

1 SEPTEMBER 3, 2013

2

3 THE CLERK: ... open. Judge Krahn presiding.  
4 You may be seated.

5 THE COURT: Good morning, everyone.

6 MR. GRIEVES: Good morning, Your Honour. It's  
7 Grieves, initial A., for the Crown, dealing with the matter  
8 appearing number 5 and 6, Martin Green. Matter is set for  
9 trial. The Crown is proceeding summarily. And, Mr. Green  
10 is self-represented, Your Honour.

11 THE COURT: Thank you. You're ready to go, Mr.  
12 Green?

13 MR. GREEN: Yes, I am.

14 MR. GRIEVES: I can tell Your Honour that the  
15 Crown subpoenaed five witnesses. All of the witnesses,  
16 except for one, has attended. Mr. -- one of the witnesses  
17 has not attended, however, the Crown requires that witness  
18 so I'm not sure how ... He was, he was subpoenaed with --  
19 to attend today's court. It's my understanding that one of  
20 the -- Mr. Granger, who is the director of security at the  
21 University of Winnipeg, one of the witnesses, has contacted  
22 him and he's indicated that he's not going to be -- he does  
23 not want to attend court this morning. So I mean, the  
24 Crown is going to be seeking a witness warrant in respect  
25 to the ...

26 THE COURT: And this is a civilian witness?

27 MR. GRIEVES: What's that?

28 THE COURT: A civilian witness?

29 MR. GRIEVES: It is a civilian witness, yes, Your  
30 Honour. He was served with a subpoena personally on April  
31 25th, 2013 at 1:00 p.m.

32 THE COURT: Okay. Can I see the subpoena,  
33 please.

34 MR. GRIEVES: Perhaps he can be paged at this

1 point, Your Honour.

2 THE COURT: Yes. Perhaps you could page Akhil  
3 Jose. I don't know if it -- is it Jose Akhil?

4 MR. GRIEVES: The last name is Jose or Jose.

5 THE COURT: Okay. So Akhil Jose.

6 MR. GREEN: Your Honour, may I ...

7 THE CLERK: Akhil Jose, please attend courtroom  
8 406. Akhil Jose, please attend courtroom 406.

9 MR. GREEN: Your Honour, may I?

10 THE COURT: Certainly.

11 MR. GREEN: I may be willing to stipulate  
12 agreement with whatever testimony he, the Crown intends to  
13 bring from this witness. I'm not sure that he has anything  
14 controversial.

15 MR. GRIEVES: I mean, well, the -- Mr. Jose did  
16 not provide a statement. I mean, he was one of the  
17 security guards at, at the -- who was present on February  
18 7th.

19 THE COURT: Do you want to have a conversation  
20 with Mr. Green about whether or not there are, there is  
21 evidence that you expected Mr. Jose to give that he may be  
22 prepared to agree to?

23 MR. GRIEVES: I mean, I could certainly do that,  
24 Your Honour.

25 MR. GREEN: We can do it here or we can do it  
26 outside.

27 MR. GRIEVES: Perhaps before we break, I can tell  
28 Your Honour that those are -- the Crown's calling five  
29 witnesses, including Mr. Jose, and it's my understanding  
30 Mr. Green is, is also going to be calling an additional  
31 five witnesses as well.

32 THE COURT: Okay.

33 MR. GRIEVES: So this might take more than one  
34 day, that which the Crown had initially estimated.

1 THE COURT: So are you making any -- do you think  
2 we should set a new date? Are you making an application to  
3 set a new date?

4 MR. GRIEVES: No, I'm, I just wanted to --

5 THE COURT: Just alert the court.

6 MR. GRIEVES: -- make --

7 THE COURT: Okay.

8 MR. GRIEVES: -- Your Honour aware of that.

9 THE COURT: All right. And you want to make sure  
10 that this matter proceeds today, I take it, Mr. Green?

11 MR. GREEN: I'm ready to go.

12 THE COURT: Yeah.

13 MR. GREEN: My witnesses are here.

14 THE COURT: All right. Given the fact that  
15 there's personal service for Akhil Jose, I am going to  
16 issue a witness warrant for Mr. Jose at this point.

17 I think what we'll do is we'll start with the  
18 evidence and then during a break that we'll take in the  
19 ordinary course of proceedings, I'll ask Mr. Grieves and  
20 Mr. Green if you can have a conversation about whether or  
21 not you can agree to Mr. Jose's evidence. Mr. Grieves,  
22 you've got the warrant for the witness if that is going to  
23 be of any assistance to you in terms of how we proceed  
24 today.

25 MR. GRIEVES: Thank you, Your Honour.

26 The -- Your Honour, the Crown's first witness is  
27 Constable Hopiavuori.

28 I mean, there should be -- the Crown's -- should  
29 be an order excluding all witnesses, Your Honour.

30 THE COURT: Okay. I do make an order excluding  
31 all witnesses until they are called into court to testify.

32 Mr. Green, are any of your witnesses present in  
33 the courtroom?

34 MR. GREEN: No.

1 THE COURT: Okay. So your witnesses have to wait  
2 outside until they're called in to testify.

3 THE CLERK: Do you wish to swear on the Bible or  
4 affirm?

5 THE WITNESS: Bible.

6 THE CLERK: Please state and spell your name for  
7 the record.

8 THE WITNESS: Constable Hopiavuori, first initial  
9 C. Last name is H-O-P-I-A-V-U-O-R-I.

10

11 C. HOPIAVUORI, sworn, testified as  
12 follows:

13

14 THE COURT: Mr. Green, since you're self-  
15 represented, the court can't give you any legal advice, I'm  
16 sure you're aware of that, but you understand the process.  
17 The officer or the witness will testify in direct, Mr.  
18 Grieves will ask the witness questions, you'll have an  
19 opportunity to cross-examine the witnesses, and the same  
20 when you're calling your evidence, except that you're doing  
21 the direct examination and Mr. Grieves will do the cross-  
22 examination. Okay. Thank you.

23

24 DIRECT EXAMINATION BY MR. GRIEVES:

25 Q Constable, I understand you're a member of the  
26 Winnipeg Police Service?

27 A Yes, I am.

28 Q And how long have you been employed with the  
29 Winnipeg Police Service?

30 A I was hired in February 2012, and prior to this I  
31 served as a police officer in Ontario for six years.

32 Q And that's with the Ontario Provincial Police?

33 A It was with the Waterloo Regional Police.

34 Q I also understand you respond to an incident here

1 in the City of Winnipeg which brings you into court this  
2 morning. Can you tell the court about, about that  
3 incident?

4 A Yes. On February 7th, 2013 I was working as a  
5 police constable for the Winnipeg Police Service in the  
6 City of Winnipeg when I was dispatched to a disturbance  
7 call at the University of Winnipeg. Information in the  
8 call indicated that a male, Martin Green, had been  
9 previously barred from the university, had attended back  
10 and was with security.

11 Q And what time of the day was this?

12 THE WITNESS: May I refer to my notes, Your  
13 Honour?

14 THE COURT: These are notes made by you at the  
15 time or shortly after the incident?

16 THE WITNESS: Yes.

17 THE COURT: And you need to refer to these notes  
18 to refresh your memory?

19 THE WITNESS: Yes.

20 THE COURT: Mr. Green, any opposition to the  
21 officer referring to his notes?

22 MR. GREEN: No, but I'll agree to anything he's  
23 going to say.

24 THE COURT: Okay.

25 MR. GRIEVES: And I can tell Your Honour that  
26 Mr. Green was provided with a copy of Mr. -- Constable's  
27 notes.

28 THE COURT: Okay.

29 MR. GRIEVES: Respect to this matter.

30 THE COURT: Yes, you may refer to your notes.

31 THE WITNESS: Thank you.

32 The incident as the police report came in was at  
33 9:45 in the morning on February 7th, 2013. I was  
34 dispatched at 10:02 to attend to the call and I arrived on

1 scene at 10:07.

2

3 BY MR. GRIEVES:

4 Q And who, if anyone, did you attend to the  
5 university that morning?

6 A Who did I attend with?

7 Q Yes.

8 A My partner, Constable Sylvestre, badge number  
9 2883.

10 Q So you attended, and then what happened?

11 A Upon attending to the university I spoke  
12 with security staff upon my arrival: Chris Rarick. He  
13 advised --

14 Q I'm sorry, the security staff?

15 A Yeah.

16 Q And that's the staff at the university?

17 A Yes.

18 THE COURT: And Rarick, how do you spell that  
19 last name?

20 THE WITNESS: It's R-A-R-I-C-K.

21 He advised me that they current, currently had  
22 Mr. Martin Green in the security area, that he had attended  
23 on that date and had attended on previous occasions after  
24 he'd been barred from the university. And on some of the  
25 occasions that he had attended previously, he had received  
26 trespassing notices.

27

28 BY MR. GRIEVES:

29 Q You said you spoke with, with Chris Rarick?

30 A Yes. I then attended into the security area and  
31 spoke briefly, at approximately 10:21, with Mr. Martin  
32 Green, at which time he identified himself, at my request,  
33 with a Manitoba driver's licence which had his photo on it.

34 Q And then what happened?

1           A     I then briefly spoke with the, I believe it was  
2 director of security is his title, Martin Grainger, who  
3 advised me that the issue with Mr. Green had been an  
4 ongoing problem since he had been, his enrollment at the  
5 university had been suspended. He provided me with some  
6 documentation just indicating some of the dates and times  
7 when he had been suspended and barred from the university  
8 and/or seen on university properties.

9           Q     Um-hum. And then what else happened?

10          A     Shortly thereafter, I formed the, the grounds to,  
11 based on the information that I was provided, formed the  
12 grounds to arrest Mr. Martin Green for mischief, and he was  
13 placed under arrest at 10:55 a.m., one of the security  
14 officers.

15          Q     And tell the court about the notice of arrest.

16          A     At 10:57 I read Mr. Green his rights to counsel.  
17 After reading them, I asked if he understood. He  
18 indicated, yeah.

19          Q     And what exactly did you read to Mr. Green?

20          A     The arrest notice from the back of my issued  
21 notebook.

22                MR. GREEN: Your Honour, I'll stipulate that I  
23 was properly advised of notice.

24                MR. GRIEVES: (Inaudible).

25                THE COURT: Okay. Looks like there's -- so you  
26 have no issue with the fact that you were given your rights  
27 to counsel?

28                MR. GREEN: That's right.

29                MR. GRIEVES: Okay. And that the notice of  
30 arrest and police caution were all read to him?

31                MR. GREEN: Yeah. I'm, I'm okay with all of  
32 that, if it helps.

33                MR. GRIEVES: Okay.

34                MR. GREEN: Shall I interject if I'm, at any time

1 if I want to say this or ...

2 THE COURT: Yeah. You're, you're doing okay.

3 MR. GRIEVES: Thank you, Mr. Green.

4

5 BY MR. GRIEVES:

6 Q And after the arrest, then what other involvement  
7 did you have with Mr. Green?

8 A After the arrest and notice of arrest, myself and  
9 my partner, Constable Sylvestre, we transported Mr. Green  
10 to the Public Safety Building for further processing.

11 Q Um-hum.

12 A He was viewed in by our sergeant at the police  
13 station, approximately 1112 hours, by Sergeant Mandziak,  
14 badge number 1913.

15 I also, once he was at the police station,  
16 advised Mr. Green that we wish to release him on a promise  
17 to appear with undertaking conditions, some of those  
18 conditions being not to attend back to the university until  
19 the matter was dealt with at court.

20 Q And did Mr. Green have any response to ...

21 A Mr. Green did not wish to agree to the term not  
22 to attend back to the university.

23 Q And then what happened?

24 A As a result, I made several attempts, along with  
25 my, my boss, to explain that the, the charge, it was an  
26 allegation.

27 Q And your boss, sorry?

28 A My, my boss, sorry, Sergeant Mandziak.

29 Q Yeah.

30 A That it was an allegation, that he would have his  
31 opportunity to speak to that allegation in court and that  
32 we wished to release him, we did not wish to hold him in  
33 custody and that he would agree to this PTA and  
34 undertaking.



1 Q Okay. Why is it that you did not want to keep  
2 him in custody?

3 A We believed that if he would agree to not attend  
4 to the university that that would prevent the continuation  
5 of that offence, and then it could be dealt with in court.

6 Q And then what, what else happened?

7 A At 1438 hours, upon speaking with Sergeant  
8 Mandziak in regard to the case details, she was -- she  
9 advised me that a further charge be on mischief of, under  
10 the Petty Trespass Act and forcible entry were to be laid  
11 in this matter.

12 Q (Inaudible).

13 A Following that, at 14 --

14 Q I take it that the -- there was also notice of  
15 arrest and --

16 A Yeah. Fourteen forty I again provided Mr. Green  
17 with his notice of arrest and, and rights to counsel for  
18 the additional charges, again asking him, after I read it,  
19 if he understood. He indicated: Yeah.

20 I then asked if he wanted to call a lawyer. He  
21 stated: Nah, no.

22 I then advised him of his, his waiver to his  
23 rights. Asked if he understood, and he again responded: I  
24 understand. I don't need a lawyer.

25 And further, again, he was advised of his police  
26 caution at 1444 hours and asked if he understood, and he  
27 responded: Yeah.

28 Q So with respect to the charge of Petty Trespass  
29 Act, what information were you provided by the university  
30 with respect to that?

31 A My understanding through my speakings with the  
32 director of security, Grainger, sorry, Martin Grainger,  
33 that Mr. Green had been trespassed previously in 2012, and  
34 due to, due to some events that he, events that he was

1 involved in, that trespassing notice, which had a one-year  
2 expiration, was extended and he was barred from attending  
3 University of Winnipeg properties.

4 Q Were you provided with a copy of the notice?

5 A I was, yes.

6 Q And he said it expired on two thousand ...

7 A The, the first one expired January 11th, 2013.

8 Q So there was another notice?

9 A There was a subsequent notice where he was barred  
10 again.

11 Q What can you tell us about that notice?

12 A Believe it was January 15th he was issued a  
13 second barring notice.

14 Q January 15th of what year?

15 A 2013, sorry, at 2:30 p.m.

16 Q So going back to the, your dealings with Mr.  
17 Green at the Public Safety Building --

18 A Yes.

19 Q -- is that where --

20 A Yes.

21 Q What else happened?

22 A At the Public Safety Building?

23 Q Yeah, after these notice of arrest for the other  
24 offences.

25 A For the additional charges?

26 Q Yeah.

27 A Basically, after he was notified of the  
28 additional charges and attempts were made to see if he  
29 wanted to speak with a lawyer --

30 Q Um-hum.

31 A -- because he wouldn't agree to the undertaking  
32 he was fingerprinted and then taken to the arrest  
33 processing unit.

34 Q So did that end your involvement with Mr. Green?

1           A     Once he was turned over to the arrest processing  
2 unit, that did conclude my involvement with Mr. Green.

3           Q     And do you see Mr. Green this morning in court?

4           A     Yes, I do. He's seated to my right.

5           MR. GRIEVES: For the record, Your Honour, the  
6 constable pointed at Mr. Green sitting at the ...

7           THE COURT: Yeah. Appears to be identifying Mr.  
8 Green.

9

10 BY MR. GRIEVES:

11           Q     And all of this occurred in the City of Winnipeg,  
12 in the Province of Manitoba?

13           A     Yes, it did.

14           MR. GRIEVES: Yeah. Have no further questions  
15 for the witness, Your Honour.

16           THE COURT: Mr. Green, do you have any questions  
17 of this witness?

18           All right. Just stand up and come closer to the  
19 podium so that your voice gets recorded.

20           MR. GREEN: Before I start my questions, I'm just  
21 going to --

22           THE CLERK: Sorry, just can you back up from the  
23 mic (inaudible).

24           MR. GREEN: Okay. It's ...

25           THE COURT: It's not for amplifying, it's just so  
26 everything here is recorded, so we've got your voice on the  
27 recording.

28           MR. GREEN: You know, I sing in a bar where you  
29 get up right close to the mic. They call me the Jewish  
30 Conway Twitty. Okay. I'm going to try and treat this  
31 seriously from now on.

32           You go and indulge me a little bit, if you could,  
33 while I just review the notes I made in advance with  
34 respect to what I intended to ask Mr., Mr. Hopiavuori.

1 Okay.

2

3 CROSS-EXAMINATION BY MR. GREEN:

4 Q Why don't I just say where I want to go with  
5 this. I want to, I want to find out what they told you  
6 about the reasons for my arrest. So I guess I have to ask  
7 the question.

8 I was arrested because I violated a trespassing  
9 order, but did they tell you why the trespassing order had  
10 been put in place?

11 A My understanding was that the trespassing orders  
12 came into effect as a result of you being, your enrollment  
13 being suspended from the university from something that had  
14 happened at the university.

15 Q Okay. And the renewal of the trespassing order  
16 -- the original trespassing order was for one year. And  
17 the renewal of the order, which you said was issued on the  
18 15th of January, 2013, did they tell you why it was  
19 renewed?

20 A Did they specifically tell me what had happened?  
21 My understanding is that on January 11th there had been an  
22 issue with yourself and somebody, Mr. Bush, that required  
23 police involvement.

24 Q Um-hum.

25 A And then following that, there was a second  
26 barring notice, which you just commented on --

27 Q Yeah.

28 A -- January 15th, 2013 was issued.

29 Q I'm going to introduce testimony that it was  
30 issued on the 11th, not the 15th, but you have no  
31 particular disagreement with that?

32 A I don't at this time.

33 Q You wouldn't have special knowledge of that.  
34 That's okay.

1           Did they tell you any details about the incident  
2 of the 11th which ...

3           A     I had, I had limited details as to what had  
4 happened. It was just my understanding that there was an  
5 incident that brought on the barring of --

6           Q     There was an incident. And you didn't make any  
7 -- in your notes I didn't see any further details about the  
8 incident.

9           A     On, on which date, sorry?

10          Q     Of the 11th, the, the --

11          A     As I said, the --

12          Q     I don't see that you made in your notes any  
13 further other than pretty much what you said, that there  
14 was an incident that required the police to be called.

15          A     That, that --

16          Q     If I could ...

17          A     -- you had attended at Mr. Bush's house.

18          Q     Yeah.

19          A     And the police were contacted. That's all I  
20 noted.

21          Q     Yeah.

22          A     And that's my understanding of that situation.

23          Q     I had a written report of the next, that I could  
24 use, submitted the, the day after where that's pretty much  
25 what you said.

26          A     Yeah.

27          Q     Now, I made notes of what I heard through the  
28 door while you were talking to Mr. Grainger or Mr. Rarick.  
29 I think Mr. Grainger, because you said you talked to them  
30 both. Since I couldn't see through the door I can't be  
31 sure that it was Mr. Grainger or Mr. Rarick but I think it  
32 was Mr. Grainger you were talking to, and my notes that I  
33 wrote down, and I'll enter these if you require them, was  
34 that I heard Mr. Grainger tell the officer, which I'm

1 understanding was you, that --

2 MR. GRIEVES: Where exactly was this?

3 MR. GREEN: Well, when I was in the little  
4 detention room and he was talking --

5 MR. GRIEVES: Oh, at the University of Winnipeg.

6 MR. GREEN: -- to Mr. Grainger, as he had  
7 testified, outside the detention room.

8

9 BY MR. GREEN:

10 Q I wrote down, I was trying to write down what was  
11 going on and I wrote down Mr. Grainger said, he thought he  
12 was smarter than the professors and he would argue with  
13 them. Did you recall anything like that?

14 A Just so you're aware, at that time my partner and  
15 I were both on scene so it could have been he was talking  
16 to my partner at that time, so because I had, I had stepped  
17 out and contacted my sergeant in regards to the matter.

18 THE COURT: I guess his question is, did you hear  
19 those words being said, that --

20 THE WITNESS: No, I don't recall that.

21 THE COURT: -- Mr. Green thought he was smarter  
22 than the professors.

23 THE WITNESS: No.

24

25 BY MR. GREEN:

26 Q He didn't say he, he'd run right up to them  
27 and get this close to their face, shouting? You didn't  
28 hear --

29 A I don't, I don't --

30 Q -- anybody say that?

31 A -- recall that, no.

32 Q Did your partner tell you that that's what I'd  
33 done, anything like that?

34 A My partner didn't --

1 Q Your partner --

2 A -- I don't recall him telling me that.

3 Q -- didn't talk to you any further about the  
4 reasons.

5 And your partner isn't, isn't here as a witness.

6 A He is.

7 Q He is?

8 A He is, yes.

9 MR. GRIEVES: He's the next Crown witness, Your  
10 Honour.

11 THE WITNESS: Yes.

12 MR. GREEN: Okay. I'll ask your partner, then,  
13 if that's okay, ask him the same questions.

14 Your Honour, I, I understand you ordered  
15 exclusion of witnesses. Can we also take it for, as  
16 understood that the witnesses that leave are not going to  
17 talk to the witnesses out there about what --

18 THE COURT: That's a good idea, Mr. Green, and  
19 I'm going to give them that instruction.

20 MR. GREEN: Okay. I have -- in a way I have no  
21 more questions, but if I could get the court's indulgence  
22 on this, if I could draw on Mr. Hopiavuori as an expert  
23 witness on two very small matters.

24 THE COURT: Okay. In order --

25 MR. GREEN: About police procedure.

26 THE COURT: Well, he's probably not an expert  
27 witness because there's a special hearing that you would  
28 have to go through in order to have him qualified as an  
29 expert.

30 MR. GREEN: Um-hum.

31 THE COURT: But I think you can probably  
32 generally ask him about police procedures.

33 MR. GREEN: I'll ask the question. If the  
34 question is improper, you just rule it out of order.

1 THE COURT: Yeah.

2

3 BY MR. GREEN:

4 Q I had an issue with the university that on one of  
5 those incidents which you referred to where I was  
6 previously held for trespassing, that they held me for six  
7 hours in that little detention room. And I said, well,  
8 can't you just release me and have the police mail me a  
9 ticket, because you know where I live, and then they said,  
10 well, no, they can't do that, it doesn't work that way.

11 So what I want to ask you, couldn't you just mail  
12 me a ticket if, like if I agree, yes, I was here and now  
13 you're releasing me, and then they would just mail me the  
14 ticket instead of having to hold me in the little room, or  
15 do you actually have to -- do they actually have to hold me  
16 there until you show up in order to charge me with  
17 trespassing?

18 A Can the service mail you a ticket, is that ...

19 Q Yeah.

20 A I, I don't know if the service can just mail out  
21 tickets. Generally, we do have to confirm the identity of  
22 someone, which involves seeing them and confirming their  
23 I.D. to ensure that we have the proper person. But it's  
24 not -- to my knowledge, not common practice, and we --

25 Q But you can't --

26 A -- don't mail --

27 Q -- say for sure --

28 A -- (inaudible) --

29 Q -- that it wouldn't be legal, that you don't have  
30 definite knowledge that it would have ruined your  
31 trespassing case if they had just got me to sign, yes, I  
32 was here, I acknowledge, and then subsequently let them  
33 mail me the -- you don't have the expertise to say one way  
34 or the other that that would have been --



1 A I've never proceeded in that manner.

2 Q Okay. Fair enough.

3 I think the other question I wanted to ask you,  
4 and again this will probably be it, is on this particular  
5 piece of evidence, which I will be introducing, which I  
6 think they've probably also introduced, was the, the 911  
7 call to the police on the --

8 MR. GRIEVES: Your Honour, person just walked in.  
9 I'm not sure that is --

10 UNIDENTIFIED PERSON: Not a witness.

11 THE COURT: Okay.

12 MR. GREEN: No. No, he's (inaudible).

13 THE COURT: That's the issue.

14

15 BY MR. GREEN:

16 Q On the 911 call that the, that came in associated  
17 with the incident where the police had to be called,  
18 there's some abbreviations that I'm going to show them to  
19 you, that you would just interpret for us, if you could.  
20 It says --

21 MR. GRIEVES: Not sure what you have, Mr. Green.

22 MR. GREEN: I'll show it to you, if you could.

23

24 BY MR. GREEN:

25 Q You then type what changed from D and, D and E.R.  
26 3 to a dist 3 at 13 ... I have copies for the, the court,  
27 if you'd like.

28 THE COURT: No. Constable Hopiavuori, do you  
29 recognize the document that has just been shown to you?

30 THE WITNESS: Yes.

31 THE COURT: And can you describe to me what that  
32 document is?

33 THE WITNESS: It's an incident history printout  
34 from event C13-0007371.

1 THE COURT: And from what day is that?  
2 MR. GREEN: I'm going to (inaudible).  
3 THE CLERK: Sir.  
4 MR. GREEN: Oh, I'm sorry.  
5 THE CLERK: Don't (inaudible).  
6 THE COURT: You can't give me documents until --  
7 MR. GREEN: Oh.  
8 THE COURT: -- we sort of identify --  
9 MR. GREEN: Okay.  
10 THE COURT: -- whether or not it's properly  
11 admissible.  
12 MR. GRIEVES: (Inaudible).  
13 MR. GREEN: Okay.  
14 THE COURT: Okay.  
15 THE WITNESS: Sorry, your question?  
16 THE COURT: So it's an incident printout.  
17 THE WITNESS: Yeah.  
18 THE COURT: So that is an -- and who generates  
19 the incident printout?  
20 THE WITNESS: That would be -- it's when a call  
21 comes in, the police call-takers enter the call, they enter  
22 it into this format. When the information is then printed  
23 out, this is the form that it's printed out into.  
24 THE COURT: So that's a dispatcher who --  
25 THE WITNESS: Yes.  
26 THE COURT: -- has recorded that information.  
27 And that is an incident from what date?  
28 THE WITNESS: January 11, 2013.  
29 THE COURT: Okay. And Mr. Green, do you want  
30 that document marked as an exhibit in these proceedings?  
31 MR. GREEN: Yeah, I think I do.  
32 THE COURT: I'm not sure that it's relevant since  
33 the incident date is February 7th, 2013, but I'm going to  
34 hear from Mr. Grievess on that.

1 MR. GRIEVES: Yeah. I mean, that we're dealing  
2 with matters that occurred on February 7, 2013, Your  
3 Honour, so I'm not sure if, if it's relevant.

4 MR. GREEN: Your Honour ...

5 MR. GRIEVES: I mean, I mean if it relates to  
6 the, to the general procedures that Mr. Green had --

7 MR. GREEN: The Crown's already brought forth a  
8 witness who's testified that the reason for the trespassing  
9 order was related to the incidence of January 11th, so I  
10 can't see how it's not relevant.

11 THE COURT: I'm not sure at this point that I'm  
12 going to be able to look past the reasons for a trespassing  
13 order, but without knowing at this point where the trial is  
14 headed, I'm going to let you ask some questions about that  
15 report from the officer.

16 MR. GREEN: Okay.

17 THE COURT: But at this point the report is not  
18 going to become an exhibit in these proceedings.

19 MR. GRIEVES: Because I'm not sure officer is,  
20 was involved in that call as well, so I'm not ...

21 THE COURT: Yes. I think he's just --

22 THE WITNESS: I was not.

23 THE COURT: -- asking about abbreviations --

24 THE WITNESS: Yeah.

25 THE COURT: -- from that day.

26

27 BY MR. GREEN:

28 Q Yeah. Do you know what those abbreviations mean?

29 A The one that you, the abbreviation you pointed  
30 out that says that event type change from break and enter  
31 three to a dispatch three.

32 Q Um-hum. What does the three mean?

33 A So --

34 Q Does the three mean anything?

1 A It's just a priority level of a call.

2 Q And is that a high or a low priority?

3 A Three is a high priority but it's not, it's not  
4 -- the highest priority is a priority two, so it's --

5 Q What are the, what are the priorities, then?  
6 One, two --

7 A Well --

8 Q -- three? Okay.

9 A A priority three is that there's, it's something,  
10 something actively pending. Something's happening so the  
11 police need to respond.

12 MR. GREEN: Okay. Okay. Shall I take back those  
13 documents for now or, or do you want --

14 THE COURT: I think --

15 MR. GREEN: The Crown can keep his copy.  
16 (Inaudible).

17 THE COURT: You can, you'd better keep it for now  
18 and we'll just sort of see where we go. If you need to --

19 MR. GREEN: Um-hum.

20 THE COURT: You can always make -- if you want me  
21 to look at that document at some point, Mr. Green, we'll  
22 revisit the issue, but for now I think that that's fine.

23 MR. GREEN: I'm going to want to enter it. I  
24 mean, I'm going to be arguing that the events of the 11th  
25 were relevant because that they can't -- I want to be  
26 arguing ultimately that they shouldn't be allowed to  
27 convict me for trespassing if they had no reason, and the  
28 reason for trespassing, if they argue that we had a  
29 trespassing order that we issued, that's arguing in circles  
30 unless I can ask them why did you issue the trespassing  
31 order. And that's going to be the gist of my case.

32 THE COURT: Okay.

33 MR. GREEN: So if I'm not allowed to put that in  
34 evidence, I won't have much of a case, but ...

1 I think that's all my questions for now.

2 THE COURT: Okay. So those are all the questions  
3 you have for Mr. Hopiavuori -- or Constable Hopiavuori.

4 Mr. Grieves, any redirect?

5 MR. GRIEVES: Just want to clarify.

6

7 RE-EXAMINATION BY MR. GRIEVES:

8 Q This -- you indicated that you received a call,  
9 there was a call received at 9:45 --

10 A That --

11 Q -- in the morning?

12 A That's the time the call, the entry time of the  
13 incident that I responded to on that date.

14 Q And you arrived at the ...

15 A Ten o-seven.

16 Q At 10:07? Okay.

17 A Yeah.

18 MR. GRIEVES: Those are my questions.

19 THE COURT: Thank you. That's all for today,  
20 Constable Hopiavuori. I'd ask you not to discuss your  
21 evidence, the evidence that you've given today, with any  
22 witnesses who are still to testify in this trial.

23 THE WITNESS: Yes.

24 THE COURT: Thank you.

25

26 (WITNESS EXCUSED)

27

28 MR. GRIEVES: Yeah. Your Honour, the next  
29 witness that the Crown is calling is Constable Sylvestre.

30 THE CLERK: Constable Sylvestre, please attend  
31 courtroom 406.

32 Do you wish to swear on the Bible or affirm?

33 THE WITNESS: I'll swear.

34 THE CLERK: Please state and spell your name for

1 the record.

2 THE WITNESS: Serge Sylvestre. S-E-R-G-E, S-Y-L-  
3 V-E-S-T-R-E.

4 THE CLERK: T-R-E?

5 THE WITNESS: Correct.

6

7 **SERGE SYLVESTRE**, sworn, testified  
8 as follows:

9

10 THE CLERK: Thank you. Please be seated, or you  
11 wish to stand?

12 THE WITNESS: Yeah, I'll think I'll -- I'll  
13 stand, thank you.

14 THE CLERK: That's fresh water.

15 THE WITNESS: Thank you.

16

17 DIRECT EXAMINATION BY MR. GRIEVES:

18 Q Constable Sylvestre, I understand you're a member  
19 of the Winnipeg Police Service?

20 A That's correct.

21 Q And how long have you been a member of the  
22 Winnipeg Police?

23 A I've been employed with Winnipeg since February  
24 2010 and then a year before that for the Whitby Ontario  
25 Provincial Police.

26 Q I understand that you responded to an incident  
27 that occurred here in the City of Winnipeg. Can you tell  
28 the court about that?

29 A Yes. February 2nd, 2013 we were dispatched to  
30 the University of Winnipeg. The call came out that a,  
31 an -- security had an individual in there and this  
32 individual had been an on, ongoing problem for them, for  
33 security.

34 Q And who was the individual?

1 A Pardon me?

2 Q Who was the individual that you mentioned?

3 A Martin Green.

4 Q And what date -- what time of the day was that?

5 THE WITNESS: May I refer to my notes?

6 THE COURT: These are notes made by you at the  
7 time or shortly after the incidents to which they relate?

8 THE WITNESS: They are.

9 THE COURT: And you need to refer to them to  
10 refresh your memory?

11 THE WITNESS: Correct.

12 THE COURT: Mr. Green, no issues with him  
13 referring to his notes?

14 MR. GREEN: Not at all.

15 THE COURT: You may refer to your notes.

16 THE WITNESS: Thank you.

17 MR. GREEN: Your Honour, I, I know I should be  
18 smarter than this but I made a bit of -- a pretty bad  
19 mistake for the -- two more questions I forgot to ask the,  
20 the last witness. Have I lost my opportunity?

21 THE COURT: Maybe you could ask this witness  
22 those questions or ...

23 MR. GREEN: It would have been much better if I  
24 got the last one because I think it was his real testimony,  
25 but if I've lost my chance, I've lost my chance. It's my  
26 own fault. If he's still here I mean, because I  
27 acknowledge it's my, my, my fault, but ...

28 MR. GRIEVES: I mean, the witness is still here,  
29 Your Honour. I mean, I'll leave it up to you. I mean, Mr.  
30 Green --

31 THE COURT: It's, it's --

32 MR. GRIEVES: -- is self-represented.

33 THE COURT: -- rather unorthodox, Mr. Green, and  
34 normally you would have lost your opportunity to cross-

1 examine, but since you are representing yourself I think we  
2 can give you some leeway here.

3 MR. GREEN: He can stay in for it. I won't ask  
4 him to leave.

5 THE COURT: Constable Sylvestre, sorry about  
6 this. I'm going to ask you to step outside and if you can  
7 get your partner to come back in --

8 THE WITNESS: Absolutely.

9 THE COURT: -- for a few minutes.

10 THE WITNESS: Absolutely.

11

12 (WITNESS ASIDE)

13

14 THE CLERK: You're still under oath.

15 THE COURT: Constable Hopiavuori, Mr. Green  
16 realized that there are some questions he forgot to ask  
17 you. So --

18 THE WITNESS: Okay.

19 THE COURT: -- I'm giving him the opportunity to  
20 ask you those questions.

21 THE WITNESS: Yeah.

22 MR. GREEN: I appreciate. She's giving me a lot  
23 of slack here, but ...

24

25 C. HOPIAVUORI, previously sworn,  
26 testified as follows:

27

28 CROSS-EXAMINATION CONTINUED BY MR. GREEN:

29 Q You testified that after speaking to Mr.  
30 Grainger, based on the information provided, you formed the  
31 grounds to arrest Mr. Green for mischief. I understand you  
32 had grounds to arrest me for the trespass, but on what  
33 grounds did you -- what were the grounds for the mischief  
34 charge?



1           A     It was the, the fact that you had repeatedly  
2 attended to the university contrary to your barring  
3 notices.

4           Q     Okay. Based on repeated violation of the, of the  
5 trespassing order. No further -- there was no (inaudible)  
6 disruptive behaviour during those attendances, that was  
7 specifically --

8           A     Also that at the times that you had attended,  
9 that you were attending to student areas and soliciting  
10 witnesses.

11          Q     Okay.

12          A     For an event that began your, your barring.

13          Q     So that's, during that time I was soliciting  
14 witnesses. Did they -- I wonder, I'm going to show you  
15 something, ask you if you recognize it. Did they show you  
16 this?

17          A     I believe they did show me that.

18          Q     So this, this was the evidence that I was  
19 soliciting witnesses? I will enter this as evidence, then.

20                THE COURT: All right.

21                MR. GREEN: I think I'm going to enter this as  
22 evidence.

23                THE COURT: Okay.

24                MR. GREEN: I've copies of it.

25                THE COURT: Constable Hopiavuori, you recognize  
26 that document?

27                THE WITNESS: I do recognize that document.

28                THE COURT: And how do you recognize the  
29 document?

30                THE WITNESS: I believe it was shown to me at  
31 the, at the university.

32                THE COURT: All right. Given -- and this was in  
33 relation to Mr. Green?

34                THE WITNESS: Yes, in relation to Mr. Green, yes.

1 THE COURT: And what about this document and Mr.  
2 Green?

3 THE WITNESS: Just that that was the document  
4 that he, he was presenting to students on the occasions  
5 that he attended to the university.

6 MR. GRIEVES: Can I see the document, Mr. Green?

7 THE COURT: Okay. We're just going to hear from  
8 Mr. Grievess and then we'll see if it becomes an exhibit.

9 And Mr. Green, just as a point of order, when  
10 you're asking questions, you have to stand.

11 MR. GREEN: I'm sorry.

12 MR. GRIEVES: That's fine, Your Honour.

13 THE COURT: Okay. So if the -- so the document  
14 that was just identified by the police officer is a  
15 document that Mr. Green, he was shown, apparently, a  
16 document Mr. Green was posting in the university is Exhibit  
17 1. And it's --

18

19 **EXHIBIT 1: PHOTOCOPY OF PAPER**  
20 **INDICATING "WITNESS REQUIRED"**

21

22 THE WITNESS: And I don't know if that was the  
23 exact copy that he has that I saw that day.

24 THE COURT: Okay.

25 THE WITNESS: But ...

26 THE COURT: It was something alike.

27 THE WITNESS: Yes.

28 THE COURT: That witnesses needed?

29 MR. GRIEVES: I take it it's the, the pink ...

30 MR. GREEN: It's, the pink was the original.

31 Those are just photocopies.

32 THE WITNESS: Now, I was also --

33 THE COURT: The original is a hot pink document.

34 MR. GREEN: Yeah.

1 THE COURT: And this one is on paper --

2 MR. GREEN: Yeah.

3 THE COURT: -- white paper. Okay.

4 MR. GRIEVES: Perhaps that can be filed, the  
5 original, the pink copy, can be filed, other than ...

6 THE COURT: He's filed a photocopy, which is  
7 fine, I think.

8 MR. GREEN: It's in evidence that it was hot pink  
9 if that's relevant. But if anything's relevant, this is  
10 it.

11 Am I away? Oh, I'm sorry.

12 THE COURT: Okay. I think you were asking him --

13 THE WITNESS: Yeah.

14 THE COURT: So we went through --

15 THE WITNESS: No, I was just going to say --

16 THE COURT: -- the process of --

17 THE WITNESS: I was going to say, and further on  
18 the occasions, due to your attendance contrary to your  
19 barring, that they required additional staff in order to  
20 monitor if you were attending to the university and  
21 enforcing the, the barring notices.

22

23 BY MR. GREEN:

24 Q The fact that they hired additional staff, did  
25 that form your grounds for adding the mischief charge?

26 A Yes, that was part of, part of that.

27 Q Okay. So I just want to clarify that that, them  
28 hiring, them hiring staff equals mischief. That is ...

29 A And further --

30 Q I'm, I'm not trying to be sarcastic, but okay.

31 A And, and further that due to their requirement to  
32 monitor your attendance at the university that their -- it  
33 was detracting from their ability to monitor other student  
34 safety issues at the university.

1 Q Okay. So that's why it was mischief, because it  
2 was compromising their, the need to monitor me compromised,  
3 their ability to monitor my activities, compromised their  
4 overall, their ability to do their job, ability to maintain  
5 a safe campus, something like that, keep safety. I just  
6 want to get the, the reasons why I was charged with  
7 mischief was that (a) the repeated violations of the  
8 trespassing order, (b) resulting in the need to hire  
9 additional staff, and (c) that I was giving out this  
10 brochure. And those were the events which constituted the  
11 mischief.

12 A And detracting from their ability to monitor and  
13 maintain a safe, safe campus.

14 Q And on the basis of that you concluded that the  
15 mischief charge, the criminal mischief, was --

16 A Substantiated.

17 Q -- under the Criminal Code. Okay. Okay. I want  
18 to tell you, (inaudible) I'm just saying I, I feel this is  
19 helpful to me, but ...

20 And of all these things that they said was the  
21 problems for them, they didn't say anything about a home  
22 invasion, they didn't say that you're not -- that wasn't  
23 part of the reason. You don't recall anything about a home  
24 invasion?

25 A As I said earlier, there was an incident that you  
26 had attended to someone's house. That was dealt with by  
27 other officers.

28 Q You only knew it as an incident --

29 A I was --

30 Q I'm sorry.

31 A -- made aware of it --

32 Q Yeah.

33 A -- from my system. I, I obviously checked. You  
34 weren't charged on that occasion and --

1 Q You check into --

2 A -- there was no --

3 Q -- that incident?

4 A -- there was -- no, I checked you --

5 Q Ah-huh.

6 A -- to see if you had any outstanding orders --

7 Q Ah-huh.

8 A -- and as I said, you didn't have any record, so  
9 at that point in time there wasn't a charge and there was  
10 no orders in place.

11 Q Um-hum.

12 A I didn't attend the other incident. I don't know  
13 the particulars of the incident.

14 Q You never heard anything about it being a home  
15 invasion?

16 A As I said, I don't know what the particulars of  
17 the incident are.

18 Q That's not exactly what I asked you. Did you  
19 hear anything about a home invasion?

20 A I did not hear anything about a home invasion.

21 Q Did you hear the words, he tried to force his way  
22 into a professor's home?

23 A I believe I did hear that, yes.

24 Q All right. Now we're getting somewhere. I'm  
25 just going to make a note of that. Yes.

26 And did that -- I'm sorry, did that influence  
27 your decision to charge me with mischief?

28 A I believe there was, it was part of the totality  
29 of the situation in your dealings with members of the  
30 university, is what I believe.

31 Q Part of the totality of events which justified  
32 you laying the mischief charge?

33 A Part of it, yes, as I know that the security is  
34 also responsible for the professors and --

1 Q Okay.

2 A -- all faculty and staff at the university.

3 Q But of all the things I did that you were  
4 forthcoming in describing, the, the giving out of the  
5 brochures, the, the repeated trespassing instances, the  
6 small matter of the home invasion, as I'm going to keep  
7 calling it, was the last thing in your mind when you were  
8 sort of going over the reasons for the mischief charge.

9 MR. GREEN: You got to forgive me for being a  
10 little dramatic on this, Your Honour, you know where I'm  
11 going with it, and I appreciate the witness, he's being  
12 very cooperative and everything, but I, I can't hide the  
13 fact I'm, I'm getting some satisfaction out of drawing this  
14 piece of evidence out because I, I think it's relevant to  
15 my case.

16 And I got, I've got one more question, I think.

17

18 BY MR. GREEN:

19 Q Yeah. When -- after you tried to get me released  
20 -- and you guys did, there's no doubt about it, you said  
21 (inaudible) accept the conditions we can let you out, and I  
22 said, no, I'm not going to do it. It's all -- it's what  
23 happened. Then you said: Sergeant Mandziak advised that a  
24 further charge of forcible entry was to be added. And I'm  
25 wondering if you know what the basis was for the forcible  
26 entry charge.

27 A Essentially, the, the basis of the forcible entry  
28 charge are that you were aware that you were barred from  
29 the premise, that your entering onto the premise was  
30 causing problems at the university and causing a breach of  
31 peace and requiring further attention.

32 Q No. Was the breach of peace the giving of the  
33 brochures?

34 A It was entering onto a premise when you were

1 prohibited from entering onto the premise --

2 Q But isn't --

3 A -- multiple times.

4 Q -- just trespassing? Is that forcible entry?

5 Isn't that just trespassing?

6 A My understanding is that there is an applicable  
7 criminal charge, which is the forcible entry, because you  
8 knew that your entrance onto the physical properties was  
9 causing a breach of the peace, given the extensive kind of  
10 history and background of the situation. You knew that  
11 your entry onto the property was causing problems.

12 Q Based on the fact that I knew I had no business  
13 going there; would that be a fair summary?

14 A Based on the fact that --

15 Q Um-hum.

16 A -- you had been previously barred, you were aware  
17 of your notice, you had been served documentation by  
18 university --

19 Q Okay.

20 A -- and also by police staff.

21 MR. GREEN: Your Honour, I got to take a minute  
22 to write it down because it's the basis of the charges  
23 which I've never been provided in any form, so I just want  
24 to know what the basis of the --

25 THE COURT: Yeah, take -- yeah, take your time,  
26 Mr. Green.

27

28 BY MR. GREEN:

29 Q The basis was that I repeatedly violated the  
30 trespassing ban knowing it would cause breach of peace. Is  
31 that a fair ...

32 A Entering onto a property that you knew you  
33 weren't supposed to be.

34 Q Repeatedly entered property where I knew I

1 wasn't ...

2 A And you were causing a breach of the peace.

3 Q ... supposed to be, and that I was causing a  
4 breach of peace.

5 I don't want to come back later and maybe the  
6 prosecutor is going to tell me there was additional reasons  
7 for the forcible entry charge, but what I've written down  
8 is what you've (inaudible) to, I repeatedly entered the  
9 property where I knew I wasn't supposed to be and that I  
10 was causing a breach of the peace.

11 And the breach of the peace, was it that I was  
12 giving out the pink brochures? Was that the breach of  
13 peace?

14 A Was that you were entering onto the property --

15 Q Was just the entry, the fact that I was --

16 A -- when you --

17 Q -- there, my presence. Okay, yeah.

18 A -- knowing, knowing that you --

19 Q Knowing.

20 A -- had been barred.

21 Q Okay. I think that's ...

22 And the distinction between that and simple  
23 trespassing, was that something that was obvious to you or  
24 something that you had to be convinced of, or was that  
25 something that Sergeant Mandziak explained to you or was  
26 that something you formed in your own mind or something  
27 that --

28 A No. It was, it was something that was presented  
29 to me as an applicable piece of the Criminal Code.

30 Q Presented to you by Sergeant Mandziak?

31 A Yes.

32 MR. GREEN: Okay. I wonder -- that's probably  
33 all. I wonder, Your Honour, if I will be allowed to call  
34 Sergeant Mandziak as, as, as a witness to ask how she



1 formed that intent. I don't know if it's necessary for me  
2 but I wonder if I have that right. I might not exercise  
3 that right if I have it.

4 THE COURT: Mr. Grieves, are you calling Sergeant  
5 Mandziak?

6 MR. GRIEVES: No, Your Honour.

7 THE COURT: Okay.

8 THE CLERK: Sorry, Your Honour, may I have the  
9 spelling of Mandziak?

10 MR. GREEN: M-A-N-D-Z-I-A-K.

11 THE COURT: You're certainly allowed to call  
12 whichever witness, who -- whatever witness you feel is  
13 necessary in these proceedings. Ultimately, whether or not  
14 your actions or certain conduct amounts to an offence under  
15 the Criminal Code is my decision irrespective of the  
16 grounds that a police officer may have formed.

17 MR. GREEN: All right. Fair enough. And Mr.  
18 Grieves may agree that this was the reason that that's --  
19 and I don't know if I can ask him right now across the  
20 courtroom or, or, or if -- how I would ask him that, but he  
21 may agree that what the officer here has said, that yes,  
22 that's the basis of the, the --

23 THE COURT: I, I think now is not the appropriate  
24 time to get into that discussion --

25 MR. GREEN: Okay.

26 THE COURT: -- with Mr. Grieves because that  
27 doesn't form part of the evidence in this case. But it  
28 does remind me that I did get a package of cases from Mr.  
29 Grieves. It was actually sent to the Provincial Court and  
30 then forwarded to me. You have a copy of these four cases?

31 MR. GREEN: You know, he gave them to me coming  
32 into court in the morning. I, I think if he's relying on  
33 cases, I know in civil cases both sides have to present  
34 their case law. He has my case law from four weeks ago.

1 He's had my case law. I don't think it's right that he can  
2 put case law on the table when I walk into court. But I  
3 don't know the procedures.

4 THE COURT: Okay. So that raises another issue.  
5 But before we get there, do you have anymore questions of  
6 Constable Hopiavuori?

7 MR. GREEN: I think I'm done. And I appreciate  
8 you bringing him back. That was ... and ...

9 THE COURT: Was there any redirect, Mr. Grieves?

10 MR. GRIEVES: There was one, Your Honour. Has to  
11 do with the additional staff that was hired.

12

13 RE-EXAMINATION CONTINUED BY MR. GRIEVES:

14 Q What can you tell us about the additional staff  
15 that was hired?

16 A I was just informed that there was additional  
17 staff that was brought in to monitor entry points in order  
18 to, you know, prevent Mr. Green from attending to the  
19 university (inaudible).

20 Q Said entry points. What ...

21 A Entries and exits and monitoring areas.

22 Q So these were staff, additional security guards,  
23 is that ...

24 A Yes. Sorry, yes.

25 MR. GRIEVES: Okay. Those are all my questions.  
26 Thank you.

27 THE COURT: Okay. Thank you, Constable  
28 Hopiavuori.

29 THE WITNESS: Thank you.

30 THE COURT: I think now you are done. We won't  
31 call you back again.

32

33 (WITNESS EXCUSED)

34

1           MR. GREEN: You know, I was going to ask you if I  
2 had a crowbar, but I think my time is gone to do that, but  
3 I think the court understands that I didn't.

4           THE CLERK: Constable Sylvestre, please attend  
5 courtroom 406.

6           THE COURT: So before we continue on with  
7 Constable Sylvestre, you mentioned that you had provided a  
8 case book. Have you filed a case book with the court?  
9 Because I don't have it.

10          MR. GREEN: Well, It was with the court and it  
11 was on this file number, and it was -- I mean, the Crown  
12 had it and Judge Guy had it, who heard ...

13          MR. GRIEVES: Related to the motions with respect  
14 to the witnesses that Mr. --

15          MR. GREEN: I understood that it would come to  
16 you with, with, with the whole file because it was, it  
17 was ...

18          THE COURT: Okay. So there were motions with  
19 respect to subpoenas that would issue for witnesses?

20          MR. GRIEVES: Yeah.

21          MR. GREEN: Yeah.

22          MR. GRIEVES: That was Mr., Mr. Green's motion.

23          THE COURT: Okay. So Mr. Green, is it your  
24 position that that case book is relevant to the proceeding  
25 today?

26          MR. GREEN: Yeah. Yeah.

27          THE COURT: All right.

28          MR. GREEN: So yeah, I thought it was understood  
29 that you'd have it.

30          THE COURT: Okay. So I'll make some inquiries.  
31 You know what he's talking about, Mr. Grieves?

32          MR. GRIEVES: Yeah, I do.

33          THE COURT: Okay. I'll make some inquiries about  
34 that over the lunch hour --

1 MR. GREEN: Yeah.

2 THE COURT: -- just so that I know, because right  
3 now this is the only material I have is that, those four  
4 cases from Mr. Grieves.

5 MR. GREEN: Okay.

6 THE COURT: All right. Constable Sylvestre,  
7 you're back on. You're still under oath, and Mr. Grieves  
8 was asking you questions when we last stopped, and you had  
9 received a dispatch regarding an ongoing problem for  
10 security, and that person was Martin Green at the  
11 University of Winnipeg.

12

13 **SERGE SYLVESTRE**, previously sworn,  
14 testified as follows:

15

16 DIRECT EXAMINATION CONTINUED BY MR. GRIEVES:

17 Q And you had -- sorry, Mr. -- Constable Sylvestre,  
18 you -- what time of the day did you attend the university  
19 or respond to the call?

20 THE WITNESS: I can still refer to my notes, Your  
21 Honour?

22 THE COURT: Yes.

23 THE WITNESS: Just after reviewing my notes here,  
24 I didn't mark a dispatch time.

25

26 BY MR. GRIEVES:

27 Q Um-hum.

28 A Constable Hopiavuori was the, the lead  
29 investigator and took the majority of the notes and times,  
30 so ...

31 Q Okay. So what was your involvement with respect  
32 to the, the call that you responded to on that date?

33 A I had minimal involvement as far as Mr. Green was  
34 concerned here. The only thing I have in my notes in

1 respect to any conversation with Mr. Green was, after he  
2 declined legal counsel several times, I again just  
3 reiterated and, and questioned again if he'd like legal  
4 counsel, to which he declined respectfully, again.

5 Q And where did this conversation take place?

6 A This was at the Public Safety Building, while he  
7 was in custody there.

8 Q So I take it that you responded to the call in  
9 company with Constable Hopiavuori?

10 A Correct.

11 Q In the same vehicle?

12 A Correct.

13 Q And where did you attend to?

14 A The University of Winnipeg. (Inaudible).

15 Q So you -- where at the University of Winnipeg did  
16 you attend to?

17 A We attended to the security. We -- upon the, the  
18 door on, believe it was Spence Street, we were greeted by  
19 one of the security. I don't recall his name. I believe  
20 it was Chris.

21 Q Um-hum.

22 A And he had just indicated that Mr. Green was in  
23 one of the security rooms; they had him detained there.

24 Q So you arrive on Spence Street. And where, where  
25 exactly at the university did you attend to?

26 A It was the --

27 Q Or, sorry, where exactly was Mr. Green?

28 A He was in the, the room that he directed us to.  
29 I'm not sure if it was a designated security room.

30 Q Um-hum.

31 A It looks more like an office, but he was sitting  
32 awaiting police there.

33 Q Do you recall where exactly within the University  
34 of Winnipeg this was located?

1 A I, I, I'm not -- I don't recall.

2 Q Okay. So you get to the security office, and  
3 what else happened?

4 A Constable Hopiavuori spoke with Mr. Grainger,  
5 head of security.

6 Q Um-hum.

7 A And then he did advise him that Mr. Green was an  
8 ongoing problem. Think there --

9 Q That you were present during this conversation?

10 A A little bit. I wasn't directly involved in the  
11 conversation but I was, I was nearby.

12 Q Um-hum.

13 A And as far as -- I didn't get many of the details  
14 at the time, just that he'd been an ongoing security issue  
15 and then something about him having been expelled  
16 previously, and that he was causing problems, somebody's  
17 security and the students are being pursued.

18 Q And what else, what other involvement did you  
19 have with this matter?

20 A After speaking -- after Constable Hopiavuori  
21 finished speaking with Mr. Grainger, we both entered the  
22 room where Mr. Green was, was sitting.

23 Q And is this with Constable Hopiavuori and you?

24 A Correct, yeah. I follow Constable Hopiavuori.  
25 And then they had a conversation.

26 Q Would --

27 A I recall Mr. Green was very --

28 Q Who did you have a conversation with?

29 A He -- Constable Hopiavuori had a conversation  
30 with Mr. Green.

31 Q Okay. So you did not have a conversation?

32 A I did not.

33 Q Okay. And then what else happened?

34 A Constable Hopiavuori got the, Mr. Green's side of

1 the story, which he, he began explaining a little bit of  
2 the back story about being expelled.

3 Q Um-hum.

4 A And that's about all I recall about that  
5 conversation.

6 Q Okay. So, and after the conversation, what else  
7 happened?

8 A That Constable Hopiavuori did contact our  
9 supervisor.

10 Q Um-hum.

11 A Our sergeant.

12 Q And that's constable --

13 A Sergeant Mandziak.

14 Q Mandziak.

15 A And he explained to her the situation. I do  
16 remember Mr. Grainger provided Constable Hopiavuori with a,  
17 I didn't read it but it was an e-mail sent by the Crown,  
18 believe it was yourself, stating that those, there would be  
19 grounds to arrest on the trespass, or Petty Trespass Act as  
20 it was an ongoing issue.

21 Q And what else happened?

22 A So once that was concluded that there was charges  
23 to be laid, Constable Hopiavuori re-entered the room, I  
24 followed behind, and he explained to, to Mr. Green that he  
25 was under arrest.

26 Q And you were present at that time?

27 A Correct. I, I followed shortly after he began  
28 speaking with him.

29 Q Okay.

30 A So ...

31 Q And after the notice of arrest, what else  
32 happened?

33 A Well, then he was, he was handcuffed, searched in  
34 the usual manner and escorted back to the, the cruiser car.

1 Q And then what else happened?

2 A I recall at the time he did decline legal  
3 counsel.

4 Q Was this, again, was this at the ...

5 A I recall he, he, he did decline inside the car.

6 Q Inside the car?

7 A That's when I recall him declining for the first  
8 time.

9 Q Okay. And then what else happened?

10 A Then we, once he was read his, you know, read his  
11 rights and he declined, we transported him back to the  
12 division 11, to the Public Safety Building.

13 Q Um-hum.

14 A And he was viewed in the Sergeant Mandziak and  
15 placed in a holding, holding.

16 Q What do you mean by "viewed in"?

17 A When we arrest someone, we bring, we bring them  
18 up to the, the sergeant, just tell them their name and why  
19 they're here. Just a quick, quick synopsis. And he, he or  
20 she will then question the person in custody, questions  
21 such as, have you been drinking, any medical problems,  
22 things like that.

23 Q And were you present at that, when this happened?

24 A Correct.

25 Q And then what else happened?

26 A We took him into a holding room where he was  
27 searched again, and the prisoner log sheet was, was filled  
28 out and his property was lodged.

29 Q "Him" meaning Mr. Green?

30 A Yes, correct.

31 Q And what other involvement did you have with  
32 respect to this matter?

33 A The only other involvement that I, that I recall,  
34 the one-on-one with me and Mr. Green, was at 12:15. I just



1 asked him again, I reiterated, I said, and I quote: Are  
2 you sure you don't want to speak to a lawyer? And his  
3 reply was: No, thank you. Absolutely I'm sure. Thank  
4 you.

5 Q And that was the extent of your involvement with  
6 Mr. Green?

7 A Correct.

8 Q And you had no other dealings with this matter at  
9 all?

10 A No, I didn't.

11 MR. GRIEVES: No. Have no further questions,  
12 Your Honour.

13 THE COURT: Mr. Green, do you have any questions  
14 for Constable Sylvestre?

15 MR. GREEN: I'm going to read my notes out loud,  
16 you don't have to transcribe this if -- it's just my own  
17 handwriting. May I?

18 Constable Hopiavuori spoke with Mr. Grainger  
19 (inaudible) and, and Grainger advised that Mr. Green had  
20 been an ongoing security issue, previously expelled,  
21 causing problems, security with students. And if you have  
22 to type that I won't do it. I don't want to make you  
23 type --

24 THE COURT: Everything is being recorded. So if  
25 there's a transcript ordered, all of that --

26 MR. GREEN: Okay.

27 THE COURT: -- gets on the transcript anyway.

28 MR. GREEN: I'm just trying to read my own  
29 handwriting to recall the question. So maybe you'll  
30 indulge me that. I'll try and read silently to avoid  
31 cluttering up the transcript.

32 THE COURT: Yeah. Take your time, Mr. Green.

33 MR. GREEN: Okay.

34

1 CROSS-EXAMINATION BY MR. GREEN:

2 Q So Mr. Grainger was telling your partner that I'd  
3 been an ongoing problem. Do you recall any of the details  
4 that he told him of the things that, that, that had been  
5 problematic?

6 A Not specifically, just, I guess kind of at the --  
7 like again, like I said, I wasn't speaking directly to him,  
8 but I got --

9 Q Um-hum.

10 A -- the gist that he was -- or sorry, that  
11 yourself had been on property before and you had been, been  
12 warned and, and --

13 Q Yeah.

14 A -- and barred, barred from the property.

15 Q Now, in your testimony, you said I -- when you  
16 came into the little room to talk to me, you say: I recall  
17 that Mr. Green was very -- and then the Crown interrupted  
18 on something else, so you didn't finish the sentence. I  
19 wonder, I was just wondering what you were going to say.  
20 Just five minutes ago, you remember, you started to say, I  
21 recall that Mr. Green was very -- when you were in the  
22 little examination.

23 A Oh. Yes, I was just going to say that you were  
24 very calm. You're just sitting there.

25 Q Okay. (Inaudible). And then I told you the back  
26 story.

27 Constable Hopiavuori contacted Sergeant Mandziak,  
28 and was that when Sergeant Mandziak told, told your partner  
29 that you were bumping it up to, from trespassing to  
30 mischief? And I say "bumping it up", because unless you  
31 went up to mischief there was -- my understanding that you  
32 wouldn't be able to arrest me just on trespassing, you  
33 would have only given me a ticket.

34 A Well ...

1 Q But in order to arrest me, you had to bump it up  
2 to criminal. Was that the general idea?

3 A Well, like I said, I didn't have that  
4 conversation.

5 Q Um-hum.

6 A So I can't speak to what, what was --

7 Q Okay.

8 A -- said during that conversation.

9 Q Okay. Then you said Mr. Grainger provided your  
10 partner with an e-mail from the Crown, Mr. Grieves,  
11 indicating the available grounds for PTA charges,  
12 trespassing charges. Now, I have the e-mail, actually.  
13 I'm going to introduce the e-mail into evidence. But Mr.  
14 Grieves maybe just can confirm for us that the e-mail  
15 wasn't advising that trespassing charges were warranted,  
16 because you guys had the expertise to charge me with  
17 trespassing, the e-mail was that the mischief charge was  
18 warranted, bumping it up to criminal, and that's why you  
19 needed an e-mail, because it wasn't obvious to you that  
20 mischief would have been. So it was -- am I, am I seeing  
21 it right?

22 MR. GRIEVES: I don't think Constable Sylvestre  
23 is in a position to testify on --

24 MR. GREEN: Fair enough.

25 MR. GRIEVES: -- matters that he's not --

26 MR. GREEN: Let me, let me rephrase the question.  
27

28 BY MR. GREEN:

29 Q When, in your recollection of the e-mail where  
30 you said that Mr. Grieves indicated that the grounds were  
31 available for PTA charges, is it possible you're  
32 misrecollecting it and actually the e-mail was given  
33 indicating grounds for mischief charges?

34 A I don't, I don't quite understand what you mean

1 by PTA charges.

2 Q For trespassing. I think I wrote it down like  
3 you, you -- you recall in your testimony that someone  
4 showed, Mr. Grainger showed your partner an e-mail where he  
5 said, and in the e-mail it said that there were grounds for  
6 trespassing charges. But I'm suggesting maybe you  
7 misreclected the e-mail.

8 A I'd like to just clarify. I'm not, I'm not sure  
9 if he actually saw the e-mail at that time --

10 Q Um-hum.

11 A -- during that conversation. But at the, at the  
12 least he was advised --

13 Q That there was an e-mail.

14 A -- because I remember Constable Hopiavuori did  
15 tell me that there was a Crown that had been consulted on  
16 the matter.

17 Q Yeah. And that the grounds were available for --  
18 in your testimony, if -- I don't know if we can read it  
19 back, but I -- as my notes was that you, that was  
20 indicating that grounds were there for trespassing charges.  
21 But I'm suggesting, I'm asking if it's possible you  
22 misunderstood the content of the e-mail, because I'm going  
23 to later introduce evidence that it was mischief referred  
24 to in the e-mail, and I'm wondering if, on your  
25 recollection, yeah, maybe it was, I couldn't say for sure.  
26 That's all I'm asking of you.

27 A Well, like I said, I didn't see the e-mail and I  
28 wasn't --

29 Q Okay.

30 A -- directly involved in the conversation, so I  
31 don't --

32 Q Okay.

33 A -- have much details as far as the e-mail goes.

34 Q Okay. Well, I'll have a chance to introduce that

1 later. And ... Okay.

2           Yeah, I have one more question, is that -- I'm  
3 going to tell you when I was in the little room, I heard  
4 conversation going on between Mr. Grainger and you and your  
5 partner, but I don't know, because I couldn't see through  
6 the door I didn't know who it was. And I'm just going to  
7 read to you what I scribbled down as my recollection. You  
8 tell me if, yeah, that's -- I remember something like that.  
9 That's all --

10          A     Okay.

11          Q     -- I'm going to ask you. If you don't remember,  
12 you don't remember.

13           You remember Mr. Grainger saying, he thought he  
14 was smarter than the professors and he would argue with  
15 them?

16          A     I can't say, I can't say for sure that that came  
17 out of Mr. Grainger. I don't recall that.

18          Q     You remember him saying, he would run right up to  
19 them and get this close to their face, shouting?

20          A     Again, no, I don't recall that.

21          Q     Do you recall him saying, he tried to force his  
22 way into -- that's all I wrote, but a professor's home?

23          A     I do, I do recall hearing that but I can't say  
24 for sure if it was from Mr. Grainger. I, I understood  
25 there was an incident at a professor's home but I didn't  
26 get much detail on that. We weren't, we weren't there for  
27 that, that reason at that time.

28          Q     Do you, do you recall the words "home invasion"  
29 being used in regard to that incident?

30          A     I do not.

31          Q     But you recall something about forcing, forcing  
32 his way into professor's home, forcing his way in?

33          A     Again, I just heard that there was an incident at  
34 a professor's house.

1 Q Being mentioned. Unspecified. Nothing about  
2 particular activities?

3 A That's correct, no.

4 Q And you don't recall -- well, I have more than  
5 one. I have later, on January 11th, when he tried to force  
6 his way into the house. You don't recall that, those words  
7 being spoken by anyone?

8 A No, I do not.

9 MR. GREEN: Okay. Okay. Well, I think that's  
10 all the questions I have for, for the exam. Though just  
11 (inaudible) pause once and just read through my notes  
12 of ...

13 THE COURT: Yes, Mr. Green, I'm going to give you  
14 a few minutes so, because this will be your last chance.

15 MR. GREEN: I know. I don't want to ...

16 THE COURT: But if you need, like if you need me  
17 to step out for a few minutes so you can review in peace,  
18 that's fine, too.

19 MR. GREEN: I don't think there's anything that I  
20 won't have later the opportunity to ask witnesses that were  
21 more deeply involved.

22

23 BY MR. GREEN:

24 Q For example, your partner said he was there when  
25 Sergeant Mandziak advised him that the charge of forcible  
26 entry would be added, and that was down at the police  
27 station. And you, were you around when that happened? Do  
28 you recall that happening?

29 A I had nothing to do with the decision but I --  
30 Constable Hopiavuori did, did inform me that Sergeant  
31 Mandziak had discussed the matter and came to the decision  
32 to --

33 Q Add the forcible --

34 A -- to lay that extra charge.

1 Q -- entry. You didn't see any crowbar that I was  
2 carrying?

3 A No.

4 Q Okay. And did you understand the reason for the  
5 forcible entry or was just not your business, not your  
6 problem?

7 A Well, I'm not, I'm not familiar with the charge.

8 Q Okay.

9 A However, it was explained to me that if, if a  
10 person -- I had looked it up that day, and I can't remember  
11 verbatim, but it was if a person knowingly enters a, a  
12 premise or property where they know that they're barred or  
13 not allowed, that that would constitute forcible entry, the  
14 charge of forcible entry.

15 Q So is it fair to say you were sort of curious  
16 enough at how such a charge could be laid in those  
17 circumstances that you were motivated to look it up on your  
18 own?

19 A Oh, absolutely. Any time I don't --

20 Q Okay.

21 A -- recall or don't --

22 Q Okay.

23 A -- not familiar, I'll look it up.

24 Q Okay. You're going to give me for smiling  
25 because I feel your evidence is making the charge look  
26 silly, but it's, it's an arguable charge for the reasons  
27 you're saying, but perfectly clear about it, there was no  
28 crowbars being used?

29 A No, there wasn't.

30 MR. GREEN: Okay. Look, I think you've done your  
31 job. Thank you for coming down.

32 THE WITNESS: Thank you.

33 MR. GREEN: I'm, I'm, I'm okay (inaudible) this  
34 witness.

1 THE COURT: Okay. Thank you, Mr. Green. We'll  
2 see if Mr. Grieves has any redirect.

3 MR. GRIEVES: I, I don't have any, Your Honour.

4 THE COURT: Okay. Thank you, Constable  
5 Sylvestre, that's all your testimony for today. I'd ask  
6 you not to discuss any of your evidence with any of the  
7 witnesses who have yet to testify.

8 THE WITNESS: Absolutely.

9 THE COURT: Thank you.

10 THE WITNESS: Thank you.

11

12 (WITNESS EXCUSED)

13

14 MR. GRIEVES: Your Honour, the Crown's next  
15 witness is Chris Rarick.

16 THE CLERK: Rarick?

17 MR. GRIEVES: Rarick.

18 THE CLERK: Chris Rarick, please attend courtroom  
19 406.

20 (Inaudible). Remain standing.

21 THE WITNESS: Okay. Sorry.

22 THE CLERK: Do you wish to swear on the Bible or  
23 affirm?

24 THE WITNESS: Bible.

25 THE CLERK: Please state and spell your name for  
26 the record.

27 THE WITNESS: Christopher James Rarick. Spelling  
28 of the full name?

29 THE CLERK: Yes, please.

30 THE WITNESS: C-H-R-I-S-T-O-P-H-E-R, middle name  
31 James, J-A-M-E-S, last name Rarick, R-A-R-I-C-K.

32

33 **CHRISTOPHER JAMES RARICK**, sworn,  
34 testified as follows:



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34

THE CLERK: You may be seated.

DIRECT EXAMINATION BY MR. GRIEVES:

Q Yes, good morning, Mr. Rarick.

A Morning.

Q I understand that you are employed by the University of Winnipeg?

A Yes, I am.

Q And what is your occupation at that place?

A I'm security supervisor.

Q And how long have you worked at the University of Winnipeg?

A At the University of Winnipeg, I've worked for 27 years.

Q And you've employed at security -- with the security at the university since that time?

A Yes. I started as a contract security guard back in '86 and became supervisor less than a year later, and got hired by the university itself in 2001.

Q And what are your responsibilities as a security supervisor?

A The responsibility for the security department at the University of Winnipeg is basically to provide a safe environment for the faculty and -- faculty, staff and students to conduct their business.

Q And you say you're a security supervisor. How many security guards are employed by the University of Winnipeg?

A Currently I believe we have 30 full and part-time.

Q So on a given day, how many security guards do you employ at the university?

A Depends on which shift, but the day shift I

1 believe we have five security guards for the main campus.

2 Q And by "main campus", what do you mean?

3 A We also have outlying building such as McFeetors  
4 Hall, which is a residence building, and Richardson  
5 College, which is a couple of blocks separated from the  
6 university, so we have a guard posted at each of those  
7 buildings as well as another building at 509 Ellice, I  
8 believe it is. It's called Wii Chiiwaakanak. We have a  
9 guard posted in there throughout the day as well.

10 Q Um-hum. And where is the main campus located?

11 A The main campus is primarily between, I think  
12 it's called Colony Street there. It's between Colony and  
13 Young Street and basically just the north -- or, sorry, the  
14 south side of Portage Avenue to Ellice.

15 Q And that's the main campus?

16 A Yes.

17 Q And you say you have five security guards that  
18 are, that are --

19 A Yeah.

20 Q -- normally posted at that campus?

21 A Right.

22 Q And that's, you say the day shift. Is there a  
23 night shift?

24 A Yes. The evening shift starts at four o'clock,  
25 and I believe we have four -- sorry, five, we have five  
26 full-time security guards for the evening shift, as well.

27 THE COURT: You said --

28 THE WITNESS: Sorry?

29 THE COURT: -- five full-time?

30 THE WITNESS: Yeah, five full-time.

31 THE COURT: Okay.

32

33 BY MR. GRIEVES:

34 Q For the even --

1 A Yeah.

2 Q -- evening shift?

3 A Yeah, from four till midnight.

4 Q And is the university open 24 hours a day?

5 A No. The university is open to the public from  
6 7:00 a.m. to 11:00 p.m. seven days a week, but there's  
7 limited hours for some of the access points.

8 Q And what are the access -- what do you mean by  
9 "access points"?

10 A Well, there's several doors around the campus,  
11 like we have some on Spence Street, Ellice Avenue, Balmoral  
12 Street, Portage Avenue plus access into all the separate  
13 buildings themselves. And depending on what hours classes  
14 are being held, like for the main campus the doors by the  
15 security office are the only ones that are open till 11:00  
16 p.m. The other peripheral doors, like Balmoral, Ellice,  
17 Spence Street, those lock down earlier, usually about eight  
18 o'clock.

19 Q In the evening?

20 A Yeah. Because normally by then any classes that  
21 are in session or that are being held are already in  
22 session. So it forces people by the security office, which  
23 is where the main access point is.

24 Q So at what time of the year are the classes held?

25 A Classes -- there's, there's classes on campus  
26 pretty much all throughout the year.

27 Q Um-hum.

28 A The majority of the classes are held between  
29 September and December, and then again from January  
30 until April. But there are summer courses on, as well,  
31 throughout.

32 Q And where are classes normally held?

33 A They're scattered around the entire campus.  
34 There's a couple hundred classrooms that they could be

1 using.

2 Q Like the main campus or all the other building  
3 that are occupied?

4 A Pretty much all the buildings that the university  
5 has.

6 Q And I understand you were involved in an incident  
7 which brings you into court this morning.

8 A Yes.

9 Q Can you tell the court what happened?

10 A I believe it was February 7th, we had received  
11 information from one of the cafeteria staff that he had  
12 spotted Marty Green in the cafeteria area itself, and he  
13 was aware that Marty was not supposed to be attending the  
14 university so he contacted the guard that was posted in the  
15 area, actually. And --

16 Q Okay. You said -- which cafeteria are you  
17 referring to?

18 A Sorry. Riddell Cafeteria.

19 Q And is that part of the main campus?

20 A Yes, it is.

21 Q Said you were contacted by another security?

22 A Well, one of the security guards was contacted by  
23 cafeteria staff that he had seen Marty in the cafeteria.

24 Q Okay.

25 A And that guard contacted the main security office  
26 and notified us that he'd been seen. So another guard --

27 Q And were you --

28 A Sorry.

29 Q -- at the main security office?

30 A I believe I was in the main security office when  
31 the call came in.

32 Q Said the call came in, so ...

33 A Yeah. Well what --

34 Q Were you the person who took the call?

1 A It came across the radio.

2 Q Would, would --

3 A And to be honest, I'm not sure if I responded or  
4 one of the other guards responded.

5 Q So you said when -- how did it come across the  
6 radio?

7 A The guard called back that Marty Green has, had  
8 been seen in --

9 Q I take it that --

10 A -- Riddell cafeteria.

11 Q -- you had a radio on your person?

12 A I would have had a radio on my desk, yes.

13 Q On your desk? Assuming that the radio was on?

14 A Yes.

15 Q And that's how you heard?

16 A Yeah.

17 Q And then what else happened?

18 A At that point one of the other guards was  
19 dispatched to meet up with the guard that initially  
20 contacted the office.

21 Q Um-hum.

22 A And together they located Mr. Green in the  
23 cafeteria and escorted him back to the security office.  
24 Apparent --

25 Q So you were not the guard that made up -- met up  
26 with Mr. Green?

27 A No, I don't believe I met up with him in, in the  
28 cafeteria, but apparently he was handing out pamphlets.

29 Q And then what else happened?

30 A Okay. Once they brought him to the office we  
31 escorted him over to our, we call safe walk slash interview  
32 room, room 1C36, which is just 20 feet from the main  
33 security office. Marty was brought into the room and sat  
34 down on the couch, and I believe he was informed that the

1 police would be contacted.

2           And at that point I think I returned to the  
3 office to call police and left the two guards that brought  
4 him down to the office posted at the door to keep an eye  
5 on. The door was, the door to the interview room was left  
6 open, by the way.

7           Q     So you indicated this occurred on February 7th?

8           A     Yes.

9           Q     What time of the day did it occur?

10          A     I believe it was about 9:40, 9:45, somewhere in  
11 there, a.m.

12          Q     So February 7th would be what -- do you recall  
13 what day of the week that was?

14          A     I'm thinking it was a Thursday. I'm not positive  
15 but I think it was a Thursday.

16                   MR. GREEN: Yes.

17                   THE WITNESS: It was? Okay.

18

19 BY MR. GRIEVES:

20          Q     And I take it that classes were on?

21          A     Yeah, classes would have been in, in session that  
22 week, yeah. The following week would have been reading  
23 week, so they would have been in session that week.

24          Q     So you, you indicated that Mr. Green was brought  
25 to the office, security office?

26          A     Yes. He was brought into the main security  
27 office first and then he was escorted over to the safe walk  
28 room or the interview room.

29          Q     What dealings did you have with Mr. Green at that  
30 time?

31          A     My involvement with him at that, on that  
32 particular day was basically just to advise him the police  
33 would be contacted in regards to him trespassing on campus  
34 again. And that was pretty much it for that day. But we

1 did have previous incidents with Marty, let's see, within a  
2 couple of weeks just before that. I think he was reported,  
3 reported or caught on campus January 28th, 29th, 30th, 31st  
4 and February 1st. And believe the police were called for  
5 at least two of those incidents, as well. But Marty had  
6 been returning to campus even after he'd been issued a  
7 barment notice by the university.

8 Q Did you have any other dealings with him besides  
9 the February 7th?

10 A Yes. I dealt with him, I believe, on -- I, I  
11 can't be positive, but I think it was February 1st,  
12 where --

13 MR. GREEN: We'll agree that it was the second  
14 time I was apprehended, if that's okay.

15 THE WITNESS: I believe it was actually the  
16 third.

17 MR. GREEN: How many times -- I'm sorry, how many  
18 times do you count --

19 THE COURT: You're going to get a chance to ask  
20 questions --

21 MR. GREEN: I'm --

22 THE COURT: -- Mr. Green.

23 MR. GREEN: I'm just --

24 THE COURT: We don't want to get too --

25 MR. GREEN: I'm just -- sorry, just trying to  
26 help. (Inaudible).

27

28 BY MR. GRIEVES:

29 Q So you said January --

30 A That's right.

31 Q -- 28, 27th, 30th, 31st and February 1st --

32 A 28th --

33 Q -- are the times that --

34 A -- 29th, 30th, 31st and the 1st. He was either,

1 like I said, either caught by security on campus or  
2 witnessed by a staff member and reported to us.

3 Q So when was the first time you became aware of  
4 Mr. Green?

5 A I believe it would have been, ooh, December 2010,  
6 2010 or 2011, I can't, honestly I can't remember.

7 There was apparently an incident that was dealt  
8 with internally through the university, through the student  
9 code of conduct.

10 Q Um-hum.

11 A And as a result of that, Marty was removed from  
12 the campus, sorry, removed from the classes he was  
13 attending and --

14 Q I'm sorry, what do you mean by "removed"? Was  
15 it --

16 A He was --

17 Q -- physically removed or ...

18 A Well, he was basically expelled from his classes.

19 Q Okay.

20 A I don't know all the circumstances behind that  
21 but I do know that there was some harassment issues that  
22 warranted a letter of barment being issued to him as  
23 well.

24 Q Which classes, do you know?

25 A He was taking education courses.

26 Q So he was enrolled in the faculty of education?

27 A Yes.

28 Q And then he was expelled, you said?

29 A Yes. Or that's my understanding is, is he was  
30 expelled.

31 Q So how is it that you came to know of these  
32 incidents or ...

33 A Because with being barred from the main campus or  
34 from any of the campus, actually, we have a list of persons



1 that are barred from the university, and if possible we  
2 attach a picture to it as well.

3 Q And what did you do in this case?

4 A We did have the information on file that he had  
5 been barred, but from the time the first barment notice was  
6 issued for the --

7 Q Do you recall when that was?

8 A I believe it was January 2012, so I guess it  
9 would have been December 2011 when I first was aware of  
10 this.

11 Q Okay.

12 A From the time the barment issue was -- barment  
13 notice was issued, Marty didn't return to the campus for at  
14 least one year.

15 Q And how would you know that?

16 A Well, he hadn't returned that we were aware of.

17 Q Okay.

18 A There was no reports that he had been on campus.

19 Q When someone is barred from the university, what  
20 type -- what, if any, notification do you receive in the  
21 security office? Or how would you receive the  
22 notification?

23 A Well, normally the, the -- it'll go through the  
24 university's council and they'll usually issue the barment  
25 notice themselves. But the barment notices are actually  
26 issued by the security department.

27 Q Okay.

28 A And they're forwarded to the person from the  
29 council.

30 Q Were you involved in the issuing of the barment  
31 notice, the initial notice in 2012?

32 A I very well could have written it. I don't  
33 remember.

34 Q You don't remember.

1           And do you recall how the barment notices are  
2 forwarded to the subject or the person that's subject to  
3 that order?

4           A     I think it was sent -- I don't send them so I  
5 don't know for sure but I heard it was through registered  
6 mail.

7           Q     Who from your office would issue those notices?

8           A     Normally it would go through the security  
9 supervisor or the director, Martin Grainger.

10          Q     So after the -- you indicate that Mr. Green did  
11 not attend for a year. And when did you --

12          A     Yeah.

13          Q     -- become --

14          A     It was within a couple --

15          Q     -- involved with --

16          A     -- of days of the expiration of the barring  
17 notice where he started coming back again.

18          Q     Okay. So I take it from that, that the barring  
19 notice was for a year?

20          A     Yes. At that time. We've, I think we've  
21 rewritten our barment notices since to make it permanent,  
22 but up to that point it was just an annual.

23          Q     So when was your next involvement with Mr. Green?

24          A     My next involvement with him wasn't until end of  
25 January this year. I don't remember exactly which day,  
26 28th or 29th or 30th.

27          Q     And what can you tell us about that incident?

28          A     That was a more in-depth situation with, with Mr.  
29 Green. He was handing out pamphlets on campus looking for  
30 witnesses to an incident involving a student -- or  
31 involving a translator during one of his classes. My  
32 understanding now is that that had something to do with the  
33 code of conduct that he was brought to -- that the cause of  
34 his being expelled. He was handing out pamphlets. I can't

1 remember if it was in the -- I think it was probably on the  
2 fourth floor of Centennial. One of the guards encountered  
3 him and walked him down to the security office. I think  
4 that was about 1:30 in the afternoon. And we brought Marty  
5 down, escorted him over to the safe --

6 Q Okay. You said --

7 A -- walk slash interview room again. Sorry.

8 Q You brought him down. Where did you meet up with  
9 him that day?

10 A The guards, I think, met up with him on the  
11 fourth floor. But like I said, I can't be positive. I  
12 don't --

13 Q So when --

14 A I don't recall.

15 Q -- how did you become involved on that date?

16 A Well, he would have been brought back down to the  
17 security office, and then he would have been informed the  
18 police would be contacted, and he was taken over to the  
19 safe walk room.

20 Q So were you involved with him directly on that  
21 day?

22 A Yes. That day I was.

23 Q So what was your involvement?

24 A He was brought down to the office. I explained  
25 to him that he had been issued a barment notice and that he  
26 is trespassing on university property, and he was escorted  
27 over to our safe walk room and I told him the police would  
28 be contacted and they could, they'd be down to deal with  
29 him.

30 Q And this was 1:30 in the afternoon you said?

31 A Yeah, I believe it was 1:30 in the afternoon when  
32 he was brought down.

33 Q And, and then what else happened on that day?

34 A That was a particularly busy day for the police

1 so it took them five and a half, six hours to arrive. And  
2 over the course of the time, Marty, of course, was getting  
3 agitated at times. At one point, I believe around four  
4 o'clock, he got up and tried pushing his way past the  
5 guards to get out of the room. He was brought back over  
6 and sat down on the bench and advised that he was under  
7 arrest for trespassing and he would be turned over to the  
8 police as soon as they arrived.

9 Q You said you had called the -- were you the --

10 A Yeah.

11 Q -- the person that called the police?

12 A I believe I was, yes.

13 Q Okay. How long after did you call the police,  
14 after Mr. Green arrived at the security office?

15 A It probably would have been within 10, 15  
16 minutes.

17 Q You, you describe he was put in a safe, the room  
18 you described.

19 A Yeah.

20 Q What is -- can you describe the room to the  
21 court?

22 A The room is probably about eight feet by ten  
23 feet, and we actually have a wheelchair in there for  
24 storage, we have a desk, a chair, and a padded bench along  
25 one wall, and Marty was seated on the padded bench.

26 Q And it -- you said it took the police five and a  
27 half to six hours to arrive?

28 A Yes. They were ...

29 Q Were they called more than once?

30 A Several times. They were called --

31 Q Several times.

32 A I called them initially, I believe at 1:30.

33 Q Um-hum.

34 A Well, 1:30, 1:45, somewhere in there. I think I

1 called back again at around 3:00 to see how long it was  
2 going to be. Then again, I called them back at four  
3 o'clock, I think it was four o'clock, when Marty got up and  
4 shoved one of the guards to try to get out of the room.  
5 Because I was actually in the security office and looking  
6 over, it just looked to me like Marty had gotten up and  
7 assaulted one of my guards. So I picked up the phone,  
8 called 911 and said this is escalating, can we get some  
9 response here. And from there it still took a few more  
10 hours.

11 Q So each time you, you called did you speak to an  
12 individual?

13 A I spoke to an operator.

14 Q Operator. So were you present the whole time  
15 that Mr. Green was at the office?

16 A I can't positively say I was. I may have stepped  
17 out for a while. But I, I know I stayed until the police  
18 arrived for him, because my shift is, was 7:00 to 3:00 that  
19 day, and because the police hadn't arrived yet I stayed  
20 late.

21 Q And did you speak to Mr. Green at the time, the  
22 whole time that he was detained in that office?

23 A I did speak to him a couple of times and just  
24 advised him that his best course of action was just to  
25 remain calm and that the police would be here when they get  
26 here, because he did ask several times how long it was  
27 going to take for the police to get there. Even made a  
28 phone call while he was in the room.

29 THE COURT: Sorry, he made a phone call while he  
30 was in the room?

31 THE WITNESS: Yeah. I believe he had a cell  
32 phone and he made a call, and he was taken down to the  
33 washroom. So he wasn't denied the facilities, so ...

34 MR. GREEN: That's right. The treatment was

1 fine.

2

3 BY MR. GRIEVES:

4 Q And that was the -- and then you left, you said,  
5 after he was taken?

6 A Yeah.

7 Q So next time you were involved with Mr. Green was  
8 next, was on the 7th?

9 A Yeah. I believe the next time I was directly  
10 involved with him was on the 7th.

11 Q So were you indirectly involved with him prior to  
12 that?

13 A Well, I, I was made aware that he'd been on  
14 campus and that the police had been called at least once  
15 previously that I was aware of.

16 Q So he was -- you indicated that on the 28th or  
17 29th he was handing out pamphlets?

18 A Yes.

19 Q Did you get to see the pamphlet that he was  
20 handing out?

21 A Yes, I did. I attached it to one of the security  
22 reports that we'd done. I don't have it with me but it  
23 basically was looking for any witnesses to an incident  
24 involving an interpreter at, in a class.

25 Q Yeah.

26 A And that Marty was suing the university and he  
27 was looking for witnesses.

28 Q So then your next involvement, directly involved  
29 with him was in February 7th?

30 A Yeah.

31 Q And what can you tell us about that incident?

32 A Well, that was the one that described little  
33 while ago, where he was found in the cafeteria, escorted  
34 back to the security office. I informed Marty the police

1 would be called again. He was taken over to the safe walk  
2 room and made comfortable until the police arrived. I  
3 think the police were there fairly quickly, I think about  
4 45 minutes that day.

5 Q Okay. Was he handing out pamphlets at that time  
6 as well?

7 A I believe he was, yes. And he was cooperative  
8 with the security staff on that day.

9 Q You indicated that ...

10 What, if anything, did you do about the fact that  
11 Mr. Green was attending the university repeatedly?

12 A Sorry?

13 Q What, if anything, did you, you do as a result of  
14 Mr. Green attending the university repeatedly?

15 A Contacted the police and requested he be charged  
16 with trespassing, because the first time we dealt with him  
17 -- well, first time I dealt with him, as he was leaving, I  
18 think his last words were, how do they say it, I'll be  
19 back. So he'd already basically made up his mind there  
20 that he wasn't going to recognize the barment.

21 Q So did you -- what, if anything, did you do in  
22 response to that?

23 THE COURT: And you heard that that first time?

24 THE WITNESS: Pardon?

25 THE COURT: You heard that in January?

26 THE WITNESS: That was, yeah, January 28th or  
27 29th. I can't remember which day. The first time I'd had  
28 dealt with --

29 MR. GREEN: There's no dispute on that.

30 THE WITNESS: Well, because of the issues with  
31 Martin and also apparently there was an issue with one of,  
32 one of his instructors at his house, at his residence, in  
33 January, mid-January, the university actually took steps to  
34 prevent or to, well, protect the instructors and the

1 students. We -- when the classes were in session that the  
2 professor was teaching, we made sure that we had a guard  
3 posted outside the door.

4

5 BY MR. GRIEVES:

6 Q I'm sorry, which door was that?

7 A Outside the door to the classroom.

8 Q Okay.

9 A I don't remember exactly what the room number  
10 was. I think it changed a couple of times.

11 Q This is at the faculty of education building  
12 or --

13 A Yeah, where the classes were being held. And  
14 also we had guards posted because he'd been seen on the  
15 main campus at several locations. We actually brought in  
16 three additional guards for the day shift and posted one  
17 at, just inside the doors at 385 Spence.

18 Q And that's the entranceway to the main campus?

19 A Yeah, that's one of the entranceways to the main  
20 campus. Because he'd been seen in the atrium and in the  
21 cafeteria there, so we had a guard posted there. We had  
22 another guard posted at Lockhart doors on Ellice Avenue  
23 because he had been seen in there as well. And we had a  
24 guard posted at the main entrance to Centennial right by  
25 the security office, specifically to be on the lookout for  
26 Mr. Green.

27 Q What else, if anything, did you do besides hire  
28 additional guards?

29 A Well, we did make members of the education  
30 department aware of Mr. Green. And I can't remember if we  
31 circulated his picture or not, but basically notified them  
32 that if they see him, to make sure they reported to the  
33 security office.

34 Q Sorry, you hired -- I'm sorry.



1           A     Three, I believe it was three additional, three  
2 additional guards and posted one of our regular complement  
3 of guards outside the classroom.

4           Q     Sorry, sir, was this during the day shift or --

5           A     Yeah.

6           Q     -- evening shift?

7           A     Yeah. I believe it was just during the day  
8 shift.

9           Q     I take it that the faculty of education is, is  
10 housed in a, in one of the buildings at the main campus or  
11 is it some other --

12          A     The, the main offices are in the first floor of  
13 Graham Hall. And one of the guards that we had posted just  
14 inside 385 Spence, that's the main entrance to that  
15 building.

16          Q     And are there doors leading up to main entrances  
17 that he can go in directly to Graham Hall?

18          A     Yeah. There's two, two entrances to the  
19 buildings. One, one is to that building.

20          Q     Um-hum.

21          A     One is just inside 385 Spence, which leads up to  
22 the main entrance to the education department. And the  
23 other door is at the south end of Graham Hall but that door  
24 is locked all day. It remains locked all the time.

25          Q     So it wasn't locked in response to what -- it was  
26 not --

27          A     No.

28          Q     -- that door --

29          A     No.

30          Q     -- was not locked?

31          A     No. That door's, remains locked anyways. It's  
32 not a main access point for the department.

33          Q     Were there any doors that were locked as a result  
34 of -- in response to Mr. Green?

1           A     The classrooms that they were teaching in were  
2 kept locked, which normally they aren't, with a guard that  
3 was posted outside the classroom make sure that the doors  
4 were locked when class was in session, I believe.

5           Q     So how is it that students are able to enter  
6 those doors if they're locked?

7           A     The guard would have allowed them access. They  
8 would have an access card.

9           Q     Do you know anybody who was turned away as a  
10 result of the ...

11          A     I honestly don't remember if Mr. Green came to  
12 the --

13          Q     Not --

14          A     -- classrooms.

15          Q     Do you know of any students was, were turned  
16 away? Like how is it that they are able to identify that,  
17 that the student is attending that class?

18          A     Good question. I'm assuming the instructor may  
19 have, may have told them. But the main reason they were  
20 there was for Mr. Green, though, to keep him from entering  
21 the classroom.

22          Q     Okay. What, if anything, can you tell the court  
23 about the time when you were dealing with Mr. Green on  
24 February 7?

25          A     Okay. Sorry? What ...

26          Q     What, if anything, can you tell the court in  
27 terms of his disposition or ...

28          A     On the 7th he actually seemed quite calm.

29          Q     Um-hum.

30          A     Quite relaxed. He was informed the police would  
31 be coming, and he just sat down and awaited their arrival.  
32 I believe it was the 1st that we had all the incidents with  
33 him.

34                   MR. GRIEVES: I, I have no further questions for

1 the witness, Your Honour.

2 THE COURT: All right. Thank you, Mr. Grieves.

3 Mr. Green, it's 12 minutes after 12:00. I don't  
4 know if you want to start your cross-examination now or if  
5 you'd like to take the lunch break now and -- if you have  
6 some idea of how -- I'd like to sort of adjourn at 12:30 if  
7 we continue on because there is something on here at 1:00  
8 and Madam Clerk, of course, needs to have a bit of a lunch  
9 break as well. There's another unrelated matter so we'll  
10 have to start again at 2:00.

11 MR. GREEN: So --

12 MR. GRIEVES: In this courtroom?

13 MR. GREEN: -- when we break, we'll be  
14 reconvening at 2:00.

15 THE COURT: Yeah.

16 MR. GREEN: So I have 15 minutes to sort of make  
17 a little bit of progress?

18 THE COURT: Yeah, if you want.

19 MR. GREEN: And then it's ... Let me see if I  
20 can, if I can, just to save time later on, if there's  
21 anything that I can do that won't sort of leave us in an  
22 awkward position when I --

23 THE COURT: Okay.

24 MR. GREEN: -- when I break.

25

26 CROSS-EXAMINATION BY MR. GREEN:

27 Q Yeah, I can ask you about, about the, the  
28 security measures. You had guards posted at the doors, you  
29 had the guard at the classroom. Was it just Professor --  
30 which professor's classroom was the guard posted at or was  
31 it all the education classrooms?

32 A No, it wasn't all the education classrooms. It  
33 was Professor Metz and Barnes, I believe.

34 Q Bush, I would think.

1 A Pardon?

2 Q Do you think maybe Bush?

3 A Bush, yes.

4 Q Yeah.

5 THE COURT: Okay. So, sorry, Bush and?

6 MR. GREEN: Bush and Metz.

7 THE WITNESS: Metz.

8

9 BY MR. GREEN:

10 Q They had specifically asked for extra protection?

11 A I don't even know if they did request it. It was  
12 just supplied because of the circumstances.

13 Q Do you know who recommended it? Was it  
14 recommended by ...

15 A It probably would have been recommended by the  
16 director of security, Martin Grainger.

17 Q Without any direction from -- didn't confer with  
18 the --

19 A Oh, I'm sure --

20 Q -- lawyer for the university, with the registrar,  
21 the people involved in the proceedings?

22 A I'm sure he would have had consultation with them  
23 but I wasn't privy to it.

24 Q So you wouldn't know, but it would have been --  
25 you wouldn't have -- you weren't involved with it?

26 A I wasn't directly involved with that, no.

27 Q So you can't say, like -- well you simply weren't  
28 involved.

29 A Yeah, I --

30 Q You don't really -- the decision was made and so  
31 you putting it in place?

32 A Yeah.

33 Q And when, when did you hire the extra staff and  
34 when were they posted? Can you tell me the dates from

1 which they started being posted until when?

2 A No, right off hand I can't.

3 Q Approximately. Was it ... I just, I'd be  
4 interested in was it after I started returning to campus?  
5 When --

6 A It would have been --

7 Q -- did I start --

8 A It would have been --

9 Q -- returning to ...

10 A -- around the same time.

11 Q Around that time. Okay. You said something a  
12 little bit ambiguous here. You said I didn't come back to  
13 campus for a year.

14 A Yes.

15 Q And the suspension was a year. But I started  
16 coming around within a couple of days of the expiration.

17 A Yeah.

18 Q Do you mean before or after?

19 A After.

20 Q So in other words, I did sit out the entire --

21 A Oh, yeah.

22 Q -- one year?

23 A Yeah.

24 Q Is your understanding. And didn't come back till  
25 -- do you think I came back on the day it ended or maybe a  
26 couple of days later, or you're not sure?

27 A To be honest, I'm not sure.

28 Q All right. Now, you list five days towards the  
29 end of January. I think the days you listed were all  
30 towards the end of January?

31 A Yes.

32 Q But you don't list days in the vicinity of  
33 January 11th when I came back. You didn't sort of mention  
34 specific dates; you said I was seen but there was no, like,

1 incident reports on those days or ...

2 A There --

3 Q Were they noted? Were they noted in the record?

4 A To be honest, I'm not sure they were.

5 Q But you have a general recollection that I was  
6 around but that there was no ...

7 A No. Well, yes. I, I was aware that you had  
8 returned to campus.

9 Q Ah-huh.

10 A But I hadn't seen you myself.

11 Q Ah-huh. But no security came up to me and told  
12 me I had to leave?

13 A At that time, I don't believe.

14 Q Don't think there were any incident reports about  
15 that.

16 A I don't believe so.

17 Q But was there ever a moment when there was not a  
18 trespassing order in place from the expiry of the old one  
19 to the issuing of the, the new one?

20 A Yes. Yes, there was.

21 Q For how long do you think I was legally entitled  
22 to go on campus under the ...

23 A Under two weeks.

24 Q Under two weeks? So when --

25 A I believe.

26 Q -- would those two weeks have been?

27 A I believe January 11th or 12th was, would have  
28 been when it expired.

29 Q Yeah. 11th was like, it was issued on 11th,  
30 2012. So --

31 A So would have expired on the 10th.

32 Q Okay. So on the 11th I would have been free to  
33 come on campus?

34 A Yeah. And I believe the next one was issued on

1 the 23rd or 25th.

2 Q Well, it was issued on the 11th. I'll, I'll put  
3 in evidence it was, but --

4 A Okay.

5 Q You may agree that it was, it was issued --

6 A Well, my, my understanding it was served to you  
7 on the 23rd or 25th.

8 Q The service was ambiguous, but I think there was  
9 -- they claimed service on the 15th at some point.

10 A Okay.

11 Q So there could have been a few days between the  
12 issuing and the serving when I would have ... That's fair  
13 enough.

14 You weren't involved in the decisions, the  
15 deliberations on the issuing, on the re-issuing, were you?

16 A No. That would have been in consultation with  
17 the director of security and --

18 Q You would have had nothing --

19 A -- the registrar.

20 Q -- to do with that.

21 But you would have been involved in the  
22 implementation of the security measures, the, the card  
23 passes. When were, when were the card passes issued to  
24 students?

25 A They weren't.

26 Q You -- I, I heard you saying that, that the  
27 students --

28 A Card access to guards would have allowed access.

29 Q Oh, the students didn't have to carry a card  
30 showing that they were entitled?

31 A No. No.

32 Q Then I misheard that. We see the school year. I  
33 was kicked out in, the first time in 2012.

34 A Okay.

1 Q Were guards posted at that time when I was first  
2 kicked out?

3 A No, because there was no reports of you returning  
4 to the campus.

5 Q For the whole year?

6 A As far as I understand, yes.

7 Q Then the school year ended. Then a new school  
8 year started and, and no problems but, but, so there was no  
9 security posted.

10 And your recollection was that there was no  
11 additional security hired until after it was reported that  
12 I was back on campus. However, I had the right to go back  
13 on campus on the 11th, so like you said, legally I could go  
14 back on between the 11th and at least the twenty -- 15th or  
15 the 23rd or whatever --

16 A Yeah. We wouldn't have had the extra --

17 Q -- so would you have hired the security on the  
18 basis that I was back on campus legally?

19 A No.

20 Q So you wouldn't have hired that extra security  
21 until --

22 A The --

23 Q -- until after I had been issued the second  
24 notice, in your recollection?

25 A The second barment notice, you mean?

26 Q Yeah, the second barment notice.

27 A I think the second ... To be honest, the second  
28 barment notice went out I think before the extra coverage  
29 was implemented.

30 Q Now, I was issued on, I'm going to agree that I  
31 was issued the second barring notice around the 15th of  
32 January.

33 A Okay.

34 Q So until then, you're saying there would be no



1 extra security posted on the doors or anything like --

2 A No. I, I said there wouldn't have been any extra  
3 security brought in. We probably did have a guard posted  
4 at the professors' classroom doors and while they were  
5 teaching.

6 Q Well, when did you start posting them at the  
7 classroom doors, then?

8 A I believe that was right after you went to your  
9 professor's house.

10 Q Went to my professor's house. And immediately  
11 after that you posted guards at the professors' doors?

12 A I believe so. Yeah.

13 Q Okay.

14 A I believe so because he did indicate that he  
15 feared for his safety.

16 Q The professor indicated that he feared for his  
17 safety.

18 A Yeah.

19 Q Did, did --

20 A That's --

21 Q -- he indicate that to you?

22 A Not to me directly, no.

23 Q So you don't know that he indicated that?

24 A Then I guess I don't know.

25 Q But that was your impression. Why did you get  
26 that impression?

27 A Because the report that I heard was that you  
28 basically forced your way into his house.

29 Q You heard that I forced my way into his house?

30 A Yes.

31 Q Just give me (inaudible) that now. Who did you  
32 hear that from?

33 A I believe I heard it from the director of  
34 security.

1 Q From Martin Grainger.

2 A Yeah.

3 Q Do you recall the words he said?

4 A No, I don't.

5 Q You remember when you heard it?

6 A I believe it was the same day or very soon, like  
7 a day or two before the second barment notice was issued to  
8 you.

9 Q Okay. And into whose house specifically?  
10 Professor Bush, wasn't it?

11 A I believe it was George Bush, yes.

12 Q And because of that, you put guards on the doors?

13 A We put guards on the classroom doors.

14 Q And was that --

15 A Oh --

16 Q -- also the reason why you issued the second  
17 trespassing notice?

18 A Yes, it -- I believe it was.

19 Q Okay. So before that, you didn't have the guards  
20 on the classroom doors?

21 A Before that, I don't know if you were really  
22 deemed to be a threat. There was no indication, from my  
23 understanding, that you were.

24 Q Um-hum. So would be the second week of January  
25 you put guards on the classroom doors. And do you, do you  
26 remember how long you kept them posted there?

27 A I believe it was until after the 7th.

28 Q Um-hum. And why did you take them off on the  
29 7th?

30 A Because our understanding was you were still  
31 incarcerated.

32 Q Okay. Now, eventually I got out of jail. Do you  
33 know when I got out of jail?

34 A No, I don't.

1 Q Did you put the guards back on?

2 A No, I did not.

3 Q Okay. Why not?

4 A That's not my decision to make.

5 Q Okay. Fair comment. But the sooner you got me  
6 in jail, the longer you kept me there, the more money you'd  
7 save on the expense of hiring prison guards, would you say  
8 the university saved money by having me kept in jail? It's  
9 not -- you don't --

10 A No.

11 Q -- have to answer that.

12 A No.

13 Q You don't have to answer that.

14 THE COURT: Your answer to that was no?

15 THE WITNESS: My answer to that was no.

16 MR. GREEN: It's okay.

17 THE WITNESS: It actually cost us more when you  
18 were out of jail than it normally would have.

19

20 BY MR. GREEN:

21 Q It cost you money having me out of jail? That's  
22 right. So you saved money by having me in jail?

23 A No, it cost us money for you to be out of jail.  
24 I'm just saying it's normal --

25 Q If it cost you money --

26 A -- normal cost --

27 Q -- for having me out of jail, then it saved you  
28 money when I -- I think it saved you money when I was in  
29 jail.

30 A Okay.

31 Q I don't want to open up a new topic. It's, it's  
32 all new for me. This is all information that is flooding  
33 in so I'm, I'm a little bit overwhelmed.

34 THE COURT: Well, now would be a good time, if

1 you don't want to go on to a new topic, we can take the  
2 lunch break now.

3 MR. GREEN: Just give me a minute to --

4 THE COURT: Okay.

5 MR. GREEN: -- just consider if I'll take a  
6 break. I appreciate what we're doing here but ...

7

8 BY MR. GREEN:

9 Q I guess on the same topic, the guards who were  
10 posted at the doors, you said you hired three -- I'm sorry,  
11 there was one guard posted at the classroom door?

12 A Um-hum.

13 Q And three more guards posted at the, the street  
14 doors?

15 A Yes.

16 Q And when were they posted? Is it the same thing  
17 as the one at the classroom door? From -- in other words,  
18 from the --

19 A No.

20 Q -- the, can I call it the home invasion, or the,  
21 from the report of the home invasion?

22 A If that's what you want to call it.

23 Q You never heard it called that?

24 A I ...

25 Q Did you ever hear it called a home invasion?

26 A I don't, don't recall hearing it referred to as  
27 that.

28 Q Um-hum. You don't recall any of the words that  
29 Martin Grainger said when he told you about it?

30 A No. Like I said, I don't recall his exact  
31 wording.

32 Q But from immediately after that it was, am I  
33 counting correctly, four guards, one at the classroom door  
34 and three at the street entrances?

1 A Yes.

2 Q And when did you remove the guards from -- again,  
3 they were all pulled in on the 7th of February. Once I was  
4 safely in jail you could pull all those guards?

5 A Yeah.

6 Q And they were never put back on?

7 A Not to my knowledge, no. But I was also on  
8 vacation for a couple of weeks thereafter.

9 MR. GREEN: Yeah. I'm pretty sure now is the  
10 right time to break but I'm, I'm not quite finished with  
11 the questions so I'm going to have to --

12 THE COURT: Okay.

13 MR. GREEN: -- have him come back, if that's all  
14 right.

15 THE COURT: Mr. Rarick, we're going to take a  
16 break so I'm going to ask you to come back for two o'clock.  
17 During the, in the meantime please do not discuss your  
18 evidence with anyone, especially other witnesses who have  
19 yet to testify.

20 MR. GREEN: May I speak to one more procedural  
21 thing?

22 THE COURT: Yes, I just --

23 MR. GREEN: My five, my five witnesses, I can't  
24 see getting them to this afternoon. I'd love to make them  
25 sit and stew in the room like they made me sit in jail for  
26 10 days, but in light of the proceedings, like if I'm not  
27 going to get to them till tomorrow morning, you could  
28 release them and have them come back in the morning, if I  
29 know they'll be back.

30 THE COURT: The difficulty, Mr. Green, is that we  
31 won't have time for tomorrow because I'm already scheduled  
32 elsewhere. So if we need it -- I expect we probably  
33 will --

34 Mr. Rarick, you can go for now and then come back

1 at 2:00

2 THE WITNESS: Okay. Two o'clock? Okay.

3 THE COURT: And we'll discuss the proceedings.

4 THE WITNESS: And I will not discuss it with  
5 anybody.

6 THE COURT: Okay. Yeah, thank you.

7

8 (WITNESS ASIDE)

9

10 MR. GREEN: Do you have some general idea when  
11 we'll be reconvening, assuming that we're --

12 THE COURT: At two, at two o'clock.

13 MR. GREEN: I know, but if, if we -- assuming we  
14 won't --

15 THE COURT: Right.

16 MR. GREEN: -- finish today, do you, can you see  
17 how that's --

18 THE COURT: Well, what we have to do is, the next  
19 step is contact the trial coordinator and see what sort of  
20 dates they would have available for a continuation date, so  
21 I'm going to ask Madam Clerk to do that over the  
22 -- I don't know, perhaps they -- should we check now and  
23 just see what sort of dates we have available?

24 THE CLERK: Sure.

25 THE COURT: Well, actually, what we'll do is  
26 we'll do that -- I'll ask you to do that over the lunch  
27 hour.

28 THE CLERK: Yes. Are you asking for one day?

29 THE COURT: What do you think, Mr. Grieves? Do  
30 we need more than one day or ...

31 MR. GREEN: Well, how many more witnesses does he  
32 have?

33 THE COURT: He has two more, is what he said  
34 earlier, if --

1           MR. GREEN: Oh, but we don't need Mr. Akhil, do  
2 we? I don't think he's -- and I'm agreeing to everything  
3 he's going to say.

4           THE COURT: Okay. You're going to have a  
5 discussion about that.

6           MR. GRIEVES: Yes.

7           THE COURT: So there's at least one more witness  
8 for the Crown and then you have five witnesses, and that  
9 leads me to another issue I want to raise. What is -- what  
10 are the names of the other witnesses you have? I have Mr.  
11 Jose.

12           MR. GRIEVES: And Mr. Grainger, Martin Grainger.

13           THE COURT: Okay. And who do you have for  
14 witnesses?

15           MR. GREEN: I have --

16           THE COURT: You don't have to tell me whether or  
17 not you testify, but if you've got other witness --

18           MR. GREEN: Oh, I'll be testifying, too.

19           THE COURT: Okay.

20           MR. GREEN: But I'll have Mr. Bush, Mr. Metz,  
21 Mrs. Bush, Ms. McGifford, Mr. Besner. I think that's my  
22 five.

23           MR. GRIEVES: Yeah.

24           THE COURT: Okay.

25           MR. GREEN: Not including Mr. Grainger, who is  
26 yours.

27           THE COURT: All right. Okay. So what we're  
28 going to do, at two o'clock we're going to -- Madam Clerk  
29 is going to get us what sort of available dates the trial  
30 co-ordinator has. If the trial co-ordinators are able to  
31 send Mr. Grievs an e-mail, then he can at least check  
32 before two o'clock --

33           MR. GRIEVES: Yeah.

34           THE COURT: -- if he's available on any of those

1 dates, and then we'll check to see if you're available on  
2 any of those dates, Mr. Green.

3 MR. GREEN: I'll make myself available.

4 THE COURT: All right. There is another issue,  
5 as I've been sitting here listening to the testimony, that  
6 I want to raise for you, Mr. Green, and you, Mr. Grieves.

7 I was appointed as a judge just earlier this  
8 year. Prior to my appointment I, on a contract basis, was  
9 employed periodically to teach criminal law, a second year  
10 arts course, at the University of Winnipeg. I don't  
11 believe I'm biased or I need to recuse myself, but I do  
12 want to alert you to this issue so that you can consider it  
13 over the lunch break in terms of whether there's any  
14 motions you want to make with respect to that.

15 I've heard the names of the witnesses. None of  
16 the people that I've heard today or any of the witnesses I  
17 have any personal relationship or any prior knowledge of,  
18 but I do want to raise that issue for you, Mr. Green.

19 MR. GREEN: I'm going to take the devil I know  
20 ahead of the devil I don't know. I mean, it's good of you  
21 to bring it up, but you know, who knows who I could get if  
22 you took yourself out. I'm already feeling pretty good  
23 about it, so we're -- for my sake I hope, well, I hope he  
24 doesn't sort of have a problem with you.

25 THE COURT: All right. So we'll come back to  
26 that issue. I'll ask you to -- I'll give you time to think  
27 about it and we'll come back to that issue at two o'clock,  
28 and because there's that other matter in here at one  
29 o'clock, we need to vacate the courtroom.

30 MR. GREEN: Do I have to take all my papers down,  
31 then?

32 THE COURT: And so --

33 MR. GRIEVES: You would need to.

34 THE COURT: Yes. Other people will be in here,



1 so ...

2 MR. GREEN: Oh, it's so much work.

3 THE COURT: And so we --

4 MR. GREEN: Can I put them in this --

5 THE COURT: And we --

6 MR. GREEN: Can I put them somewhere or do I have  
7 to carry them out --

8 THE COURT: Madam Clerk, if he spread them out on  
9 this table over here, would that be okay, or ...

10 THE CLERK: Sure.

11 MR. GREEN: Thank you.

12 THE COURT: If you're comfortable with that, Mr.  
13 Green, you can do that.

14 MR. GREEN: Yeah.

15 THE COURT: And you started to ask a question  
16 about whether or not you keep those five witnesses --

17 THE CLERK: Sir, if you can just finish here.

18 MR. GREEN: I'm sorry. Okay.

19 THE COURT: You started to ask a question about  
20 whether or not we keep your five witnesses sitting in a  
21 room.

22 MR. GREEN: I'd love to make them stew but I  
23 recognize it's not necessarily justified.

24 THE COURT: How much more time do you think for  
25 the Crown's case, Mr. Grieves?

26 MR. GRIEVES: I expected to be done -- I mean, I  
27 thought it would take one day. I mean, I don't think I'll  
28 take more than -- I mean ...

29 THE COURT: Do you think there's some of these  
30 witnesses that could be excused at this point because we're  
31 just not going to get to them?

32 MR. GREEN: I'd rather have them all at once  
33 because of the, you know, collusion or whatever, they sort  
34 of (inaudible). I'd rather get --

1           MR. GRIEVES: I'm not sure what order that Mr.  
2 Green is calling his witnesses. I mean perhaps ...

3           THE COURT: And you have to testify as well, and  
4 it's in your best interests to likely testify before your  
5 witnesses are called.

6           MR. GREEN: I was thinking the other way,  
7 actually, but ...

8           THE COURT: I'll let you think about it.

9           MR. GRIEVES: See, most of the --

10          THE COURT: Normally the accused person would  
11 testify, because you don't want to be -- you mentioned  
12 collusion. You don't want there to be a suggestion that  
13 you've listened to the witnesses' evidence and now framed  
14 your --

15          MR. GREEN: Your Honour, I've, I've written my  
16 testimony, my substantial testimony so I can't be accused  
17 of that. I'm going to give it to you beforehand so just in  
18 case you don't think I'm changing my testimony, because I  
19 did want to do it after.

20          THE COURT: Okay. I think what you -- I'll get  
21 you to do is go tell your witnesses to return for two  
22 o'clock, and I expect that we're -- my guess is where we're  
23 going to get is Mr. Grieves is going to be finished putting  
24 his case in. I'm going to ask you whether or not you're  
25 testifying and whether you're calling any witnesses. If  
26 you do choose to testify, you can consider at what point  
27 you want to testify, but at most times, I can tell you, as  
28 an ordinary course you would testify first so that there is  
29 no suggestion that you colluded or made your testimony fit  
30 with the witnesses who you've now heard testify for the  
31 defence.

32          MR. GREEN: As I said, I want to forestall that,  
33 but I -- my -- and I don't know if I was thinking that  
34 having got the witnesses here I would testify later because

1 I didn't -- I wanted, on a time basis, to make sure I got  
2 them all in the same day, and now that is off the table so  
3 I don't know what my strategy is. I do have to think about  
4 it.

5 THE COURT: Yeah, okay. Because what I'm  
6 thinking is that if you're going to testify today and we  
7 get a continuation date, then all five of your witnesses,  
8 based on what you've said, is that you would like them all  
9 to testify on the same date, that all five of your  
10 witnesses would be testifying on the next date.

11 MR. GREEN: That's my preference, I think.

12 THE COURT: I'm thinking we should ask for two  
13 days from the trial coordinator.

14 MR. GRIEVES: That's probably a good idea, Your  
15 Honour.

16 THE COURT: Okay. So we're going to come back at  
17 2:00. However you're communicating with your witnesses,  
18 ask them to come back at 2:00 and then we'll discuss  
19 again --

20 MR. GREEN: Oh, I don't communicate with them.  
21 Could someone --

22 MR. GRIEVES: Ms. Mulholland (phonetic).

23 MR. GREEN: Oh, thank you.

24 THE COURT: All right. So ask them to come back  
25 for 2:00 and what we'll do then is discuss what sort of  
26 next dates are available for the continuation of the  
27 matter.

28 MR. GREEN: Okay.

29 THE COURT: But --

30 MR. GREEN: Of course I'll want you to ask them  
31 not to discuss anything between now and then.

32 THE COURT: Yeah.

33 MR. GREEN: If you could even bring them into the  
34 courtroom and sort of warn them --

1 THE COURT: Yeah.

2 MR. GREEN: -- personally would, sort of might  
3 have the impact sufficient to --

4 THE COURT: Yeah.

5 MR. GREEN: If you understand.

6 THE COURT: Yes.

7 THE CLERK: All rise. Court is in recess.

8

9 (LUNCHEON RECESS)

10

11 THE COURT: All right. So I guess what we'll  
12 start with is, so there's no issues with me continuing to  
13 preside over this hearing?

14 MR. GREEN: I'm fine with it.

15 MR. GRIEVES: I have no, I have no issue, Your  
16 Honour.

17 THE COURT: And second, what sort of continuation  
18 dates, did we make any headway on that?

19 MR. GREEN: We're available for whatever she's  
20 got.

21 MR. GRIEVES: Well, the only date -- the initial  
22 dates that I, that I was provided with by Madam Clerk, the  
23 only date I was available was September 25th.

24 MR. GREEN: That you were unavailable, is that  
25 what you said, or am I hearing?

26 MR. GRIEVES: The only date that I was available.

27 MR. GREEN: Oh, my gosh, I didn't hear that.

28 MR. GRIEVES: Sorry.

29 MR. GREEN: Okay. 25th -- like you mean a year  
30 from now or you mean three -- is it three weeks from --  
31 yeah, three weeks from now.

32 THE CLERK: The initial dates were this month.

33 MR. GREEN: Oh, I didn't hear that. I heard her  
34 saying 2014. Okay. Okay.

1 THE COURT: Okay.

2 MR. GREEN: That's different.

3 THE COURT: Madam Clerk has told me that there,  
4 the trial coordinator was able to offer some dates in  
5 September, some dates in November, and then after that  
6 we're into next year, which is not --

7 MR. GREEN: Oh. I --

8 THE COURT: -- good.

9 MR. GREEN: -- misunderstood.

10 THE COURT: All right. So you're only available  
11 one date, Mr. Grieves, and you can't make yourself  
12 available any of the other days?

13 MR. GRIEVES: No.

14 THE COURT: And the November dates?

15 MR. GRIEVES: No. I'm not available on those  
16 dates.

17 THE COURT: Okay.

18 MR. GREEN: Well, that's not a problem for me as  
19 long as I get to do my witness examinations sooner rather  
20 than later. If I have to hold my witnesses over a year,  
21 it's very, it's problematic, but if I can get, if I can get  
22 that out of the way, I don't mind, you know, a longer  
23 delay.

24 THE COURT: Okay. So why don't we reserve  
25 September 25th, then, for the continuation of this matter.  
26 It looks like we don't have -- it's going to be difficult  
27 to get two days close together, so we'll really push to try  
28 to get it done on that extra day. And so now, in terms of  
29 the witnesses, they're outside are they, Mr. Grieves?

30 MR. GRIEVES: Yeah. I can tell Your Honour that  
31 Mr. Jose did attend.

32 THE COURT: Okay.

33 MR. GRIEVES: Yeah.

34 MR. GREEN: And I think I started to raise this

1    beforehand.  I don't think I'm going to get to my witnesses  
2    now.  I'd rather, if I'm going to get them all, I'd rather  
3    get them all together.

4               MR. GRIEVES:  Um-hum.

5               MR. GREEN:  But I was hoping you could remand my  
6    witnesses till, till the --

7               MR. GRIEVES:  Well, we'll see --

8               MR. GREEN:  My subpoenas.  I don't want to have  
9    to subpoena them again.  Can you --

10              THE COURT:  Right.  So I'm thinking where we're  
11   going to get today, Mr. Grieves, is that we'll be able to  
12   finish the Crown's case and Mr. Green can consider whether  
13   or not he's going to testify today.

14              MR. GRIEVES:  Okay.

15              THE COURT:  But I don't think we're going to get  
16   to the defence witnesses.  So my proposal is that we bring  
17   the witnesses in or do you have a worker who's dealing with  
18   the witnesses or ...

19              MR. GRIEVES:  I mean, Ms. Mulholland --

20              MR. GREEN:  Ms. Mulholland will bring them in.

21              THE COURT:  Okay.

22              UNIDENTIFIED PERSON:  Would you like them in now?

23              THE COURT:  Yes.

24              MR. GREEN:  Could I -- will you be ordering them  
25   to re-appear --

26              THE COURT:  Yes.  I'm going to tell them that  
27   they're under subpoena to be here today's date --

28              MR. GREEN:  Okay.  Yeah.

29              THE COURT:  -- and that we're remanding the  
30   matter to September 25th.  Do we know what courtroom, Madam  
31   Clerk?

32              THE CLERK:  No.  I'd have to call back in and  
33   advise them that we just need the one day.

34              THE COURT:  Okay.

1 THE CLERK: But also further, before we --  
2 regarding Mr. Jose who has attended, so is that warrant --

3 THE COURT: I'll deal with it when he comes back  
4 in and --

5 THE CLERK: Okay. Do you want me to confirm that  
6 day now?

7 THE COURT: Yes, let's try confirming the date.  
8 Just so we can give them a courtroom.

9 THE CLERK: Okay.

10 MR. GREEN: Now, before the trial, like I had no  
11 right to tell them that they couldn't confer about what  
12 they're going to testify, that's up to them. But now that  
13 the trial's started and there is testimony out there, could  
14 I ask you to advise them not to confer with what they  
15 intend to testify?

16 THE COURT: Yes, I think (inaudible) --

17 MR. GREEN: You, you need to see my subpoenas  
18 or ...

19 THE COURT: Perhaps I should.

20 Sorry, Madam Clerk. You have a subpoena here for  
21 Martin Grainger but --

22 MR. GRIEVES: That was a Crown witness.

23 MR. GREEN: That's okay, yeah. That was extra.

24 THE CLERK: Okay. So we're looking at September  
25 25th, 10:00 a.m. in courtroom 403.

26 THE COURT: 403. Okay.

27 MR. GREEN: What day of the week is that?  
28 That'll be a Wednesday, won't it?

29 MR. GRIEVES: It's a Wednesday.

30 THE COURT: It is a Wednesday, yeah.

31 MR. GREEN: Yeah. It's called modular  
32 arithmetic. I'm a bit of a math teacher but ...

33 MR. GRIEVES: What was the date again?

34 MR. GREEN: I was trying to be one anyhow but ...

1 THE CLERK: September 25th.

2 MR. GREEN: It's a Wednesday.

3 THE COURT: Can you bring the witnesses in.

4 All right. Is George Bush here?

5 UNIDENTIFIED PERSON: Yes.

6 THE COURT: George Bush?

7 MR. BUSH: Yes.

8 THE COURT: Okay. Heather Bush? Don Metz?

9 MR. METZ: Yes.

10 THE COURT: Neil Besner?

11 MR. BESNER: Yes.

12 THE COURT: And Lisa McGifford?

13 I -- it does appear that with respect to the  
14 trial against Mr. Green that we're not going to be able to  
15 finish today, and so the five of you have all been  
16 subpoenaed here to testify on behalf of Mr. Green. The  
17 Crown still has at least two more witnesses to call and  
18 we're -- Mr. Green is still questioning the third witness  
19 so we're not going to finish today. So we have looked into  
20 dates for the continuation of this matter, and what we got  
21 is September 25th at 10:00 in 403. All five of you are  
22 under subpoena, having been served previously, so  
23 unfortunately I'm going to have to impose on you to come  
24 back, and that's by order of this court, on September 25th  
25 at ten o'clock in courtroom 403. We'll continue with the  
26 trial of this matter and I expect that the five of you will  
27 then be called by Mr. Green to testify. Okay. So I'm  
28 going to excuse you for today. You don't have to stay for  
29 the rest of today, and come back on September 25th at ten  
30 o'clock or shortly before ten.

31 MR. GREEN: I have made a request that you would  
32 advise them.

33 THE COURT: There -- I have already ordered the  
34 exclusion of witnesses, so the witnesses can't stay in the



1 courtroom and listen to the testimony ahead of them before  
2 they are called to testify, and I'm also going to ask that  
3 you not discuss what you expect your evidence to be or what  
4 you're going to testify to amongst each other. You have to  
5 come to court and just explain from your own personal  
6 observations and your own personal knowledge what you know  
7 about this matter. So don't discuss your testimony between  
8 now and the next date when you have to come back. All  
9 right?

10 Thank you for coming today. I apologize for the  
11 delay in how long the matter is taking, but we'll see you  
12 back on September 25th.

13 Yes, Mr. Grieves. And we'll call back Mr.  
14 Rarick.

15 MR. GRIEVES: Yes.

16 UNIDENTIFIED PERSON: My sincerest apologizes,  
17 Your Honour. I've just been informed by one of the  
18 witnesses that he has a number of meetings scheduled in  
19 China, last as part of his role through the university, and  
20 so he's, like, essentially out of the country and is a  
21 little concerned that he cannot attend on the 25th.

22 THE COURT: How long -- what dates are you out of  
23 the country?

24 MR. BESNER: From the 21st to the 28th.

25 THE COURT: September 21st to the 28th.

26 MR. GREEN: Does he --

27 THE COURT: And you're Mr. Bush?

28 MR. BESNER: Mr. Besner.

29 THE COURT: Sorry, Mr. Besner.

30 MR. GREEN: I wonder if the university could send  
31 a different vice-president to China at that time.

32 THE COURT: Well, Mr. Green, I'm not going to  
33 interfere with Mr. Besner's travel plans out of the country  
34 in order to represent the university, so the options, I

1 think, are that Mr. Besner testify today, which would mean  
2 that you'd have to wait around today.

3 MR. BESNER: Fine.

4 MR. GREEN: Maybe we'll let him do that, then.

5 THE COURT: Okay.

6 MR. GRIEVES: Yes, let's.

7 THE COURT: Okay. So I'm just going to ask you  
8 to wait --

9 MR. GRIEVES: Sounds reasonable.

10 THE COURT: -- then, Mr. Besner, and --

11 MR. BESNER: Thank you very much.

12 THE COURT: -- we'll get to your testimony today,  
13 then.

14 MR. BESNER: Thank you.

15 UNIDENTIFIED PERSON: Thank you.

16 THE COURT: Thank you.

17 MR. GRIEVES: So we can start with Mr. Rarick.

18 THE CLERK: Christopher Rarick, please attend  
19 courtroom 406.

20 THE WITNESS: Thank you.

21 THE COURT: Mr. Rarick, you're still under oath,  
22 and Mr. Green was asking you questions when we last left.

23 THE WITNESS: Yes.

24

25 **CHRISTOPHER JAMES RARICK,**  
26 previously sworn, testified as  
27 follows:

28

29 MR. GREEN: Your Honour, I'm going to try to  
30 proceed as efficiently as possible. You can understand  
31 it's an emotional experience for me. There's ups, there's  
32 downs. You can see it's affecting me. I'm going to try  
33 and stick to the program as best I can.

34 THE COURT: I appreciate that.

1           MR. GREEN:   Some of the questions I'm going to  
2 ask him are going to be maybe a little argumentative but  
3 before I do that, maybe just on the substance of, like  
4 strictly factual questions, this was an important thing I  
5 have to ask him.   When I say argumentative, maybe I'll,  
6 because it's in front of me --

7           THE COURT:   Because I might --

8           MR. GREEN:   Yeah, you might --

9           THE COURT:   -- not allow you to be argumentative  
10 with --

11          MR. GREEN:   It's all right.

12          THE COURT:   -- the witness.

13          MR. GREEN:   It's all right.   It's a can of worms  
14 I don't know if it's in my benefits to open, so I'm going  
15 to think out loud.

16

17 CROSS-EXAMINATION CONTINUED BY MR. GREEN:

18          Q   You did testify with regard to my disposition on  
19 February 7th that I seemed quite calm and relaxed.   Then  
20 you said I thought, and I'm not sure you even got into the  
21 transcripts, that that was a first for me.   That what you  
22 said?

23          A   No.   I don't recall saying that.

24          Q   So you don't recall me being generally sort of  
25 unco-operative and agitated on the other occasions?

26          A   I think what I said was that it was quite  
27 different from the first when we dealt with you.

28          Q   Well, to clarify, your first sounds like my  
29 second, because there was three times I was detained.   The  
30 first time was fairly short, it was -- the police came like  
31 right away and I was out in 45 minutes.

32          A   Well --

33          Q   But I don't think you were there for that.

34          A   No, I wasn't there for the first time that you

1 were detained. I was there for the second time when it  
2 took --

3 Q The second time. Then we had that conflict where  
4 I tried to walk out and you said, now you're going to get  
5 charged with assault. It was my recollection is, is that's  
6 what you said, now you're going to get charged with  
7 assault. Do you recall it being like that?

8 A No, I don't.

9 Q Okay. Fair enough. I can still testify, when I  
10 testify, that that's the way it was, but if you don't  
11 recall it that way, it's (inaudible) --

12 A Yeah, I don't recall it that way.

13 Q -- we can let it be that way. Okay.

14 But you do recall that you had the impression it  
15 might have been an assault, and then you did testify to  
16 that --

17 A Yes.

18 Q -- that from where you were sitting.

19 A Yeah.

20 Q And then did you investigate whether I should be  
21 charged with assault? Did you consult with anyone else  
22 about it?

23 A That's not my determination to make. That's the  
24 determination of the police and the Crown.

25 Q Did you recommend to anyone that I might be  
26 charged with assault for that?

27 A No. I don't believe I did.

28 Q You didn't talk to anyone else about it; it was  
29 an impression you had in your mind but you didn't follow up  
30 on it with anybody?

31 A Like I said, that wasn't my call to make.

32 Q It was a momentary --

33 A I --

34 Q -- impression you had, and then did you -- do you

1 still think it should have -- could have been an assault as  
2 you're looking back on it now?

3 A I believe the way I related to the police was  
4 that -- or to the 911 operator, when I called back --

5 Q Um-hum.

6 A -- is that you'd gotten up and pushed one of my  
7 guards.

8 Q Um-hum.

9 A I don't recall ever saying to you that you, that  
10 you're going to be charged with assault.

11 Q Okay. And other than telling it to the 911  
12 officer, which we'll verify and we'll get the transcript of  
13 the 911, I can subpoena those transcripts, but other than  
14 that, you didn't tell anyone else or discussing with your,  
15 with your -- Martin Grainger's your, your boss, right?

16 A Oh, I'm, I'm sure I relayed the information to  
17 Marty Grainger --

18 Q Um-hum.

19 A -- that you had pushed one of the guards.

20 Q Um-hum.

21 A I probably also related to the police that you  
22 pushed one of the guards.

23 Q Um-hum.

24 A But like I said, it's not my call to --

25 Q Um-hum.

26 A -- decide what you're to be charged with. I  
27 relay the --

28 Q So you --

29 A -- information on.

30 Q -- don't know whether I was charged with assault  
31 or --

32 A No, I don't.

33 Q -- why, why they decided not to charge me with  
34 assault. You don't know anything about that?

1 A No, I don't.

2 Q And you didn't have any further discussions other  
3 than telling you observed this, that you, in your opinion,  
4 you told them in your opinion it might be an assault, or  
5 conveyed that in any way?

6 A In my opinion, if you put your hands unwontedly  
7 on somebody else, that is an assault.

8 Q So in your opinion, looking back on it, you would  
9 still think I assaulted your people?

10 A I believe, yes, you would have.

11 Q Um-hum. But your boss didn't see it that way or  
12 what, for whatever reason I wasn't charged with it.

13 A Like I said, that wasn't my determine -- my call  
14 to make.

15 Q And you weren't involved in any sort of  
16 advocating that I should be or any -- you're not able to  
17 tell us anything about how it came to be that I sort of  
18 walked away from that one?

19 A No.

20 Q And other that, in general, like you're saying I  
21 was fine, you didn't have any problem with me?

22 A On the 7th, like I said, we didn't have any --

23 Q Yeah.

24 A -- problems with you, yes.

25 Q Yeah. And the only problem you had on the --

26 A The first time we dealt with you.

27 Q -- other incident was when I'd been held, you  
28 say, for, you put it at two and a half hours. I might have  
29 said it was more like five hours.

30 MR. GRIEVES: It was five and a half to six  
31 hours.

32

33 BY MR. GREEN:

34 Q The total was --

1 A Yeah.

2 Q -- five and a half to six, but at the point where  
3 I decided that you had no -- didn't have the rights to  
4 detain me for that long under the circumstances, I decided  
5 to attempt to leave, that would have been, you recall it as  
6 being four o'clock, but if I said I think it was five  
7 o'clock, you don't --

8 A That could be quite --

9 Q Could be.

10 A -- possible. I thought it -- I --

11 Q You, just by recollection, four --

12 A Yeah.

13 Q -- or five o'clock. It was a while. You'd  
14 agree --

15 A Oh, yeah.

16 Q -- that I'd been sitting cooling my heels for  
17 quite a while.

18 A For a while, yes.

19 Q Okay. Fair enough. And that when I asked you  
20 how long, you said, you're going to sit here as long as it  
21 takes, pretty much?

22 A I don't know if I used those exact words, but I  
23 said --

24 Q Okay.

25 A -- you'll be here until --

26 Q You would have conveyed that to me.

27 A -- until the police arrive.

28 Q Fair enough. Fair enough.

29 One of the guards -- the officer who arrested me  
30 on the first incident, what I'll call the first incident,  
31 you weren't there for that, we, I recall conversing with  
32 him and he told me he used to watch my TV show when I was  
33 the math guy on community access. Do you know about that?

34 A I know you had a math show on community access,

1 yes.

2 Q Do you know which guard that was that I talked  
3 to? Do you recall him? Do you -- are you aware that we  
4 had that interaction?

5 A No. Like I said -- like you said, I wasn't  
6 involved in the first incident.

7 Q No, you weren't. But when -- just in general,  
8 I'm trying to find, like as far as like general sort of  
9 hostility or trouble-making during any of these incidents  
10 when I was arrested, there was nothing in particular other  
11 than when I questioned your authority to detain me  
12 indefinitely.

13 A Yeah.

14 Q Was the only time there was friction specially?

15 A Yeah.

16 Q And I was well-treated by your people. We  
17 chatted. They let me out to, you know, if I needed to go  
18 to the washroom, they didn't make a big deal.

19 A Right.

20 Q Fair enough. If you'll bear with me.

21 A Yeah.

22 Q Oh, you say that sometimes when you have people  
23 in my circumstances you post a picture. Do you recall if  
24 my picture was posted?

25 A Your picture was posted in the memo book for the  
26 guards.

27 Q Okay.

28 A Is actually one of the pictures from Youtube  
29 video --

30 Q Okay.

31 A -- for Math with Marty.

32 Q Okay.

33 A Still looks pretty much the same, so ...

34 MR. GREEN: This is how I looked when I was on



1 TV. You can have the (inaudible). Looking for (inaudible)  
2 all the time but --

3 THE COURT: Mr. Green, let's keep focused on the  
4 proceeding.

5 MR. GREEN: Sorry, Ma'am. I'm sorry, Your  
6 Honour. I, I acknowledge that was way out of line. I'm  
7 awfully sorry about that. I'm feeling optimistic about my  
8 prospects here and I'm -- it's gets, I get, it gets away  
9 from me a little and I'm trying to stay on top here.

10 Okay. I asked you about the extra shifts. I  
11 have to just find where Mr. Rarick starts in my notes. Ah,  
12 he has more pages than I thought. I have to flip back.  
13 Okay.

14

15 BY MR. GREEN:

16 Q I see. Okay. I'm, I'm going through the notes I  
17 have of your --

18 A Yeah.

19 Q -- testimony. You said that back in 2011, when I  
20 was expelled, you didn't really explicitly say the reasons  
21 but you said there was some harassment issues. Do you  
22 recall what any of those were? Do you have any other  
23 knowledge about that?

24 A The only thing I was aware of was a -- and I  
25 don't even know what terms were used. There was an  
26 incident involving a translator in one of the classes.  
27 That was all the information I was given.

28 Q Okay.

29 A Or (inaudible) --

30 Q So as far as the original trespassing order, the  
31 only reason you know about was, was a translator, incident  
32 with a translator?

33 A Well, it wasn't a trespassing incident.

34 Q No, it wasn't. Oh, that was the expulsion.

1 There was, that was --

2 A Yeah.

3 Q -- that was the expulsion, yeah. So you heard  
4 about a translator incident. And did you heard about any  
5 incidents leading to the first trespassing order?

6 A No, just that it was issued by, I guess,  
7 administration.

8 Q So the administration you weren't involved in, so  
9 to swearing it out, you don't recall someone -- did you  
10 write the order out?

11 A I may have written it out. I write them out  
12 quite frequently.

13 Q Do they tell you a reason why they're doing it or  
14 do they just say, we need an order against this man?

15 A Just because of an incident in, in relation to a  
16 date, and normally there's a report number attached to it.

17 Q Was there an incident report, then, about that --  
18 would there be an incident report about that?

19 A I don't have a copy of the barment notice.

20 Q Well, the barment notice. But would you -- when  
21 you issue a barment notice, would you put an incident  
22 report and would you get --

23 A Yeah, normally, normally there would be.

24 Q Okay. Because, you know, I did freedom of  
25 information requests on the university for everything  
26 related to my expulsion and they didn't, they didn't tell  
27 me about any incident report, but if there is one I'd like  
28 to see it.

29 A It could be just on, in relation to the report  
30 could simply be that it was requested by administration you  
31 be barred.

32 Q Well, if, if there is a report, I'd like to see  
33 it. I mean, the court's not going to sort of order it made  
34 available. That's my responsibility. Then I would have

1 to, what, subpoena a report if there was one?

2 A I, I don't believe I was directly involved with  
3 the initial barment to begin with, so ...

4 Q But in practice of sort of writing a barment, a  
5 report would be normal, an incident report would --

6 A Yeah.

7 Q -- be normal, so ...

8 A Normally, yes.

9 MR. GREEN: So I should be -- or I can go to the  
10 lawyers who advise me, if I have lawyers that advise me,  
11 and I could ask them what my rights are, but the judge  
12 doesn't have to tell me what to do, that's not your job  
13 either.

14 THE COURT: I'd still -- I just say again, Mr.  
15 Green --

16 MR. GREEN: Okay.

17 THE COURT: -- I have a concern that all of the  
18 cross-examination and questioning around why you were  
19 barred in the first place --

20 MR. GREEN: Um-hum.

21 THE COURT: -- I'm not sure that it's really  
22 relevant to what happened on February 7th, 2013, which --

23 MR. GREEN: Okay.

24 THE COURT: -- is what you're charged with.

25 MR. GREEN: You see, I thought you would --

26 THE COURT: I want to give you some leeway  
27 there --

28 MR. GREEN: Okay.

29 THE COURT: -- but I just want you to be aware  
30 that you're going to have to address that at some point.

31 MR. GREEN: Yeah. We argue -- well, I was  
32 prepared to address this four weeks ago when we appeared  
33 before Judge Guy and I had my book of cases, and I thought  
34 it was part of the trial record. And the Crown knew where

1 I was going. I was very explicit about where I was going  
2 with this line of questioning, why I was bringing the  
3 witnesses.

4 In fact, when I went to the counter, the women,  
5 the, the clerks at the counter said, well, you can't  
6 subpoena these people, it's not a February 7th story, this  
7 is something that happened separately. And I said, well, I  
8 think I should be able to subpoena, introduce evidence for  
9 the reasons why I was charged with, banned from  
10 trespassing, and they said, well, that's not our, our job,  
11 so I said, well, I'll go to the judge. So I wrote the  
12 application to judge -- we appeared before Judge Guy. The  
13 Crown was there. I had all my reasons why I wanted these  
14 witnesses, and this is what it was. And the Crown agrees  
15 to it. So, so they said yeah -- or, they didn't, they  
16 didn't, they didn't oppose my subpoenas, and I think if  
17 they were going to question whether it was relevant, that  
18 would have been a good time to do it, when we were, you  
19 know, we had all -- we'll do it again, if, if necessary.  
20 But I do have the case law on it and, and --

21 THE COURT: Like I said, it's -- I haven't made a  
22 decision one way or the other but --

23 MR. GREEN: Ah-huh.

24 THE COURT: -- it's just something that's  
25 percolating in my mind.

26 MR. GREEN: Yeah, yeah.

27 THE COURT: And so, but for Mr. Rarick, he wasn't  
28 -- it would appear he doesn't, hasn't seen the January  
29 barment notice --

30 MR. GREEN: Um-hum.

31 THE COURT: -- which is January 2011 or --

32 THE WITNESS: Yeah.

33 THE COURT: -- perhaps 2012, and so I'm not sure  
34 you're getting very far with this witness --

1 MR. GREEN: Okay.  
2 THE COURT: -- on that issue.  
3 MR. GREEN: Fair enough. Fair enough. Over the  
4 lunch hour you didn't get the file. I mean, we mentioned  
5 that there --  
6 THE COURT: I made some inquiries --  
7 MR. GREEN: Okay.  
8 THE COURT: -- about that, so --  
9 MR. GREEN: Okay.  
10 THE COURT: -- yes, somebody's looking.  
11 MR. GREEN: So --  
12 THE COURT: Because it, normally that's a  
13 motion --  
14 MR. GREEN: Yeah.  
15 THE COURT: -- it's a separate file --  
16 MR. GREEN: Yeah.  
17 THE COURT: -- so it doesn't come to me.  
18 MR. GREEN: Because I'm prepared to address that  
19 at the end of the day but it would be preferable --  
20 THE COURT: Okay.  
21 MR. GREEN: -- if you had my whole file and my  
22 brief and so I --  
23 THE COURT: Yes. I don't have it yet. We're  
24 looking into it and so --  
25 MR. GREEN: Okay.  
26 THE COURT: But ...  
27 MR. GREEN: But I, I did make this argument and  
28 the Crown didn't oppose it, they want to comment --  
29 THE COURT: Okay. And that's --  
30 MR. GREEN: Okay.  
31 THE COURT: -- you know, that's a fair response.  
32 And so, like I said, I am prepared --  
33 MR. GREEN: Yeah.  
34 THE COURT: -- to give you some leeway --

1 MR. GREEN: Oh, yeah.

2 THE COURT: -- and to hear you on this, but just  
3 so that you know, at some point that's --

4 MR. GREEN: I hear you.

5 THE COURT: -- what we're going to have to --

6 MR. GREEN: I hear you.

7 THE COURT: -- a bridge we're going to have to  
8 cross.

9 MR. GREEN: Okay. I'm going to try and, as  
10 efficiently as possible, I'm going to try and go through  
11 what, what I have of my notes of your testimony to see if  
12 there was anymore questions. I mean, you were pretty  
13 straight up. But there -- I just wanted to see if I had  
14 any discrepancies.

15

16 BY MR. GREEN:

17 Q Oh, you said a funny thing about the barring  
18 notices. You said you used to have a standard that it was  
19 one, one year, when you banned someone you banned them for  
20 a year?

21 A Yeah.

22 Q Now you changed your policy. Now when you ban  
23 someone, you ban them for life?

24 A Yes.

25 Q Anyone, not just me?

26 A Anybody, yes.

27 Q So if someone's going to be banned from the  
28 university, they're going to be banned for life?

29 A Depends on the circumstances. If someone comes  
30 to us and requests we review it, we will. If there's,  
31 justifies and ... If their behaviour warrants it and it's  
32 just cause, we can lift the barment and allow them access  
33 again.

34 Q Well ...

1           A       But that's based on case by case.

2           MR. GREEN:   Well, you open a can of worms here  
3 because I think I, I believe I approached them and asked  
4 them to review the barring notice, and I believe the  
5 response to me was, there is no appeal under the Petty  
6 Trespassing Act. I'm going to be introducing evidence to  
7 that effect later. It's not strictly necessary for me to  
8 cross-examine him on that but I, I'm definitely --

9           THE COURT:   But did Mr. -- did you go to Mr.  
10 Rarick about that?

11          MR. GREEN:   No, I didn't.

12          THE COURT:   Okay.

13          MR. GREEN:   But ...

14          THE COURT:   That's why -- just keep your  
15 question --

16          MR. GREEN:   Fair enough. But it's his testimony  
17 that the policy, at least, of the university or of the  
18 security officer --

19

20 BY MR. GREEN:

21          Q       Or who, whose policy --

22          A       It's --

23          Q       -- is that you would consider reviews, if your  
24 people approach you about reviewing it, that your policy is  
25 you'd listen to them?

26          A       Through the security department.

27          Q       Okay. So I'm going to say security department  
28 policy is to consider appeals of trespassing orders.

29          A       Well, no, sorry. That's incorrect. Not  
30 trespassing orders. The barment notices.

31          Q       The barment notices? Is that different from a  
32 trespassing order?

33          A       Trespassing order is issued by the courts, I  
34 believe.

1 Q Fair enough. Good call.

2 And if you find there is good reason, you would  
3 lift the barment notice?

4 A If we -- they have to show just cause, like a  
5 reason why --

6 Q Yeah.

7 A -- they want to return to campus, and to prove to  
8 us that their behaviour has, like the behaviour that caused  
9 them to be barred in the first place doesn't exist anymore.

10 Q And you would have the authority to lift the  
11 barment notice?

12 A I wouldn't. The director would.

13 Q Mr. Grainger?

14 A Yeah.

15 Q Okay.

16 A But like I said, it's on a case-by-case basis.

17 Q Yeah, okay. So he has the authority lift ...

18 Does he have to talk to Mr. Besner or Mr.  
19 Axworthy or anyone else? Does he have the authority --

20 A To be honest, I don't know what his --

21 Q You don't know.

22 A It's, it's above my --

23 Q Fair enough.

24 A -- my paygrade.

25 Q Fair enough. Have to ask Mr. Grainger that. He  
26 hasn't been called yet, so ...

27 But when the barment notice was written, if you  
28 say you might have written it, would have been on  
29 Mr. Grainger's instructions; it wouldn't have been --  
30 Mr. Besner or Mr. Axworthy or anyone, if you'd written it?

31 A I believe it would have been on Marty Grainger's  
32 request that (inaudible) --

33 Q But it might have been Mr. Besner because I guess  
34 it wouldn't be out of line, he could have phoned you up and



1 said, we need an order. Same thing. To you it's all the  
2 same or what?

3 A No. No, it isn't.

4 Q You'd say, well, phone Mr. Grainger.

5 A Yes.

6 Q If Mr. Besner phoned and said, I want a  
7 trespassing order on Marty Green, you'd say, well, talk to  
8 Mr. Grainger and ...

9 A Yes, I would.

10 MR. GREEN: Okay. I hope this isn't too  
11 irrelevant, I mean, it's ... I'm not ...

12 THE COURT: No, I want to give you room here and  
13 just sort of letting you --

14 MR. GREEN: Okay. You are giving me latitude. I  
15 feel it's important to me to get this.

16 THE COURT: Okay.

17

18 BY MR. GREEN:

19 Q You said that before January 11th there was no  
20 indication that I was a threat and that's why you hadn't  
21 posted -- no indication that you were aware of.

22 A Yeah.

23 Q Yeah. I do have notes from Professor Metz  
24 indicating that he'd called some meetings, that some  
25 meetings had been held. I just don't know who was at those  
26 meetings.

27 A I wouldn't have been in attendance --

28 Q You wouldn't have been --

29 A -- for those.

30 Q -- at them. Just let me see what -- because I  
31 mean, because they're before January 11th. So I don't  
32 think it's helpful for me to ask you these, but it's  
33 something I guess I'm going to bring up at some point but  
34 it's not really your business to answer --

1 A Yeah.

2 Q -- that so I'm going to move forward.

3 Okay. Then this is then what I have to ask you.  
4 When I was in detention on the 7th, I was listening through  
5 the door to the police talking to the university people. I  
6 don't know if he was talking to you or to Mr. Grainger, but  
7 I'm going to tell you what I heard through the door, and  
8 you tell me if that, if you remember anything like that.  
9 These are my notes of what was said to the police.

10 A Okay.

11 Q Someone said, he thought he was smarter than the  
12 professors and used to argue with them. You recall saying  
13 that?

14 A I don't recall saying that.

15 Q Hearing that?

16 A I don't recall being outside the, the door when  
17 the police were there.

18 Q I'm trying to find out who said these things, but  
19 that's what I heard: Used to run right up to them and get  
20 this close to their face, shouting. Do you remember saying  
21 or hearing anything like that?

22 A No, I don't.

23 Q Do you remember anyone saying, on January 11th he  
24 tried to force his way into his house. You remember  
25 hearing or saying that? No recollection --

26 A No, I don't.

27 Q -- of that?

28 A No, I don't.

29 Q Okay. All right.

30 A I'm pretty sure that conversation wasn't with me  
31 that the police had.

32 Q Fair enough. Well, Mr. Grainger hasn't been in.  
33 I think it was him saying it. That was my impression. But  
34 I couldn't tell.

1 THE COURT: The quote is, on January 11th went  
2 to, does it say which house or just this house?

3 MR. GREEN: Well, it's just what I could scribble  
4 down.

5 THE COURT: What was the question exactly?

6 MR. GREEN: The question, the quote I have  
7 scribbled down is, on January 11th, when he tried to force  
8 his way into the house.

9 THE COURT: Okay.

10 MR. GREEN: Dot, dot, dot. Is as much as I could  
11 get. So I'd like to know who said that because, and of  
12 course this will go to the question of the relevance of the  
13 events of January 11th in getting me, you know, the  
14 situation I am now so I think it's relevant.

15 And I know I'm going to regret it, but I'm about  
16 to tell you I'm done with you.

17 THE WITNESS: Okay.

18 MR. GREEN: You'll just give me about 10, 30  
19 seconds --

20 THE COURT: No, take --

21 MR. GREEN: -- to just review my notes.

22 THE COURT: Yeah. Take your time, Mr. Green.

23 MR. GREEN: Yeah, yeah. Thank you, Mr. Rarick,  
24 I'm done.

25 THE WITNESS: Okay.

26 THE COURT: Thank you, Mr. Rarick.

27 THE WITNESS: Thank you.

28 THE COURT: Oh, Mr. Grieves, did you have any  
29 redirect?

30 MR. GRIEVES: No, I don't, Your Honour.

31 THE WITNESS: So I'm done?

32 THE COURT: Thank you for coming today. You're  
33 done.

34 THE WITNESS: Thank you very much.

1 THE COURT: Don't discuss your evidence with any  
2 of the witnesses who have yet to testify.

3 THE WITNESS: No, I will not. Thank you.

4

5 (WITNESS EXCUSED)

6

7 MR. GRIEVES: Crown's next witness, Your Honour,  
8 is Akhil Jose.

9 THE COURT: Okay. I think he may be looking in  
10 here.

11 MR. GREEN: I've stipulated, Your Honour, I'm  
12 quite sure I'm going to agree with whatever this witness  
13 says, so ...

14 THE COURT: Okay.

15 THE CLERK: (Inaudible). Will you stand.

16 THE WITNESS: Oh, sorry.

17 THE CLERK: Do you wish to swear on the Bible or  
18 affirm?

19 THE WITNESS: Yeah.

20 THE CLERK: Swear on the Bible?

21 THE WITNESS: Yeah.

22 THE CLERK: Okay. State and spell your name for  
23 the record.

24 THE WITNESS: Akhil Tom Jose. Akhil Tom Jose.

25 THE CLERK: Spell it for me, please.

26 THE WITNESS: A-K-H-I-L.

27 THE CLERK: H-I-L.

28 THE WITNESS: T-O-M, J-O-S-E.

29

30 **AKHIL TOM JOSE**, sworn, testified

31 as follows:

32

33 THE CLERK: Okay. Thank you. You can be seated.

34 THE WITNESS: Thanks.

1 THE COURT: Mr. Jose, this morning, because you  
2 weren't here and there was some indication that you didn't  
3 want to come, I issued a warrant for your arrest. I'm  
4 cancelling that warrant. Okay?

5 THE WITNESS: Thank you, Ma'am, because actually  
6 I, when I got, got this, I didn't even read it because the  
7 guy who gave it to me, he asked me to sign it. He said,  
8 this is just for the, the official, I mean, just for the  
9 office thing, maybe you can talk to the, the number or  
10 something like that. But actually, I probably forgot about  
11 it. And this job what I'm doing, like just a casual. And,  
12 you know.

13 THE COURT: That's okay.

14 THE WITNESS: Yeah. I'm sorry.

15 THE COURT: I think it's all done already.

16 THE WITNESS: Sorry.

17 THE COURT: So you're here now and we'll hear  
18 what your testimony is, but just so Madam Clerk has it, I  
19 cancel that warrant.

20 MR. GRIEVES: So I take it that the, the warrant  
21 is cancelled?

22 THE COURT: Yes. I'm cancelling that warrant.

23 MR. GRIEVES: Okay.

24

25 DIRECT EXAMINATION BY MR. GRIEVES:

26 Q Yes, good afternoon. Is it Jose or Jose?

27 A You can call me any. Like Jose, like Jose, or  
28 whatever, yeah.

29 Q Mr. Jose, I understand you're employed as a  
30 security guard?

31 A Yeah, Securitas Canada.

32 Q With Securitas Canada?

33 A Yeah.

34 Q And you were -- how long have you been so

1 employed?

2 A I start with them since November. Yeah,  
3 November, December I work for them full-time. Then after  
4 that I just go back as a casual because I work as a health  
5 care aide.

6 Q Um-hum.

7 A Two company, so ...

8 Q So what date, November two thousand ... what  
9 year?

10 A Pardon? November 2012.

11 Q 2012?

12 A Yeah.

13 Q So you --

14 THE COURT: Was it Security House Canada or  
15 Secure --

16 THE WITNESS: Securitas Canada. Securitas  
17 Canada. That's the name of the company.

18 THE COURT: Oh, okay.

19 THE WITNESS: Yeah.

20 THE COURT: Tas. Okay.

21

22 BY MR. GRIEVES:

23 Q Securitas Canada.

24 A Yeah.

25 Q Okay. So you were not employed as a security  
26 guard with the University of Winnipeg?

27 A No.

28 Q No. So how is it that you came to be at the  
29 University of Winnipeg as a security guard?

30 A Like we have, we have one, I mean the schedule  
31 manager, she just call me and she asked me to, like, you  
32 know, you have a week, like scheduled for University of  
33 Winnipeg. So I'm just living close by. So then I said I,  
34 I can pick, pick the shift.

1 Q Um-hum.

2 A So usually I will do, like you know, if I, if I'm  
3 available, I'm just picking up the shifts.

4 Q So your --

5 A So ...

6 Q So your employer was hired by the University of  
7 Winnipeg?

8 A I think so. Like they -- I don't know what  
9 dealings they are doing with, I just work for them, that's  
10 it.

11 Q Okay. So what, what period or what month did you  
12 work at the University of Winnipeg?

13 A Like, as I talked to you and I show you the, the  
14 message --

15 Q Um-hum.

16 A -- it's February, and I think said February 7th,  
17 right? So like they gave me one-week schedule and February  
18 7th, that's, that's a Thursday, so in the morning. And I  
19 witness Marty and, like you know, what's happen. So after  
20 that I, I schedule until February 8, so after 7th they,  
21 they told me you don't want to go back again to that place  
22 anymore, so ...

23 Q They told you --

24 A Until 7th I --

25 Q -- not to go back or ...

26 A Yeah, not to go back because there isn't, you  
27 know, that's -- I mean, for finding on Marty that still  
28 (inaudible) they put the extra two security guards to the,  
29 to the university, so as soon as the ...

30 Q How many dates, how many days did you work at the  
31 university?

32 A Two, two or three, I guess.

33 Q Two or three?

34 A Yeah.

1 Q So the 7th was the last day that you worked  
2 there?  
3 A Yeah. Yeah.  
4 Q Okay.  
5 A It was the third day, I guess. Yeah, third day.  
6 Q Okay. When did -- what were your hours on that  
7 date?  
8 A Eight to four.  
9 Q Like 8:00 in the morning?  
10 A Yeah, 8:00 in the morning.  
11 Q Until 4:00 p.m.?  
12 A Yeah, 4:00 p.m.  
13 Q And where exactly did you work at the university?  
14 A I work in the, the gates, call Spence door, or  
15 something like that.  
16 Q Um-hum.  
17 A And every hour we are searching to -- I mean,  
18 every hour I am searching with other security guard to the  
19 fourth floor, I mean, to the libraries, library section.  
20 Q Okay.  
21 A And every hour, like you know, we are searching  
22 from -- to the, the, the entrance door and the fourth  
23 floor. So that was my second switch, I -- second or --  
24 yeah, third switch I came back to the door side. So the  
25 cafeteria, from the cafeteria, the guy, after 20 minute, a  
26 guy from the cafeteria, he told me, you know, Mr. Marty,  
27 he's in the cafeteria again. Call him, so ...  
28 Q I'm sorry, how -- a person from the cafeteria?  
29 A Cafeteria.  
30 Q Yeah. Told you that who --  
31 A Yeah, the person who I'm looking, looking for --  
32 Q Okay.  
33 A So he's in the cafeteria.  
34 Q So how is it that you know who, who you were



1 looking for -- knew who you were looking for?

2 A I, I, I got an, a photo. Like, they took  
3 something from the internet.

4 Q Um-hum.

5 A From Youtube. So I have a colour photo of him,  
6 Youtube picture.

7 THE COURT: Sorry. Was it a security guard who  
8 told you that Mr. Marty was in the cafeteria or was it a --

9 THE WITNESS: No, no, it's a --

10 THE COURT: Somebody from --

11 THE WITNESS: It's cafeteria guy. Guy from --

12 THE COURT: Okay. Somebody who works in --

13 THE WITNESS: Yeah.

14 THE COURT: -- the cafeteria. Okay.

15 THE WITNESS: So I have a photo from the Youtube  
16 and they're all, they'd given me from the security office.

17

18 BY MR. GRIEVES:

19 Q When did they give you the photo?

20 A The day when I start all there, the first day.

21 Q Which would be a couple days before the 7th?

22 A Yeah.

23 Q Okay. So the person -- so what else did you see  
24 after the person told you that there ...

25 A Like, when I reached there, Marty was being with  
26 the students, I mean --

27 Q Oh, I'm sorry, who ...

28 A The students.

29 Q You said a name?

30 MR. GREEN: Marty, he calls me.

31 THE WITNESS: Marty. So, so he's giving some  
32 papers to the students. So then I just, you know, call  
33 him, like you know, come with me, you are not supposed to  
34 be here. So he come with me. So then I take him to the

1 security office and, yeah, that's it.

2

3 BY MR. GRIEVES:

4 Q So you get to the -- so what -- how did you --  
5 you said you took him to the security office?

6 A Yeah. I didn't even -- like I just told him,  
7 like, you know, you have to come with me. And he said,  
8 yes, sir, I will come with you.

9 Q Okay.

10 A So I walk in front and he come behind me.

11 Q Um-hum.

12 A So, yeah, in between, yeah.

13 Q So when you were at the universe -- said you were  
14 in the cafeteria, that's where you're posted?

15 A No. I said I was in, I was posted close by the  
16 gate.

17 Q Okay.

18 A I went to the, went into the cafeteria because I  
19 got informed by the cafeteria staff he's there, so I get  
20 in, so I just call him, so he come with me.

21 Q Okay. So you accompanied Mr. Martin to the  
22 security office?

23 A Yeah, security office. And they take care of the  
24 rest of the thing. After they had done everything, they  
25 just told me, you know, I had to talk with the constable.  
26 So they just, they phoned the constable and I talked to him  
27 through the phone. So then he said, I already told him,  
28 like you know, do I need to come up to the court or  
29 something, then he said, no, you don't need to. So then I  
30 am here right now.

31 Q So when you, when you're working at the  
32 university, how are -- like how can anyone identify you as  
33 a security person?

34 A I have my uniform.

1 Q Oh, you ... Is that the University of Winnipeg  
2 uniform?

3 A No. Securitas Canada.

4 Q So when you accompanied Mr. Martin to the  
5 security office, were you by yourself or were you --

6 A No, in the, in the (inaudible) there's a security  
7 guard from my company.

8 Q Um-hum.

9 A He was, he was also assisting me to take him.  
10 Because as soon as I leave the cafeteria I let them know  
11 through the radio, like I found the person. So they send  
12 other security guard. So I met him in the hallway, so he  
13 also come with me.

14 Q And you were saying that Mr. Green was handing  
15 out pamphlets to students?

16 A Yes.

17 Q So I take it there were students inside the  
18 cafeteria?

19 A Yeah, inside the cafeteria.

20 Q Do you recall what time this was?

21 A No.

22 Q No. But you started work at 8:00 in the morning,  
23 right?

24 A Yeah. It's in -- it's before 12:00, right, yeah.

25 Q Before 12:00?

26 A Yeah. Before lunch break.

27 Q And did you see Mr., Mr. Green inside the  
28 cafeteria?

29 A Yes.

30 Q And what -- can you describe the cafeteria to the  
31 court, please?

32 A It's cafeteria. Got, there was students was  
33 sitting all over, all over the place but it's, it's not  
34 fully crowded. It's --

1 Q Um-hum.

2 A -- yeah, it's with some students. So some  
3 students are gather in that corner, like it's close by.  
4 Yeah, it's in, on the end, end of the corner of the  
5 cafeteria, so it's like the students are sitting around.  
6 So I met him in between the students and, yeah, the staffs  
7 are also working inside the cafeteria, too, like you know.

8 Q And you were saying that Mr. Green was handing  
9 out pamphlets to students.

10 A Yeah, pamphlets, yeah.

11 Q How was he doing that?

12 A Like he's just approaching the students and,  
13 okay, just say -- I don't, I don't hear what he's saying.  
14 I saw he's handling the paper, like the students are  
15 sitting and he's giving the paper, like you know, so just  
16 giving to them and they're just looking at it.

17 Q Did you see any students taking the paper?

18 A Yeah, they are, they are getting the paper,  
19 because somebody give you something, like you always read  
20 what, what is it -- what it is, right, so ...

21 Q Did you see students taking the --

22 A Yeah.

23 Q -- pamphlets from him?

24 A Yeah.

25 Q Okay. Do you recall the students reacting to  
26 that?

27 A Oh, like ...

28 Q To the pamphlet?

29 A Yeah. They are just taking it and just reading  
30 it. That's it.

31 Q Yeah.

32 A No, I don't see any reactions.

33 Q Oh, you didn't see any reaction?

34 A Yeah.

1 Q You didn't hear any reaction either?

2 A No.

3 Q So then you said you escorted him to the security  
4 office.

5 A Security office.

6 Q And did you see the pamphlet yourself?

7 A No.

8 Q No. So what other involvement do you have, did  
9 you have with Mr. Green after the security office?

10 A Nothing. I never seen him after because when,  
11 when, when from the security office they asked me to come  
12 to the office, and they asked me to talk to the constable.  
13 So when I reach there, he already gone.

14 Q He was already gone?

15 A Yeah.

16 Q And then you provided a statement to the police?

17 A Yeah, that's right.

18 Q And then you say you never returned to the  
19 university after that?

20 A Yeah.

21 Q And you didn't have any dealings with Mr.  
22 Green --

23 A No.

24 Q -- prior to this?

25 And you didn't have any dealings with him  
26 afterwards?

27 A No.

28 MR. GRIEVES: I've no other questions, Your  
29 Honour.

30 THE COURT: Mr. Green, do you have any questions  
31 for this witness?

32

33 CROSS-EXAMINATION BY MR. GREEN:

34 Q I was just wondering how long you worked for the

1 university altogether, when you started and ...

2 A Only three days.

3 Q Only three days?

4 A Yeah.

5 MR. GREEN: Sure. Okay. I won't waste the  
6 court's time with more, but thank you for coming, I'm, I'm  
7 -- yeah.

8 THE WITNESS: (Inaudible) because it's -- I was  
9 working, actually, in the morning, so that's why --

10 MR. GREEN: Yeah, I'm sorry you got pulled off.  
11 No, no, but you did your job. Thank you.

12 THE WITNESS: Yes.

13 THE COURT: Thank you, Mr. Jose, I'm glad you  
14 came and thank you for your testimony. You're free to go.

15 THE WITNESS: Do I need to come back again?  
16 Because, you know, I am going back home.

17 THE COURT: No, you don't need to come back.  
18 You're done for today and you should be done, barring  
19 anything really unforeseen, with this matter altogether.

20 THE WITNESS: I'm, because I'm not going to -- I  
21 mean, I'm not working with that company anymore so ...

22

23 THE COURT: Okay.

24 THE WITNESS: I don't want to get in trouble.

25 THE COURT: No. You shouldn't get in any  
26 trouble. You came today --

27 THE WITNESS: Because I am --

28 THE COURT: -- you testified, and so that's,  
29 that's it.

30 THE WITNESS: Yeah, because from the (inaudible)  
31 they just call me and they said, hey, you are going to get  
32 arrested with the police, so I thought, well, you know, I  
33 was so bad.

34 THE COURT: Yeah, because you're not -- you

1 weren't here and you got served with a subpoena, which is a  
2 court order, it means that you have to come to court  
3 otherwise I can issue a warrant, which I did this morning.

4 THE WITNESS: Sorry.

5 THE COURT: And you can be charged. But now I've  
6 cancelled that warrant so that's all done. There's no  
7 charges that are going to result as a result. There's no  
8 charges for you not coming to court, because you came.

9 THE WITNESS: Thank you.

10 THE COURT: Okay.

11 THE WITNESS: Thank you very much. Thanks.

12 MR. GREEN: Thank you.

13 MR. GRIEVES: Thank you.

14

15 (WITNESS EXCUSED)

16

17 MR. GRIEVES: The Crown's final witness, Your  
18 Honour, is Martin Grainger.

19 THE CLERK: Martin Grainger, please attend  
20 courtroom 406.

21 (Inaudible). Remain standing. Do you wish to  
22 swear on the Bible or affirm? Swear on the Bible.

23 Please state and spell your name for the record.

24 THE WITNESS: Martin Grainger, M-A-R-T-I-N,  
25 G-R-A-I-N-G-E-R.

26

27 **MARTIN GRAINGER**, sworn, testified  
28 as follows:

29

30 THE CLERK: Thank you. You can be seated.

31

32 DIRECT EXAMINATION BY MR. GRIEVES:

33 Q Yes, Mr. Grainger, I understand that you are  
34 employed with the University of Winnipeg?

1 A That is correct.

2 Q And what is your occupation at the University of  
3 Winnipeg?

4 A I'm the director of campus security and emergency  
5 preparedness.

6 Q And what is your, what are your responsibilities  
7 at that, as the director of campus security?

8 A I oversee the, the operation of the security  
9 department and I develop the emergency preparedness plans  
10 for the university.

11 The campus security department tries to create a  
12 safe and secure learning and working environment for all  
13 the students, faculty and staff.

14 Q And I understand there -- as part of that you  
15 supervise a number of people dealing with security?

16 A I do. They all report, end up reporting to me.

17 Q And how many people are employed by the security  
18 office?

19 A I have two security supervisors and between 25 to  
20 30 contractors, security staff.

21 Q And prior to work -- how long have you been  
22 employed at the University of Winnipeg?

23 A I started working at the University of Winnipeg  
24 in September of 2007. I first went there as emergency  
25 preparedness coordinator.

26 Q Um-hum.

27 A And then with the departure of the director of  
28 campus, campus security, I took over the dual roles.

29 Q So what were you employed as prior to 2007?

30 A I was employed by the RCMP.

31 Q And what did you do with the RCMP?

32 A I was a, a uniform member with the RCMP.

33 Q Um-hum.

34 A General duties. I did some specialized duties



1 with the RCMP as well.

2 Q And how long did you work with the RCMP?

3 A It was approximately 35 years. Going specifics,  
4 I think it was thirty-four years seven months and eight  
5 days.

6 Q Okay. And you retired from that, is that ...

7 A Yes, I did.

8 Q So I understand you were involved in an incident  
9 which brings you into court this morning. Can you tell us  
10 about that incident or incidents that you were involved  
11 with?

12 A Yes. I first became aware of Mr. Green, seated  
13 here, in January 11th of 2012. I was informed that request  
14 had been made to have security guards attend with the  
15 registrar to serve Mr. Green with a letter, and it was  
16 decided we would also serve Mr. Green with a, a barring  
17 notice at that time.

18 Since that time I became aware, on July --  
19 January 11th of 2013 that the barring notice that was  
20 issued was issued for -- was set to expire on the 11th of  
21 January 2013.

22 Q Um-hum.

23 A As we had not had any dealings with Mr. Green  
24 during the year period, I indicated to the security guard  
25 that we would look after it on Monday morning.

26 During the evening of the 11th of January, 2013,  
27 I received an e-mail from the vice-president, Neil Besner,  
28 who informed myself and the other recipients that he  
29 received a call from Mr. George Bush that Mr. Green had  
30 attended his residence that night and had attempted to  
31 force his way in.

32 As a result of that, during the weekend I worked  
33 with the university lawyer. We developed a, a new barring  
34 notice.

1 Q Who's the university lawyer?

2 A Colin Morrison.

3 Q Okay.

4 A This barring notice was prepared by myself and  
5 signed by myself and then was given to World Investigations  
6 to serve on Mr. Green.

7 THE COURT: To what investigation?

8 THE WITNESS: World Investigations.

9

10 BY MR. GRIEVES:

11 Q Do you have a copy of the bar notices?

12 A I do. This is the original barring notice that  
13 was served on Mr. Green along with two certified true  
14 copies.

15 Q Oh. So which is ...

16 A This is the original.

17 Q That's the original barring notice?

18 A Yeah. And those are the certified true copies.

19 Q Oh. So what does the -- what can you tell us  
20 about the bar notice that you're ...

21 A Well, this barring notice, and I didn't know it  
22 at the time, was served by one of the security guards. It  
23 was not signed, but it indicated that he was barred from  
24 the university from the 11th of January, 2012 to the 11th  
25 of January, 2013.

26 Q Okay. And that was, you said that was served on  
27 Mr. --

28 A That was served on, on --

29 Q -- Mr. Green?

30 A -- Mr. Green at the same time that he was given  
31 the letter by Mr. Colin Russell (phonetic).

32 Q And who served that to Mr. Green on ...

33 A It would have been Rob Matheson (phonetic), who  
34 was one of the in-house security guards at the time.

1 Q Okay. Do you know if it was served on Mr. Green?

2 A That's the information I have. It was given to  
3 him at the same time that Mr. Russell gave him the letter.

4 MR. GRIEVES: Okay. Your Honour, I'm going to be  
5 filing the copy of that barring notice. Tender that. I  
6 mean, Mr. Green would have had that.

7 THE COURT: Any objection to that being filed as  
8 an exhibit, Mr. Green?

9 MR. GREEN: No.

10 THE COURT: Because this witness hasn't, doesn't  
11 have personal knowledge of that so ...

12 MR. GREEN: That's all right.

13 THE COURT: Okay.

14 THE CLERK: Exhibit 2.

15

16 **EXHIBIT 2: CERTIFIED TRUE COPY OF**  
17 **BARRING NOTICE DATED JANUARY 11,**  
18 **2012**

19

20 BY MR. GRIEVES:

21 Q And that is the first bar notice?

22 A That is correct.

23 Q Do you know or direct -- do you have any direct  
24 knowledge as to how that bar notice was issued for --

25 A The first one?

26 Q Yes.

27 A Would have been hand delivered by the security --

28 Q How is it that it came to be issued?

29 A When we were requested to be present when Mr.  
30 Russell, the registrar, was going to give the letter to Mr.  
31 Green, it was decided we would also issue a barring notice  
32 because we didn't know the contents of the letter, if it --  
33 if the letter itself would indicate that he should not come  
34 onto the campus.

1 Q What about the circumstance relating to his being  
2 suspended or barred?

3 A There was a complaint made under the non-academic  
4 student misconduct policy.

5 Q That's non-academic?

6 A Non-academic student misconduct.

7 Q Okay.

8 A I believe it was non-academic misconduct and  
9 discipline policy.

10 Q And when was this complaint? Was it just one  
11 complaint or a series of complaints?

12 A I, I just, again, on that day found out that  
13 there, that this was what was transpiring, that this letter  
14 was being presented as a result of this complaint and that  
15 we were issuing the barring notice. I do -- I did receive  
16 a copy of a letter that the president had sent to Mr. Green  
17 dated the 23rd of January.

18 Q Um-hum.

19 A In this letter it indicates that the decision was  
20 made as to suspend him from the university and to -- that  
21 the barring notice was still in effect.

22 Q Okay. I'm sorry, what's the date of the letter  
23 that ...

24 A January 23rd, 2012. And I have the original --  
25 the copy that I received and certified copies of the  
26 letter.

27 Q And this was letter delivered to Mr. Green?

28 A It was sent via registered mail.

29 THE COURT: I'm not sure if I said, so the  
30 barring notice together -- which indicates certified true  
31 copy, will become Exhibit Number 2 in the proceeding.

32

33 BY MR. GRIEVES:

34 Q And you indicated that you received, as a result

1 of the letter dated January 23rd, 2012, and that's what  
2 necessitated the bar notice, is that ...

3 A No, the, the letter confirmed that the barring  
4 notice was, was still in effect, and it indicated that Mr.  
5 Green was suspended from the university for a period, a  
6 minimum period of one year. And specifically what it says  
7 is: Campus security serves -- has been notified of this  
8 ban and any unauthorized -- (inaudible) ...

9

10 I conclude that the appropriate  
11 course of action to take is to  
12 suspend you from the university  
13 for a minimum period of one year  
14 and to continue to bar you from  
15 the university property.

16

17 Q And who's the letter --

18 A The letter was --

19 Q -- from?

20 A -- signed by Dr. Lloyd Axworthy, president of the  
21 university.

22 Q So I want to get at the, how the bar notice, the  
23 process involved in getting a bar notice issued. Could you  
24 describe that process, please?

25 A Well, it issue under the Petty Trespass Act, if  
26 the, the university feels there's a need for, to protect  
27 our students, faculty, staff, we can issue a, a notice. It  
28 doesn't say -- the Act doesn't say whether it has to be  
29 verbal, written or -- we just have to give him notice that  
30 he is barred from the university. I prefer to give written  
31 notice so that we do have the, the paper trail.

32 Q You mentioned the, the student -- non-academic,  
33 sorry, misconduct policy, that there were complaints or a  
34 complaint made under that?

1 A Yes.

2 Q Could you describe that process, please?

3 A If, if, if someone has a complaint, I, I did  
4 learn the reason for this complaint --

5 Q Um-hum.

6 A -- by speaking to the, the student who had an  
7 issue. It's brought to the, to the, to the professor  
8 who'll take it to the chair, who will take it to the dean.  
9 And then it will be, go -- if -- there's a number of steps  
10 that are taken to try to talk to the student. It goes to  
11 the registrar. Again, they try to talk to the student. If  
12 they're unable to do so, then they proceed with a, with an  
13 investigation to determine if there are grounds to proceed  
14 to a, to a hearing. And to my knowledge, all of these  
15 steps were taken, and then that's the result of -- the  
16 letter from Dr. Axworthy is the result of the, of the  
17 hearing that took place.

18 Q Is there an appeal process involved in this?

19 A Yes, there is. And I received a fax message  
20 dated the 27th of March, 2012. It indicated that a, a  
21 hearing was held on March 23rd with respect to the appeal  
22 of Mr. Green pursuant to the policy, student non-academic  
23 conduct and discipline. And their decision, that the  
24 student misconduct had occurred and that the sanctions  
25 imposed and penalties imposed by -- on Mr. Green by the  
26 president's letter dated January 23rd, 2012, were  
27 appropriate under the circumstances.

28 Q So the letter sent out (inaudible) the twenty,  
29 January 23rd, and then the appeal was after that date?

30 A Yes, that's correct.

31 Q Okay. Were you directly involved with, in any of  
32 the process?

33 A No.

34 Q However, you've become involved once after the

1 process is finished; is that -- or you're notified of  
2 the ...

3 A I'm notified of what, what has happened and that,  
4 you know, as, as indicated in the president's letter, the  
5 barring of Mr. Green would continue.

6 Q But you're aware of the, the academic -- not --  
7 the student misconduct non-academic misconduct policy?

8 A I am. We receive, security receives a number of  
9 complaints through our department or through investigations  
10 where a student has, is identified as who have breached  
11 the, the policy.

12 Q Um-hum.

13 A I, I personally then contact the registrar,  
14 providing him with the details. And in majority of cases,  
15 we're able to meet with the student and -- or students and  
16 are able to resolve it informally.

17 Q With respect to Mr. Green's case, how -- what  
18 knowledge do you have about, in -- with respect to the  
19 process.

20 A Sorry, Your Honour.

21 The only knowledge I have is what I've learned  
22 from the registrar of, of the university who, who has  
23 indicated that the policy -- the procedures are the same  
24 that, that are followed as when I give a complaint to him.

25 Q Um-hum. And who initiates the -- who could  
26 initiate a complaint?

27 A Any student, faculty member, indicated security.

28 Q And you've indicated that not all complaints  
29 result in a bar notice?

30 A No. Not all of them, no.

31 Q So how is it that there, the bar notice was  
32 issued to Mr. Green?

33 A It's my understanding that all attempts to, to  
34 talk to Mr. Green proved futile and we felt that in order

1 to ensure the safety and security of our students and  
2 faculty, that he'd be barred from the university.

3 Q So, and after the first barring notice expired  
4 and then what you indicated that another barring notice was  
5 issued, could you tell the court about that?

6 A Yes. On -- as I said, on January 11th, 2013, I  
7 received an e-mail indicating that Mr. Green had attended  
8 the residence of Mr. George Bush. He first telephoned it  
9 and then attended the residence, and that he had tried to  
10 force his way into the residence. The police were called  
11 and had attended to the residence and taken statements from  
12 the persons involved. I then started contacting the, the  
13 university lawyer and developed a second barring notice,  
14 which was given to World Investigations for service.

15 I received the barring notice back, along with an  
16 affidavit of service indicating that the barring notice was  
17 served on January 15, 2013 at 2:30 p.m.: I served Martin  
18 Green with the barring notice under the Petty Trespass Act,  
19 mark exhibit "A" by leaving a copy with Mike Green, an  
20 adult person, at the residence of Martin Green at 147 West  
21 Gate, Winnipeg, Manitoba.

22 And I again have certified copies of that  
23 document.

24 MR. GRIEVES: (Inaudible) filing the copy of that  
25 bar notice to -- that's ...

26 THE COURT: Any objection, Mr. Green?

27 MR. GREEN: No, no.

28 THE CLERK: Exhibit 3.

29 THE COURT: Exhibit 3 is the barring notice from  
30 January 15th, 2013.

31

32 **EXHIBIT 3: CERTIFIED COPY OF**  
33 **BARRING NOTICE DATED JANUARY 15,**  
34 **2013**



1 BY MR. GRIEVES:

2 Q So with respect to that barring notice, what is  
3 the expiry date of that?

4 A There is no end date to that barring notice. The  
5 Act, the Petty Trespass Act has, does not indicate that  
6 there has to be an, a bar -- an end date.

7 Q So why is it that the first one had an expiry  
8 date?

9 A The, the old Petty Trespass Act did indicate that  
10 there would be a one-year period. The -- my predecessor  
11 was not aware of the changes to the barring notice and I  
12 was not aware that they hadn't changed the barring notice  
13 until I saw the one that was issued to Mr. Green.

14 Q And you indicated you, in consultation with the  
15 lawyer for the University of Winnipeg, could you explain  
16 that process?

17 A I was conversing via e-mail and by telephone. I  
18 went over what the old barring notice said and we again  
19 changed it to indicate that, take away the requirement for  
20 signatures and the, and the -- well, the signature of the  
21 person that was being barred.

22 Q (Inaudible).

23 A And the, we took away the, the period of one year  
24 out of it.

25 Q Okay. You mentioned the, the incident and just  
26 -- Professor Bush's house?

27 A Yes.

28 Q Was that the only, was that the incident leading  
29 to the barring, the renewing of the barring notice?

30 A Yes. Well, I had, I had been told on Friday,  
31 earlier, during the, in the afternoon, that the original  
32 barring notice was set to expire that day.

33 Q Um-hum.

34 A And as we had not had any involvement with Mr.

1 Green during, since the, since the original contact we had  
2 with him, I said we would look at it on, on Monday to see  
3 if we would re-issue a barring notice or let that one  
4 expire. But because of the results of what happened during  
5 the evening of Friday the 13th, we decided to issue the  
6 second barring notice.

7 Q And I understand that Mr. Green was a student at  
8 the University of Winnipeg?

9 A He was a student, yes.

10 Q When was, when was he a student?

11 A He would have been for the fall term of, and I  
12 believe the start of the winter term of 2011/2012.

13 Q So he would have started in September two  
14 thousand ...

15 A And eleven.

16 Q Eleven. And what faculty was that?

17 A Faculty of education.

18 Q And what, if anything, do you know about the  
19 complaints or complaint resulting in the first ...

20 A I can't remember exact date. I had a student  
21 come to my office. She was referred to me by the associate  
22 dean of education.

23 Q And who was that?

24 A Jan Stewart.

25 Q Jan Stewart?

26 THE COURT: Is the associate dean of education?

27 THE WITNESS: Yes. The student indicated to me  
28 that she was quite concerned because she was in, she had  
29 invited a, an ASL interpreter to a class and --

30

31 BY MR. GRIEVES:

32 Q And what is ASL?

33 A It's American sign language.

34 Q Yeah.

1           A     To the class.  And during the, that class, Mr.  
2 Green had verbally assaulted that ASL visitor to the class.  
3 She had made the complaint to the professor and it went on  
4 from there.  She -- her concern was that somehow Mr. Green  
5 might be able to find out where she lived and would come to  
6 her house.

7           Q     Was that the only complaint that you ...

8           A     That's the only one that I was, that I personally  
9 became aware of.

10          Q     So as part of your security, as part of your  
11 position, were there any other complaints that you were  
12 made aware of?

13          A     Not until after January 13th did I become aware  
14 of some of the other issues that they had in the classroom.

15          Q     January 13th of?

16          A     Of 2013 -- or January 11, 2013, sorry.

17          Q     So on January 11th, you described that incident.  
18 What, what else happened?

19          A     We -- the barring notice was served.  I received  
20 an e-mail from Mr. Green on January 23rd that indicated,  
21 and it was addressed to a number of people:

22

23                   Mr. Grainger has advised me that a  
24 new trespassing order has been  
25 instituted in response to a  
26 complaint by Professor Bush about  
27 an incident at his home.  I would  
28 urge the university to reconsider  
29 its position in this matter.  The  
30 university should know that if  
31 Professor Bush feels that he has  
32 any reason to fear me, he may  
33 apply for a protection order from  
34 a justice of the peace.  As you

1                   can verify from the Manitoba  
2                   government website, this can be  
3                   done quickly, simply and  
4                   inexpensively and without the need  
5                   to notify the respondent. That  
6                   would be me. Unlike the  
7                   university's barring notice, a  
8                   protection order would keep me  
9                   away not only from the university  
10                  but also from (inaudible) home.  
11                  See ...

12  
13   And it gives the website to the Manitoba Justice domestic  
14   website.

15  
16                   In the circumstances, I believe a  
17                   protection order would be much  
18                   more appropriate course of action  
19                   than the [he has] the, the barring  
20                   notice which I consider an abuse  
21                   of the university's power under  
22                   the Petty Trespass Act. In the  
23                   meantime I will continue to govern  
24                   myself accordingly to the terms of  
25                   the original barring notice of  
26                   January 2012. If despite my  
27                   advice the university still wishes  
28                   to assert its right to bar me  
29                   under the Petty Trespass Act, I  
30                   again request that they serve me  
31                   in accordance with the Queen's  
32                   Bench rules of personal service.

33  
34                  Q     Did you respond to that e-mail?



1                   the       (inaudible)       under       the  
2                   provisions of the provincial Human  
3                   Rights Code by initiating legal  
4                   proceedings               based               on  
5                   administrative law principles and  
6                   the remedies available in respect  
7                   to breach of the laws of natural  
8                   justice or fairness as may apply  
9                   to your circumstances. This does  
10                  not institute legal advice nor  
11                  does the university in any way  
12                  suggest any such action would be  
13                  appropriate       or       successful.  
14                  However, you and your legal  
15                  counsel could consider those or  
16                  other alternatives and make an  
17                  informed decision as to your best  
18                  choice.       Considering the new  
19                  proceedings, we understand you  
20                  intend to file and serve on ...

21

22       And then it gets into the lawsuits that are pending.

23                   But if I can, I did attend with Mr. Bush, his  
24       wife Heather and with Professor --

25                   MR. GREEN: Metz.

26                   THE WITNESS: Metz, thank you. At the law courts  
27       building and they did seek a protection order, but it was  
28       denied.

29

30       BY MR. GRIEVES:

31                   Q       When was this?

32                   A       Have to check my ...

33                   MR. GREEN: January 18th.

34                   THE WITNESS: I'm, like I can't remember the

1 exact date that we did it but we came here --

2 MR. GREEN: Around the 18th would be -- I'm sorry  
3 to interject but it's ...

4 THE WITNESS: It could have been around the 18th.

5 MR. GREEN: I'll introduce evidence on that.

6

7 BY MR. GRIEVES:

8 Q So after the 25th, what other contact have you  
9 had with Mr. Green?

10 A On the 28th of January, Mr. Green attended the  
11 university. He was observed by a security guard who saw  
12 him walking down Lockhart Hall. By the time the guard  
13 realized who it was, he turned around but Mr. Green was  
14 walking out the Lockhart Street entrance and he was not  
15 able to catch up to him.

16 Q Which street would that be?

17 A That would be Ellice Avenue.

18 Q Ellice.

19 A The police were notified of the breach at that  
20 time.

21 Q What time was this?

22 A It was in the afternoon, approximately three  
23 o'clock.

24 MR. GREEN: Your Honour, I'm willing to --

25 THE COURT: That was January twenty --

26 MR. GREEN: -- stipulate agreement to the five  
27 breaches that they've, they've noted already, if it's  
28 helpful.

29

30 BY MR. GRIEVES:

31 Q Were you involved in, with that incident?

32 A No, I was not. On the 29th incident, Mr. Green  
33 was apprehended by guards and held for the police. My only  
34 conversation with Mr. Green was he asked the reason for the

1 barring.

2 Q Um-hum.

3 A And I confirmed that it was because of his past  
4 incidences plus his recent incident of the Bush residence.  
5 He --

6 Q What were the -- you said past incidences. What,  
7 if anything, do you know about those incidents?

8 A That again is the student misconduct and what I  
9 learned.

10 Q Okay. So you didn't have any direct knowledge  
11 other than that letter that you referred to?

12 A No, I don't.

13 Q Okay.

14 A I know that he did indicate -- the police did  
15 indicate to him that he could be charged under the Petty  
16 Trespass Act, which he indicated he wanted. However, the  
17 police came back after and indicated that while they were  
18 walking out to their car Mr. Green tried to run away from  
19 them. They were able to catch him and issue him with a  
20 offence notice.

21 Q At what time was that on the 29th?

22 A I can't recall, I'm sorry.

23 Q And what other incidences?

24 A He returned again on the -- one of the other  
25 instances, he returned on the 1st of February. He, again  
26 he was apprehended. He was being held. I tried to talk to  
27 Mr. Green in an effort to try and create a rapport to, to  
28 see what we could do to stop him from coming onto campus.  
29 I know that he had been handing out pamphlets indicating a  
30 witness was needed, and I asked if there was something we  
31 could do to maybe, you know, post these in the security  
32 office or talk to the paper to put it into the, into the  
33 student newspaper.

34 Q Um-hum.



1           A     But he didn't want to have anything to do with  
2 it.

3           Q     What was your response to that suggestion? I  
4 mean what was his response, sorry?

5           A     His response was, I remember he just said: No.  
6 Every time I asked him, he would: No.

7           Q     And what other dealings did you have with Mr.  
8 Green?

9           A     Again, on the 7th of February --

10          Q     I'm sorry, what happened on the, on February 1st?  
11 He was detained?

12          A     He was detained. He was detained, actually, for  
13 a number of hours because they, you know, by the Act we're  
14 supposed to turn them over to the police, but we call the  
15 police and they responded when they could. So he, he was  
16 detained for approximately six hours. I was --

17          Q     Were there any charges resulting from that  
18 incident?

19          A     A charge under the Petty Trespass Act was laid.

20          Q     And then what other contact did you have with Mr.  
21 Green?

22          A     My next contact with Mr. Green there were again  
23 e-mails going back and forth. He wanted to know if there  
24 was some way we could come to an agreement where he would  
25 just come onto the university, we would phone the police  
26 and they would come to his residence and give him a ticket  
27 later on.

28          Q     Did he state why he wanted to come onto the  
29 university?

30          A     No.

31          Q     No.

32          A     On the 1st of -- or 7th of February, Mr. Green  
33 was again found on the university. He was taken to the,  
34 the -- what we call the safe walk room. That's where we

1 would hold him for the police. The police attended. I  
2 talked to the officers that attended and indicated that we,  
3 having discussed with you, that we would like a charge  
4 under the Criminal Code for mischief, subsection (3), I  
5 think it's 431(c) of the Criminal Code, and that they  
6 talked to their superiors on the phone and they took Mr.  
7 Green away. And while he was being taken away, in his best  
8 Arnold Schwarzenegger voice, he replied: I'll be back.

9 And then since that time, Mr. Green was held in  
10 custody until he signed a release document indicating he  
11 would not come onto the university. He was observed by  
12 security on our cameras walking on the sidewalks but not  
13 entering onto the property.

14 Q When was this?

15 A I can't tell you the exact dates that that  
16 happened. He was in custody for little more than a week  
17 till he finally decided to sign the document.

18 Q What, if anything, did you have to do in response  
19 to Mr. Green attending the university repeatedly after  
20 being barred?

21 A Some of the, some of the things I tried, after  
22 talking to Mr. Green on the first occasion, I was  
23 concerned. I, I felt that there were issues here and that  
24 we needed to do something. I had indicated to the  
25 university that we should make application under Section 10  
26 of the Mental Health Act requesting that a psychiatric exam  
27 be conducted. However, before we took that step, we -- I  
28 contacted the Winnipeg Regional Health mobile crisis unit.

29 Q Um-hum.

30 A And explained the whole situation to them and  
31 asked if they would go and talk to Mr. Green. I heard back  
32 from them that they had attended. Mr. Green refused to  
33 talk to them. And they, too, suggested that we proceed  
34 under Section 10 of the Mental Health Act.

1 Q Okay. Why is it that you had to resort to that  
2 avenue?

3 A With my, you know, experience with the RCMP, I've  
4 dealt with a number of people who have had mental health  
5 issues, some severe, some not so severe. And it was a, an  
6 effort to try and get him, you know, talking to someone, to  
7 understand what he was doing wrong and to, you know, again,  
8 prevent him from coming onto the university. My role is to  
9 create that safe, secure environment, and it was an avenue  
10 that I followed in an effort to, to fulfill that role.

11 Q Were there other actions that the university took  
12 in order to deal with Mr. Green?

13 A Again, nothing, nothing that comes to mind. I  
14 again, I tried to create that rapport with him to try --

15 Q Okay.

16 A -- and again, you know, if you've got these  
17 posters that you want to put out, I can make sure they get  
18 out there, but he would have nothing to do with it.

19 Q So how many security staff do you have on a  
20 normal day working at the university?

21 A In the main campus I would have six.

22 Q Six.

23 A To -- as, as it was a concern he was attending  
24 university, I had to hire four additional guards working  
25 days and evenings to man the main entrance doors to watch  
26 for Mr. Green coming onto campus.

27 Q So how is it you hired four additional guards?

28 A I explained to, to the vice-president who I  
29 report to that in order to have a guard at all the  
30 entrances as the president had, had indicated he wanted, I  
31 had to steal guards from other areas, which left them  
32 vulnerable. So I was given the authority to hire the, the  
33 guards.

34 Q Okay. So you hired -- did you hire individuals

1 or did you hire a private firm?

2 A We have -- no, we, we contacted our contract  
3 provider and they provided us with the extra guards.

4 Q And is that Securitas Canada?

5 A Securitas Canada, yes.

6 Q And how long did you have hire these  
7 additional --

8 A They were there for approximately 10 days and  
9 it's ...

10 Q When did they start?

11 A The first incident was the 28th. I believe it  
12 was the 29th they would have started.

13 Q January 29th?

14 A Yes.

15 Q And when -- how -- you said 10 days from  
16 February ...

17 A Would have been after February 7th. I think the,  
18 probably the 8th, they would work the 8th, and then once I  
19 heard that Mr. Green was in custody I, I cut them off.

20 Q So where exactly were these additional security  
21 guards posted?

22 A We would have one at the Ellice doors, one at the  
23 Spence Street doors, one at the, the Centennial Hall doors  
24 and one at the Manitoba Hall doors. I have two entrances  
25 for Manitoba Hall so they would have been watching both of  
26 those doors.

27 Q And where of these places at the university the  
28 faculty of education located?

29 A Faculty of education is Graham Hall, which is  
30 accessed off of the Riddall Hall atrium which you access  
31 through the Spence Street doors.

32 Q So was there a guard --

33 A There was --

34 Q -- posted at the faculty?

1           A     Yeah.  The -- well, the guard is posted watching  
2 both the Spence Street doors and the, the door going into  
3 the faculty of education.  The, the -- there is also an  
4 exterior door at the south end of, of Graham Hall and as a  
5 result of what was going on, we -- it's normally opened,  
6 and students and the public are able to gain access, but we  
7 had to lock it down so that they, they weren't allowed  
8 access to that room, or to that doorway.

9           THE COURT:  Sorry, this is -- you had to lock the  
10 door where?

11           THE WITNESS:  We locked it -- like it's an  
12 exterior door and it has a electronic access to it, so we  
13 just made it locked all the time.

14           THE COURT:  Which door was that?

15           THE WITNESS:  It's the south entrance door into  
16 Graham Hall, exterior door.

17

18 BY MR. GRIEVES:

19           Q     So how were the students and faculty able to  
20 access Graham Hall if it's locked?

21           A     They would have to come through the Spence Street  
22 doors and go in through that entrance.

23           Q     Is that where the classrooms are located?

24           A     No.  That's just their offices.  What I --  
25 another thing I had to do was I got Mr. Bush's and  
26 Professor Metz's class schedules.  When I knew they had,  
27 had a class, I would have a guard posted in their, in the  
28 area of where the class was, just to observe to make sure  
29 that Mr. Green didn't enter the class.  We gave them higher  
30 authority on their access cards so that they could lock  
31 their office doors while they were in work, working there.

32           Q     Who are you referring to here?

33           A     Well, both Mr. Bush and Professor Metz.  We gave  
34 them the higher access on their Salto cards.  Salto is the

1 electronic access system we use. And it, it allowed them  
2 to lock their doors of the classroom that they were  
3 teaching in plus the, the office where they were working.

4 Q So how were the students able to access those  
5 classrooms?

6 A What would happen is that the classroom door  
7 would be open and as soon as they started class they would  
8 lock the door and then -- but I would still keep the guard  
9 in the area just to ensure that Mr. Green showed up.

10 Q So if a student came late they wouldn't have been  
11 able to access the --

12 A They would have to knock the door and, and be  
13 given access.

14 Q Okay. And how long were these, was this  
15 procedure in place?

16 A It was again in place till after February 7th and  
17 then we're able to withdraw it.

18 Q And you said for that -- Mr. Green was in custody  
19 you said, right?

20 A Yes.

21 Q So Mr. Green was released, as you said, week  
22 afterwards or about a week, but these procedures did not,  
23 were not put back in place?

24 A No. We didn't -- he, he was seen but he was  
25 seen on the sidewalks.

26 Q Um-hum.

27 A Which is public property and, and he's allowed to  
28 have access to it. Our guards would sometimes tell him,  
29 remind him, you know, you can't come on university  
30 property, but he never did come onto it. Then that only  
31 lasted for three or four times, and then we haven't seen  
32 Mr. Green on campus since that time.

33 Q Okay. So was there ever any other security  
34 measures or that you felt were in place that did not

1 necessitate these actions?

2 A No. As I indicated, we, we withdrew the four  
3 extra guards on days and evenings. We with -- we -- our  
4 guards went back to their normal patrols. We have video  
5 cameras which are monitored, not all of the time, but they  
6 would monitor the cameras and they, when they're doing  
7 their exterior patrols, they kept an eye out for Mr. Green.

8 Q So they, they were still looking?

9 A Yes.

10 Q Kept an eye out for him.

11 Going back to the original suspension, was -- I'm  
12 taking it he was suspended from attending classes. I mean,  
13 that's different from the barring notice, right?

14 A Yes. He was, he was suspended from the  
15 university. He could not attend any classes at university.

16 Q And how long was that suspension?

17 A According to the letter, is a, a year or longer.

18 Says:

19

20 ... suspend you from the  
21 university for a minimum period of  
22 one year.

23

24 So it was for one-year period.

25 Q So with respect to the current barring notice, is  
26 there an appeal process that would, if someone wanted to  
27 appeal it, is there a process that they would ...

28 A Again, referring to our lawyers, they could go to  
29 the courts to see if, again, as he's doing now, come to  
30 court and saying, well, I've been --

31 Q But is there a process that they could go to  
32 within the university?

33 A There's nothing in the Act that indicates coming  
34 to the -- and they coming to the university, it would be,

1 virtually would be coming to me to, to explain why I should  
2 lift the barring notice.

3 Q Is there any reason why you would or ...

4 A At this time --

5 Q Do you have the authority to lift the barring  
6 notice?

7 A Yes, I do.

8 Q Okay. And what situations would you lift the  
9 barring notice?

10 A We had a caretaker who made some inappropriate  
11 comments that were overheard by a, a director of the  
12 daycare. They, they brought great concern to her. We  
13 barred him for one year. The one year period was coming  
14 up. I talked to the same, the, the woman that made the  
15 complaint. She said, well, as long as he doesn't come to  
16 the daycare I don't have a problem with him coming onto the  
17 university, so the barring notice was lifted.

18 Q And this person had been employed before?

19 A He was employed. He was actually, he was a Bee-  
20 Clean employee who was working at the university, and he  
21 was removed from the -- he's no longer a cleaner for, at  
22 the university. I understand he still works with Bee-  
23 Clean.

24 Q Um-hum.

25 A But he was, he was also barred from the  
26 university.

27 Q Again, at the university, what are the hours that  
28 the university is open?

29 A The hours -- the university is open from 7:00  
30 a.m. to 11 o'clock p.m.

31 Q And you have security staff at --

32 A I have security staff working 24/7.

33 Q The 24 hours.

34 With respect to the university itself, the, the



1 main campus itself, where is that situated?

2 A The main campus is at 515 Portage Avenue.

3 Q Um-hum.

4 A We also have what's called the annex, which is  
5 the old bus depot, which is part of the Rice building. We  
6 have the Buhler Centre, we have the student housing office,  
7 which is at 510 Portage Avenue. Education has classes at  
8 480 Portage Avenue. The Menno Simons building is at 520  
9 Portage Avenue. Helen Betty Osborne, 511 Ellice Avenue.  
10 The daycare, student housing and the science building are  
11 all at the corner of Langside and Portage.

12 Q And those, these buildings that housing these  
13 facilities, they're all identifiable as university --

14 A Yes, they all are identified with the University  
15 of Winnipeg logo.

16 Q And I take it that Mr. Green is barred from all  
17 these buildings; is that --

18 A Yes, he is.

19 Q And the classroom that you talked about, Mr. --  
20 Professor Bush's classrooms where additional security  
21 measures were taken, where, where is that located?

22 A Some of the classrooms were in Manitoba Hall and  
23 some were in the annex building, in the basement of the  
24 annex.

25 Q And Manitoba Hall is part of the main campus?

26 A Yes.

27 Q And the -- you indicated that you -- in your  
28 testimony that the security guards were posted at the main  
29 entrances?

30 A Yes, that's correct.

31 Q Are those the only entrances? I mean ...

32 A No. There's actually two entrances off of, off  
33 of Manitoba -- Balmoral Street lead into Balmoral Hall --  
34 lead into Manitoba Hall, sorry.

1 Q Are those locked?

2 A We have one guard situated at the main door with  
3 that and then he would sometimes go check the other door.  
4 We do have cameras at both of those, at all of the  
5 entrances we have.

6 Q Um-hum.

7 A You can also entrance through the Duckworth  
8 Centre and then going up to the third floor of the  
9 Duckworth Centre and then cross over to the main campus.

10 Q That's the skywalk that --

11 A The skywalk --

12 Q -- you're talking?

13 A -- yes.

14 Q The other entrances that you're talking about,  
15 are they locked normally or are they --

16 A No. The main entrances are normally open from  
17 7:00 to 11:00. We do close the two Manitoba Hall entrances  
18 approximately nine o'clock during the evening.

19 Q So are there other entrances that are restricted  
20 to staff or authorize ...

21 A The garage to the Duckworth Centre is usually --  
22 is for paid, and it's usually staff and faculty that have,  
23 pay for those parking spots.

24 Q And how do -- so it's, it's only staff that can  
25 enter through those doors?

26 A Yes.

27 Q How do they access it?

28 A Again, with our electronic access.

29 Q Okay.

30 A And at that time we would have also been using  
31 the basement of Lockhart Hall for faculty and staff  
32 parking, as well. Since that time it's just restricted to  
33 university vehicles.

34 Q So with respect to the barring notices, I suspect

1 they are not only students and staff (inaudible) the  
2 university; is that correct?

3 A Yes. We also, we, we have an open campus  
4 philosophy.

5 Q Um-hum.

6 A So we invite the public in. The public we want  
7 to bring in are the ones that are going to use the  
8 computers, other facilities that they have at the  
9 university. Unfortunately, we do bring in other people to  
10 the university, the homeless people, et cetera. If they  
11 come onto campus and they don't bother the students or the  
12 faculty when they're teaching, we usually leave them alone.  
13 But when they start to, to interfere with the students  
14 trying to study or faculty trying to teach, then we will  
15 move them along. If it's -- if they, becomes a repetitive  
16 thing, then we'll bar them from the university. If they  
17 commit a violent act on the university, they're barred  
18 immediately.

19 Q So is it then safe to say that it's only when  
20 someone is seen as a security risk to your students and  
21 staff that they're barred?

22 A That's correct.

23 Q Yeah.

24 A We did bar one -- he stole three cell phones in  
25 one afternoon, and he was barred from the university as  
26 well.

27 Q Was that a student?

28 A That was a, someone off the streets.

29 MR. GRIEVES: I have no further questions, Your  
30 Honour.

31 THE COURT: I expect you'll have some questions,  
32 Mr. Green.

33 MR. GREEN: You're right about that.

34 THE COURT: Okay. I think what we're going to do

1 is we're going to take a 10-minute recess then we'll come  
2 back at four o'clock and you can start your cross-  
3 examination at that time.

4 MR. GREEN: May I make a suggestion?

5 THE COURT: Okay.

6 MR. GREEN: I don't want to lose Neil Besner but  
7 I've got a huge amount of questions for, for this witness.  
8 There's maybe two or three questions I'd like to get him on  
9 record before -- I wonder if I can bring him back on the  
10 25th and then move straight to Neil Besner after the break.  
11 Is that ... Do you know what you're saying?

12 THE COURT: Yeah, I know what you're saying.  
13 The, the difficulty is that this witness is a part of the  
14 Crown's case and when we get to Mr. Besner it's part of the  
15 defence case, so again, it would be rather unorthodox.

16 MR. GREEN: In the circumstances I wonder if we  
17 could --

18 THE COURT: Can you --

19 THE WITNESS: Although I did not receive it, I do  
20 understand I was part of the list of defence witnesses that  
21 were going to be called.

22 THE COURT: Right.

23 MR. GREEN: He's also my witness, too, that's  
24 right also. But now, then it makes a difference, there's  
25 legal rules that makes --

26 THE COURT: You're, you're available to come back  
27 on September 25th?

28 THE WITNESS: Yes, I am.

29 THE COURT: All right. Why don't you ask the few  
30 questions that you want and I just need a --

31 MR. GREEN: You're fine (inaudible) yeah.

32 THE COURT: -- short break after that.

33 MR. GREEN: And you may not be able to answer  
34 them, but ...

1 THE CLERK: Sorry, Your Honour, you want to break  
2 now or ...

3 THE COURT: We'll let Mr. Green ask a few  
4 questions and then we're going to take a break.

5 MR. GREEN: I only have ...

6

7 CROSS-EXAMINATION BY MR. GREEN:

8 Q You're saying on the January 11th you got an  
9 e-mail from Professor Bush telling this thing that I tried  
10 to force my way --

11 A No. I, I received an e-mail from, from Vice-  
12 President Besner.

13 Q Oh, the e-mail was from Besner. Can I subpoena  
14 that e-mail? Can you produce it or, or will you produce it  
15 or will -- can you put it in evidence?

16 THE COURT: Has this e-mail been disclosed, Mr.  
17 Grieves?

18 MR. GRIEVES: It has not been disclosed.

19 THE COURT: Is there any issue with disclosing  
20 it?

21 MR. GRIEVES: No, there isn't, not from the  
22 Crown's perspective.

23 MR. GREEN: I'd like to see it, if we could.

24 THE WITNESS: I do have them here if you, if you  
25 would like.

26 THE COURT: Okay. Do you want to -- do you have  
27 more than one copy or ...

28 THE WITNESS: I just have copies, just one copy  
29 of each.

30 THE COURT: Okay. I think what we'll do, then,  
31 is provide those to Madam Clerk. Can you make a photocopy  
32 of those, Madam Clerk? Provide them to Mr. Green so he can  
33 read them over, and then we'll take --

34 MR. GREEN: Thank you.

1 THE COURT: -- a short break for that to happen,  
2 and then you can come back and --

3 MR. GREEN: I won't question him further on  
4 these. I'll question him when we come back on that.

5 THE COURT: Oh, okay.

6 MR. GREEN: I just wanted to establish the  
7 existence.

8 THE COURT: Okay.

9 MR. GREEN: Now, I'm tempted to ask other things.  
10 You see, this pertains to the barring notice of 2013. Now,  
11 they have all kinds of testimony about the barring notice  
12 of 2012, which is a huge can of worms that if I have to  
13 open that up and say, well, what was that justified for,  
14 and yet they are, if I can say, smearing me up and down  
15 with sort of the insinuations of the conduct that led to  
16 it, so I think I have to be able to respond to it. In  
17 particular, I wanted to ask him the particulars of the  
18 verbal assault that I was accused of and the identity of  
19 the student who made those.

20 THE WITNESS: The verbal assault, the student  
21 explained me, was that you virtually got right into her  
22 face, the ASL student's face, and was screaming at her.

23

24 BY MR. GREEN:

25 Q Okay. Well, let --

26 A What was said I --

27 Q -- me make a note of that, if I could.

28 A What was said, I don't know.

29 Q Okay. A verbal assaults -- I've got to make a  
30 note of that, if I ...

31 THE COURT: Just give him a minute to make his  
32 note.

33 MR. GREEN: Got right in face of ASL interpreter,  
34 virtually screaming at her. Is that what he said? And

1 I -- that's okay?

2 THE WITNESS: Yeah.

3 MR. GREEN: That's what he said.

4

5 BY MR. GREEN:

6 Q And I'll, I'll want to know the name of the  
7 student because I want to cross-examine her on that  
8 because, you know, it's hearsay otherwise and it makes me  
9 look bad. Can you tell us the name --

10 MR. GRIEVES: (Inaudible) that --

11 THE WITNESS: It's direct --

12 MR. GRIEVES: -- student has not been called as a  
13 witness.

14 MR. GREEN: Well, I'm going to want it as a  
15 rebuttal witness, obviously.

16 THE WITNESS: It's direct statement from myself,  
17 so it's not hearsay.

18 MR. GREEN: I don't, I don't know what hearsay  
19 is, but I think it's hearsay. I'm not a lawyer but I think  
20 it's hearsay. Tell me I'm wrong but ...

21 MR. GRIEVES: It would be hearsay. Well ...

22 MR. GREEN: Forgive me, Your Honour. I don't --  
23 it's not often that someone agrees with me. It really  
24 isn't very often that someone tells me I'm right.

25 MR. GRIEVES: I mean --

26 THE COURT: Mr. Grieves, do you have an issue  
27 with the disclosure of this person's name?

28 MR. GRIEVES: The only -- when Mr. Grainger was  
29 testifying with respect to that incident, he indicated he  
30 was test -- he testified that the student was concerned  
31 about her safety.

32 THE COURT: Um-hum.

33 MR. GRIEVES: So that is a concern that the Crown  
34 would have disclosing the name of the student.

1           MR. GREEN: Can the Crown bring her as a witness  
2 and have her testify with a hood over her head so I can't  
3 identify her?

4           THE COURT: Mr. Green, I just don't know --

5           MR. GREEN: I'm sorry. I'm sorry. Go ahead.

6           THE COURT: I just don't -- again, we're talking  
7 about the 2012 order. And you know, I understand that  
8 there is some --

9           MR. GREEN: But they're the ones that brought it  
10 in.

11          THE COURT: I know --

12          MR. GREEN: They're smearing me. It makes me  
13 look horrible. And it's -- I -- anyways, that -- you know  
14 what I'm -- you know my case. You, you know my argument.

15          THE COURT: Like, I think you're just much better  
16 placed, from where I'm sitting, at this point not having  
17 heard all of the evidence, to focus on what happened in  
18 January of 2013, because that's what -- that's the order  
19 that was in effect. The other order was no longer in  
20 effect, and so there's --

21          MR. GREEN: They've also testified that the order  
22 of 2013 was written up on the basis of the totality of  
23 events and this is part of the totality, and it has been  
24 brought in not by me but by them.

25          MR. GRIEVES: No, the --

26          MR. GREEN: It's a huge can of worms and they've  
27 brought it in. And I --

28          MR. GRIEVES: No. Mr. Grainger --

29          MR. GREEN: -- think I'm entitled ...

30          MR. GRIEVES: -- testified, Your Honour, that the  
31 2013 barring notice stemmed from the incident at Professor  
32 Bush's residence.

33          MR. GREEN: Well, that's not what your witnesses  
34 testified. They testified that it was based on the



1 totality of events. And I had to sort of really squeeze it  
2 out of them to get that it was -- that Professor Bush's,  
3 that event had anything to do with it, so ...

4 THE COURT: At this stage I'm not going to order  
5 Mr. Grainger to give the name of that witness, so ...

6 MR. GREEN: Because it concerns of her safety  
7 towards me?

8 THE COURT: Yes. And concerns with respect to  
9 relevance. We're getting very far afield from February  
10 7th, 2013 for which you have three charges that you're  
11 facing.

12 MR. GREEN: Um-hum. Well ...

13 THE COURT: And I think I --

14 MR. GREEN: I can accept that, then. It's a  
15 problem for me to open up the 2012 barring order because  
16 it's a huge, huge question. But I'm, I'm flabbergasted at  
17 his, his evidence and, and I'm flabbergasted at his  
18 evidence and it's -- if you can assure me that it's not  
19 going to compromise me, your opinion of me, that, that  
20 whatever he said about me that I did, that I was screaming  
21 at a woman and right in her face, that no, no, you're not  
22 going to consider that as sort of any reason to be --

23 THE COURT: Yes. I agree with you that it's  
24 hearsay. I agree with you that there's, you know, really  
25 very little weight --

26 MR. GREEN: Um-hum.

27 THE COURT: -- if the results of, I suppose --

28 MR. GREEN: If I can --

29 THE COURT: -- part of that --

30 MR. GREEN: If I can --

31 THE COURT: -- process.

32 MR. GREEN: If I can sort of -- if I had the  
33 assurance that you won't sort of, that at least at the 2011  
34 that I'll be able to concentrate on that, that the January

1 11th event, that I will be able to, that I will be able to  
2 sort of argue the events of January 11th --

3 THE COURT: I think that --

4 MR. GREEN: -- then I relinquish everything  
5 before that, because that's, that's the worst of it is, but  
6 the stuff that they're accusing me of on, at Professor  
7 Bush's house, that's why I called these witnesses.

8 THE COURT: All right. You've got --

9 MR. GREEN: So I'll relinquish that if I get --  
10 do you understand what I'm saying?

11 THE COURT: Yeah, I understand what you're  
12 saying.

13 MR. GREEN: Okay.

14 THE COURT: And I think you're focused on that,  
15 in any event, because you've got those witnesses  
16 subpoenaed, right, and they're going to be able to give  
17 first-hand accounts, but --

18 MR. GREEN: All right.

19 THE COURT: Mr. Grainger's hearsay testimony  
20 about sort of -- I take it only as narrative of how did we  
21 get from there --

22 MR. GREEN: Um-hum.

23 THE COURT: -- to here. But ...

24 MR. GREEN: And you understand that I'm disputing  
25 it, that I'm saying it's ...

26 THE COURT: Yes, I, I hear you --

27 MR. GREEN: Wrong, is not true.

28 THE COURT: -- loud and clear.

29 MR. GREEN: Yeah, okay, you hear that.

30 THE COURT: I hear you loud and clear, that --

31 MR. GREEN: Okay.

32 THE COURT: -- you are disputing what happened in  
33 that classroom.

34 MR. GREEN: Okay. I will want to examine Mr.

1 Grainger more, but in view of the time, if we can possibly  
2 get Mr. Besner in, that would be -- well, so shall we  
3 adjourn for now, or what you call it?

4 THE COURT: You think Mr. Besner will be -- I  
5 guess I should look at you, Mr. Green. You're -- he's  
6 going to -- you're going to call him as a witness. You  
7 expect him to be quite a while? You think --

8 MR. GREEN: I think I'll --

9 THE COURT: -- we're best situated to --

10 MR. GREEN: I think I can do him in -- do we have  
11 till 5:00 or till 4:30? How long do we have?

12 THE COURT: Well, we can go till 5:00.

13 MR. GREEN: I'll be fine. That will be fine.

14 THE COURT: Okay. So you think Mr. Grainger we  
15 should excuse for today and --

16 MR. GREEN: Yeah.

17 THE COURT: -- have him come back --

18 MR. GREEN: Yeah, I want him --

19 THE COURT: -- September 25th?

20 MR. GREEN: -- back, yeah.

21 THE COURT: All right. Mr. Grainger, I'm going  
22 to ask you to not discuss your evidence with anyone. You  
23 have to come to court based only on what you and yourself  
24 know or have read.

25 THE WITNESS: Yeah.

26 THE COURT: Don't discuss your evidence with any  
27 other potential witnesses who may call. Come back  
28 September 25th at 10:00. We're going to be in courtroom  
29 403, which I guess is down the hall, and we'll continue at  
30 that time.

31 THE WITNESS: Okay.

32 THE COURT: Thank you for coming today.

33 THE WITNESS: You're welcome.

34

1 (WITNESS ASIDE)

2

3 THE COURT: And we'll take that 10-minute recess  
4 now, then.

5 THE CLERK: All rise. This court is in recess.

6

7 (BRIEF RECESS)

8

9 THE CLERK: Court is re-opened.

10 THE COURT: Okay. You're calling a witness?

11 MR. GREEN: If I could. I think Mr. Besner is  
12 up.

13 THE COURT: Okay.

14 THE CLERK: Mr. Besner, please attend courtroom  
15 406. (Inaudible).

16 MR. GREEN: Oh, thank you.

17 THE CLERK: (Inaudible). Do you wish to swear on  
18 a -- excuse me, the Bible or affirm?

19 THE WITNESS: Affirm.

20 THE CLERK: Affirm? Please state and spell your  
21 name for the record.

22 THE WITNESS: Neil Besner. N-E-I-L, B-E-S-N-E-R.

23 Turn this off. Sorry.

24

25 **NEIL BESNER**, affirmed, testified

26 as follows:

27

28 THE CLERK: Thank you. You may be seated.

29

30 DIRECT EXAMINATION BY MR. GREEN:

31 Q Well, thank you for coming down, Mr. Besner.  
32 Could you start off by telling the court why I was banned  
33 from the property on the 12th -- on 2013, on January  
34 11th?

1 THE CLERK: Sorry, I'm just going to --

2

3 BY MR. GREEN:

4 Q Is it a hard question?

5 I'm sorry, just go ahead.

6 A You repeat that, please? Sorry.

7 Q Why was I banned from the property on January 11,  
8 2013?

9 A I'm not sure of the exact details but I believe  
10 it's because of some conflict that you had with one of the  
11 professors in the faculty of education.

12 Q Um-hum. Could you be a little more for  
13 (inaudible) on -- forthcoming on the nature of the conflict  
14 that I had, to the best of your knowledge?

15 A Well, Your Honour, I came into this position in  
16 November of 2012. The incidents that produced this  
17 conflict had already taken place so I'm not aware of their  
18 exact nature.

19 Q But the barring notice was issued in 2013.

20 A Correct.

21 Q And you don't really know the nature of the  
22 incident which --

23 A That's --

24 Q -- led to the barring notice?

25 A That's correct.

26 MR. GREEN: Hah. Well, Your Honour, I'm just  
27 come into my possession this letter. I'm going to show it  
28 to the witness here and see if it's his, if he recognizes  
29 these letters to be sent by him, because I don't think he's  
30 being entirely forthcoming.

31

32 BY MR. GREEN:

33 Q You read those.

34 A Yes, I do recall these.

1 Q Um-hum.

2 A These don't have to do with the conflict that you  
3 had in the classroom, I believe.

4 Q Was I asking about the conflict or the barring  
5 notice? I thought it was -- I'm sorry, I'm awfully sorry,  
6 Your Honour, but I thought I was --

7 THE COURT: You have to stand when you're asking  
8 questions, Mr. Green.

9 MR. GREEN: I'm awfully sorry, but I thought I  
10 was pretty clear that I was asking him about the bar, the  
11 barring notice of 2013, why that took place. And am I  
12 mistaken?

13 THE COURT: Perhaps --

14 MR. GREEN: I will be in the court record but I  
15 think he --

16 THE COURT: You're nodding your head, Mr. Besner.  
17 Give him a chance to talk, okay.

18 MR. GREEN: Okay.

19 THE COURT: Answer your question.

20 THE WITNESS: All right. So is, is the -- can I  
21 ask for clarification? Is the original question why you  
22 were barred for campus, then, is that ...

23

24 BY MR. GREEN:

25 Q I thought it was pretty clear. I asked his -- I  
26 don't know if anyone in the courtroom misunderstood me --

27 THE COURT: Okay, we don't --

28

29 BY MR. GREEN:

30 Q -- except you. I'm sorry.

31 THE COURT: You don't need to argue, Mr. Green,  
32 just --

33 MR. GREEN: I'm awfully sorry, but I'm  
34 flabbergasted.

1 THE COURT: If he, if he didn't understand the  
2 question, then just re-ask the question, okay.

3 So do you know why Mr. Green was barred in  
4 January of 2013?

5 THE WITNESS: Yes. Okay. So I do recall these  
6 incidents. This refers to a, an incident that took place  
7 with, at George Bush's house, which I heard about, and so I  
8 assume that this precipitated the barring notice, this  
9 incident precipitated the barring notice.

10 MR. GREEN: I haven't had a -- may I have a look  
11 at that?

12 THE WITNESS: Absolutely.

13 MR. GREEN: And so these are the e-mails with --  
14 and I think they're in evidence with the court. The court  
15 has copies of the -- are they Exhibit "B" or "C" or ...

16 THE COURT: No, they haven't been marked as an  
17 exhibit. I've just --

18 MR. GREEN: Yeah.

19 THE COURT: -- heard them spoken about.

20 MR. GREEN: Okay.

21 THE COURT: I haven't seen them.

22 MR. GREEN: She made just a copy for me, then?  
23 I'd like to make them exhibits.

24 MR. GRIEVES: Yeah, there was, there was made  
25 them ...

26 THE COURT: Yes. The clerk just made copies for  
27 you.

28 Any objection to these being marked as exhibits,  
29 Mr. Grieves?

30 MR. GRIEVES: No, Your Honour.

31 THE COURT: Okay.

32 MR. GREEN: Do I give them to the --

33 THE COURT: Just hand them to Madam Clerk and  
34 we'll make those e-mails, I guess --

1 MR. GREEN: Yeah.

2 THE COURT: I've heard them referred to as  
3 e-mails; is that correct?

4 MR. GREEN: Yeah. Printouts of e-mails, yeah.

5 THE COURT: Okay. So we'll --

6 MR. GREEN: Maybe I'll -- can I hold them while I  
7 just examine a little more, just ...

8 THE CLERK: I just made the one copy for him.

9 THE COURT: Oh, okay.

10 MR. GREEN: Because I have -- they're two  
11 different e-mails, but I'll move along.

12 MR. GRIEVES: I mean, that's fine. I can give  
13 these to Mr. --

14 THE COURT: I think he's got a copy of those, but  
15 you've got the original printouts that were given to you by  
16 Mr. Grainger --

17 MR. GRIEVES: Yes.

18 THE COURT: -- I believe. And so do we want to  
19 have the copies that were given to you by Mr. Grainger  
20 marked as Exhibit 4 in the proceedings? Do you have an  
21 issue with that?

22 MR. GRIEVES: No.

23 THE COURT: Okay.

24 THE CLERK: Exhibit 4.

25 THE COURT: Thank you.

26

27 **EXHIBIT 4: E-MAILS DATED JANUARY**

28 **11, 2013 - TWO PAGES**

29

30 MR. GREEN: I'm just a little taken aback because  
31 I'm, I'm ... I'll read the letter into the record because  
32 it's something --

33 THE COURT: It's now an exhibit, so ...

34 MR. GREEN: Okay. Yeah, I'll read --



1 THE COURT: You can put the questions in the --

2 MR. GREEN: -- yeah, I'll put the question. He  
3 says -- because I have the impression from his initial  
4 response that it didn't make a huge impression on him,  
5 didn't make a huge impression. He had to be reminded of  
6 it. So I'll read the letter:

7

8 I just spoke with George Bush.  
9 Marty Green tried to force his way  
10 into George's house minutes ago.  
11 The police are there taking a  
12 statement. Don Metz is aware of  
13 this. Bush called him and Metz  
14 e-mailed me. Bush is upset and  
15 agitated. He'll call me back when  
16 he is through with the police. We  
17 should discuss next steps.

18

19 BY MR. GREEN:

20 Q So you, do you remember it now if I --

21 A Yes, I do.

22 Q -- can -- forgive me for being a little  
23 sarcastic, but now you remember the --

24 A Yes, I do recall.

25 Q Now his memory's --

26 A Yes.

27 Q -- clearing up.

28 A Yes, but, excuse me, what I was referring to was  
29 conflicts that you had well before that incident.

30 Q Well, I'm suggesting that those were clearly not  
31 the question I was asking.

32 A Okay.

33 Q I think I was clear about the question I was  
34 asking but --

1 A Okay.

2 Q -- now you remember, now we're on the same page?

3 A Yes. Yes, yes.

4 Q I'm going to try and chill out a little  
5 because ...

6 THE COURT: That's best, Mr. Green.

7 MR. GREEN: But you see my situation. You see my  
8 situation here.

9

10 BY MR. GREEN:

11 Q And so you say, we should discuss next steps.

12 A Yes.

13 Q Did you discuss further steps?

14 A Yes.

15 Q With whom?

16 A Hard to recall.

17 Q Here we go again.

18 THE COURT: Mr. Green, that --

19 MR. GREEN: I'm sorry.

20 THE COURT: You can't comment on the witness'  
21 evidence. You have to let him answer the questions and  
22 then you can pose another question, okay.

23 MR. GREEN: Okay.

24 MR. GRIEVES: Your Honour, it's also his witness,  
25 and if he's going to be cross-examining his witness, isn't  
26 there those steps that he needs to, to take with ...

27 MR. GREEN: Your Honour, I think it's fairly  
28 clear --

29 THE COURT: I think his questions so far are  
30 open-ended questions.

31 MR. GREEN: Um-hum.

32 THE COURT: Because he's your witness, you have  
33 to ask non-leading questions, okay.

34 MR. GREEN: Your Honour --

1           THE COURT:   You -- I think -- I don't have any  
2 issue with the way you've been --  
3           MR. GREEN:   Okay.  
4           THE COURT:   -- asking the questions other than  
5 arguing with the witness --  
6           MR. GREEN:   Yeah.  
7           THE COURT:   -- or your tone of voice.  You need  
8 to be professional in the courtroom, you need to be  
9 respectful in the courtroom.  
10          MR. GREEN:   Okay.  
11          THE COURT:   I understand that you're emotionally  
12 involved and it can be upsetting, but please let Mr.  
13 Besner --  
14          MR. GREEN:   Okay.  
15          THE COURT:   -- answer the question and then you  
16 can pose another --  
17          MR. GREEN:   Yeah.  
18          THE COURT:   -- question.  
19          MR. GREEN:   As far as the rules of examination, I  
20 think you understand that I'm moving in the direction where  
21 we're going to -- want him declared a hostile witness so I  
22 can be more -- you under -- I don't know how it's done.  
23 You know how it's done, you know about that, but I think  
24 I'm going in that direction, so ...  
25          THE COURT:   I think it's a bit early for that,  
26 but let's --  
27          MR. GREEN:   Okay.  
28          THE COURT:   I think Mr. Besner was not allowed to  
29 finish his answer and --  
30          MR. GREEN:   Okay.  
31          THE COURT:   -- the question was, did you discuss  
32 next step and with who?  
33          THE WITNESS:  Yes, I discussed next steps.  
34

1 BY MR. GREEN:

2 Q Okay. With whom?

3 A It would have, it might have been with the  
4 university's legal counsel, it might have been with the  
5 university's security officer, it might have been with  
6 George Bush and Don Metz. I don't recall. I did discuss  
7 next steps.

8 Q But you don't recall with whom?

9 A No, I don't.

10 Q So the people you listed that, who were  
11 possibilities would have been Grainger?

12 A Marty Grainger, yes.

13 Q Morrison?

14 A Colin Morrison, yes.

15 Q And who else did you say you might have discussed  
16 with?

17 A Don Metz.

18 Q Okay. Metz. And?

19 A George Bush.

20 Q Okay. Those would be the people?

21 A Yes.

22 Q Did you discuss -- was Lisa McGifford involved in  
23 discussions with you?

24 A I don't think so.

25 Q You know she -- my information is that she was  
26 involved in certain discussions that evening, but --

27 A Yes.

28 Q -- but you don't --

29 A True.

30 Q -- you're not aware -- you didn't have any  
31 discussions with her on that evening at all?

32 A On that evening, I don't believe I had  
33 discussions with her.

34 Q Um-hum.

1           A     Just a second.  On that -- no, on the evening I  
2 had no discussions with her; that's correct.

3           Q     Okay.  Does she work for you in your office  
4 or ...

5           A     No, she does not.

6           Q     Okay.  I don't know who she works for but ...

7                   MR. GRIEVES:  Who is Lisa McGifford, by the way?

8                   MR. GREEN:  She's one of my witnesses.  I have  
9 affidavit evidence that she was involved in the discussions  
10 of the evening of the 11th but I don't know who she is or  
11 why she was involved but Mr. Besner says he -- is nothing  
12 to do with him, and he's my witness so I'll accept that.

13

14 BY MR. GREEN:

15           Q     You talked to her the next day, though.  Am I  
16 understanding the next day you did?

17           A     I think the incident occurred on a Friday or a --

18           Q     Yeah.

19           A     Friday night?

20           Q     Yeah, yeah.

21           A     So, no, I did not talk to her the next day.  
22 There might have been an exchange of e-mails over the  
23 weekend possibly, but whatever the case is, there, there  
24 probably was discussion with her involved the following  
25 week, some time during the week I would say.

26           Q     Okay.  So she would have been in the loop somehow  
27 but ...

28           A     Yes.  Yes.

29           Q     Well, if she was, maybe you could tell us what  
30 her job was, like how she would have been involved?

31           A     Do you want to know what her job is or what her  
32 job was specific to the, to the incident?

33           Q     Well, however you want to explain it.

34           A     Well, Lisa McGifford works for the University of

1 Winnipeg Faculty Association. The incident involved two,  
2 two -- a faculty member, George Bush. That was the nature  
3 of her involvement.

4 Q Okay. Sure. That's helpful.

5 Did I ask you how you first heard of the  
6 incident?

7 A You haven't asked me yet, no.

8 Q Okay. Let's ask that question. How did you  
9 become aware of the incident?

10 A It was either an e-mail or a phone call on the  
11 Friday night. And --

12 Q Again, you don't remember too clearly?

13 A I don't remember. Probably an e-mail.

14 Q From whom?

15 A It would have been either George Bush, Don Metz.  
16 I just can't recall. Sorry, can't recall.

17 Q Um-hum.

18 A It's months ago.

19 Q It's months ago but it was a small thing and you  
20 have more -- Your Honour, I'm going to be sarcastic again  
21 if you don't tell me Mr. Green, control yourself, because I  
22 find him being disingenuous, but I'll just go through, go  
23 ahead with it.

24 A Can, can I comment on that or --

25 Q Yeah, please.

26 A Why am I being disingenuous?

27 Q Well --

28 A In what way?

29 Q -- because every question I ask: I don't  
30 remember, could have been this, could have been that, maybe  
31 it was this guy, maybe it was that guy, really don't -- I  
32 mean that's in essence is --

33 THE COURT: Okay. Stop talking.

34 MR. GREEN: Okay. Okay.

1 THE COURT: I don't need you to comment on --

2 MR. GREEN: Okay.

3 THE COURT: -- Mr. Besner's evidence. At the end  
4 of the day, that's my job --

5 MR. GREEN: Of course.

6 THE COURT: -- to make conclusions about his  
7 testimony. But you're doing well for a little while on  
8 keeping the questions focused, so let's just keep the  
9 questions focused but --

10 MR. GREEN: Thank you, Your Honour.

11 THE COURT: And at the end of the day, that's  
12 when you're making argument, you can make all the --

13 MR. GREEN: Yeah.

14 THE COURT: -- comments you want about Mr. Besner  
15 and --

16 MR. GREEN: Thank you, Your Honour.

17 THE COURT: -- his testimony.

18 MR. GREEN: I'll try and control myself. It is,  
19 it is my thing that I get excited about stuff and ... And  
20 here we go, let's focus here.

21

22 BY MR. GREEN:

23 Q So you don't really remember how you first  
24 learned about it, but in your e-mail, in your letter you  
25 say, I just spoke with George Bush, so it sounds like a  
26 phone call from -- do you think George Bush phoned you or  
27 you phoned him?

28 A I think I called him after I learned of the  
29 incident. Somebody gave me his phone number --

30 Q Ah.

31 A -- and I called him.

32 Q Ah.

33 A Because, because -- so I think I received an  
34 e-mail, I think I received an e-mail that said George Bush

1 -- that the incident happened and that George Bush is  
2 upset, and I believe I called him and spoke with him that  
3 evening.

4 Q And you don't remember who you received the  
5 e-mail from?

6 A I don't remember who it was. It was either, it  
7 was either Don Metz or George or Lisa or somebody involved  
8 in the case. I just can't remember who it was.

9 Q Either Don or George.

10 A Or perhaps somebody else. I just don't know.

11 Q Or Lisa.

12 A Might have been Don.

13 Q Or someone else. But you already testified that  
14 Lisa you had no conversation with Lisa that evening?

15 A I don't believe I had a conversation with Lisa  
16 that evening, no.

17 Q Okay. Probably Don, you might say. Probably you  
18 got an e-mail from Don.

19 A I got an e-mail from somebody.

20 Q Um-hum. Would you still have it? Will you be  
21 able to sort of put it into evidence?

22 A I might have it.

23 Q Yeah.

24 A I don't know.

25 Q Or you might have --

26 A I'll look.

27 Q -- erased it; isn't that so? Isn't that so?  
28 Wouldn't that -- I'm sorry, Your Honour. Yeah. And if  
29 I --

30 A Are you asking me if I erased it or are you  
31 telling me?

32 Q I'm asking you if you erased it.

33 A I don't think I erase my emails.

34 MR. GREEN: Okay. Okay. And if you -- would I



1 be entitled to subpoena it? Again, this is a question I'll  
2 have to ask my legal advisors outside of this chambers, but  
3 obviously I'm going to want to see the, I'm going to want  
4 to see this e-mail and I have to ask your judge or -- are  
5 you able to direct him to produce the e-mail?

6 THE COURT: Still struggling over the relevance  
7 of this to February 7th. But Mr. Besner, do you think you  
8 could produce this e-mail?

9 THE WITNESS: I'll certainly look for it, Your  
10 Honour.

11 THE COURT: Okay. So what I'm going to do is I'm  
12 going to ask you to look for it and I'm going to ask you to  
13 -- do you have Mr. Grieves' contact information?

14 THE WITNESS: I'll get it.

15 THE COURT: And so before you leave today, if  
16 you can just take a look for it and then fax it to Mr.  
17 Grieves --

18 THE WITNESS: Will do.

19 THE COURT: -- if you can find the e-mail.

20 THE WITNESS: Certainly.

21 THE COURT: Or forward it to Mr. Grieves by  
22 e-mail. Mr. Grieves will give you his card.

23 You've got one with you?

24 MR. GRIEVES: I don't have my card with me but I  
25 can, I'll give him my e-mail address.

26 THE COURT: Okay.

27 THE WITNESS: Very good. Will do.

28 THE COURT: And then we'll see where that takes  
29 us.

30 MR. GREEN: Thank you, Your Honour.

31 And Mr. Grieves, you know how to contact Mr.  
32 Green and you can forward -- if that e-mail comes, you can  
33 forward that to Mr. Green.

34 MR. GRIEVES: Yes, Your Honour.

1 THE COURT: Okay.

2 MR. GREEN: All right.

3

4 BY MR. GREEN:

5 Q I'm just going to note that in your second  
6 e-mail, which was 15 minutes later after your first e-mail,  
7 you're quite definite about the events. I'm, I'm going to  
8 understand you might not remember the events but I'll just  
9 ask you to recall, verify that this is what you told, this  
10 is what you told -- you sent this e-mail to Martin  
11 Grainger, Laurel Rebsky (phonetic), Jeremy Reid (phonetic)  
12 and Colin Morrison.

13 A Okay.

14 Q And I'm just going to verify that you said --

15 MR. GRIEVES: What date? I'm sorry, what date --

16 MR. GREEN: It's, it's --

17 MR. GRIEVES: -- is that?

18 MR. GREEN: -- the 11th, that evening. It was,  
19 it was ...

20 THE COURT: It's the 5:30 p.m. e-mail you're  
21 referring to?

22 MR. GREEN: Well, first there was the 5:30  
23 e-mail, which we previously discussed --

24 THE COURT: Okay. So you're asking him about the  
25 5:45.

26 MR. GREEN: Now I have the 5:45 e-mail.

27

28 BY MR. GREEN:

29 Q And you wrote:

30

31 Bush and his wife are, as you can  
32 imagine, upset.

33

34 A Yes.

1 Q Yes.

2

3 He called me moments ago. Green  
4 called Bush at home on his  
5 unlisted number.

6

7 A Yes.

8 Q

9 And then appeared at his door two  
10 minutes later and tried to force  
11 his way in ...

12

13 A Yes.

14 Q And --

15 A Yes.

16 Q

17 ... and deliver a document to  
18 Bush.

19

20 A That's what I wrote, yes.

21 Q And I left out parenthetically, Green, who had  
22 been to Bush's church three weeks ago.

23

24 Bush and his wife refused to let  
25 him in.

26

27 A Yes.

28 Q

29 Apparently there was some  
30 struggle.

31

32 A Yes.

33 Q

34 Then Bush called police. And Bush

1                   also apprised me, yes, of all of  
2                   this.

3

4           A     Yes.     So this was -- that e-mail was written  
5 after my conversation with George.

6           Q     Yes.

7           A     That's correct.

8           MR. GREEN:   Okay.   Okay.   It's a lot for me to  
9 digest all at once, Your Honour.   I've got to consider  
10 which direction I'm going with this.   Obviously I'm excited  
11 about it.   I feel it's beneficial to my case but I'm, I'm  
12 going to try and stick to the program and just, just ...

13

14 BY MR. GREEN:

15           Q     Now, I'm understanding that all this information  
16 in here is based exactly on information you got verbally  
17 over the phone from Professor Bush?

18           A     Correct.

19           Q     There was no additional e-mail from Professor  
20 Bush on this?

21           A     No, I don't believe so.

22           Q     And you'll look for it if there was as part of  
23 the judge's instructions, I think.   Would you understand  
24 that she was asking for general e-mail exchanges of this  
25 evening, or do you, do you -- should I ask her to make that  
26 specific or is that understood?

27                   Maybe the judge can comment on what her intention  
28 was.

29           THE COURT:   Well, your question was whether the  
30 whole process was started with an e-mail that he received  
31 and he believed it was from George Bush, and he's going to  
32 look for that initial e-mail --

33           MR. GREEN:   Um-hum.

34           THE COURT:   -- from George Bush.   That's what

1 I've directed him to do.

2 MR. GREEN: Yes, you have. So I haven't asked  
3 about further e-mails. I, I could ask you without sort of  
4 any urgency to it whether you'd care to extend that  
5 instruction to additional e-mails that he might have  
6 exchanged that night?

7 THE COURT: At this point I don't care to extend  
8 my order.

9 MR. GREEN: Fine. I'm fine with that. Okay.

10

11 BY MR. GREEN:

12 Q Okay. You've testified that you don't remember  
13 much about, like, what additional measures you took that  
14 night, with whom you discussed them or what the outcome  
15 was, but do you remember in general what the outcome was of  
16 those ... (inaudible) decided. I think what I said is  
17 let's discuss next steps. Are you remembering any further  
18 steps you took?

19 A Are you asking about steps that evening or ...

20 Q Yeah, that evening.

21 A That evening there was an exchange of e-mails. I  
22 talked to George Bush. It's clear that I talked to George  
23 bush from the e-mail that you just read.

24 Q Um-hum.

25 A I don't remember any other next steps that  
26 evening except for the change of e-mails that you've  
27 referenced.

28 Q Hah. Did you talk to Martin Grainger?

29 A Not that evening, no.

30 Q Send him an e-mail?

31 A I might have sent him an e-mail.

32 Q Hah.

33 A Well, you just read -- I just -- you just read an  
34 e-mail that I sent to Martin, Laurel --

1 Q Oh, yeah, yeah, yeah. Yeah.

2 A Well, you just read it.

3 MR. GREEN: Hah. Further steps. Hah. I've got  
4 all this testimony which in really sort of rough form. I,  
5 I think I have something from Martin Grainger about issuing  
6 a trespassing order. I'm trying to sort of go from "A" to  
7 "B" that at some point a trespassing order got issued, and  
8 I'm just wondering if Mr. Besner had any role in that.  
9 And ...

10 THE COURT: Ask him that.

11

12 BY MR. GREEN:

13 Q Okay. Can I ask you, did you have any role in  
14 the trespassing order getting issued?

15 A No.

16 Q Hah.

17 A I don't issue trespass orders. I'm not a  
18 policeman.

19 Q Don't issue -- oh, I, I'm, I ...

20 A I don't issue trespass orders. That's what I  
21 said.

22 Q I see. But you've caught me in a mistake because  
23 it wasn't a trespass order, it was a barring notice, wasn't  
24 it?

25 A Well, I'm sorry, I used the words that somebody  
26 else just used; you, I think.

27 Q Was my mistake to say trespass order. But  
28 actually, there was no trespass order. It was a barring  
29 notice that was issued, so I have to ask again.

30 A Okay.

31 Q Were you involved in the issuing of the barring  
32 notice?

33 A The barring notice from campus, you're talking  
34 about?

1 Q Yeah.

2 A Yes, absolutely.

3 Q Okay.

4 A Yes.

5 Q Okay, I got to make a note of this. (Inaudible)  
6 steps on trespass order. No. Okay. Don't issue trespass.

7 And I wouldn't have caught my mistake if you  
8 hadn't said, I don't issue trespass orders, I'm not a  
9 policeman, because that cued me in, all right, you're not a  
10 policeman, you -- it wasn't a trespass order, it was a  
11 barring notice. Yes, you were involved. Okay.

12 Do you recall what your involvement was?

13 A Can I ask for some clarification, Marty? Are you  
14 asking me what my involvement was that evening or  
15 subsequently?

16 Q That evening --

17 A Well ...

18 Q -- in issuing the barring notice.

19 A (Inaudible).

20 THE COURT: I think, I'm just guessing, but I  
21 think you want the answer to, you know, what was his  
22 involvement in issuing that barring notice.

23 MR. GREEN: I think that was the question I asked  
24 him.

25 THE COURT: I know, but you asked him about that  
26 particular --

27 MR. GREEN: Ah.

28 THE COURT: -- evening, which I take it --

29 MR. GREEN: Yeah.

30 THE COURT: -- he is saying, like on that Friday  
31 evening there was no --

32 MR. GREEN: Oh.

33 THE WITNESS: Correct.

34 THE COURT: -- barring notice.

1 THE WITNESS: Correct.

2 THE COURT: So --

3 MR. GREEN: Ah.

4 THE COURT: -- let's ask the broader question --

5 MR. GREEN: Ah.

6 THE COURT: -- is what was your involvement in --

7 MR. GREEN: Well, I'm going to offer --

8 THE COURT: -- issuing the --

9 MR. GREEN: -- testimony or evidence, and I think  
10 it's probably already on the record, that the barring  
11 notice was signed on January 11th, that evening.

12 THE WITNESS: I had --

13

14 BY MR. GREEN:

15 Q It was signed.

16 A I had no involvement in the signing of the  
17 barring notice on the evening that you're referring to.

18 Q I don't think --

19 A Was that --

20 Q -- I asked you if you, if you were involved in  
21 signing it. I, I, I understand that you weren't involved  
22 in signing it, but I wonder if, if you might have been  
23 involved in giving instructions to someone else to sign it.  
24 Is it a difficult question?

25 A It is a difficult question because I just don't  
26 know where you're going, Marty. I don't understand what it  
27 is that you want. Was, was I involved in discussions on  
28 the Friday night --

29 Q Um-hum.

30 A -- yes. Did I talk to George Bush? Yes. Yes.  
31 Did I exchange e-mails with George and others? Yes. Would  
32 I have been in favour of issuing the barring notice? Yes.  
33 Is, is that what you're looking for? Yes, that's true.  
34 That is the case.



1 Q It's not exactly what I'm looking for. I, I  
2 think, I think I was asking if, if you instructed Martin  
3 Grainger to issue a barring notice. I think that's ...

4 A You know, I cannot remember --

5 Q There we go.

6 A -- who instructed --

7 MR. GREEN: Excuse me, Your Honour.

8 THE WITNESS: -- who to issue a barring notice.  
9 I don't -- but I certainly would have been in favour of it,  
10 if that's what you want to know.

11

12 BY MR. GREEN:

13 Q Okay. No --

14 A Yes.

15 Q -- that wasn't my question. I know you were in  
16 favour of it.

17 A Well ... Well ...

18 Q I don't remember. I'll ask Martin Grainger when  
19 I get him back, but you know what I -- you were not allowed  
20 to consult with Martin Grainger on this after --

21 A Nor did I.

22 Q -- because I get to, I've got to --

23 A Nor did I.

24 Q -- continue -- of course. No, I, I walked past  
25 you; you guys weren't talking when I walked past you so I  
26 (inaudible).

27 THE WITNESS: Excuse me, Your Honour --

28 MR. GREEN: Sorry.

29 THE WITNESS: -- we absolutely were talking. We  
30 were not talking about this case --

31 MR. GREEN: No, no, I'm fine, yeah.

32 THE WITNESS: -- because we were instructed not  
33 to.

34 MR. GREEN: I'm saying you're, you're -- yeah, I

1 wasn't being sarcastic, I'm saying, yeah --

2 THE WITNESS: You --

3 THE COURT: We just have to keep focused --

4 MR. GREEN: I'm on it.

5 THE COURT: -- okay so --

6 MR. GREEN: Understand.

7 THE COURT: -- everybody needs to take a breath  
8 and then just try to get the evidence out.

9

10 BY MR. GREEN:

11 Q So you agree that the trespassing order was  
12 issued later that evening? I mean, I can show you the  
13 order and that it was signed on the 11th, and, and maybe --

14 THE WITNESS: Your Honour, we just had some kind  
15 of exchange about whether it's trespassing or barring and  
16 now I hear --

17 MR. GREEN: I'm sorry, barring notice. That's  
18 me, yeah, my mistake, barring notice.

19 THE COURT: There's --

20

21 BY MR. GREEN:

22 Q Issued on the 11th. And, and you're agreeing to  
23 that. And you're agreeing that you had some involvement:  
24 yes, I was involved.

25 A Yes, I was involved.

26 Q And you don't recall if it was you that  
27 instructed Martin Grainger to issue the barring notice?

28 A I don't remember.

29 Q You just don't remember.

30 A I don't. But I would have been in favour of it.

31 Q Of course you would have.

32 A Yes.

33 Q Of course you would have. Who wouldn't be in  
34 favour of it.

1           Would Martin Grainger have the authority to issue  
2 a lifetime barring order, as it was, without instruction  
3 from someone else, or is that in his authority to do it?

4           A     There would have to be consultation.

5           Q     Okay. So Martin Grainger would not --

6           A     Correct.

7           Q     -- have issued without consultation?

8           A     Correct.

9           Q     And since -- could he have done it on the say-so  
10 of after consulting with George Bush? Would that have been  
11 sufficient authority?

12          A     No.

13          Q     Okay. Would it have been sufficient if he'd  
14 consulted with Don Metz?

15          A     No.

16          Q     With Lisa McGifford?

17          A     No.

18          Q     With you?

19          A     No.

20          Q     Ah, even if he consulted with you, you would not  
21 have had the --

22          A     No.

23          Q     -- authority to instruct --

24          A     Correct.

25          Q     Ah.

26          A     That is correct.

27          Q     Isn't --

28          A     I would --

29          Q     -- that something. I'm sorry, I'm, I'm, I'm  
30 surprised. I'm not trying to be sarcastic. I am  
31 surprised.

32                THE COURT: You were going to finish that answer,  
33 Mr. Besner?

34                THE WITNESS: Yes. That any such notice would

1 have been undertaken in consultation with several people.

2 MR. GREEN: Um-hum.

3 THE COURT: And those people are?

4 THE WITNESS: It would have involved legal  
5 counsel, other vice-presidents. In this case there --  
6 let's just see. There, it would have been at least Colin  
7 Morrison and Laurel Rebsky, who are respectively the legal  
8 counsel for the university and the vice-president human  
9 resources, audit and sustainability.

10 THE COURT: And what's that person's name?

11 THE WITNESS: Laurel Rebsky. She's listed in the  
12 e-mail that I sent and she's the person to whom Marty  
13 Grainger reports.

14 MR. GREEN: Ah.

15 THE COURT: She's the -- sorry, give me the title  
16 again?

17 THE WITNESS: Vice-president human resources,  
18 audit and sustainability.

19

20 BY MR. GREEN:

21 Q Would Colin Morrison and Lauren Rebsky have been  
22 sufficient, without your involvement, to --

23 A Probably not.

24 Q Ah. So assuming, because you said you don't  
25 remember if you were involved, so logically we have to say  
26 it might have been done by something else so I wanted -- I  
27 wonder if you could --

28 A I --

29 Q -- could tell me the minimum.

30 A Excuse me. I said I was involved and I was in  
31 favour.

32 Q You said you would have been in favour --

33 A Yes.

34 Q -- and you don't remember.

1           A     I don't remember the nature of my involvement. I  
2 was certainly involved in exchanging e-mails that night.

3           Q     Um-hum.

4           A     And I certainly would have been in favour of  
5 instituting such a ban for the behaviour exhibited on that  
6 evening, yes.

7           Q     Ah-huh.

8           A     I've said that several times now.

9           Q     Well, I'm having trouble quite understanding it,  
10 but ...

11          A     Sorry, I'll try to be clearer.

12          Q     Okay. How ... So when you say that Mr. Grainger  
13 would have issued the order in consultation with, at a  
14 minimum, Colin Morrison, Laurel Rebsky, yourself --

15          A     Yes.

16          Q     -- shall I say?

17          A     Yes. That's correct.

18          Q     And would those three have been sufficient or  
19 would you have required more people involved to order -- to  
20 issue that barring notice?

21          A     Probably.

22          Q     Probably that would have been --

23          A     Yes.

24          Q     -- sufficient?

25          A     Yes.

26          Q     Hah. Hah. Isn't that something. Do you recall  
27 if Laurel Rebsky -- well, she must have been involved  
28 because you couldn't have issued the barring notice without  
29 her?

30          A     Marty, you just read an e-mail to me --

31          Q     Oh, right, right --

32          A     -- that I had --

33          Q     Yeah.

34          A     -- written --

1 Q That's so she --

2 A -- which had --

3 Q So that's how --

4 A -- Laurel Rebsky's --

5 Q -- yeah, of course.

6 A -- name on it.

7 Q You're right, you're right, yeah.

8 A Yes.

9 Q So she was involved. Yeah, okay.

10 A Yes.

11 Q And who's that Jeremy Reid, while we're at it?

12 A He's the executive advisor to the president.

13 Q Okay. That would be Mr. Axworthy?

14 A Yes.

15 Q Do you recall him being involved in the  
16 discussions that night?

17 A I don't believe he was involved in the  
18 discussion, no.

19 Q Okay. Well isn't that something. I mean, it's a  
20 lot for me to digest all at once. I just, I'm amazed at  
21 what went on.

22 You know, Martin Grainger said some different  
23 things. Martin Grainger said even before the incident  
24 Professor --

25 MR. GRIEVES: Your Honour, Mr. Grainger hadn't  
26 had the opportunity to clarify his testimony in chief. He  
27 hasn't been cross-examined on that, with respect to that  
28 testimony.

29 MR. GREEN: Then I won't refer to Mr. Grainger.  
30 I'll ask the question without referring to Mr. Grainger.

31 THE COURT: Although I do think, Mr. Green, that  
32 you -- it's -- I mean, we are sort of in the no persons  
33 land here in terms of the procedure because we're trying to  
34 accommodate Mr. Besner's schedule.

1 MR. GREEN: Yeah.

2 THE COURT: But if you want to put to Mr. Besner  
3 things that you say Mr. Grainger said in his testimony, I  
4 would allow you to do that.

5 MR. GREEN: Well, isn't that nice of you. I'm  
6 sorry, I'm trying to be (inaudible). I'm, I'm touched.  
7 I'm not used to people sort of agreeing with me or giving  
8 me permission for stuff. I'm used to people telling me,  
9 get out of here, you can't do -- I mean, I'm sort of ...  
10 But I'll, I'll try and --

11 THE COURT: Let's focus, right.

12 MR. GREEN: I'll try and focus.

13

14 BY MR. GREEN:

15 Q Mr. Grainger said that on Friday afternoon he'd  
16 been approached, and I didn't get a chance to ask him by  
17 whom, because testimony, trip to China -- he said he'd been  
18 approached with regard to renewing the trespassing order  
19 because it was about to expire, the original trespassing  
20 order, and that people wanted to do something to renew it.  
21 And he said, oh, we, we'll do it next Monday, it's already  
22 Friday afternoon, and then Friday night all hell broke  
23 loose so people were phoning around and sending e-mails.  
24 So I'm wondering if you were involved or you were aware  
25 that prior to the events of the home invasion -- can we  
26 call it a home invasion? Well, I'm going to call it a home  
27 -- prior to the home invasion there was already sort of a  
28 move afoot to make a lifetime ban. And as you've  
29 testified, in order to institute such a ban you would have  
30 required a minimum of a certain number of people which you  
31 named, Colin Morrison, Laurel Rebsky, yourself, so am I  
32 correct that you must have been involved in the prior  
33 discussions to have the ban extended to a lifetime ban?

34 A You're now asking me to recall what happened on

1 the afternoon of Friday, January 11th, and I don't recall  
2 any such discussion. It's possible that the discussion  
3 took place.

4 Q Yeah.

5 A Again, you referred to a trespassing then you  
6 corrected yourself --

7 Q Yeah.

8 A -- and said it's a ban. Which are you referring  
9 to, number one? And number two, are you asking me whether  
10 I was involved in a discussion about the ban, about  
11 extending the ban on, on the afternoon before the events of  
12 Friday night took place? Is that your question?

13 Q I'm going to have to be a little more specific  
14 because Mr. Grainger said someone -- he was approached on  
15 the Friday, and I don't know who he was approached by --

16 A Okay.

17 Q -- but if someone was approaching him it must  
18 have been on the basis of discussions, as you've testified,  
19 that sort of significant consultation is, is required  
20 before anyone would approach Mr. Grainger with such an  
21 instruction. So whether those discussions took place on a  
22 Saturday afternoon or prior, do you recall being involved  
23 in any such discussions? I don't know if I could be more  
24 clear?

25 A I'm confused about what the question is. Is --

26 THE COURT: I think the question is, before the  
27 incident with Mr. Bush --

28 THE WITNESS: Yes.

29 THE COURT: -- was there already discussion  
30 within the appropriate people at the university --

31 THE WITNESS: Yes.

32 THE COURT: -- about extending the ban that had  
33 previously been served on Mr. Green.

34 THE WITNESS: Quite possibly. Is the question



1 whether that took place on Friday afternoon or whether it  
2 took place --

3 THE COURT: Or in the days leading up to ...

4 THE WITNESS: Quite possibly. Quite possibly  
5 there was such a discussion, yes. Absolutely.

6

7 BY MR. GREEN:

8 Q But you don't recall, recall --

9 A I don't remember when.

10 Q -- any particulars of it?

11 A No.

12 Q Yeah.

13 A I don't remember -- if you're asking me whether  
14 the discussion took place --

15 Q Um-hum.

16 A -- on Friday afternoon, I don't remember.

17 Q No, and I didn't ask you that. You know I never  
18 asked you that.

19 A Well, of course you did. Of course, you did.

20 MR. GREEN: Your Honour, please. I'm going  
21 (inaudible).

22

23 BY MR. GREEN:

24 Q I'm going to refresh your memory with an  
25 affidavit by Professor Metz, which I will be entering into  
26 evidence. And again, procedurally, I'll -- shall I just  
27 proceed, in light of the time, or -- I'll just --

28 THE COURT: Yes. I'm just not sure how an  
29 affidavit by Professor Metz is going to refresh this  
30 witness' memory.

31 MR. GREEN: Right. Well, point well taken. But  
32 I can testify to this on my own at a later date. But I'll  
33 just ask him. I'm -- you know, we understand that he might  
34 not remember but I think he's directly -- just could, I

1 could be mistaken here. Hum.

2

3 BY MR. GREEN:

4 Q Mr. Metz says:

5

6 On December 6th a meeting is held  
7 with senior administration with  
8 respect to Mr. Green's continued  
9 harassment. I expressed concern  
10 for my personal safety and asked  
11 that the university take steps to  
12 prevent such harassment.

13

14 Do you recall being at the meeting of December 6?

15 A I don't remember if it was December 6th or not  
16 but certainly there was such a meeting and --

17 Q Okay.

18 A -- yes, I was present at it.

19 Q Okay. Sure.

20 A Yes, absolutely.

21 Q All right. All right.

22 A Which is why I say that I would have been in  
23 favour of such a ban.

24 Q Um-hum.

25 A Because I don't condone that kind of behaviour.

26 Q Okay. The kind of behaviour. But on December  
27 6th that was long before the home invasion?

28 A You started your questioning, Marty, about -- and  
29 I told you that there was conflict before whatever the date  
30 of the, what you're referring to as the home invasion is.  
31 So if it's December 6th, obviously there was conflict  
32 before that. And on the basis of that behaviour --

33 Q Okay.

34 A -- I would say that there was an appreciable

1 conflict --

2 Q Okay.

3 A -- wouldn't you?

4 Q Well, that's exactly where I want to go.

5 (Inaudible) okay, on December 6th there was  
6 already behaviour towards a trespassing order. I'm just  
7 taking notes. Of a ban, a barring notice. On -- I'm going  
8 to make as my notes to your testimony on December 6th, when  
9 you had that meeting.

10 Would you say by that time there was already  
11 ample behaviour on my part to warrant a trespassing  
12 extension?

13 A I did not say that. I did not say that. I said  
14 I don't remember what exact date the meeting took place but  
15 I was --

16 Q Yeah, I'm not trying to -- okay.

17 A -- but I was at such a meeting --

18 Q Um-hum.

19 A -- whenever it was, December 6th --

20 Q Um-hum.

21 A -- November 6th, January 6th. Whenever the  
22 meeting took place. The discussion was your abusive  
23 behaviour towards Don Metz; that's correct.

24 Q My abusive behaviour ...

25 A Which caused Don Metz to feel threatened and  
26 harassed by you and afraid of you, caused him to be afraid  
27 of you.

28 Q Caused ...

29 A Caused him to be afraid of you.

30 Q Yes. Well, Your Honour, I'm going to need  
31 permission to ask him exactly particulars of what the  
32 behaviour was that he, you found it alarming and he found  
33 -- Mr. Metz found it alarming, and you thought he was right  
34 to be alarmed.

1           THE COURT:    You already have Mr. Metz on the  
2 witness list --

3           MR. GREEN:    Um-hum.

4           THE COURT:    -- so do you really need to --

5           MR. GREEN:    I kind of do, Your Honour, because  
6 it's the, it's the evasiveness and like the changing of the  
7 stories. Like what was the behaviour, though. They'll  
8 change the story to be whatever they think they can get  
9 away with. But the fact that I've got them all separated  
10 here and they've each got to testify as to what it was is a  
11 problem for them. And that's why, that's why they're being  
12 so evasive. That's why their memories are so poor because  
13 they don't want to have to account for it. That's, that's  
14 what's going on here.

15          THE WITNESS:   I find your remarks offensive and  
16 hostile.

17          MR. GREEN:    I'm sure you do. I'm sure you do.  
18 I'm sorry, I'm sorry.

19          THE CLERK:    Sorry, sir, if you could --

20          MR. GREEN:    I'm sorry.

21          THE COURT:    -- attend to the microphone.

22          MR. GREEN:    You see, he's going to China, we're  
23 breaking in 10 minutes, or how long can we go? Because I  
24 do want to ask him about the particulars because if they  
25 were horrifying -- I mean, from his presentation, these  
26 were horrifying --

27          THE COURT:    Okay, keep, keep asking questions.  
28 We're going to try --

29          MR. GREEN:    Okay.

30          THE COURT:    -- to keep it to a reasonable hour.  
31 But at the same time --

32          MR. GREEN:    Okay.

33          THE COURT:    -- I would really like to get Mr.  
34 Besner's evidence finished today so --

1 MR. GREEN: Okay. No, I --

2 THE COURT: -- I want to keep going.

3 MR. GREEN: -- don't want to have to call him  
4 back.

5 THE WITNESS: I'm willing to stay as long as you  
6 want, Your Honour.

7 MR. GREEN: Okay.

8 THE WITNESS: Quite happy to do so. And thanks  
9 for your allowing me to testify today. I appreciate it.

10 MR. GREEN: Yeah. It's helpful to all of us.

11 THE COURT: And I think --

12 MR. GREEN: I think I --

13 THE COURT: -- you may have gotten a bit of  
14 track, but I think I asked you a question about a question  
15 that you posed, Mr. Besner, and, but after your submission  
16 I think the -- you can put the question again. And the  
17 question, as I have it, is what behaviour on Mr. Green's  
18 part caused Mr. Metz to fear for his safety in your, in  
19 your mind.

20 THE WITNESS: Well, Your Honour, I wasn't at the,  
21 the -- you have to understand, this is a secondhand report.  
22 But what was reported to me was that Mr. Green yelled in  
23 the classroom, was out of control in the classroom, made  
24 threatening comments on his blog, I think, or made comments  
25 -- excuse me -- made comments, intimidating comments on his  
26 blog.

27 MR. GREEN: Could you slow down just a minute.

28 THE WITNESS: Certainly.

29 MR. GREEN: I'm sorry, because I need to make  
30 notes. Yelled in the classroom.

31 THE WITNESS: Yelled in the classroom, that's  
32 right.

33 MR. GREEN: Was -- what was the next?

34 THE WITNESS: That you were generally threatening

1 towards Professor Metz.

2 MR. GREEN: I was generally threatening. There  
3 was something else at --

4 THE WITNESS: So that he felt threatened by you.

5 MR. GREEN: What did I do on my blog?

6 THE WITNESS: You made comments on your blog. I  
7 don't know what -- I never saw the comments.

8 MR. GREEN: I think you said threats on my blog.  
9 I'm just not able to --

10 THE COURT: He, he corrected, he said there are  
11 comments on the blog that he found intimidating.

12 THE WITNESS: Correct.

13 MR. GREEN: Thank you.

14 THE WITNESS: Can I go on, Your Honour, to  
15 respond --

16 MR. GREEN: (Inaudible).

17 THE WITNESS: -- to the question?

18

19 BY MR. GREEN:

20 Q Because I've got to be able to make the notes.  
21 It's, it's not your fault, I'm just, I need to be able to  
22 -- just go ahead.

23 A So I gather from the, the meeting, whenever it  
24 took place, that it wasn't one incident, it was a repeated  
25 pattern of behaviour, whether it was in the classroom, out  
26 of the classroom, on a blog or wherever, such that  
27 Professor Metz did not feel safe.

28 Q Um-hum.

29 A He felt threatened by you.

30 Q Um-hum.

31 A He felt intimidated by you.

32 Q Yes. I, I, I'm going to need some particulars  
33 on, you say generally threatening. I mean, I'd like some  
34 particulars on that. What did I actually do that was

1 threatening?

2 A I don't, I don't know, Marty. I wasn't there.

3 Q But did Mr. Metz not tell you any specific  
4 incidents?

5 A I, I just said to you --

6 Q Generally threatening.

7 A Yes. Your behaviour in --

8 Q So --

9 A -- your -- if I can finish, please.

10 Q Um-hum.

11 A Your behaviour in the classroom --

12 Q Um-hum.

13 A -- was intimidating and threatening.

14 Q But you're not able to give any particulars of  
15 what that constituted, that threatening behaviour?

16 A Mr. Green, I wasn't in the classroom, it was  
17 reported to me --

18 Q But you were --

19 A -- that way.

20 Q -- in the meeting with Professor Metz, and did --

21 A I was.

22 Q Did you ask him, did you ask him what particular  
23 -- did you ask Professor Metz for particulars?

24 A There was discussion about a raised voice, yours.

25 Q Just -- okay.

26 A About discussion of, discussion of his pedagogy,  
27 perhaps.

28 Q So you said discussion ...

29 A Disruptive behaviour in the classroom. Your  
30 disruptive behaviour in the classroom.

31 Q Did he, did he report on the words which I spoke  
32 with a raised voice? Were there any particular words?

33 A Not that I recall.

34 Q So you didn't ask him what words I spoke in, in a

1 raised voice?

2 A No.

3 Q Didn't ask particular words. Didn't ask.

4 What about my comments about his pedagogy. Do,  
5 do you recall what was my specific criticism of his  
6 pedagogy?

7 A I don't know.

8 Q But you found it -- okay. Specific criticism.  
9 Did you ask him?

10 A No.

11 Q Okay. I have to say it doesn't sound like  
12 anything threatening that would make him fear for his  
13 safety. I'm just not seeing that it's --

14 A Marty, I'm -- you asked me a question.

15 Q Okay.

16 A I gave you an answer.

17 Q And see the --

18 A I'm reporting to you --

19 Q Yeah, I see that.

20 A I'm reporting to you what Don Metz said in this  
21 meeting. I'm sorry that you don't find it convincing.

22 Q It's all right. It's all right. I'm, I'm, I'm  
23 impressed that you find it convincing.

24 A I did find it convincing and do.

25 Q Yeah, in the absence of any details. You're not  
26 going to be able to say what I did that was sort of  
27 threatening, are you ...

28 A I've, I've described to you --

29 Q Um-hum.

30 A -- what was reported to me: raised voice,  
31 yelling, intimidation.

32 Q Yeah. But no words associated with the raised  
33 voice (inaudible).

34 A Well, if you're, if you're yelling there have to



1 be words. I don't know what the words were.

2 Q The Bombers won. Could it have been the Bombers  
3 won? Would that have been intimidating.

4 THE WITNESS: Do you want me to answer the  
5 question, Your Honour.

6 THE COURT: Yes, please.

7 THE WITNESS: No, that would not have been  
8 intimidating.

9

10 BY MR. GREEN:

11 Q So just because I was yelling, it doesn't mean I  
12 was intimidating?

13 A No, that's correct. So it would have had to have  
14 been the intent and the words themselves; that's correct.

15 Q But you didn't find it significant or important  
16 to ask him the words?

17 A I was convinced enough by what Professor Metz  
18 represented to believe that you represented a disruptive  
19 presence in the classroom. That's correct.

20 Q Now, the funny thing about this is, the classroom  
21 stuff, that's like going back a whole year. This meeting  
22 is December 6th of 2013. I was already long gone from the  
23 classroom.

24 A Not 2013, I'm sorry.

25 Q Sorry, 2012. You're right. But the point is,  
26 like, the classroom was already long gone and yet there was  
27 now an urgent meeting where you were discussing the need to  
28 bar me from the campus, and I can't see how something I  
29 would have shouted in class, if I did shout in class, the  
30 year earlier, or criticized his pedagogy, which seems like  
31 fair game in a, in an education program where the point of  
32 going to class is to discuss pedagogy, would you say that  
33 if a student criticizes a teaching method that the  
34 professor uses, that that constitutes threats and

1 intimidation?

2 A No. I would not say that, not --

3 Q But --

4 A -- necessarily, number one.

5 Q --- not necessarily.

6 A Correct.

7 Q But Professor --

8 THE COURT: Let him --

9

10 BY MR. GREEN:

11 Q -- Metz --

12 THE COURT: Let him, let him --

13 MR. GREEN: Sorry.

14 THE COURT: Let him finish answering the  
15 question.

16 THE WITNESS: Not necessarily, no. I teach, as  
17 well. People criticize my pedagogy all the time. That's  
18 part of the function, you're quite correct, of a student.  
19 Evidently what you did in the classroom, in Don Metz's  
20 classroom, was intimidating and threatening. I don't know  
21 when this occurred. I finished -- I started by saying to  
22 you that I was not in the position I'm in now when this  
23 class was held, evidently. I don't know when the class  
24 occurred. I don't know when the behaviour occurred. I do  
25 know that at the meeting of -- if it was December 6th it  
26 was December 6th, that that's what was represented, was  
27 represented to me, and evidently there was an ongoing  
28 dispute between you and Professor Metz. And evidently, as  
29 well, between you and George Bush, or you would not have  
30 gone to his house on the evening of January 11th, I  
31 assume.

32

33 BY MR. GREEN:

34 Q Okay. So the meeting, the urgency of the

1 meeting, are you saying it wasn't because I criticized his  
2 pedagogy, it wasn't because I shouted in class, it was  
3 because of the ongoing disputes which you've now alluded  
4 to?

5 A Well, I don't know what the chronology is, Marty.  
6 I don't know what the chronology is exactly. I don't know  
7 when you were in a classroom with Don.

8 MR. GREEN: Excuse me, Your Honour.

9 THE CLERK: There is no more water.

10

11 BY MR. GREEN:

12 Q But you were at that meeting?

13 A Yes, I was.

14 Q You remember who else was at the meeting, by the  
15 way?

16 A Lisa McGifford, certainly, as the UFA person,  
17 Don. There were other people at the meeting as well.  
18 Maybe Debra Wiloshin (phonetic), and I just don't remember  
19 who else. It's possible that the legal counsel was there,  
20 Colin Morrison, but I don't know.

21 Q I'm just thinking that if you were meeting to  
22 discuss like the urgency of dealing with the Marty Green  
23 situation ...

24 A Um-hum.

25 Q It wasn't about something I shouted in class  
26 eight months earlier or something, a criticism I made of  
27 Professor Metz's pedagogy, it was what you've now referred  
28 to as an ongoing conflict?

29 A That's correct.

30 Q Can you tell us the particulars of the ongoing  
31 conflict about which you were so concerned?

32 A First of all, I was called in to meet because I  
33 am the V.P. academic. It was not my concern. It was  
34 raised to me, and therefore I attended the meeting. What

1 was represented to me gave me cause for concern.

2 Q Do you remember what it was that was represented  
3 to you that caused you to --

4 A Yes. I just -- yes, I just, I just detailed to  
5 you what some of those concerns were about your conduct in  
6 the classroom. There were entries in your blog, there were  
7 appearances on campus to collect material or some such  
8 thing, collect, collect assignments or some such thing, so  
9 you, you continued to represent a threat to Professor Metz.  
10 And all that I can infer is that the threat began with your  
11 conduct in his classroom and continued, whenever the class  
12 was. I don't know when this class was. I do know that at  
13 the meeting of December 6th, if that's the date that it  
14 was, Dr. Metz felt that there was an ongoing threat from  
15 you which began with your presence in his classroom and  
16 your disruptive behaviour there.

17 Q I'm just trying to separate the, the ones that  
18 began way back with the ones that were ongoing. Because I  
19 think the meeting must have been called by account of the  
20 ongoing issues. And what I've got as far as ongoing issues  
21 (inaudible) is I've got log entries --

22 A Yes.

23 Q -- and appearances on campus.

24 A Yes.

25 Q Okay. Do you have particulars of the blog  
26 entries, the entries of which --

27 A No.

28 Q -- (inaudible) you're concerned of?

29 A No, I don't. I've never read your blog.

30 Q So you don't know if he had any -- from reading  
31 the blog, you didn't say, well, what did he say? You  
32 (inaudible) -- excuse me. I'm, I'm a little incoherent  
33 now. (Inaudible) particulars, didn't ask.

34 So you didn't ask the particulars of the blog

1 entries.

2           The appearances on campus, what was especially  
3 threatening about those appearances? What, what -- you  
4 said they were to collect personal property?

5           A     I'm not sure what the purpose of the appearances  
6 on campus were, Marty. I'm telling you --

7           Q     But you --

8           A     -- that Dr. Metz felt threatened by your presence  
9 on campus.

10          Q     That Dr. Metz --

11          A     Did not feel safe in your presence.

12          Q     (Inaudible).

13          A     That's what I'm trying to tell you.

14          Q     But you don't know why he didn't -- he felt  
15 threatened. Like, you're not telling me why he felt  
16 threatened.

17          A     I'm not, I'm not a psychologist.

18          Q     But perhaps his fear of me was irrational and I  
19 shouldn't be punished for his irrational fears. Did you  
20 consider that?

21          A     Yes.

22          Q     And what was your conclusion?

23          A     That he was not irrational.

24          Q     On what basis did you make that conclusion?

25          A     The representations that he made during the  
26 meeting.

27          Q     Okay. But you didn't ask him the particulars  
28 that caused his fears, and yet even without asking him why  
29 he was afraid you were able to conclude that his fears were  
30 rational.

31          A     He gave me sufficient representation, I've just  
32 explained to you what it was, for me to be convinced that  
33 you were a threatening and intimidating presence for  
34 Professor Metz in the classroom and beyond the classroom;

1 that's correct.

2 Q Well, perhaps it's clear to the judge that I was  
3 indeed a threat to Mr. Metz and, based on what you've said,  
4 that he did have good reason, but I'm still not seeing what  
5 did I actually do that made him scared.

6 I just don't know what I supposedly did, based on  
7 this, that justified banning for life. There's just a huge  
8 thing I ... And I don't know if I -- and again, it's a can  
9 of worms question. It's where do I begin. I can confront  
10 a witness with specific things that Professor Metz said and  
11 I can say, was this one of the reasons, but obviously he  
12 doesn't remember anything. He doesn't -- like --

13 You've searched your memory, you don't remember  
14 anything other than being there in this meeting of December  
15 6th that you were convinced, but you don't have any sort of  
16 specific incidents which you can say, this happened on such  
17 and such a date and Professor Metz showed us this evidence  
18 and I thought it was horrifying. You don't have any such  
19 stories; am I right?

20 A I don't know how to respond to you. I've tried  
21 to give you an accurate description of what took place at  
22 the meeting. I've told you that I was persuaded by Dr.  
23 Metz's account. That's --

24 Q I'm, I'm going to ask --

25 A -- that's what I have to say.

26 Q -- the judge to ask my question before me --

27 A Please.

28 Q -- because I'm obviously not being able to ask  
29 it.

30 A Please.

31 MR. GREEN: I'm trying to ask if he could tell us  
32 one specific incident which was clearly sort of explained  
33 by Professor Metz which would say, yes, this is --

34 THE WITNESS: Yes.

1 MR. GREEN: -- a horrible incident.

2 THE WITNESS: Yes.

3 THE COURT: You're, you're nodding your head, Mr.  
4 Besner.

5 THE WITNESS: Yes.

6 THE COURT: So --

7 THE WITNESS: Yes, I thought --

8 THE COURT: -- I should say Dr. Besner.

9 THE WITNESS: I thought that I had given you such  
10 an incident, but I'll try again.

11 It was -- what was described to me was that in  
12 class, you had stood up, yelled, taken over the classroom  
13 and essentially disrupted the classroom in such a way that  
14 the, the conduct of the class was disrupted. This was  
15 threatening and intimidating to Professor Metz. I thought  
16 that I'd made that clear. Is that clear or do I need to  
17 repeat that?

18

19 BY MR. GREEN:

20 Q I'm going to ask you for some more particulars on  
21 it. You don't know what class it was?

22 A I -- what -- do you mean the name of the course  
23 or --

24 Q Yeah, yeah.

25 A No, I can't remember what course it was. It was  
26 the course that you were taking with Professor Metz. Don't  
27 you remember what course you were taking with him?

28 Q I remember taking two courses with him, actually.

29 A Well, it was one of the courses that you took  
30 with Professor Metz.

31 Q How does someone take over a class?

32 A I don't know, Marty. I wasn't there.

33 Q Did Mr. Metz describe exactly how I had taken  
34 over the class?

1           A     You -- I, I just tried to tell you. Evidently  
2 I'm not making myself clear. You stood up, you yelled, you  
3 disrupted the class. I call that a way of taking over a  
4 class. Whatever you did was disruptive, threatening and  
5 intimidating.

6           Q     Whatever it was, you don't know what it was.

7           A     What I've just --

8           Q     Whatever it was that was horrible, okay.

9           THE COURT: Mr. Green --

10          MR. GREEN: I'm sorry.

11          THE COURT: -- I think you've covered this area.

12          MR. GREEN: Okay. Okay.

13          THE COURT: I have -- I'm fairly confident I have  
14 Dr. Besner's evidence on this, so is there another area you  
15 wanted to go on to?

16          MR. GREEN: You understand that I have some idea  
17 now that he's clarified which day in class he's talking  
18 about, and I do want to dispute Professor Metz's account of  
19 that day but it takes us so far afield I'd rather stick to  
20 the 2013 events except that the lead-up to the 2013 events  
21 includes the ongoing intimidation and harassment of  
22 Professor Metz, which I'm trying to isolate from, from the  
23 earlier incidents. I don't want to leave the impression  
24 that, that the accusations are true, but it's --

25          THE COURT: I can --

26          MR. GREEN: -- it's too much to open a can of  
27 worms, so can you give me any guidance on this?

28          THE COURT: Well, I just don't know. I think  
29 you've covered it. I, I --

30          MR. GREEN: Um-hum.

31          THE COURT: -- understand your point.

32          MR. GREEN: See, I want to say what really  
33 happened that day but then I don't want to get into it.  
34 It's too much. It's too much.



1 THE COURT: Okay. Well, then move on to another  
2 area.

3 MR. GREEN: But I don't want to be compromised by  
4 him having it sort of as a slur against me in the record,  
5 so as long as I have your assurance that you're, that --

6 THE COURT: You're going to get your --

7 MR. GREEN: Yeah.

8 THE COURT: -- opportunity to, to give your --

9 MR. GREEN: Okay.

10 THE COURT: -- own evidence, so at that point I  
11 think you can tell me what really happened. I think you've  
12 tried to put to Dr. Besner a number of times now, or tried  
13 to elicit from him details about that history. I've got  
14 his evidence on that.

15 MR. GREEN: I'm just going to then get off this  
16 topic as soon as I verify that he's referring to a  
17 particular incident, which I have in documentation, and  
18 I won't ask him to comment on it, but I'm just going to  
19 say --

20

21 BY MR. GREEN:

22 Q This is the incident you're talking about, right?

23 A I don't know if it's the incident that you're  
24 talking about.

25 Q Wait till I show you the, the document, and then  
26 you can tell me you don't know or you do. If you'll just  
27 bear with me because I have such a pile of stuff here.

28 I'll just ask him to glance and this and say yes,  
29 that's the incident. Stand up and shouting in class, the  
30 whole thing.

31 THE COURT: What is it that you're showing him,  
32 can you tell me?

33 MR. GREEN: This is a, an affidavit -- no, this  
34 is a letter written by Don Metz to the, the dean of

1 education on the 10th of November, 2011.

2 THE COURT: Okay. So you can show it to Dr.  
3 Besner and ask --

4 MR. GREEN: Yeah.

5 THE COURT: -- him if he's ever seen that letter.

6

7 BY MR. GREEN:

8 Q Just glance at that and say do you think this is  
9 -- is this -- you think this is the incident that you're  
10 talking about?

11 A Thank you.

12 Q That's it. You don't have to read more.

13 A It could --

14 Q There's more incidents but --

15 A It could well have been. I mean, I -- it, it  
16 sounds very much like the kind of behaviour that he was  
17 describing. I have no way of knowing whether it was that  
18 incident or whether that incident happened repeatedly. I  
19 don't know. But certainly the, the description that I've  
20 just read is, you could say, is representative of what  
21 Professor Metz described as your behaviour, yes. Again, I  
22 do not know if that particular incident was the incident  
23 that he was referring to. But it sounds typical of the  
24 behaviour that he was describing, yes.

25 Q Um-hum. Well, you see, now he's, he's making a  
26 problem again because he's, he's -- now he's saying that it  
27 wasn't this incident but that it was, this incident was  
28 typical of a whole --

29 A Because you --

30 Q -- pattern of behaviour.

31 A Because, Marty, I can't know if it was --

32 Q Okay.

33 A -- that incident. I wasn't there.

34 Q But you're, you're saying it wasn't one incident

1 where I --

2 A I don't --

3 Q -- stood up and yelled and taken over the class,  
4 that it was sort of an ongoing pattern where I was doing  
5 that all the time is what's --

6 A I don't know whether you were --

7 Q You don't know.

8 A -- doing it all the time.

9 MR. GREEN: Okay. We'll go -- I'm going to take  
10 the judge's advice and just drop, drop the, this line of  
11 questioning because ...

12 And you see, this line of questioning I want to  
13 drop, like the, the deep background, but the near  
14 background, I think it's relevant, that the, the sort of  
15 the, what he calls the, the ongoing conflict that was  
16 taking place --

17 THE WITNESS: Yes.

18 MR. GREEN: -- at the time of the meeting. I  
19 think --

20 THE WITNESS: Yes.

21 MR. GREEN: -- could be relevant.

22 THE WITNESS: Yes.

23 MR. GREEN: And I think I need to ask him about  
24 that. He's already said he doesn't remember much about it.  
25 He said they were blog entries which he never cared to read  
26 but he understands that they were threatening in some way,  
27 and he's not going to give us any particulars on what, what  
28 it was, but he says they were blog --

29 THE COURT: Okay. So we got all that --

30 MR. GREEN: Sorry.

31 THE COURT: -- ask something new.

32 MR. GREEN: I'm awfully sorry. Yes, it's hard to  
33 me to compose.

34

1 BY MR. GREEN:

2 Q He says there were appearances on campus to  
3 collect certain property.

4 A Yes.

5 Q And there was something that he find threatening  
6 about that, but you don't know what, just that Professor  
7 Metz (inaudible) --

8 A You're, you're --

9 Q -- made him afraid.

10 A No. As I've tried to explain, let me try once  
11 more, your presence he found threatening and intimidating.

12 Q Ah, it was my presence, not my actions. That's  
13 what I (inaudible) --

14 A Your presence --

15 Q It was not my actions.

16 A -- includes your actions.

17 Q Not my actions --

18 A For goodness sakes.

19 Q -- intimidating, my presence.

20 A No. You're putting words in my mouth, Marty.

21 Q Well, it's, it's what I do.

22 A Yes, I know that. I'm discovering that.

23 Q I asked you what the actions were you. He says,  
24 no, it was your presence that was intimidating so I'm  
25 understanding --

26 MR. GRIEVES: Your Honour, the --

27 THE WITNESS: Your actions are a part of your --

28 MR. GRIEVES: -- the witness --

29 THE WITNESS: -- presence. For goodness sakes.

30 MR. GRIEVES: -- clarified that, that answer.

31 THE COURT: Yes.

32

33 BY MR. GREEN:

34 Q Then what were the actions? What actions --

1 A I don't know, Marty.

2 Q -- (inaudible) --

3 A I wasn't there.

4 Q -- you don't know. Okay. There we go. Not my  
5 actions, my presence was intimidating, actions I don't  
6 know.

7 But you knew enough to, along with the other  
8 requisite senior parties, including, we said, Laurel Rebsky  
9 and --

10 A Yes. That's --

11 Q -- it was enough to convince you of the necessity  
12 of going ahead with the renewal of the barring order?

13 A That is correct.

14 Q So without knowing what the actions were --

15 A I had --

16 Q -- you could still make that decision?

17 A I felt -- yes, that is correct. I felt that I  
18 had sufficient grounds that you should be banned. I  
19 continue to feel that --

20 Q Um-hum. Without --

21 A -- I continue to hold that view.

22 Q -- knowing what my actions were.

23 A I had enough of a sense of your behaviour and  
24 your actions.

25 Q Okay.

26 A That's correct. You may not think that. That's  
27 your business. My business is to make sure that the campus  
28 is safe. If I have a professor who feels threatened, I  
29 need to act to make sure that he ceases to feel threatened.  
30 That's what I did.

31 Q Okay. I think I've established what I need to  
32 establish about the lead-up events.

33 I'm going to say you have no recollection of  
34 particulars, so I'm going to remind you of some particulars

1 that I'm aware of, so you can say, oh yes, now I remember  
2 that, or you can say, no, I didn't know about that.

3 A Please.

4 Q Can I do that?

5 A Please.

6 Q Hah. Again, I'm going to read from Mr. Metz's  
7 record. Excuse me. Ouch. Here it is.

8 I just have to read them all and ask him if he  
9 remembers them. I got no choice.

10

11 October 15th, 2012 I received  
12 requests from Mr. Green to John  
13 Anchen (phonetic) for return of an  
14 apparatus that he claimed was left  
15 in science classroom. I had never  
16 taken possession of the alleged  
17 apparatus and never had any  
18 knowledge of the apparatus.  
19 Included was a request for the  
20 return of two assignments. One  
21 assignment was forwarded to him  
22 and the other assignment was never  
23 completed according to the  
24 requirements in the course  
25 outline.

26

27 Do you recall Professor Metz making those?

28 A No.

29 Q Raising those issues?

30 A No.

31 Q So those were not particular concerns. Okay.

32

33 October 19th. Mr. Green  
34 circulates an e-mail claiming that

1                   my response was disingenuous and  
2                   that he wanted his apparatus  
3                   returned.

4  
5                   Do you recall that as a threatening ...

6           A       No.

7           Q       Okay.

8           A       No.

9           Q

10                   October 19th. Mr. ...

11

12                   MR. GRIEVES: Your Honour, I'm not sure what,  
13 what is -- from what document is Mr. Green reading  
14 from?

15                   MR. GREEN: This was a, an affidavit that Mr.,  
16 Professor Metz filed on, I think the 18th of January, 2013,  
17 when he went to Provincial Court to ask for a restraining  
18 order. I should -- you should have a copy of this. And I  
19 have, I have a partial copy of two pages. I just didn't  
20 think that so much of it would be relevant so I only have  
21 a portion of it, but we could straighten this out  
22 afterwards.

23                   THE WITNESS: Your Honour, if I'm being asked  
24 whether I saw the affidavit filed in January of 2013, I did  
25 not.

26                   MR. GREEN: I don't think I'm asking him that. I  
27 think I'm asking --

28                   THE COURT: I think what he's asking you is do  
29 you remember these things ever --

30                   THE WITNESS: Okay.

31                   THE COURT: -- being told to you by Mr. Metz.  
32 And that's what I understood you were answering, that you  
33 were saying --

34                   THE WITNESS: No, correct.

1 THE COURT: -- I don't recollect.

2 THE WITNESS: Correct.

3 THE COURT: And again, I don't know how helpful  
4 this is, Mr. Green, but I'm going to give you a little bit  
5 more leeway on that but not very much.

6 MR. GREEN: Well, he said that he had sufficient,  
7 more than sufficient, sort of understanding of the  
8 situation to justify the barring order, and the barring  
9 order --

10 THE WITNESS: Yes.

11 MR. GREEN: -- is what got me in jail in the  
12 first place. And so he says there were ongoing incidents.

13 THE WITNESS: Yes.

14 MR. GREEN: As far as I understand, these were  
15 the ongoing incidents, but he doesn't know anything about  
16 them so I'm trying to say, well, how did he know that there  
17 was a barring order justified.

18 THE COURT: Okay. So, keep going.

19 MR. GREEN: Okay.

20

21 BY MR. GREEN:

22 Q

23 October 19th. Mr. Green  
24 circulates an e-mail to claiming I  
25 have made several false assertions  
26 with respect to his claims and  
27 that the administration should  
28 review my previous complaints  
29 about him in light of my  
30 unreliability. He posts similar  
31 assertions on his public blog.

32

33 Remember that?

34 A No.



1 Q Okay.

2

3 October 26. Mr. Green circulates  
4 an e-mail with another demand for  
5 marking of his incomplete  
6 assignment.

7

8 You remember that at all? You can say no, it  
9 doesn't hurt you. I'm sorry.

10 A Are you asking me a question?

11 Q Yeah, I'm asking you if you recall this.

12 A Can you tell me the question, please, so I can  
13 respond.

14 Q Okay.

15 A Without interrupting me, please.

16 Q Yeah. I have an entry here from his affidavit  
17 where he's listing incidents, he lists for October 26,  
18 2012:

19

20 Mr. Green circulates an e-mail  
21 with another demand for marking of  
22 his incomplete assignment.

23

24 A Right. So I think, I think I can save you some  
25 time.

26 Q Um-hum.

27 A The -- you're asking me about specific incidents  
28 and whether I recall (a), (b), (c), (d), (e) and (f).

29 Q Yeah.

30 A I don't recall (a), (b), (c), (d) and (f) but I  
31 do recall what it's, what those incidents that you are  
32 reading sound like is the kind of behaviour that was  
33 represented to me in the meeting of, whenever it was,  
34 December 6th, which was continuing wrangles with various

1 university people, professors, appeals committees and so  
2 on, about returning of marks, grading of assignments and so  
3 on and so forth. So that's my general observation. If  
4 you're asking me whether I recall the specific nature of  
5 complaint (a), (b), (c) and (d), no, I don't, but it sounds  
6 very much like the behaviour that was described to me in  
7 general, yes.

8 Q So now grading assignments, now we start to spy  
9 out what was the horrifying behaviour which he found so  
10 threatening, it was continuous wrangling over returning  
11 marks of --

12 A No.

13 Q -- returning assignments.

14 A No.

15 Q (Inaudible) what did you just say?

16 A I did not say that. I said that --

17 Q (Inaudible).

18 A Can I finish my response?

19 Q Yeah.

20 THE COURT: Please do.

21 THE WITNESS: I said that those kinds of  
22 incidents were typical of what was described to me by Don  
23 and others of your behaviour in the faculty of education  
24 with professors like George Bush, like Don Metz, like Debra  
25 Wiloshin. There's a pattern that you're describing there  
26 that sounds very much like the, the behaviour that was  
27 represented to me. Again, do I recall the specific  
28 incident? No. Do the things that you're, that you're  
29 reading there sound like the kind of behaviour that was  
30 represented to me? Yes.

31

32 BY MR. GREEN:

33 Q So the incidents that I read up to this point,  
34 you say, yeah, that's what we banned him for.?

1           A     No.  I did not say that.  I said that it was  
2 those kinds of behaviours.  You asked me --

3           Q     Okay.

4           A     -- did I recall incident "X" --

5           Q     Okay.

6           A     -- incident "Y".

7           Q     Yeah.

8           A     I said no.  What I did say was that kind of  
9 behaviour is the kind of behaviour that would lead to a  
10 banning, not the behaviour alone, not any one specific  
11 incident.

12          Q     And when --

13          A     A series of ongoing incidents, yes.

14          Q     Yeah, and I'm going to say, when you say "this  
15 kind of behaviour" --

16          A     Yes.

17          Q     -- that you were able to be specific of, of  
18 stipulating, based on what I've read, and you generalize as  
19 returning assignments and -- or returning marks and grading  
20 assignments.  Those were some of the things that you found  
21 to be objectionable, kinds of things?

22          A     What I found objectionable were the continuing  
23 disputes over assignments, return, not returned, in  
24 people's possessions, requirements not met, a continual  
25 record of wrangling.  Not one incident, not two incidents,  
26 many ongoing incidents.  That's what I mean by a pattern.

27          Q     Okay.  Hah.

28                    If a student is unhappy with his mark, is there a  
29 procedure whereby he's entitled to appeal the mark?

30          A     Absolutely there is.

31          Q     And did I go through that process?  Did I follow  
32 the correct steps of the process?

33          A     I don't know that you followed the correct steps  
34 of the process.  You certainly went through some processes

1 which you were very unhappy with, as I recall.

2 Q I don't -- your sort of perception of my  
3 emotional state of happiness or unhappiness, I don't know  
4 how, why you want to enter that, but --

5 A But you feel quite confident in, in assessing my  
6 state of mind and whether I'm lying or not and whether I'm  
7 hostile or not, but I can't infer your state of mind.  
8 That's interesting to me.

9 MR. GREEN: Ah, wonder. I'd like to wrap it up  
10 at 5:30, Your Honour, but this is -- there's still some  
11 territory to cover and I mean, I find these, these, the  
12 nature of what he's saying to be surprising to me. I think  
13 it's helpful to me that he's, he's, he's telling me what  
14 specific behaviours he found so objectionable that led to  
15 the barring notice which led to the trespassing, which led  
16 to me spending time in Headingley jail, was that I had  
17 complained about a mark and that I wasn't --

18 THE COURT: Okay. Okay. Remember, argument is  
19 for another time, so --

20 MR. GREEN: I'm sorry, I --

21 THE COURT: -- what we want to do --

22 MR. GREEN: Yeah.

23 THE COURT: -- is get Dr. Besner's evidence --

24 MR. GREEN: Yeah. Yeah.

25 THE COURT: -- before the court. So if there is  
26 territory you still need to cover, I'm going to ask you to  
27 move on to it and do it quickly.

28 MR. GREEN: Okay. Yeah. I think I've covered  
29 this piece of territory.

30 THE COURT: I think so.

31 MR. GREEN: Okay.

32 THE COURT: So let's move to something else.

33 MR. GREEN: I mean, I think I've, I think I've  
34 got plenty to digest over the next three weeks but I just

1 don't want to kind of leave out anything good that I can  
2 say (inaudible) oh, I should have asked him this, because  
3 that's what I'm just thinking.

4 THE COURT: Take a few minutes and just compose  
5 yourself and make sure --

6 MR. GREEN: Do we want to all take five minutes  
7 and I'll just walk up and down the corridor, or should  
8 I just stand here and look? Whatever you like, I can  
9 take ...

10 THE COURT: You tell me what you need. If you  
11 need five minutes to walk up and down the corridor, we can  
12 give you five minutes so that we can complete this for  
13 today. Why don't we take five minutes. I know that it's  
14 hard if everybody's sitting --

15 MR. GREEN: Maybe that's --

16 THE COURT: -- looking at you, so --

17 MR. GREEN: -- the right thing to do.

18 THE COURT: -- we'll take five minutes and then  
19 come back.

20 THE CLERK: All rise. Court is in recess.

21

22 (BRIEF RECESS)

23

24 THE CLERK: Court is re-opened.

25 THE COURT: Just ask you to take the seat back.  
26 You're still under oath or affirmation. I can't remember.

27 MR. GREEN: Thank you, Your Honour, for -- and I  
28 really appreciate the accommodation here. And when I think  
29 about it, I see that these are things I have to hammer the  
30 witness on. I have my own chance to testify.

31 THE COURT: Right.

32 MR. GREEN: But it's hard to sort of understand  
33 that in the heat of the moment, so I'm totally satisfied  
34 that I should move, move on.

1 BY MR. GREEN:

2 Q I wonder if you were involved in the decision to  
3 hire extra security guards?

4 A No.

5 Q You don't know nothing about that. Okay. That's  
6 all right.

7 I have here a question that I'm supposed to ask  
8 you:

9 Did Professor Metz's complaints influence the  
10 decision to issue the barring notice? I think it's yes, I  
11 think -- is that right?

12 A Were you asking a question?

13 Q I think I am.

14 A Yes.

15 Q Sure. Because my notes are all from here and  
16 from there, like from (inaudible) my previous notes and my  
17 notes on examination, so I'm kind of -- just trying to  
18 clean up a little here.

19 Ah. Ah. This is a funny question.

20 You know I had a great dispute with Professor  
21 Bush. Did you know about the, the exam that, the course?  
22 You don't know --

23 A No.

24 Q -- anything about that?

25 A I don't know the particulars of your dispute with  
26 Professor Bush, only that he, too, felt intimidated and  
27 threatened by you.

28 Q By events after -- okay, okay, well, we're going  
29 to put that down. Bush also felt threatened (inaudible).

30 A Correct.

31 Q And based on things that happened back when we  
32 were in school together or based on the ongoing events, I  
33 wonder.

34 A I don't know. Certainly was true that by the

1 time that Friday January 11th had elapsed, George Bush and  
2 his wife felt threatened and intimidated by you.

3 Q But they felt it before that, the date.

4 A I don't --

5 Q They were already -- that he'd already asked for  
6 -- there was a thing where I went to his church and was  
7 stalking him. He, he reported that to the university  
8 so ...

9 A I don't know what --

10 Q You don't know about the church stalking?

11 A No.

12 Q Okay. Don't know. Okay.

13 What about the throat slash?

14 A What?

15 Q What? Okay, so you don't know about that.

16 A Would it help if I clarified why I think that  
17 George Bush and his wife felt threatened --

18 Q Absolutely.

19 A -- by you? They felt threatened and intimidated  
20 by you because you forced your way into their house on  
21 Friday evening, January 11th. That's what I know, or  
22 that's what was reported to me.

23 Q Um-hum. Forced my way or tried to force my way?  
24 Did you want to elaborate? Did you want to elaborate?  
25 Forced my way in or tried to force my way in?

26 A Tried to force your way in.

27 Q Okay.

28 A Somewhat successfully.

29 Q What do you mean by somewhat successfully?

30 A As I understand it, you pushed the door in with  
31 your foot and prevented it from being closed.

32 Q Um-hum.

33 A That's what I mean.

34 Q And who told you that?

1 A George Bush.

2 Q You recall the words he said?

3 A I'm sorry, I don't recall the words that he said.

4 Q I didn't think you would.

5 A I'm sorry, what does that mean, I didn't think  
6 that you would? Could you clarify for me?

7 MR. GREEN: It's sarcasm, Your Honour. I'm being  
8 sarcastic.

9 THE WITNESS: That's what I thought.

10 THE COURT: He's commenting, and it's not  
11 necessary --

12 THE WITNESS: Thank you.

13 THE COURT: -- to engage in that.

14 THE WITNESS: I'm getting tired of it.

15 MR. GREEN: Well, maybe I'll wear you down that  
16 way, who knows.

17 THE WITNESS: Well, you can try.

18 MR. GREEN: Okay. It's worth a try.

19 THE WITNESS: Absolutely, give it a shot.

20

21 BY MR. GREEN:

22 Q Hah. And, and you know about the lawsuit for,  
23 that I have against the, the university for -- the  
24 conspiracy to injure lawsuit against -- you know about the  
25 lawsuit that I issued a year ago, just going on a year ago,  
26 about getting kicked out of the practicum?

27 A No, I don't.

28 Q Oh, you don't. Okay.

29 A No, I don't.

30 Q You don't know.

31 A No.

32 Q You're not involved in that at all?

33 A No, I'm not involved in that.

34 Q Okay. That's fine. That's okay. You don't



1 think maybe the professors there are trying to make me out  
2 to be a bad guy just because I'm suing them? No comment?  
3 You don't have to comment on that.

4 A Well, thank you, Marty.

5 Q Do you think that the fact that I'm suing them  
6 is, again, indicative of the ongoing, what did you call it,  
7 the conflicting or the continuing disputes, like the fact  
8 that I'm suing them, does that fall into the general  
9 umbrella of the continuing disputes --

10 A I --

11 Q -- which justified the barring order?

12 A I have not been aware, until this minute, that  
13 you are suing anybody, Marty.

14 Q Isn't that something.

15 A It is, yeah. I'm sure it is. I'm sure that's a  
16 revelation to you.

17 Q Well, it's a surprise to me.

18 A Okay.

19 Q I thought everyone knew it that I was suing the  
20 university. You're a vice-president and you've sort of  
21 been involved in my case. I thought you knew that.

22 A I did not know that, Marty. Let me just say it  
23 once more. I did not know that.

24 Q Would you, would you agree that it's reasonable  
25 for me to be surprised at the fact that, which I'm  
26 accepting the fact, but do you find it surprising that I,  
27 that I would be surprised?

28 A I can't infer your surprise or lack thereof.

29 Q I thought -- yeah, I thought you might have some  
30 knowledge.

31 MR. GREEN: But I'm probably done. I think -- I  
32 said I, I wanted to consider if I'm done. I, I think I'm,  
33 I think I'm probably done. It's late in the day and I  
34 suppose we should excuse the witness.

1 THE COURT: Mr. Grieves gets a chance to ask some  
2 questions, if he wants to ask any questions.

3 MR. GRIEVES: Your Honour, I'm not going to  
4 cross-examine the witness. I haven't any questions.

5 THE COURT: All right. Thank you, Dr. Besner.  
6 You evidence is done for today, so you are excused and do  
7 not have to return for this hearing.

8 THE WITNESS: Thanks very much.

9 THE COURT: Thank you.

10 THE WITNESS: Goodnight.

11 THE COURT: Goodnight.

12

13 (WITNESS EXCUSED)

14

15 THE COURT: So earlier today we talked about the  
16 continuation date on September 25th. Just seeing how  
17 things went, I'm wondering whether we could start at --  
18 Madam Clerk, is that something I need to check with the  
19 trial coordinators before --

20 THE CLERK: (Inaudible).

21 THE COURT: Okay. So what I'm going to do, I'm  
22 wondering about what you think about starting at nine  
23 o'clock on September 25th.

24 MR. GREEN: I'm, I'm fine with that, yeah.

25 THE COURT: Because I really want to try to see  
26 if we can get the evidence heard --

27 MR. GREEN: Yeah.

28 THE COURT: -- on September 25th because it looks  
29 like we'll have trouble getting dates soon.

30 MR. GRIEVES: What -- it's not going to be in  
31 courtroom 403, it'll be in courtroom ...

32 THE CLERK: No, it will be courtroom 403.

33 MR. GREEN: That's a big courtroom.

34 THE CLERK: But if you want to start at 9:00

1 a.m., that would have to be confirmed through the trial  
2 coordinators and a courtroom provided.

3 THE COURT: Okay.

4 THE CLERK: Otherwise it would be the, like the  
5 9:45 start.

6 THE COURT: All right. Okay. So, so you're  
7 available to start at 9:00 --

8 MR. GREEN: Yeah.

9 THE COURT: -- on September 25th?

10 MR. GREEN: Yeah.

11 THE COURT: You're available to start at 9:00  
12 on --

13 MR. GRIEVES: Yes, yes.

14 MR. GREEN: Will, Mr. --

15 THE COURT: -- September 25th.

16 MR. GREEN: -- Grieves notify me of whatever you  
17 decide? Can we do that?

18 THE COURT: What --

19 MR. GREEN: If we don't decide it right now. I  
20 mean, if you --

21 THE COURT: What's your --

22 MR. GREEN: -- sort of consult, he can just  
23 notify me.

24 THE COURT: What's your e-mail address, because  
25 I'll just --

26 MR. GREEN: He's got it, if that's okay. I can  
27 give it to you, but he's got it.

28 THE COURT: All right. So we'll -- what I'll do  
29 is I'll have the trial coordinator contact you, Mr.  
30 Grieves, and then if you can forward the yes or no for the  
31 nine o'clock start and what courtroom to Mr. Green, then  
32 we'll aim for that. Just trying to maximize --

33 MR. GREEN: Yeah.

34 THE COURT: -- the time.

1 MR. GREEN: Yeah. We may be able to --

2 MR. GRIEVES: And so --

3 MR. GREEN: -- you see --

4 MR. GRIEVES: What about the witnesses, though?  
5 That's ...

6 MR. GREEN: Oh, yeah, we told them ten o'clock,  
7 didn't we.

8 THE COURT: Is Mr. Grainger still out there?

9 MR. GREEN: Oh, you know what, it's okay, we --  
10 because there's stuff we can do without the witnesses. We  
11 can argue the, the relevance of their testimony, the legal  
12 arguments. I mean, we could do that, too.

13 THE COURT: Well, not really.

14 MR. GREEN: Oh, we can't.

15 MR. GRIEVES: I can -- I mean, I have Mr.  
16 Grainger's e-mail address. I can ask him --

17 MR. GREEN: Yeah.

18 MR. GRIEVES: -- to attend at 9:00 on September  
19 25th.

20 THE COURT: Okay. Let's try that. So the first  
21 step is to find out from the trial coordinators whether or  
22 not we can start at 9:00. And then, if we can, then the  
23 next step will be for you to contact Mr. Grainger and see  
24 if he can come for 9:00, and then ...

25 MR. GREEN: You know, the other thing is, like as  
26 far as the relevance as the testimony, like the legal  
27 argument over whether the events of the 11th are relevant  
28 to the charges of the 7th, I think I've laid those  
29 arguments in my brief and I don't really need to argue them  
30 orally. So if that's going to save time, if you can, if  
31 you can --

32 THE COURT: What brief are you talking about?

33 MR. GREEN: The one we talked about before when I  
34 appeared before Judge Guy who subpoenaed the witnesses. He

1 has the brief and I can --

2 THE COURT: Is there arguments --

3 MR. GREEN: The court has a copy but it's in that  
4 file that went to Judge Guy. You don't know about it?

5 MR. GRIEVES: It's not -- I was not the Crown  
6 that was present at that motion as well.

7 MR. GREEN: Oh, I thought -- yeah, okay. But he  
8 got a copy --

9 MR. GRIEVES: Yeah.

10 MR. GREEN: -- and then he gave it to the duty  
11 Crown when you didn't -- and you didn't hold a copy, okay,  
12 it just went straight to the duty Crown.

13 MR. GRIEVES: Um-hum.

14 MR. GREEN: Because I served you, of course.

15 MR. GRIEVES: Yeah.

16 MR. GREEN: Now, I can serve you again, or what  
17 do you want to do?

18 THE COURT: This --

19 MR. GREEN: I think you should have it, the  
20 court, both sides, all parties should have it.

21 THE COURT: All right. So this brief, can you  
22 provide us with extra copies or --

23 MR. GREEN: Of course.

24 THE COURT: -- we should -- okay.

25 MR. GREEN: Yeah, yeah. And how do I do that?  
26 Just go to the desk downstairs and say this is file number  
27 -- do I have a file number on that -- or would she give me  
28 a --

29 THE COURT: Yeah, you can --

30 MR. GREEN: Does Mr. Grieves just --

31 MR. GRIEVES: I have -- no, I have a copy of the  
32 brief that you're talking about.

33 MR. GREEN: Yeah, you've got it.

34 THE COURT: Okay.

1 MR. GREEN: So she needs a copy.

2 So I should give you another copy?

3 THE COURT: I'll find out tomorrow whether or not  
4 the -- that we're able to retrieve it so ...

5 MR. GREEN: It'd be better if you could get it  
6 from the files, because I have like the --

7 THE COURT: Okay.

8 MR. GREEN: -- the cases and everything. It's --

9 THE COURT: If there's any problems with me  
10 retrieving a copy of it, I'll --

11 MR. GREEN: Would you work through Mr. Grieves on  
12 it?

13 THE COURT: Yeah.

14 MR. GREEN: I'm going to say something I  
15 shouldn't say right now, but I'm going to tell you, my  
16 biggest fear, I've been living under a cloud and I think  
17 I'm vindicating myself, and my biggest fear is that he's  
18 going to say, I have no case, he's going to drop the  
19 charges. I want to win this and I want a judgment that's  
20 going to say the university has -- I want -- so that when  
21 someone in the future goes on CanLII and seeing trespassing  
22 on university property, that the judgment is going to say,  
23 well, the university can't do this to people and, you know,  
24 maybe I'm overstating my case but, like, I don't want him  
25 to drop the charges. I want this to go through so we get a  
26 judgment on it. Now, I don't know that if I have any  
27 influence to making this point, but I think it's important  
28 that, you know, if it's going the way I think it's going, I  
29 think this needs to be said because otherwise they walk  
30 away scot-free and sort of it's the impression, well, we  
31 dropped the charged because we were just being nice to him  
32 and that crap. You know what I'm saying?

33 THE COURT: I take it you're not dropping the  
34 charges, Mr. Grieves.

1 MR. GRIEVES: The Crown is proceeding with the  
2 charges at this point --

3 MR. GREEN: All right.

4 THE COURT: -- Your Honour.

5 MR. GREEN: Okay. Well, I'm going to go to the  
6 bank on that, if I can.

7 THE COURT: Yeah, you can go to the bank, I  
8 think, on that one.

9 MR. GREEN: I don't know if that's -- that's  
10 good. I don't know if that's encouraging, but that's  
11 what's happening, is what I wanted. Okay. Shall we pack  
12 up, then?

13 THE CLERK: To September 23rd -- or sorry,  
14 September 25th, 10:00 a.m. in courtroom 403 (inaudible).

15 MR. GREEN: We said 9:00. Weren't we trying for  
16 9:00? Sorry.

17 THE COURT: Yeah. So right now, because the  
18 trial coordinators are gone for the day we can't confirm,  
19 so there's a few steps before we can --

20 MR. GREEN: Right.

21 THE COURT: -- say whether or not we can start on  
22 that --

23 MR. GREEN: Mr. Grievess will keep me informed.

24 THE COURT: Yeah. So --

25 MR. GREEN: Fair enough.

26 THE COURT: Let's keep nine o'clock open and  
27 we'll see if we can make that happen in the meantime. So  
28 court is adjourned for today.

29 THE CLERK: All rise. This court is now  
30 adjourned.

31

32 (PROCEEDINGS ADJOURNED TO SEPTEMBER 25, 2013)

**CERTIFICATE OF TRANSCRIPT**

I hereby certify the foregoing pages of printed matter, numbered 1 to 223, are a true and accurate transcript of the proceedings, transcribed by me to the best of my skill and ability.

---

CHRISTINE J. KING  
COURT TRANSCRIBER



# INDEX

	<b>Page</b>
PROCEEDINGS	1
<b><u>WITNESSES FOR THE CROWN:</u></b>	
C. HOPIAVUORI	
Direct Examination	4
Cross-Examination	12
Re-Examination	21
SERGE SYLVESTRE	
Direct Examination	22
C. HOPIAVUORI	
Cross-Examination	24
Re-Examination	34
SERGE SYLVESTRE	
Direct Examination	36
Cross-Examination	42
CHRISTOPHER JAMES RARICK	
Direct Examination	49
Cross-Examination	67
PROCEEDINGS	79
Cross-Examination	91
AKHIL TOM JOSE	
Direct Examination	109
Cross-Examination	117
MARTIN GRAINGER	
Direct Examination	119
Cross-Examination	149

**WITNESS FOR THE DEFENCE:**

NEIL BESNER

Direct Examination	156
PROCEEDINGS	218

**EXHIBITS:**

1	Photocopy of paper indicating "witness required"	26
2	Certified true copy of barring notice dated January 11, 2012	123
3	Certified copy of barring notice dated January 15, 2013	128
4	E-mails dated January 11, 2013 - two pages	160

THE PROVINCIAL COURT OF MANITOBA

BETWEEN:

HER MAJESTY THE QUEEN,

- and -

MARTIN GREEN,

Accused.

VOLUME 1

---

TRANSCRIPT OF PROCEEDINGS AT TRIAL, before The Honourable Judge Krahn, held at the Law Courts Complex, 408 York Avenue, in the City of Winnipeg, Province of Manitoba, on the 3rd day of September, 2013.

---

APPEARANCES:

MR. A. GRIEVES, for the Crown

MR. M. GREEN, in person

**BAN ON PUBLICATION**