

**244069-5-BC
Vancouver Registry**

**In the Provincial Court of British Columbia
(BEFORE THE HONOURABLE JUDGE ST. PIERRE)**

**Vancouver, B.C.
March 4, 2020**

REGINA

v.

PATRICK HENRY FOX

PROCEEDINGS AT TRIAL

BAN ON PUBLICATION 517 CCC

Crown Counsel:

B. Wolfe

Appearing on his own behalf:

Patrick Fox

Proceedings

BAN ON PUBLICATION 517(1) CCC

Vancouver, B.C.

March 4, 2020

1
2
3
4 MR. WOLFE: If we could have Mr. Fox up, please.
5 THE COURT: Mr. Fox, Mr. Wolfe, good morning.
6 MR. WOLFE: Yes, Wolfe, initial B. for the Provincial
7 Crown, Your Honour. I'm appearing with respect to
8 number 3 on the list, court file 244069-5-BC, the
9 continuation of the trial against Mr. Fox.
10 THE COURT: Thank you. Okay. If I might --
11 MR. WOLFE: So my -- you -- you permitted Crown to
12 reopen its case. I have the CBSA officer here
13 this morning. Mr. Fox has a computer before him.
14 He may have to --
15 THE COURT: Boot up?
16 MR. WOLFE: It's booted, but I think he needs to do
17 something in order to access the Report to Crown.
18 The other thing is, I located an external DVD
19 drive.
20 THE ACCUSED: Oh, great.
21 MR. WOLFE: Whether or not that be confused down the
22 road as an issue for -- for later.
23 THE COURT: Okay.
24 MR. WOLFE: I would like to now call the witness and
25 direct her evidence. She will affirm, just for
26 the record.
27 THE COURT: Okay, thanks.
28 MR. WOLFE: I can step out and bring her in, unless --
29 did Mr. Fox have something to say?
30 THE ACCUSED: I was just going to say, before we
31 proceed with that, should I get this, you know,
32 working state, or --
33 MR. WOLFE: Probably, yeah.
34 THE COURT: Yes.
35 MR. WOLFE: Sure.
36 THE COURT: Is it -- do you have to put in a code or
37 something?
38 THE ACCUSED: Yeah, yeah. I need to reconfigure a few
39 things. I'm going to probably take, I'm guessing,
40 five to 10 minutes.
41 THE COURT: Five minutes? Okay, I'll just --
42 THE ACCUSED: I'm not sure if the court wants to stand
43 down during that time --
44 MR. WOLFE: Sure.
45 THE COURT: I'll just wait out at the back --
46 MR. WOLFE: I would think so.
47 THE COURT: -- there then, so I won't be too far away.

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1 Thanks.

2 THE CLERK: Order in court, all rise.

3

4 (PROCEEDINGS ADJOURNED)

5 (PROCEEDINGS RECONVENED)

6

7 THE COURT: Okay, thanks.

8 MR. WOLFE: Wolfe, initial B. for the provincial Crown,

9 Your Honour. I believe Mr. Fox has reconfigured

10 the computer so that he can access the Report to

11 Crown.

12 THE COURT: Okay.

13 MR. WOLFE: So with your permission, I'll -- I see my

14 colleague, Mr. Johnson.

15 THE COURT: Yes.

16

17 [ANOTHER MATTER SPOKEN TO]

18

19 THE COURT: All right. Yes, Mr. Wolfe, sorry.

20 MR. WOLFE: Yes. I'll just step out and then bring the

21 witness in if I could, please.

22 THE COURT: Okay.

23

24 **MEAGAN POLISAK**

25 a witness called for the

26 Crown, affirmed.

27

28 THE CLERK: Please state your full name for the record

29 and spell your first and last name.

30 A Meagan Danielle Polisak, M-e-a-g-a-n, P-o-l-i-s-a-

31 k.

32 THE COURT: I-s-a-k, thank you, Ms. Polisak.

33

34 **EXAMINATION IN CHIEF BY MR. WOLFE:**

35

36 Q Witness, you're employed with Canadian Border

37 Services Agency; is that correct?

38 A Yes.

39 Q And do you have a rank or a title?

40 A Border Services Officer, and my classification is

41 FB03.

42 Q And what does that mean?

43 A FB is the classification - I couldn't tell you

44 what it actually stands for - and then it's

45 basically the classification I was hired under.

46 Q So you've been with -- if I can just refer to it

47 as CBSA for how long?

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1 A Four years.
2 Q Is that fulltime?
3 A Yes.
4 Q And so where do you work?
5 A Douglas Port of Entry in Surrey, British Columbia.
6 Q Does Douglas Port of Entry go by another name, a
7 conventional name?
8 A Peace Arch is the US crossing side of it.
9 Q So you're -- you're working at a border crossing,
10 are you?
11 A Correct.
12 Q Are you uniformed --
13 A Yes.
14 Q -- when you work? You are? Identifying yourself
15 as an officer of the Canadian Border Services
16 Agency?
17 A Yes.
18 Q And you say you're working at the Douglas Port of
19 Entry. When -- when a person crosses into Canada,
20 let's say on a vehicle, or even by foot, it's my
21 understanding that there are -- there's a line of
22 kiosks as the -- as the first point of contact; is
23 that correct?
24 A Yeah. We call them booths.
25 Q Booths? Okay. Do you work at a booth?
26 A Some of the day.
27 Q Where else do you work?
28 A Inside the office.
29 Q Is the office located within Canada?
30 A Yes.
31 Q Entirely?
32 A Yes.
33 Q When you say it's an office, what kind of a
34 structure is it?
35 A It's a standalone building in between the
36 northbound and southbound highways.
37 Q Is there public access to it?
38 A Yes.
39 Q And by "public access" I'm asking whether or not
40 an ordinary member of the public can enter the
41 building as they might please?
42 A Yeah.
43 Q Is that through just a standard set of office
44 building doors?
45 A There's two glass doors that they can enter.
46 Q When you're working inside the building, do you
47 have an assigned duty, or what do you do?

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1 A It depends on the day. So some days, for some
2 hours, I'm processing work permits, or other
3 documents. Other days I'm doing examinations that
4 are more high risk. It depends on where I'm
5 scheduled. And then I go back and forth to the
6 road, and back. Or to the booths, sorry.

7 Q Okay. So I'm going to take you back to March the
8 15th, 2019. You're here to give evidence with
9 respect to a person with whom you interacted on
10 that day, specifically a -- a -- one person. Do
11 you -- do you recall the interaction that brings
12 you into court today?

13 A I do.

14 Q Now, March the 15th, 2019, is some -- some time
15 ago, several months. Have you had occasion to
16 determine what your work shift was on that day, or
17 do you recall?

18 A I looked back on my schedule and I was scheduled
19 from 6:00 a.m. to 5:00 p.m. that day.

20 THE COURT: 6:00 a.m. to 5:00 p.m.? Okay, thanks.

21 MR. WOLFE:

22 Q Is -- is that consistent -- first, do you have any
23 memory of working that day?

24 A Just that it's written in my schedule and I have
25 notes in a computer system that I imputed that
26 day, so ...

27 Q Do you recall interacting with a person who
28 presented himself to you with either the surname
29 Fox or Reiss?

30 A Yes.

31 Q Do you happen to recall what time of day that was
32 during your shift?

33 A I don't.

34 Q Where were you when you interacted with the person
35 whom you came to know as either Fox or Reiss?

36 A I was inside the office at a counter.

37 Q Well, how is it that you came to interact with
38 that individual?

39 A He walked into the office. I don't recall if I
40 called him up, or if he approached me.

41 Q Do you recall where you were specifically when --
42 when that person came up to you?

43 A I was on what's called the A-side counters, so
44 when you walk into the building, it's the counters
45 on the right-hand side.

46 Q At that time on the A-side counter, what were you
47 doing -- what was your task?

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1 A I basically -- exams come into the office that are
2 coded from the booth for A-side, and I deal with
3 each exam as it comes in.
4 Q Is there a particular reason for the examination?
5 Or reasons, or purpose?
6 A Of just general --
7 Q Yeah --
8 A --examinations?
9 Q --generally -- yeah, given your duty that day,
10 yeah.
11 A So somebody at the booth will have had concerns
12 about the individual, individuals or their goods,
13 and they'll code them for an A-side examination,
14 and then they're sent into the office and we dive
15 into it further and try to negate the concerns
16 that the officer had, or prove them to be correct.
17 Q Well, given that -- given your description of your
18 -- your task that day, how is it you came to deal
19 with -- with -- with Fox? Was that because of a
20 referral from a booth?
21 A No, it wasn't -- or he wasn't, excuse me, referred
22 from a booth. Sometimes people walk into the
23 office from within Canada to ask questions, and I
24 was not dealing with an examination at that point.
25 I was free. So I was able to help him and start
26 interacting with him because I didn't have
27 anything else.
28 Q The person that -- referred to, can you provide
29 any descriptors, physical descriptors of him?
30 A White male, older than me.
31 Q Anything about hair colour, facial hair, height,
32 body type, anything like that?
33 A I remember him having almost black hair.
34 Q When you say "almost black hair," what's the
35 balance?
36 A Like with grey in it.
37 Q Do you recall anything about his height or weight?
38 A Skinny. I can't really say on height because I'm
39 usually sitting, so I don't know if --
40 Q So you are seated, not standing at the counter?
41 A Normally, yeah.
42 Q Do you recall how long you interacted with the
43 fellow?
44 A I don't.
45 Q Are you able to provide an estimate or a range of
46 your interaction time, or not?
47 A Not with a lot of correctness.

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1 Q Would you recognize that individual if you saw him
2 again?

3 A Yes.

4 Q If you look around the courtroom entirely, just to
5 canvass the courtroom, do you see that person
6 anywhere today?

7 A The gentleman to your right in the red.

8 THE COURT: Yes, I note that indication, thanks.

9 MR. WOLFE:

10 Q Without asking you what was said to you, did --
11 what information did you obtain, and what did it
12 cause you to do?

13 A Basically he was trying to go to the U.S. and I
14 asked him what his citizenship was. He said
15 American, but he wasn't able to show me any proof
16 of that. And it also -- he also told me that he
17 had a Canadian passport with the name Richard
18 Reiss on it.

19 I called Passport Canada and they confirmed
20 that a Richard Reiss, with the same date of birth
21 was a Canadian born in Sudbury, Ontario, so that
22 made me believe he was a Canadian. And per
23 immigration laws, Canadians can be in Canada and
24 enter and exit Canada at their own free will, so
25 there was -- there -- Immigration-wise there was
26 nothing -- nothing I can do with a Canadian
27 citizen pertaining to my job. So I would only
28 look at their goods if they were seeking entry to
29 Canada.

30 Since he was not -- and to me I believed he
31 was a Canadian citizen, it was just a conversation
32 we were having. It was odd to me that somebody
33 would have proof that they were a Canadian and
34 tell me they're not a Canadian citizen. So I put
35 what's called an info alert into our system, which
36 is called a GCMS or Global Case Management System,
37 just in case another officer dealt with this
38 individuals and obtained different information, at
39 least they could know what our interaction
40 entailed.

41 THE COURT: So that -- you made entry into something
42 called a Global Case Management System?

43 A [No audible response].

44 THE COURT: Okay.

45 MR. WOLFE:

46 Q What is a Global Case Management System?

47 A It's basically our Immigration system, so anytime

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1 we have notes on an individual, or we are making a
2 report against them, or not allowing them into
3 Canada, we will write -- we will create documents
4 in that system, and so there's a file, an online
5 file of everybody that we have an immigration
6 interaction with.
7 Q The -- the records that you consulted with respect
8 to that individual, are they ordinary records
9 available to CBSA for their daily use?
10 A Yes.
11 Q Did you consider them to be reliable?
12 A Yes.
13 Q Did -- in examining the system, did you have any
14 information indicating that he was not a Canadian?
15 A No.
16 Q The -- you referred to one name as Richard Reiss.
17 What was the other name that you obtained with
18 respect to that fellow?
19 A He told me his name was Patrick Fox.
20 Q As a CBSA officer, do you have any authority, or
21 power, if they mean the same thing by that word --
22 A Mm-hmm.
23 Q -- at your discretion to either remove somebody
24 from Canada, or deny entry, or -- those are two
25 different things that I'm saying, but -- but tell
26 us about that.
27 A So we can refuse foreign nationals, who are
28 seeking entry to Canada at the border. We can
29 remove foreign nationals who are seeking entry who
30 are found inadmissible or not allowed for a
31 multitude of reasons.
32 Q If -- if that occurs, is there a paper trail so to
33 speak?
34 A Yeah. You have to write a report against them in
35 GCMS, which is then forwarded to somebody who's
36 called a Minister's Delegate, who is basically a
37 senior immigration officer, and they make a
38 determination on what then should happen to that
39 individual.
40 Q So those -- is there an entity, or a unit, called
41 Inland Security?
42 A Inland Enforcement.
43 Q Inland Enforcement.
44 A Yes.
45 Q Do they become involved in such a process?
46 A Would they?
47 Q Yeah.

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1 A Not often when the exam is at the border, but if
2 the person's been in Canada, they are usually
3 involved.
4 Q Your earlier evidence, did I understand it
5 correctly, that your building is totally within
6 Canada?
7 A Yes.
8 Q So after making inquiries and -- and coming to an
9 opinion regarding the status of that man who was
10 interacting with you, what then -- next occurred,
11 as you recall it?
12 A After we were done our interaction, he left the
13 same way he came into the office.
14 Q Did you -- did you tell him to leave?
15 A Not that I recall.
16 Q Did -- was he, by your actions, removed, or
17 deported, or denied entry?
18 A To Canada?
19 Q Yes.
20 A No.
21 Q Well, what was the last you saw of him?
22 A Exiting our office.
23 Q Did you happen to note what direction his travel
24 took him?
25 A No.
26 Q Do you recall whether or not the person you've
27 referred to as Reiss or Fox interacted with any
28 other officer on this occasion?
29 A I don't recall.
30 MR. WOLFE: I think those are my questions.
31 THE COURT: Thank you.
32 Okay, Ms. Polisak, can you answer any
33 questions that Mr. Fox has for you, okay? Mr.
34 Fox, you have some questions?
35 THE ACCUSED: Yes. Yes, I do have some questions.
36 However, there were some documents and artifacts
37 that I would want to present to the witness, and I
38 would ask, or I would hope that perhaps Mr. Wolfe
39 would be able to print those or make photocopies
40 of those so that I have copies to present to her.
41 THE COURT: How many are we talking about?
42 THE ACCUSED: Well, one is a copy of the FOSS and GCMS
43 records appears of this one document. And then
44 there are some documents on these DVDs -- sorry, I
45 have the list of them here.
46 THE COURT: Documents on DVDs? You don't have paper
47 copies?

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1 THE ACCUSED: No. They were obtained from other
2 sources and agencies like Homeland Security,
3 Global Affairs Canada, etc.
4 MR. WOLFE: May we excuse the witness at this point --
5 THE COURT: Yes.
6 MR. WOLFE: -- because I think we might be walking into
7 some --
8 THE COURT: Yes, Ms. Polisak --
9 MR. WOLFE: -- interesting exchange --
10 THE COURT: -- we'll call you back in when we're ready,
11 okay.
12 A Yeah.
13 THE COURT: Thank you.
14 A Can I just leave the water here?
15 THE COURT: Sure.
16 A Thanks.
17
18 (WITNESS STOOD DOWN)
19
20 THE ACCUSED: Originally, the documents on the DVDs I
21 was figuring --
22 THE COURT: Just hang on for a minute.
23 THE ACCUSED: Okay.
24 THE COURT: Okay.
25 THE ACCUSED: I was figuring that I would use the
26 electronic copies, and I understand that these
27 screens are set up in some way that that would be
28 able to be done, but I think that that would be
29 much more complicated than if we just had paper
30 copies of them.
31 THE COURT: Mm-hmm.
32 THE ACCUSED: But --
33 THE COURT: But how -- how many -- how many pieces of
34 paper are we talking about?
35 THE ACCUSED: Okay. Well, this is --
36 THE COURT: And what -- and what are they? You're
37 going to have to --
38 MR. WOLFE: Well, and that's an issue I think I would
39 --
40 THE COURT: That's the -- relevancy --
41 MR. WOLFE: --canvass --
42 THE COURT: -- is the issue.
43 MR. WOLFE: Right.
44 THE ACCUSED: Yes.
45 MR. WOLFE: And admissibility.
46 THE COURT: Yes.
47 MR. WOLFE: And -- and quite frankly, just to be

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1 totally upfront about this for the court's
2 benefit, so the court understands Crown and also
3 Mr. Fox, whether these are electronic documents,
4 or paper documents, admissibility is a major
5 threshold issue regarding the reliability,
6 authenticity and -- and providence of the
7 documents.

8 And one, B.C. Court of Appeal has made it
9 abundantly clear that you -- you don't have
10 documents admitted just by handing them out to the
11 court.

12 THE COURT: Well, no, but, I mean, they can be used for
13 cross-examination in certain --

14 MR. WOLFE: Well --

15 THE COURT: -- circumstances.

16 MR. WOLFE: -- there's --

17 THE COURT: Questions can be asked.

18 MR. WOLFE: Well, my immediate thinking on -- on that
19 for the court to --

20 THE COURT: Mm-hmm.

21 MR. WOLFE: -- consider is if a witness is cross-
22 examined on a document which itself never becomes
23 evidence, and the -- because its -- its
24 reliability or its origin is undetermined --

25 THE COURT: Mm-hmm.

26 MR. WOLFE: -- and perhaps even the document needs to
27 be interpreted --

28 THE COURT: Mm-hmm.

29 MR. WOLFE: -- then one has to consider whether that
30 cross-examination is a proper one because the
31 foundational document, upon which the witness is
32 being cross-examined, has now been established.

33 THE COURT: Well --

34 MR. WOLFE: Often we find in voir dires, for example,
35 or we do have documents marked for identification,
36 but in -- it's been this Crown's experience that
37 it's often in the context of Crown and the defence
38 counsel agreeing that ultimately the document will
39 be marked as evidence.

40 So, for example, where there's a -- say a
41 photograph ballot, or a photo line-up given, that
42 may be marked as I for Identification --

43 THE COURT: For Identification.

44 MR. WOLFE: -- and then later, when the officer is
45 called, maybe three witnesses down the road, we go
46 through what I would call say the *Sophonow*
47 exercise to -- to show the document is, in fact,

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1 the one that was presented to the witness, and
2 then it's marked as an exhibit.
3 But if we never get to that point, then the
4 document really is being put to a witness when the
5 document's just not satisfying either the Canada
6 Evidence Act requirements or even the common law
7 requirements of reliability --
8 THE COURT: Well -- with --
9 MR. WOLFE: -- and necessity.
10 THE COURT: Yes. And then the -- the -- I don't even
11 know what they are. I mean, the witness could
12 say, yes, I know that document. That's the
13 document that's generated by our -- by my -- in --
14 in -- employer, and I'm familiar with it and etc.,
15 etc. I don't know yet, because I don't even know
16 -- I don't even know what they are.
17 MR. WOLFE: I am thinking the American stuff more than
18 anything right now.
19 THE COURT: Yes. The -- the American --
20 THE ACCUSED: Well --
21 MR. WOLFE: Yeah.
22 THE COURT: -- side.
23 MR. WOLFE: Yeah.
24 THE ACCUSED: The stuff that I received from Homeland
25 Security is actually Canadian records --
26 MR. WOLFE: Well --
27 THE ACCUSED: -- that were sent to --
28 THE COURT: From -- from the local offices of Homeland
29 -- Homeland Security.
30 THE ACCUSED: Well, the Canadian authorities had
31 provided them to CBP and to ICE.
32 THE COURT: But -- but what are -- what are -- see, we
33 have to establish some --
34 THE ACCUSED: Sure.
35 THE COURT: -- kind of relevance. So what are they and
36 what do you expect to use them for with this
37 witness?
38 THE ACCUSED: Okay.
39 THE COURT: Because this witness has to have -- this
40 witness can't, just as Mr. Wolfe said, just can't
41 say, look at those documents, and, you know, you
42 put in evidence through some witness that does not
43 have any knowledge --
44 THE ACCUSED: Right.
45 THE COURT: -- of those, or the facts underlying those
46 documents.
47 THE ACCUSED: Two of the documents are the FOSS record,

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1 Field Operations Support System record that I
2 discussed or brought up before, which she should
3 be intimately familiar with.
4 THE COURT: What is it? What does it -- what do you
5 say it shows?
6 THE ACCUSED: Oh, one of the -- okay.
7 THE COURT: And eventually you're going to have to say
8 this, and I -- and I ask you this, and I know you
9 -- you don't have to, you know, reveal your
10 defence --
11 THE ACCUSED: Mm-hmm.
12 THE COURT: -- before you -- before you have it. But
13 here it is.
14 THE ACCUSED: But --
15 THE COURT: You're in cross-examination with the
16 witness, and you want to put certain documents to
17 them, you have to establish the --
18 THE ACCUSED: Right.
19 THE COURT: -- the necessary grounds to do that.
20 THE ACCUSED: The reason for my hesitancy a moment ago
21 is I was thinking whether it would be necessary to
22 provide some context before stating simply what's
23 in here. Because if I just state that on the FOSS
24 record, for example, it states, Country of Birth,
25 United States of America. And that's a piece of
26 --
27 THE COURT: Okay.
28 THE ACCUSED: -- information --
29 THE COURT: And maybe I'm stopping you too early --
30 THE ACCUSED: Sure.
31 THE COURT: -- but if -- if your goal --
32 THE ACCUSED: Yeah.
33 THE COURT: -- is to somehow establish that your -- you
34 know, you've talked about this before that you --
35 that you're -- that you're not a Canadian citizen
36 and that you're an American citizen. How does
37 that --
38 THE ACCUSED: Mm-hmm.
39 THE COURT: -- how is that relevant to this --
40 THE ACCUSED: This is --
41 THE COURT: -- to this issue?
42 THE ACCUSED: This is relevant at this point because
43 the witness just testified that she had not seen
44 any evidence that I'm not a Canadian citizen. But
45 if CBSA and IRCC's own records state that I was
46 born in a foreign country and that a Certificate
47 of Citizenship has never been issued to me --

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1 THE COURT: But -- but that fact, even if you were to
2 establish that fact --
3 THE ACCUSED: Yeah.
4 THE COURT: -- how is it relevant to the issue --
5 THE ACCUSED: Well, it's relevant --
6 THE COURT: -- that we're dealing with, which is the
7 breach charge?
8 THE ACCUSED: But it's relevant because it shows that
9 either she lied, or she was mistaken in what she
10 just testified about. She said that she hasn't
11 seen any --
12 THE COURT: Yes.
13 THE ACCUSED: -- evidence that I'm not a Canadian
14 citizen.
15 MR. WOLFE: But --
16 THE ACCUSED: I mean, there's clearly evidence that I'm
17 not --
18 MR. WOLFE: Perhaps I can --
19 THE COURT: Right.
20 MR. WOLFE: -- assist Mr. Fox here.
21 THE COURT: Mmm.
22 THE ACCUSED: Yeah.
23 MR. WOLFE: Relevance is a function of how any alleged
24 fact, or some evidence has an impact on a material
25 fact. Materiality is a function of the charges
26 the accused is facing, which is exactly as I heard
27 His Honour speak, that was what he was alluding
28 to. How is it material to the breach charges of
29 failure -- failure to report being within 100
30 metres of the U.S. or leaving the Province of
31 British Columbia without the permission of the
32 probation officer.
33 THE COURT: That -- that's the issue.
34 THE ACCUSED: Right. And the country that I was born
35 in is not relevant to those points, however it's
36 relevant to the credibility of the witness,
37 because the witness also stated that I told her
38 that I had a Canadian passport, which is a false
39 statement, which I intend to also prove from these
40 -- her own statements in here contradict that.
41 THE COURT: Her own statements. Well, you can cross-
42 examine her on her own statements. If you've got
43 something with respect to her notes in that system
44 that she told us about --
45 THE ACCUSED: [Indiscernible].
46 THE COURT: -- you can cross-examine her on that.
47 That's not a problem.

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1 THE ACCUSED: Right.
2 THE COURT: The issue -- the issue is, if you're trying
3 to establish through this witness that you're --
4 that you have some kind of status or don't have
5 any status, it's totally irrelevant to the charge
6 --
7 THE ACCUSED: No, no.
8 THE COURT: -- to the charge.
9 THE ACCUSED: No, I'm not trying to establish that.
10 THE COURT: Because she's testified that she didn't do
11 anything, or take any -- any actions to have you
12 directed to leave or removed involuntarily,
13 advised to leave. She -- she gave evidence on it.
14 THE ACCUSED: Right. She stated that.
15 THE COURT: Yes.
16 THE ACCUSED: And I'm saying that those statements are
17 false. And so --
18 THE ACCUSED: Okay.
19 THE ACCUSED: -- now I'm attempting to prove, as much
20 -- as many of her false statements as I can, to
21 show that she's lying.
22 THE COURT: Well, you can cross-examine her, but the --
23 the issue of -- of citizenship --
24 THE ACCUSED: Yes.
25 THE COURT: -- in my mind is completely irrelevant.
26 THE ACCUSED: Right. But that's -- that's not what I'm
27 going for with this. What I'm going for with this
28 is to show that the statements that she just made
29 under oath were false, and that there are
30 documents to prove that they are false. Or simply
31 being -- that she didn't see any evidence that I'm
32 not a Canadian citizen.
33 THE COURT: Well, how do you know --
34 MR. WOLFE: Well, how can --
35 THE COURT: -- what do you know -- how do you know what
36 she's looking at when she's looking at her screen?
37 THE ACCUSED: Because when I cross-examine her I'm
38 going to ask her, did you check the FOSS record.
39 THE COURT: Okay. Well, you can ask her that.
40 THE ACCUSED: And did you check the GCMS record?
41 THE COURT: Yes. That's --
42 THE ACCUSED: And so --
43 THE COURT: -- perfectly reasonable.
44 THE ACCUSED: If she then tries to say that, oh, yes, I
45 looked at the GCMS record --
46 THE COURT: Mm-hmm.
47 THE ACCUSED: -- and there was nothing in there to give

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1 me any indication that you're not a Canadian
2 citizen, then I can show her the --
3 THE COURT: Then those --
4 THE ACCUSED: -- GCMS record and go --
5 THE COURT: -- might become relevant.
6 THE ACCUSED: Right, and that's why I'm asking that
7 they --
8 THE COURT: But they --
9 THE ACCUSED: -- be printed now so that I can have
10 these en hand when I cross-examine her.
11 THE COURT: I don't know if it's -- if it's -- I think
12 it's -- honestly I think it's premature to maybe
13 go through that yet --
14 THE ACCUSED: Okay.
15 THE COURT: -- before you establish -- before you ask
16 the questions. And let's see what kind of answers
17 you get and then we'll -- we'll have a discussion
18 about whether, you know, rebuttal with documents
19 are -- are appropriate to the -- put to the
20 witness.
21 THE ACCUSED: Okay. And some of the other documents
22 that I would hope to have printed to confirm her
23 would -- are --
24 THE COURT: Mm-hmm.
25 THE ACCUSED: -- CPIC reports --
26 THE COURT: Mm-hmm.
27 THE ACCUSED: -- and a declaration from Steve Jacob,
28 who she makes reference to statements of Steve
29 Jacob in her notes in here --
30 THE COURT: Yes.
31 THE ACCUSED: -- but she doesn't identify him by name
32 --
33 THE COURT: Okay, well you can ask her about that.
34 THE ACCUSED: Right.
35 THE COURT: Yes.
36 THE ACCUSED: And so I would want to confront her with
37 that declaration as well, based on --
38 THE COURT: What declaration?
39 THE ACCUSED: -- how she responds -- oh, the
40 declaration of the Steve Jacob from 2008, which in
41 her notes she makes a false claim about what he
42 had said.
43 And so depending on how she responds to my
44 questions about her --
45 THE COURT: Yes.
46 THE ACCUSED: -- stating in here --
47 THE COURT: Okay.

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1 THE ACCUSED: -- I would want --
2 THE COURT: Why don't we -- why don't you start with
3 your cross-examination --
4 THE ACCUSED: Sure.
5 THE COURT: -- and we'll see how -- yes, she could --
6 she could agree with you on everything, and it
7 wouldn't be -- it wouldn't be necessary to go
8 through any of that.
9 But why don't we start with your cross-
10 examination and we'll determine -- we'll determine
11 at some point whether there's any basis for -- for
12 putting those -- those documents to her, and see
13 if she -- and you could ask her whether she's
14 familiar with certain types of entries into a
15 certain computer system. And if she says, no,
16 she's never seen anything like that, well, I mean,
17 that's sort of the end of the -- end of the road
18 because showing her something like that isn't
19 going to change the fact that she's not involved
20 in any of that.
21 THE ACCUSED: Right. Right. Now, just as a heads up
22 though, in these GCMS records in here, she's
23 actually the one that made some of the entries.
24 So --
25 THE COURT: Okay.
26 THE ACCUSED: -- I'll be very surprised if she denies
27 any knowledge of them.
28 THE COURT: Okay. And then, I mean, if those entries
29 are somehow relevant to this case --
30 THE ACCUSED: Yes.
31 THE COURT: -- and she's made those entries, that's --
32 I would -- I would say -- I don't know, Mr. Wolfe,
33 I'd probably agree that that's something that's
34 fair game.
35 THE ACCUSED: Okay. Before we proceed though, is there
36 any chance that we might be able to stand down for
37 few minutes so --
38 THE COURT: Mm-hmm.
39 THE ACCUSED: -- I can use the restroom.
40 MR. WOLFE: Oh, of course.
41 THE COURT: Of course.
42 THE ACCUSED: Sorry, it's just everything has to be
43 done according to the convenience of the sheriffs
44 and so if they're --
45 THE COURT: Yes, no --
46 THE ACCUSED: -- busy at the time, then we --
47 THE COURT: Not a problem.

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1 MR. WOLFE: I'm content to take an early break --
2 THE COURT: Why don't we take the early break.
3 THE ACCUSED: Okay, great, thanks.
4 THE COURT: And then we'll -- we'll -- and Mr. Wolfe,
5 you can advise the witness that's what we're
6 doing, and then we'll start -- we'll start with
7 the cross-examination.
8 MR. WOLFE: Sure absolutely.
9 THE COURT: Okay.
10 THE ACCUSED: Thank you.
11 THE COURT: Thank you.
12 THE SHERIFF: Order in court, all rise.
13
14 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)
15 (PROCEEDINGS RECONVENED)
16
17 THE COURT: Okay, thanks.
18 MR. WOLFE: Yes, Wolfe, initial B. for the provincial
19 Crown, Your Honour. Recalling the Fox
20 continuation.
21 Before the break we stood down and the
22 witness is still outside the courtroom. With your
23 permission I'll go outside and bring --
24 THE COURT: Sure.
25 MR. WOLFE: -- her in.
26 THE COURT: Thank you.
27
28 MEAGAN POLISAK
29 recalled.
30
31 THE COURT: Thanks, Ms. Polisak. Okay. Yes, Mr. Fox
32 has some questions for you. All right, go ahead,
33 Mr. Fox.
34 THE ACCUSED: I'm sorry, just one moment, please.
35 Should I remain here, or --
36 THE COURT: Yes, that's fine. Or the podium, whatever
37 suits -- suits you.
38 THE ACCUSED: Since I have all this chaos going on
39 maybe I'll just stay here.
40 THE COURT: Sure. That's --
41 THE ACCUSED: Okay.
42 THE COURT: The microphones will pick you up from
43 there.
44 THE ACCUSED: Right.
45
46
47

Meagan Polisak (for Crown)
cross-exam by the Accused
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CROSS-EXAMINATION BY THE ACCUSED:

- 1
2
3 Q Good morning, Officer Polisak.
4 A Morning.
5 Q The first question that I wanted to bring up
6 relates to something that you had stated earlier
7 on direct. The Crown was asking you, or had had
8 asked you, and perhaps I'm paraphrasing here,
9 about whether the Douglas Border Crossing is
10 considered to be within Canada?
11 A Yeah.
12 Q Now, I understand that physically the building is
13 within Canada. But with respect to the
14 Immigration laws, when a person is at a port of
15 entry such as the Douglas Border Crossing, and
16 they are seeking entry to Canada, are they
17 considered to be within Canada at that point, or
18 are they considered to be outside seeking
19 admission to Canada?
20 A When they're south of the booths, they're
21 considered not in Canada, yeah.
22 Q I see. So is there a difference in the
23 requirements that CBSA must meet to remove a
24 person from Canada who is physically present
25 within Canada, or say in the City of Vancouver, as
26 opposed to denying admission to a person who is at
27 a port of entry and not otherwise within Canada?
28 A So there is a difference between somebody who is
29 in Canada, or somebody who is seeking entry to
30 Canada, that's correct.
31 Q Okay. So if a person is at, for example, the
32 Douglas Border Crossing, and they are seeking
33 admission to Canada, and let's say that the CBSA
34 officer determines that they're not admissible and
35 so they tell them they're not admissible, if the
36 person then just accepts that and he goes, okay,
37 and turns around and goes back to the United
38 States because that would be the only way they
39 could go from the Douglas Border Crossing, would
40 there always be, according to CBSA policy, a
41 record of the fact that the person was found to be
42 inadmissible and that they were denied entry at
43 that point? I mean, given that the person is not
44 challenging it?
45 A Yeah. Most of the time it goes into our GCMS, our
46 Global --
47 Q Mm-hmm.

Meagan Polisak (for Crown)
cross-exam by the Accused
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1 A -- Case Management System. However, when the
2 system is down, there's times where we can only
3 make a paper copy.
4 Q Okay. And are you saying that that's CBSA policy,
5 or are you saying that you believe that is the way
6 it always is?
7 A I can't confirm that it's CBSA policy. It's what
8 I know.
9 Q Right. Let me ask it a different way perhaps.
10 Do you -- hmm, how can I phrase it? Do you
11 believe that there is a likelihood or a
12 probability that sometimes a person shows up at a
13 border entry is denied admission, and because they
14 don't challenge it, nothing goes into the system
15 about it?
16 MR. WOLFE: Sorry, how can the witness answer that
17 question, and --
18 THE COURT: Um --
19 MR. WOLFE: -- I'm objecting to that question.
20 THE COURT: Yes. I think he's -- I think he's
21 following up on the previous question. When you
22 say -- when you say, Ms. Polisak, that when the
23 system is down paper copies -- some paper entry is
24 made, and I guess the question is, is there some
25 times when no entry is made, either to the
26 computer or through paper?
27 THE ACCUSED:
28 Q Yes. And the reason that I'm asking that is
29 earlier the Crown had asked that if a person were
30 denied admission, would there be some entry made
31 into the system about that, some record made. And
32 the response was something to the effect of "yes."
33 I'm just trying to determine if it is possible or
34 probable that there are scenarios where an entry
35 wouldn't have been made?
36 A We try our best to put something in every time.
37 If there is a system outage, it's not always
38 possible.
39 Q Do you have any familiarity with the information
40 about myself in either the FOSS or the GCMS?
41 Particularly with my traveller history, crossing
42 at the Douglas Border Crossing?
43 A Not with your crossing history.
44 Q Right. When you were doing your investigation on
45 March 15th, 2019, did you look into that? I mean,
46 did you check your records to see when I had
47 crossed the Canada/U.S border in the past?

Meagan Polisak (for Crown)
cross-exam by the Accused
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1 A Not that I recall.
2 Q Okay. Now, you had stated earlier that on March
3 15, 2019, you were scheduled to work from 6:00
4 a.m. to 5:00 p.m.?
5 A That's correct.
6 Q Do you recall if those are the hours that you had
7 worked on that day?
8 A I'm usually pretty good at updating if I take
9 overtime or I leave early. I can't, with 100
10 percent certainty, say that I didn't do either of
11 those that day, but on my schedule, I have written
12 6:00 a.m. to 5:00 p.m.
13 Q Okay. Would you remember generally if you worked
14 say four-or-five hours overtime, or extra beyond
15 that, what is it 11 hours? I mean, that's quite a
16 large amount of overtime in one day.
17 A It is, but being a year ago --
18 Q Mm-hmm.
19 A -- I can't speak to that.
20 Q That's unfortunate. But I would assume that there
21 would be some records kept of that, payroll
22 records or something, so we could always verify
23 that after.
24 You have also stated earlier that I had told
25 you that I had a Canadian passport in the name
26 Richard Reiss or Ricky Reiss?
27 A Richard Reiss, yes.
28 Q Okay. Now, what's peculiar though, or what's of
29 interest to me there, is the way you phrased it
30 that I had told you that I had a Canadian
31 passport. Is that accurate, is -- I mean, the way
32 you remember it, is that how things happened, that
33 I told you that I had a Canadian passport?
34 A In the notes that I have it just states that you
35 had a Canadian passport.
36 Q Really?
37 A Like not physically present.
38 Q Right, but that I had been issued a Canadian
39 passport?
40 A I'm not sure --
41 Q I'm -- I'm just asking you, is that what you mean
42 to say, or -- I'm not leading you in any way based
43 on what's in the GCMS here.
44 A Mmm. I can't confirm how it came up. All I
45 remember is when I looked at my notes, it says
46 that you were issued a Canadian passport under
47 Richard Reiss.

Meagan Polisak (for Crown)
cross-exam by the Accused
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1 Q Do you happen to have a copy of your notes?
2 A Not right here with me.
3 Q Would it help you to have a copy of your notes?
4 THE ACCUSED: Oh, that: reminds me, Mr. Wolfe, the
5 declaration that you had sent me on Friday,
6 obviously I only have that electronic copy. You
7 don't happen to have a copy of that on you, do
8 you, because there were some things
9 [indiscernible] that I would want to ask her about
10 in there.
11 MR. WOLFE: Yes.
12 THE ACCUSED: Great. May I have a copy?
13 MR. WOLFE: Yes.
14 THE COURT: Okay. So you have copies of the actual log
15 --
16 THE ACCUSED: I have the --
17 THE COURT: -- log note --
18 THE ACCUSED: -- full GCMS and F-O-S-S here.
19 THE COURT: Okay, and do you want to provide a copy to
20 the witness?
21 THE ACCUSED: Well, no. That was what I wanted to get
22 a photocopy of, that we were discussing earlier.
23 I just have the one copy.
24 THE COURT: So you don't have a copy of the notes that
25 you made that day?
26 THE ACCUSED: Well --
27 MR. WOLFE: Well, she has a declaration which is the
28 notes I understand the witness to have made that
29 day.
30 THE COURT: Mm-hmm.
31 MR. WOLFE: I understand Mr. Fox to be referring to a
32 different format, or a larger document --
33 THE ACCUSED: A much more complete.
34 THE COURT: Okay. And -- okay. So you -- you have a
35 copy of the declaration; is that right?
36 A Not --
37 THE COURT: Physically --
38 A -- physically.
39 THE COURT: -- you don't have -- but you've seen it?
40 A Yes.
41 THE COURT: And have you seen this other -- your other
42 -- what he's refer -- referring to?
43 THE ACCUSED: My entire GCMS record.
44 THE COURT: Why don't we have the witness identify it.
45 Madam Registrar, can you pass a copy of that
46 to the --
47 THE ACCUSED: The GCMS.

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1 THE COURT: -- wit -- and if you could just tell us if
2 you recognize this document?
3 THE ACCUSED: It's from there to the end.
4 THE COURT: You're showing me some --
5 MR. WOLFE: I've -- I haven't seen this --
6 THE COURT: You haven't seen it?
7 MR. WOLFE: I've never seen it.
8 THE COURT: Oh, okay.
9 MR. WOLFE: I'm absolutely [indiscernible].
10 THE COURT: Okay. Then we maybe should get copies then
11 if you haven't seen it.
12 THE ACCUSED: Um --
13 THE COURT: These -- I guess we should first establish
14 whether the witness is -- those are her entries
15 before we go down --
16 MR. WOLFE: Sure, and we --
17 THE COURT: -- too --
18 MR. WOLFE: -- don't know whether this is admissible or
19 anything like that, or whether she made it, or who
20 the officer --
21 THE COURT: Well, if it's the officer's notes, it --
22 she could be presented them. But --
23 THE ACCUSED: The -- the notes in her declaration here
24 were copied and pasted from the notes field and
25 the GCMS entry that she had made. But there's
26 additional -- an additional paragraph at the
27 beginning -- the end that aren't in the GCMS that
28 are just in this declaration. That's why I was
29 asking for a copy --
30 THE COURT: So there's more in the declaration than the
31 other document?
32 THE ACCUSED: There's a lot more in the GCMS that's not
33 in what was provided in here.
34 THE COURT: Oh.
35 THE ACCUSED: But there's some stuff in here that's not
36 in there.
37 THE COURT: Okay.
38 THE ACCUSED: And with respect to the authenticity of
39 those documents, and if the Crown wants to
40 challenge those, I have no objection to that. If
41 that means having to adjourn for whatever period
42 of time while I --
43 THE COURT: Well, the -- the officer, I'm sure, can
44 identify her own notes.
45 THE ACCUSED: I'm -- I'm just stating, if we get to
46 that point, if it becomes an issue --
47 THE COURT: Oh.

Meagan Polisak (for Crown)
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1 THE ACCUSED: -- that I would have no objection to it
2 if I need to get subpoenas for CBSA, ATIP
3 Department people or --
4 THE COURT: Well --
5 THE ACCUSED: -- something.
6 THE COURT: -- we're not doing that. We're --
7 MR. WOLFE: I wouldn't mind making --
8 THE COURT: We're just simply --
9 MR. WOLFE: -- I wouldn't mind making a photocopy or
10 two anyway --
11 THE COURT: Sure. We're just simply --
12 MR. WOLFE: -- because I'm totally in the dark.
13 THE COURT: You just simply want to ask the officer
14 questions about her notes?
15 THE ACCUSED: Yes. Yes, I have --
16 THE COURT: Okay.
17 THE ACCUSED: -- a number of questions.
18 THE COURT: Okay. Fair enough, but we should get --
19 yes, enough copies for everybody to have.
20 MR. WOLFE: Make one for the --
21 THE ACCUSED: Sure.
22 MR. WOLFE: -- court?
23 THE COURT: Sure. Just for -- just so that I can
24 follow along.
25 MR. WOLFE: Follow, I think, yes.
26 THE COURT: Okay. Yes.
27 MR. WOLFE: All I need is about three or five minutes.
28 THE COURT: Sure, just give me a shout when we're --
29 THE ACCUSED: Mr. Wolfe --
30 THE COURT: We're going to stand down --
31 THE ACCUSED: -- there's three pages in there --
32 THE COURT: -- just for a bit --
33 THE ACCUSED: -- that aren't relevant.
34 THE COURT: -- about five minutes just to get --
35 THE ACCUSED: It would probably --
36 THE COURT: -- those copies, okay?
37 THE ACCUSED: -- be easier for you to --
38 A Coming back in here later --
39 THE ACCUSED: -- just to copy --
40 THE COURT: Yes.
41 THE ACCUSED: -- the whole thing, you know, just
42 [indiscernible noise] --
43 THE COURT: All of us are going to --
44 THE ACCUSED: -- but if you do --
45 MR. WOLFE: Yeah, well I want --
46 THE ACCUSED: -- not want the irrelevant pages, the two
47 page -- first pages --

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1 THE COURT: Okay, we'll stand down --
2 THE ACCUSED: -- are an email --
3 THE COURT: -- for a few minutes.
4 THE SHERIFF: Order in court, all rise.
5 THE COURT: Okay.
6
7 (WITNESS STOOD DOWN)
8
9 (PROCEEDINGS ADJOURNED)
10 (PROCEEDINGS RECONVENED)
11
12 MR. WOLFE: Wolfe, initial B. for the provincial Crown,
13 Your Honour. Recalling Fox.
14 THE COURT: Thanks.
15 MR. WOLFE: The photocopier on the fifth floor wouldn't
16 work very well. Had to go down to the second
17 floor.
18 THE COURT: No problem.
19 MR. WOLFE: I'd ask Madam Clerk to hand you a copy of
20 that document.
21 THE COURT: Thank you, I have that. It's one package,
22 okay.
23 And we should probably have the witness back.
24 MR. WOLFE: Yes. If we could call Ms. Polisak, please,
25 Officer Polisak.
26 THE COURT: She should be just in the hallway.
27 MR. WOLFE: Yeah, she is.
28 THE ACCUSED: The other copies, you distributed them,
29 or --
30 MR. WOLFE: No. The judge has one, I have one, you
31 have the original and a copy.
32 THE ACCUSED: Okay. Now, the copy you gave me, is that
33 to provide to the witness or --
34 MR. WOLFE: [indiscernible].
35 THE ACCUSED: Okay, yeah. As opposed to me keeping a
36 copy. But I have the original, so it's okay.
37
38 **MEAGAN POLISAK, recalled.**
39
40 THE COURT: Thanks, Ms. Polisak.
41 Okay, now you had some questions for Ms.
42 Polisak.
43 THE ACCUSED: Yes, yes.
44
45 **CROSS-EXAMINATION BY THE ACCUSED, CONTINUING:**
46
47 Q Officer Polisak, have you received a copy of this

Meagan Polisak (for Crown)
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1 declaration? I don't -- I can't remember if Mr.
2 Wolfe had handed it to you or not?
3 A I don't have ans with me right now.
4 THE ACCUSED: Okay. I believe you were going to
5 provide her a copy of that, right?
6 A Thank you.
7 THE COURT: Okay. That -- so that piece of paper
8 you're handed right now, do you recognize that
9 piece of paper?
10 A Yes.
11 THE COURT: Okay. Do you want to describe what it is?
12 A It's called a Statutory Declaration. So I copy
13 and pasted the notes from my GCMS Info Alert onto
14 this declaration.
15 THE COURT: Okay. Did you -- and what question did you
16 want to ask the witness, Mr. fox?
17 THE ACCUSED:
18 Q Well, my first question, since it is called
19 "declaration" or that's what it says at the top of
20 the page, it kind of gives the impression that
21 it's a sworn declaration. But I noticed it's not
22 -- it wasn't actually signed or sworn anywhere, so
23 I wanted to confirm with you is this -- are you
24 stating that everything that is stated in this
25 document is true and correct to the best of your
26 knowledge?
27 A Yes.
28 Q Okay. Because since it wasn't actually sworn --
29 A I thought --
30 Q -- it was kind of meaningless at that point?
31 A -- I signed a different page. There's about four
32 pages, but --
33 Q Right, but all the pages that I received weren't
34 signed.
35 A Were not signed, all right.
36 THE ACCUSED: Right. Okay. That being the case, then
37 there are some questions that I would have about
38 some of the statements that you have in here.
39 However, I am at some points probably going to
40 refer to the rest of the GCMS entries in here so
41 maybe it would be beneficial for you to have both.
42 THE COURT: Okay. Do you want to pass the -- pass Ms.
43 Polisak that -- just ask if you rec --
44 THE ACCUSED: Thank you.
45 THE COURT: If you recognize the contents of this
46 document.
47 A Thank you.

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1 THE ACCUSED: I should explain first, the first couple
2 of pages of that are actually the email that I
3 received from IRCC, and then it goes into a three-
4 page FOSS report.
5 THE COURT: Well -- okay. So which part do you want to
6 ask Mr. Polisak because --
7 THE ACCUSED: Well, we are going to be referring to the
8 FOSS report but not yet. First we're going to be
9 referring to the --
10 THE COURT: We may not be referring to that report. It
11 depends on what knowledge the witness has with
12 that --
13 THE ACCUSED: Well, right, but she specifically
14 referenced some information from the FOSS Report
15 in her statement.
16 THE COURT: Okay. So this package, Ms. Polisak, does
17 -- do you recognize the contents of this package?
18 A This is from what -- it says GCMS Information
19 Request case application. From where it says
20 "case" and then the number of our Q [phonetic],
21 this is what is generated by GCMS when something
22 is created in it.
23 THE COURT: Okay. So that file number case Q --
24 whatever that is, triple zero 326547?
25 A Yeah.
26 THE COURT: Is that a case number that's specific to --
27 to this interaction?
28 A Yes.
29 THE COURT: That we've been talking about?
30 A So I've never seen it in this layout.
31 THE COURT: Okay. Okay. Well, if anytime that you're
32 asked a question about the content that you --
33 that you're unable to verify as being your
34 information, or information that you recognize,
35 just let us know.
36 THE ACCUSED:
37 Q The first thing, though, that I would like to draw
38 your attention to is on the last page of that GCMS
39 Report. There is the PO which -- oh, I guess the
40 [indiscernible] was on the bottom of the previous
41 page. Yeah, it was called notes. And -- or no, I
42 guess general? But anyway, that field at the very
43 end, there's a large paragraph, appears to
44 correspond to the large paragraph in your
45 declaration. And so I just want to confirm with
46 you whether the content of those two paragraphs
47 are exactly the same. I know it's kind of tedious

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1 having to look and compare them, but -- now,
2 should -- well, I'll -- I'll let you read.
3 THE COURT: Well, yes. You know that, Mr. Fox, whether
4 they're the same or not. Do you want the witness
5 to read through both --
6 THE ACCUSED: Um --
7 THE COURT: -- and compare them word-for-word?
8 THE ACCUSED: I know that they're the same and I'm
9 assuming that the witness had copied and pasted it
10 from the GCMS into this declaration, and if that's
11 the case, then she would know whether or not
12 they're the same if she was the one who copied and
13 pasted them.
14 THE COURT: Are you able -- are you able to answer that
15 question, Ms. Polisak?
16 A I did copy and paste from the info onto my
17 declaration.
18 THE COURT: Okay. And that's the -- the material that
19 comes after the word "text" on the last page --
20 A Correct.
21 THE COURT: -- that's -- okay.
22 THE ACCUSED:
23 Q Okay. So before we took that brief break to get
24 the photocopies, we were talking about the issue
25 of your statement that I had said that I had a
26 Canadian passport in the name of Richard Reiss.
27 In the statement that you -- or in your
28 declaration, if you'd like to take a moment to
29 refresh your memory based on that, feel free,
30 because I'll be referring to numerous parts within
31 your --
32 THE COURT: The declaration now?
33 THE ACCUSED: Yes. Well, the declaration and what is in
34 that paragraph in the GCMS --
35 THE COURT: Oh, what's in that --
36 THE ACCUSED: -- are the same, so --
37 THE COURT: -- paragraph -- and you say they're the
38 same thing?
39 THE ACCUSED: Right, right.
40 THE COURT: Okay. Do you -- if you want to silently
41 read that paragraph, Mr. Fox has some questions
42 about it.
43 You've -- you've read that?
44 A Mm-hmm.
45 THE COURT: Okay, thanks. Go ahead.
46 THE ACCUSED:
47 Q So on the document, the declaration

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1 [indiscernible] as opposed to the GCMS entry, I'm
2 only -- I'm referring to this one so that I can
3 tell you how many lines down.
4 A Oh, okay.
5 Q I could use the other one and come from there, but
6 I already had this one in hand. That's the only
7 reason I'm using this one.
8 Um, one, two, three, four, so five lines down
9 from the top of that large paragraph, about
10 halfway through that line, or a little more than
11 halfway, there's a sentence that starts with,
12 "When questioned about this"?
13 A Mm-hmm.
14 Q Could you read, please, the rest of that sentence.
15 THE COURT: Well, do you have a question?
16 THE ACCUSED: Um --
17 THE COURT: Like why -- why don't you ask your
18 questions, and if you -- if you don't get the
19 answer that -- that you want, you can use the
20 document to --
21 THE ACCUSED: Okay.
22 THE COURT: -- challenge that.
23 THE ACCUSED:
24 Q My question would be, earlier when you stated that
25 I had said that I had a Canadian passport, was
26 that -- was that correct? Was that how I had
27 stated it was that I had a Canadian passport, or
28 did it -- did the topic come about some other way?
29 A I can't recall if you said it or it came about a
30 different way. I know when I called -- in my
31 notes it says I called Passport Canada --
32 Q Mm-hmm.
33 A -- and it was confirmed that Richard Reiss was
34 born in Sudbury, Ontario, making that person a
35 Canadian.
36 Q Okay. Did I state to you during our interaction
37 on March 15th, 2019, that I had assumed the name
38 Richard Reiss at some point and applied for a
39 passport based on false pretenses?
40 A I put that in my notes.
41 Q That I had stated that to you?
42 A Yes.
43 Q Okay. Now, one thing I want to clarify with you,
44 throughout this paragraph you refer to me as
45 "subject" or "the subject." However, in this part
46 where you're talking about your -- what you saw
47 from Edmonton CIC, etc. you refer to Reiss by

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1 name, rather than the subject.
2 So could you tell me why it is like -- were
3 you differentiating somebody named Ricky Reiss or
4 Richard Reiss from me, or --
5 A At the beginning I wrote subject because I did not
6 know who you are is --
7 Q Mm-hmm.
8 A -- what I normally do, and then I put both Patrick
9 Fox and Richard Reiss in my notes because those
10 are both names that came up during our
11 interaction.
12 Q Okay. You said in the beginning you didn't know
13 who I was. Do you mean in the beginning when you
14 first started writing this narrative?
15 A Like when you've -- when we first started talking.
16 Q Correct. At the time that you wrote this
17 narrative, did you believe that you knew who I
18 was?
19 A I believed that you were a Canadian.
20 Q Okay. That doesn't really answer my question, but
21 --
22 A Okay.
23 Q Now, earlier you had stated on direct that in the
24 course of your investigation you did not see any
25 evidence that I'm not a Canadian citizen; is that
26 correct?
27 MR. WOLFE: Sorry --
28 THE COURT: Yes, Mr. Wolfe --
29 MR. WOLFE: Sorry --
30 THE ACCUSED: It was her statement. The Crown --
31 MR. WOLFE: Sorry.
32 THE ACCUSED: Okay.
33 MR. WOLFE: I thought she said that you were not an
34 American citizen.
35 THE ACCUSED: No. Because that would make no sense.
36 MR. WOLFE: Okay, sorry --
37 THE ACCUSED: That would support what I'm saying.
38 MR. WOLFE: -- sorry, yes --
39 THE ACCUSED: Or --
40 MR. WOLFE: -- right, yes I've got [indiscernible/not
41 near microphone].
42 THE COURT: Yes, fair enough. Okay.
43 THE ACCUSED: Okay.
44 MR. WOLFE: Sorry about that. You've got it right.
45 THE COURT: Yes.
46 THE ACCUSED:
47 Q So you had stated that on direct earlier; is that

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1 correct?
2 A Sorry, can you ask the question again?
3 Q On direct earlier, you had stated that in the
4 course of your investigation -- and again, I might
5 be paraphrasing, I don't know the exact wording
6 that was used -- but you had stated that you had
7 not encountered any evidence that I'm not a
8 Canadian citizen?
9 A Correct.
10 Q Okay. You had also stated on direct that you
11 consider CBSA's records and information to be
12 reliable?
13 A Correct.
14 Q Are you familiar with IRCC?
15 A Yes.
16 Q Do you consider their records and information
17 reliable?
18 A Yes.
19 Q The GCMS, is that owned by CBSA or IRCC? I know
20 that CBSA has access to it and you're able to put
21 information in, but who actually owns that system,
22 who maintains it?
23 THE COURT: What's IRCC? For the record.
24 A Immigration Refugee and Citizenship Canada.
25 THE COURT: Yes.
26 THE ACCUSED: Oh, and just so there's no confusion
27 later, it used to be called CIC, or Citizenship
28 and Immigration Canada. You'll notice at the top
29 of the declaration it says Citizenship and
30 Immigration Canada. They're the same agency, they
31 just changed their name at some point.
32 THE COURT: Okay. What was your question?
33 THE ACCUSED:
34 Q Oh, about who actually owns and maintains the
35 GCMS? Whether it's a CBSA system, or an IRCC
36 system?
37 Well, I guess whether or not you know it's
38 not really important. We can move on from that.
39 Do you consider the information in the GCMS
40 reliable? I mean, given that you've already
41 stated that you consider CBSA's information and
42 reference reliable, and if CBSA is the agency
43 putting the information in there, can we also
44 assume that you consider the information in there
45 reliable?
46 A Sorry, can you ask the question --
47 MR. WOLFE: There -- there --

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1 THE COURT: Yes, there's several --
2 MR. WOLFE: -- this -- this question --
3 THE COURT: -- propositions --
4 MR. WOLFE: -- has a lot of assumptions --
5 THE COURT: -- you put into that question.
6 MR. WOLFE: -- built into it.
7 THE COURT: Mm-hmm.
8 MR. WOLFE: It's really overly complex.
9 THE ACCUSED: Okay.
10 MR. WOLFE: [indiscernible] be broken down.
11 THE ACCUSED: I'll break it down.
12 THE COURT: Well, so -- so the question is, is the GCMS
13 information system, do you consider that -- that
14 system reliable as far as the information that's
15 contained in there?
16 A It's all information that's put in there by an
17 individual that believes it to be factual.
18 THE COURT: But -- so -- so the information that's
19 provided by folks is -- is -- is often written
20 down in there. You don't know whether that
21 information that's provided is accurate or not?
22 A That's correct.
23 THE COURT: Okay.
24 THE ACCUSED:
25 Q So are you saying then that you don't necessarily
26 consider CBSA's records and information to be
27 reliable? I mean, that's what it sounds like
28 you're saying new.
29 THE COURT: No. That's not --
30 THE ACCUSED: No?
31 THE COURT: -- what she said.
32 THE ACCUSED: Oh, okay. Well, that's why I'm asking
33 for clarification.
34 THE COURT: I understand her answer that I clarified I
35 think, is that there's a lot of information within
36 that system that's provided by folks that you deal
37 with. That information, you don't know whether
38 it's reliable or not. I mean, you -- you say
39 you're just sometimes writing down what people
40 tell you; is that fair?
41 A That's correct.
42 THE COURT: Okay.
43 THE ACCUSED:
44 Q Well, on line -- where'd it go? On the fourth
45 line in your declaration in your large paragraph,
46 there's a sentence that starts with "NCMS note" at
47 the end of the line? It's a -- the sentence that

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1 comes right before the one that we had just looked
2 at.
3 A Yeah.
4 Q States that Edmonton CIC confirmed Reiss was born
5 in Sudbury, Ontario. Is that statement true? Not
6 about what CIC confirmed. Is it -- how can I say
7 this?
8 THE COURT: Is what information true?
9 THE ACCUSED: Well, that Edmonton CIC confirmed
10 something.
11 THE COURT: So you're asking the witness whether -- how
12 --
13 THE ACCUSED: Sorry, I --
14 THE COURT: -- she received that information about
15 Edmonton CI -- CIC?
16 THE ACCUSED: I'm trying to think of how I could word
17 it, and I'm having difficulty with that.
18 THE COURT: How did you get that information --
19 THE ACCUSED: Well, that would be my next --
20 THE COURT: -- from -- just let me --
21 THE ACCUSED: -- question. I'm leading into that here.
22 THE COURT: -- just let me -- let me ask to try to help
23 you. The -- I guess the first question I find out
24 is how did you -- when you made that note, "NCMS
25 note states," how do you -- how do you receive
26 that note?
27 A When you are in GCMS and you search somebody's
28 name, there's the ability to see what notes were
29 made in the old system which is called FOSS. I'm
30 not sure what that stands for. It was before my
31 time. And that was a note that came up.
32 So similar to the info alert that I put in,
33 it was that system's info alert from Edmonton CIC,
34 which is Citizenship and Immigration Canada.
35 So when I ran Reiss' name and date of birth
36 in GCMS, and you click a button to get the old
37 FOSS files up --
38 THE COURT: Mm-hmm.
39 A -- that appeared under Richard Reiss' name.
40 THE COURT: Okay, thanks.
41 THE ACCUSED: FOSS is Field Operation Support System.
42 Oh, and for the benefit of the court and Mr.
43 Wolfe, the GCMS was a newer system that was
44 intended to replace FOSS, and FOSS was being
45 phased out. And I think at this point --
46 THE COURT: Yes, you can't -- you're not giving
47 evidence right now, but --

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1 THE ACCUSED: Sorry, I'm just --
2 THE COURT: Yes.
3 THE ACCUSED: So that you understand what the
4 difference is between the two systems.
5 Q Okay. So Officer Polisak, from that statement
6 that you -- that sentence that you put in the
7 notes here are you saying that you saw something
8 somewhere that stated that Edmonton -- or that
9 someone had confirmed, in this case, Edmonton CIC,
10 that Reiss was born in Sudbury, Ontario?
11 A That was in the FOSS notes.
12 Q Okay. In that packet that was handed to you
13 earlier, there's a FOSS record. The first one --
14 THE COURT: Again -- again, Mr. Fox. The -- your
15 citizenship status, I'm -- you're --
16 THE ACCUSED: Yeah.
17 THE COURT: -- going to have to establish why that's
18 relevant before --
19 THE ACCUSED: Right.
20 THE COURT: -- before you go far -- too far down this
21 path.
22 THE ACCUSED: Yes. We're getting very close to that.
23 THE COURT: Mm-hmm.
24 THE ACCUSED: This goes toward -- what I was
25 questioning you earlier about whether or not she
26 had encountered any evidence that I'm not a
27 Canadian citizen --
28 THE COURT: Okay.
29 THE ACCUSED: -- because she had testified that she
30 hadn't --
31 THE COURT: Okay.
32 THE ACCUSED: -- encountered any evidence.
33 THE COURT: What are you referring to right now?
34 THE ACCUSED: Ah, well, the first page of the FOSS
35 report.
36 THE COURT: What is -- where is that?
37 THE ACCUSED: Oh, that's the third page of that stapled
38 packet.
39 THE COURT: Okay.
40 THE ACCUSED: It says, "FOSS ATIP Richard Reiss,
41 60028504" at the top.
42 THE COURT: Okay. The third page of that package. Is
43 this a format you're familiar with, officer?
44 A No.
45 THE COURT: And what question did you want to ask, Mr.
46 --
47 THE ACCUSED:

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1 Q Now, I understand that the layout might be
2 different than how it might appear on the screen,
3 or how you might be used to seeing it. But does
4 this look like what you had reviewed or the --
5 what led you to make the statement that the NCMS
6 note states, etc., etc. Is this essentially a
7 FOSS record like what you're referring to?
8 A I only looked at the written notes. So we can't
9 get into a FOSS file.
10 Q Mm-hmm.
11 A You can see very limited information. I can't --
12 Q Can you --
13 A -- con --
14 Q Can you flip forward two pages.
15 THE COURT: Flip forward two pages. Is that the -- the
16 --
17 THE ACCUSED: Non-computer --
18 THE COURT: -- page that has remarks on it?
19 THE ACCUSED: Yes. The -- it says "non-computer-based
20 entry" at the top.
21 THE COURT: Mm-hmm.
22 A Oh.
23 MR. WOLFE: Sorry, I want to make sure --
24 THE ACCUSED: Next page --
25 MR. WOLFE: Thank you.
26 THE COURT: You had some remarks there.
27 MR. WOLFE: And I just want to make sure the witness is
28 in the right place. She appears to be, Your
29 Honour.
30 THE COURT: Okay. And, Constable Polisak, when you
31 said you had -- you had access to the note part of
32 the FOSS record, is that -- is -- is the note part
33 of the FOSS record, does that come under the
34 remarks line there?
35 A Yes.
36 THE COURT: Okay.
37 THE ACCUSED:
38 Q So is the information in that remarks section the
39 source of -- or where you got that statement from
40 about the NCMS note stating -- confirming that
41 Reiss was born in Sudbury, Ontario?
42 A Yes.
43 Q Okay. And in your statement where you say,
44 "Edmonton CIC confirmed that Reiss was born in
45 Sudbury, Ontario," are you saying that they
46 confirmed I was born in Sudbury, Ontario, or that
47 some other person named Reiss was born in Sudbury

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1 Ontario. I'm just trying to clarify here because
2 of your use of like referring to me in some parts
3 as the subject, and here I was Reiss, and so I'm
4 trying to figure out what it is that you were
5 saying here.
6 A In my notes I was saying that Reiss, Richard, with
7 date of birth 1973/11/24 --
8 Q Mm-hmm.
9 A -- was confirmed by Edmonton CIC to be born in
10 Sudbury, Ontario.
11 Q Okay. But not necessarily me? The issue is, am I
12 that person? And I'm not saying that we're going
13 to debate that at this point. I'm just trying to
14 clarify in your notes here like --
15 THE COURT: The issue is not whether you're that
16 person, that's not the issue.
17 THE ACCUSED: I -- I'm trying to clarify if she's
18 saying -- if she's trying to claim that I was born
19 there, er that's some other person?
20 MR. WOLFE: I don't think that has ever been -- and we
21 can stand the witness down --
22 THE COURT: Well --
23 MR. WOLFE: But perhaps if we could prove -- we want to
24 preserve the witness, we do have an objection to
25 make.
26 THE COURT: Okay. Yes, Ms. Polisak, can you just wait
27 right outside again for us?
28 A Sure.
29 THE COURT: Thank you.
30 A Leave these here?
31 THE COURT: You might get a little exercise today.
32
33 (WITNESS STOOD DOWN)
34
35 MR. WOLFE: Your Honour, it's my recollection the
36 witness has never indicated that she said that she
37 [indiscernible] Mr. Fox he -- he agrees was born
38 in Sudbury, Ontario.
39 THE COURT: Mm-hmm.
40 MR. WOLFE: She has given evidence indicating that she
41 relied on information in the system and acted on
42 that information. Apparently that's the thrust of
43 her evidence.
44 Secondly, I think at this point we've entered
45 into [indiscernible/not near microphone]
46 collateral matters --
47 THE COURT: Yes.

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1 MR. WOLFE: -- well beyond dealing -- I mean, trying
2 [indiscernible] witness' character when the matter
3 is so collateral, as to whether or not Mr. Fox was
4 born in Sudbury or [indiscernible] is an attempt
5 to keep somebody on -- of a fact so far away from
6 the materiality of this case that it
7 [indiscernible] very far from the truth.

8 THE COURT: Yes. Yes. Mr. Fox, do you have any
9 response to that?

10 THE ACCUSED: No. I will move on to the next question.

11 THE COURT: Okay. So -- so you want -- yes. The --
12 again the issue of your -- your citizenship is not
13 really a relevant part. I suppose that only to
14 the extent that it -- only to the extent that that
15 may -- that may have caused some decision to be
16 made one way or the other --

17 THE ACCUSED: Yes.

18 THE COURT: -- at the border. But there's no basis for
19 even -- you know, there's no basis been
20 established for that scenario yet.

21 So you might want to ask her some questions
22 that go to the -- to the heart of what you're
23 trying to get at first.

24 THE ACCUSED: Okay.

25 THE COURT: Which is the -- as I understand it, from
26 talk -- from your comments throughout this
27 proceeding, is whether you breached these terms
28 voluntarily, or not.

29 THE ACCUSED: Mm-hmm.

30 THE COURT: Anyways, let's have -- let's have the
31 witness back.

32 And just for further clarification,
33 information that receives from third parties,
34 I need her to have a certain belief.

35 THE ACCUSED: Yes.

36 THE COURT: I thought we were going to --

37 THE ACCUSED: Mm-hmm.

38 THE COURT: It's going to be difficult for me to -- to
39 -- to attack that collateral information that she
40 received. She wasn't the generator of that
41 information; she's the receiver.

42

43 **MEAGAN POLISAK, recalled.**

44

45 THE COURT: Thanks, Ms. Polisak.

46 Yes, go ahead, Mr. Fox.

47 THE ACCUSED: Okay.

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CROSS-EXAMINATION BY THE ACCUSED, CONTINUING:

1
2
3 Q I'm going to ask a question you're -- that isn't
4 related to citizenship or anything, but it does
5 have to do with hers -- with Officer Polisak's
6 notes and what she wrote in her notes here,
7 compared to what's in the remarks section of that
8 non-computer-based entry. Because you did state
9 that to the best of your knowledge, everything you
10 wrote in here is true and correct.
11 You say that the Edmonton CIC confirmed,
12 correct?
13 A Yes. I wrote that.
14 Q But in the remarks, it does not say that anything
15 was confirmed. It says only that the officer was
16 able to conclude. Do you accept that, or --
17 A It does not say confirmed in the FOSS remarks.
18 Q Right. Are you familiar with Stefan Zetzos
19 [phonetic]?
20 A No.
21 Q Daniel Marzin [phonetic]? No?
22 A No.
23 Q Okay. According to Webster's Dictionary, and I
24 know Webster's is the American Standard and here
25 it's Oxford, and I apologize for that, but
26 "confirm" is to prove the truth, validity or
27 authenticity of. To confirm is to establish as
28 true that which was doubtful or uncertain.
29 THE COURT: Okay, I get where you're going here but
30 it's just semantics to say that --
31 THE ACCUSED: They're two radically different words --
32 THE COURT: -- to say that the officer is somehow
33 impeached by writing down that she's confirmed
34 instead of concluded --
35 MR. WOLFE: I rise at this point because I think where
36 we're going here is probably a matter of
37 submissions by Mr. Fox at the end of the case,
38 rather than something [indiscernible] have that
39 the witness [indiscernible/not near microphone]
40 wants --
41 THE ACCUSED: Okay.
42 MR. WOLFE: -- to parse her words and to let him have
43 at it, but --
44 THE COURT: Well, I guess -- I guess you could ask the
45 question, Mr. -- Mr. Fox. It's just that are --
46 are you going to try to put a dictionary
47 definition to the witness? You -- you should have

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1 a question actually --
2 THE ACCUSED:
3 Q Well, my question would be whether, Officer
4 Polisak, you agree that to confirm and to conclude
5 are completely, completely different, for the
6 reason that "confirm" means, as I just said,
7 whereas to conclude is merely to decide by
8 reasoning to infer or to adduce. In other words,
9 to form an opinion or a belief of something. Is
10 that -- do you agree with that?
11 A By definition they are different.
12 Q I'm sorry?
13 A By definition, those two words are different.
14 Q Right.
15 A They're not --
16 Q So then you agree that your statement in your
17 notes here is technically and very significantly
18 incorrect?
19 A That's not the way I meant it, but confirm and
20 conclude are not the same.
21 Q I understand and I appreciate that that's not the
22 way you meant it. Do other law enforcement
23 officers or agents have access to these notes?
24 For example, do other CBSA officers? If I go to
25 the border or if I try to come back into Canada,
26 would they have access to the information you put
27 in here?
28 A Other CBSA officers, yes.
29 Q And you had stated earlier that you consider
30 CBSA's records and information to be reliable.
31 I'm going to assume they also would consider it.
32 And so it would be troubling that there would be a
33 discrepancy like this in here. But I'll move on.
34 From the bottom of that large paragraph, if
35 you go up four lines, there is a sentence in the
36 middle that says, "All of whom seem to agree that
37 he is Canadian." Oh, I wonder if I should -- if
38 we should come back to that in a moment. Yes,
39 yes, sorry, I got ahead of myself there.
40 Back to the FOSS record -- wait, let me think.
41 Okay. The reason I'm bringing this up is because
42 of earlier the witness had stated that she
43 considers the information to be reliable and that
44 she did not see any evidence that I'm not a
45 Canadian citizen. I'm not bringing this up about
46 any question or issue of whether or not I am a
47 Canadian citizen.

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1 THE COURT: Okay.
2 THE ACCUSED:
3 Q In that FOSS record, may you turn to the first
4 page of it, please. It's the third page in the
5 stapled packet. The one that starts with FOSS
6 personal details.
7 Where it says "Country of Birth," next to
8 that it says, "United States of America." Would
9 you consider that information that is in the FOSS
10 or the GCMS system that would be considered
11 reliable, as you put it?
12 A I don't recall seeing that. An officer put --
13 CBSA or IRCC put that in to FOSS.
14 Q Sure. The non-computer-based entry that we were
15 looking at a moment ago, appears to have been --
16 well, it says, created 2008/05/21. So that was
17 created in 2008. From that -- hang on, I'm trying
18 to think how I can phrase this as a question. Is
19 it reasonable to -- no.
20 Do you know, or do you have any idea, when
21 this FOSS record might have been created? I mean,
22 given that the NCB entry was made in 2008?
23 A I would assume the date created because it's --
24 that's what it says, the date --
25 Q Okay.
26 A -- it's created.
27 Q Sure. So if you were to look at this, let's say
28 we're at the border and everything is going on as
29 it was, and if you were to look at this, would you
30 have assumed that this information was put into
31 FOSS a long time ago? Certainly not in the past
32 year or so?
33 A If it had a date stamp of 2008 --
34 Q Mm-hmm.
35 A -- then yes.
36 Q Okay. So now I would like to turn your attention
37 to the first page of the GCMS, so you'll have to
38 skip ahead to pages [indiscernible] so you have
39 three, four pages. The page that starts at the
40 top says, Case:Q000326 etc.
41 THE COURT: Do you have that?
42 A Mm-hmm.
43 THE ACCUSED:
44 Q Okay. The information on there appears to be
45 related to that particular case, right?
46 A Which case?
47 Q Oh, the Q0032 etc. etc.

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1 A Yes.
2 Q And then when you put to the next page, there's a
3 heading that says, client details?
4 A Mm-hmm.
5 Q Has that information, as far as you know anyway,
6 and if you don't know, then just say you don't
7 know. But is that information specific to that
8 case, or to our interaction on that day, or is
9 this general information about me, independent of
10 that?
11 A Neither are my user IDs.
12 Q Mm-hmm.
13 A They're created by or the updated by --
14 Q Right.
15 A -- so -- or searched by. So it's not something
16 from my case with you.
17 Q Right. And do you see the line that says "created
18 date 2019/01/18"?
19 A Yes.
20 Q Would you interpret that to mean that's the date
21 that this information was put in?
22 A Yes.
23 Q Okay, and if you look down somewhat you'll see it
24 says "Country of Birth"?
25 A Mm-hmm.
26 Q And again, it says, "United States of America."
27 Would you consider that the type of reliable
28 information that you would rely upon when making
29 your determinations about somebody at the border?
30 A I did not see this information on that day.
31 Q Did you go into GCMS on that day?
32 A Yes.
33 Q Did you search for my name?
34 A Yes.
35 THE COURT: Which name?
36 A Richard Reiss.
37 THE COURT: Okay.
38 THE ACCUSED:
39 Q Okay. Yet you didn't see "Country of Birth."
40 Sorry, I realize that was phrased as a statement,
41 but it was intended --
42 THE COURT: That's fine.
43 THE ACCUSED:
44 Q -- to be a question.
45 A When I searched Richard Reiss --
46 Q Mm-hmm.
47 A -- the only thing that came up was a FOSS note.

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1 There was not anything in GCMS.
2 Q Really? But according to this -- this particular
3 information that was entered in January 2019, and
4 then interestingly it says it was updated on March
5 18th, but -- okay, well that I find very
6 troubling.
7 THE COURT: Yes. So your evidence when you search
8 Richard Reiss, this -- this particular field, or
9 this -- this screen or however it appears to you,
10 did not show up?
11 THE ACCUSED:
12 Q Are you saying that --
13 THE COURT: Just hang on.
14 THE ACCUSED: Sorry.
15 THE COURT: I didn't get an answer yet.
16 A No. The -- what I recall, the only thing in GCMS
17 was the FOSS note.
18 THE COURT: Okay.
19 THE ACCUSED:
20 Q So I'm going to ask this next question because
21 this is troubling me very, very much, and so is it
22 possible the information was there and you just
23 didn't see it, or are you saying that it wasn't
24 there at all?
25 A From what I recall, there was not a GCMS entry.
26 Q Are you saying to me that you believe that the
27 created date information is --has been falsified,
28 or --
29 A I'm not saying that.
30 Q Okay. Hmm. All right. That's very disturbing.
31 Where I was going with all of that was I
32 would think -- or was to ask you whether you
33 believed that that type of information in CBSA's
34 supposedly reliable system, would be some
35 information or some evidence that I'm not a
36 Canadian citizen. Would you consider that -- I
37 mean if those entries in there -- were in there,
38 would you consider that infor -- or evidence that
39 I'm not a Canadian citizen?
40 MR. WOLFE: Well, what --
41 THE ACCUSED: Because it would refute what she had
42 testified about earlier, that she hadn't seen any
43 evidence that I'm not --
44 THE COURT: No, it wouldn't actually. It's just --
45 what you're asking her now is that given the new
46 information that you've placed in front of the
47 witness, is she's -- would -- would she have --

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1 would her opinion be with respect to your
2 citizenship different than it was on the day you
3 dealt with it.
4 MR. WOLFE: Exactly why I rise. It calls -- it's a
5 hypothetical, it's speculation, it's really not
6 anything to do --
7 THE ACCUSED: Well --
8 MR. WOLFE: -- with the evidence of this witness.
9 THE COURT: Yes.
10 MR. WOLFE: It's really --
11 THE ACCUSED: No, I -- I believe it's potentially
12 contradicting what she had testified to earlier.
13 She said that she hadn't seen any such evidence,
14 but now she's saying that she did see evidence in
15 the FOSS -- oh, sorry, sorry, you're right. In
16 the FOSS --
17 THE COURT: No, she's --
18 THE ACCUSED: -- entry shows some remarks --
19 THE COURT: -- very clear about what came up as the
20 FOSS note.
21 THE ACCUSED: Yes, I apologize.
22 THE COURT: It was the remarks part portion. And so
23 asking the witness, you know, questions about this
24 and this information is not very helpful. Because
25 her evidence is she didn't have -- have access or
26 didn't see this information.
27 THE ACCUSED:
28 Q In a GCMS entry, the field name sub -- case
29 subcategory, what -- what is that, what does that
30 mean?
31 THE COURT: Where are you looking at now?
32 THE ACCUSED: Well, on the first page of the GCMS
33 entry, I believe it is.
34 MR. WOLFE: Okay. It would be helpful to the witness
35 if my friend could actually approach her and
36 direct her to a line he has in mind, Your Honour,
37 rather than the witness being left to figure out
38 where she's supposed to look.
39 THE ACCUSED: Yes, that --
40 THE COURT: Yes.
41 THE ACCUSED: -- would -- yes.
42 THE COURT: And probably it would be helpful too for
43 all of us to number these pages.
44 MR. WOLFE: Because I don't know where to look either.
45 Where -- where is she supposed to go?
46 THE ACCUSED: Oh, I'm sorry, I thought you were
47 suggesting that I should go there --

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1 MR. WOLFE: No, go -- go up and -- and actually --
2 THE ACCUSED: -- and show her --
3 MR. WOLFE: -- go to the exhibit.
4 THE COURT: So what page are you at?
5 THE ACCUSED: The first page of the --
6 THE COURT: Well, how many pages -- we should probably
7 number these things. Maybe we should do that now.
8 You're not -- you've -- you've obviously got more
9 questions for this witness?
10 THE ACCUSED: Yes, I do.
11 THE COURT: You're not going to be finished by 12:30, I
12 don't imagine.
13 THE ACCUSED: No.
14 THE COURT: So per -- why don't -- perhaps we could
15 just take the lunch break now. My -- my friend
16 could --
17 THE COURT: We'll take a few moments. I'll number mine
18 --
19 MR. WOLFE: Yes.
20 THE COURT: -- from 1 to -- from page 1 to the back,
21 and everyone can do the same, and hopefully we can
22 be on the same page and we won't have to identify
23 it by -- by its content.
24 THE ACCUSED: And you're starting the numbering with
25 the --
26 THE COURT: One --
27 THE ACCUSED: -- [indiscernible] first page, okay?
28 THE COURT: -- right on the first page.
29 MR. WOLFE: Yes, one is one.
30 THE COURT: I hope I'm correct, is there 15?
31 THE ACCUSED: Yes, that's what I have.
32 MR. WOLFE: Yes, I have 15 as well, Your Honour.
33 THE COURT: Fifteen, okay. Pages 1 through 15. That
34 will help us to iden -- to direct Ms. Polisak to
35 the right page.
36 Did you have a question you want to ask
37 before we break?
38 THE ACCUSED: I was just going to ask her if she could
39 clarify the meaning of some of the information
40 that was --
41 THE COURT: What page?
42 THE ACCUSED: -- put in her? Oh, on page 7, which is
43 the first page of the GCMS entry.
44 THE COURT: Clarify what?
45 THE ACCUSED:
46 Q Under subcategory, what is meant by possible
47 inadmissibility? I mean, I understand what that

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1 means, but in the context of this. And this was
2 information entered by the witness, so I assume
3 she would know.
4 A So basically the case category is an info alert so
5 it's a note on a person. At my level, I can only
6 add certain subcategories, and when -- I chose
7 this one because even though the information that
8 I had besides Mr. Reiss or Mr. Fox's conversation
9 with me, showed that Reiss was a Canadian, he was
10 very adamant that he was not a Canadian.
11 THE COURT: Okay.
12 A Canadian citizens enter Canada by right. They
13 cannot be refused or removed from Canada. And it
14 is -- so if a foreign national enters Canada and
15 they can't prove their citizenship, it's on them
16 to prove what citizenship they are. If somebody
17 says they're a Canadian citizen, it's on us to
18 prove that they are not, and I could not prove
19 that he was not a Canadian.
20 THE ACCUSED:
21 Q Sorry, I missed that. Could you just repeat that
22 last sentence.
23 A I could not --
24 THE COURT: What, about foreign nationals?
25 THE ACCUSED: About the burden of proof that you have
26 --
27 THE COURT: The foreign nationals you say -- it's --
28 it's up to a foreign national to prove they're
29 Canadian?
30 A That they're whatever citizenship they say they
31 are.
32 THE COURT: Right.
33 A Whereas a Canadian -- if I don't believe you're a
34 Canadian, I have to prove that you're not a
35 Canadian. Or CBSA has to prove.
36 THE ACCUSED: That is incredibly interesting.
37 Q Are -- are you saying that if a person shows up at
38 the border and they claim that they're a Canadian
39 citizen, but you don't believe that they're a
40 Canadian citizen, the burden is on you to prove
41 that they're not a Canadian citizen and they can
42 enter if you're unable to prove that they're not?
43 A That's correct.
44 Q Are you sure it's not the other way around?
45 Because that would mean anybody could just show up
46 at the Canadian border, say, hey, I'm a Canadian
47 citizen, let me in. As long as they don't have a

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1 birth certificate of passport on them, how are you
2 going to prove that they're not a Canadian
3 citizen?
4 A We --
5 Q Sorry, I was going to say, my understanding is
6 such and such, but that would be a statement, not
7 a question. Um --
8 THE COURT: But you -- are you going to let her answer
9 it?
10 THE ACCUSED: Sorry.
11 A We have the ability to fingerprint people and that
12 often comes back with a citizenship.
13 Q I see.
14 THE COURT: Okay. Why don't we break there. Ms.
15 Polisak, you're -- you're going to have to join us
16 again at two o'clock, okay?
17 A Okay
18 THE COURT: Thank you. And the general caution is,
19 when you're under cross-examination, is that --
20 that you not discuss your evidence that you're
21 giving here in the courtroom with people that are
22 outside of the courtroom, okay?
23 A Okay.
24 THE COURT: Okay, thank you.
25 Yes, Mr. Fox --
26 THE ACCUSED: Before the witness leaves, may I just
27 have a quick, quick word with Mr. Wolfe?
28 THE COURT: After the witness leaves?
29 THE ACCUSED: No, before she leaves, so that he might
30 be able to let her know something, or advise
31 something? No?
32 MR. WOLFE: I'm really nervous about that.
33 THE COURT: Yes, no --
34 THE ACCUSED: Okay [indiscernible].
35 THE COURT: -- fair enough. You can talk to him after
36 she leaves.
37 THE ACCUSED: Sure.
38 THE COURT: Okay. Okay, thank you, I'll see you at two
39 o'clock.
40 THE CLERK: Order in the court, all rise.
41
42 (WITNESS STOOD DOWN)
43
44 (PROCEEDINGS ADJOURNED FOR NOON RECESS)
45 (PROCEEDINGS RECONVENED)
46
47 THE COURT: Okay, thanks, Mr. Fox is here again,

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1 thanks.
2 MR. WOLFE: Yes, Your Honour, Wolfe, initial B., for
3 the Provincial Crown, continuing with the Fox
4 trial.
5 THE COURT: Okay.
6 MR. WOLFE: I don't know if Mr. Fox wishes to address
7 the court in advance of the witness being brought
8 in?
9 THE ACCUSED: Yes.
10 THE COURT: Okay.
11 THE ACCUSED: There is one issue that I want to bring
12 up, I'm somewhat concerned about a statement that
13 the officer had made just before we broke for
14 lunch.
15 THE COURT: Yes.
16 THE ACCUSED: CBSA has a burden when a person presents
17 himself at the border.
18 THE COURT: Yes.
19 THE ACCUSED: Based on what she had stated, which it's
20 my understanding is actually completely the
21 opposite, I don't have obviously the documentation
22 to prove that, so this is something that -- well,
23 we'll get to that in a second.
24 When a person is found within Canada, but not
25 at a port of entry, the burden is on CBSA to
26 establish that they are an alien before they can
27 be put into removal proceedings or deported.
28 THE COURT: I think that's what she said.
29 THE ACCUSED: Well, no, she was talking about at a port
30 of entry, at least that's what's relevant here.
31 And the problem is if it was CBSA's burden to
32 prove that somebody is not a Canadian citizen at a
33 port of entry, that means, as I've brought up, any
34 criminal alien, any terrorist, et cetera, in the
35 world could simply come to the Canadian border,
36 go, hey, I'm a Canadian citizen.
37 THE COURT: Yes, but here's the thing, I mean, maybe
38 you should clarify with -- with the -- with her,
39 you weren't at a port of entry, you were at the
40 Canadian Border Services office at Douglas
41 Crossing. The -- she -- she said the -- the port
42 of entries or the booths were one side if you're
43 in the U.S., and the other -- well, technically on
44 one side you're outside of Canada, and on the
45 other side you're in.
46 THE ACCUSED: Well --
47 THE COURT: So --

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1 THE ACCUSED: Okay.
2 THE COURT: -- you might want to clarify that with her,
3 but I'm sure if somebody shows up at the office,
4 which is well inside of the Canadian border, that
5 that's what she's -- she's talking about.
6 THE ACCUSED: Right.
7 THE COURT: But you can -- why don't you -- you can
8 clarify with her. I mean, I understand your
9 point, if you show up from the U.S. to the -- to
10 the booth and say I'm Canadian, and they have to
11 let you in unless they can disprove it, so..
12 THE ACCUSED: Mm-hmm. This is a particular issue that
13 I do have quite a bit of experience dealing with,
14 and that's why I'm so certain about it, but --
15 THE COURT: Well, at the end of the day, what -- what
16 is it -- what are you trying to establish?
17 THE ACCUSED: Well --
18 THE COURT: How is it relevant?
19 THE ACCUSED: It's relevant because if -- if the court
20 takes her position, or if -- if it were to turn
21 out what she's claiming is true that would
22 literally make it impossible for me to have any
23 kind of defences because that would mean that
24 absolutely no matter what, if I'm at the border,
25 neither I nor anybody else could be denied
26 admission to the Canada simply because they can't
27 prove --
28 THE COURT: But when you're showing up --
29 THE ACCUSED: -- [indiscernible/voices overlapping] --
30 THE COURT: -- at the border services office --
31 THE ACCUSED: Right.
32 THE COURT: -- you're not seeking admission, you seek
33 admission at the border.
34 THE ACCUSED: Well, this is the point that we'll
35 clarify with her, but actually the entire -- that
36 entire --
37 THE COURT: I mean, people go down there --
38 THE ACCUSED: -- building is considered a port of
39 entry.
40 THE COURT: -- and do their NEXUS interviews and stuff.
41 THE ACCUSED: Right.
42 THE COURT: I mean, there -- that's where -- that's
43 inside Canada, that office. I mean, you can -- if
44 you want to clarify it, that's fine.
45 THE ACCUSED: Yes, yes, that is on Canadian soil, but
46 that whole building, that whole area is considered
47 a port of entry.

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1 THE COURT: Okay, well you can ask her questions about
2 it --

3 THE ACCUSED: Yeah.

4 THE COURT: -- just to clarify that, but the -- the --
5 people are directed -- when they come to the
6 U.S./Canada border, they're directed by the -- by
7 the booth agents to go to the office, if they need
8 to, to seek -- to seek entry if they don't have --
9 if they don't have the proper documents, they're
10 there for an examination. But you can clarify
11 with her what happens when somebody just walks in
12 un -- undirected by anybody who's on the -- at --
13 manning the actual border, the booths. You know,
14 it -- it seems to me a point that might benefit
15 from some clarification.

16 THE ACCUSED: Right. And so once we clarify that
17 issue, if it turns out that the entire building is
18 considered the port of entry, such that I would
19 require being granted admission at that point,
20 what -- hang on. Sorry, I'm trying to think of
21 what it is that I'm trying to articulate.

22 THE COURT: Well, it can't be that everyone who walks
23 in that building is requiring some admission,
24 because you can just come in, any Canadian can
25 walk into that building.

26 THE ACCUSED: Any Canadian can, yes.

27 THE COURT: Right. Yes.

28 THE ACCUSED: But --

29 THE COURT: On this side of the border. Any person on
30 this side of the border.

31 THE ACCUSED: Right. Okay.

32 THE COURT: I mean, you know, she -- she might be able
33 to illuminate us on what their -- what other
34 activities they do at that office, or how they
35 perceive themselves as far as your -- your
36 question about point of entry, but the building is
37 there to service the point of entry, and -- and a
38 whole bunch of other things, I would imagine. I
39 mean, I went there for my NEXUS interview.

40 THE ACCUSED: Okay, I guess I'm ready to proceed then.

41 THE COURT: Sure, if you want an answer to some of
42 those questions -- Mr. Wolfe, do you have any
43 input on whether he can ask questions about this
44 question of the bor -- of the point of entry?

45 MR. WOLFE: Not at the moment.

46 THE COURT: Yes, we'll see what happens. We'll have
47 the witness back in.

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1 Maybe you could ask her· how far inside the --
2 I don't even know exactly physically where -- I
3 think we had some --
4 MR. WOLFE: Well we can put the exhibit to her.
5 THE COURT: -- we had some exhibits with the overhead.
6 MR. WOLFE: Exhibit 4.
7 THE COURT: So she can confirm that's her building.
8 Yes, we can just reserve that for a minute,
9 Madam Registrar, we might need it.

MEAGAN POLISAK

a witness called for the
Crown, recalled.

11
12
13
14
15 THE COURT: Okay. Okay, yes. Mr. Wolfe -- or you
16 wanted to ask some questions, and maybe at first
17 as part of the context of this whole thing,
18 Exhibit 4 could be put before the witness, Madam
19 Registrar, and I can -- and I'll ask a question.
20

QUESTIONS BY THE COURT:

21
22
23 Q Just for my benefit, Ms. Polisak, Exhibit 4 is
24 before you, there should be a marking on there on
25 the top there, like an X.
26 A Yes.
27 Q That marking, is that the location of the building
28 that you were working in on March 15th?
29 A Correct.
30 Q Okay. And is the white line through the centre of
31 that exhibit, where it shows -- there's a graph
32 there that shows a number of -- the distance, some
33 distances on the left there, the white line that
34 goes across the entirety of that photograph, is
35 that the Canada/U.S. border?
36 A The one in between the words "Canada and United
37 States", yes.
38 THE COURT: Yes, okay.
39 Yes, go ahead, Mr. Fox.
40

CROSS-EXAMINATION BY THE ACCUSED, CONTINUING:

41
42
43 Q I'd like to take a moment to clarify some
44 uncertainty or confusion that might exist about
45 what is meant by port of entry, and how that might
46 apply to the Douglas border crossing, or that
47 building in that area around there. The -- well,

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1 okay, can you tell us what -- sorry, once again
2 I'm trying to think of how to phrase this.
3 So we've referred to the port of entry or the
4 Douglas Border Crossing, or port of entry, the
5 building that the office is in, the secondary
6 inspection, is that considered part of the port of
7 entry?
8 A Yes.
9 Q Okay. So if a foreign national arrives at the
10 border, presumably from the U.S., unless of course
11 I guess they come in from the water and run across
12 the beach or something, but we'll assume they
13 approach from the U.S., they cross over into
14 Canada, they cross over where the Peace Arch
15 Monument is, so they're technically on Canadian
16 soil at that point, but they haven't actually been
17 granted admission into Canada yet. If they
18 proceed to that building, are they considered at
19 that point to have been admitted to Canada or are
20 they still considered to be, for immigration
21 purposes, outside of Canada?
22 A Sorry, can you explain that again?
23 Q Sure. When a person comes up Interstate 5 and
24 turns into Highway 99, and then there's the Peace
25 Arch Border Crossing there, or the Douglas Border
26 Crossing, and they proceed from the actual
27 physical border where the Peace Arch Monument is
28 to the secondary inspection area, where your
29 counter was, where you and I had interacted.
30 A Mm-hmm.
31 Q They go into the building, and at that point are
32 they considered to have been admitted to Canada
33 already, or are they not yet admitted?
34 A If they've gone through the booths, and they were
35 referred, they're not yet admitted.
36 Q Okay. Let's suppose that they didn't go through
37 the booths. If they were a pedestrian, for
38 example, walking up the sidewalk.
39 A They go --
40 Q Because the booths are only for the cars, correct?
41 A No, pedestrians go through the booths as well.
42 Q I did not see any booths when I was there.
43 A There is the first booth that's connected to the
44 building. It goes building, then there's a
45 breezeway that all pedestrians walk through and
46 check in.
47 Q Sure.

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1 A And then they can either continue forward into
2 Canada, if they are released, or they are referred
3 into secondary, and they walk into the building
4 from that way.
5 Q Okay, I see, okay. Now I do know the breezeway
6 that you're talking about now. So if they go in
7 past that breezeway, and then they enter the
8 building, would they still be considered to be at
9 the port of entry, not yet admitted into Canada?
10 A Correct.
11 Q Okay, thank you, I just wanted to clarify that
12 point, there was some uncertainty about that.
13 THE COURT: So -- so when they go through this
14 breezeway, is there a booth there at the
15 breezeway?
16 A Yeah, they're processed by an officer.
17 THE COURT: At the breezeway?
18 A Yeah, so the first booth has a side that processes
19 cars, and then a window where they process
20 pedestrians.
21 THE COURT: Okay, thanks.
22 THE ACCUSED:
23 Q Let's say in the unusual case that if a person was
24 to go into the secondary inspection area, possibly
25 coming from within Canada, if that person were to
26 come -- be -- if that person were to be found
27 inadmissible at that point...
28 Hmm, I'll have to go back to that because I
29 need to figure out how I would word that.
30 Okay, before lunch I was asking you about the
31 meaning of the subcategory "possible
32 inadmissibility" as you had entered?
33 A Yes.
34 Q And can you tell me at what point did you set the
35 subcategories of "possible inadmissibility", do
36 you remember that?
37 A Not what time, but you have to set it before you
38 approve the info alert.
39 Q Before you approve the info alert. What do you
40 mean by "approve the info alert"? The reason I'm
41 asking is because I noticed in here there was a
42 number of times where "approved" is used, and I
43 was just curious about that.
44 A So if something's approved that means it is still
45 valid in the system. If something is cancelled,
46 we take that as it's either expired, so the
47 information is old or irrelevant --

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1 Q Okay.
2 A -- at this point. Or we've found information that
3 negates that inadmissibility.
4 Q Okay. So the "possible inadmissibility" would
5 have been entered early on in the process?
6 MR. WOLFE: Which process?
7 THE ACCUSED:
8 Q Oh, sorry, during our interaction, is that how I
9 should understand that to be, as opposed to after
10 the fact?
11 A It can be entered at any time within -- once I've
12 started, once I've generated the info alert and
13 before I've clicked "complete".
14 Q Okay.
15 A So you can change it at any point.
16 Q And what does -- I understand what possible
17 inadmiss -- well, sorry, no, forget that.
18 Do you happen to remember on that day when --
19 relative to our interaction when you entered these
20 notes, that large paragraph in the notes field?
21 A I don't. I recall writing while we were talking
22 so I wouldn't forget things, but I don't know if
23 that was in GCMS, or potentially I -- I write
24 notes in Word, because if you step off of GCMS, it
25 saves your notes --
26 Q Sure.
27 A -- even before you're completed, so I usually do
28 it in either Word or Outlook, and then copy and
29 paste into GCMS once my notes are completed.
30 Q Okay. Do you remember being at the office -- or
31 at Douglas Border Crossing at work on that day
32 until nine o'clock at night?
33 A If -- are you referring to the updated time in --
34 Q Correct.
35 A Yeah, so it's Eastern Standard Time that that
36 system uses, so it's three hours ahead of our
37 time.
38 Q Okay. So then rather than this being 8:55, it
39 would be 5:55? Well, that explains a lot.
40 MR. WOLFE: I didn't hear her answer.
41 THE COURT: Yes, I didn't hear an answer.
42 THE ACCUSED:
43 Q Oh.
44 A Sorry, I said yes to it being 5:55.
45 MR. WOLFE: Sorry, I didn't hear that.
46 THE COURT: Okay.
47 A Sorry, I nodded. Bad habit.

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1 THE COURT: Oh, yes, you have to -- you have to
2 actually speak out loud.
3 A Sorry about that. Okay.
4 THE ACCUSED:
5 Q Okay, let's see. In the course of your
6 investigation -- well, let me ask you first, do
7 you know what CPIC does?
8 A Yes.
9 Q And do you as a CBSA officer have access to
10 people's CPIC reports?
11 A Yes.
12 Q Did you check my CPIC report on that day?
13 A I wrote in my notes that I...
14 THE COURT: When you're referring to notes, is that
15 page 15 of the -- that --
16 A Sorry, the declaration or the text notes.
17 THE COURT: Okay
18 A So I put "both names have multiple arrests in
19 Canada and U.S.A.", which means that I would have
20 run you in our system, or Reiss, Richard Reiss and
21 Patrick Fox, in what's called IBQ, which is our
22 Integrated Border Query, if I'm not mistaken,
23 which basically searches a multitude of different
24 programs related to immigration and customs. But
25 CPIC is in there.
26 THE ACCUSED:
27 Q Okay. So shall I take that to mean then that,
28 yes, you did check my CPIC record?
29 A Yes.
30 Q Okay, And do you remember what it said for my
31 place of birth in my CPIC record?
32 A I do not.
33 THE ACCUSED: I would like at this point to show you a
34 copy of my CPIC report, but I only have an
35 electronic copy.
36 THE COURT: What is it relevant to?
37 THE ACCUSED: Because she says here -- all of the
38 things she's referring to, IRCC, CBSA, and RCMP,
39 all seem to agree that he is a Canadian. However,
40 we've seen that IRCC and CBSA have no official
41 record of me being a Canadian, and they
42 acknowledge that I was born in the United States,
43 and now there's the RCMP records which also --
44 also show that I was born in the United States,
45 and there's no -- there's nothing in there --
46 THE COURT: But we're not -- we're not here on an
47 inquiry to determine your citizenship status.

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1 THE ACCUSED: Right, we're trying to determine en what
2 basis she's now claiming -- that the witness is
3 now claiming that she denied me or didn't deny me
4 admission on that date.
5 MR. WOLFE: Well, quite frankly, who cares?
6 THE COURT: Yes, well --
7 MR. WOLFE: And I'll be blunt, but if we can excuse the
8 witness first.
9 THE COURT: Yes, I guess we're going to have to do that
10 again, Ms. Polisak.
11 THE ACCUSED: Now -- but again though --
12 THE COURT: Just hang on, just hang on for a second so
13 the witness is able to exit. And we'll have a
14 discussion at that point.
15

16 (WITNESS STOOD DOWN)
17

18 THE COURT: Yes, Mr. Fox, I'm giving you quite a bit of
19 leeway because you're unrepresented, and
20 you're -- you know, you're entitled to a defence,
21 and you're entitled to, you know, ask questions on
22 cross-examination unfettered by the trial judge,
23 except for certain things. Now, one of those
24 certain things, and it's an important one, is
25 relevance. We can't -- we can't have hearings
26 that go on for months and months, and days and
27 days unfettered from an analysis of whether
28 those -- the questions that are being asked are
29 actually relevant to the proceedings. We'd be
30 here -- we'd -- it would be a disaster.
31 So I'm going to have to ask you very clearly
32 to tell the court why any of that is relevant, why
33 your citizenship status is in any ways relevant.
34

35 **SUBMISSIONS RE RELEVANCE ON HIS OWN BEHALF BY THE**
36 **ACCUSED:**
37

38 THE ACCUSED: I'm not demonstrating that my citizenship
39 status is relevant, I'm attempting to demonstrate
40 that she testified that she saw no evidence to a
41 particular thing, but then all of these records
42 that we're now seeing that she had access to, and
43 that she admits that she did check on those days,
44 all contradict what she's saying.
45 THE COURT: But this witness has no -- really has no
46 evidence that's inculpatory with respect to the --
47 the essential elements of this case. The issue is

Submissions re relevance by The Accused**BAN ON PUBLICATION 517(1) CCC**

1 whether you -- you're outside of a hundred metres
2 in that -- in that building.
3 THE ACCUSED: Yes, I didn't violate that while I was in
4 the building.
5 THE COURT: This is an interaction you had with a
6 Canada Border Services agent out -- outside of
7 that area, you could have gone there for the
8 entire day and had a conversation with, you
9 wouldn't be in any kind of breach of any -- of
10 any -- as I understand it, any breach of your
11 conditions. The issue here is whether you went
12 within a hundred metres of the border, and whether
13 you crossed the border into -- into the United
14 States of America. Those were the two conditions
15 that you were supposed to abide by. How does this
16 witness have any evidence that goes to those two
17 issues?
18 THE ACCUSED: If this witness had testified, as I
19 expected that -- or as I would have hoped that she
20 would have, that she did tell me that at the time,
21 based on the information available to her, I was
22 considered to be inadmissible.
23 THE COURT: Mm-hmm.
24 THE ACCUSED: Then that would have justified me leaving
25 the country at that point.
26 THE COURT: Okay.
27 THE ACCUSED: If I'm at a port of entry, and the duly
28 appointed authority tells me I'm not admissible
29 into Canada, it is reasonable for me then to go,
30 okay, bye. However, she didn't, she said that --
31 THE COURT: She --
32 THE ACCUSED: -- she granted me admission.
33 THE COURT: You're exactly right, she didn't. You can
34 put to the witness, you can suggest to her your
35 version of the event.
36 THE ACCUSED: Which I'm going to do.
37 THE COURT: Yes, and that's --
38 THE ACCUSED: Okay.
39 THE COURT: -- perfectly appropriate, and give her a
40 chance to respond to that.
41 THE ACCUSED: I see.
42 THE COURT: You can also ask her, you know, questions
43 about CPIC, whether your probation conditions
44 showed up on CPIC. I don't know if she'll
45 remember that or anything like that.
46 THE ACCUSED: Mm-hmm.
47 THE COURT: Because she -- because they -- they -- the

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1 probation conditions that you were on about going
2 across the border, all of that would have been
3 on -- on a police record information system
4 somewhere, CPIC or another system, you can ask her
5 about that, if she recalls anything about that.
6 You can suggest to her your version of
7 events, but you're kind of stuck with her answers
8 with respect to what she did to confirm your
9 status, and things like that, because -- because
10 impeaching -- you're trying to impeach the witness
11 on I guess her knowledge -- her knowledge of your
12 immigration status?
13 THE ACCUSED: I'm -- I'm trying to impeach her on the
14 information that she claims that she reviewed on
15 that day. She's saying that she didn't see this
16 and this and this and this, but the records before
17 us are showing that -- but the information was
18 there. I mean, in the GCMS report, for example, I
19 can't fathom how she could not have seen the
20 information on there that says that I was not born
21 in Canada, and she's saying it wasn't there. I
22 mean...
23 THE COURT: But you --
24 THE ACCUSED: I was going to question her further on
25 that.
26 THE COURT: But the fact that you're not born in
27 Canada --
28 THE ACCUSED: Well because --
29 THE COURT: -- how does that prove your inadmissibility
30 or anything like that?
31 THE ACCUSED: That's got nothing to do with
32 admissibility --
33 THE COURT: Right.
34 THE ACCUSED: -- that's got do with her statement that
35 she didn't see any evidence that I'm not a
36 Canadian citizen. Which means that her statement
37 was false, which means that she's lying in court.
38 THE COURT: Okay, well you can argue later on --
39 THE ACCUSED: Okay.
40 THE COURT: -- and this document -- this document, I
41 think, because we've had, you know, lots of
42 questions about it is going to have to be marked
43 as an exhibit. You could argue later on the
44 import --
45 THE ACCUSED: Mm-hmm.
46 THE COURT: -- of how that information in the exhibit
47 compares to or is to be analyzed against the

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1 witness's evidence, sworn evidence, you can do
2 that, but -- but repeating -- trying to --
3 repeating over and over again that you -- you're
4 trying to get her to admit that you had some other
5 status, some other citizenship status than what
6 she's -- than what she's given information about
7 is -- just really we're going down a rabbit hole,
8 and it's not -- you're not going to -- it's not
9 going to be particularly helpful at the end of the
10 day.

11 Mr. Wolfe, do you have anything to add?
12

13 **SUBMISSIONS RE RELEVANCE FOR CROWN BY MR. WOLFE:**
14

15 MR. WOLFE: I just want to put on the record, if I may,
16 Your Honour, that the line of questioning that the
17 witness has been subject to for some time now is a
18 line of inquiry which has nothing really to do
19 with her evidence. Whether or not she got the law
20 right, whether or not she viewed only a portion of
21 the information --

22 THE COURT: Mm-hmm.

23 MR. WOLFE: -- on a particular record, her evidence has
24 been clear that she viewed a portion, came to a
25 conclusion, and acted on it.

26 THE COURT: Yes.

27 MR. WOLFE: Those facts cannot be reinvented -- or that
28 evidence can't be reinvented by asking her about
29 whether or not there is really authenticity or
30 errors in data entry regarding a constellation of
31 forms that flow from numerous kinds of data
32 systems available to CBSA officers or immigration
33 and refugee boards. That's an entirely different
34 line of inquiry, which really, I think, is more
35 consistent with Mr. Fox's different agenda of
36 whether or not he is American or was born in
37 Sudbury, and that's not of the moment.

38 THE COURT: Yes.

39 MR. WOLFE: If -- if you're going to question her, in
40 my submission, about her evidence, it would really
41 be about you say you didn't deny entry, when you
42 say you didn't remove, I put it to you you did,
43 and here's why. I mean, that's relevant.

44 THE COURT: That some actions were taken.

45 MR. WOLFE: That's right. She says none, she says,
46 essentially, I bade him farewell as he walked out
47 the door and disappeared. All right, let's hear

Submissions re relevance for Crown by Mr. Wolfe**BAN ON PUBLICATION 517(1) CCC**

1 about that. But to go down this line about
2 status, not status, you saw this, you saw that,
3 you looked at a CPIC, it's sort of like who cares?
4 She took a course of action, whether she's
5 ignorant about her job or not is not of the
6 moment.

7 THE COURT: Yes.

8 THE ACCUSED: It's about she lied, she lied in court --

9 MR. WOLFE: That's illogical --

10 THE ACCUSED: -- that is relevant.

11 MR. WOLFE: That's an illogical leap.

12

13 **REPLY RE RELEVANCE ON HIS OWN BEHALF BY THE ACCUSED:**

14

15 THE ACCUSED: You're making a big deal about me
16 supposedly lying in 2008 in court, you're saying
17 I'm not credible because I was convicted of
18 perjury, that --

19 THE COURT: Okay, but that -- that --

20 THE ACCUSED: -- is an issue.

21 MR. WOLFE: I've not made that --

22 THE COURT: None of that is -- none of that has been
23 raised yet.

24 THE ACCUSED: Right, because I haven't testified.

25 THE COURT: So so the -- but the witness -- you
26 could ask -- you can challenge her on her
27 evidence.

28 THE ACCUSED: All right.

29 THE COURT: She said she didn't take any steps to have
30 you -- direct you or to instruct you or to advise
31 you that you needed to go out of the country,
32 that's -- that's the gist of her evidence. You
33 can challenge her on that. You can give -- you
34 can give your version -- in fact, you should
35 suggest your version of the events to her, and
36 have -- give her a chance to respond, agree or
37 disagree with you. She's entitled to agree or
38 disagree with you. But because -- but if she
39 disagrees with you, you're kind of stuck with
40 that. You can testify later under oath as to some
41 other different version of facts, or you don't
42 have to testify.

43 MR. WOLFE: In all fairness to Mr. Fox, Browne v. Dunn,
44 I think it's important for him to put his version
45 to the witness.

46 THE COURT: I agree.

47 THE ACCUSED: Okay.

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1 THE COURT: Let's have -- let's have Ms. Polisak back
2 in.

3
4 **MEAGAN POLISAK**

5 recalled.

6
7 THE COURT: Thanks again, Ms. Polisak.
8 Okay, go ahead, Mr. Fox.

9
10 **CROSS-EXAMINATION BY THE ACCUSED, CONTINUING:**

11
12 Q Welcome back. I'd like to turn your attention to
13 your declaration. There's a small paragraph, two
14 lines --

15 THE COURT: Now, this particular document, I have -- I
16 have a bundle of papers that we've marked 1
17 through -- pages 1 through 15, I don't have what
18 is essentially a second document of -- called a
19 declaration. I don't know if there's an extra
20 copy floating around or anything like that. If
21 not, that's fine. It generally -- it's generally
22 the same, I understand, as page 15 of the --

23 MR. WOLFE: The text report or declaration, Your
24 Honour, as I understand is the cut and paste from
25 the notes on page 15.

26 THE COURT: Yes, okay, go ahead.

27 THE ACCUSED: But this part that I'm going to be
28 referring to here is a separate paragraph --

29 THE COURT: Okay.

30 THE ACCUSED: -- that isn't included in the GCMS.

31 THE COURT: All right, you can ask her a question about
32 it.

33 THE ACCUSED: Okay.

34 Q So at the last paragraph, it says [as read in]:

35
36 I had no further interactions with this
37 individual, and did not hear anything about
38 him until contacted by Acting Supervisor for
39 Integrated Support Unit of the Intelligence
40 Enforcement Branch, Chad Brown, on February
41 4th, 2020.

42
43 THE COURT: And your answer was?

44 A Yes.

45 THE COURT: Yes?

46 THE ACCUSED: Yes.

47 THE COURT: And that was -- give me the date again?

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1 THE ACCUSED: February 4th, 2020.
2 THE COURT: Chad Brown made an inquiry on February 4th,
3 2020. Okay.
4 THE ACCUSED:
5 Q So are you saying there that between our
6 interaction on March 15th, 2019, and then February
7 4th, 2020, you had heard nothing further about me?
8 MR. WOLFE: Sorry, that's not what that says.
9 THE ACCUSED: Well that's why I'm asking, is that -- is
10 that --
11 THE COURT: It says she had no further interactions
12 with Mr. Fox. Okay.
13 THE ACCUSED: And -- and did not hear anything about
14 him.
15 MR. WOLFE: Well, then the question really doesn't flow
16 from that, because the question put to her was you
17 heard nothing about or --
18 THE ACCUSED: Oh, it's right here. "I had no further
19 interactions with this individual and did not hear
20 anything about him until", okay.
21 THE COURT: Okay, go ahead.
22 THE ACCUSED:
23 Q So is that -- is that correct, that you received
24 no communication or correspondence referencing or
25 pertaining to me after March 15th until February
26 4th?
27 A That's correct.
28 Q Okay. Are you familiar with ATIP, A-T-I-P?
29 A Yes.
30 Q And are you familiar with their policies when they
31 receive a request for records that CBSA employees
32 may have, say at a certain location, say at the
33 Douglas Border Crossing, have you received any
34 emails from the ATIP department in Ottawa relating
35 to any ATIP requests that I had submitted? Any
36 notices or emails?
37 A Not that I can recall.
38 Q Okay. And just so I'm clear, so I'm not
39 misunderstanding anything, no messages along the
40 lines of "good morning, we have received the
41 request for the following", blah-blah-blah,
42 "please forward your responsive records to my
43 email address within ten working days", et cetera,
44 nothing like that?
45 A I don't recall.
46 Q All right.
47 THE COURT: If you saw the email, would it -- if there

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1 was one, would that assist your memory?
2 A It's possible.
3 THE COURT: Okay. You're entitled to -- if there's a
4 document that she can identify.
5 THE ACCUSED: No, not at this time.
6 THE COURT: Okay.
7 THE ACCUSED: I mean, there is a document, but no, I
8 don't wish to pursue that further, I received her
9 response, I'm satisfied with it.
10 THE COURT: Okay, go ahead.
11 THE ACCUSED:
12 Q On March 15th, 2019, when I approached the
13 counter, do you recall if I had a laptop bag with
14 me? Or any kind of luggage or bag?
15 A No.
16 Q Not necessarily -- it doesn't have to be
17 specifically a laptop bag.
18 A I don't recall.
19 Q Okay. Do you recall me handing it to you over the
20 counter, and you holding it while I sat, and you
21 did your investigation, that and my mobile phone?
22 A I don't recall.
23 Q Okay. Then I suspect I'm going to know the answer
24 to this next question, but I'll ask just so it's
25 been asked. Do you have any knowledge of any
26 recording devices, and of course on my mobile
27 phone that was also recording, but any digital
28 recording devices in my laptop bag at that time
29 that were recording the entire interaction?
30 A I don't have knowledge of that.
31 Q Okay. Now, I've never used the GCMS before. When
32 you -- the user interface for it, when you put in
33 somebody's name, and it finds a match for
34 somebody's name, and some -- I would presume some
35 general information comes up, is that correct? Or
36 can you -- can you describe for me what -- what
37 comes up when you put somebody's name in there?
38 A It depends if they are already in the system or
39 not.
40 Q Mm-hmm. Was I already in the system?
41 A Yes.
42 Q Do you remember what information came up?
43 THE COURT: And which name are you referring to?
44 A Richard Reiss.
45 THE COURT: Okay.
46 A The FOSS note.
47 THE ACCUSED:

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1 Q That's it?
2 A Yes.
3 Q So in the FOSS information that came up, you --
4 you said that the FOSS note, are you referring to
5 the entire noncomputer-based entry or NCMS, or are
6 you referring to just the remarks section of it?
7 A The remarks section was the only part I remember
8 looking at.
9 Q Interesting. So the other information may or may
10 not have come up? I mean in the noncomputer-based
11 entry.
12 A Yeah.
13 Q Because there's remarks at the bottom, but there's
14 also this other information?
15 A Yeah. I don't -- I don't recall seeing that
16 portion.
17 Q Okay. However, you mentioned Edmonton CIC in your
18 notes here, and Edmonton CIC is mentioned here, so
19 I'm kind of inferring that you probably did see
20 this other information, otherwise you wouldn't
21 have known that the remarks came from the Edmonton
22 CIC? Or am I incorrect in that?
23 A Edmonton CIC was the one who made that note.
24 Q Right. But what I mean is if you had seen only
25 the remarks, the section down here?
26 A Mm-hmm.
27 Q Then you -- from that you wouldn't have been able
28 to figure out that it was the Edmonton CIC, right?
29 Unless you actually saw that, you know, the office
30 note?
31 A That's right.
32 Q Okay. So is it likely then that you did actually
33 see more of the information, not just the remarks,
34 but you actually saw the information above it as
35 well?
36 A It could have been there, I just didn't put it in
37 my notes so I don't currently recall if I saw that
38 portion or not.
39 Q No, no, but it is in your notes, that's what I'm
40 saying, it says Edmonton CIC in your notes.
41 A Right.
42 Q Okay. I would like to propose a theory to you
43 about what happened on that day, and possibly just
44 get your opinion or your response to it. I would
45 suggest that I presented myself to you at the
46 secondary inspection counter, I had my laptop bag,
47 I had my phone, gave you the laptop bag, handed

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1 you the phone, you made a comment about know you
2 guys like --
3 THE COURT: Okay --
4 MR. WOLFE: Just a moment.
5 THE COURT: Just --
6 MR. WOLFE: That's far too complicated.
7 THE ACCUSED: Okay.
8 THE COURT: Yes, just -- I understand what your
9 approach -- your line of questioning now is to be
10 suggestions, and that's fair, but make them short.
11 THE ACCUSED: Sure.
12 THE COURT: So that you present a logical suggestion
13 that is -- that the witness can, you know, agree
14 with one idea at a time, because if you -- if you
15 wrap it all up in a -- in ten things --
16 THE ACCUSED: Right.
17 THE COURT: -- we don't know what -- what Ms. Polisak
18 is -- is agreeing or disagreeing to.
19 So the first suggestion is that he presented
20 himself to the -- to you at your -- at your desk,
21 of course you agree with that?
22 A That's correct.
23 THE ACCUSED: Good point.
24 Q So I would suggest that I did present myself to
25 you at the secondary inspection, I don't think
26 there's any question there, you agree with that?
27 A I agree.
28 Q And after some back and forth, and I sat for 15
29 minutes or 20 minutes while you did your
30 investigation, do you agree?
31 MR. WOLFE: I'm sorry, what is "back and forth"?
32 THE ACCUSED: Oh, communication back and forth.
33 MR. WOLFE: Well, specifically, if you want to -- if
34 Mr. Fox wants specific answers, it's fair to the
35 witness to have some specificity and not, you
36 know, "back and forth".
37 THE ACCUSED: Okay. The -- what -- the details of this
38 back and forth communication aren't really
39 relevant to what I'm --
40 MR. WOLFE: Well then what's the point of talking about
41 it?
42 THE ACCUSED: Fair enough.
43 THE COURT: Okay.
44 THE ACCUSED:
45 Q So I sat for 15, 20 minutes while you did the
46 investigation?
47 THE COURT: Do you agree with that part?

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1 A I can't give an exact time, but --
2 THE ACCUSED:
3 Q I'm sorry, the amount of time I guess was not
4 really important, for some time?
5 THE COURT: Yes, just the fact that he sat down while
6 you conducted an investigation.
7 A I wouldn't call it an investigation, but --
8 THE COURT: Made some inquiries, shall we say?
9 A Correct.
10 THE COURT: Okay.
11 THE ACCUSED:
12 Q And then at some point I would say that you -- or
13 I would suggest that you called me back to the
14 counter, is that correct?
15 A Yes.
16 Q And -- now, here's where I think there might be
17 some disagreement, I would suggest that at that
18 point you had said to me that based on the
19 information available to you -- oh, let's stop for
20 a second, let's take a step back, sorry.
21 During our interaction when we were
22 discussing earlier, did I inform you that I had
23 been convicted of criminal harassment in Canada?
24 A I don't recall.
25 Q Did you find that in the course of your inquiries?
26 A I didn't write what your arrests had been in the
27 U.S. or Canada, and I cannot recall what they
28 were.
29 Q Okay, let's be more generic then, did I inform you
30 that I had been convicted of an indictable offence
31 which, if I was -- well, an indictable offence?
32 A I don't remember.
33 Q Did I inform you that I had been convicted of a
34 crime? Or did you find that in the course of your
35 investigations?
36 A When I looked up in CPIC, it said that you had had
37 multiple arrests in Canada and U.S., and by you, I
38 mean Reiss and Fox.
39 Q Me, the actual person as opposed to some possible
40 person named Reiss, I understand that.
41 Did I have any documents with me at that time
42 that I presented to you? Particularly probation
43 records.
44 A I don't recall.
45 Q Did I tell you that I was on probation?
46 A I don't recall.
47 Q Did I tell you that I was convicted of perjury in

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1 the United States, a felony?

2 A I don't recall much of the specifics of our
3 conversation. Besides my notes.

4 Q Right. Okay. So then coming back from -- going
5 back again to where we were after your inquiries
6 were done, I went back up to the counter, what I
7 would propose -- or suggest to you at this time is
8 that you had said to me that based on the
9 information and evidence available to you I would
10 be inadmissible to Canada. Is that correct or no?

11 A No.

12 Q Okay. Can you tell me what you did say?

13 A In my notes I say [as read in]:

14
15 When informed since subject does not have
16 proof of U.S. citizenship, and since he has
17 been previously removed numerous times from
18 the U.S., he is unlikely to be allowed entry.
19

20 Q Is that it? Did you -- did you --

21 THE COURT: Your answer was yes?

22 A Yes.

23 THE ACCUSED: Oh.

24 Q Did you explicitly state to me at that time that I
25 was either admissible or not admissible to Canada?

26 MR. WOLFE: Sorry, can you ask that question again,
27 please.

28 ACCUSED:

29 Q Did you explicitly state to me at that time, after
30 you had finished your investigation or inquiries,
31 that I was either admissible or not admissible to
32 Canada? Explicitly, preferably in very similar
33 wording to that.

34 A I don't recall specifics, but all Canadians are
35 admissible to Canada.

36 Q Did you state that based on the information
37 available to you at that time that you had
38 determined that I am a Canadian citizen, and
39 therefore would be admissible?

40 A I don't know in those words particularly, but I
41 believe I would have told you the outcome of what
42 I gained through looking through our systems, and
43 that you were a Canadian.

44 Q Okay. And so would you have said that I am a
45 Canadian, or that somebody named Reiss who was
46 born in Sudbury was a Canadian?

47 THE COURT: Okay, that's a difficult question to

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1 answer, isn't it? Because she doesn't know who
2 you are other than what you told her.
3 THE ACCUSED: That's kind of the kicker here.
4 MR. WOLFE: Well, I don't --
5 THE ACCUSED: A person shows up at the border, the
6 authorities have no idea who the person really is,
7 but then they're just going to go welcome to
8 Canada, come on in?
9 MR. WOLFE: Well, that's never been her evidence that
10 they had no idea. Her evidence has actually been
11 given [indiscernible], we have her documents in
12 front of the court now. What -- I think that's
13 [indiscernible] the witness's evidence, it's
14 actually a misrepresentation of her evidence thus
15 far.
16 THE COURT: Yes, fair.
17 THE ACCUSED: We have her notes here where she refers
18 to me consistently as "the subject", except in a
19 few particular parts where she names me as -- or
20 names the party as "Reiss".
21 THE COURT: No, Mr. Fox --
22 THE ACCUSED: -- that's why I was trying to clarify.
23 THE COURT: -- the -- the -- I think we've gone over
24 that --
25 THE ACCUSED: Okay, we have.
26 THE COURT: -- the portions that -- that -- where she
27 names it as "subject" is when you walked in, "a
28 subject came up to me", and then there's -- and
29 then there's some inquiries made.
30 THE ACCUSED: But even after, she uses the names Fox
31 and Reiss, and then again "subject states he was
32 born Fox".
33 THE COURT: Yes, she's -- she's advising what you told
34 her.
35 THE ACCUSED: [As read in]:
36
37 At this point it cannot be confirmed that
38 subject is not a Canadian and his explanation
39 of stealing Reiss's identity cannot be
40 confirmed.
41
42 And then again:
43
44 Subject has been in contact with IRCC.
45
46 So I was just trying to get an understanding of if
47 she was differentiating me, a person who maybe

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1 CBSA wasn't really certain of who I was --
2 THE COURT: Well, you can ask Ms. Polisak what was --
3 did you have any opinion or belief as to the name
4 of the individual or the -- that you were dealing
5 with at the time?
6 A On March 15th, 2019, I believed Fox/Reiss, and
7 subject, I was all -- always explaining the same
8 person in my narrative.
9 THE COURT: Okay.
10 THE ACCUSED: Okay. Sorry, I'm just recounting in my
11 head what we've already covered, I don't want to
12 ask the same questions again.
13 A Could I have some water, please? Thank you.
14 Thank you.
15 THE ACCUSED:
16 Q Okay, so then after that point, where you had
17 said -- I can't remember how you had phrased it a
18 few moments ago -- oh, you essentially read from
19 your...
20 That -- something about a Canadian would
21 always be admissible to Canada or something. And
22 then was there anything further that was said?
23 For example, did I say that it was my intention,
24 regardless of whatever might happen there, to
25 present myself to CBP on the U.S. side?
26 A In my notes I say -- well, you say subject
27 entered -- or I say, sorry [as read in]:
28
29 Subject entered office from within Canada and
30 stated he wanted to go back to the U.S.A.
31
32 And then at the end, after I explained that -- so:
33
34 When informed subject does not...
35
36 ...does not have proof of U.S.
37 citizenship, and since he has been previously
38 removed numerous times from the U.S.A., he is
39 unlikely to be allowed entry. He says he is
40 hoping to get detained because he will refuse
41 to be removed and then he can sort all this
42 out and prove that he is in fact Fox, a U.S.
43 citizen, and stole Reiss's identity at some
44 point in the past.
45
46 Q So then did I leave after that point?
47 A You left the office. I don't know if it was

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1 exactly after that point, but...

2 Q Okay. Did you contact CBP after -- at that point?

3 A Not that I recall.

4 Q Oh. Did you send any kind of notification to them

5 that a person might potentially be on their way?

6 A No.

7 Q Isn't that the standard procedure?

8 A If we're refusing somebody that is high risk, we

9 do potentially, but it's not standard procedure.

10 Q Did I show you a copy of my photo birth

11 certificate during all of this interaction? Wait,

12 wait, hang on, maybe I shouldn't ask that.

13 Actually, I guess that -- yeah, that would be

14 reasonable to ask because it would have been

15 something that may have occurred during our

16 interaction.

17 A I don't recall.

18 Q Okay. And I would have -- would I have walked out

19 the same doors I came in, which are to the north?

20 MR. WOLFE: Sorry, the question should be "did I walk

21 out" not "would I".

22 THE COURT: You can give, yes, evidence that you saw

23 him walking out, or if there's only one entrance

24 in and out, you can --

25 A There is.

26 THE COURT: -- do you have any evidence on that?

27 A There is only one public entrance in and out of

28 the building, it's on the north side of the

29 building.

30 THE COURT: Thank you.

31 THE ACCUSED:

32 Q All right, I was not asking whether or not she saw

33 me walking out, that was a given, it was whether I

34 was walk -- I walked out the same door as I came

35 in?

36 A Correct.

37 Q And did you see where I went or what I did after I

38 walked out?

39 A I did not.

40 Q Did you see who I interacted with after I walked

41 out?

42 A I did not.

43 Q Did you see a CBSA officer outside the building

44 interacting with me and then walking with me

45 beyond that point?

46 A No.

47 Q Okay.

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1 A There is an officer that stands outside.
2 Q Yes.
3 A For X amount of hours of the day to point traffic
4 in the right direction, and answer questions to
5 people who may be entering the office, but that
6 position can't go anywhere, it has to stay there
7 for their hour.
8 Q Mm-hmm. Are you familiar with a Shan-Marie
9 Berrara [phonetic]?
10 A No.
11 THE ACCUSED: Believe it or not, I think I might be at
12 the end of my questions.
13 THE COURT: Okay.
14 THE ACCUSED: I'm just giving a quick look over --
15 THE COURT: Yes, sure.
16 THE ACCUSED: -- just to be sure I didn't miss
17 something.
18 THE COURT: While you're doing that, why don't we mark
19 the exhibits, Madam Registrar. The declaration I
20 can -- I guess can be the next exhibit, I'm not
21 sure where we're at.
22 THE CLERK: That would be Exhibit 12.
23 THE COURT: 12, okay, declaration Exhibit 12.
24
25 **EXHIBIT 12: 1 page - "Declaration" by**
26 **Citizenship and Immigration Canada, report**
27 **written by Meagan Polisak #35596**
28
29 THE COURT: And the other package of materials, which I
30 guess we'll call Canada Border Services documents
31 is 13.
32 MR. WOLFE: Sorry, did you say 12 is the stat dee?
33 THE COURT: Yes.
34 MR. WOLFE: And 13 is just this compendium of documents
35 being labelled as --
36 THE COURT: As 13, that's right, all of them stapled
37 together as they are, yes. So that can be 13.
38
39 **EXHIBIT 13: 15 pages - Canada Border**
40 **Services documents re Patrick Henry Fox**
41
42 THE ACCUSED: There is one and a half other questions
43 that I'd like to ask.
44 THE COURT: Sure.
45 THE ACCUSED:
46 Q First, does CBSA have access to the records of
47 specific police agencies, for example the Toronto

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1 Police Department, when you're researching
2 someone? Kind of like how you would have access
3 to the RCMP's records.
4 A Can you be more specific to records?
5 Q Oh, say like arrest or criminal history records?
6 The records that, say for example, the Toronto
7 Police might have about somebody?
8 A If they're in CPIC.
9 Q Do you mean that if there's a corresponding entry
10 in CPIC relating to a particular arrest from the
11 Toronto Police that you would then have access to
12 the Toronto Police records?
13 A It's just what is in the IBQ system, and that's in
14 C -- I don't really now how to explain this.
15 THE COURT: I guess the question is, do you -- is it
16 just the sort of federal databases you have access
17 to, or do you have access to provincial police
18 databases, or municipal police databases?
19 A We can see if people have been arrested in Canada.
20 THE ACCUSED: Okay.
21 Q Do you have access to mugshots associated with
22 arrests of such people?
23 A No.
24 Q All right. Were you aware that there was an
25 arrest for a person named Reiss in Toronto in
26 1992?
27 A I was not.
28 Q All right. And it goes without saying that you
29 have not seen a mugshot of that person, I assume?
30 A No.
31 THE ACCUSED: All right, I'm done.
32 THE COURT: Thanks, Mr. Fox.
33 Mr. Wolfe, do you want to -- how long do you
34 think you --
35 MR. WOLFE: [Indiscernible/not at microphone] if we
36 could take the break?
37 THE COURT: Take the break?
38 MR. WOLFE: And then I'll have redirect.
39 THE COURT: Okay, Ms. Polisak, we'll take the afternoon
40 break, and then Mr. Wolfe may have a few questions
41 in redirect for you. All right.
42 A Yeah.
43 THE COURT: And you'll be finished today in any event.
44 A Sorry?
45 THE COURT: You'll be finished today in any event.
46 A Okay. What time would you like me back here?
47 THE COURT: Oh, about 20 minutes or so. Thank you.

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1 THE CLERK: Order in court. All rise.

2

3

(WITNESS STOOD DOWN)

4

5

(PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

6

(PROCEEDINGS RECONVENED)

7

8

THE COURT: Okay, thank you. We'll have Ms. Polisak
back in, thanks.

9

10 MR. WOLFE: Actually, I don't have any questions.

11

THE COURT: Okay. I'll just have her back in to
release her then.

12

13

THE COURT: Is she out there, Mr. Sheriff?

14

THE SHERIFF: Yes, she's coming.

15

16

MEAGAN POLISAK, recalled.

17

18

THE COURT: Yes, you can -- you can probably stay
there, Ms. Polisak, we're just determining whether
we -- whether counsel has any questions for you.

19

20

21

MR. WOLFE: Yes, after reviewing my notes, Your Honour,
I don't.

22

23

THE COURT: Okay. All right, Ms. Polisak, thanks --
thanks for coming.

24

25

A Thank you.

26

THE COURT: And you're free to go now if you want.

27

28

(WITNESS EXCUSED)

29

30

THE COURT: Okay.

31

MR. WOLFE: Nothing further from the Crown.

32

THE COURT: All right, thanks. So Exhibit 12 and 13
have been entered here. The CBSA documents.

33

34

Okay, now the Crown's case is closed now,
mark that for the record, thanks.

35

36

So that's the case for the Crown, Mr. Fox, at
this point in time I'm obliged to ask you whether
there is any evidence that you wish to -- to
proffer on behalf of the defence, it can be
yourself, it can be other evidence. Do you have
any evidence?

37

38

39

40

41

42

THE ACCUSED: Yes.

43

THE COURT: Okay.

44

THE ACCUSED: I intend to testify, and I'm also going
to have supporting documents that I will be
providing to support that testimony.

45

46

47

THE COURT: Okay. Well, we'll get to the admissibility

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1 of those documents I guess as they -- as we go
2 along. The -- do you want to testify, that's your
3 decision then?
4 THE ACCUSED: Mm-hmm.
5 THE COURT: Okay. So we've got some time left in the
6 day, why don't you come on up.
7 THE ACCUSED: I would like to ask though that rather
8 than starting testifying at this point of the day,
9 since I've been up at five o'clock in the morning
10 in the holding cells --
11 THE COURT: Yes.
12 THE ACCUSED: -- is there any chance we could start
13 that Friday morning?
14 THE COURT: Yes.
15 THE ACCUSED: Since we're scheduled for Friday morning
16 anyway.
17 THE COURT: Okay, we've got -- we've got the full day
18 Friday?
19 MR. WOLFE: We do.
20 THE COURT: Okay. Do you have any sense of how long
21 you may take to tell your story or your -- your
22 evidence?
23 THE ACCUSED: Fifteen to 20 minutes, and then whatever
24 Mr. Wolfe will take to cross me.
25 THE COURT: Okay. Okay. Well then in that case, I
26 think that the request should be granted, I guess,
27 in that case.
28 MR. WOLFE: Twenty minutes?
29 THE ACCUSED: Is that long, I don't know.
30 MR. WOLFE: No, no, it's your ball to play with, I just
31 want to be sure you're --
32 THE COURT: He's skeptical.
33 THE ACCUSED: It's just --
34 THE COURT: But -- but, you know, you're going to take
35 as long as you take, we just want to get a
36 ballpark figure. You're just saying you're not
37 going to be days and days and days, you're going
38 to be -- you're going to be 20 minutes to half an
39 hour or whatever.
40 THE ACCUSED: Right, because it's my understanding that
41 I would be constraining myself to the events that
42 occurred on March 15th, 2019.
43 THE COURT: Yes, essentially. Or to -- to --
44 MR. WOLFE: Well, there's a second date, there's the
45 19th [indiscernible/not at microphone].
46 THE COURT: There's the -- yes --
47 THE ACCUSED: Obviously, I'm not even going to bother

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1 testifying about that, I was out of the country,
2 in custody of [indiscernible/voices
3 overlapping] --
4 MR. WOLFE: [Indiscernible/voices overlapping].
5 THE COURT: Okay, so basically you're testifying --
6 giving relevant evidence on the essential elements
7 of the -- of the case.
8 THE ACCUSED: Right.
9 THE COURT: Of the charges that are against you.
10 Okay. So Friday we can start, yes.
11 THE ACCUSED: Okay.
12 THE COURT: 9:30. That will give us enough time to
13 complete the entirety of the case, I think. And
14 then I might even have some time to...
15 THE ACCUSED: So should I assume that we would be doing
16 the closing arguments on Friday as well then?
17 THE COURT: You should assume that.
18 THE ACCUSED: Okay. And about printing those
19 documents, should I talk about that Friday morning
20 or?
21 MR. WOLFE: Honestly, Your Honour, I don't know what
22 the documents are, I don't know how voluminous
23 they are, I don't know if they're admissible.
24 There are some important issues that might arise
25 depending on what I see.
26 THE COURT: You've seen some of them, have you,
27 Mr. Wolfe?
28 MR. WOLFE: No.
29 THE COURT: No, you haven't, okay. So the -- well, the
30 relevancy of these documents will be something
31 that will be in issue, I suppose.
32 THE ACCUSED: Well, I'm sure that Mr. Wolfe is going to
33 challenge the relevancy of them, and then he will
34 challenge the authenticity of them, I am sure.
35 THE COURT: All right, well you might want to -- just
36 if you have some time to look up some suggestions
37 on how you can -- on how you should be dealing
38 with documentary evidence --
39 THE ACCUSED: I would --
40 THE COURT: -- that doesn't emanate from your hand.
41 THE ACCUSED: Yeah, I would have absolutely no way to
42 do that at North Fraser.
43 THE COURT: Okay.
44 THE ACCUSED: If Mr. Wolfe and the court oppose them
45 then they just won't go in.
46 THE COURT: Well, we'll -- obviously we'll --
47 THE ACCUSED: I don't mean that in a condescending or a

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1 sarcastic way.
2 THE COURT: No, I know, our goal is to obviously
3 provide a fair trial in accordance with laws as
4 they exist, and we don't always get it right, but
5 we do our best, So -- and that's what we'll do on
6 Friday, Okay. We're adjourned then to Friday.
7 Now, these are documents -- are they -- are
8 they government created --
9 THE ACCUSED: Yes.
10 THE COURT: -- are they government agency created
11 documents?
12 THE ACCUSED: Yes, there's some police records and a
13 couple of CPIC reports, I believe a mugshot.
14 THE COURT: Okay. And you can -- you've -- and you've
15 heard our discussions over the last days about,
16 you know, the issues that are to be determined.
17 THE ACCUSED: Yeah.
18 THE COURT: And the relevancy of things. Okay. Well,
19 we'll have to --
20 THE ACCUSED: Now, obviously some of the testimony I'm
21 going to provide is going to be intended to rebut
22 some of what Officer Polisak said.
23 THE COURT: Yes, I expected that.
24 THE ACCUSED: Which is why I need, for example, the
25 mugshot and the CPIC reports to refute those kinds
26 of claims that she was making.
27 THE COURT: Well, she said -- yes, she said she didn't
28 see any mugshot or --
29 THE ACCUSED: Oh, right, right, but --
30 MR. WOLFE: She said she didn't recall --
31 THE COURT: Or she didn't recall seeing them.
32 MR. WOLFE: -- which is different than saying saying
33 she never saw them, right.
34 THE COURT: That's right, she said she didn't recall
35 that.
36 THE ACCUSED: Right.
37 THE COURT: So I think the essence of her evidence is
38 really what she recalled the most of is -- is
39 based on -- her recollection is really just -- any
40 memory she has is generated by her notes, and
41 they're -- to the limited extent that they are.
42 THE ACCUSED: Okay.
43 THE COURT: Okay. All right, Well, I guess we'll find
44 out on Friday.
45 MR. WOLFE: Are we in this courtroom?
46 THE CLERK: Yes.
47 THE COURT: That's what I was just going to ask. We

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1 are?

2 THE CLERK: We are in this courtroom.

3 THE COURT: All right, let's adjourn directly then to
4 this -- this courtroom.

5 MR. WOLFE: Yes, please, thank you.

6 THE COURT: Okay. See you then. Okay.

7 THE CLERK: Order in court. All rise.

8

9 (PROCEEDINGS ADJOURNED TO MARCH 6, 2020, AT
10 9:30 A.M. FOR CONTINUATION)

11

12

13 Transcribers:

14

15 C. Jones: Start to Noon Recess

16 A. Castle: Noon Recess to End of Day

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