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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Wednesday, June 11, 2008

Volume 5

INQUIRY PROCEEDINGS

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Mr. I. Restall	For Robert Taman
Mr. M. Green and	
Ms. K. Dixon	For Mr. Marty Minuk
Mr. J. Prober	For Derek Harvey-Zenk
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1 WEDNESDAY, JUNE 11, 2008
2 UPON COMMENCING AT 9:00 A.M.
3 THE CLERK: All rise. This Commission
4 of the Inquiry is now open. Please be seated.
5 THE COMMISSIONER: Good morning.
6 MR. CLIFFORD: Good morning,
7 Mr. Commissioner. Sir, our intention today is to
8 complete the evidence of Lesley McCorrister. I
9 think I would be an additional 10 minutes or so,
10 as I indicated yesterday, with her. And then our
11 intention is to call the second witness, Monica
12 Dyck.
13 Prior to completing the testimony of
14 Lesley McCorrister, I wanted to address with you,
15 sir, the issue of, in the event that there is an
16 objection, there was some discussion with counsel
17 yesterday, and what we are suggesting to you is
18 that, in the event that that should occur,
19 objecting counsel would approach the podium,
20 indicate that that was the case. Counsel at the
21 podium would step aside. The objection could be
22 raised and then there would be a response. So if
23 that suits you, sir, that would be the protocol
24 that we would suggest.
25 THE COMMISSIONER: That's the usual

1 protocol. Counsel can stand, as soon as they
2 stand, I am usually aware that they have something
3 to say, and they can come up here --
4 MR. CLIFFORD: Thank you, sir.
5 THE COMMISSIONER: -- if they wish.
6 If they have a great deal to say, it may be that
7 they should come up here. Sometimes they have a
8 good strong voice, they can say it from back
9 there. I think Mr. Green has a good strong voice
10 and I can usually hear him.
11 (LESLEY McCORRISTER: Previously sworn)
12 BY MR. CLIFFORD
13 Q Ms. McCorrister, yesterday we covered
14 much of the communication and the chronology of
15 the communication. So today I'd like to ask you
16 some more general questions, if I could.
17 First, at any point in during the
18 court proceedings, do you recall whether any
19 member of the Taman family made a request for a
20 complete copy of the Victims' Bill of Rights?
21 A I don't recall.
22 Q And do you recall whether any of the
23 Sveinsons would have made a similar request to you
24 for a full copy of the Victims' Bill of Rights?
25 A Not to me.

1 Q Given your experience as a front-line
2 worker, a victims' rights worker for so many
3 years, do you have any views on changes or
4 modifications to the Act or the Bill that would be
5 of assistance to you, a person who is
6 administrating the Bill. Are there parts of it
7 that you think, for instance, might be unrealistic
8 or difficult to comply with?
9 And I realize that's a bit of a loaded
10 question for you, but --
11 A I have to really think about that one.
12 There is so many parts to the Victims' Bill of
13 Rights, and some of the wording I think is
14 misleading.
15 THE COMMISSIONER: Give me an example?
16 THE WITNESS: The word "consult." To
17 me, the word consult means if you're consulting
18 with me, you are asking for my opinion and you are
19 taking my opinion into account.
20 THE COMMISSIONER: Collaboration.
21 THE WITNESS: Exactly. And in the
22 Bill, I think consult -- because if you look in
23 the dictionary, the word consult also means to
24 inform. So I believe that. So in the Victims'
25 Bill of Rights, they are consulting with you in

1 the sense of, I'm going to ask for your, you know,
2 I'm going to tell you things and I'm going to hear
3 what you have to say. The bottom line is -- I'm
4 not talking me personally, okay -- but the
5 prosecutor makes the decision. So in the sense,
6 for a lot of, well, for families, that flies in
7 the face of the word "consult."
8 THE COMMISSIONER: Mr. Paciocco
9 suggested in his examination of Ms. St. Hill that
10 "consult" should be changed, or might be changed
11 to something like "listen to and consider."
12 THE WITNESS: Yes.
13 THE COMMISSIONER: Would that be a
14 little better?
15 THE WITNESS: That would be much
16 better.
17 BY MR. CLIFFORD:
18 Q And following up on that point, can I
19 ask you, generally speaking, when Mr. Minuk was in
20 the company of the Taman family and you were
21 present for meetings and exchanges, et cetera, am
22 I correct in understanding that you felt as though
23 he did a very good job with the family when he was
24 speaking with them?
25 A He's a lawyer, and I don't mean that

1 in an offensive way, okay, but when you are
2 talking to people you might speak too legally, too
3 lawyerly. I think he is a very good lawyer and I
4 think he was trying to give as much information as
5 possible. He did it respectfully, but as a
6 lawyer.
7 Q Do I understand that, in your view, he
8 treated the Taman family with respect and
9 professionalism during the times that you were
10 present?
11 A When I was present, yes.
12 Q And also dealing with the issue of
13 Robert Taman and his family, do I conclude from
14 what I heard from you thus far, and what's gleaned
15 from Exhibit 11, that he as well treated you with
16 respect and courtesy?
17 A Yes.
18 Q And you treated him the say way --
19 A Yes.
20 Q -- with respect, courtesy and
21 professionalism?
22 A Yes.
23 Q Now, had you dealt with other cases
24 where an independent prosecutor was working, as
25 opposed to a normal front-line prosecutor from the

1 Crown Attorneys office?
2 A At that point, no.
3 Q This was your first experience?
4 A Yes.
5 Q And can you tell me what the
6 differences were, from your perspective?
7 A The biggest difference was, it's not
8 as easy to access them, in the sense of just
9 different spaces, different buildings. But other
10 than that, there was really no difference between
11 whether you were an in-house Crown or an outside.
12 Q Did it make any difference at all to
13 you then?
14 A Not really, no.
15 Q Let me ask you this, with respect to
16 the amount of time, generally speaking, that a
17 Crown Attorney spends with a victim, or victims,
18 in the cases such as this, are you able to offer
19 any view on whether it was a comparable amount of
20 time?
21 A Mr. Minuk spent, if not as much, and
22 sometimes more than some Crowns will.
23 Q I wanted to ask you about some
24 questions about the Victim Impact Statements,
25 given your experience in dealing with those. And

1 we understand, and we will hear some evidence
2 later this morning from Monica Dyck, who was more
3 engaged in the Victim Impact Statement process
4 than you, as a result of your holiday, but
5 generally speaking, Ms. McCorrister, can you offer
6 the Commission any thoughts or comments with
7 respect to ways to improve the Victim Impact
8 Statement process?
9 A I think they may need to be more user
10 friendly. The form is a form, but it's not a user
11 friendly form.
12 THE COMMISSIONER: I'm sorry, it's a
13 what?
14 THE WITNESS: It needs to be more user
15 friendly. The document itself gives you
16 guidelines, but it doesn't really help you write
17 it in a sense. It tells you, you know, you can
18 mention the different parts of emotional, or
19 whatever kind of impact it's had on you, but I
20 think the form itself could be written better.
21 BY MR. CLIFFORD
22 Q Do you have any views with respect to
23 the guidelines, whether they create issues in
24 terms of what's not permitted in the Victim Impact
25 Statement?

1 A Definitely, because families are told
2 there are certain things they can't talk about,
3 there are certain things they can't put in a
4 Victim Impact Statement, and they want to be able
5 to say exactly how everything has impacted on
6 them. And the guidelines curtail that.
7 Q And is that a common theme that comes
8 up with you when you are assisting victims in
9 these statements?
10 A Yes.
11 Q What are they expressing to you in
12 response to the guidelines?
13 A They want to be more blunt. They want
14 to be able to make comments that, whether it's
15 comments on sentencing, or comments on character,
16 they want to be able to be a little more direct.
17 They want to talk about the impact, but also how
18 that impact has made them feel in the sense of a
19 guideline saying, you know, I know you're feeling
20 that but you can't say that.
21 Q Do you ever get asked to provide
22 assistance in the actual preparation?
23 A Occasionally.
24 Q And is that a service that you are
25 able to provide?

1 A If somebody is needing assistance, I
2 can assist them. I can't write it, I can only
3 help them.
4 Q Would somebody be, a victim be
5 permitted, for instance, to make an appointment
6 and then go in and see you?
7 A Definitely.
8 Q And spend some time?
9 A Definitely.
10 Q Okay. And do you think it might be a
11 good improvement, if in the guidelines it is
12 indicated, look, if you're having difficulty and
13 you want some assistance, arrangements could be
14 made to speak to your victims' rights worker about
15 a consultation?
16 A Certainly.
17 Q Would that be a helpful approach,
18 perhaps, to that problem?
19 A Could be. For people who need the
20 guidelines, that could help.
21 Q Let me ask you about the issue of
22 photographs. I take it, and correct me if I'm
23 wrong, that from time to time people want to
24 include a photograph of a loved one with their
25 Victim Impact Statement?

1 A That's correct.
2 Q What is the protocol or the approach
3 that you take when that issue comes up?
4 A I will speak to the Crown about it,
5 and the Crown will talk to the judge about it,
6 because ultimately it's up to the judge. It's the
7 judge's decision whether or not a picture can be
8 allowed. Some victims want to have poster-sized
9 pictures. Others want to have their most
10 important team wearing the picture on a T-shirt.
11 So that decision is up to the judge. But I will
12 make it known to the Crown Attorney that the
13 family wants to have a picture.
14 Q So that would be your approach, to
15 raise the issue with Crown counsel and they would
16 manage that issue?
17 A That's right.
18 Q Another point on the Victim Impact
19 Statement, what if you are faced with a situation
20 where, when you review the Victim Impact
21 Statement, you come to the conclusion yourself
22 that parts of it may not be in accordance with the
23 guidelines, what do you do then?
24 A It would have to be very blatant. And
25 quite often -- well, I shouldn't say quite often -

1 but when that's happened, I have spoken to the
2 Crown. Well, I have passed it on to the Crown,
3 but I have also said to the family that that might
4 not be allowed.
5 Q I wanted to show you two letters. And
6 these documents are found in volume R-2,
7 R-2.91.61, R-2.91.62.
8 Mr. Commissioner, the witness has
9 before her two pieces of correspondence from
10 volume R-2, the first coming from R-2.91.61 and
11 the second R-2.91.62, and they are correspondence
12 to Victoria and Sveinn Sveinson, and
13 correspondence to Robert Taman, respectfully, both
14 dated September 5th, 2007.
15 We know from your previous testimony
16 that you had a telephone exchange with Mr. Taman
17 on the 5th, about the concern about what is the
18 next court day, and there was some frustration
19 that he heard it third-hand. And you explained to
20 him, and to the Commission, that you couldn't sit
21 in the courtroom, and that typically that
22 information would be provided as soon as possible.
23 He made reference to the normal time frame that
24 you would expect.
25 These letters are being sent from

1 Mr. Minuk, and they are providing similar
2 information that you were providing earlier with
3 respect to the time and place of the next
4 appearance.
5 Did you make any suggestion that these
6 letters should be sent, or do you know the
7 circumstances under which they were forwarded?
8 A I was aware that a letter was going to
9 be sent, I think explaining the delay. That's
10 about all I can say.
11 Q And are you able to say how it was
12 that you were aware that they were going to be
13 sent?
14 A I think Mr. Minuk wanted to make sure
15 that we had the correct address to send, someone
16 wanted to make sure we had the correct address to
17 send it to Mr. Taman.
18 Q Okay. Is there any further
19 information that you have with respect to the
20 concern about his address, how it arose?
21 A I think because a letter was going
22 out, we just wanted to double check that it was
23 going to go to the correct address.
24 Q When you attended at the Commission
25 office on February 20th, 2008 for an interview,

1 one of the things you indicated was that, in
2 describing Mr. Taman, that he at one point, when
3 he was angry with you, and it was the day he
4 called on the 27th, and then he called back on the
5 28th of August, 2007, you felt that that was
6 really the only time he was ever really expressing
7 that he was angry with you?
8 A I think he was angry, period. It was
9 not so much angry with me, I think he was angry
10 with everything. There was delays, he was feeling
11 he wasn't being kept in the loop, informed. So I
12 don't personalize it as anger just against me.
13 Q One of the things you commented was
14 that you felt as though he was going through a
15 relatively hostile system?
16 A The justice system is not friendly.
17 It's okay if you are a lawyer, but to a family who
18 has suffered a major loss, it's not a friendly
19 system. It's not for the victims. It's for the
20 lawyers and for the accused. So, in a sense,
21 yeah, the justice system can be a hostile system
22 to a family, people who are grieving.
23 MR. CLIFFORD: Those are the questions
24 that I have for you, Ms. McCorrister. And I thank
25 you for attending and assisting the Commission.

1 Other counsel may have questions for you.
2 BY MR. ZAZELENCHUK
3 Q My name is Zazelenchuk, I'm counsel
4 for the Taman family.
5 Ms. McCorrister, I understand, or tell
6 me if I misunderstood from your evidence, you
7 really only attended two meetings between
8 Mr. Minuk and representatives of the Taman family;
9 is that correct?
10 A That is correct.
11 Q Yes. And you saw some interaction
12 before or after court during July or August, but
13 you don't know what the interaction was because
14 you couldn't hear, you weren't there?
15 A Correct.
16 Q And similarly, you can't tell us about
17 the length of the interaction in July and August?
18 A That's correct.
19 Q Okay. You indicated to the learned
20 Commission Counsel that this was your first
21 experience working with an independent prosecutor?
22 A Yes.
23 Q So that must have meant it was your
24 first experience working with Mr. Minuk?
25 A Yes.

1 Q Because he's never been a staff Crown
2 Attorney?
3 A That is correct.
4 Q Okay. So how did you know Mr. Minuk?
5 A Because he's a defence lawyer and he's
6 in the courts, and you run into people all the
7 time.
8 Q Okay. You told us yesterday, and I'm
9 speaking mostly of the time around August 28th,
10 this is after the sentencing hearing which we know
11 was on August 22nd, that Mr. Taman spoke to you.
12 You described that he was searching for
13 information, and you suggested that he meet with
14 Mr. Minuk. You remember telling us that?
15 A Yes.
16 Q And Mr. Minuk's reply was that he
17 wouldn't meet with Mr. Taman until after
18 sentencing?
19 A That he would meet after sentencing,
20 that's correct.
21 Q Right. And he wouldn't meet before
22 sentencing?
23 A That's correct.
24 Q Did this strike you as strange?
25 A Not necessarily.

1 Q Has this ever happened before?
2 A No. To the best of my knowledge, no.
3 Q Okay. You couldn't provide Mr. Taman
4 with any information at that point?
5 A That's correct.
6 Q Because you had none?
7 A That's correct.
8 Q And Mr. Minuk wouldn't?
9 A That's correct.
10 Q Was there any place else Mr. Taman
11 could go for information?
12 A No.
13 Q No. Okay. Do you have Exhibit 11 in
14 front of you? And that's Volume L, Your Honour.
15 And I wonder if you'd be good enough to turn to
16 page 1863, please? It's an e-mail from yourself
17 to Mr. Minuk dated February 28th, 2006?
18 A That's correct.
19 Q Okay. And the e-mail goes:
20 "Good morning, Marty. I understand
21 that you have had contact with Robert
22 Taman."
23 A That's correct.
24 Q Yes. Where did you get that
25 understanding from?

1 A I'm going to have to hazard a guess
2 that I spoke to Mr. Taman and never recorded that.
3 Because someone told me, and it would either have
4 been -- I would assume it would have been
5 Mr. Taman.
6 Q Okay. Well, let me tell you that
7 Mr. Taman didn't tell you, and let me help you out
8 on that point. If we go to page 1867, it's clear
9 that on May 1, Mr. Taman is telling you he has
10 never met with Mr. Minuk?
11 A That's correct.
12 Q So I guess that doesn't do much for
13 the assumption; correct?
14 A When I say have had contact, I would
15 also -- that would have meant telephone contact,
16 not necessarily met with him in person. So that's
17 why I'm hazarding a guess that it was from
18 Mr. Taman.
19 Q If we go to page 1864, it's the next
20 page after your e-mail to Mr. Minuk, and I note
21 that your e-mail at page 1863 is at 11:11 in the
22 morning, and the reply that you get is at noon the
23 same day; is that correct?
24 A That's correct.
25 Q And there's no denial from Mr. Minuk

1 that he's had contact with Mr. Taman; is that
2 correct?
3 A That's correct.
4 Q So is it possible that you got your
5 understanding that Mr. Minuk had had contact with
6 Mr. Taman from Mr. Minuk himself?
7 A No, because that wouldn't explain my
8 e-mail message to him, because I'm saying I
9 understand you have had contact. If he had
10 already told me, I wouldn't have written it that
11 way.
12 Q Okay. Let's move on, still at Exhibit
13 11 and let's go to page 1890. You are there?
14 A I am there.
15 Q Okay. This is a communication
16 recording that on July 12th, you received a
17 telephone call from Mr. Minuk asking him to change
18 tomorrow's meeting with Mr. Taman from
19 9:00 o'clock in the morning to 8:30 in the
20 morning. And I'm right by suggesting it was
21 morning and not evening?
22 A Correct.
23 Q Okay. Your regular hours of work were
24 what?
25 A I work 8:00 to 4:00.

1 Q 8:00 to 4:00. And can I assume that
2 you received this telephone call from Mr. Minuk in
3 your office?
4 A Yes.
5 Q And can we assume that, in all
6 likelihood, it happened sometime between 8:00 and
7 4:00?
8 A Pardon me?
9 Q Can we assume that it happened
10 sometime between 8:00 and 4:00?
11 A When I got this message?
12 Q Yes?
13 A I would guess it came after 4:00
14 o'clock when I left, between 4:00 and 8:00.
15 Q Why is that?
16 A Well, because I get messages at any
17 time, I don't record what time I get the message
18 off the phone. I am just --
19 Q Ms. McCorrister, it says on this
20 message that it was created by you on July 12th?
21 A That's right.
22 Q So it wasn't created by you on
23 July 13th, was it?
24 A Correct.
25 Q Okay. And the message deals with

1 changing an appointment on July 13th --
2 A That's correct.
3 Q -- from 9:00 o'clock in the morning to
4 8:30 in the morning?
5 A That's correct.
6 Q And you told us your regular hours
7 were between 9:00 and 4:00?
8 A But my voice mail is on 24/7.
9 THE COMMISSIONER: She said 8:00 and
10 4:00.
11 MR. ZAZELENCHUK: Thank you, Your
12 Honour.
13 BY MR. ZAZELENCHUK:
14 Q I understand your voice mail is on
15 24/7, but if you got the message on your voice
16 mail, how would you have communicated it to
17 Mr. Taman after 4:00, if you got it after 4:00
18 when you were gone?
19 A I wouldn't have. I would have come in
20 the next day and got it.
21 Q And how would you have created it on
22 July 12th, if you got it after 4:00 o'clock on
23 July 12th, when you had gone home?
24 A I'm saying I could have got it at any
25 point, whether it was the 11th, I could have got

1 the message, picked it up on the 12th, and
2 recorded it. That's all I mean.
3 Q That's fair enough. But what I'm
4 trying to establish is that you got this message
5 before 4:00 o'clock in the afternoon on July 12th.
6 It could have been July 11th?
7 A Yes.
8 Q We can agree you didn't get it after
9 4:00 o'clock in the afternoon on July 12th?
10 A Definitely not, that we can agree on.
11 Q Okay. Thank you. Let's move on to
12 page 1925. Are we there?
13 A Yes.
14 Q This is a telephone communication with
15 Mr. Taman on August 28th, 2007?
16 A That's correct.
17 Q And Mr. Taman is questioning, or
18 perhaps even complaining that all of the
19 information wasn't out and it's slowly leaking
20 out?
21 A That's correct.
22 Q And of course, he is talking about the
23 information surrounding the death of his wife?
24 A That's correct.
25 Q Okay. And then we have a sentence

1 which commences on the third line:
2 "I told him that was a concern and
3 that certain information in The Sun
4 article shouldn't have been there as
5 it jeopardized the case."
6 A Those are my words.
7 Q Those are your words. What
8 information are you talking about?
9 A I couldn't tell you today because I
10 don't have the articles in front of me. But
11 after, the day after, the newspapers were full of
12 many stories, and there was lots of information
13 that had not come out in the sentencing that was
14 in the paper.
15 Q What sort of information?
16 A You know what, I don't have it in
17 front of me so I couldn't tell you.
18 Q Well, maybe we can help you. Learned
19 counsel for the Commission have been extremely
20 diligent. I wonder if you might be given volume
21 M, M for mother, of the disclosure materials, tab
22 M-77.
23 THE CLERK: Exhibit 56?
24 MR. ZAZELENCHUK: If you wish. That
25 document has now become Exhibit 56. I wonder,

1 ma'am, if you'd be good enough to turn to page
2 1988?
3 MR. McFETRIDGE: Excuse me, is it the
4 whole volume that's become an exhibit or just one
5 tab?
6 THE COMMISSIONER: I'm sorry?
7 MR. McFETRIDGE: Is it the whole
8 volume that's become an exhibit or just the one
9 tab?
10 THE COMMISSIONER: I don't know yet.
11 We haven't made it an exhibit.
12 MR. ZAZELENCHUK: Madam clerk wanted
13 to make it an exhibit and it was tab 77. It
14 doesn't matter to me whether it becomes an exhibit
15 or not Your Honour.
16 THE COMMISSIONER: Well, I think it
17 should be an exhibit only if you are referring to
18 it.
19 MR. ZAZELENCHUK: Then I am obliged,
20 Your Honour. That will be Exhibit 56.
21 THE COMMISSIONER: But you are only
22 referring to an article on August 25th?
23 MR. ZAZELENCHUK: Well, I was going to
24 refer to more than one, I was going to refer to
25 three or four.

1 THE COMMISSIONER: Why don't we go
2 through them and then make it all one exhibit.
3 MR. ZAZELENCHUK: Very good.
4 THE COMMISSIONER: In other words, it
5 seems to be a practice these days, throwing
6 everything into the pot and making it an exhibit,
7 why don't we confine ourselves to the actual
8 document that you are going to refer to and put to
9 the witness.
10 MR. ZAZELENCHUK: Very acceptable.
11 THE COMMISSIONER: Is that all right?
12 I mean, the disclosure, they have not been made
13 exhibits.
14 MR. PACIOCCO: No, they haven't. But
15 the practice we have adopted up until now is that
16 when a tab is referred to, in order to organize
17 the documents because of their volume, we've been
18 putting the entire tab in at that point in time
19 and marking it as an exhibit.
20 THE COMMISSIONER: I see. So you want
21 to put it in --
22 MR. PACIOCCO: It would be tab 77.
23 THE COMMISSIONER: M-77.
24 MR. PACIOCCO: That's correct. That
25 would be in keeping with our practice and would

1 also facilitate the system of retrieving the
2 documents. If we start pulling pages out of the
3 documents, then it's going to make it very, very
4 difficult for the clerk to manage.
5 THE COMMISSIONER: Is that all right
6 with counsel?
7 MR. McFETRIDGE: That's fine.
8 THE COMMISSIONER: Mr. Green?
9 MR. GREEN: Sure, that's fine.
10 THE COMMISSIONER: All right.
11 (EXHIBIT 56: M-77 Additional media
12 search conducted by Commission (pages
13 1 - 36). Additional media search
14 conducted by Commission (pages 37-73)
15 Additional media search conducted by
16 Commission (pages74 - 107)
17 BY MR. ZAZELENCHUK
18 Q Page 1988?
19 A 1988.
20 Q There's an article, it's headlined
21 Winnipeg Sun, it's dated August 25th.
22 A Yes.
23 Q Could that be the article you were
24 thinking of?
25 A I don't know, I'm sorry.

1 Q Okay. If we turn the page to 1989,
2 there's another couple of articles. Are those the
3 articles you were thinking of?
4 A I'll be honest, I don't know.
5 Q Page 1990, there's another article.
6 Would that be the article you were thinking of?
7 THE COMMISSIONER: Do you have an
8 independent recollection?
9 THE WITNESS: I don't. I'll be very
10 honest.
11 THE COMMISSIONER: If you reviewed
12 these articles, would they stimulate that
13 recollection that you apparently don't have?
14 THE WITNESS: I am quickly going
15 through them trying to see what it was.
16 THE COMMISSIONER: Take your time. Go
17 through them.
18 Mr. Zazelenchuk, if she can not
19 recall, I take it you have a specific purpose in
20 your cross-examination. Maybe you might put to
21 Ms. McCorrister what area that might have been not
22 brought out in court that she might be, she might
23 have had some concerns.
24 MR. ZAZELENCHUK: I'm obliged to Your
25 Honour for your assistance.

1 BY MR. ZAZELENCHUK:
2 Q Have you had a chance to skim through
3 those articles, ma'am?
4 A Yes.
5 Q I'd ask you -- and I'm not ignoring,
6 Your Honour, but there's one other thing -- I'd
7 ask you also to look to page 1995. That's an
8 article which occurred on August 28th. Could that
9 be the article that you were concerned about?
10 A I don't think so.
11 Q Okay. Well, then following up on my
12 advice, what sort of information were you
13 concerned about getting out? And I'll suggest a
14 couple of things to you. Was it information about
15 alcohol and Harvey-Zenk? Was that what you were
16 concerned about?
17 A Possibly.
18 Q Okay. Was it information about a plea
19 bargain?
20 A I don't think so.
21 Q No. Was it information of the family
22 not being told about what was going on with
23 respect to a plea bargain?
24 A No.
25 Q Is there a fourth one that I can't

1 think of?
2 A No.
3 Q So you were probably concerned about
4 the information of alcohol and Harvey-Zenk getting
5 out?
6 A I would think that would be my
7 concern.
8 Q Okay. Why would that concern you?
9 A I guess because I'm always concerned
10 that information doesn't cause more problems and
11 more delays for a sentencing. And so my concern
12 was that the family had gotten there at that
13 point, and potentially maybe there would be -- I
14 mean, that's just information, if the information
15 maybe had got out that suddenly they were back at
16 scratch again.
17 Q Okay. And how would that information
18 getting out, the information of Harvey-Zenk and
19 alcohol, jeopardize the case?
20 A I don't know. All I know from dealing
21 with many different cases is that they try not to
22 get any information out, information that's in a
23 sense, or that's going to be heard out before I
24 guess a judge makes his decision. That's all.
25 Q But on the 28th of August, counsel had

1 finished their submissions. The judge had retired
2 to consider his decision?
3 A Then I don't know why I wrote it.
4 I'll be very honest.
5 Q Okay. Let's go to page 1870?
6 A The prior article?
7 Q The prior exhibit, thank you for that
8 assistance, page 1870?
9 THE COMMISSIONER: And make M-77 an
10 exhibit. What number is that?
11 THE CLERK: Exhibit 56.
12 THE COMMISSIONER: Exhibit 56.
13 BY MR. ZAZELENCHUK:
14 Q And just for the record, I'm referring
15 you now to Exhibit 11, page 1870.
16 Now, you were aware, going into this
17 meeting that Mr. Taman had some, I think the
18 current term is issues, but it might even be
19 anger, about the fact that his in-laws had been
20 receiving information about the progress of the
21 case before he was?
22 A That is correct.
23 Q You were aware of that. Did you
24 communicate that to Mr. Minuk?
25 A Yes.

1 Q Okay. Before the meeting?
2 A Probably.
3 Q Now, if I remember your evidence from
4 yesterday, you said that you and Mr. Minuk didn't
5 have a pre-meeting at this meeting?
6 A That's correct.
7 Q So that would have been by telephone
8 or something, either the day before, earlier in
9 the day, or a couple of days earlier?
10 A Or possibly even a few minutes going
11 into this.
12 Q Well, would you have communicated that
13 in the presence of Mr. Taman?
14 A Possibly.
15 Q Okay. And you knew that was an issue
16 and it was raised early on in the meeting?
17 A That's correct.
18 Q And we have your note here, and it
19 starts near the end of the second line:
20 "Marty advised Robert that he had met
21 with them..."
22 And by them we're talking about the Sveinsons?
23 A That's correct.
24 Q "...on a matter not related to
25 this charge."

1 A Poor phrasing on my part.
2 Q That is what you wrote that day?
3 A That's right.
4 Q You were interviewed by one of the
5 learned Commission Counsel. Do you recall that?
6 A Oh, yes.
7 Q And it was in the presence of your
8 department's lawyer, Mr. McFetridge?
9 A That's correct.
10 Q I'm referring to T for theatre, 2.B
11 for Bob, Your Honour?
12 THE COMMISSIONER: I'm sorry?
13 MR. ZAZELENCHUK: I'm going to refer
14 to a transcript which can be found at T for
15 theatre, 2B for Bob, more specifically at page 44.
16 BY MR. ZAZELENCHUK:
17 Q Do you recall Mr. Clifford putting
18 this question to you and you giving this answer on
19 February 20th? I'll give you a chance to get
20 caught up. It's page 44, line 12. Do you recall
21 Mr. Clifford putting this question to you?
22 "He..."
23 meaning Mr. Minuk,
24 "...said that he had spoke to the
25 in-laws on a matter unrelated to the

1 charge?"
2 And you giving this answer,
3 "Yes."
4 A Yes.
5 Q Okay. And you were trying to tell the
6 truth that day --
7 A Yes.
8 Q -- and you were giving an honest
9 answer? Okay, thank you.
10 You weren't in court, but I'm going
11 to -- incidentally, before we go there. Young
12 Jordan Taman was at that meeting, wasn't he?
13 A The first meeting?
14 Q Yes?
15 A Yes.
16 Q And you weren't in court, and I don't
17 expect you to remember this, but I'm going to read
18 to you what Mr. Jordan Taman had to say. And for
19 the record and for Your Honour, it's at page 218
20 of the website transcript which I had my assistant
21 run off, and it's at line 18 in a question from
22 myself. The question goes as follows:
23 "Did he tell you what it related to?"
24 A He said it was something
25 completely different, had nothing to

1 do with the case, had zero to do with
2 what we were dealing with."
3 So that's Mr. Jordan Taman's version of what
4 happened.
5 Mr. Robert Taman was also questioned
6 about that. Incidentally, Mr. Commissioner, I
7 apologize, I didn't realize the transcripts are by
8 volumes. So that was volume 2 that I was reading
9 from. I am sorry, I'm going to have to pull out
10 my handkerchief and wipe some my egg off my face.
11 That wasn't Jordan Taman, that was Robert Taman.
12 THE COMMISSIONER: That was Robert
13 Taman, thank you.
14 MR. ZAZELENCHUK: And that was volume
15 1, not volume 2.
16 BY MR. ZAZELENCHUK:
17 Q Having given my apologies, I want to
18 simply read to you very quickly what Mr. Robert
19 Taman had to say about that meeting, and that can
20 be found at page 387.
21 A Do you mean Mr. Jordan Taman?
22 Q Yes, what Mr. Jordan Taman had to say
23 about that meeting. And that can be found at
24 volume 2, page 387. The question begins at page
25 386:

1 "And what was Mr. Minuk's reaction to
2 your father expressing his concern?
3 A He said that what he discussed
4 with them had nothing to do with any
5 of the charges that were laid."
6 So, you'll agree with me that there is a fair
7 degree of anonymity between Mr. Robert Taman's
8 recollection of what was said, Mr. Jordan Taman's
9 recollection of what was said, your recollection
10 of what was said on February 12th, and what you
11 wrote in your notes, or in your PRISM the next day
12 or that day, or something like that? You'll agree
13 with me that they are all fairly consistent?
14 A That's correct.
15 Q Yet yesterday, for some reason, you
16 told us that that wasn't what was said?
17 A Pardon me?
18 Q Well, is that in fact what was said?
19 Did Mr. Minuk, in fact, say to the Tamans that
20 when he met with the Sveinsons had nothing to do
21 with the case?
22 A Yes. It wasn't regarding the charge.
23 He met with the Sveinsons on a different issue.
24 Q Yes. And did he, in fact, say to the
25 Tamans, Robert and Jordan, that he met with the

1 Sveinsons on something unrelated to the case?
2 A To be perfectly honest, I'm trying to
3 remember the exact words. All I can say is it
4 was -- it wasn't on what we were meeting on, it
5 was on something totally different.
6 Q Okay. And what were you meeting on?
7 A We were meeting to discuss the case,
8 the charges.
9 Q Okay.
10 A So that's what we were meeting on.
11 Q And he had met with the Sveinsons on
12 something totally different, not the case and not
13 the charges?
14 A Not the charges. That was our
15 understanding at that point, he met with them on
16 something separate.
17 Q Separate from the charges?
18 A From what we were there for, yes.
19 MR. ZAZELENCHUK: Thank you.
20 MS. BOWLEY: Your Honour, I have no
21 questions.
22 THE COMMISSIONER: Thank you,
23 Mr. Zazelenchuk. Before Mr. Green comes up, can
24 you give me the page of that memo again?
25 MR. ZAZELENCHUK: The last one, Your

1 Honour?
2 THE COMMISSIONER: Yes. Just looking
3 at that --
4 MR. ZAZELENCHUK: I think it's 1870,
5 if I can just have a moment? Yes, it's page 1870.
6 THE COMMISSIONER: 1870, thank you.
7 The memo says that he had met with
8 them on a matter not related to this charge?
9 THE WITNESS: Yes.
10 THE COMMISSIONER: Did he indicate
11 what he had met with them about? In other words,
12 if it is not the charge, what is it?
13 THE WITNESS: Other issues and
14 concerns coming from the charge.
15 THE COMMISSIONER: Other issues and
16 concerns coming from the charge?
17 THE WITNESS: Well, I think the
18 Sveinsons were concerned about maybe the charges
19 laid and how -- and the law, the laws. And the
20 Tamans, we were there to talk about the charges,
21 about what Mr. Minuk was going to -- you know, how
22 he was proceeding. It was sort of like an
23 information sharing. And my understanding was the
24 information going to the Sveinsons was different.
25 It wasn't what we were there to talk about, it was

1 on another issue. That's all. That's all I can
2 tell you.
3 THE COMMISSIONER: Do you know what
4 that other issue was?
5 THE WITNESS: More I think maybe --
6 you know what, no, to be very honest, I would
7 guess, sorry.
8 THE COMMISSIONER: Okay.
9 MR. GREEN: Good morning,
10 Mr. Commissioner. Before we begin, I would like
11 to introduce Ms. Kelly Dixon, who is seated at my
12 table. She is my partner and she will be taking
13 my place from time to time as the Commission
14 proceeds.
15 BY MR. GREEN:
16 Q Good morning, Ms. McCorrister. My
17 name is Michael Green, I'm the lawyer for Marty
18 Minuk.
19 A Good morning.
20 Q And I have a few questions for you.
21 Just on that very last exchange with
22 the Commissioner, you were going to make a guess
23 and then you didn't make it. May I suggest that
24 your guess was going to be that it was the overall
25 concerns of the Sveinsons with the system, and

1 that people could refuse the breathalyzer, and
2 that there were things like conditional sentences,
3 more like a global complaint rather than dealing
4 with the specific case itself, was that going to
5 be your guess?
6 A That's correct.
7 Q Now, I think it's fair to say that the
8 Taman family have all testified that they thought
9 you did a pretty good job, by and large. And do
10 you feel that you did a pretty good job in this
11 case, given the difficult circumstances?
12 A Yes, I do.
13 Q And I think you have said that you
14 felt that Mr. Minuk did a good job?
15 A Yes, I did.
16 Q That he was professional throughout?
17 A He was always professional when I saw
18 him.
19 Q That the meetings you were at, where
20 Mr. Minuk and the Tamans were present, he was
21 always professional, he was courteous?
22 A Yes.
23 Q Is that fair? And he was trying to
24 impart information as best he could. Is that
25 fair?

1 A Yes.
2 Q But if I am understanding your
3 evidence, you met with Mr. Minuk and the Tamans
4 twice?
5 A Twice.
6 Q In his office?
7 A That's correct.
8 Q And those meetings were the initial
9 meeting with the Tamans, and then a meeting about
10 three weeks or a little better later; is that
11 correct?
12 A Yes.
13 Q Actually, May 23rd and May 29th?
14 A I'm sorry, other than going back, I
15 can't tell you the dates.
16 Q Okay. But it's fair to say that, from
17 your attendance at those meetings, that you knew
18 that there were problems with this case right from
19 the beginning?
20 A Yes.
21 Q And that was information that you
22 inferred from the meeting, the very initial
23 meeting, you inferred, you understood that there
24 may be some problems with this case?
25 A Yes.

1 Q Now, I'd like to refer to some of the
2 notes that you made, which are found in Exhibit
3 11. And can you turn, if you would, to page 1855,
4 Ms. McCorrister? That's a memorandum outlining a
5 telephone call you had had from Jordan Taman; is
6 that correct?
7 A That's correct.
8 Q And would that have been on
9 March 18th?
10 A That's correct.
11 Q 2005?
12 A Yes.
13 Q And I'm interested in the second last
14 sentence.
15 "I said the length of time did not
16 reflect on the accused's occupation
17 but it was based on how long most
18 cases seemed to take."
19 You had explained to Mr. Taman and to his son
20 Jordan that this case could take years?
21 A Yes.
22 Q And Jordan wanted to know whether that
23 was because Mr. Zenk was a policeman?
24 A Yes.
25 Q There was some concern voiced by

1 Jordan, that because Mr. Zenk was a policeman, he
2 might receive some sort of preferential treatment?
3 A It was a natural question.
4 Q Yeah. And you assured him that he
5 would not?
6 A I told him that the majority of cases
7 I had dealt with take up at least two years.
8 Q But you told Mr. Jordan Taman that
9 Zenk wouldn't receive preferential treatment
10 because he was a police officer?
11 A That's correct.
12 Q If you'd look to page 1860, please?
13 And that's a note, I gather, of a telephone call
14 from Robert Taman, May 26, 2005?
15 A That's correct.
16 Q And there's a reference to Robert
17 wanted to know if any plea bargaining would take
18 place without his knowledge. The idea of plea
19 bargaining, I take it that's something that comes
20 up frequently --
21 A Yes.
22 Q -- in your job and your interaction
23 with victims?
24 A Yes.
25 Q That's often a point of concern with

1 victims; is that fair?
2 A That would be fair.
3 Q Yeah. And there's generally a
4 negative connotation to that word, as far as
5 victims are concerned?
6 A Definitely.
7 Q Is that fair? They don't want plea
8 bargaining, generally speaking?
9 A No.
10 Q They want the accused to get --
11 A Held to the highest.
12 Q -- the full brunt of the law?
13 A That's correct.
14 Q If you turn to page 1867, please?
15 Again, that's a memo of May 1, 2006, it again
16 relates to a telephone call from Robert Taman,
17 does it?
18 A That's correct.
19 Q And you have an entry:
20 "I expressed my surprise that his
21 wife's parents had met with Marty."
22 And you were surprised because, generally
23 speaking, the Crowns only meet with the
24 representative who has been registered; is that
25 correct?

1 A That's been my experience, yes.
2 Q So you were surprised that Marty would
3 have a meeting with other members of the family?
4 A Before he met with the Tamans, yes.
5 Q And if you could turn to page 1870,
6 please, Ms. McCorrister? And that's a note of a
7 meeting that was held on May 3, 2006, at the
8 offices of Mr. Minuk in the Trizac Building?
9 A That's correct.
10 Q And you have told us that that meeting
11 lasted upwards to an hour?
12 A Approximately, yes.
13 Q Okay. And so this is just a very
14 brief summary of what went on at that?
15 A Very succinct.
16 Q Correct. And you have told us that
17 there was some discussion about the charges,
18 right?
19 A Pardon me?
20 Q There was discussion at that meeting
21 about the charges?
22 A About the whole case.
23 Q Okay.
24 A Yes.
25 Q But including the charges?

1 A Oh, yes.
2 Q And the family, as usual, was
3 interested in what potential sentences might be?
4 A That was a normal question, yes.
5 Q And Mr. Minuk told them sentencing was
6 not consistent, but that quite often jail time was
7 spent as house arrest; correct?
8 A That's correct.
9 Q And at that point in time, the charges
10 included all the drinking charges?
11 A That's correct.
12 Q So when he was speaking to them about
13 possible house arrest, the conditional sentence,
14 it included the drinking charges?
15 A At that point, all the charges were on
16 the table.
17 Q Right. Page 1877, please? That is a
18 similar summary, I take it, of the second meeting
19 that you had with Mr. Minuk and the Tamans. That
20 is the meeting at Aikins office, Mr. Minuk's
21 office on May 29, 2006; correct?
22 A That's correct.
23 Q And I'm interested in the comment:
24 "He said that the in-laws were solely
25 focused on why the laws and

1 consequences weren't as tough as they
2 should be."
3 And that is what Mr. Minuk explained to the Tamans
4 that he had been meeting with the Sveinsons about?
5 A That's right.
6 Q Their concerns about the system?
7 A That's correct.
8 Q So your guess may well have been a
9 good one.
10 A Okay.
11 Q And Marty assured Robert that he
12 wasn't providing the Tamans with information, but
13 was listening to them rail against the system?
14 A That's correct.
15 Q Correct. And you have told us that
16 Marty was professional and courteous throughout
17 that meeting; correct?
18 A That's correct.
19 Q And --
20 A As were the Tamans.
21 Q As were the Tamans, yes. And I would
22 suggest to you that Mr. Minuk told the Tamans
23 generally about his meetings with the Sveinsons,
24 but he wasn't derogatory of the Sveinsons in any
25 way?

1 A Not to my recollection.
2 Q And that's something that you would
3 recall, would you not, if someone was --
4 A I would hope so.
5 Q -- derogatory about someone's in-laws?
6 That's something you would remember, wouldn't you?
7 A I would sure hope so.
8 Q And then I'd like you to turn over to
9 page 1922, if you would, please, Ms. McCorrister?
10 And that's a memo concerning a telephone call from
11 Robert Taman received on August 27, 2007, is it?
12 A That's correct.
13 Q And Mr. Taman was angry during that
14 telephone conversation; is that fair to say?
15 A He was angry.
16 Q And he was questioning why no one
17 challenges precedent and just stays with what has
18 gone before?
19 A That's right.
20 Q Do you recall having that discussion
21 with Mr. Taman?
22 A Yes.
23 Q And he's saying that even though the
24 precedents in similar cases say that this may have
25 been an appropriate sentence, that Mr. Minuk

1 should challenge that. Is that what you
2 understood?
3 A That's correct.
4 MR. GREEN: Those are all my
5 questions. Thank you very much.
6 THE COMMISSIONER: Thank you.
7 BY MR. McFETRIDGE
8 Q Ms. McCorrister, when you attend the
9 meeting, when I review your notes it appears that
10 you would generally note down who was in
11 attendance; is that correct?
12 A That's correct.
13 Q And when you attended at Mr. Minuk's
14 office on May 3rd, 2005, you noted in attendance
15 Mr. Minuk, Mr. Taman and his son; is that correct?
16 A That's correct.
17 Q And then there was the subsequent
18 meeting on May 29th, I believe it was.
19 And again, Mr. Commissioner, that can
20 be found at page 1877 of volume 11.
21 And you had indicated in your
22 testimony yesterday that you did not recall Jordan
23 being at that meeting. Is that correct?
24 A That's correct.
25 Q And in fact, your note makes no

1 mention of Jordan being at that meeting?
2 A That's correct.
3 Q Then at a period of time when the
4 matter was delayed because of the further
5 investigation, and you indicated to Mr. Taman that
6 you probably would not be in touch with him again
7 until such time as the Preliminary started. And
8 that was going to take place, and there was a
9 period of time in 2007; correct?
10 A Correct.
11 Q It's going to start. And then we see
12 correspondence, as the Preliminary was coming up
13 in July of 2007, that you were getting calls from
14 Mr. Taman that he would like to meet with
15 Mr. Minuk prior to the start of the Preliminary,
16 and there's a series of e-mails and phone calls
17 back and forth --
18 A That's correct.
19 Q -- to set up that particular meeting.
20 Is that correct?
21 A That's correct.
22 Q And ultimately a meeting was set to
23 take place for July 13th, 2007?
24 A That's correct.
25 Q And there were changes, and Mr. Taman

1 was advised by you that that meeting had to be
2 changed, the time that meeting was to take place?
3 A Yeah.
4 Q You indicated you weren't able to
5 attend that meeting --
6 A That's correct.
7 Q -- because you had another commitment
8 for that date. There were changes and you were
9 trying to get one, and you had obviously other
10 things that had been scheduled in the meantime?
11 A That's correct.
12 Q When you had talked with Mr. Taman, do
13 you recall advising him that you would not be able
14 to attend?
15 A I don't know whether I told him or
16 not.
17 Q Do you know at any time, either before
18 or after the meeting, had he expressed any concern
19 to you that you hadn't been in attendance at that
20 meeting?
21 A No.
22 Q We know at that meeting, the evidence
23 of Mr. Taman was that at that meeting Mr. Minuk
24 indicated to him that he would probably be staying
25 the charges related to the impaired driving, the

1 refusal of breathalyzer, and that he would be
2 proceeding only on the dangerous driving cause
3 death charge. When did you become aware that that
4 was what was going to happen? Do you have any
5 recollection of when you found that out?
6 A No, I'm sorry.
7 Q All of a sudden things were happening
8 fairly quickly. Clearly when you were setting up
9 the meeting, I take it that it was your
10 understanding, when you were setting up this
11 meeting, at that time you were getting ready for a
12 Preliminary to start on July 16th; is that
13 correct?
14 A Yes.
15 Q We know on July 16th, the matter
16 simply appeared before the one judge and it was
17 put over to the next day before Judge Wyant. Did
18 you know, as of July 16th, that a guilty plea was
19 going to be entered --
20 A Yes.
21 Q -- the next day, on the 17th?
22 A I believe so.
23 Q Do you know when you found that out?
24 A No, I'm sorry, I don't recall.
25 Q Clearly, on the 17th, you were in

1 court that day?
2 A Yes.
3 Q And on that day a guilty plea was
4 entered by Mr. Zenk?
5 A Yes.
6 Q The charge of dangerous driving cause
7 death?
8 A That's correct.
9 Q You were in court when that happened?
10 A Yes.
11 Q And that did not come as a surprise, I
12 take it, to Mr. Taman, because he knew that was
13 going to happen on that day, did he not?
14 A Yes.
15 Q He knew on that day that, in fact, the
16 alcohol related charges would be stayed; is that
17 correct?
18 A Yeah.
19 Q To your understanding?
20 A To my understanding.
21 Q Did you have any discussion with him,
22 because I understand you indicated you were
23 sitting beside them in court that day? Were you
24 sitting with them in court that day?
25 A I was in court that day.

1 Q You weren't necessarily sitting with
2 them?
3 A That's right.
4 Q Did you have any discussion with them
5 about what was going to happen that day, on the
6 17th, that in fact a guilty plea was going to be
7 entered and the other charges were going to be
8 stayed, and why that was taking place? Did you
9 have any discussions with them?
10 A The only discussion I remember having
11 was, because that was the sentencing date was for
12 the 22nd, and that was not -- that was kind of a
13 cruel day to be on.
14 Q But on the 17th of July, was there any
15 discussion that day with Mr. Taman?
16 A With me about the charges?
17 Q Yeah.
18 A I'm sorry, I can't remember.
19 Q Do you recall him expressing any
20 concern to you on that day as to why those alcohol
21 related charges had been stayed?
22 A I remember him expressing concerns.
23 Directly for what at this point, I really can't
24 tell you.
25 Q So we knew between that period, it had

1 been put over to a different sentencing date, and
2 that sentencing date was ultimately going to be
3 August 22nd, 2007?
4 A That's correct.
5 Q And you are familiar with the court
6 process. You would know then that, on that
7 sentencing date, because the refusal of
8 breathalyzer charge had been stayed, the impaired
9 driving cause death had been stayed, those would
10 be issues that in fact would not be mentioned at
11 the sentencing hearing because in fact that was
12 not what the guilty plea was; is that correct?
13 A That's correct.
14 Q And on that date, the date of that
15 sentencing, what the counsel would be speaking to
16 would be the facts in support of the dangerous
17 driving cause death?
18 A That's correct.
19 Q Is that correct?
20 A (Witness nodding)
21 Q Was there any discussion with
22 Mr. Taman, to your knowledge, about what in fact
23 that sentencing would be confined to, that the
24 fact situation would only be confined to the facts
25 and support of that dangerous driving charge? Was

1 there any discussions of that nature, do you know,
2 with Mr. Taman at all?
3 A Between Mr. Minuk and Mr. Taman?
4 Q No, even with you, did he have any
5 questions about that?
6 A I don't recall.
7 Q And then when he phoned you after that
8 sentencing hearing.
9 A Um-hum.
10 Q Was he upset because no facts were
11 coming out about the refusal to take the
12 breathalyzer and no facts were coming out about
13 the impaired driving charges?
14 A He was upset because one charge was
15 going ahead and, in essence, the whole truth was
16 not coming out.
17 Q But he was clearly aware, and he knew
18 as far back as July 17th, that the impaired
19 driving and the breathalyzer charges had been
20 stayed. They were now off?
21 A That would be my understanding, yes.
22 Q That's right. And did he have any
23 questions as to what that, in fact, meant, that
24 the charges were stayed? Did he have any
25 questions of you about what that was?

1 A I don't recall.
2 Q Now, in respect to the Victim Impact
3 Statements that were given by the Tamans, and they
4 were given, and read those out on August 22nd.
5 And you were away during the period that they were
6 preparing those statements?
7 A That's correct.
8 Q Did you read them before they were
9 actually delivered in court, or did you hear them
10 for the first time in court?
11 A I heard them for the first time in
12 court.
13 Q Could you just indicate to the
14 Commissioner, just, were those statements
15 forceful, and what impact did they have?
16 A They were extremely impactful. They
17 were articulate. They had everybody in tears in
18 that courtroom. They were everything a Victim
19 Impact Statement should be.
20 Q And you had indicated even though the
21 guidelines, you say, could they be, in your mind,
22 maybe a little more user friendly. In fact, from
23 them reading those guidelines and knowing what
24 should go in those guidelines, and what the Taman
25 family said, to use your words, those impact

1 statements were everything an impact statement
2 should be?
3 A Yeah, the Taman family did an
4 incredible job doing their impact statements.
5 Q And in one of the memos, Mr. Taman had
6 raised something with you, and I believe it was in
7 one of those phone calls in August after the
8 sentencing. You were commenting to him in the
9 call about the impact of those statements. And he
10 was somehow taking, I got the impression from your
11 memo, and I'll take you to page 1922 of L,
12 Mr. Commissioner. And this was the phone call on
13 the 27th. The last two sentences there, and I
14 wasn't quite sure.
15 "According to Robert, he had since
16 then heard comments that their Victim
17 Impact Statements were just a way to
18 draw attention to themselves."
19 Was he concerned somehow that they weren't having
20 the effect they intended, or what was being
21 expressed to you by that statement?
22 A I had told Mr. Taman how impactful, I
23 mean, I just -- they were extremely impactful
24 statements, and I wanted him to know that they had
25 certainly affected me when I read -- or when I

1 heard them being read out, and that they
2 affected -- I swear they affected everybody in the
3 courtroom, that was how powerful they were. And I
4 think maybe he had heard comments -- so I'm
5 saying, you know, how impactful they were, but
6 maybe there were people who don't understand that
7 just, I don't know, making a comment to him -- I
8 don't know. It's hard, it is like feelings.
9 Q Did he express to you during either
10 these calls on the 27th or the 28th that he had
11 some concern about assistance given to them in
12 terms of preparation of the impact statement, the
13 Victim Impact Statement?
14 A No.
15 Q Did you ever have a conversation with
16 Mr. Minuk, after the meeting that took place on
17 July 13th, that he had with Mr. Taman and his son?
18 Did Mr. Minuk ever convey to you what took place
19 at that meeting? Do you recall?
20 A I don't recall.
21 Q Did he ever indicate to you, after
22 that meeting, as to what his concerns were about
23 the impaired driving charge and the refusal to
24 take a breathalyzer, and why he did not proceed
25 with those charges?

1 A I think he felt it was weak, and he
2 was agreeing to the dangerous driving because he
3 could get a conviction, and he would spare the
4 family potential of getting a non conviction.
5 That was my understanding.
6 Q Do you know whether or not he would
7 have conveyed that sentiment to the family --
8 A I have no idea.
9 Q -- when you met with him?
10 Mr. Green has already asked you this
11 and I'm going to ask you the same questions again,
12 but I'm just going to phrase it in the way that
13 counsel had asked this question of the Taman
14 family, in particular Mr. Taman. And it was with
15 respect to Mr. Minuk's dealings with them. If you
16 were asked this question, whether Mr. Minuk
17 treated the Tamans with courtesy, compassion and
18 respect, and he dealt with them in your presence,
19 how would you answer that?
20 A In my presence, he was courteous, yes.
21 Q Did you ever get the impression at any
22 of your meetings with Mr. Minuk, when you were
23 there with him, and either Mr. Taman or Jordan and
24 Mr. Taman, did you ever get the impression that
25 they weren't important to him, that he felt he was

1 wasting his time talking to them?
2 A No.
3 MR. McFETRIDGE: Those are all my
4 questions. Thank you.
5 THE COMMISSIONER: Re-examination?
6 MR. CLIFFORD: Mr. Commissioner,
7 there's one area for re-examination and I'll put
8 it in context. It relates to the explanation that
9 Mr. Minuk gave to Robert Taman with respect to
10 meeting with the in-laws first. It flows from the
11 questions asked by Mr. Zazelenchuk and Mr. Green.
12 RE-EXAMINATION BY MR. CLIFFORD:
13 Q Ms. McCorrister, do you recall in the
14 first meeting that you attended and that issue was
15 raised by Mr. Taman, do you recall whether
16 Mr. Minuk told them why he had met with the
17 Sveinsons? We understand you have told me that he
18 didn't discuss issues related to the charge, and I
19 know that's been put to you in a number of ways,
20 but did he mention why he met with them?
21 A I'm sorry, I don't recollect.
22 Q And if I could assist you, and perhaps
23 refreshing your memory on that point,
24 Mr. Commissioner, I am going to refer to the
25 transcript of her interview on February 20th,

1 2008.
2 THE COMMISSIONER: Yes.
3 BY MR. CLIFFORD:
4 Q Ms. McCorrister, you have already
5 indicated you recall participating in that
6 interview, and I'm referring to page 44.
7 A Yes.
8 Q And at line 12, I will read you from
9 that point on a brief portion of the transcript.
10 "Q He said that he had spoke to the
11 in-laws on a matter unrelated to the
12 charge.
13 A Yes.
14 Q Okay. And can you indicate what
15 that was?
16 A To the best of my recollection,
17 it was because he had been, I believe,
18 directed by the Minister. I think
19 that's how it was, at the time, to
20 talk with them. I guess they were
21 concerned about how ineffective the
22 laws were."
23 Now, having the opportunity to hear that evidence
24 and read it yourself, does that refresh your
25 memory on why he might have met with him?

1 A Yes, but I don't know whether he
2 relayed that information to the Tamans.
3 Q Okay. And what was your source of
4 that information?
5 A Either through Mr. Minuk or through
6 prosecutions.
7 MR. CLIFFORD: Thank you.
8 THE COMMISSIONER: Thank you very
9 much.
10 THE WITNESS: Thank you.
11 THE COMMISSIONER: Do you have another
12 witness this morning? Let's take a short break,
13 ten minutes. And that's the last witness of the
14 day.
15 MR. CLIFFORD: Thank you,
16 Mr. Commissioner.
17 MR. PACIOCCO: Mr. Commissioner, there
18 are a couple of housekeeping matters that are
19 going to have to be attended to. I'm going to be
20 making an application to actually recall, for a
21 very, very short time, Mr. Robert Taman and
22 potentially Ms. Victoria Sveinson as a result of
23 developments yesterday. I'll share them with you
24 after this next witness is complete.
25 I also have been alerted by

1 Mr. Zazelenchuk that he would like to raise an
2 issue relating to the rules. So I imagine we'll
3 have to deal with that today as well.
4 THE COMMISSIONER: We'll do that after
5 the break. Thank you.
6 THE CLERK: All rise. This Commission
7 of the inquiry is now in recess.
8 (Proceedings recessed at 10:27 a.m.
9 and reconvened at 10:40 a.m.)
10 THE CLERK: All rise, please. This
11 Commission of Inquiry is now reopened. Please be
12 seated.
13 MR. CLIFFORD: Mr. Commissioner, the
14 next witness is Monica Dyck.
15 MONICA DYCK, having been first duly
16 affirmed, testified as follows:
17 BY MR. CLIFFORD
18 Q Good morning, Ms. Dyck.
19 A Good morning.
20 Q By way of introductory remarks, I'd
21 first like to thank you for appearing today as a
22 witness and assisting the Commission. And also,
23 the areas that I'm hoping to cover with you are
24 related to the time that you filled in for
25 Ms. McCorrister. We understand that she took a

1 holiday and you had some brief involvement in the
2 case?
3 A I did.
4 Q What I will be examining with you is
5 what you did in that time. I understand your work
6 was related primarily to assisting with the Victim
7 Impact Statements. You dealt directly with the
8 Sveinsons, also with the Taman family. You
9 delivered the Victim Impact Statements, had some
10 dialogue, discussion, et cetera, with Mr. Minuk
11 about those issues. And I'll also ask you some
12 general questions about your experience.
13 A Okay.
14 Q All right. So getting started, you
15 were then and are still a victims' rights worker?
16 A Yes, I am.
17 Q And at the relevant time, you were one
18 of two front-line victims' rights workers, and
19 both you and Ms. McCorrister, we understand from
20 the evidence thus far, reported to Suzanne
21 Gervais?
22 A That's correct.
23 Q And at the time of this case, the
24 office you worked in was actually located within
25 the Crown Attorneys' office; is that right?

1 A Yes, up until June of last year.
2 Q And when you worked in the victims'
3 rights office, or the victims' rights workers
4 office, can you comment on how much interaction or
5 communication occurred between your staff and the
6 Crown Attorneys?
7 A There was quite regular interaction
8 between the two departments.
9 Q I understand that your experience in
10 the Justice field goes back to 1999?
11 A '99 or '98, yes.
12 Q And can you elaborate on that for us,
13 please?
14 A I started first with what's now the
15 Child Victim Unit, again, I don't remember if it
16 was '98 or '99, preparing children who had to
17 testify in court. And then in 2001, August of
18 2001, moved into the Victims' Rights Unit.
19 Q And you had been there --
20 A Ever since.
21 Q -- since, and doing the same type of
22 work I understand that you conducted in this case?
23 A That's correct.
24 Q Now, had you worked with independent
25 Crown counsel before the Harvey-Zenk case?

1 A I had, not very often, but from time
2 to time there were cases I was involved with that
3 did have independent counsel.
4 Q And generally, how did that work out
5 for you?
6 A Fairly well. Generally speaking, once
7 we were aware of who that was and communicated
8 that we were involved as well, then there would be
9 communication between ourselves and independent
10 counsel.
11 Q Were there any issues that you could
12 identify that arose as a result of an independent
13 prosecutor being assigned to a file you were
14 working on?
15 A Well, not really. I mean, it was
16 obviously more that you can just run down the hall
17 and speak with someone directly. But, I mean,
18 generally speaking, we found ways to make it work.
19 Q The Commission has heard evidence thus
20 far in relation to the Victims' Bill of Rights,
21 and the definition of a victim and the concept of
22 the registered victim. Can I ask you, Ms. Dyck,
23 just based on your experience, when you look at
24 the definition of a victim and family members, how
25 do you deal with the definition in your actual

1 practice?
2 A Well, generally speaking, we look to
3 finding out who the nearest next of kin would be
4 as defined by the Victims' Bill of Rights, and
5 would attempt to reach out to that person
6 initially.
7 Q And we have learned in this case that
8 it was an automatic registration process, and as a
9 result an individual is identified as the
10 registered victim and a communication is sent out?
11 A That's correct.
12 Q But in cases when that individual is
13 identified and registered and there are, for
14 instance, other family members who come to you for
15 information, what is your practice in dealing with
16 other family members who are reaching out to you
17 to get assistance?
18 A Generally speaking, we would also
19 provide information. It may be a little bit more
20 limited in terms of how much or how regularly we
21 communicate, but we certainly would provide
22 information to other family members should they
23 seek the information from us.
24 Q Correct me if I'm wrong, what I'm
25 gaining from that is you take a broad

1 compassionate approach to it, as a family member,
2 you know they are involved, you'll try to help
3 them?
4 A We certainly try to, yes.
5 Q Okay. So with respect to the statute
6 itself, the wording of the Bill of Rights and the
7 reality of your implementation as a front-line
8 worker, if the definition were expanded to include
9 the people that you would typically deal with,
10 would it really make any difference to you?
11 A In terms of?
12 Q Dealing with other family members who
13 reach out to you?
14 A No. I mean, it may have an impact in
15 terms of workload. But, no, I mean, we would
16 certainly provide service to all those who would
17 qualify.
18 Q Do I understand that if they do reach
19 out, you try to do that, to assist them?
20 A Yes.
21 Q You wouldn't say to an individual, no,
22 we're not going to assist you because you're not
23 the registered victim or --
24 A Absolutely not.
25 Q Okay. Now, that takes us to your

1 involvement with Victoria Sveinson, Robert Taman's
2 mother-in-law. And I understand that this is one
3 of the first entries in the PRISM system that you
4 made, and it was in connection with Ms. Sveinson.
5 Do you recall, was she one of the first
6 individuals, from the family's perspective, that
7 you dealt with?
8 A As far as I can remember, yes.
9 Q And I don't know if you have Exhibit
10 11 in front of you?
11 A I do.
12 Q Okay. Could I ask you please to turn
13 to page 1897?
14 A Okay.
15 Q Now, I'm going to ask you to tell me
16 about that call. But at this point, August 1st,
17 2007, you are filling in and you have carriage of
18 the file from the victims' rights perspective,
19 because your coworker is on a holiday?
20 A That's correct.
21 Q Tell me about the communication that
22 takes place then on August 1st, 2007?
23 A I had received a message from
24 Mrs. Sveinson requesting a call back. I did
25 return her call and we spoke -- her questions were

1 around the Victim Impact Statement. And we spoke
2 about the parameters of that, the guidelines of
3 that, and how soon we would like to see it come
4 back to the office so that we could make sure it
5 was properly provided to counsel.
6 I think we also had a discussion about
7 whether she wished to read it out in court, and
8 she thought she might but she wasn't sure if she
9 would be able to, if it came down to it. So we
10 had a discussion about that as well.
11 Q In the call log it's indicated that
12 you spoke at length with Ms. Sveinson about the
13 guidelines and the parameters of the statement.
14 Are you able to provide any further evidence on
15 what it was that you spoke about in relation to
16 the guidelines?
17 A Well, the guidelines specifically
18 indicate that when victims are providing a Victim
19 Impact Statement, they can't speak to the facts of
20 the case itself. They can't speak to what they
21 would like to see happen in the court with respect
22 to the resolution of the matter, and they can't
23 make comments about the offender, or any
24 complaints about the system and how the case has
25 been managed.

1 Q And Ms. Dyck, we have seen the
2 guidelines and, in fact, they have been filed as
3 an exhibit. I'm not going to put them to you.
4 You are aware of them. I think --
5 A I am.
6 Q -- Mr. Commissioner and other counsel
7 are. But in this conversation with Ms. Sveinson,
8 knowing what the guidelines are, as you have
9 indicated, did she have a concern with the fact
10 that the guidelines were basically exclusive,
11 telling her what couldn't go in?
12 A I don't specifically recall discussing
13 that with her. It often does come up, so it may
14 have. I didn't specifically make note of that so
15 I don't recall if she and I had that particular
16 discussion.
17 Q All right. I appreciate that you
18 might not have a recollection of the conversation.
19 But I wanted to follow up with you on the comment
20 that it often does come up?
21 A Yes.
22 Q And what is the most common complaint
23 with respect to the guidelines?
24 A I imagine -- I mean, I think that a
25 lot of people have a lot more to say than what the

1 statement itself will allow. Sometimes that is
2 about concerns in terms of how the case has been
3 managed. More often it's victims or victims'
4 families wishing to put to the court what they
5 would like to see happen in the case and what they
6 would like to see in terms of a consequence for
7 the offender.
8 Q Have there been times throughout your
9 career where victims have asked you for the
10 opportunity to sit down with you and get some
11 assistance --
12 A Yes.
13 Q -- on preparing the statement?
14 A Yes.
15 Q And have you found that to be a
16 helpful exercise?
17 A It can be, absolutely.
18 Q Is it something that you would have
19 time to do in the majority of cases?
20 A Yes.
21 Q And if it was implemented in the
22 guidelines, that you could book an appointment and
23 come in and speak to your victims' rights worker
24 or a designate, that would be a helpful addition
25 to the guidelines?

1 A I think perhaps, yeah.
2 Q And you are on the front line, not me
3 or anybody else, other than Ms. McCorrister that
4 we talked to. Is it manageable?
5 A Yes.
6 Q All right. Now, if I could ask you to
7 move forward please to page 1898?
8 A Okay.
9 Q Going ahead one page, and we are going
10 ahead seven days in time to August 8th, 2007, this
11 is your next PRISM entry, page 1898?
12 A Yes.
13 Q Exhibit 11. And we know now that
14 Ms. Sveinson has called you and she's dropped off
15 the Victim Impact Statement. And she wants you to
16 be aware of that, and then you picked them up?
17 A Yes.
18 Q And moving forward to page 1899, again
19 in Exhibit 11, you have indicated here in your
20 entry that you called Mr. Minuk to discuss the
21 Sveinsons' Victim Impact Statements and concerns
22 about the same. And I'd like you to give an
23 explanation about the concerns that were occurring
24 to you?
25 A As I recall, the specific concern that

1 I had was that there was some description of the
2 scene, of the incident, and that I was concerned
3 that the Crown might have some concerns about
4 including that. I don't recall if there were
5 others.
6 Q Do you recall what it was that
7 prompted the concern, what the subject matter of
8 the content was?
9 A It was around the scene of where the
10 incident had occurred and describing it. And that
11 again, to me, might have been seen as a fact of
12 the case. And so I didn't know if that would be
13 appropriate or not for inclusion.
14 Q And this is self-evident, but to your
15 knowledge, you would have been the first
16 individual to read that Victim Impact Statement --
17 A Yes.
18 Q -- within Justice?
19 A Yes.
20 Q And in your experience, your response
21 was that, upon reading it, you indicated to
22 Mr. Minuk that you registered concerns?
23 A Right.
24 Q Brought it to his attention. So in
25 terms of the genesis of any concern over the

1 Sveinson impact statement, it's you?
2 A Appears so, yes, yes.
3 Q Now, I understand that in addition to
4 dealing with Ms. Sveinson and the Victim Impact
5 Statement, and the assistance you are providing to
6 her and Mr. Minuk, you are also contemporaneously
7 making telephone calls and communicating with
8 Mr. Taman as well?
9 A Yes.
10 Q You are keeping him informed. You are
11 trying to call him?
12 A Yes.
13 Q I know that you had some difficulty in
14 getting in touch with him?
15 A I did.
16 Q And we can cover that right now. He
17 had indicated to you, at one point towards the end
18 of your involvement in the case, look, he left the
19 number here three times. And I take it, and
20 please correct me if I'm wrong about this, or you
21 think I'm unfair to you, but certainly the
22 possibility would exist that he could have left
23 that number three times and it just didn't get
24 into the system properly?
25 A Yes, yes.

1 Q Okay. So with that aside, going back
2 to your concern with the Victim Impact Statement,
3 and you had a telephone conversation with
4 Mr. Minuk, did you raise any other concern with
5 him, or did he raise a concern with you in the
6 telephone conversation?
7 A Not that I recall.
8 Q And could I ask you then, Ms. Dyck, to
9 move forward to page 1901 of Exhibit 11?
10 A Okay.
11 Q Now what this document is, is a PRISM
12 report, and it is also, I understand, a
13 memorandum. You included a copy of this with the
14 Victim Impact Statements when you forwarded them
15 to Mr. Minuk?
16 A Yes. Yes, I did.
17 Q So, basically, he would have received
18 the Victim Impact Statements with a memorandum
19 with the same content?
20 A That's correct.
21 Q So you have registered your concern
22 for the Victim Impact Statements orally, and now
23 you're doing it in writing, and you're doing this
24 all on August 8th, 2007?
25 A Yes.

1 Q Now, you have indicated to Mr. Minuk
2 that you briefly reviewed them, and I'll let you
3 carry on from there. What was it that you were
4 trying to convey to him?
5 A Basically, whenever a Victim Impact
6 Statement comes in to us, we sometimes review.
7 Often times they go directly to the Crown.
8 Knowing what the guidelines are, I had a few
9 concerns about whether some of the statements
10 would be allowed or not. And so I was
11 highlighting that for him.
12 THE COMMISSIONER: Excuse me, do you
13 have any recollection about any particular
14 statements that were in the Victim Impact
15 Statement that might offend, or not be permitted
16 to go before the judge?
17 THE WITNESS: Again, as I recall, what
18 I specifically remember is some description of the
19 scene.
20 THE COMMISSIONER: Description of
21 what?
22 THE WITNESS: Description of the scene
23 where the incident occurred. And that, again,
24 that might be seen as facts of the case, it might
25 not be appropriate to include it.

1 THE COMMISSIONER: That's your best
2 recollection?
3 THE WITNESS: That's my best
4 recollection.
5 THE COMMISSIONER: Thank you.
6 BY MR. CLIFFORD
7 Q And just following up on that point,
8 in your memorandum and communication to Mr. Minuk
9 on page 1901, you indicate that you have briefly
10 reviewed them and suspect there are some portions
11 of the Sveinson statements that may be concerning?
12 A Yes.
13 Q You have a suspicion, I take it, but
14 you are not certain yourself?
15 A Right.
16 Q And there were some portions, but you
17 haven't enumerated or addressed specific areas.
18 And I understand from your response to
19 Mr. Commissioner's questions that you wouldn't be
20 able to do that at this point?
21 A I can't recall, no.
22 Q But a general brief review of the
23 statements led you to make this communication --
24 A Yes.
25 Q -- orally and in writing?

1 A Yes.
2 Q Now, you have also indicated in the
3 second paragraph of the memorandum, you expressed
4 an opinion with respect to your practice in
5 situations like this?
6 A Yes.
7 Q Can you tell the Commission about
8 that?
9 A I think, in our experience, what we
10 found is that sometimes portions that we think
11 might need to be taken out, because they may not
12 completely comply with the guidelines, oftentimes
13 Crown Attorneys in the office have allowed them to
14 remain in. So I think that's what that comment
15 was referring -- well, I know that's what that
16 comment was referring to.
17 Q And was the propensity for that to
18 happen higher in cases where there was a fatality?
19 A Absolutely.
20 Q You said to Mr. Minuk in the
21 memorandum:
22 "I leave it to you to deal with that
23 with my apologies."
24 A Yes.
25 Q What was behind that? Did you think

1 he was going to have a difficult task in dealing
2 with the issue of the Victim Impact Statements?
3 A Well, it's often difficult when you
4 are communicating with families that certain
5 portions can't be allowed. It's a very difficult
6 thing to provide a Victim Impact Statement, it's a
7 very emotional process for people. And so, you
8 know, I knew that sometimes people get quite upset
9 if we have to ask for portions to be removed.
10 Q Ms. Dyck, is it incumbent upon you to
11 tell the author of a Victim Impact Statement that
12 certain parts will be edited out, or is that a job
13 for the assigned Crown?
14 A We have done that from time to time.
15 Generally speaking, it is the responsibility of
16 the Crown Attorney.
17 Q So if it was a situation where you
18 were satisfied that a portion of the statement was
19 outside the guidelines, you would raise it?
20 A Often.
21 Q And if you had a suspicion or a
22 concern, you would relay it to the Crown Attorney?
23 A Yes.
24 Q As occurred in this case?
25 A Yes.

1 Q You also raised in your memorandum, an
2 e-mail of August 8th, again at page 1901, Exhibit
3 11, that:
4 "Given the sensitivities in this
5 matter and the necessity to try to
6 reach Robert first, as the registered
7 victim, I did just try to reach Robert
8 now and I couldn't, so I'll try
9 again."
10 A couple of things flowing from that part of your
11 memo. What did you mean when you said the
12 sensitivities in the matter?
13 A Well, I knew that there were some
14 concerns about how the case was being resolved,
15 and I was concerned that we try to reach Mr. Taman
16 first before we reached anyone else.
17 Q What concerns did you have, and what
18 was the source of the information that you were
19 receiving?
20 A I just, I was aware that there was
21 some difficulties with the prosecution of the
22 case. I didn't know a whole lot about the
23 specifics, but I also knew that there were some
24 concern from the family members as to how it was
25 being dealt with and how it was being resolved.

1 Q Were they expressing that to you
2 directly?
3 A No.
4 Q So that was coming from second or
5 third hand?
6 A Absolutely.
7 Q And can you tell me what the source
8 was?
9 A Well, it would have been either
10 speaking with Lesley McCorrister, because we often
11 talk about the cases that we're dealing with, or
12 perhaps from Mr. Minuk himself. I don't
13 specifically recall.
14 Q So, was it either one of those or
15 both?
16 A Right.
17 Q You described contacting Robert first
18 as the registered victim as a necessity under the
19 Victims' Bill of Rights. And was that your
20 understanding, that that would be the protocol?
21 A That would be the most appropriate
22 practice, I would say.
23 Q Once you sent the memo with the
24 attached Victim Impact Statements, what was your
25 understanding, given the sensitivities of the

1 case, what was your understanding as to how
2 Mr. Minuk would deal with that issue, the
3 potential editing of the Victim Impact Statement?
4 A My understanding was that he would
5 contact the family, Mrs. Sveinson, I guess
6 specifically in this situation, to talk about any
7 difficulties that there might be with her Victim
8 Impact Statement, were he to feel that there were
9 portions that had to come out.
10 Q Did you feel as though he would
11 send -- get in touch with her by sending her a
12 letter?
13 A I became aware that that was what he
14 intended to do. I don't know that we specifically
15 discussed initially how he would approach that,
16 but I understood subsequent to that that he had
17 sent a letter.
18 Q But more specifically on August 8th,
19 when you sent the material to him, either that day
20 or shortly thereafter, was it your understanding
21 that this is an issue that he would personally
22 address with Victoria Sveinson?
23 A Yes.
24 Q Either orally or in writing to her?
25 A Yes.

1 Q And what was your understanding, that
2 he would deal with the issue and explain to her
3 why certain parts had to be edited out?
4 A Yes.
5 Q And when you have had to do that --
6 and I think I should lay the foundation for that
7 question. Have you had to do that, tell somebody,
8 look, we have to take apart your Victim Impact
9 Statement?
10 A I've discussed it with some of the
11 people that I've been very involved with, in terms
12 of saying, I have some concerns about this part.
13 And generally speaking, if we can come to an
14 agreement that they will change it on their own,
15 then that's fine. If not, then I would provide it
16 to the Crown Attorney and let the Crown Attorney
17 make the final decision.
18 Q And in the cases where you have spoken
19 to a victim who is the author of a Victim Impact
20 Statement --
21 A Yes.
22 Q -- and you're telling them, look, my
23 advice is to take this out, do you have to take
24 somewhat of a delicate and gentle approach with
25 the individual?

1 A Absolutely.
2 Q Would that be the best course of
3 action in dealing with something as sensitive as a
4 Victim Impact Statement?
5 A In my view, yes.
6 Q Would you think it would be preferable
7 to give the person as much notice as possible that
8 their Victim Impact Statement is being edited, or
9 they are not allowed to read certain parts of it
10 out loud?
11 A Wherever possible. I mean, sometimes
12 things happen quite quickly, or we don't get
13 statements until quite late in the day, so there
14 isn't often time, but, yes.
15 Q Okay. And this statement was provided
16 on August 8th?
17 A Yes.
18 Q And you were getting ready for an
19 August 22nd court appearance?
20 A That's right, yes.
21 Q And did you follow up with Mr. Minuk
22 then to see how it was going with respect to
23 dealing with Ms. Sveinson about the editing of the
24 Victim Impact Statement?
25 A Well, I believe we had a subsequent

1 communication, I don't recall how, but he was
2 going to send a letter out with respect to the
3 Victim Impact Statement and any concerns that he
4 had about it.
5 Q Ms. Dyck, I'd like to ask you some
6 questions now about inclusion of photographs with
7 Victim Impact Statements.
8 A Yes.
9 Q Have you had that experience yourself?
10 A Yes.
11 Q What is the practice?
12 A Generally speaking, that's not
13 permitted. I don't know, there may have been
14 times where it has been allowed, but I believe
15 that, generally speaking, that's not permitted.
16 Q Do you know why that is?
17 A No.
18 Q Is it something where you would
19 receive a photograph and indicate to the victim
20 that you could speak to the Crown Attorney about
21 it, or is it your practice that you would just
22 tell them, look, it's not permitted?
23 A I think, generally, we would
24 communicate with the Crown Attorney to get their
25 perspective on it.

1 Q Did you communicate with Victoria
2 Sveinson in this case about the inclusion of a
3 photograph?
4 A I don't believe that I did.
5 Q Okay. And in fairness to you, we have
6 heard from Ms. Sveinson, and she's testified, and
7 I'm not going to give you a direct quote from a
8 transcript, but the nub of what she said was that
9 it was suggested to her that, look, there might be
10 an issue with the photograph, but put it in and we
11 will see what happens. Does that sound like an
12 approach that you might have taken?
13 A Absolutely.
14 THE COMMISSIONER: You don't even know
15 why photographs are not permitted?
16 THE WITNESS: I actually don't, no.
17 THE COMMISSIONER: Do you see any
18 problems, in your experience, with putting in a
19 photograph?
20 THE WITNESS: Myself personally?
21 THE COMMISSIONER: Yes?
22 THE WITNESS: I don't, but for -- I
23 mean, I know that sometimes they have been
24 provided as other evidence, but generally
25 speaking, I've been advised that they can't be

1 provided as part of a Victim Impact Statement.
2 THE COMMISSIONER: Nobody has given
3 you an explanation why?
4 THE WITNESS: I don't think so
5 actually.
6 THE COMMISSIONER: Okay.
7 BY MR. CLIFFORD:
8 Q When we move through Exhibit L,
9 Ms. Dyck, we see, amongst the correspondence and
10 communications with Ms. Sveinson and Mr. Minuk,
11 there are PRISM entries and letters to Robert
12 Taman. And at 1903, there's another letter here.
13 It's from you, dated August 9th, 2007?
14 A Yes.
15 Q You're telling him that Lesley is on
16 vacation, and giving him some information about
17 August 22nd and the fact that that might be
18 rescheduled?
19 A Yes.
20 Q So again, contemporaneous with the
21 Victim Impact Statement work that you're doing,
22 you're following up with Mr. Taman, letting him
23 know that he should contact you?
24 A (Witness nodding)
25 Q And on the issue of August 22nd, we

1 have learned that that issue was resolved
2 basically internally, and ultimately the family
3 determined that that would be a day that it could
4 go ahead on because they wanted to get it over
5 with?
6 A Yes. That was my understanding, yes.
7 Q And that's what I was going to ask
8 you. Was that the impression that you had?
9 A Yes.
10 Q That there was some discussion about
11 going on August 22nd, but in the end, it was a
12 suitable day?
13 A Yes.
14 Q At page 1907, there's a further entry
15 where you, on August 10th, so Exhibit L, page
16 1907, PRISM entry, August 10, 2007, where you are
17 calling Victoria Sveinson. Were you calling her
18 because at that point, you had established a line
19 of communication with her and you just felt it was
20 the appropriate thing to do, to follow up and give
21 her information?
22 A Yes.
23 Q Did Ms. Sveinson, or Mrs. Sveinson
24 ever ask you for a full copy of the Victims' Bill
25 of Rights, not just the summary, but the entire

1 thing?
2 A I don't recall that. I know that she
3 asked for information about the Victims' Bill of
4 Rights, and that I sent her some information about
5 it, but I don't recall, she may have, I don't
6 recall specifically.
7 Q Right. Well, we have heard evidence
8 from her that she asked the victims' rights worker
9 for that. And I understand you don't have a
10 specific recollection, but it certainly could have
11 happened with you?
12 A Yes.
13 Q Is that fair? And she had indicated
14 that she was met with a negative response, and
15 that the response was, well, look, it's a long
16 complicated Act, and the guidelines or a summary
17 might be better. Does that refresh your memory at
18 all?
19 A I don't recall that at all, no.
20 Q Have you ever provided a complete copy
21 of the Victims' Bill of Rights to other victims
22 who have --
23 A I may have, I don't recall that.
24 Q I take it, it wouldn't be a difficult
25 thing to include? We have got guidelines and

1 summaries, et cetera?
2 A Yeah.
3 Q It's not that long of an Act. It
4 wouldn't be difficult to provide it, from your
5 perspective --
6 A No.
7 Q -- if anybody were to ask for it?
8 A It wouldn't have been. I remember
9 faxing some information to her. I know I didn't
10 fax the entire Act. It could have been provided.
11 I don't recall specifically having that
12 conversation.
13 Q At page 1908 of Exhibit 11, there's a
14 PRISM entry with respect to a telephone call with
15 Mr. Taman. And he's having some concern or
16 questions for you about the format of the Victim
17 Impact Statement?
18 A Yes.
19 Q And just to assist, Mr. Commissioner,
20 is this also another area where you get a lot of
21 questions?
22 A Yes.
23 Q People want to go outside, oftentimes
24 they can't put their whole statement on the
25 available room on the form?

1 A Absolutely not, no.
2 Q And do you get that question a lot,
3 can I add things? Can I add pages on the back?
4 A We do all the time, and that's exactly
5 what we recommend, that people can do it
6 separately. They can type it up separately as
7 long as it adheres to the guidelines and is
8 attached to the form, that's fine.
9 Q Are you commonly telling victims who
10 are preparing Victim Impact Statements that they
11 can attach additional sheets to the back?
12 A Very often, yes.
13 Q If we go to page 1914, Exhibit L,
14 there is a communication here. You had received a
15 call from Mrs. Sveinson. This is on August 14th,
16 2007. She wants you to call her back?
17 A Yes.
18 Q And you did so --
19 A Yes.
20 Q -- on August 15th. And that entry is
21 at page 1920. You called and you left her a
22 message advising her that the sentencing would be
23 occurring on the day that it was originally
24 scheduled, August 22nd. Were there any other
25 concerns or questions that she had on the message

1 that you recall?
2 A Not that I recall.
3 Q Now, in addition to getting the call
4 from Mrs. Sveinson on August 14th, you also
5 received a telephone call from Robert Taman. And
6 would you agree with me that the number of calls
7 that you are getting, apart from the content that
8 we are looking at, that they demonstrate the
9 immense concern that victims have, and
10 significance that they attach to the preparation
11 of the Victim Impact Statement?
12 A I don't know that the calls were --
13 well, yeah, yeah, sure they do, in terms of making
14 sure that we had received them and making sure
15 that they were appropriately distributed.
16 Q Where do we drop them off?
17 A Yes.
18 Q Where do they go?
19 A Yes.
20 Q What goes in them? What's the format?
21 A Yes.
22 Q And I understand that on August 14,
23 2007, Robert Taman raises another issue with you
24 in connection with the Victim Impact Statement.
25 Can you describe that, please?

1 A I'm sorry, which page are you
2 referring to?
3 Q 1915, and Ms. Dyck, it's August 14th,
4 2007.
5 A Yes. Yes, he had called to ask if it
6 would be possible for him to stand beside his
7 children as they read their Victim Impact
8 Statements in court.
9 Q And you indicated to him that you
10 thought it would be appropriate?
11 A Yeah, I told him that I would pass
12 that along to the Crown, but that I thought that
13 was something that would be possible.
14 Q And you had read the Victim Impact
15 Statement by that point?
16 A I had.
17 Q Okay. What had you concluded with
18 respect to the Victim Impact Statements?
19 A Of Mr. Taman and his children?
20 Q Yeah?
21 A They were incredibly moving and
22 touching.
23 Q And I take it, Ms. Dyck, that the same
24 sentiment or opinion would be applied to the
25 Sveinsons, except you had some concern?

1 A Absolutely.
2 Q But apart from the guidelines creating
3 that concern, in fairness, and in the sense of
4 being complete, that you felt as though all of the
5 Victim Impact Statements were very moving and
6 powerful?
7 A They were.
8 Q Forceful?
9 A They were.
10 Q They conveyed the pain and the
11 suffering and the loss?
12 A The immensity of the loss, absolutely.
13 Q When Robert Taman asked you about
14 standing beside his children in court when they
15 read their statement, you, on the same day, got in
16 touch with Mr. Minuk and you indicated to him that
17 this would be happening, that Robert Taman felt as
18 though the children would need that support?
19 A Yes.
20 Q Did you speak to him about it or hear
21 anything back?
22 A From Mr. Minuk?
23 Q Yeah?
24 A I don't specifically recall. So if I
25 didn't note it, then I must not have.

1 Q Okay.
2 A But I believe that is what happened.
3 Q At pages 1916, 17 and 18 in Exhibit L
4 document, August 14th and 15th where there is a
5 call to Mr. Minuk, you asked him to call back,
6 you're telling him that he's got two packages of
7 Victim Impact Statements. And August 15th, he
8 calls you. And we see that at 1918?
9 A Yes.
10 Q So Mr. Minuk is getting back in touch
11 with you within the day. So August 14th, you call
12 him. August 15th, he gets back in touch with you?
13 A Yes.
14 Q Do you recall whether you had an
15 opportunity to speak with him on the 15th?
16 A Yes, I did. I did speak with him. He
17 indicated that the sentencing date would remain
18 August 22nd at 9:00 o'clock, and I told him I
19 would let the family know.
20 Q There was no issue with respect to the
21 issue of Mr. Taman standing beside his children,
22 was there?
23 A If we specifically discussed it,
24 clearly I didn't make note of that, and I just
25 don't recall.

1 Q Had it been an issue, I take it that
2 it would have warranted an entry? Am I correct in
3 that?
4 A I suspect I would have written that,
5 yes. Yes.
6 Q Now we are moving forward now to
7 additional material, and this is found in Volume
8 L, tab L-75. And I do believe, Mr. Commissioner,
9 that we have already entered that as an exhibit
10 and it would be Exhibit 41. And if that could be
11 put to the witness, please?
12 Ms. Dyck, could I ask you to look at
13 Exhibit 41? These are a continuation of PRISM
14 reports --
15 A Yes.
16 Q -- on various communications. The
17 first page of Exhibit 41 should be 1936?
18 A Yes.
19 Q 1936, 37 and 38, I'm not going to deal
20 with specific passages in each of those PRISM
21 entries, but what they are documenting is the fact
22 that Victoria Sveinson called you about the
23 sentencing date and she asked for a telephone call
24 back?
25 A Yes.

1 Q And on August 31st, you called Lesley
2 McCorrister --
3 A Yes.
4 Q -- regarding the fact that there was a
5 telephone call from Ms. Sveinson. Lesley told you
6 that she was actually going to get in touch with
7 Ms. Sveinson. Is that the case?
8 A Once a date was available, yes, that's
9 correct.
10 Q And in addition to that, you actually
11 called Ms. Sveinson yourself, and that's
12 documented at page 1938?
13 A Yes.
14 Q Just to tell her that there was no
15 date set yet?
16 A Yes.
17 Q And that Lesley McCorrister would be
18 the one that was calling her?
19 A That's correct.
20 Q And you have also indicated or
21 documented that you advised her that if there was
22 no call to her, in other words, if no one got in
23 touch with Mrs. Sveinson, she can either give you
24 a call or give Lesley a call?
25 A Yes.

1 Q And I understand that you followed up
2 with Lesley McCorrister on that as well, and told
3 her that you spoke to Mrs. Sveinson and gave her
4 that information?
5 A Yes.
6 Q And overall, how were your dealings
7 with Mrs. Sveinson?
8 A They were fine.
9 Q She was very polite and courteous and
10 respectful to you?
11 A Absolutely.
12 Q And you were the same way?
13 A I hope so, yes, I believe I was.
14 Q That was your objective?
15 A Absolutely.
16 Q And what about your dealings with
17 Mr. Taman? I know there weren't as many
18 necessarily, but was he always polite and
19 courteous and respectful to you?
20 A Yes. Yes, he was.
21 Q Did he have any difficulty
22 comprehending things you were explaining to him?
23 A Not at all.
24 Q They weren't very complicated at all?
25 A No.

1 Q In terms of where to go and times and
2 that sort of thing?
3 A No.
4 Q Again, were you conducting yourself in
5 the same manner?
6 A I hope I was, yes.
7 Q All right. The issue of the
8 photographs, it did lead to some correspondence
9 and communication, and the Commission has received
10 evidence in that regard. Are you aware of any
11 letters that were sent, either to Ms. Sveinson or,
12 from Ms. Sveinson to Mr. Minuk regarding the
13 letters?
14 A No, I'm not.
15 Q I apologize, I said regarding the
16 letters -- regarding the photographs?
17 A No.
18 Q During the case, when Lesley
19 McCorrister was dealing with it, you both worked
20 in the same office, you were a pair, there were
21 the two of you doing the same work. As a result
22 of your discussions with her, I take it you became
23 aware that the family had concerns about how the
24 case was being handled?
25 A Yes.

1 Q And how was that being described to
2 you?
3 A I don't know that I specifically
4 recall in this case. We have conversations like
5 that all the time. But I do know that there were
6 concerns about how it was going to be dealt with,
7 ultimately, what the ultimate guilty plea was with
8 respect to the charges, and what the outcome was
9 to be in terms of the sentencing.
10 Q Were there concerns raised with
11 respect to the family, and the carriage of the
12 case, or were you just speaking in general terms
13 with Ms. McCorrister?
14 A I can't remember specifically. I
15 think that, if I remember correctly, they were
16 concerned about how it was being dealt with.
17 Q In Exhibit 41, could I ask you please
18 to move up to page 1942? Now, what's documented
19 here is a memorandum that you have prepared and
20 forwarded on August 31st, 2007 to your supervisor?
21 A Yes.
22 Q You are required to report to Suzanne
23 Gervais?
24 A Yes.
25 Q What prompted you to create this

1 memorandum?
2 A There was a lot of attention around
3 what was happening with this case, and I felt it
4 best to make sure that she knew exactly what kind
5 of involvement we had had.
6 Q And the date, August 31st, 2007, it's
7 quite evident that the case is not completed at
8 this point?
9 A Right.
10 Q In fact, the case is not even back in
11 court until ultimately in September. So even at
12 this point, did you identify certain concerns as a
13 result of your dealing with the Taman family and
14 the issues that accompanied this case?
15 A Yeah, yes.
16 Q Did you talk to Mr. Minuk about the
17 reason that you created this memorandum?
18 A I don't believe that I did.
19 Q Did he ever raise with you any issues
20 that were consistent with the reason that you sent
21 the memorandum?
22 A I don't specifically recall. I
23 imagine we may have discussed in brief, but, yeah,
24 I really don't remember.
25 Q Now, I asked you earlier about

1 Mrs. Sveinson dealing with you and being polite
2 and courteous and respectful, and vice versa, and
3 the communications between yourself and the Taman
4 family. You characterized them the same way. Do
5 I understand that you also felt that Mr. Minuk was
6 very responsive to your concerns when you dealt
7 with him?
8 A Yes, he was.
9 Q He got back to you when you wanted to
10 speak with him?
11 A Yes, he did.
12 Q And were his dealings with you in the
13 same vein, polite, courteous, professional and
14 respectful?
15 A Yes.
16 Q I'd like to conclude your examination
17 by asking you whether, in your experience, looking
18 generally at the Manitoba Victims' Bill of Rights,
19 whether you think that there might be some room
20 for improvement on the, just generally in the Bill
21 itself? Is there parts that you see that create
22 problems or difficulties, repeatedly, as a
23 front-line victims' rights worker?
24 A Yes. Yeah.
25 Q Now is your chance.

1 A I think we have always had concerns
2 with respect to the provision around consultation
3 and what that means, and what that looks like, and
4 how we operationalize that. And I think we have
5 more work to do in that area. I think that it's
6 problematic in lots of ways and, yeah, that's --
7 Q Would a better term perhaps be, and
8 there could be many, rather than the concept of
9 consult, would it be to inform?
10 A Yes.
11 Q Okay. Because the difficult
12 conversations that engage this notion of consult
13 are often situations where you have been present,
14 and Crown Attorneys are required to tell persons
15 affected by crime that certain things will happen
16 with the case. It's either an exceedingly
17 difficult case, or it may be a case that's not
18 difficult but that is the context in which the
19 difficulty with consult arises; is it not?
20 A Yes.
21 Q And when it is giving the bad news, is
22 it even more so?
23 A Absolutely.
24 MR. CLIFFORD: Those are the questions
25 I have for you. Please remain seated. Other

1 counsel may have questions.
2 THE WITNESS: Thank you.
3 BY MR. ZAZELENCHUK
4 Q Ms. Dyck, did you observe any
5 interaction between Mr. Minuk and any of the Taman
6 family?
7 A I did not.
8 MR. ZAZELENCHUK: Thank you.
9 MS. BOWLEY: I have no questions, sir.
10 BY MR. GREEN
11 Q Monica, my name is Michael Green. I
12 am counsel to Mr. Minuk, and I just have very few
13 questions for you.
14 Mr. Clifford asked you about
15 Mrs. Sveinson's Victim Impact Statement and
16 sending it over to Mr. Minuk, and that you had
17 some concerns about the appropriateness of some of
18 the things that were contained in that initial
19 statement; is that correct?
20 A Yes.
21 Q And ultimately, you became aware that
22 Mr. Minuk had removed certain items from the
23 original draft?
24 A That was my understanding, yes.
25 Q I am informed by Mr. Minuk that you

1 discussed that with him and that you made a
2 comment that he removed less than what you
3 probably would have removed?
4 A That could well be, yes.
5 Q Now, you deal with victims all the
6 time in your job?
7 A I do.
8 Q And I believe that the idea of plea
9 bargains comes up fairly frequently with victims?
10 A It does.
11 Q Would it be fair to say that victims
12 generally look on them as a very bad thing? They
13 are not in favour of plea bargains at all,
14 generally speaking?
15 A Most often, most often.
16 MR. GREEN: Thank you very much.
17 BY MR. McFETRIDGE
18 Q Ms. Dyck, could I just take you to, I
19 don't remember the exhibit number, but Volume L,
20 the PRISM document, page 1897?
21 A Okay.
22 Q And this was the note that you had
23 made after your phone call with Victoria Sveinson.
24 And just in the second paragraph it says:
25 "We spoke at length about the

1 guidelines and the parameters of the
2 statement..."
3 being the Victim Impact Statement?
4 A Yes.
5 Q And you used the term "spoke at
6 length." Are you able to tell the Commissioner
7 how long approximately you would have spoken with
8 Mrs. Sveinson? Do you have any idea?
9 A I have no idea. I can't recall.
10 Q When you put in the term like "at
11 length," I mean, that implies to me that's more
12 than a few minutes?
13 A It would have been more than a few
14 minutes, it would have been a 15 to 20 minute
15 conversation, perhaps more. I don't specifically
16 recall.
17 Q The Commissioner had also asked you in
18 respect to what cannot be included are at tab 2 of
19 the Victim Impact Statement, specifically the one
20 bullet in the guidelines where it says, "include
21 photographs or medical reports." In other words,
22 they should not be attached, but those should be
23 provided to the Crown Attorney?
24 A Yes. And sometimes entered as
25 separate exhibits.

1 Q So it's not an absolute exclusion,
2 correct?
3 A Right.
4 Q Indeed, I don't know if you've had
5 experience in that, but there may be
6 circumstances, and Victim Impact Statements are
7 submitted in all offences, they have the right to
8 do that?
9 A That's correct.
10 Q I guess you could use an example, have
11 you ever had a situation where a victim, for
12 example, an assault case wanted to file a
13 photograph that would show their injuries as a
14 result of that?
15 A Yes.
16 Q And that would be something the Crown
17 Attorney would review, having regard to the nature
18 of the charges and whether or not, in fact, those
19 injuries may or may not be related to the charges,
20 as to whether or not, in fact, that particular
21 photograph should be introduced?
22 A Yes.
23 Q Have you faced that type of situation?
24 A I'm aware of situations like that,
25 yes.

1 Q So in each individual case, the Crown
2 Attorney would have to look at the individual
3 photograph and determine whether or not, in fact,
4 it has some relevance --
5 A Yes.
6 Q -- to the particular issue. And in
7 fact, they may have to be excluded?
8 A Yes.
9 Q Just in terms of the PRISM documents,
10 when I look at it, I mean, it appears for this
11 particular file there's approximately 100 pages of
12 PRISM documents. Is that usual? Is that a
13 normal -- what a PRISM file would look like?
14 A You know what, they vary greatly. We
15 have some cases where there is a whole lot more,
16 we have some cases where there is less. It varies
17 greatly, depending on the situation and the needs
18 of the victim and how often we need to be in
19 contact with them. So it varies greatly. It's
20 not unusual but it wouldn't necessarily be the
21 situation in every case either.
22 MR. McFETRIDGE: Thank you very much.
23 Those are all my questions.
24 THE COMMISSIONER: Any re-examination?
25 MR. CLIFFORD: No. Thank you,

1 Mr. Commissioner.
2 THE COMMISSIONER: Thank you. Thank
3 you very much.
4 MR. PACIOCCO: Mr. Commissioner, I am
5 going to move at this time to re-call certainly
6 one witness, and quite probably two, depending on
7 whether you permit me to call the first. I
8 received information yesterday from Mr. Robert
9 Taman concerning certain conversations he had with
10 Mr. Minuk, and he wishes to testify about those
11 conversations. They deal with comments that he
12 will attribute to Mr. Minuk about the Sveinsons.
13 And as you are aware,
14 Mr. Commissioner, the difficulties within the
15 family were avoided largely during the
16 questioning. And as a result of this process,
17 there was a conversation between Mr. Robert Taman
18 and Mr. Sveinson, where the relevance of this
19 information became apparent. These are not
20 comments that I had heard before, but I had not
21 questioned in those areas. And had I, they might
22 have come out.
23 So in order to allow these witnesses
24 to tell their whole story, I am asking for the
25 opportunity to bring them forward, on Mr. Robert

1 Taman's case, on two very brief points and two
2 points only. And that will lead into the
3 relevance of having to call one of the Sveinsons.
4 And my decision would be to call Victoria Sveinson
5 in order to show the veracity of the allegation,
6 if in fact you find, Mr. Commissioner, that the
7 comment was indeed made.
8 MR. ZAZELENCHUK: I might only
9 indicate, Mr. Commissioner, that my client has no
10 objection to that. And I could also indicate that
11 although I spent countless hours with Mr. Taman
12 between my retainer and today's date, for obvious
13 reasons, I totally avoided anything to do with the
14 conflict or lack of communication with his
15 in-laws. Because even though I am a lawyer, I do
16 have a few feelings. And we never went into it.
17 That's my only comment.
18 MS. BOWLEY: I have no comment or
19 objection, Your Honour.
20 MR. GREEN: I am interested in my
21 friend, Mr. Zazelenchuk's comments, because I
22 understand there are two areas. He only alluded
23 to one. That is the relationship with the
24 in-laws. In his countless hours with Mr. Taman,
25 I'm wondering if the other topic came up.

1 THE COMMISSIONER: Mr. McFetridge,
2 have you got any objections?
3 MR. KING: No position.
4 MR. McFETRIDGE: I really have no
5 objection, other than one of the items that
6 relates to something that was allegedly said at a
7 second meeting with Mr. Minuk, which I presume one
8 of those meetings, it may have been that
9 Ms. McCorrister was at that meeting. None of
10 these questions have been put to her, so it may be
11 that, I don't know if the Commissioner would
12 require her to come back to speak to her about it
13 or not, if in fact it happened.
14 THE COMMISSIONER: We're not
15 conducting a trial here, and we want everything to
16 come out. Go ahead.
17 MR. PACIOCCO: Thank you,
18 Mr. Commissioner. And just for the record, the
19 topics were put to Ms. McCorrister.
20 THE COMMISSIONER: I'm sorry?
21 MR. PACIOCCO: Just for the record,
22 the topics were put to Ms. McCorrister. And you
23 would have noticed me running around yesterday, I
24 was trying to make disclosure to Mr. Green. And I
25 know that Mr. Green also covered this topic in his

1 questioning of Ms. McCorrister today. So it's not
2 a case where there's prejudice that's going to
3 arise with respect to what would have been asked
4 of subsequent witnesses.
5 MR. McFETRIDGE: I don't believe
6 Mr. Green asked Ms. McCorrister about the specific
7 allegation.
8 MR. GREEN: I don't have a problem
9 with that, David, and I'm not objecting to this.
10 THE COMMISSIONER: Yes.
11 (ROBERT TAMAN: Previously sworn)
12 BY MR. PACIOCCO
13 Q Mr. Taman, I only have a couple of
14 very brief questions for you. The first has to do
15 with probably the second meeting at which you
16 attended with Mr. Minuk?
17 A Right.
18 Q And I understand that there was some
19 conversation at that meeting about communications
20 that Mr. Minuk had with the Sveinsons?
21 A Yes, there was some conversation to do
22 with Crystal's parents.
23 Q And could you advise the Commissioner
24 as to what that conversation was, to the best of
25 your recollection, sir?

1 A I'm not quite sure how the
2 conversation came up. It was just something
3 that -- it was a mental note that I took because I
4 felt a little bit uneasy. Whereas we were
5 discussing the meetings that took place between
6 Mr. Minuk and Crystal's parents, and he had
7 mentioned to me that I didn't have to worry. He
8 said he wouldn't be meeting with them anymore,
9 that he had heard enough. And as far as anything,
10 any communication with them goes, he was done with
11 it. No more letters, no more phone calls, no
12 nothing. He said they were crazy and he had had
13 enough.
14 Q Now, you have used the term "they were
15 crazy"?
16 A Yeah.
17 Q Are you confident that those are words
18 that were spoken by Mr. Minuk, or could that be
19 your interpretation of how he had characterized
20 the Sveinsons?
21 A Oh, no, I'm confident in that.
22 Q You are confident that those were the
23 words that were used?
24 A Yes.
25 Q You noted that there was testimony by

1 Ms. McCorrister about recording that he advised
2 you that the Sveinsons had been railing against
3 the system. Do you recall hearing that testimony
4 today?
5 A I don't recall that, and I don't
6 recall Ms. McCorrister being at that meeting.
7 Q Okay. I'm just going to put to you,
8 is there any chance that perhaps in communicating
9 to you that the Sveinsons were railing against the
10 system, you might have misinterpreted what he was
11 saying and concluded that he was basically writing
12 them off as crazy?
13 A I didn't misinterpret. It was a
14 direct statement.
15 Q Sir, the next question I want to ask
16 you has to do with a telephone call that you may
17 have received from Mr. Minuk at some time when the
18 sentencing date was approaching?
19 A That's correct.
20 Q And I received some information
21 yesterday as to such a call. Could you tell the
22 Commissioner, please, about that?
23 A Again, I'm not sure of the day of this
24 call, but I did receive a call from Mr. Minuk. It
25 was in regards to what was to be taking place on

1 the 22nd. And he had informed me that Crystal's
2 parents wanted to bring in a bunch of pictures --
3 they wanted to bring in a bunch of pictures, and I
4 recall the word "plaster" them all over the
5 courtroom. And he had mentioned that he didn't
6 want this done there, that it would turn the
7 courtroom into a circus, and he would prefer they
8 not be there. And I agreed with him.
9 Q And why did you agree with him?
10 A Because from the conversation, I
11 didn't want these pictures placed out all over the
12 courtroom and make things more difficult for my
13 own kids and myself during that time.
14 Q And did you get any impression from
15 your conversation with him as to the kind or
16 nature of pictures that might be used?
17 A Now, I'm not sure if he gave me the
18 actual dimensions of the pictures, but I believe
19 he said they were large pictures that he wanted to
20 have -- that they wanted to have placed, like I
21 said, plastered, sorry.
22 Q And I take it that you agreed with him
23 that it shouldn't be done?
24 A Right.
25 Q And had you been advised that the

1 request, if it was the case, was simply to have
2 pictures put into evidence as part of the Victim
3 Impact Statement, what would your position have
4 been?
5 A I would have been absolutely fine with
6 that.
7 MR. PACIOCCO: Mr. Taman, I have no
8 further questions for you. There may be some
9 questions that have arisen from what I have asked
10 you. So if you could remain there for moment,
11 please.
12 MR. ZAZELENCHUK: No questions.
13 THE COMMISSIONER: Thank you.
14 MS. BOWLEY: None, Your Honour.
15 MR. McFETRIDGE: No questions.
16 BY MR. GREEN
17 Q Mr. Taman, just on the last area
18 covered by my friend, that is the photographs, you
19 said that if you had been advised that if the
20 photos were simply put, that they wanted to be put
21 into evidence, that you wouldn't have had a
22 problem with that?
23 A Right.
24 Q Do I understand you correctly?
25 A That's correct.

1 Q And by put into evidence, you mean
2 have the judge see them?
3 A I don't know what you mean by that.
4 Q Well, this was into evidence before
5 Chief Justice Wyant. You wanted him to see the
6 photographs. You were happy with his seeing the
7 photographs?
8 A I didn't say that.
9 Q Is that not what you meant?
10 A No, I meant to answer the question
11 that was asked of me, and that was if I had a
12 problem with them going in with the Victim Impact
13 Statement and I don't. Where they go from being
14 with the Victim Impact Statement, where they go,
15 and through the whole channels, I don't know where
16 they go. You would know, I don't. So I'm just
17 saying, from my knowledge of what --
18 Q But the point of the Victim Impact
19 Statement is to express to the judge, who will be
20 doing the sentencing, the impact that this tragedy
21 in this case has had upon the victim.
22 A Okay. Yes.
23 Q And part of that, you wanted the
24 pictures, or you wouldn't have a problem with
25 pictures of your late wife being shown to the

1 court. Am I misunderstanding something here?
2 A No, you're not misunderstanding
3 anything, if you heard my answer.
4 Q Yeah. And my friend, Mr. Paciocco,
5 was kind enough to alert me to this evidence late
6 afternoon, and I took the overnight break, the
7 opportunity to speak to Mr. Minuk about this. And
8 he says that he did, in fact, call you, but it was
9 out of concern for your family, and he told you
10 that was the reason for his call. That he did not
11 want your children, who were on the edge, to
12 perhaps see the photograph of their mother and
13 throw them completely over the edge when they were
14 delivering their impact statement. Did he not
15 express that to you?
16 A I don't recall him expressing that to
17 me.
18 Q Are you denying it?
19 THE COMMISSIONER: He said he can't
20 recall. If you can't recall, you can't deny.
21 MR. GREEN: Well, except, with the
22 greatest of respect, some people say I don't
23 recall, but they would discount it entirely as
24 being possible.
25

1 BY MR. GREEN:
2 Q Are you just saying you don't recall?
3 Would it have been possible that he said that?
4 A It may have been possible.
5 Q Yeah. And if in fact the sentencing
6 judge, Chief Justice Wyant, did see the
7 photographs, that would make you happy?
8 A That would make me happy?
9 Q Yes?
10 A What's the question?
11 Q That is the question, would it make
12 you happy?
13 A Would it make me happy?
14 Q Yes, that he in fact did see the
15 photographs?
16 A It wasn't my request to have them in
17 there.
18 Q Okay. But you did say that you
19 wouldn't have any objection to them going into
20 evidence where the judge could see them?
21 A But I don't have any emotional connect
22 here. I was asked whether or not I would object,
23 and I wouldn't object to it. It doesn't mean I'd
24 be happy, sad or mad, it just means I don't object
25 to it.

1 Q Okay. Now, on the other area, sir,
2 that of this recollection of Mr. Minuk having said
3 to you that the Sveinsons were crazy and he didn't
4 want to have anything further to do with them, and
5 wouldn't have any further contact with them, you
6 say that happened at the second meeting?
7 A I believe it was the second meeting.
8 Q That would be the meeting of May 29,
9 2006?
10 A Right. I believe it would be the
11 second meeting.
12 Q Yeah. And you are telling me that you
13 don't recall Ms. McCorrister being there?
14 A I don't recall Ms. McCorrister being
15 there.
16 Q But you were in the room when she
17 testified and said she was there. You again don't
18 recall?
19 A I seem to recall her saying she was
20 there and my son not being there. So obviously
21 she doesn't recall things very well either.
22 Q So you say your son was at that second
23 meeting?
24 A Yes.
25 Q You are absolutely sure of that?

1 A Yes.
2 Q All right. And this comment that you
3 ascribe to Mr. Minuk, about the Sveinsons being
4 crazy, is that something that you relayed to your
5 children after the meeting?
6 A I'm not sure if I did.
7 Q Okay. You don't recall?
8 A I don't recall.
9 Q And you were interviewed by
10 Mr. Clifford in connection with this matter for a
11 lengthy period of time, true?
12 A To do with the inquiry?
13 Q Yes.
14 A Yes.
15 Q And you didn't mention that to him
16 during --
17 A No, I didn't.
18 Q And you didn't mention that in your
19 testimony on Monday when you were on the stand for
20 the whole day?
21 A No, I didn't.
22 Q Was that on purpose?
23 A No, it was because there were certain
24 things brought up that triggered it, and that's
25 what made me remember it, and I thought it should

1 be said.
2 Q Oh, I see. This is something that you
3 suddenly recalled the other day?
4 A Yes.
5 Q When the other day? When you were on
6 the stand?
7 A I don't know exactly at what time I
8 recalled it. All I can say is I recalled it.
9 Q You don't know whether you were still
10 giving testimony or not?
11 A I said that I don't recall. It was
12 after my testimony --
13 Q It was after your testimony?
14 A -- that I recalled that certain
15 portion.
16 Q And you have said that you don't
17 recall whether you passed along to your children
18 this comment after the meeting. That was your
19 evidence?
20 A Yes.
21 Q And I take it that the subject never
22 came up when you were discussing this case with
23 your children over the years and in preparation
24 for the inquiry?
25 A Most of the negatives to do with

1 Crystal's parents and myself, I didn't bring up
2 with my children.
3 Q All right. So are you then saying
4 that you probably did not tell them about --
5 A No, I'm saying I don't recall whether
6 I told them. But I'm just saying that most of the
7 negatives that had to do with Crystal's parents
8 and myself, I didn't discuss with my children.
9 Q All right. And you're absolutely
10 sure, are you, that the word that Mr. Minuk used
11 was "crazy"?
12 A Yes.
13 Q And you are absolutely sure that he
14 told you on May 29, 2006, that he wouldn't be
15 having any further contact with the Sveinsons?
16 A I have said that I believe it was at
17 that second meeting.
18 Q Would it then surprise you to know
19 that he made contact with the Sveinsons two days
20 later?
21 A I have no -- there's no surprise to
22 any of this, sir.
23 Q Okay. But that would be inconsistent
24 with what you say he told you during that meeting?
25 A It would be inconsistent to what he

1 told me.
2 MR. GREEN: Those are my questions.
3 Thank you.
4 THE COMMISSIONER: Thank you.
5 RE-EXAMINATION BY MR. PACIOCCO:
6 Q Only one question arising, Mr. Taman,
7 and it arises out of the questions Mr. Green asked
8 you about when you may have recalled it, this
9 event. I understand that you had not communicated
10 with your father-in-law, Mr. Sveinson, for some
11 period of time before he completed his testimony;
12 is that correct?
13 A That's correct, yes.
14 Q And it was during your discussion with
15 him that this topic was raised by you, sir?
16 A That's correct.
17 Q And is there any relationship between
18 that conversation and your recall of this event,
19 or are you able to say, in terms of what the
20 trigger was?
21 A Hearing everything that took place
22 here, and this is about being honest, and hearing
23 everything that took place here, through certain
24 parts of the testimony I found just triggered it.
25 And it was an issue that I felt only right to

1 bring up with Mr. Sveinson, just out of respect.
2 And that's how this whole thing came about. And I
3 apologize that it didn't come out during my
4 initial interview, and it didn't come out during
5 my initial testimony, and I apologize for that
6 lapse of memory. But it's been a long three and a
7 half years, and certain things still trigger.
8 MR. PACIOCCO: Thank you very much,
9 sir. I have no further questions for you.
10 THE COMMISSIONER: Thank you very
11 much.
12 MR. PACIOCCO: I will call very
13 briefly Victoria Sveinson.
14 (VICTORIA SVEINSON: Previously sworn)
15 BY MR. PACIOCCO
16 Q Ms. Sveinson, you had testified that
17 there were certain photographs that you wanted to
18 include with the Victim Impact Statement that you
19 had prepared, and you say that they were not
20 included ultimately?
21 A That's right.
22 Q And you heard the testimony of Robert
23 today that his recollection is that Mr. Minuk had
24 indicated to him that it was your intention to
25 plaster photos of Crystal all over the courtroom.

1 Could you comment on that, please?
2 A Well, it's ridiculous. It was a
3 regular, even less than an eight by ten photograph
4 of my daughter, a beautiful picture of her. I was
5 just attempting to get the victim into the
6 situation, to put a face to her for everyone
7 involved, and that's it.
8 Q How did you communicate that to
9 Mr. Minuk?
10 A Well, I had included them in with my
11 impact statement. I didn't really say anything
12 about them.
13 Q I'm going to show you a document now.
14 These photos have been disclosed to the parties in
15 attendance and will be submitted to others who
16 aren't here today. I'm going to be showing that
17 to the witness and asking that it be marked as
18 exhibit, I take it, 57?
19 THE CLERK: That's correct.
20 MR. PACIOCCO: Yes, 57.
21 THE COMMISSIONER: Just the two
22 photographs.
23 THE WITNESS: Yes.
24 (EXHIBIT 57: Photograph of Crystal
25 Taman)

1 MR. PACIOCCO: I have two copies of
2 it. There's one photograph that's going to be
3 shown to her now, and then another that I will
4 present out of the book in a moment.
5 BY MR. PACIOCCO:
6 Q Ms. Sveinson, you are being presented
7 with a photocopy of a photograph. Is that the
8 photograph that you had included with your Victim
9 Impact Statement?
10 A Yes, I believe it is.
11 Q Again, could you describe the size of
12 the photo that you recall included with your
13 statement?
14 A Well, I would think that's probably
15 it. I'm not sure. This might be a little larger,
16 but I'm thinking it's pretty close to the size.
17 Q So it wasn't a poster or anything like
18 that?
19 A No, no, nothing even near.
20 Q During your testimony you had
21 indicated that you also wanted to include a
22 photograph taken from the newspaper of your
23 daughter's motor vehicle?
24 A Yes.
25 Q I'm going to be asking the clerk to

1 provide you with a document found in book M, the
2 media book, at tab 76.g, 76.g, at page 1958, 1958.
3 THE CLERK: Exhibit 58.
4 (EXHIBIT 58: M-76.g Media article,
5 Winnipeg Sun, February 26, 2006)
6 MR. PACIOCCO: It will be Exhibit 58.
7 BY MR. PACIOCCO:
8 Q Ms. Sveinson, I am showing you a
9 photocopy of a photograph that has a caption in
10 the upper right-hand corner:
11 "An RCMP officer investigates at the
12 scene of a fatal collision on Highway
13 59 yesterday."
14 Can you recognize that photograph, ma'am?
15 A Yes. I believe that's the one I also
16 submitted, although it was in colour, and I showed
17 the colour of the car which was bright yellow.
18 Q Okay. And you have heard evidence
19 presented by the victims' workers that the
20 guidelines for submitting Victim Impact Statements
21 prohibit individuals from including evidence about
22 the case, or information about the case. Did you
23 turn your mind to that limit when you had included
24 this photograph?
25 A Well, yeah. The guidelines said not

1 anything specific to the case. But I had
2 described, in my mind, what I thought or what I
3 felt may have happened in this accident. And it
4 was done in response to Mr. Wolson's statement
5 that he thought his client just had a momentary
6 lapse of inattention. So my description was to
7 show that that was totally incredulous to even
8 think such a thing. There were blinking lights,
9 there was a red light, there were cars stopped
10 there, and my daughter's car was bright yellow.
11 So how anybody could miss that is beyond my
12 comprehension.
13 Q Is it fair to say that you were trying
14 to alert the judge to the lack of credibility of
15 that position being taken by the lawyers?
16 A Yes, probably so.
17 Q Okay. And you understand that that's
18 not the typical thing that a Victim Impact
19 Statement is used for?
20 A Well, I have no idea what it is used
21 for. It just seems to be a pacifier, you put it
22 in and then we will ignore it.
23 Q Okay. Just one more question. I
24 understand as well that you had delivered the
25 documents, the Victim Impact Statements for your

1 daughter Cory?
2 A Yes, yes. She had brought them over
3 because she worked, so I delivered it when I did
4 mine.
5 Q And Cory had included photographs in
6 her statement as well?
7 A Yes, just a couple of the, I think
8 there were small ones, four by six's.
9 Q I'm going to ask that you be shown one
10 more document by the clerk, please? This is in
11 book I, the sentencing book, at tab 50. It's page
12 1549 and 1550, book I tab 50, page 1549 and 1550?
13 THE CLERK: Exhibit 59.
14 (EXHIBIT 59: I-50 Photos of victim
15 with family)
16 BY MR. PACIOCCO:
17 Q Ma'am, you are being shown photocopies
18 of two photographs, and those photocopies were
19 provided to our office, and the actual size of the
20 actual photographs, we don't have information on
21 at this point.
22 Are you able to recognize those
23 photographs?
24 A Yes. I believe they are the ones my
25 daughter had put in. And again, they were smaller

1 and in colour.
2 Q And do you know whether any
3 photographs were shown to the judge during the
4 sentencing process?
5 A No, I don't know.
6 Q You don't know?
7 A No.
8 MR. PACIOCCO: Those are my questions
9 for this witness, Mr. Commissioner.
10 THE COMMISSIONER: Thank you.
11 MR. ZAZELENCHUK: No questions.
12 THE COMMISSIONER: Thank you.
13 MS. BOWLEY: No questions, Your
14 Honour.
15 MR. McFETRIDGE: No questions.
16 BY MR. GREEN
17 Q Mrs. Sveinson, you wanted to put the
18 photographs of your daughter and of the vehicle on
19 display in the courtroom; is that correct?
20 A I had no idea where they would go,
21 whether they be put on display or just presented
22 to the court. As I said, I have never gone
23 through this before. I had heard of other
24 situations where people had put in photographs,
25 and I wanted to put a face to the victim in this

1 case.
2 Q But, am I mistaken in the information
3 then that you made it known to Mr. Minuk that you
4 wanted the photographs of your daughter and of the
5 vehicle displayed in the courtroom? I am mistaken
6 in that understanding?
7 A Yes, you are. I have never said I
8 wanted them displayed.
9 Q All right. You wanted them to get to
10 the judge. Is that fair?
11 A Yes.
12 Q Okay.
13 A And perhaps even to the defendant.
14 Q And to the defendant?
15 A I never really thought about that, but
16 that would have been a good idea, I think.
17 Q Okay. And you know that, in fact, the
18 judge did see the photographs, and the defendant,
19 that they were sent to the defendant's lawyer?
20 A No, I didn't know that.
21 Q You didn't know that?
22 A No.
23 MR. GREEN: Could I have R-2.9168,
24 please, page 3283, I'd like to make an exhibit.
25 THE CLERK: Exhibit 60.

1 (EXHIBIT 60: R-2.9168 Letter,
2 September 11, 2007)
3 MR. GREEN: Bear with me,
4 Mr. Commissioner. I appear to have the wrong page
5 number.
6 THE COMMISSIONER: Take your time.
7 MR. GREEN: 3283.
8 THE COMMISSIONER: Is that the letter
9 to --
10 MR. GREEN: September 11, 2007. Do we
11 have a copy for the witness?
12 BY MR. GREEN:
13 Q That's a letter that was delivered to
14 you on or about September 11, 2007, Mrs. Sveinson.
15 Do you recall getting the letter?
16 A Can't recall it offhand, but, yes, I
17 did receive this letter.
18 Q And you will note in this second
19 paragraph the comment that:
20 "Photographs were not filed as
21 exhibits at the sentencing hearing,
22 but copies were presented to the judge
23 and defence counsel and remain with
24 these respective parties."
25 A Well, I guess I just didn't remember

1 that.
2 Q All right. So your concerns were then
3 met, that the judge, in fact, did receive the
4 photographs of your daughter and the car; is that
5 fair?
6 A I don't know. I have no idea if they
7 did. This letter says they did, but I have no way
8 of knowing that they were.
9 Q Okay. You were in court for some of
10 the sentencing proceedings, I understand?
11 A Yes.
12 Q And I realize that a lot probably went
13 on that you didn't understand. But do you recall
14 the judge handing an envelope back to Mr. Minuk
15 that had photographs in it. Do you recall that?
16 A No, I don't.
17 Q I'm sorry, Your Honour, I've lost a
18 note. Will you give me a moment, please?
19 THE COMMISSIONER: Of course.
20 BY MR. GREEN
21 Q Mrs. Sveinson, I am referring to the
22 proceedings on the 12th of September, 2007, and
23 the transcripts, Mr. Commissioner. I'm not sure
24 of the number.
25 MR. PACIOCCO: It would be Exhibit 9.

1 MR. GREEN: Exhibit 9.
2 MR. PACIOCCO: J-63.
3 THE COMMISSIONER: I have it.
4 MR. GREEN: And I'm looking at page
5 1687 at the bottom. And I'll read that into the
6 record and see if it refreshes the memory of the
7 witness. Starting at the top:
8 "The Clerk: Chief Judge Wyant
9 presiding.
10 The Court: Just give me a moment
11 counsel, please. There's just one
12 housekeeping matter, Mr. Minuk, that
13 I'd like to deal with just before we
14 proceed further, and this was
15 referenced at the last time the matter
16 appeared before me, you had indicated
17 that there were certain photographs
18 that you had provided to the court.
19 And I asked you whether or not they
20 were going to be tendered as exhibit,
21 and you indicated in the negative.
22 Mr. Minuk: Correct.
23 The Court: I still, of course, have
24 those photographs and I think, for
25 completeness of the record, I think

1 they should, if they are not filed as
2 exhibits, I ought to be returning them
3 to you. And for the record, there
4 were two photographs that were
5 provided, I take it, from you to me
6 from Corrina Encontre, and two from
7 Mr. Sveinson --
8 Mr. Minuk: Correct.
9 The Court: -- of Mrs. Taman. And so
10 the record is clear, and you know that
11 I have them, Mr. Wolson.
12 Mr. Minuk: Mr. Wolson has them as
13 well.
14 The Court: Right. I have looked at
15 the photographs, they were provided to
16 me. They are not tendered as
17 exhibits, however, and I intend to
18 return them to the Crown. So madam
19 clerk, in the same envelopes that you
20 provided them to me."
21 And it's clear there that the judge, in fact, did
22 see the photographs, is it not?
23 A Yes, it is. But as I said, I can't
24 remember everything that occurred. The sound was
25 very poor in that building, and I couldn't see

1 what's in an envelope that he passed.
2 Q Right. But having reviewed that this
3 morning, you now feel somewhat comforted that he
4 in fact did see the photographs, or am I wrong in
5 that assumption?
6 A Well, what does it mean to have them
7 included with the record then? I don't understand
8 the difference.
9 Q Well, as long as the judge saw them, I
10 thought that was what your concern was. And it
11 looks like he did, in fact, see them.
12 A My concern was that they were
13 rejected. That's all I knew at that point. So
14 some little housekeeping thing that said, yes, he
15 saw them, I can't even remember that happening.
16 MR. GREEN: All right. Those are my
17 questions. Thank you.
18 MR. PACIOCCO: Nothing arises,
19 Mr. Commissioner.
20 THE COMMISSIONER: We passed
21 Mr. McFetridge. Do you have any questions?
22 MR. McFETRIDGE: No, I have no
23 questions.
24 THE COMMISSIONER: Thank you. Yes.
25 MR. PACIOCCO: That is the evidence

1 that will be tendered at phase 1 of the
2 Commission.
3 THE COMMISSIONER: We had some
4 housekeeping matters you wanted to deal with.
5 MR. PACIOCCO: I'm not sure that we're
6 going to deal with them today. I know
7 Mr. Zazelenchuk has concerns about the rules. The
8 difficulty in fully dealing with them today is,
9 we're finished this phase, and the decision that
10 is taken today will impact upon lawyers who aren't
11 represented today. But Mr. Zazelenchuk had
12 indicated he wanted to bring it to your attention,
13 and it's something that we may have to deal with
14 on the first day back. So it's probably not a bad
15 idea to let him describe for you what the concern
16 is, and we can think about it over the break.
17 THE COMMISSIONER: Let's deal with it
18 now.
19 MR. ZAZELENCHUK: Firstly, I know this
20 isn't a trial and I know we had a standing
21 hearing, and Your Honour called for comments on
22 the rules at that time. But this only occurred to
23 me when I was contemplating whether I should make
24 a motion to lead my clients' evidence or to allow
25 Commission Counsel to lead my clients' evidence,

1 and that required me to do a more detailed
2 analysis of the rules.
3 And the problem that I foresee, and I
4 think all I want today is some direction from you,
5 sir, as to whether I should bring a motion or
6 whatever. But the problem that I foresee is with
7 rule 24. And I can best explain it by dealing
8 with rule 25. Rule 25 deals with the situation
9 where a party or a witness with a lawyer makes a
10 motion that's granted to allow the witness's
11 lawyer to lead the evidence. So we have a very
12 orderly thing. The counsel will examine the
13 witness in accordance with the normal rules
14 governing the examination of one's own witness, in
15 other words, evidence-in-chief. Commission
16 Counsel will then examine the witness. Don't have
17 a difficulty there. The other parties with
18 standing will be entitled to cross-examine. Flows
19 perfectly. And lastly, counsel for the witness
20 party will be allowed to re-examine, and we all
21 know what re-examination is, it's a very limited
22 procedure. I don't have to go into that. And so
23 that works perfectly well.
24 If we go then to rule 24, rule 24 says
25 that -- and this is the rule where Commission

1 Counsel is leading the evidence -- that Commission
2 Counsel will examine the witness. Then the
3 parties who have been granted standing will have
4 an opportunity to cross-examine the witness. And
5 then counsel for the witness will examine the
6 witness last.
7 Now, as I was preparing and
8 contemplating in my mind whether I'm going to lead
9 my, you know, apply to get permission to lead my
10 client's evidence, I thought to myself, well, if
11 Commission Counsel leads my client's evidence,
12 what on earth am I going to ask my clients? I'm
13 not going to impeach their credibility, I'm not
14 going to cross-examine them. And I'm not going to
15 waste the tribunal's time by going over things
16 that Commission Counsel has gone over. So the
17 only thing that I'm going to do is raise new
18 matters. And if I raise new matters, all the
19 counsel who have cross-examined my clients, and it
20 may be one, it may be many, and even though this
21 isn't a trial, we have parties that can be
22 described as adverse in interest, I think that's
23 becoming obvious. So if all the other counsel
24 have cross-examined my clients, and I then raise
25 new matters, what happens? Do they all stand up

1 and say, well, there are new matters being raised,
2 and I'd like to cross-examine them again. And I
3 didn't want to subject my clients to that. And so
4 I dealt with it from the one end by -- with
5 nobody's objections -- questioning my clients
6 second. But now I'm in the position where it's
7 not my clients, it's other people's clients that
8 are going to be going on the witness stand. And
9 I'm going to be faced, if there's a party that's
10 adverse in interest, I'm going to be faced with
11 cross-examining them on the basis of Commission
12 Counsel's leading or evidence-in-chief. And then
13 if something new comes up, I'm going to have to
14 stand up and say, well, Your Honour, something new
15 has come up. I'm craving permission to deal with
16 those issues again.
17 So that's a problem I foresee. I know
18 we can't deal with it today because it's unfair to
19 Mr. Weinstein and Mr. Prober and Mr. Labossiere.
20 But I wanted to ask Your Honour for some
21 direction. Because, quite frankly, I have done
22 inquiries before, but never one for the Lieutenant
23 Governor, I've only done the statutory ones. And
24 I am asking you whether I should bring a motion to
25 have this before the court, or whether we should

1 notify other counsel by letter, or for some
2 procedure? Because, with all due respect, one way
3 or another, we're going to have to deal with this
4 sometimes in the early part of July.
5 THE COMMISSIONER: What's your
6 proposal as to the fairest way to deal with this?
7 MR. ZAZELENCHUK: As to the fairest
8 answer, or the fairest way to bring it to
9 everybody's attention?
10 THE COMMISSIONER: The fairest way to
11 deal with the problems that you now see? Would it
12 be for the Commission Counsel to go first, then
13 counsel for the --
14 MR. ZAZELENCHUK: Witness.
15 THE COMMISSIONER: -- witness to go
16 second?
17 MR. ZAZELENCHUK: Yes. And bearing in
18 mind that, bearing in mind the very limited area
19 for redirect, I don't see any problem with counsel
20 for the witness having a redirect as the second
21 last person. And that would mirror, perhaps, a
22 lot more rule 25.
23 That's my suggestion, respectfully,
24 Your Honour.
25 THE COMMISSIONER: All right. Do any

1 other counsel here wish to speak to that matter?
2 And of course, we will deal with it later, but I
3 want your suggestions now. Do you have any
4 objections? Mr. Green?
5 MR. GREEN: I'm content with the rule
6 the way it is, Mr. Commissioner. And I'm content
7 with the rule the way it is and I'm, therefore, I
8 guess opposed to whatever it is Mr. Zazelenchuk is
9 suggesting.
10 THE COMMISSIONER: I had not heard
11 from counsel behind you, because they have no
12 standing on this particular issue, but are you
13 with Mr. Prober's office?
14 MR. KING: Yes, I am,
15 Mr. Commissioner. Riley King.
16 THE COMMISSIONER: Is this a matter
17 that will concern him?
18 MR. KING: It may very well.
19 THE COMMISSIONER: You have not
20 discussed it with him?
21 MR. KING: No.
22 THE COMMISSIONER: Mr. McFetridge, do
23 you have a --
24 MR. McFETRIDGE: You know, I think the
25 present rules are adequate. I think if an issue

1 comes up that counsel wants to respond to at the
2 time, they can make a motion at the time for leave
3 of the Commissioner to ask further questions, if
4 some new evidence comes up.
5 THE COMMISSIONER: Mr. Paciocco, do
6 either you or Mr. Clifford wish to speak to the
7 matter?
8 MR. PACIOCCO: Only by way of
9 background. We don't have a strong view on which
10 of the rules is preferable. It did strike me,
11 however, that the rules may have been developed
12 this way in the prior inquiry as a quid pro quo,
13 in terms of how the two rules relate to one
14 another. If Commission Counsel goes first, and
15 leads the evidence and has the opportunity to
16 organize the evidence, in return the party whose
17 witness it is who is called gets the opportunity
18 to use leading questions, if they so choose, and
19 to go last after everything has been done.
20 If, on the other hand, they call the
21 witness first under rule 25, they have to call the
22 witness using the ordinary rules of evidence,
23 which apply to your own witness, which would be
24 open-ended questions. And so if they do defer to
25 Commission Counsel organizing the information,

1 they get the added advantage of having more
2 latitude in terms of the way they question, and
3 having the opportunity to go last.
4 In terms of new information coming up,
5 it's certainly possible that that could happen,
6 but it could happen with anybody who calls a
7 witness, because our cross-examinations are not
8 confined to questions that have already been
9 asked. There's been extensive disclosure made in
10 the case, and it's something that everybody will
11 have an opportunity to prepare beforehand. So the
12 prospect of something new coming up, or
13 unexpectedly in the end, I think is always there,
14 but it's not a huge possibility. And I know that
15 there's flexibility enough in the rules, that if
16 it appears that something unexpected came up and
17 people have important issues that need to be
18 canvassed, that they could to apply to you at that
19 time to reopen their examination.
20 So I understand the concern my friend
21 is expressing, but I don't have a strong enough
22 agreement with it to suggest we should start
23 tampering with the rules that have already been
24 settled.
25 THE COMMISSIONER: Yes.

1 MS. BOWLEY: If I may,
2 Mr. Commissioner, I just wanted to note that we
3 are content as well with the rules as they have
4 been drafted. And I think there are some very
5 good reasons for their having been drafted that
6 way. And so that any motion that Mr. Zazelenchuk
7 might bring would be opposed by us as well.
8 THE COMMISSIONER: Anything in
9 response, Mr. Zazelenchuk?
10 MR. ZAZELENCHUK: Only that with
11 respect to learned Commission Counsel's position
12 that it's a trade-off, I respectfully submit that
13 the trade-off is accomplished by allowing the
14 witnesses or the parties' counsel to ask leading
15 questions in the second point, and as I suggested,
16 in giving them what we all know is the very
17 limited right of redirect at the end of the day.
18 That's my only point.
19 And the only other thing I see is, I
20 foresee at least the possibility that on several
21 occasions you're going to have counsel standing
22 here saying new things were brought up, when the
23 party's witness was questioned, when the witness
24 was questioned by their own lawyer, and I'm asking
25 permission to cross-examine on those areas.

1 Those are my only comments.
2 THE COMMISSIONER: I'm glad you have
3 raised this matter. But I looked at the rules
4 when they were first drafted and submitted to me
5 for my consideration, and I liked the flexibility
6 written into the rules, because it has always been
7 my practice as a trial judge to adopt a flexible
8 approach to the conduct of trials. I think that
9 the rules at this stage should remain as they are.
10 And I can deal with particular problems that will
11 arise during the course of the inquiry and make
12 rulings at that time. All right.
13 MR. ZAZELENCHUK: Thank you.
14 THE COMMISSIONER: We will rise now.
15 Thank you very much.
16 THE CLERK: All rise.
17 THE COMMISSIONER: We will adjourn now
18 until July 2nd, the day after the holiday. Thank
19 you very much.
20 (Proceedings adjourned at 12:29 p.m.)
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1 COURT REPORTER'S CERTIFICATE
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5 I, DEBRA KOT, a duly appointed Court Reporter in
6 the Province of Manitoba, do hereby certify the
7 foregoing pages are a true and correct transcript
8 of my Stenotype notes as taken by me at the time
9 and place hereinbefore stated.
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13 ----------
14 Debra Kot
15 Court Reporter
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