its main purposes or activities in Canada.

[950] Motorcycling does play a role in the existence of the HAMC in Canada, including in Ontario. There are requirements, for example, that members maintain Harley Davidson motorcycles and participate in motorcycle events. The definition of “criminal organization” does not require, however, that facilitation of a serious offence be the group’s only “main” purpose or activity. It must simply be “one of” its main purposes or activities.

[951] Further, an interest in motorcycling, and the facilitation of serious criminal offences are not mutually exclusive. In fact, there is evidence that the HAMC in Canada uses

motorcycling to build alliances with other one percenter motorcycle clubs, to make a show of force, and to foster a reputation for violence and intimidation. In these ways, motorcycling is connected to the facilitation of criminal offences. Moreover, many of the organization's rules, practices, and concerns have little to do with motorcycling. As a matter of common sense, they are at odds with the operation of a group with purely legitimate interests.

[952] I find that the evidence about the group's characteristics, in particular its operational structure and tenets, promotion of a reputation for violence, and interest in territorial expansion all support the conclusion that the facilitation of one or more serious offences for the financial benefit of its members was a main purpose or main activity of the HAMC in Canada in January 2002.

(a) The Operational Structure and Tenets of the Organization

[953] The evidence is clear that the HAMC has a sophisticated organizational structure, involving the application of fundamental rules and principles. It is adhered to in Canada, including in Ontario. It includes a lengthy graduated process for membership, a requirement of unwavering loyalty to the club, obsessive commitment to protecting the secrecy of information, strict internal discipline over members, and anti-establishment attitudes. It enables the HAMC to protect itself from challenges by rivals, and also from law enforcement. It facilitates criminal activities by its members.

(a.1) The Chapter

[954] The basic unit within the HAMC organization is the chapter. This structure is followed in Canada, including in Ontario.

[955] Staff Sergeant Lemieux testified that each chapter operates within a specific assigned territory. This applies to chapters in the various Canadian provinces. The exception is the Nomads, who have no particular territorial jurisdiction. In the context of Quebec, territorial division was illustrated by a map of the Montreal area seized from the residence of Richard Mayrand. It depicted the territorial boundaries of chapters on the Island of Montreal.

[956] Each chapter must have a minimum of six full members who are not in jail or bound by non-association conditions. This is a world, and a written Canadian rule. Minutes of World and Canada Officers meetings reflected that Canada expressed concern when the rule was not followed elsewhere.

[957] If a chapter falls below six members, it cannot function independently. The rule is faithfully adhered to in Canada, including Ontario. For example, the Quebec Nomads chapter was frozen in November 2003, because of the incarceration of a majority of its members. In Ontario, the Nomads chapter was put under the supervision of the Woodbridge chapter when its numbers fell below six.

[958] Staff Sergeant Lemieux testified, and I accept that the purpose of requiring a minimum number of members is to ensure that the chapter can maintain control over its assigned territory.

[959] New chapters and members are on probation for one year. A document appended to an East Coast Officers meeting in February 2001 indicated that this rule is followed in Canada. Photographs of new chapters and members are distributed worldwide, so that all members are known. An agenda for an Ontario Presidents meeting in November 2001 confirmed that this practice was applied to the newly created Ontario chapters.

[960] The creation of a new chapter in a province where there is none requires a unanimous vote of all chapters in Canada. This was applied to the Ontario chapters. The creation of a new chapter in a province where chapters already exist requires a province-wide vote. The application of this rule in Ontario is reflected in the minutes of Ontario Presidents meetings.

[961] On occasion, the HAMC will open new chapters by the assimilation of existing one percenter motorcycle clubs. This has occurred in Canada. The phraseology “coming around”, “coming our way”, and being “on the program” is used to refer to recruitment of other clubs by the HAMC.

[962] Minutes of a June 1994 Canada Officers meeting indicated that Canada follows the general requirement that such clubs must have been in existence for five years. Clubs being

courted by the HAMC will be invited to functions such as motorcycle runs and parties, and will visit HAMC chapters, all for the purpose of being assessed by HAMC members. The minutes of various meetings in Canada referred to these activities.

[963] Other than exceptional instances when clubs are patched over by the HAMC, other one percenter clubs must graduate through the hangaround and prospect levels, before becoming full member chapters. This process was referred to in minutes of various meetings of both Canada Officers, and Ontario Presidents.

(a.2) Membership

[964] Membership in the HAMC is exclusive, and based on rigorous requirements. There are international blanket restrictions, including “no cops or ex-cops in the club”. Minutes of a 1996 United States West Coast Officers meeting indicated that this extends to anyone who has ever considered training for a law enforcement position. Staff Sergeant Lemieux also testified to the existence of this rule. As Dr. Abadinsky pointed out, such a rule runs contrary to the attitude of conventional society, where peace officers are respected, not excluded.

[965] Membership in the HAMC is governed by a graduated process. The individual must be sponsored by a member who remains responsible for him as long as he is involved in the club. He must advance through the stages of friend, hangaround, and prospect, spending generally a year at each stage before advancing. Before becoming a friend, he must have been known by the club for five years. The club will conduct background checks on him. This is evidenced by minutes of an Ontario Presidents meeting in November 2002. Staff Sergeant Lemieux and Detective Sergeant Roberge testified that the lengthy membership process protects against infiltration by the police, and ensures that the individual is safe to deal with in criminal activities.

[966] There is a strict delineation between prospects and full members. Prospects may not attend chapter meetings, or wear the name Hells Angels or the death head insignia. This is adhered to in Canada.

[967] Advancement from one rank to the next requires a unanimous vote by the chapter membership. This is evidenced by the Canada rules. Votes carried at an Ontario Presidents meeting in August 2001 indicated that prospects were required to visit every Ontario chapter before being proposed for full membership.

[968] Canada abides by the rule that a new member may not transfer from one chapter to another during his first year, and after that may do so only with the blessing of both chapters. This rule was applied to the new Ontario chapters, according to an agenda for an Ontario Presidents meeting in August 2002. The agenda explained that the rule was necessary for the individual's "education".

[969] Ontario's adherence to the graduated membership route was made clear by the agenda for an Ontario Presidents meeting in January 2002, which expressed concern about Thailand's derogation from the rules.

[970] Based on the evidence of Detective Sergeant Roberge, Staff Sergeant Lemieux and Mr. Ouellette, members of the HAMC must demonstrate 100% devotion and loyalty to the club, must have a good aptitude for criminal activities (a good "business sense"), and be prepared to resort to violence. During the war in Quebec, these qualities were manifested by involvement in the commission of murder on behalf of the organization. Staff Sergeant Lemieux testified that cooperation with law enforcement is prohibited by an unwritten rule, which extends to testifying as a Crown witness. In a June 2002 intercepted communication, Miller espoused this attitude. A rule prohibiting the use of injected drugs including heroin is reflective of the requirement of loyalty to the club. Members with addictions pose a security risk, and are not fully committed to the organization.

[971] Former members of the club are classified as those who have left honourably, or in good standing, and those who have been kicked out, or left dishonourably or in bad standing. Lying to another member, or cooperating with the police are grounds for being kicked out. There are rules about the treatment of ex-members. They are not entitled to use the club name or insignia, or to receive information about the organization. Those who have left in good standing

must add the date of departure to their Hells Angels tattoos, while those who have left in bad standing must cover over or remove their tattoos. Chapters worldwide are notified when an individual leaves the club. Staff Sergeant Lemieux testified that these very specific rules are intended to prevent former members from accessing sensitive information about the club, or from using the privileges of membership including the club name within the criminal milieu, and to prevent law enforcement infiltration.

[972] The various minutes of meetings filed in these proceedings, including those of meetings of the Ontario Presidents, are replete with references to individuals who are “out” of the club. Minutes of an Ontario Presidents meeting in August 2002 reminded members that they could associate only with ex-members who had “left” the club, and not with those who were out of the club in bad standing. This exemplifies the exertion of control over members’ freedom of association.

(a.3) Personnel

[973] Each chapter has various executive positions. They include president, vice-president, sergeant-at-arms, secretary and treasurer or a combined secretary/treasurer. Officers attend regional and national meetings of the club. In Ontario, the presidents of each chapter meet regularly.

[974] The sergeant-at-arms is responsible for security of the clubhouse, as well as security at HAMC events, as documented in minutes of meetings of the Ontario Presidents in 2001 and 2002. Staff Sergeant Lemieux testified that the sergeant-at-arms enforces club rules. Unlike legitimate organizations, enforcement can include physical measures.

[975] Other functions assigned to members of a chapter include intelligence officer, who gathers information on law enforcement and individuals adverse in interest to the club, and trademark representative.

[976] The evidence shows that HAMC members are expected to be readily accessible by the organization. Minutes of Ontario Presidents meetings in 2001 indicated that each chapter is

required to have at least one permanent telephone number that is answered at all times by someone who is able to contact anyone in the chapter. Each member is required to have a permanent telephone number where he can be reached for HAMC business within a reasonable period of time. Minutes of a March 2002 meeting indicated that the Ontario Presidents considered setting up a committee to make crisis decisions in between their regular meetings.

(a.4) *The Clubhouse*

[977] Each chapter, with the exception of the Nomads, is required to have a clubhouse. The clubhouse serves as the chapter's base of operations. It is used for chapter meetings, as a location where members can access club information including information about other chapters, for parties, and to host visiting HAMC members. Staff Sergeant Lemieux testified that it is an unwritten rule that no criminal activity take place in the clubhouse. The agenda for an Ontario Presidents meeting in November 2002 confirmed the existence of this rule.

[978] Access to clubhouses is carefully monitored and restricted. Staff Sergeant Lemieux, Detective Sergeant Roberge and Mr. Ouellette described the exterior security features of HAMC clubhouses they have seen during searches. These features go beyond the kind of security needed to protect a meeting place from burglary or vandalism. They included perimeter gates or walls, motion detectors, security cameras monitored from an internal security or watch room, and fortified doors and windows. Video recordings of the Thunder Bay and London clubhouses illustrated some of these features. The witnesses testified that the purpose of these security features is to protect against attack by rival clubs, and to impede entry by law enforcement.

[979] Clubhouses have a watch room containing security-monitoring equipment. The watch room also has a fax, computer and contact lists for HAMC chapters. It is a restricted area of the clubhouse. A sign outside the door to the watch room of the Thunder Bay clubhouse read, "Warning. Beyond this point deadly force is authorized. No trespassing". Such signage is at odds with the operation of a conventional organization.

[980] Some clubhouses maintain 24-hour security, known as the "watch". The watch is manned by members or others associated with the chapter, to ensure that law enforcement

personnel do not enter surreptitiously. A set of instructions for “watch” personnel was seized from the Quebec City clubhouse in November 1997. Minutes of an Ontario Presidents meeting in December 2001 indicated that the Toronto chapter had instituted a 24-hour security system.

[981] A video recording of the Thunder Bay clubhouse depicted signs such as “What you hear here, what you see here, what you do here, stays here!” Staff Sergeant Lemieux testified that he has seen similar warning signs in other HAMC clubhouses.

[982] Staff Sergeant Lemieux testified that the HAMC engages in counter-surveillance measures. He had seen lists of police personnel, unmarked police vehicles, and police radio frequencies in Canadian clubhouses, as well as video recordings of police officers and their vehicle licence plates. He testified that the purpose of compiling this information was to detect police surveillance, conduct counter surveillance, and if need be intimidate members of law enforcement. A list of names, vehicles and telephone numbers of London RCMP officers was seized from the residence of William Miller in December 2004. This is not the kind of information likely to be of use to members of a legitimate organization.

(a.5) Security of Information

[983] The HAMC demonstrate concern about securing information from police interception, aside from arrangements at their clubhouses. It is an unwritten rule, reflected in minutes of World Officers meetings, that cellular telephones must be left outside the meeting room, so that the discussion cannot be recorded. Staff Sergeant Lemieux testified that members regularly change their cellular telephones to avoid police interception.

[984] Detective Sergeant Roberge testified that in Quebec, locations of meetings have been coded, frequently changed, and not communicated to members until the last minute. During the war in particular, members used hand signals to convey messages about illicit activities including murder. In a similar vein, the intercepted communications of Miller and his associates in Ontario were peppered with veiled language and guarded references to the “business” of the club, and dealings in “this” and “that”. The parties to the conversations nevertheless clearly understood what was being discussed.

[985] An agenda for an Ontario Presidents meeting in August 2002 expressed concern that the police had intercepted meetings, and proposed changes to make meeting dates and locations less predictable. Minutes of Ontario Presidents meetings in 2002 expressed concern about security during club events, suggesting that hotel staff should be observed in advance so that police infiltration could be detected, reminding members that they must stay in secured hotels, and threatening demotion for those who did not carry out their security duties. It was indicated that Ontario would recommend at the next world meeting that anyone travelling be checked with his home chapter, because it “is good security”, and referred to instances of police officers supposedly using HAMC colours. These are not matters likely to be of concern to a legitimate organization.

(a.6) Control Over Corporate Assets

[986] It is clear that the HAMC regards the name “Hells Angels” and the death head logo as corporate assets. The HAMC takes sophisticated steps to guard against the use of its name and death head logo by non-members.

[987] Both the name “Hells Angels” and the death head logo are trademarked. Each country, including Canada, has registered the trademarks. Responsibility for worldwide regulation of the trademarks is centralized. It rests with Oakland, the mother chapter, which is also the corporate headquarters of the HAMC. All trademark violations worldwide are reported to Oakland. Every chapter worldwide remits funds to Oakland for the administration of trademark matters.

[988] Each chapter, including those in Canada, must sign a licensing agreement with the HAMC governing its use of the trademarks. At all times club colours remain the property of the corporation, and not that of the member. The HAMC rely on the licensing agreements to try to prevent law enforcement from seizing or retaining colours.

[989] The HAMC in Canada is protective of the organization’s trademarks. Minutes of a World Officers meeting in August 2000 indicated that Canada supported the removal of the

death head logo from Hells Angels websites worldwide, to prevent downloading by non-members.

(a.7) The Use of Support Clubs

[990] The Hells Angels in Canada and around the world use other outlaw motorcycle clubs as support or “puppet” clubs. The evidence shows that they serve as recruitment pools for the Hells Angels, conduct security at clubhouses and events as well as for individual members, assist in exerting a presence in territories where there is no HAMC chapter or in an established area, and commit criminal activities at the direction of their sponsors.

[991] The evidence of Staff Sergeant Lemieux and Detective Sergeant Roberge was that puppet clubs are controlled by a sponsoring chapter. They have no role apart from serving the needs of the HAMC.

[992] Minutes of an Ontario Presidents meeting in April 2002 referred to the Red Devils becoming a worldwide support club for the HAMC. There was extensive evidence about the existence of the Montreal Rockers as a support club for the Quebec Nomads. Detective Sergeant Roberge identified puppet clubs linked to other Quebec HAMC chapters. Staff Sergeant Lemieux identified various puppet clubs in Canada as of April 2004, including several sponsored by HAMC chapters in Ontario. He was unaware of Ontario one percenter motorcycle clubs having support groups prior to the patchover to the HAMC in 2000. Their use in Ontario is consistent with HAMC practice.

[993] Minutes of an Ontario Presidents meeting in November 2001 recorded a need for support clubs in every major city in Ontario where there was no HAMC chapter. An agenda for an Ontario Presidents meeting in April 2002 discussed in detail the role of the Red Devils support club in the United States, to build support in an area where a HAMC chapter was forming, and in reclaiming territory lost to a rival club. Minutes of Canada Officers meetings in 2000 recorded that the Quebec City chapter opened a puppet club called the Damners that had chapters in New Brunswick, where there was no HAMC chapter. The evidence of Detective

Sergeant Roberge indicated that the Montreal Rockers were actively involved with the Hells Angels in the war with the RM in Quebec.

[994] Staff Sergeant Lemieux testified that the HAMC uses puppet clubs to commit criminal offences because they reduce HAMC members' exposure to prosecution, and enable a HAMC chapter to reap criminal profits from a territory where the organization has not established itself. For example, the Damners were involved in drug trafficking in New Brunswick, and disbanded after most of its members were convicted. Stadnick and his colleagues created the Demon Keepers in Ontario to expand their drug trafficking networks. The Montreal Rockers were involved in the Quebec Nomads' drug trafficking activities, and related acts of violence during the war. The evidence contains examples of Hells Angels members using members of puppet clubs to gather intelligence about and commit acts of violence against rivals.

[995] The expert witnesses described the use of puppet club members in Quebec to provide security at events such as HAMC funerals and at the patchover of the Ontario clubs, as well as for individual members of the Nomads during the war. Documents concerning meetings of the Ontario Presidents in 2001 noted that support club members were to be used for security and transportation at the Ontario anniversary celebration.

[996] Detective Sergeant Roberge and Staff Sergeant Lemieux testified that puppet clubs are used as recruitment pools by the HAMC. They have a similar rank structure to the HAMC. In Quebec, recruitment through puppet clubs was the preferred approach to enlisting new members. It guarded against infiltration by law enforcement, and ensured that individuals could be trusted to perform illicit activities and follow the rules of the organization. The attitude, as expressed in an agenda for an Ontario Presidents meeting in April 2002 is that, "Everybody wants to be a Hells Angel if given the opportunity in the right circumstances".

[997] The expert witnesses testified, however, that after the conclusion of Projects Rush and Ocean in 2001, the HAMC abolished its puppet clubs in Quebec. This was as a result of their infiltration by law enforcement.

(a.8) Communication and Collaboration Among Chapters and Members

[998] The HAMC provides members with a network of human resources. Staff Sergeant Lemieux and Dr. Abadinsky testified that a fundamental principle of the HAMC is that one member assists another when called upon. This applies to the commission of criminal offences. Further, membership in the club provides assurance that the individual is “safe” to deal with. As well, members have the ability to call upon a range of subordinates including prospects and support club members to assist with criminal activities. This was the case, for example, during the war in Quebec.

[999] The evidence is replete with instances of Hells Angels members involved in relationships with their colleagues for the commission of criminal offences, including the operation of the “Table” in Quebec, the drug trafficking networks operated by Stadnick in Ontario and Manitoba, and the plot by Carroll to kill members of the Loners in Ontario using subordinates from other locations.

[1000] In addition, the evidence shows a high degree of communication and collaboration between the HAMC chapters in Canada, and worldwide. Information is distributed through regular meetings at which minutes are taken. Chapter meetings are held weekly, regional meetings monthly, and Canada Officers meetings four times a year. Each chapter is represented at the regional and national meetings. Countries are expected to attend world meetings, and are sanctioned if they fail to do so without a valid excuse. Each of Canada’s three regions is represented at world meetings twice a year.

[1001] In addition, as reflected in the minutes, representatives of one chapter or region sometimes attend the meetings of another. An agenda for an Ontario Presidents meeting in April 2002 referred to the prospect of Central Canada attending a meeting of North Coast Officers of the United States.

[1002] The distribution of minutes of meetings is evidenced by the seizure of those documents from clubhouses and residences of members in Canada.

[1003] The contents of the minutes filed in the proceedings indicated an ongoing exchange of information at meetings of the various Canadian chapters. Topics that were frequently discussed included concerns about rival organizations, security of information and events, police infiltration, law enforcement activities, and non-dilution of the club name and symbol, along with news about who was out of the club and who was to attend anniversary parties and other events. There was, however, little reference to the war in Quebec, notwithstanding its longevity and consequences, or to other criminal activities in which leading members such as Stadnick and Stockford were quite clearly involved. This is consistent with the organization's concern about interception of information by law enforcement.

[1004] Laminated chapter cards bearing the club names and telephone or pager numbers of members, prospects, and hangarounds of the particular chapter, as well as the clubhouse coordinates are a means of enabling contact between HAMC members across Canada. The expert witnesses testified that it is common for HAMC members to have chapter cards, as did Mr. Lindsay on his arrest. Chapter cards filed in these proceedings confirm that it is a consistent practice of chapters in Canada, including those in Ontario, to produce and distribute these cards. In addition, lists of chapters around the world with their coordinates were found in Canadian clubhouses and the residences of high-ranking Canadian members including Stockford and Miller.

[1005] The agenda for an Ontario Presidents meeting in January 2002 indicated that Ontario maintained a telephone list, which was updated monthly. That same agenda proposed a mechanism to ensure that members in Ontario received information from chapters around the world, including news about new and deceased members. Interestingly, it also referred to equipping Ontario members with information about Ontario's involvement with ex-members of the Outlaws, in case they were questioned when they travelled. This confirms Ontario's recognition that it is a part of a much broader organization.

[1006] Staff Sergeant Lemieux and Mr. Ouellette testified about the practice of distributing chapter photographs worldwide. The agenda for an Ontario Presidents meeting in November

2001 indicated that the Ontario chapters followed this practice. The evidence was that this ensured that members were not misled by someone posing as a Hells Angel.

[1007] The intercepted communications filed in the proceedings are evidence of contact between HAMC members from chapters across Canada, and also in the United States.

[1008] The HAMC ensures that contact is maintained between members and associates who are incarcerated and the rest of the membership, through the distribution of Big House Crew lists. Canada joins in this practice. In addition to keeping track of all HAMC members and associates, Staff Sergeant Lemieux and Mr. Roberge testified that the lists are intended to promote contact with those in prison, so that they do not feel abandoned and turn on the organization.

(a.9) A National Fund

[1009] The HAMC in Canada maintains a national fund known as the C-95 or defence fund. It began after criminal organization provisions first came into force in the Criminal Code in 1997. Minutes of various meetings confirm that every HAMC member and associate nationwide is required to make regular contributions to the fund. Contributions are collected by each chapter, and administered on a regional basis. Minutes of an Ontario Presidents meeting in August 2002 indicated that the Ontario chapters contribute to the fund. Minutes of an Ontario Presidents meeting in November 2002 indicated that Ontario contributed money from its defence fund to the legal fees of a lawyer working on behalf of the Halifax chapter.

(a.10) Summary

[1010] All of these organizational attributes protect the safety of the group and its members, enhancing the ability of the organization to survive, and promoting the illicit business interests of its members.

(b) Deliberately Fostered Reputation for Violence

[1011] There is evidence from the various expert witnesses and contained in the documents that the HAMC, including the Canadian chapters, deliberately established and maintains a

reputation for violence. That reputation facilitates illegal transactions, and so provides pecuniary benefit to the organization's members who use it to their advantage, particularly within the criminal milieu.

[1012] The various expert witnesses testified that the HAMC is one of three major one percenter motorcycle clubs operating internationally. Staff Sergeant Lemieux described a one per center or outlaw motorcycle club as distinct from a group of mere motorcycle enthusiasts. A one percenter club is a group that does not want to abide by society's laws. According to Staff Sergeant Lemieux, Mr. Ouellette and Dr. Abadinsky, an important feature of these clubs is a reputation for a willingness to use violence.

[1013] The HAMC not only self-identifies as a one percenter motorcycle club, it claims supremacy in that milieu. On its world website, it proclaims itself to be, "The oldest and biggest original 1% motorcycle club in the world". The website specifies that the club is located in various countries, including Canada.

[1014] Dr. Abadinsky testified that in the criminal world, a reputation for willingness to use violence is an essential. It intimidates competitors, and protects against victimization by others.

[1015] Staff Sergeant Lemieux, Mr. Ouellette and Dr. Abadinsky all testified that the author Wolf's statement that a reputation for violence and intimidation is a marketable commodity for an outlaw motorcycle club because it enables the organization to crush enemies and suppress witnesses, applies to the HAMC. They agreed that the HAMC has deliberately fostered its reputation for violence. This applies to the HAMC in Canada, according to Staff Sergeant Lemieux, Mr. Ouellette, and Detective Sergeant Roberge.

[1016] In addition to having a reputation for violence, the HAMC are known as a brotherhood that will come to the aid of an individual member, whether he is right or wrong. Dr. Abadinsky testified that Barger referred in his book to the HAMC credo of collective retaliation on behalf of individual members, one on all, all on one. An individual who fights with one Hells Angel fights with them all. This is a valuable asset to members engaged in criminal activity. A member can

engage in criminal activity at a level that would not otherwise be possible, because of his affiliation with the organization. He can network with other members who effectively are safe to deal with, and he is able to survive in a predatory world based on the organization's reputation for violence.

[1017] Dr. Abadinsky testified that the organization's reputation for violence is not confined to the criminal subculture. The popular media help to promote the reputation more widely. He pointed out that Barger publicly stated in his book that the HAMC is a violent organization. Detective Roberge testified that based on his experience in Quebec, the HAMC image as a violent organization is presented to citizens, as well as within the criminal milieu.

[1018] There is evidence that the HAMC takes steps to manage its reputation to the advantage of its members. Dr. Abadinsky testified that the "No drug burns" rule (which has been replaced with "No dealings of any kind that will reflect badly on the club") was designed to enable members of the HAMC to engage in drug transactions with those less powerful who might otherwise decline to do business because of fear of being victimized.

[1019] The HAMC has attempted to promote a more positive public image when in its best interests. Minutes of Ontario Presidents meetings in 2001 and 2002 and related documents referred to using press releases to respond to situations when it suited the club's purposes, demonstrating that the Hells Angels are not a criminal organization as a major goal, keeping aggressive members off the front lines although close by at events, and presenting a good image to the public. Mr. Ouellette and Staff Sergeant Lemieux described instances of the Hells Angels in Quebec using the media to disseminate information in response to violent events in that province. Activities such as toy runs are another example.

[1020] The HAMC communicates its reputation for violence and intimidation in various ways. It has a very specific logo, that of a skull with plumage behind it, known as the death head. That logo and the name "Hells Angels" are worn and publicly displayed by members, including members in Canada and in Ontario, as an integral part of the club's colours. As Dr.

Abadinsky testified, the image of a skull alone has implications. It is a naturally intimidating symbol.

[1021] The evidence of the witnesses indicated that wearing HAMC colours is not simply a matter of individuals showing pride of membership in the organization. Dr. Abadinsky testified that by wearing the HAMC colours, an individual identifies himself as part of an organization with a reputation for violence that is known to back its members. Anyone who deals with the wearer, deals with the whole organization. An individual member is able to intimidate outsiders by wearing the club's colours, because of the organization's reputation. Staff Sergeant Lemieux, Dr. Abadinsky and Mr. Ouellette agreed with the author Wolf that wearing the colours of an outlaw motorcycle club makes the club's power and reputation part of the individual's personal force. Detective Sergeant Roberge testified about the wearing of colours at funerals of HAMC members in Quebec, as a demonstration of the organization's power and force. Mr. Ouellette testified that a member who wears the HAMC insignia creates fear and insecurity without saying a word. He described watching as a wallet belonging to a Hells Angels member sat untouched on the seat of that person's motorcycle in downtown Quebec City.

[1022] Staff Sergeant Lemieux and Mr. Ouellette testified that the HAMC have other distinctive insignia promoting violence. One is the Filthy Few symbol. It was displayed in photographs of tattoos on the arms of Quebec Nomads members Carroll and Houle, on a flag seized from Stadnick's home, and worn by Vachon of the Sherbrooke chapter. I accept the testimony that it symbolizes that the bearer has killed for the organization. Another distinctive insignia is the Dequiallo symbol. It was shown in a photograph on a flasher worn by a member of one of the British Columbia chapters. I accept the testimony of Staff Sergeant Lemieux that it signifies that the bearer had fought with the police.

[1023] In addition, as Mr. Ouellette described, some members adorn their motorcycles with stickers or painted images that convey a willingness to use violence.

[1024] There is evidence that the organization goes to great lengths to protect its name and logo. No-one associated with the club except a full HAMC member is permitted to wear the

death head logo or the name Hells Angels. A variety of exhibits introduced during the trial supported this testimony by the expert witnesses.

[1025] The prohibition on the use of the name and logo extends to those who are not associated with the club. On a HAMC website www.bigredmachine.com the following warning appears: “HELLS ANGELS and the DEATHHEAD LOGO ® are trademarks owned by Hells Angels Motorcycle Corporation, registered in the United States and various other countries. Should we find you using any of these we will hunt you down and hurt you”. Staff Sergeant Lemieux testified that the name and logo are indeed trademarked, with the HAMC Corporation the registered owner. While support merchandise is sold, nothing bearing the death head logo or the name is offered for sale to a non-member. As Dr. Abadinsky observed, it is peculiar that the HAMC will not allow money to be made from its trademarks, given that trademarking is typically used to protect something of pecuniary value.

[1026] Staff Sergeant Lemieux testified that a set of colours belongs to the club. Each member signs documentation to this effect. If a member leaves the club honourably, he must put his departure date on his winged death head tattoo. If he leaves dishonourably, he must cover over the tattoo. In neither case can the former member retain any item bearing the Hells Angels name. This is to ensure that as a non-member, he does not use the club name to his own benefit.

[1027] Minutes of HAMC meetings in Canada, the United States and at the world level reflect a long-standing and consistent concern about non-members having paraphernalia bearing the name Hells Angels, other clubs having logos resembling that of the HAMC, and requests for the return of colours confiscated by law enforcement. Often the causes of these concerns were trivial in nature. Minutes of Ontario Presidents meetings indicated a commitment to protecting the logo and club name from use by non-members.

[1028] Staff Sergeant Lemieux testified that the HAMC resorts to a range of methods to prevent non-members from using the club name or logo, ranging from legal proceedings based on trademark infringement, to force.

[1029] Staff Sergeant Lemieux and Dr. Abadinsky testified that the HAMC preoccupation with protecting its name and logo is driven by a desire to avoid the dilution of its reputation. That reputation provides indirect pecuniary advantages to members. If outsiders who did not meet the HAMC standard were able to use the name and logo to portray themselves as part of the club, the organization's reputation for ferocity, and its economic benefit to its members, would be diminished.

(c) Territoriality

[1030] Dr. Abadinsky testified that a characteristic of a criminal organization is that it is monopolistic, in that it attempts to dominate a territory, an industry or both. The objective is to reduce competition in order to increase profits from illegal activities. In contrast, legitimate groups do not care about other organizations existing in the same area.

[1031] The importance of territoriality in the milieu of outlaw motorcycle clubs was described by Wolf, whose work was generally accepted as authoritative by Dr. Abadinsky, Staff Sergeant Lemieux, and Mr. Ouellette. Wolf defined territoriality as a system of behaviours used by an individual or group to define and defend a set of beneficial relationships within its environment. Those relationships are personal pride, group power, public relations, and for some clubs criminal profit. If one outlaw motorcycle club decides to expand into territory occupied by another, it forms alliances with other existing clubs, or incorporates established clubs.

[1032] The evidence is that as one of four major outlaw motorcycle clubs, the HAMC strives to acquire and control territory to the exclusion of its rivals, in order to further the criminal activities of its members. This is true of its entry into and expansion within Canada. Staff Sergeant Lemieux testified that the HAMC uses territoriality to protect profit from criminal activities, in particular drug trafficking. It expands into new areas to gain control of territory in which to conduct those activities. Detective Sergeant Roberge testified that the HAMC strove to be the only motorcycle club in Quebec, and wanted to expand into Ontario to increase its capacity for criminal activities, mainly drug trafficking. Mr. Ouellette testified that wars between outlaw motorcycle clubs are always for control of drug territory, and that expansion of

its drug network was behind the HAMC movement into Ontario. Dr. Abadinsky testified that he was inclined to conclude that protecting its reputation was a more important dimension to the HAMC's territoriality than avoiding competition for criminal profit. I accept that this is a factor in the expansion of the HAMC into new territories, but on the evidence in these proceedings, I conclude that the organization's expansion across Canada was largely driven by its involvement in drug trafficking.

[1033] There is abundant evidence that the HAMC exerted territoriality in Canada, endeavouring to expand into new areas, and to prevent rival clubs from operating there. Evidence of events prior to 1997 includes:

- The movement of the HAMC into Canada. The HAMC expanded into Canada in 1977, by patching over an existing one percenter motorcycle club. This move was in response to the Outlaws establishing chapters in Ontario and Quebec. The HAMC and the Outlaws, both of which were involved in the production and trafficking of methamphetamines, were at war with one another in the United States. The two organizations pursued their war in Canada, with each opening new chapters in the process.
- The opening of chapters in British Columbia by the Montreal chapter in 1983. This was achieved by patching over an existing outlaw motorcycle club, rather than the established approach of creating chapters through a graduated route to membership. Mr. Ouellette testified that this gave the HAMC a foothold in another part of the country, and a better network for criminal activities especially drug trafficking.
- The creation of the Halifax chapter in 1984, through the takeover of an existing club.
- The evidence of Staff Sergeant Lemieux and Mr. Ouellette that the HAMC strategically opened chapters in Canadian port cities, through which drugs enter the country.
- The HAMC's ultimate victory over the Outlaws. By the time the Outlaws left Canada in the 1990s, the HAMC had several chapters in Quebec. It shut down other clubs there, and gained complete control in that province.

- The HAMC's demonstrated interest in Ontario dating back to 1978. This was depicted symbolically on items such as t-shirts worn by members. In 1990, Stadnick, a resident of the Hamilton area, became national president of the HAMC in Canada. He was seen leading a procession of HAMC riders to a meeting with members of Ontario clubs at Wasaga Beach in 1993.
- The formation of the Demon Keepers club in Ontario in 1994 under the supervision of Stadnick, Stockford and Carroll, which Kane revealed was for the purpose of developing a new drug trafficking territory.
- Discussion in minutes of HAMC officers' meetings in 1994 about efforts by Stadnick and Stockford to meet with clubs in Ontario, and by Stadnick to meet with clubs in Manitoba.

[1034] The evidence reveals a connection between the efforts of the HAMC to expand outside Quebec from 1997 on, and the deadly war waged by the HAMC and the RM in that province. The conflict resulted from each group's involvement in drug trafficking in the Montreal area, and specifically because of attempts by Boucher of the HAMC Nomads to take over the drug networks of a RM member. The war began in 1994. It caused a hiatus in the HAMC's efforts to expand outside of Quebec. The war was ongoing in 1997, when the Bandidos overtures to the RM led the HAMC to renew its attempts to expand.

[1035] Minutes of various officers' meetings in 1997, 1998, 1999 and 2000 including in the United States, indicated concern that the RM was developing a relationship with the Bandidos that would lead to the opening of Bandidos chapters in Canada. Up until 1997, the RM had been a local Quebec clic, or non-traditional motorcycle group without colours, as opposed to an international outlaw motorcycle club with colours. Mr. Ouellette testified about the implications of an affiliation between the RM and the Bandidos. If the RM joined the Bandidos, it would enjoy the status of an international organization, and the war in Quebec would have international ramifications for both the HAMC and the Bandidos. This explains the interest of HAMC Canadian and American officers in events that were otherwise local to Quebec.

[1036] Steps taken by the HAMC to expand outside Quebec from 1997 on included:

- The opening of two chapters in Alberta through the assimilation of existing clubs in 1997.
- Discussion in minutes of officers' meetings in 1997 and 1998 about steps to expand into Saskatchewan, Manitoba and Ontario, including the fostering of relationships with established clubs in those provinces.
- The opening of a chapter in Saskatchewan in 1998 by assimilation of an existing club.
- Meetings of members of various HAMC Quebec chapters, particularly Stadnick, Stockford, and other Quebec Nomads, with clubs in Ontario in 1998, 1999 and 2000.
- Plots by Carroll and others in 1999 and 2000 to assassinate members of the Loners in Ontario.
- Meetings between Stadnick and members of the Los Brovos of Manitoba, culminating in the creation of a HAMC chapter in Manitoba in 2000.

[1037] In June 2000 the RM expanded into Ontario, opening two chapters. They were by then wearing colours that communicated a close association with the Bandidos. A third Ontario chapter opened in August 2000. In September 2000, as a result of adverse publicity following the attempted murder of journalist Michel Auger in Quebec, Boucher and other HAMC members met with high-ranking members of the RM. The HAMC proposed that the RM join them on a patch for patch basis. The RM rejected that offer several days later. After another meeting was held, the two groups reached a truce. It was publicly communicated through members of the media who attended the meeting. The truce ended in November 2000, when the RM advised the HAMC that they would become probationary Bandidos. That news prompted Mayrand of the Nomads to meet with George Weggars, international president of the Bandidos. It is a reasonable inference, and one that I draw, that the parties discussed the Bandidos offer to the RM. The patchover of the RM to probationary Bandidos status went ahead the next day.

[1038] In the meantime, the HAMC had proceeded with negotiations with Ontario clubs. Mr. Ouellette testified, and the evidence indicated that the Quebec Nomads, including Stadnick and Stockford, played a major role in arranging the patchover of the Ontario clubs. The patchover occurred on December 29, 2000, at the Sorel clubhouse.

[1039] I accept that the granting of immediate membership to large numbers of Ontario club members through a patchover as opposed to the traditional process of graduated membership could only have occurred with the concurrence of HAMC members throughout Canada. It is a reasonable inference and one that I draw that HAMC members understood the purpose of this dramatic move. It was designed to prevent the Bandidos from taking control of Ontario, not just as a matter of jousting for power between two international outlaw motorcycle clubs, but because Ontario was lucrative drug trafficking territory for two groups involved in that criminal activity. The participation in the orchestration of the patchover by individuals such as Stadnick and Stockford, who on all the evidence including their later criminal convictions were heavily involved in drug trafficking, is telling. So too is the reaction of high-ranking members and associates of the HAMC, including Boucher, Provencher, Carroll, and McCrae.

[1040] After the patch-over, the HAMC including the new Ontario chapters took further steps to assert its domination of the province. The evidence in support of this conclusion includes the following:

- The Toronto chapter of the RM, led by Miller, which had patched-over to the Bandidos, became the North Toronto chapter of the HAMC in February 2001.
- Later that month, several members of the Quebec Nomads were arrested. They were in possession of photographs of former members of the RM who had joined the Bandidos. There had been an assassination attempt on one of those men, the national president of the Bandidos, a few days earlier. It is a reasonable inference and one that I draw that these Bandidos members were the subjects of an assassination plot.
- A London prospect chapter was opened by George Beaulieu of the Sherbrooke chapter in April 2001. Minutes of Ontario Presidents meetings referred to the formation of new chapters in Pickering, Guelph, Sudbury and Hamilton, and indicated that support clubs were needed around the province in cities where there was no HAMC chapter.
- Minutes of Ontario Presidents meetings in 2001 and 2002 reflected discussion about the activities of the Bandidos in Ontario and internationally, and concern that the Bandidos and Outlaws in Ontario were associating with one another.

- Another attempt to assassinate the national president of the Bandidos was discovered by the police in March 2002.
- Minutes of an Ontario Presidents meeting reflected that by March 2002, there was an advisory committee to recommend policies about the Outlaws and Bandidos to the presidents.
- After the arrests of many Bandidos in Ontario and Quebec in Project Amigos in June 2002, members of its Kingston chapter sought to become RM and support the HAMC.
- Minutes of Ontario Presidents meetings in 2001 and 2002 indicated that the Hells Angels were monitoring the activities of the Outlaws in Ontario, particularly their relationship with the Bandidos.
- Minutes of an Ontario Presidents meeting in early 2002 recorded that they had offered Outlaws prospect status, to the consternation of the Outlaws in the United States.
- Minutes of various officers' meetings including the Ontario Presidents indicated concern about the Loners in Ontario and in Italy, and a decision by the Ontario Presidents to permit the Loners to exist as a HAMC support club subject to conditions imposed by the HAMC.

[1041] I accept the evidence of Mr. Ouellette and Staff Sergeant Lemieux that by virtue of strategic territorial expansion, the HAMC have succeeded in eliminating all serious rivals in Ontario, and elsewhere in Canada.

(d) Ability to Perpetuate Itself

[1042] Dr. Abadinsky testified that a key test of a criminal organization is its ability to exist beyond the leadership of any particular individual. In his opinion, the HAMC has passed the test of time. The evidence supports this conclusion.

[1043] Events in Quebec following the arrests of 2001 illustrate the organization's ability to perpetuate itself in Canada. Mr. Ouellette testified that the arrests of the Nomads and the Montreal Rockers did not dismantle the HAMC's drug trafficking business there. Members of

the Trois Rivières, South and Sherbrooke chapters assumed control of the drug trafficking networks formerly controlled by the Nomads. The criminal activity continued.

[1044] Furthermore, the HAMC have succeeded in their expansion into Ontario and western Canada, notwithstanding the successful prosecution of HAMC members in Quebec.

(e) The Ontario Chapters

[1045] Specific evidence was adduced about the nature of and membership in the new Ontario chapters. This underscores both the deliberate nature of the HAMC's expansion into Ontario, and the commitment of the Ontario chapters to the organization.

[1046] Some of the evidence about membership was based on chapter cards seized from Mr. Lindsay on his arrest, and from the residences of Stockford and Stadnick following their arrests. I accept that the chapter cards accurately set out chapter membership, subject to evidence about particular members transferring, leaving, or joining.

[1047] Mr. Ouellette testified about the pedigree of the individuals named on the Nomads Ontario chapter card seized from Mr. Lindsay. In the opinion of Mr. Ouellette and Mr. Roberge, Paul Porter was the President of the chapter. He was a founding member of the RM, was heavily involved in drug trafficking, and was active in the war in Quebec. He was a target of assassination attempts during the war. He operated a drug network in the Ottawa area. Minutes of Ontario Presidents meetings in 2001 and 2002 indicated that Porter was involved on behalf of the Ontario HAMC chapters in negotiations with the Bandidos and Outlaws, which is an indication of his stature in Ontario.

[1048] Other members of the Nomads Ontario chapter included Andre Sauvageau and Giovanni Spezzano who had been with Porter in the RM, Guy Langlois and Steven Burns who had been Outlaws, and Richard Ouellett and François Goupil who transferred from the HAMC Sherbrooke chapter. Mr. Ouellette testified that Sauvageau, Ouellett and Goupil were involved in drug trafficking. It is a reasonable inference from the evidence about the involvement of the

RM and the HAMC Sherbrooke chapter in drug crime that individuals associated with those groups shared that interest.

[1049] As of November 2001, Ouellet and Goupil transferred back to the Sherbrooke chapter, leaving the Ontario Nomads with less than six members. Minutes of subsequent Ontario Presidents meetings indicated that the Nomads were put under the supervision of the Woodbridge chapter until March 2002. All major Nomads decisions were reviewed by Woodbridge during that period. In March 2002 Richer Geneau and Stephane Trudel, both of whom were involved in drug trafficking according to Mr. Ouellette, became full Nomads members.

[1050] Mr. Ouellette testified, and referred to supporting information, that in his opinion the Niagara prospect chapter was closely connected to Stadnick and involved in his Ontario drug network. A Niagara prospect chapter card found in Mr. Lindsay's possession had two names stroked out. This corresponded to a chapter photograph in which the faces of two individuals were obliterated. This is consistent with the evidence that when an individual leaves the club, notice is given to chapters around the world, and his face is removed from chapter photographs.

[1051] The Niagara prospect chapter became a full chapter in July 2001. By January 2002, it had a support club in St. Catharines, one of the areas identified by the Ontario Presidents as in need of HAMC representation.

[1052] In an intercepted communication in December 2002, William Miller indicated his understanding that the Niagara chapter was in the business of drug trafficking. John Coates had ties to the Sherbrooke chapter, which was involved in drug dealing. He transferred from the London prospect chapter to Niagara in July 2002.

[1053] At an Ontario Presidents meeting in November 2002, Niagara complained that information about HAMC affairs was leaking because members talked too much on the telephone. At a meeting a year earlier, it asked about the progress of encryption. These concerns

are consistent with the HAMC desire to prevent disclosure of its dealings to anyone outside the organization.

[1054] The North Toronto chapter was created in February 2001, as the last group to be patched over. It was placed under the supervision of the Woodbridge chapter. Its chapter card was found in Mr. Lindsay's possession. Miller became North Toronto's President. He had been active in the one percenter milieu, and had headed the Toronto chapter of the RM, an organization involved in drug trafficking. At Ontario Presidents meetings, the North Toronto chapter often voiced concerns about security, and the activities of rival clubs. On one occasion in 2002, North Toronto proposed that the background of new individuals should be checked back to public school. In April 2001 the Ontario Presidents decided to allow North Toronto to have prospects, to allow Miller to supervise the London prospect chapter.

[1055] The London prospect chapter was created by George Beaulieu of the Sherbrooke chapter, in April 2001, just a few weeks after the March 28, 2001, arrests of many HAMC and Rockers members and associates in Quebec. On the evidence, the Sherbrooke chapter was heavily involved in drug trafficking in Quebec. John Coates and Eric Jacques of a clic associated with the Sherbrooke chapter were sent to London. Mr. Ouellette testified that both men were involved in drug trafficking and acts of violence. A London prospect chapter card was seized from Mr. Lindsay.

[1056] Minutes of an Ontario Presidents meeting in April 2001 indicated displeasure with Beaulieu. Acting of his own accord and not on club instructions, he told the London prospects that he was the Quebec representative in charge of them, not to listen to Ontario, and promised them full membership on an accelerated basis. The Ontario Presidents decided that Miller would supervise the London prospect chapter. Various Ontario chapters would donate members or send members to London on a weekly basis to demonstrate a strong presence there. The Ontario Presidents were concerned about the activities of the Outlaws in the London area, and sought to counter them.

[1057] In July 2002 Beaulieu, Miller, Coates and others met to determine whether Miller or Coates would control the London prospect chapter. Soon after, Coates transferred to the Niagara chapter.

[1058] The evidence, including the agenda for an Ontario Presidents meeting in April 2002, indicated a difference between Quebec and Ontario attitudes, or styles of “biking”. I accept the evidence of Staff Sergeant Lemieux and Mr. Ouellette that HAMC members in Quebec were inclined to use violence to achieve their aims, while those in Ontario resorted to other measures first. This is consistent with the evidence about the excessive violence carried out by members and associates of the HAMC during the war in Quebec. It is supported by comments in minutes of Ontario Presidents meetings in 2002 about the desirability of not starting trouble, and presenting a professional image to the public.

[1059] Intercepted communications of Miller revealed that he regarded North Toronto and London as one expansive chapter, and considered London to be a lucrative area for the Hells Angels. They also revealed his understanding of the HAMC as a large, pervasive organization involved in drug dealing.

[1060] The members of the Woodbridge chapter, who were patched over in Sorel on December 29, 2000, came principally from the ranks of the PDR, another one percenter motorcycle club. There was evidence of contact between members of the PDR and members of the HAMC from 1997 on. This included attendance by members of the PDR at HAMC anniversary parties in Quebec, and meetings of Stadnick and others from HAMC Quebec chapters with members of the PDR in the Toronto area.

[1061] Mr. Lindsay had a Woodbridge chapter card in his possession on arrest. Members of the Woodbridge chapter, in addition to Mr. Lindsay and Mr. Bonner, included John Gray, Robert Gray, and Lorne Brown. Intercepted telephone communications of Carroll and McCrae, and Emond and Mayrand around the time of the patchover indicated that these Ontario individuals were well-regarded by prominent members of the HAMC in Quebec.

[1062] Following the patch-over, Mr. Ouellette saw John Gray, Robert Gray and Lorne Brown at the South chapter clubhouse in Quebec for a Canada Officers meeting in March 2001, John Gray, Mr. Lindsay and Miller at a function at the Halifax clubhouse in May 2001, and John Gray with members of the Sherbrooke chapter en route to the Trois Rivières chapter in June 2004.

[1063] Eugenio Reda, John Foote, Jason Chapple, and Zavisla Drecic also belonged to the Woodbridge chapter. Reda, Foote and Drecic attended an anniversary party at the HAMC South chapter in February 2000. In April 2000 during the execution of a search warrant at the Sorel clubhouse, Mr. Ouellette saw a paper in the watch room with the names and contact telephone numbers of Reda and Chapple. Reda, Chapple and Foote assisted both Kane and Emond in plans to assassinate members of the Loners in Ontario in 2000. Reda and Foote attended the funeral of Hamel of the Quebec Nomads in April 2000. Foote and Drecic attended the funeral of Nelson Fernandez, a former member of the RM in Quebec who joined the HAMC, in December 2000. Mr. Ouellette saw Foote in the group travelling to the Trois Rivières clubhouse in June 2004.

[1064] There is evidence that the Woodbridge chapter occupies a position of some prominence in Ontario. A document about votes of the Ontario Presidents indicated that their first meeting was held at the Woodbridge clubhouse. The Woodbridge chapter was selected to supervise both the North Toronto and Nomads Ontario chapters. The Woodbridge chapter donated monies to assist Stockford and his wife after Stockford's arrest, and made inquiries about further financial support for them at Ontario Presidents meetings.

[1065] Minutes of other Ontario Presidents meetings in 2001, 2002 and 2003 demonstrated that the Woodbridge chapter shared the organization's concerns about the activities of rival groups, particularly the Bandidos and the Loners, and security of club information.

[1066] The evidence demonstrates that Mr. Lindsay is a committed member of the HAMC. The words "Hells Angels" are tattooed across his stomach in the pattern of a top rocker. His driver's licence showed his address as that of the Woodbridge clubhouse. Various photographs

showed him wearing his colours, including at a bike show in Peel Region only days after the patchover, and with HAMC members from chapters in Canada, the United States and Europe. Often his colours bore a front rocker reading “Sherbrooke”, which Mr. Ouellette testified communicated that he had a special relationship with that chapter. In some photographs, he wore a rocker bearing the name “East End”. In one photograph he wore a “Canada” flasher. At the time of his arrest, he was in possession of a Sherbrooke chapter ring, a list of all world chapters with their telephone numbers, a list of all members and associates of chapters in British Columbia with telephone numbers, a number of chapter cards including one for Sherbrooke, and the chapter card for a puppet club of the South chapter.

[1067] The evidence is that the bottom rocker of the Hells Angels three-piece patch communicates the jurisdiction of the wearer. Minutes of various officers meetings both before and after the Ontario patchover, including those of the Ontario Presidents in 2002, indicated that a Canada bottom rocker has been considered. Photographs of various Ontario members, including Mr. Lindsay, showed insignia reflecting participation in a national organization, including a “Canada” front rocker, and a “Canada” front flasher.

[1068] This evidence indicates that the Ontario chapters do not operate autonomously without regard to the HAMC’s basic precepts or organizational structure, either individually or as a region. They are composed of dedicated members of the HAMC who are committed to the organization’s tenets and value system, including involvement in illicit activities. I have rejected the defence proposition that I should focus on the HAMC as it existed in Ontario, but my conclusion on the “facilitation” element of the offence would be no different if I accepted the defence position. The evidence also establishes the “facilitation” requirement of s. 467.1(1) in respect of the HAMC as it existed in Ontario, beyond a reasonable doubt.

The Commission of One or More Serious Offences

[1069] The Crown relies secondarily on the alternative requirement in s. 467.1(1) that the group have as one of its main purposes or main activities the commission of one or more serious offences that would likely result in the receipt of a financial benefit by its members.

[1070] Mr. Ouellette testified that in his opinion, the main purposes or activities of the Hells Angels in Canada constitute the commission of serious criminal offences that afford a material benefit to its members, in particular, drug trafficking. Staff Sergeant Lemieux testified that in his opinion, the main activities of the Hells Angels organization are drug trafficking and other crimes including money laundering, loan-sharking, extortion, assaults and homicides.

[1071] There is no evidence that the HAMC requires its members to commit any criminal offences. In particular, there is no such written rule to this effect. That does not, however, prevent members from engaging in criminal activity, nor does it preclude the commission of crime as a main activity of the group.

[1072] One, although not the only means of determining whether the commission of the offences specified in the legislation is a main activity of the group is to examine the criminal records, if any, of its members. Exhibit 19 sets out the criminal convictions of members of Quebec chapters of the Hells Angels, including:

- Maurice Boucher (Nomads), convicted in 2002 of two counts of first degree murder and one count of attempted murder committed in June and September 1997;
- Salvatore Brunetti (Nomads), convicted in 2002 of drug trafficking and participation in the activities of a criminal organization committed between May 1997 and March 2001;
- René Charlebois (Nomads), convicted in 2003 of conspiracy to commit murder, two counts of drug trafficking, and participation in the activities of a criminal organization committed at various periods between January 1995 and March 2001;
- André Chouinard (Nomads), convicted in 2004 of two counts of drug trafficking, conspiracy to commit murder, conspiracy to import cocaine, importing cocaine, and participation in the activities of a criminal organization committed at various periods between January 1995 and March 2001;
- Denis Houle (Nomads), convicted in 2003 of conspiracy to commit murder, two counts of drug trafficking, and participation in the activities of a criminal organization committed at various periods between January 1995 and March 2001;

- Gilles Mathieu (Nomads), convicted in 2003 of conspiracy to commit murder, two counts of drug trafficking, and participation in the activities of a criminal organization committed at various periods between January 1995 and March 2001;
- Richard Mayrand (Nomads), convicted in 2004 of conspiracy to commit murder, drug trafficking, and participation in the activities of a criminal organization committed at various intervals between January 1995 and March 2001;
- Normand Robitaille (Nomads), convicted in 2003 of conspiracy to commit murder, two counts of drug trafficking, and participation in the activities of a criminal organization committed at various intervals between January 1995 and March 2001;
- Michel Rose (Nomads), convicted in 2004 of two counts of drug trafficking, conspiracy to commit murder, conspiracy to import cocaine, importing cocaine, and participation in the activities of a criminal organization at various intervals between January 1995 and March 2001;
- Walter Stadnick (Nomads), convicted in 2004 of conspiracy to commit murder, conspiracy to traffic drugs, drug trafficking, and two counts of participation in the activities of a criminal organization committed at various intervals between January 1995 and March 2001;
- Donald Stockford (Nomads), convicted in 2004 of conspiracy to commit murder, conspiracy to traffic drugs, drug trafficking, and two counts of participation in the activities of a criminal organization committed at various intervals between January 1995 and March 2001;
- Luc Bordeleau (Nomads), convicted in 2004 of conspiracy to commit murder, drug trafficking, and participation in the activities of a criminal organization committed at various intervals between January 1995 and March 2001;
- Pierre Laurin (Nomads), convicted in 2004 of second degree murder committed in May 2000;
- Bruno Lefebvre (Nomads Prospect), convicted in 2004 of conspiracy to commit murder, drug trafficking, and participation in the activities of a criminal organization committed at various intervals between January 1995 and March 2001;

- Guillaume Serra (Nomads Prospect), convicted in 2003 of conspiracy to commit murder, two counts of drug trafficking, and participation in the activities of a criminal organization committed at various intervals between January 1995 and March 2001;
- Jacques Emond (Sherbrooke), convicted in 2004 of loan-sharking and participation in the activities of a criminal organization;
- Paul Brisebois (Nomads Prospect), convicted in 2004 of second degree murder committed in May 2000;
- Jean-Richard Larivière (Nomads Prospect), convicted in 2004 of conspiracy to commit murder, drug trafficking, and participation in the activities of a criminal organization committed at various intervals between January 1995 and March 2001.

[1073] Exhibit 19 sets out similar convictions for more than a dozen members of the Montreal Rockers, a HAMC puppet club.

[1074] David Carroll of the Nomads is wanted on charges of murder, attempted murder, conspiracy to commit murder, drug trafficking and participation in the activities of a criminal organization. A charge of murder allegedly committed in 1997 was pending against Paul Fontaine of the Rockers at the time this trial began.

[1075] Exhibit 19 also sets out the names of individuals arrested in Project Ocean in 2001 and later convicted of drug trafficking and related charges. They include Eric Bouffard, Bertrand Joyal, Yves Leduc, and Dean Moore of the HAMC South chapter, Sylvain Chalifoux and Jean-Paul Ramsay of the Montreal chapter, Luc Dallaire, Claude Giguere, Marc-André Hotte, and Daniel Royer of the Trois Rivières chapter, Claude Morin of the Quebec City chapter, and Yvon Rodrigue of the Sherbrooke chapter.

[1076] When combined with the testimony of Sergeant Boucher, the related admissions about the activities of members of the HAMC who were the subject of Project Ocean, and the admissions about the war between the HAMC and the RM and their respective affiliates, there is clear and convincing evidence that members of the Quebec chapters of the HAMC were deeply involved in drug trafficking and related crimes in the 1990s and into 2001. There can be little

doubt that during that period, one of the main activities of the HAMC as it existed in the province of Quebec was the commission of one or more serious offences that resulted in the receipt of a material benefit by its members. Detective Sergeant Roberge testified, and I accept that one of the main activities of the HAMC in Quebec has continued to be drug trafficking. Mr. Ouellette testified that in February 2002, members of the Quebec City chapter were arrested for, and later convicted of criminal organization offences. Members of the Trois Rivières chapter were arrested in November 2002 for drug offences.

[1077] It is telling that nowhere in the minutes of meetings of Canadian representatives is there a condemnation, or even a criticism by other chapters of the participation of the Quebec chapters in the war with the RM, or the activity of Quebec members that resulted in their convictions for serious offences including drug trafficking. There is no indication that the many Quebec members who were convicted of criminal offences were stripped of membership in the club. It is a reasonable inference, and one that I draw that the criminal activity of the Quebec chapters was not anomalous from that of, or troubling to the other chapters. Quebec was not a collection of “rogue” chapters engaged in criminal activity contrary to the values of the HAMC in Canada.

[1078] I acknowledge that there is no direct evidence about similar activities by members of the HAMC in other provinces. There is, however, evidence about close association and communication between the various Canadian chapters. There is evidence of concern by the various Canadian chapters about security of information, surveillance by law enforcement, and the activities of rival clubs. In addition, there is abundant evidence about the relationship of the Quebec chapters and their members, to those in other provinces, and of the influence of the Quebec chapters on those in other provinces. It includes:

- The evidence that the Hells Angels in Canada began in the province of Quebec, and expanded from there;
- The involvement of Stadnick, a prolific drug dealer, with the Los Broyos of Winnipeg who ultimately joined the HAMC;

- The presence of representatives from HAMC chapters in Saskatchewan, Alberta and British Columbia as well as many from the various Quebec chapters at the July 2000 patchover of the Los Broyos to become a prospect chapter of the HAMC;
- The presence of David Giles, formerly of the Montreal chapter, in British Columbia;
- The fact that Mayrand of the Quebec Nomads arranged for prominent members of the Hells Angels in British Columbia to accompany him to his November 2000 meeting with George Weggars of the Bandidos;
- The involvement not only of Stadnick and Stockford with the Ontario clubs in the years preceding the patchover, but also of other members of the Quebec chapters including Chalifoux, Charlebois and Emond, all later convicted of criminal offences, including drug trafficking;
- The keen interest expressed by various Quebec chapters, as recorded in minutes of meetings, in the progress of discussions with the Ontario clubs;
- The roles played by Stadnick and Stockford, who were both involved in drug trafficking, in arrangements for the patchover of the Ontario clubs;
- The fact that the patchover of the Ontario clubs occurred at the Sorel clubhouse, and not in Ontario;
- The fact that the Ontario clubs took the anniversary date of the Montreal mother chapter, signifying its sponsorship;
- The presence at the patchover of the Ontario clubs of representatives of all the Quebec chapters, and also those from Nova Scotia, Manitoba and Alberta;
- The use of support clubs by the Ontario chapters after the patchover;
- The involvement of a member of the Sherbrooke chapter in the creation of the London prospect chapter;
- Mr. Lindsay's possession and display of a Sherbrooke and also an East End bottom rocker;
- The attendance of members of Quebec and Ontario chapters at the Halifax clubhouse for McCrae's anniversary in May 2001.

[1079] It is a reasonable inference from the evidence and one that I draw that one of the main activities of the HAMC as it existed in Canada during the relevant time period, January 2002, was the commission of one or more serious offences for the economic benefit of its members, in particular drug trafficking. I am satisfied beyond a reasonable doubt of this element of s. 467.1(1).

[1080] The evidence about the role of the Quebec chapters in the expansion of the HAMC into Ontario, and its timing is particularly compelling. It simply defies common sense that a group so deeply involved in crime in Quebec would have any interest in establishing benign counterparts in a neighbouring province. It makes little sense that its primary ambassadors would be prolific drug traffickers, if the purpose of expansion was benign. It makes even less sense that if it were expanding for benign reasons, it would choose to do so by assimilating long-established outlaw motorcycle clubs, contrary to its usual cautious approach to acquiring new members. It does make every sense that, at a time when it was under pressure because of events in Quebec, it would expand to strengthen its drug trafficking networks and attempt to shut out its competitor.

[1081] Even if I accepted the defence position that I should focus on the HAMC as it existed in Ontario, my conclusion on the “commission” element of the offence would be no different. The evidence also establishes the “commission” requirement of s. 467.1(1) in respect of the HAMC as it existed in Ontario, beyond a reasonable doubt.

In Association With

[1082] The phrase “in association with” in s. 467.12(1) is intended to apply to those persons who commit criminal offences in linkage with a criminal organization. *The Oxford English Dictionary* (10th ed.) defines the phrase “associate oneself with” to mean, “allow oneself to be connected with or seen to be supportive of”. The phrase “in association with” requires that the

accused commit a criminal offence in connection with the criminal organization. Whether the particular connection is sufficient to satisfy the “in association with” requirement depends on the facts of the specific case.

[1083] In order to convict an accused under s. 467.12(1), the Crown must prove that he or she had the requisite mens rea for the particular predicate offence involved, and that the accused acted in association with a criminal organization. There is an implicit requirement that the accused committed the predicate offence with the intent to do so in association with a group he or she knew had the composition of a criminal organization, although the accused need not have known the identities of those in the group.

[1084] I am unable to agree with the defence submission that to be convicted on the evidence in this case, the accused must have done something “active” to associate themselves with the organization, beyond wearing its symbols, or that the fact that Mr. M. did not see the HAMC emblem until Mr. Lindsay and Mr. Bonner turned around indicates that they did not intend to invoke the organization’s symbols.

[1085] The “in association with” element is established by the evidence of the manner in which Mr. Lindsay and Mr. Bonner chose to portray themselves to Mr. M. I have found that on January 23, 2002, both Mr. Lindsay and Mr. Bonner went to Mr. M.’s house wearing jackets bearing the primary symbols of the HAMC, the name “Hells Angels” and the death head logo. In so doing, they presented themselves not as individuals, but as members of a group with a reputation for violence and intimidation. Only full members of the organization could wear its symbols. It is a reasonable inference and one that I draw, that Mr. Lindsay and Mr. Bonner were each well aware of the implications of their choice of attire.

[1086] On January 31, 2002, for their meeting in a public place, Mr. Lindsay chose to wear less overt garb, but nonetheless he was attired in paraphernalia displaying his connection to the HAMC. This included boots with the words “Hells Angels North Toronto” and the death head logo on the foot. Mr. Bonner waited outside in a vehicle, wearing the same jacket as on January 23.

[1087] Mr. Lindsay told Mr. M. on January 31 that if he did not receive a sufficient amount of money each month, he would send “people” to Mr. M.’s house, and that the money sought was his and five other “guys” who were “the same kind of mother fuck as I am”. It is a reasonable inference and one that I draw, that Mr. Lindsay intended to communicate that he would send other members of the Hells Angels to Mr. M.’s home.

[1088] Both Mr. Lindsay and Mr. Bonner were full members of the HAMC at the time. Mr. Lindsay was a particularly committed member, who kept various chapter cards in his possession, used his chapter’s clubhouse as his address on his driver’s licence, travelled to other HAMC venues and spent time with other members, and wore front rockers bearing the names of other influential Canadian chapters on his colours. Mr. Bonner had graduated from the position of prospect to become a full member. It is a reasonable inference and one that I draw, that both men were well aware of what the organization was about, including its composition and characteristics, globally and specifically as it existed in Canada and in Ontario. In particular, both men knew the HAMC’s reputation for violence and intimidation. They deliberately invoked their membership in the HAMC with the intent to inspire fear in their victim. They committed extortion with the intent to do so in association with a criminal organization, the HAMC to which they belonged.

[1089] The Crown has established the element of “in association with” beyond a reasonable doubt.

J. Conclusion

[1090] I am satisfied beyond a reasonable doubt that during the time period specified in count two of the indictment, the HAMC as it existed in Canada was a criminal organization. I am satisfied beyond a reasonable doubt that both Mr. Lindsay and Mr. Bonner committed the offence of extortion in association with that criminal organization.

RESULT

[1091] I find Mr. Lindsay guilty on counts one and two. I find Mr. Bonner guilty on counts one, two and three.

FUERST, J.

Released: June 30, 2005

COURT FILE NO.: 022474/01
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DATE: 20050630

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

HER MAJESTY THE QUEEN

- and -

STEVEN PATRICK LINDSAY and RAYMOND
LAWRENCE BONNER

REASONS FOR JUDGMENT

Fuerst, J.

Released: June 30, 2005