



## *Taman Inquiry into the investigation and prosecution of Derek Harvey-Zenk*

Honourable Roger Salhany, Q.C., Commissioner

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### **Background Narrative of Facts Surrounding the Accident**

At approximately 7:05 a.m. on February 25, 2005 Crystal Taman died in a three car collision that occurred in the southbound lanes of Provincial Trunk Hwy 59 at the intersection to Hwy 101 (the Perimeter Highway). Highway 59 is a divided road having three lanes as it approaches Highway 101 from the north. Those three lanes consist of two southbound lanes that are divided by a solid line, and one westbound (or right hand) turning lane. The stop lights exist to enable northbound vehicles traveling on the opposite side of Highway 59 to cut across the southbound lanes so that they can turn west (a left hand turn for them) onto Hwy 101. The speed limit on the southbound lanes of Provincial Trunk Hwy 59 was 80 km per hour at the material time.

At the time of the collision, the Taman vehicle, a yellow 1991 Chevrolet Sprint Convertible, was stopped for the red light in the left hand southbound lane adjacent to the median. Crystal Taman was the only occupant. Stopped approximately 8 metres<sup>1</sup> ahead of the Taman vehicle near the stop line for that intersection was a dark green Hyundai Accent GS 2 operated by its lone occupant, Kathleen D. Beattie. Forensic evidence shows that Crystal Taman's vehicle was rammed directly from behind by a 1995 Dodge Dakota Pickup, being operated by its lone occupant, Derek Harvey-Zenk (a.k.a as Derek HarveyMordenZenk). The Taman vehicle was then carried by the Harvey-Zenk vehicle into the back of the Beattie vehicle.

RCMP Forensic Traffic Reconstructionist, Cst. Chris Blandford, who was subsequently called to the accident scene, has offered the opinion that Mr. Harvey-Zenk made no attempt to stop or slow his vehicle as there are no skid marks that, in Cst. Blandford's opinion, can be attributed to the Harvey-Zenk vehicle. It was admitted by counsel on Mr. Harvey-Zenk's behalf during the sentencing submissions that Mr. Harvey-Zenk made no effort to stop the vehicle.

The force of the collision dragged the buckling Taman vehicle completely through the intersection before it came to rest in the middle of the southbound lanes, south of the intersection. By the time it came to rest, the Taman vehicle sustained severe contact damage and crush deformation to the front and rear ends, with much greater damage to the rear. The length of the car after the collision was approximately 2.35 metres, while an undamaged vehicle of the same make and model is 3.71 metres in length. The convertible

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<sup>1</sup> The distance and location of the vehicles are based on estimates furnished by RCMP Forensic Traffic Reconstructionist, Cst. Chris Blandford.

roof had been displaced. Damage was so extensive that an emergency caller described the vehicle as cut in half. Ms. Taman was pronounced dead immediately upon her arrival at Concordia Hospital after being extracted from the vehicle. Witnesses to the accident concluded that she died at the accident scene.

The Beattie vehicle sustained moderate to severe damage to its rear, with the primary direction of force occurring from the driver's side corner to the middle of the passenger side. As a result of the collision the Beattie vehicle was driven southbound, coming to rest off of Hwy 59 in the snow bank on the southwest corner of the intersection, immediately behind a light standard. The ultimate resting place of the Beattie vehicle was north of the Taman vehicle.

After the collision the Harvey-Zenk vehicle took an uneven path. After it disengaged from the Taman vehicle shortly after it passed the traffic light standard situated on the south side of the intersection, the vehicle continued in a southeasterly direction toward the median ditch. It is Cst. Blandford's opinion that prior to leaving the road Mr. Harvey-Zenk aggressively applied the brakes and skidded for a short distance before continuing into the median ditch between the northbound and southbound lanes of Hwy 59. The vehicle then continued south in the median, with its undercarriage in contact with the ice that covered the snow surface. While on this path the driver's rear fender sideswiped the traffic light standard in the median although with insufficient force to slow it materially. Either by design or on its own, the Harvey-Zenk vehicle then turned toward the southwest, leaving the median. It returned to the road surface heading then in a southwesterly direction. In Cst. Blandford's opinion, the vehicle, which then accelerated, was steered abruptly back to the left or east, proceeding back into the median. It was then steered abruptly toward the south before coming to a stop some distance past the Taman vehicle. The vehicle had moderate to severe contact damage to its entire front end. Cst. Blandford was unable to estimate the speed of the Harvey-Zenk vehicle as in his opinion there were too many variables to allow a forensic determination to be made.

At the time of the accident there were a number of indicators to alert a southbound driver of the need to stop at the intersection of Hwy 101. Approximately 294.46 metres to the north of the intersection there were two traffic signals, one on the median that divides Hwy 59, and another adjacent to it on the west side of Hwy 59. The east side signal bears a traffic light symbol while the west side traffic signal reads "Prepare to Stop." Each traffic light symbol is marked by two amber lights that were in proper working condition at the time of the accident. Those lights alternate or flash when there is a northbound vehicle stopped at the intersection in one of the two westbound turning lanes. They will operate for approximately 11 seconds when activated. The intersection of Hwy 101 is visible ahead. There were two traffic lights facing southbound traffic, one on the median on the south side of the intersection and the other on the southwest corner of the intersection. The intersection was lined with street lights on the east side of the northbound lanes. Those lights were operating properly and it was light out by that time of the day. According to Cpl. Blandford, the Harvey-Zenk vehicle would have been a minimum of 135.29 metres north of the advance warning lights when the red lights in the intersection were activated. At 80 kilometres per hour, the Harvey-Zenk vehicle would have taken 6.03 seconds to cover the distance to the warning lights. "If the time of the advance warning lights and yellow red light stage is factored into the particular situation [the Harvey-Zenk] vehicle would have been a minimum of 467.70 metres north of the

advance warning light when they were activated.” In Cst. Blandford’s opinion, the brake lights on the Taman were activated and at least the passenger tail lamp was activated.

Weather is not believed to have been a factor in the accident as visibility was unrestricted (24.1 kilometres) and the road surface on the north side of the southbound lane of Hwy 59 were bare, level and dry, with a light layer of frost. At 7:00 a.m. the temperature was -20 degrees.

The earliest attributed estimate of the time of the accident was recorded by Mr. Garth Shaw, whose post-accident cell-phone call to work to advise he would be late was placed at 7:07 a.m. According to available information, it is not clear who was next on the scene. Several motorists happened upon the accident in short order. Ms. Denise Bukowski observed that when she arrived with her husband, “nothing was moving.” Mr. Dale Kasper, an off-duty Winnipeg firefighter who was on his way to work, arrived around the same time and pulled his Van in front of the Taman vehicle to protect it from oncoming traffic. Mr. Vernon Stevens believes that as he approached the intersection from approximately one-half a kilometre he could see movement that he likened to a spinning vehicle.

Mr. Kasper, wearing his firefighter’s jacket, bearing a Winnipeg Fire Service shoulder patch, checked on the vehicles involved in the accident, ultimately turning off the Taman motor vehicle’s engine. He took charge in advance of the arrival of emergency services by directing traffic.

At 7:10 the first confirmed call for emergency assistance was placed by Mr. Ken Ford to the East St. Paul Police Service. At 7:12 Winnipeg Fire and Paramedic Services received a call, and shortly after dispatched two ambulances to the scene from different locations, Unit 24 and Unit 2. At 7:16 East St. Paul Emergency Service received a call. Cst. Graham’s notes record that he and Chief Bakema, both of the East St. Paul police, arrived on-scene at that time, 7:16 a.m.

At 7:17 a call for an ambulance was received by the Selkirk Ambulance Service. It appears that at 7:22, approximately the same time that East St. Paul Emergency Service first responders were arriving, Cst. Woychuk of the East St. Paul Police Service reached the accident location. Immediately upon his arrival, first responder Chief Ray Riddols of the East St. Paul Emergency Service attended to Crystal Taman but found no signs of life. Based on current information Winnipeg Fire and Paramedic Services Unit 24 was the next emergency vehicle to arrive at some undetermined time before 7:25. Paramedics Jonathon Hawkes and Dan Fotti who were in Unit 24 immediately attended to Ms. Taman. At the same time, Winnipeg Fire and Paramedic Service Unit 2 arrived at the scene. Paramedic Leonard Pleskacz went to assist at the Taman vehicle while Paramedic Lisa Trachym attended to Ms. Beattie.

Together the East St. Paul Emergency Service and other emergency personnel managed to extract Ms. Taman and resuscitation attempts were commenced. At 7:43 Winnipeg Fire and Paramedic Services Ambulance Unit 24 departed with Crystal Taman for Concordia Hospital, and two minutes later Unit 2 followed with Ms. Kathleen Beattie.