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February 28, 2008

Commissioner for the Taman Inquiry  
Room 30 – 200 Vaughan Street  
Winnipeg, MB R3C 1T5

**Attention: David Paclocco**

Dear Sir:

**Re: Taman Inquiry into the Investigation and  
Prosecution of Derek Harvey-Zenk  
Tramley Report March 29, 2006 – Pages 21 -23**

You have asked me to provide you with further information concerning the March 29, 2006 report prepared by Robert Tramley. You have asked for biographical information about Mr. Tramley and his assistant, Mr. Robert Wass. You have asked for background information disclosing the reasons why they conducted the review which led to the March 29<sup>th</sup> report. You also asked me to inform you when Mr. Wass undertook his review of the Harvey Zenk file.

As to biographical information on Messrs. Tramley and Wass, both are retired Superintendents from the Royal Canadian Mounted Police. Prior to his retirement, Mr. Wass was in charge of the RCMP Calgary Subdivision. He joined the RCMP in 1962. He retired in 1997. Prior to his retirement, Mr. Tramley was in charge of the RCMP Subdivision in Truro, Nova Scotia. He joined the RCMP in 1958. Mr. Tramley retired in 1995.

Both Messrs. Tramley and Wass have acted as policing services consultants since their retirement. They have conducted audits of various police forces including the East St. Paul Police Service. Mr. Tramley's function was largely to audit administrative performance whereas Mr. Wass performed operational audits. Both Messrs. Tramley and Wass have considerable police background experience.

The March 29<sup>th</sup>, 2006 Tramley report does not have a title page. It is in letter form and is addressed to the Chief Administrative Officer of the R.M. of East St. Paul. The report itself is dated March 29, 2006 and was delivered to the Municipality by Mr. Tramley on



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April 10, 2006. Mr. Tramley attended an in-camera Council meeting that date and delivered his report.

The March 29<sup>th</sup>, 2006 report by Mr. Tramley is a follow up to a managerial review which he conducted initially in January, 2003. The follow up 2006 managerial review which led to the March 29<sup>th</sup> report was commissioned by the R.M. due to concerns brought to the attention of the Municipality's CAO regarding management of the East St. Paul Police Service by its then Chief, Harry Bakema. The main thrust of the report was a performance review of Chief Bakema which review was expanded to include former Constable Kenneth Graham.

As part of the operational review of the East St. Paul Police Service in 2006, Mr. Wass reviewed various files. At the specific request of the Municipality's CAO, Mr. Wass reviewed the file concerning the charges brought against Derek Harvey Zenk following the traffic accident which caused the death of Crystal Taman. Mr. Wass reviewed the East St. Paul Police Service File No. 2005-00568 on January 16, 2006. The notes prepared by Mr. Wass as a result of his review are shown on page 21 and 22 of the March 29, 2006 Tramley report. The remaining comments on page 22 and 23 of the report are authored by Mr. Tramley.

Attached for disclosure purposes is a copy of the relevant portions of the March 29, 2006 Tramley report.

If you require any further information, please do not hesitate to contact me.

Yours truly,

**FILLMORE RILEY LLP**

Per:



**R. D. McDONALD**

RDM/kmh

When this review began, the CAO specifically raised a concern with a fatal accident investigation that involved a Winnipeg Police Officer. Notes of Mr. Wass' review of this file are noted hereunder:

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File 2005-00568

This is the fatal accident investigation involving a former member of the Winnipeg Police Service. He is charged with four serious criminal offences as he is alleged to have rammed into the back of one car and killing the driver. He also refused to provide a breath sample.

Csts Pederson and Woychuk got the first call. They attended. Woychuck had only 3 weeks experience. The accident happened around 7.10am. Then the Chief and Graham arrived. The Chief was the first one to talk to the driver of the pick up that slammed into the other two vehicles. The pick up hit the small car and rammed it into another car. The small car was crushed and the driver was likely killed instantly. The fire Dept and paramedics attended immediately.

The male driver was standing by the pick up when the Chief approached him. The Chief confirmed he was the driver. Witnesses saw the truck hit the other cars while still moving at full speed. The Chief took this male to Woychuk's car and put him into the back seat. He told the Cst the male was distraught.

RCMP traffic analysts were called and attended.

I read the court brief and noted the details that had been provided by each officer as well as witnesses. I then looked at the copies of notes on file from officer's note books. The quality of notes from the officers, with the exception of Pederson are very limited in detail, hard to read and very brief. I was especially concerned about the time from when the Chief walked with and placed the male driver in the car until Woychuck took him to the police office. It appears that Woychuck got the male around 7.22am. They arrived at the office at 8.08am. I was also looking at what each officer observed about the condition of the

driver of the pick up and whether or not alcohol could be a concern. Woychuk was told to stay with the driver as he was distraught. The Chief's notes reflect nothing about liquor. Woychuk was in his company for 30-40 minutes in the police car and his notes reflect a slight odour.

A paramedic attended to the male in the back seat and he indicated that when he opened the door he smelt a strong odour of alcohol and made the assumption that alcohol was a factor in the accident. The driver did not want or require medical attention. It appears that Graham went over to the pick up, noted the uniform on the seat and took possession of it. He would have likely told the Chief immediately. The chief's notes do not indicate that he looked in the truck's interior when he first spoke to the driver.

When the driver got to the office Carter noted a strong odour on the driver and then decided he was impaired. The driver was not given his rights or chartered until he got to Carter. Carter's notes are excellent. He arranges for the driver to call a lawyer, gives him the demands and was refused.

Summary: I have some concerns about the delay in giving the driver his charter rights as soon as possible. I noted some good witness evidence that should put the driver behind the wheel of the truck. Once Carter became involved things were dealt with properly. The first two police witnesses should have been more observant concerning the condition of the driver. There is no indication that the Chief knew the driver and it was likely only when Graham got the uniform would it be clear that the driver was an off duty WCP officer. It is also unfortunate that Woychuk had little experience in matters of this significance.

A special prosecutor has been involved in this matter. I guess time will tell what the outcome will be in court. Carter is the principal investigator and he knows what he is doing. I informed him of my thoughts.

There are bound to be some concerns about this investigation, particularly in light of the neglect of Charter Rights, etc., being afforded to the driver by the senior officer on scene – Chief Bakema – as well as the delay in transporting him to the police station. The lack of investigative professionalism in not being more aware of the driver's apparent state of inebriety, and the absence of comprehensive notes on his condition, as well as other observations pertinent to an on scene investigation of such a serious incident, as displayed by the Chief, Cst. Graham, and Cst. Woychuk, could also be problematic when this case goes to trial.

## CONCLUSION

Since I began the review and this report, Chief Bakema's contract was terminated, Cst. Graham resigned, and Sgt. Carter has been appointed Chief of Police. Therefore I do not consider it necessary to go into any more detail – than I already have – on the negative impact Chief Bakema and Cst. Graham were having on the department.

I support the appointment of Chief Carter, however he will have a lot of work to do in raising morale, bringing dissidents on side, and ensuring close supervision is provided to those officers who need to be motivated to do better. I also believe that Chief Carter's appointment will result in a better working relationship among all parties tasked with the responsibility of ensuring the citizens of East St. Paul are protected and well served by their Police Department.

Robert M. Tramley.