

INQUIRY INTO THE INVESTIGATION AND
PROSECUTION OF DEREK HARVEY-ZENK

The Honourable Roger Salhany, Q.C., Commissioner

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

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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
17 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.

2 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
16 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.

3 If Jackie St. Hill could be called to
4 the stand, please?

5 JACQUELINE ANGELA ST. HILL, having
6 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.

16 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
22 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 Winnipeg. 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
22 they come on a day-to-day basis?

23 A Yes, that's right.

24 Q And you became a unit leader quite
25 some time ago?

1 A That was in the late '90s, 1997, 1998.

2 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.

20 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.

25 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
25 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.

13 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.

24 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.

6 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.

23 THE CLERK: Exhibit 47.

24

25

1 (EXHIBIT 47: R-3.92.1 Hard copy of
2 email dated February 7, 2002 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
15 of some update with respect to Victim's Bill of
16 Rights and providing them with information to
17 assist them.

18 Q 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 Q 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
15 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 Q 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.

24 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
15 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.

6 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
25 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
11 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
22 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
13 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
20 they do their job.

21 THE COMMISSIONER: It is my experience
22 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
13 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 Q 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.

15 Q 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.

20 THE CLERK: Exhibit 50:
21 (EXHIBIT 50: R-3.92.5 Memo dated
22 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
12 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
13 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.

22 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
22 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
11 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.

15 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.

2 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
16 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
21 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
20 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
25 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
15 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.

23 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
15 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.

23 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
14 is a memorandum of July 8th, 2004. Again, you are
15 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
25 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
15 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?

25 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,
2 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.

13 Q Very good. All right. I'm going to
14 take advantage of your presence to go through some
15 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
15 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

1 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
13 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
18 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?

24 MR. PACIOCCO: I'm referring to
25 document R-3 at tab 92.6, and it is a big handful

1 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
15 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
6 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.

22 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.

21 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
25 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.

6 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.

24 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
13 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 Q 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.

2 Q Do you know whether they receive any
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
17 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.

7 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.

22 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
15 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
17 forms, but as you can probably imagine, the list
18 of things to do with respect to enhancing the
19 system is considerably long.

20 Q It is a good system, but it is a work
21 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
13 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
21 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.

24 Q Okay. And as with any system, only
25 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
12 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 Q 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.

23 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.

12 MR. ZAZELENCHUK: My copy does not
13 have page numbers.

14 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.

22 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
15 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
21 the earliest opportunity and make
22 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 Q 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 Q Yes.

25 A Five.

1 Q Five months, thank you for that. And
2 if you take a look -- and I hope it is five
3 paragraphs -- but five paragraphs under the
4 heading "Offering Support for Victims" in that
5 document, you will see a slightly different
6 description of the policy relating to fatality
7 cases. And since your voice is better than mine,
8 I am going to have you read that, if you could,
9 please?

10 A "In cases involving fatalities,
11 Prosecutions recognizes the emotional
12 trauma of such cases for relatives of
13 the victim. The Crown Attorney should
14 make himself/herself available to meet
15 with the family and deal with family
16 members in a manner appropriate to the
17 circumstances. This is best done
18 working with the assigned Crime
19 Victims' Services worker."

20 Q Can you explain your understanding of
21 the difference between that policy statement in
22 July of 2005, and the policy statement that had
23 been contained in the 1999 document?

24 A Well, what happened in the interim is
25 the Victims' Bill of Rights in 2001, which made it

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
15 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.

8 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.

25 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
12 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?

6 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
15 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
23 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
13 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
12 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, prosecuting 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
15 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
12 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
17 if there are concerns, they can be raised. They
18 will come back to the Crown if there is some
19 difficulty.

20 MR. PACIOCCO: I'm going to move on to
21 Victim Impact Statements.

22 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.

2 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.
11 and reconvened at 10:45 a.m.)

12 THE CLERK: All rise. This Commission
13 of Inquiry is now reopened. Please be seated.

14 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.

5 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
15 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
12 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.

20 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
25 or character, except to describe how

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
22 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.

2 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.

13 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
19 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

1 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
24 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,
17 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 spoke 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.

22 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
2 of assessing, well, what is that, what is that
3 about?

4 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
16 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
21 on what it is, what is intended, and what it adds,
22 or detracts, I suppose, potentially from the
23 sentencing.

24 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
12 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
15 is absolutely prohibited, let me put it that way,
16 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 Q 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
25 value for the purpose of the sentencing, then it

1 is caught under that. But those other points are
2 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.

22 THE COMMISSIONER: Did the judge give
23 any guidelines 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 guideline 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

1 to the Crown Attorney, I suppose it means that it
2 is open for some discussion.

3 THE COMMISSIONER: In the context of
4 the value of a Victim Impact Statement itself, so
5 that the judge will not forget the victim, what is
6 wrong with including a photograph?

7 THE WITNESS: I don't want to be
8 misunderstood, I don't -- I think it is a matter
9 of perhaps what the substance of it is. And
10 because I've seen and I'm aware that there have
11 been cases where photographs have been in the
12 court at the time of the sentencing, it may be
13 that this particular point is something that needs
14 to be revisited with some consideration as to what
15 is appropriate.

16 THE COMMISSIONER: I guess the
17 difficulty I'm having is understanding why there
18 should be a prohibition against a photograph, or
19 even a medical report?

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
23 inadvertent disclosure in there.

24 THE COMMISSIONER: Making sure what?

25 THE WITNESS: There is no inadvertent

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.

1 BY MR. PACIOCCO:

2 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:
13 "There is a need to explain, discuss,
14 with the victim any decision to edit
15 the VIS or to present its contents as
16 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
24 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
25 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
16 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
6 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.

24 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
20 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 Q 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
21 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
24 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.

21 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
25 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.

16 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 Q 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
14 is consulted with respect to a number of matters,
15 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 Q 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
15 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
22 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
25 obligation has been met in terms of provision of

1 information, the opportunity to discuss it, what
2 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
6 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
20 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 A Yes.

3 Q And obviously if it was added, it was
4 added because this was an issue that required some
5 clarification. Would that be fair to say?

6 A 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
2 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
15 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
19 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.

22 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
25 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
25 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
15 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
25 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 Q 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
13 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
11 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.

11 Some of the challenges are on the
12 communication front. Again, I mentioned our
13 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 Q 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
20 them services, great, but I don't see the Crown
21 Attorney actually providing that type of
22 intervention.

23 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
13 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
22 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.

2 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
20 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.

6 Q We have heard evidence in this case of
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.

12 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
15 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
25 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 guess 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
14 intended to ensure that everybody who has a
15 legitimate interest in the case is heard and gets
16 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
15 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.

20 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
19 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
23 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
14 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
17 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.

25 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
17 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.

24 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 --

21 THE COMMISSIONER: Yes.

22 BY MR. ZAZELENCHUK:

23 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
14 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
12 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.

22 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 Q 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
17 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.

22 Q Who would be the best person to speak
23 to about that?

24 A Mr. Kaplan.

25 Q Thank you.

1 MS. BOWLEY: Your Honour, I have no
2 questions of this witness.

3 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
14 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?

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
14 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
13 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,

1 Mr. Commissioner. Thank you.

2 THE COMMISSIONER: Any re-examination,
3 Mr. Paciocco?

4 MR. PACIOCCO: There will not be.

5 THE COMMISSIONER: Thank you very
6 much.

7 MR. PACIOCCO: Mr. Commissioner, it is
8 12:20. I would propose to at least introduce the
9 witness and take our customary break. I know the
10 reporter is expecting a 12:30 break, and I would
11 be more than happy to accommodate that.

12 THE COMMISSIONER: We must be directed
13 by the reporter.

14 MR. PACIOCCO: The witness is Suzanne
15 Gervais. Again, Mr. Commissioner, as Ms. Gervais
16 makes her way to the witness box, you will learn
17 that she is the acting director of Victims'
18 Services of Manitoba Justice, and she has been
19 called to provide you and the public with
20 information as to the day-to-day operation of the
21 Victims' Bill and the functioning of the Victims'
22 Services unit.

23

24

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.

21 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.

18 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.

22 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.

13 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:

21 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.

23 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 Q 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 Q 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.

15 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
20 of Inquiry is adjourned until quarter to 2:00.

21 (Inquiry recessed at 12:30 and
22 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.

23 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
24 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
16 the possibility of expanding the registration
17 provisions of the Victims' Bill of Rights to
18 include 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
25 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
10 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.

24 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
12 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
17 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.

24 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
15 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?

13 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.

21 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
12 into the other various programs where we offer
13 service, say in the Domestic Violence Support
14 Services or Child Victim Support Services, cases
15 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,
13 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
15 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.

2 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.

23 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.

14 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.

24 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.

24 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.

24 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.

15 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.

25 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
12 in court on every appearance?

13 A That's correct.

14 Q It just takes some time to get it
15 input into the system, to get it identified, and
16 to get those dates sent out?

17 A It does sometimes.

18 Q 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?

23 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
11 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
17 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
5 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
22 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
11 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
25 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
16 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
20 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.

24 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
2 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
6 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.

24 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
17 information to victims with eligible 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
25 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.

23 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 Q 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
25 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.

24 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 Q 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 Q 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

13 in a meeting with the Crown, that would be the

14 ideal situation, so that the victim's family is

15 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
22 other managers, the other staff who may have been
23 there. So there is, you know, it is in place.

24 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
24 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.

10 Q Do you alert them to the prospect that
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 Q 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
15 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
24 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
25 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 guidelines
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,
14 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
13 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
22 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
25 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
17 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
3 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
24 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
11 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
25 or assist with that. So that was my assumption

1 going into that meeting.

2 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
10 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.

13 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.

1 MR. PACIOCCO: Okay. Well, listen, I
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
15 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
22 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.

21 MR. ZAZELENCHUK: Thank you.

22 MS. BOWLEY: No questions,
23 Mr. Commissioner.

24 MR. GREEN: No questions.

25 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.

24 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
13 they could possibly set up court preparation
14 meetings in advance as well, take people for tours
15 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
13 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.

21 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
16 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 Q 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
2 victims' rights worker?

3 A That's correct.

4 Q And that would have been for the
5 duration, except 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
11 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.

25 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.

23 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
15 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.

24 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
23 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
22 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
2 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.

22 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.

22 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.

20 Q -- as a result of talking about the
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
2 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 Q 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.

24 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.

24 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.

24 Q And that would be typical of the
25 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
13 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.

22 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 Q 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
5 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
15 on one count there would never even be an
16 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
11 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,
22 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.

21 Q Did you have any idea in terms of when
22 that meeting was going to be taking place?

23 A No idea whatsoever.

24 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.

23 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
15 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
20 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
24 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
12 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.

23 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
13 is June 1, 2005 you told me about this telephone
14 conversation and one of the other things that's
15 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.

25 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.

22 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
2 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
15 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 Q 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

1 the victim to have their victims' rights worker
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
15 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.

22 Q And those are the words that you used
23 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.

22 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?

4 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?

25 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.

24 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.

22 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 quite 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
11 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

1 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
24 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
12 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.

24 Q Okay. And I understand that you were
25 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
24 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
17 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.

24 Q But does he suggest to them that,
25 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.

24 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.

20 Q Were those his words?

21 A At this point I don't know.

22 Q Is that your vocabulary?

23 A Possibly.

24 Q And apart from if they were your words
25 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.

13 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.

22 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.

21 Q Now, I take it that Mr. Minuk also
22 took Mr. Taman's telephone number and his email?

23 A That's right.

24 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.

24 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
20 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 Q 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?

6 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?

13 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?

25 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.

25 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
20 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
13 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.

24 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

25 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
13 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.

24 Q And we know from that PRISM entry that
25 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
22 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
15 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.

22 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.

23 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.

22 Q Now you didn't go to court on
23 September 12?

24 A No, I did not.

25 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
25 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 Q 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
25 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.

12 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.

22 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.

22 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.

25 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
15 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
16 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.

25 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 Q 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
25 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
17 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?

20 Q Page 1868, telephone contact, Marty.
21 This is when you are setting up the initial
22 meeting.

23 A That's correct.

24 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?

2 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.

22 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

1 expecting the witness to finish today. But it is
2 obvious we are not going to finish. And our hours
3 should be 9:00 until 4:30, that's what I indicated
4 at the outset, but I was only trying to
5 accommodate the witness. Do you mind coming back
6 tomorrow?

7 THE WITNESS: Of course not.

8 THE COMMISSIONER: You won't be long
9 tomorrow, I'm told. Okay. Let's rise now. We
10 will start at nine o'clock tomorrow and we should
11 finish before noon.

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.)

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OFFICIAL EXAMINER'S CERTIFICATE

I, CECELIA REID, a duly appointed Official
Examiner in the Province of Manitoba, do hereby
certify the foregoing pages are a true and correct
transcript of my Stenotype notes as taken by me at
the time and place hereinbefore stated.

Cecelia Reid
Official Examiner, Q.B.

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