

Vancouver, BC

February 26, 2008

(PROCEEDINGS RECONVENED AT 9:35 A.M.)

THE REGISTRAR: Order. This hearing is now resumed.

THE COMMISSIONER: Mr. Martland.

MR. MARTLAND: Mr. Commissioner, before we begin I want to introduce a new counsel who is joining us today and appearing with United Native Nations. Lobat Sadrehashemi is joining Mr. Eby on behalf of United Native Nations assisting today.

THE COMMISSIONER: I see. Welcome.

MR. MARTLAND: Our first witness is Constable Brett Hallgren from Vancouver City Police.

BRETT HALLGREN: Sworn

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

A It's Brett Robert Hallgren, H-A-L-L-G-R-E-N.

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

EXAMINATION BY MR. MARTLAND:

1 Q Constable, my name is Brock Martland, I'm associate Commission counsel. We've met before and had a chance this morning to discuss your evidence today. Could you please describe -- I take it you're with the VPD's Forensic Video Analysis Unit?

A That's correct.

1 2 Q Could you describe the work you do in that
2 capacity, please?

3 A Primarily, the receipt of numerous types and
4 formats of video that may have relevant
5 information to an investigation of a crime and
6 that's all processed by my office.

7 3 Q What sorts of things would you be doing as a video
8 is presented to you or obtained by you?

9 A It all depends on the kind of video received.
10 Still images are the very basic, video sequencing
11 and enhancement work. Anything that could be
12 requested during the course of the investigation
13 that makes it easier for the actual viewing of the
14 video.

15 4 Q I presume quite often the video that you're
16 working with ends up as evidence in a trial where
17 charges are laid?

18 A That's correct.

19 5 Q And the video media that you're working with would
20 include video from any number of different
21 cameras. In other words, it might be a business
22 that has a surveillance camera out front, it might
23 be an institutional video camera?

24 A That is correct. All different types.

25 6 Q In terms of your background with Vancouver Police,

1 how long have you been with the forensic video
2 unit?

3 A Since mid 1999.

4 7 Q Have you had any involvement -- before recently
5 being contacted, had you had any involvement in
6 the Frank Paul matter?

7 A Before the last week, yes.

8 8 Q Before the last week had you had involvement?

9 A Yes.

10 9 Q What involvement was that?

11 A That was just preparing some video sequences from
12 the original tape in regards to this matter.

13 10 Q That's in the last week, if I have you correct?

14 A No. That was previous, 2006, somewhere
15 thereabouts.

16 11 Q Okay. In terms of involvement at the time, if I
17 can use that terminology, in other words, 1998,
18 1999, did you have any involvement at that point?

19 A No.

20 12 Q What can you tell us about -- we've seen video in
21 court and Mr. Hern, I understand, has played for
22 you some video and we've been referring to that as
23 the jail video. What can you tell the
24 Commissioner about the jail video and what that
25 shows us?

1 A The jail video, Mr. Commissioner, is an analog
2 recording to VHS tape, the old style of recordings
3 we used to do back in 1999. Of course today
4 everything is moving over to digital. It's a
5 recording of ten cameras on this system to one VHS
6 tape in time lapse mode, 24-hour time lapse mode,
7 meaning that it's going to record for 24 hours on
8 one tape and then the tape is removed and replaced
9 for the next day. It's a one-day recording. The
10 time lapse means that it's going to record over an
11 extended period of time but it won't record the
12 same number of images perhaps that you would
13 record on a VCR at home which is realtime. It
14 limits the number of images that are recorded over
15 that period of time and shares the number recorded
16 given the number of cameras that are on the
17 system. So you're not going to get the same
18 number of images that you would in realtime. It's
19 a common type of system in the day.

20 13 Q Constable, you have prepared and brought with you
21 today, and I've provided copies to counsel, we
22 have perhaps not that great a photocopy of it but
23 I think it will assist us on this point. Do you
24 have with you a photographic print showing ten
25 different images from Vancouver jail?

1 A That is correct.

2 14 Q I'll just provide copies. Can you describe, sir,
3 what that shows?

4 A This is just a printout that I actually made this
5 morning from the output from a multi-plexer which
6 is a device that was used on this system which
7 just means that it allows us to look at one in
8 particular camera. A system of 16 cameras, for
9 instance, that's why you see 16 total channels on
10 here. The jail system on that date only had ten
11 cameras on it. I've just told the multi-plexer
12 that I want to view the ten cameras at one time
13 and I've put one screen shot of all those ten
14 cameras showing at one time, just to give you an
15 idea of the cameras on the system. That's all
16 this is.

17 15 Q I may not have a clear understanding. Is the
18 multi-plexer, that's the name, if you will, for
19 the device that allows you to look at the video
20 tape, the VHS tape, but in different ways. Is
21 that a fair description?

22 A It is. What a multi-plexer does is it encodes a
23 pattern on the videotape so when you play the tape
24 back through the multi-plexer it reads the pattern
25 that's been encoded on the videotape and that

1 pattern breaks down the actual camera numbers,
2 data code, date, time information, that type of
3 thing. It's not physically written like you see
4 another number on the tape.

5 THE COMMISSIONER: Constable, I'm going to ask you to go a
6 little slower. You'll notice that the lady in
7 front of you has to take down everything you're
8 saying and I'm watching her hands and she's having
9 a little difficulty keeping up, I can see.

10 A My apologies.

11 THE COMMISSIONER: Go ahead.

12 A It's just a device that allows you to look at one
13 particular camera or all cameras or four cameras
14 at one particular time through some decoding, some
15 information decoded on the tape by the device.

16 MR. MARTLAND:

17 16 Q So if I understand correctly, using the
18 multi-plexer and having in hand the VHS tape that
19 was obtained from the jail, let's say, December
20 1998 for this incident, you could isolate one
21 perspective or one camera. So, in other words,
22 you could use that machine to focus specifically
23 on the view of, let's say, the wagon bay?

24 A Correct.

25 17 Q You could also, am I right to say, create a

1 videotape that shows different views, different
2 cameras at the same time?

3 A Correct.

4 18 Q Like this one, the screen capture you've described
5 here?

6 A That's correct, yes.

7 19 Q What does this one show? This particular screen
8 capture that you've done on image number 9, camera
9 number 9 at least, seems to show the moment where
10 Frank Paul was being dragged into the jail, and I
11 appreciate you may not know the facts of the case,
12 but are we seeing in the other perspectives what's
13 going on in the jail at that moment?

14 A That is correct.

15 20 Q This is one moment in time, if you will, a
16 snapshot of the different cameras?

17 A Correct.

18 MR. MARTLAND: If this could become the next exhibit, please.

19 THE COMMISSIONER: Yes. Exhibit number?

20 THE REGISTRAR: Exhibit 150.

21 (EXHIBIT 150: Screen Captures)

22 MR. MARTLAND:

23 21 Q Constable Hallgren, what can you tell us about the
24 quality of the video in this case, in the Frank
25 Paul case?

1 A The quality is on part with the quality of analog
2 video at that time, standard VHS, the format it's
3 encoded to. It's not the highest quality but it's
4 not the worst quality either. It's a medium
5 quality video.

6 22 Q I think you described that these sorts of video
7 images might show a certain number of images per
8 second or per number of seconds and the quality
9 can vary, I take it. Can you tell us about the
10 quality of the number of frames that you've seen
11 in this case, in the Frank Paul video?

12 A The video in this case, the time lapse also has a
13 component that was programmed that detects motion,
14 and a 24-hour time lapse video can record up to a
15 maximum on one camera, for instance, of five
16 images per second, a maximum. By comparison to
17 realtime video, which will give you 30 frames or
18 60 distinct images per second, time lapse reduces
19 that quite significantly. In this particular
20 case, the time of those five images are shared
21 amongst ten cameras and one camera will record for
22 whatever allocated time, next camera and so forth
23 all the way through. If a particular camera
24 detects motion, it will increase the number of
25 images it will record on that particular camera

1 and it can max out -- some systems will say three
2 images per second, some will say one image every
3 three seconds, one image every two seconds, and so
4 forth. It all depends on the system.

5 23 Q Can you say, with respect to the Frank Paul
6 videotape for at least the portions where there
7 seems to be movement, what speed the machine is
8 operating at?

9 A It appears that it's one image every two or three
10 seconds, from what I can tell.

11 24 Q And, again, how does that compare to what we think
12 of as a conventional videotape image?

13 A Realtime?

14 25 Q Realtime.

15 A One image every second in realtime, that's quite a
16 bit less than 60 images per second on realtime
17 video.

18 26 Q Is it fair to describe it almost as if one is
19 flashing photographs to depict movement? Is that
20 effectively what video does, and higher quality
21 video simply gives you more images, more
22 photographs will give the appearance of movement
23 and the appearance of it being realtime?

24 A Two components; obviously the quality is one and
25 number of images recorded would be the second.

1 Time lapse, it's impossible on one tape, a
2 two-hour tape, for instance, to get the time that
3 you require in realtime because you'd be changing
4 tapes every two hours. Hence, that is why time
5 lapse recording is in place and it's just a
6 snapshot in time. Whether it's one second, ten
7 seconds, 20 seconds, it's just taking a snapshot
8 in one particular time.

9 27 Q You've viewed the Frank Paul video tape, we don't
10 have the machinery today to play it back, but is
11 it fair to say the Frank Paul videotape in terms
12 of, for instance, what we see in this video when
13 he's brought in and out -- in this photograph,
14 rather, when he's brought in and out of the jail,
15 we're seeing jumps in time that might be every two
16 or three seconds; is that a fair description?

17 A That's correct. It's the refresh of that image as
18 the image records new information.

19 28 Q What can you say as to the speed of playback --
20 Mr. Hern has played you what I understand to be a
21 tape that was generated by the RCMP lab at the
22 request of the Police Complaint Commissioner
23 sometime after this, years after the event, from
24 what I understand. What can you tell us about the
25 speed of playback on that video?

1 A DVD.

2 29 Q Yes, I'm sorry, the DVD.

3 A The speed is faster than what it would be to match
4 the actual realtime of the video. Meaning when
5 I'm looking at the DVD it will jump eight seconds
6 or five seconds but it will actually be about one
7 second in realtime as it's going from image to
8 image on that particular DVD.

9 30 Q For the reference of counsel and Commission, I'm
10 referring to the DVD that is the exhibit that
11 we've referred to as the jail video for our
12 purposes, but to recreate the actual speed of
13 events one would need to slow that down?

14 A That's correct.

15 31 Q Can you comment as to the jail -- the ten
16 different cameras that we see here in the
17 Vancouver jail, were those in 1998, if you know,
18 were those tapes preserved for a certain period of
19 time?

20 A Our jail holds the videos for a period of two
21 years, the analog videotape.

22 32 Q You deal often with video in circumstances where,
23 if it's not obtained promptly, it will get
24 destroyed or recorded over; is that fair?

25 A It is fair more in the area of digital recording

1 these days versus analog. There have been times
2 at certain premises we'll record for a week one
3 tape per day and then if we don't get to it within
4 the week they may put the tape in, but usually for
5 an incident it's pulled and held.

6 33 Q You began in the Video Analysis Unit in 1999?

7 A That's correct.

8 34 Q Can you comment from 1999 until the present day
9 whether there's been a change in terms of video
10 that's obtained by investigators and brought to
11 you in serious cases from the street, if you will?
12 In other words, a video surveillance camera that's
13 in front of a store or a business premise that may
14 show evidence relevant to an investigation, has
15 that increased over time?

16 A The number of videos certainly that are acquired
17 during the course of an investigation into an
18 incident has gone up certainly from 1999. The
19 format of the recordings is where the significance
20 change is. Nowadays we're dealing with digital
21 video versus analog as the industry transitions
22 into digital recording.

23 35 Q In terms of your job, sir, do you rely on
24 investigators to obtain that video footage, those
25 videotapes?

1 A Quite often. Depending on the type of case.
2 Obviously there's technical issues that have to be
3 looked at now with acquiring digital footage
4 because it's very difficult in certain cases to
5 get it.

6 36 Q I appreciate you weren't involved in the creation
7 of the DVD -- which I'll refer to as our jail
8 video, the exhibit in this matter -- but can you
9 comment as to your understanding of how that would
10 have been created? Was that using the
11 multi-plexer?

12 A It certainly appears to be the output from a
13 multi-plexer that is capable of decoding the
14 encoding that was placed on that tape in playing
15 back through a VCR that is not time lapse, meaning
16 it's going to play the tape back at a quicker pace
17 than a 24-hour deck that normally would be used in
18 a 24-hour recording to play back the video.

19 37 Q Can you comment as to the -- we see, perhaps not
20 terribly clearly, but in some of the images on the
21 10 different camera angles here there seems to be
22 date and time stamp information at the top of the
23 frame. Can you comment first with respect to that
24 information or those numbers?

25 A That's the date, time data burn which it was

1 commonly referred to back then, data code that is
2 actually written to the tape by the VCR itself.
3 In this case, it's the tape and time and there's a
4 24 as well which indicates 24-hour time lapse
5 mode. It forms a permanent part of the tape
6 visually when you play it back.

7 38 Q On the DVD, which is the exhibit in this case, we
8 also see some numbers that are at the bottom of
9 the screen in the middle. Can you comment as to
10 what those numbers are?

11 A That would be the data code that is displayed from
12 the multi-plexer reading the encoding on the tape,
13 written to it when it recorded, and it's just
14 decoding that information and displaying it as
15 information on the tape. That's common with
16 multi-plexers. It will show data code, things of
17 that nature.

18 39 Q I take it, in terms of the accuracy of, for
19 instance, the time and the date on either set of
20 numbers is going to be dependent on somebody
21 properly setting the clock, so to speak?

22 A Certainly.

23 MR. MARTLAND: If I might just take a moment. Constable, I
24 don't have any further questions. Other counsel
25 may have questions for you.

1 THE COMMISSIONER: Mr. Hern.

2 MR. HERN: No, thank you.

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

4 MR. SHIRREFF: No, thank you.

5 THE COMMISSIONER: Mr. Woodall.

6 MR. WOODALL: No.

7 THE COMMISSIONER: Ms. Sigurdson.

8 MS. SIGURDSON: No, thank you.

9 THE COMMISSIONER: Mr. MacKenzie.

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

11 THE COMMISSIONER: Mr. Kelliher.

12 **EXAMINATION BY MR. KELLIHER:**

13 40 Q Sir, what did you do in 2006 on the Frank Paul
14 matter?

15 A I believe it was 2006. There was certain videos
16 that were output -- the sequence of the videos
17 were output to tape.

18 41 Q Could I ask you explain that, please?

19 A I was asked to output the different cameras on the
20 original tape to video for reviewing the video
21 cameras themselves.

22 42 Q To create another DVD similar to what the RCMP had
23 done?

24 A It would have been similar. It would have been
25 out to DVD or VHS. I remember specifically of the

1 different camera angles themselves to review the
2 different camera angles.

3 THE COMMISSIONER: Mr. Eby.

4 **EXAMINATION BY MR. EBY:**

5 43 Q Constable Hallgren, you testified that you do
6 enhancement work in the department that you work
7 in; is that correct?

8 A At certain times we'll do enhancement work, yes.

9 44 Q What kind of enhancement work is available for a
10 videotape, can you speak of the video and audio?

11 A I don't touch audio too much. Video enhancement,
12 there are different things that we can apply
13 depending on the kind of tape received, the
14 quality initially, the levels. We can frame
15 average information, remove noise, things like
16 that, increase the luminous values. Just general
17 enhancement processes.

18 45 Q Have you had a chance to look at the tapes that we
19 received from the RCMP compared with what you saw
20 on the multi-plexer?

21 A The DVDs?

22 46 Q Yes.

23 A Yes.

24 47 Q Is it your sense that those have been enhanced at
25 all?

1 A They don't look significantly -- they may be a
2 little bit lighter but they don't look
3 significantly different from looking at the
4 original.

5 48 Q You say you don't do audit very often. Can you
6 explain what you do do with audio at all if
7 there's audio on the tape?

8 A Audio, quite often, normally we'll take a second
9 recording that perhaps is a better quality than
10 the original recording on a videotape, for
11 instance, the backup, and match it to the video
12 because the video may have video but it has lousy
13 audio recording capabilities and we'll sync the
14 audio to the videotape itself. As far as the
15 enhancement of audio, we don't get involved.

16 49 Q Whose responsibility is it to enhance audio in the
17 department if there is audio on the tape?

18 A It's actually not our department. We'll send it
19 to the RCMP, the lab in Ottawa. They have a large
20 audio enhancement lab.

21 50 Q Constable Hallgren, can you tell the Commissioner
22 whether you're familiar with or frequently deal
23 with videotape from the Vancouver Police jail
24 currently?

25 A Yes, I do deal with video from the police jail.

1 51 Q Are you able to tell the Commissioner whether
2 there are videotapes currently in the cells
3 themselves?

4 A I would think there are video cameras in the
5 cells. I know when Corrections had the system
6 previous to Vancouver taking over the actual jail,
7 that they actually had video in particular cells,
8 things of that nature. I don't know -- I think
9 the system is the same as it was prior to that.

10 52 Q On your review of the multi-plex recording, did
11 you see videotape from inside the cell where Frank
12 Paul was held?

13 A On this system?

14 53 Q On your review of the multi-plex, yes.

15 A Oh, no, I'm talking today's system. Sorry. There
16 were ten cameras on.

17 54 Q At the time there was no videotape but now there
18 is; is that correct?

19 A On this system there was no video inside cells.
20 When Corrections had control they were putting
21 video inside cells.

22 MR. EBY: Thank you very much, Mr. Commissioner.

23 THE COMMISSIONER: Mr. Tammen.

24 MR. TAMMEN: No, thank you.

25 THE COMMISSIONER: Do you have any re-examination?

1 MR. MARTLAND: No, I don't.

2 THE COMMISSIONER: Can the constable be excused, please?

3 MR. MARTLAND: Yes, he may.

4 THE COMMISSIONER: Thank you, constable, for coming.

5 (WITNESS EXCUSED)

6 MR. MARTLAND: I think the copy that Constable Hallgren has
7 should be the exhibit proper.

8 (EXHIBIT 151: Screen Captures)

9 MR. MARTLAND: Mr. Commissioner, Donna Lister is here -- if I
10 might just take a moment. In fact, she may not be
11 here yet because of our indication of the timing.
12 If I might take a moment.

13 THE COMMISSIONER: Yes.

14 MR. COWPER: It's early but we've made unusually quick progress
15 and I don't believe Ms. Lister is here yet.

16 THE COMMISSIONER: Do you want to take a brief adjournment?

17 MR. MARTLAND: If we could do that.

18 THE COMMISSIONER: We'll adjourn then for a few moments.

19 THE REGISTRAR: We're now adjourned.

20 (BRIEF RECESS TAKEN)

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

22 THE COMMISSIONER: Mr. Martland.

23 MR. MARTLAND: Mr. Commissioner, in the course of Phase 1
24 hearings, and I think the date was November 30,
25 2007, Donna Lister testified from the coroner's

1 office and at that point there was some Phase 2
2 related questions that were requested by Mr. Ward
3 and not answered. He made a request that she be
4 recalled for further questions and we've acceded
5 to that request so she's been made available today
6 for the purpose of counsel asking any questions
7 arising from subsequent evidence or in relation to
8 Phase 2 matters. My note is, and I invite anyone
9 to stand if I have it wrong, my note is that only
10 Mr. Eby and Mr. Tammen have questions for her
11 today.

12 THE COMMISSIONER: That is what I was informed of. Does anyone
13 else have any questions of Ms. Lister? Thank you.
14 Mr. Eby.

15 **DONNA LISTER: Reaffirmed**

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

17 A Donna Lynn Lister.

18 **EXAMINATION BY MR. EBY:**

19 55 Q Thank you for returning. My name is David Eby.
20 I'm counsel for United Native Nations. Since the
21 time that you testified, we heard evidence from
22 Ms. Robinson that she watched the Frank Paul video
23 with you before the Judgement of Inquiry was
24 issued. Do you have any recollection of watching
25 that videotape with Ms. Robinson?

1 A I have some recollection. It's been a long time.
2 I do remember seeing portions of it. I can't
3 remember if I was with Ms. Robinson or not.

4 56 Q Do you remember where you saw the videotape?

5 A No, sir, I'm sorry, I don't.

6 57 Q Do you remember if there was anybody else there
7 with you at the time?

8 A No, sir, I'm sorry, I don't.

9 58 Q With respect to the videotape, do you recall
10 whether it was a multi-plex kind of recording with
11 a number of different frames in it or whether it
12 was a single frame?

13 A Sir, I'm sorry, I really don't recall.

14 59 Q We've also heard evidence that Frank Paul was
15 pronounced dead at 6:15 a.m. and that you were
16 notified by the VPD at 5:25 a.m. on the morning
17 after Frank Paul's death or possibly the morning
18 of Frank Paul's death. Do those times seem
19 consistent with your recollection of when you were
20 called to the scene and when you pronounced Mr.
21 Paul dead?

22 A Yes, and I didn't pronounce Mr. Paul dead. I
23 believe he was pronounced dead by the EHS. I
24 attended the scene -- as a coroner, I only attend
25 scenes when the person is deceased.

1 60 Q I'm going to take you back to the coroner's office
2 after you had attended the scene and there was a
3 decision that was made in the coroner's office
4 whether or not to hold an inquest versus a
5 Judgement of Inquiry. It's our understanding from
6 testimony from Ms. Robinson that there was a fair
7 amount of discussion within the office about which
8 of the two routes to take with this case and there
9 was also some disagreement, although ultimately I
10 understand that everyone did agree. Can you
11 provide any information to the inquiry about those
12 discussions that took place, any recollection that
13 you may have of your participation in the decision
14 whether or not to hold a Judgement of Inquiry or
15 an inquest in this matter?

16 A I did not participate to my recollection in any
17 conversation of that nature.

18 61 Q Do you recall anybody else having discussions like
19 that around the office?

20 A No, I do not.

21 62 Q Do you recall any documents, e-mails of any sort,
22 indicating reasons one way or the other?

23 A No, sir.

24 63 Q Now, Mr. Registrar, if the witness could have
25 Exhibit 110 placed in front of her. That's the

1 Boutin binder. I apologize to the witness, this
2 document is a little bit buried. It's at tab ZZ.
3 Mr. Commissioner, if I may approach the witness to
4 show her the document.

5 THE COMMISSIONER: Certainly.

6 MR. EBY: Mr. Commissioner, I've taken the witness to Detective
7 Hobbs' notes which are about 14 pages in and they
8 have a circled 1 in the top right-hand corner and
9 the first date, it says File Status Report and the
10 first date is 99 05 20 at 12:55.

11 THE COMMISSIONER: Yes, I have it.

12 MR. EBY:

13 64 Q Ms. Lister, we understand from testimony that
14 these are notes made by an investigating officer
15 from the Vancouver Police Department, his last
16 name is Hobbs, and that officer made notes -- if
17 you follow about two-thirds of the way down the
18 page to the date 99 06 02; do you have that date?

19 A Yes, I do.

20 65 Q Which we understand to be June 2nd, 1999, at 10:45
21 a.m., and in the handwritten note here: Donna
22 Lister, coroner, phoned. It's difficult to read.
23 She is starting to work on the file now. It will
24 be about one month before a decision on the
25 inquest. Now, are you able to explain to the

1 Commission what the delay was between Frank Paul's
2 death, which was in early December 1998, and what
3 appears to be the commencement of your work on the
4 file in June, early June 1999?

5 A No, sir.

6 66 Q You have no recollection of why it was six months
7 after his death?

8 A No.

9 67 Q Is it your recollection that it was six months
10 after Frank Paul's death when you began to work on
11 this?

12 A No. In the course of a file, generally you start
13 the work-up right away, requesting the autopsy and
14 toxicology, et cetera, and that usually begins
15 right away. I recall things like Jeannine and --
16 Ms. Robinson and Ms. Yeager advising me, because I
17 was an agent then, I hadn't been appointed a full
18 coroner at that point, to contact various people.
19 So the difference in the times is substantial and
20 I have no explanation as to why.

21 68 Q Is it your belief then that this note is
22 incorrect, that you had started work on the file
23 before this date and that this note taken by the
24 police-officer is incorrect?

25 A I have no knowledge of why the police-officer

1 would write this. I don't recall having a
2 discussion with him but it was ten years ago and I
3 am old and my memory isn't what it once was. But
4 I do know that when you get a file, you start
5 working on it right away. I think perhaps there
6 were things that took time to look into. That's
7 my only reason that I can think of.

8 69 Q His note says that it will be about one month
9 before a decision on the inquest. Is it typical
10 in a sudden death case like this, based on your
11 experience in the short time you were at the
12 coroner's office, that it would take seven or
13 eight months from the time the investigation
14 started to make a decision on whether or not an
15 inquest would be held?

16 A In the entire time I was with the coroners service
17 I never participated in an inquest so I have no
18 idea of timeframe. I never requested one and I
19 never participated in an inquest.

20 70 Q So you were never involved in a file during the
21 time that you were at the coroner's office that
22 went to inquest?

23 A No, that's correct.

24 71 Q But you must have been involved in files where
25 there was a decision made to go to a Judgement of

1 Inquiry?

2 A A Judgement of Inquiry, that is the conclusion of
3 the file. It's a document that's written once the
4 -- once you do your complete investigation.
5 That's the final document. It's not -- it doesn't
6 necessarily mean that that Judgement of Inquiry
7 will be taken forward to an inquest. It's simply
8 the conclusion of the particular file.

9 72 Q I see. So it's your understanding that the
10 process is that the investigation takes you to the
11 Judgement of Inquiry which is completed and then
12 there's a decision at that point whether or not to
13 move on to an inquest; is that correct?

14 A In my limited experience I am assuming, and I am
15 only assuming, that that's how the system worked.
16 I would imagine that during an investigation
17 should you feel that an inquest would be necessary
18 you would approach your manager but, again, that's
19 just an assumption on my part.

20 73 Q I'm going to draw your attention to the bottom of
21 the page and there's an entry dated 99 08 03 which
22 we understand to be August the 3rd, 1999. The
23 note says: Called coroner Donna Lister, no
24 decision re inquest yet. Suggests some -- and
25 then it's not quite legible after that point, at

1 least for me. You may be able to read that. Do
2 you have any recollection of this call from the
3 detective at the time and informing him that there
4 was no decision regarding the inquest yet which
5 was in August of 1999?

6 A No, I don't recall anything about an inquest. I
7 do recall though being directed by Ms. Yeager and
8 Ms. Robinson to look into protocol -- I think
9 that's what the word is at the bottom, protocol --
10 as to how Saferide works and how the detox centre
11 decides whether a person will be admitted or not.

12 74 Q So you have a recollection of doing that work on
13 protocol between Saferide -- which is what that
14 text actually appears to say, I think you're right
15 -- you have some recollection of doing that
16 particular investigation but you don't have
17 recollection of this phone call; is that right?

18 A I don't. I had over 400 cases that year and I
19 don't recall specific conversations.

20 75 Q So it wasn't unusual for someone from the
21 Vancouver Police Department to call you and ask
22 whether something was going to inquest or not; is
23 that correct?

24 A They would ask various questions, at what point
25 were we in the investigation, had the judgment

1 been completed, that type of thing. It wouldn't
2 have been my decision to take it to inquest
3 because I was only an agent at the time.

4 76 Q You mentioned the investigation that was ongoing
5 at the time and some inquiries about Saferide.
6 You don't have any recollection of making any
7 measurements at the scene of Frank Paul's death;
8 do you?

9 A No.

10 77 Q You took two photographs at that time?

11 A Yes.

12 78 Q You don't have a recollection of speaking to any
13 witnesses involved, whether police-officers or
14 civilians; do you?

15 A No, I didn't.

16 79 Q And, in fact, that wasn't the practice as far as
17 you understood it, that wasn't your
18 responsibility; is that correct?

19 A That's correct.

20 80 Q And is that because the coroners service basically
21 relied on the Vancouver Police Department
22 investigation?

23 A I don't know if -- that's quite a specific
24 question. Cases vary so there's different issues
25 on different types of deaths as to what a coroner

1 would do. We certainly worked hand in hand with
2 the police on pretty well every file as they were
3 normally called to the scene before the coroner
4 was.

5 81 Q In this case, having not interviewed any witnesses
6 and having taken only two photographs, it's safe
7 to say that you were reliant on the VPD
8 investigation for your work in this file; isn't
9 that correct?

10 A Yes.

11 MR. EBY: Thank you, Mr. Commissioner. I don't have any
12 further questions.

13 THE COMMISSIONER: Mr. Tammien.

14 MR. TAMMEN: Mr. Registrar, could you please place Exhibit 90
15 in front of the witness. I think it's about a
16 one-and-a-half or two-inch binder.

17 **EXAMINATION BY MR. TAMMEN:**

18 82 Q Specifically, ma'am, I'd like you to turn to tab
19 39 please. I just want to put this into some
20 perspective that I hope will be of some assistance
21 to you. My recollection is that when you
22 testified here some time ago you didn't have much
23 in the way of notes that you made at the time you
24 were doing your investigation?

25 A And I apologize -- they're appalling.

1 83 Q I understand that, but what's happened since then,
2 just to give you the backdrop of this, is when
3 others from the coroners service testified in
4 January, Jeannine Robinson and Sherryl Yeager,
5 this binder became an exhibit and tab 39 is
6 apparently all that's left of the notes from the
7 coroners service. I'm not in any way saying that
8 the missing of notes has anything to do with you,
9 this is just what's left and we've explored
10 exhaustively with other witnesses why there is so
11 few. What we do have are 12 pages of notes. Are
12 yours now numbered in the upper right corner, page
13 numbers? Mine are.

14 A They are.

15 84 Q Good. I'm going to take you through some of
16 those. What we heard from Sherryl Yeager, she
17 says that pages 1 through 6 and 9 through 12
18 appear to be your handwriting and pages 7 and 8
19 are her handwriting. Can you tell us if you agree
20 with that?

21 A Yes, 7 and 8 are hers and the rest are mine, yes.

22 85 Q I'm going to start -- these notes, I think you'll
23 agree with me that they don't appear to be in any
24 particular order?

25 A No.

1 86 Q They're all over the map?

2 A Yes.

3 87 Q So we can't go through them chronologically, you
4 and I, but I'll try to go through this in an order
5 that makes some sense.

6 Can we start please by looking at pages 11
7 and 12. I want you to have a look at those and
8 see if you can tell us in a general sense what
9 they represent, those two pages?

10 A What this appears to me -- it looks like I was
11 making notes from a conversation I must have had
12 with someone because it looks like I'm writing
13 down at the sides the times that these various
14 things took place.

15 88 Q Yes.

16 A What it appears to me is that I must have had a
17 conversation with someone as to how Mr. Paul came
18 to be at -- behind detox.

19 89 Q Right. It appears indeed to be a chronology, a
20 point form chronology starting at December 4th,
21 1998 -- it's hard to say what time that is because
22 of the hole-punch mark. But then it goes through
23 December 5th starting at 8:00 a.m. on through to
24 2:42 a.m. on presumably the 6th of December when
25 EHS was dispatched to the scene; correct?

1 A Right.

2 90 Q I wanted to get a sense of whether you were
3 reading something when you were making these notes
4 or someone was telling you these things, and you
5 think -- I know it's difficult but you think
6 probably you were trying to jot down something
7 someone was telling you?

8 A I believe so. That's what it seems to me. I
9 can't be positive but that's the sense I get.

10 91 Q Let's just look at page 12, the note at 20:21
11 hours. You've written: Paul assisted into jail
12 elevator (dragged in). Correct?

13 A Yes.

14 92 Q That's become unfortunately something of an issue
15 in this inquiry as witnesses have testified. For
16 instance, in the Judgement of Inquiry ultimately
17 Jeannine Robinson wrote just what you've written
18 initially there, that he was assisted into the
19 jail elevator, and in fact when one views the
20 videotape we see he was dragged in, and I asked
21 her why she didn't include in her judgment the
22 fact that he was dragged in. Do you know why you
23 put that in parentheses there?

24 A No, sir, I don't.

25 93 Q I might have missed this. At some point during

1 your investigation, did you view any of what we
2 call the jail videotape that shows Mr. Paul coming
3 and going from the jail elevator that day and that
4 night?

5 A I believe I did. I'm sure I did. I just don't
6 know when and where.

7 94 Q I think -- I don't want to get sidetracked on this
8 -- but I think if we were to read Detective
9 Staunton's report, "assisted" would be consistent
10 with the language he uses. Is it conceivable
11 perhaps that someone was summarizing to you the
12 things that were in Detective Staunton's report
13 and then says to you, in fact, he was dragged into
14 the elevator and that's why you put it in
15 parentheses as you did?

16 A Honestly, I really couldn't say.

17 95 Q Let's turn please to page 10. These are some of
18 your notes for May 26, 1999, June 1st, 1999 and
19 June 2nd, 1999. Let's start with May 26th. We
20 can tell clearly from that note that you that day
21 apparently had a conversation with Sherryl Yeager
22 about how to proceed with the investigation of the
23 file; correct?

24 A Yes, yes.

25 96 Q You've made six points of things on that score in

1 terms of how to proceed; correct?

2 A Yes.

3 97 Q And then your final note is: Advised of necessity
4 and importance of documentation. Do I take from
5 that that you're making a note that Sherryl Yeager
6 advised you of the necessity and importance of
7 documenting things on your file?

8 A Yes.

9 98 Q Let's just go through your six points: Contact
10 Sergeant Hobbs Internal. Do you have any more
11 recollection of what you and Sherryl Yeager
12 discussed on that score?

13 A No, I don't.

14 99 Q Then you've got: Jail. New policy regarding
15 H-SIPP over at 222 not until September. So
16 Sherryl Yeager presumably told you perhaps that
17 there had already been this handover of the jail
18 staff, who was in charge of it and with the new
19 policies coming in they would likely take effect
20 in September or something like that?

21 A I do recall that the Hold-SIPPS were going to be
22 moved -- this is what was going to happen is --
23 they were going to be moved from 312 Main to 222,
24 and when that was going to happen and there was
25 going to be new criteria for Hold-SIPPs.

1 100 Q That is something you were going to follow up on
2 presumably?

3 A Yes.

4 101 Q Number 3 is: Detox. Status of Mr. Paul's file.
5 Had he been barred and what was admission
6 criteria. That's another thing that's become an
7 issue in this inquiry. The Vancouver Police
8 Department have, in various documents, have
9 maintained that Mr. Paul was banned or barred from
10 detox and, indeed, all the officers that arrested
11 him that day have told us that they believed he
12 was banned from detox.

13 MR. HERN: I just don't want to leave on the record that that
14 is correct. I don't think that's a correct
15 summary. There's quite a divergence of opinion
16 about whether he was on a banned list or not or
17 whether they just simply felt that, so I just want
18 to qualify that for the record.

19 MR. TAMMEN: I'm surprised at my friend saying that in light of
20 Mr. DeHaas' evidence from the last day we were
21 here, he gave that PowerPoint presentation as
22 recently as spring of last year and asserted on
23 behalf of the Vancouver Police Department that Mr.
24 Paul was banned from detox. We know that's not so
25 but that is the position the Vancouver Police

1 Department has maintained.

2 MR. HERN: I don't want to make a dispute about this, but I
3 want to be careful about the evidence that's left
4 on the record with these assertions and Mr. DeHaas
5 wasn't speaking on behalf of the VPD, he was
6 speaking as a member of his committee and we've
7 all heard the evidence there was a divergence of
8 opinion.

9 THE COMMISSIONER: I think that's fair, Mr. Tammen. There is a
10 divergence of opinion and I don't think all the
11 police-officers agreed on the fact that he was in
12 fact barred. It was noted on CPIC that there had
13 been some problems with him and some officers took
14 that to be the case that he was barred because of
15 that notation on CPIC, but there were others, I
16 think English included, that were not of that
17 view.

18 MR. TAMMEN: I don't want to put madam reporter to the trouble,
19 but I was careful in how I worded that question
20 and we can read it back. What I said is this:
21 The Vancouver Police Department have maintained in
22 various documents, stop there, and then I said:
23 And, indeed, the four officers that arrested him
24 that day all said they thought he was barred.
25 That's number 1. I don't think anyone in this

1 room -- sorry, that's number 2 -- I don't think
2 anyone in this room says I'm inaccurately
3 misstating part 2. What Peterson, Turner and the
4 other two said, they all said, we thought he was
5 barred, that's why we instructed the wagon drivers
6 to take him to the jail.

7 With respect to number 1, Vancouver Police
8 Department maintaining in various documents, and
9 if DeHaas wasn't speaking on behalf of the
10 Vancouver Police Department when he gave his
11 PowerPoint presentation, I don't know what he was
12 doing there. Secondly, if we don't have it yet,
13 eventually, probably tomorrow when Former Chief
14 Blythe testifies, we'll have a letter marked under
15 the letterhead of the Chief Constable Jamie Graham
16 saying that Mr. Paul was barred or banned from
17 detox. That might already be an exhibit in these
18 proceedings. That surely is the official position
19 of the Vancouver Police Department, Mr.
20 Commissioner.

21 THE COMMISSIONER: Thank you, Mr. Tammen.

22 MR. MARTLAND: Mr. Commissioner, my only point by way of
23 expediency would be this is an interesting debate
24 but this is the inappropriate forum through a
25 question or proposition put to this witness, and I

1 would just simply by way of at least dodging the
2 bullet for present purposes request whether Mr.
3 Tammen may be in a position to ask the same
4 question with a slightly different proposition. I
5 expect he may be able to formulate such a
6 question.

7 MR. TAMMEN: I certainly can.

8 THE COMMISSIONER: Go ahead, Mr. Tammen.

9 MR. TAMMEN:

10 102 Q The problem of course is that it's a bit unfair to
11 this witness to ask her to cast her mind back.
12 Can you recall anything about why you were making
13 what we see there at note number 3?

14 A The only thing that I can think of is it had been
15 brought to my attention that perhaps Mr. Paul had
16 been barred. So it would be up to me to check
17 with detox to ensure if that was the case or not.

18 THE COMMISSIONER: Have you any recollection of doing that?

19 A No, sir, I do not.

20 THE COMMISSIONER: All right. Thank you.

21 MR. TAMMEN:

22 103 Q We may have some notes in that regard but let's
23 proceed through your enumerated items here.
24 Number 4 simply says: Triage. Do you recall what
25 that note is about?

1 A I believe Triage is a facility in the Downtown
2 Eastside where people can be taken who need a
3 place to stay. That's my recollection.

4 104 Q Do you recall what you were going to do in terms
5 of following up on that note?

6 A If I can remember correctly, check and see what
7 the criteria for admission was.

8 105 Q Then we've got 5, Saferide. We know what Saferide
9 was and I take it you knew at the time. Do you
10 recall what you were going to do in terms of
11 follow-up with Saferide?

12 A To be honest, until reading -- this brings back a
13 memory. I had never heard of Saferide prior to
14 Ms. Yeager advising me to check that Saferide did
15 provide safe transportation and I was to check
16 with Saferide to see what their criteria was.

17 106 Q I see. Number 6, it says: Dan re NOK. NOK
18 stands for next of kin; correct?

19 A Yes.

20 107 Q You were going to check with Dan Dickhout who was
21 the coroner's liaison officer that presumably had
22 something to do with notifying next of kin?

23 A That's correct.

24 108 Q So you were going to follow up with him in some
25 fashion?

1 A Find out if he had in fact notified next of kin.

2 109 Q Do I take it from this then that as of May 26,
3 1999 you still weren't sure if next of kin had
4 been notified through the coroner's liaison
5 officer?

6 A That's correct.

7 110 Q Let's go down to the final note, June 2nd:
8 Message left for Detective Staunton. Question,
9 was 19 completed for breach? I just want to stop
10 there. Do you know what that note is about?

11 A No, sir, I can't remember.

12 111 Q Then it looks like something is cut off. The next
13 thing is: How did the sergeant -- then we don't
14 see anything that completes that sentence on this
15 page and I don't know if we actually do in any of
16 these notes. If you just go to page 6, it's hard
17 to say if what we see there is a note for June 2nd
18 or if we're getting, again, some problem there
19 because of the hole punch but this might be a note
20 for June 2nd. You see in the upper left. It
21 looks like it's part of the same 2 that we see on
22 the note on page 10; correct? That is similar?

23 A Yes.

24 112 Q So this might be -- I'm not suggesting it
25 necessarily is -- but it might be a note that

1 follows on the bottom of page 10 and what we see
2 is: Mr. Paul was well known in the Maple and
3 Broadway area by Staunton and Sanderson who both
4 worked uniform in the area. Then the final note
5 is: 19 faxed by Staunton. The reason I put the
6 two notes together in part is because of this
7 reference to a Form 19?

8 A Yes.

9 113 Q Do you know what that is or was?

10 A Form 19?

11 114 Q Yes.

12 A If I can remember, it's a simple report that's
13 written out -- breaching someone from the area,
14 normally if they're misbehaving or whatever and
15 they're breached out of the area, they're removed
16 from that area and the officers need to complete
17 this Form 19.

18 115 Q So it looks like, if we put this together then,
19 May 26, 1999, you've got your list of things
20 you're going to follow up on and Ms. Yeager
21 advised you of the importance of documentation you
22 appeared to be missing from your documents, the
23 Form 19 which would have been filled out upon the
24 breach. So you on June 2nd left a message for
25 Detective Staunton and perhaps on June 2nd or

1 sometime thereafter he faxed over to you this Form
2 19. Does that seem about right?

3 A It seems about right, yes.

4 116 Q In terms of the note at page 6 that is above the
5 notation about the faxing of the form, it looks
6 like you probably actually spoke on the phone with
7 Detective Staunton and he conveyed to you the
8 information that's at the top of page 6?

9 A That makes sense.

10 117 Q About Paul being well known to him and Sanderson;
11 right?

12 A Yes.

13 118 Q I want to go forward -- we'll skip over page 7,
14 that's just a discreet note of Ms. Yeager that I
15 won't ask you about, but I want to go to page 8
16 which is the other page of Ms. Yeager's notes. I
17 just want you to read those silently, then I'll
18 have some questions for you.

19 A Okay.

20 119 Q I just want to -- let me start by asking you this:
21 We know you had a conversation with Ms. Yeager on
22 May 26, 1999 about how to proceed with the file.
23 We've looked at your notes of that. Did you have
24 more than one conversation with her about progress
25 with the file or how you should be proceeding with

1 it?

2 A Probably.

3 120 Q What she has told us about these notes, and the
4 problem in part is that they're undated, what she
5 has told us is this -- I'm going to paraphrase but
6 I'll do my level best to be accurate -- she says,
7 what we see at page 8 appear to be notes that she
8 made while she was talking to you with respect to
9 avenues you should go down when making
10 recommendations. She was talking about
11 envisioning at that time you would ultimately be
12 writing the Judgement of Inquiry and make
13 recommendations, and we know of course Jeannine
14 Robinson did that?

15 A Yes.

16 121 Q But at some point you were investigating and there
17 was the prospect you might write the JI?

18 A Yes.

19 122 Q That's what she was talking about there. She said
20 with respect to page 8 those also were questions
21 which we needed answers from an investigation
22 point of view. She believed that you, Ms. Lister,
23 made phone calls with respect to following up on
24 these things and she later said in
25 cross-examination that her belief or view was that

1 some of the questions she's got there would have
2 required someone to contact the Vancouver Police
3 Department, obviously to try to get answers, and
4 she said she would have told you to do that, to
5 contact the Vancouver Police Department to get
6 some answers to these questions. Do you recall
7 anything like that and do these notes refresh your
8 memory at all in that regard?

9 A No, sir. I'm sorry, when I look at these notes
10 they appear to be similar to the ones that I made
11 so I'm unsure if I made mine at the same time she
12 made hers.

13 123 Q Yes. That was one of the questions I had. They
14 do indeed seem to be, if I can put it this way,
15 similar in theme but clearly Ms. Yeager is posing
16 some very direct questions and I would suggest
17 good questions; correct?

18 A Yes.

19 124 Q Why not call Saferide? Why not breach to a
20 shelter? A big one, why not have the nurse
21 investigate his state of intoxication/medical
22 problems? Do you agree with me it looks like
23 members of the Vancouver Police Department are the
24 people in a position to provide answers to those
25 questions?

1 A I would say yes.

2 125 Q Do you recall doing any follow-up to try to get
3 answers from any member of the Vancouver Police
4 Department to those questions?

5 A I don't recall. I would assume that I had but I
6 simply don't recall.

7 126 Q I just want to go back to page 1 of these notes.
8 Again, I want to be very clear on the record
9 because it's page 1, these aren't chronological,
10 indeed, we see page 1 is notes of July and August
11 which post-date the ones we've just been looking
12 at. I just want to go through them now and ask
13 you about certain passages so I'll go through them
14 in the way they're numbered here. Right at the
15 top of page 1, right corner, there's a name Joan
16 Furnival and a phone number which is obviously a
17 Government of British Columbia number, 660. Who
18 was Joan Furnival at the time?

19 A I have no idea.

20 127 Q Then we've got further down that page, July 7,
21 '99: Call to Joan. Left message. Will return
22 call. On August 3rd, '99: Call in to Joan.
23 Message left. Finally, August 4, '99: Telephone
24 call from Joan Furnival. She will be sending out
25 a copy of procedures via house mail on 5 August

1 '99. You don't know who she was or what
2 procedures she was sending you?

3 A When I look at this page and read this last
4 sentence, what would appear to me would be that
5 she had something to do with the detox centre and
6 perhaps she was sending me out their procedures.
7 I am assuming. I'm not sure but I am assuming.

8 128 Q I'm going to skip over page 2, there's a couple of
9 very incomplete notes there. Page 3, you've got,
10 among others, this note: Gord Spencer in charge
11 of sobering centre. Do you know what that note is
12 about?

13 A I believe that we were -- I was looking into the
14 change from 312 to 222 or were they going to
15 create this sobering centre, because that was
16 another proposal at the time, I believe.

17 129 Q Let me just stop there. I take it that your
18 efforts in that regard were geared primarily
19 towards any recommendations that you wanted to
20 make or that you thought needed to be made at the
21 time that you would be writing your Judgement of
22 Inquiry?

23 A That makes sense.

24 130 Q Then page 4 actually sheds a bit more light on
25 this. We can't tell from these notes where you're

1 getting the information from; can we?

2 A No.

3 131 Q What you've written, apparently: Gord Spencer
4 (VPD) is in charge of the sobering centre that
5 will come into effect in September.

6 A Yes.

7 132 Q That's what you've been telling us, that you knew
8 the jail was being moved from 312 Main to 222 Main
9 and you were looking into what sort of sobering
10 centre they would have there, what the policies
11 would be?

12 A Yes.

13 133 Q Then the bottom note or the second note on page 4,
14 just if you can read it silently and I'll ask you
15 a question about it. That just represents some of
16 the follow-up you did in terms of finding out what
17 Saferide was all about?

18 A Yes.

19 134 Q That note -- the information you gleaned would
20 assist you simply in answering questions such as
21 what were the available resources at the time;
22 correct?

23 A That, and also what could be put in place in the
24 future.

25 135 Q Just to be clear, it's not the type of information

1 that would assist you in answering the question:
2 Why did the police not utilize Saferide in Mr.
3 Paul's case?

4 A No.

5 136 Q Then if we look at page 5, the top note, it
6 probably precedes the one you and I just looked at
7 because you're still in the early stages of
8 calling to have someone from Saferide call you
9 back and talk about policy; correct?

10 A Yes.

11 137 Q Then you've got notes about Gary Greer who appears
12 to be an inspector, or was at the time an
13 Inspector with the Vancouver Police Department,
14 and according to your note was in charge of the
15 move of the jail at 312 Main to 322 Main; correct?

16 A Yes.

17 138 Q Then we see, if you look at the notes that follow,
18 it looks like you and Inspector Greer played a bit
19 of telephone tag there but we don't get much out
20 of your attempts to contact him; correct?

21 A Correct.

22 139 Q We'll skip over page 6, we've dealt with that.
23 Let's go to page 9, that's the only page we
24 haven't touched on yet. Let's look at another
25 note, page 9, June 2nd, it starts with this: Not

1 breached to shelter. We know that's the facts of
2 this case but do you know from where you're
3 getting that information?

4 A It would only be an assumption on my part and that
5 would have been --

6 THE COMMISSIONER: Don't guess, please.

7 A Sorry.

8 MR. TAMMEN: Mr. Commissioner, I think what she's saying -- I
9 thought she was saying is what she's written there
10 is an assumption of hers at the time.

11 THE COMMISSIONER: She said it would only be an assumption.

12 A Yes.

13 MR. TAMMEN:

14 140 Q Is that what you were about to say?

15 A Yes.

16 141 Q Then don't. I misinterpreted what you were
17 saying. Let's go to the note at 10 a.m. June 2nd.
18 Spoke with someone -- I won't try to pronounce the
19 name -- from detox. Will look up Mr. Paul's file
20 to get a copy. Also admission and refusal also in
21 connection with Saferide. That appears to flow
22 from some of your notes on page 10 of the things
23 you're going to follow up on; correct?

24 A Correct.

25 142 Q Do you know what other follow-up was done with

1 respect to the note we see at page 9?

2 A No.

3 143 Q What we heard long ago from people at detox, what
4 I believe they said, in any event, was that Mr.
5 Paul was never refused at detox, he was once
6 discharged prematurely because of bad behaviour
7 but he was never on the banned list and wasn't
8 refused entry. Do you recall learning that in the
9 course of your investigation?

10 A No, I don't.

11 144 Q Having been through what we have in the way of
12 notes for this file, has that assisted you in any
13 way in recalling any other follow-up you did in
14 the course of your investigation with respect to
15 answering some of the questions that we saw in Ms.
16 Yeager's notes on page 8?

17 A No, sir.

18 MR. TAMMEN: Those are my questions.

19 MR. HERN: I have three brief questions for this witness if I
20 could -- I thought they were going to come up in
21 the other party's examination.

22 THE COMMISSIONER: Go ahead.

23 **EXAMINATION BY MR. HERN:**

24 145 Q Ms. Lister, do you remember speaking at any time
25 to members of Mr. Paul's family?

1 A No.

2 146 Q Do you recall speaking at any time to any band
3 members from the Big Cove reserve?

4 A No.

5 147 Q Were you aware of anyone else in the coroner's
6 office speaking to anyone regarding the next of
7 kin in terms of speaking to family members or
8 speaking to the band?

9 A No, sir.

10 THE COMMISSIONER: Mr. Martland.

11 MR. MARTLAND: Mr. Commissioner, I don't have any questions. I
12 believe the witness may be excused.

13 THE COMMISSIONER: Ms. Lister, thank you very much for coming
14 back. I know it was an imposition but counsel did
15 have some questions for you as you heard but you
16 are now excused.

17 (WITNESS EXCUSED)

18 MR. MARTLAND: Mr. Commissioner, by way of update to you and
19 all counsel and members of the public, we don't
20 have any other witnesses this morning. At 2:00
21 p.m. we're scheduled to convene in the conference
22 room for the purpose of a telephone -- evidence by
23 telephone, if you will, from Dan and Frances
24 Jourdain. That is, for members of the public, a
25 facility where there's unfortunately no public

1 access, although the media are able to report and
2 a transcript will be posted online once available.
3 That's at 2:00 p.m. today.

4 We have an update with respect to Dr. Rex
5 Ferris which is that we had aimed and planned on
6 hearing from him tomorrow from New Zealand.
7 That's not going to happen because of his
8 unavailability. We're working on whether we may
9 do that Monday morning, March 3rd, next week.
10 That has not been finalized yet so that's a work
11 in progress and a target perhaps and we'll advise
12 once we're able to confirm when we'll hear the
13 conclusion of Dr. Ferris's evidence. At this
14 juncture the schedule is that we would hear
15 evidence this afternoon at 2:00 and then convene
16 back in this room tomorrow at 2:00 for former
17 Chief Terry Blythe to testify.

18 THE COMMISSIONER: Thank you for that update. My recollection
19 is that there's only some questions -- or at least
20 Mr. Woodall has to complete his cross-examination
21 of the doctor. That's all that's remaining with
22 respect to the doctor.

23 MR. MARTLAND: And Mr. Shirreff hasn't yet asked questions and
24 he may have questions and I'll be reviewing that
25 with him.

1 THE COMMISSIONER: I know that you've had some problems with
2 his busy schedule in getting to arrange that so
3 we'll leave it with you at that time and if it
4 becomes impossible to arrange for him within the
5 next few days, counsel may want to consider
6 phrasing whatever questions they have and
7 submitting to him those questions for reply in
8 writing.

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

10 THE COMMISSIONER: All right. We'll adjourn until two o'clock
11 and we will then convene then in the audio room.

12 THE REGISTRAR: This hearing is now adjourned until 2:00 p.m.

13 (PROCEEDINGS ADJOURNED AT 11:05 A.M.)

14 (PROCEEDINGS RECONVENED AT 2:02 P.M.)

15 THE REGISTRAR: Mr. Jourdain, Len Giles, the registrar again.

16 I'm going to call the hearing to order. The
17 hearing is now resumed. Commissioner Davies is
18 residing. Do you wish to be sworn or affirmed?
19 Sworn is on the Bible, affirmed is not.

20 A Yes.

21 THE REGISTRAR: Which would you prefer?

22 A Sworn in, please.

23 **DANIEL RENE JOURDAIN: Sworn**

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

25 A Daniel Rene Jourdain.

1 THE REGISTRAR: That is spelled R-A-I-N-E-Y?

2 A R-E-N-E.

3 THE REGISTRAR: Thank you very kindly. I'll also swear in your
4 wife as well.

5 **FRANCES ELIZABETH JOURDAIN: Sworn**

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

7 A Frances Elizabeth Jourdain.

8 THE REGISTRAR: Thank you very much.

9 **EXAMINATION BY MR. COWPER:**

10 148 Q Mr. Jourdain, it's Jeff Cowper. As you know, I'm
11 Commission counsel and I think we'll proceed as we
12 discussed and ask Frances if she could hang up and
13 await the outcome of your evidence and then we can
14 put her back on the line. Is that okay?

15 A Yes, that is fine. She just hung up.

16 149 Q Just to tell you, we're in the conference room
17 here in Vancouver. As I indicated to you, the
18 Commissioner, the Honourable Bill Davies, is here
19 so he's hearing your evidence as you provide it
20 and we have a collection of lawyers who may have
21 questions for you after I finish my questions of
22 you; okay?

23 A That's fine.

24 THE COMMISSIONER: Can you hear me, Mr. Jourdain? This is Bill
25 Davies and I'm the Commissioner conducting this

1 Commission. Can you hear me?

2 A Yes.

3 THE COMMISSIONER: Fine. Thank you.

4 MR. COWPER:

5 150 Q Let's start. Mr. Jourdain, you were Frank Paul's
6 brother-in-law?

7 A That is correct.

8 151 Q I understand that you took a call sometime after
9 his death in relation to the fact that he had
10 died; is that right?

11 A Yes, I did.

12 152 Q Could you explain to the Commissioner how that
13 call came about?

14 A I had -- I just got home from the work, the phone
15 rang, I picked it up. The person told me they
16 were from the RCMP, gave me a rank and a name and
17 told me that Frank had been hit by a hit-and-run
18 driver and was deceased and would I please refer
19 the message to my wife and have her call him back.

20 153 Q Do you recall the name of the person?

21 A No, I do not.

22 154 Q Do you recall the rank he provided?

23 A No, I don't, absolutely. I believe it was either
24 a sergeant or a lieutenant.

25 155 Q With respect to the place that the call came from,

1 was the call from Canada?

2 A All I know, sir, is they said they were from the
3 RCMP.

4 156 Q Do you recall which province they were calling
5 from, whether it was New Brunswick or British
6 Columbia?

7 A No, I don't. I did not even know what the RCMP
8 stood for. I jotted down RCMP on a piece of paper
9 and Frances was the one that told me what the RCMP
10 stood for when she got home.

11 157 Q Did you understand them to be a police force of
12 some sort though?

13 A I did not at the time.

14 158 Q Did you understand that the call to you was the
15 first call to the family or --

16 A No, I didn't know it was the first call.

17 159 Q Had you had any notice from anybody else before
18 that call that Frank Paul had died?

19 A No, I did not.

20 160 Q Can you recall when that call occurred?

21 A Only the time of day because I had just gotten
22 home from work. It was about ten or quarter after
23 4:00 our time.

24 161 Q And was it in December of '98 or January or
25 February, or can you locate it closer in time?

1 A That I couldn't tell you, sir.

2 162 Q With respect to the content of the call, is there
3 anything else that was said to you in the call
4 that you can recall?

5 A No, there was not.

6 163 Q Were you provided a number?

7 A Yes.

8 164 Q Can you recall the number or the area code?

9 A No, not at all.

10 165 Q With respect to the information that he was killed
11 as a result of a hit-and-run driver, is that the
12 substance of what you recollect? Was there
13 anything else in that connection that you recall?

14 A No.

15 166 Q Do you recall whether there was any mention of him
16 having been in custody prior to his death with the
17 police?

18 A No.

19 167 Q No, you can't recall or no, it wasn't said?

20 A No, it wasn't said -- or at least I don't recall.

21 168 Q Okay. Could I maybe then deal with what you did
22 with the call. You were given a number and told
23 to ask Frances to call the RCMP. What did you
24 then do?

25 A I waited for Frances to get home, I told her what

1 had happened to her brother and asked her to call
2 that number.

3 169 Q And did you see or observe her making the call?

4 A Yes, I did.

5 170 Q Do you recall what she told you arose out of that
6 call?

7 A Yes. After she hung up the phone -- I'd seen her
8 jot down a number, after she hung up the number
9 she said I've got to call the coroner and make
10 arrangements to have Frank's body transported.

11 171 Q Did you see her make the second call?

12 A Yes, I did.

13 172 Q Did that all happen in one day?

14 A Yes, it did.

15 173 Q And then what proceeded from there in terms of
16 your involvement? Were you involved in any other
17 conversations respecting Mr. Paul's body or
18 arrangements in respect to the funeral?

19 A No, I was not.

20 174 Q Did you attend the funeral?

21 A No.

22 175 Q Did you have any other conversation about
23 notification of his death with any members of the
24 Big Cove band or any --

25 A No, I did not.

1 176 Q -- or any other members of the family?

2 A No.

3 177 Q Just a couple of points. I gather from my
4 discussion with you that other than the telephone
5 number and the identification to call the RCMP,
6 you didn't make any other notes of the call?

7 A No, I did not.

8 178 Q I think I asked you if you had tried to find
9 telephone records, and my understanding is that
10 you've tried but they're no longer available
11 through your telephone provider and you don't have
12 any of the accounts that were provided to you; is
13 that right?

14 A That is correct.

15 179 Q Just coming forward in time, a couple of things,
16 do you recall when you learned that Frank had died
17 shortly after being released from police custody?

18 A God, I don't remember how I came about getting
19 that information.

20 180 Q Was it some time after this initial call or
21 shortly after that?

22 A I believe it was shortly after that -- I'll take
23 that back. It was like three years after that,
24 sir, excuse me.

25 181 Q How did you learn that?

1 A I believe it was through Peggy or a retiring
2 commissioner -- it's been so long.

3 182 Q A retired commissioner in the sense of a retired
4 investigator or a police commissioner? I don't
5 know what you mean by commissioner?

6 A Police commissioner I believe he was.

7 183 Q Now, did you -- did anybody call you to ask you
8 about your recollection of this conversation in
9 the course of any investigation into the police
10 handling of the notification of next of kin?

11 A I don't understand the question, sir.

12 184 Q Before I spoke to you, had anybody else called you
13 other than the police commissioner to talk about
14 the facts that we've dealt with this afternoon,
15 when you learned of his death and how you learned
16 of his death?

17 A No.

18 185 Q Did anybody ask you for an interview or a
19 statement?

20 A Yes.

21 186 Q Who was that?

22 A Several newspapers called.

23 187 Q But nobody official other than the police
24 commissioner who talked to you some three years
25 later; is that right?

1 A That's correct.

2 188 Q Do you remember who that commissioner was or which
3 member of the staff called you?

4 A His name was Urban.

5 189 Q Dana Urban?

6 A Yes.

7 MR. COWPER: I think those are my questions, Mr. Commissioner,
8 of Mr. Jourdain.

9 THE COMMISSIONER: Thank you. Mr. Kelliher, do you have any
10 questions you'd like to put to Mr. Jourdain?

11 MR. KELLEHER: No, other than saying hello, I have no
12 questions. Thank you very much.

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

15 MR. EBY: No, thank you, Mr. Commissioner.

16 THE COMMISSIONER: Mr. Tammen?

17 MR. TAMMEN: No, thank you.

18 THE COMMISSIONER: Mr. Woodall?

19 MR. WOODALL: No, thank you.

20 THE COMMISSIONER: Mr. Sheriff? Not here. Mr. HERN?

21 MR. HERN: Thank you, I have a few questions.

22 **EXAMINATION BY MR. HERN:**

23 190 Q Mr. Jourdain, you're in Maine; is that right?

24 A That is correct.

25 191 Q And have you always lived there?

1 A Yes, I have.

2 192 Q Did you know Frank Paul?

3 A No, I never got the pleasure of meeting the
4 gentleman, sir.

5 193 Q Did you know of Frank Paul?

6 A Yes. I heard many stories of Frank through his
7 sister.

8 194 Q And have you ever been to Big Cove, New Brunswick?

9 A No, I never have, sir.

10 195 Q And with regard to what Mr. Urban told you, when
11 did you speak with Mr. Urban?

12 A I did not speak to him, sir, he spoke with my
13 wife.

14 196 Q I see. So was that simply a phone conversation?

15 A I do believe so.

16 197 Q And then information was relayed from your wife to
17 you?

18 A Correct.

19 198 Q And what exactly was that information that you
20 learned?

21 A The way my wife put it was Frank did not die the
22 way they said he did. He was in police custody
23 three times that day, kept being released, the
24 fourth time they picked him up, they brought him
25 to the coroner's office, he froze to death.

1 199 Q Okay. When did you first learn that he had frozen
2 to death as opposed to having been hit by a car or
3 some other vehicle?

4 A Like I say, sir, it's been so long. It was
5 roughly three years after we heard the other
6 story.

7 200 Q So is it your evidence that until you heard from
8 Mr. Urban, you still believed that Frank Paul had
9 been killed by a hit-and-run accident?

10 A That is correct.

11 201 Q And did Mr. Urban have any subsequent
12 conversations with your wife that you were aware
13 of or privy to?

14 A I'm not sure how my wife obtained, I believe it
15 was through Dana, a tape from the police station.

16 202 Q Apart from that, did you have any other contact
17 with Mr. Urban or the Police Complaint
18 Commissioner's office?

19 A No, I did not.

20 MR. HERN: I have no further questions. Thank you.

21 THE COMMISSIONER: Mr. Cowper.

22 MR. COWPER: Thank you very much for coming, Mr. Jourdain. The
23 RCMP is something that Canada has contributed to
24 the civilization on so I'm glad you now know who
25 they are. If we could have Frances on the line,

1 A Yeah.

2 208 Q Could you just indicate to what degree you kept in
3 touch with Frank, and if so, how after he left the
4 east coast and came to the west coast and how you
5 understood he was doing?

6 A Uhm, he would call me or all of a sudden just show
7 up and then he'd stay a couple days and then he
8 would be gone again on foot. He did his
9 travelling hitch-hiking and stuff, he never owned
10 a vehicle or anything, and the clothes he had on
11 he would travel with. I'm trying to think when
12 the last time it was -- if I'm not mistaken, it
13 was long after that -- after that he had passed
14 away -- long after that.

15 209 Q To just try to give you a sort of big area, you
16 saw him sometime in the 1990s; did you?

17 A No, no, not in the '90s. In the '80s.

18 210 Q In the 1980s?

19 A Yes, late '80s.

20 211 Q There was a fairly long period, maybe ten years
21 passed between the last time you saw him and the
22 time that he died in 1998; is that correct?

23 A Yes, yes.

24 212 Q Did he keep in touch with you in the 1990s by
25 phone or by letter or by other means?

1 A I got a phone call from him in 1986, he called to
2 see how we were doing and I had to tell him that
3 his brother died, Andrew, and then a little while
4 later, I'd say about another month, he called me
5 back, same year, and I told him that my daughter
6 passed away and he didn't say nothing, he just
7 hung up, and that was the last time I heard from
8 him. But I did get a letter from the hospital,
9 'cause he had surgery on his legs or something, I
10 don't know, and he didn't leave a forwarding
11 address. So I told them, I said there's no way I
12 could tell you unless he calls me and tells me
13 where he is and they never did anything. So I
14 don't know, you know, from '86 until he passed
15 away.

16 213 Q Which hospital was that; do you recall?

17 A I have no idea. It had to be in Vancouver.
18 That's where he spent most of his time.

19 214 Q And you were aware that he was an alcoholic while
20 he was living in Vancouver and that he was --

21 A No, no. To my knowledge, every time I had seen
22 him and stuff he was not drinking and I had never
23 seen him actually drink.

24 215 Q What did you understand about how he was living
25 and what he was doing on the west coast in the mid

1 1980s?

2 A He was staying with friends, I don't know who,
3 which friends, but they would be partying and
4 stuff and he'd call me and then he'd want me to
5 talk to his friends and I did, but he never
6 sounded drunk and I've never seen him drunk. It's
7 been a while, like I say, ten years in between.

8 216 Q Right.

9 A If he was an alcoholic or not.

10 217 Q Is there anything you'd like to say about what he
11 was like as a brother? What was his personality
12 like?

13 A Uhm, he would look after me, take care of me.
14 Even after I got married and had my kids, he'd
15 come over and visit and he was just a happy guy.
16 He was happy, he liked what he was doing with his
17 life, and his best thing was he could draw
18 anything on a canvas or anything. That was his
19 favourite thing to do, draw, and he was just a
20 good brother. I miss him.

21 218 Q Thank you for that. Perhaps could I talk to you
22 about the call that you received after he died?

23 A Uh-huh.

24 219 Q Firstly, do you remember your husband giving you a
25 message to call the RCMP in Canada?

1 A Yes, yes. I got home, must have been quarter to
2 5:00, somewhere around that area, and I walked in
3 the house and my husband said, "You got a call,"
4 and I said, "From who?," and he said, "RCMP". He
5 looked at me strange and he said, "Who's that?,"
6 and, "Royal Canadian Mounted Police." I thought
7 probably Frank got in trouble or something. He
8 said, "Somebody hit him, it was hit-and-run case,"
9 and I said, "Okay". So I called and they gave me
10 a number to call the coroner to make arrangements
11 for him, for his body to go back home and that was
12 it.

13 220 Q Do you recall when this call happened in terms of
14 dates? Was it in December or January or can you
15 give us a --

16 A I can say it was in February, beginning of
17 February. By the time -- because it was before
18 the 15th I called the band office and made
19 arrangements for them to pick up his body.

20 221 Q Okay. Was it before the 15th of January or 15th
21 of February?

22 A February.

23 222 Q In terms of us helping to locate the time of the
24 call, I assume this would have happened obviously
25 before his funeral because you made arrangements

1 for his body to come out; right?

2 A Right, right.

3 223 Q I'm going to come back to the call, but I take it
4 you made arrangements with the band office; is
5 that right?

6 A Yes.

7 224 Q Who did you deal with at the band office?

8 A It would have to be the chief, Chief Levi.

9 225 Q Did you speak with a Brian Solomon?

10 A I don't remember. I probably did. It was quite a
11 while ago and I wasn't really -- I was having a
12 hard time so -- if I did, I did. I don't
13 remember.

14 226 Q In general, I take it you remember making
15 arrangements for his body to come out and speaking
16 to the band office but not being involved in any
17 other dealings; is that right?

18 A Right.

19 227 Q Let's come back to the call. What do you recall
20 the police-officer telling you other than to call
21 the coroner? Did he say anything to you that you
22 recall?

23 A The RCMP?

24 228 Q Yes.

25 A Uhm, told me what my husband already told me and

1 for me to call the coroner and make arrangements
2 for Frank and I did.

3 229 Q What do you recall the RCMP officer telling about
4 how Frank died?

5 A A hit-and-run case, he was hit by a vehicle and
6 they don't know who did it, and that's pretty much
7 what it was, a hit and run, and they couldn't find
8 anybody, and for me to make arrangements with his
9 body. That's what I remember.

10 230 Q Do you remember anything else about the vehicle or
11 where in the city of Vancouver it happened or when
12 it happened?

13 A No. I know he died on December 28th or 29th.

14 231 Q Could it have been earlier in December?

15 A No, because I happened to recall that real close
16 because it was during Christmas week and that
17 stood out to me, the 28th or 29th he died.

18 232 Q I think, Mrs. Jourdain, I think we know that he
19 died in early December, on the 5th or 6th so it
20 wasn't the 25th. What is it you're remembering
21 associated with Christmas? Was there a call from
22 him or about this in the week of Christmas?

23 A No. I remember now it was December 7th that he
24 died because that's when my son got married.

25 233 Q Early December?

1 A Right.

2 234 Q So with respect to the conversation with the
3 coroner, do you recall anything else about the
4 conversation with the coroner other than needing
5 to make arrangements with his body?

6 A No. I don't remember him saying anything. I told
7 him who I was and what I wanted to do and that was
8 it. I made arrangements and that was it.

9 235 Q Did the coroner talk about how Frank had died or
10 why he had died?

11 A No, he didn't. I guess he assumed that I knew
12 that he did die from a hit and run but he didn't
13 say anything to me -- not that I remember.

14 236 Q Do you remember the area code that you had to call
15 to contact the RCMP or which part of Canada you
16 were calling?

17 A For goodness sake, I don't know.

18 237 Q That's why you go to law school, so you can ask
19 these kind of questions.

20 A Yeah. I don't know. I don't know. All I know is
21 it was the RCMP, the number I had to call back.

22 238 Q And do you have any recollection of whether it was
23 New Brunswick? I take it you're originally from
24 New Brunswick?

25 A Yeah. No, no, because it took too long for his

1 body to make it to Big Cove so it wasn't in New
2 Brunswick. It had to be Vancouver, British
3 Columbia. That was my understanding.

4 239 Q I take it the police-officer was a man?

5 A Yes.

6 240 Q Was the person you spoke to at the coroner's
7 office a man or a woman?

8 A A man.

9 241 Q And there is a person in Vancouver who is known as
10 the coroner's liaison who is a police-officer but
11 actually works with the coroner. Is it possible
12 you spoke with a coroner's liaison officer in
13 Vancouver?

14 A I don't know. I don't know. I just was told to
15 call this number and make arrangements. I didn't
16 think nothing of it, just do it and get it over
17 with.

18 242 Q Was this the first time that you had heard Frank
19 had died? Did you have any indication he had died
20 before this call?

21 A Before the RCMP called me?

22 243 Q That's right.

23 A No, I didn't know he had passed away at that time.

24 244 Q So after the call, you said you phoned the band
25 office. Who else did you speak to about Frank's

1 death?

2 A Probably to Peggy and -- probably just to Peggy
3 because she's the elder of the cousins.

4 245 Q And that's Peggy Clement?

5 A Yes, Peggy Clement. She's my cousin.

6 246 Q Do you recall speaking with any other member of
7 the family about how Frank died?

8 A No, no. I never knew, because when I called Peggy
9 I said he got hit by a car and they don't know who
10 did it and they can't find any traces and that's
11 how it was left.

12 247 Q Did you attend Frank's funeral?

13 A No. I couldn't make that trip. We had a great
14 big snowstorm that day.

15 248 Q When did you first find out that Frank had been in
16 custody that day and he died, not of a hit and
17 run, but of exposure?

18 A When did I -- gosh, I would say, three years
19 after.

20 249 Q And how did you learn that?

21 A Peggy, Peggy called me. She told me what had
22 happened and she said that Dana Urban called her
23 and couldn't understand why, you know, why did
24 they -- how do you say that -- why aren't they
25 doing something about Frank, and Peggy didn't

1 understand what he was saying. She told Urban, I
2 guess, that he died from a hit and run and Dana
3 Urban says no, he didn't, and that's where it all
4 started from, from Dana Urban.

5 250 Q Did you speak with Dana Urban?

6 A No, I never did, never did.

7 251 Q Did you speak with any other official from the
8 west coast? Did you speak with any other
9 police-officer other than the call you've already
10 mentioned?

11 A I did speak to one lady, she was a police-
12 officer --

13 252 Q Is that Ms. Leggatt?

14 A I don't remember.

15 253 Q Was she with the Vancouver Police?

16 A Yes. She told me that she knew Frank and that she
17 was very sorry and she used to help him buy
18 coffee, give him her jacket in the winter-time and
19 always gave him change and stuff, and that he was
20 a very nice man and that was it. After that,
21 Steve said not to talk to anybody, no reporters or
22 anything after that, so I didn't say anything
23 anymore to anybody else after that.

24 254 Q The female constable from Vancouver, I take it
25 that was sometime after Frank died. Do you recall

1 what she was asking you about in terms of the
2 reason for her call other than talking about her
3 knowledge of Frank?

4 A No. She just called to say -- she gave me her
5 condolences and that was it. After telling me
6 that she knew Frank and he was a nice guy, that
7 was it. I was told not to talk to the lawyers,
8 not to talk to anybody else.

9 MR. COWPER: Okay. Those are my questions, Mrs. Jourdain.
10 Thank you for coming today and other lawyers may
11 have questions for you.

12 A Okay. Thank you.

13 THE COMMISSIONER: Any questions, Mr. Kelliher?

14 MR. KELLIHER: No, thank you.

15 THE COMMISSIONER: Mr. Eby?

16 MR. EBY: No, thank you, Mr. Commissioner.

17 THE COMMISSIONER: Mr. Tammen?

18 MR. TAMMEN: No, thank you.

19 THE COMMISSIONER: Mr. Hern?

20 **EXAMINATION BY MR. HERN:**

21 255 Q Ms. Jourdain, how long have you lived in Maine?

22 A All my life. I'd say -- I'm 55 and I was brought
23 to the state of Maine when I was about five.

24 256 Q I apologize if I'm confused as to the family
25 history here. Did you not grow up with Frank Paul

1 in New Brunswick then?

2 A No. That's a long story. My dad and -- my mom
3 and dad apparently could not get along so when I
4 was five or six I got shipped off to a school in
5 -- where is that now -- Shubamagadie they call
6 it -- can't remember that state, it was in Canada,
7 for a year, and then after we were brought back
8 home I lived with whoever wanted to take care of
9 me which was on my mother's side of the family and
10 my dad's side of the family and it was always the
11 three of us together staying with them.

12 257 Q I see. To your knowledge through that period,
13 through your childhood, Frank Paul was living in
14 New Brunswick?

15 A Yeah, we all lived on the reservation.

16 258 Q I want to just refer to a comment you made with
17 regard to receiving a letter from a hospital about
18 Frank Paul having some surgery done on his legs.

19 A Yeah.

20 259 Q You stated that that was from Vancouver. Do you
21 have any idea what date that would have been?

22 A Goodness, I would have to say maybe two years
23 before, two, three years before he died.

24 260 Q So that was the late 1990s you mean?

25 A Yeah, it would have had to be.

1 261 Q Now, you testified that it was February that you
2 received the call that your brother had died?

3 A Uh-huh.

4 262 Q Is it possible that your memory on that is
5 incorrect and it was in fact January?

6 A If it was, it was late January because I know we
7 buried him up before Valentine's Day.

8 263 Q You didn't attend the funeral though?

9 A No, I could not.

10 264 Q But did you make the arrangements for the funeral?

11 A No. I called the Big Cove band office, Chief
12 Levi, and told him about what happened and that we
13 needed to bring Frank home and he said he would
14 take care of everything.

15 265 Q Had the Big Cove band office, when you first spoke
16 to them about making arrangements for the return
17 of Mr. Paul for his funeral, when you first spoke
18 to the band office do you recall who you talked
19 to?

20 A Oh, I don't remember who I talked to. I really
21 don't.

22 266 Q Okay. Do you recall how soon after Frank Paul's
23 body was returned to New Brunswick? Were you
24 aware of that date?

25 A Yes.

1 267 Q When was his body returned as far as you can
2 recall?

3 A Goodness, I would have to say maybe -- oh, gosh,
4 it would have to be at least a week or two by the
5 time his body got up there because we made -- I
6 sent flowers for his funeral and that was in
7 February, before Valentine's Day.

8 268 Q You don't have these documents in front of you but
9 there have been some documents shown in this
10 proceeding from the coroner's office in Vancouver
11 that suggests the shipment date for the body was
12 in the middle of January, like January 12th or
13 14th.

14 A Uh-huh.

15 269 Q Does that assist you in any way in your
16 recollection of the date or is it still your
17 recollection that it was in February or late
18 January that this first call came in?

19 A I couldn't say now. I couldn't. For some reason
20 February sticks in my head.

21 270 Q I see. Did you know when you first spoke to the
22 RCMP officer, did you know what a coroner was?

23 A No.

24 271 Q But you're confident -- was that the first time
25 you heard the word "coroner"?

1 A Oh, no, I knew what it was.

2 272 Q All right. What did you understand that a coroner
3 did?

4 A Took care of a dead body.

5 273 Q When you spoke to this person from the coroner's
6 office subsequently to talking to the RCMP -- I'm
7 sorry, I think I may have misconstrued your
8 evidence there. Did you ever speak with the
9 coroner's office yourself?

10 A Yes. I was given a number from the lieutenant or
11 somebody higher up to call him to make
12 arrangements.

13 274 Q When you spoke to the person on the other end who
14 answered that number, did they give you the
15 impression that they could make the arrangements
16 for Frank Paul's body to be returned?

17 A Yeah, yeah.

18 275 Q Did they indicate that they had spoken to any
19 other members of the family?

20 A No, not that I know of.

21 276 Q Did you ask them anything about the circumstances
22 of Mr. Paul's death?

23 A Not really, because I was satisfied with what they
24 had left a message with.

25 277 Q So you didn't ask about the hit and run that the

1 RCMP officer had told you?

2 A No, because I figured they already knew that and I
3 didn't know -- I didn't know.

4 278 Q You testified that it wasn't until some years
5 later that you learned he didn't die from a
6 hit-and-run accident?

7 A Yeah.

8 279 Q Did you ever speak to anybody in the coroner's
9 office or the police department in British
10 Columbia as to whether anybody had been arrested
11 in relation to that hit and run?

12 A Nope, no, after that it was all -- I was thinking
13 it was all done but it wasn't.

14 280 Q I see. You didn't want to know whether the person
15 had been caught?

16 A Not really, because it didn't -- when they called
17 us, they told us it was a hit and run and they
18 didn't know who it was. I imagine a hit and run
19 is they hit him and he's just left. That's how I
20 took it.

21 281 Q You also spoke about speaking to a police-officer
22 who was a woman and she stated she knew Frank and
23 so on. You recall that evidence?

24 A Uhm, yeah. She was very nice to me.

25 282 Q Did you understand from that call -- do you recall

1 why she was phoning?

2 A Just to tell me that -- she gave me her
3 condolences and she was telling me about Frank and
4 how he was and all that stuff.

5 283 Q She didn't ask you about your original phone call
6 from the RCMP?

7 A No, no. I don't even know where she got my
8 number.

9 284 Q I see. You testified that your counsel had
10 advised you not to speak to anybody else?

11 A Yes.

12 285 Q Did you receive any subsequent calls from that
13 woman or anybody else from the police about that?

14 A No, I can't say I did.

15 286 Q Did you receive any messages asking you to phone
16 back that particular officer or anybody else?

17 A No, no.

18 287 Q I take it when you said you listened to your
19 counsel's advice and didn't talk to anybody else
20 about this, if any police-officers had phoned, you
21 would have said -- you would have either not
22 phoned them back or told them that you're not
23 going to talk to them anymore?

24 A Right, but nobody did.

25 288 Q I see. Have you spoken with Peggy Clement about

1 this matter?

2 A Uhm, she's been the one that's been in contact
3 with everything and she's been calling me.

4 289 Q So you regularly speak to her? Let me clarify
5 that. I'm not meaning to ask about whether you
6 speak with her presently, but did you speak with
7 Peggy Clement in or about 1999 as to whether she
8 had been contacted by the police?

9 A No, no.

10 290 Q Do you know if -- did you and Ms. Clement speak at
11 all -- in 2002 when the lady police-officer phoned
12 you, did you and Ms. Clement speak about that
13 phone call?

14 A No, I don't think so. I wouldn't have talked to
15 her about that. If I did, it was in -- it was in
16 good humour.

17 291 Q Mr. Urban, you never actually spoke to him
18 directly. Did you only hear about him through
19 Ms. Clement?

20 A Yes.

21 292 Q I'm just pausing because I'm looking at my notes,
22 Ms. Jourdain, if you just give me a second.

23 A Yeah.

24 MR. HERN: Thank you. I have no further questions.

25 A Thank you.

1 THE COMMISSIONER: Mr. Woodall, did you have any questions?

2 MR. WOODALL: No, thank you.

3 THE COMMISSIONER: Mr. Cowper?

4 MR. COWPER: I don't have any further questions, Mr.

5 Commissioner. Thank you for coming and could you

6 thank Mr. Jourdain as well and that concludes

7 these witnesses' evidence.

8 THE COMMISSIONER: Thank you very much for your time,

9 Mrs. Jourdain. We appreciate it.

10 A Thank you.

11 THE COMMISSIONER: We're going to sign off now so you can hang

12 up your phone and you can thank your husband for

13 me as well.

14 A Yes, I will.

15 **(WITNESS EXCUSED)**

16 THE COMMISSIONER: Is there anything further this afternoon?

17 MR. COWPER: No, Mr. Commissioner.

18 THE COMMISSIONER: I take it we're adjourned until tomorrow

19 afternoon at two o'clock.

20 MR. COWPER: Yes, for Chief Blythe.

21 THE REGISTRAR: This hearing is adjourned until two o'clock

22 tomorrow.

23 (PROCEEDINGS ADJOURNED AT 2:42 P.M.)

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I hereby certify the foregoing to
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of the proceedings transcribed to
the best of my skill and ability.

Margaret M. Wills
UNITED REPORTING SERVICE LTD.

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