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Vancouver, BC
November 22, 2007

(PROCEEDINGS COMMENCED AT 2:02 P.M.)

THE REGISTRAR: Order. This hearing is now resumed.

THE COMMISSIONER: Mr. Martland.

MR. MARTLAND: Mr. Commissioner, the first witness this
afternoon will be Marilyn Oberg who will affirm.

MARILYN OBERG: Affirmed

THE REGISTRAR: Can you state your full name, please.

A My name is Marilyn Oberg.

THE REGISTRAR: Thank you. You may be seated.

EXAMINATION BY MR. MARTLAND:

Q Ms. Oberg, I'm Brock Martland, Commission
counsel. You and I met for the first time today
and had a brief discussion about your evidence?

A Yes.

Q I'd like to just if I might start with
confirming, first, you were trained at the
Justice Institute?

A I was.

Q You have an EMA 2 licence?

A Yes.

Q What is EMA?

A EMA is Emergency Medical Assistant level 2.

Q What work do you do now?

1 A I work in the Special Operations Division of BC
2 Ambulance Service.

3 Q What is the Special Operations Division?

4 A Special Operations Division is a Lower Mainland
5 function of events, VIP visits, anything that
6 doesn't attach to the 911 system.

7 Q I'll have to have you -- you can cheat by sitting
8 close to the mic or keep your voice up.

9 A Okay.

10 Q You've been with the BC Ambulance Service since
11 1987?

12 A Yes, I have.

13 Q I understand you worked at some point on
14 Vancouver Island?

15 A Yes, I did.

16 Q And then moved to working in Vancouver for the
17 ambulance in 1996?

18 A Yes, I did.

19 Q In 1998 what capacity were you working in? What
20 position did you have?

21 A I was working as a de-paired person on an
22 advanced life support car in Vancouver out of
23 Vancouver Hospital.

24 Q What is an advanced life support car?

25 A It's a specialty car for advanced life support,

1 cardiac resuscitations, major traumas.

2 Q In practice what does an ALS or advanced life
3 support car do? What sort of calls do you go to
4 or not go to?

5 A We would go to the most serious of calls in
6 Vancouver that would require advanced cardiac
7 life support, major traumas. It's the licensure
8 of one above the EMA 2 licence.

9 Q You say car, is that -- I take it you're not in a
10 car though, you're in an ambulance?

11 A The vernacular is car -- car is an ambulance.

12 Q You're working with someone, is that right, in
13 that capacity?

14 A Yes.

15 Q What is the arrangement between the two of you,
16 you and your partner?

17 A My partner that day was Ward Findlay --

18 Q Instead of speaking about that day, just at a
19 general level, and perhaps let's use the end or
20 the last part of 1998, do you have one partner
21 through that period of time?

22 A No, I didn't have a regular partner. My station
23 -- I was positioned in the station that the
24 advanced life support car worked out of, the
25 station number was 261, and I had various

1 partners. My regular partner in a temporary
2 position for myself was the unit chief of that
3 station.

4 Q Who is that?

5 A Richard Sadowski.

6 Q I take it from shift to shift or day to day you
7 might be paired with someone else?

8 A Yes.

9 Q 261, where is that based out of?

10 A The station now is at 78th and Columbia.

11 Q Where was it then?

12 A Just outside of VGH Hospital, beside the emerg.

13 Q VGH Hospital is roughly Oak and 12th?

14 A Yes.

15 Q West 12th in Vancouver?

16 A Yes.

17 Q You described -- let me ask you a slightly
18 different question. I take it you knew Frank
19 Paul?

20 A Yes, I did.

21 Q How did you know Frank Paul?

22 A In the course of my duties when I began in
23 Vancouver in 1996 I didn't have a permanent
24 station but I did the majority of my work in the
25 corridor between UBC, which is station 62,

1 station 43 that's at Arbutus, 41 at 7th and
2 Columbia, as well as the West End and Downtown
3 Eastside.

4 Q Where is station 43? Arbutus and what
5 intersection?

6 A Basically 16th.

7 Q Seven blocks off Broadway?

8 A Yes.

9 Q In that period of time at a general level what
10 sorts of interactions did you have with Mr. Paul?

11 A We saw Mr. Paul on a daily basis. Certainly when
12 I worked at 62 and 43, he lived in the area down
13 along Broadway.

14 Q Do you have any specific knowledge where, when
15 you say he lived in this area on Broadway? First
16 of all, whereabouts, where on Broadway are you
17 describing?

18 A I would say between Alma and Vancouver Hospital,
19 quite a broad range, but Broadway and Maple would
20 be sort of the pinpoint in the middle of it all.

21 Q Broadway and Maple is midway between Alma to the
22 west and Oak to the east as sort of a broad area?

23 A Yes.

24 Q Can you provide any information about Broadway
25 and Maple as to a place you associate to Mr.

1 Paul?

2 A There are park benches around the corners in that
3 neighbourhood and we would find him in
4 restaurants, on park benches, behind -- there was
5 a fruit market that he used to hang out behind, I
6 think it was on Blenheim and Broadway.

7 Q Did he have a residential address in that area or
8 any area that you knew of?

9 A Not that I am aware of.

10 Q Did you understand him to be homeless?

11 A Yes.

12 Q In your dealings, would you say more often than
13 not he'd be in that area in the Broadway corridor
14 or in other parts of town?

15 A I encountered him in a number of places
16 throughout Vancouver. On one occasion I
17 encountered him down at the Fraser Arms Hotel,
18 down in that neighbourhood.

19 Q Fraser Arms is S.W. Marine and Granville roughly?

20 A Yes.

21 Q Do you have any specific recollection of that
22 interaction with Mr. Paul?

23 A Yes, I do. The interaction that we had with him
24 down near the Fraser Arms, it was surprising to
25 see him there because he was way out of his

1 territory and that day he was -- we found him in
2 an alcove seizuring.

3 Q Could you please describe what you mean when you
4 say seizuring?

5 A An unresponsive patient who is thrashing and had
6 obviously by his -- by how we dealt him that day,
7 he'd been laying there for quite some time.

8 Q How could you come to that conclusion?

9 A He had abraded his skin on his arms and his back
10 by seizure activity.

11 Q Essentially scraped himself up because of this
12 seizure activity?

13 A Yes.

14 Q If you can't say the answer to this that's fine,
15 but could you describe what is involved -- what
16 might cause the seizuring or what that is
17 medically?

18 A It could have many different etiologies. I would
19 suggest at that point that we treated him as an
20 unconscious seizuring patient and took him to
21 Vancouver Hospital that day.

22 Q In the case where you're seeing seizures, leave
23 aside Mr. Paul for -- in fact, let me try and use
24 Mr. Paul. In cases where you're dealing with Mr.
25 Paul and you observe this sort of seizure

1 behaviour, what would happen to him?

2 A We would take him in an emergent fashion to the
3 closest hospital.

4 Q Emergent fashion is lights and sirens?

5 A Yes, sir.

6 Q At a general level in your dealings with Mr.
7 Paul, can you describe how he appeared to you?

8 A That day?

9 Q No, at a general level. Let's say in 1998 if
10 that's a fair, broad range of time for you to
11 describe. So at a general level when you saw
12 Frank Paul, what would you see?

13 A His range of abilities certainly was -- he could
14 be quite chatty some days and some days he would
15 be very, very angry and we had many ways in which
16 we would interact with him to come up with some
17 form of compliancy with simple tasks, getting him
18 into the ambulance or getting him out of a public
19 circumstance.

20 Q When you say have him comply, why are you looking
21 to have him comply?

22 A We would get calls that he would be inside a
23 building and causing a disturbance, so we would
24 go in and try to convince him it would be a
25 better idea to go outside and have a cigarette or

1 have a sandwich.

2 Q How would you bring his compliance?

3 A You'd be kind to him, talk to him and give him
4 some good options. You could talk to him quite
5 well, and certainly if talking didn't work you
6 would give him something, offer him something to
7 lead him.

8 Q What do you mean by that? What would you give
9 him?

10 A Depending on the circumstances, we actually --
11 when I worked on the car a couple of months we
12 would actually go to the hospital and get him
13 sandwiches because we knew we would see him
14 within the day, so it would be easier to just
15 pick up hospital sandwiches to get him to come
16 with you than go through any unnecessary
17 struggles.

18 Q So food is something you might give to him to
19 really try and bring him on side, so to speak?

20 A Yes.

21 Q Were there any other things you gave to him?

22 A Cigarettes.

23 Q Can you recall any specific incidents you gave
24 him foods or cigarettes to try and ensure some
25 co-operation?

1 A Yes, I can remember a number of times. My
2 partner would go off and buy him fruit from the
3 fruit stand if he was in the surround of that
4 fruit stand.

5 Q How big was Mr. Paul?

6 A He was a very big man, a very tall man.

7 Q Any sense of how tall he was?

8 A I would estimate him being over six feet tall.

9 Q Can you describe anything about his stature or
10 build?

11 A When he was angry he was a force to reckon with.
12 He was a very big man and he would lash out so we
13 would be very aware of distances between
14 ourselves and Mr. Paul.

15 Q When you say aware of distances, I take it you
16 mean you keep some distance?

17 A Yeah. You didn't want to get in the way if he
18 decided he wanted to hit you.

19 Q What would happen if you saw that response from
20 Mr. Paul?

21 A You'd talk really fast.

22 Q And call the police or would you try to defuse?

23 A Try to defuse, try to defuse. In my experience
24 of Mr. Paul, I didn't end up having bad things
25 happen at all. We worked things out.

1 Q Did you ever see him respond when police arrived?
2 A Yes.
3 Q How would that go?
4 A If Mr. Paul didn't want to do what was asked of
5 him, he'd end up laying on the ground and just be
6 non-compliant. He wouldn't -- he could actually
7 go from laying flat on the ground to being
8 compliant and get up if he wanted to, but he
9 would turn into a log.
10 Q And when you say laying on the ground or turning
11 into a log, can you just describe, if one had
12 never seen this person and they see him doing
13 these things, what would it look like? How would
14 you describe that?
15 A A very big person that I certainly wouldn't be
16 able to lift off the ground and make them do
17 anything.
18 Q Would his eyes be open when he's doing that?
19 A Yes.
20 Q Would he be talking still?
21 A Yes, sometimes. Sometimes not.
22 Q You may have said this, but the seizures you
23 described, did you notice over time any
24 difference in terms of these seizures?
25 A I would say that Mr. Paul being a man down as a

1 routine kind of occurrence took place for a long
2 time and then he moved into -- we saw him as a
3 seizure patient more routinely.

4 Q If you can help to explain the distinction
5 between a seizure patient and man down, so to
6 speak. What are the differences between those
7 two sorts of calls?

8 A I would consider the seizure patient call to be
9 somebody who was actively seizing.

10 Q So moving about, shaking?

11 A Yes.

12 Q For Mr. Paul at a general level, the man down
13 calls, what was his state of sobriety? Can you
14 comment on that?

15 A It would occur to us that yes, he was not sober
16 at those given times.

17 Q Why would you come to that conclusion?

18 A The signs and symptoms, the bottles that he had
19 on him, around him.

20 Q And what signs and symptoms, apart from bottles
21 nearby, what other observations or factors would
22 lead you to conclude he was intoxicated?

23 A The smell of rice wine on his breath, on his
24 body.

25 Q In terms of how he's walking or talking or those

1 things?

2 A He was unable to manoeuvre appropriately.

3 Q Now, on December the 6th of 1998, do you recall
4 who you were working with that night? I take it
5 you were working on shift that night?

6 A Yes, I was.

7 Q Who were you working with?

8 A Ward Findlay and Mike Berry.

9 Q Do you recall anything about the weather that
10 night?

11 A I recall it was cold. It was not raining, I
12 don't believe.

13 Q And what do you recall about that night?

14 A I recall going to the call, I remember finding
15 Mr. Paul on the ground.

16 Q And when you say the call, do you have any memory
17 of what the call was?

18 A I don't recall what we were called for but it was
19 a code 3 call.

20 Q That's lights and sirens?

21 A Yes.

22 Q When you attend you describe he's on the ground.
23 Where is he?

24 A I remember him to be laying in gravel.

25 Q Whereabouts, what part of the city?

1 A It was in the alley-way of the detox behind Great
2 Northern Way in Vancouver.

3 Q What observations did you have of Mr. Paul?

4 A My clear recollection was simply that he'd had a
5 haircut. The rest of it was -- we were working
6 so we treated him as we treat people down,
7 checking vital signs.

8 Q What did you do then when you arrive on scene?
9 First, are there other ambulance people there?

10 A To my recollection I remember my partner and the
11 student that was working and I would have put the
12 monitor on the patient and carried on with
13 standard protocol that we use.

14 Q What's the monitor?

15 A The monitor, it's the defibrillator. It's a
16 cardiac rhythm machine.

17 Q What does it do?

18 A It would see if there was any electrical activity
19 in the person's heart.

20 Q Do you recall what the result of that check with
21 the monitor was for Mr. Paul?

22 A No, I don't.

23 Q What did you or others do at that point? You're
24 attending, you've found a man down, and if you
25 can describe as well as you can what the sequence

1 of events is and what you do.

2 A What we did is we go to the patient and assess if
3 there's any obvious signs of why the patient
4 would be down. We look for obvious trauma, we
5 try to uncover as much of the person as we can.
6 We'll look at weapons, we'll look at, again,
7 obvious injuries and just try to figure out
8 what's going on in very short fashion.

9 Q In the case of Mr. Paul, can you say anything
10 specifically about December 6, '98 when you go
11 through those steps?

12 A I do remember that he had exhibited gross
13 lividity which is the mottling of your back and
14 he was a bit rigored at the time when we found
15 him.

16 Q What did those observations tell you as a
17 paramedic?

18 A As a paramedic, that the person is possibly dead.

19 Q If you could carry on just describing this
20 process of assessing and figuring out what's
21 going on. What else occurs?

22 A My part of it is that within my licensure I would
23 follow -- I would do a certain part of the
24 protocol. I would attach equipment and the like.
25 My recollection of what I did that night -- it

1 was a long time ago -- I would have stayed within
2 my protocols and followed the lead of my partner
3 who had the advanced life support licensure and,
4 I'm sorry, I can't offer exactly what I did that
5 night.

6 Q Is there a conclusion that's reached with respect
7 to if he's alive or dead then?

8 A There is a phone call that was made to the doctor
9 at the receiving hospital, which was Vancouver
10 General Hospital, and leading up to that we would
11 have run our asystole protocol and come to the
12 conclusion of that and then phoned as a routine
13 basis to the doctor and my partner would have
14 received orders.

15 Q To?

16 A Discontinue.

17 Q That's the order in the case of Mr. Paul?

18 A Yes.

19 Q Why is this system of phoning to a doctor to
20 review that information and get an order?

21 A I probably couldn't speak very well to that.

22 Q That's fine. Tell me what your understanding of
23 that is. Why do you phone this in to a doctor
24 instead of making the decision without a doctor?

25 A I couldn't address it well.

1 Q That's fine. Your process is to phone in and
2 make sure you have that order?
3 A Yes. The advanced life support person would do
4 that.
5 Q The steps to resuscitate a person, am I right to
6 say those only stop when you have the order?
7 A Yes.
8 Q Can you describe anything about when you see Mr.
9 Paul on December the 6th, '98, anything about his
10 clothing?
11 A The only remarkable thing I remember about Mr.
12 Paul was that he had just received a haircut.
13 Q When you say he just received a haircut,
14 obviously based on when you had last seen him.
15 What was his hair like before that?
16 A Longer.
17 Q How much longer?
18 A Considerably longer.
19 Q Can you give an estimate of how long?
20 A No.
21 Q But your recollection is you noticed that he's
22 had this haircut?
23 A Yes.
24 Q Did you notice anything to do with the state of
25 his clothing or how his clothes were positioned?

1 A I cannot recall.

2 Q Did you notice anything about his shoes or feet?

3 A I cannot recall.

4 Q Do you recall any observations as to any injuries
5 that you observed on Mr. Paul, visible injuries?

6 A I can't recall.

7 Q If I might have this witness look please at tab
8 40 of binder 1. Ms. Oberg, I'll just confirm you
9 have two sheets in front of you; don't you?

10 A I do.

11 Q Why don't we start with the second sheet which is
12 a handwritten sheet. What is that document?

13 A That is an occurrence report.

14 Q Do you recognize your signature or writing on it?

15 A I do.

16 Q And where is that?

17 A My signature is in the very lower right-hand
18 corner.

19 Q Farthest to the bottom right of the sheet?

20 A Yes.

21 Q This is an occurrence report that relates to your
22 dealings with and the other attendants' dealings
23 with Mr. Paul on December 6, '98?

24 A Yes.

25 Q Is it your handwriting on the sheet?

1 A No, it's not.

2 Q Can you say whose it is?

3 A It's Ward Findlay's.

4 Q You recognize his handwriting?

5 A Yes, I do.

6 Q What is the process for how this sheet gets
7 prepared?

8 A In this case, we sat down and Ward wrote an
9 occurrence report and we looked at it and said,
10 yes, that's what happened.

11 Q So your signature reflects your agreement; is
12 that right?

13 A Yes.

14 Q Have you re-read this -- you've had occasion to
15 re-read this fairly recently?

16 A Yes.

17 Q Is it accurate to your knowledge?

18 A To my knowledge.

19 MR. MARTLAND: I'd ask that this become the next exhibit
20 number.

21 THE COMMISSIONER: Yes.

22 THE REGISTRAR: Exhibit 21.

23 (EXHIBIT 21: Occurrence Report)

24 MR. MARTLAND:

25 Q With all respect to Mr. Findlay, some of this

1 handwriting may not be the clearest but five or
2 six lines down there's an indication that he's:
3 Found supine, pants down, mid thigh. I'll just
4 stop reading there. Can you tell me, it may or
5 may not, but does that assist you with respect to
6 his state of clothing, your memory with respect
7 to his state of clothing? It may or may not.

8 A No.

9 Q It seems to say, continuing: Shoes on (plus or
10 minus five to eight feet from feet). Does that
11 assist you at all with respect to his shoes or
12 feet?

13 A If I can add, there's a mark before the shoes and
14 that's an O with a cross through it, that's what
15 we standardly use to mean no shoes.

16 Q I missed that. So an O with a cross through it
17 is the standard to say there are no shoes?

18 A Yes.

19 Q You don't have a memory about shoes today?

20 A No, I do not.

21 Q That's fine. In terms of this form, how it's
22 prepared and what it would describe at a general
23 level, if you saw O with a cross through it,
24 shoes on, that tells you -- and gives an
25 indication five to eight feet, that gives you the

1 information, I take it, you would understand from
2 that that means, I take it, the shoes are not on
3 the patient, they are five to eight feet away?

4 A Yes.

5 Q Do you know how this occurrence report came into
6 being?

7 A No, I don't. I can assume.

8 Q I won't ask you to assume. For your part, were
9 you asked to prepare any kind of written report
10 about this incident?

11 A I can assume, that's all.

12 Q But for your part -- let me ask it differently:
13 Have you ever been asked to prepare a written
14 report?

15 A Not that I am aware of.

16 Q Have you, whether you were asked or not, have you
17 ever prepared anything in writing about your
18 dealings with Mr. Paul?

19 A No, sir.

20 Q Have you ever, aside from Mr. Eastwood and Mr.
21 Mior and myself today, have you ever had a
22 meeting with others about Frank Paul?

23 A No

24 Q Have you ever been asked to engage -- to go to an
25 interview or meeting with the police or an

1 investigator or anyone else?

2 A No, sir.

3 Q Let me just take a moment. Ms. Oberg, I'm going
4 to pass you up a crew report. This is a document
5 for the assistance of counsel at page 60 of a CD
6 that's entitled green binder number 3. The copy
7 unfortunately is a PDF scanned copy that is a
8 very poor quality that was provided. So we have
9 here are better copies of the same document.
10 Perhaps I'll provide a few to Mr. Registrar and I
11 do have copies for all counsel that want a better
12 copy. Ms. Oberg, do you recognize this crew
13 report?

14 A I do.

15 Q Have you reviewed this?

16 A I have seen this, yes.

17 Q What is it?

18 A This is the crew report from our crew for Mr.
19 Paul the day of his arrest.

20 Q When did you review it?

21 A When I came to the -- when I came to the
22 interview I saw this.

23 Q And do you have any recollection of having seen
24 it at the time it was prepared or close in time
25 to when it was prepared?

1 A I'm not aware.

2 MR. MARTLAND: That's fine. Mr. Commissioner, I think it
3 would make better sense if perhaps this be an
4 exhibit that goes in through a different witness
5 later today.

6 THE COMMISSIONER: You didn't prepare this?

7 A No.

8 MR. MARTLAND:

9 Q I'll set that aside with one question. Having
10 reviewed that recently, does that provide any
11 assistance to your memory in terms of your
12 dealings or observations of Mr. Paul?

13 A No.

14 MR. MARTLAND: If I might ask that the witness please be shown
15 the booklet of photos which is an exhibit and I
16 don't have the exhibit number at hand.

17 THE REGISTRAR: Exhibit 17.

18 MR. MARTLAND:

19 Q Ms. Oberg, this is a booklet of photographs and
20 I'll perhaps try to move through them in
21 sequence. Do you recognize -- in looking at
22 photograph A17 on the first page, do you
23 recognize that photograph?

24 A Uhm, I don't, but --

25 Q That's fine if you don't. I'll show you some

1 other photographs. Let me in fact -- recognizing
2 the photograph probably isn't the best way of my
3 asking you that question. Can you tell us what
4 that photograph shows, what is on the photograph?

5 A Well, it shows the back alley of detox.

6 Q If you flip on a few pages, please, photograph
7 A16, it's on the lower right-hand side, four
8 pages on.

9 A Yes.

10 Q Let's start with that. Is that the same place?

11 A Yes, it is.

12 Q Do you notice anything about the place on that
13 photo?

14 A Nothing remarkable, no.

15 Q If you turn to B9, the next photograph, can you
16 say what that photo depicts?

17 A That's the body of Frank Paul.

18 Q Perhaps a better photograph to look at is A19
19 just below. Is that the body of Frank Paul?

20 A Yes, it is.

21 Q And can you describe in terms of that location,
22 where is that?

23 A It's off to the side of the road.

24 Q Is that where you found Mr. Paul?

25 A Yes.

1 Q There appears to be a white sheet over Mr. Paul
2 in that photograph?

3 A Yes.

4 Q Do you know what that is?

5 A I put that on him.

6 Q You put that on him?

7 A Yes.

8 Q And when was that put on him?

9 A After we discontinued our resuscitation.

10 Q If you could turn on a few pages to photograph B1
11 in the upper left-hand corner, is that a
12 different view of the same thing?

13 A Yes.

14 Q If you could have a look at B7 on the next page,
15 lower left, that's Mr. Paul?

16 A Yes, it is.

17 Q At the location you saw him that evening?

18 A Yes.

19 Q Can you say anything from your memory or does
20 this photograph assist your memory with respect
21 to the red jacket?

22 A No, I have no recollection of the red jacket.

23 MR. MARTLAND: If I might have a moment. I have no further
24 questions, if you could please remain, Ms. Oberg.

25 The sequence, Mr. Commissioner, for

1 examination by other counsel, for most of this
2 week, the entirety of the week, has had Mr. Hern
3 or Mr. McIntosh going second. My proposal, and I
4 suggest this makes sense as we did with some
5 other witnesses, that Mr. Eastwood might be the
6 first counsel to ask questions after me because
7 this is an employee of the Ambulance Service and
8 then we revert to the same sequence, if that's
9 agreeable.

10 THE COMMISSIONER: That seems sensible, yes.

11 **EXAMINATION BY MR. EASTWOOD:**

12 Q Ms. Oberg, I only have a couple of questions for
13 you. My first question is: When you attended on
14 December 6, the morning of, to the back alley of
15 East 1st Avenue, were you able to recognize the
16 individual lying on the ground at that time?

17 A At first I didn't because it was unusual. He
18 just looked really bad and he'd had a haircut,
19 but then all of a sudden everything fell into
20 place and I was like, wow, it's Frank.

21 Q Eventually you were able to identify him as Frank
22 Paul?

23 A Yes.

24 Q To the best of your knowledge, was the individual
25 carrying any identification with him at the time

1 you responded?

2 A Yes, that night he did have a piece of
3 identification, which was not always the case.
4 He had a fairly new, I believe, card,
5 identification card. I don't know what the
6 nature of it was, if it was a BC ID card or what
7 it was, but there was something on him.

8 Q Was that visible to you when you attended or was
9 that something that you normally looked for when
10 you're attending?

11 A That's something you look for, absolutely. You
12 look for medicine, you look for weapons, you look
13 for a whole range of things.

14 MR. EASTWOOD: Thank you. Those are my questions.

15 THE COMMISSIONER: Do you have any questions, Mr. Hern?

16 MR. HERN: Thank you, Mr. Commissioner.

17 **EXAMINATION BY MR. HERN:**

18 Q Ms. Oberg, do you recall any specific instances
19 of your unit being called to deal with Mr. Paul
20 at a building or a restaurant?

21 A That day?

22 Q No, generally.

23 A Yes, I've been at a restaurant with Mr. Paul.

24 Q And why would emergency services be called in an
25 instance where Mr. Paul is in a building?

1 A The incident that I recall about being with Mr.
2 Paul in a building was he was creating a
3 disturbance in a restaurant and wouldn't leave
4 and he was behaving in a fashion that they
5 thought that he was intoxicated, so that's why I
6 attended to him at that moment.

7 Q You specifically recall that occasion?

8 A I do, I do.

9 Q How was he behaving?

10 A Uhm, he was pretty angry that day.

11 Q Do you remember anything else?

12 A We did manage to get him to come out of the
13 restaurant and there was lots of yelling and
14 carrying on, but in the end he was co-operative
15 and came with us.

16 Q Was there some reason that the Emergency Health
17 Services would be called in that instance, in the
18 sense were you apprised there was a medical issue
19 in respect of his behaviour on that day?

20 A I can assume the people in the restaurant wanted
21 to find out what he required and within that
22 activated emergency services saying a person is
23 behaving in a certain way and could you come
24 help.

25 Q Did the police attend to your recollection?

1 A I believe so, yes.

2 Q How was it Mr. Paul was dealt with on that
3 occasion?

4 A I don't recall.

5 Q Now, can you recall specific instances where you
6 saw him act in a violent way apart from that
7 particular instance?

8 A Specific instances?

9 Q Yes. Did you ever see him strike or hit out at
10 --

11 A Yes.

12 Q Can you tell us about those instances?

13 A Very fleeting images of Mr. Paul being a person
14 to be wary of. I've seen him strike out a number
15 of different people, police, ambulance,
16 by-standers.

17 Q There are other occasions that you saw where he
18 was acting in a verbally abusive or belligerent
19 manner?

20 A Yes.

21 Q There are occasions when you saw him acting in an
22 uncooperative manner?

23 A Yes.

24 Q Would it be appropriate to say that when you went
25 to deal with Mr. Paul, it was unpredictable?

1 A Yes.

2 Q If you were called to an incident where Mr. Paul
3 was acting in some manner or other and you had
4 determined with your crew that he wasn't in need
5 of medical assistance, that he didn't need to be
6 transported to hospital, what would then EHS --
7 what would you do in that circumstance if you had
8 identified that he was in fact highly intoxicated
9 and incapable of caring for himself?

10 A That's when the wagon would be activated and he
11 could get himself into the wagon or be put into
12 the wagon or Saferide would come.

13 Q So you would phone dispatch to advise them of
14 that or how would that --

15 A Usually the wagon -- the police would be notified
16 of the incident. We would get there usually
17 beforehand.

18 Q So police would be notified by dispatch of a man
19 down incident as well as EHS in the normal case?

20 A The backup of the police would be the case if
21 there was some sort of threat or a problem about
22 the man down.

23 Q So sometimes if it was just a man down report,
24 the police would not be notified and EHS would be
25 attending on scene alone?

1 A To my knowledge, yes.

2 Q If you had been attending a man down and you
3 determined that he wasn't in need of going to
4 hospital, would you then direct dispatch as to
5 whether Saferide should be called or the police?

6 A Yes.

7 Q Would you make that selection as to which service
8 was appropriate on that occasion?

9 A Yes.

10 Q If he was acting in an uncooperative or
11 belligerent or violent manner, you would call the
12 police?

13 A Yes.

14 Q If he was compliant and docile you would perhaps
15 call for Saferide?

16 A Yes.

17 MR. HERN: Thank you. I have no further questions, Mr.
18 Commissioner.

19 THE COMMISSIONER: Mr. Crossin is not here. Mr. Woodall, do
20 you have any questions?

21 MR. WOODALL: No, thank you.

22 THE COMMISSIONER: Mr. McKenzie.

23 MR. MACKENZIE: No questions, Mr. Commissioner.

24 THE COMMISSIONER: Mr. Kelliher, do you have any questions?

25 MR. KELLIHER: Yes, just a few.

1 **EXAMINATION BY MR. KELLIHER:**

2 Q Ms. Oberg, can I ask you to open Exhibit 17 to
3 the photograph marked B7, that's seven or eight
4 pages in. It's marked B7 in the lower left
5 corner. It's about seven or eight pages in.
6 Ms. Oberg, is that how Frank Paul appeared to you
7 when you first saw him?

8 A I'm not aware.

9 Q You can't recall?

10 A No, I can't recall.

11 Q What I'm really interested in is whether you
12 moved the clothing at all during your assessment
13 of him?

14 A In my duties to the protocols that we do, I would
15 have to put patches on him to put our monitor on
16 him, so I would assume that I would have reached
17 under his clothing and put patches on him.

18 Q Did you move his body in any way?

19 A I don't recall.

20 Q Would it be necessary in a general sense to move
21 a person's body to apply the monitors that you
22 applied?

23 A Not necessarily, no.

24 Q Did your partner to your recollection move the
25 body?

1 A I'm not aware.

2 Q You have no recollection, independent
3 recollection, of a visual impression of what you
4 saw that night apart from what you're seeing
5 there in the photographs?

6 A No, sir.

7 Q Do you have any reason to think these photographs
8 are incorrect in any way?

9 A No.

10 Q Can you explain please, Ms. Oberg, with
11 particular reference to Mr. Frank Paul, you
12 witnessed him once, perhaps more than once,
13 undergoing seizures, is that correct, toward the
14 end of his life?

15 A Yes.

16 Q With what frequency? How often did you see him?

17 A How often did I personally see him? I would give
18 you an answer of saying it would be unusual to go
19 through a four-day block of our work without
20 seeing him at least a couple of times.

21 Q And oftentimes seizuring; is that correct?

22 A I have seen him seizuring.

23 Q Can you describe please what that means? What do
24 you see when you see Frank Paul seizuring? What
25 is he doing? What is his body doing? Is he

1 saying anything? Could you describe that in as
2 great detail as you can?

3 A It would be a person -- with Frank he would be
4 laying in whatever position he would be in and he
5 would be seizing, fully seizing. His body
6 would be shaking. He would not be responsive.

7 Q His body would be shaking?

8 A Yes.

9 Q What about his limbs? What would his limbs be
10 doing?

11 A Seizuring can take a couple -- many different
12 forms. You can have one limb moving, no limbs be
13 moving, you can have a person being rigid, you
14 can have all limbs moving. Presentation is very
15 different for different people and with Frank he
16 -- the one seizure call that I tended to him with
17 -- he had abraded himself quite severely from his
18 limbs moving against the concrete.

19 Q Where were the abrasions?

20 A On his limbs, his arms.

21 Q Are you saying a person would flail about, the
22 arms would move back and forth uncontrollably,
23 unpredictably?

24 A Yes.

25 Q So the physical movements of someone enduring a

1 seizure will vary from person to person, but is
2 it true that they also vary with one specific
3 individual, that the seizures won't be of the
4 same form with that person on each occasion?

5 A I'm sorry, I can't answer that specifically for
6 Mr. Paul.

7 MR. KELLIHER: All right. Thank you very much.

8 THE COMMISSIONER: Mr. Ward.

9 MR. WARD: Yes, thank you, Mr. Commissioner. I'm going to
10 have a number of questions for this witness but I
11 believe before I start I might be able to benefit
12 by a discussion with my friends, especially
13 Commission counsel, about an issue that's arisen
14 that I need to address before I cross-examine
15 this witness, and I wonder if we might take the
16 afternoon break a little bit early as a result.

17 THE COMMISSIONER: Yes, if that will speed things along we
18 certainly will. There will be more questions
19 asked of you when we come back, resume. Please
20 don't discuss your evidence with anyone during
21 the break. We'll take the afternoon break.

22 THE REGISTRAR: The hearing will recess for 15 minutes.

23 (BRIEF RECESS TAKEN)

24 THE REGISTRAR: Order. This hearing is now resumed.

25 MR. WARD: Thank you, Mr. Commissioner.

1 THE COMMISSIONER: Are you ready to proceed, Mr. Ward?

2 MR. WARD: Yes, Mr. Commissioner.

3 **EXAMINATION BY MR. WARD:**

4 Q Ms. Oberg, my name is Cameron Ward. I'm counsel
5 for the United Native Nations Society and I have
6 a few questions for you about your testimony this
7 afternoon.

8 First of all, with respect to your
9 background, I gather you have been with the
10 Ambulance Service since 1987?

11 A Yes, sir.

12 Q About 20 years?

13 A Yes, sir.

14 Q And you've spent the last 11 years or so in
15 Vancouver with the Ambulance Service?

16 A Yes, sir.

17 Q How many shifts would you work in a typical
18 month?

19 A It would be a four on, four off situation, so
20 whatever the math is in that.

21 Q So four days on, four days off?

22 A Yes.

23 Q So in a full year you'd work about 180 shifts?

24 A Yes.

25 Q Give or take a few. How many calls would you

1 have on an average shift?

2 A It wouldn't be unusual to have between 10 and 15
3 calls on a very busy day.

4 Q So if we just took say 10 calls per shift, that
5 would mean you'd be called out about 1,800 times
6 in a year?

7 A Yes.

8 Q So since Frank Paul's death occurred in December
9 of 1998, roughly ten years ago, you've probably
10 gone out to 18,000 calls or so?

11 A Yes.

12 Q Quite a lot; right?

13 A Yes.

14 Q And you testified earlier today about Frank Paul
15 and various occasions that you say he struck out
16 at police officers and others?

17 A Yes, sir.

18 Q How is it that you remember those, given the
19 18,000 or so calls you've had in the interim?

20 A I do remember Frank Paul from when I came to
21 Vancouver, I think he was one of the first
22 patients I saw frequently, and so I remember him
23 because I learned a lot through dealing with him
24 about managing patients.

25 Q When did you first get his name?

1 A Very early on when I came into encounters with
2 him.

3 Q How, how did you get his name?

4 A I'd ask him what his name was.

5 Q Did he produce identification to you?

6 A Not that I am aware of, no.

7 Q Ever?

8 A Oh, yes, different occasions, yes. And people on
9 the street, your partner would know who they are,
10 the police would know who they are. There's many
11 ways to find out who somebody is.

12 Q I've got a document and I want to ask you a
13 couple of questions about it. I'll just identify
14 what it is. It's a document I received by e-mail
15 dated November 15, 2007 from Brock Martland to 20
16 lawyers involved in this commission of inquiry,
17 attaching four witness statements relating to EHS
18 attendance. Now, as I understood your testimony,
19 you did not meet with Mr. Martland until this
20 morning; is that right?

21 A Sorry, I don't know who --

22 Q Mr. Martland to my left.

23 A Oh, yes.

24 Q You met him for the first time this morning?

25 A Yes.

1 Q I'm going to produce, and I'll provide two copies
2 of this document, what I understand to be a
3 witness statement provided by yourself to
4 someone. Do you see that?

5 A Yes, sir.

6 Q And it's described at the top Meeting Notes Re
7 Marilyn Oberg, Paramedic. Do you see that?

8 A Yes, sir.

9 Q Now, it appears as though this document contains
10 some statements made by yourself on a previous
11 occasion and reduced to writing for the purpose
12 of this inquiry. Do you agree?

13 A Yes.

14 Q Can you tell me when and how this document came
15 into existence?

16 A I believe I was interviewed by Mr. Eastwood.

17 Q Yes, okay. And this document was generated as a
18 result of that meeting?

19 A I can assume.

20 Q I want to ask you under the heading Involvement
21 with Frank Paul -- and you appreciated that the
22 meeting and any statements you gave at it were
23 with respect to a very serious and important
24 purpose, namely, this legal proceeding; correct?

25 A Yes, sir.

1 Q So you were at pains to be accurate and correct
2 in your statements knowing they'd be used
3 subsequently, possibly, in a legal proceeding?

4 A Yes.

5 Q You said at the meeting, in the second bullet
6 there: Frank Paul was six foot four inches, very
7 large and strong male. Do you see that?

8 A Yes, sir.

9 Q Did you have at the meeting some reference you
10 could go to for that information, some document
11 or something?

12 A No.

13 Q Now, as a trained medical paramedic, is it fair
14 to say given your 20 years of experience in
15 dealing with patients and thousands and thousands
16 of calls, that you're pretty good at estimating
17 people's heights and weights?

18 A Yes, sir.

19 Q So we can take it that when you said -- when was
20 this, by the way, when was this meeting with Mr.
21 Eastwood? About a week or two ago?

22 A About that, yes.

23 Q So we can take it when you said he was
24 six-foot-four -- and it doesn't say about, it's
25 very clear -- very large and strong, that that's

1 your best estimate based on all your experience
2 in dealing with people?

3 A Yes, sir.

4 Q Now, you didn't say he was six-foot-four in your
5 testimony earlier today as I recall it. You said
6 he was over six foot?

7 A Bigger than me.

8 Q All right. We do have a record of his actual
9 size, the person who we know is Frank Paul based
10 on the discovery of his body, and I'll ask you --
11 I don't need to get you to turn to this but for
12 the benefit of counsel, at binder 1, tab 25,
13 there's an autopsy report where he was measured
14 by the pathologist. I'm going to suggest,
15 Ms. Oberg, that according to the pathologist's
16 measure he was 183 centimetres, which is the
17 equivalent of six feet. Do you have any reason
18 to take issue with the pathologist's measure?

19 A No, sir.

20 Q And he weighed 77 kilos, which is 169.7 pounds.
21 Do you take any issue with the pathologist's
22 weight?

23 A No, sir.

24 Q Frank Paul is a common name and, indeed, a common
25 aboriginal name; right?

1 A Not that I'm aware of.

2 Q As I understood your evidence earlier, when you
3 testified about these occasions when the man you
4 say was Frank Paul was striking out, I think you
5 said the words belligerent and the like. Can you
6 recall one specific time and place that happened,
7 one of your calls to him?

8 A No, I can't.

9 Q All of your calls, every single call you go on as
10 a member of the Ambulance Service, every single
11 one of the 18,000 or so that you've been on in
12 the last decade are recorded on a crew report;
13 right?

14 A Yes, sir.

15 Q All those crew reports are retained and archived?

16 A Yes.

17 Q The crew report document contains a portion for
18 additional comments?

19 A Yes.

20 Q It's common under the additional comments portion
21 of the crew report to note things like, for
22 example, patient was violent and required police
23 assistance, or something like that; right?

24 A Yes.

25 Q That is something that will typically show up on

1 a crew report; right?

2 A Right.

3 Q So if anyone, including myself, wanted to test
4 whether in fact Frank Paul, and whether it was
5 the Frank Paul who was found deceased, was
6 violent on an occasion, we'd go to the crew
7 report and check to see if there are notations,
8 for example? That's one way to test that; right?

9 A All right.

10 MR. WARD: Mr. Commissioner, I've advised my friends of an
11 intention to bring an application, and I've
12 advised all of my friends of this, and I just
13 want to put on the record the fact that I made a
14 written request on the 16th of November for the
15 EHS crew report records to be provided for
16 attendances on Frank Paul if his pre-death
17 conduct on those attendances was going to be in
18 issue -- I don't know that I specified the latter
19 part but that was the intent. I specifically
20 asked in writing that such crew reports be
21 delivered before the next EHS witnesses attended
22 to give their testimony. None were forthcoming
23 and I'm advised that they are all retained and
24 can be produced, and I do wish, because this
25 evidence may be important in Phase 1, to have the

1 opportunity to review those crew reports -- I'm
 2 advised there may be 80 pages, which is not very
 3 much -- to test the evidence that this witness
 4 has offered. I would apply now for an
 5 appropriate order or direction that those
 6 documents be retrieved and delivered and I would
 7 apply also for a direction that I be given leave
 8 to adjourn this examination with liberty, if
 9 necessary, to continue it on receipt of those
 10 records.

11 THE COMMISSIONER: You're saying that -- and I'm speaking now
 12 with respect to Phase 1, and that -- I'm sure
 13 you've got that in your mind -- that reading
 14 these reports and knowing about his past
 15 behaviour is going to be of some assistance to me
 16 in Phase 1 in determining what happened to him,
 17 what this witness saw and did?

18 MR. WARD: I'm trying to connect the dots and some of those
 19 dots have not yet been put on the page, but
 20 counsel preceding me to this witness stand
 21 considered that Mr. Paul's previous dealings with
 22 the Ambulance Service and this witness in
 23 particular were relevant to the task that you
 24 have and I am not in a position to say that they
 25 were not; otherwise I might have jumped up and

1 them. So that's the nature of the application,
 2 in short, and I'm mindful of the concerns about
 3 timing and moving this forward, but on the other
 4 hand, on behalf of my client, I'm most interested
 5 in ensuring that the truth, as best we can
 6 ascertain it, comes out.

7 THE COMMISSIONER: Well, I agree with you. Those records may
 8 or may not be of assistance to me in determining
 9 whether he was on occasions belligerent and
 10 struck out. We have already had some indication
 11 that that has occurred but there's nothing
 12 written, I don't believe, other than to look at
 13 the CPIC report, there's no indication that
 14 anything had been reduced to writing in that
 15 regard.

16 MR. WARD: There's a further point which I didn't address in
 17 the submission but may have become apparent
 18 through the last cross-examination, and that is
 19 this identity issue that I've raised from time to
 20 time, whether indeed the homeless aboriginal who
 21 lashed out, who may have been described as
 22 six-foot-four, over 200 pounds, was in fact Frank
 23 Paul who on his death was six-foot-zero and 169
 24 pounds, and if the crew reports can indeed shed
 25 light on that, and I expect they can because they

1 will record the names of the attendants, where
 2 they were and the like, then in my submission
 3 they're relevant to the issue and ought to have
 4 been disclosed frankly earlier in response to my
 5 request but I would submit they're relevant and
 6 ought to be disclosed now.

7 THE COMMISSIONER: You think there is some question whether
 8 she is in fact describing Frank Paul? She's
 9 known this man for some considerable time.

10 MR. WARD: The concern is --

11 THE COMMISSIONER: She looked at his identification on not one
 12 but she said many occasions. I don't have really
 13 any serious doubt right now, Mr. Ward, unless
 14 there's something you can persuade me on that I
 15 should be looking at that I haven't considered.
 16 She seems fairly convincing to me that she
 17 understood this man, knew him and had met him on
 18 many occasions. She said on her four-day shift
 19 it would be unusual if she didn't see him at
 20 least a couple of times. I think those were her
 21 words.

22 MR. WARD: And then one would expect there are corresponding
 23 crew reports to back that up.

24 THE COMMISSIONER: If the crew reports you think might be of
 25 assistance to me, then I think you should have

1 them. If what you're asking me now is to stand
 2 the witness down until you've had the chance to
 3 look at them and perhaps recall her at another
 4 time -- is that what you're saying?

5 MR. WARD: Not quite. I would submit that other counsel in an
 6 interest in cross-examining this witness could do
 7 so, that once those reports have come to my
 8 attention, I could then advise Commission counsel
 9 whether I saw any purpose in having the witness
 10 recalled for further cross-examination by myself.
 11 Because I don't understand other counsel to share
 12 this particular concern and it may be that I'm --
 13 well, I won't even make suggestions.

14 THE COMMISSIONER: I don't know whether I share your concern
 15 at this point or not but, Mr. Cowper, you wanted
 16 to say something. Is there something you might
 17 assist us with?

18 MR. COWPER: In terms of advising you where we're at, Mr.
 19 Eastwood, as I understand it, has agreed to pull
 20 those records. Unless he wants an order, I'm not
 21 sure you have to make an order. Secondly, it's
 22 my view that the records may or may not shed
 23 light on any material fact in this proceeding and
 24 it is my understanding Mr. Ward is alone in the
 25 concerns he's raised with respect to this witness

1 from discussions with counsel. I think what we
2 ought to do is continue with the witnesses we
3 have. I think Mr. Ward, for example, has already
4 performed a cross-examination on this witness on
5 these questions. If further documentation comes
6 out of that that requires a recall of the
7 witness, then I think we should deal with it at
8 that time. I wouldn't want it that the witnesses
9 are coming back automatically. I think there has
10 to be cause shown. Obviously if they raise
11 material issues and credibility, at that point,
12 then we can agree by consent to recall them. We
13 have four EHS witnesses coming, the documents in
14 relation to the events that are directly relevant
15 to Phase 1 have been produced. So we're not
16 dealing with documents directly relevant. I
17 should also say, just so it's clear, we have had
18 many, many requests for additional follow-ups and
19 we've been working hard on following those up and
20 what we've been concentrating on with some
21 diligence is to concentrate on the documents
22 which are directly relevant to December 5th and
23 6th and Mr. Eastwood has been helping us and
24 agreed to help us today with respect to the
25 larger request. I'm not sure if they're going to

1 take us anywhere but let's get them and see.

2 THE COMMISSIONER: Mr. Eastwood, you're going to produce those
3 records for Mr. Ward; are you?

4 MR. EASTWOOD: Yes, Mr. Commissioner.

5 THE COMMISSIONER: Thank you. I don't think an order is
6 required then. I should say, as I've already
7 said, I don't have a problem with her
8 identification of Mr. Paul at this point.

9 MR. WARD: Yes, I understand, Mr. Commissioner, and I have
10 nothing further to add, although I do have one
11 last question or two for this witness.

12 THE COMMISSIONER: Certainly. We'll ask her to come back in
13 then, please. Thank you.

14 **MARILYN OBERG:** Resumed

15 THE COMMISSIONER: Thank you, Ms. Oberg, we're ready to
16 proceed again. Please be seated. Mr. Ward.

17 MR. WARD: Thank you, Mr. Commissioner.

18

19 **EXAMINATION BY MR. WARD:**

20 Q Just a couple more things, Ms. Oberg. It's noted
21 on the crew report, which you've had a chance to
22 look at and also in the notes of your meeting,
23 that you found Mr. Paul to have rigor mortis in
24 his jaw when you arrived; is that correct?

25 A Yes, sir.

1 Q Can you say by the state of the rigor mortis you
2 found anything about the time he would have died?

3 A No, sir.

4 Q Lastly, in the 18,000, 20,000, however many
5 call-outs you've had, have you ever dragged a
6 live patient around on the pavement or ground?

7 A Yes.

8 Q Is that something you would commonly do?

9 A Not commonly. You wouldn't want to -- you
10 wouldn't want to harm someone.

11 MR. WARD: Thank you. Those are my questions.

12 THE COMMISSIONER: Mr. Rudin, do you have any questions?

13 MR. RUDIN: Yes, thank you, Mr. Commissioner.

14 **EXAMINATION BY MR. RUDIN:**

15 Q Good afternoon, Ms. Oberg. My name is Jonathan
16 Rudin and I'm with Aboriginal Legal Services of
17 Toronto. I'm not going to ask you about finding
18 Mr. Paul. I want to talk more about two things.
19 Firstly, you identified Mr. Paul as patient.
20 Would you say that excess use of alcohol, people
21 who drink alcohol to excess, have a medical
22 problem -- often many medical problems?

23 A Yes, sir.

24 Q In fact, the excess consumption of alcohol in and
25 of itself can create medical problems; can't it?

1 A Yes.

2 Q So a young person who is not used to drinking
3 drinks a whole lot, they can die?

4 A Yes.

5 Q People who have been drinking for a long time,
6 that use of alcohol also can have an impact on
7 them?

8 A Yes.

9 Q In fact, if you drink for a long time, if you're
10 a hard core alcoholic, not drinking can be a
11 problem; can't it?

12 A Yes.

13 Q So, in fact, that's one of the things that can
14 cause seizures; isn't it?

15 A Yes, it can be.

16 Q On that line, are you -- do you know why Mr. Paul
17 was having seizures?

18 A No, I am not aware.

19 Q People who are addicted to alcohol, is that a
20 medical problem, addiction?

21 A Yes.

22 Q You mentioned that Mr. Paul drank rice wine, you
23 saw rice wine?

24 A Yes.

25 Q Is that a fairly prevalent thing to see among

1 residents of the Downtown Eastside, the
2 consumption of rice wine?
3 A I wouldn't characterize it as being a Downtown
4 Eastside --
5 Q Thank you, that's correct. People who have
6 addiction issues often --
7 A They'll drink the cheapest thing they can find.
8 Q Is rice wine a good thing to drink for you? Does
9 it have healthful properties?
10 A No, it's not healthy.
11 Q Specifically, what are some of the problems
12 associated with drinking rice wine? Are you
13 familiar with those?
14 A What I'm familiar with is it's got a huge salt
15 content.
16 Q What are the consequences of that for someone who
17 is drinking rice wine?
18 A It's very bad for them.
19 Q It would especially be bad if you weren't eating
20 much, didn't have regular food, it would make it
21 even worse; wouldn't it?
22 A Yes.
23 Q So, in the general sense, people who have an
24 addiction to alcohol, that medical problem,
25 they're an addict, would you say if they're not

1 causing harm to anyone or breaking the law, would
2 you say that's an issue that is best dealt with
3 by trained medical personnel? Would you agree
4 with that?

5 THE COMMISSIONER: Would you repeat the question?

6 MR. RUDIN:

7 Q Yes. Someone who has an addiction to alcohol and
8 who is not otherwise breaking the law, not
9 committing a criminal offence, they are best
10 dealt with by medical personnel?

11 A That would be reasonable.

12 Q Would you say that the care that someone who is
13 in that position would get -- you may or may not
14 know this -- would be better in a hospital or
15 detox centre than they're likely to receive in
16 the drunk tank at a jail?

17 A I'm not aware of care and standards.

18 Q You saw Mr. Paul regularly you indicated?

19 A Yes.

20 Q And you mentioned earlier that you saw his
21 interactions with police as well on occasion?

22 A Yes.

23 Q When the police came to have interactions with
24 Mr. Paul, did that tend to calm him down or was
25 the presence of the police something that would

1 generally tend to agitate him?

2 A I can't speak to a pattern.

3 Q So in some cases you saw him get agitated and

4 other times not?

5 A Yes.

6 Q Again, you found working with Mr. Paul the best

7 way to deal with him was to speak to him kindly,

8 I think was your word?

9 A Yes, sir.

10 Q And if you did that, he tended to be

11 co-operative?

12 A No rhyme nor reason to the effect of your words.

13 You could be kind and it wasn't the right day and

14 nothing would work. So you'd keep on trying to

15 negotiate and create a better circumstance.

16 Q And you indicated that you found that you didn't

17 have problems -- your general dealings with Mr.

18 Paul, you didn't have problems with him over

19 time?

20 A No.

21 Q And you called him Frank on occasion?

22 A Yes.

23 Q Is that what you called him when you saw him?

24 A Yes.

25 Q What did he call you?

1 A He knew my name.

2 Q He called you Marilyn?

3 A Yes.

4 Q Did you like him?

5 A When he was a talkative guy he was great, he was
6 fine. It was actually kind of a nice, calm part
7 of the day because you sat and talked to him,
8 asked him how he was that day, so it would be a
9 bit of a pause in a very busy day.

10 MR. RUDIN: Thank you. Those are my questions.

11 THE COMMISSIONER: I understood you to say that there were
12 occasions, you said on some days. Some days you
13 had difficulties getting him to calm down, is
14 that what you're saying?

15 A Yes.

16 THE COMMISSIONER: There were some occasions, I gather, when
17 you'd have to report in to the dispatcher that
18 you were having difficulty with him?

19 A Yes.

20 THE COMMISSIONER: I see. Is there any question in your mind
21 that the man you saw lying in the alley that
22 night when you came down there was not Frank
23 Paul?

24 A No.

25 THE COMMISSIONER: Thank you. Any further re-examination?

1 **EXAMINATION BY MR. MARTLAND:**

2 Q Ms. Oberg, just a few points. You've described
3 when you attended at the scene where Mr. Paul's
4 body is found that the -- tell me if I have this
5 right -- the defibrillator is attached to him?

6 A Yes.

7 Q Could you describe what is the attachment, what
8 is put on the body and how is it connected to
9 that machine?

10 A There are patches, small round patches that are
11 attached to wires, put a little gel on them and
12 then you put them where you're required to put
13 them.

14 Q These little patches, in the case of Frank Paul,
15 December '98, do you recall what they looked
16 like?

17 A Little round circle patches.

18 Q Can you say in this case what happened in terms
19 of whether something would have been connected or
20 disconnected or left with Mr. Paul after he's
21 been pronounced dead?

22 A To my knowledge, I received my equipment back to
23 the unit, whether you pull the patches off or
24 pull the wires, sometimes the patches come off.
25 I don't know where the patches ended up in the

1 end.

2 Q I wonder if the witness might be shown 17, the
3 book of photos. The photo I'm looking at is well
4 into these photos. Ms. Oberg, these appear to be
5 the photos from an autopsy and in particular
6 photo D4.

7 A Those are the patches I would have applied.

8 Q Can you just describe what it is you see on
9 photograph D4, please?

10 A A person's body with a patch applied.

11 Q And am I right to say the patch is the round
12 white circle with the small red part in the
13 middle?

14 A Yes.

15 Q Can you say what happened in terms of the wires
16 that attach to that patch?

17 A They belong to the unit, they don't stay with the
18 patient.

19 Q At a general level do you know what happens to
20 the wires in this situation?

21 A They're reused. The patches are the disposal
22 part of the machine.

23 Q The only other question I have is, when you
24 described rolling Mr. Paul over so that you can
25 observe his back, or that he was rolled over so

1 you could look at his back -- do I have that
2 right?

3 A I remember seeing the side of him, his back was
4 underneath, his back, that's how I saw that, and
5 as far as rolling him over and looking at his
6 back, I don't recall.

7 Q So I'm clear, when you attend, is he lying on his
8 back?

9 A To my knowledge, yes.

10 Q So he's rolled over at some point while you're
11 there?

12 THE COMMISSIONER: She didn't say that, Mr. Martland. She
13 didn't say he was rolled over. She said she was
14 -- looked at his back but she didn't recall him
 being rolled over. Is that your evidence?

 A That is correct.

MR. MARTLAND:

 Q Do you recall how it is you could see his side
 then?

 A No.

MR. MARTLAND: Thank you. No further questions.

THE COMMISSIONER: Any further questions? May the witness be
 excused then, Mr. Martland?

MR. MARTLAND: Yes, thank you.

THE COMMISSIONER: Thank you, Ms. Oberg.

(WITNESS EXCUSED)

THE COMMISSIONER: Mr. Cowper, do you have another witness?

MR. COWPER: We can start the next witness. It will be Mr. Martland's witness. I am enjoying the observation opportunity.

I wanted to rise with respect to the exhibit I spoke to yesterday. I've had conversations with counsel for the family and that is to distinguish in Exhibit 17 between the photographs which would form part of the public record as distinct from those that would remain in the private record. We've had inquiries about that so I thought we should address it before the end of the day. Mr. Kelliher advises me that he's content on behalf of the Paul family that the photographs marked as B9, A18, B1 and A16 form part of the next exhibit and be part of the public record and that's -- I've looked at those, those are representative and I think they give the public --

THE COMMISSIONER: Could you repeat those?

MR. COWPER: B9, A18, B1 and A16. I haven't given you them in order. What I'd suggest we do then is I'll work with Mr. Registrar to provide a separate exhibit that will cut out those photographs because

they're joined in present form with other photographs.

THE COMMISSIONER: So you're asking that those photographs you've identified become a separate exhibit?

MR. COWPER: Yes, please. They will become a public exhibit and Exhibit 17 will remain private and unavailable for inspection.

THE COMMISSIONER: So the remainder of Exhibit 17 will remain then and will remain private?

MR. COWPER: I haven't discussed that with other counsel. I didn't think there was much, if any --

THE COMMISSIONER: I placed the restriction on them of not being released to the public yesterday. Do counsel have anything to say with respect to that? Mr. Kelliher, you represent the family. I understand you're in agreement with this?

MR. KELLIHER: That's correct.

THE COMMISSIONER: All right. If you'll set up that other exhibit and we'll assign it a number.

Mr. Martland.

MR. MARTLAND: The next witness I expect to have relatively straightforward evidence and I'm hopeful we may be able to finish yet today, Mr. Berry.

THE COMMISSIONER: Fine. I think we should move on. We will call the witness.

MICHAEL BERRY: Affirmed

THE REGISTRAR: Would you state your full name, please.

A Michael Berry.

THE REGISTRAR: Thank you. You may be seated. Counsel.

EXAMINATION BY MR. MARTLAND:

Q Mr. Berry, my name is Brock Martland. I'm one of the lawyers with this Commission. You and I met earlier today and had an opportunity to discuss your evidence but never met before that; is that right?

A That's correct.

Q You have had an opportunity recently to meet with Mr. Eastwood and discuss your knowledge with Frank Paul?

A That's correct.

Q I understand you currently work for the British Columbia Ambulance Service in Duncan?

A That's correct.

Q In 1998 you worked in Vancouver as a student paramedic?

A On an interim basis, yes.

Q Had you ever encountered Frank Paul before -- the date I'm going to be asking you questions about is December 6, 1998?

A Not that I ever recall.

Q First of all, do you have -- setting aside any paperwork or anything you may have looked at, do you have any independent memory about December 6, 1998 or Frank Paul?

A Not at all. It's so long ago I have no recollection. I've been referring to my crew report.

Q Sorry, you've been referring to your crew report?

A Yes, my crew report.

MR. MARTLAND: Mr. Commissioner, I previously passed up through the last witness a document not made an exhibit, it's a crew report, 031 for the vehicle number.

THE COMMISSIONER: Yes.

MR. MARTLAND:

Q Mr. Berry, recognize that document?

A Yes, I do.

Q What is it?

A The crew report from December 6, '98.

Q Who does it involve, what patient?

A Mr. Frank Paul.

Q Now, first of all, do you recognize the writing on that crew report?

A Yes, that is my writing.

Q You have had a chance, I understand, to review

this previously?

A Yes.

Q To your knowledge is it accurate?

A In terms of --

Q The information on the form?

A To the best of my ability, yes.

Q And when was this document prepared?

A That would have been completed on that date,
December 6, '98.

MR. MARTLAND: I'd ask this become the next exhibit.

THE COMMISSIONER: Exhibit number?

THE REGISTRAR: 22.

(EXHIBIT 22: Crew Report)

MR. MARTLAND:

Q If you're able to assist the Commission by walking us quickly through this document and what the indications are or what it tells us, what it records about Mr. Paul, this person named Frank Paul.

A Absolutely. I can start with the obvious one, the Chief Complaint. On that it's stated: Cardiac arrest. Underneath it is code 4 which is chronology 4, death, relating to death.

Q That's on the left-hand column under Chief Complaint?

A Left hand, 51, Chief Complaint. Underneath it is a brief history of how we found the patient and of course that's titled the mechanism injury or history of the illness.

Q What does it say?

A It says: Found in alley. Laying on back, non-responsive, by bystander.

Q That refers to who found this person?

A Yes, who found this person.

Q What does it tell you about relevant past history?

A Alcohol abuse.

Q And in terms of the time at which you're attending for this crew report --

A The times are -- in terms of attending the scene, there appears to be an error. The error could have been me writing down the time or my multi-timed watch at the time, I do not recall what caused it.

Q What's the error there?

A Call received, I believe, is at 1:58 and at scene 2:53 -- almost an hour.

Q It wouldn't take you an hour to get to the scene?

A No.

Q How do you know that's an error?

A After receiving the crew report I reviewed it and noticed it would be incorrect. Working in a city there would be no response times of that length.

Q One would hope.

A Absolutely.

Q Do you know what area you were coming from or working in that night?

A I do not recall.

Q Is there anything in terms of the station shift and information in the upper right-hand corner that assists you with respect to where you would have been working that evening?

A 261 Alma would have been out of the General, Vancouver General. The only thing I will add is that the distance is an indicator of how long we took, starting at zero kilometre.

Q Where is the distance?

A If you go to the time where it says 1:58, zero, and then you go to the next column, time at scene, where it says 2:53, adjacent to it would be the kilometres or distance away. That would be how much we were from the scene when we had the call.

Q I don't think you reviewed this but on the right-hand side it also gives you address.

That's where you attend, 366 East 1st alley?

A That's correct.

Q What other information can you provide from that form?

A In terms of location or going down the list?

Q Why don't you go down the list.

A I'll continue down below where we left off with alcohol abuse. The next one would be medications and it says: None on the patient. I'll bounce back up to the vital signs, the middle of the form, and it says: No vital signs, no pulse, no respiration. There's also the coma score which is the Glasgow coma score, it's kind of a measurement tool we do to gauge levels of consciousness. The lowest level you can get is 3 which is on there which usually means non-responsive.

Q What is that score based on?

A That's based on our findings when we assess him when we get there. If you look at your form it will indicate eyes, verbal, motor, 1 is the lowest one you can get.

Q EVM?

A Eyes, verbal, motor. No response would indicate a 1.

Q To the left of the vital signs zero there's a number 2:54.

A That would be the time.

Q 2:54 a.m.?

A That's correct.

Q What else can you tell us from that form?

A I'll work down the centre piece where it says: Exam. State of consciousness, it says zero which would reflect the findings above. The head and neck, it says: The jaw rigor. Next it says: Chest, zero heart sounds and cold to touch. Next in line would be cardiovascular which would read cyanotic.

Q What does that mean?

A That would be lack of oxygen in the blood, and it would show as being blue through the skin. Next is abdomen and it has abrasion on the left hip going to the abdomen.

Q Can you, from this form, say anything about what that abrasion looks like?

A No. If it was just noted as an abrasion there would be nothing else remarkable about it. If it extends from the left hip to the abdomen you would determine it to be some length. I can't tell you exactly how long. I don't recall.

Q Why don't you continue with the form.

A On the back it says: Mottling of the back.

Q What does that refer to?

A That could refer to protrusion, skin would show as being mottled. The next would be the extremities, that the arms were stiff. That could be an indicator of rigor as well. Central nervous system zero as with the Glasgow coma scale, and blood loss, there was none visible. I'll move across into the pupils, they were fixed, dilated. Go down to the skin where it indicates cyanosis, or cyanotic. The bottom box -- in the middle, 59 I think it is: Incontinent, urine, stool.

Q What does that mean?

A Relieved his bladder and bowels, loss of muscle control, so release of urine or stool. Underneath that it says: Vital signs were checked by all attendants. It refers next: Do not resuscitate order by phone, 2:56, Dr. Dettman. It's common we would phone the doctor when we're conferring with our findings to see if he could give any other suggestion or any orders on how to continue with the patient.

Q You continue care until you have that order?

A What's that?

Q You continue until you have an order not to?

A Yes, we continue what we're doing. I don't recall exactly.

Q Fair enough. Is there any other information from this form?

A We go to dispatch status, it says: Collapse, found down.

Q That's as dispatched?

A Dispatched as. The numbers at the bottom refer to cardiac arrest, numbered code system. As I recall, that's cardiac arrest.

Q 999?

A Yes.

Q The only part I haven't had you review is at the bottom under: Time, medications, procedures. Is there any further information there?

A Yes. We would -- it's an indicator we would put on the monitor and to get an EKG from that person as well. It says we did apply the monitor and we did -- we found it was asystole which is no electrical activity.

Q That tells you there's no heart activity?

A That's correct, and we checked all three leads meaning we can check it from different angles to

check the heart and there was no electrical activity from any angle.

Q You filled out this crew report and your testimony was you did that on the day this occurred?

A Yes.

Q Did you ever get asked to provide a statement or attend for an interview about Frank Paul?

A Not until current -- now.

Q When you say current, I presume you're referring to Mr. Eastwood contacting you and setting up a meeting in the last few weeks?

A That's correct.

Q In that time no contact with police or an investigator or anyone else?

A No one.

Q Just so I'm clear, you don't have any recollection about whether there were police on scene, what the scene looked like, anything like that?

A That's correct.

MR. MARTLAND: I have no further questions. Thank you.

THE COMMISSIONER: Mr. Eastwood.

EXAMINATION BY MR. EASTWOOD:

Q Mr. Berry, I just have a quick question for you.

At the bottom of the form under box 73, cardiac rhythm, you've written: Strip attached. What does that mean?

A That means whenever we do -- when we monitor a patient we run an EKG strip which is a tracing of the heart electrical activity and we print it out and copy it and we attach it to our station copy of the crew report.

Q So there's different copies of a crew report?

A Yes, there is.

Q What copy is before you right now?

A We would be on the original yellow -- it would normally be yellow, the Commission copy, which I believe goes downtown. The station copy generally stays in the station in storage for probably seven years and quite often it's destroyed. I can't say exactly in this particular case but that would be common practice.

Q Is there any copy that goes to a hospital?

A If we go to the hospital, yes. If we don't, no.

MR. EASTWOOD: Thank you.

THE COMMISSIONER: Sorry, the strip attached, what did you say that was?

A That was an EKG tracing.

THE COMMISSIONER: That was attached to one of the reports.

A It would be attached to the station copy of the crew report, correct.

THE COMMISSIONER: Mr. Hern, do you have any questions?

MR. HERN: No, thank you.

THE COMMISSIONER: Mr. Woodall?

MR. WOODALL: No, thank you.

THE COMMISSIONER: Mr. MacKenzie?

MR. MACKENZIE: No, thank you.

THE COMMISSIONER: Mr. Kelliher?

MR. KELLIHER: No, thank you.

THE COMMISSIONER: Mr. Ward, do you have any questions?

MR. WARD: Yes. Mr. Eby will ask a few questions if that's agreeable.

THE COMMISSIONER: Yes.

EXAMINATION BY MR. EBY:

Q My name is David Eby. I'm a lawyer with United Native Nations. I only have one question for you. In the top left-hand corner of the form you'll see the name Paul, Frank J. Do you have any recollection of when that was put on the form?

A No, I do not.

Q You don't have any recollection of what order the form was filled out in or where you got the name

from?

A No.

MR. EBY: Thank you. No further questions.

THE COMMISSIONER: Mr. Rudin?

MR. RUDIN: No, thank you.

THE COMMISSIONER: Ms. Wong, do you have any questions?

MS. WONG: No, thank you.

THE COMMISSIONER: Mr. Martland?

EXAMINATION BY MR. MARTLAND:

Q One last question. You were asked about, on the upper left-hand side of this crew report, the name or at least the words, Paul, Frank J. written out. Whose handwriting are those words in?

A That would be my handwriting.

MR. MARTLAND: Thank you.

THE COMMISSIONER: May the witness be excused then, Mr. Martland?

MR. MARTLAND: Yes. Thank you, Mr. Commissioner.

THE COMMISSIONER: Thank you, Mr. Berry, you're excused.

(WITNESS EXCUSED)

THE COMMISSIONER: Anything further for today, Mr. Martland?

MR. MARTLAND: I think, given the time, no, nothing further.
Thank you.

THE COMMISSIONER: We're adjourning now, Mr. Cowper, until
tomorrow morning at 9:30; is that correct?

MR. COWPER: That's correct.

THE COMMISSIONER: Very well. We'll adjourn now.

THE REGISTRAR: The hearing is now adjourned until 9:30
tomorrow morning.

(PROCEEDINGS ADJOURNED AT 4:13 P.M.)

I hereby certify the foregoing to
be a true and accurate transcript
of the proceedings transcribed to
the best of my skill and ability.

Margaret M. Wills

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