

1 Vancouver, BC

2 November 27, 2007

3 (PROCEEDINGS RECONVENED AT 9:31 A.M.)

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

5 ROBERT TURNER: Resumed

6 THE REGISTRAR: Mr. Turner, may I remind you you're still
7 under oath.

8 A Yes.

9 THE COMMISSIONER: Mr. Martland.

10 MR. MARTLAND: Mr. Commissioner, I had almost concluded my
11 examination of this witness but did have a few
12 last questions, if I may.

13 THE COMMISSIONER: Yes.

14 EXAMINATION BY MR. MARTLAND CONT'D:

15 Q Constable Turner, if you could please describe,
16 were there any forms that you prepared, your
17 partner prepared when you deal with Mr. Angel and
18 Mr. Paul?

19 A I can't recall -- I can tell what would have
20 normally been prepared. One is a detox form
21 which is a small duplicate copy form that's
22 carried in the wagon. It simply has name, date
23 of birth.

24 Q With your hand you're indicating what seemed to
25 be perhaps -- can you give an estimate of -- is

1 that a three-by-five inch --

2 A Three-by-five inch form used for detox. As well,
3 as there's a Jail 8 which is used for parties
4 that are going to the jail for Hold/SIPP.

5 Q The Jail 8 is a full-size paper form?

6 A Yes.

7 Q Am I right to say where someone is a Hold/SIPP
8 headed to the Vancouver jail drunk tank that's
9 the form that would be completed?

10 A That's correct.

11 Q Where someone is headed to detox you wouldn't
12 have a Jail 8, instead you'd have this shorter
13 piece of paper or form for the detox centre?

14 A Yes, that's correct.

15 Q At a general level who completes those forms?

16 A At a general level the arresting officer will
17 complete the form. However, you get a large
18 variance with wagon drivers -- some wagon drivers
19 prefer to fill them out themselves and make sure
20 all the information will be there since
21 ultimately it will be them taking the party into
22 the jail or detox.

23 Q Can you say at all with respect to Mr. Angel and
24 Mr. Paul on that evening, December 5, whether
25 either form was prepared, or if so, who prepared

1 it?

2 A I can say with certainty both forms would have
3 been prepared. You have to have those forms for
4 admission. Who prepared it is another situation.
5 If I had to guess I would say Constable Peterson
6 filled the form out for Mr. Angel.

7 Q Constable Peterson for Mr. Angel, yes?

8 A He took his information and likely I would have
9 filled out the one for Mr. Paul. It is possible
10 though that the wagon driver could have filled it
11 out as well.

12 Q Am I right to say that between you and your
13 partner the division of labour is, as it turns
14 out, you're the one who has really responsibility
15 for Mr. Paul at the scene, whereas your partner
16 Constable Peterson is the one dealing with Mr.
17 Angel?

18 A Yes, that would be a fair assessment.

19 Q What happens with the form after that? Let's
20 deal with the Jail 8 form for someone who is
21 headed to the drunk tank at Vancouver jail, what
22 happens to the form?

23 A Generally the forms goes with that party to the
24 jail, presented to the jail staff.

25 Q So the wagon driver gets the form?

1 A Yes, that's correct.

2 Q Would you as the arresting officer at a general
3 level, would you keep that form?

4 A No.

5 Q It's just a single piece of paper?

6 A Yes. It has to go with the party to be admitted.

7 Q Were either Mr. Angel or Mr. Paul handcuffed?

8 A No, I don't believe so.

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

10 THE COMMISSIONER: Mr. Eastwood is not here this morning. Mr.
11 Hern, do you have any questions?

12 MR. HERN: No questions.

13 THE COMMISSIONER: Mr. Crossin?

14 MR. CROSSIN: No, thank you.

15 THE COMMISSIONER: Mr. Woodall?

16 MR. WOODALL: No, thank you.

17 THE COMMISSIONER: Mr. Hinkson, did you have any questions?

18 MR. HINKSON: No, thank you, Mr. Commissioner.

19 THE COMMISSIONER: Mr. MacKenzie?

20 MR. MACKENZIE: No, thank you.

21 THE COMMISSIONER: Mr. Kelliher?

22 MR. KELLIHER: Yes, thank you.

23 **EXAMINATION BY MR. KELLIHER:**

24 Q Sir, when you arrived at the scene at
25 approximately 2:50 in the morning of December the

1 6th, what did you do?

2 A My recollection is we spoke with witnesses at the
3 time to determine what had happened and I believe
4 I began contacting my sergeant and dispatch
5 because in my mind I was working out how Mr. Paul
6 had ended up in the lane, if he had been released
7 from the jail or what circumstances had occurred.

8 Q You and your partner were the first
9 police-officers on the scene?

10 A Yes.

11 Q First of all, you began speaking to witnesses.
12 Did you take statements or notes of the
13 conversations you had with the witnesses?

14 A Uhm, no, I believe I took the witnesses'
15 information.

16 Q Was there only one witness?

17 A I don't recall.

18 Q Sir, if you had a look at your notes would that
19 refresh your memory?

20 A Yes.

21 MR. KELLIHER: I don't recall, Mr. Registrar, if this
22 gentleman's notes were marked as an exhibit.

23 THE REGISTRAR: There was just an occurrence report, Exhibit
24 33.

25 MR. MARTLAND: The notes were not made an exhibit although

1 there was brief reference to them yesterday.

2 MR. KELLIHER: If my friend Mr. Martland has a copy of those
3 notes I'd ask that they be marked as an exhibit
4 now.

5 A I have viewed my notes prior to this and I see
6 there is one name in my notebook.

7 MR. KELLIHER:

8 Q Sir, could you open your notebook?

9 A I have my notebook with me today.

10 MR. MARTLAND: I am afraid, Mr. Commissioner, I have but one
11 copy. I'm certainly happy to provide that.

12 MR. KELLIHER: Perhaps we can do that during the break.

13 THE COMMISSIONER: Fine. Thank you.

14 MR. KELLIHER:

15 Q Sir, you'll see the name Dave Kelly?

16 A Yes.

17 Q Is that the particulars of the witness that you
18 spoke to?

19 A I believe so. However, it's possible -- it looks
20 like I've asked a question so I would say yes.

21 Q When you say you've asked a question, what do you
22 mean by that?

23 A I have: Tried CPR with a question mark and a
24 negative connotation there.

25 Q So you asked Mr. Kelly if he tried CPR and he

1 replied that he had not?

2 A I'm gathering that from my notes.

3 Q Besides speaking to Mr. Kelly, did you do

4 anything else to preserve the scene, perhaps

5 cordon it off or move anything at the scene?

6 A It's an alley that's not travelled by anyone

7 other than if a vehicle was going into the detox

8 area. We remained on the scene until major crime

9 had arrived and preserved the scene, yes.

10 Q You did nothing with the scene other than await

11 the major crime investigators; is that correct?

12 A That's correct.

13 Q Sir, I note in looking at your notes that we have

14 an entry on the first page at 20:10, 8:10 in the

15 evening?

16 A That's correct.

17 Q When you dealt with Mr. Paul. He's taken into

18 custody. What does the "50?" mean?

19 A What age I was guessing when I made the initial

20 notation.

21 Q When in respect to your dealings with Mr. Paul

22 would that note have been made?

23 A That would have been made when I initially was

24 dealing with him.

25 Q Does that mean after he'd been placed in the

1 police vehicle?

2 A No, that would have been before.

3 Q Just as you approached him you took your notebook

4 out and made some entries?

5 A I see it's 20:10 and I don't think the police

6 wagon arrived until after that.

7 Q Would that be before or after you checked him on

8 CPIC?

9 A Likely before. If I checked him on CPIC I would

10 have put his date of birth in at that point.

11 Q There's no entry in these notes that suggest that

12 you did do a CPIC check, is there?

13 A On the second page, but that would have been

14 later in the evening, it looks like I did a CPIC

15 check that I made notes of. Simply because

16 there's no entry in my notebook doesn't mean a

17 CPIC check did not occur.

18 Q The question is, there's nothing in your note to

19 suggest you did a CPIC when you first dealt with

20 Mr. Paul that night?

21 A Nothing to suggest, no, but operating procedure

22 is before somebody goes to jail you would

23 certainly would have a CPIC check performed.

24 Q But you did do a CPIC check at approximately 3

25 a.m.; is that right?

1 A Yes.

2 Q What would be the point of doing that?

3 A Any time you deal with someone you run them
4 through CPIC system to see if there's any notes
5 on the ADD system, as to whether he'd been
6 released from jail, picked up again, see if
7 there's any notes. Certainly in a sudden death
8 you would put somebody's name through the
9 computer.

10 Q Sir, can you explain why there's no entries in
11 your notebook from approximately 8 p.m. to 3
12 a.m.?

13 A Being a beat officer I'm not sure what situations
14 we dealt with from 8 p.m. 'til 3 a.m.

15 Q There was nothing that took place during those
16 intervening hours --

17 A I'm sure things took place.

18 Q Excuse me, please -- that warranted a note?

19 A Apparently not. A lot of our things are done on
20 computers. Disturbances, et cetera, you'll put
21 in entries on the computer. You go to calls,
22 cleared EHS. There's a lot of disturbances,
23 regular street checks you do. Downtown policing,
24 when you have your vehicle with you a lot of
25 things are done on the computer.

1 Q Between 8 p.m. on the 5th and 3 a.m. on the 6th
2 did you arrest anyone else for state of
3 intoxication in a public place?

4 A I don't believe so.

5 Q No?

6 A No.

7 Q Did you call for the wagon for any reason between
8 those hours?

9 A I would have no idea unless I looked at a CAD
10 print-out.

11 Q Would you make a note of such an event?

12 A Normally, yes.

13 Q So to the best of your recollection nothing took
14 place during that shift between your encounters
15 with Mr. Paul that was worthy of a note in your
16 notebook; is that correct?

17 A It would suggest that. I can't recall so I can't
18 say to the best of my best of my recollection.

19 Q Sir, what is your evidence as to when were these
20 notes prepared?

21 A The notes on the first page were prepared at
22 20:10 hours, the second page 02:50.

23 Q Sir, can I see your notebook please?

24 A Yes.

25 Q Sir, is that a department issued notebook?

1 A Yes, it is.

2 Q Is it?

3 A Yes.

4 Q I'm unfamiliar with Vancouver City. The ones I
5 am familiar with are hard-backed notebooks that
6 have pages that are numbered. Your pages are not
7 numbered?

8 A No. That's the same notebook we use to this
9 date.

10 Q Sir, I understood you to say that in your
11 dealings with Mr. Frank Paul that often times he
12 would be chippy and difficult with you and your
13 view of him was such that given the disposition
14 that you'd experienced that he should go to the
15 jail rather than to the detox centre and not --
16 the point being, you didn't want to subject the
17 detox staff to that kind of difficulty. Is that
18 correct?

19 A Yes, that's correct.

20 Q It took three male police-officers to lift Mr.
21 Paul and place him in the paddy-wagon; is that
22 right?

23 A That's correct.

24 Q And was it a factor that transporting him from
25 the van to the detox centre in his state of near

1 unconsciousness would have been a difficulty?
2 Was that a factor in your decision to send him to
3 jail?

4 A Not at all.

5 Q In your experience would the detox centre be able
6 to handle a person of his size and level of
7 intoxication without difficulty?

8 A If they had the adequate volunteers. Often you'd
9 get on shift and detox is full, closed due to
10 lack of staff. If there's two people there plus
11 the wagon driver they would be able to admit him.

12 Q There would be no difficulty in handling a person
13 of that size and condition at the detox centre?

14 A No. They're quite used to doing that.

15 Q Sir, you've mentioned that Mr. Paul, you
16 interpreted his belligerence and aggression as an
17 aspect of pride, sort of attempting to regain
18 some dignity in dealing in an adversarial way
19 with the police?

20 A That's my opinion, yes.

21 Q You'll agree with me that that's not unique in
22 respect to aboriginal males and the Vancouver
23 City Police Department, Mr. Paul's reaction was
24 not unique to him?

25 A Not unique to him, not specifically aboriginals,

1 but all sorts of people like to stand up to the
2 police to save face.

3 Q I'm sure they do. The question is, it's not
4 unique in the sense of the aboriginal community?

5 A I wouldn't say so.

6 Q That many aboriginal males exhibit these kinds of
7 characteristics when dealing with the police?

8 A Yes.

9 Q Reflective of a history, I gather, that has not
10 always been the best between the Vancouver
11 City Police and aboriginal people?

12 A Yes, but you could spread that same description
13 over 80 percent of the Downtown Eastside.

14 Hardened criminals, it doesn't matter what --

15 THE COMMISSIONER: Over what percentage, constable?

16 A I would say the criminal element in the Downtown
17 Eastside, the majority of them on a regular basis
18 have that sort of feeling towards the police.
19 It's a fairly standard thing.

20 MR. KELLIHER:

21 Q If you're saying, sir, that the aboriginal
22 community and criminals --

23 A I'm not specifying criminals. You're trying to
24 make the aboriginal differentiation here and I'm
25 saying it's common in the Downtown Eastside.

1 Q It's common among aboriginal people, correct?

2 A No more common than --

3 Q Sir --

4 THE COMMISSIONER: You're interrupting, Mr. Kelliher. Let him
5 finish.

6 A I would say it's no more common amongst
7 aboriginal people than other groups in the
8 Downtown Eastside. It's a fairly common thing as
9 a beat officer down there to have people who
10 attempt to not show you any respect whether it's
11 to save face with their friends on the street --
12 it's a difficult question to answer. Yes, it's
13 commonplace.

14 MR. KELLIHER:

15 Q The question was, is it a commonplace with
16 aboriginal people who are arrested for state of
17 intoxication in a public place?

18 A It's as common as it is with any other people.

19 Q Sir, I'm not asking you to elaborate on your
20 answer. Just answer yes or no if you can, all
21 right?

22 A Are you asking me are there more aboriginal
23 people who behave that way than Caucasian people
24 than Asian people?

25 Q Sir, I don't want to you anticipate where I'm

1 going. I just want you to listen carefully to
2 the question and answer yes or no if you can,
3 please.

4 A All right.

5 Q Are the characteristics exhibited by Frank Paul
6 toward you, that is, belligerence, perhaps
7 aggression, swearing, common to aboriginal people
8 that you arrest in the Downtown Eastside for
9 state of intoxication in a public place?

10 A Yes, I would say they are common.

11 Q Sir, as a result of your perception of aboriginal
12 people relating to you and other police-officers
13 in that way, are they more likely to be assigned
14 to the jail rather than the detox centre?

15 A No.

16 Q Why?

17 A Because I don't base my decision on a
18 cross-section of a certain race as you're
19 suggesting. My dealings with Mr. Paul, he is
20 more belligerent, more difficult to deal with
21 than the average person you would take to the
22 jail for holding for a SIPP.

23 Q Sir, people you have said who are aggressive,
24 belligerent, difficult to deal with, you, on that
25 basis, not on a racial basis but on that basis,

1 you will assign them to jail rather than detox,
2 correct?

3 A Yes, absolutely.

4 Q You would agree with me that that aptly describes
5 the relationship between aboriginal individuals
6 in the Downtown Eastside and the Vancouver City
7 Police Department?

8 A That aptly describes the relationship between
9 myself and Mr. Paul.

10 Q Do you disagree with what I'm saying? I thought
11 you had agreed a few moment ago.

12 A I do disagree. There's just as many aboriginals
13 going to the detox centre as the jail, just like
14 any other cross-section of the population.

15 Q How do you know that?

16 A I was a wagon driver for some time.

17 Q I understood you to say that if a person was
18 aggressive or belligerent that that person would
19 go to jail rather than the detox centre?

20 A That's correct, Mr. Commissioner, but I suggest
21 that you're trying to say all aboriginals are
22 aggressive and that's not the case.

23 Q Most are?

24 A I wouldn't say most. It's the same cross-section
25 as the rest of the population.

1 Q You're saying that the relationship between
2 aboriginal people on the Downtown Eastside and
3 non-aboriginal people in the Downtown Eastside is
4 the same?

5 A That's a fairly loaded question.

6 Q It's a simple question. If you can answer it,
7 answer it. If you can't, don't.

8 A Yes, as a beat officer you deal with all sorts of
9 different races and people.

10 Q There's no distinction in your mind between the
11 relationship between the Vancouver City Police
12 Department and aboriginal people and the
13 Vancouver City Police Department and
14 non-aboriginal people?

15 A In my mind, no.

16 MR. KELLIHER: Thank you.

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

18 MR. WARD: Yes. Thank you.

19 THE COMMISSIONER: The copy of the police officer's, Constable
20 Turner's notebook should be marked as an exhibit
21 now it's been referred to. What will be the
22 exhibit number?

23 THE REGISTRAR: Exhibit 34.

24 THE COMMISSIONER: Thank you.

25

1 **(EXHIBIT 34: Copy of Constable Turner's**
2 **Notebook)**

3 **EXAMINATION BY MR. WARD:**

4 Q Sir, on the second page of Exhibit 34 -- and I'm
5 sorry, I should introduce myself. I'm Cameron
6 Ward, counsel for the United Native Nations
7 Society.

8 A Good morning.

9 Q Hello. On the second page of your notes which
10 we've marked as Exhibit 34, there's an entry
11 5:05: Ordered to submit duty report by Sergeant
12 377 Boyd. Do you see that?

13 A Yes, that's correct.

14 Q I take it that the document generated as a result
15 of that order is the miscellaneous and
16 supplementary report marked as Exhibit 33?

17 A Yes, that's correct.

18 Q And that that was a document created by yourself
19 sometime after 5:05 a.m. on December 6 using your
20 personal or squad car computer?

21 A No. That would be using a computer at the police
22 station.

23 Q So it was prepared at the police station?

24 A Yes.

25 Q Is that 2120 Cambie or 312 Main?

1 A I would have to guess it would be 2120 Cambie.
2 Q You don't recall?
3 A I don't recall. However, I would have booked off
4 at that building so that would make sense.
5 Q Sir, I want to ask you some questions about one
6 particular statement in this, one sentence in
7 this statement. It's about two-thirds of the way
8 down, and it reads: A police wagon was called to
9 pick up Angel for detox and Paul for jail due to
10 his violent nature. Do you see that?
11 A Yes.
12 Q That's consistent with what I understood your
13 other testimony to be which was -- and I'm
14 summarizing -- that as a result of your previous
15 dealings with Mr. Paul you appreciated him to be
16 particularly belligerent, that you wouldn't want
17 to impose him on the detox staff, therefore, in
18 your view, he was not suitable for detox and
19 should go to jail instead?
20 A Yes, that's correct.
21 Q Just on that issue, your previous dealings with
22 him, you have an ident number, correct, or a PIN
23 number?
24 A 1694.
25 Q And Mr. Paul had an FPS number?

1 A Yes he would have.

2 Q And one could go to the police computers and by
3 using, for example, your PIN number 1694, Mr.
4 Paul's FPS number, be able to isolate and
5 identify all those occasions where you interacted
6 with Mr. Paul, correct?

7 A Uhm, no, that's not correct.

8 Q You could isolate all those occasions where you
9 arrested Mr. Paul?

10 A Where I arrested him, yes.

11 Q How many times did you arrest him before this
12 day?

13 A I have no recollection. As I stated, most of my
14 dealings with him were as a wagon driver.

15 Q How many times did you transport him as a wagon
16 driver?

17 A I have no recollection of the number of times.

18 Q Anywhere between zero and some other number?

19 A I would have to guess as a wagon driver. As I
20 stated in my initial evidence, I would have dealt
21 with him a dozen times or more.

22 Q So we could go to the records and find out those
23 occasions where you as a wagon driver transported
24 him?

25 A It would depend whether he was transported, if I

1 spoke to him on the sidewalk and he moved along.
2 There's many ways you can deal with people and
3 sometimes you may not be running his name.
4 Sometimes you would be checking him. I can
5 recall times I checked him and sent him with EHS.
6 Q You recall those times?
7 A One time.
8 Q Where did you send him via EHS?
9 A To the hospital.
10 Q Because he was drunk?
11 A No. He was using inhalants and he was completely
12 unresponsive.
13 Q Coming back to your dealings with him as wagon
14 driver, did you transport him anywhere as a wagon
15 driver?
16 A I would say yes, I have.
17 Q How many times?
18 A I don't have a recollection. We're talking about
19 a six-year period starting nine years ago.
20 Q That's what records are for. We could go to the
21 records and check that, right?
22 A Yes.
23 Q Did you ever transport him to detox as a wagon
24 driver?
25 A I don't recall.

1 Q Again, we could go to the records and check that,
2 right?

3 A I would think so.

4 Q On these records I understand that -- as I
5 understand it, when you take someone to detox you
6 submit a slip to detox with the person and retain
7 a copy of that in the police records, right?

8 A I'm not sure where the yellow copy of that goes,
9 if they're handed in. I know detox would
10 definitely have the originals, yes.

11 Q It's a two-part form, an original and a copy,
12 right?

13 A That's right.

14 Q And the original top part would go with the
15 individual to detox on admission, right?

16 A Yes.

17 Q The other copy would be retained by the wagon
18 driver?

19 A Yes.

20 Q Right?

21 A Yes.

22 Q And perhaps Mr. Martland can assist me, but I
23 don't believe we've seen the copy for the
24 delivery of Mr. Angel. All right. I don't
25 believe we've seen, and Mr. Martland maybe is

1 able to assist me with this, the Jail 8 form for
2 Mr. Paul. Mr. Martland advises me he hasn't seen
3 it. But ordinarily those two records would have
4 been prepared with respect to your arrests of
5 those two individuals, right?

6 A Yes. The copy of the detox form was not
7 something commonly kept by us, the yellow copy.
8 The white copy detox should have in their
9 possession.

10 Q Sir, I'm going to suggest to you that the
11 statement in your duty report that Mr. Paul was
12 dispatched to the jail due to his violent nature
13 is an explanation you created after speaking with
14 your partner Peterson and wagon driver Instant in
15 an attempt to justify the delivery of him that
16 night. Do you agree?

17 A I think that's ludicrous.

18 Q All right. You say that Mr. Paul was violent,
19 right?

20 A Yes.

21 Q And that's why you sent him to the jail?

22 A Yes.

23 Q You may not have had the benefit of the videotape
24 but I'll advise you that we have watched a
25 videotape showing Mr. Paul crawling in the jail,

1 sitting, drinking coffee, interacting with jail
2 staff and it would appear -- and I can show you
3 the videotape -- that he displayed no violence.
4 Assuming that is the case, how do you square your
5 statement in this report that he was violent with
6 what is seen on the videotape?

7 THE COMMISSIONER: Mr. Ward, I'm looking at his report. It
8 says he had a violent nature, not that he was
9 violent at the time.

10 MR. WARD: Right.

11 Q How do you square your assessment he had a
12 violent nature with what we have observed on the
13 videotape of the man on the day of his death?

14 A Mr. Commissioner, I think I've made it very clear
15 in my evidence in chief that my previous dealings
16 with Mr. Paul formed my opinion of him and that's
17 how my decision making was made on that night. I
18 think we need to differentiate here that the jail
19 and detox are both a place where someone can go
20 sleep for four hours, they can get some food, get
21 some coffee, sleep off their alcohol and get back
22 on the street. The only difference is the detox
23 has civilians, the jail has staff who are trained
24 to deal with people who may become a problem. As
25 a police-officer making those decisions, that

1 wasn't a difficult decision to make. Mr. Paul
2 had been belligerent and difficult in the past,
3 it was a fairly simple decision to say Mr. Paul
4 should go to the jail rather than the detox.

5 Q All right. Yesterday we heard from Ms. Low at
6 the detox centre, an employee of that centre for
7 in excess of a decade, and through her records of
8 48 visits to the detox centre by Mr. Paul during
9 1998 were entered into evidence. Ms. Low, as I
10 recall her testimony at least, said nothing about
11 Mr. Paul ever being violent or difficult to the
12 staff there.

13 A Unfortunately I can't form my decisions on what
14 Ms. Low experienced. I can only go by what I
15 have experienced.

16 Q All right. But if -- assume for the moment that
17 between April and December Mr. Paul made 48 stays
18 at the detox centre without incident --

19 MR. CROSSIN: Mr. Commissioner, I don't think that was the
20 evidence. My recollection is that there was an
21 occasion where detox had to call the police to
22 pick up Mr. Paul to take him to jail and I think
23 Mr. Hern pointed that one occasion out. So my
24 friend might want to just put a caveat on the
25 question.

1 THE COMMISSIONER: Very well. Thank you, Mr. Crossin.

2 MR. WARD: Thank you, I'm grateful for that intervention.

3 Q I'd like you to assume that between April and
4 December 1998, Mr. Frank Joseph Paul, the
5 deceased that we're dealing with at this inquiry,
6 stayed at the detox centre sobering unit 48 times
7 and aside from one visit where he was taken to
8 the jail after a half hour, those stays were
9 without incident, okay?

10 A Okay.

11 Q If that is the case, how do you square that with
12 your testimony that he was, in your view,
13 difficult or a problem for detox?

14 A Let me explain this again. Every time I dealt
15 with Mr. Paul he was belligerent, he was loud, he
16 was swearing and he would struggle with you. I'm
17 unaware of what goes on at detox, I don't work at
18 detox. I form my decisions on my dealings with
19 Mr. Paul in the past. I don't know how I can say
20 that differently for you.

21 Q Again, we can go to the records of your
22 interactions and arrests of him and check those
23 occasions out?

24 A Those that have CAD entries, yes, you can. As a
25 beat officer you don't stop and put yourself out

1 every time you talk to someone on the street or
2 deal with a man down.

3 Q I understand. I'll be asking you some questions
4 about CAD entries in just a moment. You said a
5 moment ago in response to one of my questions,
6 the only difference between detox and the jail is
7 that detox has civilians and jail has trained
8 staff, or words to that effect?

9 A What I referred to by that is trained jail guards
10 who more apt to deal with someone if they become
11 violent. We shouldn't be putting civilians in a
12 situation that they may be harmed or something
13 because we chose to put someone in detox who was
14 more appropriate for jail.

15 Q Let me suggest some other differences between
16 detox and jail. First of all, Vancouver jail at
17 312 Main is a punitive environment, agreed?

18 A For someone who is intoxicated and unaware, I
19 don't know how sleeping on the floor in the jail
20 as opposed to sleeping on the floor at detox --
21 yes, at detox you get a half-inch matt but either
22 way you're in a locked room sleeping. Perhaps
23 when you get up the environment at detox is more
24 pleasant, I would agree with you on that, but I
25 don't think punitive comes into it on a state of

1 intoxication in a public place. You're there to
2 sleep off your drunken demeanour and then you're
3 allowed to leave.

4 Q Speaking generally for a moment, society has
5 built jails as a place to send people who are
6 punished generally?

7 A Generally, yes, obviously.

8 Q With respect to the conditions, in the jail we've
9 heard that, for example, a cell at 312 Main was
10 about three-foot-by-eight-foot in size. Does
11 that accord with your recollection?

12 A Could very well be, yes.

13 Q In particular, the drunk tank had no furnishings
14 of any kind?

15 A Nor does the detox centre.

16 Q Do you agree with me that the --

17 A Yes.

18 Q The inmate or guest would sit or lie on a bare
19 floor?

20 A That's correct.

21 Q That's at the jail, right?

22 A Yes.

23 Q And you would be locked in there, right?

24 A As you would be at detox, yes.

25 Q His liberty would be taken away until he was

1 released, right?

2 A Yes.

3 Q On the other hand at detox, guests were given
4 sleeping mattresses or mats?

5 A Correct.

6 Q They were in a place where there were trained
7 staff to deal with alcoholism?

8 A Yes. The jail has nurses, I might point out.

9 Q Right, on a different floor that would come
10 around periodically?

11 A And check, yes.

12 Q But the detox centre sobering unit was a single
13 purpose place for alcoholics to reside until they
14 were sober enough to be released, right?

15 A I think we're losing the fact that we're trying
16 to help these people and we're taking people
17 sleeping on the street in the elements and giving
18 them a warm place to sleep. I think there's a
19 large differentiation between detox and jail.
20 I'm not understanding the point of this.

21 Q I'll try to help you. You and your partner
22 Peterson came across two people in the vicinity
23 of the intersection of Dunlevy and Hastings,
24 correct?

25 A Right.

1 Q I'm going to read from your partner's report, tab
2 12 of binder 1. As I understand it, he filled in
3 a report for the other person and you filled in a
4 report for Frank Paul. Mr. Registrar has shown
5 you Peterson's report, Officer Peterson's report
6 found at tab 12 of binder 1. Have you seen that
7 before?

8 A This report?

9 Q Yes.

10 A No.

11 Q Take whatever time you require to read it to
12 yourself, please.

13 A All right.

14 Q This is a miscellaneous and supplementary report
15 in similar format to Exhibit 33 and I just want
16 to read out to you a portion of Constable
17 Peterson's report in respect of Oscar Armando
18 Angel. Do you see that?

19 A Yes.

20 Q Angel was identified via VCDL and was intoxicated
21 and incoherent and unintelligible and unable to
22 care for himself and was subsequently arrested
23 for being intoxicated in a public place under the
24 provision of the Liquor Control and Licencing
25 Act. Do you see that?

1 A Yes.

2 Q Then turning back to your report marked as
3 Exhibit 33 dealing with Frank Paul:

4 The undersigned approached the male who was
5 intoxicated and laying on his back. The
6 male

7 identified himself as Frank Paul but was
8 unable to answer any other questions.

9 Paul's

10 speech was slurred and incoherent and he
11 smelled of what the undersigned believed to
12 be rice wine. Paul was unable to sit up or
13 walk. Given his apparent inability to care
14 for himself Paul was arrested for being in a
15 state of intoxication in a public place.

16 Do you see that?

17 A Yes.

18 Q Just coming back to that evening, December 5,
19 1998, you encountered two intoxicated males
20 metres apart?

21 A Yes.

22 Q Oscar Armando Angel, arrested, state of
23 intoxication in a public place because he was
24 unable to care for himself, right?

25 A Yes.

1 Q Sent by you to detox, right?

2 A Yes.

3 Q Frank Joseph Paul, arrested for being in a state
4 of intoxication in a public place, unable to care
5 for himself, right?

6 A Yes.

7 Q Sent by you to the jail?

8 A You're missing the violent nature part, but yes,
9 I agree with you.

10 Q I'm leaving that out for the moment to try to
11 draw the distinction you --

12 A If I can explain that. Mr. Angel was unknown to
13 myself or Constable Peterson. We have no
14 knowledge of his history, the way he acts, he's
15 doing nothing on that night to indicate there's
16 anything to consider, on CPIC he's not down as
17 violent so there's no reason for Mr. Angel to go
18 to the jail. It certainly would have been more
19 convenient to send both parties to detox.

20 Q It would have been more convenient to send both
21 parties to the same place?

22 A Precisely, but one was suitable for detox, one
23 for jail. Now I'm making the wagon driver do two
24 different deliveries because in my mind I'm
25 making that differentiation between the two.

1 Q You knew nothing about Mr. Angel?

2 A Correct.

3 Q So you are going to send a man you knew nothing
4 about --

5 A Are you suggesting everyone I know nothing about
6 should go to jail?

7 Q No. I'm suggesting, sir, you sent Mr. Paul to
8 the jail and Mr. Angel to detox because Mr. Paul
9 was aboriginal and Mr. Angel is not.

10 A Interesting theory. My partner is aboriginal so
11 he probably wouldn't approve of that but --

12 Q Do you agree?

13 A No, I absolutely disagree.

14 THE COMMISSIONER: Mr. Ward, I think I have it clear from the
15 officer that the reason was his history with this
16 particular officer and Angel was unknown to
17 either of the officers and that's what his
18 evidence is and that's what I accept.

19 MR. WARD: Mr. Commissioner, I'd like to test that evidence
20 and I would ask that the records of this
21 officer's interactions on prior occasions with
22 Frank Paul be provided to me. They can be
23 obtained by punching in a few entries in a
24 computer. I'm startled that they haven't been
25 produced in the nine years before today and I

1 would seek production of those records to
2 continue my cross-examination on that point. I
3 believe I should have the opportunity to test the
4 evidence, which may be quite material to this
5 inquiry, that this officer found Mr. Paul to be
6 belligerent and, more importantly, found him to
7 be violent on other occasions. So to the extent
8 it's necessary under the terms of reference or
9 otherwise, I make an application for production
10 of those VPD records. As I say, I believe they
11 can be generated within minutes and I --

12 THE COMMISSIONER: Mr. Ward, I'm going to -- I'll ask that
13 that be done for you so you can have a look at
14 it. We already have, and I have a note of this,
15 that when it comes to the officer's notations of
16 picking somebody up for drunk in a public place
17 they don't always make a note of the fact that
18 they may have been difficult or belligerent.
19 That's on the record by previous witnesses that
20 have testified to that.

21 MR. MARTLAND: I wonder if I could make a few points. One
22 being that the rules of procedure contemplate a
23 process whereby applications are made in writing,
24 parties are given an opportunity then to know
25 what the application is and the basis for it. I

1 appreciate in fairness to Mr. Ward that there may
2 be situations that arise where it's not known
3 until we're in the course of evidence that
4 something has become material. I'm a little
5 cautious because I appreciate Mr. Ward has
6 characterized this as a situation where someone
7 spends five minutes on a computer and records
8 magically appear. Frankly that hasn't been my
9 experience with records in this case at all and I
10 doubt it's Mr. Ward's. For that reason I would
11 respectfully suggest it may be more helpful for
12 counsel to discuss this, to learn what processes
13 are involved in obtaining these records and then
14 to discuss whether this has to be dealt by way of
15 a formal application. If so, other parties and,
16 in particular, the record holder may wish to make
17 submissions to you in advance of any
18 determination of that issue.

19 THE COMMISSIONER: Very well. I'm going to leave it then for
20 you to discuss this with Mr. Ward during the
21 break. I don't propose to delay this hearing for
22 the production of those documents in any event.

23 MR. WARD: Thank you. I'm going to move to another subject,
24 Mr. Commissioner. In response to Mr. Martland,
25 and I think this should be on the record, I have

1 made both informal and formal requests for what I
2 perceive to be relevant documents since at least
3 the 16th of November and I believe records of the
4 type I'm seeking right now were encompassed by my
5 request. I am concerned about the state of
6 disclosure and we are having ongoing discussions
7 about the issue of the adequacy of disclosure of
8 records from the Vancouver Police Department.

9 THE COMMISSIONER: Mr. Ward, I've heard what you said and I'm
10 going to ask again that you discuss this with
11 counsel. If you're going to press the point with
12 regard to disclosure on these records, I may well
13 want to be convinced that they are going to be of
14 material consideration as far as my
15 considerations are concerned.

16 MR. WARD: I understand.

17 THE COMMISSIONER: I'm not going to delay this hearing because
18 of the production of those documents unless
19 you're able to persuade me to that effect.

20 Yes, Mr. Hern?

21 MR. HERN: Mr. Commissioner, I appreciate this may be the
22 subject of an application later but it may assist
23 if I briefly mention at this stage that the
24 records in respect of the Jail 8 forms from 1998
25 and the detox forms were archived and have been

1 destroyed in the ordinary course of a
2 five-to-seven-year document retention period. I
3 understand that's the same as detox records as
4 well from information that came in this morning
5 through Commission counsel. I don't think
6 there's any need to go further in terms of the
7 hard copies. As to the electronic records, the
8 VPD is producing every archived electronic
9 document we can find in response to the
10 Commission's request. I'm not aware of any
11 button we can push to get CAD reports from 1998
12 that might reference Constable Turner or anybody
13 else, but I'll review that again with the IT
14 people.

15 THE COMMISSIONER: Perhaps you could inform Mr. Ward then what
16 your investigation proves or at least discloses.

17 MR. HERN: Of course. Thank you.

18 THE COMMISSIONER: Please go ahead, Mr. Ward.

19 MR. WARD: Thank you.

20 Q Sir, I promised I would ask you some questions
21 about CAD. What is CAD, a CAD print-out?

22 A Police information system, it shows the call
23 being dispatched, you can put in notes. You can
24 clear a call with a note without having to put in
25 an actual report.

1 Q A computer-generated print-out showing a brief
2 narrative of attendances at various times and
3 locations and that sort of thing?

4 A That's right.

5 Q Based on your experience within the VPD, you are
6 aware that corresponding with every CAD print-out
7 that refers to voice transmissions, there will be
8 somewhere a recorded audiotape of radio
9 communications between dispatch and
10 police-officers and between police-officers
11 themselves, right?

12 A Yes.

13 Q And that recorded audiotape of communications
14 between police-officers has the actual words that
15 the police officers spoke to each other at the
16 time and times set out on the CAD report, right?

17 A Yes.

18 Q So it is a real-time record made at the time of
19 what police-officers were saying to each other,
20 right?

21 A To the best of my knowledge, yes.

22 Q I want to ask you about a CAD report that's been
23 produced here. This has come up before, Mr.
24 Commissioner, but, again, the audio records are
25 records I've been seeking for some weeks and I

1 reiterate the request for those.

2 Now, if I could take you to the document at
3 tab 49 of binder 1. The witness -- it may be of
4 assistance to have with you -- perhaps not for
5 you but for the Commissioner's benefit, a
6 document found as well at tab 46. I should say,
7 for the assistance of Mr. Commissioner and
8 counsel, it may be useful to have the document at
9 tab 46 to one side as we look at the document at
10 tab 49. With respect to tab 46, it's a document
11 entitled at the top Computer-aided Dispatch Codes
12 and 126 in the upper right-hand corner. It's two
13 pages in length. Sir, with respect to the
14 computer print-out, this is -- and I'm now
15 referring you to a document which counsel have at
16 tab 49 -- the first line reads this: 981206
17 followed by 081228, et cetera. Do you see that?

18 A Yes.

19 Q This is a CAD print-out, correct?

20 A Yes.

21 Q It is, in fact, a CAD print-out for December 6,
22 1998, commencing with an entry at 02:41:26.

23 A Yes.

24 Q And concluding with an entry at the foot of the
25 page 07:42:06; do you see that?

1 A Yes.

2 Q There's a second page to this document which as
3 far as I can tell appears to be part of the first
4 page, it goes down to 04:12:32. Do you see that?

5 A Yes.

6 Q So I'm going to ignore that one and just deal
7 with page 1 which is the lengthier entry. Do you
8 see that?

9 A Yes.

10 Q So with respect to this CAD print-out, we see at
11 02:41:26, so that's 2:41 a.m. and 26 seconds,
12 there's an incident information call, presumably
13 to 911, by the person who found the body, right?

14 A Correct.

15 Q I want to take you down to the entry for
16 02:46:59. Do you have it?

17 A Yes.

18 Q At 2:46:59, you receive a radio transmission
19 instructing you and your partner to attend to the
20 scene; is that the way I interpret that?

21 A Yes.

22 Q Your call sign for the night is 2E13?

23 A Correct.

24 Q And then your PIN number 1694 and your partner is
25 1703?

1 A Yes.

2 Q So you and your partner have the call sign for
3 radio purposes of 2E13, right?

4 A Correct.

5 Q Now, at 2:53 -- pardon me, at 2:52:25 your unit
6 is on scene, according to the CAD?

7 A Correct.

8 Q So you're at the scene of the body at that time,
9 right?

10 A Correct.

11 Q 2E51 is on scene a half a minute later. Do you
12 see that?

13 A Yes.

14 Q Do you know who that is?

15 A Acting Sergeant Winters, I believe.

16 Q And then at 2:57, four minutes after you and
17 Peterson and Winters have arrived, 2:57:08,
18 Officer 1855 Instant is called to the scene by
19 radio, right?

20 A Yes.

21 Q Another four and a half minutes or so after that,
22 3:21:55, your unit 2E13 calls ident out from
23 home, right?

24 A Yes, it appears that way. Normally it would be
25 Echo 51 that would do that.

1 Q But it appears as though you placed a call to get
2 ident to the scene?

3 A The CAD states that.

4 Q Ident would be the Vancouver Police Department
5 member charged with the responsibility of taking
6 photographs, bagging evidence and the like,
7 right?

8 A Correct.

9 Q The next line at 3:22, there's confirmation that
10 ident has been notified and then call-out by car
11 10 authorized. What's car 10?

12 A That's the inspector who's in charge of the city
13 for that night.

14 Q Who was that that night?

15 A I don't recall. It says Davies.

16 Q Davies, the next line. And then carrying on down
17 this narrative on the CAD form, at 3:33:44, a
18 CPIC request is made for Frank Paul's
19 information?

20 A Yes.

21 Q Can you tell from this who places that?

22 A It doesn't state.

23 Q At 4:12, 2E51 moves or changes location to the
24 report writing room at 312 Main. Is that your
25 interpretation of that?

1 A Yes.

2 Q And 2E51 is whom again?

3 A Acting Sergeant Winters.

4 Q What is the report writing room at 312 Main?

5 A It's a room where reports are written at 312
6 Main.

7 Q That makes sense. Then at 5:15 a.m., Sergeant
8 Jeremy, Major Crimes Section Homicide, is at the
9 312 report writing room. Is that your
10 interpretation?

11 A Yes.

12 Q What can you say, if anything, about the previous
13 lines contact in respect of 2E13 and 2E51?

14 A I'm not sure what that means.

15 Q It may just mean that dispatch is verifying
16 you're still there, you being 2E13?

17 A That's possible, yes.

18 Q Then there's at 5:15 a.m., an indication of a
19 change in location to 1st and Scotia and I see
20 20. Is that car 20? Is that your
21 interpretation?

22 A It look like there is a 20 next to Sergeant
23 Field's name in the previous line so that's
24 possible.

25 Q Can you tell from this when you are reported to

1 have left the scene of the body location? Please
2 take whatever time you require.

3 A No, I can't see where we have left the scene.

4 Q Just based on your experience, when you have a
5 sudden death in city streets, responding units
6 typically call the coroner, right?

7 A Yes. If you're a responding unit and you're the
8 one actually investigating that sudden death,
9 yes, that would be your responsibility.

10 Q That was your role that night?

11 A Incorrect.

12 Q No?

13 A No.

14 Q Who was the responding officer?

15 A The role for calling the coroner would have been
16 MCS that night.

17 THE COMMISSIONER: What would that have been?

18 A Major crime section, they became the
19 investigators.

20 MR. WARD:

21 Q So it wasn't your obligation to call the coroner?

22 A No.

23 Q Is it your experience, or your understanding
24 based on your experience, rather, that as the
25 investigating officer in respect of a sudden

1 death you would call the coroner right away?

2 A You would certainly call the coroner before the
3 scene is disturbed, yes. The coroner has to come
4 and retrieve the remains for the morgue.

5 Q And the coroner participates in ensuring the
6 scene is secure?

7 A Sometimes they do. Sometimes it's a phone call
8 and they don't attend the scene.

9 Q The first entry on the CAD form I see with
10 respect to any involvement of the coroner is at
11 7:07:06. Do you see that?

12 A Yes.

13 Q Do you have any explanation for the apparent
14 passage of time between your arrival at 2:46 a.m.
15 and the notation the coroner is en route at 7:07
16 a.m.?

17 A Again, it's not my responsibility. I have no
18 explanation but I can state from past experience
19 that I've waited several hours for coroners in
20 the past.

21 Q All right. This became a major crime section
22 investigation?

23 A Yes, major crime attended.

24 Q Homicide?

25 A Yes.

1 Q Sergeant Boyd?

2 A Sergeant Boyd attended.

3 Q And it is the case that in the City of Vancouver
4 if -- I'm speaking generally now -- if a
5 Vancouver Police Department member may have been
6 involved in the sudden death of an individual,
7 that would be investigated by Vancouver Police
8 Department homicide members, right?

9 A Any time that a sudden death can be construed as
10 possibly in custody you obviously go to your
11 investigators to come out and investigate it,
12 yes.

13 Q It's all handled within the department, within
14 the Vancouver Police Department?

15 A Yes.

16 Q Right. Sir, this was a Saturday night, December
17 5 and 6 was Saturday, Sunday?

18 A Yes, Saturday night, Sunday morning.

19 Q I want to ask you a question about another entry
20 in these documents. Perhaps I could get you to
21 turn please to -- Mr. Martland has made an
22 excellent suggestion in my view and that is to
23 mark the document we were just looking at, the
24 CAD print-out, as the next exhibit.

25 THE COMMISSIONER: That is the document at tab 49?

1 MR. WARD: Yes, and the code as either an appendix with a
2 letter or the next exhibit after that. It
3 doesn't matter to me. I'd suggest perhaps the
4 next exhibit then.

5 THE COMMISSIONER: All right. Tab 49 will be exhibit number
6 --

7 THE REGISTRAR: 35.

8 THE COMMISSIONER: And you want to mark the document at tab
9 46, is that correct, the computer-aided dispatch
10 codes?

11 MR. WARD: Yes.

12 THE COMMISSIONER: That would be exhibit number --

13 THE REGISTRAR: 36.

14 MR. WARD: Just to clarify, it's a two-page document. I
15 believe originally there was another page in with
16 that tab.

17 THE REGISTRAR: It was the photograph.

18 MR. WARD: Indeed. The two-page document as 35 or 37?

19 THE COMMISSIONER: That's marked as Exhibit 36.

20 (EXHIBIT 35: CAD Print-Out, Tab 49)

21 (EXHIBIT 36: Code, Tab 46)

22 MR. WARD:

23 Q Sir, one last matter. If I could get you to turn
24 to the last page of a document found at tab 47 of
25 binder 1. This is a document, Mr. Commissioner,

1 entitled Operational Support Division Incident
2 Synopsis. It's indicated it's the homicide
3 squad, the incident is described as in-custody
4 death, it's given an incident number and it
5 refers to Frank Joseph Paul. The last
6 handwritten entry says: Completed by Boyd A.S,
7 Sergeant, PIN 377, 98 12 06. Do you see that,
8 sir?

9 A Yes.

10 Q Have you looked at this before?

11 A No, I haven't.

12 Q Take whatever time you require to read this over.

13 THE COMMISSIONER: The title page of this document, Mr. Ward,
14 I have as the last page of that tab and it's
15 called Operational Support Division Incident
16 Synopsis.

17 MR. WARD: Indeed.

18 THE COMMISSIONER: I think mine is in backwards probably.

19 MR. WARD: In my copy it was at the end.

20 THE COMMISSIONER: My copy is at the end as well.

21 MR. WARD: Indeed. That's the document I've drawn to this
22 witness's attention, last page entitled
23 Operational Support Division.

24 THE COMMISSIONER: Do the pages go in order as I go back?

25 MR. WARD: I believe they do. Based on my review of the

1 contents of the tab, it appears to me as though
2 this is a one-page synopsis and the other
3 documents that precede it are a log made by
4 homicide investigators or an investigator
5 therein.

6 THE COMMISSIONER: Thank you.

7 MR. WARD:

8 Q Just on this synopsis, would you agree with me,
9 officer, that this appears to be a record
10 prepared by Sergeant Boyd of homicide on December
11 6, 1998?

12 A That's correct.

13 Q And I just want to ask you about this entry, at
14 the end of the synopsis, it says this: PCs 1694,
15 1703, 1855, A. Sergeant Winters, spoke to legal
16 counsel. Do you see that?

17 A Yes.

18 Q Now, do you have a recollection -- first of all,
19 you're 1694?

20 A Yes.

21 Q 1703 is your partner?

22 A Yes.

23 Q 1855 is Constable Instant and Acting Sergeant
24 Winters speaks for itself, Sergeant Winters?

25 A Correct.

1 Q Do you have a recollection of you and the other
2 three therein speaking to legal counsel sometime
3 on Sunday, December 6, 2004?

4 A My involvement was simply showing Mr. Doust this
5 report I had prepared. He read it over and that
6 was my dealings with Mr. Doust.

7 Q You're referring to Mr. Leonard Doust?

8 A That's correct.

9 THE COMMISSIONER: You did what with Mr. Doust?

10 A I just showed him my miscellaneous report that I
11 put in. He read it over and that was my dealings
12 with him.

13 MR. WARD:

14 Q I surmised it was Leonard Doust but Mr. Martland
15 has whispered to me might it have been a Tom
16 Doust?

17 A It could be. My apologies.

18 Q You had some involvement with a lawyer named
19 Doust on Sunday, the 6th of December?

20 A That's correct.

21 Q Was he your lawyer?

22 A I believe he was Mr. Instant's lawyer. I spoke
23 to him in terms of showing him my report, he read
24 it over. I didn't have any in-depth conversation
25 with him.

1 Q Were all the four of you there with the lawyer
2 named Doust, you, Instant, Peterson and Winters?

3 A At the same time, I don't recall, but I don't
4 believe so.

5 Q Just to try to put a time on the interaction with
6 Mr. Doust, if you could be shown the preceding
7 page in that tab, tab 47.

8 THE REGISTRAR: He has the full document.

9 MR. WARD:

10 Q Mr. Commissioner, it's a document at the top, it
11 says Homicide Squad, Case Investigation Log and
12 in the right-hand part of the top it's got number
13 1 circled. Do you have this, sir?

14 A Yes, I have that.

15 Q This appears to be --

16 THE COMMISSIONER: Where is this?

17 MR. WARD: It will now be the last page in the same tab, I
18 believe, Mr. Commissioner, if yours is the same
19 as mine. In the upper right a 1 circled.

20 Q Officer, this appears to be a handwritten
21 homicide squad case investigation log starting
22 with December 6, 1998 at 3:30 a.m. Do you see
23 that?

24 A Yes.

25 Q And I appreciate that you did not prepare this,

1 nor have you likely seen it before; is that
2 right?

3 A That's right.

4 Q If you go down to the bottom there, 7:40 a.m.,
5 07:40?

6 A Yes.

7 Q At 2120, 6th floor. You see that?

8 A Yes.

9 Q It says: Acting Sergeant Winters advises Mr.
10 Doust, speaking with Constable Instant. I'll
11 just stop there. Having looked at that, would
12 you agree that your interaction with the lawyer,
13 Mr. Doust, was around 7:40 a.m. Sunday morning,
14 December 6th at police headquarters, 2120 Cambie
15 Street?

16 A It was at 2120 Cambie Street. I can't testify as
17 to what time it occurred.

18 Q But still during the duration of your shift?

19 A Yes. I hadn't gone home yet at this time.

20 Q What was your shift schedule that night and
21 morning?

22 A 7 until approximately 5 in the morning.

23 Q So it was early on Sunday morning, December 6,
24 that you encountered the lawyer Doust at
25 Vancouver Police headquarters, 2120 Cambie

1 Street?

2 A Correct.

3 MR. WARD: Mr. Commissioner, I have outlined a request,
4 counsel will have further discussions about it, I
5 would just seek to advise that I may wish to seek
6 liberty to re-cross-examine this witness on the
7 one issue, being his prior dealings with Mr.
8 Paul, in the event some documents are disclosed
9 that in my view makes that necessary.

10 THE COMMISSIONER: All right. Mr. Ward, I'll make a note of
11 that.

12 MR. WARD: Those are my questions, subject to that.

13 THE COMMISSIONER: Thank you. Mr. Tammen, go ahead.

14 **EXAMINATION BY MR. TAMMEN:**

15 Q Constable, on December 5 when you arrested Frank
16 Paul for being intoxicated in a public place, he
17 wasn't on that occasion behaving in a violent
18 fashion towards you, correct?

19 A That's correct.

20 Q I think you told us yesterday that not only was
21 he not violent but he wasn't even belligerent,
22 correct?

23 A Correct.

24 Q He was grossly intoxicated?

25 A Yes.

1 Q What we would probably refer to as passing out
2 drunk, correct?

3 A Yes.

4 Q We know from other evidence in this inquiry that
5 in July of 1998 that there was this incident
6 where Mr. Paul was admitted to detox and only
7 stayed half an hour and then police were summoned
8 and he was taken to the jail cells, but apart
9 from that he was then in detox between that day
10 and December 5th, 1998, he had successful, if I
11 can put it that way, stays at detox, 33 times,
12 and it appeared that there were no problems.
13 Recently -- he'd been in detox as recently as the
14 day before, December 4th, '98. I take it you
15 weren't aware of that?

16 A No.

17 Q I'm curious, constable, why on December 5th, you
18 didn't advise the wagon driver to take Mr. Paul
19 to detox and let the staff there make a
20 determination if he was suitable.

21 A I don't depend on civilians to make my
22 determinations for me whether someone is suitable
23 for detox or not. That's my call to make, and
24 given what I've stated already, given my past
25 dealings with Mr. Paul, the decision was made.

1 Q At the time, December 1998, there was a policy
2 manual that dealt with, amongst other things,
3 procedures to be followed and criteria to be
4 looked at when arresting someone for being
5 intoxicated in a public place, correct?

6 A Yes.

7 Q Were you aware that those specific policy
8 guidelines had been revised or amended as
9 recently as October 28, 1998?

10 A I don't recall.

11 Q But you would try to keep up with amendments to
12 policy guidelines, being a patrol member dealing
13 with the situation of arresting people for being
14 drunk in a public place fairly regularly, you
15 would try to keep abreast of the changes to the
16 policy guidelines, correct?

17 A Yes. If there was an e-mail or something I would
18 have read it.

19 MR. TAMMEN: What I would like to do at this time, Mr.
20 Commissioner, is tender as an exhibit those very
21 guidelines that I cross-examined an officer on
22 last week and I want to cross-examine this
23 witness on as well.

24 THE COMMISSIONER: Very well.

25 MR. TAMMEN: I said that I was going to provide copies of this

1 at some other point but I haven't done that yet.
2 What this is, just for the record, I think this
3 came on one of the computer disks, a thick sheaf
4 of papers that's entitled Vancouver Police
5 Department Policy Materials, there is a two-page
6 index and then the very first one is the October
7 28, 1998 guidelines with respect to arrests for
8 state of intoxication in a public place. I've
9 just extracted that guideline and the index, so
10 if that could be the next exhibit.

11 THE COMMISSIONER: Was that marked before?

12 MR. TAMMEN: I don't believe it was because I didn't have
13 extra copies the other time that I was
14 cross-examining on this. That then becomes
15 exhibit --

16 THE REGISTRAR: That will be marked Exhibit 37.

17 THE COMMISSIONER: Perhaps before we mark it you better ask
18 the police-officer if he's seen it.

19 MR. TAMMEN:

20 Q Yes. Would you please look at it, constable, and
21 let us know if you were familiar with that
22 document back in 1998.

23 MR. MARTLAND: If I might be of assistance, there was an
24 attempt to put this in binder 2 at tab 5, this is
25 one part of the materials at binder 2, tab 5.

1 The version that was copied and circulated at tab
2 5 of binder 2 was missing one page and part of a
3 page was cut off so last week to my recollection
4 we circulated a new same version. What Mr.
5 Tammen has provided is really an extract from
6 this material and this is material provided to
7 all counsel on a CD-rom entitled Vancouver Police
8 Department Policy Materials. I say that for the
9 assistance of counsel in locating those
10 materials.

11 THE COMMISSIONER: Thank you.

12 MR. TAMMEN:

13 Q Constable, have you had an opportunity now to
14 read that policy guideline?

15 A Yes.

16 Q You were familiar with that as being in effect at
17 the time?

18 A According to the date it was.

19 Q I just want to take you through some parts of it
20 and try to get your interpretation of it, I
21 suppose. First of all, let's look at 1(a):

22 Members will consider other more appropriate
23 charges when dealing with intoxicated
24 persons
25 displaying violent behaviour.

1 That didn't really apply on December 5th because
2 Paul wasn't violent on that occasion, correct?

3 A Correct.

4 Q Let's go down to number 4:

5 Non-violent persons arrested H/SIPP will be
6 taken to the designated detox centre located
7 at 377 East 2nd Avenue.

8 Correct?

9 A Yes.

10 Q I read into that that what it refers to -- what
11 its intent is, if a person is non-violent on that
12 particular occasion they ought to be taken to
13 detox. I take it that's not your interpretation?

14 A No.

15 Q The way you read that is if the person is known
16 to you to have been violent in the past or have a
17 generally violent nature or disposition then you
18 don't take him to detox?

19 A I think everyone needs to stand back and bring
20 common sense into this matter. As a
21 police-officer it does not make sense to take
22 someone to detox who may be a problem later on
23 and then have to take that person from detox to
24 jail. We have to make the best of the resources
25 we have in the timeframe we have. Taking extra

1 steps that are unnecessary doesn't make sense.
2 Either way, he's getting a place to sleep and
3 that's the goal, to get him off the street.

4 THE COMMISSIONER: He's been consistent in that. I've heard
5 that four times, Mr. Tammen.

6 MR. TAMMEN: I understand that, Mr. Commissioner.

7 THE COMMISSIONER: Mr. Hern?

8 MR. HERN: Mr. Commissioner, I just rise because I'm concerned
9 with whether the questions being asked are asking
10 for his present interpretation of this policy or
11 whether they're referring to his knowledge and
12 interpretation or application of the policy on
13 the date in question, and the latter may be
14 relevant to your purposes but I would request
15 whether his present interpretation is helpful.

16 THE COMMISSIONER: Please go ahead, Mr. Tammen. Thank you.

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

18 Q As I understand your evidence, on December 5,
19 1998 Mr. Frank Paul wasn't in much of a condition
20 to even be capable of being violent, correct?

21 A Correct.

22 Q If we look at number 5, you said that you don't
23 -- you exercise your discretion, you don't leave
24 it to the detox staff to decide who is suitable
25 for detox, correct?

1 A Correct.

2 Q Let's read what number 5(a) says:

3 Those adults who are refused admittance by
4 detox staff may be detained in the detention
5 annex. Detox staff may refuse to admit an
6 intoxicated person if that person has been
7 judged as unsuitable for admission due to a
8 history of violent behaviour at the detox
9 centre or that person makes threats or
10 displays behaviour indicating the potential
11 for violence.

12 Have I read that correctly?

13 A Yes.

14 Q That does seem to impugn the detox staff with
15 some discretion as to who they admit and who they
16 do not admit, correct?

17 A The way I would read that is the police-officer
18 brings someone who shouldn't be going to detox,
19 they have the option of saying that person is not
20 going in and then that person would go to jail.

21 Q Right. So they do have some discretion, contrary
22 to what you said earlier?

23 A They have discretion but I don't use them for my
24 discretion. I'm not going to take a party to
25 detox and ask them, do you think this person is

1 suitable for detox or jail? That's my decision
2 to make on the street.

3 Q Where do you get that from this document?

4 A I'm just following your line of questioning.

5 Q But where does your discretion come from?

6 A My discretion comes in:

7 If in the opinion of the arresting member
8 the

9 person being arrested poses an actual or
10 potential physical risk, the arresting
11 member

12 shall direct the member to have the prisoner
13 taken to the jail.

14 Q You skipped part of that, you skipped the key
15 part of that, constable.

16 A Indicated from the circumstances of the
17 arrest.

18 Q Yes. So what was there about the circumstances
19 of the arrest of Frank Paul on December 5, 1998,
20 that caused you to think at that time he was
21 going to be violent?

22 A The circumstances are my previous dealings with
23 Mr. Paul, my knowledge that even though he's not
24 violent then, in an hour from now he might be.

25 Q There was nothing in the circumstances of the

1 arrest on December 5, 1998 that was violent,
2 correct?

3 A Correct.

4 Q You didn't really follow that particular policy
5 guideline there, did you?

6 A I used common sense which is a large part of
7 policing.

8 Q Is common sense more important than your own
9 policy guidelines?

10 A Every day you're asked to make hundreds of
11 decisions where common sense has to play a role.
12 If we followed every policy to the letter it
13 would be very difficult to get anything done in a
14 day.

15 Q So you decide to ignore --

16 A I'm not ignoring.

17 Q Please let me finish my question.

18 THE COMMISSIONER: Don't argue, please.

19 MR. MARTLAND: I'm going to raise this objection and perhaps
20 the question can be asked that addresses this
21 point. I understood one of the last if not the
22 last answer to be that the circumstances of the
23 arrest for this officer is a category or
24 something that includes past dealings. If that's
25 the case --

1 THE COMMISSIONER: That's the officer's interpretation.

2 MR. MARTLAND: If that's the case I'm not convinced it's fair
3 to put to him that he's then violating the
4 policy. It may be his interpretation of the
5 policy.

6 THE COMMISSIONER: Thank you, Mr. Martland. Please go ahead,
7 Mr. Tammen.

8 MR. TAMMEN: Thank you, Mr. Commissioner.

9 Q Do you agree, constable, that as of December 1998
10 your view was that it was acceptable for you to
11 ignore certain policy guidelines if common sense
12 seemed to weigh in favour of not following
13 guidelines?

14 A I would argue I'm not ignoring guidelines.

15 Q I didn't ask you if you were --

16 A No, it's not acceptable to ignore guidelines.
17 You work within the guidelines.

18 Q That's always been your practice?

19 A Yes.

20 Q It was in December 1998?

21 A Yes.

22 Q But your interpretation of the guidelines is such
23 that you read a very broad definition into:
24 Indicated from the circumstances of the arrest.
25 Right?

1 A Yes.

2 Q Was there any briefing when this guideline was
3 amended in October 1998, briefing for the patrol
4 officers?

5 A I don't recall one.

6 Q You were just given this updated guideline, asked
7 to read it and to follow it but no explanation as
8 to how --

9 A I have no recollection of being given this
10 guideline and asked to follow it. It may have
11 come across in an e-mail. I have no
12 recollection.

13 MR. TAMMEN: Those are my questions.

14 THE COMMISSIONER: Re-examination?

15 MR. MARTLAND: And Mr. Crossin had one or two questions
16 arising.

17 THE COMMISSIONER: Mr. Crossin, do you have any questions
18 arising out of the cross-examination?

19 MR. CROSSIN: Yes, just on a document put to the witness.

20 THE COMMISSIONER: Very well. Go ahead.

21 MR. CROSSIN: Just a couple of questions arising out of a
22 document at tab 47. It was not marked an
23 exhibit. It was referenced by Mr. Ward. I'm not
24 seeking to have it marked, I just want some
25 clarification of it.

1 THE COMMISSIONER: Which document are you looking at?

2 MR. CROSSIN: It's the Operational Support Division document
3 which is the last tab, last page of tab 47.

4 THE COMMISSIONER: The Incident Synopsis?

5 MR. CROSSIN: That's correct. The page just preceding it
6 marked number 1 at the top as part of the case
7 investigation log.

8 THE COMMISSIONER: Sorry, I don't have that. What are you
9 looking at?

10 MR. CROSSIN: The page preceding the Incident Synopsis.

11 THE COMMISSIONER: It's marked 1.

12 **EXAMINATION BY MR. CROSSIN:**

13 Q It's marked 1. Do you have those, constable?

14 A Yes, I do.

15 Q Could I take you to page 1. Mr. Ward read you a
16 portion of the entry at 7:40 concerning Mr. Doust
17 being contacted. Do you see that?

18 A Yes.

19 Q Near the bottom of the page?

20 A Yes.

21 Q He stopped but I'd like to read just a bit more.
22 The last entry of that is: Trauma team on the
23 6th floor.

24 A Yes.

25 Q What is the trauma team?

1 A The trauma team is a group of trained police
2 members that come out and deal with police
3 members that have been involved with some sort of
4 a critical incident that they're having troubles
5 dealing with.

6 Q If I could take you then over to the page to the
7 Incident Synopsis document. Do you have that?

8 A Yes, I do.

9 Q And, again, if I could take you down to a portion
10 that Mr. Ward read to you at the bottom: PC
11 1694, et cetera, spoke to legal counsel, and he
12 put that to you. Do you recall that?

13 A Yes.

14 Q The next sentence is this: There's some
15 letters -- dealt with 1855, that's Constable
16 Instant?

17 A That's correct.

18 Q And Constable Instant at that time was, I gather,
19 a young, inexperienced constable?

20 A That's correct.

21 Q I think he'd been on the job about four months?

22 A Yes, four to six months, somewhere in there.

23 Q Dealt with 1855 who was shaken by the a.m.
24 events.

25 A Correct.

1 Q What are those letters?

2 A That's the -- PCIT refers to the Police Critical
3 Incident Team.

4 Q Is that the trauma team?

5 A Yes.

6 MR. CROSSIN: Thank you.

7 MR. MARTLAND: Mr. Commissioner, Mr. MacKenzie was also
8 looking to raise questions. This hasn't really
9 arisen until today, re-examination by a number of
10 counsel, but it does raise concerns perhaps if it
11 becomes a trend. If it's a short matter now,
12 perhaps that's something counsel can speak to
13 afterwards for future examinations.

14 THE COMMISSIONER: I think so because it is time consuming,
15 but if it is important I want to hear it.

16 MR. MACKENZIE: Mr. Commissioner, it's a matter raised by Mr.
17 Ward respecting the attendance of the coroner
18 which was raised by Mr. Ward in respect of
19 Exhibit 35. I just had a very brief question
20 about what, if any, involvement this officer had
21 in the summoning of the coroner.

22 THE COMMISSIONER: He told me he had no involvement, unless I
23 misunderstood. That was left to people with
24 higher authority.

25 MR. MACKENZIE: That was my understanding as well, and my

1 curiosity with respect to Exhibit 35, whether
2 there was any indication because the only
3 indication I can see with respect to the coroner
4 is the coroner is en route. I wonder if there is
5 anything this witness can assist me with that
6 shows earlier in the scenario when the coroner
7 was summonsed, if he has any --

8 THE COMMISSIONER: If I can ask the witness to look at the
9 record to determine if he can decipher from that
10 when the coroner was summoned.

11 **EXAMINATION BY MR. MACKENZIE:**

12 Q Exhibit 35.

13 A Yes.

14 Q Do you see any indication where the coroner was
15 summoned or do you have any knowledge about the
16 summonsing of the coroner?

17 A I have no knowledge of that. My --

18 THE COMMISSIONER: Major crime would have called that?

19 A Yes. It's not appropriate for me to guess on the
20 stand but I would assume it would be a phone call
21 made by major crime.

22 **MR. MACKENZIE:**

23 Q I'm not asking you to guess. I'm asking does
24 Exhibit 35 assist?

25 A No. I have no knowledge, nor do I see anything

1 showing what time they were called.

2 MR. MACKENZIE: Nothing further, Mr. Commissioner.

3 THE COMMISSIONER: Thank you, Mr. MacKenzie. Do you have a
4 question, Mr. Martland?

5 MR. MARTLAND: Only one.

6 **EXAMINATION BY MR. MARTLAND:**

7 Q Constable, perhaps if you could have Exhibit 35
8 for one last question. What I'm going to direct
9 your attention to is an entry at 6:09:26 that
10 morning.

11 THE COMMISSIONER: Where will we find that?

12 MR. MARTLAND:

13 Q Exhibit 35, two-thirds of the way down the page.
14 I can take you to it, but the word pre-empted on
15 that form, I understand, and tell me if you
16 agree, means that someone is being pre-empted
17 from one call to another or moved from one call
18 to another call?

19 A That's correct.

20 Q Does that entry tell you?

21 A 06:09:26 the radio dispatcher pre-empted us off
22 the call.

23 Q 2 Echo 13 is you?

24 A Yes.

25 Q And Constable Petersen?

1 A Yes.

2 Q At a general level when you receive that
3 indication from dispatch, what would you do, if
4 you're pre-empted from one call to another?

5 A That really a dispatch -- normally that's done
6 when you're leaving a scene.

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

8 THE COMMISSIONER: That's what the pre-empted means?

9 A Yes. It's possible you've left the scene
10 already, radio sees that you still show on scene
11 so they pre-empt you after the fact. It would
12 depend how up to date radio kept their records.

13 THE COMMISSIONER: In other words, it's a notation really for
14 their information you're no longer at the scene?

15 A Yes. So on their screen you'll show you're no
16 longer on scene.

17 THE COMMISSIONER: May this witness be excused?

18 MR. MARTLAND: Yes.

19 THE COMMISSIONER: You're excused and we'll takes the break at
20 this time.

21 THE REGISTRAR: This hearing will recess for 15 minutes.

22 **(WITNESS EXCUSED)**

23 **(BRIEF RECESS TAKEN)**

24 THE REGISTRAR: Order. This hearing is now resumed. Mr.
25 Commissioner, for clarification, the Vancouver

1 Police Department policy materials introduced by
2 Mr. Tammen will be marked as exhibit 37.

3 THE COMMISSIONER: All right. Thank you.

4 **(EXHIBIT 37: VPD Policy Materials)**

5 THE COMMISSIONER: Mr. Martland.

6 MR. MARTLAND: The next witness is John Collens,

7 C-O-L-L-E-N-S. This witness will affirm.

8 **JOHN MICHAEL COLLENS: Affirmed**

9 THE REGISTRAR: Please state your full name.

10 A John Michael Collens.

11 **EXAMINATION BY MR. MARTLAND:**

12 Q As you know, my name is Brock Martland and I'm
13 associate Commission counsel. You and I had the
14 opportunity to speak about two weeks ago and I
15 sent on to you two different statements you had
16 prepared sometime ago; is that correct?

17 A That's correct.

18 Q You had the chance to review those statements?

19 A I did.

20 Q You also described to me apart from the
21 statements your memory of dealing with Frank Paul
22 back in December 1998?

23 A I did.

24 Q Could you describe what work you do now and what
25 your position is?

1 A I'm currently the program coordinator for Access
2 Central which is a call centre for people looking
3 for addiction services within the Vancouver
4 community

5 Q What does Access Central do? Does it access
6 those services? Does it coordinate those
7 services?

8 A It waitlists clients for detox, addiction
9 housing, adult detox, youth detox.

10 Q In December of 1998 I understand you used to
11 worked at the Vancouver Detox centre?

12 A I did.

13 Q When did you start that work?

14 A The end of 1992.

15 Q Did you hold that position then for sometime
16 after that?

17 A I did, until approximately 2000 and then took on
18 this position I'm currently in.

19 Q Between '92 and 2000 were you doing work at the
20 detox centre full time?

21 A I was.

22 Q What position were you in there

23 A Health care worker, detox worker.

24 Q What does a health care worker do?

25 A Basic counselling with clients in the detox, work

1 in the acute admission, sobering unit.

2 Q That's the Vancouver Detox at 377 East 2nd
3 Avenue, Vancouver?

4 A That's correct.

5 Q You worked there in December of 1998?

6 A I did.

7 Q On December 5th of 1998 I understand you dealt,
8 or at least had dealings with Oscar Angel, and
9 perhaps also Frank Paul. Could you please just
10 describe what happened that evening.

11 A That evening, shortly -- I guess within the first
12 couple of hours of this shift, the wagon came to
13 the sobering unit.

14 THE COMMISSIONER: When would that have been approximately?

15 A I'm thinking around 9 p.m., somewhere around
16 there, and whenever we hear the wagons the staff
17 go to the sobering unit. So I went, I was
18 available on the floor and went to the sobering
19 unit and went out to meet the officer in the
20 wagon who told me that he had a client for detox.
21 I asked him how many and he said he had one
22 client for detox and another client in the wagon.
23 So I went with the wheelchair to assist the one
24 client that was coming in, who was Oscar Angel,
25 and then the officer said the other client was

1 Frank Paul but Frank wasn't being brought to
2 sobering that evening, that he had been in
3 lock-up all day.

4 MR. MARTLAND:

5 Q Sorry?

6 A He'd been in lock-up.

7 Q What did that refer to, lock-up?

8 A Jail.

9 THE COMMISSIONER: He said Paul wasn't coming in?

10 A He wasn't being admitted to detox.

11 MR. MARTLAND:

12 Q Just so I'm clear about the two people, the two
13 names you have, could you give those two names
14 again?

15 A Oscar Angel, the man being admitted, and the
16 other fellow in the wagon was Frank Paul.

17 Q Did you either of those men?

18 A Oscar I didn't know at that time but Frank I did
19 know.

20 Q Where is it when you describe that the wagon is
21 there and that it's at the sobering unit, where
22 in the building is that? Where does the wagon
23 pull up?

24 A That is at the -- I'm trying to think of the
25 direction. It's the rear of the building. I'm

1 trying to think -- west.

2 Q It's at the rear of the building of the detox
3 centre building?

4 A From the lane way off Scotia, so the loading bay.

5 Q How did the wagon -- the wagon is a police wagon?

6 A It is.

7 Q Where did it park or how did it park?

8 A It backs up to the entrance of the sobering unit
9 into the loading area.

10 Q You described that you actually went out?

11 A Uh-huh.

12 Q I take it that means you leave the detox building
13 and walk outside to this --

14 A Just out the door, right out the door and the
15 wagon is right there.

16 Q You were given names?

17 A Uh-huh.

18 Q Do I have that right?

19 A The form that the officer always gave us, the
20 CPIC I believe it is.

21 Q What was the form you got?

22 A The one for Oscar, they always gave us a form
23 whenever they brought a client to sobering.

24 Q What information was on that form?

25 A If they had a name, the officer knew their name,

1 and the date and I believe the area where the
2 person was picked up would be on there.

3 Q Can you say anything about how that form looked?
4 What size it was, what colour? I think you're
5 indicating about a half sheet of paper.

6 A About that, about that.

7 Q Any recollection of what colour? It's a paper
8 form?

9 A It's paper. I think we usually get a white copy
10 of it, white and yellow.

11 Q That suggests there might be a paper that takes
12 an imprint, there could be more than one copy?

13 A Yes.

14 Q Is that right?

15 A Yes.

16 Q Now, what happens to that form?

17 A We attach it to the admission sheet for the
18 client at detox for sobering.

19 Q Does it describe anything about a criminal
20 record?

21 A No.

22 Q Does it give you an indication about whether the
23 person is aggressive or violent or anything?

24 A As a rule from what I remember, I don't remember
25 seeing anything like that on those forms.

1 Q A moment ago you said you thought it might be a
2 CPIC form. Why do you say that?

3 A That is just the name we were told.

4 Q Who were you told that by?

5 A My employer when I first started working there.

6 Q So going back to December 5th, the wagon I take
7 it has backed in?

8 A Uh-huh.

9 Q I need you to answer yes.

10 A Yes.

11 Q Could you just describe what happens at that
12 point.

13 A When the wagon came in, greeted the officer, and
14 he told me that he had Oscar Angel for sobering,
15 Frank wasn't for sobering. I went out with the
16 wheelchair to receive Oscar Angel.

17 Q Why did you take a wheelchair?

18 A We always did because clients were severely
19 intoxicated usually, they were unsteady, to
20 prevent them from falling. For safety. I put
21 Oscar into the wheelchair and I remember
22 acknowledging Frank, said hello, and I continued
23 my intake with bringing Oscar into the sobering
24 unit.

25 Q Was this officer -- can you say anything about

1 him or her?

2 A I don't remember.

3 Q Was it a man or woman?

4 A I believe it was a man.

5 Q You don't have a name or any other --

6 A No. Usually on the forms it would just have an
7 officer's number, badge number I believe it was.

8 Q A police badge number would be indicated?

9 A Yes.

10 Q Now, you've said that you acknowledged, you
11 looked in and acknowledged Frank. Could you
12 describe that in as much detail as you can, what
13 you mean by that.

14 A It's so long ago. As I was helping to get Oscar
15 down, I looked up --

16 Q Here you're making a gesture with your hands --

17 A I'm helping him.

18 Q What were you doing to help him out of the wagon?

19 A Just holding on to him.

20 Q Lifting him up by where, under his armpits?

21 A He would have been higher up than I was because
22 he was on the side of the police wagon. I would
23 have been standing as he was coming down with the
24 officer helping Oscar get down. At that point I
25 acknowledged Frank who looked at me and he was

1 sitting opposite of Oscar.

2 Q They're both in the same compartment?

3 A Yes, they were.

4 Q Which compartment?

5 A It was the side compartment, not from the back
6 but on the side.

7 Q Which side of the police wagon?

8 A The right-hand side if he backed in.

9 Q The passenger side?

10 A Passenger side.

11 THE COMMISSIONER: So Paul was sitting, up was?

12 A He was at that point, sort of in the corner.

13 MR. MARTLAND:

14 Q Could you describe how he was sitting?

15 A I have to think back. I would say maybe just a
16 bit hunched over but sitting in the corner. It
17 wasn't a very big space.

18 Q Did you see his face?

19 A All I remember is his eyes.

20 Q What can you say about his eyes?

21 A He looked at me when I said hello to him.

22 Q When you say "looked at me," did he look from
23 somewhere else and direct his attention to you?

24 A No. It was just sort of -- he's sitting here
25 facing towards the door where I was, he could see

1 me.

2 Q How far away was?

3 A It would be a few feet at least, four feet.

4 Q You said -- what did you say to him?

5 A I just said, "Hello, Frank".

6 Q You called him by his first name?

7 A I did.

8 Q Did he say anything?

9 A No.

10 Q Did he make any noise?

11 A No.

12 Q Did he move or do anything in response to you

13 saying that?

14 A No, other than I remember him looking at me and

15 that was it.

16 Q What happens at that point?

17 A After that, I just assisted Oscar into the

18 wheelchair, brought Oscar into the sobering unit,

19 we did our search, removed his shoes, if he had a

20 belt or anything in his pockets, everything is

21 documented and charted and then he's placed into

22 a holding room for a minimum of four hours.

23 Q Apart from that interaction in the wagon did you

24 see Mr. Paul otherwise?

25 A No.

1 Q How long would you estimate it was that you saw
2 Mr. Paul at the wagon?

3 A Sorry?

4 Q How long would you say it was that you had a
5 chance to see Mr. Paul in the wagon?

6 A Between five to ten minutes while I'm out helping
7 to get Oscar into the wheelchair.

8 Q Five to ten minutes to deal with that?

9 A Uh-huh.

10 Q Is the wagon door open for that period of time
11 then?

12 A Yes.

13 Q Why does it take -- I don't know if I'm
14 unrealistic, but why would it take five to ten
15 minutes to get someone out of the wagon?

16 A Depending how intoxicated they are, to get them
17 up, down the stairs -- I'm guessing at the time.
18 Roughly.

19 Q In that period of time, did anything about Mr.
20 Paul change that you observed?

21 A Nothing that I remember.

22 Q Did you see him on a few different occasions
23 through that period of time that you're dealing
24 with Mr. Angel? In other words, did you look up
25 a couple different times?

1 A Not that I remember, other than when I first
2 acknowledged him.

3 Q Did he appear to be unconscious to you?

4 A No.

5 Q Why do you say that?

6 A Because he had looked at me when I looked at him
7 and said, "Hi, Frank".

8 Q You described a comment about -- let me see if my
9 note is accurate -- the officer made a comment
10 about him being in lock-up?

11 A Yes.

12 Q What was that comment as well as you can say?

13 A When I asked how many he had he said two in the
14 wagon, one is for us and Frank had been in
15 lock-up, which I understood meant being in jail.
16 So with that, realizing that he wasn't coming
17 into the detox.

18 Q Whose decision in this sort of a situation where
19 there is a police-officer bringing someone to
20 you, whose decision is it as to whether one or
21 both or any number of people come to the detox
22 centre or go somewhere else?

23 A For the sobering unit it would be the police
24 decision to bring somebody to us.

25 Q Is there a situation where you might argue with

1 an officer and say hang on for a minute, why
2 don't we take both, what about the other person?

3 A No.

4 Q Why not?

5 A They may not have required detox, they may not be
6 intoxicated, they may not require the sobering
7 unit.

8 Q Is it a police decision?

9 A From what I understood it was.

10 Q Is it a decision that -- in your work there did
11 you ever question the police about their
12 decision?

13 A I never did, no.

14 Q Was any attempt made to see if Mr. Paul could be
15 admitted or if he was allowed to go to the detox
16 centre?

17 A No.

18 Q Was there any comment about whether or not Mr.
19 Paul was intoxicated?

20 A Not that I recall.

21 Q What are the steps involved in admitting Mr.
22 Angel? What happened?

23 A The client is brought into the sobering unit,
24 there's a search -- the officer is present at the
25 time. Shoes are removed, belt, coat, anything in

1 their pants pockets, so forth are removed,
2 everything is documented and secured, and then
3 the client is placed on a mat in a holding room.

4 Q At a general level, what does the wagon driver or
5 police-officer do during that time?

6 A Normally they would stand and just observe. On
7 occasion maybe help if we had to stand the client
8 up to empty pockets and so forth, they may help
9 with that, and just make sure once the client was
10 in the room they would normally leave.

11 Q Going back to that night, can you say how long it
12 took for Mr. Angel to be admitted into the detox?

13 A I don't remember the length of time. It normally
14 didn't take that long. It could be 10, 15
15 minutes, depending how co-operative the client
16 is.

17 Q Did you see the wagon leave on that evening?

18 A You know, I don't recall seeing the wagon leave.

19 Q Was there any further discussion about Mr. Paul,
20 where he would go or what was happening?

21 A My memory to tell you now I don't remember, but
22 when I had written my statement as required by my
23 employer there was discussion from my colleagues
24 with the officer about a new shelter that had
25 opened up.

1 Q What can you say about that? What was the
2 discussion about a shelter?

3 A I think -- from what I had written anyhow, was
4 that this shelter, the Haven, had opened up. I
5 think in my statement back then because it was
6 fairly new I had written the Haven House but it's
7 known as the Haven.

8 Q Where is that?

9 A If I've got it right it's on East Cordova.

10 Q The Downtown Eastside?

11 A I'm sure it's near the Salvation Army. From what
12 I've written, they were just giving the officer
13 some information on the new service, that they
14 could try there to see if there was a shelter bed
15 for Frank.

16 Q Perhaps I could have -- it may be convenient to
17 have tab 18 of binder 1, that tab contains two
18 separate one-page documents and if those might
19 please be shown to this witness.

20 Mr. Collens, one of those documents, the
21 first is dated December 12, 1998?

22 A Correct.

23 Q You've had occasion to review that document
24 recently?

25 A I have.

1 Q What is it?

2 A It's a statement I wrote describing the
3 occurrence that evening, Frank coming in --
4 sorry, Oscar being admitted to Vancouver Detox
5 and Frank being in the wagon and then the comment
6 about the new shelter.

7 Q Now, when was this statement or document
8 prepared?

9 A The date on it is December 12, 1998.

10 Q Do you recall today when it was prepared or do
11 you rely on that?

12 A I'm relying on that.

13 Q Does that seem roughly the right period, within a
14 couple weeks?

15 A I would think so.

16 Q Did you prepare this yourself or do you recall
17 how this was prepared?

18 A Well, I don't think I typed it. I believe I
19 wrote it out.

20 Q Perhaps someone else typed it out?

21 A Yes, because they also put an N instead of an M
22 on my name. Instead of Michael they put an N.

23 Q I see they've changed your name, John M.?

24 A Uh-huh.

25 Q That's not the sort of mistake you'd make?

1 A No.

2 Q Is this document accurate, apart from the typo
3 perhaps?

4 A From reading it I would say yes.

5 MR. MARTLAND: I would ask this become the next exhibit.

6 THE COMMISSIONER: Exhibit number?

7 THE REGISTRAR: 38.

8 (EXHIBIT 38: Statement of John Collens dated
9 December 12, 1998)

10 MR. MARTLAND:

11 Q Mr. Collens, if you could continue to look at the
12 second page you've been passed dated June 30,
13 1999, to Detective Staunton from John M., for
14 Michael, Collens. What is this document?

15 A It was a statement I was asked to provide.

16 Q Asked by whom?

17 A By Detective Staunton. I vaguely remember a
18 phone call from him sometime after December
19 regarding this matter.

20 Q And you had occasion to review this document?

21 A I have.

22 Q Is it accurate?

23 A From what I remember, yes.

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

25 THE COMMISSIONER: Exhibit number 39.

1 THE REGISTRAR: Exhibit 39.

2 (EXHIBIT 39: Statement of John Collens dated
3 June 30, 1999)

4 MR. MARTLAND:

5 Q If I could ask you a little more, Mr. Collens,
6 about that second document. It's addressed to
7 Detective Staunton. You said you vaguely
8 remember a phone call?

9 A Uh-huh.

10 Q How close in time is the phone call to sending or
11 preparing this document?

12 A Oh, you know, I don't remember. I would imagine
13 I would have done it sometime shortly after.

14 Q You probably wouldn't want to ignore that
15 detective for months and months?

16 A No.

17 Q In terms of what you were asked to discuss or
18 cover in this, do you have any recollection of
19 what the request was from the detective?

20 A No, I'm sorry.

21 Q Did you ever meet -- you prepared a few documents
22 but did you ever meet with the police?

23 A Only the night when they had discovered Frank in
24 the lane way.

25 Q I'll come to that in a moment, but if you set

1 aside that night and until we recently had
2 contact, have you ever spoken to the police?

3 A Not in person, just what I remember of the phone
4 call.

5 Q That was one phone call?

6 A Yes.

7 Q Have you ever spoken with any investigators or
8 other officials about this matter?

9 A Not that I recall.

10 Q You likely spoke with people you work with?

11 A Right.

12 Q Currie Low, for example?

13 A Yes.

14 Q Apart from her, have you spoken to anybody?

15 A No -- family at home.

16 Q Family?

17 A Yeah.

18 Q I asked you some questions about this document as
19 I recall after you mentioned the Haven. Could
20 you describe what your recollection is about
21 December the 5th, 1998, and discussion about the
22 Haven, to the best of your knowledge who said
23 what?

24 A I would have to say going back from my statements
25 that it was my colleagues, and I don't know if it

1 was Currie or some of the other staff I was
2 working with that evening. I would have had that
3 discussion with the officer while I was taking
4 care of Oscar, getting him ready for the holding
5 room.

6 Q I take it from that that today when you look back
7 you don't have any independent memory about who
8 said what or what the comment was?

9 A No.

10 Q From the statements you've prepared, just to
11 summarize, I take it that you recall that someone
12 you worked with told this officer about a
13 shelter, a new shelter called Haven House and,
14 secondly, when you went back to ask other people
15 you worked with about it, they didn't remember
16 that?

17 A That's correct.

18 Q They didn't remember it, you remembered it?

19 A Yes, at the time when I wrote this.

20 Q When you found out others you worked with said I
21 don't remember that, did that affect your memory?

22 A No.

23 Q You still hold that memory or you did at least --

24 A I did then.

25 Q Do you have any recollection of the officer

1 responding to that suggestion?

2 A No, I do not.

3 Q Did you ask the officer where he was going?

4 A I don't believe I asked. I don't remember that.

5 I remember a statement just being made that he
6 was being taken out of the area, whatever that
7 meant.

8 Q Did you have any understanding of what that
9 meant?

10 A No, I did not and I didn't ask.

11 Q If I might direct your attention to this December
12 12, 1998 letter. I'd asked you a question a few
13 minutes ago about whether there's any comment
14 about whether Mr. Paul was intoxicated. Have a
15 look at the second paragraph, the last sentence,
16 it says: The officer, which would seem to be the
17 officer, also stated that Frank Paul had been in
18 and out of jail that day and was not intoxicated,
19 that he would be taken out of the area.

20 A Correct.

21 Q Now, it may simply be that you don't remember
22 things today but does that seem accurate to you?

23 A At the time that I wrote I would say it was.

24 Q This is something that's prepared within a few
25 weeks of this accident occurring?

1 A Uh-huh, yes.

2 Q So your memory is fresh?

3 A Yes.

4 Q Any reason to doubt that that's the better
5 version?

6 A No.

7 Q Do you recall who was on staff at the detox
8 centre that night?

9 A Only from what I had written on my statements.

10 Q The second statement?

11 A Yes.

12 Q Any recollection about the weather that evening?

13 A I remember that it was cold. I couldn't tell you
14 if it was raining or not. I remember it was
15 cold.

16 Q Now, you started to describe that you had some
17 contact with police later in the evening. Can
18 you just carry on to describe what happens later
19 the same night.

20 A Well, several hours later there was a knock at
21 the sobering door in the back and I went. I saw
22 a gentleman there and I said, "May I help you?,"
23 and he held up a card or a badge or something and
24 said he was a detective, a police-officer --

25 Q Was he not dressed as a police-officer, in a

1 uniform?

2 A I don't remember a uniform. There were some
3 other people behind him a little bit of a
4 distance away. I opened the door and what I
5 found was strange. He asked me if I knew that
6 there was a dead man in the alley. I said no,
7 because we don't go down the alley in the middle
8 of the night, I wasn't aware of that. He then
9 came in and I went and got my supervisor who was
10 Currie to talk with the officer and then we were
11 informed it was Frank Paul in the alley.

12 Q Your statement says at 5:40 Detective Allan Boyd
13 arrived at the acute admitting area?

14 A Correct.

15 Q That's describing the same person?

16 A Yes.

17 Q You don't have any recollection today of the
18 name?

19 A No.

20 Q The acute admitting area is the rear entrance to
21 the detox

22 A Yes, it is the sobering union.

23 Q That paragraph goes on to describe that you and
24 Currie Low provided that detective with
25 information about admissions and discharges from

1 that night?

2 A Correct.

3 Q And do you recall how that went about? What did
4 you provide or what information did you get?

5 A I believe it would have been photocopies of the
6 cardex.

7 Q What is the cardex?

8 A Just a patient information card for admissions
9 into the detox, whether it be sobering or into
10 the residential detox.

11 Q If I might request please that -- I apologize for
12 not having the exhibit number at hand but there's
13 a document placed into evidence yesterday which
14 appears to be cardex documents. If I may have a
15 moment, I probably have the exhibit number. 30,
16 yes, it's Exhibit 30.

17 Mr. Collens, I recently sent -- have a look
18 at those and tell me if you agree that's the same
19 document I sent to you recently?

20 A Yes.

21 Q What is it?

22 A It's a photocopy of Frank Paul's cardex.

23 Q What does it record?

24 A It records his admissions and discharges I would
25 say from the sobering unit simply by the number

1 of hours recorded.

2 Q And what is the process for entries to that form?

3 A When a person is brought into the sobering unit,
4 on the front of the cardex, his name and
5 birthdate, so forth, we would put the time, such
6 as on number 54 you've got numbered here on the
7 page, it says 16:00, so 16:00 hours. Then on the
8 back we would write in the date the client came
9 in, date out and number of hours. Own
10 arrangements, client left on their own or
11 sometimes by Saferide or sometimes they were
12 taken to jail if they were aggressive.

13 Q Would there be occasions they'd go to jail other
14 than for being aggressive to your knowledge? I'm
15 not speaking about Mr. Paul but at a general
16 level.

17 A Not that I can recall.

18 Q Now, you described it on December the 5th when
19 you saw Frank Paul, you said, "Hey, Frank" or
20 "Hi, Frank"?

21 A Yes.

22 Q You knew him by name?

23 A Yes.

24 Q How did you know Mr. Paul?

25 A Simply from the many admissions into the sobering

1 unit.

2 Q Can you describe over what period of time you'd
3 seen him?

4 A By that time it would be over -- I'm estimating
5 over five or six years seeing Frank various times
6 in a month.

7 Q Can you describe -- would you see him regularly?

8 A I would say so.

9 Q Did the regularity of his coming to the detox
10 centre change over time, do you remember?

11 THE COMMISSIONER: If you're not sure, sir, say so.

12 A I'm going to say I'm not sure. A lot of
13 admissions come in around welfare Wednesday or
14 GST or other cheque issue days when there's
15 money, that would be a usual pattern for most
16 folks coming in and Frank would fall into that.

17 MR. MARTLAND:

18 Q To your knowledge was Frank Paul someone who used
19 welfare or GST or other cheques? Again, if you
20 don't know, that's fine.

21 A I don't know.

22 Q When you saw Frank Paul was it always while you
23 were working at the detox centre?

24 A Yes.

25 Q Describe at a general level how he would present?

1 What would you see when you saw him?

2 A When he was admitted he would be severely
3 intoxicated.

4 Q That may be obvious to you, but what tells you
5 he's intoxicated?

6 A Alcohol on his breath, unsteady, unable to walk,
7 slurred speech and so forth, he may have been
8 incontinent, found passed out sleeping on the
9 street.

10 Q Those are all things at that would tell you he
11 was intoxicated?

12 A Yes.

13 Q From looking at those cardexes as you have the
14 stays range in the hours but sometimes he's there
15 for quite a number of hours.

16 A Uh-huh.

17 Q At a general level, how would Frank Paul appear
18 upon being discharged typically on his own
19 arrangement?

20 A What I remember of Frank when we did discharge
21 him, from what I was told by one of the nurses
22 was he had really bad arthritis and it was
23 difficult to get him up in the morning so it took
24 two staff, one with a wheelchair, to help him get
25 up and mobile. It was a long process to

1 discharge Frank from sobering.

2 Q That's after he's at some level sobered out?

3 A Yes.

4 Q Was he sober on discharge at a general level? I
5 take it his blood alcohol level isn't zero?

6 A Enough he could care for himself, he could walk
7 and leave the building.

8 Q Can you describe the distinction between the very
9 intoxicated person who needs to be booked in and
10 this person who has difficulty moving but is
11 judged to be capable of caring for himself?

12 A He was responsive to questions, we could talk to
13 him, he would get up to go to the washroom on his
14 own, so forth.

15 Q Where was the washroom?

16 A In the sobering unit there was two.

17 Q Where was it relative to the cell where he would
18 have been held?

19 A Depending which cell, within about five or six
20 feet I would think to the door.

21 Q Is it technically part of the cell or is it in a
22 different room?

23 A Different room.

24 Q When you described he could get up and go to the
25 washroom, do you mean that he could stand up and

1 walk over?

2 A We would assist him up, get him mobile and then
3 he could go on his own.

4 Q Would you have to hover with him over the toilet?

5 A No.

6 Q Once he was up he was capable of walking?

7 A Yes.

8 Q That was one of the things that told you he was
9 able to care for himself and could be released?

10 A Yes.

11 Q Were there other things that told you he was in a
12 better shape?

13 A Just responsiveness to questions, just general
14 responsiveness.

15 Q Now, you've described the -- I think you used the
16 term the sobering unit. What is -- first of all,
17 what is the sobering unit, just to be clear on
18 that?

19 A It's strictly for short-term stay, minimum of
20 four hours, sometimes a bit longer, just for
21 clients that are brought either through the
22 police or Saferide.

23 Q It differs from what's sometimes called the
24 centre or detox centre?

25 A Correct.

1 Q Which is a voluntary program where people can go
2 and stay up to a week or longer?

3 A Correct.

4 Q In December 1998 at the sobering unit -- I gather
5 that's also called acute admitting?

6 A Yes.

7 Q At that point in time who brought people -- how
8 did people come to the sobering unit?

9 A Either through the police or Saferide.

10 Q Do you know that Saferide operated at that point?

11 A I can't remember when they started up. I
12 wouldn't be able to answer that.

13 Q Was there a point in time where you worked at the
14 detox centre when there was no Saferide?

15 A Yes, there was.

16 Q Do you know whether Saferide ever operated -- let
17 me put that differently. Was there ever a point
18 during your time working at the detox centre when
19 you knew about Saferide yet you never saw
20 Saferide? What I mean is, was Saferide out in
21 the streets doing things but yet not bringing
22 people to the detox centre?

23 A It could be, yes.

24 Q But to your knowledge when Saferide -- do you
25 remember when Saferide started?

1 A I don't remember, sorry.

2 Q Could you please describe -- I think you
3 mentioned Scotia Street sometime ago?

4 A Yes.

5 Q From Scotia Street how does one get to the
6 entrance for acute admitting?

7 A Through the lane from Scotia just up from East
8 1st, just come down the lane and then it curves
9 upright into the doors of the sobering unit.

10 Q Was there much traffic in that lane way?

11 A At night, no.

12 Q And in general?

13 A In general -- well, I mean, the odd time we would
14 discover a car out there and it would be somebody
15 who has picked up a prostitute and then they
16 would see our lights and so forth and they would
17 leave, but generally there weren't vehicles other
18 than the police wagons, Saferide or the
19 occasional ambulance we would call.

20 Q I don't know if you can say, but in late 1998 on
21 average how many vehicles would be moving in or
22 out of that lane way?

23 A I don't remember.

24 Q Would it be very many though?

25 A No.

1 Q You described the ambulance, if I have you
2 correctly. What would the ambulance be doing
3 there?

4 A We may have called for an ambulance on occasion
5 when it's needed for a client.

6 Q Would the ambulance ever bring people to detox?

7 A Not that I remember.

8 MR. MARTLAND: Mr. Collens, thank you, I have no other
9 questions. You'll have questions from other
10 counsel.

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

12 MR. HERN: No, Mr. Commissioner, thank you.

13 THE COMMISSIONER: Mr. Crossin?

14 **EXAMINATION BY MR. CROSSIN:**

15 Q I just have a couple of short questions, Mr.
16 Collens.

17 A Yes.

18 Q If I could have Exhibit 38, please, before Mr.
19 Collens which is the statement of December --

20 THE REGISTRAR: He has that.

21 MR. CROSSIN:

22 Q Do you have that, sir?

23 A I do.

24 Q It was referenced as being -- and I think it was
25 a slip of the tongue -- as being made a few weeks

1 after the event, but in fact it was made a few
2 days after the event, correct?

3 A Correct.

4 Q Just to correct one other feature to the
5 statement and that's all I'm really taking you
6 there for, you see the second paragraph, the last
7 sentence of that statement?

8 A Yes.

9 Q It says: The office also stated that Frank Paul
10 had been in and out of jail that day and was not
11 intoxicated and that he would be taken out of the
12 area. It should be the officer said that?

13 A Correct.

14 Q You knew Frank Paul?

15 A I did.

16 Q On the issue of the Haven, New Haven?

17 A The Haven.

18 Q I take it, at least back then, your memory told
19 you that some of your co-workers had at some
20 point talked to the officer about New Haven?

21 A Correct.

22 Q And you deal with that really, which is Exhibit
23 39, in a little more detail in your July 30, 1999
24 statement?

25 A Yes.

1 Q And it speaks for itself, but you obviously
2 discussed this with your co-workers including
3 Currie Low and it speaks for itself as to what
4 you found out, correct?

5 A Correct.

6 Q Do I take it from this document that at the time
7 you believe you overheard something like that
8 being said, you'd taken on the responsibility of
9 dealing with Mr. Angel?

10 A That's correct.

11 Q You were doing what you had to do to get Mr.
12 Angel admitted and getting his information and
13 doing a variety of things to adhere to that
14 responsibility?

15 A Yes, that's correct.

16 MR. CROSSIN: Those are my questions. Thank you.

17 THE COMMISSIONER: Mr. Woodall?

18 **EXAMINATION BY MR. WOODALL:**

19 Q Mr. Collens, you testified that you knew Mr. Paul
20 and had known Mr. Paul for a number of years
21 before December 1998?

22 A Correct.

23 Q And did you have occasion to learn about his
24 lifestyle by speaking with him or from other
25 people who dealt with him?

1 A Mostly from one of the nurses that I used to work
2 with, whenever Frank was being discharged from
3 sobering, Gwen, who is passed away, would talk to
4 Frank quite bit to come into detox, get off the
5 street, give him a cigarette and so forth.

6 Q From those discussions did you learn that Mr.
7 Paul was someone who preferred to live outside as
8 opposed to living in shelters, for example?

9 A Yes. He would always decline the service that we
10 offered him.

11 Q Was it your sense that he had acclimatized
12 himself to living outside throughout the year in
13 Vancouver?

14 A I would say so.

15 Q Not only did you learn that he would decline the
16 services of detox but he also declined the
17 services of shelters when those services were
18 offered to him, he preferred to stay outside?

19 A I remember him always being outside. I can't say
20 I remember him declining the service of a
21 shelter.

22 MR. WOODALL: Thank you.

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

24 **EXAMINATION BY MR. MACKENZIE:**

25 Q When you observed Frank Paul in the police wagon,

1 did you notice whether he was wet or dry?

2 A Oh, no, I did not.

3 Q Did you see or note or make any observations he
4 was in distress of any sort? Can you talk about
5 how he appeared? Did he appear unusual or can
6 you say anymore about at that?

7 A Just sitting quietly on the bench seat that he
8 was on. He wasn't moving about, he wasn't making
9 any noise, wasn't making any noise.

10 Q Did he appear to be shivering?

11 A Not that I noticed.

12 MR. MACKENZIE: Thank you, Mr. Commissioner.

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

14 MR. KELLIHER: Yes.

15 **EXAMINATION BY MR. KELLIHER:**

16 Q The Haven, could you describe its purpose?

17 A Short-term shelter for homeless people in the
18 City of Vancouver.

19 Q The detox, if I have this correct, will take
20 people for sobering and longer term
21 detoxification?

22 A Yes.

23 Q The Haven takes people that not intoxicated but
24 are homeless and needs a place to stay?

25 A I don't know of their policies. I imagine they

1 would also take people that are intoxicated but
2 maybe not severely intoxicated.

3 Q It's not a detox facility?

4 A Right.

5 Q Sir, you've said when the police-officer arrived,
6 in your statement you say the police-officer said
7 that Frank Paul had been in and out of jail all
8 day. In your first testimony you said that the
9 police-officer remarked that Mr. Paul had been in
10 jail all day. Can you offer which is the better
11 version of events?

12 A Well, from -- I have to go by what I've written
13 because I don't remember the exact words today,
14 but he said Frank Paul had been in and out of
15 jail that day and he wasn't intoxicated and,
16 therefore, he didn't require the services of the
17 sobering unit.

18 Q Did you communicate that information to your
19 co-workers when you went back into the detox to
20 explain that Frank Paul was not going to be left
21 with detox?

22 A I believe I would have.

23 Q That's why the discussion of Haven came about,
24 isn't?

25 A Correct.

1 Q Because the perception was that Frank Paul was
2 not intoxicated and at most was in need of
3 shelter; is that correct?

4 A Yes.

5 Q In your statement to Detective Staunton of June
6 30, 1999, in the second paragraph there's
7 reference to Frank Paul having declined shelter
8 in the past and you were uncertain as to whether
9 the police-officer had offered him shelter. You
10 would have no knowledge whatsoever of any such
11 conversation between the police-officer and Frank
12 Paul?

13 A No, I would not.

14 Q Sir, did the investigating officer ask you about
15 that subject?

16 A I can't remember if that was asked.

17 Q I'm curious as to why you would include that
18 statement in your letter to the detective?

19 A I don't remember. I don't remember why. It
20 could have been asked of me and that's why it's
21 there. I'm not sure.

22 Q Had you known that Frank Paul was severely
23 intoxicated, would you have offered the detox
24 facility to him?

25 A If I had known he was intoxicated?

1 Q Yes.

2 A I would have and we would have required the form
3 I mentioned, the CPIC, in order to admit Frank
4 into the sobering unit.

5 Q You would require which form?

6 A The CPIC form.

7 Q A CPIC form?

8 A Yes. That was standard procedure for all
9 admissions into the sobering unit, they were
10 checked through the police system.

11 Q You needed a CPIC print-out in order to admit
12 someone?

13 A Yes.

14 Q Did you have a CPIC print-out for Oscar Angel?

15 A There would have been one. It's a standard form
16 that is filled out. It wasn't a print-out of
17 anything.

18 Q When mention was made to the police-officer of
19 the Haven, was there any response from him?

20 A Not that I can remember at this time. I don't
21 remember the conversation.

22 Q When he said to you and to others that he was
23 taking Frank Paul out of the area, did you have
24 any sense of what that meant, where Mr. Paul
25 would end up that night?

1 A No, I did not.

2 Q Did you think he was taking him to some shelter
3 somewhere?

4 A I really didn't think about where he was taking
5 Frank to. My guess would be he would be taking
6 him to a shelter. I wouldn't think he would be
7 putting him out on the street. I didn't think
8 that's what was going to happen.

9 Q Sir, Frank Paul had been there many times before.
10 Had you ever encountered him as violent person?

11 A I don't have any recollection of him being
12 aggressive or violent towards me or people that I
13 was working with at the time.

14 Q We've heard he was not on the banned list; that
15 accords with your recollection?

16 A Correct.

17 Q Or had ever been on the banned list?

18 A That I don't know.

19 Q Do you know how in the past, before December 5th,
20 how Frank Paul would arrive at the detox centre?
21 That is to say, by police vehicle or by Saferide,
22 are you able to distinguish?

23 A I can't remember if Saferide was operating at
24 that time. I'm guessing that they were but I
25 wouldn't be 100 per cent. It would be by police

1 wagon.

2 Q Routinely the Vancouver City Police would bring
3 Frank Paul to the detox centre?

4 A That's correct.

5 Q Was there ever a discussion or an issue with any
6 Vancouver City police-officer about whether Frank
7 Paul was admissible into the facility? That is
8 to say, was there ever any discussion about
9 whether he should be refused for any reason?

10 A Not that I recall.

11 Q You worked for a period of time when Saferide was
12 operating, correct?

13 A Correct.

14 Q Is it your experience that aboriginal males who
15 are severely intoxicated arrive at detox by
16 Vancouver City Police or by Saferide, or are you
17 able to distinguish?

18 A By either method.

19 Q It would be a commonplace for either form of
20 transport; is that right?

21 A Yes.

22 MR. KELLIHER: Thank you very much, sir.

23 THE COMMISSIONER: Mr. Ward.

24 MR. WARD: Thank you.

25

1 **EXAMINATION BY MR. WARD:**

2 Q Sir, my name is Cameron Ward. I'm counsel for
3 United Native Nations Society at this proceeding.
4 Could the witness please be shown Exhibit 30.
5 Perhaps you have that already.

6 THE REGISTRAR: Yes, he has it.

7 A Which one is that?

8 MR. WARD:

9 Q The cardex records. As I recall your evidence,
10 sir, you believe that these were copied and
11 provided to the investigating Vancouver
12 police-officer after you heard that Frank Paul's
13 body was found in the lane?

14 A Yes.

15 Q As I interpret this document, these four pages
16 constitute photocopies of the fronts and backs of
17 four different cardexes or cards for Frank Paul?

18 A Correct.

19 Q They cover a time period from April 25th, 1998 up
20 to and including December 4th, 1998?

21 A Correct.

22 Q You're quite familiar with the record-keeping
23 then in place at the detox centre?

24 A Yes.

25 Q Are these cards representative in a general way

1 of the frequency of Mr. Paul's attendances over
2 the years?

3 A Yes.

4 Q Had you been asked in December 1998 for all of
5 the cardexes for Mr. Paul going back say five
6 years you could have provided those?

7 A I'm not sure how far back they keep them on the
8 site. They may be located elsewhere.

9 Q And these records indicate the duration of each
10 stay of the patient, in this case Mr. Paul,
11 correct?

12 A Correct.

13 Q As a result of his many attendances at detox, you
14 came to know Frank Paul; is that right?

15 A Correct.

16 Q You came to know his nature as a human being,
17 correct?

18 A In short periods of time, yes.

19 Q How would you describe his nature?

20 A I'd have to say Frank, from what I recall, was a
21 very quiet person, very calm. When he came in
22 intoxicated, I never recall him being a problem.
23 The only difficulty was in getting him up in the
24 mornings or after he'd been there for several
25 hours getting him mobile because of his health,

1 but I never recall anything other than a quiet
2 nature.

3 Q All right. The difficulty you refer to in
4 getting him up was caused by his physical
5 difficulty, namely, severe arthritis?

6 A Correct.

7 Q In particular, was it the case that his hands or
8 one of his hands was gnarled and kind of
9 arthritic?

10 A Yes.

11 Q Can you recall how they looked?

12 A Now that you've mentioned it, I remember one hand
13 that was quite gnarled.

14 Q And would it be fair to say, sir, that you
15 yourself had no reservations at all about having
16 Frank Paul left in the detox sobering unit with
17 female staff members; is that fair?

18 A That's fair.

19 Q Indeed, any staff members?

20 A Correct.

21 Q He was no problem as far as you were aware to
22 anybody in the detox unit?

23 A Not that I recall.

24 Q All right. You mentioned the sobering unit had
25 mats that were available?

1 A Yes.

2 Q Those were for the purpose of having the guest,
3 the client, sleep on those mats?

4 A Yes.

5 Q Can you describe such a mat?

6 A I would say a cot-size mat, blue vinyl, a thick
7 vinyl covering to them.

8 Q About what thickness?

9 A About three inches I would say.

10 Q And you gestured with your hands to indicate
11 approximately three inches?

12 A Yes, I did.

13 Q And you also testified that you would have a
14 wheelchair there to facilitate moving people from
15 a police wagon into the sobering unit?

16 A Yes.

17 Q Is it fair to say that you would not drag a
18 person from the police vehicle in?

19 A Absolutely not.

20 Q Why is that?

21 A Unprofessional, for safety, it's not professional
22 and we wouldn't do that.

23 Q Would you consider it demeaning and
24 disrespectful?

25 A I would. It wouldn't be done.

1 Q Your term is unprofessional?

2 A Yes.

3 Q The homicide investigator came around to the
4 sobering unit and spoke with you and Ms. Low
5 after the body was found, right?

6 A Correct.

7 Q Did anybody identifying themselves as a coroner
8 come and talk to you or interview you or seek
9 records from you?

10 A I don't remember.

11 Q Now, sir, I want to ask you about your evidence
12 about seeing Frank Paul in the wagon when Mr.
13 Angel was taken out of it. First of all, you
14 would agree with me that neither of your two
15 typewritten statements actually refer to seeing
16 Mr. Paul in the wagon, right?

17 A They do not, no.

18 Q Is it possible that you're thinking of another
19 occasion when you saw Frank Paul there or are you
20 pretty confident?

21 A I'm pretty confident in recalling that moment.

22 Q As I understand your evidence -- and you said at
23 one point you remember his eyes; do you recall
24 that?

25 A I do.

1 Q As I recall your evidence about seeing Mr. Paul
2 there, I understood you to say that you did not
3 actually observe him move?

4 A I did not.

5 Q He didn't move, correct?

6 A Correct.

7 Q When you said "Hi, Frank" to him he did not
8 respond, correct?

9 A He did not, other than just looking at me.

10 Q He said no words and made no grunts of
11 recognition, correct?

12 A Correct.

13 Q Through the time you were taking Mr. Angel in and
14 were near Mr. Paul, do you recall Mr. Paul moving
15 at all?

16 A I do not.

17 Q Now, with respect to his eyes, they were open and
18 looking at you; is that right?

19 A Correct.

20 Q Do you recall him blinking?

21 A No, I do not.

22 Q He didn't change position in any way, did he?

23 A Not that I recall, no.

24 Q Sort of hunched in the corner?

25 A Of the bench seat, yes.

1 Q His head didn't move?

2 A No.

3 Q I'd like to direct you to Exhibit 32, please.

4 Sir, this is a document that was identified by

5 your colleague, Currie Low. Just with respect to

6 Ms. Low, she was in a supervisory position to you

7 in December of '98?

8 A Correct.

9 Q One more question about staff. You mentioned in

10 your testimony a nurse that would talk to Frank

11 Paul quite a bit, including about the possibility

12 of him coming to the other side, the detox side?

13 A Yes.

14 Q Do you recall that person's name?

15 A Gwen Holmes.

16 Q Gwen Holmes?

17 A Yes.

18 Q Would it be your view that she would have known

19 Mr. Paul better than yourself?

20 A Gwen had worked at the detox a lot longer period

21 than I had and she had developed a rapport with

22 Frank and I always noticed that. When she was

23 working and Frank was in, she would keep him

24 overnight, keep him safe, try to get him help.

25 If his clothing was wet, we had -- we would call

1 it our little Value Village clothing and she
2 would find clothing for Frank.

3 Q She dealt with him compassionately?

4 A She did.

5 Q With respect to Exhibit 32, I understand this to
6 be a memorandum generated by the detox centre for
7 police investigators.

8 A Correct.

9 Q Jeff Kadagan and Lana Samuel were persons
10 employed by the detox centre?

11 A Correct.

12 Q Looking at the list of the four individuals
13 referred to as those being admitted and
14 discharged December 6 and 7, 1998, I've noted
15 that with respect to each admission there's a
16 police-officer identified by number. Do you see
17 that?

18 A I do.

19 Q And VCP would mean Vancouver City Police?

20 A Correct.

21 Q Can you say based on your own experience in 1998,
22 approximately what percentage of admissions were
23 made by Vancouver City police-officers? If you
24 can't, that's fine.

25 A I can't.

1 Q But the detox centre kept a record in some
2 fashion of the identity of the admitting officer
3 with respect to each of the clients brought in?

4 A To sobering, yes.

5 Q Based on your own recollection, were there some
6 police officers you would see frequently and
7 repetitively bringing in the same people?

8 A Yes.

9 Q One last matter. I'm sorry to jump around a bit.
10 Again, on the night of the 5th of December, the
11 police-officer who came with the wagon was in
12 full uniform, correct?

13 A Yes.

14 Q And you recognized him to be a person in a
15 position of some authority?

16 A Correct.

17 Q Is it fair to say that you would follow the
18 direction or instructions of police rather than
19 purport to tell them what to do?

20 A For the admission, yes, for sobering. If there
21 was a discrepancy, if a client became aggressive
22 or so forth we would decline service, we would
23 then say no.

24 Q But otherwise it was the police call to make with
25 respect to how they would handle a particular

1 individual?

2 A Uh-huh, yes.

3 Q You would not presume to tell the police how to
4 do their job?

5 A I wouldn't, no.

6 MR. WARD: Thank you, sir, those are my questions.

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

8 MR. TAMMEN: No, thank you.

9 THE COMMISSIONER: Mr. Martland?

10 MR. MARTLAND: Nothing further.

11 THE COMMISSIONER: May the witness be excused?

12 MR. MARTLAND: Yes.

13 THE COMMISSIONER: Mr. Collens, you're excused. We'll adjourn
14 for lunch and resume at two o'clock.

15 **(WITNESS EXCUSED)**

16 THE REGISTRAR: This hearing will now adjourn until 2 p.m.

17 **(PROCEEDINGS ADJOURNED AT 12:28 P.M.)**

18 **(PROCEEDINGS RESUMED AT 2:00 P.M.)**

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

20 THE COMMISSIONER: Mr. Martland.

21 MR. MARTLAND: Mr. Commissioner, the next witness is here.

22 Perhaps before he's sworn -- and Constable
23 Peterson, you can have a seat -- there's an issue
24 that Mr. Woodall is looking to address, please.

25 THE COMMISSIONER: Mr. Woodall.

1 MR. WOODALL: Thank you, Mr. Commissioner. There was a
2 discussion this morning during the evidence of
3 one of the witnesses about the protocol for
4 disclosing documents and I didn't want to rise at
5 that point because it was in the middle of a
6 witness but it is something that has been of
7 concern to me.

8 My client, Sergeant Sanderson, is scheduled
9 to testify in January which is a little more than
10 a month from now and I understand that to this
11 point in the proceedings there have been
12 problems, I think small problems, getting
13 documents just because of the pace at which
14 things are unfolding. But Sergeant Sanderson, as
15 I say, is not coming up for another month or so,
16 so I would ask the Commission to give a direction
17 or strong encouragement that if there are
18 documents that are going to be requested that may
19 impact on Sergeant Sanderson's testimony that
20 that be resolved before he testifies in January.
21 That is consistent with the rules of procedure --

22 THE COMMISSIONER: That seems reasonable to me.

23 MR. WOODALL: I don't know whether all parties have had an
24 opportunity to review the procedures that were
25 circulated earlier and then recently approved,

1 but the basic procedure is that if there's a
2 request for documents the request may be made in
3 writing to Commission counsel and only if there
4 is a continuing problem that it will be brought
5 to your attention. But the part that's of most
6 interest to me is Section 19.10 which says unless
7 the Commissioner orders otherwise, those
8 procedures in relation to a particular witness
9 must be completed before that witness commences
10 his or her testimony. So I have no comment on
11 what's happened to this point, I think parties
12 have been working hard to keep the hearing on
13 track, but I'm looking for it and I would ask
14 that there be a strong encouragement or perhaps a
15 directive that if parties wish documents they
16 want to put to Sergeant Sanderson they take all
17 efforts to obtain those before January because of
18 course Sergeant Sanderson is going to want to see
19 them as well.

20 THE COMMISSIONER: Thank you, Mr. Woodall.

21 Mr. Martland or Mr. Cowper?

22 MR. COWPER: I think that's a reasonable request and I'm just
23 trying to think if there's any practical problem
24 arising. I can't at this point anticipate that
25 there will be any doubts about what has been

1 disclosed and what has been either found to be
2 unavailable or not before January. I appreciate
3 the co-operation of all counsel. You were
4 anxious to get started and we've been a little
5 bit ragged but I think we've actually done
6 reasonable yeoman's service to get this hearing
7 on. I think in practical terms what I ought to
8 say to this is in relation to both witnesses in
9 January, both of which have particular and
10 special concern, that is, Constable Instant and
11 Sergeant Sanderson will look at the matter in
12 December. It may be the two categories of
13 documents I'm a bit concerned about are documents
14 which are on the initial request found to have
15 been destroyed and then we go back a second
16 time -- on occasion people say we think those
17 documents are gone and we check with somebody
18 else and they pop up. In December we'll indicate
19 to people what documents are still being pursued
20 that have been requested. Otherwise, I think
21 what we should practically do is ask the parties
22 by a given date -- when I say parties, any
23 participant who wants further documents to have
24 their requests in to us say by December 7th or
25 December 12th -- those dates would appeal to me

1 just because I'm around. I don't think we can
2 anticipate everything because sometimes witnesses
3 in the course of their testimony come up with
4 something that nobody anticipated. My suggestion
5 is -- maybe I'll do this and ask all counsel to
6 notify me with respect to any additional requests
7 by the 12th of December which I think is a
8 Wednesday and then I can let all counsel know
9 what's outstanding.

10 THE COMMISSIONER: Thank you, Mr. Cowper. I believe I did
11 thank counsel, at least I intended to if I did
12 not, for their co-operation in getting this
13 hearing under way at what in many minds was an
14 early date due to the fact this Commission was
15 only constituted in August and I did press
16 counsel to get under way in November and we did
17 do that and I thank you for your co-operation.

18 I do know that there have been requests made
19 for documents and to my mind I believe most of
20 those requests have been fulfilled. I am going
21 to say that if there are documents which are
22 going to be required for the witnesses that are
23 scheduled to be called in January, you should
24 make that request to Commission counsel by
25 December 12th. I think the 7th is a little

1 early, Mr. Cowper, but I think the 12th is a
2 reasonable date. If there are any documents you
3 require or would like to have before any of the
4 witnesses in January are called, please make that
5 known by the 12th and I'm sure counsel will do
6 their very best to make sure your requests are
7 fulfilled. Anything further? Mr. Ward.

8 MR. WARD: Just a point of clarification, is that, Mr.
9 Commissioner, with respect to Phase 1 witnesses
10 in January or witness in respect of upcoming
11 phases?

12 THE COMMISSIONER: I have the list on Phase 1 of the witnesses
13 and that's what I'm referring to, Mr. Ward.

14 MR. WARD: Thank you.

15 THE COMMISSIONER: Mr. Martland, if we may proceed.

16 MR. MARTLAND: Constable Peterson is the next witness.

17 THE REGISTRAR: Do you wish to be sworn or affirmed?

18 A Sworn.

19 **DEREK PETERSON: Sworn**

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

21 A Constable Derek Peterson, P-E-T-E-R-S-O-N, badge
22 1703.

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

24 **EXAMINATION BY MR. MARTLAND:**

25 Q My name is Brock Martland. I'm counsel for the

1 Commission. You and I had an opportunity briefly
2 today to speak about your evidence in this case?

3 A Yes.

4 Q Could you please describe -- you're currently
5 employed by the Vancouver Police Department?

6 A That's correct.

7 Q What position do you occupy now?

8 A I am in the traffic section at the moment.

9 THE COMMISSIONER: I'm sorry, constable, I didn't make a note
10 of your first name.

11 A Derek.

12 MR. MARTLAND:

13 Q When did you start working for VPD?

14 A It's 15 years ago.

15 Q Have you worked in other forces or only
16 Vancouver?

17 A Just Vancouver.

18 Q In December of 1998 what position did you occupy?

19 A Patrol and I worked in the area of District 2.

20 Q District 2 includes the Downtown Eastside?

21 A It does.

22 Q You were working at that point with Constable
23 Turner, Rob Turner?

24 A That's correct.

25 Q In December of 1998 did you know someone named

1 Frank Paul?

2 A I did.

3 Q How did you know him?

4 A I had prior dealings with Mr. Paul as a wagon
5 driver and as a patrol constable.

6 Q Could you describe what those dealings were?

7 A From memory, the last dealings -- the last
8 dealing prior to the night in question was
9 sometime before that. I responded to a call,
10 myself and Constable Turner, of a disturbance off
11 Main and 13th, residents in an apartment building
12 had complained of parties drinking in the lane.
13 I attended there with Constable Turner,
14 discovered three parties there, two of the
15 parties were able to go on their way, a third --
16 the other third party was Mr. Frank Paul who at
17 that time was -- appeared to be unconscious. We
18 were not able to elicit any response from him and
19 an ambulance was called and he was transported to
20 the hospital. That was my most recent dealing
21 that I have a good memory of.

22 Q Do you know when that incident was?

23 A It was prior to the -- to 1998 but it was
24 sometime before that.

25 Q When you say prior to 1998 do you mean prior to

1 December 5, 1998, the incident in question?

2 A Yes.

3 Q Would it have been perhaps within the year 1998
4 or can you say?

5 A I don't recall.

6 Q How many times over your time with the police
7 force, how many times have you seen or interacted
8 with Mr. Paul?

9 A I dealt with him on several occasions. As to
10 putting a number to it, let's say there was
11 numerous occasions as a wagon driver, and other
12 than that...

13 Q Would it be dozens, hundreds, a handful?

14 A I would say it was probably in the two digit
15 range.

16 Q In your dealings with him both as wagon driver
17 and as patrol, what sort of interactions are
18 they? When are you seeing him at a general
19 level?

20 A When I was a wagon driver it was to transport him
21 to the jail as a SIPP.

22 Q SIPP is state of intoxicated public place?

23 A That's correct.

24 Q Can you recall times he was arrested on criminal
25 charges or a warrant?

1 A I don't have any recollection of that.

2 Q Is it fair to say most often you would be dealing
3 with him because he's intoxicated or heavily
4 intoxicated in public?

5 A That's right.

6 Q How did you know his name?

7 A Just from previous dealings with him.

8 Q If you had seen him in late 1998 would you be
9 able to say his name without looking at anything?
10 Could you say, "That's Frank Paul," for example?

11 A I would have recognized him if I saw him, yes.

12 Q You would be able to put the name to the face?

13 A Yes.

14 Q On December the 5th of 1998 I understand you were
15 working patrol with Constable Turner?

16 A That's correct.

17 Q Could you please describe what occurred that
18 evening.

19 A We had -- we were in a vehicle and had gone up
20 Hastings Street and it was eight o'clock, 8 p.m.
21 We noticed a male on Hastings Street just west of
22 Dunlevy laying on the sidewalk so we stopped to
23 check on this party. I dealt with this party who
24 turned out to be a party that ended up being sent
25 to detox and there was subsequently a second

1 party discovered, it turned out to be Mr. Frank
2 Paul, on a vegetable stand that was empty due to
3 the time, the store was closed. He was laying on
4 the vegetable stand, there was three steps to it
5 and he was on there sleeping.

6 Q Do you remember which of the three steps he was
7 on?

8 A I don't recall.

9 Q Can you describe in any more detail that
10 vegetable stand? I take it it's out front of a
11 store?

12 A Out front of a store.

13 Q The closed is closed?

14 A The store is closed, it's empty, just a wooden
15 platform that they place their vegetables on when
16 the store is open, for sale.

17 Q Was it on the sidewalk?

18 A It was right out in front of the store, against
19 the storefront.

20 Q Is there an awning overhead, do you know?

21 A I believe there was an awning.

22 Q Carry on. You describe that this -- do you look
23 over and recognize Frank Paul or how do you know
24 that's Frank Paul?

25 A I deal with my party who I didn't know. I

1 identified him.

2 Q Who is he?

3 A It was Mr. Angel, Oscar Angel. He had picture
4 identification and he was -- a decision was made
5 by me to send him to detox.

6 Q Why did you make that decision in the case of Mr.
7 Angel?

8 A He was non-violent, he was responsive to me in a
9 manner that I felt he would be an appropriate
10 candidate to go to detox.

11 Q And it may be implicit, but besides being non-
12 violent he's also intoxicated?

13 A Yes, extremely.

14 Q What observations do you have of Mr. Angel?

15 A His inability to walk on his own, I had to -- his
16 speech of course was slurred and very hard to
17 understand.

18 Q And do you remember what happened -- let's deal
19 if we may with Oscar Angel. You make this
20 decision, what happens at that point?

21 A We called for a wagon, a police wagon. A police
22 wagon attends.

23 Q Do you remember how long that takes?

24 A I don't recall.

25 Q A wagon attends.

1 A Oscar Angel is helped by myself into the wagon.
2 Q How do you help him into the wagon?
3 A I have to hold him up.
4 Q Do you walk alongside him and put an arm under
5 his shoulder, under his armpit or something?
6 A I don't recall the exact method of how -- the
7 mechanics of how I helped him but I know I
8 assisted him in walking to the wagon.
9 Q To some extent he's walking?
10 A And getting into it, yes.
11 Q For instance, you're not picking him up off the
12 ground and carrying him?
13 A No.
14 Q Where in the wagon is he put?
15 A I don't recall.
16 Q Do you recall if there was -- if you did -- made
17 a call to dispatch to check Mr. Angel's name on
18 CPIC or any other system?
19 A That would be standard procedure but I don't have
20 a specific recollection of that, just because
21 it's routine.
22 Q Now, the second male that you described you said
23 was Frank Paul. You described a little bit about
24 where he was situated on this vegetable stand.
25 What else can you tell us about him?

1 A He seemed -- he was passed out on this vegetable
2 stand. He was pretty much left there until -- he
3 was left there until the wagon attended and then
4 he was taken -- he was carried to the wagon and
5 into the wagon by myself and Constable Turner and
6 Constable Instant.

7 Q Sorry, the three of you --

8 A The wagon driver.

9 Q How is it you get him to the wagon?

10 A Carry him.

11 Q How do you carry him between three people?

12 A One at the front, two on the legs. One usually
13 at the front under the arms and one on each leg.

14 Q Is he put in the same compartment of the wagon as
15 Mr. Angel?

16 A I don't believe he was. I believe I recall Mr.
17 Paul being put into the rear of the wagon.

18 Q Do you recall if either man was handcuffed?

19 A I didn't have Mr. Angel handcuffed and Mr. Paul
20 wasn't handcuffed that I recall.

21 Q Now, if I could just have you describe -- first
22 of all, whose decision is it to have Frank Paul
23 -- what is the decision made with Frank Paul?

24 A The decision was made to send Mr. Paul to the
25 jail as opposed to detox.

1 Q Who makes that decision?

2 A Myself and Constable Turner had a brief
3 discussion at the time.

4 Q What was the discussion?

5 A Just as to his suitability to go to detox and it
6 was determined by ourselves that he wasn't a good
7 candidate to go to detox. He has -- he was a
8 belligerent person at the best of times and he
9 had a propensity to lash out, a propensity for
10 violence.

11 Q Was he belligerent that night?

12 A At the time he was not but that was, in my
13 opinion, due to his state of intoxication.

14 Q When you describe him being belligerent or having
15 a propensity for violence, what are you referring
16 to by those comments?

17 A Just his general behaviour in different
18 experiences with Mr. Paul.

19 Q And what sort of experiences do you mean by that?

20 A Like I said, at the different times as wagon
21 driver he could be either in a similar state as
22 to what he was or he could be more mobile and
23 when he was more vocal and more mobile he was
24 exactly that, more vocal and tended to be
25 aggressive and sometimes non-compliant.

1 Q Can you just expand a little bit? When you say
2 aggressive and non-compliant, are you describing
3 someone who gives verbal answers that are a
4 little bit defiant or are they physically
5 resistant? What sorts of things do you mean in
6 the case of Mr. Paul?

7 A In my experience there was almost a continuous
8 verbal resistance in the fact of his
9 communication generally towards myself as a
10 police-officer, towards the police, was that of
11 hostility.

12 Q Do you see any physical hostility apart from the
13 verbal? Let me ask this: Had you ever seen Mr.
14 Paul being physically interactive or resistive
15 with police?

16 A I don't have a specific recollection of a
17 specific time. I have a faint recollection of a
18 time with him in the wagon where I was
19 transporting him in the wagon and he was
20 physically resistive but not to the extent that I
21 had to do very much with him.

22 Q Can you say anything more about that one incident
23 where you recall him being resistive?

24 A I just remember him lashing out with one of his
25 arms towards myself when I was putting him into

1 the wagon but I don't -- he did go and I didn't
2 -- at that point I didn't do anymore with him.

3 Q Is the decision that you and your partner reached
4 to have him go to jail rather than detox, is that
5 -- did you rely on information from CPIC or
6 dispatch in making that decision in the case of
7 Mr. Paul on this night?

8 A I would say we made that decision based on our
9 own experience with Mr. Paul.

10 Q Do you recall if you heard your partner running
11 Mr. Paul's name on CPIC or through the dispatch?

12 A I don't recall hearing him run it but, again, I
13 didn't recall running the party I dealt with and
14 that's because it's routine stuff.

15 Q In 1998 what's involved? Do you have a radio on
16 your person if you want to put the call in to
17 dispatch?

18 A Yes.

19 Q On your shoulder?

20 A There's just a radio that sits on your belt.

21 Q You don't need to go to the car to place that
22 call in to dispatch to check someone's name, for
23 instance?

24 A You don't need to. That's a preference. It can
25 be done either way.

1 Q You described that you and Constable Turner have
2 a brief discussion about whether or not this
3 fellow, Frank Paul, is suitable for detox. Am I
4 right to say that you have this discussion and
5 the -- am I right to say that the discussion is
6 jail as opposed to detox?

7 A Yes.

8 Q Between the two of you there's no debate over
9 whether or not this person is intoxicated?

10 A No.

11 Q That's obvious?

12 A Yes.

13 Q Why is it obvious?

14 A The person was basically passed out, semi-
15 unconscious. This party, Mr. Paul, is well known
16 for drinking on a daily basis in our area.

17 Q It's an easy call for you?

18 A Yeah. There was no -- there was absolutely no
19 doubt.

20 Q There's nothing that you observed that suggests
21 any other medical problem, he's been assaulted or
22 anything?

23 A No, there was no evidence of any medical issues
24 at that point.

25 Q When you say no evidence of any medical issues,

1 what are you referring to with that comment?

2 A There was no physical signs of any sort of trauma
3 to Mr. Paul. There was no medications present on
4 his person, or no bag with medications or
5 inhalers or some of the other common things that
6 we run across with people that have medical
7 conditions or are taking medication or that sort
8 -- we had none of that.

9 Q You described Mr. Paul as being passed out. Do
10 you remember ever seeing him -- I take it, first
11 of all, can you say if his eyes were open or
12 closed?

13 A His eyes were closed.

14 Q Do you remember him saying anything?

15 A I have a memory of Constable Turner rousing Mr.
16 Paul and just having him confirm his identity to
17 Constable Turner, but other than that, that's
18 about the extent of the memory I have for that.

19 Q Who is the wagon driver, do you know?

20 A Yes, Constable Dave Instant.

21 Q He was working alone?

22 A He was.

23 Q Between Oscar Angel and Frank Paul, who was in
24 worse condition?

25 A Frank Paul.

1 Q Why do you say that?

2 A Oscar Angel was able to walk to the wagon with my
3 assistance, whereas Frank Paul was not.

4 Q In terms of your observations of Mr. Paul, can
5 you say anything more about, first of all, his
6 clothing that evening? Can you say anything
7 about his clothing?

8 A I don't recall much about his clothing.

9 Q Do you remember if his clothes were wet or dry?

10 A I don't recall them being -- I don't recall them
11 being overly wet but I don't have much
12 recollection on his clothing.

13 Q Did you notice anything about his smell?

14 A Uhm, I was dealing mainly with Oscar Angel
15 because they were in two different locations, so
16 my partner Constable Turner had more exposure to
17 Mr. Paul. I have no memory.

18 Q When Constable Instant arrives, I take it either
19 you or Constable Turner or the two of you have a
20 discussion with Constable Instant to tell him
21 what's going on and what he has to do?

22 A Normally the wagon driver attends the officer
23 with the person's information, in this case it
24 would be Constable Turner. I provided
25 information to Mr. Instant about Oscar Angel and

1 to where he was going to be going, detox, and
2 Constable Turner would do the same with Mr. Paul.

3 Q When you say Constable Turner would do the same
4 with Mr. Paul, I am assuming that you may not
5 have a memory of that, you're reasoning out who
6 dealt with who and how that might have gone?

7 A Right.

8 Q Do you have any recollection of a conversation
9 when Constable Instant is there?

10 A No.

11 Q Did you hear Constable Turner say anything about
12 where Frank Paul was to go?

13 A I don't have a specific recollection of that but,
14 as I stated, we already discussed that, that he
15 was going to go to the jail.

16 Q In the case of Oscar Angel who you deal with, do
17 you recall filling out any paperwork for him, a
18 form or anything else?

19 A The detox forms were different than the jail
20 forms. They were a much smaller form. I don't
21 specifically recall filling that out for Oscar
22 Angel but, again, that was something that was
23 done at the time, just a short detox form, just
24 like a four-by-six form that you fill out with
25 his name and his date of birth.

1 Q Did it include a criminal record or anything like
2 that?

3 A I don't recall if there was a check for whether
4 he had been CPIC'd or not.

5 Q You've also worked in the wagon so I don't know
6 if you can tell us, what happens with those forms
7 at a general level? First of all, who prepares
8 them? The arresting officer?

9 A Yes.

10 Q If the arresting officer passes someone along to
11 a wagon driver, what happens to the form?

12 A The wagon driver does have the forms in the wagon
13 and the arresting officer fills out those forms,
14 those forms are taken with the party and any
15 belongings if he's going to the jail and the form
16 is submitted to the jail.

17 Q Which form is it that would go to the jail just
18 so I'm clear about that?

19 A In 1998 it was a Jail 8, I believe they called
20 it, it was the number assigned to it.

21 Q That's a different form than this detox form?

22 A A different form, yes.

23 Q What does a Jail 8 include?

24 A It has a -- it's a little more detailed as
25 opposed to -- it has all the person's

1 information, any medical history, the
2 circumstances of arrest, a spot for any
3 belongings on the back, be it a check off for
4 whether he had a wallet, keys, money, there's a
5 spot for allocating any money that -- just
6 basically all the personal effects and the fact
7 that he was checked on CPIC, medical conditions.

8 Q Do you recall seeing or knowing anything about a
9 Jail 8 form for Frank Paul that night?

10 A All I can say is one would have been filled out,
11 but as for a specific recollection of that
12 particular Jail 8, one would have been filled out
13 but I don't recall specifically looking at a Jail
14 8.

15 Q Do you think you filled one out?

16 A No, I think Constable Turner filled it out.

17 Q Because he's the one dealing with Frank Paul?

18 A Yes.

19 Q I take it that the wagon attends for these two
20 and leaves with these two; is that right?

21 A Yes.

22 Q How long after you first see this man on the
23 sidewalk in the area -- this man in the area of
24 Hastings and Dunlevy, from that point until the
25 wagon leaves can you give us a sense of how much

1 time goes by?

2 A How much time goes by between --

3 Q Between the two. From your arrival at the scene
4 until the wagon driver leaves.

5 A I don't have a specific recollection of timing.

6 Q Would a range of 20 to 30 minutes sound --

7 A Generally within 30 minutes depending on if
8 something else was holding the wagon up, but
9 generally it would be somewhere in that time
10 range.

11 Q You later in that same shift, I understand you
12 have some further involvement with Mr. Paul.
13 Could you describe that, please?

14 A Later in that shift at 2:55 in the morning,
15 myself and Constable Turner were dispatched to a
16 call, a sudden death call. We attended to the
17 address that was given, the rear of the address.

18 Q What's the address, or the area at least?

19 A It was on 1st, 300 West 1st, in that area.

20 Q West 1st, west of Main Street?

21 A 300 East 1st, I believe it was in that area, the
22 rear of that location. We attended that
23 location.

24 Q Who is there when you arrive?

25 A There was a witness that I spoke to which --

1 whose information I obtained and the
2 circumstances on which he found Mr. Paul. Myself
3 and Constable Turner upon arrival, my memory of
4 the discovering of Mr. Paul was driving unto the
5 rear of the location, seeing Mr. Paul against the
6 rear of this building in a slouched but seated
7 position and I have a faint memory of light rain
8 at that time. Myself and Constable Turner,
9 again, looked at the party and were able to
10 recognize him as Mr. Frank Paul and at that point
11 we called our -- we had an acting sergeant on
12 that evening and we called Acting Sergeant
13 Winters and advised him that we had arrested that
14 party for being in a state of intoxication in a
15 public place earlier in the evening and now the
16 party was here in the lane deceased.

17 Q Were you surprised to see him there? You must
18 have been. You probably thought he'd still be at
19 Vancouver jail.

20 A Yes, I was surprised to see him there.

21 Q Were there other police units at the scene when
22 you arrived or were you the first unit there?

23 A No, we were the first unit.

24 Q Was there an ambulance there?

25 A I don't recall an ambulance being there before

1 us.

2 Q Do you remember if one comes?

3 A I have a faint recollection of an ambulance but I
4 know when we got there we were the first.

5 Q And how long did you stay there that evening?

6 A I recall sitting in the general vicinity for some
7 time but I don't recall exactly how long we were
8 there, other than for some time.

9 Q If I suggest as an example in the neighbourhood
10 of two to three hours, does that sound possible?

11 A Yeah, I would say it was somewhere around two
12 hours.

13 Q It's a significant period of time that you're
14 there?

15 A Yeah.

16 Q During that period of time, I take it you're in
17 the lane way throughout that time?

18 A We initially were in the lane way and then I
19 believe we sat out on the side street in our
20 vehicle.

21 Q Was anything done to contain that area that you
22 saw?

23 A Yes. When we initially -- we initially contained
24 that area until we had advised Acting Sergeant
25 Winters who attended and he advised our major

1 crime section and they attended and then
2 somewhere in that point we had moved out on to
3 the side street and the major crime section took
4 over.

5 Q Was the body moved in that period of time?

6 A I don't recall. I don't have any specific memory
7 of the body being moved, or my seeing it moved.

8 Q Do you remember looking over and thinking the
9 body is in a different place than it was earlier?

10 A No.

11 Q Did you move the body?

12 A No.

13 Q Did Constable Turner move the body?

14 A No.

15 Q I think it's obvious from my earlier question,
16 but you didn't see anyone -- to your knowledge
17 from what you saw the body wasn't moved?

18 A I didn't see the body move.

19 Q Constable Instant is one of the people who
20 arrives on scene pretty soon after this call,
21 isn't he?

22 A I don't recall the timing of Constable Instant's
23 arrival.

24 Q Do you recall him coming to the alley-way that
25 evening?

1 A I don't have any specific recollection of
2 Constable Instant attending -- maybe a faint
3 recollection he may have been around at some
4 point in the evening.

5 Q I take it you've discussed -- at some point
6 you've heard what Constable Instant has to say
7 about this evening, you've talked with him about
8 this evening?

9 A At some point as in since 1998?

10 Q Since it happened, whether it's within a couple
11 of hours or couple of weeks or couple of years.

12 A It was sometime after, quite sometime after.

13 Q He explained his explanation of what happened?

14 A Yes.

15 Q He explained -- I'm going to suggest and tell me
16 if you agree or disagree -- that he said to you:
17 I took him out of the wagon and had him seated
18 leaning up against the wall of the building. Is
19 that something he said to you?

20 A I believe I can recall him saying that he had put
21 him against the wall in the lane at detox.

22 Q I wonder if the witness could please be shown
23 Exhibit 17, the photos. Constable, I'm going to
24 have you flip on about five pages to photograph
25 A18 in the upper right-hand corner, roughly five

1 pages in. What I'm going to suggest to you is
2 that photograph shows Mr. Paul's body in the
3 location where it was when you attended.

4 A Upon my initial arrival that's not the position
5 of Mr. Paul.

6 Q I'm going to suggest to you that when you
7 describe him being slouched up or seated against
8 a wall you may perhaps be borrowing from
9 something that you heard Constable Instant
10 describe instead of what you saw when you
11 attended that evening. Is that a possibility?

12 A No.

13 Q Could you please say why you're clear about that?

14 A As I said, I was the first -- myself and
15 Constable Turner were the first unit there. I
16 recall him being against that wall upon my
17 attendance.

18 Q Since we're looking at the photograph A18, can
19 you describe if it's on the photograph -- and if
20 it's not just say so -- whether the area of the
21 wall you recall seeing Frank Paul seated, where
22 that area was? Perhaps I can suggest a different
23 photograph to see if we get a better perspective.
24 Have a look at A17, it's on the second page of
25 the upper right-hand corner.

1 A A17 on the first page?

2 Q That's right. The right of this card indicating
3 sudden death.

4 A Yes.

5 Q That's a photograph that depicts the lane way of
6 the 300 block East 1st?

7 A Yes, that's correct.

8 Q That's the general area where Frank Paul's body
9 was found?

10 A Yes, that wall --

11 Q Do you mind holding that up, sir, and showing the
12 commissioner and counsel what you're pointing to?

13 A My recollection of driving into that lane and
14 looking at Mr. Paul, the wall in question was
15 this wall.

16 Q Show that to the commissioner, please.

17 A The rear of this building.

18 THE COMMISSIONER: Near that red door, Constable?

19 A Just behind where Mr. Paul is, I would say not --
20 this is a big sliding door, I would say to the
21 west of that door and driveway.

22 MR. MARTLAND:

23 Q Let me try to describe what you've just pointed
24 to and tell me if you disagree with this. You're
25 indicating to the left of the red door which is

1 basically in the centre of the photograph, to the
2 left of that but roughly midway between that and
3 the patch of green which seems to be a shrub or
4 tree, in about the middle of that white wall with
5 the brown bottom, is that where you're pointing
6 to?

7 A I'm pointing close to where the shoes are.

8 Q To the right where there's shoes in photo A17.

9 A In that area of the wall is my recollection.

10 Q I want you to be as careful as you can on this
11 point because I'm going to respectfully suggest
12 to you that others who attend on scene,
13 ambulance, other police-officers who are there
14 within minutes that deal with Mr. Paul, attempt
15 to revive him and then later on in the evening
16 take photographs, I'm going to respectfully
17 suggest that they don't describe him sitting up
18 against a building and you may be mistaken on
19 that point. Again, you can disagree but I want
20 to hear -- does that affect your memory of this?

21 A No.

22 Q You're certain of that?

23 A Yes.

24 Q Can you describe how it is that you see him
25 seated and slumped up? What do you mean by that?

1 A I drove into that rear area of the building and
2 the headlights of the police vehicle illuminated
3 that wall and we were able to recognize Mr. Paul
4 prior to exiting that vehicle because we were
5 looking directly at him.

6 Q From what direction do you drive in?

7 A We drove in from -- there's only one way into
8 this lane, the other way is a dead end. The end
9 of it is detox. You must enter the entrance of
10 this lane from this end.

11 Q Are you coming from 1st or 2nd?

12 A 2nd. I drove into that lane.

13 Q You're driving?

14 A Yes.

15 Q Carry on.

16 A I pulled in so that my headlights were
17 illuminating Mr. Paul and I recall that and I
18 recall looking at him and I recall speaking to
19 myself and Constable Turner, recognizing who this
20 person was, and, again, discussing the fact why
21 he was there, immediately recognizing the party,
22 and that was done because he was mostly upright
23 and we were able to see him.

24 Q I may be missing the point but if he's slumped, I
25 take it to mean his head is slumped forward?

1 A My recollection is he was slumped sideways.
2 Q How far slumped over?
3 A I recall him being slumped to one side with his
4 head still -- with his face still facing me which
5 I came towards that wall and stopped facing him
6 and was able to see his face.
7 Q As you describe it, this conversation with
8 Constable Turner about recognizing him, you have
9 that before you get out of the car?
10 A Very briefly. We recognized him upon arrival and
11 looked at him and said -- looked at each other
12 and said, we were sitting side by side in the
13 police car, and looked at each other and said
14 "That's Frank Paul, why is he here?" Then I got
15 out and went and had a closer look.
16 Q Where did you park the car?
17 A The car was left right where it was initially.
18 Q When you stopped and recognized him?
19 A Where I pulled in, stopped and looked at him.
20 Q Where was this civilian witness? Is there only
21 one civilian witness?
22 A There was just one witness I spoke to.
23 Q Did another civilian come later or at some other
24 point?
25 A There could have been other parties. I have

1 notes just regarding one party I spoke to and his
2 discovery of Mr. Paul.

3 Q So your car is positioned -- just tell me if I
4 have this right -- you're driving coming in off
5 East 2nd and turning on to Scotia and then
6 turning right into the alley-way, is that the
7 direction of travelling?

8 A It would have been right off 2nd -- left off 2nd.

9 Q Left off 2nd on to Scotia?

10 A And then right into the lane way.

11 Q Am I right to say that as you turn right into the
12 lane way, without completing a turn and heading
13 into the lane way, perhaps half way through that
14 turn is where you stop and that's where the
15 headlights are trained on Mr. Paul?

16 A I don't recall the exact specifics, but when I
17 turned right into the lane, turning right into
18 the lane, that wall was there in plain view, and
19 then I moved forward towards that wall which,
20 like I said, the headlights illuminated.

21 Q You're in a squad car, patrol car?

22 A Yes.

23 Q How far away from the body is the car parked?

24 A I don't recall an exact distance.

25 Q I'd like you to have a look if you would, please,

1 at some other photographs. Have a look at
2 photograph A16 on the right, right bottom of the
3 first page.

4 THE COMMISSIONER: Some of us have photographs on different
5 pages, Mr. Martland.

6 MR. MARTLAND: I'm sorry?

7 THE COMMISSIONER: Some of us have photographs on different
8 pages. You said on the first page.

9 MR. MARTLAND: It is on the first page I have.

10 THE COMMISSIONER: My A16 is on the fourth page.

11 MR. MARTLAND: I apologize for that.

12 THE COMMISSIONER: Do you have that, officer?

13 A I have A16, a picture marked A16 with a view into
14 the lane.

15 MR. MARTLAND:

16 Q All right. On the left-hand side of that
17 photograph there seems to be an area that has
18 some gravel or grass, something green?

19 A Yes.

20 Q Otherwise to the right of the gravel though it
21 seems to be a paved lane way?

22 A That's right.

23 Q Let's use that photograph A16. Can you say where
24 in that photograph you would have parked the car?

25 A I would have stopped in my recollection somewhere

1 along that gravel line, prior to that gravel
2 line.

3 Q Now, in the photo there's something that looks to
4 be a body covered in a white blanket perhaps
5 that's right near where the gravel ends. Is it
6 your testimony that the car would have pulled
7 awfully close to where we see that white body --
8 white mark -- now?

9 A Yes, it would have been probably short of that by
10 three to five feet.

11 THE COMMISSIONER: That's where you parked the car?

12 A Where I stopped the vehicle, stopped the police
13 car. It was just in that area, where the gravel
14 and the pavement meet, the front of the car would
15 have been.

16 MR. MARTLAND:

17 Q How long did the car stay there?

18 A I don't recall how long before we moved it out on
19 to the street or if it was moved out on to the
20 street, I don't recall.

21 Q Do you recall the ambulance attending at all?

22 A I don't recall. I believe I have a recollection
23 of an ambulance being there but I don't recall
24 much of them at all.

25 Q This may seem a silly question to you but it

1 appears to be someone who is dead, or at least in
2 pretty critical condition, it seems likely
3 someone is going to attempt to perform CPR or
4 some medical steps, so do you agree with me the
5 body has to move at some point?

6 A Yes.

7 Q They're not going to give him CPR seated?

8 A Right.

9 Q You can search your memory on that and if you're
10 unclear about something please say so, but do you
11 have any recollection of someone moving the body
12 so it's at least prone on the ground?

13 A I don't have any recollection of that.

14 Q Am I right to understand that your only
15 recollection is the body in a seated position,
16 slouched to one side?

17 A My recollection is the discovery of the body, I
18 don't have recollections of the body being moved
19 or CPR being performed, although it seems from
20 those pictures that the body was moved.

21 Q Now, I wonder if I might ask, do you have any
22 recollection of the weather that night, December
23 5 to 6?

24 A When I started my shift it was wet and sleet and
25 overcast.

1 Q What time did you start your shift?

2 A 7:00 p.m., 6:45 p.m. is our briefing.

3 THE COMMISSIONER: Sorry, you said it was wet?

4 A Wet.

5 THE COMMISSIONER: And sleet?

6 A And sleet and overcast.

7 MR. MARTLAND: Mr. Registrar, if I wonder if the witness may
8 be shown tab 12 of binder 1.

9 Q Constable, I understand you've had the
10 opportunity to look over that document recently?

11 A Yes.

12 Q What is it?

13 A It's a form 19.

14 Q What is a form 19?

15 A As it says on the top, it's a miscellaneous or
16 supplementary report and it's the report I filled
17 out with my dealings on that night and it has
18 Oscar Angel listed on there as I dealt with him.

19 Q On the fourth line of that there appears to be a
20 handwritten amendment or change to the word
21 "intelligible" so it says "unintelligible". Did
22 you make that change?

23 A I did.

24 Q When did you make that change?

25 A After I printed this out and proofread it.

1 Q At the time you prepared this you noticed this
2 and made a handwritten amendment?

3 A That's right.

4 Q I take from the bottom of the form, it gives your
5 name and date of report, 98 12 06. You prepared
6 this on December 6th?

7 A Yes. On the time of attendance and discovering
8 Mr. Paul it was the 6th by that time. Our
9 original dealings with him would have been still
10 the 5th and the time upon our discovery was the
11 6th, so it was prepared after we left the scene.

12 Q You've reviewed this document and you understand
13 it to be accurate?

14 A Yes.

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

16 THE REGISTRAR: Exhibit 40.

17 (Exhibit 40:

18 MR. MARTLAND:

19 Q Did someone ask you to prepare this report?

20 A I recall an MCS detective asking for a report.

21 Q Do you remember who? If you want to look at your
22 notes to assist you on that I don't have a
23 difficulty if you don't recall.

24 A I will look at my notes.

25 Q Before you do that, can you say when you were

1 asked to prepare the report?

2 A On the morning of the 6th.

3 Q Have a look at your notes and see if that gives
4 you any assistance on those two questions.

5 A Sergeant Boyd.

6 Q At what time?

7 A That was at 5:05 on the 6th.

8 Q That morning of December 6th, do you recall
9 meeting with a lawyer?

10 A I don't have a recollection of meeting with a
11 lawyer.

12 Q Do you recall Constable Instant meeting with a
13 lawyer?

14 A No, I don't recall.

15 Q After you prepare that report on December 6th --
16 if I use that as first our starting point -- and
17 as an end point if I use -- I am assuming in the
18 last three or four weeks you've been contacted by
19 Mr. Price or Mr. Hern to talk about this case?

20 A Yes.

21 Q Between those two times have you ever been
22 approached and asked for information about this
23 case?

24 A No.

25 Q Have you ever been spoken to by an investigator

1 or someone within the police about the Frank Paul
2 matter?

3 A No.

4 Q This description that you describe about Mr. Paul
5 seated in a slouched position, before today have
6 you ever described that to anyone?

7 A I don't have a specific recollection of that but
8 that's not to say that I didn't, but I don't have
9 any specific recollection of that.

10 Q Did you say anything to any of the detectives at
11 the time, Detective Staunton, Detective Boyd,
12 Sergeant Winters, the senior people on the force
13 in 1998, did you describe Frank Paul seated in a
14 slouched position to any of them?

15 A I'm sure upon Sergeant Winters' attendance we
16 described our finding of Mr. Paul to him.

17 Q Have you talked about -- you must have talked
18 about this case with Constable Turner?

19 A Yeah, there's been a couple of times over the
20 years. It was many, many years ago.

21 Q That's understandable, you two were partners and
22 worked together back then all the time?

23 A We worked together on and off throughout the
24 years that I've been employed as a policeman for
25 the City of Vancouver.

1 Q This is an incident where someone has died having
2 not only recently been in police custody but been
3 in your custody?

4 A Yes.

5 Q You must have been concerned about that?

6 A We were.

7 Q One of your initial reactions must have been, am
8 I in hot water because of this?

9 A Uhm, I don't recall thinking of myself being in
10 hot water because what I did as far as I'm
11 concerned is I did my job and I did what I should
12 have done.

13 Q I'm not suggesting otherwise.

14 A So I had no concern for myself.

15 Q But there surely must be something that causes
16 you and Constable Turner to talk about it and
17 say, wow, we're involved in this case. Do you
18 hear about officers being disciplined over this
19 matter later?

20 A Yes.

21 Q Let me ask whether there's any chance that in
22 discussions with Constable Turner that's where
23 this description of a man seated or slouched
24 comes from, from something that Constable Turner
25 told you. Is that a possibility?

1 A No.

2 MR. MARTLAND: I wonder if this might be an opportune time for
3 the break.

4 THE COMMISSIONER: Yes, it would be. We'll take the break now
5 and, officer, please don't discuss your evidence
6 during the break. I'm sure you understand that.

7 A Yes.

8 THE REGISTRAR: We're recessed for 15 minutes.

9 (BRIEF RECESS TAKEN)

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

11 THE COMMISSIONER: Mr. Martland.

12 MR. MARTLAND: Mr. Commissioner, I just have a few last
13 questions.

14 Q Go ahead and take a seat if you'd like. Do you
15 have your notes with you?

16 A I do.

17 Q If I could draw your attention please to the
18 entry from 2:55 -- beginning 2:55 a.m., December
19 6th. I'll just ask you if I might to confirm,
20 and tell me if I have this accurate, there's an
21 indication the third line down of the page I
22 have, at 2:55 hours -- that's the time?

23 A Yes.

24 Q And then you have 304 East 1st S/L, south lane of
25 304 East 1st?

1 A Yes.

2 Q Robertson, underlined Colin, and at the left hand
3 circled witness and WIT and REP. What does that
4 mean?

5 A Reportee.

6 Q Reportee of a crime?

7 A Or of an incident.

8 Q Witness to a potential crime or incident?

9 A Yes.

10 Q Robertson is the last name, Colin is the first
11 name?

12 A Yes.

13 Q The next five lines or so are contact information
14 for that person including a driver's licence?

15 A Yes.

16 Q Beginning onwards, and I'm just going to read it
17 out, and I'll ask you if this is what Colin
18 Robertson told you when you took a statement from
19 him that evening:

20 Out looking for cat. Saw male laying next
21 to
22 lane. Checked male.

23 That's what Colin Robertson told you about what
24 he observed that night?

25 A That's correct.

1 Q He's there before you are, and I take it to your
2 knowledge before any police or ambulance are?

3 A That's correct.

4 Q Reportee, he's the one that phones this in to
5 911?

6 A Yes.

7 Q If Colin Robertson is saying this is a man that's
8 laying next to the lane, and also given the
9 photographs I've shown you, would you agree that
10 his recollection is preferrable or better than
11 yours?

12 A No.

13 Q Now, constable, do you have any aboriginal
14 background yourself?

15 A Yes.

16 Q With respect to the fact that Frank Paul himself
17 was a First Nations man, was his aboriginal
18 background in your view, was that a factor in how
19 he was handled by the police?

20 A No.

21 Q Was it a factor in whether he was taken to the
22 jail as opposed to taken to the detox centre?

23 A No.

24 Q Why do you say that?

25 A Because I was there making that determination

1 along with Constable Turner and a person's
2 ethnicity does not factor into our discussion.

3 Q Apart from you described that night with
4 Constable Turner, at a general level with the
5 police from your observations, was his First
6 Nations status, his aboriginal background,
7 something that affected how the police dealt with
8 him?

9 A No.

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

11 THE COMMISSIONER: Mr. Hern, any questions?

12 MR. HERN: No, thank you.

13 THE COMMISSIONER: Mr. Crossin?

14 MR. CROSSIN: No.

15 THE COMMISSIONER: Mr. Woodall?

16 MR. WOODALL: No, thank you.

17 THE COMMISSIONER: Mr. MacKenzie?

18 MR. MACKENZIE: No, thank you, Mr. Commissioner.

19 THE COMMISSIONER: Mr. Kelliher?

20 **EXAMINATION BY MR. KELLIHER:**

21 Q Sir, you'd had many dealings with Frank Paul
22 before December 5th of 1998, and particularly
23 you've recounted an incident, as I understood it,
24 fairly recent in time, fairly close in time to
25 December 5th, 1998 when you found Mr. Paul in the

1 company of two others drinking behind an
2 establishment; is that correct?

3 A That's correct.

4 Q When you encountered him on that occasion, are
5 you able to say how much time passed between that
6 incident and December 5th, 1998?

7 A No, I don't -- I didn't try to retrieve that call
8 in any manner. It's just a memory that I have of
9 dealing with him specifically.

10 Q All right. When you encountered him he was
11 unconscious, he smelled of alcohol, correct?

12 A Actually, on that -- in that instance him and the
13 other two parties were ingesting Lysol. They had
14 -- there was numerous empty cans of Lysol they
15 had punctured and had ingested Lysol, so on that
16 particular occasion he didn't smell of alcohol or
17 liquor. It was not a predominant odour of
18 liquor; it was a predominant odour of the aerosol
19 substance, Lysol, that permeated the area.

20 Q How is that consumed?

21 A The can itself, they make a hole in the can and
22 consume the liquid, the propellant and liquid
23 that comes out.

24 Q For the sake of the alcohol?

25 A The alcohol content.

1 Q You assumed him to be intoxicated due to the
2 consumption of the alcohol?
3 A On that occasion, yes.
4 Q He was not conscious or barely conscious?
5 A He was not conscious and we weren't able to get
6 him to respond to us.
7 Q And on December 5th when you encountered him he
8 was barely conscious due to the consumption of
9 alcohol; is that correct?
10 A He was unconscious -- he seemed to be unconscious
11 when we arrived and then he was able to respond
12 to Constable Turner while we were there.
13 Q You say that Constable Turner roused him in order
14 to determine his identity?
15 A That's correct.
16 Q I thought you both knew him by sight?
17 A Constable -- Constable Turner -- speaking to a
18 party, that's just a general assessment that we
19 do and use upon contact with somebody, regardless
20 of the fact of whether you're familiar with the
21 party or not, given the fact of that person's
22 condition.
23 Q I understood you to say a few moments ago that
24 Constable Turner roused him in order to get his
25 name, to identify him?

1 A I recall him rousing him and having him identify
2 himself.

3 Q Even though you knew full well both of you who it
4 was?

5 A Yes. I mean -- like I said, it's just a form of
6 being able to ascertain or evaluate a person.

7 THE COMMISSIONER: Is that part of your assessment then,
8 officer, is that what you're telling me?

9 A Yes, just so the person knows -- is able to speak
10 to you, A, and they know they can give you a date
11 of birth and/or their name. In some instances
12 they just won't do that but if you can do that
13 with somebody that's generally a good way of
14 helping to assess the person.

15 MR. KELLIHER:

16 Q What was your assessment of Frank Paul on the 5th
17 of December?

18 A Extremely intoxicated and unable to care for
19 himself.

20 Q I suppose in that state of intoxication, given
21 the extent of the assessment that was done, you
22 really couldn't tell if there were other medical
23 issues at play?

24 A There was no apparent medical issues that I
25 observed or that I was aware of.

1 Q On the basis of your assessment?

2 A Yes.

3 Q Your assessment consisted of Officer Turner
4 asking him if he knew his name?

5 A Constable Turner determining if the party was
6 responsive, like in the previous instance that I
7 recalled, if the party is unresponsive then, like
8 I said, in that previous instance we called an
9 ambulance and they came and determined that he
10 needed medical attention and he was taken away
11 and given that. If he's able to respond and
12 there is no obvious medical issues that are
13 apparent to me or Constable Turner, then that's
14 the extent of it.

15 Q Is that why, sir, then you didn't call an
16 ambulance on the 5th?

17 A Right.

18 Q Because you knew --

19 A He was responsive.

20 Q He was responsive, he could give his name?

21 A He knew -- he was able to identify himself, he
22 was able to respond when questioned and when
23 roused, when he was able to actually verbalize --
24 communicate.

25 Q Do you mean something more than he was able to

1 say his own name? Do you mean something more
2 than that in his verbal communications? When you
3 say he was responsive, he was able to
4 communicate?

5 A When I say responsive, when you attempt to
6 communicate with somebody that he actually is
7 able to wake up enough to be able to see you and
8 see that you're a policeman and to see that -- to
9 be able to identify himself and that's enough for
10 us to look at him and see he's obviously
11 intoxicated but he's able to verbalize and
12 communicate in some -- to some extent.

13 Q So you conclude on the basis of those
14 observations that this man is not in need of any
15 kind of medical examination; is that correct?

16 A Yes, that there was no immediate -- there was
17 nothing apparent as far as a medical condition.

18 Q That was an option as well between the detox and
19 jail, to call the ambulance to check the man
20 over, isn't that correct?

21 A If myself or Constable Turner felt that it was
22 necessary, then yes, it would have been done as
23 it was in the previous instance.

24 Q All right. Sir, in respect to your notes, when
25 were they completed?

1 A On the morning of the 6th. The notes in my
2 notebook were completed at the time, the
3 information when I received it from Colin
4 Robertson would have been completed at the time.
5 The second portion referred to with the 05:05
6 hours asking for a report was exactly when, just
7 after that I made those notes and this report
8 would have been after that on the 6th.

9 Q All right. The notes were done chronologically,
10 that is, serially. At the time the events were
11 occurring you made a note, another event occurred
12 you'd make another note?

13 A Yes.

14 Q Sir, did you attend on any other calls between 8
15 p.m. on the 5th and approximately 3 a.m. on the
16 6th?

17 A Yes, I am sure we dealt with other people and
18 went to other routine police calls in between.

19 Q For instance, did you arrest anyone else on that
20 Saturday night for being drunk in a public place?

21 A I don't have a recollection of arresting anyone
22 else on that night.

23 Q You don't recall arresting anyone at all that
24 night other than Frank Paul and Oscar Angel; is
25 that right?

1 A Right.

2 Q Can you recall any other call you went to?

3 A Not specifically, no.

4 Q It's a complete blank?

5 A I don't recall attending -- which calls I
6 attended on that night.

7 Q Apart from dealing with Oscar Angel and Frank
8 Paul, do you recall any other police event that
9 you were engaged in between 8 p.m. on the 5th and
10 3 a.m. on the 6th?

11 A I have no specific recollection of any.

12 Q There must have been some?

13 A I'm sure there was.

14 Q Do you have an explanation as to why there's no
15 notation in your notebook about any other police
16 activity between those hours?

17 A I do have notes between the initial arrest
18 between being intoxicated in a public place, I
19 have other names we had come across, people we
20 checked.

21 Q Where are those notes to be found?

22 A In my notes on the first page, under Oscar Angel,
23 there's a line under where it says -- after detox
24 there's a line there. Underneath that there's a
25 party listed Darryl Jerome Robertson. Do you

1 read that?

2 Q No. It is blanked out in mine.

3 A Probably because it doesn't pertain to this.

4 This would have been routine police

5 investigations or checks, and this person, this

6 person, this person. I have reportee here and

7 more information on someone else here and on to

8 this party. So there is notes in between but I

9 don't have a specific recollection of why they

10 were checked or where they were checked.

11 Q Or when they were checked?

12 A Or when they were checked. It's just routine

13 checks with people in the area I was working.

14 Q The notes that we've been provided from your

15 notebook omit references to various other people

16 you dealt with that night; is that correct?

17 A I guess you were provided with the notes that

18 have dealings with this incident, which is common

19 practice.

20 Q I see.

21 A Not all my notes in that notebook that don't

22 pertain to this incident.

23 Q That makes sense. Your shift was to begin and to

24 end at what time, begin on the 5th and conclude

25 at what time on the 6th?

1 A The shifting at that time would have been 7 p.m.
2 to 6 a.m. We have a briefing around quarter to
3 7, 6:45 p.m., and generally finish up prior to 6,
4 that 5:30, quarter to 6 range.

5 Q What time did you wrap up that December 6th
6 morning?

7 A Sometime after -- sometime in the area after six
8 o'clock. I don't have a specific note as to my
9 booking off time. The last note I have is 05:05
10 hours and then I would have went back to the
11 police station and then I did this report here,
12 this form 19, and then I would have been done.

13 Q Would you have booked off at 5:15?

14 A 5:15?

15 Q Yes.

16 A I don't recall the exact time. Like I said, it
17 would have been after this.

18 Q Do you see the first page of your notebook, the
19 first paragraph?

20 A Yes.

21 Q What does 18:45 hours --

22 A 6:45.

23 Q What does that mean, when you came on?

24 A Yes. The actual start of our shift is seven
25 o'clock and generally we're always there 15

1 minutes early for a briefing, and generally the
2 booking off time is quarter to, half past,
3 quarter to. Those are the exact times that our
4 shift encompasses but that generally isn't the
5 exact time every evening that you actually -- or
6 morning that you actually finish. In this case
7 it would have been after that.

8 Q Ordinarily the shift is from 7 to when?

9 A 6.

10 Q 7 to 6?

11 A Yes.

12 Q You ordinarily actually book off three-quarters
13 of an hour before six o'clock?

14 A No, quarter to, that says 5:45. We go at quarter
15 to 7 and then, therefore, the end of the shift is
16 quarter to 6.

17 Q When you start your shift you make the note that
18 you anticipate being off at 5:45?

19 A Yes.

20 Q That's not your actual time, that's the
21 anticipated time?

22 A Yes, that's the hours.

23 MR. KELLIHER: Thank you very much, sir.

24 THE COMMISSIONER: Mr. Kelliher, those notes should be marked,
25 should they not? Do we have copies of the

1 notebook so we can enter that?

2 MR. MARTLAND: We have an edited copy. We don't have extras
3 with us. I have a copy that has my highlighting.

4 THE COMMISSIONER: Perhaps you could have those for tomorrow
5 morning and we could mark those then.

6 MR. MARTLAND: Yes.

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

9 **EXAMINATION BY MR. EBY:**

10 Q My name is David Eby. I'm a lawyer with United
11 Native Nations Society. You found Frank Paul at
12 the corner roughly of Hastings and Dunlevy; is
13 that correct?

14 A Yes.

15 Q That's a corner in the Chinatown area of
16 Vancouver?

17 A I wouldn't say -- it's prior to Chinatown but
18 very close.

19 Q Are you familiar with the product rice wine?

20 A Yes.

21 Q And we understand from previous testimony that it
22 was a major issue in the neighbourhood at that
23 time?

24 A Yes.

25 Q You were working district 2 at that time?

1 A Yes.

2 Q So you were familiar with people drinking the
3 rice wine and becoming quite intoxicated?

4 A Yes.

5 Q Was Frank Paul one of those people?

6 A Yes.

7 Q Was it sold in the area where you found Frank
8 Paul that evening, the Chinatown area there?

9 A There were many stores, corner stores, that
10 stocked rice wine because of its -- because of
11 its popularity with many residents of the
12 Downtown Eastside and it was inexpensive so there
13 was numerous corner stores that brought in large
14 quantities of the rice wine to sell.

15 Q Was it roughly in that area where you found Frank
16 Paul, some of those stores?

17 A There is stores right on Hastings. At that time
18 there's stores right on Hastings, very close to
19 that proximity.

20 Q You say it was inexpensive. Do you know how much
21 it cost?

22 A It was a few dollars at that time, somewhere in
23 the two or three dollar range.

24 Q Do you know what the alcohol content was of that
25 product roughly?

1 A I can't say I recall to be able to tell you that.

2 Q Was it your experience that someone drinking a
3 single bottle of rice wine would become quite
4 intoxicated?

5 A From drinking a single bottle?

6 Q Would it take a single bottle or numerous
7 bottles?

8 A No. Although I can't say the content, I would be
9 guesstimating it was around 10 percent, give or
10 take a few percent, so a single -- they were --
11 the bottles were probably in that 750 millilitre
12 range so I wouldn't say that a single bottle
13 would cause a party to be extremely intoxicated
14 but somewhat intoxicated.

15 Q When you were working in District 2 were you
16 familiar with -- we've heard testimony from other
17 witnesses of a regular population of chronic
18 alcoholics who were homeless in the District 2
19 area but also outside the District 2 area that
20 would have regular contacts with police and
21 ambulance. Are you familiar with that
22 population?

23 A There were parties that were in frequent contact
24 with the emergency services in the Downtown
25 Eastside.

1 Q As a wagon driver you would have seen them quite
2 frequently, I imagine?

3 A Yeah. When I was in the wagon performing that
4 duty I did, yes.

5 Q We've heard evidence that population could be up
6 to 70 percent aboriginal people. Did you have a
7 sense that in particular reference to aboriginal
8 people who made up this population that they had
9 any particular -- make any generalizations about
10 the relationship between them and the Vancouver
11 Police Department?

12 THE COMMISSIONER: I don't know that --

13 MR. EBY: I'll rephrase that.

14 Q What was the relationship between the chronic
15 alcoholic, homeless aboriginal population and the
16 Vancouver Police Department in your experience
17 both driving a wagon and in District 2, if any?

18 A I don't really have a comment on that. As far as
19 the relationship, I can only say what my
20 relationship would have been like with any of
21 those parties. I can't say that I would validate
22 that number at 70 -- the number you use at 70
23 percent. I could only say that when I dealt with
24 people, other than having a place for their
25 ethnicity or sex, their background really didn't

1 play -- their ancestry really didn't play a role
2 for me.

3 Q When you say other than a place for ethnicity or
4 sex, what are you referring to?

5 A On various forms you can put an ethnicity and put
6 a sex. Other than filling that out, I really
7 don't have any specific, like I say, number for
8 aboriginals as opposed to any other race, I never
9 really contemplated that.

10 Q In your statement which is at -- it's been marked
11 as Exhibit 40, I don't know if you have that
12 exhibit in front of you yet. In that statement
13 you identify Frank Paul as being of no fixed
14 address; is that right?

15 A Yes.

16 Q Because you knew him from previous interactions
17 that he was a homeless individual?

18 A Right.

19 Q Most people actually knew that Frank Paul was
20 homeless?

21 A Yes.

22 Q It was notorious actually that he was homeless?

23 A Well, he was known as homeless, yes.

24 Q There's a question I have about Mr. Angel and Mr.
25 Paul and the different routes that the two take

1 that evening. I'm going to put to you that you
2 have two men, the circumstances of the arrest of
3 both men, you have two men, both heavily
4 intoxicated, unable to care for themselves; is
5 that right?

6 A Yes.

7 Q You find them in roughly the same area?

8 A Yes.

9 Q Roughly the same time?

10 A Yes.

11 Q And they're both acting in a similar manner,
12 although Frank Paul, it's your evidence he's more
13 intoxicated, but both have slurred speech,
14 difficulty moving; is that correct?

15 A Mr. Angel was able to move on his own and he was
16 much less intoxicated, in my opinion, than Mr.
17 Paul.

18 Q Both men are loaded into the wagon and neither
19 man is handcuffed; is that correct?

20 A That's correct.

21 Q Yet one goes to detox and one goes to jail;
22 that's correct?

23 A Yes, that's correct.

24 Q The one who goes to jail is the aboriginal man
25 and the one who goes to detox is the

1 non-aboriginal man; is that correct?

2 A Mr. Angel I would say was Hispanic in his
3 background, so he has likely -- whether he had
4 some aboriginal background or not, I didn't delve
5 into that with him, but the Hispanic community
6 and the aboriginal community have fairly close
7 ties and a lot of times there can be native and
8 Hispanic within that background, so for me to say
9 he was non-aboriginal, I wouldn't be able to say
10 that.

11 Q So it wasn't troubling to you in any sense that
12 there was sort of this different treatment of
13 these two men in similar circumstances?

14 A There was some differences between the two, not
15 only in their own state of intoxication but the
16 opinion of myself and Constable Turner in regards
17 to Frank Paul. As I said before, he was a
18 belligerent individual at best, whereas I was --
19 whereas I had conversed with Mr. Angel and he was
20 not and that would be the reasoning that he went
21 to detox. Their treatment was the same except
22 for the locations that they were sent to. Both
23 of them were arrested for being -- held for being
24 intoxicated in a public place. It was just their
25 destinations were different and that's a

1 determination made by the officers or the officer
2 that assesses that person and that deals with
3 that person. In this case myself and Constable
4 Turner made that determination.

5 Q It was Frank Paul's belligerence on prior
6 occasions?

7 A Yes.

8 Q He was disrespectful to police-officers on
9 different occasions?

10 A He was disrespectful -- not just disrespectful
11 but aggressive, his language was more often
12 profane and vulgar as opposed to more normal
13 communication, and detox being a place where we
14 don't general like to expose the people that work
15 there to people of that nature.

16 Q Mr. Registrar, could the last page of tab 47 of
17 binder 1 please be put before the witness. It's
18 Entitled Operational Support Division, Incident
19 Synopsis. Do you have in front of you the
20 document entitled Operational Support Division,
21 Incident Synopsis? It appears to be signed at
22 the bottom by Sergeant Boyd and dated 98 12 06.

23 A Yes.

24 Q Have you seen this document before?

25 A No.

1 Q It's not familiar to you?

2 A No.

3 Q Are you familiar with the form generally? Have
4 you ever seen a form like it before?

5 A I can't say I'm familiar with this form, no.

6 Q About three-quarters of the way down there's a
7 sentence that starts with PCs and it's got a
8 number of different numbers. Please correct me
9 if you think I misread anything. PC 1694, 1703,
10 1855, A/S G.T. Winters spoke to legal counsel.
11 PCIT dealt with 1855 who was shaken by A/M
12 events. Is that what you read on your copy?

13 A Yes, I see that.

14 Q Do you recognize your own badge number in that
15 list of numbers?

16 A I do.

17 Q You were asked earlier by counsel whether you
18 recalled speaking to a lawyer on December 6th and
19 you testified you couldn't recall. I'll ask you
20 to look up at the top of this form and there's a
21 number of different headers. Squad, incident,
22 location, incident number, date, time. The date
23 and time I read 98 12 06, 2:40 and it looks like
24 maybe an M but it's 02:40 and maybe hours, HRS?

25 A Yes.

1 Q You take that to mean it's December 6, 1998 at
2 2:40 in the morning?

3 A Yes.

4 Q Does this refresh your memory at all that you
5 spoke to legal counsel on the morning of December
6 6, 1998?

7 A No.

8 Q You have no recollection of that?

9 A I don't recall.

10 Q Have you ever been involved in an incident where
11 the Vancouver Police Department provided you with
12 legal counsel shortly after the incident, perhaps
13 a death in custody or anything along those lines?

14 A I was involved where I spoke to legal counsel
15 after the incident, days -- like a week after,
16 within a week after, not directly after.

17 Q This particular incident?

18 A No.

19 Q Sorry, it was in relation to this particular
20 incident?

21 A No, a different incident where I spoke to legal
22 counsel regarding an incident. It wasn't a
23 death.

24 Q Is it your understanding that in certain
25 incidents that you will have or the Vancouver

1 Police Department will provide you with access to
2 legal counsel immediately following an incident?

3 A There is legal counsel provided but in the only
4 other incident that I sought -- that I was
5 provided legal counsel, it wasn't immediately
6 after the incident. It was after the incident
7 but several -- within a week but not immediately
8 after.

9 Q Do you recall a meeting with the other badge
10 numbers that are listed here without a lawyer
11 present, Sergeant Winters it appears, 1855 who I
12 believe is Constable Instant and 1694 who I
13 believe is your partner?

14 A Yes.

15 Q You do recall a meeting with them after the
16 incident?

17 A I don't have any recollection of a meeting after
18 with everybody -- the PCIT you read out, I think
19 that's the trauma team.

20 Q Did you meet with the trauma team?

21 A I didn't.

22 MR. EBY: One second, Mr. Commissioner, if I may. Thank you,
23 Mr. Commissioner, I have no further questions for
24 this witness.

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

1 **EXAMINATION BY MR. TAMMEN:**

2 Q Constable, we know from other evidence in this
3 inquiry that between April 24, 1998 and December
4 5th, 1998, Frank Paul was admitted to the
5 sobering unit of the detox centre 48 times. We
6 heard that a majority of those times he was
7 dropped off by members of the Vancouver Police
8 Department, so we can assume that that's so for
9 now. Did you either as an arresting member ever
10 direct that Frank Paul be taken to the sobering
11 unit of the detox centre or as a wagon driver
12 yourself transport him to that location?

13 A What was the time period you're referring to?

14 Q Any time. I was talking about 1998 but we can go
15 back as far as you ever had dealings with Frank
16 Paul.

17 A I recall as a wagon driver transporting Frank
18 Paul to the jail.

19 Q Yes.

20 A The Vancouver jail. I can't say -- I don't have
21 any specific recollections of how many times or
22 if I did take him to the detox in the time period
23 that I was in the wagon but I did attend detox
24 all the time and the jail, but I can't say
25 specifically.

1 Q We've heard from the detox staff that as far as
2 they're aware Frank Paul was never on the banned
3 list, that is, people that under most
4 circumstances aren't welcome in detox, and you
5 have no knowledge that he was, correct?

6 A I just have recollection that at various times
7 over the years that my understanding was that
8 Frank Paul was not a candidate -- was on their
9 list as somebody they wouldn't accept. Whether
10 that could have been a single incident with
11 somebody there at detox that said no and then he
12 was never put on a list, if you're saying that he
13 was not on any list. But my understanding would
14 have been at different times I'd heard he was not
15 welcome at detox.

16 Q This is something you sort of heard through the
17 grapevine in the 312 Main Street locker room or
18 something?

19 A No. It would be more when driving the wagon that
20 you're speaking to other wagon drivers or other
21 police-men while you're working, not in the
22 locker room.

23 Q Because we've heard, at least for this period
24 I've talked to you about, 1998, we've heard
25 evidence that there was only of those 48

1 occasions, one single instance where he was a
2 problem and then in short order removed from
3 detox and taken to jail, but 47 other times he
4 did successful stints, sometimes up to it looks
5 like 13 hours, 16 hours, 11 hours and so on in
6 detox and that's in the time period we're talking
7 about here, 1998. You have no knowledge of that,
8 I assume?

9 A No.

10 Q The picture that seems to be emerging, at least
11 to my eyes here, is it was really just luck of
12 the draw for Frank Paul with respect to what
13 Vancouver Police members encountered him in
14 public, and I mean by luck of the draw there were
15 some members that would never take him to detox
16 and others that obviously did. Do you know
17 anything about that?

18 A No.

19 MR. TAMMEN: Those are my questions.

20 THE COMMISSIONER: Re-examination?

21 MR. MARTLAND: None, thank you.

22 THE COMMISSIONER: May this police-officer be excused?

23 MR. MARTLAND: Yes, Mr. Commissioner.

24 THE COMMISSIONER: Thank you, Mr. Peterson, you may step down
25 and you're excused. Anything further today, Mr.

1 Martland?

2 (WITNESS EXCUSED)

3 MR. MARTLAND: Nothing further today, Mr. Commissioner.

4 THE COMMISSIONER: We'll adjourn then until 9:30 tomorrow
5 morning.

6 MR. MARTLAND: That's right.

7 THE REGISTRAR: This hearing is now adjourned until 9:30
8 tomorrow morning.

9 (PROCEEDINGS ADJOURNED AT 4:08 P.M.)

10

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

15

16

17 Margaret M. Wills

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