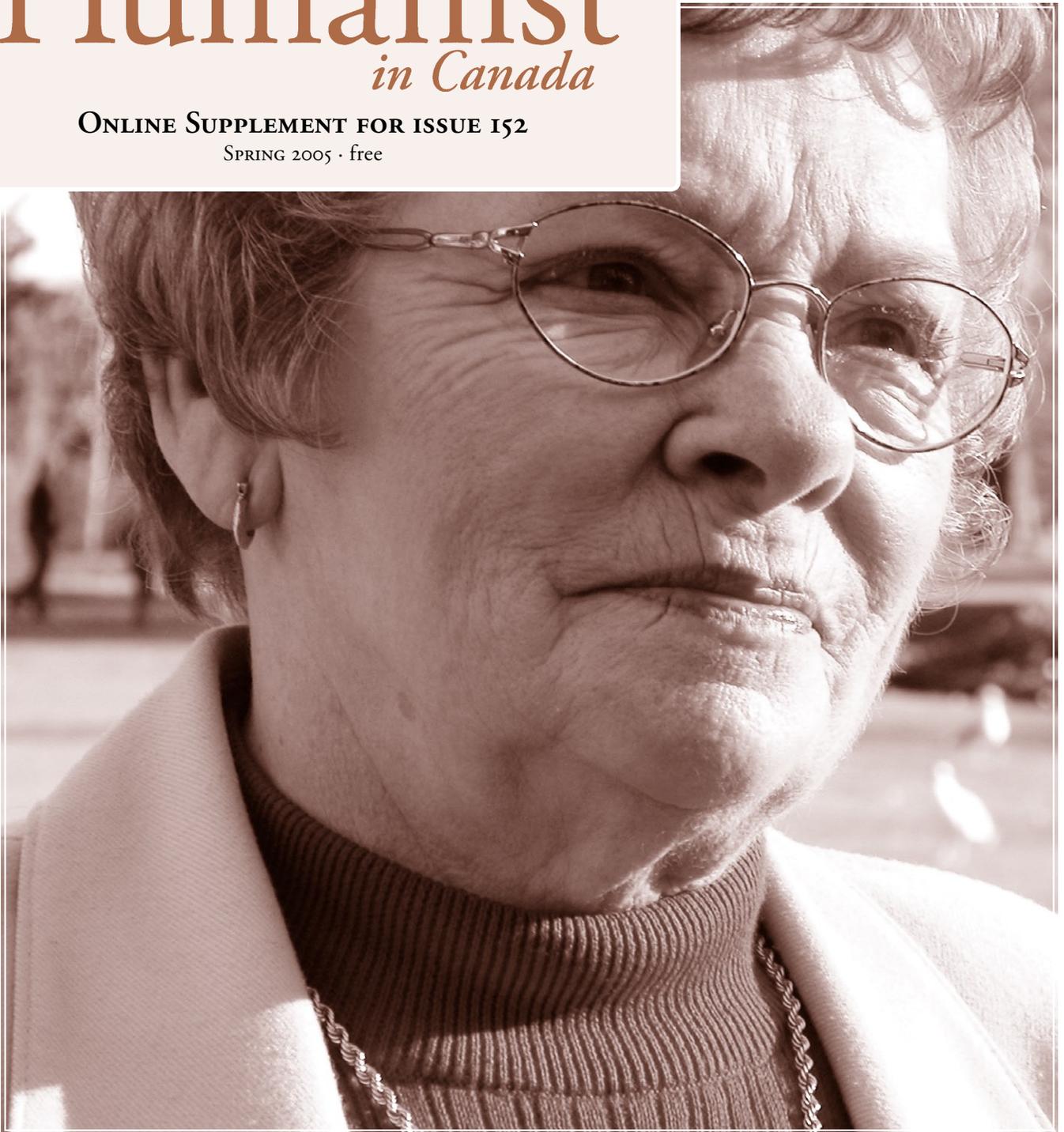


# Humanist *in Canada*

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**EVELYN** *the TRIAL of*  
**MARTENS** *&*  
*the undercover operation*

## Humanist in Canada

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the TRIAL of EVELYN MARTENS © ONLINE SUPPLEMENT  
the undercover operation



*This is an account of the undercover operation carried out by the RCMP, in June of 2002, in order to gather evidence to be used in the prosecution of Evelyn Martens for assisting in the suicides of Monique Charest and Leyanne Burchell. A detailed analysis of the rest of the trial appeared in the Spring 2005 issue of the Humanist in Canada. The comments by the agent and by Evelyn Martens are taken from the recording that was played in Court, and from the transcript of that recording that was made by the Crown. All direct quotes from the tape are shown in italics. Written by Gary Bauslaugh, Editor of Humanist in Canada.*

## Evelyn visits Leyanne

LEYANNE BURCHELL'S SUICIDE was different from Monique Charest's in that she was much closer to death when she ended her life, and also in how the death apparently occurred. Forensic pathologist Dr Charles Lee from Vancouver General Hospital, who conducted an autopsy on Leyanne's body, stated that he believed the cause of death to be a drug overdose. Leyanne had taken what Dr Lee believed to be a lethal dose of a mixture of several different drugs, including a very high level of morphine. The other drugs she had taken were ones that would likely increase the effect of the morphine. There

was no direct evidence that she had used helium or an exit bag, though the Crown tried hard to make that inference. **Two empty helium tanks and an apparently used exit bag were found in Evelyn vehicle** when she was apprehended later on the evening of Leyanne's death. But no evidence was ever found to link these directly to the suicide.

On June 26, 2002, Evelyn came to Vancouver to be with Leyanne. Evelyn left her Langford home, just outside of Victoria, around 7:00 am that morning, not realizing that she was being followed by three unmarked police cars with RCMP members

from the Duncan detachment. Following up on suspicions they had developed about Monique Charest's death, and Evelyn's possible involvement in that, the Duncan RCMP detachment had arranged that day to engage in an undercover operation designed to produce evidence that Evelyn had, several months earlier, assisted in Monique's suicide. The RCMP officers had no idea why Evelyn was going to Vancouver, but knew that she was going because of taped telephone conversations between Evelyn and an undercover agent. The agent had posed as the goddaughter of Monique Charest, and had arranged to meet Evelyn to discuss her godmother's death.

The agent, who I will refer to as Corporal Smith, since there is a Court Order forbidding the use of her real name publicly, had been with the RCMP for 28 years, working in undercover operations for about the last 20. There is pool of such agents who can be called into particular investigations when needed. She became involved with Corporal Wilton of the Duncan RCMP in planning the operation, looking at biographical information on Monique Charest and working out a plan. Corporal Smith was to pose as Monique's goddaughter, living in Manitoba, and planning to come to Vancouver to take a holiday on a cruise ship to Alaska. She was to claim that she got Evelyn's name from Monique's personal effects, and she was to indicate that she was distressed by her godmother's death and needed to talk to someone about it.

## the agent makes contact

ON JUNE 20, 2002, AT 1:22 PM, Corporal Smith tried to contact Evelyn by telephone from Vancouver, but only got her answering machine. She just hung up that time but phoned again a few minutes later and left a message, and a fake Manitoba return phone number that would automatically be rerouted to Smith in British Columbia. She tried again at 4:13 PM and left a second message. She got no response from Evelyn that night, so called her again the next day, and did succeed in reaching her. Smith talked about her desire to come to Victoria to see Evelyn. Evelyn agreed to see her and help her find a hotel:

*"I'll look around for a hotel... you want fairly economical accommodations, don't you?"* Evelyn asked.

*"Well, something middle of the road. I don't wanna be in the slum or anything, and..."*

*"No, no,"* Evelyn said.

*"...and yet I, I can't afford to be in the, the Ritz either, so..."*

*"No, no,"* Evelyn repeated.

*"I guess something kind'a middle of the road that's, you know... clean and decent... and what have you."*

*"Okay,"* Evelyn replied, and then she asked what questions the goddaughter had about Monique.

*"I guess I'm just confused... about a lot of things, and I, I, you know I, I think I'm just feeling really guilty."*

*"Why would you feel guilty?"*

*"Why would I feel guilty? ... 'cause I, I just, I, I wasn't there, I wasn't able to come for the funeral... there's just a, a lot of questions, I guess, in my mind that's, you know... I feel kind'a like a crappy goddaughter."*

Evelyn asked if she was coming out to the coast specifically to talk about her godmother.

*"...no, actually I'm going on a holiday. I'm going on a cruise, so..."*

*"And you're leaving from where, Victoria?"*

*"...no, it'll actually be from Vancouver."*

*"Okay,"* Evelyn said.

*"...you know, I've... I just not been sleeping well and everything... and I'm not, I'm not dealing you know, there's j'... I just need, I guess, some reassurances... knowing that everything went well with her."*

*"Oh, excellently,"* Evelyn said. *"Very well. [Monique was] a wonderful person... okay... I'll certainly agree to meet with you for coffee. I'll, I'll arrange for a motel... one of the better reasonable ones though. And you can always catch a cab from the bus depot. You're catching a bus over from Vancouver, right?"*

*"Yes... 'cause I have to... catch a ferry at uh, oh, what's the name of the... where I catch the ferry?"*

*"Tsawwassen,"* Evelyn answered.

*"Yes, that's it... okay. I just don't know how to say it."*

*"It's pronounced Tsawwassen. It's what the... locals call it."*

*"Oh, is it?"*

*"...but it is T-W, you know."*

*"Oh, okay, I, yes, it's on my itinerary... here somewhere..."*

Evelyn asked which ferry she would be catching and the agent said it would depend on flights and if they were on time.

*"But if you could... you know, just recommend a hotel to me, once I, I get settled in... I could... now, can you be reached at this number?"*

*"Oh yeah,"* Evelyn said. *"It's my home."*

*"Oh, okay."*

*"And you'll be going... back to Vancouver the following day, is that right?"*

*"Yes."*

*"Okay... why don't I arrange to meet you at the ferry? You can call me... to tell me which ferry you're on, even when you're on the ferry, you know."*

*"Okay."*

*"And I could, I could meet you at the ferry and we could have coffee in Sidney and there's a motel there and then the next morning you could catch a... cab back to the ferry. It would be a lot cheaper for you."*

*"Oh, okay, in Sidney."*

*"Yeah, Sidney, that's a little town right next to the ferries."*

The agent agreed and said she would phone when she had any idea which ferry she would be on. Evelyn said she would call back with the name of the motel so she could register.

*"Thank you,"* the agent said. *"I appreciate your help."*

*"No problem,"* Evelyn said.

## the worst part

THE STRIKING THING about this first exchange was willingness of Evelyn to go out of her way to help a woman she did not know, but who was in apparent distress. But then she was accustomed to doing such things. I spoke to Evelyn during a break in this portion of the proceedings.

"This is the worst part for me," she said, "having to listen to these tapes." She was referring to the tapes of her phone conversations with the agent and the tape of her subsequent meeting with the agent. "I'm such a patsy," she said.

Evelyn's comment to me worried me – why was it the worst part for her? (She had been through it twice before in preliminaries). **I worried that maybe there was something here that might really hurt Evelyn.**

As it turned out Evelyn had an appointment in Vancouver on the 26th, which coincided with the time of the goddaughter's visit, so they arranged to meet there instead. The appointment, of course, happened to be with Leyanne Burchell, but the police did not know anything about that. The three police officers trailing Evelyn from her home on the morning of June 26th followed her onto the ferry, observed her on the ferry, and then followed her off the ferry and into Vancouver. The three separate police vehicles, staying in radio contact with each other, were able to keep her in sight most of the time. They tracked her to Leyanne's residence on West 22nd Avenue and then kept up surveillance of the house as Evelyn went in for about an hour. Apparently they had no idea about what was happening in there. When later that day they found Leyanne's body they must have panicked and felt they had to arrest Evelyn that night, after the undercover interview. Here was a possible assisted suicide that occurred under their noses, during a surveillance! This could really make them look stupid. Apparently the police had intended a much longer and more detailed undercover operation – more than the one interview. They had hoped to catch not only Evelyn but many others involved in what they believed to be a "death conspiracy" – and an international one at that. But after finding the body they decide they could wait no longer. What if another suicide happened while they were watching Evelyn? Their panic at this point compromised their entire operation.

## the green shorts & the grind

WHEN EVELYN LEFT LEYANNE'S house she drove away and at some point contacted the faux goddaughter again and arranged to meet her. Corporal Smith had set up a cell phone number at which Evelyn could call her at any time. The police officers involved had wanted to lure Evelyn to a downtown hotel which they had wired, but Evelyn was reluctant to drive down there into an area she was not familiar with. "I'll get lost," she repeated apologetically. So Smith agreed to come over to the neighborhood where Evelyn was, and Evelyn suggested a coffee shop she could see from where she was phoning, The Grind on the corner of 26th and Main.

"I'll try and be there as quick as I can and... I'll see you there." the agent said, then added "I'm in green shorts."

"I'm in blue slacks and a white top with blue in it," Evelyn told the agent. "And I'm an older woman. How old are you?"

"How old am I? I'm over 40," the goddaughter said, laughing. "I don't have to tell after that, do I?"

"No, you don't have to tell after that," Evelyn answered.

"Exactly," the agent said.

The agent arrived a short while later, in her green shorts, to find Evelyn sitting outside at The Grind. Evelyn wanted to smoke and needed to sit outside, so the tape recording from the hidden microphone Smith was wearing suffered in quality from the vehicle noise on the busy street corner. Nevertheless most of it was transcribed by the Crown, and copies of the transcription were given to the Defense and to the Jury, so they could better follow the tape when it was played in court.

With some difficulty I was able to obtain the transcript from the Court Registry. It took persistence. The Crown and the Court Registry initially said it was not possible. I made many requests and at one point sent a formal letter to Crown Counsel Neil Mackenzie. **I kept insisting that the tape was played in court and was, therefore, a matter of public record.** The normal recording service, though, did not transcribe the tapes because they had already been transcribed by the RCMP, as part of the evidence given to Crown and subsequently to the jury. The official court transcriptions of the entire proceedings, I was told,

would only say 'the tape was played.' Finally I was directed to the Curator of Exhibits, a helpful and competent young woman who helped me pursue the matter and, eventually, get a Court Order signed by the trial Judge to release the document to me. I wanted it because in order to document this undercover operation as accurately as possible.

"Her and my mother went to school together," the agent could be heard saying of Monique, after she and Evelyn had greeted each other, and the agent had gone to get a cup of coffee. They chatted about smoking (the agent smoked too), the weather, antiques (there are several antique shop along Main Street), and then finally started to talk about Monique.

"Oh, um, ah, I, I really don't know where to start," the agent said.

"How did you ever meet Monique?" Evelyn asked.

"She's my godmother."

"But I mean..."

"Well obviously through my mother."

"Friend of the family," Evelyn observed.

"That's right... her and my mother went to school together, and then in fact, my mom doesn't talk about it a lot... I, I think something happened but she just doesn't talk about it... but I think she was in a nunnery for a while, and that's probably where they met. But neither of them ever talked about those things... My mother was raised a staunch, staunch Catholic... but not in our houses, I can tell you that... So I don't know. I, I think something horrible happened when she was younger, but it was something that... I mean she always protected me... so I mean she was always my buffer zone. I guess as a kid growing up... when my parents couldn't get me to see reason, she could... and for whatever reason we had a lot in common. [this was to show that the goddaughter was more like Monique than her own too Catholic mother, i.e. the agent would likely be in sympathy with Monique's decision to commit suicide. Evelyn was more likely to open up if she thought the goddaughter was like Monique.] We liked a lot of the same things, like we're both animal lovers."

Evelyn agreed.

"You know," the agent went on, "it's just one of those things [her compatibility with Monique]"

*and of course we were both born in December, so... except she's a Sagittarian and I'm a Capricorn, but... but I feel I'm at a loss, I guess."*

"When did you last see her," Evelyn asked.

"Oh, it's been a number of years, and, and I, I think that's part of why I feel as bad as I do... I got on with my life and we just kind of drifted apart... And I know [coughs] that she would always be there for me. I could have picked up the phone and she, she would have been there for me. She was... she was just that sweet."

"She was a beautiful person," Evelyn said, and then mentioned some little mementos that Monique had insisted Evelyn take. "So, I'd like to have your address. I'd like to send them to you."

"Oh, wonderful."

"I really would."

The agent gave Evelyn an address in Manitoba, and then objected mildly about the mementos: "...if she wanted you to have them..."

"I'd like you to have them, I, I really do," Evelyn said. They talked a bit more about this.

"Oh, well, thank you very, very much."

"Yes, I believe you should have it."

"...I really don't know where to start, here, and, and maybe you can help me because I, I'm having, I didn't think I would have such a difficult time coping with all of this."

"How about your mother, is she...?" Evelyn asked.

"My mother and her, years ago, they, they kind'a, they well they drifted apart... I think a lot of it had to do was... they had very different philosophies to do with life and living... and that sort of thing, and my mother is very, very conservative, and I love her dearly, but, you know, she doesn't necessarily look beyond the obvious, I guess." [Corporal Smith was probing to get Evelyn to say something about suicide here; she had told Evelyn that she had seen her name on *Right to Die* literature, so it was assumed in the discussion that suicide was involved and Evelyn had been there. Smith was trying to indicate that she did not disapprove of suicide like her mum, a strict, conservative Catholic, would have.]

"Well, I knew Monique for about two years, two and a half years," Evelyn said. "I've been up to see her a couple of times, because she asked for a

*visit. She joined our network. [the Right to Die Society] And I went up a couple of times to see her to have just a visit with her and make sure she really was ill. And apparently she was..."*

"I didn't know that. I didn't know she was sick."

"...she had a lot of medications... she really, really wanted to go..."

"I didn't know she wasn't well... she did complain about her back and legs. My mum would talk with her once year at Christmas sort of thing, but they really kind of drifted apart, and I, I just feel badly that there was no one there for her..."

Evelyn replied: "Well I was and I held her hand and believe me she was just a wonderful, wonderful person and it was very, very fast and very painless. She just went to sleep and that's all she knew. She did not suffer. I know. I know."

The undercover agent cried. "I should have been there. I feel so bad."

"No, no. I don't think she would have wanted you to be there." Evelyn mentioned that Monique had another friend, in Vancouver. She couldn't remember the friend's name but she could find it and it would be someone else the goddaughter could talk to.

"Well, was she there with her too?" the agent said.

"She didn't want anyone with her," Evelyn said. "Just my friend and I, and my friend is a very caring person as well. She [Monique] didn't suffer and she was happy to go..."

"Well I, I'm glad that she didn't suffer, that, that's a good thing and I mean I, I remember, oh gosh, I had to be 25 years old and, and, we were talking one night and, and we and my mom being of course as conservative as she is and Catholic to boot... like she doesn't believe in abortion, she doesn't believe in pro choice, she doesn't believe in a lot of things... and... Monique, of course, she had this different philosophy."

"Yes she did," Evelyn said.

"And, and she believed in choices and, and so she always encouraged me to go my own way and, and I just wished that I could have been there for her when she needed someone to encourage her to go her own way." If she could get Evelyn to say that well, she had encouraged

Monique 'to go her own way' it might have supported the charge of abetting the suicide. But Evelyn did not say that.

"Well you know she talked about her convent days a little," Evelyn said, Monique having been a nun in her earlier life. "And she said she couldn't tolerate it any more and that's why she got out. But she really felt that this was the end of the road for her and she didn't, really didn't, want to go on – really didn't want to go on. She had a nice little apartment... and clean and beautiful, but she said 'I just don't want to go on anymore, my back is so sore.' She could hardly walk and she had neurological pains in arms and legs. She was on morphine."

"She was taking morphine? I wonder why she never told anyone. Like she never mentioned it to my mom. Her family doesn't even know she was sick."

"That I know," Evelyn said. "She told us. She didn't want to trouble anyone."

"Oh, so selfless," said the agent.

"Yes," Evelyn said, "she was, she was a... beautiful person, just a lovely person. I'm so impressed with her... I don't think you have to feel bad or guilty. This is what she wanted, this is exactly the way she wanted to go. We had talked about it a lot over the last two years, and I made sure that this is what she wanted, and even at the last moment I said, 'you know, Monique, we can always change our minds. It's no trouble at all...'"

"I don't know," the agent said, "I, I just have nightmares... you know, slashing her wrists or..."

"Oh no," Evelyn said.

"You know, this sort of thing, and, and, and I guess I just don't understand, you know, don't understand any of it, really."

Evelyn mentioned something that was not clear on the tape about Monique and euthanasia, and the agent said she had gathered from Monique, in a letter, that she was contemplating something like that.

"She was very adamant about her having the choice to do this..." Evelyn said. "And she said she didn't believe it's a conflict of her religion to do this. She didn't believe Christ would want her to suffer any more. She was happy to be

going home, that's what she said. She had a book about angels and different things like that and she was just lovely. She was just beautiful."

"Yes she was."

"But... she wasn't lonely. She had friends."

"Yes, no, I'm not worried about her, her being lonely, it was just that..."

"You wanted to be there," Evelyn said.

"I, I wanted to be there because, I mean, she would have known that I would have supported her in this."

"Oh, I'm sure she would have [known that]."

"Because it, it would be her, her choice, her, her decision to make... you know I firmly believe that... but I mean... I mean I've never been faced with that myself, and, and God it must have been a hard decision to come to..."

"She said it wasn't. She said it wasn't a hard decision at all... she was so happy with it."

"...I'm so distressed that she was in, in that much pain."

"But she was happy that we were helping her with it," Evelyn went on. "I've helped other people and I've never had anyone that wasn't happy to go... she said 'this is the day of my deliverance,' and this is what she wanted."

"Oh dear," the agent said.

"We really talked about it a lot."

"How long did it [the suicide] take?"

"Five minutes," Evelyn said. "It was very fast. She took enough medication to put herself sound asleep."

"She took medication to put herself asleep? Did she just take her morphine then, or..." [The significance of this question was to try and find out if Evelyn had supplied any drugs.]

"Enough of morphine, and others – other medication she had, a mixture, and she went fast asleep... it didn't take long. Now I really don't want you to feel guilty, and I know that she wouldn't. I know that she would want you to be happy for her."

"I, I am. But I mean, you hear stories about how people died from taking pills

*that, you know, their liver failed and you know it can be quite painful and...*”

“No, it wasn’t though, it wasn’t painful. She fell fast asleep so fast so then we stayed with her...”

“So this was on medication that the doctor had given her?” the agent asked, and Evelyn agreed. “And?” the agent added.

***“But she wanted someone there to make sure she didn’t fail. That’s why I went, of course.”***

“Hmm. So was she, did she, was she...”

“She wanted to give us lunch and coffee you know...”

“Well I’m glad you were there for her.”

“...the last thing she said is ‘thank you so much, Thank you so much.’ And that’s how they feel... I’ve never had one that wasn’t happy to go. You know, unless we’re in a position like they are we can’t really realize how they feel.”

“No that’s true. That’s very true.”

“And you’re so young and vibrant; you can’t even fathom what she felt.”

“No, I can’t.”

A waiter came by to ask them if they wanted anything else, and they each said they were fine.

“I can’t tell you anything that I couldn’t have said on the phone, but...” Evelyn said.

“No, I feel better for having, you know, met you, and I, I want to, you know, thank you for being there for her and... her, her other friend, I’d like to thank her as well. Would that be possible? Could I get her name and address and send her a card?” [She wanted the other co-conspirator.] “I’m assuming it’s a her. I, I don’t know.”

“Yes, it’s a her. I’ll give you her address. I’ve got it at home so I will give you her address and you can write to her... I can even call her and tell her about you.” Evelyn said.

“Well, I’d like to thank her personally, if that’s possible, because it’s... it’s one of those things that...”

“...it makes you feel better.”

“Well it does and it gives me, I guess, a sense of closure, and, you know, I, I know that,

*well, I’m teary and upset today but I can, you know, go away and, and feel a little more at ease that... you know, she did the right thing and that it wasn’t, you know, some horrible way to go... anything like that.”*

“We should all have a happy ending like she did... that would be my wish for myself.” Evelyn said.

The agent agreed. “So the morphine, did she inject it or did she...” she asked, leading Evelyn to say more about what Monique did, and possibly to say something about how Evelyn may have helped her.

“No. no, it was in pills... and a bit of alcohol... she had some wine... it exacerbates the effect of the drugs so it works faster.” Evelyn said.

“It didn’t make her sick or throw up? Oh, that would just have me heaving, I’m sure. I can’t even...”

“No.”

“Oh dear.”

“Well, she had some sleeping pills that she took, as well with the morphine... She didn’t want to be alone. She didn’t want to wake up and still be here. And that’s where I came in.”

“Okay and she took enough that you didn’t... have to...”

“Nothing.”

“...do anything extra or? Oh dear,” the agent said.

The agent was probing, here, to see if Evelyn had done anything to assist in the suicide, but was careful at the same time not to give herself away.

“She just fell into a peaceful sleep and then it wasn’t very long – at the most it was 15 minutes by the time I couldn’t get a pulse any more, so she took a lot. And she wasn’t ill. She had a smile on her face and a peaceful look on her face. I had to leave. I had to leave unobtrusively... of course you can’t be in attendance ‘cause I could be charged just by being there.”

This point was brought up repeatedly by defense lawyers. Evelyn knew she could be prosecuted just for being there – something that could be interpreted as aiding or abetting – so she tried to be as discreet as possible. **For example she removed the helium tank and exit bag from Monique’s**

apartment when she left, and she removed leftover drugs from Leyanne's house. At times it was suggested by the Crown that these acts were signified guilt, but it was made clear by the judge that such circumstantial evidence is only valid if there is no other reasonable inference to be drawn from the action. In this case there was the very reasonable inference that Evelyn, though innocent, might fear prosecution anyway.

"Why, why ever for?" the agent replied, feigning ignorance of the law.

"Because our government... they could have said I was aiding and abetting."

"Well," the agent said.

"But still... she did it herself, but I was still there and didn't want to take the chance with her..."

"Oh, that doesn't make any sense to me."

"Well... with our government the way it is, it does."

"Well then who found her?"

"Her neighbour."

"How did that happen?" the agent asked.

"Her neighbour. She had it arranged that her neighbour was going to find her..."

"What do you mean? How did her... her neighbour... her neighbour must have known then?" [Another possible co-conspirator.]

"No, she had arranged for her neighbour to come and pop in on her for coffee at seven in the evening. We left at four, so she was alone for three hours."

"Oh, okay, I thought maybe her body's been there for too..." The goddaughter then cried again.

"No, no, not at all. I'm so sorry [uses her first name, which is banned from publication]."

"Well you probably have to deal with a lot of people like me?" The agent was hoping to get information on other suicides Evelyn may have assisted.

"Yes I do. It's hard to lose a loved one. I lost my brother to cancer and he died a horrible death, and I would never want to see anybody go that way."

"No. But she was still young."

"I know. I, I pointed this out more than once. But it was her wish, and it was a strong wish."

This is a point that bothers some people: Monique could have gone on living – it was not as though she was in the terminal stages of cancer. But Evelyn's point simply was that this is what Monique very much wanted, it was something had talked about for years, and it was something she would do anyway. Evelyn was there to help, just like in earlier times women would try to help other women have abortions, when it was clear that they would do so one way or another.

"Well if she was in that much pain, and, I, I understand. But it just... I just didn't know she was hurting that bad."

"...I know."

"Oh that is so sad, but I guess a good thing at the end of the day."

"For her."

It was clear here and in many other statements that Evelyn supported suicide only for those who, like Monique, were desperate and determined to die.

"How do you do this?"

This appears to be a question directly asking Evelyn what she did at the suicide – how she may have helped with it. But Evelyn took it to mean why, not how, she participated. "I have a lot of compassion for people. I, I feel their pain. I just, sometimes, you know now, it's just something I feel I have to do, that's all. I volunteer. I don't make any money ... that was for ten years with the Right to Die Society."

"Uh huh." [Not what she wanted to hear.]

"And the Hemlock People of the US... have formed chapters where they have their people..."

**"The Hemlock People, that sounds like witchcraft."**

"No, it isn't."

"Oh."

"They're very caring people. No, they, it's what we do."

*“So is that where your organization started from then. Or what?”*

*“No, my organization started with a Mr Hofsess, who founded a Right to Die Network. In 1990 his friend called him and asked him to help him die because he had Alzheimer’s, and at that time he couldn’t [help him]. He didn’t know anything about it and his friend jumped off a bridge and died in the hospital days later. And no one knew who he was for the longest time, and then they found out who he was... and Mr Hofsess was so angry with himself that he didn’t have the courage to help him – that he had to do that. So then he founded the Network and I volunteered shortly after and I’ve been looking after the membership and so forth ever since.”*

*“Well it certainly is more dignified than jumping off a bridge, or... slashing your wrists... or something awful like that.”*

*“Or with a gun or something like... even a car exhaust. There’s so many horrible ways... and guns are the worst. I mean look what... the survivors have to face.”*

Evelyn is talking about the desperate act of people who, with a gun nearby, know of no orderly way to go about exploring the issue of suicide, because no one is allowed to help them, legally. Were there such an avenue such people might be persuaded to reconsider, and if they still chose to die, say with an euthanasia provision in the law, it would be with some human dignity, **in the presence of friends, rather than by leaving a bloody corpse** for family members (or someone else) to discover. There have been many such grisly discoveries, not all of which could be prevented by a better law. But some could have been.

*“Yes, that’s true,” the agent said.*

*“Their memories are ugly.”*

*“You know, I’m, I’m convinced that, that her family knows nothing and, and...”*

*“She said she wasn’t going to tell them anything. I asked her numerous times about her family and why she wouldn’t contact them. No, she said, she didn’t want to and this was her life and her decision and that’s the way she wanted it. She wasn’t angry with them; she just wasn’t in contact with them. She lost contact with a lot of people.”*

*“Yes,” the agent replied.*

They talked about other things for a bit, the goddaughter telling about her two children who were visiting her boyfriend’s parents in Gimley, Manitoba, at a cottage on the lakes there.

*“That’s nice. Oh, that’s nice,” Evelyn said.*

*“So they’ll have a wonderful, wonderful two weeks,” the agent said.*

*“And you’re having a nice well-deserved holiday with your boyfriend?”*

They chatted a bit more. There was a break in the recording at this point, during which they started talking about the suicide again, apparently with the agent saying again how much it upset her.

*“Probably a lot more than you ever thought it would, right?” Evelyn said.*

*“It did. It did, and I don’t understand why, necessarily. But I, I... know now I’ll walk away feeling better about it.”*

*“Oh I think you should. She would not want you to worry about it. She absolutely wouldn’t want you to feel guilty, ever. Knowing Monique, I know she wouldn’t want you to.”*

*“Well I hope that she knew and remembered that she was loved by us.”*

*“Oh I’m sure she did. I’m sure she did.”*

*“...so sad. I still wish that I could have been there though.”*

*“Well, she wouldn’t have wanted you to.”*

*“Probably not.”*

Evelyn talked about how her brother hadn’t wanted family members with him when he died. *“They don’t want to put their loved ones through that, you know,”* she said.

*“Yes, I guess. It’s very... well I don’t know... I guess that’s... why I have to admire what you do. It must be... it must be terribly brave to help someone through that.”*

*“Well, if you could see how thankful they are, you realize that it wasn’t [anything special on my part.] If I have ever had any doubts, there’s no way I’ll proceed with anything. You know, never. I’ve had, I’ve had some people that I’ve had to refuse... I just*

*couldn't because I, maybe it was depression, you know, you know you just can't help people like that. They have a, a life; they can still find a life. But she [Monique] was in a lot of pain and she said she just didn't want to put up with it anymore. Her back and her legs... she had shooting pains in her legs all the time... it was connected to her back... I did see her medication... she was on morphine."*

This statement shows Evelyn to be a careful and caring person who did not people who the chance of some decent life left to take their lives. She only wanted to help provide relief to those who were in intolerable pain. Who else was going to help such people?

*"Oh gosh, you know I'm such a horrible, how long had she been on morphine, because..."*

*"Oh a year at least."*

Evelyn knew that Monique had been in severe pain for a long time. Monique's decision was not a sudden one, or one made in temporary depression.

*"Oh my goodness."*

*"And the morphine didn't quite control the pain any more, unless she took enough to knock herself out, and she didn't want to do that any more."*

Some people argue that severe pain can 'be managed.' But both Monique and Leyanne were examples of people in pain that could not be satisfactorily managed. The body becomes tolerant of morphine, so that higher and higher doses are required for pain alleviation, to the point where the alternatives are pain, or unconsciousness, or as in the case of Leyanne, substitution of one pain, scalding water, for the pain of the illness.

*"Oh dear. No, you don't want to live your life knocked out. My God."*

*"No and then wake up to the pain again. [agent's first name], we don't know what it's like."*

*"No you're right. You're absolutely right."*

*"My brother would wake up he said 'Am I still here?' He didn't want to be here... When you're in pain, I think the other, the, the other alternative is a welcome release. It really is."*

*"Um... well..."*

*"So, please don't feel guilty, not, not even one bit. I, I mean she could have contacted you, if she really wanted to."*

*"Yes, that's true."*

*"And she knew that you were there for her." [Evelyn was trying very hard to make the goddaughter feel better.]*

*"Um, dear, well was she seeing a specialist or anything?"*

*"Oh yes, she'd seen a specialist."*

*"Could they have done anything?"*

*"No."*

*"Surgically for her, or..."*

*"Not that I know of. She said they couldn't do any more for her."*

*"Well, had she had some surgery?" the agent asked.*

*"Oh yeah. She had some surgery on her back."*

*"On her back. Ah, dear."*

*"But when they can't control the pain without putting you to sleep – she was going to go by starvation, and..."*

*"Ohh ..."*

*"That's a very, very slow process. And, and she said well then I'll cut out the water as well. I said no, it's very painful. You know it's very painful. It is... And so I said, no let's think of another alternative, so. She showed me what she had and we talked about it and I went back there, and then, she called and she said I'm ready now with her [indecipherable]. I'm really ready."*

This showed that Evelyn had counseled Monique, which could have been interpreted as 'aiding', had the Judge given a broader interpretation of Section 241(b) of the Criminal Code.

*"How long did it take from, from then?"*

*"A week or two... about a week and a half I think. But she had talked about it a year before that – about six months before that (or was it). I think it was a combination of, of time, and she was ready... she knew that that's what she wanted."*

*"Well I'm glad that you were there for her to, to be there for her."*

*“...we held her hand.”*

*“She obviously trusted you and respected you, and...”*

*“And my friend [Brenda Hurn] is very compassionate, she’s an older woman as well... she went with me and she’s part of our organization... she held one hand and... I held the other and...”*

*“Was she friends [with Monique]?”*

*“She hadn’t met her before, but I had.”*

*“Oh, okay. Oh well at least she wasn’t with a, you know, a stranger.”*

*“Well, no, no, no...”*

Evelyn mentioned, again, the memento Monique had given her and said she would send it to her. The agent said that Monique’s executrix had sent her a box of pictures and other things. Evelyn wanted her to have the memento – “a cute little clown that has music” – but the agent indicated that her opportunity to talk was more important than “things.” She suggested that Evelyn keep whatever Monique had given her, because that was what Monique had wanted. Monique had tried to have Evelyn and Brenda take “everything”, but, Evelyn said, “we don’t like to take things from people” but she accepted one thing, presumably the same memento, “because I didn’t want to insult her.” They talked about how “very, very giving” Monique was.

Then the agent reminded Evelyn that she would like to write to her friend, (Brenda Hurn). She said, laughing, “I’ll send her a post card from Skagway.” Evelyn laughed too. They talked about the cruise to Alaska the goddaughter was supposedly taking. She pressed Evelyn again on the address of her friend. Evelyn said she didn’t have it with her but she would send it.

*“I feel so much better,”* the agent said.

*“I hope you do,”* Evelyn replied.

*“I do. And thank you for taking time out of your day. I hope I didn’t... you said you had meetings this afternoon...”*

Evelyn said her work there was done and she was only concerned now with making her ferry that evening. She then said: “You know it wouldn’t have been much of a trip for you to Victoria. I hope you can come and stay for a day or so.”

The agent talked about being in Victoria as a child, and then they talked of the cruise, with Evelyn suggesting gravel, and then saying “well you’re not gonna be sea sick, just tell yourself ‘I’m not going to be sick.’” Then Evelyn added, “Well I hope your boyfriend knows how lucky he is.”

Evelyn was indicating how much she thought of this sensitive, caring goddaughter, who came to resolve her feelings of guilt for not attending more closely to her godmother.

*“Well, he’s been actually very supportive, and it was him, encouraging me to call you, and talk to you, but it’s one of those things that, you know, I didn’t want to do it over the phone... and, and I, I wanted to...”*

*“See me in person.”*

*“See you in person. It, it’s a personal thing.”*

*“It is.”*

*“What happened was a very personal thing and, and, I mean, I’m just so happy she had a friend like you that would, would help her... to be there for her.”*

*“Well she wasn’t sad to go, so... don’t feel badly.”*

*“Well I’m glad. I worry about her being afraid and alone and...”*

*“...no, she wasn’t... she wasn’t the least bit afraid.”*

Evelyn went on to talk about Monique’s faith, which she still had when she died, but that she did not expect punishment for what she did. Then Evelyn said, “I used to be a very staunch Catholic, but I’m not anymore. I have a different philosophy... I’ve evolved to... whatever one does affects [others], because you can see how Monique’s death affected you, and how we all affect one another as we go... what goes around comes around and I like to send out love and then I get it back... and she was like that too.”

They talked about what a good person Monique had been. The agent said, “And I feel really bad ‘cause it would’ve been better if my children could have been touched by her.”

It appears that the agent, here, is trying to draw Evelyn out by suggesting that if she had not helped Monique die that her children might have had the benefit of meeting her. She did this in a very sly way, first agreeing that it was good that Evelyn had been there for Monique, but

Monique was such a wonderful person that it was a shame we did not still have her. This is a position frequently adopted by the *Euthanasia Prevention Coalition* – that we are obliged to stay around because of the joy and happiness we can bring to relatives and friends. Bringing this up in a subtle way might have elicited some sort of response from Evelyn that could have been useful to the prosecution – something like ‘*it’s too bad she hadn’t gone on longer,*’ implying that her death was premature. **But, as with all of the leading questioning by the agent, Evelyn provided no help for the prosecution.**

“*But you can tell them about her,*” Evelyn said.

“*Yes. Yeah, and ah...*” the agent said.

“*How old are your kids?*” Evelyn asked.

“*Ah, they’re in... school. One’s in grade seven and the other is in grade five.*”

“*Are they girls, or boys?*”

“*One of each. One of each.*”

“*Grades five and seven,*” Evelyn said. “*Well they’ll enjoy that little clown I have. I want you to have it, it’s beautiful.*”

Evelyn is referring to the memento given to her by Monique, just before she died. Clearly Evelyn was uncomfortable with receiving any gifts from people whose suicides she attended, even small mementos, and she was pleased to have someone else to give it to.

“*Oh... my daughter will love that.*”

“*...from your godmother, so that’s good.*”

“*...if you don’t feel you have to send it to me, I...*”

Perhaps the agent went on about this again, thinking that if Evelyn did keep something from Monique it might help the prosecution; **they might try to claim that Evelyn took things from her victims.**

“*I’d like you to have it – I really would,*” Evelyn insisted.

“*I don’t necessarily want to take things from you.*” Except, of course, the rest of your natural life, she might have added.

“*As I said before, we really don’t like to take anything. But she was so generous. She was so eager to give it to us. We just, Brenda and I, just looked at each other... what are we gonna do... She opened her closet and she says you can wear any of these clothes, they’re nice clothes. I said I can see they’re beautiful.*”

“*Oh great.*”

“*[I said] Monique... we don’t like to take things... [but] she said, take this, take that, please take this she said...*”

“*Well... she obviously thought highly of you and because, you know, they’re the types of things that meant something to her... um, so, you know, she just wants to share.*”

Evelyn agreed with this assessment of Monique, but apparently took nothing except the clown that she now wanted to pass on to the goddaughter’s daughter. The agent indicated again how much better she felt after talking to Evelyn, perhaps hoping to set the stage for a future meeting. They talked about when the cruise was leaving and about security checks and terrorist threats. Evelyn talked about the uncertainty in today’s world and how she worries about what the future holds for her grandchildren.

“*You don’t want to lose hope,*” the agent said.

Perhaps the agent was exploring the notion that Monique should not have lost hope. But, once again, this lead again went nowhere for her

They went on to talk about the goddaughter’s children and a picture they had supposedly sent to Monique, a picture Evelyn obviously had never seen. The agent told Evelyn that she worked as a florist in Winnipeg, and other things – about the weather, how her hair turned curly on the coast, about being an only child herself, about her children, about Evelyn’s children, about girls going through a stage where they didn’t like their mothers. Then the agent used this last topic to return to Monique:

“*I did [not like my mother.] Big time. And actually it was Aunt Monique that... you know, pulled me through that. I think I’d of left my home and gone to live with her if I had my choice. But she was wonderful... I mean I would call collect and she’d just take my calls and...*”

“*Isn’t that nice.*”

*“She would, you know, phone my Mom and straighten everybody out and, she was quite the peacemaker amongst us, really... She was very good at making us see the other person’s point of view... she could always see the other side... a very understanding lady... a very, very understanding lady.”*

*“She had a wide view of things. She was not just black and white. There was a lot of...”*

*“...a lot of colours in her rainbow,”* the agent added.

The agent was perhaps hoping to get Evelyn to say more about Monique being open to ideas, maybe even to breaking the law, or at least to having someone break the law by helping her take her life. But this too went nowhere.

Evelyn realized her parking metre was running out.

*“So I’ll let you go,”* Evelyn said.

*“All right. Well thank you very much. I gotta give you a hug here.”*

*“You can. You can.”*

*“You made me feel wonderful. Thank you very much...”*

*“You have a good holiday,”* Evelyn said.

*“Please thank your friend and...”*

*“Yes I will.”*

*“And I look forward to hearing from you then,”* the agent said, referring to the address Evelyn was going to send her. Evelyn made sure she still had the goddaughter’s address.

*“I got it,”* Evelyn said.

*“You got it. Okay.”*

*“You take care, have a really good time.”*

*“Alrighty,”* the agent said. *“Well, I’ll send you a, well no I won’t send you a postcard, I guess, but... thank you very much for that. Take care. Bye now... All right, take care.”*

## the identification

AFTER THE TAPE FINISHED – it was close to an hour in length, the Crown Counsel Neil Mackenzie asked the Agent if that was the last time they talked and she said it was. Then Mr Mackenzie asked the Agent if the person she had talked to was in the courtroom. Having not looked Evelyn’s way previously she turned and pointed to Evelyn, sitting about ten feet to her left, and coldly described the clothes Evelyn was currently wearing.

I was sitting directly behind the witness box in the gallery reserved for the press. I was about eight feet from the witness, and maybe twelve from Evelyn. That pointing at Evelyn, the describing of her as an object, gave me the creeps. I had wondered how someone could carry out a dishonest operation like the agent did. How could she take advantage of an elderly woman’s kindness and generosity to try to incriminate her, to lie and even weep and go on about her need for ‘closure?’ I suppose I could see doing this to a drug dealer or a murderer, but to Evelyn Martens? Police work must cause one to practice a sort of detachment, and a dehumanization of those you are hoping to prosecute, but it is hard to imagine doing so in such a cold, calculated fashion in a case like this. The agent’s gesticulation toward Evelyn, and her cold description of her, may have been calculated to have an effect on the jury – to encourage them to see Evelyn as a criminal. But this, and the entire undercover operation, seemed to me to have entirely backfired on the Crown and RCMP.

The tapes, supposedly the Crown’s trump card, helped Evelyn much more than they harmed her. The tapes illustrated, more effectively than any testimonials could have, that this was a good-hearted person whose kindness was being taken advantage of by lying police officers. It was hard to imagine any unbiased person deciding that this person was a criminal.

It was the “worst part” for Evelyn because she was embarrassed by being fooled and she did not like the sound of her voice. And the Crown treated it all as though it was prime evidence against her, so she was worried about how the jury would react to it. But she needn’t have worried about any of it.

Who (aside from members of the *Euthanasia Prevention Coalition*, and other

Bible thumpers) could sympathize any of this operation? Who could see Evelyn, still, as a criminal, after listening to her on the tape? The Crown's trump card was, instead, Evelyn's.

## the cross examination

*Note: quotes here are not taken from a transcript but from notes taken by Gary Bauslaugh in court.*

DEFENSE LAWYER PETER FIRESTONE'S CROSS examination of Corporal Smith was withering. He started by asking about her background, as a very experienced undercover agent, and then about how she worked with Corporal Wilton of the Duncan RCMP to work out a cover story for the undercover operation. They developed a 'persona' for the agent, then had her contact Evelyn and arrange the meeting.

"You chose the goddaughter persona very deliberately," he stated.

"Yes."

"You used your experience to try to determine how to get an 'in' with Ms Martens."

"Yes. The idea of choosing a goddaughter was that it would be easier to portray than other possibilities. A niece would have to know more – a goddaughter could be somewhat removed."

"A goddaughter would be distant enough so that the cover story would be easier to develop."

"Correct."

"You deliberately chose to be a goddaughter to facilitate the meeting."

"Correct."

"Given what you were told it would make sense – it would encourage Ms Martens to talk."

"It gave a reason for her to talk to me – enough familiarity that I could be upset."

"It is fair to say that you put considerable thought into creating a persona."

"I certainly put thought into it."

"It wasn't just grabbed out of the air."

"No, we discussed it and came up with the goddaughter angle."

"As part of the process a background is created, to help you accomplish the task."

"Yes."

"You have done this before."

"Yes."

"You created a series of lies developed in order to get Ms Martens to talk."

"Certainly to gain her confidence."

"You're pretty good at it."

No audible response.

"You had to lie about who you were – a florist from Manitoba. All this was thought out to be believable. You lied about your family and kids."

"I did make that up."

"You lied about why you were on the Coast."

"Yes."

"You lied about your cell phone – getting a Manitoba number. You lied about your relationship to Monique Charest. You lied about the relationship with her family. This was all calculated to get Ms Martens to speak."

"Yes."

"This was all well thought out."

"Yes."

Mr Firestone then went through some details about the phone calls prior to the meeting, and then to the meeting at The Grind. Corporal Smith agreed that the discussion had a "jovial" tone on balance.

"On two occasions you appeared to be crying. You were acting, right?" Mr Firestone asked her.

"I was crying.  
"You did it to facilitate a response, right? Like an actress you cried on cue.  
"When it was appropriate."

"Your effort was to get her to tell you as much as possible, right?"

"Correct."

Mr Firestone then referred to some comments in the transcript where Corporal Smith had referred to Monique Charest as "always my buffer zone" and made other comments trying to establish a rapport with Ms Martens.

"Correct," Corporal Smith said.

Mr Firestone asked about the demeanor of Ms Martens during the discussion, establishing that she was comfortable, relaxed and friendly, and that she was looking at Corporal Smith, being genuine. Ms Martens was trying to reassure her, and accepted the ruse entirely, right to the end, and remained genuine to the end. Ms Martens had offered to send some things to the fictitious address in Manitoba, but Smith said not to bother, it was not necessary. Mr Firestone read some more passages from the transcript, where Smith was referring to her godmother: "and she believed in choices, and she always encouraged me to go my own way – I just wish I could have been there with her when she wanted to go her own way. I just wish I could have been there to encourage her to go her own

way.” Mr Firestone said that this was calculated to deliberately to suggest, or get Ms Martens to admit, that she had encouraged the suicide.

“I simply wanted to show her that I believed in choices and would have been supportive.”

**“You know the difference between passive and active questions?”**

“Correct.”

“In that light then did you not deliberately try to get Ms Martens to admit she encouraged the suicide?”

“No, I was just trying to ingratiate myself and establish a similar philosophy.”

“Ms Martens did not respond, specifically, right away, did she. But later she appeared to respond, saying, ‘I don’t think you have to feel bad or guilty – this was exactly the way she wanted to go.’ She also mentioned that she told Ms Charest that she could change her mind. Doesn’t this seem like a response to your suggestion about encouraging her to go her own way?”

“I can’t say.”

Mr Firestone then made some more comments about Ms Martens’ behaviour – friendly, spontaneous, genuine – and then referred again to Corporal Smith’s crying, twice, during the meeting at The Grind. He pointed out again how Corporal Smith used a persona to deceive Ms Martens and “constantly made references to feeling badly”. And that this was all done in a way to get Ms Martens to respond. It was all thought out ahead. Part of it was to indicate a feeling of guilt so Ms Martens would be sympathetic.

Mr Firestone pointed to a comment later in the undercover operation where they were talking about problems with airport security. “Ms Martens asked, ‘Do I look like a terrorist.’ Did she?”

“No,” Corporal Smith responded.

“She was very gentle and comforting, wasn’t she?”

“Yes.”

“She was trying to be protective of you, wasn’t she?”

“I don’t know.”

“Earlier she offered to come to the ferry to meet you and to find you a hotel.”

“Yes.”

“Basically her demeanor did not change through all of your discussions with her.”

“No.”

“And you left her with a hug.”

“Yes I did.”

## it stinks

AFTER THE TRIAL I talked to a number of people with legal expertise about this undercover operation. I was quite disturbed by the fact that the RCMP could so cynically go about staging an elaborate lie to try to trap Evelyn into saying something incriminating. It was not,

as Peter Firestone indicated in his cross examination, simply passive questioning the agent used, but clearly was trying to lead Evelyn along. One problem with such questioning is that the subject (Evelyn) might just go along with a suggestion, or follow something the agent said, just to be agreeable. So, if anything can be considered fair in a sordid undertaking like this, passive questioning is essential. And as the transcript shows, the agent frequently tried to lead Evelyn into making compromising statements.

I was stunned by the dishonesty of the operation. Where else in our society is such a thing allowed? We live in a time of full disclosure of everything – a practice that has become so commonplace that often certain types of research programs are compromised by the requirement to tell subjects what is taking place. We have progressed as a society to a point where we acknowledge that people have a right to know what is being done to them. Except, it seems, when the police are doing it. But if we are to be protected from secret activities that might compromise our interests, should we not be most, not least, concerned about the police in this regard? Perhaps the greatest threats to civil liberties in any society is the abuse of power by agents of the state. Should we not take special care to see that they cannot, with impunity, without strong justification, carry out secret actions to investigate our lives?

There is a requirement. The police must obtain a warrant to carry out an undercover operation, in a peculiar process called ‘single party consent.’ This euphemistic term simply means that a judge can approve an undercover operation without the consent of the person being investigated. The single party giving consent is the police. There are of course circumstances where such a thing might be warranted – say in trying to deal with an organized crime ring. But it ought to be granted only in the most serious of circumstances, where serious crimes have occurred, where the public interest is threatened, where there are real potential victims. How could anyone think these things to be so in the Evelyn Martens case?

I asked a knowledgeable person about this, and about how many such warrants were approved by judges. About 98% he said.

We like to think that our legal system is superior to the American one, but something like this undercover operation would not likely have occurred there. There are much more strict rules for admissibility of such evidence. There is a stronger tradition of individual liberty in the United States, something that sometimes creates social problems, but sometimes works in very positive ways. We could learn from them in regard to secret police operations (although with the post 9/11 hysteria there, their superiority in this regard may be rapidly diminishing).

The best, most succinct summation of the situation on Canada, in regard to covert operations against our citizens, was given by one of the criminal lawyers I talked to.

“It stinks,” she said. ☹️