

INQUIRY INTO THE INVESTIGATION AND
PROSECUTION OF DEREK HARVEY-ZENK

The Honourable Roger Salhany, Q.C., Commissioner

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Interview of Jason Woychuk
Held at the Taman Inquiry Offices,
30-200 Vaughan St.
Winnipeg, Manitoba

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Wednesday, March 12, 2008

This is the Interview of Jason Woychuk,
had and taken by Cecelia J. Reid, Official
Examiner, Q.B., at the offices of The Taman
Inquiry, 30-200 Vaughan St., Winnipeg, Manitoba,
on the 12th day of March, 2008 at 9:00 in the
forenoon.

APPEARANCES

Mr. Vincent Clifford

Associate Commission Counsel

Mr. R. McDonald

Appearing with Jason Woychuk

Reporter:

CECELIA J. REID

Official Examiner, Q.B.

1 WEDNESDAY, MARCH 12, 2008

2 UPON COMMENCING AT 9:00 A.M.

3

4 MR. CLIFFORD: It is March 12th, 2008,

5 we are at the Taman Inquiry office in Winnipeg.

6 The time of day now is 9:15 a.m. I'm Vincent

7 Clifford, Associate Commission Counsel. Present

8 are Jason Woychuk, who is a police officer with

9 the East St. Paul Police. He is accompanied by

10 his legal counsel, Bob McDonald. Also present is

11 Cecelia Reid, who is our official court reporter,

12 and who will be furnishing transcripts of this

13 interview to various parties.

14 Jason, in view of your involvement in

15 the Crystal Taman case, the Commission wants to

16 ask you a number of questions prior to you

17 testifying at the Inquiry. Before doing that, I

18 would like to thank you for attending for this

19 interview. And prior to the questions and

20 answers, I will administer the oath. You have the

21 option of swearing on the Bible or giving a solemn

22 affirmation. What one would you like to do?

23 THE WITNESS: I will swear.

24 MR. CLIFFORD: Our court reporter will

25 swear you. She has authority to do that.

1 COURT REPORTER: Do you swear the
2 evidence to be given by you shall be the truth,
3 the whole truth and nothing but the truth, so help
4 you God?

5 THE WITNESS: Yes.

6 BY MR. CLIFFORD:

7 Q Jason, I wanted to let you know that
8 the areas that I would like to cover in general,
9 before we get started on the specific details, are
10 first your experience as a police officer, your
11 number of years working, et cetera. And then I
12 would like to begin to ask you about what happened
13 on February 25th, 2005, your observations at the
14 scene, what you observed taking place there
15 between other individuals that were present. Then
16 I'm going to ask you some questions about your
17 notetaking and the report preparation process in
18 this case. And then I will move into discussions
19 that you've had with other individuals about the
20 case, other East St. Paul police force officers,
21 et cetera. And then we will conclude with some
22 questions regarding any preparation that you might
23 have had for the case when it was in the process
24 of going to court. Okay?

25 A Okay.

1 Q So, if you could take some time now
2 and just tell me, sir, about your experience as a
3 police officer thus far, when you started, how old
4 you were when you started, and where it was, and
5 bring us to the present date?

6 A I guess my experience would be, I
7 started as an auxiliary constable with the Dakota
8 Ojibway Police.

9 Q Could you repeat that?

10 A Auxiliary constable with the Dakota
11 Ojibway Police.

12 Q Ojibway Police?

13 A Yes. I was there as an auxiliary
14 member for approximately two years. And then in
15 August of 2004, I got hired as a regular member
16 with the Dakota Ojibway. And October 2004, I got
17 hired by East St. Paul police, and my start date
18 was October 6th, 2004, and I guess up to now is
19 approximately three and a half years with East St.
20 Paul.

21 Q And can I ask you what your rank is?
22 Are you a constable?

23 A I'm a constable, yes.

24 Q And how old are you, sir?

25 A I'm 32.

1 Q Going then to February 25th, 2005, I
2 understand that you've had an opportunity to
3 review your duty book notes from that day?

4 A Yes.

5 Q And you have also had an opportunity
6 to review the incident narrative that was prepared
7 as well?

8 A Yes.

9 Q And in addition, have you had an
10 opportunity to review your statement to the
11 RCMP --

12 A Yes, I have.

13 Q -- from May 24, 2006?

14 A Yes.

15 Q And as well there was a second
16 interview to the RCMP which was June 9th, 2006.
17 Did you have an opportunity to read that one as
18 well?

19 A Yes.

20 Q So if you could tell me, Constable
21 Woychuk, about your involvement on February 25th
22 in the Taman case, starting from the very
23 beginning?

24 A Okay. Starting from the beginning
25 would be, I was coming off of night shift which

1 ended at 7:00 a.m.

2 Q What time did you start that night
3 shift?

4 A I believe 9:00 p.m.

5 Q So you had been working from
6 9:00 p.m.?

7 A Until 7:00 a.m.

8 Q Until 7:00 a.m., so from February 24th
9 over to February 25th?

10 A Yes.

11 Q Did you have a busy night?

12 A I don't recall.

13 Q Carry on then.

14 A I believe it was around 10 after 7:00,
15 I was still in the building. The day shift had
16 already come in, as well as the chief had come in
17 for the morning shift. And they received a call
18 regarding a vehicle collision on Henderson Highway
19 at Highway 101. I guess the serious nature of the
20 call, I believe I was asked to attend to it as
21 well since I was already there. From that point I
22 don't recall if I was wearing a uniform or if I
23 had to go change. I got into a vehicle and I
24 started heading in the direction of Henderson
25 Highway and 101. At some point along the way, it

1 turned out that the collision was actually at
2 Highway 59 and 101, so I had taken a bit of a
3 detour because I was going to the Henderson
4 location.

5 Q Do you know who gave you the
6 instructions, the initial directions?

7 A Of where the collision was?

8 Q Yes?

9 A I believe it came from 911, but I
10 don't recall who I heard it from. Would you like
11 the route I took or --

12 Q You can tell me the route that you
13 took.

14 A I guess I'm not really 100 per cent
15 sure on the route I took. I know that I went, I
16 thought that I went down 101 and turned westbound
17 to go towards Henderson, but from looking at my
18 notes I have that I went Sperring to Raleigh Road.
19 So, either way I came in from the back -- I came,
20 when I came to the collision scene I was going
21 north on 59, and I came in the northbound lane
22 where I came to a stop, at Highway 59 where it
23 turns west to Highway 101, and that's where my
24 vehicle was parked. From that point on, when I
25 first got there I guess my initial idea was to

1 block that side of the collision scene off and to
2 make it safe.

3 Q What type of vehicle were you driving?

4 A I was driving a police unit RM2, it is
5 a Ford Explorer marked unit.

6 Q And when you came upon the scene,
7 could you describe what you saw in terms of where
8 vehicles were located, what other police officers
9 might have been doing, or whether they were even
10 present, how the vehicles were situated that were
11 involved in the accident?

12 A When I came to the scene I saw the
13 yellow Sprint, which was basically somewhat in the
14 middle of the intersection, I guess, southbound
15 Highway 59. I saw a truck that was maybe
16 100 yards south from that vehicle that was in the
17 median snow bank, and I saw that there was a green
18 vehicle that was, I'm not sure of the positioning
19 to the yellow Sprint, but it was on the curb side,
20 I believe in the snow bank as well, somewhere
21 closer to the intersection. I don't recall seeing
22 any other police there. I believe that I know
23 there was, but I don't recall seeing where they
24 were, or where they were parked at the time. And
25 I don't recall if there was fire or if there was

1 ambulance on scene at that time. I believe there
2 probably was, but I don't recall for sure.

3 Q What did you do then upon your
4 arrival?

5 A I guess upon my arrival, I guess I'm
6 not 100 per cent sure how it went, but at some
7 point I had got out and put traffic cones to block
8 traffic from behind my vehicle and to start
9 directing traffic at some point as well.

10 I was brought a male who was put in
11 the back of my police unit and I was advised that
12 it was the driver of the truck that was involved
13 in the collision.

14 Q Do you recall whether you were putting
15 cones out when you first arrived, or do you simply
16 recall doing it at some point during --

17 A I just recall doing it at some point,
18 I don't recall which order. My notes say, I
19 believe say I put the cones out when I first got
20 there.

21 Q Are you able to say what the first
22 thing is that you recall happening when you
23 arrived at the scene, with any certainty?

24 A No.

25 Q You do know, of course, that a

1 gentleman was brought to your police car?

2 A Yes.

3 Q Let's focus on that. I would like to
4 you tell me as much as you can about how that
5 happened and who brought the individual to you?

6 A Okay.

7 Q What was said, what was done, what you
8 did as a result of it?

9 A Okay. I was at my vehicle, and I
10 don't recall if I was sitting in the vehicle or if
11 I was outside of the vehicle. And the male was
12 brought to me, who was identified as the driver of
13 the truck, he was brought to me by Chief Bakema.
14 And Chief Bakema opened, I believe it was a rear
15 driver's side door of our RM2, put him in the
16 vehicle, and then shut the vehicle. And at that
17 point I was outside of the vehicle. And he
18 advised me that was the driver of the truck and he
19 was going to put him in my vehicle, and he made a
20 comment to me, I'm not sure of the exact wording,
21 something to the effect of possibly impaired or
22 impaired, I don't recall what the exact wording
23 was.

24 And at some point during that brief
25 conversation with Harry, I had asked him what he

1 wanted me to do, and he said not to do anything,
2 that he was going to have Sergeant Carter at the
3 time come to the scene and deal with the
4 collision.

5 And I don't recall if there was any
6 mention of medical attention or if there was
7 ambulances coming, or I don't recall if they were
8 there at that time.

9 Q Continue?

10 A From that point I guess I was in the
11 vehicle off and on and I did -- the individual
12 gave me his driver's licence. I didn't really
13 talk to him, he didn't talk to me. And I guess
14 from that point I was in and out of the vehicle.
15 I was directing traffic as well. I guess that's
16 how that kind of happened.

17 Q So you had identified the individual
18 by driver's licence?

19 A I identified him by driver's licence.

20 Q Okay. And who was it?

21 A It was Derek Harveymordenzenk. I
22 believe that Chief Bakema made a comment to me too
23 that he was either a police officer or was a
24 Winnipeg police officer when he brought him to the
25 vehicle.

1 Q When he was placed in the back of the
2 your vehicle, do I understand correctly that you
3 were in and out of your vehicle?

4 A I believe I was outside of the vehicle
5 when he was placed in the back, but at different
6 times during the incident I was in and out.

7 Q That's what I mean, that once he
8 was -- once the individual was placed in the back,
9 that you didn't remain in the back all of the time
10 with him?

11 A That's correct, I was in and out.

12 Q And what were you doing?

13 A I was, I guess my main focus was
14 traffic, I was watching traffic. But several
15 times during the course of the time I was there,
16 there was -- northbound traffic was I guess bottle
17 necking and there was quite a few close other
18 collisions, and I was concerned that we were going
19 to get struck from behind.

20 Q Did you move the vehicle at all, or
21 did you simply get out to move the traffic?

22 A I think I got out at first, well, I
23 know I got out and I was trying to direct traffic,
24 and then at some point I did move the vehicle. I
25 believe I moved it probably a few feet more to the

1 median side, to just try and create a little more
2 space between us and the northbound traffic.

3 Q When Chief Bakema brought this person
4 over to your car, who you identified as
5 Mr. Harvey-Zenk, when he brought him to the
6 vehicle, was it at that point that he mentioned to
7 you words to the effect that he was impaired or
8 possibly impaired, or was it later?

9 A I believe it was at that point.

10 Q And are you able to indicate at what
11 point it was that Chief Bakema advised you that
12 the individual was a Winnipeg Police Officer?

13 A I believe it was at the same point,
14 after he put him in the vehicle.

15 Q So you are therefore operating with
16 the knowledge, whether it is true or not, at least
17 it has been imparted to you the knowledge that you
18 have an individual who the Chief of Police thinks
19 might possibly be impaired and who is a Winnipeg
20 police officer?

21 A Right.

22 Q And you asked the individual, I
23 understand, for their driver's licence?

24 A That's correct.

25 Q And they provided it to you; is that

1 correct?

2 A That's correct.

3 Q What conversation, if any, did you
4 have with this individual?

5 A I don't recall anything specific, but
6 I believe that, I believe I had asked him if he
7 was injured in any way. I think that's pretty
8 much it. He wasn't, I don't believe he really
9 said anything to me.

10 Q Was there any conversation between the
11 two of you?

12 A I believe that was probably the extent
13 of it.

14 Q Did you try to have a conversation
15 with him?

16 A From what I recall, I just had asked
17 him if he was injured, and I think I told him that
18 there was an ambulance coming, or that there was
19 going to be medical attention to look at him. I
20 recall seeing, I believe the reason for that, I
21 recall seeing injuries on his face.

22 Q And what else did you notice about the
23 individual, anything in particular, anything apart
24 from the injury to their face?

25 A Not right away, I didn't really

1 notice. I noticed, I guess the biggest thing that
2 I remember is I just remember watching him
3 swallow.

4 Q Describe that for me?

5 A It was, I don't know how to describe
6 it, it just looked very uncomfortable. Like he
7 was either injured or -- just that I remember
8 watching through the rear mirror and I could see
9 every time he swallowed.

10 Q What, if anything, can you tell me
11 about his emotional state?

12 A He was very quiet. I guess that's the
13 only thing I really picked up on, he was just very
14 quiet. He seemed -- I thought that what appeared
15 to me is that he was in shock.

16 Q Did Chief Bakema say anything else to
17 you when he brought the individual over?

18 A No.

19 Q Can you tell me what took place with
20 this individual as the morning progressed?

21 A I don't recall, other than looking at
22 my notes, how long I was at the scene for.

23 Q Did anybody come over to the
24 individual and check on them? Did another police
25 officer come? Did firemen, paramedics, anybody

1 come and deal with him?

2 A Paramedics came and spoke to him at
3 some point.

4 Q You were still present when this was
5 taking place?

6 A I was present. I don't know if I was
7 in the vehicle or outside of the vehicle. I
8 believe when they were in the vehicle speaking
9 with him that I was outside the vehicle.

10 Q Describe in as much detail as you can
11 what took place when the paramedics came over to
12 deal with Mr. Harvey-Zenk who was in the back of
13 your car?

14 A Okay. I believe they came over, I
15 don't recall any conversation I had with them
16 before they spoke to him. They -- one of them I
17 think was in the rear seat with Harvey-Zenk, and I
18 don't recall for any length of time he was in
19 there. I believe that was Ted Rosser. And he,
20 once he had come out of the rear seat, he had
21 advised me that he had signed a waiver that he
22 didn't want any medical attention. And at some
23 point after he exited the vehicle too, he had also
24 made a comment to me or a motion that there could
25 be possibly alcohol involved. I don't recall if

1 it was a comment or a motion.

2 Q Can you just elaborate on that a
3 little bit more, what you mean by a comment or
4 motion?

5 A I don't know if he said to me that he
6 smelled alcohol or if he possibly just, you know,
7 gave the hand sign that he could be drinking.

8 Q And by that are you saying that he put
9 his hands up to, like a cup up to his mouth?

10 A That's correct. I don't recall if
11 that was -- I really don't recall if it was that
12 way or if it was words that he said to me.

13 Q Apart from whether it was a comment or
14 a motion, do you have a memory of the paramedic
15 giving you that piece of information?

16 A Yes, I do.

17 Q So now you have what has been imparted
18 to you by Harry Bakema about impaired or possibly
19 impaired. You have the knowledge that he is a
20 Winnipeg police officer. You have the information
21 that's being provided by the paramedic. Are you
22 at this point determining whether there is any
23 odour or any indicia of alcohol consumption
24 yourself?

25 A At that point I didn't have any odour

1 or any other signs or symptoms, other than what
2 was I guess told to me or comments made to me.

3 Q After the paramedics, after the first
4 paramedic dealt with him, did anybody else come
5 along?

6 A Nothing that I can remember.

7 Q While this is taking place, are you
8 able to say where other police officers are or
9 what they are doing on the scene?

10 A Not for certain, not any given time.
11 I believe Chief Bakema at the time and Constable
12 Graham were somewhere within the scene. I
13 believe -- I did speak to Harry a few times, he
14 came over to the vehicle or he would be close by
15 and I would talk to him.

16 Q Do you remember what you were talking
17 to him about?

18 A I remember asking him what he wanted
19 me to do, for direction.

20 Q To do with what?

21 A I guess with regards to who I have in
22 the back of the vehicle, what direction he wanted
23 me to do.

24 Q And how were you putting that to him?
25 What type of question or statement were you making

1 to him?

2 A I believe the first, when he first
3 brought him he mentioned not to do anything, that
4 Sergeant Carter at the time was coming to the
5 scene. And I don't recall exact conversations or
6 questions I asked him later, is Norm coming or
7 what do you want me to do?

8 Q Were you advised that Sergeant Carter
9 would be coming to the scene?

10 A That's correct.

11 Q So you were expecting Sergeant
12 Carter's arrival based on that?

13 A That's right.

14 Q And how much time went by, do you
15 recall, before you spoke to Chief Bakema to get
16 further direction?

17 A I don't recall how much time went by.
18 I believe in total I probably spoke to him two,
19 three or four times. I don't recall for certain.

20 Q And was it all related to the same
21 issue?

22 A Basically, yes.

23 Q And this was you asking Chief Bakema,
24 what am I supposed to do?

25 A That's right.

1 Q And what --

2 A What he wanted me to do.

3 Q And what was the response or
4 responses?

5 A I don't recall in which order or exact
6 wording, but the responses were, don't do
7 anything, Norm is coming. I believe there is two
8 or three that were, don't do anything, Norm is
9 coming, Norm will be here shortly, don't do
10 anything. And the last was, take him to the
11 office and meet Norm there, Norm is there.

12 Q When you are advised by Chief Bakema
13 to take him to the office, do I understand that he
14 is telling you that Norm Carter will be at the
15 office?

16 A Yes.

17 Q As opposed to coming to the scene, you
18 are now to take him to where Norm Carter is?

19 A That's right.

20 Q Did you ask any questions about that?
21 Did you look for any further direction, make any
22 inquiries about why there was a change in the
23 plan?

24 A I don't think I did. I don't recall
25 for certain. I did just what I was told to do.

1 Q Did you make any -- did you ask about
2 the fact that the Chief had indicated to you that
3 the person might be impaired and that they were a
4 police officer?

5 A I don't recall if I had asked
6 anything. I recall -- I believe that I probably,
7 that I had told Harry what the ambulance attendant
8 had said or the comment that he had made, but I
9 don't recall any response from that or --

10 Q So your belief is that you advised
11 Harry Bakema that the ambulance attendant either
12 made a comment or a motion about alcohol
13 consumption?

14 A I don't recall for certain, but I do
15 believe that I did mention that.

16 Q Do you have any recollection about
17 responses?

18 A No, I don't.

19 Q Did you get any other direction from
20 Chief Bakema with respect to going to the station
21 with Harvey-Zenk?

22 A Nothing that I recall.

23 Q Did he give you any indication about
24 what information to give to Norm Carter when you
25 got there, why you were bringing somebody to the

1 station? Do you know what level of communication
2 was taking place between Bakema and Carter?

3 A I don't recall any specific
4 information that was given to me to relate to
5 Norm, and I don't know how the communication
6 between Chief Bakema, at the time, and Sergeant
7 Carter, I don't know, at that time I didn't know
8 whether they were in direct communication or if
9 they were going through someone else.

10 Q What did you do then as a result of
11 instructions that you received from Chief Bakema?

12 A I drove to the office with Zenk.

13 Q What happened on the way, anything of
14 note?

15 A At some point, I'm not sure if it was
16 when I was on the way or before, I did get a
17 slight odour of liquor, but I don't recall if it
18 was enroute there or if it was just prior to that.
19 Nothing happened on the way. I arrived at the
20 station and I met Norm there.

21 Q Continue?

22 A Then I don't recall what I relayed to
23 Norm. I believe I relayed that I had an odour of
24 liquor coming from him and he was the driver of
25 the truck involved in the collision, and I don't

1 recall if I relayed to him that he was a Winnipeg
2 police member or not.

3 Q What about the conversation that you
4 had with Harry Bakema at the scene, did you relay
5 any of the information that you received from
6 Bakema to Carter?

7 A I don't recall. I don't recall what I
8 relayed.

9 Q And what happened from there?

10 A Chief Carter, well, now Chief Carter
11 came out to the police unit which was parked in
12 the parking lot, and he had spoke to Harvey-Zenk.
13 Then we had gone into the office. I believe he
14 was taken in, I don't recall which doors it was,
15 we were under construction at the time, he was
16 taken in to the back of the office.

17 Q Did you accompany them?

18 A I did.

19 Q Tell me what was happening?

20 A We just went into the office, and I
21 guess at some point Sergeant Carter had formed an
22 opinion that he was impaired.

23 Q What lead you to that conclusion?

24 What did Sergeant Carter do or say?

25 A I believe he advised him that he was

1 under arrest for impaired driving causing death.

2 Q Did you have any conversation up to
3 that point with Sergeant Carter about impairment?

4 A I believe I probably told him what I
5 had, that I noted a slight odour, and thinking
6 back I do believe that I probably relayed some of
7 the conversation that Harry had told me. I
8 believe -- I don't recall, but I believe that I
9 had said something about he could be impaired or
10 possibly impaired.

11 Q Are you able to describe what happened
12 at the point that Sergeant Carter advised him that
13 he was being placed under arrest?

14 A He advised him that he was under
15 arrest, he did the Charter caution, breath demand,
16 police warning I believe. And I think at that
17 point Harvey-Zenk requested if he could speak to a
18 lawyer.

19 Q Did you remain involved in the case
20 throughout the morning?

21 A I was with Chief Carter until
22 approximately, I believe it was just before
23 11:00 o'clock, I think around 10:30, maybe 11:00.

24 Q When Harvey-Zenk requested a lawyer,
25 were you present?

1 A I was there for that portion. I don't
2 recall the specifics of it, but I would have been
3 present, yes.

4 Q Did you -- I should say were you
5 present throughout the time that Officer Carter
6 observed Harvey-Zenk when he first walked in, and
7 observed whatever signs or indicia of impairment
8 that he relied upon to place him under arrest?

9 A I would have been present, yes. I
10 walked from the -- when Sergeant Carter spoke to
11 Zenk in the police unit, I believe I was present
12 right up until I left for that day.

13 Q And did you note any indicia or signs
14 of impairment yourself?

15 A I believe that I noticed, I think I
16 have in my notes or summary that he was
17 staggering, but I don't necessarily recall that.
18 I don't know where I was walking in relation to
19 Sergeant Carter or Zenk.

20 Q Okay. Can you describe your
21 involvement from the point of Harvey-Zenk asking
22 for legal counsel? Can you tell me what you did
23 after that, who you were with, what you observed?

24 A I was with Sergeant Carter, as well as
25 Zenk, he was in the interview room. I don't

1 recall what I did. I believe he was given a phone
2 book by Sergeant Carter and I believe a telephone.
3 And I think he requested a piece of paper and a
4 pen, and that was given to him by Sergeant Carter.
5 Then I believe he was given privacy to make his
6 phone call.

7 Q After the phone call, did you have
8 further dealings with him in the presence of
9 Officer Carter?

10 A After the phone call, Sergeant Carter
11 was preparing to take breath samples and I was
12 present for that, and I was present when
13 Harvey-Zenk advised that he wasn't -- didn't want
14 to provide samples.

15 Q Okay. So if you could, just bring me
16 through that part of the morning in as much detail
17 as you can in terms of who was saying what and how
18 they were responding?

19 A Okay. I guess where our office was,
20 as I recall it was the breath room and the
21 interview room was right beside it. So they were
22 separated by a wall. And I believe Sergeant
23 Carter was in the breath room preparing to do
24 that. I was outside the breath room, I guess I
25 would have been in front of the breath room and in

1 front of the cell. And at some time Sergeant
2 Carter had requested me to bring Zenk into the
3 breath room. And I opened the cell door and I
4 told him that we were ready to take breath
5 samples. And he had said that he did not want to
6 provide. And from that point, Sergeant Carter,
7 who is in the breath room heard that and I believe
8 he came out, and he then asked Zenk if he was
9 going to provide breath samples. And he was told
10 no. And at that point I believe he read the
11 refusal warning.

12 Q Did you make any specific observations
13 of Harvey-Zenk at the point where he was advising
14 Sergeant Carter that he was refusing?

15 A Nothing that I recall.

16 Q Do you recall what his emotional state
17 was at that time?

18 A I don't -- or I believe he was sitting
19 on the bench, and I believe when I opened the door
20 to bring him into the breath room, I don't think
21 he ever got up from the bench, but I don't recall
22 for certain any particular --

23 Q Are you able to tell me about anything
24 that happened after that?

25 A After that? That was my involvement

1 for that portion of it I guess.

2 Q What did you do then?

3 A At that point I would have went home.

4 Q When were you back on shift?

5 A I'm guessing I was back for a night
6 shift. I don't recall for certain. I know I was
7 back that evening. I don't recall what time I was
8 back.

9 Q I'm going to ask you some questions
10 now about your duty book notes?

11 A Okay.

12 Q Your duty book notes, as they have
13 been disclosed to the Commission, start at page
14 38 -- do you want to take a look at them -- and
15 then appear to end at page 43 in your duty book?

16 A That's correct.

17 Q And are those all of the notes,
18 Constable, that you made in connection with this
19 case?

20 A I don't recall having other notes. I
21 don't recall if I had made other times or wrote
22 any other times down in any formal note or
23 anything.

24 Q Well, would you typically keep one set
25 of notes pertaining to a case, or more?

1 A Typically, no, I typically keep one,
2 but sometimes I scribble stuff down on other pads,
3 for whatever reason, I don't recall any other
4 notes.

5 Q It is indicated in your notes that
6 your arrival time was at, do I understand
7 correctly, 7:22?

8 A That's correct.

9 Q And the time entry that you have for
10 Chief Bakema putting the driver of the Dodge truck
11 into the rear of your police vehicle is 7:42?

12 A That's correct.

13 Q So if we rely on your duty book notes,
14 we have a window there of 20 minutes.

15 A That's correct.

16 Q And is that accurate? Does that
17 actually --

18 A I don't recall the times now, so just
19 judging by that, that's what I have. Like I don't
20 recall if I -- I don't recall if I was writing
21 down times or if I was making notes on a PON book
22 or notebook or scrapbook or something that I would
23 have had the times but --

24 Q Do you have any independent
25 recollection of how long you were on the scene

1 before Chief Bakema brought Harvey-Zenk to your
2 vehicle?

3 A I don't recall. I don't have an
4 independent recollection. I guess I thought, I
5 did think that it was when I pulled up to the
6 scene he had brought him, but judging by what I
7 have, it was later.

8 Q Well, did you make these notes at the
9 time, do you recall?

10 A They were made later.

11 Q And you have advised me you have no
12 independent recollection of how much time went by
13 between your arrival and Chief Bakema putting
14 Harvey-Zenk in the back of your vehicle. Is it
15 possible for you to rely on your notes? Can they
16 be of any assistance to you?

17 A I don't have an independent
18 recollection of the time that went by, so I don't
19 know how to answer that. I mean, they are my
20 notes but I don't recall, I don't have an
21 independent recollection of when I arrived and
22 when he was brought to my truck.

23 Q Do you know where these times came
24 from in your notes?

25 A I don't recall where all of the times

1 came from.

2 Q It is indicated in your notes at 7:42
3 that Harveymordenzenk indicated to you he didn't
4 want to talk to you due to his condition?

5 A Sorry?

6 Q Does that note refresh your memory
7 with respect to any interaction you had with him
8 in the vehicle?

9 A I don't recall. I don't have really
10 any independent recollection of him saying that to
11 me, or if I put that in there because I tried to
12 make conversation with him and he didn't talk.

13 Q Do you recall whether you made a note
14 when the paramedic was speaking to you? For
15 instance, you have a time entry of 7:58 where he
16 declined medical attention?

17 A I don't recall if I made a note on
18 that or not.

19 Q You don't recall whether you made a
20 note at that time or whether you made the note
21 later?

22 A I don't recall if I had made the note
23 at the time or not.

24 Q I notice you don't have any note
25 whatsoever with respect to any direction to take

1 him to the East St. Paul police station?

2 A No, I don't.

3 Q At 8:08, when you make the note 1017,
4 is that ten code indicating that you are enroute
5 to the East St. Paul office?

6 A That's correct.

7 Q Can we conclude from this note that
8 you are 1017, or enroute to the office with
9 Harveymordenzenk, and odour of liquor is slight?

10 A That's right.

11 Q And do you have an independent
12 recollection of that?

13 A Of?

14 Q Detecting a slight odour of alcohol as
15 you are transporting him?

16 A I don't recall exactly. I don't have
17 an independent recollection of exactly when.

18 Q I'm not concerned about exactly when
19 on the trip?

20 A That's right, I don't recall if it was
21 just prior to me leaving or if it was when I was
22 driving, I don't recall that.

23 Q Apart from whether it was prior to
24 leaving or driving, do you have an independent
25 recollection of smelling an odour of alcohol?

1 A I recall that I smelt it. I don't
2 have any -- I recall getting an odour.

3 Q Did you have any explanation at all
4 that you can provide for the absence of anything
5 in your notes about what Chief Bakema said at the
6 scene to you about Harvey-Zenk?

7 A No, I don't.

8 Q When were your notes made?

9 A I believe they were made the same day
10 as the incident, but when I came back for my shift
11 in the evening.

12 Q And describe where you were when they
13 were made, if anybody else was around, had you
14 spoke to anybody about your notes, whether anybody
15 was with you? I need to know as much detail as
16 possible about the making and recording of these
17 notes.

18 A All right. I guess I was in the
19 office. I don't necessarily really recall at what
20 point I made them. Like, I don't have an
21 independent recollection of where exactly I was or
22 what exact time it was when I made my notes. From
23 what I recall, it was that evening when I came
24 back for my shift. Obviously, from reading this,
25 I can read what I had said, but I don't

1 necessarily recall everything. I don't recall
2 if -- who was around when I was making my notes
3 for certain. I know that -- I recall some details
4 on what happened when I was making them, but I
5 don't recall where that took place or --

6 Q You referred to your RCMP statement,
7 you said, I had the opportunity to refer to this
8 and you held up your RCMP statement?

9 A Yes.

10 Q You gave two somewhat comprehensive
11 statements to the RCMP, May 24th, 2006, and then
12 as I mentioned earlier, you provided a second
13 interview or statement on June 9th, 2006?

14 A That's correct.

15 Q And you were asked many questions
16 about your notes?

17 A That's correct.

18 Q And you provided some detail with
19 respect to that process?

20 A That's correct.

21 Q And were you attempting to be
22 cooperative with the RCMP when you were answering
23 their questions?

24 A Was I attempting to be cooperative? I
25 was doing my best.

1 Q Okay. You had some recollection at
2 that point?

3 A From there, yes.

4 Q Were you being truthful and honest
5 with them?

6 A I was being truthful and honest with
7 them.

8 Q And are you able to rely on those
9 statements in order to assist you in refreshing
10 your memory?

11 A They refresh my memory as to what I
12 said, but I don't necessarily recall, I know that
13 I put in there that I was looking at the call
14 intake sheet when I was doing my notes. I don't
15 have an independent recollection of looking at the
16 call intake sheet when I was doing my notes, right
17 now. I recall certain occurrences happening when
18 I was making them, but I don't recall exactly --

19 Q What occurrences do you recall?

20 A I recall that I was told -- or I don't
21 know how it went -- but that I was bringing him to
22 the office for a TAR. That was the reason for me
23 transporting him to the office from the scene.

24 Q I need you to explain that a little
25 bit further? You are telling me that you have a

1 recollection about doing your notes, and one of
2 the recollections you have is something pertaining
3 to being told that he was going back to the office
4 to do a TAR?

5 A I recall asking Harry at some point, I
6 guess I had concern for the reason that I was
7 transporting him to the office.

8 Q Okay. Let's go very very slowly
9 through this, step-by-step. Okay?

10 A Okay.

11 Q One step at a time. You have a
12 recollection of doing your notes and having a
13 conversation with Chief Bakema?

14 A I guess -- I'm somewhat confused by
15 that, because I don't even have that in my notes
16 anything about a TAR, but I recall that, I know it
17 is in my MPIX report.

18 Q So do I understand that, apart from
19 what is in your notes, that when it comes to the
20 making of those notes, you have a recollection of
21 talking with Harry Bakema?

22 A That's correct.

23 Q Now, obviously this puts him present
24 and with you at the time that you are making your
25 notes?

1 A That's correct.

2 Q Now, what do you recall him saying to
3 you about the reason for bringing Harveymordenzenk
4 to the station?

5 A I recall him saying that the reason
6 was to do a TAR, Traffic Accident Report.

7 Q And how did it come up?

8 A I don't recall. I don't recall how it
9 came up. I believe I probably asked him about the
10 time delay that I had a concern for, or the reason
11 that I transported him I guess.

12 Q Do I understand that you were told the
13 reason you transported him, Chief Bakema gave you
14 that reason?

15 A That's the reason I got, yes.

16 Q Are you able to tell me anything else
17 that you discussed with Chief Bakema about your
18 notes or making your notes?

19 A I recall that I was told that I didn't
20 need to put any conversation between myself and
21 Ted Rosser in my notes, the paramedic.

22 Q Now, again, I need you to elaborate on
23 that to the best of your ability and recollection.
24 How was this put to you?

25 A Just as it was, that I didn't need to

1 put that in my notes, that I didn't need to put
2 the comments that were made to me in my notes.

3 Q The comments that you are referring to
4 are the fact that Ted Rosser, the paramedic, made
5 a comment or a motion to you about alcohol
6 consumption?

7 A That's correct.

8 Q So you have your Chief of Police at
9 the time telling you, on a case of impaired
10 causing death, not to put in your notes a
11 reference to another individual detecting an odour
12 of alcohol?

13 A That's correct.

14 Q Is that right?

15 A That's correct.

16 Q What was your reaction to this as a
17 police officer?

18 A I don't recall. I guess, probably
19 concern. I don't recall how I responded but --

20 Q Can we assume, apart from your
21 recollection of how you responded, that we see
22 there is nothing in your notes about Ted Rosser?

23 A That's correct.

24 Q So did you listen to what you were
25 told?

1 A Yes.

2 Q So you told me about the reason that
3 Chief Bakema gave you for taking the officer from
4 the scene back to the station, that was to do with
5 a TAR. You told me about the fact that Chief
6 Bakema indicated that you don't have to put in
7 your notes anything about your conversation with
8 Ted Rosser. And was there anything else that was
9 discussed?

10 A Nothing that I recall.

11 Q When Chief Bakema told you not to put
12 anything about Ted Rosser smelling alcohol at the
13 scene, at that point you were aware of the fact
14 that Chief Bakema told you he smelled alcohol at
15 the scene?

16 A He never said he smelled it. I don't
17 know how he came to that conclusion.

18 Q I stand corrected -- that Chief Bakema
19 indicated that the person was, or was possibly
20 impaired?

21 A Yes.

22 Q And there is nothing about that
23 comment in your notes either?

24 A That's right.

25 Q Can you give an explanation for that?

1 A I can't.

2 Q Did you get any other direction
3 pertaining to your note making from Chief Bakema?

4 A Nothing that I recall.

5 Q Did you raise this concern that you've
6 told me about that you had, as a result of being
7 advised not to include a reference in your notes
8 to the conversation you had with the paramedic,
9 did you raise this concern with anybody?

10 A Yes, I did.

11 Q Who was that?

12 A I believe I raised it with Chief
13 Carter.

14 Q And when did you do this?

15 A I don't recall the dates. I think I
16 spoke to him, spoke to him about it on a few
17 occasions.

18 Q Did you raise it with anybody in the
19 short term after you were told to do this by Chief
20 Bakema; in other words, in the days following?

21 A I don't recall raising it to anybody.

22 Q Constable, I would like to ask you
23 some questions about your incident narrative.

24 A Okay.

25 Q And what I'm referring to when I say

1 your incident narrative is a document that's
2 contained in volume E-2 of the initial disclosure
3 of the Taman Inquiry, and it is specifically found
4 at page 607 of that volume. And this report is
5 apparently, I see at page 608, created by you and
6 there is a reference that the date created is
7 2005, February 26th at 6:11 a.m. So I will just
8 bring your attention again to those pages, 607 and
9 608, again, created by you and apparently,
10 according to the time of creation at 608, it is
11 6:11 a.m., 2005, February 26th. Are you the
12 author of this document, sir?

13 A Yes.

14 Q What can you tell me about the
15 preparation of that document?

16 A In which way?

17 Q When did you start working on it?

18 A It was created on February 26th, 2005
19 at 6:11 a.m. And I guess that would be the day
20 that I began working on it.

21 Q And was anybody involved with you in
22 the preparation of this incident narrative?

23 A I don't recall if anyone was there
24 when I was making it or not.

25 Q Did you get -- did anybody suggest to

1 you what should be put into it, for instance, what
2 might be taken out of it, any instructions similar
3 to that which you received for your duty book
4 notes?

5 A I don't recall anything in particular.
6 The only thing is that there is a mention of that
7 I transported him to the office to get a TAR,
8 which I guess was -- that's in there.

9 Q Okay. This transporting him to the
10 office to do a TAR, do I understand that when you
11 brought him to the office, you had no idea why you
12 were bringing him to the office; is that the case?

13 A As far as I recall, that's why I was
14 bringing him to meet with Sergeant Carter.

15 Q But for the specific purpose, did you
16 have any knowledge about that?

17 A I was never told anything
18 specifically, no.

19 Q So in the report you are referring to:
20 "At 8:08 hours, the writer transported
21 Harvey-Zenk to the East St. Paul
22 police office to process an accident
23 report."

24 Is that what you are referring to?

25 A Yes, this is -- that's correct.

1 Q Now, in this report as well you also
2 indicate at the time 8:12 that you were met by
3 Sergeant Carter at the rear door. Do you see
4 that?

5 A That's correct.

6 Q And you are advising him that
7 Harvey-Zenk was the driver involved in the
8 collision and he was distraught. You also
9 indicate here that you advised Sergeant Carter
10 that a slight odour of alcohol was detected on
11 him?

12 A That's correct.

13 Q You go on further and indicate that
14 Sergeant Carter spoke to Harvey-Zenk and brought
15 him into the office.

16 "Writer noted that as Harvey-Zenk was
17 walking into the office he appeared to
18 be unsteady on his feet."

19 A That's correct.

20 Q How did these observations make it
21 into your incident narrative report?

22 A I can't recall.

23 Q Did you have earlier drafts of your
24 incident narrative report where these observations
25 were not included?

1 A As far as I have learned, I did, yes.

2 Q And what can you tell me about that?

3 A If you look in the revision log, it
4 shows that there was some changes that were made
5 to the report over time.

6 Q And what you are referring to is
7 documentation that's been provided by your counsel
8 and that is essentially a log of the development
9 of your incident narrative report, as we see it in
10 the initial disclosure in volume E-2?

11 A That's correct.

12 Q So what we have at volume E-2 is two
13 pages, pages 607 and 608, and what you are
14 referring to is a series of documents provided to
15 you by your counsel, which is essentially a log
16 for the development of your incident narrative
17 report?

18 A That's correct.

19 Q And I would like you to explain the
20 development of the report and the addition of
21 certain facts in the final version.

22 A You see on the first, my first entry
23 would have -- I didn't complete the report, which
24 would have been I guess February 26th, 2005, at
25 6:52 in the morning. And I did not finish at that

1 time. I see that there is -- I guess I'm not sure
2 what you want me to explain. I know there was
3 different -- he was, there is different entries
4 and there is revisions made, but what in
5 particular are you --

6 Q Well, what I note, for instance, is
7 that if we look at what might appear to be an
8 earlier draft of this incident narrative report,
9 when I look at the time of 8:08 hours, all you
10 have included at that time is that you transported
11 Harvey-Zenk to the East St. Paul police office to
12 get him away from the accident scene?

13 A That's correct.

14 Q In your final version at 8:08, you
15 have you transported Harvey-Zenk to the East St.
16 Paul police office to process an accident report,
17 enroute to the East St. Paul police office you
18 detected an odour of alcohol coming from
19 Harvey-Zenk?

20 A Right.

21 Q And you added two pieces of
22 information?

23 A Right.

24 Q What explanation can you give for
25 that?

1 A I don't have any explanation, I guess
2 maybe -- it is not uncommon to review a narrative
3 and change it. But I guess the explanation I gave
4 for the TAR is that at some point Harry had given
5 me that reason for transporting him. And I don't
6 recall exactly when I was given that reasoning by
7 Harry, so maybe at some point he had told me that
8 and I added it to the narrative. I don't recall.
9 I recall him telling me that, but I don't recall
10 when.

11 Q What did you do first, your note or
12 your narrative?

13 A I don't recall what I did first,
14 whether it was my notes or narrative. I recall
15 doing my notes when I got in early on the shift
16 and my narrative. But according to this, I didn't
17 start my narrative until almost, just after
18 6:00 o'clock in the morning, the next evening --
19 or the next morning.

20 Q In addition to the observations in
21 your incident narrative report at 8:08 hours, I
22 also note at 8:12 hours, in the incident narrative
23 that is contained in volume E-2, you are making
24 reference to advising Sergeant Carter about a
25 slight odour of liquor?

1 A Um-hum.

2 Q And also noticing that when he was
3 walking into the office, he appeared to be
4 unsteady on his feet?

5 A That's correct.

6 Q You do not include these observations
7 in your initial draft or drafts of your incident
8 narrative report?

9 A That's correct.

10 Q And they are not included in your duty
11 book notes?

12 A No. The observations of odour of
13 liquor is not the unsteady on his feet.

14 Q Can you give any explanation for how
15 these pieces of information are in the incident
16 narrative report?

17 A I don't have an explanation on why
18 that was added. I guess, I really don't have an
19 explanation why I added them, or if I was told to
20 add, to work on my narrative. Just looking at
21 this, I don't know where this sticky note came
22 from, which is "notes and narrative are
23 different." So if it was sent back to me from
24 whoever reviewed the file to --

25 Q Would this be a common occurrence that

1 somebody might review your incident narrative?

2 A They review it, and if there is
3 inconsistency, then I will get something back and
4 be told to correct the errors or -- yes, that
5 would be common.

6 Q In your incident narrative report or
7 duty book notes, would you typically include what
8 you observe, or would you include things that
9 other people want to see in your duty book notes
10 or your narrative reports?

11 A I don't recall -- well, I guess to
12 explain that would be, what was in my notes before
13 and what are in my notes now would be different.
14 I'm not talking particular to this incident, but
15 my notes are my observations and I don't put in
16 other people's observations. My notes are for me.

17 Q Do you recall having any dialogue with
18 Chief Bakema or Sergeant Carter about the incident
19 narrative report?

20 A No, I don't recall.

21 Q Okay.

22 MR. CLIFFORD: I note the time now is
23 10:26 and we have been going for about an hour and
24 20 minutes, so I'm going to suggest that we take a
25 short break at this point to give our reporter a

1 break. And we will come back on record in about
2 10 or 15 minutes.

3 THE WITNESS: Okay.

4 (RECESS TAKEN)

5 BY MR. CLIFFORD:

6 Q We are back on the record. It is
7 10:38 a.m. And just prior to moving to the next
8 topic, Officer, one question pertaining to your
9 notes, and I'm referring specifically to page 604
10 of volume E-2. We see what appears to be a
11 notation on this page, which is beside your notes,
12 directly across from the time entry of 7:42. And
13 that notation reads as follows:

14 "Sticky note author? No mention of
15 alcohol, notes and narrative are
16 different."

17 Can you tell me whether you know who the author of
18 that note is?

19 A I don't know who the author is.

20 Q I'm going to ask you some questions
21 now about your interviews with the RCMP. Now,
22 could I ask you to refer to page 17 and 18 of your
23 interview with the RCMP? And towards the bottom
24 of page 17, you will see a response to a series of
25 questions and your response starts:

1 "So I worked at 9:00 o'clock or..."

2 Do you see that?

3 A Yes.

4 Q Could you just review that and bring
5 yourself on to page 18?

6 A Okay.

7 Q Continue on down to the bottom of the
8 page, page 18?

9 A Okay.

10 Q You can see that you are telling the
11 RCMP at this point, in response to their
12 questions, that you are being advised certain
13 things. And I want to know who it is that's
14 advising you of these things? Is it Chief Bakema,
15 is it Chief Bakema and someone else?

16 A From what I recall, it was Chief
17 Bakema that advised me of what I have talked about
18 my notes with.

19 Q You indicated at page 17 of your RCMP
20 statement that you had a concern that there was a
21 paramedic that made a comment to you about
22 drinking that wasn't in your notes?

23 A Right.

24 Q And then you carry on, on page 18, and
25 you are telling the RCMP that you had a

1 conversation with Chief Bakema, and looking at
2 this statement and reading it, does it refresh
3 your memory at all about this conversation?

4 A Not really. I recall what was told to
5 me, or the direction I was given, or what Chief
6 Bakema had told me, but I don't recall a specific
7 conversation or specific words.

8 Q That's fair, but the direction that
9 you were given?

10 A I recall that.

11 Q And again it was?

12 A That I did not need to put any comment
13 of what Ted Rosser had commented to me.

14 Q And that's what you indicated to the
15 RCMP when you dealt with them initially?

16 A That's right, yes.

17 Q And that recollection is still with
18 you?

19 A I recall that that was told to me,
20 yes.

21 Q The RCMP were asking you as well at
22 page 18 about the issue of Constable Graham,
23 whether you saw their notes. You also made a
24 comment to the RCMP at page 18 that you had a
25 concern about why you would say you were bringing

1 him back to, Harvey-Zenk back to the police
2 station?

3 A That's correct.

4 Q And you've indicated to the RCMP that
5 they said:

6 "Don't just put in there -- just put
7 that you have him in the back of your
8 vehicle and you are taking him to the
9 office."

10 A Yes.

11 Q And you indicated as well that that
12 was another thing that you were advised, that you
13 were bringing him back to the office for a TAR?

14 A Yeah, a Traffic Accident Report.

15 Q You told the RCMP about that when you
16 met with them?

17 A Yes.

18 Q You told me about that?

19 A Yes.

20 Q Is that your recollection?

21 A That's correct.

22 Q I want to ask you about a comment that
23 you made to the RCMP, which is at page 59 of your
24 statement. Page 59 you told the RCMP, and this is
25 at the bottom of the page, in response to the

1 question:

2 "So Harry told you not to put that in
3 there?"

4 You responded:

5 "Yeah, it was don't put it in
6 basically. It was don't, not put in
7 anything that should have lead you to
8 form an opinion or to form grounds for
9 impaired driving."

10 Can you explain that further?

11 A I don't really have a recollection of
12 that. I recall seeing it here. Obviously I said
13 it to the RCMP. I don't really recall any
14 personal recollection of any conversation like
15 that.

16 Q Dealing then with the issue of not
17 putting in your notes the comment or information
18 from the paramedic, and also the purpose for
19 taking him to the police station, being the TAR,
20 you told me earlier that you had a concern about
21 this as a police officer?

22 A Yes.

23 Q And that you raised this concern, you
24 said with Sergeant Carter?

25 A That's correct.

1 Q And did you specifically raise the
2 concern or the issue that Chief Bakema had given
3 you certain directions with respect to the
4 investigation and your notes, et cetera?

5 A I don't recall exactly what I raised
6 with him. I believe that I raised most of these
7 points, if not all of them. I don't recall for
8 certain.

9 Q And when did that take place?

10 A I don't recall the date. It would
11 have been I guess sometime prior to first
12 interview, I'm not sure.

13 Q Well, we know that you were
14 interviewed by the RCMP in May of 2006?

15 A Yes.

16 Q And you are talking about that --

17 A Right.

18 Q -- in May of 2006?

19 A I don't recall that, when I had spoke
20 to Chief Carter, I believe it was on more than one
21 occasion. I don't recall dates, or I don't really
22 recall the specific conversations either.

23 Q Where did you speak to him?

24 A Well, I guess I spoke to him, once I
25 was in the vehicle, I picked him up from downtown.

1 I had spoke to him in his office, I believe.

2 Q Did you ever tell -- let me put it
3 this way: Can you tell me what details you gave
4 to Sergeant Carter in these meetings that you had
5 with him?

6 A I don't recall what details. I
7 think -- I don't recall this for certain, but I
8 think it was the fact that I had been told to put
9 the TAR for the reason for transporting in my
10 notes and not to put in the comments by Ted
11 Rosser. And I think I had expressed some concern
12 for the time delay that I had, that Zenk was in my
13 vehicle until I transported him to the office.

14 Q Do you recall anything else that you
15 raised with Sergeant Carter?

16 A Not particularly that I can recall
17 right now, no.

18 Q I take it, Officer, that you realized
19 that when Chief Bakema told you not to put certain
20 things in your notes, and you followed through
21 that instruction, that -- did you have a view of
22 whether that was the right thing or the wrong
23 thing to do?

24 A I don't recall what my view is, but
25 I'm sure I would have not felt that it was right.

1 I would have believed that it would be wrong to do
2 that.

3 Q When you told Sergeant Carter about
4 what happened to you in connection with your notes
5 and the directions that you received and what you
6 did, what advice did he give you?

7 A I don't recall what advice he had
8 given me. I don't recall the advice that was
9 given to me at that time.

10 Q Did you subsequently receive advice
11 from him?

12 A I received information that there was
13 an investigation going on with the RCMP now
14 regarding the notetaking.

15 Q So you were told by Sergeant Carter, I
16 take it some time after you made this disclosure
17 to him, that the RCMP was doing an investigation?

18 A Well, I was told that I had an
19 interview set up.

20 Q And you knew the reason that the RCMP
21 was involved?

22 A That's correct.

23 Q But what I'm interested in knowing is,
24 were you given any specific instructions by
25 Sergeant Carter with respect to your continued

1 conduct, what you should say or not say about what
2 happened, how you should conduct yourself from the
3 point on that you made the disclosure?

4 A I don't think there was any specific
5 instruction on anything to say or not to say, I
6 don't recall. I don't recall any specific
7 instructions being told to me or any direction
8 given to me on that point.

9 Q Were you concerned personally that you
10 might get in trouble for not --

11 A There was concern.

12 Q -- putting things in your notebooks
13 that you observed?

14 A Yes.

15 Q What sort of trouble were you
16 concerned with?

17 A I guess I don't really know what kind
18 of trouble, it was obviously something that
19 concerned me, though. I don't know what I was
20 concerned about. I guess if -- when I made
21 comments or spoke to Norm, my concern was that I
22 didn't want to testify and be withholding
23 information or lying, that was my concern.

24 Q So when you approached Sergeant Carter
25 with your concern, were you motivated by the

1 apprehension that you were feeling about going to
2 court, being placed under oath and being placed in
3 a position where you would be required to tell the
4 whole truth?

5 A I'm sure that was one of -- I didn't
6 want to -- I don't know how to explain that. I
7 wasn't prepared to go and lie about things.

8 Q Your disclosure to Sergeant Carter
9 about your notes and the direction that you
10 received from Chief Bakema was some time prior to
11 the RCMP interview?

12 A That's correct.

13 Q And can you tell me how much earlier
14 it was in the interview?

15 A I don't recall for certain. I'm not
16 sure. I don't know how --

17 Q Were you made aware of the point --
18 were you made aware at that time that the case was
19 getting close to going to court?

20 A I believe, I believe the subpoenas
21 were already served.

22 Q So some significant time had gone by
23 between the actual day of the accident and when
24 you go to see Sergeant Carter about your concern?

25 A Yes.

1 Q In fact, if the subpoenas were
2 delivered -- it was into 2006 before you had gone
3 to see Sergeant Carter?

4 A That could be right, I'm not sure of
5 the date.

6 Q Does it accord with your recollection,
7 though, that certainly a significant period of
8 time went by?

9 A I seem to recall that it was some
10 time, yes.

11 Q Was there conversation within the East
12 St. Paul police force about the case, as it was
13 getting closer to the first court date, before the
14 RCMP conducted their investigation?

15 A I don't recall. I'm sure there was.
16 I don't recall any specific conversation.

17 Q Did you get involved in conversation
18 similar to that, similar to the conversation you
19 had with Sergeant Carter, with other officers,
20 telling them that you were worried about the case
21 going to court?

22 A Not that I recall.

23 Q Why did you go to Sergeant Carter?

24 A I believe he was the Chief or Acting
25 Chief at that time.

1 Q Did you have --

2 A I guess it was --

3 Q Sorry, go ahead?

4 A I trusted him I guess, so...

5 Q Did he become upset with you at any
6 point when you were dealing with him?

7 A No.

8 Q Was he understanding with you?

9 A From what I recall, yes. I recall
10 that he said that Marty Minuk was upset, but I
11 don't recall any --

12 Q Can you tell me anything else about
13 that?

14 A I don't recall. I think it was just a
15 conversation that I had with him after maybe.

16 Q So he told you that the prosecutor was
17 upset?

18 A I think that's maybe when he -- I
19 don't recall for certain, it was probably some
20 time when this RCMP interview was coming up. I
21 don't know -- I shouldn't say that, I don't recall
22 for certain if he was saying he was upset or
23 just -- I don't recall if that was the exact word,
24 if he was upset with me or upset that there is a
25 change now, or what.

1 Q Did you have a police association
2 president during that time?

3 A We had an association president, yes.

4 Q Who was that?

5 A I believe it was Chris Grosowski (ph).

6 Q Did you raise any concerns with him?

7 A No.

8 Q Do you know whether Sergeant Carter
9 spoke to anybody else about -- any other police
10 officer, I should say, about the disclosure that
11 you made?

12 A Nothing that I'm aware of.

13 Q Did you express to Sergeant Carter any
14 reason that you felt or believed that Chief Bakema
15 was directing you in this way, or had conducted
16 the case in the manner that he did?

17 A I believe I did. I don't necessarily
18 recall particular words, but I believe I probably
19 did in conversation.

20 Q What was your belief?

21 A My belief was -- what is my belief?

22 Q Yes?

23 A I guess my belief is that he didn't
24 want to be involved in it from the beginning.
25 From when he got to the scene and realized that it

1 was a police officer, he didn't want to be
2 involved in it.

3 Q At any point did you become aware of
4 the fact that a police uniform had emerged from
5 the scene or was located at the scene?

6 A At some point I was aware of that,
7 yes.

8 Q Can you say when?

9 A No, I don't recall.

10 Q I'm going to ask you some questions
11 now about any involvement you might have had, or
12 interaction with people, about going to court in
13 this case. Did you ever have a meeting with the
14 Crown Attorney or an interview with the Crown
15 Attorney about what occurred?

16 A No, I didn't.

17 Q Apart from the RCMP interviews and
18 this interview today, has anybody else sat down
19 with you and asked you extensive questions about
20 your observations at the scene?

21 A No.

22 Q Did you ever attend court?

23 A No, I didn't.

24 Q Apart from everything that took place,
25 the direction with respect to your notes, your

1 view about why it happened, your disclosures to
2 Sergeant Carter, I understand that one observation
3 that you did make on your own, and it is
4 independent, we know it is not in your notes, we
5 know it is not -- we know it is indicated, I
6 misspoke, in the notes at 8:08 with respect to the
7 odour of alcohol. This is something that you
8 detected on your own, am I correct in that?

9 A That's correct.

10 MR. CLIFFORD: It is 11:04, and at
11 this point I'm going to suggest a brief recess of
12 five minutes. I will review my notes to determine
13 if there is anything else that I will raise with
14 you. And if there isn't, we will complete the
15 interview when we come back on record.

16 (RECESS TAKEN)

17 BY MR. CLIFFORD:

18 Q It is 11:09 a.m., and we are just
19 about ready to wrap things up, Constable. But I
20 wanted to find out about your training as a police
21 officer with the East St. Paul police force and
22 any training that you might have had prior to
23 that. You have told me about your experience, but
24 did you go to police college?

25 A I did. I went through the Dakota

1 Ojibway Police, 2003, and that was conducted by
2 Brandon Police Services, it was one of their
3 recruit classes.

4 Q And how long was that course?

5 A I believe it started in September of
6 '03, and we were completed in January of '04, so
7 five months.

8 Q Then when you started working with the
9 East St. Paul police force, was there a new
10 officer program? Was there a training module that
11 you went through? Did you ride with a coach
12 officer? How did that work?

13 A What I was told when I got hired is
14 that I was supposed to, I was to ride with or be
15 trained by Constable Graham for, I believe it was
16 for the first month. That's what I was told. I
17 don't believe I ever really received any of that
18 training. I was basically in a car by myself from
19 the beginning. So there was no specific training
20 set up, or field training I guess is what they
21 call it.

22 Q So as of February 25th, 2005, you had
23 received no specific training from the East St.
24 Paul police force?

25 A That's correct.

1 Q And you had been working with that
2 force for?

3 A Approximately four months.

4 Q Approximately four months. Were you
5 the most junior officer in the police force?

6 A Yes, I was.

7 MR. CLIFFORD: Sir, those are the
8 questions that I have for you. The time now is
9 11:11 a.m. Thank you very much. As I mentioned
10 to you at the beginning of the interview, a
11 transcript will be prepared and a copy of the
12 transcript will be provided to you in due course,
13 and it will also be provided to the other parties
14 that have standing. Again, thank you for coming
15 in.

16 (Concluded at 11:12 a.m.)

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OFFICIAL EXAMINER'S CERTIFICATE

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

Cecelia Reid
Official Examiner, Q.B.