

A Yes I did.

Q And that's a battery boost, is it?

A Mhm.

Q And did that get the engine running or give the car power to start the engine?

A Yes.

Q Alright; and did you see it move at all after that - was it mobile - able to move?

A No, he said he was going to wait for it to warm up, so he never moved it all while I was there. 10

Q While you were there; how many people were with that '58 Pontiac?

A Well, there was only the one that I knew for sure was with the '58 because that was the guy that was helping me when I started the car.

Q I see; he was helping you when you started it?

A Yes.

Q And did he tell you say - was he the owner of the car or anything like this? 20

A He never mentioned it but I took it for granted.

Q Now, I'm sorry, if I asked you - how many people were at the Pontiac?

A There was only one at the car that I boosted.

Q Alright; and I take it this one would be a stranger to you, would he?

A Yes.

Q And did you see any other people like while you were there that belonged or appeared to belong with the Pontiac or not? 30

A Well, I didn't know for sure because - well,

the others were in the car that had come to the garage to get help.

A Alright now; and as I understand you there was one who dealt directly with you while you were boosting the car?

A Mhm.

Q Now, is that person in court here today?

A I couldn't say; I wouldn't recognize him.

Q Alright; but what general age of person was that?

A Oh - sixteen to nineteen - somewhere in there. 10

Q And male I presume?

A Mhm.

Q And as I understand you then once you boosted the car, thereby allowing the engine to be started, you just left it - just left it as you had found it otherwise?

A Yes, I went back to the garage.

Q You which?

A Went back to the garage.

MR. CALDWELL: Thank you; your witness. 20

MR. TALLIS: I have no questions, My Lord.

THE COURT: Thank you; you may go.

MR. CALDWELL: I call George Davis, My Lord.

GEORGE ALBERT DAVIS, sworn, states:

MR. CALDWELL, examining:

Q Mr. Davis, I believe that you are a mechanic
and live in the Pike Lake district of
Saskatchewan?

A That's correct.

Q And I believe that you no longer but in January
of 1969 did work at Hillcrest Texaco at Avenue
"P" and 22nd in Saskatoon?

A This is correct. 10

Q And as a mechanic there?

A That is correct.

Q And I believe that Friday January the 31st 1969
you did some repair work on an older type of
car with some youths in association with it?

A It was either a blue and white or light green
and white '58 Pontiac.

Q I will ask you, sir, to speak up louder please?

A It was either a blue and white or green and
white '58 Pontiac. It was that offbeat 20
combination of colors that they used.

Q And what time did that vehicle arrive at your
station?

A About a quarter to twelve - eleven thirty or a
quarter to twelve; something like that.

Q Would this be a. m.?

A Yes.

Q And did someone bring it there?

A Yes, the tow truck driver did.

Q And who was that? 30

A Dave Anderson.

Q Dave Anderson; and did you work on it

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immediately it arrived or not?

A Just as soon as I could get it in.

Q But was there some delay before you got it in?

A Not as I remember, not very much; but it was pretty busy so there would probably be five or ten minutes delay maybe.

Q I see; so did you get to looking at the car and checking it before noon then?

A A little bit before noon but not very much.

Q And I take it in one of the service bays for this work, was it? 10

A Yes, it was.

Q Now generally I believe that's a station with a sort of front office open to the public for paying bills etc.?

A Yes, it has a front office and two bays and behind is the parts room and we use it for a confidential office back there too.

Q And where you worked on the car would be in one of the bays inside the building? 20

A Yes.

Q And when you got to checking it what did you find to be the problem with it?

A It had a broken line between the automatic transmission and the oil cooler, which is fitted in the bottom of the radiator, and it had lost all its automatic transmission oil.

Q All its automatic transmission oil?

A Right.

Q And I take it this would have the effect of preventing it from moving, would it? 30

A That's right.

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Q And did you have the parts on hand you needed to fix it?

A No, I didn't; I had to send out for a brass fitting to splice the line together.

Q And did that occasion some sort of delay?

A Yes, it did. The car had to remain there until after the noon hour was over, because Bowman's are closed from twelve to one; and then we had to send out for parts.

Q And you got that part after one sometime? 10

A That's right.

Q And as I understand you, you were the one who did the work on the car?

A Yes I was.

Q And when would you say that you were finally done with it, with one thing and another?

A Probably approximately two o'clock.

Q And did you do any more than just fix the . . . ?

A . . . yes I did; I cleaned the plugs and I adjusted the points and timing, because the boys 20 said they were leaving on a trip.

Q Now, I take it there were some people there that arrived with the car and were associated with it?

A Yes; there were either four or five of them.

Q And were these all males?

A No, there wasn't; there was one girl.

Q And then either three or four boys, eh?

A Right.

Q And I take it they would be all strangers to 30 you?

A They were; I hadn't seen any of them.

Q Now, during the time that you had the car there and were either waiting over noon or working on it or waiting to work on it, did some or all of them stay around the station?

A They all stayed there as far as I know; there were three of them - either two or three of them stayed out in the office; and there were two that were in the back with me.

Q That is in the service area?

A Right. 10

Q Now, are any of the ones who were in the back with you present here in court?

A Yes, Mr. Milgaard is.

Q Which person is that?

A The man right there.

Q In the prisoner's box?

A Right.

Q I take it you have just learned his name since . . . ?

A Yes I have.

Q . . . during the preliminary inquiry, was it? 20

A Yes.

Q So he and one other of the boys . . . ?

A . . . yes, a taller chap.

Q A . . . ?

A . . . taller fellow. He was shorter and the other guy was taller.

Q Alright; and what did those two - did they have anything to do with the car while it was in the bay?

A Well, I believe one of them owned the car and 30 they were conversing with me and in the car and out of the car.

- Q Now, did they - the one who you more or less -
I suppose you learned one of them owned it, did
you, through talking to them?
- A Pardon me?
- Q You learned one of them owned it?
- A Yes. I was talking to them and one of them said
that his father had given him the car.
- Q Right; now, which one of the boys was this?
- A I believe it was the taller one.
- Q Alright; now, referring to the accused 10
particularly, who you have identified here today,
did he have anything directly to do with the car
while it was in this service bay?
- A Not really. He was cleaning it up and more like
a buddy of the other fellow. He was in a hurry -
he wanted to go to the coast - they were taking
him out to the coast or something like that.
- Q Now, who was in a hurry?
- A I believe the shorter fellow was; I don't really
remember for sure. They were in a hurry, I know 20
that; they weren't too happy about having to wait
through the dinner hour.
- Q Alright; now, you said something about cleaning
up the car?
- A Mhm.
- Q Who was taking part in cleaning up the car?
- A I believe both of them were in it; I don't know.
I know it was on the hoist and I had it raised
off the floor a foot and a half or two feet so
I could work under it and over it at the same 30
time, because the cooler line runs up along
your frame at the bottom and you have to reach

from the top or the bottom, whichever way you can get at it . .

Q . . alright, and when you say both of them . . ?

A . . and they were just about shaking it off the hoist; I had to get them out of it a couple of times.

Q And when you say both of them now, just to be clear, you're referring to which ones again?

A The two that were in the shop most of the time with me; there was a taller one and a shorter 10 one.

Q And as I understand you that's a taller one and the accused?

A Right.

Q Now, was the accused one of the ones who was cleaning up the car?

A Yes he was.

Q And what did you see of that process? What do you mean by . . ?

A . . well, I don't know; there was some A & W cups 20 and papers and I don't know, a bunch of stuff and they just threw it in the garbage.

Q Right; now, you're talking I take it about cleaning the inside of it?

A Yes.

Q And did the accused take part in that?

A As I remember it he did.

Q Did anyone else?

A I think the other fellow was in too.

Q The taller chap? 30

A Yes.

Q And did you pay specific attention and

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particularly look to see what they got out of there?

A No, I didn't.

Q Alright; and when you did finish what roughly did this job cost?

A I would believe it would be around twenty dollars - somewheres in that area.

Q Were you the person who collected for the job?

A No, it's not my department.

Q And I take it that after that, though, that the whole party of them left with the car, did they? 10

A Yes. I had some discussion with them about it because I didn't feel the car was safe to go anywhere.

Q Okay; and they eventually left after they paid the bill and had the work done, eh?

A Yes.

Q I apologize if I asked you this but I take it that the state in which you found the car with that fluid drained it would be just simply immovable of its own power? 20

A That's right.

Q And that of course is an automatic transmission?

A That's right.

MR. CALDWELL: Thank you; your witness.

THE COURT: Cross-examination?

MR. TALLIS, cross-examining:

Q Mr. Davis, you told my learned friend Mr. Caldwell about the car being cleaned out and you mentioned A & W cups and stuff like that were being taken out? 30

A Mhm.

Q Was there a garbage can in the garage?

A Yes.

Q And was this where the stuff was put?

A Mhm.

Q In other words, it's available there for that purpose?

A That's right.

Q And were you by chance there when the police came out and checked that garbage can?

A No, I wasn't.

10

Q And as I understand it you finished the work in the afternoon?

A That's right.

Q But you didn't have anything to do with collecting the money or anything like that?

A No.

Q That's done in the front office?

A That's done in the front office.

The reason I can surmise that the cost would be that much is because there was at least ten or eleven quarts of automatic transmission fluid there, plus the labor and so on.

20

Q So that you really didn't have anything specific to do with David, did you?

A No, I didn't.

Q And you had more to do with the other fellow, didn't you?

A That's right.

CROSS-EXAMINATION CONCLUDED.

THE COURT: You may go.

30

MR. CALDWELL: My Lord, I apologize; I think we've made somewhat better time and I

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have one more witness who unfortunately . .

THE COURT: . . I'm glad you say you
think you made somewhat better time, Mr.
Caldwell.

MR. CALDWELL: I thought that would please
Your Lordship. The blunt truth of it is I'm
out of witnesses. I must say I did feel some
of these would be a little longer. I apologize
to Your Lordship.

THE COURT: Well, Mr. Caldwell, do you 10
fully anticipate that we will complete this
trial by the end of next week?

MR. CALDWELL: This afternoon being out,
of course, is going to prolong things a little,
My Lord. I would expect this, that a lot of
the witnesses from here on will go quite rapidly
and I would think the Crown's case, My Lord,
would be completed to my best estimate Thursday.
I may say, My Lord, that I am sure it will not
be completed prior to Thursday. 20

THE COURT: Well, I have already told
you about the necessity for my being absent
from here on Monday February the 2nd.

MR. CALDWELL: Yes, My Lord.

THE COURT: We may have to sit on
Saturday if it's necessary to complete it
rather than let the jury go for several days
and have to come back again.

MR. CALDWELL: Yes, My Lord, I appreciate
that and we'll try and not unduly prlong it. 30
Some of these witnesses will be lengthy but
there will be a number that are very very short.

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THE COURT: We'll adjourn then until
Monday at ten o'clock in the morning.
12:15 P. M. JANUARY 23RD, 1970 - COURT ADJOURNED.

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10:00 A. M. JANUARY 26TH, 1970 - COURT RESUMED.

ALL JURORS PRESENT.

THE COURT: One of our members of the jury had a slight mishap; that's why he has to sit outside the jury box.

Sorry to hear about that.

I don't think we need to poll the jury.

Next witness, Mr. Caldwell?

MR. CALDWELL: Call David Anderson, My Lord.

10

DAVID WAYNE ANDERSON, sworn, states:

MR. CALDWELL, examining:

Q Now, Mr. Anderson, I believe that in January of 1969 you were an employee at Hillcrest Texaco Service, which was at Avenue "P" and 22nd Street in Saskatoon?

A Yes I was.

Q Are you still working there?

A No, I'm not.

Q And I believe you're a University student, are you? 20

A No, I'm a high school student.

Q Alright; and I believe that the boss so to speak was a Mr. Campbell there?

A No, Mr. Fred Alexander.

Q I believe that morning that you went out on a service call in a tow truck from Mr. Alexander's station to see some people about car trouble?

A Yes I did.

Q And what time of the morning would you say that you arrived at your destination? 30

A It was sometime between ten and eleven a. m.

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Q And were you by yourself in the tow truck?
A Yes I was.
Q Now, where was it you went?
A It was about Avenue "O" and 19th Street.
Q And are you certain of that location when you say "about", or not?
A Yes I am; I went back there to check.
Q Avenue "O" and 19th?
A Well, it was on 19th Street east of Avenue "O".
Q I see; and what did you find there? 10
A It was a '58 Chev. four door sedan.
Q And you said east of Avenue "O" on 19th - which way would this vehicle be facing?
A It was facing west.
Q Facing west?
A Yes it was.
Q And where was it in relation to the width of the street?
A It was on the north side of the street in the westbound lane. 20
Q And when you arrived at the vehicle were there any people in connection with it there?
A There were four people inside the car.
Q And were these males?
A There was three males and one female.
Q And did you check the car there to see what was the matter with it?
A Yes I did.
Q And just from your check what did you notice about it? 30
A The transmission had sprung a leak.
Q And did you try to see whether it would go by

its own power yourself or not?

A Yes I did - actually the driver of the car tried.

Q While you were there?

A Yes.

Q And would it move?

A No, it would not.

Q What did you do then?

A I towed it back to the garage.

Q What about the four people?

A They remained at the garage. 10

Q Did they come along, though, with you?

A Yes, they rode in the car while I towed it.

Q And when you got the car back to the garage
what time would it be approximately?

A Well, shortly after eleven I imagine.

Q And now, who did you turn the car over to at
the garage?

A George Davis.

Q George Davis; and he was one of your mechanics
then, was he? 20

A Yes he was.

Q And at the place where you found the car did
you notice anything in the way of fluid or so
forth in connection with the car?

A Yes, there was a trail of fluid behind the car.

Q Behind the car?

A Yes, leading up to the car.

Q I see; and did you pay attention how far it
went or not?

A It went back - oh, about half way to the alley. 30

Q And was there an alley opening on to 19th from
the nearest block there?

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A Yes there was.

Q And how far down the block was the alley?

A Half way down the block.

Q I see; half way down. Now, is there anyone in court here today who was part of the group of four people who were with the car?

A Yes.

Q And which person is that?

A Mr. Milgaard.

Q And who do you say is Mr. Milgaard? 10

A That person right there sitting in the box.

Q The prisoner sitting in the box to my left here?

A Yes.

Q And I take it he would be a stranger to you as of that time, would he?

A Yes he was.

Q And once you got the car back to your station did you stay around or pay any more attention to the four people or not?

A I did go for parts for the car. 20

Q I see; once you were back to the station did you observe any of that group of four leave the station or not?

A There was one person.

Q And do you know which one that was?

A Well, it wasn't Mr. Milgaard; it was the short one in the group.

Q And I take it this being one of the other males?

A Yes it was.

Q And did you know his name at that time? 30

A No, I didn't.

MR. CALDWELL: Thank you; your witness.

MR. TALLIS, cross-examining:

Q As I understand it, this car was facing in a westerly direction when you came upon it?

A Yes it was.

Q And it wasn't right over to the curb?

A There was no curb there.

Q Well, if there were, the imaginary edge?

A No, it wasn't parked right on the side of the road; it was just as if he had been driving along and stopped it. 10

Q In a travelling lane?

A Yes.

Q Now, also I gather that you would recall this as being an extremely cold morning, would you?

A Yes, it was fairly cold that morning I believe.

Q And you mentioned that you saw the one fellow leave the garage. Would he be the shortest boy of the three?

A Yes, I believe he was.

Q And at that time did he have fairly long hair, do you recollect? 20

A Well, depends what you mean by fairly long.

Q I see; well, much longer than yours?

A Well, it was longer than mine, yes.

Q Much longer?

A I believe it was.

Q And in any event he was the shortest?

A Yes.

Q And you definitely recall the girl remaining there at that time? 30

A I believe she remained at the garage.

MR. TALLIS: No further questions.

THE COURT: Thank you.

MR. CALDWELL: I call John Herman Parker,
My Lord.

JOHN HERMAN PARKER, sworn, states:

MR. CALDWELL, examining:

Q I believe your full name is John Herman Parker
and that you are a member of the Saskatoon Police
Department with the rank of Morality Sergeant
and that in January of 1969 your rank was that
of Detective?

A That's correct. 10

Q I believe, Sgt. Parker, that the morning of
Friday January the 31st 1969 you were together
with Detective Sergeant Reid, as his rank then
was?

A That's correct.

Q And that you and Sgt. Reid were dispatched to
an address or scene around Avenue "O" or "P"
in Saskatoon?

A That's correct.

Q Now, this was I take it by radio to your car, 20
was it?

A That's correct.

Q And when did you arrive to the location you were
sent to?

A Approximately eight fifty a. m.

Q And where was the location you went to?

A 219 Avenue "N" South.

Q And which part of the block so to speak did you
utilize getting there?

A We used the west lane of the 200 block Avenue 30
"N" South.

Q And would this lane run behind 219?

A That's correct.

Q And I take it be a north-south alley?

A That's correct.

Q And did you drive into that alley?

A Yes, we did; we drove up to the rear of 219 Avenue "N" South.

Q And as you drove in the lane, you would be going which way there?

A Proceeding south.

Q Southwards; and as you drove along did you yourself observe anything? 10

A Yes, I noticed two male persons and something lying on the laneway to the east of the travelling portion.

Q What did you do when you saw that?

A Stop the car immediately, we both got out and proceeded by foot to where these two men were.

Q And who were they?

A Rae Murdooh and Terry Michayliuk.

Q Now, that morning what was the temperature and visibility at the time you got out on foot and walked there? 20

A It was just breaking daylight, very foggy, temperature was around thirty-five to thirty-nine degrees below zero.

Q And when you ascertained who these men were did you check the object in the laneway?

A That's correct; found it to be the body of a woman.

Q Now, did you yourself approach close to the body at this time? 30

A Yes; I checked the pulse on her right wrist and

found nothing; her right hand was frozen.

THE COURT:

Q I may have missed this; what time was it you arrived there?

A Approximately eight fifty a. m.

MR. CALDWELL:

Q And was there anything covering the body?

A Yes, there was a blue blanket. This was lifted up when I looked at the body.

Q Now, while you were at the scene did any other 10 branches of your department arrive - personnel?

A Yes; after I found - looked at the body I then went back to the patrol car and radioed for assistance, Ident. and a coroner.

Q And did some Identification personnel arrive?

A Yes, they arrived shortly after nine o'clock.

Q Who were they?

A It was Penkala, Kleiv and Cst. Winter.

Q And did the coroner arrive?

A Yes, he arrived approximately 9:45 a. m. 20

Q Which one was it?

A Dr. Sydney Fogel.

Q Now, when you got near the body - and I show you P.4 - going from north to south and with the exception of the piece of surveyor's rod and the van . . ?

MR. TALLIS: . . what photo number?

MR. CALDWELL: I'm sorry - photo #4 -

. . with the exception of the van and the surveyor's rod how would the situation 30 compare with what shows in number 4?

A It was the same except that the body had a

blue blanket on it.

Q I see; and when the blanket was removed how did the body compare with what you see there?

A The same.

Q Sergeant, specifically what about the area of snow around the body as it appears in photo 4 of P.4?

A It appeared that a scuffle had taken place there. There was indication that the body had fallen in the snow and also there is patches of blood. 10

Q And how would the appearance of it, though, compare with this photo #4?

A The same.

Q As to the snow also?

A Yes.

THE COURT:

Q What was that you said about blood?

A Spots of blood in the area.

Q In the area? 20

A That's right.

MR. CALDWELL:

Q And still in P.4 photo #1 I take it that that is your vehicle in the far end of the alley with another vehicle behind it, is it?

A That's correct.

Q That would be where you stopped?

A That's correct.

Q And when you arrived other than Murdoch and Michayliuk were there any other adults there? 30

A No, there wasn't.

Q And were you still there, Sgt. Parker, when the

Identifications Section or specifically Ident.

Officer Kleiv commenced photography?

A Yes I was.

Q Now, I believe that when the coroner arrived that the body was moved to an extent?

A It was; it was rolled over.

Q And aside from that was there any other change made - and of course removing the blanket - but was there any other change made in the way the body was or the arrangement of clothing on the body prior to Ident. Officer Kleiv commencing his photography? 10

A No, there wasn't.

Q Now, I take it that when the body was turned over that you would have a more full view of the clothing situation?

A That's correct.

Q And what did you yourself observe the clothing situation to be when the body was . . . ?

A . . . the front of the coat was open; the right strap of the brassiere was off her shoulder; her dress was off the shoulders and into the mid-section, also was lifted up. And there was lacerations to her throat and stomach area. 20

Q What was the situation with the overcoat - the black coat?

A It was open - and on.

Q What about the arms of the coat?

A They were on - on her arms.

Q In the usual manner? 30

A That's correct.

Q And what about - could you see any underclothing?

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- A Her right shoe was off, nylon still attached to her foot and garter belt attached to the nylon; and her left shoe was still on; however her underclothing was pulled down to the ankle.
- Q What sort of a shoe was this?
- A It was an overboot - lady's.
Also there was a name plate of Miss Gail Miller attached to the dress.
- Q Now, I believe that there came a time when you left - you and Sgt. Reid left and went on a trip around the city with the view to locate someone who may have known who the deceased was? 10
- A That's correct.
- Q And when did you leave on that errand?
- A Shortly after 10:00 a.m., that's after Ray's Ambulance had taken the body away, accompanied with Identification Officer Kleiv.
- Q And it was not till then that you left, eh?
- A That's correct.
- Q And where did you go first? 20
- A We went to St. Paul's Hospital.
- Q And where then?
- A To City Hospital.
- Q And at City Hospital did you pick someone up there?
- A Yes, we picked up a Miss Vicki Fontaine and she was taken to the St. Paul's Hospital and she identified the body as Gail Miller at 11:41 a.m.
- Q Now, I take it the body was at St. Paul's when you and Miss Fontaine got there? 30
- A That's correct; in room number three.
- Q And what part of the hospital is that in?

- A Emergency ward.
- Q And was anyone accompanying the body when you brought Miss Fontaine there?
- A Yes; Ident. Officer Kleiv.
- Q Ident. Officer Kleiv?
- A That is right.
- Q And was the body at St. Paul's the one which you had earlier seen in the alley?
- A Yes.
- Q I believe you that afternoon returned to the area where you had first seen the body that morning and searched there? 10
- A That's correct.
- Q And I believe you yourself located some items, did you?
- A That's correct. At approximately 2:30 p.m. I located a woman's boot and sweater and a package of Wild Cherry chiclets.
- Q Now, where was it you located the boot and sweater? 20
- A There's a T-intersection of the lanes 1400 block 20th Street West and 200 block Avenue "N" South. From the corner of the T-intersection approximately eleven paces east and approximately a foot off the travelled portion of the laneway beside the yard of 227 Avenue "N" South.
- Q What was it you saw in that location first?
- A An indentation in the snow.
- Q Was there anything visible at that time other than the indentation in the snow? 30
- A No, there wasn't.
- Q When you saw that what did you do?

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A Took a shovel and pushed it in and located a boot and sweater.

THE COURT:

Q Just a minute please; I want to make sure I get this. You say it was behind 227 Avenue "N" South?

A To the south of the yard of 227 Avenue "N" South.

Q To the south of it - yes?

A Eleven paces east of the north-south laneway of the 200 block Avenue "N" South.

Q Would that be measuring from the north side of the east-west lane? 10

MR. CALDWELL:

Q I show you P.1, Sgt. Parker; we've had evidence this is a sketch of that whole block and is there anything there or can you show the Court approximately where the two items would be?

A There's two dots right here.

Q Yes?

A That's where they were located.

THE COURT:

20

Q Those are the dots that are inside the lane?

A Yes - the east-west lane - east-west lane of the 1400 block 20th Street West.

Q Let me see please - where are the dots?

A Right there (indicating).

Q Oh yes, I see; the tiny little ones marked with a pen or a pencil?

A That's right.

MR. CALDWELL: My Lord, I would ask perhaps to have the witness initial or identify those dots in some manner. 30

THE COURT: Go down and make sure the

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jury sees them, will you please?

MR. CALDWELL:

Q And show the jury what you are indicating.

THE COURT: Which represented which object?

A These are two dots here; however, I found the boot and sweater eleven paces - there's a telephone pole there and it's eleven paces east.

MR. CALDWELL:

Q Alright; so that you say in effect they were in one location? 10

A That's correct.

Q Which dot would you suggest . . ?

A . . well, it wouldn't make any difference - eleven paces to one or the other.

MR. CALDWELL: I wonder then, My Lord, if I might have the witness initial one of the dots with an S and B or something like that?

THE COURT: The "B" will be the boot and the "S" will be the sweater.

MR. CALDWELL: I think his evidence is now 20 that he feels they were in the same location, My Lord.

THE COURT: Well then, we had better clear it up; what does the second dot represent?

MR. CALDWELL: I think perhaps the witness could answer that but I understand him to say they were in one location, so that there actually should not be . .

THE COURT:

Q . . there should not be two dots there? 30

A No, I don't know what - I never drew this up . .

Q Yes, alright; and they're eleven paces east of

that north-south lane then?

A That's correct.

MR. CALDWELL:

Q And you've initialled one "S" and "B" and
your . . ?

A . . J.H.P.

Q Your initials?

A That's correct.

Q Now, how much snow was on top . . ?

THE COURT: . . just a minute, Mr. 10

Caldwell; those exhibits are in for identification
only right now; we can put them in.

MR. CALDWELL: Yes, My Lord, I'm just
going to show the witness the items.

THE COURT: Oh, very well.

MR. CALDWELL:

Q How much snow was on top of it, Sergeant?

A Approximately six inches of snow - hand depth.

Q And as I understand you the items would be
beneath that again, would they? 20

A That's correct.

THE COURT:

Q Just a minute please - you say six inches of
snow; well, was it fresh snow or had it been
kicked over or how could you describe it?

A It appeared to me that these objects were
covered with snow.

Q The snow had been . . ?

A . . moved.

Q . . moved? 30

A That's correct.

Q It wasn't fresh fallen snow on top of them there?

A No no; it was covered.

THE COURT: Thank you.

MR. CALDWELL:

Q And in what manner were they when you got to them,
Sergeant - that is, how were they arranged?

A The sweater was bunched up and the boot was just
in there.

Q I see; and as I understand you there had been a
disturbed area in the snow above them when you
got there? 10

A That's correct.

Q I show you P.18 for identification. Would you
have a look at that and tell the Court if that's
the boot please?

A This is the boot; it's got my initial on the
label - J.H.P.

Q What did you do with it eventually?

A It was turned over to Ident. Officer Kleiv on
February the 28th.

Q And would that be the last handling you had of 20
the boot?

A That's correct.

Q Other than marking it, did you alter it in any
way?

A No, I did not.

MR. CALDWELL: I would tender that, My Lord.

THE COURT: P.18.

(P.18 for identification
made EXHIBIT P.18)

MR. CALDWELL: 30

Q I show you P.22 for identification; would you
check that and tell the Court is that the sweater

please?

A Yes, this is the sweater. It's got J.H.P. - my initials - on the label.

Q And what did you do with that?

A It was also turned over to Ident. Officer Kleiv.

Q And when was that?

A February 28th.

Q And other than marking that item did you alter its condition in any way?

A No, I did not. 10

MR. CALDWELL: I would tender that, My Lord.

THE COURT: P.22.
(Exhibit P.22 for identification made EXHIBIT P.22)

MR. CALDWELL:

Q And I think you mentioned locating a box of chiolets somewhere?

A That's correct.

Q Where was that?

A From the north-south laneway in the yard of 221 Avenue "N" South approximately ten paces in from the lane. 20

THE COURT:

Q Where were those chiolets again?

A They were in the yard of 221 Avenue "N" South approximately ten paces east - that's into the yard from the north-south laneway.

MR. CALDWELL: Thank you; your witness.

THE COURT: Just a minute please -

Q I show you photograph 7 of Exhibit P.4. Were you there when that picture was taken? 30

A Yes I was.

Q And does that depict the body of the girl when she was turned over?

A That's correct.

Q Now, you've already mentioned that there were spots of blood lying around the area when she was found face down?

A That's correct.

Q Was there any blood underneath her body when the body was moved?

A I can't recall that. 10

THE COURT: Thank you -
cross-examination?

MR. TALLIS, cross-examining:

Q I take it that with reference to photograph #7 to which His Lordship has referred you, the spots of blood which you have described were just in the immediate area of the body?

A That's correct.

Q That is, they didn't radiate out for any substantial distance north, south, east or west? 20

A No, they didn't.

Q And you noticed this before you even had anything to do with being right close to the body?

A That's correct.

Q And I take it, it was at the time the body was turned over as shown in photo #7 that you noticed that the dress was down but that her arms were through the sleeves of her coat?

A I noticed her arms were through the sleeves of the coat prior to her being turned over. 30

Q I see; and then after she was turned over you noticed that her dress was down?

A That's correct.

Q Including the sleeves being off her arms?

A Of the dress?

Q The sleeves being off the arms of the body -
that is the dress sleeves?

A That's correct.

Q And this was a somewhat unique situation that
you immediately noted?

A That's correct.

Q Now, my learned friend Mr. Caldwell has of 10
course referred you to this sketch P.1 and
naturally you had seen this before today,
hadn't you?

A I have.

Q And you referred to the north-south lane and
then to the east-west lane?

A That's correct.

Q Crossing from Avenue "O" to Avenue "N".
Now, when you were there that morning did you
walk down the east-west lane shown on P.1? Did 20
you walk down this particular lane?

A Yes, I walked both ways.

Q Both ways?

A That's correct.

Q That is north and south and east and west?

A Correct.

Q And did anyone else walk with you - that is,
another member of the force with whom you were
paired?

A I don't believe they did. 30

Q I see; in any event your purpose in walking down
the lanes was to look for any tire tracks or

marks that might be of significance?

A That's correct.

Q And is it fair to say that when you walked down the east-west lane you did not notice any tire marks of any significance?

A That's correct.

Q And is it also fair to say that you did not notice any spot where it appeared that a vehicle had been stuck?

A That's correct. 10

Q You know what I mean when I say where a vehicle had been stuck in the snow?

A That's correct.

Q Such as where the tires had been spinning and left predominant marks?

A That's correct.

Q And you saw nothing of that nature?

A No, I didn't.

Q And your purpose in walking down the lane was I think it's fair to say to see if there were any 20 marks of any significance?

A That's correct.

Q And was this walk that you made down the east-west lane in the morning?

A Both in the morning and afternoon.

Q In other words, you rechecked it again in the afternoon?

A That's correct.

Q And as I understand it you and Sgt. Reid were the first two police officers on the scene? 30

A That's correct.

Q And as I understand it you made it a point to

try and keep people away so that the scene would be unmolested for the Ident. people?

A That's correct.

Q And did you succeed in keeping vehicles from going down either of these two lanes that are shown in P.1?

A The Ident. vehicle had come down . .

Q . . apart from police vehicles?

A That's correct.

Q You didn't let any others through? 10

A No.

Q And did you try to keep pedestrian traffic to a minimum?

A We did.

Q And how did you go about this - just have one stationed down at the end of the alley or . . ?

A . . no, there wasn't any people around when we were carrying out this; it was pretty cold out.

Q In other words, you didn't have to worry about keeping people away? 20

A No, we didn't.

Q Because they weren't there?

A That's correct.

Q Well now, is it fair to say that any tracks you did see there you considered them not to be fresh automobile tracks?

A That's correct.

Q And how many years of service have you had with the Saskatoon City Police?

A Going on seventeen. 30

Q Going on seventeen; and has some of that service been in the Traffic Department?

A Yes.

Q How many years were you in Traffic?

A '54 to '59.

Q I see; and you've spent some time in detective work?

A That's correct.

Q How long have you been at that?

A Approximately three years.

Q I see; and did you ever spend a stint in Identification? 10

A Yes; a few months.

Q In other words, on the rotating scheme you spent three months there . . . ?

A . . . that's correct.

Q . . . to acquaint yourself with some basic identification techniques?

A That's correct.

Q And when I'm referring to the alleys - the east-west alley you understood my question to refer to this one from "O" to "N" and then from 20
21st down to the intersecting alley?

A Yes.

Q And when you checked the alley for tire marks or other marks did you walk right out on to the street or avenue, that is Avenue "N" and also on Avenue "O"?

A No, I didn't.

Q I see; but you were close enough that you could look?

A I wasn't much interested in that. 30

Q You weren't too much interested in the entrance?

A No.

Q I see; and then after the body was removed you've told us that you left and before you left is it fair to say that you were of the opinion that there were numerous footmarks in the area around the body?

A Yes, there were.

Q But I take it you could not identify any of them specifically?

A No, I couldn't.

Q And you couldn't tell how many different sizes 10 or anything like that were there?

A No, that's correct; it was so cold that the snow would just fall in.

Q It was just impossible to tell how many various footmarks were there?

A That's correct.

Q And then having made this preliminary check you returned later in the afternoon to go over it a little more thoroughly?

A That's correct. 20

Q Now, when you came there in the afternoon was the scene still being preserved, that is were the public being prevented from molesting it by officers on duty there?

A I can't recall that.

Q You can't recall?

A No.

Q Can you recall whether there were any other police officers there in the afternoon apart from you? 30

A No, I can't.

Q Now, dealing with the sweater and the boot

which I think are now in evidence as P.18 and P.22, the sweater being P.22 and the boot being P.18, as I understand it - and you can correct me if I'm wrong - when you shovelled these items up when you located them, there would be about six inches of snow or so on top of them?

A That's correct.

Q Now, you told my learned friend that you didn't do anything with the sweater apart from initialling it but would you recall whether or not you examined that sweater at the time you found it? 10

A I did look at it, yes; it was inside out.

Q I was going to ask you that; the sweater was inside out?

A That's correct.

Q And you of course formed the opinion at that time that it was a female type of sweater?

A That's correct.

Q One worn by girls; so that if the sweater is now right side out it wasn't that way when you found it? 20

A No, it wasn't.

Q And was it sort of rolled up?

A Just bunched up.

Q That's what I mean; in other words the arms of it weren't flayed out in the snow?

A Oh no.

Q It was rolled up?

A Bunched or rolled. 30

Q Bunched, yes. Now, when you were walking down the east-west lane, which we have earlier

mentioned and referred to on P.1, I presume that you looked very carefully for signs of blood stains - red spots?

A That's correct, yes.

Q Now, is it fair to say that you did not observe any red spots in the snow at any place in that east-west alley?

A That's correct.

Q And is it also fair to say that when you found the boot and sweater there were no signs of blood stains or anything right around there in the snow that you had to turn over with a shovel? 10

A That's correct.

Q And then, is it also fair/say that walking north of the body - you've told us that there were apparent blood stains in the immediate vicinity here - A, B, C, D, E - I think that's where the body was?

A That's correct.

Q Now, you walked north of point A towards 21st Street in that alley, didn't you? 20

A That's correct.

Q And you did not see any sign of blood stains in that alley in that vicinity?

A No, I did not.

Q Then also I believe it is fair to say that you would walk that portion of the alley south of point E - just step down here a moment please - you walked this area south of point E down to the east-west lane? 30

A That's correct.

Q And is it fair to say that you didn't find any

signs of blood in that vicinity?

A That's correct.

WITNESS RETURNS TO THE WITNESS BOX.

Q Now, did you have anything to do with the melting operations that took place in the vicinity of A, B, C, D and E as shown on sketch P.1?

A No, I didn't.

Q Well, were you there at all/^{at}any time when the melting unit was in operation?

A I could have been; I can't recall that. 10

Q I see; you have no distinct recollection of being there?

A No.

Q Now, when you were out in that particular vicinity of this incident were there any boulevards on any of these streets in the immediate area such as 20th Street, Avenue "N", Avenue "O"?

A Any boulevards?

Q Are there any boulevards there - if that term is 20 traditionally used?

A You mean side boulevards? You're not talking about centre boulevards?

Q Centre boulevards?

A No.

Q Pardon?

A No.

THE COURT:

Q Excuse me, is that both "N" and "O" you're talking about? 30

A That is correct.

MR. TALLIS:

Q "N", "O" and 20th Street?

A That's correct.

Q Now, when you were out there that morning were there any boulevards of snow, if I may use that term, on the centre of any of these streets?

A Not that I can recall.

Q I see; and I am referring once again to 20th, Avenue "N" and Avenue "O"?

A That's correct.

THE COURT:

10

Q You know what that reference is to - snow being kicked up there by a grader or something like that and channeled into the centre?

A That's right.

MR. TALLIS:

Q You understood my question in that context, didn't you?

A Yes.

Q Now, were you present with any other officers in that area as depicted on P.1 when any knives were found or portions of knives? 20

A No, I wasn't.

Q You weren't present?

A No.

Q And I'm including dates subsequent to January the 31st?

A No, I wasn't present.

Q You participated in searches subsequent to the 31st in that area?

A That's right.

30

Q But you didn't actually handle any exhibits or prospective exhibits?

A No.

Q On any of those searches?

A No, I didn't.

MR. TALLIS: I have no further questions
to ask this witness.

MR. CALDWELL: No re-examination.

THE COURT: Thank you; you may go.

MR. CALDWELL: I call George Turner Reid,
My Lord.

THE COURT: Is he another police officer? 10

MR. CALDWELL: Yes, My Lord.

GEORGE TURNER REID, sworn, states:

MR. CALDWELL, examining:

Q I believe that you are a member of the Saskatoon Police Department with the rank of Staff Sergeant and that in January of 1969 your rank was that of Detective Sergeant?

A Yes sir.

Q And that you and who was then Detective Parker went to a scene between Avenues "N" and "O" in Saskatoon the morning of Friday January the 31st 10 1969 and that you were dispatched there by radio?

A Yes sir.

Q Now, when you got there, Sergeant, between what streets was this location?

A This was in the 200 block.

Q Of . . . ?

A . . . between Avenue "N" and "O" South.

Q 200 block on either of those?

A Yes.

Q I see; now which way - did you get into the back 20 alley that runs parallel to "N" and "O"?

A Yes; we entered that alley from the north and proceeded south.

Q Is this by car initially?

A Yes sir.

Q And as you went along did you yourself observe anything?

A Yes; as we were driving up the lane I observed two men standing near the T of the intersection; and as we progressed further up the lane I 30 observed a blue blanket covering some type of - laying on the ground covering what appeared to

be a form.

Q And did you approach the last distance on foot?

A Yes sir.

Q And did you leave your car then facing southward in that lane?

A Yes sir.

Q And when you got up there on foot who were the men that you saw?

A The men that I spoke to were Rae Murdoch and Terry Michayliuk of the Westwood Funeral Home. 10

Q I see; did you investigate the blue blanket on that form?

A Yes. I approached the blue blanket and I lifted the top of the blanket and observed the face of a woman laying face down.

Q And were you still at that location when your Identifications Section or members thereof arrived and commenced photography?

A Yes sir.

Q Particularly when Ident. Officer Kleiv commenced 20 photography?

A Yes; the Identification arrived at approximately 9:10 a.m.

Q And I beg your pardon but what time did you say you arrived?

A We received the radio call at approximately 8:40 a. m.; we arrived at approximately 8:50.

Q I see; and Ident. around 9:10 you say?

A Yes.

Q And you had stayed there in the interval, had 30 you?

A I had left with the two gentlemen that I had

211604

previously mentioned and went to the funeral home and spoke to a witness Mary Marcoux.

Q I see; and then came back?

A Then I returned to the scene, yes sir.

Q And you were there when Ident. Officer Kleiv commenced photography?

A Yes.

Q And I think there came a time when the coroner arrived and when the body of the person that was found or located was turned over? 10

A Yes.

Q Now, up to the time when Ident. Officer Kleiv made his first photographs - that would be as I understand it before the body was turned - aside from removing the blanket had there been any change in the situation of the body since you arrived until he commenced making photographs?

A No sir.

Q And I believe that you have knowledge that he did make another photograph after the body was 20 rotated or turned over?

A Yes.

Q And that that was done by or at the request of the coroner Dr. Fogel?

A I believe so.

Q And again was there any change other than rotating the body for that photograph?

A No sir.

Q I'd like briefly to show you P.4. Now, as you proceeded first south in the alley-photograph 30 #4 - and I realize that in this photograph the blanket has been removed, hasn't it?

211605

A That is correct, sir.

Q And the yardstick has been added and the Identification van of course would have arrived after you did?

A That is right.

Q Now, aside from those things, how does the situation there compare with what you found when the blanket was removed?

A It compares favorably, sir.

Q And how about the situation with the undergarments and boot - including that? 10

A Yes.

Q And in that photograph, Sergeant, I believe that there is an area of snow around the body in a disturbed manner and ask you whether that area was comparable to what you see in the photograph when you arrived?

A Yes, the area was trampled as indicated in the photograph.

Q Was it on your arrival? 20

A Yes sir.

Q And when you went to the funeral home and saw this Miss Marcoux did you stop and interview her at that time or was it later on?

A I interviewed her at that time briefly and then later on I believe it was the next day that I received a statement from her.

Q I see; but she was at the funeral home at any rate when you went over there?

A That is correct, sir. 30

Q Now, I believe you and Detective Parker eventually left and called at St. Paul's Hospital and then at

City Hospital and back to St. Paul's later on that morning?

A That is correct.

Q Was that before or after the body was removed from the alley?

A That was after.

Q And I believe you picked up a young lady at City Hospital and took her to St. Paul's?

A Yes; a young lady by the name of Fontaine.

Q And at St. Paul's did you take her to where the body was that had been in the alley earlier? 10

A Yes; to I believe it was room three in the emergency ward.

Q And was the same body you had seen in the alley there?

A It was the same body and at the time we went into the room Identification Officer Kleiv was present.

Q And this is where you took Miss Fontaine, was it?

A Took Miss Fontaine, yes. 20

Q And when she had completed her business there did you return her to City Hospital?

A No sir; she remained there.

Q For the time, did she?

A Yes.

MR. CALDWELL: I see; very well.

Thank you; your witness.

MR. TALLIS, cross-examining:

Q Mr. Reid, when you were out there that morning you were more or less paired with Jack Parker, weren't you? 30

A That is correct, sir.

211607

- Q And when you and Mr. Parker were there I believe that you had occasion to walk down certain sections of the intersecting lanes?
- A That is right, yes.
- Q And referring to this sketch P.1 I believe that you in particular had occasion to walk from the intersection of the lane along the easterly portion of the east-west alley?
- A That is correct, sir.
- Q And your purpose in walking along there was to make pertinent observations if there were any things to see? 10
- A The main reason I went down that east portion of the T-lane was to go to the funeral home to see this witness.
- Q But in any event as you were walking along you were looking?
- A Talking to the two gentlemen and wasn't looking that much.
- Q And from what you saw of this particular area it was clearly open for east-west vehicle traffic? 20
- A Yes.
- Q In other words, the snow was well packed as a result of having been travelled on for some time?
- A Yes, appeared to be a well travelled lane.
- Q And from what you observed of it there was no indication that it was the type of lane where a person would get stuck or anything like that if you drove in the usual travelled portion of it?
- A That is correct. 30
- Q In other words, you don't see why any vehicle would get stuck there if you followed the clear

path that one could see?

A Yes.

Q And as I understand it you looked around the immediate area of the body?

A Yes sir.

Q And is it fair to say that there was what appeared to be spots of blood close to the body?

A Close to the body, yes sir.

Q But then you also checked north of the body?

A Yes I did.

10

Q And there was no sign of blood or anything like that in the snow north of the body?

A No.

Q And you also checked south of the body - south of point E?

A Through the T, yes.

Q Yes; and there was no sign of blood or anything of that nature?

A I didn't see any.

Q And then when you were in the east-west alley you did not see any sign of blood?

20

A I didn't go down the west portion of that east-west lane.

Q Well then, insofar as the east portion of that alley is concerned?

A At the time I walked along there I didn't observe any blood.

Q No; and I take it that you people did everything you could to preserve the scene until the Ident. people got there?

30

A That is correct, sir.

Q And I gather that being such a bitterly cold

211609

morning there were not too many people out and around?

A That's for sure; yes.

Q And apart from the two male persons - Mr. Murdoch and Mr. Michayliuk - did you see any other adults?

A The only other ones was when Dr. Fogel arrived and the two ambulance drivers.

Q I see; but there were no other civilians milling around, if I may use that term? 10

A Not that I can recall at this stage, sir.

THE COURT:

Q Do you recollect whether either of those alleys was on an incline or were they quite flat - level?

A No, to my knowledge, sir, they were quite flat.

THE COURT: That's all, Officer;
thank you.

MR. CALDWELL: I call Joseph Penkala, My
Lord. 20

30

211610

JOSEPH PENKALA, sworn, states:

MR. CALDWELL, examining:

Q I believe you are a member of the Saskatoon Police Department with the rank of Lieutenant and that you are the person in charge of the Identification Section, Officer?

A Yes sir.

Q And generally speaking that section has to do with the examination of scenes, photography, collection and marking of items, fingerprint examinations and so forth? 10

A That's correct.

Q And I believe that on the morning of Friday January the 31st of 1969 that you attended at a scene between 20th and 21st Street in Saskatoon along with Ident. Officer Kleiv and a third person?

A That's correct.

Q Who was the third man there?

A Cst. Winter. 20

Q And I believe he was in your section as a trainee or on rotation at the time?

A Yes, that's correct.

Q And between what avenues did this scene run?

A Between Avenue "N" and Avenue "O" the 200 block South.

Q And when you arrived what was the weather and visibility?

A It was extremely cold. It was just breaking day; it was heavy fog and frost; it was difficult 30 seeing.

Q And what time of day was it that you actually

got there?

A It was nine - just after nine o'clock - nine ten in the morning.

Q Were there any police officers there when you arrived?

A Yes; when I arrived Detective Sergeant Reid and Detective Parker were there.

Q And I believe the situation is that Ident. Officer Kleiv was the person who proceeded to make photographs at the scene in the first place 10 there?

A Yes, that's correct.

Q And I would like briefly to show you P.4. I believe there has been evidence photograph #1 is looking northward from the junction of the T-lane; how does that compare with the scene as you found it when you arrived?

A Yes, that's how I recall the scene.

Q And on a closer view photograph #2, how does that compare with the situation with the body? 20

A Yes, that's a photograph there; I recognize the scene.

Q Now, I possibly skipped ahead a bit but I take it that you did find there to be a female body in that north-south alley north of the east-west alley?

A Yes.

Q And again looking at number 2 how was the situation in reality as compared with what's shown in the photograph here as to the snow 30 surrounding the body?

A Yes, this is how the snow was as it appears in

211612

this photograph. There was heavy snow and in the area of the body the snow had been trampled around the body about a ten foot diameter.

Q Where was the body from the so to speak the two wheel tracks or travelled portion of the north-south alley?

A The legs of the body were almost touching the travelled portion of the alley and the head and shoulders were at an angle closer towards the fence.

10

Q And photo #4; is that your van at the intersection?

A Yes.

Q And aside from this surveyor's rod how does the situation compare from that angle to what you found at the very site of the body?

A Yes, that is consistent with what I saw at the scene.

Q And particularly asking you about the situation with the feet and legs, the nylons, the one boot and so on? 20

A Yes.

Q And I believe that as time went on Coroner Dr. Fogel arrived and that either by him or at his request the body was rotated?

A Yes sir.

Q Now, up to that point had it been altered in any way while you were there?

A No, it was not.

Q And how does photograph #7 compare with what you saw when the body was rotated? 30

A Yes, as the body was rolled back this is exactly

211613

how it appeared.

Q And I specifically ask you about the arrangement of the clothing there?

A Yes; the three-quarter length cloth coat with a fur collar and fur trimmed cuffs was unbuttoned; there was a button missing - the centre button of three was missing; the garments underneath the coat were crumpled at the waist and down at the crotch area; the brassiere was intact, the right breast was exposed and the right brassiere 10 strap was broken. The underclothing - the panties and girdle were at the left ankle at the boot; the right boot was missing; and the right foot was still in the stocking foot of a white mesh stocking.

Q Was there a stocking on the left leg?

A Yes.

Q And it's visible here over the boot I believe?

A It is, yes.

Q What was the situation with the hair and the 20 hands of the deceased when you were there?

A The hair was mussed and matted with snow; it was brownish auburn hair. In connection with the hands they were under the body bent at the elbows; the left arm was under the body and the right arm was alongside of the body up towards the shoulder; the fists were clenched and there was snow in the fists.

Q And I think you mentioned the situation being that the arms of the deceased were in the sleeves 30 of that cloth coat?

A They were, yes.

211614

Q Now, did you yourself take any photographs at the scene?

A Not at the scene, no.

Q Alright; and so that Ident. Officer Kleiv was the only policeman who did that at the scene, was he?

A Yes.

Q And I think the situation is that you later attended St. Paul's Hospital and that you and Ident. Officer Kleiv were present throughout the autopsy which was conducted by Dr. Emson that same afternoon? 10

A Yes, that's correct.

Q And Officer Kleiv collected certain body samples and items of clothing as that went along?

A Yes.

Q And did you make photographs at the autopsy in addition to Kleiv making photographs there?

A Yes; I took photographs in color.

Q What happened to your photographs? 20

A We had a malfunction with the camera and the camera shredded the film and we were not able to salvage any photographs out of that roll.

Q And this would refer to your photography at the hospital in color as the autopsy went on?

A That is correct.

Q So as I understand you none of them exist at this time or for that matter since you opened your camera?

A That's right. 30

Q Now, dealing with the area of snow immediately surrounding the body, what appearance did it

give just to look at it as you found it?

A There appeared to have been a struggle in the area. The body was lying approximately the centre of this trampled area; the snow was quite deep; the snow was stained with blood.

Q And did you, Lieutenant, yourself while you were out there that day at any time that day observe any apparent blood stains other than in the trampled snow area and on the body itself of course?

10

A No, I did not.

Q Now, did you search the area where the body was found the first day so to speak - January the 31st - when you were initially out there?

A Yes sir.

Q At what stage did you search?

A The body was removed at about ten o'clock in the morning and I proceeded to search after the body was removed; and at approximately 10:20 while going through the snow that was under the body I came across the blade of a knife - a three and a half inch blade, sharpened on one side, the blade was about five-eighths of an inch in width.

20

Q Now, this would be I take it after the body and after Ident. Officer Kleiv left the scene?

A That's correct.

Q And where was it in relation to the exact area that the body had been lying?

A It would be approximately right under where the body had been lying.

30

Q And was it visible at the outset or not?

211616

A No, it was buried in the snow; it was between the surface and the ground.

Q I see; and what would the snow be covering the blade, so to speak - what was its condition?

A It was packed to a degree; it was also stained and frozen.

THE COURT:

Q Stained?

A Stained, yes, My Lord.

Q With what?

10

A With blood.

MR. CALDWELL:

Q And it was in that area though where you came up with the blade, was it?

A Yes.

THE COURT:

Q So there was blood on the snow where the body had been lying?

A Yes, My Lord.

MR. CALDWELL:

20

Q And in that respect I think you have mentioned some spots so to speak around the trampled area which would appear to be blood, did you?

A That's correct.

Q Now, what can you tell the Court about the stain of which you speak now?

A This appeared to be blood as well.

Q And how did it compare in size to the spots and so forth or volume as far as you could see?

A Well, it was dispersed throughout the area where the body was lying; it wasn't in abundance but the stain did seep through the snow and it was 30

found seeped through the snow into the depth of the snow.

Q And was it in a frozen state when you were there?

A Yes.

Q I show you P.12 for identification - an envelope and a knife blade attached to a tag. Is that the one you are talking about that you found there?

A Yes; this is the knife blade which I found at the scene.

Q How do you identify that? 10

A My initials are scratched into the metal.

Q And when you retrieved the blade was there anything in the way of visible staining or marking on it?

A Yes; there was a stain on the blade which appeared to be blood.

Q Now, what did you do with the blade once you recovered it?

A I kept the blade in my possession until the 7th of February at eight o'clock in the morning 20 when I turned it over to Identification Officer Kleiv for the purpose of transporting it to the Crime Detection Laboratory.

Q Once you had done that would that be the last you had to do with the blade other than to see it in court say at the preliminary inquiry of this case?

A Yes.

Q And other than marking it by scratching your initials and date into the blade I believe, did 30 you alter the situation with it in any way other than that?

211618

A No.

Q Did you seal it up in the envelope, Lieutenant, eventually?

A Yes.

Q And particularly the place where there appears to be a break, did you alter that in any way?

A Of the blade?

Q Of the blade.

A No.

THE COURT: 10

Q It appears to have been broken?

A Yes, My Lord.

Q Not just pulled out of a handle but broken off?

A It was broken as far as I was concerned.

MR. CALDWELL:

Q Now, on the 31st did you retrieve any more items of any sort from the . .

THE COURT: . . excuse me, I think you should show this to the jury - are you putting that in? 20

MR. CALDWELL: I would tender it, My Lord, yes.

THE COURT: That will be P.12.
(Exhibit P.12 for identification
made EXHIBIT P.12)

MR. CALDWELL:

Q Perhaps you could just show that to the jury, Lieutenant. Is any of the staining still visible or not? 30

A Yes, there's still stains here.

WITNESS POINTS OUT TO THE JURORS AND RETURNS TO

THE WITNESS BOX.

Q I think I was asking you, Lieutenant, whether you retrieved any more items on that day at the scene in the alley there or anywhere in that T-alley?

A No, I did not.

Q Now, I believe that you did attend later on to Westwood Funeral Chapel and obtain a sample of blue blanket from that place?

A This was at a later date. 10

Q Yes; do you recall the date offhand when that was done?

A Yes, it was February the 4th that I returned to the scene and I again searched through the snow, the same area and the same snow that I had searched when I found the knife blade. And during this search I found two frozen lumps of substance - a yellowish substance about an inch in diameter. I retrieved these two frozen lumps and took them back to the 20 Police Station with me. It was that same day that I stopped at the Westwood Funeral Chapel and obtained a sample of blanket wool.

THE COURT:

Q Excuse me - what date was that?

A February the 4th, My Lord.

Q That you found these frozen lumps?

A That's correct.

MR. CALDWELL:

Q Where were ^{they}/in relation to the place the body 30 had been lying?

A I could only go by the fact that I had already

211620

gone through this snow and I had gone through it again. The snow was piled on the first search through it and I went back through the same pile of snow and it was while I went through this snow that I found these two frozen lumps.

Q So that this would really be from a pile of snow on the second occasion?

A Yes, it was from the pile of snow that I had gone through initially the first time and it included the snow that was in the area under the body of the victim. 10

Q I see; alright, and as I understand your evidence you had piled this snow in the course of search?

A Yes.

Q And did it appear to be the same/^{so} to speak when you got back and found the lumps?

THE COURT: The pile you mean?

MR. CALDWELL: The pile.

A Yes, I didn't see any difference to what I had left it on the 31st. 20

Q Now, how large an area had been gone through in the process of making up the pile - now, I'm thinking of in relation to the trampled area so to speak?

A Yes; well, it included the entire trampled area.

THE COURT:

Q Well, did it include anything besides that?

A No, I left - where the snow hadn't been disturbed I hadn't searched up to that time. 30

Q So that this pile was composed of snow except for the bottom part of it - was composed of snow

which had been gathered by you from the
trampled area?

A That's correct.

MR. CALDWELL:

Q And I take it left right there so to speak at
the edge of that area?

A Yes; it was right in the area actually.

Q And this was on the 4th of February?

A That's correct.

Q And you mentioned it as being two frozen lumps? 10

A Yes.

Q Was there a color you could discern?

A Yes; it was a yellowish color.

Q And with the naked eye could you discern
anything else about either of the lumps?

A No, not really.

Q I see; and what did you collect those in,
Lieutenant?

A Initially in plastic bags. I later transposed
them to plastic vials. 20

Q One to each vial, I take it?

A Yes.

Q And did you retain them in a frozen state for
the time when you had them?

A I did, yes.

Q And do you have a refrigerator and freezing
compartment in your office for that purpose?

A Yes.

Q Now, I show you P.13 for identification - a
brown envelope containing a further envelope 30
and two vials. Are those the vials into which
you mention that you put those frozen lumps?

211622

A Yes, these are the vials.

Q How do you identify them?

A I have my initials on the sealing tape of the vials.

Q And I take it you made up only two such vials in connection with this matter, did you?

A Yes.

Q And having collected the lumps as you say initially in plastic bags and transferred them into the vials, I believe the situation is that 10 you took one of these vials to another person shortly after you obtained them?

A Yes, that's right.

Q And who was that?

A On February the 6th somewhere around ten o'clock in the morning I took these samples to Dr. Emson at St. Paul's Hospital.

Q Did you take both of them up there to the hospital?

A No, I just took one. 20

Q You just took one; and can you tell which one it is?

A No, I cannot.

Q But it was one of those two?

A Yes.

Q And without going into what was said did you turn it over or show it to Dr. Emson?

A I showed it to Dr. Emson and he deleted a small portion of this frozen sample and examined it.

Q He removed part of it, did he? 30

A Yes.

Q Alright; and did you retain the main sample?

A I did.

Q Did it stay frozen?

A Yes.

Q And returned it to your keeping then I take it after that?

A Yes.

Q Now then, when you had the two of them - the vials back together so to speak what did you eventually do with them?

A On the 7th of February I turned the vials over 10 to Identification Officer Kleiv for the purpose of transporting it to the Crime Detection Laboratory.

Q And would that be the last personal handling you had of the two vials then other than looking at them at the preliminary inquiry?

A Yes.

Q And while they were in your possession other than the transferring of the lumps in the way you have told us and marking the items, did you 20 change them in any manner other than that - and letting Dr. Emson take a sample of one of them?

A No.

Q And I take it you added one of those envelopes, when you turned it over to Kleiv, did you?

A Yes; the inner envelope is mine.

Q And does it bear your markings?

A Yes; my writing - my signature.

THE COURT: Will you be a little while yet with this witness? 30

MR. CALDWELL: Yes, My Lord.

THE COURT: We'll adjourn for ten minutes.

211624

RECESS

THE COURT: Mr. Caldwell?
MR. CALDWELL: Thank you, My Lord -
Q I believe, Lieut. Penkala, you were looking at
P.13 for identification when we adjourned a
moment ago and that the vials as they now are
are empty?
A Yes, that's right.
Q And as I understand it when you turned them over
to Kleiv, though, they would contain these 10
frozen lumps?
A That's correct.
MR. CALDWELL: I don't propose to tender
that as an exhibit.
THE COURT: They're just vials, there's
nothing in them.
MR. CALDWELL: That's right, My Lord.
THE COURT: He has identified them as
vials that he had and gave to somebody; they
can go in. 20
I don't think there's any objection to that,
is there, Mr. Tallis?
MR. TALLIS: What . . . ?
THE COURT: . . . they can go in now as
exhibits as vials?
MR. TALLIS: Oh, the vials can go in as
distinct from contents.
THE COURT: That's right, yes.
(Exhibit P.13 for
identification - two 30
vials only -
made EXHIBIT P.13

MR. CALDWELL:

Q Now, when you collected the items you I believe told the Court that they were frozen lumps and yellowish in color?

A Yes.

Q Now, at any time that you were handling them did you discern any other material so to speak that you could see with the naked eye?

A Yes, there was hair frozen in this as well.

Q And did that apply to one or both of the lumps? 10

A In both lumps.

Q I see; and did you leave that as you found it so to speak?

A I did, yes.

Q I believe you have already mentioned that you obtained a fibre sample from a blue blanket from the Westwood Funeral Home as I understand it that same day?

A That's correct.

Q Which was . . . ? 20

A February the 4th.

Q And I show you - I'm sorry this has not been introduced, I don't believe. Is that the envelope in which you enclosed the fibre sample?

A Yes, this is the envelope; it bears my handwriting and my signature on the white envelope.

Q And does it still contain part of that sample, Officer?

A It does, yes. 30

Q And did you enclose it in a plastic sleeve?

A Yes, it was in a plastic sleeve.

211626

Q Now, once you obtained that I take it you assembled it in the envelope and sealed it up and marked it, did you?

A I did, yes.

Q And who did you give it to?

A I turned this over to Identification Officer Grant on April the 20th for transporting to the Crime Detection Laboratory.

Q And would that be the last handling you had of that item then other than in court at various stages of this case? 10

A That's correct.

MR. CALDWELL: I would tender that item as an exhibit, My Lord.

THE COURT: P.32.
(Fibre sample from blue blanket
made EXHIBIT P.32)

MR. CALDWELL:

Q I believe you at some stage received a black wallet from another officer? 20

A Yes I did.

Q And when and from whom was that?

A From Detective Sergeant Ray Mackie and it was on April the 7th at nine fifty in the morning that I received a wallet and the contents of a wallet and also two hospitalization cards or slips.

Q And was that from Ray Mackie at the same time and place?

A That's correct. 30

Q I show you P.21 for identification; is that the wallet?

A Yes, this is the wallet. It has my initials on the inside and also my writing on the tag.

Q May I ask you in relation to that and the two vials which are P.13, I take it you added a brown outside envelope in each instance?

A I did, yes.

THE COURT:

Q Excuse me a minute, before you go on; was there anything in the wallet when you received it?

A Yes, there were personal cards and photographs 10
in the wallet.

Q Yes - any money?

A There was no money.

MR. CALDWELL:

Q And did you make up the contents of the wallet into a separate collection so to speak?

A I removed the sections containing the cards and the photographs; I took them from the wallet and I later sent the wallet to the Crime Detection Laboratory. 20

Q But not the cards and photographs?

A That's correct.

Q Alright; and what did you do then with the wallet after you had taken those steps with it?

A On April the 20th I turned it over to Identification Officer Grant for delivery to the Crime Detection Laboratory.

Q And would that be the last handling you had of it other than in court?

A Yes. 30

Q I show you a collection of cards and photographs and is that the collection of items that you say

you removed from the wallet before you gave the wallet to Grant?

A Yes, these are.

Q And how do you identify them?

A I have markings on the items - my initials - on each of the items.

Q As I understand your evidence they were all in the wallet when you received it and you made it up into a separate collection?

A Yes; I removed them from the wallet. They are in 10 plastic type windows and I just removed the entire section containing the cards.

Q And you added the plastic larger envelopes, I take it?

A I placed them in these envelopes.

Q Now, having made them up in that manner did you retain them in your possession and tender them at the preliminary inquiry?

A I did, yes.

Q And I take it that they were not out of your possession or altered in any way except in the process of marking them and packaging them up? 20

A That's correct.

MR. CALDWELL: I would tender those, My Lord, for identification at this time.

THE COURT: Do you want to put them both in as one exhibit?

MR. CALDWELL: Well, the wallet contents, My Lord; there are two or three parts but they all as I understand the evidence are wallet contents. 30

THE COURT: Alright; that will be P.33

for identification.

(Wallet contents
made EXHIBIT P.33
for identification.

MR. CALDWELL:

Q And I believe you mentioned receiving some hospitalization cards at the time you received the wallet?

A Yes.

Q Were they separate from the wallet? 10

A They were separate from the wallet.

Q And from whom and when did you receive them again?

A From Detective Sergeant Ray Mackie at nine fifteen on April the 7th 1969.

Q And did you retain them in your possession from then on and tender them at the preliminary inquiry?

A I did.

Q And I show you two such cards - are those the ones you received from Mackie? 20

A Yes, these are the two hospitalization cards - a 1966 and a 1968 card.

Q And how do you identify them?

A My initials and date and time are on the cards in ballpoint ink.

Q And do they indicate a name of a holder on either one of them?

A Yes. The 1966 hospitalization card is in the name of Milton O. Miller, Laura, Saskatchewan, and it contains the names of the Miller family. 30

Q Alright; and is one of those names Gail Miller?

211630

A Yes.

Q And with respect to the other card . . ?

A The 1968 card is in the name of Gail O. Miller and it's care of Milton O. Miller, Laura, Saskatchewan.

Q I see; and you retained those two items as you have told the Court, did you?

A Yes sir.

MR. CALDWELL: I would tender that for identification, My Lord, if Your Lordship pleases 10 as one item - the two of them.

THE COURT: P.34 for identification.
(Two hospitalization cards made EXHIBIT P.34 for identification.

MR. CALDWELL:

Q Now, I show you a toque; did you receive that item during this investigation?

A I did.

Q And . . ? 20

A . . on April the 7th 1969 at 10:45 in the morning I received this toque from Detective Eddie Karst.

Q Did you mark it in some manner?

A Yes; I placed a tag on it and the tag bears my signature.

Q And other than marking it did you alter it in any way?

A No.

Q And what did you do with - you added the brown envelope to it, I take it? 30

A Yes, I did.

Q What did you do with that item?

A I turned the sealed envelope over to Identification Officer Grant on April the 20th 1969 for delivery to the Crime Detection Laboratory.

Q And would that be the last you had to do with the toque then?

A That is correct.

MR. CALDWELL: I tender that for identification, My Lord.

THE COURT: P.35 for identification. 10
(Toque in brown envelope
made EXHIBIT P.35
for identification.

MR. CALDWELL:

Q I beg your pardon, Officer, but I believe you did mention turning the wallet over to Ident. Officer Grant, did you, already in your evidence?

A I did, yes.

Q And the toque?

A Yes; I turned that over on April the 20th 1969 20 to Identification Officer Grant.

Q And I think you have already mentioned of course retaining the hospitalization cards until they were entered in evidence below?

A Yes.

Q I show you P.23 for identification - a purported blood sample - did you receive that item?

A Yes.

Q And when and from whom?

A On April the 17th at 11:00 p.m. I received this 30 vial from Detective Oleksyn at the Police Station.

Q And did you package it up in the . . ?

A . . yes, all the paper connected with this exhibit my identification is on it - my signature, my writing.

Q And this was just a matter of packing it for later safety?

A That's correct; for delivery to the Crime Detection Laboratory.

Q And what did you do with it when you packaged it up and marked the containers? 10

A I sealed the top of the stopper on the vial and marked it and turned it over to Identification Officer Grant on the 20th of April 1969.

Q And was that the last you had to do with that sample?

A Yes.

Q Did it contain contents when you got it?

A Yes.

Q And what quantity?

A It appeared to be blood. 20

Q And how full was it?

A It was not right full but it was almost full.

Q And when you say you sealed, Lieutenant, what did you do to it?

A I took adhesive tape and brought it over the top of the stopper.

Q I see; but it was stopped with the stopper of course?

A It was, yes.

Q And other than that I take it you did not alter 30 it in any way?

A No.

- Q And once you had given it to Grant was that all that you had to do with that item?
- A That's correct.
- Q Now, I believe that you during this investigation received a sample of saliva from the accused David Milgaard?
- A I did, yes.
- Q And that you personally received that from him?
- A I did, yes.
- Q And is the person from whom you received ^{it} /in court 10 here today?
- A He is, yes.
- Q Which person is it?
- A The accused sitting in the dock.
- Q And I take it you came to know him just through this investigation?
- A That's correct.
- Q And I show you P.24 for identification and would ask you whether that is - or first of all what did you do by way of getting that sample with 20 the accused?
- A On April the 18th at about 10:45 in the morning I met David Milgaard, who was in the company of Detective Karst and Detective Barrett; and I asked and received samples of saliva from David Milgaard.
- Q How were these collected?
- A I took clean pieces of filter cloth and asked David Milgaard to chew the piece of cloth and after he had chewed it to give it to me; and I 30 retained it.
- Q How many pieces of cloth?

211634

A There was two pieces of cloth.
Q And did he do that with both?
A He did, yes.
Q And you received them directly from him, did you?
A I did.
Q And did you then put them in the vials forthwith?
A Yes; I air dried them and then packaged them in the vials and sealed the vials.
Q Air dried the items first?
A Yes. 10
Q Right; and do you identify the vials in some manner?
A Yes; my initials are on each vial.
Q And did you make up and seal them in an envelope?
A I did; and the envelope is here and it bears my handwriting and my signature.
Q I see; and did you seal the actual vials themselves?
A I did, yes.
Q And what did you do when you completed all that - what did you do with the items? 20
A These I turned over to Identification Officer Grant on April the 20th for delivery to the Crime Detection Laboratory.
Q And in this instance they still contain pieces of filter cloth in each case?
A Yes.
MR. CALDWELL: My Lord, I wonder if Your Lordship would accept that as an exhibit under those circumstances?
THE COURT: Yes; it will now be Exhibit 30
P.24.

774 Exam of Lieut. Penkala

(Exhibit P.24 for
identification
made EXHIBIT P.24)

MR. CALDWELL: Thank you, My Lord.

Thank you; your witness.

MR. TALLIS, cross-examining:

Q Mr. Penkala, you told my learned friend about
speaking to David and getting this saliva sample
and I take it that before you obtained the saliva
sample you explained to him why you wanted it? 10

A Yes I did.

Q And in particular I take it that you told him it
was in connection with the Gail Miller murder?

A Yes; I don't recall specifically referring to
that but I feel that this was known.

Q And you made reference to wanting it to submit
to the laboratory?

A That's correct.

Q And whether the name of the girl was used or not
in any event the topic of discussion centered 20
around the body that had been found there in
this lane?

A I don't recall actually talking about the
particular scene or the particular crime.
Detective Karst was basically in charge of this.
I made my explanations in connection with the
purpose of the samples, to which David Milgaard
agreed and I obtained the samples.

Q Well, just to go back for a moment then; you
indicated to David that you wanted to obtain 30
this sample of saliva for comparative purposes
at the laboratory?

211636

775 X-exam of Lieut. Penkala

- A Yes.
- Q And you indicated that it was the R. C. M. P. Crime Laboratory in Regina?
- A Yes.
- Q And I take it that you explained this to him not in technical language but in ordinary language that a sixteen and a half year old boy would understand?
- A Yes.
- Q And as I understand it, it's fair to say that he was quite co-operative and polite with you? 10
- A He was, yes.
- Q And during the course of this discussion it is fair to say that it centered around the murder of a girl at least, whether her name was mentioned or not?
- A Well, I feel confident that this was known by all parties there but I don't recall any specific discussion as to the crime itself.
- Q I see; well, I'd like to take you back for a moment and this may assist you. You were here giving evidence at the preliminary hearing last summer? 20
- A Yes.
- MR. TALLIS: This is page 352, My Lord, question 22 -
- Q Do you recall being asked this question and giving this answer:
- "When this discussion was taking place, it really centered around the murder of a girl?" 30
- And your answer is recorded as: "Yes."

211637

Now, do you remember being asked that question
and giving that answer?

A Yes.

Q So that the discussion took place at least in
this context?

A Yes, I would . .

Q . . you would agree with that?

A Yes.

Q And the discussion you had with David was on a
cordial and friendly basis? 10

A Yes.

Q And I believe it's fair to say that he
co-operated fully with you in chewing this fibre
or cloth the way you wanted him to?

A Yes, he did.

Q And you gave him specific instructions in this
connection, didn't you?

A I did, yes.

Q And he carried out those instructions as requested
by you? 20

A That's correct.

Q Yes; and as I understand it at this particular
time David was not under arrest or anything like
that?

A Not to my knowledge.

Q No; at least that was your understanding at the
time you were getting this sample?

A That's correct.

Q And about how long did you spend with him at
that particular time? 30

A Not too long; it would just be a matter of minutes.

Q And you obtained as I understand it two separate

211638

samples?

A Yes sir.

Q Is that correct?

A Yes.

Q Now, I want to go back for a moment - I wonder if I could have P.4 please - P.4 of course is this album of photographs and photo #7 shows the condition of the body when it was rolled over by the coroner as I understand it?

A That's correct.

10

Q And then as I understand it you were present when certain other photographs were taken at the morgue in St. Paul's Hospital?

A That's right.

Q And in particular you were present when photo #13 was taken?

A Yes.

Q And you were also present when photo #14 was taken?

A Yes.

20

Q Now, how many years have you spent in identification work altogether?

A Just over nine years.

Q Over nine years; and how many years of police service do you have altogether?

A Just over fifteen years.

Q Over fifteen years; and as I understand it you observed the wounds on the neck both at the scene and at the hospital?

A Yes.

30

Q And of course when you were at the scene you would also be able to observe the wounds in the

stomach area?

A Yes.

Q Or chest area. And it wasn't until you got to the hospital that you noticed the stab wounds on the back of the body?

A That's correct.

Q Now, did you notice any puncture marks or anything at the first viewing of the body right at the scene in that alley?

A In the front in the abdomen, yes. 10

Q No, but did you notice any puncture marks in the coat?

A Oh no.

Q You didn't notice anything at that time?

A Not at the scene.

Q Now, in any event it wasn't really until you got to the hospital that you had a chance to look over the nature of the wounds in a more extensive way?

A Yes, that's right. 20

Q And as I understand it from looking at these wounds particularly on the neck region, you did come to the opinion that it was probably - that they were probably inflicted by a person who was right handed?

A A person that used his right hand, yes.

Q Well, who was normally right handed as distinct from left handed?

A I wouldn't necessarily agree with that statement. 30

Q Well, you were asked about this at the preliminary hearing and at that time you agreed

211640

with me that it was your opinion that they were probably caused by a right handed person as distinct from a left handed person?

A A person using his right hand, yes.

Q I see; you say that I didn't ask the question in the context of left handed as distinct from right handed?

A I do recall something of that nature.

Q You do; and you made these observations with respect to the use of a right hand as distinct 10 from a left hand because of the angle of the slash, didn't you?

A That's right.

Q Yes; and it was based on the observation of this particular angle of slash that you drew that possible distinction?

A That's right.

Q And as a matter of fact you examined not only the wounds on the neck but also the stab wounds quite carefully, didn't you? 20

A Yes.

THE COURT: That's on the body, do you mean?

MR. TALLIS: Yes, on the body -

Q So I mean that not only did you look at the wounds that you could see at the scene but you also looked at the wounds that you could see on the body at St. Paul's Hospital?

A Yes, that's correct.

Q And did you make a measurement of any of the 30 wounds as to length or width or anything like that?

A Not specifically, no.

Q Well, did anyone measure them while you were there?

A Yes.

Q I see; but you didn't actually do any measuring?

A That's correct.

Q Now, I want to go back . . . ?

THE COURT: . . . excuse me, are you going
on to another topic?

MR. TALLIS: Well, we can rise here, My
Lord; this is a convenient point. 10

THE COURT: We'll adjourn until two
fifteen, gentlemen.

12:25 P.M. JANUARY 26TH, 1970 - COURT ADJOURNED.

2:15 P.M. JANUARY 26TH, 1970 - COURT RESUMED.

ALL JURORS PRESENT.

THE COURT: Mr. Tallis?

MR. TALLIS, continuing:

Q Now, Mr. Penkala, I think I earlier referred you
to photo #7 in this set - I'm sorry, photo #7
and then later photo #14 - you looked at that? 20

A Yes sir.

Q Now, when we rose before lunch I was going to
ask you a question and you remember being asked
a number of questions about these cuts at the
preliminary hearing, don't you?

A Yes.

Q And do you recall being asked this question and
giving this answer - page 361 question 82:

"And from your observation of the nature of
the wounds, that the nature of these wounds 30
and the angle of them, were they, in your
opinion, more consistent with having . . ."

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". . . been made by a person who was normally right handed as distinct to left handed?"

And your answer is recorded:

"I wouldn't like to express an opinion on that. I would admit that in this particular incident I would have thought that a right handed person would have made, or would have inflicted the cuts at the neck."

Do you recall being asked that question and giving that answer? 10

A I recall being asked the question. I don't dispute the answer that's given there. However, there is in my recollection a difference; I intended to say that a person using the right hand.

Q I see; but you don't dispute that this was the answer you gave at this time?

A No.

Q Then so that there is no misunderstanding about this - question 83; 20

"I see. And this was based on, so we will deal with this incident, as you quite properly have done, and this is based on the angle of them and the observations that you have made?"

And the answer is recorded as: "Yes."
You were asked that question and gave that answer?

A Yes, that's correct.

Q And you noticed a sort of consistency in the slash marks on the neck, didn't you? 30

A That's right.

Q And a particular angle to them?

211643

- A That's correct.
- Q That attracted your attention?
- A Yes.
- Q Now, as I understand it, the only blood that you observed was in the general area of the body?
- A That's correct.
- Q And was there a greater amount of blood underneath the body than in the area around it?
- A Yes, that's correct.
- Q Now, when the body was moved did you notice that 10 the blood had saturated right through the snow? I wanted to just get you to clarify this for me.
- A This is correct. The blood - the stain had penetrated and seeped through the snow into the depth of the snow.
- Q And what was the depth of the snow in that particular spot where the body was laying?
- A I would just estimate at least a foot thick.
- Q I see; and was there more than one patch or spot where the stain had seeped through in this 20 way when we deal with the area under the body?
- A Yes, there were several areas.
- Q I see; and how large would each of these areas be to the best of your recollection?
- A Not too large.
- Q Could you translate it into inches for us?
- A The area of the stain would be within a two inch diameter and then of course saturating down through the thickness of the snow and in varying degrees into the snow. 30
- Q And how many of these spots were there underneath the body?

211641

A I couldn't give an exact number; there were many there.

THE COURT:

Q A number of two inches in diameter - is that what you are suggesting?

A I believe that Mr. Tallis had asked the size of the stain and I indicated that the stains were within a two inch diameter and that they had saturated through the snow in various degrees.

Q But do I understand you to say that there were 10 a number of such stains?

A Yes.

Q In an area underneath the body?

A That's correct, My Lord.

MR. TALLIS:

Q And I take it that's as far as you can go, you can't give us any estimate of the approximate number?

A No.

Q Were you by chance present when the girl's 20 height was measured?

A I don't recall measuring the length of the girl.

Q What about in the hospital at the morgue?

A I don't recall this being done at the hospital.

Q Well, was she weighed?

A Not to my recollection.

Q Not in your presence; and I take it then when you got to the hospital you more or less let Dr. Emson take charge, did you?

A Yes, this is correct. 30

Q And now, I gather from what you told my learned friend Mr. Caldwell that you made a fairly

careful search in the area right around the body?

A Yes.

Q And this was the first area that you searched, was it?

A That's correct.

Q Now then, having done that you looked over the general area so to speak, did you?

A Yes.

Q And as I understand it Mr. Kleiv left with the body but you remained at the scene? 10

A That's correct.

Q For some period longer than he did?

A Yes.

Q When did you leave the scene that morning?

A It would be about eleven o'clock.

Q I see; now, as I understand it you walked down this north-south lane that is shown on P.1?

A Yes.

Q And you did not observe any tire marks of any significance there? 20

A That's correct.

Q But there was a lane there for traffic?

A Yes, there was.

Q And it wasn't blocked or anything like that?

A No.

Q And similarly I take it that you walked down the east-west lane?

A Yes.

Q In other words you walked down the whole lane?

A Yes, from Avenue "O" to Avenue "N". 30

Q Now, when you came to Avenue "O" how did you get there to start with?

A Well, I came from the actual scene to the intersection and then proceeded to one end and then back to the other end.

Q I see; in other words, you walked to Avenue "O" . . . ?

A Yes.

Q . . . and then back down the alley?

A Yes.

Q . . . right over to Avenue "N"?

A Yes. 10

Q And I take it that you were looking for marks or spots of significance at that time?

A That's correct.

Q And is it fair to say that you did not observe any tire marks of any significance?

A That's correct.

Q And in particular there were no tire marks that would indicate a vehicle had been stuck in that area?

A I did not see any. 20

Q And you I presume in your earlier years at least had some experience in traffic?

A Yes.

Q Yes; and even in your present duties drive an automobile?

A That's correct.

Q And you also looked I take it for footmarks there, did you?

A Yes.

Q And you didn't see any footmarks? 30

A That's correct.

Q And did you also look for possible blood stains

or spots?

A Yes.

Q In that east-west alley?

A I did, yes.

Q And you saw nothing of that nature?

A That's correct.

Q And similarly in the north-south alley you saw nothing of that nature except those spots that you have told us about around the body?

A That's correct. 10

Q Yes; now, in the photographs that form part of P.4, photo #7 I believe depicts the lady's panties being down by her boot, is that correct?

A Yes, that's right.

Q Yes; did you examine the panties to see whether or not there appeared to be any seminal stains on them?

A The panties and the girdle were stained with what appeared to be blood. They were submitted to the laboratory for these examinations. 20

Q I see; but did you yourself see anything that appeared like seminal stains on the panties?

A Nothing that I could . .

Q . . nothing that you could form any opinion on?

A That's correct.

Q And you didn't conduct any of the tests yourself on those items?

A No, I did not.

Q Now, I take it that you did not notice the wounds in the woman's back until you were at the hospital? 30

A Yes, this is right.

211648

Q And it was then that you first noticed the punctures in the coat?

A That's correct.

Q Now, were you present when melting operations were going on at this scene around A, B, C, D, and E as it's shown on P.1?

A Yes.

Q And I take it that the area around this place where the body was found was melted?

A Yes. 10

Q By a system of heating that you brought in?

A Yes; there was a canopy built and a method of heating introduced and snow melted.

Q And did you spend some time there yourself?

A Yes, from time to time I would return, examine the area that the snow had melted - I made return trips on quite a few occasions.

Q And were you present when a hunting knife was found or turned over to any member of your department there? 20

A No, I was not present.

Q I see; did you ever see a hunting knife?

A At the scene?

Q Allegedly from that scene?

A Yes.

Q And who had it in his possession?

A I believe Identification Officer Kleiv had it at that particular time.

Q I see; and when you observed that particular knife did you have a look at it to see whether or not 30 there were any signs of blood on it? Did you look at it?

A I saw the knife.

Q And is it fair to say that you did not see any signs of blood on it?

A I recall that the knife was rusty.

Q I see; but what I am getting at is when you saw it were there any signs or residue of blood on it?

A No.

Q If you had thought there were any signs of blood on it you would have submitted it to the 10 laboratory?

A Yes, that's correct.

Q Or given Kleiv instructions to have it sent in for testing, wouldn't you?

A That's right.

Q And now, this area that is shown - if we look at photo #2 of P.4; when you had your melting operations going I understand that you melted all the snow right up to the fence?

A Oh yes, this is right. 20

Q And as I understand it that snow would be about two or three feet deep there in places?

A Yes.

Q And you can't see it but was there a sort of bottom stringer on this fence?

A Yes, there was.

Q And once the melting operations took place that bottom stringer would be visible to the naked eye?

A Yes. 30

Q And what did this stringer consist of?

A I don't recall; I would think it would be a two

by four but I don't recall.

Q Something in that neighborhood?

A Yes.

Q And you examined the area around that two by four, didn't you - that stringer - you yourself?

A Any examination that I conducted there was confined at my time to outside the fence.

Q I see; well, you didn't look on the fence itself?

A I did not, no.

Q You didn't even glance over it? 10

A No.

THE COURT:

Q There's one thing I'm curious about - you may want to ask questions about it, Mr. Tallis, but I'll ask him now -

Around the area where the body was found you said it appeared to have been that a struggle had taken place?

A Yes, My Lord.

Q And was there evidence that the snow was 20 trampled down there right around the body?

A There was, yes.

Q By feet?

A I would think so - or body.

Q Well, in any direction leading up to that spot I take it from what you said that there were no discernible footprints?

A That's correct.

Q Well, can you, having been there and seen the area on that occasion, can you give us any 30 idea how the body might have got there if the woman hadn't walked there?

A Yes. This area that was trampled bordered on to the travelled portion of the lane and walking on the travelled portion with this packed snow would not leave any footprints that particular morning, being so cold and the snow being so powdery. Now, this trampled area led off the travelled portion of the road or the trampled area ran right into the travelled portion of the lane.

THE COURT: 10

Q Just a minute please; you're saying that the travelled area was so packed down that footprints wouldn't be shown?

A Yes.

Q Or wouldn't appear?

A Yes, My Lord. The temperature was so extreme that the snow was like sand.

THE COURT: Thank you.

MR. TALLIS:

Q Well, just following that up, I take it that the 20 same would hold true then of tire marks?

A Yes, I would think so.

Q Well, I would gather from what you say that ordinarily you wouldn't expect to necessarily be able to see ordinary tire marks along that north-south alley that morning?

A That's correct.

Q Unless the car got stuck or something and spun some marks?

A Yes, I think under certain conditions it may 30 leave tracks.

Q It may leave tracks?

211652

A Yes.

Q If it was spinning or something like that?

A Yes, I would feel that if it was spinning it would melt, then eventually freeze and it would certainly indicate itself.

Q Yes; and now I take it that you weren't able to see anything which would indicate a dragging of a body?

A I didn't see any, no.

Q Or pulling of a body, whichever way you want to call it? 10

A No.

Q And now, dealing with this particular matter and referring to photo #3 again, I take it that you looked over the fence that morning into the adjacent yard?

A Yes.

Q And is it fair to say that there were no tracks in that yard immediately to the east of the body?

A That's correct. 20

Q And was there any path at all out into that back yard that's depicted in photo #3?

A Not from the area of the scene here where the victim was.

Q I see; in other words, to the east of the scene where the girl was there were no tracks or trail leading to the east?

A That's correct.

Q And as I understand it from looking at the photograph there certainly is not any back gate immediately to the east of the body? 30

A Yes. 211653

Q Now, when you were there at the scene that morning you observed that the girl had likely been sexually assaulted?

A Well, I suspected this, yes.

Q Well, from the observations of the clothes and things that you saw you came to that conclusion, didn't you?

A Yes.

Q But I think that it's fair to say that you weren't able to locate anything there or see 10 anything which would indicate whether the sexual attack - whether the girl was alive at the time of the apparent sexual attack?

A No.

Q Or whether she was unconscious at the time of the apparent sexual attack?

A I could not establish this.

Q And as I understand it when you arrived there the surface flesh of the victim was already frozen? 20

A Yes.

Q And this is depicted I believe in the photographs that are part of P.4?

A I believe it is, yes.

Q Well, there are one or two things in there that specifically show that, aren't there?

A Number 7?

Q Number 7 there are wrinkles and so forth in the knee area?

A Yes. 30

Q And that you attributed of course to the fact that the outer surface was frozen?

211654

A Yes.

Q And similarly with respect to the face?

A That's correct.

MR. TALLIS: No further questions, My Lord.

THE COURT: Any re-examination?

MR. CALDWELL: If Your Lordship pleases one
or two things briefly -

Q You still have P.4 there, Lieutenant, I believe
and I think my learned friend has directed your
attention both to photo 2 and photo 3 a moment 10
ago, is that correct?

A Yes; three, in any event.

Q And using photo 3 of P.4 he directed your
attention to the fence that is behind the body
and asked you about a stringer in connection
with that fence?

A Yes.

Q And I take it first of all that you understood
the question and you were replying in
connection with the bottom stringer? 20

A I was replying in connection with the bottom
stringer.

Q And there's^{one}/horizontal member of that fence
visible in that photograph - the one that's
well above the surface there?

A The one at the top, yes.

Q And as I understand from what you told my
learned friend there would be another called a
stringer which at least in the photo is not
visible? 30

A Yes, this would be the one that I don't recall
seeing because it was covered with snow at the

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time that I examined the scene, but I would certainly believe that there was a stringer there.

Q And can you tell from looking - and as I understand it the photo is taken contemporaneous with you looking at the scene the same morning?

A That's correct.

Q And did you eventually see that stringer as it became exposed by the melting?

A I did see it but I don't recall paying any 10 particular attention to it.

Q I see; well, perhaps you can or can't answer this but how far would you estimate it to be below the surface of the snow at the fence as it exists in photo #3?

A I don't believe I could make a . . .

Q . . . other than to say that . . . ?

A . . . I know that the snow was upwards to two feet in thickness at that area.

Q I see; so other than to say it's below that's 20 the best you can say on that?

A Yes.

MR. CALDWELL: Those are the only questions I have, My Lord.

THE COURT: Thank you.

THE FOREMAN OF THE JURY INDICATED HE HAD A QUESTION TO ASK.

THE COURT: Well, you'll have to put the question to me and I'll put it to the witness.

A PAPER WAS PASSED FROM THE FOREMAN OF THE JURY 30 TO THE COURT.

THE COURT:

211656

- Q I don't know whether you're going to be able to answer these questions or not, Lieutenant, but I'll put them to you anyway -
Was the blood splattering on the clothing and snow at the scene consistent with the major wounds having been inflicted while the girl was still alive?
Are you in a position to answer that?
- A Would you please repeat that question for me?
- Q Was the blood splattering on the clothing and snow at the scene consistent with the major wounds having been inflicted while the girl was still alive? 10
- A I could only say that the stains in the snow were in different areas throughout the snow. Some of the stains had been covered with snow; that is, as I examined the scene I had to brush away the snow before I came on to the stain, which to me indicated that the body had lain in that position and then it had been moved in another position and snow had covered this. 20
- Q So that there was evidence that the body was either moving or being moved?
- A Yes.
- Q And that's as far as you can go?
- A Yes.
- THE COURT: Thank you.
- MR. TALLIS: My Lord, I'd just like to ask one question arising out of that if I may with Your Lordship's permission - 30
- Q Just on this particular point, were the only areas where the stains had penetrated right

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through to the depth of the snow to be found
under the body?

Now, I may have misunderstood you before but it
was my understanding that these areas where the
blood had gone through down to the depth of the
snow were under the body.

THE COURT: He didn't say go down to
the depth of the snow - penetrated the snow.

MR. TALLIS:

Q Penetrated down in the snow? 10

A I meant in a general sense, not consistent with
exactly where the body was laying. It was
consistent with the general area of the body -
this area. The body is only so wide and of
course the areas that were stained covered I
would estimate at about a four foot circumference
in the vicinity of the body.

Q Well now, if we look at photo #3, which is the
undisturbed body, are there any spots in that
photo which you can point to where the blood has 20
gone down underneath?

A Yes. They are visible there - you can see . .

THE COURT:

Q . . turn and show them to the jury, will you
please?

A Just above the shoulder of the victim there are
spots in the snow and this would be consistent
with spots or stains that I observed; and also
that area was slightly elevated to the area
that the victim was actually in when I arrived 30
at the scene.

MR. TALLIS:

211658

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Q And that's what you were referring to a moment ago, was it?

A Yes.

MR. TALLIS: I have no further questions;
that's what I wanted to clear up, My Lord.

THE COURT: Thank you, Lieutenant.

MR. CALDWELL: I call Lorne Robert Grant,
My Lord.

211659

LORNE ROBERT GRANT, sworn, states:

MR. CALDWELL, examining:

Q I believe that you are a member of the Saskatoon Police Department and your rank is Identification Officer and that you are part of the section headed by Lieutenant Penkala?

A Yes, that is right.

Q I believe, Identification Officer Grant, that in 1969 you received two collections of items from two other police officers and took those two collections of items to the Crime Detection Laboratory, Royal Canadian Mounted Police, at Regina? 10

A Yes I did.

Q What was the date on which you received the items?

A I received them on April the 20th 1969.

Q And does that refer to both collections of items?

A Yes, it does. 20

Q And I believe that one of the collections so to speak was from Lieut. Penkala?

A Yes, that's right.

Q And where did you receive that collection?

A I received it at the Police Station.

Q And in what form were the items when you received them?

A They were in sealed packages.

Q And I take it you did not open them or look into them? 30

A No, I did not.

Q Did the packages bear an indication of what

211660

they allegedly contained - the name of the item?

A No, I don't recall anything on them.

Q Alright; did you mark the packages?

A Yes I did.

Q I'd like to show you some items individually - the first P.21 for identification - is that one of the items you received from lieut. Fenkala?

A Yes it is.

Q How do you identify it?

A I put my name, the time and date received and 10
who it was received from on the envelope.

Q And that's still on that envelope, is it?

A Yes it is.

Q Alright; and I show you P.32; is that one of the items you received?

A Yes it is.

Q And how do you identify that?

A It bears my signature, the time and date received and from whom it was received.

Q Is that on the white envelope? 20

A Yes it is.

Q And I show you P.35 for identification; is that one of the items you so received?

A Yes it is.

Q And how do you identify it?

A It bears my signature, the time and date received and from who it was received.

Q And I show you P.24; is that one of the items you received? I think there may be a further envelope inside that. 30

A Yes; this is one of the exhibits I received.

Q And how do you identify that one?

- A It bears my signature, the time and date and the fact I received it from Lieut. Penkala.
- Q And I show you P.23 for identification. Is that one of the items you so received?
- A Yes it is.
- Q And how do you identify it?
- A It bears my signature, the time and date received and received from Lieut. Penkala.
- Q Now, with respect to those as I have it five items, as I understand you, you received them all 10 from him on that date that you have just related to us?
- A Yes I did.
- Q And aside from marking them as having been received by yourself did you alter them in any way?
- A No, I did not.
- Q What did you do with those five items?
- A These were transported to the Crime Laboratory in Regina and turned over to Sgt. Paynter. 20
- Q And on what date did you give them to Sgt. Paynter?
- A They were turned over to him the following day the 21st of April 1969.
- Q Meantime had they been under lock and key in your custody?
- A Yes.
- Q And I believe that on April the 20th again that you also received two items from Ident. Officer Kleiv? 30
- A Yes I did.
- Q I show you P.22 - a photographic paper box with

211662