



# Can the Theatre be a Courtroom? An Interview with Liza Balkan

by Guillermo Verdecchia

On August 9, 2000, Otto Vass, a 55-year-old resident of Toronto's Parkdale neighbourhood died, according to the CBC, "following a struggle with Toronto Police officers outside a convenience store in the west end" (CBC). The coroner's inquest, six years later, determined that Otto Vass experienced "Sudden Unexpected Cardiac Death due to: Acute Mania, Excited Delirium, in a man with long-standing bi-polar disorder; In association with Cardiovascular Stress resulting from violent struggle and morbid obesity." The "means" of his death were "undetermined" (Office).

Actor, writer, director, dancer, and singer Liza Balkan witnessed some of Otto Vass's "struggle" with the police officers. I spoke with her about her experience with the legal system and *Out The Window*, a performance she is creating from that experience, built from transcripts of the trials, and the incorporation of a detailed soundscape and video.

**LB:** I came home from the opening night of a show that I was working on, and by the time I grabbed a cup of tea, and changed my clothes, I heard some yelling outside my window. So I went over, looked out, and saw a man, who, to my mind, seemed very large and very angry, being beaten by two police officers. I don't remember how long this went on. It felt like minutes, ten, fifteen minutes. It was probably really more like a minute. Time alters when you're watching these sorts of things, right? So shortly thereafter, two more officers joined in—and I'm above the 7-11 Harvey's parking lot—it's now something different but then it was a 7-11 Harvey's at College and Lansdowne. So two, then four officers began beating, punching, kicking an unarmed man. I saw him go from standing—to the ground—to the foetal position. The beating continued. He stopped;—he finally stopped moving.

So that's what I witnessed. I went downstairs and I gave an interview—or my first account—to a detective from 14th Division. Later on I read his account and he described me as, I think, 27-years-old, which I'm not, 5'4, which I wish I were, I think I was blonde at the time. I was standing right next to him and he was wrong. He made me a few inches taller than I am, and the fact that I was looking down on Otto Vass and I thought he was a huge man, a tall man, much bigger than the police, when in fact he was only 5'4 I found out later. The whole question around perception. What you see.

The preliminary trial [to determine if there is sufficient evidence to try the officers] was two years later.

And I was in for two days for that. I became a bit of a problem witness in that . . . a friend had suggested that I get my, any, statements I had made to jog my memory to keep it fresh and I would use that in the courtroom when some of the defence lawyers were asking me questions about what do I remember here today, and I would say, "well, according to what I saw then, this is what I saw" and apparently witnesses don't do that often so they kept asking me to leave the courtroom to discuss this.

**GV:** You were referring back to what you saw then, and they wanted you to talk about what you remembered today. So they were already playing on the distance, and the difference, the memory.

**LB:** Absolutely.

**GV:** So it goes to trial one year later; that's a total of three years from the incident.

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**LB:** I was only in for one long day for that. The officers were eventually found not guilty and it was three years after that, so six years after the initial event, that they held the coroner's inquest.

Oh, and something that happened for the coroner's inquest: they sent me all of my original transcripts. To jog my memory. I had already asked for some of those original transcripts from the preliminary trial, to help me with the trial. What they didn't send me, back in '03, was all of what I call the backstage stuff, the stuff when they asked me to leave? The discussions between all the lawyers, all the grappling, and legalese. But for the coroner's inquest, they sent me all that. So for the first time, I was able to read what they were talking about. The lawyers for the defence took exception to me using my earlier statements to defend my memory. They wanted my use of my own documented "memories" to be thrown out as inadmissible evidence.

**GV:** At what point do you decide that you need to make something out of this?

**LB:** I remember early on, someone (I don't remember who; was it Darren O'Donnell? Maybe. My next-door neighbour.) Someone suggested I get a hold of the transcripts also because they might be of interest for something down the road. And I put that in the back of my

# Looking OUT

by Liza Balkan



Liza Balkan  
Photo by Tim Leyes

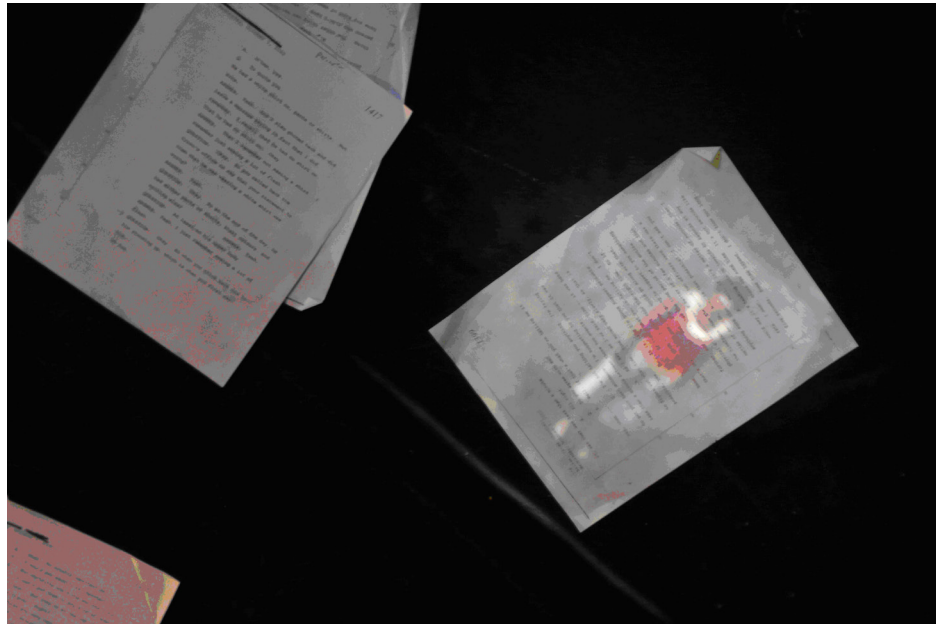
In August 2000, Otto Vass died in a parking lot in the west end of Toronto after he was subdued by police officers. I saw part of his struggle with the officers and came forward as a witness, thereby involving myself in legal proceedings for the next several years. *Out The Window* uses transcripts of the trials, assorted interviews, video, and sound to delve into what happened that night and throughout the years that followed. It is an exploration of an horrific event that poses complex questions about truth, memory, perspective, justice, and law.

The project began as an installation at Factory Theatre's Lab Cab Festival of new works in September 2007. I created a ten-minute performance inside the installation. Then, in February 2009, *Out The Window* had its first formal staging at Buddies in Bad Times' Rhubarb Festival. This showing offered a chance to assemble bits of the work my original group of collaborators—Trevor Schwellnus, Thomas Ryder Payne, Michelle Ramsay, Naomi Campbell, and I—have done to date: videos of the location where the event took place, and a soundscape created in earlier workshops using actors reading large portions of the transcripts; some of the movement work/

mind and kind of forgot about it. When I had to read all of it to bone up for the coroner's inquest, that's when I realized how compelling the material was, how shocking the transcripts are—the way in which I was treated on the stand.

**GV:** Dramatically compelling?

**LB:** Incredibly dramatically compelling and I found that out when a couple of other people read it. They were shocked. One of the lawyers in particular, all of them had their own ways, brilliant ways of working the crowd, the jury, and working the witness, working me. But one of them who spent the most time with me used constant theatrical analogy. Either to dismiss me, to prove that, as a person in the theatre, I'm a fabricator. There were references to Stratford, I have a house in



Liza among the pages of transcript.  
*Photo by Trevor Schwellnus*

Stratford. There were references to, “We’ll get you back to Stratford” nudge, nudge, wink, wink . . . jury, beware of this professional liar. Annie Hall references. Movie references. Because I’m a theatre artist. But also, it was really clear that these lawyers are performers. They know how to play a crowd. One of them—he’s the one who said, “I’m going to talk to you from stage right”—he recognized that I’m expressive and that I know how to stand, and speak clearly from the heart, and be articulate in front of a crowd. And he actively moved himself from his position, which is beside the jury so the jury can see my face. He picked himself up and moved all the way over so that I would be looking at him because he saw, through all of my time on the stand, that I actually talk to the people who are speaking to me. Even though I knew what he was doing, I fell right into it. Thought he was talking to me from far away from the jury.

**GV:** He was upstaging you.<sup>2</sup>

**LB:** He was upstaging me. Indeed. A brilliant bit of lawyering. I remember feeling pummelled—with words, semantics. My own words being used against me and the lawyers actively trying to get me to say a certain thing—whatever it might be. The relentless circles upon

physicality that had been explored in the past; the mixing of verbatim text with my own writing; and the addition of another actor to surprise the audience and “act out” a scene or two from the actual transcripts. For Rhubarb, I wanted to find a way to incorporate all of these elements into the storytelling: what happened outside my window that summer night in 2000, and throughout the years that followed.

The challenge: I had a twenty-five minute time slot for Rhubarb, and literally *hours* worth of material. The soundscape created from our first workshop at The Theatre Centre was between two- and three-hours long, and, of course, there were hundreds and hundreds of pages of court transcripts and interviews to choose from. It was the perfect challenge that came at the perfect time. Even the act of picking and choosing the bits and pieces to put together for Rhubarb was, in and of itself, an act of mucking about with memory, perspective, and truth—and was a fascinating and informative exercise.

The piece changed throughout the rehearsal process. Both Trevor and Thomas actively helped shape the storytelling. They both have such fine eyes and a strong sense of storytelling and were, by now, intimate with all of the material.

Their collaboration was an essential part of the Rhubarb showing.

My hope was that a non-linear approach to something as intangible as memory, perspective and truth might allow the audience to piece together the events as they were watching it, in the moment; witnessing and experiencing a series of fractured details that begin to make up a whole.

The intimate Cabaret Space at Buddies has a huge window hidden behind a curtain. We used this for some of our projections/videos. We also projected onto a wall made up of pages representing the “transcripts.” Both of these huge visual elements were revealed

circles of words, details. It was like being on stage. Standing in front of an audience for hours at a time but sans any script of my own save my memory and my own truth. You batter enough at that and one can easily begin to question one's own truth, which I guess is what our justice system, in such cases, counts on. So . . . being on stage where the stakes actually mattered in a way that I hadn't experienced before.

**GV:** Tell me a little about the process involved in devising the show, such as it is.

**LB:** When I first re-read the transcripts, it forced me to ask lots of questions. What is truth? What is memory? What is perspective? How are they all manipulated by time? Manipulated by forces without and forces within.

I initially was asked to do something for LabCab [a multi-arts festival] at Factory Theatre, and so I thought, "Ok, I'm going to create an installation." I put up hundreds of pages of transcripts. I chose certain portions to have recorded. I got a couple of actors to record, and I also created a little play station with action figures. So the idea was that anyone could walk through, listen to certain transcripts read aloud, and play with the childlike play station. And I pieced together different parts of the soundscape.

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During the whole time, I had no idea if it would be of interest to anybody. And as it turned out, it was. From there I started to get some funding. From *Nightswimming*. And The Theatre Centre stepped in and asked me to have a residency in which to develop the show. A two-year residency. So, from there, I started to ask some artists I really wanted to work with: sound designer Thomas Ryder Payne, Trevor Schwellnus for set, Michelle Ramsay [lights], and Naomi Campbell came on board.

For the first workshop, what I decided to do was bring in a bunch of actors to sit and read chunks of the transcripts. And we spent three days reading transcripts. And from there I decided which to record. And then we spent a full day recording. Because it always seemed to me that the transcripts—the verbatim aspect of it—are so powerful, I need to continue playing with those, hearing those, seeing where they lead me, in the exploration of truth, memory, perspective.

I asked the other artists to ask themselves what all those things mean to them: truth, manipulation, memory. And they started to become more familiar with the case, the transcripts, and so we started to create bits, pieces. And that's all we did the first [three-week] workshop.

For the second workshop, I went ahead and purchased the police transcripts from the coroner's inquest. Once I purchased the police transcripts, the whole piece opened up. Suddenly I found out how it all started from the officer's perspective. Or from the officer's perspective when they were on trial.

behind the black curtains as a part of the storytelling. A part of the physical action of the piece included attaching pages to this wall throughout the twenty-five minutes. I also removed pages from this wall and read them.

An interesting—and recurring—bit of feedback from some audience members was that they wanted to see more of my own physical memory of what I witnessed, i.e., the beating itself, but the beating as experienced through my own body. My own movement was quite simple and static during this section—more “pose” than “action.” The comments I received helped me to understand that being permitted to see more of the physical violence through my own body would offer the audience an opportunity to better witness both the ferocity of the violence as well as the effect it had on me, the viewer—the violence one experiences *in* the witnessing. This caused me to reconsider the whole question of physicality—of movement.

Movement and dance have been a major part of my own background as a performer. I was originally trained as a dancer many years ago. I returned to it more recently, primarily by working with companies like Theatre Rusticle in Toronto, as well as choreographing some of the shows that I've directed over the past few years. Still, I found myself shying away from using what I considered “too much” movement for this particular go-round. I suppose that I felt the work was more text-based, and that “movement” would attract attention to itself, rather than move the story forward.

It is interesting that I didn't feel this way with the other elements that were incorporated into the storytelling (video and sound). And yet, one of the strongest and clearest memories for me was seeing this man's body being pummelled. Over the years, details of the event may have been muddled in my brain, but a few of Mr. Vass's physical positions linger: his arms flailing (descriptions of this are part of the use of verbatim text in the *Rhubarb*); first showing his body on the ground in a foetal position; lying on his stomach with one leg bent and crossed over his other knee; and

**GV:** You were saying before that you discovered in the trial the kind of theatricality that trials depend on. They wear funny costumes. There's a whole formal structure that has to be followed,<sup>3</sup> and it depends very much on liveness, on a performance, that you be credible as a character, and that we go, "Oh yeah she was really telling the truth." This awareness of the theatricality of the trial, is that part of the show?

**LB:** Yes. It is now. Because I think that the courtroom is a theatre and there is no question that those lawyers are brilliant improvisers. They research like mad and they come up and they play in the moment.

**GV:** If the courtroom is a theatre, how can the theatre be a courtroom?

**LB:** Here we get to experience facts on a visceral level. We get to question our own societal laws in a visceral way. We get to ask questions that aren't necessarily asked or we get to hear things that aren't necessarily heard. If one of my hopes is to explore the truth of what happened, then isn't that technically what the law does in a courtroom?

**GV:** Legal theorist Bernard Hibbitts contends "a new postmodern legal epistemology is developing which embraces values highly compatible with performance: indeterminacy, change, subjectivity and feeling." The legal proceedings in which Balkan participated, however, don't seem to have embraced those values. Her piece, *Out The Window*, seems to me an attempt to redress through performance the shortcomings of the legal system's response to Otto Vass's death and its repercussion on family and witnesses. "In situations where law and its 'violence' are experienced as unjust, the very fact of recording and reflecting on that experience could in itself be a response to the ethical demands of alterity, as an endeavor to recognize the Other" (Skinner 145, 146).

**LB:** I think that part of the reason, subconscious reason, when I first started it, was that I knew a . . . I don't know, very simply, that I knew a wrong had been done. And that I was a part of that wrong. And that this was a way to open up that experience to other people. Again, when I first started it, I didn't really know why. I just felt compelled to do it. Because it rocked my own sensibility of what truth and memory and perception and what the law is.

## Notes

- 1 Vass's death sits in tension with O'Donnell's suicide fantasies in "Suicide-Site Guide to the City" (108, 109).
- 2 Not exactly upstaging. Rather, he was deliberately putting the actor/witness in a weak position in relation to the audience/jury.
- 3 The "accepted conventional procedure" necessary for the "happy functioning" of a performative, in other words (Austin 14).

## Works Cited

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finally lying motionless on his back. Strong physical images. I incorporated some of these images in the show, but not as fully as I had done in a prior workshop.

The feedback I received after the performance at Rhubarb encouraged me to continue to develop this physical element. The law became an active part of the script for Rhubarb in that I requested, and was given, a fair bit of legal advice around the use of verbatim text from court transcripts, as well as the use of the names of the police officers and lawyers involved. The deletion/omission of names, both in the soundscape and in the text that I created, was highlighted as part of the storytelling. In fact, every legal challenge that has come my way has ended up in the story itself.

I figure that all of this is fodder in the exploration of "what happened."

My source material continues to grow. Initially all I had were my own transcripts from my time on the stand at the assorted trials and inquest. Hundreds of pages, to be sure, but very much focused on my own experience through all of this. I have now added transcripts from the officer's time on the stand during the inquest, as well as the pathologist's testimony. I have also interviewed a lawyer who was involved in the case, and a police officer that gave me some needed insight into the life and work of a cop on the street. Mr. Vass's widow was my most recent interview. How this will fit in to the writing itself, I don't know.

But it was a heartbreaking conversation: a woman grappling with the legal system as she continues to move forward with her own life.

These interviews and added transcripts have opened up this project in important ways, I think. What was originally a piece primarily centred on my own experience as a witness to this particular event is now developing into a project that delves far deeper. My journey through the justice system may be an entry into the story, but it is the story of "what happened" in its larger context that comes to the forefront as I continue to work on the piece. "Bearing witness" is becoming a central theme.

As of this writing, I am diving into some

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new territory with *Out The Window*.

I am now a resident playwright with Crows Theatre, and artistic director Chris Abraham is working closely with me on the developing script. The Theatre Centre and Crows are producing workshops later this coming season, but I'll leave it at that for the moment. For now, I want to be its lone witness. I will say that with a piece like this, there is an ever-present possibility of getting lost in the ever-growing maze of hundreds of pages of testimony. Delving into one section inevitably leads me to want to explore yet *another*, and sends me seeking out yet ANOTHER round of pages. There are days when I find it overwhelming. I swim in a sea of paper surrounded by a dock of overstuffed bankers' boxes. But staying afloat and navigating through it is a pretty damn exciting challenge.

Liza Balkan has been working in theatre for twenty-eight years. She is a Dora Award-winning actor, as well as a director, writer, teacher, and dancer.