

INQUIRY INTO THE INVESTIGATION AND  
PROSECUTION OF DEREK HARVEY-ZENK

The Honourable Roger Salhany, Q.C., Commissioner

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

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Monday, June 9, 2008

Volume 3

INQUIRY PROCEEDINGS

## COMMISSION STAFF:

Mr. David M. Paciocco Commission Counsel  
Mr. Vincent Clifford Associate Commission Counsel  
Mr. R.L. Giasson Chief Administrative Officer  
Ms. Melissa Braun Administrative Secretary  
Ms. Wendy Bergmann Administrative Assistant  
Ms. Alnie LeBlanc Commission Clerk

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APPEARANCES

Mr. G. Zazelenchuk and  
Mr. I. Restall For Robert Taman  
Mr. M. Green For Mr. Marty Minuk  
Mr. J. Prober For Derek Harvey-Zenk  
Ms. B. Bowley For R.M. of East St. Paul  
Mr. H. Weinstein For Mr. Harry Bakema  
Ms. S. Hanlin For Winnipeg Police Service  
Ms. K. Clearwater For Winnipeg Police Association  
Mr. G. McFetridge For the Province of Manitoba

Reporter:

CECELIA J. REID

Official Examiner, Q.B.

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1 MONDAY, JUNE 9, 2008

2 UPON COMMENCING AT 9:00 A.M.

3

4 THE CLERK: All rise. This Commission  
5 of Inquiry is now opened. Please be seated.

6 THE COMMISSIONER: Good morning. Are  
7 you ready to go, Mr. Paciocco?

8 MR. PACIOCCO: We are ready,  
9 Mr. Commissioner. There is one minor housekeeping  
10 matter that I think we should attend to. As  
11 everyone is aware, we are here for 9:00 o'clock  
12 today. We had set start times for 9:30, and I was  
13 wondering whether it is the intention to start at  
14 9:00 for the balance of this week? Of course, we  
15 can't make a decision on what we will do in the  
16 next phase because there are lawyers who aren't  
17 represented here today. So just setting the tone  
18 for the balance of the week, should we start at  
19 9:00 o'clock or 9:30?

20 THE COMMISSIONER: Well, we are really  
21 trying to adjust it, depending on the pace of the  
22 Commission. It is hard to tell, but we are  
23 anxious to get it done within the allotted time.  
24 And so we discussed 9:00 o'clock last time, and  
25 unless there is some reason why counsel can't

1 start at 9:00, I'm ready to go. Anybody?

2 Everybody?

3 MR. GREEN: I don't have a problem  
4 with 9:00 o'clock this week, Mr. Commissioner, but  
5 I would like to address for the balance, that is  
6 for the summer months on that question.

7 THE COMMISSIONER: Yes. Maybe while  
8 you are on your feet, you can tell me what the  
9 problem is?

10 MR. GREEN: Well, one of the problems  
11 is, what you identify in one of these earlier  
12 letters that you sent out, namely, that we have  
13 other matters that we have to tend to from time to  
14 time.

15 THE COMMISSIONER: Yes.

16 MR. GREEN: I know that if every day  
17 we start at 9:00 o'clock, that would present  
18 problems. I don't have a problem with this week,  
19 though.

20 THE COMMISSIONER: Well, would it be  
21 agreeable if at the end of the day, you can tell  
22 me what your scheduling is like, and we can adjust  
23 it to convenience you? I don't want eight or nine  
24 different requests for different times, but if  
25 there is a specific reason why you can't start at



1 9:00 o'clock on a particular day, maybe you can  
2 indicate to us and we will try to accommodate you.

3 I remember practice, what it was like  
4 doing just litigation, it is -- you have got to  
5 have some time to see witnesses and other matters  
6 that come up, and I understand the situation. But  
7 if you could let us know in advance what your  
8 particular problem is, I will try to accommodate  
9 you. Is that all right?

10 MR. GREEN: Sure.

11 THE COMMISSIONER: The hands went up  
12 in the air, what does that mean?

13 MR. GREEN: I said sure.

14 THE COMMISSIONER: Oh, sure. Okay, I  
15 didn't hear you.

16 MR. PACIOCCO: Thank you.

17 Mr. Commissioner, the first witness  
18 today is Mr. Sveinn Sveinson. As Mr. Sveinson  
19 approaches, I'm going to record for the record  
20 that Victoria Sveinson, the wife of Sveinn  
21 Sveinson, who was at many of the meetings that he  
22 will be testifying about, has left the hearing  
23 room, even though she is not excluded under the  
24 exclusionary order for the purposes of his  
25 testimony.

1 THE COMMISSIONER: You are going to be  
2 sworn.

3 SVEINN SIGURDUR SVEINSON, having first  
4 been duly sworn, testified as follows:

5 BY MR. PACIOCCO:

6 Q Good morning, Mr. Sveinson. I  
7 understand that you are the father of Crystal  
8 Taman?

9 A Yes, I am.

10 Q And, sir, you are married to Victoria  
11 Sveinson?

12 A Yes.

13 Q And when you spoke to Mr. Clifford of  
14 our office in February, it had been some 44 years  
15 that you have been together?

16 A Yes, it is.

17 Q And I take it that remains true,  
18 approximately, 44 years?

19 A Remains what?

20 Q Remains true, you haven't had an  
21 anniversary in the last couple of months?

22 A In April.

23 Q Sir, I understand that Crystal left a  
24 sister who she was very close to?

25 A Yes, they were almost like twins,

1 throughout their lives they were as close as  
2 twins.

3 Q And her name would be Corrina, I  
4 understand?

5 A Yes.

6 Q And she goes by Corrine or Cory?

7 A Cory.

8 Q Was she older or younger than Crystal?

9 A She was a year and two weeks younger  
10 than Crystal.

11 Q I understand that Cory has a couple of  
12 children?

13 A Yes, she has.

14 Q And they were very close to Crystal as  
15 well, were they not, sir?

16 A Yes, they were.

17 Q Sir, you come from a very large  
18 family, I understand?

19 A Yes, I had eight brothers and four  
20 sisters.

21 Q Sir, many, many cousins were left  
22 behind by Crystal?

23 A Wow.

24 Q Sir, you have our sympathy for the  
25 tremendous loss that you have suffered and the

1 difficulty that you have endured. And I certainly  
2 don't want to compound the hard times that you  
3 have been through, but you understand that this  
4 morning is not going to be a terribly easy time  
5 for you.

6 A I understand, thank you.

7 Q Sir, I understand that you spent most  
8 of your life working in the administration of  
9 justice?

10 A Yes, I did. I spent 36 years working  
11 in the correctional field.

12 Q And, sir, I understand that you are  
13 now retired?

14 A Yes.

15 Q What did you do in the correctional  
16 field?

17 A Well, for a period of time I worked as  
18 a correctional officer, I counseled for 13 years,  
19 I worked in material management for a number of  
20 years. And just before I retired, I guess about  
21 six, seven years, I managed the laundry department  
22 at the Stony Mountain Prison.

23 Q Sir, I know that your experience,  
24 based on the press reports, from comments  
25 attributed to you, and based on letters that have

1    been written by your wife, I understand with your  
2    concurrence, is that you were deeply distressed by  
3    the administration of justice and how it worked in  
4    this case.  Would that be a fair comment, sir?

5           A     It certainly would.

6           Q     And, sir, if the Commissioner was to  
7    say to you, why are you so upset about the way the  
8    criminal justice system responded in this case,  
9    what would you say to him, sir?

10          A     Where would one begin?  When a car can  
11   be stopped at a red light, and when a young person  
12   on her way to work, doing what she should be  
13   doing, other cars parked there with their brake  
14   lights on, somebody comes along through a red  
15   blinking light that says watch out, there is a  
16   light change ahead, pays no attention to it, does  
17   not apply his brakes -- it is a bright yellow  
18   car -- at full speed, there were no brake marks as  
19   you will hear further on.  And then they say it is  
20   hard to prove, how can that be?  The man was  
21   there.  The truck was there.  My daughter was dead  
22   and she was there.  What is wrong with our justice  
23   system if it can't be proved, when all of these  
24   things are there?  A five-year old could say that  
25   man wasn't paying attention, he was driving

1 dangerously. Is our justice system so bad that  
2 even a five-year old would know better?

3           Your Honour, that's how I feel. I'm  
4 insulted by the way police officers and certain  
5 people within the justice system reacted. After  
6 spending 36 years devoting my life to protect the  
7 public, I'm insulted by the justice system.

8           Q     Sir, I'm going to take you, in a very  
9 systematic way this morning, through all of the  
10 episodes, beginning with the event all the way  
11 through to the ultimate decision, and some of the  
12 efforts that were made by you in writing letters,  
13 along with your wife, to various officials. So we  
14 will have a chance to canvass all of those things  
15 that you experienced in more detail, put a bit  
16 more flesh on the bone that day that so adequately  
17 describe to the Commission in terms of the way you  
18 are feeling about things.

19                     Although it is terribly difficult, I  
20 want to take you back to that horrid day,  
21 February 25th, 2005, and I want you to describe  
22 for the Commissioner where you were and what  
23 happened, what your first inkling of the horrible  
24 voyage that you were about to set on was, sir?

25           A     On February 25th, '05, the dear wife

1 and I were visiting some friends on Vancouver  
2 Island in --

3 Q In Parksville, sir?

4 A -- Parksville, thank you. And 7:30 in  
5 the morning, we were awakened by a phone call. My  
6 friend, where we were staying, Al, answered the  
7 phone, and then there was a knock on our door, our  
8 bedroom door. He said, Sveinn, there is a phone  
9 call for you and they said it is very important.  
10 It was my other son-in-law, my daughter Cory's  
11 husband, and he said, dad, there has been a  
12 terrible accident. I said who? He said Crystal.  
13 He said it was really bad. I said is she alive?  
14 He said no. I think he tried to give me a few  
15 details, but my mind can't grasp it today. I do  
16 remember telling him, as we had driven to B.C., I  
17 remember telling him, Rene, we will be home as  
18 quick as we can, but it could take us a couple of  
19 days.

20 I guess we hung up, and my wife was  
21 sitting on the bed, terrified of what I was going  
22 to tell her. I didn't know how to tell her. But  
23 I did. And we sat there in the bedroom, I don't  
24 know how long, trembling, crying. Then I said,  
25 what the hell is wrong with me, I can't drive home

1 like this, we have got to get home as quick as  
2 possible.

3                   So we got dressed, went out, and I got  
4 on the phone right away and called the airport in  
5 Vancouver, made reservations to get home that day.  
6 We left our car at my wife's brother's place in  
7 West Vancouver. We arrived back in Winnipeg at  
8 11:00 at night on the 25th. We were met by our  
9 daughter and her children and husband, a couple of  
10 my brothers and sister-in-laws. I don't know, I  
11 think it was probably 4:00 in the morning before  
12 we put our heads on the pillow, couldn't sleep  
13 anyway. It was a nightmare and I kept wishing  
14 that I would wake up. That still happens.

15           Q     Sir, I understand that you spent the  
16 next two days trying to see Crystal?

17           A     Yes.

18           Q     Could you tell the Commissioner about  
19 that, please, sir?

20           A     I called the Medical Examiner's Office  
21 and all they told me was that she was at the  
22 Health Sciences Centre. And I queried how I could  
23 see her. I seemed to be getting sloughed off and  
24 sloughed off, and I made several more phone calls.  
25 And finally, I was getting so upset, because they



1 told me that she was going to have a -- they were  
2 going to do an autopsy on her, they didn't seem to  
3 know when. They didn't have anybody available  
4 that they could show me, show my wife and I  
5 Crissy's body. And this went on almost all day.  
6 Until finally I was so upset that I said, look,  
7 either somebody deal with this or I'm going to  
8 come down there and kick some damn doors down.  
9 And those were my words. I was very upset.

10 So finally the woman that was on the  
11 other end of the phone said, look, I will get  
12 ahold of the medical examiner who is looking after  
13 this case and I will have her phone you, she will  
14 phone you in five or ten minutes. Well, she did.  
15 And after discussion she agreed to meet us at the  
16 Health Sciences Centre at 8:00 o'clock on Monday  
17 morning.

18 This was Saturday that I was talking  
19 to her. Monday morning at 8:00 o'clock we were  
20 there, and she met us, and we were able to see our  
21 little girl.

22 Q Sir, I understand that throughout many  
23 of the documents that were generated by you and  
24 your wife, there is expressed concern about your  
25 inability to see the autopsy results. Can you

1 tell the Commissioner about that?

2           A     Well, at the time that we were  
3 speaking with the medical examiner, she said that  
4 the autopsy would be available to my son-in-law,  
5 Rob, and to us. The reason being that should any  
6 problems arise with any of our children or  
7 grandchildren, in an autopsy they go over  
8 everything, not just what happened in the  
9 accident, but if there was any medical problems  
10 that she may have, this could have an effect on  
11 the treatment of someone in the family at a later  
12 time. And so this would be available to us. And  
13 so she said, put it in writing if you want it.  
14 And so we did.

15                     Well, over the years I must say,  
16 because now it is three and a half years, after  
17 months I called again to find out where it was,  
18 where this report was. Oh, we can't give it to  
19 you. I said I thought you said it was available  
20 to me, that it would be sent if I gave the letter,  
21 and I gave a letter. Well, she said, it can't be  
22 given to you until after the court case is done.  
23 Well, I said, who has access to it? And she said  
24 the Crown and the defence. So even the one that  
25 killed her had access to her autopsy report, her

1 husband and her parents did not. And to this day,  
2 after more contact with them, even after the trial  
3 is completely over, we have received nothing.

4 Q Sir, how did that make you feel to be  
5 told that the defence would have access to that  
6 but you would not?

7 A Well, it is like everything else in  
8 this whole trial, it is a farce.

9 Q Sir, is it fair to say that you and  
10 Victoria, your wife, had developed concerns about  
11 this case very early on?

12 A Yes, it is very safe to say that.

13 Q Sir, I'm going to have some documents  
14 put in front of you and I'm going to go through  
15 them briefly with you, perhaps more in detail with  
16 Victoria, depending on the answers that you give  
17 me.

18 I am going to ask that document  
19 O.81.A.12 be entered as exhibit 19 and given to  
20 the witness, please?

21 THE COMMISSIONER: What is that again?

22 MR. PACIOCCO: O, tab 81-A, it would  
23 be document number A-12.

24 (EXHIBIT 19: O.81.a.12 Letter to

25 Minister of Justice August 31, 2005)

1 MR. PACIOCCO: It would be at page  
2 2105 in volume O.

3 BY MR. PACIOCCO:

4 Q Sir, you have in front you a document  
5 addressed to the Honourable Gord Mackintosh,  
6 Minister of Justice, dated the 31st of August,  
7 2005?

8 A Yes.

9 Q And, sir, that's approximately within  
10 six months of the time of the collision that took  
11 the life of your daughter?

12 A That's right.

13 Q And, sir, what can you tell me about  
14 this letter?

15 A Well, after Crissy's accident, and not  
16 really receiving any information for that six  
17 months, other than reports through the media of  
18 various other cases and the outcomes of them,  
19 drunken driving, killing people, and these people  
20 that did it were getting conditional sentences,  
21 sitting at home watching TV, where is the justice?  
22 This was happening on a continual basis. My wife  
23 and I discussed it, very frustrated. And it was  
24 like we were seeing the same thing happening here,  
25 even though we hadn't talked to anybody, this was

1 what we foresaw would take place. And so we sat  
2 down and wrote to Mr. Mackintosh. And as you can  
3 see through the comments in the letter, we  
4 expressed a lot of concern.

5 Q Sir, if I could summarize those  
6 briefly for you, there is -- and you can agree  
7 with me if you do, or disagree if you don't --  
8 there is concern expressed about conditional  
9 sentences?

10 A Absolutely.

11 Q Concern about the plight of victims  
12 and their treatment within the system?

13 A Yes, there was.

14 Q Concern about publication bans  
15 preventing information about the accused and the  
16 alleged offence pending the ultimate trial?

17 A Yes, that's true.

18 Q Concerns about the capacity of an  
19 individual to refuse to provide a breathalyzer  
20 sample, sir?

21 A Absolutely.

22 Q Concerns about the lack of authority  
23 in the police to take a licence away from someone  
24 other than through a three-month suspension?

25 A Yes.

1           Q     Concern about the autopsy report that  
2     you have shared with us this morning?

3           A     Yes.

4           Q     And a concern that prosecuting  
5     attorneys can "cut a deal" if they find it  
6     politically expedient?

7           A     That's another major factor, yes.

8           Q     Sir, this is very early in the  
9     process, the investigation is just wrapping up.  
10    Do you have any information that any of these  
11    things are about to happen in your daughter's  
12    case?

13          A     Not at that time.

14          Q     So is it fair to say that because you  
15    were cast into this horrible role, you paid much  
16    more attention to what was happening in the larger  
17    legal community?

18          A     That's absolutely correct.

19          Q     And seeing what you saw, you felt the  
20    need to respond early on?

21          A     Also the fact that, having worked in  
22    the correctional field for so many years, I had  
23    observed a lot of things, and I guess it just came  
24    up like a red flag.

25          Q     Sir, I'm going to have another

1 document put in front of you, this will be again  
2 at book O, at tab 81.A.10, and this document can  
3 be found at page 2145. If that could be marked as  
4 exhibit 20 and shared with the witness, please?

5 (EXHIBIT 20: 81.A.10, Letter to  
6 Federal Minister of Justice April 3,  
7 2006)

8 BY MR. PACIOCCO:

9 Q That document I have had put in front  
10 of you, sir, is dated April the 3rd, 2006,  
11 approximately eight or nine months after the last  
12 document. And this one is addressed to the  
13 Federal Minister of Justice, Mr. Vic Toews;  
14 correct, sir?

15 A Yes.

16 Q And how did that letter come about?

17 A Well, by this time we had already met  
18 the Crown prosecutor and we weren't too impressed  
19 with the response we got. Things were not getting  
20 better. These same sentences were continuing.  
21 And we were very concerned that there should be a  
22 change in the laws. Mr. Toews was the Federal  
23 Justice Minister, he was in the position to make  
24 changes, and so we expressed our deep concern of  
25 what was happening.

1           Q     Sir, did you get a personal response  
2 back to either of these letters?

3           A     I think -- I know for sure I got one  
4 back, we got one back from Mr. Toews, Mr. Toews'  
5 office I should say. We have received your  
6 letter, we will be passing it on to Mr. Toews, and  
7 we have never heard another word. I think maybe  
8 we got one from Mackintosh as well, and it was  
9 worded about the same. We have never received any  
10 other response back from them.

11          Q     Sir, I think it is important for the  
12 Commissioner to understand that your concerns in  
13 this case arose very early. You understand that  
14 this phase of the hearing focuses on compliance  
15 with the Victims' Bill of Rights. You heard me  
16 say that, sir?

17          A     I heard you say it.

18          Q     When did you first become aware of the  
19 Victims' Bill of Rights?

20          A     I think it was on July 17th, 2007,  
21 that's when I first heard of it.

22          Q     So, sir, this case had been ongoing  
23 for more than two years before you became aware  
24 that such a bill existed?

25          A     Yes.



1           Q     Sir, you are aware from the earlier  
2     questioning of witnesses, you were in attendance,  
3     that the Victims' Bill contains certain  
4     provisions, including the right to be informed of  
5     court dates, the right to be informed of the  
6     progress of the case, the right to have some  
7     consultation with respect to plea bargains and a  
8     stay of charges? You heard that questioning, sir?

9           A     I've heard it from you.

10          Q     And sir, you are --

11          A     We were not informed of this ever by  
12     anyone.

13          Q     Sir, I know that you are aware now  
14     that a Victims' Bill of Rights does not apply to  
15     parents of the deceased person when there is a  
16     spouse or a partner who has survived that  
17     individual?

18          A     That's correct.

19          Q     Sir, I know this is going to sound  
20     like a silly question, but I really need to hear  
21     your answer, sir. Do you consider yourself to be  
22     a crime victim?

23          A     Without a question.

24          Q     Sir, do you think you should have  
25     access to those type of rights as a parent of a

1 young woman killed in connection with a criminal  
2 driving incident?

3 A I won't say "I," I will say every  
4 parent deserves that right, as well as the  
5 siblings deserve that right.

6 Q Sir, looking back, do you think that  
7 your time in the criminal justice system, dealing  
8 with this terrible tragedy would have been easier  
9 for you if those rights had been extended to you?

10 A Without a question.

11 Q And so one of the things that the  
12 Commissioner is going to be asked is whether or  
13 not the Victims' Bill was complied with in this  
14 case. You understand, sir, that from a technical  
15 point of view, regardless of the failure to extend  
16 those protections to you, the simple answer to  
17 that question might be yes?

18 A Could you rephrase that, please?

19 Q The Commissioner is asked to determine  
20 whether the Bill of Rights has been complied with.  
21 Since it doesn't extend protections to you, even  
22 though you received none, technically the right  
23 answer to that question is probably yes, it has  
24 been complied with?

25 A No, it wasn't. My son-in-law and my

1 three grandchildren did not receive good treatment  
2 from the system. I know toward me, yes, you could  
3 probably say that. But they did not receive  
4 treatment that they should have received, and I  
5 really object to that.

6 Q Sir, even with respect to you, the  
7 Commissioner is going to be looking at the  
8 possibility of making recommendations about the  
9 extent to which the Victims' Bill might apply to  
10 others, including parents and children, so your  
11 observations are very helpful in that regard, sir.

12 Sir, I want to see how much support  
13 you did receive, and I'm going to organize this  
14 according to theme and then I'm going to get into  
15 a chronological presentation when we get to the  
16 Crown. So, please bear with me, it is going to be  
17 a little bit disjointed, but I think it is the  
18 easiest way to unfold what happened.

19 With respect to court dates, sir, and  
20 the obligation that would have existed had you  
21 been within the definition of victims, you would  
22 have been required to be advised of those  
23 important court dates, sir. How did you, in your  
24 case, become aware of court dates?

25 A I kept contacting the Crown

1 Prosecutor's office. I started out first -- well,  
2 there was a rift between my son-in-law and myself,  
3 sad thing and I am really hurt because of it. But  
4 that left me no choice but to contact the East St.  
5 Paul Police to find out who I could contact to  
6 find out dates.

7 Sergeant Carter gave me the name of  
8 the appointed Crown Attorney, Mr. Minuk, and he  
9 gave me his phone number. And I contacted him.  
10 And that was my contact how to find out when court  
11 dates were.

12 Q Sir, and I understand that later on  
13 after the -- you became aware of the Victims' Bill  
14 of Rights on the 17th, 16th of July, in about  
15 there, sir. There was some interaction between  
16 your immediate family, you and Victoria and the  
17 Victims' Services?

18 A On the 17th, up to that point I never  
19 knew they existed.

20 Q And what happened on the 17th, sir?

21 A On the 17th, well, actually my wife  
22 contacted Minuk on the evening of the 16th,  
23 because of what transpired at what was supposed to  
24 be a Preliminary Hearing. She phoned him and  
25 asked him -- well, I didn't hear the conversation

1 so I better not repeat it.

2 Q I will take her through that and I  
3 will come back to it later?

4 A She related this to me, but she did --  
5 I'm losing my train of thought here, I am sorry.

6 Q As a result of that conversation, I  
7 understand that she contacted Victims' Services?

8 A Oh, yes. He asked her, had the  
9 Victims' Rights people spoken to us? And she  
10 said, I didn't know they existed. He said, well,  
11 I will have them see you tomorrow at court and  
12 give you the Victim Impact Statements. Well on  
13 the 17th, Lesley was there, the victim impact  
14 lady, and she came to me, asked me to step out in  
15 the hallway, and I did. And she gave me Victim  
16 Impact Statements for myself and my wife and my  
17 daughter.

18 Q And, sir, I understand that there were  
19 some phone calls exchanged about court dates after  
20 that with the Victims' Service workers?

21 A They were done by my wife.

22 Q Sir, I understand that one letter did  
23 come special delivery or hand delivered to your  
24 residence in connection with court dates?

25 A Yes. It was, that was for the -- the

1 judge had set a date of September 2nd, sorry,  
2 September 5th, and --

3 Q 2007, sir?

4 A Yes.

5 Q And this was after the sentencing?

6 A After the August 22nd sentencing.

7 That was changed, the judge had asked for more  
8 information, set a date for the 5th, and we  
9 received a letter from Minuk saying that the date  
10 had been changed to September the 12th.

11 Q I'm going to have that document put  
12 into evidence at this point. You will find it in  
13 book R-2, tab 9161, at page 3254 of volume R-2.  
14 R-2, tab 9161 at page 3254, if that could please  
15 be made exhibit 21 and shared with the witness.

16 (EXHIBIT 21: R-2.91.61 File copy of  
17 letter to Victoria Sveinson, September  
18 5, 2007)

19 BY MR. PACIOCCO:

20 Q So here, sir, Mr. Minuk has taken the  
21 initiative to send a letter to you appraising you  
22 of the court date on which final submissions will  
23 be made September 12th, 2007. And he gives you  
24 the courtroom and the time, sir?

25 A Yes, it does.

1           Q     And, sir, although we haven't  
2     canvassed your relationship with Mr. Minuk, at  
3     this point in time, how would you characterize  
4     that relationship, sir?

5           A     Well, I think it was kind of stated in  
6     one of the statements that the defence lawyer made  
7     the other day in cross-examination of my  
8     son-in-law. He made a comment that my wife and I  
9     were militant, and I guess that sort of tells what  
10    kind of relationship it was. We visited him on  
11    three occasions and it was always, he was finding  
12    some excuse.

13          Q     We will get into that relationship in  
14    more detail shortly, sir, but at the time this  
15    letter was sent, is it fair to say that the  
16    relationship was not a strong one, it wasn't  
17    completely cordial? There was a lot of stress  
18    involved?

19          A     I was always cordial with him, but,  
20    yes, it was strained.

21          Q     Okay, thank you. Sir, access to  
22    getting information in this case has obviously  
23    been a very big issue for you from the onset. You  
24    already made some comments about that. Can you  
25    maybe try and think about why, I think we all

1 understand it would be important, but can you  
2 articulate why it was so important for you to find  
3 out what was happening as this case progressed  
4 through the system?

5 A Because I'm Crystal's father and Vicky  
6 is Crystal's mother, this was the biggest tragedy  
7 that anybody could experience. And we just had to  
8 know. To be hidden away, everything shielded away  
9 from you, it will just drive you right around the  
10 bend.

11 Q Sir, did you feel that you could make  
12 a difference in terms of what was happening if you  
13 had information?

14 A I believe it would have.

15 Q And sir, what impact did the ultimate  
16 outcome of this case have, in your mind, thinking  
17 back before the sentence and the decision was  
18 actually rendered, what did you think, what  
19 importance did you think that would have in terms  
20 of your own personal welfare, sir?

21 A Well, it helps to give a sense of  
22 closure. Also a sense of, maybe there was a  
23 little bit of justice served. And if you got  
24 those two things, it helps you to move on a  
25 little. But, you know, there was neither. There



1 was no justice served. As a reporter commented in  
2 the paper, it was the worst example of failed  
3 justice possible, or "miscarriage of justice" was  
4 the way he worded it. And I have to agree with  
5 him.

6 Q Sir, I'm going to take you through  
7 your attempt to get information about the case,  
8 and I'm going to do it by source. There are four  
9 sources, as I see it, where you might get  
10 information. There is the family, there is the  
11 police, there is the Crown, and there are the  
12 crime victims' workers.

13 And you have already told us I think  
14 enough about the family, sir. No one wants to pry  
15 into your private affairs. But you understand  
16 that and you have indicated to us that your  
17 relationship had broken down with Robert, and as a  
18 result there was no dependable communication  
19 between the two of you?

20 A Yes, we were not communicating.

21 Q And sir, the other sources of  
22 information, I'm going to start with the one that  
23 perhaps has the least bearing on this case because  
24 of your situation, and that's the crime victims  
25 rights worker, sir. You indicated that your first

1 dealing was with them on July 17th, when you were  
2 presented with a Victim Impact Statement, sir?

3 A That's correct.

4 Q And you indicated that was Lesley  
5 McCorrister?

6 A That's right.

7 Q And from that point on, there were a  
8 number of contacts with your wife, but not with  
9 you, sir?

10 A I think Lesley approached me in the  
11 hallway once or twice and asked me how I was  
12 doing. Other than that, there was nothing.

13 Q Did you ever meet Monica Dyck from the  
14 Victims' Services?

15 A No, I did not.

16 Q Is that name familiar to you, sir?

17 A Yes, it is.

18 Q Sir, I understand that she had some  
19 communication with Victoria?

20 A Yes, she did.

21 Q Sir, the Victims' Bill requires or  
22 promises that victims of crime will be treated  
23 compassionately and sensitively and fairly by  
24 victims' workers. Are you in a position to  
25 comment on whether those crime victims' workers

1 lived up to that mandate in terms of the dealings  
2 that you did have with them? Were you satisfied  
3 with the way they responded to you?

4 A Actually, no. Actually, I really, you  
5 know, from what I talked with them, they were  
6 polite, but really I think something more should  
7 have been done. But, like you said, I wasn't the  
8 victim. Were they stepping beyond what they were  
9 required to do? Maybe if I had been considered a  
10 victim, maybe I would have got more attention. I  
11 don't know. But I really don't think there was  
12 much attention given.

13 Q When they did give you attention, sir,  
14 was it professional?

15 A Yes, it was.

16 Q And did you sense that they really  
17 were sensitive to the difficulty you were in on  
18 the times that you did have interaction with them?

19 A Well, it is kind of hard to say when  
20 you meet with them for maybe a minute. It is kind  
21 of hard to say, when she passes three Victim  
22 Impact Statements, and I guess I was a little  
23 distressed and I really wasn't being very  
24 observant of her, and I apologize for that, but  
25 that was the case. I wasn't analyzing her

1 attitude or anything. She was polite, I will say  
2 that. I could say nothing wrong about the lady.

3 Q Fair enough, sir. Most of your  
4 dealings were with Mr. Minuk, but you had some  
5 dealings with the police as well, sir?

6 A Yes, I did.

7 Q And you came into contact with the  
8 East St. Paul Police shortly after the collision  
9 that took your daughter's life?

10 A Yes, I did.

11 Q And I understand that occurred at your  
12 home?

13 A Yes.

14 Q And our information is that it was on  
15 March the 1st, 2005, does that accord with your  
16 recall, sir?

17 A I believe so.

18 Q Can you tell us what happened on that  
19 date?

20 A They phoned and asked, could they meet  
21 with the family. And I guess we chose my house  
22 because it was right there at the edge of their  
23 territory, their territory, East St. Paul was our  
24 street. We actually lived in Springfield, just  
25 across the street from the East St. Paul

1 territory. And my son-in-law and my  
2 grandchildren, my other daughter and her children  
3 and husband also were there. And Chief Bakema,  
4 Sergeant Carter came and saw us at our home.

5 Q And what took place at your home that  
6 day, sir?

7 A Well, they told us, or they presented  
8 us with a news release that they were releasing to  
9 the news media as to what Harvey-Zenk was going to  
10 be charged with, and that was four charges. They  
11 also told us that they had a very good case  
12 concerning the alcohol. There was lots of  
13 evidence, and he was going down for it.

14 Q Sir, do you recall who told you that?

15 A Actually, Chief Bakema presented most  
16 of it and he turned to Sergeant Carter and said,  
17 wouldn't you agree? And he said absolutely. So,  
18 it was the opinion of both of them that they had a  
19 solid case. And at the time I guess, I'm not sure  
20 which one of the family commented about the  
21 refusing a breathalyzer. And I believe it was  
22 Chief Bakema that said, well, that's an automatic  
23 guilty, because when you refuse it, it is  
24 automatic, it is like saying you are guilty. So  
25 that was the first meeting with them.

1           Q     Sir, were you provided with any  
2 details about the kind of evidence that they had?

3           A     No. They said they had lots of  
4 evidence from the scene, that was all they told  
5 us. They couldn't give us any more because it was  
6 before the courts.

7           Q     And, sir, is that your conclusion or  
8 was there a discussion about whether they couldn't  
9 give you any more?

10          A     There was a discussion.

11          Q     Do you recall exactly what you were  
12 told, sir?

13          A     Just what I said, they had lots, they  
14 didn't say what, they had lots.

15          Q     Did you question them about their  
16 decision not to tell you, based on the fact that  
17 it was before the courts?

18          A     I guess I just accepted it. I have to  
19 present evidence in court, and I know it is not  
20 always made public, and so I guess we accepted it.

21          Q     Did you recall any discussion about  
22 the kind of sentence that this type of crime might  
23 attract?

24          A     Seems to me there was some discussion,  
25 I can't remember who brought it up, but there was

1 some discussion that it should bring jail time.

2 There was no discussion, I don't think, on the  
3 length of jail time, but it seemed Mr. Bakema said  
4 something about jail time.

5 Q And, sir, how did it make you feel to  
6 learn that there was a strong case and a  
7 likelihood that jail would result?

8 A Well, it certainly made me feel maybe  
9 some justice will be served.

10 Q We saw, sir, in the ensuing months as  
11 you saw more and more happening in the larger  
12 legal community that confidence started to shake a  
13 bit, was your evidence earlier?

14 A Yes.

15 Q Sir, I understand that you went to the  
16 East St. Paul Police or called the East St. Paul  
17 Police on a number of occasions on your own  
18 initiative after that meeting?

19 A Yes, I did.

20 Q And, sir, are you aware that there  
21 were five contacts that we have records of?

22 A That would be probably right.

23 Q And sir, what were you seeking?

24 A Information, I didn't know what any  
25 court dates were, I didn't know who the prosecutor

1 was, I wanted to know when this was all going to  
2 be dealt with.

3 Q Sir, our records indicate that the  
4 first meeting that you had was an actual  
5 attendance at the East St. Paul on the 30th of  
6 June, 2005, sir?

7 A Yeah.

8 Q And do you know how that meeting was  
9 set up or how it came about?

10 A I phoned them.

11 Q And what happened when you went there,  
12 sir?

13 A We were treated very cordially.  
14 Mr. Bakema and Mr. Carter were both in the office,  
15 and my wife and I attended.

16 Q And what took place, sir?

17 A Well, they gave us a little bit of  
18 information that it was, that there was still a  
19 lot of investigating going on, it was being  
20 conducted by different police departments so as to  
21 avoid any chance of people feeling there was  
22 shadiness going on because this man was a  
23 policeman.

24 Q Sir, did they give you any detail as  
25 to what police department was assisting in the



1 investigation?

2 A Yes, they did tell us that the RCMP  
3 were heavily involved in the investigation into  
4 the accident site itself. But they said that the  
5 Crown prosecutor was looking after, getting  
6 different people to look after the other  
7 investigation.

8 Q Sir, what other investigation was  
9 that, sir?

10 A Well, where he was, where Zenk was the  
11 night before, where he was the hours following his  
12 work, and up to the point of the accident.

13 Q Were you told who those other people  
14 were, sir, who were going to be doing that part of  
15 the investigation?

16 A No, I wasn't.

17 Q Sir, our records indicate that you  
18 phoned on August the 5th as well, sir?

19 A Um-hum.

20 Q And you met again on August the 16th,  
21 2005, this time with Chief Carter?

22 A Yes.

23 Q And do you know what took place on the  
24 August 16th, 2005 meeting?

25 A Yes.

1 Q What happened, sir?

2 A I was wanting to know who the Crown  
3 prosecutor was. I wanted to know when the first  
4 court day was. And he supplied me with Minuk's  
5 name and phone number, and he didn't have a court  
6 date, he said he wasn't able to give me any other  
7 information. But he also did supply, I recall he  
8 supplied me with Victim Impact Statements.

9 At that point I really wasn't paying  
10 too much attention to that. And I think I took  
11 them home and we set them on the desk, and I don't  
12 know whether we looked at them again until we got  
13 the Victim Impact Statements from Lesley.

14 Q Sir, our information is that you  
15 received the Victim Impact Statements one month  
16 later when you went again on September 13th, 2005?

17 A That might have been.

18 Q And, sir, you also attended on  
19 June 20th, 2006, again with Sergeant Carter?

20 A Yes.

21 Q Do you recall that, sir?

22 A Well, as you've already noticed, they  
23 are becoming foggy.

24 Q Yes.

25 A When you get two or three or four

1 visits, you can't be sure what you discussed at  
2 each of them. I am sorry to say, I don't.

3 Q All right, sir. This would have been  
4 after the adjournment of the initial Preliminary  
5 Inquiry dates, and after you had met with  
6 Mr. Minuk on May 31st, 2006. Do you recall going  
7 back and speaking to --

8 A You are saying -- this was September  
9 of what?

10 Q June 20th of 2006 is our information,  
11 sir. Do you recall going back to East St. Paul  
12 after meeting with Mr. Minuk?

13 A That wouldn't have been after a  
14 Preliminary Hearing.

15 Q After the Preliminary Hearing was  
16 adjourned, sir, the first dates?

17 A Oh, the June adjourning?

18 Q That's correct?

19 A Yes.

20 Q It was originally set for June 5th and  
21 it was adjourned?

22 A Yes.

23 Q Does that help you recall what had  
24 taken place on June 20th?

25 A No, I'm sorry.

1           Q     Fair enough. How did you find the  
2 East St. Paul Police as a source of information,  
3 sir?

4           A     They were always polite, but I really  
5 didn't get much information. As I said, it is  
6 under investigation and basically that's it, but I  
7 kept struggling, trying to get information.

8           Q     Sir, you indicated that you got the  
9 number for Mr. Minuk when you met with Sergeant  
10 Carter in August of 2005?

11          A     Yes, I believe that's when it was.

12          Q     And he explained to you that Mr. Minuk  
13 was an independent prosecutor?

14          A     Yes.

15          Q     Did you have any discussion about  
16 that, sir?

17          A     Well, I was hopeful, I was hopeful  
18 that having someone that hadn't worked directly  
19 with the police, on side with the police all of  
20 the time, that it might be good.

21          Q     Sir, do you know where he came from,  
22 what his background was, was any of that supplied  
23 to you at that time?

24          A     No, it really wasn't, but I had come  
25 in contact with him through the criminal justice

1 system over the years. I knew he had been in the  
2 service of defence lawyer for a good number of  
3 years. His name had come up.

4 Q And, sir, I don't want to belabour  
5 this any further than it has to be, but I just  
6 want you to describe, in your own words, your  
7 general impressions of your dealings with  
8 Mr. Minuk, and how you related to him over the  
9 course of the meetings that you had with him, sir?

10 A Well, the first day that we met with  
11 him, he was already talking conditional sentence,  
12 that it was the law. And we responded that it was  
13 not the law, not the law in entirety. Yes, it is  
14 a part of the law, but so is a 14-year sentence  
15 for the same thing.

16 Q Sir, what impact did that have on your  
17 impression of Mr. Minuk and your relationship with  
18 him?

19 A Well, in that same discussion he was  
20 telling us that everybody goes out for supper and  
21 has a bottle of wine and then drives home. So he  
22 is saying to us in that interview then that it is  
23 okay to drink and drive. Now, this man is  
24 supposed to be protecting our rights, prosecuting  
25 people that are breaking the law, and he is

1 condoning it. That got him off on the wrong foot  
2 with me right away. It just didn't make sense.

3           And then he is pushing the idea of a  
4 conditional sentence. I have seen people get a  
5 stiffer sentence for running over a dog on the  
6 street. That doesn't go over big with me, I'm  
7 sorry.

8           Q     Sir, is it fair to say that you are  
9 angry with Mr. Minuk?

10          A     I won't even -- yes, I will leave it  
11 at that, yes.

12          Q     What I'm going to do, sir, is I'm  
13 going to take you through each of the meetings and  
14 contacts, that we know of, that occurred between  
15 you and Mr. Minuk. And to help you orient, I know  
16 it is difficult to distinguish one meeting from  
17 the rest, so I'm going to begin by breaking down  
18 the meetings for you so that you know what is  
19 coming and we can situate it in the timeline of  
20 events.

21                 The first meeting we have notice of is  
22 after you met with Sergeant Carter on the 16th of  
23 August, you met with Sergeant Carter, the first  
24 meeting would be a September 28th, 2005 phone  
25 call. I'm going to come back and ask you about

1 that, sir. And then on October 3rd, 2005, a  
2 meeting at Mr. Minuk's office?

3 A That's right.

4 Q Then on May 25th, 2006, as the  
5 June 5th date for the first Preliminary was coming  
6 up, another meeting with Mr. Minuk. And then a  
7 third meeting at his office, which would be your  
8 fourth contact including the phone call, on  
9 May 31st, 2006, related to the adjournment of the  
10 Preliminary Inquiry. Then a couple of relatively  
11 incidental phone calls, one occurring on  
12 June 26th, 2006, and the next on September 8th,  
13 2006, in the days after the adjournment of the  
14 Preliminary; September 13th, 2006, yet another  
15 phone call. And then there is a letter to  
16 Mr. Minuk, that I will be asking you about, that  
17 was written by yourself and your wife. Then on  
18 June 26th, 2007, a phone call, and that would have  
19 occurred as the second set of Preliminary dates  
20 were approaching. And then I will take you  
21 through the court dates. July 16th, 2007, there  
22 was some contact; July 17th, 2007, some contact.  
23 August 22nd, 2007, when submissions occurred, I'm  
24 going to ask you about that date and whether there  
25 was contact. September 12th, 2007, I'm going to

1 ask you about that, and that was the date when the  
2 lawyers came back to court to make their  
3 arguments. And then ultimately we will get to the  
4 decision date on October 29th, 2007.

5 Now, I know it may be difficult for  
6 you to separate all of those dates, but I'm hoping  
7 that timeline might assist a little bit. And what  
8 ultimately matters, sir, is you give the best of  
9 your recollection, and it is what it is after all  
10 of these years, sir.

11 On September 28th, 2005, was the first  
12 contact through a phone call, sir. Do you know  
13 who made that call?

14 A I did.

15 Q And, sir, who did you speak with when  
16 you made that call to his office?

17 A Mr. Minuk.

18 Q And, sir, are you able to tell us how  
19 long you would have been on the phone with him?

20 A No. I couldn't venture, but it did  
21 last a little while.

22 Q So if someone was to suggest a half  
23 hour, that would be a fair estimate of how long  
24 you were on the phone?

25 A Could well be.



1 Q And, sir, can you tell us what  
2 happened when you got on the phone with Mr. Minuk?

3 A Well, when I told him who I was, his  
4 comment was, oh, I have been wondering how to get  
5 in contact with you and your wife.

6 Q And, sir, your reaction to that?

7 A Why were you wanting to get in contact  
8 with me? He said, well, because I understand your  
9 wife has written to the Justice Minister and the  
10 Justice Minister has referred it to me.

11 Q Did you ask him what that meant, it  
12 being referred to him?

13 A I can't recall.

14 Q And, sir, what happened next?

15 A So he said he wanted to meet with us,  
16 when could we meet -- I meet with you, he said.  
17 And I said, you set the time up and we will be  
18 there. And so he did. He said I'm free on this  
19 Friday, and I will set a couple of hours aside for  
20 you.

21 Q Sir, and during that conversation, did  
22 you get into the substance of any of your  
23 concerns, or what transpired?

24 A On the phone?

25 Q Yes?

1           A     I can't recall.

2           Q     And, so he agreed to meet with you,  
3     and within a very few days after the phone call,  
4     he set aside some time for you, sir?

5           A     Yes.

6           Q     And that would be the October 3rd  
7     meeting that I have referred to as the second  
8     contact between you and Mr. Minuk, sir.  And what  
9     was your reaction of being invited to meet with  
10    him personally like that?

11          A     We were pleased.

12          Q     Sir, what were you hoping to get out  
13    of that meeting?

14          A     We were hoping to find out what was  
15    being done in the investigation, when court days  
16    would be, that's the main thing.

17          Q     And who went to the meeting, sir?

18          A     My wife and I.

19          Q     Do you recall whether there was anyone  
20    else there, apart from Mr. Minuk and yourself and  
21    your wife?

22          A     I don't recall at that meeting, no.

23          Q     And to the best of your recollection,  
24    can you describe what happened at that meeting?

25          A     Well, he told us that there was

1 different departments investigating different  
2 people. And as I mentioned before, he was right  
3 on to the idea of a conditional sentence and that  
4 we have got to get used to that, that that is the  
5 law. And then our discussion was that so is 14  
6 years the law. He said, well, precedents have  
7 been set. Well, there is precedents in other  
8 sentences too, why can't they be looked at? And I  
9 guess this probably upset him that we weren't just  
10 rolling over and agreeing with him. But I can't  
11 see doing that -- I believe that justice should be  
12 served, and what he was presenting there certainly  
13 wasn't any justice in it.

14 Q Sir, when he was talking about  
15 conditional sentences and precedents, was there  
16 any reference to this specific case, or was it  
17 just more of a general discussion about  
18 conditional sentencing as part of the law?

19 A Well, it seemed more general I would  
20 say.

21 Q Sir, by this point in time, your wife  
22 had written to Justice Minister Mackintosh, along  
23 with yourself, and expressed concern about a  
24 number of topics?

25 A Yes.

1           Q     And you indicated that he had been  
2 forwarded this information?

3           A     Yes.

4           Q     Did you discuss the letter, sir?

5           A     No, we just -- just that we had  
6 written to him with many concerns, but other than  
7 that, no, I don't think so.

8           Q     Did you describe the concerns that  
9 were included in the letter, sir?

10          A     I can't recall.

11          Q     Do you know whether there was any  
12 discussion about each of those things that were  
13 contained in the letter?

14          A     There may have been some, I'm not  
15 sure.

16          Q     There was discussion you indicated  
17 about conditional sentencing, sir.

18          A     Yes.

19          Q     Do you know how that would have come  
20 up?

21          A     Because he said that that was  
22 something that they were looking at, and he  
23 commented that that is the law.

24          Q     All right, sir. And you said your  
25 position was that's not the law, and there was a

1 14-year sentence, and there was some debate about  
2 precedents?

3 A Yes. I said it is not the law in so  
4 far -- it is only a part of the law.

5 Q And what did you mean by that, sir?

6 A Because you can have a minimum  
7 sentence and you can have a maximum sentence.  
8 Just because a minimum sentence has been handed  
9 out doesn't mean to say the next one has to the  
10 minimum sentence as well. And this, from the look  
11 of it, was what was happening on an ongoing basis,  
12 and we really object to that.

13 Q And, sir, what did you think an  
14 appropriate sentence would be in this case?

15 A I have never said, nor will I, because  
16 I was not in a position to make that decision. I  
17 was hoping that a judge, using good judgment,  
18 would make that decision. I never saw it.

19 Q Is it fair to say, though, that you  
20 had ruled out a conditional sentence as a fair  
21 sentence, in your mind?

22 A To me a conditional sentence of that  
23 type is no sentence. It is like giving him a  
24 button for doing a good job.

25 Q Did you have this kind of conversation

1 with Mr. Minuk when you were discussing  
2 conditional sentences?

3 A No, no, I didn't. I don't think it  
4 would have helped.

5 Q All right. And, sir, did you make it  
6 known as to whether or not you felt a conditional  
7 sentence was appropriate in this case?

8 A Yes, I did.

9 Q And what did you say?

10 A I said that it wasn't.

11 Q All right, sir. Was there any  
12 discussion about the evidence in the case?

13 A Yes. And he said he couldn't divulge  
14 anything. He did tell us that there was lots of  
15 witnesses, and they were being interviewed by  
16 different departments, different people, so as  
17 there wasn't a conflict.

18 Q Was there anything more to that  
19 conversation about there not be a conflict, sir?

20 A He informed us that that's why he was  
21 the Crown prosecutor, was to avoid the appearance  
22 of conflict.

23 Q On the part of the investigator, sir,  
24 was there any further discussion about how having  
25 certain investigators would avoid the possibility

1 of conflict?

2 A I can't recall.

3 Q Sir, did the -- was there any  
4 discussion -- I know that the letter wasn't  
5 actually produced during the meetings -- was there  
6 any discussion about what was in the letter?

7 A I think maybe the topics that were  
8 mentioned in the letter, some of them were  
9 discussed, but not referring to the letter that I  
10 recall. As a matter of fact, he did not even at  
11 any time say that he read the letter. So, I don't  
12 know.

13 Q And, sir, what was your reaction to  
14 Mr. Minuk and his role as prosecutor after you  
15 left that meeting, sir?

16 A What was my --

17 Q What was your reaction to Mr. Minuk  
18 and his role as prosecutor after you left that  
19 meeting, sir?

20 A I actually told my wife that I hope  
21 that he doesn't go on with that idea, but I said,  
22 you know, I'm hoping he does a good job by  
23 bringing in other departments to do the  
24 investigation. I was really hopeful -- skeptical,  
25 but hopeful.

1           Q     And how would you describe the  
2     atmosphere during that meeting, sir?  What was it  
3     like in the room?

4           A     Well, I kind of felt that he was a bit  
5     arrogant.  Because at one point he even took the  
6     time to attempt to tell my wife and I how he had  
7     climbed to the 32nd storey of his building by his  
8     accomplishments.  I don't think it had a darn  
9     thing to do with this case.  And we really didn't  
10    care, nor needed to know about that.  I think it  
11    was just trying to put us off.

12          Q     Sir, in what way would that put you  
13    off?

14          A     To distract us from what was at hand.

15          Q     Sir, when he was dealing with what was  
16    at hand, how did you find his interaction with  
17    you?

18          A     Almost like he was talking down to us.

19          Q     Sir, are you able to give us any type  
20    of realistic estimate of how long you were  
21    actually with Mr. Minuk?

22          A     Oh, probably an hour, hour and a half.

23          Q     Is it possible that you were there  
24    three hours?

25          A     I don't think so, but it could well



1 have been. I couldn't be sure. That's almost  
2 three years ago.

3 Q And, sir, after that initial meeting  
4 that took place on October 3rd, 2005, the next  
5 contact we have is on May 25th, 2006, sir.

6 A Okay.

7 Q Do you know whether there was any  
8 other contact in between those two dates that we  
9 may be missing?

10 A I don't know.

11 Q Sir, the Preliminary Inquiry date that  
12 was initially set is approaching at this time,  
13 June 5th, 2006. And you do meet with him on  
14 May 25th, 2006, sir. How did that meeting come  
15 about?

16 A I probably phoned him.

17 Q But you don't recall exactly, sir?

18 A I can't, no.

19 Q Do you recall who was at the meeting?

20 A My wife and I.

21 Q Do you recall whether Mr. Minuk may  
22 have had anyone else with him at that meeting?

23 A I know at one of our meetings, we only  
24 had three meetings, I know at one of them he had  
25 an assistant or an aid in the room with us, yes.

1 If that would have been the meeting, I'm not  
2 certain.

3 Q Okay. And sir, what took place at  
4 that meeting?

5 A Well, we were asking him about what  
6 was going to take place at the Preliminary. He  
7 was telling us that they had set two weeks aside  
8 for the preliminary, and that they had a lot of  
9 evidence and so it would take quite a bit of time.  
10 I can't recall any more in that meeting.

11 Q Sir, do you recall what your sense was  
12 about the prospect for success for the prosecution  
13 at that time, sir?

14 A I'm getting mixed here -- there was  
15 two meetings, they were one week apart.

16 Q That's correct.

17 A Now, I can't recall whether a specific  
18 discussion started in the first or second, and  
19 that was concerning dangerous driving causing  
20 death. He come on to that and he is saying, I  
21 don't know how we are going to prove it, because  
22 he said to tell how fast he was driving, and  
23 that's what you need to do, is be able to tell how  
24 fast you are driving, or driving carelessly, to  
25 decide whether it is dangerous driving. And I'm

1 not sure whether I made the comment or my wife  
2 made the comment, but we were saying, well, isn't  
3 the fact that you run into something that is  
4 stopped, and you make no effort to stop, isn't  
5 that dangerous driving? You are not paying  
6 attention, there is something wrong with your  
7 driving. Oh, no, you have to know how long it  
8 took when you get past this one light until you  
9 get to the next light. And I said what has that  
10 got to do with it? The blinking light is on, and  
11 at the red light there is cars stopped, and the  
12 green light will not come on, or when it comes on,  
13 at that time only, and at that time the blinking  
14 light stops, they stop identically at the same  
15 time. And I said, we checked it, we know. Oh,  
16 well, you can't present any evidence, it is up to  
17 the people that did the inquiry. So we can't  
18 bring that up. You can't bring it up? You are  
19 the bloody prosecutor. I'm starting to get a  
20 little perturbed. He can't bring up that that  
21 light did not change. And then when it came to  
22 court, he started to spout off about this, and the  
23 judge said, it is irrelevant. So --

24 Q Was there any discussion about  
25 physics?

1           A     Oh, yeah, that's how they decide it,  
2     it is physics, the number of feet that he skids  
3     and it is all physics he said.

4           Q     Did he say anything else about that,  
5     sir?

6           A     I can't recall. Well, he said that  
7     they had a specialist from the RCMP doing it.

8           Q     All right, sir. You indicated that  
9     you met with him twice very shortly apart. You  
10    met with him on the 25th of May and, again, sir,  
11    on the 31st of May?

12          A     Yes.

13          Q     Are you able to give us any indication  
14    of how long the first of those two meetings on May  
15    25th was, sir?

16          A     No, I can't.

17          Q     How about the next meeting, sir, on  
18    May 31st?

19          A     I think that one was shorter. But he  
20    called us to make that appointment and arrange  
21    that meeting.

22          Q     What happened at that meeting, sir?

23          A     Well, he informed us that the  
24    Preliminary Hearing was being put off, he said for  
25    between, I think he said between two to six

1 months. And we said, well, why? And he said,  
2 well, we have to get more evidence, we are going  
3 to interview all of the policemen that were  
4 partying with him, and we are just more or less  
5 tying things up, getting -- almost like he was  
6 saying that they have got to dot the I's, that's  
7 the indication that we got from what he said.

8 Q How did you feel when you learned that  
9 the matter was going to be adjourned, sir?

10 A Well, we weren't happy that it was  
11 being put off longer, we had already been tortured  
12 long enough. But if there was a hope that a  
13 better investigation was going to bring good  
14 results, we were not going to object.

15 Q And, sir, did he ask you what your  
16 views were on the adjournment, sir?

17 A I don't recall.

18 Q Sir, was there ever any discussion  
19 with Mr. Minuk about whether he should be meeting  
20 with you, and Robert's views on that, sir?

21 A No. Before we go on, there was one  
22 more thing concerning that meeting that he did  
23 bring out. He said, it was us that requested that  
24 this be put off for a longer period, and he said  
25 the defence isn't going to object to it because

1 they are busy with a trial anyway. And that was,  
2 he was talking three, or two to six months, it  
3 actually wound up being 13 months.

4 Q Sir, when you say it was us who was  
5 requesting it?

6 A He meant himself.

7 Q Thank you. Sir, you had met with  
8 Chief Carter after that meeting on June 20th,  
9 2006, and we have a record that on the 26th of  
10 June, 2006, that you telephoned Mr. Minuk?

11 A It is possible. I met with him a  
12 couple of times. Actually, I met with Mr. Carter,  
13 he stopped at my driveway one day and asked how we  
14 were doing. That was very cordial of him.

15 Q Sir, I know that --

16 A Could you refresh my memory on the  
17 other meeting?

18 Q Sir, all I can tell you is when you  
19 met with Mr. Minuk on the 31st of May, 2006 --

20 A Yes.

21 Q -- he had indicated to you that there  
22 would be an adjournment of, as you have testified,  
23 of two to six months, sir?

24 A Yes.

25 Q Were you given a date as to when the

1 matter would next be in court?

2 A No.

3 Q And, sir, is there any prospect that  
4 your call to him may have had to do with the  
5 scheduling of the Prelim or the investigation,  
6 sir?

7 A It could well have been.

8 Q And you just have no recollection,  
9 sir?

10 A Yes.

11 Q September 8th, 2006, there is a  
12 telephone conversation recorded. Are you able to  
13 say whether that was between you and Mr. Minuk or  
14 your wife and Mr. Minuk?

15 A September 6th?

16 Q September 8th, 2006?

17 A No, I can't -- could have been either  
18 one of us.

19 Q Sir, September 13th, 2006, there is a  
20 memo indicating that there was a conversation with  
21 Andrea at Mr. Minuk's office concerning the date  
22 of the Inquiry, or the date of the Preliminary  
23 Inquiry?

24 A I think that was -- I think I talked  
25 with her, yes. Mr. Minuk was not available and I

1 was inquiring, and she gave me, I think she gave  
2 me at that time, July 16th.

3 Q All right. I think we should put that  
4 document in evidence. You will find it in book  
5 R-1, document 91.33.

6 THE COMMISSIONER: Sorry, I missed  
7 that, say that again?

8 MR. PACIOCCO: That's at page 3203, at  
9 book R-1, 91.33. Which exhibit number will that  
10 be please?

11 THE CLERK: That will be 22.

12 (EXHIBIT 22: R-1.91.33 Memo from  
13 Andrea September 13, 2006)

14 BY MR. PACIOCCO:

15 Q Sir, that's simply a memo confirming  
16 the phone call, September 13th at 9:20 a.m.,  
17 indicating that you were advised of the dates set  
18 for the Preliminary and you were somewhat  
19 disappointed that it was going to be a year away?

20 A Yes.

21 Q Does that help refresh your memory,  
22 sir?

23 A That is correct, I do recall it.

24 Q And what were you feeling, sir? It  
25 describes disappointment there, but is there



1 anything more that you can tell us about your  
2 reaction when you heard that this Preliminary was  
3 going to be another year?

4 A Well, as I'm having trouble right now  
5 remembering a lot of these things, I was thinking  
6 about the witnesses, the witnesses of the  
7 accident, are they going to be able to remember  
8 what they saw, what took place? And the longer  
9 you leave it, the less case you have. That was my  
10 thoughts.

11 Q Sir, why do you think the longer you  
12 leave, the less case you have, sir?

13 A People go on with their lives, they  
14 are busy, they are thinking about many other  
15 things. This isn't in the forefront like that of  
16 the victims. It lives in our minds every day.  
17 For the witnesses, it is there, yes, unless they  
18 were -- it was very traumatic for them, it passes,  
19 gradually they begin forgetting. It was almost  
20 three years before this got to court, and then not  
21 one witness was called. So...

22 Q So is it fair to say that your concern  
23 is that a case becomes weaker as time passes on?

24 A Absolutely.

25 Q Sir, I understand that shortly after

1 this, there was a letter that was written by  
2 yourself and your wife to Mr. Minuk?

3 A Yes.

4 Q And do you recall how that came about,  
5 sir?

6 A I guess it is all from frustration.

7 Q I'm going to show you two versions of  
8 that, because I need to date the letter. I would  
9 ask the clerk please, to put document book 0, at  
10 tab 81, A-8, which appears at 2138 of book 0, in  
11 as the next exhibit. And that will be exhibit 23.

12 (EXHIBIT 23: O.81.a.8 Letter to Crown  
13 Attorney Martin Minuk September '06)

14 BY MR. PACIOCCO:

15 Q And you will notice, sir, that there  
16 is a post-it put over the top of that document,  
17 sir, and that post-it was put when the document  
18 was disclosed to the Commission by yourself and  
19 your wife, indicating approximately when the  
20 letter would have been sent.

21 Sir, we also have that letter from  
22 Mr. Minuk's documents in book R-1, and it does  
23 have a date on it, so I'm going to ask that that  
24 be put in as well. That's R-91, book R-1, tab 91,  
25 document 34 at page 3204.

1

2

(EXHIBIT 24: R-1.91.34 Letter from

3

Victoria Sveinson December 14, 2006)

4

MR. PACIOCCO: And that I believe

5

would be exhibit 24.

6

THE CLERK: That's correct.

7

BY MR. PACIOCCO:

8

Q That's the same letter, sir, that I

9

just showed you. And it has a date of

10

December 14th, 2006, up in the right-hand corner,

11

the exhibit that you were just given, sir?

12

A Yes.

13

Q And do you recognize that writing in

14

the upper right-hand corner dated December 14th,

15

2006?

16

A Yes, it is my wife.

17

Q It is your wife's writing?

18

A Yes.

19

Q And that letter, sir, at page 3206, or

20

if you look on to the third page of the document,

21

sir, it is signed. I take it that is your

22

signature, sir?

23

A Yes.

24

Q And that would be your wife's

25

signature as well?

1           A     That's correct.

2           Q     And you are identified as the parents  
3 of Crystal Taman, killed on February 25th, 2005,  
4 sir?

5           A     That's correct.

6           Q     Sir, how did that -- you said that  
7 that letter came about as a result of frustration,  
8 sir. This was several months after the May  
9 meetings that you had with Mr. Minuk. Are you  
10 able to help us out in indicating why that letter  
11 wasn't sent until December?

12          A     Why it was sent in December?

13          Q     Yes, as opposed to closer to the  
14 meeting of May 26th?

15          A     Well, I guess when you are feeling  
16 hurt, when you are feeling disgusted, frustrated,  
17 you do it then. And this was a continuous thing  
18 for us. And we had found out when the Preliminary  
19 Hearing was going to be. By expressing our  
20 concerns earlier would certainly give him an  
21 opportunity to look into our concerns, the  
22 earlier, the better. We were hoping he was  
23 working for the people.

24          Q     Sir, in this letter there is some  
25 reference to dangerous driving and the

1 conversation that you related to us earlier, sir?

2 A Yes.

3 Q If you look in the second paragraph of  
4 the letter, about five or six lines in, it says:

5 "For anyone to suggest..."

6 do you see where I am reading from, sir?

7 A Yes.

8 Q "For anyone to suggest that this  
9 could be considered a simple  
10 misdemeanor because of some  
11 distraction, especially some frivolous  
12 distraction caused by the perpetrator  
13 himself, is very demeaning."

14 Sir, did you join your wife in this letter?

15 A Yes, I did.

16 Q What did you mean by that, sir?

17 A What did we mean? Because in our  
18 previous meeting with Mr. Minuk, he was making a  
19 triviality by saying, oh, he may have dropped a  
20 DVD and reached for it, or he may have just looked  
21 aside. He was using excuses for dangerous  
22 driving.

23 Q Sir, did you get any response to that  
24 letter?

25 A No.

1           Q     Sir, our records indicate that on the  
2     26th of June, 2007, as the reset Preliminary date  
3     was approaching and it was scheduled to start on  
4     July the 16th, there is a ten minute call to  
5     Mr. Minuk's office, sir. Do you know anything  
6     about that call?

7           A     I can't remember whether I made it or  
8     whether my wife made it, but we were wondering  
9     whether the Preliminary was still on. I don't  
10    remember who was talked to, sorry.

11          Q     Sir, what was your emotional state at  
12    this time as the second date for the Preliminary  
13    is coming and you have gone through all of these  
14    efforts to try and get information, sir, and it  
15    has been adjourned for this long period of time?

16          A     Well, we are praying that something  
17    good came from the delay, that some evidence that  
18    could be used was brought forward. But we had no  
19    way of knowing any of it, nobody would tell us  
20    anything.

21          Q     Sir, so I take it you were going to  
22    find out when you got to court and the preliminary  
23    was supposedly going to start?

24          A     July 16th.

25                   MR. PACIOCCO: Mr. Commission, I

1 notice it is 10:29, and I think it is just about  
2 the right time for a break.

3 THE COMMISSIONER: Yes, thank you.  
4 Take a short break. 15 minutes.

5 THE CLERK: All rise. This Commission  
6 of Inquiry is now in recess.

7 (Proceedings recessed at 10:29 a.m.  
8 and reconvened at 10:47 a.m.)

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

11 BY MR. PACIOCCO:

12 Q Thank you. Mr. Sveinson, just before  
13 the break we had gone through all of the meetings  
14 that you had with Mr. Minuk, until we get to the  
15 point where the set dates for the Preliminary  
16 Inquiry in 2007 are approaching, sir. We know  
17 that the first of those dates was July 16th, 2007.

18 Did you go to court that day, sir?

19 A Yes, I did.

20 Q And, sir, what happened on that day?

21 A Well, we were waiting in the  
22 courtroom, and we were waiting for a courtroom and  
23 judge to be assigned, as we were told this is what  
24 would happen first.

25 Q Sir, when did you learn that that's

1 what was going to happen on the 16th of July, that  
2 a courtroom and a judge were going to be assigned?  
3 What were you expecting to happen when you arrived  
4 at court that day?

5 A That there was going to be a  
6 Preliminary Hearing, there was going to be a judge  
7 appointed and a courtroom appointed, and we would  
8 go in and they would start going over evidence.

9 Q Okay. So you were in what I guess  
10 would be called an assignment court when the day  
11 started?

12 A Yes.

13 Q How did you know to go there, sir?

14 A I guess when we phoned Minuk's office,  
15 the woman told us that this is what the procedure  
16 was.

17 Q Sir, what happened when you got into  
18 that courtroom? Did you meet with anybody before  
19 you got in there?

20 A No, I didn't. We sat for one and a  
21 half hours at least waiting.

22 Q What was happening during that one and  
23 a half hours?

24 A There was case after case going before  
25 the judge, they were being assigned a judge and



1 the courtroom, and away they would go. Some were  
2 getting a remand.

3 Q And, sir, who were you sitting with?

4 A I was sitting with my wife, my  
5 daughter, I believe.

6 Q And you began to indicate that  
7 something occurred during that day, sir, what  
8 happened?

9 A Well, just before the Zenk case came  
10 up, Minuk walked over, and like this was like a  
11 minute or two before he went to talk to the judge,  
12 he said, he is pleading guilty to dangerous  
13 driving causing death and the other charges are  
14 dropped, and we are going to have it tied over to  
15 tomorrow, and he is going to appear before Judge  
16 Chief Wyant. And he left.

17 Q Sir, where did that conversation take  
18 place?

19 A In the courtroom.

20 Q Did you have any comments that you  
21 made at that time, sir?

22 A We had no opportunity to speak.

23 Q What was your reaction, sir?

24 A I can't recall. I wasn't -- I just  
25 don't know. I guess it was a terrible surprise,

1 and at that moment you don't have much chance to  
2 really think about it, well, he is pleading guilty  
3 to dangerous driving causing death and here, you  
4 know, it really boggled my mind because here he is  
5 pleading guilty to the charge that Minuk had told  
6 us there was little chance of proving. And the  
7 other charges that he had never commented to us  
8 about are being dropped. What is going on?

9 Q Sir, was there any comment made about  
10 the sentence that might be imposed, or what  
11 Mr. Minuk's position on sentencing was going to be  
12 when you had that brief conversation that day?

13 A No, nothing.

14 Q Sir, you referred earlier to a phone  
15 call that your wife Victoria made to Mr. Minuk on  
16 that same day, July 16th, sir?

17 A Yes. She made a phone call that  
18 evening or later in the day, because this only  
19 took a few minutes.

20 Q And, sir, you indicated that you  
21 didn't really hear that phone conversation?

22 A No, I didn't.

23 Q Were you aware that she was going to  
24 be calling?

25 A Not really, she told me after the

1 fact.

2 Q And had you had any conversation with  
3 her before she called, about what had taken place  
4 in court that day?

5 A I guess we probably did. We are  
6 together all of the time and I guess we probably  
7 voiced our opinions to one another.

8 Q Sir, you were advised that it was  
9 going to be put over to the next day?

10 A Yes.

11 Q And did you speak to Mr. Minuk after  
12 the court hearing on the 16th?

13 A No.

14 Q Did you make any effort to, sir?

15 A He disappeared.

16 Q Sir, and at that point, sir, I  
17 understand from your earlier testimony that you  
18 had not yet had any contact with anyone from  
19 Victims' Services?

20 A That's correct.

21 Q And you still at this point were not  
22 communicating with Robert and his family?

23 A That's correct.

24 Q And, sir, you attended court, I take  
25 it on the next day, July 17th?

1           A     Yes, I did.

2           Q     And what happened on that date, do you  
3 recall what happened in court that day?

4           A     Yes, I do.

5           Q     And what occurred?

6           A     Well, they stood up and Minuk told the  
7 judge that he was -- that Zenk was pleading guilty  
8 to dangerous driving causing death, as there had  
9 been 32 witnesses scaled down to 12 for the  
10 Preliminary Hearing, and he decided he would plead  
11 guilty to this if the other charges were dropped.

12          Q     And, sir, was it expressed that way,  
13 that he would plead guilty if the other charges  
14 were dropped?

15          A     It sounded like that. I'm not using  
16 the exact words, but that's sort of what we got  
17 out of it, yes -- or the other charges were  
18 dropped and he was pleading guilty to that,  
19 that's --

20          Q     Okay. I'm going to take you back for  
21 a moment to the 32 witnesses pared down to, was it  
22 12, sir?

23          A     12.

24          Q     What did that mean to you, sir, when  
25 you heard a comment about 32 witnesses being pared

1 down to 12?

2 A 32 witnesses is a lot of people. They  
3 were talking at first, it was going to be a  
4 two-week Preliminary Hearing. And I think pared  
5 down to 12 told me that they were going to -- are  
6 considering using the 12 best witnesses just for  
7 the Preliminary Hearing, and the others would all  
8 be called in the trial. This is what we got out  
9 of it.

10 Q Sir, given that there was not going to  
11 be a Preliminary Inquiry, or Preliminary Hearing  
12 at that point because of the plea, sir, did that  
13 make any sense to you, sir, the reference to the  
14 12 witnesses?

15 A It told me that he had a good case.  
16 32 witness, my goodness, somebody must have had  
17 some good information. I felt "wow."

18 Q Sir, I know at up until this point in  
19 time you hadn't received information about the  
20 nature of the evidence available?

21 A That's correct.

22 Q But, sir, in fairness, at that time  
23 you really didn't know what those witnesses were  
24 going to be able to say, sir?

25 A I still don't.

1           Q     And so your sense that meant there was  
2     a strong case was based on the number, rather than  
3     knowing what each individual might be able to  
4     contribute; is that fair, sir?

5           A     Yes. Along with what Minuk had told  
6     us, or maybe not told us.

7           Q     And what do you mean by that?

8           A     Well, he never mentioned to my wife  
9     and I anything about the alcohol charges, the  
10    drunken driving causing death, or driving while  
11    under the influence causing death, or refusing the  
12    breathalyzer, he did not discuss that with us.  
13    That was, like the chief had said, it was like a  
14    slam dunk. And there was no change to that as far  
15    as we knew. And now all of a sudden he comes  
16    forward and he is pleading guilty to dangerous  
17    driving causing death, the charge that Minuk had  
18    said they would have a terrible time proving.  
19    Everything is crazy.

20          Q     Sir, you had had, by the time the plea  
21    went in, you had had a number of hours to reflect  
22    on the decision to take a plea to the one charge  
23    and to drop the others, sir. What were you  
24    feeling about that?

25          A     I couldn't understand why -- why, or

1 even that they would consider dropping a charge of  
2 refusing a breathalyzer. I mean, I know they  
3 couldn't prove that he was drunk because he didn't  
4 take a breathalyzer, but why would they charge --  
5 drop the charge of refusing a breathalyzer? It  
6 didn't make sense.

7 Q Sir, what did you do after that court  
8 hearing?

9 A I went out in the hallway and I  
10 waited.

11 Q What did you wait for, sir?

12 A For Mr. Minuk.

13 Q And did he come out?

14 A Yes, he did.

15 Q And what happened when he came out?

16 A Well, I approached him and I asked him  
17 straight out, you have given away three charges,  
18 there is only one left, I said, are you going to  
19 plea bargain for a sentence now? His comment was,  
20 oh, no, that's the judge's job. He is the one  
21 that decides the sentence.

22 Q Sir, was anyone else present when you  
23 had that conversation with him?

24 A I don't think so.

25 Q And sir, what was your reaction to

1 that?

2 A I was very pleased. If the judge has  
3 this then -- it is not a plea bargain. And what  
4 Minuk had been talking before shouldn't have been  
5 what the judge would be thinking.

6 Q Sir, what happened between that date  
7 and the 22nd of August? Did anything occur, sir?  
8 You can't recall any events of any importance  
9 between the time of the plea being entered and  
10 August 22nd, when the sentencing submissions were  
11 going to take place, sir?

12 A I can't recall at this point.

13 Q All right. Let's go to August 22nd  
14 then, sir, that's the date of the sentencing  
15 submissions occurred. Can you tell us about that  
16 day, please?

17 A Well, they made their presentations,  
18 or what they recommended to the judge. There was  
19 also the Victim Impact Statements were read by my  
20 son-in-law and my three grandchildren, my daughter  
21 and my wife. She read our combined Victim Impact  
22 Statement.

23 Q Very difficult day, sir, no doubt?

24 A Very, very difficult.

25 Q Sir, were there any surprises on that



1 day, the day that the submissions were made to the  
2 judge by Mr. Minuk and Mr. Wolson?

3 A Yes, there was. The judge, in hearing  
4 my wife's Victim Impact Statement, made note that  
5 she had mentioned alcohol. You see, when we came  
6 back from B.C., we were wondering how such a thing  
7 could happen, straight piece of road, blinking  
8 lights, red lights, tail lights, bright lights,  
9 bright yellow car, and this man runs into her.  
10 How can this happen?

11 Well, when we found out that alcohol  
12 was involved, and she said this in her statement,  
13 that it started to make sense how it could have  
14 happened. And she voiced this in her Victim  
15 Impact Statement. After seeing what else  
16 Mr. Minuk scrubbed out of there, I was surprised  
17 he left that there. Anyway it was, and she was  
18 able to read it. And Chief Justice Wyant  
19 commented about it. He said, there was a mention  
20 of alcohol in Mrs. Sveinson's report, what is the  
21 deal on that, he asked the Crown prosecutor?

22 Well, that was a hot potato there, I tell you.  
23 Because those two lawyers were bouncing around  
24 trying to deter any discussion whatsoever about  
25 alcohol, because now there are no alcohol charges,

1 and they weren't about to give any evidence on it.

2 Q So your recollection is there was no  
3 evidence of alcohol given on that court date?

4 A There was no evidence given in the  
5 court at all, by anyone.

6 Q Do you remember the facts that were  
7 read in to the judge, sir?

8 A Well, earlier, in one of the  
9 proceedings there had been a comment by Mr. Minuk  
10 and a comment by Mr. Wolson also about alcohol,  
11 and yet the judge was ordered, or told by them to  
12 disregard it, that it should never have been said.

13 Q Okay. Sir, we will come to that court  
14 date in a moment. We are talking about the first  
15 date when the pleas have been entered, but the  
16 lawyers have gathered for their first chance to  
17 make arguments on what the appropriate sentence  
18 was, the day that your victim impacts statements  
19 were in there, sir. At that point, sir, we  
20 understand there was a joint submission made with  
21 respect to the sentence in that case?

22 A Yes.

23 Q And it was a joint recommendation for  
24 a conditional sentence with a number of terms,  
25 sir?

1           A     Yes.

2           Q     And were you aware that that joint  
3 submission was going to be made on the 22nd of  
4 August?

5           A     Absolutely not.

6           Q     Sir, what was your reaction to that?

7           A     Lied to again.

8           Q     And sir, what do you mean, lied to?

9           A     He told me it was in the hands of the  
10 judge. Now he is going and he is recommending it.  
11 And when -- and I know a little bit about law and  
12 court cases, and when the Crown prosecutor  
13 recommends something and it is accepted, that's  
14 it, there is no appeal. It goes under the carpet  
15 forever. And this is what was happening.

16          Q     Sir, were you surprised to hear that  
17 the position taken by Mr. Minuk, whether it was  
18 joint or otherwise, was going to be for a  
19 conditional sentence?

20          A     Well, that had been his stand right  
21 from the very beginning, that's why there was all  
22 of our letters, that's why our concerns were, that  
23 is why we wrote to the Law Society, to the  
24 Attorney General, we knew what this man was  
25 capable of, and was doing, and did.

1 Q Okay, sir. What happened after court?

2 Did you have any opportunity to speak to him that

3 day?

4 A No.

5 Q Did you seek an opportunity to speak

6 to him?

7 A He went out the back door.

8 Q Did you make any effort to contact him

9 after court, sir?

10 A After court? No.

11 Q Sir, you referred to letter writing

12 that you began at that point, sir?

13 A Yeah.

14 Q And, sir, I'm going to take you, if

15 you would, please, to book O, tab 81.a.7, at page

16 2136, and I ask that document be made an exhibit

17 please?

18 THE CLERK: Exhibit 25.

19 (EXHIBIT 25: 0.81.1.7 Letter to

20 Attorney General Dave Chomiak, August

21 25, 2007)

22 BY MR. PACIOCCO:

23 Q Sir, I put in front of you a letter

24 dated August 25th, '07, to Mr. Dave Chomiak.

25 A Yes.

1 Q And that, again, I believe is your  
2 wife's handwriting, sir?

3 A That's correct.

4 Q And who wrote this letter?

5 A We did together.

6 Q So you approved of its contents, sir?

7 A Absolutely.

8 Q And in this case, sir, you are talking  
9 about three of the four charges being dropped?

10 A Yes.

11 Q And you comment, how can a charge of  
12 refusing a breathalyzer simply be dumped when it  
13 is supposed to constitute an automatic conviction,  
14 sir?

15 A Yes.

16 Q And you offer the position that it is  
17 very probable that all four charges could have  
18 been proven; is that correct, sir?

19 A That's correct.

20 Q And you make objection to the position  
21 taken on sentence by Mr. Minuk --

22 A Um-hum.

23 Q -- saying he wasn't obligated to  
24 recommend a minimum sentence. And you again use  
25 the term, in the letter that you used when

1     testifying, sir, you say Mr. Minuk was also not  
2     above lying to us when we asked about this plea  
3     bargain?

4             A     That's correct.

5             Q     And then, sir, you record that he  
6     insisted that the dangerous driving charge was a  
7     much more serious charge than the impaired charges  
8     were.  Sir, where does that come from?

9             A     Minuk.

10            Q     When did that happen, sir?

11            A     On one of our meetings in the office.

12            Q     And, sir, do you know the context in  
13     which that was said?

14            A     I guess it was because he was putting  
15     down the fact that he felt he couldn't prove the  
16     conditional sentence, but the dangerous driving  
17     causing death, or the driving impaired causing  
18     death would bring a bigger sentence.  This was the  
19     thing that he was trying to put to us.

20            Q     Sir, I'm not clear that I understand.  
21     Would you repeat your answer, sir?

22            A     Okay.  He was putting down the fact  
23     that he felt it would be difficult to prove  
24     dangerous driving causing death.  But he said the  
25     more severe one is the impaired driving causing

1 death charge and could bring a bigger sentence.

2 Now, that one is gone.

3 Q Okay. Sir, would it be fair to say  
4 that this passage has things backwards, because  
5 what it says, sir, four lines from the bottom of  
6 page 2136 --

7 A The first page?

8 Q Yes, first page of the letter that you  
9 have in your hand, go up four lines?

10 A Okay.

11 Q You will see in the fourth word on the  
12 fourth line from the bottom:

13 "He insisted that the dangerous  
14 driving charge was a much more serious  
15 charge than the impaired charges  
16 were."

17 Do you see that, sir?

18 A Yeah.

19 Q And I had just understood you to say  
20 that he had told you the opposite. Am I confused?

21 A No, you are not. I may have got  
22 confused on it.

23 THE COMMISSIONER: I am sorry, I  
24 didn't hear that?

25 THE WITNESS: I said I may have got

1 confused on it, with so much of this back and  
2 forth, I may have got confused on it.

3 BY MR. PACIOCCO:

4 Q Are you able to help us out now that  
5 you have seen that, sir, or is this just something  
6 that I should reserve and ask Victoria about?

7 A I think what is in the letter is  
8 correct, I think so. It has been so long since  
9 I -- since this transpired, I think I got it mixed  
10 up, but I think this is accurate.

11 THE COMMISSIONER: Are you saying that  
12 the letter is correct in the sense that he  
13 insisted that the dangerous driving charge was  
14 more serious than the impaired driving charge?

15 THE WITNESS: Yes.

16 THE COMMISSIONER: Okay. Thank you.

17 BY MR. PACIOCCO:

18 Q Sir, you go on in the letter and you  
19 talk about being denied information that you  
20 requested, and you recount your earlier testimony  
21 about the law in these cases requiring, or it is  
22 the law in these cases that conditional sentences  
23 be used?

24 A Um-hum.

25 Q And you make the claim in the letter



1 that most of your inquiries were treated with  
2 disdain and arrogance, superiority?

3 A Yes.

4 Q You go on to talk about the censorship  
5 of the Victim Impact Statement, and you make more  
6 general comments about the plea bargains and  
7 minimum sentences being the order of the day. And  
8 you give more detail about problems with the  
9 Victim Impact Statement, correct, sir?

10 A You did leave one thing out.

11 Q And what is that, sir?

12 A And that was at the top of the second  
13 page, that it was revealed that Mr. Minuk and  
14 Mr. Wolson had a close relationship working as  
15 co-counsel in a serious manslaughter case up to  
16 and including August of 2007, and the fact that  
17 even judges are required to remove themselves from  
18 cases over which they are presiding if  
19 relationships exist with any of the players in  
20 those cases. Surely, Mr. Minuk should not be  
21 exempt from this same responsibility. Here is  
22 where an investigation should also take place. We  
23 were concerned of collusion, and of whatever.

24 Q Sir, what did you base that concern  
25 on, apart from the knowledge that you communicate

1 here that he had worked with Mr. Wolson on a case?

2 Was there anything else?

3 A Publications in the paper that these  
4 two were defence lawyers for the same people.

5 Q And is that how you learned about it,  
6 sir?

7 A Yes, it was.

8 Q Okay. And what were you hoping for  
9 when you sent this letter off the day after the  
10 sentencing submissions had been made in court,  
11 that it was going to be a joint recommendation for  
12 a conditional sentence?

13 A That maybe something could be stopped  
14 before it was too late. When a person sees a  
15 bridge being built, and somebody in authority sees  
16 that there is something wrong with that bridge  
17 that is being built, they would definitely,  
18 without question, take the steps to stop that  
19 bridge from being built before a disaster happens.  
20 We were hoping that this disaster could be stopped  
21 before it was too late.

22 Q Sir, I'm going to take you later to  
23 some of the other communications you had with  
24 Minister Chomiak?

25 A Yes.

1           Q     I'm going to take you first though to  
2     September 12th, and that's the day when you saw  
3     the letter earlier, you had been informed that the  
4     parties were going to have to go back before the  
5     judge and make further submissions to the judge at  
6     that time, the judge having some problems with the  
7     joint recommendation for a conditional sentence.  
8     Do you recall that, sir?

9           A     Yes, I do.

10          Q     Sir, was there anyone there to explain  
11     to you what was going on that date?

12          A     On September --

13          Q     On September the 12th, anyone from  
14     Crime Victims' Services, or anyone else, Mr. Minuk  
15     or anyone who could help you understand what was  
16     about to take place in court?

17          A     I think Lesley approached me on that  
18     day and asked how I was doing, but other than  
19     that, no. It was just a passing, how are you type  
20     of thing, and that was it.

21          Q     Did you have any questions about what  
22     was going to be happening that day?

23          A     I never felt she would know. I wasn't  
24     aware that she was in the know in any of the  
25     things that were going on, except maybe a court

1 date.

2 Q Sir, what was your expectation as to  
3 what was going to take place on September the  
4 12th? What was the hearing about, did you  
5 understand why you were there?

6 A There was to be more submissions. On  
7 the first court date -- I hope I'm getting this  
8 right -- on August 22nd, the Chief Justice  
9 received submissions as to, I think it was 13  
10 submissions as to why they felt the conditional  
11 sentence was appropriate.

12 Q You say submissions, sir, are you  
13 referring to cases?

14 A Cases, yes, and all of them were  
15 referring to such things as drunken driving  
16 causing death, and they were all getting  
17 conditional sentences. The judge did not seem  
18 happy with this, so he asked to have it put off.  
19 Now there was to be more submissions.

20 Q Sir, when you say he didn't seem happy  
21 about this, what are you basing that on?

22 A Well, he put it off. He certainly  
23 didn't accept it and make his decision that day.

24 Q Okay.

25 A He said, I want more submissions.

1 Q Okay. Continue, please?

2 A Pardon?

3 Q Continue please, sir, with the events  
4 of that day?

5 A He also made comments of, and this is  
6 on the 22nd, I believe, that he felt that a  
7 policeman should be held to a higher standard.  
8 And that was "phoo-phooed" by both the Crown  
9 prosecutor and the defence lawyer, as he was just  
10 a citizen, he was off duty, he was just a citizen  
11 like everyone else, and you can't consider him as  
12 a police officer. You know, it certainly sounded  
13 like you had two defence lawyers sitting at the  
14 same table.

15 Q When you --

16 A It was a disgrace.

17 Q When you refer to two defence lawyers?

18 A I was talking about Minuk and Wolson.

19 Q Sir, do you remember an exchange on  
20 that day, the 12th of September, about whether  
21 Mr. Harvey-Zenk had alcohol in his system?

22 A Oh, yes.

23 Q What took place, to your recollection,  
24 sir?

25 A Well, Wolson made comments that it was

1 a momentary lapse of attention, they figure, a  
2 momentary lapse of attention that lasted for over  
3 a half a mile. He passed a set of blinking  
4 lights, approached a red light, with cars, and  
5 that wasn't just one or two, there were several  
6 cars parked at the -- stopped at the red light,  
7 street lights, and a bright yellow car, and he hit  
8 my daughter at full force, you know.

9 Q Sir, you told us about the momentary  
10 lapse of attention, and it is evident I think, in  
11 fairness, that you simply don't accept that  
12 explanation, sir. And I was asking you about the  
13 discussion about whether Mr. Harvey-Zenk had  
14 alcohol in his body. Do you recall any discussion  
15 about that, apart from the momentary lapse of  
16 attention comment?

17 A Well, he said there is no proof that  
18 he was drinking, there is no evidence, there is no  
19 charges for it. We can not even discuss it, he  
20 said.

21 THE COMMISSIONER: Who said that?

22 THE WITNESS: Wolson, and Minuk agreed  
23 with him.

24 BY MR. PACIOCCO:

25 Q And, sir, do you recall a discussion

1 that day about whether this was a joint submission  
2 or a plea bargain?

3 A He said it was a joint submission.  
4 There was absolutely no mention of a plea bargain.

5 Q And who said that, sir?

6 A The Crown prosecutor, he read it out.  
7 He said this is our joint submission.

8 Q Sir, what happened after the  
9 submissions that day?

10 A After?

11 Q Did you speak to anyone, sir?

12 A No.

13 Q And, sir, you commented on the judge  
14 being unhappy. Did anything that day have any  
15 impact on that impression that you had, sir?

16 A Well, I was hopeful that the judge  
17 would have some sense. I'm sorry, but that was my  
18 feeling. Here might be a light at the end of the  
19 tunnel at last.

20 Q Sir, on -- after September 12th, you  
21 and your wife continued to, very shortly after,  
22 write letters, sir?

23 A Yes, we did.

24 Q September 14th, 2007, you write again  
25 to the Justice Minister of Manitoba?

1           A     That's correct.

2           Q     And that document will be found at  
3     tab, or book O, tab 81a.6, page 2135.  If that  
4     would be made the next exhibit, please?

5           THE CLERK:  Exhibit 26.

6                     (EXHIBIT 26:  O.81.a.6 Letter to  
7                     Attorney General Dave Chomiak,  
8                     September 14, 2007)

9     BY MR. PACIOCCO:

10          Q     And sir, this is a letter to the  
11     Justice Minister, and in it, I take it that is  
12     your wife's signature and yours at the bottom,  
13     sir?

14          A     That is correct.

15          Q     And in it you indicate that:

16                     "Under the sanction of your  
17                     government..."

18     this is in the third line,

19                     "...the appointed prosecutor,  
20                     Mr. Minuk, has completely abdicated  
21                     his mandate to prosecute."

22     A number of lines later, the second paragraph, you  
23     say:

24                     "It is appalling that these two  
25                     lawyers, including the one appointed



1 as prosecutor, could simply refuse to  
2 provide any information to enable the  
3 judge to render an appropriate  
4 sentence for this crime. They even  
5 had the gall to inform Judge Wyant  
6 that this was all of the information  
7 they were providing and he must  
8 sentence accordingly."

9 Sir, what was your purpose in writing that letter  
10 to the Minister of Justice, sir?

11 A To show the Minister of Justice what  
12 was going on. At one point Mr. Wolson even made a  
13 comment to the judge, he said:

14 "Your Honour, between Mr. Minuk and I,  
15 we have over 65 years of experience.  
16 Listen to us."

17 Q What was your impression when you  
18 heard that, sir?

19 A I thought he should have been locked  
20 up for contempt of court, using an attitude like  
21 that to the judge, it almost sounded like a  
22 threat.

23 Q Sir, your attempt to get the attention  
24 of the Justice Minister continued?

25 A Oh, yes, because I didn't get a

1 response to this.

2 Q Sir, it was approximately three weeks,  
3 two and a half weeks later, when October 1st,  
4 2007, another letter was written. Do you recall  
5 that, sir?

6 A Yes.

7 Q And that letter will be found at book  
8 O, tab 81.a.5 at page 2134.

9 (EXHIBIT 27: O.81.a.5 Letter to  
10 Attorney General Dave Chomiak, October  
11 1, 2007)

12 BY MR. PACIOCCO:

13 Q And, sir, you identify that as a  
14 follow-up letter of September 14th, 2007?

15 A Yes.

16 Q And you make comments about quotes  
17 that are attributed to Mr. Slough, sir. Do you  
18 know who Mr. Slough is?

19 A Yes, he is the Assistant Attorney  
20 General.

21 Q Okay, sir. And you comment on:  
22 "He had been quoted as stating that  
23 this independent lawyer was chosen as  
24 prosecutor to avoid any perception of  
25 conflict of interest, since the

1           defendant was a police officer. So  
2           similarly, even a perception of  
3           conflict on the part of Mr. Minuk  
4           should warrant an immediate  
5           investigation and his removal,  
6           replacing him with someone who will  
7           fill the prosecutor's mandate.  
8           Mr. Slough also stated that his  
9           department supports Mr. Minuk's  
10          handling of the Harvey-Zenk case.  
11          That truly is a travesty. He excused  
12          this decision by stating that they  
13          only had four appointees from which  
14          they could choose. Certainly one of  
15          those four, they should have been able  
16          to find one that hasn't routinely  
17          defended police officers and doesn't  
18          work hand-in-glove with the  
19          defendant's lawyer, Mr. Wolson."

20        So there is certainly no mystery about your  
21        position here with respect to Mr. Minuk's role,  
22        sir?

23            A     I hoped there wasn't.

24            Q     And, sir, again, what were you hoping  
25        to accomplish?

1           A     Once again I said, or I would say I  
2     wanted it stopped before it was irretrievable.

3           Q     Sir, I understand that Mr. Slough  
4     wrote to you directly in a letter dated  
5     October 5th, 2007. Do you recall that, sir?

6           A     Yes, I do.

7           Q     And that letter can be found at the  
8     same book, tab 81.a -- excuse me, it would be book  
9     O, tab 81.b.2, at page 2162.

10           THE CLERK: Exhibit 28.

11                   (EXHIBIT 28: O.81.b.2 Letter from  
12                   Assistant Deputy Attorney General, Don  
13                   Slough, October 5, 2007)

14     BY MR. PACIOCCO:

15           Q     So, sir, Mr. Slough does at this point  
16     respond on behalf of the Prosecution Service. He  
17     expresses his sincere condolences, he asked  
18     officials in his department to review the  
19     transcripts of the proceedings. He indicates his  
20     information that the hearing of September 12th,  
21     2007, consisted of a great deal of dialogue  
22     between the trial judge and counsel for the  
23     accused and the independent prosecutor. And he  
24     says:

25                   "It is unfortunate that based on this

1 exchange you feel the prosecutor was  
2 not cooperative with the court."

3 Do you have any reaction to that particular  
4 comment, sir, in the letter?

5 A Being cooperative with the court  
6 requires that you present the court with evidence  
7 when it is requested. He made no effort to it, he  
8 was almost insolent to the judge when asked for  
9 it.

10 Q Sir, the letter goes on and indicates:  
11 "I'm advised that the investigation of  
12 the accused's drinking behaviour prior  
13 to the accident was conducted by the  
14 Professional Standards Unit of the  
15 Winnipeg Police Service."

16 Sir, had you been aware that it was the  
17 Professional Standards Unit of the Winnipeg Police  
18 Service who was investigating Mr. Harvey-Zenk's  
19 conduct prior to the collision?

20 A This was the first I had known of it  
21 was when we got this letter.

22 Q Sir, did you have a reaction to  
23 learning that?

24 A Investigating themselves, conflict.

25 Q And he has attempted to assure you

1 that their mandate was to vigorously investigate  
2 the conduct of police officers, and that their  
3 investigation did not reveal any evidence that  
4 supported a charge of driving while impaired. He  
5 communicates to you that he was advised that what  
6 Mr. Minuk was attempting to convey to the trial  
7 judge was that the evidence in respect of the  
8 impairment of the accused was inadequate to  
9 support a conviction. The evidence that was  
10 available supported the charge entered, a guilty  
11 plea, namely dangerous driving causing death. And  
12 he expresses his regret that during this lengthy  
13 and at times confusing exchange between the judge  
14 and counsel, you reached the conclusions that you  
15 have. And he describes the mandate of the  
16 prosecutor as putting forward the evidence that  
17 can be proven. And he says:

18 "Given the evidence available for the  
19 prosecutor in this case, and the  
20 information I have been given, I  
21 believe the prosecutor performed his  
22 duties in conformance with his  
23 professional obligations."

24 Sir, what is your reaction to that?

25 A Well, I think you heard my

1 son-in-law's testimony, made by Mr. Minuk,  
2 comments made by Mr. Minuk that he could not  
3 understand why this man was pleading guilty to  
4 dangerous driving causing death, because he  
5 himself could have got him off on all charges.  
6 Now, here his boss is telling us that he had lots  
7 of evidence. Where does the truth lie?

8 Q Sir, I understand --

9 A I really would like to know.

10 Q Sir, I understand that you had an  
11 opportunity to meet personally with the Minister?

12 A Yes, I did.

13 Q And our information is that that  
14 happened the same day that this letter is  
15 addressed, October 5th, 2007?

16 A Yes, it is.

17 Q And, sir, what happened at that  
18 meeting?

19 A Well, to get the meeting I phoned,  
20 because there had been no response to my written  
21 letters, or our written letters, I phoned his  
22 office, and he was busy. They always seem to be  
23 busy. Well, I said, he is leaving me no  
24 alternative. I guess I will have to go to all the  
25 press in Winnipeg, and I will be making it clear

1 that he has taken no -- making no action to hear  
2 what a taxpayer has to say. Within an hour I got  
3 a call back. He would see me.

4 My wife and I went to see him in the  
5 Legislative Buildings. We met with him for an  
6 hour. His first comments were, I can't talk about  
7 the case because it is before the courts. Well, I  
8 said if you can't, it doesn't restrict me and you  
9 are going to hear what I have to say. And he sat  
10 there with his head down for a few minutes and he  
11 looked at the ceiling, and he never looked me in  
12 the eye, not once. It really makes you feel  
13 comfortable.

14 I proceeded to let him know what was  
15 happening and what we felt should happen, what the  
16 outcome would be if he didn't take action. And  
17 that was that they would give a conditional  
18 sentence and the man would go home as if nothing  
19 had happened, and he did.

20 And Mr. Chomiak made a comment --  
21 well, he said this, the laws here are so much  
22 better. I said so much better? Oh yeah, in my  
23 dad's country, they were so bad. And I said I  
24 don't care about your dad's country, I'm concerned  
25 about here, let's stay on topic. Well, we got the



1 best laws. You know, the drinking laws here in  
2 Manitoba, .05 are the heaviest laws. I said,  
3 don't even mention that. I mean, they have thrown  
4 them out the door, they are not even talking about  
5 a drunk, or alcohol conviction anymore, they have  
6 thrown it out. Don't tell me about that now. I  
7 said here is a murder, or a killing by a drunken  
8 driver that isn't even going to get in the  
9 statistics. She doesn't even rate a statistic.  
10 Yes, I was upset.

11 Finally, I said, what is this, a  
12 sacred cow that nobody can touch it? Because he  
13 said we have to wait until it is all over. I  
14 said, has it never -- has nobody ever done this  
15 before, stop it before it got ruined? And he  
16 said, yeah, one guy did, one Minister of Justice  
17 did stop it, but he had to resign. Well, I said,  
18 you know, I got to hand it to him for having a  
19 back bone, he believed in truth and justice.

20 Well, that was basically the end of  
21 our meeting. He did nothing at that point, but  
22 the day after the trial was over, he announced  
23 three inquiries in to the case. So that just  
24 tells me he was perfectly convinced that there was  
25 wrongdoing, or he would not have considered

1 spending over \$2 million on an inquiry like this.  
2 Either that or he just doesn't care about your and  
3 my money.

4 Q Sir, what did you take when he tried  
5 to explain to you that he could not interfere in a  
6 decision before the courts, or with the decisions  
7 made by a prosecutor? Did you accept that at all,  
8 sir?

9 A Absolutely not. He is his supervisor.  
10 Everybody is working under somebody. And when  
11 something is going wrong, there should be an  
12 inquiry into it, and this is what I was asking  
13 about. That's what we wanted. We could see it  
14 was clearly going wrong, and we saw it for two  
15 years, and we made it available to these people  
16 two years ahead of time. They all put their heads  
17 under their pillow, and can't touch it until it is  
18 over.

19 Q Sir, I understand that someone from  
20 Victims' Services was present at that meeting, if  
21 you recollect?

22 A What meeting?

23 Q The meeting with Mr. Chomiak?

24 A Is that who she was? There were two  
25 women in there. I don't know. One was his

1 assistant. The other one, I don't know who the  
2 heck she was.

3 Q You don't recall an introduction being  
4 made any point, sir?

5 A Yes, there was an introduction but I  
6 do not recall who she was.

7 Q Okay. Sir, on October 15th, after  
8 that meeting, another letter goes to Mr. Chomiak,  
9 which you will find at tab book O.81, tab a.4,  
10 page 2132. This is a letter dated October 15th,  
11 2007.

12 THE CLERK: Exhibit 29.

13 (EXHIBIT 29: O.81.a.4 Letter to  
14 Attorney General Dave Chomiak, October  
15 15, 2007)

16 BY MR. PACIOCCO:

17 Q And, sir, I think you would agree with  
18 me that that's an angry letter that you have  
19 written, sir?

20 A I can't argue with that.

21 Q Is that a fair comment?

22 A Yes. Along with hurt, anguish, it is  
23 a big bag of worms.

24 Q And, sir, what were you trying to  
25 accomplish by writing this letter, sir?

1           A     Could I have a couple of moments to go  
2 over it?

3           Q     Certainly.

4           A     Yes. It is mainly frustration,  
5 frustration at things happening that we have asked  
6 to have stopped, it is continuing exactly as we  
7 said.

8           Q     Sir, you took other measures to try to  
9 have this case stopped after the sentencing  
10 submissions had been made, sir? A letter of  
11 complaint went to the Law Society, I understand?

12          A     Yes, a couple of letters. Also we  
13 filed an official complaint.

14          Q     Yes. And I'm going to take you to  
15 that, sir. It can be found at book O, tab  
16 81.a.14. Book O, tab 81.a.14, page 2156.

17                   THE CLERK: Exhibit 30.

18                   (EXHIBIT 30: O.81.a.14 Letter to Law  
19 Society of Manitoba, Conflict of  
20 Interest Complaint, September 24,  
21 2007)

22 BY MR. PACIOCCO:

23          Q     Sir, you have in front of you a letter  
24 dated the 24th of September, 2007, to the Law  
25 Society. This is approximately a week and a half

1 before your meeting with the Minister. It is  
2 subsequent to the submissions that have been made  
3 on September the 12th. And you indicate very  
4 clearly in your first paragraph that you wish to  
5 file a complaint of conflict of interest against a  
6 Winnipeg lawyer. His name is Martin Minuk. And  
7 you describe how he was hired in an apparent  
8 effort to avoid any conflict of interest or  
9 appearance of collusion. And then you refer to  
10 what you call the ironic thing, that during the  
11 two and a half years that the case took to get to  
12 the preliminary date, Mr. Minuk was working as  
13 co-counsel with Mr. Wolson on a triple  
14 manslaughter trial here in Winnipeg. And you  
15 identify Mr. Wolson as Mr. Harvey-Zenk's lawyer.

16           You talk about the positions Mr. Minuk  
17 took, his early indication to you that it would  
18 probably be a conditional sentence, your  
19 disagreement with that, his indication that it  
20 could be very hard to prove the charge.

21           You refer to the comment about all of  
22 the witnesses who were available to him, the 33  
23 witnesses pared down to 12. And you talk about  
24 the conversation in court -- or the conversation  
25 where you indicate to him, by asking him if he is

1 going to plea bargain on the sentence, and he  
2 tells you, according to your quote here:

3 "Oh, no, that is the judge's job now,  
4 he will decide on the sentence."

5 Sir, you go on and summarize your basic  
6 objections.

7 Sir, what were you hoping when you  
8 wrote to the Law Society of Manitoba?

9 A Well, once again we were hoping that  
10 somebody would stop this facade.

11 Q And, sir, you got a response  
12 immediately, the next day from the Law Society of  
13 Manitoba. It can be found in the same book at tab  
14 81.b.5. Book O, tab 81.b.5, page 2165, if that  
15 could be the next exhibit, please?

16 THE CLERK: Exhibit 31.

17 (EXHIBIT 31: O.81.b.5 Letter from  
18 Law Society of Manitoba, September 25,  
19 2007 & (addition submitted April 15,  
20 2008) Letter from Law Society of  
21 Manitoba, November 5, 2007)

22 BY MR. PACIOCCO:

23 Q Sir, you have in front of you a letter  
24 dated September 25th, 2007, addressed to you and  
25 Victoria Sveinson. And it is from the Law Society

1 signed by a Leah Kosokowsky?

2 A Yes.

3 Q And that letter, in the third  
4 paragraph, makes very clear to you, sir, that the  
5 Law Society of Manitoba does not have jurisdiction  
6 to remove counsel on any given matter. You see  
7 that, sir?

8 A Yes.

9 Q What was your reaction when you saw  
10 that?

11 A Well, I felt here we go again, who  
12 does have the damn authority to do something? I  
13 was getting very frustrated. I have been to the  
14 highest legislation in the country, in the  
15 province, the people that sort of monitor the  
16 lawyers, and everybody is treating it like a  
17 sacred cow. Why? How? Where do we go from here?

18 Q Sir, you have got a follow-up letter  
19 on the 5th of October that can be found at page  
20 2164 of book O, at tab O.81.b.4, page 2164.

21 (EXHIBIT 32: O.81.b.4 Letter from  
22 Law Society of Manitoba, October 5,  
23 2007)

24 BY MR. PACIOCCO:

25 Q Sir, you have just been handed to you

1 a letter dated October 5th, 2007, from, again,  
2 Ms. Kosokowsky to yourself and your wife. And it  
3 indicates in the last couple of lines that she had  
4 discussed the matter with the Chief Executive  
5 Officer of the Law Society of Manitoba, and for  
6 the reasons outlined in this letter and the one  
7 that was sent to you on September the 25th, he has  
8 confirmed that the assessment of the Law Society  
9 ought to wait until Judge Wyant has made his  
10 decision, sir.

11 And I take it, sir, that again this is  
12 another example of you feeling that people are  
13 waiting while this bridge, you describe as being  
14 built incorrectly, is being left unattended?

15 A That's right. Left the barn door open  
16 and the horse got out, and oh, well.

17 Q Sir, you will notice that the next  
18 document to be produced would be a document that  
19 is in tab 81 B-5, it is attached. And the clerk,  
20 the letter of November 5th, that is shown as page  
21 2166.2 be attached to the exhibit that I just  
22 entered.

23 Mr. Sveinson, is there a document  
24 attached to the letter that I just gave you?

25 A Yes, there was.



1 Q All right. And could you turn --

2 A Oh, the one before.

3 Q Yes. Could you turn to the fourth  
4 page? It is page 2166.2?

5 A Yes. That's November 5th, 2007.

6 MR. PACIOCCO: Yes, thank you, Madam  
7 clerk, we have it.

8 BY MR. PACIOCCO:

9 Q That document, sir, is an ultimate  
10 decision in connection with the complaint that you  
11 made to the Law Society, is it not, sir?

12 A It is a complaint, yes.

13 Q You received that letter, sir? I  
14 notice a notation on the right-hand side in ink:

15 "Copy of a letter missed from our  
16 previous submission. V. and S.  
17 Sveinson."

18 A That's correct.

19 Q So you and your wife --

20 A So we brought that in, and we got this  
21 in for you.

22 Q Sir, this letter ultimately rejects  
23 the complaint?

24 A Absolutely.

25 Q It tells you, sir, that conflict of

1 interest is used in many different ways, but under  
2 Law Society standards, this is not a conflict that  
3 was inappropriate, because no confidential  
4 information was made known, and that collegial  
5 relationships between lawyers does not give rise  
6 to a conflict of interest. Do you recall reading  
7 that, sir?

8 A Oh, yes.

9 Q And they also went on to examine  
10 whether there was any professional misconduct, and  
11 they observed that Chief Judge Wyant rejected any  
12 notion of misconduct on the part of Mr. Minuk.  
13 And they indicate that there is nothing in Chief  
14 Justice Wyant's decision which could lead the Law  
15 Society to conclude that Mr. Minuk was motivated  
16 by improper purposes and, therefore, the complaint  
17 will not be investigated further. However, you  
18 are advised that there is a judicial inquiry  
19 that's been ordered and they will monitor the  
20 outcome of that inquiry, sir; correct?

21 A That's correct.

22 Q So, effectively your attempt to have  
23 Mr. Minuk removed from the case was thoroughly  
24 unsuccessful?

25 A This here is after the fact anyway,

1 the court case was over the 29th, they sent me  
2 this letter November 5th.

3 Q How did you feel about getting a  
4 letter that effectively vindicated Mr. Minuk, sir?

5 A Vindicating -- it is a joke, like  
6 everything else, I'm sorry but --

7 Q Sir, we understand your frustration  
8 and this is your opportunity to express your views  
9 and feelings, so please don't be embarrassed by  
10 it.

11 Sir, you attended for the decision on  
12 October 29th, 2007?

13 A Yes.

14 Q And, of course, the conditional  
15 sentence was given?

16 A Yes.

17 Q And I don't even have to ask you for  
18 your reaction, sir, I'm sure you were deeply  
19 devastated by that outcome, given what you were  
20 looking for from the justice system?

21 A I truly was.

22 Q Did you have any discussion with  
23 Mr. Minuk that day, sir?

24 A Nothing. Once again he disappeared  
25 like a ghost.

1           Q     Did you attempt to, or desire to look  
2 for him?

3           A     I looked for him, yes.

4           Q     And, sir, did you share your feelings  
5 about this case with anyone in the justice system  
6 after court on that day? Do you recall seeing  
7 Lesley McCorrister?

8           A     I don't recall, but it could have  
9 happened.

10          Q     And it would seem consistent with your  
11 mood, I take it, if her recollection was meeting  
12 you and you describing how this was a miscarriage  
13 of justice?

14          A     Could well be.

15          Q     Sir, I have a few questions about the  
16 Victim Impact Statement that you alluded to  
17 earlier. I note that you didn't, on the 22nd of  
18 August, 2007, stand and read your own Victim  
19 Impact Statement?

20          A     No, I didn't.

21          Q     And it was done by Victoria, she stood  
22 there and read that statement?

23          A     That's correct, sir.

24          Q     And you assisted her in preparing it?

25          A     Yes.

1           Q     Sir, I'm going to ask you why you did  
2     that?

3           A     Well, my dear wife was the one that  
4     spent the most time in raising our loving  
5     daughter, Crystal. She loved that girl more than  
6     her own life, as she does her other daughter. Now  
7     she has been ripped away from her and she has no  
8     way of fighting back, no way of dealing with it,  
9     except here is an opportunity to speak. I guess  
10    we weren't really even entitled to that from what  
11    we have found out, but we have been given the  
12    opportunity. Closure in a situation like this is  
13    very hard.

14                     In my position, in working in  
15    corrections, I counseled for 13 years and I saw  
16    many, many difficult things take place. One of  
17    the things that I noted in my work was that when  
18    people talk about things, it helps to relieve a  
19    lot of the tension, a lot of the anger. And my  
20    wife was having a terrible, terrible time. So  
21    much that every day she would look out the  
22    window -- you see, we live next door to my  
23    daughter and her husband and her children. She  
24    would look out the door and just see the house and  
25    she would break down in tears. And this went on

1 for, well, January 2nd this year we moved out of  
2 that house because we couldn't have it continue.  
3 So I wanted to help her to deal with this. And so  
4 we wrote it together. And I felt that it was best  
5 for her that she would get a benefit from reading  
6 it and voicing in her own words how she felt. And  
7 I was there to support her. That's why we did it.

8 Q Sir, as difficult as that was to do,  
9 and with all of the frustrations that you had been  
10 experiencing all the way through, do you feel that  
11 was a positive thing to have done, sir? Do you  
12 think it was a good thing that you did that?

13 A I feel it was, yes. I don't regret  
14 doing it.

15 Q Do you know whether it was helpful for  
16 your wife?

17 A It was, except that it kind of ripped  
18 her heart out that it was so edited.

19 Q And we will discuss that in some  
20 detail when your wife takes the stand, sir.

21 A Along with the fact that they wouldn't  
22 even let her picture be shown. I mean, who is it  
23 all about? The drunk? The killer? No, the  
24 victim was Crystal and she -- her picture could  
25 not even be present.

1           Q     Sir, you have shared a lot of detail  
2     and a lot of emotions and a lot of feelings about  
3     the very difficult journey you have had through  
4     the administration of justice. I have no further  
5     questions for you, sir, but I do want to give you  
6     the opportunity, is there anything you would like  
7     to say to the Commissioner? Would you like to  
8     share your feelings in any other way? Is there  
9     anything that you would like to tell him at this  
10    time?

11           A     It might take a little while.

12                   THE COMMISSIONER: We have time.

13                   THE WITNESS: Well, first of all, I  
14    must say that the law concerning victims must  
15    change. Parents and siblings, without question,  
16    are victims. Their hearts get ripped out just  
17    like that of a husband and children of the victim.

18                   Day after day after day, now we are  
19    three and a half years since the accident, I still  
20    find myself and my wife in tears over this. There  
21    is such a hole in our hearts. And people say, you  
22    are not a victim? Something is wrong with the  
23    justice system, with the people making the laws,  
24    that they don't recognize this. Where were they  
25    when they made such laws? Were they orphans? Did

1 they never experience the love of a parent or give  
2 love to their child -- or maybe what it takes is  
3 that they experience an accident, like what took  
4 place, the loss of a child, maybe that is what it  
5 will take for somebody to change this.

6           And then we have a justice system, or  
7 should I say "injustice system." Because I  
8 haven't seen justice at all. And I pray that  
9 coming out of this inquiry, we will have some  
10 sense made of this whole thing. It has been a  
11 nightmare that I pray that I will wake up from  
12 some day.

13           It seems ludicrous that, as I said  
14 before, a car can be stopped at a red light and  
15 somebody run into that car, and the Crown  
16 prosecutor say, I could have got him off. My  
17 gosh, is it open season out there for anybody that  
18 happens to be in the road of an idiot or a drunk?  
19 What is wrong with our justice system? It needs a  
20 lot of repair -- or have the loop holes become so  
21 big that the lawyers can find ways of getting  
22 people off? Something is drastically wrong.

23           One of my letters, the letters from my  
24 wife said, where is the justice? And she said  
25 that many times in that letter, because we haven't



1     seen any justice.

2                     Down in the United States, I know it  
3     is a different justice system, but when you see  
4     people drinking and driving and killing people,  
5     believe me, they are not treated with sitting in  
6     front of their TV at home. Some judges have even  
7     taken the time to sentence this person to prison,  
8     and on specific days they have to stand on the  
9     corner where the person was killed, with a  
10    picture, saying I killed this person when I was  
11    drunk driving. That doesn't cost the government  
12    anything for that sentence, but it certainly puts  
13    it out to the people at large what drunk driving  
14    does, and it is a deterrent for the man that did  
15    it.

16                    Is there a deterrent for him in the  
17    sentencing of two years less a day, to sit at home  
18    in his own living room with his own family, and be  
19    given his driver's licence back, no restrictions,  
20    no fine? Goodbye, go home. Yeah, he lost his  
21    job. He didn't deserve that job in the first  
22    place with an attitude like he had.

23                    Sorry I rambled on for so long, Your  
24    Honour, but I felt I had to say it.

25                    THE COMMISSIONER: Thank you.

1 THE WITNESS: Thank you.

2 MR. PACIOCCO: Mr. Sveinson, if you  
3 remain there, there will be other lawyers that  
4 have questions for you, sir. I'm just going to  
5 take a moment to gather my materials.

6 MR. ZAZELENCHUK: Just a few brief  
7 points, sir.

8 BY MR. ZAZELENCHUK:

9 Q Mr. Sveinson, when did you first find  
10 out that the man accused of killing your daughter  
11 was a police officer?

12 A I guess I found it out shortly after I  
13 got off the plane.

14 Q Okay. Did you have any -- can you  
15 tell us how you felt when you found that out,  
16 please?

17 A I was disgusted. I worked as a peace  
18 officer, and that was something that I was very  
19 strong against, that people in a responsible  
20 position should be responsible.

21 Q Okay. If we could move on, I want to  
22 direct your attention to the two court dates that  
23 were right beside each other, July 16th and  
24 July 17th?

25 A Yes.

1           Q     Okay.  And you told us that on one or  
2 both of those days, you had some conversations  
3 with Mr. Minuk.  How much time did you spend with  
4 Mr. Minuk on those two days?  Can you give us any  
5 idea?

6           A     Probably about 37 seconds on the first  
7 one, as he told us that he was pleading guilty to  
8 dangerous driving causing death and that they were  
9 dropping the other charges.  We never had a chance  
10 to respond to him and he -- away he went to the  
11 podium, or to his desk.

12          Q     And on the second day?

13          A     I caught him out in the hallway, and  
14 that was probably about 37 seconds as well.

15          Q     Okay.  Lastly, I want to direct your  
16 attention to the day that your wife read the  
17 Victim Impact Statement.  And you told us that  
18 when it was all over, when the judge left the  
19 room, you wanted to talk to Mr. Minuk?

20          A     Yeah.

21          Q     And I believe your words were, he went  
22 out the back door?

23          A     Well, I presume it was a back door,  
24 but I certainly didn't see him anywhere.  He was  
25 gone.

1 Q I was just wondering --

2 A He was gone.

3 MR. ZAZELENCHUK: Thank you, sir.

4 MS. BOWLEY: Mr. Commissioner, I have  
5 no questions for Mr. Sveinson.

6 THE COMMISSIONER: Thank you.

7 MR. McFETRIDGE: I have no questions.

8 THE COMMISSIONER: Mr. Green is not  
9 here.

10 MR. PACIOCCO: No, he is not. I have  
11 no re-direct for Mr. Sveinson.

12 THE COMMISSIONER: Thank you.

13 MR. CLIFFORD: Mr. Commissioner, I can  
14 advise you that Mr. Green indicated that, in the  
15 event that the witness was completed, that he  
16 would have no questions.

17 THE COMMISSIONER: Thank you very  
18 much. Thank you, sir, you can step down.

19 MR. PACIOCCO: If we could arrange to  
20 have Mrs. Victoria Sveinson brought forward as the  
21 next witness, please?

22 VICTORIA ANN SVEINSON, having first  
23 been duly sworn, testified as follows:

24 THE COMMISSIONER: Please make  
25 yourself comfortable.

1 BY MR. PACIOCCO:

2 Q Mrs. Sveinson, thank you for coming  
3 here today. I know that this is going to be a  
4 very difficult process for you, even though you  
5 have been living this for so long, we all  
6 understand how difficult it truly is.

7 You, of course, were Crystal's mother?

8 A That's right.

9 Q And we also have had the opportunity  
10 to meet your husband, Sveinn, who just finished  
11 testifying today. And Sveinn told us about his  
12 large family and about all of the cousins and  
13 people in Crystal's life. And I'm not going to  
14 ask you to go there because we have already done  
15 that, but please understand that you have our  
16 sympathy for the loss and difficult time that you  
17 have been through.

18 A Thank you.

19 Q It is very evident from the evidence  
20 that we have heard that you are deeply distressed  
21 over the administration of justice and what  
22 happened in this case. Is that fair to say?

23 A Yes, it is.

24 Q I'm going to give you the opportunity  
25 to share with the Commissioner, in general terms,

1 what has left you feeling so broken, may not even  
2 be an exaggeration, over what you have  
3 experienced?

4 A Well, I feel that as victims, we  
5 weren't given any rights at all. Any information  
6 we got, we had to drag out of somebody. And even  
7 that was, we didn't get information, we were just  
8 sort of put off. Things were hidden, even from  
9 us, with all sorts of excuses like, you know,  
10 investigation going on, or it is before the courts  
11 or -- so we weren't given information at all. And  
12 then when we did get to the court case itself, or  
13 what was supposed to be a court case, suddenly  
14 there is a deal and there was nothing. To me,  
15 there was absolutely nothing.

16 Q How did that leave you feeling?

17 A Betrayed. Betrayed by a system that  
18 is supposed to provide justice, supposed to  
19 protect the public, and it doesn't.

20 Q What were you looking for from the  
21 system?

22 A Well, first of all, we were looking  
23 for information. I mean, our daughter had been  
24 killed. We wanted to know what was going on, how  
25 the case was progressing. From the way that it

1 appeared the accident happened, it couldn't have  
2 been an accident. To me it was just, it boggled  
3 my mind to think that this just was an accident.  
4 And that's why when we heard that impaired driving  
5 charges were being laid, it began to make some  
6 sense that, person was impaired. How do you go  
7 through amber blinking lights, and a drop in the  
8 speed limit, and cars lined up, and our daughter's  
9 car was bright yellow, and he just rammed into her  
10 without even braking. To me that was just beyond  
11 belief that that could happen.

12 Q I know that it resulted in tremendous  
13 loss to you when it did happen, when the accident  
14 that took Crystal's life did occur. Are you up to  
15 describing the events of that day?

16 A Well, I will try. Of course, I guess  
17 you know already we were away on a little  
18 vacation, we were visiting some friends in --  
19 well, we visited my brother who lives in  
20 Vancouver, and at the time we were actually  
21 visiting friends in Parksville on Vancouver  
22 Island. It was morning, we were still in bed. I  
23 mean, obviously there is two hours difference  
24 between here and there, so it was before 7:30 when  
25 we got a phone call. The friend brought the phone

1 in and gave it to my husband. And my first  
2 thought was, what is going on, who would phone us  
3 at this hour? Of course, you are worried right  
4 away because you know that there must be something  
5 is not right. And I could hear his side of the  
6 conversation only. And I heard him says, is she  
7 still alive? And I remember thinking, dear God,  
8 let him be talking about some distant old aunt.  
9 And then he hung up the phone and he said, our  
10 little girl was killed in a car accident. It was  
11 like getting kicked by a mule. We sat there,  
12 stunned, for I don't even know how long. And  
13 then, of course, we started to think, we have to  
14 get home, we have got to get moving. So we are on  
15 the island, we have our car with us, we had to get  
16 on to the ferry, get back to the mainland, make  
17 arrangements for a plane trip home.

18 So we got home at about 11:30 that  
19 night, the night of the accident, and we had some  
20 family members met us at the airport to help  
21 support us and comfort, which was helpful. But  
22 you are still like in shock, stunned.

23 And then the next morning our  
24 son-in-law and the kids came over, because they  
25 had stayed over at their other grandmother's place



1 that night. It was the same, you are confused,  
2 you are -- emotions are high. How could such a  
3 thing happen? It is a highway, it was morning, it  
4 was daylight, it was very confusing and very hard  
5 to -- we heard it wasn't slippery, it hadn't been  
6 a slippery morning, so it wasn't something like  
7 that. So you are just really at a loss to explain  
8 how such a thing could happen.

9 Q I understand that over the next couple  
10 of days your husband and you went through a very  
11 difficult time trying to see Crystal?

12 A Yes, that's right. She had been  
13 moved. I guess originally she was taken to  
14 Concordia and then she had been moved to Health  
15 Sciences because they were going to be doing an  
16 autopsy. And we decided we had to see her before  
17 that happened. He called around and called  
18 around, trying to get ahold of the medical  
19 examiner, and you couldn't get ahold of anybody  
20 and everybody put us off. And it was a real  
21 struggle to finally make arrangements to see her.

22 Q So you were feeling terrible, horrid  
23 grief, shock, and a tremendous amount of  
24 frustration at the very outset of this process?

25 A That's right. It was like nobody

1 would put themselves out to try and help you.

2 Q You are aware that we are currently in  
3 the victims' phase of the Commission of Inquiry?

4 A Um-hum.

5 Q When did you first become aware that  
6 there was a Victims' Bill of Rights?

7 A Probably last summer, after the case  
8 actually began, after the guilty plea was put in  
9 to the court.

10 Q So when you were writing to the  
11 Minister, and we have looked at the letters that  
12 you and Sveinn had prepared for various justice  
13 officials, at that point you were unaware that  
14 there was in fact a Victims' Bill of Rights?

15 A No, I didn't know.

16 Q And I understand that you had some  
17 dealings with Victims' Service workers by the end  
18 of this ordeal?

19 A Yes, when I was filling out my Victims  
20 Impact Statement, I had a bit of contact there.

21 Q And I understand that you asked one of  
22 the victim workers for a copy of the Victims' Bill  
23 of Rights at one point in court?

24 A Yes, I did.

25 Q And did you get a copy?

1           A     No, I didn't. She said it is very  
2 large. She did send me a couple of, like overview  
3 sheets, sort of, almost looked like a computer  
4 screen where you go to different areas to find  
5 things, but it didn't give any information. She  
6 said it is very big, you could get it on the  
7 internet. Well, we don't have the internet so I  
8 never did get it.

9           Q     You have since learned that parents of  
10 someone who has died as a result of a crime are  
11 not considered victims if they are married or have  
12 a partner?

13          A     Yes, I understand that.

14          Q     And how do you feel about that,  
15 Mrs. Sveinson?

16          A     I'm Crystal's mother, my husband and I  
17 are her parents, that's a biological fact, it will  
18 never change. We are victims simply by our  
19 relationship to Crystal. If we need a Bill of  
20 Rights to define victims, I think it is absolutely  
21 immoral that parents and siblings and even  
22 sometimes children are not named as victims.

23          Q     I know it is very difficult to imagine  
24 what it would have been like if things had been  
25 different, but if you had someone there who could

1 provide with you court dates and some information,  
2 would that have made things easier for you as you  
3 went through this horrible experience?

4 A I suppose, I think it would have to a  
5 degree. Like you want this information, you want  
6 to know that justice is being done somehow. When  
7 you go for months and don't hear a word, you are  
8 wondering what is happening with this, if  
9 anything.

10 Q You had some early contact with the  
11 East St. Paul Police, I understand?

12 A Yes, we did.

13 Q And we've learned that it took place  
14 at your house on the 1st of March, 2005, a meeting  
15 in which Chief Bakema and Sergeant Carter, as he  
16 then was, came to your house?

17 A Yes.

18 Q Could you tell the Commissioner about  
19 that event, please?

20 A Well, they came and they said they had  
21 a media release and they were going to be  
22 releasing --

23 Q Who was there when they came?

24 A My husband and I, our son-in-law Rob,  
25 the three grandchildren, Tara, Kristin and Jordan,

1 and I think my other daughter might have been  
2 there too, Cory.

3 Q Okay. And they said they had a media  
4 release?

5 A Yes, that they were going to release  
6 the next day, so they wanted to let us know about  
7 it before they did. So they brought this in, and  
8 it had the list of four charges that were being  
9 laid. That's pretty much when we had the -- we  
10 had heard about impairment before, but this had  
11 refusing the breathalyzer and impaired driving on  
12 it, so it confirmed the fact that, to me, that  
13 this person was impaired, and kind of explained  
14 why such an accident could occur in that area.

15 Q What were your thoughts when you  
16 learned that an impaired driving charge had been  
17 laid in connection with a collision that occurred  
18 at 7:00 o'clock in the morning on a week day?

19 A Well, I was a bit surprised. I  
20 thought 7:00 in the morning, wow, but it did kind  
21 of explain how it could happen, to me, in my mind  
22 it did to a degree. But I was a little concerned  
23 about the fact that he was able to refuse a  
24 breathalyzer, and I expressed that to the police.

25 Q Could you explain, in as much detail

1 as you can, what your concern is and what you mean  
2 by being able to refuse a breathalyzer? Because I  
3 know this has come up consistently in the letters  
4 that you have written?

5 A Well, in my view, when there is an  
6 accident, or whatever you want to call it, a  
7 crime, somebody is killed, I don't think that the  
8 person, the defendant, whoever is alleged to  
9 have -- I mean, there is no doubt he was the one  
10 driving the other vehicle. So a person in that  
11 position should either have to give a breath  
12 sample or give a blood test to prove -- I don't  
13 think they should be allowed to just say no, I'm  
14 not giving one. I know that that prevents anybody  
15 from knowing how impaired they may have been.

16 Q I know you are aware that it is a  
17 crime to refuse a breath sample?

18 A Oh, yeah, I know that, I was told  
19 that. But what is the punishment for that -- a  
20 fine? It still messes up the case.

21 Q Okay. Just so I'm clear and so I  
22 understand your position, if someone was to refuse  
23 to provide a breath sample, what sanction do you  
24 think there should be? How should the law deal  
25 with that?

1           A     Well, see, an ordinary citizen, that  
2     would be a hard one, depending on the situation.  
3     I understand truckers are forced to agree to have,  
4     to do the breathalyzer if they are stopped.  
5     That's contingent on getting their licences. So  
6     surely a policeman should have to do the same, he  
7     is out there to protect the public.

8           Q     So ultimately, you are just very, very  
9     frustrated, is it fair to say, that you don't have  
10    any evidence about what the actual blood alcohol  
11    content of this man was because he chose not to  
12    provide a breath sample?

13          A     That's right.

14          Q     And when you were having this  
15    conversation when Chief Bakema and Sergeant Carter  
16    were there any details given about the case other  
17    than simply the charges that were laid?

18          A     Yeah. Because I did question the  
19    breathalyzer, I was upset about it, that he could  
20    just refuse. And they said we have a lot of other  
21    evidence to prove impairment, otherwise we  
22    wouldn't have placed those charges.

23          Q     How did that make you feel to learn  
24    that?

25          A     Well, it made me feel a bit better

1 that they can prove this now, they have evidence,  
2 and so the breathalyzer wasn't quite so important  
3 anymore, they had other evidence to prove that.

4 Q Did you question to try and find out  
5 what that evidence might be?

6 A No, I guess I didn't, not really at  
7 that point. I was just happy to hear that they  
8 did have evidence, and I took their word for it  
9 that they did.

10 Q Was there any discussion that you  
11 recall about what kind of sentence the other  
12 driver might get as a result of what happened to  
13 Crystal?

14 A I don't really recall a specific  
15 figure, but I think they seemed to come to the  
16 conclusion that there was enough evidence to  
17 convict and that he would probably go to jail.

18 Q And are you able to give us any  
19 indication as to how long that meeting lasted?

20 A Half an hour maybe.

21 Q Is there anything else that happened  
22 in that meeting that you haven't told us about,  
23 that you recall?

24 A No, not that I recall.

25 Q And I understand that, from Sveinn's



1 testimony and from some of the records that we  
2 have, that there were a number of contacts made  
3 with the East St. Paul Police after that initial  
4 meeting?

5 A Yes, just one that I had contact with.

6 Q And can you tell us about the one that  
7 you contacted?

8 A Well, we wanted some information. I  
9 believe Sveinn phoned and made an appointment, and  
10 we went down to try and get some information,  
11 because we hadn't heard anything for a while. And  
12 like I said, you are wondering what is happening,  
13 if anything? Several months go by, there is just  
14 nothing anymore, you don't get any information.  
15 So we were concerned about that. So we went down  
16 to try and get the information.

17 Q It is our information that that  
18 meeting would have happened on the 30th of June,  
19 2005. Does that make sense, given your  
20 recollection?

21 A 30th of June, no, I think it would  
22 have been later than that, but I'm not positive.

23 Q There also was a subsequent meeting in  
24 August of that year. Would that be the one that  
25 you are thinking of?

1           A     Well, I only went to one at a police  
2     station that I recall, and I just thought it was a  
3     bit later than June, but I could be wrong.

4           Q     Well, there was a meeting on  
5     August 16th, and I'm not certain which one you  
6     were at, so we want your best recollection.

7                     How were you received when you  
8     attended at the police station?

9           A     Oh, fine. They were professional and  
10    respectful as far as they gave us their  
11    sympathies, and I can't remember too much more of  
12    what was discussed. We asked for some  
13    information. I don't think we got much of  
14    anything. We weren't told, oh, yeah, there is a  
15    lot of evidence, or there isn't, or anything. In  
16    fact, I believe we were told it has been passed on  
17    to the Crown and it is kind of his thing now, that  
18    they were kind of out of the picture at that  
19    point.

20          Q     And do you recall whether there was  
21    any discussion about who the Crown was?

22          A     Yes, I think there may have been,  
23    about who his name was and so on.

24          Q     And contact information?

25          A     I'm not sure if we got it that day, or

1 if my husband went back at a later time, but  
2 because we wanted to get more information, he did  
3 go and get the phone number of the Crown.

4 Q Do you recall any discussion about any  
5 special arrangements being made as to who was  
6 going to prosecute this case?

7 A Well, I had read that in the paper, it  
8 just mentioned special prosecutor, or specially  
9 appointed. I think we may have asked the police  
10 why that was, and they told us because regular  
11 Crowns work closely with the police, it is just to  
12 avoid that perception of conflict, they appoint a  
13 private lawyer.

14 Q And how did that make you feel to  
15 learn that they were trying to avoid that type of  
16 difficulty?

17 A Well, at that point, I thought maybe  
18 that's okay, you don't want conflict.

19 Q Okay. It is evident that even though  
20 you had that meeting and the earlier meeting with  
21 the East St. Paul Police, that you had pretty deep  
22 concerns about this case from a very early point  
23 in time; is that fair to say?

24 A Well, at that point the main thing  
25 that -- like right at the beginning, the main

1 thing that bothered me was the fact that a person  
2 was able to refuse a breathalyzer test. To me  
3 that's like obstructing justice. I don't think  
4 you avoid it because you are sober. And it just  
5 didn't make sense that such a thing could be  
6 possible. But once they said they had other  
7 information to prove impairment, I felt a bit  
8 better about that.

9 My concerns came a little later. I  
10 was kind of -- we weren't getting any information,  
11 and I saw a lot of articles in newspapers about  
12 different impaired drivers that killed somebody  
13 getting off with conditional sentences. And that  
14 was really a concern to me. It seemed to be  
15 happening almost routinely.

16 Q Okay. And I take it this was  
17 something that you were now pretty acutely aware  
18 of and you were paying close attention to, given  
19 the experiences that you were going through?

20 A Yes, that's right.

21 Q And that prompted you and your  
22 husband, I understand, to ultimately write to the  
23 Minister of Justice at the time, Gordon  
24 Mackintosh?

25 A Yes, I did.

1           Q     And we have a letter dated August  
2     31st, 2005, that I'm going to show you. It has  
3     been made Exhibit 19 in this case, and it can be  
4     found in book O, tab 81.a.12 at page 2150 of book  
5     O.

6                     Mrs. Sveinson, we have gone through  
7     this letter with your husband in some detail, so  
8     I'm going to ask you very general questions about  
9     it.

10                    Whose idea was it to write this  
11    letter, ma'am?

12           A     It was mine.

13           Q     And --

14           A     I think what triggered it initially  
15    was there was something going on in the spring of  
16    that same year, some candle light vigil at the  
17    legislature where they were remembering people  
18    that were killed and this. And Mr. Mackintosh was  
19    on the news and he made this comment about, we  
20    have zero tolerance towards impaired driving and  
21    our province is stricter than other provinces, our  
22    limit is .05 while others are .08. And I'm  
23    thinking, well, big deal, if you can't ever prove  
24    what the perpetrator, how much impairment he had,  
25    what good is a strict law? It can never be

1 enforced.

2 Q So this comes back to your concern  
3 about not getting a breath reading from Mr. Derek  
4 Harvey-Zenk?

5 A Right. And also I have heard of all  
6 of these cases where they were getting conditional  
7 sentence also.

8 Q Okay. I notice that in this letter,  
9 even though it is signed by both you and your  
10 husband, or sent on behalf of both you, it talks  
11 about "I" throughout?

12 A Probably a lot -- I wrote the letter,  
13 pretty much, but I always conferred with my  
14 husband. I had it on my computer and I would go  
15 back sometimes and change things, and he read it,  
16 and we are always in agreement as to what we  
17 should or shouldn't put in.

18 Q What did you understand about  
19 conditional sentences when you wrote this letter?

20 A Do you mean what they were?

21 Q What they were, yeah?

22 A What they were, yeah, I understood,  
23 you sit in your home and drink your beer and watch  
24 TV.

25 Q So it is pretty evident from the

1 letter and from your response that this is just  
2 not a sentence that you feel has any punitive or  
3 deterrent potential?

4 A No.

5 Q Okay. And you also mention here the  
6 plight of victims of crime. What is that based  
7 on? You express concerns about that?

8 A Very much on the fact that we were  
9 getting no information. We had a hard time  
10 getting information. And any time you heard of  
11 any other crime that occurred, all you heard is,  
12 okay, the police made an arrest, and then that's  
13 it, it ended. You never hear again, you never  
14 hear what is happening, you never hear what the  
15 victims are doing. There was just nothing.

16 Q Hence your concern as well for  
17 publication bans, which you do raise in the  
18 letter?

19 A Right.

20 Q And so essentially, if I understand  
21 you, this is a plea for information to allow the  
22 victims, and I take it the public, to be aware of  
23 what happens in the criminal justice system. Is  
24 that a fair summary of those concerns?

25 A Yes, it is. It always bothered me

1 that you hear of a terrible crime and then it just  
2 disappears from any news and it is gone. And by  
3 the time it gets to court, you don't even remember  
4 what it was all about.

5 Q You also speak in that same vein about  
6 delay and how damaging it is to justice. Can you  
7 just give us a few words about that?

8 A Yes. I heard a few cases where it was  
9 three or four years before it finally came to the  
10 courts, or before it was finally resolved. So  
11 that bothered me too. We weren't hearing  
12 anything, and then thinking, well, how long is  
13 this going to take? And it is probably going to  
14 be like that, three or four years.

15 Q And it turned out to be. What kind of  
16 impact did that delay have on you, ma'am?

17 A Well, it had quite an impact, because  
18 you want to get things resolved. You would like  
19 to get things finished. You would like to  
20 start -- we would like to start remembering our  
21 daughter as we knew her, not as the victim of a  
22 very violent crime.

23 Q So as long as these proceedings were  
24 ongoing, there was something stopping you from  
25 basically concentrating on your relationship and



1 your history with your daughter, it was concern  
2 over what might happen in court?

3 A Yes, it was.

4 Q And you followed this letter up with a  
5 subsequent correspondence that's found at tab 11  
6 of the same book. And this document, I don't  
7 believe has been put into evidence yet, tab  
8 O.81.a.11, page 2148.

9 THE CLERK: Exhibit 33.

10 (EXHIBIT 33: O.81.a.11 Letter to  
11 Minister of Justice Gordon Mackintosh,  
12 October 2005)

13 MR. PACIOCCO: It will be exhibit 33.

14 BY MR. PACIOCCO:

15 Q We are about to pass up another letter  
16 to you, ma'am. This letter is undated. Do you  
17 know when this letter would have been sent? It  
18 begins:

19 "I appreciate the letter from your  
20 office..."

21 and of course, it is addressed to the Honourable  
22 Gordon Mackintosh.

23 "I appreciate the letter from your  
24 office letting me know that my  
25 correspondence of August 2005 was



1 sense very early on that your voice wasn't being  
2 listened to?

3 A I sure did.

4 Q So you weren't getting any information  
5 and you weren't feeling that anyone was listening  
6 to what you had to say?

7 A That's right. I got a form letter  
8 that says, we have got it.

9 Q And on April 3rd, 2006, we saw a  
10 letter that you also wrote to Mr. Vic Toews, the  
11 Federal Minister. Do you recall writing that  
12 letter?

13 A Yes.

14 Q And you seem worried about the  
15 impaired charge in that letter. What would have  
16 caused that concern?

17 A Worried about the impaired charge --  
18 what specifically did I say? I can't recall right  
19 now.

20 Q I think that letter should be exhibit  
21 20, and it can be found at page 2145 of book O,  
22 tab O-81, A-10. You indicate that again it is, I  
23 think it revolves around the breathalyzer and the  
24 failure to have a reading to assist in proving  
25 impairment. Was that your basic concern?

1           A     Pretty much.  And I guess, yeah, that  
2     was my concern all along, and now we went from the  
3     Provincial Minister to the Federal Minister,  
4     because everybody said, well, this is Federal  
5     laws, you know -- so I had heard they were trying  
6     to put in some stronger laws in Ottawa, so I just  
7     hoped to contribute to that.

8           Q     Okay.  And you also make reference in  
9     here to the concern that a plea bargain is always  
10    a possibility.  Do you remember that?

11          A     Yes.

12          Q     And do you know what precipitated  
13    that?

14          A     Probably the same thing, I heard it in  
15    the media, I heard of a case where somebody went  
16    to court and was told, you can go home, we don't  
17    need you, this case is finished, they did a deal  
18    and it is over.

19          Q     What difficulty did you have with the  
20    possibility of a deal being done?

21          A     What difficulty?

22          Q     Why were you worried about deals?

23          A     Well, like I said, because I had heard  
24    about them.  We had also had a meeting with  
25    Mr. Minuk by this time, I believe, and he did show

1 a real bias towards conditional sentencing when we  
2 spoke with him. And I got the sense that this is  
3 all he felt that should be in this case. So, to  
4 me, it was a possibility that he might make a  
5 deal.

6 Q Okay. I'm going to bring you back  
7 after we break for lunch to your meetings with  
8 Mr. Minuk. So it is a convenient time for us to  
9 make that break. It is now 12:34.

10 THE COMMISSIONER: You can step down  
11 and we will have lunch now.

12 MR. PACIOCCO: I think we are moving  
13 along quickly, I think we will find ourselves in a  
14 situation where I suspect we will finish  
15 Mrs. Sveinson before the scheduled end of the day,  
16 but maybe not with a lot of time left. And I  
17 guess the question is, do we try and bring  
18 Constable Pedersen in to get her evidence started  
19 today?

20 THE COMMISSIONER: Let's go until 2:00  
21 o'clock sharp and start then. The other thing is,  
22 maybe you could just, I don't need two glasses,  
23 and maybe the witness could use one.

24 THE CLERK: Okay, thank you. All  
25 rise. This Commission of Inquiry is adjourned

1 until 2:00 p.m.

2 (Proceedings recessed at 12:34 and

3 reconvened at 2:00 p.m.)

4 THE CLERK: All rise, please. This

5 Commission of Inquiry is now reopened. Please be

6 seated.

7 BY MR. PACIOCCO:

8 Q Thank you, Mr. Commissioner.

9 Ms. Sveinson, just before the break we  
10 had taken you through some of the letters of  
11 concern that you had sent to various justice  
12 officials prior to your first meeting with the  
13 prosecutor, and again subsequent letter after your  
14 first meeting with the prosecutor. I want to talk  
15 now about your contact with Mr. Minuk. We have  
16 heard evidence through your husband that at  
17 approximately September 28th, 2005, an appointment  
18 was set up with Mr. Minuk by phone, after his  
19 contact coordinates were provided by the East St.  
20 Paul Police.

21 You were aware that your husband was  
22 trying to set up a meeting with the prosecutor?

23 A Yes, I was.

24 Q And our information is that you met on  
25 October 3rd, 2005, with Mr. Minuk at his office,

1 at his place of business?

2 A Yes. I don't remember the exact date,  
3 but somewhere in there, yes.

4 Q Okay. And I take it that you did go  
5 with your husband to that meeting?

6 A Yes, I did.

7 Q And who else was there, do you recall  
8 the first meeting, who was there?

9 A Just Mr. Minuk, my husband and I.

10 Q Okay. And what took place at that  
11 meeting?

12 A Well, we just told him we needed some  
13 information. We wanted to know what was happening  
14 with the case, how things were progressing. I  
15 can't really remember every thing that was said.  
16 He was fairly resistant. He didn't give us any  
17 real information. I think I expressed the fact  
18 that I thought there was quite a lot of  
19 information, evidence, witnesses, I had heard  
20 there were quite a few, and he didn't really  
21 comment one way or the other, he kind of played it  
22 down.

23 Q Did he explain to you why he wasn't  
24 providing you with specific information?

25 A Not really, he just made you feel like

1 you had no right to it. That's the way I felt.

2 He didn't say it that way, but that's the

3 impression that I got.

4 Q By the time you met with Mr. Minuk,

5 you had written a letter to Justice Minister

6 Mackintosh?

7 A Yes.

8 Q The letter was dated August 31st,

9 2005, and it was a couple of months later that you  
10 were meeting with Mr. Minuk?

11 A Um-hum.

12 Q Did that letter come up?

13 A Yes, it did.

14 Q And could you describe for the

15 Commissioner how it came up and what was said?

16 A Well, initially I guess my husband

17 told me that when he spoke to Mr. Minuk on the

18 phone, making the appointment, Mr. Minuk said that

19 he was wanting to contact us but he didn't know

20 how to get ahold of us, because he had gotten this

21 letter from Mr. Mackintosh that I had written and

22 he was trying to contact us.

23 And then in his office, I may have

24 brought it up. My thoughts now are, okay, he has

25 read my letter, he knows how I feel, he knows



1 where I'm coming from, but he told me he hadn't  
2 read it, he just heard about it.

3 Q How did that come about it that he  
4 told you he didn't read it, he just heard about  
5 it?

6 A I asked him, I asked him if he read  
7 it.

8 Q And did you discuss the contents of  
9 the letter in any way? And by that I mean the  
10 discussion about conditional sentencing, about  
11 plea bargaining?

12 A Yes, I did bring up the conditional  
13 sentencing, that I was concerned about that.

14 Q Go ahead.

15 A And he said, well, that's the law,  
16 that's the law in these cases. And I said, well,  
17 that's not the law, I'm sure the judge has  
18 discretion. Well, if he did rule any other way,  
19 it would just go to Appeals Court and it would  
20 turned around anyways, so that's all they give was  
21 conditional sentences.

22 Q Okay. Who was participating in that  
23 conversation, were both you and your husband  
24 speaking?

25 A Yes, I believe we were.

1           Q     Do you recall anything that your  
2 husband may have said to him in response to the  
3 discussion about conditional sentences being the  
4 law?

5           A     Well, I'm sure he objected to that. I  
6 mean, neither one of us felt that it was the law.  
7 I'm not sure of anything else that I can recall at  
8 this point.

9           Q     Did you express your views on whether  
10 a conditional sentence would be a fit sentence in  
11 this case?

12          A     Oh, definitely, yes. As a matter of  
13 fact, I even asked him about the fact that in  
14 order to get a conditional sentence, you would  
15 have to have a two year less a day sentence. And  
16 he said yes, that's right. And I said, well, then  
17 we have to work for a higher sentence than that,  
18 so that can not happen.

19          Q     Okay. And how did he react to that  
20 suggestion?

21          A     Possibly rolled his eyes, turned the  
22 other way, he didn't -- like my total -- my  
23 perception was that he was, he himself was quite  
24 biased towards those sentences, that he felt that  
25 that's what --

1           Q     When you say rolled his eyes and  
2     looked the other way, I take you are talking  
3     figuratively rather than describing an actual  
4     reaction?

5           A     He probably didn't roll his eyes, but  
6     he did just turn the other way, he never responded  
7     one way or the other.

8           Q     So I take it from your answer that you  
9     had a sense that you were not going to really be  
10    able to engage in a discussion about the sentence;  
11    is that fair?

12          A     That's right. He made us feel that's  
13    what he felt the sentence should be and that's it.

14          Q     How much of that conversation that you  
15    had with him on October 3rd, would have been  
16    general about the justice system at large, as  
17    opposed to discussing the case involving the  
18    collision that took your daughter's life?

19          A     Well, there probably wasn't a great  
20    deal about the collision because he didn't give us  
21    any information. So possibly the complaints about  
22    the way things were going in the justice system  
23    may have been the main conversation points in that  
24    visit.

25          Q     All right. And are you able to give

1 us any indication as to how long you think that  
2 meeting took?

3 A It could have been an hour, but that  
4 would be the most I think, because I know our car  
5 was at a meter and I don't think they go more  
6 than -- I'm not sure what they go at, but I know  
7 we were concerned about the parking, so I don't  
8 think it was more than an hour.

9 Q Okay. Now, you knew at the time that  
10 you went to see Mr. Minuk that he had been  
11 retained from the defence bar to prosecute this  
12 case?

13 A That's right, yes. And that's another  
14 thing that I, when I realized what direction his  
15 thinking was, I said, is it good to have a defence  
16 lawyer for a prosecutor?

17 Q And who did you say that to?

18 A To Mr. Minuk. And he said, oh, well,  
19 I think it is better because we know the other  
20 side of the issue.

21 Q How did you feel about that response?

22 A Well, at the time I didn't -- I mean,  
23 I don't know anything about prosecuting and so on,  
24 so I didn't know if it would be better or not.  
25 But I just kind of thought his thinking was in the

1 direction of the defendant, so he didn't seem to  
2 show any big initiative to actually prosecute.  
3 And I even asked him what his personal view was of  
4 conditional sentencing. And he said, I don't tell  
5 anybody my personal view, but I do my job. Which  
6 I hoped he would do from then on.

7 Q Okay. Now you were there and you saw  
8 the atmosphere in the room. Can you describe what  
9 it was like?

10 A Atmosphere?

11 Q Yes, in terms of how people reacted to  
12 one another and how people were feeling and --

13 A Well, I suppose it started to get a  
14 little, like when I asked him whether you think a  
15 defence attorney should be a prosecutor, he was  
16 starting to see, I think, that we weren't happy  
17 with his answers and the way he was responding to  
18 our questions. But as far as actual information  
19 about the case, we didn't receive much of  
20 anything.

21 Q Would it be fair to say you were  
22 challenging in the questions you were posing to  
23 him?

24 A Yes, I would say so, in that sense.

25 Q And what was your impression of how he

1 reacted to that?

2 A Most of his reactions were almost to  
3 ignore me, or to make it sound like I didn't  
4 understand the situation, so I couldn't understand  
5 what he is doing or why he is doing it.

6 Q And --

7 A I was under the impression that, you  
8 don't know what you are talking about, so we are  
9 dealing with it.

10 Q And how did that make you feel, to be  
11 left with that impression?

12 A Well, not very good, but we have no  
13 choice. Who do you go to? He was the one looking  
14 after the case. I don't know of anybody else --  
15 and I believe I even complained in some of my  
16 letters about his lack of initiative as a  
17 prosecutor, but I guess I had no control over  
18 that.

19 Q Okay. So the original dates for the  
20 Preliminary Inquiry were set to begin on the 5th  
21 of June, 2006. And we know that you had a meeting  
22 with Mr. Minuk after the one we've just discussed  
23 on May 25th, 2006. We know that you were  
24 subsequently, within a week, called back to his  
25 office for another meeting which took place on the

1 31st of May, 2006. And I know that the events are  
2 hard to slice and separate out at this point in  
3 time, but I'm going to ask if you can recall what  
4 took place during the first of those May meetings?

5 A Well, the first meeting was, we phoned  
6 him again because months had gone by, we hadn't  
7 heard anything at all, we were even wondering  
8 whether the Preliminary Hearing was still set to  
9 go at the same time. So we did go to his office,  
10 he agreed to see us and --

11 Q Was there any difficulty in him  
12 agreeing to see you? Was it something that was  
13 hard for you to arrange, or was he quite ready to  
14 see you?

15 A No, I think he did, it may have taken  
16 a couple of days, but I think he agreed to see us.

17 Q So you went to his office?

18 A We went to his office and we asked if  
19 the Preliminary was still on, and he said, yes, it  
20 was still on schedule. I think we asked a little  
21 bit about Preliminary Hearings. And he said --  
22 that might have been in the first meeting. At  
23 that point he said there was two weeks set out for  
24 the Preliminary, but I think now he kind of  
25 changed that and said, and cut it down to a week,

1 and they don't think they will need that much  
2 time. That was pretty much all we said at that  
3 first meeting.

4 Q Do you recall whether you got into  
5 general discussions about the sentence, the  
6 fitness of the sentence, or the strength of the  
7 case, or anything like that, or was it just  
8 discussion about what would be happening?

9 A Pretty much about the Preliminary, I  
10 don't remember too much about the sentence itself.  
11 Like I said, any question I tried to ask wasn't  
12 ever answered, like anything about the evidence or  
13 anything about what was really happening.

14 Q And were you ever given an explanation  
15 for why those questions weren't being answered?

16 A No, no. Like I said, we always got  
17 the impression that we were just pestering him and  
18 we didn't really have a right to that information.

19 Q Do you ever remember him suggesting to  
20 you perhaps that the case is ongoing and that it  
21 is important not to disclose the evidence  
22 available to the prosecution?

23 A I can't say I specifically remember  
24 him saying that, but he may have said, yeah, the  
25 case is ongoing so we just have to go with it.



1           Q     And you then had the meeting on the  
2 31st of May, after you were called back?

3           A     That's right.

4           Q     Do you recall what took place on that  
5 occasion?

6           A     Well, I was very concerned when we got  
7 called back, because I thought, well, this doesn't  
8 sound good, he has probably made a deal or  
9 something, which I think he knew we didn't want.

10          Q     And why would you say that you think  
11 he knew that you wouldn't want a deal?

12          A     Well, I'm sure we expressed that quite  
13 well before, even the fact not wanting a  
14 conditional sentence, if you make a deal, what  
15 else are you going to get?

16          Q     So you are apprehensive that maybe a  
17 deal has been made. Continue please.

18          A     So we went back and he told us that  
19 they were, I think he said postponing the  
20 Preliminary because they had more investigation to  
21 do. I think I felt relieved, because I was really  
22 concerned that it was a deal that was going to be  
23 told to us. And he never ever said anything like  
24 we have a weak case, or there was a problem with  
25 the case, he just said -- it almost sounded like

1 more like, you know, I have to plug a few holes,  
2 so we have a bit more investigation to do. And it  
3 was a good thing because he was the one who was  
4 asking for the postponement and not the defence.

5 Q When you refer to it as being a good  
6 thing, are you describing what he said to you or  
7 is that your evaluation?

8 A Yes. No, no, that's what he did, it  
9 was a good thing they were doing the postponement  
10 and not the defence.

11 Q Okay. And he indicated to you that  
12 that postponement would last for how long?

13 A Well, I asked him how long it would  
14 take, because I was always concerned about more  
15 time. Initially, I think he said two months, oh,  
16 two months to maybe six at the most.

17 Q Now, you have indicated in a number of  
18 your letters concern about his reaction to  
19 dangerous driving and the difficulty of proving  
20 dangerous driving?

21 A Yes.

22 Q When would that have come up, do you  
23 know, Mrs. Sveinson?

24 A I think that was probably at the last  
25 meeting, he did go into that a bit. And that last

1 meeting, I think, was also in another room, it  
2 wasn't in his office now, it was in like a  
3 boardroom, and I think he had an assistant with  
4 him for that meeting. That was the only one that  
5 there was anybody else with us.

6 Q Okay. Now, with respect to the  
7 discussion about dangerous driving, I know that  
8 you are not 100 per cent certain when that took  
9 place, but how much of that conversation can you  
10 remember?

11 A Well, I remember him saying it is hard  
12 to prove. The example he used is, a driver could  
13 be just reaching down to pick up a CD. And I  
14 said, well, that's dangerous driving to me. When  
15 you are driving, you are not supposed to distract  
16 yourself with doing all sorts of things. And I  
17 said, you know, he is driving and there are  
18 lights, the blinking lights warning of the  
19 upcoming red light, and the red light itself, and  
20 cars stopped at that light, not stopping is  
21 dangerous driving like -- and I had even given him  
22 a case that I had found in the newspaper of  
23 somebody who had been convicted of dangerous  
24 driving causing death because he went through a  
25 stop sign. And the comments were, there was no

1 evidence of speeding and no alcohol involved. And  
2 it was still considered dangerous driving because  
3 he didn't stop at a stop sign. So, surely, not  
4 stopping at a red light should be considered  
5 dangerous driving.

6 Q Did he respond when you put that  
7 hypothetical to him?

8 A I can't really recall what his actual  
9 immediate response was. It was all just playing  
10 down the ability to prove dangerous driving. And  
11 that's when he told us too that they couldn't tell  
12 the speed that Mr. Zenk was going because there  
13 were no skid marks, and you could only tell from  
14 skid marks, and just things like that.

15 I remember saying something about the  
16 lights, the blinking lights and the red lights.  
17 And he said, oh, well, there is something like 12  
18 seconds from the amber to the red. I said, I  
19 don't know what difference that makes. The amber  
20 goes out the same time as the red goes out, it  
21 turns to a green. So then he said something like,  
22 oh, well, it is all physics, you have to  
23 understand the physics. So there is that  
24 impression again that you don't know, you don't  
25 understand, you don't know what you are saying,

1 and we know.

2 Q And this discussion of dangerous  
3 driving, what kind of impression did it leave on  
4 you about the state of the case?

5 A Well, it didn't completely throw me,  
6 because at this point I thought there were four  
7 charges still in effect. Whether it was dangerous  
8 or impaired, or whatever the situation is,  
9 something, I felt something would be able to be  
10 proved in court.

11 Q Do you recall any discussion about the  
12 impaired charges or the refusal charge?

13 A No, there was absolutely nothing, no  
14 indication that he was thinking of dropping them.

15 Q Did the issue of sentence come up at  
16 all?

17 A Well, just when I recall that time  
18 when we spoke about what a conditional sentence  
19 was and how it comes about, and that I said we had  
20 to work for a higher sentence than the two years  
21 less a day then, just so there would be some time  
22 in the situation.

23 Q And you described how you had that  
24 conversation with him already?

25 A Um-hum.

1           Q     After this meeting, there were a  
2     number of phone calls over the course of the next  
3     few months. I take it those calls were to try and  
4     find out when the Preliminary Hearing was going to  
5     be re-scheduled. Do you recall ever making calls  
6     for that purpose?

7           A     Yes, in the fall I made a few phone  
8     calls. We got to the fall -- and this was in  
9     May -- we got to about September, I believe, and  
10    we still hadn't heard anything. And he said two  
11    to six, or I think two to six months, and we  
12    hadn't heard. So I called trying to find out when  
13    it was, several times, I believe, and I didn't get  
14    a call back. And then my husband called and  
15    happened to get the secretary that time. When I  
16    called I got the voice mail. And she said, oh, I  
17    was just going to send you a letter giving you the  
18    date. So she ended up telling him the date on the  
19    phone that it was the 16th of July.

20          Q     Okay. And before that phone call went  
21    through and you learned the date for the  
22    Preliminary Inquiry, you took the opportunity on  
23    August 29th, 2006, to write to Mr. Toews again.  
24    Do you recall that? I'm going to show you a  
25    document, and I know there are many, many

1 documents and they are easy to lose track of. It  
2 is in book O, tab 81.a, the clerk will be bringing  
3 it to you in a moment. It is at page 2141.  
4 81.a.9, page 2141.

5 A I know I did write this letter, I just  
6 don't recall exactly when it was.

7 MR. PACIOCCO: It will be exhibit 34.  
8 (EXHIBIT 34: O.81.a.9 Letter to  
9 Federal Minister of Justice, Vic  
10 Toews, August 29, 2006)

11 BY MR. PACIOCCO:

12 Q Have you had a chance to take a quick  
13 look at the letter, ma'am?

14 A Um-hum.

15 Q And this one you have described as a  
16 follow-up to the earlier letter that you sent off  
17 in April of 2006, before your meeting with  
18 Mr. Minuk -- this is before your May meeting with  
19 Mr. Minuk. And this one, you address the case far  
20 more directly, your own specific case in this  
21 letter. You talk about conditional sentences  
22 having become the law. And subsequently you enter  
23 a complaint that the Crown Attorney who is  
24 actually a defence lawyer was appointed to the  
25 case because of a public perception of the need

1 for impartiality, and you express concern that he  
2 may be indoctrinated to a defence lawyer's way of  
3 thinking about cases; is that fair?

4 A Um-hum.

5 Q You express the fear that a plea  
6 bargain will be the end result?

7 A Um-hum.

8 Q Do you recall writing that letter?

9 A Yes, I do. But at that point I didn't  
10 know the difference between the plea bargain and a  
11 deal, if there was any differentiation between the  
12 two. To me that was a deal, we didn't want a deal  
13 of any kind.

14 Q Okay. And you go on and you talk  
15 about the case against the accused being,  
16 appearing to be quite fragile because he was  
17 allowed to refuse the breathalyzer. And this is a  
18 theme that you have expressed in all of your  
19 letters and you are concerned about the quality of  
20 the evidence that there is going to be. And then  
21 you, on the next page, discuss the points that you  
22 raised earlier about the dangerous driving  
23 concerns and --

24 A Right, yes. So he must have mentioned  
25 that in the first meeting about dangerous driving.



1           Q     This letter actually follows all three  
2 meetings that you've engaged in.

3           A     Okay. I was thinking of 2005, yes,  
4 okay.

5           Q     Around the same time there is a short  
6 call to Mr. Minuk where you get the date for the  
7 hearings. And then on -- then you prepare a  
8 letter directly to Mr. Minuk. Do you recall doing  
9 that?

10          A     Yes.

11          Q     And you disclosed it to the  
12 Commission, and the version you disclosed to us is  
13 found as exhibit 23 in these proceedings?

14          A     Um-hum.

15          Q     And it is at document in book O, tab  
16 81.a.9-A-8 at page 2138. And you will notice in  
17 the upper right-hand corner of that document, you  
18 have put a post-it letter to Martin Minuk,  
19 September 2006, after learning Preliminary Hearing  
20 delayed to July 16, 2007?

21          A     Right.

22          Q     Now, I take it that you don't have a  
23 clear recollection of when this letter was  
24 actually sent?

25          A     No, not exactly, but it would have

1     been before the Preliminary, for sure.

2           Q     We have a document from Mr. Minuk  
3     that's been disclosed indicating a date, it is the  
4     same letter so I won't bother to take it out and  
5     show it to you, but it is dated December 14th,  
6     2006, in what your husband has identified to be  
7     your handwriting. Do you have any difficulty with  
8     that?

9           A     It is possible. No. I am sorry, I  
10    learn in September, and often I took awhile to  
11    compose a letter, I didn't just write it and send  
12    it. So it could have taken almost a couple of  
13    months.

14          Q     Why would that be, ma'am?

15          A     I just wanted to make sure I knew  
16    exactly what I wanted to say. I keep it up on the  
17    computer, and then I go back in. And as I said  
18    before, I always consulted with my husband, and he  
19    looked over the information with me, and we were  
20    in agreement as to what we wrote.

21          Q     So is it fair to say that at least  
22    most of these letters are not impulsive notes sent  
23    out in a moment's concern, they are deliberated  
24    and carefully thought through?

25          A     Yes.

1           Q     This letter you send directly to  
2     Mr. Minuk, whom you haven't met with since May of  
3     2006. Can you -- is there any incident or thing  
4     that caused you to choose to write to Mr. Minuk,  
5     given that so many months had passed since you  
6     actually discussed the things with him that you  
7     discussed in the letter?

8           A     Well, as I said, I just learned when  
9     the Preliminary Hearing was, and it was delayed  
10    for so long, after he told us just a few months.  
11    So I was unhappy about that. I was still unhappy  
12    about all of his, you know, his talk about how  
13    difficult it is to prove dangerous driving, and I  
14    was still concerned about all of those things.

15          Q     Okay. So it was another chance to  
16    share your concerns with the way the case was  
17    being handled and with the way it was going  
18    through the system?

19          A     Because I had hoped, even though I saw  
20    bias towards conditional sentences, I had hoped,  
21    as a prosecutor that he would still prosecute to  
22    the full extent that he could.

23          Q     Okay. And you had no contact with him  
24    until July of 2007, other than a phone call on the  
25    26th of June, 2007. And I'm not clear whether you

1 called or whether Sveinn called, but there is a  
2 notation in Mr. Minuk's records of a phone call at  
3 that time, a couple of weeks before the  
4 Preliminary. Can you help us out at all with what  
5 would have taken place?

6 A No, I can't. It may have been just to  
7 confirm it again, that it was still going, because  
8 there was always so many changes, everything  
9 always got postponed.

10 Q Okay. I'm going to take you to the  
11 actual court hearings now, I am going to take you  
12 through those court hearings. The Preliminary, as  
13 you know, was originally scheduled back in 2006  
14 and it was bumped off until July 16th, 2007, as a  
15 result of the adjournment?

16 A Yes.

17 Q You have been at this for more than  
18 two years at that point in time. You attended  
19 court on that date, July 16th, 2007?

20 A Yes, we did.

21 Q I understand that you ended up in an  
22 assignment court?

23 A I don't know what it was called but --

24 Q And what was taking place in that  
25 court?

1           A     There was other cases going ahead,  
2     there was quite a few. I would say we sat  
3     probably an hour and a half as the other cases  
4     went ahead, and some are postponed, some were  
5     disposed of quickly, and then there was a recess  
6     called.

7           Q     What were you expecting to have happen  
8     when you went to the courthouse that day,  
9     July 16th, 2007?

10          A     I thought a Preliminary Hearing was  
11     starting.

12          Q     Did you know, as you were sitting  
13     there for that hour and a half, that there was not  
14     going to be a Preliminary Hearing?

15          A     I kind of got that idea, that we are  
16     going to be -- maybe to the next day, because we  
17     were supposed to, it was supposed to go for a week  
18     the way I understood it. So I didn't -- no, I  
19     really didn't know, but it seemed to me that we  
20     weren't going to get the Preliminary started that  
21     day.

22          Q     Was there anyone there helping explain  
23     to you what was taking place in that courtroom?

24          A     No.

25          Q     Who were you with?

1           A     My husband.

2           Q     And you began to talk about a recess  
3 occurring that morning. What happened then?

4           A     Well, just a short recess, maybe ten  
5 minutes, because there were so many cases and so  
6 many other people around, there was lots, it was a  
7 small courtroom, it was crowded. So we didn't  
8 leave the room, I think we stayed because we  
9 didn't want to lose our seats. And at the end of  
10 the break, Mr. Minuk walked in, and just before he  
11 was to go up, he leaned over and said, he is  
12 pleading guilty to dangerous driving. And I think  
13 that's about all he said.

14          Q     Do you recall whether he mentioned the  
15 other charges?

16          A     I don't think at that point, but I  
17 can't say positively. I remember thinking, oh,  
18 okay, he is pleading guilty, that's good, now we  
19 don't have to try and prove it, after all of this  
20 about how difficult it is to prove dangerous  
21 driving.

22          Q     Okay. Now, he got up to speak to the  
23 judge at some point, I take it?

24          A     Um-hum. Well, just about right after,  
25 like two minutes.

1 Q Okay. And what happened then?

2 A Well, he just stood up and said  
3 Mr. Harvey-Zenk was pleading guilty to dangerous  
4 driving causing death, because the Crown had 33  
5 witnesses scaled down to 12 for the Preliminary  
6 Hearing. And then he said they had arranged to do  
7 this before Judge Wyant the next day and the judge  
8 gave him permission for that.

9 Q And the way you phrased that, ma'am,  
10 you seemed to indicate that he advised the court  
11 that Mr. Harvey-Zenk was pleading guilty because  
12 the Crown had 12 witnesses; is that how you  
13 understood it?

14 A That's really the way I understood it,  
15 yes.

16 Q Okay. And what impression did that  
17 give you?

18 A I remember thinking, good, you know,  
19 okay, we have lots of evidence, he has pleaded  
20 guilty, no problem, it should work out okay.

21 Q At that point in time, I think it is  
22 probably fair to say you didn't know who those  
23 witnesses were?

24 A No, I didn't.

25 Q You really didn't know what they saw

1 or anything like that?

2 A No. We had heard a little bit from  
3 others, like somebody who knew a witness would  
4 say, you know, they kind of said this, this, or  
5 that, but it wasn't --

6 Q It was all rumour mill stuff?

7 A I didn't know any of them.

8 Q And I understand that you had some  
9 contact with Mr. Minuk on that day, July 16th,  
10 2007?

11 A Yes. That's what I said, once the  
12 rush was over, I started thinking, okay, fine,  
13 this is good, he pleaded guilty to dangerous  
14 driving, what about the other charges? So I did  
15 phone and he called me back.

16 Q Okay. So you obviously left court?

17 A Yes, yes, after we got home. Because  
18 it was very quick, it only took a couple of  
19 minutes and we were gone. And he called me back  
20 and I asked about the other charges. And he said,  
21 well, they are being stayed.

22 Q Did you know what that meant?

23 A I did. And I said, well, that sounds  
24 like a plea bargain to me, is that a plea bargain?  
25 And he would never admit that that's what it was.



1 And then I said, so are you going to --

2 Q I'm going to slow you down a little  
3 bit, ma'am. Did he have an answer that you can  
4 recall to the question you say you posed, that  
5 sounds like a plea bargain to me, is that a plea  
6 bargain, do you know what he said to you?

7 A I can't remember exactly, but I do  
8 know he didn't admit that it was a plea bargain.

9 THE COMMISSIONER: Did he respond to  
10 that question?

11 THE WITNESS: No, I said -- I don't  
12 remember exactly what his response was, but I know  
13 that he never admitted that it was a plea bargain.

14 THE COMMISSIONER: Thank you.

15 BY MR. PACIOCCO:

16 Q And did you have any questions for  
17 him?

18 A Yes. I asked him about, if they are  
19 planning to bargain the sentence as well, as we  
20 had seen in a previous case, those cases that we  
21 sat through for that hour and a half, there was  
22 one about some minor case, about somebody looking  
23 into windows or something, and the Crown and  
24 defence attorney agreed on whatever the sentence  
25 was. And so I wanted to know if they were going

1 to bargain the sentence in the same way. And he  
2 said, how can you compare that case to ours, this  
3 misdemeanor case of a, I don't know, mentally  
4 challenged person or something. So I feel that  
5 was just to put me on the defence. So I said,  
6 well, I wasn't, I was just comparing sentences, I  
7 was asking if you are going to do that kind of  
8 a -- and it was always that run around, you know,  
9 as the saying goes, beat around the bush. He  
10 never gave me an actual answer. And then I asked  
11 about putting in our Victim Impact Statements.

12 Q Yes?

13 A Because I knew now we were getting  
14 close, the sentencing date happens -- he was  
15 supposed to plead guilty, so I knew it wasn't set  
16 yet but it was going to be soon if he is going to  
17 plead guilty. So I asked about that and he said,  
18 well, you put that into Victims' Services. And  
19 that's the first time I heard of Victims' Services  
20 from him. And I said I don't know who they are, I  
21 never met them. He said, well, I will get  
22 somebody to contact you. And that's when we went  
23 to court the next day that Lesley McCorrister gave  
24 my husband some files.

25 Q Okay. I know the days tend to blend

1 together. Is there any chance that the  
2 conversation about the 32 witnesses down to 12  
3 occurred on July 17th rather than on July 16th?

4 A No, I'm pretty sure it was 16.

5 Q Okay. And on July 17th, what happened  
6 on that day?

7 A Well, that's when he did plead guilty.  
8 There was some, a bit of a, what would you say,  
9 not testimony, but presentation by Mr. Minuk. And  
10 he said Mr. Zenk admitted to having a few drinks  
11 but he says he wasn't drunk. So I kind of  
12 thought, oh, well, this is good, this is at least  
13 coming out. And I don't know, there wasn't much  
14 more that he said. I believe the judge -- it  
15 seems to me he mentioned those lights again, about  
16 the 12 seconds between the light and the --

17 Q Okay. I mean, the information that we  
18 have is that the actual submissions surrounding  
19 the sentence took place on August 22nd, and that  
20 on the 17th it was just a question of entering the  
21 pleas and setting a date?

22 A It could be that I don't remember it  
23 right, it could be, I can't remember exactly what  
24 happened on which day but -- we did receive, you  
25 know, when we were in the courtroom, Lesley came

1 and called my husband out and gave him the forms,  
2 and that was it.

3 Q Okay. So July 17th, for sure, that's  
4 the first you hear about the Victims' Bill and  
5 that's when you get copies of the Victim Impact  
6 Statements from Lesley?

7 A Um-hum.

8 Q And you are asked to come back on a  
9 future date when the lawyers are going to present  
10 their submissions, and we know that date to be  
11 August 22nd?

12 A Well, yes, I guess so. I thought it  
13 was sentencing date, that's what I understood to  
14 be August 22nd.

15 Q All right. Well, the day on which all  
16 of the lawyers get up and make their arguments, do  
17 you remember what took place that day? First, I  
18 understand there were two such dates, and I'm  
19 trying to get you to think about the first one.

20 A Well, maybe that was when he stood up  
21 and said, you know, about that Mr. Harvey-Zenk  
22 admitted to having a few drinks but says he wasn't  
23 drunk. He said something about the police at the  
24 house where he was partying, something to effect  
25 that he was sort of lower down on the totem pole,

1 like a rookie cop, so nobody paid attention to  
2 him, nobody noticed how much he drank. So they  
3 felt he had a few, but they didn't know how much.

4 Q Okay. So there was an indication that  
5 he may have had some drinks, but nobody knew  
6 exactly how much?

7 A That's right.

8 Q And do you recall the term "anecdotal  
9 historical evidence of alcohol" being used in the  
10 submissions?

11 A I think I recall it later, when the  
12 judge was trying to get more evidence brought  
13 forward.

14 Q Okay.

15 A But I'm not sure. It could be, it  
16 could be, but I didn't -- that word didn't catch  
17 my attention.

18 Q What was your sense when you heard the  
19 description of the events being read in by  
20 Mr. Minuk, in terms of how enlightening that was  
21 about what actually happened? Did you form any  
22 impression about whether you were now getting to  
23 the bottom of things?

24 A No. No. It was like a second defence  
25 lawyer in the courtroom.

1 Q What gave you that impression, ma'am?

2 A Well, he didn't present anything. He  
3 just mentioned that about the drinks, but nobody  
4 knows how much, and that was already dropped  
5 anyway, so I don't think he did anything, he  
6 didn't prosecute.

7 Q This would have been the day that you  
8 would have heard Mr. Minuk and Mr. Wolson both  
9 asking for a conditional sentence. Do you recall  
10 them both getting up and joining in that position?

11 A Yes, yes, probably so. I was thinking  
12 of the day before, that's when I heard Mr. Wolson  
13 say, "the sentence is now in your hands, Your  
14 Honour." So there was no mention previously on  
15 the joint recommendation.

16 Q So this is not something that you were  
17 aware was coming down the pike?

18 A No, not at all.

19 Q Were you surprised to hear Mr. Minuk  
20 offer a conditional sentence to the judge as a  
21 fitting sentence for this?

22 A I sure was. Why? You know, I didn't  
23 see any need for it.

24 Q But you had already had conversations  
25 with him where he made it pretty clear to you that

1 he felt that was an appropriate outcome, or one  
2 that at least was legally required?

3 A Yeah, but he is also a prosecutor. He  
4 told me, "I do my job," so why give in to a  
5 recommendation?

6 Q And did you hear an explanation, that  
7 you recall, for the charges being stayed or  
8 withdrawn by Mr. Minuk?

9 A Yeah. Just that, you know, I don't  
10 really remember very much about why that was done.

11 Q Did you feel that you had any  
12 explanation or understanding of why it was done?

13 A No, I didn't.

14 Q And how did you feel about the fact  
15 that it was done?

16 A I thought it was just either, I hate  
17 to say, blatant coverup of evidence or  
18 incompetence on the part of the prosecutor.

19 Q So it is fair to say you just had no  
20 understanding of what had taken place?

21 A No.

22 Q The Victim Impact Statement that you  
23 read that day, I think everyone in the room pretty  
24 much, except maybe some members of the public,  
25 have read it. It was a powerful and moving

1 statement. I know it would have been very  
2 difficult for you to give. Could you describe a  
3 little bit about the events leading up to your  
4 presentation of that statement?

5 A Well, we had received the forms from  
6 Lesley McCorrister, so I had already sort of  
7 started writing a statement previous to that. And  
8 then we get those, the guidelines that come with  
9 it. They say you can't say this and you can't say  
10 that and you can't criticize this one and you  
11 can't criticize -- it was very frustrating,  
12 because many of those things were the things that  
13 really were difficult to deal with.

14 Q Okay. I'm going to take you through  
15 that in some detail in a moment. There is one  
16 thing I want to deal with first, and it is that  
17 when you wrote your letter of August 2005 to  
18 Minister Mackintosh -- and I would ask that  
19 exhibit 33 be furnished to the witness? It is  
20 found at tab AL of book O, A-11 rather, not AL,  
21 A-11. Do you have the letter to Mr. Mackintosh --

22 A The original one?

23 Q -- it should have exhibit 33 marked on  
24 it. On the second page of that letter, at the  
25 very top, you talk about Victim Impact Statements.



1 And this is back at some earlier point in time  
2 before, obviously, the case is wrapped up. And  
3 you say, and I'm going to quote it to you:

4 "Yet they try to pacify victims by  
5 encouraging submission of Victim  
6 Impact Statements. What good will  
7 such statements do when the judge's  
8 propensity is always toward these  
9 conditional sentences?"

10 Obviously, at that time when you wrote this  
11 letter, you didn't feel there was much use or  
12 utility in providing Victim Impact Statements; is  
13 that a fair statement, ma'am?

14 A Yes, I think it is.

15 Q Do you know what it was that motivated  
16 you to decide to put one in, notwithstanding that  
17 at one point that was your view?

18 A Just that I felt that may be the only  
19 say I will ever get, so I'm going to do it.

20 Q And you got the forms from Lesley  
21 McCorrister, and you were telling us that you got  
22 some guidelines as well to assist you in the  
23 preparation of those statements?

24 A The cover sheet that comes with it  
25 that gives the guidelines.

1 Q Okay. And I understand that you  
2 phoned Victims' Services to get some help?

3 A Yes. Lesley had put her name and  
4 phone number on the form, so I called her number.

5 Q Okay. I'm going to take you to a  
6 couple of documents that have been filed already  
7 as exhibit 11. Victims' Services keeps very  
8 careful records of all of the contacts with  
9 individuals, and we have the notes that were made  
10 by Ms. McCorrister in connection with your phone  
11 calls. I'm going to take you to page 1897?

12 THE COMMISSIONER: Volume?

13 MR. PACIOCCO: This would be volume L,  
14 Your Honour, at tab 74, L-74, I apologize.

15 BY MR. PACIOCCO:

16 Q This is on August 1st of 2007, it  
17 records a contact actually with Monica Dyck. Do  
18 you remember Ms. Dyck?

19 A Did you say 1897?

20 Q 1897, I know the numbers are a little  
21 hard to read, I don't know whether yours are  
22 numbered the same way.

23 A Yes.

24 Q Do you see a document dated  
25 August 1st, 2007?

1           A     Yes.

2           Q     And it says, "initiator's name,  
3 Victoria Sveinson"?

4           A     Yes.

5           Q     And the receiver is Monica Dyck. We  
6 spoke of Lesley McCorrister up to this point in  
7 time. Do you know a Monica Dyck as well?

8           A     Yes. I had called Lesley's number and  
9 she was away on holidays and wouldn't be back  
10 until, I believe, the 21st, which was the day  
11 before the sentencing was set for. So they  
12 transferred me over to Monica.

13          Q     Okay. And you see there that they  
14 have recorded this contact, and then there is an  
15 indication that there was a return of your call.  
16 And in the third line on that document, it says:

17                    "We spoke at length about the  
18                    guidelines and parameters of the  
19                    statement, how soon it should be  
20                    returned and to whom. I suggested she  
21                    return them to writer to ensure they  
22                    are forwarded to Marty Minuk in a  
23                    timely manner, a couple of weeks in  
24                    advance of sentencing date if  
25                    possible. She asked about reading it,

1                   which she would like to do, but is  
2                   concerned she might find that she is  
3                   not able to on the day. Suggested  
4                   that she should indicate on the form  
5                   she would like to, but then if she  
6                   finds that she can't on the day, to  
7                   simply let the Crown know."

8           Is that a fair summary of the phone call, ma'am,  
9           in your recollection?

10                  A       Yes. I don't know about speaking at  
11           length, but, yeah, we did have some conversation  
12           about the guidelines and what I was and was not  
13           able to put into it.

14                  Q       You had some conversation about what  
15           you are allowed to put in and what you are not.  
16           Do you remember any of that conversation?

17                  A       Um-hum. Well, yeah, I kind of  
18           complained about that, saying there is nothing  
19           left to put in expect that our daughter was killed  
20           and we feel terrible. I mean, that should be  
21           understood. These things in the system, the  
22           delays and all of those other things that go on  
23           are distressing to victims. And then she said  
24           something like, well, something general like the  
25           length of time it takes, that causes distress, you

1 can put in it, but you can't say anything specific  
2 to the case. And that's what I did. I put the  
3 length of time. I talked about the conditional  
4 sentencing that seemed to be prevalent in the  
5 cases, and that ends up in no evidence being  
6 presented to judges, because it is a deal, and  
7 those kind of things. And that was all wiped out  
8 of my statement.

9 Q I am going to take you to the  
10 statement and we will look at exactly what was  
11 wiped out in a moment. I understand that you even  
12 dropped off Cory's statement?

13 A Yes.

14 Q There was a page missing and it had to  
15 be straightened out?

16 A That's right, yeah.

17 Q And I understand you received a letter  
18 from Mr. Minuk after you dropped off the  
19 statements. Do you recall that?

20 A Um-hum.

21 Q This letter would be in volume R-2,  
22 which we have not had out yet today, I don't  
23 believe, tab 91.57, R-2.91.57. And you will find  
24 tucked in after an email exchange between  
25 Mr. Minuk and Mr. Kaplan is the third document at

1 that tab, at page 3250, is a letter addressed to  
2 the Sveinsons of August 15th, 2007, from  
3 Mr. Minuk.

4 Madam clerk, I understand the whole  
5 bundle will be made an exhibit.

6 THE CLERK: 35.

7  
8 (EXHIBIT 35: R-2.91.57, Hard copy of  
9 email from Martin Minuk to Brian  
10 Kaplan sent 8 28 07 1017 am with  
11 attached file copy of letter to Mr.  
12 and Mrs. Sveinson dated August 15,  
13 2007)

14 THE COMMISSIONER: Mr. Paciocco, would  
15 you help me, I am lost here. You said R-2?

16 MR. PACIOCCO: R-2, if you turn to  
17 page 3250.

18 THE COMMISSIONER: Thank you.

19 MR. PACIOCCO: Because there are extra  
20 documents in that tab, and it is actually going to  
21 be dug for.

22 BY MR. PACIOCCO:

23 Q Ma'am, you have that letter in front  
24 of you?

25 A Um-hum.

1           Q     And it indicates that he has now had  
2     an opportunity to review the Victim Impact  
3     Statements prepared by you, and which he would  
4     like to file at the sentencing. He has been  
5     informed by Victims' Services that you both have  
6     been provided with the guidelines for the Victim  
7     Impact Statement.

8                     "In this regard..."  
9     and I'm sure he is talking about you and your  
10    husband,

11                    "In this regard, I'm enclosing a copy  
12                    of the statement that you provided  
13                    with certain portions highlighted. It  
14                    is my opinion that the highlighted  
15                    portions do not meet the requirements  
16                    for Victim Impact Statements and I am  
17                    of the view that they should be  
18                    expunged. So you are not surprised,  
19                    it will be my intention to delete the  
20                    identified portions your Victim Impact  
21                    Statement, and once so deleted,  
22                    covered up, the statement will be  
23                    filed with the court. Additionally,  
24                    the guidelines for Victim Impact  
25                    Statements exclude attaching

1                    photographs and newspaper articles. I  
2                    will not be filing material in  
3                    contravention of the guidelines, and  
4                    any such material will be returned to  
5                    you. If you wish to discuss this  
6                    matter with me, please feel free to  
7                    contact me before the end of the week,  
8                    as I would like to file the material  
9                    as soon as possible."

10            Do you recall getting and reading that letter,  
11            ma'am?

12                    A        Yes.

13                    Q        What was your reaction when you got  
14                    that letter.

15                    A        Well, I was upset about it, I guess.  
16                    I didn't think that information that I put in  
17                    should have been cut out. And I certainly didn't  
18                    think my picture should be returned. I heard of  
19                    other cases where pictures were allowed. And I  
20                    believe I even asked Monica about that, because  
21                    that's one of the things in the guidelines, you  
22                    shouldn't put them in, but they need to be given  
23                    to the Crown Attorney. So I asked her about it  
24                    and she said, they are allowing them more and  
25                    more, so just put them in and see. So that's what



1 I did.

2 Q And I'm going to take you to the  
3 passages that have been cut out in a moment, but  
4 did you try calling Mr. Minuk?

5 A I did. I called him that same day  
6 when I got it.

7 Q And what happened during that  
8 conversation?

9 A Well, he just explained his views and  
10 made it sound like, oh, I can't believe that  
11 Victims' Services would have said that, when I  
12 said that she told me in general terms, if I say  
13 something generally that didn't affect, or didn't  
14 concern this specific case, that it was all right.  
15 And that's what I did.

16 Q And were you satisfied after the  
17 conversation that you had with him that it was  
18 right to take these out?

19 A No, I wasn't, but I had no choice in  
20 the matter.

21 Q And your conversation with him, how  
22 would you characterize it?

23 A Well, it was -- it was kind of with  
24 anonymity I guess, we weren't seeing eye to eye.

25 Q It was a little strained?

1           A     Yes, it was.

2           Q     Okay. Ma'am, I'm going to take you to  
3 your statement now, it is in book O at tab 81.a.5,  
4 page 2128. Book O, tab 81.a.5, page 2128. Excuse  
5 me, I threw the clerk off, 81.a.3. I do  
6 apologize.

7           A     I asked him about the pictures as  
8 well, that I wanted of my daughter, because I  
9 wanted, like you say, a face to the victim in the  
10 courtroom. And I told him that I had heard of  
11 other cases where people had had pictures in the  
12 courtroom. And he said, well, he hadn't heard of  
13 them. That's all he said. Like he was always  
14 very evasive when he didn't -- he refused to  
15 comply with anything that you would like.

16          Q     Did you suggest that perhaps he might  
17 want to talk to Ms. Dyck about whether that  
18 photograph should be included?

19          A     I don't know. I didn't know if  
20 Ms. Dyck had any authority in that matter. I  
21 mean, she was just telling me what the guidelines  
22 were. I don't know. That's the way he worded it,  
23 I can't believe they would have told you that.

24                   THE CLERK: Exhibit 36.

25

1 (EXHIBIT 36: O.81.a.3 Victim Impact  
2 Statement of Victoria and Sveinn  
3 Sveinson)

4 MR. PACIOCCO: Exhibit 36.

5 BY MR. PACIOCCO:

6 Q You have the statement in front of  
7 you, and I'm going to ask you a question about  
8 whether there is highlighting shown in the  
9 document that you have in your hand?

10 A No.

11 Q The document that you sent to us, that  
12 we reproduced, did have highlighting on it and it  
13 did not come through when we reproduced it, but I  
14 have noted the passages and I am going to have to  
15 identify them for all of the lawyers and  
16 Commissioner so they can be marked now.

17 A Okay.

18 Q Page 2128, the very end of the long  
19 paragraph starting with the word "only," this was  
20 deleted.

21 "Only very severe impairment or  
22 extreme reckless negligence could  
23 explain how anyone could possibly ram  
24 into a bright yellow car that was  
25 stopped at a red light, which is

1                   preceded by amber blinking lights."

2   Do you remember that passage being deleted?

3           A     Um-hum.

4           Q     The next paragraph was also deleted.

5                   "Then it is most distressing to hear

6                   that alleged criminals in situations

7                   like these have the right to refuse

8                   breath tests.  Such rights completely

9                   override the victim's rights to the

10                  truth and the attainment of justice."

11   Do you remember that passage being deleted as

12   well?

13          A     Um-hum.

14          Q     And over to page 2130, or the third

15   page of the document, the passage beginning with

16   the word "imagine" about seven lines, or six lines

17   into the page.

18                  "Imagine being told that you can't get

19                  a copy of her autopsy report because

20                  it may be used as evidence in a court

21                  proceeding.  As a parent, you will

22                  have to wait for years before you can

23                  get to know the actual causes of your

24                  child's death, but the person

25                  responsible for her death has access

1                   to that information through his  
2                   lawyer."

3    Do you remember that being deleted?

4           A     Um-hum.

5           Q     And the next passage was deleted as  
6    well.

7                   "Additionally, the drawn-out length of  
8                   time it takes for many of these cases  
9                   to get to court prevents the healing  
10                  process from even beginning. It is  
11                  also extremely distressing to hear of  
12                  the precedents set in many previous  
13                  cases whereby after years of waiting  
14                  they just come to a sudden halt  
15                  through plea bargains. Such plea  
16                  bargains prevent the court from  
17                  hearing the actual details and even  
18                  the horrors of some of these crimes  
19                  and, therefore, routine minimum  
20                  sentencing seems to result most of the  
21                  time. Such results lead to feelings  
22                  of betrayal and aggravation in the  
23                  victims, like rubbing salt in the  
24                  wound and actually hindering any hope  
25                  of healing. The crime that destroyed

1                   their loved one was treated like a  
2                   misdemeanor, and their precious  
3                   deceased relative was made totally  
4                   inconsequential."

5    Do you remember all of those as passages being  
6    deleted?

7                   A     Um-hum.

8                   Q     And you also described the photo being  
9    restricted or prohibited?

10                  A     Right.

11                  Q     Exhibit 12 is a pamphlet that includes  
12   the guidelines, and I'm going to ask that you be  
13   shown exhibit 12.  It is in book R-3, tab 92.6.  
14   Do you see a number of pamphlets in that  
15   collection?

16                  A     Um-hum.

17                  Q     There is a pamphlet that is black,  
18   closer to the back, called "Manitoba Victim Impact  
19   Statement Guidelines"?

20                  A     Um-hum.

21                  Q     Do you have that document, ma'am?

22                  A     Yes.

23                  Q     Is that familiar to you, that  
24   document?

25                  A     Um-hum.

1           Q     And would that be the guidelines that  
2     you were provided with?

3           A     Yes.

4           Q     And you see that there is a list on  
5     the right-hand side of the things that must not be  
6     included in the statement?

7           A     Um-hum.

8           Q     "Comment on the offender's behaviour  
9                 or character except to describe how  
10                the crime has affected you. Say what  
11                sentence the judge should impose.  
12                Complain about how the police, Crown  
13                Attorney, defence lawyer or judge has  
14                handled the case. Describe how the  
15                crime has affected other people except  
16                to say how the crime has changed your  
17                relationship with others. Include  
18                photographs or medical reports (these  
19                should be given to the Crown  
20                Attorney.)"

21     I take it that last guideline is the one that you  
22     referred to when you said that these guidelines  
23     don't say you can not use a photo, they say you  
24     can give to Crown, do not include it the  
25     statement. Is that fair?

1           A     That's fair, and that's what Monica  
2     also told me.

3           Q     Do you feel that you have complied  
4     with these guidelines in your impact statement, or  
5     did you make a decision not to, or what exactly  
6     happened?

7           A     Well, I feel the part about the way  
8     the system functions, like the conditional  
9     sentences being routine and the information not  
10    getting to the court was, generally, was what I  
11    saw happening in the system. So it wasn't  
12    speaking about our case specifically. So in that  
13    sense, I didn't think that should have been taken  
14    out, as Monica told me, as long as it was general  
15    about the system and not about the case at hand.

16          Q     So you felt that as long as you didn't  
17    suggest what the sentence should be in the  
18    specific case, and you talked about the system at  
19    large and the impact that the whole system has had  
20    on you, that was something that should remain in  
21    the statement?

22          A     Well, yes, because that does affect  
23    victims.

24          Q     How important was it to you to have  
25    that information in there?



1           A     Well, that was important because it is  
2 something that is very hard on victims, not to be  
3 able to express the problems that the system gives  
4 us. And it is a victim's impact statement, so it  
5 would say things that were really bothering me,  
6 that were affecting me. And if there hadn't been  
7 a crime in this case, there wouldn't have been a  
8 need for a statement, for me to express how I felt  
9 about it.

10           Q     Do you feel that having a chance to  
11 express those things would have been beneficial to  
12 you?

13           A     Yes.

14           Q     Ma'am, in fairness, I have to put to  
15 you that there was actually a memorandum sent by  
16 Monica Dyck to Mr. Minuk dated the 8th of August,  
17 2007, raising some concerns about the statement  
18 that you sent. And I'm going to take everyone to  
19 that document now and I am going to show a copy to  
20 you. It is in book R-2, tab 91.52, R-2.91.52, and  
21 it is found at page 3242.

22                     And so that the embarrassed clerk  
23 knows it is my fault and not hers, I asked her to  
24 dig out 91.42 this morning.

25                     THE CLERK: I have it. Exhibit 37.

1 MR. PACIOCCO: Exhibit 37.  
2 (EXHIBIT 37: R-2.91.52 Memorandum  
3 from Monica Dyck to Martin Minuk dated  
4 August 8, 2007)

5 BY MR. PACIOCCO:

6 Q That document, ma'am, as I indicated  
7 is memo dated August 8th, 2007 from Monica Dyck to  
8 Mr. Minuk re Derek Harvey-Zenk.

9 "As we discussed, enclosed are the  
10 Victim Impact Statements of Crystal  
11 Taman's parents and her sister. I  
12 have briefly reviewed them and suspect  
13 there are some portions of the  
14 Sveinson's statements that may be  
15 concerning. As a result, I am  
16 forwarding them to you for your review  
17 in terms of the appropriateness of the  
18 content and any discussion you need to  
19 have with them as a result. I will  
20 say also that often Crowns have  
21 actually had a higher tolerance for  
22 allowing certain things in these  
23 statements that we would ordinarily  
24 suggest are problematic, particularly  
25 in circumstances where there has been

1 a fatality. I leave it you to deal  
2 with that with. My apologies."

3 So, ma'am, you see there were some concerns that  
4 Ms. Dyck had with your statement as well?

5 A There may have been. I don't know  
6 what her thoughts were.

7 Q So you didn't have any conversation  
8 with her about that at all?

9 A No.

10 Q You weren't alerted to that?

11 A No.

12 Q Ma'am, notwithstanding the  
13 difficulties and disappointments you had with the  
14 statement that you furnished, was it worthwhile  
15 for you to read it into court?

16 A Yeah, I think it was.

17 Q If you were to let everyone understand  
18 why you would feel that way, why would it be,  
19 ma'am?

20 A Well, just to be able to express how  
21 you have been feeling, pretty much like writing in  
22 the diary perhaps, or maybe even talking to a  
23 psychiatrist, it gives you an out.

24 Q It has a bit of a therapeutic  
25 dimension to it?

1           A     Um-hum.

2           Q     Did you think it was important to make  
3 the judge understand who Crystal was and what she  
4 meant to you?

5           A     I really did, yes.

6           Q     Ma'am, I understand that the  
7 photograph that you had sent to Mr. Minuk was  
8 returned to you?

9           A     Um-hum.

10          Q     How did that come about?

11          A     I think I faxed him and asked for it  
12 back, because in that letter, when he told me he  
13 was going to return them to me after rejecting  
14 them, so I wanted them back.

15          Q     And he sent a letter to you with the  
16 photographs?

17          A     Yes, he did.

18          Q     And that letter can be found at tab  
19 R-2, 9169, dated September 11, 2007.

20                   THE CLERK: Exhibit 38.

21                           (Exhibit 38: R-2.91.69 File copy of  
22                           letter to Victoria Sveinson September  
23                           11, 2007)

24 BY MR. PACIOCCO:

25          Q     And that document simply indicates

1 that, because they are not originals, it is usual  
2 to keep the documents in safekeeping, proceedings  
3 haven't closed yet, it wasn't his intention to  
4 return it to you until the sentencing was imposed,  
5 but because you requested it, he agrees to return  
6 it; correct?

7 A Um-hum.

8 Q And so you did get the photograph  
9 back, ma'am?

10 A Yes, I did.

11 Q Ma'am, September 12th, 2007, there is  
12 another hearing, and this hearing is when the  
13 judge calls the lawyers back to get their further  
14 submissions on the joint position that's been put  
15 forward. Do you recall that?

16 A Yes, I do.

17 Q And you had an interview after court  
18 with Mr. Mike McIntyre of the Winnipeg Free Press,  
19 in which you said this is a complete coverup. Is  
20 that an accurate quote, or would that be an  
21 accurate quote of what you might have said to the  
22 press on that day?

23 A It could very well have been, although  
24 I can't say I recall it specifically.

25 Q Would you like to see the article,

1 ma'am? Would it be of any help to you at all?

2 A Is there more to it than that?

3 Q I was just going to ask you why you  
4 might the feel that way, if you did feel that?

5 A Well, we have to go back, I guess, to  
6 what happened in the court that day. I believe  
7 that was the day they said no alcohol could be  
8 mentioned, after they had already mentioned it.  
9 To me that was like completely turning around and  
10 changing your testimony. So that's why I felt it  
11 was a coverup, because they had already admitted  
12 that alcohol was admitted to by the defendant  
13 himself. Although he wouldn't admit he was  
14 impaired.

15 Q And how did that make you feel, to  
16 have the case proceeded with on the basis that  
17 there was no alcohol?

18 A Well, it made me feel terrible,  
19 because I knew it wasn't true.

20 Q You also recall some discussion that  
21 day with the judge about whether this was a plea  
22 bargain or a joint submission. Do you recall  
23 that?

24 A Um-hum.

25 Q Do you believe that you were able to

1 understand what was taking place during that  
2 exchange?

3 A To a degree, I got the impression that  
4 there were two different kinds of deals, I guess.  
5 One was just an agreement, and the other was an  
6 actual plea bargain, where they had no choice in  
7 the matter, in other words.

8 Q Now, you had put the question to  
9 Mr. Minuk, according to your testimony, of whether  
10 or not he was going to plea bargain away the  
11 sentence or whether this was a plea bargain?

12 A Um-hum.

13 Q You didn't really get an answer from  
14 him with respect to the sentence, and you said  
15 that he wouldn't acknowledge it, I think is the  
16 way you put it?

17 A That's right.

18 Q What happened on this day?

19 A Well, like I said at that time, when I  
20 asked him that, I didn't know there was a  
21 differentiation between plea bargain and deal. So  
22 I was just talking about deal in general, did you  
23 make a deal? So on this date, well, we never -- I  
24 never spoke to Mr. Minuk, so I'm just trying to  
25 get a bit of an understanding of the difference

1 between the two.

2 Q It is pretty evident that you were  
3 quite upset with what took place in court --

4 A Um-hum.

5 Q -- between the 22nd and  
6 September 12th, and you began writing letters at a  
7 fairly ferocious pace. And we have gone through  
8 those letters with your husband, and I don't  
9 propose to go through them in detail with you,  
10 ma'am. What were you basically trying to  
11 accomplish in the letter writing campaign that we  
12 have witnessed through his testimony?

13 A Well, I felt this prosecutor was  
14 biased, or in a conflict of interest. We had  
15 heard that he had just worked with Mr. Wolson on  
16 another case, that actually ended like the  
17 beginning of July, and then they went on to this  
18 case immediately after. One of the things he said  
19 in one of our meetings, when he was putting off  
20 the Preliminary, was something to the effect that,  
21 you know, we are postponing this, but I don't  
22 think that Mr. Wolson will mind because he is busy  
23 with the Driskell Inquiry right now. So I could  
24 tell they had this close relationship, but they  
25 were -- I suppose they would talk about the case,



1 but it seemed like more than that to me. So I  
2 felt he was in a conflict of interest. And he was  
3 initially biased toward conditional sentencing,  
4 seemed to be leaning on the defence side, so I  
5 felt he wasn't really qualified to prosecute.  
6 Because he didn't prosecute, he proved that, he  
7 was not prosecuting at all.

8 Q We heard that letters went in two  
9 directions at that time; one set to the Minister  
10 of Justice and the other set to the Law Society of  
11 Manitoba. Is that accurate?

12 A Um-hum.

13 Q What were you hoping the Minister of  
14 Justice might do in response to the trail of  
15 letters that were sent in that direction?

16 A Well, the Minister of Justice is over  
17 the Crown's department. They are the ones that  
18 hired Mr. Minuk. I was hoping that they could  
19 check into it and see that something was going  
20 wrong here, this case was being mishandled. And I  
21 heard in another situation where two government  
22 officials had been suspended pending investigation  
23 into conflict of interest allegations. I felt  
24 that should happen here. Mr. Minuk should have  
25 been suspended and somebody else take over the

1 case.

2 Q And what did you want the Law Society  
3 to do as a result of your complaint?

4 A There was some lawyer we spoke to who  
5 said it is the Law Society who decides whether it  
6 is a conflict of interest. So we thought, well,  
7 okay, we have to put a complaint in to them if  
8 they are the ones that decide.

9 Q Okay. And I understand that the Law  
10 Society wouldn't provide any type of reaction  
11 until after the Chief Judge had issued his  
12 decision?

13 A That's right.

14 Q And then the complaint was ultimately  
15 rejected?

16 A Um-hum.

17 Q And I understand that you had a  
18 meeting with the Minister of Justice as a result  
19 of your correspondence?

20 A Yes.

21 Q And you attended that meeting with  
22 your husband?

23 A Yes, I did.

24 Q What took place -- that meeting  
25 occurred we understand on August 5th, 2007. What

1 happened during that meeting?

2           A     Well, we just tried to give him the  
3 information that we had, hoping that he would  
4 interfere. He just kept saying, I can't  
5 interfere, I can't comment on the case, it is  
6 before the courts. That's all we heard, it is  
7 before the courts, I can't comment. So we said,  
8 well, it is kind of late after the case is  
9 finished, it is like letting -- closing the doors  
10 after the horse is out of the barn, as they say.

11                 So we were hoping he would intercept.  
12 He was talking about, he had announced an  
13 investigation into the police, saying there was  
14 some wrongdoing there, but it was announced and  
15 yet not -- it wasn't going to be done until after.  
16 So I felt that they could have done the same in  
17 this case, done an investigation into the  
18 prosecutor.

19           Q     And, ma'am, you also spoke to the  
20 press on a number of occasions; is that fair?

21           A     Um-hum.

22           Q     And was there any particular reason  
23 why you spoke to the press, not that there is  
24 anything wrong with that, I just want to know your  
25 thinking?

1           A     I think I talked to one reporter  
2     because he had written an article about something  
3     to do, to the effect -- this was in between  
4     sentencing -- about whether the judge will make  
5     the right decision, and he had given a whole bunch  
6     of precedents of other cases besides conditional  
7     sentences. And I really appreciated that article,  
8     because all that was ever presented to the court  
9     were the conditional sentence precedents. So just  
10    in talking, he decided to write an article and I  
11    spoke to him a bit.

12           Q     Were you hoping to put pressure on the  
13    Justice Minister to intercede by going to the  
14    press?

15           A     No, that isn't why -- no, I didn't  
16    really go to them. Like I said, I was talking to  
17    him about that article and it just sort of  
18    developed from there.

19           Q     Fair enough. And you composed a  
20    couple of letters to the judge as well, didn't  
21    you?

22           A     Um-hum.

23           Q     Did you ever send those letters?

24           A     I did send one at the end, after the  
25    case, after the sentence. Initially we had

1 written a letter, we had gotten a letter from the  
2 prosecution department stating that they had  
3 checked into the transcripts of the trial and  
4 found that -- like I think I had complained about  
5 Mr. Minuk not bringing forth any evidence, that he  
6 refused. And they said in this letter that he  
7 didn't have evidence of impaired driving, he just  
8 had evidence of dangerous driving.

9 Q That would have been the letter from  
10 Mr. Slough that we looked at this morning?

11 A That's right. So I took that as --  
12 they are saying from the transcripts that there  
13 was evidence of dangerous driving, even though --  
14 I think Mr. Minuk could have brought that forward  
15 if he had that evidence even, even if the  
16 impaired, you know, there was something wrong with  
17 it, but he refused to bring anything forward.

18 MR. PACIOCCO: Okay. And I'm going to  
19 ask you to look, if you would, please, at another  
20 document that I'm going to have introduced as an  
21 exhibit. It is at tab 0.81.a2a, page 2128 --

22 THE CLERK: Clerk exhibit 39.

23 (EXHIBIT 39: 0.81.a.2.a Letter sent  
24 to Judge Wyant with letter #2 after  
25 trial)

1 BY MR. PACIOCCO:

2 Q That document, ma'am, is dated  
3 October 18th, 2007, which would have been 11 days  
4 before the actual decision was rendered by Chief  
5 Judge Wyant; correct?

6 A Um-hum.

7 Q Is that the letter that you did not  
8 send?

9 A That's right.

10 Q Okay. So you just drafted it --

11 A In writing it, we had intentions of  
12 sending it, but we kept being told that you can't  
13 interfere with the case, you can't interfere with  
14 the case. So I guess we thought, well, in case  
15 Judge Wyant had outlined all of his objections  
16 already to this conditional sentence that they had  
17 recommended, so we were hoping that maybe he would  
18 rule against it, and we were worried if we sent  
19 him this letter, that it could ruin that.

20 Q Okay. All right. So you had thought  
21 that you wanted to express, but you chose not to  
22 send it because you were concerned about  
23 interfering with the decision?

24 A That's right.

25 Q And that decision was rendered on the

1 29th of October, 2007, and we all know that a  
2 conditional sentence was, in fact, meted out?

3 A Um-hum.

4 Q And when you send the letter to Judge  
5 Wyant, you do that on November 5th, 2007. That  
6 letter is found at tab books O.81.a2, dated  
7 November 5th, 2007. The lawyers will find it at  
8 page 2124 of book O, page 2124.

9 THE CLERK: Exhibit 40.

10 (EXHIBIT 40: O.81.a.2 Letter sent to  
11 Judge Wyant after trial)

12 BY MR. PACIOCCO:

13 Q Now, in that letter, ma'am, you raise  
14 a number of concerns after introducing yourself  
15 and sharing with the judge that you've spent  
16 agonizing weeks attempting to express your  
17 frustration and the demoralizing aspects of the  
18 case. The first thing you say is that you were  
19 appalled to learn that the first order of the  
20 business in the court was that the judge had  
21 received letters from the defendant relating to  
22 his good character?

23 A Right.

24 Q What was it that concerned you about  
25 that?

1           A     Well, I thought -- we were told that  
2     nobody is allowed to contact the judge and give  
3     him any information. Why would they?

4           Q     Okay. So nobody explained to you that  
5     it is fairly routine in matters of sentencing to  
6     give the judge the sentencing materials that judge  
7     is required to consider so that he or she can read  
8     them over before going into court?

9           A     Are additional letters considered --  
10    these were additional letters from his family  
11    members, recommendations.

12          Q     Okay. So your sense was that they  
13    were doing what you weren't allowed to do?

14          A     That's right.

15          Q     And you went on and you talked about  
16    the manipulative way in which some lawyers can  
17    deal with cases, and how judges are left obliged  
18    to accept it.

19          A     Um-hum.

20          Q     And you felt totally betrayed when he  
21    hadn't rejected what you describe is a  
22    questionable recommendation for a sentence, is  
23    that a fair summary of what you have said here?

24          A     It is, and it is also in keeping with  
25    all of the objections that he himself raised.



1           Q     Okay.  You indicate that Mr. Minuk did  
2     have good evidence to prove dangerous driving and,  
3     therefore, the agreement was not a true plea  
4     bargain?

5           A     Um-hum.

6           Q     And you go on to talk about, telling  
7     the judge that there would be a guilty plea  
8     because the Crown had 33 witness, scaled down to  
9     12 for the Preliminary Hearing?

10          A     Um-hum.

11          Q     Is it your sense that this really  
12     wasn't a plea bargain?

13          A     That's right.  Definitely it was my  
14     sense.  When they went in their initially, there  
15     was no mention of a plea bargain, he was just  
16     pleading guilty, there was no mention of a  
17     recommended sentence.  As a matter of fact, like I  
18     believe I said before, Mr. Wolson specifically  
19     said to the judge, "the sentence is now in your  
20     hands, Your Honour."  And then the next hearing  
21     they come back and say they are recommending a  
22     conditional sentence...

23          Q     Okay.  So you have written to the  
24     judge, and I suspect that you did not hear back  
25     from the judge?

1           A     No, I didn't. As usual, I didn't hear  
2 back from anybody.

3           MR. PACIOCCO: Mr. Commissioner, it is  
4 now 3:18, it is probably a good time for a break.

5           THE COMMISSIONER: How much longer do  
6 you think you are going to be?

7           MR. PACIOCCO: I'm going to be another  
8 ten minutes.

9           THE COMMISSIONER: We will break now.  
10 Ten minutes.

11          THE CLERK: All rise. This Commission  
12 of Inquiry is in recess.

13                   (Proceedings recessed at 3:18 p.m. and  
14 reconvened at 3:30 p.m.)

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

17 BY MR. PACIOCCO:

18          Q     Just a very minor correction. I  
19 referred earlier to your meeting with Minister  
20 Chomiak as occurring on August 5th, 2007. It was,  
21 in fact, October 5th, 2007.

22                   I'm going to change focus now and I'm  
23 going to ask you some questions about the Victims'  
24 Bill of Rights. You indicated that you became  
25 familiar with the Victims' Bill of Rights last

1 summer around the time that the plea was going in.  
2 And you understand from my earlier questions and  
3 from your education since that parents are not  
4 included. And you made a very impassioned  
5 presentation about how you feel with respect to  
6 that. Notwithstanding that parents aren't  
7 included, you did receive some assistance from  
8 Victims' Services in the Province of Manitoba;  
9 correct?

10 A Yes, I guess so.

11 Q And they assisted you with respect to  
12 the Victim Impact Statement, and we went through  
13 those documents?

14 A Um-hum.

15 Q You also received some assistance with  
16 respect to court dates around the end of the  
17 process; do you recall that?

18 A Yes, a couple.

19 Q I'm going to ask that document L.75 be  
20 made the next exhibit. L.75 contains a number of  
21 those internal communications generated by the  
22 Crime Victims' Service, noting contacts between  
23 themselves and others, including yourself, and I  
24 want to put those on the record.

25 THE CLERK: Exhibit 41.

1 (EXHIBIT 41: L.75, PRISM Victims  
2 Communications with Victoria Sveinson)

3 BY MR. PACIOCCO:

4 Q And you will notice in exhibit 41 we  
5 should have, I believe, the first page should be  
6 1936?

7 A Um-hum.

8 Q And that is a record to -- made by  
9 Monica Dyck of a call from yourself with respect  
10 to whether a sentencing date was available?

11 A Um-hum.

12 Q And then if you would look, please, at  
13 1938, two pages after that there is a call from  
14 Monica Dyck to yourself, at page 1938:

15 "Returned Victoria's call, advised  
16 that no date had been set, provided  
17 next remand date."

18 But she tells you that's just a place that cases  
19 get parked until a judge can reach a decision.  
20 And there was some communication recorded that she  
21 told you that Lesley McCorrister had indicated  
22 that she would call you to provide the date a few  
23 weeks down the road.

24 Do you remember that conversation?

25 A Yes, I do now.

1           Q     And then page 1944 of same document,  
2     on October 1st, Lesley McCorrister records a  
3     telephone call in which she spoke to you,  
4     providing you with a sentencing date, time and  
5     courtroom, which would of course be for the  
6     October 29th sentencing?

7           A     Um-hum.

8           Q     And you will notice on the next page  
9     that she also took the initiative to call you to  
10    make sure that you had a copy of the Judge's  
11    judgment. Do you remember that?

12          A     Yes.

13          Q     So even though, technically, the  
14    Province of Manitoba had not passed legislation  
15    requiring Victims' Services to give you any  
16    assistance, there was some assistance offered to  
17    you?

18          A     Um-hum.

19          Q     And the Victim's Bill of Rights  
20    promises that victims of crime will be treated  
21    with courtesy, compassion and respect. Do you  
22    believe that the Victims' Services workers were  
23    professional and competent in the way that they  
24    dealt with you on the occasions that they did?

25          A     Yes, I think they were.

1           Q     Okay.  And what about Mr. Minuk, do  
2     you believe that if you had been somebody  
3     protected under the Victims' Bill, that he would  
4     have discharged his obligations to treat you with  
5     courtesy, compassion and respect?

6           A     I don't believe he would have, because  
7     he gave us that feeling of we were lower than him,  
8     we didn't understand.  And I can't see him  
9     treating anybody any different unless he  
10    absolutely had to.

11          Q     And what changes would you like to see  
12    in the Victims' Bill of Rights as a result of the  
13    experiences that you had?

14          A     Well, like I say, I think it is  
15    immoral that parents and siblings, and sometimes  
16    even children aren't -- I mean, the way I  
17    understand it is written, even our grandson Jordan  
18    wasn't considered a victim because he wasn't  
19    living at home at the time his mother was killed.  
20    I think it is ludicrous, it is actually  
21    desecration of the family unit in my view.

22          Q     Ma'am, I know that you certainly  
23    didn't ask for the Commission of Inquiry to be  
24    called.  What was your feeling when you heard that  
25    it would be called?

1           A     Well, I think I was happy that it was.  
2     I thought it was a little late, I was hoping  
3     something would have been done before, before the  
4     case ended the way it was, because we ended with  
5     not even having the option for an appeal. It was  
6     just finished. That's it. So you know, some  
7     intervention before the fact would have been more  
8     to my liking, but I was hoping some information of  
9     the truth would come out with the Inquiry.

10           Q     Okay. And what is your hope for the  
11     Inquiry, ma'am, what do you hope this Inquiry  
12     accomplishes?

13           A     Well, I don't think I could say what I  
14     hope it really would do, because I know it never  
15     will. But I hope it will bring the truth out. I  
16     actually even hope that it will show that there  
17     was some, actually criminal activities that should  
18     be prosecuted.

19           Q     And you understand that it is actually  
20     prohibited for a Commission of Inquiry to express  
21     opinions on whether criminal conduct has occurred?

22           A     I do. But if information was shown, I  
23     don't know what would stop the Crown Attorneys  
24     Department from doing their job.

25           Q     Okay. I'm going to give you one last

1 opportunity before I sit down, because I have no  
2 further questions for you, to make any remarks  
3 that you might want to make, either to the  
4 Commissioner or to the public generally, about  
5 anything connected with your voyage through the  
6 criminal justice process in this very difficult  
7 and terrible case?

8           A     Well, it is pretty much a road of  
9 hell, I can tell you that. But I find the  
10 treatment of victims, whether real or otherwise --  
11 and I know I'm not, they don't owe me anything I  
12 guess -- but for victims not to be considered,  
13 even in the courtroom, I don't think they are.  
14 The victim is pushed aside somewhere under the  
15 carpet, she is a number, nobody sees her. And  
16 only the defendant is there to get all of the  
17 attention, poor guy, we have to look after him  
18 now. That's the way I see our justice system, and  
19 it is not very good.

20           Q     Okay. I want to thank you for your  
21 testimony. I know it was very difficult for you.  
22 There will be some other questions from some of  
23 the other lawyers, so just remain there.

24 BY MR. ZAZELENCHUK:

25           Q     Just a very few questions. There were



1 five court appearances that you attended; correct?

2 A Right.

3 Q Had you ever been to a courtroom  
4 before?

5 A No.

6 Q So this was your first experience  
7 being inside a courtroom, seeing a judge with his  
8 robes on?

9 A Right.

10 Q Okay. The first two court appearances  
11 were one day right after the other?

12 A Um-hum.

13 Q And I can understand how perhaps the  
14 days can get blurred.

15 A Um-hum.

16 Q But I would like to know how much time  
17 did you spend either talking to or listening to  
18 Mr. Minuk on those two days? Can you give us an  
19 idea in terms of the hours and minutes? Did you  
20 have any interaction with him?

21 A No, no real interaction. Just like I  
22 said, the one minute when he told us he is  
23 pleading guilty, and then whatever time it took,  
24 two lines that he spoke before the judge and asked  
25 for it to be put off to the next day.

1 Q And we are talking about the first --

2 A The first day.

3 Q The first day, right. Okay, let's  
4 talk about the second day?

5 A The second day, well, I thought some  
6 of those submissions were on that day, but  
7 obviously they were later.

8 Q I'm not talking about in the court, I  
9 am talking about outside, other than when the  
10 court is sitting?

11 A I never had any meetings with him.

12 Q Okay.

13 A Every time we stepped out of the  
14 courtroom, there were people around, and I think  
15 he often snuck out a side door or something.

16 Q One last point, your husband and you  
17 met with Mr. Minuk in his office in the Trizec  
18 Building on three occasions over the course of  
19 this?

20 A Right.

21 Q Did you ever talk to him about  
22 anything other than this case?

23 A No. Like what? We went there to see  
24 him about the case, I don't think there was  
25 anything else.

1 Q That's the answer. Thank you, ma'am.

2 A Okay.

3 MS. BOWLEY: No questions, Your  
4 Honour.

5 THE COMMISSIONER: Thank you.

6 BY MR. McFETRIDGE:

7 Q Mrs. Sveinson, I just have a couple of  
8 questions that I wanted to ask in clarification.

9 Mr. Commissioner, if I could just  
10 refer you to volume L, page 1897, I don't believe  
11 it has been marked as an exhibit, that page. I  
12 don't know if you have that volume in front of you  
13 or not?

14 A I have a page 1897 here.

15 Q Okay. And that was a communication,  
16 it was a note to what is called the PRISM file by  
17 Monica Dyck from her telephone conversation with  
18 you?

19 A Um-hum.

20 Q And now Mr. Paciocco had indicated to  
21 you whether or not you had any disagreement with  
22 anything that was in that note, and you had  
23 indicated basically, no, other than maybe the  
24 length of time that you had spoken with Ms. Dyck;  
25 is that correct?

1           A     Um-hum.

2           Q     How long did you actually speak with  
3 her on that day?

4           A     Five minutes.

5           Q     Pardon me?

6           A     Five minutes.

7           Q     So when she says here "we spoke at  
8 length about the guidelines and parameters of the  
9 Victim Impact Statement," that took five minutes  
10 is what you are saying?

11          A     Um-hum.

12          Q     What were you actually asking her  
13 about the Victim Impact Statement?

14          A     I just said I was upset about the fact  
15 that there were these things about the system that  
16 we are unable to say, like you can't talk about  
17 the judge, you can't talk about the prosecutor,  
18 you can't talk about the defendant. What am I  
19 supposed to talk about? And that's when she told  
20 me general things like the length of time can be  
21 said, as long as it doesn't affect the case. And  
22 I asked about pictures, and she said put them in,  
23 Mr. Minuk will decide. I don't think that takes  
24 more than five minutes.

25          Q     You had also indicated when you had

1 met with Minister Chomiak, and that was on  
2 October 5th of 2007?

3 A I can't remember the exact date, but  
4 it sound right.

5 Q And he had indicated -- and that  
6 meeting took place approximately over an hour  
7 period, was it?

8 A Okay. Maybe, maybe up to an hour at  
9 the most.

10 Q And your husband had indicated that  
11 basically Mr. Chomiak said, I'm not, really, I am  
12 not in a position to speak about the case?

13 A Um-hum.

14 Q And you would agree with me that at  
15 that time the sentence had not been pronounced by  
16 Judge Wyant, that was still to come?

17 A That's right.

18 Q And he basically then just heard you  
19 out as to what your complaints were; is that  
20 correct?

21 A Yes, I guess that's right.

22 MR. McFETRIDGE: Thank you.

23 THE COMMISSIONER: No questions,  
24 Mr. Green. Thank you.

25 MR. PACIOCCO: Nothing arises,

1 Mr. Commissioner.

2 THE COMMISSIONER: Thank you. Thank  
3 you very much.

4 MR. CLIFFORD: Mr. Commissioner, the  
5 next witness will be Glenda Pedersen.

6 GLENDA PEDERSEN, having first been  
7 duly affirmed, testified as follows:

8 BY MR. CLIFFORD:

9 Q Ms. Pedersen, I understand that you  
10 are a police officer with the East St. Paul  
11 Police?

12 A Yes, I am.

13 Q And could you tell me what rank you  
14 currently hold?

15 A Constable First Class.

16 Q And could I ask you to give some  
17 evidence, please, with respect to your background  
18 in policing work?

19 A Yes. I have eight years with East St.  
20 Paul Police, and six years previously with St.  
21 Clements Municipal Police, for a total of 14 years  
22 consecutively.

23 THE COMMISSIONER: Could you bring  
24 that microphone up, I am having a little bit of  
25 difficulty?

1 MR. CLIFFORD: Mr. Commissioner, as  
2 you are aware, this witness is slated to be called  
3 at both phases of the Inquiry, and perhaps I will  
4 indicate on the record at this point that today  
5 Officer Pedersen will be giving evidence only in  
6 relation to the victims' issues.

7 THE COMMISSIONER: Okay.

8 BY MR. CLIFFORD:

9 Q Officer Pedersen, in your work with  
10 East St. Paul Police as a Constable, have you in  
11 recent years done work in relation to victims'  
12 issues?

13 A Yes, I have.

14 Q And I understand from information  
15 that's been provided to the Commission, that at  
16 least as of 2005, you were working as the victim  
17 liaison officer?

18 A Yes, for Victims' Services unit with  
19 our department.

20 Q And could you provide some explanation  
21 on that role?

22 A Basically, I was the liaison officer  
23 between the department and the volunteers, and I  
24 also did some of the budgeting, those kind of  
25 things. It is a voluntary service, so whenever we

1 needed volunteers to interact with victims of  
2 crime or tragedy, police officers would contact  
3 them, and usually I would be the officer that  
4 would do that.

5 Q What about work with respect to  
6 providing information to victims about ongoing  
7 investigations, or notifications, and that sort of  
8 work, is that something that all of the police  
9 officers were involved in, or was it work confined  
10 to the victim liaison officer?

11 A No, all police officers can do that.  
12 But sometimes with respect to resources available,  
13 the Victims' Services volunteers would try to give  
14 that information to the victims.

15 Q And with respect to the work that all  
16 police officers in East St. Paul Police would do,  
17 I would like to ask you some questions with  
18 respect to the practice of that police force and  
19 the Manitoba Victim's Bill of Rights. Were you  
20 aware of any policies with respect to the  
21 implementation of the Manitoba Victim's Bill of  
22 Rights, or was it done on an ad hoc basis?

23 A Well, I had received information from  
24 the Province of Manitoba through Sergeant Carter  
25 about the Victim Impact Statements, and Victims'



1 Bill of Rights, just some general pamphlets, and I  
2 had reviewed that basic information.

3 Q So there had been some material  
4 provided to you, as a front line officer, with  
5 respect to your obligations under the Manitoba  
6 Victims' Bill of Rights. Do I understand that  
7 correctly?

8 A That's correct.

9 Q And are you in a position to comment  
10 on what duties under the Act were actually  
11 implemented by East St. Paul Police Officers?

12 A Well, I know that we could show  
13 persons how to complete a Victim Impact Statement.  
14 There is not -- I hadn't actually reviewed the Act  
15 myself to know exact details of what was required,  
16 and certain information could be revealed to the  
17 victims once the investigations were done.

18 Q Were you -- did you operate under the  
19 impression or with the practice that, as a police  
20 officer or a member of a law enforcement agency,  
21 that one of the duties under the Act was to inform  
22 victims of crime of the existence and their rights  
23 and remedies under the Manitoba bill?

24 A Yes, I did know that.

25 Q And was that something that was

1 practiced by yourself?

2 A I know from one experience before, I  
3 had actually had experience with that, yes.

4 Q And are you able to comment with  
5 respect to your approach or knowledge under  
6 section 7 of the Manitoba Victims' Bill of Rights,  
7 and this is not necessarily a quiz about that Act,  
8 and what that section refers to is the right for  
9 victims to have information about an ongoing  
10 investigation?

11 A Sorry, what was the question?

12 Q Did you, from time to time, provide  
13 victims of crime with information about an ongoing  
14 investigation, as long as it didn't compromise the  
15 investigation?

16 A Yes, that would be correct.

17 Q You knew that you could give some  
18 details in certain circumstances to persons who  
19 were victims of crime?

20 A Some details, yes.

21 Q Mr. Commissioner, with your  
22 permission, what I intended to do with this  
23 witness, and I think it would make things a little  
24 bit simpler, given the nature and limited scope of  
25 her evidence today, is to enter four documents at

1 this point that I will refer to in my examination  
2 of her. And I could give the clerk the  
3 information to pull those documents. We could get  
4 them entered. I understand they would be exhibits  
5 42, 43, 44 and 45 once filed.

6 The first one is found at volume  
7 E.2.26.a.

8 THE COMMISSIONER: Sorry?

9 MR. CLIFFORD: E-2.

10 THE CLERK: Exhibit 42.

11 MR. CLIFFORD: And for completeness  
12 that would be volume E-2, tab 26.a, and the page  
13 reference is 702, and it is exhibit 42.

14 (EXHIBIT 42: E-2.26.a Officer's  
15 notes, Constable Pedersen (pp 90-97)

16 MR. CLIFFORD: The next one -- or  
17 actually, Mr. Commissioner, if I could with  
18 respect to exhibit 42 ask the clerk -- these are  
19 police officers notes, and I have two additional  
20 pages that were provided by counsel to the  
21 witness. I think the best thing to do is to put  
22 them in where they should be at this point. So I  
23 have two copies, one for Your Honour's book and  
24 one for the exhibit. I provided copies to the  
25 counsel that are present, and the Commission will

1 disclose the pages to those that are not present.

2                   The next exhibit is from volume E-2,  
3 tab 26.b, at page 706. That will be exhibit 43.  
4 And what that is, Mr. Commissioner, is a copy of  
5 the East St. Paul Police Incident Narrative. In  
6 other words, it is the written, the typed police  
7 report by this witness.

8                   (EXHIBIT 43: E-2.26.b Narrative  
9 Police Report, Constable Pedersen)

10                  MR. CLIFFORD: The next exhibit is  
11 from volume E-2, tab 26.c, page 708, that will  
12 form exhibit 44. What that is, Mr. Commissioner,  
13 is a copy of the transcript from this witness's  
14 interview with the RCMP on May 31st, 2006.

15                  (EXHIBIT 44: E-2.26.c Statement to  
16 RCMP, May 31, 2006, (Cst. Pedersen)

17                  MR. CLIFFORD: And the final exhibit  
18 that I will be referring to comes from volume P-3,  
19 tab 86, at page 2802.

20                  THE CLERK: Exhibit 45.

21                  (EXHIBIT 45: P-3.86 Correspondence  
22 from Fillmore Riley to Commission  
23 Counsel dated March 18, 2008)

24                  MR. CLIFFORD: Volume P-3, tab 86,  
25 page 2802, forms exhibit 45, and what that is,

1 Mr. Commissioner, is a copy of a 1998 memorandum  
2 from then Constable Norm Carter relating to the  
3 Victim Impact Statement program for the East St.  
4 Paul Police at that time.

5 Mr. Commissioner, the witness has been  
6 provided now with exhibits 42, 43, 44, and 45, and  
7 those are her duty book notes, her police report,  
8 her interview with the RCMP, and the East St. Paul  
9 Police memorandum on the Victim Impact statements.

10 BY MR. CLIFFORD:

11 Q Constable Pedersen, I would like to  
12 start by asking you some questions with respect to  
13 your involvement regarding victims' issues. If I  
14 could take you, please, to your involvement at the  
15 Concordia Hospital on February 25th, 2005. Who  
16 was it that asked you to go to the hospital,  
17 Officer?

18 A Chief Bakema had called me on the cell  
19 phone while I was conducting traffic duty at the  
20 north end of the Perimeter, or Provincial Trunk  
21 Highway 59, at the scene of the accident, and  
22 asked me to attend to Concordia Hospital to get  
23 the particulars on both victims.

24 Q So you were asked to attend to check  
25 on the condition of, I take it, both individuals

1 that were brought to the hospital by ambulance?

2 A That's correct.

3 Q And what time did you arrive at the  
4 hospital? And I could refer you to exhibit 42,  
5 those are your duty book notes and there is a time  
6 entry there. Do you have that open?

7 A Yes, I do.

8 Q All right. It is suggested there that  
9 your arrival time was at 8:48 in the morning. Is  
10 that in accordance with your recollection?

11 A Yes, it is.

12 Q Who did you speak to once you arrived  
13 there, Officer?

14 A I spoke to the hospital staff to get  
15 the information on the two persons that were  
16 brought there from the accident scene. And I  
17 obtained one full name and a second surname of the  
18 other victim, which I did not get the first name  
19 at that time.

20 Q And if I could refer you to exhibit  
21 43, and this, of course, is your incident  
22 narrative report. There is a time entry there at  
23 8:48 hours. And if you could take a moment to  
24 refresh your memory with that document, it may  
25 provide you with some assistance in responding to

1 the question of who it was that you spoke to,  
2 Constable Pedersen?

3 A I also spoke with the victim's family,  
4 the Taman family at the hospital.

5 Q And can you indicate who that was?

6 A Yes. That was Crystal Taman's  
7 immediate family, her husband Rob Taman, her  
8 children Tara Taman, Kristin Taman, Jordan Taman,  
9 brother of Mr. Taman, Randy Taman, and father of  
10 Mr. Taman, Jack Taman.

11 Q And I understand you also spoke with  
12 her sister, and I'm referring to your incident  
13 narrative, the second paragraph?

14 A Yes, that's correct. I didn't have  
15 her name in my notebook at the time.

16 Q All right. And do you want to put her  
17 name into the record?

18 A Yes, it is Cory Encontre, I believe.

19 Q What issues were you discussing with  
20 the family, Constable?

21 A I first gave my sympathies to the  
22 family. And then they had some questions for me.  
23 I did advise them that I would try to get all of  
24 the answers, and I really did not know too much at  
25 the time because I had not been given any details

1 of the actual accident scene, but I would  
2 certainly try to get them some information or pass  
3 it on to my supervisors to make sure that they got  
4 the information.

5 Q I note in your incident narrative  
6 report, which is exhibit 43, at the bottom of the  
7 paragraph under the time entry 8:48 hours, that  
8 you have noted:

9 "Writer offered VSU service to family  
10 and they advised that they would  
11 welcome same for information."

12 What are you referring to there when you include  
13 VSU service?

14 A Just that we could offer some resource  
15 information as to where they could possibly get  
16 grief counselling, or other information they may  
17 want, that they may need as the process goes  
18 along.

19 Q And I understand the reaction from the  
20 family members to that suggestion was that they  
21 were open to it?

22 A That was my understanding.

23 Q I understand as well, Constable, that  
24 you took, you told us names, but you took further  
25 information, telephone numbers, et cetera, so that



1 you could follow up?

2 A Yes, I did do that.

3 Q You are referring, of course, to the  
4 family members of Crystal Taman. Did you speak to  
5 anybody in connection with the other individual  
6 who had been brought to the hospital?

7 A I believe her name was Kathleen  
8 Beattie, and she had already been released. And I  
9 never spoke to any family members or herself.

10 Q Did you see her or any of her family  
11 members there?

12 A Not that I know of.

13 Q I understand that you might have seen  
14 her husband, Chris Beattie, from the Winnipeg  
15 Police Service?

16 A I don't recall that I saw him there at  
17 all. I knew that he was her husband and I made a  
18 note of that, but I didn't actually see him.

19 Q All right. In your duty book, which  
20 is exhibit 42, at page 92 you refer to her husband  
21 as Chris Beattie?

22 A That's correct.

23 Q Winnipeg Police Service member?

24 A Yeah.

25 Q But I understand that your testimony

1 is that did you not see him at the hospital?

2 A No, I just made a note of who he was.

3 Q Did you make any arrangements with the  
4 family that you would follow up with them, or that  
5 somebody from the East St. Paul Police Service  
6 would follow up with them, when you were leaving  
7 the hospital?

8 A I believe I did. I usually try to  
9 provide some assistance to that, whether I can do  
10 it myself or someone else can. Normally if -- I  
11 may not be on duty afterwards, then I would  
12 usually give my supervisor's names. And I know at  
13 some point in time, in speaking with the family,  
14 that I did give them that information.

15 Q What was the -- and I know the answer  
16 to this is somewhat self-evident, but in terms of  
17 the emotional state, or the environment in the  
18 Concordia Hospital, this family, I understand, had  
19 learned by the time you spoke with them about the  
20 loss of their mother, and Mr. Taman knew that he  
21 had lost his wife. And it must have been a very  
22 difficult communication for you, and a very sad  
23 environment. What effect did that have on you,  
24 Constable Pedersen?

25 A Well, it is always very emotional for

1 me, and I have to very much concentrate on  
2 controlling my emotions so that I don't upset the  
3 victims' families any more than they already are.  
4 So that day I was struggling a bit at the  
5 hospital, but I did keep my emotions in check and  
6 I tried to maintain my composure so that I could  
7 give them the relevant information that I wanted  
8 to pass along, which was to advise them that we  
9 would try to assist them as much as possible in  
10 giving them information, as well as I really  
11 wanted to emphasize that we could give them  
12 resource material through the Victims' Services  
13 program.

14 Q And do I understand correctly that the  
15 discussion between yourself and the family at the  
16 hospital, was it related primarily to you giving  
17 them some information about VSU service, or  
18 counselling for grieving, et cetera?

19 A At the time I kind of viewed it that  
20 way, because I'm the liaison officer. But my job  
21 was also to get particular information on who the  
22 family members are, their names, their date of  
23 birth, what relationship, and that kind of thing,  
24 as well as try to just give some information as to  
25 what occurred. But as I said, I had very limited

1 information what actually occurred. I didn't know  
2 at the time.

3 Q And I understand the family was  
4 actually, even at that point, asking you questions  
5 about what occurred?

6 A Yes, that's correct. And I felt bad  
7 that I couldn't tell them anything more, but I  
8 just didn't know.

9 Q Now, I understand that you had an  
10 opportunity later during that same day to speak  
11 with the family again, and this would have been at  
12 the Taman residence?

13 A That's correct.

14 Q And what was the purpose of your  
15 attending at the residence in order to speak to  
16 the family?

17 A I went with one of our VSU volunteers  
18 to actually give them some more information on  
19 Victims' Services, such as grief counselling and  
20 that kind of thing, and just to touch base with  
21 them again. And they did have some more questions  
22 for me at that time.

23 Q Is this something that you would  
24 normally do in circumstances such as this where  
25 there had been a death?

1           A     Someone would normally do that, yes.

2           Q     What time did you go, officer? And if  
3 it is of assistance, you will find a reference in  
4 your duty book notes.

5           A     I was there at approximately 2:15 p.m.  
6 that day.

7           Q     Did you have much experience in your  
8 front line practice in going to residences to deal  
9 with families in circumstances such as those?

10          A     I have done next of kin notifications  
11 before, but this was not that kind of situation,  
12 as the family already knew the outcome here. But  
13 it was more to just give them some information,  
14 and I have had some experience with that too,  
15 provide victims with resource material and things  
16 after the fact.

17          Q     You had mentioned that to them in the  
18 morning, that you could provide them with some VSU  
19 service. And when you say provide them with  
20 information, I take it that's why you are there  
21 that afternoon, to follow through with that?

22          A     Yes, that's correct.

23          Q     What arrangements were made, Officer,  
24 for you to go there? Was it an unannounced visit  
25 or had you called to pre-arrange it?

1           A     I believe one of my supervisors, and I  
2     can't remember exactly who it was, whether it was  
3     Chief Bakema or Sergeant Carter, had actually  
4     asked me to go and speak with the family again,  
5     and give them that kind of information.

6           Q     So you went as a result of a request  
7     by another officer, but did you call ahead to let  
8     them know you were coming?

9           A     I believe there was some arrangement  
10    made, but I don't recall myself actually doing  
11    that.

12          Q     Did you typically take a volunteer  
13    worker with you on a visit such as this?

14          A     Normally we would take the volunteers  
15    with us, yes, but sometimes if there is no  
16    volunteers, we would just attend ourselves.

17          Q     Now, obviously, when you were  
18    attending a residence such as this, it would be a  
19    very difficult time, this would be the same day,  
20    of course, that the family learned about the  
21    tragic loss and the circumstances, and they were  
22    learning a little bit more about what occurred.  
23    With respect to the volunteer workers, we've heard  
24    evidence that the family knew the individual,  
25    Justin Hall, and that he was a young person. Did

1 you feel as though he had the maturity and the  
2 experience to actually be of assistance to you or  
3 to the family?

4 A This was actually Justin's first time  
5 to actually go and do a VSU situation with our  
6 department.

7 Q So it would be hard to imagine,  
8 perhaps, a more difficult call or visit to have as  
9 your first visit. You have basically an entire  
10 family grieving over the tragic loss of their  
11 mother, and her husband?

12 A I would say so. I think he was a bit  
13 nervous, and I just told him, just sort of follow  
14 my lead.

15 Q And in hindsight, which I know is very  
16 easy to lay claim to, perhaps not the best visit  
17 to be your first one as a volunteer?

18 A Perhaps not, but he was the only  
19 volunteer we had available at the time. And we  
20 like to have someone else there, other than just  
21 the officer to, I guess, maybe connect a bit more  
22 with the family members.

23 Q And were you able to discern yourself  
24 that he was actually quite nervous when he was in  
25 the house?

1           A     Yes, I know he was nervous when we  
2     were driving there.

3           Q     And what can you tell me about the  
4     atmosphere in the residence once you went in and  
5     started to deal with the family?

6           A     Actually, there was a lot of people  
7     outside, and we were directed to go inside.  And  
8     then I met some of the family members, and then we  
9     went into another side bedroom in the residence.  
10    And we all sat down, and I again had expressed my  
11    sincere condolences for their grief and loss.  And  
12    that's when, again, I reiterated that if they had  
13    any questions or concerns, I would try to answer  
14    them, and if I could not answer them right now, I  
15    would try to get the answers for them.

16          Q     Am I correct in understanding that the  
17    questions and the concerns that they did have  
18    related primarily to what happened to their  
19    mother, the circumstances surrounding the  
20    accident?

21          A     Yes, I do remember that, yeah.

22          Q     And the purpose of your visit centered  
23    primarily around the fact that you wanted to  
24    provide them with general information about  
25    counselling and VSU services?



1           A     That would be correct, but if they had  
2     other questions, I would try to answer to the best  
3     of my ability.

4           Q     Now, they were obviously asking you  
5     for information about what happened to Crystal.  
6     And what was your response when they would ask for  
7     information about the circumstances of the  
8     accident?

9           A     There again, at that time I was not  
10    given details as to what actually happened at the  
11    accident scene. So at that point I felt that I  
12    couldn't wholly comment on that, and it was  
13    difficult to tell them that I really did not have  
14    a lot of information about that.

15          Q     What was your emotional state as you  
16    were dealing with the family at the residence?

17          A     I thought I was being calm and  
18    professional. And again, I have to do that to  
19    maintain my composure.

20          Q     I take it, based on what we know about  
21    your work that day, you would have been in full  
22    police uniform at their residence?

23          A     That's correct.

24          Q     And we are not going to deal with your  
25    observations at the scene, or the work that you

1 did, because as I mentioned, you will be coming  
2 back for phase two. But just to put it in context  
3 at this time, you had been at the scene for some  
4 considerable time that day?

5 A Actually, I was about a good half a  
6 kilometer north of the scene, and I had just  
7 bypassed the scene prior to going to be set up for  
8 traffic control on the north -- north 59 I should  
9 say.

10 Q And you had, in fact, processed  
11 Harvey-Zenk at the police station. And by process  
12 I mean you had done the fingerprinting and  
13 assisted in the release?

14 A Yes, I was asked to do that.

15 Q So you had some information with  
16 respect to individual, at what stage the  
17 investigation was at, et cetera, as a result of  
18 your involvement that day with Harvey-Zenk?

19 A That would be correct.

20 Q But the information that you did have,  
21 I understand that you were not in a position to  
22 release it?

23 A That's correct. Until a person can be  
24 charged formally and an information made, I did  
25 not feel that I could release the accused's name.

1           Q     Now, Constable, I take it you would  
2 agree with me that, looking at the family's  
3 suffering, and their unprecedented pain and  
4 suffering that day, you arrived there as a person  
5 in authority in your uniform, and you would agree  
6 that your interaction with the family would  
7 require a tremendous amount of compassion, empathy  
8 and understanding. And did you display or  
9 demonstrate those qualities to the family that  
10 day?

11           A     I believe I did. I know even -- there  
12 was a few moments where I did feel like crying  
13 with them, but I knew that that would probably not  
14 be good, to try and continue on and help them out.

15           Q     Okay. And I'm going to put this  
16 question to you, Officer Pedersen, and I'm putting  
17 it to you, in fairness to you, we have heard some  
18 testimony that you may not have demonstrated the  
19 level of compassion or understanding, sympathy, et  
20 cetera. But do I understand from what you are  
21 telling us that one of the ways you have, you deal  
22 with the emotion is to try to be stoic or  
23 courageous yourself?

24           A     I try to be. It is hard sometimes.  
25 For me, I manage to go through the process of

1 doing what I'm required to do at the time, and  
2 then a day or two later it will hit me.

3 Q Well, I can understand, Constable  
4 Pedersen, that that is not an easy job to do, to  
5 go and deal with a family in those circumstances.  
6 Just take a moment officer.

7 A That's exactly why I don't want to  
8 show my emotions, because sometimes it is hard to  
9 control it.

10 Q Can I ask you, Constable Pedersen, how  
11 did the Taman family make you feel when you were  
12 dealing with them?

13 A I felt so sorry for them, I couldn't  
14 imagine what they were going through. I have seen  
15 so much of this kind of situation before, in my  
16 job, it takes a toll. But it is different when  
17 you go through it personally, and I have  
18 experienced that as well.

19 Q Did you form an impression that they  
20 might have been frustrated about not getting  
21 details about the circumstances of the accident?

22 A I think they were probably somewhat  
23 that way, yes.

24 Q Did they express that to you?

25 A I think I sensed that in the questions

1 they were asking.

2 Q And I take it you understood, of  
3 course, you were in a difficult position yourself,  
4 that you as a police officer, you would have some  
5 information but you couldn't disclose it?

6 A Yes, that's correct.

7 Q And perhaps the best you could do is  
8 explain to them that, well, I have some  
9 information but at this point we can't release  
10 details. Is that typically the response that you  
11 would give?

12 A Yeah, that would probably be what I  
13 would try to say about revealing anything, if I  
14 couldn't reveal it, I wouldn't be allowed to do  
15 that.

16 Q We will come back to that issue a  
17 little bit later in reference to another  
18 conversation. But dealing now at the residence,  
19 what material did you bring for the family?

20 A I believe I brought two pamphlets  
21 which sort of dealt with grief counselling, but  
22 they weren't exactly what I had been looking for  
23 in our, what we had available at the station. So  
24 it was just to try and give them some general  
25 information that this is available to them, if

1 they would like it. And I also, when I returned  
2 to the station, contacted Compassionate Friends  
3 and requested some information be sent to the  
4 family through that agency.

5 Q Just going back to the material that  
6 you brought, you mentioned that you brought a  
7 couple of pamphlets and brochures. I take it  
8 there were some that you wanted to bring that you  
9 couldn't find?

10 A Well, there was brochures specifically  
11 like to a child's death, and that's not this kind  
12 of situation. So it was very limited, the  
13 information that we actually have as reference  
14 material.

15 Q Did you provide them with information  
16 prior to leaving, your card or your contact  
17 number, or the coordinate's contact information  
18 for a superior officer?

19 A Yes, I always usually try to do that  
20 and I believe I did that that day. I believe I  
21 actually referred Chief Bakema and Sergeant  
22 Carter, on the back of the card, that they could  
23 speak to if I wasn't around, or if they preferred  
24 to speak with them.

25 Q Did you let them know that they could

1 get in touch with you if they had anything  
2 further?

3 A Definitely.

4 Q Can you tell me how the visit ended?

5 A I'm not quite sure what you mean?

6 Q What lead you to leaving the  
7 residence? Did you say everything that you had to  
8 say and you felt as though it was time to go, or  
9 did somebody from the family ask you to leave?

10 A I think it was at a point that I could  
11 only tell them what I had, and it wasn't very much  
12 at all. So it was basically time to kind of let  
13 them be at their own time.

14 Q Do you recall whether Mr. Taman asked  
15 you to leave after you had provided the family  
16 with some information?

17 A I don't recall that.

18 Q Let me ask you about the work you did  
19 when you left the family. Your notes indicate  
20 that you left at 5:15, or you would have arrived  
21 back at the police station, your duty book notes  
22 have between the time frames of 4:15 and 5:15?

23 A Actually, it is 1415, that's a 24 hour  
24 time clock, so 2:15.

25 Q You are exactly right and I stand

1 corrected.

2 A And what you call 515 would be 3:15.

3 Q I meant 1415 and 1515?

4 A That would be correct.

5 Q And that's the time it took, I take  
6 it, to leave the station, see the family and get  
7 back?

8 A That would be correct, yeah.

9 Q And I understand that when you got  
10 back to the station, you in fact did follow up and  
11 try to get some further information to assist the  
12 family. And I would like you to tell the  
13 Commissioner about what you did?

14 A As I mentioned before, I did try and  
15 contact Compassionate Friends of Canada, and I  
16 spoke with a person there to have them send some  
17 information, and I believe they were sending it  
18 directly to the family.

19 Q The next day on February 26th, 2005, I  
20 understand that you called Mr. Taman, Robert  
21 Taman, at 1555 hours. What was the purpose of  
22 that telephone call?

23 A I think it was just to touch base with  
24 the family again and to advise them that I had  
25 contacted Compassionate Friends.



1           Q     Okay. Now, I understand at that point  
2     that you were not successful in getting in touch  
3     with Robert Taman and you spoke to Randy Taman,  
4     and that there was a further call to Robert Taman  
5     at 1700 hours?

6           A     Yes, that's correct.

7           Q     All right. And if you could elaborate  
8     on that, please?

9           A     In that conversation with Mr. Robert  
10    Taman, I advised that there was charges that would  
11    be laid in this incident, but they haven't been  
12    completed yet, therefore, an information had not  
13    been made, and I didn't know what the charges  
14    were. And also too that they had requested to  
15    have Mrs. Taman's cell phone returned and we had  
16    not been able to locate it yet.

17          Q     The cell phone of Crystal Taman was  
18    something that I understand the family wanted to  
19    get back on February 25th, for the purpose of  
20    notifying her contacts?

21          A     That would be correct, yes.

22          Q     So on February 26th, you are updating  
23    Robert Taman with respect to charges and your  
24    progress on the cell phone?

25          A     Yes, that's correct.

1           Q     Now, this is the next day, the 26th,  
2     you have been dealing with the family, with the  
3     trip to the hospital and the visit at the  
4     residence, and you've explained that one thing  
5     that was required from you was a great deal of  
6     sympathy and understanding. And I take it that,  
7     from a personal level, you were feeling that  
8     yourself, apart from your role as a police officer  
9     or what other officers were asking you to do, this  
10    was something that you genuinely felt towards the  
11    family?

12           A     Definitely.

13           Q     Now, I'm going to ask you to turn to  
14    exhibit 44, and this is your interview with the  
15    RCMP, and it is page 22 of the interview. And to  
16    give some brief explanation on the interview, the  
17    Commission has learned that a number of police  
18    officers and witnesses, including yourself, were  
19    interviewed by the RCMP in 2006, in connection  
20    with this case. And these are the circumstances  
21    surrounding the creation of this transcript. And  
22    I take it you recall vividly being interviewed by  
23    the RCMP?

24           A     I do.

25           Q     Now, at page 22 there is an excerpt or

1 a reference, and I will bring you to it, but in  
2 the day after, I take it, you still felt this  
3 tremendous sympathy for the Taman family; is that  
4 right?

5 A I still feel it today.

6 Q And I understand that you had a  
7 conversation on what you understand to be the day  
8 after you attended the residence and you were  
9 dealing with them. So on the 26th, you had a  
10 conversation with Chief Bakema and you formed some  
11 impression about where his sympathies were lying?

12 A That's correct.

13 Q Okay. And without me necessarily  
14 bringing you to the transcript, tell the  
15 Commission about that conversation, and the  
16 opinion you formed about where Chief Bakema's  
17 sympathies lie?

18 A Chief Bakema, it was the next morning,  
19 I was on day shift and I started at 7:00 a.m. And  
20 Chief Bakema also started at that time. And when  
21 he came into the station, he began to talk to me  
22 about the incident the day before of the accident.  
23 And he started to speak about Mr. Harvey-Zenk, the  
24 accused, and that it was a terrible thing, what  
25 had happened, and how it would affect him now, and

1 that it basically has ruined his life, and I guess  
2 his job. And I nodded my head in agreement, but I  
3 also mentioned that it was terrible for all  
4 involved, being the victims and the deceased and  
5 her family, as well as the other persons,  
6 Mrs. Beattie, who was also injured. And he  
7 agreed, but he seemed to be more concerned, or  
8 speaking more on the accused and how it would --  
9 the outcome would affect his life. And I didn't  
10 say anything after that. I just thought in my  
11 mind that he is still alive, she is not.

12 Q Now, on the issue of Chief Bakema's  
13 expression of sympathy for the predicament that  
14 Harvey-Zenk was in, was there any other officer  
15 that you ever spoke to that expressed a similar  
16 view or concern or sympathy for Harvey-Zenk?

17 A I don't recall anything at the time.  
18 The reason Chief Bakema had spoke to me about it,  
19 or at least that came out in that conversation, I  
20 believe, is that he had said to me he knew the  
21 person, he had worked with him in the Winnipeg  
22 Police Service.

23 Q Now, of course, this conversation is  
24 occurring during a time in which you are  
25 performing victims' services for the family. So

1 you are actually dealing with the grieving family?

2 A I guess I was, yes, at that moment, up  
3 until that point.

4 Q Okay. And for all intents and  
5 purposes, would you consider yourself to be the  
6 person that the family would go to at that point  
7 if they had questions?

8 A At that specific moment, yes.

9 Q February 26th?

10 A Yes, it was the next morning after,  
11 yes, I would consider that.

12 Q Let me bring you forward to the 28th  
13 of February, and this is in connection with a  
14 telephone conversation you had with Jordan Taman.  
15 And there is a reference to this conversation,  
16 Constable, in exhibit 43. That's your narrative  
17 report. It is on the second page of your  
18 narrative report, 2005-02-28, 1640 hours.

19 Now, Jordan Taman and his family had a  
20 number of questions for you on February 25th, and  
21 you were not able to respond to them, other than  
22 giving them some information. What was the nature  
23 of the call, as you recall it, from Jordan Taman  
24 on the 28th?

25 A He again had some questions there,

1 that's when he actually said to me that he had  
2 heard through friends that the accused was an  
3 off-duty Winnipeg Police Service member that was  
4 responsible for the collision, and he asked if  
5 that officer had been relieved of his police  
6 officer duties yet?

7 Q So, putting this in context, you knew  
8 the family was anxious to learn as much as they  
9 could. And now Jordan is contacting you, in  
10 accordance with what you understood to be the  
11 case, that you would be the person that the family  
12 would go to. And he is telling you that he has  
13 heard through friends that it was, one, an  
14 off-duty Winnipeg Police Officer who was  
15 responsible, and he is asking if the officer had  
16 been relieved of his duties yet. Now, I  
17 understand that your response, Constable Pedersen,  
18 was that you told him, told Jordan that you had no  
19 knowledge of who the person was.

20 A That's correct, I did.

21 Q Now, I understand that your position  
22 was that you did not want to provide details of  
23 the ongoing investigation until such time as  
24 somebody authorized you to do it, or it became  
25 public?

1           A     That's correct. I had to do that.

2           Q     Now, I take it that, looking at the  
3 response, you, in fact -- of course, you had  
4 complete knowledge of it in terms of who the  
5 person was?

6           A     That's correct, I did.

7           Q     And do you see, Constable Pedersen,  
8 the effect that your response might have had on  
9 the Taman family, in so far as what they want to  
10 know is, are these rumours in the community true?  
11 And your response was, well, I am the go to person  
12 and I don't know. Your response was to let them  
13 think that you, the person who is designated to  
14 give them information, didn't even know about  
15 that.

16          A     I can understand how they may have  
17 felt, yes.

18          Q     And I understand, of course, in  
19 fairness to you, what your motive was. But I take  
20 it you would have no difficulty in agreeing with  
21 me that, perhaps, and again in hindsight, the more  
22 appropriate response would have been, well, with  
23 respect to information, you will have to leave  
24 that with me, I can follow up with you at a later  
25 time, because at this point, I'm really sorry, I

1 can't give you any information or a response of  
2 that nature?

3 A That would have been a better  
4 response, definitely.

5 Q And probably would have saved the  
6 family a great deal of concern about what the  
7 police were actually doing?

8 A Yes, that's correct.

9 Q Now, there is one other area that I  
10 wanted to address with you, Constable Pedersen,  
11 and that is, of course, you were involved in the  
12 process where Derek Harvey-Zenk was released from  
13 the police station on February 25th?

14 A Yes, I had some involvement in that.

15 Q And he was released, I understand, at  
16 approximately 2:00 o'clock in the afternoon that  
17 day?

18 A I don't know what time exactly he was  
19 released. I know I took his fingerprints.

20 Q And you took his prints, and some time  
21 shortly after that, without being specific, am I  
22 correct that your understanding was that he was  
23 going to be leaving?

24 A At the time I took his fingerprints, I  
25 was under the understanding that he was released.



1           Q     Did it occur to you, or any other  
2 member of the East St. Paul Police, that that fact  
3 in and of itself might be of significance to the  
4 family, that if they learned the identity of the  
5 individual, that they could have a chance  
6 encounter with this individual?

7           A     I'm not sure what you are asking?

8           Q     Did it occur to you that that  
9 information should have been conveyed to the  
10 family, that the individual who was arrested and  
11 now facing charges was released into the  
12 community?

13          A     Oh, I see what you are saying. You  
14 are asking whether or not I could have told him he  
15 was released; is that correct?

16          Q     Almost -- whether you should have told  
17 him, told the family that he was released?

18          A     I guess I could have told him that,  
19 yes.

20          Q     Okay. And can I bring you a little  
21 bit further in terms of whether you are prepared  
22 to agree with me that you should have told the  
23 family that the individual facing charges, and I  
24 know that the information may not have been sworn,  
25 but this individual was processed, booked,

1 fingerprinted, photographed, et cetera, and back  
2 out in the community, that they should have been  
3 informed of that fact?

4           A     I thought when I went to the family's  
5 residence that I had told them that someone had  
6 been arrested and that charges would be laid, and  
7 I don't know if I said that they had been released  
8 or not. I guess I just assumed that that was what  
9 someone would know, but I shouldn't have made that  
10 assumption. So to answer your question, yes, I  
11 guess I should have actually said to them he had  
12 been released.

13           Q     Thank you, Officer. I understand as  
14 well in that conversation that you did advise the  
15 family that you would advise them forthwith about  
16 the charges once they were completed?

17           A     Once I knew, yes.

18           Q     And you also indicated, for the  
19 benefit of the family, that the East St. Paul  
20 Police would follow up with them prior to any  
21 media release being conducted?

22           A     That was what they requested, and I  
23 revealed that, or relayed that to my supervisors,  
24 and that was to be honoured, from my  
25 understanding.

1           Q     And the family as well, and  
2 particularly Jordan, expressed concern about the  
3 fact that they were barraged by the media and they  
4 had some concerns about the media actually  
5 attending at the funeral?

6           A     That would be correct, yes.

7           Q     And you indicated to them that they  
8 could request the Winnipeg Police Service to  
9 provide monitoring at that time?

10          A     Yes.  Actually, I had spoken to  
11 Sergeant Carter about that and asked what he  
12 thought could be done.  And he said, because the  
13 funeral was taking place in Winnipeg, that they  
14 could probably get some assistance from Winnipeg  
15 Police, if that would be a problem.

16          Q     Now, on February 28th, you are telling  
17 Jordan Taman that you are going to be away from  
18 work for a brief period of time, and that he had  
19 the option of following up with an individual  
20 referred to as Doreen from VSU?

21          A     That's correct.

22          Q     Or Chief Bakema or Sergeant Carter?

23          A     That's correct.

24          Q     Did you have any further direct  
25 dealings with the Taman family?

1           A     Not after that.

2           Q     What was the nature or the demeanor of  
3 phone call with Jordan Taman? Was it a pleasant  
4 exchange between the two you?

5           A     He had a lot of questions and wanted  
6 answers, and there was some answers that I wasn't  
7 privy to tell him, because the investigation had  
8 not been completed yet and the charges had not  
9 been laid. So our policy, normally, is until  
10 that's all completed, we don't give out the  
11 information of the accused, the charges and things  
12 like that.

13          Q     And you wouldn't necessarily have to  
14 be a police officer with a great deal of  
15 experience to detect that Jordan Taman was quite  
16 frustrated?

17          A     I could sense that on the phone,  
18 definitely. He had also indicated that he wanted  
19 to be the contact person for the family on that  
20 conversation.

21          Q     One other area that I wanted to  
22 address with you, Constable Pedersen, is in  
23 relation to exhibit 45. And exhibit 45, we know  
24 is from volume P-3, tab 86, page 2802. And that  
25 is the East St. Paul Police memorandum dated

1 1998/10/07.

2 Now, what this memorandum relates to,  
3 Constable, is the Victim Impact Statement program  
4 in place at the East St. Paul Police, albeit we  
5 are going back to 1998. If we bring ourselves  
6 forward to 2005, what was the state of the Victim  
7 Impact Statement program at the East St. Paul  
8 Police?

9 A I had not seen this memo prior to the  
10 other day with counsel. So the only information I  
11 had was that, as I stated previously, that we did  
12 have a Victims' Bill of Rights to implement, which  
13 did allow the victims to give a Victim Impact  
14 Statement, and we were to assist them with that if  
15 they required.

16 Q So you may not have been aware of the  
17 existence of this memorandum, or had the  
18 opportunity to read it, but I understand that in  
19 your practice you dealt with Victim Impact  
20 Statements and you knew you had a duty in  
21 connection with them?

22 A Yes, I did.

23 Q And that cases involving criminal  
24 negligence, impaired causing death or bodily harm,  
25 would they be the type of cases where the police

1 force would provide Victim Impact Statements to  
2 family members of victims of crime?

3 A Yes, that's correct, according to this  
4 memo, that's correct.

5 Q And when you had the opportunity to  
6 review this memorandum, as you say, some time ago  
7 with your counsel, did it reflect your practice in  
8 so far as your work with Victim Impact Statements?

9 A The one opportunity, as I said, I had  
10 a situation before where I was, I gave a Victim  
11 Impact Statement to a victim to complete and  
12 assisted with that. And that was under the  
13 direction of my supervisors to take that  
14 initiative. I had knowledge of that at the time,  
15 but when I spoke with the Taman family, I actually  
16 wasn't thinking of that at the very time that I  
17 spoke with them. It never really even crossed my  
18 mind. And once the date of the 25th and the 26th  
19 were actually over, I really never had a lot of  
20 contact afterwards with the family, other than  
21 speaking with Jordan Taman on the 28th.

22 Q I understand that after that  
23 conversation concluded, you had no further  
24 dealings with the Taman family?

25 A Yeah, at that time I actually wasn't

1 privy to really what was going on with the  
2 investigation.

3 MR. CLIFFORD: Constable Pedersen,  
4 thank you very much for appearing today before the  
5 Commission. Those are the questions that I have  
6 for you. Other counsel may have questions, so  
7 please remain seated.

8 BY MS. BOWLEY:

9 Q Constable Pedersen, I understand that  
10 at the hospital on February 25 of 2005, the family  
11 inquired about Crystal Taman's cell phone; is that  
12 right?

13 A I believe they did, yes.

14 Q What did you do in response to their  
15 inquiry?

16 A I told them that I would try to find  
17 out for them. And when I went back to the scene  
18 actually to continue to conduct more traffic  
19 control, I first stopped and spoke with Chief  
20 Bakema and Constable Graham in the vehicle at the  
21 scene, and advised them that the family was asking  
22 for Crystal's telephone back. And I thought that  
23 Chief Bakema had taken a note in his notebook, and  
24 I left the information with him.

25 MS. BOWLEY: Thank you. Those are my

1 questions.

2 BY MR. ZAZELENCHUK:

3 Q Officer, you told us that you -- let  
4 me put it in perspective, I'm going back to the  
5 beginning, 7:00 o'clock or shortly thereafter on  
6 the morning of the 25th. I think you told us in  
7 your direct evidence that you bypassed the scene  
8 of the collision?

9 A That's correct.

10 Q And you were directed to go to the  
11 north of the collision on Highway 59 and to direct  
12 traffic?

13 A That's correct.

14 Q Okay. Who directed you to do that?

15 A That was Constable Graham.

16 Q Okay. So you didn't actually, at 7:00  
17 or 7:15, you didn't actually see the scene at all,  
18 or you may have just driven past it?

19 A I was actually just pulling up to the  
20 scene, and I don't even believe I had stopped the  
21 vehicle when I was asked to go down to the north  
22 end of 59 and conduct traffic there, and stop them  
23 from coming through.

24 Q And your notes seem to indicate that  
25 that would have been at about 7:15 or 7:20?



1 That's exhibit 42, and feel free to refer to them.

2 A Actually, we had gotten a call  
3 approximately at 7:10, and the information we  
4 received was that the collision was at Perimeter  
5 Highway and Henderson Highway, which is --

6 Q Further down?

7 A Yes, it is further west. So I was the  
8 first to leave the station, and that was the  
9 direction I was heading at. So when I found out  
10 that it was not the correct scene, I had turned  
11 around, coming back to this area, because I had  
12 seen traffic backed up there. And then I had been  
13 told by Constable Graham on the radio that that  
14 was the actual collision scene, at Highway 101 and  
15 59. So as I was coming back and heading around  
16 and going up to the scene, another officer was  
17 already there. And then I was directed to go down  
18 to the north end of 59, near the weigh scales, and  
19 prevent traffic from coming through southbound.

20 Q Okay. Can you tell us with any  
21 precision, and if you can't, that's  
22 understandable, but can you tell us with any  
23 precision what time it was that you were directed  
24 to go to the north of the scene and direct  
25 traffic?

1           A     It probably would have been within a  
2     minute of 7:20 when I actually arrived at the  
3     north end.

4           Q     Thank you. I appreciate that. You  
5     then directed traffic, I get the impression from  
6     your notes, for about an hour and ten minutes?

7           A     I believe it was probably around that  
8     amount, yeah.

9           Q     Because you say you got a call from  
10    the chief at, it looks like 8:28, according to  
11    your notes?

12          A     That's correct.

13          Q     Okay. And the Chief directed you to  
14    attend the Concordia Hospital?

15          A     That's correct.

16          Q     And you already told us why?

17          A     That's correct.

18          Q     Was somebody sent to relieve you, do  
19    you know?

20          A     I can't remember actually.

21          Q     But you get the call from the Chief on  
22    your cell phone. You are directed to go to  
23    Concordia, so you get in your car and go?

24          A     I think there was actually a RCMP  
25    officer that came down to assist, to my location.

1           Q     Okay.  Now, you are on the north side  
2     of Perimeter Highway which intersects Highway 59;  
3     correct?

4           A     I'm on the north end of 59 Highway --

5           Q     But --

6           A     -- where it intersects 101, yes.

7           Q     59 runs roughly south and north?

8           A     That's correct.

9           Q     And at that point the Perimeter, where  
10    it intersects, it runs roughly east and west?

11          A     That's right.

12          Q     So you are north of Perimeter on 59,  
13    that's where you are directing traffic?

14          A     Yes, I am.

15          Q     Concordia Hospital is a couple of  
16    kilometres south of Perimeter Highway on --

17          A     Lagimodiere Boulevard -- well, off  
18    Lagimodiere on Concordia.

19          Q     Sure.  If you stay on 59 long enough,  
20    it becomes Lagimodiere?

21          A     That's true.

22          Q     Okay.  How do you get to the hospital?

23          A     I'm in the police vehicle, which I had  
24    conducting traffic control, and I take that  
25    vehicle and go to the hospital.

1 Q You go past the scene?

2 A I do.

3 Q And you cross the Perimeter at more or  
4 less the scene, and keep on going until you get to  
5 Concordia?

6 A That's correct.

7 Q How long did the drive from where you  
8 were directing traffic to Concordia Hospital take?  
9 I know you say you arrived there at 8:48?

10 A Yeah. I guess that would be about  
11 right, 20 minutes, because I had to actually get  
12 past the scene and there was other vehicles,  
13 emergency and that kind of thing around, I  
14 believe. So it was a little bit to go by there.

15 Q Okay. And to get past the scene, you  
16 had to go on the shoulder or something like that?

17 A I think perhaps I may have had to do  
18 that, yeah. And slow down, of course.

19 MR. ZAZELENCHUK: Those are my  
20 questions. Thank you.

21 MR. McFETRIDGE: No questions.

22 MR. GREEN: No questions.

23 THE COMMISSIONER: Any re-examination?

24 MR. CLIFFORD: Nothing arising from  
25 that, Mr. Commissioner. And that is the evidence

1 that we intended to call today.

2 THE COMMISSIONER: Thank you very  
3 much.

4 THE WITNESS: Thank you, Your Honour.

5 THE COMMISSIONER: Thank you,  
6 gentlemen. It has been a long day, I didn't  
7 intend to sit this long, but I'm grateful for your  
8 patience. It is nice to get a witness out of the  
9 way, and I know that witnesses are anxious to have  
10 their evidence completed once it starts. 9:00  
11 o'clock tomorrow, any problems with that?

12 MR. GREEN: No, I told you I don't  
13 have any problem with this week.

14 THE COMMISSIONER: Okay. 9:00 o'clock  
15 tomorrow morning.

16 THE CLERK: All rise. This Commission  
17 of Inquiry is adjourned until tomorrow at 9:00  
18 a.m.

19 (Adjourned at 4:59 p.m.)

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OFFICIAL EXAMINER'S CERTIFICATE

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

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Cecelia Reid  
Official Examiner, Q.B.

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