

INQUIRY INTO THE INVESTIGATION AND
PROSECUTION OF DEREK HARVEY-ZENK

The Honourable Roger Salhany, Q.C., Commissioner

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

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Tuesday, June 3, 2008

Volume 2

INQUIRY PROCEEDINGS

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INDEX OF PROCEEDINGS

DESCRIPTION	PAGE
WITNESSES:	
Tara Taman	
Examination by Mr. Clifford	290
Examination by Mr. Zazelenchuk	345
Examination by Ms. Bowley	350
Examination by Mr. McFetridge	351
Examination by Mr. Green	355
Re-Examination by Mr. Clifford	361
Jordan Taman	
Examination by Mr. Clifford	363
Examination by Mr. Zazelenchuk	422
Examination by Mr. McFetridge	430
Examination by Mr. Green	446
Re-Examination by Mr. Clifford	455
Kristin Taman	
Examination by Mr. Clifford	459
Examination by Mr. Zazelenchuk	481

INDEX OF EXHIBITS

EXHIBIT NO.

PAGE

NO EXHIBITS MARKED

1 TUESDAY, JUNE 3, 2008,

2 UPON COMMENCING AT 9:00 A.M.

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

5 THE COMMISSIONER: Good morning.

6 MR. CLIFFORD: Good morning,
7 Mr. Commissioner. Sir, today we are sitting from
8 9:00 o'clock until 1:00 p.m. And given what we
9 hope to accomplish today, we'll have to continue
10 with our efficient use of time. Our plan is to
11 call three witnesses. They are the children of
12 Crystal and Robert.

13 I would suggest, Mr. Commissioner,
14 that we keep our scheduled break of 10:45 to
15 11:00, if that suits yourself and counsel, and
16 with that break, we'd push through to 1:00 p.m.

17 THE COMMISSIONER: Thank you.

18 MR. CLIFFORD: And with your
19 permission, sir, I'll call the first witness of
20 today. That is Tara Taman.

21 THE CLERK: Just remain standing for a
22 moment, if you would. Would you swear an oath on
23 the Bible or affirm to tell the truth?

24 THE WITNESS: I'll swear on the Bible.

25

1 TARA TAMAN, having first been duly
2 sworn, testified as follows:

3 BY MR. CLIFFORD:

4 Q Good morning, Tara.

5 A Good morning.

6 Q I understand that you are Crystal and
7 Robert's oldest child?

8 A I am.

9 Q And you are one of three siblings?

10 A Yes.

11 Q You have a sister Kristin?

12 A Yes.

13 Q And a brother Jordan, who is the
14 youngest child?

15 A (Witness nodding)

16 Q Now, Tara, we know you lost your
17 mother at a time when both you and she were very
18 young. Can you tell the Commission how old you
19 were when your mom died?

20 A I would have been 22.

21 Q Okay. How old are you now, Tara?

22 A Twenty-five.

23 Q I'd like to express to you my sympathy
24 for your loss and suffering, and to also publicly
25 acknowledge, Tara, that your being here today and

1 your testifying is an emotionally difficult thing
2 for you to do. And I also want to thank you for
3 attending and assisting the Commission.

4 Now, before we get into the questions
5 and answers, Tara, I'd also like to publicly
6 acknowledge a comment you made about your mom
7 after her death. And on August 22nd, on what
8 would have been your mom's 43rd birthday, you read
9 your Victim Impact Statement in court at
10 Mr. Harvey-Zenk's sentencing hearing. You said,
11 amongst other things, and I quote:

12 "Your mom was one in a million. She
13 was the strongest person, the person
14 anyone could talk to, no matter what,
15 and just all around the most caring
16 loving person."

17 Now, Tara you no doubt chose those words very
18 carefully. And I take it they capture only one of
19 your mother's many positive attributes?

20 A Yes.

21 Q And it comes as no secret to you,
22 Tara, that today I'm going to ask you questions
23 about the worst day of your life, February 25th,
24 2005, and the days and the weeks and the months
25 and the years that followed. So I'm going to ask

1 you to be strong as well, and courageous, and to
2 relate your experiences to us. And should you
3 require a break, bring it to Commissioner's
4 attention.

5 Now, dealing with February 25th, 2005,
6 can you tell the Commissioner what your normal
7 routine was on a workday?

8 A I would set my alarm early, because my
9 mom would never wake up in the morning, so I would
10 set my alarm and wake her up for work. That was
11 usually about 5:30. And then she would wake us up
12 after that for work.

13 In the morning, after she woke me up,
14 I would go start her car. She would start ours on
15 her way out to work, and she would leave about 15
16 minutes before us.

17 Q You travel to work with your sister,
18 Kristin; is that right?

19 A Yes.

20 Q When you were driving to work that
21 day, I understand that you made observations that
22 caused you to do certain things. Can you explain
23 that?

24 A The traffic was really backed up on 59
25 Highway. And then we saw a couple of the

1 volunteer fire department vehicles going by, just
2 in their regular vehicles, but they have the red
3 light in them. So we knew there must have been an
4 accident ahead, so when we saw the traffic was
5 backed up, we turned and went down a side road to
6 go around, to come out the other side of the
7 Perimeter.

8 Q Carry on. What happened from there?

9 A Every time we saw an accident, we
10 would always phone everybody that we knew, in the
11 family, that was out driving. So we tried to call
12 mom's cell phone and there was no answer. So we
13 tried a couple of times and there was no answer.

14 So when we came up to the Perimeter
15 and 59, Kristin said to me, should we turn back?
16 And I said, well, we better just turn back just to
17 make sure. And sure enough, when we drove up, we
18 saw mom's car there.

19 Q Was this something that happened in
20 your view, with some frequency, that you would see
21 an accident on that stretch and you would call one
22 another as a family?

23 A Down that stretch of highway, not
24 necessarily just that intersection, but there's a
25 few different spots on the highway that the

1 accidents are quite frequent.

2 Q When you started to drive back to the
3 scene, can you pick up from there and tell us what
4 happened?

5 A We pulled back when we went to -- we
6 pulled on to the shoulder as if we were going to
7 turn on, back on to the other side of the
8 Perimeter. And we got out of the car and we
9 immediately went to run across the intersection,
10 and one of the officers came and stopped us and
11 asked us who we were there to see. They had
12 initially thought we were there to see the person
13 in the other car.

14 Q Do you know who that police officer
15 was, Tara?

16 A It was Officer Graham.

17 Q Mr. Commissioner, and Tara, we know
18 that you made a number of observations while in
19 the back of the police car. And as stated
20 yesterday by Commission Counsel, you will be
21 called back to the Commission to give evidence
22 about your observations at the scene. But I think
23 it's important, in order to put today's evidence
24 into context, as we are dealing with victim's
25 issues. It's important for you to describe what

1 was happening to you emotionally while at the
2 scene, and how you were dealt with by the police.
3 At a later date, we'll deal in more detail with
4 your observations.

5 What happened when you encountered
6 Officer Graham?

7 A He asked who we were there to see. He
8 thought we were there to see the woman that was in
9 the other car. When we told him that it was the
10 yellow car, he immediately turned us around and
11 started walking us towards the police cruiser. At
12 that point, I took my cell phone out and phoned my
13 dad. He then took the cell phone from me and told
14 my dad to come to the scene of the accident.

15 Q What did you tell your dad?

16 A I just told him that it was really
17 bad, mom was in an accident.

18 Q Did you actually see your mom's car?

19 A Yes.

20 Q Can you describe what was happening?

21 A When we pulled up, they were pulling a
22 tarp over the top of it.

23 Q You called your dad, you spoke to him.
24 Officer Graham took the telephone from you. Do
25 you know what the police officer said to your

1 father?

2 A All I remember him saying was that he
3 had to come and to tell the police that were
4 blocking the road that he was coming to pick us
5 up.

6 Q Carry on from there?

7 A He then asked us to sit in the back of
8 the police car. So we got into the back of his
9 police car. He sat in there with us. And all I
10 remember is just asking him if she was okay, if
11 she was breathing. And he just kept trying to
12 calm us down a little bit. And then just asking
13 him repeatedly to let us out, I didn't want to be
14 in there.

15 Q And I understand that this is an
16 emotionally charged question for you, but in
17 looking at that scene, briefly, were you able to
18 ascertain how serious the situation might be?

19 A I knew, just by looking at the car,
20 but, I mean, he also gave false hope, because when
21 I was asking him and asking him and asking him, he
22 told me she was still breathing.

23 Q What happened when your father
24 arrived?

25 A Officer Graham got out of the car and

1 went to talk to my dad. At this point he still
2 wouldn't let us out of the car. And then we
3 started banging on the back window and the side
4 window, and I just saw my dad point to the car and
5 then he came and let us out of it.

6 Q Do I understand correctly that, prior
7 to your father's arrival, that you and your sister
8 wanted to get out of the back of the police car?

9 A Yes.

10 Q Do you have an understanding now as to
11 why Officer Graham might have wanted to keep you
12 in the back of the police car?

13 A Yeah. I can guess why he wanted to,
14 but I didn't want to stay in there.

15 Q How were you making it clear to him
16 that you didn't, you and your sister didn't want
17 to be in the back of the police car?

18 A I just kept repeating, let me out of
19 the car.

20 Q When your dad arrived, you were let
21 out of the police car?

22 A Yes.

23 Q Tell me what you observed about the
24 exchange that took place outside the vehicle?

25 A He had told us that we would have to

1 go to Concordia Hospital to follow the ambulance.
2 I don't really remember much more of what he said
3 to my dad. I just remember him telling us to go
4 with my dad, to leave Kristin's car and they would
5 take the car back to the police station.

6 Q Was there any mention as to whether he
7 should follow an emergency vehicle or somebody
8 else?

9 A He told us to follow the ambulance.

10 Q Okay. Now, we've heard testimony that
11 that didn't take place?

12 A The ambulance left before we did, and
13 we got stuck in traffic.

14 Q What was your view, Tara, of your
15 father's ability to drive, given his emotional
16 state at the scene?

17 A For the -- immediately, he just wanted
18 to get to the hospital, so he just seemed like he
19 was geared to get to the hospital. Once we got
20 part way down the Perimeter is when he absolutely
21 lost it.

22 Q I'll ask you to take some time now and
23 briefly describe to the Commission your experience
24 in driving to the Concordia Hospital?

25 A What do you mean by my experience?

1 Q What was happening in the vehicle with
2 you and your sister and your dad?

3 A My dad told me to phone a few family
4 members and get them to meet us at the hospital.
5 So I was phoning them, my brother, grandparents,
6 both grandparents. And I believe Kristin was
7 making a couple phone calls as well. And when we
8 got stuck in the traffic, that's when dad got
9 really upset and started yelling and crying, and
10 hitting the steering-wheel and the dash of the
11 car.

12 Q Can you tell me who was present at the
13 Concordia Hospital when you arrived there?

14 A My aunt, my mom's sister, my uncle, my
15 dad's brother, I believe my cousins were there. I
16 can't even remember who else.

17 Q Tell us what happened when you
18 arrived?

19 A When we walked in, they put us into, I
20 guess what they call the family room at the
21 hospital. And it was at that point that my dad's
22 parents arrived at the hospital, and they came in
23 there with us. And then they sent in, I'm not
24 sure if he's a priest or what exactly he is, but
25 he came in. And then the doctor came in after

1 that and told us.

2 Q Do you recall any police officers
3 being present at the hospital?

4 A I kind of recall -- well, number one,
5 the other woman that was in the other car, her
6 husband was there and he was in uniform. I do
7 recall Glenda Pedersen being at the hospital. I
8 have no idea what -- I remember her talking to me
9 and Kristin but I don't remember what was said.

10 Q Okay. To recap then, the police
11 officers at the Concordia Hospital, you recall
12 Glenda Pedersen having a conversation with you and
13 your sister?

14 A Very briefly. It was after we were
15 told, we were in the hallway waiting to go and see
16 my mom, it was very brief.

17 Q And given the tragedy that you were
18 experiencing, am I fair in concluding that you
19 don't understand what was being -- you don't
20 recall, pardon me, what that discussion was about?

21 A Yeah, I --

22 Q And you also recall a police officer
23 being present, who you understood to be the
24 husband of the driver of one of the other vehicles
25 involved in the accident?

1 A Right.

2 Q And do you recall anything about what
3 this individual was doing?

4 A They were leaving.

5 Q And apart from that, did you see them
6 doing anything else, talking to anybody else?

7 A No.

8 Q We've learned that when you left the
9 hospital, you went to your father's parents'
10 place?

11 A (Witness nodding)

12 Q And that you in fact stayed there for
13 a number of weeks?

14 A Yeah.

15 Q Tara, I want to ask you, at the point
16 of arriving at your grandparents' place, was the
17 family starting to ask questions, or want to get
18 information about what had happened?

19 A From who?

20 Q From anybody at all, did you have
21 questions?

22 A Oh, there were, yeah, there were a lot
23 of questions.

24 Q What kind of questions were going
25 through your mind as you arrived at your

1 grandparents' place? You had received the tragic
2 news that you had lost your mother. What
3 questions?

4 A Well, the biggest question was just
5 what happened, overall what had happened. We saw
6 there were three vehicles involved, but we had no
7 clue as to what had happened.

8 Q And to put it into perspective, am I
9 correct in understanding that at that point, you
10 didn't even know if your mom had rear-ended
11 somebody --

12 A Right.

13 Q -- or something to that effect?

14 A Right.

15 Q Other than experiencing the loss and
16 knowing there was a traffic accident, you really
17 didn't have much information, did you?

18 A No.

19 Q What was the first source of
20 information for the family?

21 A The first actual source of information
22 would have come from my cousin who works for the
23 Winnipeg Police.

24 Q And we have heard that that individual
25 is Cecil Sveinson?

1 A Right.

2 Q What I would like you to do, Tara, is
3 take your time and explain very carefully what
4 information was given to you by Cecil Sveinson?

5 A He came and he had informed us that it
6 was -- there was a police officer that was
7 involved in the collision and that it was the
8 police officer that had hit mom's car. He had
9 explained that my mom's car was in the centre
10 between the two vehicles. And he later informed
11 us that there was impairment involved.

12 Q Can you elaborate on that, the part
13 where he told you there was impairment involved?

14 A All that he had told us is that he had
15 heard that the driver of the truck was impaired at
16 the time of the accident. That's all I remember
17 him saying.

18 Q And I understand that your ability to
19 put things into a time frame on that day could be
20 compromised, but can you tell the Commissioner
21 when this conversation with your cousin might have
22 been occurring?

23 A Early afternoon I would guess.

24 Q Now, Tara, I want to focus on another
25 area now, and this deals with your experiences

1 with law enforcement officers. And we'll touch
2 briefly on some of the police officers that dealt
3 with you.

4 You told us about Officer Graham at
5 the scene. Did he give you any contact
6 information on how to follow up with him?

7 A All he told us was that if we needed
8 to talk about anything, we could call him, and he
9 did give us his business card.

10 Q I understand that you had some further
11 contact with Constable Pedersen. You have told us
12 you had contact with her at the hospital. There
13 was a conversation that you don't recall the
14 content of, but I understand that you met with her
15 later that day as well?

16 A Yes.

17 Q And do you recall what time it would
18 have been?

19 A I'm really not sure.

20 Q Did you know that Glenda Pedersen
21 would be coming to your grandparents' residence?

22 A Yeah, they had, I believe, phoned and
23 informed my dad.

24 Q And who was with Officer Pedersen when
25 she had arrived?

1 A I think they had said that he was
2 going to be our case rep. I believe his name was
3 Justin Hall.

4 Q Did you know this individual?

5 A Yeah, he was friends with my sister's
6 boyfriend at the time.

7 Q He was a younger person then?

8 A Yes.

9 Q What was the purpose of that visit, as
10 you understood it?

11 A From what I understood, they were
12 coming to give us information on different types
13 of counselling and all of that sort of stuff that
14 we were able to have access to.

15 Q And what was your reaction when a
16 police officer showed up at your grandparents'
17 residence? What were you interested in hearing
18 about or talking about?

19 A At that point in time, I didn't really
20 care too much to hear about any counselling or
21 anything, I just wanted to know what happened.

22 Q Were you asking questions about what
23 happened?

24 A Yeah.

25 Q What sort of reaction were you

1 getting, or response were you getting to the
2 questions about what happened in the accident?

3 A She was saying she couldn't comment on
4 the investigation -- or the investigation had just
5 started.

6 Q How did you take those responses?

7 A Well, it definitely wasn't the
8 response I wanted to hear.

9 Q What were other family members doing?
10 Were they asking questions as well?

11 A Everybody was just pretty much asking
12 what had happened.

13 Q What was your disposition with the
14 officer, or your attitude towards the officer?

15 A We were all upset. I was upset. I
16 just really wanted answers at that point.

17 Q And I understand that she explained to
18 you that she couldn't provide you with any
19 answers?

20 A Yeah.

21 Q Did she leave, to your knowledge, any
22 information for the family?

23 A I believe she left a couple of
24 pamphlets.

25 Q Do you know whether she left a card, a

1 contact number, anything to that effect?

2 A I don't remember.

3 Q Could you describe what the pamphlets
4 were about?

5 A There was, I believe there was one
6 just on overall counselling, and basically talking
7 to somebody about it. And then there was another
8 one that she had given my dad, I believe, for how
9 spouses cope with the death.

10 Q Did you review any of the material?

11 A I don't think so.

12 Q Do you recall, Tara, whether there was
13 any mention made of the Victims' Bill of Rights
14 during that visit from Officer Pedersen?

15 A Not that I recall.

16 Q Did you receive any information, and
17 I'm not referring to details about the accident,
18 but any information from her that somebody was
19 arrested and would be facing charges?

20 A No.

21 Q Any information that somebody was
22 brought to the police station as a result of what
23 occurred?

24 A No.

25 Q The officer made it quite clear to you

1 that she was not in a position to give you
2 details, I understand. Did she indicate to you or
3 any member of the family who you should follow up
4 with to get information about that?

5 A She said they would be in contact with
6 us whenever anything came out.

7 Q What was the next contact you had with
8 a police officer about the case?

9 A I'm not sure exactly which day it was,
10 but they had called and said they wanted to meet
11 with us because they were going to do a press
12 release, that somebody had been charged.

13 Q Let me ask you, what residence did
14 this meeting take place in?

15 A The meeting itself took place at my
16 mom's parents.

17 Q Right. And just to clarify, Officer
18 Pedersen came to --

19 A My dad's parents.

20 Q -- your dad's parents?

21 A Yes.

22 Q And the next visit from the police
23 officers was at your mother's parents'?

24 A Yes.

25 Q And who came to see the family?

1 A It was Harry Bakema and Norm Carter.

2 Q And in terms of your recollection
3 about what day it occurred, I understand that you
4 may have some difficulty recalling the day of that
5 visit?

6 A Yeah, I'm not exactly sure.

7 Q Who was present, do you recall?

8 A My grandparents, my mom's parents,
9 myself, my brother and sister, my dad, I'm not
10 sure if -- my sister's boyfriend at the time.

11 Q What I'd like you to do is describe,
12 in as much detail as you can, what occurred in
13 that meeting and what the family was told by the
14 police officers?

15 A They came in and they told us that
16 they had arrested somebody at the scene of the
17 accident, and they gave us a sheet with all the
18 charges that they were laying against him.
19 Basically, just told us that there would be more
20 contact for us once everything had been set.

21 Q What was the emotional state of the
22 police officers when they were talking to your
23 family?

24 A They initially seemed caring and they
25 had felt sorry for us.

1 Q In that meeting?

2 A Yes.

3 Q So do you recall them describing to
4 you the charges that were going to be proceeding
5 through court?

6 A Yes.

7 Q At that point you had already heard,
8 from your cousin, that the individual in question
9 was a police officer?

10 A Right.

11 Q And did they confirm that?

12 A They confirmed that, yes.

13 Q What was your reaction, and can you
14 describe more what was the family's reaction to
15 the confirmation of the fact that it was a police
16 officer?

17 A We had already known, and it came from
18 a source close to the fact, so -- I mean, we were
19 still upset, and the fact it wasn't confirmed was
20 very upsetting as well, but we were upset through
21 it all, so --

22 Q Was the family asking Officer Bakema
23 or Officer Carter questions about the details of
24 what occurred?

25 A Yeah, but they couldn't really say

1 much at that time. They had said, they confirmed
2 that my mom was the centre vehicle and that his
3 truck had hit her. Basically, that the other two
4 had no injuries, she was released from hospital,
5 just basic information like that.

6 Q Do you recall how long the visit
7 lasted?

8 A Maybe 20 minutes.

9 Q Did the police officers express any
10 opinions to you about the strength of the case?

11 A I don't recall if they did or not.

12 Q Do you recall whether they expressed
13 any opinions about the potential sentence or the
14 consequences to the individual who was charged?

15 A I don't think so. I don't really
16 remember.

17 Q Who was dealing with the police
18 officers on behalf of the family? Was it your dad
19 who was responsible for --

20 A Yeah, my dad was the one that spoke
21 with them all the time.

22 Q Okay. And was that more or less how
23 things took place when it came to dealing with
24 police officers, or victims' rights workers, that
25 your dad would be the representative for the

1 children?

2 A Yes.

3 Q He would act as the intermediary?

4 A Yes.

5 Q Was that the context in which the
6 meeting took place with the police officers, you
7 were listening to what was taking place?

8 A Yeah.

9 Q Did you get a chance to review the
10 media release, for instance, that day when they
11 came, the police officers came?

12 A Yeah, they gave us the sheet that they
13 were going to be releasing to the media.

14 Q Do you recall whether they raised the
15 issue of the Victims' Bill of Rights, or any
16 rights that the family would have as being victims
17 of crime?

18 A I don't recall them saying anything.

19 Q Now, I understand that you did have
20 some communications and dealings with the victims'
21 rights worker. And can you tell us how that came
22 about?

23 A I believe it was right after the first
24 remand, I had asked my dad if I could call Lesley
25 and just ask her a couple of questions, because I

1 didn't really understand even what a remand was at
2 that point. So I phoned and left a message and
3 she returned my call.

4 Q And before we deal with that telephone
5 conversation, Tara, do I understand that it would
6 have been communicated to you, through your
7 father, that Lesley McCorrister was going to be
8 the victims' rights worker for the family, and
9 that you were free to call her with any questions
10 or concerns that you might have?

11 A Yes.

12 Q Is that a fair description of what was
13 presented to you --

14 A Yeah.

15 Q -- by your dad?

16 A Yes.

17 MR. CLIFFORD: Madam clerk, I'd like
18 to deal with Exhibit 11, if we could.

19 THE COMMISSIONER: That document is in
20 what book?

21 MR. CLIFFORD: That document,
22 Mr. Commissioner, is in volume L.

23 THE COMMISSIONER: Page?

24 MR. CLIFFORD: It's at page 1857.

25

1 BY MR. CLIFFORD:

2 Q Tara, I've referred you to Exhibit 11,
3 specifically page 1857. And what this document
4 is, and it has been disclosed by the Commission,
5 is a call log or a summary of the telephone
6 conversation that you just referred to. And it's
7 suggesting that this telephone conversation took
8 place on March 31st, 2005. You've told us how
9 this conversation came about. What did you want
10 to talk to Lesley McCorrister about?

11 A Like I said, I wanted a little bit
12 more information so I could understand a little
13 bit more as to where things were going with this.
14 And my dad had informed us that this could be a
15 lengthy process, so I wanted to know why, I didn't
16 understand exactly why it would take so long. And
17 that was the first time that I had talked to
18 Lesley, so to introduce myself a bit as well.

19 Q In the call log at page 1857, there is
20 a notation to that effect, that you had heard that
21 this could be remanded over many months, and
22 Ms. McCorrister more or less confirmed that with
23 you. Is that your recollection of the --

24 A Yeah.

25 Q -- tenor of the conversation?

1 A Yes.

2 Q Did you have other concerns that you
3 wanted to raise with her?

4 A At that point, probably not. Like I
5 said, I didn't really know how anything worked or
6 where everything was going to start to lead to.

7 Q Did you understand why there was an
8 in-between person required? Did you have any
9 questions about why you couldn't just simply deal
10 directly with the prosecutor?

11 A I never really thought about it. All
12 I was told was there was an in-between person and
13 she was the person we went to.

14 Q Did you find it easy to talk to
15 Ms. McCorrister?

16 A Yeah, very easy.

17 Q Was she polite with you?

18 A Very.

19 Q Respectful to you?

20 A Very.

21 Q She seemed to understand the position
22 that you were in?

23 A Yeah.

24 Q I'm going to refer you now, Tara, to
25 page 1859, so if you could just move forward a few

1 pages within Exhibit 11. I want to address this
2 with you because this is a notation here of a
3 telephone conversation that occurred between you
4 and Ms. McCorrister, on April 29th, 2005,
5 suggesting that you had further telephone contact
6 with her. This was as a result, we understand
7 from the note, she's trying to get in touch with
8 your dad on his cell phone, she can't, she calls
9 the house. There's an indication that she speaks
10 with you. And again, there's a conversation about
11 the amount of time that is going to be required
12 for the case.

13 Let me start by asking you, do you
14 recall this conversation taking place?

15 A I don't recall this one.

16 Q Now, apart from the fact that you
17 don't recall the conversation taking place, the
18 subject matter that's suggested by the summary, in
19 other words, the fact that this case was going to
20 drag on for some time, was that a concern that you
21 were harbouring through February, March, April?

22 A Yeah, I was concerned about that. My
23 dad had informed us that it would probably take a
24 very long time, after he had spoken with Lesley,
25 he had told us that. So that was a concern.

1 Q Now, apart from the two telephone
2 calls that I have referred you to, and I
3 appreciate you don't recall one of them, do you
4 recall whether you had other occasions to seek
5 information from Mrs. McCorrister, times when you
6 would have contacted her directly, for instance?

7 A No.

8 Q Were you aware of whether
9 Mrs. McCorrister had provided your family with any
10 material with respect to the Victims' Bill of
11 Rights?

12 A Not that I'm aware of. I didn't see
13 any.

14 Q Did you review any correspondence that
15 might have been sent to your residence from
16 Mrs. McCorrister?

17 A No.

18 Q Prior to your ever going to court to
19 deal with the case, could you describe what some
20 of the major concerns were that your family had
21 about the case? I know that one of yours, for
22 instance, is described in the telephone call logs,
23 and that was the issue of delay. Do you recall
24 some of the other issues that you or your family
25 were curious about, or addressing?

1 A Yeah, the length of time was a big
2 one. We knew that it would carry on for quite a
3 while. Another bigger concern that we had was
4 that it was a police officer involved and,
5 basically, they were investigating their own at
6 that time. So we didn't know the outcome of that,
7 what that outcome would be.

8 Q Other concerns, Tara, that you can
9 recall?

10 A Not off the top of my head, I can't.

11 Q And I take it the understanding, at
12 least as far as you knew it, was that these
13 concerns would be articulated through your father
14 to whoever he was dealing with, whether it be
15 Mrs. McCorrister or the Crown prosecutor or
16 anybody else?

17 A Right.

18 Q Now, you were involved, I understand,
19 in attending the court appearances?

20 A Yes.

21 Q Now, first, I understand that you were
22 under the impression, along with other members of
23 your family, that the case would be proceeding to
24 a Preliminary Hearing in June of 2006?

25 A Right.

1 Q And who was it that told you that the
2 case wouldn't proceed in June of 2006?

3 A My dad.

4 Q Okay. What was your reaction to
5 receiving that news?

6 A Initially, I thought it might work out
7 to be good news, that he had found problems with
8 the case and that he wanted to do a further
9 investigation into it. So we thought that this
10 could be good, he's actually really working on it
11 hard.

12 Q Let's review that for a moment. What
13 was your understanding of the reason the case was
14 being postponed?

15 A Because Marty had informed my dad and
16 Jordan that there were some problems with the case
17 that had to be looked at a little bit further.

18 Q Did you have any idea, for instance,
19 what the nature of those problems were?

20 A No.

21 Q You said they were, you were told
22 there were problems with the case?

23 A Right.

24 Q Was it your reaction that it would be
25 better for the case, if there were problems, that

1 they would get addressed?

2 A Oh, yeah, we had initially thought
3 this could be good, he's really doing the footwork
4 on it.

5 Q When you say this could be good, he's
6 really doing the footwork on this, I take it you
7 are referring to the fact that Mr. Minuk was
8 really doing the footwork --

9 A Right.

10 Q -- on the prosecution of Derek
11 Harvey-Zenk?

12 A Yes.

13 Q Now, your court appearances, correct
14 me if I'm wrong, but I understand that they were
15 confined to 2007?

16 A Yes.

17 Q And once you determined that things
18 were going to be happening in 2007, I understand
19 that you determined, or made the decision that you
20 were going to go to court each day for what was
21 taking place?

22 A Yes.

23 Q And how was it that you were finding
24 out about the court appearances?

25 A From my dad.

1 Q Did you know how he was getting the
2 information about the court appearances?

3 A From Lesley.

4 Q Did you know whether he was
5 experiencing any difficulties, throughout the
6 process, getting court dates?

7 A I'm not sure.

8 Q Now, with respect to the dates you
9 went to court, I understand that you're not clear
10 in terms of the exact dates necessarily that you
11 attended court?

12 A Right.

13 Q Fortunately for us, in the legal
14 process there are transcripts created everyday, so
15 I can tell you, Tara, it's not a mystery nor is it
16 a secret what days you went to court. And we
17 understand from our material and the material we
18 have disclosed that you went to court on five
19 occasions. And I'd like to speak with you about
20 each of those occasions and have you tell the
21 Commission what you observed, and some of the
22 communications that you were either a party to or
23 directly involved in.

24 Now, we understand that the first day
25 you went to court was July 16th, 2007?

1 A (Witness nodding)

2 Q And this was a day where we have
3 learned that the court was advised that the
4 witness list in the Harvey-Zenk case was pared
5 down from 32 witnesses to 12, and the lawyers were
6 asking that the matter be adjourned the next
7 morning before Chief Justice Wyant. Do you recall
8 that day?

9 A Yes.

10 Q Did you know what was going to be
11 happening in court on that day?

12 A We did. We had met up with Marty
13 outside of the courthouse, and he had explained to
14 us what would be going on that morning.

15 Q And can you elaborate further on your
16 meeting with Marty outside the courthouse on
17 July 16th, 2007?

18 A Well, that was the first time that me
19 and Kristin had met him. So my dad introduced him
20 to us. And like I said, he basically told us what
21 would be going on in the courtroom that day.

22 Q What did he tell you?

23 A That we'd go into this smaller room,
24 and they basically shuffle the different cases out
25 to different courtrooms. And he told us that it

1 would be going over to the next day.

2 Q And that was your first meeting with
3 him?

4 A That was the first meeting.

5 Q Did you have any interaction with
6 Lesley McCorrister that day?

7 A I believe -- yeah, we went to her
8 office and she took us to the room.

9 Q The room that you went to on
10 July 16th, how would you describe that room? Was
11 it a waiting room? Were there other people in the
12 room?

13 A Yeah, it was quite full.

14 Q Do you know who the other people were?

15 A There was some family in there, but
16 they went through a couple of different cases
17 first.

18 Q Was it a Victims' Services witness
19 waiting area?

20 A No, it was like a courtroom.

21 Q How much time did you spend there?

22 A I'd say close to an hour.

23 Q Who was in there with you?

24 A My brother, sister and my dad,
25 grandparents.

1 Q And are you referring to the
2 courtroom?

3 A Yes.

4 Q Okay. Prior to going into the
5 courtroom, did you go into a waiting room, or was
6 there an area where your family could wait before
7 court proceedings started?

8 A No. We just went to Lesley's office
9 and Lesley took us to that room.

10 Q When you say that room, you are
11 referring to that courtroom?

12 A That courtroom.

13 Q So you went from the outside, to
14 Lesley's office, to the courtroom?

15 A Yes.

16 Q While outside, you had a conversation
17 with Mr. Minuk, and this was the first time that
18 you had ever met him?

19 A Yes.

20 Q And how long was that conversation?

21 A Not long -- maybe not even 10 minutes.

22 Q And who was he speaking with?

23 A With my dad.

24 Q Okay. Did you engage in any direct
25 conversation with him?

1 A No.

2 Q And your recollection is that that
3 conversation would have been about -- would have
4 been 10 minutes with your father?

5 A Yes.

6 Q Who else was around?

7 A My brother, sister, my dad's parents,
8 and I believe his brothers were there as well.

9 Q Now, you were all standing outside the
10 courthouse --

11 A Yes.

12 Q -- in the morning?

13 A Yes.

14 Q How long were you there after in
15 Mrs. McCorrister's office?

16 A Just a matter of minutes. My dad
17 introduced us to her, because we had never
18 actually met her, so he introduced us to her and
19 then she took us down to the courtroom.

20 Q And then you clarified for me that
21 your recollection is you spent about an hour in
22 that courtroom?

23 A Yes.

24 Q And did what happen in that courtroom,
25 was it similar to what you heard Mr. Minuk saying

1 to your dad earlier, that the matter was simply
2 going to be adjourned to the following day?

3 A Yes.

4 Q I'll ask you then to take your mind to
5 the following day, the second time where you
6 appeared in court was July 17th. And on this day,
7 I understand the case was before Chief Justice
8 Wyant?

9 A Yes.

10 Q Did you or any of your family members
11 have an opportunity to speak with Mr. Minuk in the
12 morning on July 17th?

13 A I believe he met outside, he met us
14 outside again.

15 Q What's happening outside that you're
16 having these meetings?

17 A We were standing outside smoking.

18 Q You were outside having a cigarette
19 and you have an encounter with Mr. Minuk?

20 A (Witness nodding)

21 Q Okay. Tell us about that conversation
22 between your father and Mr. Minuk?

23 A I believe that's the day that he had
24 told us that he was going to be pleading guilty.

25 I'm not sure if we were told that before. That's

1 the first time I heard it come from Marty, that he
2 was going to be pleading guilty. And basically,
3 he told us that if it was his client, he would not
4 have let him plead guilty, he could have got him
5 off of all the charges. I'm sorry, he was going
6 to be pleading guilty to dangerous driving.

7 Q So your recollection is that on
8 July 17th, this information was being provided to
9 your father, and you have described --

10 A I believe it was that day that he had
11 told us that outside, yeah.

12 Q Very well. And you have described
13 what you recall about Mr. Minuk's expression about
14 what he would do if he were the lawyer?

15 A Yes. He said they were shocked that
16 he was pleading guilty to this.

17 Q Can you give any further details about
18 what you might recall about the exchange with your
19 father and Mr. Minuk?

20 A I just remember him saying that, and
21 that if he was their -- if he was his lawyer, he
22 would have gotten him off all the charges.

23 Q What was the family's reaction to this
24 information?

25 A We were upset. They were taking away

1 the other charges, they were staying those other
2 charges. And he just kept assuring us that they
3 were getting him on the most, on the worst charge.

4 Q You mentioned in your testimony, just
5 about a minute ago, you weren't sure if you were
6 told this before, but it was the first time you
7 had heard it from Marty?

8 A It was the first time that I had heard
9 it, yeah.

10 Q Okay. Your personal reaction to it
11 was, I understand that you were upset that the
12 other charges were being taken away?

13 A I was.

14 Q What was being said by other members
15 of the family?

16 A We wanted to know exactly why they
17 were willing to stay the other charges and just
18 take that one. And he told us that he didn't have
19 enough evidence to hold those other charges, or to
20 prove them, but he was getting him on the worst
21 offence.

22 Q Just flowing from that, two points I
23 want to clarify with you. One is that your
24 recollection is it's quite clear that you and the
25 family were upset that other charges were being

1 stayed?

2 A Yes.

3 Q And you just mentioned that Mr. Minuk
4 expressed to you and the family that he was
5 pleading guilty to one of the worst charges?

6 A He said it was the worst out of all of
7 them.

8 Q What was the reaction to that
9 declaration?

10 A Well, immediately we believe him, that
11 it is the worst one, but we were still upset. We
12 wanted all of the charges to stay.

13 Q How long was that meeting between
14 Mr. Minuk and your family?

15 A Probably about 15, 20 minutes.

16 Q And who else was present?

17 A My brother, sister, my dad's parents,
18 and I believe his brothers again.

19 Q Did you see Lesley McCorrister that
20 day?

21 A We had never talked to her that day, I
22 don't think.

23 Q Do you know how it was that you got to
24 your courtroom?

25 A They had told us which courtroom it

1 was going to be in.

2 Q When you say "they," who are you
3 referring to?

4 A I believe it was her, I believe she
5 informed my dad previous to us being there.

6 Q After the proceedings on July 17th,
7 did your family have a further opportunity to
8 speak with Mr. Minuk when court was finished?

9 A Yeah, it was -- he took us, after
10 everything had finished in here, he took us in his
11 little, one of the little side rooms off the
12 courtroom and talked to us a little bit.

13 Q When you say "he took us," who do you
14 refer to?

15 A Me and my brother, my sister and my
16 dad.

17 Q Carry on. What was being said to you?

18 A He was basically telling us that the
19 next time that we were in court we would have the
20 opportunity to do the Victim Impact Statements,
21 when we had to have that submitted by in order for
22 it to be, I guess, read over for us to read on the
23 22nd.

24 Q Was there any other information that
25 was being provided to you?

1 A Not that I recall.

2 Q Did the family have any concerns or
3 questions that were being posed to Mr. Minuk?

4 A I'm sure there were questions asked.
5 I don't remember them.

6 Q Do you remember what your emotional
7 state was?

8 A I was very upset. I mean, they were
9 only keeping the one charge there.

10 Q What about the emotional state of the
11 other family members?

12 A They felt the same way that I did.

13 Q Moving forward to August 22nd, 2007, I
14 understand that you are in a larger courtroom this
15 occasion. It's got more of a wooden interior and
16 it's in the old court building?

17 A Um-hum.

18 Q And August 22nd was your mother's
19 birthday, and that was the day that you read your
20 Victim Impact Statement?

21 A Yes.

22 Q Now, we've heard that ultimately the
23 decision to proceed on that day was left to the
24 family, and more or less to the children, and that
25 you had determined, amongst yourselves, that it

1 was something that you wanted to do that day,
2 despite the fact that it was your mom's birthday?

3 A Right.

4 Q Now, in the material that we have, and
5 again included in Exhibit 11, volume L at page
6 1921, there is a suggestion that the family went
7 to Lesley McCorrister's office to find out where
8 the hearing would be, and then she brought
9 everybody down to the courtroom. Does that accord
10 with your recollection?

11 A This was on the 22nd?

12 Q Twenty-second?

13 A I'm not sure -- she may have, yeah.
14 What page was it again, sorry?

15 Q 1921?

16 A That's quite possible, I don't
17 remember, but she did walk us on a couple of
18 occasions to the courtroom, so --

19 Q And apart from the specific days that
20 you met with Ms. McCorrister, do I understand that
21 generally your impression was that when you went
22 to court, she was around, she was there?

23 A (Witness nodding)

24 Q You told us that on the 16th, you went
25 to her office and then you went to court, and here

1 on the 22nd --

2 A Yeah.

3 Q -- she was there again?

4 A Yeah.

5 Q Now, on that day in court, Tara,
6 Mr. Minuk made submissions regarding the sentence
7 that the Crown was seeking, a conditional
8 sentence. When did you become aware that this was
9 the sentence that the Crown would be seeking?

10 A He had originally pulled the four of
11 us, myself, my brother, sister, and my dad aside
12 in the hallway, and he said that he wanted to go
13 over with us what his recommendation would be for
14 his sentence. So he read all of them to us in the
15 hallway there.

16 Q So this is in the hallway outside the
17 courtroom?

18 A Yeah, I believe it was outside of the
19 smaller one that we were originally at.

20 Q Can you elaborate further on what
21 Mr. Minuk was referring to when he was explaining
22 to the family what his position was?

23 A He was explaining, because he said
24 that he was going to give a list of
25 recommendations for the conditional sentence, and

1 he was just explaining what the different
2 recommendations would be on that.

3 Q What was the family's reaction to what
4 Mr. Minuk was saying about the sentence and the
5 conditions?

6 A We were upset with the conditional,
7 with the thought of the conditional sentence, and
8 we did voice that to him as well.

9 Q How did you voice it to him?

10 A Just before he was going to walk away,
11 my dad asked him if there was a spot on that sheet
12 that he could fill in that the family did not
13 agree with it.

14 Q And you say just before he walked in,
15 did I understand that?

16 A Away.

17 Q Away?

18 A Away from us, yeah.

19 Q Where was he walking away to when your
20 dad said that?

21 A He was going to the courtroom, the
22 other courtroom they had assigned to us.

23 Q Was that the last thing your father
24 said to him before he walked into that courtroom?

25 A Yes.

1 Q What was Mr. Minuk's reaction?

2 A He said no.

3 Q On that day, did your father question
4 other things in the case that he felt ought to
5 have been done?

6 A Once we got into the courtroom, Marty
7 had pulled us off to the side of the courtroom
8 again, and he told us to just pay careful
9 attention that we would be happy with what would
10 be said there. Because before we did our Victim
11 Impact Statements, he said that he was going to do
12 a submission, so just to listen, we would be happy
13 with what he was going to say.

14 So after everything was finished
15 there, we met with him outside of the courtroom.
16 And basically, my dad was asking, like what could
17 we have been happy about that you were talking
18 about, and why he wasn't giving any kind of
19 evidence towards -- like the judge kept asking for
20 more evidence to be brought forward and he wasn't
21 giving any.

22 Q On the day that you were in court on
23 your -- August 22nd, the Victim Impact Statement
24 day and your mother's birthday, you told
25 Mr. Commissioner about this conversation with

1 Mr. Minuk, and your father asking him, look, is
2 there anywhere you can put on that form that the
3 family doesn't agree? How long did that meeting
4 take place?

5 A Between 10 and 15 minutes, because he
6 started off with just explaining to us about the
7 Victim Impact Statements, how that would all work.

8 Q And after court, when there was
9 further communication between your family and
10 Mr. Minuk, what was the duration of that meeting?

11 A Maybe another 10 or 15 minutes.

12 Q And were there any other times that
13 day when Mr. Minuk met with the family?

14 A No.

15 Q Now, the fourth court appearance,
16 Tara, that you made, we understand was
17 September 12th, 2007. And this again was the
18 large wooden court, and it was again in the old
19 building.

20 Did you understand why the case was
21 back in court on that day?

22 A From what I understood, the judge was
23 pressing for more information. He said that he
24 couldn't make a decision and he wanted a little
25 bit more information.

1 Q And did your family have questions for
2 Mr. Minuk about what was taking place in court, or
3 why you were there?

4 A We just kept asking why he wasn't
5 bringing anything forward. He just said that he
6 didn't have the evidence to bring forward.

7 Q Who was asking these questions?

8 A My dad was.

9 Q Who was present when they were being
10 asked?

11 A Myself, my brother, sister, my
12 grandparents could have been there, I'm not sure.

13 Q So the family, I understand, I'm not
14 putting words in anybody's mouth here, was
15 expressing a concern that all the facts were not
16 coming out?

17 A Correct.

18 Q Did you have any notion at all that
19 once you got into court that day, that your
20 concern would be expanded when you learned that
21 alcohol consumption was not even going to form
22 part of the factual background of the case?

23 A Yeah, it was very frustrating and
24 upsetting.

25 Q Did you have any information prior to

1 going into court that that would indeed be the
2 case?

3 A He kept telling us that he had nothing
4 to -- no evidence that there was any alcohol
5 involvement.

6 Q Was anybody trying to explain to the
7 family what was taking place in court, either
8 during an intermission, an adjournment of the
9 proceedings, or afterwards on September 12th?

10 A I don't recall.

11 Q Do you recall when you were in court,
12 and Mr. Minuk was asked by the judge whether he
13 was going to prove the fact of alcohol
14 consumption, and then there was an adjournment?
15 And you're nodding your head, and I take it that's
16 in the affirmative?

17 A Yes.

18 Q Do you recall that taking place --

19 A Yes.

20 Q -- Tara, that the judge wanted to know
21 from Mr. Minuk, are you going to call any evidence
22 with respect to alcohol consumption?

23 A Yes.

24 Q And then there was this adjournment
25 that took place?

1 A Yes.

2 Q Did you or any member of your family
3 speak to Mr. Minuk during that adjournment?

4 A He came up to us. He left the
5 courtroom, and then he came back and he just came
6 up to the wall thing that was in front of us, and
7 he just kind of laughed and he just said, oh, I
8 just had to go take a leak, and he went back to
9 his table.

10 THE COMMISSIONER: I'm sorry, what did
11 he say?

12 THE WITNESS: I had to go take a leak.

13 BY MR. CLIFFORD:

14 Q Prior to going into court on
15 September 12th, 2007, had you heard anything about
16 a plea bargain?

17 A No.

18 Q You heard quite a bit about a plea
19 bargain, I take it, from the judge on
20 September 12th, 2007?

21 A Yes.

22 Q Had that been raised with you or with
23 your family, to your knowledge?

24 A No.

25 Q Did you have a concern, or were you

1 aware of a concern your family had about whether
2 there would be a plea bargain or whether there
3 would be deals made?

4 A I'm not sure if my family had any
5 concern. I went into this not understanding
6 anything that goes on in a courtroom. So I didn't
7 fully understand the whole concept of a plea
8 bargain until the judge really started talking
9 about it.

10 Q Now, the fifth court appearance that
11 you made was October 29th, and this was in the
12 largest court, marble court in the old building.
13 On that day, the day that the sentence was
14 imposed, did your family speak with Mr. Minuk
15 before court in the morning?

16 A I believe we spoke with him briefly.
17 I don't recall the conversation. He was talking
18 more towards my dad, I believe.

19 Q So you recall there was some exchange
20 between Mr. Minuk and your dad, but you are unable
21 to give details?

22 A Yeah, I think so.

23 Q With respect to the result, the
24 sentence that was imposed, Tara, were you
25 expecting a result like that?

1 A That's what I expected. I had hoped,
2 just by the way that the judge was reacting to
3 everything, that he didn't make such a quick
4 decision, that he might not agree with the joint
5 recommendation. But it's what I had expected.

6 Q Tara, at this point I'd like to change
7 our focus and address the issue of the Victim
8 Impact Statement. Who was it that brought the
9 issue of the Victim Impact Statement and the
10 guidelines, et cetera, to your attention?

11 A Lesley gave the booklets to my dad for
12 us.

13 Q Do you recall when you got them?

14 A I believe it was the court appearance
15 before the 22nd.

16 Q So it would have been sometime in
17 July?

18 A Yes.

19 Q Can you describe the process, from a
20 personal perspective, of preparing the Victim
21 Impact Statement?

22 A Basically we were just given the
23 booklets, that has a page on the front that tells
24 you what you can't put in there, and when you have
25 to have it submitted by, and it will be reviewed.

1 And basically they told us that if any of the
2 stuff that we can't put in there was in there, it
3 will be removed before we are able to read it.

4 Q Were the guidelines and the
5 instructions helpful to you at all?

6 A No. There was nothing on there that
7 said, you know, you could use this. I mean, you
8 are writing something that you have never written
9 before, you don't know how to write it. And
10 there's just a whole bunch of "don'ts" on there.

11 Q Now, you prepared your Victim Impact
12 Statement, and we know as well that you read it
13 out loud in court. Was there a benefit to you,
14 Tara, through that process of preparing it and
15 reading it out loud?

16 A I don't know if there was a benefit
17 for me writing the Victim Impact Statement for
18 myself. But reading it aloud, I think there was.
19 I think -- I felt that Harvey-Zenk needed to hear
20 right from our mouths, instead of just reading it
21 for himself.

22 Q Do you have any suggestions, as
23 someone who has gone through this experience of
24 preparing a Victim Impact Statement and reading it
25 out loud, suggestions to improve the process?

1 A I really think there needs to be some
2 more guidance on how to write it. You sit there
3 for hours upon hours, and you have no clue what to
4 put in there. And then you look at their
5 guidelines as to what you can't put in there and
6 it makes it even tougher.

7 Q Now, Tara, in conclusion I want to ask
8 you some questions about your overall impressions
9 with certain things that happened. And I'll deal
10 first with the services provided by the victims'
11 rights worker, Lesley McCorrister, who you had
12 some contact with.

13 From your perspective, Tara, were you
14 treated with respect, courtesy and professionalism
15 by Ms. McCorrister?

16 A Yes.

17 Q Were there areas that you thought
18 could be handled differently between you and her,
19 or were there areas of concern that you had?

20 A As far as Lesley herself, I had
21 absolutely no issues with Lesley, she was
22 extremely easy to talk to, an extremely nice
23 woman. But I think her job guideline held her
24 back a lot. I really don't think they give you
25 that much guidance on how to deal with everything.

1 They aren't in contact with you as much as they
2 should be, that's for sure. And you always have
3 to make the initial effort to contact them.

4 Q Now, with respect to the independent
5 Crown counsel, Mr. Minuk, what was your impression
6 with respect to whether he treated your family
7 with respect, courtesy and professionalism?

8 A Every time that I would stand there
9 and Mr. Minuk was talking to us, every single time
10 I felt a little bit stupider. He just -- he
11 always had this way of making it like he knew
12 everything, he was taking care of everything,
13 don't worry about it, it's taken care of.

14 Q Tara, the case took from
15 February 25th, 2005 to October 29th, 2007. It was
16 two and a half years of your life as a young
17 person. What was the impact of that delay on you?

18 A There is never, you can't get closure.
19 You can accept what has happened, but you can
20 never, you can't move on.

21 Q You mentioned the inability to get
22 closure?

23 A (Witness nodding)

24 Q What is one of the hopes that you
25 have, Tara, for the future?

1 A To be able to move on. I mean,
2 everyday my whole family wakes up and this is on
3 their minds. To be able to think of my mom in a
4 positive way, not in such a negative mess of
5 what's happened.

6 Q Tara, as you are aware, this phase of
7 the Inquiry is about the family and the victims,
8 and I want to make sure that as Commission
9 Counsel, I have given you the opportunity to say
10 everything you have to say and that I have asked
11 the questions that I should have asked.

12 Is there anything else that you want
13 Commissioner Salhany to be aware of?

14 A Not at this point, I don't think.

15 Q Well, I thank you again for your
16 attendance and I wish you the best of luck with
17 your hopes.

18 A Thank you.

19 THE COMMISSIONER: Mr. Zazelenchuk.
20 BY MR. ZAZELENCHUK:

21 Q Tara, you will recall that in February
22 of this year, I started getting boxes and boxes of
23 documents?

24 A (Witness nodding)

25 Q And eventually I got a stack of

1 transcripts?

2 A (Witness nodding)

3 Q You came to my office, from time to
4 time, and you were allowed to read all those
5 things?

6 A Yes.

7 Q Was there anything you weren't allowed
8 to read?

9 A My brother, sister and dad's
10 transcripts, and my grandparents'.

11 Q Mr. and Mrs. Sveinson?

12 A Right.

13 Q And you will recall that a week or two
14 ago, I gave you a copy of your transcript?

15 A Yes.

16 Q And I asked you not to do something
17 with it?

18 A Not to read anybody else in the
19 family's transcripts.

20 Q Yes, and not to let -- what about your
21 transcript?

22 A Not to let them read it.

23 Q Did you let them read it?

24 A No.

25 Q Did you read anybody else's?

1 A No.

2 Q Your father was on the witness stand,
3 where you are here, for a considerable period of
4 time yesterday. Where were you when he was on the
5 witness stand?

6 A In the family lounge, down the hall.

7 Q Okay. You were present at this tragic
8 scene moments after it happened. Did anybody from
9 the East St. Paul Police Department ever interview
10 you or take a statement from you about what you
11 might have observed?

12 A No.

13 Q Did anybody from the Winnipeg Police
14 ever interview you or take a statement from you
15 about what you might have observed?

16 A No.

17 Q Did Mr. Minuk ever speak to you about
18 what you might have observed?

19 A No.

20 Q Did he ever make any comments about
21 what you might have observed?

22 A He did make a comment, I believe it
23 was on the 22nd, in the hallway. We were standing
24 out there talking about why he wasn't bringing
25 anything forward, and he made the comment to my

1 dad that the only two people who actually knew
2 what had happened there were standing there with
3 them, and he pointed at me and my sister, and he
4 said that will be the ace up our sleeve down the
5 road.

6 Q Do you have any idea what he was
7 talking about?

8 A I have no clue.

9 Q On those five court appearances, when
10 you and your brother and sister and dad went to
11 court, we can all understand that it must have
12 been very stressful for you?

13 A Yes.

14 Q Did you go your own separate ways when
15 you were in court?

16 A No.

17 Q Aside from bathroom breaks, were you
18 ever separate from your father, brother and
19 sister?

20 A No.

21 Q One last point, Tara, I want you to go
22 back to the 22nd of August. It was a long, hard
23 day, and we're not going to go over that again,
24 but I want you to go to the end of the court
25 hearing. Everything is over, the clerk has said,

1 order, all rise, Judge Wyant gets up. Are you
2 there with me?

3 A Yes.

4 Q Judge Wyant left the room. Did he
5 leave through the same door that you and your
6 family came in?

7 A No.

8 Q He left through a different door?

9 A Yes.

10 Q Judge Wyant has now left the room.

11 Can you tell us what happened, please?

12 A We went over to the side to await for
13 Marty to come from the table there. And then they
14 had asked us to clear the courtroom, that they
15 were closing the courtroom.

16 Q Who is they?

17 A One of the sheriffs, he had asked us
18 to clear the courtroom. So Marty came up and said
19 that he would talk to us in the hallway.

20 Q So you and your family left the
21 courtroom?

22 A Yes.

23 Q Who was left in the courtroom when you
24 left, can you tell us that?

25 A Marty and Richard Wolson, Harvey-Zenk

1 and his family or friends, whoever was with him.

2 Q And after you left the courtroom, what
3 happened?

4 A We waited outside for Marty. He came
5 out and he talked to us, and they locked the door.

6 Q Who locked the door?

7 A The sheriff.

8 Q How could you tell?

9 A We heard it lock.

10 MR. ZAZELENCHUK: Thank you, Tara.

11 BY MS. BOWLEY:

12 Q Good morning, Ms. Taman, my name is
13 Bernice Bowley. I am representing the Rural
14 Municipality of East St. Paul and the East St.
15 Paul Police Force.

16 I want to talk to you about the day
17 that former Chief Bakema and Norm Carter attended
18 to your maternal grandparents' house to discuss
19 the charges that had been laid against Harvey-Zenk
20 and the press release. At that time, did former
21 Chief Bakema say to you, with respect to how the
22 charges would proceed through the court system,
23 that you would be contacted by Victims' Services?

24 A I don't remember exactly who he said
25 we'd be contacted by, but I do remember him saying

1 we would be contacted.

2 Q Did he suggest that whoever it was
3 that would contact you would lead you through that
4 whole court process?

5 A I don't recall him saying that.

6 Q If I told you that on Wednesday,
7 February 20, 2008, you told that to Vince
8 Clifford, that former Chief Bakema said that you
9 would be contacted by Victims' Services and they
10 would lead you through the whole process, would
11 you agree with that today?

12 A Sure, yeah.

13 MS. BOWLEY: Thank you. Those are my
14 questions.

15 BY MR. McFETRIDGE:

16 Q Would you provide Ms. Taman with
17 Exhibit 12, please?

18 Mr. Commissioner, I'll be referring to
19 volume R-3. I believe it's in your volume tab
20 R-3, point 92.6.

21 Ms. Taman, I'm counsel for the
22 Government of Manitoba and I just have a few
23 questions to ask you about the process with
24 respect to the Victim Impact Statement. If you
25 could look at the exhibit that was just put in

1 front of you? You had indicated you were
2 provided, in July of 2007, by Ms. McCorrister with
3 documents relating to how to prepare a Victim
4 Impact Statement; is that correct?

5 A Yes.

6 Q And I don't know, that package,
7 there's a package of pamphlets before you, but if
8 you go near the back, there's a pamphlet entitled
9 "Manitoba Victim Impact Statement Guidelines."
10 Can you find that in there? It's sort of a black
11 letterhead.

12 A Yeah.

13 Q Would this have been the document that
14 you would have received a copy of, or a document
15 similar to that, from Ms. McCorrister?

16 A Yeah.

17 Q And attached to that document at the
18 back of it there is also what is called a Manitoba
19 Victim Impact Statement form. Would you have
20 received that?

21 A This blue one here?

22 Q Mine is sort of, again, it's sort of a
23 black form?

24 A Okay, yeah.

25 Q Do you have that in front of you? Do

1 you see that?

2 A Yeah.

3 Q Would you have received that as well?

4 A Yeah.

5 Q And just going through that form, and
6 if you go through the following pages, it has
7 various areas that tell you about, that you can
8 fill in and describe if you want, dealing with the
9 emotional impact that this event may have had on
10 you?

11 A Um-hum.

12 Q The physical impact, the financial
13 impact?

14 A (Witness nodding)

15 Q Did you understand what those sections
16 meant and what they were trying to find out from
17 you with respect to those sections?

18 A To a degree. I mean, nothing was
19 actually explained to us. We were handed this
20 package and told, go home and write it. But it's
21 hard to write this when you read in the front all
22 the "notes," you must not.

23 Q I'm just dealing with, there's also
24 many parts in this form as to what you can put in
25 there?

1 A Correct.

2 Q Dealing with the emotional impact, the
3 financial impact, any physical or emotional
4 problems that you may have, it gives you an
5 opportunity -- the things, it describes to you
6 what you can put in there. Did you use those
7 guidelines when preparing your statement?

8 A To a degree.

9 Q Were you satisfied? I'm sure it took
10 you a while to prepare that statement. It was a
11 very emotional thing and it is trying to express
12 in your words how you felt?

13 A Right.

14 Q How long did it take you to prepare
15 your statement?

16 A Probably three or four hours.

17 Q Were you satisfied that that statement
18 conveyed what you felt? I mean, it's a difficult
19 thing, I know.

20 A Yes and no. There is some stuff that
21 I was not able to put in there that I would have
22 liked to put in there, that would have been cut
23 out, and I knew it would have been cut out if I
24 put it in there.

25 Q And the guidelines as well indicate

1 things that you cannot put in your statement?

2 A Correct.

3 Q And you read those and you felt --

4 A I followed the guidelines.

5 Q And you followed them?

6 A Yes.

7 Q Did you have any questions of
8 Ms. McCorrister? Did you ever phone her and
9 say -- are there any concerns that you have about
10 things that may be borderline, whether they could
11 go in or not go into the statement?

12 A No. We just followed the guidelines
13 that were given to us.

14 Q It's my understanding that your
15 statement went in as you wrote it. Is that
16 correct?

17 A It did, yeah.

18 MR. McFETRIDGE: Thank you.

19 BY MR. GREEN:

20 Q Good morning. My name is Michael
21 Green. I'm the lawyer for Marty Minuk. I just
22 have a couple of questions, Tara.

23 You told us of the meeting at your
24 maternal grandparents' at which Chief Bakema and
25 Sergeant Carter were present. And there were a

1 number of people at that get-together?

2 A Yes.

3 Q And they told you a number of things,
4 and your estimate is that they were there for
5 about 20 minutes?

6 A Yeah, I'd say 20 minutes to a half an
7 hour.

8 Q Okay. And did one of the two
9 policemen sort of take a lead as far as explaining
10 things and speaking with the family?

11 A Yes, Harry Bakema did most of the
12 talking.

13 Q Bakema did most of the talking?

14 A Yes.

15 Q And among other things, they told you
16 that there was going to be a press release or a
17 press conference?

18 A Yes.

19 Q Was that the same day that that was
20 going to be held?

21 A Yes.

22 Q Okay. And they told you what the
23 charges to be laid against Mr. Zenk were?

24 A Yes.

25 Q And did they explain anything about

1 those charges?

2 A I don't remember if they did or not.

3 Q Okay. And they told you that Mr. Zenk
4 had been arrested at the scene?

5 A That he was taken back to the police
6 station at the scene.

7 Q Did they tell you when he had been
8 arrested?

9 A No, not that I recall off the top of
10 my head.

11 Q You told us about a meeting with
12 Mr. Minuk outside the courtroom, where he was
13 going over the list of conditions that would be
14 imposed upon Mr. Harvey-Zenk?

15 A Um-hum.

16 Q And that was contained on a sheet of
17 paper, those conditions, and he showed those to
18 you; is that correct?

19 A Yes.

20 Q And that list of conditions was
21 actually filed in court that morning; is that
22 right?

23 A Correct.

24 Q And your father had asked him whether
25 there was any room on that sheet to insert that

1 the family was against the sentence?

2 A Correct.

3 Q And Mr. Minuk replied, no, there
4 wasn't room for that?

5 A Yes.

6 Q You have told us that you weren't
7 happy that some of the charges against Mr. Zenk
8 were going to be stayed; correct?

9 A Correct.

10 Q And you understood what charges being
11 stayed meant?

12 A Yes.

13 Q That was explained to you?

14 A Yes.

15 Q Who explained that to you?

16 A My dad.

17 Q And had he explained that to you
18 beforehand, before you had this meeting with
19 Mr. Minuk?

20 A About the charges?

21 Q Yes?

22 A About his recommendations?

23 Q Yes?

24 A Yes.

25 Q Okay. So your father had explained

1 what staying charges meant before that meeting
2 with Mr. Minuk?

3 A Yes.

4 Q Okay. And do you know where your
5 father got that information?

6 A Mr. Minuk?

7 Q Okay. Mr. Minuk had met with your
8 father and brother the previous week, to your
9 knowledge?

10 A Right.

11 Q At his office?

12 A Correct.

13 Q And did your father relate to you what
14 occurred during that meeting?

15 A That the charges would be stayed, and
16 he just explained that a little bit to us.

17 Q Okay. Did he explain to you what
18 would be happening with the remaining charge, that
19 of dangerous driving, did your father explain that
20 to you?

21 A I don't understand. That he was
22 pleading guilty to it, is that what you're --

23 Q All right. Let's take this in
24 sequence. Your father and brother had a meeting
25 with Mr. Minuk in his office, which we know was on

1 July 13th; correct?

2 A Right.

3 Q And you had told us that afterwards
4 your father explained to you or told you what
5 happened in that meeting?

6 A Yeah.

7 Q Correct? And he told you that the
8 charges, that three of the charges were going to
9 be stayed?

10 A Right.

11 Q And did he explain to you what would
12 be happening with the remaining charge?

13 A All that he had told us was that Marty
14 had said that they were holding the worst charge,
15 that the worst charge was being held. That's all
16 I recall from --

17 Q Was it your understanding that that --
18 what Mr. Zenk was going to do with that charge,
19 was he pleading guilty, or was it going to
20 proceed, or did you know?

21 A The first time I recall hearing that
22 he was going to plead guilty was when Marty told
23 us outside the courthouse.

24 Q So your father hadn't given you any
25 indication that Mr. Harvey-Zenk might be pleading

1 guilty to anything before that time?

2 A I don't recall him saying that.

3 Q You just don't recall, or he did not
4 tell you that?

5 A I don't recall.

6 Q All right. Thank you very much, Tara.

7 A Okay.

8 MR. CLIFFORD: Two brief areas,
9 Mr. Commissioner.

10 RE-DIRECT EXAMINATION BY MR. CLIFFORD:

11 Q Tara, you were referred to documents
12 from volume R-3, and those are the pamphlets, et
13 cetera, that you have before you. And I
14 understood your testimony to be that you saw a
15 form similar to this, or something like it. Do
16 you know whether this was the same form that you
17 were using?

18 A The victim impacts one, yes, that
19 would have been the same.

20 Q And you also suggested in your
21 testimony, Tara, that there were certain things,
22 for instance, that you would have put into the
23 Victim Impact Statement. And I understand the
24 tenor of your testimony to be that you think it is
25 more exclusive than inclusive. It tells you a lot

1 more about what you can't put in than you can put
2 it?

3 A (Witness nodding)

4 Q What did you want to put in that this
5 guideline or this form prevented you from doing?

6 A From what I understood a Victim Impact
7 Statement to be was to say exactly how everything
8 had impacted your life. So I was able to put in
9 how the accident had impacted my life, but, I
10 mean, it wasn't all over. We were going through
11 the court process. You cannot talk about the
12 court process. You can't talk about the length of
13 time. You can't talk about anything that is going
14 on as far as that goes, or really the
15 investigation itself. You can't talk about any of
16 that. And in this circumstance, I mean, a lot
17 happened that was surrounding it that could have
18 been put in there that had impacted us as well.

19 MR. CLIFFORD: Thank you, Tara.
20 That's all I have, Mr. Commissioner.

21 THE COMMISSIONER: This might be an
22 appropriate time to do an adjournment. Who are
23 you going to call next?

24 MR. CLIFFORD: The next witness will
25 be another one of the Taman children,

1 Mr. Commissioner. I agree that this would be an
2 appropriate time to break instead of starting.

3 THE COMMISSIONER: Ten minutes.

4 THE CLERK: All rise. This Commission
5 of Inquiry will take a 10 minute recess.

6 (Inquiry recessed at 10:30 a.m. and
7 reconvened at 10:41 a.m.)

8 THE CLERK: All rise. This Commission
9 of Inquiry is now reopened.

10 MR. CLIFFORD: Mr. Commissioner, the
11 next witness is Jordan Taman.

12 THE CLERK: Just remain standing for a
13 moment, please. Will you swear an oath on the
14 Bible or affirm to tell the truth?

15 THE WITNESS: I'll swear.

16 JORDAN TAMAN, having first been duly
17 sworn, testified as follows:

18 BY MR. CLIFFORD:

19 Q Jordan, we have heard that you are
20 Crystal and Robert's youngest child?

21 A Yeah, that's right.

22 Q How old are you, sir?

23 A 23.

24 Q Before we start, Jordan, I want to
25 tell you how much sympathy I have for you over the

1 loss of your mother. We have heard so much
2 yesterday and again today about your family's
3 suffering. I'm very sorry, Jordan, you have had
4 to endure so much. I want you to know that your
5 being here today and testifying is greatly
6 appreciated by the Commissioner, and we are all
7 aware that this experience may be very emotionally
8 difficult for you.

9 I'm going to bring you back, sir, to
10 February 25th, 2005, the day you lost your mother.
11 And we have heard in evidence already, sir, that
12 you were awoken that day by a telephone call from
13 your dad?

14 A That's correct.

15 Q And could you start there, sir, and
16 begin to describe the experience you had that
17 morning?

18 A Well, that morning my dad called me as
19 he was on his way to the hospital, he had already
20 been at the scene of the accident, and he just
21 told me that I had to -- my mom was in a terrible
22 accident and I had to make my way to the hospital
23 as quickly as I could.

24 And so I got up and I got into my car
25 and drove from Portage Avenue and the Perimeter to

1 the Concordia Hospital, and I arrived there before
2 they did. But I went inside, and I already had
3 some family there.

4 Q Jordan, prior to going in the
5 Concordia Hospital, did you have a conversation
6 with your father outside the hospital?

7 A Yes, I did.

8 Q Could you tell us about that
9 conversation?

10 A Well, he had asked me to be strong for
11 my sisters because he didn't think he'd be able
12 to.

13 Q Did you have any idea at that point
14 how serious matters were?

15 A (Witness nodding).

16 Q What was your dad saying to you?

17 A He was telling me that it was
18 extremely bad and that my sisters were going to
19 need me.

20 Q What was his expectation of you?

21 A To console my sisters, be strong for
22 them.

23 Q I stopped you, sir, and you were
24 explaining what was taking place when you were
25 going in the hospital. Can you carry on from

1 there?

2 A We had a lot of family there already.
3 We went into, I believe it's a family room at the
4 hospital, and were just waiting to find out what
5 had happened. And it took a bit of time, so we
6 had gone out for a smoke, and my grandparents had
7 arrived briefly after, and we were talking with
8 them outside, and then made our way back inside,
9 where shortly after the doctor came into the room
10 and he told us that my mom didn't make it.

11 Q What did you do then, Jordan, when you
12 were presented with that news?

13 A It's -- a lot of it is very
14 compressed, you know, it's hard to remember a lot.
15 Mostly I remember steadying my knees. It's
16 something you never want to hear.

17 Q Did you get to spend some time with
18 your mother?

19 A Shortly after, we had -- we were asked
20 to accompany, I believe it was one of the nurses
21 and the chaplain into another room where -- just
22 give a minute -- where my mom was laying there.
23 And we had to say our goodbyes.

24 Q I know this is very difficult for you,
25 Jordan, and that it may be difficult to recall who

1 was at the hospital. But do you know whether
2 there were any police officers present in the
3 hospital that morning?

4 A I had seen an officer, he was in
5 uniform, it was a Winnipeg Police Officer, who was
6 walking out of the doors as we were walking in to
7 go in to see my mom. And I don't remember if
8 there were any other officers there.

9 Q Did I hear you say that when you
10 referred to the police officer, that he was
11 walking up?

12 A Yes.

13 Q And you were able to determine it was
14 a police officer because this individual was in
15 uniform?

16 A From what I recall, yes.

17 Q Did you know anything about why that
18 person was at the hospital?

19 A At the time, no.

20 Q The Commission has learned already,
21 sir, that after spending some time at the
22 hospital, that you and your family went to your
23 dad's parents' place, your grandparents' house
24 that day. What kind of questions were going
25 through your mind, Jordan, with respect to what

1 happened to your mother?

2 A I was wondering how something like
3 this could happen. She was just driving to work.
4 I didn't know anything. So, I mean, I just wanted
5 to know what actually happened.

6 Q You say, "I didn't know anything, I
7 just wanted to know what happened." Was there
8 anybody that you could ask about it, anybody you
9 could give that question to that could help you
10 understand what happened that morning to your
11 mother?

12 A At the time I wasn't -- I wasn't
13 really thinking about it, but, I mean, later on I
14 tried to find out what had happened. I tried
15 contacting the East St. Paul Police, asked them
16 what had happened.

17 Q Can you tell us what happened with
18 that endeavor?

19 A They said at the time they couldn't
20 tell me much because there was an ongoing
21 investigation.

22 Q Was that the same day that you left
23 the hospital, do you recall?

24 A I don't think so. I think it might
25 have been the day after.

1 Q We understand that your family
2 received some information from a member of your
3 extended family, one of your cousins?

4 A That's correct.

5 Q And were you a party to that
6 information? Did you receive it as well?

7 A Yes, I did.

8 Q And please, Jordan, take some time and
9 describe in as much detail, with as much
10 recollection as you have, what you learned from
11 your cousin?

12 A My cousin had came over to my
13 grandparents' house, where he had told us that the
14 man who had hit my mom in the car accident was a
15 Winnipeg Police Officer, and that he was drinking
16 before and he was being charged.

17 Q And for completeness sake, your cousin
18 is Cecil Sveinson?

19 A That's correct.

20 Q And are you able to provide evidence
21 on what day it was that he came? Was it the same
22 day that your mom passed away?

23 A I don't recall what day it was.

24 Q You don't recall what day it was, but
25 you do recall that conversation and receiving that

1 information?

2 A It was possibly the day after. Oh,
3 correction, it was the day of, because he had gone
4 to the scene of the accident as well.

5 Q Could you repeat that, please?

6 A It was the day of, because he had gone
7 to the scene of the accident as well.

8 Q You say he had gone to the scene of
9 the accident as well?

10 A Afterwards, yes.

11 Q Your cousin told you, Cecil Sveinson
12 told you that he went to the scene of the
13 accident?

14 A He's Aboriginal, so he has his own
15 religion, and he was putting out a symbol on the
16 highway, as being a symbol of death.

17 Q Could you give any further details on
18 the information that was being provided to the
19 family by Cecil?

20 A No, I can't remember.

21 Q Jordan, I now want to ask you some
22 questions about your experiences with the police
23 officers as they started to deal with the family
24 in the aftermath of what occurred.

25 Do you recall meeting police officer

1 Glenda Pedersen?

2 A Yes, I do.

3 Q Do you remember what day it was? And
4 believe me, Jordan, no one is holding you to
5 providing an answer. If you don't recall what day
6 it was that these meetings took place, it's
7 understandable given what you were experiencing.
8 But do you have a recollection?

9 A I don't recall which day it was. I
10 remember meeting with her, but I don't recall the
11 day that it was on.

12 Q Did you know whether Glenda Pedersen
13 was going to be coming to your house?

14 A No.

15 Q You didn't know?

16 A No. I wasn't aware of it. I mean,
17 she had called before, I believe, she came.

18 Q You believe that she called before she
19 arrived at your residence?

20 A At that time a lot of things were
21 compressed.

22 Q We have heard testimony from your
23 father, and one might safely assume that you were
24 getting hundreds --

25 A Yes.

1 Q -- of telephone calls, and that
2 wouldn't be an exaggeration?

3 A No.

4 Q But, although you didn't receive a
5 call directly from Glenda Pedersen, your
6 understanding was she did call prior to going
7 over?

8 A My understanding is that she did.

9 Q Who was she accompanied by?

10 A My understanding is that she did.

11 Q Did anybody go with her?

12 A Yes, there was a, I believe he was a
13 trainee, I'm not too sure. I know that some
14 members of the family knew who he was, he had gone
15 to school with someone we knew.

16 Q Did you know what the purpose of her
17 visit was?

18 A Truly, I didn't really know a purpose.
19 At the time I was -- he gave us some pamphlets and
20 stuff like that, and I wasn't really wanting a
21 visit at the time.

22 Q What was she talking to the family
23 about?

24 A Different things we could do to speak,
25 or to talk to people, told us about a program, I

1 believe, that they had different programs.

2 Q Your personal feeling at that time was
3 that you didn't want to talk to anybody at all?

4 A No.

5 Q Did you have any questions that you
6 posed to Glenda Pedersen?

7 A I tried to ask her what had happened,
8 what was going on with everything, like the
9 investigation. And she said she couldn't tell us
10 much because there was an ongoing investigation.

11 Q Do you recall whether you had the
12 information from Cecil Sveinson at the point that
13 Glenda Pedersen arrived at your residence?

14 A I believe we did.

15 Q Do you know whether you were asking
16 her questions about the details about the accident
17 that you received from your cousin?

18 A I think that we had asked her a few
19 times about that.

20 Q And can you tell us what her responses
21 were?

22 A That she couldn't disclose that
23 information because there was an ongoing
24 investigation.

25 Q What was your reaction, or your

1 family's reaction, to what she was saying to you?

2 A At the time we were pretty angry
3 because, I mean, we had received this information
4 from somebody other than the people doing the
5 investigation already. Why can't they tell us
6 that without us getting it elsewhere?

7 Q Did she give you any advice as to who
8 you might try to talk to within the police force?

9 A She told us we could contact the East
10 St. Paul Police.

11 Q You had been down that path?

12 A Yes.

13 Q Did you take her advice and try it
14 again?

15 A No, I didn't.

16 Q Did she leave any information for the
17 family, that you are aware of or that you recall?

18 A I believe a couple of pamphlets.

19 Q Jordan, did you review any of that
20 material?

21 A I read a little bit of it, but, I
22 mean, the first thing you see when you open a
23 pamphlet is a remark regarding -- that usually the
24 spouse of the person who is injured dies within
25 two years. So it's something you don't really

1 want to read.

2 Q Do I understand your evidence to be
3 that one of the pamphlets indicated that the
4 spouse of a deceased person is, on average, likely
5 to pass away within a certain number of years?

6 A Yes.

7 Q And I take it, given what had taken
8 place, it goes without saying that it's absolutely
9 of no encouragement to you?

10 A Not at all.

11 Q What was your overall impression of
12 how that visit went, from Glenda Pedersen?

13 A I don't understand why she came. I
14 mean, at the time, I didn't understand why she
15 came there.

16 Q Your family wanted answers to what
17 happened?

18 A (Witness nodding). Yeah.

19 Q And you didn't get answers?

20 A No.

21 Q You got pamphlets about grieving and
22 counselling services, et cetera?

23 A Yes.

24 Q How did that make you feel?

25 A Kind of like we were being kept out of

1 the loop.

2 Q Do you recall the circumstances under
3 which Glenda Pedersen left the residence?

4 A I believe my dad asked her to leave.

5 Q Do you know why?

6 A Because it wasn't getting us anywhere.
7 We wanted answers and we weren't getting any.

8 Q Do you recall a further occasion when
9 police officers attended at your grandparents'
10 residence, but your different grandparents',
11 Crystal's mom and dad?

12 A Yes, I do. It was Officer Norm Carter
13 and Chief Harry Bakema.

14 Q And are you able to recall when that
15 visit occurred?

16 A I believe we were over there
17 discussing funeral arrangements when it actually
18 happened, so it was probably a couple days after,
19 a few days after.

20 Q Are you able to indicate who was
21 present?

22 A Myself, my dad, my sisters, both my
23 grandparents, and I don't know if anybody else was
24 there.

25 Q Jordan, what were the police officers

1 saying to your family?

2 A They had told us the charges that had
3 been laid -- pardon me -- and then they told us
4 that he refused a breathalyzer and that they had
5 him on that one, they said we have him on this
6 one. He's guilty.

7 Q I apologize for interrupting you, but
8 I want you to touch upon that again. And you have
9 testified that they said, we have him on that one.
10 Were words to that effect used --

11 A Yes.

12 Q -- or was that the message that was
13 being relayed to you?

14 A No, those were the words.

15 Q Could you give them to us that again?

16 A We have him on that one.

17 THE COMMISSIONER: On which one?

18 THE WITNESS: Refusing the
19 breathalyzer.

20 BY MR. CLIFFORD:

21 Q And did they express confidence with
22 respect to the case overall?

23 A They seemed pretty confident.

24 Q Did they tell you that the accused
25 person was a police officer? I understand that

1 you already knew that through your cousin, but was
2 it confirmed with you?

3 A I don't recall if they had told us, or
4 if we had asked them, but I'm sure it was
5 mentioned.

6 Q What was your reaction to having that
7 fact confirmed?

8 A I was angry, I was very angry. This
9 is supposed to be the person that is supposed to
10 be protecting us.

11 Q You have told Commissioner Salhany
12 that they were telling you about the charges, the
13 refusal, they expressed some confidence with
14 respect to the charge, confirmed that he was a
15 police officer. They are giving you details about
16 what was happening, but did the family probe
17 further to find out what happened on the day our
18 mom and my wife died?

19 A Yes.

20 Q And were you able to get any
21 information to those questions?

22 A No, it was still an ongoing
23 investigation. They said that they would keep us
24 informed. We asked numerous times how he could be
25 drunk at 7:00 in the morning and crash into my

1 mom?

2 Q Did they express any opinions to you
3 or other family members about the potential
4 outcome or sentence that could be imposed?

5 A Not that I recall.

6 Q Do you recall, Jordan, whether they
7 told you or other family members about the
8 Victims' Bill of Rights or Victims' Services?

9 A Not that I remember at all, no.

10 Q Do you recall how long the visit
11 lasted?

12 A 10 or 15 minutes, maybe that. It
13 could have been a little bit longer.

14 Q What was the emotional state of the
15 police officers as they were relaying this
16 information?

17 A They seemed to me to be a little bit
18 upset with being there and having to tell us that.

19 Q Did they show you the media release
20 that they were proposing?

21 A Not that I remember, no.

22 Q I want to switch to another area now,
23 Jordan, and this deals with Victims' Services.
24 And in order to lead us into that, I'll ask you,
25 do you recall whether Harry Bakema or Norm Carter

1 suggested to the family that somebody from
2 Victims' Services would be in touch to guide the
3 family through the process?

4 A They may have, but I don't recall
5 that.

6 Q And would it be fair to say that,
7 given the circumstances and your emotional
8 condition at the time, that they may have said a
9 number of things to either your dad or other
10 members of the family, but you simply -- you might
11 have heard and no longer recall, or you might not
12 have heard?

13 A It's very possible.

14 Q But we do know, and this leads us into
15 the issue of Victims' Services, that you did have
16 some interaction with a victims' rights worker?

17 A Yes.

18 Q Mrs. Lesley McCorrister?

19 A That's correct.

20 Q And how did your dealings start with
21 Lesley? And by that I mean, who was it that told
22 you that you could contact her, or gave you the
23 information about who she was, what she could do,
24 her telephone number, et cetera?

25 A My dad did.

1 Q We have heard that your dad acted as
2 the representative or the intermediary between
3 Lesley McCorrister and the rest of the family.
4 Was that your understanding of the situation?

5 A That's right.

6 Q And with him being your dad, I
7 understand that he would have been the
8 intermediary on many other things, and this was
9 not something that was atypical in the family, he
10 played the role that he often played?

11 A Exactly.

12 Q You were the children and he was the
13 dad, and he would deal with this individual. And
14 one of the things he did for his children was say,
15 look, if you want further information, this is the
16 person I understand that's been assigned to help
17 the family and you are free to call?

18 A Yes.

19 Q And that takes us to Exhibit 11, which
20 you should have before you. Do you see it,
21 Jordan?

22 A Yeah, I do see it.

23 Q Okay. Could I ask you to turn then to
24 page 1855? And, Mr. Commissioner, this is Exhibit
25 11 again, volume L.

1 Jordan, what this is, is a summary of
2 a telephone call that was entered into a system by
3 Lesley McCorrister. And it's describing a
4 telephone call from you, and you are inquiring of
5 Ms. McCorrister about a letter that was sent to
6 your family's residence. And if you back up to
7 page 1853, you'll see a correspondence of
8 March 4th, 2005, addressed to your father, where
9 Lesley McCorrister is introducing herself and she
10 refers to Derek Grant Harvey-Zenk and three
11 charges?

12 A Yes.

13 Q Why were you calling Mrs. McCorrister?

14 A I believe I called her because there
15 was no refusal of breathalyzer on here, and that
16 was one of the charges that was laid.

17 Q And in the telephone log, she has a
18 note that:

19 "I told him it was a charge laid and
20 apologized for it not being included
21 in the letter."

22 A Yes.

23 Q Is that in accordance with your
24 recollection?

25 A Yes.

1 Q Was she polite with you, Jordan, in
2 the course of that conversation?

3 A Very polite.

4 Q And it's also indicated here that she
5 indicated she would keep "them," and I take that
6 to mean your family, as informed as possible and
7 invited you to call her whenever you had
8 questions?

9 A Yes.

10 Q So we see one of the concerns that you
11 had, as early as March 18, 2005, was you were on
12 top of what charges this individual is facing?

13 A (Witness nodding).

14 Q It wasn't simply a situation of
15 section numbers and the fact that he was merely
16 going to court. You had a personal interest in
17 the specific enumerated charges?

18 A Yes.

19 Q And you were aware of the fact, look,
20 one of the charges that the Chief of Police said
21 we got him, is not even on the list?

22 A Um-hum.

23 Q And she apologized to you and said,
24 look, we'll fix it. But you have also, it seems,
25 expressed another concern that you harboured as

1 early as March of 2005, and that was the fact that
2 she had told your dad it could take up to two
3 years for this case to go through the system?

4 A (Witness nodding).

5 Q What kind of impact was that having on
6 you, Jordan, the fact that your family could be in
7 for a two year ordeal in the prosecution of Derek
8 Harvey-Zenk?

9 A We would have to keep reliving that
10 for two years, nothing is put to rest for two
11 years, and that bothered me.

12 Q Do I understand that the majority of
13 the communications with Mrs. McCorrister were
14 conducted through your father?

15 A That's correct.

16 Q Do you recall where it was that you
17 first actually met Lesley McCorrister?

18 A It was at Marty Minuk's office.

19 Q Now, dealing with that issue, office
20 meetings with Mr. Minuk, I'm going to ask you some
21 questions about those meetings. And what I want
22 to do for the purposes of our examination, Jordan,
23 is ask you to, at this point, keep in mind the
24 office meetings with Mr. Minuk. I know that you
25 met with him a number of times at the courthouse,

1 but for now I want to concentrate on the office
2 meetings, where you went to his office.

3 A Okay.

4 Q Okay. We'll go step-by-step, because
5 I understand, sir, that you went for all of the
6 meetings that your dad had at Marty Minuk's
7 office?

8 A That's correct.

9 Q All right. So we'll go step-by-step
10 and we'll deal with the first one. And again,
11 we'll keep these meetings distinct from
12 conversations that you had at the courthouse.

13 We have learned that your first
14 meeting with Mr. Minuk was May 3rd of 2006. How
15 long was that meeting, sir?

16 A About 20 minutes, half an hour.

17 Q And do you recall who was present?

18 A Lesley McCorrister, myself, my dad,
19 Marty, and I believe Marty's assistant, or I could
20 be wrong on who that was, but somebody else was
21 there. I'm sure it was his assistant, though,
22 taking notes.

23 Q You have indicated to us that that was
24 the first time you met Mrs. McCorrister. Was it
25 also the first time that you met Mr. Minuk?

1 A That's correct.

2 Q What was discussed at this meeting?

3 A There was an introduction, and he
4 described what the charges were.

5 Q Can you elaborate on them?

6 A He explained what the charges were,
7 refusing the breathalyzer, and told us that
8 criminal negligence was never really a charge that
9 actually stuck in a court. And it was really an
10 introduction to who he was and that he would be
11 handling everything and he'd keep us informed.

12 Q Did your father have any concerns with
13 respect to Mr. Minuk meeting anybody prior to
14 meeting with you and he?

15 A Yes.

16 Q What could you tell the Commissioner
17 about that?

18 A Well, Mr. Minuk met with my
19 grandparents, my mom's parents, before he had met
20 with us. And all of our, like my family's
21 understanding was that he was supposed to meet
22 with my father first, and the information was
23 supposed to be passed through my father.

24 Q And what was Mr. Minuk's reaction to
25 your father expressing his concern?

1 A He said that what he discussed with
2 them was nothing to do with any of the charges
3 that were laid.

4 Q And what was your father's reaction to
5 that explanation?

6 A Obviously confused. He said, well,
7 what else would they have met you for?

8 Q Was there any discussion at that
9 meeting about the Preliminary Hearing process or
10 what the next stage of the case would be?

11 A I don't recall.

12 Q Do you recall whether there was any
13 discussion about potential consequences, or range
14 of anticipated sentences for people that commit
15 crimes that Harvey-Zenk was charged with?

16 A I don't recall that.

17 Q Do you recall, Jordan, whether at that
18 first office meeting with Mr. Minuk, whether he
19 expressed any confidence in the case or whether,
20 on the other hand, he thought the case had some
21 weaknesses?

22 A I believe he was pretty confident at
23 the start. But it was a very quick meeting, it
24 wasn't very in-depth.

25 Q What was your overall impression of

1 the meeting, how it was conducted and how it was
2 handled and the amount of time it took?

3 A I had never been in this situation
4 before, so I assumed it was just an introduction
5 and that he would keep us informed.

6 Q Did you feel as though it was a
7 productive meeting?

8 A Well, we hadn't met him yet, so I
9 figured that was productive.

10 Q Did you ask him any questions, for
11 instance, that you felt he didn't answer?

12 A Not that I recall.

13 Q Let's move to the second meeting that
14 you had with Mr. Minuk. And the material that the
15 Commission has and that we have disclosed
16 suggested that this occurred on May 29, '06.

17 Do you recall being present at a
18 meeting at Mr. Minuk's office with your father?

19 A Yes.

20 Q If you can, take some time and give
21 detail and elaborate on what took place at that
22 meeting?

23 A I believe it was myself, my dad, and
24 Marty in his office, and he was telling us that
25 there was issues with the investigation and that

1 he needed to get more information. He said that
2 the East St. Paul Police had screwed up, so he had
3 to get some information.

4 Q Did he provide you with any details on
5 how the East St. Paul Police had screwed up?

6 A Not that I recall.

7 Q What was yours and your father's
8 reaction to what Mr. Minuk was saying?

9 A Well, he said he wanted to get the
10 information so that everything was clear when it
11 came time to go to trial. He didn't want to go in
12 with holes in the case. So we were -- well,
13 myself, I was a little bit I guess upset, because
14 it was going to be taking a lot longer, but I
15 figured at least things were going to be done
16 properly.

17 Q Well, if we harken back to March 18th,
18 2005, and I referred you to that earlier, that was
19 when you said to Lesley McCorrister you had a
20 concern about the fact that your dad was told it
21 could take two years?

22 A (Witness nodding).

23 Q So, now we're at May 29th, 2006, a
24 year down the road. You are in Mr. Minuk's office
25 and he's telling you, this case is going to be

1 postponed because there's problems, it was screwed
2 up by the police, there's holes. And what was
3 your reaction to the delay?

4 A I was upset it was going to be dragged
5 on for longer.

6 Q But in light of the fact that it was
7 predicated upon making the case better for trial,
8 was it your position that the adjournment should
9 occur?

10 A Yes.

11 Q Were you advised as to how much longer
12 it would take, or what the anticipated length of
13 the adjournment would be?

14 A I don't remember how long he said it
15 was going to be, but I believe it was somewhere
16 around a year.

17 Q Do you recall what impact it had on
18 your father when he was told that there were
19 problems with the case that required the
20 prosecution to be adjourned?

21 A He was upset. I mean, of course, it's
22 like myself, it was being dragged on longer, so
23 now I have to re-live it even longer.

24 Q Were you present when your father
25 explained it to your other siblings that the

1 matter was going to be postponed?

2 A I don't recall if I was.

3 Q Let's go then to the third meeting --

4 A Okay.

5 Q -- with Mr. Minuk. And again, an
6 office meeting with Mr. Minuk, and this was
7 July 13, 2007. But prior to that, Jordan, and I
8 apologize for this, I'm going to bring you back to
9 that second meeting. How long did that meeting
10 take?

11 A 15, 20 minutes.

12 Q And your overall impression in terms
13 of how the meeting was conducted, was it something
14 where you took as much time that you needed and it
15 was leisurely, or was it done in a more -- in
16 another manner?

17 A I was under the impression that it was
18 getting rushed. I mean, the first meeting was
19 very brief and so was this one. You know, it was
20 like a whole year, we met, and it was both very
21 brief meetings. So I felt it was being pretty
22 rushed.

23 Q Okay. Back to the third meeting then,
24 July 13, 2007. Do you recall how long that
25 meeting was?

1 A 20 minutes, half an hour.

2 Q Can you tell me who was in attendance?

3 A That was myself, my dad, and Marty
4 Minuk.

5 Q What information was provided to you
6 and your father on that day?

7 A That's the day that he told us he was
8 going to have to stay all the charges regarding
9 alcohol. And -- sorry -- that was our message to
10 get across, though, was the alcohol related
11 charges.

12 Q Mr. Minuk told you that on that day
13 that he was going to be staying the charges
14 related to alcohol?

15 A Yes.

16 Q Impaired death, the refusal and
17 criminal negligence, I understand?

18 A Yes.

19 Q What effect did this have on your
20 father?

21 A He started to cry, he broke down. He
22 was very emotional. Like I said, that was our
23 message that we were trying to get across.

24 Q You wanted the message?

25 A So nobody else had to deal with what

1 we went through.

2 Q What was the emotional impact upon
3 yourself?

4 A I became kind of angry and wanted an
5 explanation.

6 Q Now, that left one remaining charge,
7 the dangerous driving causing death. What was
8 said about that?

9 A Well, first I asked him why he was
10 staying the charges. He told me that he couldn't
11 prove it, he didn't have enough evidence. And
12 then he said that he could prove that he was
13 dangerous driving, and that that was the greatest
14 of all the charges, that was the biggest of all
15 the charges. He said there's a level of the
16 charges, and used his hands to describe it, and
17 said this is dangerous driving, this is the other
18 charges.

19 Q How did he express to you that he
20 could prove the dangerous driving? Did he give a
21 measure of confidence in his ability to do that?

22 A He said, without a doubt, he could
23 prove it. He said, I have no doubt that I can
24 prove it.

25 Q Is there any chance, sir, that you

1 misunderstood his expression to you that the
2 dangerous was the greatest of all the charges?

3 A No, that's exactly what he said.

4 Q What were you saying to Mr. Minuk in
5 response to this information?

6 A I was angry, I was confused on why, if
7 he can prove dangerous driving, and he says he can
8 prove without a doubt, then why he wouldn't try
9 and prove the other ones as well? And he just, he
10 kept saying that he didn't have enough evidence.
11 And I asked if it would be a greater sentence, or
12 if there would be a bigger sentence with alcohol
13 involved, and he said it could be. And I asked
14 why he wouldn't go through with it then, and he
15 said because he could walk with a traffic ticket.
16 He said there's a possibility he can walk with a
17 traffic ticket.

18 Q What was the atmosphere like in
19 Mr. Minuk's office by the point the conversation
20 got to that stage?

21 A Well, my dad was crying, I was angry.
22 It was very tense.

23 Q Was your father expressing concern
24 about the way the case was being handled?

25 A Yeah. He said that -- Marty had said

1 that the East St. Paul Police had screwed up and
2 he can't prove the drinking and driving. And I'm
3 not saying exact words because I don't remember
4 the exact words, but I believe my dad said, the
5 screw up started with the East St. Paul Police and
6 came all the way up to this office. And then
7 Marty got a little bit frustrated and sat back in
8 his chair and said, I believe he said, sir, you
9 should choose your words carefully in this office.

10 THE COMMISSIONER: I'm sorry, what was
11 that again?

12 THE WITNESS: He said, sir, you choose
13 your words carefully in this office.

14 BY MR. CLIFFORD:

15 Q What was your father's reaction to
16 that statement made by Mr. Minuk?

17 A Well, I guess you could say he kind of
18 shut up a bit.

19 Q How about yourself?

20 A I was still angry. I was still
21 questioning him. Tried to, I guess tried to
22 change the topic a bit from what was said. So I
23 continued to ask him why he would drop, why he
24 would stay the charges regarding the alcohol. And
25 he kept saying he had no proof. And I asked him

1 if they were, if this was dropped because of a
2 plea bargain.

3 Q Can you tell us how you posed that
4 question to him?

5 A I don't remember exactly, but he
6 wasn't -- the way he was wording things, he wasn't
7 answering my questions really. He was -- he just
8 kept saying he couldn't prove it. And I said, but
9 if you can prove it, or if you can prove dangerous
10 driving, then why aren't you carrying on with the
11 other charges? And I said, is this part of a plea
12 bargain or something?

13 Q And his response was?

14 A No, it's not.

15 Q Could you repeat that, please? I
16 don't know if the reporter heard it?

17 A He said, no, it's not.

18 Q What was your understanding, Jordan,
19 of what was going to happen with the dangerous
20 driving causing death?

21 A I thought this was, I thought it was
22 all still going to be going to court and that he
23 was going to be tried, I guess, on dangerous
24 driving.

25 Q Did Mr. Minuk raise any issue on that

1 day with respect to what an anticipated outcome
2 for the case, what a sentence might be in the
3 circumstances of that charge?

4 A He gave kind of -- he had some case
5 files that he said, you know, these are the
6 typical sentences for dangerous driving. He said
7 there's been numerous, he has numerous records of
8 it, of different sentences, but they are usually
9 about the same.

10 Q Now, this was on the third office
11 meeting with Mr. Minuk?

12 A That's correct.

13 Q This is after you have received the
14 information, and you understand you are now going
15 to be dealing with, as a family, a prosecution of
16 a dangerous driving causing death?

17 A That's correct.

18 Q And he's telling you, or referring to
19 case files about typical sentences for that
20 charge?

21 A Yes.

22 Q And has he got a binder in front of
23 him, or a box?

24 A A binder, I believe it was a binder.

25 Q Can you elaborate on that a little

1 further?

2 A How do you want me to elaborate on
3 that?

4 Q Well, was it a big plastic binder?
5 Did it seem to have a lot of cases in it?

6 A Yeah. It was a big three-ring binder,
7 I mean, it was a big three-inch, three-ring
8 binder, that had a whole bunch of case files, I
9 believe he said they were.

10 Q Were you getting information with
11 respect to sentences imposed in other cases of
12 dangerous driving causing death?

13 A Yes.

14 Q Now, Jordan, let's take the office
15 meetings with Mr. Minuk, put them aside, and now I
16 want to deal with the court appearances. And we
17 know there were five of them, from July 16th
18 through to and including October 29th. And I'll
19 discuss with you those appearances and your
20 communications, and your family's communications
21 with Mrs. McCorrister and Mr. Minuk, all right.
22 We'll go one-by-one.

23 A Sounds good.

24 Q Now, the first day that you went to
25 court was July 16th, 2007. We know from the

1 transcript that this was a day where the court was
2 advised that, in the prosecution of Derek
3 Harvey-Zenk, the witness list was pared down from
4 32 to 12 witnesses, and the lawyers were asking
5 that the matter be adjourned to the next morning
6 before Chief Justice Wyant?

7 A That's correct.

8 Q You were there?

9 A Yes.

10 Q Did you know what was going to be
11 happening in court that day?

12 A No idea.

13 Q Did you have any interaction that you
14 recall with Lesley McCorrister that day?

15 A I believe we might have talked to her
16 beforehand, but I'm not 100 per cent sure now.

17 Q Do you recall whether you met with
18 Mr. Minuk on that day?

19 A I don't recall if we did.

20 Q Do you know where you went in the
21 courthouse prior to going into the courtroom?

22 A Yes, we went to the Victims' Services
23 office to find out exactly where we were supposed
24 to be.

25 Q And does that assist your recollection

1 in terms of whether you spoke with anybody?

2 A Lesley McCorrister we spoke with.

3 Q Okay. And did she provide you with
4 some assistance on July 16, 2007, about what
5 courtroom you were to go to?

6 A Yeah. She took us to the courtroom
7 and showed us where to sit, and told us where the
8 judge would be coming. And then I believe she
9 might have explained a bit about what that
10 courtroom was, I believe it was loading court.

11 Q Now, you obviously -- it goes without
12 saying -- you saw Mr. Minuk present that day. We
13 all know he was there?

14 A Yes.

15 Q But did you have any interaction with
16 him, any communication that you had with him, or
17 where you were present and your father was
18 communicating with him?

19 A I don't believe so. I don't remember.

20 Q Do you know what you did after court
21 on July 16th?

22 A I went home.

23 Q Let's move then to July 17th, 2007,
24 that's day two. I understand it's a small
25 courtroom and it's in the new building?

1 A (Witness nodding).

2 Q Did you see Mr. Minuk that day?

3 A Yes, I believe he was -- we saw him
4 walking in, because we were outside at the front
5 of the court building, my whole family was out
6 there, we were having a smoke. And he had got out
7 of a, I think it was a shuttle bus that goes from
8 his work, goes from his office to the Court
9 Building.

10 Q This would have been earlier in the
11 morning before court proceedings commenced?

12 A That's correct.

13 Q You are outside having a cigarette,
14 other members of your family are there?

15 A (Witness nodding).

16 Q What's the communication with
17 Mr. Minuk and who is he talking to?

18 A I think he started by talking to my
19 dad. I'm not too sure, he was kind of
20 communicating with everybody in the family. We
21 were all standing around in a group.

22 Q Were your grandparents there?

23 A Which grandparents, I'm sorry?

24 Q Were your father's parents there?

25 A Yes, they were.

1 Q And were your grandma and grandpa
2 Taman there?

3 A That's the same ones.

4 Q I'm sorry, were Crystal's parents
5 present?

6 A No.

7 Q So it was yourself, father, your
8 sisters, your father's parents?

9 A His brother, some of his brothers.

10 Q But not Crystal's parents?

11 A No.

12 Q And what is the nature of the
13 conversation that's taking place outside the
14 courthouse?

15 A I believe my dad wanted him to explain
16 a little bit to my sisters about the charges being
17 stayed. And like everybody else had their
18 questions as well why they were being stayed.

19 Q What was his reaction to that?

20 A And he said he couldn't prove anything
21 regarding alcohol. There was problems with it.

22 Q Did you know what was going to be
23 taking place in court that day?

24 A No.

25 Q You understood the case was now down

1 to a count of dangerous driving causing death?

2 A Yes.

3 Q Did you know if the case was going to
4 be starting and proceeding that day on that
5 charge?

6 A I didn't know.

7 Q You attended for the proceedings, and
8 we know from the transcript that it was indicated
9 to the court on that day that Derek Harvey-Zenk
10 was entering a plea?

11 A Sorry?

12 Q You attended the court hearing that
13 day?

14 A Yes.

15 Q Okay.

16 A Actually, can I go back?

17 Q Sure, we can absolutely go back.

18 A I believe Marty had told us that he
19 was -- he had entered a guilty plea there, outside
20 the courts. And I don't remember the exact words,
21 but I do remember him saying, when we found out he
22 was entering the guilty plea, that he doesn't
23 understand why he would be pleading guilty because
24 he could have gotten him off of all the charges.

25 Q Okay. So on your second day, you are

1 indicating that outside the courtroom this
2 conversation also includes the fact that Mr. Minuk
3 is telling you and the family that Derek
4 Harvey-Zenk is going to be pleading guilty?

5 A Yes.

6 Q And that he's expressing a surprise to
7 this because, if he were the lawyer, he could have
8 gotten him off on all the charges?

9 A Exactly.

10 Q Is that a fair summary of what he was
11 saying to you?

12 A Yes.

13 Q And were you able to reconcile what he
14 was saying that day to what you told me he said to
15 you in that third office meeting with him, that he
16 had the horses to prove the dangerous driving
17 charge, that he could absolutely?

18 A I had my doubts. Like I didn't
19 understand what was all going on. It didn't make
20 any sense to me.

21 Q But in the third office meeting, I
22 understand your testimony to be that he told you
23 that he could absolutely prove the dangerous
24 driving?

25 A Yes.

1 Q Okay. And on the second day when
2 you're in court, you are being told by Mr. Minuk
3 that if he was the defence lawyer, he could win
4 the case?

5 A Yes. That's why I had my doubts.

6 Q Did you see at least the apparent
7 contradiction in the information you received?

8 A Yes.

9 Q What was your reaction to it?

10 A Just, I was very confused, I didn't
11 understand what he meant by he was just going to
12 plead guilty to it. And that's when he said that
13 if he was his lawyer, he could have gotten him off
14 of all the charges.

15 Q What was the reaction of other family
16 members to what was being said by Mr. Minuk?

17 A I think everybody was really confused
18 because, I mean, we had just finished telling my
19 sisters that he had to stay the other charges, and
20 then all of a sudden he's pleading guilty.

21 Q Was there any questioning about how
22 the plea of guilt came about, what lead to it?

23 A Yes. I believe I might have asked
24 him, I'm not 100 per cent sure, but I might have
25 asked him, again, whether it was a plea bargain or

1 not. Because it was in the papers as well.

2 Q What was the response?

3 A No, he never said to me that it was.

4 Q How long did that meeting take, with

5 Mr. Minuk outside the courtroom, on July 17th,

6 2007?

7 A That was outside of the court

8 building, that was outside again.

9 Q It was outside of the court building.

10 How long did it take?

11 A It was brief, five minutes.

12 Q And throughout the morning, did your

13 family spend additional time with Mr. Minuk?

14 A Not until everything was done in the

15 actual courts. I believe we met briefly

16 afterwards in one of the side rooms, beside the

17 courts, outside the courtroom we were in.

18 Q What took place in the side room?

19 A It was just him telling us the dates

20 we had to come back or something like that. I

21 don't even remember exactly.

22 Q Do you remember what the emotional

23 condition was of your family?

24 A No, I don't remember, I don't recall

25 that.

1 Q We know that your third court
2 appearance was August 22nd, 2007?

3 A (Witness nodding).

4 Q And this is your mother's birthday,
5 and we have heard, of course, that the family,
6 notwithstanding that fact, wanted to see this
7 sentencing hearing move forward. And you agreed,
8 amongst the children, that you would do it on that
9 day?

10 A Yes.

11 Q Did you have interaction, or were you
12 a party to a conversation that occurred with
13 Mr. Minuk?

14 A On that day?

15 Q Yeah, on August 22nd, the day you read
16 your Victim Impact Statement?

17 A Yes, I believe we did. It might have
18 been -- it was very brief at first, the first one
19 we had. Because he had, I don't know if that was
20 the day -- I'm not sure if it was that exact day,
21 but he had taken a break and -- was it that day?
22 Just a minute.

23 Q Jordan, I see you're having some
24 difficulty and I'm reluctant to interrupt you, but
25 this was the day, as I mentioned, you read your

1 Victim Impact Statement. It was also the day that
2 Crown counsel expressed their position on
3 sentence, and Chief Justice Wyant was told that it
4 was a joint recommendation, a joint submission for
5 a conditional sentence.

6 A Yes.

7 Q And I don't know if that assists you
8 with respect to recalling any conversations that
9 occurred about the proceedings on that day?

10 A I only remember meeting with him
11 afterwards, outside of the courtroom.

12 Q Tell us about that?

13 A Can I ask if that was the day that
14 they gave submissions, they gave all their
15 evidence, the information they had?

16 Q On August 22nd, there was reference to
17 cases, and joint submissions, and conditions for
18 Harvey-Zenk's conditional sentence?

19 A Yes, that's right. We met with him
20 afterwards, because we obviously had our concerns,
21 but we were concerned with the fact that his full
22 investigation had gone on and then nobody had
23 questioned my sisters. My sisters were both at
24 the scene of the accident. Nobody had ever
25 questioned them. And he had mentioned to us that

1 that was his ace up his sleeve.

2 Q Who was questioning Mr. Minuk about
3 the fact that your sisters had not been questioned
4 about their observations at the scene?

5 A My dad was.

6 Q And to be clear, Mr. Minuk's response
7 was what?

8 A That that was his ace up his sleeve.

9 Q Did you have any idea what he meant by
10 that?

11 A Not a clue.

12 Q Before August 22nd, 2007, were you
13 aware of the fact that the Crown's position on
14 sentence was going to be a joint submission for
15 house arrest?

16 A I don't remember exactly when he told
17 us, but I am pretty sure we were aware of the fact
18 that it was a joint recommendation.

19 Q What was your family's reaction to the
20 news that the Crown would make a joint submission
21 for a conditional house arrest sentence?

22 A Very angry.

23 Q Was that expressed to anybody?

24 A I believe it was expressed to him.
25 Like I said, I don't remember the date of the

1 meeting that we had with him, but it was expressed
2 to him when he told us.

3 Q How was it expressed to him?

4 A We wanted to know why he wouldn't put
5 anything in front of a judge or jury, or however
6 it may be, and go for a maximum penalty.

7 Q If it was ever suggested, sir, that
8 the family said they were okay with the
9 conditional sentence, or they were in agreement
10 with it, what would your reaction to such a
11 suggestion be?

12 A That's ridiculous.

13 Q Do you recall any conversations
14 occurring after court on August 22nd, 2007, with
15 Mr. Minuk?

16 A You mean right after our time in
17 court?

18 Q Yes?

19 A That's what I was telling you about
20 there was the -- that's when he said that he had
21 the ace up his sleeve.

22 Q All right. And apart from that, do
23 you recall anything else being discussed?

24 A Not that I recall. I don't remember.

25 Q Let's move now to the fourth court

1 appearance, September 12th, 2007. Do you recall
2 that day?

3 A That was the sentencing day, right?

4 Q No. The sentencing day was
5 October 29th, 2007.

6 A But it was supposed to be the first
7 sentencing date.

8 Q To put it into context, it was a day
9 where essentially what occurred was the sentencing
10 judge, Chief Justice Wyant, wanted the lawyers to
11 come back to make some further argument about
12 concerns he had?

13 A Yes.

14 Q Does that assist you in refreshing
15 your memory about that day?

16 A Yes, I remember that.

17 Q All right. Carry on from there. Did
18 you have any meetings with Mr. Minuk that morning
19 before court?

20 A I don't believe so. Not before court,
21 no.

22 Q Did you understand why you were going
23 to be back in court that day?

24 A Yes.

25 Q What was your understanding?

1 A That, I believe that's when the judge
2 had his concerns and he wanted to find out more.
3 I mean, that's all I really understood was going
4 to be happening, he was trying to dig for more
5 information.

6 Q Do you know whether your dad had
7 questions for Mr. Minuk about the concerns that
8 were raised by the judge and the fact the judge
9 wanted the lawyers to go back to court?

10 A I don't remember.

11 Q Did you have any questions for
12 Mr. Minuk that day?

13 A I'm sure I did, but I don't remember
14 if I had asked.

15 Q Now, on that day there was
16 considerable discussion in court about the issue
17 of whether there was, whether the resolution was a
18 plea bargain or not. Do you recall that?

19 A (Witness nodding).

20 Q The judge was very vocal in addressing
21 that concern. You're nodding your head. Do you
22 recall that, Jordan?

23 A Yes, I recall that.

24 Q Okay. Now, you had a little bit of
25 information about whether it was a plea bargain or

1 not, didn't you?

2 A Yes, I did.

3 Q What was the source of your
4 information?

5 A That it wasn't.

6 Q And where did it come from?

7 A From Marty Minuk.

8 Q What was Marty Minuk telling Chief
9 Justice Wyant?

10 A That it was.

11 Q Do you also recall on September 12th,
12 2007, that Chief Justice Wyant became very
13 concerned about whether the Crown was going to
14 prove the fact of alcohol consumption?

15 A Yes, I do remember that.

16 Q And given the fact that the family was
17 deeply troubled by the staying of alcohol-related
18 charges, I take it that the notion, the mere
19 suggestion that this case could get resolved
20 without the admission of the simple fact of
21 alcohol consumption must have been of great
22 concern to you?

23 A Yes, it was.

24 Q Now, the judge recommended that there
25 would be an adjournment, and Mr. Minuk could take

1 some further time to determine whether he would in
2 fact call evidence to prove that fact. Do you
3 recall that taking place, the adjournment?

4 A Ending the day?

5 Q No, during proceedings?

6 A The recess?

7 Q The recess, yes?

8 A Yes.

9 Q During that recess for that purpose,
10 did Mr. Minuk speak to you or any member of your
11 family?

12 A Yes.

13 Q What was said?

14 A It might have been when he left, or
15 when he came back, he just told us he had to take
16 a leak.

17 Q Do you recall whether he gave you any
18 other information about --

19 A No.

20 Q -- what happened during the recess?

21 A No.

22 Q Did you leave the courtroom during the
23 recess?

24 A No.

25 Q Did your dad leave the courtroom

1 during the recess?

2 A Not that I remember, no.

3 Q What effect did it have on you,
4 Jordan, when things concluded that day and you
5 learned that alcohol consumption was not going to
6 be a fact for the court to consider?

7 A I was furious. He had the opportunity
8 to bring it up and he didn't. He was given a
9 second opportunity and he didn't bring it up
10 again.

11 Q On the fifth and final appearance,
12 this is October 29th, 2007, Jordan, this was the
13 day that Chief Justice Wyant imposed the sentence
14 on Derek Harvey-Zenk, did you or your family speak
15 with Mr. Minuk prior to the proceedings on that
16 day?

17 A I don't believe so.

18 Q What about afterwards?

19 A I don't believe so. I don't remember
20 talking to him at all.

21 Q Do you know whether there was any
22 attempt to get an explanation about what happened
23 in court?

24 A I don't remember speaking to him at
25 all that day.

1 Q Were you expecting that result?

2 A No. I wasn't hoping for it.

3 Q How did it affect you?

4 A I was extremely angry. I mean, all
5 the way through we weren't given any information.

6 And now, right up until then, now everything had
7 failed us. We didn't get our message across, we
8 didn't get the sentence that we wanted imposed.

9 Q The message was that your mother died
10 as a result of an accident and it was drinking and
11 driving?

12 A Exactly.

13 Q That's the message you wanted?

14 A Yes.

15 Q Jordan, I want to ask you about the
16 process of preparing your Victim Impact Statement.
17 And was this a difficult process for you to go
18 through?

19 A Yeah, it was. It makes you reflect on
20 everything a lot more. You've got to go through
21 everything that's happened to you, and who my mom
22 really is.

23 Q Jordan, right in front of you you're
24 going to see, almost under your hands there, a
25 series of pamphlets, volume R-3, Mr. Commissioner,

1 it's tab R-3 92.6. Jordan, could you flip through
2 that material? I'm holding up a Manitoba Victim
3 Impact Statement Guidelines.

4 A The registration guidelines?

5 Q The Victim Impact Statement
6 Guidelines?

7 A I have it here.

8 Q Do you have that?

9 A Yes.

10 Q Were those the actual instructions or
11 guidelines that were given to you, or are you able
12 to say?

13 A This could have been. I remember the
14 yellow paper, but they could have been. I don't
15 recall exactly.

16 Q Were those instructions or guidelines
17 of assistance to you?

18 A To assist me in writing my Victim
19 Impact Statement, yes, but it didn't assist me in
20 putting in there what I wanted to.

21 Q Would one of your criticisms,
22 therefore, be that the guidelines are more
23 exclusionary than anything else? They are telling
24 you all the things you are not to put in?

25 A Yes, they are telling us the stuff

1 that we have to exclude. It doesn't allow you to
2 write everything that you're actually feeling.

3 Q It says that the purpose is to assist
4 you in describing the impact that the crime had
5 has had on you. Do I understand it from your
6 testimony, sir, that the guidelines are actually
7 counter productive to that goal?

8 A Not fully, but they do put
9 restrictions.

10 Q What sort of things were you feeling
11 were missing from your Victim Impact Statement as
12 a result of the guidelines?

13 A There is a lot of -- I don't know how
14 to phrase it, just give me a moment. You can't
15 respond to what was said in the court about
16 something. You can't respond and say how angry
17 you are about that, stuff like that. I mean,
18 there's stuff along the way, getting slapped
19 around for that long, you have a lot of things you
20 want to say that can't go in here.

21 Q You just used the metaphor, "getting
22 slapped around." Is that how it felt to you?

23 A Yes.

24 Q Jordan, was there a benefit, do you
25 think, in your preparing and reading your Victim

1 Impact Statement out loud in court?

2 A I think there is, yes.

3 Q And I don't mean to put you on the
4 spot here, but could you make any suggestions in
5 terms of ways to improve the process of preparing
6 the Victim Impact Statements?

7 A These are to help express yourself,
8 they are to help people understand how you are
9 feeling. If you're putting restrictions on it,
10 you can't -- they don't actually understand how
11 you're feeling. They don't understand why you're
12 feeling that way. I mean, yes, I think it's a
13 good thing, but I just don't think there should be
14 these restrictions on it.

15 Q In conclusion, Jordan, I'd like to ask
16 you some questions now about your overall
17 impressions. Starting first with your impressions
18 with the services that were provided to you by
19 Lesley McCorrister, who I understand is really the
20 only victims' rights worker that you dealt with,
21 can you comment on whether she treated you with
22 respect and courtesy and professionalism?

23 A Absolutely.

24 Q Were there any areas with respect to
25 her role in dealing with the family that could be

1 improved or modified to better address some of the
2 difficulties that you and your family experienced?

3 A Maybe if she was kept more informed,
4 then she could keep us more informed. But, I
5 mean, I didn't really deal with her a whole lot,
6 so -- the contact came through my dad.

7 Q Your father would probably be in the
8 best position to answer that question, would you
9 agree?

10 A Without a doubt.

11 Q Now, dealing with your overall
12 impression with the independent prosecutor,
13 Mr. Minuk. Do you feel as though you and your
14 family were treated with respect, courtesy and
15 professionalism by Mr. Minuk?

16 A I don't believe so.

17 Q In March of 2005, you picked up the
18 telephone, based on the information your father
19 gave you, and you called Lesley McCorrister and
20 told her how concerned you were about the fact
21 that it might take two years. Well, in fact, it
22 took two and a half years. And what was the
23 personal impact or toll that that took on you,
24 Jordan?

25 A It's very draining, and you don't get

1 the opportunity to move on to actually live your
2 life. I mean, even to right now, we still can't
3 fully move on until this is done.

4 Q Can I ask you, Jordan, what hopes do
5 you have, now that we're at this stage in dealing
6 with this matter in this way?

7 A I hope this doesn't have to happen to
8 somebody else.

9 Q What about for you personally?

10 A I can see everybody -- that everybody
11 that screwed this up, everybody that slapped us
12 around during this whole time, that we didn't need
13 that. I hope that it all comes out. I just want
14 to hear the truth of what was actually happening.

15 Q This phase is about victims and
16 victims' rights, and I want to make sure, Jordan,
17 that you've had the full opportunity in the
18 witness box to express what you wanted to express.
19 And if I haven't asked you anything, or if there's
20 anything else that you wanted to say to the
21 Commissioner, feel free to do it.

22 Is there anything we haven't covered?

23 A I guess not.

24 Q Well, again, sir, I wish you the best
25 and I thank you very much for your assistance.

1 You have to remain there, Jordan. There will be
2 some further questions for you.

3 BY MR. ZAZELENCHUK:

4 Q Earlier this year, Jordan, you were
5 living in Calgary?

6 A That's correct.

7 Q And you returned to Winnipeg in March?

8 A That's correct.

9 Q That's when your dad introduced you to
10 me?

11 A That's right.

12 Q And I introduced you to the big box of
13 documents to do with this case?

14 A That's correct.

15 Q You've been reading them from time to
16 time?

17 A Yes, I have.

18 Q And later we got transcripts of the
19 various interviews. You read those?

20 A Yes.

21 Q What didn't I let you read?

22 A I was not allowed to read my family's
23 transcripts, my sister's, my dad's, or my
24 grandparents'.

25 Q And about 10 days ago I gave you a

1 copy of the transcript of your interview?

2 A (Witness nodding).

3 Q What did I tell you, you couldn't do
4 with it?

5 A I was not to show it to anybody else,
6 any of my family.

7 Q Did you show it to any of your family?

8 A No, I didn't.

9 Q Your father gave evidence all day
10 yesterday, most of all day yesterday. Where were
11 you when he gave his evidence?

12 A I was in the family lounge.

13 Q Your sister, your elder sister, Tara,
14 gave evidence this morning. Where were you when
15 she gave her evidence?

16 A I was in the family lounge again.

17 Q Okay. A few points I want to cover
18 with you, Jordan. You visited, or you met with
19 Mr. Minuk in his office three times, and each time
20 with your father; correct?

21 A That's correct, yes.

22 Q How did you get there?

23 A My father drove me.

24 Q I see. And you were rather precise on
25 how long these meetings were. Do they stick in

1 your memory well?

2 A That's right, yes.

3 Q How can you be so sure?

4 A Well, we were parked in a one hour
5 parking zone, and we were always very, we had lots
6 of time left.

7 Q Okay. Do you remember, August 22nd
8 was a very big day. That's the day you read your
9 Victim Impact Statement and the lawyers made all
10 their submissions. And I'm not going to go
11 through that with you, but I want to go through a
12 couple of points on that day with you. I want you
13 to go to August 22nd, before court starts. Okay.
14 Do you recall being told about the conditions of
15 the house arrest that Mr. Harvey-Zenk was going to
16 get? This is before court?

17 A I don't recall being told that, no.

18 Q Okay. Fair enough. Now, I want to
19 take you to the end of court. And you are
20 familiar with the room, it's room 230, it's the
21 big huge room, lots of nice brown wood?

22 A Yes, I am.

23 Q And the clerk says order, and Judge
24 Wyant gets up and leaves the courtroom. Are you
25 there with me?

1 A Yes, I am.

2 Q Okay. Did Judge Wyant go out the same
3 door that you and your family came in?

4 A No, he didn't.

5 Q Okay. Judge Wyant has now left the
6 courtroom. Please tell us what happened?

7 A We wanted to speak with Marty Minuk,
8 so we went over to where you walk in, there's the
9 windows there. We stood beside the windows
10 waiting for him, because he was still up at his
11 table. And then we were asked to leave the
12 courtroom because they were cleaning everybody
13 out.

14 Q Who asked you that?

15 A The sheriff's officer.

16 Q You and your family, did you comply?

17 A Yes.

18 Q Who was in the courtroom when you
19 left?

20 A Marty Minuk, Richard Wolson, Derek
21 Harvey-Zenk, and I believe his wife, and the clerk
22 I think.

23 Q And did anything happen after you and
24 your family left the courtroom?

25 A Yeah. The sheriff's officer that

1 asked us to leave probably popped his head out
2 twice and said, no, they haven't left yet.

3 Q Okay. One more point I want to cover
4 with you, Jordan. It shouldn't take more than
5 three or four minutes.

6 Your mother was killed on
7 February 25th of 2005?

8 A That's correct.

9 Q You were 19 years old at the time?

10 A Yes.

11 Q When did you turn 20?

12 A On February 26th.

13 Q The next day?

14 A Yeah.

15 Q You were a young man. Did you have
16 any career aspirations at that time?

17 A I wanted to be a police officer.

18 Q What had you done to prepare yourself
19 for trying to become a police officer?

20 A I joined the armed forces at 17, I
21 volunteered, kept a clear criminal and driver's
22 record, worked security for a bar for three years.

23 Q When you say you joined the armed
24 forces, was that the reserves or was that full
25 time?

1 A That was reserve forces.

2 Q Did you do anything of relevance in
3 the armed forces that might have assisted you in
4 your ambition?

5 A I was a marksman at the army and I was
6 moved on, I was moving on to my leadership
7 courses.

8 Q Now, how far did you actually move in
9 your ambition to be a police officer?

10 A I was on to the final interview.

11 Q Okay. Well, let's go back a bit. You
12 made an application form?

13 A I made the application form.

14 Q What's the first thing you did?

15 A I did my physical test, the POPAT.

16 Q How did you do?

17 A Best out of everybody that was there.

18 Q Was there any written test?

19 A Yes.

20 Q How did you do on that?

21 A I scored really high.

22 Q Okay. What happened after the written
23 test?

24 A You go into your first interview, and
25 that's kind of a one-on-one.

1 Q And after that?

2 A You go on to the next interview, which
3 is right before the background checks. It's the
4 interview right before the background check.

5 Q And that was completed?

6 A No, that's where I was going on to.

7 Q Okay. When was that scheduled for?

8 A It was supposed to be the end of
9 February.

10 Q The end of February 2005?

11 A That's correct.

12 Q Did you attend?

13 A They actually had, because of the
14 circumstances, moved it back three weeks for me.

15 Q That was considerate. So you attended
16 at the interview in March?

17 A Yes.

18 Q What happened at that interview?

19 A They refused my application.

20 Q Did they tell you why?

21 A No.

22 Q Nobody gave you any reason?

23 A They told me there was a better time.

24 Q Who told you that?

25 A Actually, it was passed through my

1 cousin.

2 Q What's your ethnic background?

3 A I'm a Metis.

4 Q If I might just have a moment, your
5 Honour.

6 MR. ZAZELENCHUK: Thank you, Jordan,
7 those are all the questions I have for you.

8 THE COMMISSIONER: Before the next
9 witness, I just want to ask you, you were told
10 that your application was refused?

11 THE WITNESS: I was actually told in a
12 letter.

13 THE COMMISSIONER: And what was the
14 explanation in the letter?

15 THE WITNESS: They said it was, that
16 the letter was just my -- I wasn't to further
17 proceed with the application process was the only
18 thing there. There was no explanation.

19 THE COMMISSIONER: I'm sorry?

20 THE WITNESS: There was no
21 explanation.

22 THE COMMISSIONER: No explanation?

23 THE WITNESS: No.

24 THE COMMISSIONER: Have you ever heard
25 from anybody to give you any explanation why your

1 application was refused?

2 THE WITNESS: No.

3 THE COMMISSIONER: No questions?

4 MS. BOWLEY: No, Your Honour.

5 THE COMMISSIONER: Thank you.

6 BY MR. MCFETRIDGE:

7 Q Again, Mr. Commissioner, I'm going to
8 be referring to volume R-3 and Volume L, and that
9 will be Exhibit 11 and Exhibit 12 that are in
10 front you have Mr. Taman.

11 Just, first of all, dealing with the
12 Victim Impact Statement and the items that you
13 felt you couldn't speak about. And if I could
14 take you to the Manitoba Victim Impact Statement
15 Guidelines, and that was the brochure you were
16 referred to by Mr. Clifford. The top right-hand
17 corner, it sets out in those guidelines what your
18 statement must not include. Do you see those?

19 A Yeah.

20 Q And the first one is, you're not
21 entitled to comment on the offender's behaviour or
22 character, except to describe how the crime has
23 affected you. Did you want to comment on
24 Mr. Harvey-Zenk's behaviour or character?

25 A Sure.

1 Q Was that something you wanted to do in
2 your Victim Impact Statement?

3 A Maybe at the time, I might have.
4 Right now I couldn't say.

5 Q The second thing you are not supposed
6 to do in the Victim Impact Statement is say what
7 sentence the judge should impose. Did you feel
8 you, as a victim, should be entitled to suggest to
9 the judge what sentence he or she should impose?

10 A No.

11 Q The third item is you are not entitled
12 to complain about how the police, the Crown
13 Attorney, the defence lawyer, or the judge has
14 handled the case. Did you have a concern about
15 not being able to do that?

16 A Yeah, I did.

17 Q In what respect?

18 A Look how everything ended up. I
19 believe I should have the right to comment on
20 that.

21 Q Was that in respect to the police
22 investigation? Did you feel that you should be
23 entitled to comment on that in your statement?

24 A Yes.

25 Q Did you feel you should be entitled to

1 comment on the conduct of the Crown Attorney?

2 A Yes.

3 Q I don't know if you would have any
4 comments, but did you feel you should be entitled
5 to comment about the conduct of the defence
6 counsel. You would have had really no involvement
7 with defence counsel?

8 A Not really, I didn't really know what
9 he's doing. But the rest of it, yeah, I believe I
10 should have a right to comment on that, because
11 that did affect me.

12 Q And then the other item that you're
13 not entitled to, you're not entitled to describe
14 how the crime affected other people. Did you have
15 a concern about that?

16 A About how it affected?

17 Q Other people? Like I take it from
18 that, you wouldn't be entitled to comment on how
19 it affected other members of your family. Is that
20 how you understood that?

21 A Yeah. I mean, I don't really
22 understand that because, I mean, it should be
23 about yourself.

24 Q Right.

25 A I understand that.

1 Q Did you have a concern with that
2 requirement?

3 A No.

4 Q And then there's also an indication
5 there you're not supposed to include photographs
6 or medical reports, but those could be given to
7 the Crown Attorney to be dealt with. Did you have
8 concern about that item?

9 A Not really, no.

10 Q Okay. If I could just take you over,
11 just further on in that document there is an
12 impact victim statement form. And the following
13 1, 2 pages, it sets out areas on which you can
14 comment on, things you can comment on. Okay. Can
15 you read those? Did you think there should be
16 additional items in there that should have been
17 included, that you couldn't comment on those, or
18 that you could comment on? Do you have those?

19 A Yes. Sorry, one second.

20 Q For example, you could comment upon
21 the emotional impact, your emotions, your
22 feelings, your reactions, any change in your
23 lifestyle or activities as a result of this, how
24 your relationship with your partner, spouse,
25 friends and family could have changed, any

1 counselling or therapy that was provided to you,
2 those are all things that you could comment on.

3 A Also I can't comment on how emotional
4 I am about how the police handled the
5 investigation --

6 Q I understand.

7 A -- or anything like that. So a lot of
8 those things are being left out because all these
9 points, you can attribute to that too.

10 Q Okay. And then there's a section
11 there dealing with the physical impact, you're
12 entitled to comment on the pain, the
13 hospitalization that you may or may not undergo
14 because of this, any treatment that you may be
15 taking as a result, any physical matters, and
16 those weren't really impacting you, any further
17 treatment you expected, any disabilities. Those
18 would be all relevant things that should go into
19 an impact statement, you would agree; correct?

20 A Yes.

21 Q And then there was also a component
22 dealing with the financial impact, how this may
23 have impacted on your ability to enjoy property if
24 it had been destroyed, whether or not there was
25 insurance coverage, those type of things,

1 financial loss, those type of things. Again,
2 those may be relevant to your circumstances if
3 they applied; correct?

4 A It is not really something you want to
5 go into, but yeah.

6 Q Not necessarily applied to you, but if
7 they were important, you could to speak to those,
8 is that correct?

9 A Yes. Those aren't really -- those
10 don't really impact me.

11 Q That those may be valid to some
12 victims if in fact those were some issues that
13 they may have to deal with, correct?

14 A Yes.

15 Q This was an accident that involved a
16 motor vehicle accident. And I understand that
17 MPI, because they are a public insurance program,
18 could be involved. Did you have any contact with
19 officials of the Manitoba Public Insurance
20 Corporation as to what benefits could be available
21 to the family?

22 A I haven't personally.

23 Q Okay. I want to take you back, if I
24 could to Exhibit 11?

25 A We're finished with this?

1 Q Yes. Exhibit 11, Mr. Commissioner,
2 again tab, I believe it's L, section 4. If I
3 could take you to page 1870 of that document,
4 Mr. Taman?

5 THE COMMISSIONER: Thank you.

6 BY MR. MCFETRIDGE:

7 Q And this was the meeting that took
8 place at Mr. Minuk's office on May 3, 2006; is
9 that correct?

10 A Yes.

11 Q One of the first issues, and you;
12 talked briefly about this was, there was a concern
13 raised about talking with your grandparents prior
14 to talking with your father?

15 A Yes.

16 Q And that issue was discussed with
17 Mr. Minuk, and he explained to you what was going
18 on with respect to that. And this note is made by
19 Ms. McCorrister, who was at that meeting as I
20 understand it; correct?

21 A Yeah.

22 Q And she indicates that what
23 Mr. Minuk's explanation was, it seemed to satisfy
24 both Robert, being your father, and you. Is that
25 a correct statement by her? That was her

1 impression?

2 A I can't say that. I mean, I was still
3 uncomfortable with it, but there is not much we
4 can do at the time. It is already been done,
5 right.

6 Q And then Marty, Mr. Minuk went on to
7 explain that there would be a Preliminary to
8 determine committal to trial. He indicated what
9 he expected to happen at the Preliminary. And
10 then it appears that there was some discussion
11 about sentencing at this meeting. Was that
12 something that was brought up by you, or your
13 father, as to what a potential sentence could be?

14 A I don't recall.

15 Q And it appears that Mr. Minuk
16 indicated, he told you that sentencing was not
17 consistent, and that quite often any jail time was
18 spent as house arrest. So, at that time when you
19 were still talking about all the charges that were
20 still on the table, all the alcohol-related
21 charges and the dangerous driving cause death
22 charges, he was still indicating to you that
23 possibly, even with those charges, that at the end
24 of the day the sentence that you could be looking
25 at would only be house arrest if, in fact,

1 Mr. Zenk was convicted?

2 A I don't remember that.

3 Q You don't recall that?

4 A No.

5 Q Do you recall expressing -- you don't
6 recall sentencing being mentioned at all at that
7 early meeting?

8 A I don't think so.

9 Q He also indicated to you that trial
10 wouldn't occur for over a year. He was alerting
11 you of those circumstances, that this would be a
12 long process, the court process?

13 A (Witness nodding).

14 Q And he told you at that time there
15 always would be pitfalls to overcome in any case
16 and the Preliminary would show the weaknesses that
17 would happen; correct?

18 A He may have.

19 Q And then there's a comment there that
20 Robert, and this was your father, wanted to know
21 about the Victim Impact Statement. And then
22 Mr. Minuk explained that they only were read at
23 the sentencing. Was there any discussion as to
24 what should be going in an victim impact statement
25 at that time, or if you should start preparing

1 things in preparation for that day, so you could
2 remember today when you may be not talking about
3 those things two years down the road. Was there
4 any discussion about that?

5 A I don't believe at that time there
6 were, not with Mr. Minuk, no.

7 Q So when Ms. McCorrister says that your
8 father wanted to know about Victim Impact
9 Statements, do you recall, is that a correct
10 statement?

11 A He may have asked the question but I
12 don't remember what the answer was.

13 Q Now, if I could take you over then to
14 page 1877, and this was a note that appears to
15 have been prepared by Ms. McCorrister in respect
16 to the May 29th, 2006 meeting. I take it from
17 that that she was also at that meeting. You don't
18 recall that?

19 A I don't remember if she was there or
20 not. I don't believe so.

21 Q At least in her note she indicates
22 that Mr. Minuk met with you, you and your father,
23 to advise that a Preliminary would not be
24 happening in June as expected. He explained to
25 Robert that he had the investigating officers out

1 doing more interviews, as he had some questions
2 that needed answers. Mr. Minuk acknowledged that
3 Robert would want the Prelim not to be delayed,
4 but he needed to know that it was more important
5 to have all facts, relevant or not. Robert agreed
6 that he was disappointed it wasn't getting
7 started, as he and the children were geared up for
8 it to start, but he agreed it was better to have a
9 complete investigation.

10 So your father was on the side with
11 the delay that was going to take place; correct?

12 A If it was going to help, yes, he was.

13 Q Now, it also appears that there is
14 also a concern, or Mr. Minuk, I guess, even
15 brought up the issue that he had met with your
16 in-laws again prior to that meeting. Do you
17 recall that?

18 A I don't remember that.

19 Q Okay. But do you recall him assuring
20 you that what he was talking to them about was
21 more just, if I could call them general issues
22 about the justice system, and that he was hearing
23 the in-laws complaints. And to use
24 Ms. McCorrister's words, the in-laws were
25 basically just railing about the justice system

1 and Mr. Minuk was hearing them out. Was that
2 explained to you?

3 A I don't remember but --

4 Q You don't recall that?

5 I just want to take you to July 17th,
6 and this is the date that when Mr. Minuk was
7 coming out of the van that was dropping him off at
8 the courthouse, and you were going in for the
9 start of the court proceeding, and he informed you
10 that there would be a guilty plea that morning.
11 Is that correct?

12 A I believe so, yes.

13 Q And at that time, did he indicate, or
14 you may have asked him or some member of the
15 family may have asked, well, what happened or what
16 caused this? And do you recall him saying that
17 Mr. Zenk just was prepared to accept the
18 responsibility for the dangerous driving, or words
19 to that effect, that he wanted to plead guilty?
20 Was that brought up?

21 A I think he may have said that it may
22 be playing on his conscience. But following up
23 with that, he also said that he could have got him
24 off those charges.

25 Q I understand that. But at least from

1 getting his perspective of what Mr. Zenk was
2 saying, that either it was playing on his
3 conscience, he wanted to plead guilty, and as a
4 result he was prepared to plead guilty to a charge
5 that Mr. Minuk felt that even he possibly could
6 get out of, but he was prepared to plead guilty to
7 that charge?

8 A Okay.

9 Q Is that sort of what he was telling
10 you?

11 A I don't understand the question.

12 Q Well, he was trying to reflect why
13 Mr. Zenk would plead to a charge that he, in fact,
14 felt h May not be able to even get a conviction
15 on, and why that may be occurring?

16 A He said that he could get a conviction
17 on this.

18 Q Yes. Mr. Minuk felt fairly certain he
19 would get a conviction on the dangerous driving?

20 A Yes.

21 Q But, for whatever reason, Mr. Zenk is
22 prepared to plead guilty to that charge? Either
23 because of conscience or whatever --

24 A For some reason he was.

25 Q Pardon me?

1 A For some reason he was.

2 Q And he said that may be because it was
3 preying on his conscience, that he wanted this off
4 and he was prepared to plead guilty to that
5 charge?

6 A Yes.

7 Q Did that give you any comfort, that he
8 was prepared to do that?

9 A No, not really.

10 Q The fact that, in fact, you would not
11 have to go through a full trial, did that not give
12 you any comfort?

13 A In a way, but in a way no. Because
14 now he had stayed everything, all the other
15 charges that are very important to us, and only
16 left him with the one. If he didn't, if he did
17 not take those off the table, then he wouldn't be
18 pleading guilty.

19 Q Did Mr. Minuk ever say to you that the
20 only reason he pled guilty was because the other
21 charges were being taken off the table?

22 A Never.

23 Q In fact, Mr. Minuk had told you prior
24 to that date that he himself was going to take
25 those other charges off the table, because he was

1 not able to prove them?

2 A He said he was staying the charges.

3 Q Yes. Because he would not be able to
4 prove them in court?

5 A Yes.

6 Q Now, there was a comment about your
7 sister's testimony being an ace in the hole?

8 A Ace in the sleeve.

9 Q Ace in the sleeve, sorry. And you're
10 not going to be called further to give evidence in
11 this Inquiry.

12 A No.

13 Q And I want to ask, Mr. Commissioner, I
14 want to ask Mr. Taman -- I don't know perhaps if
15 his sister should leave the Inquiry, because I
16 want to ask him if, in fact, he ever was told by
17 his sisters what in fact they saw at the scene
18 that may have been of help to this. I mean, if
19 he's not being called again, I think we should
20 hear what, if anything, he may have been told by
21 his sisters as to what they saw on that day, on
22 February 25th, 2005?

23 THE COMMISSIONER: Do you want her to
24 leave?

25 MR. MCFETRIDGE: I think, just so they

1 are not hearing what his testimony would be.

2 MR. ZAZELENCHUK: I have no objection,
3 Mr. Commissioner.

4 THE COMMISSIONER: Do you mind if I
5 make the ruling, Mr. Zazelenchuk?

6 MR. ZAZELENCHUK: No disrespect, Your
7 Honour. I was going to voluntarily comply to save
8 Your Honour the grey matter of having to decide.
9 So I apologize if I did that.

10 THE COMMISSIONER: Thank you. She's
11 outside. You can ask the question.

12 BY MR. MCFETRIDGE:

13 Q Did you ever talk to your sisters
14 about what, in fact, they may have seen or heard
15 or observed --

16 A Not a lot, no.

17 Q -- on that particular day?

18 A Not a lot, no, because I wasn't there
19 and I didn't want to be there.

20 Q So you never did ask them what in fact
21 they may have seen or observed when they were
22 sitting in the back of Constable Graham's police
23 vehicle?

24 A In conversation, we may have, but I
25 didn't want to know what happened there.

1 Q So you would not be able to tell us
2 what in fact they did or did not see on that
3 particular day?

4 A No, I can't.

5 MR. MCFETRIDGE: Those are all the
6 questions I have, thank you.

7 THE COMMISSIONER: You can bring her
8 back in if she'd like to come back in.

9 BY MR. GREEN:

10 Q Mr. Taman, my name is Mike Green. I'm
11 Marty Minuk's lawyer, and I don't think we'll be
12 very long, which I am sure you'll be pleased to
13 hear.

14 As I understand your evidence, sir,
15 there were three meetings at Marty Minuk's office,
16 and you accompanied your father on each of those,
17 at each of those three meetings; is that correct?

18 A That's correct.

19 Q And we know that those meetings were
20 May 3, 2006, May 29th, 2006 and July 13th, 2007;
21 correct?

22 A That's right.

23 Q As I understand it, at the first
24 meeting, that is the meeting of May 3rd, there
25 were a number of items discussed. But one of the

1 matters that came up was the fact that Mr. Minuk
2 had met with Mr. and Mrs. Sveinson prior to
3 meeting with you folks. Is that correct?

4 A That's correct.

5 Q And your dad made it quite plain that
6 he wasn't happy with Mr. Minuk that that had
7 occurred; is that fair?

8 A Very fair.

9 Q And another thing that occurred during
10 that meeting was that Mr. Minuk told you that it
11 was very unlikely that Mr. Harvey-Zenk would be
12 convicted of criminal negligence?

13 A That's correct.

14 Q That's correct? You have to speak up
15 a little bit?

16 A Yes.

17 Q Then you had a meeting about three
18 weeks later, May 29th, at which time you were told
19 that the Preliminary Hearing would have to be
20 adjourned; correct?

21 A That's correct.

22 Q And you told the Commissioner that
23 Mr. Minuk told you that the East St. Paul Police
24 Department had screwed up. Was that the exact
25 phrase that he used?

1 A I don't remember the exact phrase that
2 he used. I just remember him saying that there
3 was some things that he had to look into.

4 Q Yes, but you mentioned in your
5 evidence to the Commissioner that you -- that the
6 police had screwed up. That's what you said, did
7 you not?

8 A I don't remember how on which date he
9 told us that they screwed up.

10 Q Pardon?

11 A I don't remember on which date he used
12 those exact words.

13 Q No, but you were aware that there were
14 problems with the investigation --

15 A Yes.

16 Q -- that the East St. Paul Police had
17 conducted?

18 A Yes.

19 Q And that is why there was going to be
20 an adjournment?

21 A Yes.

22 Q And ultimately you and your father
23 were okay with that. Is that fair?

24 A If it was going to help, then yes.

25 Q And then you had the meeting of

1 July 13th, 2007. And that was just among you,
2 your dad, and Mr. Minuk, was it?

3 A That's correct.

4 Q You were the only people present at
5 that meeting?

6 A That's correct.

7 Q And I'm going to suggest to you, sir,
8 that Mr. Minuk told you that there had been, that
9 there was a possibility that Mr. Harvey-Zenk might
10 plead to the one count, and that he was discussing
11 that with Mr. Wolson. Do you recall that coming
12 up during the meeting?

13 A No, he never said that to me.

14 Q You are denying that emphatically?

15 A Yes.

16 Q Okay. So it's your evidence that
17 Mr. Minuk simply said to you, I'm staying three of
18 the four charges and we're proceeding with the
19 dangerous driving?

20 A That's correct.

21 Q And did the -- the topic of sentencing
22 came up during that meeting, did it?

23 A I believe so, yes.

24 Q Yes. You told us that that was the
25 meeting that he flipped open his binder and he

1 went through a number of different reported
2 decisions? Yes?

3 A Yes.

4 Q And do you recall that some of those
5 decisions involved conditional sentences?

6 A I can't recall if they did or not.

7 Q Okay. Did you know what a conditional
8 sentence was at that time?

9 A Not really, no. I had never
10 experienced this.

11 Q Was that discussed with Mr. Minuk at
12 the meeting, what a conditional sentence was?

13 A I didn't understand a lot of words in
14 that binder, but all I understood was that those
15 were some of the sentences that were handed out.

16 Q But you understood that a conditional
17 sentence was that someone would be sentenced to
18 jail, but they could serve the time under
19 conditions in the community?

20 A No, I just said that I didn't
21 understand that.

22 Q You didn't understand it?

23 A No, I didn't.

24 Q But do you recall that phrase coming
25 up during that meeting, when you were viewing the

1 different cases, conditional sentence?

2 A I don't recall if it was or not.

3 Q You told us that you were in court a
4 total of five times?

5 A I believe so, yes.

6 Q And day one was July 16?

7 A Yes.

8 Q And day two was July 17?

9 A Yes.

10 Q And you told us, sir, that it was the
11 morning of the 17th that Mr. Minuk told you that
12 Harvey-Zenk was going to be pleading guilty to the
13 dangerous driving charge. Is that correct?

14 A I believe so.

15 Q I'm going to suggest to you that it
16 was the day before, the morning of the 16th. Is
17 that possible?

18 A I don't recall meeting with him on the
19 16th at all.

20 Q I asked you if it was possible?

21 A It could be possible.

22 Q Do you recall that you were asked some
23 questions on March 27, 2008, by Mr. Clifford?

24 A Yes, I do.

25 Q There was a fairly extensive

1 interview --

2 A Yes.

3 Q -- where you gave evidence under oath?

4 A Um-hum.

5 Q And at page 28, Mr. Commissioner, of

6 that proceeding --

7 THE COMMISSIONER: I don't have the

8 proceeding in front of me.

9 MR. GREEN: I'll read it to you.

10 THE COMMISSIONER: Page 28?

11 MR. GREEN: Yes.

12 BY MR. GREEN:

13 Q Do you recall being asked this

14 question and giving this answer, sir:

15 "Q So your impression from July 13th

16 was that a number of charges were

17 being stayed or dropped, but the case

18 was preceding on the dangerous

19 allegation?

20 A Yes, that's from what I

21 understood. And then he said outside

22 of the court that he was pleading

23 guilty to dangerous driving, that he

24 was putting in a guilty plea of

25 dangerous driving.

1 Q And when did you learn that

2 A That was the day of court. I
3 think it was the first day of court."

4 A That could have been. Like I said,
5 I'm not sure on whether it was the 16th or 17th.
6 It could have been either one.

7 Q So it may well have been the first
8 day?

9 A It may well have been.

10 Q And Mr. Minuk, when he told you that
11 Harvey-Zenk was prepared to plead guilty to
12 dangerous driving, expressed surprise that he was
13 doing that. Is that fair?

14 A Yes.

15 Q And in fact, he went on to make
16 remarks that he didn't know why he would plead to
17 that charge, and that if he was his lawyer that he
18 felt that he could get him off that charge?

19 A Correct.

20 Q That's correct? You told us that at
21 the meeting, sir, of the 13th, that at one point
22 the remark was made that there was a danger that
23 Mr. Zenk might walk with a traffic offence. Did
24 that occur near the end of the meeting, or the
25 beginning of the meeting? Are you able to help us

1 with that?

2 A I'm not able to help you with that. I
3 don't recall.

4 Q But that remark was made that there
5 was a danger that he could walk with a traffic
6 ticket?

7 A Yes. That's if all the other charges
8 were put on the table and he'd proceed with all of
9 them, is what he said.

10 Q But regardless of that, that was
11 something that was said, that there was a danger
12 that he could walk with a traffic offence?

13 A Yes.

14 Q Sir, you told my friend that -- and
15 I'm paraphrasing -- but that your overall sense of
16 frustration about this whole justice system, that
17 you are tremendously frustrated with the whole
18 process?

19 A Yeah.

20 Q That's true?

21 A Yes.

22 Q And you said that the reason you are
23 frustrated is that your mother was killed by an
24 impaired driver and that never came out?

25 A Yes.

1 Q And Mr. Minuk told you a number of
2 times that he wasn't able to prove that
3 Mr. Harvey-Zenk was impaired at the time of the
4 accident. True?

5 A Yes.

6 Q Thank you.

7 MR. CLIFFORD: Mr. Commissioner, I
8 have two questions arising from Mr. McFetridge's
9 examination.

10 THE COMMISSIONER: Yes, go ahead.

11 RE-EXAMINATION BY MR. CLIFFORD:

12 Q And they relate to Exhibit 11, that
13 would be Volume L. And I'll ask you, Jordan, to
14 refer to page 1877, and that's the May 29th, 2006
15 meeting --

16 A Yes.

17 Q -- at the office of Mr. Minuk. And
18 the two points I want to clarify with you, sir, it
19 was suggested that -- I apologize,
20 Mr. Commissioner, I have referred the witness to
21 the wrong page. I'll want to get that corrected,
22 otherwise we're going to have a tough time here.
23 Page 1870, please, Jordan?

24 THE COMMISSIONER: 1870.

25 MR. CLIFFORD: Yes, and I apologize

1 for that.

2 BY MR. CLIFFORD:

3 Q Same exhibit, page 1870, May 3rd,
4 first meeting, and Mr. McFetridge put a question
5 to you and pointed you to the fact that an
6 explanation given to your father seemed to satisfy
7 you and he. That's referred to in the statement
8 as:

9 "This seemed to satisfy Robert and his
10 son."

11 Do I understand correctly that what this is
12 reflecting is the fact that Mr. Minuk told your
13 father that the in-laws were in and he discussed
14 areas other than the case with them?

15 A Yes, he said he didn't discuss any of
16 the case with them.

17 Q And that was what seemed to satisfy
18 you and your dad?

19 A Yes.

20 Q Does that clarify that point, that
21 was -- what satisfied you was the explanation that
22 Victoria and your granddad --

23 A Yes.

24 Q -- Svein --

25 A Yes.

1 Q -- were communicated with but it
2 didn't relate to the details of the case?

3 A Yes.

4 Q All right. Now, one other area that
5 was put to you by Mr. McFetridge, and I want to
6 get it clarified, is that it's indicated in this
7 consultation note, prepared by Lesley McCorrister,
8 that Mr. Minuk told them that there were always
9 pitfalls to overcome in any case, and that a
10 Prelim would show any weaknesses. What's
11 indicated in the log is that he said to you
12 what's -- that there were always pitfalls to
13 overcome in any case and that a Prelim would show
14 any weaknesses or strengths in the case? Do you
15 recall that?

16 A It may have been, but I don't remember
17 that clearly.

18 Q All right.

19 MR. CLIFFORD: Those are the questions
20 I have in redirect, Mr. Commissioner, thank you.

21 THE COMMISSIONER: Thank you very
22 much.

23 (Witness aside).

24 THE COMMISSIONER: We have 11 minutes
25 to go before we are required to evacuate this

1 room.

2 MR. CLIFFORD: Mr. Commissioner, we
3 received notice from Mr. Giasson, our executive
4 administrative officer, that we could remain here
5 until 2:00 o'clock, at the very least.

6 THE COMMISSIONER: He's at the back of
7 the room and I haven't seen a nod, I want to see
8 it from him. All right. Well, if that's so,
9 let's take a short break, ten minutes. Is that
10 all right with counsel? Ten minutes and then
11 we'll come back and we'll start with the next one.

12 THE CLERK: All rise. This Commission
13 of Inquiry will take a ten minute recess.

14 (Inquiry recessed at 12:50 and
15 reconvened at 1:01 p.m.)

16 THE CLERK: All rise. This Commission
17 of Inquiry is reopened.

18 MR. CLIFFORD: Mr. Commissioner, the
19 next witness is Kristin Taman.

20 THE CLERK: Just remain standing for a
21 moment, if you would. Will you swear an oath on
22 the Bible or affirm.

23 THE WITNESS: Bible.

24 KRISTIN TAMAN, having first been duly
25 sworn testified as follows:

1 BY MR. CLIFFORD:

2 Q Kristin, we know that you are Crystal
3 and Robert's middle child. And can you tell us
4 how old you are?

5 A I am 24.

6 Q And Kristin, as with your brother and
7 sister, I want to express my sympathy for your
8 loss and suffering, and also to publicly
9 acknowledge that your being here today and the
10 fact that you are testifying is a very emotionally
11 difficult thing for you to do. And I want to
12 thank you for assisting the Commission.

13 If you could bring your mind back to
14 the time when you were leaving the Concordia
15 Hospital, you had been there with your family, and
16 the Commission has heard about the tragic morning
17 that your family experienced in receiving the news
18 of the loss of your mother.

19 When you got back to your
20 grandparents' place, I understand that the family
21 was very eager to learn more about the details of
22 the accident in terms of what happened, who was
23 responsible for what, what actually took place
24 with the vehicles, how many drivers were involved,
25 et cetera. And as a result of that pursuit for

1 information, Kristin, did you ever have a
2 conversation with, or be party to a conversation
3 with your cousin, Cecil Sveinson?

4 A Yes, I did.

5 Q If you could, please, explain, in as
6 much detail as you can, what was said during that
7 conversation?

8 A He came over to our grandparents' and
9 he sat with us in the living-room, and he told us
10 that the man who hit my mom's car was a police
11 officer and that he had apparently been drinking.

12 Q And did you speak to your cousin about
13 these things?

14 A Well, it was -- all of us were
15 involved in the conversation.

16 Q And was this the day that you went
17 back went to your grandparents' place from the
18 hospital?

19 A Yes.

20 Q I'd like you now to move to another
21 occasion where you and your family communicated
22 with police officers, and I'm referring to the
23 time that Officer Bakema and Officer Carter
24 attended your other grandparents' residence. Do
25 you recall that taking place?

1 A Yes.

2 Q And who was present at that time?

3 A From what I can recall, it was myself,
4 my dad and Tara, Jordan, my grandparents, and I'm
5 not sure if my aunt was there or not.

6 Q What did the police officers, Bakema
7 and Carter, tell you and your family when they
8 arrived?

9 A They started off by saying how sorry
10 they were, and that they were there to let us know
11 what charges were being laid before it was
12 released to the press.

13 Q Did they give you any expression or
14 comment on the strength of their case?

15 A Chief Bakema had said that because
16 Harvey-Zenk refused the breathalyzer, that is
17 automatic guilt.

18 Q Did they make any comments to the
19 family with respect to what you might anticipate
20 by way of a punishment or a sentence for what
21 occurred?

22 A I believe my dad was asking him what
23 the penalties for each charge were. And he -- and
24 Bakema had said that he should receive five years
25 minimum.

1 Q Five years minimum?

2 A Is what I recall, yes.

3 Q Was the family trying to get details
4 from Officers Bakema and Carter about the
5 circumstances of the accident?

6 A Yeah. We were trying to get any
7 information, because we weren't being given
8 anything.

9 Q And were you getting anywhere in the
10 quest for information about the circumstances or
11 the details behind how your mother was killed?

12 A No.

13 Q Did the police raise the issue with
14 your family about the Victims' Bill of Rights, or
15 Victims' Rights Services?

16 A Not that I recall, no.

17 Q As the case progressed, I understand,
18 and we have heard in testimony that your family
19 was given assistance by a victims rights worker
20 and her name was Lesley McCorrister?

21 A Yes.

22 Q Did you come to know her?

23 A Yes.

24 Q And I understand that your father
25 acted as the go between --

1 A Yes.

2 Q -- from the children to

3 Mrs. McCorrister?

4 A Um-hum.

5 Q And that in addition, your brother had

6 a little more involvement because he was attending

7 all of the meetings with the Crown prosecutor?

8 A Yes.

9 Q Fair to say, Kristin, that you

10 received the vast majority of your information

11 through your dad or --

12 A Yes.

13 Q -- through what you were being told by

14 individuals as the case progressed, when you

15 actually started to go to court?

16 A Yes.

17 Q Everybody grieves in their own way,

18 and some people want to know as much as they can

19 about things, and I understand that other

20 individuals may not want to pursue it and follow

21 up with people like Ms. McCorrister. Were you the

22 sort of person that would want to keep in close

23 contact with her, or were you the type of person

24 who might be more comfortable with your father

25 handling that for you?

1 A My father.

2 Q Generally speaking, in your dealings
3 with Lesley McCorrister, did you ever have any
4 difficulty with her?

5 A No.

6 Q Did she present to you as somebody who
7 was polite and genuinely concerned about what you
8 were experiencing, Kristin?

9 A Yes.

10 Q Did she help you out on those days
11 that you did have contact with her?

12 A Yes, she did.

13 Q Did you personally have any concerns
14 in the manner in which she did her job, as far as
15 you were concerned?

16 A Well, I wasn't really aware of what
17 her job entailed. I just knew that she was the
18 person, basically, to help us. So in that respect
19 she did her job, I guess.

20 Q All right. I'd like you to take your
21 mind back now to the court appearances that took
22 place and your attendances at court. We
23 understand that you would have started attending
24 court in July of 2007. And this was the time when
25 the Preliminary Hearing was supposed to commence,

1 and then what took place in July was that a plea
2 of guilt was entered to the dangerous driving
3 causing death. Had you gone to court prior to
4 that occasion?

5 A No.

6 Q So the first day that you went to
7 court, we understand, is July 16th, 2007?

8 A Yes.

9 Q Do you recall going? It was a small
10 courtroom in the new building, and that day the
11 court was advised that the witness list in the
12 case of Harvey-Zenk was pared down from 32
13 witnesses to 12 witnesses, and Mr. Minuk and
14 Mr. Wolson were asking that the matter be
15 adjourned to the next day, before Chief Justice
16 Wyant?

17 A Yes.

18 Q Did you know what was going to be
19 taking place in court on that day, Kristin?

20 A That was actually the first day that I
21 met Lesley, and she had explained to us that that
22 courtroom was like a clearing house, they just
23 went in there and got reassigned to other
24 courtrooms.

25 Q Where did you meet Lesley? Did you go

1 to her office?

2 A Yes.

3 Q Did you spend much time with her
4 before court commenced?

5 A Not much time, no, I don't think so.

6 Q So she told you that that particular
7 courtroom you were going to on July 16th was, in
8 your words, a clearing house?

9 A Yes.

10 Q And what happened from there?

11 A After we spoke with Lesley?

12 Q Yes?

13 A We went back outside.

14 Q Did she take you to the courtroom?

15 A Yeah, I think she took us to show us
16 where it was, and I'm not sure if she -- I think
17 she took us in there to just look at it and
18 everything.

19 Q And on July 16th, the day when the
20 case was in the courtroom, or the clearing house,
21 the matter was adjourned. It was a very brief
22 adjournment to the next day?

23 A Um-hum.

24 Q Were you actually sitting in the
25 courtroom for that?

1 A Yes.

2 Q Before going into the courtroom, you
3 have told us that you met with Mrs. McCorrister.
4 Did you meet with Mr. Minuk, or did the family
5 meet with Mr. Minuk?

6 A Yes, that would have been outside.

7 Q And what was happening outside?

8 A We were just having a smoke, waiting
9 for everything to start.

10 Q And what can you tell us about your
11 conversation or the family's conversation with
12 Mr. Minuk?

13 A I don't really remember any of the
14 conversation. I just remember being introduced to
15 him that day.

16 Q Take your mind then to the second day,
17 July 17th. We understand, again, you are in a
18 small courtroom, it's in the new building. The
19 court proceeding now, Kristin, is before Chief
20 Justice Wyant. Were you present in the morning
21 for any conversations that occurred between
22 Mr. Minuk and your father that day?

23 A Yes.

24 Q And could you describe those
25 communications, please?

1 A We met him outside the courthouse,
2 again, and he had told us that Harvey-Zenk was
3 pleading guilty to the one charge. And he said
4 that he must have a conscience, because if he was
5 his lawyer, he could get him off on all charges.

6 Q Do you recall anything else that was
7 said?

8 A No, I don't recall.

9 Q What was the family's reaction to what
10 Mr. Minuk said about Derek Harvey-Zenk pleading
11 guilty and what he would do if he was the defence
12 lawyer?

13 A Well, we weren't happy, that's for
14 sure.

15 Q Did you know what would be happening
16 to the other charges?

17 A They were being stayed.

18 Q And when you say the family was not
19 happy, what was it in your understanding, Kristin,
20 that made the family unhappy?

21 A Do you mean why I was unhappy?

22 Q Yeah?

23 A Well, he was pleading guilty to one
24 charge, but, in my view, there were other charges
25 that went along with that that he could have also

1 been found guilty on.

2 Q Did you express that concern that you
3 had to Mr. Minuk?

4 A I don't recall any actual
5 conversations, but I'm sure that I did at one
6 point or another.

7 Q Well, on your second court appearance,
8 July 17th, when, as you have told us, Mr. Minuk
9 told the family that Harvey-Zenk was going to be
10 pleading guilty to that charge, the other charges
11 were being stayed, did your father have any
12 reaction that you can recall and describe for us?

13 A I can't recall.

14 Q How long do you think the conversation
15 was with Mr. Minuk that took place on that day,
16 outside the courtroom?

17 A It couldn't have been long, maybe five
18 minutes. He usually showed up right before court
19 would start, so he didn't have much time.

20 Q Did you have a further opportunity
21 that day to meet with Mr. Minuk, either during a
22 recess or after court?

23 A I think we met with him after court.

24 Q And are you able to recall what was
25 being discussed in that meeting?

1 A I can't remember.

2 Q Kristin, let's move to the third day
3 that you went to court. And we understand that to
4 be August 22nd, 2007. And I can assist you in
5 putting this in reference, this of course was a
6 special day because it was your mother's birthday.
7 And in addition, you read out loud in court your
8 Victim Impact Statement. Do you remember that?

9 A Yes.

10 Q And the day that you read the Victim
11 Impact Statement, there were also submissions or
12 arguments that were being made by the lawyers, to
13 Chief Judge Wyant, about what the appropriate
14 sentence would be. And there was a discussion
15 about the appropriate sentence being a conditional
16 sentence.

17 Now, before court started that day, do
18 you recall whether there were any communications
19 between Mr. Minuk and members of your family?

20 A Yes.

21 Q And what can you tell the Commission
22 about those communications?

23 A We met with him in the hallway and --
24 I'm sorry, I just went blank for a second there.

25 Q Kristin, let's just take it

1 step-by-step, okay, little steps at a time.
2 August 22nd, the day you read your Victim Impact
3 Statement, you know that that day in court, and
4 it's no secret to anybody here, the discussion in
5 court was about the conditional sentence, the
6 joint submission. And you had a meeting between
7 Mr. Minuk and members of your family. Just bring
8 your mind back to that point?

9 A He had told us, Mr. Minuk had told us
10 that it was going to be a joint recommendation for
11 two years less a day, and he showed us his notes
12 on what, I guess, the other conditions would be as
13 well.

14 Q Now, I'll just stop you there. You
15 are saying "us." Who do you mean by that? He
16 showed us the note?

17 A Myself, my dad, my brother, and my
18 sister.

19 Q Okay. Carry on from there. He showed
20 you these conditions?

21 A And my dad asked him if he could put
22 anywhere on there that the family didn't agree
23 with it.

24 Q Do you recall what Mr. Minuk said in
25 response to your father's request?

1 A He said no.

2 Q Then what happened?

3 A We went into the courtroom, I believe.

4 Well, we went to try and find the courtroom.

5 Q Did you have, or do you recall whether
6 your family had a further opportunity that day to
7 meet with Mr. Minuk or to ask anybody any further
8 questions?

9 A Yes, after everything was done.

10 Q After the court proceedings?

11 A Yes.

12 Q Is that what you're referring to?

13 A Yes.

14 Q Okay. And who did the family meet
15 with?

16 A Mr. Minuk.

17 Q And what issues were raised?

18 A I don't remember the whole
19 conversation. I just remember that my dad was
20 angry about what had happened in the courtroom.

21 Q Do you know what he was angry about?

22 A I'm not sure if it was just the joint
23 recommendation or if it was other things that had
24 taken place.

25 Q All right. Let's move forward in time

1 from August 22nd, 2007 to September 12th, 2007.
2 And to put that in context for you, this was the
3 day where we have learned that Chief Justice Wyant
4 asked the lawyers to come back because he had some
5 concerns about the joint recommendation for
6 sentence. And there were a lot of questions being
7 asked by the judge in court that day.

8 Do you recall being there, Kristin?

9 A Yes.

10 Q Do you recall that day?

11 A Yes.

12 Q Now, did your family have the
13 opportunity to speak to Mr. Minuk, outside the
14 courtroom, before court started on September 12th?

15 A I don't remember. I don't think so,
16 but I'm not sure.

17 Q Kristin, do you recall, in those court
18 proceedings, that one of the issues that was
19 troubling Chief Justice Wyant was the fact about
20 alcohol consumption, and there were questions
21 being put to Mr. Minuk about whether the Crown was
22 going to prove the fact that there was alcohol
23 consumption?

24 A (Witness nodding).

25 Q And you're nodding your head in the

1 affirmative. Is that the case, do you recall --

2 A Yes, I do.

3 Q -- the judge putting those questions
4 to both lawyers, in fact?

5 A Yes.

6 Q Do you recall there being a recess so
7 that Mr. Minuk could take some time to further
8 consider the transcript and submissions, and he
9 was going to come back and tell the judge whether
10 he would provide evidence on that factor?

11 A Yes.

12 Q During that recess, did you leave the
13 courtroom?

14 A No, I did not.

15 Q Do you know whether anybody else in
16 your family left the courtroom?

17 A No, they didn't.

18 Q Did Mr. Minuk communicate with the
19 family?

20 A Yes, he did.

21 Q What can you tell the Commission about
22 what was said by anybody?

23 A He came over to the banister that they
24 have there, and he leaned over and he said, I just
25 have to go to the washroom.

1 Q Was this on the way out or on the way
2 back?

3 A I think it was on the way out.

4 Q Do you recall that day, Kristin, and I
5 appreciate if you don't, that the judge had a
6 concern about whether the joint recommendation for
7 a conditional sentence was as a result of a plea
8 bargain?

9 A (Witness nodding).

10 Q Was that an issue that you would have
11 become involved in or that you would have
12 discussed with your dad, or your brother, or the
13 Crown?

14 A I didn't discuss any of that, no.

15 Q Was your level of awareness of what
16 was actually taking place in the case that
17 extensive that you would even get into using the
18 term "plea bargain"?

19 A I wouldn't know -- well, at that time
20 I didn't know the difference between any of the
21 terms really.

22 Q All right. What was your reaction,
23 Kristin, to the fact that Mr. Minuk advised the
24 court that the Crown would not be providing any
25 evidence with respect to alcohol consumption?

1 A I'm sorry, what was the question?

2 Q What was your reaction, you heard
3 Mr. Minuk say to the judge that he wasn't going to
4 provide any evidence on the alcohol consumption?
5 How did that affect you?

6 A I was really shocked. I didn't
7 understand why he wouldn't when the judge is
8 asking for it.

9 Q Do you recall what happened after
10 court that day?

11 A We waited to talk to Mr. Minuk.

12 Q Did you get a chance to talk to him?

13 A Out in the hallway, we did.

14 Q Do you recall what was discussed?

15 A I just remember that my dad was angry
16 because nothing was being done in the courtroom.
17 And he had made mention of myself and Tara being
18 at the accident, and that we were never questioned
19 or anything. And Mr. Minuk just turned to him and
20 just said, well, that's the ace up your sleeve.

21 Q Did you have any idea what he meant by
22 that?

23 A Not really, no.

24 Q When you went to court on
25 October 29th, that was the day the sentence was

1 imposed, Kristin, were you anticipating the fact
2 that Chief Justice Wyant would impose a
3 conditional sentence? Did you think that was
4 going to happen?

5 A I expected that, yes.

6 Q And when the sentence was imposed,
7 what effect did it have on you?

8 A Even though I expected it, I was still
9 shocked, and I think somebody actually had to help
10 me out of the courtroom.

11 Q Do you know who that was that helped
12 you out?

13 A A friend of ours.

14 Q I'm going to ask you some questions
15 now about another area, and it relates to the
16 preparation of your Victim Impact Statement. You
17 very courageously read your statement out loud in
18 court on August 22nd. And I want to ask you about
19 the process of actually preparing it and getting
20 ready to read it. You received instructions and
21 guidelines, and I would like to refer you to, I
22 believe it's Exhibit 12. And for further clarity,
23 volume R-3, tab R-3, point 926.

24 Mr. Commissioner, could I have your
25 permission to approach the witness and give her

1 this document?

2 THE COMMISSIONER: Of course. Yes, go
3 ahead.

4 MR. CLIFFORD: Thank you.

5 BY MR. CLIFFORD:

6 Q Kristin, what you have before you
7 there are the Manitoba Victim Impact Statement
8 Guidelines. And what I need to know is whether
9 these guidelines were the ones that you received,
10 or whether you feel as though they were very
11 similar to the ones that you received and you used
12 in the preparation of your statement? Just look
13 at the page that I folded out for you there first?

14 A Yeah, it looks the same.

15 Q It looks the same? You are confident
16 that if it's not the same, it's very close?

17 A Yes.

18 Q All right. Were those guidelines
19 helpful to you?

20 A Not really, no.

21 Q I'll come back to concerns you might
22 have about the guidelines, but let me ask you
23 this, Kristin. Overall, in your view, was the
24 process of preparing the Victim Impact Statement
25 and reading it out loud, was it a benefit to you?

1 A It was a benefit to me that my
2 mother's killer had to sit there and listen to
3 what I said. Other than that, it doesn't benefit
4 me any to re-live it everyday.

5 Q I can imagine that it must have been
6 one of the hardest things that you ever had to do,
7 Kristin, to read the statement. And there may be
8 many other people that follow in your steps and
9 have to be as courageous as you were. Are there
10 any recommendations that you could make to
11 Commissioner Salhany to make that experience
12 easier for someone else?

13 A Well, we just got this package and
14 were told to read it and follow the guidelines,
15 and nobody ever explained anything to us. And we
16 just kind of read over it, and kind of went to my
17 dad and asked him what we were supposed to do.
18 And we just came to the conclusion that we would
19 write it how we thought we were supposed to, and
20 if it was wrong, somebody would let us know.

21 Q Would it have been of some assistance
22 to you to have somebody maybe sit down with you
23 and spend a little bit of time to get you started
24 in that process?

25 A Yeah.

1 Q Kristin, I want to conclude my
2 examination of you by asking you some questions
3 about your overall impression. Now, I recognize,
4 and I think other counsel do, that you had limited
5 involvement with Lesley McCorrister. But I take
6 it from your testimony that you had no difficulty
7 with her?

8 A No.

9 Q Can you describe the manner in which
10 she treated you?

11 A She was always extremely nice and
12 she's just a pleasant person to be around.

13 Q What about your experience, and again
14 I recognize it was limited relative to other
15 members of your family, with Mr. Minuk, is your
16 view that he treated your family with respect and
17 courtesy?

18 A Not really, no.

19 Q The case took a very long time, two
20 and a half years of your life at a point where
21 you're young. What impact did the delay have on
22 you, Kristin?

23 A There is no closure. I have to keep
24 re-living this all the time.

25 Q Do you have a hope, Kristin, that some

1 day you can find closure?

2 A I hope so.

3 Q Is it your hope that this process,
4 even maybe being here and testifying, will be part
5 of that?

6 A Yes. I think it's extremely important
7 to find out what actually happened so that we can
8 get beyond that point and actually be able to
9 grieve for my mom, and remember the good things
10 about her, instead of remembering all of the bad
11 stuff.

12 Q Kristin, I appreciate that, and I want
13 to make sure that you have full opportunity, while
14 you're here today, to express anything you want to
15 say. Is there anything that I haven't brought up
16 through my questioning?

17 A Not that I can think of right now, no.

18 MR. CLIFFORD: I wish you the best,
19 and I thank you again for your assistance. It's
20 not over yet, you will have to remain seated.
21 Some of the other lawyers will have questions for
22 you.

23 THE WITNESS: Thank you.

24 BY MR. ZAZELENCHUK:

25 Q Kristin, you were living in Calgary

1 earlier this year?

2 A Yes, I was.

3 Q And you moved back sometime in March
4 and that is when you were introduced to me by your
5 father?

6 A Yes.

7 Q And I introduced you to a big box of
8 documents?

9 A Yes, you did.

10 Q They had to do with this case?

11 A Yes.

12 Q And then later on, you were
13 interviewed by Mr. Clifford?

14 A Yes.

15 Q And after that we got transcripts of
16 all the interviews?

17 A Yes, we did.

18 Q Yes. And I let you read everything,
19 except for some things. What didn't I let you
20 read?

21 A I wasn't allowed to read my dad's, my
22 brother's, my sister's and my grandparents'.

23 Q Your brother?

24 A Sorry?

25 Q You said your mother, you meant your

1 brother?

2 A My brother, yes.

3 Q Okay. You weren't allowed to read
4 their transcripts?

5 A No.

6 Q I gave you a copy of your transcript?

7 A Yes.

8 Q And what did I tell you not to do with
9 it?

10 A Don't show anybody else.

11 Q Did you show anybody else?

12 A No.

13 Q Okay. There's two points very
14 quickly. You were at the scene of the tragedy
15 that happened to your mother very shortly after it
16 happened; correct?

17 A Yes.

18 Q Did anybody from the East St. Paul
19 Police ever interview you about what you might
20 have seen?

21 A No.

22 Q Okay. Last point, Kristin. I want to
23 take you to August 22, it was a long, hard day.
24 That's the day you read your Victim Impact
25 Statement. But I want to take you to the end of

1 the court day. The clerk calls order, Judge Wyant
2 gets up and leaves the courtroom; correct?

3 A Yes.

4 Q Okay. Did he go out the same door
5 that the public used?

6 A The judge?

7 Q Yes?

8 A No.

9 Q And after the judge left the
10 courtroom, what, if anything happened, Kristin, do
11 you recall?

12 A I'm trying to remember the dates
13 again.

14 Q It was the big courtroom with lots of
15 brown wood. It was the day you read your Victim
16 Impact Statement. But all that's over, the judge
17 has now left the courtroom?

18 A We were asked to leave the courtroom.

19 Q By whom?

20 A One of the sheriffs.

21 Q And did you and your -- when you say
22 "we," you mean the family?

23 A Yes.

24 Q Did you, in fact, leave the courtroom?

25 A Yes. Marty said that he would just

1 meet us out in the hallway.

2 Q Okay. When you left the courtroom,
3 who was still in the courtroom?

4 A Harvey-Zenk and his family.

5 Q I see. And did you wait for Marty
6 outside the courtroom in the hallway?

7 A Yes.

8 Q Did anything happen while you were
9 waiting?

10 A One of the sheriffs kept looking out
11 to see if we were still out in the hallway.

12 Q Okay. Thank you.

13 THE COMMISSIONER: No questions?

14 MS. BOWLEY: No questions, Your
15 Honour.

16 MR. McFETRIDGE: No questions.

17 MR. GREEN: No questions.

18 THE COMMISSIONER: Thank you very
19 much. Anything other that --

20 MR. CLIFFORD: No redirect.

21 THE COMMISSIONER: I see the
22 administrator is on his feet, anxious that we
23 comply with the 2:00 o'clock rule. Give me a
24 moment. Thank you very much.

25 (Witness aside).

1 THE COMMISSIONER: It is time to
2 adjourn until next Monday morning, 9:30, or do you
3 want to start at 9:00 next Monday?

4 MR. PACIOCCO: We're prepared to
5 start at 9:00 if everyone else is prepared to
6 start at 9:00.

7 THE COMMISSIONER: 9:00 is
8 satisfactory.

9 MS. BOWLEY: 9:00 is all right.

10 MR. McFETRIDGE: Yes.

11 MR. GREEN: I'm out voted.

12 THE COMMISSIONER: It is not a
13 question of voting here. In the end I have to
14 decide, but since you're not objecting -- thank
15 you. All right.

16 THE CLERK: All rise. This Commission
17 of Inquiry stands adjourned until June 9th at
18 9:00 a.m.

19 (Adjourned at 1:48 p.m.)

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COURT REPORTER'S CERTIFICATE

I, DEBRA KOT, a duly appointed Official Examiner
in the Province of Manitoba, do hereby certify the
foregoing 199 pages are a true and correct
transcript of my Stenotype notes as taken by me at
the time and place hereinbefore stated.

Debra Kot
Court Reporter

A				
ability 298:15	319:10 325:18	376:18,19 397:13	422:22 482:21	471:4 472:7
303:18 393:21	348:1 353:19	400:20 410:14,16	483:3	474:15,22 483:10
434:23	357:21 368:5	425:23 427:22	almost 416:24	483:11,18
able 296:17 305:14	376:17 384:17	428:1 466:11	along 318:22	anybody's 337:14
342:3 345:1,3	386:9 403:16	469:22,23 472:9	418:18 468:25	anyone 291:14
354:21 362:8	418:2,6 419:10	472:10 476:9	aloud 342:18	anything 301:2,6
365:11 367:13	421:1,14 427:8	482:15 483:15	already 310:7,17	304:8 305:21
369:20 376:14,20	428:13,25 429:11	484:9	364:11,19 365:2	307:1 308:6
378:20 404:13	459:23 463:15	aftermath 370:24	366:2 367:20	312:18 315:5
417:11 431:15	465:20 466:24	afternoon 303:23	374:5 378:1 437:4	337:5 339:15
442:14 444:1,3	475:16 477:9,19	afterwards 338:9	although 372:4	340:6 345:12
446:1 453:25	481:7,8	360:3 370:10	always 293:10	346:7 347:25
454:2 455:2	addition 463:5	406:16 408:11,20	344:2,11 424:5	356:25 361:1
469:24 481:8	470:7	415:18	438:15 457:8,12	362:13 367:17
Aboriginal 370:14	additional 406:13	again 316:10	480:11	368:4,6 402:20
absolutely 298:20	433:16	326:14 329:18	ambition 427:4,9	410:5,23 417:23
343:21 375:8	address 316:1 341:7	332:5,14 333:3	ambulance 298:1,9	421:19,20,22
403:17 404:17,23	420:1	335:8 336:17,18	298:12	425:23 427:2
419:23	addressed 320:1	345:15 348:23	among 356:15	434:7 444:20
accept 344:19	382:8	352:22 364:2	449:1	462:8 468:6
441:17	addressing 317:25	374:14 377:8,15	amongst 291:11	476:19 479:15
access 305:14	412:20	381:25 385:10	331:25 407:8	481:14,15 484:10
accident 293:4,9,21	adjourn 486:2	391:5 395:11	amount 316:11	485:8,19
295:14,17 300:25	adjourned 322:6	405:25 406:8	388:2	anywhere 336:2
302:16 303:16	326:2 390:20	415:10 421:24	angry 374:2 378:8,8	376:6 462:9
306:2 307:17	399:5 447:20	423:16 430:7	393:4 394:6,21	471:22
309:17 362:9	465:15 466:21	435:1 436:2	395:20 409:22	apart 301:5 316:16
364:20,22 369:14	486:17,19	440:16 444:19	416:4 418:16	317:1 332:19
370:4,7,9,13	adjournment 338:8	467:17 468:2	472:20,21 476:15	410:22
373:16 408:24	338:14,24 339:3	480:13 481:19	another 293:22	apologize 377:7
416:10 435:15,16	362:22 390:8,13	484:13	303:24 307:7	391:8 445:9
455:4 459:22	413:25 414:3	against 309:18	318:3 336:11	455:19,25
462:5 476:18	448:20 466:22	350:19 356:23	362:25 366:21	apologized 382:20
accidents 294:1	administrative	358:1,7	379:22 383:25	383:23
accompanied 372:9	286:4,5,6 458:4	ago 328:5 346:14	391:16 447:9	apparent 405:6
446:16	administrator	422:25	460:20 469:6	apparently 460:11
accompany 366:20	485:22	agree 334:13 336:3	477:15	appearance 336:15
accomplish 289:9	admission 413:20	341:4 351:11	answer 293:12,13	340:10 341:14
accord 332:9	advice 374:7,13	363:1 420:9	371:5 388:11	407:2 411:1
accordance 382:23	advise 439:23	434:19 471:22	420:8 439:12	415:11 469:7
accused 377:24	advised 322:3	agreed 407:7 440:5	452:14	appearances 286:9
ace 348:4 409:1,8	390:11 399:2	440:8	answering 396:7	318:19 320:13,24
410:21 444:7,8,9	465:11 475:23	agreement 410:9	answers 291:5	321:2 348:9
476:20	affect 416:3 432:11	ahead 293:4 455:10	306:16,19 375:16	398:16,19 464:21
acknowledge	476:5	478:3	375:19 376:7	appeared 326:6
290:25 291:6	affected 430:23	alarm 292:8,10	440:2	appears 437:10,15
459:9	432:14,16,19	alcohol 337:21	anticipate 461:19	439:14 440:13
acknowledged	affirm 289:23	338:4,13,22 392:9	anticipated 387:14	application 427:12
440:2	363:14 458:22	392:10,14 394:12	390:12 397:1	427:13 428:19
across 294:9 392:10	affirmative 338:16	395:24 402:21	anticipating 477:1	429:10,17 430:1
392:23 416:7	474:1	413:14,21 415:5	anxious 485:22	applied 435:3,6
act 312:3	after 291:7 292:12	473:20,22 475:25	anybody 301:6,20	appointed 487:5
acted 381:1 462:25	292:13 299:25	476:4	318:16 338:6	appreciate 317:3
activities 433:23	300:14 312:23	alcohol-related	346:18,25 347:8	475:5 481:12
actual 302:21	316:24 325:14	413:17 437:20	347:13 368:8,8	appreciated 364:6
406:15 417:10	330:6,9 335:14	alerting 438:10	372:11 373:3	approach 477:25
469:4	336:8 347:8 350:2	allegation 452:19	376:23 386:13	appropriate 362:22
actually 295:18	366:7,9,19 367:21	allow 418:1	400:1 409:23	363:2 470:13,15
	368:25 370:2	allowed 346:4,7	423:5 429:25	April 316:4,21

<p>area 303:25 323:19 324:6 379:22 457:4 477:15 areas 343:17,19 353:7 361:8 419:24 433:13 456:14 argument 411:11 arguments 470:12 arising 455:8 armed 426:20,23 427:3 army 427:5 around 291:15 293:6 295:10 325:6 332:22 390:16 401:21 418:19,22 421:12 480:12 arrangements 376:17 arrest 409:15,21 424:15 437:18,25 arrested 307:19 309:16 357:4,8 arrival 297:7 arrived 296:24 297:20 299:13,18 299:22 301:25 304:25 365:1 366:7 371:19 373:13 461:8 arriving 301:16 articulated 318:13 ascertain 296:18 aside 333:11 348:17 398:15 457:23 485:25 asked 294:11 295:7 296:7 312:24 331:4 334:11 337:10 338:12 345:10,11 346:16 349:14,17 357:24 365:10 366:19 368:15 373:18 376:4 378:4,24 393:9 394:11,13 395:25 405:23,25 412:14 421:19 425:11,14 426:1 439:11 441:14,15 451:20,22 452:13 471:21 473:4,7 479:17 484:18 asking 296:10,12,21 296:21,21 305:22 306:10,11 310:22 316:13 322:6</p>	<p>335:16,19 336:1 337:4,7 373:15 399:4 461:22 465:14 476:8 480:2 aspirations 426:16 assigned 334:22 381:16 assist 399:25 411:14 417:18,19 418:3 470:4 assistance 400:4 417:17 421:25 462:19 479:21 481:19 assistant 286:6 385:19,21 assisted 427:3 assisting 291:3 459:12 assists 408:7 Associate 286:3 Association 286:17 assume 371:23 assumed 388:4 assuring 328:2 440:19 atmosphere 394:18 attached 352:17 attempt 415:22 attend 428:12 attendance 345:16 392:2 attendances 464:22 attended 321:11 350:17 376:9 403:7,12 428:15 460:24 attending 291:3 318:19 463:6 464:23 attention 292:4 335:9 341:10 attitude 306:14 Attorney 431:13 432:1 433:7 attribute 434:9 attributes 291:19 atypical 381:9 August 291:7 331:13,18 335:23 348:22 407:2,15 408:16 409:12 410:14 424:7,13 470:4 471:2 473:1 477:18 483:23 aunt 299:14 461:5 automatic 461:17 available 435:20</p>	<p>Avenue 364:25 average 375:4 await 349:12 aware 317:8,12 333:8 340:1 345:6 345:13 364:7 371:16 374:17 383:19 409:13,17 448:13 464:16 awareness 475:15 away 327:25 328:12 334:10,16,17,18 334:19 369:22 375:5 awoken 364:12 a.m. 289:2 363:6,7 486:18</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>B 286:14 backed 292:24 293:5 background 337:22 428:3,4 429:2 bad 295:17 365:18 481:10 Bakema 286:15 309:1 310:22 350:17,21 351:8 355:24 356:11,13 376:13 379:25 460:23 461:6,15 461:24 462:4 banging 297:3 banister 474:23 bar 426:22 bargain 339:16,19 340:2,8 396:2,12 405:25 412:18,25 475:8,18 based 420:18 basic 311:5 basically 307:6 309:19 311:3 318:5 322:20,24 327:2 330:18 335:16 341:22 342:1 440:25 464:18 bathroom 348:17 became 393:4 413:12 become 333:8 426:19 475:11 beforehand 358:18 399:16 begin 364:16 beginning 453:25 behalf 311:18 behaviour 430:21</p>	<p>430:24 behind 462:11 benefit 342:13,16 418:24 478:25 479:1,3 benefits 435:20 Bergmann 286:6 Bernice 350:13 beside 406:16 425:9 best 345:16 420:8 421:24 427:17 481:18 better 293:16 319:25 390:7 420:1 428:23 440:8 between 303:10 316:3 326:22 329:13 336:5,9 340:20 343:18 381:2 462:25 467:21 470:19 471:6 475:20 beyond 481:8 Bible 289:23,24 363:14 458:22,23 big 318:1 398:4,6,7 422:12 424:8,21 482:7 484:14 bigger 318:3 394:12 biggest 302:4 393:14 Bill 307:13 312:15 317:10 379:8 462:14 binder 397:22,24,24 398:4,6,8 449:25 450:14 birthday 291:8 331:19 332:2 335:24 407:4 470:6 bit 296:12 314:11 314:13,18 319:17 330:12 336:25 339:18 344:10 359:16 366:5 374:21 379:13,17 389:13 395:7,18 395:22 400:9 402:16 412:24 427:11 447:15 479:23 black 352:10,23 blank 470:24 blocking 296:4 blue 352:21 book 313:20 booklets 341:11,23</p>	<p>borderline 355:10 both 290:17 299:6 376:22 391:20 408:23 436:24 474:4 bothered 384:11 Bowley 286:14 287:7 350:11,13 351:13 430:4 485:14 486:9 box 397:23 421:18 422:12 482:7 boxes 345:22,22 boyfriend 305:6 309:10 Braun 286:5 break 289:14,16 292:3 363:2 407:21 458:9 breaks 348:17 breathalyzer 377:4 377:19 382:15 386:7 461:16 breathing 296:11 296:22 brief 300:16 361:8 391:19,21 406:11 407:18 466:21 briefly 296:17 298:23 300:14 304:2 340:16 366:7 406:15 436:12 bring 292:3 337:6 364:9 391:8 415:8 415:9 446:7 459:13 471:7 bringing 337:5 347:24 brochure 430:15 broke 392:21 brother 290:13 299:5,15 309:9 323:24 325:7 329:17 330:15 333:11 337:11 346:9 348:10,18 359:8,24 402:9 459:6 463:5 471:17 475:12 482:23 483:1,2 brothers 325:8 329:18 402:9 brother's 482:22 brought 307:22 332:8 335:20 341:8 437:12 440:15 441:20 481:15</p>
---	--	--	---	---

brown 424:21 484:15	care 305:20 344:12 344:13	393:6 397:3,20 403:5 404:17 442:4,7,13,22 443:5 451:13 453:17,18 461:23 468:3,24 469:10	Clifford 286:3 287:5,10,13,17,20 289:6,18 290:3 313:17,21,24 314:1 339:13 351:8 361:8,10 362:19,24 363:10 363:18 377:20 395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	314:4 321:21 345:8 363:4,8 367:20 388:15 458:12,16 459:12 459:16 470:21 474:21 486:16
building 331:16 336:19 340:12 400:25 401:5,9 406:8,9 465:10 467:18	career 426:16 careful 335:8 carefully 291:18 303:3 395:9,13	charged 296:16 308:12 311:14 369:16 387:15	362:19,24 363:10 363:18 377:20 395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	Commissioner's 292:3
bunch 342:10 398:8	caring 291:15 309:24	check 428:4	363:18 377:20 395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	commit 387:14
bus 401:7	carry 293:8 296:6 318:2 330:17 365:25 411:17 471:19	checks 428:3	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	committal 437:8
business 304:9	carrying 396:10 Carter 309:1 310:23 350:17 355:25 376:12 379:25 460:23 461:7 462:4	Chief 286:4 322:7 326:7 350:17,21 351:8 355:24 376:13 383:20 399:6 408:3 411:10 413:8,12 415:13 461:15 465:15 467:19 470:13 473:3,19 477:2	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	communicate 474:18
C	cases 322:24 323:16 398:5,11 408:17 451:1	child 290:7,14 363:20 459:3	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	communicated 313:6 457:1 460:21
Calgary 422:5 481:25	cause 437:21	children 289:11 312:1 331:24 362:25 381:12,14 407:8 440:7 463:2	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	communicating 400:18 401:20
call 289:11,19 293:11,21 299:20 304:8 312:24 313:3,9 314:5,19 317:22 338:21 362:23 364:12 372:5,6 381:17 382:2,4 383:7 414:2 440:21	caused 292:22 441:16	choose 395:9,12	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	communication 336:9 400:16 401:16
called 294:21 295:23 308:10 352:18 364:18 371:17,18 382:14 420:19 444:10,19	causing 393:7 396:20 397:16 398:12 403:1 465:3	chose 291:17	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	communications 312:20 321:22 384:13 398:20,20 467:25 470:18,22
calling 382:13	CECELIA 286:21	cigarette 326:18 401:13	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	community 450:19
calls 299:7 316:8 317:2 372:1 484:1	Cecil 302:25 303:4 369:18 370:11,19 373:12 460:3	circumstance 362:16	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	complain 431:12
calm 296:12	cell 293:12 295:12 295:13 316:8	circumstances 376:2 380:7 397:3 428:14 435:2 438:11 462:5,10	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	complaints 440:23
came 293:14 294:10 297:5 299:22,25 299:25 303:5 308:6,18,25 309:15 310:17 311:23 312:11,11 312:21 314:9 339:4,5,5 346:3 349:6,18 350:4 366:9 369:12,21 371:17 375:13,15 389:11 395:6 405:22 414:15 420:6 425:3 447:1 449:22 454:24 460:8 474:23 479:18	cent 399:16 405:24	clarified 325:20 457:6	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	complete 440:9
capture 291:18	centre 285:13 303:9 311:2	clarify 308:17 328:23 455:18 456:20	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	completed 428:5
car 292:14 293:18 294:8,13,19 295:9 295:10,18 296:8,9 296:19,25 297:2,4 297:8,12,17,19,21 298:4,5 299:11 300:5 303:8,9 364:24 369:14 460:10	certain 292:22 343:9 361:21 375:5 442:18	clarity 477:22	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	completeness 369:17
card 304:9 306:25	CERTIFICATE 487:1	clear 297:15 307:25 321:9 328:24 349:14,18 389:10 409:6 426:21	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	comply 425:16 445:7 485:23
	certify 487:6	clearing 465:22 466:8,20	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	component 434:21
	cetera 341:10 361:13 375:22 380:24 459:25	clearly 457:17	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	compressed 366:14 371:21
	chair 395:8	Clearwater 286:17	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	compromised 303:20
	chance 312:9 393:25 476:12	clerk 286:7 289:3 289:21 313:17 348:25 363:4,8,12 424:23 425:21 458:12,16,20 484:1 486:16	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	concentrate 385:1
	change 341:6 395:22 433:22	client 327:3	395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	concept 340:7
	changed 433:25		395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	concern 316:20,25 318:3 337:15,20 339:25 340:1,5 343:19 383:25 386:25 389:20 394:23 412:21 413:22 431:14 432:15 433:1,8 436:12 440:14 469:2 475:6
	chaplain 366:21		395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	concerned 316:22 408:21 413:13 420:20 464:7,15
	character 430:22 430:24		395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	concerns 313:10 315:2 317:20 318:8,13 331:2 355:9 383:10 386:12 408:20 411:12 412:2,7
	charge 328:3 331:9 359:18 360:12,14 360:15,18 378:14 382:19 386:8		395:14 430:16 451:23 455:7,11 455:25 456:2 457:19 458:2,18 459:1 478:4,5 481:18 482:13 485:20	

464:13 473:5 478:21 conclude 480:1 concluded 415:4 concluding 300:18 conclusion 343:7 419:15 479:18 Concordia 298:1,24 299:13 300:11 365:1,5 459:14 condition 380:8 406:23 conditional 333:7 333:25 334:6,7 408:5,18 409:21 410:9 450:5,7,12 450:16 451:1 470:15 471:5 475:7 477:3 conditions 334:5 357:13,17,20 408:17 424:14 450:19 471:12,20 conduct 432:1,5 conducted 384:14 388:1 391:13 448:17 conference 356:17 confidence 377:21 378:13 387:19 393:21 confident 377:23 387:22 478:15 confined 320:15 confirm 310:11 confirmation 310:15 confirmed 310:12 310:19 311:1 314:22 378:2,7,14 confused 387:6 394:6 405:10,17 conscience 441:22 442:3,23 443:3 468:4 consequences 311:14 387:13 consider 415:6 474:8 considerable 347:3 412:16 considerate 428:15 consistent 437:17 console 365:21 Constable 304:11 445:22 consultation 457:7 consumption 337:21 338:14,22	413:14,21 415:5 473:20,23 475:25 476:4 contact 304:5,11,12 307:1 308:5,7 309:20 316:5 343:12 344:1,3 351:3 374:9 380:22 420:6 435:18 463:23 464:11 contacted 317:6 350:23,25 351:1,9 contacting 368:15 contained 357:16 content 304:14 context 294:24 312:5 411:8 473:2 continue 289:9 continued 395:23 contradiction 405:7 Convention 285:13 conversation 300:12 303:21 304:13 313:5 314:6,7,9,25 316:3,10,14,17 324:16,20,25 325:3 326:21 335:25 340:17 365:5,9 369:25 383:2 394:19 402:13 404:2 407:12 445:24 460:2,2,7,15 467:11,11,14 469:14 472:19 conversations 385:12 408:8 410:13 467:21 469:5 conveyed 354:18 convicted 438:1 447:12 conviction 442:14 442:16,19 cope 307:9 copy 346:14 352:14 423:1 483:6 corner 430:17 Corporation 435:20 corrected 455:21 correction 370:3 correctly 297:6 456:11 correspondence 317:14 382:7 counsel 286:2,3 289:15 294:20	344:5 345:9 351:21 408:2 432:6,7 458:10 480:4 counselling 305:13 305:20 307:6 375:22 434:1 count 403:1 449:10 counter 418:7 couple 292:25 293:13 299:7 306:23 312:25 323:16 332:17 355:22 374:18 376:18 424:12 courageous 292:1 479:9 courageously 477:17 course 383:2 390:21 407:5 470:5 478:2 courses 427:7 courtesy 343:14 344:7 419:22 420:14 480:17 courthouse 322:13 322:16 325:10 360:23 384:25 385:12 399:21 402:14 441:8 468:1 courtrooms 322:25 465:24 courts 403:20 406:15,17 cousin 302:22 303:21 310:8 369:11,12,17 370:11 373:17 378:1 429:1 460:3 460:12 cousins 299:15 369:3 cover 423:17 426:3 coverage 434:25 covered 421:22 crash 378:25 created 321:14 crime 312:17 418:4 430:22 432:14 crimes 387:15 criminal 386:8 392:17 426:21 447:12 criticisms 417:21 Crown 318:15 333:7,9 344:5 408:2 409:20 413:13 431:12	432:1 433:7 463:7 473:21 475:13,24 Crown's 409:13 cruiser 295:11 cry 392:21 crying 299:9 394:21 Crystal 289:12 290:6 363:20 459:2 Crystal's 376:11 402:4,10 curious 317:25 cut 354:22,23 <hr/> D <hr/> dad's 299:15,21 308:19,20 325:7 329:17 346:9 367:23 422:23 482:21 danger 453:22 454:5,11 dangerous 327:6 359:19 393:7,13 393:17,20 394:2,7 396:9,19,23 397:6 397:16 398:12 403:1 404:16,23 437:21 441:18 442:19 449:19 451:13 452:18,23 452:25 453:12 465:2 dash 299:10 date 295:3 409:25 411:7 441:6 443:24 448:8,11 dates 321:6,8,10 406:19 484:12 David 286:2 days 291:24 321:16 332:19 376:18,19 422:25 464:10 deal 295:3 313:4,18 315:9 317:19 343:9,25 370:23 381:13 385:10 392:25 398:16 420:5 435:13 dealing 292:5 294:24 311:17,23 318:14 353:8,23 354:2 384:19 397:15 419:25 420:11 421:5 430:11 434:11,22 dealings 312:20 380:20 464:2 deals 303:25 340:3 379:23	dealt 295:2 304:2 419:20 433:7 death 291:7 307:9 370:16 392:16 393:7 396:20 397:16 398:12 403:1 437:21 465:3 Debra 487:5,14 deceased 375:4 decide 445:8 486:14 decision 320:19 331:23 336:24 341:4 decisions 450:2,5 declaration 329:9 deeply 413:17 defence 405:3 431:13 432:5,7 468:11 definitely 306:7 degree 353:18 354:8 delay 317:23 344:17 390:3 440:11 480:21 delayed 440:3 denying 449:14 department 293:1 347:9 447:24 Derek 285:1 286:13 320:10 382:10 384:7 399:2 403:9 404:3 415:14 425:20 468:10 describe 294:25 295:20 298:23 307:3 309:11 310:14 317:19 323:10 341:19 353:8 364:16 369:9 393:16 430:22 432:13 467:24 469:12 480:9 described 317:22 327:9,12 386:4 describes 354:5 describing 310:3 382:3 418:4 description 287:2 313:12 despite 332:2 destroyed 434:24 detail 295:3 309:12 369:9 388:21 460:6 details 307:17 308:2 310:23 327:17
---	--	---	--	--

340:21 370:17 373:16 378:15 389:4 457:2 459:21 462:3,11 determine 367:13 414:1 437:8 determined 320:17 320:19 331:25 died 290:19 378:18 416:9 dies 374:24 difference 475:20 different 293:25 305:12 322:24,25 323:16 334:1 349:8 372:24 373:1 376:10 397:8 450:1 451:1 differently 343:18 difficult 291:1 354:18 364:8 366:24,25 416:17 459:11 difficulties 321:5 420:2 difficulty 309:4 407:24 464:4 480:6 dig 412:4 direct 324:24 directly 315:10 317:6 321:23 372:5 disabilities 434:17 disappointed 440:6 disclose 373:22 disclosed 314:4 321:18 388:15 discuss 350:18 398:19 456:15 475:14 discussed 386:2 387:1 410:23 436:16 446:25 450:11 456:13 469:25 475:12 476:14 discussing 376:17 449:10 discussion 300:20 387:8,13 412:16 437:10 438:23 439:4 470:14 471:4 disposition 306:13 disrespect 445:6 distinct 385:11 doctor 299:25 366:9 document 313:19	313:21 314:3 352:13,14,17 433:11 436:3 478:1 documents 345:23 352:3 361:11 422:13 482:8 doing 301:3,6 306:9 320:3,6,8 362:5 374:4 432:9 440:1 453:13 done 335:5 389:15 391:15 406:14 421:3 426:18 437:4 472:9 476:16 don'ts 342:10 door 349:5,8 350:5 350:6 425:3 484:4 doors 367:6 doubt 291:17 393:22,23 394:8 420:10 doubts 404:18 405:5 down 293:5,23 296:12 298:20 322:5 325:19 332:9 347:6 348:4 374:11 389:24 392:21 399:3 402:25 439:3 465:12 479:22 drag 316:20 dragged 390:4,22 draining 420:25 drinking 369:15 395:2 416:10 460:11 drive 294:2 298:15 driver 300:24 303:15 454:24 drivers 459:24 driver's 426:21 driving 292:20 293:11 298:24 327:6 359:19 368:3 393:7,13,17 393:20 394:7 395:2 396:10,20 396:24 397:6,16 398:12 403:1 404:16,24 416:11 437:21 441:18 442:19 449:19 451:13 452:23,25 453:12 465:2 drop 395:23 dropped 396:1	452:17 dropping 441:7 drove 293:17 364:25 423:23 drunk 378:25 duly 290:1 363:16 458:24 487:5 duration 336:10 during 307:14 338:8 339:3 359:14 414:5,9,20 414:22 415:1 421:12 447:9 449:12,22 450:25 460:6 469:21 474:12 <hr/> E <hr/> each 320:20 321:20 423:19 446:16,17 461:23 eager 459:21 earlier 326:1 389:18 401:10 422:4 482:1 early 292:8 303:23 383:11 384:1 438:7 easier 479:12 East 286:14 347:9 350:14,14 368:15 374:9 389:2,5 395:1,5 447:23 448:16 483:18 easy 315:14,16 343:22 effect 302:13 307:1 314:20 377:10 392:19 415:3 441:19 477:7 efficient 289:10 effort 344:3 either 321:22 338:7 380:9 442:2,22 453:6 469:21 elaborate 303:12 322:15 333:20 386:5 388:21 397:25 398:2 elder 423:13 elsewhere 374:6 else's 346:25 emergency 298:7 emotional 298:15 309:21 331:6,10 353:9 354:2,3,11 379:14 380:7 392:22 393:2 406:22 433:21 434:3	emotionally 291:1 295:1 296:16 364:7 459:10 emotions 433:21 emphatically 449:14 encounter 326:19 encountered 295:5 encouragement 375:9 end 348:24 424:19 428:8,10 437:23 453:24 483:25 486:13 endeavor 368:18 ended 431:18 Ending 414:4 endure 364:4 enforcement 304:1 engage 324:24 enjoy 434:23 enough 293:17 328:19 393:11 394:10 424:18 entailed 464:17 entered 382:2 403:19 465:2 entering 403:10,22 entitled 352:8 430:21 431:8,11 431:23,25 432:4 432:13,13,18 434:12 enumerated 383:17 essentially 411:9 estimate 356:4 et 341:10 361:12 375:22 380:24 459:25 ethnic 429:2 evacuate 457:25 even 299:16 302:10 313:1 324:21 337:21 343:6 383:21 390:23 406:21 421:2 437:23 440:14 442:5,14 475:17 477:8 481:4 event 353:9 eventually 345:25 ever 317:18 324:18 347:9,14,17,20 348:18 355:8 408:24 410:7 429:24 443:19 444:16 445:13 460:1 464:3 479:6 479:15 483:19	every 293:9 344:8,9 everybody 293:10 306:11 332:9 401:20 402:17 405:17 421:10,10 421:11 425:12 427:17 463:17 everyday 321:14 345:2 479:4 everyone 486:5 everything 309:20 315:6 330:10 335:14 341:3 343:25 344:12,12 345:10 348:25 362:7 373:8 386:11 389:10 406:14 416:6,20 416:21 418:2 431:18 443:14 466:18 467:9 472:9 482:18 evidence 294:21,23 328:19 335:19,20 337:6 338:4,21 364:11 369:20 375:2 393:11 394:10 408:15 414:2 423:9,11,14 423:15 444:10 446:14 448:5 449:16 452:3 474:10 475:25 476:4 exact 321:10 395:3 395:4 403:20 407:20 447:24 448:1,12 exactly 299:24 308:9 309:6 314:16 328:16 350:24 362:7 381:11 394:3 396:5 399:23 404:9 406:21 409:16 416:12 417:15 exaggeration 372:2 examination 287:5 287:6,7,8,9,13,14 287:15,16,20,21 361:10 384:22 455:9 480:2 Examiner 286:22 487:5 example 433:20 except 430:22 482:19 exchange 297:24
---	--	--	---	---

327:18 340:19 exclude 418:1 exclusionary 417:23 exclusive 361:25 executive 458:3 exhibit 288:3 313:18 314:2 316:1 332:5 351:17,25 381:19 381:24 430:9,9 435:24 436:1 455:12 456:3 477:22 EXHIBITS 288:1,4 expanded 337:20 expectation 365:20 expected 341:1,5 434:17 437:9 439:24 477:5,8 expecting 340:25 416:1 experience 298:23 298:25 342:23 364:7,16 479:11 480:13 experienced 420:2 450:10 459:17 experiences 292:2 303:25 370:22 experiencing 300:18 302:15 321:5 371:7 464:8 explain 292:22 303:3 338:6 356:25 359:17,19 360:11 402:15 437:7 460:5 explained 303:9 306:17 322:13 353:19 358:13,15 358:17,25 359:16 360:4 386:6 390:25 400:9 436:17 438:22 439:24 441:2 465:21 479:15 explaining 333:21 333:23 334:1 336:6 356:9 365:24 explanation 387:5 393:5 415:22 429:14,18,21,22 429:25 436:23 456:6,21 express 290:23 311:9 354:11 377:21 379:2	393:19 419:7 421:18,18 459:7 469:2 481:14 expressed 311:12 329:4 378:13 383:25 387:19 408:2 409:23,24 410:1,3 453:12 expressing 337:15 386:25 394:23 404:6 438:5 expression 327:13 394:1 461:13 extended 369:3 extensive 451:25 475:17 extremely 343:22 343:22 365:18 416:4 480:11 481:6 <hr/> F <hr/> facing 307:19 383:12 factor 474:10 facts 337:15 440:5 factual 337:22 failed 416:7 fair 300:18 313:12 380:6 404:10 424:18 447:7,8 448:23 453:13 463:9 fairly 442:18 451:25 false 296:20 familiar 424:20 family's 310:14 327:23 334:3 346:19 364:2 374:1 382:6 386:20 398:20 409:19 422:22 467:11 468:9 far 318:12 343:20 356:9 362:14 427:8 464:14 father's 297:7 298:15 301:9 387:4 389:7 395:15 401:24 402:8 471:25 February 291:23 292:5 316:21 344:15 345:21 351:7 364:10 426:7,12 428:9,10 444:22 feel 375:24 388:6 420:13 421:21	431:7,22,25 432:4 478:10 feeling 373:2 418:2 418:10 419:9,11 419:12 feelings 433:22 feet 485:22 felt 309:25 331:12 335:4 342:19 344:10 354:12,18 355:3 388:11 391:21 418:22 430:13 442:5,14 442:18 453:18 few 293:25 299:3 315:25 351:22 373:18 376:19 423:17 fifth 340:10 415:11 figured 388:9 389:15 filed 357:21 files 397:5,19 398:8 fill 334:12 353:8 final 415:11 427:10 financial 353:12 354:3 434:22 435:1 find 315:14 332:7 352:10 353:16 366:4 368:14 378:17 399:23 412:2 472:4 481:1 481:7 finding 320:23 finished 330:8,10 335:14 405:18 435:25 fire 293:1 first 289:19 290:1 302:19,21 312:23 314:17 318:21 321:24 322:18 323:2,4,17 324:17 327:1 328:6,8 343:10 360:21 363:16 374:22 384:17 385:10,13 385:24,25 386:22 387:18 391:18 393:9 398:24 407:18,18 411:6 419:17 427:14,24 430:11,20 436:11 446:23 453:3,7 456:4 458:24 465:6,20 478:13 five 321:18 348:9 398:17 406:11	451:4 461:24 462:1 469:17 fix 383:24 flip 417:1 flipped 449:25 flowing 328:22 focus 303:24 341:7 folded 478:13 folks 447:3 follow 298:1,7,9 304:6 308:3 463:20 479:8,14 followed 291:25 355:4,5,12 following 326:2,5 353:6 433:12 441:22 follows 290:2 363:17 458:25 footwork 320:3,6,8 force 350:15 374:8 forces 426:20,24 427:1,3 foregoing 487:7 form 336:2 337:21 352:19,23 353:5 353:24 361:15,16 362:5 427:12,13 433:12 former 350:17,20 351:8 Fortunately 321:13 forward 315:25 331:13 335:20 337:5,6 347:25 407:7 472:25 found 319:7 403:21 469:1 four 333:10 354:16 426:5 449:18 fourth 336:15 410:25 frame 303:19 free 313:9 381:17 421:21 frequency 293:20 frequent 294:1 friend 454:14 477:13 friends 305:5 350:1 433:25 front 339:6 341:23 352:1,25 353:21 397:22 401:4 410:5 416:23 430:10 452:8 frustrated 395:7 454:17,23 frustrating 337:23	frustration 454:16 full 323:13 408:21 421:17 426:24 443:11 481:13 fully 340:7 418:8 421:3 funeral 376:17 furious 415:7 further 304:10 316:5 319:8,17 322:15 327:17 330:7 333:20 336:9 370:17 376:8 378:17 381:15 398:1 411:11 414:1 422:2 429:16 433:11 434:16 444:10 469:20 472:6,7 474:7 477:22 future 344:25 <hr/> G <hr/> G 286:10,18 gave 296:20 309:17 312:12 341:11 346:14 372:19 380:22 397:4 408:14,14 414:17 420:19 422:25 423:9,11,14,15 428:22 452:3 483:6 geared 298:19 440:7 general 440:21 generally 332:21 464:2 genuinely 464:7 gets 349:1 424:24 484:2 getting 306:1,1 321:1,6 328:3,20 345:22 371:24 374:6 376:6,7 391:18 398:10 418:18,21 440:6 442:1 462:9 477:19 get-together 356:1 Giasson 286:4 458:3 give 294:21 304:5,9 305:12 308:1 327:17 333:24 340:21 343:24 366:22 368:9 370:17 374:7 377:15 388:20
--	--	---	---	--

393:20 418:14 429:25 443:7,11 444:10 461:13 477:25 485:23 given 289:8 298:15 300:17 303:4 307:8 341:22 345:9 355:13 360:24 371:7 375:7 380:7 413:16 415:8 416:5 417:11 433:6 456:6 462:7 462:19 gives 354:4 giving 335:18,21 378:15 452:14 Glenda 300:7,12 304:20 371:1,12 372:5 373:6,13 375:12 376:3 goal 418:7 goes 340:6 362:14 375:8 400:11 401:7,8 gone 342:23 366:6 370:3,6,8 372:14 408:22 465:3 good 289:5,6 290:4 290:5 319:7,10 320:3,5 350:12 355:20 398:23 419:13 481:9 goodbyes 366:23 gotten 327:22 403:24 404:8 405:13 Government 351:22 Graham 294:16 295:6,24 296:25 297:11 304:4 Graham's 445:22 granddad 456:22 grandma 402:1 grandpa 402:1 grandparents 299:5 299:6 301:16 302:1 304:21 305:16 309:8 323:25 337:12 346:10 350:18 355:24 366:6 367:23 369:13 376:9,10,23 386:19 401:22,23 422:24 436:13 459:20 460:8,17 460:24 461:4	482:22 Grant 382:10 great 413:21 greater 394:11 greatest 393:13 394:2 greatly 364:5 Green 286:12 287:9 287:16 355:19,21 446:9,10 452:9,11 452:12 485:17 486:11 grey 445:8 grieve 481:9 grieves 463:17 grieving 375:21 group 401:21 guess 297:13 299:20 303:23 330:22 389:13 395:17,21 396:23 421:23 440:14 464:19 471:12 guidance 343:2,25 guide 380:2 guideline 343:23 362:5 guidelines 341:10 342:4 343:5 352:9 354:7,25 355:4,12 417:3,4,6,11,16 417:22 418:6,12 430:15,17 477:21 478:8,9,18,22 479:14 guilt 405:22 461:17 465:2 guilty 326:24 327:2 327:4,6,16 329:5 359:22 360:19,22 361:1 377:6 403:19,22,23 404:4 405:12,20 441:10,19 442:3,4 442:6,22 443:4,18 443:20 451:12 452:23,24 453:11 468:3,11,23 469:1 469:10	485:1,6,11 hand 387:20 handed 353:19 450:15 handled 343:18 388:2 394:24 431:14 434:4 handling 386:11 463:25 hands 393:16 416:24 Hanlin 286:16 happen 325:24 368:3 396:19 421:7 425:23 437:9 438:17 477:4 485:8 happening 295:1,20 299:1 320:18 322:11 326:15 359:18 360:12 378:16 399:11 412:4 421:14 439:24 467:7 468:15 happy 335:9,12,17 358:7 447:6 468:13,19 harboured 383:25 harbouring 316:21 hard 319:11 348:22 353:21 366:14 483:23 hardest 479:6 harken 389:17 Harry 286:15 309:1 356:11 376:13 379:25 Harvey-Zenk 285:1 286:13 320:11 322:4 342:19 349:25 350:19 357:14 360:25 382:10 384:8 387:15 399:3 403:9 404:4 415:14 424:15 425:21 447:11 449:9 451:12 453:11 455:3 461:16 465:12 468:2,10 469:9 485:4 Harvey-Zenk's 291:10 408:18 430:24 having 290:1 300:12 326:16,18 363:16 378:6	379:18 384:5 401:6,13 407:23 445:8 458:24 467:8 head 318:10 338:15 357:10 412:21 426:1 473:25 hear 305:20 306:8 342:19 366:16 367:9 421:14 444:20 446:13 heard 298:10 302:24 303:15 310:7 314:20 325:25 327:1 328:7,8 331:22 339:15,18 350:9 363:19 364:1,11 371:22 380:11,12 381:1 396:16 407:5 429:24 445:14 459:16 462:18 476:2 hearing 291:10 305:17 318:24 332:8 348:25 360:21 387:9 403:12 407:7 440:22 441:1 445:1 447:19 464:25 held 343:23 356:20 360:15 help 368:9 381:16 419:7,8 440:12 444:18 448:24 453:25 454:2 464:10,18 477:9 helped 477:11 helpful 342:5 478:19 hereinbefore 487:9 herself 343:20 382:9 high 427:21 highway 292:25 293:23,25 370:16 himself 342:21 443:24 hit 303:8 311:3 369:14 460:10 hitting 299:10 hold 328:19 holding 360:14 371:4 417:2 hole 444:7 holes 389:12 390:2 home 353:20 400:22	Honour 429:5 430:4 445:7,8 485:15 Honourable 285:2 hope 289:9 296:20 421:7,13 480:25 481:2,3 hoped 341:1 hopes 344:24 345:17 421:4 hoping 416:2 horses 404:16 hospital 298:1,18 298:19,24 299:4 299:13,21,22 300:3,7,11 301:9 304:12 311:4 364:19,22 365:1,5 365:6,25 366:4 367:1,3,18,22 368:23 459:15 460:18 hospitalization 434:13 hour 323:22 325:21 356:7 385:16 392:1 424:4 hours 343:3,3 354:16 house 316:9 350:18 367:23 369:13 371:13 409:15,21 424:15 437:18,25 465:22 466:8,20 huge 424:21 hundreds 371:24 husband 300:6,24
	<hr/> H <hr/> h 286:15 442:14 half 344:16 356:6 385:16 392:1 420:22 480:20 hall 305:3 347:6 hallway 300:15 333:12,15,16 347:23 349:19 470:23 476:13			<hr/> I <hr/> idea 300:8 319:18 348:6 365:13 399:12 409:9 476:21 imagine 479:5 immediately 294:9 295:10 298:17 329:10 impacted 362:8,9 362:18 434:23 impacting 434:16 impacts 361:18 impaired 303:15 392:16 454:24 455:3 impairment 303:11 303:13 important 294:23 294:25 435:7 440:4 443:15 481:6

impose 431:7,9 477:2	309:24 319:6 320:2	invited 383:7	455:13,23 461:4	367:24 375:25 384:5 393:4 395:17 397:4 401:19 427:25 479:16,16
imposed 340:14,24 357:14 379:4 398:11 415:13 416:8 477:1,6	injured 374:24	involved 300:25 302:6 303:7,11,13 318:4,18 321:23 394:13 435:15,18 450:5 459:24 460:15 475:11	judge 335:19 336:22 338:12,20 339:19 340:8 341:2 349:1,4,10 400:8 410:5 411:10 412:1,8,8 412:20 413:24 424:23 425:2,5 431:7,9,13 470:13 473:7 474:3,9 475:5 476:3,7 484:1,6,9,16	knees 366:15
impression 318:22 332:21 344:5 375:11 387:25 391:12,17 420:12 437:1 452:15 480:3	injuries 311:4	involvement 338:5 432:6 463:6 480:5	411:10 412:1,8,8 412:20 413:24 424:23 425:2,5 431:7,9,13 470:13 473:7 474:3,9 475:5 476:3,7 484:1,6,9,16	knew 293:3,10 296:19 318:2,12 344:11 348:1 354:23 372:14,15 378:1 464:17
impressions 343:8 419:17,17	inquiring 382:4	in-between 315:8 315:12	July 321:25 322:17 323:10 326:6,12 327:8 330:6 341:17 352:2 360:1 391:7,24 398:17,25 400:4 400:21,23 406:5 441:5 446:20 449:1 451:6,8 452:15 464:24 465:1,7 466:7,19 467:17 469:8	knowing 302:16
improve 342:25 419:5	Inquiry 285:1,19 289:4 345:7 363:5 363:6,9 444:11,15 458:13,14,17 486:17	in-depth 387:24	justice 322:7 326:7 399:6 408:3 411:10 413:9,12 415:13 440:22,25 454:16 465:15 467:20 473:3,19 477:2	knowledge 306:21 339:23 359:9
improved 420:1	insert 357:25	in-laws 440:16,23 440:24 456:13	Justin 305:3	known 310:17
inability 344:21	inside 365:2 366:8	issue 312:15 317:23 341:7,9 380:15 384:19 396:25 412:16 436:16 440:15 462:13 475:10	June 285:16 289:1 318:24 319:2 439:24 486:17	Kot 487:5,14
include 430:18 433:5	instance 312:10 317:6,22 319:18 361:22 388:11	issues 294:25 317:24 343:21 388:25 435:12 436:11 440:21 472:17 473:18	jury 410:5	Kristin 287:19 290:11 292:18 293:15 299:6 300:9 322:19 458:19,24 459:2,6 460:1 463:9 464:8 465:19 467:19 468:19 470:2,25 473:8,17 475:4,23 477:1 478:6,23 479:7 480:1,22,25 481:12,25 483:22 484:10
included 332:5 382:20 433:17	instead 342:20 363:2 481:10	item 431:11 432:12 433:8	just 322:7 326:7 399:6 408:3 411:10 413:9,12 415:13 440:22,25 454:16 465:15 467:20 473:3,19 477:2	Kristin's 298:4
includes 404:2	instructions 342:5 417:10,16 477:20	items 430:12 433:16 446:25	justice 322:7 326:7 399:6 408:3 411:10 413:9,12 415:13 440:22,25 454:16 465:15 467:20 473:3,19 477:2	L
including 398:18	insurance 434:25 435:17,19	J	Justin 305:3	L 313:22 332:5 381:25 430:8 436:2 455:13
inclusive 361:25	interaction 323:5 380:16 399:13 400:15 407:11	J 286:13,21	Justin 305:3	laid 350:19 356:23 377:3 382:16,19 387:3 461:11
indeed 338:1	interest 383:16	jail 437:17 450:18	Justin 305:3	large 336:18
independent 344:4 420:12	interested 305:17	job 343:23 464:14 464:17,19	Justin 305:3	larger 331:14
INDEX 287:1 288:1	interior 331:15	joined 426:20,23	Justin 305:3	largest 340:12
indicate 308:2 354:25 376:20 441:13	intermediary 312:3 381:2,8	joint 341:4 408:4,4 408:17 409:14,18 409:20 471:6,10 472:22 473:5 475:6	Justin 305:3	last 334:23 348:21 483:22
indicated 352:1 375:3 383:4,5 385:23 403:8 437:8,16 438:9 457:6,11	intermission 338:8	Jordan 287:12 290:13 319:16 363:11,16,19,24 364:3 365:4 366:11,25 367:25 369:8 370:21 371:4 374:19 376:25 379:6,23 381:21 382:1 383:1 384:6,22 387:17 391:7 396:18 398:14 407:23 412:22 415:4,12 416:15 416:23 417:1 418:24 419:15 420:24 421:4,16 422:1,4 423:18 426:4 429:6	Justin 305:3	lasted 311:7 379:11
indicates 436:22 439:21	interrupt 407:24	job 343:23 464:14 464:17,19	Justin 305:3	later 295:3 303:10 304:15 368:13 422:18 447:18 482:12
indicating 404:1 437:22	interrupting 377:7	job 343:23 464:14 464:17,19	Justin 305:3	laughed 339:7
indication 316:9 360:25 433:4	intersection 293:24 294:9	job 343:23 464:14 464:17,19	Justin 305:3	law 304:1
individual 301:3 302:24 305:4 310:8 311:14 367:14 381:13 383:12	interview 347:9,14 423:1 427:10,24 428:2,4,16,18 452:1 483:19	job 343:23 464:14 464:17,19	Justin 305:3	lawyer 327:14,21 355:21 404:7 405:3,13 431:13 446:11 453:17 468:5,12
individuals 463:14 463:20	interviewed 482:13	job 343:23 464:14 464:17,19	Justin 305:3	lawyers 322:5 399:4 411:10 412:9 424:9 470:12 473:4 474:4 481:21
informed 303:5,10 304:23 314:14 316:23 319:15 330:5 378:24 383:6 386:11 388:5 420:3,4 441:9	interviews 422:19 440:1 482:16	job 343:23 464:14 464:17,19	Justin 305:3	
initial 344:3	introduce 314:18	job 343:23 464:14 464:17,19	Justin 305:3	
initially 294:12	introduced 322:19 325:17,18 422:9 422:12 467:14 482:4,7	job 343:23 464:14 464:17,19	Justin 305:3	

laying 309:18 366:22	331:24 471:11	402:16 412:24	Madam 313:17	437:6 446:11,15
lead 315:6 351:3,10 356:9 379:24 405:22	let 296:13 297:2,5 297:18,20 308:13 316:13 327:4 346:20,22,23 422:21 461:10 478:22 479:20 482:18,19	447:15 463:6 471:1 479:23	made 291:6 292:21 294:18 307:13,25 320:19 333:6 336:16 340:3,11 347:25 366:8 395:16 424:9 427:12,13 436:18 447:5 453:22 454:4 468:20 470:12 476:17	484:25 485:5
leadership 427:6	letter 382:5,21 429:12,14,16	live 421:1	major 317:20	Marty's 385:19
leads 380:14	letterhead 352:11	living 422:5 481:25	majority 384:12 463:10	material 307:10 317:10 321:17,17 332:4 374:20 388:14 417:2
leak 339:8,12 414:16	let's 319:12 359:23 388:13 391:3 398:14 400:23 410:25 427:11 458:9 470:2,25 472:25	living-room 460:9	make 293:17 336:24 341:3 344:3 345:8 347:20,22 364:22 366:10 375:24 404:19 409:20 411:11 419:4 421:16 445:5 453:15 461:18 479:10,11 481:13	maternal 350:18 355:24
leaned 474:24	level 393:15 475:15	loading 400:10	makes 343:6 416:19	matter 291:14 316:18 322:6 325:16 326:1 391:1 399:5 421:6 445:8 465:14 466:21
learn 453:1 459:21	life 291:23 344:16 362:8,9 421:2 480:20	lock 350:9	making 297:15 299:7 344:11 390:7	matters 365:14 434:15 447:1
learned 301:8 322:3 337:20 367:20 369:10 385:13 415:5 473:3	lifestyle 433:23	locked 350:5,6	man 369:14 426:15 460:10	maximum 410:6
least 318:12 389:15 405:6 439:21 441:25 458:5	light 293:3 390:6	log 314:5,19 382:17 457:11	Manitoba 285:14 286:18 351:22 352:9,18 417:2 430:14 435:19 478:7 487:6	may 289:4 309:4 332:13 353:9 354:4 355:10 364:7 366:25 380:4,8 385:14 388:16 389:23 410:6 434:13,13 434:14,22 435:2 435:11,13 436:8 438:18 439:2,11 439:16 441:14,15 441:21,21 442:14 442:15 443:2 444:18,20 445:14 445:21,24 446:20 446:20,24 447:18 453:7,9 455:14 456:3 457:16 463:20 479:7
leave 292:15 298:4 306:21 349:5 374:16 376:4 414:22,25 425:11 426:1 444:15,24 474:12 484:18,24	like 290:23 291:5 298:18 303:2 309:11 311:5 313:17 314:11 315:4 321:19 322:20 323:20 335:16,19 340:25 341:6 344:11 361:15 368:2 372:20 373:8 375:25 386:20 390:22 391:20 392:22 394:18 402:17 404:18 406:20 409:25 418:17 419:15 432:17 434:7 446:8 453:4 460:20 463:21 464:20 465:22 477:21	longer 379:13 380:11 389:14 390:5,11,22,23	many 291:19 314:21 353:24 381:8 459:24 479:8	maybe 311:8 324:21 336:11 379:12 420:3 431:3 469:17 479:22 481:4
leaves 424:24 484:2	liked 354:22	look 336:1 343:4 351:25 381:15 383:19,24 431:18 448:3 466:17 478:12	marble 340:12	McCorrister 313:7 314:10,22 315:15 316:4 317:5,9,16 318:15 323:6 329:19 332:20 343:11,15 352:2 352:15 355:8 380:18 381:3 382:3,5,9,13 384:13,17 385:18 385:24 389:19 398:21 399:14 400:2 419:19 420:19 436:19 439:7,15 457:7 462:20 463:3,21 464:3 467:3 480:5
leaving 301:4 459:14	likely 375:4	looking 296:17,19 437:24 485:10	March 314:8 316:21 382:8 383:11 384:1 389:17 420:17 422:7 428:16 451:23 482:3	
left 298:12 301:8 306:23,25 313:2 331:23 339:4 349:4,8,10,20,23 349:24 350:2 368:22 376:3 393:6 414:14 424:6 425:5,19,24 426:2 434:8 443:16 474:16 484:9,17 485:2	limited 480:4,14	looks 478:14,15	MARKED 288:4	
legal 321:13	list 322:4 333:24 357:13,20 383:21 399:3 465:11	loop 376:1	marksman 427:5	
leisurely 391:15	listen 335:12 479:2	loss 290:24 302:15 364:1 435:1 459:8 459:18	Marty 286:12 319:15 322:12,16 327:1 328:7 335:6 349:13,18,25 350:4 355:21 360:13,22 384:18 385:6,19 388:24 392:3 394:25 395:7 403:18 413:7,8 425:7,20	
length 318:1 362:12 390:12	listening 312:7	lost 290:16 298:21 302:2 364:10		
lengthy 314:15	little 296:12 314:11 314:12 319:17 330:11,11,12 336:24 344:10 359:16 374:21 379:13,17 389:13 395:7 397:25	lot 301:22 343:24 361:25 362:16 366:2,13,14 371:20 389:14 398:5 416:20 418:13,19 420:5 434:7 445:16,18 450:13 473:6		
Lesley 312:24 313:7 314:10,18 316:24 321:3 323:6 324:9 329:19 332:7 341:11 343:11,20 343:21 380:18,21 381:3 382:3,9 384:17 385:18 389:19 399:14 400:2 419:19 420:19 457:7 462:20 464:3 465:21,25 466:11 480:5		lots 424:5,21 484:14		
Lesley's 324:8,14		loud 342:13,15,25 419:1 470:7 477:17 478:25		
less 311:22 314:22		lounge 347:6 423:12,16		
		loving 291:16		
		luck 345:16		
		M		
		M 286:2,12		

McCorrister's 325:15 332:7 440:24	memory 411:15 424:1	minimum 461:25 462:1	440:21 459:21 463:6,24	353:22 413:21 430:18 468:4 479:5
McFetridge 286:18 287:8,15 351:15 355:18 430:6 436:6 444:25 445:12 446:5 456:4 457:5 485:16 486:10	mention 298:6 307:13 476:17	Minuk's 327:13 335:1 384:18 385:6 386:24 388:18 389:24 394:19 409:6 436:8,23 446:11 446:15	morning 289:5,6 290:4,5 292:9,13 322:7,14 325:12 326:12 340:15 350:12 355:20 357:21 364:17,18 367:3 368:10 378:25 399:5 401:11 406:12 411:18 423:14 441:10 451:11,16 459:16 467:20 486:2	myself 309:9 314:18 333:11 337:11 342:18 376:22 385:18 388:23 389:13 390:22 392:3 461:3 471:17 476:17 mystery 321:15
McFetridge's 455:8 mean 296:20 298:25 310:18 331:8 342:7 345:1 353:18 354:18 362:10,16 368:4 368:13 371:16 374:3,22 375:14 380:21 383:6 390:21 391:18 398:7 405:18 410:16 412:3 416:4 418:17 419:3,12 420:5 421:2 432:21,22 437:2 444:18 468:21 471:15 484:22	mere 413:18 merely 383:15 mess 345:4 message 313:2 377:12 392:9,23 392:24 416:7,9,13	minute 328:5 363:5 366:22 407:22 458:13	most 291:15 328:3 356:11,13 423:10	<hr/> N <hr/>
mean 296:20 298:25 310:18 331:8 342:7 345:1 353:18 354:18 362:10,16 368:4 368:13 371:16 374:3,22 375:14 380:21 383:6 390:21 391:18 398:7 405:18 410:16 412:3 416:4 418:17 419:3,12 420:5 421:2 432:21,22 437:2 444:18 468:21 471:15 484:22	met 304:14 322:12 322:19 324:18 325:18 326:13,13 332:20 335:15 336:13 359:7 384:17,25 385:24 385:25 386:18,19 387:7 388:8 391:20 399:17 406:15 408:19 423:18 439:22 440:15 447:2 465:21 467:3 468:1 469:23 470:23	minutes 292:16 311:8 324:21 325:4,16 329:15 336:5,11 356:5,6 363:3 379:12 385:16 391:11 392:1 406:11 426:5 457:24 458:9,10 469:18	Mostly 366:15 mother 290:17 302:2 364:1,10 366:18 368:1,11 416:9 426:6 454:23 459:18 462:11 482:25 483:15	name 305:2 350:12 355:20 446:10 462:20 nature 319:19 402:12 near 352:8 453:24 necessarily 293:24 321:10 435:6 need 365:19 421:12 478:8 needed 304:7 342:19 389:1 391:14 440:2,4 needs 343:1 negative 345:4 negligence 386:8 392:17 447:12 never 292:9 315:11 325:17 329:21 342:8 344:18,20 366:16 386:8 388:3 406:3 443:22 445:20 449:13 450:9 454:24 476:18 new 400:25 465:10 467:18 news 302:2 319:5,7 366:12 409:20 459:17 next 308:7,22 322:6 323:1 330:19 362:23,24 363:11 387:10 399:5 426:13 428:2 429:8 458:11,19 465:15 466:22 486:2,3 nice 343:22 424:21 480:11 nobody 392:25 408:22,24 428:22 479:15 nod 458:7 nodding 290:15 301:11 322:1 326:20 332:23
meant 353:16 358:11 359:1 405:11 409:9 476:21 482:25	metaphor 418:21 Metis 429:3 Michael 355:20 middle 459:3 might 296:18 297:11 303:21 313:10 317:15 319:6 327:18 341:4 347:11,15 347:18,21 360:25 362:21 368:24 371:23 374:8 380:10,11 397:2 399:15 400:9 405:23,24 407:17 414:14 420:21 427:3 429:4 431:3 449:9 453:23 461:19 463:24 478:21 483:19	modified 420:1 mom 290:19 291:6 291:12 292:9 295:17 300:16 302:10 311:2 345:3 364:21 366:10,22 367:7 369:14,22 376:11 378:18 379:1 416:21 481:9	mother's 291:19 308:23 331:18 335:24 407:4 470:6 479:2 motor 435:16 mouth 337:14 mouths 342:20 move 315:25 344:20 345:1 388:13 400:23 407:7 410:25 421:1,3 427:8 460:20 470:2 472:25	needed 304:7 342:19 389:1 391:14 440:2,4 needs 343:1 negative 345:4 negligence 386:8 392:17 447:12 never 292:9 315:11 325:17 329:21 342:8 344:18,20 366:16 386:8 388:3 406:3 443:22 445:20 449:13 450:9 454:24 476:18 new 400:25 465:10 467:18 news 302:2 319:5,7 366:12 409:20 459:17 next 308:7,22 322:6 323:1 330:19 362:23,24 363:11 387:10 399:5 426:13 428:2 429:8 458:11,19 465:15 466:22 486:2,3 nice 343:22 424:21 480:11 nobody 392:25 408:22,24 428:22 479:15 nod 458:7 nodding 290:15 301:11 322:1 326:20 332:23
measure 393:21 media 312:10,13 379:19 medical 433:6 meet 299:4 308:10 386:21 465:25 467:4,5 469:21 472:7,14 485:1 meetings 326:16 371:6 384:20,21 384:24 385:2,6,11 391:21 398:15 411:18 423:25 446:15,17,19 463:7	might 296:18 297:11 303:21 313:10 317:15 319:6 327:18 341:4 347:11,15 347:18,21 360:25 362:21 368:24 371:23 374:8 380:10,11 397:2 399:15 400:9 405:23,24 407:17 414:14 420:21 427:3 429:4 431:3 449:9 453:23 461:19 463:24 478:21 483:19	moments 347:8 mom's 291:8 293:12 293:18 295:18 299:14 303:8,9 308:16 309:8 332:2 386:19 460:10	moved 427:6 428:14 482:3 moving 331:13 427:6 MPI 435:17 much 298:2 302:17 305:20 306:11 309:12 311:1 323:21 343:25 344:1 361:6 363:25 364:1,4 368:20 369:9,9 373:10 390:11 391:14 421:25 437:3 457:22 460:6 463:18 466:3,5 469:19 485:19,24	move 315:25 344:20 345:1 388:13 400:23 407:7 410:25 421:1,3 427:8 460:20 470:2 472:25 moved 427:6 428:14 482:3 moving 331:13 427:6 MPI 435:17 much 298:2 302:17 305:20 306:11 309:12 311:1 323:21 343:25 344:1 361:6 363:25 364:1,4 368:20 369:9,9 373:10 390:11 391:14 421:25 437:3 457:22 460:6 463:18 466:3,5 469:19 485:19,24 Municipality 350:14 must 293:3 348:11
Melissa 286:5 member 308:3 339:2 369:2 414:10 441:14 members 299:4 306:9 318:22 326:10 328:14 331:11 372:14 379:3,7 380:10 401:14 405:16 432:19 470:19 471:7 480:15	Monday 486:2,3 months 291:24 314:21 more 295:3 298:2 309:19 310:14 311:22 314:12,13 314:22 331:15,24 335:20 336:23,25 340:18 343:2 361:25 362:1 389:1 391:15 412:2,4 416:20 417:22 420:3,4 426:3,4 440:1,4	moments 347:8 mom's 291:8 293:12 293:18 295:18 299:14 303:8,9 308:16 309:8 332:2 386:19 460:10	moved 427:6 428:14 482:3 moving 331:13 427:6 MPI 435:17 much 298:2 302:17 305:20 306:11 309:12 311:1 323:21 343:25 344:1 361:6 363:25 364:1,4 368:20 369:9,9 373:10 390:11 391:14 421:25 437:3 457:22 460:6 463:18 466:3,5 469:19 485:19,24 Municipality 350:14 must 293:3 348:11	Monday 486:2,3 months 291:24 314:21 more 295:3 298:2 309:19 310:14 311:22 314:12,13 314:22 331:15,24 335:20 336:23,25 340:18 343:2 361:25 362:1 389:1 391:15 412:2,4 416:20 417:22 420:3,4 426:3,4 440:1,4

338:15 344:23 345:24 346:2 353:14 362:3 365:15 375:18 383:13 384:4 389:22 401:1,15 407:3 412:19,21 423:2 438:13 473:24,25 475:9 Norm 309:1 350:17 376:12 379:25 normal 292:6 notation 314:20 316:2 note 316:7 382:18 436:18 439:14,21 457:7 471:16 notes 385:22 471:11 487:8 nothing 338:3 342:6 353:18 384:10 387:2 476:16 notice 458:3 notion 337:18 413:18 nots 353:22 notwithstanding 407:6 number 294:18 300:4 301:13 307:1 356:1,3 375:5 380:9,24 384:25 446:25 450:1 452:16 455:1 numbers 383:15 numerous 378:24 397:7,7 nurses 366:20	453:24 occurred 307:23 309:3,12 310:24 316:3 359:14 370:24 376:15 388:16 407:12 408:9 411:9 447:7 447:9 461:21 467:21 occurring 303:22 410:14 442:15 October 340:11 344:15 398:18 411:5 415:12 476:25 off 318:10 327:5,22 330:11 335:7 336:6 357:9 403:24 404:8 405:13 441:7,24 443:3,17,21,25 453:18 461:9 468:5 offence 328:21 453:23 454:12 offender's 430:21 office 323:8 324:8 324:14 325:15 332:7,25 346:3 359:11,25 384:18 384:19,24 385:1,2 385:7 387:18 388:18,24 389:24 391:6 394:19 395:6,9,13 397:10 398:14 399:23 401:8 404:15,21 423:19 436:8 446:15 455:17 466:1 officer 286:4 294:14 294:16 295:6,24 295:25 296:25 297:11 300:22 303:6,8 304:4,24 305:16 306:14,14 307:14,25 308:8 308:17 310:9,16 310:22,23 318:4 367:4,5,10,14 369:15 370:25 376:12 377:25 378:15 425:15,25 426:17,19 427:9 458:4 460:11,23 460:23 officers 294:10 300:2,11 304:1,2 308:23 309:14,22	311:9,18,24 312:6 312:11 367:2,8 370:23 376:9,25 379:15 439:25 460:22 461:6 462:4 Official 286:22 487:5 officials 435:19 often 381:10 437:17 oh 301:22 320:2 339:7 370:2 old 290:18,21 331:16 336:18 340:12 363:22 426:9 459:4 oldest 290:7 once 298:19 309:20 320:17 335:6 337:19 ones 394:9 402:3 478:9,11 one-by-one 398:22 one-on-one 427:25 ongoing 368:20 373:10,23 378:22 only 291:18 331:9 348:1 408:10 419:20 429:17 437:25 438:22 443:15,20 449:4 open 289:4 374:22 449:25 opinions 311:10,13 379:2 opportunity 326:11 330:7,20 345:9 354:5 415:7,9 421:1,17 469:20 472:6 473:13 481:13 ordeal 384:7 order 294:23 330:21 349:1 379:24 424:23 484:1 originally 333:10 333:19 otherwise 455:22 ought 335:4 outcome 318:6,7 379:4 397:1 outside 297:24 322:13,16 324:13 324:16 325:9 326:13,14,15,17 326:18 327:11 333:16,18 335:15 350:4 357:12	360:23 365:6 366:8 401:4,13 402:13 403:19 404:1 406:5,7,8,9 406:17 408:11 445:11 452:21 466:13 467:6,7 468:1 469:16 473:13 485:6 over 295:22 314:21 323:1 330:22 333:13 348:23,25 349:12 357:13 362:10 363:25 369:12 372:7 376:16 425:8 433:10 438:10 439:13 460:8 474:23,24 479:16 481:20 484:16 overall 302:5 307:6 343:8 375:11 377:22 387:25 391:12 419:16 420:11 454:15 478:23 480:3 overcome 438:15 457:9,13 own 318:5 348:14 370:14 463:17 o'clock 289:8 458:5 485:23	paraphrasing 454:15 pardon 300:20 377:3 442:25 448:10 pared 322:4 399:3 465:12 parents 299:22 301:9 308:16,19 308:20,23 309:8 325:7 329:17 367:23 386:19 401:24 402:4,8,10 parked 424:4 parking 424:5 part 298:20 303:12 337:22 396:11 481:4 particular 445:17 446:3 466:6 partner 433:24 parts 353:24 party 321:22 369:5 407:12 460:2 pass 375:5 passed 369:22 386:23 428:25 path 374:11 Paul 286:14 347:9 350:14,15 368:15 374:10 389:2,5 395:1,5 447:23 448:16 483:18 pay 335:8 Pedersen 300:7,12 304:11,20,24 307:14 308:18 371:1,12 372:5 373:6,13 375:12 376:3 penalties 461:23 penalty 410:6 people 323:11,14 348:1 356:1 372:25 374:4 387:14 419:8 432:14,17 449:4 463:18,21 479:8 per 399:16 405:24 perhaps 444:14 Perimeter 293:7,14 294:8 298:20 364:25 period 347:3 permission 289:19 477:25 person 291:13,13 291:16 294:12 305:7 315:8,12,13
<hr/> O <hr/> oath 289:22 363:13 452:3 458:21 objecting 486:14 objection 445:2 observations 292:21 294:18,22 295:4 409:4 observed 297:23 321:21 347:11,15 347:18,21 445:15 445:21 obviously 387:6 400:11 408:20 occasion 331:15 376:8 460:21 465:4 occasions 317:4 321:19,20 332:18 occur 390:9 438:10				<hr/> P <hr/> Paciocco 286:2 486:4 package 352:6,7 353:20 479:13 page 287:2 288:3 313:23,24 314:3 314:19 315:25 332:5,14 341:23 381:24 382:7 436:3 439:14 452:5,10 455:14 455:21,23 456:3 478:13 pages 316:1 353:6 433:13 487:7 pain 434:12 pamphlet 352:8 374:23 pamphlets 306:24 307:3 352:7 361:12 372:19 374:18 375:3,21 416:25 paper 357:17 417:14 papers 406:1

<p>344:17 367:18 374:24 375:4 377:25 378:9 381:16 463:22,23 464:18 480:12 personal 328:10 341:20 373:2 383:16 420:23 personally 421:9 435:22 464:13 perspective 302:8 341:20 343:13 442:1 phase 345:6 421:15 phone 293:10,12 295:12,13 299:3,7 316:8 355:8 phoned 295:12 304:22 313:2 phoning 299:5 photographs 433:5 phrase 418:14 447:25 448:1 450:24 physical 353:12 354:3 427:15 434:11,15 pick 294:3 296:4 picked 420:17 pitfalls 438:15 457:9,12 place 297:24 298:11 301:10,16 302:1 308:14,15 311:23 312:6,7 314:8 316:14,17 320:21 336:4 337:2 338:7 338:18,25 365:24 367:23 371:6 375:8 388:21 402:13,23 406:18 414:3 436:8 440:11 459:20,23 460:17,25 464:22 465:1,19 469:15 472:24 475:16 487:9 plain 447:5 plan 289:10 plastic 398:4 played 381:10,10 playing 441:22 442:2 plea 339:16,18 340:2,7 396:2,11 403:10,19,22 405:22,25 412:18 412:25 441:10 452:24 465:1</p>	<p>475:7,18 plead 327:4 360:22 405:12 441:19 442:3,4,6,13,22 443:4 449:10 453:11,16 pleading 326:24 327:2,6,16 329:5 359:22 360:19,25 403:23 404:4 405:20 443:18 451:12 452:22 468:3,10,23 469:10 pleasant 480:12 please 349:11 351:17 363:13 369:8 370:5 396:15 425:6 455:23 460:5 467:25 pleased 446:12 pled 443:20 Pohorily 286:7 point 295:12 297:1 297:4 299:21 301:15 302:9 305:19 306:16 310:7 313:2 315:4 341:6 345:14 348:21 351:20 365:13 373:12 384:23 394:19 426:3 453:21 456:20 469:6 471:8 477:23 480:20 481:8 483:22 pointed 348:3 456:5 points 328:22 423:17 424:12 434:9 455:18 483:13 policemen 356:9 polite 315:17 383:1 383:3 464:7 POPAT 427:15 popped 426:1 Portage 364:25 posed 331:3 373:6 396:3 position 308:1 315:21 333:22 390:8 408:2 409:13 420:8 positive 291:19 345:4 possibility 394:16 449:9</p>	<p>possible 332:16 380:13 383:6 451:17,20,21 possibly 370:2 437:23 442:5 postponed 319:14 390:1 391:1 potential 311:13 379:3 387:13 437:13 preceding 452:18 precise 423:24 predicated 390:7 Prelim 440:3 457:10,13 Preliminary 318:24 387:9 437:7,9 438:16 439:23 447:19 464:25 preparation 439:1 477:16 478:12 prepare 352:3 354:10,14 426:18 prepared 342:11 439:15 441:17 442:4,6,22 443:4 443:8 453:11 457:7 486:4,5 preparing 341:20 342:14,24 354:7 416:16 418:25 419:5 438:25 477:19 478:24 present 299:12 300:3,23 309:7 329:16 337:9 347:7 355:25 367:2 376:21 385:17 388:17 390:24 400:12,17 402:5 449:4 461:2 464:6 467:20 presented 313:13 366:12 press 308:11 350:20 356:16,17 461:12 pressing 336:23 pretty 306:11 374:2 377:23 387:22 391:21 409:17 prevented 362:5 previous 330:5 359:8 preying 443:3 priest 299:24 prior 297:6 317:18 324:4 337:25 339:14 365:4 372:6 386:13</p>	<p>391:7 399:21 415:15 436:13 440:16 443:23 447:2 465:3 probably 315:4 316:23 329:15 354:16 376:18 420:7 426:1 probe 378:16 Prober 286:13 problems 319:7,16 319:19,22,25 354:4 390:1,19 402:21 448:14 proceed 319:2 331:23 350:22 360:20 429:17 454:8 proceeding 310:4 318:23 403:4 441:9 449:18 452:6,8 467:19 proceedings 285:12 285:19 287:1 324:7 330:6 338:9 401:11 403:7 408:9 414:5 415:15 472:10 473:18 process 314:15 321:6,14 341:19 342:14,25 351:4 351:10,23 362:11 362:12 380:3 387:9 416:16,17 419:5 429:17 438:12,12 454:18 477:19 478:24 479:24 481:3 productive 388:7,9 418:7 professionalism 343:14 344:7 419:22 420:15 program 372:25 435:17 programs 373:1 progressed 462:17 463:14 proof 395:25 properly 389:16 property 434:23 proposing 379:20 prosecution 285:1 320:10 384:7 390:20 397:15 399:2 prosecutor 315:10 318:15 420:12</p>	<p>463:7 protecting 378:10 prove 328:20 338:13 393:11,12 393:20,23,24 394:7,8,9 395:2 396:8,9,9 402:20 404:16,23 413:14 414:2 444:1,4 455:2 473:22 provide 306:18 351:16 369:20 389:4 400:3 474:10 476:4 provided 317:9 327:8 330:25 343:10 352:2 370:18 392:5 419:18 434:1 providing 371:5 475:24 Province 286:18 487:6 public 435:17,19 484:5 publicly 290:24 291:5 459:8 pulled 294:5,6 295:21 333:10 335:7 pulling 295:21 punishment 461:20 purpose 305:9 372:16,18 414:9 418:3 purposes 384:22 pursue 463:20 pursuit 459:25 push 289:16 put 294:23 299:19 302:8 303:19 336:2 341:24 342:2 343:4,5 351:25 353:24 354:6,21,22,24 355:1 361:22 362:1,1,4,8,18 384:10 398:15 410:4 411:8 417:24 418:8 419:3 454:8 456:4 457:5 471:21 473:2,21 putting 337:14 370:15 417:20 419:9 452:24 470:5 474:3 p.m 289:8,16 458:15 486:19</p>
---	--	--	---	--

Q				
quest 462:10	424:8 433:15	red 293:2	363:12 422:1	respond 418:15,16
question 296:16	438:22 452:9	redirect 457:20	458:4,20 481:20	response 306:1,8
302:4 310:8 335:3	470:7,10 471:2	485:20	remaining 359:18	394:5 396:13
368:9 396:4 420:8	477:17,20 479:7	refer 315:24 330:14	360:12 393:6	406:2 409:6
439:11 442:11	479:14,16 482:18	455:14 477:21	remand 312:24	471:25
445:11 452:14	482:20,21 483:3	reference 408:16	313:1	responses 306:6
456:4 476:1	483:24 484:15	470:5	remanded 314:21	373:20
486:13	reading 342:15,18	referred 314:2,6	remark 374:23	responsibility
questioned 408:23	342:20,24 418:25	317:2 361:11	453:22 454:4	441:18
408:25 409:3	422:15 478:25	367:10 389:18	remarks 453:16	responsible 311:19
476:18	ready 477:20	430:16 455:20	remembering	459:23
questioning 395:21	rear-ended 302:10	456:7	481:10	rest 381:3 384:10
405:21 409:2	reason 319:13	referring 307:17	removed 342:3	432:9
481:16	428:22 442:21,24	320:7 324:1,11	reopened 363:9	Restall 286:11
quick 341:3 387:23	443:1,20 454:22	330:3 333:21	458:17	restrictions 418:9
quickly 364:23	reassigned 465:23	351:18 397:18	rep 305:2	419:9,14
483:14	recalling 309:4	430:8 460:22	repeat 370:5 396:15	result 307:22 316:6
quite 294:1 307:25	408:8	472:12	repeatedly 296:13	340:23,25 416:1
318:2 323:13	recap 300:10	refers 382:10	repeating 297:18	416:10 418:12
328:24 332:16	receive 307:16	reflect 416:19	replied 358:3	433:23 434:15
339:18 437:17	369:6 372:4	442:12	reported 450:1	442:4 459:25
447:5	461:24	reflecting 456:12	reporter 286:20	475:7
quote 291:11	received 302:1	refreshing 411:14	396:16 487:15	returned 313:3
Q.B 286:22	352:14,20 353:3	refusal 378:13	REPORTER'S	422:7
Q.C 285:2	369:2 373:17	382:15 392:16	487:1	review 307:10
	374:3 397:13	refused 377:4	reports 433:6	312:9 317:14
	405:7 458:3	428:19 429:10	representative	319:12 374:19
	463:10 477:20	430:1 461:16	311:25 381:2	reviewed 341:25
	478:9,11	refusing 377:18	representing	RE-DIRECT
	receiving 319:5	386:7	350:13	361:10
	369:25 459:17	regarding 333:6	request 471:25	Re-Examination
	recess 363:5 414:6,7	374:23 392:8	require 292:3	287:10,17 455:11
	414:9,20,23 415:1	395:24 402:21	required 315:8	re-live 390:23 479:4
	458:13 469:22	regardless 454:10	316:11 390:19	re-living 480:24
	474:6,12	registration 417:4	457:25	Richard 349:25
	recessed 363:6	regular 293:2	requirement 433:2	425:20
	458:14	REID 286:21	reserve 427:1	ridiculous 410:12
	recognize 480:3,14	relate 292:2 359:13	reserves 426:24	rights 307:13
	recollection 309:2	455:12 457:2	residence 304:21	311:24 312:15,16
	314:23 325:2,21	related 392:10,14	305:17 308:13	312:21 313:8
	327:7 328:24	relates 477:15	317:15 371:19	317:11 343:11
	332:10 369:10	relating 352:3	373:13 376:3,10	379:8 380:16
	371:8 382:24	relationship 433:24	382:6 460:24	419:20 421:16
	399:25	relative 480:14	resolution 412:17	462:14,15,19
	recommendation	relayed 377:13	resolved 413:19	right-hand 430:16
	333:13 341:5	relaying 379:15	respect 317:10	rise 289:3 349:1
	408:4 409:18	release 308:12	321:8 338:22	363:4,8 458:12,16
	471:10 472:23	312:10 350:20	340:23 343:14	486:16
	473:5 475:6	356:16 379:19	344:4,6,7 350:21	road 293:5 296:4
	recommendations	released 311:4	351:24 353:17	348:5 389:24
	333:25 334:2	461:12	367:25 377:22	439:3
	358:22 479:10	releasing 312:13	378:14 386:13	Robert 286:11
	recommended	relevance 427:2	397:1 398:11	289:12 436:24
	413:24	relevant 434:18	408:8 419:22,24	438:20 439:25
	reconcile 404:13	435:2 440:5	420:14 431:17,21	440:3,5 456:9
	reconvened 363:7	religion 370:15	436:18 439:15	Robert's 290:7
	458:15	reliving 384:9	461:19 464:18	363:20 459:3
	record 426:22	reluctant 407:24	475:25 480:16	Roger 285:2
	records 397:7	remain 289:21	Respectful 315:19	role 381:10 419:25
R				
railing 440:25				
raise 315:3 396:25				
462:13				
raised 312:14				
339:22 412:8				
436:13 472:17				
range 387:13				
rather 423:24				
reacting 341:2				
reaction 305:15,25				
310:13,14 319:4				
319:24 327:23				
328:10 329:8				
334:3 335:1				
373:25 374:1				
378:6 386:24				
387:4 389:8 390:3				
395:15 402:19				
405:9,15 409:19				
410:10 468:9				
469:12 475:22				
476:2				
reactions 433:22				
read 291:8 330:22				
330:22 331:19				
333:14 342:3,12				
346:4,8,18,22,23				
346:25 353:21				
355:3 374:21				
375:1 407:15,25				
422:19,21,22				

room 299:20 322:23 323:8,9,10,11,12 324:5,9,10 349:4 349:10 357:25 358:4 366:3,9,21 406:18 424:20,20 424:21 458:1,7	471:15 says 394:7 418:3 424:23 439:7 scene 294:3,22 295:2,14 296:17 298:16 304:5 309:16 347:8 357:4,6 364:20 370:4,7,8,12 408:24 409:4 444:17 483:14 scheduled 289:14 428:7 school 372:15 scored 427:21 screw 395:5 screwed 389:2,5 390:1 395:1 421:11 447:24 448:6,9 seated 289:4 481:20 second 326:5 388:13 391:9 403:25 405:1 415:9 431:5 433:19 467:16 469:7 470:24 secret 291:21 321:16 471:4 Secretary 286:5 section 383:15 434:10 436:2 sections 353:15,17 security 426:22 see 293:20 294:11 294:12 295:7,8,18 300:15 301:5 308:25 317:12 329:19 353:1 367:7 374:22 381:20,22 382:7 383:10 401:2 405:6 407:6,23 416:24 421:10 423:24 430:18 446:2 458:7 485:5 485:11,21 seek 317:4 seeking 333:7,9 seem 398:5 seemed 298:18 309:24 315:21 377:23 379:17 436:23 456:6,9,17 seems 383:24 seen 367:4 445:14 445:21 458:7 483:20 sense 404:20 454:15	sent 299:23 317:15 382:5 sentence 311:13 333:6,8,9,14,25 334:4,7 340:13,24 358:1 379:4 394:11,12 397:2 408:3,5,18 409:14 409:21 410:9 415:13 416:8 431:7,9 437:13,24 450:8,12,17 451:1 461:20 470:14,15 470:16 471:5 473:6 475:7 476:25 477:3,6 sentenced 450:17 sentences 387:14 397:6,8,19 398:11 450:5,15 sentencing 291:10 407:7 411:3,4,7,9 437:11,16 438:6 438:23 449:21 separate 348:14,18 September 336:17 338:9 339:15,20 411:1 413:11 473:1,14 sequence 359:24 Sergeant 355:25 series 416:25 serious 296:18 365:14 serve 450:18 Service 286:16 services 323:18 343:10 350:23 351:9 375:22 379:8,23 380:2,15 399:22 419:18 462:15 set 292:8,10 309:20 sets 430:17 433:13 sheet 309:17 312:12 334:11 357:16,25 sheriff 350:7 sheriffs 349:17 484:20 485:10 sheriff's 425:15,25 she'd 446:8 shocked 327:15 476:6 477:9 short 458:9 shortly 366:9,19 483:15 shoulder 294:6 show 379:19 423:5 423:7 438:16	457:10,13 466:15 483:10,11 showed 305:16 357:17 400:7 469:18 471:11,16 471:19 shuffle 322:24 shut 395:18 shuttle 401:7 siblings 290:9 390:25 side 293:5,6 294:7 297:3 330:11 335:7 349:12 406:16,18 440:10 similar 325:25 352:15 361:15 478:11 simple 413:20 simply 315:9 326:1 380:10 383:14 449:17 since 486:14 single 344:9 sir 289:7,19 363:22 364:9,11,15 365:23 367:21 385:5,15 393:25 395:8,12 410:7 418:6 421:24 446:14 449:7 451:10 452:14 453:21 454:14 455:18 sister 290:11 292:17 297:7,16 299:2,14 300:13 309:9 323:24 325:7 329:17 330:15 333:11 337:11 346:9 348:3,10,19 423:13,13 444:15 459:7 471:18 sisters 365:11,18,21 376:22 402:8,16 405:19 408:23,23 409:3 444:17,21 445:13 sister's 305:5 309:10 422:23 444:7 482:22 sit 296:7 343:2 400:7 479:2,22 sitting 285:13 289:7 445:22 466:24 situation 296:18 381:4 383:14 388:3 slapped 418:18,22	421:11 sleeve 348:4 409:1,8 410:21 444:8,9 476:20 small 400:24 465:9 467:18 smaller 322:23 333:19 smoke 366:6 401:6 467:8 smoking 326:17 somebody 298:7 302:11 307:7,18 307:21 308:12 309:16 374:4 380:1 385:20 421:8 464:6 477:9 479:20,22 someone 342:23 372:15 450:17 479:12 something 293:19 302:13 332:1 342:8 346:16 361:15 366:16 368:2 374:25 381:9 391:13 396:12 406:20 418:16 431:1 435:4 437:12 454:11 sometime 341:16 482:3 somewhere 390:15 son 456:10 sorry 309:25 327:5 332:14 339:10 364:3 392:9 395:10 401:23 402:4 403:11 429:19 433:19 444:9 461:9 470:24 476:1 482:24 sort 305:13,25 352:10,22,22 356:9 418:10 442:9 463:22 Sounds 398:23 source 302:19,21 310:18 413:3 speak 321:19 326:11 330:8 339:3 340:14 347:17 372:24 414:10 415:14 425:7 430:13 435:7 447:14 460:12 473:13
S				
S 286:16 safely 371:23 sake 369:17 Salhany 285:2 345:13 378:11 479:11 same 331:12 349:5 356:19 361:16,19 368:22 369:21 397:9 402:3 425:2 456:3 478:14,15 478:16 484:4 sat 296:9 395:7 460:9 satisfactory 486:8 satisfied 354:9,17 456:21 satisfy 436:23 456:6 456:9,17 save 445:7 saw 292:25 293:4,9 293:18 297:4 302:5 361:14 400:12 401:3 444:17,21 saying 296:2 303:17 306:3 312:18 325:25 327:20 334:4 350:25 351:5 361:2 365:16 374:1 375:8 377:1 389:8 394:4,10 395:3,25 396:8 400:12 403:21 404:11,14 441:16 442:2 448:2 461:9				

<p>speaking 324:22 356:10 415:24 464:2</p> <p>speaks 316:9</p> <p>special 470:6</p> <p>specific 332:19 383:17</p> <p>specifically 314:3</p> <p>spend 323:21 366:17 406:13 466:3 479:23</p> <p>spending 367:21</p> <p>spent 325:21 437:18</p> <p>spoke 295:23 311:20 340:16 400:1,2 466:11</p> <p>spoken 316:24</p> <p>spot 334:11 419:4</p> <p>spots 293:25</p> <p>spouse 374:24 375:4 433:24</p> <p>spouses 307:9</p> <p>St 286:14 347:9 350:14,14 368:15 374:10 389:2,5 395:1,5 447:23 448:16 483:18</p> <p>stack 345:25</p> <p>STAFF 286:1</p> <p>stage 387:10 394:20 421:5</p> <p>stand 344:8 347:2,5</p> <p>standing 289:21 325:9 326:17 347:23 348:2 363:12 401:21 458:20</p> <p>stands 486:17</p> <p>start 292:14,14 315:6 316:13 363:24 364:15 380:20 387:23 438:25 440:8 441:9 458:11 467:9 469:19 486:3,5,6</p> <p>started 294:2 295:11 297:3 299:9 306:5 324:7 336:6 340:8 345:22 370:23 392:21 395:5 401:18 440:7 461:9 463:15 464:23 470:17 473:14 479:23</p> <p>starting 301:17 363:2 403:4 419:17</p>	<p>starts 424:13</p> <p>state 298:16 309:21 331:7,10 379:14</p> <p>stated 294:19 487:9</p> <p>Statements 330:20 335:11 336:7 419:6 439:9</p> <p>station 298:5 307:22 357:6</p> <p>stay 297:14 328:17 329:12 392:8 395:24 405:19</p> <p>stayed 301:12 329:1 358:8,11 359:15 360:9 402:17,18 443:14 452:17 468:17 469:11</p> <p>staying 328:1 359:1 392:13 393:10 413:17 444:2 449:17</p> <p>steadying 366:15</p> <p>steering-wheel 299:10</p> <p>Stenotype 487:8</p> <p>steps 471:1 479:8</p> <p>step-by-step 385:4 385:9 471:1</p> <p>stick 423:25</p> <p>still 296:22 297:1 310:19 329:11 378:22 395:20,20 396:22 421:2 425:10 437:2,19 437:20,22 477:8 485:3,11</p> <p>stood 425:9</p> <p>stop 471:14</p> <p>stopped 294:10 365:23</p> <p>strength 311:10 461:14</p> <p>strengths 457:14</p> <p>stressful 348:12</p> <p>stretch 293:21,23</p> <p>strong 292:1 365:10 365:21</p> <p>strongest 291:13</p> <p>stuck 298:13 299:8 386:9</p> <p>stuff 305:13 342:2 354:20 372:20 417:25 418:17,18 481:11</p> <p>stupider 344:10</p> <p>subject 316:18</p> <p>submission 335:12 408:4 409:14,20 471:6</p>	<p>submissions 333:6 408:14,17 424:10 470:11 474:8</p> <p>submitted 330:21 341:25</p> <p>sudden 405:20</p> <p>suffering 290:24 364:3 459:8</p> <p>suggest 289:13 351:2 431:8 449:7 451:15</p> <p>suggested 316:18 361:20 380:1 388:16 410:7 455:19</p> <p>suggesting 314:7 316:5</p> <p>suggestion 332:6 410:11 413:19</p> <p>suggestions 342:22 342:25 419:4</p> <p>suits 289:15</p> <p>summary 314:5 316:18 382:1 404:10</p> <p>supposed 378:9,9 386:21,23 399:23 411:6 428:8 431:5 433:5 464:25 479:17,19</p> <p>sure 293:17,17 299:24 304:19 308:9 309:6,10 321:7 326:25 328:5 331:4 332:13 337:12 340:4 344:2 345:8 351:12 354:9 372:13 378:4 385:21 399:16 401:19 403:17 405:24 407:20 409:17 412:13 421:16 424:3 430:25 446:12 453:5 461:5 466:16 468:14 469:5 472:22 473:16 481:13</p> <p>surprise 404:6 453:12</p> <p>surrounding 362:17</p> <p>Svein 456:24</p> <p>Sveinson 302:25 303:4 346:11 369:18 370:11 373:12 447:2 460:3</p> <p>swear 289:22,24</p>	<p>363:13,15 458:21</p> <p>switch 379:22</p> <p>sworn 290:2 363:17 458:25</p> <p>symbol 370:15,16</p> <p>sympathy 290:23 363:25 459:7</p> <p>system 350:22 382:2 384:3 440:22,25 454:16</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>tab 351:19 417:1 436:2 477:23</p> <p>table 339:9 349:13 425:11 437:20 443:17,21,25 454:8</p> <p>taken 328:12 344:13 357:5 375:7 407:21 443:21 472:24 487:8</p> <p>takes 381:19</p> <p>taking 312:7 316:14 316:17 320:21 327:25 337:2 338:7,18 344:12 365:24 385:22 389:14 402:13,23 414:3 434:15 460:25 465:19 475:16</p> <p>talk 291:14 297:1 304:8 314:10 315:14 343:22 349:19 350:16 362:11,12,13,15 372:25 373:3 374:8 445:13 476:11,12</p> <p>talked 314:17 329:21 330:12 350:5 399:15 436:12</p> <p>talking 300:8 301:6 305:18 307:6 309:22 335:17 340:8,17 344:9 347:24 348:7 356:12,13 366:7 372:22 401:17,18 415:20 436:13,14 437:19 439:2 440:20</p> <p>Taman 286:11 287:4,12,19 289:20 290:1 350:12 351:16,21 362:25 363:11,16</p>	<p>402:2 430:10 436:4 444:14 446:10 458:19,24</p> <p>Tara 287:4 289:20 290:1,4,16,21,25 291:5,17,22 294:15,17 298:14 301:15 303:2,24 307:12 313:5 314:2 315:24 318:8 321:15 333:5 336:16 338:20 340:24 341:6 342:14 343:7,13 344:14 344:25 345:6,21 348:21 350:10 355:22 361:6,11 361:21 362:19 423:13 461:4 476:17</p> <p>tarp 295:22</p> <p>telephone 295:24 313:4 314:5,7 316:3,5 317:1,22 364:12 372:1 380:24 382:2,4,17 420:18</p> <p>tell 289:23 290:18 292:6 294:3 295:15 296:3 297:23 299:12,17 303:20 312:21 321:15,20 322:22 326:21 349:11,24 350:8 353:7 357:7 361:4 363:14,25 365:8 368:17,20 373:9,20 374:5 377:24 379:18 386:16 392:2 396:3 408:12 423:3 425:6 428:20 446:1 459:3 461:7 467:10 470:21 474:9,21 483:8</p> <p>telling 298:3 330:18 338:3 365:17 378:12 388:24 389:25 397:18 404:3 405:18 406:19 410:19 413:8 417:23,25 442:9</p> <p>tells 341:23 361:25</p> <p>ten 363:3 458:9,10 458:13</p> <p>tenor 314:25 361:24</p>
--	--	---	--	---

418:11,25 419:6 424:9 430:12,14 431:2,6,8 433:12 438:21,24 439:8 470:8,10 471:2 477:16 478:7,24 483:24 484:15 victims 307:13 311:24 312:15,16 312:20 313:8 317:10 323:18 343:10 345:7 350:23 351:9 379:8,8,23 380:2 380:15,16 399:22 419:20 421:15,16 435:12 462:14,15 462:19 victim's 294:24 Victoria 456:22 view 293:20 298:14 468:24 478:23 480:16 viewing 450:25 Vince 351:7 Vincent 286:3 visit 305:9 307:14 308:22 309:5 311:6 372:17,21 375:12 376:15 379:10 visited 423:18 vocal 412:20 voice 334:8,9 volume 285:17 313:22 332:5 351:19,19 361:12 381:25 416:25 430:8,8 455:13 477:23 voluntarily 445:7 volunteer 293:1 volunteered 426:21 voted 486:11 voting 486:13	334:14,24 walking 295:11 334:19 367:6,6,11 401:4 wall 339:6 wanted 297:8,11,13 298:17 305:21 306:8,16 308:10 314:11,15 315:3 319:8 328:16 329:12 332:1 333:12 336:24 338:20 368:4,7 375:16 376:7 389:9 392:24 393:4 402:15 407:6 410:4 411:10 412:2,9 416:8,13 417:20 421:18,20 425:7 426:17 431:1 438:20 439:8 441:19 442:3 443:3 wanting 372:20 washroom 474:25 wasn't 306:7 310:19 335:18,20 337:4 347:24 358:4 362:10 368:12,12 371:16 372:20 376:6 383:14 387:24 396:6,6 413:5 416:2 429:16 440:6 445:18 447:6 455:2 464:16 476:3 482:21 way 292:15 298:20 331:12 341:2 344:11 345:4 364:19,22 366:8 394:24 395:6 396:6 416:5 418:18 419:12 421:6 443:13,13 461:20 463:17 475:1,1,3 ways 348:14 419:5 weaknesses 387:21 438:16 457:10,14 Wednesday 351:6 week 346:13 359:8 weeks 291:24 301:13 428:14 447:18 Weinstein 286:15 Wendy 286:6 weren't 328:5 346:7	358:6 376:7 416:5 434:16 462:7 468:13 483:3 we'll 289:9 295:3 304:1 383:24 385:4,9,10,11 398:22 446:11 458:11,11 we're 348:23 389:23 421:5 435:25 449:18 455:22 486:4 we've 298:10 301:8 331:22 while 294:18 295:1 318:3 324:16 354:10 481:13 485:8 whole 340:7 342:10 345:2 351:4,10 391:20 398:8 401:5 420:5 421:12 454:16,17 472:18 wife 378:18 425:21 willing 328:17 win 405:3 window 297:3,4 windows 425:9,9 Winnipeg 285:13 285:14 286:16,17 302:23 347:13 367:5 369:15 422:7 wish 345:16 421:24 481:18 witnesses 287:3 289:11 322:5 399:4 465:13,13 woke 292:13 Wolson 349:25 425:20 449:11 465:14 woman 295:8 300:5 343:23 wondering 368:2 wood 424:21 484:15 wooden 331:15 336:18 wording 396:6 words 291:17 316:19 337:14 354:12 377:10,14 395:3,4,9,13 403:20 440:24 441:18 448:12 450:13 466:8 work 292:10,12,15 292:17,20 319:6	336:7 368:3 401:8 workday 292:7 worked 315:5 426:22 worker 312:21 313:8 343:11 380:16 419:20 462:19 workers 311:24 working 319:10 works 302:22 worry 344:13 worst 291:23 328:3 328:20 329:5,6,11 360:14,15 wouldn't 297:2 319:2 372:2 394:8 394:14 410:4 432:18 438:10 443:17 475:19 476:7 write 342:9 343:2 353:20,21 418:2 479:19 writing 342:8,17 417:18 written 342:8 427:18,22 wrong 320:14 385:20 455:21 479:20 wrote 355:15 Wyant 322:7 326:8 349:1,4,10 399:6 408:3 411:10 413:9,12 415:13 424:24 425:2,5 465:16 467:20 470:13 473:3,19 477:2 484:1	344:16 426:15 480:21 younger 305:7 youngest 290:14 363:20
Z				
Zazelenchuk				
286:10 287:6,14 287:21 345:19,20 350:10 422:3 429:6 445:2,5,6 481:24				
Zenk 356:23 357:3 358:7 360:18 438:1 441:17 442:1,13,21 453:23				
zone 424:5				
0				
06 388:16				
1				
1 433:13 1:00 289:8,16 1:01 458:15 1:48 486:19 10 324:21 325:4 336:5,11 363:5 379:12 422:25 10:30 363:6 10:41 363:7 10:45 289:14 100 399:16 405:24 11 313:18 314:2 316:1 332:5 381:19,25 430:9 435:24 436:1 455:12 457:24 11:00 289:15 12 322:5 351:17 399:4 430:9 465:13 477:22 12th 336:17 338:9 339:15,20 411:1 413:11 473:1,14 12:50 458:14 13 391:7,24 13th 360:1 446:20 449:1 452:15 453:21 15 292:15 329:15 336:5,11 379:12 391:11 16 400:4 451:6 16th 321:25 322:17 323:10 332:24 398:17,25 400:21 451:16,19 453:5				
W				
wait 324:6 485:5 waited 350:4 476:11 waiting 300:15 323:11,19 324:5 366:4 425:10 467:8 485:9 wake 292:9,10,11 wakes 345:2 walk 332:17 334:10 394:15,16 425:8 453:23 454:5,12 walked 299:19				

<p>465:7 466:7,19 17 426:20 451:8 17th 326:6,12 327:8 330:6 400:23 406:5 441:5 451:11 453:5 467:17 469:8 18 383:11 18th 389:17 1853 382:7 1855 381:24 1857 313:24 314:3 314:19 1859 315:25 1870 436:3 455:23 455:24 456:3 1877 439:14 455:14 19 426:9 1921 332:6,15 199 487:7</p>	<p>408:16 409:12 410:14 424:7,13 470:4 471:2 473:1 477:18 23 363:23 230 424:20 24 459:5 25th 291:23 292:5 344:15 364:10 426:7 444:22 26th 426:12 27 451:23 28 452:5,10 29 388:16 29th 316:4 340:11 344:15 389:23 398:18 411:5 415:12 439:16 446:20 447:18 455:14 476:25 290 287:5</p>	<p>92.6 351:20 417:1 926 477:23</p>		
<p style="text-align: center;"><u>2</u></p>	<p style="text-align: center;"><u>3</u></p>			
<p>2 285:17 433:13 2:00 458:5 485:23 20 311:8 329:15 351:7 356:5,6 385:16 391:11 392:1 426:11 2005 291:24 292:5 314:8 316:4 344:15 364:10 382:8 383:11 384:1 389:18 420:17 426:7 428:10 444:22 2006 318:24 319:2 385:14 389:23 436:8 439:16 446:20,20 455:14 2007 320:15,18 321:25 322:17 331:13 336:17 339:15,20 344:15 352:2 391:7,24 398:25 400:4,23 406:6 407:2 409:12 410:14 411:1,5 413:12 415:12 446:20 449:1 464:24 465:7 470:4 473:1 473:1 2008 285:16 289:1 351:7 451:23 22 290:20 483:23 22nd 291:7 330:23 331:13,18 332:11 333:1 335:23 341:15 347:23 348:22 407:2,15</p>	<p>3 285:16 289:1 436:8 446:20 3rd 385:14 446:24 456:3 31st 314:8 32 322:5 399:4 465:12 345 287:6 350 287:7 351 287:8 355 287:9 361 287:10 363 287:13</p>			
<p style="text-align: center;"><u>4</u></p>	<p style="text-align: center;"><u>4</u></p>			
<p>4 436:2 4th 382:8 422 287:14 43rd 291:8 430 287:15 446 287:16 455 287:17 459 287:20 481 287:21</p>	<p>5 5:30 292:11 59 292:24 293:15</p>			
<p style="text-align: center;"><u>7</u></p>	<p style="text-align: center;"><u>7</u></p>			
<p>7:00 378:25</p>	<p style="text-align: center;"><u>9</u></p>			
<p>9th 486:17 9:00 289:2,8 486:3 486:5,6,7,9,18 9:30 486:2</p>	<p>9 9th 486:17 9:00 289:2,8 486:3 486:5,6,7,9,18 9:30 486:2</p>			