

The Manitoba Court of Appeal has been clear that while joint recommendations must be taken very seriously, it's incumbent upon the trial judge to ensure a fit sentence is handed down.

House arrest for killing someone with your car is not a fit sentence by any standard. Especially for a cop, who should be held to a higher standard because police officers are entrusted with the duty of enforcing the law.

Wyant said Harvey-Zenk's offence was on the "low end" of the spectrum for this type of crime. That's fine. If the maximum is 14 years in prison, he should have received at least two years behind bars, not house arrest.

I know Judge Wyant likes to blame the media for the public loss of confidence in the justice system, as he did in his last provincial court annual report. But I wish to advise Judge Wyant that it's not the media's fault -- it's decisions like his yesterday that have eroded public confidence in the justice system.

At some point, judges, prosecutors and politicians have to give their heads a shake on this stuff.

What happened with the Derek Harvey-Zenk case -- including a botched police investigation, a pathetically prosecuted case and a deplorable sentence from the judge -- is one of the worst miscarriages of justice I've ever witnessed.

Enjoy the Eight-Ball, your honour. You deserve it.

WINNIPEG SUN

Troublesome case spurs review of prosecutors

October 30, 2007

By PAUL TURENNE, SUN MEDIA

In light of the controversy over the Derek Harvey-Zenk case, the province will review its practice of hiring special prosecutors to avoid conflicts of interest.

Dave Chomiak, Manitoba's justice minister, announced yesterday just minutes after Harvey-Zenk's sentencing that retired Queen's Bench Justice Ruth Krindle will review the way the province chooses independent prosecutors for cases involving police, justice officials, and other accused who may present a conflict of interest for the Crown's regular prosecutors.

The province often brings in prosecutors from other provinces to work on those cases, or alternatively hires local defence lawyers to act on the Crown's behalf.

Local defence lawyer

That was the situation in the Harvey-Zenk case, with local defence lawyer Marty Minuk acting for the Crown.

"When you have a troublesome case, you have to take a step back and say 'OK, what can potentially be improved?'" said Chomiak. "It's in the public interest. It's to see if that policy requires improvement."

Chomiak also said yesterday that now that the case is over, the RCMP and the Brandon police can begin their review of the operations of the 13-member East St. Paul Police department.

Chomiak called that review in late August, citing "several incidents in recent years."

Those include the Harvey-Zenk case, the mysterious firing in February 2006 of then-chief Harry Bakema, and the first-degree murder arrest of Mike Sandham, who served on the force for two years before quitting in 2002.

Sandham was charged in relation to the murder of eight men connected to the Bandidos biker gang in Shedden, Ont., in 2006.

FREE PRESS

Province to launch inquiry

Doer says family of woman killed by former cop deserves answers

Wed Oct 31 2007

By Mia Rabson

THE provincial government will launch a judicial inquiry into the case of a former police officer who was sentenced to house arrest for killing a mother of three in a car accident after he spent a night partying.

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Premier Gary Doer announced the inquiry in the legislature Tuesday, a day after Derek Harvey-Zenk avoided a prison sentence for the February 2005 death of Crystal Taman.

It is the latest twist in a case that has already generated two government reviews of police and prosecutors, and had the judge consider rejecting a joint recommendation for the conditional sentence because he felt he was being left in the dark about Harvey-Zenk's alcohol consumption before the accident.

Doer said the case left too many questions unanswered.

"When the justice system isn't perceived to be working for the benefit of all citizens equally, it's very important we have an inquiry," said Doer.

He said the Taman family and the public deserve answers.

The inquiry will begin within 60 days, Doer said, right after the completion of reviews of the East St. Paul police and a government policy to appoint a special prosecutor for certain cases.

The inquiry will explore areas including the events before Harvey-Zenk got behind the wheel, the ensuing investigation of the accident and the conduct of the East St. Paul police, the decision to appoint a special prosecutor because the case involved a police officer, and the decision by that prosecutor to make a plea bargain for lesser charges.

A public inquiry has the power to subpoena witnesses. Justice Minister Dave Chomiak said he thinks all parties involved will want to testify to give their side of the story, including the police officers who partied with Harvey-Zenk that night, the officers who investigated the crash and special prosecutor Marty Minuk.

Chomiak told reporters Tuesday the idea of an inquiry has been in the works since August, when Judge Raymond Wyant first expressed concern about the plea bargain struck with Harvey-Zenk.

At that time, Chomiak only ordered a review of the East St. Paul police force, which had come under repeated attack for problems, including its handling of the Harvey-Zenk investigation.

"I always felt we would end up with an overall review," said Chomiak. He said the government couldn't act until the case was concluded.

Taman, 40, died instantly when Harvey-Zenk's truck rear-ended her car while she was sitting at a red light. She was on her way to work. He was on his way home after a house party with police buddies where some drinking occurred.

He refused to submit to a breathalyser, and evidence normally documented about the state of a driver's sobriety beyond a breathalyser was absent from police files.

He was initially charged with impaired driving causing death and refusing a breathalyser, but those charges were stayed due to a lack of evidence. Instead, a plea bargain was reached that had Harvey-Zenk plead guilty to dangerous driving causing death in exchange for a conditional sentence of two years less a day.

During sentencing Monday, Wyant expressed frustration over the lack of evidence available about Harvey-Zenk's alcohol consumption prior to the collision. His statements were the final provocation needed for the government to call the inquiry, Chomiak said.

"The judge's ruling yesterday raised a number of issues which are rife in the public and ought to be answered," he said.

East St. Paul police have been faulted for not properly collecting and documenting evidence of whether Harvey-Zenk had been drinking. Two reviews, including an RCMP investigation, have looked at the conduct of the police in the investigation.

The province has asked RCMP and Brandon city police to look at the overall operations of the East St. Paul police and report back in the next 60 days before a public inquiry begins.

It also expects a report back in 60 days from a former judge who is reviewing the policy around appointing a special prosecutor. Questions have been raised about whether that lawyer, Marty Minuk, had a conflict of interest because he has represented police officers in previous cases.

Chomiak said while those reviews are taking place, his office will take the necessary steps to set up the public inquiry, including appointing a judge to oversee it.

That judge very likely will come from out of province, said Chomiak.

FREE PRESS

READER FORUM:

Anger, disbelief greet sentence

Wed Oct 31 2007

By Joe Paraskevas

Readers greeted the news of Derek Harvey-Zenk's conditional sentence with anger and disbelief Tuesday.

More than 2,900 people responded to a *Free Press* online poll that asked whether they agreed with the punishment given to the former Winnipeg police officer charged with killing Crystal Taman, an East St. Paul woman, in a 2005 car accident.

Of the respondents, 84 per cent disagreed with the verdict of provincial court judge Ray Wyant.

Virtually all the people who wrote to the newspaper also disagreed with the conditional sentence of two years less a day that imposed several restrictions on Harvey-Zenk but called for no jail time.

The *Free Press* received dozens of e-mailed letters.

Some readers wondered why Harvey-Zenk refused to submit to a breathalyzer test at the scene of the accident. Some suggested Harvey-Zenk's fellow police officers betrayed public trust by withholding crucial information about Harvey-Zenk's level of inebriation.

Some were dismayed that special prosecutor Marty Minuk struck a plea agreement with Harvey-Zenk's lawyer, Richard Wolson and failed to explain what was behind the agreement.

In their own words

Harvey-Zenk's refusal of the breathalyser says it all. Why would he refuse it if he had simply fallen asleep, as he claims? Simple answer: he knew he was impaired. The cover-up is despicable, as are the actions of his fellow officers he was partying with, for not having the guts to do the right thing. Justice has not been served.

--Jan Hetherington

Anyone who is associated with police officers knows the shift change parties are a reality that will not likely go away. Having said this, an officer is supposed to be a role model for others, being in the position (public eye) they are. Nice thing for kids to be reading and hearing in the media, that cops have their buddies cover up and lie for them, so this must be an OK thing to do. And then that the courts only help the bad guy, while the innocent are ignored.

I am also sure most knew what the outcome of this trial would be, before it even started. ... These dirty little cover ups, plea bargains, and evidence being swept under the rug due to technicalities have no place in a true justice system.

My heart goes out to the entire Taman family.

--Bev Rolsky

It is a terrible tragedy that this motor vehicle accident happened! All of us have had times when we are driving and have been distracted -- no one is perfect. However, the most glaring fact is that Mr. Harvey-Zenk refused a breathalyzer. I have been to court where people have refused this test and they are automatically considered guilty of drunk driving and so charged. Why is his case different?

I think Mr. Harvey-Zenk would have been wise to accept responsibility publicly for this terrible accident and plead guilty. His heart has to be broken for this whole mess, his mind full of guilt. If he had plead guilty (or taken the breathalyzer to prove he was not drunk) then he could have brought some closure -- both to this family in mourning and to himself.

Mr. Harvey-Zenk could have gone on to speak to schools about the consequences of this whole situation -- instead he will live with this hole in his heart for the terrible injustice done to this family!

--Sandy McKinnon

It is to be hoped that when the Crown needs a special prosecutor in future, it will be more discriminating. It is also to be hoped that the police officers who invoked tribal loyalty at the expense of justice, will be eternally ashamed of their part in this tragic event. "To Protect and Serve" seems increasingly to be lost in the special groups syndrome. Selective memory and contempt for the judicial process appear to be endemic. The citizens these police purport to serve should hope they never have to turn to them for help.

--Laurie Johnston

My son is currently mid-way through the criminal justice studies program at the U of W. His intention is to become a member of the Winnipeg Police Service when he graduates. As a mother, how am I to continue to support this career choice knowing that people like Derek Harvey-Zenk and his "thin blue line" pals will one day be his colleagues? A mother is dead and her children and husband deprived forever of her love and support because people like this think that their status as police officers gives them leave to break the law and kill innocent people without fear of punishment. Oh wait -- they're right, aren't they?

--Name withheld

Odorous best describes all aspects of this case. Thirty-three potential Crown witnesses are never utilized? Had it not been for the investigative prowess of the Winnipeg Free Press, the general public would never have known of the botched investigative method used by the East St. Paul police. And as a finality to this charade, was the special assistance of the Sherriff's officers who allowed Harvey-Zenk to sneak out of court, rather than being treated as a convicted criminal (needed)? Was justice really served?

--Richard Vincent

Manitoba's OJ! I can't stand the stench of this. Mr. Doer -- please stand up.

--Robert Tarry

Thank goodness for an honest intelligent judge who still tries to practice the honorable profession in a professional manner. What makes the police think they are above the law? Most times it is hard to sort out the crooks from the cops. It is unfortunate for the real cops. Having been a juror several times, I can relate to the judge's comments and have often wondered why a trial presents only part of the information, and usually not enough information to make an informed decision. As for the crash, who are we kidding? Harvey-Zenk had to be going at least 120 km/hr to demolish a car. No skid marks? Drunk and/or asleep? Cover up at the scene? Omission of evidence? Prior events for the evening?

It's a good thing the press is on top of this. It has been festering for years and now it has become a public joke, at the expense of one poor family who has lost their lover and mother.

Last but not least, shyster lawyers! They wonder why the public opinion is against them and their profession? They seem not to follow the law, but rather bend or discount ethics to satisfy their own means and ends. And from my view, as an employer of public servants through my taxes, I am disgusted and would fire several of the people involved if I was the boss. When do we hire a defense lawyer for a prosecutor? Gas masks should have been passed out at the trial to protect the public from the awful stink in the court room.

--Rod Chapman

This decision is wrong, most inappropriate and shameful and it is not a good reflection on the duties of the police.

I am sure that if I had been the person who did this "Dirty Deed" and was subjected to a breathalyser test at a later date, it would have counted and therefore I would be going to jail. It is simply very unfair that any policeman, retired, off-duty, etc. have the privilege of not being subjected to the same rules an ordinary citizen would be. Hopefully, this kind of reasoning will not continue. It seems to me that the pride of being a policeman whether city, municipality or RCMP has been very tarnished lately and we need them to reinstate their pride of belonging to law and order employment.

—A concerned citizen

Canada was built on a shared vision of social order that was meant to enable its citizens to live freely, peacefully and securely knowing that we have a structure and laws in place to protect us. The Crystal Taman case is yet another example of our social system gone awry — one in which accountability becomes less evident every day.

--Name withheld

We are given to understand that even the judge, while clearly and appropriately demonstrating his disdain, may have had the power to act more courageously in an effort to ensure that justice was served. And sadly I, together with countless other Canadians, have failed to show accountability by being complacent in the face of our growing social ills. But not today. Today, I stand with Robert Taman and his family to add my voice to a growing chorus. This cannot go on.

--Debra Jonasson-Young

The decision not to send Derek Harvey-Zenk to jail is an outrage. However, if he had gone to jail he would have soon been released as our jails are overloaded.

Everyone talks about tougher sentences, but no one ever talks about a new, large jail and you can't have one without the other.

--Barry Smith

As a high school teacher who tries to convey to my students that equality is very important in our justice system and in our society, how do I now explain this appalling travesty of justice to my classes? Someone please fix our justice system by putting some "teeth" into our lax laws.

--Name withheld

What a tragic mockery of justice occurred in the Derek Harvey-Zenk/Crystal Taman case. We citizens of Manitoba are required to respect the laws of the land and to respect those who are keepers of the law. It is a very sad day indeed when a loss of life occurs and the person responsible for that loss is not held accountable. The message we are getting, and I'm sure the young people will get the same message, that the laws of the land apply differently depending on who you are and who you know.

--John and Irene Mytz

Is it little wonder that today's young people and indeed older people have little or no respect for the law?

Although I feel there was a miscarriage of justice done, I hope that Derek Harvey-Zenk will at least have a conscience enough to remember what he did for the rest of his life.

--L. Walker

Once again the Manitoba justice system has let the people of Manitoba down. The prosecution of Derek Harvey-Zenk was wrong on so many levels it was almost a joke.

--Name withheld

We are constantly assured that police officers are here to serve and protect the public, but in this case it appears that a few misguided officers felt they were entitled to serve and protect not the public, but rather their own interests. This is, in my opinion, an insult to all the hard-working honest officers that protect us from harm every day.

--Paul Van Buren

How can we have confidence in our police/justice system when a case as serious as this is botched?

I'd suggest that the officers attending the scene of the accident be deemed incompetent and removed from the police force. Then we will find out who gave the marching orders to cover up pertinent information.

--Name withheld

Ridiculous! Our laws must be rewritten NOW. Anyone being investigated for an automobile accident or any criminal offence should not be able to refuse a breathalyser or blood test to prove alcohol or drug influence. Personal privacy must not outweigh "the common good."

--Gary T. Anderson

This is just another typical case of the shambles that our justice system is in right now. It also clearly indicates that there are more than one class of citizens and they are treated differently. My only hope is that no other families will need to go through the ordeal that the Taman family has been subjected to.

--Jake Sawatzky

The Taman case makes me sick and oh so sad for the family. I don't know if the police have to be held to a higher standard of scrutiny, but they should certainly be held to the same level of justice as the "normal" citizen. It is truly a sad day for everyone.

--Lorne Campbell

FREE PRESS

Widower welcomes provincial probe

Wed Oct 31 2007

By Mia Rabson, Bruce Owen and Mike McIntyre

THE husband of 40-year-old Crystal Taman welcomed a public inquiry into the circumstances of his wife's death Tuesday, but said he thinks the government is only doing it because of growing public anger.

Crystal Taman was killed in February 2005 when former Winnipeg police officer Derek Harvey-Zenk crashed into her car after partying with fellow police officers.

Taman's husband, Robert, said Tuesday he heard about the inquiry from the media, rather than getting a call from government or victim's services, which he said has been par for the course since his wife was killed.

But overall, he said, he is happy the inquiry will take place.

"We did want the evidence to come out, so if this is how it's going to happen, we're happy," he said.

Tory Leader Hugh McFadyen said this case has eroded public confidence in the justice system.

"When situations like this arise, it shakes people's confidence and that confidence can only be restored through an open and transparent process," said McFadyen.

Lawyer Hymie Weinstein, who represents former East St. Paul police chief Harry Bakema, said he spoke to his client about the inquiry and they are waiting for more details of how it will proceed.

"It is important for the parties involved to understand how far-ranging this inquiry will be," said Weinstein.

Bakema, who was the lead investigator on the Harvey-Zenk investigation, was fired from the East St. Paul police in 2006 in connection to his handling of the case.

Weinstein said he feels the decision to have an inquiry was driven by the media and "some of the comments in the media."

"The government responded to that. Sometimes that's a good thing. Sometimes it's not."

Winnipeg Police Association president Loren Schinkel said Tuesday it was premature for him to comment on the public inquiry, and the prospect a number of city police officers who were with Harvey-Zenk before the crash will be compelled to testify.

He said he had to find out more about the planned inquiry.

FREE PRESS

WEB UPDATE: Chomiak ponders removal of Minuk from Dumas inquest

Wed Oct 31 2007

By Mia Rabson and Lindsey Wiebe

Attorney General Dave Chomiak is looking at whether lawyer Marty Minuk should be removed as a lawyer in the upcoming inquest into the death of 18-year-old Matthew Dumas.

"I've asked the department to look at the situation," said Chomiak.

The Southern Chiefs' Organization want Minuk taken off the inquiry because of concerns over his involvement as the special prosecutor the trial of Derek Harvey-Zenk.

Harvey-Zenk, a former Winnipeg cop, was sentenced to house arrest for killing a woman in a car accident in February 2005. The province has called an inquiry into that case partly to address concerns about police involvement giving special treatment to one of their own, and about whether Minuk had a conflict of interest because he has represented police officers in other cases.

It has been over 15 years since Minuk last represented a police officer.

SCO said they don't want someone who may have a conflict of interest involved in the Dumas inquest to ensure the truth about what happened comes out.

Dumas was shot and killed in January 2005 during a scuffle with police.

An inquest is mandatory in Manitoba when someone dies as the result of a police act.

The Winnipeg police reviewed the case and the Calgary police also looked at it and it was determined no charges should be laid against the officer involved.

The preliminary stage of the inquest is scheduled for December. Minuk has been appointed to participate as counsel to the judge.

Chomiak was reacting to a call from the the Southern Chiefs' Organization, which is advocating for Dumas' family. The chiefs wrote a letter asking the province to take Minuk off the case.

Minuk is already facing allegations of conflict of interest relating to the Harvey-Zenk case for previously representing other police officers in court.

"Even the slightest appearance of a conflict of interest puts the whole proceedings in jeopardy," said the group's director of justice Nahanni Fontaine.

Fontaine said there's a public perception that Harvey-Zenk was given "preferential treatment and a preferential sentence" for his role in Crystal Taman's death. She said that knowledge, paired with Minuk's previous representation of police officers, pushed her organization into action.

Fontaine said the SCO has written Justice Minister Dave Chomiak and assistant deputy attorney general Don Slough, asking that a new Crown be assigned to the inquest.

"The inquest for us is the last hope, really, that we will get some semblance of truth," she said.

Matthew Dumas was shot to death by a police officer after a scuffle with city police in January 2005.

FREE PRESS

**Sheriff defends shielding Harvey-Zenk
Family insulted by insinuation of possible confrontation
Wed Oct 31 2007**

By Mike McIntyre

DEREK HARVEY-ZENK was shielded from the public and given a personal escort from the downtown Law Courts building because of ongoing safety concerns surrounding his high-profile deadly driving case, according to Manitoba's head sheriff.

Ed Haluschak, acting director of sheriff's services, said Harvey-Zenk wasn't given special treatment on Monday because he is a former Winnipeg police officer.

"This was done for the safety and security of all in the courthouse," he told the *Free Press*.

Haluschak said emotions appeared to be "running high" in the courtroom Monday as Harvey-Zenk learned he wouldn't be going to jail for killing Crystal Taman following a night of partying and drinking with his friends.

"There was a very significant perception that there was likely to be, or could be, a confrontation in the hallway. That's why we took the steps we did," he said.

Those steps included keeping Harvey-Zenk and his family in a locked courtroom and bringing his conditional sentence paperwork directly to him, instead of making him wait several hours in a public foyer.

Harvey-Zenk was then whisked out of the building through a private exit, avoiding a throng of media.

Taman's family say they are "insulted" by Haluschak's apparent insinuation they were looking to start trouble with Harvey-Zenk.

In fact, all of Taman's loved ones quietly left the courtroom, and ultimately the Law Courts complex, while Chief provincial court Judge Ray Wyant was still reading terms of the conditional sentence.

"By the time he was leaving court we were probably halfway to the cemetery (to visit Crystal's grave)," said widower Robert Taman. "We've handled ourselves with dignity throughout this."

A veteran sheriff's officer, speaking to the *Free Press* with the condition of anonymity, said Monday that police officers have been given special treatment in the past in the form of personal escorts from the building.

Haluschak defended that allegation Tuesday, noting there are three other criminal cases currently before the courts involving former Winnipeg police officers.

Haluschak presented stats which show the men have made 27 combined appearances this year in which they've all had to walk out the front door of the Law Courts, just like every other visitor or accused person who isn't facing a safety issue.

Tory Justice Critic Gerald Hawranik said Tuesday there has been a long standing tradition in court for police officers convicted of a crime to be escorted out the back doors. But he said it wasn't warranted in this case.

"I think it took everybody by surprise because in this case he is no longer a police officer. Given the circumstances of the case I think it was probably inappropriate for them to do that," he said.

Hawranik said when the conduct of the police in this case is already in question, and the perception is that Harvey-Zenk received special treatment, the sheriff's officers should have taken special care to do everything by the book.

"It's something upstairs supervisors should be looking at," said Hawranik.

—with file from Mia Rabson

FREE PRESS

Let them know we're sick of injustice

Robert Taman hopes you'll join fight with justice system

Wed Oct 31 2007

Lindor Reynolds

IT seems as though Derek Harvey-Zenk got away with murder.

Some facts are irrefutable.

On Feb. 25, 2005, the now-disgraced police officer came off a night of partying with his fellow cops. It is accepted that, around 7 in the morning, Harvey-Zenk slammed his 1995 Dodge Dakota truck into the back of Crystal Taman's bright yellow convertible.

She was on her way to work and sitting at a red light. He made no effort to stop.

The 40-year-old mother of three died in the collision.

Monday afternoon, the man who killed her got a conditional sentence.

Tuesday, Justice Minister Dave Chomiak announced there would be a public inquiry into the death of Crystal Taman, the police investigation that followed and the court case that resulted in Harvey-Zenk's lenient sentence. Chomiak had no choice but to call the inquiry, so let's not give him too much credit.

This case seemed to support what so many people believe -- that cops look after their own; that there are two different kinds of justice in this world; that lawyers can dream up a plea bargain deal that would be unacceptable in the bowels of hell.

Chomiak has to hold an inquiry just to stop average people from sharpening their pitchforks.

We need to know our justice system works, not just in this case but in every case that appears in front of a judge. We need to be reassured there is truly justice in this province. If there has ever been a time when Manitobans needed proof the law applies to all of us equally, it is now.

And so there will be an inquiry.

But while Robert Taman, Crystal's husband, welcomed the news Tuesday, he also confirmed there is a seemingly endless list of ways this family can be made to suffer.

Let's review:

It wasn't enough that, through what appears to be a perfect storm of police incompetence, secret deals and flat-out lies, Harvey-Zenk got a two-year conditional sentence for killing Taman.

It wasn't enough that Harvey-Zenk was left in a courtroom after sentencing, spared the prying eyes of the media and the public and whisked out a rear door so he wouldn't have to face the grieving family.

It wasn't enough that everyone who followed this case -- including chief provincial judge Ray Wyant -- believes there is a perception that a man got away with drinking, driving and killing an innocent woman.

Tuesday, even as Dave Chomiak announced the wide-sweeping public inquiry into the case, Robert Taman revealed the family will not be launching a civil suit against the man who killed her.

Why? Because they can't.

Under Manitoba law, no-fault insurance applies. Forget the means by which Ronald Goldman's family has been able to financially punish O.J. Simpson for their son's death. That can't happen here.

Here's how it works: Harvey-Zenk would have paid about \$1,000 to insure the 1995 Dodge Dakota pickup truck he rammed into the back of Taman's car after a night of partying with his fellow officers.

MPI has paid the Taman family somewhere in the neighbourhood of \$240,000 in death benefits.

That's a sum worked out mathematically by factoring in the age of the victim, her earning power and the age of her children. The figure doesn't include money paid for funeral expenses (a maximum of \$7,113 with receipts) or grief counselling (\$2,500 a person maximum).

Let's review again:

A man paid his Autopac premium, MPI paid Taman's family a death benefit, the rest of us pay through our insurance rates for the fact that she's dead. That's no-fault insurance, folks.

It's important to note that, for the Taman family, money isn't the issue.

Robert Taman will never get his wife back. His kids have lost their mother. He knows and you and I know there is no figure great enough to compensate for the holes in their hearts. But he wanted justice -- and justice will never be done in this case.

"Money isn't the point," Taman said Tuesday. "MPI took us into a room and in about 90 seconds gave us a figure and said they were very sorry for our loss. Money isn't going to make me happy. It isn't going to make my kids happy."

But it could have made life harder for the man who skated away from this tragedy.

Since our system decided to allow this travesty, the very result of which Dave Chomiak is now investigating, it seems Robert Taman should be allowed his pound of flesh.

That's not what this sad family expects. That's not even what they're asking for. They've learned to keep their expectations low.

They know Harvey-Zenk won't be tried again -- at least not in a court of law.

"I can say this: All the loopholes will never give him any sleep at night," says Taman. "He knows what he has done."

And so Robert Taman has only one request and it's one I hope thousands of you take to heart.

He would like you to e-mail Dave Chomiak, your MLA and your MP. He wants you to demand changes to a judicial system that can allow a man to drive after an all-night party with friends, kill a woman and walk out of a courtroom and straight back into his own living room.

His fight isn't with Derek Harvey-Zenk. It's with the entire justice system.

If you'd be willing, he'd like you to send him a copy of that e-mail (and any other messages of support) to robtaman@gmail.com.

We can't bring Crystal Taman back to her family. But we can certainly let her grieving family -- and every politician in this country -- know that we're fed up with a judicial system that does not put victims first.

Let's move forward. Let's make sure Crystal Taman's death has some positive result.

FREE PRESS
Inquiry could show inner workings of justice system
Wed Oct 31 2007
Dan Lett

YET another judicial inquiry. But make no mistake about it, the inquiry called yesterday into the investigation and prosecution of Derek Harvey-Zenk is not your garden variety judicial three-ring circus.

This inquiry, when it is finally convened, should provide Manitobans with an unprecedented view of the inner workings of the justice system.

If this inquiry does what its masters claim it will do, it will delve deeply into the thoughts and actions of the lawyers who constructed the plea bargain that spared Harvey-Zenk prison time for plowing into the back of Crystal Taman's car and killing her. A plea bargain that outraged a province.

Of course, it is not certain the inquiry will live up to the billing it was given yesterday by Premier Gary Doer and Attorney General Dave Chomiak. Both politicians said the Taman inquiry would answer the questions that weren't answered in court, and fill in the blanks on what actually happened the night that Taman was killed.

However, announcing an inquiry is one thing. Forging the mandate is quite another.

Although inquiries are intended to be objective, definitive examinations of a miscarriage of justice, their mandate is vulnerable to influence by the affected parties. In the case of the recent inquiry into the wrongful conviction of James Driskell, counsel for Driskell negotiated the mandate directly with the deputy justice minister. Those discussions resulted in the final format of the inquiry.

Many times, it's at this early stage that decisions are made about who will (or won't) be on a witness list, what questions will (or won't) be asked and what issues will (or won't) be tackled.

In short, it's a highly political game of give and take.

For the Taman inquiry, Chomiak is being deliberately cagey about who will have standing to negotiate the mandate. We can anticipate a large number of parties who will want to influence the proceedings, including the Taman family, the Winnipeg Police Service, the Winnipeg Police Association, and the Rural Municipality of East St. Paul.

There will also be input from the prosecution's branch of Manitoba Justice. Chomiak will have to be careful to weigh this input and remember that, in this case, the decision by his own staff to hire a special prosecutor - someone from outside the Crown's office -- is one of the issues that should be explored.

All Chomiak has said is that he will have the final say on mandate. That is a serious responsibility, and one that will require the attorney general to draw upon some serious intestinal fortitude, because this inquiry is going to tread on sacred ground. At least as far as lawyers are concerned.

The inquiry's most fascinating moments could, if all goes well, come if Marty Minuk, the defence lawyer who was hired as special prosecutor in this case, and Richard Wolson, the defence lawyer, are compelled to reveal the deliberations that led up to the plea bargain.

Normally, courts do not hear such information. Discussions among attorneys are tacitly considered a communication protected by solicitor-client privilege. That argument might be relevant here, although if the inquiry mandate lives up to billing, argument of privilege should not be successful.

The province generally waives privilege so an inquiry can view all internal correspondence and documentation. That was the case in Sophonow and Driskell. But no inquiry can force a third party, say Wolson, to violate that privilege.

In the Driskell inquiry, the province received a waiver of privilege from Driskell himself so that it could release correspondence between his lawyers and prosecutors.

Chomiak, and the as-yet-unnamed commissioner, need to be meticulous in designing the mandate so that it does not give Wolson or Minuk an opportunity to avoid testimony. And as long as the inquiry only seeks to expose the plea bargain negotiations between the two lawyers, there should be no legal reason why that cannot be aired in public.

Chomiak said yesterday he fully expects that given the public outrage about this case, both Wolson and Minuk will want an opportunity to give their side of the story. Certainly, it would be a good strategy to make it clear that the inquiry wants to hear from both Minuk and Wolson, and leave it to them to either accede to the demand or publicly resist it.

Given the outrage sparked by this case, resistance would demonstrate extremely poor judgment.

But then again, important figures in the justice system have shown they will not only defend poor judgement, they will celebrate it as a virtue.

We can only hope the attorney general doesn't allow this to happen at his inquiry.

FREE PRESS

That is the question

Wed Oct 31 2007

Editorial

THE Doer administration wasted no time in calling a public inquiry into the travesty that has played out around the dangerous driving charges against a former city police officer whose actions killed one woman and injured another in February 2005.

That may say something about what it is hearing from an as-yet incomplete review it launched earlier into the way East St. Paul police investigated the deadly crash. It may be because on Monday, at the sentencing of Derek Harvey-Zenk, a judge described a disturbing scenario of manipulation in the case by the special prosecutor and the defence lawyer.

It is clear is that the handling of both the investigation -- including the role played by Harvey-Zenk's then fellow officers -- and the court case has damaged the public's perception of the way justice is administered in Manitoba. Justice Minister Dave Chomiak could not ignore the clamour for accountability, something the court did not deliver.

The bungled investigation raised allegations of impropriety and incompetence on the part of East St. Paul police, who were on the scene after Harvey-Zenk left a house at 7 a.m., got into his truck and rammed, without braking, into the back of the car of Crystal Taman, who was stopped at a red light on Highway 59. Harvey-Zenk and co-workers had closed a bar after their shift, and continued the party at the house. No good evidence of impairment was collected -- his co-workers were not heard from in court -- and a charge of refusing a breathalyzer (after a delayed request) was dropped along with drunk-driving charges in a plea bargain that scandalized the public and Ms. Taman's family. Harvey-Zenk is serving his sentence in the community. Chief provincial court Judge Ray Wyant bemoaned the fact a lack of evidence produced in court forced him to accept the sentence jointly recommended by the defence and the special prosecutor.

A thick pall hangs over the handling of the case. Harvey-Zenk was convicted of dangerous driving in a case characterized as at the lower end of the scale. Manitobans were prevented from learning the truth about what happened in the hours before the accident and why a special prosecutor, hired to represent the public interest, did not call critical evidence relating to his drinking. Judge Wyant said it appeared the defence and the prosecutor altered their approach to the case midstream to protect a deal that avoided jail time for Harvey-Zenk. He quickly added he rejected the notion, but in laying out the scenario, he pulled into focus murky pieces of the case

that were confounding the public. How could it be that a man, then a police officer, had so many mistakes line up to his benefit?

That, ultimately, is the question before the public inquiry. The inquiry must begin soon and report in a timely fashion. Prolonging the unknown allows a prevailing disgust to erode further public confidence that the system works equally for all, without fear or favour, and in the interest of justice.

FREE PRESS
Letters to the Editor
Wed Oct 31 2007

Manitoba a police state
Re: No jail for Taman's killer, Oct. 30.

The death of Crystal Taman as a result of her car being hit by a vehicle driven by Derek Harvey-Zenk, while extremely tragic, indicates how we have evolved into a police state in Manitoba.

Those who are sworn to uphold the law, to serve and protect, can allegedly cover up and ignore their duty whenever it suits them. The minister of Justice says that they can't do anything. The judge says that he can't do anything. The "special" Crown prosecutor says that he can't do anything. Yet the real villains, the Winnipeg Police Service and the East St. Paul police, walk away from the scene with immunity, supported by their superiors and their representatives.

How many more instances have to occur before we bring back an honest, trustworthy and just policing system? Until then, we will continue living in fear of those hired to serve and protect.

ROSS MARTIN
Oakbank

No justice for Crystal's kids

What Derek Harvey-Zenk did should have been classified as vehicular manslaughter. And to not serve any jail time, that is a police cover-up for sure. Our police are here to serve and protect, not have their own laws when they are in trouble with the court system.

I ask these officers, how do you think the Taman family feels knowing full well that some of your own are out there knowing the truth about what happened that night, yet refuse to come forward? Crystal's children need to know that there is justice, even if it never brings her back.

JOYCE MCGREGOR
Winnipeg

WINNIPEG SUN
We 'deserve answers'
Province calls inquiry into Harvey-Zenk case
October 31, 2007
By PAUL TURENNE, SUN MEDIA

Recognizing the public -- not to mention Crystal Taman's family -- is hungry for answers in the Derek Harvey-Zenk case, the Manitoba government yesterday called a full public inquiry into the matter.

Harvey-Zenk was handed a two-year conditional sentence Monday for causing the highway crash that killed Taman in 2005.

A controversial plea bargain left some charges, including impaired driving causing death, off the table and Taman's family has been vocal in its criticism of how the case was handled, as have many members of the public.

Among the questions raised was whether Harvey-Zenk, a Winnipeg police officer at the time, received preferential treatment because he was a cop, and whether the Crown should have pushed for a stiffer sentence.

Yesterday, Premier Gary Doer announced the government would provide a forum for the family and the public to get the answers they're looking for.

"When the justice system is not perceived to be working for the benefit of all Manitobans equally, it's very important that we have an inquiry," said Doer. "The Taman family and all Manitobans deserve the answers."

"It feels a bit like the Tower of Babel. There is so much different interpretation going on," said Justice Minister Dave Chomiak of the case. "The inquiry will look at all the facts of this particular case."

Chomiak said the law prevents the inquiry from having the power to change the status of Harvey-Zenk's conviction or sentence, or the status of his stayed charges.

However, the inquiry could lead to changes within Manitoba's justice system, said Chomiak.

"The judicial system is a human system that is operated by human beings. If there are errors, they should be corrected," he said.

Chomiak already called for reviews into the operations of the East St. Paul police department, which investigated the case, and into the province's practice of hiring special prosecutors to work on cases with the potential for conflict of interest.

Chomiak said yesterday both those reviews will proceed and he expects them to be done within 60 days.

During that time, the work of setting up the inquiry will take place, including determining its mandate and choosing a commissioner.

Chomiak said it's likely the commissioner will be an out-of-province judge.

The government decided in August it would likely call the inquiry but waited until the sentencing was complete, he said.

WINNIPEG SUN

Too little, too late, say Taman's parents

October 31, 2007

By JULIE HORBAL, SUN MEDIA

Sveinn and Victoria Sveinsson found little comfort in yesterday's announcement of a public inquiry into the prosecution of a former city cop who will serve no jail time for killing their daughter.

After months of controversy and public allegations of judicial wrongdoing, Derek Harvey-Zenk received a two-year conditional sentence on charges relating to the crash that killed 40-year-old Crystal Taman.

Yesterday, Taman's father told Sun Media an official public look into everything from police conduct at the crash scene and the way special prosecutor Marty Minuk handled the case to the sentence handed down is ultimately too little, too late.

"We're thrilled that there's going to be an inquest that will cover the whole investigation," Sveinn Sveinsson said. "But it's kind of a little late after the horse is out of the barn."

Harvey-Zenk had been partying with fellow off-duty officers for hours before he slammed into Taman's car, killing her almost instantly.

But because of a plea deal that resulted in the conditional sentence, all alcohol-related charges were dropped and few details of the night in question were revealed.

Sveinsson said it's important for the public to know exactly what happened that night and also in the months of investigation and legal banter that followed -- especially since even he and his wife and Taman's husband and children were left in the dark.

"We were screaming, hollering and writing letters to have this travesty stopped before the case was done," he said. "Now it's done. It's over."

Sveinsson said he hopes the inquest will prevent prosecutors from refusing to provide evidence -- as it appears Minuk did -- in future trials.

The father went so far as to call the prosecution "a farce."

"I want somebody to lift the rug because there's skeletons under there," he said. "There's awful things happening in our justice system that have been going on for years."



Sveinn Sveinsson, with wife Victoria, calls prosecution 'a farce.' (BRIAN DONOGH/ SUN MEDIA)

WINNIPEG SUN

We'll get close to truth

But don't expect heads to roll because of inquiry

October 31, 2007

By TOM BRODBECK

The first thing people want to know when government calls a public inquiry into some miscarriage of justice is whether heads are going to roll.

It's one of the things I think of because I've covered too many public inquiries where, despite clear evidence of wrongdoing by police, prosecutors or other officials, I've never seen a head roll.

Wrongdoers are sometimes publicly shamed and suffer loss of reputation.

But I've never seen anyone charged and prosecuted as a result of a public inquiry in Manitoba.

It came close once.

In the Monnin inquiry, which probed the Tory vote-rigging scandal in the late 1990s, there was a recommendation by the commissioner to consider whether criminal charges should be pursued.

Unfortunately, a special prosecutor hired by Manitoba Justice later concluded that, while there was a likelihood of a conviction for obstruction of justice, it wasn't in the public interest to prosecute.

It was a disappointing outcome.

But it didn't render the inquiry meaningless.

Far from it. Even before the inquiry began, then-premier Gary Filmon's chief of staff Taras Sokolyk resigned in shame and later provided testimony at the inquiry about his involvement in the scandal.

Other powerful figures, including then-treasury board president Jules Benson, also admitted their role in a scheme to fund stooge, native candidates in three rural ridings in an attempt to siphon votes away from the NDP.

The public, the media and all political players learned a great deal about the integrity of elections and why a scheme like the one the Tories tried to pull off was an attack on one of the most fundamental aspects of a free and democratic society.

Heads didn't roll -- they should have -- but you can bet your last dollar all political parties will think twice before trying something similar in the future.

So it's a bit of a deterrent, too.

Mostly, though, it's about the public's right to know what happened. The public has a right to know if their government tried to rig an election.

And they found out.

NO FULL ENCHILADA

The inquiry into the botched case of Derek Harvey-Zenk, called by the Doer government yesterday, will also get to the bottom of what happened.

We won't get the full enchilada because some of the players involved will be able to keep aspects of the case under wraps.

It's hard to get the full truth and nothing but the truth.

But an inquiry attempts to get there and, like the Driskell and Sophonow inquiries, they do a pretty good job of getting close to the truth.

We'll get a better understanding of what police did or didn't do at the crash scene, including whether there was a police coverup.

We'll get insight into why special prosecutor Marty Minuk inexplicably agreed to a plea bargain when he had a strong case to proceed on dangerous driving causing death charges.

And the inquiry will probe the court case, too, including the judge's decision to accept the plea bargain.

The revelations will almost certainly effect change.

We should demand that heads roll, too. These inquiries would be much more effective if people were held accountable for their actions beyond public shaming.

If there was obstruction of justice during the police investigation, for example, somebody should be prosecuted.

Either way, Premier Gary Doer and Justice Minister Dave Chomiak's decision to call a public inquiry into this miscarriage of justice was the right thing to do.

They should be applauded for the move.

WINNIPEG SUN

Can't hide stench of injustice

October 31, 2007

By Stephen Ripley

The bond shared by police officers is one of the closest-knit relationships in society ... and with good reason.

The men and women who choose to wear the badge often stand alone between the lawless and the law-abiding, sometimes making the ultimate sacrifice for the safety of others.

The roll call of cops who have given their lives in the name of justice gets longer every year. Just this month, Const. Christopher Worden joined that grim list, which includes the all-too-familiar surnames Myrol, Schiemann, Johnston, Gordon and Strongquill.

These slain peace officers, along with the vast majority of their brethren, are heroes who deserve our recognition and respect. Which makes it all the more sad in those rare instances -- as in the case of ex-Winnipeg cop Derek Harvey-Zenk -- when the public is left to wonder whose interests the police are really sworn to protect.

On the morning of Feb. 25, 2005, Harvey-Zenk's pickup plowed into the back of Crystal Taman's car, killing the 40-year-old mother of three. The subsequent investigation, conducted by East St. Paul police, was so thoroughly fumbled that many observers -- including 90% of some 2,400 respondents to yesterday's Winnipeg Sun poll -- believe they botched the case on purpose.

In his sentencing decision Monday, Judge Ray Wyant said the shoddy job done by investigators, in which they apparently ignored evidence of Harvey-Zenk's alleged impairment, helped foster "a near perfect storm of cynicism" among the public. He said it appeared to be an example of the "thin blue line" protecting one of their own.

And the cynical suspicions that those in law enforcement play by a different set of rules were confirmed shortly thereafter when Winnipeg sherriff's officers shielded Harvey-Zenk from the media, sneaking him out of the courthouse through a hidden exit. It was another twisted example of peace officers working against the interests of the same public they are sworn to protect.

One of the basic principles of law is justice must not only be done -- it must be seen to be done. Everything in this case, including Harvey-Zenk, has been kept hidden from the public.

But they can't obscure our sense of smell. Fortunately, the stench rising from this case has not gone unnoticed. Responding to public outcry, the provincial government yesterday called an inquiry into the investigation.

If the inquiry does confirm our worst suspicions -- that the Taman case was intentionally botched - - we can only hope those responsible will join Harvey-Zenk among the ranks of former police officers.

Justice demands it.

FREE PRESS

**Province reviews Dumas counsel
Minuk appointment called possible conflict
Thu Nov 1 2007
By Mia Rabson**

ATTORNEY General Dave Chomiak has his department reviewing the appointment of lawyer Marty Minuk as legal counsel in the upcoming Matthew Dumas inquest.

"I've asked the department to look at the situation," he said.

Minuk was appointed to be counsel to the judge in the inquest, which is scheduled for preliminary hearings in December.

The inquest will probe the circumstances around Dumas's death. The 18-year-old was shot and killed by police in January 2005. Police believed he was a suspect in a home invasion, which was later proven to be false.

Dumas's family and the Southern Chiefs' Organization Tuesday asked Chomiak to reconsider Minuk's appointment in light of conflict-of-interest concerns about Minuk's involvement in the Derek Harvey-Zenk case.

The province has launched a public inquest, a review of the East St. Paul police force and an operational review of its special prosecutor system in the wake of that case.

Minuk, a private bar lawyer, was appointed as special prosecutor in the case as per a government policy not to use Crown attorneys when prosecuting people directly involved in the justice system, such as police, because of a potential conflict of interest.

Minuk is one of several private bar lawyers listed to be used as special prosecutors.

But Minuk also has perceived conflicts of interest, say some critics, because, as a defence lawyer, he has represented police officers in other cases and worked with Harvey-Zenk's defence lawyer, Richard Wolson, on another case just months before this one.

It has been at least 15 years since Minuk represented a police officer.

Harvey-Zenk, a former Winnipeg officer, pleaded guilty to dangerous driving causing death and was sentenced to house arrest for two years less a day, for the Feb. 25, 2005 death of Crystal Taman.

She died when Harvey-Zenk's truck plowed into her car while she was stopped at a red light on her way to work that morning.

Although Harvey-Zenk admitted he had been drinking the night before the accident, evidence of his alcohol use was not introduced in court. The Taman family and public have expressed outrage that Harvey-Zenk didn't get sent to jail and feel he got special treatment because he was a cop.

The role of the special prosecutor will be looked at in the inquiry the province called Tuesday.

Nahanni Fontaine, director of justice for the Southern Chiefs' Organization, said she is glad to hear Chomiak is looking into the issue, but said she hopes he will take the time to meet with SCO officials.

"We don't want this to be a personal thing with Mr. Minuk," said Fontaine. "It's not about his abilities as a lawyer. It has to do with the perception that there is a conflict of interest."

Tory Leader Hugh McFadyen said the government's reviews should be completed before "anybody rushes to judgment."

"I understand why they might take that position but I think it's premature to cast any aspersions on Mr. Minuk or anybody," said McFadyen.

FREE PRESS

**Taman widower gets apology from Chomiak
Thu Nov 1 2007**

ATTORNEY General Dave Chomiak has personally apologized to the husband of car-accident victim Crystal Taman for not ensuring the family was informed of an inquiry before it was made public.

Robert Taman was pleased by the public inquiry but said he was frustrated because he had to hear about it from the media, rather than from justice officials. He said that has been "par for the course" for communications throughout the case.

Chomiak said in question period Wednesday a mistake was made in not telling the family first.

"I phoned Mr. Taman this morning to apologize," said Chomiak.

He said he and Taman will meet in person sometime in the next weeks for a discussion.

Crystal Taman, 40, was killed in February 2005 in a car accident on her way to work. Derek Harvey-Zenk pleaded guilty to dangerous driving causing death and was sentenced to two years less a day of house arrest.

The case is now the subject of an inquiry because it has been perceived Harvey-Zenk got special treatment because he was a Winnipeg police officer at the time of the accident. He has since resigned.

WINNIPEG SUN

**Compare treatment
Watch how non-cop will fare in justice system
November 1, 2007
By TOM BRODBECK**

This should be an interesting contrast in law.

In one corner, we have former cop Derek Harvey-Zenk, who was charged with impaired driving causing death and refusing a breathalyzer after slamming into Crystal Taman's car and killing her in 2005.

In the other corner, we have a 28-year-old man, not a cop, who also faces charges of impaired driving causing death and refusing a breathalyzer in connection with a fatal motor vehicle collision Tuesday.

Harvey-Zenk had his impaired driving and refuse-a-breathalyzer charges stayed for some inexplicable reason. He got himself a top criminal defence lawyer to craft a plea bargain with a "special prosecutor" who agreed to give him house arrest for dangerous driving causing death in a joint recommendation to the court.

The special prosecutor agreed to this even though he had a strong case to prosecute on dangerous driving causing death, which carries a maximum 14 years in prison.

Harvey-Zenk then went before a judge who initially claimed cops should be held to a higher standard when they break the law, but who then turned around and sentenced him to house arrest, even though there was plenty of precedents for jail time in other similar cases.

Harvey-Zenk was treated with kid gloves by the justice system.

The cherry on the top was how justice officials escorted Harvey-Zenk out of the courthouse through a private exit that other criminals are normally barred from using so the ex-cop didn't have to face the wrath of the media outside.

Did they send him home in a limousine, too?

I doubt the 28-year-old man will get the same treatment.

Last time I checked, refusing a breathalyzer test carries an automatic conviction.

But somehow that automatic conviction was dropped for Harvey-Zenk, with no explanation to the court.

I wonder if it will be dropped for the non-cop?

It's going to be a very interesting study to see how this person will be treated by the justice system compared with Harvey-Zenk.

Kick in the groin

I'm not saying all cops get special treatment in the justice system.

I know for a fact they don't.

But the integrity of the justice system really took a kick in the groin over the Harvey-Zenk case.

The judge in the case, provincial court Chief Judge Ray Wyant, said in his last annual report that public confidence in our justice system "has been battered."

That was before the Harvey-Zenk case. I wonder what he'll say in his next report.

I doubt he'll blame the media for the erosion of public confidence, like he did in his last report.

He said he was "concerned about the role of the media and the perpetuation of negative attitudes towards our court system."

I suspect he'll apologize to the media instead, especially since it was the work of reporters in this city who dug up what really happened in this case, not the court, raising enough questions that Manitoba Justice called a public inquiry into the case this week.

There would have been no inquiry without the media's work on this case, and I'm not including myself in that.

It was the work of others who dug up the damning information that would have otherwise remained concealed.

If public confidence was "battered" before this case happened, I'd like to hear Judge Wyant's assessment of it now.

Especially when the public watches with great interest how the 28-year-old male is treated in the justice system compared with Harvey-Zenk.

I expect it will be a hell of a contrast.

WINNIPEG SUN

Minuk could be pulled from inquest

November 1, 2007

By SUN MEDIA

Manitoba Justice is looking into whether to remove lawyer Marty Minuk from the upcoming inquest into the death of Matthew Dumas.

Dumas was shot and killed by Winnipeg police in January 2005, and the province's chief medical examiner has called an inquest into his death. A hearing to decide who will speak at the inquest is set for Dec. 3, with the full inquest set to begin in the spring.

Dumas's family, as well as the Southern Chiefs Organization, want Manitoba Justice to remove Minuk as its representative at the inquest.

"I've asked the department to look at the situation," said Justice Minister Dave Chomiak.

Minuk is a key figure in the controversy surrounding the case of Derek Harvey-Zenk, a former Winnipeg cop who killed Crystal Taman in a 2005 highway crash. Minuk, normally a defence lawyer, was hired by the province to prosecute the case.

In light of the controversy around that case, Dumas's sister Jessica Paul said Minuk should not be involved in her brother's inquest.

"It's really disappointing. I don't think it's a fair opportunity for us," said Paul.

Minuk could not be reached for comment.

FREE PRESS

Free Press acquires Taman transcript

NOV 02 07

By Mike McIntyre

Former Winnipeg police officer Derek Harvey-Zenk avoided a jail term this week, triggering a wave of public anger that has led to Manitoba Justice Minister Dave Chomiak ordering a public inquiry into the deadly driving case.

Chief Judge Ray Wyant -- in handing down a controversial conditional sentence Monday -- said this case is the "perfect storm" for public cynicism and scrutiny.

The *Winnipeg Free Press* ordered a complete unedited transcript of the hearing, which you can download and read in PDF format.

Free Press - Letters

Prison not the answer

What should have happened to Derek Harvey-Zenk? The public's viewpoint seems to be shortsighted. Too much attention has been paid to the fact that the man hasn't had to face a day in jail. The truth of the matter is that prison would do nothing to change his behaviour in the future. It would surely be a very unpleasant, perhaps deadly, consequence for Harvey-Zenk (police officers don't do well in prison), but would it be justice?

Our society has to realize that other sentencing options exist. Harvey-Zenk could and should have faced serious monetary consequences for his actions. His personal freedoms should have been affected as well; perhaps a lifetime driving ban or the requirement that he have ignition interlocks installed on all of his vehicles.

Though none of these options fulfil the visceral desire for vengeance that we all feel in the wake of this sort of tragedy, they do present a more productive alternative to simply locking offenders in a cage. Perhaps if the police and prosecutor in this case knew that Harvey-Zenk was not going to face prison, they might have acted differently.

Harvey-Zenk deserves to be punished, and while I realize that imprisonment would work well to meet the public's hunger for vengeance, it would in the end simply diminish us all. Better we turn our attention to the justice system and demand that it begin to work in an intelligent and even-handed manner for everyone.

TIM COLLINS

WINNIPEG SUN

Latest drunk-driver death inflames demand for change

November 2, 2007

By JOYANNE PURSAGA, SUN MEDIA

Controversy over a recent court case, combined with charges laid against a suspected drunk driver in a fatal crash earlier this week, have Winnipeggers welcoming a campaign for tougher laws.

On Tuesday, a 63-year-old woman was killed after her car was broadsided by a vehicle at the intersection of Cavalier Drive and Hamilton Avenue.

Yesterday, police said officers did not take a blood sample of the 28-year-old male involved, who refused a breathalyzer. The man, whose name was not released, is charged with driving impaired causing death, driving dangerously causing death and refusing a breathalyzer.

On Monday, a judge accepted a plea bargain to allow former cop Derek Harvey-Zenk to serve a conditional sentence for dangerous driving causing death in a 2005 crash.

PUBLIC OUTRAGE

After Harvey-Zenk attended a party, he collided with Crystal Taman, killing her. He, too, did not take a breathalyzer.

The incidents sparked public outrage, as Mothers Against Drunk Driving launched its holiday campaign yesterday.

"Let's all get together to stop this activity before more people get injured or killed," said Rod Sudbury, a spokesman of MADD's Winnipeg chapter.

MADD is lobbying to make blood tests mandatory for drivers involved in crashes where a person is injured or killed.

"We've got a perfect storm of events here that have raised awareness," said Sudbury.

RCMP Insp. Al O'Donnell said the change would help police.

Residents living near the site of the latest crash agree.

"I think fear has to be put in the hearts of people who drink and drive, with greater punishment available and usual," said Alvin Gateson.

Others said protecting victims trumps drivers' rights.

"Those who refuse a breathalyzer should be treated as guilty," said Joanne Booth. "What reason could an innocent person have to refuse?"

FREE PRESS

Marty Minuk might want to step down

Sun Nov 4 2007

Catherine Mitchell

It is specious to claim that Marty Minuk, who last defended a police officer 15 years ago, was conflicted in his role as special prosecutor against Derek Harvey-Zenk, a then-Winnipeg cop who killed motorist Crystal Taman in February 2005. The passage of time makes that association irrelevant.

The Southern Chiefs' Organization has picked up the charge of conflict to demand that Minuk be dumped as Crown counsel at the inquiry into the police shooting death of Matthew Dumas in January 2005. Justice Minister Dave Chomiak is reviewing the request, but if Minuk is removed, it will be out of political expediency alone.

There is a stronger claim that Minuk's independence was tainted, in reality or appearance, by his recent association with Harvey-Zenk's defence lawyer, Richard Wolson. The two defended bouncers jointly accused, and then acquitted this summer, of manslaughter. That work must have overlapped their negotiations, as adversaries, on the Harvey-Zenk matter, which ended in a smelly plea bargain.

Minuk should have excused himself from one or the other of the cases. People are justifiably impatient when asked to believe a man can elegantly divorce himself from his interest in one matter to attend to the other, which would have been the case on a regular basis as the two cases were hitting court at roughly the same time.

That said, Minuk might want to step down from the Dumas inquest so as not to be distracted from the job of preparing for the public inquiry called into the Harvey-Zenk fiasco. The fiasco has made the special prosecutor, stepping in to represent the public interest, look to have been either clumsy, outmanoeuvred by Wolson, or engaged in a manipulation that eroded the court's ability to weigh the true facts of the crime.

The public, having been demeaned and dismissed as irrelevant in the court matters facing Harvey-Zenk, needs to know which of these failings Minuk is guilty of.

Minuk, handed a case mangled by shoddy investigation, was called in to represent the Crown's office -- which traditionally works with police to prepare cases for court -- to avoid the appearance of conflict. In court, Minuk failed in a broader duty to the public, and in his practical responsibilities to the judge.

He left the judge with nothing but the defence lawyer's account of how the accident occurred -- that drinking played no part in the collision, which resulted from a simple lapse of attention, rather than the deadly consequence of a man who partied all night with colleagues who, according to what Minuk told court, did not notice how much Harvey-Zenk had to drink.

If that happened because Minuk just messed up, that is a natural risk the system cannot avoid.

If he was outmanoeuvred by Wolson, then that is instructive to the accepted use of plea bargaining, the devil's proverbial deal that has evolved out of a practical necessity within the criminal justice system but that, it must be said, warps the pure pursuit of truth and justice. At some point it serves the system better to take to court the best you've got, rather than give too much and invite scorn upon the entire system.

If the arrangement between Wolson and Minuk changed at the 11th hour -- as the judge was balking on a request he impose a sentence that did not appear to fit the crime -- to save a deal in jeopardy, then the inquiry's job is more complex. Until it exposes the secreted workings of the Harvey-Zenk plea bargain, public confidence in the system cannot begin to be repaired.

The Harvey-Zenk case is odious because it has been handled, from the point at which police arrived on the deadly scene in February 2005, with audacity, arrogance and abject disrespect for transparency.

Much of that may be a matter of perspective -- a private lawyer attuned to protecting the confidentiality of a solicitor-client relationship is suddenly given to wear the hat of a public defender and finds the fit uncomfortable.

What doesn't pass is how he can turn a tin ear to the pleading of a judge who sees where the runaway train is headed, and seeks the disclosure of good information in hopes of averting a very public disaster.

Justice balances on truth, but appearance is fundamental. This case and the inquiry it has spawned should sound a tocsin to all public prosecutors, some of whom don't seem to yet get the necessity of public accountability.

WINNIPEG SUN

Do the right thing, Marty

November 4, 2007

By PAUL TURENNE

Brass at Manitoba Justice are considering whether to remove lawyer Marty Minuk from the upcoming inquest into the death of Matthew Dumas, who was killed by a Winnipeg police bullet in January 2005.

They shouldn't have to. Minuk should voluntarily remove himself.

Minuk is a key figure in the controversial case of Derek Harvey-Zenk, a former Winnipeg police officer who killed Crystal Taman in a highway crash a few months after Dumas was shot.

Minuk, who usually acts as a defence lawyer but was representing the Crown as a special prosecutor in the Harvey-Zenk case, accepted a plea bargain which took charges of impaired driving causing death and refusing a breathalyzer off the table. It also recommended a conditional sentence and therefore no jail time for Harvey-Zenk.

Taman's family, not to mention many members of the public, were outraged.

Among the questions being asked were whether Minuk should have agreed to the bargain or turned it down and proceed to trial, and whether he made that decision on his own or was ordered to do so by justice officials who hired him in the first place to avoid the perception of conflict of interest.

The answers should come during the public inquiry the province called last Tuesday.

That same day, the Southern Chiefs' Organization called on the province to remove Minuk as the Crown's representative at the Dumas inquest, which is set to begin next spring.

Dumas's sister, Jessica Paul, agreed he should be removed.

Now, there is no evidence Minuk did anything wrong concerning Harvey-Zenk. And Minuk, in the absence of any evidence of wrongdoing, is clearly entitled to continue working and to do so with his good name intact. But surely he can see the potential fallout of working on the Dumas inquest.

Dumas's shooting caused a huge uproar, with many hurling accusations of racism at Winnipeg police. Dumas's family has also complained all along that the process of getting answers has taken way too long and they have been shut out of the loop the whole time.

The family is entitled to feel the inquest is fair to them, and Paul thinks having Minuk on the case would deny them that.

The SCO thinks the community needs answers and also needs to feel the inquest process is fair, and say having Minuk on the case gets things off on the wrong foot and will do nothing to settle the issues surrounding the Dumas case.

How anyone, including Marty Minuk, fails to recognize that is beyond me.

FREE PRESS

TAMAN INQUIRY

Many questions, some answers

Mon Nov 5 2007

Daniel Lett

Dan Lett examines how the inquiry into the prosecution of Derek Harvey-Zenk will play out

WE know there is going to be a judicial inquiry into the investigation and prosecution of Derek Harvey-Zenk for the February 2005 death of Crystal Taman -- but we don't know much more than that.

The Manitoba government will be compelled to provide the public with answers to the 'five Ws.'

Thanks to the public outrage about the two-year suspended sentence given to Harvey-Zenk last week, the 'why' has already been settled.

Soon, we will find out who will oversee the inquiry, where and when it will be held, and what kind of mandate it will have.

Public inquiries are complex creatures and while they almost always illuminate, it is often a qualified illumination. And while every inquiry is unique, an examination of other inquiries held in this province will provide answers to some of the questions.

Who will oversee the commission?

IT is no secret the province was fond of the manner in which last year's inquiry into the wrongful conviction of James Driskell was managed. Employing the talents of former Ontario Superior Court Judge Patrick LeSage and top defence lawyer Michael Code, the Driskell inquiry was a triumph of efficiency.

The Driskell inquiry began after LeSage and Code took several months at the beginning of the year to study file material and construct a witness list. Public hearings were scheduled for mid- to late summer, to take advantage of a normally slow time for most lawyers. Final arguments were made in the fall and the report was delivered on time by the end of the year.

But who will Manitoba find to pull off another inquiry with such precision?

Justice Minister Dave Chomiak said he wouldn't rule out using a lawyer or former judge from Manitoba to fill the posts of commissioner and commission counsel. Chomiak was probably being overly kind in that assessment; given the concern about the layered conflicts of interest, this is a case that demands out-of-province hired guns.

Where and when will the inquiry be held?

THE 'where' isn't a big mystery -- the Winnipeg Convention Centre has become the gold standard for facilities hosting judicial inquiries. Only once has a judicial inquiry not been held at the convention centre and it was, from a logistical point of view, a travesty.

The 2001 inquiry into the wrongful conviction of Thomas Sophonow was held in a shoebox-sized room in a provincial building on Broadway. It was hot, cramped and almost impossible to hear what was going on.

The 'when' is going to be a much more difficult question to answer.

Finding the right commissioner and counsel will be a big factor in determining when the inquiry finally gets going. Most lawyers and judges with the resume to handle this inquiry will require months to negotiate a contract and free up their calendars. Even if Manitoba found its man or woman before the end of the year, it would be difficult to start the inquiry before next summer.

What kind of mandate will the inquiry have?

THIS is the most important 'W' of all.

There is no hard and fast rule for the mandate of a judicial inquiry. There is a lot of politics involved, in large part because many of the parties to the inquiry will want to have a say about what questions will be asked and what confidential information will be available to the commissioner.

Chomiak has yet to identify those parties who will play a role in determining the mandate, and who will get official standing at the inquiry. These are key decisions, and expensive ones. Standing comes complete with full payment of legal fees, and the right to question inquiry witnesses.

There is also the question of consequences. While it was once accepted that judicial inquiries did not assign fault or find guilt, that is not always the case now.

In the Soponow inquiry, the province asked commissioner Peter Cory to recommend whether further criminal investigation should occur. Cory did not recommend further investigation.

In the Driskell inquiry, LeSage was empowered from the beginning to recommend a criminal investigation or professional review for any of those criticized in his final report. Like Cory, LeSage did not use that power.

At first blush, it seems unlikely the inquiry could proceed without a mandate that would allow the commissioner to at least consider further investigation. Harvey-Zenk will not face any additional investigation or charges. But the original investigation into the accident the night Taman died is rife with allegations of manipulation and possible obstruction. Provincial court Chief Judge Ray Wyant has already raised the possibility that evidence was deliberately kept from his court.

The witnesses

FOR this inquiry, Premier Gary Doer and Chomiak have already indicated they want it to be a no-holds barred look at the events on the night Taman was killed, the subsequent investigation and the construction of the plea bargain.

The commissioner will not reveal the witness list until he or she has decided who will be needed to provide the most complete picture. Some key witnesses will likely give evidence by affidavit, while others will be asked to give testimony in person.

In the Harvey-Zenk case, the inquiry will have to cast a very wide net and pull in anyone with information about what the police constable was doing on the night of the accident, from bartenders at the north end bar he visited to the fellow off-duty police officers who stayed up all night with him, and the East St. Paul police officers involved in the initial investigation.

From the very start of this case, the role of police has been a major question mark. Expect former East St. Paul police chief Harry Bakema and the officers who attended the crash scene to be among the most anticipated witnesses of the inquiry.

A review of the crash investigation by a retired RCMP officer identified at least one East St. Paul cop who alleged he was told to keep all reference to alcohol out of his notes. After Harvey-Zenk refused to take a breathalyzer, observations by the cops at the scene would have been the next most important evidence of alcohol impairment.

Current East St. Paul police chief Norm Carter will also be a witness in demand. Deputy chief at the time of the accident, Carter told the RCMP he saw evidence of intoxication when Harvey-Zenk was brought to the East St. Paul police station. His testimony, and testimony from the paramedics at the accident scene, could provide the biggest bang of the inquiry.

And then there are the lawyers

THE plea bargain negotiated between defence counsel Richard Wolson and special prosecutor Marty Minuk should be dissected in detail. The inquiry will look at what kind of evidence Minuk had to work with when he agreed to drop all alcohol-related charges in exchange for a guilty plea on a single charge of dangerous driving causing death.

Wyant, who ultimately approved the plea bargain, raised a number of questions about how the plea bargain came together. In particular, how the material facts of the plea bargain changed after he warned Wolson and Minuk he was thinking about rejecting the deal.

The systemic issues

CHOMIAK will also have to decide whether he wants to limit the inquiry to a case-specific mandate, or whether he will consider systemic issues as well.

Most judicial inquiries into miscarriages of justice include a systemic phase to ensure the commissioner is able to judge whether problems with one case are inherent in other similar cases.

In the Harvey-Zenk inquiry, this should include consideration of the Manitoba Justice policy of automatically assigning a special prosecutor -- a defence lawyer on contract to the Crown attorneys' office -- to prosecute any case involving a police officer.

Don Slough, director of prosecutions, has said the Crown always calls in a special prosecutor any time a police officer is charged with an offence in order to avoid a conflict of interest. There are many in the justice system who would love to hear Slough explain how a conflict exists between police and prosecutors, when each represents a distinct and different part of the justice system.

FREE PRESS

Harvey-Zenk reviews due next month

Tue Nov 6 2007

A review into the East St. Paul police service will be available to the public in December, Manitoba Justice said Monday.

A review of the province's practice of hiring independent lawyers to prosecute some cases will also be available by then.

The police service and justice system have come under fire following an investigation into the February 2005 fatal car crash caused by a former Winnipeg police officer.

Derek Harvey-Zenk was given a conditional sentence of two years less a day in October for a crash that killed Crystal Taman in 2005, when his truck rear-ended Taman's car at a red light.

Harvey-Zenk pleaded guilty to dangerous driving causing death.

Retired Court of Queen's Bench justice Ruth Krindle was asked to lead a review of the protocol that allows the government to hire independent lawyers to prosecute cases, instead of relying on Crown attorneys who work for the province.

Winnipeg lawyer Marty Minuk was hired to prosecute Harvey-Zenk, but some suggested Minuk might have been in a conflict because he has represented police officers in the past.

The review will compare Manitoba's policy to those in other provinces.

The RCMP and Brandon Police Service have been asked to examine East St. Paul's investigation into the crash, in which evidence normally documented about the state of a driver's sobriety beyond a breathalyser was absent from police files.

Harvey-Zenk refused a breathalyser following the crash.

Details of the public inquiry into the Harvey-Zenk case will be announced at the end of December.

WINNIPEG SUN

Victims' rights ignored

Just whose privacy is really being protected here?

November 6, 2007

By TOM BRODBECK

Manitoba Justice is refusing to release information on what contact special prosecutor Marty Minuk had with the family of Crystal Taman leading up to this summer's contraoversial plea bargain for ex-cop Derek Harvey-Zenk.

Harvey-Zenk was given a conditional sentence for killing Taman after slamming into her car in 2005.

Under the province's Victims' Bill of Rights, Crown prosecutors are supposed to inform victims and their families of the developments of court cases and consult them on important decisions such as plea bargains.

But little, if any, of that was done with the Taman family, according to Crystal Taman's husband, Robert.

When asked by Sun Media for documentation to show the extent to which Minuk consulted with the family, Manitoba Justice said privacy laws prevent them from doing so.

"If the victims themselves say release it, then they should just release it," said Robert Taman.

Taman says he spoke to Minuk only three times over two years and was never consulted on the terms of the plea bargain or on the joint-sentencing recommendation for Harvey-Zenk.

Which means the province is not enforcing its own Victims' Bill of Rights.

The act stipulates that the prosecution must ensure the victim is "consulted" on a wide range of issues, including the following:

- Staying the charge against the accused person.
- Any agreement relating to a disposition of the charge.
- Any position taken by the Crown in respect of sentencing, if the accused person is found guilty.

None of that was done, said Taman.

"As far as victims' rights go, there were none," said Taman.

Justice Minister Dave Chomiak said last week contact was made between his department and the Taman family leading up to sentencing and that there seems to be a dispute over the facts.

So I asked Manitoba Justice to release details of the alleged correspondence -- dates, time, what was said, etc. -- to prove they consulted the family.

They said they couldn't do that because it would violate privacy laws.

I then offered to get permission from Robert Taman to release the information -- which he's willing to give -- since it would be his privacy the law would seek to protect.

They still refused, agreeing only to release 11 dates from September 2005 to July 2007 where they say "contact" was made, either by phone or in person, between the prosecution and either Taman or Taman's parents. No details were provided on what was said.

Which makes you wonder who Manitoba Justice is really trying to protect.

EMBARASSMENT

If the victim's family is willing to have the information released, why not release it?

I suspect it's because there was very little contact made between the prosecution and the Taman family and releasing that information might cause some embarrassment.

It's becoming painfully clear that the prosecutor did whatever he wanted in the case without consulting the family, despite the provisions in the Victims' Bill of Rights.

"Our input obviously wasn't necessary," said Taman. "I certainly wasn't consulted on any plea bargain."

Taman said he got a phone call from Chomiak last week seeking a meeting. They're scheduled to meet today.

Perhaps Chomiak can explain to Taman what steps he's taking as the attorney general to ensure victims of crime don't have their rights trampled on in the future.

It's the least he could do.

WINNIPEG SUN

Editorial

How far can the law go?

November 9, 2007

By Ed Feuer

Now that anger has subsided somewhat over the Harvey-Zenk case -- at least until the public inquiry -- a calmer examination of at least one issue is possible.

In get-tougher mode, Mothers Against Drunk Drivers wants blood tests made mandatory for suspected perpetrators in crashes where a person is injured or killed.

MADD has pointed to Denmark whose police are empowered to take breath, urine and blood samples by force. To some that may seem a good way to stop drunk drivers getting away with murder.

Prosecution for refusal to take a breathalyser has been viewed by the courts as included in what the Charter calls "such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." It's the implied consent that comes with getting or renewing a driver's licence.

Would making blood tests mandatory and instituting the Danish practice go beyond those "reasonable limits?"

Indiscriminate slaughter

Public indignation after the tragedies would have it that involuntary provision of evidence is a small price to pay compared with loss of life or preventing such events.

But as in many things, it depends whose ox is being gored.

Elsewhere in the world, indiscriminate slaughter of scores of innocents by those who dispatch suicide bombers occur daily. Many others are horribly disfigured by the bombs' nails and ball bearings.

Authorities in such places believe they can prevent such atrocities by obtaining information through harsh methods. Those who pay attention to U.S. media know about the controversy surrounding waterboarding, something Canadians tend to condemn.

What's the difference between that and making blood tests mandatory and taking breath, urine and blood samples by force? Both involve involuntary disclosure where danger to the public good is cited.

So, is it a matter of degree or that terror bombers are far away and drunk drivers are here.

But would using such methods with drunk driving suspects condition Canadians to accept other now illegal practices to protect the public good?

That's why good lawmaking involves due diligence about implications and unintended consequences. Immediate public indignation is not always the best counsel.

WINNIPEG SUN

Creative justice

'Effective' sentence for DUI killer

November 14, 2007

By JOYANNE PURSAGA, SUN MEDIA

A 43-year-old Michigan man who pleaded guilty to drunk driving in a crash that killed a Winnipeg couple received a creative sentence in Hurley, Wis., Monday.

The punishment includes three years in county jail, conditions that stretch over 25 years and several one-week stints in prison.

Iron County Circuit Court Judge Patrick Madden said the family of 74-year-old Arnold Schroeder and his wife 71-year-old Doreen Schroeder of Winnipeg, who were killed in the crash, inspired him to craft an "efficient, effective" sentence.

The Winnipeg couple died after Scott Silanpa's vehicle crashed into theirs near Hurley on Aug. 20, 2006.

The Ironwood, Mi., resident pleaded guilty to two counts of homicide by intoxicated use of a vehicle, a similar charge to impaired driving causing death. Madden sentenced Silanpa to three years in Iron County Jail, plus 4,000 hours of community service. Those hours will be spent speaking about the consequences of drunk driving with his wife, paralyzed in the crash.

Silanpa will be allowed to leave jail to work and care for his wife.

The sentence includes 25 years of extended supervision, during which Silanpa must spend one week in jail each year at a time that includes the anniversary date of the crash.

"The family asked to have a creative solution that would curb drinking and driving," said Madden. "I don't think these amazing people should ever be forgotten."

Silanpa's vehicle was northbound about three kilometres south of Hurley on U.S. Highway 51 when it crossed into the southbound lane and hit the Schroeders' vehicle head-on. The couple was driving to a Christian conference in Green Bay when the crash occurred.

If Silanpa violates any of the sentence's conditions, such as a requirement he abstain from alcohol, his punishment would switch to a 15-year prison term plus 10 years of extended supervision, said Madden. That prison term would carry no chance of parole.

Rod Sudbury, Mothers Against Drunk Driving's Winnipeg spokesman, said the jail time is encouraging.

DETERRENCE

"It serves to send a lot stronger deterrent message out," said Sudbury. "A lot of times people look at conditional sentences in Canada and see that as a person getting off scot-free. This sentence takes account of a person's need to support themselves but drives home the message that it's not just 'forgive and forget.' "

Sudbury cautioned against concluding U.S. law is universally tougher on drunk drivers, stating he's heard of sentences from short house arrest to long jail terms in recent cases south of the border.

But Iron County District Attorney Martin Lipske, who had argued for a five- to 15-year prison term, said he doubts the sentence sends a strong enough deterrent.

"Any time you get behind the wheel and drink, you are now the operator of a lethal weapon," said Lipske. "I'm not terribly happy about this."

Members of the Schroeder family could not be reached for comment by press time last night.

RECENT SENTENCES

A glimpse at Manitoba sentences linked to fatal crashes:

- Oct. 29, 2007: Former Winnipeg police officer Derek Harvey-Zenk receives a two-year conditional sentence for crashing his vehicle into that of Crystal Taman, causing her death on Feb. 25, 2005 near Winnipeg. Charges of impaired driving causing death and criminal negligence causing death were stayed. The province has called a public inquiry into the case.

- Oct. 24, 2007: A Brandon woman is sentenced to two years supervised probation for driving a van while drunk and rolling the vehicle into a ditch, killing two passengers in May 2006. The driver, who was 16 and had no licence at the time of the crash, had pleaded guilty to two counts of impaired driving causing death, driving dangerously and taking a vehicle without its owner's consent.

- Sept. 7, 2005: Justice Deborah McCawley sentences Trevor Stepien to two years in jail plus a five-year driving ban for impaired driving causing death. The March 1, 2002, crash at Ross Avenue and Isabel Street killed Daniel Mark Brown and left another passenger paralyzed.

- Sept. 7, 2005: Amy Crate, 22, was handed an \$800 fine and one-year driving prohibition for refusing a breathalyser after driving in a crash that killed Ashley Erin Settee. The crash took place Dec. 27, 2003, about 200 km north of Winnipeg.

FREE PRESS

Minuk no longer prosecutor in police shooting inquest

Wed Nov 21 2007

By Gabrielle Giroday

THE special prosecutor in a controversial court case involving a former Winnipeg police officer has been replaced in a high-profile provincial inquest involving police.

Marty Minuk -- who was heavily criticized for his role as prosecutor in the case of Derek Harvey-Zenk -- was slated to be Crown counsel at the upcoming inquest into the police shooting of Matthew Dumas.

However, Winnipeg lawyer Robert Tapper will replace Minuk.

A media outlet reported that Minuk asked to be taken off the case, but a message left at Minuk's residence seeking confirmation of his resignation was not returned Tuesday night.

Jay Prober, the Winnipeg lawyer who is representing the Dumas family at the inquest, said he received a call Tuesday from Tapper saying he would be Crown counsel at the inquest.

Tapper confirmed he has been retained for the inquest, and had no comment on the case.

The inquest, scheduled for preliminary hearing next month, will examine the death of 18-year-old Dumas, who was shot by Winnipeg police in January 2005 in an altercation on Dufferin Avenue.

Police said their encounter with Dumas came as they pursued a suspect in a home invasion, but it was later shown Dumas was not involved in the home invasion.

When it was learned Minuk would be involved in the Dumas inquest, the Southern Chiefs Organization, which advocates on behalf of the Dumas family, wrote a letter asking that the province remove Minuk.

A SCO spokeswoman cited concerns the Dumas inquest could be tainted by Minuk's involvement due to a public perception that Minuk did not prosecute Harvey-Zenk fervently because he was a police officer when his truck struck and killed a 40-year-old mom in 2005. Also, the SCO spokeswoman said there is a perception that Harvey-Zenk was given "preferential treatment and a preferential sentence."

Harvey-Zenk pleaded guilty to dangerous driving causing death and was later sentenced to house arrest for two years less a day for the February 2005 death of Crystal Taman.

Taman died after Harvey-Zenk's truck plowed into her car while she was stopped at a red light on her way to work. Although Harvey-Zenk admitted he'd been drinking prior to the accident, evidence of his alcohol use was not introduced in court.

Critics alleged a conflict of interest in Minuk's involvement in the Harvey-Zenk trial because Minuk acted as defence counsel for police officers in cases at least 15 years ago.

WINNIPEG SUN

Minuk off Dumas case

Won't act as special prosecutor

November 22, 2007

By CHRIS KITCHING, SUN MEDIA

Special prosecutor Marty Minuk has withdrawn from the upcoming inquest into the death of Matthew Dumas, just weeks after he was criticized for his role in a case involving a former Winnipeg police officer.

Manitoba Justice director of prosecutions Don Slough said he received Minuk's letter of withdrawal, dated Nov. 16, on Tuesday.

"I think, essentially, he didn't want the focus to be on his involvement (in the inquest) as opposed to the issues in the inquest," Slough said.

SHOT AND KILLED

Minuk is a full-time criminal defence lawyer who has occasionally acted as a special prosecutor for the province. He could not be reached for comment yesterday.

Robert Tapper, a defence lawyer, will take Minuk's place in the inquest.

Dumas, 18, was shot and killed by Winnipeg police during a confrontation in January 2005.

A hearing to decide who will speak at the inquest, called by the province's chief medical examiner, is set for Dec. 3. The full, three-week inquest is scheduled to begin March 3.

Dumas's family wanted Manitoba Justice to remove Minuk as Crown counsel due to the controversy surrounding the Derek Harvey-Zenk case.

Late last month, Justice Minister Dave Chomiak told Sun Media he asked the department to look into the situation.

Slough said Minuk was not turfed or pressured to withdraw.

"This was Marty's decision, entirely," Slough said.

Manitoba Justice hired Minuk to be the special prosecutor in the case of Harvey-Zenk, a former police officer who pleaded guilty to dangerous driving causing death in a February 2005 crash that killed Crystal Taman.

Last month, Harvey-Zenk got a two-year conditional sentence as part of a joint recommendation.

Nahanni Fontaine, a spokeswoman for the Southern Chiefs Organization, which called for Minuk to be removed from the Dumas inquest, declined comment yesterday. Dumas's family could not be reached for comment.

