



1 associate Commission counsel.

2 You and I met briefly just now before your  
3 testimony?

4 A That's correct.

5 Q You're currently a sergeant with the Vancouver  
6 Police in the forensic identification unit?

7 A Yes, I am.

8 Q In December of 1998 I take if you recall also a  
9 sergeant. What capacity did you serve in at that  
10 point?

11 A I was assigned patrol at the time.

12 Q What part of town? Is that done by district?

13 A District 2.

14 Q That includes the Downtown Eastside essentially?

15 A That's correct.

16 Q What role did you have in that position in terms  
17 of supervising other officers and junior  
18 officers?

19 A I had a squad of personnel and it was Squad 29.  
20 I also had general responsibilities to other  
21 squads that would be out there, although each one  
22 of them also had their own supervisor.

23 MR. MARTLAND: On December 5th of 1998 -- and I propose to  
24 lead, Mr. Commissioner, to some extent, unless  
25 counsel take issue, with at least part of this.

1 THE COMMISSIONER: Please do so.

2 MR. MARTLAND:

3 Q I understand that at 8:00 p.m. that evening you  
4 attend a fight call at the Cobalt Hotel at 917  
5 Main Street in Vancouver?

6 A That is correct, yes.

7 Q You are there along with other police members?

8 A Yes, I was.

9 Q Who were the other members?

10 A It was Constable Candace Murray who was assigned  
11 to the call and Constable Jim English attended.

12 Q All right. Those two are both patrol constables?

13 A I believe Constable English was with the  
14 waterfront squad at that time.

15 Q Was there a wagon driver, Constable Instant,  
16 there as well?

17 A At the end of the call, yes.

18 Q Can you describe what occurs in the course of  
19 that call?

20 A Constable Murray was assigned as a one-person  
21 member to a fight involving four individuals at  
22 the Cobalt Hotel. There was no one else  
23 available so I attended to cover her, as did  
24 Constable English. We found one individual who  
25 had been cut by glass, appeared to be assaulted.

1 This individual required medical attention so we  
2 called for the ambulance. The other three were  
3 quite intoxicated and belligerent. The one  
4 individual I dealt with was found to have an  
5 outstanding warrant so I took specific custody of  
6 that individual, and at that point we called for  
7 the wagon although we were waiting for the  
8 ambulance to attend regarding the individual that  
9 was hurt.

10 Q So the individual you deal with, you ascertain  
11 there's a warrant. Do you do that by running his  
12 name on either the radio or a police computer?

13 A On the radio, yes.

14 Q And can you say what occurs with the other two  
15 individuals who are there? One goes to hospital,  
16 one is the chap you've dealt with on the warrant.

17 A Due to their level of intoxication and lack of  
18 co-operation it was difficult to establish  
19 exactly what had occurred in the room so it was  
20 determined that while we were investigating what  
21 appeared to be an assault we would take all three  
22 into custody.

23 Q And you say "in the room". I take it the room is  
24 not on the ground level?

25 A No, it was not.

1 Q Who is it that is up in the room as opposed to  
2 back down at the ground level among  
3 police-officers?

4 A The three individuals including myself that I  
5 initially described, Constable Murray and  
6 Constable English.

7 Q What occurs then at that point?

8 A Once the ambulance attended we removed the three  
9 other individuals down to the front of the Cobalt  
10 where Constable Instant was awaiting with the  
11 wagon.

12 Q What happens?

13 A I specifically dealt with the party from  
14 Abbotsford. There's documentation that goes with  
15 that. I completed that documentation and put him  
16 in the wagon. The other two were put in other  
17 compartments.

18 Q Do you remember any people being moved within the  
19 wagon from one compartment to the other?

20 A No, I do not.

21 Q Did you know Frank Paul?

22 A Yes, I did.

23 Q How did you know Mr. Paul?

24 A At the end of October I had just concluded a year  
25 of duty as the jail NCO and he was what we often

1 described as a regular customer.

2 Q How was he a regular customer?

3 A He was often brought in for being in a state of  
4 intoxication in a public place.

5 Q Was he brought in to your recollection on  
6 criminal charges or other sorts of arrests or do  
7 you have a memory always on a Hold/SIPP?

8 A I don't recall any other reason. Hold/SIPP would  
9 be majority, if not all.

10 Q I take it then he would be housed at the drunk  
11 tank and released as opposed to being held on a  
12 remand basis or otherwise?

13 A That's right.

14 Q Can you describe in the course of that dealing  
15 with Mr. Paul his appearance? Is there anything  
16 you can say about what you saw when you saw him?

17 A He was clearly suffering from a number of ongoing  
18 health issues. I guess one might describe him as  
19 a chronic alcoholic, and the issues always were  
20 around those type of concerns.

21 Q Was he known to you then as a chronic alcoholic?

22 A That requires some level of speculation but  
23 casually I would say yes.

24 Q And what can you say about how he moved around?

25 A He was slow to move, but other than that, it

1 depended on his level intoxication.

2 Q Could he walk generally?

3 A Yes, he could.

4 Q Now, you knew Mr. Paul. Did you see Frank Paul  
5 on December 5, 1998 at the Cobalt?

6 A No, I did not check.

7 Q Apart from these folks you dealt with at the  
8 Cobalt, did you see any of the individuals,  
9 anyone in the wagon?

10 A Not that I recall.

11 Q Do you recall any discussion that evening about  
12 Frank Paul?

13 A No, I don't.

14 Q Do you recall any discussion among any of the  
15 officers there about what to do with someone in  
16 the wagon or anything about that?

17 A No, I don't.

18 Q Now, I understand that on about June 13 of 1999  
19 you prepared a typed statement and then signed it  
20 and you've had a chance to review that statement  
21 recently?

22 A Yes, I have.

23 MR. MARTLAND: For the benefit of counsel, this is a document  
24 disclosed in the green binder 3 CD at page 63.

25 What I'm passing up that I'll propose in a moment

1 to become an exhibit is that document except I'll  
2 provide copies removing the name of the person  
3 who was dealt with by Sergeant Wood that evening.

4 THE COMMISSIONER: Where is this found?

5 MR. MARTLAND: The binder that is disclosed by way of CD,  
6 electronically, to counsel, Mr. Commissioner.  
7 I'll provide copies.

8 THE COMMISSIONER: All right. Thank you.

9 MR. MARTLAND:

10 Q Sergeant, do you recognize that document?

11 A Yes, I do.

12 Q This is a typewritten report dated June 13, 1999  
13 addressed to Detective Staunton?

14 A That is correct, yes.

15 Q What can you say about how that document came  
16 into being?

17 A I was clearly asked by Detective Staunton to  
18 prepare a report regarding this specific incident  
19 and my dealings that evening.

20 Q Can you say when you were asked for the document?

21 A It would have been shortly before the date of  
22 June 13, 1999.

23 Q This is your signature and you've reviewed this  
24 document?

25 A Yes, I have.

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

2 THE COMMISSIONER: Yes. Exhibit number?

3 THE REGISTRAR: 79.

4 (EXHIBIT 79: Report dated June 13, 1999)

5 MR. MARTLAND:

6 Q Do you recall what Detective Staunton asked you  
7 to address or cover when he requested this of  
8 you?

9 A Unfortunately I don't have the actual questions  
10 he asked me. Clearly he asked me to describe my  
11 dealings regarding the case number indicated on  
12 the report and based on the final sentence there  
13 must have been a question regarding a discussion  
14 involving other individuals.

15 Q And the final sentence:

16 I have no memory of a discussion involving  
17 other individuals in the wagon.

18 A It would have been to address that question.

19 Q I take it then you don't have memory in June of  
20 '99 and you almost certainly don't have one  
21 today?

22 A That's correct.

23 Q Apart from Detective Staunton requesting this and  
24 apart from counsel recently making contact with  
25 you in relation to this inquiry, have you ever

1                   been asked to provide information about this  
2                   incident at the Cobalt Hotel?

3                   A    No, I have not.

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

5                   Now, Mr. Commissioner, in terms of the  
6                   sequence of cross-examination, I am afraid I  
7                   don't have that at hand but I think for these  
8                   relatively straightforward witnesses we can  
9                   following the sequence that was set out for  
10                  witnesses last week.

11   THE COMMISSIONER:   Very well.   Mr. Willms, do you have any  
12                   questions?

13   MR. WILLMS:   No questions.

14   THE COMMISSIONER:   Mr. Crossin isn't here.

15   MR. SHIRREFF:   It's Mr. Shirreff, Mr. Commissioner.   No  
16                   questions.

17   THE COMMISSIONER:   Mr. Hern?

18   MR. HERN:   No questions.

19   THE COMMISSIONER:   Mr. MacKenzie, did you have any questions?

20   MR. MCKENZIE:   No.

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

22   MR. KELLIHER:   Just one, please, Mr. Commissioner.

23   **EXAMINATION BY MR. KELLIHER:**

24                  Q    Sir, did I understand you to say the ambulance  
25                  personnel were on the scene at the Cobalt Hotel

1 at the same time Officer Instant was there with  
2 the wagon?

3 A It would have been very close. Can I say  
4 specifically they sat side by side, no, I can't,  
5 but we were awaiting their arrival because of the  
6 reduced number of police-officers and the number  
7 of people in the room.

8 Q So you wanted the emergency medical personnel to  
9 have a look at some of the Cobalt Hotel people  
10 before they were left in officer Instant's  
11 custody; is that right?

12 A Just the one who appeared to have been the  
13 victim, they were left in the room with him.

14 Q They came and they did have a look at him but  
15 you're not sure if the emergency personnel were  
16 present when Officer Instant arrived with the  
17 wagon; is that correct?

18 A He was downstairs when we went downstairs. They  
19 were in the room when we left the room.

20 Q So Instant and the emergency medical personnel  
21 were at the Cobalt Hotel at the same time?

22 A Approximately the same time is all I can say with  
23 certainty.

24 MR. KELLIHER: Thank you.

25 THE COMMISSIONER: Mr. Ward, any questions?

1 MR. WARD: Yes, thank you, just a few.

2 **EXAMINATION BY MR. WARD:**

3 Q Sergeant Wood, my name is Cameron Ward, counsel  
4 for United Native Nations Society at this  
5 proceedings.

6 You testified you were NCO at the jail for  
7 about a year prior to this event at the Cobalt  
8 occurring; is that correct?

9 A That's correct.

10 Q From about when to when?

11 A It was the end of October I left the jail and I  
12 had been there roughly a year prior to that.

13 Q So fall of '97 to October of '98?

14 A That's correct.

15 Q And Mr. Frank Joseph Paul was a regular customer  
16 of the jail, as you put it?

17 A Yes.

18 Q And was it the case that there were some days or  
19 some times when shortly after his release upon  
20 sobering up, within say two, three hours, he  
21 would be back again at the jail in an intoxicated  
22 jail?

23 A I can't say that regarding him specifically, but  
24 that has occurred with other people with similar  
25 problems, yes.

1 Q In any event, the experience with Mr. Paul in  
2 that regard would be reflected in the jail  
3 records?

4 A It certainly would, yes.

5 Q And if I could just show you by way of example  
6 Exhibit 69, please. Sir, I appreciate that this  
7 record is -- appears to have been created about a  
8 month after you left your job as NCO at the jail.  
9 Do you see the first page, it reveals a booking  
10 date of November 23, 1998?

11 A That's correct, yes.

12 Q Just what I want to ask you about is this: If  
13 you look at this first page, you'll see that Mr.  
14 Paul was booked at 16:05 on November 23rd and  
15 released at 19:34 that evening. Do you see that?

16 A Yes, I do.

17 Q Turning over the page to the second page, he was  
18 booked again at 22:43 and released at 08:00 the  
19 following morning. Do you see that?

20 A Yes, I do.

21 Q I appreciate you can't say for sure without  
22 looking at the records, but based on your  
23 experience with Mr. Paul over the year or so you  
24 dealt with him as a regular customer, would you  
25 expect that this sort of history would have been

1 reflected on some occasions?

2 A Yes, I would.

3 MR. WARD: Thank you. No further questions.

4 THE COMMISSIONER: Mr. Tammen.

5 **EXAMINATION BY MR. TAMMEN:**

6 Q Sir, I just want to follow up on what Mr. Ward  
7 has just been asking you about. You recall  
8 during the approximately one year that you were  
9 one of the jail NCOs you probably admitted Mr.  
10 Frank Paul to your jail conservatively 50 times  
11 or so?

12 A I'm not sure that I would be willing to put a  
13 number. It would be a significant number of  
14 times.

15 Q And you were one of four jail NCOs at that time,  
16 correct?

17 A At any given time, yes.

18 Q We've heard this from various witness that it's a  
19 four-on, four-off shift, and that you're, in  
20 effect, twinning shifts with one other individual  
21 and the jail is covered that way?

22 A That's correct, 12-hour shifts.

23 Q So you would have seen Mr. Paul on numerous  
24 occasions being admitted on your shift for state  
25 of hold, state of intoxication in a public place,

1 correct?

2 A I'm not sure without consulting the records that  
3 I specifically saw him but it would not be  
4 unusual.

5 Q Let me get at this: You would have at times been  
6 the jail NCO when Mr. Paul was brought into the  
7 jail for what's called and -SIPP, correct?

8 A That's correct.

9 Q You would have at other times been the jail NCO  
10 when he was released after having spent some  
11 hours at the jail on an H-SIPP, correct?

12 A That's correct, yes.

13 Q So you had opportunity to observe the way he was  
14 when he came in and was admitted H-SIPP and when  
15 he was released H-SIPP, correct?

16 A That's correct.

17 Q You knew when he came in and was admitted H-SIPP  
18 he usually was exhibiting pretty extreme signs of  
19 intoxication, correct?

20 A That's correct.

21 Q Had some mobility problems?

22 A Again, with the passage of time, I know he was a  
23 slow mover. As to how specifically he had  
24 problems with mobility, I would hesitate to say  
25 at this time.

1 Q Okay. When he was brought in on your shift  
2 H-SIPP, you generally did what I would submit is  
3 a quick assessment to determine that yes, it's  
4 Frank Paul and yes, he appears to be drunk,  
5 correct?

6 A That's correct, yes.

7 Q You deferred to some extent to the arresting  
8 members who were obviously of the opinion that he  
9 was grossly intoxicated, correct?

10 A There's a report that comes with them. We would  
11 certainly want him to meet the criteria of being  
12 drunk before we held him for that reason.

13 Q That is, being so drunk that he was incapable of  
14 caring for himself, correct?

15 A That is correct.

16 Q And that is the only reason that any members of  
17 your department should have arrested him on an  
18 H-SIPP, correct?

19 A That's correct, yes.

20 Q They would submit a report, you'd look at that,  
21 you'd look at Frank Paul and you'd say it seems  
22 to meet those criteria and admit him to the jail?

23 A That's correct.

24 Q And then and other members of the jail staff  
25 would do periodic assessments of him and every

1 other H-SIPP inmate over the next several hours  
2 to determine when they were sufficiently sober  
3 that they could be released; is that correct?

4 A That's correct, yes.

5 Q By "sufficiently sober" we mean sufficiently able  
6 to care for themselves, correct?

7 A Correct.

8 Q So that requires some what doctors call  
9 differential diagnosis, correct? You have to see  
10 how they are when they come in incapable of  
11 caring for themselves and when you release them,  
12 correct?

13 A That's right.

14 Q And the standard is on one hand we put them in  
15 the drunk tank when they're incapable of caring  
16 for themselves, we do an assessment and when we  
17 determine they are capable of caring for  
18 themselves then they are released, correct?

19 A Generally speaking, and again, this is a very  
20 general rule, four hours was our general  
21 criteria. Depending on how much they had on  
22 board, it could be a little longer or a little  
23 shorter, but our concern was at what point could  
24 they care for themselves and then they were  
25 released.

- 1 Q And I think we've seen that in this case, both in  
2 the context of the city cell's drunk tank and the  
3 detox sobering centre, just the records for Mr.  
4 Paul, sometimes his stay is as short as four  
5 hours, sometimes in detox it's as long it's as  
6 eight and it's variable, correct?
- 7 A There may be evenings where it's snowing, for  
8 example, and we're quite quiet and some  
9 individuals we just let sleep for the night. But  
10 that would almost become voluntary on their part  
11 at that time, but generally speaking it would be  
12 plus or minus four hours.
- 13 Q But if you made a determination that you'd let  
14 someone sleep for the night, that would be your  
15 assessment, your discretion as the jail NCO, that  
16 this person was quite drunk, the weather  
17 conditions weren't great, and even though you  
18 could technically say that person was capable of  
19 caring for himself you'd go to the person and  
20 say, look, you're settled in, why don't you sleep  
21 it off and we'll let you go in the morning?
- 22 A It's always quite subjective.
- 23 Q You're doing the person, in effect, a good turn?
- 24 A Yes. Uh-huh.
- 25 Q That was within part of your limited discretion

1 as jail NCO?

2 A Probably not but it was one that one could take.

3 Q You wouldn't have any worries about repercussions  
4 from your superior if you let someone that was  
5 grossly intoxicated sleep all night and sleep off  
6 a bad bender in inclement weather conditions in  
7 your jail, correct?

8 A Sometimes you would get complaints from the  
9 nursing staff. Of course they had a medical  
10 concern, especially with chronic alcoholics, that  
11 they go into DTs, so they would sometimes harp  
12 about it but at the end of the day it was the  
13 jail NCOs's discretion.

14 Q And you did that from time to time in your tenure  
15 as jail NCO, correct?

16 A Rarely but I did, yes.

17 Q And never ran afoul of anyone higher than you in  
18 the VPD hierarchy as a result of those decisions?

19 A No, I did not.

20 MR. TAMMEN: Those are my questions. Thank you.

21 THE COMMISSIONER: Mr. Martland, anything further?

22 MR. MARTLAND: Nothing further. The witness may be excused.

23 THE COMMISSIONER: Thank you, sergeant. You're excused.

24 **(WITNESS EXCUSED)**

25 MR. MARTLAND: Mr. Commissioner, the next witness is former

1 Constable Porter. If I might request the  
2 sheriffs ask for Mr. Porter, please.

3 **BRIAN WILLIAM PORTER: Sworn**

4 THE REGISTRAR: Could state your full name, please.

5 A Brian William Porter.

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

7 **EXAMINATION BY MR. MARLAND:**

8 Q Mr. Porter, first of all, what work, if any, do  
9 you do now?

10 A I currently operate an apple orchard.

11 Q In the Interior of the province?

12 A Yes.

13 Q I take it you made that career change after  
14 having served with the Vancouver Police for some  
15 time?

16 A It was, in effect, a return. I went from running  
17 380 acres of apples to being a police-officer to  
18 going back to helping my brother run 30 acres, so  
19 we've downsized.

20 Q In terms of your career with the police, was that  
21 entirely with the Vancouver Police?

22 A It was.

23 Q When were you doing that work?

24 A From May 3rd, I believe 3rd, or 6th of '71 and  
25 then I think my retirement was some time in

1                   September of '99 but I was off sick for about ten  
2                   months. I became ill during some tactical  
3                   retraining shortly after this incident and was  
4                   off and then decided that it wasn't -- there was  
5                   not that much benefit in remaining with the  
6                   force. I was 58 at that point in time so I took  
7                   my pension and retired.

8                   Q    You refer to "this incident" and I take it you're  
9                   referring to an incident in December of 1998,  
10                  specifically December 4 of 1998?

11                  A    Yes, I am.

12                  Q    At that point in time you're working as a wagon  
13                  driver?

14                  A    I was working as a police officer. My main  
15                  purpose was driving the wagon, yes.

16                  Q    Can you describe, if you might just briefly, in  
17                  the period from 1971 through to 1998, I take it  
18                  you hold a number of different jobs and  
19                  responsibilities with the force?

20                  A    I did, yes.

21                  Q    And what did you do?

22                  A    Uhm, after my initial training I walked the skid  
23                  row, what's colloquially called skid row in the  
24                  Hastings, Gastown, Chinatown area. Then I spent  
25                  five and a half years riding motorcycles in

1 traffic enforcement; then about another four  
2 years I worked in Patrol South; then I went six  
3 years I worked in the hit and run investigation  
4 squad; then I went back to Patrol South. In that  
5 period -- in the early '90s or mid '90s I decided  
6 that driving the wagon was my forte so I --  
7 that's what I did.

8 Q My understanding, and tell me if I have this  
9 right, quite often the wagon driver on the force  
10 tends to be a more junior officer. I take it you  
11 were different by being a more senior officer  
12 doing that job?

13 A I wouldn't say it was different because several  
14 of my contemporaries of that age took -- we  
15 worked predominantly a day-shift job and that was  
16 one of the perks, as you would, of going to that  
17 day shift. They needed a wagon driver on that  
18 shift. They were more senior shifts anyway,  
19 straight day shift -- if you can call it day  
20 shift. You have to get up at 3:30 in the morning  
21 to start work at quarter 5:00.

22 Q 12-hour shifts?

23 A 10s, four 10s.

24 Q First of all, did you know Frank Paul?

25 A I did.

1 Q How did you know Mr. Paul?

2 A I had frequent meetings with him over the -- over  
3 the time that I worked in South-West.

4 Q And what sort of -- when you say "meetings" what  
5 sort of dealings did you have with him?

6 A I was called to escort him to either detox or  
7 jail.

8 Q And at a general level in late 1998 can you say  
9 anything about his appearance?

10 A His -- in late 1998 his -- he was always  
11 disheveled, quite often quite dirty. His -- I  
12 think his health may have been failing because he  
13 had -- I mean, he had scars on his legs, open  
14 sores and that. I don't know where you -- what  
15 you want. I mean --

16 Q Let me ask you this: Do you have any  
17 recollection of how he could move around or  
18 whether he could move around?

19 A He was -- he was having difficulty walking, I'd  
20 say a fair amount of difficulty walking, because  
21 he -- when you saw him walking, generally  
22 speaking, he was not -- well, it's almost  
23 staggered but he shuffled along, yes.

24 Q When you typically saw him was that usually in  
25 the course of attending at a scene to process

1                   him, if you will, to pick him up for being drunk  
2                   in public?

3           A    He was somewhat of a fixture in an area bounded  
4                   basically by Burrard, Broadway, MacDonald and 4th  
5                   Avenue, so I would see him quite often.  
6                   Sometimes it was because I was called, because he  
7                   was -- there was something that had drawn the  
8                   attention or people requested attendance of the  
9                   police or fire had called or ambulance.  
10                  Sometimes we'd just see him on the street.  
11                  Sometimes he'd just be sitting on a bench along  
12                  the side of the road.

13          Q    That area you described, Broadway -- let me see  
14                   if I can do this properly -- Broadway on the  
15                   south, 4th on the north, MacDonald to the west,  
16                   Burrard to the east, is that the quadrant roughly  
17                   where he'd be seen?

18          A    Roughly, yes.

19          Q    That includes the intersection of Broadway and  
20                   Arbutus?

21          A    Yes.

22          Q    That would include the liquor store at Maple and  
23                   Broadway; is that right?

24          A    The liquor store and the 7/Eleven.

25          Q    Do you know if he had a residence in that area?

1           A    I don't think he had a home.  In some of his,  
2                    shall we say, more lucid moments when I would  
3                    talk to him I would ask him -- I actually  
4                    suggested to him one time he should have a home  
5                    because, as I said, over the last six months  
6                    there it appeared that his health may have been  
7                    deteriorating.

8           Q    I take it from that question suggesting that he  
9                    should have had a home, your understanding was he  
10                    didn't?

11          A    To the best of my knowledge he didn't.

12          Q    And when you would pick him up and take him  
13                    either to the jail or the detox centre -- do I  
14                    have that right?

15          A    Yes.

16          Q    Would you ever take him to a residence or did he  
17                    ever ask to go to a residence?

18          A    I can't -- no, he never asked to go to a  
19                    residence and I don't ever recall taking him to a  
20                    residence.

21          Q    Now, if we can kind of frame this as the latter  
22                    half or the latter part of 1998, and in  
23                    particular, can you describe how it was you took  
24                    Mr. Paul to the detox centre?  Why would you take  
25                    him there?

1           A    Because he was in -- appeared to be in a state of  
2                    intoxication.

3           Q    At that point in time at a general level, when  
4                    you had to make a decision whether to take a very  
5                    drunk person to detox as opposed to the city  
6                    jail, how would you make that decision?

7           A    Well, I took him to detox first and gave them the  
8                    option whether they would accept him or not.

9           Q    So with Mr. Paul you tried detox first?

10          A    Yes.

11          Q    Do you recall if they would say no sometimes?

12          A    I have a vague recollection of one point where  
13                   they refused to take him and I think the reason  
14                   was he had been there within a matter of a few  
15                   hours previous to that.

16          Q    As a wagon driver were you ever provide with a  
17                   list of people that were banned from the detox  
18                   centre?

19          A    Not to my recollection.

20          Q    Did you know that there was certain people that  
21                   couldn't go there?

22          A    Well, I never -- no, I never saw a list or --  
23                   yes, I heard rumours of a list but I never saw  
24                   one, no, and I was never provided with a list of  
25                   banned people.

1 Q The detox centre you're referring to is roughly  
2 Scotia and East 1st or East 2nd Avenue in  
3 Vancouver?

4 A 250 East 2nd, I believe it was. I think it was.

5 Q Dealing specifically with December 4th of 1998, I  
6 take it before today you've had a chance to look  
7 over a printout of a police incident 98-284300

8 A Yes.

9 Q If I might simply provide these --

10 A I think --

11 Q Perhaps the witness could be shown this copy just  
12 to verify it's the same.

13 A Thank you.

14 Q Mr. Porter, just to move quickly through this  
15 document, this is a computer-generated report  
16 that describes this particular police incident  
17 number?

18 A Yes.

19 Q And you were the officer involved on this  
20 call-out I understand?

21 A Yes.

22 Q The date is December 4th of 1998. It take it  
23 from this if we look at the second line there's a  
24 dispatch call-out at 10:34, shortly, indeed,  
25 immediately, there's a unit that's en route and

1 scene at 10:54 -- I take it that's a.m., it's a  
2 24-hour clock?

3 A Yes, yes.

4 Q A few lines down it's shown as a wagon call,  
5 disposition being a party taken to detox and the  
6 location is 2979 West Broadway in Vancouver.  
7 That's the intersection of Broadway and  
8 Bayswater?

9 A Yes. That would be the intersection -- well,  
10 ostensibly that would be the location, otherwise  
11 it would be given a number, I suppose, or the  
12 nearest address to it.

13 Q Just to situate that on the west side, that would  
14 be about eight or nine blocks to the west of  
15 Maple, Maple being one to the east of Arbutus? I  
16 don't mean to test your geography.

17 A Maple cuts the 1900, 2000, I believe, so  
18 approximately. It would be just a block west of  
19 MacDonald.

20 Q If you can tell me Maple cuts 1900, 2000 I think  
21 you've just won the quiz.

22 A Okay.

23 Q If we look at the bottom part of the information  
24 here, I'm going to suggest what it describes is  
25 that at 10:34 there's a fire truck, I suppose,

1 standing by outside with an intoxicated male at  
2 this address, a few lines down you or the wagon  
3 driver attending, District 4, 297 Porter --  
4 that's you?

5 A That would be me.

6 Q A few lines down, changing location, it appears  
7 to be a mistaken entry. Instead of 2079 West  
8 Broadway it's 2979 West Broadway is that what  
9 that tells us? You may not know.

10 A It could be. I've been trying to rack my brain  
11 to try and figure out what that was. The nearest  
12 I could figure is the Starbucks on the south-west  
13 corner of whatever that intersection was. I  
14 can't remember whether it was Broadway and Trutch  
15 or -- I run out of trees when I get down there.

16 Q So does the city. The next entry I'm going to  
17 suggest tells us in approximate terms that it's  
18 about 10 or 11 minutes from leaving this location  
19 on West Broadway to arriving at detox?

20 A That would be reasonable, yes.

21 Q So Mr. Paul is taken from this location on West  
22 Broadway to the detox centre by you, midday,  
23 December 4th, 1998?

24 A That would be correct.

25 Q And admitted at detox?

1           A    Yes.

2   MR. MARTLAND:  I'd ask this document become the next exhibit,  
3                    please.

4   THE COMMISSIONER:  Yes.  Exhibit number?

5   THE REGISTRAR:  80.

6                    **(EXHIBIT 80:  Police Incident Report 98-284300**  
7                    **dated June 14, 1999)**

8   MR. MARTLAND:  Mr. Porter, I have no further questions.  Other  
9                    counsel will have questions.

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

11   MR. WILLMS:  No, thank you.

12   THE COMMISSIONER:  Mr. Shirreff?

13   MR. SHIRREFF:  Just a couple.

14   **EXAMINATION BY MR. SHIRREFF:**

15           Q    Mr. Porter, my name is Mike Shirreff.  I'm  
16                    counsel for Constable Instant.  Just a couple of  
17                    quick questions.

18                    When you were the wagon driver and you would  
19                    pull up on scene to a call of a SIPP, the  
20                    arresting officers would fill out a form, a Jail  
21                    8, if the individual was to be taken to jail,  
22                    correct?

23           A    Yes -- well, the arresting officers or the wagon  
24                    driver.

25           Q    So you recall occasions when the wagon driver

1                   would fill out the Jail 8?

2                   A    That would be the case in this, because I was  
3                   arresting the officer.

4                   Q    But if you weren't the arresting officer, if you  
5                   were just driving the wagon, the arresting  
6                   officer would be the one responsible for filling  
7                   out the Jail 8, correct?

8                   A    I don't think that always happened, but yes, it  
9                   would be -- they would be the ones that would  
10                  provide the particulars, I suppose.

11                  Q    Alternatively, they could also fill out a detox  
12                  form if the individual was to be taken to detox,  
13                  correct?

14                  A    Yes. Just let me check that. I believe it's not  
15                  the same form.

16                  Q    They were different forms?

17                  A    They were different forms.

18                  Q    And it was up to the arresting officer to decide  
19                  which form was appropriate and which location was  
20                  appropriate for the individual being detained?

21                  A    Okay.

22    THE COMMISSIONER: You're agreeing with that?

23    MR. SHIRREFF:

24                  Q    Is that correct?

25                  A    Well, I'm looking at -- Mr. Commissioner, I'm

1 looking at the one that I filled out that day, a  
2 copy of it, and I cannot recall whether there was  
3 a different -- I mean, this says Vancouver Police  
4 Department Hold/SIPP Report.

5 THE COMMISSIONER: You think you were there by yourself?

6 A I was there -- the fire department was standing  
7 by and I called -- I attended and they assisted  
8 me.

9 THE COMMISSIONER: I see.

10 MR. SHIRREFF:

11 Q I was just dealing with situations in which you  
12 would attend and there would be other arresting  
13 officers on the scene?

14 A I just -- but I can't recall a different form.  
15 I'm sorry.

16 MR. SHIRREFF: Okay. Those are my questions. Thanks.

17 THE COMMISSIONER: Just so I understand your evidence  
18 correctly, in response to Mr. Shirreff's  
19 questions I understood you to say if you attended  
20 and there were arresting officers there who had  
21 assisted someone on an H-SIPP and had called you  
22 for assistance with the wagon, you would normally  
23 look to the arresting officers to tell you  
24 whether he was arrested on a Jail 8 and was to be  
25 taken to jail or to be taken to detox or did you

1 make that determination?

2 A In many cases because of my seniority I assumed  
3 the responsibility of determining where to go,  
4 and my normal practice would be to take them --  
5 unless they showed overt signs of violent  
6 behaviour, I would take them to detox.

7 THE COMMISSIONER: I see. So ordinarily you would be the one  
8 that made the decision, or could the arresting  
9 officers make the decision and you would have  
10 stood by that?

11 A I suppose if the arresting officers made that  
12 decision and were very firm in their conviction  
13 about it then I would have stood behind them,  
14 yes.

15 THE COMMISSIONER: But recognizing your seniority, often they  
16 would give you that discretion?

17 A That's correct, Mr. Commissioner, and of course  
18 many times it would either be fire or ambulance  
19 and I would be the arresting officer anyway.

20 THE COMMISSIONER: I understand. Mr. Hern, did you have any  
21 questions?

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

23 THE COMMISSIONER: Mr. MacKenzie?

24 MR. MCKENZIE: No thank you Mr. Commissioner.

25 THE COMMISSIONER: Mr. Kelliher?

1 MR. KELLIHER: Just a few please, sir.

2 MR. KELLIHER:

3 Q Now, you had some 27 or 28 --

4 THE COMMISSIONER: Could you turn on the mic.

5 MR. KELLIHER: I'm sorry.

6 **EXAMINATION BY MR. KELLIHER:**

7 Q You had some 27 or 28 years experience by the  
8 time you were dealing with Mr. Paul in 1998; is  
9 that approximately right?

10 A That's correct, yes.

11 Q Now, sir, I'm going to ask you what in your  
12 experience the options would be for a driver who  
13 was to encounter Mr. Paul the following night in  
14 circumstances where two experienced  
15 police-officers were to characterize him as an  
16 H/SIPP situation and suggested that he could be  
17 taken to jail, that the driver did exactly that;  
18 that Mr. Paul had to be loaded by three officers  
19 into the wagon and dragged by the wagon driver  
20 out of the wagon, across the bay, into the  
21 elevator, up stairs and then the sergeant were to  
22 say he's not drunk and to breach him, what, sir,  
23 would that wagon driver's options be?

24 A It's very difficult. I mean, if he's been given  
25 an order per se, then being that junior, I don't

1 think he would have much option but to obey.

2 Q Let's say it wasn't an order but the junior  
3 officer regarded it as a direction -- a direction  
4 but not an order?

5 A When a superior officer gives you any direction  
6 it's considered an order.

7 Q So the answer then is -- is it then, sir, that  
8 that junior officer on being given the direction  
9 that the individual in this case, Frank Paul, was  
10 to be breached at Maple and Broadway, that that  
11 officer -- we know what we're talking about here  
12 is a junior officer -- would have no alternative  
13 in your mind but to breach Frank Paul, that is to  
14 say, drag him out of the wagon and leave him  
15 somewhere on the corner of Maple and Broadway at  
16 that time of night still in a circumstance where  
17 he had to be dragged and apparently at the time  
18 was incapable of caring for himself?

19 A I am afraid I can't give you a direct answer  
20 because it's pure speculation.

21 Q I'd settle for an indirect one. What are the  
22 options, sir? What options would you see as  
23 possible in those circumstances?

24 A You know, it was very difficult -- I have taken  
25 Mr. Paul down to the Lookout and I brought the

1 staff out prepared to accept him and I have  
2 opened the back door of the wagon and said --  
3 told him what was happening and he came down the  
4 steps and ran like a bugger -- sorry -- he went  
5 down the street in a rapid fashion. He did not  
6 want any part of that care. So it was just one  
7 of those indications where we were -- we couldn't  
8 do much more to help.

9 Q Would a shelter have been a possibility in a  
10 circumstance that I'm describing?

11 A But that was what I was talking about exactly,  
12 that was the option.

13 Q Were there shelters available for homeless people  
14 in Vancouver on December 4th and 5th of 1998?

15 A I can't say with absolute certainty. I knew  
16 where Lookout was. I can't say on that date that  
17 it was still there but --

18 Q What was Lookout?

19 A Lookout was a place where homeless individuals  
20 could go and, I guess, get a warm mat to sleep on  
21 or bed. It was down about -- where was it -- 300  
22 Alexander.

23 Q Were there other homeless shelters available in  
24 Vancouver? We've heard reference to The Haven or  
25 Haven. Did you ever hear of that?

1 A No. Hava?

2 Q Haven.

3 A No, unless you're referring to the Salvation Army  
4 on Cordova Street.

5 Q Was that a homeless shelter going by the name of  
6 Haven?

7 A I really don't know, but my understanding is they  
8 assisted people who wished to recover or to get  
9 away from alcoholism, but not a stop gap, a  
10 drying out, like detox was.

11 Q Was the existence of at least one homeless  
12 shelter in the City of Victoria in the winter of  
13 1998, was that known in the police force as far  
14 as you're aware?

15 THE COMMISSIONER: You said Victoria, did you mean Vancouver?  
16 You're going home, Mr. Kelliher.

17 MR. KELLIHER:

18 Q Sorry. Vancouver?

19 A As I said to you, I had not been down there that  
20 day so I don't know if it was open that day, if  
21 it was available. It had been previous that I  
22 had dealings down there.

23 Q Right. You as a wagon driver had taken people  
24 there on occasion from time to time?

25 A Yes.

1 Q And it would be a commonplace for wagon drivers  
2 to do exactly that?

3 A No.

4 Q Why?

5 A I wouldn't say that. You know, if you arrested a  
6 person for Hold/SIPP, the first place you would  
7 take them would be detox and if there was some  
8 reason they felt they couldn't deal with them and  
9 the incarceration was to continue, then they  
10 would go to jail.

11 Q All right. Under what circumstances would you  
12 take a person to a shelter?

13 A I believe when I tried that it was a lovely day,  
14 as it is out there today, and it was more of a --  
15 take him somewhere because he's being a bit of a  
16 problem at the time and, you know, I thought  
17 let's try this, let's see if we can help  
18 somewhere this way.

19 MR. KELLIHER: Thank you for your answers, officer.

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

21 MR. WARD: Yes, just a few Mr. Commissioner.

22 **EXAMINATION BY MR. WARD:**

23 Q Mr. Porter, my name is Cameron Ward, counsel for  
24 United Native Nations Society.

25 It sounds from your evidence as though you

1           spent some time with Mr. Paul and had some  
2           conversations with him while he was lucid; is  
3           that right?

4           A    That would be correct, yes.

5           Q    Were you able through those conversations to  
6           learn something of him and his circumstances, how  
7           he came to find himself in Vancouver, where he  
8           was from originally, those sorts of things?

9           A    No. I can't remember whether it was from him or  
10          from other sources that I was given to understand  
11          that he had originally come from New Brunswick.

12          Q    I guess what I'm asking you is whether during the  
13          course of your discussions with him he ever  
14          indicated to you any desire to return to his  
15          original home in the east?

16          A    I asked him if he would like to go back and he  
17          said no.

18          Q    Did you know him to be someone who drank rice  
19          wine when he could get it?

20          A    No, I didn't. I can't say I ever saw him -- very  
21          seldom did I actually see him with liquor. I can  
22          remember wine and I believe a mickey of whisky at  
23          one point, but other than that, I never actually  
24          saw him consuming or he never had it with him.

25          Q    Would you be able to comment based on your

1 observations of him and your dealings with him  
2 whether if he had the means he could become  
3 intoxicated very quickly?

4 A Mr. Commissioner, that's a problem. Anyone that  
5 has means can becomes intoxicated very quickly  
6 so, I mean, I don't see why he would have been  
7 any different.

8 Q All right. What I was seeking was whether you  
9 could recall any specific example of, for  
10 example, seeing him at one point and then seeing  
11 him perhaps an hour or so later where he was in a  
12 completely different state of sobriety.

13 A Oh, I can't say directly.

14 Q Did he ever in his discussions with you say  
15 anything about the way he was being dealt with by  
16 the police department generally? Did he comment  
17 on that?

18 A No, not that I recall, no.

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

20 THE COMMISSIONER: Any questions, Mr. Tammien?

21 MR. TAMMEN: Just one, please.

22 Q After three decades away from it, how are you  
23 finding the orchard business?

24 A There's still no money in it.

25 Q Well, good luck.



1                   opportunity to see what transpires tomorrow.

2 MR. MARTLAND: That's quite right, and transcripts once  
3                   available will be on the website as well.

4 THE COMMISSIONER: Very well.

5 MR. MARTLAND: The other point, if I may, is we are set to  
6                   start at 1:30 with perhaps a short window of time  
7                   to hear the evidence of Dr. Ferris, and if I  
8                   might simply suggest to both the Commission and  
9                   all counsel to have a look at Dr. Ferris's  
10                  opinion letter addressed to Dana Urban. It's at  
11                  tab 26 of binder 1. For my part in terms of  
12                  leading his evidence, I plan to essentially take  
13                  him to highlight of that but to try and move at a  
14                  fairly good clip if we're able to do that.

15 THE COMMISSIONER: Yes. I understand his time is limited and  
16                  there's a timing problem because he's in New  
17                  Zealand.

18 MR. COWPER: He's in New Zealand and he's flying in in order  
19                  to do this.

20 THE COMMISSIONER: And flying out again. So counsel will bear  
21                  that in mind tomorrow I hope. Is there anything  
22                  further? Counsel should be there a few minutes  
23                  before 1:30 to be in place so we are ready to go  
24                  promptly at 1:30.

25 THE REGISTRAR: Mr. Commissioner, the document at tab 26 was

1                   marked for identification as item G for  
2                   identification.

3 MR. MARTLAND:   That's correct.   Thank you.

4 THE COMMISSIONER:   Thank you.   We'll adjourn then until  
5                   tomorrow.

6 THE REGISTRAR:   This hearing is adjourned until 1:30 tomorrow.

7                   (PROCEEDINGS ADJOURNED AT 3:10 P.M.)

8

9

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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