INQUIRY INTO THE INVESTIGATION AND PROSECUTION OF DEREK HARVEY-ZENK

The Honourable Roger Salhany, Q.C., Commissioner

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

Tuesday, June 10, 2008

Volume 4

INQUIRY PROCEEDINGS

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- 1 TUESDAY, JUNE 10, 2008
- 2 UPON COMMENCING AT 9:00 A.M.
- 3 THE CLERK: All rise, please. This
- 4 Commission of Inquiry is now opened. Please be
- 5 seated.
- 6 THE COMMISSIONER: Good morning. Yes,
- 7 Mr. Paciocco.
- 8 MR. PACIOCCO: Good morning,
- 9 Mr. Commissioner. We are going to be, today,
- 10 going through the background and operation of the
- 11 Victims' Bill of Rights. We are going to be
- 12 calling two witnesses, Jackie St. Hill, who is a
- 13 career prosecutor who I will introduce to the
- 14 Commission in a moment, and Suzanne Gervais, the
- 15 acting director of Victims' Services, who will be
- 16 able to give us a good deal of background
- information as to what the law requires and how it
- 18 operates in practice.
- 19 After we finish with those witnesses,
- 20 I anticipate that we will be able to reach Lesley
- 21 McCorrister today. We don't know quite how far we
- 22 are going to get. We have a lot of documents to
- 23 go through with the Victims' Services experts, if
- 24 I can call them that, and I'm not exactly sure how
- 25 long that is going to take. But that is the basic

- 1 plan for today.
- The first witness I will be calling up
- 3 in a moment is Jackie St. Hill. And just to give
- 4 you a background before I put Ms. St. Hill on the
- 5 stand, I will take her through her credentials,
- 6 but you will learn that she is a very experienced
- 7 prosecutor with the Manitoba Justice. She is a
- 8 witness today even though she has no direct
- 9 material connection to this case. If this was a
- 10 court of law, I would be presenting her formally
- 11 as an expert witness, because she is being offered
- 12 to provide background information about the
- 13 structure and administration of the Victim's Bill
- 14 of Rights, and offer, if relevant, opinions on the
- 15 obligations and practices that would be expected
- of a prosecutor in circumstances that may be
- 17 relevant to this case.
- 18 We are going to take the opportunity
- 19 of her attendance and her expertise to actually go
- 20 through the statute and the various victims'
- 21 policies that have been generated within Manitoba
- 22 Justice for the administration of the Victims'
- 23 Bill, and have her discuss primarily the
- 24 prosecution role, and even give us some insight
- 25 into the obligations on investigators. So it is

- 1 essentially a background information session that
- 2 I intend to conduct with this witness.
- If Jackie St. Hill could be called to
- 4 the stand, please?
- 5 JACQUELINE ANGELA ST. HILL, having
- first been duly sworn, testified as
- 7 follows:
- 8 MR. PACIOCCO: Ms. St. Hill, you look
- 9 at home in a courtroom.
- 10 THE WITNESS: I am, thank you.
- 11 BY MR. PACIOCCO:
- 12 Q I know there is no place that a lawyer
- 13 would least rather be than on the witness stand,
- 14 so thank very much for offering your services to
- 15 us today.
- I understand that you are the Deputy
- 17 Director of the Prosecution Service of Manitoba
- 18 Justice responsible for general Winnipeg
- 19 prosecutions?
- 20 A Actually, the Deputy Director was the
- 21 previous title, so half of it is correct, I'm one
- of the directors and I'm responsible for Winnipeg
- 23 prosecutions, and that is one of three divisions
- 24 within our office.
- 25 Q I see. And the other two divisions

- 1 are?
- 2 A The other two are regional
- 3 prosecutions, and that incorporates our offices
- 4 outside of Winnipeq. And the other section deals
- 5 with appeals and our specialized units so there
- 6 are directors for each of those areas, the
- 7 regional prosecutions being my colleague, Brian
- 8 Kaplan, and appeals and specialized units being by
- 9 colleague, Tracey Lord.
- 10 Q So it is evident that you are a very
- 11 highly placed government lawyer responsible for
- 12 prosecutions and participating in the prosecution
- 13 services in the province?
- 14 A Yes.
- 15 Q You have been certainly been a career
- 16 prosecutor. I understand that you have been in
- 17 the prosecution services for more than 20 years?
- 18 A That is correct.
- 19 Q And you have spent many years as a
- 20 line prosecutor, as we might call them, those who
- 21 go in court with dockets and handle the cases as
- they come on a day-to-day basis?
- 23 A Yes, that's right.
- Q And you became a unit leader quite
- 25 some time ago?

- 1 A That was in the late '90s, 1997, 1998.
- Q Okay. And 1999, you were appointed
- 3 Deputy Director, am I right about that?
- 4 A That's correct.
- 5 Q Okay. And that was for intake
- 6 section, that was under a previous administrative
- 7 structure?
- 8 A That's right.
- 9 Q Okay. And Ms. St. Hill, I know you
- 10 have had no material involvement in this case, but
- 11 you had some very peripheral activity that touched
- 12 upon this case. Would that be fair to say?
- 13 A I'm not certain what you are referring
- 14 to?
- 15 Q Well, I'm referring to a document, an
- 16 email chain, a document that I showed you earlier
- 17 this morning?
- 18 A Yes. Actually, I had no recall of
- 19 that until you showed it to me this morning.
- Q Okay. I'm going to show it to you
- 21 now, and for the sake of completeness, I am going
- 22 to have it put in as an exhibit. It is a document
- 23 found in book R-1, tab 91.22, book R-1, tab 91.22
- 24 at page 3182.
- THE CLERK: Exhibit 46.

- 1 (EXHIBIT 46: R-1.91.22 Hard copy of
- 2 email trail, last message from Brian
- 3 Kaplan to Jacqueline St. Hill sent 5
- 4 19 06 750am)
- 5 BY MR. PACIOCCO:
- 6 Q Now, the clerk is providing with you a
- 7 copy of exhibit 46, and it appears to be an email
- 8 chain that was directed to a number of highly
- 9 placed justice officials, and it concerned the
- 10 need to adjourn the first Preliminary Inquiry in
- 11 the prosecution of Derek Harvey-Zenk. And it
- 12 involved an attempt to secure advice on how best
- 13 to go about securing that adjournment by
- 14 Mr. Minuk, with some of the officials in justice.
- 15 And it appears that you were cc'd or copied on
- 16 that general correspondence, along with a number
- 17 of other people. Do you recall that?
- 18 A Looking at it now, yes.
- 19 Q Okay. And the only contribution that
- 20 you had was to suggest that perhaps this case
- 21 should be marked for, or designated for CIA. Can
- 22 you tell us what CIA is?
- 23 A That relates to a controversial issues
- 24 alert. What that is, it is the responsibility of
- our office to bring to the attention of the

- 1 Deputy's Office any matter that might lead to some
- 2 media queries, or queries from the public, so as
- 3 to give them a heads up to be prepared to answer
- 4 those queries.
- 5 Q Fair enough. So it is basically just
- 6 to keep everybody in the entire Ministry aware of
- 7 what is happening in a case, in case that
- 8 particular incident that is identified as a
- 9 controversial issues alert becomes something that
- 10 requires a comment, or somebody may be approached
- 11 about it at some point in time?
- 12 A That's correct.
- Q Okay. So other than that, this is not
- 14 your case and you did not work on the case in any
- 15 meaningful way?
- 16 A That's right.
- 17 Q So we have called you here today to
- 18 assist us with the legislation and administration
- 19 of the Victim's Bill of Rights. As I'm sure you
- 20 are aware, we are going to also be hearing from
- 21 Suzanne Gervais, who I know you know to be the
- 22 acting director of Victim's Services?
- 23 A Yes.
- Q We have agreed to have Ms. Gervais
- 25 remain in the body of the courtroom, so if we get

- 1 any objections that anybody here may have, she has
- 2 been exempted from the order of excluding
- 3 witnesses, and we felt it might be helpful to have
- 4 her hear your testimony so that she can add to it
- 5 or comment on anything that you might have to say.
- I understand that in your role you
- 7 worked with the Victim's Bill of Rights, 1998, as
- 8 it was initially passed, as prosecutor on a
- 9 day-to-day basis?
- 10 A At that point I was still carrying
- 11 some caseload, so even if I was involved in more
- 12 administrative work, it definitely was something
- 13 that I would be dealing with.
- 14 Q And you have had some supervisory role
- 15 to play with respect to victims' matters?
- 16 A Yes.
- 17 Q And I noticed your name on a couple of
- 18 memos and, again, for the sake of completeness,
- 19 I'm going to bring them forward as documents in
- 20 this proceeding. They are to be found at book
- 21 R-3, tab 92.1. At page 33.21 and 33.22,
- 22 R-P.92.31, page 3321 and 3322.
- THE CLERK: Exhibit 47.

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1 (EXHIBIT 47: R-3.92.1 Hard copy of
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- email dated February 7, 2202 from
- 3 Tammy Padoba to Jacqueline St. Hill
- 4 attaching memo dated February 6, 2002)
- 5 BY MR. PACIOCCO:
- 6 Q Those documents have been put before
- 7 you, Ms. St. Hill. Can you describe what those
- 8 documents are?
- 9 A The documents that I currently have
- 10 are email attachments from February 7, 2002, sent
- 11 out from our administrative assistant, and memos
- 12 relating to Highway Traffic Act fatalities and
- 13 expanded VBR regulation. Those are informational
- 14 memos to all Crown Attorneys, just advising them
- of some update with respect to Victim's Bill of
- 16 Rights and providing them with information to
- 17 assist them.
- 18 O Okay. And I notice that you are the
- 19 originator of those memoranda?
- 20 A That's correct, my name is on those,
- 21 and I would have generated them.
- 22 Q So it is fair to say that this
- 23 involves clarification with respect to the
- 24 implementation of Victim's Bill of Rights matters,
- 25 and that you are alerting all prosecution staff in

- 1 your capacity as director of the Winnipeg
- 2 Prosecutions Division, that these changes or these
- 3 clarifications require note, and you are
- 4 attempting to assist in making sure that they are
- 5 implemented throughout the Prosecution Service?
- 6 A Yes.
- 7 O And I understand that there have also
- 8 been a number of policy directives issued within
- 9 the Ministry relating to the Victim's Bill of
- 10 Rights?
- 11 A That's correct.
- 12 Q And I'm going to take you through
- 13 those in some detail later. For now I'm just
- 14 going to refer to the one that may be at the heart
- of the questions that I'm going to be asking you.
- 16 This is the document that is found in book R-4 at
- 17 page 3401.7, R-4 at page 3401.7.
- 18 THE CLERK: Exhibit 48.
- 19 (EXHIBIT 48: R-4 Disclosure relating
- 20 to Prosecution (Further disclosure
- 21 from Government of Manitoba)
- 22 BY MR. PACIOCCO:
- 23 Q You will be furnished with exhibit
- 24 R-4, it is a composite exhibit, it contains a
- 25 number of documents. I'm going to ask you,

- 1 Ms. St. Hill, to turn to page 3401.7, which you
- 2 will find in the lower right-hand corner, 3401.7.
- 3 You should have in front of you the "Manitoba
- 4 Department of Justice Prosecutions Policy
- 5 Directive, subject Victims, " dated July 2005?
- 6 A Yes.
- 7 O And I understand from earlier
- 8 interviews with our office that you were part of a
- 9 group that worked on the production of this
- 10 particular policy directive?
- 11 A Yes, that's correct.
- 12 Q And what exactly does a policy
- 13 directive accomplish? What is its purpose?
- 14 A It is to offer assistance to Crown
- 15 Attorneys, guidelines, if you will, how they need
- 16 to take certain issues into account as they go
- 17 about doing their work. So our office has a
- 18 policy manual that covers all manner of topics.
- 19 Again, the intent is to make sure that not only
- 20 are people are aware of what is required, but
- 21 there is consistency as an office. We have over
- 22 100 prosecutors and we certainly can not have
- 23 people doing things a hundred different ways.
- Q Okay. I am going to take you through
- 25 some of those policy directives later, but you

1 also, of course, have made yourself more familiar

- 2 with the legislation, or at least refreshed
- 3 yourself in the consultations you have had with
- 4 our office in preparation for today's testimony.
- 5 If this was a trial, I would be now asking the
- 6 Commissioner to recognize your expertise, but I do
- 7 not know that we need to go through that
- 8 formality. So I'm going to ask you a number of
- 9 questions relating to the operation of the bill.
- 10 And I'm going to begin with the most general.
- 11 This is a public Inquiry and we have
- 12 to make sure that the public understands
- 13 everything that is transpired. So I'm going to
- 14 ask you, if you can, to put in simple terms what
- the function of a Victim's Bill of Rights is?
- 16 A It is to ensure that victims in cases
- 17 have the opportunity to be heard in the case that
- 18 they are attached to, an opportunity for them to
- 19 receive information about what is happening in the
- 20 case, a forum to ask questions and to raise
- 21 concerns, and ultimately, hopefully to understand
- 22 what is going on in the case that relates to them.
- 23 So it is an effort, in a structured way, to make
- 24 sure that they are not forgotten in the process.
- 25 Q I'm going to refer another document to

- 1 you. This document will be found in book R-3, tab
- 2 92.7. R-3, Mr. Commissioner, tab 92.7, and I'm
- 3 going to be taking Ms. Hill to page 3336. The
- 4 second of the pages of the document that you will
- 5 be looking at is numbered page 3336.
- THE CLERK: Exhibit 49.
- 7 (EXHIBIT 49: R-3.92.7 Hard copy of
- 8 email dated March 17, 2008 from
- 9 Jacqueline St. Hill to Glenn
- 10 McFetridge attaching copies of Victim
- 11 Services Policy)
- 12 BY MR. PACIOCCO:
- 13 Q Do you recognize that document,
- 14 Ms. St. Hill?
- 15 A This is a Victims' Service outline in
- 16 terms of the work that that particular part of
- 17 our -- they are not part of our division, they are
- 18 part of our department -- what their work does.
- 19 Q Okay. And have you seen that document
- 20 before?
- 21 A I do not know if I have seen it in
- 22 this format. I'm just going to have a look
- 23 through. I can't say. I have been involved in
- 24 Victims' Bill of Rights work for years, so there
- 25 are bits and pieces of things that may look

1	familiar. And this particular format, I might	
2	have seen it, I know what it is.	
3	Q I'm sure Ms. Gervais will be able to	
4	explain the origin of the document but it is	
5	probably the most comprehensive description of	
6	Victims' Services among the materials that we have	
7	received. And you can see there that on page 3336	
8	it actually sets out in bullet point a number of	
9	objectives for the Victims' Services, and no doubt	
10	following from the Victim's Bill of Rights. And	
11	they include a number of the things that you	
12	commented on:	
13	"To interpret and explain the	
14	complexities of the criminal justice	
15	process in a way that is	
16	understandable to the victim.	
17	To provide information and assistance	
18	to victims of crime regarding the	
19	criminal incident, their eligibility	
20	for Victim's Bill of Rights	
21	registration, Victim Impact	
22	Statements, compensation for victims	
23	of crime and other victim related	
24	programs and support services."	
25	Five bullets down:	

1		"To provide short-term counselling."
2	Six bullets	down:
3		"To liaise with police, prosecutions,
4		probation courts and correction
5		officials to ensure that victims
6		receive accurate information and that
7		they are able to voice their
8		concerns."
9	Next:	
10		"To address victims' emotional
11		variability by diffusing situations
12		and debriefing the victims throughout
13		the court process in a respectful
14		manner."
15	Over on the	next page:
16		"To consult with the Crown Attorney
17		where necessary to ensure that
18		information provided to victims is
19		accurate and up-to-date.
20		To work as a team member to coordinate
21		victim access to criminal justice
22		system by making recommendations and
23		relating concerns and accurate
24		information to the appropriate justice
25		partner, police, Crown, courts,

- 1 corrections.
- 2 To provide court support and
- 3 accompaniment on a priority basis."
- 4 So that is not even a complete list of
- 5 everything there, but there is a whole range of
- 6 objectives and services provided. And what they
- 7 have in common, of course, I think you would
- 8 agree, is to make victims aware of what goes on
- 9 and to feel more comfortable in the system, and to
- 10 make a very complex criminal justice system as
- 11 understandable and friendly as possible. Would
- 12 that be fair?
- 13 A Yes.
- 14 Q You were a line Crown before the
- 15 Victim's Bill of Rights Act was passed?
- 16 A Yes.
- 17 Q And I was as well. Can you just
- 18 describe the change, the cultural change that
- 19 occurred with the passage of Victims' Rights
- 20 Legislation?
- 21 A Well, I think that perspective may
- 22 relate to the nature of the work that prosecutors
- 23 may have been handling. In serious matters, the
- 24 notion of speaking with the family and providing
- information is something that had always been in

- 1 place. So for many of our senior prosecutors,
- 2 what changed when the Victim's Bill of Rights came
- 3 in is that it was actually formalized now, and
- 4 there were actual legal requirements. And also
- 5 there was a framework and structure put in place
- 6 to ensure that things were done in a certain way.
- 7 Our Victims' Services component was enhanced. So
- 8 in some ways it became easier, if you will, to
- 9 deal with some of the difficulties when it came to
- 10 speaking with victims' families, particularly in
- 11 serious matters. But for a lot of Crowns that was
- 12 occurring anyway, so it was part of the continuum.
- 13 My own history is that I dealt with
- 14 many cases dealings with vulnerable victims
- 15 generally. So from my perspective, I didn't feel
- 16 there was too much change. For some of my
- 17 colleagues who maybe didn't deal with those kind
- 18 of cases, they may have noticed it more. So in a
- 19 general way, what happened was there was a
- 20 formality imposed, people really needed to be
- 21 mindful consistently to follow the procedures that
- 22 were put in place. But from Crown to Crown, I
- 23 think you would have to look at what their
- 24 perspective was and what it meant for them as to
- 25 how they went about their job, based on what their

- 1 experiences were.
- 2 Q If we can summarize, I guess what you
- 3 are saying is that those who worked in areas where
- 4 there were vulnerable victims or had a higher
- 5 sensitivity to the importance of dealing with
- 6 victims found no serious change in the way they
- 7 did business, but this provided a uniform way to
- 8 try and ensure that everybody lived up to those
- 9 same basic standards?
- 10 A That's right.
- 11 THE COMMISSIONER: What training did
- 12 Crowns get with this new legislation?
- 13 THE WITNESS: When the legislation
- 14 came in there were a number of information
- 15 sessions set up, same way that might occur when
- 16 there is a change in the law, and there is a need
- 17 to make sure that Crown Attorneys are made aware
- 18 of what is different. A lot of it was focused on
- 19 making sure they understood the obligations that
- 20 were set out, so they knew the points which there
- 21 needed to be contact, consultation. There was
- 22 also a lot of information provided about how that
- 23 was to be done, to ensure that Crown Attorneys
- 24 would bring in the Victims' Services side.
- 25 Sometimes people would set up a meeting on their

- 1 own and forget that there was a Victims' Service
- 2 worker that would assist them. So we wanted to
- 3 make sure they knew how to contact those people to
- 4 make sure they were part of the process. We had
- 5 enhancements to our information management system
- 6 around the same time, and that was to allow for
- 7 the sharing of information in a better way. So
- 8 there was training to make sure people knew how to
- 9 use the system. And we had sometimes one-to-one
- 10 training in respect to that matter. But in terms
- of Victims' Bill of Rights, it was a real focus on
- 12 understanding what the legislation was.
- 13 Some of the exhibits that have been
- 14 filed already are memos that have gone out over
- 15 time, and there have been many over the years.
- 16 Initially there was a lot of information, and we
- 17 are now six years plus, seven years into the
- 18 Victim's Bill of Rights, so we don't see as much
- 19 activity in terms of providing information, but
- 20 initially there was a lot. And people were
- 21 encouraged to go and speak to their supervisor if
- they weren't certain about something and to ask
- 23 the questions.
- 24 We did have presentations from
- 25 Victims' Services staff to deal with the other

- 1 considerations that arise in these matters, and
- 2 I'm not talking about the legal requirements, but
- 3 sometimes how to deal with a victim who is upset,
- 4 how to deal with some of those issues, because
- 5 people have different skills. But Crown Attorneys
- 6 didn't receive a specific training module or
- 7 anything like that for that issue, it was more
- 8 information, things for them to keep in mind and
- 9 to assist them. And over time, whenever there is
- 10 a new issue that arises, because of email now,
- 11 that is usually how things go out, there will be
- 12 an email notice. And from time to time, if there
- is something really new, we can have a seminar
- 14 over the noon hour. This issue has come up at
- 15 Crown conferences that we hold over the years, we
- 16 have a number of training days every year, and
- 17 this has been an issue on those agendas. So there
- 18 has been a broad effort to make sure that people
- 19 have the information and incorporate it in to how
- they do their job.
- THE COMMISSIONER: It is my experience
- that special prosecutors are not invited to Crown
- 23 counsel conferences. What training would special
- 24 prosecutors, I'm talking about independent
- 25 prosecutors, get in this act?

- 1 THE WITNESS: All of our contact with
- 2 independent prosecutors is done through one of the
- 3 other directors. And I'm advised that the
- 4 material that was initially provided to Crown
- 5 Attorneys was provided to our independent counsel
- 6 staff.
- 7 I do know that the letter that goes
- 8 out confirming the arrangement of the file being
- 9 shipped out to independent counsel, I do know that
- 10 that letter does contain reference to the Victim's
- 11 Bill of Rights and the obligations, but I can't
- 12 comment on what other things may occur, because I
- don't get involved in those particular
- 14 arrangements in retaining outside counsel, or
- 15 discussing matters that we send out to them.
- 16 THE COMMISSIONER: Thank you.
- 17 BY MR. PACIOCCO:
- 18 O Ms. St. Hill, you basically have
- 19 focused on the lack of change for many
- 20 prosecutors, but this bill has a large number of
- 21 sections and does a variety of things, and it
- 22 includes within it obligations on a number of
- 23 government entities.
- 24 A Yes.
- 25 Q And for example, it includes

- 1 provisions for compensation of victims of crime.
- 2 And I understand it is not material to this case,
- 3 because this case arose, of course, out of a
- 4 criminal act that occurred during a traffic
- 5 incident, and that the Manitoba Public Insurance
- 6 Corporation provides funding or support or
- 7 compensation in that context, and that the
- 8 compensation scheme is confined to cases where
- 9 there are not other government programs. Is that
- 10 accurate?
- 11 A Actually, my knowledge of that
- 12 particular area is minimal, it doesn't fall under
- 13 prosecutions, and so we would refer people on
- 14 compensation issues to the Victims' Services.
- Okay. What I might do, I might put in
- 16 a memo, I think that will at least support that
- 17 particular conclusion, you will find it in book
- 18 R-3, tab 92.6 -- excuse me, 92.5, and it is page
- 19 3331.
- THE CLERK: Exhibit 50:
- 21 (EXHIBIT 50: R-3.92.5 Memo dated
- February 19, 2008 from Monica Dyck to
- 23 Glenn McFetridge)
- 24 BY MR. PACIOCCO:
- 25 Q You have in front of you a memo dated

- 1 February 19, 2008, from Monica Dyck to Glenn
- 2 McFetridge that has been disclosed to us, and
- 3 probably was generated as a result of our request
- 4 for information. And it indicates that there are
- 5 copies of Victims' Bill of Rights fact sheets
- 6 attached, and down the last sentence it says:
- 7 "However this..."
- 8 referring to the compensation for victims of
- 9 crime,
- 10 "However, this would not apply in
- 11 circumstances where the fatality arose
- out of a motor vehicle accident, as
- 13 Manitoba Public Insurance Corporation
- 14 would provide assistance in these
- 15 situations."
- 16 So even though that is not something that you had
- 17 within your personal knowledge, I take it that is
- 18 not a tremendous surprise, it seems to make some
- 19 sense?
- 20 A Absolutely.
- 21 Q And there are also provisions in the
- 22 bill dealing with a range of things such as
- 23 notification of review boards and parole hearings
- 24 before correctional services, and disposition
- 25 hearings in the context of criminal cases?

- 1 A Yes.
- 2 Q And there are three relevant areas
- 3 that touch upon this case, and they have to do
- 4 with services offered by the law enforcement
- 5 agencies, by the prosecutions, and by court
- 6 administration. And there are divisions within
- 7 the bill that break the bill up so that it
- 8 describes the relevant obligations of each of
- 9 those services; is that correct?
- 10 A Yes.
- 11 Q Now, dealing briefly with the
- 12 prosectorial first. The responsibilities are
- imposed on someone called the Director of
- 14 Prosecutions, according to the language in the
- 15 bill. Is there any such position?
- 16 A Not currently. Shortly after the bill
- 17 was passed our administrative structure changed.
- 18 So there had been a position with that title. Now
- 19 the position that really would be responsible for
- 20 that obligation at the top of the division would
- 21 be the Assistant Deputy Attorney General.
- Q And that position of Assistant Deputy
- 23 Attorney General is currently held by Mr. Don
- 24 Slough?
- 25 A That's correct.

- 1 Q And so effectively, he bears nominal
- 2 responsibility for the implementation of the
- 3 prosecution service obligations?
- 4 A Yes.
- 5 Q And no doubt there is a tremendous
- 6 amount of delegation that has to take place?
- 7 A Yes, through our structures, through
- 8 the directors to our supervising senior Crowns,
- 9 through to the Crown Attorneys themselves.
- 10 Q Are there particular Crowns who are
- 11 designated as Victims' Rights experts or
- 12 supervisors or coordinators?
- 13 A Not really. There are people who have
- 14 considerably more experience than others with
- 15 respect to this subject area. But whenever a case
- 16 comes into the system that falls under the
- 17 Victims' Bill of Rights, then the Crown Attorney
- 18 assigned to that case has to ensure that they are
- 19 complying.
- 20 Q Okay. So essentially it is the people
- 21 who have contact with the victims at the ground
- level who bear most of the actual hands-on
- 23 obligations?
- 24 A Well, I look at it as our office has
- 25 that obligation, but clearly they have conduct of

- 1 the case, and the direct contact is going to come
- 2 at that level as opposed to victim's family
- 3 calling me, for example.
- 4 Q That is a healthy attitude. So you
- 5 all bear responsibility, but the people who come
- 6 in contact with the victims are obviously going to
- 7 be the ones who have to discharge those
- 8 obligations on behalf of all of you?
- 9 A Yes.
- 10 Q And there are various kinds of
- obligations imposed on each of the three entities
- 12 that I described, the law enforcement, the
- 13 prosecution service, and to the lesser degree, the
- 14 court services.
- There are informational obligations.
- 16 In the case of prosecutors there are consultative
- 17 obligations that I will ask you about. And the
- 18 bill also provides a number of substantive rights,
- 19 including provision for the return of property
- 20 that has been seized for exhibit purposes,
- 21 restitution, a separate waiting area in court, a
- 22 number of things that really don't touch upon this
- 23 case, but this is an Act that does a tremendous
- 24 range of things. Is that fair to say?
- 25 A I would agree, yes.

- 1 Q I'm going to ask you about the
- 2 triggering obligations in terms of when the Act
- 3 imposes obligations on various services to provide
- 4 this range of entitlements to the victims. I note
- 5 that the Act currently purports to apply to all
- 6 offences. In fact, what I think I will do, in
- 7 fairness, is I am going to put a copy of the Act
- 8 in front of you.
- 9 A I actually brought a copy.
- 10 Q Okay. I'm going to exhibit, even
- 11 though it is not customary to put statutes in, I
- 12 think it is probably a cleaner way to ensure that
- 13 the record has reference to it. We are going to
- 14 be working from a copy of the document that is
- 15 found in volume U, at tab B?
- 16 THE CLERK: Exhibit 51.
- 17 (EXHIBIT 51: U.B Book of statutes,
- 18 (B The Victims' Bill of Rights)
- 19 THE COMMISSIONER: Could you help me
- 20 with something? I take it your department deals
- 21 only with the prosecution services? In other
- 22 words, you do not train police officers?
- 23 THE WITNESS: Manitoba prosecutions
- 24 services doesn't, Manitoba prosecutions is one
- 25 division within the Department of Justice.

- 1 THE COMMISSIONER: Yes.
- THE WITNESS: We don't train police
- 3 officers in terms of their work. However, Crown
- 4 Attorneys may participate in particular training
- 5 sessions on issues, but we are not responsible for
- 6 their training as police officers.
- 7 THE COMMISSIONER: I'm talking in
- 8 terms of this particular Act, you are not
- 9 responsible for that?
- 10 THE WITNESS: I would say no, and I'm
- 11 struggling to think if Crown Attorneys have been
- 12 involved any training with respect to police
- 13 officers and this legislation. Nothing springs to
- 14 mind. We do have another part of the department
- 15 that deals with law enforcement agencies in terms
- of providing information to them, but that is
- 17 another division.
- 18 BY MR. PACIOCCO:
- 19 Q Ms. St. Hill, with respect to the
- 20 scope of the Act, I notice that it applies to
- offence as defined in section 1, subsection 1.
- 22 And offence is defined in section 1, subsection 1,
- 23 to mean a contravention of an Act or regulation of
- 24 Canada or Manitoba prescribed by regulation; is
- 25 that correct?

- 1 A Yes.
- 2 Q And so there is a regulation out there
- 3 that sets out the offences that would trigger the
- 4 Victims' Bill of Rights obligations?
- 5 A Yes, that's correct.
- 6 Q And so I guess it is fair to say that
- 7 not all offences will give rise to the statutory
- 8 obligations contained in the bill?
- 9 A That's correct.
- 10 Q And I'm sure that for many of the
- 11 non-designated offences, there may be practices
- 12 amongst Crowns to treat them much the same as they
- 13 would treat a designated offence?
- 14 A Yes. And in fact our policy speaks to
- 15 that.
- 16 Q All right. And are you able to help
- 17 us out in terms of explaining why the Act is
- 18 confined to designated offences, as opposed to all
- 19 crimes?
- 20 A When there was discussion on how this
- 21 Act would be implemented in terms of the
- 22 day-to-day impact in the system, and the practical
- 23 considerations in terms of following through on
- 24 what this means, it became apparent that there was
- 25 going to be an incredible amount of effort and

- 1 system change to support this kind of service to
- 2 victims if it applied to every act -- sorry, every
- 3 offence.
- 4 Our office for the last few years has
- 5 opened more than 45,000 files, and each of those
- 6 files has a victim or a complainant. And those
- 7 files include everything from minor offences
- 8 through to the most serious. So there is quite a
- 9 range, quite a range of issues of concern, and the
- 10 discussion that lead to what offences this Act
- 11 should be applied to really was to focus on the
- 12 most serious matters, where the needs of the
- 13 victim were quite great in terms of understanding
- 14 what was going on. And also a recognition of the
- 15 practical realities, to try to put in place a
- 16 system that allowed every victim in every case to
- 17 speak to what was going on for every remand or to
- 18 have access to Crown Attorneys would require quite
- 19 a structure. And it was combination of focusing
- on where the need, perhaps, was greatest, and also
- 21 a practical response to ensure that there could be
- 22 a valid response to this.
- 23 And there was discussion as well about
- 24 types of victims. We have individuals who can be
- victims, corporations who can be victims, and

- 1 again the issues may be different in terms of what
- 2 it is that the Act was intending to get at.
- 3 So it was quite a discussion, and that
- 4 lead to the determination of which offences really
- 5 needed the attention in this way. And that was
- 6 expanded over time, there have been amendments to
- 7 the regulation to add offences.
- 8 Q To put it in perspective, every case
- 9 has many appearances and many developments. If
- 10 you have 43,000 cases across the province, and you
- 11 require contact and consultation for every event,
- 12 then you would have hundreds of thousands of
- 13 required contacts and explanations?
- 14 THE COMMISSIONER: Sorry, if I might
- ask, is that the reason why the definition of
- 16 victim was directed to a single individual as
- 17 opposed to maybe an entire family? Because one of
- 18 the issues that has arisen in this case is why
- 19 parents are not defined as victims, or children of
- 20 parents who are -- who have been injured or killed
- 21 are not defined as victims.
- 22 THE WITNESS: The comments I just made
- 23 related to the application of the Act as a whole,
- 24 to what offences it should be applied to. So the
- 25 consideration about who the victim would be, I

1 don't recall that particular discussion, although

- 2 I would think that again there is a practical
- 3 element to it. However, the Act does set out
- 4 victims in terms of the description of their
- 5 relationship to the deceased person in the case of
- 6 the fatality. And it is a matter of where -- the
- 7 particular family circumstances will determine
- 8 whether the registered victim is a child or a
- 9 parent or a grandparent. And I think part of it,
- 10 and I'm thinking from a practical perspective from
- 11 Crown Attorneys dealing with registered victims,
- 12 there has to be an ability to know who you are
- 13 communicating with and who is actually receiving
- 14 the information, in a way that offers some
- 15 certainty, to make sure that information is heard
- 16 and that there are not so many voices coming
- 17 forward that it is a difficulty in determining
- 18 exactly what is being said or what the concerns
- 19 are. So I think it is an effort to, again, be
- 20 practical in ensuring that there is a contact
- 21 person. How that plays out in the context of any
- 22 given case varies.
- THE COMMISSIONER: You are saying,
- 24 from an effective enforcement point of view, you
- 25 need a single individual that you can contact.

- 1 But from a victim's point of view, a victim may
- 2 consider -- may not be defined, such as a parent
- 3 of a child who has been killed, that parent may
- 4 feel that they are left out of the process because
- 5 they are not given information that the Act
- 6 requires be given. Was that ever considered in
- 7 drafting this legislation?
- 8 THE WITNESS: Well, I wasn't involved
- 9 in the drafting, but I think I can answer the
- 10 question just in terms of the practical
- 11 application. Just because one person is the
- 12 registered victim, it doesn't mean that the other
- 13 members in the family wouldn't be part of
- 14 discussions or receive information. So it is rare
- when we have meetings with families, we say the
- 16 family, it is rare that one person shows up. They
- 17 will bring whoever is part of the family, who has
- 18 an interest. So Crown Attorneys will recognize
- 19 the fact that it is rarely one person, the person
- 20 whose name is the official registered victim.
- 21 They will bring other members of the family who
- 22 will be part of the discussion.
- THE COMMISSIONER: Thank you.
- 24 BY MR. PACIOCCO:
- 25 Q If I can just, before getting on to

- 1 the topic of who is a victim, I would like to just
- 2 tidy up a little bit the question of the
- 3 designated offences. I'm going to take to you, if
- 4 I could, to a document again found in book R-3,
- 5 tab 92.4, page 3328, R-3, tab 92.4, page 3328.
- 6 THE CLERK: Exhibit 52.
- 7 (EXHIBIT 52: R-3.92.4 Hard copy of
- 8 email dated July 8, 2004, from
- 9 Rachelle Dupuis to Jacqueline St. Hill
- 10 attaching memo to All Prosecution
- 11 Staff)
- 12 BY MR. PACIOCCO:
- 13 Q Ms. St. Hill, you will note that this
- is a memorandum of July 8th, 2004. Again, you are
- one of the designated persons sending out this
- 16 memorandum to all prosecution staff. And it
- 17 indicates that there continue to be issues
- 18 throughout prosecutions in relation to
- 19 obligations. And then it describes designated
- 20 offences and it divides them into auto-registered
- 21 offences and non auto-registered offences.
- 22 Before I get into the distinction
- 23 between the two, I noted a media article in
- 24 connection with this case that was very critical
- of the bill, and it was making the observation

- 1 that a number of offences that one might expect to
- 2 be included there are not, things like robbery,
- 3 simple assault, sexual assault that is not
- 4 aggravated or did not involve the use of a weapon,
- 5 criminal negligence causing bodily harm, I think
- 6 were the examples offered.
- 7 Do you have a response that can be
- 8 made to that type of critique about the bill being
- 9 confined to listed offences that might exclude
- 10 those types of offences?
- 11 A Well, our policy actually with respect
- 12 to victims lists some of those very offences that
- 13 you have referred to, and makes it clear that
- 14 Crown Attorneys should be following the principles
- of the VBR, Victims' Bill of Rights, in relation
- 16 to those matters. So for a case of sexual
- 17 assault, a robbery, those victims may well receive
- 18 the same type of contact communication as a victim
- 19 who is registered under one of the offences that
- 20 is caught in the regulation. There is the
- 21 practical consideration that I referred to earlier
- 22 with respect to the ability to actually provide
- 23 service. And I think that is something as well to
- 24 keep in mind, that if 100 offences were included
- 25 but the ability to deliver the service really was

- 1 minimal, then people really wouldn't be that much
- 2 further ahead in terms of receiving the
- 3 information they need. So Crown Attorneys know
- 4 that in many other cases that do not fall
- 5 technically under the VBR, that there is going to
- 6 be an approach that is consistent.
- 7 Q And I suppose that that can be a
- 8 context-based decision that Crowns would make,
- 9 depending upon the needs of that particular crime,
- 10 because not all crimes carry the same basic
- 11 circumstances?
- 12 A Absolutely, and that is a reality of
- 13 all of this, every case is unique.
- 14 Q Okay. Now, we noted in the question
- 15 that I originally posed, at the introduction to
- 16 it, the distinction between auto-registered and
- 17 non auto-registered offences. Could you describe
- 18 the significance of that distinction?
- 19 A Yes. The Act refers to the victim
- 20 receiving services or information upon request.
- 21 So --
- 22 Q That would be section 2, subsection 1?
- 23 A Sorry, sub -- you are referring to
- 24 what section?
- Q I think it is 2, subsection 1?

1	A It actually appears at a number of
2	points in the Act. The general, or the first
3	reference to that is section 2(1):
4	"The victim is entitled to the
5	services described in this part and
6	may obtain services from the
7	Department of Justice or an agency
8	referred to in this part at any time
9	by, A, requesting services from the
10	department or agency, or B, filing a
11	general request for information with
12	the department or a law enforcement
13	agency designated by the Minister."
14	So the Act sets out a number of points, that the
15	victim does have to make a request. When the
16	discussions were ongoing to determine how this Act
17	was going to be put into place, it was felt that
18	there were certain offences that were so
19	significant in terms of the victim's role and the
20	need to provide information that the victim
21	shouldn't have to ask. And that is where the
22	concept of an automatic registration came about,
23	that our system, once these offences were
24	recognized as coming in, the file would
25	automatically indicate that this was a situation

- 1 that required a reaching out to the victim,
- victim's family.
- 3 Q Okay. So even though the statute does
- 4 not impose a legal obligation on anyone in
- 5 Manitoba Justice to offer services to individuals
- 6 without their request, the initiative has been
- 7 taken to actually automatically provide that type
- 8 of service in connection with designated offences?
- 9 A Yes. And they are automatically
- 10 registered. People can still decline to
- 11 participate. It is still a two-way street, if you
- 12 will.
- Q Very good. All right. I'm going to
- 14 take advantage of your presence to go through some
- of the obligations imposed on law enforcement
- 16 agencies, even though I know there is a divide
- 17 between prosecution services and law enforcement
- 18 agencies. But, again, even though the lawyers in
- 19 the room fully understand the distinction, this
- 20 being a public inquiry, I'm just going to ask you
- 21 to describe the relationship between law
- 22 enforcement agencies and prosecution services, in
- 23 general terms, so people understand how the two
- 24 might fit together?
- 25 A Well, the work of the Crown office of

- 1 a prosecutor is dependent on the results of
- 2 investigations that are carried out by policing
- 3 agencies, so they are very distinct functions.
- 4 And the police are responsible for responding to a
- 5 complaint of a crime and investigating that,
- 6 interviewing witnesses, seizing exhibits,
- 7 gathering whatever evidence. And the results of
- 8 their efforts are what form the basis of the file
- 9 that is sent to the Crown office.
- 10 The Crown, in some respects, picks up
- 11 at that point in terms of determining whether or
- 12 not the material generated from the police
- 13 actually forms the basis for our office's
- 14 involvement. And just because the police attend
- to what appears to be a crime, and generate a
- 16 report, it doesn't necessarily mean that our
- 17 office becomes involved in a prosecution.
- 18 So the Crown will review the material
- 19 and determine, is there a basis to proceed with a
- 20 criminal charge? And if so, what charge? And
- 21 then our function is to see that matter through
- 22 the system. And the police at that point may
- 23 become witnesses in the Crown's case. But our
- 24 roles are distinct, and the Crown Attorney does
- 25 not get involved in investigating. And sometimes

- our roles are misunderstood by people, probably
- 2 because of information they receive from popular
- 3 culture or their favorite show on TV, where you
- 4 have prosecutors going to crime scenes, for
- 5 example. We do not get involved in investigation
- 6 and we rely on the results of what the police work
- 7 generates, and then we do our role from there.
- 8 Q And there are a lot of discretionary
- 9 decisions that have to be made during the course
- 10 of an investigation, and there are discretionary
- 11 decisions that have to be made during a
- 12 prosecution, and there is tremendous independence
- in terms of those decisions.
- 14 A There is independence, but there is
- 15 also communication in the sense that sometimes
- 16 police will seek advice from the Crown with
- 17 respect to a legal proceeding. An example might
- 18 be obtaining of a search warrant, for example.
- 19 The Criminal Code is very clear on what is
- 20 required, police officers may want some
- 21 clarification in a particular case, and they call
- 22 a Crown Attorney. The Crown Attorney does not
- 23 tell the police how to conduct their investigation
- 24 or what to do. But there can nevertheless be back
- 25 and forth in terms of communication in the context

- 1 of a particular case.
- 2 Q So if a prosecutor sees there may be
- 3 gaps in the investigation that could cause
- 4 problems in court, there may be some advice to the
- 5 police that further investigation is required?
- 6 A Yes. A Crown may ask, please go and
- 7 interview the other three witnesses who were at
- 8 the scene? The Crown wouldn't go out and do that
- 9 themselves.
- 10 Q Okay. I'm going to take you to
- 11 documents that have already been filed as exhibit
- 12 12 in this case. And there are a fairly sizeable
- 13 number of pamphlets that are used --
- 14 A Thank you.
- 15 Q -- to publicize various aspects of
- 16 Victims' Services. I'm going to ask you to see if
- 17 you can find the kind of purplish blue coloured
- one with the role of law enforcement agencies on
- 19 it?
- 20 A Yes.
- 21 THE COMMISSIONER: Mr. Paciocco, could
- 22 you help me, can you tell me what document you are
- 23 referring to?
- MR. PACIOCCO: I'm referring to
- 25 document R-3 at tab 92.6, and it is a big handful

- of pamphlets that we have referred to from time to
- 2 time. And I'm sorry, Mr. Commissioner, they are
- 3 not numbered so we are going to have to flip
- 4 through them. There is one, probably about
- 5 halfway through the documents or a little less
- 6 than halfway, called "The Role of Law Enforcement
- 7 Agencies." Are you familiar with that document,
- 8 Ms. St. Hill?
- 9 THE WITNESS: I have seen these
- 10 pamphlets, I'm aware that they are provided
- 11 through our Victims' Service office.
- 12 BY MR. PACIOCCO:
- 13 Q Okay. This document describes many of
- 14 the things you have already talked about, the role
- of the police to enforce and investigate. And it
- 16 lists a number of things that they are obliged to
- 17 do under the statute. The statute itself provides
- 18 a number of informational obligations on the
- 19 police in section 3, does it not?
- 20 A That is the section relating to law
- 21 enforcement agencies, yes.
- 22 Q Yes. And those obligations are
- 23 nominally imposed on the head of the law
- 24 enforcement agency responsible for the
- 25 investigation, normally the Chief of Police of the

- 1 investigation?
- 2 A Chief.
- 3 Q And it says that person must ensure
- 4 that the agency gives the victims certain
- 5 information, including, A, the rights and remedies
- of victims under this Act, including compensation
- 7 for victims of crime, B, the agency's name and
- 8 address and telephone number, and the number of
- 9 its file about the offence. And over on D, there
- 10 are certain informational obligations relating to
- 11 the form of Victim Impact Statements. E, how to
- 12 obtain information about services available for
- 13 victims, including everything from medical,
- 14 financial, housing, counselling, legal or
- 15 emergency services, and crime prevention and
- 16 safety planning. There is an obligation with
- 17 respect to advising about court orders for
- 18 restitution, for the return of property, or for
- 19 information about the release from custody of a
- 20 person charged with an offence and how to report a
- 21 breach of that.
- Those are all outlined in that
- 23 pamphlet as things that the investigation must,
- 24 the investigating service must provide to victims.
- 25 And then the pamphlet goes on to describe, the

- 1 police agency can provide information about a
- 2 range of things. So if you look back at the
- 3 document in R-3.92.6 called "The Role of Law
- 4 Enforcement Agencies, " you will see a number of
- 5 bullets under that heading that the police agency
- 6 can provide information about. And it includes
- 7 the rights and remedies of Victims' Bill of
- 8 Rights, the police agency's name, address and
- 9 telephone number, the Manitoba Victim Impact
- 10 Statement program. Those obligations are
- 11 described in sections 7, 9 and 11.
- 12 And the ones under section 7, in
- 13 particular, use the term that you described
- 14 earlier, if the victim requests information about
- 15 the investigation of the offence, the head of the
- 16 law enforcement agency must ensure that the agency
- 17 gives the victim the following information, unless
- 18 doing so could unreasonably delay or prejudice an
- 19 investigation or prosecution, or affect the safety
- 20 or security of any person.
- I'm going to come back to those
- 22 exemptions later and I am going to get you to try
- 23 to explain them, if you can. But it includes the
- 24 status of the investigation, the name of any
- 25 person, if an accused is released from custody,

- 1 the decision to lay a charge.
- 2 This reference in the role of law
- 3 enforcement agencies pamphlet to "the police
- 4 agency can provide information, " can you explain
- 5 possibly why it would say "can" rather than "must
- 6 provide information"? Is there any reason why
- 7 that distinction is drawn in the pamphlet?
- 8 A Actually, I do not know.
- 9 Q Okay. Could it be maybe that these
- 10 are things that you have to request information
- 11 about, as opposed to the others don't require a
- 12 request under the bill?
- 13 A That might be.
- 14 Q Would you agree with me, and I'm not
- 15 trying to put you on the spot, but this maybe
- 16 could be a little clearer in terms of the
- 17 designation of what law enforcement agencies are
- 18 required to do?
- 19 A Well, I suppose even the police agency
- 20 "can provide" can be read two different ways.
- 21 That they can provide it if they choose to, or
- 22 they can provide it, it is the expectation, so --
- 23 Q Yeah. That is my point. So the
- 24 document itself is an attempt to provide helpful
- information, and it does outline the kinds of

- 1 obligations that fall on police agencies, but it
- 2 may not be as clear as it ideally could be.
- 3 That's really all I wanted to deal
- 4 with respect to law enforcement agencies, and
- 5 thank you for helping me do that, Ms. St. Hill.
- I want to, of course, focus on the
- 7 prosecution. We've already indicated that the
- 8 obligations fall nominally on the Assistant Deputy
- 9 Attorney General. In fact, many of the
- 10 obligations under the Act are discharged through
- 11 the Victims' Services branch, and you referred
- 12 earlier to the administrative structure that had
- 13 been created. Could you describe that structure a
- 14 little bit for us?
- 15 A This goes back -- well, actually, we
- 16 have also had some form of Victims' Services
- 17 within the department, and this goes back years
- 18 and years with respect to having staff that can
- 19 assist prosecutors in cases where there are
- 20 victims with special needs. We have had a child
- 21 witness, child victim witness program from the mid
- 22 '80s, as I recall. So there has always been some
- 23 element of Victims' Service within the department.
- When it came time to determining how
- 25 the obligations under the VBR were going to be put

- 1 in place, it became apparent there was going to be
- 2 a need for greater involvement of individuals who
- 3 had a lot more knowledge on the victims' side of
- 4 things, if I could say it that way, in terms of
- 5 expertise in dealing with people who have been
- 6 going through trauma and grief. Also there was a
- 7 need for a lot of administrative support to make
- 8 sure that the communication pieces were in place.
- 9 So the Victims' Services branch and
- 10 prosecutions do work collaboratively to ensure
- 11 that the obligations under the Act are met. And
- 12 the information system that I referred to earlier
- is a key part of that, so that there is
- 14 information sharing between the workers who are
- 15 assigned to a particular case and the Crown
- 16 Attorneys who are assigned to a particular case.
- 17 And just on that, there are -- when a
- 18 case comes in that falls under the Victims' Bill
- 19 of Rights, there is a specific Crown Attorney or
- 20 team of Crown Attorneys, as the case may be,
- 21 assigned. So a case doesn't float along through a
- 22 number of hands, someone will know very early on
- 23 who the Crown Attorney is for that particular
- 24 matter; and similarly on the victims' side, who is
- 25 the victim's worker who is assigned.

1 So there is a recognition that the

- 2 case needs attention, and the particular people
- 3 are put in place who are responsible for the
- 4 management of the file. They are all to use the
- 5 information sharing system, to ensure that people
- 6 know what is going on, and the ability to meet the
- 7 various obligations under the Act are addressed
- 8 using that structure.
- 9 Q Okay. We have, of course, heard about
- 10 the Crime Victims' Services workers in this case,
- 11 and we have looked at the PRISM documents which I
- 12 will ask you about in a moment. There is no
- 13 mention of Crime Victims' Services workers in the
- 14 bill, but as I understand your answer, there was a
- 15 decision made to build an administrative structure
- 16 to help the designated prosecutor in this case,
- 17 the Deputy Attorney General, Assistant Deputy
- 18 Attorney General, administer his obligation. So
- 19 it was created as a delivery vehicle for
- 20 fulfilling the prosecution service's obligations.
- 21 Would that be a fair way of describing it?
- 22 A I think so.
- 23 O These individuals who work as Crime
- 24 Victims' Services workers are also employees of
- 25 Manitoba Justice working in Victims' Services?

- 1 A Yes, they are.
- 3 legal training?
- 4 A Legal training in what sense?
- 5 Q In terms of the structure of the
- 6 system and how it works, and the role of the
- 7 Crown, and the role of the victim, and the kind of
- 8 basic stuff that you might get in the introductory
- 9 month of your law school class?
- 10 A I'm sure they do, but I also know that
- 11 a lot of them, and this again is based on my
- 12 experience, have been actually working in the
- 13 system for many, many years. So their legal
- 14 training has actually come about from being in the
- 15 courtroom, seeing how the system works. They are
- 16 very familiar with how things work out, and there
- is a lot of experience that has come about from
- 18 actually doing the job.
- 19 Q And you made reference to expertise in
- 20 counselling and things that might be a dimension
- 21 that the ordinary line Crown might not have the
- 22 benefit of, but you can select those people with
- 23 particular skills in that context, Crime Victims'
- 24 Service workers?
- 25 A It is my understanding most of them,

- 1 many of them have counselling or a social work
- 2 background.
- 3 Q And we are going to be hearing from
- 4 Lesley McCorrister and Monica Dyck in this case,
- 5 who both functioned as Crime Victims' Service
- 6 workers at the time.
- Now, Lesley McCorrister, I understand,
- 8 is now with Crime Victim Support Services, which I
- 9 understand is another smaller branch of the
- 10 Victims' Service. Can you describe what that is?
- 11 A I might want to defer to my colleague,
- 12 Ms. Gervais, on the specifics. I know that we
- 13 have what used to be called the Victim Witness
- 14 Assistance Office located in the courthouse. So I
- 15 will maybe just leave that for her.
- 16 Q And those people would provide court
- 17 accompaniment and show people where courtrooms
- 18 are, and be on site in the courtroom. Is that
- 19 basically the kind of function that is performed?
- 20 A I think it can vary, depending on what
- 21 needs may arise.
- Q Okay. You spoke about the
- 23 communication between the prosecutors and
- 24 individuals who were working in this capacity as
- 25 Crime Victims' Service workers. What kind of

- 1 communication system is in place?
- 2 A Well, if I can start with the
- 3 beginning of a file, once -- all of our files are
- 4 tracked electronically as well as actually having
- 5 a hard file. So when the file is opened, it is
- 6 opened literally in a folder, but it also is
- 7 opened in our electronic management system. As
- 8 soon as the system recognized the offence as one
- 9 that is under the VBR regulation, there is a
- 10 notification that is sent to the victim's side of
- 11 the system telling them that this new charge of
- 12 second degree murder has come into the system. So
- 13 there is an information, an electronic exchange of
- 14 the information that is part of the alert. And
- once that happens, it is a combination of that
- 16 electronic back and forth, as well as the human
- 17 element, the literal people talking to each other
- 18 and sharing information. But the key thing is the
- 19 Crown Attorneys and the Victims' Services staff
- 20 can access each other's information within the
- 21 larger structure, to know what is happening with a
- 22 case. So if a Victims' Service worker can not get
- 23 ahold of a Crown Attorney directly, they can find
- 24 out that information from the electronic system.
- 25 And vice versa, if a Crown Attorney wants to know

- 1 how did that meeting go with the victim's family
- 2 that the worker had, chances are there are notes
- 3 in the system that they can access and have a look
- 4 at.
- 5 Q Very good. I understand that the
- 6 acronym for that system is PRISM, on some of the
- 7 documents that we were looking at earlier, and
- 8 that stands for Prosecution Scheduling and
- 9 Information Management System?
- 10 A That's correct.
- 11 Q And we will hear more about its
- 12 operation from Suzanne Gervais when she takes the
- 13 stand. Who maintains the system?
- 14 A That is -- we do have staff within
- 15 Justice, but the government has recently moved to
- 16 a more centralized technology management group, so
- 17 there is still some issues about that. But we
- 18 have oversight still within Justice, to make sure
- 19 that PRISM is enhanced as necessary, updated and
- 20 any difficulties that arise are addressed. That
- 21 does include a Crown Attorney who is part of that
- 22 group, who is actually in our office and is part
- 23 of the team, to make sure that the technology
- 24 demands are continued to be met.
- 25 Q I noticed when you did your interview

- 1 with Mr. Clifford, you commented that Crowns
- 2 cannot upload information on to the PRISM system.
- 3 Did I understand that correctly, that Crowns
- 4 cannot upload information on to the system?
- 5 A What -- I'm not certain what you mean
- 6 by that?
- 7 Q It is just a reference I saw in the
- 8 transcript, and I was wondering how that might
- 9 work. So what can the Crowns put on the system?
- 10 Can they go right in --
- 11 A Notes -- maybe I will just take a step
- 12 back.
- 13 Q Yeah.
- 14 A Ideally, at some point in the future
- 15 there will be complete electronic sharing of
- 16 information between policing agencies and
- 17 prosecution services, so that the constant
- 18 generation of paper hopefully can be cut down. We
- 19 do have some limited exchange of information with
- 20 the Winnipeg Police Service such that information
- 21 comes over from their system to ours
- 22 automatically, no one has to input it. But when
- 23 it comes to Crown notes, that can be put in to the
- 24 system by the Crown Attorney themselves. So it is
- 25 a combination of information that is populated

- 1 automatically, when a file is opened, and then
- 2 information that is generated through the life of
- 3 the file.
- 4 I'm not certain if that gets at what
- 5 you are asking, but there is definitely an ability
- 6 for Crown Attorneys to input information.
- 7 Q Okay.
- 8 A And letters that are sent out can be
- 9 put in to that as well, copies of subpoenas, all
- 10 manner of documents can be added to the electronic
- 11 file.
- 12 Q So the PRISM system, does it contain
- 13 all documentation in connection with a file, or
- 14 only select documentation?
- 15 A No, just certain things. We are
- 16 hoping to have a lot more automatically generated
- forms, but as you can probably imagine, the list
- 18 of things to do with respect to enhancing the
- 19 system is considerably long.
- Q It is a good system, but it is a work
- in progress?
- 22 A It a work in progress.
- 23 Q So the status of a file at a
- 24 particular point in time, that information, would
- 25 that be on the system?

- 1 A Yes, it would be.
- 2 Q And court dates?
- 3 A Court days, yes.
- 4 Q History of contact with Crime Victims'
- 5 Service workers?
- 6 A Yes.
- 7 Q Crown can post documents to it. I
- 8 understand that the Crown can email documents to
- 9 the Victims' Service workers, who can then put it
- 10 directly on to the system, or did I misunderstand
- 11 that?
- 12 A The email capacity within PRISM is not
- as broad as we would ultimately like to see it.
- 14 So it is not consistent as to what can be done,
- 15 I'm not certain about the emailing of documents.
- 16 Q Would it be safe to say that generally
- 17 it provides an ongoing record of information
- 18 necessary to discharge the obligations under the
- 19 Bill?
- 20 A Yes, it does. And that was a big part
- of what was conveyed to Crowns in terms of
- 22 ensuring they can use the system that has been
- 23 built to assist them in its obligations.
- Q Okay. And as with any system, only
- information can be there, how do you ensure that

- 1 the Crowns get access to it?
- 2 A Every Crown Attorney has access to
- 3 PRISM, and their laptop, and they have to use it
- 4 to do their job.
- 5 Q Okay. So it is expected that they
- 6 will use it, and functionally they may not be able
- 7 to keep going without doing it, so it is there and
- 8 that is the facility that is there to discharge
- 9 their obligations. Would that be a fair way to
- 10 put it?
- 11 A Yes.
- 12 Q And how useful do you find the system?
- 13 A Extremely.
- 14 Q What would it be like to try and
- 15 function without it?
- 16 A Well, sometimes when there is a
- 17 problem of some sorts, hopefully it only happens
- 18 for a minute or so when we do have a problem with
- 19 the system, we realize how difficult it is, we
- 20 have become very reliant on it. I suppose we
- 21 functioned before without it, but is just that it
- 22 has definitely become incorporated into how we do
- 23 our work. And many Crown Attorneys, if they are
- 24 dealing with a docket matter, they don't carry the
- 25 files with them anymore to court, they take their

- 1 laptop, they access PRISM from the courtroom, and
- 2 access their notes right there electronically
- 3 rather than relying on the paper.
- 4 THE COMMISSIONER: Excuse me, how
- 5 would an independent special prosecutor have
- 6 access to PRISM?
- 7 THE WITNESS: That would have to be
- 8 arranged through the contact person they have in
- 9 our office. They would call --
- 10 THE COMMISSIONER: Wouldn't there be a
- 11 concern that that independent special prosecutor
- 12 might have access to other files that he ought not
- 13 to see?
- 14 THE WITNESS: Well, when I mentioned
- 15 they would have it through their contact person,
- 16 they would have to call and ask that person to
- 17 seek out information on their behalf. To my
- 18 knowledge, our independent prosecutors don't
- 19 actually have access directly themselves. But
- 20 again, that might be a question -- well, I do not
- 21 know how that is addressed because I haven't been
- 22 part of those discussions with independent
- 23 counsel. But I do know that the administrative
- 24 assistant to one of the other directors is the
- 25 usual contact person, if there are any queries

- 1 about an administrative matter, and she can
- 2 certainly assist if there is a need to check on
- 3 something.
- 4 BY MR. PACIOCCO:
- 5 Q So if I understand your answer, the
- 6 independent prosecutors are not linked to the
- 7 PRISM system, but they can, if they take the
- 8 initiative, discover the information on the system
- 9 by dealing with their contact within the
- 10 prosecution service?
- 11 A That would be one route. The other
- is, not to forget the human contact, people can
- 13 pick up the phone and call the worker. One of the
- 14 things we encourage Crown Attorneys is to make
- 15 sure they make that connection early on with the
- 16 worker, and start that relationship on how a
- 17 particular case is going to be managed.
- 18 O I understand that not too long ago the
- 19 Victims' Services office in Winnipeg was actually
- 20 right in the Crown's office?
- 21 A We did have a number of the workers
- 22 actually in our office, yes.
- Q And that is not the case any longer?
- 24 A Space constraints.
- 25 Q Okay. But you certainly have

- 1 developed personal relationships with the workers
- 2 and you have that avenue for communication?
- 3 A Yes.
- 4 Q Now, we have referred earlier to a
- 5 number of policy statements that have been
- 6 generated within Manitoba Justice, including
- 7 policies on victims' rights. And I'm going to
- 8 take you, if I could, to book R-5. Book R-5 does
- 9 not have tabs, so I'm going to be referring to two
- 10 documents in there, the first of those would be at
- 11 page 3401.46. 3401.46 -- excuse me, 43.
- MR. ZAZELENCHUK: My copy does not
- 13 have page numbers.
- MR. PACIOCCO: If you could turn,
- 15 Mr. Zazelenchuk, I noticed that mine has taped
- 16 page numbers, it might be a perk of the office,
- 17 but if you could turn please to the back of the
- 18 document, and work towards the front, you are
- 19 going to go in about seven or ten pages, and you
- 20 are going to find Victims' Rights Policy Directive
- 21 dated March 2nd, 1999.
- MR. ZAZELENCHUK: Thank you.
- 23 BY MR. PACIOCCO:
- 24 Q You have that document in front of
- 25 you, Ms. St. Hill?

- 1 A Yes, I do, March 2nd, 1999.
- 2 Q Okay. Is your document paginated?
- 3 A I have the 340 -- yes.
- 4 Q Perfect. All right. And this is a
- 5 Justice policy directive relating to victims'
- 6 rights. The next document in the book is at
- 7 3401.46, and it relates to Victim Impact
- 8 Statements, and that would be guideline number
- 9 4.SEN.1.8?
- 10 A Yes.
- 11 Q And we already looked at the document
- 12 that is now exhibit 48, which was a Victims'
- 13 Rights document that is updated to 2005. And I'm
- 14 just going to ask you, what use is made of these
- 15 policies? How do they operate?
- 16 A Well, the expectation is that Crown
- 17 Attorneys are aware of our policies, every one has
- 18 access to these, either in their office, if they
- 19 have been around long enough, they have a binder
- 20 and they have hard copies, but this is also
- 21 available online, and ideally should be just a
- 22 click away in terms of accessing it if there is a
- 23 need to reference something. So Crown Attorneys
- 24 are expected to be aware of our policies and
- 25 ensure that they are referenced as necessary in

- 1 the context of a particular case.
- 2 Q And I understand that there are emails
- 3 sent updating them on policies as they are issued
- 4 as well?
- 5 A Yes, if it is an update, that
- 6 notification will go out. If it is a brand new
- 7 policy on an issue that is new, some emerging
- 8 issue, there might be more than just an email,
- 9 there might be a discussion set up to ensure that
- 10 everyone understands what it means.
- 11 Q And I understand from your earlier
- 12 answer that these are used as a way to develop a
- 13 uniform kind of approach in the discharge of
- 14 obligations?
- 15 A Yes.
- 16 Q And you actually have been working
- 17 from time to time as one of the consultants in the
- 18 development of these policies, in your capacity?
- 19 A I have been, yes.
- 20 Q And these policies are developed, I
- 21 take it, in broader consultation within the
- 22 Ministry from various levels?
- 23 A That is correct. There is a policy
- 24 division as well, that involves lawyers, some of
- 25 who used to be prosecutors, and there is quite a

- 1 bit of discussion to ensure that the message is
- 2 the message that we want to convey, and that the
- 3 message is clear.
- 4 Q And of course, as with everything
- 5 else, we have experiences that cause us to change
- 6 the policies over time --
- 7 A Um-hum.
- 8 Q -- as those experiences mature.
- 9 You can take a look, please, at page
- 10 3401.44, and for those who may not have paginated
- 11 versions, I'm looking at the Victims' Rights
- 12 Policy dated March 2nd, 1999 and I am turning to
- 13 the second page of it, and I'm going to look at
- 14 the second complete paragraph on that page. And
- if I can read it to you, it says, this is the
- 16 Victims' Rights Policy from March 2nd, 1999. It
- 17 says:
- 18 "In cases involving fatalities, the
- 19 assigned Crown Attorney must make
- 20 contact with the deceased's family at
- the earliest opportunity and make
- themselves available to meet the
- 23 family upon request."
- 24 So it is a very clear direction in the policy to
- 25 Crown Attorneys to make contact with the

1	deceased's family at the earliest opportunity.
2	"In such cases it is required that the
3	Crown Attorney keep the family
4	apprized of the ongoing developments
5	in the case. The Crown Attorney's
6	office recognizes the emotional trauma
7	of such cases for victims, and further
8	that those most affected by the crime
9	have a need to be made aware of all
10	bail hearings, the reason for remand
11	dates being set, as well as plea
12	negotiations. This information must
13	be conveyed compassionately and in a
14	manner appropriate to the
15	circumstances."
16	Were you aware of that particular policy
17	requirement?
18	A Yes.
19	Q And do you have any comment to make on
20	that policy requirement?
21	A No. I think it is a statement of what
22	was probably occurring in the majority of those
23	kinds of cases, up to that point, in any event.
24	And it is reiterated in this particular forum.
25	Q Is it typical for prosecutors to take

- 1 that kind of initiative and contact the victims in
- 2 fatality cases at the earliest opportunity? Is
- 3 that a fair of description of practice, or are you
- 4 able to comment?
- 5 A What happens now, it is routine. What
- 6 I mean by that is, once the worker is assigned --
- 7 we assign our cases very quickly, and in
- 8 situations of fatalities, sometimes the Crown is
- 9 actually assigned before the charge is laid, and
- 10 other times it is within a week. So the victims'
- 11 side of things generates the outreach immediately.
- 12 And the idea of contacting the victim is just part
- 13 of what happens in one of these cases. So if
- 14 there is any difficulty involved, it might be if
- 15 there is a difficulty finding a family member or
- 16 difficulty arranging a time to meet. It is not
- 17 the concept of actually doing this.
- 18 O Okay. Would it be fair to say that
- 19 the Crown Attorneys are acculturated to the
- 20 importance of doing this?
- 21 A I would think so.
- 22 Q And certainly you would accept all of
- 23 the indications there about the importance of
- 24 being sensitive to the emotional trauma and
- 25 keeping these victims advised of these important

1 events, such as reasons for remands dates and plea

- 2 negotiations?
- 3 A Yes.
- 4 Q And the very important obligation to
- 5 communicate this compassionately and in a manner
- 6 appropriate to the circumstances. There seems to
- 7 have been a change in that paragraph when the
- 8 victims' policy was changed on July of 2005. So
- 9 I'm going to ask you to keep that passage open in
- 10 front of you, and to take a look at a document
- 11 that is already been admitted as exhibit, I
- 12 believe it is 52, it is in book R-4. Excuse me,
- 13 it would be exhibit 48, R-4 at 3401.7. And you
- 14 should have in front of you guideline number 2,
- 15 VIC 1, subject, victims, dated July 2005?
- 16 A That's right.
- 17 Q And to put it into context, the
- 18 Crystal Taman fatality occurred in February of
- 19 2005, so this policy would have been generated
- 20 approximately three months later?
- 21 A Yes.
- 22 Q And if you take a look at the --
- 23 A More than three months.
- 24 O Yes.
- 25 A Five.

Q Five months, thank you for that. 1 And if you take a look -- and I hope it is five 2 paragraphs -- but five paragraphs under the 3 heading "Offering Support for Victims" in that 4 document, you will see a slightly different 5 description of the policy relating to fatality 6 7 cases. And since your voice is better than mine, I am going to have you read that, if you could, 8 please? 9 "In cases involving fatalities, 10 Prosecutions recognizes the emotional 11 12 trauma of such cases for relatives of the victim. The Crown Attorney should 13 14 make himself/herself available to meet 15 with the family and deal with family 16 members in a manner appropriate to the circumstances. This is best done 17 working with the assigned Crime 18 Victims' Services worker." 19 20 Can you explain your understanding of 21 the difference between that policy statement in 22 July of 2005, and the policy statement that had been contained in the 1999 document? 23 Well, what happened in the interim is 24 Α

the Victims' Bill of Rights in 2001, which made it

25

- 1 essentially mandatory, in any event, for that
- 2 contact to occur. So the July 2000 policies in
- 3 the context of VBR, and at that point it had
- 4 already been in place a number of years, so the
- 5 actual practice and expectations I think were
- 6 already clear. The idea of stating that it must
- 7 occur may well have been a given, if you look at
- 8 how this is dated. It is focusing on making sure
- 9 that the Crown Attorney makes themselves available
- 10 and that the victim piece is part of that. So I
- 11 appreciate it may sound like a different message
- 12 but I think if you look at it in context of what
- 13 was happening and what is actually required, and
- 14 the fact that Crown Attorneys are aware of what is
- 15 required, it is a reiteration of, in essence, the
- 16 same message, making sure that the Crown is part
- 17 of the information sharing.
- 18 Q Okay. And I don't mean to say this in
- 19 a derogatory way, but this seems to permit
- 20 prosecutors to be a bit more passive in terms of
- 21 depending on the Crime Victims' Service worker
- 22 system that is in place to alert them, as opposed
- 23 to the positive active obligation imposed in the
- 24 old statute to go out and make that contact?
- 25 A Well, if you go back to the old

- 1 version, some of these things that are set out,
- 2 being made aware of bail hearings, reasons for
- 3 remand dates, as well as plea negotiations -- take
- 4 bail hearings and remand dates, the VBR system put
- 5 in place to make sure that information was
- 6 conveyed, it was being done through the victims
- 7 worker. So for the need for the Crown Attorney to
- 8 be involved may be not at all for that information
- 9 to be conveyed, if someone is calling someone with
- 10 a date, so the Crown Attorney wouldn't do it. So
- 11 the degree of involvement, in some respects,
- 12 because of the Victims' Bill of Rights, was
- 13 lessened in terms of the obligation on the Crown
- 14 to call with the dates and to call and say there
- is going to be a remand, and this is why. That
- 16 shifted to the Victims' Service worker to take on.
- 17 So the update is probably more reflective of where
- 18 the Crown gets involved when there is actual need
- 19 to meet with them.
- 20 Q That is very helpful. So I understand
- 21 that this is to be read in the context of the
- 22 statutory obligations and the system that is in
- 23 place, and it is not in any way meant to diminish
- 24 the obligations on the prosecutor?
- 25 A No.

1 Q I want to look at some of the specific

- 2 informational obligations that appear in the
- 3 statute, so it might be helpful for you to have
- 4 the statute in one hand as we go through those
- 5 documents. And I'm going to try to stick to those
- 6 topics that are directly relevant to the Taman
- 7 Inquiry.
- I'm going to start with section 12,
- 9 which is the beginning of the section dealing with
- 10 prosecutions and the obligations that are imposed
- 11 nominally on the old director of prosecution, who
- 12 we now know to be the Assistant Deputy Attorney
- 13 General. Section 12(b) requires that the Director
- 14 of Prosecutions must ensure that information is
- 15 given to the victim as to:
- 16 "...the court process, including the
- 17 role of the victim, prosecutor and
- 18 other persons involved in the
- 19 process."
- 20 That strikes me as a general description of the
- 21 roles played by some of the key players in a
- 22 prosecution. Would that be a fair understanding
- 23 of what that means?
- 24 A Yes.
- Q And how is that discharged? Who does

- 1 it?
- 2 A That is generally done through the
- 3 Victims' Services branch, in terms of provision of
- 4 information. Some of the sheets that we have
- 5 referred to earlier are fact sheets setting out
- 6 explanations about the roles of the various
- 7 players in the system. That particular
- 8 information may be conveyed again, when there is a
- 9 meeting with the Crown, when most of my colleagues
- 10 will take the time to explain their role during
- 11 that meeting as well. But, generally, that kind
- of information about how the system works, who is
- 13 who, is done through the Victims' Services.
- 14 Q Okay. And there is, of course, one of
- 15 the pamphlets that we looked at earlier that can
- 16 be found at book R-3, tab 92.6, which I believe to
- 17 be exhibit 12 in this case. One of those many
- 18 pamphlets is the role of the prosecutions
- 19 division, and it is probably in the middle of the
- 20 pamphlets that you had in your hand?
- 21 A Um-hum.
- 22 Q And it sets out in some detail the
- 23 role of the prosecutor, in describing the Crown
- 24 Attorney as a government lawyer responsible for
- 25 prosecuting the case fairly. It sets out that it

1 is not the victims' lawyer, that the Crown has to

- 2 be fair to all parties in the case, including the
- 3 victims, witnesses and the accused. And they have
- 4 to consider the general public interest, and
- 5 describes how the Crown is required to make
- 6 decisions, and it is not the same as doing what
- 7 you wish to have done. Is that a fair summary of
- 8 the description of the role of the Crown?
- 9 A Yes, as set out in that fact sheet.
- 10 Q And I do not know whether you have the
- 11 experience on a day-to-day basis to comment, but
- 12 you mentioned that Crowns may get involved in that
- 13 type of a discussion with the victims?
- 14 A Yes, because it is one of the most
- 15 misunderstood areas, and counsel want to make sure
- 16 up front that if there are misunderstandings, that
- 17 they are corrected. And the relationship of the
- 18 Crown Attorney to the victim, it probably can not
- 19 be said enough that the Crown is not the victim's
- 20 lawyer. And we still find misunderstandings on
- 21 that particular point alone. So the Crown
- 22 Attorney will often just explain their job, what
- 23 they do, how they do it, and that is another
- 24 opportunity to have that information provided.
- 25 Q So would it be fair to say that the

- 1 pamphlet is clear enough on its own and very
- 2 helpful, but that it is really often necessary to
- 3 go further and actually really try to make sure
- 4 that the victims understand what the role of Crown
- 5 is?
- A I would say yes, from my experience
- 7 and from what I know of my colleague's
- 8 experiences, it is helpful to have that
- 9 discussion.
- 10 Q Okay. And you describe this as a, the
- 11 role of the Crown as being a very misunderstood
- 12 thing by people generally?
- 13 A Yes.
- 14 Q Any idea why that might be? What is
- it about the role of the Crown that might catch
- 16 people by surprise?
- 17 A Well, I think the degree to which
- 18 there is such a need for balancing of interests,
- 19 that the Crown Attorney has obligations that are
- 20 quite broad, that sometimes to understand how we
- 21 have an obligation to be both fair to the accused,
- 22 as well as the victim, seems to be at odds. The
- idea that our role, when you talk about having to
- 24 be impartial and fair and objective, sometimes
- 25 people have difficulties with those concepts in an

- 1 adversarial system. And it is helpful to explain
- 2 that a little to people. And as well, when people
- 3 are coming into the system in a very emotional
- 4 way, you want to make sure that there is
- 5 opportunity for them to understand. And I know
- 6 that the majority of my colleagues have that
- 7 conversation just up front, just to make sure that
- 8 again, regardless of what may have been read by
- 9 the victim's family, that they hear it directly
- 10 from the Crown Attorney who is attached to their
- 11 case.
- 12 Q And certainly victims would also, by
- and large, be very interested in dates, times and
- 14 places of court proceedings?
- 15 A Yes.
- 16 Q And there are obligations imposed
- 17 under the statute to make sure that they have that
- 18 awareness. In fact, section 12(h) imposes the
- 19 obligation on the prosecution service to explain
- 20 how to get dates, times and places. And we are
- 21 going to see another section in a minute that
- 22 imposes obligations to keep them aware of
- 23 important events. So if I understand it, the idea
- 24 is you arm them with the information on how to
- 25 find out where to go on a day-to-day basis, but

- 1 for the important events, there is an additional
- 2 obligation to earmark those events. Is that your
- 3 understanding of how it might work?
- 4 A Yes. Except that it may be the same
- 5 place, if they are calling their assigned worker,
- 6 that person would be in a position to provide them
- 7 with information that is routine as well as the
- 8 information that is significant.
- 9 Q Okay. And I think your answer kind of
- 10 answers my next question as well. It is the Crime
- 11 Victims' Service worker who on the ground actually
- is the one who is responsible for notifying of
- 13 dates, and how to get information, and how to know
- 14 where to go? And you don't really expect the
- 15 prosecutor, prosecting Crown to be on top of every
- 16 single date and contacting the victim; is that
- 17 fair?
- 18 A That's correct.
- 19 Q So the system has been in place to
- 20 allow somebody else to do that. And I have in
- 21 some of the literature seen some reference to the
- 22 Crime Victims' Service workers considering
- 23 themselves to be agents of Crown Attorneys; is
- 24 that a fair description?
- 25 A Yes.

1 Q So they are effectively there doing

- 2 what you otherwise would have to do if you didn't
- 3 have their facility?
- 4 A If we didn't have that branch.
- 5 Q Okay. There is also obligations
- 6 relating to resolution discussions and the process
- 7 of the sentencing. I'm going to ask you to look
- 8 at section 12(i) and (k) in turn. 12(i) talks
- 9 about the process of entering a plea of guilty or
- 10 not guilty, including the possibility of
- 11 discussions between the Crown Attorney and the
- 12 accused person and his or her legal counsel, on
- 13 the resolution of charges. And the next section
- 14 (k) talks about the process of sentencing a person
- 15 convicted of an offence.
- 16 There are also specific obligations in
- 17 section 14 relating to the particular case. But
- 18 am I correct in understanding that section 12 is
- 19 designed to ensure that the general functioning of
- 20 the system, from a point of view of resolution and
- 21 sentencing, is made known to victims?
- 22 A Yes.
- 23 Q And so this could be done well in
- 24 advance of any actual discussions?
- 25 A Yes.

- 1 Q And do you know who discharges that
- 2 obligation on a day-to-day basis?
- 3 A Well, in the serious cases, if there
- 4 is a meeting early on with the Crown Attorney and
- 5 the Victims' Services worker, again, regardless of
- 6 what might have been provided by way of
- 7 information, either directly from the worker or
- 8 through the fact sheets, the Crown Attorney will
- 9 go over, just an overview if you will, of how a
- 10 case might play out through the system, just for
- 11 information.
- 12 The difficulty, of course, is
- 13 sometimes victims want to know up front what is
- 14 going to happen, what is going to happen? But it
- is impossible to say. So it is a matter of
- 16 providing some information so they understand what
- 17 happens in court, that matters get remanded for a
- 18 while, that defence counsel are allowed
- 19 information from the Crown, that is called
- 20 disclosure, that there may be discussions, and
- 21 just a general overview so that there is some
- 22 understanding of the process.
- 23 And at those meetings, again, the
- 24 worker may play a role in that, but the Crown may
- 25 play a greater role in explaining some of that,

- 1 particularly if there are a lot of questions. But
- 2 at that stage it should just be information to
- 3 assist.
- 4 Q How important do you find that
- 5 background information to be?
- 6 A Well, I think from the Crown's
- 7 perspective, it is important to convey it. But I
- 8 would think from the victim perspective, whether
- 9 it is retained at that point or heard even, I do
- 10 not know. Meetings can be so different,
- 11 especially at the outset. Sometimes the meeting
- is nothing more than ensuring the person knows who
- 13 the Crown is and what their phone number is.
- 14 Every situation is different. So what people take
- 15 away from that may need to be repeated at a later
- 16 date, or presented in another fashion, just
- 17 because they may be asking questions that you
- 18 thought you had answered. And that is
- 19 understandable.
- 20 Q So, do I gather from your comment that
- 21 is there is plenty of potential for
- 22 miscommunication when it comes to some of these
- 23 basic legal concepts?
- 24 A Well, probably generally, yes. And I
- 25 say that just speaking about perhaps general

- 1 public's understanding of the system. I mean,
- 2 there is misunderstanding and lack of
- 3 understanding generally. So it is not surprising
- 4 that people may have a lot of questions and that
- 5 there is a need to try to provide information to
- 6 help people understand.
- 7 Q I know that people acquire experience
- 8 over time, but is there any dedicated training
- 9 that takes place with respect to Crowns and the
- 10 importance of trying to find out whether the
- 11 victims have received the information that you
- 12 think you are communicating?
- 13 A Not on that point. It usually reveals
- 14 itself, though. You have to remember, we have the
- 15 Victims' Services worker who is also in touch with
- 16 them, probably on a much more frequent basis. And
- if there are concerns, they can be raised. They
- 18 will come back to the Crown if there is some
- 19 difficulty.
- MR. PACIOCCO: I'm going to move on to
- 21 Victim Impact Statements.
- Mr. Commissioner, it is 10:28, we
- 23 started at 9:00 o'clock, I would be inclined to be
- 24 plow through to 10:45, but I want to know what the
- 25 pleasure of the Commissioner is as to when we take

- 1 our morning break.
- THE COMMISSIONER: Do you want to
- 3 break now or do you want to press on?
- 4 MR. ZAZELENCHUK: Madam court reporter
- 5 seems to want a break now.
- 6 THE COMMISSIONER: Let's have our
- 7 break now. Thank you.
- 8 THE CLERK: All rise. This Commission
- 9 of Inquiry is in recess.
- 10 (Proceedings recessed at 10:29 a.m.
- and reconvened at 10:45 a.m.)
- 12 THE CLERK: All rise. This Commission
- of Inquiry is now reopened. Please be seated.
- MR. PACIOCCO: Thank you,
- 15 Mr. Commissioner.
- 16 BY MR. PACIOCCO:
- 17 Q Ms. St. Hill, I going to ask you some
- 18 questions now about Victim Impact Statements.
- 19 A Yes.
- 20 Q There are informational obligations
- 21 provided in section 12 of the Victims' Bill of
- 22 Rights related to Victim Impact Statements at
- 23 subsections L, M and N. Relating to subsection L,
- 24 the right to file a Victim Impact Statement and to
- 25 add to it at any time before the sentencing of the

- 1 accused person. M, how to obtain assistance to
- 2 complete a Victim Impact Statement. And N, the
- 3 use of Victim Impact Statements and pre-sentence
- 4 reports in sentencing.
- We've already heard a fair amount of
- 6 testimony about Victim Impact Statements. As a
- 7 prosecutor, could you describe what the point or
- 8 rationale of Victim Impact Statements is?
- 9 A At the point of sentencing, it is
- 10 important to ensure that the court is aware of the
- 11 harm that has been occasioned by the offence. And
- 12 this is the formal way to ensure that the victims'
- 13 voice is heard at that point in the proceedings.
- 14 Certainly, a Crown Attorney can speak
- 15 about loss or harm in a general way, and always
- 16 have, but this is a way that the victim's own
- 17 words can go before the court in a written form.
- 18 You are also allowed to read it, or if they
- 19 prefer, the Crown Attorney can read it for them.
- 20 So it is an element of, or a part of the
- 21 information that the Crown wants to make sure is
- 22 before the court at the time of sentencing.
- 23 Q And other that statutory provisions,
- 24 Federal statutory provisions dealing with the
- 25 privacy of the personal records of sexual offence

- 1 complainants, the Victim Impact Statement may be
- 2 the only victim right that is provided by statute
- 3 at the Federal level in the Criminal Code. Do you
- 4 think that's correct?
- 5 A Probably.
- 6 Q And I think that might underline the
- 7 importance of the Victim Impact Statement as a way
- 8 to involve the victim and provide relevant
- 9 information during the sentencing process.
- 10 Who provides the information that was
- 11 just cataloged in the obligations that we reviewed
- 12 in section 12?
- 13 A Generally speaking, these are all
- 14 provided by Victim Services workers. And so that
- information would be provided early on in the
- 16 process, and then as the case proceeds, different
- 17 aspects of it may take on greater significance.
- 18 So there might be an opportunity to revisit the
- 19 information.
- 20 Q Do the Crowns generally play any role
- 21 in helping victims complete Victim Impact
- 22 Statements?
- 23 A Not complete them in the sense of
- 24 writing them for them, or telling them what to
- 25 say, but certainly Crown Attorneys encourage

- 1 people to write them. But it is up to the victim.
- 2 Many people choose not to go that route. The
- 3 Crown Attorney may, if they are going to write a
- 4 Victim Impact Statement, tell the victim to make
- 5 sure that they give some thought to what they want
- 6 to say, and ensure that they put down what they
- 7 really feel they need to say.
- 8 So, again, it is the encouragement
- 9 part, encouraging people to take as well the time
- 10 to think about it and not write it at a time
- 11 that's not opportune. And sometimes people come
- in to the system with their Victim Impact
- 13 Statement written for the first appearance. And
- 14 if the case isn't going to be disposed of for 18
- 15 months, then the Victim Impact information really
- 16 needs to be relevant at the 18 month mark. So we
- 17 have to explain sometimes to people that the
- 18 timing of the provision of the information is
- 19 important.
- Q So is it fair to say that, if the
- 21 victims feel they need assistance in filling out
- 22 the form, it is generally not the Crowns who would
- 23 be handling that, it would be the Victim Service
- 24 workers?
- 25 A Yes.

1 Q I'm going to take you to the guideline

- 2 pamphlet that you will find at tab R-3, tab 92.6,
- 3 R-3.92.6. And it is four or five pages from the
- 4 back of that tab, it is a gray document that we
- 5 have referred to before called "Manitoba Victim
- 6 Impact Statement Guidelines."
- 7 Do you have that document in front of
- 8 you, Ms. St. Hill?
- 9 A Yes, I do.
- 10 Q And is it familiar to you?
- 11 A Yes, I've seen this.
- 12 Q And it includes a list of what should
- 13 be included in the victims statement on the
- 14 left-hand side of the page, and what should not on
- 15 the right-hand side of the page. And it indicates
- 16 on what should be included, that victims should
- 17 give details of any physical and/or emotional
- 18 injuries suffered as a result of the crime,
- 19 outline any treatment or therapy they may have
- 20 received or needed, give details of any financial
- 21 loss that they may have suffered. And it then
- 22 goes on and lists what cannot be included in this
- 23 statement:
- 24 "Comments on the offender's behaviour
- or character, except to describe how

	- uge co
1	the crime has affected them.
2	Say what sentence the judge should
3	impose.
4	Complain about how the police, Crown
5	Attorney, defence lawyer, or judge has
6	handled the case.
7	Describe how the crime has affected
8	other people, except to say how the
9	crime has changed your relationships
10	with others.
11	And include photographs or medical
12	reports. (These should be given to
13	the Crown Attorney.)"
14	We've heard evidence about editing of
15	Victim Impact Statements. Is this something that
16	happens on a fairly regular basis, that
17	prosecutors are called upon to take stuff out
18	because they may conclude that it doesn't comply
19	with the guidelines?
20	A I don't believe that we actually track
21	those situations, but it can occur. It will vary
22	depending on the case.
23	The guidelines are set up according to
24	the requirements of the law, section 722 of the
25	Criminal Code is very clear that the victim is

- 1 entitled to provide information about harm and
- 2 loss. And the points that are set out in what is
- 3 not to be referred to are not included in that
- 4 section of the code, saying that the victim can do
- 5 this or should be allowed to do this. But it is
- 6 also an issue of relevancy, the court wants to
- 7 hear information that's of assistance in terms of
- 8 sentencing, and not opinions or emotional
- 9 statements that may well be understandable in the
- 10 context, but really don't add to the sentencing.
- 11 There has also been court commentary in various
- 12 decisions about the content of Victim Impact
- 13 Statements. So it is very clear to us that what
- 14 goes into those documents has to be what is
- 15 properly before the court.
- 16 And there have been decisions from
- 17 Ontario and British Columbia that also point out
- 18 the fact that there is an obligation on the Crown
- 19 to make sure that the information is appropriate.
- 20 Just as a Crown Attorney wouldn't present other
- 21 irrelevant and extraneous information to the court
- on some other issue, we shouldn't do it in the
- 23 context of sentencing either. So when it comes to
- 24 the Victim Impact Statement, we want to make sure
- 25 that the court is focused on what is important

- 1 that they hear.
- The other element to this -- and I
- 3 will get to the editing piece because it is tied
- 4 into that -- is that this is designed to ensure
- 5 that the victim in filling it out really is
- 6 focusing on what is important. And no Crown
- 7 Attorney wants to see the proceedings start off at
- 8 a sentencing with the judge commenting on all of
- 9 the inappropriate information that's been filed
- 10 with the court. And whether those comments are
- 11 directed at the Crown Attorney or at the victim
- 12 directly, nobody wants to hear that.
- So in a way it is ensuring that there
- 14 is no inadvertent negative commentary, which can
- 15 be received quite poorly by a victim to hear the
- 16 judge say, well, I am disregarding this and I'm
- 17 disregarding that.
- 18 When we get a VIS, a Victim Impact
- 19 Statement in that does contain information that's
- 20 not appropriate, there is a number of options.
- 21 The Crown may ask the worker to speak to the
- 22 person, or the Crown may speak to them themselves
- 23 and say to them, you know, this could cause a
- 24 problem at the sentencing, so can you think about
- 25 that? And sometimes people, upon reflection when

- 1 they are reading something that they have written
- 2 may say, you know, that doesn't look so good, I
- 3 understand and I will adjust that. Other times
- 4 they are quite adamant, no, this is what I want to
- 5 say, I want to be heard. And the Crown, we don't
- 6 have a specific one policy on the issue of
- 7 editing, we certainly suggest that the Crown has
- 8 to be mindful of its legal obligation in making
- 9 sure that we are not having information go forward
- 10 that's inappropriate. But in some cases there
- 11 will be no editing, because the only way that you
- 12 can deal with the issue of ensuring that the
- 13 victim is being heard is to have that information
- 14 before the court. And then the judge can make
- 15 whatever comments they feel are appropriate. But
- 16 the Crown will still tell the victim, you know,
- 17 all that you have written in there about the
- 18 offender, or the court system, or the process
- isn't going to be something that the judge can
- 20 consider for the sentencing.
- 21 Q You have given us a lot of valuable
- 22 information. You began, if this is a fair
- 23 characterization, by saying that there are strict
- 24 legal limits imposed by the Criminal Code and by
- 25 the cases as to what can go into a Victim Impact

- 1 Statement. And Crowns feel obliged to follow the
- 2 law and, tactically, it is wise not to try to put
- 3 the judge in a position where the judge has to
- 4 comment adversely on the Victim Impact Statement.
- 5 Is that fair?
- 6 A I think that's fair.
- 7 Q And the other point that you made that
- 8 was very interesting was the different approaches
- 9 that might be taken, depending on the dynamics of
- 10 the case, and how there may be times when a victim
- 11 is very insistent on including things in the
- 12 Victim Impact Statement, that might not
- 13 technically be correct, but it may be a decision
- 14 taken by the prosecutor to allow that and leave it
- 15 up to the judge to ignore?
- 16 A Yes. And the Crown may make comments
- 17 at the time so that there is no suggestion that
- 18 the Crown is trying to put in information that
- 19 they know is wrong. The Crown may actually say,
- 20 the court will note that there is information in
- 21 the VIS that does not conform to legal principles.
- 22 That has been explained to the victims, but it is
- 23 there for the court to see it. So it is clear
- 24 that the Crown is trying to do the right thing,
- 25 and really does depend on the dynamics of the case

- 1 and maybe what has gone on in the lead-up to that
- 2 sentencing as to why it might play out that way.
- 3 Q Why do you think Crowns might do that,
- 4 even though they know that technically the
- 5 statement may not comply, they choose to put it
- 6 forward?
- 7 A Well, we think about one of the aims
- 8 of the Victims' Bill of Rights and, in fact, the
- 9 provisions in the code is to allow people to be
- 10 heard, to allow the victims and victims' family to
- 11 be heard. And I think sometimes the requirement
- 12 to, of course, follow the law and do the right
- 13 thing can be interpreted as silencing a voice, or
- 14 can be taken in a way that the victim feels is
- 15 further victimization. So I think it is some
- 16 sensitivity to particular circumstances, and the
- 17 Crown may be a little bit more flexible and do
- 18 something that they may not otherwise do. But,
- 19 again, I mentioned earlier every case is unique
- 20 and it really comes down to the dynamics of the
- 21 particular matter.
- 22 THE COMMISSIONER: How is the Crown to
- 23 know when to let it go in and when to say, you
- 24 better take it out? Does it depend on their
- 25 knowledge of the particular judge?

- 1 THE WITNESS: No, I think it is a
- 2 matter of what the content is. Sometimes people
- 3 may make comments about the system as a whole,
- 4 that the system is, you know, doesn't work, or
- 5 there is no justice, sort of general comments that
- 6 I don't think the court would be surprised to
- 7 maybe hear or see. Sometimes commentary is much
- 8 more pointed, and it may be about somebody in the
- 9 system, or it may be about the offender, and it
- 10 really crosses that line. And I think that Crown
- 11 Attorneys will rely on their experience to
- 12 determine what is appropriate.
- 13 BY MR. PACIOCCO:
- 14 Q I notice in tab R-5, a document that
- 15 has already been put in as exhibit 53, and should
- 16 be in front of you, Ms. St. Hill, it is book R-5.
- 17 I know that this book is not paginated for
- 18 everyone, but it is the last document in the book
- 19 that I'm referring to in R-5, the Victim Impact
- 20 Statement Guidelines, about four or five pages
- 21 from the back of the book.
- 22 A I seem to be having difficulty here.
- 23 R-5?
- 24 Q R-5, it is page 3401.46 on the
- 25 document that I think you might have in front of

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you?

- 2 A I have R-4 --
- 3 Q It should be exhibit number 53.
- 4 A Okay. The number again?
- 5 Q It would be page 3401.46 for you. It
- 6 is the first page of the Victim Impact Statement
- 7 Policy Guideline of September 2001. And you will
- 8 notice at the bottom it does deal with the issue
- 9 of editing of the Victim Impact Statement?
- 10 A Yes.
- 11 Q And it alerts Crowns to the
- 12 possibility that the statement may not satisfy the
- 13 requirements of section 722 of the Criminal Code,
- 14 and that the Crown may be required to edit the
- 15 Victim Impact Statement or to present its contents
- 16 as "other evidence." And it goes on and it gives
- 17 advice on what to do when assessing which portions
- 18 to present to the court. It asks Crowns to be
- 19 mindful of the purpose, which is to give the
- 20 victim a voice in the sentencing. It talks about
- 21 the need to explain or discuss with victims any
- 22 decision to edit the Victim Impact Statement, or
- 23 to present its contents as other evidence. Then
- in the last bullet under that heading it says
- 25 this:

1	"The contents of the Victim Impact
2	Statement are not evidence to prove
3	the charge and will not be seen by the
4	judge until the time of sentencing.
5	Therefore, when dealing with victim
6	comments that may or may not qualify
7	as appropriate under the criteria set
8	out in section 722, the questionable
9	material could be left to the court to
10	assess in terms of its value to the
11	sentencing process."
12	Is that a fair description of the general approach
13	you described to the Commissioner a moment ago?
14	A I think it is. I think, though, just
15	looking at the date on this, September 2001, is
16	shortly after the Act came in, and only a couple
17	of years after the amendment to the code. And it
18	may be that over the last number of years we have
19	seen situations that have really tested this in
20	terms of how it has played out. So, just as a
21	note to myself, it might be time to have a look at
22	expanding on this in terms of addressing some of
23	the real life situations that we have had to deal
24	with. But I think even as it is read there, it is
25	fair.

- 1 Q What changes might you be inclined to
- 2 make, having looked at that in light of your
- 3 recent experiences?
- 4 A We have seen that victims' families
- 5 want to use the sentencing hearing as, I will use
- 6 the word "tribute," because I think that's what it
- 7 is in terms of its intent. And that has lead to
- 8 situations where we have really struggled with how
- 9 to deal with that, where the victim's family
- 10 really want to present information, or maybe make
- 11 a presentation in some sort, in some fashion, to
- 12 ensure that the court doesn't forget that there
- 13 has been a loss of life and what that means to
- 14 them. But it does stray into an area that's very
- 15 much not in accord with the actual sentencing
- 16 process. And I think that where it has come up,
- it might be useful to offer some more guidance as
- 18 to how we deal with those situations. And again,
- 19 because they are emotional and because they can be
- 20 perceived wrongly if the Crown is saying no, you
- 21 can't did this or you can't do that, how to work
- 22 through those situations, where we understand why
- 23 the family may want to present the life story of
- 24 their loved one, or why they might want to bring
- 25 certain things into the courtroom at the time of

- 1 sentencing.
- 2 Q So if I understand you, you might want
- 3 to fine-tune or tinker with that to the point
- 4 where you would make it clear that, where it is
- 5 going to be traumatic to the victim to be denied
- 6 the opportunity to voice what they feel needs to
- 7 be voiced, it may be appropriate not to feel
- 8 compelled to confine yourself to what is
- 9 technically required under section 722?
- 10 A Well, I think there may be more to
- 11 discuss, but I just identify it as maybe an
- 12 example of something that has changed since
- 13 September 2001, that we might want to look at.
- 14 Because it is the kind of thing that really,
- 15 again, goes back to the heart of what victims
- 16 expect from the system. And if there have been
- 17 changes that have played out in cases, I think we
- 18 should look at those and see what we can learn.
- 19 Q And I think you would agree with me
- 20 that it would be an irony if a provision designed
- 21 to give victims a voice in the sense of
- 22 participation is interpreted in application as
- 23 being a refusal to allow them to say what needs to
- 24 be said?
- 25 A Um-hum.

- 1 Q I want to ask you a question about the
- 2 pamphlet on the Manitoba Victim Impact Statement
- 3 Guidelines that we spoked about earlier. You
- 4 should have it still in front of you in book R-3,
- 5 tab 92.6, exhibit 12 in these proceedings?
- 6 A Yes.
- 7 Q Do you know where these guidelines
- 8 came from?
- 9 A They were generated from within the
- 10 department. There was consultation between the
- 11 Victims' Services branch and our office.
- 12 Q Okay. And so there is not a more
- 13 official looking version of this somewhere, other
- 14 than the --
- 15 A This was the last one that I saw.
- 16 Q Okay. Fair enough. I was just
- 17 wondering whether there was one with the Manitoba
- 18 emblem at the top, that looks like an official
- 19 policy statement as opposed to a published guide?
- 20 A The national emblem is on the bottom
- 21 of this one.
- Q Okay. Perfect, I am happy with that.
- 23 I was thinking of an internal document as opposed
- 24 to a pamphlet, and that this might reflect the
- 25 contents of a policy somewhere or --

- 1 A No, because our policy itself entitled
- 2 Victim Impact Statements relates to the Crown
- 3 role.
- 4 Q Very good. Okay. So I have a
- 5 question about the photographs, and the indication
- 6 in this guideline that says:
- 7 "In your statement you must not
- 8 include photographs or medical
- 9 reports. (These should be given to the
- 10 Crown Attorney.)"
- 11 What is the significance of that passage? What
- 12 does it mean?
- 13 A It is to address situations where
- 14 there might be something, particularly a medical
- 15 report that may have some bearing on the case
- 16 itself, at that stage, additional information that
- 17 may need to be disclosed. And also to give the
- 18 Crown the opportunity to determine if, in fact,
- 19 that's something that could be incorporated into
- 20 their submission, or if in fact it is something
- 21 that may not, or should not go forward.
- 22 Sometimes, one example would be if
- 23 sometimes a victim is inadvertently revealing
- 24 personal information that, if they actually
- 25 thought about it, they wouldn't really want put

- 1 forward in a public forum. So it is just a matter
- of assessing, well, what is that, what is that
- 3 about?
- With respect to the photographs,
- 5 again, what are they of? What is the purpose?
- 6 And again, I think it is an opportunity for the
- 7 Crown to have some assessment of the value of the
- 8 material that's being provided.
- 9 Q So I take it from your answer that a
- 10 Crown could look at a photo and choose to permit
- 11 that to go forward at the time of sentencing as
- 12 part of the victim impact experience?
- 13 A Well, where it has happened, to my
- 14 knowledge, it is usually the victims themselves
- 15 who have come with a photo, usually a photo of the
- loved one, and the court may say that that's fine,
- 17 as opposed to the Crown necessarily advancing it.
- 18 We don't track all of these situations when they
- 19 do occur, and they are specific to their
- 20 circumstances. So I think it really just depends
- on what it is, what is intended, and what it adds,
- 22 or detracts, I suppose, potentially from the
- 23 sentencing.
- Q I'm just curious as to the requirement
- 25 that the photo be given to the Crown. Would I be

- 1 right in interpreting that as an indication that
- 2 the Crown may give authority to the victim to use
- 3 the photo and that photos are not absolutely
- 4 forbidden?
- 5 A Well, I think there is a difference
- 6 between what might be put forward and then how it
- 7 may be used. So sometimes things may be put
- 8 forward just for other purposes, other than the
- 9 pure legal reasons. I'm not sure I answered your
- 10 question, but it is conceivable.
- 11 Q I will try to be clearer. All of the
- other bullets say don't put this in, don't put
- 13 that in, don't put this in. This one says, don't
- 14 do it yourself, give it to the Crown. Why, if it
- is absolutely prohibited, let me put it that way,
- if it is, would you give it to the Crown?
- 17 A I suppose it is -- just in case there
- 18 might be some relevance to it, or some role it
- 19 might play. It is somewhat different from the
- 20 other points there.
- 21 0 Yes?
- 22 A And if there is a possibility that
- 23 there is something about what is provided, at that
- 24 time as part of the VIS, that actually does have
- value for the purpose of the sentencing, then it

- 1 is caught under that. But those other points are
- very clear. I think that the law addresses them
- 3 quite clearly.
- 4 Q Yes, the other ones are very clear,
- 5 and that is why I'm just troubling a little over
- 6 this one and the way it is worded there. Just so
- 7 I'm clear, could you indicate again to the
- 8 Commissioner what your experience is with respect
- 9 to the presentation of photographs during
- 10 sentencing hearings?
- 11 A We have had a few cases where that's
- 12 occurred, and although I haven't directly been
- 13 involved in those, I'm aware of one case where the
- 14 judge made some comments about what size the photo
- 15 could be. I think there might have been some
- 16 attempt to have posters and that kind of thing.
- 17 THE COMMISSIONER: Some what?
- 18 THE WITNESS: Posters, and large
- 19 format photographs. So there was some discussion
- 20 and decision about what size the photographs would
- 21 be.
- THE COMMISSIONER: Did the judge give
- 23 any quidelines on what size it should be?
- 24 THE WITNESS: Not as part of -- as I
- 25 understood, it was a matter of this picture over

- 1 here is okay, but not that one, that kind of
- 2 thing.
- 3 THE COMMISSIONER: I don't understand
- 4 how that clause that we have been referring to
- 5 arose out of that kind of comment by a judge?
- 6 THE WITNESS: No, I'm speaking -- the
- 7 case that I have just mentioned is something that
- 8 happened I think recently.
- 9 THE COMMISSIONER: I'm having some
- 10 trouble understanding why a photograph should not
- 11 be presented to the judge.
- 12 THE WITNESS: I think what has
- 13 happened is that has occurred, that has been
- 14 occurring.
- 15 THE COMMISSIONER: Then why is it
- 16 framed in this particular quideline as showing it
- 17 to the Crown Attorney? You are giving --
- 18 THE WITNESS: Yes, I think it
- 19 represents an opportunity to discuss whether in
- 20 fact it should go forward. It is not an
- 21 absolute -- I mean, the points that are not to be
- 22 included are set there for a reason, so that the
- 23 court can focus on what is relevant for the
- 24 purposes of the sentencing. And a photograph --
- 25 the fact that there is reference to it being given

- to the Crown Attorney, I suppose it means that it 1
- is open for some discussion. 2
- THE COMMISSIONER: In the context of 3
- the value of a Victim Impact Statement itself, so 4
- that the judge will not forget the victim, what is 5
- wrong with including a photograph? 6
- 7 THE WITNESS: I don't want to be
- misunderstood, I don't -- I think it is a matter 8
- of perhaps what the substance of it is. And 9
- because I've seen and I'm aware that there have 10
- been cases where photographs have been in the 11
- court at the time of the sentencing, it may be 12
- that this particular point is something that needs 13
- 14 to be revisited with some consideration as to what
- is appropriate. 15
- 16 THE COMMISSIONER: I quess the
- difficulty I'm having is understanding why there 17
- should be a prohibition against a photograph, or 18
- even a medical report? 19
- 20 THE WITNESS: Well, I think what I
- 21 commented with respect to the medical report is
- 22 more of a matter of making sure there is no
- inadvertent disclosure in there. 23
- THE COMMISSIONER: Making sure what? 24
- THE WITNESS: There is no inadvertent 25

- 1 disclosure in there that may be subsequently
- 2 harmful to the victim.
- 3 THE COMMISSIONER: If the victim
- 4 chooses to put it in, why would it be harmful?
- 5 THE WITNESS: I'm suggesting that
- 6 there might be situations where, after the fact,
- 7 somebody might not want to read about in the paper
- 8 and have the whole world know that they are under
- 9 a certain kind of medical treatment, or that they
- 10 are having certain kinds of issues. People vary,
- 11 and it may be that they will be upset about that
- 12 after the fact. So it would prompt a discussion,
- 13 perhaps, are you sure that this is what you want
- 14 to say. That kind of discussion. I see it more
- 15 as an opportunity to just ensure that there is
- 16 some further thought to that.
- 17 THE COMMISSIONER: If the victim
- 18 understood that the statement, the Victim Impact
- 19 Statement would become public knowledge, why would
- 20 you say to the victim, well, you can't put in this
- 21 because it should not be disclosed? Wouldn't the
- 22 victim know that it would be disclosed?
- 23 THE WITNESS: People's knowledge and
- 24 understanding of what happens with the information
- 25 that comes out in court varies.

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1 BY MR. PACIOCCO:
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- Q Ms. St. Hill, if an edit is going to
- 3 occur with respect to a Victim Impact Statement,
- 4 there was reference in the policy manual to
- 5 explain, discuss with the victim that decision.
- 6 And if you are looking for the document, it again
- 7 is R-5 at page 3401.47. And it is exhibit 53?
- 8 (EXHIBIT 53: Prosecutions Policy
- 9 Manual)
- 10 THE WITNESS: Um-hum.
- 11 BY MR. PACIOCCO:
- 12 Q It says:
- "There is a need to explain, discuss,
- 14 with the victim any decision to edit
- the VIS or to present it contents as
- other evidence."
- 17 How is that best accomplished in your experience
- 18 or in your opinion?
- 19 A Well, it depends on the nature of the
- 20 difficulty with the content of the information, if
- 21 it is something that's pretty straightforward, it
- 22 may be that the Victim Services worker can convey
- 23 the concern. If it is something that requires a
- lot more explanation or if there is some back and
- 25 forth, and the victim actually wants to understand

- 1 and ask some questions of the Crown, then the
- 2 Crown would be probably a better place to do that.
- 3 Q Okay. And if you are in a situation,
- 4 I mean, your experience has been that these can be
- 5 very emotional decisions that have to be taken
- 6 from any victims?
- 7 A Whether or not to do a Victim Impact
- 8 Statement?
- 9 Q Whether or not to have material edited
- 10 out of it by the Crown, it can be a difficult
- 11 thing for victims to accept and it can be a sense
- 12 that they are being silenced?
- 13 A Yes.
- 14 Q And if you have an indication that you
- 15 are in that kind of a situation, where you have a
- 16 victim who has been disappointed in the way the
- 17 system is functioning, what would the best way to
- 18 communicate with that victim be, in your view, or
- 19 in your opinion?
- 20 A Well, if they have been disappointed
- 21 all along, and that's been apparent to the people
- 22 who have been working with them, I think they
- 23 would have a greater sense as to why there is that
- 24 disappointment, and determine how best to approach
- them on this particular issue. Sometimes people

- 1 are disappointed the minute they walk in the door,
- 2 because they know that our law isn't going to
- 3 respond to the situation the way that they want.
- 4 And so there is absolutely nothing that the system
- 5 can do, even if it is working 100 per cent and the
- 6 best possible legal outcome is achieved, it is not
- 7 going to make them feel any different than
- 8 unhappy. So if you are dealing with someone who
- 9 has been, from their perspective certainly
- 10 traumatized for being part of the process all
- 11 along, I think you would want to be mindful of
- 12 that. And this is certainly, in their view, going
- 13 to be seen as yet another thing that they are
- 14 going to point to say that there is a problem.
- 15 So --
- 16 Q I think I take it from your answer
- 17 that you would want to discuss it personally with
- 18 that individual?
- 19 A I know that's what I would think would
- 20 make sense, if it was my --
- 21 Q You wouldn't just send a letter
- 22 saying, I'm not going to include this information,
- 23 if you want to discuss it, contact me?
- 24 A Well, every case is different, not
- 25 just in terms of what the facts of the case are,

- 1 but also the relationship that will develop
- 2 between the Crown Attorney who is assigned to the
- 3 case and the Victim Services worker, and the
- 4 victims' family. If you remember these cases,
- 5 even when they are dealt with relatively quickly
- 6 in terms of the legal system, there is still a lot
- 7 of time that goes by, and people do develop a
- 8 relationship. And if people have been meeting or
- 9 talking on the phone or sending emails, they have
- 10 developed a communication style that people are
- 11 comfortable with. So the idea that at the end of
- 12 the process, a suggestion of sending a letter in a
- 13 case where there has been good communication, that
- 14 would seem rather odd. So I think it is a
- 15 function of what was developed during the course
- of the relationship between the players in the
- 17 case. Because at this late stage, you do have a
- 18 sense of, or you should have a sense of where
- 19 people are coming from, what their concerns are,
- 20 and how best to address them.
- 21 If you have been dealing all along
- 22 with somebody who doesn't understand, then at this
- 23 point you just keep trying, I suppose. But I
- 24 think it is incumbent on the people in the system,
- 25 who are trying to provide information in a way

- 1 that's helpful, to be mindful of what that
- 2 particular victim's concerns are and how they have
- 3 been dealing with things.
- 4 Q Thanks very much. I'm going to move
- 5 on to the status of the prosecution and section 13
- of the Victims' Bill. And again, it is predicated
- 7 on request by victims for information.
- 8 In your experience, is it really
- 9 necessary for victims to ask in order to get the
- 10 kinds of information that is described in section
- 11 13, namely, the charge laid, the name, address and
- 12 telephone number of the office of the Crown, the
- 13 date and time and place of important proceedings,
- 14 the outcome of the prosecution?
- 15 A Well, this is captured in part from
- 16 section 12, just in terms of provision of
- 17 information. But depending on the case, in many
- 18 cases, cases that are outside of the VBR, victims
- 19 would have to ask because they are not provided
- 20 with that automatic contact. But for cases that
- 21 are caught under the regulation, again, it is part
- 22 of the ongoing communication between the Victim
- 23 Services worker and the Crown and the family.
- Q So you would expect this to happen as
- 25 a matter of course in an impaired causing death

- 1 case?
- 2 A Well, unless the family didn't want
- 3 it.
- 4 Q And I notice that there is nowhere in
- 5 section 13 that there is an obligation described
- 6 to disclose the status of the prosecution, or am I
- 7 misunderstanding this section? I look, for
- 8 example, at section 7 dealing with law enforcement
- 9 agencies, and the first obligation in section 7(a)
- 10 is to disclose "the status of the investigation."
- 11 A Um-hum.
- 12 Q Whereas in section 13 I see no
- 13 comparable obligation with respect to describing
- 14 the status of the prosecution.
- 15 A Maybe that we are dealing with
- 16 different types of things. Investigation can be
- 17 ongoing, investigation can be near completion,
- 18 investigation can be at a stage where the officers
- 19 are able to provide some information about where
- things may be going or where they may not, or how
- 21 much time they need to conclude things. Section
- 22 13, the way it is broken out, actually does
- 23 provide the status of the case in the system. If
- 24 you are being provided with the dates of court
- 25 appearances, and also when something is going to

- 1 happen that's of significance of the matter, that
- 2 in essence is the status of the case. I don't
- 3 think it is a situation where you can really have
- 4 a prosecutor provide the same kind of comment that
- 5 an investigator might. Well, we've almost
- 6 finished interviewing the witnesses and we will be
- 7 ready to send the file to the Crown, whereas the
- 8 Crown is working on the case, it is a work in
- 9 progress. And as it proceeds through the system,
- 10 as long as you aware of what is happening, then
- 11 that really is the status of the case.
- 12 Q Okay. The reason I'm asking is
- 13 because we have heard about the difficulties that
- 14 the victims had in this case about getting
- 15 information about the case. And by information,
- 16 they included knowledge of the state of the
- 17 evidence and the strength of the case and things
- 18 of that nature.
- 19 Are you able to comment on the
- 20 practice within Prosecution Services, when it
- 21 comes to sharing information about the kind of
- 22 evidence, the number of witnesses, the strength of
- 23 the case, the expectations in terms of how the
- 24 case is likely to go, given what is available to
- 25 the prosecution?

- 1 A That may be different in different
- 2 cases, but I do know that many of my colleagues,
- 3 and I think back to cases that I have been
- 4 involved in, at the beginning, early on in the
- 5 process when you are meeting with the family,
- 6 there is usually a lot of questions and they want
- 7 to know, you know, what is going to happen, what
- 8 might be a likely outcome. And ideally at that
- 9 point, the Crown does have some sense of what the
- 10 issues in the case are. And certainly, if at the
- 11 outset you, as the prosecutor, know that there are
- 12 difficulties with the case, you should share that
- 13 with the family. Because if they think that
- 14 otherwise, that's not a good way to start the
- 15 relationship. So I know that my colleagues, and
- 16 I've done it too, will say, you know, this is
- 17 going to be a difficult case and this is why.
- 18 Q So, for example, if there is poor
- 19 evidence of identification, you might say, we
- 20 don't have a tremendous amount of evidence that
- 21 would assist in identifying the accused as the
- 22 perpetrator, and it may not be enough for the
- 23 judge, something of that ilk?
- 24 A Yes, something general, it doesn't
- 25 have to -- or if there is an issue with -- there

- 1 is going to be an issue with respect to
- 2 admissibility of something, you know, there is a
- 3 potential charter breach and you see that and you
- 4 recognize that, and you think, well, it could go
- 5 either way. Things that you recognize as a
- 6 prosecutor assessing your case, if you are asked,
- 7 you know, what is going to happen in this case,
- 8 you are already in a position to say something
- 9 along the lines of, well, there are going to be
- 10 some challenges or is there probably going to be
- 11 some motions that are going to have to take place
- 12 that may add some time to this matter, or,
- 13 unfortunately, our witnesses to this case are
- 14 individuals with various problems that are going
- 15 to cause issues for us as we attempt to have them
- 16 present their evidence. I mean, there are ways to
- 17 provide people with information about the quality
- 18 of the case, if you will, from the point of view
- 19 of successful prosecution, without handing over
- 20 the file or getting into the legal considerations
- in a detailed way.
- 22 THE COMMISSIONER: I'm having some
- 23 difficulty with something arising out of
- 24 Mr. Paciocco's questioning. Status of the
- 25 prosecution to me means the difficulties in a

- 1 prosecution or the advantages in a prosecution.
- 2 Where in items A to G, is there any indication of
- 3 anything other than information about names, et
- 4 cetera -- there is nothing in there about status.
- 5 And yet there is an obligation under 13 in the
- 6 opening statement about status. Now, you have
- 7 indicated that you rely upon your colleagues --
- 8 THE WITNESS: Um-hum.
- 9 THE COMMISSIONER: -- to provide that
- 10 information, to develop a relationship with the
- 11 victim, and to let them know how things are going,
- 12 the difficulties and the potential success of a
- 13 prosecution. But it doesn't indicate in either of
- 14 the items listed anything to do with status. Now,
- 15 how does an independent prosecutor know that that
- 16 obligation is there if it is not set out in the
- 17 statute?
- 18 THE WITNESS: Well, I think what I've
- 19 referred to in terms of the description of
- 20 providing information, perhaps that's what occurs
- 21 under 14, and maybe we are talking about the
- 22 meaning of the word "status." Under section 13,
- 23 it really seems to speak to the status of the case
- in the system, as opposed to what I think is what
- 25 is being raised here, which is a qualitative

1 assessment of the case itself. And those kinds of

- 2 discussions can be had and are had when there are
- 3 meetings with the family to explain what is going
- 4 to be happening next, or why the person got bail,
- 5 or why there is going to be an adjournment, or why
- 6 there has been an offer made to resolve the
- 7 matter. So, I'm wondering if what we are talking
- 8 about here is the meaning of the word "status" and
- 9 how it is used, both in the Act and also how it is
- 10 being used just in our discussion now.
- 11 BY MR. PACIOCCO:
- 12 Q I will take you through section 14
- 13 momentarily, Ms. St. Hill. I guess the issue is
- 14 section 13 uses the term "status of the
- 15 prosecution" in the second line as though it is a
- 16 generality, and then goes on to make it very
- 17 specific by saying the following information, and
- 18 it lists very specific types of things that might
- 19 not include a number of the observations you made
- 20 about the strength of the case, or the rest of it.
- Is this a situation where there might
- 22 be a disconnect between the practice in the office
- 23 and the wording of this section?
- 24 A I don't see it that way. I think part
- of the difficulty perhaps with the Act is that

- 1 things are sectioned in a certain way, and yet in
- 2 practice they work perhaps a lot more in an
- 3 integrated fashion. So if there is information
- 4 being provided about a court date, for example,
- 5 under 13(d), the date, time and place of a
- 6 proceeding that relates to the prosecution and is
- 7 likely to affect its outcome, including a
- 8 preliminary hearing, trial or sentencing hearing,
- 9 the provision of that information can also include
- 10 a discussion about what is going to happen at the
- 11 preliminary hearing? What kind of evidence is
- 12 going to be called? What is the likely outcome of
- 13 that? And there could be information conveyed by
- 14 way of explanation as to what is happening and why
- 15 is it significant.
- To just say, well, this is a date that
- 17 might have an impact on the outcome of the case,
- 18 just in and of itself doesn't mean anything, you
- 19 have to take it to the next step. What is
- 20 significant about that particular court date?
- 21 What is going to happen that day that's going to
- 22 tell us where this case is going?
- 23 So that's the kind of discussion that
- 24 would lend itself to an explanation of the case
- 25 itself. I think that the points that you are

- 1 asking about and Mr. Commissioner is asking
- 2 about --
- 3 Q So if I understand you, the actual
- 4 application of this, these sections would be, in
- 5 practice, a very functional one that is consistent
- 6 with the overall objective of keeping the victims
- 7 apprized of what is going on?
- 8 A Yes.
- 9 O I'm going to deal with the issue of
- 10 consultation, and section 14 deals with
- 11 consultation, and it again opens by referring to
- 12 the victims' request. But it provides for the
- 13 Director of Prosecutions to ensure that the victim
- is consulted with respect to a number of matters,
- and I'm going to deal with the caveats in a
- 16 moment, but it talks about the obligation to
- 17 consult with respect to a decision on whether to
- 18 lay a charge, the use of alternative measures,
- 19 which is not relevant to our case, staying the
- 20 charge against the accused person, if the accused
- 21 person is in custody, which is not relevant to our
- 22 case, an application for release, any agreement
- 23 relating to a disposition of the charge, any
- 24 position taken by the Crown in respect of
- 25 sentencing if the accused person is found guilty,

- 1 and then there is another provision not relevant
- 2 to us that deals with appeal. What does the term
- 3 "consult" in this section mean in practice?
- 4 A In practice it means providing the
- 5 victim with information about what is happening
- 6 with the case, and giving them the opportunity to
- 7 tell you what they think about that, ask questions
- 8 about it, and hopefully understand what is
- 9 happening. So it is providing them with
- 10 information and advising them.
- 11 O Okay. So the term "consult" in its
- 12 usual meaning would suggest that somebody be asked
- 13 for their views and that those views would be
- 14 taken into account. Is that a fair description of
- what actually happens on the ground?
- 16 A Well, the victim's family will be
- 17 asked for their views, there is no question about
- 18 that. And the degree to which the views can be
- 19 taken into account, really, that's I think where
- 20 we get into situations where people become
- 21 concerned or unhappy. Because decisions with
- 22 respect to, for example, under A, whether or not
- 23 to lay a charge, are decisions that have to be
- 24 based on assessment of the evidence and the
- 25 application of the proper legal principles. If a

- 1 victim wants a charge laid but there is no
- 2 evidence, we are going to hear them say that. The
- 3 fact of the matter is, a charge isn't going to be
- 4 laid. So, there is the -- we can call it a
- 5 discussion or meeting or whatever form it takes,
- 6 but what happens throughout many of these points
- 7 is that the nature of the case, the nature of the
- 8 available evidence and the law as it applies to
- 9 the evidence is going to determine what is going
- 10 to happen.
- 11 Q So I take it, it would be a stretch to
- 12 call these decisions a collaborative process?
- 13 A Yes.
- 14 Q And they are decisions taken by the
- 15 Crown?
- 16 A Yes, they are.
- 17 Q And I think, and I will take you to
- 18 the policy statements where that is listed and
- 19 very clearly set out. But first I want to just
- 20 ask you, would it be in keeping with the
- 21 requirements for a prosecutor to simply tell a
- victim of a decision that's already been reached?
- 23 Could you in any way describe that as
- 24 consultation?
- 25 A No. In fact, on these major cases,

- 1 the process that unfolds, there may be a lot of
- 2 discussion going on in terms of possible
- 3 resolution, but sort of the finalization of that
- 4 doesn't usually occur until the family has been
- 5 offered the opportunity to hear what is going on
- 6 and offer any comment they might. So it is a
- 7 balancing, if you will, in terms of, we may know
- 8 what the right legal decision is, but there is
- 9 still a need to hear and canvass any concerns
- 10 before -- counsel may get back to defence counsel,
- 11 for example, to say, yes, this is going to be
- 12 resolved.
- 13 Q Okay. Do you find the term
- 14 "consultation" potentially misleading in any way
- 15 as it is used in that statute?
- 16 A I think it is problematic, yes. I
- 17 think that's the area where we get the most
- 18 concerns being expressed by victims about their
- 19 case and about the communication. And people
- 20 either think that they can direct the prosecution,
- 21 and the Crown is to do what they say, or they hear
- 22 what is being said and they don't like it. And it
- 23 may reflect the reality of the case, but it
- 24 doesn't take away from the fact that the
- obligation has been met in terms of provision of

- 1 information, the opportunity to discuss it, what
- does it mean, why, to have the explanation given
- 3 as to why the case is going in a particular
- 4 direction. But at the end of the day it may not
- 5 meet what the victim is looking for. And as a
- 6 result it does cause grief for everyone, because
- 7 the Crown has to deal with that as well, if
- 8 someone is very upset about why things are
- 9 happening. So it is a troublesome word.
- 10 Q Would it be fair for me to say from
- 11 your comments, and I will get to the policy in a
- 12 moment, but would it be fair for me to say that
- 13 the why question is a really important one to
- 14 answer in order to fulfill whatever meaning
- 15 consultation could possibly have?
- 16 A Yes.
- 17 Q So when key decisions are taken, it is
- 18 really important to make sure that the individuals
- 19 understand why those decisions are taken?
- 20 A We try to ensure people understand. I
- 21 think our key goal is to make sure that the
- 22 information is conveyed and, yes, we would like
- 23 them to understand. Whether they do or not is
- 24 going to vary.
- 25 Q And if you had any sense that they

- 1 might not, I take it from your answers today that
- 2 you would continue to try to find ways to get the
- 3 message across?
- 4 A Yes. And sometimes things are very
- 5 easily understood. If there is a loss of evidence
- for some reason, and it is quite clear we don't
- 7 have the evidence to call, people can understand
- 8 that. If it comes down to a more legal
- 9 consideration, that can be sometimes harder to
- 10 explain.
- 11 Q Okay. I'm going to take you then, if
- 12 I can, to the policy on victims which we have
- 13 referred to earlier in book R-4. And you should
- 14 have page 3401.7 as the first page of that
- 15 July 2005 Victims Policy Statement. And if you
- 16 turn over to page 2 of that document, page 3401.8,
- 17 this is in volume R-4. We looked at that document
- 18 earlier as exhibit 48.
- 19 You will find a heading on page 2 of
- that document at page 3401.8, "Consultation With
- 21 Victims." And now I noted, Ms. St. Hill, this
- 22 material was not in the earlier version of the
- 23 Victims Policy Statement, but had been added in
- 24 July of 2005?
- 25 A You are referring to the 1999 one?

1	Q	Yes?
2	А	Yes.
3	Q	And obviously if it was added, it was
4	added becau	use this was an issue that required some
5	clarificati	ion. Would that be fair to say?
6	А	Yes.
7	Q	Okay. And what it says is:
8		"Under section 14 of the Victims' Bill
9		of Rights, victims are entitled to
10		consult with the Crown Attorney on
11		certain decisions relating to the
12		prosecution of the case. Consultation
13		does not mean that the victim is
14		entitled to direct the prosecution or
15		make the final decision with respect
16		to how the case is handled. The
17		Victims' Bill of Rights does not
18		impose restraints on the Crown
19		Attorney's ability to perform his or
20		her function as an officer of the
21		court. However, the Victims' Bill of
22		Rights does recognize that victims of
23		a crime have a legitimate interest in
24		seeing that their concerns are
25		acknowledged by the Crown. Crown

- 1 Attorneys are required to listen to
- and seriously consider any information
- 3 the victim has to offer."
- 4 Is that a fair description of the practice, ma'am?
- 5 A I think it is.
- 6 Q And so the emphasis should be on
- 7 listening to the concerns and seriously
- 8 considering any information offered; is that
- 9 correct?
- 10 A Yes.
- 11 Q Do you interpret any information to be
- 12 information in the sense of data, as opposed to
- 13 opinions?
- 14 A It can be anything that the victim
- 15 might want to say. I don't read that as all of a
- 16 sudden the victim's family comes up with new
- 17 evidence, for example. But it is information.
- 18 Q Okay. And it is in keeping with the
- 19 basic notion that the victims need to feel that
- 20 someone is listening to them and that's the
- 21 primary objective here?
- 22 A Um-hum.
- 23 Q And it may be that you gain some
- 24 insight into the case as a result of what they
- 25 have to say, but by and large, the decisions are

1 those of the prosecutor. Is that a fair summary

- 2 of what --
- 3 A Yes.
- 4 Q There is reference in here to the
- 5 Crown Attorney as an officer of the court. Now,
- 6 that's a term we lawyers are very familiar with.
- 7 If you had to explain that to lay people, how
- 8 would you do that?
- 9 A You tell people that as a Crown
- 10 Attorney, as one of the counsel in the courtroom,
- 11 that we do have an obligation to make sure that
- 12 things are done properly, and that that obligation
- 13 extends not just to how we do our work, but to
- 14 make sure that the process is followed, things are
- done fairly, people's rights are respected and
- 16 regarded, and that we have to be seen to be
- 17 fulfilling that function as well. So it is a
- 18 matter of ensuring that people here, that our role
- is maintained, even though we may be listening to
- 20 them, that we still have to be mindful of this
- 21 broader obligation that we have.
- Q Would it be consistent with basic
- 23 legal principles for a prosecutor to choose to
- 24 prosecute a case where there is no likely prospect
- of conviction, just because a victim said I want

- 1 that case prosecuted?
- 2 A That's an example that, we could use
- 3 to explain to someone, we can not prosecute
- 4 someone just because you think it will make you
- 5 feel better. For example, if someone is
- 6 advocating that a charge be laid or a matter
- 7 proceed, when on an assessment of the evidence it
- 8 is quite clear that case should not proceed. That
- 9 might be an example to hopefully help someone
- 10 understand that we have to fulfill our obligation
- 11 properly and be mindful of those principles.
- 12 Q So there are legal limits on what you
- 13 can do and what decisions you can make as a
- 14 prosecutor?
- 15 A Yes.
- 16 Q In terms of what charges you choose to
- 17 lay, or what charges you see through to
- 18 prosecution, what sentences you ask for?
- 19 A Yes. And I think sometimes people
- 20 have to appreciate, and it is sometimes explained
- 21 that the Crown Attorney also, when we are
- 22 explaining it in the context of why we can't maybe
- 23 follow their wishes, Crown Attorneys can't just do
- 24 whatever they want to do, they are guided by the
- law. And you use the word "constraints," but they

- 1 are the guidelines, they are the rules that allow
- 2 us to maintain some order.
- 3 Q Would it be better if that section,
- 4 section 14, instead of using the word "consult"
- 5 used the term that is found in the policy, "listen
- 6 to and seriously consider"?
- 7 A Well, that phrase "listen to and
- 8 seriously consider" is reflective of what should
- 9 be occurring and what does occur.
- 10 Q Okay. In preference to a suggestion
- 11 that this is a collaborative process that some
- 12 might read the term consultation to mean?
- 13 A Well, and consultation, when you use
- 14 the word "collaborative," it does suggest a role
- 15 for the victim that's far in excess of any legal
- 16 standing they would have in a criminal proceeding.
- 17 And people sometimes don't appreciate that a
- 18 criminal proceeding is a public proceeding, it is
- 19 not a private matter between them and the accused.
- 20 So, again, clarity on the role of the victim and
- 21 what input they can have would go a long way to I
- 22 think dealing with some of the misunderstandings.
- 23 Q Okay. I think we need to speak a
- 24 little bit about the caveats that are attached to
- 25 section 14, and the discussions about staying, or

- 1 agreements to dispose of a charge. They provide
- 2 that this obligation is contingent on it being
- 3 reasonably possible to do so without unreasonably
- 4 delaying the investigation or prosecution. Can
- 5 you help explain how the consultation process
- 6 could effect a delay that might be adverse in
- 7 interest to the public welfare in prosecuting a
- 8 case?
- 9 A Well, delay, as we know, is an issue
- 10 of concern for the court, that an accused is
- 11 entitled to have their matter dealt with in a
- 12 reasonable time frame. And whenever there is
- 13 delay, there is always concerns all around. And
- 14 the Crown is concerned about delay as well. But
- if a matter is ready to proceed, for example, on a
- 16 bail hearing, and there is an issue of having to
- 17 reach a complainant or a victim's family to speak
- 18 to them about that, and the bail hearing happens
- 19 to be delayed for a period of time, certainly
- 20 defence counsel is going to be concerned about the
- 21 possibility that their client is spending
- 22 additional time in custody, simply because the
- 23 Crown has to try to get ahold of someone and get
- 24 their input. So there is, again, a balancing. If
- it is not unreasonable, then there may be a short

- 1 adjournment or some efforts to reach someone. If
- 2 we are talking about a delay that's going to be
- 3 viewed certainly negatively by a counsel for the
- 4 accused, and may cause the court concern, that the
- 5 Crown has to take that into account and do the
- 6 right thing.
- 7 O We also see a caveat there that these
- 8 obligations to consult do not apply if it would
- 9 prejudice the investigation or prosecution. Can
- 10 you explain what that might mean?
- 11 A That's to ensure that there is not any
- 12 negative impact on an investigation or a
- 13 prosecution because of the provision of evidence,
- 14 or some discussion that could inadvertently cause
- 15 a difficulty later on. And that could have to do
- 16 with release of certain information, perhaps if an
- 17 investigation is ongoing and we all hear about the
- 18 police retaining certain information very close
- 19 and not going public with certain information. It
- 20 is that kind of scenario where you want to protect
- 21 the case to make sure that nothing goes awry
- 22 because somebody has been told something.
- 23 Q So if you have reason to believe, as a
- 24 prosecutor, that telling a victim about a
- 25 particular item of evidence might ultimately harm

- 1 your case down the road, you might not disclose
- 2 that to them when talking about the resolution
- 3 discussion?
- 4 A That could be an example, or sometimes
- 5 victims' family members who are part of this
- 6 process are also witnesses in a proceeding. And
- 7 in those situations you have to be very careful,
- 8 because if they are going to be called as a
- 9 witness and they are also a victim, you want to be
- 10 careful about what information you are conveying,
- 11 so that their evidence later on isn't somehow
- 12 attacked on the basis that you have been providing
- information to them under the other heading as
- 14 victim.
- 15 Q You obviously have become very
- 16 acculturated to the victims' interests in the
- 17 cases that you deal with by virtue of the
- 18 experiences you have had in the office you hold.
- 19 Are you able to comment on what kind of
- 20 challenges, what kind of practical challenges
- 21 living up to the Victims' Bill poses for
- 22 prosecutors?
- 23 A Well, there are practical ones,
- 24 sometimes as basic as literally getting ahold of
- 25 people. We, unfortunately, have had cases, very

- 1 serious ones, where we were unable to reach family
- 2 members or find people we know would have an
- 3 interest in the matter.
- 4 Sometimes it is a matter of timing in
- 5 terms of how you are managing your case, and the
- 6 example I gave about the bail proceeding would be
- 7 a situation like that.
- 8 There are challenges, I think, around
- 9 expectations and what people are looking for when
- 10 they come into the system, and ensuring that there
- is an understanding as early as possible in the
- 12 process, that people realize what is possible and
- 13 what is not possible.
- 14 There are the general
- 15 misunderstandings and lack of information about
- 16 how the system works, so there is always the
- 17 constant effort to try to provide people with
- 18 information so they can understand.
- 19 There is also the fact that very often
- 20 victims and, again, I think this is
- 21 understandable, if they are focused on their case,
- 22 they may not realize the Crown Attorney has
- 23 another 150 cases, or 200 cases, whatever it is,
- 24 and may get upset if someone doesn't get back to
- 25 them right away, or they feel they are not getting

- 1 attention. There are just practical issues
- 2 associated with an obligation that has to be met.
- 3 However, I think given that a number of years have
- 4 passed since this legislation has been in place,
- 5 and that our Crown Attorneys are very used to
- 6 dealing with serious matters, keeping in mind all
- 7 of their obligations, they have incorporated it
- 8 into how they manage their cases. So maybe things
- 9 might have started off new for some people, but at
- 10 this point it is part of how we do our work.
- Some of the challenges are on the
- 12 communication front. Again, I mentioned our
- information management system, there are probably
- 14 things that we could do to enhance it so it could
- 15 continue to assist us, and that would be a
- 16 practical thing that would help both the Victims'
- 17 Services side and also Crown attorneys.
- 18 And again, just the reality of the
- 19 fact that we are dealing with people's lives, and
- 20 each case comes with its challenges because of the
- 21 emotional aspect to it, and they vary from case to
- 22 case, and that adds another layer.
- 23 Q And certainly, criminal cases often
- 24 carry tremendous trauma and potential for
- 25 psychological damage to those who were involved,

1 particularly victims. And is there any role for

- 2 Crown Attorneys in offering any type of
- 3 psychological support to victims?
- 4 A The Crown Attorney?
- 5 0 Yes?
- 6 A I think at best the Crown Attorney, if
- 7 they recognize that somebody is particularly
- 8 struggling, would speak to the Victim Services
- 9 worker to make an appropriate referral. We have
- 10 some prosecutors who have really good
- 11 inter-personal skills and may have backgrounds
- 12 that lend themselves to be able to speak to people
- 13 about difficult situations, but Crown Attorneys
- 14 need to focus on what their job is. And I think
- 15 the victims need to know that the Crown Attorney
- 16 is doing their job. I think if there is a
- 17 recognition of a need that a victim has, the best
- 18 we can do is to make sure they are pointed in the
- 19 right direction. And if there is a way to get
- them services, great, but I don't see the Crown
- 21 Attorney actually providing that type of
- 22 intervention.
- Q And I know during your interviews with
- 24 Mr. Clifford you talked about the importance of
- 25 having Crime Victim Service workers present during

- 1 meetings?
- 2 A Yes.
- 3 Q Is that one of the reasons, because
- 4 they can offer that dimension that the Crown may
- 5 not be suitable to offer or able to give in the
- 6 role they are playing?
- 7 A That is part of it. And I think it is
- 8 also important, if the Victim Service worker is
- 9 there, that they are also hearing the same
- 10 information that is being provided to Crown to the
- 11 victim's family, and if there is need for
- 12 follow-up, they have heard it firsthand. They are
- the skilled personnel, if you will, to deal with
- 14 some of the issues that the Crown Attorney may
- 15 just not have the ability to address.
- 16 Q We have heard that there are really
- 17 only two Crime Victim Service workers in Winnipeg
- 18 who offer the kind of support that your office
- 19 requires. Am I correct about that?
- 20 A With respect to these serious
- 21 matters -- I think, just to be certain on that, I
- 22 would defer to Ms. Gervais, but I believe I know
- 23 who you are speaking of, and there are -- within
- 24 the Victim Services Office, people have different
- 25 types of responsibilities, and there may be

- 1 overlap in terms of what kinds of cases you are
- 2 assigned to.
- 3 Q I guess what I am getting at, how
- 4 common is it for Crowns to meet with the victims
- 5 without the benefit of having a Crime Victim
- 6 Services worker present?
- 7 A I'm not saying it doesn't happen, but
- 8 I think it might depend on what the nature of the
- 9 meeting was. Generally, and I know this because
- 10 we have encouraged Crowns, at especially that
- 11 first meeting, to have the Victim Services worker
- 12 there.
- 13 Q So if you get a sense as a Crown that
- 14 somebody is really having a difficult time and
- 15 that this is a very traumatic experience for them,
- 16 you would certainly want to see, ideally, a Victim
- 17 Service worker present when you meet with that
- 18 individual on an ongoing basis?
- 19 A Yes.
- 20 Q And in these types of serious cases, I
- 21 imagine there are times when that can't happen or
- doesn't happen?
- 23 A Where it doesn't, yes, or there may be
- 24 communication that doesn't involve the Victims
- 25 Services worker if the victim calls the Crown

- 1 directly, that kind of thing.
- Q What would you say to a prosecutor who
- 3 was in situation like that and didn't make any
- 4 effort to get a Crime Victim Services worker
- 5 there?
- 6 A Well, the Victim Services workers are
- 7 there to assist in the whole departmental delivery
- 8 under the VBR, so they are part of the process.
- 9 Unless it was a meeting that was very short and on
- 10 something that was not particularly problematic in
- 11 terms of having a need for explanation, or getting
- 12 into things, if it was just conveying information,
- 13 for example, Crown Attorneys will do that all of
- 14 the time. So I think it comes down to what was
- 15 going on in a particular case to ascertain whether
- 16 it is appropriate to always have the worker there
- 17 or not. But Victim Services workers are a key
- 18 aspect of this whole approach under the VBR.
- 19 Q I take it as a director, if you knew
- that one of your colleagues was seemingly
- 21 bypassing the opportunity to have a Crime Victim
- 22 Service worker there, you would suggest that's not
- 23 a good idea, that they should have that Crime
- 24 Victim Service worker in attendance?
- 25 A If they were bypassing, and what I

- 1 interpret from that is if they are not -- firstly,
- 2 the worker would be aware of the case and be
- 3 attached to it anyway. But the key thing is to
- 4 have the two pieces work together. If there was
- 5 bypassing, that would be a concern to me. If
- 6 there were times where the Victim Services person
- 7 was not there, for whatever reason, it may not be
- 8 a concern, depending on the case and the nature of
- 9 the relationship that had developed.
- 10 Q Fair enough. I just want to come back
- 11 to the definition of victim very briefly. You
- 12 have been questioned by the Commissioner about the
- 13 definition of a victim. If the Act was to be
- 14 changed to expand the definition of victim in
- 15 fatality cases to include parents and children,
- 16 for example, are you able to give us any
- 17 indication as to what kind of practical impact
- 18 that might have on your ability, as the
- 19 Prosecution Service, to discharge your obligations
- 20 under the statute?
- 21 A In terms of the registration piece, if
- 22 additional family members were considered
- 23 registered victims, they would be entitled to the
- 24 same type of communication that currently exists
- 25 with the one registered person. So that would

- 1 mean more -- well, it would mean more
- 2 communication with more people and everything that
- 3 goes along with that. It would probably impact
- 4 the Victims' Services side initially, and maybe
- 5 only the Victims' Services side to a large degree,
- 6 because it is not unusual to have other family
- 7 members attend when there is a meeting with the
- 8 Crown Attorney, or to provide information to other
- 9 family members who are not officially registered.
- 10 So it would vary from case to case, but I think if
- 11 it was formalized, and because there are certain
- 12 things that have to be done, I could see that the
- 13 Victims' Services staff would be generating more
- 14 communication with a greater range of people. And
- 15 whether that would have an impact on their
- 16 resourcing, I'm sure it would.
- 17 Q And what about for prosecutors, what
- 18 kind of impact might that have on you as a
- 19 prosecutor?
- 20 A Well, if the registered victim is one
- 21 family member, and they come to the meeting
- 22 bringing three or four other family members, then
- 23 it is one meeting. If for some reason there had
- 24 to be separate meetings, obviously that would
- 25 impact on Crown Attorneys' times. But generally

- 1 when we see victims coming in to office to meet
- 2 with the Crown Attorney, it is a group of people.
- 3 When we talk about the family, it is often a
- 4 family and sometimes there are other people who
- 5 come along as well. It depends on the case.
- 7 a breakdown of communications at the material
- 8 time, and under those circumstances, I think you
- 9 would agree with me that the assumption that the
- 10 persons who attend the meeting might not
- 11 necessarily be communicating effectively with
- 12 others who are touched in very deep ways by the
- 13 tragedy, would that be a fair, and fairly obvious
- 14 comment?
- 15 A That they are communicating?
- 16 Q That if they are not communicating
- 17 that this could cause real stress?
- 18 A If they are not communicating -- that
- 19 would cause a problem.
- 20 Q And wouldn't it be the case that if
- 21 the definition was to be expanded and these people
- 22 were going to come anyway as a group, it wouldn't
- 23 have a material impact on your functioning,
- 24 because they would have been there anyway? And it
- 25 would only be in cases where there is some need to

- 1 attend separately that you would have added
- 2 expectations imposed?
- 3 A Well, I think it would vary, because,
- 4 for example, if you go back to this whole
- 5 discussion about consultation, there is more than
- 6 one registered victim, and they are all entitled
- 7 to participate in that. If there are differing
- 8 views that require different meetings and
- 9 different forms of communication, then that's
- 10 going to have an impact on the Crown Attorney's
- 11 time and ability to do all of that.
- In a lot of cases one person being
- 13 registered does act as sort of the spokesperson
- 14 for the family, and if there are issues, those are
- dealt with at the family level, and the Crown
- 16 Attorney hears the family's view of what a
- 17 particular situation is. So it would vary case to
- 18 case. The family dynamic isn't something that we
- 19 can control, and we don't know what comes into the
- 20 system until it comes into the system. But I
- 21 think there would be an impact, the minute that
- 22 there is a need for formalized response to a
- 23 greater number of people, it is going to impact
- 24 our staff time, and may put some further demands
- on our system in terms of tracking all of those

- 1 communications. Those all have to be tracked as
- 2 well as -- on both the victim side and should be
- 3 on the Crown side as well. So there would be a
- 4 practical impact. And again, I have to say, the
- 5 circumstances can vary wildly in cases, so there
- 6 isn't one way in which these things play out.
- 7 Q And I quess the question that
- 8 naturally follows from that is, even though there
- 9 may be a practical impact, do you think it might
- 10 be worth doing?
- 11 A Formalizing it?
- 12 Q Yes?
- 13 A I can't say. I mean, if it is
- intended to ensure that everybody who has a
- 15 legitimate interest in the case is heard and gets
- information, and that's the way to do it, then
- 17 that's not a bad goal. I mean, that's what is
- 18 behind the Act, that's the spirit of the Act is to
- 19 make sure that people are included.
- 20 Q Okay. And we heard in this case quite
- 21 a bit of evidence about the parents of Crystal
- 22 Taman not being included at the earlier stages,
- 23 but subsequently receiving some of the services,
- 24 and I emphasize the word "some" under the Victims'
- 25 Bill. They received Victim Impact Statements and

- 1 had an opportunity to speak to a Crime Victim
- 2 Service worker about the filling out of those
- 3 statements. They received some notification of
- 4 court dates. They received a copy of the judgment
- 5 when it was ultimately released, even though
- 6 technically they were not covered by the Bill. Is
- 7 that an unusual type of thing to have happen in
- 8 your experience?
- 9 A Not in my experience, no.
- 10 Q Okay. And what is your experience?
- 11 A That the Victims' Services branch is
- 12 quite accommodating when it comes to ensuring that
- 13 people in the family get the information that they
- 14 need. And also if there are situations where it
- is clear that the -- there are other people who
- 16 need to know, that they are brought in, whether
- 17 they come in as a group or whether it may be done
- 18 on an individual basis. So there is flexibility
- 19 there.
- Q Okay. I'm just going to close out my
- 21 questioning of you, and I'm sure you are pleased
- 22 to hear that, but I'm going to close it out with
- 23 some questions about independent prosecutors.
- 24 The Commissioner had asked you a
- 25 number of questions about the ability of

- 1 independent prosecutors to receive access to PRISM
- 2 communications, for example, and how much
- 3 training, whether they had been included at the
- 4 Crown conferences. Do you want to comment any
- 5 further on the challenges in terms of getting
- 6 information to independent prosecutors?
- 7 A I think my earlier comments speak
- 8 about the general challenges, but my difficulty,
- 9 quite frankly, is that I have not been the contact
- 10 point for independent prosecution files, so I
- 11 don't have specific types of examples where I
- 12 could say, well, these are the types of things
- 13 that I have seen, or these are the kinds of
- 14 challenges. It may be that the real issue is
- 15 communication and ensuring that that's in place.
- 16 But I really don't think I can go further than
- 17 that because I just don't have the -- I'm
- 18 searching if there is a situation that I'm aware
- of that might illustrate it, but I haven't been
- 20 the contact point for that.
- 21 Q I got the sense from your answers that
- 22 your experience in the system, and the experience
- of other Crowns over time, helps them to become
- 24 acculturated to the Victims' Bill and the
- 25 importance of treating victims with courtesy and

- 1 respect. There is just a habituation towards the
- 2 obligations that are contained in the Act. Do you
- 3 have any concerns about whether independent
- 4 prosecutors who don't do your work on a daily
- 5 basis are able to step into those kinds of shoes?
- 6 A That might vary. I think that you
- 7 have to remember that Crown Attorneys also rely on
- 8 their experiences as people too, and those vary.
- 9 And whether it is just their experiences in the
- 10 legal system or whether they are drawing on their
- 11 own personal experiences in terms of how to deal
- 12 with victims, I think the ability to recognize
- 13 that these kinds of cases are traumatic, and that
- 14 people are grieving, and that people are having a
- 15 great deal of difficulty, not just dealing with
- 16 the loss but having to be part of a system that's
- 17 a mystery for a lot of people. I think most
- 18 lawyers have some understanding of that. Their
- 19 experience, if they have dealt with cases where
- 20 they have actually seen it, obviously they are
- 21 going to be that much more well versed in
- 22 realizing what is going on, and why it is
- 23 important to maintain contact. So I would have to
- 24 say that, overall, it just really may vary, it may
- 25 come down to the individual. But the Victims'

- 1 Bill of Rights, it is not new anymore. And I
- 2 think it has, for the most part, been really
- 3 incorporated into how we do our work.
- 4 Q And I think in part of your answer,
- 5 would you agree with me that there are different
- 6 personalities and you can't really legislate
- 7 courtesy and compassion. Would that be a fair
- 8 comment?
- 9 A Well, you can, I mean, in the sense
- 10 that those are quite basic approaches when you are
- 11 dealing with anyone in the system. We have
- 12 obligations to our colleagues in the courtroom,
- 13 and to the court, and to the individuals who come
- into the system as part of our cases. So I don't
- 15 think it is too much to expect that.
- 16 Q Thank you. And one more question, and
- it has to do with your answer to the Commissioner
- 18 earlier where you talked about the independent
- 19 prosecutors getting indications in their contract
- 20 letters that they are to comply with the
- 21 requirements of the Victims' Bill, and you
- 22 received that information from someone else?
- 23 A That was provided to me by
- 24 Mr. Kaplan's assistant.
- Q And I know that there are now policy

- 1 guidelines in effect to that intent. But you are
- 2 unaware of what Mr. Minuk's retaining agreement
- 3 contained, I take it, because you weren't involved
- 4 in his retention?
- 5 A That's right.
- 6 Q Okay. And just for the sake of
- 7 rounding out the record at this point, I'm going
- 8 to ask that the document found at book G, document
- 9 43.a and 43.b be produced. That will be exhibits
- 10 54 and 55.
- 11 (EXHIBIT 54: G.43.a Retainer for Mr.
- 12 Minuk)
- 13 (EXHIBIT 55: G.43.b Letter from
- 14 Minuk to Kaplan)
- 15 BY MR. PACIOCCO:
- 16 Q Exhibit 55, I think I had that one put
- in there inadvertently, but 54 is the one I meant
- 18 to concentrate on. And you will see August 26,
- 19 2004 is a letter from the Deputy Minister of
- 20 Justice addressed ultimately to Mr. Minuk, setting
- 21 out the retainer with the Department of Justice.
- 22 Do you see that, ma'am?
- 23 A Yes, I do.
- Q And could you take a quick look
- 25 through it and see if there is any reference in

- 1 there to the Victims' Bill of Rights?
- 2 A Not in this letter.
- 3 Q And I certainly don't mean to suggest
- 4 that Mr. Minuk was unfamiliar with the Victims'
- 5 Bill or that no attempts had been made to convey
- 6 information to him, because we don't know that
- 7 yet. I just wanted to clarify that at this point
- 8 in the retainer there is no reference to that
- 9 document.
- 10 Those are the questions that I have
- 11 for you, Ms. St. Hill.
- 12 THE COMMISSIONER: Go around,
- 13 Mr. Zazelenchuk, any questions?
- 14 MR. ZAZELENCHUK: I thought
- 15 Mr. McFetridge was going to go first.
- 16 THE COMMISSIONER: Do you want to go
- 17 first?
- 18 MR. McFETRIDGE: No. My intention is
- 19 to follow the rules of procedure and I will go
- 20 last after --
- THE COMMISSIONER: Yes.
- 22 BY MR. ZAZELENCHUK:
- Q Ms. St. Hill, exhibit 48, that's page
- 24 3401.7 at R-4, Your Honour.
- 25 A 3401.7?

- 1 Q Yes. I understand that the pool of
- 2 independent prosecutors in the Winnipeg area is
- 3 quite small; is that correct?
- 4 A I think so. I say that without being
- 5 able to say who specifically you may be referring
- 6 to, but, yes.
- 7 Q Sure. Fair enough. Would this policy
- 8 directive have been sent out to the pool of
- 9 independent prosecutors?
- 10 A That I don't know, in response to that
- 11 question of the pool, I'm told that previously
- 12 counsel have been provided with various of our
- 13 policies, but I can't be specific. That was just
- information that was relayed to me.
- 15 Q Okay. Now, you indicated in your
- 16 evidence that, words to the effect, these weren't
- 17 your words, but police investigate and Crown
- 18 attorneys prosecute, and these are separate and
- 19 distinct functions. Do you recall that?
- 20 A I recall that, yes.
- 21 Q Sometimes, however, there is
- 22 interaction and there is overlapping. For
- 23 example, the police usually lay the information
- 24 but sometimes they will consult with a Crown
- 25 Attorney for some advice or direction?

- 1 A Yes, that's correct.
- 2 Q That's not terribly uncommon?
- 3 A No.
- 4 Q And I've never been a prosecutor, but
- 5 I have done my share of criminal work and I have
- 6 seen Crown Attorneys direct police officers to go
- 7 out and interview particular witnesses?
- 8 A Yes.
- 9 Q And that happens from time to time?
- 10 A Yes, it does.
- 11 Q I'm mindful that Mr. Paciocco said, if
- 12 this was a court of law, he would have asked to
- 13 have you qualified as an expert, so I -- I would
- 14 have agreed, by the way.
- 15 If you directed a -- if you had
- 16 conduct a case, and I know you had many of them, I
- 17 think we had a few together, if you had conduct of
- 18 a case and you directed a police officer to
- 19 interview a particular witness, or to follow up a
- 20 particular piece of evidence, what would you do if
- 21 he didn't do it?
- 22 A Well, I assume that there had been a
- 23 number of efforts to have that done. If there was
- 24 some difficulty, I would want to find out why.
- 25 And if it was a matter of a witness couldn't be

- 1 found or there was some difficulty in that
- 2 regard -- but if I, as the prosecutor, felt that
- 3 there was an area of the evidence that required
- 4 further information or clarification, or there was
- 5 missing information that I knew was out there, and
- 6 I was expecting it, I would expect that the
- 7 request would be followed up.
- 8 THE COMMISSIONER: Would have to be
- 9 what?
- 10 THE WITNESS: That it would be
- 11 followed up. If there were three witnesses and
- one wasn't interviewed, I would expect that third
- 13 person to be found and interviewed.
- 14 BY MR. ZAZELENCHUK:
- 15 Q And if it wasn't, if the person could
- 16 be found but for some reason they weren't
- 17 interviewed, if we could follow up on that
- 18 example, you would do something about it, you
- 19 would either write to the police officer or to his
- 20 or her superior or something to that effect?
- 21 A Yes.
- Q Because it is your case and you want
- 23 it put in properly?
- 24 A Well, I need the ability to assess the
- 25 case, and if there is missing information, that

- 1 makes it quite difficult.
- 2 Q Okay. Sometimes in a sentencing
- 3 hearing, the facts become in dispute. The Crown
- 4 will, at least the practice in Manitoba, the Crown
- 5 will read in facts, and defence will stand up and
- 6 say, we don't accept those facts. That happens
- 7 from time to time?
- 8 A Yes, it does.
- 9 O Okay. And we all know that when that
- 10 happens, the judge is either stuck with the
- 11 defence version of the facts, or the Crown has the
- 12 option of asking for an adjournment and saying, if
- 13 these facts are in dispute, we are going to call
- 14 evidence on those facts; correct?
- 15 A Yes.
- 16 Q So the onus is sort of thrown back on
- 17 the Crown when that happens?
- 18 A Well, the onus is always on the Crown
- 19 with respect to the proof.
- 20 Q Sure. All right. Now, you talked to
- 21 learned Commission Counsel about the consultation
- 22 process that the Victims' Bill of Rights has, and
- 23 I don't propose to go over that. But when the
- 24 facts become in dispute, this is something which
- 25 can be very important to the final disposition of

- 1 the case; isn't that correct?
- 2 A If it is a fact that goes to the heart
- 3 of the offence. There are some facts that may be
- 4 in dispute that are inconsequential so --
- 5 Q Sure. If it is a fact that goes to
- 6 the heart of the defence, or if it is a fact that
- 7 is capable of being an aggravated circumstance,
- 8 that can be something very important?
- 9 A Yes.
- 10 Q Okay. Would that -- bearing in mind
- 11 the definition of "consult" that you discussed
- 12 with Mr. Paciocco, would that be a situation that
- 13 you would expect the Crown Counsel to consult with
- 14 the victims about?
- 15 A Yes.
- 16 Q Okay. Lastly, can you tell us how
- independent prosecutors are monitored, if at all?
- 18 A Actually, I don't think I am the best
- 19 person to speak to that. In my area, I actually
- 20 have little to do with independent prosecutors at
- 21 all.
- Q Who would be the best person to speak
- 23 to about that?
- 24 A Mr. Kaplan.
- 25 Q Thank you.

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1 MS. BOWLEY: Your Honour, I have no
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- 2 questions of this witness.
- THE COMMISSIONER: Thank you.
- 4 MR. GREEN: Neither do I.
- 5 THE COMMISSIONER: What is
- 6 Mr. Kaplan's first name?
- 7 THE WITNESS: Brian.
- 8 BY MR. McFETRIDGE:
- 9 Q I have very few questions,
- 10 Ms. St. Hill. What you spoke about, very
- 11 eloquently, is sort of the perfect world
- 12 situation, and as you are well aware as a Crown
- 13 Attorney, things often happen at the last minute
- in terms of cases, pleas are entered at the last
- 15 minute. How does a Crown deal with that and still
- 16 fulfill their obligations under the Victims' Bill
- 17 of Rights?
- 18 A Well, it is one of the realities of
- 19 court that things can happen that are
- 20 unpredictable or unanticipated. I think that in
- 21 cases where there is a victim's worker and that
- 22 there has been consultation with the family and
- 23 contact with the family ongoing, that sometimes
- 24 the Crown can look ahead and say, this is what may
- 25 happen, or this could happen, or if this happens,

1 and have those sort of preliminary discussions as

- 2 best as they can. But sometimes things change,
- 3 and then it is a matter of what is practical, and
- 4 whether there is an ability to actually pull
- 5 everyone together and have a discussion, or
- 6 whatever it is that needs to be done. So part of
- 7 it is a matter of how Crown's manage their cases,
- 8 in an effort to try to cover off things and
- 9 provide information in advance. Sometimes, if
- 10 there is a resolution pending, you would want to
- 11 give advance notice to the families, so that they
- 12 know what is coming. And so when it actually
- 13 happens it is not a surprise, that there is again
- 14 part of the planning. But even the best planning
- 15 sometimes, as we know, things can change. And
- 16 then it is a matter of what makes sense at the
- 17 time. And really that comes down to the Crown
- 18 Attorney who has conduct of the case as to how
- 19 best to deal with that situation.
- 20 Q Just dealing with the Victims' Bill of
- 21 Rights, you've indicated that Crowns are well
- 22 aware of this legislation now, but defence counsel
- 23 are as well; is that correct?
- 24 A Did you say they are?
- 25 Q Are?

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1 A Yes, I think they are. They are used

- 2 to hearing Victim Impact Statements being put
- 3 before the court, they are used to hearing that a
- 4 matter may need to be adjourned for a short while
- 5 for the Crown Attorney to get in touch with a
- 6 victim or a victim's family. The courts are aware
- 7 of the Victims' Bill of Rights and the need for
- 8 that perspective to be covered off in certain
- 9 cases. So it is not a new thing, I think I
- 10 mentioned that earlier. And because the Crown, in
- 11 terms of how they manage their case, are required
- 12 to be mindful of the various points, sometimes
- 13 that information, why is the Crown asking for an
- 14 adjournment, may be explained because of the
- 15 victims' obligation.
- 16 Q Now, in terms of just the Victim
- 17 Impact Statements, and Mr. Paciocco has dealt with
- 18 this in some detail and I'm not going to spend a
- 19 lot of time on it, but there are the "don'ts" that
- 20 are set out there, and you reviewed them in the
- 21 guidelines. Those are basically the "don'ts" that
- 22 the Crown's office has set out are the things that
- 23 should not be done, and that is based on, you
- 24 indicated not only what the Criminal Code says,
- 25 but also has developed through the case law as

- 1 well. Is that correct?
- 2 A Yes.
- 3 Q Just in general terms, and certainly
- 4 at the end of the day there will be argument on
- 5 this issue as well, but can you just in general
- 6 terms indicate to the Commissioner, what the case
- 7 law has indicated, or what the courts are saying
- 8 should not be included in Victim Impact
- 9 Statements?
- 10 A The points actually speak to some of
- 11 that. I recall one decision referring to offender
- 12 bashing, which is the term I guess where the
- 13 victim's family is obviously focusing their anger
- on the accused, and that's the kind of information
- 15 that's not appropriate. Comments about what the
- 16 sentence should be, again, something that the
- 17 courts feel is -- well, victims may have their
- 18 opinion, but, again, that's not something that is
- 19 a consideration on sentencing. The concept of
- 20 vengeance, if you will, things that might fall
- 21 under that heading are problematic. So the
- 22 "don'ts" that have been set out are reflective of
- 23 the message that the Crown has to make sure that
- 24 the information is relevant and properly within
- 25 the sentencing principles.

- 1 Q And there was comment made as well
- 2 about the last item in respect to the photos and
- 3 medical information. And you endeavored to
- 4 explain that in the sense that it is not that that
- 5 was an absolute bar, but it is something that the
- 6 Crown is looking at, having regard to those kind
- 7 of issues, that in terms of like medical reports,
- 8 you want to make sure, or take the opportunity, I
- 9 take it, that the victim is aware that if in fact
- 10 you are disclosing your medical information that,
- 11 in fact, that would be in the public forum. And
- 12 that may be something that they don't have to do
- in terms of, they can do it in a generic way of
- 14 saying I have suffered from this, but they don't
- 15 necessarily have to put their medical information
- 16 before the court by way of a medical report, for
- 17 example. That's what your role as a Crown would
- 18 be to explain to them, they don't have to do that,
- 19 and that's not required; correct?
- 20 A Well, that is what I had set out as
- 21 one of the possible difficulties with that kind of
- 22 information. And it is just a matter of making
- 23 sure that people are informed.
- 24 MR. McFETRIDGE: Thank you. Those are
- 25 all of the questions that I have,

- Mr. Commissioner. Thank you. 1
- THE COMMISSIONER: Any re-examination, 2
- Mr. Paciocco? 3
- MR. PACIOCCO: There will not be. 4
- THE COMMISSIONER: Thank you very 5
- 6 much.
- 7 MR. PACIOCCO: Mr. Commissioner, it is
- 12:20. I would propose to at least introduce the 8
- witness and take our customary break. I know the 9
- reporter is expecting a 12:30 break, and I would 10
- be more than happy to accommodate that. 11
- 12 THE COMMISSIONER: We must be directed
- 13 by the reporter.
- 14 MR. PACIOCCO: The witness is Suzanne
- Gervais. Again, Mr. Commissioner, as Ms. Gervais 15
- 16 makes her way to the witness box, you will learn
- that she is the acting director of Victims' 17
- Services of Manitoba Justice, and she has been 18
- called to provide you and the public with 19
- 20 information as to the day-to-day operation of the
- Victims' Bill and the functioning of the Victims' 21
- 22 Services unit.

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25

- 1 SUZANNE LEIGH GERVAIS, having been
- 2 first duly affirmed, testified as
- 3 follows:
- 4 THE COMMISSIONER: Good afternoon.
- 5 BY MR. PACIOCCO:
- 6 Q Ms. Gervais, thank you for coming
- 7 today. I understand that you are very busy and
- 8 you have been sitting in on some of these
- 9 proceedings in order to try and see what happened
- 10 and see how that can assist you in your
- 11 functioning. It is very good to have you here.
- 12 A Thank you.
- 13 Q You are the Acting Director of
- 14 Victims' Services of Manitoba Justice?
- 15 A Actually, I'm the Director of Victims'
- 16 Services, I no longer have the acting in front of
- 17 that title.
- 18 Q Congratulations on that. When we
- 19 interviewed you, you were acting and now you are
- 20 actually doing it, that's great.
- You have been in that position for
- 22 quite some time, a couple of years I think?
- 23 A A couple of years, yeah, just over
- 24 two.
- 25 Q And you have been with Victims'

- 1 Services since October of 2002?
- 2 A That's correct.
- 3 Q And you worked as a service provider
- 4 in the Domestic Violence Support Service program?
- 5 A That is correct.
- 6 Q Was that before or since October 2002?
- 7 A I started in that position in
- 8 October 2002.
- 9 Q You previously worked as a policy
- 10 analyst with the Manitoba Justice?
- 11 A I worked as a policies analyst in 2005
- 12 to 2006, within Victims' Services.
- 13 Q I understand that you've been called
- 14 upon to -- you understand that you have been
- 15 called upon to provide us with some of the
- 16 background on the Act and how it operates on a
- 17 day-to-day basis.
- In your work as a policy analyst, did
- 19 you familiarize yourself with the history of the
- 20 Victims' Bill of Rights?
- 21 A I did.
- Q Could you just provide the
- 23 Commissioner with a bit of background to the
- 24 statute being passed and how it has developed over
- 25 the years?

- 1 A Sure. The Victims' Bill of Rights was
- 2 passed in 2001, but it replaced the former Victims
- 3 of Crime Act that was introduced in '99 and was
- 4 later renamed to become the Victims' Bill of
- 5 Rights, and was passed in 2001.
- 6 Prior to that Manitoba had legislation
- 7 in place called the Justice for Victims of Crime
- 8 Act, and that was introduced in 1986. It was
- 9 legislation that was principle based, so it was
- 10 legislation that said victims should be treated in
- 11 a certain way and should have access to different
- 12 things.
- MR. PACIOCCO: I'm going to slow you
- 14 down just for a second, for two reasons. One, I
- 15 have a question, and two, I think the reporter is
- 16 having a bit of trouble keeping up with you.
- 17 THE WITNESS: Sorry.
- 18 THE COMMISSIONER: So am I. Just slow
- 19 down.
- 20 BY MR. PACIOCCO:
- Q When that Act was passed in 1986, I
- 22 understand that was the first in the country, that
- 23 Manitoba was the first province to institute a
- 24 victim's legislation?
- 25 A That's correct.

- 1 Q And you talk about it being a
- 2 principled Act. Are you familiar with the other
- 3 bills of rights for victims across the country?
- 4 A Somewhat.
- 5 Q And do you know that, in fact, most,
- 6 if not all of them, are still principle based,
- 7 that they --
- 8 A That is my understanding for those
- 9 jurisdictions who do have Victims of Crime Acts in
- 10 place.
- 11 Q So they don't contain any provision
- 12 for suing in the event that the terms are not
- 13 complied with, or they don't contain any
- 14 regulatory offences, no one can be called to the
- 15 carpet or prosecuted for failing to live up to
- 16 those duties. Are you aware of that?
- 17 A I'm not completely aware of all of the
- 18 different Acts.
- 19 Q Okay. Fair enough. You talked about
- 20 the old Act simply being a statement of principle?
- 21 A Um-hum.
- 22 Q I take it you were about to say that
- 23 that's no longer true?
- 24 A That's correct.
- 25 Q And could you tell us about the

1 transition from a statement of principle into what

- 2 you now have, and what you think distinguishes it
- 3 from the earlier Act?
- 4 A What we have now is more prescriptive
- 5 in nature, so it identifies different rights that
- 6 the victims have that must be met, by those of us
- 7 who work in the system, prosecutors, law
- 8 enforcement, and courts as you outlined earlier.
- 9 Q And are there any methods of
- 10 enforcement if those rights are not fulfilled?
- 11 A Yes, there are.
- 12 Q And what are those methods of
- 13 enforcement?
- 14 A Under the Victims' Bill there is a
- 15 complaints process, for which I'm responsible. If
- 16 a complaint is made to me, I must investigate that
- 17 complaint, review it, and provide a response
- 18 within a certain amount of time.
- 19 Q And I understand that if someone is
- 20 dissatisfied with your response, there is another
- 21 level that they can go to?
- 22 A Yes.
- Q And what would that be?
- 24 A I would have to review the Act, but if
- 25 they are not satisfied they can go to the

- 1 ombudsman, if they are not satisfied within the
- 2 amount of time it has taken me to review that
- 3 complaint, I need to get permission to take a
- 4 longer period of time as well.
- 5 Q Okay. If I understand you correctly,
- 6 when you talk about this being prescriptive, you
- 7 are saying that it is worded as things that must
- 8 be done?
- 9 A Um-hum.
- 10 Q And that it is enforceable, not
- 11 through penalties on those who are obliged to do
- 12 things under the Act, but rather through the
- 13 prospect of a negative report coming from your
- 14 office. Would that be a fair description of the
- 15 Act?
- 16 A In my experience, yes.
- 17 Q So there is really no offences or
- 18 civil suits that are going to arise as a result of
- 19 the failure to live up to the Bill?
- 20 A Not that I've seen so far.
- 21 Q And this part of the development of
- 22 the statute was that it is now called a Bill of
- 23 Rights, a Victims' Bill of Rights?
- 24 A That's correct.
- 25 Q And did you have any role to play in

- 1 the development of the current statute?
- 2 A No, I did not.
- 3 Q Now, you work as part of Manitoba
- 4 Justice, we heard that testimony. You were in
- 5 court for Ms. St. Hill's testimony?
- 6 A Um-hum.
- 7 Q That is your employer?
- 8 A Manitoba Justice, yes.
- 9 Q And this Victims' Services that is
- 10 provided by you extends across the entire
- 11 province, does it not?
- 12 A That's correct.
- 13 Q And how many people are employed in
- 14 Victims' Services?
- 15 A Throughout Manitoba we have
- 16 approximately 55 staff people employed in the
- 17 branch.
- 18 Q And what functions do those 55 people
- 19 perform?
- 20 A Well, it varies. We have several
- 21 programs that operate under my purview. We have
- 22 Domestic Violence Support Service, and that's a
- 23 program that provides information and support to
- 24 victims of domestic violence where charges have
- 25 been laid.

- 1 Q Yes?
- 2 A We also have a Domestic Violence
- 3 Intervention Unit, that's run out of Winnipeg, and
- 4 that's a unit that provides information, support
- 5 to victims of domestic violence where calls have
- 6 been made to 911 for response, but no charges have
- 7 been laid. So it is kind of a preventative type
- 8 program that we run out of the office.
- 9 Okay.
- 10 A We also have our Child Victim Support
- 11 Service program, and that unit provides a similar
- 12 type of service, but also assists in the
- 13 preparation of child witnesses who have to come to
- 14 court. We have our Victims' Rights Support
- 15 Service, which is comprised of the workers that we
- 16 have been speaking about for this matter, Monica
- 17 and Darcy and formerly Lesley.
- 18 O Okay. I'm going to slow you down
- 19 there. The Victims' Rights Support Service is the
- 20 branch under your authority that deals with Crime
- 21 Victims Service Workers, and in Winnipeg you
- 22 described two names. Does that mean that there
- 23 are two people here in this city responsible for
- 24 providing that service?
- 25 A There are two currently. There are

- 1 other people throughout the province, of course.
- 2 When Lesley moved out of that position and over to
- 3 the Victim Witness Assistance Program, which is
- 4 another one of our programs, she did retain a
- 5 caseload. So, in effect, there are three people,
- 6 but slowly Lesley's caseload has diminished.
- 7 Q So her caseload is being phased out
- 8 but she carried cases with her?
- 9 A Exactly.
- 10 Q And I take it the reason she carried
- 11 cases with her is because it is important for
- 12 victims to maintain contact with a particular
- 13 worker. Would that be fair?
- 14 A That would be fair.
- MR. PACIOCCO: Mr. Commissioner, it is
- 16 now a little after 12:30, I think that would be an
- 17 appropriate time to break and we can pick up with
- 18 Ms. Gervais after lunch.
- 19 THE CLERK: All rise. This Commission
- of Inquiry is adjourned until quarter to 2:00.
- 21 (Inquiry recessed at 12:30 and
- reconvened at 1:45 p.m.)
- 23 THE CLERK: All rise, please. This
- 24 Commission of Inquiry is now open. Please be
- 25 seated.

- 1 MR. PACIOCCO: Thank you,
- 2 Mr. Commissioner.
- 3 BY MR. PACIOCCO:
- 4 Q Ms. Gervais, I want to ask you about
- 5 the definition of victim in the Victim's Bill of
- 6 Rights. You would have heard the exchange with
- 7 Ms. St. Hill this morning about the fact that in
- 8 the case where there is a fatality, the victim is
- 9 defined in the Bill, for the purposes of
- 10 registration, as being the partner, it describes,
- 11 husband or individuals who are in relationships of
- 12 some permanence. And it excludes as a registered
- 13 victim the parents and the children.
- 14 Does Victims' Services assume that the
- 15 persons registered will communicate the
- 16 information that they receive to other members of
- 17 the family?
- 18 A We make that assumption, but when we
- 19 first get in touch with someone after a charge has
- 20 been laid, the worker assigned has a discussion
- 21 with the person that the police have identified as
- 22 the next of kin. And they ensure that that is the
- 23 right person to be communicating with, and talk to
- 24 that person about whether or not they would be
- 25 comfortable providing the information that is

- 1 passed on to the Victims' Services Worker to the
- 2 rest of family, because we do know that the other
- 3 people are interested in the information as well.
- 4 Q Is this something that happens
- 5 uniformly, or is this what you would expect to
- 6 have happen on a particular file?
- 7 A This is what I expect to have happen
- 8 on a file.
- 9 Q Do you know whether there have been
- 10 any discussions about doing that in any of your
- 11 training sessions, or when dealing with the
- 12 victim, the Crime Victim Service worker?
- 13 A I can't recall any specific
- 14 communications, but what I can tell you is that
- 15 staff are encouraged to take different
- 16 opportunities, but as a branch we meet once per
- 17 year and have an annual meeting. And any issues
- 18 relating to the services that we provide in our
- 19 branch are discussed. And the issues surrounding
- 20 Victim's Bill of Rights files are often subject
- 21 for discussion at those meetings. So it very well
- 22 could have been discussed there.
- Q What would your recommendation be if
- 24 you were to learn from one of your workers that
- 25 the registered victim is not communicating with

- 1 other important members of the family?
- 2 A In my experience, when this happens,
- 3 they may have informed me about that they would
- 4 have already had contact with the other family
- 5 members. However, if they weren't informed that
- 6 there was an issue, they may not be aware to reach
- 7 out to provide that information to the other
- 8 interested parties.
- 9 Q Do you ever take the approach of
- 10 registering individuals formally under the system
- 11 who are not designated victims under the Act?
- 12 A It has happened on occasion where we
- 13 have registered more than one person. And I can
- 14 give you an example if you would like?
- 15 Q As long as you don't violate any
- 16 privacy, I would be interested in the example,
- 17 certainly.
- 18 A Absolutely, you know, in a case where
- 19 say there was parents who were divorced and it was
- 20 not amicable, and in the event that a child was
- 21 murdered, you know, in that kind of situation both
- 22 parties would have an absolute interest in that
- 23 and would both be registered. I think it is also
- important to add, though, that the information
- 25 that we provide to people who are registered is

- 1 information that can be provided to anyone,
- 2 regardless of whether or not registration takes
- 3 place.
- 4 Q Okay. And I will get to that in a
- 5 moment, the informal contact without registration.
- 6 But I imagine the situation that you have just
- 7 described, where parents are separated or divorced
- 8 and it is not amicable, is not a rare situation?
- 9 A No, it has happened on more than one
- 10 occasion, that I'm aware of anyhow.
- 11 Q And is it the practice to register
- 12 both, or are you just saying it has happened on
- 13 occasion?
- 14 A It has happened.
- 15 Q And what would your thinking be about
- the possibility of expanding the registration
- 17 provisions of the Victims' Bill of Rights to
- 18 includes close family members where there is a
- 19 breakdown in communication?
- 20 A Again, I think it is something that,
- 21 you know, obviously could be done. It would
- 22 require potential for more resources for our
- 23 branch, as Ms. St. Hill alluded to in her
- 24 testimony. It is difficult to say. Everyone who
- is involved in these cases, they have different

- 1 needs. And so to register more than one person to
- 2 provide that information may present resourcing
- 3 difficulties. But at the same time, information
- 4 can always be provided to other family members,
- 5 regardless of whether or not registration takes
- 6 place.
- 7 Q Okay. Let's take that in reverse
- 8 order then. We will deal with providing
- 9 information to other family members without
- 10 registration. I imagine that takes place on an ad
- 11 hoc basis, according to the judgment of the Crime
- 12 Victim Service worker or prosecutor being
- 13 contacted?
- 14 A That's correct.
- 15 Q And I take it, do you think there is
- 16 value in ensuring that people close to the victim
- 17 do have information about the case?
- 18 A Most definitely.
- 19 Q And wouldn't be it preferable to have
- 20 a systematic way of dealing with that, rather than
- 21 leva it up to the case by case discretion of Crime
- 22 Victim Service workers or prosecutors to just go
- 23 ahead and do that?
- 24 A It would depend on how it would look.
- 25 That is definitely something we could look at

- 1 doing, but it is difficult to say, because every
- 2 situation is different that we see in our office.
- 3 So to put something in place that would detail
- 4 what needed to happen if this occurred would be
- 5 very difficult, because family situations are very
- 6 complicated.
- 7 Q What kind of difficulties could you
- 8 anticipate?
- 9 A Well, I think that people who are
- 10 registered or families who are going through this
- 11 type of situation, there could be many
- 12 difficulties for them. I mean, people's health
- 13 suffers as a result of these type of incidents.
- 14 Sometimes they do have issues within their own
- 15 family, they could have, you know, issues relating
- 16 to other family members, and those may improve
- 17 during the court process, because we heard earlier
- 18 the cases can sometimes take a very long time. So
- 19 it is very difficult to provide specific examples
- 20 because there is so many.
- 21 Q Okay. I'm just having a little
- 22 trouble accepting those, or understanding those as
- 23 difficulties in trying to extend the services to
- 24 others. Are you suggesting perhaps that a
- 25 registered victim might be upset that others have

- 1 the same privilege of being a registered victim,
- 2 or are you suggesting that it might be unnecessary
- 3 because the families end up reconciling at some
- 4 later point?
- 5 A It would all depend. What you just
- 6 said, it could be possible that the registered
- 7 victim would want that information only to be
- 8 going to them as the person defined under the Act.
- 9 Q All right. And this is an example of
- one of the cases where there was some offering of
- 11 Victims' Services at a time when the Victims'
- 12 Services workers discovered that there was a
- 13 breakdown at some point along the process. How
- 14 common is it for individuals who are not
- 15 registered to get the kind of services that were
- 16 provided to the Sveinsons at the end of the long
- 17 journey that they were on?
- 18 A I say we get calls often. I can't
- 19 comment because I'm not doing that work
- 20 specifically myself. Monica and Lesley would be
- 21 able to give you a good guess as to how often that
- 22 occurs, but it is not uncommon, and it is
- 23 something that they will provide.
- Q Okay. You talked about the resource
- 25 implications. You have two dedicated Crime Victim

- 1 Services workers in Winnipeg, and then you also
- 2 have Lesley McCorrister continuing with some of
- 3 the files she took with her when she moved into
- 4 another branch.
- 5 How many cases in a year, are you able
- 6 to tell us, how many cases in a year would require
- 7 the Victim's Bill of Rights to be activated, given
- 8 the list of offences in Winnipeg?
- 9 A In Manitoba there is anywhere between
- 10 375 and 500 cases per year that the unit deals
- 11 with. So that doesn't count those victims who may
- 12 not choose to register for service, or who may ask
- 13 to be deactivated. But typically we have seen,
- 14 you know, between 375 and 500 cases over the last
- 15 few years.
- 16 And if I could just add one thing. We
- 17 do have workers providing the service under the
- 18 Victim's Bill of Rights throughout the province.
- 19 So it is not just Monica and Darcy. And in
- 20 addition to that, those offences that are set out
- 21 in the regulation also fall into the various
- 22 programs that we offer. So under the Domestic
- 23 Violence Support Service and Child Victim Support
- 24 Service, workers in those programs would also
- 25 provide the same service that Monica, Lesley and

- 1 Darcy are providing in the unit that they are in.
- 2 Q Are you able to give us any indication
- 3 of what percentage of the 375 to 500 cases occur
- 4 in Winnipeg alone, so that we can get some idea of
- 5 the demands put on those two workers?
- 6 A I can tell you that at any one time
- 7 they each approximately have about 125 cases on
- 8 their caseload, and those matters overlap from
- 9 year to year, depending on how quickly cases
- 10 proceed through the courts. So I would guess that
- 11 near half are out of Winnipeg, or maybe a little
- 12 more, but, again, that may be -- it is difficult
- 13 to say. I mean, it would just depend on what
- 14 happened at any one geographic region during the
- 15 year.
- 16 Q And they are certainly very hard
- 17 working, but even with that type of caseload they
- 18 are able to find a way, when they see a special
- 19 need, to assist somebody who is not registered, to
- 20 go ahead and do it?
- 21 A Yes.
- 22 Q So we really can not quantify the
- 23 resource implications at this point of trying to
- 24 register additional individuals in cases of family
- 25 breakdown, can we?

- 1 A No.
- 2 Q But there is this sense that you are
- 3 stretched pretty thin, and you have got to be
- 4 careful not to go too thin to the point where you
- 5 are not able to offer the services at all?
- 6 A That is exactly it. We want to ensure
- 7 that we are providing a good service for those who
- 8 are looking for the information. We don't want to
- 9 miss important details that families would want in
- 10 those cases.
- 11 Q Thank you. We have had a lot of
- detail about the operation of the Victims' Bill
- 13 from Ms. St. Hill. I am going to ask you, if you
- 14 can, from the perspective of the Victims'
- 15 Services, to describe for the Commissioner what
- 16 happens when a case comes through the door and how
- it is handled and what takes place after that?
- 18 A That varies throughout the province,
- 19 of course, because of the different policing
- 20 agencies involved. But, for example, in Winnipeg,
- 21 the information, we receive it fairly shortly
- 22 after the investigation is concluded, it is
- 23 uploaded into our PRISM system.
- Q Okay. Is it uploaded when a police
- 25 force puts in a case forward to the Crown, it is

- 1 automatically into your system, is that how it get
- 2 generated?
- 3 A I believe so. It is through the, in
- 4 the instance of the Winnipeg Police, it is from
- 5 the Winnipeg Service records management system, it
- 6 is uploaded through that computer system into the
- 7 PRISM system, which allows our staff to generate a
- 8 report on a daily basis of new incidents that fall
- 9 under the Victim's Bill of Rights that are coming
- 10 into the system.
- 11 Monica and Darcy, they alternate from
- 12 week to week at an intake position in the office.
- 13 And so what that means is when they generate that
- 14 new file VBR activity report on PRISM, whoever is
- on the intake week is the person who will be
- 16 assigned to assist with those files. So as soon
- 17 as those incidents come into the system, the
- 18 person that is on intake can send out a letter to
- 19 the family, or contact them. If there is
- 20 incomplete information in PRISM, say we don't have
- 21 the next of kin information, or the victim's
- 22 contact information, it would be their
- 23 responsibility that week to contact the police
- 24 service and get some more information so that they
- 25 can fulfill their obligations under the Act.

- 1 Q Okay. Before I take you beyond that
- 2 point, we know how the system gets triggered, and
- 3 you have alternating intake weeks, and I take it
- 4 that you do that so one caseworker will take that
- 5 file and carry it through to its end, because of
- 6 the importance of having a relationship
- 7 established with the family; would that be fair?
- 8 A That would be fair.
- 9 Q And you did hear the very compelling
- 10 comment of Mr. Robert Taman, where he suggested
- 11 that changing Crime Victim Service workers would
- 12 be a little bit like trying to find a new doctor?
- A Um-hum.
- 14 Q Were you surprised that he had such a
- 15 strong sense of the need for a relationship
- 16 between himself and a Crime Victim Service worker?
- 17 A No, I wasn't.
- 18 Q There is a tremendous dependence that
- 19 develops?
- 20 A Um-hum.
- Q We have also heard testimony about
- 22 auto-registration and non auto-registration cases.
- 23 We were given to understand that the
- 24 auto-registration cases are cases for designated
- 25 very serious offences where the victim need not

- 1 apply to qualify for the Victim's Bill of Rights
- 2 Services. Is that correct?
- 3 A That's correct.
- 4 Q And for non auto-registered cases, how
- 5 do they get into the system?
- 6 A They get into the system by getting a
- 7 referral from whatever police agency has come into
- 8 contact with that victim. It is their
- 9 responsibility to provide them with information
- 10 that they can register for service. And it gets a
- 11 bit confusing, so I apologize, in cases that fall
- into the other various programs where we offer
- 13 service, say in the Domestic Violence Support
- 14 Services or Child Victim Support Services, cases
- out of Winnipeg anyhow, we are notified about
- 16 those within 24 to 48 hours of an incident. And
- 17 those cases, we would reach out pro-actively, in
- 18 the cases of domestic violence victims and child
- 19 victims who fell under the Act, we would be
- 20 reaching out to them. But for victims of eligible
- 21 offences, it is left up to the police agency to
- 22 provide them with the information.
- 23 Q So essentially, Victims' Services
- 24 outstrips the requirements, the technical
- 25 requirements of the Act, by taking the initiative

1 of approaching individuals who have yet to apply

- 2 in serious cases?
- 3 A In certain cases.
- 4 Q And what happens after the intake
- 5 period and the worker is assigned? You talked
- 6 about sending off a letter. What was that about?
- 7 A We have various letters that we send
- 8 out to victims as part of pro-actively notifying
- 9 them about what is happening in court. The first
- 10 letter that is sent out to a victim and their
- 11 family is general information about the Victim's
- 12 Bill of Rights, and in the case of a fatality,
- informing them that they don't need to do anything
- 14 as a result of the information. It provides them
- 15 with the name of the assigned worker, it provides
- 16 them with the name of the accused person, the
- 17 incident number, and encourages them to keep our
- 18 office updated with any changes of address or
- 19 phone number changes. And we invite them to
- 20 contact us for any information. And we usually --
- 21 it is not in every single case that we would
- 22 follow that up with a phone call, sometimes we
- 23 give the family a little bit of time. We
- 24 recognize they are getting a lot of information
- 25 after an incident of this nature takes place, so

- 1 we don't want to bombard them with too much
- 2 information. So we give them some time to read
- 3 through that and get in touch with us.
- 4 Q Okay. And I don't want this to sound
- 5 like I'm denigrating it, but there is a form
- 6 letter that contains all of that valuable
- 7 information that you are describing, and there is
- 8 a trigger within the system when a case is
- 9 registered, then the worker knows enough to send
- 10 out that contact and get things going. Is that
- 11 fair?
- 12 A That is fair.
- 13 Q Now, you talk about providing
- 14 information. Now, I'm going to show you some
- pamphlets, they may still be on the desk there.
- 16 They are in our exhibit 12, if you have a
- 17 document, exhibit 12. And for those who are
- 18 working from the book numbers, it is book R-33 at
- 19 tab 92.6. And they are the pamphlets that we have
- 20 looked at a number of times over the last two
- 21 weeks.
- 22 And I take it, if you could take a
- 23 quick leaf through those documents, you recognize
- 24 those documents?
- 25 A I do.

- 1 Q And all of them appear to be documents
- 2 prepared for public explanation of the various
- 3 services offered by Victims' Services?
- 4 A That's correct.
- 5 Q Are you able to tell us which of those
- 6 documents are sent out with the initial form
- 7 letter?
- 8 A For matters that fall under the
- 9 Victim's Bill of Rights?
- 10 Q Yes?
- 11 A This card here, it is the first one,
- 12 it is a green card the size of an envelope.
- 13 Q Yes?
- 14 A That is sent out, as well as -- it is
- 15 the overview.
- 16 Q And the overview?
- 17 A It is green.
- 18 Q So this would be called "Understanding
- 19 the Victim's Bill of Rights," that would be the
- 20 second document, or is it another document in
- 21 there?
- 22 A That may be clipped on, but that is
- 23 not the document that I'm referring to. I'm
- 24 talking about the "Victim's Bill of Rights
- 25 Overview" and I believe it is fourth from the last

- 1 page, or fifth, maybe sixth actually.
- Q Okay. So it is near the end and it is
- 3 the darker green document?
- 4 A It is.
- 5 Q And that document essentially gives a
- 6 general description of the Victim's Bill of Rights
- 7 and the role of law enforcement agencies, the
- 8 prosecution's division, the criminal justice
- 9 division, Victims' Services branch, court
- 10 division, corrections division, and a list of
- 11 other rights; correct?
- 12 A Correct.
- 13 Q And it is a very summary description
- 14 of the kinds of topics dealt with under the
- 15 Victims' Bill?
- 16 A That's correct.
- 17 Q What else goes out?
- 18 A The Victim Impact Statement often goes
- 19 out at the very beginning, but may not as well.
- 20 It would all depend on the kind of information.
- 21 And sometimes victims have contacted our offices
- 22 first before we have even had an opportunity to
- 23 send out the letter. So it may be better, I mean,
- 24 to my knowledge, it is the overview brochure that
- 25 goes out along with the index card and the letter.

- 1 But, again, if there was additional information
- 2 being requested, it would also be sent out at that
- 3 time.
- 4 Q As I understand your testimony, there
- 5 is generally speaking two documents that are going
- 6 to be included with the introductory letter. A
- 7 very small envelope sized document that holds this
- 8 exhibit, and the green Victim's Bill of Rights
- 9 Overview document that you have referred to; is
- 10 that fair?
- 11 A That's correct.
- 12 Q And when are the other documents
- 13 utilized?
- 14 A They would be utilized upon request,
- 15 depending on the questions that the victim may
- 16 have, they would be sent out at a later date. It
- 17 would all depend what kind of information the
- 18 person is looking for.
- 19 Q Okay. Now the ones at the back are
- 20 the Victim Impact Statement documents, and we will
- 21 look at those with some special attention later.
- 22 But the other documents, one is a "Victims' Guide
- 23 To Speaking With the Media, " it is a brown
- 24 document, it would be the third document in. And
- 25 so that is not routinely sent out?

1 A It may be routinely sent out, but not

- 2 at the outset of the matter, not when the first
- 3 form letter goes out.
- 4 Q When you say it may be routinely sent
- 5 out, can you describe that so I understand that
- 6 what use is made of these pamphlets throughout the
- 7 whole process?
- 8 A Well, in cases where there has been a
- 9 fatality, victims are requesting information about
- 10 dealing with the media, these very well may go
- 11 out. Lesley and Monica could probably provide
- 12 with you a better sense of how many they are
- 13 sending out at any one time. But, you know, there
- 14 are many offences that fall under the Victim's
- 15 Bill of Rights, and there are some where the media
- 16 may not have any interest in those cases, so the
- 17 victim may not be looking for some further
- 18 clarification on what they should say or can say.
- 19 Q So it is a matter of judgment and
- 20 context as to what is included at any point
- 21 throughout the whole process?
- 22 A Yes, I would agree with that.
- Q Okay. And the Victim's Bill of
- 24 Rights, "The Role of the Courts," is the next
- 25 salmon coloured document that follows?

- 1 A Um-hum.
- 2 Q And again, do you know when that
- 3 document would be utilized?
- 4 A Upon request by the victim. Again, it
- 5 is -- the Victims' Services worker, they use their
- 6 judgment in deciding what to send out, when to
- 7 send it out. And it is based on the conversations
- 8 they are having with the victim or their next of
- 9 kin.
- 10 Q Okay. And I take it that that answer
- 11 will apply as well to the "Role of the Corrections
- 12 Division, " the brown document that follows?
- 13 A That's correct.
- Q What about the "Complaints Process,"
- 15 the light orange or salmon coloured document that
- 16 you see in front of you there as the next
- 17 document, what use is made of that?
- 18 A It would be provided to a victim who
- 19 expressed concern. It is also available, I mean,
- 20 all of our documents are available on the website
- 21 as well. So if people had concerns, they would
- 22 definitely be offered the information that they
- 23 can lodge a complaint.
- Q Okay. So, essentially the Victims'
- 25 Services Worker needs to take the initiative to

- 1 get these documents, unless they find them
- 2 themselves by going on the websites, is that --
- 3 they are not given out as a matter of course, is
- 4 that fair?
- 5 A No. Okay. Sorry, I think I'm
- 6 misunderstanding your question?
- 7 Q What I'm saying is this document here
- 8 is not sent to everyone, it is sent when something
- 9 arises that alerts the Victims' Services Worker of
- 10 the need to share the complaints process, or if
- 11 the person who has concerns happens to go on the
- 12 website and find it. Is that how they would get
- 13 this document?
- 14 A In most cases, I would agree with
- 15 that.
- 16 Q Then there is one on "The Role of Law
- 17 Enforcement Agencies, " and you heard we raised
- 18 some concerns in the questioning today about how
- 19 clearly or not clearly that is worded.
- 20 A Um-hum.
- 21 Q I take it that document too is going
- 22 to be sent out where there appears to be a special
- 23 need for it, but it is not included in the typical
- 24 form letters?
- 25 A No, it is not.

- 1 Q And the "Registration Guidelines
- 2 Document, " would not be relevant to
- 3 auto-registration cases?
- 4 A That's correct.
- 5 Q And I take it that that document would
- 6 be used if somebody was to contact the office
- 7 looking for information on how to become
- 8 registered?
- 9 A That's correct. But, again, they
- 10 wouldn't necessarily have to fill this document
- 11 out. They could simply register with the worker
- 12 over the phone.
- 13 Q Yes, I understand there is a phone
- 14 number that permits them to register very simply?
- 15 A No. They would just be put in touch
- 16 with a worker who is on the intake schedule that
- 17 week, and they would do that with them.
- 18 Q So just a contact number, and then
- 19 they are going to get in touch with a live human
- 20 being, unlike Bell Telephone?
- 21 A They would. It is not that they have
- 22 to be press one, two, to be registered, and opt
- 23 out, no. It is a person on the other end.
- Q And you also have "The Role of
- 25 Prosecutions Division" document in here. And I

- 1 take it, again, that is not sent out routinely but
- 2 where there appears to be a need for it?
- 3 A Exactly, or possibly that would be
- 4 something given at the first meeting with the
- 5 Crown Attorney's office.
- 6 Q Okay. And you say possibly. Is that
- 7 something that you have a protocol or standing
- 8 order in place to do, or you are just figuring
- 9 that the Crime Victim Services workers could
- 10 benefit from this in discharging their obligation,
- 11 and talking about the role of the Crown, this is
- 12 an effective way to do it and that might be what
- 13 they choose to do?
- 14 A That the victims would benefit, not
- 15 the Victims' Services worker.
- 16 Q Yes?
- 17 A Yeah, the victims would benefit from
- 18 the information, if they had any questions.
- 19 Q Again, you need a discrete choice made
- 20 by the Victims' Service worker to share that
- 21 document?
- 22 A Yes, unless it is asked for, or it
- 23 could be provided by the Crown Attorney as well.
- Q Okay. How heavily does Victims'
- 25 Services rely on the printed word to communicate

- 1 the things that are required to be communicated
- 2 under the Bill?
- 3 A I would have to say that most things
- 4 are communicated by phone or in person with
- 5 victims who are registered to receive service. I
- 6 think that, you know, we have heard some testimony
- 7 that sometimes things are explained to victims or
- 8 their family, and there is some misunderstanding
- 9 or they may forget. And so the forms are a nice
- 10 follow-up, from my perspective, to be able to give
- 11 to victims, so that if they do have any questions
- 12 after they have left a meeting with the Crown
- 13 Attorney and the worker, that they have something
- 14 that they can refer to, if there is any confusion.
- Q Okay. And in the case of the two
- 16 green documents that go out with the initial
- 17 letter, they would proceed normally in oral
- 18 contact, but they would give the victim some
- 19 preliminary information?
- 20 A That's correct.
- 21 Q But I take it that you feel that the
- 22 personal explanation, the interchange is very
- 23 important in terms of discharging these
- 24 obligations, and is not just a question of mailing
- 25 out the answers?

- 1 A Absolutely.
- 2 Q Now, certainly we have heard testimony
- 3 about some of the obligations that do exist, and
- 4 we are up to the point now in our description of
- 5 what happens where we have had the intake, the
- 6 worker is assigned, the initial contacts have been
- 7 made, the documents have been sent out. Sometimes
- 8 there is an immediate call, sometimes there may be
- 9 delay, either a call back gets out before they
- 10 call, or there is some oral communication. What
- 11 happens next after that, after the first contact,
- 12 human contact, whether it be by phone or in
- 13 person?
- 14 A Well, again, I'm not doing the work
- 15 specifically myself, so every case is going to
- 16 differ slightly. But at the very beginning of an
- 17 auto-register offence, there would possibly be a
- 18 bail situation. So the Victims' Services worker
- 19 wants to connect with the person who is registered
- 20 to receive service, so they have a name and a
- 21 contact person, and just know who is managing the
- 22 case in terms of ensuring that the information
- 23 that victim or their next of kin is going to want
- 24 will be available to them as soon as possible.
- Q And we also heard testimony from

- 1 Ms. St. Hill about the obligations under the Act
- 2 to notify victims about how to find out about when
- 3 court dates are, and to be told about important
- 4 court dates that are coming up. As a matter of
- 5 practicality, who performs that function?
- 6 A That would be our office.
- 7 Q And how do you organize that? How do
- 8 you get information on when the court dates are
- 9 and how do you communicate them?
- 10 A Well, all of our workers have access
- 11 to the PRISM system, as Jackie had explained
- 12 earlier. And what they do is they track their
- 13 cases, and they monitor the court dates, and they
- 14 have to check them on a daily basis to ensure that
- 15 when there is a change in that court date, then
- 16 they are notifying the victim and family as soon
- 17 as possible.
- 18 Q So who inputs the change in court
- 19 dates or the designated court dates?
- 20 A That is done on the prosecution side
- 21 of PRISM, so it would be the administrative
- 22 assistants who get the information from the
- 23 prosecutor, who has been in court on their docket,
- 24 and they would input that information. And there
- 25 is a flow of information to the victims' side of

- 1 PRISM, so that we can check. It is hard to
- 2 explain without being able to see it, but there is
- 3 a prosecution side and the victim's side, and the
- 4 information input into the prosecution side flows
- 5 directly into our side of PRISM.
- 6 Q We heard about difficulty in getting
- 7 quick information about a court date in this case
- 8 and it was distressing for one of the victims.
- 9 But I hear you explaining that there is an
- 10 inherent delay in getting the information by the
- 11 Victims' workers because they are not physically
- in court on every appearance?
- 13 A That's correct.
- 14 Q It just takes some time to get it
- input into the system, to get it identified, and
- 16 to get those dates sent out?
- 17 A It does sometimes.
- 18 O There is also information that is
- 19 required to be shared under the Victims' Bill
- 20 about the general process of sentencing and the
- 21 general process of resolution discussions. Who
- 22 takes on that role?
- A Well, normally that would be, I mean,
- 24 just to explain the process of what sentencing is,
- 25 that is something that our workers could do, but

- 1 if we were going to get into details surrounding
- 2 the type of sentence a Crown Attorney would be
- 3 looking at, that would be something that the Crown
- 4 Attorney would do with the registered person.
- 5 Q Okay. And I notice, and I'm going to
- 6 come back to that in a second, but I notice that
- 7 there is a lot of repetition in the Victims' Bill
- 8 with respect to information about Victim Impact
- 9 Statements, for example, where there is an
- 10 obligation put on the police to inform the victims
- of the form of a Victim Impact Statement. And
- 12 then there is obligations on the prosecution to
- 13 provide information about the Victim Impact
- 14 Statement. And I know that in practice there is
- 15 workers from the Victims' Services who discharge
- 16 that obligation, and sometimes it is the Crown
- 17 talking to the victims about Victim Impact
- 18 Statements. So you have potential for a lot of
- 19 different people performing the same basic
- 20 function?
- 21 A In that instance, yes. But I think it
- 22 is important to give that information to victims.
- 23 Because after an incident occurs, if police are
- 24 providing that information to the victim and their
- 25 family, they have other things to worry about at

- 1 that time, the Victim Impact Statement is the
- 2 furthest thing from their mind. So it is a good
- 3 thing to have different people in the system to
- 4 give that information to victims and their family.
- 5 Q I don't think the redundancy is so
- 6 much of a problem, but given that there are some
- 7 things that the Crown needs to explain and some
- 8 things that the Victims' Services worker needs to
- 9 explain, what steps are taken to make sure that
- 10 everything gets done by somebody, so that one hand
- 11 doesn't think the other hand is taking care of it?
- 12 A I would say that the workers who are
- 13 assigned to the case, the Victims' Services
- 14 workers, would be managing that, they would be
- 15 managing the information that is being provided to
- 16 the victim. And they would ensure that the victim
- or their family is provided with information about
- 18 court dates, times, and places, and so on and so
- 19 forth. And they assist the Crown in setting up
- 20 those meetings, and try to be present for as many
- 21 as they can be. So that they are aware of what
- 22 has been said, and if there is anything that has
- 23 been left out, they can let the Crown know they
- 24 think this might need to be discussed, or provide
- 25 that information themselves if it is appropriate.

1 So that the Crime Victim Service worker has a kind

- 2 of distinct role in that respect.
- 3 Q Do you know whether there is any use
- 4 made of check lists in order to ensure that each
- of the obligations under the Bill are fulfilled?
- 6 A Actually, on PRISM there is a type of
- 7 check list. When victims, when we receive
- 8 information about new incidents that have come
- 9 into the system, there is a check list that the
- 10 Crime Victim Service worker will walk the person
- 11 who is registered for service through and provide
- 12 them with information about -- there is different
- 13 boxes, charge stayed, notify all court dates,
- 14 notify appeal, and that sort of thing. So every
- 15 meaningful type of court date that could occur in
- 16 the system is within a check box type of system in
- 17 PRISM. And those are checked off as a matter of
- 18 practice in the office.
- 19 Q And do you know whether all of the
- 20 sections in the Victim's Bill of Rights providing
- 21 for informing or consulting obligations are listed
- in a check list anywhere to ensure, as the case
- 23 progresses, everything gets done to the
- 24 satisfaction of the Crime Victim Service worker?
- 25 A I believe that they are located as

- 1 options, however there is no -- once that
- 2 information has been provided, there is not
- 3 another box that can be checked off. So, for
- 4 example, an automatic notification might occur if
- 5 something hasn't been checked off. So, yeah, but
- 6 there is no real formal way of being notified by
- 7 the computer that something has not been done.
- 8 Q I'm thinking, for example, of a case
- 9 where there is an obligation to explain the
- 10 process of resolution discussions, and then there
- is an actual resolution discussion. Is there any
- 12 point in time when the Crime Victim worker will
- 13 sit down and actually ask himself or herself, have
- 14 we done all of these things?
- 15 A They may, they may go through the
- 16 list. My own experience, because I worked in the
- 17 area of domestic violence, when I had charges that
- 18 fell under the Victim's Bill of Rights, it is a
- 19 matter of practice to constantly review these
- 20 files. So I would be going through, some of them
- 21 on a daily basis if I was waiting for a bail,
- 22 judicial interim release to occur, something of
- 23 that nature. So we are always monitoring the VBR
- 24 files and, you know, I think we do a pretty good
- job at not missing the really important court

- 1 dates, and any of the court dates for that matter.
- 2 But, no, there isn't anything -- I mean, everybody
- 3 has their own practice in the office as to how
- 4 they ensure those obligations have been met.
- 5 Q And you are all conscientious
- 6 professionals and do your best to do that, but do
- 7 you think it might be a good idea to have some
- 8 integrated system check that can be done to make
- 9 sure that everything that is required under the
- 10 Bill is done in each case?
- 11 A What we do have in place in the office
- 12 is one of our staff monitors those files, monitors
- 13 the files of all Crime Victim Service workers
- 14 throughout the province who handle the Victims'
- 15 Bill of Rights files. It is not formal in terms
- of having something enhanced in our PRISM system,
- 17 but it is more informally, but it is part of their
- 18 duties as one of the workers. And if they think
- 19 anything is amiss or that there needs to be
- information provided that hasn't been, they notify
- 21 the manager of whatever person works in whatever
- 22 unit to ensure that those obligations have been
- 23 met. So there is a bit of an informal process.
- Q Okay. To some degree, the police are
- 25 the gateway into the Victim's Bill of Rights,

- 1 because they have the first contact with the
- victims; is that a fair comment?
- 3 A It is a fair comment.
- 4 Q Can you describe for the Commissioner
- 5 what kind of integration there might be in terms
- of systems or training between the Victims'
- 7 Services branch and the police?
- 8 A In terms of what we provide for
- 9 training or --
- 10 Q Yes. Do you meet with law enforcement
- 11 agencies on a regular occasion to describe how you
- 12 work and what you expect of them, and what the
- 13 Bill of Rights requires? Do you have joint
- 14 conferences? Are their formal channels of
- 15 communication open, other than simply a PRISM
- 16 system where a case number is picked up? Do you
- 17 have anything like that with law enforcement?
- 18 A We do provide training to law
- 19 enforcement, to the RCMP, surrounding the Victim's
- 20 Bill of Rights. We also provide training to
- 21 Winnipeg Police Service on very limited amount of
- 22 Victim's Bill of Rights information, but also
- 23 around our services for domestic violence and
- 24 child victim. We don't have joint conferences or
- 25 anything formal. But we do have workers located

- 1 in detachments throughout the province who are
- 2 constantly liaising with officers who may be
- 3 involved in a matter, and remind them of their
- 4 responsibilities under the Victim's Bill of
- 5 Rights, but there is no formal training in place.
- 6 Q So no systematic links between the
- 7 Crime Victim Service workers, or the Victims'
- 8 Services and Police Forces, but there are, if you
- 9 are invited, you will go and give a training
- 10 session, or you do, of course, meet with some
- 11 officers occasionally, and you develop those
- 12 institutional contacts? Would that be the way to
- 13 put it?
- 14 A Yeah, we -- not just invited with the
- 15 RCMP, we do provide education to new recruits
- 16 coming into D division, and we do that on an
- 17 ongoing basis for issues around domestic violence
- 18 and, as you know, some of the charges and the
- 19 offence regulations fall under the Victim's Bill
- 20 of Rights. We provide ongoing training to new
- 21 recruits as well for the Winnipeg Police Service.
- 22 So there is a formal training in place for those
- 23 types of things. But what you describe, no.
- Q We heard testimony from Constable
- 25 Glenda Pedersen from the East St. Paul Police

- 1 Service yesterday about her role as victim liaison
- 2 officer, and about her acts in connecting victims
- 3 to various volunteer organizations and getting
- 4 information from other organizations to share with
- 5 victims. Is there any integration between those
- 6 kinds of efforts and your office?
- 7 A We, actually, yes, we are involved
- 8 with the other victim services agencies throughout
- 9 the province. We fund several of those smaller
- 10 victims' services agencies to provide enhanced
- 11 services to victims, specifically Brandon Police
- 12 Service, Pembina Valley Victim Services, and Age
- 13 and Opportunity, they provide services to older
- 14 victims of crime. The Winnipeg Police Service has
- 15 their own Victim Services unit, and it is usually
- 16 the people within that unit that are providing
- information to victims with eliqible offences the
- 18 option to register and so on and so forth. So we
- 19 do meet with them regularly to discuss issues,
- 20 provide information about the Victim's Bill of
- 21 Rights. For these smaller agencies -- we don't
- 22 fund the Winnipeg Police Service Victims' Services
- 23 unit to operate, but for the ones that we do, they
- 24 have to enter into a memorandum of understanding,
- 25 and within that memorandum it outlines the

- 1 Victim's Bill of Rights and the rights that
- 2 victims have who fall under those designated
- 3 offences.
- 4 Q And I imagine it is important to
- 5 ensure that kind of integration, because you
- 6 wouldn't want all kinds of different people
- 7 approaching the victims with different services,
- 8 you would want to try and integrate it to some
- 9 degree?
- 10 A That is correct.
- 11 Q I don't know whether you have exhibit
- 12 47 in front of you there?
- 13 A Yes.
- 14 Q Exhibit 47 is found in book R-3, at
- 15 tab 92.1, R-3.92.1. I am going to take a look at
- 16 page 3321, and you will see a memorandum dated
- 17 February 6, 2002, from Jaqueline St. Hill,
- 18 Director Winnipeg Prosecutions, to all prosecution
- 19 staff. And in the third paragraph, you will see
- 20 that, in this memo about Highway Traffic Act
- 21 fatalities and the decision to offer Victims' Bill
- 22 services in those cases, even without a criminal
- 23 charge:
- 24 "The Winnipeg Police Service has its
- own policy for contacting and meeting

1	with the family members of victims of
2	traffic accidents. As a result, it
3	important to communicate with the
4	traffic division about the status of a
5	file."
6	And there is reference to the workers at the time,
7	Lesley McCorrister and Monica Dyck.
8	Is that an example of an attempt to
9	ensure that everybody is working together and that
10	there is no redundancy or awkwardness in giving
11	services to victims?
12	A I would agree.
13	Q Now, you talked about the PRISM
14	communication system and we heard a little bit
15	about it from Ms. St. Hill. It is not just a
16	communications reservoir for the Crown, is it?
17	They are able to put information into the system?
18	A That's correct.
19	Q And how exactly does that work? Can
20	you give us a bit more of an explanation of how
21	PRISM operates?
22	A Sure. For Victims' Services workers,
23	when we are notified about an incident, we open a
24	file. If the file isn't open on the prosecution
25	side of PRISM, it will eventually link once it is

- 1 opened, so we just have to ensure that we have the
- 2 correct spelling and birth date of the victim or
- 3 nearest next of kin.
- 4 Q I am going to stop you for a second.
- 5 You are talking about the prosecution side of
- 6 PRISM. Do I take it that there are two separate
- 7 banks of information, one for the prosecution and
- 8 one for Crime Victim Services, but that they link
- 9 when certain identifiers are put in?
- 10 A That's correct.
- 11 Q Okay. Please continue?
- 12 A Once a file is open from our office --
- 13 and it is usually linked up right away with the
- 14 prosecution side of the system -- all of our
- 15 information is documented within the victims' side
- 16 of PRISM. So every phone call is entered as a
- 17 communication log, every contact, every person
- 18 contact we would have would be documented in real
- 19 time, any meeting with the Crown Attorney would be
- 20 documented as a consultation log. And that
- 21 information, of course, would be entered after the
- 22 meeting took place.
- In the cases of -- there are some
- 24 matters, for example, domestic violence matters,
- 25 where we may provide memos to the Crown Attorneys

- 1 about risk factors, or concerns that the workers
- 2 may have. Those are entered in as either file
- 3 notes or it is a memo that is automatically
- 4 populated within the system so that we can open
- 5 that up and view the information within it, and it
- 6 is automatically populated on both sides of
- 7 system.
- 8 Our communication logs don't flow from
- 9 side to side. So if a prosecutor wanted to see
- 10 the nature of a phone call that took place, or
- 11 queries that someone may have had, they would have
- 12 to just click on a tab to go into our side of
- 13 PRISM and look up that information.
- 14 Q So they have to go and get it, in
- 15 other words?
- 16 A Yes.
- 17 Q And so if they are working on the
- 18 court files themselves and trying to prepare for
- 19 court, they don't necessarily have to look at the
- 20 PRISM communications?
- 21 A No, prosecutors should be looking at
- 22 the PRISM communications that exist on their side
- 23 of PRISM. There are, like you said, two sides of
- 24 PRISM. I'm not a prosecutor but I know that some
- 25 prosecutors, as a matter of practice, are always

- 1 looking on both sides of the system.
- 2 Q And they are expected to because it is
- 3 an important part of their job to satisfy the
- 4 Victims' Bill of Rights?
- 5 A That's correct.
- 6 Q And that is the mechanism through
- 7 which they do it, right?
- 8 A Yes.
- 9 O We heard a little bit of discussion
- 10 about emailing and the lack of facility within the
- 11 system. Could you describe that for the
- 12 Commissioner?
- 13 A Yes. Actually, currently as it exists
- 14 right now in PRISM, we have the ability, the
- 15 Victims' Services worker can email the Crown
- 16 Attorney directly, and the information contained
- 17 within the email is automatically populated into
- 18 the prosecution side and the victim side of PRISM.
- 19 Currently, the Crown Attorney can not email us
- 20 from within the PRISM system. I know that that is
- 21 something that is being looked at, but right now
- 22 we don't have that capability. So what the Crown
- 23 prosecutor normally does, by way of practice, is
- 24 they email us from the Outlook system and then it
- is cut and pasted into our communication log in

- 1 PRISM.
- 2 Q So it is not as awkward as it sounds,
- 3 it is just a question of going into another
- 4 program and sending the material over?
- 5 A Exactly, it is a couple of clicks.
- 6 Q How important is this system to you in
- 7 carrying out your function?
- 8 A It is extremely important for us to be
- 9 able to carry out our duties under the Victim's
- 10 Bill of Rights. Without the PRISM system, it
- 11 would be very difficult to track cases in the way
- 12 that we currently track them. We used to have a
- 13 file system, and the people who were providing
- 14 service under the Victim's Bill of Rights have had
- 15 PRISM a lot longer than the rest of staff at
- 16 Victims' Services.
- 17 Q Yes.
- 18 A And I think that was in recognition of
- 19 the fact that they needed to be able to see court
- 20 updates right away, you know, any things that
- 21 might be an issue where they need to get in touch
- 22 with the family. So it is very important for us
- 23 to have access to PRISM.
- Q Are you in a position to comment on
- 25 how much of an impediment it might be for an

- 1 independent prosecutor to not have access to PRISM
- 2 system?
- 3 A I have had some experience dealing
- 4 with independent prosecutors. The information
- 5 that we would provide to Crown Attorneys, we would
- 6 provide, and it would be a bit of a different way,
- 7 it would be through email as opposed to PRISM, but
- 8 it would still be provided. All of the pertinent
- 9 information that we need to provide to them or
- 10 inform them about would be done.
- 11 Q So essentially, instead of simply
- 12 posting it to PRISM in confidence that it will be
- 13 used the way that PRISM is intended to, the Crime
- 14 Victim Service worker has to take the initiative
- 15 to make sure that all of the information is sent
- 16 directly to the independent prosecutor?
- 17 A That's correct. And then when they
- 18 reply to our email, or whatever it was that we had
- 19 sent them, we would document that within PRISM as
- 20 well.
- 21 O Okay. Thank you. You heard some
- 22 questioning this morning about consultation and
- 23 the obligation under section 15 of the statute to
- 24 consult with victims about staying charges, about
- 25 resolution discussions, about the sentence

- 1 position that the Crown is going to be taking.
- 2 Are you able to comment on whether the term
- 3 "consult" strikes you as one that is problematic?
- 4 A In some cases it can be problematic.
- 5 It is something that we have heard before. So to
- 6 answer your question, yes, it can be.
- 7 O And what role does the Victims'
- 8 Services worker play in the consultation process,
- 9 if any?
- 10 A During the consultation process, the
- 11 Crime Victim Service workers try to be present.
- 12 Usually, from my experience, consultation occurs
- in a meeting with the Crown, that would be the
- 14 ideal situation, so that the victim's family is
- aware of what is going to take place prior to
- 16 court. They would assist in the setting up of
- 17 that meeting. They may possibly take some notes,
- 18 provide some further information to the family
- 19 after the meeting ends. If any questions come up
- 20 a day or two after that meeting takes place, it is
- 21 often much easier to reach the Crime Victim
- 22 Services worker than it is the Crown Attorney
- 23 because we are not in court. So they are well
- 24 positioned to be at that meeting, because they can
- 25 provide further information if any questions come

- 1 up after it ends. So they do take part in that
- 2 consultation process.
- 3 Q Okay. Do those workers receive any
- 4 training, or is there any attention drawn to the
- 5 difficulties in communicating technicalities of
- 6 law to victims? Is that something that is
- 7 discussed or dealt with at all?
- 8 A Absolutely. When staff begin working
- 9 with the branch, they have a work orientation.
- 10 Many of the people that work within the branch
- 11 have many, many years of experience dealing with
- 12 criminal court matters, and so have a kind of a
- 13 foundation to begin with. And that is one of the
- 14 requirements, you know, some of the interview
- 15 questions that get asked when people apply for
- 16 these positions. But there is a work orientation,
- 17 they are required to shadow people who are doing
- 18 the work so they can get some experience as to
- 19 what may take place and how to explain that. And
- 20 if there is any questions that come up, they are
- 21 always encouraged to contact myself, any of the
- other managers, the other staff who may have been
- 23 there. So there is, you know, it is in place.
- Q And I know that you don't do this on a
- 25 daily basis, but are you able to indicate whether

- 1 the Crime Victim Service workers are proactive
- 2 during those meetings, or whether they are just
- 3 basically in attendance and the meeting goes on
- 4 between the prosecutor and the families?
- 5 A Because I'm not doing the work on a
- 6 day-to-day basis, I'm not sure. But what I can
- 7 tell you from my own experience of the few that I
- 8 have been part of is that, no, we wouldn't just
- 9 sit there. If we sensed that the family had
- 10 questions or there was an issue, we would, you
- 11 know, say I think they may have some questions for
- 12 you, or it appears as if there is some confusion.
- 13 We would watch not only what the victim or their
- 14 family had to say at that meeting, but also their
- 15 body language, because sometimes people are afraid
- 16 to ask questions. You know, people coming into
- 17 this often have had no previous experience with
- 18 courts, criminal justice matters. So it is up to
- 19 us to be there, to support them and to put that
- 20 out there to the Crown, if we think that they may
- 21 have some questions that are unanswered.
- 22 Q So, in a sense you can act as lay
- 23 translators of difficult information, since
- lawyers are accustomed to talking to each other?
- 25 A Yeah, that's correct.

- 1 Q It is a pretty important role to have
- 2 a Crime Victim Service worker at meetings where
- 3 consultation is taking place?
- 4 A It is ideal to have somebody there.
- 5 Q Is it problematic if there can't be
- 6 someone there?
- 7 A It would depend on the case, every
- 8 case is different. It could be problematic not to
- 9 have somebody there, but situations have arisen
- 10 where there have been issues when everyone was
- 11 present. So it would be hard to say, but ideally
- 12 it would be best if everyone was present for those
- 13 meetings.
- 14 Q I want to ask you some questions about
- 15 the Victim Impact Statements. I assume that they
- 16 are not typically prepared until we know there is
- 17 going to be a conviction?
- 18 A Some victims would hold off, that is
- 19 correct.
- 20 Q And is there a protocol or a practice
- 21 within your office with respect to when you would
- 22 ask those forms to be filled out?
- 23 A Around the time of sentencing, like
- 24 the other testimony you have heard. However,
- 25 people ask about Victim Impact Statements early

- 1 on. We provide them with the information about
- 2 them early on. Because we never know how long it
- 3 is going to take a case to proceed through the
- 4 system, so we like to prepare people for those
- 5 things in advance. But, you know, we encourage
- 6 people not necessarily to prepare them right away,
- 7 but to keep a journal, or keep notes, or start it
- 8 but don't submit it, and add to it as they need
- 9 to.
- 11 they may never be needed if there is not a
- 12 conviction?
- 13 A Yes, the workers would do that.
- 14 Q A little concerned about creating
- 15 expectations?
- 16 A Yes. No, absolutely.
- 17 Q And who ensures that the Victim Impact
- 18 Statements are prepared and available to the
- 19 prosecutor?
- 20 A Who ensures that they are prepared?
- 21 0 Yes?
- 22 A They would be provided to the
- 23 prosecutor. We would contact the victim if they
- 24 haven't sent one in, and ask them if that is
- 25 something that they wanted to, however, if they

- 1 chose not to, they chose not to. But we would
- 2 provide the information.
- 3 The actual envelope that is sent out
- 4 with the Victim Impact Statement is actually
- 5 addressed to the Crown prosecutor's office, it is
- 6 not addressed to our office. But because of the
- 7 contact that we have with victims, it is often,
- 8 quite frequent -- sometimes people drop them off
- 9 to us and we take them down to the fifth floor,
- 10 prosecutions.
- 11 Q Okay. So you effectively facilitate
- 12 the Victim Impact Statements by ensuring that they
- 13 have the documents, but when they are filled out,
- 14 they wouldn't necessarily come to you as a matter
- of course, they would go to the prosecutor. But
- 16 sometimes they are given to you because of a
- 17 familiarity or connection that has been
- 18 established. Is that a fair way to put it?
- 19 A That is a fair way to put it.
- 20 Q What kind of assistance is provided to
- 21 victims in filling those forms out?
- 22 A If victims wanted assistance in
- 23 filling them out, we would absolutely invite them
- in, have them sit down and assist them with that.
- 25 However, we have to be cautious. It has to be in

- 1 their words and how the crime has affected them.
- 2 But similar to some of the testimony that has been
- 3 presented already, we would help explain the, you
- 4 know -- not explain the emotional impact it has
- 5 had on them to them, but assist them in drawing
- 6 some of those things out.
- 7 Q And you heard the testimony, I think,
- 8 and if you haven't I will share it with you, of
- 9 Robert Taman, who described how these forms were
- 10 very difficult to fill out and they would have
- 11 appreciated having the opportunity to actually sit
- 12 down with someone who could show them what was
- 13 required, rather than trying to work their way
- 14 through a very mysterious process. Were you here
- 15 for that testimony?
- 16 A I was.
- 17 Q And how did that strike you?
- 18 A I never had any direct dealings with
- 19 Mr. Taman, so -- how did it strike me?
- 20 Q In general terms -- I guess the
- 21 question is, do you think it is a good idea in
- 22 these very serious cases where there is a fatality
- 23 to make it a practice to actually invite the
- 24 victims into the office, so that they could fill
- out the form with a human support rather than just

- 1 a pamphlet?
- 2 A Well, I think that part of the
- 3 practice in our office is to always invite people
- 4 to contact us with questions or concerns, not only
- 5 around the Victim Impact Statement, but around
- 6 anything else that they may be dealing with. So,
- 7 I mean -- but, I do, I think it is good, I think
- 8 to have somebody present to assist people is
- 9 ideal.
- 10 Q And you heard the conversation that
- 11 went on today about limits and restrictions with
- 12 respect to the Victim Impact Statements. I
- 13 understand that any editing is done by the Crown
- 14 and not by your office?
- 15 A No, we would not edit a Victim Impact
- 16 Statement.
- 17 Q But you might flag for the Crown, if a
- 18 statement comes your way, of some things that are
- 19 of concern to you, given the parameters of the
- 20 guidelines?
- 21 A Yes, we would flag those for the Crown
- 22 Attorney. And depending on our relationship with
- 23 the victim, we may flag that with the victim as
- 24 well. If they have come in and they have asked
- 25 for assistance in preparing them, we would walk

- 1 them through what can be in them, what shouldn't
- 2 be in them. And if they asked for our input, we
- 3 would provide that to them.
- 4 Q Are you in a position to give us any
- 5 help on how frequently difficulties arise in terms
- 6 of improper material being put in the Victim
- 7 Impact Statements?
- 8 A I couldn't tell you how often it
- 9 occurs, but it does.
- 10 Q Do you think that -- is there any
- 11 reason to believe that the guidelines are perhaps
- 12 confusing to victims?
- 13 A Not that I have ever heard. I have
- 14 never heard a victim tell me that the quidelines
- 15 about what not to put in are confusing. I have
- 16 heard many times that they wish they could pull
- 17 other things in them.
- 18 Q Okay. You also commented in your
- 19 interview with Mr. Clifford about the fact that
- 20 Victims' Services workers often have some kind of
- 21 background in counselling or social work?
- 22 A Um-hum.
- 23 Q And is there value in that?
- 24 A I would say so, yes.
- 25 Q And why is that? What is it that that

- 1 brings to the table?
- 2 A Well, I think that whenever you are
- 3 dealing with someone who has been a victim of
- 4 crime or whose family member has been affected by
- 5 crime, there are a lot of emotions surrounding
- 6 that. I think that families can go through a
- 7 rollercoaster of emotions. I think it is
- 8 important to have somebody who is in the system
- 9 that a victim or their family member can contact,
- 10 that they can cry with, that they can be angry at,
- 11 and know that they can still contact that person
- 12 the next day and they will always answer their
- 13 calls or assist them in whatever way possible.
- 14 Because it is very, it is a very emotional time
- 15 for families, so the requirement that they have a
- 16 social services background gives them the
- 17 experience providing counselling and dealing with
- 18 people who have been in those types of situations.
- 19 And so they are in a position to best help them
- 20 and to provide them with referrals for appropriate
- 21 services.
- 22 Q So in effect, Crime Victim Service
- 23 workers may not engage in any type of counselling
- 24 therapy, but they are a great resource in terms of
- 25 being able to connect victims with services that

- 1 are available and to see when that might be
- 2 required?
- 3 A They wouldn't do any long term therapy
- 4 necessarily, however, they would do some short
- 5 term counselling with the families. And as the
- 6 husband discussed already throughout the Inquiry,
- 7 these cases can take a long time through the
- 8 courts, so it is great for that family to be able
- 9 to have somebody to talk to.
- 10 Q So if we do have a case, as we did in
- 11 this situation, where there is a break in
- 12 communication and very close relatives like
- 13 parents are not coming to the Victims' Services,
- or meeting with the worker, would it be fair to
- 15 say that would be a lost opportunity to perhaps
- 16 give support where it might be needed?
- 17 A Yes, I guess so.
- 18 Q And that might be another reason why
- 19 there might be some thought given to expanding the
- 20 definition of victims so there is a greater
- 21 catchment of individuals who might be identified
- 22 as requiring services that are available to them
- 23 but that they may not know of?
- 24 A I suppose so.
- 25 Q I want to ask a few questions about

- 1 the complaints process. You talked about this
- 2 Bill actually being prescriptive because there is
- 3 a complaints process in place.
- 4 A Prescriptive because it is -- there
- 5 are certain requirements that the prosecution
- 6 must -- certain pieces of information must be
- 7 provided.
- 8 Q So it is the language of the sections
- 9 that makes you characterize it as prescriptive,
- 10 rather than the existence of a complaints process?
- 11 A Yes.
- 12 Q Okay. And the complaints process is
- 13 set out in section 27 of the Act and onwards. And
- 14 I asked you some questions earlier about how it
- 15 works, and I understand that you are the first
- 16 line of response in a complaint situation?
- 17 A Um-hum.
- 18 Q And you have been in your position now
- 19 for a couple of years?
- 20 A That's correct.
- 21 Q How many complaints have you received?
- 22 A Formal complaints under the
- 23 legislation?
- 24 Q Yes?
- 25 A None.

- 1 Q And I understand, I don't know if it
- 2 is an accurate press article, but there is a press
- 3 article that suggests that there have only been
- 4 two over the last, I think it is five years?
- 5 A Um-hum.
- 6 Q And I take it from your experience in
- 7 two years, that wouldn't be a surprising statistic
- 8 to you?
- 9 A No.
- 10 Q And I don't want to suggest that there
- 11 are problems in your office, there are problems in
- 12 every office. That seems like a very low number
- of complaints given the tremendous emotion
- 14 involved in dealing with victims, does it not?
- 15 A Um-hum.
- 16 Q And do you think it maybe reflects a
- 17 lack of knowledge about the complaint system as
- 18 much as it does uniform happiness with the work
- 19 that is being done?
- 20 A It could in some cases.
- 21 Q And I understood when we went through
- 22 the pamphlets that furnishing the complaints
- 23 process pamphlet is really a decision that comes
- 24 if there seems to be a reason for it in the eyes
- 25 of the Crime Victim Service worker rather than a

- 1 matter of routine education?
- 2 A In my experience, it does.
- 3 Q Do you not think there might not be
- 4 some value in having routine communication about
- 5 the existence of the complaints process, so that
- 6 victims can come forward if things are going
- 7 wrong?
- 8 A There could be. The only concern one
- 9 might have is that we could potentially be setting
- 10 people up for the fact that they are not going to
- 11 have a good experience within the criminal justice
- 12 system. So provided that was put to them in a way
- 13 that was just an acknowledgment that, yes, there
- 14 is this formal process in place if you do have any
- 15 concerns. We don't want to have people thinking,
- 16 after the first contact with them, that they are
- 17 going to have a complaint somewhere down the line,
- 18 though.
- 19 Q That is a very good point. I know
- 20 whenever I get my car serviced, I get a little
- 21 satisfaction survey that is given to me at the end
- of it, to see whether or not I'm happy with the
- 23 outcome. Do you think it might be a good idea to
- 24 provide a similar type of survey, coupled with
- information about the complaints process, when it

- 1 is all said and done, so that if there are
- 2 systemic problems in your office, or particular
- 3 grievances for victims, that they get dealt with
- 4 in some formal way?
- 5 A Yeah, I think that is a good idea.
- 6 Q I just have a couple of questions
- 7 about the specifics of the Taman case and your
- 8 very modest involvement with it. I understand you
- 9 had no direct involvement with the Tamans and some
- 10 passive involvement with the Sveinsons?
- 11 A That's correct.
- 12 Q And I notice, when we were going
- 13 through the PRISM documents in what would be
- 14 exhibit 41, Madam clerk, if we could provide that?
- 15 A It is here.
- 16 Q Very good. You will notice that, this
- would be volumes L, tab 75, at page 1942. Volume
- 18 L, tab 75, page 1942.
- 19 Now, this particular PRISM
- 20 communication dated the 31st of August, 2007, kind
- 21 of jumped out at me, because it was between Monica
- 22 Dyck, who was dealing with the Sveinsons, and
- 23 yourself, Suzanne Gervais?
- 24 A Um-hum.
- 25 Q And it is a communication re Derek

- 1 Harvey-Zenk matter which says:
- 2 "Hi Suzanne, Just to keep you in the
- loop, I had a message today from
- 4 Victoria Sveinson today with respect
- 5 to whether a sentencing date had been
- 6 set."
- 7 And she goes on to chronical her involvement with
- 8 Victoria Sveinson. Is that type of memo to you
- 9 from one of the workers updating you on such a
- 10 mundane matter routine?
- 11 A I don't get these a lot. If there is
- 12 attention or press, as she has noted in the
- 13 communication log, it is something that she may
- 14 notify me about, but it is not something that
- 15 occurs frequently.
- 16 Q So if -- I suspect you don't have
- 17 personal knowledge and Monica Dyck can be asked
- 18 about it, but based on your answer, it may have
- 19 had to do with the heavy level of press that this
- 20 case was getting and the dissatisfaction that was
- 21 being expressed by the Sveinsons in the press?
- 22 A Yes.
- 23 Q And it would have been a way to keep
- 24 you, as the supervisor, alerted to any potential
- 25 issues that might arise?

- 1 A Correct.
- 2 Q And we also heard testimony about the
- 3 meeting between the Sveinsons and the Minister of
- 4 Justice, Mr. Chomiak?
- 5 A Um-hum.
- 6 Q And that occurred on October 5th,
- 7 2007?
- 8 A I believe so, yes.
- 9 Q And I understand from Mr. Clifford's
- 10 interview with you that you were, in fact, in
- 11 attendance at that meeting?
- 12 A Yes, I was.
- 13 Q Can you tell the Commissioner about
- 14 the meeting, please?
- 15 A Yes. It was requested that I attend
- 16 to the Minister's office for a meeting with the
- 17 family. And I think I explained this to
- 18 Mr. Clifford, but usually when a meeting is
- 19 requested and I'm requested to attend it, or
- 20 anyone else from within my division, we usually
- 21 meet with the Minister briefly before going into a
- 22 meeting. But in that incident -- instance,
- 23 sorry -- I was called over and I was asked to come
- into the Minister's office upon arriving, and the
- 25 meeting was already in progress with the

- 1 Sveinsons.
- 2 Q And before we get into the meeting
- 3 being in progress, I take it from your answer that
- 4 it is certainly not unheard of for someone from
- 5 Victims' Services to be invited to attend with the
- 6 Minister?
- 7 A It would normally be myself.
- 8 Q Okay. And I take it that that occurs,
- 9 the Minister wants to have someone from Victims'
- 10 Services there when dealing with a crime victim in
- order to allow you to provide whatever support you
- 12 can at that time?
- 13 A I think it would depend on the
- 14 circumstances who he would want there.
- 15 Q Okay. Do you know what your role was
- 16 supposed to be on this day?
- 17 A It is difficult for me to recall, but
- 18 I believe I was called at the last minute. I
- 19 didn't know there was a meeting that was going to
- 20 take place, so there was very little time for
- 21 information beforehand. I always assume, as
- 22 director of Victims' Services, that if any issues
- 23 come up relating to the services provided by our
- 24 branch that I would be there to answer questions
- or assist with that. So that was my assumption

- 1 going into that meeting.
- Q Okay. And there had been some press
- 3 about Victim Impact Statements, and contact not
- 4 having been provided, and a look of information
- 5 being given. Do you think you might have been
- 6 there in order to provide information to the
- 7 Minister about the state of that file?
- 8 A I don't recall what was going on in
- 9 the media around that time. It -- no, the state
- of the file would normally be, that information
- 11 could be provided by the prosecutor. Not being
- 12 the prosecutor, I wouldn't be in a position to
- 13 provide any of that kind of information. I would
- 14 be limited to the services provided by my branch.
- 15 Q All right. So would your role have
- 16 been then more likely to be to provide further
- 17 support to the Sveinsons, if required?
- 18 A It could be, or to provide them with
- 19 information about who to contact if they had any
- 20 questions.
- 21 Q Okay. Can you describe what happened
- 22 when you were in the room?
- 23 A Like I said, the meeting was already
- 24 in progress. The discussion I recall was about
- 25 their concerns surrounding the prosecution of the

- 1 case. And it didn't last all that long. I
- 2 believe I was only there for about a half an hour.
- 3 And the Minister told them that he could not
- 4 comment on the status of the prosecution and could
- 5 not interfere in that. And that was basically the
- 6 discussion that occurred.
- 7 Q On the Minister's part, I take it?
- 8 A Um-hum.
- 9 Q And I imagine that the Sveinsons had
- 10 much more to say than that?
- 11 A They did express concern, yes.
- 12 Q Okay. And what was the mood like in
- 13 the room?
- 14 A Emotional, they were upset. I don't
- 15 recall if they were visibly upset, but they were
- 16 very troubled by what was going on with the case.
- 17 Q Now, having listened to the testimony
- 18 that you have up until now, do you have any
- 19 recommendations that you might make for
- 20 improvement or change in the supply of Victims'
- 21 Services?
- 22 A In terms of --
- 23 Q Just generally anything that might
- 24 have struck you while you were listening to the
- 25 evidence, is there anything that you took away

- 1 that you thought might need work, or might stand
- 2 to be improved?
- 3 A Well, I think -- I mean, I think it is
- 4 always important to maintain contact with victims.
- 5 There appeared to have been some time between some
- 6 contacts with Mr. Taman and Lesley. So I think it
- 7 is important to be available. I think the workers
- 8 are, but I think it is important to remind
- 9 themselves that, you know, it is nice to be able
- 10 to offer a "hi, how are you doing," as Mr. Taman
- 11 said in his testimony, I believe. Those types of
- 12 personal contacts are always welcomed by families.
- In terms of the Act, are you asking
- 14 about the Act as well?
- 15 Q Yes. Yes?
- 16 A Okay. Like I had said to
- 17 Mr. Clifford, the thing that pops out for me most
- 18 is around the issue of consult, and victims
- 19 feeling like they -- I don't want to use the word
- 20 direct the prosecution, because I don't think that
- 21 that is the case, but it can be a bit misleading,
- 22 that word, for victims' families.
- 23 Q And it can set up a sense of
- 24 disappointment when one might not be needed?
- 25 A It can, yes.

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1 MR. PACIOCCO: Okay. Well, listen, I
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- 2 want to thank you for listening to the testimony
- 3 that you have, and working hard to improve things
- 4 within your own department, and I want to thank
- 5 you for your testimony today. The other lawyers
- 6 may have questions for you, so if you can just
- 7 remain there.
- 8 BY MR. ZAZELENCHUK:
- 9 Q I'm the Taman family's lawyer.
- 10 When I use the term victim, I'm not
- 11 going to use it in the way it is used in the
- 12 Victim's Bill of Rights, I'm going to use it in
- 13 plain English the way we understand it, okay?
- 14 A Um-hum.
- 15 Q You will agree with me that most
- 16 victims have never seen the inside of a courtroom?
- 17 A I would agree with that, yes.
- 18 Q Most victims have never met a judge?
- 19 A Probably, yes.
- 20 Q Most victims have probably never met a
- 21 prosecutor?
- 22 A Probably, yes.
- 23 Q And when you are dealing with
- 24 something that you have no knowledge of at all, it
- 25 can be frightening, it can make you uncomfortable;

- 1 isn't that correct?
- 2 A I would agree, yes.
- 3 Q And I think your department is doing a
- 4 good job, within the resources that you have and
- 5 whatever. But I want to pose a hypothetical to
- 6 you, and you may be able to answer it, you may
- 7 not. What if I were to suggest to you that your
- 8 department set up a three-hour program, that
- 9 anywhere between 25 and 50 people could attend on
- 10 say a Thursday night, or a Saturday afternoon,
- 11 where these victims could get a tour of the
- 12 courthouse, a 20 or 25 minute lecture from a Crown
- 13 Attorney on the role of a Crown Attorney, a 20 or
- 14 25 minute lecture from a judge on the role of a
- judge, how to behave in a courtroom, and possibly
- 16 even from defence counsel; do you think that might
- 17 help people? And could you do it to like 25 or 30
- 18 or 40 people? Do you think that might help take
- 19 away some of the mystery and provide them with
- 20 some orientation so that when they actually get
- 21 down to the handling of the case that concerns
- them, they may be a step ahead?
- 23 A I think it would be helpful in some
- 24 situations. I would be cautious, though, in that,
- 25 because I think that some victims don't want to be

- 1 identified, so having a group of people present
- 2 and being aware that they are victims, people may
- 3 have concerns about that type of --
- 4 Q Yeah. I'm suggesting it would be
- 5 voluntary, it would be something that say could be
- 6 held on the third Thursday of every month. And
- 7 when somebody gets enrolled in your program, you
- 8 can say, look, if you want an orientation session
- 9 on the court process, you can attend, you know, I
- 10 will give you a pass. If you don't want to
- 11 attend, that is fine.
- 12 A It could most definitely be helpful to
- 13 some people, but it is something that we do
- 14 individually with people who are registered, or
- 15 just involved with any of the programs that we
- 16 provide.
- 17 Q I'm thinking it might be a little more
- 18 efficient if you could do it with 25 or 30 people
- 19 at a time and free up some time?
- 20 A I hear what you are saying.
- MR. ZAZELENCHUK: Thank you.
- MS. BOWLEY: No questions,
- 23 Mr. Commissioner.
- MR. GREEN: No questions.
- MR. McFETRIDGE: Just a few questions,

- 1 Mr. Commissioner.
- 2 BY MR. McFETRIDGE:
- 3 Q If I could take you to volume R-3, and
- 4 I'm not sure what the exhibit number is. It is
- 5 page 3336. Do you have volume R-3 in front of
- 6 you, it would be Exhibit 49? This is the document
- 7 entitled "Victims' Services" and that was referred
- 8 to by Ms. St. Hill earlier. And she said save
- 9 that for --
- 10 A For me, yes.
- 11 Q -- for you. And what is this
- 12 document?
- 13 A This is our policy and procedure
- 14 manual.
- 15 Q So this is the policy and procedure
- 16 manual that would be followed by your workers, is
- 17 that correct?
- 18 A As it exists today.
- 19 Q As it exists today. And a lot of
- 20 things that you talked about with Mr. Paciocco are
- 21 set out in there and the process that you follow;
- 22 is that correct?
- 23 A That's correct.
- Q And you had indicated before, there
- 25 are various programs within your system, and I

- 1 don't think that you got to the last one where, in
- 2 fact, Ms. McCorrister is today. What is the name
- 3 of the area that she is in now?
- 4 A She is part of the Victim Witness
- 5 Assistance Program.
- 6 Q What exactly is that?
- 7 A That is one of the services we
- 8 provide, it is located within the courthouse, and
- 9 they provide information and support to people who
- 10 are testifying in either a Provincial court or
- 11 Queen's Bench court. And they, when they present
- 12 for those, for court, they would assist them. And
- they could possibly set up court preparation
- 14 meetings in advance as well, take people for tours
- on the courtroom and so and so forth.
- 16 Q Now, there are various -- I do not
- 17 know if you would call them branches or divisions
- 18 within the Victims' Services branch, and there
- 19 appears to be some overlap. Because in many
- 20 respects, your workers are generalists, they
- 21 provide many services perhaps in many areas. For
- 22 example, you have given the example of there is a
- 23 domestic abuse, and there may be crimes that
- 24 involve children. A lot of those same crimes may
- 25 be covered under the Victim's Bill of Rights?

- 1 A That's correct.
- 2 Q Would you have two workers dealing
- 3 with one family or would, in fact, if there was a
- 4 case that involved sexual abuse involving a child
- 5 or domestic abuse, would that worker then be
- 6 undertaking the Victim's Bill of Rights
- 7 responsibilities as well?
- 8 A That's correct. We never have more
- 9 than one worker assigned to a file.
- 10 Q So we know that Ms. McCorrister or
- 11 Ms. Dyck are doing it, in fact, there may be other
- 12 workers who are also fulfilling those duties, if
- in fact, they come within one of those other
- 14 specific areas?
- 15 A Yes, that's correct.
- 16 MR. McFETRIDGE: Those are all the
- 17 questions that I have. Thank you.
- 18 THE COMMISSIONER: I just have a
- 19 question, on page 3337, the next page you have
- 20 abbreviations.
- THE WITNESS: Yes.
- 22 THE COMMISSIONER: You have the Crime
- 23 Victim Service worker, and then number four,
- 24 Victim Rights Support service. What is the
- 25 different between the two?

- 1 THE WITNESS: The Crime Victim Service
- 2 Worker refers to any one of our staff people
- 3 providing services in those various programs
- 4 listed below.
- 5 THE COMMISSIONER: Thank you very
- 6 much. Shall we take a few minutes, and then you
- 7 are going to call --
- 8 MR. PACIOCCO: I think it is an
- 9 opportune time for a break and we can start fresh
- 10 with Ms. McCorrister.
- 11 THE COMMISSIONER: Thank you, ten
- 12 minutes.
- 13 THE CLERK: All rise, please. This
- 14 Commission of Inquiry is now in recess.
- 15 (Proceedings recessed at 3:04 p.m. and
- reconvened at 3:15 p.m.)
- 17 THE CLERK: This Commission of Inquiry
- 18 is now reopened. Please be seated.
- 19 MR. CLIFFORD: Mr. Commissioner, the
- 20 next witness is Lesley McCorrister.
- 21 LESLEY GAIL MCCORRISTER, having first
- 22 been sworn testified as follows.
- 23 BY MR. CLIFFORD:
- 24 O Good afternoon, Ms. McCorrister. We
- 25 have heard that during the progression of the case

- 1 through the court system you worked as the Taman's
- victims' rights worker?
- 3 A That's correct.
- 4 Q And that would have been for the
- 5 duration, expect for a period when you were on
- 6 holiday and Monica Dyck filled in for you?
- 7 A That would be correct.
- 8 Q And that was your position at the
- 9 time, I understand, as a victims' rights worker.
- 10 We understand that you moved to another division
- and now you are working in witness assistance?
- 12 A That's right.
- 13 Q Could you, prior to giving some
- 14 explanation on your involvement and your
- 15 communications with the family, could you describe
- 16 for us, please, your experience? I understand
- 17 that it starts back in June of 1990.
- 18 A That's when I started with the
- 19 government, June 1, 1990, in what was then called
- 20 the Women's Advocacy Program, which dealt solely
- 21 with domestic violence cases. I then, in 2001,
- 22 went to work with what was with the Victim Bill of
- 23 Rights unit, Monica and myself. In approximately
- 24 January 2006 I went to work in the Victim Witness
- 25 Assistance Program Office as the manager.

- 1 Q Okay. Thank you. We have heard a
- 2 great deal of evidence thus far with respect to
- 3 the definition of a victim as defined under the
- 4 Manitoba Victims Bill of Rights, and part of what
- 5 I hope to accomplish with you today is to look at
- 6 that Act in part, but also to determine and have
- 7 you describe what it means to work on the front
- 8 line as a victims' rights worker, and how that
- 9 definition might be applied in the real sense.
- 10 Now, could you describe generally your role as a
- 11 front line victims' rights worker, what are the
- 12 things that you would typically do in a case?
- 13 A Basically we are like a messenger
- 14 between the Crown Attorney and the family or the
- 15 victim, whichever it would be. We are informed
- 16 through the prosecutions records information
- 17 management system, or PRISM. We run a report
- 18 every day to find out if there has been any
- 19 incidents that are sort of tagged under the
- 20 Victims' Bill of Rights because there is a select
- 21 number of incidents that are tagged. So we would
- 22 pull that report, and between Monica and I would
- 23 we share the charges, and the families that are
- 24 victims associated to that. We will initiate
- 25 contact with a form letter which we send out that

- 1 comes with information sheets about prosecutions,
- 2 about the Victims' Bill of Rights and sort of what
- 3 we do, and we, or I, send in also an information
- 4 sheet for the victim impact statement program. We
- 5 mail that out. We give families and victims a
- 6 couple of weeks, because they are going through so
- 7 much before. If we haven't heard from them, we
- 8 would initiate phone contact, that is if we have a
- 9 phone for them, and then it is just explaining
- 10 what we can offer them, what we can do for them,
- 11 give them an idea of what to expect with the
- 12 system, because it is a slow system. Offer them
- 13 support, referrals to other agencies, keeping them
- 14 informed of what is happening as court progresses,
- 15 remand to remand, if there is bail, if there is
- 16 conditions if somebody is released.
- 17 Q Let me ask you this; do you also
- 18 explain to them the roles of the individuals who
- 19 are involved in the court system, what the role of
- 20 the prosecutor is, what the role of the judge is,
- 21 what the role of the defence lawyer is, for
- 22 instance?
- 23 A No, I would explain my role and the
- 24 role of the prosecutor.
- Q Very well. What about helping them

- 1 just with respect to going to the right courtroom
- 2 or giving them a place to sit before a scheduled
- 3 hearing, do you get involved in that sort of --
- 4 A Oh, yes, if they wanted to go to a
- 5 remand, for example, I always keep them informed
- 6 what courtroom it is, what time it is, if it is
- 7 not going to be the assigned Crown, who even is
- 8 going to be in court that day. If it is a prelim
- 9 or a trial or sentencing, definitely I will get
- 10 the courtrooms for them. We don't get QB
- 11 courtrooms until the morning of the court, but I
- 12 will try to inform them of that. If they want, I
- 13 will meet them at court, have them meet me in my
- 14 office so we can walk there together, explain the
- 15 process right down to even where to sit, you know,
- 16 what side the defence and his client is on, or if
- 17 they are in custody, where they sit. All of that
- 18 sort of stuff.
- 19 Q And I understand that the victims'
- 20 rights worker is also involved in scheduling
- 21 meetings with the Crown Attorney who is assigned
- 22 to the case?
- 23 A If the family requested it, yes, or if
- 24 the Crown requested it, yes, we would do that.
- 25 Q You would be the go between to

- 1 schedule the meeting?
- 2 A That's right.
- 3 Q And I also understand that you would
- 4 also attend those meetings?
- 5 A Yes, if we can.
- 6 Q Now, with those duties, which are
- 7 significant, we've learned that you may carry
- 8 approximately 125 cases per year. Does that sound
- 9 accurate to you?
- 10 A It is possible, yes.
- 11 Q And in your experience as a victims'
- 12 rights worker when you were doing it, does it
- 13 sound accurate?
- 14 A It was a few years ago, so I couldn't
- 15 tell you what my case load was when I transferred
- 16 over because I transferred half my cases and kept
- 17 half.
- 18 Q Did you have a heavy case load?
- 19 A It was manageable. So I'm not sure if
- 20 I would call it heavy -- heavy in the sense of
- 21 emotions but I don't know with numbers, how is
- 22 that.
- Q All right. Now you told us generally
- 24 and we will go into more detail as it applies to
- 25 our case about the things that you do as a

- 1 victims' rights worker. Let me ask you generally
- 2 about some of the concerns that the people you are
- 3 working with have, the victims. My sense from the
- 4 material that the Commission has reviewed thus far
- 5 is that victims want information about the facts
- 6 behind the case?
- 7 A That's right.
- 8 Q Victims are very concerned about
- 9 delays in the case and they want the case to get
- 10 over with?
- 11 A Yes.
- 12 Q And the victims want to know about
- 13 resolutions, how the case might end, whether there
- 14 might be a plea bargain or whether it is going to
- end in a trial or whether there is going to be no
- 16 conviction?
- 17 A Absolutely.
- 18 Q And also another predominant theme, I
- 19 would suggest to you, is that they don't know how
- 20 the system works. They don't know what is going
- 21 to happen in the courtroom or necessarily what
- 22 everybody's role is.
- 23 A That's very correct.
- Q So they are in a position where they
- 25 want a lot of information, they don't have a lot

- 1 of experience or knowledge, and they are also
- 2 dealing in cases such as the Taman's with tragic
- 3 loss and the emotional fallout from losing a loved
- 4 one?
- 5 A That's quite true.
- 6 Q It is quite a burden on your
- 7 shoulders. Can't be an easy job, Ms. McCorrister?
- 8 A Some days it is not.
- 9 Q Now, looking generally at some of the
- 10 concerns the victims have and the things that you
- 11 have set out to do, I would like to bring you
- 12 through the chronology of the Taman case based on
- 13 the information that we have. I think it would be
- 14 helpful if you had before you now, exhibits 11 and
- 15 12, and I will give you disclosure reference,
- 16 Mr. Commissioner. Exhibit 11 is volume L 74.
- 17 Volume L, tab 74 I should say, and those are the
- 18 PRISM victims' communications. Do you have that
- 19 document, Ms. McCorrister?
- 20 A Yes.
- 21 Q And also exhibit 12, and the
- 22 disclosure reference on that is R3, tab 92.6, and
- that's a package of pamphlets, and do you have
- 24 that, Ms. McCorrister?
- 25 A Yes, I do.

- 1 Q And starting with your initial contact
- 2 with the Taman family, we see from exhibit 11 that
- 3 the communication commenced on March 4, 2005, with
- 4 a letter that was sent to the family?
- 5 A That's right.
- 6 Q And we've already heard some evidence
- 7 with respect to how this letter comes to be sent.
- 8 And we've learned that it is basically a form
- 9 letter that is generated as a result of an
- 10 automatic registration process?
- 11 A That's right.
- 12 Q And it was sent out under your cover
- 13 to the Taman family on March 4th, 2005. And can
- 14 you tell me what material was included with that
- 15 cover letter?
- 16 A With that would have gone a sheet that
- 17 would have said Victim's Bill of Rights overview.
- 18 Q And you are referring now to exhibit
- 19 1, is that right?
- 20 A Yes.
- 21 Q And in exhibit 12, again disclosure
- reference R3, tab 92.6, tell me what documents
- 23 amongst those would have been included with the
- 24 cover letter of March 4, 2005?
- 25 A The Victims' Bill of Rights overview,

- 1 which at that point would have been a combination
- of the sheet that says overview, plus the sheet
- 3 that says understanding the Victims' Bill of
- 4 Rights.
- 5 THE COMMISSIONER: Let me have that
- 6 again.
- 7 THE WITNESS: It would have been the
- 8 page that says understanding the Victims' Bill of
- 9 Rights, and the sheet that says overview of the
- 10 Victims' Bill of Rights, but it would have been a
- 11 combined sheet at that point, these are the
- 12 revised documents. So, that sheet. There would
- 13 have been the Manitoba Victim Impact Statement
- 14 overview, and the Role of the Prosecutions
- 15 Division. So I would have sent those three.
- 16 BY MR. CLIFFORD:
- 17 Q Now you are looking at those three
- 18 documents as they exist in exhibit 12. These are
- 19 the newer versions. Did you send an older
- 20 generation?
- 21 A Yes.
- Q And have you had an opportunity to
- 23 compare what is in exhibit 12 with what you know
- 24 you sent in 2005?
- 25 A Only the one affecting the Victims'

- 1 Bill of Rights. I haven't really reread the role
- 2 of the prosecutions division from the old to this
- 3 one.
- 4 Q We have another victims' rights worker
- 5 who is going to be testifying, and there may be
- 6 some opportunity to address that and, if not, I
- 7 will raise it with counsel. So those three
- 8 documents that you've referred to, an earlier
- 9 generation of those documents would have been
- 10 sent, and I take it the rest were available to be
- 11 supplied to the victim in the event that you
- 12 thought they might be helpful or they were
- 13 addressing an issue that was being raised?
- 14 A That's correct.
- 15 Q Now, we see in exhibit 11, that on
- 16 March 17th, 2005, correct me if I'm wrong, you
- 17 have your first telephone contact with the family?
- 18 A That's correct.
- 19 Q And in this conversation Mr. Taman had
- 20 phoned you, did he not, and tell you that he had
- 21 received the package of material?
- 22 A That's correct.
- 23 Q And you further explained to him what
- 24 the Victims' Bill of Rights was?
- 25 A That's right.

- 1 Q And you told him what you did?
- 2 A That's right.
- 3 Q And did you give him a similar
- 4 explanation that you just provided to me in terms
- 5 of what your role was?
- 6 A Yes.
- 7 Q You told him how you could assist him
- 8 through the process, did you?
- 9 A That's correct.
- 10 Q Now by that point you had had some
- 11 considerable experience, and you were able to give
- 12 him advice, you gave advice that you would have
- 13 given on many occasions, for instance, that it
- 14 might not be worthwhile to go for the first court
- 15 appearance?
- 16 A That's right.
- 17 Q This is something that you just know
- 18 on your general knowledge that this might be a
- 19 remand court where the accused wouldn't even be
- 20 present?
- 21 A Quite often that happens.
- Q Now, I take it Mr. Taman's response to
- 23 the conversation with you was positive, he was
- 24 happy to know that you were able to keep him
- 25 informed?

- 1 A He was glad to know that he had that
- 2 information.
- 3 Q I see in your notation of March 17,
- 4 2005, he said that he would most likely keep
- 5 contact on a biweekly basis with you?
- 6 A That's right.
- 7 Q Now in so far as that statement is
- 8 concerned, keeping in contact with you on a
- 9 biweekly basis, am I correct in suggesting to you
- 10 that contact is initiated between the victim's
- 11 rights worker and the victim, and I mean in that
- 12 direction from you to them, in order to provide
- 13 them with information?
- 14 A That's right.
- 15 Q So if you didn't have information to
- 16 provide on a biweekly basis, you wouldn't be
- 17 picking up the phone to contact somebody?
- 18 A That's correct.
- 19 Q To touch base?
- 20 A That's correct.
- 21 Q I take it you wouldn't have time to do
- 22 that, would you?
- 23 A I wouldn't have time and I think for
- 24 the family just to receive a phone call from
- 25 somebody who has absolutely nothing to tell them,

- 1 it is not beneficial.
- 2 Q But would it have been open to Robert
- 3 Taman to contact you on a biweekly basis?
- 4 A Definitely.
- 5 Q And you didn't indicate otherwise when
- 6 he made that suggestion?
- 7 A They can call me any time.
- 8 Q This is March 17, 2005, it is within a
- 9 month of the tragedy. What can you tell me about
- 10 Mr. Taman's emotional state when you were on the
- 11 telephone with him?
- 12 A I had a conversation with him. He had
- 13 received the letter, we talked about what I could
- 14 do for him and how long the process would take.
- 15 Q What I mean by the question is, can
- 16 you indicate to me whether you were of the view
- 17 that he was still grieving, for instance, was he
- 18 crying --
- 19 A He wasn't crying.
- 21 case?
- 22 A No, he wasn't crying. But I would
- 23 make the assumption that he was grieving. But was
- 24 he distraught and/or hysterical or any of those
- 25 kinds of words to describe him, no. I was able to

- 1 carry on a very articulate conversation with him.
- 2 Q That's what I'm interested in, his
- 3 emotional state from your perspective, and you
- 4 didn't discern anything, I take it, other than he
- 5 was able to speak with you calmly and
- 6 appreciated --
- 7 A That's correct.
- 8 Q -- the information that you were
- 9 providing to him?
- 10 A That's right.
- 11 Q Didn't seem to have any problems with
- 12 respect to comprehension as far as you were
- 13 concerned?
- 14 A No.
- 15 Q Very polite to you?
- 16 A Very.
- 17 Q The next contact that we see initiated
- 18 between the Taman family and you is the following
- 19 day, March 18, and I'm referring to exhibit 11,
- 20 and it is page 1855, and on March 18 there is a
- 21 telephone conversation with Jordan. And having
- 22 had the opportunity to look at your PRISM note, do
- 23 you recall that?
- 24 A Yes.
- 25 Q Now one of the things that he called

1 you about was the fact that on the correspondence

- of March 4th, the charge of refusing to provide a
- 3 breathalyzer sample was not included?
- 4 A That's correct.
- 5 Q And he was aware of that?
- 6 A Yes.
- 7 Q Once he brought it up with you, you
- 8 became aware of it and you agreed to correct it?
- 9 A That's right.
- 10 Q And I'm not criticizing you with
- 11 respect to that, but I take it that one of the
- 12 things that that conveyed to you, apart from the
- 13 fact that it had to be fixed, was that at least
- 14 Jordan Taman was someone who was quite aware of
- 15 the charges that Harvey-Zenk was facing?
- 16 A Oh, yes.
- 17 O And one of the other concerns that
- 18 Jordan Taman articulated to you was a concern, and
- 19 this goes back to the general factors that we
- 20 discussed when you started testifying, even at
- 21 that point March 18, 2005, he was concerned about
- 22 delay?
- 23 A That's right.
- Q And he brought it up with you?
- 25 A That's right.

- 1 Q And you gave him some sage advice
- 2 based on your experience in the system, and what
- 3 was that?
- 4 A That it could take two years or more,
- 5 that it didn't go -- it wasn't a fast process.
- 6 And by my notes, the concern because the accused
- 7 was a police officer, whether that could be
- 8 problematic for delays, and I said that the normal
- 9 process in courts can be up to two to three years.
- 10 Q So two concerns being raised by Jordan
- 11 Taman, one was the delay and the other was the
- 12 accused's occupation as a police officer, whether
- 13 it would have any influence on that aspect of the
- 14 case?
- 15 A That's correct.
- 16 Q And I take it the exchange between you
- 17 and Jordan Taman was very similar to the one you
- 18 had with his father the day before, he was polite
- 19 and respectful to you?
- 20 A Very.
- 21 Q And there were no issues with
- 22 comprehension?
- 23 A No.
- Q And you told him you would keep him
- 25 informed and that he was welcome to call you

- 1 whenever he wanted?
- 2 A That's correct.
- 3 Q Page 1856 of Exhibit 11, there is a
- 4 letter that goes out dated March 31, 2005 and, Ms.
- 5 McCorrister, all of the charges are there, so I
- 6 take it that you made the corrections as a result
- 7 of communicating with Jordan?
- 8 A I don't know whether I made the
- 9 correction or whether the PRISM team who input
- 10 everything would have made the correction.
- 11 Q And during the last few days we have
- 12 heard testimony about keeping the victims informed
- 13 about upcoming court dates. Would this be a good
- 14 example of the standard letter that would go out
- 15 to the victim with respect to this is the
- 16 information that you are providing, it is
- 17 scheduled at this date, at this location and you
- 18 are giving the reasons?
- 19 A That's correct.
- 20 Q And you are also giving the advice
- 21 that if you are going to come to court it would be
- 22 best to give you a call first?
- 23 A That's correct.
- Q And that would be typical of the
- letter that would be sent out, we won't go through

1 it with each court appearance, but that was the

- 2 letter to notify about court appearances?
- 3 A This is the form letter, yes.
- 4 Q And if we move then to page 1857; on
- 5 March 31, 2005 there is a call log, also part of
- 6 exhibit 11, and that's concerning a telephone
- 7 conversation with Tara Taman?
- 8 A That's correct.
- 9 Q And she called you, and once again
- 10 this is March 31, 2005, she is expressing a
- 11 concern, I take it, that you are anticipating
- 12 based on your conversation with Jordan Taman, and
- one that's very common and it relates to what?
- 14 A How long everything takes.
- 15 Q It is the delay factor again?
- 16 A That's correct.
- 17 Q And also she is raising with you the
- 18 question is the fact that this individual is a
- 19 police officer going to have an impact on one
- 20 aspect of the case?
- 21 A That's correct.
- Q And also there was an exchange with
- 23 respect to the media, and to put it in simple
- 24 terms, I take it you were under the impression
- 25 that the media was hounding the Taman family,

- 1 that's what Tara was suggesting to you, and did
- 2 you give them some advice or tips on how to deal
- 3 with it?
- 4 A No, I wouldn't have given them tips
- 5 how to deal with it. Just we would have talked
- 6 about it. She was concerned that they didn't want
- 7 to say things to create problems for the case.
- 8 Q All right. Is that something that a
- 9 victims' rights worker -- you would typically do
- 10 if someone was having a problem with the media or
- 11 how to deal with the media?
- 12 A Not really. Every individual is
- 13 different. Some people just do not want to have
- 14 any contact, and others are more than willing to
- 15 talk.
- 16 Q Moving to May 5, 2005, page 1858 of
- 17 exhibit 11, there is another telephone call and
- 18 this, I take it, is coming from Robert and he is
- 19 asking you about the victim impact statement?
- 20 A That's correct.
- 21 Q And he is asking you what I think is a
- 22 common question based on the testimony we've heard
- 23 already, how soon did I need to do it?
- 24 A That's a very common question, yes.
- 25 O And I take it that this is common in

- 1 cases where there has been a tragedy --
- 2 A Yes.
- 3 Q -- in a family and the loss of a loved
- 4 one, I take it. Would you agree with me that the
- family, in many cases, they want to get the victim
- 6 impact statement filled out. They are interested
- 7 in when it has to be done.
- 8 A They are interested, yes.
- 9 Q And, of course, with your knowledge of
- 10 the system you are telling them look, at this
- 11 point you don't have to fill it out. And, in
- 12 fact, would you have mentioned to them that unless
- 13 there is a conviction or a finding of guilt, maybe
- 14 not necessarily conviction, but a finding of guilt
- on one count there would never even be an
- opportunity to submit a victim impact statement?
- 17 A I explained that they were used at
- 18 sentencing.
- 19 Q And was this telephone call, apart
- 20 from this case, was it consistent with the many,
- 21 many calls that you would get in similar cases
- 22 demonstrating the significance or the importance
- 23 that the victims attached to the victim impact
- 24 statement process?
- 25 A For the majority of cases I dealt with

- 1 the victim impact statement was an important part
- 2 to the people, yes.
- 3 Q The next information we have in
- 4 connection with your communications, moving
- 5 forward in time, is April 29, 2005, and that's a
- 6 telephone call from Robert. Actually it is a call
- 7 to Robert and then you speak with Tara. And
- 8 that's at page 1859. What happened was you called
- 9 Robert's cell, you got no answer, you tried at
- 10 home and then you spoke with Tara. And again she
- is raising that same theme with you?
- 12 A That's right.
- 13 Q And I'm not being repetitive here
- 14 deliberately, but it is the theme in these early
- 15 conversations with the family, she is raising the
- 16 issue of delay with you again?
- 17 A That's correct.
- 18 Q And you tell her basically brace
- 19 yourself for two years?
- 20 A I want them to know, you know, worst
- 21 case scenario. Something can take up to two,
- three years.
- 23 Q Now moving forward on May 26, 2005 and
- 24 this is at page 1860 at volume 11, there is a
- 25 telephone call to Robert, but this is in response

- 1 to a message that he left for you, right?
- 2 A That's correct.
- 3 Q And he is making an inquiry about
- 4 whether there is an upcoming court date?
- 5 A That's correct.
- 6 Q And in this communication, May of '05,
- 7 within three months of the tragedy, the family is
- 8 raising one of the other factors that we discussed
- 9 earlier, and this is the first time plea
- 10 bargaining is raised with you?
- 11 A That's correct.
- 12 Q So, this is not something that comes
- 13 up late in the case, this is something that comes
- 14 up within 90 days of the accident?
- 15 A That's right.
- 16 Q And he raises this concern with you,
- 17 and you tell him, look, the Crowns are very good
- 18 at keeping the families informed about these
- 19 things. If there are going to be discussions, the
- 20 Crowns are very good at keeping families informed
- 21 about it?
- 22 A That's correct.
- 23 Q And what was his reaction to that?
- 24 A He was glad to know that.
- 25 Q And when you said that the Crown would

- 1 meet with them, I understand that you indicated
- 2 that they generally met with the family and they
- 3 would explain their position to the family?
- 4 A That's correct. And try to answer any
- 5 questions that the family has.
- 6 Q And I understand that when you
- 7 indicated to him in that conversation of May 26,
- 8 2005, you suggested setting up a meeting with the
- 9 Crown?
- 10 A That's correct.
- 11 Q What prompted you to make that
- 12 suggestion?
- 13 A He had questions, his concerns about
- 14 plea bargaining, it is helpful if they can address
- 15 some of those concerns with a Crown.
- 16 Q So based on that conversation on
- 17 May 26, 2005, you were of the view that this might
- 18 be a good time for Robert Taman to meet with the
- 19 Crown?
- 20 A Eventually, yes.
- Q Did you have any idea in terms of when
- 22 that meeting was going to be taking place?
- 23 A No idea whatsoever.
- Q You suggested that you would try to
- 25 set up a meeting with the Crown who was handling

- 1 the matter?
- 2 A That's correct.
- 3 Q Did you do that any time shortly after
- 4 the telephone conversation?
- 5 A No.
- 6 Q Is there any reason for that?
- 7 A Not that I can recall, other than it
- 8 was pretty early in to set up a meeting.
- 9 Q At page 1861 of exhibit 11 we see
- 10 another form letter, and again this is the
- 11 standard letter --
- 12 A That's correct.
- 13 Q -- which you have told me about that
- 14 we have seen earlier in the exhibit?
- 15 A That is correct.
- 16 Q And now moving to the next page in
- 17 exhibit 11, that's at 1862, this is a telephone
- 18 call log again, and this is another telephone call
- 19 from Robert. He noticed that you were trying to
- 20 call him, so he is calling you back on this
- 21 occasion; is that right?
- 22 A That's correct.
- Q At that point you had a conversation
- 24 with him about meeting with the Crown Attorney,
- 25 but that that meeting would be closer to the

- 1 preliminary hearing?
- 2 A That's correct.
- 3 Q You gave him the dates for the
- 4 preliminary hearing?
- 5 A Yes.
- 6 Q Did you explain to him what a
- 7 preliminary hearing was?
- 8 A I would explain what it would be.
- 9 Q And I understand that as of June 1,
- 10 2005, in this conversation you are explaining to
- 11 him why outside counsel is involved?
- 12 A That's correct.
- 13 Q So, you are letting him know that it
- 14 is going to be an independent prosecutor?
- 15 A That's correct.
- 16 Q Had you relayed that information to
- 17 him prior to June 1, 2005?
- 18 A No.
- 19 Q Now, there is some -- there is a note
- 20 here, or part of your memorandum of that telephone
- 21 call refers to Robert expressing not wanting to
- 22 attend as it was just too hard for him and he
- 23 didn't want to have to take steps to deal with
- 24 going through the preliminary hearing, in other
- 25 words, the dealing with the stress and what he

- 1 might do to ameliorate the stress. But I
- 2 understand that the conversation may have been
- 3 about not going to the preliminary hearing every
- 4 day, that certain days when there would be graphic
- 5 evidence, it might be too much?
- 6 A That's correct.
- 7 Q And is that the correct impression
- 8 that --
- 9 A Yes.
- 10 Q So that was being relayed to you. And
- 11 just to take it a step further, did he also
- 12 express to you that he would want to know what
- 13 evidence was coming up in the preliminary hearing,
- 14 not only for his own sake, but also for the sake
- of his children, that he didn't want them to be
- 16 exposed either to graphic details that might do
- 17 them more harm than good?
- 18 A That's correct.
- 19 Q He didn't have any problems expressing
- that to you or explaining it clearly, did he?
- 21 A Oh, no, absolutely not.
- 22 Q Now, one of the other things that I
- 23 understand occurred in this conversation, based on
- your call log, is that he described himself as the
- 25 information centre for the family, that he was the

- 1 conduit of information to go out to his children?
- 2 A Right.
- 3 Q Now, he also made it very clear to you
- 4 in that conversation that he had no experience
- 5 with the court system?
- 6 A That's correct.
- 7 Q Which was typical in your experience
- 8 with dealing with victims?
- 9 A That's right.
- 10 Q And along with that no experience
- 11 would come confusion from time to time about how
- things are progressing or being managed?
- 13 A That's correct.
- 14 Q Indeed it can become very complex at
- 15 times and you have mentioned that?
- 16 A Can be very confusing.
- 17 Q In that conversation, June 5, 2005,
- 18 Mr. Taman told you that his in-laws are pushing
- 19 for information and you indicated to him that you
- 20 would send them a letter advising of the
- 21 preliminary hearing dates.
- 22 A That's correct.
- Q Okay. And indicating that he could
- 24 share that information with them?
- 25 A That's correct.

- 1 Q Were you aware of whether there was
- 2 any communication between the two, Robert Taman
- 3 and his in-laws, at that point or whether there
- 4 were any difficulties at that stage or at any
- 5 point thereafter?
- 6 A At this point I had no awareness of
- 7 any.
- 8 Q Did you subsequently learn that there
- 9 was an issue with respect to sharing information
- 10 between Robert Taman and his in-laws?
- 11 A Eventually, yes.
- 12 Q We will come back to that. Now this
- is June 1, 2005 you told me about this telephone
- 14 conversation and one of the other things that's
- indicated, just before we move away from this page
- 16 1862, is that you tell him you would call him in
- 17 April to find out what times he would be available
- 18 to go meet with the Crown?
- 19 A That's correct.
- 20 Q Now if we move to page 1865, we see at
- 21 page 1865 there is a telephone call from Robert
- 22 Taman and there is a message left and he is asking
- 23 you to give him a call?
- 24 A That's correct.
- 25 Q And we go to 1866, there is a

- 1 progression here, telephone call to Robert Taman
- 2 and you leave a message, you say that you are
- 3 returning his call, and that gets to page 1867,
- 4 still the same day, May 1st, 2006. Now eleven
- 5 months have gone by since this June 1, 2005
- 6 meeting?
- 7 A That's correct.
- 8 Q And at that meeting you indicated to
- 9 him that you will call him in April to get in
- 10 touch with him about scheduling a meeting with the
- 11 Crown?
- 12 A That's correct.
- 13 Q And that didn't happen?
- 14 A No, that's correct.
- 15 Q Can you tell me why that didn't take
- 16 place?
- 17 A My guess would be that I changed jobs
- 18 and didn't have it diarized properly.
- 19 Q And I appreciate that response. I
- 20 take it there was a system in place, and had it
- 21 been diarized, someone else might have picked it
- 22 up to follow through with it?
- 23 A No, it is my own system, it is for my
- 24 diary.
- Q Okay. So the responsibility would

- 1 have remained with you then to call him in April?
- 2 A Yes, yes, it is totally mine.
- 3 Q All right. On May 1st he calls you
- 4 and, of course, he hadn't heard from you in April,
- 5 and one of the first things he is asking you is
- 6 are you still my victims' rights worker?
- 7 A That's correct.
- 8 Q And he had indicated to you that he
- 9 knew somehow or other that you had changed jobs?
- 10 A He most likely phoned my phone number
- 11 that he had prior.
- 12 Q Now, he was calling you because the
- 13 preliminary hearing was coming up in June and he
- 14 said he hadn't heard anything at all, and he
- 15 recalled that there was going to be a meeting with
- 16 the Crown. And at that point he is expressing to
- 17 you that he was aware of the fact that his in-laws
- 18 had met with Mr. Minuk?
- 19 A That's correct.
- 20 Q But he hadn't?
- 21 A That's correct.
- Q And I take it that you were operating
- 23 under the impression that he had in fact met with
- 24 Mr. Minuk?
- 25 A Yes.

- 1 Q Could you elaborate a little further
- on the concern that you had over the fact that Mr.
- 3 Minuk had met with the in-laws prior to meeting
- 4 with Mr. Taman?
- 5 A Well, I guess I was surprised that he
- 6 had met with him before the Taman family.
- 7 Q And you understand that you were in
- 8 agreement with Mr. Taman being upset about that,
- 9 because I think you have indicated that as a
- 10 result of Mr. Taman being the registered victim
- 11 under the Victims' Bill of Rights that he should
- 12 have been the one that was contacted first?
- 13 A That's my impression, sir.
- 14 Q So whether you agree with that policy
- or not, in other words, that you contact the
- 16 registered victim first, that was the system in
- 17 place at the time?
- 18 A That's correct.
- 19 Q His complaint to you was bona fide?
- 20 A Yes.
- 21 O Now if I could move forward then to
- 22 May 1st, actually not move forward but move
- 23 forward in the exhibit 11, page 1869, and we are
- 24 still on May 1st, and you are following up with
- 25 Robert Taman and you are advising him that there

- 1 is now going to be a meeting?
- 2 A That's right.
- 3 Q For May 3rd at ten o'clock. And he
- 4 tells you that he would like you to go to the
- 5 meeting with him?
- 6 A That's correct.
- 7 Q Was that normally what would happen
- 8 when a victim was going to meet with a Crown, that
- 9 in your experience they would want their victims'
- 10 rights worker to be with them?
- 11 A It is good for me to meet with them,
- 12 yes.
- 13 Q And a good opportunity to meet with
- 14 the person that you are helping?
- 15 A The person that I'm helping and when
- 16 they are meeting with the Crown.
- 17 Q And would you agree that when you are
- 18 dealing with victims who are going into the
- 19 formality of attending a Crown attorney's office,
- 20 whether it be a Crown Attorney who works in the
- 21 Crown Attorney's office or even an independent
- 22 Crown Attorney, that the formality of that process
- 23 can be very stressful for the victim?
- 24 A Correct.
- 25 Q And it could be of great assistance to

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1 the victim to have their victims' rights worker
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- 2 accompany them?
- 3 A Yes.
- 4 Q And Robert Taman wanted to take
- 5 advantage of your presence?
- 6 A Yes.
- 7 Q And he clearly stated that to you?
- 8 A Yes.
- 9 Q And fortunately for him you were
- 10 ready, willing and able to go with him?
- 11 A Yes.
- 12 Q And you did so. And it is in this
- 13 exchange as well that you documented the fact that
- 14 you asked him how his in-laws would have gotten
- involved, because he was the registered victim at
- 16 that time, and he also indicated to you that he
- 17 was upset about them meeting Mr. Minuk first.
- 18 A That's correct.
- 19 Q And he told you he felt as though he
- 20 had been kept out of loop?
- 21 A That's correct.
- Q And those are the words that you used
- in your memorandum of that call log on May 1, 2006
- 24 at page 1869?
- 25 A That's right.

- 1 Q So I take it you are concluding from
- 2 this that, going back to one of those main points
- 3 that we raised initially, this is a victim who
- 4 wants information?
- 5 A That's correct.
- 6 Q And he is upset about the fact that he
- 7 is not getting the information, in other words, he
- 8 is not in that loop yet?
- 9 A He is concerned that, yes, somebody
- 10 else is getting information that he is not
- 11 getting.
- 12 Q And he is presenting to you throughout
- 13 the entire process as an individual who wants
- 14 information?
- 15 A That's correct.
- 16 Q He never backs off and says, you know
- 17 what, I'm so frustrated with this, I am too tired,
- 18 Lesley, to deal with it, I don't want to, you deal
- 19 with it, he is always on you to help him get
- 20 information?
- 21 A Yes.
- Q Now, if we turn to page 1870 of
- 23 exhibit 11, this is your PRISM entry for the
- 24 meeting between Robert Taman, his son Jordan I
- 25 understand, yourself and Mr. Minuk?

- 1 A That's right.
- 2 Q And was there anybody else present
- 3 that you recall?
- A No, there was just the four of us.
- 5 Q Now there are a number of points that
- 6 I want to address that flow from your PRISM entry
- 7 at page 1870. Now, I understand that Mr. Taman
- 8 raised with Mr. Minuk the concern about the fact
- 9 that he was not the first member of the family to
- 10 be meeting Mr. Minuk?
- 11 A That's correct.
- 12 Q And Mr. Minuk's response was to tell
- 13 him, look, I didn't discuss any information about
- 14 the case with your in-laws, Mr. and Mrs. Sveinson?
- 15 A That's correct.
- 16 Q And did he also indicate to Robert and
- 17 Jordan that he was not responsible for any
- 18 information that Mr. and Mrs. Sveinson were
- 19 spreading in the family?
- 20 A That's correct.
- 21 THE COMMISSIONER: Excuse me, he
- 22 said -- you have a note here he advised Robert
- 23 that he met with them on a matter not related to
- 24 this charge. What was he talking about?
- THE WITNESS: That he was meeting them

- 1 not specifically to discuss the same things he was
- 2 discussing with the Tamans, that they were there
- 3 on a different information search.
- 4 THE COMMISSIONER: The words "not
- 5 related to this charge, " is that what you intended
- 6 or did you mean something else? Did he actually
- 7 say I'm not, they weren't here to discuss this
- 8 charge, they were here on something entirely
- 9 different, was that the tenor of --
- 10 THE WITNESS: No, that would be my
- 11 words, those are my interpretation, my words, not
- 12 Mr. Minuk's.
- 13 THE COMMISSIONER: Okay, thank you.
- 14 BY MR. CLIFFORD:
- 15 Q If I could just follow up on that,
- 16 they may not be your words but do your words
- 17 convey the meaning of what Mr. Minuk said to them?
- 18 A Yes.
- 19 Q The other issue that arose in that
- 20 meeting was, of course, Robert raises now with the
- 21 Crown assigned to the case the issue of the victim
- 22 impact statements?
- 23 A That's correct.
- Q So at the first opportunity with Crown
- 25 he is demonstrating the same thing he did with

- 1 you, an interest in the victim impact statement
- 2 process?
- 3 A That's correct.
- 4 Q Now, Mr. Minuk also, according to your
- 5 memorandum, told Robert that there are always
- 6 pitfalls to overcome in any case, and that a
- 7 prelim would show any weaknesses or strength in a
- 8 case.
- 9 A That's correct.
- 10 Q And that's an entry that you made, and
- 11 does that convey the essence of what Mr. Minuk
- 12 said to Mr. Taman about a preliminary hearing and
- 13 what it could do?
- 14 A Yes.
- 15 Q So he wasn't expressing the point that
- 16 the prelim in this case would expose weaknesses or
- 17 strengths, it was both?
- 18 A That's correct.
- 19 Q And the issue of sentence came up as
- 20 well, I understand, in this initial meeting?
- 21 A That's correct.
- Q And it came up, I take it, and correct
- 23 me if I'm wrong, as a result of either Robert or
- 24 Jordan asking Mr. Minuk, what can we expect here?
- 25 A That's correct.

- 1 Q And as of May 3rd, 2006, at this
- 2 initial meeting, Mr. Minuk is telling them the
- 3 sentence is not consistent and guite often any
- 4 jail time was spent as house arrest?
- 5 A That's correct.
- 6 Q How long did that meeting last?
- 7 A Approximately an hour.
- 8 Q What was the atmosphere in the
- 9 meeting? I don't mean like the atmospheric
- 10 pressure or the temperature. What was, in terms
- of the mood, would be a better question.
- 12 A The mood was civil, and the Tamans
- 13 were anxious, they wanted -- they had questions,
- 14 they wanted answers.
- 15 Q They were, I take it, respectful of
- 16 Mr. Minuk?
- 17 A Yes.
- 18 Q You told me that typically when a
- 19 victim might go into the formal setting of a Crown
- 20 attorney's office they might feel a little bit
- 21 stressed, was that manifesting itself as well?
- 22 I'm not asking you to look in the mind of
- 23 Mr. Taman, but based on your observations?
- 24 A Based on my observations they were
- 25 like everybody else, everybody is stressed going

- into a lawyer's office and trying to find answers.
- 2 Were they overtly stressed? No.
- 3 Q And I take it that the response to
- 4 what Mr. Minuk was telling them about the
- 5 sentences and the house arrest, conditional
- 6 sentences, you would agree that this was a very
- 7 difficult concept for them to understand?
- 8 A Yes.
- 9 Q It would be a hard concept to
- 10 understand, particularly if you don't know
- 11 anything about it, if you are hearing about it for
- 12 the first time?
- 13 A Yes.
- 14 Q Very hard to reconcile or gain an
- 15 understanding about how you can spend jail time in
- 16 your house?
- 17 A That's correct.
- 18 Q Now moving forward from May 3rd, to
- 19 May 26th, I understand that you gave a telephone
- 20 call to Robert and we are going to move forward to
- 21 page 1874 of exhibit 11, and this telephone call
- 22 occurred as a result of, I understand, you having
- 23 an encounter with Mr. Minuk, and he is telling you
- that he wants to meet with Robert Taman again?
- 25 A That's correct.

- 1 Q So we see on page 1874 that on May 26,
- 2 2006, you are getting in touch with Robert Taman
- 3 and you are asking him to go to Mr. Minuk's office
- 4 on the Monday at 3:30?
- 5 A That's correct.
- 6 Q And that meeting was set up and
- 7 occurred on May 29, 2006 and that was the second
- 8 meeting with Mr. Minuk?
- 9 A That's correct.
- 10 Q And if we move forward to page 1877 in
- 11 exhibit 11, I take it that is your PRISM entry or
- memorandum for that meeting?
- 13 A That's correct.
- 14 Q And now on your first meeting of
- 15 May 3rd, before we get into the details on
- 16 May 29th, on the first meeting on May 3rd, did you
- 17 arrive early to speak with Mr. Minuk to get
- 18 briefed about what was going to take place during
- 19 the first meeting?
- 20 A I don't think so.
- 21 Q Okay. What about on the second
- 22 meeting, May 29th?
- 23 A Yes.
- Q Okay. And I understand that you were
- asked to go to that meeting a half hour before the

- 1 Tamans?
- 2 A Yes.
- 3 Q And the purpose of you arriving there
- 4 early was so that you could be briefed on what
- 5 would be discussed at the meeting?
- 6 A Yes.
- 7 Q And what were you briefed on?
- 8 A That that there was problems in the
- 9 case and that it was going to be delayed.
- 10 Q Okay. I'm going to ask you to bring
- 11 your mind back to that meeting and in as much
- 12 detail tell the Commission what you recall about
- 13 what was said and elaborate on it, there were
- 14 problems with the case and there was going to be a
- 15 delay?
- 16 A Mr. Minuk explained to Mr. Taman --
- 17 Q What I'm asking, Ms. McCorrister, and
- 18 I apologize for interrupting you, I'm now still at
- 19 the point where you've arrived early and you are
- 20 getting briefed by Mr. Minuk. I want you to tell
- 21 the Commission about your briefing and then we
- 22 will get into the general meeting.
- 23 A I apologize. He was telling me that
- there was going to be delay, and I mean, I think
- 25 he was wanting me there to explain it ahead of

- 1 time so that I was prepared when he explained to
- 2 the Taman family there was going to be a delay,
- 3 because this is a family that was expecting it to
- 4 happen in the next short while, so he was letting
- 5 me know in advance in a sense that I was also
- 6 prepared for when the family were given this
- 7 information.
- 8 Q Did he elaborate with you, did he give
- 9 any details on what the problems were?
- 10 A That he was sending out his
- 11 investigators, I guess, basically to reinterview
- 12 and review things, so this was going to cause a
- 13 considerable delay.
- 14 Q Did he tell you in the briefing what
- 15 purpose that additional investigation was for?
- 16 A He was double checking his
- information, he was making sure he got all of the
- 18 information.
- 19 Q In relation to the prosecution that he
- 20 had carriage of?
- 21 A That's correct.
- 22 Q And moving now to when the meeting
- 23 started and Mr. Taman and his son are present; do
- 24 you recall anybody else being there?
- 25 A Actually I only remember Mr. Taman

- 1 being there. So, I apologize, I don't remember
- 2 Jordan being there, but he might have been, I
- 3 don't remember him being there.
- 4 Q Jordan aside, do you remember anybody
- 5 else being there?
- 6 A No.
- 7 Q So your recollection is it is the
- 8 three of you?
- 9 A Yes.
- 10 Q But you remained to be corrected in
- 11 the event that someone else claims they were
- 12 there, I take it you wouldn't disagree with that?
- 13 A Exactly.
- 14 Q You might be --
- 15 A Could have been Jordan that was there
- 16 also.
- 17 Q Indeed. All right. So we are in the
- 18 meeting now, you have been briefed and does Mr.
- 19 Minuk acknowledge to Mr. Taman that he knows that,
- 20 look, I realize that you don't want this delayed.
- 21 A That's correct.
- 22 Q He knows what the impact would be?
- 23 A Yes.
- Q But does he suggest to them that,
- look, what is more important here is that I have

- 1 all of the relevant facts?
- 2 A That's correct.
- 3 Q And he basically -- does he put it to
- 4 Mr. Taman in a question like, look, do you want me
- 5 to get all of the relevant facts, would that be
- 6 important to you if I were to do that?
- 7 A He would have explained it in such a
- 8 way as to -- he explained it, I need to do a
- 9 proper prosecution, I need to have all of my facts
- 10 and there would be a delay because he was asking
- 11 for more facts.
- 12 Q Now, you've created a memorandum of
- 13 what occurred, and I take it that if in the course
- 14 of that conversation it was suggested in that
- 15 meeting that the investigation was actually into
- 16 another person, whether another person might be
- 17 the subject of criminal charges, you would recall
- 18 that and make a note of it, would you not?
- 19 A Yes.
- 20 Q And I can take it from that response
- 21 that no such thing or similar thing was said to
- 22 Mr. Taman?
- 23 A Correct.
- Q Now, the issue of Mr. Taman's in-laws
- 25 came up again in the May 29th meeting, is that

- 1 right?
- 2 A That's right.
- 3 Q I understand that Mr. Minuk assured
- 4 Robert that he wasn't providing them with
- 5 information; is that the case?
- 6 A Yes.
- 7 Q What did he tell them he was doing?
- 8 A He was listening to them.
- 9 Q Do what?
- 10 A The Sveinsons were angry with the
- 11 system, so Mr. Minuk was listening to them talk
- 12 about that.
- 13 Q And how do you characterize it in your
- 14 memorandum?
- 15 A That Mr. Minuk wasn't providing them
- 16 with information but was listening to them rail
- 17 against the system.
- 18 Q Rail against the system?
- 19 A Yes.
- Q Were those his words?
- 21 A At this point I don't know.
- 22 Q Is that your vocabulary?
- 23 A Possibly.
- Q And apart from if they were your words
- or his words, do they characterize the manner in

- 1 what he described the Sveinsons were doing when
- 2 they were meeting with him?
- 3 A Yes.
- 4 Q And dealing further with that point,
- 5 he was listening to them rail against the system,
- 6 as you describe it. What else did Mr. Minuk say?
- 7 Are you able to recall what he said about his
- 8 meetings with the Sveinsons?
- 9 A Not really, I'm sorry.
- 10 Q Did he tell them that he wasn't going
- 11 to be meeting with them anymore?
- 12 A I don't recall.
- Q Did he tell them that he wasn't going
- 14 to answer their calls or their letters anymore?
- 15 A I don't recall that.
- 16 Q Did he suggest that he was tired of
- 17 them?
- 18 A Are we talking the Sveinsons?
- 19 Q Yes?
- 20 A Sorry, I don't recall him talking
- 21 about them that way.
- Q Do you recall whether he made a remark
- 23 that they were crazy and he was tired of them and
- 24 he wasn't going to deal with them anymore?
- 25 A I don't recall.

- 1 Q Did Mr. Minuk leave you with the
- 2 impression that he felt that way about the
- 3 Sveinsons?
- 4 A I was left with the impression that he
- 5 was frustrated with them.
- 6 THE COMMISSIONER: Sorry?
- 7 THE WITNESS: He was frustrated with
- 8 them.
- 9 BY MR. CLIFFORD:
- 10 Q So that impression was formed in that
- 11 meeting and what is that impression based upon?
- 12 A It would have come through the
- 13 conversations of probably answering Mr. Taman's
- 14 concerns.
- 15 Q And can you recall the content of that
- 16 conversation?
- 17 A I think that would have just maybe
- 18 come out in how he was reassuring Robert that he
- 19 was not discussing with his in-laws what he was
- 20 discussing with Mr. Taman and his children.
- Q Now, I take it that Mr. Minuk also
- took Mr. Taman's telephone number and his email?
- 23 A That's right.
- Q And how long did that meeting last?
- 25 A Again I would guess an hour.

- 1 Q Let's move forward to May 30th, there
- 2 is a telephone call to Robert. Now, this is the
- 3 day after the meeting and you are advising him at
- 4 this point we are back to the issue of delay at
- 5 page 1878, there is a PRISM entry on your
- 6 telephone call, you are telling him it is going to
- 7 be at least a year before the case is scheduled
- 8 again?
- 9 A That's correct.
- 10 Q What is the reaction?
- 11 A I think he was already more or less
- 12 aware it was going to be quite a delay. They were
- 13 just hoping for a short delay versus a long delay,
- 14 that's all.
- 15 Q We see at page 1879 another one of the
- 16 standard notification letters that goes out to
- 17 advise of the court dates?
- 18 A That's correct.
- 19 Q And then we move up to October 18 of
- 20 2006, and that's at page 1880, exhibit 11, and
- 21 what happened was that letter, I think it got
- 22 returned?
- 23 A That's correct.
- Q So you call him on October 18 and you
- 25 are giving him the court date?

- 1 A That's correct.
- 2 Q Were there issues with respect to his
- 3 address that you had to deal with through the
- 4 case?
- 5 A He had moved, so that's why my letter
- 6 came back.
- 7 Q So that got straightened out?
- 8 A That's correct.
- 9 Q And did you enter the new address in
- 10 the system?
- 11 A That's correct.
- 12 Q So, from October 18, 2006, if we move
- 13 to page 1881 it brings us to June 12, 2007?
- 14 A That's correct.
- 15 Q This is our second gap here, so to
- 16 speak, in communication and this is eight
- 17 months --
- 18 A That's correct.
- 19 Q -- where there is nothing documented
- in terms of communication between you and the
- 21 Taman family, and he calls you on June 12th.
- 22 A That's correct.
- 23 Q And he is calling you one month before
- 24 the preliminary hearing dates because you have
- 25 advised him that the preliminary hearing is to

- 1 commence on July 16, 2007.
- 2 A That's correct.
- 3 O So Mr. Taman is on it. He is calling
- 4 you one month before?
- 5 A Yes.
- 6 Q And he wants to know, one, is the July
- 7 date still on?
- 8 A That's correct.
- 9 Q And he is also telling you, look, I'm
- 10 concerned about the surprises, I don't want to be
- 11 surprised in court, I want to know what is going
- 12 to happen. Is that the tenor of what he said to
- 13 you?
- 14 A That's right.
- 15 Q And in your experience you said to
- 16 him, look, I agree with you, you shouldn't be
- 17 surprised?
- 18 A That's right.
- 19 Q And the way that you are not surprised
- 20 to is set up a meeting with the Crown Attorney?
- 21 A That's right.
- 22 Q Now again there is some further
- 23 discussion with him on June 12, 2007 about -- and
- 24 I'm going to ask you to harken back to your
- 25 earlier testimony on this point, that there were

- 1 some days that he wouldn't want to be at the
- 2 prelim or he felt his kids wouldn't want to be
- 3 there?
- 4 A The family shouldn't be there when the
- 5 pathologists report were being read out.
- 6 Q He was going to the preliminary
- 7 hearing and his children were going, but they
- 8 didn't want to get graphic pathology evidence?
- 9 A That's correct.
- 10 Q And when you suggested to him it would
- 11 be a good idea for him to meet with the Crown
- 12 Attorney a week before, his response was that he
- 13 agreed with you?
- 14 A That's correct.
- 15 Q Now, this meeting with the Crown
- 16 Attorney to address the concerns that Mr. Taman
- 17 raised on June 12th with you, actually took place
- 18 on July 13, 2007 and you are not present at this
- 19 meeting?
- 20 A No, I wasn't present at that meeting.
- 21 Q Okay. Did you set it up?
- 22 A Yes.
- 23 Q And was there any victims' rights
- 24 worker present with him?
- 25 A No.

- 1 Q And can you tell me how that came
- 2 about, your absence at the meeting?
- 3 A I had a prior commitment that I
- 4 couldn't get out of.
- 5 Q Did he want you to go with him?
- A He never asked.
- 7 Q Did you offer?
- 8 A When that date got set up, I would
- 9 have known about my other commitment.
- 10 Q This was an individual who had
- 11 expressed to you previously that he wanted you in
- 12 attendance, you had been with him twice?
- A Um-hum.
- 14 Q There was a meeting here to deal with
- 15 getting ready for the preliminary hearing, he is
- 16 giving you all of the concerns?
- 17 A Yes.
- 18 Q Looking back on it, do you think it
- 19 would have been a good idea for you to go to that
- 20 meeting with him?
- 21 A I wish I had of been there, yes.
- 22 Q Now you are not present at the
- 23 meeting, and I take it that one of your roles at
- 24 meetings is that you are another person there and
- 25 we know that you, to a certain extent, document

- 1 what is taking place there, and --
- 2 A My role also is sometimes to ask the
- 3 questions the family don't know how to ask, or to
- 4 decipher what the lawyers are saying so that the
- 5 family can understand.
- 6 Q Right. And that's a very helpful
- 7 role, is it not? Because you told the Commission
- 8 sometimes the family is dealing with the
- 9 complexities of concepts that they have no idea
- 10 about?
- 11 A That's correct.
- 12 Q Like conditional sentences. And what
- 13 you do is break it down for them and say, look,
- 14 this is what it really means, right?
- 15 A Yes, we try to simplify it.
- 16 Q And to your knowledge there was no one
- 17 there on July 13th, to do that for Robert Taman?
- 18 A That's right.
- 19 Q So on July 16th he goes to court with
- 20 his family, and Crystal's parents are there?
- 21 A Yes.
- 22 Q You know them at this point, I take
- 23 it, you know who they are? Had you met them?
- 24 A The Sveinsons?
- Q Sveinsons?

- 1 A No, I had never met them.
- 2 Q Did you meet them on that date on
- 3 July 16?
- 4 A I figured out who they were.
- 5 Q Just on that point, was there ever any
- 6 concern with respect to getting them some
- 7 information? I take it you were relying on Robert
- 8 to provide them with information up to that stage,
- 9 or was it a concern that you had at all?
- 10 A My concern was with the Taman family.
- 11 Q All right. So on July 16th, this is
- 12 the first day of court, I understand that
- 13 Robert -- if we look at page 1896 of exhibit 11,
- 14 Robert is actually calling you and he wants to
- 15 know where to go?
- 16 A That's correct.
- 17 Q So what this is telling you is that,
- 18 at least on that day, he doesn't know where he is
- 19 supposed to go?
- 20 A That's correct.
- 21 Q So he needs your help. And you
- 22 connect with him and you tell him, look, you come
- 23 to room 400?
- 24 A That's correct.
- Q And room 400 was the victims' rights

- 1 worker office?
- 2 A It is the victim witness assistance
- 3 room.
- 4 Q And you would show him where the
- 5 family waiting room was?
- 6 A That's correct.
- 7 Q Can you tell me on July 16th at court,
- 8 what happened before court, what involvement did
- 9 you have with the family?
- 10 A That morning?
- 11 Q Yes?
- 12 A They came to the victim witness
- 13 assistance and I met them there, and provided them
- 14 which courtroom it was. And then I took them --
- 15 we have a special meeting room, because we were
- 16 expecting a prelim, we have a special waiting room
- 17 where people can wait separate from everybody
- 18 else. It is a private room. It is a locked
- 19 space. I would have showed it to them, explained
- when they needed a break this is a place they
- 21 could go to get away from everybody. And then I
- 22 would have gone to the courtroom with them.
- 23 Q And when you were with them, did Mr.
- 24 Minuk meet with them?
- 25 A I believe he spoke briefly with them

- 1 before court.
- 2 Q When you say he spoke briefly with
- 3 them before court, how long did that take?
- 4 A I'm sorry, I couldn't tell you.
- 5 Q Can you give me an approximation? Was
- 6 it a half an hour or --
- 7 A No.
- 8 Q Briefly?
- 9 A It would be briefly.
- 10 Q Five minutes, two minutes?
- 11 A I honestly couldn't tell you. It
- 12 wouldn't be more than half a hour. I don't think
- it would have been that long, but it would be
- 14 probably not less than five minutes. If I hazard
- 15 a guess, 10 or 15 minutes.
- 16 Q And that's all I'm asking you for, Ms.
- 17 McCorrister, is your best recollection he spent 10
- 18 or 15 minutes with them on July 16th outside of
- 19 the courtroom?
- 20 A Yes.
- 21 Q That you were present?
- 22 A While he was talking to them I might
- 23 have been on the peripheral.
- Q Do you know what he was talking to
- 25 them about?

1 A What was going to happen that morning.

- 2 Q And what was he telling them?
- 3 A I couldn't tell you, sorry.
- 4 Q And when you say he was telling them
- 5 what was going to happen, is that a conclusion
- 6 that you are drawing or do you know what?
- 7 A That's a conclusion that I'm drawing.
- 8 Q So would the more accurate response be
- 9 I don't know what he was talking to them about for
- 10 15 -- 10, 15 minutes?
- 11 A That would be correct, yes.
- 12 Q Did you accompany them to court?
- 13 A Yes.
- 14 Q And you stayed with them as they
- 15 waited for the case to be called?
- 16 A Yes.
- 17 Q And that was, we have learned, an
- 18 assignment court or a remand court?
- 19 A Not assignment court.
- 20 Q I might have the terminology wrong.
- 21 This was a court on July 16, where it was remanded
- 22 the next day before Chief Justice Wyant, and this
- 23 was, the court they went to was the court where
- 24 the cases get assigned to other courtrooms, that
- is the evidence that we have heard. My colleague

- 1 Mr. Zazelenchuk tells me it is referred to as
- 2 loading court.
- 3 THE COMMISSIONER: A what court?
- 4 THE WITNESS: A loading court, they
- 5 kind of farm the matters out.
- 6 BY MR. CLIFFORD:
- 7 Q Does that refresh your memory?
- 8 A Not really, sorry.
- 9 Q Were you in court with the family on
- 10 the 17th, the following day, July 17, 2007?
- 11 A I don't recall.
- 12 Q This was the day, I can perhaps assist
- 13 you, that the matter was before Chief Justice
- 14 Wyant, and the court was advised that
- 15 Mr. Harvey-Zenk was pleading guilty?
- 16 A Yes, yes.
- 17 Q Does that assist your memory?
- 18 A Yes.
- 19 Q Can I conclude then that you were
- 20 present with the family on that day?
- 21 A Yes.
- 22 Q And were you present when Mr. Minuk
- 23 spent time with the family before court took
- 24 place?
- 25 A No.

- 1 Q What about after court?
- 2 A No.
- 3 Q Did you spend time with the family
- 4 before or after court?
- 5 A Before court, I talked to them, yes.
- 6 Q And where were they?
- 7 A I think we met around the courtroom.
- 8 It was confusion with the courtrooms.
- 9 Q Now, after July 16th of 2007, the
- 10 first day of the preliminary hearing, there is no
- 11 further entries from you in the PRISM system until
- 12 August 22nd of 2007. And I understand that at
- that point you might have been away on a holiday
- 14 and Monica Dyck was filling in for you?
- 15 A That's correct.
- 16 Q Now if we can move forward then to
- 17 August 22nd, 2007 and that's page 1921. It is a
- 18 memorandum or entry into PRISM, and what this is
- 19 telling us is that on August 22nd, 2007 -- and
- 20 this, Ms. McCorrister, to refresh your memory, was
- 21 the day that the family read their victim impact
- 22 statements.
- 23 A That's correct.
- Q And we know from that PRISM entry that
- you were present because what it is telling us is

- 1 that you met with the family before court and you
- 2 walked them to the courtroom and the courtroom
- 3 actually had to be changed?
- 4 A Twice, yes.
- 5 Q Now, we've heard a great deal of
- 6 evidence about this day. Prior to court starting
- 7 we know that they are at your office --
- 8 A That's correct.
- 9 Q At victims witness assistance, and
- 10 they are getting walked over to the courtroom.
- 11 Did they have any interaction or time to meet with
- 12 Mr. Minuk before court that you are aware of?
- 13 A Yes, I believe, but again I'm just --
- 14 I believe he did talk to them before court started
- 15 briefly. Was I present to hear the conversation?
- 16 No. But I'm just trying to -- I seem to remember
- 17 seeing them talking together.
- 18 Q What about after court on August 22nd,
- 19 do you know, did you have any interaction with Mr.
- 20 Minuk?
- 21 A Right after court?
- 22 Q Yes, after the victim impact
- 23 statements were read and arguments were made with
- 24 respect to the conditional sentence?
- 25 A I might have, but I don't recall.

- 1 Q Let's move forward then to
- 2 August 27th, 2007, and your PRISM entry is found
- 3 at page 1922 of exhibit 11. Now what is happening
- 4 on August 22, 2007 is you get a telephone
- 5 conversation from Robert Taman, and he is upset
- 6 because he is trying to come to terms with what
- 7 took place on August 22nd in the hearing?
- 8 A That's correct.
- 9 Q And he is angry --
- 10 A That's correct.
- 11 Q -- about the fact that all of the
- 12 facts were not read out in court, correct?
- 13 A That's correct.
- 14 Q He doesn't understand why the Crown
- 15 Attorney doesn't challenge precedents?
- 16 A That's right.
- 17 Q He doesn't understand why various
- 18 charges had to be stayed?
- 19 A That's correct.
- 20 Q Now despite the fact that he had
- 21 meetings, he is clearly able to express to you
- that he doesn't understand why these things are
- 23 happening?
- 24 A That's correct.
- 25 Q And, of course, he is asking you

- 1 whether you can give him information in terms of
- 2 facts about why the charges were stayed?
- 3 A That's correct.
- 4 Q He doesn't understand the Crown's
- 5 position, does he?
- 6 A That is correct.
- 7 Q And he is saying to you all of these
- 8 things, and you take it, with your experience, and
- 9 you say, you know what, Mr. Taman, I think the
- 10 best thing for you to do would be to meet with the
- 11 Crown?
- 12 A That is correct.
- 13 Q And I'm not putting words in your
- 14 mouth or taking them from this memorandum, but
- that's essentially what you did, right?
- 16 A That's right.
- 17 Q And you did that because you thought
- 18 that was the thing for him to do?
- 19 A He needed to know all of the facts.
- 20 Q Now, he phoned you back the next day?
- 21 A That's correct.
- 22 Q And you had a further telephone
- 23 conversation with him. And he is talking to you
- 24 about being angry the day before?
- 25 A That's right.

- 1 Q And I take it he is, I don't know if
- 2 he is apologetic about it or not, you were
- 3 involved in the conversation, but he wants you to
- 4 understand why?
- 5 A That's right.
- 6 Q And you tell him, Robert, I understand
- 7 why?
- 8 A That's correct.
- 9 Q And you agree with him that he needs
- 10 to be told more about what is happening with this
- 11 case?
- 12 A That is correct.
- 13 Q And then in response to his claim that
- 14 he was feeling angry, you indicated to him, yeah,
- 15 you have the right to feel angry.
- 16 A That's right.
- 17 Q And he is telling you that he feels
- 18 kept out of it?
- 19 A He wanted to know the missing
- 20 information, he wanted to know the information
- 21 that never got -- wasn't agreed upon facts.
- Q Now, there is another point that he
- 23 raised on August 28, 2007, and this is the
- 24 impact -- he said he was very affected by the
- 25 latest story in the Sun. Now to put this in

- 1 context, there had been quite a bit of negative
- 2 media, to put it mildly, as of August 28 of the
- 3 case?
- 4 A That's correct.
- 5 Q And he is saying, look, this is
- 6 affecting me negatively?
- 7 A That's right.
- 8 Q And you tell him in response to his
- 9 claims and his statements to you, that you would
- 10 call Marty Minuk and you would set up a meeting?
- 11 A That's correct.
- 12 Q And, in fact, on that very same day
- 13 you do phone Marty Minuk for that purpose to set
- 14 up a meeting and then you called Robert back,
- 15 right?
- 16 A That's correct.
- 17 Q And you tell Robert that you have got
- 18 bad news for him, that he is not going to be
- 19 meeting with the Crown. I will bring you to page
- 20 1925 of the exhibit 11.
- 21 A I told Robert that Mr. Minuk will meet
- 22 with him after sentencing, but not prior to.
- Q We will come to the conversation that
- 24 you had with Mr. Minuk that lead you to phone
- 25 Robert Taman. You did call Mr. Minuk and you did

- 1 talk to him and you requested a meeting?
- 2 A That's correct.
- 3 Q And as a result of that you get on the
- 4 phone and you phone Mr. Taman back and say, look,
- 5 I know I suggested it would be a good idea but it
- 6 is not going to happen?
- 7 A He would have to wait.
- 8 Q And, in fact, what Mr. Minuk told you
- 9 is that he would not be prepared to meet with
- 10 Robert Taman until the case was over?
- 11 A That's correct.
- 12 Q And in addition to that, do I
- 13 understand correctly from your PRISM entry, that
- 14 he also told you that he would have to get
- 15 direction from Justice as to what he could reveal?
- 16 A That's correct.
- 17 Q Now he is an independent prosecutor,
- 18 and he is telling you that he is going to get
- 19 direction from the people that are employing him
- 20 as to what he could reveal to Mr. Taman; is that
- 21 your understanding?
- 22 A That's correct.
- 23 Q Now in this conversation that you are
- 24 having with Mr. Taman, after you have spoken to
- 25 Mr. Minuk, you told Mr. Taman that certain

- 1 information in the Sun article could jeopardize
- 2 the case.
- 3 A We were talking about the story and
- 4 the different information that was coming out, and
- 5 that the information that was coming out wasn't
- 6 necessarily what had come out when the facts were
- 7 put in.
- 8 Q I'm curious about why you would raise
- 9 the media reports with Robert Taman and whether
- 10 they might jeopardize the case. Was this
- 11 something that Mr. Minuk raised with you that you
- 12 should talk to him about?
- 13 A No.
- 14 Q In what way would the Sun article have
- 15 jeopardized the case?
- 16 A I can't recall now.
- 17 Q Was there ever a suggestion to you
- 18 that the media would have some impact on the joint
- 19 submission or whether the joint submission might
- 20 be followed?
- 21 A No.
- Q Now you didn't go to court on
- 23 September 12?
- 24 A No, I did not.
- Q Did you read media reports on what was

- 1 said in court on September 12?
- 2 A I don't remember.
- 3 Q Do you recall the Crown referring to
- 4 media reports that had taken place August 22nd up
- 5 to August 28, describing them as baseless yellow
- 6 journalism?
- 7 A No, I don't recall that as all.
- 8 Q When you spoke with Mr. Minuk on
- 9 August 28 about Robert Taman wanting to meet with
- 10 him, did you impress upon him that, look, I feel
- 11 as though you should meet with him, he really
- 12 needs some answers, he is struggling?
- 13 A I explained that Mr. Taman needed the
- 14 information.
- 15 Q And what was the response?
- 16 A That he would meet with him after
- 17 sentencing, but not before.
- 18 Q Did he give you a reason?
- 19 A I think he was concerned.
- 20 Q Concerned about what?
- 21 A I think there was at that point maybe
- 22 some hostility building between Mr. Taman and Mr.
- 23 Minuk. And he just wanted to be clear, you
- 24 know -- like he wanted to go into the sentencing
- and then afterwards he would gladly provide all of

- 1 the information that he could release to
- 2 Mr. Taman.
- 3 Q You were present at two meetings and
- 4 you have told me that Mr. Taman was polite and
- 5 respectful to him?
- 6 A He was very polite.
- 7 Q So you are telling me now that you
- 8 think that Mr. Minuk didn't want to meet with him
- 9 because of hostility. Did Mr. Minuk tell you
- 10 there was some hostility in the final meeting?
- 11 A I think it was --
- 12 O On the 29th?
- 13 A No, he wouldn't have said there was
- 14 some hostility, that wouldn't have been Mr. Minuk.
- 15 That was just a sense that I was getting and I
- 16 could have been wrong.
- 17 Q This is an important point, Ms.
- 18 McCorrister, and I need you to do your best to
- 19 recall. I mean, you are telling the Commission
- 20 that you have a sense, as the victims' rights
- 21 worker, that the Crown Attorney didn't want to
- 22 meet with the registered victim because of
- 23 hostility. What is that based upon?
- 24 A I think Mr. Minuk wanted the sentence
- done with so that he could then probably, with

- 1 direction, explain everything, why things
- 2 weren't -- like, the facts that weren't laid out.
- 3 And my impression was there maybe was some anger
- 4 at the one -- I don't know what the date was now.
- 5 Q May 29th meeting?
- 6 A Possibly then.
- 7 Q That was your impression?
- 8 A No.
- 9 MR. ZAZELENCHUK: Not May.
- 10 MR. CLIFFORD: I stand corrected, yes,
- 11 that's right, the July 13th meeting, 2007.
- THE WITNESS: Yes, that one.
- 13 BY MR. CLIFFORD:
- 14 Q All right.
- 15 A And that only comes from --
- 16 unfortunately you don't necessarily have to say
- 17 the words, it is just sometimes you get the sense,
- 18 so I could be projecting.
- 19 Q How many years experience did you have
- 20 at that point?
- 21 A 17.
- Q Did you impress upon him that, look,
- 23 I'm dealing with a victim here who is very upset
- 24 and needs some information? Did you push him?
- 25 A I would have asked for the meeting and

- 1 he would have told me when he was willing to meet,
- 2 and I would have given that information to Mr.
- 3 Taman.
- 4 Q Did Mr. Minuk say anything to you
- 5 about being upset about media comments that he was
- 6 being painted as a villain in the media?
- 7 A Yes, he might have said that. He was
- 8 uncomfortable with it.
- 9 Q Could you explain that to the
- 10 Commission, please?
- 11 A It would be more -- I work in the
- 12 courthouse, so I might pass in the hallways with
- 13 lawyers and you chat with them, and so we quite
- 14 easily, how are you dealing with all of this, and
- 15 I think Mr. Minuk was feeling uncomfortable with
- 16 the media attention.
- 17 Q And did he express it to you in the
- 18 terms that he was upset with the Taman family
- 19 about the media?
- 20 A I think he was upset with the media
- 21 attention.
- Q Did he say anything about the Taman
- 23 family when you were asking him to meet with them?
- 24 A I don't recall.
- Q Any remarks?

- 1 A I don't recall any remarks.
- 2 Q Did you feel as though Mr. Minuk had
- 3 enough time to meet with them? Was he an
- 4 individual who had time on his hands to meet with
- 5 the family?
- 6 A Prior to the sentencing or at any
- 7 point?
- 8 Q During that time, in July of 2007 when
- 9 Mr. Taman wanted to meet with him?
- 10 A I have no idea what his schedule was.
- 11 When I asked for appointments earlier he was able
- 12 to provide them.
- 13 Q I will move to another point now, Ms.
- 14 McCorrister, and we learned from the PRISM
- entries, pages 1926, Mr. Commissioner, up to 1928
- 16 and I will deal with this point very quickly.
- 17 September 5 there was an exchange of telephone
- 18 calls, September 5, 2007, and this was in relation
- 19 to getting the next date set, which we know was
- 20 September 12. Mr. Taman phoned you and said,
- 21 look, I'm kind of upset because somebody called me
- 22 from the courtroom and told me that that it is now
- 23 scheduled for September 12, and why wasn't it you
- 24 that called?
- 25 A Correct.

- 1 Q And you gave him an explanation that,
- 2 look, you know, I don't sit in every courtroom.
- 3 When I get the information I relay it.
- 4 A That's correct.
- 5 Q And I appreciate that, Ms.
- 6 McCorrister, that obviously as a victims' rights
- 7 worker, you have 125 cases a year, you wouldn't
- 8 get very far if you were sitting in court to get
- 9 your information.
- 10 A That's correct.
- 11 Q But for our benefit, what would be the
- 12 typical turn around time if there was a matter in
- 13 court on September 5, when would the information
- 14 go out?
- 15 A If not that afternoon, it should go
- out the next day, as long as PRISM is updated.
- 17 Q So that would be the practice, within
- 18 24 hours?
- 19 A As fast as we can get the information,
- 20 we try to get the information out.
- 21 Q Now the rest of your dealing with the
- 22 family related primarily to calling to advise them
- 23 with respect to dates for the sentencing hearing.
- 24 But there was one point I failed to mention, or
- 25 ask you about, and that was the August 22nd, 2007

- 1 date. I take it you were not present in the
- 2 events leading up to that. Did you know how it
- 3 became settled that it would occur on that day?
- 4 We have learned that it was Crystal Taman's
- 5 birthday, but we have also heard that the children
- 6 made the decision that they wanted to go on that
- 7 day. Did you get involved in that?
- 8 A After -- in July when it was put over
- 9 to August 22nd, they were very distressed because
- 10 that was their mother's birthday, and I went to
- 11 Mr. Minuk and said is there any way you can have
- 12 this changed, so that morning, whenever, at that
- 13 point, and then I went on holidays and I believe
- 14 Monica did the rest.
- 15 Q I'm going to bring you up to page 1932
- 16 and exhibit L, and that's October 30, 2007. Now
- 17 you have it listed as October 30, I attend the
- 18 court. You didn't have the opportunity to speak
- 19 with Robert or his children, you spoke with Sveinn
- 20 Sveinson before and after court. And how did he
- 21 characterize the sentence that was imposed?
- 22 A He called it a miscarriage of
- 23 justice -- of judgment. I believe I should have
- 24 written a miscarriage of justice, not judgment.
- Q And I understand as a victims' rights

- 1 worker you offered him sympathy for what he had
- 2 gone through?
- 3 A That's correct.
- 4 Q And the date of the PRISM entry,
- 5 that's the day that you make the entry, right?
- 6 A That's right.
- 7 Q We know from other entries that on
- 8 November 5 of 2007 and that's at page 1935, that
- 9 Robert calls you and he tells you that he got the
- 10 judge's decision, you sent him the reasons?
- 11 A That's correct.
- 12 Q And in that conversation he is telling
- 13 you in response to the difficulty in getting those
- 14 reasons and telephone calls, that he had given his
- 15 telephone number three prior occasions to victims
- 16 services, and I take it, it is possible that he
- 17 could have in fact done that, but he might have
- 18 given it to different people and it just might not
- 19 have gotten entered into the system?
- 20 A That's very possible.
- 21 O Now dealing with communications with
- 22 Mr. Minuk, at page 1863 of exhibit 11, this is a
- 23 PRISM entry to Mr. Minuk, and we are back in time
- 24 now, February 28, 2006. Now mind you, this is a
- year and a few days from February 25, 2005, and

- 1 you are telling him that you are glad to hear that
- 2 he spoke with Robert Taman, and that was the
- 3 misapprehension, correct?
- 4 A That's correct.
- 5 Q Now he responds to you at page 1864,
- 6 exhibit 11, tells you it was nice to hear from
- 7 you, he expects the case is going to be very hard
- 8 on all, I'm glad you are around to help out and he
- 9 doubts that the case is unlikely to settle and
- 10 will be on the minds of all for a while. Did he
- 11 ever elaborate on that with you, that the case was
- 12 unlikely to settle or give you any reasons?
- 13 A At this point?
- 14 Q Yes?
- 15 A I don't believe so.
- 16 Q At page 1869 we see your PRISM entry
- of May 1, 2006 and this, of course, was when there
- 18 was a request for a meeting with Mr. Taman?
- 19 A Sorry, what page?
- Q Page 1868, telephone contact, Marty.
- 21 This is when you are setting up the initial
- 22 meeting.
- 23 A That's correct.
- Q Now I want to bring you to June 12,
- 25 2007, this is in connection with communications

- 1 with Mr. Minuk, so page 1882 of exhibit L?
- THE COMMISSIONER: Mr. Clifford, we
- 3 are almost at five o'clock. I take it you are
- 4 going to be some time yet?
- 5 MR. CLIFFORD: I thought I would be
- 6 another ten minutes. I was going to ask you for
- 7 basically a five minute recess before other
- 8 counsel were going to conduct their
- 9 cross-examinations, in any event, so that would be
- 10 a further delay. If this is a convenient time for
- 11 you, sir, it is a convenient time in my
- 12 examination to stop as well.
- 13 THE COMMISSIONER: It has been a long
- 14 day, about eight hours.
- 15 MR. GREEN: Can I know what our hours
- 16 are, Mr. Commissioner? Are we going to go to 5:00
- 17 or 4:30? I know it is kind of flexible with
- 18 witnesses, but it looks like we have got lots of
- 19 time for tomorrow, we only have one witness, she
- 20 will be shorter than this one. I'm wondering why
- 21 we haven't stopped earlier.
- THE COMMISSIONER: Probably my fault.
- 23 I like to accommodate witnesses, they want to get
- 24 in and out. And we stayed late yesterday because
- 25 I wanted that witness to finish, and I was

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expecting the witness to finish today. But it is
1
    obvious we are not going to finish. And our hours
2
    should be 9:00 until 4:30, that's what I indicated
3
    at the outset, but I was only trying to
4
    accommodate the witness. Do you mind coming back
5
    tomorrow?
6
7
                 THE WITNESS: Of course not.
8
                 THE COMMISSIONER: You won't be long
    tomorrow, I'm told. Okay. Let's rise now. We
9
    will start at nine o'clock tomorrow and we should
10
    finish before noon.
11
12
                 THE CLERK: All rise. This Commission
13
    of Inquiry is adjourned until tomorrow morning at
14
    9:00 o'clock.
15
             (Proceedings adjourned at 5:00 p.m.)
16
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1	OFFICIAL EXAMINER'S CERTIFICATE	
2		
3		
4		
5	I, CECELIA REID, a duly appointed Official	
6	Examiner in the Province of Manitoba, do hereby	
7	certify the foregoing pages are a true and correct	
8	transcript of my Stenotype notes as taken by me at	
9	the time and place hereinbefore stated.	
10		
11		
12		
13		
14	Cecelia Reid	
15	Official Examiner, Q.B.	
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