

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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Monday, June 2, 2008

Volume 1

INQUIRY PROCEEDINGS

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1 MONDAY, JUNE 2, 2008

2 UPON COMMENCING AT 9:30 A. M.

3 THE CLERK: All rise. This Commission
4 of Inquiry is now open. You may be seated.

5 THE COMMISSIONER: Good morning. Let
6 me first welcome counsel and the members of the
7 public to this inquiry. I want to thank counsel
8 for being on time. I know how busy you all are.

9 At the standing hearing, some time
10 ago, I indicated that we would be starting at 9:30
11 instead of 9:00 o'clock. And that will give you
12 time to get to your offices in the morning if you
13 need to give instructions to your staff. It has
14 always been my practice to open court at the
15 scheduled time and I propose to follow that
16 practice during this inquiry. However, if for
17 some reason you can't, counsel can't be here on
18 time, I would be grateful if you would inform my
19 office or Commission Counsel, and I will try to
20 accommodate you, if possible.

21 This inquiry is pursuant to
22 Order-In-Council signed by the Lieutenant
23 Governor, December 5, 2007. The terms of that
24 inquiry require, and I would like to read this to
25 you:

1 "To inquire into the conduct of the
2 police investigations surrounding the
3 death of Crystal Taman on
4 February 25th, 2005.

5 To inquire into whether all aspects of
6 the prosecution of Derek Harvey-Zenk,
7 including the Crown's position on
8 sentence were conducted in accordance
9 with the professional and ethical
10 standards expected of lawyers and
11 agents of the Attorney General.

12 To inquire into whether the services
13 provided to the family of Crystal
14 Taman were sufficient, having regard
15 to the requirements of the Victims'
16 Bill of Rights.

17 And finally, to give advice on whether
18 findings on any of the above matters
19 give rise to a need for further study,
20 review or investigation, and if so, by
21 whom."

22 Let me stress at this time to the
23 parties and to members of the public that it is
24 not the function of this Commission to conduct a
25 new trial or a re-trial of what occurred before

1 Provincial Judge Wyant who heard this case. It is
2 an inquiry so we can all understand what happened.

3 It is also important to understand
4 that under paragraph 3 of the Order-In-Council
5 appointing this Commission, this Commission has no
6 authority to express any conclusion or
7 recommendation about the civil or criminal
8 liability of any person or organization. I
9 mention this at the outset of this hearing so that
10 the parties involved and the public will
11 understand the limits of this Inquiry.

12 We will hear from a number of
13 witnesses over the next few months. It is
14 expected that the Inquiry will last until the
15 middle of August, after which time I will invite
16 counsel to make submissions based on the issues
17 that I must consider and the evidence that has
18 been presented.

19 I'm then required to prepare and file
20 my report with the Attorney General on or before
21 September 30th of this year. I look forward to
22 cooperation of counsel so that we can finish on
23 time.

24 And now I will call upon Mr. Paciocco,
25 the Commission Counsel, to start the proceedings.

1 MR. PACIOCCO: Thank you,
2 Commissioner, and good morning. There are a
3 couple of initial matters which have to be
4 attended to before we can commence with the
5 opening statement and with the evidence. We have
6 subpoenaed a number of witnesses to attend the
7 proceedings and we've subpoenaed a number of them
8 to be here today, even though we don't expect most
9 of those required to be here to actually testify
10 on this date.

11 We have also made arrangements,
12 through the lawyers who are representing parties,
13 to give certain undertakings to the Commission to
14 ensure that the witnesses they represent will be
15 here when they are required by you for the purpose
16 of giving evidence. So I'm going to ask that we
17 take care of the housekeeping matters associated
18 with dealing with witnesses under subpoena. With
19 respect to unrepresented witnesses, there are
20 three individuals who we would require you,
21 Mr. Commissioner, to make orders with respect to.
22 The first of those individuals is Mr. Kenneth
23 Graham, who was subpoenaed to be here this
24 morning, Mr. --

25 THE COMMISSIONER: Mr. Graham?

1 MR. PACIOCCO: I'm going to inquire
2 into whether he showed up, whether he
3 misunderstands the subpoena, and we will hopefully
4 deal with this situation sometime later in the
5 morning.

6 THE COMMISSIONER: Thank you.

7 MR. PACIOCCO: The other two witnesses
8 are the parents of Crystal Taman, Mr. and Mrs.
9 Sveinson. They are both present. I spoke with
10 them this morning. They are, of course, entitled
11 to remain here throughout the proceedings, but we
12 don't anticipate their testimony will be required
13 until June 9, 2008. And I'm going to ask you, if
14 you would, to require each of them to return on
15 that date and be available at 9:00 o'clock a.m. on
16 June 9, or some such other date and time as may be
17 communicated to them by the Taman Commission.

18 THE COMMISSIONER: Mr. and Mrs.
19 Sveinson, good morning. You will return on
20 June 9th, at which time you will be called to give
21 evidence.

22 MR. PACIOCCO: There are a number of
23 witnesses who are represented by counsel, who are
24 counsel in these proceedings, and we have arrived
25 at a protocol with those counsel that if they

1 notify the witness of the subpoena, receive
2 information from the witness that the witness is
3 accepting service of the subpoena through their
4 lawyer and authorizes their lawyer to stand before
5 you and give the witness's undertaking to attend
6 as and when notified through their lawyer by
7 Commission Counsel, they will be here. And we've
8 saved them the inconvenience of having to come in
9 by entering into that arrangement. We are going
10 to need those lawyers to give the relevant
11 undertakings to you, Mr. Commissioner.

12 The one exception, you will notice
13 that Mr. Gene Zazelenchuk represents the Taman
14 family. I can tell you that three witnesses who
15 are not going to begin with the testimony today,
16 Ms. Tara Taman, Ms. Kristin Taman and Mr. Jordan
17 Taman, are all present, and so it would be
18 appropriate if you spoke directly to them and
19 indicated to them that they are to be in
20 attendance at that point in time that's
21 communicated to them by Mr. Zazelenchuk through
22 Commission Counsel.

23 THE COMMISSIONER: Okay.

24 Mr. Zazelenchuk, are you here?

25 MR. ZAZELENCHUK: Yes. Good morning,

1 Mr. Commissioner.

2 THE COMMISSIONER: Good morning. The
3 Taman family, Tara, Kristin and Jordan, they are
4 here?

5 MR. ZAZELENCHUK: Yes, that's correct.
6 We have, in consultation with my clients, we
7 decided that it might be of assistance to Your
8 Honour if they weren't present in the courtroom
9 until such time as they gave their evidence. It
10 may be at the end of the day you will have to make
11 a credibility finding and we simply thought it
12 would be more appropriate this way, and they
13 agreed to do that. So when their father takes the
14 stand this morning, they will vacate the courtroom
15 and they will be back when it is time for them to
16 give evidence.

17 THE COMMISSIONER: They understand, of
18 course, that they are going to be available when
19 called?

20 MR. ZAZELENCHUK: Absolutely.

21 THE COMMISSIONER: You understand that
22 you will be available when called? Thank you very
23 much.

24 MR. PACIOCCO: As you are aware,
25 Mr. Commissioner, Mr. Glenn McFetridge represents

1 the Province of Manitoba. There are three
2 witnesses who we will be requiring from the
3 province. Those are Ms. Suzanne Gervais, Ms.
4 Lesley McCorrister and Ms. Monica Dyck, all of
5 whom have been subpoenaed today. If you can
6 secure Mr. McFetridge's undertakings with respect
7 to the attendances of those witnesses?

8 THE COMMISSIONER: Mr. McFetridge is
9 on his feet and smiling, and he is going to
10 undertake.

11 MR. McFETRIDGE: Yes, we give that
12 undertaking. I understand that Ms. Jackie St.
13 Hill was under subpoena as well, and she will be
14 required in the first stage as well.

15 THE COMMISSIONER: Thank you.

16 MR. PACIOCCO: Finally, Bernice Bowley
17 is here on behalf of the Rural Municipality of
18 East St. Paul, there is one witness from the
19 municipality who we will be hearing from in this
20 phase of the Inquiry, and that will be Glenda
21 Pedersen, and I'm sure that Ms. Bowley will give
22 you the --

23 MS. BOWLEY: Yes, Your Honour, do you
24 want me to come to the podium?

25 THE COMMISSIONER: It is up to you.

1 MS. BOWLEY: Yes. Constable Pedersen
2 has been given the subpoena. She has indicated
3 she will be attending Tuesday, June 10th, and you
4 have my undertaking that that will occur.

5 THE COMMISSIONER: Thank you.

6 MR. PACIOCCO: The next matter of
7 business, Mr. Commissioner, has to do with the
8 customary order for the exclusion of witnesses
9 during the testimony of other witnesses. As you
10 are aware, there are quite a number of parties to
11 these proceedings and some of those lawyers
12 represent individuals who have standing in their
13 own right. Those individuals include the Taman
14 family, they include Mr. Derek Harvey-Zenk, they
15 include Harry Bakema, and they include Mr. Martin
16 Minuk.

17 It would be Commission Counsel's
18 position that all of these individuals are
19 automatically exempt from an order excluding
20 witnesses and you make an order excluding
21 witnesses who are not parties personally
22 represented at these proceedings. Before I ask
23 you to make that order, I'm going to ask that you
24 exempt from that order Mr. and Mrs. Sveinson, the
25 parents of Crystal Taman. They could have applied

1 for standing at these proceedings and have chose
2 not to. These proceedings were called not only to
3 plumb the justice issues, but also to give the
4 family of Crystal Taman an opportunity to learn
5 about matters. I think it is tremendously
6 important that they be here throughout, so I'm
7 going to ask that the order exempt Victoria and
8 Sveinn Sveinson.

9 Finally, Ms. Suzanne Gervais is the
10 acting director of Victims' Services here in
11 Manitoba. She will be called as a witness, not to
12 give firsthand information about what happened
13 during the prosecution of this case, but rather to
14 give background information on the operation of
15 Victims' Services. She has general expertise and
16 experience that will not only be of value to the
17 Commission, but will be of value to her to be in
18 attendance if she chooses to listen to the
19 practical day-to-day operation of her branch as it
20 affected this particular family. I'm going to ask
21 if you are prepared to make an order to exclude
22 witnesses, that it exclude Suzanne Gervais. To
23 recap, all of the parties should be allowed to
24 stay that are represented, Victoria and Sveinn
25 Sveinson should be allowed to stay and Suzanne

1 Gervais should be allowed to remain in attendance.

2 THE COMMISSIONER: Any counsel taking
3 objection to request for exclusion of witnesses?

4 All right. An order will go in accordance with
5 your request.

6 MR. PACIOCCO: Mr. Commissioner,
7 before I begin the opening statement and we begin
8 to call witnesses to provide evidence, there are a
9 number of items of evidence that should be filed
10 at the commencement of these proceedings. We
11 already have one exhibit filed and that's the
12 hearings on standings and preliminary matters
13 document from February 4, 2008. The first
14 document that I wish to present as evidence in the
15 substantive part of the Taman Commission hearings
16 is a photograph of Ms. Crystal Taman. That
17 photograph has been provided to counsel. I have
18 furnished the Commission Clerk with copies of the
19 photograph and I would ask that that photograph be
20 marked as exhibit 2 in these proceedings.

21 THE CLERK: Exhibit 2.

22 THE COMMISSIONER: Any objection?

23 (EXHIBIT 2: Photograph of Crystal
24 Taman)

25 MR. PACIOCCO: For purposes of keeping

1 the record tidy, the third exhibit should be the
2 Order-In-Council that you read to the members
3 present today and to the public, which is found in
4 volume A at tab 1. That should be exhibit number
5 3.

6 THE COMMISSIONER: Thank you.

7 THE CLERK: Exhibit number 3.

8 (EXHIBIT 3: Order-In-Council)

9 MR. PACIOCCO: Exhibit number 4 that I
10 propose to file at this time as evidence in the
11 proceeding will have two parts. It is exhibit
12 G39A and G39B, which I hope to have marked as
13 exhibit 4A and 4B. Exhibit 39A is the information
14 setting out the charges that Mr. Derek Harvey-Zenk
15 faced as a result of the collision that took the
16 life of Crystal Taman. Exhibit 39B is the court
17 documents tracing the case through the court's
18 information, and gives a synopsis of the dates of
19 attendance and the other official documentation
20 relating to the disposition of this matter.

21 THE CLERK: Exhibits 4A and B entered.

22

23 (EXHIBIT 4-A: Information in
24 Prosecutorial File charging Derek
25 Harvey-Zenk)

1 (EXHIBIT 4-B: Endorsed information
2 and Court file (information charging
3 Derek Harvey-Zenk)
4 MR. PACIOCCO: Exhibit number 5 would
5 be the promise to appear that was issued to
6 Mr. Derek Harvey-Zenk on the 25th of February,
7 2005. That document is found in book E-1. It
8 will be located at tab E-1.23J, and for those that
9 prefer to use page numbers, it is page 454 of the
10 Taman Commission materials. Tab E-1.23J at page
11 454, that's the promise to appear of Mr. Derek
12 Harvey-Zenk and I would ask that be made exhibit
13 5.

14 THE CLERK: Exhibit 5 entered.

15 (EXHIBIT 5: Promise to appear (Derek
16 Harvey-Zenk)

17 THE COMMISSIONER: Thank you.

18 MR. PACIOCCO: Exhibit number 6 was
19 found in book J at tab J-60, this is a transcript
20 of the proceedings of the 16th of July, 2007,
21 before the Honourable Judge Stewart.

22 THE CLERK: Exhibit number 6.

23 (EXHIBIT 6: July 16, 2007 transcript
24 of proceedings, before Honourable
25 Judge Stewart)

1 MR. PACIOCCO: Exhibit number 7 would
2 be found at tab J-61, it is the transcript of the
3 next appearance, that being on 17th day of July,
4 2007, before the Honourable Chief Judge Wyant.

5 THE CLERK: Exhibit number 7.

6 (EXHIBIT 7: July 17, 2007 transcript
7 of proceedings, before Honourable
8 Chief Judge Wyant)

9 MR. PACIOCCO: Exhibit number 8 would
10 be found at tab J-62, it is the transcript of the
11 appearance before the Honourable Chief Judge Wyant
12 on the 22nd of August, 2007.

13 THE CLERK: Exhibit number 8.

14 (EXHIBIT 8: Transcript of sentencing
15 submission before Honourable Chief
16 Judge Wyant August 22, 2007)

17 MR. PACIOCCO: Exhibit number 9 is
18 found at tab J-63, it is again a transcript of the
19 proceedings before the Honourable Chief Judge
20 Wyant, this time on the 12th of September, 2007.

21 THE CLERK: Exhibit 9.

22 (EXHIBIT 9: Transcript of proceedings
23 before the Honourable Chief Judge
24 Wyant, 12th of September, 2007)

25 MR. PACIOCCO: The final exhibit that

1 I will be filing before the commencement of the
2 opening statement is found at tab J-64. Exhibit
3 number 10 will be the decision rendered by the
4 Honourable Chief Judge Wyant on October 29th,
5 2007.

6 THE CLERK: Exhibit number 10.

7 (EXHIBIT 10: Transcript of sentencing
8 decision October 29th, 2007)

9 MR. PACIOCCO: If it would please the
10 Commissioner, I'm prepared to begin the opening
11 statement.

12 THE COMMISSIONER: All right.

13 MR. PACIOCCO: As a judge of many
14 years experience, you will have noticed that I
15 have taken the very unorthodox approach of filing
16 as the first exhibit in these proceedings, these
17 evidentiary proceedings, a photograph of Crystal
18 Taman. You are aware, of course, that that
19 doesn't happen in criminal prosecutions. That
20 decision was taken by Commission Counsel after
21 much reflection. And it was taken because of the
22 importance that has to be given to putting a face
23 to these proceedings. In our view, that had to be
24 the first order of business.

25 We are certainly aware that as a

1 Commissioner conducting a legal proceeding, you
2 have to make your decision dispassionately based
3 on the evidence as a matter of reason and as a
4 matter of law. Still, one thing is undeniable.
5 We in the legal system can become so focused on
6 the sufficiency of evidence on the technical legal
7 questions, on protecting the liberty of the
8 accused, that it is very easy to forget that
9 crimes affect real people.

10 Much of the concern, indeed it is not
11 hyperbole to use "outrage" over these proceedings
12 are in the minds of some, because of the sense
13 that Crystal Taman was left out. You will hear
14 that much of the grievance of her parents, the
15 Sveinsons, arose because of the decision to
16 exclude the photograph of Crystal Taman from the
17 Victims' Impact Statements that were filed before
18 the court. Mr. Taman was quoted in one of his
19 interviews with the press as saying, "all we are
20 dealing with now is section such and such." The
21 children lamented that no one involved knew their
22 mother. That's true. We did not have the
23 privilege of knowing Crystal Taman. Had we, of
24 course, we would be disqualified from
25 participating in these proceedings.

1 But as we go through this process, we
2 should remember that this Commission, while it is
3 about the investigation, prosecution and
4 compliance with the Victims' Bill of Rights, was
5 inspired by a tremendous loss. It was inspired by
6 the obscene loss of Crystal Taman at 40 years of
7 age, as a result of what everyone involved now
8 agrees was a crime. The evidence that you are
9 going to hear is going to show that Crystal Taman
10 is no longer with us because, while waiting at a
11 stop light, proceeding to work as she did every
12 day in her tiny pet car, a yellow convertible, the
13 colour of a movable caution light, she was rammed
14 from behind by a pick-up truck that didn't even
15 flinch or slow, that truck that had traveled
16 hundreds of metres past caution lights, towards
17 tail lights and red lights on a clear day, and
18 slowed only after expending its full force into
19 the back of the vehicle and snuffing out the life
20 of Crystal Taman.

21 We all feel the impacts of crimes like
22 this in a small way because there but for the
23 grace of God go any of us. This isn't the kind of
24 crime that occurs when someone who may be
25 pugnacious gets into a fight and gets hurt. It is

1 not the kind of crime that someone gets hurt when
2 he entered into a bad drug deal. This is a
3 citizen who, on a sunny morning, was doing what
4 she always did and what she had to do.

5 We all feel the impact in small ways,
6 but the family and friends of Crystal Taman feel
7 the impact in such colossal ways that words are
8 not going to capture their feelings. This was a
9 woman who was well loved and worthy. She was
10 clearly the glue that kept this family together.
11 And one of the things that struck through, as I
12 was reading one of the many testimonials to
13 Crystal Taman, was she was the best friend to her
14 husband, she was the best friend to her sister,
15 she was the best friend to each of her children.
16 It says something remarkable about an individual
17 that other persons in their life all feel that
18 they are the most important person in that
19 person's life. And she was certainly, in the eyes
20 of her parents, a jewel.

21 If we are going to evaluate properly
22 these events, we need to have a context and a
23 concrete appreciation of what was at stake in this
24 investigation and in this prosecution. What was
25 at stake was the loss of this woman, and what was

1 at stake was a quest by her family and friends and
2 by the whole community for justice. This Inquiry
3 is about whether they got justice according to
4 law.

5 It is no secret that the family of
6 Crystal Taman believed they did not. They are
7 deeply aggrieved over their experiences with the
8 criminal justice system. Now the Tamans and the
9 Sveinsons are not the only crime victims who have
10 ever felt distressed, neglected or disrespected by
11 the criminal justice system. Justice Wood, then a
12 member of the B.C. Court of Appeal, commented in a
13 case called the Crown and Sweeny, which was also a
14 driving fatality prosecution of a young man, and
15 he commented on:

16 "The reality is that the criminal
17 justice system was never designed or
18 intended to heal the suffering of the
19 victims of crime."

20 The reality that the criminal justice system was
21 never designed or intended to heal the suffering
22 of the victims of crime. If you stop and think
23 about our system, that certainly rings true. If
24 our system was designed to heal the suffering of
25 victims of crime, we wouldn't require proof beyond

1 a reasonable doubt. We wouldn't err on the side
2 of the liberty of the accused. We would make sure
3 we arrived at dispositions that appeased the
4 victims. We wouldn't have the Crown that's
5 responsible, who was acting as a Minister of
6 Justice, and who has to take into account fairness
7 not only to the victims in the community but also
8 fairness to the accused. We wouldn't be motivated
9 by the principles of restraint in sentencing that
10 support the use of a conditional sentence in our
11 legal regime which was ultimately applied in this
12 case.

13 I guess the point is, at the best of
14 times, the system can always and often does leave
15 victims dissatisfied. And the reasons for that
16 can arguably be vigorously defended. But this
17 case as it has been portrayed in the press and the
18 theatre of public opinion, does not reflect the
19 best of times. The public perception and the
20 perception of the family is that this is one of
21 the examples of the worst that the criminal
22 justice system can offer. That perception is
23 predicated on a sense that there was a botched
24 investigation. And to make matters worse, that
25 perception was fed by the fact that this involved

1 an investigation of a police officer, by other
2 police officers.

3 It is by no means a scientific poll,
4 and it was certainly self-selecting as to who
5 would respond, but 90 per cent of the respondents
6 to a Winnipeg Sun poll believed that the
7 investigation was botched on purpose. The public
8 cynicism that leads to that kind of result was fed
9 no doubt by the resignation of the first two
10 officers on the scene on the day that Crystal
11 Taman was killed. The evidence is going to show
12 that the reason why Constable Graham resigned was
13 not this investigation, and that it certainly was
14 not the sole or primary reason for the resignation
15 of Chief Bakema. But certainly those high profile
16 resignations fed the public suspicion.

17 There is public suspicion in some
18 quarters about the Winnipeg police officers who
19 were with Mr. Harvey-Zenk in the hours leading up
20 to this fatal accident. There is a perception
21 that there may be some selective memory about what
22 they recall with respect to Mr. Harvey-Zenk's
23 condition and the alcohol that he had consumed.

24 There is a public perception by some
25 that the prosecution was done in a half-hearted

1 way, by a defence lawyer acting as a prosecutor
2 who hid facts instead of revealed them.

3 There is a public perception that the
4 sentence was inadequate and disproportionate. A
5 Winnipeg Free Press article screams out, "This
6 case has become a cause celebre in large part
7 because Derek Harvey-Zenk did not face any
8 alcohol-related charges and the heavy prison time
9 that would have accompanied them." He received a
10 conditional sentence, which some members of the
11 public have not accepted as a legitimate
12 sentencing tool and one that is no longer
13 available for the particular offence with which
14 Mr. Harvey-Zenk was convicted.

15 And then there were the comments by
16 the presiding judge. The displeasure of the
17 presiding judge was clearly projected, in fact, it
18 was expressed. Now, those comments, depending
19 upon where you sit, either exposed real grounds
20 for public concern or served to inflame public
21 passions unfairly. It is far too soon to judge
22 which of those views is correct. One thing is
23 clear, when the Honourable Chief Judge Wyant said
24 that this case created "a near perfect storm for
25 cynicism," he was absolutely right. It also

1 created a perfect storm of grief for families
2 trying to heal.

3 As lawyers we are trained to avoid
4 reacting to public outcry, and to be cautious of
5 calls by victims for retributive justice. We are
6 concerned that those positions can be based on an
7 absence of information or inflamed by passion or
8 emotion. And for sure our function as lawyers
9 working at the Commission is not to jump to the
10 conclusion that those public perceptions are right
11 or that those emotions are fitting and
12 appropriate. We are here to determine on the
13 evidence what happened and we are to get the facts
14 out.

15 By the same token, we can not write
16 off or discount or minimize those perceptions,
17 because this Commission of Inquiry is about public
18 confidence. When Justice Minister Chomiak
19 explained his decision to direct an investigation
20 of the East St. Paul police force, he talked about
21 the desire to restore public confidence. And
22 there is no question that the same general
23 function is expected of us working on this
24 Commission, and that's a very tall order. If the
25 public perceptions prove to be true, there is a

1 risk it could have the opposite effect. It would
2 mean that deep problems in the administration of
3 justice have been exposed. And if the evidence
4 takes us there, we must have the courage to follow
5 it and act appropriately.

6 It also remains possible that the
7 evidence will provide explanations and move away
8 from misperceptions about what took place. And if
9 the evidence takes us there, again, we have to
10 have the courage to arrive at that conclusion,
11 even if it is disappointing to some who care
12 deeply about what happened. And ultimately your
13 determination could inspire change in the system.

14 For all of those reasons, this is a
15 tremendously important Commission. And there are
16 those who might discount its importance as a
17 political gesture. But when you reflect on it,
18 the calling of this Commission was a tremendously
19 courageous act. Because you, Mr. Commissioner,
20 have been invited into the back rooms and board
21 rooms of the administration of justice, and you've
22 been empowered to pass formal and public judgment
23 on what you find. It won't be pointless because
24 we will work together performing our roles to get
25 at the truth.

1 And you have outlined your mandate
2 this morning and the tasks that have been assigned
3 to you. And you have affirmed that this is not a
4 prosecution. And I think it is important for the
5 public to understand that your lack of mandate to
6 draw conclusions whether there have been criminal
7 violations or whether individuals should be held
8 civilly accountable is put in there -- was a trade
9 off. When courts are asked to decide on the guilt
10 or liability of individuals, we impose tremendous
11 safeguards to protect those individuals and those
12 safeguards can hamper the ability of courts to get
13 at the truth. We give accused individuals
14 tremendous rights. We give everyone liberty as to
15 whether they are going to cooperate or not until
16 they are actually subpoenaed. But this Commission
17 has been empowered to compel individuals to come
18 forward before the hearings to tell their story.

19 You have also been given a mandate
20 that allows you not to be hamstrung by the
21 technical rules of evidence. This is a process
22 that is designed to get at the truth. And as part
23 of the trade-off, we are not empowered to make
24 decisions that individuals have been guilty of
25 criminal conduct or should be held civilly liable

1 because we don't give them the protections that
2 the law otherwise affords them.

3 And most of the witnesses who will be
4 testifying before you have already been
5 interviewed under oath by Commission Counsel.
6 Mr. Clifford was here almost all winter, a boy
7 from Cape Breton has survived the whipping winter
8 winds of Portage and Main, and we will all be
9 better off for it. We have amassed thousands of
10 pages of material and we have gone where we have
11 to, to go get relevant information, and I'm proud
12 to say we are ready in record time.

13 The hearings are going to be conducted
14 in two parts. Today we are going to begin with
15 the victims' phase, focusing on the third leg of
16 your mandate to inquire whether the services
17 provided to the family of Crystal Taman were
18 sufficient, having regard to the requirements of
19 the Victims' Bill of Rights. That will preoccupy
20 us for about the five days of the June sittings
21 over the next two weeks. Only then will we
22 commence on July 2nd to get to the investigation
23 and prosecution, and we will sit for some seven
24 straight weeks to accomplish that.

25 And after tremendous reflection we

1 have chosen to proceed in this way for two
2 reasons. First, before we get into the quality
3 and competence of the investigation and
4 prosecution, the public and the Commission must,
5 in my view, see the human toll that the criminal
6 justice system can extract. We want to put the
7 faces and voices of the victims in the public eye
8 and more important, put them in our eyes so we
9 truly understand from the outset what is at stake.

10 The second reason is the stress that
11 the delay can impose on individuals. The Tamans
12 and the Sveinsons have fretted and dreaded this
13 for many, many months. They have been carrying
14 this tragedy with them for more than three years.
15 We want to get them on so they can breathe, sit
16 back and hear the details as the evidence unfolds.

17 Of course, it is very, very important
18 for us to remember while there may be little
19 public sympathy at this point for Mr. Derek
20 Harvey-Zenk and while there has been trenching
21 criticism of Mr. Minuk and of the investigators
22 involved, they too are caught up in this process.
23 It must be exquisite agony for them to sit back
24 and anticipate being challenged and questioned
25 publicly, and it will be many weeks before some of

1 them get a chance to tell their story.

2 Now I know with absolute certainty you
3 will keep an open mind until you hear all of the
4 evidence. It can only be hoped that the public
5 that will be watching and the press will keep an
6 open mind until the full story is told.

7 We are going to be proceeding in this
8 way: We are going to call Robert Taman today, the
9 husband of Crystal Taman. He is going to give us
10 vivid colour to what victims experience in the
11 justice process. We lawyers often become so
12 acculturated to that, we often treat our files as
13 cases rather than human catastrophes and crisis.
14 It is something that we won't make again after
15 hearing from this witness.

16 Time permitting, we will call Tara
17 Taman. She will be testifying twice. She will be
18 testifying as to the observations in the
19 collision, and she will be testifying today about
20 her experiences in the justice system. Probably
21 tomorrow we will be hearing from her sister
22 Kristin and her brother Jordan, both good
23 citizens, likable adults, who lost their mother
24 and were thrown into the maw of the justice
25 system. The plan is to call Crystal Taman's

1 parents, Sveinn Sveinsson and Victoria Sveinsson
2 Monday, June 9. If we get to them earlier,
3 better. You will find them spirited and vocal
4 advocates for what they perceive as justice. It
5 is important that they be heard from. They have a
6 tremendous amount to say.

7 June 10th we will be hearing from
8 Glenda Pedersen from the East St. Paul Police.
9 She was assigned the role of the victim liaison
10 officer on the day of the accident, and we will
11 hear her account of what transpired. We will be
12 hearing briefly from Ms. Pedersen during the
13 investigation, as she helped to process Mr. Derek
14 Harvey-Zenk on the morning and early afternoon of
15 his arrest.

16 That same day, June 10, we plan to
17 hear from a career Manitoba prosecutor, Ms. Jackie
18 St. Hill. She has broad, extensive expertise in
19 the Victims Bill. She can take us through its
20 technical requirements and show us how it operated
21 in the rough and tumble real world of
22 prosecutions.

23 Suzanne Gervais, who I introduced
24 earlier, is the acting director of Victims
25 Services in Manitoba, and she can explain how the

1 Victims' Bill of Rights was created with the
2 statutes conveying the Victims' Bill of Rights
3 into this province and some of the functional
4 practicalities of implementing things, so as you
5 have that background as to the precise bill and
6 practical implications of it.

7 We will be calling on June 11, the two
8 crime victim service workers who dealt with the
9 Tamans and Sveinsons, Ms. Lesley McCorrister and
10 Ms. Monica Dyck.

11 The one very important witness you
12 will not hear from in the victims phase, who has
13 much to say in this regard, is Mr. Minuk. We are
14 not calling him because his testimony is so
15 intertwined with the prosecution that it would
16 have been impossible to really sever it off. You
17 should be aware from the outset that we expect to
18 hear deep criticism of the work that Mr. Minuk did
19 from some of the witnesses who will be called in
20 this phase. And Mr. Minuk is in the unenviable
21 position of having to wait almost two months
22 before he has an opportunity to respond. He
23 certainly denies some of what is going to be
24 testified to, and certainly believes he can
25 explain the rest, and we will all keep an open

1 mind as to whether that's so. It would be unfair
2 to pillory him without hearing from him. He won't
3 have the opportunity through his lawyer to make
4 submissions, because the submissions on the
5 Victims material logistically are going to have to
6 wait until the end of the proceeding.

7 There are two more orders of business
8 before I call the first witness. The first is I
9 want to alert you to the issues that I think will
10 arise during phase I in the Victims hearing. The
11 second is I need to provide you with a background
12 narrative of events so that you can understand and
13 situate the testimony that you are going to hear
14 from the victims, in particular about the court
15 appearances and what transpired on each of those
16 days.

17 First with respect to key issues, I
18 see there as being six. I suspect there will be
19 more by the time we are done. The first is that
20 the definition of victim in the Manitoba Victims'
21 Bill of Rights did not include Crystal Taman's
22 parents. Your specific mandate with the Victims'
23 Bill of Rights is to ask whether it was complied
24 with in this case. We don't have to hear any
25 evidence to make that decision with respect to the

1 Sveinsons, because no one was under any legal
2 obligation to provide them with anything. And I'm
3 going to ask you to listen intently to their
4 evidence and the evidence of the other witnesses
5 that I call, and ultimately turn your mind to
6 whether this is something that requires further
7 study.

8 The second issue is more general. It
9 has to do with the fact that the Victims' Bill of
10 Rights is premised on the notion that all victims
11 will be treated with courtesy, compassion and
12 respect. Now you will ultimately be asked to
13 consider whether that happened here.

14 And third, the Victims' Bill of Rights
15 imposes informational obligations on the law
16 enforcement agency, in this case the East St. Paul
17 Police. They are obliged, for example, to explain
18 the rights and remedies under the Act, and they
19 are obliged on request, subject to important
20 exceptions, to furnish information about the
21 investigation. You will be asked to consider
22 whether those obligations were met in this case.

23 Fourthly, the Victims' Bill of Rights
24 imposes obligations on the prosecution service.
25 Those obligations are to provide information about

1 the court process and the role of victims and the
2 role of the prosecutor; background information
3 about the possibility of resolution discussions,
4 and the explanation about the sentencing and plea
5 process, how to obtain dates and times, and the
6 obligation to keep individuals informed of
7 important dates. You are going to be asked to
8 determine whether those obligations were
9 fulfilled.

10 The fifth issue has to do with the
11 sections of the Victims' Bill of Rights that
12 require prosecutors to "consult" with victims
13 about staying charges and about resolution
14 discussions. You will hear evidence about whether
15 that term consult accurately describes what really
16 happens, and you will hear evidence relating to
17 the question of whether true consultation is even
18 possible. You will be asked to consider whether
19 it was done here, and you may be asked to consider
20 whether further attention needs to be given to the
21 way that obligation is articulated.

22 Sixth, you will hear evidence about
23 the editing of victim impact statements. This is
24 certainly of great concern to the Sveinsons. They
25 were prohibited from providing photos of Crystal

1 Taman with their impact statement, and a number of
2 things that were important to them were removed in
3 accordance with guidelines provided by the
4 Province of Manitoba. You will be asked to look
5 at those guidelines and determine whether they are
6 in fact consistent with the Criminal Code's
7 requirements, whether there is room for
8 modification. And this is a complicated issue
9 because the content of victim impact statements is
10 a Federal matter. And we may have to consider
11 what role, if any, you can play, whether you are
12 prepared to play or whether you should play a role
13 in making recommendations relating to what should
14 go in victim impact statements. So as you hear
15 the evidence during this phase I would ask you to
16 keep those issues in mind and, of course, any
17 others that will occur to you in your experience.

18 As the last order of business with
19 respect to the opening statement, I have to give
20 you a bit of a narrative so that the evidence of
21 the witnesses can be properly situated in a
22 context that will keep it clear both for you and
23 for the public.

24 As you are aware, this crime occurred
25 on the 25th of February, 2005, shortly after 7:00

1 o'clock in the morning. You are going to be
2 hearing evidence of how Kristin and Tara Taman
3 ended up at that scene while their mother was
4 still trapped in the car, and how their father,
5 Robert Taman, was summoned to the scene. You are
6 going to hear testimony about the next few heart
7 stopping hours of anxiety and anguish, and
8 evidence about what the authorities did to assist
9 them. And you will be asked to be the judge of
10 whether or not it was appropriate, whether it was
11 enough. You are going to hear testimony about the
12 Sveinsons, Crystal's parents, how they were
13 thousand miles away on Vancouver Island and were
14 awakened from their sleep by the worst call that
15 any parent could imagine. And you are going to
16 hear about their odyssey to get home and see their
17 daughter.

18 The evidence is going to show that on
19 the morning that Mr. Harvey-Zenk was being
20 processed at the East St. Paul Police station,
21 Mr. Martin Minuk was appointed independent
22 prosecutor, consistent with the policy of Manitoba
23 Justice for the prosecution of police officers.
24 And there is an irony in this; it was done
25 certainly to prevent the apprehension of bias,

1 given that line prosecutors work closely with
2 police officers on a regular basis. Getting
3 someone outside the prosecution service was
4 considered to be a way to try and insulate
5 concerns about apprehension of bias.

6 You will be hearing evidence
7 ultimately, and certainly from these witnesses,
8 relating to conflict of interest that's perceived
9 by some of them, and by some who write for the
10 press. During the course of the trial there was
11 extensive press coverage critical of Mr. Minuk's
12 impartiality, based upon the fact that at some
13 point in the past he represented police officers
14 and he had acted as defence counsel for an accused
15 person tried with other accused persons who were
16 represented by Mr. Wolson in a recent manslaughter
17 case. You are going to hear evidence from the
18 Sveinsons about how this information impacted on
19 them and about their efforts to have Mr. Minuk
20 taken off the case before justice had failed in
21 their view. You will also hear evidence that on
22 November 5th, 2007, the Law Society of Manitoba
23 rejected a complaint made by them that Mr. Minuk
24 had acted unprofessionally, finding that his
25 conduct was not unbecoming a lawyer and was not

1 professional misconduct or incompetence, but it is
2 an issue that you will have to address.

3 Returning to the events of
4 February 25th, 2005, within a few hours of the
5 arrest, Mr. Harvey-Zenk was processed and released
6 on a promise to appear from the East St. Paul
7 Police station. I have forwarded that to you in
8 the form of an exhibit this morning. It is not
9 contentious that it contains no conditions, there
10 were not driving prohibitions or alcohol
11 abstention provisions, it was simply a promise to
12 appear.

13 You will hear of the early efforts of
14 the family to get information about the case and
15 why it was so important to them. On March 2nd,
16 you will hear evidence that charges were announced
17 publicly. Those charges were laid and, of course,
18 are cataloged in the information that you find at
19 exhibit 4(a). The four charges include, count
20 one; that on the 25th day of February, 2005,
21 Mr. Derek Harvey-Zenk did, without reasonable
22 excuse, refuse to comply with a demand made by
23 Norman D. Carter, a peace officer, to provide then
24 or as soon thereafter practicable samples of his
25 breath as in the opinion of a qualify technician

1 were necessary to enable a proper analysis to be
2 made in order to determine the concentration, if
3 any, of alcohol in his blood. You will recognize
4 that as a refusing to provide a sample charge.

5 Count number 2 alleged that Mr. Derek
6 Harvey-Zenk operated a motor vehicle while
7 impaired by alcohol causing the death of Crystal
8 Taman contrary to Section 255(3) of the Criminal
9 Code of Canada.

10 Count 3 alleged that Mr. Harvey-Zenk
11 operated that motor vehicle in a manner that was
12 dangerous to the public and thereby caused the
13 death of Crystal Taman contrary to Section 249(4)
14 of the Criminal Code.

15 And count 4 alleged that Mr. Derek
16 Harvey-Zenk did by criminal negligence operate a
17 motor vehicle with reckless disregard, did cause
18 the death of Crystal Taman contrary to 220(b) of
19 the Criminal Code.

20 You will see that shortly after he was
21 charged, the victim services process kicked in.
22 His first appearance, you will note from the
23 exhibit that is found at G39, exhibit 4(b),
24 listing his first appearance was to be on
25 March 30th, 2005 and it was a typical remand. If

1 you take a look at page 1367 of book G at tab 39B,
2 page 1367, you will see the list of appearances
3 and you will see that there are three more remands
4 before the date of a Preliminary Inquiry was set,
5 and that was set to take place on June 5th to the
6 16th, 2006. Even that date, the first date for
7 the Preliminary Inquiry was some 15 months plus
8 after the crime.

9 You are going to hear evidence that
10 not much happened, certainly in the view of the
11 victims, until May 30th, 2006, less than a week
12 before the preliminary was to commence. The dates
13 for that preliminary were cancelled. You are
14 going to hear evidence that this happened because
15 Chief Carter of the East St. Paul Police, at that
16 time appointed chief after the resignation of
17 former Chief Bakema, notified Mr. Minuk some days
18 earlier that he had received information about the
19 investigation. It is far too soon to conclude
20 that what Chief Carter reported was true because
21 only by testing the evidence will you be in a
22 position to make that decision. But the evidence
23 will show what Chief Carter told Mr. Minuk. Chief
24 Carter told Mr. Minuk that he had received
25 allegations from Constable Woychuk, the rookie

1 police officer who brought Mr. Harvey-Zenk to the
2 station on February 25th, 2005, that he, Constable
3 Woychuk, had been told by Chief Bakema that
4 Mr. Harvey-Zenk was "pissed". And you will hear
5 that Chief Carter told Mr. Minuk that Mr. Woychuk
6 told him, Chief Carter, that former Chief Bakema
7 told him how to write his notes in a way that
8 would minimize the reference to alcohol.

9 Now, these allegations are heartily
10 disputed by Mr. Bakema. But you will hear
11 evidence that the making of those allegations
12 caused the adjournment of this case so that an
13 investigation could be conducted into the claims
14 made by Chief Carter.

15 You will also hear evidence,
16 Mr. Commissioner, about how that adjournment was
17 explained to the family members and there will be
18 an issue as to whether it was explained fully and
19 fairly.

20 After the initial dates were
21 abandoned, the matter was remanded five more times
22 until new dates for the Preliminary Inquiry were
23 finally set. They would be set a whole year
24 later, July 16, 2007 through to July 20th, 2007,
25 for the preliminary hearing, scheduled some two

1 years, five months after the crime. And you will
2 hear testimony from the Taman family and from the
3 Sveinsons as to how that delay weighed on them in
4 their search for what they considered to be
5 justice and closure.

6 On July 16, 2007, the Preliminary
7 Inquiry did not commence, as the transcript at
8 J-60, 1608 shows, instead the parties appeared
9 before Judge Stewart and the matter was adjourned
10 until the next day. We expect to hear evidence
11 that this happened because Mr. Minuk and counsel
12 for Mr. Harvey-Zenk, Mr. Richard Wolson, had
13 resolved the matter, and they had spoken to Chief
14 Judge Wyant in chambers and he had agreed to
15 preside over the guilty plea that was going to be
16 coming from Mr. Derek Harvey-Zenk.

17 That plea, you are going to hear
18 evidence, occurred on July 17. You have the
19 transcript of that proceeding before you.
20 Mr. Derek Harvey-Zenk plead guilty to the charge
21 of dangerous driving causing death, contrary to
22 section 249(4) of the Criminal Code, and the other
23 charges against him were stayed. You will hear
24 important testimony initially from the victims and
25 ultimately from Mr. Minuk as to the conversations

1 that were had with the family concerning the
2 decision to stay and the plea, and what they were
3 told about the sentencing arrangements. And you
4 will be asked to judge whether those conversations
5 comply with the requirements of the Victims' bill.

6 As you can see from the schedule of
7 court appearances, this time at page 135, or 1365
8 rather, exhibit G-39(b), page 1365, the sentencing
9 hearing was conducted on August 22nd, 2007. You
10 will hear evidence from the victims about what
11 they expected to transpire that day and how they
12 reacted to what they heard. And again you will be
13 asked to determine whether the information they
14 possessed was satisfactory, given the requirements
15 of the Victims' bill.

16 Now much of the grievance that you are
17 going to be introduced to by the five witnesses
18 has to do with the perceived absence of
19 information. To understand their testimony it is
20 important that you understand what was disclosed
21 during the sentencing hearing. Now you, of
22 course, will not be in a position to judge whether
23 the information was adequate until you learn what
24 information Mr. Minuk had. But you should observe
25 what was said. And the discussion goes on for

1 some pages, and I certainly don't propose to read
2 those pages to you now, but you will find them in
3 this volume J, tab 62, at page 1623, line 2,
4 through to page 1626 line 5.

5 There are two gaps that seem to be of
6 concern. The first has to do with the gap
7 relating to alcohol consumption. Now Mr. Minuk
8 certainly advised the judge of the activities of
9 Mr. Harvey-Zenk the evening before. He did so in
10 fairly brief compass, describing how
11 Mr. Harvey-Zenk had, after his shift, joined other
12 members of the Winnipeg Police Service at a bar
13 for food and drink, and at some point during
14 closing time he departed with others to go to the
15 home of a work mate. Mr. Minuk reports at page
16 1623 of that transcript, beginning at line 15:

17 "No one recalled much of his
18 activities that evening, and expressed
19 opinions that he likely would have had
20 some alcohol but what and how much
21 they did not know, and at no time did
22 he appear to be affected by alcohol
23 that evening."

24 And then this important passage which
25 you will find at page 1625, line 34, page 1625

1 line 34, on to page 1626, Mr. Minuk advised the
2 judge,

3 "Through the investigation anecdotal
4 historical evidence of alcohol
5 consumption by the accused, sometime
6 prior to the collision was
7 identified."

8 Now that phrase "anecdotal historical
9 alcohol consumption" became an issue ultimately
10 for Chief Judge Wyant. The quote continues.

11 "The investigation, however, did not
12 permit conclusions to be drawn from
13 this history. Proof of impairment, by
14 reason of the investigation, would be
15 difficult at best."

16 The second gap in information
17 perceived by some had to do with the explanation
18 for the accident. Mr. Minuk recounts that a lay
19 witness saw the accident, and estimated Mr.
20 Harvey-Zenk to be traveling at the speed limit on
21 that road at the time of the collision. Mr. Minuk
22 set out the physical scene, including the distance
23 of warning lights and the operation of traffic
24 lights. He recounted the findings of a RCMP
25 traffic reconstructionist, that there was no

1 evidence of braking but that no speed estimate was
2 possible. There was some suggestion made in some
3 of the submissions that perhaps Mr. Harvey-Zenk
4 had fallen asleep.

5 Now Chief Judge Wyant pursued this and
6 he asked whether that was the position. But Mr.
7 Wolson said at page 1678 of tab J-62,

8 "I think quite frankly that may well
9 have happened but I don't know that
10 and Derek doesn't know that because of
11 a head trauma that he suffered."

12 There was no medical evidence offered of a head
13 trauma and this representation was not questioned
14 by Mr. Minuk. He will ultimately offer his
15 explanation for that, but it was an issue
16 certainly for the family.

17 Mr. Minuk summarized the case the
18 judge was left with in this way, 1627 line 11 to
19 1:

20 "In this particular case Your Honour
21 is left with a situation where the
22 accused, traveling in the light of
23 day, early in the morning when people
24 would be traveling to work, at a speed
25 deemed to be within the posted speed

1 limit, albeit not slowing at the
2 intersection, not coming to a stop.
3 Without an observation of erratic
4 driving and only anecdotal evidence of
5 alcohol, not capable of proof of
6 impairment."

7 Mr. Commissioner, it is now 10:30. I
8 know we have a scheduled break for this point in
9 time. Would it be your pleasure to take that
10 break now or have me continue? I will have 20
11 minutes before calling the witness.

12 THE COMMISSIONER: Continue until we
13 call the witness and then we will break.

14 MR. PACIOCCO: On the basis of having
15 that evidence, he asked Chief Judge Wyant to
16 impose a two years less a day jail term to be
17 served conditionally under certain conditions.
18 Mr. Wolson, Counsel for Mr. Harvey-Zenk, asked for
19 the same sentence, and the matter was adjourned
20 for deliberation.

21 The evidence is going to show that
22 Chief Judge Wyant called them back. Instead of
23 arriving at a decision on that court record, he
24 called them back on September 12th, 2007, to share
25 his reservation about the jointly recommended

1 sentence. He expressed how the law in Manitoba
2 obliged him to do so if he was considering not
3 accepting a joint recommendation, and he disclosed
4 that he was considering imposing a different
5 sentence because Mr. Harvey-Zenk was a police
6 officer, and in Chief Justice Wyant's belief, he
7 should be held to a higher standard.

8 You will hear some evidence of how
9 Mr. Taman learned of the hearing date, and some of
10 his concerns in that regard. More importantly,
11 you will hear evidence from the family members of
12 their reaction to what transpired on
13 September 12th. Now the transcript from
14 September 12th is very important for you to
15 consider. It reflects that during the course of
16 the submissions on that day, Chief Judge Wyant's
17 position was that his understanding of the state
18 of affairs on August 22nd, 2007 differed from the
19 submissions that he was then hearing. He noted
20 two specific concerns. First, according to those
21 transcripts, Chief Judge Wyant reports that he
22 left court on August 22, 2007 understanding that
23 he had before him a joint submission arising from
24 the mutual belief of the Crown and defence that a
25 conditional sentence was an appropriate sentence,

1 and he distinguished that joint submission from a
2 plea bargain. A plea bargain being an arrangement
3 in which each party compromises and gives
4 something away in exchange for a plea because of
5 weaknesses in their case.

6 On September 12, Mr. Minuk's
7 submissions made it clear to Chief Judge Wyant
8 that it was not simply a joint submission that had
9 been offered to him on August 22nd, it was a plea
10 bargain, and in law in Manitoba there is a
11 distinction between the two that has significance.
12 A judge is compelled to give deference to joint
13 submissions but more deference to plea bargains
14 than to simple joint submissions. So the degree
15 to which he felt he could depart from the position
16 offered to him would vary materially, depending
17 upon whether he was faced with a joint submission
18 or a plea bargain. The second point is, according
19 to the transcripts, Chief Judge Wyant said that he
20 left court on August 22, 2007 believing that it
21 was agreed between the Crown and defence that
22 alcohol consumption was being admitted as a
23 contributing factor in the dangerous driving, even
24 though the Crown could not prove that
25 Mr. Harvey-Zenk's ability to drive was impaired by

1 alcohol consumption.

2 It is important for the public to
3 understand that Chief Judge Wyant's position was
4 that even if a person who has consumed alcohol is
5 not impaired by it, the fact that they have
6 consumed alcohol at a time they have engaged in
7 dangerous driving is an aggravating sentencing
8 condition.

9 On hearing comments on the aggravating
10 fact of consumption of alcohol, Mr. Wolson,
11 counsel for Mr. Derek Harvey-Zenk, indicated that
12 this was a misunderstanding, that the defence did
13 not accept that Derek Harvey-Zenk had alcohol in
14 his body at the time of the accident. As a result
15 of that revealed dispute, Chief Judge Wyant asked
16 Mr. Minuk, the prosecutor, who as a matter of law
17 would bear the burden of proving any aggravating
18 fact, whether he was going to do so, whether he
19 intended to offer proof that Mr. Harvey-Zenk had
20 been drinking prior to the accident and would have
21 had alcohol in his body at the time. The
22 transcript reveals that Mr. Minuk was given a
23 brief recess. He ultimately came back after it
24 was offered, and advised Chief Judge Wyant that he
25 would not be leading any evidence on the alcohol

1 issue.

2 The transcript shows that Chief Judge
3 Wyant commented that there was a change in the
4 factual basis of the plea. He was careful to say
5 that he was not suggesting that the lawyers had
6 recently changed their position in order to try
7 and save their agreed sentence, but he wanted the
8 matter adjourned to consider the submissions
9 closely.

10 Sentence was ultimately imposed on
11 October 29, 2007. Chief Judge Wyant accepted the
12 joint submission for a conditional sentence, but
13 in doing so he made a number of critical comments
14 about the process that had taken place. You will
15 find them in the transcript at J-64. He noted the
16 "paucity of facts" given to the court during the
17 initial plea submissions. And he referred to the
18 phrase, "anecdotal historical evidence" of the
19 consumption of alcohol. He noted how the initial
20 presentation was "wrapped up in a tight package
21 with no dispute as to the facts or the sentence
22 from either counsel right down to the conditions
23 to be imposed." He described how what happened on
24 September 12 for him was very troubling,
25 reaffirming his position that he heard no mention

1 of a plea bargain on August 22nd which would have
2 been an important factor in his determination.
3 And he commented that this would have been a
4 serious but inadvertent omission, because it was
5 an important factor for him to consider in
6 deciding whether to sentence Mr. Derek Harvey-Zenk
7 as requested.

8 He then noted how he discovered for
9 the first time during the September hearing that
10 the consumption of alcohol was not an agreed
11 statement of fact. And he said this at page 1747,
12 line 3 to 7,

13 "While alcohol consumption does not
14 mean the accused was impaired, it is a
15 factor, an aggravating factor, in this
16 case and an important factor in
17 weighing the appropriate sentence and
18 then assessing the joint
19 recommendation."

20 He acknowledged that as a judge he was
21 bound by the evidence before him and he had to
22 accept the facts presented. And he commented that
23 while the events of September 12th, 2007 and what
24 happened in his court should not be interpreted as
25 some zealous attempt to support a joint

1 recommendation, he said:

2 "It reflects badly on the
3 administration of justice and can only
4 serve to undermine confidence in our
5 system of justice and to promote
6 public cynicism."

7 He confessed to sensing a clear
8 disconnect between what many in the public believe
9 might have happened and the evidence before the
10 court. He then took the unusual measure of
11 describing what many in the public believed
12 happened. He then questioned why Mr. Minuk would
13 not have lead evidence of alcohol consumption, why
14 it was mentioned at all, if it was a fact in
15 dispute. He said there should come a time when
16 the old adage "put up or shut up" should be used.
17 And he spoke of the practical obligation to call
18 evidence and provide full disclosure to the court.

19 After pronouncing sentence he said,
20 and you will find this at page 1758, line 19 to
21 25,

22 "I do want to recognize, in fairness
23 to you, Mr. Minuk, that you can only
24 deal the cards from the hand that was
25 given to you. In other words, you

1 can't make a silk purse out of a sow's
2 ear. Nevertheless, I remain extremely
3 frustrated by the lack of available
4 information and evidence surrounding
5 the activities of Mr. Zenk in the
6 hours preceding this tragedy."

7 You will shortly hear evidence,
8 Mr. Commissioner, that the family too feels
9 extremely frustrated.

10 During the next phase of this hearing
11 you will hear what cards Mr. Minuk's hand held,
12 and whether his deck was short, and if so, why it
13 was short. But for now, you will hear from the
14 families and the impact that this process has had
15 upon them.

16 Those are my comments in opening,
17 Mr. Commissioner. If you have no questions, it
18 may be a convenient time for the break and we will
19 commence with Robert Taman as our first witness.

20 THE COMMISSIONER: It is time to
21 break. 15 minutes.

22 THE CLERK: All rise. This Commission
23 of Inquiry will take a 15 minute recess.

24 (Proceedings recessed at 10:41 a.m. and
25 reconvened at 11:00 a.m.)

1 THE CLERK: Order, all rise. This
2 Commission of Inquiry is now reopened.

3 MR. PACIOCCO: Thank you,
4 Mr. Commissioner. I would like to call Mr. Robert
5 Taman to the stand, please.

6 THE CLERK: Will you swear an oath on
7 the Bible or affirm to tell the truth?

8 THE WITNESS: I will swear an oath.

9 ROBERT TAMAN, having first been duly
10 sworn testified as follows:

11 BY MR. PACIOCCO:

12 Q Good morning, Mr. Taman.

13 A Good morning.

14 Q Now that you have passed the
15 intelligence test by spelling your own name, we
16 will be able to ask you some questions.

17 A All right.

18 Q You, of course, were the husband of
19 Crystal Taman?

20 A That's correct.

21 Q And you were married to Crystal for
22 close to 23 years, I understand?

23 A That's right.

24 Q And you are 44 years of age?

25 A That's right.

1 Q You certainly married quite young?

2 A Very young.

3 Q And you had a good part of your life
4 to date with Crystal?

5 A Yes.

6 Q You certainly have our sympathies,
7 sir. And we know that this is not going to be an
8 easy thing for you to get up there and testify,
9 and we are very appreciative that you are prepared
10 to share your experiences with us. If at any time
11 you feel you need a break or you want some time to
12 stop and think, just let us know.

13 A All right.

14 Q Crystal has left you with three
15 children, has she not?

16 A That's right.

17 Q And Tara, I understand, is your oldest
18 daughter?

19 A Correct.

20 Q And Kristin?

21 A That's right.

22 Q And you have a son, Jordan?

23 A Right.

24 Q And they are now young adults?

25 A Yes.

1 Q And Tara and Kristin were living at
2 home with you at the time of the collision?

3 A That's correct.

4 Q And Jordan, I understand, had his own
5 place in St. James?

6 A Right.

7 Q You were questioned quite frequently
8 by the press, particularly near the sentencing
9 phase of this episode that you have been through?

10 A Yes, I was.

11 Q And there were a number of comments
12 that were attributed to you. One of them was that
13 the system had let you down. And the comment said
14 that it let you down in so bizarre a way in this
15 case that it was a slap in the face for Crystal.
16 Do you remember that comment, sir?

17 A That was a correct comment.

18 Q In what way has the system let you
19 down, Mr. Taman?

20 A It is really difficult to explain.
21 When you are going through something like this,
22 you don't have any input. So you are following
23 people that you are assuming are going to lead you
24 into that promised land, so to speak. You have
25 your full trust in these people. You have --

1 basically, your lives are in their hands.

2 It is not like seeing a doctor and
3 being diagnosed with something and you can say
4 hold off, I'm going to get a second opinion here.
5 With this system, you are not allowed a second
6 opinion. You have to go with what is being said
7 to you and you are being lead in that direction,
8 whether you like it or not. And along the way,
9 you are being told certain things that maybe
10 aren't entirely accurate, or being said in a way
11 that maybe they could be twisted afterwards to
12 portray them as being accurate at the time.
13 Everything is very confusing to go through this.
14 And just being regular people who have never
15 stepped into a courthouse before, you have to
16 trust that person is leading you the proper way.

17 And in the end, when everything
18 unfolded, it was not only not accurate as to what
19 we were told, we felt the whole case -- and our
20 lives collapsed around it, and it was a very
21 difficult thing to deal with. That's, you know,
22 like I said, nobody would really understand until
23 they have actually walked that path.

24 Q I'm certain that's true, sir. We are
25 going to try and get through the details of the

1 experiences that you have had. I'm going to take
2 you through the events and the episodes, and
3 hopefully we can flesh some of that out. So I'm
4 not going to leave behind the observations that
5 you have made now, I'm going pick them up as we go
6 through.

7 I do have one question arising out of
8 what you said. You had hope that these people you
9 were depending on would take to you to the
10 promised land. What was the promised land for
11 you, in the context of the legal proceedings
12 involving the prosecution of Derek Harvey-Zenk?

13 A We were hoping, although we didn't
14 want to hear it, but we were still hoping that we
15 would hear all of the evidence that -- excuse
16 me -- that the evidence would come out and show
17 the wrongdoing, that it would show the alcohol
18 related to the incident, that would put all of the
19 pieces together, so in the end that full picture
20 would come out for everybody to see who took
21 Crystal's life and how it was done. And how it
22 was completely senseless, how something like this
23 could have been so easily avoided, and that
24 everybody would have been held accountable.

25 Q Sir, this Commission of Inquiry was

1 called because of the events and how they unfolded
2 and the public reaction to them. Was a Commission
3 of Inquiry something that you were looking forward
4 to, sir?

5 A Not at all. I, like most people,
6 don't even understand what an Inquiry is. You
7 read about them in the paper and you go through
8 it, but you don't understand what it involves.
9 And we wanted answers. We wanted to know what
10 happened. We wanted to know what went wrong all
11 the way through. I didn't understand at the time
12 that this is what it takes. You have to get 20
13 lawyers, you know, 20 lawyers together, and people
14 from out of province, and millions of dollars,
15 just so that people can tell the truth.

16 Q Sir, what were your feelings when you
17 heard that there would be a Commission of Inquiry?

18 A Mixed feelings on it. We went through
19 a very long period of time and we found out what
20 the legal system does. So, this being an
21 extension of the legal system, you can understand
22 why we have a little bit of lack of trust. So to
23 say that we were happy about it -- we would be
24 happy to get information, we were happy that it
25 wasn't just going to be shut, we were happy that

1 there was a possibility that the truth of this
2 whole matter can still come out. But we are not
3 trusting, the way we were, and still are in many
4 ways, we are kind of hoping that the legal system
5 does work, and so let's just hope.

6 Q What are you hoping that the
7 Commission is going to accomplish, sir?

8 A That's a tough question. If I said
9 what I really wanted, it goes against what the
10 Commission is about. I really want us all to go
11 back to the time.

12 Q And I take it, sir, that you would
13 like to see the prosecution handled differently
14 and lead to a different outcome, is that a fair
15 conclusion?

16 A That is fair.

17 Q Sir, I understand that this whole
18 process of testifying is very painful for you.
19 I'm going to ask you some questions. If you feel
20 you are not able to answer them or you want to
21 take a break, then we are certainly here to
22 benefit from what you are prepared and capable of
23 offering, and we appreciate what you can give us.

24 A All right.

25 Q I'm going to ask you, if you would,

1 and if you could take us back to February 25th,
2 2005, which no doubt is the most horrible day that
3 you have yet lived in your life. Crystal worked
4 as a dental assistant?

5 A That's correct.

6 Q And I understand that it was her habit
7 to go off to work early in the morning?

8 A That's correct.

9 Q And she went to bed early, as a
10 result, of a hard working lady?

11 A That's right.

12 Q And I imagine that February 25th began
13 just like every other day?

14 A Yes.

15 Q And what time did Crystal usually
16 leave for work, sir?

17 A She -- Crystal started work usually at
18 around 7:30 to 8:00 o'clock. She would always be
19 the first one at the office. She had to be early.
20 To say she was hard working, that's an
21 understatement, she was an incredibly hard working
22 individual. And that morning she left like she
23 normally would just before 7:00 o'clock.

24 Q Sir, I understand you received a
25 horrible call around 7:20, 7:25 in the morning?

1 A That's correct.

2 Q And that call was from your daughter,
3 Tara?

4 A Right.

5 Q And what did Tara tell you, sir?

6 A She was frantic and crying, and in
7 between those emotions she said, "dad, mom has
8 been in an accident, it is real bad."

9 Q I understand that a police officer
10 took the phone from her after she said that to
11 you?

12 A That's right.

13 Q And he told you that you should come
14 to the scene?

15 A Correct.

16 Q And how long did it take to you get to
17 the scene, sir?

18 A It was under ten minutes. I couldn't
19 say exactly. I immediately just, I ran out the
20 door and got in my vehicle, and I won't say --
21 well, I will say -- I sped off and got there as
22 quick as I could. So it was probably, it was
23 under ten minutes.

24 Q And, sir, I understand that by the
25 time you arrived, it would have been maybe around

1 7:30, Crystal was no longer there?

2 A As far as I know.

3 Q And where were Tara and Kristin, your
4 daughters?

5 A They were in the back seat of a police
6 car.

7 Q And we have yet to hear evidence of
8 how Tara and Kristin ended up there, sir. Could
9 you tell us how they ended up there, sir?

10 A They came across the accident on their
11 way to work. And they drove by at first, and then
12 they thought they should head back because that
13 was around the time that their mother would have
14 been crossing, and they said something told them
15 to go right back there. And they came across it.
16 And they ran up to the scene, they parked right by
17 it and they ran into it, sort of, so to speak.
18 And one of the police officers stopped them. And
19 they told him who they were and that was their
20 mother, and he told them to come with him and he
21 put them in the back of a cop car.

22 Q When you got there, they were in the
23 back of the cop car, the police car?

24 A Yes.

25 Q At that point, what did you do, sir?

1 A Well, when I arrived there, the police
2 officer was standing beside the vehicle, his
3 vehicle. And he immediately started to talk to me
4 about -- I'm not sure what it was he was
5 explaining to me, and I looked over and I seen
6 both of my girls in the back of the car and they
7 were hammering on the window, they were frantic
8 and they were pounding, you know. And I stopped
9 him and I told him, let them out of the vehicle
10 right now. And so he stopped whatever he was
11 saying and let them out. At that time he just --
12 after he let them out he came back and then we
13 spoke a little further.

14 Q Okay. And you had some conversation
15 with him. Do you recall much of that
16 conversation, sir?

17 A He did inform me that it was my wife
18 in the vehicle, and that she was on her way to the
19 Concordia Hospital and that I should get there.

20 Q Sir, I understand that you asked him
21 whether Crystal was still alive?

22 A I asked him if she was still alive.

23 Q And how did he respond to that?

24 A He just said yes.

25 Q Sir, I know it must have been a

1 tremendously difficult scene for you to be at.

2 Did you notice anything else while you were there,
3 sir?

4 A Looking back or at the time?

5 Q At the time?

6 A It was mass confusion in that
7 intersection. It was -- the traffic gridlock
8 around there, it was absolutely crazy. And
9 really, other than that, I just needed to get to
10 the hospital, and there was not much else I was
11 thinking about.

12 Q That's fair, sir. How did you get to
13 the hospital?

14 A How did I get there?

15 Q Yes.

16 A It is a very long story. Did you need
17 to take another break because --

18 Q No, I don't think so. Can you try the
19 abridged version, and if we need more detail, I
20 will try to coax it out of you.

21 A He told me she was taken to the
22 Concordia Hospital. From the accident scene to
23 the Concordia Hospital, if you are in a hurry, it
24 would probably take about five minutes to get
25 there. So I will describe to you that I was -- my

1 vehicle was parked behind the police officer's
2 vehicle. After I got the girls in the car, we
3 went to pull off, and around a police car on the
4 shoulder of the median lane and go around that
5 scene, because they told me to follow the
6 ambulance that was taking off.

7 I looked up and I didn't seen even an
8 ambulance. I just figured, I know where I'm
9 going. So when I pulled around, they stopped me
10 and they said, no, no, you can't go through here,
11 this is an accident scene, you are going to have
12 to take the detour. The detour took me west on
13 the Perimeter Highway. And at the time there was
14 no turning, no short-cuts, no nothing, I had to
15 travel to Henderson Highway. There was gridlock
16 at that turn-off as well, because of all of the
17 detours that had been taking place. The line-up
18 of vehicles there, and to get even to pass though
19 vehicles, it was impossible to get to Henderson
20 Highway.

21 So once I got to the, I guess it would
22 be like the cloverleaf to go on to Henderson
23 Highway, where it was blocked, it was blocked off,
24 I took the shoulder and I went up, and I turned
25 around and went down a gravel road that runs

1 alongside the Perimeter Highway, and I went all
2 the way back, past the accident scene again, and
3 all the way around, and went back on to Highway 59
4 north. I travelled on Highway 59 north for about
5 a mile and a half and reached Wenzel Road. And I
6 took Wenzel road back south, southeast to the --
7 back to the Perimeter Highway again. And then I
8 turned on to the Perimeter west and came right
9 back to just south of the accident location, where
10 the Perimeter meets up with Highway 59, and I was
11 able to turn on to Highway 59 from there and go to
12 the hospital.

13 Q Sir, how long did that take you?

14 A Looking back -- and at the time, it
15 had to have been 40, 45 minutes.

16 Q Sir, I can only imagine what you were
17 feeling at that time, sir. Did you feel that you
18 were capable at that point of taking yourself to
19 the hospital?

20 A No.

21 Q And if you could try and put in your
22 own words why, just so we understand fully?

23 A At one point, I believe it was right
24 before I reached the Henderson Highway turn-off, I
25 was so frustrated trying to get through, I

1 remember hammering on the steering wheel and
2 crying and screaming. And at one point my
3 daughter Kristin, who was in the back seat,
4 actually leaned forward and said, dad, let me
5 drive. And I said, no, no, I will get us there, I
6 will get us there. And I tried to compose myself.
7 But having seen that, just the scene, I already
8 knew what the outcome was. And it was such, the
9 emotions were so strong and so high, I could
10 barely think, let alone see straight. I'm
11 fortunate that we got there and I didn't cause an
12 accident myself.

13 Q I understand that during that horribly
14 long period of time there were phone calls being
15 made from the car?

16 A We called up Crystal's sister, that's
17 the first call we made, and we told her there has
18 been a huge accident and to get to the Concordia
19 Hospital.

20 I'm sorry, I apologize, we called up
21 Jordan first, my son, and we told him. And he
22 lived out west St. James, way down Portage Avenue,
23 and we told him, you know, that there was an
24 accident, go to the Concordia Hospital. We made
25 sure not to make any details to him, just to go.

1 And we called up, again, Crystal's
2 sister, Cory. And when it was taking a really
3 long time, I immediately called my brother, Randy,
4 because Randy works at the River East School
5 Division, and they are located literally like five
6 blocks away from the hospital, and I knew he could
7 get there really quick. So I called him and I
8 called my parents as well.

9 Q And what happened when you got to the
10 hospital, sir?

11 A By the time we got to the hospital, I
12 believe most everybody had arrived before us, all
13 the people that we had called, including my son
14 from St. James, and he made it there before us.
15 So we were greeted there by family, and then sort
16 of, the hospital staff sort of shuffled us into
17 this room. I know the room, I know what that room
18 is for, I knew it before that day, and I knew it,
19 when we were going in that room, what was going to
20 be said to us. So, the entire family was put in
21 that room.

22 Q Sir, do you recall seeing any police
23 officers at the hospital?

24 A Vaguely. Like, you know, it is not
25 that sharp, you know. I do recall when we were,

1 at one point we were lead out of that room and
2 they gave us an opportunity to go and see Crystal.

3 Q Sir, we have information that
4 Constable Pedersen of the East St. Paul Police may
5 have been there at the same time. Do you have any
6 memory of --

7 A I don't have any memory of her being
8 there. It is possible she was there, but I don't
9 recall that.

10 Q Sir, I understand that after you left
11 the hospital, you went to your parents' house?

12 A That's correct.

13 Q And I understand that you ended up
14 living in their rec room for eight weeks?

15 A About eight weeks.

16 Q It was just too difficult for you to
17 go home, sir?

18 A Well, we tried to go back, probably,
19 I'm going to guesstimate, three or four weeks we
20 tried to move back home. And we walked in the
21 home, we managed to stay for about an hour, and
22 the kids just said to me, no, dad, let's just grab
23 our things, let's go back to grandma's house, we
24 feel good there. So we did.

25 Q Sir, I'm going to take you through the

1 episodes that you have been involved in through
2 the justice system. You understand that this
3 phase of the hearing focuses on the Victims' Bill
4 and your treatment by the system?

5 A Right.

6 Q Sir, had you heard of the Victims'
7 Bill of Rights on February 25th, 2005?

8 A Did I hear of it?

9 Q Had you ever heard of it before then?

10 A No.

11 Q Sir, I understand from the press at
12 least that at one point you had the Victims' Bill
13 of Rights as a screen saver on your computer?

14 A Yeah, a part of it. It was just part
15 of their web page.

16 Q So you probably know that better than
17 most lawyers, if that's the case?

18 A Well, a little bit. I don't claim to
19 know much.

20 Q Well, that's very humble of you, sir.
21 And you also told us already that you didn't know
22 much about the criminal justice system?

23 A That's correct.

24 Q And you didn't know much about the
25 court process and what goes on in courtrooms, sir?

1 A Very, very little.

2 Q And you indicated that you needed some
3 assistance to navigate your way through that
4 system, sir?

5 A Sure, yeah.

6 Q I'm going to begin by looking at the
7 contacts you had, and I'm going to start with the
8 law enforcement personnel, because one of the
9 things that the Commissioner is going to need to
10 look at is whether they have fulfilled their
11 obligations under the Victims' Bill.

12 A Okay.

13 Q I understand that you, during the
14 interview with Mr. Clifford, you had a bit of
15 difficulty with dates and times. You remembered
16 events, you couldn't always situate them well. I
17 will try and help you out as we go through.

18 A Okay.

19 Q Sir, were you living at the time in
20 East St. Paul?

21 A In Springfield.

22 Q So that wasn't necessarily your police
23 force that you were dealing with?

24 A No, it wasn't mine.

25 Q And obviously you have described your

1 first contact with the police being at the scene?

2 A Right.

3 Q And you wanting the kids out of the
4 car?

5 A Right.

6 Q You understand why he may have kept
7 them in the car, sir?

8 A I have issues with that.

9 Q And what are your issues, sir?

10 A I don't know if I should air that
11 now -- but you are asking. There are certain
12 things surrounding them being in the vehicle that
13 made it very, very uncomfortable. The line of
14 sight, being in that vehicle and not being
15 informed, the length of time they were in that
16 vehicle, what kind of harm it did to them. And
17 whether or not there were alternatives, which I
18 believe there were alternatives that they could
19 have used to keep them away from that area. I
20 believe there were alternatives. I didn't think
21 that they had to use that measure. It did a lot
22 more harm than good.

23 Q What alternatives were there, sir, in
24 your view?

25 A In my opinion?

1 Q Yes?

2 A In my opinion, the person who was in
3 charge of Victims' Services, so to speak, for the
4 East St. Paul Police, was directing traffic about
5 three quarters of a mile back. I would think
6 that, you know, I'm just a regular guy who doesn't
7 know a whole lot, but I would think that that
8 would be the person that you would want to be
9 dealing with victims.

10 Q Sir, you talked about the conversation
11 you had with the officer on scene about the
12 condition of your wife?

13 A Right.

14 Q Do you believe that he was telling you
15 the truth when he said she was still alive?

16 A No.

17 Q And do you have any issues with being
18 told something that wasn't accurate, sir?

19 A That bothers me. I think, again,
20 there are probably alternatives. I don't know how
21 they are trained, I don't know what they are told
22 to do in situations like that. But lying, I don't
23 believe, should be something that anybody should
24 do, and I think there should have been an
25 alternative of some sort.

1 I don't know all of the answers. All
2 I know is that if you give me some time, I could
3 probably jot some down for you. It doesn't take a
4 whole lot to think about.

5 Q Okay. We are terribly interested in
6 your perceptions about what happened, that's why
7 I'm asking you these questions. So don't feel at
8 all that your comments are not of value.

9 A Right.

10 Q Sir, about not getting support to go
11 to the hospital, do you have any observations
12 about that, you being asked to drive yourself and
13 your two daughters there yourself?

14 A I only have in hindsight. At the
15 time, none of that, you don't think about any of
16 that at the time. Your thinking process is so
17 extremely limited. Going back, I certainly am
18 very, very thankful that I have such an incredibly
19 supportive family. They all showed up, and they
20 literally carried us off and said, don't worry
21 about a thing, we will take care of everything.
22 But in hindsight, you know, we are here because of
23 certain things that were done. And had my family
24 not been there, I guess they would just expect me
25 to get in a vehicle and go wherever, I don't know

1 what they expect of people. But, certainly, I
2 don't believe that you have that capacity to drive
3 a motor vehicle. To send somebody back out on the
4 street in the frame of mind that I was in, you are
5 asking for another ambulance to be rolling up any
6 time. It is extremely dangerous.

7 Q I know this is all very vague, but are
8 you able to tell us whether or not your demeanor
9 or your emotion would have been evident to the
10 police officer that you were dealing with?

11 A Oh, yeah, it would have been extremely
12 evident. I was extremely upset, immediately. At
13 the scene of the accident, is that what we are
14 dealing with here?

15 Q Yes?

16 A I was extremely upset right at the
17 scene. I was -- I was shaking in fear, in fear of
18 the truth, in fear of what I had already come to
19 know. And everything became, the emotions that I
20 was feeling at that time exploded when I seen my
21 children in the back of the police car. And
22 knowing, and feeling what they are feeling. So it
23 became very visible.

24 Q Sir, I understand that you went, as
25 you said, to your father's home afterwards?

1 A That's right.

2 Q Do you recall what your first contact
3 with the police, apart from the hospital and
4 collision scene may have been, sir?

5 A Again, my mind isn't really sharp at
6 that time. But I believe, I don't know if it was
7 the next day, I don't even know, but it was very
8 close to that time, the East St. Paul Police
9 officer came down to their home, my parent's home.
10 And it was Constable Pedersen who showed up, and
11 another fellow who was just part of Victim
12 Support.

13 Q A Victim Support volunteer, sir?

14 A Yes.

15 Q Sir, we have information that that
16 happened the very day of the accident at 2:15 p.m.
17 Would you think that might not be true, or is that
18 something that could well be?

19 A It could be true. But like I said, I
20 don't even know when things began to clear up. It
21 was extremely foggy.

22 Q Sure. Do you know how they knew to
23 get you at your father's house?

24 A I don't know.

25 Q And are you able to tell us how long

1 they were there, approximately?

2 A It wasn't a long visit. And I know
3 this because, again, there was so much emotion at
4 that time and we were in shock. All we really
5 wanted to know was what happened, who did this,
6 how could this happen and, you know, some details.
7 Even at that time, you need to know what happened.
8 And she wouldn't give me any details. She
9 wouldn't -- even the slightest details, she said
10 she couldn't comment on them because it was under
11 investigation. And instead she gave us, I don't
12 know, it was like a couple of pamphlets about how
13 to deal with grief. I don't even know if I looked
14 at them. Oh, no, I am sorry, I did look at one, I
15 believe.

16 Q Did you look at it at the time she was
17 there or subsequently?

18 A No, I didn't look at it at the time
19 she was there.

20 Q And are you able to say whether the
21 Victims' Bill of Rights came up during that
22 conversation?

23 A I don't believe so.

24 Q Is there a reason why you don't
25 believe so, sir?

1 A It is something that I recall later
2 on, about a week later, I remember it coming up,
3 and that was the first I had ever heard of it.

4 Q Are you able to share your impressions
5 with the Commissioner of the visit itself, the
6 attitude that may have been displayed, or the way
7 in which you were approached?

8 A It was, as most people can imagine,
9 the most difficult period of time that you could
10 ever, ever go through. And when they showed up, I
11 guess you are hoping that they are going to come
12 across in a certain way that's going to be
13 compassionate, and solve everything for you.
14 Because at the time you are in this world of
15 bewilderment that you are hoping somebody is going
16 to be able to help you. And she really came
17 across, and I don't know her, so I don't know what
18 she is about, but at the same time I remember her
19 coming across very abrupt and very officer like,
20 and not providing us with any information that I
21 wanted to know. Because, to be honest with you,
22 at the time I didn't feel like reading a pamphlet
23 that day. I felt like talking, and she wasn't
24 being cooperative with me. And I remember the
25 meeting was cut short when I asked her to leave.

1 Q Sir, you mention that she was
2 accompanied by a young man?

3 A Right.

4 Q And he was a Victim Support worker of
5 some kind?

6 A Right.

7 Q Any impressions about how he came
8 across or what contribution he might have been
9 able to make?

10 A I immediately was wondering, what is
11 he doing here? He is a young kid. How can he be
12 dealing with this situation? I don't know how old
13 he was, and it is quite possible maybe he looked
14 young for his age. But he -- the way he spoke and
15 the way he handled himself, he seemed to be just
16 this young kid. And I am thinking, why would he
17 be here, to be a part of this, along with this
18 police officer? I didn't understand it. Now, she
19 introduced him as a volunteer, I believe, and I
20 thought, maybe he is just training. And I don't
21 know, but he is just way too young to be dealing
22 with this.

23 Q Sir, I understand from your comments
24 that you didn't find that visit to be very
25 worthwhile, but I'm going to ask you whether you

1 think it would have been preferable to have no one
2 come at all or was it the way that it was handled?

3 A I believe, if we are here to try and
4 change, I believe that the victim's feelings
5 should be taken into account 100 per cent of the
6 time, especially right at that moment. When they
7 came, I don't know how they came about to know
8 where I was, and why they came, I have no idea.
9 Like I say, it is all a blur. But I remember it
10 being rather intrusive, and I remember it being,
11 almost breaking through this family bond that we
12 had that morning, and disturbing it. And it
13 wasn't comforting whatsoever. In fact, it was
14 very disturbing. So, timing -- you say, would
15 have been better if they didn't come at all? That
16 day, I would think it would have been better if
17 they didn't come at all.

18 Q Sir, do you recall when you heard the
19 charges that were being laid in connection with
20 this collision?

21 A Yes, I do.

22 Q And when was that, sir?

23 A That was a few days after, it had to
24 have been four or five days later. I'm not sure.
25 I believe my son was talking with the East St.

1 Paul Police, they wanted to meet with us. I
2 believe he spoke with my son, I'm not sure. But
3 we met at Crystal's parents' house on that day.

4 Q And you believe it was the same day
5 that you met at Crystal's parents with the police
6 that you first heard, sir?

7 A The actual charges?

8 Q Yes?

9 A Yes.

10 Q Not the actual charges, but that
11 charges were being laid? Because we have
12 information, sir, that the day after the accident
13 there was a phone call to your residence, in which
14 someone at your residence was advised that charges
15 were being laid, but the details of who was being
16 charged or what the charges were would not have
17 been relayed at that time. Do you have any
18 recollection of that, sir?

19 A I don't recall that call, and it
20 wouldn't have been to my residence because I
21 wasn't there. It would have had to have been to
22 my parents. The only information that we had
23 about charges came from secondary source.

24 Q I was going to ask you about that
25 next, sir. Do you recall when you first heard

1 information that there may have been alcohol
2 involved?

3 A Yes, I do.

4 Q And do you remember who that was from?

5 A The first time we heard it, and there
6 was two individuals that kind of gave us that
7 information, so the timing might be a little bit
8 off.

9 Q Sure.

10 A I believe the first time we heard was
11 through Crystal's cousin, who had come over to
12 help us that day.

13 Q And Crystal's cousin is Cecil
14 Sveinson?

15 A That's correct.

16 Q And I understand that he is a Winnipeg
17 Police Officer, sir?

18 A That's correct.

19 Q Do you recall any of the details of
20 the conversation that you had with Cecil Sveinson?

21 A I remember him informing us that it
22 was in fact an off-duty police officer, and that
23 there was alcohol involved.

24 Q Do you recall any details of what he
25 might have told you about the involvement of

1 alcohol, sir?

2 A He said that, from what he understood,
3 that alcohol was a factor in the accident. He
4 didn't get into any greater details about it until
5 maybe a couple of days later.

6 Q And when he did get into greater
7 details a couple of days later, sir, do you recall
8 what you were told at that time?

9 A He filled us in on the police
10 officer's activities the night before and during
11 the night, and that it was a shifter.

12 Q What do you mean by shifter, sir?

13 A A shifter is when the officers, at the
14 end of their work shift, get together to wind down
15 and release their, I guess their inner stress and
16 pressures into a couple of hundred beers.

17 Q And do you remember if you heard
18 anything else apart from that, sir?

19 A I'm not quite sure. I don't recall.

20 Q Sir, you have a friend, Ron Smith?

21 A Yes, I do.

22 Q And you had a conversation with Ron
23 Smith at some point about this, very shortly after
24 the accident, sir?

25 A Yes, I did.

1 Q And you learned something from Ron
2 Smith?

3 A Yeah. He informed me that he was
4 talking to a buddy about the accident, who was the
5 tow truck driver. And the tow truck driver said
6 that the truck he towed away from that scene just
7 reeked of alcohol, and he was sure that this guy
8 was drunk.

9 Q Did you share that information with
10 anyone at the police?

11 A Did I share it?

12 Q Yes, did you tell them that you had
13 heard that the tow truck driver smelled alcohol,
14 sir, in the vehicle?

15 A No, I didn't.

16 Q That you had information to that
17 effect?

18 A I may have spoke to, you know, in
19 conversation with -- on the day Chief Bakema and
20 Norm Carter. In fact, I probably brought that up
21 then.

22 Q But you are not sure, sir?

23 A I'm not sure.

24 Q Fair enough. So what was your
25 reaction when you were getting this information

1 that alcohol was involved and that it was a police
2 officer?

3 A That is when it became senseless.
4 Accidents happen, and we all know that, and they
5 are horrible and they are all tragic. But I think
6 they are worse when it was something so avoidable.
7 And when they brought alcohol into this whole
8 equation, it made it even more tragic than it was,
9 and very difficult to deal with.

10 Q Did the information that it was a
11 police officer have any impact on how you were
12 viewing things, sir?

13 A Yes, it did.

14 Q Can you share that with us?

15 A The justice system relies on trust,
16 and the police system relies on trust, and you
17 have to trust them. And we don't -- again, we
18 don't have a choice, you know, we can't just say
19 no, no, let's get the other police system in here.
20 We have to trust the people that are running it
21 and the people who are in those vehicles. And it
22 is so difficult when something like this happens
23 and it is an actual police officer that did it.
24 Whether he is on duty or off-duty makes no
25 difference to me. I have to say that when I found

1 out it was a police officer, I was enraged.

2 Q Did it cause you to have any feelings
3 about what might happen down the road, sir?

4 A When I heard it was a police officer,
5 my immediate thinking was, we have to watch this
6 because they are going to protect their own.

7 Q Sir, did you make any efforts to
8 contact the East St. Paul Police on your own?

9 A That's a long time ago. And if I did,
10 I don't recall. But I do remember that there was
11 so much happening around us that -- and my
12 children are all adults at the time, and they were
13 trying to help me as much as I was trying to help
14 them. And I recall Jordan saying, I'm going to
15 try and keep in touch with the East St. Paul
16 Police and see if there is anything new, and if
17 there is, then I will let you know and you can
18 deal with it. So it is possible that he contacted
19 them, or I may have, I'm not sure.

20 Q Sir, when you were being interviewed
21 by Mr. Clifford, I think there was one point at
22 which you indicated you might have contacted Chief
23 Bakema because you were concerned to find out what
24 was going on, after you heard about the alcohol
25 and the police officer. Does that help your

1 memory at all?

2 A Yeah, I recall something like that,
3 but it isn't -- like I said, it is in that time
4 frame that it is extremely difficult. But it is
5 quite possible that I contacted him, but it would
6 have been -- yeah, it would have been a couple of
7 days later. I know I didn't make any calls that
8 day or the day after.

9 Q Sir, as a crime victim, as you would
10 come to understand yourself to be at that time,
11 what expectations did you have in terms of the
12 kind of assistance that you would get from the
13 police?

14 A I didn't know what to expect. When
15 this happened -- nobody knows what to do. And we
16 didn't know what we were going to be doing, we
17 didn't know who we had to talk to, we didn't
18 understand what avenues were available. And so we
19 talked to whoever we could, and we were getting a
20 lot of information again from secondary sources.
21 But I know that we were trying to keep in touch
22 with the East St. Paul Police as well. But we
23 didn't know what to expect or who to get help
24 from.

25 Q Sir, you began to tell us about

1 getting a call about charges being laid, and
2 subsequently East St. Paul coming to your
3 father-in-law's house on that occasion to visit
4 with you?

5 A Right.

6 Q Can you tell us about that, sir?

7 A We met over there because I thought at
8 the time -- first of all, it was closer for East
9 St. Paul because it was the basic area where my
10 in-laws lived, and I wanted them to be involved in
11 it and understand and hear everything directly as
12 well. So, we all gathered over at their house.
13 And I mean, we all, as in my children, myself, and
14 Swanny and Vicky and --

15 Q When you say Swanny and Vicky, you are
16 referring to the Sveinsons?

17 A Yes, and their daughter Cory and her
18 husband I believe was there as well.

19 Q We have information that that meeting
20 took place on the 1st of March, it would have been
21 the day before the press conference and the
22 funeral, sir?

23 A I thought it was on the same day. My
24 recollection is that it was on the same day that
25 they were coming out and they were going to have a

1 press conference that afternoon. I could be
2 mistaken.

3 Q How long was the visit?

4 A 45 minutes -- I just throw that out
5 there, I don't know exactly.

6 Q Is there -- you throw that out there,
7 I take it, because it wasn't a really brief
8 perfunctory meeting, but it wasn't a really long
9 one?

10 A Right.

11 Q And, sir, what happened during that
12 meeting?

13 A He, Chief Bakema, gave us a piece of
14 paper that pretty much explained the charges that
15 were going to be laid. And it was the -- I
16 remember the paper, it was the media release, I
17 think they were having that for the press
18 conference to hand out. And he told us about the
19 charges that were being laid, and he gave us a
20 little bit of information about who did it. And
21 there wasn't a whole lot else.

22 Q So, I take it he gave you the name of
23 the person who was being charged?

24 A Correct.

25 Q And it was the first time you heard

1 it, sir?

2 A Yes.

3 Q And was there ever any discussion
4 about how much evidence they had or about the
5 strength of the case?

6 A We were all -- that day I remember we
7 were all -- there was such a mix of emotion. I
8 mean, we were still extremely shaken up by
9 everything that had taken place. Everybody was
10 very, very sad, and very angry at the same time.
11 And I remember -- I remember him trying to console
12 us -- I mean him as in Mr. Bakema -- and saying,
13 hey, there is nothing to worry about, we got him.

14 Q Do you recall any discussion about the
15 refuse to provide a breath sample charge that
16 would have been included in that media release?

17 A I don't recall that. I don't know.
18 Sorry.

19 Q Do you recall any discussion about
20 what possible sentence might come out of this?

21 A He did say that he is going to jail, I
22 remember him saying that. But as far as anything
23 specific, I don't remember that.

24 Q Was there anything said about how much
25 information they could provide you, sir?

1 A As far as the evidence goes, he
2 couldn't discuss it, he could only tell us the
3 information about the charges, but nothing about
4 the actual scene.

5 Q Is there any indication as to when you
6 might learn that? Did they make any undertakings
7 or anything that you might recall?

8 A I don't recall.

9 Q And how did you feel about being told
10 that you weren't going to get any of the details,
11 sir?

12 A We were very upset. This is now the
13 second time I am hearing it, about that we are not
14 going to be getting any details, no information,
15 and I remember being very upset.

16 Q Sir, what level of detail do you think
17 you should have been provided with?

18 A When you go through something like
19 this, you have already hit the bottom, you can't
20 get any lower. They can't make you more upset,
21 they can't make you more angry. You've hit the
22 extreme levels of your emotion that you are going
23 to hit. So anything that they give you is not
24 going to hurt you, it is not even going to make
25 you more angry. All it is going to do is help put

1 together the puzzle of why somebody died that day,
2 why Crystal died that day. And the details of the
3 scene may have been helpful. As tragic as it was
4 and as horrific as it was, I believe it still
5 would have been helpful if they could have told us
6 what happened so that we can actually put this
7 puzzle together. Because that's what it has been.
8 You know, I will tell you, this has been a puzzle
9 that's been laying in pieces all over the city.
10 And just over the last two months, all of the
11 pieces have been gathered together, and we are now
12 starting to see what happened. This could have
13 been told to us two and a half years ago, three
14 years ago.

15 Q Sir, beyond simply telling you that
16 the investigation is ongoing, did anybody try
17 explaining to you why that might be a position
18 that the police would take, in not sharing the
19 details of the investigation with you?

20 A Well, do you want me to tell what I
21 think about them --

22 Q No.

23 A -- as far as them sharing with me?

24 Q I'm going to ask you that in a moment.
25 I want you to tell me whether anybody tried

1 explaining to you why, given that there was
2 ongoing investigation, they couldn't tell you more
3 or they wouldn't tell you more?

4 A No, there was no explanation. It was
5 just that, you know, we can't discuss these things
6 while it is under investigation. There is no
7 details. That's all that's said.

8 Q Now, you want to tell me or you were
9 prepared to tell me about your impressions of it.
10 We are very interested in those impressions.

11 A Well, again, you are glad that people
12 are finally going to hear what it is like. They
13 wouldn't -- the police, or anybody throughout this
14 process, when they speak to you, some of them will
15 speak with compassion, some not so much, some are
16 robotic in how they approach you. And there is a
17 lot of very extreme emotions going on at that
18 time. And I just believe that there should be
19 some people out there available to deal with
20 people like us, who are in this situation, that
21 can help us understand everything that's going on.
22 And not just, you know, we can't tell you because
23 it is going to court. That's not an answer to me,
24 you know, that's not good enough for me. That's
25 just a short cop-out. And I just think that there

1 should be somebody in the place somewhere that
2 says, okay, your job is to deal with the Tamans
3 because they are dealing with this today. And
4 allow us to know as much as we are allowed to
5 know, but then to go through the details of
6 everything that's going on in the process so that
7 we can actually understand it. It is one thing to
8 know it, but it is another thing to understand it.
9 And I know a lot of things to do with the system,
10 but I don't understand them, and that's the way I
11 feel about this whole process that we are dealing
12 with here, including that time, you know, right up
13 until now. There is not enough information given,
14 and when the information comes out, there is not
15 enough details or explanations to actually help us
16 understand.

17 Q Sir, do you recall whether, when you
18 had the meeting with Chief Bakema and Sergeant
19 Carter, whether there was any discussion of where
20 Mr. Derek Harvey-Zenk was at that time?

21 A I don't recall that. I don't remember
22 that.

23 Q Any discussion about whether he was in
24 jail or whether he had been released?

25 A That may have come up, yes. I seem to

1 recall that. I thought you were talking about the
2 accident scene.

3 Q Yeah, the question was ambiguous.

4 A Okay. At that time, yeah, that did
5 come up, and he told us that he had been released.

6 Q Was there any discussion about whether
7 he was put on any conditions before he was
8 released?

9 A I believe that as well had come up.
10 As far as questioning, first of all, why was he
11 released, and whether or not he is still able to
12 drive and that sort of thing, yeah, that came up.

13 Q And sir, when you learned that there
14 were no conditions being imposed on him, did that
15 have any impression -- or did you form any
16 impression from that?

17 A That takes me back again to the
18 initial problems I had when I found out it was a
19 police officer. It just started to get the wheels
20 turning that there might be something wrong here,
21 that normally people aren't handled like this, not
22 from what I have seen anyways. And what I have
23 seen is very limited, but from what I've seen
24 people usually lose their licence, or it is
25 usually taken away from them, or they are actually

1 held, you know, until there is some sort of, you
2 know, they go to court. I don't know, I don't
3 understand the whole process, but I just -- at the
4 time, and even today I think, well, I didn't
5 realize that the justice system worked that way,
6 that you could just drive through somebody's
7 vehicle, kill somebody, and then be out and
8 walking on the street, and you can actually go
9 walking into a bar inside of four hours. When did
10 the laws change like that? When were we allowed
11 to do that? It is something that people should
12 really look at.

13 Q Do you remember whether there was any
14 discussion about whether there may have been some
15 property in the vehicle, or anything that Crystal
16 had that should be returned to the family?

17 A Yes, I recall -- we didn't get -- I
18 remember her cell phone was missing, and there was
19 some items, and I'm not sure right now, I'm not
20 sure what they were, but there were some items
21 that were in the vehicle and we were wondering
22 what had happened to them.

23 Q Did you ever get an answer to that?

24 A No.

25 Q And now I understand that you've

1 learned a great deal since this event as a result
2 of the disclosure from the Commission, sir?

3 A Right.

4 Q And I know that it may be very
5 difficult for you to separate what you have
6 learned since from the state of affairs at that
7 time?

8 A I will do my best.

9 Q Are you able to give us any indication
10 as to how you felt overall in terms of your level
11 of satisfaction with the East St. Paul Police and
12 the way they dealt with you and your family?

13 A Initially I was -- I mean, I don't
14 know what you want as far as a scale of one to ten
15 or -- I was initially okay with what they had done
16 and how they had treated us, I was okay with it.
17 But it wasn't just about what I have learned since
18 disclosure, it is about what I have learned over
19 the time frame. Things came out, people called
20 me, I had emails, I had -- I read the paper like
21 everybody else and I heard things that had taken
22 place. So it just, you know, I mean, just went
23 downhill as far as whether I trust that they did
24 what was in our best interests, in the public's
25 best interest.

1 Q So is it fair to say then, based on
2 your comment, that at the time that you were
3 having these personal dealings with them in the
4 early weeks, you were disappointed and upset that
5 you weren't getting information, but apart from
6 that, you felt that they dealt with you in a fair
7 way?

8 A Yeah. It is a difficult thing. Like
9 I said, you know, I can't grade them like a
10 teacher, but everything was -- the days went by so
11 rapidly and things happened so rapidly that we
12 were trying to, you know, understand everything
13 that was going along. To say that I was happy
14 with them, I wasn't happy with them. I wasn't
15 getting any information from them, but they
16 were -- when they said they would come -- when
17 they would come back and say to me that they
18 couldn't give me any information because it was
19 under investigation, again, who do you go to? You
20 don't have a choice, you have to just accept that
21 what they are telling you is true. And yelling
22 and screaming is getting you nowhere, so you just
23 have to accept it. So when I say that, you know,
24 I wasn't happy but I was okay, I was okay with it.
25 That's it.

1 Q I hear you. What I want to do now is
2 I'm going to take you through some of the
3 obligations that the Victims' Bill of Rights
4 imposes. And I'm going to do this to assist the
5 Commissioner in organizing his thinking, and I'm
6 going to ask for your opinions or responses on how
7 you were dealt with and whether you think those
8 things were fulfilled?

9 A Okay.

10 Q The first requirement is that the law
11 enforcement agency, in this case the East St. Paul
12 Police, were required to give you information as
13 to your rights and remedies under the Victims'
14 Bill of Rights Act. Are you able to tell us
15 whether you think that was accomplished in this
16 case?

17 A That was not accomplished at all. I
18 don't remember it that day so -- I don't remember
19 much that day, but certainly I don't remember the
20 Victims' Bill of Rights.

21 Q And we are talking about all of the
22 contacts you had with them and not just the
23 initial visit by Constable Pedersen?

24 A We didn't have a lot of visits with
25 them, only a couple.

1 Q Only a couple?

2 A Yeah.

3 Q Oaky. So you were required to be
4 given the name of the police force and their
5 address and telephone number. Do you know whether
6 that was done?

7 A I think we got a card, so I guess that
8 was done.

9 Q There is also a provision of the bill
10 that may not really even apply in your case,
11 because you were automatically registered for
12 Victims' Services, but that clause requires the
13 police to give you an application form for
14 Victims' Services. Do you know whether you were
15 ever given an application form?

16 A I don't recall being given one.

17 Q The Act also requires the police to
18 explain the form of a Victim Impact Statement to
19 you. Did you have any conversation with the East
20 St. Paul Police about Victim Impact Statements?

21 A No.

22 Q And the Bill does require them to
23 furnish you with information about counselling
24 services, and we know from your earlier answers
25 that you were given pamphlets about counselling.

1 A Yes, we got pamphlets.

2 Q Would there have been any discussion
3 with Constable Pedersen about the counselling that
4 was available to you?

5 A If anything, she might have mentioned
6 that it was in the pamphlet, or I don't know, you
7 know, maybe she had suggested that there might be
8 some counselling, I don't know. I have no idea.

9 Q And it may be that this does not have
10 tremendous application to this case, but the Bill
11 also requires the police to advise you of your
12 right to maintain confidentiality with respect to
13 your name and address, in the event that you have
14 any concern or fear of retribution or contact by
15 the accused. Do you know whether there was any
16 discussion about confidentiality?

17 A I'm not sure if it was with me, it
18 might have been with Jordan. I don't recall that
19 with me.

20 Q I do recall looking at the materials
21 and seeing some reference to the family not
22 wanting Crystal's name released until you had a
23 chance to contact everybody?

24 A Right, exactly.

25 Q And do you recall who that would have

1 been communicated to? Are we talking about
2 speaking to the police or speaking to the hospital
3 authorities or --

4 A I believe that was in the hospital
5 that morning, I believe that's where that came up.
6 I have a vague memory. At the time Crystal's
7 parents weren't here, they were in Vancouver, and
8 we just didn't want any information coming out
9 until all of the family was around and found out
10 the proper way.

11 Q And the Victims' Bill of Rights
12 requires the law enforcement authority to advise
13 you of the name of the person charged, which we
14 know happened on the day before, or the day of the
15 visit by Chief Bakema and Sergeant Carter?

16 A That's correct.

17 Q And they are also required to provide
18 you with information as to whether that person is
19 detained or held in custody, and you were told he
20 was not?

21 A Right.

22 Q And they are also required to advise
23 you of the status of the investigation, subject to
24 some exceptions. They can hold off doing that,
25 for example, if they believe that it will

1 compromise or harm the investigation to let out
2 details about it, or if they feel it would
3 jeopardize the safety of any individual. Do you
4 recall any discussion about that, sir, about
5 whether you had the right to information and what
6 it was qualified by?

7 A I don't recall that.

8 Q And the Victims' Bill also requires
9 the law enforcement authorities to give you the
10 name and contact number of the prosecutor. Do you
11 recall whether you received any information from
12 the East St. Paul Police about the individual who
13 would be prosecuting this case?

14 A No, I don't recall that either.

15 Q Do you believe it happened or it did
16 not happen?

17 A I don't believe it happened.

18 Q Sir, this may cover ground we have
19 already covered to some degree, but the Bill
20 requires that you, as a victim, and your family be
21 treated with courtesy, compassion and respect. Do
22 you believe that you were given courtesy,
23 compassion and respect by the East St. Paul
24 Police?

25 A No.

1 Q Is there anything that you wish to add
2 in that regard to the comments you have already
3 made, or have we already covered it adequately to
4 satisfy you, sir?

5 A You have satisfied me.

6 Q I'm going to now start asking you some
7 questions about Victims' Services.

8 A Okay.

9 Q You understand now, I suspect, I don't
10 know whether this is something that you had ever
11 thought about or knew about back then, but
12 Victims' Services is set up to assist the
13 prosecution in fulfilling the prosecution's
14 obligations under the Victims' Bill.

15 A That I understand.

16 Q And your first contact with Victims'
17 Services, sir, I understand was a letter that had
18 been sent to you by Lesley McCorrister?

19 A Right.

20 Q And I'm going to ask that the witness
21 be provided with the victim's materials in volume
22 L, which we have made an exhibit in these
23 proceedings.

24 MR. PACIOCCO: If we could then make
25 that the next exhibit.

1 THE CLERK: Exhibit number 11.

2 (EXHIBIT 11: PRISM victim's
3 communications with Robert Taman)

4 BY MR. PACIOCCO:

5 Q I just made an exhibit,
6 Mr. Commissioner, a volume that contains
7 disclosure of victim's material, it is volume L,
8 and it includes a series of recorded documents
9 relating to communications between Victims'
10 Services and the victims in this case. And I have
11 just filed the documents found in L-74.

12 Sir, those pages in that document
13 should be numbered for you?

14 A Yes.

15 Q And in the lower right-hand corner,
16 you will find numbers that are sometimes hard to
17 read because they are stamped over top of other
18 information, but if you could turn, please, to
19 page 1853?

20 A Yeah, okay.

21 Q Now, 1853 is a letter dated March 4,
22 2005, addressed to you, sir?

23 A That's correct.

24 Q And do you recall receiving that
25 letter?

1 A I look at it now and it does look
2 familiar, yeah.

3 Q This letter is written by Lesley
4 McCorrister, crimes victim rights worker; correct?

5 A Correct.

6 Q And it reads as follows:

7 "Under Manitoba's Victims' Bill of
8 Rights, you have been registered for
9 information and input. You are not
10 required to do anything as a result of
11 the automatic registration process."

12 Correct?

13 A Correct.

14 Q So there was no need for you to take
15 any initiative in order to be put on the system?

16 A Right.

17 Q And it undertakes that they will make
18 every reasonable effort to tell you about all
19 important events and consult with you at various
20 stages during the prosecution. Do you see that,
21 sir?

22 A Yeah, I see that.

23 Q And I'm going to be asking you later
24 about the details of it, do you feel whether that
25 undertaking or promise was fulfilled?

1 A Okay.

2 Q Do you feel whether or not that
3 promise or undertaking to make every reasonable
4 effort to tell you about important events and
5 consult with you at various stages during the
6 prosecution was fulfilled?

7 A No.

8 Q Okay. I'm going to take you through
9 all of the contacts and communications, and you
10 will have a chance to elaborate on that.

11 She has introduced herself in the
12 letter as the crime victims' rights worker and
13 undertakes to answer questions to keep you
14 informed of the status of the case, and she
15 encloses a fax sheet which includes a list of
16 rights as a crime victim. Do you recall that,
17 sir?

18 A I don't recall actually seeing it.
19 Again, that was a long time ago and I don't recall
20 having seen that.

21 Q I'm going to show you some documents,
22 sir, that may help trigger your memory, or they
23 may not be documents that are relevant to you at
24 all, sir. They are found in tab R-3, 92.6. If we
25 could have those documents exhibited as well,

1 please?

2 THE CLERK: Exhibit number 12, please.

3 (EXHIBIT 12: Victims' Bill of Rights

4 forms and brochures Tab R-3 92.6)

5 THE COMMISSIONER: What is that again,

6 Mr. Paciocco?

7 MR. PACIOCCO: That would be exhibit

8 R-3, in book R-3, exhibit 92.6, and that exhibit

9 will be recognized as a collection of pamphlets,

10 cardboard pamphlets of various sizes held

11 together, relating to various Victims' Services

12 matters.

13 BY MR. PACIOCCO:

14 Q Sir, you will note there is a whole

15 whack of documents there. I'm not going to

16 suggest that you were given all of those documents

17 with that letter.

18 A Right.

19 Q Do any of them look familiar to you,

20 sir?

21 A No, they don't.

22 Q If you look at the second document,

23 the orange document, it describes itself as

24 support for victim's of crime and lists the

25 programs available in the Province of Manitoba?

1 A Okay.

2 Q And that document is not familiar to
3 you, sir?

4 A No.

5 Q You will also notice closer to the
6 back of the material there is a green document
7 that's a full typing page size of the Victims'
8 Bill of Rights overview?

9 A Whereabouts is that?

10 Q It is probably about halfway through,
11 sir. Unfortunately those pages are not numbered.
12 It is green.

13 A Okay. There it is.

14 Q Does that document look at all
15 familiar to you?

16 A No.

17 Q All right. Sir, you notice that
18 Ms. McCorrister provides you with her phone number
19 in the letter that we were looking at a moment ago
20 that's in exhibit L, at page 1853?

21 A Right.

22 Q And she invites you to call her if you
23 need any assistance. Do you recall seeing that,
24 sir?

25 A It is possible that I read that.

1 Q Because I know you did call her
2 shortly after?

3 A I did call her, yeah.

4 Q Okay. Sir, when you got this letter,
5 were you expecting anything from Victims'
6 Services?

7 A Again, I apologize for my ignorance,
8 but I'm not unlike most people, when we were going
9 through this and when I read this letter, I wasn't
10 sure what to expect from her, I had no idea. So,
11 I did give her a call. Not exactly sure what we
12 discussed, all I know is that it almost seemed
13 like she was there just to -- my feeling was she
14 was there to help us with the ongoing case, so if
15 we had questions to call her. But it is just
16 basically to get us information and that was it.

17 Q And you -- I know that you indicated
18 that you didn't have familiarity with the system.
19 That is totally understandable, sir. Did you have
20 any expectation that you would be called by the
21 Crown?

22 A By the Crown? My understanding was
23 that the -- she had told me who the Crown counsel
24 was, and that somewhere down the road he would be
25 calling and requesting a meeting.

1 Q But before you received this letter
2 from Ms. McCorrister, did you bother to turn your
3 mind to who might be contacting you, or who you
4 might speak to about the case?

5 A It probably did come up, I'm not sure
6 how or who I spoke to about it.

7 Q I am sorry, I know you have been
8 unable to identify the fact sheet that you
9 received. Do you recall looking at it?

10 A This here?

11 Q No, not necessarily those documents,
12 but the fact sheet that she says was enclosed with
13 this letter, do you recall looking at it?

14 A No.

15 Q Do you know whether you have ever
16 received a complete copy of the Victims' Bill of
17 Rights from any officials?

18 A Not that I remember.

19 Q Now, you indicate that you had a
20 conversation with her shortly after this?

21 A Right.

22 Q And I think you said it was pretty
23 vague?

24 A Yes.

25 Q Do you recall anything about that

1 conversation, sir, that you can share with us?

2 A I'm trying to remember that phone
3 call. That was, if I'm understanding correctly,
4 was that the early March?

5 Q It would have been March 17, 2005, and
6 I will take you to a note on it in a moment, but I
7 am seeing what your recollection was first, sir?

8 A I am trying to remember. Nothing is
9 coming to me, I'm sorry.

10 Q Okay. Fair enough. Are you able to
11 tell us, and you began I think a little bit, are
12 you able to tell us what you understood about your
13 rights as a victim at the time all of this was
14 happening?

15 A The only thing that I really
16 understood about our rights was that we would be
17 informed of any deals that would be coming, plea
18 bargains or what have you, that we would be
19 informed beforehand, and a little bit about the
20 Victim Impact Statement. I don't know of anything
21 else that --

22 Q Okay. And what I'm going to do, sir,
23 is there are a couple of themes that I have to
24 pursue with you, and I'm going to the first one
25 separate from the rest. And the first one has to

1 do with the obligation under the Bill to be
2 advised of court dates and important events. And
3 the second theme I'm going to pursue with you is
4 more complex, it deals with the information you
5 had about the staying of charges, and the
6 resolution discussion, and generally how you were
7 dealt with by people within Victims' Service and
8 by the Crown.

9 A Okay.

10 Q I'm going to go through the first, the
11 court dates, and then we are going to go through
12 the next by going chronologically through all of
13 your dealings with these various individuals who
14 had contact with the case.

15 First, with respect to court contact,
16 the Bill requires that Victims' Services advises
17 you as to how to find out about court dates, times
18 and places. And it also requires that you be
19 given information from them about the important
20 proceedings like preliminary hearings and other
21 hearings such as that?

22 A Okay.

23 Q Based on your recall of events, before
24 I take you through all of the correspondence, do
25 you feel that was adequately done, sir?

1 A I recall there is a lot of confusion
2 as far as just the court dates and times, and that
3 sometimes they couldn't even get ahold of me. I
4 told them -- I informed them of a change of phone
5 number, change of address. And they didn't input
6 the information in, and I guess they kept calling
7 my old number. And so I wasn't getting the
8 information, and that was -- that was around that
9 time. So there was a problem, and it just had to
10 do with something as simple as I just changed my
11 phone number.

12 Q How did that make you feel, sir?

13 A Which time, the first, second, third
14 or fourth time? Because that's how many times it
15 took to change my phone number. I was extremely
16 angry at the end and I said, can't you guys get it
17 right, this is my phone number.

18 Q Okay. And what I'm going to do now is
19 I am going to take you through the history of
20 court appearances, and we will go over the kind of
21 notice that you may have received in connection
22 with those?

23 A All right.

24 Q You have still in front of you
25 document L. If you could turn, please, to page

1 1854? What you have in front of you at page 1854
2 is a record made by Lesley McCorrister. And I
3 take it, sir, that apart from perhaps seeing this
4 when you were reviewing disclosure in the Taman
5 Commission, you have never seen this document
6 before?

7 A That's right.

8 Q So it wasn't generated by you?

9 A Right.

10 Q All right. And we are not going to
11 hold you to what it contains, but I'm going to use
12 these documents to assist you in perhaps
13 triggering your memory of events?

14 A Okay.

15 Q This document is dated March 17, 2005,
16 and it records "TCF Robert," which would be
17 telephone call from Robert.

18 "He had received the Victims' Bill of
19 Rights information I had sent him. I
20 explained what the Victims' Bill of
21 Rights was, what I did, and how I
22 could assist him."

23 Do you have any recollection of that type of
24 conversation, sir?

25 A Yeah, we did have a conversation along

1 those lines. She -- I mean, you have to
2 understand that back then, I don't recall any long
3 winded explanation about what the Victims' Bill of
4 Rights was. I mean, you could virtually say, and
5 be honest about it and say, I explained to him
6 that, you know, the Victims' Bill of Rights
7 pamphlet is the yellow and orange. Right. And
8 then she would not be lying, it would be yellow
9 and orange. But are we getting anything out of
10 it?

11 So, yeah, that's probably correct, you
12 know, that it came up. I don't mean to come
13 across as angry, I'm not. I'm just trying to
14 inform you that there is a lot of things that I
15 read here that, yeah, you know what, that's pretty
16 accurate, but also it leaves it open to twist it a
17 little bit.

18 Q I take it from your response that your
19 recollection is that you never really got a full
20 explanation of what the Victims' Bill of Rights
21 was, but you may have been given some information
22 about it?

23 A Exactly.

24 Q All right. Sir, you will see that the
25 correspondence goes on and she indicates that she

1 informed you of the first appearance being on
2 March 30th. Do you recall being advised of the
3 first appearance, the court appearance for
4 Mr. Derek Harvey-Zenk?

5 A I remember her telling me about that.

6 Q And she also told you that it might be
7 a waste of time attending court at that time. Did
8 she explain to you why it might?

9 A She said that nobody is even going to
10 be there, just the lawyers are going to be there,
11 and she said it will be in and out of court in a
12 matter of minutes, nothing, no pertinent
13 information will be discussed.

14 Q And she indicates there that you might
15 eventually wish to meet with the Crown and find
16 out how the case was proceeding, but it would be
17 premature at this time, as the information was
18 still coming into the office. Do you recall
19 having a conversation about meeting with the Crown
20 in that first -- that very first discussion?

21 A Yes.

22 Q And she records that you were glad to
23 know that you would be able to keep him informed?

24 A Right.

25 Q And I take it that is in keeping with

1 your view that finding out what was going on was
2 really important to you?

3 A That is correct.

4 Q And I imagine this gave you some hope
5 that you were going to get some of the facts?

6 A Oh, yeah, absolutely.

7 Q And you said that you would like to be
8 kept in contact on a biweekly basis?

9 A Right.

10 Q And you had no specific questions at
11 this time?

12 A Right.

13 Q Is that all a fair recount of what
14 took place?

15 A Right.

16 Q All right. All right. You did
17 receive contact letters as well. The next
18 appearance after the March 30th appearance, we
19 know to be April 27th. If you could take a look,
20 please, at page 1856? Do you recognize that
21 letter, sir, or does it ring any bells for you at
22 all? It is a letter dated March 31st, 2005, again
23 from Lesley McCorrister, recording that the next
24 scheduled court date is April 27th, 2005, remanded
25 for defence request, inviting you to come to the

1 courtroom and telling you that there is always a
2 chance it might be moved, and it would be best for
3 you to call her first. Does that ring bells for
4 you, sir?

5 A Yes, somewhat, a little bit. Yeah.

6 Q And if you hadn't received that
7 letter, I know you have, but apropos or with
8 respect to the obligation to let you know how to
9 go about contacting the court and finding out
10 about court dates, would you have known how to
11 find out when the matter was next in court?

12 A No.

13 Q Do you feel that that was never really
14 explained to you, sir?

15 A I would feel that it was never
16 explained.

17 Q Okay. And you were ultimately -- at
18 this point you had already had that original
19 conversation with Ms. McCorrister, that you might
20 not want to go to the remands because they are
21 really not that important?

22 A Correct.

23 Q And it was your intention, I take it,
24 to be there when it mattered?

25 A Right.

1 Q And you were made aware of the first
2 important date, the first preliminary hearing date
3 when it was set for June 5th to the 16th of June,
4 2006, sir?

5 A Right.

6 Q And you will notice at page 1861,
7 there is another letter just like the one that we
8 just looked at, this time advising you of
9 preliminary inquiry date. And we are going to get
10 into this in some detail later, sir, but you will
11 recall that that preliminary inquiry date was
12 ultimately adjourned?

13 A Right.

14 Q And you heard directly from Mr. Minuk
15 and Ms. McCorrister that it was going to be
16 adjourned?

17 A Yeah, and I don't recall
18 Ms. McCorrister being there.

19 Q I may be wrong?

20 A I don't recall her being there.

21 Q The meeting was set up by her, I take
22 it?

23 A Right.

24 Q And then at page 1879, you will find a
25 notation indicating that it will be a year until

1 the preliminary inquiry date is likely to be set?

2 A Right.

3 Q And that is at page 1878, and then
4 over on 1879, you get the actual letter, like the
5 letters that we have looked at before, giving you
6 the dates for the second preliminary, July 16th,
7 2007 to July 20th, 2007.

8 A Right.

9 Q I understand, sir, from looking at the
10 earlier interview that you had, that this letter
11 might not have actually arrived at your place?

12 A This one here, no, it wouldn't have.

13 Q And, sir, you had indicated that you
14 had changed addresses?

15 A That's correct.

16 Q And how long before the August 22nd,
17 2006 date, when this letter was sent, had you
18 changed addresses?

19 A I am just thinking here -- a year.

20 Q Do you know whether you had advised
21 Victims' Services that you had changed addresses
22 before this letter was sent to you?

23 A Yes, I did. At the same time I told
24 them that, at that point, my phone number remained
25 the same but my physical address had changed. But

1 that was back, like I said, that was a year
2 earlier.

3 Q Sir, if you can flip over to page
4 1880, you will find a memo from Lesley McCorrister
5 having contacted you on this occasion to get your
6 new address?

7 A Right.

8 Q And at that point she had told you
9 that the letter had come back that she had sent
10 notifying you of the trial date?

11 A Right.

12 Q And she orally provided you with the
13 date and the courtroom at that time?

14 A Right.

15 Q But you still had, at this point,
16 about nine months notice before the actual court
17 dates were going to take place?

18 A Right.

19 Q And you were aware that it was going
20 to take about a year longer?

21 A Yeah.

22 MR. PACIOCCO: Your Honour, I notice
23 it is 12:29. It is probably a good time before I
24 open a new topic to break for lunch.

25 THE COMMISSIONER: Appropriate time.

1 We will break now until 2:00 o'clock.

2 THE CLERK: All rise. This Commission
3 of Inquiry will take a luncheon recess.

4 (Proceedings recessed at 12.30 and
5 reconvened at 2:00 p.m.)

6 THE CLERK: All rise. This Commission
7 of Inquiry is now reopened. You may be seated.

8 THE COMMISSIONER: Mr. Paciocco,
9 before we proceed. I adjourned for an hour and a
10 half. If it is convenient to counsel, an hour and
11 15 minutes might be enough. Is that all right?
12 If for some reason you want longer, let me know,
13 but I think an hour and 15 minutes is all we need.
14 All right.

15 MR. PACIOCCO: Thank you for that.

16 Two other very brief matters of
17 business before I resume with Mr. Taman. I
18 indicated today that Mr. Kenneth Graham had been
19 subpoenaed to arrive today. It turns out that he
20 was re-subpoenaed for July 2nd, after some
21 discussion with the Commission administrators. So
22 I do apologize for any suggestion that perhaps he
23 failed to show when he should have, because he was
24 not meant to be here.

25 The second point, Mr. Zazelenchuk just

1 asked me whether I wouldn't mind starting at 9:00
2 tomorrow. I don't know how that suits the
3 Commission, I don't know how that suits you or
4 other counsel, but I did indicate to him that I'm
5 fine with that, but I wanted to check with you and
6 see whether that's something that you are
7 interested in. And if so, we can find out whether
8 that's going to create problems for --

9 THE COMMISSIONER: I know we have a
10 short day tomorrow and 9:00 would be all right, if
11 it is all right with counsel? All right. And the
12 clerk, we always forget about the clerk, and the
13 reporter. We will start at 9:00 tomorrow.

14 MR. PACIOCCO: Very good, thank you.

15 BY MR. PACIOCCO:

16 Q Mr. Taman, just before we broke for
17 lunch we were canvassing the court dates and the
18 notice that you had received, and we just finished
19 looking at some complications that emerged with a
20 letter going to an old address of yours.

21 Sir, you have become familiar with the
22 Winnipeg courthouse, unfortunately, over the last
23 period of time, haven't you, sir?

24 A Yes, I have.

25 Q And the first preliminary inquiry date

1 that you had been notified of, orally by
2 Ms. McCorrister, after the letter didn't get to
3 you, was July 16th, 2007?

4 A Right.

5 Q And business that date was conducted
6 at the new part of the courthouse, room 404, it is
7 a small room in the building. Do you recall?

8 A Right.

9 Q And, sir, on that date when the
10 hearings occurred, it was a very brief matter.
11 People waited around for quite some time and then
12 it was simply put over to the next day. Do you
13 recall that?

14 A I recall that, yes.

15 Q And so you, of course, knew enough to
16 be there and you were there, sir?

17 A Right.

18 Q And you were in court when you were
19 told to come back the next day?

20 A Yes.

21 Q You had received some communications
22 from Ms. McCorrister offering to show you the
23 courtroom if you came by the Victims' Services
24 office. Do you recall any conversation with her
25 to that effect, that she would help you find the

1 rooms?

2 A Yeah. I recall, by telephone, I'm not
3 sure if I had called her or she had called me,
4 where I said that I didn't know the courthouse, or
5 where to go. So she told me where her office was,
6 and if we could just come there, then she would
7 direct us to the courtroom.

8 Q Did you take advantage of that offer,
9 sir?

10 A Yes, I did.

11 Q And sir, you would have learned on
12 that date, the second court date there, on
13 July 17th, that the sentencing arguments were
14 actually going to be presented on August 22nd;
15 correct?

16 A That I'm not sure of, because I
17 thought there were two back to back dates, and I'm
18 not sure what happened on what date.

19 Q Yes, the second of those dates that
20 was set for the argument was on the 22nd of
21 August, sir?

22 A Right.

23 Q And, of course, you knew enough to be
24 there on the 22nd of August?

25 A Yes.

1 Q And that's the hearing at which the
2 arguments were made but no decision was rendered?

3 A Right.

4 Q And subsequently there was a special
5 date created, and this occurred on September 5th,
6 you will recall that the judge wanted to hear back
7 from the parties for further submissions?

8 A Right.

9 Q I'm going to take you some
10 correspondence or some noted telephone calls in
11 the PRISM records, in volume L that you have in
12 front of you --

13 A Okay.

14 Q -- and try and track that. If you
15 would take a look, please, at page 1926? You will
16 see this is dated September 5th, 2007, and it is a
17 telephone call from Ms. McCorrister to yourself,
18 sir?

19 A Right.

20 Q And she is indicating there that she
21 wants to confirm your address?

22 A Correct.

23 Q And is that the same address that you
24 were living in when the letter didn't reach you on
25 the 22nd of August, 2006, or had you moved again?

1 A I had just moved again, but I had all
2 of my mail forwarded through Canada Post, so it
3 wasn't an issue of, you know, that I wouldn't
4 receive it. But, yeah, I had just moved for a
5 second time.

6 Q Do you know whether you had advised
7 the Victims' Services that you had moved a second
8 time?

9 A Yes.

10 Q Do you know whether you had advised
11 them before this telephone conversation?

12 A I may not have before that.

13 Q All right. And she explains to you in
14 this that there is a court appearance that's going
15 to take place, and you wanted to be certain from
16 her that nothing important was going to occur that
17 day?

18 A Right.

19 Q And she confirmed it to you?

20 A Right.

21 Q Sir, I do know in what order these
22 phone calls were made, it may be our records are
23 out of order. But if I take a look at the next
24 page, you will find that she is recording a phone
25 call from you in which you are indicating to her

1 that you heard from someone who was at court today
2 that the sentencing was set for the 12th, and you
3 wanted to know why you hadn't been notified. What
4 can you tell you us about that conversation about
5 why you called her, sir?

6 A Well, looking at both of them, they
7 are both dated the 5th, I'm not so sure of the
8 order either. But I do recall this phone call.
9 Throughout this entire process we received a lot
10 of information second hand, we weren't getting it
11 direct. And this was an issue and an area where I
12 thought the information should be coming direct.
13 You know, if there was a date, I should know and
14 not be told by other people. And we received, I
15 believe, two phone calls that day telling us when
16 the follow-up court dates were going to be, and
17 they were from people that, you know, they are not
18 affiliated with anything here. They are just
19 regular people calling us and telling us. And I
20 believe my son was the one that told me that he
21 received phone calls, and I told him not to listen
22 to anything outside, any outside information, that
23 we would only listen to first-hand.

24 And so I had contacted Lesley and
25 asked her what the heck was going on, and why am I

1 getting these phone calls, when she should just be
2 calling me and letting me know so that I could
3 tell my kids instead of somebody else.

4 Q Fair enough. Do you recall the
5 explanation that she gave to you, sir?

6 A She said that she was going to check
7 on the matter and then call me back and let me
8 know. She just called me back and said that it
9 was in court, and I believe she said it is just,
10 the court is open to the public so anybody can go
11 in there and find out what they wanted to know,
12 and that's how you got your information, because
13 somebody was there.

14 Q Okay. So she was explaining to you
15 how somebody else might have information that you
16 don't when she was making that comment, is that
17 what you understood from her?

18 A That's correct.

19 Q And she basically said that she would
20 have had to personally be in court to find out
21 what that date was, because it hadn't yet been
22 announced?

23 A Right.

24 Q You, sir, did ultimately receive a
25 letter, I understand, directly from Mr. Minuk

1 dated September 5th, indicating the court date.

2 Do you recall that, sir? Would you like me to
3 take you to that document?

4 A Yeah. Where is that?

5 Q This is in book R-3?

6 THE CLERK: I think it is R-2.

7 MR. PACIOCCO: R-2, excuse me. This
8 is in book R-2, document 91.62 -- 91.62. Could
9 that be made the next exhibit, please?

10 THE CLERK: Exhibit number 13.

11 (EXHIBIT 13: Letter to Robert Taman,
12 September 5, 2007)

13 BY MR. PACIOCCO:

14 Q And you will see before you, sir, it
15 is a letter addressed to you. And that address,
16 is that a current address, sir?

17 A That's correct.

18 Q And it is a letter informing you that
19 Chief Judge Wyant has informed counsel of a desire
20 to hear further submissions on sentencing, and
21 provides information that that will take place on
22 September 12, 2007, in courtroom 230 at
23 9:00 o'clock a.m.; correct?

24 A That's correct.

25 Q And, sir, I understand that after that

1 hearing, and we will come back to what occurred
2 during that hearing later, but after that hearing,
3 the sentencing date was not set and that it was
4 going to be notified to you, sir, do you recall
5 that?

6 A Yeah, I recall that.

7 Q Yeah. And you received a phone call
8 on the 1st of October, 2007, advising that you
9 that the sentencing was going to be on the 29th of
10 October. Is that realistic, sir?

11 A Sounds familiar.

12 Q Sir, there was also an attempt to
13 provide you with a copy of the judgment in
14 connection with this matter?

15 A Correct.

16 Q And there was some confusion about how
17 to get that to you as well, sir?

18 A Yes, there was.

19 Q Do you recall that?

20 A Yes.

21 Q What happened, sir?

22 A Again, they sent it to my -- not my
23 previous address, but the previous, previous
24 address that I had already changed twice with
25 them.

1 Q And, sir, I understand that there was
2 also some discussion about your cell phone number?

3 A Yes. They tried calling my old cell
4 phone number as well, which, again, I had changed
5 with them.

6 Q If you take a look at book L, you are
7 looking at the documents at tab 74 in front of
8 you, at page 1935, where you indicate that you had
9 received the decision that was mailed, and that
10 you stated that the phone number had been provided
11 three times already. Sir, do you recall that?

12 A Right. I would also like to note on
13 there --

14 Q Yes?

15 A -- that I had called her. Okay.

16 Q Yes.

17 A And when I did call her, when I
18 received the documents, it came with a note
19 attached and the note said, we were trying to mail
20 these out to you, but they were returned to us, we
21 had mailed them to your old address. And when I
22 did read that note, I can't say that I was angry,
23 but I was getting there. And I was very
24 frustrated, because this is the way it has been
25 right from day one and, you know what, that just

1 having her mail me that document the second time
2 with the note, and now that you see right before
3 you -- how many times do you have to tell somebody
4 a little bit of information for them to get that
5 little bit right? And I was very frustrated with
6 it.

7 Q Sir, with respect then to being
8 notified of court dates and important dates, sir,
9 would it be fair to say that ultimately you did
10 find out where you had to go and where you had to
11 be, but there were a lot of hurdles to be crossed
12 before you actually got there?

13 A Yeah, that would be fair. And I would
14 like to add to that as well, I'm not sure which
15 date, one of the dates -- again, it is hard to
16 pick between each date because you can't remember
17 everything. I wish I had taken notes. But one of
18 the dates I remember contacting Lesley, and it is
19 quite possible it might have been Monica, because
20 I didn't know where I was going and I didn't -- I
21 wasn't quite sure of the date and I didn't want to
22 miss anything. And I remember we were quite
23 frantic about it, because it was just days leading
24 up to it, and it was just difficult.

25 Q Okay. I'm going to switch themes now,

1 sir, and I'm going to start looking at a variety
2 of issues. I'm going to look at communications
3 about the resolution discussions, about the
4 staying of the charges, about the Victim Impact
5 Statement, and just look generally at how you were
6 treated and what your reactions were, but I'm
7 going to do that chronologically.

8 A Okay.

9 Q So I am going take you back and cover
10 some of the ground we have already covered, but I
11 will do it very briefly.

12 You will recall when you got that
13 initial letter from Ms. McCorrister introducing
14 herself as the crime victim services worker, you
15 made contact with her on the 17th of March of the
16 year 2005, sir?

17 A That is correct.

18 Q And you had indicated to her that you
19 would like to have some kind of biweekly update of
20 what was going on. Do you recall that, sir?

21 A That's correct.

22 Q And, sir, what was your expectation in
23 terms of how that communication would play out?

24 A I was hoping that we were going to be
25 receiving the information through Ms. McCorrister,

1 and it was kind of like, it was sort of just an
2 understanding from the telephone conversation that
3 she was going to be -- she was going to be kind of
4 our source, and we would have to rely on her to
5 provide us with any updates that were happening.
6 I wanted it biweekly. Afterwards -- because we
7 are new to the justice system, I didn't realize at
8 that time that nothing is done biweekly within
9 this system, that you might be talking
10 semi-annually, if you really were in a dream
11 world. Because it -- just nothing moves along.
12 So we didn't receive no biweekly phone calls or
13 anything. I usually called her.

14 Q And, sir, if you could look at page
15 1858? I think you will note a conversation that
16 you had with her on April 5th, 2005, page 1858,
17 L-74. At the last line of that communication you
18 indicated that, or she records that you provided
19 her with your cell number. Now, this is early on
20 in the process?

21 A Correct.

22 Q And asked her to call you if anything
23 ever happens, and for updates; correct?

24 A Correct.

25 Q So by this point, which is only a

1 month after you initially spoke to her, it is
2 pretty clear that you are looking for material
3 information rather than biweekly phone calls.

4 Would that be fair, sir?

5 A That's fair.

6 Q You do contact her on May 26th, sir.
7 If you take a look at page 1860, you will see the
8 PRISM communication relating to that conversation,
9 May 26th, 2005. She actually phoned you but you
10 had left her a message?

11 A Correct.

12 Q And she was responding?

13 A Correct.

14 Q There are a number of things that you
15 have asked her in this correspondence, or in this
16 recorded conversation rather. You wanted to know
17 about a court update and we have dealt with that
18 already. And then you wanted to know about a plea
19 bargain, you wanted to know if any plea bargain
20 would take place without your knowledge, sir?

21 A Correct.

22 Q Why did you bring that up so early in
23 the process?

24 A Well, there was a lot of talk amongst
25 people who weren't involved with this, and a lot

1 of people talking to me. And combined with the
2 fact that it is a police officer that did this,
3 and the fact that we weren't receiving any
4 information and nobody was calling, we were
5 always -- I was always initiating a phone call. I
6 was scared at that point. I really believed that,
7 you know, anything can be going on there, they are
8 not telling me anything. I mean, if we were in
9 constant contact, it is possible that these
10 thoughts may not have come up.

11 Q Okay. And you will see in response to
12 your concern, she records that she explains that
13 the Crown is good in keeping families informed
14 about any talks taking place and they generally
15 met with the families to explain their position?

16 A Right.

17 Q Sir, without getting into the details,
18 do you feel that that happened in this case?

19 A No.

20 Q We will go through those meetings
21 shortly, and you will have an opportunity to deal
22 with each of them in turn.

23 There is also some indication about a
24 desire to speak to the Crown?

25 A Right.

1 Q And she said she would try to do that?

2 A Right.

3 Q Did you know who the prosecutor was by
4 this point, sir?

5 A At that point in time, I did.

6 Q Okay. And I take it, since you didn't
7 learn that from the East St. Paul Police, you had
8 learned it from the Victims' Services worker?

9 A Yes.

10 Q And so there was also some concern
11 expressed by you about the accused's picture not
12 being in the paper. What was that about?

13 A It is extremely difficult to go
14 through this, and I understand why Crystal's
15 picture was in the paper, I understand what the
16 journalists' job are, I understand why it was on
17 TV. But I felt kind of offended that when the
18 news reporters, either paper or television, when
19 they are reporting on Derek Harvey-Zenk, they
20 would put a picture of Crystal. And I felt that
21 when they are doing reports about Derek
22 Harvey-Zenk drinking and driving, there should be
23 a picture of Derek Harvey-Zenk, not a picture of
24 Crystal. Crystal was the innocent victim. And
25 truly, I didn't feel that that picture should be

1 associated in that regard.

2 Now, if they are doing a report about
3 why people shouldn't drink and drive, then I would
4 have been okay with Crystal's picture. But that
5 wasn't the case. It just seemed to me that it
6 would have been appropriate to put his picture in
7 the paper or on, you know, TV in regards to
8 dealing with his own actions.

9 Q Sir, we took you through earlier a
10 letter notifying you of the first set of
11 preliminary inquiry dates that were set, sir?

12 A Right.

13 Q And shortly after that you called
14 Ms. McCorrister looking for certain information,
15 after you got that letter about the preliminary
16 and the nature of what the preliminary is. Do you
17 recall that, sir?

18 A Yes.

19 Q If you take a look at page 1862, you
20 will find the PRISM communication relating to
21 that?

22 A Okay.

23 Q She informed you of the preliminary
24 Inquiry being set and provides you again with the
25 dates. And we discussed him talking to the Crown

1 closer to the preliminary date, and I said -- she
2 said she would call in April to find out what
3 times he would be available. So there is some
4 indication here that meeting with the Crown should
5 take place at some time closer to the actual
6 dates, rather than this early in the process, sir.
7 Do you recall that?

8 A I recall that.

9 Q And she explains to you, at least in
10 general terms, according to this note, what a
11 preliminary inquiry was?

12 A Yeah, a little bit about it. Whether
13 I truly understood it, I couldn't say.

14 Q Do you recall what you would have been
15 told, sir? What its function was or how it was
16 going to work?

17 A The way it was said to me at that
18 point, it wasn't very specific. It was that the
19 preliminary was just to present the information to
20 determine whether or not it was going to trial.
21 And that was the basic gist of the info.

22 Q When you learned it was going to be a
23 whole year, were you surprised by that, sir?

24 A Yes, I was shocked.

25 Q What kind of emotional impact, if any,

1 did that have on you, sir?

2 A When you are dealing with something
3 like this, your mood swings, it is really up and
4 down. And you have periods of good feelings where
5 you are actually functioning like an almost normal
6 person. And then there is other days where it is
7 not quite so -- you are having a very difficult
8 time doing the most, you know, easy tasks that
9 people do every day. And we were just getting to
10 a point in time where we were already accepting
11 that Crystal is not walking through the door
12 anymore, and we were entering the justice part.
13 And when I learned it was going to be another
14 year, it leaves you another year hanging on to
15 this crime. And it leaves you another year where
16 you are not allowed to properly mourn, or grieve.
17 And that's what we dealt with, it was another year
18 where we had to deal with the crime and not with
19 the loss.

20 Q Sir, after that communication on
21 June 1st, 2005, there was the indication here by
22 Ms. McCorrister that she contact you in April to
23 find out when you are available to meet with the
24 Crown, so that would be April 2006, many months
25 later?

1 A Right.

2 Q And, sir, the next information we have
3 is that it was May 1st, 2006, when you contacted
4 the Crown -- or you contacted Ms. McCorrister,
5 sir. Do you know whether you had any contact with
6 her in April?

7 A I don't recall.

8 Q Did she call you up and try and set up
9 that meeting with the Crown, sir?

10 A I don't recall that.

11 Q Sir, given that you had no contact
12 with anyone that we can see from the records
13 between June 1st, 2005, and your initiated contact
14 on May the 1st, 2006, did that have an impression
15 on you, sir, that eleven-month period?

16 A Yeah, it was -- at that point, I
17 already knew at that point, okay, I'm only going
18 to get information if I ask. I'm only going to be
19 able to, you know, move through this whole process
20 properly if I pick up my phone, because there is
21 nobody in this system that's going to call me.
22 But it becomes difficult to phone when there is
23 nothing coming back. There is no information,
24 there is no -- I mean, I could have called every
25 month and said, can you tell me how the

1 preliminary works? Because that's all they are
2 going to offer. If I call and say, how is
3 everything going with the prosecution, I would
4 like to know what is going on here, there is no
5 information for victims like that, they just don't
6 give that out. So you realize very, very early
7 that, first of all, you realize it is going to
8 take a long, long time. And secondly, you are not
9 going to get the information. So we were very
10 frustrated.

11 Q And sir, you did ultimately have
12 contact with the Crown, Mr. Minuk, sir?

13 A Yes, I did.

14 Q And who set up the meetings that you
15 did have with him?

16 A Who set it up?

17 Q Who initiated them? Let me ask you
18 that first.

19 A I had called Lesley and wanted a
20 meeting with Mr. Minuk.

21 Q And are you able to say whether that
22 was a consistent pattern or was that just the
23 first time, sir?

24 A That was consistent.

25 Q And I am going to ask you about each

1 of the meetings in turn, but I thought I would ask
2 generally up front, did you make any observations
3 about Mr. Minuk's attitude towards meeting with
4 you, sir?

5 A Towards me or --

6 Q Towards you, or towards meeting?

7 A His attitude was more, well, just that
8 he would, you know, meet with us when the time was
9 right, there was no rush, there was -- he never
10 found it to be something that was, I felt, it
11 wasn't an important issue to meet with us. And as
12 we move along in the questioning of exactly, I
13 mean, where is this going, I mean, we became not
14 important. And it seemed like we weren't that
15 important to him. I don't have anything that I
16 can add to that.

17 Q How did you get along with him,
18 generally?

19 A It was cordial. We -- I've said this
20 numerous times, and it has been printed and
21 recorded numerous times, and I'm still taking the
22 high road. I can jump on this desk right now and
23 start yelling and screaming about everything that
24 happened to us, but I'm not going to do that. And
25 I didn't do it then either. We took the high

1 road. And I hope down the road it is the right
2 one to take, but we just didn't feel it was right
3 to yell and scream. It was best to keep it --

4 Q Would it be fair to say that he was
5 cordial and professional with you in return?

6 A No.

7 Q Could you elaborate on that a little
8 bit, please?

9 A When speaking with Mr. Minuk, we spoke
10 about the law, and we didn't speak about what is
11 right and wrong, we just spoke about the law. In
12 reality, there is a lot of wrong and not much
13 right here, and we really wanted to get to that,
14 and I really wanted to talk about that, and he
15 wasn't very receptive to that. At one of our
16 meetings, I actually felt somewhat threatened.

17 Q And we will come to that particular
18 episode shortly, sir, and I will get you to take
19 us through it at that point.

20 A Sure.

21 Q Sir, just by way of one other
22 preliminary point before I move on; so you were at
23 the scene of the collision?

24 A Yes, I was.

25 Q And so was Tara and so was Kristin?

1 A Yes.

2 Q Sir, did Mr. Minuk ever ask you any
3 questions about what you observed at that scene?

4 A No.

5 Q Was there ever any attempt to contact
6 Tara and Kristin to find out what they observed?

7 A Never.

8 Q And how about the police?

9 A Never.

10 Q Did that leave any impression with
11 you, now that you look back?

12 A Yeah. I started to wonder what was
13 going on, especially the fact that Mr. Minuk did
14 know, because we told him, but it never came up --
15 never, by anybody, did anybody ever question my
16 daughters and ask them what they saw.

17 Q Was there ever a point in time where
18 you thought you would want to offer that
19 information to them, whether Mr. Minuk or the
20 police?

21 A As this was going along, there was
22 never much communication. In one of our meetings
23 it was brought up with Mr. Minuk, and nothing ever
24 happened, there was no response to it. It wasn't
25 necessary information to him.

1 Q I'm going to take you to the May 1st,
2 2006 contact that you made to reinitiate contact
3 after that eleven month hiatus we looked at. You
4 will find it at page 1866 of exhibit L-74. Page
5 1866 there is a telephone call from
6 Ms. McCorrister indicating that she is returning
7 your call, and then if you flip over one more
8 page, you get back to her. And at this point you
9 ask her if she is still the worker, and she said
10 yes.

11 Sir, I take it that you learned that
12 she had moved jobs at that point?

13 A I tried calling the number that she
14 gave me and somebody else answered and gave me her
15 new number.

16 Q Sir, had you ever been provided with
17 information that she had left that position?

18 A No.

19 Q Did it really matter to you, sir, who
20 you were speaking to at Victims' Services?

21 A Yes.

22 Q And I can understand that. Can you
23 explain why.

24 A There was very -- at this point the
25 trust factor is starting to drop off

1 significantly. I'm having a difficult time
2 trusting anybody, and I don't know who is on our
3 side and who is not on our side. It is looking
4 very bleak. And I believe, at that time, I
5 believed that Victims' Services was still working
6 for the victims. And so Lesley was my contact
7 with Victims' Services all along, and when I -- to
8 change a person would be like somebody changing a
9 doctor. It would be the same thing. You know, we
10 have been speaking, she knows who I am, she knows
11 what it is all about, and I didn't want to be
12 switching over before it actually got to court.

13 Q She indicates in this conversation
14 that you began to ask about the meeting with the
15 Crown, and she had been under the impression that
16 you had already met with the Crown, sir?

17 A Right.

18 Q How did you find that?

19 A I found it disturbing. Again, I don't
20 see -- disturbing but not surprising, today
21 especially, or obviously misinformed. They were
22 misinformed or didn't write down the notes the way
23 they should have. But I was upset that I wasn't
24 the one that met with Mr. Minuk and I wanted to
25 meet with him.

1 Q Do you know who it was that met with
2 Mr. Minuk?

3 A That was Crystal' parents.

4 Q Sir, you did meet with Mr. Minuk two
5 days later I understand that she arranged a
6 meeting for you and it happened in fairly quick
7 order?

8 A Okay. Yes.

9 Q Take a look please at page 1870? This
10 would have been your first meeting with Mr. Minuk.
11 And how long do you think that meeting took, sir?

12 A It wasn't that -- maybe a half hour,
13 I'm just --

14 Q If someone was to suggest that maybe
15 it was an hour, would you take issue with that?

16 A No, I never met with him for an hour.

17 Q And where does that confidence come
18 from?

19 A This here, this --

20 Q Your suggestion that you never met
21 with him for an hour, I was asking you where that
22 confidence that you have that you never met with
23 him for an hour comes from?

24 A There is a difference between a half
25 hour and an hour. Now, if I met with him for 55

1 minutes, I would have told you that we met for
2 about an hour. If I met with him for 45 minutes,
3 I would say it is closing in on an hour. But I
4 never met with him for an hour. It would be half
5 hours, at tops 45 minutes.

6 Q And sir, who was with you during that
7 meeting?

8 A My son Jordan, and I believe Lesley
9 was at that initial meeting.

10 Q Okay. Was there value in having her
11 there, sir?

12 A Yeah, there was. There was a little
13 bit of comfort to it. Again, just like going into
14 the courthouse, if you are not familiar with the
15 way the courthouse works, you are going to be very
16 uncomfortable. And just like lawyers, if you are
17 not familiar with dealing with lawyers, you are
18 going to be very uncomfortable. And when you go
19 up to, I don't know what floor it is, 25th, I
20 don't know what floor you go on, and you go into
21 these massive offices, it is a little
22 intimidating. So, yeah, it was a benefit to have
23 her there.

24 Q And in this record of what
25 Ms. McCorrister said took place during that

1 meeting, she indicates that Mr. Minuk explained
2 the preliminary inquiry to you, and that it is to
3 determine committal at trial, which he expected
4 would happen. Is that a fair recollection of what
5 took place, sir?

6 A Yeah.

7 Q And, sir, it also indicates that it
8 was set for two weeks, but he wasn't expecting
9 that it would run the full two weeks. Do you
10 recall that as well, sir?

11 A Right, yes.

12 Q And he indicated to you that if there
13 was going to be a trial, it would take a year
14 perhaps before that trial date came?

15 A Correct.

16 Q So he was alerting you to the delays
17 that might occur?

18 A Right.

19 Q Was that news to you, sir?

20 A Yes.

21 Q And again, without trying to be too
22 repetitive, how did that make you feel to learn
23 that you were in it for another year after that?

24 A Yeah, I would say that I felt crushed
25 by it, and knowing that we have got to go another

1 year, and now I had to turn around and explain it
2 to my daughters that we have got another year of
3 this. And again, I go back to the fact that you
4 are dealing with the crime for another year, you
5 are not dealing with the loss yet, we are still
6 dealing with this crime. And it was terrible to
7 deal with, it was very, very -- very emotional.

8 Q Sir, there is also an indication in
9 this note that there was some discussion about the
10 kinds of sentences that might be appropriate for
11 this kind of crime, and about there being an
12 inconsistency in the sentencing authority, and
13 that sometimes this ends up without a period of
14 jail. Do you recall that conversation, sir?

15 A Yeah, I recall that a little bit,
16 yeah. I recall that part being heated -- heated
17 would be a good word. I didn't take too kindly to
18 those kind of sentences and I let him know how I
19 felt.

20 Q Okay. The Victims' Bill of Right
21 requires the prosecution to explain the process of
22 sentencing to you. Do you feel that that
23 conversation would satisfy what you might expect
24 in terms of having the sentencing process
25 explained to you and the range of possibilities?

1 A Do I feel that was done to us?

2 Q Yes. Do you feel you were given
3 enough information about the sentencing process
4 during that conversation?

5 A No.

6 Q What else do you think you should have
7 learned, sir? Is there anything that you can tell
8 us that you felt was missing, or why you are left
9 with that sense?

10 A I don't believe anything was explained
11 properly. I can go back to the yellow and orange
12 booklet that's here, okay, and you can use the
13 same analogy. It is easy to say that it was
14 explained, but was it explained to the point where
15 it was understood? And it wasn't. And when we
16 left there, it wasn't understood. And my initial
17 reaction to this conversation was, I'm starting to
18 wonder whether he was preparing me for what was
19 about to happen. And I left that meeting trusting
20 him less than when I walked in.

21 Q Did you try posing questions to get
22 further understanding, sir?

23 A I didn't even know what to ask. You
24 know, when you don't understand something, how can
25 you ask a question about it? Do you know what I

1 mean? Like, if you know that there is a motor
2 under of the hood a car and you know what makes
3 that motor run, then you can ask the mechanic what
4 is wrong with the motor, and you can get a proper
5 answer and understand it. But if you don't know
6 that the motor exists, what are you going to ask
7 him?

8 Q So, is it fair to say, sir, that he
9 was clearly left with the impression that you were
10 dissatisfied with the sentencing regime?

11 A Sure, yes.

12 Q All right. Sir, there is also an
13 obligation on the prosecution to explain the
14 possibility of at some point having resolution
15 discussions with the defence. Was that ever done,
16 sir, at this meeting or any other meeting?

17 A It was never done.

18 Q Sir, the last point that I want to
19 raise with respect to this meeting, and it is a
20 matter of some delicacy and no one is interested
21 in intruding on your privacy, but it is a matter
22 that can be of some importance to the
23 Commissioner. I understand there was a breakdown
24 of communication between yourself and Crystal's
25 parents at some point, or between Crystal's

1 parents and yourself?

2 A That's correct.

3 Q And I understand, sir, that this
4 meeting, in part, you were concerned that
5 Crystal's parents had been meeting with the
6 prosecution and you hadn't, sir?

7 A Correct.

8 Q What was your basic position about
9 whether they should be meeting with the Crown?

10 A I had no problem, and this was stated
11 to Mr. Minuk and to Lesley McCorrister, I had no
12 problem with any information being given to
13 Crystal's parents. I just wanted to be informed
14 first.

15 Q Sir, did you at any time indicate to
16 them that you didn't want them talking to
17 Crystal's parents?

18 A First, and that's all, talk to me, but
19 if you want to talk to them, I have no problem
20 with that, but just talk to me first, I want the
21 information first. Again, I go back to the second
22 hand info. News travels real fast and stories
23 travel real fast, and I just didn't like
24 inaccurate stories coming back and frustrating us
25 even more than we were. I just wanted to be told

1 first, and then tell whoever you want, I was okay
2 with that.

3 Q Sir, it wasn't long after that meeting
4 that you had on May 3rd, when you got a phone call
5 from Lesley McCorrister, this would be May 26,
6 inviting you -- this is a week before the
7 preliminary is about to start, and she is inviting
8 you to meet with the Crown again. Do you recall
9 that?

10 A Yes.

11 Q And you met with the Crown on
12 May 29th, 2006. You will find at page 1877, a
13 consultation summary of that meeting, sir. And I
14 understand that again, your son, Jordan, attended
15 that meeting with you?

16 A That's correct.

17 Q And Ms. McNichol, who I presume was
18 from Mr. Minuk's law firm, was also there?

19 A I don't recall that.

20 Q Okay. And do you know whether
21 Ms. McCorrister was present at that meeting?

22 A I only remember Ms. McCorrister at our
23 initial meeting. After that I don't recall her
24 being at any meetings.

25 Q Okay. In that meeting, sir, could you

1 give us an estimate as to how long you think this
2 second meeting, following the week after the
3 first, would have lasted?

4 A Probably a half hour, it was about
5 that.

6 Q Sir, would you then take issue if
7 someone was to suggest that it was an hour and a
8 half?

9 A Yes, I would.

10 Q And with what degree of confidence
11 would you take issue with that, sir?

12 A I'm very confident that I never met
13 with Marty Minuk for an hour, always less than an
14 hour. So I'm very confident.

15 Q And, sir, what took place at this
16 meeting, the May 29th meeting?

17 A This one here, I would have to -- can
18 I go over this first?

19 Q Sure. Why don't I just give you a few
20 prompts and I think that will be sufficient, sir.
21 This is the meeting at which you were advised that
22 the preliminary inquiry, that was supposed to
23 start a week and a half down the road, wasn't
24 going to get going?

25 A Right.

1 Q Do you remember that?

2 A Yes, I do.

3 Q Can you tell us a little bit about
4 that meeting, sir?

5 A He advised us that -- I'm going to try
6 and remember the terminology as best I can -- he
7 had applied for an adjournment because he found
8 some problems with the case that he had to fix up.

9 Q Were you given any kind of indication
10 as to what type of problems he found with the
11 case, sir?

12 A No, I asked him what the problems
13 were, and he told me it was just something to do
14 with the investigation, and he had to send out
15 some people to do another investigation of what
16 happened so that -- basically to close the holes,
17 he said.

18 Q To close the holes in the case that
19 was being prosecuted is your understanding, sir?

20 A Yes.

21 Q And did you ask questions about what
22 the problems were with the investigation?

23 A Yes. He told me he couldn't give me
24 any information in regards to the problems that
25 were there, or any of the evidence, because it

1 might damage the case.

2 Q Okay. And did you accept that
3 explanation, sir?

4 A No. But he wasn't going to give me
5 any information, and you cannot accept it and
6 still get the same result.

7 Q Did you have any understanding of what
8 the problems were from other sources?

9 A Not a whole lot, we were still a
10 little bit in the dark as far as what was going
11 on. We knew it was, for sure it was with the East
12 St. Paul Police, but we didn't know the exact
13 nature of it.

14 Q Sir, you were asked about the
15 adjournment, or were you told about the
16 adjournment?

17 A Was I asked?

18 Q Were you asked about whether it is
19 something you were comfortable with or were you
20 told it was going to happen?

21 A I was told it was going to happen.

22 Q Sir, what was your position with
23 respect to the adjournment? What was your view on
24 whether that should occur?

25 A I wanted everything to be done right,

1 and if that meant that they had to reinvestigate
2 certain things, I understood that, but I just
3 wanted it done right. I certainly didn't want it
4 delayed. But I understood in order to
5 investigate, it is going to be a delay. I didn't
6 quite expect the delay that came but --

7 Q Sir, were you advised it might be
8 another year?

9 A Yes.

10 Q And I'm going to ask you about your
11 personal reaction to learning that not only was
12 this going to be another year before a trial, now
13 all of a sudden it is going to be another year
14 before the preliminary inquiry?

15 A I broke down in his office, and I was
16 very upset, my son was very upset, and it was just
17 an emotional time. It was, again, like they tell
18 you over and over again, we now have to go another
19 year dealing with the crime and not with the loss.

20 Q Sir, without expecting you to
21 elaborate in any detail, I'm certain it was the
22 same type of reaction from your daughters when you
23 got home and told them?

24 A Exact same.

25 Q Sir, what were you hoping that that

1 investigation would look at or accomplish?

2 A My understanding was that he had to
3 close some holes. I didn't think that the holes
4 were so gaping. I had thought that there were
5 holes that he just had to touch up on and we were
6 going to be going back to trial. And I was hoping
7 that he was going to do the proper investigation,
8 find the information, and get this back into
9 court.

10 MR. PACIOCCO: If we could provide the
11 witness, please, Madam Clerk, with exhibit K66.
12 I'm going to be referring to page 1766 of book K?

13 THE CLERK: Exhibit number 14.

14 (EXHIBIT 14: Manitoba Justice request
15 for RCMP to investigate Justice, May
16 5, 2006,)

17 BY MR. PACIOCCO:

18 Q Sir, what you have in front of you is
19 a letter dated May 5th, 2006, I'm going to wait
20 for the Commission to get his documents before --
21 it is book K. We are at tab 66, page number 1766.

22 Sir, what you have in front of you is
23 a letter dated May 5, 2006 from Manitoba Justice,
24 sir? Mr. Taman?

25 A Okay.

1 Q And it is to Assistant, or from
2 Assistant Commissioner, or rather to Assistant
3 Commissioner Madill of the Royal Canadian Mounted
4 Police, sir?

5 A Yes.

6 Q And it is written by an individual by
7 the name of Mike Horn, who was the Assistant
8 Deputy Minister of Criminal Justice?

9 A Yes.

10 Q And you will notice there is a copy
11 cc'd of that letter to Mr. Brian Kaplan and also
12 to Mr. Martin Minuk?

13 A Okay.

14 Q And this is a letter requesting the
15 investigation that occurred as a result of the
16 adjournment, sir. I'm going to read the first
17 paragraph to you.

18 "I'm writing to request an
19 investigation by the RCMP into
20 circumstances surrounding the conduct
21 of this fatal motor vehicle accident
22 investigation by the East St. Paul
23 Police Service. In particular, the
24 department is concerned about the
25 conduct of this motor vehicle fatality

1 investigation by one Harry Bakema, who
2 at the time of the accident was the
3 Chief of the East St. Paul Police, and
4 whether his conduct of this
5 investigation presents potential
6 grounds for charges under the Criminal
7 Code."

8 Do you see that, sir?

9 A I see that.

10 Q I'm going to show you another document
11 if I could, please, this will be K-67, at page
12 1768.

13 THE CLERK: Exhibit number 15.

14 (EXHIBIT 15: RCMP response to request
15 to investigate, May 23, 2006)

16 BY MR. PACIOCCO:

17 Q This is a letter to Mr. Mike Horn in
18 response, by the RCMP, cc'd to Mr. Martin Minuk,
19 dated May 23, 2006?

20 A Yes.

21 Q You see where it says in the second
22 paragraph:

23 "Following that meeting..."

24 referring to a meeting with Mr. Martin Minuk?

25 A Right.

1 Q "...an investigational team was
2 created under the direction of Staff
3 Sergeant Cathy King. The team has now
4 completed an analysis of the
5 investigation conducted by the East
6 St. Paul Police Service and an
7 investigational plan has been
8 developed. The team will focus its
9 investigation on the actions of Harry
10 Bakema and other members of the East
11 St. Paul Police Service who were
12 involved in the motor vehicle fatality
13 investigation."

14 Sir, is that the focus that you expected or wanted
15 with respect to that investigation?

16 A I don't quite understand the question,
17 sorry?

18 Q Well, sir, I'm suggesting to you, and
19 if you disagree with me, please, share that?

20 A Sure.

21 Q But in these two letters, the
22 investigation is being focused on, primarily in
23 the first letter and in the response, it is being
24 focused on the conduct by the East St. Paul Police
25 Service?

1 A Okay.

2 Q "This team will focus its
3 investigations on the actions of Harry
4 Bakema and other members of the East
5 St. Paul Police Service who were
6 involved in the motor vehicle fatality
7 investigation."

8 A Okay.

9 Q Sir, you had testified that your
10 expectation was that the investigation was to
11 close holes in the Harvey-Zenk prosecution?

12 A Correct.

13 Q Sir, do you read those letters the
14 same way I do, sir, that these -- the focus of the
15 investigation is on Chief Bakema?

16 A Right.

17 Q Sir, if you take a look, please, at
18 the next document, K-68?

19 THE CLERK: Exhibit 16.

20 (EXHIBIT 16: Executive summary of
21 investigation report of RCMP)

22 BY MR. PACIOCCO:

23 Q You will find, sir, an executive
24 summary in your hands, sir?

25 A Yes.

1 Q I can indicate to you that's an
2 executive summary of the investigation report from
3 the RCMP. If you look at the third paragraph it
4 says:

5 "The investigation commenced with a
6 review of the East St. Paul Police
7 Department's disclosure package in
8 support of the charges against
9 Harvey-Zenk. The conduct concerns
10 regarding Bakema related directly to
11 his dealings with the accused,
12 Harvey-Zenk, and the direction he
13 provided to members of the East St.
14 Paul Police Department in respect to
15 the fatality investigation. It was
16 determined that the scope of the
17 investigation would explore these
18 aspects, but would as well examine if
19 there were any overt acts by
20 investigating personnel to purposely
21 subvert the investigation."

22 Do you see that, sir?

23 A Yes, I do.

24 Q And finally if we could have K-69?

25 THE CLERK: Exhibit number 17.

1 (EXHIBIT 17: Investigative Report
2 RCMP file 2006-633220)

3 THE WITNESS: Can I ask you a
4 question, please?

5 BY MR. PACIOCCO:

6 Q Yes, certainly.

7 A This document that you have just gave
8 me here, the executive summary?

9 Q Yes?

10 A Where did it come from? There is
11 nothing on it that states anybody wrote it or --

12 Q This is the summary of the RCMP
13 investigation furnished to justice officials
14 through Mr. Minuk, after the --

15 A There is no signature --

16 Q -- after the RCMP investigation. It
17 is just a summary of what is contained in the rest
18 of the report, it would have been attached to the
19 rest of the report.

20 A Okay.

21 Q I'm asking you now to look at the
22 actual investigation report, which is at tab 69,
23 K-69. And if you turn to the back, please, at
24 1786 under the heading "summary"?

25 A Okay.

1 Q Under the heading summary it says:

2 "The scope of the requested

3 investigation..."

4 this is paragraph 73,

5 "...was to explore the conduct of

6 Chief Harry Bakema during the course

7 of the motor vehicle collision."

8 Do you see that, sir?

9 A Yes, I do.

10 Q And I guess what I'm asking you, sir,

11 is if it turns out, and we haven't heard from any

12 of these people yet or from Mr. Minuk, but if it

13 turns out that the investigation that was actually

14 conducted, after the adjournment, was actually to

15 see whether Chief Bakema would be charged with

16 obstruct justice, rather than to try to patch

17 holes in the prosecution of Harvey-Zenk, what

18 would your reaction to that be, sir?

19 A A little bit different. I would

20 imagine, it would be -- I guess I would be

21 somewhat satisfied that in an area there was going

22 to be some accountability for actions, but I

23 wouldn't be overly satisfied with everything

24 concerning Mr. Minuk, just because this happened.

25 THE COMMISSIONER: What did you want?

1 What kind of investigation did you want and
2 expect?

3 THE WITNESS: I wanted, in regards to
4 this incident, like afterwards or --

5 THE COMMISSIONER: Yes?

6 THE WITNESS: I think --

7 THE COMMISSIONER: We were talking,
8 Mr. Minuk was talking about holes in the case.

9 THE WITNESS: Yes.

10 THE COMMISSIONER: What did you want
11 him to investigate, or what did you expect him to
12 do?

13 THE WITNESS: First of all, I didn't
14 know any holes from anything. So at that meeting
15 for him to tell me there were holes, I don't know
16 the difference between a hole like this and a hole
17 like this. Okay. So how do I know what he should
18 be investigating?

19 THE COMMISSIONER: He never told you
20 what the holes were?

21 THE WITNESS: No, I had no idea. I
22 didn't have a clue what they were. And so how am
23 I to suggest anything to him if I have no
24 understanding of what is going on? So it is very
25 difficult. Had I known, you know, maybe, you

1 know, with what little wisdom I have, maybe I
2 could have offered a suggestion. But I didn't
3 know, so I couldn't offer anything.

4 BY MR. PACIOCCO:

5 Q Let me put it this way, sir, and I
6 have to do this in fairness, because we haven't
7 heard from these people and it could be an unfair
8 reading of those letters. But if they were
9 investigating to see whether they should charge
10 Chief Bakema instead of trying to fix the case
11 against Mr. Harvey-Zenk, instead of trying to fix
12 the case against Mr. Harvey-Zenk, what would your
13 reaction be to that?

14 A I would not have been satisfied. I
15 believe that they could have -- I believe that all
16 could have been done, not just instead of. I
17 think that we have enough resources that we could
18 charge two people at the same time. It might take
19 four years to get them to court, but we could
20 still do it.

21 Q Sir, you had after that, learning that
22 the case was going to be adjourned for that
23 investigation, you had no further contact with
24 anyone from our look at the records until
25 June 12th, 2007?

1 A Correct.

2 Q Now more than two years have past
3 since the accident. And, sir, you have relayed
4 your concerns about being left alone and not
5 having enough information, so it is not something
6 that I'm going to belabour again.

7 On June 12, 2007, you call
8 Ms. McCorrister and you want to know what is
9 happening, sir?

10 A Right.

11 Q The preliminary dates are coming up on
12 July 16th, 2007, a little over a month away, and
13 you haven't heard anything for more than a year,
14 sir?

15 A Right.

16 Q And I'm going to take you to that
17 letter at page 1881 of tab L-74. You are calling
18 and you are asking her whether the trial was still
19 on in July?

20 A Right.

21 Q And he said that you would meet, he
22 would call you the week before a trial, and you
23 asked if you should meet with Marty?

24 A Right.

25 Q And that would be, of course, Marty

1 Minuk?

2 A Yes.

3 Q And it says you want to know what
4 would be happening because you are concerned that
5 there are no surprises he isn't aware of?

6 A Right.

7 Q What kind of surprises were you
8 apprehensive about?

9 A Well, at this point there was a lot of
10 outside information. There was a lot of talk,
11 there is still media, it is still happening, and
12 there is no information. So you are kind of
13 listening to what other people are saying now,
14 because you are not hearing it from the source.
15 So you are hearing it, and you just want
16 information, and so you take whatever information
17 you can get. And the information wasn't good. I
18 was -- when I say surprises, I was expecting at
19 that time that they were bargaining.

20 Q And, sir, you find out on July 9th
21 sir, several weeks after you had that contact that
22 a meeting is being set up for July 13th with
23 Mr. Minuk?

24 A Correct.

25 Q And this will be the third meeting

1 that you attend with Mr. Minuk?

2 A Correct.

3 Q And sir, again, Jordan attended with
4 you?

5 A Correct.

6 Q Sir, how long was that meeting in your
7 estimation, sir?

8 A It was very, very quick. I would say
9 20 minutes, 20 minutes to a half hour.

10 Q What took place during that meeting?

11 A That's July 13?

12 Q Yes, it is.

13 A Do you want right from the beginning?

14 Q Yes.

15 A Marty Minuk was a half hour, or
16 somewhere around a half hour, 25 minutes late for
17 the meeting. When he got there, he was going to
18 go to his office, and then come back out and get
19 us, that's what he had said to us. Instead he
20 said, no, I'm running short of time, just come
21 right in with me, and we were kind of rushing into
22 his office. We got into his office and he is kind
23 of shuffling everything about rather quickly,
24 hastily. And he said, just have a seat and I'm
25 going to get right to it. So a few minutes later

1 he sat down, after putting everything all over the
2 place, and he said, I got some bad news, we are
3 going to have to stay the charges of refusal to
4 provide a breath sample and impaired driving cause
5 death. And it knocked the wind out of me. And I
6 broke down immediately, just literally broke down
7 crying.

8 Q Did he explain to you why he had to
9 withdraw those charges or stay those charges?

10 A Once I composed myself, my son was
11 trying to help me, and once I composed myself, I
12 asked him why. And his words were, well, East St.
13 Paul Police screwed up the investigation.

14 Q Sir, did you ask for any details at
15 that point?

16 A Well, I responded to that, to what he
17 stated, and I said to him, I believe East St. Paul
18 screwed up the investigation and I think everybody
19 screwed up right up into your office.

20 Q How did he react to that?

21 A He reacted by sitting back in his
22 chair and telling me, sir, I suggest you choose
23 your words carefully in this office.

24 Q Sir, how did you react to that?

25 A I was -- I got quiet. If he was

1 warning me to shut my mouth, it worked, because I
2 was immediately quiet.

3 Q So you indicate -- you referred
4 earlier to an incident in which you felt a bit
5 threatened. Is this the incident that you
6 referred to?

7 A Yes.

8 Q And is that a fair description of how
9 you felt after that conversation?

10 A Absolutely.

11 Q Sir, did he offer you any explanation
12 as to why it was the dangerous driving causing
13 death charge that was going ahead or what benefit
14 there might be in doing it that way?

15 A He said it is a good thing we are
16 going to go with the dangerous driving causing
17 death because that's the most serious of all the
18 charges.

19 Q Did you explore that at all with him?

20 A I immediately disagreed. I told him
21 that my understanding was that that wasn't the
22 most serious of all charges, that impaired driving
23 cause death was the most serious of all the
24 charges. And it is just my understanding, I'm not
25 a lawyer, but it is just my understanding. And he

1 disagreed. And he said that, no, it was the
2 dangerous drive cause death was the most serious.

3 Q Sir, what would your reaction be if
4 you were to hear the suggestion that Mr. Minuk
5 didn't think there was any problem whatsoever with
6 his decision to stay those charges on your part?

7 A He said that I didn't have a problem?

8 Q If you were to hear him say that, sir,
9 what would your reaction be?

10 A That is unbelievably ridiculous that I
11 didn't have a problem. I had a problem. I told
12 him directly that having alcohol within these
13 charges makes it a serious offence. And also,
14 taking the alcohol out not only reduces it, it
15 takes away that message of what alcohol can do.
16 You are removing it, and we didn't want that taken
17 out. I told him directly, I said directly to him,
18 I would rather fight and lose, I would rather him
19 just go to court, and he is found not guilty and
20 walks out a free man, than just dropping charges.

21 Q Was there any discussion about the
22 possible sentence during this meeting?

23 A He mentioned -- he brought out some
24 binders, and I say that plural, I believe there
25 was two, where he brought them out and he was

1 going through papers and saying, you know,
2 whatever names. In this name, this guy versus
3 this, he got two years less a day, this guy got
4 six months, and he was trying to tell me that, you
5 know, they are going for a lesser sentence than
6 what we had expected.

7 Q Was there any discussion about the
8 sentence that he might be seeking, sir, that you
9 recall?

10 A Pardon me?

11 Q Was there any discussion by him about
12 the sentence that he might be asking the judge
13 for?

14 A Yes.

15 Q And do you recall what he said to you,
16 sir?

17 A He told me that he was looking at two
18 years less a day conditional sentence.

19 Q And did he explain to you what a
20 conditional sentence was, or did he have to?

21 A I knew what that was, because I said,
22 so he is going to go home and sit on his couch and
23 that's his punishment. And I remember him saying
24 that, oh, no, it is a very, very tough sentence.
25 And, sorry, I say that sarcastically, but, I mean,

1 that's the way he put it to me, it was a very
2 tough sentence. And this is what basically, this
3 is the precedents that have been set in the past
4 and this is what he has to do.

5 Q Were you aware of what the maximum
6 possible sentence was for dangerous driving
7 causing death?

8 A I believe, I'm not sure, I believe it
9 was life.

10 Q Was there any discussion about what
11 the appropriate sentence was, in your view?

12 A The appropriate sentence?

13 Q Yes?

14 A Yes. Absolutely. I told him what I
15 wanted, what I thought was appropriate. That I
16 believed that if alcohol is involved in these
17 charges, that I believed that he was going to go
18 to jail. And when I say go to jail, I didn't mean
19 that he is going to go and spend six months, that
20 he was going to go for three to five years.

21 Q Was there any indication at that time
22 about the position having been negotiated between
23 him and counsel for Mr. Harvey-Zenk?

24 A I'm trying to think because it -- if
25 it did come up, it didn't come up like you had

1 just said it. I would say -- that's why I have to
2 answer, I don't recall that. It was not like
3 that. It was more general discussion as this is
4 what we have to do, and that was it.

5 Q Sir, were you asked for any input or
6 was it just given to you as a fait accompli?

7 A No, it was just given.

8 Q And, sir, I know that you have since
9 become aware of the Victims' Bill of Rights and
10 the stated requirement that you be consulted on
11 any resolution agreement relating to the
12 disposition of the charges?

13 A Correct.

14 Q Sir, what is your position on whether
15 that was done?

16 A It wasn't.

17 Q Sir, was the term "plea bargain" ever
18 used in this discussion?

19 A The first time I heard the word "plea
20 bargain" was in court by Judge Wyant when he asked
21 if there was a plea bargain. That's the first
22 time it came up.

23 Q And that would have been on
24 September 12th, 2007, sir?

25 A Yes, that's the first time it came up

1 directed towards either Mr. Minuk or -- that we
2 heard. I believe Jordan had asked him if this was
3 a plea bargain, during that July 13th meeting.

4 Q Do you recall what the response was?

5 A No. I mean, no, it wasn't.

6 Q And, sir, were you in the practice or
7 habit of talking to Kristin and Tara after these
8 meetings to discuss with them what took place?

9 A A lot of the times, yeah, I discussed
10 everything with them. I was as open as I could
11 be. When I say as I could be, it is what I can
12 remember, but I never ever held anything back from
13 them.

14 Q Sir, after that meeting, the next time
15 you are in contact with the system is on
16 July 16th, the first regularly scheduled date for
17 the prelim, where you go into Judge Stewart's
18 court and you wait around for a period of time?

19 A Okay.

20 Q And, sir, that was that small
21 courtroom, 404 in the new building?

22 A Correct.

23 Q Do you recall whether you spoke to
24 Mr. Minuk that day?

25 A I would have to -- I don't recall

1 that. Like I probably did, but I just don't know
2 it.

3 Q Sir, the next day, July 17th, you are
4 going to come back because that's the day the plea
5 is going to go in and the charges are going to be
6 stayed. Do you recall that?

7 A Okay. I recall that.

8 Q And again, it is in another small
9 courtroom in the same building, courtroom 408 this
10 time?

11 A Right.

12 Q And, sir, do you recall whether you
13 had any conversation with Mr. Minuk that day?

14 A That day I did. That was the -- yeah,
15 that was the day that they were entering the -- or
16 talking to the judge about the agreement that they
17 had come up with.

18 Q Sir, during that day only the pleas
19 went in?

20 A Pardon me?

21 Q It was only a plea that day, there was
22 a stay of proceedings on the three charges and a
23 plea to the dangerous driving causing death, that
24 was put over to the 22nd of August for
25 submissions?

1 A Let me try and remember. I just need
2 a moment. Sorry.

3 Q Were you referring to the -- it would
4 have been the day that there was some discussion
5 in chambers between Mr. Minuk and Chief Judge
6 Wyant. Were you made aware that there had been
7 that conversation?

8 A No, I wasn't aware of that. Sorry, I
9 apologize for not knowing.

10 Q It is fair enough, sir.

11 A They are all very confusing to me.

12 Q There is a lot -- they all meld
13 together, sir, and I'm sure that we will get the
14 substance of your conversations out. I know you
15 are having trouble recalling whether you met with
16 Mr. Minuk, but are you able to tell us, if
17 somebody was to suggest that you spent two hours
18 with him, whether that would be an accurate
19 description?

20 A No.

21 Q And if someone was to suggest that two
22 hours were spent going over all of the reasons for
23 the resolution with you, would that be an accurate
24 description?

25 A No.

1 Q Sir, August 22nd, it is the day when
2 there are actual submissions being made and, of
3 course, you will remember it because it was a
4 difficult day for you, you had to get up and read
5 the Victim Impact Statement, and your children had
6 the courage to do that. And you will remember
7 that day I suspect, certainly aspects of it quite
8 well?

9 A Right.

10 Q I know that that date, August 22nd for
11 the argument was very, very unfortunate, that was
12 Crystal's birthday?

13 A Yes.

14 Q And I understand that you took steps
15 to have that date moved initially?

16 A Initially, I did.

17 Q And I understand there was some
18 attempt to accommodate your request?

19 A Yes, there was some, but it would have
20 resulted in delays again. And I just talked with
21 the children about it, and they said let's just do
22 it and get it done. So we decided it was okay.

23 Q When you go in on the 22nd, very
24 difficult day for you, you go in to the old
25 building and you are in room 230, one of the

1 larger court rooms; do you remember that?

2 A Right.

3 Q Do you recall whether you had any
4 contact with Victims' Service workers that day?

5 A I believe Lesley had come in to the
6 courtroom, if my memory serves me correct, she
7 came into the courtroom. She didn't sit down, she
8 just sort of stood off to the side. But as far as
9 any contact, I don't believe I had any contact.

10 Q Sir, were there any surprises on that
11 date, the 22nd of August?

12 A Yeah. That whole day was a huge
13 surprise. First of all, we read our Victim Impact
14 Statements, it was a very emotional time. We had
15 a difficult time trying to comprehend anything
16 else going on because we were so caught up in
17 that. The presentations that were made that day,
18 I found to be a surprise. Nothing was done that
19 we had believed was going to be done. And sorry,
20 I lost complete faith in everything that we were
21 about, everything that this system is about, lost
22 complete faith in our court system, lost
23 everything that day. It was the worst day I can
24 ever imagine in court.

25 Q Sir, what happened that day to be so

1 profoundly devastating in terms of your impression
2 of this whole process?

3 A When -- and I say this, I say this
4 with respect towards the legal community, because
5 I don't paint everybody with the same brush, but
6 when I say I lost faith, it was because of a Crown
7 prosecutor who can have all the evidence in the
8 world before him, but it wasn't good enough for
9 him to use, it had to be perfect or he wasn't
10 about to speak about it. To have him sitting back
11 in his chair, with his feet up underneath the desk
12 relaxing almost in a sleeping position, and we had
13 the defence fighting feverishly for his client,
14 and to have our Crown, who is supposed to be
15 working for us, sitting back like none of it
16 really matters, I lost faith.

17 Q Sir, there was some discussion that
18 day about a joint position on sentence?

19 A Yes, there was.

20 Q Were you aware before going in that it
21 was going to be a joint position on sentence, sir?

22 A Yes, I was.

23 Q And when did you learn that?

24 A I learned that exact terminology
25 outside in the hallway.

1 Q That day, sir?

2 A That day.

3 Q And who did you learn it from?

4 A Mr. Minuk.

5 Q Sir, can you tell us the circumstances
6 surrounding that discussion?

7 A We had met with Mr. Minuk, and it is
8 quite possible that he maybe makes notes of
9 talking for five, ten minutes on the steps of the
10 courthouse, and that's part of his two hours, I
11 don't know. But we had met on the steps, we had
12 walked into the courthouse and he wanted to -- he
13 stopped, he wanted to talk to us about something
14 before we went into the courtroom. And so we
15 stopped, I forget the area there, right in the
16 hallway. And he said that he was going to be
17 presenting a joint recommendation today. And I
18 said, okay, explain what that's all about? And he
19 said, well, we are recommending, the defence and I
20 are recommending jointly that Mr. Harvey-Zenk will
21 plead guilty to dangerous drive cause death, and
22 we are recommending two years less a day
23 conditional sentence.

24 Q How did that make you feel, sir?

25 A I was flabbergasted. I couldn't

1 believe what I was hearing. And he said, okay,
2 but I just needed to let you know before we got in
3 there, he said, but I got to get to the courtroom.
4 And he turned. And I said, hold on here, just a
5 minute. And he turned around, and I said, is
6 there any place on that document that you have in
7 your hands right there, is there any place that
8 you can write that the family doesn't agree? And
9 he said no. And he turned and walked away.

10 Q Sir, if a memo comes up later in these
11 proceedings showing that the defence lawyer was
12 under the impression that you and your family were
13 okay with this, what would your reaction be to
14 that, sir?

15 A I would be astounded that anybody
16 would ever suggest that.

17 MR. PACIOCCO: If we could show the
18 witness, just before the break, S-100.

19 THE CLERK: Exhibit number 18.

20 (EXHIBIT 18: Wolson's memo, July 18,
21 2007 outlining discussions with Mr.
22 Minuk concerning plea bargain)

23 MR. PACIOCCO: And I'm looking at page
24 3502.

25 THE COMMISSIONER: What book is that?

1 MR. PACIOCCO: This is in book S, 3501
2 and 3502.

3 BY MR. PACIOCCO:

4 Q Now, we will receive evidence from the
5 author of this document later and there may well
6 be explanations surrounding it, but I wanted to
7 show it to you because you are on the stand now,
8 sir. It is dated 18th of July, 2007, and it is a
9 memo prepared apparently by Mr. Richard Wolson,
10 counsel for Mr. Derek Harvey-Zenk. And you will
11 see that in the document it describes the basic
12 plea structure that's going to take place. And in
13 the last paragraph, sir, it says:

14 "There is a militant father and mother
15 of the deceased. The husband and the
16 children are on side. Having said all
17 of that, we will meet with Judge Wyant
18 and discuss these issues with him."

19 Do you see that, sir?

20 A I see that.

21 Q Do you have any understanding of where
22 that impression may have come from, had that been
23 communicated to Mr. Wolson from Mr. Minuk?

24 A We were never on side.

25 Q Is there any ambiguity about that?

1 A I'm insulted by this. This is -- wow,
2 it is like two separate world's.

3 MR. PACIOCCO: I think, Your Honour,
4 this is an opportune time to take the afternoon
5 break.

6 THE COMMISSIONER: Yes. We will take
7 ten minutes. We may, I just want to alert
8 counsel, I would like to go until -- we may have
9 to go past the 4:30 hour in an attempt to finish
10 all of the evidence together. You want to get
11 this over with, don't you?

12 THE WITNESS: Absolutely.

13 THE COMMISSIONER: All right, we will
14 do that. Ten minutes.

15 THE CLERK: All rise. The Commission
16 of Inquiry will take a ten minutes recess.

17 (Proceedings recessed at 3:20 p.m. and
18 reconvened at 3:30 p.m.)

19 THE CLERK: All rise. This Commission
20 of Inquiry is now reopened.

21 BY MR. PACIOCCO:

22 Q Mr. Taman, we just finished looking at
23 the August 22nd court appearance. We are -- I am
24 going to ask you now about some correspondence you
25 had with Lesley McCorrister on the 27th of August.

1 Would you look, please, at document L at page
2 1922?

3 You will find a memo dated
4 August 27th, 2007, five days after the hearing, in
5 which you have contacted Lesley McCorrister and
6 you are angry about the hearing, sir?

7 A Correct.

8 Q And you are angry about not all of the
9 facts having been read in, and you are indicating
10 that you can not figure out why the Crown didn't
11 ask for a heavier sentence?

12 A Correct.

13 Q And you are asking why no one
14 challenges precedent and just stays with what has
15 gone before, expressing hope that the judge
16 doesn't follow the sentence, and indicate that you
17 would like to know all the facts, why certain
18 charges had to be stayed. And she offered to call
19 Marty and set up a meeting. Do you recall that
20 conversation, sir?

21 A I do.

22 Q And the indication was you were quite
23 angry at that time, sir?

24 A I'm not quite sure I was quite angry,
25 I guess maybe I was speaking a little louder than

1 normal. But I -- at that point I had just started
2 to speak a little louder, and it doesn't mean that
3 I was angry, it just means that I understand that
4 speaking softly, you don't get heard. And I just
5 started to speak a little louder at that point.

6 Q I think, sir, at the next page you
7 will notice that you called back, telling her you
8 realized that when you called that you were very
9 angry, sir?

10 A Okay.

11 Q And, sir, there is an indication by
12 her that she understands why that is so and the
13 rest of it?

14 A Okay.

15 Q And you express some concern about a
16 story that you saw in the Winnipeg Sun, and why
17 Mr. Minuk is not defending himself in the press,
18 sir?

19 A Okay.

20 Q And do you recall what that was about?

21 A I'm not quite sure which one that is,
22 I'm sorry.

23 Q I think it was a letter with respect
24 to the failure to disclose information to victims,
25 and there was no response by Mr. Minuk. Do you

1 recall that?

2 A Not very clearly, I'm sorry.

3 Q Sir, you will notice over on page
4 1924, there is a phone call from Ms. McCorrister
5 to Mr. Minuk, indicating that he would be willing
6 to meet with you to fill in some of the missing
7 information once the sentencing is over but not
8 before?

9 A Right.

10 Q And he had to get some heads up from
11 Justice as to what he could disclose to you. Do
12 you recall that, sir, because I understand that
13 was communicated to you on August 28th, the next
14 page, 1925?

15 A Yes, I recall that conversation, yes.

16 Q And, sir, were you content to meet
17 with Mr. Minuk after it was all over to discuss
18 things and figure out what had transpired?

19 A I have to say that I wanted to meet
20 with him right away. And I felt that he could
21 certainly call somebody and discuss with them what
22 he could and could not talk to me about, and it
23 would take ten minutes to make that phone call.
24 But it would have been, you know, as I see now, it
25 is much easier to just say something like this to

1 me and push me off a little bit longer. And
2 that's the way I felt.

3 Q And did you ever have a sit down with
4 Mr. Minuk, subsequent to the August 22nd date,
5 where you discussed why those decisions were
6 taken?

7 A No.

8 Q Sir, I'm going to take you to
9 September 12th, 2007, the date the judge calls
10 everybody back to court to get further
11 submissions. You are in courtroom 230, the large
12 wood courtroom again, or in the old building?

13 A Right.

14 Q And do you recall what happened that
15 date, sir? I know you have already indicated to
16 us that that's the first day that you heard the
17 term "plea bargain"?

18 A Right.

19 Q Can you tell us about that, please?

20 A I mean, everything, there is a lot
21 that went on there, so for me to tell you
22 everything that happened, I couldn't do that. I
23 can only tell you, we were supposed to hear
24 evidence on that day, we were supposed to
25 understand things a lot more that day. And

1 nothing ever happened that day of any kind. It
2 wasn't like that at all. We heard no evidence.
3 And I questioned at that time whether our lawyers
4 were on the same side.

5 Q Sir, do you know where you got the
6 impression that there would be evidence that day?

7 A Where did I get that?

8 Q Yes?

9 A Just an understanding, you know, just
10 from what had occurred the previous court date.

11 Q All right, sir, and there was also an
12 event that occurred on that day where Mr. Wolson
13 made it clear to the judge that his client was not
14 agreeing that he had alcohol in his body at the
15 time of the accident. Do you recall that, sir?

16 A Right.

17 Q And how did you react to that?

18 A I was extremely shocked that he would
19 even say those things, when he fully admitted that
20 his client was drinking. And how can you admit
21 that your client is drinking but you can't admit
22 that he had alcohol? Because at a previous court
23 date, he explained how his client was out drinking
24 with associates. How can you say one thing and
25 turn around and say another and get no objection?

1 Q Sir, you will remember the judge
2 turning to Mr. Minuk and asking him whether or not
3 he was going to lead any evidence about alcohol
4 consumption?

5 A Yes, I remember that.

6 Q And do you remember Mr. Minuk taking a
7 recess to go away and come back with his position?

8 A I remember that.

9 Q Do you recall having any conversation
10 or hearing any comments by Mr. Minuk during the
11 course of that recess, sir?

12 A When he came back into the courtroom,
13 he just made mention to myself and to my kids that
14 he just requested the recess so he could go use
15 the washroom.

16 Q And, sir, what was your reaction when
17 he came back and he indicated to the judge that he
18 was not leading evidence of alcohol?

19 A I was just in shock. I really -- I
20 can't even describe to you how deflated you
21 become, seeing that the person who is leading this
22 prosecution and trying to demand proper justice
23 is -- and I'm sorry to say this -- but just
24 spitting in the face of justice. I was completely
25 blown away by what he did.

1 Q Sir, did you speak to Mr. Minuk after
2 that court appearance?

3 A Yes.

4 Q And where did you speak to him, sir?

5 A In the hallway, just outside of the
6 courtroom.

7 Q And what took place during that
8 conversation?

9 A I asked him why he would not bring up
10 any evidence. And he didn't answer. I asked him
11 why he would not bring up anything to do with the
12 scene of the crime, why he wouldn't touch on any
13 evidence. And I don't recall his answer to that.
14 I'm trying to remember. There was another part of
15 that conversation that occurred in which I had
16 asked him about the crime scene. And he said if
17 you want to know -- I asked him about the
18 information, and the lack of it, to do with the
19 crime scene. And he said, if you really want to
20 know about the crime scene, ask your daughters,
21 they were there, they know everything. They are
22 the ace up your sleeve.

23 Q Sir, how did you react when that was
24 told to you?

25 A I didn't know what the heck he was

1 talking about. I didn't understand what he meant.
2 And he said this all with a smile on his face,
3 like I would be happy.

4 Q I want to take you to the date of the
5 judgment, October 29th. That's the day the
6 sentence comes down. Do you know whether you had
7 any dealings with Victims' Services that day?

8 A No, I didn't.

9 Q Did you see any one from Victims'
10 Services there, sir?

11 A Yes, but they weren't talking to me.
12 It was Lesley, she was there, but she didn't speak
13 with me that day.

14 Q And sir, was there an opportunity in
15 your mind for her to speak to you?

16 A Oh, plenty.

17 Q Was there an opportunity for you to
18 speak to her, sir?

19 A Yes. Yes, sure.

20 Q Any reason why you didn't approach
21 her?

22 A I believe, going back, when I go back
23 to these days, you have to understand I have to
24 not only go back and revisit it as to physically
25 in my memory, but I have to go back to my

1 emotional state as well. And I'm not quite sure I
2 really wanted to talk to her that day. I think
3 that I was a little upset about the entire
4 proceedings, everything that took place, and I was
5 done with her.

6 Q And did you speak to Mr. Minuk that
7 day?

8 A I'm trying to revisit that time -- I
9 don't believe I did. I don't know.

10 Q Sir, there was some controversy that
11 emerged surrounding Mr. Harvey-Zenk leaving the
12 courtroom?

13 A Right.

14 Q Do you remember when that was, sir?
15 I'm going to get you to elaborate on it in a
16 second. Was it on this appearance or another
17 appearance?

18 A It was on the sentencing day.

19 Q Okay. Can you tell the Commissioner
20 about that, please?

21 A We were in the courtroom listening to
22 why the judge had to go with the recommended
23 sentence, according to the judge, and he was just
24 explaining his own thoughts. And when sentencing
25 ended, we left the courtroom. I'm trying to

1 recall how we had left. I believe that was the
2 day that the sheriff told us to leave the
3 courtroom. I'm sorry that I'm pondering upon this
4 now. You have to understand that none of this --
5 I didn't memorize anything, I'm going back. And I
6 believe that was the day we were told to leave the
7 courtroom by the sheriff officers. And we left
8 the courtroom and spent a few minutes in the
9 hallway, and then proceeded outside.

10 Q And, sir, there was some discussion
11 about Mr. Harvey-Zenk not coming out the same
12 doorway?

13 A Right.

14 Q Can you tell us about that?

15 A Well, after that there was a lot of
16 reporters around, and they all wanted to get my
17 thoughts on everything, and I provided them with
18 whatever I could. But in the meantime, it was
19 kind of distracted interviews I was getting,
20 because the reporters were kind of looking around
21 and trying to, you know, to find out where
22 Mr. Harvey-Zenk was. And at one point they seen a
23 person leaving through a side door, and they all
24 ran there thinking that it was him. And I spent a
25 good amount of time out there, probably an extra

1 half hour outside, and he never did emerge, he
2 never came out.

3 Q Sir, was anything said about that in
4 any of the press articles that caused you
5 discomfort?

6 A Well, I got a phone call afterwards
7 from a reporter telling me that there was an
8 article about to be printed where a sheriff
9 officer had said that they exited Derek
10 Harvey-Zenk through a back door because of
11 possible threats from the family.

12 Q And how did that make you feel, sir?

13 A Again, extremely insulted, because the
14 killer is being lead through a back door and the
15 law abiding citizens are the ones being accused of
16 being threatening. I was extremely insulted.

17 Q Sir, I understand that November 1st,
18 2007, you received a personal phone call from the
19 Minister of Justice, Mr. Chomiak?

20 A Yes, I did.

21 Q Do you recall that, sir?

22 A Yes, I recall.

23 Q And was that a positive experience for
24 you, sir, to have him call you?

25 A No. And I say this because I'm being

1 entirely honest here. There was nothing positive
2 about what we went through. You know, the people
3 that say, you know, that there is a bright light
4 at the end of the tunnel, or there is a silver
5 lining, well, there is none in this case. It is
6 all dark and it is all bad, and there is nothing
7 positive that has come out of this.

8 Mr. Chomiak's call to me, he was
9 apologetic and he was accommodating. But to me it
10 seemed like a political move to make good, because
11 the case itself, it gathered a lot of attention,
12 and the attention towards the government at this
13 point was very negative. And I thought it was
14 just another politician trying to mend the fence.

15 Q Sir, I'm going to ask you some
16 questions about the requirements under the
17 Victims' Bill of Rights to see whether or not
18 there was compliance with these requirements, but
19 there is a requirement that the prosecution or
20 someone from Victims' Services explain to you the
21 role of the prosecutor. Do you feel that was ever
22 done, sir?

23 A I really couldn't say.

24 Q Do you recall ever being advised about
25 the prosecutor being a Minister of Justice who is

1 required to ensure a fair trial for the accused,
2 he is not your lawyer, that he is to represent the
3 public interest as well as the interest of
4 everyone and to make sure that the law is applied
5 in a way that is impartial and fair?

6 A I don't recall that ever being said to
7 me.

8 Q Sir, did anybody explain that the
9 victim of the crime is not considered a party
10 during the proceedings and has no legal right to
11 make submissions in court or to make decisions
12 about the case?

13 A That part was never said to me.

14 Q Sir, we understand that you did
15 present a Victim Impact Statement on August 22nd?

16 A Yes, I did.

17 Q And you did that even though you knew
18 it was a joint recommendation, sir, by that point?

19 A Yes.

20 Q Why did you go ahead with the Victim
21 Impact Statement?

22 A It was done out of respect to Crystal.
23 That's the only reason. Everything up until this
24 point had been about laws, and very little about
25 Crystal, and somebody had to talk about her

1 sometime. Because the whole ordeal was about her,
2 and she was forgotten. And we determined that we
3 were not going to forget. And out of respect to
4 her, we, meaning myself and my children, stood up
5 and read aloud the Victim Impact Statement.

6 Q Sir, did you get any assistance in
7 preparing that statement?

8 A No.

9 Q Did you have any guidance as to what
10 you could put in it?

11 A Just the documents that came with the,
12 you know, I read the document, the Victim Impact
13 Statement document, I just read it and said, okay,
14 I guess this is what we are supposed to write, and
15 I hoped that everything would be in accordance.

16 Q Did you find the document clear and
17 helpful?

18 A That's a difficult question to answer.
19 If somebody going through, or not going through an
20 emotional time like we were, if somebody was just
21 a regular person, picked up that document to read
22 it, they might find it extremely clear and, yeah,
23 it's not a problem. But when you are in an
24 emotional state and you have got to write
25 something of this nature, things aren't quite as

1 clear all of the time. And so I wouldn't find it
2 that clear at that time, no.

3 Q Would you have any advice or
4 recommendations to the crime victim service
5 workers about how to handle that situation?

6 A I would suggest a lot more
7 communication with the victims, and a definite
8 defined layout of writing the statement, and
9 possibly even a visit, either in their office or
10 your home. It is not like it is going to take
11 four or five hours, you just have to be there to
12 sort of present the guideline. None of this takes
13 a long time, it is just a matter of explaining it
14 properly, so just better communication.

15 Q Sir, as we commented earlier, the
16 Victims' Bill of Rights promises that victims will
17 be treated with courtesy, compassion and respect.
18 Sir, do you believe that you received that from
19 Ms. McCorrister?

20 A It is so difficult. I like Lesley, I
21 think she does a good job, to the best of her
22 ability, but I just don't believe she has the
23 tools to be an independent person dealing with a
24 victim. Somebody who is just an extension of the
25 prosecution, is the prosecution. And if there is

1 a situation that comes up with the prosecution
2 that Lesley has to deal with, she doesn't deal
3 with it as an independent, she deals with it like
4 she is the prosecution. And that's difficult.
5 And I sympathize with her and her job, but in the
6 end I have to say no. And I'm saddened to say
7 that, because Lesley I believe is a good person,
8 but I have to say no.

9 Q Sir, in fairness to Ms. McCorrister,
10 just so we are clear, when you talk about her not
11 having the tools, do you mean that her job
12 function doesn't allow her to do what you think
13 needs to be done by a victim support worker, or
14 are you commenting on her own ability to discharge
15 the function that she has?

16 A No, I'm commenting on what she is
17 allowed to do.

18 Q Yes.

19 A And where she is allowed to go and
20 what she is allowed to say.

21 Q Okay. But within that framework, did
22 she treat you in a decent way, sir?

23 A Yeah. I believe for the most part she
24 did. She is a good-hearted woman and I respect
25 her.

1 Q Sir, with respect to Mr. Minuk, would
2 you say that he treated you with courtesy,
3 compassion and respect, sir?

4 A Absolutely not.

5 Q Finally, sir, the complaint process
6 under the Victims' Bill of Rights, there is one,
7 were you ever made aware of that, sir?

8 A No, I wasn't.

9 Q Would you have filed a complaint had
10 you been made aware of it?

11 A I'm not sure in this case it would
12 have been necessary. And I only say that because
13 of, because there was an inquiry called very
14 quickly, and any complaint that I register is
15 going to come out here. And I would have thought
16 maybe it might have been a little bit redundant to
17 do so. So probably not. But only because of this
18 Inquiry. Had nothing happened here, absolutely,
19 yes.

20 Q Sir, do you feel the ability to make
21 complaints is something that should be clearly
22 expressed to victims?

23 A Absolutely.

24 Q And, sir, I'm just coming to the end
25 of the questions that I have for you, but I did

1 promise you that I wanted you to leave that stand
2 making sure that you said everything that you
3 wanted to say. Is there anything left that I
4 haven't covered that you feel the need to talk
5 about?

6 A I believe it has all been covered and
7 I believe covered quite well.

8 Q Sir, the one final point I want to
9 make is, you indicate in one of the interviews you
10 give in the newspaper that you need proper justice
11 to be done to get real closure. Sir, do you feel
12 that in this case real closure is possible, given
13 the experiences that you have had?

14 A My family and I have a long way to go.
15 Where most people who deal with a death in the
16 family, they go through the grieving process
17 relatively quickly, and there is stages of
18 grieving that they go through, and they reach
19 points where they can actually go to sleep and
20 wake up in the morning and go to work, and they
21 are not grieving and they are not hurting all of
22 the time, and it is not affecting their every day
23 lives. Those people generally will go through
24 their grieving process, and depending on the
25 person, it may last some time, but for the most

1 part, you know, there is a period of time that it
2 takes to go through all of this. We haven't begun
3 yet. We are three and a half years and we haven't
4 started grieving yet, because we are still dealing
5 with the crime. My wife and my children's mother
6 passed away and we haven't grieved properly and in
7 a healthy way, to actually get to that point in
8 time where you can sleep at night, and get up,
9 work during the day, and not be affected by
10 everything going on around you.

11 So I'm hoping with this process that's
12 going on, that after we are done, my children and
13 I can go and sit down in a quiet room, possibly my
14 parent's basement again, and just have a little
15 pow wow and say this is it, and now let's move on.
16 Let's take a moment to remember your mother and
17 remember what a loss this is. And, hopefully, we
18 can get there soon.

19 MR. PACIOCCO: Okay. Mr. Taman, I
20 have no further questions for you, but you are
21 going to have to remain there because there are
22 other lawyers who are going to want to ask you a
23 few questions. And Mr. Zazelenchuk will be next.

24 MR. ZAZELENCHUK: You will be happy to
25 know, Mr. Taman, I don't have very many points to

1 cover.

2 THE WITNESS: Thank you.

3 BY MR. ZAZELENCHUK:

4 Q You will recall that, as your counsel
5 I received boxes of documents, I have them stacked
6 up over there.

7 A Yes.

8 Q And do you recall that I received
9 transcripts of the various interviews of the
10 various people that Mr. Clifford conducted?

11 A Yes.

12 Q And I gave you access to all of those
13 documents except a few; is that correct?

14 A That's correct.

15 Q Which ones didn't I give you access
16 to?

17 A I didn't have any access to my
18 children's transcript, I didn't have access to
19 Crystal's parents' transcripts.

20 Q Sure. And I provided you with a copy
21 of your own transcript?

22 A That's correct.

23 Q Did you show it to any of your
24 children?

25 A No, I didn't.

1 Q Okay. You first met with Mr. Minuk on
2 May 3 of 2006. We've covered that.

3 A Okay.

4 Q Did you make any attempts to contact
5 him directly prior to that?

6 A I tried calling him, and I'm not sure
7 of the time of that, May 3, but I tried calling
8 him twice and left messages and never got a return
9 call.

10 Q Did you leave a phone number?

11 A Yes.

12 Q Did you have an answering service on
13 your phone device?

14 A Yes, I had voice mail.

15 Q There was a meeting on the 3rd of May,
16 2006, with Mr. Minuk, and Lesley McCorrister was
17 there. And exhibit 11, at page 1870, I wonder if
18 you could be provided with -- do you have that?

19 THE COMMISSIONER: What volume?

20 MR. ZAZELENCHUK: It is volume L, Your
21 Honour.

22 THE COMMISSIONER: Thank you.

23 THE WITNESS: Is that the
24 consultation?

25

1 BY MR. ZAZELENCHUK:

2 Q Yes. Do you have that in front of
3 you?

4 A I have.

5 Q Yes. I'm curious about the third
6 sentence.

7 "Marty advised Robert that he had met
8 with them..."

9 I think he is referring to your in-laws,
10 "...on a matter not related to this
11 charge."

12 Do you recall that statement being told to you?

13 A Yes.

14 Q So, Mr. Minuk told you that he had met
15 with your in-laws, but it was not related to the
16 charges?

17 A Correct.

18 Q Did he tell you what it was related
19 to?

20 A He said it was something completely
21 different, had nothing to do with the case, had
22 zero to do with what we were dealing with.

23 Q Okay. Move on to the next point, sir.
24 You prepared a Victim Impact Statement. Did you
25 have any discussions with Mr. Minuk about the

1 preparation of that statement?

2 A As far as? I'm not quite sure --

3 Q As far as what you could put in it?

4 Was there something that you wanted?

5 A I'm not sure -- let me think here,
6 sorry. I'm so tired. I can't recall, I'm sorry.

7 Q Okay. That's fair enough, sir. I
8 want to take you -- that's been dealt with, but I
9 want to deal with just a slightly different point.
10 I want to take you to August 22nd, that's the day
11 that you read your Victim Impact Statement, that
12 was the day when the submissions were made by
13 Mr. Wolson and by Mr. Minuk. Do you remember
14 that?

15 A I recall that, yes.

16 Q Do you remember the courtroom?

17 A August 22nd was, yeah, courtroom 230.

18 Q Right. And it is a huge courtroom.

19 A Yes.

20 Q Lots of wood?

21 A Yeah.

22 Q Okay. I now want to take you to, the
23 court is finished, the clerk has called order in
24 the court, Judge Wyant has gotten up and walked
25 out of the courtroom?

1 A Okay.

2 Q Did he walk out the same door that you
3 came in and out?

4 A No.

5 Q Do you recall what happened shortly
6 after Judge Wyant left the courtroom?

7 A Again, I am not sure of the exact
8 dates here, or if this is the time when we were
9 standing and waiting for Mr. Minuk, because he was
10 up by his desk area.

11 Q The lawyer's table?

12 A Yeah. And we were waiting, my
13 children and I were waiting there. And I believe
14 that was the date. We were there for possibly
15 five minutes, and he was busy doing whatever he
16 was doing there, and sheriff officers came up and
17 asked us to leave the courtroom.

18 Q I see. Did you comply?

19 A Yes.

20 Q Was there anybody else in the
21 courtroom?

22 A Mr. Zenk was in the courtroom.

23 Q Anyone else?

24 A His lawyers and Mr. Minuk, and that's
25 all I recall.

1 Q Okay. What happened when you left the
2 courtroom?

3 A Well, we were standing out in the
4 hallway and we were waiting, I wanted to speak
5 with Mr. Minuk about what had gone on, what was
6 happening. And it was, I remember a sheriff
7 opening a door and looking out and closing the
8 door again, and that happened twice. And it was
9 like he was just looking to see if anybody was out
10 there.

11 Q Okay.

12 THE COMMISSIONER: Sorry, I missed
13 that?

14 THE WITNESS: The sheriff's officer,
15 when we were standing in the hallway waiting, the
16 sheriff actually opened the door to sort of peek
17 out, and then closed it. He did he that twice,
18 and it was just like he was looking to see if
19 anybody was still out there.

20 BY MR. ZAZELENCHUK:

21 Q One last point, Mr. Taman. His Honour
22 and my learned colleagues are from a neighboring
23 province, and I just want you to keep the answer
24 fairly short, but could you give them some idea of
25 how the public reacted to your wife's death, the

1 death I'm talking about?

2 A With amazing support. The public
3 were -- boy, it was like the entire province was
4 behind us and supportive and we had -- like in the
5 days that followed, we probably had enough food to
6 feed an entire community. We received, I would
7 say, I don't know, in the thousands of cards,
8 sympathy cards. People offering anything from
9 shelter to money, it was incredible support from
10 everybody. It was an amazing thing.

11 Q Thank you, sir.

12 A You are welcome.

13 MS. BOWLEY: Good afternoon,
14 Mr. Taman. My name is Bernice Bowley and I am the
15 lawyer representing the Rural Municipality of East
16 St. Paul and the East St. Paul Police Service.
17 Let me first start by expressing my condolences
18 for the loss that you and your family have
19 suffered. And like Mr. Zazelenchuk, I only have a
20 few questions for you.

21 THE WITNESS: All right.

22 BY MR. BOWLEY:

23 Q Now, with respect to the visit by
24 Constable Pedersen and Victims' Services volunteer
25 on the date of the accident, are you aware that

1 the East St. Paul Police Service called you at
2 your parent's home and asked if they could send
3 someone over to discuss victim services with you?

4 A No, I'm not aware of that.

5 Q Is it possible and that you just don't
6 recall it?

7 A That's possible.

8 Q And when Constable Pedersen attended
9 to your parents' house in the basement of your
10 recreational room, she said to you that she was
11 visiting to see how you and your family were
12 doing; is that right?

13 A Correct.

14 Q And she asked whether she and Victims'
15 Services could do anything to help you; is that
16 right?

17 A I'm not sure.

18 Q I recognize that this has been a long
19 day for you. You recall having been interviewed
20 by Mr. Clifford on February 19 of 2008?

21 A Yes, I do.

22 Q And if I said to you that at page 27
23 of that transcript, referring to the visit by
24 Constable Pedersen on the day of the accident, you
25 say, "I remember her describing that they were

1 visiting us to see how we were doing, to see if
2 there was anything that they could do to help."
3 Do you recall saying that? Do you agree with
4 that?

5 A I agree with that. I agree.

6 Q Now, you made some comments with
7 respect to what you perceived Constable Pedersen's
8 attitude to be that day. Do you recall doing
9 that?

10 A Yes, I do.

11 Q Now, on February 25, she visited you
12 after you and your family had returned from the
13 hospital; right?

14 A That's correct.

15 Q And earlier today you had described
16 the day and the events in a variety of ways, some
17 of them I recorded, that events were occurring
18 rapidly. Do you recall saying that?

19 A Yes, I do.

20 Q That you yourself were extremely
21 foggy?

22 A Right.

23 Q And that it was a time for both you
24 and your family of extreme emotions?

25 A Right.

1 Q That you were all very upset?

2 A Yes.

3 Q And do you recall saying that upon the
4 visit by Constable Pedersen and the Victims'
5 Services volunteer, you felt as though your
6 family's bond had been disturbed?

7 A The visit at my parents' home?

8 Q Yes?

9 A Yes.

10 Q So with all of that in mind, the
11 events and all of the feelings that you and your
12 family were having, it is possible that Constable
13 Pedersen understood or felt badly that she was
14 disturbing you?

15 A I don't know how she was feeling.

16 Q But is it possible?

17 A No, I won't comment on that. I have
18 no idea how she was feeling.

19 Q Is it possible that she may have felt
20 awkward and, therefore, her demeanor was somewhat
21 awkward in response?

22 A Again, I can't say how she was
23 feeling.

24 THE COMMISSIONER: How would he know?
25 How would he know how she felt?

1 MS. BOWLEY: I'm just asking. He made
2 certain comments, Your Honour, about how he
3 perceived her demeanor to be. And I'm just trying
4 to suggest to him that there may have been reasons
5 other than what he thought was lack of compassion?

6 THE COMMISSIONER: Just put the
7 question in this way. Did you make any
8 observations from her demeanor that would lead you
9 to believe that she was upset or whatever?

10 MS. BOWLEY: Thank you very much.

11 THE COMMISSIONER: Don't ask him to
12 say what he believed was in her mind, because he
13 can't do that.

14 BY MS. BOWLEY:

15 Q Was there anything that you saw about
16 Constable Pedersen's demeanor that would lead you
17 to believe that she felt awkward about having
18 disturbed you and your family at that moment?

19 A No.

20 Q Are you aware that on that day
21 Constable Pedersen was directing traffic at the
22 scene of the accident?

23 A Yes.

24 Q And are you aware that she went to the
25 hospital and was at the hospital the same time as

1 you and your family? I understand that you had
2 said you don't recall having seen her there?

3 A Right, I don't recall.

4 Q Was there anything in the documents
5 that you reviewed for today which would tell you
6 that she was there?

7 A Yeah. I believe one of the documents
8 that I read said that she was at the hospital.

9 Q On the day of the accident and in the
10 dates shortly after, is it fair to say that what
11 you most wanted from the East St. Paul Police
12 Services was details about the incident, the who,
13 the why, the how, the charges?

14 A Yes.

15 Q Do you accept now that until the
16 charges were laid on or about March 1 of 2005,
17 that the investigation was ongoing?

18 A Now?

19 Q Yes.

20 A Now that I know -- I'm sorry, I'm
21 questioning it, I don't mean to, there is no
22 disrespect here.

23 Q That's fine, Mr. Taman. I will ask it
24 again.

25 A I have a lot of feelings towards what

1 was supposed to be an investigation. Okay. I
2 have a lot of feelings about it, so I want you to
3 make sure the question is right, because I don't
4 know if you want me to answer that.

5 Q Well, let me ask you this: You
6 understand that charges were laid on March 1 of
7 2005?

8 A Correct.

9 Q So what I'm asking you is, do you
10 understand that between February 25 and March 1 of
11 2005, when the charges were laid, that the
12 investigation was ongoing and culminated in the
13 charges being laid?

14 A That's what I understand.

15 Q And that on or about March 1, 2005,
16 the day of the press release and the meeting with
17 Mr. Bakema and Norm Carter, you were given
18 information about the charges, the identity, of
19 the person being charged and so on?

20 A I'm not sure that was March 1, I
21 thought it was March 2, but, I mean, it is just
22 out a day. He presented the charges to me.

23 Q That was the meeting that you had with
24 Harry Bakema and Norm Carter?

25 A That's correct.

1 Q On the day that they were giving the
2 press release?

3 A Right.

4 MS. BOWLEY: Thank you. Those are my
5 questions.

6 THE WITNESS: You are welcome.

7 THE COMMISSIONER: Mr. Green -- oh,
8 you are going first.

9 MR. McFETRIDGE: Yes.

10 THE COMMISSIONER: You have worked out
11 the order, have you? Thank you.

12 BY MR. McFETRIDGE:

13 Q Mr. Taman, my name is Glenn
14 McFetridge, I'm counsel for the Government of
15 Manitoba. Again, on my behalf and the government,
16 we offer you our condolences. I know this is a
17 difficult time for you.

18 If you have in front of you the volume
19 L --

20 A Okay.

21 Q -- I'll probably be referring to that.
22 And also the volume R-3, I will be referring to
23 that.

24 A Okay.

25 Q Now, if I could take to you volume L,

1 and this was the -- if I could take you to page
2 1853?

3 A Right.

4 Q And this was the letter that you
5 received on March 4th, 2005, from Ms. McCorrister.
6 And you received that on or about that date, did
7 you?

8 A Probably not right around that date.
9 I was picking up my mail probably once a week, you
10 know, every four or five days I should say,
11 because I wasn't at home at that time.

12 Q And included in that letter was, there
13 was certain material that was enclosed within that
14 letter; is that correct?

15 A That's what I understand, yeah.

16 Q That was a package of material, as I
17 understand it?

18 A Yeah, that's what I understand.

19 Q Did you keep that material in a
20 folder? I mean, there would have been information
21 contained in there for phone numbers to phone, or
22 people to phone, and explanations of things that
23 you could do. Did you keep that separately for a
24 future reference?

25 A I have no idea.

1 Q Do you recall whether you kept that
2 information?

3 A I don't recall that. I don't recall
4 how I stored it. Like I can tell you that I
5 probably kept it somewhere and -- but, please
6 understand, I had a difficult time going through
7 my normal bill paying procedures, and somebody was
8 paying my bills for me to make sure that I wasn't
9 falling behind. I mean, everybody was kind of
10 taking care of me. So I'm sure I kept it a
11 certain way, I just don't know how.

12 Q Again, if I could just have you refer
13 to volume R-3, this is R-3, 92.6.

14 A I don't have R-3, you can read it to
15 me.

16 THE CLERK: It is exhibit number 12.

17 THE WITNESS: Okay, I have it.

18 BY MR. McFETRIDGE:

19 Q And as part of that material there are
20 a bunch of brochures that are located within that
21 exhibit. Do you have those in front of you?

22 A I have it in front of me, yes.

23 Q And you had indicated to Mr. Paciocco
24 that you do not recall receiving any of this
25 documentation; is that correct?

1 A Right.

2 Q Can you say categorically today that
3 this information that is included in this exhibit
4 was not included in that letter that was sent to
5 you on March 4th?

6 A Did I say that?

7 Q I don't know. I'm asking you, can you
8 categorically state --

9 A I didn't say that. I said I don't
10 recall seeing any of this, that's all.

11 Q May you have -- could you have
12 received this information, was that included in
13 that letter?

14 A It is possible some of it was, or all
15 of it was, or I'm not sure. Somebody asked me if
16 I recall seeing this stuff, any of this stuff, and
17 I don't recall.

18 Q For example, you indicated that you
19 had read, when you were preparing your Victim
20 Impact Statement --

21 A Right.

22 Q -- as part of this material, there is
23 guidelines as to how to prepare an impact
24 statement?

25 A Right.

1 Q And you had indicated, when you were
2 preparing your impact statement, that you would
3 have been reviewing a document telling you how to
4 prepare them. Is that correct?

5 A Right, that's correct.

6 Q Did you at any other time receive
7 information as to how to prepare an impact
8 statement?

9 A I don't recall receiving that. We
10 received information from Lesley, it was later on,
11 it was near the end.

12 Q Okay. If I suggest to you it is
13 likely at that time that you would have got
14 information with respect to how to prepare an
15 impact statement, that that would have come as
16 part of this package that was sent to you on March
17 of 2005?

18 A It is possible that was there, I don't
19 know. I don't know what she sent. Again, no
20 disrespect, whatever I'm saying to you, a lot of
21 stuff you are telling me, I don't remember and it
22 is -- I don't want to come across as being brash,
23 I just don't -- I don't remember any of this
24 stuff.

25 Q So when there is information in here

1 as to the role of law enforcement agencies, you
2 can not say whether or not in fact that was
3 included or not, or whether in fact you even read
4 it?

5 A I can tell you that I don't recall any
6 of these documents.

7 Q When it says what the role of the
8 prosecutions branch is, and there is a fact sheet
9 in there as to what the role of the prosecutor is,
10 you don't ever recall seeing that document?

11 A If we are going to do that, then,
12 again, I don't want to be rude, but if it has to
13 do with any of this material in here, I don't
14 recall seeing any of this material. If we can sum
15 it up like that, it would save a lot of time.

16 Q Okay. Have you read that material
17 since?

18 A This here?

19 Q Yes?

20 A No.

21 Q Now, if I can take you over to, again,
22 volume L, and I forget what the exhibit number is.
23 I believe it is 11, was it?

24 THE CLERK: Yes, 11.

25 THE WITNESS: I have it here.

1 BY MR. McFETRIDGE:

2 Q And if I could take you to page 1854,
3 you briefly went through this document with
4 Mr. Paciocco as well, it appears that you phoned
5 Ms. McCorrister on March 17, 2005; correct?

6 A Correct.

7 Q And you indicated to her that you had
8 received Victims' Bill of Rights information. Was
9 that an accurate statement that you were telling
10 her that?

11 A I don't know. I don't remember the
12 entire conversation, but it is possible.

13 Q And she indicates that she explained
14 to you what the Victims' Bill of Rights was. Do
15 you recall that?

16 A No.

17 Q She indicated to you, or according to
18 her notes she told you what she did and how she
19 could assist you. Do you recall that?

20 A That I recall.

21 Q And just before I go on, how long
22 would this phone call have taken, approximately?

23 A This is March 17, 2005?

24 Q Yes?

25 A You want to know how long I was on the

1 phone?

2 Q Well, was it a short one-minute call,
3 or were you talking to her for a half an hour, or
4 fifteen minutes?

5 A I have absolutely no idea. But I can
6 tell you this, that it would not have been a half
7 an hour phone call. I just don't do that. And I
8 probably would have recalled it, because in fact
9 down the road there was a longer phone call with
10 Lesley that I do recall. This one wouldn't have
11 been that long.

12 Q Now, at that time she informed you
13 that the first remand date, when that was set,
14 that was going to take place, but there really
15 wasn't any point in you attending, because that
16 would probably be a very short court appearance
17 and it wouldn't be worth your while to attend.

18 A Right.

19 Q She explained that to you?

20 A Yes.

21 Q And that was useful information to you
22 because you didn't want to simply go down for
23 court, walk in, and one minute it was over because
24 it had simply been remanded to another date. That
25 was no interest to you to go through that type of

1 process, right?

2 A Right, correct.

3 Q And just on this point here, and it
4 indicates, it says:

5 "Robert was glad to know that I would
6 be able to keep him informed and said
7 he would most likely keep contact on a
8 biweekly basis."

9 So from that note it appears to me that you were
10 telling her that you would probably be phoning her
11 every, perhaps couple of weeks; is that correct?

12 A I believe that's a misunderstanding.
13 Because it doesn't make sense for me to call her,
14 it makes more sense for her to call me. So I'm
15 just going on the common sense of this thing and I
16 believe it is a misunderstanding.

17 Q Now, you read all of these notes, what
18 have been put in what is called the PRISM system?

19 A Yes.

20 Q And I take it you have reviewed a lot
21 of these?

22 A A lot of them.

23 Q And as I was listening to your
24 testimony with Mr. Paciocco, it appears that you
25 agreed with a lot of the statements that she was

1 inputting into her notes, as an accurate
2 reflection of what was being said?

3 A Okay.

4 Q Were you advised that she generally
5 would have entered these notes almost real time
6 after she had talked to you, or talked to
7 somebody, that she would enter this into the
8 system?

9 A I have no idea how she does it.

10 Q Okay. Were you advised of that?

11 A No.

12 Q And she made it clear to you, if you
13 had any questions, you could call her at any time,
14 is that correct?

15 A When was that?

16 Q Her last note,

17 "He had no questions at this time..."

18 Did she indicate to you that you could call her at
19 any time?

20 A I don't recall that. I really don't.

21 Q Did you have any difficulty of, when
22 you phoned her, that she would phone you right
23 back if she wasn't available at the time?

24 A I would say a lot of times, yes, she
25 would call me right back. Not all of the time.

1 Q Was there ever a telephone call that
2 you had made to her that she never returned?

3 A I don't recall.

4 Q Now, if I could just take you over to
5 the next page, which is page 1855, this appeared
6 to be a phone call that was made the very next day
7 by your son Jordan to Ms. McCorrister?

8 A Um-hum.

9 Q I take it from what you said, after
10 you talked to her, you would have talked to your
11 daughters and to your son to say that you had
12 talked to Lesley and this was somebody that you
13 could talk to if they needed to phone?

14 A I told Lesley that it is quite
15 possible that any one of my children may call her.

16 Q And she had no problem with that?

17 A She had no problem with that.

18 Q And indeed the very next day, it
19 appears that Jordan had phoned and he wanted to
20 correct what he thought was a mistake in the
21 original letter, that one of the charges that he
22 thought was going to be laid wasn't laid out in
23 that initial letter of March 4th --

24 A Right.

25 Q -- 2005?

1 A Right.

2 Q And she said, yes, you are correct,
3 that in fact there should have been an additional
4 charge listed on that letter. Is that correct?

5 A According to this, yes.

6 Q Yes. So that was clarified and,
7 indeed, the initial letter had indicated to you
8 the various charges that Mr. Zenk was going to
9 be -- had been charged with; is that correct?

10 A To Jordan you mean?

11 Q Well, the original letter to you of
12 March 5th has set out what the charges were that
13 Mr. Zenk was charged with?

14 A Right.

15 Q Did you have any questions about that
16 when you initially talked to her on the 17th, the
17 charges?

18 A It didn't come up.

19 Q Again, just on -- it appears if we go
20 over to what is page 1857, it appears your
21 daughter, Tara, also then phoned Ms. McCorrister
22 on March 31st, 2005. Were you aware of that call
23 being made?

24 A I see it here. Okay.

25 Q Would your daughter have told you

1 about that call?

2 A She probably would have.

3 Q Okay. And it appears that she was
4 going through, in some detail, as to how the
5 system worked and how the remand process worked,
6 questions that your daughter was raising at that
7 time?

8 A Okay.

9 Q Was that information being conveyed to
10 you as well by your daughter, as to what she was
11 telling you, or what Lesley was telling her,
12 excuse me?

13 A I don't quite remember this exact
14 conversation. I'm sure if Tara talked with
15 Lesley, she would have relayed the information to
16 me. But, like, I can't remember it.

17 Q Now, if I can take you over to page
18 1860, Mr. Paciocco had asked you briefly about
19 this, and there was something here that was raised
20 in this particular note that you had brought up,
21 you wanted to know about plea bargaining. And she
22 had indicated to you at that time that the Crown,
23 it would be the obligation on the prosecutor to
24 keep you up-to-date with the process that was
25 happening in terms of any plea bargains. Is that

1 correct?

2 A Yeah.

3 Q And she was making that clear, that
4 that really wasn't her function, to be telling you
5 what, if any, plea bargains there would be. If
6 any plea bargains were taking place, that would be
7 the responsibility of the Crown Attorney, correct,
8 was that your understanding?

9 A That's a difficult one to answer. And
10 I say it this way; we not only used Lesley, you
11 know, to get us that information for court dates
12 and so on, but we also used Lesley to try and get
13 information as far as how the system works. And
14 as far as like the plea bargaining goes, the
15 question here is not whether or not he is actually
16 doing it, or in the process of doing it, but the
17 question was, what happens and what ifs. And
18 that's what it was, it was just a question and
19 answer thing. So she just said that the Crown
20 would let me know. So it is not like -- this was
21 more a discussion than anything.

22 Q I just jumped the hat a minute. If I
23 could take you back, actually, to page 1858 of
24 that same document, same volume. And this was a
25 phone call you had with Ms. McCorrister on April

1 5th, 2005. It appears during the course of that
2 telephone conversation -- and again, this was a
3 call from you to her -- you were asking her about
4 Victim Impact Statements; correct?

5 A Correct.

6 Q And she was explaining what you could
7 do with those type of statements and, in fact, she
8 was suggesting to you that they wouldn't be needed
9 until the sentencing, and that could be some time
10 off, but that you should be keeping a journal to
11 record your feelings as to what you were feeling.
12 Did you, in fact, do that?

13 A Is that what she says here?

14 Q She says -- and if I can just take you
15 sort of the third sentence:

16 "I explained that they were read at
17 the sentencing so there was plenty of
18 time to do one, and the suggestion
19 would be to keep a journal of
20 feelings."

21 Did you do that?

22 A Did we keep a journal?

23 Q Yes?

24 A No.

25 Q At this stage, and it may be that you

1 got a Victim Impact Statement form later, because
2 she mentions later on in this note that she said
3 she will send you a form that sets out what you
4 can mention in a Victim Impact Statement. Did
5 you, in fact, get something from her to that
6 effect?

7 A We got a package, it was shortly
8 before the actual sentencing. We got a package
9 from Lesley that contained the Victim Impact
10 Statement forms. And the form just states what
11 you are supposed to write, and it gives you so
12 many lines that you can fill it in. And I mean, I
13 don't know what you are asking here, we got a
14 form. That's --

15 Q When you prepared your Victim Impact
16 Statement, did you put everything in there that
17 you wanted to say?

18 A At the time?

19 Q Yes? Was anything taken out of your
20 Victim Impact Statement?

21 A Not of my Victim Impact Statement.

22 Q And were you allowed to read that in
23 court?

24 A Yes.

25 Q You were given the option as to

1 whether you read it or whether the Crown Attorney
2 would read it?

3 A Right.

4 Q Was there -- did you have any
5 questions of anybody there, Mr. Minuk, of Lesley,
6 or any of the workers as to whether or not you
7 should put anything else into that statement?

8 A Again, very difficult. Really, at
9 that point in time, you don't understand the
10 feelings that are involved here. It is not a
11 situation where it is cut and dried and I can just
12 call Mr. Minuk up and say, hey, about this Victim
13 Impact Statement, it is not like that anymore.
14 Everything has become pretty tense, and the whole
15 case has become pretty tense, and our feelings are
16 quite elevated. So did I contact anybody, did I
17 contact Mr. Minuk or -- I didn't contact anybody.
18 I wrote the Victim Impact Statement as it said it
19 in the guideline. That's it. That's all I did.

20 Q I read your statement, and it is going
21 to be before this panel, it was a very moving
22 statement. And I thought it said a lot about how
23 you felt. Did you feel that you wanted to say
24 more than that? It was a very moving statement.

25 A I could have easily written a book on

1 everything.

2 Q How long did you work on that?

3 A How long did we work on that?

4 Q Yes?

5 A About a week.

6 Q So you spent a lot of time putting in
7 what you thought, or what you wanted to say and
8 tell the court; is that correct?

9 A Looking back, I probably could have
10 said more.

11 Q Okay. I'm unclear what your testimony
12 was. Mr. Paciocco had asked you as to whether or
13 not you felt that you had good notice of the
14 obligation to advise you of impending court dates
15 and keeping you up-to-date as to when court
16 appearances were going to take place. And I
17 wasn't sure what your answer was. Were you
18 satisfied with that aspect of Victims' Services
19 providing you when hearings were going to take
20 place and where they were to take place?

21 A For the most part, I was okay with it.
22 Like I said, there was only a couple of instances
23 where I had problems.

24 Q And indeed when -- again, I refer you
25 to page 1861, volume L, and this was a letter that

1 was sent in June 1st of 2005, and I'm not sure if
2 you actually got this letter right on that date or
3 not or -- was this a letter that was sent to the
4 wrong address? Was this one of them?

5 A No, this was at the right address.

6 Q The right address -- so you were
7 advised as indicated, though, a year in advance as
8 to when the preliminary hearing was going to take
9 place; correct?

10 A Correct.

11 Q And indeed you phoned her either the
12 same day that that letter was sent -- now, it may
13 be that that letter is out of sequence with the
14 subsequent phone message that you had with
15 Ms. McCorrister, which was on that same date of
16 June 1st, 2005, it appears that you phoned her on
17 June 1st, and indeed it appears from that note
18 that she was then going to send you out a letter
19 confirming the date of the preliminary hearing.
20 So it may have been that she then sent the letter
21 out after the phone call with you?

22 A Right.

23 Q At that time you were indicating to
24 her it was very unlikely that you would even want
25 to appear at the preliminary inquiry.

1 A Pardon me?

2 Q At that time you were indicating that
3 you probably wouldn't even want to be in
4 attendance at the preliminary inquiry?

5 A No, not necessarily. It was a little
6 bit different discussion than that.

7 Q She said, and this is her note, and
8 you can agree or disagree that you said this, she
9 says:

10 "Robert expressed not wanting to
11 attend as it was just too hard for him
12 and he didn't want to have to medicate
13 himself to get through it."

14 I know it was a long way off, but obviously you
15 were feeling under a lot of stress at that time,
16 and I take it you may not have wanted to attend
17 the preliminary, perhaps?

18 A The discussion went that there were
19 certain days that I did not want to attend, and
20 that I wouldn't attend every single day, that if
21 there was information coming out that I found
22 would be damaging or hurtful, that I did not want
23 to be there at that time. That's the way the
24 discussion went. My wanting to or not wanting to
25 attend the entire preliminary, that never was the

1 case.

2 Q Okay. Was she correct when she was
3 saying in this note to the system, that she told
4 you about what the preliminary was, that there
5 would not be media coverage of that, that media
6 would not be entitled to report what was taking
7 place at the preliminary inquiry. And she also
8 was explaining to you during the course of this
9 conversation what the role of outside counsel was,
10 i.e., that there was an independent prosecutor
11 being appointed and why that was, why there was an
12 independent prosecutor being appointed. Do you
13 recall that conversation taking place then?

14 A Are we talking June?

15 Q On June 1st, 2005, according to her
16 note?

17 A Well, I had already known who the
18 prosecutor was, I knew where he was coming from, I
19 understood -- I don't know what she would have
20 been explaining to me there.

21 Q Were you asking questions, why was
22 there being an independent prosecutor appointed,
23 and she was explaining it to you?

24 A I guess it might have been possible, I
25 don't know.

1 Q Is it fair to say, after these
2 preliminary discussions, Lesley would have
3 attended at the meetings? Did she attend two of
4 the meetings that you had with Mr. Minuk in his
5 office? One for sure we know?

6 A I recall one for sure. A second one,
7 I don't recall that, sorry, and certainly not the
8 meeting on July 13th.

9 Q And these meetings, she would not be
10 the primary person having the discussion with you
11 at these meetings, these would have been
12 Mr. Minuk; is that correct?

13 A Meaning was she involved?

14 Q Yes?

15 A She was involved.

16 Q How would she have been involved in
17 the two meetings at Mr. Minuk's office?

18 A She would discuss little details. You
19 have to understand, we don't understand anything
20 as far as the legal terminology. We are not
21 lawyers, we don't understand them. So if there
22 was something that would come up and I didn't
23 understand, and if Lesley seen that I didn't
24 understand it, she would try and help where she
25 could, if she seen something. So it wasn't like

1 she sat in the corner and waited for the meeting
2 to end.

3 Q So if Mr. Minuk was being a little too
4 technical with the legal jargon, she would
5 perhaps, if she saw that you maybe were not
6 understanding it, she would step in and explain
7 that? Is that what you are suggesting?

8 A Yeah, and I'm using that as a possible
9 example of what she would do at this meeting. Did
10 she do that all of the time? No. But did it
11 happen? Possibly. And I'm just saying that she
12 wasn't just sitting quietly. She did -- at times
13 she was involved.

14 Q And if you had any problem with
15 understanding what Mr. Minuk was telling you, you
16 would have had no hesitation in contacting Lesley
17 after the fact and saying, well, Mr. Minuk said
18 this, I didn't quite understand what he was
19 saying, could you tell me what he was talking
20 about, or could you clarify that? You had no
21 difficulty in doing that if it was needed, is that
22 correct?

23 A Well, I recall one conversation that I
24 had with her where I was questioning something
25 about what Mr. Minuk was doing. And I remember

1 her telling me not to be concerned about anything,
2 that Mr. Minuk was a very capable lawyer and he
3 knows exactly what he is doing and I have full
4 faith. And so, would I contact her about things?
5 Yeah, I would contact her. Was she always right?
6 No, she wasn't. But I would still contact her
7 because she is my only source.

8 Q You had indicated that -- when
9 Mr. Paciocco was asking how she dealt with you,
10 you indicated that she was very accommodating?

11 A (Nodding head.)

12 Q And I take it by that, if you made a
13 request, she would endeavor to follow through for
14 you, is that correct, to try and get you the
15 answer? Is that fair?

16 A That's fair.

17 Q And she was, I would suggest to you,
18 very understanding of the circumstances that you
19 and your family were in, and the emotional
20 distress you were going through. And she was very
21 understanding of that?

22 A I think in the latter part of that
23 statement, I think I spoke pretty highly of Lesley
24 as compared to how I would speak to most people
25 regarding this incident. I said I have a respect

1 for her, I think she is caring, I think she was
2 accommodating. I thought that she lacked the
3 tools to do her job. And that is how I feel, and
4 I don't think that I can -- I can't sugar her up
5 any higher than I have.

6 Q When you say she lacked the tools,
7 though, when you are saying she lacked the tools,
8 is that in respect to explaining of the plea, how
9 a plea would be entered into, or what the nature
10 of the sentencing was, or how you would arrive at
11 a sentence? Are those things that you would have
12 expected from her, or are those things that you
13 would have expected to find out from the Crown
14 prosecutor?

15 A Are you asking me --

16 Q What did you expect?

17 A Okay. You are kind of asking me two
18 questions. I just want to know, can you just
19 repeat the question you want?

20 Q You said you didn't think she had the
21 tools --

22 A Right.

23 Q -- to do her job?

24 A Right.

25 Q Do you feel her job was to explain to

1 you how the sentencing process worked, or how the
2 Crown would come to a decision as to whether to go
3 through with one charge as opposed to another?

4 Did you expect that to be her responsibility?

5 A I would expect it to be either her
6 responsibility or the Crown's responsibility, but
7 it is somebody's responsibility. And I think it
8 lacked.

9 Q If you had any questions, if you felt
10 that Mr. Minuk didn't properly explain something
11 to you --

12 A Right.

13 Q -- did you have any problem in phoning
14 her and saying, you know, this was all a little
15 overwhelming to me, could you go back to Mr. Minuk
16 and just get clarification on this point or that
17 point as to why they did it? Did you have any
18 difficulty, from your perspective, of phoning her,
19 because you had rapport with her to say, listen, I
20 didn't understand this, could you check up on that
21 for me?

22 A I had no difficulty phoning Lesley.

23 Q And did you do that?

24 A I don't recall doing that. I may
25 have. I'm not sure. We talked many times, I just

1 don't know exactly what we talked about every
2 single time.

3 Q You indicated -- and I can understand
4 that you were angry after the sentencing hearing,
5 you were angry after the Crown presented their
6 position in August. Did you at any time phone
7 Lesley and say, I don't understand what was going
8 on, could you please find out for me what exactly,
9 what was happening?

10 A And this was at what time?

11 Q Well, first of all, in August, after
12 they made their presentation to the judge, did you
13 have any concerns about what was being said on
14 that day in court?

15 A I had plenty of concerns.

16 Q Did you ever contact anybody at
17 Victims' Services and say, I didn't understand
18 what was going on, could you get me some
19 clarification on some of the points?

20 A I must say to you at that point in
21 time, I had began to lose my trust and wasn't
22 quite sure who I could speak to and who would --
23 who would provide me with the proper answers
24 rather than something that was scripted. I
25 believe that everything that I went through left a

1 really bad taste in my mouth as far as dealing
2 with everybody in regards to the justice system.
3 And that includes Lesley, that includes Victims'
4 Services, that includes all of them. But it
5 doesn't -- I'm going to elaborate, I'm going to
6 tell you that I do not believe that Victims'
7 Services is all bad and everything about them is
8 bad. I believe that Lesley did a lot of good, and
9 I have said that over and over. I don't know how
10 much more I can say. All I can tell you is that
11 it is a difficult position when you don't trust
12 your prosecutor, and your Victims' Services is the
13 extension of your prosecution.

14 MR. McFETRIDGE: Those are all of the
15 questions that I have, Mr. Commissioner, thank
16 you.

17 THE COMMISSIONER: Thank you. We will
18 take five minutes.

19 THE CLERK: All rise.

20 (Proceedings recessed at 4:46 p.m. and
21 reconvened at 4:51 p.m.)

22 THE CLERK: All rise. This Commission
23 of Inquiry is now reopened.

24 MR. GREEN: Mr. Taman, my name is
25 Michael Green, I'm counsel to Marty Minuk, and I

1 have a few questions for you, sir.

2 BY MR. GREEN:

3 Q I understood from some of the
4 questions and answers that you gave to
5 Mr. Paciocco that you were at one point looking to
6 Mr. Minuk and the other parts of the justice
7 system to lead you to a promised land. Do you
8 recall saying that?

9 A So to speak, yes.

10 Q What did you mean by lead you to a
11 promised land?

12 A I guess I would mean that the process
13 in which the court trial -- the entire process,
14 right to the end, to a guilty conviction, that's
15 what I mean.

16 Q So the promised land was seeing this
17 man found guilty, or pleading guilty to certain
18 crimes; is that fair?

19 A Impaired driving causing death.

20 Q So is that what you are saying the
21 promised land was, that he would somehow be
22 convicted or plead guilty to impaired driving
23 causing death?

24 A I would say that would be pretty
25 close.

1 Q You also mentioned in your evidence
2 that you felt that an appropriate sentence
3 involved actual jail time. Is that correct?

4 A That's correct.

5 Q And you mentioned a range of three to
6 five years?

7 A Yes.

8 Q Was that what you felt would be
9 appropriate for Mr. Zenk in these circumstances?

10 A No.

11 Q What did you feel was appropriate?

12 A Honestly?

13 Q Yes, please?

14 A Life.

15 Q Life sentence?

16 A Yes.

17 Q Obviously, it would be served in jail?

18 A That's where you serve it.

19 Q So, when you mentioned three to five
20 years, what then were you referring to?

21 A I was referring to our justice system
22 that we have is not the same as the justice that
23 people may want. I was going by what I believe
24 would have been appropriate, considering the way
25 the justice system is. Mr. Minuk said two years

1 conditional sentence for dangerous driving cause
2 death. I say that it would have been considerably
3 more if impaired driving causing death was the
4 charge.

5 Q Okay. You have told me that in your
6 heart of hearts you believe that this man should
7 have been sentenced to life imprisonment?

8 A Okay.

9 Q You told the Commission earlier, or
10 you referred to three to five years. My question
11 is, where did the three to five year come from?
12 Did that just spring into your mind or --

13 A Did it just spring into my mind?

14 Q Where did you come down with a
15 sentence of three to five years?

16 A It comes from, I guess, three and a
17 half years of frustration and discomfort and
18 sadness.

19 Q Okay. Then is that something that you
20 have recently formed an opinion on, the three to
21 five years --

22 A No.

23 Q -- or is that something that you
24 formed an opinion on earlier?

25 A It is something that I have had an

1 opinion on throughout.

2 Q The three to five years?

3 A Life.

4 Q I was asking about the three to five
5 years.

6 A Well, that's the reality, and I
7 understand reality, and that is something that I
8 have had an opinion on throughout.

9 Q All right. Now, did I understand your
10 evidence correctly, sir, that you had three
11 separate meetings with Mr. Minuk in his office?

12 A That's correct.

13 Q Okay. And his office is in the Trizec
14 Building at the corner of Portage and Main, that's
15 what we are talking about?

16 A That's correct.

17 Q All right. And two of the meetings
18 were in May of 2006, and one was in July of 2007.
19 Do I have that correct?

20 A That's correct.

21 Q And the first meeting was May 3, 2006?

22 A Correct.

23 Q Who was present at that meeting?

24 A I believe that was my son, Jordan, and
25 I believe Lesley McCorrister was there, and Marty

1 Minuk, and I believe there was an assistant there,
2 I'm not sure. If this is the meeting in question,
3 this is going back a long way --

4 Q Sure?

5 A -- please understand there were a
6 couple of meetings back to back, if this is the
7 meeting in question, then it would have, I believe
8 his legal assistant or somebody was there at that
9 time, and it was in a boardroom.

10 Q Okay. That was an assistant to
11 Mr. Minuk?

12 A Correct.

13 Q And what of significance occurred at
14 that first meeting?

15 A I'm not sure what you mean.

16 Q Was there anything that sticks out in
17 your mind about that first meeting? That is the
18 May 3, 2006 meeting?

19 A Nothing that I can think of right now.

20 Q Okay. Was the concept of plea
21 bargains talked at all about in that meeting?

22 A It is possible.

23 Q But you just don't recall?

24 A I don't recall.

25 Q But if it was raised, or did come up

1 in that meeting, you made your feelings known that
2 you didn't want plea bargaining; is that fair?

3 A I believe the word was, I don't want
4 any deals.

5 Q Okay. You told His Honour that you
6 heard for the first time the phrase "plea bargain"
7 on August 22, 2007. I take it what you meant to
8 say was that you first heard that phrase "plea
9 bargain" in connection with this case on that
10 date?

11 A Correct.

12 Q You were familiar with the term prior
13 to that date?

14 A I watch Law and Order, so, yes, I have
15 seen it.

16 Q Right. Okay. And there was, there
17 were words exchanged to some degree at that May 3,
18 '06 meeting concerning Mr. Minuk having met with
19 the Sveinsons prior to meeting with you, is that
20 correct?

21 A That's correct.

22 Q Okay. When, to your recollection, had
23 he met with them?

24 A I'm going back now, I'm not sure, it
25 was -- again, as I had said, a lot of what was

1 going on, there was a lot of second-hand
2 information flying around. So I had found out and
3 contacted Victims' Services about it. And
4 that's -- we had the meeting set up, so it
5 probably was a few days earlier, maybe a week
6 earlier, I'm not sure.

7 Q So did you know coming into the
8 meeting that Mr. Minuk had already met with the
9 Sveinsons?

10 A I believe it was that meeting, yes.

11 Q No, but did you know before the
12 meeting that he had met with them?

13 A I don't understand your question?

14 Q Well, the topic of Mr. Minuk having
15 met with the Sveinsons was discussed at the May 3,
16 2006 meeting; correct?

17 A Okay.

18 Q Did you know before that meeting that
19 Mr. Minuk had met with the Sveinsons?

20 A Yes.

21 Q And how did you know that?

22 A Through second-hand information.

23 Q Being?

24 A Being a phone call from some friend or
25 relative who was, who knows or is in touch with my

1 children, and it goes around full circle and it
2 hits me. And I get a phone call or I get a
3 conversation with my child and they tell me, did
4 you know that grandma and grandpa met with Marty
5 Minuk already? And which I say, no, I never knew
6 that. And then I contacted Lesley McCorrister.

7 Q All right. Were you in contact with
8 the Sveinsons yourself at that time?

9 A No.

10 Q So the rift that developed had
11 developed earlier, had it?

12 A Yes.

13 Q Because I thought I heard you to say
14 that the rift occurred as a result of Mr. Minuk's
15 having met with the Sveinsons before he met with
16 you? That is not what you intended to say?

17 A I don't believe I said that, no, that
18 didn't happen.

19 Q Okay. But you made it plain to
20 Mr. Minuk that you were unhappy that he had met
21 with the Sveinsons before meeting with you; is
22 that fair?

23 A That's fair.

24 Q And why is that? Why were you
25 unhappy?

1 A Because I'm the victim.

2 Q Being the husband of Crystal Taman?

3 A That's correct.

4 Q And Crystal Taman was the daughter of
5 the Sveinsons?

6 A Correct.

7 Q Were they not also victims?

8 A In their own right, absolutely, I
9 don't take anything away. The pain that they
10 felt, they are truly victims in their own right,
11 absolutely. But according to the law, I'm the
12 victim.

13 Q So, you were familiar with the law
14 that categorizes a husband as a victim, but not
15 parents, is that what you are telling me?

16 A Oh, no, it categorizes parents as
17 well. And I am not -- again, this is not going to
18 be a session, you know, where it's me against
19 them. I understand their pain, I understand fully
20 their pain. And I live my own, I have my own pain
21 every day, and I understand theirs, they are truly
22 victims in their own right, absolutely victims,
23 and should have been spoken to and should be
24 written into, as victims in the Victims' Bills of
25 Rights, it should be there, but it is not like

1 that, this is not the case.

2 Q But in your view, you should be talked
3 to first?

4 A Absolutely.

5 Q And your reason for that is because
6 you are a victim, that was your response to the
7 question that I asked?

8 A Many reasons actually. Because I'm
9 the victim, because I'm the husband, because of my
10 children, and because it is right.

11 Q So are you then saying that it is
12 wrong for the prosecutor to speak to the parents
13 before he has a chance to speak to the husband?

14 A I didn't say that, but if you want to
15 ask me the question, I will answer it.

16 Q That's a logical inference to draw, is
17 it not?

18 A Pardon me?

19 Q Would you not agree that's a logical
20 inference to draw?

21 A You ask me a question and I will
22 answer it.

23 Q When did you first become aware that
24 there were problems with the police investigation?
25 And I know you won't have a specific date, but can

1 you have a time frame on that for us?

2 A I really -- I wish I could. There was
3 a lot, again, there is so many people that know so
4 many people that, you know -- there was people
5 talking, and there was articles in the paper and,
6 you know, I couldn't pinpoint when I realized that
7 there was problems with the investigation.

8 Q Okay. Did you know before the first
9 meeting at Mr. Minuk's office, with him, that
10 there may have been problems with the police
11 investigation?

12 A I don't -- no, I don't believe so. I
13 don't know, though. I really can't tell you. I
14 don't know, I can't pinpoint that date.

15 Q Okay. So it may have been before, but
16 you don't think it was; is that fair?

17 A It may have been before, or it may
18 have been after. That's all I can say.

19 Q You met for the second time with
20 Mr. Minuk on May 25, 2006, at his office? Does
21 that accord with your recollection, sir?

22 A Okay. I don't have that it in front
23 of me, but it was at the end of May, I believe.

24 Q Okay. And who was at that meeting?

25 A It would have been, if it is the

1 meeting that I recall, it would have been Jordan
2 and myself, my son Jordan and myself and
3 Mr. Minuk. I don't recall anybody else at that
4 meeting.

5 Q Okay. You don't recall whether there
6 was an assistant or Lesley McCorrister present at
7 that meeting?

8 A I don't recall. But what we could
9 have is a reversal of meetings, you know, if
10 that's the case, because Lesley McCorrister --

11 Q Okay. I am not trying to trick you
12 here.

13 A -- and her assistant were at one of
14 the meetings, that's all I'm saying. I don't know
15 if it was that one. That one I believe was just
16 my son and I.

17 Q Okay. And you were advised at that
18 time that there was going to be an adjournment of
19 the preliminary hearing?

20 A Right.

21 Q And you broke down?

22 A Yes.

23 Q And by breaking down, you mean that
24 you were weeping?

25 A Yes.

1 Q Okay. And Mr. Minuk explained to you
2 why there was going to be an adjournment?

3 A As I said earlier, he said there was
4 some problems, and he had some holes he had to
5 fill, and he had to call another investigation
6 into East St. Paul.

7 Q There were some problems with the
8 case?

9 A No, there was some problems with East
10 St. Paul. I don't know about the case, I'm not a
11 lawyer, and he didn't explain that to me.

12 Q Well, I thought you said that he told
13 you that he had to plug some holes?

14 A Well, yeah, that's what he told me.

15 Q Well, was he going to be plugging
16 holes with the police department or plugging holes
17 with the case?

18 A I don't know, he will be on the stand
19 soon, you can ask him.

20 Q Well, what was your understanding?

21 A I have no idea.

22 Q You had another meeting with Mr. Minuk
23 on July 13, 2007?

24 A Correct.

25 Q And I understand that that meeting was

1 fairly late in the day? Does that meet with your
2 recollection?

3 A July 13th?

4 Q Yes?

5 A No, it was early in the day.

6 Q It was early in the day. Do you know
7 what time it was scheduled for?

8 A I believe originally scheduled for, I
9 believe, and I could be wrong, I could be out a
10 little bit, but I believe it was originally
11 scheduled for I think 9:00 o'clock.

12 Q 9:00 o'clock in the morning?

13 A Yeah, and then they moved it ahead to
14 8:30.

15 Q Sorry?

16 A I think he moved to 8:30 in the
17 morning.

18 Q Okay. So the meeting was scheduled
19 for 8:30 in the morning?

20 A Yes.

21 Q And Mr. Minuk, you have told us, was
22 late?

23 A Yeah.

24 Q He was late in arriving at the office?

25 A Yes.

1 Q And you and your son, in fact, saw him
2 come in?

3 A Yes.

4 Q And he asked both you and your son to
5 come directly into his office?

6 A Well, yeah, he came in, and he was on
7 his way to his office, and then he came back and
8 he said he couldn't -- he didn't have much time,
9 so come right in. And we followed him in.

10 Q Okay. And what did Mr. Minuk say to
11 you initially? What was the topic that was
12 initially raised at that meeting?

13 A That he was staying the charge.

14 Q Okay. Did you have any idea
15 beforehand what the meeting was going to be about?

16 A No.

17 Q Okay. Mr. Minuk told you that you
18 that he was going to be staying some of the
19 charges?

20 A Correct.

21 Q And did he tell you that he had had
22 discussions with Mr. Wolson?

23 A That -- no, I don't recall that.

24 Q Okay. And you are sure about that,
25 sir, because this is important, you --

1 A I know it is important.

2 Q Yeah. At the outset, Mr. Minuk told
3 you that he was going to be staying three of the
4 charges and proceeding with the other charge?

5 A Yeah, the one charge, the conspiracy,
6 I don't even recall the charge, that one -- I
7 forget the name, sorry, it doesn't come to me.
8 There was two alcohol related charges, those were
9 the charges that he was staying.

10 Q Refuse breathalyzer?

11 A Right.

12 Q And cause death by --

13 A Impaired driving.

14 Q -- impaired driving and criminal
15 negligence causing death?

16 A That one, criminal negligence, sorry,
17 that's the one I forgot about. He said, I think
18 his words were, that's just a useless charge we
19 just fire in there anyways, nobody really gets
20 charged with that. He said we just fire it on
21 there so we can hold the guy. Those were his
22 words to me. That one there really didn't even
23 come up that morning, because he told me --

24 Q All right. So you knew there were
25 four charges, that three of them were being

1 stayed, that he intended to stay them. What was
2 going to happen to the fourth?

3 A Pardon me?

4 Q What was going to happen with the
5 fourth charge?

6 A The dangerous driving causing death?

7 Q Yes?

8 A That one he was going ahead with.

9 Q Okay. And to the best of your
10 recollection, Mr. Minuk didn't mention any
11 discussions with Mr. Wolson that he had recently
12 held at that meeting?

13 A He didn't mention any discussion that
14 he had with Mr. Wolson.

15 Q Okay. And you broke down at that
16 point?

17 A Yes.

18 Q And your son spent some time in trying
19 to console you, I understand?

20 A I'm sure he tried a little bit, yes,
21 more than likely.

22 Q And did you have discussions with
23 Mr. Minuk after he told you that he was staying
24 the charges?

25 A In regards to what?

1 Q In regards to anything?

2 A Well, yeah, we spoke.

3 Q And did you ask for an explanation as
4 to why he was staying the charges?

5 A Yes.

6 Q And he told you, as I think you
7 related to His Honour, that the East St. Paul
8 Police had botched the investigation?

9 A He said screwed up.

10 Q Okay. Screwed up?

11 A Yes.

12 Q Not botched?

13 A No, he said screwed up.

14 Q Those are his exact words?

15 A That's the words that are coming into
16 here as to what he said.

17 Q Into your mind?

18 A Yes.

19 Q And you then said words to the effect
20 that the whole thing has been screwed up, right
21 into this office?

22 A To that effect.

23 Q And did you use that word, that
24 phrase?

25 A Yes, to that effect, yes.

1 Q Okay. And what did you mean by that?

2 That the screw-ups had occurred in his office?

3 A I believe that nobody did their job.

4 Q Nobody did their job?

5 A That's what I believe.

6 Q Okay. And specifically at that point

7 in time, how did you believe that Mr. Minuk had

8 not done his job?

9 A Well, because he wasn't prosecuting,
10 and he is a prosecutor, and he is not prosecuting,
11 that tells me he is not doing his job.

12 Q So am I understanding correctly, sir,
13 that because he told you that he was staying the
14 charges, that you interpreted that as meaning that
15 he hadn't done his job?

16 A Correct.

17 Q Simple as that?

18 A Oh, it is simple as that.

19 Q Now, Mr. Zazelenchuk asked you whether

20 you had received information from his office that

21 he had been receiving from Commission Counsel.

22 You recall him asking you that?

23 A Okay.

24 Q You do?

25 A That I received information?

1 Q Yes, from him?

2 A I never received information. I
3 looked at information. I never received anything.
4 I visited my lawyer. I didn't know what to --

5 Q Well, I had understood
6 Mr. Zazelenchuk's question to be whether you had
7 received all of the information that he had
8 received from Commission Counsel, save the
9 transcripts of the Sveinsons and your children.
10 Did I misunderstand?

11 A You probably did.

12 Q Okay. So you didn't receive anything?

13 A I received nothing.

14 Q Okay. But you had access to what he
15 received from Commission Counsel, is that what you
16 are telling us?

17 A I had access to certain information.

18 Q Okay. Did you have access to the
19 expert police report that Commission Counsel has
20 received?

21 A If it was in the files that
22 Mr. Zazelenchuk has, I had access to it.

23 Q Do you recall whether you had access
24 to an expert report from a police officer in
25 Ontario?

1 A Are you asking if I read it?

2 Q Yes?

3 A I don't recall.

4 Q Okay. You may have had access to it,
5 but you don't recall whether you read it, is that
6 what you are telling us?

7 A That's what I'm telling you.

8 Q Okay. So you may have read it, but
9 you just don't remember whether you read it or
10 not?

11 A I will repeat it. I have had access
12 to the majority of the documents, but I didn't
13 read all the documents, and I don't recall whether
14 I read that.

15 Q Okay. I want to be clear --

16 A That is clear.

17 Q -- this is a report from an expert
18 police officer from Ontario. Now, first of all,
19 are you aware of the existence of that opinion?

20 A What opinion are you talking about?

21 Q The expert report from the police
22 officer in Ontario?

23 A I don't recall.

24 Q So you don't --

25 A I don't recall seeing anything.

1 Q Are you aware of the existence was my
2 question, sir?

3 A Am I aware -- no, I don't know what
4 you are talking about.

5 THE COMMISSIONER: Do you have the
6 document? Show it to him and then --

7 MR. GREEN: I don't have it with me.

8 MR. ZAZELENCHUK: I can give my
9 learned friend access to my documents.

10 THE COMMISSIONER: Show it to him and
11 see if he has access to it and whether he read it,
12 or we can be here all day.

13 MR. GREEN: I didn't bring a copy, I
14 didn't think it would come up. My friend,
15 Mr. Paciocco, doesn't have a copy here either.

16 THE COMMISSIONER: While you are
17 deciding if you have a copy, I understand that,
18 Ms. Bowley, you are anxious to leave.

19 MS. BOWLEY: I have about seven or
20 eight minutes yet, Your Honour.

21 THE COMMISSIONER: You leave when you
22 are ready.

23 MS. BOWLEY: Thank you.

24 THE COMMISSIONER: Have we found a
25 report from the Ontario police officer?

1 MR. PACIOCCO: We don't have it here,
2 Mr. Commissioner.

3 BY MR. GREEN:

4 Q Well, perhaps we can handle it this
5 way. Have you become aware that an opinion has
6 been expressed by an expert that this case was so
7 badly investigated that it is, and these are my
8 words, that it is somewhat surprising that any
9 guilty plea was obtained? Have you read a report
10 anything like that?

11 A Not that I recall.

12 MR. GREEN: May I approach?

13 THE COMMISSIONER: Go ahead, show it
14 to him.

15 MR. GREEN: I'm going to show you a
16 report dated February 21, 2008.

17 THE COMMISSIONER: Is that the report?

18 MR. GREEN: I believe so.

19 THE COMMISSIONER: Well, show it to
20 him and ask him whether he read the report, or
21 whether he had access to it and whether he read
22 it.

23 BY MR. GREEN:

24 Q Have you seen this report before, sir?

25 A No.

1 Q You are quite sure?

2 A Yeah, I'm sure.

3 Q You also mentioned, sir, that you
4 likened this whole situation to a jigsaw puzzle
5 and that it is only recently that the pieces have
6 begun to fall into place?

7 A Sorry, I'm frustrated. It has been an
8 extremely long day. This report is still bugging
9 me. Just give me a second to compose myself.

10 THE COMMISSIONER: Would you like to
11 continue?

12 THE WITNESS: Yeah, I want to finish
13 this.

14 THE COMMISSIONER: Okay. Put the
15 question again.

16 BY MR. GREEN:

17 Q In your evidence, I believe you stated
18 that the whole thing was like a jigsaw puzzle?

19 A Right.

20 Q And that it is only within the last
21 two months that the pieces have begun to fall into
22 place?

23 A Correct.

24 Q And that falling into place is as a
25 result of information that you have received

1 through the Inquiry process. Am I correct in
2 that?

3 A Correct.

4 MR. GREEN: Those are all of my
5 questions. Thank you, Mr. Taman.

6 THE COMMISSIONER: Do you any
7 re-examination?

8 MR. PACIOCCO: Only very briefly. I
9 only have one question for you.

10 BY MR. PACIOCCO:

11 Q You will recall being asked a question
12 by Mr. McFetridge, the lawyer for the Province of
13 Manitoba, and he asked you whether you took the
14 opportunity to contact Ms. McCorrister on any
15 occasions to find out, or to ask any questions or
16 get information from her.

17 A Right.

18 Q I would like to draw your attention,
19 please, to document L-74, which I believe you
20 still have there on page 1922. This is a PRISM
21 communication dated the 27th of August, 2007?

22 A Right.

23 Q And, sir, you will see there where it
24 is recording that you can't figure out why the
25 Crown hasn't asked for a heavier sentence?

1 A Right.

2 Q And you would like to know all of the
3 facts about why certain charges had to be stayed?

4 A Right.

5 Q Sir, were you asking her for
6 information and explanations?

7 A Well, I was hoping that she could help
8 me find out the information, whether it came
9 directly from her or whether she could obtain it,
10 but I was hoping that she would be able to help.

11 MR. PACIOCCO: Mr. Taman, those are
12 all my questions. I want to thank you for your
13 endurance and your patience. It has been a very
14 long day for you, I understand.

15 THE COMMISSIONER: Thank you, sir.
16 You can go down.

17 Well, we have had enough for today or
18 do you want to carry on?

19 MR. PACIOCCO: I have certainly had
20 enough, maybe some of my younger colleagues would
21 like to keep going, but I'm done.

22 THE COMMISSIONER: All right. We will
23 start tomorrow morning at 9:00 o'clock.

24 MR. PACIOCCO: Yes, thank you.

25 THE CLERK: All rise. This Commission

1 of Inquiry stands adjourned until 9:00 o'clock
2 tomorrow morning.

3 (Proceedings adjourned at 5:30 p.m.)

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OFFICIAL EXAMINER'S CERTIFICATE

I, CECELIA REID, a duly appointed Official
Examiner in the Province of Manitoba, do hereby
certify the foregoing 282 pages are a true and
correct transcript of my Stenotype notes as taken
by me at the time and place hereinbefore stated.

Cecelia Reid
Official Examiner, Q.B.

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