

Appendix F  
Crown Opening  
Address



IN THE COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

CRIMINAL SIDE

JUDICIAL CENTRE OF SASKATOON

C A N A D A                    )  
                                  )  
PROVINCE OF SASKATCHEWAN )

HER MAJESTY THE QUEEN

- against -

DAVID EDGAR MILGAARD

- - - - -

EVIDENCE AND PROCEEDINGS AT THE TRIAL HEREIN, HELD AT THE COURT HOUSE, IN THE CITY OF SASKATOON, IN THE PROVINCE OF SASKATCHEWAN, COMMENCING ON MONDAY, THE 19TH DAY OF JANUARY, A.D. 1970, AND CONTINUING ON THE DAYS AND DATES AS HEREINAFTER NOTED, BEFORE THE HONOURABLE CHIEF JUSTICE A. H. BENGE, AND A JURY.

Mr. T. D. R. Caldwell, for the Crown.

Mr. C. F. Tallis, QC, and

Mr. Ian Disbery, for the Accused.

Reported by Edna L. Lockrey, Official Court Reporter.

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10:00 A.M., MONDAY, JANUARY 19TH, 1970:

THE COURT:                    This is the case of Her Majesty the Queen and David Edgar Milgaard.

MR. CALDWELL:                Appearing for the Crown, My Lord, and we are ready to proceed.

MR. TALLIS:                    I appear for the defense, My Lord, along with my colleague Mr. Ian Disbery and we are ready to proceed.

THE COURT:                    Very well; will you read the

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charge please?

COURT CLERK: David Edgar Milgaard, you  
have been charged as follows:

"In Her Majesty's Court of Queen's Bench  
Criminal Side Judicial Centre of Saskatoon  
Canada Province of Saskatchewan Her  
Majesty the Queen against David Edgar  
Milgaard.

INDICTMENT

David Edgar Milgaard, of the City of Regina, 10  
in the Province of Saskatchewan, stands  
charged:

1. That he, the said David Edgar  
Milgaard, at the City of Saskatoon,  
in the Province of Saskatchewan, on  
the 31st day of January, A.D. 1969,  
did unlawfully commit non-capital  
murder upon the person of Gail Elena  
Miller, by cutting and stabbing her  
with a knife, contrary to Section 20  
202A(3) and 206(2) of the Criminal  
Code.

Dated at the City of Saskatoon, in the  
Province of Saskatchewan, this 9th day of  
January, A.D. 1970.

Signed T. D. R. Caldwell, Agent of the  
Attorney General for the Judicial  
Centre of Saskatoon."

Do you understand the charge as it has been read  
to you? 30

THE ACCUSED: Yes sir.

COURT CLERK: And how say you? Do you plead

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"Guilty" or "Not Guilty"?

THE ACCUSED: Not Guilty, sir.

COURT CLERK: The accused pleads "Not Guilty".

My Lord.

THE COURT: You have twelve challenges, Mr.

Tallis. And, Mr. Caldwell, I would be obliged if you would indicate whether you wish any respective juror to stand aside before Mr. Tallis is called upon to challenge.

MR. CALDWELL: Yes, My Lord. 10

THE JURY WAS EMPANELLED AS FOLLOWS:

Lawrence C. Bamenda	Keith Clearwater
Robert Carson	Richard B. Yaworski
Kenneth C. Plummer	Fernley F. Cooney
David M. Geary	Donald F. Wilson
Mrs. Anne Penton	Dale E. Lareek
Gary E. Taylor	Leslie K. Hare

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THE COURT: Counsel have advised me that 20

this case may take a considerable length of time. Consequently I am directing the balance of the jury panel that they shall not be required to return until Wednesday, February the 4th, at ten o'clock in the morning. If you wish to leave please do so now before the trial commences.

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COURT CLERK: Lady and Gentlemen of the

Jury: The accused stands charged as follows:

"That he, the said David Edgar Milgaard, at 30  
the City of Saskatoon, in the Province of  
Saskatchewan, on the 31st day of January, -"

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".. A.D. 1969, did unlawfully commit non-capital murder upon the person of Gail Glens Miller, by cutting and stabbing her with a knife, contrary to Section 202A(3) and 206(2) of the Criminal Code."

Upon this charge the Prisoner at the Bar has been arraigned, and upon his arraignment has pleaded "Not Guilty".

Your duty, therefore, is to hearken to the 10 evidence and enquire whether he be "Guilty" or "Not Guilty".

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THE COURT: Members of the Jury, before I ask counsel to proceed I just want to outline to you briefly the manner in which it is anticipated this trial will proceed. Some of you have been on juries before, some not, but it might be helpful if I indicated to you generally what the procedure is and what your 20 responsibilities are.

First of all Mr. Caldwell, who appears for the Crown, will outline to you the evidence which he expects to adduce. He is only doing that for the purpose of giving you an idea as to what picture he hopes to develop before you and of course what he says is not evidence. Your decision when you finally are asked to retire and deliberate will be on the evidence which is given in the witness box and 30 on no other.

After Mr. Caldwell has

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completed his outline he will then proceed to call witnesses on behalf of the Crown and at the conclusion of the Crown's case Mr. Tallis, who is appearing with Mr. Disbery, may or may not call evidence.

At the conclusion of all of the evidence both counsel will address you and then finally I will before you retire give you what is known as a "Charge", which consists of directions as to the law which is applicable to the particular case. And I may like counsel comment on the evidence but your function is to determine facts and I would ask you in view of the fact that it appears that this is going to be a fairly long case and probably will be a large number of witnesses, ask you to pay particular attention to the witnesses because it will be your function at the conclusion to determine what part of the evidence of a witness you will accept and what part you will reject. Thank you.

Mr. Caldwell?

MR. CALDWELL: May it please Your Lordship, Lady and Gentlemen of the Jury, you have just heard the indictment read charging David Edgar Milgaard with non-capital murder. I appear for the Crown and my learned friend Mr. Tallis QC to my immediate left and Mr. Disbery to my left appear for the accused in this case.

It is my privilege, as His Lordship has said, at this stage of the trial to outline the evidence that the Crown expects

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to call to prove its case; and I don't think it hurts to emphasize again that what I am going to say now is only an outline of what I expect the evidence will be and you of course as His Lordship has said must be guided only by the evidence that comes out here in court.

The Crown expects to call something in the order of forty-two witnesses at this trial and I wish now to tell you as briefly as I can what I expect their evidence will be, 10 in order that as the evidence comes out possibly you can make a whole picture of the thing.

The first witness, one of the lengthier ones, will be Identification Officer Kleiv, of the Saskatoon City Police. He will describe attending the scene of this crime in an alley which runs parallel to and lies between Avenues "N" and "O" in Saskatoon and also between 20th Street and 21st Street. He attended around nine o'clock in the morning on January the 20 31st 1969, a morning almost a year ago and a morning very cold like this morning. He will show you a large diagram of that block which will show this T-shape alley about which you will be hearing a lot; the location where the body was found in the alley; the house numbers of the various buildings that are on that block. And he will also show you an enlarged photograph of part of a city map showing that area of the city and indicating several of the places that you 30 are going to hear referred to by the various witnesses, just so that you can get the picture

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of what's where. This will include the scene where the body was found, St. Mary's Church and Rectory, St. Mary's School, the Cadrain house which you will hear about, the Hillcrest and Belmont service stations, the Trav-a-leer Motel, the home of a girl called Mary Marcoux and the residence of a couple called Mr. and Mrs. Danshak.

Now, Identification Officer Kleiv will also show you a series of photographs made at the scene on that bitterly cold morning when by his evidence the temperatures were about thirty-five below and very foggy conditions prevailed. He will also show you photographs made at the hospital indicating the injuries inflicted on Gail Miller by the person who killed her and a photograph of her Nursing Assistant's uniform, taken later to the Police Station. 10

Ident. Officer Kleiv will also produce a large number of items which the Crown eventually will tender as exhibits in this trial and many of which items will also be referred to by later witnesses. These will include her clothing, a broken knife blade found in the vicinity of the body, two vials in which frozen lumps of substance which were found right in the area underneath where the body was found in the alley and the vials were used to collect these two lumps and keep them; one lump you will hear evidence later proved to contain human seminal fluid containing spermatozoa. 20 30  
He will produce some samples taken from the body

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for comparison purposes, the purse of the deceased which was recovered from a garbage can in a connecting alley, the top part of the "T", a knife handle found in the area by a child, and various personal belongings of the deceased found near the scene of the killing.

Now, although Ident.

Officer Kleiv will produce most of these exhibits for the first time there will be a number of other exhibits recovered by other persons tendered here in their evidence and referred to by later witnesses. 10

I may say too, before I forget this, there may be some slight alterations in the order of these witnesses but this is the order I expect to call them.

The second Crown witness is a girl named Miss Nyczai who lived at the same place that Gail Miller did and that was a boarding or rooming house at 130 Avenue "O" South, just a block north of the scene of the murder. She will describe seeing Gail Miller dressed in her Nursing Assistant's uniform around a quarter to seven on the morning of January the 31st prior to leaving for work and will testify that Gail Miller usually left for work at about seven in the morning. 20

Now the next three Crown witnesses whom we should get to tomorrow, Wednesday and possibly into Thursday, will be three of the major Crown witnesses of the trial, the first two of whom accompanied the accused 30

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Milgaard from Regina to Saskatoon on the morning of the murder and continued on with him to Calgary and Edmonton on the same day, one trip that started at Regina a little after midnight on the morning of the 31st, continued to Saskatoon, Calgary, Edmonton, as I understand the evidence, all on the same day; and then eventually back to Calgary, on to Banff and back to Regina.

These two persons are Ronald Dale Wilson, who is around eighteen years of age now and a girl by the name of Nichol John, who is around seventeen now. 10

The third of those witnesses is Albert Henry Cadrain. He is also a lad around seventeen who was picked up by those three I mentioned - Wilson, John and Milgaard - the three of them came from Regina - who after the murder accompanied them on the trip to Alberta which I just spoke of. There will likely be some reference by the way to these witnesses by their nicknames, Cadrain being known as "Shorty" and the girl being known as "Nicky"; and you will also hear that Milgaard whom I may refer to as "the accused" and my learned friend as "David" was known by the nickname of "Hoppy". 20

Now, Wilson will describe the preparations to go on the trip by himself and Milgaard and the two of them inviting Nichol John to accompany them and leaving Regina in a 1958 Pontiac car that belonged to Wilson, to Saskatoon around 1:00 a.m. on the morning of 30

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Friday January the 31st 1969. He will describe what happened between the three of them during the trip to Saskatoon and will testify that during that trip he did see the accused Milgaard in possession of the knife.

Now, Wilson had not been to Saskatoon prior to this occasion and when they arrived at five or six a.m. the three of them set about trying to find their way to Albert Andrain's house and you will hear evidence that 10 he was a friend of Milgaard's from previous times and Wilson and John as I recall didn't know him up to this point.

Wilson will testify that as they tried to find their way around Saskatoon in the early morning in the dark looking for what he understand to be called the Peace Hill district that he saw a girl walking along the sidewalk and that the three of them in the car stopped to ask her for directions, of Milgaard 20 who was seated at that time in the right front seat passenger's spot nearest the girl speaking to her and asking her for directions. He will then testify that the car he was driving became stuck as he attempted to make a U-turn near this location and very shortly after speaking to the girl, and that he and Milgaard at that juncture set off in different directions to try and get help to get unstuck. He will testify that on returning to the car 30 some minutes later he found the girl Nichol John whom he had left in the car when he

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departed to be in the car still and while she had been in a normal state when he left her she was now in a hysterical state, was crying and screaming, and that shortly thereafter the accused returned to the car and got in the car, upon which Nichol John moved away from the accused Milgaard and toward Wilson. He will testify that Milgaard was breathing heavily at this time upon re-entering the car as if he had been running and that when he was in the car Milgaard stated to the two of them in the car words to the effect that he had fixed her or words to that effect; and that Wilson replied "You what?" and that that was the end of that conversation, there was nothing further said. 10

Now Wilson will testify that two men came along and helped them get unstuck from the place where they were stuck; and I might say that the identity of these men has never been ascertained despite inquiries, and of course Wilson does not know who they were, being strangers in Saskatoon. Anyway I expect him to say that two men did come along and help them get free from where they were stuck and that they carried on then to a motel still looking for directions around the "Peace Hill" district, still looking for Albert Cadrain's house; at which location, this motel, Milgaard obtained a map of Saskatoon. Wilson will testify they continued driving in the city, ended up stuck again in a back alley behind 20 30

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another stalled car, at which location they waited for some considerable time for a tow truck and from which location they eventually found their way to Albert Cadrain's house, which is located I believe at 33<sup>1</sup>/<sub>4</sub> Avenue "C" South, which is a location just approximately one block south of the murder scene.

Wilson will testify that at Cadrain's house they decided to change clothes because of acid from a battery which they had been handling before leaving Regina having spilled on their clothes; and that during this process at Cadrain's that he Wilson observed blood on the front of Milgaard's pants and of course when I say blood naturally what he thought to be or took to be blood; it's not a question of analyzing it or anything of this sort. He will testify that Milgaard changed his entire outfit - a shirt, sweater and pants - at Cadrain's, while Wilson changed only his pants which had been eaten by battery acid, getting into another pair of Milgaard's pants which he obtained out of a suitcase which Milgaard had brought along on the trip. As I understand it he was the only one who actually brought a suitcase of clothes with him. And Wilson will testify that he left his pair of acid-eaten pants at the Cadrain/<sup>house</sup>. He will testify that Milgaard put the blood-stained pants as well as the other clothes that he took off into this suitcase and then asked Wilson for the car keys

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to put the suitcase in the car; but that Milgaard actually took the car at this point and drove away from the house, appearing a short time later on the street which runs along the side of Cadrain's. Now you will hear evidence that Cadrain's is on a corner and that when they came and parked they parked in front of the house and after Milgaard came back from this short interval of being away in the car by himself that he parked along the side street facing west on the other corner. 10

Now Wilson will testify that he went out afterwards and found the transmission of his car to be inoperable, couldn't move the car, and saw a trail of transmission fluid extending behind the car up the street and at this point he Wilson didn't notice where the suitcase was.

Now Wilson will testify they went back in and obtained a tow truck, which towed them to Hillcrest Texaco Service, which is Avenue "P" and 22nd Street in Saskatoon, and that the car was there for some number of hours while the transmission was repaired and new fluid was added, and that the bill for this was paid by Albert Cadrain eventually. Now Cadrain had by this time decided to accompany the three of them to Alberta on this trip, had gone to his Credit Union which I believe is St. Mary's on 20th street and had withdrawn some money for the trip in the meantime. Now Wilson will testify that 20 30

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while they were at the service station Milgaard did some cleaning out of the interior of the car and that when the car was fixed they went back to Cadrain's house and then on to the house of one of Cadrain's friends to see if this fellow wanted to come, but they didn't pick anyone up at that place; and they eventually left Saskatoon Wilson will say I believe around two thirty in the afternoon, this is all the same day, Friday the 31st.

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Now Wilson will testify that they went all the way to Calgary that day, that he and Milgaard shared the driving duties, and that during the part of the trip in which Milgaard was driving he was driving in what Wilson called a wild manner and too fast for the prevailing road, going around eighty-five miles an hour on an occasion when Wilson actually looked at the speedometer on his car. Wilson will also testify that during this trip from Saskatoon to Calgary Nichol John, the girl, would scream every once in a while for no apparent reason; and that some distance out of Saskatoon the girl Nichol John located a compact in the car. And now you will remember that in the car at this time are Wilson and Nichol John, Milgaard and Albert Cadrain - the three from Regina plus Cadrain whom they picked up. And upon the girl locating the compact she asked if anyone in the car knew whose it was or words to that effect, upon which the accused Milgaard grabbed it from her, threw it out of the car

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window without answering the question or commenting on it.

Now Wilson will testify that while they were in Calgary - and they were there I guess for a few hours - Milgaard took him aside or was alone with him at one time and told him about an incident that happened in Saskatoon, Milgaard telling Wilson words to the effect that he had hit a girl or he had got a girl, or words to that effect - 10 and that he thought she would be okay; and that he had put her purse in a trash can.

Wilson will testify that they went on to a town called St. Albert which was somewhere around Edmonton Alberta, and looked up a girl called Sharon Williams who stayed with them at a motel I think over night, they then returned to Calgary and went on to Banff and spent the next night in the car actually at Banff. And I expect Wilson to 20 testify that they left Banff on the next morning and drove pretty well straight through to Regina with only brief stops on the way, arriving the next morning in Regina, where Milgaard stayed with Wilson for some period of time before Milgaard left for Winnipeg in connection with a job. Now, as you can see, Wilson will be one of the longer witnesses.

The next Crown witness will be the girl Michel John, the other person who 30 accompanied Milgaard and Wilson on this trip from Regina to the places I have mentioned and

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returning eventually to Regina.

Now I expect her to describe being invited by Milgaard and Wilson to accompany them on the trip; to describe leaving Regina and the trip to Saskatoon, during which she I expect will testify saw two knives in the car of different descriptions to one another, one of them which was simply loose in the car and one of them in possession of the accused; one being a bone handled hunting type knife and the other a 10 type of paring knife with a maroon handle.

I expect her to testify that they reached Saskatoon, stopped the girl, asked for directions, got stuck a couple of times and generally to give her version of the sequence of events on the way to Saskatoon and in Saskatoon and throughout the trip to Calgary, Banff and eventually back to Regina.

The next Crown witness, Lady and Gentlemen, will be the third of this group 20 and that's Albert Cadrain, the fellow who is known by the nickname "Shorty". You will hear evidence that he is one of ten children, he went to grade seven in school and has been working on and off since that time. I expect him to testify that he had met Milgaard in Calgary about a year before this time and knew him by the nickname "Hoppy". I expect him to testify that Milgaard showed up at his house around nine a.m. on Friday January the 31st 1969 quite unexpectedly 30 and that Cadrain spoke to him and that Milgaard then invited Wilson and Nichel John into the

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house and told Cadrain that they had to get out of town.

Now he will testify - that is Albert Cadrain - that he observed blood on Milgaard's shirt and pants at Cadrain's house and that Milgaard and Wilson changed some of their clothing at his house. I expect him to testify that there was a small scuffle over the car keys with Milgaard ending up taking the keys from Wilson, leaving the house and that 10  
after a period of time the accused Milgaard did reappear at Cadrain's house, parking the car on the side street rather than on the front as it had been when they arrived there. He will describe the car being towed to the Texaco service station and that he and Nichol John from there walked back to Cadrain's house, got his passbook to the Credit Union, went to the Credit Union, that he withdrew seventy dollars on his savings there and bought a ukulele and 20  
mouth organ at a variety store by the Credit Union, went to a lunch counter, back to the Texaco station and rejoined the other two, that being Milgaard and Wilson. And then all four youths went out for lunch to another station. And I expect him to testify that while the car was at the Texaco station that Milgaard expressed anxiety or desire to have the car radio put in working order at the Texaco station, but that this was not done; and 30  
that eventually Cadrain did pay the bill himself for the repair of Wilson's car - around twenty-

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two dollars.

I expect him to testify likewise that they left Saskatoon, that Milgaard drove for part of the way to Calgary, driving very fast for the road and that during this part of the trip Nichol John was screaming and crying. Again he will tell you about that sequence of going to Calgary, Edmonton, St. Albert, I believe back to Edmonton and Calgary, on to Swift and eventually on to Regina. 10

He and Nichol John were dropped at a house on Cornwall Street where they stayed for some time - by Milgaard and Wilson.

Now in the case of Cadrain you will remember that as I understand the evidence this thing started on Friday, January the 31st, and within a matter of two or three or four days later the car was back in Regina with the four occupants having made that swing 20 to Alberta. But Cadrain did not come right back to Saskatoon. He will testify that he stayed at the house I mentioned for a while, that he stayed at a suite of rooms down town for a while, that he then served a week in jail for vagrancy in Regina, and after that he went to work on a ranch at a place called White City, about ten miles east of Regina for two weeks. So it was some little time before Cadrain ever got back to Saskatoon. 30

Now he will say that after he was through at the ranch he was driven to the

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bus depot in Regina, took the bus home to Saskatoon and went straight home arriving on a Saturday night. Now you will remember that this would be the first time Cadrain had been back to Saskatoon after leaving. And that upon arriving home and hearing of the murder of Gail Miller he went the next day to the Saskatoon police - that would be the Sunday afternoon - to report what he knew of the incident after so to speak putting two and two together. 10

Now I expect him to testify that at one time in Calgary Milgaard who was alone with Cadrain told Cadrain words to the effect that he Milgaard was a member of the Mafia, that he had a gun in the back seat of the car and that Cadrain should go and kill those two off; however, Cadrain did not take this seriously.

Now, those are possibly the three major witnesses and you will be pleased to 20 know that there will be quite a series of rather brief witnesses coming up after that. The next five witnesses all had something to do with finding the body and will be fairly brief. A young girl around twelve, Mary Alice Marcoux, who lives at 104 "H" South and was a grade seven girl at St. Mary's School, will testify that on the day of the murder she left home heading for school around eight twenty-five a.m. south on "H" 30 to 21st, up 21st to the back alley, south down the back alley to where the body was found, first observing a coat and then finding as she got

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closer that the coat was covering a body.  
She will testify that she went to a Mrs.  
Hnatiuk's house at 219 "B" South, that is very  
slightly north of the place where the body was  
found, and she spoke to Mrs. Hnatiuk and as a  
result she Mary Marcoux went on to Westwood  
Funeral Chapel. Now this is located at the  
corner of 20th Street and Avenue "B" the  
northwest corner, and you will be hearing  
about that. She spoke to a lady who is Mrs. 10  
Murdoch, the wife of the manager there, and  
as a result of this another employee of the  
chapel accompanied Mary Marcoux back to where  
the body was. This man was a Jerry Michayliuk  
and you will be hearing from him. Miss Marcoux  
will testify that she stayed at some distance  
while Michayliuk checked the body for life and  
then that he and Murdoch obtained a blanket  
from the funeral home and covered the body.  
She will testify she went back to the funeral 20  
home and waited there where she was interviewed  
by the police; and that she had taken this  
short cut down the alley on this morning  
because she was late for school.

The second of this group is  
a young lad of ten or eleven Mathew Mervin  
Hnatiuk, son of the lady whom I spoke of, and he  
will testify that when he left for school, he  
went out the back way from his house  
accompanied by the little brother and found the 30  
body of a woman lying in the snow by the next  
door neighbor's fence in the back alley and that

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there was a girl there, who of course was  
any Marcoux, and that he saw Michayliuk come  
from the funeral home and check the body for  
life, at which time Anatiuk went on his way to  
school.

Mrs. Anatiuk will testify  
that Mathew left for school and then came back  
and spoke to her and as a result she sent the  
children to go and tell Murdoch at the funeral  
home. She herself went out and saw the body 10  
clothed in a state of disarray and like the  
other witnesses I expect her to testify that  
when they first got there the snow surrounding  
the body was trampled down in a sort of an area  
right around the body; and she had phoned the  
police and was there when the police arrived  
shortly after the phone call.

The last of this group of  
five are the two men Iae Murdoch and Terry  
Michayliuk from the Westwood Funeral Chapel. 20  
Murdoch will testify that upon the Marcoux girl  
coming to his house he talked to her briefly and  
then had Michayliuk go down to investigate, that  
he followed shortly, met Michayliuk as Michayliuk  
was coming back and that after speaking to him  
Michayliuk went back to phone for the police and  
Murdoch continued on and looked at the body and  
it of course was without any sign of life at the  
time and that he kept any school children who  
were around moving along and away from the 30  
immediate scene; and that Michayliuk eventually  
went back to the funeral home, got a blanket and

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covered the body and the two of them waited there and they were there when the police arrived. Now, he will testify that the snow surrounding the body was trampled as shown in photograph when he arrived, that he noticed some apparent blood stains in the snow and that a sample of the blue blanket used from the funeral home to cover the body was later taken by the police to check against some blue threads found on Miss Miller's coat. Now, you 10 will be hearing evidence that those threads matched the blanket; it's a matter of eliminating where they came from.

Now Terry Michayliuk, the assistant manager at the funeral home, will testify that upon Murdoch asking him he went outside around eight thirty that morning and found the Marcoux girl who took him to the north-south alley and showed him the location of the body. Michayliuk checked it for life 20 and then returned to the funeral home, met Murdoch on the way and discussed the situation, that he went on back to the funeral home, phoned the police, brought the blanket back to the scene, covered the body and waited for the police.

Now the next Crown witness will be a man named Henry George Diewald, the caretaker at St. Mary's Church. Now this is located on the northwest corner of 20th Street 30 and Avenue "C". It's just a block west of Westwood Funeral Chapel and it is located in the

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same position on its block as Westwood is on its block. Eilewald will testify that he left the church rectory, which is north of the church, at around seven a. m. that morning to walk to the church and unlock it and he walked southward on the west side on the sidewalk and saw at that time what he took for car headlights turning in the east-west part of the T-shaped lane and the lights were facing west and that he thought this would be in the vicinity of the intersection of 10 the lanes where the T crosses. He will testify that he went and unlocked the church and upon returning to the rectory a few minutes later - around seven ten a.m. - the lights were still there and that he did see some person pass in front of the vehicle, he couldn't see who it was or anything of this sort, it being a very foggy morning.

Now the next several Crown witnesses are persons who had something to do 20 with Algaard and his companions at times after the murder and they are mainly witnesses who had something to do with the group as a result of various car trouble they had, both getting stuck and mechanical trouble after the murder.

The first of these is a man by the name of Rasmussen. Now he was working at the time at the Trav-a-leer Motel; this is 3301 22nd Street West, which as you know is at Circle Drive out 22nd Street in Saskatoon. Incidentally 30 I expect Nichol John to testify that the trip to the motel looking for the map was made after the

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car was stuck near the place where they had asked this girl for directions or as the Crown suggests the situation after the murder took place. Now I expect both Wilson and John to describe going to the motel and Milgaard going in for the map after the car was stuck and freed near the place where they asked for directions; and I expect Miss Nyczai to testify that Gail Miller was still at her residence at about a quarter to seven in the morning. Now, you may notice that if both the Crown witnesses Nyczai and Samussen are correct in their times that the deceased was at her residence at around a quarter to seven a.m. and the party of three including Milgaard were at the motel by seven thirty the same morning, three-quarters of an hour later, leaving a period of three-quarters of an hour in which the Crown suggests that the deceased left her home, walked on her way to catch the bus to the place where she was killed, that the murder took place, Milgaard and his party left the vicinity, drove out to the driveway located on 22nd Street and Circle Drive. However, this is the sequence of events as the Crown believes them to exist and it may be that when you have heard all the evidence you may come to the conclusion that the events did happen in this sequence and that perhaps one or both of Miss Nyczai and/or Samussen are slightly out on their times or conversely of course you may decide that all the things did happen in this space of time. Now His Lordship

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at the conclusion of the case will have something to say to you about the proposition that you can believe all or part or nothing of what any witness said; and that doesn't matter whether he's a Crown witness, defence witness, an expert, a layman or what, and that you may of course find that honest witnesses are mistaken in places in their narrative.

Now, Mr. Rasmussen will describe a car arriving at the Trav-a-leer and 10 two male persons in it that he could see on that morning and one male occupant of the car who was not wearing shoes come into the motel and ask for a city map, that he obtained it, went back to the car and the car drove away. I expect his evidence to be that he did not specifically look at the back seat of the car but simply saw two people in the front and that this took place between seven and seven thirty on January the 11th; that the male person obtained the map from 20 him, left the premises and the car left.

Now the next two Crown witnesses after this are a married couple Mr. and Mrs. Walter Danchuk and at that time they lived at 129 I believe Avenue "P" South, if my memory is right; at any rate you will hear where they lived. Now I expect Mr. Danchuk to testify - no, it's 129 Avenue "T" - I expect Mr. Danchuk to testify that around seven forty 30 that morning he and his wife were leaving for work, that upon backing his car out behind the house into the back lane he got stuck in the

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back lane. The location of this house was on Avenue "T" between 21st and 22nd. I expect him to testify that after he himself got stuck a 1950 Pontiac pulled up behind his car going south with two males and one female in it, one of the males being the accused, and that this car tried to push Lanchuk's car, but that didn't succeed and then Lanchuk's car stalled as well as being stuck. Lanchuk will testify he went back into his house, phoned for a tow 10 truck and waited a long period of time without it showing up, and that he eventually phoned for a second tow truck which did appear some time later; and that at that time he and his wife had the basement suite at that address and that the three occupants of the Pontiac car came into the house or into the house proper and waited principally in the back porch by the back door but that the accused himself did go down into Lanchuk's suite and talk to him in casual 20 terms about coming from Regina and being stuck on the way to Saskatoon and looking for a person named "Shorty" somewhere in that area, and that the accused related that he had formerly been a magazine salesman for some company. I expect Lanchuk to testify that he noticed a tear in the seat of the pants that the accused Filgaard was wearing at the time. After the tow truck arrived and got Lanchuk's car running he drove the three of them to a Teraco station on 22nd, where the 30 accused went in and came back out to the car and Lanchuk then drove the three of them back to the

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stuck Pontiac car in the alley behind Danahuk's house, to which location the tow truck from that station eventually came, got Wilson's car running and that eventually Danahuk pushed their car with his to get it actually moving.

Now Mrs. Danahuk will testify that she went to leave that morning with her husband in the usual manner and I expect her to testify generally about getting stuck and the other vehicles appearing and that after the other 10 car tried pushing theirs she went back into the house and then her husband came in and spoke to her, followed after that by the accused who came down in the suite asking for a glass of water, took the glass upstairs and brought it back to her; and that she did see another boy and a girl sitting in the house at the top of the stairs near the back entrance, this of course the Crown says being Wilson and Nichel John. I expect her to testify that she and the girl who lived next 20 door left for work by cab while her husband's car was still stuck in the alley and that she recalls the accused as being wearing a toque on this occasion.

Now the next four witnesses will all be service station personnel who had something to do with Wilson's car and its occupants - again fairly brief witnesses.

First Mr. Campbell from Belmont Terrace on 22nd Street and Avenue "W". 30 He's the fellow who went to the lane behind Danahuk's house in answer to the call, found both

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cars and after getting Danchuk's car started returned to the station where he was later approached by one of the persons who had been at Danchuk's to go out again to the scene with the tow truck. Mr. Campbell dispatched a Harry McQuhae, one of his employees at that time with the truck. McQuhae will testify that he went to the place where Wilson's car was stalled and he got it started with a battery booster and then went back to the garage. 10

The next two of those four witnesses are both associated or were with Millcrest Texaco, the other service station you will hear about at Avenue "H" and 22nd Street. Now, David Anderson went out around ten or eleven the same morning with the tow truck to an address on Avenue "C" and found a car facing west on a side street east of "C" on the north side of the street; now this would be in other words next to Cadrain's house on the side street 20 facing west. He will testify that the car had some leak in its automatic transmission fluid line, there was a trail of fluid along the road leading from the car backward and that he towed the car back to his station and that at the time he towed it back it had four people with it, three males and a female, who of course the Crown says are Milgaard, Wilson, John and the newly acquired companion Albert Cadrain.

Now, I expect that he will 30 identify the accused as one of the party who went with the car and that he gave the car to George

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Davis who repaired it. Now Davis will testify he was the mechanic there at the time and he will I expect say that around eleven forty-five that morning Anderson brought in a car that Davis remembers as a '58 Pontiac or Chev. with an oil line broken and I expect him to testify that he checked the car, found the broken oil line and that the break would be such as to stop the car running once it drained; and that he needed a part for this, with the result that 10 the car was laid up between noon and one p.m. because the wholesale was closed. I expect him to testify that there were three males and one female with the car and that during the time when they were waiting for the car these persons were wandering around in the service station front office and all the other parts and that two of them were in the car at one time or another cleaning items out of it and that some things were taken from the car and put in 20 the garbage can at the station and Davis did not check what these were, and that they were generally fooling around in the station while waiting for their car. Now he will testify that the repair job was completed, that he thinks the account was paid and that the group left in the afternoon, and I expect him to identify the accused as being one of the group who was with that vehicle.

Now another group of 30 witnesses, Lady and Gentlemen, will be four more people that should come next who are all police

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officers, three of whom originally attended at the scene and one of whom was later involved in handling exhibits. Morality Sergeant Parker and Staff Sergeant Reid were the first two policemen at the scene. Parker will describe arriving and walking south in the lane approaching the body on foot, finding it covered with a blanket, no sign of life, and finding the hand to be frozen when he checked for pulse. He will testify that there were signs of struggle in the snow around the body in the form of a number of indistinct footprints trampling the snow; and he will describe the situation I mentioned earlier with the presence of some wounds which he did see on a cursory check of the body. Now one of the pieces of evidence you will be hearing which certainly in the Crown's case goes unexplained is that the body had its arms in a black cloth coat, which had some puncture marks through it which I think you may decide would correspond with the puncture marks in the body itself; but that the uniform dress was rolled down and when it was stretched out and flattened out these puncture marks were not in the dress and this is simply something which is unexplained but that's one of the things that Reid and possibly Parker and some of the other witnesses will mention to you and that was the situation found indicating a stabbing through the coat and into the body at a time when the dress was actually rolled down and at a time when the deceased must have been out of the coat and the top of her uniform

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somehow taken down and the coat replaced.

I just mention that because you will be hearing evidence of that.

Now, Parker saw spots of apparent blood in the snow near the body, he waited there for Identification Section and the coroner. He located a girl named Miss Fontaine later on and took her from City Hospital where she worked as an associate of Gail Miller's to St. Paul's to identify the body and he will testify that the body that Miss Fontaine saw at St. Paul's was the same one which Parker had earlier seen in the back alley. 10

Now, Sergeant Parker will go on and testify that he returned around two thirty in the afternoon to the T-shaped alley and commenced a search of the area and as this went on he noticed a disturbance in the snow in the top of the T between the top of the T - the north-south alley - and the part behind Westwood Funeral Chapel, that he dug there and found a cardigan sweater and a snow boot buried under some six inches of snow in this part of the lane which is around the corner from where the body was located, and that this boot which will be produced is the mate for the one which was found still on the body when it was located. Sgt. Parker will tell you what he did with these items. 20 30

Staff Sergeant Reid will testify briefly that he was with Parker and will

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describe the initial scene as he found it and will describe finding Murdoch and Michayliuk staying with the body and will testify that he went to Murdoch's suite in the funeral home, spoke to the Marcoux girl, and interviewed her, and generally will tell you about the conditions he saw around the scene and the trip to get Miss Marcoux.

Now you will hear evidence from two further members of the Identification Section of the Saskatoon Police. This is the evidence involved with the photography, measurements, drawings and collecting exhibits other than Ident. Officer Heiv and the first of these Ident. officers will be Lenkala; he's currently in charge of the Section. He went to the scene with Heiv in the first place and he will describe what he saw of the scene at the site and of the clothing and so on, the situation of the body. He will testify that he searched the area also and that during the search of the area right where the body was found he turned up by shovelling and turning over snow - turned up a knife blade with the handle broken off it. Now this blade will be produced <sup>as</sup> ~~be~~ in evidence; it's about three and a half inches long, it did bear blood stains when it was found. Lenkala found it in a location approximately directly below the place where the body was found. Now he will testify that on February the 4th - you will remember that the occurrence was on the 31st of January but

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the search kept on and that as part of a continuing search of that area he located two frozen lumps of a yellow substance with hair frozen into them, that he retained these, and you will hear evidence later that one of these lumps contained human male spermatozoa, a constituent of human male seminal fluid. Now, Lieut. Penkala will describe receiving these items from other officers and passing them on to other investigators. This is evidence 10 dealing with continuity of items and there will be a good deal of it I am afraid.

The next Identification witness will be very brief, Ident. Officer Grant, who merely transported some of the items from Saskatoon to the Crime Detection Laboratory in Regina.

Now, remember a moment ago I spoke of Miss Fontaine. She will testify. She was a Nursing Assistant as was the deceased 20 Gail Miller at Saskatoon City Hospital and she was picked up by Parker and Reid that morning, taken to St. Paul's and did identify the body as that of Gail Miller. I expect her to say that she knew Gail from Swift Current previously, she had worked with her at City Hospital for about five months and that at the time of the murder they were working day shift - both she and Gail - that they were to report at the hospital around seven thirty for work and that 30 Gail Miller usually took the bus to work those mornings.

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Now the next group of witnesses will all be quite brief and they will start with items belonging to the deceased found both in the general area of the murder and also in a separate area near Sadrain's house where you will recall that Milgaard and his companions were after the murder. Now the first of these witnesses is a man named Peter Shawchuk. He lives at 1412 20th Street West, this is on the west side of 20th between Avenues "B" and "C", 10 and in other words on the same block as where the body was found. He will testify that on February the 1st he looked into the yard across from his own back yard - that's where a Mr. Myra to his knowledge of Shawchuk lived, and he noticed two fresh breaks in the snow in the back yard, and that he approached these items and found a set of keys and then he called the police, Sergeant Detective McCorrison attended and McCorrison recovered the keys from that spot 20 and also McCorrison himself recovered a comb from the other break in the snow.

Now, McCorrison will testify of course that he went on February the 1st and took those items and that of course would be the day after the murder, and will tell you what he did with them eventually. And he will further testify that on February the 3rd in the morning he and another officer followed a Saskatoon city police truck down the east-west part of the 30 street over the top of the hill and that in a place about near the scene he saw one of the city

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employees who were working with the truck empty one of two garbage cans from the rear of 1414 20th Street - now you will remember that would be right next door to Shawehuk's - and that he saw a lady's purse and contents drop out of that garbage can. Now, McCorrison retrieved them and he will produce the purse in evidence and the contents will be here. He will testify that the purse contained identification in the name of Gail Miller and 10 miscellaneous other items. He will further testify that on March 2nd he received a knife handle from a young boy about eight years of age by the name of Richard Hounjet who lived at 227 Avenue "E" South; and he will identify the knife handle and tell you what he did with it.

Now this lad Richard Hounjet will be called as a witness, he's about nine years old and his home is across the top of the alley from the funeral home; the side yard of 20 his address opens on to the top of the T and the back yard opens on to the vertical part of the T. Richard will testify that around March the 2nd he found a knife handle in his back yard where there was still snow and that the police came and took this after it was reported to them, and that Richard did mark the handle and he will identify it here before the police took it. By the way, he will probably testify just before Detective McCorrison. 30

Now, another young lad of eight or nine Giles Beauchamp will testify.

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Now on April 4th 1969 I expect him to say that on that date he was walking in the vicinity of St. Mary's School - you will hear evidence that St. Mary's School is across the street from Cadrain's house, likewise on the school and he was walking along the sidewalk past the school but on the Cadrain side of the street kicking the snow and a wallet flew out of the snow and some papers fell out. I expect him to say also that he picked the wallet up, took it over to the school and put it under what he calls a cabin which is probably apparently a shack used by skaters to store their skates - left it there for just a few minutes and then he ran into a friend of his called Herman Hemenda and that he recovered the wallet from under the cabin and showed it to Hemenda who I believe is an older man, and at Hemenda's suggestion they took it to Hemenda's mother and she phoned the police, as a result of which Detective Sergeant Raymond ... went to Hemenda's house and got the wallet which was there from Miles Beauchamp. I expect him to say that he took Sgt. Mackie to the place where he found the wallet - which location by the way Sgt. Mackie says was immediately in front of 326 1/2 South, which is a few houses south of Cadrain's house at 334 - and that when they got there the policeman Mackie himself found some of the papers which had fallen out of the wallet, which papers bore the name by the way of the deceased Ceil Miller.

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Now, Sgt. Mackie will of course testify that he answered the phone call from Masenda's home, went there, found Giles Senouchamp there, obtained the wallet there and that Giles directed him to this place where the wallet had been located and Detective Mackie will testify that this was in front of 326 "O" South and that that is three doors north of 334 "O" South - Madrain's house - and on of course the same side of the street. He will testify 10 that upon looking in the area where Giles took him he found what were two hospitalization cards both with the name of Gail Miller on them, which he kept; and he will testify the exact location was on the east side of "O" between the sidewalk and the curb and as I mentioned three doors north of Madrain's.

Now, he will also say that he received the set of keys from McCorriston, that he gave them to Detective Keith Mackie and got 20 them back from Keith Mackie.

Now, Detective Keith Mackie will testify very briefly. He took the keys which Shawchuk had originally found in Pyra's back yard over to 130 Avenue "O" South, the place where Gail Miller had lived, and that Keith Mackie tried them in the door of her room there and found that one of the two keys unlocked the door to Gail Miller's room, which of course would indicate that these were her keys. 30

THE COURT: Mr. Caldwell, will it be convenient to have a ten minute adjournment?

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Mr. [Name]: Yes, my Lord.

Mr. [Name], continues:

My Lord and gentlemen, I should like to tell you right now bad news for the Crown that the evidence is going to be even better than my opening address if you can believe that; however, we are getting near the finish of it.

Now, there will be an interview by the use of Victor Lynn testify. He will say that on Avenue [Address] which is directly behind the back alley from that house where [Name] lives. I expect him to say that he found a pair of scissors in his back yard about twenty-five feet away from each of the houses and those scissors had an inscription on them with Miss Miller's name on it. He will say that the police, who picked the scissors up that day; and Constable [Name] who picked them up, will testify that that day - that day by the way was April 15th of 1969 - and he will describe picking them up and giving them to Ident. Officer [Name].

Now, another witness will be [Name] Mrs. [Name] 330 [Address] South which I believe to be the house next door to [Name]'s. Now she will testify that on the date which she recalls as [Date] at the end of January or in the very first [Date] of January 1969 and that she recalls as [Date] Saturday because that was the day they

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grocery shopped and they were either just coming or just going grocery shopping; at any rate that on that day she noticed what she calls a wool hat but which I think most of us would refer to as a toque, sitting on top of the snow in front of her house between the sidewalk and the front street; and upon picking it up saw that there was blood on this toque; but not knowing what to do with the item she threw it in the back yard of the house and that it stayed 10 there until the first week in April, at which time on inquiry by a detective she pointed the toque out to him, still lying where she had thrown it in the back yard and that he retrieved it and took it with him. I expect her to testify that the toque of course did not belong to any one of her family. Now Detective Harst was the man who came there and took the toque and he will testify that during a house to house check in the area on Saturday April the 5th 20 1969 he talked to Mrs. Gerse and as a result he retrieved this toque out of the back yard at this address and gave it to Lieut. Penkala on April the 7th. He will testify that when he got it it appeared to have a dark substance or stain on it.

Dr. Lewis Brand of this city will be another Crown witness. He will testify that on April the 17th 1969 he took a blood sample from the accused Milgaard who consented 30 to giving the sample, and Dr. Brand gave the sample over to Detective John Oleksyn. Detective

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Delays will testify equally briefly that he witnessed this process and after the sample had been marked he in turn gave it to Lieut. Benkala.

Now somewhere around about 10:30 p.m. you will hear from another fairly important witness in this trial and that is Dr. Benson, the pathologist at St. Paul's Hospital in Vancouver and he's the man who performed the autopsy on the body of the deceased and that was on the very same day it was found - January the 10<sup>th</sup>, 1969. I expect him to testify that he first saw the body at about ten thirty that morning in a room at St. Paul's and that at that time he noted that the exposed parts of the body were frozen and firm to the touch and that there were also some depressions and distortions to the neck which disappeared upon the body thawing, and that upon noticing this situation with her clothing which I expect will have already been covered by the identification officers. I expect him to testify that he started the autopsy around two o'clock in the afternoon, with Ident. Officer Kleiv and Lieut. Benkala present. He found the body appeared to be of approximately a twenty year old female and that it had a number of groups of injuries to it. I expect him to testify that the first group is approximately fifteen cuts of varying sizes to the front of the neck and upper chest; the second a group of three stab wounds around the left collarbone; the third, four more stab wounds in the lower chest; and the fourth group, five more stab wounds on the right back

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and side. He found some scratches on the right leg and abrasions on the left leg, some abrasions on the cheeks, chin and nose; some damage to the lips; a small abrasion on the upper left eyelid of the deceased. Now, he will give his opinion as to the size and description of a blade which may have caused such wounds and will give his opinion that the actual cause of death was bleeding into the right chest cavity which occurred as a result of the stab wounds on the 10 right side of the chest, two of which penetrated the lung causing bleeding both from the chest and lung and filling the right chest cavity with blood. He will testify that he found numerous spermatazoa in the vagina of the deceased. He will give his opinion that from what he saw he would estimate sexual intercourse took place within approximately twelve hours preceding the examination - and as you know these 20 approximations are only that but I stress the words "before the examination" as opposed to before the death of the deceased, so you might bear that in mind in due course. He will testify that he found no signs by way of injuries to the genitalia of the deceased, the sexual organs, which would indicate sexual intercourse against her will during life but I expect him to testify that in his opinion intercourse could have taken place while the deceased was unconscious or even after death from the absence of injuries to the 30 genitalia. He will also explain that human blood as such - and I say that as opposed to constituent

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parts of human blood - that the human blood as  
it can get into the seminal fluid and  
the mucus of the male person from his own  
body, that is for a variety of reasons  
such as injuries to the genitalia, disease of  
the genitalia and sometimes apparently without  
any apparent cause; and again this is speaking  
of the blood as such as opposed to a constituent.  
I am going to give evidence that the knife  
that I mentioned to you, which will be 10  
produced during the trial, will be capable of  
inflicting the injuries that he found to the body.

Now, in addition to Dr.  
there will be a group of other expert  
witnesses who will testify towards the end of  
my case and these are all men from the  
Fingerprint Laboratory of the Royal  
Mounted Police at Regina; and you will  
hear that they received a goodly number of  
fingerprints and taken in connection with this 20  
case.

The first of these witnesses  
Lieutenant Baynter received a large number of  
fingerprints and he examined some of them. I expect  
him to testify that he found the blood type of  
the deceased cell filler to be Group "B" blood  
and that he found Group "B" human blood on the  
blade of the knife; that he found human seminal  
fluid in one of those two frozen lumps, which I  
will be about located by Lieut. Penkale, but no 30  
seminal fluid in the other lump; that he also  
found human seminal fluid on the panties taken

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from the deceased - and of course seminal fluid and spermatazoa as you know come exclusively from the male.

Now, he will testify that he found the accused Milgaard's blood to be type "A" and further that he examined this toque which Mrs. Cerse found and that it had human blood of an indeterminate group on it. Now I think that Staff Paynter will explain to you that depending on the sample they are given it is sometimes 10 possible to say that a stain is human blood and it is sometimes possible to go on further and say it's type "A" or type "B" or whatever the case may be; and that this depends on a number of things, like the age of the sample, whether it has been contaminated with dirt or other things and whether there is enough; and I expect him to tell you that in this case there was an insufficient quantity on the toque, that is the size of it - there wasn't enough for 20 him to go further and come to a finding as to the group; he can only say that it's human blood.

He will also testify that he received saliva samples given by the accused and tested them and found that no antigens of blood group "A" or "B" were to be found in the samples. Now, Lady and Gentlemen, I do want to pause here to explain briefly one of the more complicated aspects of the evidence which I think though will be clearly set out before you in evidence 30 by Staff Sergeant Paynter. Now, when Staff Paynter testifies I expect him to explain to

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you some of the techniques involved in blood grouping and also the matter of attempting to determine the blood group of a person from some of his other bodily substances; and I expect him to testify that there are people known as secretors and that this class of people which is a very large class - about eighty percent I believe of the population - is that they are persons that have their blood antigens or blood grouping substances secreted by their bodies into their other bodily fluids - perspiration, seminal fluid, saliva or tears - and when you have a sample of one of these items from a secretor that, all things being equal, you should be able to find out the blood group of that person from the examination of a sample if it's sufficient of one of those fluids. Now, I expect him to testify that when he initially checked the two frozen lumps I mentioned and found one to contain spermatazoa - and when this thing was melted by the way it was a clear pale yellowish fluid - he found it contained spermatazoa but he made no attempt to examine it for the actual presence of blood as such. And I stress that as I did with Dr. Enson's evidence because you will be hearing about blood as such as opposed to the constituents of blood, being these antigens which are parts of blood. However, that he did go ahead and check on this first occasion a sample to see if he could find any blood group antigens in it and he did find "A" antigens in

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the liquid. Now this would indicate at that stage - and I stress at that stage of the proceedings that the fluid was probably from a group "A" person who was a secretee - found "A" antigens that should be a secretee of group "A". Now, having said that, I expect him to testify that at a later stage in the investigation this sample was returned to him again for further examination - that's the one in which he had found spermatazoa - and at that time he examined it for the presence of blood as such - now again the difference, the presence of blood as such as opposed to constituent parts of blood. The first time he hadn't looked for blood as such; the second time I expect he will testify he did; and that when he looked for blood as such, using of course a different technique than that used to check for the antigens, that he got what he calls a positive presumptive test for blood in the sample, which in our language means that he found a minute trace of blood as such in the sample. Now, the presence of blood as such - that is not talking about the broken down parts - in the sample would of course account for the presence of the antigens in the sample and would account for the presence of antigens in the sample of fluid of a non-secretee. And I go on to say that since he found "A" antigens only in this fluid that this would indicate the blood to be from a group "A" person and would certainly eliminate the blood having come from the deceased Gail

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Miller with her type "O" blood. Now, as part of this picture incidentally I believe the evidence will indicate that Milgaard who gave the saliva sample was a non-secreter, so the finding of blood as such in the sample would not rule him out let us say as the donor of it if it were blood in there rather than items secreted. Now, I'm just telling you that because this is one of the mere technical bits of evidence you will be hearing and if you just bear that in mind I think the evidence will go along these lines. 10

Another laboratory witness will be Corporal Malchanke and he's of the Hair and Fibre Section. He will testify that he found a tuft of fibres adhering to the name badge on Gail Miller's uniform which couldn't be connected with any of the other items of her clothing received. He will testify that there was a torn seam in the left front of her dress which resulted from force being applied rather than wear and tear; that the zipper at the back of her uniform dress had been pulled apart as opposed to unzipped - it had been pulled apart sideways - and that he found six cuts in the back of the black coat which were approximately the same width as that broken knife blade which will be produced and which could have been in his opinion produced by that blade or by any other similar object. I expect him to testify that the centre button of her coat was missing and appeared to have 20 30

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been removed with force, that a tear in the crotch of her panties appeared to be simply a matter of normal wear and tear; and that he found seven human pubic hairs in one of these two vials - they are the ones in which the frozen lumps were put - and compared these with a pubic hair sample from the victim and in his opinion a common origin was possible between these two hair samples, in other words, the ones in the lump could have come from - 10 originally her pubic hair. Now, I will be asking him something to tell you a little about how exact a hair comparison is; in brief I think you will hear that it is not in the same league as fingerprints and so on, and that these examiners are often only able to say that it could have come from the same source, etc. At any rate I expect his evidence will be that common origin is possible, so that in other words the pubic hairs found in the lumps, one of which 20 contained spermatazoa, found in the snow right where the body was, could have been pubic hairs of the victim.

I expect him to say that he received the sweater found buried in the alley, a sample of the blue wool blanket from the funeral home used to cover the deceased, the touque and the vacuum collections from the seat of the deceased, and on examining these things found that the blue wool blanket sample was 30 similar to the two small fibres found on the coat, which would indicate that these two fibres

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got there as a result of the fellows from the funeral chapel putting the blanket over her body.

Two further crime laboratory witnesses - Corporal McDonald and Mr. McLeod - will testify as to the continuity of some of the items only, having done no examinations that we intend to go into here; it's just a matter of them handling them. And Staff Sergeant Kirby, head of the Firearms Section of the Laboratory 10 will also testify. He will say that he examined the wallet, the purse and the two winter boots for fingerprints and found none; and that he examined the broken knife blade found near the body and the broken handle found by the lad Heunjet and that he came to the opinion that they once formed one whole knife, that is they were originally part of one whole what is actually a sort of paring knife.

Now, Staff Sergeant 20 Edmondson, of the R. C. M. F. at Saskatoon, will testify briefly as to taking some exhibits from Saskatoon to Regina and it may be that you may hear from one or more additional Crown witnesses in addition to these, but that is the general outline.

Again, it's not out of place I think to stress that you must of course go by the sworn evidence, not by what I have told you I expect it to be as the trial proceeds. 30 Thank you, Lady and Gentlemen.

THE COURT: Members of the jury, there

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is one point that I omitted to refer to in my remarks this morning and that is that you may discuss this case and the evidence which you will hear quite freely amongst yourselves but please don't discuss it with anybody outside of yourselves and don't allow anybody to discuss it with you or attempt to discuss it with you. I don't think you will have any trouble in that connection but if you do and you wish assistance would you please refer the matter to me. 10  
I think probably, Mr. Caldwell, we might as well adjourn until two o'clock because your first witness is going to be a long one, is it?

MR. CALDWELL: He will be, My Lord.  
THE COURT: Yes, I think we'll adjourn until two o'clock.

12:05 P.M. JANUARY 19TH, 1970 -- COURT ADJOURNED.  
2:00 P.M. JANUARY 19TH, 1970 -- COURT RESUMED --  
ALL JURORS PRESENT. 20

THE COURT: The first witness, Mr. Caldwell.  
MR. CALDWELL: My Lord, there is one thing might I ask Your Lordship and that is that I'd like at this time to make an application under Section 71 of the Canada Evidence Act asking for leave to call more than five expert witnesses. They should be the same witnesses who were called at the preliminary inquiry and there are five lab. witnesses, two medical doctors and I 30 suppose in that category one or two identification personnel, My Lord.

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THE COURT: Have you any objection to  
that, Mr. Tallis?

MR. TALLIS: No objection.

THE COURT: Well, I think I should give  
you leave to call as many as you want.

MR. CALDWELL: Thank you, My Lord; and I  
call Thor Hendrik Kleiv, My Lord.

THOR HENDRIK KLEIV, sworn, states:

MR. TALLIS: My Lord, before my learned  
friend commences his examination-in-chief of this 10  
witness I would ask for a formal order from Your  
Lordship excluding all other prosecution  
witnesses at this time or prospective  
prosecution witnesses.

THE COURT: All these persons who have  
been informed either by subpoena or otherwise  
that they are expected to give evidence at this  
trial for the Crown will please retire from the  
court room and remain outside the court room  
until they are called for the purpose of giving 20  
evidence. Once they have given evidence of  
course they may remain.

MR. CALDWELL, examining:

Q I believe your name is Thor Hendrik Kleiv and  
that you are a member of the Saskatoon Police  
Department and that your rank is that of  
Identification Officer?

A Yes sir.

Q And I believe that as such you are both 30  
trained and experienced in the various aspects  
of photography and in drawing scale drawings and  
in the matter of collecting and examining items

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51 Exam of T. H. Kleiv

which may be proposed as exhibits in certain cases?

THE COURT: Mr. Caldwell, excuse me, did you tell me that this witness would probably be quite a while?

MR. CALDWELL: I feel he will be almost all afternoon, My Lord.

THE COURT: Well, I don't usually invite police officers to sit down particularly in uniform but I think under the circumstances, 10  
Officer, if you feel like sitting down because you're going to be here a long time you are perfectly entitled to do so.

THE WITNESS: Thank you, My Lord.

MR. CALDWELL:

Q I don't know whether you answered - is that so - that last question?

A Yes sir.

Q And how long have you been in Investigation work then, Officer Kleiv? 20

A Approximately four years, sir.

Q And has that been steadily as such?

A Yes, sir.

Q Now, I believe that you were one of the Identification personnel to attend a scene on Friday January the 31st of 1969 in the city of Saskatoon in the province of Saskatchewan?

A Yes sir.

Q Did any other Identification personnel go with you? 30

A Yes; Lieut. Penkala and Cst. Winter who was working in Identification at that particular

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time.

Q And Lieut. Penkala is and was the head of your Section I believe?

A Yes sir.

THE COURT:

Q Who was the other one, did you say?

A Cst. Winter, My Lord.

MR. CALDWELL:

Q And you said he was working in your Section then?

A Yes sir. 10

Q And where was it you went that morning?

A We went to the alley which runs north and south between Avenue "N" and Avenue "O" in the 200 block south.

Q And what streets bound that block?

A 20th Street on the south and 21st Street on the north.

Q What time did you arrive there?

A At nine ten a.m.

Q And you and the other two officers at once I presume? 20

A Yes sir.

Q And at that time what was the weather and the visibility?

A The weather was very cold approximately forty degrees below zero; and the visibility was poor due to foginess in the air and the visibility would be approximately 150 feet to 200 feet.

Q And was it daylight by the time of your arrival? 30

A Yes it was.

Q Now, I believe that in due course, Ident. Officer

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Kleiv, that you made observations about the lay-out of that block and the location of certain items and you made measurements and from all that compiled a large sketch of the entire block?

A Yes I did, sir.

Q And I take it this was from measurements made out at the scene I suppose, though, on more than one visit there, was it?

A Yes it was. 10

Q I show you a large diagram; is this the one to which you have been referring?

A Yes sir.

Q Is that all made on the basis of what you yourself have personal knowledge of?

A Yes.

Q And I believe there are some dots though in this scheme of which you don't have personal knowledge that are just put there?

A Yes that's right, sir. 20

MR. CARSWELL: Alright; I'd like to My Lord, tender this as an exhibit.

THE COURT: The diagram will be P.1.

MR. CARSWELL: Thank you, My Lord.

THE COURT: Is it to scale?

MR. CARSWELL: Yes, My Lord, I'll go into that.

THE WITNESS: Yes, My Lord, it is.

(Diagram drawn to scale made EXHIBIT P.1 30

MR. CARSWELL: I think, My Lord, if Your Lordship please, that I'd like to go on and

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54 Exam of Officer Kleiv

have one or two more items entered before we go into this.

THE COURT: Yes, go ahead.

MR. CAIDWELL:

Q I believe that since the preliminary inquiry in this matter then, Officer Kleiv, at my request you have made another fairly large scale diagram of that general area of the city of Saskatoon?

A Yes sir.

Q And what did you start out to do in doing this - 10 what did you take as a basis?

A I used a city map, that is a city of Saskatoon map, and I photographed a portion of the map which included the scene; and this was then enlarged to the size of the diagram.

Q And did you at my request enter in a number of addresses and businesses and so on on that?

A Yes.

Q Now, have you personal knowledge from being there that those addresses and business locations 20 and what-have-you are at the places which you have shown them on the diagram?

A Yes.

Q And in the case of this second diagram I believe the situation is though that they are not - those particular boxes and so on - to scale?

A That's right, sir.

Q Now, have you travelled the city in the avenues and streets on which these locations exist in fact? 30

A Yes.

Q By way of making up this diagram?

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- A Yes sir.
- Q And you entered them on your diagram did you?
- A Yes I did.
- Q And I believe you have since made photographs of the diagram of a size of an eight by ten enlargement?
- A Yes sir.
- Q Would you produce that second diagram please?  
(WITNESS PRODUCES DIAGRAM)
- Q Now I believe further the situation to be that 10  
you are aware of some of the measurements of blocks and distances on this diagram by having travelled or measured them yourself?
- A Yes.
- Q But of course that the map itself is simply a photograph of a piece of the city map?
- A Yes sir.
- MR. CARR-SMITH: My Lord, if I might tender that?
- THE COURT: 20
- Q First of all, what is the city map that you used to take the photograph?
- A I have the city map here.
- Q I was wondering whether it's the kind that's supplied by a service station or whether it was some other - oh, I see, yes - well, are you in a position to say from your knowledge of the vicinity that that map of which you made a photograph depicts accurately the streets and alleys and avenues of that particular part of 30  
Laskatoon?
- A It depicts accurately the streets; however, the

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alleys are not marked.

Q The alleys are not marked?

A No.

THE COURT: Alright, thank you.

MR. CALDWELL:

Q I believe, Officer Kleiv, though that you did mark  
one or two alleys at my request, didn't you?

A Yes I did.

Q And you would have personal knowledge of the  
ones you marked?

10

A Yes.

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

THE COURT: P.2.

(Diagram prepared from a  
City of Saskatoon map  
made EXHIBIT P.2)

MR. CALDWELL:

Q And I believe, Officer Kleiv, that you made a  
number of photographs at and about the scene  
that you have just mentioned and some further  
photographs of the morgue at St. Paul's Hospital  
and a further one back at the police station,  
that you exposed all the negatives and processed  
the film and made the enlargements yourself?

20

A Yes sir.

Q And if you will just look at this yourself first  
and satisfy yourself as to whether those are all  
your photographs and whether they all fall into  
the category I have just mentioned?

A Yes sir. (After checking each photograph) 30

Q Now, I believe the situation is that in the book  
you are looking at that there is a photographic

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reproduction of P.1 as the last page in the book at this time?

A Yes sir.

Q And I believe you have made photographic reproductions though of P.2 and put them into some other books, have you?

A Yes I have.

MR. CALDWELL: Now, My Lord, I would tender this as an exhibit.

THE COURT: Let me see it please. 10

There are twenty photographs in all. The first nineteen are numbered, the last one which is a photograph of P.1 is not numbered but it can be referred to as a photograph of P.1; and the exhibit will go in as P.3.

(Book containing twenty photographs made EXHIBIT P.3)

MR. CALDWELL:

Q I believe, Ident. Officer Kleiv, that you have prepared a number of booklets which are identical to P.3 with the addition to them as the final page a photographic reproduction of P.2 - the new sketch? 20

A Yes sir.

Q And is that the only change between them and P.3 here?

A Yes sir.

MR. CALDWELL: My Lord, I would feel that having that before the members of the jury to look closely at P.2 would be useful and if Your Lordship so rules I would like to supply the jury 30

015 49

with those copies at this time. They contain in addition to that . .

THE COURT: . . yes, I understand. How many copies have you got?

MR. CANNON: I believe there are seven or eight.

THE WITNESS: Yes, I have seven copies.

THE COURT: Well, I really think that one should go in as an exhibit and that this officer should identify that particular photograph as being a copy of P.2 . . 10

MR. CANNON: . . very well, My Lord.

THE COURT: . . so that when it goes before the jury they will have before them copies of a complete exhibit.

MR. CANNON: Fine, My Lord -

Q Alright, could you produce one of those then, Officer Kleiv?

A I may say I have supplied my learned friend with a photograph of P.2. 20

Q Now, the book you have now, is it the same as P.3 with the addition of as its final page a photograph of the item P.2?

A Yes sir.

MR. CANNON: I would tender that book then, My Lord, as an exhibit.

THE COURT: Very well - Exhibit P.4.  
(Book of photographs as in Exhibit P.3 with an additional photograph of Exhibit P.2 made EXHIBIT P.4 30

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MR. CALDWELL:

Q And I believe you have six further identical to this one with you?

A Yes sir.

Q Now you have checked all those as being identical, have you?

A Yes sir.

MR. CALDWELL: If Your Lordship please then I'd like to supply some of those to the jury and to Your Lordship. 10

THE COURT: Very well.

MR. CALDWELL: Perhaps you gentlemen could share these five books altogether -

Q Now, I'd like first, Officer, to ask you about E.1, the sketch of the scene which I believe forms the second last page in the book of photographs; and first of all which is north in Exhibit P.1?

A The top of the diagram is north.

Q Are the streets you mentioned shown there? 20

A 21st Street runs east and west at the top of the diagram; 20th Street is at the bottom of the diagram; Avenue "O" is at the left hand side of the diagram; and Avenue "N" is on the right side of the diagram.

Q Now, did you show the lane you have mentioned in this sketch?

A Yes, the north-south alley runs north and south in the centre of the diagram and there's an east-west alley which is located closer to the 30 bottom of the diagram; and the east-west alley joins the north-south alley forming a T-intersection

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approximately the centre of the diagram near the bottom.

Q Now, you have shown various addresses I take it of houses and businesses on that block?

A Yes, the numbers along the left side of the diagram indicate the house numbers on Avenue "C"; and the addresses on the right side of the diagram, the numbers indicate the addresses on Avenue "B".

Q And on the bottom? 10

A And on the bottom the numbers indicate the addresses on 20th Street.

Q And I believe you have shown a couple of addresses on the very top block on the diagram?

A Yes.

Q Now, the "130" is which Avenue?

A "130" is Avenue "C" - 130 Avenue "C" South.

Q Alright now, did you - when you got to the scene and just going ahead for a moment and briefly, did you find a body at the scene? 20

A Yes I did.

Q Now, have you indicated from your own knowledge the location of the body on P-1?

A Yes. Where it is lettered A, B and C is the location of the body.

Q And that's put on there from what you saw at the time, is it?

A Yes sir.

Q Alright; now, did you come to know the location of a business Westwood Funeral Chapel in the 30 course of this business?

A Yes I did.

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Q And where would it be on P.1?

A On P.1 it is located at this address - 1402 -  
that is the Westwood Funeral Chapel.

Q And is that the northwest corner of 20th and  
Avenue "N" South?

A That would be the northwest corner, yes.

THE COURT:

Q Excuse me just a minute; 1402 would be you say  
the northwest corner . . . ?

A Of Avenue "N" and 20th Street. The top of the 10  
diagram is north.

Q I know that; this is 1402 right here?

A That's right, My Lord.

Q And that's what you're referring to - this  
1402?

A Yes, My Lord.

THE COURT: I see, thank you.

MR. CALDWELL:

Q I show you P.4 - the second of two books of  
photographs - and again these are all your own 20  
particular personal work?

A Yes sir.

Q Now, could you face that around please so it  
can be seen, I'd like to go through these with  
you.

Now photograph #1, Officer - and I take it by  
the way that these ones at the scene were taken  
the first time you were there that morning?

A Yes sir.

Q Which way is photograph #1 facing? 30

A Photograph #1, the camera is facing north, the  
top of the photograph is north, the bottom of

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the photograph would be south; the right side of the photograph is east and the left side of the photograph is west.

Q And where would you be standing to make the photograph?

A I'd be standing approximately at the T-intersection of the alleys possibly ten to fifteen feet North of the intersection.

Q Are the vehicles up the alley either police vehicles or ambulance or something of that sort? 10

A Yes.

Q And what is shown centrally in the photograph?

A That is the body.

Q How photograph #2, where were you to take that one?

A Photograph #2 is a closer view of the body which is lying on the east side of the edge of the alley and the camera is facing northeast showing the body towards the left of the photograph. There are two black marks in the snow which show to the right of the centre of the photograph. 20

Q Point them out please?

A Yes, located here (indicating).

Q And did these prove to be anything?

A Yes; a glove was found embedded in the snow at this location.

Q Was that by you?

A Yes. 30

Q And you retained it, did you?

A Yes.

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- Q Now, I take it that to make photograph #2 you went further north down the alley and turned somewhat east - the camera direction?
- A Yes, that's right.
- Q Now, what is the situation shown in the area of snow surrounding the body there?
- A In the area around the body it shows that the snow was trampled towards the east side of the body - mainly towards the east side of the body the snow was trampled. 10
- Q Now, was it in that shape when you got there?
- A Yes.
- Q And is that on or off what would be the travelling lane of the alley as shown I take it in 18
- A It would be just off the travelled portion.
- Q Alright; now where were you for photograph #3?
- A Photograph #3 was taken with the camera facing in a northeasterly direction showing the body and the trampled area around the body. It shows 20 the hair mussed up and snow matted in the hair and the body is outwardly clothed in a black fabric coat with black fur collar and black cuffs.
- Q Did you add the portion of the surveyor's rod shown there?
- A Yes I did.
- Q And for what purpose is that?
- A It is just for more or less a scale in case we have to enlarge it to the actual scale.
- Q And is that true of any other places in which 30 the rod appears in a photograph that you added it for that purpose?

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A Yes sir.

Q Alright; photograph #4 - which direction is that facing?

A Photograph #4 is facing more or less in a south direction, showing the body and the trampled area about the body.

Q And I believe that's your vehicle in the photograph?

A Yes; the vehicle shown here is located in the east-west alley and the vehicle is actually 10 facing west.

Q And I take it that would be at the place where we would say the trunk and the top of the T join in that alley?

A Yes sir.

Q Photograph #5 - which direction is that taken in?

A #5 is the back view of the body and the camera is facing in a southwesterly direction in this photograph.

Q And photo #6? 20

A Photograph #6 is taken with the camera facing south showing the body lying on the east edge of the alley and it shows the Identification van in the east-west alley which is facing west.

Q And I take it those are police officers at the van, are they?

A Yes they are.

Q Now, at what stage of the proceedings was photo #7 taken?

A Photo #7 was taken after the coroner arrived at 30 the scene.

Q Now, officer, with respect to the first six

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photographs, would they depict the situation as it was when you and your compatriots arrived there?

A Yes sir.

Q And in #7 I take it this was some time later that morning, was it?

A Yes, it was approximately nine forty a.m.

Q And which coroner was it?

A It was Dr. Fogel.

Q And when Dr. Fogel arrived was there some step 10 taken to turn the body in that manner?

A Yes, Dr. Fogel did this.

Q And in what way was it moved, that is what change was made?

A It was just turned; originally it was lying more or less on the stomach facing down and then it was turned over on to its left side.

Q And that's when you made photo #7?

A Yes sir.

Q Now, did you change anything other than Dr. Fogel 20 turning the body to that place before you made photo #7?

A No, I didn't.

Q And I believe that that concludes the photographs which you made . .

THE COURT: Excuse me, I want to intervene with a question here.

MR. SANDERS: Yes, My Lord.

THE COURT:

Q Did the Doctor merely turn the body over and is 30 this what you found - as depicted in photograph #7 is this what you found when the body was

005057

turned over?

A Yes, by Lord.

Q Just like that?

A Yes, by Lord.

MR. CARRUTHERS:

Q When Officer, numbers 1 to 7 are all scene photographs by yourself?

A Yes they are.

Q And are those all that you took at the scene?

A Yes.

10

Q Now, I believe the next series of photographs was taken at various stages at the St. Paul's Hospital?

A Yes.

Q Again all by yourself?

A Yes sir.

Q Alright; now when was photograph #8 taken?

A Photograph #8 was taken at St. Paul's Hospital and at the commencement of the autopsy which commenced at approximately two thirty p.m. January 31st 1969.

20

Q And I take it that you added the small card with time, date, the name Gail Miller and your signature there, did you?

A Yes I did.

Q And is it also a scale type of card?

A Yes, it's a piece of graph paper; it's marked off in inches and it's a laminated card.

Q Now, at the time of making photograph #8 had you altered the clothing any more than you had to in the process of moving the body so to speak?

30

A No.

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Q And had Dr. Eason or any hospital person done so in your presence?

A Not that I noticed, no.

Q And were you with the body from the time you first saw it in the alley up to and throughout the autopsy?

A Yes sir.

Q Alright; photograph #9 . . .

THE COURT:

Q Excuse me - was the body taken by ambulance? 10

A Yes - Ray's Ambulance, My Lord - it was taken to St. Paul's Hospital.

MR. CANNON:

Q Photograph #9, Officer?

A Photograph #9 was also taken at the autopsy, showing a view from the left side of the body and it shows the clothing worn - black fabric coat, black fur collar, black cuffs; has a brassiere on, the right strap is broken; the dress is down by the waist and also a half slip 20 is down by the waist; it also shows wounds to the neck and bruises to the cheek and also the left ear lobe is discolored.

Q And this would be more or less the opposite view then to #8, I take it?

A Yes, that's right.

Q Now the tag on the wrist in #8 I take it was added by hospital personnel?

A Yes.

Q And the card in #9 and anywhere else it appears 30 by yourself?

A Yes.

005059

Q Right - photo #10?

A Photo #10 is a full length view of the body but it's taken to show the arrangement of the clothing on the legs. There is a boot which is on the left leg, a white mesh stocking down over the boot and this white mesh stocking is attached to the girdle; the panties are down by the ankle; and the white mesh stocking is down over the foot on the right leg.

Q And photo #11?

10

A Photo #11 shows the same arrangement of the clothing down towards the ankle of the right leg and left leg; and also shows bruise marks on the inside of the right knee.

Q Now, I take it this would be at a later stage of the proceedings - photograph #12, what stage was that?

A Photograph #12 is taken after the clothing was removed from the body.

Q And essentially a back view?

20

A Yes, that's right.

Q And photo #13?

A Photo #13 is a closer view of the four wounds to the back of the body, showing one wound up near the right shoulder blade and then three wounds just below the wound on the shoulder blade.

Q And photo #14?

A Photo #14 is a closer view of the upper portion of the body, showing the bruise marks to the chin, the lips, the nose; there is a bruise mark on the left eyelid; there are also wounds to the

30

005060

throat and there are three wounds on the left shoulder.

Q Just point those out?

A They are located here - there are three of them; and there are three wounds below the left breast and one wound towards the centre of the upper portion of the stomach.

Q And those are all visible on #14, are they?

A Yes sir.

Q Alright; photo #15? 10

A Photo #15 is a similar view to photo #14, showing the wounds to the neck and the bruises on the face and the wounds - three wounds on the left shoulder, three wounds below the left breast and the one wound on the upper portion of the stomach area.

Q And photograph #16?

A Photograph #16 is a view of the right side of the body, showing a wound below the right shoulder.

Q And photo #17? 20

A Photo #17 is a view of the legs, showing the bruise marks on the inside of the legs by the knees and it will be noticed that the left leg just below the knee is more whiter in color than by the knee and above the knee and this is where the boot was on the left leg.

Q And is #17 an accurate reproduction of the situation you saw as to color on the body understanding that this is black and white of course but . . . ? 30

A Yes.

Q And was there in fact a difference then, Officer,

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between those two?

A Yes; this area that shows up white on the leg is actually whiter than above it.

Q And I take it then the right leg also?

A The right leg is the same color as the left leg with exception of the area below the knee.

Q And photo #18?

A Photo #18 is a back view of the legs showing scratch mark on the right leg above the ankle.

Q Now, I believe that ends the series you took at the hospital, does it? 10

A Yes sir.

Q And those were all the ones you took there?

A Yes.

Q And where did you take photo 19?

A Photograph #19 was taken in the Identification Section of the Police Station.

Q And was this some time later?

A Yes.

Q And what does it show? 20

A It was a photograph of the dress that was worn on the body to show the discoloration on the right breast area and it shows an "Institute of Applied Arts and Science" nursing assistant's button; and it has a name badge below this button with the name "Miss G. Miller" on the badge. However this name doesn't show on the photograph.

Q And I take it you had taken the dress at the autopsy and retained it until you made the photograph, did you? 30

A Yes sir.

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Q Was this by way of a uniform type dress?

A Yes.

Q Did you examine it before it left your possession for the presence of any kind of things that could be out in the dress?

A Yes.

Q And what did you yourself find in that respect?

A The left seam by the collar was open.

Q Can you point that out on the photograph?

THE COURT: Show it to the jury first 10  
and then show it to me.

A (pointing out to the jury) - it is located in this area.

(pointing out to His Lordship) - in this area, My Lord.

The seam was open; it may not show too clearly on the photograph.

THE COURT:

Q Well, is that a type of collar at the top?

A Yes, that's a collar. 20

Q And where is it with relation to the "V" - the bottom part of the "V" of the collar?

A It's to the left of the "V".

Q That is - to the left of the "V", that means right on the photograph?

A Yes, right on the photograph.

Q And just to the right in the photograph?

A Yes, My Lord.

Q Would you just point that out again to the jury please? 30

(OFFICER AGAIN POINTS OUT TO THE JURY)

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MR. CALDWELL:

Q What did you say about that?

A It was open - the seam was open.

Q And does it show that on the photograph or not?

A It doesn't show it too clearly, no.

Q Alright; and aside from that did you find anything in the way of punctures or cuts of any sort on the uniform?

A No, I didn't.

Q And you looked, did you? 10

A Yes.

Q Now, I'd like to then go into what you found now that you have showed the photographs - what you found when you did get to the scene as you found it and when you arrived at the scene who was there?

A Detective Sgt. Reid and Detective Parker.

Q And were they the only persons there in addition to the body?

A Yes. 20

Q And what was the situation with the body when you first arrived?

A The body was lying on the east edge of the alley which runs north and south. It was lying face down in the snow. The right leg was spread straight out and the left leg was more at an angle.

Q Was there anything by way of a covering on the body when you arrived?

A Yes, there was a blanket over the body when I arrived. 30

Q And I take it you removed that early in the

005064

proceedings?

A

Yes.

Q

And what else could you see about the clothing situation initially?

A

It was outwardly clothed in a black fabric coat, a black fur collar and black fur cuffs.

Q

And I think you mentioned something about this one boot, could you just explain that?

A

Yes. There was a black overboot on the left leg, the white mesh stocking was down over the boot 10 and this white mesh stocking was attached to the girdle fastener, the girdle was down at the ankles along with the panties; and there was a white mesh stocking down over the right foot and there was no boot on the right foot.

Q

Now, I show you photo 5 of P.4; does it show the things you have just described as to where these items were?

A

Yes, it does.

Q

Was there anything in the way of foreign 20 material or stain or anything around the body?

A

Yes, there were some red spots in the snow about the body.

Q

And you mentioned finding a glove, didn't you?

A

Yes.

Q

And I think you'd showed the jury already where that was in one of those photographs?

A

Yes.

Q

Which photograph is it?

A

Photograph #2. 30

Q

Just point out the spot again?

A

Yes. (pointing out to the jury) - located here.

005065

Q and did you find another glove, Officer?

A Yes, there was another glove to the east of this area closer to the fence line.

Q And did they appear to be a pair so to speak?

A Yes, they did.

Q And what sort of gloves were they?

A I believe they were gray or tan in color and they appeared to be ladies gloves, cloth material.

Q You've told the jury I think already of the arrival of Mr. Fogel, the coroner, there in due course?

A Yes.

Q And that at that stage the body was as I understand it just turned over by him?

A Yes.

Q Now, when it was turned over I believe you said the situation was as shown in photo 47 then?

A Yes sir.

Q And what further did you notice then at that stage about the clothing situation? 20

A I noted that the brassiere was partly off the right breast, the right strap was broken on the brassiere. The half slip was roped at the waist . . .

Q . . . and by "roped" you mean what?

A It was all wrinkled up at the waist.

Q Does it appear in photo 7?

A Yes, it does. The half slip is shown at the waist here - (pointing out to the jury)

here, My Lord - (pointing out to His Lordship) - 30  
this is the half slip here.

THE COURT:

005066

Q It's the one closer to the top of the body -  
part way between the brassiere and a larger item  
of clothing?

A Yes, my Lord.

MR. GARDNER:

Q And that was the larger item that His Lordship  
mentioned - is that the one located right at  
the hips so to speak?

A Yes, this is the dress.

Q Was it in the manner shown in #7 when the body 10  
was turned back?

A Yes sir.

Q And does #7 also show the situation you have  
spoken of about the footwear and stockings and  
girdle and panties?

A Yes, it does. I also might mention here that  
the dress was at the hips and the sleeves were  
not torn on the dress; the coat was on the arms  
- the arms were through the sleeves of the coat.

Q Right in the sleeves? 20

A Yes.

Q Now, when Dr. Fogel arrived and viewed the scene  
did you accompany the body from the scene when  
you were through your photography?

A Yes.

Q What time did that happen?

A At approximately 10:05 a.m. of January the 31st  
1969.

Q And by what means was it moved?

A It was moved by Ray's Ambulance Service to St. 30  
Paul's Hospital.

Q And I take it - were there some attendants

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there from the ambulance service?

A Yes, there was.

Q And you have record of who they were, do you?

A Yes I do.

Q And did you accompany the body?

A Yes I did.

Q In the ambulance?

A Yes.

Q And where did they take it and where did you accompany it to? 10

A Went to Room #3 in the Emergency Section of St. Paul's Hospital.

Q And arriving when?

A Arriving there approximately five minutes later.

Q Alright; now, did you stay there with the body for some time there?

A Yes I did.

Q And did any other persons arrive while you stayed there with it?

A Yes. 20

Q And who were they?

A Detective Sgt. Reid and Detective Parker and a girl by the name of Vicki Fontaine.

Q And did Miss Fontaine come into the room where you were keeping the body during that period?

A Yes she did.

Q And when she take it left eventually, did she?

A Yes.

Q And did any other persons show up there on official business so to speak about the body? 30

A Yes.

Q And who were they?

005068

A Dr. Enson was there I believe at one time.  
When there was Inspector Nordstrum and jury  
members.

Q That would be a coroner's jury, would it?

A Yes; and Dr. Fogel.

Q And he of course being the coroner?

A Yes.

Q Now, eventually I take it you accompanied the  
body and were present when the actual autopsy  
started? 10

A Yes.

Q And were you with it right up until that time  
from the outset?

A Yes.

Q And where did the autopsy take place?

A In the pathology section of St. Paul's  
hospital.

Q Who was present?

A There was Dr. Enson and Lieut. Pankala and  
myself. 20

Q Did Dr. Enson personally conduct the  
post-mortem or autopsy?

A Yes he did.

Q And did you and Lieut. Pankala stay throughout  
that process?

A Yes he did.

Q Do you believe you collected some items as that  
went along, did you?

A Yes.

Q Was there anything in the way of stains on the 30  
deceased's clothing as you got to see it as the  
autopsy proceeded?

005069

A Yes.

Q And what did you see?

A Well, on the half slip there were red spots on it which were consistent with being blood; also on the dress.

Q And did you note the condition - did this dress have a zipper or button closing as it were?

A Yes, it had a zipper on the back.

Q Did you notice the condition of that zipper?

A Yes. The zipper was open and the zipper shoe was at the top and it was noted that the zipper itself was broken. 10

Q Now, the zipper shoe - which part is it?

A That is the part - I mean by the shoe is the part that is used to close the zipper.

Q And you found it where on the length of the zipper?

A It was at the top.

Q And this would normally be what position for it if . . . ? 20

A . . . Well, it would normally be in a closed position.

Q Right; now what state was the zipper itself in?

A It was open.

Q It was open?

A Yes.

Q What was broken about it?

A There were some of the cogs in the zipper were broken at the top.

Q Yes; and had this been - when did you notice that situation first? 30

A I noticed that situation at the hospital and

005070



then later at the Police Station.

Q I see; and had that zipper been altered or tampered with in any way from the time you arrived at the scene and first saw the body until the time when you made that particular observation?

A Not that I am aware of, no sir.

Q And you had been there constantly?

A Yes.

Q Now, the photos 8, 9, 10 and 11 - which room were they taken in? 10

A They were taken in the autopsy room.

Q Now take it that that would be then the same room in which numbers 12 through 18 were taken?

A Yes sir.

Q I believe that you - as the process went on that you yourself collected the items of clothing from the body at the time when it was undressed for the purpose of the actual autopsy taking place? 20

A Yes, I did.

Q And I believe that various of those items have been handed back and forth to other people by yourself and so forth?

A Yes, sir.

Q Now did you keep notes of all the transactions you had involving those items and any other items you received and handled?

A Yes, I did.

Q And were they all located in one notebook or in various of your notes? 30

A Well, they were located in various notebooks.

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Q And for the purposes of this case have you found those notes and made them up so to speak into a summary of what you did with these things?

A Yes.

Q And what summary is it made from your original notes in each case?

A Yes, it is.

Q And in what form did you make it up.

A It's in typewritten form; I typed the notes myself.

10

Q How did you type them yourself?

A Yes.

MR. [unclear]: If Your Lordship please I propose to start having the officer look at some items and I take the position that these - that this is in the same way as the original notes. He used these previously, my learned friend is aware of the procedure and has a copy of the list; and it is the same as it was at the preliminary inquiry. In other words he has consolidated his own personal notes just simply, my lord, to save looking through twenty books for the items that may have been dealt with on different dates. By Your Lordship's leave I would ask the officer to consult that list.

20

THE COURT: What do you have to say about it, Mr. Hallis?

MR. [unclear]: Well, My Lord, I have a copy of the list and I am satisfied to have the proceedings expedited on that basis.

30

THE COURT: Very well; otherwise I wouldn't without the originals being here.

005072

MR. TALLIS: I understand Your Lordship's position and I am happy to say that I have been furnished with a copy and I have had a chance to check.

THE COURT: And are you going to proceed now to lay the foundation for the use of these - he hasn't asked permission from me to refresh his memory.

MR. CALDWELL: I expect he will if Your Lordship pleases - 10

Q I think though, Officer, the situation is that you handled a goodly number of items on many different dates, not just on the date of the autopsy?

A That's right, sir.

Q And that some of them you had once and some more than once?

A Yes sir.

Q And that you have notes of each original transaction but scattered throughout various books, as I understand it? 20

A Yes sir.

Q Now, can you recall all this by memory, each step and each item, who it went to or where you got it from or do you require the assistance of your notes for this purpose?

A I would require to have the assistance of my notes for this purpose.

Q And if you were granted that are we to understand that you would be using the document I have just examined you about a moment ago? 30

A Yes sir.

005073

Q Which as I understand it is all your own personal work?

A Yes sir.

THE COURT:

Q Wherever it is required to refresh your memory you may check with your notes. If you can give it without the necessity of checking your notes then please do so?

A Yes, thank you, My Lord.

MR. CALDWELL: I take it, My Lord, that you 10 refer to the typewritten list of his notes?

THE COURT: Yes, in view of what Mr. Ellis said, yes. Apparently he is satisfied that it's an exact copy of his notes set forth in the original books.

MR. CALDWELL: Thank you, My Lord -

Q Now, I believe you collected a black cloth coat from the body at the time, did you?

A Yes I did, sir.

Q I show you a coat; I would ask you to look at 20 it and tell us if that is the one you collected please?

A Yes, this is the coat. I have a tag placed on the coat with the occurrence number; date the 31st of the 1st month 1969; describing the coat briefly - black cloth lady's overcoat, black fur collar and cuffs, removed from body of Gail Miller; with my name at the bottom of the tag. And I also placed the date and my initials on the inside of the coat, which appear here. 30

Q And when did you first get that?

A This was at 2:30 p.m. on January 31st 1969 at

005074

St. Paul's Hospital.

Q And I take it at the time of the autopsy?

A Yes.

Q And did you turn it over to anyone else after that?

A Yes I did.

If I may refer to my notes, My Lord?

THE COURT: Yes.

A (Cont.) At 2:20 p.m. on February the 7th 1969 I turned this coat over to Staff Sgt. Bruce 10  
Faynter at the R.C.M.P. Crime Detection  
Laboratory in Regina Saskatchewan. And at  
1:55 p.m. on May the 22nd 1969 I received this  
coat from Cpl. V. Malchanko at the R.C.M.P.  
Crime Detection Laboratory in Regina  
Saskatchewan.

At 10:00 a.m. May the 23rd 1969 I turned  
this coat over to Detective Sgt. Ray Maskie  
of the Saskatoon City Police; and at 3:00 p.m.  
May the 24th 1969 I received this coat back 20  
from Detective Sgt. Ray Maskie.

Q And at the times other than when you had it  
turned over to someone was it under lock and  
key in your custody then?

A Yes, it was kept in my locker.

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

A No, I didn't.

Q And did you tender it at the preliminary inquiry  
in relation to this same case? 30

A Yes I did.

Q And I take it that represents all the handling

005075

or continuity of the coat that you had?

A Yes.

MR. CALDWELL: My Lord, I would tender the coat.

THE COURT: P.5.

MR. CALDWELL: I take it Your Lordship is accepting it as an exhibit - P.5?

THE COURT: Yes -

Q It was taken off the body of the deceased, was it not? 10

A Yes, My Lord.

Q And then taken over by you?

A Yes, My Lord.

(Black coat taken from the body of Gail Miller made EXHIBIT P.5)

MR. CALDWELL:

Q I show you a pair of panties and would ask whether you have had the handling of these items before? 20

A Yes. My initials "T K" appear on the waistband of the panties and the date - the 31st of the 1st month 1969. And I also have a tag on the panties with the occurrence number and the date - January the 31st 1969; one pair of pink panties from the body of Gail Miller; and my name on the tag "T. H. Kleiv".

Q And was the situation as to the staining that is there now - was that there when you first received the panties? 30

A Yes.

Q And other than marking them for identification

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did you alter them in any manner?

A No, I didn't.

Q And did you tender them at the preliminary inquiry herein?

A Yes I did.

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

THE COURT: P.6.  
(Pair of pink panties  
taken from the body of 10  
Gail Miller  
made EXHIBIT P.6)

MR. CALDWELL:

Q I show you a girdle with white mesh stockings; are these items you took from the body at the autopsy?

A Yes. My initial appears on the inside of the girdle "T K" and the date 31 of the 1st month 1969. I also placed a tag on the girdle with the occurrence number and the date January 31st 20 1969 and described the article - one girdle and one pair of white stockings from body of Gail Miller; and my name "T. H. Kleiv" on the tag and the white mesh stockings are attached to the girdle.

Q That's in the manner you got them, was it?

A Yes.

Q What did you<sup>do</sup> with that collection of items?

A This was turned over to Staff Sgt. Paynter at the H.C.M.P. Laboratory in Regina at 2:20 p.m. 30 of February the 7th 1969 and I received this exhibit back from Cpl. V. Malchanko at the

005077

R.C.M.P. Laboratory in Regina at 1:55 p.m.

May the 22nd 1969.

Q How, did you keep the item under lock and key  
in your custody at any time other than when it  
was out of your hands?

A Yes I did.

Q Did you alter it in any way other than marking  
it?

A No, I didn't.

Q And did you tender that item at the preliminary 10  
inquiry?

A Yes I did.

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

THE COURT: P.7.

(Girdle with white mesh  
stockings attached taken  
from the body of Gail  
Miller made EXHIBIT P.7

MR. CALDWELL:

Q May I ask about the last item P.6 whether you 20  
also kept it under lock and key and tendered it  
at the preliminary inquiry herein?

A Yes I did. And I also failed to mention with  
regards to the panties that they were turned  
over to Staff Sgt. Paynter at the R.C.M.P.  
Laboratory in Regina at 2:20 p.m. on February  
the 7th 1969 and I received them back from Cpl.  
Malchanko at the R.C.M.P. Laboratory at 1:55 p.m.  
May the 22nd 1969.

Q Was that the only time that they were out of 30  
your possession?

A Yes sir.

005078



Q And that's referring to the pair of pink panties,  
is it not?

A Yes sir.

Q I show you a half slip and ask did you obtain  
that item from the body at the time of the autopsy?

A Yes I did. I have a tag placed on the half slip  
with the occurrence number and the date,  
describing the article and my name at the bottom  
of the tag. And I also have my initial placed  
on the waistband of the half slip with the date 10  
as well.

Q And is there some staining on that item?

A Yes there is.

Q And was that there when you took custody of the  
item from the body?

A Yes it was.

Q And what did you do with that item after you  
had seized it and marked it?

A At 2:20 p.m. on February the 7th 1969 it was  
turned over to Staff Sgt. Paynter at the R.C.M.P. 20  
Laboratory in Regina and at 1:55 p.m. on May  
the 22nd 1969 it was received from Cpl.  
Malchanko at the R.C.M.P. Laboratory in Regina.

Q Did you keep it under lock and key in your  
custody any time when it wasn't out of your  
possession?

A Yes I did.

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

A No, I didn't. 30

Q And did you tender it at the preliminary inquiry  
here?

005079

A Yes I did.

MR. CALDWELL: I would tender that item.

My Lord.

THE COURT: P.8.

(Half slip taken from the  
body of Gail Miller  
made EXHIBIT P.8

MR. CALDWELL:

Q I show you a brassiere and ask whether that is  
the one removed from the body at the time of the 10  
autopsy?

A Yes it is. My initial appears on the right  
strap and the right strap is broken on the  
brassiere and the left strap is intact; and my  
initial appears on the right strap and also the  
date the 31st of the 1st month 1969. And I also  
placed a tag on the garment with the occurrence  
number and the date, describing the article and  
my name on the tag.

Q And what did you do - was it stained in that 20  
manner when you received it?

A Yes it was.

Q What did you do with it once you had marked it?

A Once I marked it it was placed in my locker.  
And then on February the 7th 1969 at 2:20 p.m.  
it was turned over to Staff Sgt. Paynter at the  
R.C.M.P. Laboratory in Regina. At 1:55 p.m.  
May the 22nd 1969 it was received from Cpl.  
Balchanko at the R.C.M.P. Laboratory. At  
10:00 a.m. May the 23rd 1969 it was turned over 30  
to Detective Sgt. Ray Mackie of the Saskatoon  
Police; and at 3:00 p.m. May the 24th 1969 I

005080

received it back from Detective Sgt. Ray Mackie.

Q And at any time when it was in your custody I take it it was under lock and key, was it?

A Yes sir.

Q And other than mark it did you alter it at all?

A No I didn't.

Q And did you tender it at the preliminary inquiry here?

A Yes I did.

MR. CALDWELL: I would tender that, My Lord, 10 as an exhibit.

THE COURT: P.9.

(Brassiere taken from the body of Gail Miller made EXHIBIT P.9)

MR. CALDWELL:

Q I show you a white uniform dress and ask is that the one which you took from the body at the time of the autopsy?

A Yes it is. My initial appears on the collar 20 "P. 9" and the date is on the collar - the 31st of the 1st month 1969. I also have a tag on the dress with the occurrence number and the date and my name appears on the tag and describing the article and where it was received from.

Q And is the torn seam you mentioned - can you show the Court now where it is please?

A Yes, the torn seam is located here.

THE COURT:

Q Point that out to the jury will you please? 30 You can see through it. Let's see the front of the dress please - that's the front?

005081

A Yes, that's the front.

Q I see; now would you turn it around and show the back.

(WITNESS TURNS THE ARTICLE AROUND)

Would you do the same thing for the jury please?

(WITNESS SHOWS THE ARTICLE FRONTWARDS TO THE JURY)

Show the back?

(WITNESS REVERSES THE ARTICLE FOR THE JURY)

MR. CARROLL:

10

Q And does it have the two buttons or name plates you mentioned still on it, Officer?

A Yes. The button - Saskatchewan Institute of Applied Arts and Science button is located here - Nursing Assistant; and the name badge - Miss G. Miller - located here.

Q Were the stains that are on the dress now on when you obtained it?

A Yes.

Q Now could you turn it around and is this zipper shoe now in the position it was when you first directed your attention to the zipper shoe? 20

A No. The zipper shoe was at the top; however now it's down to the bottom.

Q Would you show the jury the item we are talking about just so we are clear which you call the zipper shoe?

A This is the zipper shoe here.

THE COURT:

That's the tag that you

hang on to to zip it up and down, isn't it? 30

A Yes. It is down here; however when the dress was taken from the body the zipper shoe was up

005082

here. And it also shows that the eogs in the zipper, there are some missing at the top located here.

MR. CALDWELL:

Q I see; and I believe you said that the zipper itself was separated or open at the time?

A Yes it was.

THE COURT:

Q Was there a complete opening then right from the neck down to the bottom part where the zipper runs to? 10

A Yes.

MR. CALDWELL:

Q Now I believe you said you recovered that at the autopsy, did you?

A Yes I did.

Q And after marking it what else did you do with it?

A On February the 7th 1969 at 2:20 p.m. it was turned over to Staff Sgt. Paynter at the H.C.M.P. 20 laboratory in Regina. At 1:55 p.m. May the 22nd 1969 it was received from Cpl. Malchanko at the H.C.M.P. Laboratory in Regina. At 10:00 a.m. on May the 23rd 1969 it was turned over to Detective Sgt. Ray Mackie of the Saskatoon Police. At 3:00 p.m. on May the 24th 1969 it was received back from Detective Sgt. Ray Mackie.

Q And at all times when it was not out of your custody then was it under lock and key in your possession? 30

A Yes it was.

Q Other than marking it did you alter it at all?

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A No, I didn't.

Q And did you tender that item at the preliminary inquiry here?

A Yes I did.

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

THE COURT: P.10.

(white uniform type dress  
taken from the body of  
Gail Miller 10  
made EXHIBIT P.10

We'll adjourn for ten

minutes.

RECESS

THE COURT: You may proceed.

MR. CALDWELL: Thank you, My Lord -

Q Now if I may just go back one bit here with respect to P.5, 6, 7, 8, 9 and 10, the items you have just looked at, Officer Kleiv, I believe that in each instance you added an envelope . . . 20

THE COURT: . . it's just possible, Mr. Caldwell, that when you turn away like that the jury might not catch everything you are saying.

MR. CALDWELL: Thank you, My Lord -

Q I believe with respect to P.5 through P.10 inclusive, the items that you identified just before the adjournment here, that in each case you added an envelope or outer wrapping of some sort with your own signature and the date 30 and so forth on it?

A Yes sir.

005084

Q In addition to the tag and marking of the item which you have already shown us?

A Yes, that's right.

Q And I take it that in many of these instances when you did pass the item on to someone else it would be in that sealed envelope?

A Yes sir.

MR. CALDWELL: I beg your pardon, My Lord,  
I do wish to briefly cover this -

Q I am showing you P.6 the panties; this brown 10  
envelope with the occurrence, Exhibit B and your signature I take it would be added by yourself?

A Yes sir.

Q Likewise with C which is P.7 - the girdle?

A Yes sir.

Q Likewise with P.8 - the half slip?

A Yes sir.

Q Likewise with P.9 - the brassiere?

A Yes sir.

Q And likewise with P.10 - the uniform dress? 20

A Yes sir.

Q And I take it there was no such thing with the coat P.5?

A There was a brown paper wrapping on there I believe.

Q I see; Officer, I show you a paper wrapper - was that the one in which you originally put the coat?

A Yes sir.

Q And your letter A on that? 30

A Yes; exhibit A and my name on the wrapper.

MR. CALDWELL: If Your Lordship please I

005085

would tender if Your Lordship sees fit to be added to P.5; it really should be part of that and vice versa, otherwise as a separate exhibit.

THE COURT: We'll now put it in as a separate exhibit.

MR. CANNING: Thank you, My Lord.  
(Paper wrapper which originally contained P.5 made EXHIBIT P.11)

Q Now, I believe that you among other things 10  
received two vials containing blood from the body of Gail Miller at the autopsy?

A Yes I did.

Q Did you see those being made up?

A Yes I did.

Q And who made them up?

A Mr. Manson.

Q And I believe you took them from the autopsy and that you added your own marking to them, did you? 20

A Yes I did.

Q and what did you do with them eventually?

A They were turned over - there were two vials of the blood were turned over to Staff Sgt. Snyter at the R.C.A.P. Laboratory in Regina Saskatchewan at 2:20 p.m. on February the 7th 1969.

Q Was that the last you had to do with them?

A Yes.

Q And during the time you had them did you alter 30  
them in any way other than mark them?

A No, I didn't.

005086



Q Did you keep them under lock and key in your possession during that time?

A Yes, they were kept in the refrigerator in the Identification Section.

Q And have you ever received them back?

A No I haven't.

MR. CASHMERE: My Lord, there will be some further evidence; those items have never been tendered yet and will be tendered in due course. My learned friend is aware of the circumstances. 10

THE COURT: What are you going to do with them now?

MR. CASHMERE: The containers are not here, My Lord.

THE COURT: They're not here yet; well, you'll have to call this witness back.

MR. CASHMERE:

Q And can I refer you briefly to P.5 the coat, officer - did you examine it when you obtained it from the body? 20

A Yes I did.

Q Did you discover anything in the way of damage to it?

A Yes, there were five holes in the back of the coat and there was also a button missing - the centre button was missing on the coat.

Q Now, could you show the jury the holes please?

A The holes are located - one here; and there's one here; another one here - that's three; and there is one more hole here; and another hole here. 30

THE COURT:

005087

Q Turn it around and show me now, will you please?

A There is one hole here, My Lord . .

Q . . yes I see them; they're all marked with a circle, are they not?

A Yes, My Lord.

MR. CALDWELL:

Q Did you mark them, Officer?

A No I didn't.

THE COURT:

Q They weren't marked at the time you took the 10  
coat from the deceased?

A That's right, My Lord; they weren't marked.

MR. CALDWELL:

Q And those marks have been added since it left  
your possession?

A Yes, they have.

Q And did you notice anything else about the  
coat when you first examined it?

A Yes; I noticed the centre button was missing  
off the coat and the centre button is missing 20  
here on the coat.

Q And did you ever find or receive . . ?

A . . this button is missing, My Lord.

Q And did you ever find at the scene or receive  
any button that would appear to be like that?

A No, I didn't.

THE COURT:

Q Show that to me a little more closely, will  
you please, and then I'd like you to show it  
to the jury. What button was missing? 30

A The centre button is missing, My Lord. There's  
one button here, one button here; and this

005088

button is missing and the thread is still there.

Q Just take it down to in front of the jury; it's hard to see against the black background.

A Yes.

(Witness takes the exhibit down to in front of the jury)

A (Cont.) The top button is here, the bottom one here; and the centre button is missing.

(The witness returns to the witness box.) 10

MR. CALDWELL:

Q I show you a further item and would ask if you received this item during the investigation?

A Yes, I received this envelope; it was sealed at the time and I received this from Lieut. Penkala at 8:00 a.m. on February the 7th 1969. I have the time and the date on the lower right hand corner of the envelope and my name on the envelope.

Q You put all that there, did you? 20

A Yes I did.

THE COURT:

Q What day was that you got it?

A This was on February the 7th 1969 at 8:00 a.m.

MR. CALDWELL:

Q Did you open the envelope at all?

A No, I didn't open the envelope.

Q And what did you do with it?

A It was turned over to Staff Sgt. Paynter at the R.C.M.P. Laboratory in Regina at 2:20 p.m. 30 on February the 7th 1969 and I received this envelope and it was open when I received it

005089

from Sgt. Kirby at the R.C.M.P. Laboratory  
Regina at 9:20 A.M. on June the 3rd 1969.

Q And during the time when you retained it was  
it under lock and key in your custody?

A Yes it was.

Q And did you tender that item at the preliminary  
inquiry?

A Yes I did.

MR. CALDWELL: I would tender that item for  
identification, My Lord. 10

THE COURT:

Q Did you look inside it?

A Yes I did, My Lord.

Q I see; and what did you find inside it when  
you received it back?

A A knife blade, My Lord.

MR. CALDWELL:

Q And that is there now, is it?

A Yes it is.

THE COURT: 20

Q When you received it from Lieut. Penkala  
were you able to discern through feel or  
otherwise that there was something in the  
envelope?

A Yes, My Lord.

Q Did you feel it?

A No, I didn't feel it, My Lord.

THE COURT: Thank you.

MR. CALDWELL: I would tender that.

THE COURT: Yes, P.12 for identification. 30

(Knife blade in envelope  
made EXHIBIT P.12  
for identification.

005090

MR. CAIDWELL:

Q I show you a further item - envelope containing some other items - and ask if you received that somewhere along the line?

A Yes. I marked the envelope Exhibit I and the occurrence number on the envelope and my name appears on the envelope; and at 8:00 a.m. on February the 7th 1969 I received the contents of the envelope - which were two plastic vials of unknown yellowish substance - and received 10 this from Lieut. Penkala in a brown sealed envelope at 8:00 a.m. on February the 7th 1969. And at 2:20 p.m. on February the 7th it was turned over to Staff Sgt. Paynter at the H.C.M.P. Laboratory. At 1:55 p.m. on May the 22nd 1969 I received it back from Cpl. V. Malchanko at the H.C.M.P. Laboratory. And at 9:00 a.m. on June the 3rd 1969 it was returned to the Laboratory and turned over to Staff Sgt. Paynter. 20

Q When you received the item was it in the form of a sealed envelope?

A Originally from Lieut. Penkala, yes.

Q And you I take it did not open it?

A No, I did not.

Q And what you said about the contents then would be not from your personal knowledge of it?

A That's right.

Q And when you had it in your custody did you alter it in any way other than to mark it 30 for identification purposes?

A No, I didn't.

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Q and when it was in your custody at any time was it under lock and key and in that manner?

A Yes it was.

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

THE COURT: What is it? An envelope so far, all we know is an envelope -

Q Is there something in it?

A Yes, there are two vials in the envelope and my initial appears on the vials.

10

Q When did you put your initial on those vials?

A Before it was - after I received it back from the D.C.M.S.

MR. CALDWELL:

Q Would that be prior to the second time you submitted it to them then?

A Yes.

THE COURT: P.13 for identification.

(Envelope containing two vials made EXHIBIT P.13 for identification.

20

MR. CALDWELL:

Q Now, at the hospital when the autopsy was at the stage of going ahead did you yourself collect any samples from the body?

A Yes I did.

Q And did you collect a pubic hair sample?

A Yes I did.

Q I show you an item and would ask you what you know about that item?

30

A Yes. I obtained a sample of pubic hair from the body of Neil Miller at the autopsy and I placed

005092

it in this envelope and I dated the envelope the 31st of the 1st month 1969. The envelope was marked Exhibit J and describing what was in the envelope - a sample of pubic hair from body of Gail Miller; and my name appearing in the lower right hand corner of the envelope.

Now this was turned over to Staff Sgt. Laynter at the B.C.M.P. Laboratory in Regina at 2:20 p.m. on February the 7th 1969. And at 1:55 p.m. on May the 22nd 1969 I received this 10 envelope back from Spl. Malchanko at the B.C.M.P. Laboratory.

Q And when it was in your custody did you alter the sample in any way other than packaging it up and marking it for identification purposes?

A No, I didn't.

Q And was it under lock and key at any time when it was in your custody?

A Yes it was.

Q Did you tender this item yourself at the 20 preliminary inquiry herein?

A Yes I did.

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

THE COURT: I don't think so yet.

MR. CALDWELL: Very well, I will tender it for identification, My Lord.

THE COURT: P.14 identification.

(Sample of pubic hair from the body of Gail 30 Miller made EXHIBIT P.14 for identification.)

005093

MR. CALDWELL:

Q And did you at the autopsy at the same time collect a sample of head hair or scalp hair from the deceased?

A Yes I did.

Q I show you this; is this the sample?

A Yes - the date the 31st of the 1st month 1969 appears on the upper right hand corner of the envelope marked as Exhibit K and sample of scalp hair from body of Gail Miller; and my name at 10 the bottom lower right hand corner of the envelope. At 2:20 p.m. on February the 7th 1969 this was turned over to Staff Sgt. Paynter at the M.C.S.P. Laboratory. And at 1:55 p.m. May the 22nd 1969 it was received from Cpl. Malchanko at the M.C.S.P. Laboratory.

Q And you collected and packed the sample yourself, did you?

A Yes I did.

Q And other than when it was out of your custody 20 did you keep it under lock and key?

A Yes I did.

Q And did you alter the sample in any way while it was in your custody?

A No, I didn't.

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

THE CLERK: P.15 identification.  
(Sample of head hair from the body of Gail Miller 30 made EXHIBIT P.15 for identification.

005094



MR. CALDWELL:

Q Now, did you receive a lady's handbag or purse at some stage of the proceedings?

A Yes I did.

Q And I show you a purse - is that the one?

A Yes. This is the purse which I received from Detective McCarriston at 7:30 p.m. on February the 8th 1969.

Q How do you identify it?

A I placed the time and the date on the bottom of the purse; I received from Detective McCarriston; and my initials "I B K" on the purse.

Q And what did you do with the purse eventually?

A The contents of the purse with exception of a blue folder which is a Bank of Montreal folder, was left in the purse. The contents were removed and the purse and the blue folder were turned over to Sgt. Edmondson of the R.C.M.P. for transport to the laboratory at 5:00 p.m. on March the 19th 1969. And at 9:20 a.m. on June the 3rd 1969 it was received from Sgt. Kirby at the R.C.M.P. Laboratory.

Q Did you then keep the purse and tender it at the preliminary inquiry?

A Yes I did.

Q And while it was in your custody was it under lock and key so to speak?

A Yes it was.

Q Now, you have described taking some contents from it and as I understood you to say you left this blue Bank of Montreal book in the purse?

A Yes.

005005

Q Did you examine that book - the booklet or book?

A Yes I did.

Q Did it have any identification of any sort in or on it itself?

A I don't recall exactly whether . .

Q . . I see; but at any rate you left it in the purse, did you?

A Yes.

Q And I take it you did not alter the book or other contents of the purse itself except to divide them in that way? 10

A That's right.

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

THE COURT: P.16 identification.  
Does it contain anything now, Mr. Caldwell?

MR. CALDWELL: I'd better have the witness look into it -

Q Can you just open it, Officer, and see if there is anything in it please? 20

A It's the blue folder.

Q Now, was that in it when it left your possession?

A Yes.

Q And is that the entire contents of it now?

A Yes.

MR. CALDWELL: I believe I had tendered that, My Lord, for identification.

THE COURT: Yes; P.16 for identification.  
(Lady's purse made EXHIBIT P.16 30 for identification.)

MR. CALDWELL:

005006

Q I show you a left boot; did you receive that item?

A Yes. My initial and the date appear on the inside label of the boot - the 31st of the 1st month 1969, initial "T K" on the label. And I also placed a tag on the plastic bag with the occurrence number, the date January the 31st 1969; one black left overboot from body of Neil Miller; and my name on the tag.

Q And you took that right at the autopsy from the body, did you? 10

A Yes I did.

Q And what did you do with it?

A It was kept in my locker until 5:00 p.m. of March the 19th 1969, when it was turned over to Sgt. Edmondson of the H. C. M. P. for transport to the H.C.M.P. Laboratory in Regina. And at 9:20 a.m. on June the 3rd 1969 it was received from Sgt. Kirby at the H.C.M.P. laboratory in Regina.

Q And did you tender it in the preliminary inquiry 20 herein?

A Yes I did.

Q And any of the time when it was in your possession was it under lock and key and locked up?

A Yes it was.

Q Did you change it at all other than marking it?

A No I didn't.

MR. CALDWELL: I would tender that, My Lord, as an exhibit if I may. 30

THE COURT: P.17

005097

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(Left overboot from the  
body of Gail Miller  
made EXHIBIT P.17

MR. CALDWELL:

Q I show you a right winter boot; did you have that item?

A Yes. My initial "TK" appears on the inside label and I placed a tag on the plastic bag - the boot was placed in a plastic bag and the tag was placed on the bag with the date the 28th 10 of the 2nd month of 1969, that is February the 28th 1969; 2:55 p.m.; received from Detective Parker.

Q And what did you do with it eventually?

A It was kept in my locker under lock and key and it was turned over to Sgt. Edmondson of the R. C. S. P. for transport to the laboratory at Regina at 5:00 p.m. on March the 19th 1969; and it was received back from Sgt. Kirby at 9:20 a.m. on June the 3rd 1969 at the R. C. S. P. Laboratory<sup>20</sup>

Q and did you then keep it under lock and key and tender it at the preliminary inquiry?

A Yes I did.

Q and other than mark it for identification have you altered it in any way?

A No, I haven't.

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

THE COURT: P.18 for identification.

(Right overboot 30  
made EXHIBIT P.18  
for identification.

005008

MF. CALVERT:

Q Show you an envelope containing a maroon knife handle; did you have dealings with that item?

A Yes I have. I received this from Detective McCorrison in this envelope. It wasn't sealed at the time, it was open; and I received it from Detective McCorrison at 4:45 p.m. on March the 2nd 1969; and it's marked on here what time it was turned over to me and I have my name placed on the lower right hand corner of the envelope. 10  
and I also initialled the handle - my initial "M.C." appears on the handle.

Q Is that scratched into the plastic?

A Yes it is.

Q And I believe you said it was in an envelope but not sealed when you got it, was it - from McCorrison?

A That's right, yes.

Q What did you do with the item once you marked it that way? 20

A I sealed it with sealing wax and it was turned over to Sgt. Edmondson of the I. C. P. for transportation to the laboratory at 5:00 p.m. on March the 19th 1969; and I received this envelope with the maroon handle in the envelope from Sgt. Pirby at the N.C.P.S.

Q Laboratory at 9:20 a.m. on June the 3rd 1969.  
And did you keep it under lock and key in the interim and then tender it at the preliminary inquiry? 30

A Yes I did.

MF. CALVERT: I would tender that for

005000

Identification, My Lord.

THE COURT: F.19 identification.  
(Maroon knife handle in envelope  
made EXHIBIT P.19  
for identification.

MR. CALDWELL:

- Q I show you a brown envelope containing three  
white envelopes and three pill boxes; did you  
have any dealings with that collection?
- A The first envelope has the time 4:00 p.m. 10  
February the 5th 1969, my initial "T. E. K."; and  
this is vacuum collections from the right front  
of the coat and it is marked at the bottom  
Exhibit G.
- Q Now, did you make those collections?
- A Yes; Lieut. Penkala and myself made these  
collections.
- Q Were you there and taking part in that process?
- A Yes.
- Q Were they made from the coat which is now F.5? 20
- A Yes sir.
- Q And when you say that it's written there, the  
source of them, is that in your writings?
- A Yes it is.
- Q I see; so that's where you actually vacuumed  
them up from, is it?
- A Yes.
- Q And once you had assembled that item what did  
you do with it?
- A It was turned over to Sgt. Edmondson of the 30  
I. T. K. P. for transport to the laboratory at  
5:00 p.m. on March the 19th 1969.

005100

Q Was it in the form of a sealed envelope then?

A Yes; I placed these seals on the back of the envelope and my initial appears on the seals.

Q Now, were the other two white envelopes there part of the same process so to speak?

A Yes they were.

Q What were they?

A This envelope is from the left front back and inside lining of the coat; and this envelope was from the fur collar and cuffs on the coat. 10

Q And in each case you are personally aware of where the material came from then?

A Yes, that's why I marked it on the envelope.

Q Right; and that is again in your writing, is it?

A Yes it is.

Q And did you likewise seal them and give them to Edmondson at the same time and place?

A Yes I did.

Q And did you have anything say further to do with those items? 20

A No, I didn't.

Q And did you have anything to do with those three pill boxes whatsoever?

A No, I didn't.

Q They would be new to you, would they?

A Yes.

ME. CROFTON: Very well. My Lord, might I suggest - I'd like to tender the entire collection - the three envelopes and three pill 30 boxes - for identification. There will be mere evidence about both or all parts of it and I

005101

believe there will be evidence that the boxes were added at the laboratory.

THE COURT: P.20 for identification.  
(Three envelopes and three pill boxes made EXHIBIT P.20 for identification.

MR. CHAMBERS:

Q I show you a black leather wallet; did you have something to do with that item? 10

A Yes. I received this from Sgt. Kirby at the R.C.M.P. Laboratory 9:20 a.m. June the 3rd 1969; and my initials appear on the outside of the envelope.

Q When you received it, Officer Kleiv, the brown envelope was part of the thing, was it?

A Yes.

Q Was it sealed and closed?

A No, it wasn't; it was open.

Q Did it include the envelope and the wallet, did it? 20

A Yes.

Q Did you mark the item itself in some manner?

A I believe I did. I placed this tag on the wallet - received from Staff Sgt. Kirby R.C.M.P. Laboratory June the 3rd 1969 9:20 a.m.; and my name on the tag; and my initial "T K" appears on the inside of the wallet.

Q Did you do that at the same time?

A Yes. 30

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

005102



111 Exam of Officer Kleiv

A No, I did not.

Q And was it under lock and key during the time you had it?

A Yes it was.

Q And did you tender that at the preliminary inquiry as an exhibit?

A Yes I did.

MR. CHAMBERLAIN: My Lord, I would tender that item for identification.

THE COURT: P.21 for identification. 10  
(Envelope containing wallet made EXHIBIT P.21 for identification.

MR. CHAMBERLAIN:

Q Now, I show you a film box marked with the letter G; did you receive that box at some stage?

A Yes; I used this box to place a sweater in it.

Q I see; you yourself added the box, did you?

A Yes I did. 20

Q Alright and what was it you put in the box?

A It was a sweater that I put in the box.

Q And where did you get the sweater?

A I received it from Detective Parker at 2:55 p.m. on February the 28th 1969.

Q And is it in there now?

A Yes. I placed this tag on the sweater - one black and red sweater received from Detective Parker 28th of February 1969 at 2:55 p.m.; and my name on the tag. 30

Q Did you examine the sweater at all at the time?

A No, I didn't examine it very closely, no.

005103

Q Is it a cardigan, say button type, or pullover type, Officer?

A I believe it's a button type sweater. Yes, buttons down the front.

Q And did you examine it at all at any time for the presence or absence of any sort of punctures or holes yourself?

A Yes I did.

Q And with what - what did you find?

A I didn't find any. 10

Q Right; so, you provided the paper box for that, did you?

A Yes I did.

Q And what did you do with it?

A I turned this over to Identification Officer Grant after I had placed it in the box and sealed it; it was turned over to Identification Officer Grant for transportation to the N.C.M.P. Laboratory at 5:30 p.m. of April the 20th 1969.

Q And did you mark the box as well as the sweater? 20

A Yes. I marked the box - Exhibit A, initials, and the occurrence number on the box; I also sealed the box and placed this wax seal on the box.

Q And once you gave it to Grant did you get it back again or not?

A No, I didn't.

MR. [Name]: I tender that for Identification, My Lord.

THE COURT: P.22 for identification. 30  
(Box containing red and black sweater made EXHIBIT P.22 for identification.)

005104

Mr. Kleiv:

Q I beg your pardon - with respect to 1.22 for identification the sweater, when you had it did you keep it under lock and key?

A Yes I did.

Q And did you alter it at all other than marking it?

A No I didn't.

Q And packaging of course?

A No. 10

Q Now show you a further item; did you receive that item somewhere during the investigation?

A Yes. I received this from Staff Sgt. Faynter at 1:45 p.m. on May the 22nd 1969 at the R. C. S. P. Laboratory in Regina.

Q And what was the item when you received it?

A It was in the form of a vial and I believe I placed my initials on the envelope here - my initials "K E". And I also placed my initial on the vial here on the adhesive tape. 20

Q And there seem to be more or less two envelopes there?

A Yes; it was kept in this wrapper and then placed inside this envelope.

Q And you received all the parts at that time, did you?

A Yes I did.

Q Did you mark the outer envelope?

A Yes, the outer envelope is marked on the back.

Q And when did you get that again? 30

A I received this from Staff Sgt. Faynter at 1:45 p.m. on May the 22nd 1969.

005105

Q And did you keep it from there on under lock and key and tender it at the preliminary inquiry?

A Yes I did.

Q And did you alter it at all other than marking it?

A No I didn't.

Q And is that the only time that particular item was in your possession then?

A Yes sir.

MR. CRAWFORD: I tender that for identification, my lord. 10

THE COURT: F.23 identification. (wrapper containing envelope containing vial made EXHIBIT P.23 for identification.

MR. CRAWFORD:

Q I show you two brown envelopes containing two further vials; did you receive that collection of items?

A Yes. I received these two vials from Sgt. 20 Sawyer at the H. C. M. P. Laboratory in Regina Saskatchewan at 1:45 p.m. on the 22nd day of May 1946.

Q And did you mark the vials themselves?

A I don't believe I did.

Q Or the tags?

A Yes; I marked the one tag which was attached to the two vials.

Q I see; and did you mark either of the envelopes?

A I marked the outside envelope with the Exhibit U 30 and I have my name at the bottom of the envelope.

Q Were they open or sealed when you got them - the envelopes?

005106

A They were open.

Q

A Yes.

Q Now now I beg your pardon, but you first received those from Faynter I believe you said?

A Yes, that is the inside envelope.

Q The inside envelope first?

A Yes.

Q And it was open, was it?

A Yes, it was open; and I placed the time that I received it from Faynter and my name on the outside of the envelope.

Q Were the vials in it on that occasion?

A Yes.

Q And then what happened once you got it from Faynter initially; what did you do with it?

A It was again placed in another envelope and the outside of the envelope was marked with the occurrence number and the Exhibit C; and saliva sample; and it was turned over to Staff Sgt. [redacted] at the H. C. M. P. laboratory at 9:00 a.m. on June the 3rd 1969.

Q I believe you first received it at 1:45 of May [redacted] from Faynter at the Lab., did you?

A Yes, did.

Q And then returned it to him later?

A Yes.

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

A Yes.

Q And other than that series of marking and [redacted] and [redacted] did you keep it under lock and key during the time you had it?

005107

A Yes I did.

Q Did you change it at all?

A No, I didn't.

MR. WILSON: I would tender that for identification, my Lord.

THE COURT: Exhibit P.24 for identification.

(Envelope containing a further envelope containing two vials made EXHIBIT P.24 10 for identification.

MR. WILSON:

Q Now, do you believe that you eventually at one time obtained from the accused a sample of the hair of his head or scalp hair?

A Yes I did.

Q Who is the person here from whom you obtained the sample?

A He is.

Q Which person is it please? 20

A He is seated there in the prisoner's dock.

Q What is his name?

A Arvid Milgaard.

Q When was it you received a scalp or head hair sample from him?

A It was at 10:50 a.m. of April the 18th 1969.

Q Show you an item; is that the sample you collected?

A Yes it is.

Q How do you identify it? 30

A I placed the exhibit V on the outside of the envelope, the occurrence number; head hair sample

005108

David Milgaard; and at 10:50 a. m. April the 18th 1969; and my initials appear on the outside of the envelope.

Q And what did you do with that item?

A It was turned over to Identification Officer Grant for transportation to the laboratory at 5:30 p.m. on April the 20th 1969.

Q And did you have anything further to do with that item?

A No, I didn't. 10

Q And while you had it did you keep it under lock and key?

A Yes, I did.

Q And did you alter the contents in any way?

A No, I didn't.

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

THE COURT: P.25 identification. (Envelope containing head hair from accused David Milgaard made EXHIBIT P.25 for identification. 20

MR. CLEGG:

Q And when you a collection of items in a plastic bag; did you have something to do with those?

A Yes. These are the contents of the purse which I placed in the bag; and I placed this tag on the plastic bag; contents of purse received from Detective McCorrison on February the 8th 1969 at 7:30 p.m.; and my name on the tag. 30

Q And you assembled that collection out of the

purse, did you?

A Yes I did.

Q And what did you do with that collection once you had assembled it?

A I kept it in my possession and it was turned over at the preliminary hearing.

Q Brought into court at that time?

A Yes.

Q Did you alter the collection any while it was in your possession?

10

A Yes, I examined some of the paper items in the collection for fingerprints and I didn't find any.

Q Yes; and you by the way - you are qualified and experienced in fingerprinting examination, are you?

A Yes.

Q So you say you found none?

A That's right.

Q All right; now, was there anything in that collection that bore an identification of any person?

20

A Yes, I believe there was.

Q Yes, what was it, do you recall?

A I don't recall; I would have to refer to my notes.

Q Would you just simply look in the items please?

A Yes, I can look in.

I have a bank of Montreal checking account stubs with the name "Gail Miller" on two of them and

30

"Gail Miller" on one. And there's a bank of Montreal booklet with the name "Gail Miller" on

005110



the book, outside of the booklet. And there's a cheque book with various names on it.

Q I take it none of them are that of Gail Miller?

A That's right.

Q And now, are we to understand, Officer, that all this was from the purse you received from McCorriston?

A Yes it was.

Q And you simply packaged it up and retained it after you had examined for fingerprints? 10

A Yes.

Q And tendered it at the preliminary inquiry, did you?

A Yes I did.

Q And other than what you have told us did you alter that collection at all?

A No.

Q And you have already mentioned leaving the one other item that was in the purse which is still in there? 20

A Yes.

Q And you retained them under lock and key, did you?

A Yes I did.

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

THE COURT: P.26 for identification.  
(Plastic bag containing contents of purse made EXHIBIT P.26 30 for identification.

MR. CALDWELL:

005111

Q I show you two gloves; are these the ones which you mentioned retrieving at or near the body earlier in your evidence?

A Yes; my initial "T K" appears on the inside band of the glove with the date the 31st of the 1st month 1969.

THE COURT:

Q That's one glove, is it?

A That's one glove in this package, My Lord.

Q Which was that - the right or the left? 10

A This is the right hand glove. And a tag is placed on the bag with the date January the 31st 1969 9:10 a.m. and my name "T. H. Kleiv"; one right hand lady's glove received from scene alley 200 block Avenue "N" South.

MR. CALDWELL:

Q And where were the gloves in relation to one another, Officer?

A Well, one was closer to the fence than the other one was. 20

Q And how far apart would they be from one another?

A I estimate three or four feet.

Q And from the body?

A They were south of the body, possibly four or five feet south of the body.

Q Did you add that paper towel that's in there?

A Yes. At the time they were covered with snow, there was snow on them and when they were taken inside they became wet and the paper towel was added in there to take up the dampness of the glove. 30

Q Now, once you collected them - it was that

005112

morning at the scene, was it?

A Yes.

Q Did you retain them in your possession and tender them at the preliminary inquiry?

A Yes I did.

Q And did you alter them in any way other than marking them in the meantime?

A No, I didn't.

MR. CALDWELL: I would tender the right hand glove, My Lord, I would think as an exhibit. 10

THE COURT: P.27.  
(Bag containing right hand glove made EXHIBIT P.27)

MR. CALDWELL:

Q Now did you handle the other one - the left hand glove in an identical way to what you have told the Court?

A Yes I did.

Q Any difference at all?

A No. 20

THE COURT:

Q Marked the same way - marked the actual glove itself?

A Yes I did, My Lord.

MR. CALDWELL: I would tender the other glove, My Lord, as an exhibit also.

THE COURT: P.28.  
(Bag containing left hand glove made EXHIBIT P.28)

MR. CALDWELL: 30

Q I believe you obtained a pair of surgical scissors from another officer?

A Yes I did.

Q I show you these - are those the scissors?

A Yes. My initial "T K" scratched in the scissor at this location. And I placed a tag on the scissors - one pair of scissors received from Cst. Fleming on May the 1st 1969 at 12:10 p.m.; and my name on the tag.

Q And did you, other than marking them in both those ways, did you change them in any manner?

A No, I didn't. 10

Q Did you keep them under lock and key and tender them at the preliminary inquiry?

A Yes I did.

Q And was this adhesive tape tag on the scissors when you received them?

A Yes it was.

Q Were the marks that are on there now on there when you received them?

A Yes.

MR. CALDWELL: I would tender these for 20 identification, My Lord.

THE COURT: P.29 for identification.

A (Cont.) The name "Miss G. Miller" appears on the adhesive tape.

MR. CALDWELL:

Q Was it there when you got it?

A Yes.

(Pair of surgical scissors made EXHIBIT P.29 for identification.

Q Now I believe, Officer, that a number of the 30 items you have dealt with that you have already told the Court were turned over to one Staff Sgt.

Edmondson to go to Regina on one occasion?

A Yes.

Q How, did you only turn over items to Edmondson on one occasion?

A Yes I did.

Q And what were the items you packaged up and gave to him on that occasion then?

A There was the boots - the two boots; the lady's purse; there was the knife handle; and there was three envelopes of vacuum collections. 10

Q And aside from - you have already dealt with all those items individually here?

A Yes.

Q Aside from the wrappings and so on you have identified so far, what did you do after giving them to him?

A Well, they were all placed in a box and then the box again was wrapped with brown paper and sealed and turned over to Sgt. Edmondson.

Q And was it in that state - a sealed box wrapped in brown paper when he received it then? 20

A Yes.

Q I'd like to show you a cardboard box and a wrapping. Are those the ones in which you placed all those items when you gave them to Staff Sgt. Edmondson?

A Yes; I didn't mark the box but I marked the outside wrapper. I addressed it to the R.C.M.P. Crime Detection Laboratory, Regina, Saskatchewan; and I have the occurrence number 30 on the outside wrapper with my initials; it was originally sealed and it was turned over to Sgt.

005115

Edmonton of the R. C. M. P. at 5:00 p.m. on  
March the 19th 1969.

Q Is that all in your writing?

A Yes.

Q And that then is the wrapper that was around the  
box, is it?

A Yes, that's right.

Q And is that the box?

A Yes, I believe that's the box.

Q And when he received it it was as you said as 10  
a sealed closed item, was it?

A Yes it was.

Q With those things in it?

A Yes.

MR. CALDWELL: My Lord, I would tender  
both items if I say as one exhibit.

THE COURT: For identification.

MR. CALDWELL: Very well, My Lord.

THE COURT: P.30 for identification.

(Cardboard box and wrapper 20  
made EXHIBIT P.30  
for identification.

MR. CALDWELL:

Q Officer, I'd like to go now to P.2, which you  
described briefly earlier as I understand it an  
enlargement of part of a city map including the  
area of the City of Saskatoon Saskatchewan that  
contains the block which you photographed and  
which you sketched I believe in P.3; and I  
believe you have added a number of items to 30  
that - locations of certain places at my request?

A Yes.

005116

Q And I take it that you have personally been at the locations of the places where you have marked such and such a business or address and so on?

A Yes I have.

Q Now, will you show the jury please first of all the block which we have called as containing the scene?

A The block which contains the scene is this block located to the right of the diagram. 10

Q And that's the one containing the inverted "T" in the diagram, is it?

A Yes.

Q Does that represent the lanes which you spoke of and which are shown in both the photographs and in P.3?

A Yes.

THE COURT:

Q Show me that please?

A There, My Lord - this. 20

MR. CALDWELL:

Q And I believe the map shows that as being between Avenues "N" and "O", 20th and 21st; and that you have personal knowledge that that's where it is?

A Yes.

Q Now, have you shown the location of St. Mary's Church?

A Yes; St. Mary's Church is located at this point (pointing out).

THE COURT: 30

Q Is that marked on there?

A Yes.

005117

MR. CALDWELL:

Q And the rectory, have you shown its approximate location?

A Yes, it's directly north of the church.

Q Now, looking at the block of the scene - and you've been there as I understand it - if you protracted westward the east-west lane or top of the "M", where would it pass in relation to the church and rectory?

A It would be between the church and rectory. 10

THE COURT:

Q What would be?

A The east-west lane which runs between Avenue "N" and "O" would project between the rectory and St. Mary's Church.

MR. CALDWELL:

Q That's simply hypothetical; it doesn't exist that way?

A No, that's hypothetical, yes.

Q And are the church and rectory shown to scale 20 there?

A No, they're not.

Q Alright; have you shown St. Mary's School?

A Yes. St. Mary's School is located here and it is between Avenue "O" and Avenue "P" and between 20th Street and 19th Street.

Q And again is the rectangle indicating it to scale?

A No, it isn't.

Q I believe you have shown two private houses 30 there labelled 330 and 334 across Avenue "O" from St. Mary's School?

005118



A Yes.

Q As I understand it that would then be on the east side of "O", would it?

A Yes it would.

Q And are they to scale?

A No, they are not.

Q And where did they lie in that block, Officer?

A 334 is the last house in the block, that is it's the house located on the northeast corner of the intersection of 19th Street and Avenue "O". 10

Q And where does 330 lie from 334?

A 330 is immediately north of 334.

Q That would be next door then I take it?

A Yes it would.

Q And I believe you have shown looking up the diagram or north an item "Hillcrest Texaco"?

A Yes; it's located on the northeast corner of the intersection of Avenue "P" and 22nd Street.

Q And again is the rectangle to scale or is that simply where it is located? 20

A It's not to scale, no; and that's the approximate location.

Q Right; now I believe you have shown "Belmont Texaco" and the tag has fallen off your diagram and perhaps we can get you to repair that, but where does it fall in fact?

A It's at Avenue "W" and 22nd Street and it's located on the south - it's on the southwest corner of the intersection of Avenue "W" and 22nd Street. 30

THE COURT: Avenue "W" is not shown as such on the photograph.

005119

A NO.

Q It's the street between . . ?

A . . Avenue "V" and Avenue "X". Avenue "W" is the avenue between Avenue "V" and Avenue "X".

MR. CALDWELL:

Q Officer, the small tag has just become loose; could you possibly repair that in the morning and stick it back in the proper place?

A Yes, I could.

Q And I believe you have shown the location of the 10 Trav-a-leer Motel also?

A Yes.

Q Where is it?

A It's located to the far left side of the diagram and it's at Circle Drive and 22nd Street.

Q And I believe you've shown an address 130 Avenue "C" South?

A Yes I have.

Q Would you point it out please?

A 130 Avenue "C" South is located here (indicating) 20 - it's between 21st Street and 22nd Street on Avenue "C".

Q And you have labelled it "130" with a rectangle, have you?

A Yes.

Q Where is it from the corner of that block?

A It's second house from the corner.

Q And does the rectangle indicate there's a house on the corner?

A Yes. 30

Q And I take it again that those items are not to scale but simply show roughly where it's located?

005120

A That's right.

Q And I believe you've also shown an address  
104 "I" South?

A Yes, it's to the right of 130 "O" South.

Q Would you just point it out please?

A Yes; it's located here (indicating).

Q And where is it located on that block, do you  
know?

A I believe it's the second house from the corner  
of 22nd Street and Avenue "N" and it's on the 10  
east side of the avenue.

Q I see; and I believe you have also shown an  
address 129 Avenue "T" South?

A Yes; it's located at this location between 22nd  
Street and 21st Street and Avenue "U" is the  
west boundary and Avenue "T" is the east  
boundary. This house is the third house from  
the corner located on the west side of Avenue "T".

Q And you have shown that by the two other  
rectangles below it, have you? 20

A Yes.

Q And have you indicated the lay-out of alleys on  
that block?

A Yes. It shows the north-south alley and then  
there's an east-west alley, which is indicated  
by the "T".

Q And you know that of your personal knowledge,  
do you?

A Yes; yes.

Q Now, are those the only individual addresses or 30  
businesses or what-have-you that you have shown  
on the sketch?

005121

A Yes.

Q And you've been around all those places, have you?

A Yes I have.

Q What is all the ones you have indicated as individual locations?

A Yes.

Q Now, did you make a measurement of mileage or distance from the thing you have shown as the Trav-a-leer Motel down 22nd Street to a point on 22nd? 10

A Yes. I made a measurement from Avenue "C" and 22nd Street, that is the intersection of Avenue "C" and 22nd Street, to Circle Drive and 22nd Street; and this showed a distance of 1.5 miles; and to the Trav-a-leer Motel office it showed a distance of 1.5 miles, which is one and a half miles.

Q And that's simply by the most direct route down 22nd, is it? 20

A Yes.

Q And are you in a position to if asked or if necessary to tell the Court from your other large sketch P.2 the dimensions of the city block including the scene and any block the same size along there?

A Yes; I have the measurement right on the diagram.

Q Is that diagram to scale?

A Yes it is. 30

THE COURT: Did you say from your other big sketch?

005122

MR. CALDWELL: Yes, My Lord - P.2.  
THE COURT: P.1.  
MR. CALDWELL: P.1, I beg your pardon.  
THE COURT: P.1 is what you're referring  
to now.  
MR. CALDWELL: Yes, My Lord, I'm sorry I  
gave you the wrong number.  
THE COURT: I just wanted to make sure  
it was on the record properly -  
Q This is P.1 here? 10  
A Yes, My Lord.  
Q And that's the second last photo shown in P.4?  
A Yes.  
THE COURT: The set of pictures; thank  
you.  
MR. CALDWELL:  
Q And P.1 is to scale?  
A Yes it is.  
Q And what is the scale?  
A One inch equals forty-eight feet. 20  
Q So that if necessary you can calculate for the  
Court the size of the block or what-have-you?  
A Yes; it's already calculated on the diagram.  
Q Where is the item as you have told the Court -  
the city map type sketch P.2 is not to scale  
at least to your personal knowledge?  
A No, it is not.  
Q Now, the place where you attended to make the  
photographs and saw the body was of course in  
Saskatoon in the province of Saskatchewan? 30  
A Yes it was.  
MR. CALDWELL: If Your Lordship please,

005122

I am very near the end of my examination-in-chief and if given the opportunity I would appreciate a chance to just look through this again before I close.

THE COURT: Very well.

MR. CALDWELL: There is quite a bit of material there, My Lord.

THE COURT: We'll adjourn until tomorrow morning at ten o'clock.

4:55 P.M. JANUARY 19TH, 1970 - COURT ADJOURNED. 10

10:00 A.M. JANUARY 20TH, 1970 - COURT RESUMED.

JURY POLLED - ALL PRESENT.

THE COURT: Yes, Mr. Caldwell.

MR. CALDWELL: Just one or two things if

Your Lordship please -

Q Officer, yesterday you showed the jury the place where you found the body and that is recorded on P.1 I believe?

A Yes sir.

Q And could you tell the Court how far north of the east-west alley or the top of the "T"? 20

THE COURT: Excuse me a minute; have the members of the jury the copies that they had yesterday?

(COURT CLERK DISTRIBUTED COPIES OF P.1 TO THE JURORS.)

THE COURT: And you're dealing with P.1, that's the second last photograph.

MR. CALDWELL: The sketch of the one block, My Lord. 30

THE COURT: Yes, the one to scale.

MR. CALDWELL: That's right -

005121

Q On P.1, Officer, how far north of the "T" of the alley was it that you located the body?  
A It was approximately fifty feet north.  
Q And I think you said that was indicated by the A, B and C on your sketch?  
A Yes sir.  
Q What was the D and E?  
A It was the location of where the two gloves were found.  
Q I see; and you put that on there of your own knowledge, did you? 10  
A Yes.  
Q Would you point it out please where that is to the jury?

THE COURT: Where what is?

MR. CALDWELL: D and E, My Lord.

A D and E (indicating).

Q Now, what is the measurement - the size of that block Avenue "N" and "O" between 20th and 21st?

A "N" and "O" the distance from 20th Street to 21st Street is 534 feet. And the distance from Avenue "N" to Avenue "O" along 20th Street and along 21st Street is 386 feet. 20

Q And that's indicated right on your sketch?

A Yes sir.

MR. CALDWELL: If Your Lordship please I would like leave in due course to recall the officer to identify certain other items. Subject to that, that's my examination-in-chief.

THE COURT: Mr. Tallis, are you prepared to proceed with cross-examination on the evidence to this time? 30

005125

MR. TALLEY: Yes, reserving the right to of course cross-examine further on matters that my learned friend raises, but I am prepared to go ahead now.

THE COURT: And then your cross-examination later on would be confined to the new matters which he raises.

MR. TALLEY: Yes, subject to checking something which I might want to ask special leave but I would go on to this point. 10

THE COURT: Alright.

MR. TALLEY, cross-examining:

Q Mr. Heiv, you told my learned friend Mr. Caldwell yesterday that Detective Sgt. Reid and Detective Parker were already at the scene when you arrived?

A Yes sir.

Q And as I understand it you went in company with Lieut. Penkala and Cst. Winter?

A Yes sir. 20

Q And Lieut. Penkala was your superior officer in the Identification Section?

A Yes sir.

Q And Cst. Winter at that time was attached to the Identification Section?

A Yes sir.

Q And he would be junior in service to you?

A Yes.

Q And when you arrived at the scene I take it that these two officers Reid and Parker were somewhere near the body? 30

A Yes.

005126



Q And I take it that the usual practice in a matter of this kind is to leave the scene as undisturbed as possible until the Identification officers arrive?

A Yes sir.

Q And this is certainly the recommendation that the Identification men have?

A Yes.

Q And now what time did you receive the call to go there?

10

A It was approximately 9:00 a. m., sir.

Q And now, when you approached this particular scene you would have had some advance information as to where the body had been located?

A Yes.

Q And which way did you go into that "T" intersection?

A Yes - entering the east-west alley, we proceeded west in the alley towards the "T" intersection.

20

Q And then you stopped the car at that point or did you turn and go north up the alley?

A No, we stopped at that point right at the "T" intersection.

Q So that if I may refer to this sketch P.1 I take it that you stopped right at the base of the "T" intersection here?

A Yes, that's right.

Q Stopped the patrol car?

30

A Yes sir.

Q And having done that I take it that you

005127

proceeded to go on foot to the scene where the body was located?

A Yes sir.

Q And I take it that Lieut. Penkala was with you?

A Yes.

Q And as you approached this particular area could you see the body from the point where you stopped the car?

A Yes.

Q And having noted it there I take it that you would be careful to make observations as you approached the body? 10

A Yes.

Q And the purpose of this is of course to see whether or not there was anything of significance visible to the human eye?

A Yes.

Q And I presume that as you approached the body you looked for what I think I might properly call boot or foot marks? 20

A Yes.

Q And I take it that you were not able to observe any boot marks or foot marks that you could link up with the scene which I will characterize by referring to points A, B, C, D and E?

A That's right, sir.

Q And this of course was one of the things that you would be looking for?

A Yes. 30

Q So that there is no misunderstanding there were no marks from snowboots or oxfords or anything

005128

like that that you could link up with the scene of this crime?

A That's right, sir.

Q And as I understand it from looking at the photographs - and perhaps I could have the set P.3 - I gather from looking at the photographs and I am referring now to this Exhibit P.3 and directing your attention to photos #1 and particularly #2, it's fair to say that there was quite a depth of snow when you got off the 10 travelled portion of the lane?

A That's right, sir.

Q And approximately what was the depth of snow there to your recollection?

A This I never measured the depth but it would be approximately two and half feet - two to two and a half feet.

Q And as I understand it you were able to observe some old marks where snow had fallen in . . . ?

A . . . yes. 20

Q . . . to the holes made by boots or snowboots?

A Yes.

Q Out apart from that there was nothing that you could link with the scene that were fresh?

A That's right, sir.

Q And then just so that there is no misunderstanding I take it that once again referring to photo number - or sketch P.1, your search - your initial search or check for boot marks or foot marks would start right at this base here not far from point 30 P as is marked on this sketch?

A Yes that's right, sir.

005129

Q And then you proceeded in a northerly direction to the scene where the body is located?

A Yes sir.

Q Now, was Lieut. Penkala with you while you were walking?

A Yes, we were more or less together, sir.

Q Yes; in other words you were to use the term that's commonly used paired?

A Yes.

Q And I suppose the theory is that what one doesn't see the other may? 10

A That's right, sir.

Q And this is a common police practice to pair investigation officers particularly in Ident. work and also detective work?

A Yes sir.

Q Now, I gather that the snow was such in that alley going north towards the body where you were walking, that boot marks would show up in it? 20

A Yes, it would in places.

Q Yes; and as a matter of fact you did find fresh boot marks there which clearly were not linked with the scene?

A Yes.

Q In the sense first of all you noticed some small children's prints?

A Yes.

Q And as I understand it they were of a size that you would say would be in the seven or eight age group? 30

A Yes.

005130

Q And they were fresh?

A Yes, they appeared fresh.

Q Yes; and then similarly you noticed boot marks which had obviously been made by police officers who were there before you?

A Yes.

Q And you were able to identify those marks in the snow because you know the boot marks from previous experience?

A Yes. 10

Q In other words, there were distinctive features to the police boot marks that showed up?

A I wouldn't say they were distinctive, sir, but . . .

Q . . . well, how were you able to know that they had been made by police officers?

A Well, I had seen them walking in this area.

Q Oh I see; and then having looked where they were walking you saw the prints?

A Yes.

Q But the nature of the mark was such that it was 20 consistent with a police boot?

A Yes.

Q Now, I take it that your examination of the area did not reveal the presence of any blood or anything appearing like blood except in the vicinity of points A, B, C, D and E - in that general area where the body was found?

A That's right, sir.

Q And that of course can be linked up with P.3 photo #2; in other words the spots of blood 30 that you described are only in the immediate vicinity of the body?

A Yes, that's right.

Q Was there any blood spots that you could see in the vicinity of where the glove was found?

A No.

Q No; so that the area where blood spots were located is confined to pretty close to the body?

A Yes sir.

Q And by the way, were any colored photographs taken at the scene?

A No.

10

Q None were taken?

A No.

Q So that there aren't any colored photographs available that would show up the red specks in the snow?

A No, there isn't.

Q And how far did blood spots radiate out from the body? I just can't - maybe you can assist us by looking at photo #2; there are a few specks around there but I can't tell whether or not they are blood?

20

A Well, I can't tell from the photograph either and I didn't make note of how far out they radiated from the body but they were around the body, yes.

Q I see; in other words you can't tell from looking at photo #2 whether or not these specks - perhaps you would just step down -

If I may ask the witness to do that, My Lord?

THE COURT: Yes.

30

MR. HALLIS:

Q (Cont.) Looking at photo #2 of Exhibit P.3 there

005102

141 X-exam of Officer Kleiv

appear to be some specks here in the foreground;  
can you tell us from your recollection whether or  
not they were blood specks or just some other  
type of specks?

A I couldn't tell you about these but the ones that  
are closer in to the body were red in color.

Q I see; but the specks shown further in the  
foreground you have no recollection of that?

A No, I can't say what they are.

THE COURT: 10

Q Are you pointing directly in front of the body?

A Yes.

MR. TALLIS: The witness was directing  
the attention here to these specks here; he made  
reference to those close to the body.

THE COURT:

Q What about these two dark spots over to the  
right?

A That is where the glove was found. There is a  
glove that was found there. 20

Q But there are three black spots there. One not  
so prominent at the top and then there are two  
immediately below it that appear to be . .

MR. TALLIS: . . I don't know whether we  
are looking at the same thing, My Lord.

THE COURT: These ones down here.

MR. TALLIS: Oh yes, the witness has  
identified that as being the glove and I asked  
him whether there was any blood there and he  
said there wasn't. 30

THE COURT:

Q There was no blood there?

005133

A No, there was no blood there. There was a glove that was found there, My Lord.

THE COURT: Thank you.

MR. TAMMIS, continuing:

Q So that I gather it's fair to say that - as a result of your investigation at the scene it's fair to say that there was nothing to indicate that an assault on this girl had commenced at some other point and then progressed up the alley? 10

A No, there was nothing to indicate this.

Q No; and naturally I take it that this is one of the first things that your mind would be directed to.

A This is one of the things, yes.

Q Yes; and how many years of service do you have in identification work?

A Four years, sir.

Q Four years; and how many years do you have altogether on the Force? 20

A It will be fourteen years in August.

Q Fourteen; so that prior to being in Identification you had general police duties which would include investigations?

A Yes sir.

Q And these observations that you made would be before you actually took photographs, would they?

A Yes.

Q In other words, you looked with the naked eye and then you photographed the scene? 30

A Yes.

Q As best you can to portray it?

005134



143 X-exam of Officer Kleiv

A Yes.

Q Now, another thing I take it that you looked for in that vicinity would be tire marks of any significance?

A Yes.

Q And once again I take it it is fair to say that this is one of the first things you would look for on approaching a scene of this nature?

A Yes.

Q And by "tire marks" I also include marks indicating that a vehicle had been stuck or spinning its wheels or something like that? 10

A Yes.

Q And as I understand it you did not observe any tire marks of any significance in this area?

A Yes sir.

THE COURT:

Q Just a minute please - none at all?

A That's right, My Lord.

THE COURT: Well, then you had better clear something up for me and I imagine for the jury too. 20

MR. TALLIS: I was going to come to that, My Lord, because I'm not trying to duck.

THE COURT: Very well.

MR. TALLIS:

Q Now, I take it that it is fair to say that the lane - the north-south lane where points A, B, C, D and E were marked on by you in P.1 . . . ?

A Yes. 30

Q . . . was a lane that was fit for travel?

A Yes.

005135

Q And it was obvious that vehicle traffic had moved along there at least on previous days?

A Yes.

Q But you were not able to see any fresh tire marks?

A None distinguishable, no.

Q And as I understand it on this particular morning there had been a very heavy frost cover?

A Yes.

Q And accordingly this would tend to make tire marks more distinguishable, wouldn't it, if they were fresh? 10

A Possibly they would, yes.

Q Well - generally that's the case, isn't it?

A Yes.

Q Yes; and as I understand it this lane - and perhaps we can look at photo #4 of P.3 in evidence here - maybe you could just step down - if I may ask the witness to, My Lord - I am referring to photo #4 of Exhibit P.3 and the 20 same photo appears in P.4. If we look at photo #4 of this exhibit what direction first of all are we looking there, I think you told us yesterday?

A We're looking in a southeasterly direction towards the body.

Q Yes; and if we were driving straight along the alley going away from the camera we would be going pretty well straight south?

A That's right, sir. 30

Q And as I understand it that photograph there shows that the lane is in fact open for vehicle

005136

traffic?

A Yes sir.

Q And as I understand it from looking at the foreground boot marks and so forth do show up pretty well in there?

A Yes, in the centre portion.

Q And if you look there, there is nothing to indicate any fresh tire marks?

A That's right.

Q You can go back. Now once again I take it that 10 the east-west lane . .

THE COURT: . . excuse me a minute, are you through with the tire marks?

MR. TALLEY: Yes.

THE COURT: I'd like the witness to explain what that shadow is in picture #1 leading up to the car situated in the alley.

THE WITNESS: I'm sorry, My Lord, that is a mistake on my part with the photo processor.

THE COURT: 20

Q That depicts nothing at the scene?

A That's right; I'm sorry about that.

MR. TALLEY:

Q Now, if I may turn to the east-west alley?

A Yes.

Q You have told us that you drove from the entrance - we'll assume you entered at Avenue "B"?

A Yes.

Q In a westerly direction to where you stopped around point P as is shown in this sketch P.1? 30

A Yes.

Q And I take it that that alley was open for

005137

traffic?

A Yes sir.

Q Similar to the north-south alley?

A Yes sir.

Q And I take it that since you knew when you were going there the location of this body you would look pretty carefully as you entered the alley, you were making observations?

THE COURT: Entered which alley?

MR. KLEIV: The east-west alley. 10

A Entering the east-west alley?

Q Yes.

A Not so much in the east-west alley.

Q No but I mean you were looking out the window?

A Yes.

Q And naturally one of the things you would be looking for would be tire marks of any significance?

A No, I wasn't watching that closely travelling west on that alley. 20

Q I see; well now, when you got out after stopping the car you certainly would look both north and east and west?

A I looked north and I checked the area from the "T" intersection northwards but I didn't check the alley going west.

Q So but when you stopped around this point P here on Exhibit F.1 you got out of your vehicle?

A Yes.

Q And you looked you say to the north? 30

A Yes.

Q But this is before you walked north?

005138

147 X-exam of Officer Kleiv

A Yes, that's right.

Q You were standing around?

A Yes.

Q Then, is it not also fair to say that you looked both to the east and to the west?

A Yes, from this point I probably looked that way.

THE COURT:

Q From what point?

A From the point of the "T" intersection of the alley here, my Lord. 10

Q It's easier for me to follow and I think probably the jury if you refer to this picture of where you've got your police car down - that police car is at the junction of the east-west and north-south alley, isn't it?

A Yes, my Lord.

Q And it's that one that Mr. Ballis is referring to.

A Yes, my Lord.

MR. BALLIS: 20

Q Well now, I take it you don't have any photographs of the east-west alley?

A That's right, sir.

Q But I take it that you have no recollection of seeing any fresh tire marks as you entered the alley?

A No, I don't.

Q No; and naturally this is one of the things that you would be looking for almost by intuition, isn't it? 30

A Yes.

Q And certainly after you got out of the car even

005109

though you didn't drive to the west right at that time you would be able to look to the west as well as to the north, wouldn't you?

A Yes.

Q And you didn't notice any tire marks or anything like that of significance at that time?

A As that I observed, no.

Q Now, and as I understand it if we may come back for a moment here to photograph #2 of exhibit 10, the lady's foot is just about on the edge of the travelled portion of the alley, isn't it? That is if you were going north along the alley your right wheels of the car would be pretty close to that foot?

A Yes, it would.

THE COURT: Which picture are you referring to?

MR. DISTRICT: Photo #2, my lord.

THE COURT: It shows better really in photo #1, doesn't it? 20

MR. DISTRICT:

Q Well, #1 shows it as well?

A Yes.

Q And #2 is really a closer up photo?

A Yes, that's right.

Q Now, later on after you had walked up in the vicinity of the body I take it that you walked north of it?

A Yes, I did.

Q Did lieutenant Penkala walk north with you? 30

A I'm not sure whether he walked with me or not, no.

Q In any event I take it that there were no blood

005140

spots to the north?

A That's right, sir.

Q What is to the north of the body?

A Yes sir.

Q And then I take it that you also examined the fence area that is depicted in photo - I suppose #2 and perhaps a better shot of it would be photo #3 of Exhibit E.3?

A Yes sir.

Q And is it fair to say that you did not find any blood spots in the vicinity of the fence? 10

A That's right, sir.

Q And you specifically of course were looking for things of that nature when you were examining the fence area?

A Yes sir.

Q And did you examine the branches and what-net as well?

A Not too closely, just looked at them, didn't observe any blood spots. 20

Q But you were looking at them to see if there was anything of significance?

A Yes.

Q And I take it then from your examination of the scene there was nothing to indicate that the deceased had been dragged to this location?

A No, I couldn't find anything to indicate this.

Q And naturally if I may put it to you this way and I think I put it fairly - this is one of the things you would be looking for? 30

A Yes.

THE COURT:

005141

Q And if she had been dragged there is no doubt in your mind I take it that you would have been able to see some trace of it?

A Yes, my Lord.

MR. BROWN:

Q So that I gather, Mr. Kleiv - I think you know me well enough to ask me to restate something if you don't understand it - I gather that it is fair to say that when you arrived at the scene this was not a case where a large crowd had gathered? 10

A That's right.

Q Now apart from the police officers that were there was there anyone else around when you arrived?

A No, there wasn't.

Q I see; and from an identification standpoint would it be fair to say that you were dealing with a relatively undisturbed scene, that is undisturbed by people coming along after?

A Yes. 20

Q Now, sometime along the way did you have occasion to measure the height or observe the height of this young lady being measured?

A I didn't measure the height of this body.

Q I see; did you observe it being measured later at the hospital?

A I don't think it was measured at the hospital; it was possibly measured at the scene.

Q In any event, is it fair to say that you estimate her height to be approximately five foot 30 six inches?

A Approximately, yes.

005142



Q And from your observations of the body did she appear to be - and I don't use this in a disparaging manner - a robust girl - robust young woman?

A Yes.

THE COURT:

Q I take it you were not present when and if she was weighed?

A I don't believe she was weighed, My Lord.

MR. TAYLOR: 10

Q You, Mr. Kleiv, as I understand it referring to sketch #P.1 you placed a number of dots on this sketch; there is a dot on the lot 227, two dots on lot 226 and some dots in the alley - the east-west alley. As I understand it these dots were simply marked there by you on instructions from some other person?

A Yes sir.

Q And you didn't personally find anything in any of those locations? 20

A No I didn't, sir.

THE COURT: Are those those very small . .

MR. TAYLOR: . . those very small dots and I understand that they may be covered by another witness, My Lord.

THE COURT: There are three of them around 227 - one in the lot area . .

MR. TAYLOR: . . and two below it.

THE COURT:

Q In the lane? 30

A Yes; and there's one at the rear if I may see the plan.

005143

MR. TALLIS:

Q Yes certainly.

A Here's one at the rear of 1414 20th Street West.

THE COURT:

Q Where is that?

A Right there (indicating).

Q If you; that's right down near those trees you're indicating?

A By the trees, yes. There are two dots in the back yard of 226 Avenue "C" and one dot in the 10  
back yard of 227 Avenue "B" and two dots in the alley by the south fence line of 227.

MR. TALLIS:

Q Fine; now in addition to that and perhaps you could tell us - there are some larger circles just south of points A, B, C, D and E - what are they put on there to denote?

A Yes; those are poles.

Q And what type of poles?

A They're either power poles or telephone poles. 20

Q If you; and the same in the alley running east and west there appear to be three circles on the south side of the alley?

A Yes sir.

Q Are they all poles, are they?

A Yes; all the circles that are shown on there indicate poles.

Q Now; now if I may turn to another matter. I take it that it is common ground between us that about from the rolling over of the body by Dr. 30  
and you are satisfied that there was no change in the position of the clothes on the body when

00514

you saw it?

A That's right.

Q And your purpose in taking the photograph which is in evidence here as part of P.3 - photo #7 - is to depict the sorry picture . . . ?

A . . . yes.

Q . . . that is shown to one who saw it just as the body was turned over?

A Yes; it's taken to show the clothing on the body.

Q As an identification officer, you of course make 10 sure that nobody moved the clothes or anything other than rolling over the body?

A That's right.

Q And as I understand it the reason for this was quite obvious, that is you wanted to preserve a picture of the scene as precisely as you could to show the position of the clothes?

A Yes sir.

Q Now, did you notice what I think we can perhaps 20 all call somewhat the unique situation with reference to her coat and dress before the body was rolled over or was it only after it was rolled over?

A It was after it was rolled over that I noticed.

Q Yes; and as I understand it then it was then that you noticed that her arms were through the coat sleeves?

A Yes sir.

Q But that her dress was off the sleeves - I'm 30 sorry, that her dress was off her arms?

A Yes.

Q Now dress sleeves were off?

005145

A Yes.

Q And it was rolled down as is shown in photo #7. And take it that as soon as you saw the body there in this position you immediately noted and realized that somewhere along the way this man's coat had to be taken off in order for the dress to come down?

A Yes.

Q And is of course assuming that she was properly dressed and we'll assume that. And of course you could realize that after the dress was taken down and so forth that the coat must have been placed back on again? 10

A Yes.

Q And take it that once you noticed this somewhat unique situation you had taken an even more careful look at the area?

A Didn't personally, no.

Q And you didn't personally?

A Yes. 20

Q And this was something that immediately attracted your attention?

A Yes.

Q And to understand it then your senior officer was left there, was he, at the scene?

A And he was.

Q And you went with the body when it was being removed?

A Yes.

Q And take it that when you discovered this somewhat unique situation as far as the clothes and concerned you came to the conclusion at that 30

005146

point at least that some little time must have been involved in this incident?

A Yes, I would say that it would take some time.

Q Yes; and that was a matter that immediately came to your mind when you saw the situation as you portrayed it in photo #7?

A Yes; it was one of the things that came to my mind.

Q Yes; and in any event one of the things that you directed your mind to in looking at the scene 10 was to see whether or not there was anything to determine the sequence of events here?

A Yes, this was . . .

Q . . . and you weren't able to find anything or lift anything up there which would assist in ascertaining the sequence of events?

A No.

Q Now, as I understand it at that particular time at the scene you did not examine the coat or clothes for puncture wounds or puncture marks? 20

A Not at the scene I didn't, no.

Q No; and did you make these observations later on at the hospital?

A Yes.

Q And now, at the hospital of course you have told us that you took her dress into your possession?

A Yes.

Q And as I understand it, it was at this time that you had an opportunity to look at the dress and examine it for puncture marks? 30

A Yes.

Q OK, OK?

005147

A Yes.

Q And one of the significant things that you immediately noted when you made that comparison was that there were no puncture marks of any kind in the dress?

A That's right.

Q And indeed the dress that's here will show that?

A That's right.

Q And I take it that from looking at the wounds on the body it was obvious then to you that the 10 punctures that had been made in her body below the breast area were obviously inflicted after the dress was taken down?

A Yes.

Q And then when you got examining things further at the hospital you looked at the seat and found puncture marks in it?

A Yes.

Q And as I understand it these puncture marks matched up pretty well with the location of the 20 wounds on the back of the girl?

A Yes.

Q And once again the very unique feature here was that there were no such wounds - no such puncture marks that you could tie in with the dress?

A That's right.

Q The only thing that you found wrong with the dress was that one little seam up by the collar and the zipper?

A That's right. 30

Q And as I understand it when you found the - when you took possession of the dress it appeared that

005148

the zipper had been sprung at the back?

A Yes.

Q With the shoe remaining right up near the collar?

A Yes.

Q Now, when you were at the scene and before the body was moved did you conduct an examination for one might call alien or foreign hair?

A I didn't personally, no.

Q You didn't personally; well did anyone else do that in your presence? 10

A Not in my presence, no.

Q I see; so that your search for alien hair and what-not was confined as I understand it to a vacuum collection that you made from the clothes, is that right?

A Yes, we made a vacuum collection from the coat.

Q From the coat; and that was the only thing that you made the collection from?

A As far as vacuum collections were concerned, yes.

Q As I understand it you used a vacuum cleaner and 20 vacuumed samples from various portions of the coat?

A Yes.

Q And then put them in these separate envelopes, is that right?

A That's right, sir.

Q Yes; and those are the ones that you referred to yesterday when my learned friend Mr. Caldwell was examining you?

A Yes. 30

Q Now, was that done with the assistance of another officer, that is was Lieut. Penkala there?

005149

A Yes he was.

Q And were these the only clothes that you examined that you can recall with hair samples - the coat?

A Well, all the clothes were actually . .

Q . . all the clothes were actually examined?

A Just briefly and then they were submitted to the laboratory for this purpose.

Q I see; now, when you were examining the body both at the scene and at the hospital did you 10 look to see whether or not there were any bite or scratch marks on the body as distinct from the wounds that you described?

A I didn't see any bite marks, no.

Q And naturally this is something you would be looking to see if there were any in a case of this nature?

A Yes.

Q And as I understand it the wounds that you referred to are about one-half inch? 20

A Approximately, yes.

Q Approximately; you didn't measure them as such, I take it?

A No I didn't.

Q And as I understand it from looking at the wounds in the photograph some of them appear to be similar in shape?

A Yes.

Q And others appear to have some differences, is that correct? 30

A Yes, some of them look different.

Q Looking at photograph #14 did you notice any

005150



differences in the nature of the wound on the  
breast area or chest area?

THE COURT: You mean immediately below  
the breast?

MR. TALLIS: Yes.

A There are two that appear similar; there is  
another one at the top there that is probably  
a little more jagged than the others.

Q I see; well perhaps if you can just step down  
here then - I don't particularly want to 10  
burden people with photos of this nature -  
but as I understand it you did notice some  
difference in the wounds and you are referring  
now to photo #15?

A Yes, the only one that's a little different of  
these three here is this one here (indicating).

Q You're pointing to the third one from the  
bottom?

A Yes.

Q And you noticed that that was more jagged, did 20  
you, when you were at the hospital?

A Yes, it looks different.

Q I think that's all right at this point, you can  
go back.

And having regard to the respective edges of  
each wound and particularly those that you say  
are quite similar, you mentioned there were two -  
I suggest to you that those wounds from your  
observation are consistent with having been  
inflicted by a double edge knife? 30

A I don't feel that I am qualified to state this;  
it's possible that this could be; I don't know

005151

for sure.

Q I see; but from your observations you realize certainly that it could possibly be by a double edge knife?

A I say it could be possible but I'm not qualified to answer a question of that nature.

Q Now, yesterday you referred of course to the dress, which is really a nurse's uniform P.10 in these proceedings; and you mentioned that the stain on the breast area was faded somewhat. Then you proceeded to tell us about the coat which is in evidence here before the Court and was marked P.5; and you mentioned that you noted that a button was off that coat? 10

A Yes.

Q And you referred us to the middle button that was missing. Now as I understand it from what you told my learned friend that button was never found at the scene?

A That's right. 20

Q And as I understand it a very careful search was made for it?

A Yes.

Q So that there is no misunderstanding I think that the search even included extensive melting operations that were carried on for some little time in that area?

A Yes.

Q And I believe you were at the scene of the melting operations from time to time, weren't you? 30

A I was there on one occasion, yes.

005152

Q And how far did the melting radiate out from the point A, B and C where the body was located?

A It took in the entire travelled portion of the alley?

Q It did?

A Yes.

Q Going both north and south?

A North and south, yes.

Q For how far?

10

A I don't recall exactly how far it had gone; at the time I was there it was working its way south from the north along the rear of 221 Avenue "N" South.

Q I see; and as I understand it from your evidence yesterday you took possession of quite a number of items, some of which are not all in as yet as exhibits, but you checked out carefully for fingerprints here in your lab. in Saskatoon?

20

A Yes; I checked the contents of the purse for fingerprints.

Q But did you make a check for fingerprints of the accused on other items?

A No, I didn't.

THE COURT:

Q Does that include the handle of the knife?

A The handle of the knife, that was checked for prints too, My Lord, and I didn't find any.

MR. TALLIS:

30

Q Now, coming back for a moment to that morning, I gather that it's common ground that it was

005157

around forty-two below - I think that was your recollection?

A Yes, it was around forty below.

Q Around forty below zero; in other words it was cold enough that if you weren't clad well you would feel the frostbite pretty quickly?

A Yes sir.

Q And I take it that when you took your hands out of your gloves to deal with some of your equipment you felt the cold in just the matter 10 of a minute or two?

A Yes.

Q And did your ears start to become frostbitten in a short period of time out there?

A Yes they did, sir.

Q Did you have anything over them or what was the situation?

A Yes; I didn't to begin with but then I had to.

Q You had to get something on?

A Yes. 20

Q In order to continue?

A Yes.

Q In other words, if a person were in that area that morning for very long he would soon feel the effects of the weather unless he was well dressed?

A Yes.

Q And you know that of course from your own personal experience there?

A Yes. 30

Q Now, during the course of your evidence you told my learned friend about obtaining a sample of

005154

head hair from David?

A Yes I did.

Q And I think that it's fair to say that your purpose in obtaining this sample of head hair which is now in evidence here as P.25 - your purpose in obtaining that sample of hair was to have it available for comparison purposes with other samples?

A It was to have it available for comparison, yes.

10

Q Yes; with samples that may be found on clothes and things like that?

A Yes.

Q Now, I think that you told my learned friend that you obtained this sample P.25 for identification on April the 18th 1969 at around 10:50 a.m.?

A That's right, sir.

Q And I believe that this was done at the City Police Station here?

20

A Yes it was.

Q Now, at that time I think it's also fair to say that David was not under arrest?

A No, he wasn't.

Q In other words he wasn't in custody on this charge?

A That's right.

Q And he was down as I understand it - he had been invited down to the Police Station and you asked him if he wished to give you a sample of hair?

30

A Yes.

Q Now, as I understand it he co-operated fully with

005157

you when you explained that you wanted a sample of hair from his head?

A Yes he did.

Q And knowing him as I do I am sure you mentioned to him why you wanted it?

A No, I don't believe I mentioned to him why I wanted it.

Q I see; in any event you assumed that he knew that it was in connection with the Gail Miller incident? 10

A I assumed this, yes.

Q Because other officers had seen him before that?

A Yes.

Q And as a matter of fact when you asked him for a sample of his hair he readily gave it to you?

A Yes.

Q And I believe it's fair to say that you had a pair of scissors there and he took the scissors and cut it out for you?

A That's right. 20

Q Yes; and after he cut it out he handed it to you?

A That's right.

Q Now, as a matter of fact before you got this sample of hair from him you did introduce yourself to your recollection as being an Identification officer?

A Yes, I believe I did.

Q Now, I'd also like to suggest to you, Officer, that the day before David was down at the Police Station? 30

A Yes.

Q At the invitation of someone there?

005156

- A Yes.
- Q In other words, he wasn't in custody or charged with any offence?
- A No, he wasn't.
- Q And I believe that you got a sample of hair from him on that occasion?
- A Yes I did.
- Q And did you obtain the sample from him at that time or how was it obtained?
- A Yes, I obtained the sample from him. 10
- Q I see; and I take it that on that particular occasion he was quite co-operative with you?
- A Yes he was.
- Q And as I understand it it turned out that that sample you <sup>got</sup> that particular day wasn't a good enough sample for your purpose?
- A That's right.
- Q And accordingly you arranged to get in touch with him the following day to get a better sample? 20
- A That's right.
- Q And I suppose that when he was there the following day you explained to him that the last sample wasn't a good enough sample?
- A Yes sir.
- Q For comparison purposes, that is?
- A Yes, I believe so.
- Q Now, dealing with the first sample that didn't turn out to be a very good one, was this the sample that he had sort of pulled out for you? 30
- A Yes.
- Q As a matter of fact you had asked him to

005157

actually pull it out?

A That's right.

Q So that you would have some of the roots as well?

A That's right.

Q And as I understand it he was quite co-operative with you on that occasion?

A Yes he was.

Q And readily gave you the sample in the manner in which you asked for it?

A Yes.

10

Q And the idea of using the scissors on the second occasion was really your idea because you had them there?

A Yes.

Q And you thought that this would get you a better and bigger sample?

A Yes.

Q And so that on the two occasions that we've talked about - these two hair sample occasions - it's fair to say that David was most co-operative with you?

20

A Yes he was.

Q And he was friendly towards you just as you were friendly towards him?

A Yes.

Q And as I understand it the conversation that took place between you was a soft spoken conversation in your normal tones?

A Yes.

Q Now, as I understand it, you also obtained hair samples from other persons who were suspects?

30

A Yes.

005158



Q And in particular there was one other sample?  
A Yes.  
Q From - without going into the details at this point - from a person living not too far from the area where the crime took place?  
A That's right.  
Q And now I take it that after obtaining that sample of head hair you kept it in your possession?  
A Yes. 10  
Q And now dealing with David's sample of head hair I gather that it was sent to the Crime Detection Laboratory?  
A Yes it was.  
Q By you?  
A Yes.  
Q And this other sample of head hair I take it was never sent to the laboratory?  
A That's right, sir.  
Q And this is no criticism on you, I take it that 20 you only submit samples when instructed to do so by someone superior to you?  
A Yes, that's right, sir.  
Q And as a result of the instructions you received from somebody superior to you it was not sent down?  
A That's right, sir.  
Q Now, referring to this sweater P.22 for identification, as I understand it this was turned over to you by - was it Mr. Parker? 30  
A Yes, Detective Parker.  
Q Yes; Detective John Parker. And when it was

005159

turned over to you did you examine the buttons on it?

A Yes, I believe I did.

Q I see; and also the button holes? Just have a look at it; perhaps it will refresh your memory. Does that appear to be in the same condition as when it was turned over to you apart from the way in which it was folded in the . . . ?

A Yes.

Q And I take it then it's common ground that there 10 was no sign of any buttons being torn off or anything?

A No, there wasn't.

Q Or the button holes being torn?

A No.

Q And when the sweater was handed to you I presume you would examine it to see whether or not it was stretched - you know how a sweater sometimes stretches out of place when it's tugged or pulled? 20

A I didn't examine it for that, no.

Q I see; you didn't look at it for that?

A No, I didn't.

Q But I take it that you wrapped it up so that it would be in the same condition as nearly as possible as when you received it?

A Yes.

Q And did you examine it for hair or anything like that?

A No, I didn't, sir. 30

Q I see; do you know whether or not it was examined for hair?

005160

A I don't know; it was submitted to the laboratory.

Q I see; this isn't my hair but I just noticed as it was taken out of the bag there are still hairs attached to it; do you recall seeing any hair on it? There's one that I notice specifically - do you see it there?

A Yes I do.

Q It appears to be human hair?

A Yes.

Q Did you examine it for hair at all? 10

A No, I didn't; no sir.

Q I see. Perhaps you could just fold it.

Now, turning to this sketch which is described as P.2 in evidence here, you have put on the location of St. Mary's Church and the rectory.

Now, when you were driving around for purposes of preparing this sketch and putting these things on, can you tell us the location of the street car stops? Suppose that a person was getting on a street car at 20th Street to 20 come down town, that is to the 2nd Avenue area, can you indicate where the street car stops shall we say in relation to St. Mary's Church?

Q I would assume it would be on the south side of the street?

A No, I can't actually - I never made a note of where the bus stop was in that location.

Q I see; it is common ground that there is a bus that goes along 20th Street?

A Yes. 30

Q But you are not able to say specifically - perhaps if we look at this sketch P.1 - you are

005161

170 X-exam of Officer Kleiv

not able to say where the bus stops along 20th  
in relation to Avenue "O" or in relation to  
Avenue "N"?

A No, I am not able to say exactly.

Q I see; but you do/<sup>know</sup>that a bus goes along 20th?

A Yes.

Q And the block which we can call the 300 block  
south that's shown on P.2, you only have two  
houses in there; actually how many houses are  
there in that block?

10

A I didn't count them, sir.

Q I see; but would there be approximately another  
seven or eight houses north of 330 in that same  
block?

A Oh yes, there probably would be.

Q Probably in that number?

A Yes.

Q But you don't have any notes as to the number of  
them there?

A No, I didn't count the number of houses, sir. 20

MR. TALLIS: My Lord, I don't think - if  
we could rise at this point I will check my  
notes but I don't think there is very much that  
I have other than questions that may arise out  
of some of the material that has not yet been  
proven.

THE COURT: Well, Mr. Tallis, there are  
two questions I want to ask, maybe I'll put  
them now; I was going to do it at the completion  
of your cross-examination but it appears you are 30  
fairly well through . .

MR. TALLIS: . . yes, My Lord.

005162

THE COURT:

Q First of all, Officer, was there any search made of the residence of the deceased woman by anybody to your knowledge?

A I believe there was but I didn't personally do this, My Lord.

Q Well, I'm specifically asking this question for this reason. I am interested and I imagine the jury might be interested in ascertaining whether any button was found on her premises which might match the button on the coat? 10

A This button wasn't found but I can't say for sure, My Lord, if a search was made in her premises.

Q Well, you didn't make one anyway?

A No, I didn't, My Lord.

Q The other thing is this. This may have been clear to counsel and the members of the jury but it wasn't entirely so to me. I am referring to photograph 7 of Exhibit P.4 and specifically to the dress which appears to be about the centre of the body? 20

A Yes, My Lord.

Q Just below the half slip that you referred to?

A Yes.

Q Was that dress attached to the body?

A Yes it was.

Q Then it hadn't - as far as you could tell it had not been completely removed?

A That's right. 30

Q It was around the body?

A It was around the body, yes.

005164  
3

THE COURT: Thank you; we'll adjourn  
for ten minutes.

RECESS

THE COURT: Mr. Tallis?

MR. TALLIS, continuing:

Q Mr. Kleiv, as I understand it this sketch P.1  
is in fact drawn to scale?

A Yes it is.

Q And I take <sup>it</sup> then that it's fair to assume from  
the sketch that the east-west alley that we have 10  
been talking about in this block goes through -  
there is this point P marked on it - would be  
about 386 feet in length?

A The entire length of the alley?

Q Yes.

A Yes.

THE COURT: Where is that point P?

MR. TALLIS: Oh, there's a pencilled mark  
P in there, My Lord; I guess it isn't on that  
sketch. 20

THE COURT: Oh, I don't know whether the  
jury caught that or not - what the P was that  
you were referring to?

MR. TALLIS (speaking to the jury): It might be on  
your sketch; the point P is the one that I have  
been referring to and the witness has been  
talking about.

THE WITNESS: I wish to make it clear that  
I didn't place that P on there.

THE COURT: Where is it again, Mr. 30  
Tallis? Maybe the jury would like to mark it on  
if they've got pens to do it.

005164

MR. TALLIS: It's a pencil mark P and I think it will be identified by a witness later on.

THE COURT: Thank you; what was the question that was asked about that?

MR. TALLIS: The length of the alley being 386 feet, that is from east to west.

THE WITNESS: Yes, from Avenue "N" to Avenue "O".

MR. TALLIS: 10

Q and now, I think that when we rose you told me about taking a sample of hair from a person within that area and am I correct in saying that that sample was from one Shorty Cadrain?

A Yes sir.

Q And the date that it was taken was on April the 26th 1969 at 9:45 a.m.?

A Yes sir.

Q And was it taken at the Police Station?

A Yes it was. 20

Q And was Cadrain already there when you took it from him or did you invite him down?

A No, he was already there, sir.

Q I see; do you recall the officer that brought him up to you?

A No I don't, sir.

Q But someone else did bring him up to you in identification?

A Yes.

Q In other words, he didn't find his way up there 30 on his own?

A No.

005167

Q And as I understand it then from what you told us earlier you were not present during all of the melting operations, that is there wasn't one man standing by on any particular shift?

A No, I wasn't; I was only there on one occasion.

Q I see; and do you know who was in charge of the melting operations at the scene?

A No I don't sir.

Q What is you don't know the name of the person in your department who was supervising it? 10

A No; the day I was there Cst. Drummond was looking after the operation.

Q Cst. Drummond was looking after it at that particular time?

A Yes.

Q Was there anyone else there with him at that time?

A No.

MR. TALLEY: That concludes the questions I have to ask at this time, My Lord. There are 20 a number of other items that apparently my learned friend is going to go into when the witness is recalled and I may have some additional questions arising out of that.

THE COURT: I take it that relates to those vials, does it, Mr. Caldwell?

MR. CALDWELL: As far as I can see at the moment that will be all, My Lord, there could conceivably be one or two other things.

THE COURT: Well have you any 30 re-examination now?

MR. CALDWELL: Yes, My Lord - what it would

005166



relate to I think was the question of the blood samples from the deceased.

THE COURT: Yes; the ones that were referred to already which were not here yesterday.

MR. CALDWELL: Yes, My Lord.

THE COURT: They're not here yet?

MR. CALDWELL: No, they have never been yet introduced, My Lord, either in the court below or . . .

10

THE COURT: . . will they?

MR. CALDWELL: Yes, they will.

MR. CALDWELL, re-examining:

Q Now, if I can ask one or two things, Officer Kleiv, briefly. I think my learned friend asked you a question relating to I believe the north-south alley and something to the effect boot marks would show up there and I believe your answer was - yes, it would in places. Do you recall that question and answer?

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A Yes sir.

Q Now, I just wondered what you meant by the qualification "in places"?

A I was thinking more or less in the centre of the alley where the snow isn't packed down. The travelled portion is packed down and it wouldn't readily leave a footprint.

Q I see; and the travelled portion being what portion?

A The travelled portion would be the left and right edge or the east and west edge of the alley.

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Q Where wheels would normally go, is that right?

A Yes, that's right.

Q And I believe my learned friend showed you photograph #4 and I am showing you P.3.

THE COURT: I would prefer if it makes no difference to you if you continued to refer to P.4 because the jurors have copies of P.4.

MR. CALDWELL: Yes, that's fine, My Lord.

THE COURT: It's understood that the pictures are the same and the books are the same 10 with the exception that that one plan was added to P.4 - copy of plan.

MR. CALDWELL: I'd be pleased to do that, My Lord -

Q And in photo #4 is there what you call a boot mark showing there?

A This possibly may be one at the bottom of the photograph approximately in the centre.

Q Could you just point out that to the jury please - the centre at the bottom? 20

A Yes (indicating).

Q And show His Lordship please?  
(Witness points out to His Lordship.)

THE COURT:

Q I see it; the only thing that concerns me there is how far are you going into this re-examination because there was evidence that there were footprints from officers; now, is that one that might possibly be a footprint of an officer? 30

A Yes that's right, My Lord.

MR. CALDWELL:

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Q I see; that's your impression of that one,  
is it?

A Yes, sir.

MR. CALDWELL: And just one other thing  
if I might, My Lord -

Q That particular one though that shows in P.4,  
where would it be in relation to the travelled  
portion and the centre?

A It would be just off to the west of the  
travelled portion and more towards the centre. 10

Q West of the travelled portion?

A Yes.

Q And that travelled portion I take it would be  
the most easterly tire track so to speak for  
normal vehicle travel?

A Yes, that's right, sir.

MR. CALDWELL: I see; that's all the  
re-examination I have at this time, My Lord.

THE COURT: Thank you, Officer.

THE WITNESS: Thank you, My Lord. 20

MR. CALDWELL: My Lord, I wonder if  
possibly we could get Your Lordship's  
indication unless there is some witness my  
learned friend wishes kept available will  
witnesses such as this be excused?

THE COURT: Well, that is entirely up  
to counsel, Mr. Caldwell. You can confer with  
Mr. Ellis and come to your own arrangements  
in that regard.

MR. CALDWELL: Very well, My Lord. 30

THE COURT: If you can't agree of course  
you can always apply to me.

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MR. TALLIS: Well, I can say very quickly that insofar as this witness is concerned I know where he is and there is no need for him to wait around; we can always call him back.

THE COURT: Alright; next?

MR. CALDWELL: I call Ronald Dale Wilson,  
My Lord.

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