

COMMISSION OF INQUIRY INTO  
CERTAIN ASPECTS OF THE TRIAL  
AND CONVICTION OF JAMES DRISKELL

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The Honourable Patrick LeSage, Q.C. Commissioner

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Transcript of Proceedings  
before the Commission sitting  
at the Winnipeg Convention Centre  
Winnipeg, Manitoba

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Monday, July 31, 2006

Volume 9

INQUIRY PROCEEDINGS

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1 MONDAY, JULY 31, 2006

2 Upon commencing at 9:30 a.m.

3 THE CLERK: All rise. This Commission of  
4 Inquiry is now in session. Please be seated.

5 THE COMMISSIONER: Mr. Code.

6 MR. CODE: Good morning, Mr. Commissioner, if I  
7 could call Sergeant Al Paul as the next witness,  
8 please?

9 ALBERT PAUL, having first been duly sworn,  
10 testified as follows:

11 BY MR. CODE:

12 Q Good morning, Sergeant Paul.

13 A Good morning.

14 Q I see you have before you the two volume set of  
15 documents marked exhibit 6A and 6B in these  
16 proceedings?

17 A That's correct.

18 Q And at the front of that book, at tab 3, we find  
19 the statement that you prepared for the  
20 Commission after our initial interview; is that  
21 correct?

22 A That's correct.

23 Q And have you had a chance to review that  
24 statement for accuracy, both at the time that it  
25 was prepared and now in preparation for your

1 testimony again?

2 A Yes, I have.

3 Q And are you content with its accuracy?

4 A Yes, I am.

5 Q Now, Mr. Commissioner, I want to right at the  
6 outset bring out a somewhat personal matter  
7 about Sergeant Paul, but he is content that I  
8 bring it out, because it is relevant to his  
9 evidence. And that is, Sergeant Paul, you had  
10 heart bypass surgery last year in 2005.

11 A That's correct.

12 Q And your understanding of the procedure is they  
13 actually stop your heart during the procedure;  
14 is that correct?

15 A That's correct.

16 Q And since that procedure last year, you have  
17 noticed failures of memory, both in relation to  
18 domestic family matters and in relation to work  
19 related matters such as this case?

20 A That's correct.

21 Q And as a result of that, we see in your  
22 statement a number of areas where you have very  
23 poor recollection.

24 A That's correct.

25 Q All right. Bearing that in mind, and also

1 bearing in mind the fact that a number of key  
2 areas, we will see as we go through, you appear  
3 not to have been directly involved in. I'm  
4 going to try and keep this examination fairly  
5 brief. We went over the bulk of the evidence  
6 with your colleagues, Staff Sergeant Vandergraaf  
7 and Sergeant Anderson. So I'm going to be  
8 somewhat more economical with you, if I can put  
9 it that way.

10 A Okay.

11 Q Now, if you have your statement at tab 3  
12 available to you, it sets out your background  
13 and antecedents at page 1; is that correct?

14 A Yes, it does.

15 Q And as I read that, you had been a police  
16 officer for some 15 years by the time of the  
17 Harder homicide investigation in late 1990?

18 A That's correct.

19 Q And for much of that time you had been a  
20 plain-clothes detective with the robbery and  
21 homicide squad?

22 A That's correct.

23 Q In other words, you had been an investigator of  
24 serious crimes?

25 A Yes, I had.

1 Q And you and Sergeant Anderson both held the rank  
2 of Sergeant at the time of the Harder homicide  
3 and you were partners?

4 A That's correct.

5 Q And you became, your primary role in the  
6 investigation was the two of you were Zanidean's  
7 handlers, but you also had other investigative  
8 tasks that were performed on the file. Is that  
9 correct?

10 A That's correct.

11 Q Now, if you look at page 2 of your statement  
12 under the heading previous "Pre-Stinchcombe  
13 Disclosure Practices" at the bottom of the page?

14 A Yes.

15 Q You make a statement that I want to explore and  
16 clarify somewhat. The first line under that  
17 heading is,

18 "Paul believes that even before Stinchcombe  
19 the practice was for all police notes and  
20 reports to be forwarded to the Crown."

21 You see that?

22 A Yes, I do.

23 Q Now, we know that all police reports were  
24 provided, the so-called pinks, or at least all  
25 of the witnesses that we have spoken to have



1           agreed on that, so there appears to be unanimity  
2           that the pinks, the pink copy of the police  
3           reports were automatically forwarded to the  
4           Crown; is that correct?

5    A       That's correct.

6    Q       Focusing then on the area where it is less  
7           clear, police notes, your statement that you  
8           believe that all police notes were automatically  
9           forwarded to the Crown in all cases, is that  
10          what you mean, or can you clarify that statement  
11          for us somewhat?

12   A       I made a practice of copying my notes and  
13          forwarding them to the Crown before I testified.

14   Q       If you can get closer to the microphone, I can't  
15          hear you very well.

16                You say you made a practice of photocopying  
17          your notes and forwarding them to the Crown  
18          before you testified?

19   A       That's correct.

20   Q       That's the basis for that statement, is it, your  
21          own personal practice?

22   A       Yes, it is.

23   Q       Who kept custody of police notes at this time,  
24          pre-Stinchcombe, where were they physically  
25          kept?

- 1 A In my drawer in my desk at work.
- 2 Q The police officer kept custody of his or her  
3 own notes?
- 4 A That's correct.
- 5 Q They weren't kept on the file?
- 6 A No.
- 7 Q But your practice, when you are testifying, is  
8 that what you are speaking of, was to  
9 automatically forward a copy to the Crown?
- 10 A I was subpoenaed to attend court, I would make a  
11 copy of my notes and forward them to the Crown.
- 12 Q In terms of that practice of yours, what was the  
13 timing of it as to when you would automatically  
14 photocopy your notes and send them up to the  
15 Crown prior to testifying? How close to the  
16 time of your testimony would you send them up?
- 17 A It would be usually shortly after I was  
18 subpoenaed, probably a couple of weeks before I  
19 would be testifying.
- 20 Q And we know that in this trial, in the Driskell  
21 trial, you in fact did testify, did you not?
- 22 A Yes, I did.
- 23 Q It was on a very, very narrow point of you had  
24 measured the distance between the Driskell  
25 family home and the grave site along the railway

1 tracks. Do you recall that?

2 A Yes, I do.

3 Q And even though you were only testifying on that  
4 very narrow issue, you say your practice was to  
5 photocopy your entire notebook a couple of weeks  
6 before you got on the stand and send it to the  
7 Crown?

8 THE COMMISSIONER: Sorry, Sergeant Paul, what  
9 about a preliminary inquiry, would you do it  
10 prior to the preliminary inquiry as well, or  
11 just for trial?

12 THE WITNESS: Well, whenever I was subpoenaed.  
13 If I was subpoenaed for the preliminary inquiry,  
14 I would do it then.

15 THE COMMISSIONER: Thanks.

16 BY MR. CODE:

17 Q In fact, what we see from what the Department of  
18 Justice has disclosed to us, their file in this  
19 matter which was produced to us, supports and is  
20 consistent with the evidence that you are  
21 giving, because we find a set of your notes in  
22 the Department of Justice file, and it is a set  
23 of notes that goes pretty much right up to the  
24 end, which would be consistent with your sending  
25 it in just prior to the trial. Is that correct?

1 A If you say so. I haven't seen that copy.

2 Q But assuming those facts, that we have got a  
3 copy in the Crown file that goes right up to the  
4 end pretty much, that would be consistent with  
5 your practice of sending it in just before  
6 testifying?

7 A That's correct.

8 Q Now, in relation to other officers, whether  
9 other officers followed that same practice, I'm  
10 going to take you to some examples in the  
11 disclosure materials of what we see in relation  
12 to other officers. The statement at the bottom  
13 of page 2 of your witness statement that I read  
14 to you, are you able to say what the practice  
15 was in relation to other officers, or are you  
16 really only able to say what your practice was?

17 A I can only say what my practice was.

18 Q All right. So that statement at the bottom of  
19 page 2 is a little bit overbroad, I think we can  
20 agree, in light of your evidence today?

21 A Okay.

22 Q Let me then illustrate the point in relation to  
23 other officers by dealing with three officers  
24 named Harrison, Happychuk and Pilotte. If I  
25 could just ask you to pull out, to turn to

1 volume 2 of the exhibit book, exhibit 6B, volume  
2 2, and if you flip to tab 43, towards the end of  
3 that exhibit book, you see a police report that  
4 just prior to the trial on May 24th, that  
5 Sergeant Anderson prepared that encloses  
6 Pilotte's notes and Happychuk's notes. Do you  
7 see that?

8 A Yes, I do.

9 Q And back at tab 41, you see another police  
10 report that encloses Sergeant Harrison's notes.  
11 And I just want to trace through and show,  
12 assist the Commission as to how those officers'  
13 notes came to be produced at those two tabs just  
14 prior to the trial.

15 Could you, first of all, turn to tab 33.  
16 And incidentally, these were all officers who  
17 testified, were they not? Harrison, Happychuk  
18 and Pilotte all testified early on at the  
19 Driskell trial?

20 A I don't know if they did or not.

21 Q I can assure you they did. They testified about  
22 the statements they had taken from Perry Harder.

23 If you look at tab 33, this is  
24 Mr. Brodsky's disclosure request on April 25th,  
25 long letter. And the item we are interested in

1 is item 7, the top of the second page where he  
2 refers to Harder, statements Harder made to  
3 Officers Harrison and Happychuk. Do you see  
4 that?

5 A Yes, I do.

6 Q And the second sentence of his item 7 is,  
7 "What were these investigations, who do  
8 they involve, and might I have the notes of  
9 the Harrison/Happychuk interviews..."

10 So he makes an express request for the Harrison  
11 and Happychuk notes relating to their  
12 conversations with Perry Dean Harder. Do you  
13 see that?

14 A Yes, I do.

15 Q And if you then flip forward to tab 37, you get  
16 Mr. Lawlor's response, four days later, you get  
17 a fairly prompt response, but it is a negative  
18 response. He doesn't give him what he is asking  
19 for. Do you have tab 37?

20 A Yes, I do.

21 Q Item 1, Mr. Lawlor says,  
22 "Re paragraph 7 you have the reports of  
23 Harrison with respect to the interview of  
24 Harder."

25 So in essence he is telling him, you have got

1 the pinks, I'm not giving you the notes appears  
2 to be the implication. Is that fair?

3 A I can't comment on the implication he is making,  
4 but it does say that he has the reports of  
5 Harrison.

6 Q But he is not giving him the notes, is he? And  
7 that's what Brodsky asked for?

8 A That's what he has asked for, yes.

9 Q Brodsky asks for the notes and he responds by  
10 saying, you have got the reports, and he is  
11 silent about the notes; is that right?

12 A That's what it appears to be, yes.

13 Q Tab 38 then, Brodsky doesn't let it go, he, in  
14 his May 10th pre-trial memo, this is the  
15 pre-trial before Justice Morse now at tab 38.  
16 Brodsky sets out his disclosure requests in a  
17 memo titled "Questions" at tab 38. Do you have  
18 that?

19 A Sorry, could you repeat that again?

20 Q This is the pre-trial before Justice Morse on  
21 May 10th. And at tab 38 Mr. Brodsky produces a  
22 memo that sets out all of his disclosure  
23 requests, his outstanding disclosure requests, a  
24 month before trial, and he titles the document  
25 "Questions." do you have that document in front

1 of you?

2 A Yes, I do.

3 Q And twice he comes back to this business of the  
4 interview that the Winnipeg Police had with  
5 Perry Harder. It is the very first item, do you  
6 see item number 1?

7 A Yes.

8 Q He refers to the alleged threats against Harder  
9 by Driskell, and sub 2, asks for the  
10 conversations with Sergeant Harrison. Do you  
11 see that?

12 A Yes, I do.

13 Q And over the page, the bottom of page 2, item  
14 number 8, he comes back to it again. He refers  
15 back to his earlier request, number 7. Do you  
16 have item 8 at the bottom of page 2?

17 A Yes, I do.

18 Q And he essentially repeats the request he made  
19 at item 7 of the April 25th letter, where he  
20 asks for the notes of the interviews that  
21 Happychuk and Harrison carried out, that Lawlor  
22 had given him essentially a negative response  
23 to. Do you see that?

24 A Yes, I do.

25 Q And he specifies that he wants the notes in



1 relation to two separate interviews, an  
2 interview on the 8th and an interview on the  
3 10th. Do you see that at the end of his item  
4 number 8?

5 A Yes, I do.

6 Q The November 8 interview and the November 10th  
7 interview, he wants both of those interviews,  
8 the full text of the interviews he says.

9 You see somebody has written in the margin,  
10 presumably one of the Crown counsel has made a  
11 reference to Harrison's notes and then note to  
12 Pilotte; do you see that?

13 A Yes, I do.

14 Q In fact, we know from their testimony at trial  
15 that the November 8th interview is carried out  
16 by Harrison and Happychuk, and the November 10th  
17 interview is carried out by Pilotte and a fourth  
18 officer named Brown, and they ultimately give  
19 that evidence at the trial.

20 So is it reasonable to assume, in the way  
21 disclosure practices worked, that the Crown,  
22 upon receiving this memo, likely had a  
23 conversation with someone in the police and was  
24 informed that the relevant notes were Harrison's  
25 and Pilotte's?

1 A One can assume that, yes.

2 Q All right. And the last two documents in this  
3 story are at tab 41, we get the police response.  
4 Tab 41 is Sergeant Anderson's report dated  
5 May 18th; do you have that?

6 A Yes, I do.

7 Q And you see at the top third of the page his  
8 second entry, item 1, number 3, regarding the  
9 notes of the interview of Perry Harder. Do you  
10 have that?

11 A Yes, I do.

12 Q It says,

13 "We have attached a photocopy of Sergeant  
14 Harrison's notes on the interviews of Perry  
15 Harder from point of arrest until arrival  
16 at the PSB."

17 Then he deals with Happychuk. He says,

18 "Sergeant Happychuk recorded notes of the  
19 interview at PSB, and he is at present out  
20 of town. We expect to be able to provide  
21 his notes on May 24..."

22 That's some six days hence when he returns from  
23 being out of town. Have I read that accurately?

24 A Yes, you have.

25 Q And is it fair to say that the very clear

1           implication here is that Sergeant Anderson  
2           doesn't have access to Happychuk's notes because  
3           he is out of town and he physically has his  
4           notes?

5    A       That's correct.

6    Q       In other words, the notes aren't kept on the  
7           file, as you have just told us some five or ten  
8           minutes ago. Is that correct?

9    A       No, they are not.

10   Q       The officer would have his notes with him?

11   A       That's correct.

12   Q       So Harrison's notes get produced on the 18th as  
13           a result of Mr. Brodsky pressing his request a  
14           second time, but Happychuk's notes are still not  
15           being produced and Pilotte's notes have still  
16           not been produced of the same interviews.

17           And then finally at tab 43, as Sergeant  
18           Anderson had promised, when Happychuk gets back  
19           to town on May 24th, Sergeant Anderson produces  
20           a second supplementary report that we find at  
21           tab 43. Do you have that?

22   A       Yes, I do.

23   Q       And this is where Pilotte's notes and  
24           Happychuk's notes get produced; is that correct?

25   A       That's correct.

1 Q So, if you assume, as I want you to assume for  
2 purposes of this question, that all three of  
3 these officers were testifying -- and indeed  
4 they testified very early in the trial, they  
5 were in the first block of witnesses to be  
6 called early in the week of June 3rd -- that by  
7 the week before trial it appears the Crown did  
8 not have their notes, and produced them as a  
9 result of requests from the defence. Is that  
10 fair?

11 A Yes, it is.

12 Q So, whatever your practices were, they were not  
13 uniform amongst all officers; is that fair?

14 A That's fair to say.

15 Q And lastly on this whole issue of notes and  
16 reports, if I could refer you to page 3 of your  
17 statement, you see a heading there about your  
18 note taking and report drafting practices. In  
19 the second sentence under that heading you state  
20 that your practice was to record in your notes  
21 anything of importance regarding the case; is  
22 that correct?

23 A It says that I was to keep a dedicated  
24 case-specific notebook.

25 Q In terms of what I'm focusing on here, Sergeant,

1 is the content of what you put into your notes,  
2 and your practice was to note anything of  
3 importance regarding the case; is that correct?

4 A I'm sorry, could you repeat the question?

5 Q I'm focused on the contents of what went into  
6 your notes. And your practice, according to the  
7 second sentence under that heading at page 3,  
8 was to record anything of importance regarding  
9 the case?

10 A Yes, that's correct.

11 Q And dropping down to the bottom of the page, the  
12 last sentence at the bottom of page 3 and over  
13 on to the top of page 4. You didn't distinguish  
14 what went into notes and what went into reports,  
15 again, anything of importance should have been  
16 put in a report to keep the Crowns apprised.  
17 Have I summarized that passage at the bottom of  
18 page 3 and the top of page 4 accurately?

19 A Yes, that's correct.

20 Q All right. Then leaving aside those general  
21 introductory topics and turning to the specifics  
22 of the case, I want to ask you a few questions  
23 about Zanidean's witness protection package,  
24 including the whole issue of Swift Current  
25 immunity.

1           Is it correct that it was Sergeant Anderson  
2           who exclusively placed the calls to the Swift  
3           Current RCMP, that you yourself had no direct  
4           dealings with the Swift Current RCMP?

5    A    That's correct.

6    Q    And is it also correct that it was Sergeant  
7           Anderson, presumably to some extent together  
8           with Staff Sergeant Vandergraaf, who prepared  
9           the formal witness protection application to the  
10          RCMP program on behalf of Zanidean?

11   A    That's correct.

12   Q    And finally, is it also correct that it was  
13          Sergeant Anderson and Staff Sergeant Vandergraaf  
14          who exclusively dealt with Corporal Orr of the  
15          RCMP? You yourself had no direct dealings with  
16          Corporal Orr?

17   A    That's correct.

18   Q    So when the whole witness protection/immunity  
19          issues in relation to Zanidean came to be the  
20          subject of a review, after the trial was over,  
21          and a report was prepared for Inspector Johns on  
22          this topic which we see at tab 10, the report to  
23          Inspector Johns in the fall of 1991, it was  
24          Sergeant Anderson who prepared that report?

25   A    That's correct.

1 Q Now, on the last page of that report, if you  
2 have tab 10 open, you state your concurrence on  
3 the very last page; is that correct?

4 A That's correct.

5 Q And I just want to make clear the basis for your  
6 concurrence. The vast majority of the subject  
7 matter of that report deals with the matters  
8 that we have just gone through with you, the  
9 calls to Swift Current RCMP, the preparation of  
10 the witness protection application, the  
11 negotiations with Orr, all of the areas where  
12 you had no direct involvement. Is that correct?

13 A That's correct.

14 Q So in relation to all of those subject matters  
15 that we find dealt with in the report, do I take  
16 it that you were simply relying on what Sergeant  
17 Anderson had told you about these events, as  
18 opposed to any firsthand knowledge?

19 A That's correct.

20 Q And to illustrate the point, have you got your  
21 statement at tab 3 open to you -- open?

22 A Yes, I do.

23 Q If you look at page 12 of that statement, have  
24 you got page 12 of the tab 3. The first full  
25 paragraph starts,

1 "Anderson ultimately contacted Burton in  
2 Swift Current."

3 A Yes, I do.

4 Q If you look at the third sentence there,  
5 "Paul does not specifically recall Anderson  
6 telling him that Burton had promised to  
7 abandon the RCMP's pursuit of Zanidean on  
8 the Swift Current arson charges. He  
9 assumes that Anderson did tell him, but  
10 this is based on what Anderson said in his  
11 October 8th memo rather than Paul's own  
12 independent memory."

13 Does that accurately reflect your knowledge in  
14 relation to the Swift Current matter?

15 A Yes, it does.

16 Q In essence, you have no direct knowledge on the  
17 point and you may have acquired your knowledge  
18 from reading the October 8th memo; is that  
19 correct?

20 A Well, when I concurred with what he was saying,  
21 this was back in 1991, my memory may have been  
22 different then than it is now when I did concur.  
23 My statement here in tab 3 is what I remember  
24 now.

25 Q Fair enough. Obviously, by October 8th, 1991,



1           you knew of these events because you said, I  
2           concur at that point. But even then your  
3           knowledge is based on what Anderson told you?

4    A       That's correct.

5    Q       And if you look at page 18, another illustration  
6           of the point -- have you got page 18 of your  
7           statement, tab 3?

8    A       Yes, I do.

9    Q       Under the heading the post-trial agreements, the  
10          second paragraph,

11                 "Paul was not privy to any of the final  
12                 negotiations. Anderson's statement in his  
13                 October 1991 memo to Inspector Johns, the  
14                 final negotiations involved Orr,  
15                 Vandergraaf, Kovnats, Miller and Zanidean  
16                 is probably accurate, although Paul had no  
17                 firsthand knowledge of this."

18   A       That's correct.

19   Q       Does that accurately reflect your knowledge on  
20          that point?

21   A       Yes, it does.

22   Q       And again, you are simply relying on what  
23          Anderson set out in his report?

24   A       That's correct.

25   Q       All right. I want to ask you a few questions

1 about disclosure issues, and these are dealt  
2 with back at page 13 of your statement, if you  
3 could flip back to page 13 of tab 3?

4 A Yes.

5 Q You have no recollection of the pre-trials  
6 before Justice Morse in May of 1991, when the  
7 disclosure issues were finalized; is that  
8 correct?

9 A No.

10 Q You see in the middle of page 13, the pre-trials  
11 before Justice Morse, you state you have got no  
12 recollections of those pre-trials?

13 A No, I don't. We don't normally attend  
14 pre-trials.

15 Q I'm not asking whether you attended or not, I'm  
16 asking you, do you remember that at the  
17 pre-trials that there was a long shopping list  
18 of disclosure issues that got raised at those  
19 pre-trials, the month before trial, and that  
20 there was a good deal of police follow up on.  
21 Whether you were there or not, do you recall  
22 them?

23 A No, I don't.

24 Q And do you have any recollection of being  
25 involved in the responses, the preparation of

1 the responses to those disclosure requests that  
2 arose in the month before trial?

3 A I may have, but I don't recall.

4 Q Who would have been responsible for dealing with  
5 disclosure requests emerging out of a pre-trial  
6 on the eve of a homicide in Winnipeg in 1991?  
7 Whose responsibility would that be at the police  
8 end?

9 A Ultimately, it would probably be forwarded to  
10 the inspector in charge, who would give it to  
11 the Staff Sergeant, in this case, Vandergraaf,  
12 who would assign officers to look after that  
13 disclosure.

14 Q So it would get delegated down from the  
15 inspector, to the staff sergeant, to the  
16 detective sergeants who were on the ground doing  
17 the investigating?

18 A That's correct.

19 Q And we see these various supplementary reports  
20 that Anderson prepares at tabs 41 and 43, that I  
21 just took you to when we dealt with Harrison's  
22 notes and Happychuk's notes and Pilotte's notes,  
23 that emerge out of that pre-trial, and my  
24 question to you is, do you have any recollection  
25 of being involved in the preparation of those

1 reports in response to the pre-trial disclosure  
2 requests?

3 A I may have, but I don't recall.

4 Q You may have been involved in the preparation of  
5 them, but you have no recollection of it?

6 A That's correct.

7 Q The fact that Anderson, if you look at those two  
8 reports at 41 and 43, you see on both of them  
9 you have got Sergeant Anderson's signature, and  
10 then in the left-hand bottom corner box he puts  
11 your name in as well and your badge number. Do  
12 you see that?

13 A That's correct.

14 Q And what does that signify, the fact that your  
15 name is also on the reports but that Anderson  
16 signs it, what does that mean in terms of who  
17 prepared --

18 A It indicates that we were partners at the time,  
19 we probably worked on it together, and where it  
20 says reporting officer's signature is the one  
21 that actually wrote the report, in this case  
22 Sergeant Anderson.

23 Q Given that you were partners, it would be  
24 logical, and you were both involved in most  
25 matters together, it is logical you would have

1 worked on the report together, but Anderson  
2 would have drafted it and signed off on it; is  
3 that correct?

4 A That's correct.

5 Q Turning to the events immediately before and  
6 immediately after the trial, in late May and  
7 early June, we know that the trial commences on  
8 Monday, June 3rd, and Zanidean testifies early  
9 in the second week on Tuesday, June 11th. And  
10 in fact, your testimony is shortly after  
11 Zanidean's, you are the last Crown witness to  
12 testify; is that correct?

13 A I believe so, yes.

14 Q Mr. Dangerfield closes his case after you've  
15 testified and Mr. Brodsky then calls Mr. Garber.

16 I want to ask you about a number of events  
17 that happen in the two weeks leading up to  
18 Zanidean's testimony, and your testimony, and  
19 the close of the Crown's case. And much of this  
20 is discussed in your statement in and around  
21 pages 13 to 14, the place where we last were in  
22 your tab 3 statement.

23 First of all, you attend out to Alberta  
24 with Sergeant Anderson to arrest Zanidean on a  
25 material witness warrant shortly before the

1 trial; is that correct?

2 A That's correct.

3 Q And you bring him back in your custody on the  
4 night of May 26th, May 27th, according to the  
5 documentary reports. Is that correct?

6 A Yes.

7 Q And there is a series of events or meetings down  
8 at the Public Safety Building that night; is  
9 that correct?

10 A That's correct.

11 Q And according to your statement, again, you have  
12 got little recollection of that whole event of  
13 Zanidean's flight and his arrest and the events  
14 back at the Public Safety Building.

15 A I recall the flight back and some of the meeting  
16 at the Public Safety Building.

17 Q Is there anything that you can add to what is  
18 set out at pages 13 to 14 of your statement, or  
19 does that exhaust your recollection essentially?

20 A That's pretty well it.

21 Q Now, as I read that part of your statement, what  
22 you do clearly recall is that Zanidean was  
23 released on a recognizance that kept him under  
24 24-hour police custody; is that correct?

25 A That's correct.

1 Q And that you and Sergeant Anderson essentially  
2 divided the 24 hours into two 12 hour shifts,  
3 and for the most part you kept personal guard on  
4 him at the hotel suite where you were keeping  
5 him?

6 A For the most part, at times we were relieved by  
7 other officers.

8 Q At the hotel suite with Zanidean was his wife,  
9 Susan Fehr?

10 A That's correct.

11 Q She was allowed to be there with him but nobody  
12 else was?

13 A That's correct.

14 Q Now, from this time frame I'm talking about,  
15 beginning with the night of the 26th, 27th, when  
16 you arrest him and bring him back and start  
17 keeping him under 24-hour custody, through to  
18 June 21st when he is kicked out of police  
19 protection as a result of a blow-up with  
20 yourself that we will get to in a moment, we  
21 have got about a month long time frame that I  
22 want to ask you about a number of events. And  
23 if we could first of all look at your notes at  
24 tab 5 for this time period. Have you got your  
25 notebook there at tab 5?

- 1 A Yes, I do.
- 2 Q And this is your dedicated notebook, if you look  
3 at the front page of it, for the murder of Perry  
4 Harder; is that correct?
- 5 A That's correct.
- 6 Q You are keeping an exclusive notebook for the  
7 Harder case?
- 8 A That's correct.
- 9 Q You fill up one entire notebook in the first, up  
10 to page 550, do you see that?
- 11 A Yes.
- 12 Q Then we start a second notebook, page 551?
- 13 A That's correct.
- 14 Q Again, this is a dedicated notebook for the  
15 murder of Perry Harder?
- 16 A That's correct.
- 17 Q If you turn to the second to last page in the  
18 second notebook, page 576?
- 19 A Yes.
- 20 Q We have your last entries, is that correct?
- 21 A That's correct.
- 22 Q And on May 6th you note new address for address  
23 for Adeline Coleman?
- 24 A That's correct.
- 25 Q On May 10th you have some contacts relating to



1 Grace Sanderson -- Nancy Sanderson; is that  
2 correct?

3 A That's correct.

4 Q And on May 17th you again have some contacts  
5 relating to Nancy Sanderson?

6 A That's correct.

7 Q And that May 17th note is your last note; is  
8 that correct?

9 A That's correct.

10 Q So for this entire time period, beginning with  
11 the material witness warrant on the arrest in  
12 Alberta on May 26th, through to kicking Zanidean  
13 out of Winnipeg Police witness protection, there  
14 are no notes whatsoever?

15 A That's correct.

16 Q And is there any explanation for the absence of  
17 any notes in this time period?

18 A They had nothing to do with the murder  
19 investigation.

20 Q I am sorry?

21 A Whatever was happening then had nothing to do  
22 with the murder investigation.

23 Q So it is a deliberate decision not to make notes  
24 because you felt that the developments we are  
25 about to go through had nothing to do with the

1 murder investigation?

2 A Not in this notebook, no.

3 Q I am sorry?

4 A Not in this notebook. This is a murder  
5 investigation notebook.

6 Q What does that mean?

7 A Well, the notes that we put in these two note  
8 books dealt with the murder investigation.

9 Q The Perry Harder homicide?

10 A That's correct.

11 Q And you say that the events that took place in  
12 this period had nothing to do with that  
13 investigation?

14 A No, they were more with protective issues, they  
15 had nothing to do with the investigation itself.

16 Q So, what about matters relating to Zanidean's  
17 credibility, was that relevant to the Harder  
18 investigation?

19 A His credibility?

20 Q Yes, matters relating to Zanidean's credibility,  
21 would those be important to the Harder  
22 investigation?

23 A Yes, they would be.

24 Q All right. So when Zanidean flees to Alberta,  
25 apparently as part of a negotiating strategy to

1 try and get the things that he wants, do you  
2 think that's material to his credibility in the  
3 Harder investigation?

4 A I can't remember why he left for Calgary. It is  
5 completely out of my memory, that part.

6 Q Assuming it was part of a negotiating strategy,  
7 a kind of a brinkmanship that he was playing out  
8 with his lawyer, do you think that might be  
9 relevant to his credibility?

10 A Yes, it would be.

11 Q And ultimately, on the night when everything  
12 blows up and he says all of his testimony has  
13 been lies, or he threatens to go to the media  
14 and say it has been lies, I take it you would  
15 agree that would be relevant to his credibility?

16 A Yes, it would be.

17 Q So let's go through these events one by one.  
18 There is four of them that I want to cover with  
19 you in this time period.

20 First of all, do you recall that in the  
21 week prior to his testimony, in other words,  
22 during the first week of the trial, the June 3rd  
23 week, that Zanidean and Fehr, his wife, were  
24 writing out a handwritten account of their  
25 involvement in the case, and at the same time

1           they were also annotating their police  
2           statements?

3     A     Was I aware of this?

4     Q     Yes?

5     A     No, I wasn't.

6     Q     If they were doing that, they would have to be  
7           doing it while in your custody, because Zanidean  
8           was in your 24-hour custody; is that correct?

9     A     I only became aware of this handwritten thing a  
10          week ago. And that they were doing it while  
11          they were in our custody, they had their own  
12          room in the suite at the hotel.

13    Q     That's exactly what I was coming to. Although  
14          they were in your 24-hour custody, what you have  
15          got is a hotel suite and they have got their own  
16          bedroom?

17    A     That's correct.

18    Q     So he and Fehr could retreat in the bedroom and  
19          draft this document without it being to your  
20          knowledge?

21    A     That's correct.

22    Q     Did you ever see them carrying around a sheath  
23          of papers that they appeared to have been  
24          working on?

25    A     I don't specifically recall that, but it is

1 possible they were walking around with papers.

2 He had copies of his statements that he had  
3 given to police.

4 Q You had given him his statement so that he could  
5 refresh his memory and prepare to testify?

6 A That's correct.

7 Q He may have been carrying around a bundle of  
8 paper, and you simply assumed it was his  
9 statements that he was using to prepare to  
10 testify?

11 A I didn't pry into what he was carrying. He was  
12 in our custody but, you know, he had some  
13 privacy.

14 Q All right. If you look at tab 52, we have  
15 Mr. Kovnats, his lawyer's memo to file, where he  
16 describes an event on Tuesday, June 3rd, with  
17 someone named Ken Cameron. They meet with Ken  
18 Cameron in a parking lot, and some part of these  
19 documents they have been working on are given to  
20 him. And there is then an ensuing discussion  
21 with Bruce Miller, according to Kovnats' memo,  
22 about the accuracy of the contents of Zanidean's  
23 statements. Do you see that?

24 A Yes, I do.

25 Q Who was Ken Cameron?

1 A He is a police officer that worked in our  
2 division, one of the officers that was relieving  
3 us.

4 Q He was one of the officers who was assisting  
5 with the guard duty?

6 A That's correct.

7 Q And did you learn about these developments that  
8 Mr. Kovnats refers to on June 3rd, that there  
9 were documents being produced and discussions  
10 about the accuracy of Zanidean's police  
11 statements, did you hear about that through an  
12 oral report or through a written report?

13 A No, I didn't.

14 Q Okay. The second event I want to ask you about  
15 is three days later on June 6th. Do you recall  
16 taking Zanidean to a restaurant?

17 THE COMMISSIONER: Sorry, Mr. Code, what was the  
18 last tab number you were referring to?

19 MR. CODE: Tab 52, Mr. Commissioner. It is the  
20 Kovnats' June 3rd memo to file.

21 THE COMMISSIONER: And the part you were  
22 specifically --

23 MR. CODE: I was condensing it all, but you see  
24 right in the middle there is a little paragraph  
25 where it says,

1 "Ray and I and Susan went out to the  
2 parking lot and met with Ken Cameron. Ray  
3 gave him a copy of the letter to read."

4 And then in the next paragraph he tries to  
5 contact Hymie Weinstein and he says,

6 "I then contacted Bruce Miller and arranged  
7 to meet him, went over and told him that I  
8 had to see the statement. I indicated to  
9 him that my client was saying that the  
10 basic content of his statement was correct  
11 but the wording had been changed by the  
12 police and perhaps certain ideas had been  
13 added by the police."

14 He appears to have some kind of a consultation  
15 with Officer Cameron and then meetings with  
16 Bruce Miller. And in the introductory  
17 paragraphs he describes what these documents are  
18 that Zanidean is working on, a full written  
19 history of everything that's gone on in the  
20 case.

21 THE COMMISSIONER: Okay.

22 BY MR. CODE:

23 Q So that was the first event that I wanted to ask  
24 you about, Sergeant Paul.

25 The second event is at that same tab, 52,

1           there is a second memo dealing with June 6th.  
2           And leaving aside Mr. Kovnats' account of this  
3           event, do I take it that you have an independent  
4           recollection yourself of a meeting at a  
5           restaurant down by the river? As I understand  
6           it, at Main Street there is a bridge that goes  
7           across into St. Boniface and there is a little  
8           restaurant there that you took Zanidean to, to  
9           have a meeting with his counsel on June 6th. Do  
10          you recall that?

11        A     Yes, I do.

12        Q     And your account of the incident is set out in  
13              your statement at tab 3 in some detail. Pages  
14              15 to 16 of tab 3 is your account; is that  
15              correct?

16        A     That's correct.

17        Q     And we have Kovnats' account in his memo at tab  
18              52. And without going into this in too much  
19              detail, because it is set out in writing by you  
20              at pages 15 to 16, the gist of it is that  
21              Kovnats is working on some documents with  
22              Zanidean in the restaurant and at some point  
23              gets up to leave with him; is that correct?

24        A     They met together in the restaurant. I left  
25              them at one end of the restaurant, I sat at the



1 other end to give them privacy. Yes, they had  
2 some papers in front of them, and when they got  
3 up to leave I noticed that some of the papers  
4 that Mr. Kovnats was carrying were the police  
5 statements that I had supplied Mr. Zanidean with  
6 to refresh his memory with for court.

7 Q And you become concerned that, as Mr. Kovnats  
8 heads out to his car in the parking lot, that he  
9 is taking the police statements with him; is  
10 that correct?

11 A That's correct.

12 Q And you felt that those statements should be  
13 kept under police control and in the custody of  
14 the witness, rather than in the custody of some  
15 third party?

16 A That's correct.

17 Q And there is an argument, if I can put it that  
18 way, between yourself and Mr. Kovnats at his  
19 car, over who should have custody over the  
20 statements?

21 A There was a difference of opinion.

22 Q And the subject matter of it was who should have  
23 custody of this sheath of papers which you  
24 believed were the police statements?

25 A Well, the top copy I could tell was one of the

1 police statements that I had given to  
2 Mr. Zanidean.

3 Q All you could see was the top document, which  
4 was definitely a police statement. There may  
5 have been other documents underneath it in the  
6 bundle that Mr. Kovnats was carrying?

7 A It is possible, yes.

8 Q And in the course of this argument or difference  
9 of opinion, some phone calls get placed; is that  
10 correct?

11 A That's correct.

12 Q Mr. Kovnats calls the Deputy Attorney General,  
13 Mr. Garson, and you call an inspector; is that  
14 correct?

15 A I called the Staff Sergeant.

16 Q And the dispute gets resolved by allowing  
17 Mr. Kovnats to take the documents away?

18 A That's correct.

19 Q And I have to put to you a couple of small  
20 points from Mr. Kovnats' account, in fairness to  
21 you. Did you ever stand in front of his car to  
22 prevent him from leaving?

23 A No, I did not.

24 Q Did you ever lean on the hood of the car, again  
25 to try and prevent him from leaving and to

1 obtain custody of the documents?

2 A No.

3 Q Did you ever bang on his windshield?

4 A No.

5 Q The difference of opinion, as you have described  
6 it, as I understand your account, was Kovnats is  
7 in his car at the driver's seat and you are  
8 standing at the window having this discussion  
9 with him while the phone calls are placed on a  
10 cell phone?

11 A That's correct.

12 Q And then Kovnats is the one who has got the cell  
13 phone and the two of you place calls on that  
14 phone?

15 A That's correct.

16 Q Until the matter gets resolved?

17 A That's correct.

18 Q So, as a result of this incident you now know  
19 that -- and perhaps one other small detail I  
20 should make clear is that Kovnats' position as  
21 to his entitlement to these documents is because  
22 they contain notations on them that the police  
23 statements have been added to by way of his  
24 notations, and/or his clients notations, or  
25 instructions from his client; is that correct?

1 A That's what he stated, that he had written on  
2 the statements part of the conversation, the  
3 private conversation that he had with Zanidean.

4 Q He had had a solicitor/client meeting with his  
5 client about the statements. He made notes of  
6 that conversation on the statements and,  
7 therefore, he felt that they had become part of  
8 his solicitor/client brief, as it were?

9 A I don't know what the conversation was about.  
10 It was a private meeting, I was at the other end  
11 of the restaurant. What they talked about, I  
12 have no idea. He just said that he had written  
13 things on the statement that were lawyer/client  
14 privileged so.

15 Q So the police statements had become part of his  
16 privileged file as a result of the records that  
17 he kept on them?

18 A That's correct.

19 Q So as a result of this incident, leaving aside  
20 the differences of detail between you and  
21 Kovnats as to exactly who did what out in the  
22 parking lot, the substance of it, the two of you  
23 appear to be in general agreement that you now  
24 knew that Zanidean had been having some  
25 discussion with his lawyer about his statements

1 and some notes had been made on those  
2 statements. Is that fair?

3 A As I said before, I can't see what they were  
4 talking about, it is just that the statements  
5 were there and he had made some notes on the  
6 statements.

7 Q Did you infer that they were having a discussion  
8 about the statements?

9 A I really didn't infer anything. Like I said, it  
10 was a private conversation that they had.  
11 Exactly what they talked about, I don't know.

12 Q I'm not suggesting you overheard it. I'm asking  
13 you whether it was a reasonable common sense  
14 assumption that they were talking about those  
15 statements, and made notes about them as a  
16 result of their conversation?

17 A It is possible, yes.

18 Q Did you regard this as a potentially significant  
19 development relating to Zanidean's upcoming  
20 trial testimony?

21 A No.

22 Q You thought that this incident was of no great  
23 moment?

24 A No, just the fact that he was leaving with the  
25 police statements is what concerned me.

1 Q Did you make a report of it to anyone?

2 A I notified Staff Sergeant Angus Anderson, who  
3 was the person that I called, of what had  
4 happened, and he said to let him go with the  
5 papers.

6 Q Assuming that what he was doing was instructing  
7 his lawyer about the accuracy of his police  
8 statements --

9 MR. WOLSON: How would he know this, that kind  
10 of assumption? The witness has answered, I  
11 would say with respect, that he wouldn't know  
12 and didn't know because he didn't overhear the  
13 conversation. So the assumption that my friend  
14 makes, in my opinion, is an improper question.  
15 THE COMMISSIONER: I'm not sure exactly what the  
16 question was, or what the assumption was, but I  
17 would not think it outlandish or unreasonable  
18 that if a lawyer and his or her client are  
19 discussing things, that it could well be matters  
20 of privilege, most likely matters of privilege.

21 BY MR. CODE:

22 Q All I'm asking is, for the purpose of this  
23 question, I want you to assume the truth of, the  
24 reasonableness of what I'm saying. Assuming the  
25 conversation between Zanidean and Kovnats was

1 about the accuracy of his police statement,  
2 would you agree that that would be a significant  
3 development in relation to an upcoming important  
4 Crown witness?

5 THE COMMISSIONER: Just before you answer  
6 that --

7 MR. WOLSON: The objection I made, I understand  
8 they may be talking about solicitor/client  
9 information, but it could be a myriad of things,  
10 and to assume -- and this is the point that I  
11 raise by way of objection -- to assume that they  
12 are talking about the accuracy of the statement,  
13 in my view, is an inappropriate question to ask.  
14 That's taking it so far down the road that how  
15 would this witness be able to know that?

16 THE COMMISSIONER: All right. Thank you, I  
17 misunderstood the question and the nature of the  
18 objection.

19 Mr. Code, you may ask the question.  
20 Sergeant, you may answer it. It is an inquiry,  
21 broad ranges of examination are permissible, so  
22 you may answer that hypothetical, if you wish.

23 MR. CODE: And I note I did lay the foundation  
24 for the question by asking him whether that was  
25 a reasonable inference to draw.

1 BY MR. CODE:

2 Q But in any event, coming back to my question,  
3 assuming the documents and the discussion relate  
4 to Zanidean's statements and the accuracy of  
5 them, you would agree with me that that would be  
6 a significant development in relation to the  
7 evidence of an upcoming witness?

8 A In relation to what? Sorry, I didn't catch the  
9 last part?

10 Q In relation to the trial, in relation to the  
11 Driskell trial in which Zanidean is your most  
12 important witness?

13 A No. What they -- assuming they were discussing  
14 the statements, the statements had been given,  
15 they had been signed by Zanidean. If he had any  
16 concerns about them, he would have discussed it  
17 with us or with the Crowns. Telling it to his  
18 lawyer, I don't know what that would have to do  
19 with his testimony.

20 Q You don't think Mr. Dangerfield, as Crown  
21 counsel who is about to call this witness, might  
22 want to know that Zanidean just met with his  
23 lawyer and they are marking up his police  
24 statements, and Kovnats took them away with him?

25 A I don't know what was written on the statements.



1 I don't know if it had anything to do with  
2 corrections to the statements or things to do  
3 with the witness protection or --

4 Q And I ask you to assume that it would have been  
5 reasonable to infer that, assuming it was  
6 reasonable to infer that, would that be  
7 something that you as a police officers would  
8 feel it was your duty to bring to the attention  
9 of Crown Counsel?

10 A At the time I didn't think it had anything to do  
11 with changing anything on the statement, so I  
12 wasn't concerned about it.

13 Q You are still not answering my question.

14 A I'm not sure how to answer that question. You  
15 are asking me to assume that he was making  
16 changes to the statement, and that I should take  
17 that into consideration and notify the Crown  
18 right away that he was making changes to his  
19 statement. Is that what you are asking me?

20 Q You don't have much recollection, Sergeant Paul,  
21 now, which is why I'm asking you to make some  
22 assumptions about what reasonably might have  
23 been going on back then?

24 A I have a recollection of that meeting.

25 Q Tell me what the reasonable police officer would

1 do in those circumstances, if you had inferred  
2 that this star witness in your case has got some  
3 concerns about his statement and is instructing  
4 his lawyer about it, and his lawyer has taken  
5 away the statement, is that something that a  
6 prosecutor might want to know before putting  
7 that witness on the stand?

8 A Possibly, that's the only way that I can answer  
9 that.

10 Q The third event that I want to ask you about is  
11 this meeting with Bruce Miller that, according  
12 to your statement, you do recall -- and this is  
13 dealt with at page 17 of your statement -- and  
14 you appear to have a current recollection today  
15 of a meeting with Bruce Miller, whether a  
16 meeting in person or by telephone, shortly  
17 before Zanidean was to testify, in other words,  
18 presumably in this last week, in and around this  
19 time frame, where Miller tells you that -- this  
20 is at the top of page 17, the first line at the  
21 top of page 17,

22 "An immunity agreement has been formally  
23 reached."

24 Do you see that?

25 A Yes, I do.

1 Q And is that a current recollection you have  
2 today?

3 A Yes, it is.

4 Q In spite of your loss of memory of other things,  
5 you haven't lost your memory of this meeting  
6 with Bruce Miller?

7 A I recall this, yes.

8 Q Where was the meeting?

9 A I believe it was in his office.

10 Q And who was present?

11 A Myself and Sergeant Anderson.

12 Q And how long did the meeting last?

13 A I don't know.

14 Q And you made no notes of the meeting and there  
15 is no report of the meeting?

16 A That's correct.

17 Q And when Miller tells you that there is now a  
18 formal immunity agreement, carrying on in that  
19 paragraph, at page 17, the same long paragraph  
20 there at the top of the page, prior to that  
21 meeting with Miller, your understanding had  
22 simply been that the RCMP at a police constable  
23 level had made a decision not to pursue  
24 Zanidean. So this was now a significant new  
25 development?

1 A Sergeant Anderson had informed me that Constable  
2 Burton from Swift Current had told him that they  
3 weren't proceeding with the charges against  
4 Mr. Zanidean, but I just took that as being from  
5 an officer and, you know, it didn't have -- how  
6 shall I put it -- proper impact. When Miller  
7 informed me of the immunity agreement, I assumed  
8 he had been talking to other justice, the  
9 justice to justice communications between  
10 Saskatchewan and Manitoba.

11 Q As I read your statement, the reason this was  
12 significant to you is that your own experience  
13 in Manitoba, when these kinds of arrangements  
14 are made with Crown witnesses, it requires  
15 Justice Department approval?

16 A That's correct.

17 Q In other words, we have heard from Staff  
18 Sergeant Vandergraaf this idea of a patch when  
19 the justice system works out a deal for an  
20 important Crown witness, does them a favour on  
21 outstanding charges, it requires senior approval  
22 from the Department of Justice?

23 A That's correct.

24 Q So, when this meeting with Miller took place,  
25 you assumed that the discussions had now moved

1 up from the police level to the Justice  
2 Department level?

3 A That's correct.

4 Q Finally, as I read that long paragraph at page  
5 17, the very last sentence in it, Miller clearly  
6 directed you not to tell Zanidean about this  
7 formal immunity agreement until after he had  
8 testified?

9 A That's correct.

10 Q Again, you have got a present recollection of  
11 that today?

12 A Yes, I do.

13 Q Without the assistance of any notes or reports?

14 A That's correct.

15 Q And you then carried out those instructions, you  
16 and Anderson executed them, as we see at the  
17 bottom of page 17 and over to the top of page  
18 18, by telling Zanidean after he had completed  
19 his testimony?

20 A That's correct.

21 Q What was the purpose or the reason or the  
22 rationale for this last step in the immunity  
23 agreement that you discussed with Miller, this  
24 business of not telling Zanidean until after he  
25 had testified, what was the reasoning behind

1           that step, that part of the arrangement?

2    A       Miller asked us not to tell him until after he  
3           testified. I didn't question him as to why, I  
4           just took it as a direction from the director of  
5           prosecutions.

6    Q       You had no idea what the rationale was for going  
7           about it in that way?

8    A       Personal idea?

9    Q       What was your understanding as to why you were  
10          taking this step of not advising Zanidean until,  
11          deliberately waiting until after he testified?

12   A       This was a request made by Miller.

13   Q       And you have told us that now three times. What  
14          was the rationale for it, as you understood it?

15   A       As I understood it, I guess he thought that he  
16          would hurt his credibility in court if he knew  
17          he had immunity before he testified?

18   Q       It would hurt Zanidean's credibility if the jury  
19          knew that he had been given immunity prior to  
20          testifying.

21   A       That was my understanding, yes.

22   Q       You were aware that Zanidean was concerned about  
23          this Swift Current charge?

24   A       Yes, he was.

25   Q       And you were aware that he had been seeking

1 immunity on it?

2 A I didn't become aware of that until later on,  
3 but I assumed it was one of his requests.

4 Q Well, leaving aside your knowledge of the formal  
5 letters, and I appreciate the letters are sent  
6 to Mr. Miller, they are not sent to you and  
7 Anderson. But in terms of your discussions with  
8 Zanidean, for example, if you look at page 16 of  
9 your statements. Your statement, while he is in  
10 your custody in these weeks leading up to the  
11 trial, this is one of the things that he keeps  
12 talking about with you, as he becomes  
13 progressively more and more upset; is that  
14 correct?

15 A That's correct.

16 Q So you knew he was preoccupied about this and  
17 wanted a deal in place that dealt with this  
18 Swift Current matter prior to his testimony?

19 A That was one of the things that he brought up,  
20 yes.

21 Q All right. So, as I understand what you are  
22 telling us on this third of the four incidents  
23 here, in this time period, is you knew Zanidean  
24 was preoccupied with this and was raising it  
25 with you as a concern of his. You knew Miller

1 had got it for him, and there was a deliberate  
2 decision not to let the jury know that in order  
3 to protect his credibility; is that correct?

4 A That's my opinion. I don't know what Miller's  
5 opinion was. He just directed us not to tell  
6 him until after he testified.

7 Q All I am trying to get at is your state of mind  
8 here. And as a result of that arrangement, you  
9 allowed Zanidean to tell the jury that he did  
10 not believe there was any deal?

11 A I allowed him to do that?

12 Q The three of you in this meeting, the plan you  
13 come up with is a plan that allows Zanidean to  
14 tell the jury there is no deal, when in fact  
15 there is a secret deal; is that correct?

16 A I wouldn't call it a plan. We were having a  
17 meeting with Mr. Miller, and he said that the  
18 immunity agreement had been reached with  
19 Saskatchewan and he asked us not to tell  
20 Zanidean until after he testified. And I don't  
21 know, I don't classify that as a plan.

22 Q Let's take the word plan out of it, let's call  
23 it an outcome or an effect. The outcome or the  
24 effect of your meeting with Miller, which you  
25 execute for him; is that correct?



1 A That's correct.

2 Q You carry it out -- is to allow Zanidean to tell  
3 the jury that there is no deal, in spite of the  
4 fact that you know that he has been demanding a  
5 deal and there is in fact a secret deal; is that  
6 correct?

7 A Well, I don't know what he is going to be saying  
8 on the stand, I don't know if he is going to be  
9 telling the jury that there is no deal, I don't  
10 know what the questions are going to be in

11 court. All I'm saying is that we haven't told  
12 him about the immunity deal when he goes in to  
13 testify. What he says in court, I don't know.  
14 Q You just told us that your understanding, the  
15 assumption or the inference that you drew about  
16 the whole purpose of this was to shelter his  
17 credibility when he testified. Is that not  
18 correct?

19 A That was my opinion, yes.

20 Q So the effect of what you are doing is to allow  
21 him to tell the jury there is no deal, when in  
22 fact you know that he has been demanding a deal  
23 and there is in fact a secret deal. Have I  
24 summed in up succinctly and fairly?

25 A Well, you keep saying that he was telling the

1 jury, I don't know what his testimony is, I  
2 wasn't in the court. I don't know if he is  
3 actually telling the jury that I don't have an  
4 immunity deal.

5 Q We know that. We have the transcript.

6 A I don't know that, so I can't really comment on  
7 that.

8 Q We are talking about your state of mind when you  
9 agree to execute this plan or outcome for  
10 Miller, you assume that he is going to go and  
11 testify about these matters. You know that  
12 Brodsky knows about the arson in Swift Current,  
13 don't you?

14 A I believe he does, yes.

15 Q Because his client is in on it?

16 A I heard that afterwards, yes.

17 Q No, you heard it -- you heard it from Zanidean.  
18 Zanidean told you twice?

19 A Yes, he did.

20 Q In October?

21 A That's right.

22 Q You knew Driskell was the co-perpetrator?

23 A That's correct.

24 Q So you knew Brodsky knew about it from his  
25 client?

1 A I would assume his client would have told him.

2 Q So the likelihood of it coming out in court is  
3 what you are planning for and protecting against  
4 here by setting up this arrangement?

5 A You are using the word planning again. I have  
6 trouble with the word planning. It sounds like  
7 a conspiracy on our part, and I don't look at it  
8 as a conspiracy. I'm looking at the fact that  
9 the director of prosecutions told me something  
10 and told me not to tell that person until after  
11 he testified. I have trouble with the word  
12 planning.

13 Q Ignore the word plan, I'm happy to talk about  
14 outcomes and effects. You seem to have trouble  
15 with the common sense outcome or effect of what  
16 you are doing here, which is to keep the fact of  
17 the secret deal that he has been demanding away  
18 from the jury. Is that not common sense what  
19 you are doing here?

20 A Yes, the bottom line is that's what is  
21 happening.

22 Q And you say that Bruce Miller approved that kind  
23 of a plan?

24 A He told me not to tell him until after he  
25 testified.

- 1 Q And my question to you, if you were engaged in  
2 this kind of strategy, surely you would want to  
3 keep a record of the fact that the director of  
4 prosecutions had told you to do all of this?
- 5 A Not necessarily.
- 6 Q You are participating in executing an  
7 arrangement that Miller has told you to execute,  
8 that has the effect of misleading a jury, and  
9 you don't want to have a record of the fact that  
10 he told you to do this?
- 11 A I didn't think of it as a big deal at the time.
- 12 Q The last event, the fourth event in this time  
13 period that I want to ask you about is the  
14 June 20th blow-up, as you call it in the  
15 eventual report that you prepare, that results  
16 in the Winnipeg Police Service deciding to  
17 entirely remove the protection arrangements. Do  
18 you recall that event?
- 19 A Yes, I do.
- 20 Q Again, it is set out fully in your statement at  
21 pages 18 to 20, at some length here. And again  
22 I take it that there is no note or report of  
23 these developments at the time?
- 24 A That's correct.
- 25 Q And some two and a half years later, in the fall

1 of 1993, specifically September 23rd, 1993, you  
2 prepare a report?

3 A That's correct.

4 Q And we find that at tab 53. And that report is  
5 created at the request of Inspectors Hall and  
6 Ewatski, who were conducting a review for the  
7 Chief of Police?

8 A That's correct.

9 Q And as I read that report, the key developments  
10 that happen between you and Zanidean on the 20th  
11 of June, a little over a week after he has  
12 testified and after the verdict, he is  
13 threatening to go to the media and say that his  
14 testimony had all been lies -- the third to last  
15 paragraph at the bottom of the page -- is that  
16 correct?

17 A That is correct.

18 Q Tab 53, he was threatening to go to the media  
19 and say his testimony had all been lies?

20 A That's correct.

21 Q As a result of this dispute with him and these  
22 threats he is making, a decision is made between  
23 yourself and Sergeant Anderson and Inspector  
24 Johnson to terminate all witness protection  
25 arrangements for him?

- 1 A That's correct.
- 2 Q So this nine month effort to get some kind of  
3 witness protection for Zanidean has now come to  
4 an end and he is out on the street; is that  
5 correct?
- 6 A That's correct.
- 7 Q And finally you obtain the phone records from  
8 the hotel?
- 9 A Yes, I do.
- 10 Q Which show a call to Brodsky, defence counsel,  
11 right at the critical point where you have had  
12 the blow-up with him and he has made the threat?
- 13 A That's correct.
- 14 Q And you take custody of those phone records?
- 15 A Yes, I do.
- 16 Q And you concede in your statement, as I read it  
17 at page 20, that these were fairly significant  
18 events, is the way you characterize them at page  
19 20?
- 20 A That's correct.
- 21 Q You knew that Driskell had an appeal pending?
- 22 A Yes, I did.
- 23 Q Why would you not, in these circumstances, have  
24 prepared a supplementary report to ensure that  
25 Crown Counsel, Mr. Dangerfield, with carriage of

1 the prosecution and appeal, was informed of  
2 these developments?

3 A My staff sergeant and inspector were notified,  
4 and my inspector informed that he would be  
5 notifying Mr. Miller, and Mr. Miller would be  
6 notifying Dangerfield, I assumed.

7 Q You don't think it is good police practice for  
8 the officer who has witnessed these events, you  
9 are the front line eye witness to these events,  
10 is it not good police practice to make a note or  
11 a report of significant developments in a major  
12 homicide?

13 A Possibly, yes.

14 Q What Johnson knows is second-hand from what you  
15 tell him, and what Miller knows is going to be  
16 third-hand. The firsthand account is yours, is  
17 it not?

18 A Yes, it is.

19 Q It would have been good police practice for you  
20 to keep a record of these significant  
21 developments?

22 A Yes, it would have been.

23 Q Last question, Sergeant, and we will be finished  
24 with this; have you been in contact with  
25 Sergeant Anderson while preparing for the

1 inquiry?

2 A Been in contact with him?

3 Q Yes?

4 A I have spoken to him, yes.

5 Q Have you spoken with him by telephone or have  
6 you met with him in person?

7 A I spoke with him by telephone and I met with him  
8 once a few weeks back.

9 Q And was the subject matter of the telephone  
10 calls and the meetings with him about the events  
11 leading up to this inquiry, or were you just  
12 chatting about the weather?

13 A No. Well, a few weeks back we discussed trying  
14 to refresh my memory on certain things. We  
15 talked about the case, and then we met once at  
16 our lawyer's office, just the one time, and then  
17 after that we met separately with our lawyer.  
18 That's the only time I met with him in person.

19 Q So you had one meeting with him together at your  
20 lawyer's office?

21 A That's correct.

22 Q Which you helped each other refresh your memory?

23 A That's correct.

24 Q And did you review documents together at that  
25 time?



1 A Just our notes at that time.

2 Q You reviewed your notes together?

3 A That's correct.

4 Q When you say your notes, do you mean the notes  
5 of these statements, the draft statements?

6 A Our notebooks and the supplementaries that our  
7 lawyer had at the time.

8 MR. CODE: Thank you very much, those are all of  
9 my questions.

10 MR. LIBMAN: Mr. Commissioner, I'm going to  
11 refer to two documents, I can give copies to  
12 yourself and the witness and my learned friends,  
13 and file a formal casebook this afternoon.

14 THE COMMISSIONER: If you could perhaps give  
15 copies to everyone, then you can file them.

16 MR. LIBMAN: Mr. Commissioner, one of the  
17 documents is a letter dated June 20th, 1991.  
18 That will be tab 1 of a book of documents for  
19 this witness, and that's found at Winnipeg  
20 Police Service disclosure volume 8, page 458.  
21 And the second document I believe is handwritten  
22 notes of Sergeant Paul found at Winnipeg Police  
23 Service disclosure volume 8, page 413. And  
24 again, I can file a formal book with the court  
25 after the break

1 (EXHIBIT 9: Book of Documents for Mr.  
2 Libman's cross examination of Sgt. Al Paul)  
3 BY MR. LIBMAN:  
4 Q Sergeant Paul, would you agree with me that the  
5 Harder homicide investigation had some  
6 extraordinary developments in this case? For  
7 one matter you flew to Prince Edward Island with  
8 your partner, Anderson, to interview a possible  
9 suspect. Do you recall that?  
10 A I recall that, yes.  
11 Q And that was extraordinary, flying to the east  
12 coast to interview a suspect?  
13 A I am sorry?  
14 Q That was something different about this  
15 investigation?  
16 A No, I have done that before on other cases.  
17 Q Okay. Flying to Calgary to pick up Ray  
18 Zanidean, a star witness on a material witness  
19 warrant just before the trial, was that out of  
20 the ordinary?  
21 A No.  
22 Q How about being with Ray Zanidean a week after  
23 the conviction is entered, still guarding him in  
24 a hotel room; did you find that out of the  
25 ordinary?

1 A After he testified?

2 Q After he testified, and the material witness  
3 warrant, you weren't sure of the status of the  
4 warrant and you are still guarding him a week  
5 after?

6 A He was still a witness, a protected witness.

7 Q But you hadn't had any formal understanding of  
8 what was to become of him; right?

9 A That's correct. As far as I was concerned, the  
10 witness protection negotiations were still going  
11 on.

12 Q Still ongoing?

13 A That's correct.

14 Q And did you have that information from  
15 Vandergraaf?

16 A I would have had it from Vandergraaf probably,  
17 yes, and Miller.

18 Q And Miller as well?

19 A Yes.

20 Q Was he in contact with you, calling you during  
21 this time?

22 A We usually had meetings almost once a week with  
23 Vandergraaf, Anderson, Miller.

24 Q Would Mr. Dangerfield attend these meetings  
25 after the trial?

1 A No.

2 Q Okay. You did a lot of work on this case,  
3 besides dealing with Mr. Zanidean, you did some  
4 investigation work as well; correct?

5 A Some, yes.

6 Q And the work was -- this was a circumstantial  
7 case; correct?

8 A Basically, yes, it was.

9 Q And would you agree with me that a  
10 circumstantial case is a more difficult case  
11 than one where there is direct evidence?

12 A That's correct.

13 Q And this case also had the complication of  
14 witness protection issues; correct?

15 A Yes, it did.

16 Q And it also had the complication of the Swift  
17 Current business; correct?

18 A That's correct.

19 Q Would you agree with me that it is unusual for a  
20 Crown witness to have their own lawyer?

21 A I had never experienced it before but --

22 Q Unusual practice?

23 A -- I have heard it happen.

24 Q Unusual in your dealings?

25 A It was the first time I ever had it.

- 1 Q Were you at all concerned about George  
2 Dangerfield's ability to prosecute this  
3 difficult case?
- 4 A No.
- 5 Q He was a commanding presence in the courtroom,  
6 would you agree with me?
- 7 A I had had him on various cases before. I  
8 respected him as a Crown Attorney.
- 9 Q Impressive counsel; correct?
- 10 A Yes, he was.
- 11 Q He was articulate?
- 12 A Yes.
- 13 Q And he was someone who was prepared when he  
14 entered the courtroom; isn't that right?
- 15 A Yes, he was.
- 16 Q As a matter of fact, I understand you had two or  
17 three meetings to prepare for your testimony;  
18 isn't that correct?
- 19 A I can't remember how many meetings I had with  
20 him. I know of one.
- 21 Q Referring to your statement, tab 3, page 2, line  
22 14, I take it that would be your best memory,  
23 what you told Commission Counsel?
- 24 A Page 2 you said?
- 25 Q Page 2, Commission Counsel's book, tab 3, line

1           14; do you see it there?

2     A     Yes.

3     Q     Two or three meetings with George Dangerfield to  
4           prepare for your testimony?

5     A     Yes.

6     Q     And as you said in direct, you were the last  
7           witness for the prosecution; correct?

8     A     That's what I have been told, I don't recall.

9     Q     You can agree with me then, your testimony was  
10          on June 12, 1991?

11    A     Yes.

12    Q     And that was the day after Ray Zanidean  
13          testified. You can take it from me that he  
14          testified on June 11th, 1991?

15    A     Yes.

16    Q     And as Commission Counsel pointed out, you  
17          testified on a very narrow point; isn't that  
18          correct?

19    A     That's correct.

20    Q     You had two or three meetings with  
21          Mr. Dangerfield; right?

22    A     To the best of my recollection, yes.

23    Q     And I can tell you that I anticipate we are  
24          going to hear from Mr. Dangerfield that he  
25          usually called his witnesses cold. That means

1 he would have a brief meeting just outside of  
2 the courtroom, unless they were a difficult  
3 witness or a child witness. Now, I'm not  
4 suggesting that you are a difficult witness,  
5 Sergeant, but I'm suggesting that you had the  
6 potential to be a very important witness. Do  
7 you agree with me?

8 A The testimony that I had to give, it wasn't very  
9 much, I had the measurements and --

10 Q But my question is, you had the potential to be,  
11 and what I'm suggesting is that you could have  
12 been a very important witness if Mr. Zanidean  
13 wouldn't have testified, if his testimony would  
14 have been inconsistent with his statements.  
15 Isn't that correct?

16 A It is possible, yes.

17 Q And if his testimony, which there was always a  
18 possibility with Ray Zanidean that he would take  
19 the witness box and say something different than  
20 what was in his statements, that was always a  
21 real possibility with him, wasn't it?

22 A A possibility with any witness, yes.

23 Q So Mr. Dangerfield would be prepared and he  
24 would want to meet with you because you were  
25 present when all seven Ray Zanidean statements

1           were taken; correct?

2     A       That's correct.

3     Q       So when you met with Mr. Dangerfield two or  
4           three times to prepare for your testimony, was  
5           it because Mr. Dangerfield needed to know about  
6           all of the circumstances surrounding your  
7           dealings with Ray Zanidean?

8     A       I can't recall what they were about.

9     Q       Is it possible?

10    A       It is possible, yes.

11    Q       So it is possible that you met with  
12           Mr. Dangerfield and explained everything to him  
13           about Ray Zanidean, because he would need to  
14           know those things; correct?

15    A       That's correct.

16    Q       And in the normal course of business and how  
17           prepared he was, he would want to know those  
18           things?

19    A       That's correct.

20    Q       And at the time that you testified, you would  
21           have been aware of the first call Mr. Zanidean  
22           made and the first admission Mr. Zanidean made  
23           to you and your partner Anderson on  
24           October 10th?

25    A       Yes.



- 1 Q And that would have been something that you  
2 would have passed off to Mr. Dangerfield?
- 3 A He would have had a copy of my notes, or he  
4 would have seen my notes and it was in there.
- 5 Q Those are contained in your notebook?
- 6 A That's correct.
- 7 Q Okay. Would Mr. Dangerfield also be aware that  
8 Mr. Zanidean was moved to south St. Vital and  
9 given the assumed name of Robert Hendis?
- 10 A I don't recall that at all.
- 11 Q You don't recall that. You would have told  
12 Mr. Dangerfield that you aware of Ray Zanidean  
13 moving to Calgary in 1991?
- 14 A Yes.
- 15 Q You were aware of him coming back?
- 16 A I went and got him.
- 17 Q Okay. At the time you would have been, would  
18 have had great knowledge and memory of your  
19 dealings with Mr. Kovnats in that restaurant  
20 parking lot?
- 21 A At the time, yes.
- 22 Q Did George Dangerfield ever criticize your work  
23 on this case, to your knowledge?
- 24 A Not to my knowledge.
- 25 Q If you look at the letter dated June 20, 1991,

1 it is a letter to Chief Stephen?

2 A Yes.

3 Q You see that part way down the page

4 Mr. Dangerfield writes,

5 "On June 14th, 1991, Driskell was convicted  
6 of first degree murder."

7 Correct? Third paragraph from the bottom, page  
8 1?

9 A Yes.

10 Q Are you are looking at the letter from Chief  
11 Stephen?

12 A Yes.

13 Q And you will see that Mr. Dangerfield writes,

14 "That conviction would never have occurred  
15 without the outstanding efforts of several  
16 police officers assigned to the Crime  
17 Division."

18 A Correct.

19 Q And if you go over the page, fourth paragraph  
20 from the top,

21 "The real street work was done by members  
22 of the Crime Division."

23 A Yes.

24 Q And then he goes on to say,

25 "Sergeant Staff Sergeant W. Vandergraaf

1 coordinated the investigation, assisted  
2 mainly by Sergeant A. Paul and Sergeant T.  
3 Anderson."

4 Correct?

5 A Correct.

6 Q And then his last paragraph is,

7 "I would like to commend all of the above  
8 and all of the other police officers who  
9 helped in the successful prosecution of  
10 this case."

11 Is that correct?

12 A That's correct.

13 Q So George Dangerfield had no complaints with  
14 your work; is that correct?

15 A Judging by that letter, obviously not.

16 Q And to the best of your knowledge, he was  
17 content with the manner in which you testified?

18 A Obviously.

19 Q To the best of your knowledge, he was content  
20 with the content of your supplemental reports?

21 A Obviously.

22 Q And most importantly, to the best of your  
23 knowledge, he was content with the content of  
24 your notebooks?

25 A Obviously.

1 Q Now I would like to take you to 1993. Inspector  
2 Hall and Ewatski are conducting a review. You  
3 say there was a disagreement between your police  
4 association and the Winnipeg Police Service as  
5 to how the review was being conducted; correct?

6 A That's correct.

7 Q What was the disagreement about?

8 A The police department would not allow us, the  
9 officers to be interviewed if they attended with  
10 a lawyer.

11 Q That was the sole purpose?

12 A That was the sole purpose. If we requested a  
13 lawyer be present with us when we were being  
14 interviewed, they said the order had come down  
15 from the chief's office not to interview.

16 Q And as a result of the disagreement, you  
17 declined a formal interview with Chief Ewatski  
18 and Inspector Hall; correct?

19 A That's correct.

20 Q Prior to 1990, had you worked with Inspectors  
21 Hall and Ewatski? Because you were in  
22 homicide/robbery prior to 1990, then you left  
23 and came back?

24 A Yes, I worked with both of them.

25 Q Were they the inspectors of that squad in the

1 late 80's?

2 A When I worked with them both, they were the same  
3 rank as I was.

4 Q Sergeants?

5 A That's correct.

6 Q So they would have worked with Sergeant Shipman  
7 and Morin as well?

8 A That's correct.

9 Q They would have worked with or for Bill  
10 Vandergraaf?

11 A With.

12 Q And they would have obviously worked with  
13 Sergeant Tom Anderson as well; correct?

14 A I'm not sure about that, because Tom didn't come  
15 into the squad until later on.

16 Q Have you read the Perry Dean Harder homicide  
17 review?

18 A No, I haven't.

19 Q Do you have a general knowledge of its contents?

20 A Not really.

21 Q Now, I want to take you back to the fall of  
22 1990. Your first major assignment in the Harder  
23 homicide investigation was first contact with  
24 Ray Zanidean on October 9th, 1990?

25 A That's correct.

- 1 Q And this first contact, I guess if you look at  
2 Commission Counsel's book, tab 5, exhibit 6A,  
3 pages 513 through 519 at tab 5.
- 4 THE COMMISSIONER: Mr. Libman, you are very  
5 good, your questions are concise, they are well  
6 formulated, but maybe slow down just a bit.
- 7 BY MR. LIBMAN:
- 8 Q Your first contact is that notation in your  
9 notebook; correct?
- 10 A I am sorry?
- 11 Q Your first contact with Ray Zanidean is noted on  
12 page 513 of your book?
- 13 A That's correct.
- 14 Q And the time is 4:30 p.m.; correct?
- 15 A That's correct.
- 16 Q Would you agree with me there is nothing in your  
17 notebook about Ray Zanidean calling Crime  
18 Stoppers, or the Ray Zanidean first call coming  
19 through Crime Stoppers?
- 20 A No, not my notebook, it didn't say that.
- 21 Q Would you agree with me there was no  
22 supplemental report that you prepared saying  
23 that Ray Zanidean's call came through Crime  
24 Stoppers?
- 25 A I would have to look at the Supp.

1 Q Take my word for it.

2 A I will take your word for it, yes.

3 Q So the first time you mentioned that Ray  
4 Zanidean's call on October 9th, 1990 came  
5 through Crime Stoppers is your interview with  
6 Commission Counsel on June 21st, 2006?

7 A If you say so, yes.

8 Q Again, if you look at tab 5, page 548 of your  
9 notes?

10 A Yes.

11 Q That's an entry dated November 13th, 1990, or is  
12 it November 15th?

13 A It is the 13th.

14 Q And it is meeting with Ray and his lawyer, David  
15 Kovernats?

16 A That's correct.

17 Q And if you go down to the bottom of the page,  
18 "Asks about relocation and change of  
19 identity, et cetera."

20 A That's correct.

21 Q "Informed that Crown Attorney Gregg Lawlor  
22 is the person from the Crown's office who  
23 will be looking after that."

24 Is that correct?

25 A That's correct.

1 THE COMMISSIONER: Sorry, I missed the page?

2 MR. LIBMAN: 548, tab 5.

3 BY MR. LIBMAN:

4 Q So in the early stages of the investigation,  
5 Gregg Lawlor was the Crown Attorney who was  
6 handling witness protection issues; correct?

7 A He was the contact that we had at the Crowns'  
8 office. To the best of my recollection, we had  
9 dealings with Gregg. When I went before  
10 Commission Counsel to give my statement, what I  
11 could remember is Gregg was involved as well at  
12 the beginning.

13 Q In the early stages, early stages of the --

14 A That's correct, yes.

15 Q If you could turn to tab 4 of Commission  
16 Counsel's book, and those are the notes of your  
17 partner Anderson. Now, it is the first page 77,  
18 there is two page 77s in Sergeants Anderson's  
19 notebook, I would like to draw your attention to  
20 the first page, the first 77. It is an entry  
21 from November 13, 1990. That should assist you  
22 in finding it.

23 A Page 77?

24 Q Yes, but there is two 77s, so you have got to go  
25 to the first 77, and it is an entry of



1 November 13th, 1990, halfway through the tab.

2 A I don't have a page 77, I am sorry.

3 Q Sometimes they disappear and then they come  
4 back. Perhaps you could find it by looking for  
5 Anderson's entry?

6 THE COMMISSIONER: Go to about the middle of the  
7 whole tab, about the middle, because there are  
8 numbers that --

9 THE WITNESS: Okay, I have got it now.

10 BY MR. LIBMAN:

11 Q You see it is entry for November 13th, 1990?

12 A It comes after page 39, I have got page 77 now.

13 Q Do you have the entry of November 13th, 1990, of  
14 your partner, Anderson?

15 A Yes, I do.

16 Q Do you see the bottom of the page,  
17 "Al Paul and Vandergraaf meet with Lawlor  
18 and advise him of action taken by Zanidean  
19 and his chosen lawyer."  
20 Do you see that there?

21 A I'm just trying to read his handwriting, I have  
22 always had trouble with it. Yes.

23 Q Did you have a meeting with Bill Vandergraaf and  
24 Gregg Lawlor to discuss these issues?

25 A That's what the note says. I don't recall it

1 but it is possible.

2 Q Now, you testified that Bruce Miller told you  
3 and Anderson, in June of 1991, that a deal had  
4 been reached with Ray Zanidean. Ray Zanidean  
5 would not be charged for the event in  
6 Saskatchewan; correct?

7 A A deal had been reached with the Saskatchewan  
8 Crowns that Ray Zanidean would not be charged.

9 Q Is your memory now that Mr. Miller mentioned  
10 Saskatchewan Justice, or is that just an  
11 inference?

12 A You asked me that he had reached a deal with Ray  
13 Zanidean. Ray Zanidean was not aware of the  
14 deal.

15 Q Okay.

16 A So I'm assuming it was with the Saskatchewan  
17 Crowns.

18 Q Did Mr. Miller mention the Saskatchewan Crowns?

19 A I can't recall.

20 Q Okay. But Mr. Miller was the one who told you  
21 there is a situation in place; correct?

22 A That's correct.

23 Q If you could go to tab 10 of Mr. Code's book,  
24 page 2 of that tab, third paragraph, bottom of  
25 the third paragraph. You see there Anderson is

1 writing about events, and you gave your  
2 concurrence, where Anderson says,  
3 "He assured me that his detachment  
4 commander...",  
5 and he is talking about Burton,  
6 "...had approved and I reminded him that we  
7 would not make Zanidean privy to this  
8 arrangement until after he testified."

9 A Yes.

10 Q So there the deal is made with Ray Zanidean not  
11 to be charged in Saskatchewan with Burton and  
12 the RCMP. There is no mention of Mr. Miller, is  
13 there?

14 A No, there isn't.

15 Q And then if you go over the page, page 3, the  
16 top paragraph, and it is where you have just now  
17 told Ray Zanidean, after he testified. And you  
18 say,

19 "On that date, at the conclusion of  
20 Zanidean's testimony, Sergeant Paul and I  
21 informed Zanidean that we had assurances  
22 from Swift Current RCMP that he would not  
23 be charged with the arson that he admitted  
24 to us. Zanidean expressed disbelief, but  
25 we assured him the decision not to charge

1           him came from the officer in charge of the  
2           investigation."

3           Do you see that?

4    A       Yes, I do.

5    Q       You don't say that Miller reassured him, Miller  
6           told us, that the assurances came from Manitoba  
7           Justice; do you agree with me?

8    A       No, it doesn't --

9    Q       It doesn't say that, does it?

10   A       No, it doesn't.

11   Q       I suggest to you that you never had a meeting  
12           with Mr. Miller in June, where he said that  
13           there is an agreement in place and don't tell  
14           Zanidean?

15   A       No, I had a meeting with Mr. Miller.

16   Q       And the reason I say that, sir, is because you  
17           look at what -- Ray Zanidean is expressing  
18           disbelief, according to you and your partner,  
19           about getting this agreement. And you don't say  
20           it comes from Miller, you say it comes from the  
21           Swift Current detachment. And it wouldn't make  
22           sense, where you are trying to assure  
23           Mr. Zanidean, you are trying to keep him happy,  
24           that you wouldn't say we heard it from  
25           Mr. Miller, the director of prosecutions. Isn't

1           that correct?

2    A       Well, I didn't write this report.  This is  
3           Sergeant Anderson's report.  I concurred with  
4           it.  But I know for a fact that I had a meeting  
5           with Mr. Miller and that he told me.

6    Q       And this meeting, this memory came to you June  
7           or May of 2006, or just something that was  
8           always with you?

9    A       It has always been with me.

10   Q       And you never made a note of it, as you told  
11           Commission Counsel?

12   A       No, I didn't.

13   Q       What happened to Ray Zanidean after you left the  
14           hotel room on June 21st, do you have any idea?

15   A       No, I don't.

16   Q       Never curious, never asked?

17   A       I think he moved out west somewhere, but how  
18           soon afterwards, I just don't remember.

19   Q       Now, I appreciate you are having problems with  
20           memories, but you remember some things, so I  
21           will ask this question:  Do you recall a  
22           discussion post-conviction, after June 14th,  
23           1991, with Sergeant Anderson and Bruce Miller,  
24           where Bruce Miller says to you or advises you  
25           that Ray Zanidean will not be charged with

1           perjury?

2    A       With perjury?

3    Q       Yes?

4    A       I don't recall that.

5    Q       The second pages that I put in front of you,  
6           which will be tab 2 of my book, Commissioner,  
7           page 413.

8           THE COMMISSIONER: Stop for just a minute here.

9           BY MR. LIBMAN:

10   Q       Sergeant Paul, I draw your attention to page 14,  
11          the last line. First of all, is this your  
12          handwriting, sir?

13   A       Yes, it is.

14   Q       Page 413 would be the first page of the  
15          document?

16   A       Yes.

17   Q       You have it there?

18   A       Yes.

19   Q                "Ray phoned Crime Stoppers..."  
20          are you with me, first page? Top of the page  
21          says Ray Zanidean, 386 Chelsea Avenue?

22   A       Yes.

23   Q       The last line on this page, this is your  
24          headline writing, correct?

25   A       Yes.

1 Q "Ray phoned Crime Stoppers about them."  
2 Turn over.  
3 "Ray had just left shop when it was raided.  
4 Got stopped by the police. Got \$700 from  
5 Crime Stoppers."  
6 That's information that you got from  
7 Mr. Zanidean?  
8 A That's correct.  
9 Q And that's information pertaining to the fact  
10 that it was Mr. Zanidean who called Crime  
11 Stoppers about Perry Harder's chop shop; is that  
12 correct?  
13 A That's correct.  
14 Q Now, this note was made on your first meeting  
15 with Mr. Zanidean on the 9th of October, 1990?  
16 A That's correct.  
17 Q And was Sergeant Tom Anderson with you when this  
18 note was made?  
19 A Yes, he was.  
20 Q And so Sergeant Tom Anderson would have had that  
21 knowledge, that it was Ray Zanidean who called  
22 Crime Stoppers in November, 1989?  
23 A That's correct.  
24 Q I draw your attention to tab 41, 6B, exhibit 6B,  
25 Commission Counsel's book, tab 41?

1 THE COMMISSIONER: You are going -- I'm still an  
2 old pen and ink person and it takes me a while  
3 to catch up. Your questions are so pithy, I  
4 need to make notes of them.

5 MR. LIBMAN: I'm impressed, Mr. Commissioner.  
6 Thank you.

7 THE COMMISSIONER: I suppose we could number it.  
8 It is to be filed, it is tab 2 of an exhibit to  
9 be filed, which will be exhibit 9.

10 MR. ABRA: This is one entitled Ray Zanidean?

11 THE COMMISSIONER: Yes, it is the second of the  
12 handouts.

13 MR. LIBMAN: Winnipeg Police Service Disclosure,  
14 volume 8.

15 THE COMMISSIONER: So it will be, I should have  
16 numbered it earlier, and I apologize for that.

17 That will be exhibit 9, tab 2, that earlier  
18 letter from Dangerfield to Winnipeg Police  
19 Department will be exhibit 9, tab 1.

20 (EXHIBIT 9-1: Tab 1, Letter from  
21 Dangerfield to Winnipeg Police Department)

22 (EXHIBIT 9-2: Tab 2, Winnipeg Police  
23 Service Disclosure, volume 8)

24 THE COMMISSIONER: Go ahead.

25



1 BY MR. LIBMAN:

2 Q I just want to make sure, tab 41?

3 A Yes.

4 Q This was drafted by Anderson; correct?

5 A That's correct.

6 Q And you don't really have a recollection of  
7 taking part in the drafting; is that right?

8 A I probably did.

9 Q You probably did?

10 A Yes.

11 Q But you don't have a recollection right now?

12 A Not offhand, no.

13 Q Can I draw your attention to page 2 of this  
14 document, question 23:

15 "The Winnipeg Police Department have no  
16 information on file that we are aware of  
17 relating to Mr. Zanidean's involvement in  
18 the drug scene. We are not aware of  
19 Mr. Zanidean ever having acted in the  
20 capacity of a police informant prior to his  
21 involvement with James Driskell."

22 Did I read that fairly?

23 A Yes, you did.

24 Q Isn't it true, sir, that you did have  
25 information that Mr. Zanidean was an informant

1 prior to his involvement with James Driskell?

2 A In all fairness, the first time I saw this  
3 document was when I went before Commission  
4 Counsel a few weeks ago to give my deposition.  
5 And I don't recall this document at all. This  
6 looks like it is just a scratch note pad that I  
7 made when we first met with him, and I hadn't  
8 seen it, I hadn't remembered it since it was  
9 written.

10 Q Because you agree with me then, the answer to  
11 Mr. Brodsky's question is misleading then if you  
12 would have had knowledge?

13 A Obviously, yes.

14 MR. LIBMAN: Thank you, those are my questions.

15 THE COMMISSIONER: Mr. Code, would you refresh  
16 my memory as to what our new schedule is?

17 MR. CODE: We are sitting until 12:45, so we've  
18 now got about an hour and 45 minutes in, in the  
19 morning, and if we took the break now until  
20 11:30, we would come back for another hour and a  
21 quarter. So this would probably be a perfect  
22 time to take a break.

23 THE COMMISSIONER: All right. Good.

24 MR. CODE: Since I have got the floor and it is  
25 two minutes until quarter past, I neglected this

1 morning to bring to your attention that we have  
2 new counsel in the hearing room this morning,  
3 and I'm very pleased to introduce to you Mr.  
4 Jerome Kennedy, he is in the back far right-hand  
5 corner representing AIDWYC, he is an experienced  
6 counsel from Nova Scotia who is just fresh off  
7 the Lemar Inquiry, so he has probably the most  
8 current experience of any of us on one of these  
9 inquiries. He acted for Mr. Parsons in Nova  
10 Scotia, before the Lemar Inquiry. And I'm told  
11 by my former partner, Mr. Green, he is very  
12 eminent counsel. I said Nova Scotia, I meant  
13 Newfoundland. I don't know how I could have  
14 said Nova Scotia. He is clearly from  
15 Newfoundland, and he is our only counsel now  
16 from outside Ontario and Manitoba, and that is  
17 an inherently good thing.

18 I'm doing very badly here. I better sit  
19 down.

20 THE COMMISSIONER: I did notice part way through  
21 the morning the new face, the new shiny face in  
22 the back. And welcome, Mr. Kennedy. And you  
23 have to realize that some of us in central  
24 Canada, we get a little confused. You see  
25 Mr. Code is an Albertan actually, so anything

1 east of Winnipeg, he has trouble with, even  
2 though he lives in Ontario. Mr. Lockyer has  
3 trouble with anything much west of about  
4 Bathurst Street, I think. But you will help us  
5 out in geography now, being part of Atlantic  
6 Canada.

7 MR. KENNEDY: Thank you very much.

8 THE COMMISSIONER: Thank you, we will break,  
9 Sergeant.

10 THE CLERK: All rise. This Commission of  
11 Inquiry is now in recess.

12 (Proceedings recessed at 11:16 a.m. and  
13 reconvened at 11:30 a.m.)

14 THE CLERK: All rise. This Commission of  
15 Inquiry is now recommenced. Please be seated.

16 MR. PROBER: Good morning, Mr. Commissioner.

17 THE COMMISSIONER: Good morning.

18 BY MR. PROBER:

19 Q Good morning, Sergeant Paul. And we know each  
20 other, and for the record, you may or may not  
21 know that I represent George Dangerfield at this  
22 Commission of Inquiry.

23 A Thank you.

24 Q And I have very few questions for you. I take  
25 it that you would not have specific recollection

1 of copying your notes in this particular case?

2 A Do I have a specific recollection?

3 Q Of copying of your notes in this specific case?

4 A Well, I copied them and I forwarded them to the  
5 Crown's office. Exactly when I did it, I am not  
6 sure.

7 Q You don't know?

8 A I'm not sure when I did it.

9 Q And you don't know who at the Crown's office  
10 would have received them?

11 A No, I don't.

12 Q And obviously you would have no personal  
13 knowledge of who read them?

14 A No, I wouldn't.

15 Q Okay. You indicated in your statement to the  
16 Commission Counsel that the only contact you had  
17 with Mr. Dangerfield was to prepare you for your  
18 testimony at the trial; correct?

19 A To the best of my recollection, yes.

20 Q I take it that you can't tell us today whether  
21 you have a specific recollection or not of how  
22 many meetings you had with him?

23 A No, I don't.

24 Q No. Or the content of those meetings?

25 A No, I don't.

1 Q What you did say in your interview with  
2 Commission Counsel was that you couldn't recall  
3 that Mr. Dangerfield was ever present when you  
4 and your partner met with Bruce Miller?

5 A Not that I can recall. The only time I ever saw  
6 the two together was when we returned from  
7 Calgary with Mr. Zanidean, and they attended at  
8 the Public Safety Building.

9 Q Right, May 26th, as I recall?

10 A I believe that's the date, yes.

11 Q And you, though, cannot ever recall dealing with  
12 Mr. Dangerfield on witness protection issues?

13 A No.

14 Q And I take it that you have no specific  
15 recollection of any meeting with Mr. Dangerfield  
16 to provide him with any information?

17 A What kind of information?

18 Q Any information? Do you have any recollection  
19 of any meeting, other than the ones to prepare  
20 you for your testimony, or one, whatever it  
21 happens to be, do you have a recollection of any  
22 meetings where you sat down with him and gave  
23 him information?

24 A No.

25 Q In fact, in some 70 odd pages of your notes,

1           there is no mention of George Dangerfield. Do  
2           you agree with that?

3    A       That's correct.

4    Q       Mr. Libman suggested to you that Mr. Dangerfield  
5           was content with your Supps and content with  
6           your notebook. You don't have any personal  
7           knowledge of what Mr. Dangerfield is content  
8           with or not, do you?

9    A       All I have is that letter that he sent to the  
10           chief.

11   Q       That's right. But have you ever discussed with  
12           Mr. Dangerfield whether he was content with your  
13           notebook, or content with your notes, or content  
14           with your Supps?

15   A       Not that I can recall.

16           MR. PROBER: Thank you, sir, those are my  
17           questions.

18           THE COMMISSIONER: Thank you, Mr. Prober.

19           BY MR. OLSON:

20   Q       Sergeant Paul, Bill Olson acting for the  
21           Attorney General and Mr. Lawlor. I, as well,  
22           only have several questions of you.

23           I gather the one reference to Mr. Lawlor in  
24           your notes that are at tab 3, I think we  
25           determined, was the reference to Mr. Lawlor

1           being your contact at that point in November of  
2           1991?

3    A       That was when we were having the meeting with  
4           Mr. Kovnats?

5    Q       Yes, correct?

6    A       Yes.

7    Q       And you passed Mr. Lawlor's name, as best you  
8           can recall, from that note anyway, through to  
9           him, because you knew that the Crown would have  
10          to be involved on funding any requests?

11   A       That's correct.

12   Q       You can't recall ever discussing with Mr. Lawlor  
13          any witness protection or funding issues, I  
14          gather?

15   A       I don't believe we did. Like we dealt with  
16          Mr. Miller mostly with that. I think Mr. Lawlor  
17          might have been involved once or twice, if  
18          Mr. Miller wasn't there, when we were receiving  
19          funds to pay for certain expenses.

20   Q       Right. And it is my understanding that from  
21          time to time when funds were required for  
22          protection expenses that were being incurred,  
23          you would receive those from Mr. Miller. Is  
24          that your recollection?

25   A       That's correct, yes, from Louise Beaudette who



1 worked in Mr. Miller's office.

2 Q Would you turn to tab 14, Sergeant Paul, in  
3 exhibit 6B, and flip through to the fourth page,  
4 if you would? There is a handwritten form of  
5 ledger card?

6 A Yes.

7 Q Have you seen that document before, sir?

8 A That's my handwriting mostly on there.

9 Q All right. That's what I was going to ask of  
10 you. Is all of that your handwriting or just  
11 some of it?

12 A Most of it is, some of it is Sergeant  
13 Anderson's.

14 Q What part is not yours?

15 A Where it says,

16 "03/04 received from Louise..."

17 to the 26th.

18 Q So the bottom, just past the midway point of the  
19 page from there?

20 A That's correct, yes.

21 Q Some of the entries thereafter is Anderson's and  
22 not yours?

23 A When it comes back to the 12th, that's my  
24 handwriting again, and the last three do not  
25 appear to be my handwriting, although they might

1 be.

2 Q The last two or three entries may not be yours?

3 A The last one might be.

4 Q All right. If we go back up to the top,

5 "Received from Gregg Lawlor...",

6 is that your handwriting?

7 A Yes, it is.

8 Q Do you have any recollection of actually

9 receiving it from Gregg Lawlor, or was that just  
10 an entry because you knew he was your contact  
11 point?

12 A I more than likely received it.

13 Q Do you have any recollection of receiving it  
14 from him?

15 A Not specifically, but I was the one that would  
16 go down to the Crown's office to collect the  
17 cheques, if I was working. The other times when  
18 they had the other writing in there was probably  
19 Tom that went and got them.

20 Q You knew that in terms of approvals, that had to  
21 come from Mr. Miller?

22 A That's correct.

23 MR. OLSON: That's are my questions. Thank you.

24 THE COMMISSIONER: Thank you, Mr. Olson.

25 MR. GATES: Good morning, Mr. Commissioner.

1 BY MR. GATES:

2 Q Sergeant Paul, my name is David Gates, I'm here  
3 representing the RCMP. And I just have three or  
4 four areas that I have a few questions for you.

5 First of all, can you tell us, in a very  
6 general way, what the rank structure is in the  
7 Winnipeg Police Service?

8 A At that time there was four stages of constable  
9 the recruit, which would be a 4th class, 3rd,  
10 2nd, and 1st class constable.

11 THE COMMISSIONER: Do they use the designation  
12 PC as police constable or just constable?

13 THE WITNESS: Just constable. Then there was --  
14 I'm trying to remember at that time, because  
15 they changed. There used to be what they called  
16 a Sergeant 2, and then a Sergeant 1, and then a  
17 Staff Sergeant. And I can't remember for sure  
18 if that was gone by that time and it just became  
19 Patrol Sergeant, Sergeant and Staff Sergeant.

20 BY MR. GATES:

21 Q Was there a rank in between constable and  
22 sergeant?

23 A No.

24 Q And was there a pre-determined period of time  
25 that one would remain a constable before one

1           became a sergeant, or was it subject to  
2           promotion?

3    A       It was a promotion system.

4    Q       Is it conceivable that somebody would remain a  
5           constable their whole service with the Winnipeg  
6           Police Service?

7    A       Yes, they could.

8    Q       Okay.  Swift Current, my understanding of your  
9           evidence this morning in response to questions  
10          from Mr. Code was that you had no personal  
11          dealings with Constable Burton or anyone else  
12          from Swift Current.  Is that correct?

13   A       That's correct.

14   Q       And that all of your information about the  
15          status of the Swift Current investigation came  
16          from Sergeant Anderson?

17   A       That's correct.

18   Q       Did it come from anywhere else?

19   A       I don't believe so.  I may have received some  
20          from Staff Sergeant Vandergraaf, because he was  
21          dealing with Constable Orr at the Witness  
22          Protection Program.

23   Q       To your knowledge, was anyone other than  
24          Sergeant Anderson dealing with the Swift Current  
25          detachment?

1 A Not to my knowledge.

2 Q Next, I just have a couple of questions for you  
3 about notes and reports. If you could have a  
4 look, please, at page 10 of your witness  
5 summary, which is at tab 3. I think you have  
6 been referred to that a couple of times.

7 A Yes.

8 Q And specifically, Sergeant Paul, if you look to  
9 the second last full paragraph, and I will just  
10 very quickly read it for you.

11 "Anderson and Paul did not prepare a report  
12 of their meeting with Kovnats."

13 Are you with me? Have you found the place that  
14 I'm referring to?

15 A Yes, sir.

16 THE COMMISSIONER: I haven't.

17 MR. GATES: Sorry, page 10, tab 3, second  
18 paragraph from the end.

19 BY MR. GATES:

20 Q Continuing on, Sergeant Paul,

21 "Paul...,

22 I presume that means you,

23 "...explains that they would not have  
24 produced a report about witness protection  
25 discussions because they did not have

1 anything to do with solving the Harder  
2 murder. In any event, the information was  
3 in Paul's notebook which, as he recalls the  
4 practice, would have been provided to the  
5 Crown and presented in court when he  
6 testified."

7 Does that more or less accord with what you said  
8 to the Commission Counsel?

9 A That's correct.

10 Q I'm confused, and I just wonder if you can help  
11 clarify what would have gone into your notebook?  
12 Would discussions relating to witness protection  
13 have gone into your notebook, or significant  
14 events relating to witness protection?

15 A It may or may not.

16 Q And can you tell us what might be the  
17 determining factor as to whether it did go into  
18 your notebook?

19 A Well, if there is any -- well, if it would  
20 compromise the witness protection, then I would  
21 not put it in there.

22 Q How would it compromise witness protection to be  
23 in your notes?

24 A Because my notes would be presented to the Crown  
25 prior to my testimony, and the Crown could make

1 a copy and give it to the defence.

2 Q From time to time, would your notes contain  
3 information pertaining to -- and this is a  
4 general question -- pertaining to confidential  
5 sources that you were working with on a  
6 particular matter or file?

7 A It would depend on the circumstances.

8 Q From time to time, would those sorts of notes  
9 find their way into your notebook?

10 A They may.

11 Q And was there a practice or a custom as between  
12 you and the Crown attorneys in order to protect  
13 that information or to vet that information?

14 A Well, no, because once I made a copy of my notes  
15 and forwarded them to the Crown, it was my  
16 understanding that they made a copy of them to  
17 give to the defence.

18 Q Okay. With respect to your general notebook,  
19 that would be your notes other than the  
20 notebooks that we have before the Commission  
21 that relate specifically to the Perry Harder  
22 homicide?

23 A Yes.

24 Q My understanding is that throughout your career  
25 you would have kept a general notebook?

1 A More than likely, yes.

2 Q Can you tell us, in a general way, what you  
3 would have captured in your general notebook?

4 A Could be anything, could be stuff not pertaining  
5 directly to the homicide. When I was working on  
6 a homicide case, very seldom would I put  
7 anything in a general notebook. Most of my  
8 information would go in the notebook that I was  
9 keeping for that specific case, if it didn't  
10 compromise witness protection.

11 Q Over the course of your examination by Mr. Code  
12 and by Mr. Libman, you referred a number of  
13 times, if I recall your evidence correctly, to  
14 matters not being related to the Perry Harder  
15 homicide, and thus not finding their way into  
16 your notebook, or into a continuation report.  
17 Did I capture your evidence correctly?

18 A That's correct.

19 Q Would those other events or occurrences have  
20 found their way into your general notebook?

21 A They may or may not. It would depend on what  
22 they were.

23 Q My understanding, from your summary of the  
24 interview that you had with Commission Counsel,  
25 Sergeant Paul, as I said, a great many of your



1 notebooks were lost in a flood?

2 A That's correct, yes.

3 Q Do you have any specific memory of making notes  
4 relating to witness protection issues in this  
5 matter that would have been recorded in your  
6 general notebook?

7 A I don't think so.

8 Q So --

9 A I wasn't dealing with the witness protection  
10 issue.

11 Q Where would we go to look for records of events,  
12 conversations, significant developments,  
13 relating to witness protection as it regards  
14 Mr. Zanidean, where would we go to find that?

15 A The only ones that were involved in that would  
16 have been Anderson, Vandergraaf, and Bruce  
17 Miller.

18 Q Are you aware whether or not Sergeant Anderson  
19 or Staff Sergeant Vandergraaf, whether they have  
20 notes of those events?

21 A I don't know.

22 Q But as I understand what you are telling us,  
23 your recollection is that you do not have any  
24 notes --

25 A No, I don't.

1 Q -- about that particular aspect of this  
2 investigation?

3 A That's correct.

4 Q This is just a very general question. In  
5 response to some questions from my friend,  
6 Mr. Libman, he referred you to exhibit 9, tab B,  
7 which is the handwritten notes that I can't find  
8 a date on. I believe you identified those as  
9 being your handwriting?

10 A That was probably taken on the 9th of October,  
11 the first time we met Ray Zanidean.

12 Q Do you know where that document comes from, or  
13 what it is?

14 A I haven't seen this document since, obviously  
15 when I wrote it. It was presented to me, I  
16 think, I believe when I was giving my deposition  
17 to Commission Counsel, and I don't recall this  
18 at all. It is my handwriting, I'm not denying  
19 that. I just don't remember. It is probably  
20 notes that I made when we were first  
21 interviewing Ray Zanidean.

22 Q If I could have your indulgence for a moment,  
23 Mr. Commissioner.

24 The last area that I want to ask you a  
25 couple of questions about, Sergeant Paul,

1 relates to this meeting that you had with  
2 Mr. Miller regarding the immunity agreement  
3 relative to Mr. Zanidean. Do I understand that  
4 Sergeant Anderson was present when this meeting  
5 took place?

6 A To the best of my recollection, he was there,  
7 yes.

8 Q And again, my note of your evidence on this  
9 point was that you believe this meeting took  
10 place some time in advance of the trial, but you  
11 don't recall when?

12 A I don't recall exactly when, no.

13 Q Can you look, please, at tab 3, which is again  
14 your summary, at page 12? Actually, I'm sorry,  
15 I'm going to take you there in a minute, but not  
16 quite yet.

17 Can you go to the other book, please, and  
18 look at tab 10, which you may recall you  
19 referred to this morning. This is the report  
20 that was prepared by Sergeant Anderson and  
21 concurred in by you, directed to Inspector  
22 Johns, dated October 8th, 1991. Have you found  
23 the document?

24 A I have it, yes.

25 Q Can you look at page number 3? And I'm going to

1 read a very brief portion of this, it is the  
2 last full paragraph at the bottom of page 3. It  
3 begins with.

4 "I told Constable Burton..."  
5 Are you with me, Sergeant Paul?

6 A I am.

7 Q "I told Constable Burton that we had  
8 already informed Zanidean of his immunity  
9 which had become part of his negotiations  
10 with our Justice Department. I also  
11 expressed my dissatisfaction with this turn  
12 of events. Constable Burton suggested that  
13 we leave further discussions regarding the  
14 issue to the Justice Department of  
15 Saskatchewan and Manitoba. He provided me  
16 with the name of Richard Quinney, director  
17 of prosecutions in Saskatchewan and I  
18 agreed."

19 Do you recall this from the summary that  
20 Sergeant Anderson prepared and that you  
21 concurred in?

22 A I'm just reading it, yes.

23 Q Do you recall Sergeant Anderson or someone else  
24 bringing to your attention that after the trial  
25 Swift Current had decided to reopen the arson

1 investigation?

2 A I don't recall that.

3 Q You don't recall at all?

4 A That they were reopening the investigation?

5 Q Right?

6 A No, I don't recall that.

7 Q Do you recall reviewing this report that  
8 Sergeant Anderson prepared?

9 A Yes, I did.

10 Q Do you recall whether or not Sergeant Anderson  
11 had any discussion with you about conversations  
12 with Swift Current after the trial of  
13 Mr. Driskell had been completed?

14 A I don't recall that.

15 Q At page 12 of your summary, if we can then go to  
16 your summary which is at tab 3 in the other  
17 book, please, Sergeant Paul?

18 A Um-hum.

19 Q And I'm directing your attention in a general  
20 way, and I will come to a specific passage in a  
21 moment, to the very large paragraph that takes  
22 up most of the page and begins with,

23 "Anderson ultimately contacted Burton in  
24 Swift Current."

25 Before I take you to the specific passage that I

1 would like to have you have a look at, do I  
2 understand correctly that you were aware before  
3 the meeting with Mr. Miller that Sergeant  
4 Anderson had had discussions with Constable  
5 Burton about whether or not the RCMP in Swift  
6 Current were pursuing Mr. Zanidean?

7 A Sorry, could you repeat that?

8 Q Okay. Before the meeting with Mr. Miller --

9 A Which meeting?

10 Q The meeting with Mr. Miller in which, as I  
11 understand it, he told you that immunity had  
12 been obtained for Mr. Zanidean, that's the  
13 meeting that I'm referring to. Okay?

14 A Okay.

15 Q Before that meeting, were you aware from  
16 discussions with Sergeant Anderson, that he had  
17 been speaking to Constable Burton in Swift  
18 Current about whether or not the RCMP were  
19 pursuing Mr. Zanidean?

20 A As far as I knew, the case was on hold, which is  
21 something that Burton had suggested to Anderson  
22 when we first notified them, that they were  
23 putting it on hold. I don't know if they were  
24 still pursuing it at the time that we had this  
25 meeting with Miller.

1 Q Prior to the meeting with Mr. Miller, had  
2 Sergeant Anderson ever told you that Swift  
3 Current would not be pursuing Ray Zanidean?

4 A Yes, he did mention that.

5 Q Before the meeting with Mr. Miller?

6 A That's correct.

7 Q At page 12 of your summary, and this is where I  
8 would like to take you to something specific.  
9 And just give me a moment, I have lost the place  
10 that I'm looking for. Sorry, Mr. Commissioner,  
11 I have just lost my way.

12 Sergeant Paul's statement, if I could have  
13 your indulgence for a moment. It is on page 17.  
14 Sergeant Paul, if you could have a look at page  
15 17?

16 A Yes, I have it.

17 Q Okay. About halfway down the first paragraph,  
18 it starts towards the right-hand side of the  
19 page, the sentence,

20 "Although Paul understood from  
21 Anderson...",

22 are you with me?

23 A Yes.

24 Q "...that Constable Burton had indicated to  
25 him back in April that the RCMP were

1           abandoning their pursuit of Zanidean. Paul  
2           assumed that Burton did not have the  
3           authority to make this decision on his own,  
4           since a similar decision in Manitoba would  
5           certain require input from the Crown's  
6           office."

7           Do you remember telling Commission Counsel that?

8    A       Yes.

9    Q       What was your understanding in 1991 of the  
10           situation in Manitoba regarding this kind of a  
11           scenario? What was required?

12   A       It was my understanding that charges were not to  
13           be laid, or investigations terminated, usually  
14           you consulted with the Crown, the Crown's  
15           office.

16   Q       In 1991, had you ever encountered a situation  
17           like that, Sergeant Paul?

18   A       No, I hadn't.

19   Q       In 1991, did you understand that you had the  
20           authority to not proceed with a charge relative  
21           to an individual?

22   A       Personally?

23   Q       Personally?

24   A       No, I didn't have that authority. You consulted  
25           with a supervisor before any decision like that



1 would be made.

2 Q Can I just probe that a little bit further?

3 A Sure.

4 Q Sergeant Paul, when you say a supervisor, can  
5 you be specific as to how high up the chain it  
6 would have had to have gone to receive approval?

7 A It would probably go up to an inspector level.

8 Q Was there any requirement that you can recall to  
9 engage Manitoba Justice on a decision like that?

10 A From what I can recall, whenever a major  
11 decision like that was made, they went up to the  
12 inspector level and the Crown was consulted  
13 before the final decision was made.

14 Q In 1991, would you have considered it a major  
15 decision to not proceed with a serious charge  
16 against someone in consideration for them  
17 participating as a witness in another case?

18 A Would it be a serious --

19 Q Would that have been a serious decision?

20 A Yes, it would have been.

21 Q Would that have been a decision that would have  
22 gone to Manitoba Justice?

23 A Yes, it would have.

24 Q And finally, can you tell us about the nature of  
25 your working relationship with Sergeant

1 Anderson? Did you work together for a long  
2 time?

3 A A couple of years.

4 Q And did you -- were you partners, is that how it  
5 worked?

6 A That's correct.

7 Q Did you regularly or routinely share with one  
8 another work that you were doing on an  
9 individual basis relative to a joint  
10 investigation or a shared investigation?

11 A If we were working on an investigation, we  
12 shared.

13 Q Did you have a responsibility to keep Sergeant  
14 Anderson informed of developments on this file  
15 that came to you acting on your own?

16 A I'm sorry, I don't understand that?

17 Q When you weren't working together, when you were  
18 working on your own, without Sergeant Anderson,  
19 did you feel that you had a responsibility to  
20 keep him informed about developments pertaining  
21 to this file?

22 A Are you talking about in regards to this file  
23 alone?

24 Q Generally speaking, or relative to this file?

25 A Anything to do with this file, of course, we

1 kept in contact. We were partners.

2 Q Did you feel he had a responsibility to keep you  
3 informed about significant developments?

4 A Certainly.

5 Q Are you satisfied that he did keep you informed  
6 of significant developments?

7 A Yes, I am.

8 MR. GATES: Those are my questions. Thank you  
9 very much, Sergeant Paul.

10 THE COMMISSIONER: Thank you, Mr. Gates.

11 MS. CARSWELL: Good morning, Mr. Commissioner.

12 THE COMMISSIONER: Good morning.

13 BY MS. CARSELL:

14 Q Sergeant Paul, we have met before, and I will  
15 introduce myself for the record, I'm Kimberly  
16 Carswell on behalf of the Winnipeg Police  
17 Service.

18 I have some general questions, just about  
19 practice, around the time of 1990/91, if you can  
20 help me out. You indicated that it was your  
21 note taking practice to keep notes of all of the  
22 significant events or events of importance in a  
23 case, and you would record those in your  
24 notebooks; is that correct?

25 A That's correct.

1 Q All right. And then it was the investigator's  
2 responsibility, was it not, to take those notes  
3 and prepare a supplemental report based on the  
4 information contained in the notes; correct?

5 A That's correct.

6 Q And generally speaking, it was considered very  
7 important and the investigators understood that  
8 the supplement would be the main way in which a  
9 Crown would brief themselves on the file. Is  
10 that right?

11 A That is correct.

12 Q And the Service's position was that anything of  
13 import in a notebook should then be transferred  
14 into the supplemental; correct?

15 A That had to do with the case, yes.

16 Q And when you talk about things of a witness  
17 protection nature that shouldn't have been or  
18 that you chose not to put in your notes, you are  
19 talking about things that would specifically  
20 compromise the witness, such as where they were  
21 currently living; correct?

22 A Things like that, yes.

23 Q Not generic information about the individual;  
24 correct?

25 A Would you be more specific?

1 Q Oh, that he provided you with some particular  
2 information would go into a report, in other  
3 words, in this case, that Mr. Zanidean admitted  
4 to you commission of the arson with Mr. Driskell  
5 went into your notes?

6 A That's correct.

7 Q And you realized at the time that that would  
8 have witness protection implications?

9 A That's correct.

10 Q And yet that is in your notebooks, because there  
11 is nothing about that particular information  
12 that would lead to comprising the witness. In  
13 other words, it wouldn't tell anyone where they  
14 were; correct?

15 A No, it didn't.

16 Q Now, just with respect to general disclosure  
17 practices, you recognize that this case occurred  
18 and was investigated prior to the decision in  
19 Stinchcombe, which you would be familiar with;  
20 correct?

21 A That's correct.

22 Q Now, was it fair to say that in those days the  
23 relationship that police had with the Crown  
24 attorneys was a closer one, on major cases?

25 A I'm not sure what you mean by closer?

1 Q There were fewer Crowns dealing with those types  
2 of cases, fewer Police dealing with those cases?

3 A Murder trials, there were a selected number of  
4 Crowns that handled them usually.

5 Q And that it wasn't uncommon in those days for a  
6 Crown Attorney to pick up the phone and phone  
7 the investigator and ask, if he required  
8 additional information, was it?

9 A It has been known to happen, yes.

10 Q And now -- you retired about five years ago --  
11 now if there is a request for information it  
12 comes in paper and the response is in paper, on  
13 all occasions; is that right?

14 A I will have to take your word for it.

15 Q Even five years ago, the responses generally  
16 were placed in paper, were they not? They would  
17 come from the Crown's office --

18 A Even back in those days sometimes a request  
19 would come by paper, as evidenced by some of the  
20 letters we received from Mr. Lawlor.

21 Q Absolutely, but my question is, it was commoner  
22 in those days to receive not only communication  
23 in paper, but also a phone call from the Crown  
24 if they needed information on the file?

25 A I don't know if I would use the word commoner,

1 but it did happen.

2 Q And certainly it was your understanding that the  
3 supplemental reports had to include everything  
4 that the Crown would need in order to  
5 appropriately prosecute the offender that you  
6 had arrested?

7 A That's correct.

8 Q You didn't have to wait for a supervisor to  
9 instruct you to prepare supplemental reports  
10 based on your notes, did you? That was  
11 something that was required of you as part of  
12 your duties?

13 A It was done automatically.

14 MS. CARSELL: Thank you. Those are my  
15 questions.

16 MR. ABRA: Sorry for the delay,  
17 Mr. Commissioner. I have a bit of an armful.

18 BY MR. ABRA:

19 Q Mr. Paul, I'm Doug Abra, I'm acting for the  
20 Estate of Bruce Miller. I would like to take  
21 you firstly to your statement to Mr. Code, tab 3  
22 in the book before you?

23 A Yes.

24 Q You have the statement in front of you at page  
25 3?

1 A Yes, I do.

2 Q And you say under number 4, Paul's note-taking  
3 and report-drafting practices, and I quote:

4 "Paul's standard practice when  
5 investigating a homicide or other major  
6 crime was to keep a dedicated case specific  
7 notebook in addition to the general  
8 notebook he kept for other matters. In the  
9 Harder case he filled one such notebook and  
10 began a second notebook. His practice was  
11 to record what he had done each day, and  
12 anything of importance regarding the case.  
13 His notes were usually summaries, but there  
14 was some verbatim quotes."

15 Now, you met with Mr. Zanidean in October;  
16 is that right?

17 A That's correct.

18 Q And almost immediately he told you about the  
19 fire in Swift Current?

20 A That's correct.

21 Q And I will take to you tab 3 -- excuse me, tab 5  
22 in volume 1, page 520.

23 Now, according to page 519, this was a  
24 meeting that you had with Mr. Zanidean on  
25 October 10th of 1990?



1 A That's correct.

2 Q These are your notes?

3 A That's correct.

4 Q And you have made a note of the fact on page  
5 520, beside the initial T.A., and I understand  
6 the initial T.A. is Tom Anderson?

7 A That's correct.

8 Q And Mr. Zanidean said to you and you recorded in  
9 the notebook and I quote:

10 "Ray then states that there could be a  
11 problem with his credibility in court."  
12 And you then wrote,  
13 "I ask him why."  
14 So you said to him, how come? Right?

15 A I asked him why.

16 Q And he went on to say,  
17 "Well, Jim...",  
18 and you knew that he was talking about Jim  
19 Driskell?

20 A That's correct.

21 Q "...and I got involved in something this  
22 summer in Saskatoon."

23 A In Saskatchewan.

24 Q In Saskatchewan, excuse me. And you then asked  
25 him,

1 "What were you involved in?"

2 He replied, I assume because this is in  
3 quotation marks you took it verbatim,

4 "We blew up a house in Swift Current, a  
5 relative's place."

6 Is that right?

7 A Yes, that's right.

8 Q And that is verbatim?

9 A That's correct.

10 Q "Was anyone hurt or killed?"

11 His reply was,

12 "No, the house was empty, we made sure of  
13 that. I don't hurt people."

14 And then over to page 521 wherein you allege in  
15 your notes that you told Mr. Zanidean  
16 effectively there was nothing that you could do  
17 for him; is that right?

18 A I informed him that we would be making inquiries  
19 with Saskatchewan on the matter, and I told him  
20 if he discusses it with us, he should be aware  
21 of his rights to have an attorney present and he  
22 doesn't have to say anything.

23 "Informed that a charge made be made  
24 against him after the inquiries are made."

25 Q He then went on to say,

1            "I understand. I just want to tell the  
2            truth."

3            Right?

4        A        That is correct.

5        Q        So Mr. Zanidean, as early as October 10th of  
6            1990, told you that he was aware of the fact  
7            that the arson to which he admitted to  
8            participating in, in Swift Current, was going to  
9            affect his credibility?

10       A        He said "may" affect his credibility.

11       Q        May affect his credibility. He as a layperson,  
12            albeit a criminal, knew it was going to affect  
13            his credibility, or may affect his credibility  
14            in any evidence that he may give at the  
15            subsequent Driskell trial. Right?

16       A        That's what he said.

17       Q        And you knew he was going to be an important  
18            witness at the Driskell trial?

19       A        That's correct.

20       Q        You never wrote a Supp. about this at all, did  
21            you?

22       A        No, we didn't.

23       Q        You didn't tell anyone?

24       A        Yes, we did.

25       Q        Well, Mr. Dangerfield, did he know?

1 A We told Staff Sergeant Vandergraaf and Inspector  
2 Bell.

3 Q Yes.

4 A And Staff Sergeant Vandergraaf informed  
5 Mr. Miller, the Crowns office, of the incident.  
6 We didn't tell Mr. Dangerfield because we didn't  
7 know he was going to be the Crown at the time.

8 Q So you are telling us today that Staff Sergeant  
9 Vandergraaf told Mr. Miller almost immediately,  
10 did he?

11 A I am not sure exactly when he told him.

12 Q I see. You didn't write a Supp.

13 A That's correct.

14 Q What good was it just to tell Miller, without  
15 him having a Supp about exactly what it was that  
16 Zanidean was saying?

17 A We didn't write a Supp, because we would have  
18 written a Supp not on this report number, we  
19 would have written one to the assistance of  
20 Swift Current RCMP, had they requested one.

21 Q I see. You are using the same line that  
22 Anderson fed us about the fact that, well, all  
23 at this point this was, was an assistance to  
24 Swift Current. Is that right?

25 A I don't know what Mr. Anderson said.

1 Q Well, are you tell us today that the reason you  
2 didn't write a Supp was because at this juncture  
3 you just considered this to be a matter for  
4 assistance to Swift Current?

5 A It was a Swift Current matter, it had nothing to  
6 do with our murder per se.

7 Q You are telling us that, notwithstanding that  
8 Mr. Zanidean admitted to you that the fire in  
9 Swift Current may affect his credibility at the  
10 Driskell trial, as far as you were concerned, it  
11 was irrelevant? Is that what you are telling  
12 us?

13 A That's not what I'm saying.

14 Q What are you saying?

15 A I'm just saying that we informed our superiors,  
16 who informed the Crown of the incident.  
17 Mr. Miller was made aware of it. He was shown  
18 our notes.

19 Q Were you there when Staff Sergeant Vandergraaf  
20 told Mr. Miller?

21 A No, I wasn't.

22 Q No. So you are just going by what Vandergraaf  
23 allegedly told you?

24 A That's correct.

25 Q I see. Now, you then, according to your

1 statement, had numerous meetings with Bruce  
2 Miller between the time of Mr. Zanidean's first  
3 coming in contact with you and the eventual  
4 trial?

5 A That's correct.

6 Q How many meetings were there?

7 A I'm not sure.

8 Q What dates were they?

9 A I'm not sure.

10 Q How long did they last?

11 A Some lasted 15 minutes, some lasted an hour.

12 Q You have no recollection of the dates?

13 A No, I don't.

14 Q You have no recollection of the time?

15 A No, I don't.

16 Q You have no recollection of how long each  
17 meeting was?

18 A That's correct.

19 Q And you have not put anything in your notes  
20 about any of those meetings, have you?

21 A No, I haven't.

22 Q And you have not prepared any supplementaries  
23 about any of those meetings, have you?

24 A No, I didn't.

25 Q In fact, the first time that there was any

1 mention of having consulted with Bruce Miller  
2 was that October 8th memo that was written by  
3 Sergeant Anderson at tab 10 of the second book?

4 A Yes, I have it.

5 Q Which is the one that you wrote that you  
6 concurred with?

7 A Sergeant Anderson wrote it and I concurred with  
8 it, yes, sir.

9 Q Now, this meeting that you say that you had with  
10 Miller where he discussed immunity on the  
11 Saskatchewan charges, what date was that?

12 A I have no idea.

13 Q Well, in terms of the trial which was commencing  
14 on June 3rd of 2001, how soon in relation to the  
15 trial was it?

16 A It was within a week before Zanidean testified.

17 Q Within a week before Zanidean testified?

18 A That's correct.

19 Q Zanidean testified on the 11th, so it was  
20 sometime around the 3rd or 4th?

21 A Somewhere around there probably.

22 Q By that time you knew that Lawlor and  
23 Dangerfield were prosecuting the case?

24 A That's correct, yes.

25 Q In fact, you had known for some time they were

1 prosecuting the case?

2 A I believe so, yes.

3 Q Probably about six months?

4 A I'm not sure.

5 Q But you certainly had known it for some months

6 before the trial started?

7 A That's correct.

8 Q And you are telling us that at a meeting -- what

9 time of day was this meeting?

10 A I'm not sure.

11 Q Where did it take place?

12 A I believe in his office.

13 Q I see. You have no note of that meeting at all?

14 A No, I don't.

15 Q But you recall that it was just you and Anderson

16 present?

17 A That's correct, yes.

18 Q And is that the first meeting that you attended

19 with Miller where he supposedly or allegedly

20 made a comment related to immunity in

21 Saskatchewan?

22 A Is that the first meeting?

23 Q Yes?

24 A That we ever had with him?

25 Q No, the first meeting that he discussed that



1 issue of immunity having been granted, but don't  
2 tell Zanidean?

3 A That's correct, yes.

4 Q And it was you and Anderson and Miller?

5 A That's correct.

6 Q And at that the meeting, according to what you  
7 are telling us, Mr. Miller said that I have  
8 secured immunity for Zanidean?

9 A I don't think he put it in those terms. He said  
10 that the immunity has been granted through the  
11 Saskatchewan Justice Department that he won't be  
12 charged with the arson in Swift Current.

13 Q Did he use the expression immunity or did he  
14 not?

15 A The word "immunity," yes.

16 Q Yes, he did. He told you that he secured  
17 immunity through Saskatchewan Justice?

18 A I can't remember if he said he secured it, he  
19 said that the immunity had been granted.

20 Q The word "secured" is mine. But what Mr. Miller  
21 told you was that Saskatchewan Justice had  
22 indicated a willingness, or indicated that they  
23 were prepared to grant immunity to Mr. Zanidean  
24 related to the Swift Current fire?

25 A That's correct.

1 Q There is no question the word "immunity" was  
2 used?

3 A Well, he said no charges, so I'm assuming  
4 immunity meant the same thing.

5 Q But he told you it had come from Saskatchewan  
6 Justice?

7 A That's correct.

8 Q There is no question about that?

9 A No question.

10 Q All right. Now, this was either immediately  
11 before or in the midst of the trial?

12 A That's correct.

13 Q Did you ask Mr. Miller at all whether he had  
14 told Dangerfield and Lawlor this?

15 A No, I never asked him that.

16 Q Did you not think it was important?

17 A I assumed he would have told them.

18 Q You assumed?

19 A Yes.

20 Q But you didn't ask him?

21 A I didn't ask him.

22 Q I see. You knew you were going to be testifying  
23 at the trial?

24 A That's correct.

25 Q You knew that if Saskatchewan was granting

1 immunity to Mr. Zanidean, that undoubtedly that  
2 would affect his credibility as a witness?

3 A Probably, yes.

4 Q Yes. It is not even probably, it is no question  
5 about it; right?

6 A It is possible, yes.

7 Q Well, right from October of '90, you knew, even  
8 from Zanidean, that this fire might affect his  
9 credibility as a witness?

10 A That's correct.

11 Q And then for him to tell you, oh, not only is it  
12 going to affect my credibility -- but now that  
13 he has got immunity, clearly that would affect  
14 his credibility, wouldn't it?

15 A I am sorry, can you repeat the question?

16 Q Clearly, the immunity for a charge that Zanidean  
17 was facing in Saskatchewan would affect his  
18 credibility as a witness?

19 A That's correct.

20 Q Yes. And you didn't ask Miller whether he  
21 discussed it with Dangerfield or Lawlor?

22 A I'm assuming that he would.

23 Q Did you ask him?

24 A No, I didn't.

25 Q What else was said in that conversation?

1 A I don't recall.

2 Q You don't recall?

3 A No.

4 Q That's because you didn't make any notes?

5 A That's correct.

6 Q And you never did make any notes?

7 A No, I didn't.

8 Q In fact, the first time that you told anybody

9 about this meeting was when you were interviewed

10 by Mr. Code?

11 A That's correct.

12 Q 15 years later?

13 A That's correct.

14 Q By your own admission, there is many things

15 about this case you don't remember, right?

16 A That's correct.

17 Q For example, you didn't remember Mr. Zanidean

18 taking off and going to Calgary and that the

19 Crown had to pay his way out there and so on?

20 A That's correct.

21 Q You didn't remember any of that?

22 A No, I didn't.

23 Q And without refreshing your memory from reading

24 reports and so on, you really have no

25 recollection of this confrontation with

1 Mr. Kovnats at the restaurant over this paper,  
2 did you?  
3 A Yes, I recalled it.  
4 Q You recalled it, but you didn't recall details  
5 of it?  
6 A I knew most of the details of it.  
7 Q Most of the details?  
8 A Yes.  
9 Q From reading your Supp?  
10 A No, I remembered the meeting.  
11 Q But did you read your Supp?  
12 A I read it, yes.  
13 Q But there is no mention if it in your notebook?  
14 A No, there isn't.  
15 Q Now, when it relates to the argument that you  
16 had with Mr. Zanidean at the hotel after the  
17 fact, which resulted in you and Anderson being  
18 taken off witness protection, you wrote a Supp  
19 about that?  
20 A That's correct.  
21 Q Yes. Although it was about a year later?  
22 A That's correct.  
23 Q And in that Supp you wrote that, amongst other  
24 things, Mr. Zanidean had telephoned a phone  
25 number that you knew to be Mr. Brodsky's?

1 A That's correct.

2 Q Why did it take you a year to write a Supp on  
3 that?

4 A I was asked for it by Ewatski and Hall when they  
5 were doing their review.

6 Q I see. You hadn't told anybody before that?

7 A Yes, I had.

8 Q Who?

9 A Vandergraaf and Inspector Johnson.

10 Q Did they tell you not to do a Supp?

11 A No.

12 Q Why didn't you do a Supp?

13 A I'm not sure.

14 Q So you have no explanation for not having done  
15 one?

16 A That's correct.

17 Q But in any event, you did one a year later?

18 A That's correct.

19 Q Or two years later, as Mr. Code has just  
20 whispered to me; right?

21 A That's correct.

22 Q Did you read it in preparation for giving your  
23 evidence here?

24 A Yes, I did.

25 Q In fact, I assume in preparation for your

1 evidence here, you went through many of the  
2 Supps related to this case; is that right?

3 A That's correct.

4 Q And through your notebook, as useful or useless  
5 as it is?

6 A They were useful to me.

7 Q Okay. So you had the Supps to refer to and you  
8 had your notebook to refer to?

9 A That's correct.

10 Q But you had absolutely nothing to refer to as  
11 far as this meeting with Mr. Miller is  
12 concerned, because you didn't make any notes of  
13 it and you didn't do any Supp of it?

14 A That's correct.

15 Q And yet you are telling us today that that's one  
16 of the things in this whole case that you have a  
17 very clear recollection of?

18 A That's correct.

19 Q But you don't recall what day it was?

20 A No, I don't.

21 Q You don't recall what time it was?

22 A That's correct.

23 Q You don't really recall where it took place?

24 A I'm pretty sure it was in his office.

25 Q I see. Now, let's go to this tab 10, which is

1 the report prepared by Anderson but which you  
2 wrote your concurrence. You did write your  
3 concurrence on it, did you?

4 A Yes, I did.

5 Q Do you remember this report being prepared?

6 A Yes, I do.

7 Q Do you know why it was prepared?

8 A It was at the request of Inspector Johns, who  
9 had received, I believe he had received the  
10 request either from Saskatchewan or the Crowns  
11 office. I can't remember.

12 Q At that time Inspector Johns was the head of  
13 what was then called Internal Affairs, was he?

14 A I'm not sure.

15 Q In any event, Johns, for some reason, requested  
16 a memo from you and Anderson about what had  
17 occurred between Swift Current and so on. Is  
18 that right?

19 A That's correct.

20 Q And it was as a result of what you understood to  
21 be a complaint against at least Anderson?

22 A I believe that's what it was, yes.

23 Q So here is Anderson, he's got a complaint  
24 against him. Presumably you and he want to be  
25 truthful in preparing the response for the



1 complaint, don't you?

2 A That's correct.

3 Q Now, let's go to the third paragraph on page 2,  
4 in the middle of the paragraph, starting a  
5 little bit, the sentence before that with the  
6 word consequently,

7 "Consequently I had two further

8 conversations with Constable Burton.

9 During the first conversation I explained  
10 the dilemma and I believe he had already  
11 spoken to Corporal Orr. In any case, he  
12 had given the matter thought and he  
13 immediately offered to withdraw their  
14 pursuit of Zanidean entirely. He explained  
15 that he planned to interview James Driskell  
16 after the murder trial in an effort to gain  
17 evidence against both Zanidean and his  
18 sister but that he would only charge his  
19 sister."

20 Are you with me so far?

21 A Yes, I am.

22 Q "Approximately one week later I telephoned  
23 Constable Burton again to ensure that his  
24 proposal was agreed to by his superiors.  
25 He assured me that his detachment commander

1 had approved and I reminded him that we  
2 would not make Zanidean privy to this  
3 arrangement until after he testified.  
4 Following this conversation, Sergeant Paul  
5 and I notified Inspector Johnson, Staff  
6 Sergeant Vandergraaf and Crown Attorney  
7 Bruce Miller."

8 Now, sir, on my reading of that recital of  
9 events, the decision was made by Anderson that  
10 Zanidean not be told until after he testified,  
11 and that he told Burton that, and that was only  
12 then reported later to Miller and Vandergraaf  
13 and so on. And in fact, I suggest to you what  
14 was reported was the fact that Swift Current had  
15 decided not to proceed with charges. Where in  
16 that paragraph has Anderson written, that you  
17 have concurred with, that this issue of Zanidean  
18 not being told about charges not being laid was  
19 ever suggested by Miller, or even told to  
20 Miller?

21 A Well, this information is -- not the pursuing of  
22 the charges, was something made by Burton. And  
23 as I stated before, as far as I was concerned, a  
24 decision like that would have to be made by the  
25 Crown as well. And we haven't got a formal

1 notification from the Saskatchewan Crown that  
2 the charges would be dropped or there would be  
3 immunity. This was just Constable Burton  
4 telling us this.

5 Q Except this memo was written about six months  
6 after you are alleging that Miller told you and  
7 Anderson that he had gotten immunity from  
8 Saskatchewan. Why was that not put in a memo?

9 A I don't know. You would have to ask Sergeant  
10 Anderson.

11 Q Well, you concurred with it, sir. Did you say  
12 to Sergeant Anderson, wait a minute, Tom, don't  
13 you think it is kind of important that we put in  
14 that Miller later told us that he had immunity?

15 A I don't recall why I didn't do that.

16 Q You don't recall?

17 A That's right.

18 Q I see. Notwithstanding that you have this  
19 supplementary to refer to, and you have no notes  
20 or supplementaries to refer to as far as your  
21 meeting with Miller is concerned?

22 A That's correct.

23 Q Now, did I understand you to say that one of the  
24 reasons -- what was the reason you didn't put  
25 anything in about all of these meetings with

1 Miller?

2 A Why didn't I put anything in the report on it?

3 Q Why didn't you put anything in your notebook or  
4 any Supp?

5 A I'm not sure.

6 Q You have no explanation?

7 A No, I don't.

8 Q So, you are not telling us that it had anything  
9 to do with witness protection, are you?

10 A That is not what I said.

11 Q I'm just asking you. So you have no explanation  
12 why you didn't put a lot of --

13 A Of these meetings with Miller?

14 Q Yes?

15 A No, I don't.

16 Q And no Supps?

17 A That's correct.

18 Q And so it had nothing to do with witness  
19 protection, you just don't know why you didn't;  
20 is that right?

21 A That's correct.

22 Q I see. Did you not think that Miller suggesting  
23 to you that Zanidean not be told about the  
24 immunity before he testified was pretty  
25 significant?

1 A Yes, it is.

2 Q And yet you have made no note of it anywhere?

3 A That's correct.

4 Q And by your own admission, and even the  
5 admission of Zanidean as early as October of  
6 1990, you knew that this whole issue of the  
7 Swift Current fire may affect his credibility as  
8 the most important Crown witness?

9 A That's correct.

10 MR. ABRA: If I might have a moment,  
11 Mr. Commissioner?

12 THE COMMISSIONER: Certainly.

13 BY MR. ABRA:

14 Q Did you talk to Hall and Ewatski at all when  
15 they did the review?

16 A Yes, we did.

17 Q You did?

18 A Yes.

19 Q And did you talk to them in person?

20 A Yes, we did.

21 Q Who is we?

22 A Anderson and myself.

23 Q I see. And did they make notes?

24 A Did they make notes?

25 Q Yes, Hall and Ewatski?

1 A I believe so.

2 Q I see. And do you recall Anderson -- were you  
3 present when Anderson was interviewed on the  
4 telephone by Hall and Ewatski?

5 A I don't recall that. When was that?

6 Q I'm not sure of the date, sir. I will bring the  
7 transcript this afternoon if you want. All I'm  
8 telling you is that Mr. -- who is now  
9 Mr. Anderson, who was then Sergeant Anderson,  
10 told Hall and Ewatski that as far as he was  
11 aware there was no immunity for Zanidean?

12 A I'm not sure about that conversation.

13 Q I see.

14 A It is a telephone conversation?

15 Q That's right.

16 A I don't think that I would be listening in.

17 Q I see. What did you tell Hall and Ewatski?

18 A What did we tell them?

19 Q Yes?

20 A We just wanted to know what -- what they wanted  
21 to know. They were doing a review.

22 Q You never told them at any time, did you, that  
23 Miller had told you not to tell Zanidean?

24 A I wrote a report on it. If it is not in there,  
25 I guess they didn't put it in their report.

1 Q You are telling us that you wrote a report that  
2 Miller had told you not to tell Zanidean?

3 A That is not what I said. I said I wrote a  
4 report to Hall and Ewatski for their review.

5 Q In that report, which I haven't seen a copy  
6 or -- thank you, Mr. Code.

7 Look at tab 53, please, sir? Is this the  
8 report that you wrote?

9 A Yes, it is.

10 Q And in this report they were asking you what you  
11 knew about Zanidean and his involvement in the  
12 Driskell case?

13 A That's correct.

14 Q Is that right?

15 A That's correct.

16 Q And you knew that one of the issues that Hall  
17 and Ewatski were investigating was the handling  
18 of Zanidean as far as the evidence, as far as  
19 his testimony in the Driskell case was  
20 concerned?

21 A They were reviewing everything, every aspect of  
22 the case.

23 Q As far as Winnipeg Police Service was concerned?

24 A That's correct.

25 Q So it was in this report that you saw fit, for

1           example, on page 2, to tell them that Zanidean  
2           had in fact phoned Greg Brodsky?

3    A       That's correct.

4    Q       That's the first time you told anybody that?

5    A       No.

6    Q       Well, it is first time you wrote anything about  
7           it?

8    A       It is the first time I wrote anything about it.

9    Q       Yes. You hadn't written anything up until then,  
10           had you?

11   A       From the time of his testimony?

12   Q       That's right?

13   A       That's correct.

14   Q       So from the time that Zanidean testified until  
15           you prepared this particular supplementary, some  
16           two years later, this is dated September 1993,  
17           that was over two years after Zanidean had  
18           testified?

19   A       That's correct.

20   Q       And it was over two years from the time that you  
21           learned that he had, in fact, phoned Greg  
22           Brodsky?

23   A       That's correct.

24   Q       But you didn't write anything to anybody about  
25           that information for over two years?



1 A I didn't write anything.

2 Q No. Did you ever check to see what it was that  
3 Zanidean might have phoned Brodsky about?

4 A Did I check?

5 Q Yes? Did you do any investigating?

6 A I didn't personally.

7 Q Did you ever tell Dangerfield?

8 A No.

9 Q In fact, Zanidean, the reason that you got into  
10 such an argument with him at the hotel, after he  
11 had testified, was that he was threatening to go  
12 to the media and recant the evidence he had  
13 given at trial; right?

14 A That's one of the threats he made, yes.

15 Q And he made that threat on just about the same  
16 day that he phoned Greg Brodsky?

17 A That's correct.

18 Q Yes. Did it not occur to you that maybe, just  
19 maybe, Zanidean had told Brodsky that what he  
20 had testified to was not true?

21 A I'm not sure what he said to Brodsky.

22 Q But you never bothered to find out?

23 A I didn't personally.

24 Q No. And you didn't do a note to anybody to say,  
25 we have got information that Zanidean contacted

1 Brodsky, we better try and find out what it is  
2 about?

3 A I informed Staff Sergeant Vandergraaf and  
4 Inspector Johnson.

5 Q You did?

6 A Yes, I did.

7 Q What did they do with it?

8 A I don't know.

9 Q I see. You see, the only supplementary that we  
10 have seen, sir, related to that, or the only  
11 note that we have seen related to that, of all  
12 of the disclosure from the Winnipeg Police  
13 Service, is this Supp that you wrote two years  
14 later. Nothing from Vandergraaf, nothing from  
15 Johnson. You have no idea whether they told  
16 anybody?

17 A I'm assuming they told Mr. Miller.

18 Q What makes you think that?

19 A Well, he was the one, he was the contact that we  
20 had regarding this case.

21 Q Did you not think that maybe Dangerfield would  
22 be the more important one? He is the one that  
23 prosecuted the case.

24 A We are assuming that once we tell Miller, Miller  
25 will be telling Dangerfield.

1 Q In fact, speaking of Miller, there is nothing in  
2 this supplementary that you wrote two years  
3 later, after you had been asked by Hall and  
4 Ewatski for everything that you knew about the  
5 Driskell case, and you didn't put in this  
6 supplementary anywhere that you had talked to  
7 Miller and that he had allegedly told you,  
8 Zanidean has got immunity, don't tell him until  
9 he testifies?

10 A That's correct.

11 Q You didn't put that in there?

12 A It is not in there, no.

13 Q And you have no explanation at all as to why you  
14 didn't make notes of your meetings with Miller,  
15 or supplementaries related to your meetings with  
16 Miller?

17 A That's correct.

18 MR. ABRA: I'm sorry, Mr. Commissioner, I forgot  
19 one of my pads of paper.

20 THE COMMISSIONER: That's fine. Mr. Abra, if  
21 you would like to take the noon break now, we  
22 are within five minutes, four minutes.

23 MR. ABRA: I think I'm just about done, sir,  
24 just one other small area.

25

1 BY MR. ABRA:

2 Q Mr. Paul, you told Mr. Code, the Commission  
3 Counsel, and I made a note of it, I just want to  
4 make sure that what I heard is correct. You  
5 told Mr. Code that you didn't make a note of the  
6 meeting with Miller and what Miller had  
7 supposedly instructed you because you didn't  
8 think it was particularly important? That's the  
9 note that I have got, sir. You used the  
10 expression, I didn't think it was a big deal at  
11 the time?

12 A Well, maybe I worded it wrong. It wasn't  
13 noteworthy, as far as I was concerned.

14 Q It wasn't noteworthy?

15 A No.

16 Q I see. So although Zanidean, as early as  
17 October of 1990, knew that his credibility may  
18 be suspect as far as his testimony in the  
19 Driskell case was concerned, and you knew it  
20 throughout; right?

21 A That's correct.

22 Q And as you told Mr. Code, you knew that  
23 Mr. Brodsky would probably know about it because  
24 Driskell would tell him?

25 A That's correct.

1 Q And you knew that the Swift Current arson would  
2 probably come up at the trial?

3 A That's correct.

4 Q And you knew that the issue of whether or not  
5 Zanidean had received any favour or any immunity  
6 or anything in return for his testimony -- did  
7 you not think it was important or a big deal?

8 A Well, it was important, it was a big deal, but I  
9 didn't see any reason to put it in a note.

10 Q And you didn't see any reason to tell  
11 Dangerfield?

12 A Well, Miller and Dangerfield are working in the  
13 same office, and we are assuming that Mr. Miller  
14 would be telling Mr. Dangerfield about what is  
15 happening in regards to Mr. Zanidean.

16 Q You assumed all of this, did you?

17 A That's correct.

18 Q I see. So you didn't think it was necessary to  
19 tell Mr. Dangerfield -- or to make sure that  
20 Mr. Dangerfield was going to be told?

21 A I'm assuming that Mr. Miller would be telling  
22 him everything that was going on.

23 Q Because, of course, you knew, according to what  
24 Miller had supposedly told you, that Zanidean  
25 had been granted immunity?

1 A Sorry?

2 Q You knew, according to what Mr. Miller had  
3 supposedly told you, that Zanidean had been  
4 granted immunity?

5 A That's correct.

6 Q And you knew that that would be of interest to  
7 Mr. Brodsky?

8 A That's correct.

9 Q And you knew that that issue would come up at  
10 the trial?

11 A That's correct.

12 Q Did it not seem to you to be rather peculiar for  
13 Miller to be giving you advice and instructions  
14 of that nature, because that would undoubtedly  
15 result in Zanidean not telling the truth if he  
16 was asked by Brodsky whether he had received  
17 immunity?

18 A I'm sorry, could you repeat that question,  
19 please?

20 Q I will try and rephrase it for you. Mr. Brodsky  
21 is going to be very interested in knowing  
22 whether Zanidean has received any favour for his  
23 testimony, as it related to the Swift Current  
24 fire?

25 A That's correct.

1 Q And you knew undoubtedly that would come up in  
2 the trial?

3 A That's correct.

4 Q And you knew that Mr. Brodsky would be asking  
5 Mr. Zanidean whether he had received any favour,  
6 or in particular any immunity as it related to  
7 that fire?

8 A That's correct.

9 Q But to not tell Zanidean that he had received  
10 immunity meant that if it was asked by  
11 Mr. Brodsky whether he had received immunity, he  
12 would say no; right?

13 A That's correct.

14 Q And that would not be true. Because according  
15 to what you are telling us Miller told you, he  
16 did have immunity?

17 A But Mr. Zanidean did not know that.

18 Q And you think it is okay to let a witness  
19 testify to something that's untruthful?

20 A Because I was told not to tell him.

21 Q And you think that Bruce Miller would counsel  
22 you to let Zanidean testify to something that  
23 you, Miller, and Anderson all knew was untrue?

24 A I can't speak for what Mr. Miller was thinking.

25 Q No, that's true. Neither can he.

1 A Well --

2 MR. ABRA: I have no further questions. Thank  
3 you, Mr. Commissioner.

4 THE COMMISSIONER: We will adjourn until 2:00  
5 o'clock.

6 THE CLERK: All rise. This Commission of  
7 Inquiry is now in recess.

8 (Proceedings recessed at 12:47 and  
9 reconvened at 2:00 p.m.)

10 THE CLERK: All rise. This commission of  
11 inquiry is now recommenced.

12 THE COMMISSIONER: All right, Mr. Wolson.

13 BY MR. WOLSON:

14 Q Thank you. Good afternoon, Mr. Paul.

15 You told Commission Counsel, in response to  
16 one of his earliest questions, that you had  
17 heart bypass surgery, and that it has affected  
18 your memory in some respects, but you have a  
19 memory of the matter which we're here on today,  
20 don't you?

21 A Yes, I do.

22 Q You were paired with Tom Anderson during the  
23 time in question, true?

24 A That's correct.

25 Q And you were supervised by Bill Vandergraaf.



1 And one step ahead, or one rank ahead, of  
2 Vandergraaf was Inspector or Divisional  
3 Commander Randy Bell?

4 A That's correct.

5 Q They are both experienced homicide  
6 investigators?

7 A Yes, they are.

8 Q And I understand that at some point Bell had  
9 taken another post and D.K. Johnson took over  
10 from Bell's position, is that so?

11 A That's correct.

12 Q I'm advised that there was not much done by you,  
13 or Tom Anderson, that was not the subject of  
14 discussion and review and direction by Bill  
15 Vandergraaf?

16 A That's correct.

17 Q And Randy Bell and later D.K. Johnson?

18 A That's correct.

19 Q And that it was often on their direction and  
20 advice that you would act and carry on certain  
21 investigations pertaining to this matter?

22 A That's correct.

23 Q The first disclosure by Zanidean on October 10th  
24 that he had an issue regarding his credibility,  
25 and went on to tell you about the arson that he

1 and Mr. Driskell had committed in Swift Current,  
2 that was recorded, as best you could, verbatim  
3 in your notes?  
4 A That's correct.  
5 Q Initialled by your partner, Tom Anderson, in  
6 your notes?  
7 A That's right.  
8 Q These are notes that were copied and went to the  
9 Crown's office?  
10 A That's correct.  
11 Q And so, in terms of issue of credibility of  
12 Zanidean, and Mr. Abra had asked you many  
13 questions about that, it would be your  
14 information that that information had gone to  
15 the Crown's office?  
16 A That's correct.  
17 Q Your notes were copied by you?  
18 A Yes, they were.  
19 Q And were sent --  
20 A That's correct.  
21 Q -- to the Crown's office?  
22 A That's correct.  
23 Q I wanted to ask you that after these disclosures  
24 by the witness, Zanidean, you and your partner  
25 briefed Staff Sergeant Vandergraaf?

- 1 A That's correct.
- 2 Q And Randy Bell, who was the inspector?
- 3 A That's affirmative.
- 4 Q Now, I take it, eventually the comments that  
5 were made by Zanidean were disclosed to  
6 Mr. Miller?
- 7 A Yes, they were.
- 8 Q So that, at the end of the day, these  
9 disclosures, at least the October 10th one,  
10 particularly the October 10th one, where  
11 Zanidean wonders as to his credibility, had gone  
12 to your Staff Inspector Vandergraaf?
- 13 A Staff Sergeant.
- 14 Q Staff Sergeant Vandergraaf and to your Inspector  
15 Bell?
- 16 A That's correct.
- 17 Q And to Mr. Miller?
- 18 A That's correct.
- 19 Q And in your notes?
- 20 A That's correct.
- 21 Q You regarded Mr. Miller as the liaison with  
22 the -- or the liaison with the Justice  
23 Department in terms of dealing with issues of  
24 protection for Mr. Zanidean?
- 25 A That's correct.

1 Q And there's no question, is there, that when you  
2 first met Zanidean there became an issue of  
3 protection, in your minds, you and Anderson,  
4 because Zanidean had given you information  
5 regarding -- regarding the accused in your case,  
6 true?

7 A That's correct.

8 Q And that information -- you were of the view  
9 that Mr. Driskell, or at least of the belief at  
10 the time, that Mr. Driskell was charged with a  
11 homicide of a potential witness in a case  
12 against him?

13 A That's correct.

14 Q And Zanidean, who was known to Driskell, would  
15 be a potential witness in a case against  
16 Driskell?

17 A That's correct.

18 Q So protection was a very early consideration for  
19 you and your partner, Tom Anderson, true?

20 A Yes, it was.

21 Q And that was an issue raised with Vandergraaf  
22 and with Bell and, ultimately, with Bruce  
23 Miller?

24 A That's correct.

25 Q And in order to deal with Swift Current

1           appropriately, and you became aware that that  
2           was an issue being raised by Zanidean through  
3           his counsel with Mr. Miller?

4    A       I learned of that later, yes.

5    Q       Obviously, from your perspective, Mr. Miller  
6           would have had to have had the information that  
7           you had about Swift Current?

8    A       That's correct.

9    Q       Now, you've been asked about the fact that there  
10           were no supplementals regarding these two  
11           disclosures by the witness Zanidean on  
12           October 10th and October 29th. You were asked,  
13           and it was suggested to you, that there were no  
14           supplementals about those disclosures of the  
15           arson?

16   A       That's correct.

17   Q       Would I be correct that when you're  
18           investigating a murder case, if you become aware  
19           of an offence, a different offence in an outside  
20           agency, that what you would do is notify the  
21           outside agency?

22   A       That's correct.

23   Q       And you might prepare an assistance brief for  
24           the outside agency as to the information that  
25           you came to have from the witness?

1 A Yes, we would.

2 Q Now, when you learned, and you did learn  
3 initially from Tom Anderson that Swift Current  
4 was going to hold off, that was the initial  
5 response that you heard from Tom Anderson, Swift  
6 Current was going to hold off on the arson  
7 investigation as it pertained to Zanidean?

8 A That's correct.

9 Q And later when you heard that Swift Current was  
10 not going to pursue Zanidean at all, I'm  
11 assuming the documents to an outside agency  
12 became unimportant at that point?

13 A They were not necessary.

14 Q And I'm assuming that there is no question at  
15 all that the omission of putting in Swift  
16 Current information in a supplemental here in  
17 your office was not an intentional act to  
18 deprive the Crown of information?

19 A That's correct.

20 Q One of the Crowns, the Chief Crown, had the  
21 information, true?

22 A That's true.

23 Q Mr. Miller?

24 A That's right.

25 Q And there was information, of course, in your

1 notebook?

2 A That's correct.

3 Q You are now, or at least when you retired, you  
4 were a police officer for about 25 years, is  
5 that so?

6 A Just over 25 years.

7 Q I'm suggesting that it's inconceivable that you  
8 would intentionally withhold, from a prosecutor  
9 on a homicide case, material that could possibly  
10 affect the outcome of the trial?

11 A That's correct, I would never hold anything  
12 back.

13 Q You knew that Mr. Brodsky, representing  
14 Mr. Driskell, knew about the arson in Swift  
15 Current? You were aware of that?

16 A That's correct.

17 Q He had had a private investigator investigating  
18 in Swift Current, I think in -- sometime in May  
19 or in late April?

20 A I heard that, yes.

21 Q He would also, of course, know from his own  
22 client, that he and Zanidean were involved in an  
23 arson?

24 A If his client had told him, yes.

25 Q So you would expect that Brodsky would raise it

- 1 in cross-examination, that's something that you  
2 would have thought of and expected that to  
3 happen?
- 4 A That's correct.
- 5 Q To not tell the Crown about it would be to  
6 potentially affect their prosecution?
- 7 A Yes, it would.
- 8 Q Now, you brought Zanidean to court the day that  
9 he testified?
- 10 A That's correct.
- 11 Q Did Mr. Dangerfield come to you and say to you,  
12 at any point: Hey, Paul, what's this about  
13 Swift Current?
- 14 A No, he didn't.
- 15 Q To your knowledge, did he seek an adjournment  
16 before he re-examined Zanidean and come out and  
17 raise with you anything about Swift Current?
- 18 A No, he didn't.
- 19 Q Now, you knew George Dangerfield?
- 20 A Yes, did I.
- 21 Q You would expect him -- if he were shorted  
22 information, not given information, you would  
23 expect he would be very angry?
- 24 A Yes, he would be.
- 25 Q That didn't happen in this case, did it?



1 A No, it didn't.

2 Q Instead, what you got was a commendation, you  
3 and Tom Anderson, sometime after the trial?

4 A That's correct.

5 Q Now, tab 59 of book 2, do you have that in front  
6 of you? Volume 2, tab 29?

7 A I only have 57.

8 Q There was an add-on, tabs 58 and 59.

9 A No. I don't have that. Are you referring to  
10 this?

11 Q No. There was an add-on, which I will give you,  
12 if you don't have it. Would you give this to  
13 the witness, please? Just before do you that,  
14 Mr. Clerk, I made a note on the side and that  
15 shouldn't be there. Tab 59 is a document  
16 prepared by Bruce Miller to Stu Whitley on the  
17 4th of March, 1991. Do you see that at the top?

18 A Yes, I do.

19 Q And it's:  
20 "Regarding protected witness R. vs.  
21 Driskell."  
22 Do you see that?

23 A Yes.

24 Q If you go to the second paragraph:  
25 "Sergeant Tom Anderson of the Winnipeg

1           Police, who has been the police contact  
2           with this individual, and his lawyer, was  
3           in to see me Friday. We discussed a number  
4           of issues relative this particular  
5           situation, which I would like to bring to  
6           your attention."

7           Do you see that?

8    A       Yes, do I.

9    Q       I suggest to you that that would be an example  
10           that was not recorded, because there is no  
11           recording of it by your partner, Anderson, of  
12           visiting with Mr. Miller and briefing and  
13           debriefing him regarding the information at  
14           hand?

15   A       That's correct.

16   Q       And I'm assuming that you would not ordinarily  
17           make any notes of meetings that you would with  
18           Mr. Miller?

19   A       That's correct.

20   Q       In terms of making a supplemental about briefing  
21           with Mr. Miller, Mr. Miller would be, obviously,  
22           one of the parties that would have the  
23           information?

24   A       That's correct.

25   Q       So to prepare a brief would be simply to respond

1 to something that the Crown already had?

2 A That's correct.

3 Q Did you expect, when you talked to Mr. Miller,  
4 that information that you related to him  
5 regarding this matter, would go on to the Crown  
6 that was handling the case?

7 A Yes, I did.

8 Q Was there any doubt in your mind about that?

9 A No doubt at all.

10 Q Were you ever told by Mr. Miller: Hey, Paul, or  
11 Anderson, in your presence, whatever you told me  
12 is stopping right here? Were you ever told  
13 that?

14 A No.

15 Q No. They shared -- not only were they in the  
16 same building, Mr. Miller and Mr. Dangerfield,  
17 they were right next to one another, in the same  
18 building, on the same floor?

19 A I believe they were, yes.

20 Q Did you ever, or Anderson in your presence,  
21 offer Mr. Zanidean, at any time prior to the  
22 conclusion of the Driskell trial, did you ever  
23 say to Zanidean or Anderson, in your presence,  
24 we're not going to -- or we have information  
25 that you're not going to be charged in Swift

1 Current?

2 A Prior to his testimony?

3 Q Yes.

4 A No.

5 Q Did you ever offer him did he facto immunity  
6 when he first volunteered information about  
7 Swift Current?

8 A No.

9 Q Did you ever suggest to Zanidean what he should  
10 say in his statements to you?

11 A No. They were all taken verbatim.

12 Q So the statements, all of them, were Zanidean  
13 would utter the words and they would be  
14 recorded?

15 A That's correct.

16 Q And then given to Zanidean to look at?

17 A He would read it over and then sign it.

18 Q And make any changes if he thought there were  
19 inaccuracies?

20 A If he wanted to make changes, they would be  
21 made.

22 Q Did you ever coach him on what to say when he  
23 testified?

24 A No.

25 Q Did you always believe that Zanidean was going

1 to be in the Witness Protection Program?

2 A As far as I knew, he was going to be in there.

3 Q Did you know anything about a proposal of a  
4 lump-sum settlement in lieu of the formal  
5 Witness Protection Program? Did you know that,  
6 for instance, prior to the time of his  
7 testimony?

8 A No.

9 Q Were you, at some point, told by Tom Anderson  
10 that there was a problem with Zanidean getting  
11 into the formal Witness Protection Program if he  
12 had an outstanding investigation?

13 A Yes. Tom told me that at one point he had been  
14 talking to, I think it was Sergeant or Constable  
15 Orr -- or Corporal Orr, I believe it is, from  
16 witness protection stated that there could be a  
17 problem because of outstanding possible charges  
18 in Swift Current.

19 Q Would Sergeant Anderson relate to you the  
20 results of his phone calls to Swift Current?

21 A Yes, he would.

22 Q I want to ask you about the meeting that you  
23 attended in November to David Kovnats' office.  
24 You and Anderson attended to a meeting where  
25 Zanidean was present --

- 1 A That's correct.
- 2 Q -- with Kovnats?
- 3 A Yes.
- 4 Q You took him to that meeting?
- 5 A Are you talking about the meeting in his office?
- 6 Q A meeting in Kovnats' office. Was there a  
7 meeting in Kovnats' office?
- 8 A Yes, there was. You said did I take him there.  
9 I can't remember if we took him there or if we  
10 just met him there. I'm not sure.
- 11 Q He wasn't, at that time, in your 24-hour  
12 custody?
- 13 A No, he was not.
- 14 Q In that meeting was there ever raised by Kovnats  
15 that you and your partner had promised Zanidean  
16 that there would be no outstanding charges  
17 against him regarding the Saskatchewan matter?
- 18 A No.
- 19 Q You say that didn't happen at all?
- 20 A No, it didn't.
- 21 Q That would be consistent with your evidence that  
22 you never offered any favour in that regard to  
23 Zanidean?
- 24 A That's correct.
- 25 Q I want to ask you about the meeting that you had

1 at a restaurant, the one that you related to  
2 Mr. Code, in June. You took Zanidean to a  
3 restaurant not far from here, true?  
4 A That's right, it was Schmecker's Restaurant.  
5 Q Schmecker's Restaurant.  
6 A At Norwood Bridge.  
7 Q And it doesn't exist anymore, but it was there  
8 at the time?  
9 A That's correct.  
10 Q And you had brought him there so he could have  
11 some discussions with his counsel?  
12 A That's right. He had arranged a meeting with  
13 his lawyer, and that was the place that was  
14 suggested by them.  
15 Q And you allowed them privacy?  
16 A Of course.  
17 Q Now, Mr. Code had asked you if you would assume,  
18 and we know of the outcome, you eventually went  
19 out to the parking lot and there was this issue  
20 about the court statements that Kovnats had in  
21 his possession?  
22 A That's correct.  
23 Q And you stated earlier that you didn't see that  
24 there were other materials there and you saw the  
25 court statements?

1 A I just noticed the statements.

2 Q And Mr. Code asked to you assume that Kovnats  
3 and Zanidean had been talking about the  
4 statements and their accuracy. Do you know at  
5 all whether that's what Kovnats and Zanidean had  
6 been talking about?

7 A I have no idea what they were talking about. I  
8 was on the other side of the restaurant.

9 Q That matter was resolved, ultimately, by a phone  
10 call to your staff sergeant?

11 A That's correct.

12 Q In terms of making a report of that, at the time  
13 was there anything remarkable about it, other  
14 than the fact that you had a disagreement with  
15 David Kovnats?

16 A No. There was no reason to write a report. All  
17 it was, was just a disagreement over papers.

18 Q Were you ever instructed by your staff sergeant  
19 to prepare a report?

20 A No.

21 Q Did it have any consequence to you at the time?

22 A No, it didn't.

23 Q Now, you've testified at some length to the  
24 meeting that you had with Bruce Miller, Tom  
25 Anderson, regarding information and instruction



1           you were given by Mr. Miller as to when you  
2           should tell Zanidean of the results of the fact  
3           that charges weren't going to proceed in Swift  
4           Current. Do you recall that?

5    A       Yes, I do.

6    Q       Could you or Anderson make that kind of  
7           strategic decision yourselves?

8    A       A decision whether to tell him or not?

9    Q       The decision of when to tell him, was that  
10           something that you would take on yourself, or  
11           was that something that you would act on  
12           instruction?

13   A       Well, we were instructed, so we acted on the  
14           instruction.

15   Q       Did you give it much thought, that is did you  
16           think about it and analyze it? I know it's  
17           become the subject of much debate here at this  
18           inquiry. At the time, did you give it much  
19           thought?

20   A       Not really. I just followed the instructions  
21           given to me, and I thought about it briefly.

22   Q       Did you think you were doing anything wrong?

23   A       No.

24   Q       At the time?

25   A       No.

1 Q Now, when you testified at the trial, you were  
2 testifying about an area regarding measurements  
3 and fairly basic information that you were  
4 giving to the jury, true?

5 A That's correct.

6 Q When you went to testify, did you take your  
7 notebooks with you?

8 A Yes, I did.

9 Q And what did you do with your notebooks? What's  
10 your normal course and what did you do here?

11 A Normally, when I attend court, I take my  
12 notebooks out and I put them down on the dais in  
13 front of me. And if I have to refer to them,  
14 then I usually ask the judge if I can, and  
15 that's what I do all the time.

16 Q It appeared that you didn't refer to your notes,  
17 at least from the transcript that I've read, but  
18 you had them there if you needed them?

19 A That's correct.

20 Q Now, let me ask you, although you testified in  
21 chief regarding measurements, did you know  
22 before you came to the box that -- whether or  
23 not Mr. Brodsky would ask you questions beyond  
24 what Mr. Dangerfield had asked you?

25 A No, I didn't.

- 1 Q Did you know whether or not you would have to  
2 refer to your notes to refresh your memory of  
3 other matters, aside from measurements?
- 4 A Well, that's why I brought them with me, just in  
5 case I was asked any questions.
- 6 Q Now, you spent a fair bit of time with  
7 Mr. Zanidean, prior to his giving evidence, in a  
8 hotel room, or a suite in a hotel room, here in  
9 Winnipeg?
- 10 A That's correct.
- 11 Q And it would be fair to say that you and he, at  
12 some point, were not getting along very well?
- 13 A That's correct.
- 14 Q You grew not to particularly like him?
- 15 A That's correct.
- 16 Q He was making a lot of demands. And he  
17 particularly seemed to be on your case and  
18 constantly making suggestions that you weren't  
19 somehow -- while Mr. Miller was dealing with  
20 Mr. Kovnats, somehow you should be doing  
21 something in that regard?
- 22 A He didn't like me is the bottom line.
- 23 Q Yes. June 20th, after he testified, things came  
24 to a head?
- 25 A That's correct.

1 Q You had a falling out, a blowup with Zanidean?

2 A I just got fed up.

3 Q Yes. And now, I'm assuming you would agree with

4 me, that you did not have the authority to

5 unilaterally withdraw your police protection of

6 Mr. Zanidean?

7 A That's correct.

8 Q You phoned, ultimately, your inspector?

9 A I contacted Sergeant Anderson first at home.

10 And then the next day we met Inspector Johnson

11 and told him that the problem was. And he's the

12 one, at that time, who stated that we would be

13 pulling the protection.

14 Q And that wasn't a decision that you made?

15 A No it, wasn't.

16 Q What you wanted, actually, was to make sure that

17 if there was going to be further protection, it

18 wasn't going to be you who was baby-sitting

19 Zanidean?

20 A That's correct.

21 Q You wanted some relief in that regard?

22 A Yes. I wanted to get away from him.

23 Q And the decision was made by Inspector Johnson

24 to withdraw protection from the Winnipeg Police

25 Service for Zanidean?

- 1 A That's correct.
- 2 Q Now, did you tell Inspector Johnson about what  
3 you had learned of Zanidean's outburst, that he  
4 would go to the media and make suggestions that  
5 his evidence was untruthful? Did you tell that  
6 to Inspector Johnson?
- 7 A Yes, I did.
- 8 Q And he advised you he would tell Mr. Miller  
9 about it?
- 10 A That's correct.
- 11 Q And you expected that to happen?
- 12 A That's correct.
- 13 Q Did he advise you to prepare a supplemental on  
14 it?
- 15 A No. He didn't mention it.
- 16 Q You were asked by Mr. Abra, if you take a look  
17 at tab 53, tab 53 is a supplemental that you  
18 prepared in '93, September of '93, is that so?
- 19 A That's correct.
- 20 Q And that was prepared on the agreement that you  
21 had with, at the time, Ewatski and Hall, who  
22 were conducting the review?
- 23 A That's correct.
- 24 Q And Mr. Miller asked you --
- 25 A Mr. Abra.

1 Q Mr. Abra asked you. I'm sorry, I apologize.  
2 Mr. Abra asked you, in preparing that report, he  
3 said that Ewatski and Hall asked to you write  
4 everything you could about your knowledge of  
5 Zanidean and this case. But that isn't what you  
6 were asked to do, was it?  
7 MR. CODE: I wonder if my friend could stop  
8 leading his own witness.  
9 MR. WOLSON: Well, I think I'm entitled to  
10 cross-examine the witness, quite frankly, first  
11 of all. And secondly, I know my friend,  
12 Mr. Code, cross-examines every witness. At  
13 least certainly he has cross-examined this  
14 witness and another, but I will approach it from  
15 this perspective.  
16 BY MR. WOLSON:  
17 Q You gave a statement to Mr. Code in an interview  
18 you had with him?  
19 A I'm sorry?  
20 Q You had an interview with Mr. Code?  
21 A Yes, I did.  
22 Q And if you could take the interview at page --  
23 tab 1 -- I'm sorry, book 1, tab 3, page 20, you  
24 were asked by Mr. Abra why you didn't say things  
25 about Mr. Miller in that statement. And he

1 suggested to you that you were asked to write a  
2 report about everything you knew about this case  
3 and Zanidean. What were you asked to do?

4 A I was asked to report -- to write a report in  
5 regards to our dealings with Zanidean while we  
6 were handling him, while we had him in our, I  
7 guess, custody and when we were dealing with him  
8 prior to that.

9 Q And you made this statement at page 20:

10 "Hall and Ewatski asked them...",

11 I take it you and Anderson,

12 "...to focus on their final week of their  
13 time with Zanidean."

14 Is that what you were asked to do?

15 A That's correct.

16 Q And is that what you did?

17 A Yes, I did.

18 Q I want to ask you about Tom Anderson. You were  
19 partnered with him for a few years?

20 A That's correct.

21 Q What can you tell the Commissioner about Tom  
22 Anderson's honesty, in terms of his character?

23 A He's a very honest person. He has got lots of  
24 integrity. He has been in the police department  
25 or was in the police department for over 25

1 years. He worked in the homicide division for a  
2 long, long time as a supervisor in that division  
3 as well, after getting another promotion. I've  
4 had no problem with Tom Anderson.

5 Q Is it conceivable to you that he would  
6 intentionally withhold evidence from the  
7 prosecution?

8 A Never.

9 MR. WOLSON: Those are all of my questions.  
10 Thank you.

11 MR. KENNEDY: I guess I'm the only one left,  
12 Mr. Commissioner. I have no questions for this  
13 witness.

14 MR. WALLUM: Nor do I.

15 RE-EXAMINATION BY MR. CODE:

16 Q Just two questions in re-examination, Sergeant  
17 Paul. First of all, the cross-examination of my  
18 colleague, Mr. Gates, on behalf of the RCMP, and  
19 I think this was cleared up in Miss Carswell's  
20 and Mr. Abra's cross-examination to some extent,  
21 but I just want to make sure that I understand  
22 it. Mr. Gates, when he was cross-examining you  
23 this morning, asked you whether witness  
24 protection discussions would or would not go  
25 into your notes and, therefore, into reports.



1           And my note of your response is that you said:  
2           In some cases they would and in some cases they  
3           wouldn't, it would depend on whether they would  
4           compromise witness protection. And that word  
5           "compromise", I think this is what Miss Carswell  
6           cleared up with you, and Mr. Abra, to some  
7           extent as well. I take it what you mean by the  
8           kinds of witness protection matters that would  
9           compromise the witness would be matters that  
10          would identify his location, where he was  
11          living, for example?

12        A       That's correct.

13        Q       That would, obviously, compromise the witness  
14          protection measures?

15        A       Yes.

16        Q       Similarly, any information about a new identity?

17        A       Yes.

18        Q       Would, obviously, compromise the witness  
19          protection?

20        A       Yes, it would.

21        Q       Any other aspects of the -- I suppose we could  
22          say, generally, anything relating to the safety  
23          of the witness that would help somebody to find  
24          him or locate him?

25        A       That's correct.

1 Q Are the kinds of matters that you would not put  
2 in your notes or your report?

3 A That's right.

4 Q But things like Zanidean's outbursts, his  
5 demands, things that reflect on his motivation  
6 and credibility, I take it there's no suggestion  
7 that would compromise his safety?

8 A No, it wouldn't.

9 Q And, similarly, the Swift Current immunity deal  
10 and the negotiations over that, there's no  
11 suggestion that that would compromise his  
12 safety?

13 A That's correct.

14 Q And, finally, the total quantum of the monies  
15 that the Crown paid to him would not compromise  
16 his safety?

17 A No.

18 Q The only other question I had in re-examination  
19 was coming out of my colleague, Mr. Wolson's  
20 examination just completed this afternoon. He  
21 asked you about the October 10, 1990 admission  
22 to the arson, where Zanidean volunteers that  
23 there's a problem with his credibility. Do you  
24 remember that?

25 A Yes, I do.

1 Q And he brought out from you that you quoted it  
2 verbatim in your notes, to the best of your  
3 abilities, and then that you sent your notes on  
4 to the Crown. Do you recall that?

5 A That's correct.

6 Q Now, I don't want to leave the implication that  
7 the Crown had those notes at certain points in  
8 the history of the preparation that are germane  
9 here, so I just want to carefully go over the  
10 timing of this. We checked your notes over the  
11 lunch recess, the ones in the Crown file, the  
12 ones that you sent up to the Crown. And they,  
13 the last page of the version that the Crown has,  
14 is the same last page as we have here from your  
15 full notebook at tab 5, which is the May 17th  
16 entry. Do you have that at tab 5, the very last  
17 page of your notes? Your second notebook goes  
18 up to May 17th, page 576.

19 A Yes, I do.

20 Q So, in other words, it appears that you sent the  
21 Crown a full set of your notes, without omitting  
22 anything, at some point after that May 17th  
23 entry was made, would that be a reasonable  
24 inference?

25 A Yes, it would be.

1 Q Now, that's consistent with your recollection of  
2 when you did it, because you were about to  
3 testify?

4 A That's correct.

5 Q So if I could ask you to look at two tabs in  
6 volume 2. I didn't go through these with you in  
7 chief because we went through these ostensibly  
8 with your colleagues, Staff Sergeant Vandergraaf  
9 and Sergeant Anderson, who were more directly  
10 involved with these. But if you look at Tab 36,  
11 you see an April 26th letter from Mr. Lawlor,  
12 Crown counsel, to Mr. Brodsky, where he says:

13 "With respect to paragraph 16 of your  
14 letter --" do you  
15 have that at tab 36?

16 A Yes, I do.

17 Q "I am advised...",  
18 this is the February 7th letter which is  
19 back at  
20 tab 31, if you need to look it up.

21 "I am advised that you have all statements,  
22 conversations of Zanidean."

23 And would you read that as indicating that it  
24 would be -- it would appear that he has had some  
25 discussions or conversations with the police,

1 before responding to Mr. Brodsky's request for  
2 all references in the notebooks to conversations  
3 with Zanidean?

4 A Yes, it does.

5 Q So at the time that Mr. Brodsky -- Mr. Lawlor  
6 wrote that on April 26, 1991, he would not yet  
7 have your notes; is that correct?

8 A Probably not. I sent him my notes that were  
9 made shortly thereafter.

10 Q He would have had your notes about a month after  
11 he wrote this letter to Brodsky, it appears, is  
12 that fair?

13 A That's correct.

14 Q We know that your notes go sometime after  
15 May 17th, shortly before you're about to  
16 testify?

17 A That's correct.

18 Q So in responding to this, he wouldn't have been  
19 relying on a set of your notes, he would have  
20 been relying on something he was told about  
21 what's in your notes; is that fair?

22 A I am not sure what he said there.

23 Q Well, he says "I am advised", which would  
24 appear, you would agree with me, that he spoke  
25 to the police?

1 A That's correct.

2 Q And turning to tab 27, an April 29th letter from  
3 Mr. Lawlor, again to Mr. Brodsky, you see his  
4 third item, he says:

5 "re paragraph 9, Winnipeg Police have  
6 nothing on these incidents".

7 If you want to go back to Tab 33, you'll see what  
8 this question is in the April 25th letter.

9 Brodsky's question number 9 is:

10 "What do the Winnipeg City Police have on  
11 the fire in Swift Current?"

12 And Lawlor replies that you've got nothing on the  
13 fire in Swift Current, as of April 29th when he  
14 writes that letter, do you see that?

15 A Yes, I do.

16 Q And, again, when he was writing that letter on  
17 April 29th, it would appear that he did not have  
18 your notes yet. They were going to come in a  
19 couple of weeks' time?

20 A That's possible, yes.

21 Q Well, it's more than possible. You send him  
22 your full set of notes right up to May 17th --

23 A That's correct.

24 Q -- just prior to testifying?

25 A That's correct.

1 Q So you had to send them after May 17th?

2 A That's correct.

3 Q So when he is writing this letter on April 29th,  
4 again, he is relying on some advice he was  
5 given. He doesn't actually have your notes yet,  
6 is that fair?

7 A That's correct, he doesn't have my notes.

8 Q We know that that answer:

9 "The Winnipeg Police have nothing on the  
10 Swift Current arson",  
11 is false, don't we? We've got an important  
12 little piece of evidence about the Swift Current  
13 arson right in your notebook?

14 A That's right.

15 Q And, similarly, back at tab 26, the suggestion  
16 that the Crown has all statements and  
17 conversations of Zanidean, they don't have the  
18 ones that are reported only in your notebook  
19 yet, at this point, do they?

20 A Obviously not.

21 Q So that answer is false as well; is that  
22 correct?

23 A Obviously.

24 MR. CODE: Thank you very much.

25

1 BY THE COMMISSIONER:

2 Q Sergeant, I have a few questions. First of all,  
3 I would like you to tell me, as best your memory  
4 serves you, about the very initial contact with  
5 Zanidean. Did he contact you by phone or  
6 contact the police department by phone?

7 A He actually called the Crimestoppers' number.

8 Q Okay. He called Crimestoppers, okay.

9 A And we were in the process of having a meeting  
10 in the inspector's office, a shift meeting, when  
11 the person answering the phone in the  
12 Crimestoppers' office came to our door and said  
13 he had somebody on the line who seemed to have  
14 good information on the Harder murder. So I  
15 went to the Crimestoppers office and spoke to  
16 him. And then arranged to meet him out of town,  
17 and that's when we had our first meeting with  
18 him.

19 Q What do you recall he said in that initial  
20 conversation?

21 A Well, I have -- in my notes, I would have to  
22 refer to them, but basically that he had known  
23 Driskell. He knew all about the charges that  
24 were pending against him and Harder. And  
25 discussion went on after that in regards to the



1 way that Driskell had been planning to get rid  
2 of Harder, asking for assistance in that matter.

3 Q Now, did he talk about the -- any involvement he  
4 had in the original charge against Harder and  
5 Driskell?

6 A Yes. I have it in that note that's not in my  
7 notebook, the notes that I first took that he  
8 said he had originally called Crimestoppers in  
9 regards to the chop shop incident when Harder  
10 and Driskell were first --

11 Q Did that come up early on in the conversation?

12 A I have to assume that that was one of the first  
13 things he said. Now, I don't know if I made  
14 notes -- if I made those notes when I was on the  
15 phone with him or when we first met. I can't  
16 remember.

17 Q Okay. All right. And then when you met with  
18 him, he said he had some information about the  
19 Harder murder?

20 A That's correct.

21 Q Now, as best you can recall, can you give me the  
22 sequence of the conversation as to when the  
23 question about Swift Current arose? And I  
24 realize that -- what the words were, but when  
25 did that arise in the conversation?

1 A He was just giving us more -- this is our second  
2 meeting. He was just talking more about Harder,  
3 like, his involvement, Driskell asking him to  
4 help him and so on. And then out of the clear  
5 blue, he just came out with this comment about  
6 his credibility and then made the admission  
7 about the Swift Current fire. There was no  
8 prompting by us or anything like that. He just  
9 out of the blue --

10 Q Did he ever mention Sergeant Mann, or someone  
11 from the Winnipeg Police Department, trying to  
12 locate him?

13 A No, he didn't.

14 THE COMMISSIONER: Counsel, would you refresh my  
15 memory on the -- on when it was that Mann first  
16 made the attempts to contact Mr. Zanidean?

17 MR. CODE: If you refer to Exhibit 1,  
18 Mr. Commissioner, the request goes out to Mann,  
19 it's at tab 17, I believe. Yes, tab 17 is the  
20 telex to Mann, or to the Winnipeg Police  
21 Service, asking them to interview Zanidean,  
22 that's July 27, 1990. And then if you go to tab  
23 20, you get Burton's continuation report where  
24 he records the calls he received from Sergeant  
25 Mann on August 8th. He will interview -- he has

1 got his address, a different address than the  
2 one at tab 17. Burton sends him the address  
3 they have got off the motor vehicle check at tab  
4 17 on July 27th. And then on August 8th, Mann  
5 calls back, gives him the address that he has  
6 found. And the note is:

7 "He will interview him today. He is also  
8 at a hospitals checked."

9 So the two dates are July 27th and August 8th,  
10 tabs 17 and 20, Exhibit 1.

11 BY THE COMMISSIONER:

12 Q Were you aware of this conversation between  
13 Swift Current and Mann and Mann's attempts to  
14 speak to Zanidean?

15 A No, I was not.

16 Q Did Zanidean say anything to you that would  
17 cause you to believe that he was -- that he was  
18 quite aware or that he was aware that the  
19 Winnipeg Police were trying to track him down  
20 about -- perhaps about Swift Current?

21 A No, he didn't.

22 THE COMMISSIONER: If anyone has any questions  
23 arising out of those questions of mine, feel  
24 free. Okay, thank you very much. You've been  
25 very helpful.

1 MR. CODE: We're in that unfortunate situation,  
2 that counsel never really likes to be, where  
3 we've got two hours left in the day. But my  
4 colleagues have indicated, and I understand  
5 their position, that they don't want to  
6 cross-examine Sergeant Anderson until  
7 Mr. Lockyer comes back and leads it off. So I  
8 think we have to await tomorrow morning at 9:30  
9 for Sergeant Anderson's return to continue  
10 cross-examination.

11 THE COMMISSIONER: Well, if it wouldn't be  
12 impolitic of me to comment, I'm not dreadfully  
13 disappointed. The last two weeks have exhausted  
14 me, so an early day will not bother me as it  
15 might have 25 years ago.

16 MR. CODE: I'm sure we've all got lots of work  
17 that we can get done in the next two hours.

18 THE COMMISSIONER: Okay.

19 MR. CODE: I'm hoping that the silver lining in  
20 this is that my colleague's cross-examinations  
21 will become very succinct and focused overnight  
22 because I can -- I can tell that you I'm very  
23 worried about getting Mr. Brodsky and Chief  
24 Ewatski in next week before they run into  
25 serious difficulties in their calendars. So I

1 would urge my colleagues to prepare assiduously  
2 overnight and come in with pithy little  
3 cross-examinations.

4 THE COMMISSIONER: We may have to have  
5 Mr. Libman do the cross-examination.

6 MR. CODE: His was very pithy.

7 THE COMMISSIONER: I think everyone was today,  
8 and so I think a lot was done today and over a  
9 brief period of time. Thank you all and see you  
10 tomorrow.

11 THE CLERK: All rise. This Commission of  
12 inquiry is now adjourned.

13 (PROCEEDINGS ADJOURNED AT 2:48 P.M.)

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COURT REPORTER'S CERTIFICATE

CECELIA REID and LISA REID, duly appointed  
Official Examiners in the Province of Manitoba,  
do hereby certify the foregoing pages are a true  
and correct transcript of our Stenotype notes as  
taken by us at the time and place hereinbefore  
stated.

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Cecelia Reid  
COURT REPORTER

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Lisa Reid  
COURT REPORTER

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<p>1911:8 1913:16                  1914:7,12,18                  1916:21,24                  1917:23 1918:7                  1919:3 1922:22                  1933:13,14                  1962:21,25                  1976:15 1988:24                  1994:5,17                  2000:13,25                  2001:2 2002:16                  2012:21,25                  2013:21 2067:23  <b>3rd</b> 1913:6 1922:8                  1928:22 1930:16                  1931:8,20 1992:9                  2020:14,20  <b>31</b> 1894:17 1898:1                  2073:20  <b>33</b> 1906:15,23                  2075:7  <b>36</b> 2073:10,15  <b>37</b> 1907:15,19  <b>38</b> 1908:13,15,17,21  <b>386</b> 1979:21  <b>39</b> 1974:12</p> <hr/> <p style="text-align: center;"><b>4</b></p> <p><b>4</b> 1914:13,18                  1973:15 2013:2  <b>4th</b> 1992:9 2020:20                  2054:17  <b>4:30</b> 1971:14  <b>41</b> 1906:9 1911:3,4                  1920:20 1921:8                  1980:24,25                  1982:2  <b>413</b> 1958:23 1979:7                  1979:14  <b>43</b> 1906:2 1912:17                  1912:21 1920:20                  1921:8  <b>45</b> 1983:18  <b>458</b> 1958:20</p> <hr/> <p style="text-align: center;"><b>5</b></p> <p><b>5</b> 1924:24,25 1971:2                  1971:3 1972:8                  1973:2 2013:21                  2072:15,16  <b>513</b> 1971:3,12  <b>519</b> 1971:3 2013:23  <b>52</b> 1930:14 1931:19                  1932:25 1933:18  <b>520</b> 2013:22 2014:5  <b>521</b> 2015:14  <b>53</b> 1954:4,18 2036:7</p>	<p>2066:17,17  <b>548</b> 1972:8 1973:2  <b>550</b> 1925:10  <b>551</b> 1925:12  <b>57</b> 2054:7  <b>576</b> 1925:18                  2072:18  <b>58</b> 2054:8  <b>59</b> 2054:5,8,15</p> <hr/> <p style="text-align: center;"><b>6</b></p> <p><b>6A</b> 1898:15 1971:2  <b>6B</b> 1898:15 1906:1                  1980:24,24                  1990:3  <b>6th</b> 1925:22                  1931:15 1933:1,9</p> <hr/> <p style="text-align: center;"><b>7</b></p> <p><b>7</b> 1907:1,6,22                  1909:15,19  <b>7th</b> 2073:18  <b>70</b> 1987:25  <b>77</b> 1973:17,20,23,25                  1974:2,12  <b>77s</b> 1973:18,24</p> <hr/> <p style="text-align: center;"><b>8</b></p> <p><b>8</b> 1897:7 1909:14,16                  1910:4,6 1958:20                  1958:23 1981:14                  1981:23  <b>8th</b> 1910:2,15                  1917:11,18,25                  2000:22 2020:2                  2079:25 2080:4,9  <b>80's</b> 1970:1</p> <hr/> <p style="text-align: center;"><b>9</b></p> <p><b>9</b> 1894:18 1897:3                  1959:1 1981:9,17                  1981:19 1999:6                  2075:5,9  <b>9th</b> 1970:24 1972:4                  1980:15 1999:10  <b>9-1</b> 1897:5 1981:20  <b>9-2</b> 1897:7 1981:22  <b>9:30</b> 1898:2 2081:8  <b>90</b> 2024:7  <b>93</b> 2066:18,18</p>			
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