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Attachments: July 16 - Derek Grant Harvy-Zenk.doc

For your information Marty: <<July 16
- Derek Grant Harvy-Zenk.doc>>

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CONTROVERSIAL ISSUES ALERT
(July 16, 2007)

Division/Branch Issue	Brief Description	Recommended response by Minister
<p>Prosecutions</p>	<p>DEREK GRANT HARVEY-ZENK This incident occurred February 25, 2005. Crystal Taman was killed when her vehicle was rear-ended by Derek Harvey-Zenk. Harvey-Zenk was charged March 1, 2005 with impaired driving causing death; refusing a breathalyser test, dangerous operation of a motor vehicle causing death and criminal negligence causing death.</p> <p>Mr. Zenk, through his counsel, Richard Wolson, has advised that Mr. Zenk is prepared to plead guilty to the indictable offence of Dangerous Driving Cause Death.</p> <p>The case includes witnesses / members from the WPS, scene witnesses, ambulance and East St. Paul police personnel, and an RCMP Traffic Accident Reconstruction expert. The opinion of the Crown (Marty Minuk) is that resolving this matter by taking the plea as offered is a very good resolution. The evidence in support of the charge of both the Drive Impaired and Refusal of Breathalyzer is very very weak.</p> <p>By reason of the shoddy work of the East St. Paul Police the charge of refuse breathalyzer is bound to fail.</p>	<p>This is for information purposes only.</p>

The WPS members do not describe Zenk as being impaired.

In speaking to the RCMP expert his assessment is that the plea may in fact be more than what might happened had the matter gone to trial.

What is left factually is speed within the posted limit, no evidence of impairment, no evidence of erratic driving before the collision.

The main issue will become sentencing because the prevailing authorities on the facts admissible support a conditional sentence. The Crown is of the opinion that this is the appropriate sentence in this case.

It is unclear if the family understands all of the complexities and legal issues but they will be spoken to again.

A plea will be entered on Tuesday, July 17, 2007 at 9:00 a.m. before Chief Provincial Court Judge R. Wyant. As such today will be a brief appearance with little said on the record regarding this development in the prosecution.

It is expected the case will be remanded after the plea to set up a sentencing hearing.