

*Commission of Inquiry Into the Wrongful
Conviction of David Milgaard before
The Honourable Mr. Justice Edward P. MacCallum*

Transcript of Proceedings
and
Testimony before the Commission
sitting at the Bessborough Hotel at
Saskatoon, Saskatchewan

On Monday, January 17th, 2005

Volume 3

Commencement of Inquiry and Evidence



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Appearances:

Mr. Hersh Wolch, Q.C., **for** Mr. David Milgaard
and *Ms. Sheilah Martin,*
Ms. Joanne McLean, **for** Ms. Joyce Milgaard
and *Mr. James Lockyer,*
Ms. Lana Krogan, **for** Government of Saskatchewan
and *Mr. Gerald Tegart,*
Ms. Catherine Knox, **for** Mr. T.D.R. (Bobs) Caldwell
and *Mr. Si Halyk, Q.C.*
Mr. Garrett Wilson, Q.C., **for** Mr. Serge Kujawa
and *Mr. Jay Watson, Esq.,*
Mr. John Beckman, Q.C., **for** the Saskatoon Police Service
and *Mr. Rick Elson, Esq.,*
Mr. Aaron Fox, Q.C., **for** Mr. Eddie Karst
and *Mr. Chris Boychuk, Esq.,*
Mr. Bruce Gibson, **for** the RCMP
and *Ms. Rochelle Wempe,*
Mr. Brian A. Beresh, Esq., **for** Mr. Larry Fisher
and *Mr. Eamon O'Keefe, Esq.,*



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1 (Proceedings commenced at 10:00 a.m.)

2 COMMISSIONER MacCALLUM: Good morning.

3 CLERK: This hearing is now in session.

4 Mr. Justice Edward P. MacCallum presiding as
10:00 5 Commissioner, this hearing is now in session.

6 COMMISSIONER MacCALLUM: On April the
7 20th, 2004, I made some introductory remarks at
8 the Standing and Funding Hearing. Today we begin
9 the public hearings proper.

10:01 10 I have brief comments to make
11 after which Mr. Hodson, Commission Counsel, will
12 introduce other counsel and deliver his opening
13 statement.

14 Among the parties with
10:01 15 standing, only Mr. Rick Elson for Saskatoon City
16 Police Service has asked to speak at this time,
17 so we will hear him after Mr. Hodson and then we
18 will begin to hear evidence.

19 I expect Mr. Hodson to review
10:01 20 much of the historical background and the legal
21 foundation for this matter so I will not repeat
22 what I said on these subjects on April 20th.
23 Reference is made, for those interested, to pages
24 6 and 17, inclusive, of the transcript of that
10:01 25 proceeding. I note two developments since April



1 of 2004.

2 The first is that Larry Fisher
3 criminal proceedings have reached finality with
4 the refusal of the Supreme Court of Canada to
10:02 5 hear his appeal against conviction for the murder
6 and rape of Gail Miller.

7 The second development was a
8 formal acknowledgment by the Government of
9 Saskatchewan that David Milgaard was wrongfully
10:02 10 convicted for a crime he did not commit. The
11 exact words are:

12 "The Government of Saskatchewan acknowledges
13 that David Milgaard was wrongfully convicted
14 of a crime that he did not commit and is
10:02 15 factually innocent of the charge that he
16 caused the death of Gail Miller."

17 We expect to hear evidence,
18 within the framework of our Terms of Reference,
19 underlying, first, the conviction of Milgaard for
10:03 20 Gail Miller's murder, and then Fisher's
21 conviction for the same crime. But this inquiry
22 will not, in any sense, be a retrial of either
23 Milgaard or Fisher. I am forbidden, by the Terms
24 of Reference, to make any findings of criminal or
10:03 25 civil responsibility.



1 We are not bound by the rules
2 of evidence under which criminal trials are
3 conducted so hearsay evidence, both oral and
4 documentary, will be received. Its purpose will
10:03 5 be made plain by Commission Counsel or by me when
6 it is offered, and I will give it the weight it
7 deserves.

8 We will concern ourselves with
9 events over a period of some 36 years. The
10:04 10 documentary record is very lengthy, and the
11 witnesses are many, so the evidence cannot always
12 be neatly packaged by discreet issues. From time
13 to time a witness's testimony will raise, but not
14 dispose of, an issue, and it will be necessary to
10:04 15 move on to the next witness on a different
16 subject. Be assured, however, that before we are
17 finished the public will hear all that we have to
18 offer on a given matter. So I urge patience from
19 the parties with standing, the media, and the
10:04 20 public. Please exercise restraint in speculating
21 on what the facts might be in the end. Let me
22 show example by declining to say how long I think
23 the inquiry might take.

24 For the purpose of reserving
10:05 25 venues, we have had to draw up a calendar of



1 sittings, which projects a rather long process.
2 My objective, however, is to move with deliberate
3 speed, not sacrificing thoroughness, but
4 insisting on efficiency. Requests for
10:05 5 adjournments, even of short duration, will not be
6 lightly granted.

7 I am very proud of Commission's
8 staff for their performance in the immense task
9 of preparation. Document organization,
10:06 10 management, and presentation will be electronic
11 for the most part and, I am assured, both
12 innovative and user-friendly. Flawless
13 performance by either humans or computers,
14 however, is too much to expect, especially at
10:06 15 first, but I am confident that the good will and
16 co-operation of counsel, media, and Commission's
17 staff will smooth over any bumps in the road.

18 Generally speaking, we will be
19 in session Monday to Thursday inclusive, 10:00
10:06 20 a.m. to 12:30 p.m. and 2:00 p.m. to 4:30 p.m.
21 three weeks per month.

22 Mr. Hodson will now address
23 you.

24 MR. HODSON: Thank you very much,
10:07 25 Mr. Commissioner, and good morning. I would like



1 to start off this morning with some
2 introductions.

3 My name is Doug Hodson, my role
4 and title is Commission Counsel, as I introduce
10:07 5 others with the Commission's staff and the
6 parties I would just ask you to stand.

7 Assistant Commission Counsel is
8 Jordan Hardy, and Assistant Commission Counsel
9 Vanessa Monar Enweani, as well two other lawyers
10:07 10 that have assisted us with both research and
11 interviews are John Agioritis and Chris Veeman;
12 we have Candace Congram, our Executive Director
13 and Media Liaison person; our Document Manager
14 Sandra Boswell and our Document Assistants Kara
10:07 15 Isabelle and Cheryl Ellerman; our Technology
16 Consultant Kevin Short; an investigator who has
17 provided us with assistance with interviews and
18 locating witnesses Don Christal; our office
19 staff, Mel Thoen and Tara Heibert.

10:08 20 In addition to our staff we
21 have commission officials Irene Beitel, our Clerk
22 at the front; our Court Reporters, Don Meyer and
23 Karen Hinz; our security officers, Jerry Wilde
24 and Hugh Esson; and last, but certainly not
10:08 25 least, Inland Audio Visual, Larry Prehodchenko.



1 I would also like to introduce
2 counsel for each of the parties, and in some
3 cases clients or client representatives are here
4 with them, and I would ask counsel to stand.

10:08 5 First, representing David
6 Milgaard is Hersh Wolch and Sheilah Martin;
7 representing Joyce Milgaard at the hearing today
8 is Joanne McLean, she will be joined at other
9 times by Mr. James Lockyer; representing the
10:08 10 Government of Saskatchewan is Lana Krogan and
11 Gerald Tegart with her today; representing
12 Mr. T.D.R. Caldwell is Kathy Knox, she will be
13 joined from time to time by Mr. Si Halyk, and as
14 well Mr. Caldwell is present today; representing
10:09 15 Mr. Serge Kujawa is Garrett Wilson, and he will
16 be joined from time to time by Mr. Jay Watson;
17 representing the Saskatoon City Police Service is
18 Rick Elson and John Beckman, and joining them
19 today is Mr. Keith Atkinson, representing the
10:09 20 police service; representing Eddie Karst is Aaron
21 Fox, and I believe Mr. Karst is present with
22 Mr. Fox today, and from time to time Mr. Chris
23 Boychuk will be assisting Mr. Fox; representing
24 the Royal Canadian Mounted Police is Mr. Bruce
10:09 25 Gibson and Rochelle Wempe; representing Larry



1 Fisher is Mr. Brian Beresh, and joined today by
2 Eamon O'Keefe.

3 The last party with standing is
4 AIDWYC, which is the Association in the Defence
10:10 5 of the Wrongfully Convicted, they are represented
6 by Mr. Melvyn Green, however they only have
7 standing for the systemic phase,
8 Mr. Commissioner, and he will join us later.

9 I propose to cover four topics
10:10 10 in my opening remarks. Number 1, I wish to
11 outline my role and responsibilities as
12 Commission Counsel and provide an overview of
13 what Commission's staff and I have done over the
14 last several months to prepare for these
10:10 15 hearings; secondly, I wish to go through the
16 Commission's Terms of Reference, which is a very
17 important document; third, I will provide a
18 chronology of the significant events relating to
19 David Milgaard's wrongful conviction and I will
10:10 20 highlight some of the more significant matters
21 and issues we will be hearing evidence on;
22 fourthly, I'll provide an outline of how I
23 propose to call the witnesses in these hearings.

24 Starting off, then, with my
10:11 25 role as Commission Counsel, my primary



1 responsibility as Commission Counsel is to
2 present, in a logical and efficient manner, all
3 relevant evidence which the Commission needs to
4 hear to carry out its mandate. It is my task to
10:11 5 initially identify the subject matters that need
6 to be explored by the Commission, I must identify
7 the issues that ought to be considered, determine
8 the witnesses that ought to be called, conduct
9 the examination-in-chief of each witness, and,
10:11 10 finally, prepare a complete documentary record to
11 be tendered before the Commission.

12 To assist me in discharging
13 these responsibilities, I will be looking to
14 counsel for the parties with standing, as I
10:11 15 already have, for their input and, where
16 necessary and appropriate, I will continue to be
17 guided by your directions, Mr. Commissioner.

18 In June of 2004 the Commission
19 invited the parties with standing to make written
10:11 20 submissions regarding the scope of the
21 Commission's mandate. The Commission prepared a
22 position paper which set out our initial
23 interpretation of the Terms of Reference and a
24 general outline of our mandate. This position
10:12 25 paper was provided to the parties for their



1 review and input. The Commission received a
2 number of helpful submissions and the position
3 paper was revised to reflect some of the parties'
4 submissions. The revised paper was circulated
10:12 5 and I think I can state that there is general
6 agreement amongst the parties regarding the
7 parameters of this inquiry. However, I should
8 point out that the purpose of this exercise was
9 nothing more than to seek consensus on a general
10:12 10 outline in advance of the hearings, it was not
11 intended to decide in advance all issues relating
12 to the Commission's mandate. I anticipate, from
13 time to time, we may find ourselves addressing
14 issues relating to the Commission's mandate.

10:12 15 In conjunction with our work on
16 the position paper, one of our first steps was to
17 assemble relevant documents and records relating
18 to this matter.

19 We obtained the original
10:12 20 Saskatoon City Police investigation file and the
21 court documents and transcript of Mr. Milgaard's
22 1970 trial proceedings.

23 We obtained copies of the
24 records relating to Mr. Milgaard's two
10:13 25 applications to the Federal Justice Minister for



1 review of his convictions.

2 We obtained copies of the
3 Supreme Court reference record and the transcript
4 of its proceedings.

10:13 5 We also obtained all of the
6 RCMP's records relating to this matter. The RCMP
7 has played a number of different roles in the
8 David Milgaard case. In addition to being
9 involved in 1969, in a brief way, the RCMP also
10:13 10 assisted the Federal Justice Minister in
11 investigating Mr. Milgaard's applications for
12 review of his conviction. This investigation
13 took place from 1990 to 1992. In 1993, the RCMP
14 became involved again when it was asked by the
10:13 15 Government of Saskatchewan to investigate alleged
16 wrongdoing in the investigation and prosecution
17 of David Milgaard. The RCMP conducted an
18 extensive investigation, including interviews of
19 hundreds of witnesses and others involved in the
10:14 20 investigation and the prosecution of David
21 Milgaard. Then again, in 1997, the RCMP were
22 asked to conduct the investigation for the
23 prosecution of Larry Fisher. We have obtained
24 all those investigation documents.

10:14 25 We have also obtained all of



1 the documents assembled by David and Joyce
2 Milgaard and their counsel over the many years
3 they campaigned to overturn his conviction.

4 We obtained the Government of
10:14 5 Saskatchewan's records relating to their dealings
6 with this matter. The documents include the
7 original files relating to the prosecution of
8 Mr. Milgaard in 1969 and 1970, the government's
9 records relating to their participation in the
10:14 10 Supreme Court reference, and the events that
11 followed the setting aside of Mr. Milgaard's
12 conviction. We also obtained their complete file
13 relating to the prosecution of Larry Fisher.

14 From Mr. Beresh, we obtained
10:14 15 Mr. Fisher's files relating to his involvement in
16 the Supreme Court reference, and the defence of
17 his rape and murder charges. Through the parties
18 and various other sources we have assembled a
19 rather significant collection of media reports.
10:15 20 Many of these reports, over the 36 years, contain
21 statements and comments from some of the key
22 players, and these reports will assist the
23 Commission at times in determining who said what,
24 and when.

10:15 25 Last, but not least, we have



1 secured the exhibits that were tendered at both
2 the David Milgaard and Larry Fisher trials.
3 These exhibits are currently lodged with the
4 Court of Queen's Bench in Saskatoon. We have
10:15 5 obtained a court order allowing Commission
6 Counsel access to these exhibits for the purposes
7 of our inquiry.

8 In total, we have collected
9 over 320,000 pages of documents. We believe we
10:15 10 have assembled a fairly complete record of
11 documents. In the course of our investigation,
12 we have discovered that some of the documents
13 cannot be found, they have either been misplaced
14 or destroyed. Our efforts to identify and secure
10:16 15 relevant documents and evidence will continue
16 throughout the inquiry process.

17 The documents from all of these
18 sources have been reorganized, and we have
19 created the database of key documents that will
10:16 20 be used by the Commission and parties throughout
21 the hearing process. Our document database has
22 been refined to approximately 22,000 documents
23 comprising 150,000 pages. The documents have all
24 been scanned and coded to facilitate quick
10:16 25 access, review, and use, not only by the



1 Commission but by the parties and witnesses. We
2 will also utilize the scanned images for
3 presentation of the documents to witnesses at the
4 hearings.

10:16 5 The Commission's documents were
6 made available electronically to the parties in
7 November through a secure Internet server. We
8 are also utilizing the Internet for delivery of
9 witness Can Say statements and public hearing
10:16 10 exhibit binders to counsel.

11 Once a document is tendered as
12 an exhibit at the hearing, a copy of that exhibit
13 will be available on the Commission's web site
14 for the media and the general public. These
10:17 15 exhibits will be posted within a day of being
16 tendered as evidence. The Commission will also
17 have hard copies of the exhibits available for
18 use at the hearings and for review by the public
19 and media.

10:17 20 The Commission has made
21 extensive efforts to use technology to assist
22 with the review and dissemination of the large
23 volume of documents that will form part of this
24 inquiry. In addition to being cost-effective, we
10:17 25 believe that the use of technology will



1 significantly assist counsel, and save the
2 Commission significant hearing time. It will
3 also allow us to improve public access to our
4 work.

10:17 5 I join with your comments
6 regarding a caution. This technology is new to
7 all of us, Mr. Commissioner, in particular other
8 counsel who will be examining, cross-examining
9 witnesses later this week. We will have a few
10:17 10 bumps, I'm sure, but after a couple weeks I think
11 it will prove to be a very efficient way to
12 conduct the hearing.

13 I would like to move from
14 documents to people. Shortly after we started
10:18 15 the process of collecting documents we turned our
16 attention to identifying people who may have
17 information or evidence relevant to the
18 Commission's mandate. From the documents, we
19 identified over 1200 people who have had some
10:18 20 involvement in the David Milgaard matter.
21 Obviously, and thankfully, not all of these
22 people have information or evidence relevant and
23 necessary for the Commission work. However, the
24 magnitude of the number of people involved does
10:18 25 provide some sense of the far-reaching nature the



1 David Milgaard matter has had on many, many
2 people.

3 We have identified
4 approximately 200 people that need to be
10:18 5 interviewed, we have contacted and interviewed
6 close to 100 people, and our work will continue
7 over the next year to talk to everyone we need to
8 talk to. In conducting these interviews we are,
9 fortunately, not starting from scratch. Over the
10:19 10 life of the David Milgaard case, almost all of
11 the witnesses have been interviewed by someone at
12 some point, and most have had their recollection
13 of events recorded at an earlier time. A number
14 of the key witnesses have testified in earlier
10:19 15 proceedings and we have the benefit of those
16 transcripts.

17 Not surprisingly, we have
18 learned that a number of persons involved in this
19 matter have died. In most cases, we have located
10:19 20 a previously-recorded recollection of events that
21 we will file with the Commission in lieu of their
22 testimony.

23 We have also encountered some
24 witnesses who have little or no recollection of
10:19 25 events, particularly those events dating back to



1 1969 and 1970.

2 For the most part, witnesses
3 have been very cooperative and helpful to the
4 Commission, and I would like to publicly
10:19 5 acknowledge and thank the witnesses in advance
6 for doing their duty and participating in this
7 important public inquiry.

8 The Commission's rules of
9 procedure and practice allow witnesses to have
10:20 10 their own legal counsels present for interviews
11 and while testifying before the Commission. A
12 number of witnesses have engaged counsel to
13 assist them and some witnesses will have legal
14 counsel with them when they testify.

10:20 15 There is no doubt that the
16 David Milgaard case has had a profound effect on
17 the lives of a number of people. We have
18 encountered some witnesses who are reluctant to
19 testify. It is most often because they have
10:20 20 participated in previous proceedings and
21 investigations relating to this matter and they
22 simply do not wish to be involved again. In some
23 cases, we are dealing with sensitive personal
24 matters, or embarrassing matters which witnesses
10:20 25 have attempted to put behind them. Despite these



1 reluctances, the Commission will not be deterred
2 in ensuring that all necessary evidence is called
3 before the Commission. However, we will do so in
4 a way that respects the rights of witnesses as
10:20 5 much as possible. I think we need to be
6 sensitive to the fact that testifying at this
7 public inquiry may be a difficult process for
8 some witnesses.

9 I would now like to turn to
10:21 10 discuss the Terms of Reference. This Commission
11 of Inquiry was established by the Government of
12 Saskatchewan on February the 20th, 2004. The
13 Government of Saskatchewan set the Commission's
14 mandate by way of Terms of Reference, included in
10:21 15 the Order-in-council, which established the
16 Commission of Inquiry.

17 The Terms of Reference set out
18 the Commission's specific duties and
19 responsibilities and prescribe the legal
10:21 20 boundaries and scope of the Commission's inquiry.
21 The Commission must ensure that it fulfills its
22 mandate as expressed in the Terms of Reference to
23 the fullest extent possible. The Commission must
24 also ensure that it does not go beyond the
10:21 25 boundaries of its mandate or delve into matters



1 that are outside its scope or purpose.

2 I would like to review some of
3 the key points in the Terms of Reference and
4 would ask that the document be called up, please.

10:21 5 In paragraph 1 the government
6 has asked the Commission to undertake four
7 distinct tasks. The first task is to inquire
8 into and report on any and all aspects of the
9 conduct of the investigation into the death of
10:22 10 Gail Miller. It is important to note that our
11 mandate is not limited to the investigation of
12 David Milgaard but, rather, the entire
13 investigation into the death of Gail Miller. We
14 are required to look at the totality of the
10:22 15 investigation into her death and not just that
16 part that related to David Milgaard.

17 The second task for the
18 Commission is to inquire into, and report on, any
19 and all aspects of the conduct of the subsequent
10:22 20 criminal proceedings resulting in the wrongful
21 conviction of David Milgaard on the charge that
22 he murdered Gail Miller. The Commission will
23 review the conduct of Mr. Milgaard's preliminary
24 hearing, trial, and appeals.

10:22 25 Thirdly, the Commission has the



1 responsibility to seek to determine whether the
2 investigation should have been re-opened based on
3 information subsequently received by the police
4 and the Department of Justice. The relevant time
10:23 5 period for this determination runs from the date
6 of Mr. Milgaard's conviction on January 31, 1970
7 to the date that the investigation into Gail
8 Miller's death was re-opened in July of 1997.
9 The investigation was re-opened, at this time,
10:23 10 when DNA evidence was received linking Larry
11 Fisher to the murder of Gail Miller.

12 The term 'police' referred to
13 in the Terms of Reference refers to both the
14 Saskatoon City Police, and the RCMP, as well as
10:23 15 any other police force. In this third aspect of
16 the inquiry, the Commission's mandate goes beyond
17 fact-finding, as the Commission must determine
18 whether the investigation should have been
19 re-opened earlier than it was in July of 1997.
10:23 20 The Commission must necessarily identify all
21 information that affected, or may have affected,
22 the re-opening of the investigation, and the
23 decision relating to that re-opening, and
24 determine what was done with it and what should
10:24 25 have been done with such information.



1 Lastly, the Commission is
2 required to make such recommendations as it
3 considers advisable relating to the
4 administration of criminal justice in the
10:24 5 Province of Saskatchewan. At the conclusion of
6 the fact-finding part of the inquiry the
7 Commission will hear expert evidence and
8 submissions on the systemic issues that have been
9 identified in the course of the inquiry.

10:24 10 Paragraph 2 of the Terms of
11 Reference provides an important limitation. The
12 Commission is required to perform its duties
13 without expressing any conclusion or
14 recommendation regarding the criminal or civil
10:24 15 responsibility of any person or organization and
16 without interfering in any ongoing criminal or
17 civil proceeding.

18 In paragraph 3 the Commission
19 is directed to deliver its final report
10:24 20 containing its comments, findings, conclusions,
21 and recommendations to the Attorney General of
22 Saskatchewan.

23 The Terms of Reference are
24 important and we will likely be referring back to
10:25 25 them from time to time during the course of the



1 hearings.

2 Thirdly, I would now like to
3 move to the chronology of significant events. I
4 propose to go through this chronology and I think
10:25 5 it is important to do so at the outset. Contrary
6 to what has been said by some commentators, this
7 inquiry is not just about reviewing what happened
8 36 years ago, the Commission's mandate goes far
9 beyond the events of 1969. Although the
10:25 10 investigation and trial of 1969 and 1970 will be
11 a significant part of the inquiry, and our
12 logical starting point, the Commission will focus
13 a considerable amount of its attention on what
14 happened in the 27 years following Mr. Milgaard's
10:26 15 wrongful conviction.

16 I have prepared a written
17 chronology of events that I am filing as an
18 exhibit before the Commission. It has been
19 provided to counsel and is being made available
10:26 20 to the public and media. This chronology is a
21 work in progress as I propose to supplement it
22 throughout the hearing. The words used in this
23 chronology to describe the events are mine and
24 are based on what I have reviewed in the
10:26 25 documents and discerned from witness interviews.



1 I have attempted to define and
2 describe the events in a neutral way. I believe
3 I have achieved that. I do not wish to preclude
4 or predetermine any evidence that might be heard
5 with respect to the matters identified in this
6 chronology. The chronology is intended to be a
7 resource to the hearing rather than evidence of
8 what is described in it. I think it is important
9 and of assistance to all involved in this
10 inquiry, the media and the public, to have a
11 document of this nature to help us all keep our
12 bearings in relation to the many events that have
13 occurred. In addition to going through this
14 chronology, I will also spend some time reviewing
15 maps of the relevant area. As we hear from
16 witnesses, particularly in the early stages,
17 familiarity with various landmarks will assist in
18 understanding the evidence.

19 The starting point in the
20 chronology is, interestingly enough, not the date
21 of Gail Miller's murder. The first event is
22 October 21, 1968 when victim -- and I will refer
23 to her as victim 1, is sexually assaulted near
24 18th Street between Avenue G and H in Saskatoon.
25 The assault took place in the evening, shortly



1 after 10:30 p.m., and the assailant had a knife.

2 Throughout this chronology,
3 Mr. Commissioner, I will be referring to six
4 sexual assault victims by victim 1 to 6. I do
10:27 5 not propose to use their names to protect their
6 privacy. At a later date, when we get into
7 hearing with respect to these sexual assaults, I
8 will be addressing the issue of doing what the
9 Commission can to protect the privacy of those
10:28 10 individuals.

11 The second event is about three
12 weeks later, November 13th, 1968, victim number 2
13 is sexually assaulted again near 18th Street
14 between Avenue E and F in Saskatoon, the assault
10:28 15 took place in the early evening. Both of
16 these --

17 COMMISSIONER MacCALLUM: What was the
18 date, Mr. Hodson, please?

19 MR. HODSON: November the 13th, 1968.

10:28 20 COMMISSIONER MacCALLUM: Thank you.

21 MR. HODSON: And, at the time of these
22 assaults, the assailant was not immediately
23 apprehended.

24 The next event is November
10:28 25 29th, 1968, victim number 3 is indecently



1 assaulted near Wiggins Avenue and Temperance
2 Street in Saskatoon, the assault took place in
3 the evening shortly after 9:30 p.m.

4 The next date, and it's an
10:29 5 important date in this inquiry, is January 31,
6 1969, and in the early hours of that morning
7 David Milgaard, Ron Wilson and Nichol John
8 travelled from Regina to Saskatoon and arrived in
9 the earlier morning. They became lost, they got
10:29 10 stuck at least once, and eventually arrived at
11 the home of Albert Cadrain at 334 Avenue O South
12 at approximately 9:00 or 9:30 a.m. They left
13 later that day for Calgary and were joined on the
14 trip by Albert Cadrain.

10:29 15 If I could call up map number
16 031006, please, Mr. Commissioner. This map --
17 and throughout the course of this hearing we have
18 three separate maps, and perhaps I'll just run
19 through and describe them. This map was
10:29 20 exhibited at the David Milgaard trial, and you
21 will see, up at the front, we have created a copy
22 of that map with a dry erase board if witnesses
23 wish to use that map. We'll refer to this map,
24 this is map A, we will refer to it from time to
10:30 25 time.



1 If I could maybe just quickly
2 call up map B, and I'll describe what's in that
3 map, this is a map that was presented at the
4 Supreme Court of Canada reference in 1991 and,
10:30 5 again, has some information we will be referring
6 to a bit later.

7 And the third map is a map
8 prepared by the Milgaard group in their efforts
9 to have the investigation re-opened.

10:30 10 And copies of all of those maps
11 are at the front. We have also obtained, at the
12 front, an aerial photograph of the area from
13 1974, which was the closest date that we could
14 get to the date of the murder, and that's there
10:30 15 to assist the parties, the public, the media, and
16 witnesses.

17 If I could go back to this map
18 and just have it zoomed in, I would like to touch
19 on a couple of areas. This is, bearing is
10:30 20 north-south. Right down here at the bottom is
21 334 Avenue O South, and that was the home of
22 Albert Cadrain, where the Milgaard vehicle went
23 that morning.

24 The second location that we'll
10:31 25 hear evidence about is the Trav-a-leer Motel, up



1 in the left, and that is where that group went to
2 get a map sometime after 7:00 a.m. that morning.

3 The third area relates to
4 Avenue T, right in this area, in an alley where
10:31 5 the Milgaard-John and Wilson vehicle encountered
6 Mr. and Mrs. Danchuk between 7:30 and 7:45. We
7 have two gas stations, the first Belmont Texaco
8 where they went to get a tow truck to boost their
9 vehicle, and then later that day the Hillcrest
10:31 10 Texaco where they took their car for repairs.

11 Now, turning to Gail Miller, on
12 the day of January 31, 1969, Gail Miller left her
13 house at 130 Avenue O South at or shortly after
14 6:45 a.m. Following her departure from home she
10:32 15 was sexually assaulted and murdered. Her body
16 was discovered by young children at approximately
17 8:30 a.m. in a back alley. The Saskatoon City
18 Police were called and Detectives Parker and Reid
19 arrived at the scene at approximately 8:40 a.m.
10:32 20 or 8:50 a.m.

21 Gail Miller was a 20-year-old
22 nursing assistant and worked at City Hospital,
23 she resided in a boarding house at 130 Avenue O
24 South, and a number of other young women and men
10:32 25 resided there with her. On the morning of her



1 murder she was on her way to work, to work a 7:30
2 a.m. shift at the City Hospital, and at the time
3 was believed to be on her way to catch the bus.
4 Gail Miller was stabbed approximately 12 times as
10:32 5 well as numerous other lacerations in the neck
6 area. Dr. Emson determined the cause of death to
7 be two of the stab wounds that punctured her
8 lung. Dr. Emson will be testifying and will
9 elaborate further.

10:33 10 When her body was found her
11 nurse's uniform was rolled at her waist and her
12 arms were out of the arm holes, however her arms
13 were in her coat, and there were stab marks
14 through the coat but not through the dress. We
10:33 15 will be hearing more about that throughout the
16 hearing.

17 If I could have you call up map
18 105048 please, map B, and if you could just zoom
19 in on this area, please. This is -- whoops --
10:33 20 this area there shows where Gail Miller's
21 boarding house was at the top on 130 Avenue O
22 South. Now if we could go back to zone 2,
23 please, on that, now here -- just leave it
24 here -- here is the bus stop on Avenue O and 20th
10:34 25 Street that we will be hearing about, here is the



1 second bus stop at Avenue N and 20th Street.

2 Down here is the Cadrain house, and living in the
3 basement at the time, of the Cadrain house, was
4 Larry and Linda Fisher. If I could just ask you
10:34 5 to zoom in this area, please.

6 And, of course, this is 20th
7 Street, boarded by Avenue O, Avenue N and 20th,
8 and right at the top is where Gail Miller's house
9 was, right down Avenue O was where the
10:34 10 Cadrain-Fisher house was, the body was found in a
11 back alley there, right behind 227 Avenue -- 221
12 -- pardon me, 227 Avenue N. We will also be
13 hearing about a funeral home that is still
14 located on the corner of 20th Street and Avenue
10:35 15 N.

16 The next event,
17 Mr. Commissioner, also occurs on January 31,
18 1969. A lady by the name of Margaret Yannicki is
19 indecently assaulted on Avenue H, between 20th
10:35 20 and 21st Street, at approximately 7:07 a.m.
21 Ms. Yannicki makes a report to the police later
22 that day. Her assailant is not apprehended.
23 Many years later, Ms. Yannicki identifies Larry
24 Fisher as her assailant, and we will be hearing
10:35 25 from Ms. Yannicki at this hearing.



1 On January 31, 1969 -- if you
2 could just call up map B please, again, and just
3 go the top, if you could rotate it, yeah, and
4 just zoom in on, again, this area. That morning
10:36 5 at 10:20 a.m. a broken knife blade is found, at
6 approximately 10:20 a.m., by Lieutenant Penkala
7 at the location where the body was found. At
8 approximately 2:30 p.m. Detective Parker locates
9 a red and black sweater and one boot buried in
10:36 10 the snow a short distance from the location where
11 the body of Gail Miller was found. The sweater
12 and boot is right there.

13 The next date in the chronology
14 is February 3rd, 1969. And again, if you could
10:36 15 have just the full picture of this map, please.
16 On February 3rd, 1969, Larry Fisher was
17 questioned by Detective McCorrison of the
18 Saskatoon City Police Service. According to his
19 notes, at 6:49 a.m. he encountered Mr. Fisher in
10:37 20 the 300 block of Avenue O South. There is
21 Mr. Fisher's home again, the Cadrain house, at
22 334 Avenue O South, there is the bus stop at
23 Avenue O that Mr. Fisher caught to work, and this
24 is the 300 block. Somewhere in that block
10:37 25 Detective McCorrison states that he encounters



1 and questioned Larry Fisher. Mr. Fisher is
2 reported to have said to Mr. McCorriston that on
3 January 31, 1969, the date of the murder, he
4 caught the bus to work at 6:30 a.m. at Avenue O
10:37 5 and 20th Street and saw nothing unusual. He is
6 reported to be working at Mason Reconstructors --
7 or Contractors at the University of Saskatchewan,
8 and to be wearing a yellow hard hat.

9 If I could just go back up into
10:37 10 the zone 2 there, please. Again, on February the
11 3rd, 1969, a purse and contents are found in a
12 garbage can by Detective McCorriston of the
13 Saskatoon City Police in the east-west portion of
14 the T alleyway, right there.

10:38 15 On February 4, 1969, Lieutenant
16 Penkala of the Saskatoon City Police found two
17 yellow frozen lumps in the snow at the murder
18 scene, they were delivered to the lab and are
19 later determined to contain semen and hair. On
10:38 20 February 4, 1969, David Milgaard and his
21 travelling companions returned to Regina.

22 On February 6th, 1969, Albert
23 Cadrain is arrested by the Regina City Police for
24 vagrancy and, the next day, is sentenced to seven
10:38 25 days in jail which he serves in the Regina area.



1 On March 2nd, 1969, a knife
2 handle is found by Richard Hounjet in his back
3 yard at 227 Avenue N North. The Saskatoon City
4 Police is contacted and Detective McCorriston
10:39 5 retrieves the handle. It is later concluded that
6 the knife handle matches the blade that was found
7 at the location of Gail Miller's body.

8 Again on March 2nd, 1969, after
9 returning to Saskatoon, Albert Cadrain contacts
10:39 10 the Saskatoon City Police and provides a
11 statement reporting suspicious behaviour by David
12 Milgaard during their trip and indicating that,
13 when David Milgaard arrived at his house on the
14 morning of January 31, 1969, he had blood on his
10:39 15 clothing.

16 And, Mr. Commissioner, this
17 appears to be the first date that Mr. Milgaard's
18 name was mentioned in connection with the
19 investigation.

10:40 20 Now Albert Cadrain is deceased,
21 he died in the mid-'90s, however we do have quite
22 a record of his earlier testimony and interviews
23 that we will be hearing throughout the course of
24 the hearing, and, as well, from his family
10:40 25 members.



1 That same evening, on March
2 2nd, 1969, David Milgaard was apprehended in
3 Winnipeg by the Winnipeg Police and retained in
4 custody.

10:40 5 On March 3rd, 1969, David
6 Milgaard is interviewed in the morning in
7 Winnipeg by Detective Karst of the Saskatoon City
8 Police and Staff Sergeant Edmondson of the RCMP.
9 Mr. Milgaard provided particulars of his
10:40 10 activities on January 31, 1969. On that same
11 date, March 3, 1969, Ronald Wilson was
12 interviewed by -- in Regina by Inspector Riddell
13 of the RCMP. Ron Wilson, in this interview,
14 denied knowledge of the Gail Miller murder and
10:41 15 indicated that he was not separated from David
16 Milgaard on the morning of January 31, 1969, at
17 any point, for any more than one or two minutes.

18 On March 11th, 1969, Nichol
19 John is first interviewed in Regina by Inspector
10:41 20 Riddell of the RCMP. It is reported that she
21 indicates that at no point during the morning of
22 January 31, 1969 was she separated from David
23 Milgaard or Ron Wilson for more than one or two
24 minutes.

10:41 25 On March 18th, 1969 Lieutenant



1 Short and Detective Karst of the Saskatoon City
2 Police transport Albert Cadrain to Regina, they
3 locate Nichol John, and transport both youths to
4 the Regina jail. It is reported in the police
10:41 5 reports that Nichol John is placed with Albert
6 Cadrain and that, following their meeting, Nichol
7 John indicates that she believes Albert Cadrain
8 is telling the truth, that everything he says is
9 exactly what happened on the trip, and that she
10:42 10 was of the opinion that David Milgaard was a
11 dangerous character. On that same date, March
12 18th, 1969, Ron Wilson is interviewed at the
13 Regina Correctional Centre by Lieutenant Short
14 and Detective Karst. It is reported by
10:42 15 Lieutenant Short that nothing further is learned
16 at this time.

17 On April 4, 1969, Gail Miller's
18 wallet is found in the 300 block of Avenue O
19 South. If you just go to the bottom half of this
10:42 20 map, please, the wallet was found in this
21 vicinity by a young fellow by the name of Giles
22 Beauchamp who we will be hearing from next week.

23 On April the 5th, 1969 it's
24 reported that Detective Karst retrieves a stained
10:42 25 toque from Helen Gerce that she found in the 300



1 block of Avenue O South, next door to the Cadrain
2 residence. It is reported that Ms. Gerce
3 indicated that she found the toque at the front
4 of her property shortly following the murder of
10:43 5 Gail Miller.

6 On April 14th, 1969, Nichol
7 John is interviewed in Regina by Detective Karst
8 of the Saskatoon City Police. She denies that
9 David Milgaard was apart from the group long
10:43 10 enough to commit the offence. She indicates that
11 she does not recall seeing blood on the clothes
12 of David Milgaard. She is reported to state that
13 David Milgaard acted queer on the day in question
14 and seemed to be in a hurry.

10:43 15 On April 18, 1969, David
16 Milgaard is interviewed by Detective Barrett of
17 the Saskatoon City Police. He again denies any
18 involvement in the murder of Gail Miller. On
19 that same date, blood and saliva samples are
10:43 20 taken from Mr. Milgaard, as well as hair samples.

21 The next date is May of 1969,
22 and I don't believe there is a specific date that
23 has been pinned down, but a party occurs in a
24 Regina motel room. Present are David Milgaard,
10:44 25 Craig Melnyk, Ute Frank, Deborah Hall, George



1 Lapchuk, Bob Harris and perhaps others, and
2 perhaps not all there at the same time. We will
3 be hearing evidence about the motel, re-enactment
4 evidence from time to time, and some of the
10:44 5 people who were in that motel room were reported
6 to allege that David Milgaard re-enacted the
7 murder of Gail Miller during that party. We will
8 hear from all those people.

9 Next, on May 21, 1969, Ron
10:44 10 Wilson is interviewed in Regina by Detective
11 Karst and Detective Sergeant Raymond Mackie as
12 well as two Regina City Police constables, Walter
13 and Dike. It is reported by Detective Karst
14 that Ron Wilson admits that David Milgaard left
10:45 15 the vehicle when they became stuck at
16 approximately 6:45 a.m., and in the police report
17 it is reported that Ron Wilson is to have said
18 that David Milgaard returned to the vehicle
19 slightly out of breath, and Ron Wilson admits
10:45 20 that he has since thought that this is when David
21 Milgaard was probably involved in the murder.

22 Again on May 21, 1969,
23 Detective Karst reports that he transports Ron
24 Wilson back to Saskatoon. En route it is
10:45 25 reported that Wilson divulges that David Milgaard



1 and Ron Wilson had discussed B & Es or rolling
2 someone and snatching her purse as a source of
3 money during the trip that was to start on
4 January 31, 1969. It is reported that Ron Wilson
10:45 5 also states that David Milgaard broke into an
6 elevator near Aylesbury and stole a flashlight.
7 Ron Wilson states that he could not recall a
8 knife being in the car. Ron Wilson is then taken
9 on a drive around the general area of the crime
10:46 10 and is reported to recognize the Trav-a-leer
11 Motel and the Avenue T location where they became
12 stuck. He is also reported to have pointed out
13 the area of 22nd Street West and Avenues M, N,
14 and P as an area similar to the location where
10:46 15 the girl was asked for directions.

16 On May 22nd, 1969, Detective
17 Karst, Lieutenant Short, and Morality Sergeant
18 Oleksyn take Ron Wilson on a further drive around
19 the area where Gail Miller's body was found and
10:46 20 to other parts of Saskatoon. Ron Wilson is
21 reported to indicate that when they were stuck
22 the initial time, before meeting the Danchuks,
23 they were assisted by two individuals in a cream
24 or yellow-coloured Dodge or Chrysler.

10:46 25 Again on May 22nd, 1969, Nichol



1 John is interviewed in Regina by Detective
2 Sergeant Raymond Mackie and Constable Walters.
3 She is then driven to Saskatoon. While in
4 Saskatoon, she is transported to 20th Street
10:47 5 West, she is reported to have remembered some
6 locations in the vicinity of the crime scene.
7 She is driven to the entrance to the alleyway
8 behind the funeral home and she is reported to
9 have indicated that this was approximately where
10:47 10 they were stuck. She is reported to have
11 forgotten much of what she witnessed. Again,
12 there is the funeral home and there is the back
13 alley.

14 And I should add,
10:47 15 Mr. Commissioner, in going through these reports
16 I'm simply setting out what is in the police
17 reports prepared at the time to give us some
18 sense of what was reported to have happened at
19 this time, and I reiterate my comment; this is
10:47 20 not for the purpose of giving evidence but,
21 rather, to set out what appears to have happened
22 based on various reports.

23 On May 22nd, 1969, again
24 Superintendent Wood, Lieutenant Penkala, and
10:47 25 Detective Sergeant Raymond Mackie interview



1 Inspector Art Roberts of the Calgary Police
2 Service so that he is prepared to interrogate Ron
3 Wilson and Nichol John on May 23. Mr. Roberts
4 was a trained polygraph operator with the Calgary
10:48 5 Police Service and was called in to assist.
6 Mr. Roberts is deceased, he did not testify at
7 the Milgaard trial, however he did testify at the
8 Supreme Court reference and we have his
9 transcript.

10:48 10 On May 23rd, 1969, Ron Wilson
11 is interviewed by Inspector Roberts, the
12 polygraph operator, and he undergoes a polygraph
13 examination. He then provides a statement
14 implicating David Milgaard in the murder of Gail
10:48 15 Miller, and we will hear more about that.

16 Also on May 23, 1969, after
17 Mr. Wilson, Nichol John is also interviewed by
18 Inspector Roberts. It is reported that she does
19 not undergo a polygraph examination, however, in
10:48 20 her interview she is reported to have implicated
21 David Milgaard in the murder of Gail Miller. The
22 next day, on May 24, 1969, Nichol John provides a
23 written statement to Detective Sergeant Raymond
24 Mackie implicating David Milgaard in the murder
10:49 25 of Gail Miller. And also, on May 24, 1969, Ron



1 Wilson makes additions to his May 23rd statement
2 and continues to implicate David Milgaard.

3 On May 30, 1969, David Milgaard
4 is arrested in Prince George, B.C., for the
10:49 5 murder of Gail Miller. On June 2nd, 1969, he is
6 formally charged with non-capital murder. If I
7 could call up document 065435, just zoom in on
8 that.

9 On August 18, 1969 David
10:50 10 Milgaard's preliminary hearing commences. On
11 September 11th, 1969 Mr. Milgaard is committed to
12 stand trial for the murder of Gail Miller.

13 On January 19th, 1970, David
14 Milgaard's trial commences in Saskatoon Court of
10:50 15 Queen's Bench before Chief Justice Bence and a
16 jury. On January 29, 1970, the Crown's case
17 concludes, and David Milgaard elects not to call
18 any evidence. On January 31, 1970, one year
19 after the date of Gail Miller's death, the jury
10:50 20 hands down its verdict finding David Milgaard
21 guilty of the murder of Gail Miller. Call up
22 document 057924. Mr. Milgaard was sentenced to
23 life in prison.

24 Three weeks later, on February
10:51 25 21, 1970, victim number 4 is sexually assaulted



1 in the 200 block of Avenue V South in Saskatoon.
2 The assault takes place in the evening, at
3 approximately 9:00 p.m., and the assailant is not
4 immediately apprehended.

10:51 5 In July of 1970 Larry Fisher
6 goes from Saskatoon to Fort Garry, Manitoba, for
7 work. On August the 2nd, 1970, Larry Fisher
8 sexually assaults victim number 5 in Fort Garry,
9 Manitoba. On September 19th, 1970, Larry Fisher
10:51 10 is arrested while sexually assaulting victim
11 number 6 in Fort Garry, Manitoba. He confesses
12 to the crime and also confesses to raping and
13 robbing another girl in Fort Garry one month
14 earlier, he is charged with sexual assault, and
10:52 15 is retained in custody. On September 21, 1970,
16 Larry Fisher is charged with sexually assaulting
17 victim number 5 -- that was the Fort Garry
18 victim -- and he remains in custody.

19 On October 21, 1970, Larry
10:52 20 Fisher confesses to a rape and an attempted rape
21 in Saskatoon, and an attempted rape in Winnipeg.
22 On October 22, 1970 it is reported that Detective
23 Karst of the Saskatoon City Police Service
24 travels to Winnipeg and interviews Larry Fisher.
10:52 25 Larry Fisher admits to the rape of victim number



1 4 and the attempted rape of victim number 3 in
2 Saskatoon. On December 30, 1970, Larry Fisher is
3 charged with the sexual assault of victim 1, 2,
4 and 4 and the indecent assault of victim number
5 3.

6 The next date in the chronology
7 is January 5, 1971, and on this date David
8 Milgaard's appeal of his conviction is dismissed
9 by the Saskatchewan Court of Appeal. Call up
10 document ID 186117, just see if we can get the
11 first and last pages of that decision up. This
12 is the first and last page of the Court of
13 Appeal's judgement, and if you could just call
14 out that portion of the last page, The Court
15 says:

16 "There are, in my view, no grounds upon
17 which this court would be justified in
18 interfering with the jury's decision.

19 The appeal is therefore
20 dismissed."

21 Next, on May 28, 1971, Larry
22 Fisher pleads guilty in Winnipeg court to the
23 sexual assaults of victim number 5 and victim
24 number 6. Those are the two Manitoba victims.
25 He is sentenced to a total of 13 years.



1 On November 15th, 1971, David
2 Milgaard's application for leave to appeal is
3 dismissed by the Supreme Court of Canada.

4 On December 21, 1971, Larry
10:54 5 Fisher is transferred from the Prince Albert
6 Penitentiary and appears in Regina Court of
7 Queen's Bench, he pleads guilty to three charges
8 of rape and one charge of indecent assault for
9 victims 1, victim 2, victim 3, and victim 4, he
10:54 10 is sentenced to ten years in jail to be served
11 concurrent with his existing sentence.

12 Now the next date in the
13 chronology is August 31, 1977 when David Milgaard
14 is formally denied day parole.

10:55 15 I'm not suggesting,
16 Mr. Commissioner, that nothing happened between
17 1971 and 1977, we will certainly be hearing
18 evidence about efforts made by David and Joyce
19 Milgaard during that time frame, I have just not
10:55 20 noted any significant events in the chronology.

21 Next, on June 19th, 1979, David
22 Milgaard's parole application is denied.

23 On January 26th, 1980, Larry
24 Fisher is released from prison. On March 31,
10:55 25 1980, Larry Fisher sexually assaults Ethel Steele



1 in North Battleford, and is arrested shortly
2 thereafter.

3 On August 28th, 1980 Linda
4 Fisher, who was Larry Fisher's wife in January
10:55 5 1969, attends at the Saskatoon City Police
6 station and provides a statement to Inspector
7 Wagner indicating that she has had suspicions
8 about Larry Fisher in relation to the Gail Miller
9 murder. She describes events that occurred at
10:56 10 her home on the morning of January 31, 1969
11 respecting an argument with Larry Fisher, and an
12 accusation surrounding a lost paring knife, and
13 the murder of the nurse that morning. She
14 recounts Larry's reaction and provides a
10:56 15 description of the knife. She states that Larry
16 was never questioned about the crime and she has
17 a feeling that David Milgaard is innocent. We
18 will certainly hear from Linda Fisher and the
19 Saskatoon City Police with respect to this
10:56 20 incident.

21 On June 11th, 1981, Larry
22 Fisher is convicted of the attempted murder and
23 rape of Ethel Steele in a North Battleford court,
24 he is sentenced to ten years in prison.

10:56 25 In or about March of 1988 Dr.



1 Ferris indicates that, with the then-current DNA
2 science, that it is unlikely that DNA testing in
3 relation to Gail Miller's clothing could be
4 successfully conducted. We will be hearing
10:57 5 evidence about the efforts that went on, from
6 time to time, to have Gail Miller's clothing
7 tested for DNA.

8 The next significant event
9 occurs on December 28th, 1988. This is when
10:57 10 David Milgaard makes his first application to the
11 Federal Justice Minister to review his conviction
12 pursuant to Section 690 of the *Criminal Code*.
13 And if you could call up OP11, the section of the
14 *Criminal Code*, this section was in effect at the
10:57 15 time, it has since been amended but at the time
16 you will note:

17 "The Minister of Justice may, in an
18 application for the mercy of the Crown,"
19 do one of three things; first, under point:

10:57 20 "(a) direct by order, in writing, a new
21 trial;

22 (b), refer the matter at any time to the
23 Court of Appeal for hearing and
24 determination by that court as if it were an
10:58 25 appeal by the convicted person;



1 (c) refer to the Court of Appeal at any
2 time, for its opinion, any question on which
3 he desires the assistance of that court, and
4 The Court shall furnish its opinion
10:58 5 accordingly."

6 And, of course, the Minister can do nothing.

7 Next, if you could call up
8 document ID 000002, and this is the letter dated
9 December 28th, 1988 from Mr. Wolch, on behalf of
10:58 10 David Milgaard, to the then-Minister of Justice
11 Joe Clark. In this initial application -- and,
12 again, we will be hearing evidence on this --
13 but, at the time, there were primarily two issues
14 that were raised in the application, one relating
10:58 15 to evidence surrounding the motel room alleged
16 re-enactment and some forensic issues. Over the
17 next number of months, Mr. Wolch and others added
18 grounds to this application, and in a moment I'll
19 refer to Ms. Campbell's letter in reply that sets
10:59 20 those out. After this letter was sent in the
21 federal justice engaged the RCMP to assist them
22 with the review and investigation required to
23 consider this application.

24 The next significant date is
10:59 25 February 26th, 1990 when David Milgaard's legal



1 counsel, Hersh Wolch, receives an anonymous tip
2 that Larry Fisher committed the murder of Gail
3 Miller.

4 On June the 4th, 1990, Ron
10:59 5 Wilson, who was David Milgaard's travelling
6 companion on January 31, 1969, provides a
7 statement recanting some of his trial testimony.

8 On February 27, 1991 the
9 Federal Minister of Justice dismissed David
11:00 10 Milgaard's application to review his conviction
11 pursuant to Section 690 of the *Criminal Code*. If
12 you could call up document 001529, please, this
13 is a letter from Kim Campbell, then-Minister of
14 Justice, to Mr. Wolch on February 27, 1991. If
11:00 15 you could just call out this paragraph, please.
16 In this letter Ms. Campbell states:

17 "Upon receipt of your application,
18 departmental counsel undertook a full review
19 of the case. Their advice following that
11:00 20 review has been provided to me, and I have
21 considered it along with the information and
22 submissions you provided to the Department.
23 In view of the complexity of the issues
24 raised and the considerable public interest
11:00 25 that has been generated in the case, I



1 thought that I should describe in some
2 detail the factors and evidence that have
3 led me to conclude that a remedy under
4 Section 690 is inappropriate in the
5 circumstances."

6 If you could then call up document 001531, which
7 is page 3 of that letter, and you will see here
8 that Kim Campbell sets out the five issues raised
9 in the application because they were supplemented
10 from the first application. The five issues that
11 were considered by the minister, number 1 is:

12 "the submission that new evidence from
13 Deborah Hall and Ute Frank, ...",
14 again they were in the motel room:

15 "... who were not called at trial,
16 contradicts the trial evidence of Crown
17 witnesses Melnyk and Lapchuk;"
18 so again the motel room evidence was at issue;

19 "(2) the submission that 'advances in
20 scientific technology have allowed the
21 application to discredit the forensic
22 evidence called at his trial and to provide
23 evidence that exculpates him as the
24 perpetrator of the crime';"

25 thirdly, considered by the Minister:



1 "the submission that there is new evidence
2 in the form of the statement provided by
3 Ronald Dale Wilson on June 4, 1990; and the
4 request to re-examine the evidence of Albert
5 Cadrain and Nichol John in light of the
6 contents of Mr. Wilson's June 1990
7 statement";

8 Fourth:

9 "the allegation that one Larry Fisher may
10 have committed the crime and the impact that
11 unsolved rapes in Saskatoon could have had
12 on the jury's deliberations, and
13 (5) the submissions that David Milgaard
14 could not have killed Gail Miller because
15 she was killed at another location and her
16 body deposited in the alley; or, if the
17 offence had been committed in the alley,
18 David Milgaard had insufficient time to
19 commit it, or was not near the scene of the
20 crime at the time it was committed."

21 So again, according to Kim Campbell's letter,
22 these are the five issues that were considered by
23 the Minister of Justice.

24 If you could then go to the
25 last page of the letter which is 001540, and call



1 out that first paragraph in, the conclusion.

2 Ms. Campbell states:

3 "Based on my review of the evidence and the
4 information and submissions presented in
11:03 5 this application, I am satisfied that the
6 verdict of the jury was fair and justified
7 according to the law applicable at the time,
8 and continues to be so notwithstanding the
9 information and submissions you have brought
11:03 10 to my attention."

11 Again, if you could call out starting there,

12 'there is no body of new evidence', she states:

13 "There is no body of new evidence which
14 constitutes a reasonable basis for believing
11:03 15 that a miscarriage of justice likely
16 occurred in this case, or, to adopt the test
17 suggested by you during submissions, there
18 is no basis to conclude that a miscarriage
19 of justice may have occurred here.

11:04 20 Accordingly I am not prepared to refer this
21 case back to the courts."

22 So that letter, again, was February 27, 1991.

23 On March 13th, 1991, David
24 Milgaard's application for parole is turned down.

11:04 25 On August the 6th, 1991, Gail



1 Miller's family provides a statement to David
2 Asper, counsel for David Milgaard, to be released
3 to the public indicating that, in light of the
4 new evidence that has been provided to them, that
11:04 5 they feel there is reasonable doubt as to the
6 guilt of David Milgaard.

7 Call up document 009067. This
8 is a letter from the Miller family to Mr. Asper
9 August 6th, 1991, and if you could just call out
11:04 10 that part, please. The Miller family states:

11 "After careful consideration, we have
12 decided to release a statement which may be
13 presented to the press. It follows below:

14 In light of the new evidence
11:05 15 presented to us by Centurion Ministries,
16 Inc., we feel that there is reasonable doubt
17 as to the guilt of David Edgar Milgaard. We
18 are making this statement simply because we
19 want justice to prevail."

11:05 20 On August 14th, 1991 David
21 Milgaard filed a second application to the
22 Minister of Justice to review his conviction
23 pursuant to Section 690 of the *Criminal Code*. If
24 you could call up document 169054 and 55, you see
11:05 25 the date of August 14th, 1991 from Mr. Wolch to



1 Kim Campbell, and if you could call out, please,
2 on the second page, this paragraph in the letter
3 Mr. Wolch says:

4 "In light of the above, I would ask you to
5 treat this letter as a fresh application to
6 re-open the Milgaard case. It is our view
7 that had you been aware of these additional
8 developments your decision would not have
9 been the same. We are not asking you to
10 declare David Milgaard innocent, as obvious
11 as it may be. We are simply asking that you
12 have an impartial tribunal adjudicate this
13 matter with full disclosure and with
14 Mr. Milgaard being properly represented."

15 And, again, this letter talks primarily about
16 further information regarding Larry Fisher's
17 possible guilt.

18 On November 28, 1991, the
19 Federal Minister of Justice refers David
20 Milgaard's case to the Supreme Court of Canada
21 for a hearing. Call up document 002637 and 38.
22 Again the date, November 28th, 1991, if you could
23 call out those two paragraphs, please. It
24 states:

25 "WHEREAS there exists widespread concern



1 whether there was a miscarriage of justice
2 in the conviction of David Milgaard and it
3 is in the public interest that the matter be
4 inquired into;

11:07 5 AND WHEREAS the Governor in Council sees fit
6 to refer that matter to the Supreme Court of
7 Canada;"

8 If I could then have you call out what it is that
9 the Supreme Court of Canada is asked to do.
11:07 10 Again these, the questions submitted to the
11 Supreme Court of Canada for hearing and
12 consideration, are:

13 "(a) upon a review and consideration of the
14 judicial record, the Reference Case that
11:07 15 will be filed before this Court, and such
16 further or other evidence as the Court, in
17 its discretion, may receive and consider,
18 does the continued conviction of David
19 Milgaard in Saskatoon, Saskatchewan for the
11:08 20 murder of Gail Miller, in the opinion of the
21 Court, constitute a miscarriage of justice?"

22 And:

23 "(b) depending on the answer to the first
24 question, what remedial action under the
11:08 25 *Criminal Code*, if any, is advisable?"



1 Next, on November 29, 1991, unrelated to the
2 Supreme Court proceedings, the report of the
3 Saskatoon Police Commission is released. This is
4 a report respecting the investigation into the
11:08 5 retention of files by the Saskatoon City Police
6 relating to Larry Fisher. Some records of sexual
7 assault files were missing, the Commission
8 investigated and delivered a report, again we
9 will be hearing about that through the course of
11:08 10 this hearing.

11 On December 20, 1991, Larry
12 Fisher applied for and is granted standing to
13 participate in the Supreme Court of Canada
14 reference relating to David Milgaard.

11:09 15 On January 16, 1992, the
16 Supreme Court of Canada reference case begins.

17 On March 11th, 1992, DNA
18 samples obtained from Larry Fisher on March 8,
19 1992 are delivered to the crime laboratory in
11:09 20 Ottawa. On April 6th, 1992 it is reported that
21 attempts at DNA genetic code testing in the U.S.
22 have produced no conclusive results.

23 On April 6, 1992, the Supreme
24 Court of Canada reference case concludes. And
11:09 25 I'll just put a list of witnesses that testified



1 at that hearing, it's document OP11, may we just
2 zoom in on that please. Here are the people that
3 testified before the Supreme Court of Canada.
4 Most of these people, those that are living, will
11:10 5 still be testifying -- or will be testifying at
6 the hearing, and you will see, obviously, some of
7 the key people, Mr. Milgaard, Ron Wilson, Nichol
8 Demyen, Larry Fisher, and Mr. Cadrain, we do have
9 Mr. Cadrain's transcripts from that proceeding.

11:10 10 On April 14, 1992, the decision
11 of the Supreme Court of Canada is released. The
12 Supreme Court of Canada concludes that there has
13 been enough new information placed before them
14 which is reasonably capable of belief and which,
11:10 15 taken together with the evidence adduced at
16 trial, could reasonably be expected to have
17 affected the verdict. The Supreme Court of
18 Canada indicates that they will be directing the
19 Minister to quash the conviction and to direct a
11:10 20 new trial. If I could have you call up document
21 173147, this is the decision of the court, I
22 would like to just go through, Mr. Commissioner,
23 and highlight a couple of sections of that. The
24 first page is 173152 and 153, starting down at
11:11 25 the bottom, if you could just call that out



1 please. And this is a quote from the Supreme
2 Court of Canada decision, The Court says:

3 "It is appropriate to begin by stating that,
4 in our view, David Milgaard had the benefit
11:11 5 of a fair trial in January 1970. We have
6 not been presented with any probative
7 evidence that the police acted improperly in
8 the investigation of the robbery, sexual
9 assault, and murder of Gail Miller, or in
11:11 10 their interviews of any of the witnesses.
11 Nor has any evidence been presented that
12 there was inadequate disclosure in
13 accordance with the practice prevailing at
14 the time. Milgaard was represented by able,
11:11 15 experienced ...",

16 top of the next page, please, just at the top,
17 that, he was:

18 "... represented by able and experienced
19 counsel. No error in law or procedure has
11:12 20 been established. At the conclusion of the
21 first trial, there was ample evidence upon
22 which the jury, which had been properly
23 instructed, could return a verdict of
24 guilty."

11:12 25 Then if you could just go down and call out this



1 paragraph, again this is all from the Supreme
2 Court of Canada judgement, The Court states:

3 "In our view, this evidence, together with
4 other evidence we have heard, constitutes
11:12 5 credible evidence that could reasonably be
6 expected to have affected the verdict of the
7 jury considering the guilt or innocence of
8 David Milgaard. Our conclusion in this
9 respect is not to be taken as a finding of
11:12 10 guilt against Fisher, nor indeed that the
11 evidence would justify charging him with the
12 murder of Gail Miller."

13 I would then ask you to call up page 173156, just
14 call out those paragraphs, and The Court states:

11:12 15 "While there is some evidence which
16 implicates Milgaard in the murder of Gail
17 Miller, the fresh evidence presented to us,
18 particularly as to the locations and the
19 pattern of the sexual assaults committed by
11:13 20 Fisher, could well affect a jury's
21 assessment of the guilt or innocence of
22 Milgaard. The continued conviction of
23 Milgaard would amount to a miscarriage of
24 justice if an opportunity was not provided
11:13 25 for a jury to consider the fresh evidence.



1 It is therefore appropriate to
2 recommend to the Minister of Justice that
3 she set aside the conviction and direct that
4 a new trial be held."

11:13 5 I would then have you call up the last page of
6 the judgement, 173157. In its concluding
7 remarks, if you could just zoom in there, the
8 Supreme Court finishes saying:

9 "It would be open to the Attorney General of
11:13 10 Saskatchewan under the *Criminal Code* to
11 enter a stay if that course were deemed
12 appropriate in light of all the
13 circumstances.

14 However, if a stay is not
11:13 15 entered, a new trial proceeds and a verdict
16 of guilty is returned, then we would
17 recommend that the Minister of Justice
18 consider granting a conditional pardon to
19 David Milgaard with respect to any sentence
11:14 20 imposed."

21 COMMISSIONER MacCALLUM: Mr. Hodson, at a
22 time which suits you, we could have the morning
23 break.

24 MR. HODSON: I'll just finish up with one
11:14 25 more document, Mr. Commissioner, and then I think



1 it's an appropriate break.

2 On April 14th, 1992 the
3 minister did, in fact, direct a new trial, and on
4 April 16, 1992 a stay of proceedings was entered
11:14 5 by the Crown in the case of Her Majesty the Queen
6 versus David Milgaard, the Government of
7 Saskatchewan stated that it will not order a new
8 trial, and David Milgaard is released from jail.
9 If I could call up document 267892, please, again
11:14 10 this is dated April 16th, '92 and is the stay of
11 proceedings.

12 That would be an appropriate
13 spot to break, Mr. Commissioner.

14 COMMISSIONER MacCALLUM: Thank you,
11:14 15 Mr. Hodson. Ladies and gentlemen, we'll take 15
16 minutes. Refreshments are available outside, and
17 please help yourself there, but not in the
18 hearing room. Thank you.

19 *(Adjourned at 11:15 a.m.)*

11:33 20 *(Reconvened at 11:30 a.m.)*

21 COURT CLERK: This hearing is now in
22 session. Please be seated.

23 COMMISSIONER MacCALLUM:

24 MR. HODSON: Thank you, Mr. Commissioner.

11:33 25 At the break we left off on April 16, 1992 which



1 was two days after the Supreme Court of Canada
2 reference decision where they suggested that the
3 conviction be set aside which it was and the
4 Government of Saskatchewan stayed proceedings and
11:34 5 Mr. Milgaard was released from jail.

6 The next important date is
7 September 19, 1992 and on that date Joyce
8 Milgaard issued a press release alleging various
9 wrongdoings and a cover-up by police and
11:34 10 Saskatchewan Justice officials. On October 9,
11 1992 the Saskatchewan Justice deputy minister
12 confirmed that the allegations by Joyce Milgaard
13 of wrongdoing would be dealt with and the matter
14 was referred to the RCMP and the RCMP were asked
11:34 15 to report to the Deputy Attorney General of
16 Alberta. At this stage, Mr. Commissioner, the
17 RCMP began their investigation.

18 Now, I'm told that each RCMP
19 investigation has a name, this one was named
11:34 20 Flicker, and we will hear about the Flicker
21 investigation throughout and that is the 1993
22 investigation and report at the request of the
23 Government of Saskatchewan.

24 On March 29, 1993 David
11:35 25 Milgaard filed a Statement of Claim in Saskatoon



1 Court of Queen's Bench bringing action against
2 Serge Kujawa, Mr. Caldwell, the City of
3 Saskatoon, Mr. Karst, Raymond Mackie and Charles
4 Short.

11:35 5 In January, 1994, and again
6 from 1992-'93, the RCMP conducted an
7 investigation and talked to many, many people
8 involved in this matter. In January of 1994 the
9 RCMP report into allegations of wrongdoing was
11:35 10 completed and provided to the Department of
11 Justice. The report concluded that the available
12 evidence did not support allegations of criminal
13 wrongdoing by the Saskatoon City Police or other
14 justice officials. The report also concluded
11:35 15 that there was no new evidence which would
16 exonerate David Milgaard or that would inculcate
17 any other person, including Larry Fisher.

18 If I can call up copies of a
19 couple of pages from that RCMP report, and we
11:36 20 will be hearing much more about this report later
21 on in the hearing, but in the introduction, if
22 you could just call out this portion, the RCMP
23 say, and again this is in their Terms of
24 Reference:

11:36 25 "Our purpose was not to reinvestigate the



1 murder of Gail Miller. However, any
2 evidence or leads implicating David
3 Milgaard, Larry Fisher or some unknown
4 individual resulting from this investigation
11:36 5 were to be carefully examined and thoroughly
6 documented. Any new evidence or information
7 emanating from our inquiries would be
8 directed to the police force with
9 jurisdiction."

11:36 10 Again if you could call up the last page of that
11 report on their findings and just call out that,
12 the RCMP and their findings:

13 "The available evidence does not support
14 allegations of criminal wrongdoing by the
11:37 15 Saskatoon City Police, Mr. Caldwell, Mr.
16 Kujawa and Mr. Romanow or others in the
17 Saskatchewan Department of the Attorney
18 General."

19 With respect to the Milgaard/Fisher evidence, the
11:37 20 report says:

21 "There is no new evidence which would
22 exonerate David Milgaard or that would
23 inculcate any other person, including Larry
24 Fisher."

11:37 25 That report was provided to Justice in January,



1 1994.

2 On May 26th, 1994 Larry Fisher
3 is released from custody.

4 On August 16, 1994 the
11:37 5 Department of Justice issues a public statement
6 containing a summary of the findings of the RCMP
7 as extracted from the full report and on July
8 12th, 1995 the RCMP report is released to the
9 public, or certain portions of it are.

11:38 10 The next key date is July 18,
11 1997 and on this date there was the release of a
12 DNA testing report from a British laboratory
13 which confirmed that the semen samples extracted
14 from certain pieces of clothing belonging to Gail
11:38 15 Miller did not originate from David Milgaard and
16 on the basis of certain stated statistics were
17 very likely to have originated from Larry Fisher.

18 If you could call up page
19 number 231441 of document 231438, again this is
11:38 20 the interim report, it's from the laboratory in
21 London to Mr. Fainstein of the federal Department
22 of Justice, and if you could just call out that
23 part of it, please, and the letter states,
24 starting there:

11:38 25 "This interim report gives details of



1 scientific tests which I conducted between
2 14th and 18th July 1997 in the presence of
3 Dr. Blake and Mrs. Bowen on a number of
4 items which were collected in relation to
11:39 5 the police investigation into the death of
6 Gail Miller."

7 Can I just go on to call out that bottom part,
8 please. The letter states:

9 "A number of clothing items including the
11:39 10 following were examined for the presence of
11 semen: The panties and dress taken from the
12 body of Gail Miller."

13 If you call out the next page, please. The
14 bottom here, you will see the summary of results
11:39 15 and again just at this part, here's the blood
16 samples they were comparing Mr. Milgaard, Gail
17 Miller and Larry Fisher and just call out those
18 results. The author states:

19 "From the results obtained I have drawn the
11:39 20 following conclusions:

21 1. The semen I found on the panties and
22 dress cannot have originated from David
23 Milgaard.

24 2. Larry Fisher cannot be excluded as a
11:40 25 source of the semen on the panties and the



1 dress."

2 Call up the next page of that letter, please,
3 231443, and call out point 3 of the summary. The
4 report says:

11:40 5 "Based on data collected from the UK
6 Caucasian population, the SDR profile
7 obtained from both the semen stains and from
8 Larry Fisher's blood sample is estimated to
9 occur at a frequency of approximately 1 in
11:40 10 400 million men."

11 On July 25, 1997 Larry Fisher
12 is arrested and charged with the murder of Gail
13 Miller.

14 On or about August 2nd, 1997
11:40 15 the RCMP were asked to undertake the
16 investigation into the death of Gail Miller with
17 respect to the charge against Larry Fisher. This
18 investigation was termed Featherstone by the RCMP
19 and throughout we will hear about the
11:41 20 Featherstone files and that's the RCMP
21 investigation of Larry Fisher.

22 On August 19th, 1997
23 Saskatchewan Justice Minister Nilson announces
24 that the Government of Saskatchewan will enter
11:41 25 into negotiations with David Milgaard for



1 compensation for wrongful conviction and that an
2 inquiry will be held. Again, and as you referred
3 to earlier, the Government of Saskatchewan also
4 formally acknowledged that David Milgaard was
11:41 5 factually innocent of the charge that he murdered
6 Gail Miller.

7 On January 5, 1999 the
8 preliminary inquiry for Larry Fisher commenced.

9 On May 17, 1999 Saskatchewan
11:41 10 Justice Minister Nilson announced that a
11 settlement had been reached in the David Milgaard
12 matter and that compensation would be paid in the
13 amount of \$10 million.

14 On October 12, 1999 the trial
11:42 15 of Larry Fisher commenced.

16 On November 22nd, 1999 Larry
17 Fisher was convicted of the rape and murder of
18 Gail Miller.

19 On January 4, 2000 Larry Fisher
11:42 20 was sentenced to life in prison.

21 On September 29, 2003 Larry
22 Fisher's appeal to the Saskatchewan Court of
23 Appeal was dismissed.

24 Finally, on August 26th of 2004
11:42 25 Larry Fisher's application for leave to appeal to



1 the Supreme Court of Canada was dismissed.

2 That concludes my remarks on
3 the chronology, Mr. Commissioner, and as I said
4 before, this is a work in progress and it will be
11:42 5 amended from time to time to add other specific
6 dates.

7 The last item I would like to
8 discuss is the presentation of evidence at the
9 hearing and I would like to advise how I propose
11:43 10 to organize the calling of witnesses and the
11 presentation of evidence at the public hearings.

12 It is apparent from the
13 chronology of events that there are a number of
14 distinct but related events, subject matters and
11:43 15 issues that need to be reviewed by the
16 Commission.

17 Some examples, and this is by
18 no means exhaustive, are: Number 1, the
19 investigation into the murder; 2, the
11:43 20 investigation into the sexual assaults; 3, the
21 conduct of the trial; 4, Larry Fisher's assault
22 convictions in Winnipeg and Saskatchewan in 1971;
23 the post-conviction investigation undertaken by
24 David and Joyce Milgaard; the two Section 690
11:43 25 applications to the federal Minister of Justice



1 and the subsequent reference before the Supreme
2 Court of Canada; the RCMP investigation in 1993;
3 the DNA forensic issues and the investigation and
4 prosecution of Larry Fisher.

11:44 5 I contemplated dividing the
6 inquiry into phases based upon subject matters
7 and issues. However, I concluded that this would
8 be problematic in that many witnesses would have
9 relevant evidence for many of these subject
11:44 10 matters and events. I determined that it would
11 not be prudent to call and recall witnesses at
12 different times to testify about different
13 subject matters. Although I certainly have the
14 power to call a witness more than once, I believe
11:44 15 it is more efficient to have each witness testify
16 once and provide all of their testimony at that
17 time.

18 I also considered dividing the
19 hearing into three phases based upon the Terms of
11:44 20 Reference; namely, the investigation, the trial
21 and the reopening phase. Upon further review, I
22 concluded that it was difficult to separate the
23 reopening phase from a review of the conduct of
24 the investigation and trial. A significant part
11:45 25 of the post-conviction reopening phase involves



1 the review, the challenge and the defence of the
2 conduct of the investigation and trial.

3 In the post-conviction time
4 frame, the Milgaards and others critically
11:45 5 reviewed the conduct of the original
6 investigation and trial. In the course of doing
7 so, they brought forward information to the
8 authorities to support their request to have the
9 investigation reopened. In the post-conviction
11:45 10 time frame, the authorities, and when I refer to
11 the authorities, I mean the Government of
12 Saskatchewan, the federal Minister of Justice,
13 the RCMP and the Saskatoon City Police, in the
14 post-conviction time frame the authorities
11:45 15 received information regarding the conduct of the
16 investigation and trial and they also engaged in
17 their own formal and informal reviews of the
18 investigation and trial in considering whether
19 the investigation should have been reopened.

11:45 20 Since the reopening phase
21 necessarily includes reviews of the conduct of
22 the investigation and trial, it is difficult to
23 separate the phases of the hearing in this
24 manner. I have decided to group the witnesses
11:46 25 based upon how or through whom they became



1 involved in this matter and to call these groups
2 in a rough chronological order. I have divided
3 the witnesses into 10 groups or phases and I will
4 briefly go through them.

11:46 5 Call up OP01, please. One to
6 10 are the 10 fact finding phases and the 11th
7 being the systemic phase. If you could go to
8 OP03, please, and we'll talk about the first
9 three. Under A I have the Gail Miller murder,
11:46 10 the investigation and the David Milgaard court
11 proceedings and three groupings of witnesses.
12 The first are event witnesses and they are
13 persons, non-police, that can provide relevant
14 evidence regarding the conduct of the
11:47 15 investigation and the subsequent criminal
16 proceedings. They are primarily people that have
17 evidence regarding Gail Miller's death, her
18 activities, the activities of Mr. Milgaard and
19 others in his group and the activities of Larry
11:47 20 Fisher. Not all witnesses who were involved at
21 the original trial or who talked to the police
22 will be called under event witnesses. Again, I
23 will make a decision to determine those people
24 that I think the Commission ought to hear that
11:47 25 have evidence relevant to the conduct of the



1 investigation and trial.

2 When we call these people we
3 will hear not only what they observed, but also
4 their subsequent dealings on this matter. Most
11:47 5 of the event witnesses were interviewed by the
6 Saskatoon City Police and/or RCMP in '69-'70. We
7 will hear about their dealings with those
8 parties. Some of these people also testified at
9 the trial. We will hear about their dealings
11:48 10 with the prosecutor and their involvement at the
11 trial.

12 Post conviction, these event
13 witnesses, much like most of the other witnesses,
14 were also involved in various phases, stages and
11:48 15 in dealings with people. With respect to most of
16 the event witnesses, they will have been
17 encountered by the Milgaard group, David and
18 Joyce, their investigators and/or counsel to
19 elicit information about the case. Some of these
11:48 20 event witnesses will have made statements to the
21 media that I will be questioning them about.
22 Many of the event witnesses were interviewed as
23 part of the federal justice Section 690
24 application, some testified at the Supreme Court
11:48 25 of Canada. Most, if not all of them, were



1 interviewed by the RCMP in 1993 when they
2 prepared their report. Many of these people were
3 also interviewed in 1997 in the Featherstone case
4 by the RCMP, the prosecution of Larry Fisher, and
11:49 5 some of these people also testified at the Larry
6 Fisher trial.

7 So in calling these witnesses,
8 in addition to getting their recollection of
9 events, I will go through their dealings with the
11:49 10 various other parties throughout the many, many
11 years following the conviction, and even though
12 these people have told their stories in other
13 forms, it is necessary to hear from the key
14 witnesses again. You must keep in mind that some
11:49 15 of the statements were provided to different
16 people for different purposes in different forms
17 where maybe not all questions were asked and in
18 some cases people's stories have changed, so
19 previous recollections, statements and
11:49 20 transcripts will be of assistance, but with
21 respect to key witnesses, we need to hear them in
22 a public forum.

23 Under event witnesses, although
24 David Milgaard likely falls under that
11:49 25 definition, I will not be calling David Milgaard



1 at this stage, nor will I be calling Larry Fisher
2 at this stage. There are later phases which I
3 get to where I propose to call Mr. Milgaard and
4 Mr. Fisher.

11:50 5 The next phase is police
6 investigators. In this phase -- let me just back
7 up for a moment. You can leave the document up.
8 For event witnesses, Mr. Commissioner, I estimate
9 that we will have about 40 witnesses and a bit
11:50 10 later when we start the evidence, I will run
11 through the organization of those event
12 witnesses.

13 Under police investigators,
14 there were in excess of 70 police officers who
11:50 15 were involved in the investigation of Gail
16 Miller's death. They were primarily with the
17 Saskatoon City Police service. The RCMP had four
18 officers involved in the investigation as well as
19 their lab facilities and lab technicians. In
11:50 20 addition, members of the Regina City Police, the
21 Winnipeg City Police and the Calgary and Edmonton
22 City Police were also involved in some way in
23 that investigation. A number of the police
24 officers involved in the investigation are
11:51 25 deceased. I propose to call all of the officers



1 who were involved in the investigation of David
2 Milgaard. I also propose to call some other
3 officers who were involved in the general
4 investigation, keeping in mind that our mandate,
11:51 5 the mandate in the Terms of Reference is to look
6 at more than just the investigation of David
7 Milgaard, but rather the investigation into Gail
8 Miller's death. We will also hear from some
9 officers who were involved in the investigation
11:51 10 of the sexual assaults.

11 Like event witnesses, these
12 police officers also had the distinction of
13 telling their story and being involved in
14 proceedings after the trial. Some of them did
11:51 15 testify at the trial in the post-conviction
16 phase, some of these officers were interviewed by
17 the media and provided statements to the media.
18 Some were interviewed as part of the Section 690
19 proceedings, some testified at the Supreme Court
11:52 20 of Canada. Most, if not all of them, were
21 interviewed by the RCMP in 1993 and again we will
22 be asking these witnesses about their dealings
23 with the RCMP. Some were also involved in the
24 investigation and prosecution of Larry Fisher in
11:52 25 the sense of providing information and some were



1 witnesses at Mr. Fisher's trial, so again, we
2 have that body of evidence.

3 The third part of this phase
4 are the trial participants and in this phase it's
11:52 5 Mr. Caldwell, the prosecutor, Mr. Tallis, who was
6 defence counsel, and other witnesses who were
7 involved or became involved as a result of the
8 trial proceedings and there will only be a couple
9 there. The judge who presided over the trial is
11:52 10 deceased, we would not have called him anyway,
11 and obviously we will not be calling members of
12 the jury.

13 The next phase, if you could
14 call up OP04, part B is the post-conviction
11:53 15 information relevant to the reopening of the
16 investigation and post-conviction review of the
17 conduct of the investigation and trial. Keeping
18 in mind my earlier remark that it's difficult in
19 looking at what happened post conviction to
11:53 20 separate on the one hand review or defence of a
21 conduct of the investigation and trial and on the
22 other hand information that might prompt an
23 authority to reopen the investigation.

24 The first part of this I've
11:53 25 termed the Milgaard group and this is persons



1 associated with or assisting David and Joyce
2 Milgaard with respect to the review of the
3 conduct of the investigation and trial and
4 efforts to reopen the investigation and any
11:53 5 witness whose involvement in this matter is
6 related to the Milgaard group's actions. It's at
7 this phase, Mr. Commissioner, that I propose to
8 call David Milgaard and Joyce Milgaard. As well
9 we will hear from some of their investigators and
11:54 10 others who assisted the Milgaards in reviewing
11 the investigation and trial in bringing forward
12 information which they wished to prompt the
13 authorities to reopen the investigation. As
14 well, there are other individuals who have
11:54 15 relevant evidence who would have become involved
16 in this matter through being contacted by the
17 Milgaard family in that phase.

18 The next phase, five, is the
19 media, and this deals with media persons who
11:54 20 investigated and communicated information
21 relevant to the conduct of the investigation and
22 trial and the reopening of the investigation. I
23 don't propose to call people who simply reported
24 on the proceedings. However, there are some
11:54 25 media members that went further and conducted



1 interviews with key people, published newspaper
2 accounts, books about the subject matter, so to
3 the extent that people involved in the media have
4 relevant information and evidence for this
11:55 5 Commission with respect to their review or their
6 involvement in a review of the investigation and
7 trial and any issue relating to reopening, they
8 would be called at this phase.

9 Next, number 6, which is
11:55 10 miscellaneous, probably better labelled Larry
11 Fisher, but other witnesses that have evidence
12 relevant to the conduct of the
13 investigation/trial and the reopening. In this
14 phase evidence relevant to Larry Fisher's
11:55 15 activities will likely be called, so anybody else
16 that I haven't caught in the other sections I
17 would call here. Primarily this is where we'll
18 hear from Larry Fisher, from was ex-wife Linda
19 Fisher and other people who have evidence and
11:55 20 information relevant to Larry Fisher's activities
21 at all times that are relevant to the
22 investigation, the trial and the reopening.

23 We then move to call up OP05.
24 So part B is basically those people post
11:56 25 conviction who reviewed, challenged and brought



1 forward information not necessarily challenging,
2 but perhaps critical of what happened in the
3 investigation and trial. In this phase, part C,
4 post-conviction conduct of the police and
11:56 5 government.

6 Number 7, federal justice, and
7 this is persons associated with the federal
8 Department of Justice who dealt with David
9 Milgaard's applications under Section 690 of the
11:56 10 Criminal Code and the subsequent Supreme Court
11 reference and any witness whose involvement in
12 this matter is related to federal justice's
13 actions. Again, there were two applications to
14 the minister. Members of that department
11:56 15 investigated, the RCMP were involved in
16 investigating matters, and then as well post
17 Supreme Court reference, the federal justice were
18 also involved in the steps taken to do the DNA
19 testing that resulted in the July 18, 1997
11:57 20 report.

21 Next, phase 8, is the
22 Government of Saskatchewan, and this is persons
23 associated with the Government of Saskatchewan
24 who were involved in any subject matter or event
11:57 25 relevant to the inquiry. In this phase is likely



1 where we'll hear from Mr. Kujawa, we'll also hear
2 from the Government of Saskatchewan as to what
3 actions they may have taken post conviction from
4 1970 right up until 1997, we'll hear about their
11:57 5 involvement in the 1991 Supreme Court reference
6 and as well the steps and decisions they took
7 post reference in their dealings with David
8 Milgaard and Larry Fisher. We will call
9 government officials to determine what
11:57 10 information they had and the basis upon which
11 they made the decisions they did.

12 Nine is the RCMP and, as I
13 stated, the RCMP were involved at least
14 post-conviction in three phases and this group
11:58 15 will call those persons associated with the RCMP
16 who were involved in the 1993 investigation and
17 report and the subsequent investigation of Larry
18 Fisher and any witness whose involvement in this
19 matter is related to the RCMP's actions. The
11:58 20 RCMP assisted federal justice in the
21 investigation related to the Section 690
22 application. This evidence may be called as part
23 of the federal justice phase, or in this phase,
24 we'll have to wait and see, it might be a mix of
11:58 25 both, depending on which officers were involved.



1 As well, the RCMP were involved in the
2 Featherstone investigation of Larry Fisher and to
3 the extent that there is evidence or information
4 that arose in the investigation and prosecution
11:58 5 of Larry Fisher is relevant, we will call it.

6 Now, our mandate goes up to the
7 reopening in 1997. However, we cannot ignore
8 what happened in the Fisher prosecution and trial
9 because, for the most part, the police,
11:59 10 prosecutors, et cetera, were dealing with the
11 very same people who were involved in the
12 investigation and conviction of David Milgaard in
13 1970. Not exclusively, but again the same
14 people.

11:59 15 Phase 10 is Saskatoon City
16 Police and again this does not include the
17 investigators involved in the original
18 investigation, but persons associated with the
19 Saskatoon City Police who were involved in any
11:59 20 post-conviction subject matter or event relevant
21 to the inquiry. In this phase we'll hear from
22 the police with respect to Linda Fisher's
23 attendance in 1980, we will hear regarding the
24 missing records report in the early '90s, and I
11:59 25 don't expect there will be a significant number



1 of witnesses in this area, Mr. Commissioner, but
2 this is where we'll deal with Saskatoon City
3 Police post conviction.

4 The last phase is D, the
12:00 5 systemic phase. Just zoom that in, please. At
6 the conclusion of the fact finding part of the
7 inquiry, the Commission will hear evidence and
8 submissions relating to systemic issues
9 identified in the course of the inquiry. In this
12:00 10 phase, Mr. Commissioner, we must recognize that
11 in reviewing policies, procedures and practices,
12 that times have changed. However, it is still
13 necessary to look at what happened in light of
14 the standards that applied at the time. However,
12:00 15 in order to make meaningful recommendations, it
16 may be necessary in certain circumstances to look
17 at how things are done today. As we near the end
18 of the fact finding phase, I will, in conjunction
19 with counsel for the parties, identify the areas
12:00 20 that we need to hear submissions on in the
21 systemic phase.

22 I would like to make some
23 general comments regarding the organization and
24 calling of evidence. I anticipate that there
12:01 25 will be approximately 100 witnesses throughout



1 the 10 phases. Due to the number of witnesses
2 and the manner in which we have organized the
3 calling of witnesses, it is inevitable that
4 witnesses will provide testimony that may call
12:01 5 for rebuttal from other witnesses. These
6 witnesses may not be called to testify for a
7 number of weeks or months. Although it is
8 tempting to recall the rebuttal witness right
9 away to provide an immediate reply, that same
12:01 10 witness may have the same type of evidence about
11 other witnesses and unfortunately we will not be
12 able to call the evidence in that order, and I
13 reiterate your comments earlier,
14 Mr. Commissioner, and I simply ask the parties,
12:01 15 the public and the media to keep in mind that the
16 complete story and all of the evidence on a
17 particular subject matter or issue may not be
18 heard at the same time, it may come much later in
19 the inquiry.

12:02 20 As you stated, the Commission
21 of Inquiry is not bound by the strict rules of
22 evidence. Accordingly, some documents may simply
23 be tendered without the calling of witnesses and
24 the parties will be free to argue the weight that
12:02 25 ought to be accorded to that document. In



1 addition, there will be hearsay and other
2 evidence admitted that might not normally be
3 admissible in a court of law. For example, in
4 order for the Commission to determine whether the
12:02 5 investigation should have been reopened based on
6 information received by the police and the
7 Department of Justice, the Commission must hear
8 evidence regarding the information which existed
9 and what information was provided to or obtained
12:02 10 by the authorities. The evidence regarding the
11 information that was provided to or relied upon
12 by the authorities is not necessarily tendered as
13 proof of the contents of the evidence or
14 statements, but rather the relevance lies in the
12:03 15 extent to which information became known to the
16 authorities and the degree to which it influenced
17 the course of their conduct.

18 There is a likelihood that we
19 may hear some inflammatory evidence and some
12:03 20 evidence which simply lacks credibility. Its
21 admissibility and importance lies not so much in
22 whether it is true, but whether it was known to
23 the authorities at relevant times and what effect
24 it had.

12:03 25 In the case of deceased



1 persons, I may tender a record of previous
2 statements, recorded recollections or
3 transcripts. The weight to be accorded to this
4 evidence will be determined by the Commissioner
12:03 5 and will be subject to the submissions of the
6 parties.

7 All witnesses will be examined
8 in chief by Commission Counsel and counsel for
9 each of the parties with standing will have the
12:03 10 right to cross-examine the witness provided their
11 client's interest before this Commission is
12 engaged. In addition, parties with standing can
13 ask me or the Commissioner to call additional
14 witnesses not on my witness list.

12:04 15 Mr. Commissioner, that
16 concludes my opening remarks. I am grateful for
17 the opportunity to be involved in this important
18 inquiry. I would like to thank Commission staff
19 for their significant efforts to prepare for this
12:04 20 hearing. I look forward to working with you,
21 Mr. Commissioner, and the counsel for the parties
22 to ensure that we conduct an efficient,
23 transparent and productive public inquiry. Thank
24 you.

12:04 25 COMMISSIONER MacCALLUM: Thank you, Mr.



1 Hodson. Mr. Elson?

2 MR. ELSON: Thank you, Mr. Commissioner.

3 Mr. Commissioner, my name is Richard Elson. My
4 colleague John Beckman and I appear before this
12:04 5 Commission of Inquiry on behalf of the City of
6 Saskatoon Police Chief Russell Sabo in his
7 capacity as the official representative of the
8 Saskatoon Police Service and we will be assisted
9 by representatives of our clients in the course
12:05 10 of this inquiry, specifically Inspector Keith
11 Atkinson and Sergeant Lawrence Gelowitz.

12 I would like to thank you, sir,
13 and Commission Counsel, Mr. Hodson, for the
14 opportunity to make a few very brief, and I
12:05 15 underline very brief, opening remarks both to
16 you, Mr. Commissioner, and to my friends and
17 colleagues who appear on behalf of other parties
18 before this Commission.

19 Mr. Commissioner, in our
12:05 20 opening remarks we have been instructed to convey
21 and to relay to you and to my colleagues the
22 general position and the general approach to be
23 taken by Chief Sabo and the police service to the
24 proceedings of this inquiry. Stated simply, our
12:05 25 clients intend to co-operate fully with all



1 aspects of this Commission's investigation and
2 our clients look forward with interest to the
3 findings and recommendations which will be
4 forthcoming. We are also instructed to advise
12:06 5 you that you have whatever assistance you might
6 require from our clients.

7 In keeping with this spirit of
8 co-operation, I am also instructed to advise you
9 that it is the position of Chief Sabo and the
12:06 10 service that they will approach all aspects of
11 this inquiry, including the findings and
12 recommendations, objectively and with an open
13 mind. If the Commission should determine that
14 any aspect of police practice relative to the
12:06 15 investigation of this tragic event was inadequate
16 or was flawed in any way and it is determined
17 that the inadequacy or flaw still prevails in one
18 form or another today, it is the intention of
19 Chief Sabo and the police service to respond as
12:06 20 promptly and as completely as possible.

21 In previous rulings, sir, you
22 have justifiably and effectively reminded all of
23 us that the process before you is not to be
24 viewed as an adversarial one. Our clients fully
12:07 25 accept and appreciate Your Lordship's comments in



1 this respect and we trust that you will find my
2 remarks to be consistent with these comments.

3 In making the remarks I have
4 just made and without detracting in any way from
12:07 5 the spirit of co-operation and objectivity
6 contained in those remarks, I would be remiss if
7 I did not refer to an obvious consideration of
8 these proceedings, a consideration to which my
9 friend Mr. Hodson has just referred in his
12:07 10 opening statement, and this consideration may
11 have an impact with respect to the eventual
12 findings and recommendations that may be
13 forthcoming, and the obvious consideration to
14 which I refer, sir, is the matter of change,
12:07 15 change over a span of 36 years. In assessing the
16 evidence we are about to hear for the next
17 several months, we cannot be unmindful of the
18 fact that circumstances and standards of practice
19 have changed since January 31, 1969 and I will,
12:08 20 if I may, make a very general reference to three
21 changes about which you may very well receive
22 evidence.

23 Firstly, in the last 36 years
24 there have been changes in the organization,
12:08 25 changes in the structure and changes in the



1 operation of the Saskatoon Police Service. To
2 the extent these changes would have a bearing on
3 an investigation conducted today that is in any
4 way similar to the investigation under review
12:08 5 very well remains to be seen. Nevertheless, it
6 would be our respectful submission that the
7 possible and indeed the probable effects of any
8 such change cannot be ignored.

9 Secondly, and perhaps most
12:08 10 obviously, and again my friend has referred to
11 this, the state of forensic science has changed
12 and with it so to have police practices, and
13 police practices generally, not just in
14 Saskatoon. These would be practices associated
12:09 15 with investigating virtually all criminal
16 activity and, in particular, the investigation of
17 homicide and sexual assault. The impact of these
18 particular changes, sir, have been felt by
19 society and police services not only in
12:09 20 Saskatchewan and in Canada, but throughout the
21 world.

22 Thirdly, we submit that we
23 cannot be unmindful of the fact that the state of
24 the law has changed as well in the last 36 years.
12:09 25 The time period relative to this investigation in



1 1969 predates the Charter of Rights and Freedoms,
2 it predates the Young Offenders Act and
3 subsequent to it the Youth Criminal Justice Act.
4 It predates the bail reform legislation and
12:09 5 predates the repeal of the vagrancy laws, and
6 perhaps not insignificantly, the circumstances of
7 this case also predate the decision of the
8 Supreme Court of Canada in the *Queen versus*
9 *Stinchcomb*. We submit that the extent to which
12:10 10 all of these changes would have or could have a
11 direct impact on the nature and quality of the
12 investigation may very well be a subject for
13 debate among the parties who appear before you,
14 but it would be our submission that the existence
12:10 15 of an impact irrespective of its extent is
16 undeniable.

17 In conclusion, I wish to
18 reiterate the full support and co-operation of
19 Chief Sabo and the Saskatoon Police Service. We
12:10 20 look forward to the proceedings of the Commission
21 and I would like to thank you for your kind
22 attention to my remarks and also for your
23 leadership in the course of these proceedings.
24 Thank you very much, Mr. Commissioner.

12:10 25 COMMISSIONER MacCALLUM: Thank you, Mr.



1 Elson.

2 MR. HODSON: Mr. Commissioner, I don't
3 believe there's any other parties who wish to
4 make opening remarks. I have two witnesses
12:11 5 scheduled to start at two o'clock, but I thought
6 I could maybe just take a few minutes and go
7 through an introduction into the Phase 1 event
8 witnesses and give some indication of the
9 witnesses we're going to hear from.

12:11 10 So the event witnesses, again I
11 have 10 subgroupings, but I can tell you there
12 won't be 10 sub-phases for the 10 phases, we will
13 not have 100 phases.

14 The first one, we'll be hearing
12:11 15 about 12 witnesses, and I've called it Gail
16 Miller bus stop evidence, route and timing. Some
17 of the significance of this will become apparent
18 later on in the proceedings, but we will hear
19 from Gail Miller's roommates regarding what her
12:11 20 practices were, what time she went to work, where
21 she went. We will also hear from a number of
22 people who observed her in and around that time.
23 Most, I think if not all of these people gave
24 statements to the police, so there's about 12
12:12 25 witnesses in this phase. The key things there



1 are what they talked to the police about, her
2 route to the bus, Avenue O versus Avenue N, the
3 time she left and what observations people had.

4 The second part of this is the
12:12 5 murder scene and physical evidence and again
6 we'll be hearing from police officers later about
7 what was found. In this phase there's a number
8 of witnesses who located key pieces of evidence
9 and we'll be hearing their evidence.

12:12 10 Three, observations of
11 David Milgaard on January 31, 1969, and as the
12 story unfolds here, we will learn that the
13 Milgaard group had an encounter with Walter and
14 Sandra Danchuk in the back alley where they got
12:12 15 stuck, they had contact with two different
16 service stations regarding repairs to the vehicle
17 and as well a stop at the Trav-a-leer Motel for a
18 map, and again this evidence about who saw David
19 Milgaard on that morning.

12:13 20 The fourth phase is the Albert
21 Cadrain phase. As I mentioned, Mr. Cadrain is
22 deceased; however, we do have a significant
23 collection of his statements, we have some audio
24 recorded statements of his evidence and he is a
12:13 25 key person in this and we will be hearing a



1 significant amount of that. We will also be
2 hearing from Mr. Cadrain's family members. Some
3 of these people were involved at the time in
4 talking to Albert, in dealing with the police and
12:13 5 giving some perspective on what was happening at
6 the time.

7 The next, number 5, Ron Wilson,
8 who was Mr. Milgaard's travelling companion,
9 Mr. Wilson will be called to testify and I
12:13 10 anticipate he may be a lengthy witness. As well,
11 Shirley Wilson, Ron Wilson's mother, will also be
12 called to testify. She had some dealings with
13 the police at the time.

14 Six is Nichol John Demyen,
12:13 15 travelling companion, who we will hear from. As
16 well we will hear other persons who have certain
17 information with respect to her evidence.

18 Phase number 7 I call the motel
19 re-enactment witnesses and there's about four of
12:14 20 them. We will hear from all of them regarding
21 what they recalled at the time and what they said
22 to authorities then and subsequently.

23 Number 8, the related sexual
24 assaults, we will have evidence with respect to
12:14 25 these related sexual assaults. I am not sure,



1 Mr. Commissioner, whether we will be hearing
2 directly from these victims. As you can
3 appreciate, this is a very personal and sensitive
4 area. We do have records, they are recounts of
12:14 5 events, and we may well set up a system whereby
6 we can get their evidence without having these
7 victims exposed to the public eye.

8 Number 9 is other. In this
9 group there are some other witnesses that don't
12:14 10 fall into the categories, and number 10 is
11 medical/forensic and we will hear from Dr. Emson
12 who is the pathologist who performed the autopsy
13 and as well gave evidence at the Milgaard trial
14 and the Fisher trial.

12:14 15 So those are the phases,
16 Mr. Commissioner. I am ready to start at two
17 o'clock with the first two witnesses who are
18 Adeline Hall and Linda Brecelj.

19 COMMISSIONER MacCALLUM: Thanks, Mr.
12:15 20 Hodson. We will adjourn until 2:00, please.

21 *(Adjourned at 12:15 p.m.)*

22 *(Reconvened at 2:00 p.m.)*

23 COURT CLERK: This hearing is now in
24 session.

02:03 25 COMMISSIONER MacCALLUM: Mr. Hodson?



1 MR. HODSON: Thank you, Mr. Commissioner.

2 Our first witness is Adeline Hall and I would ask
3 her to come up to the front, please.

4 ADELINE HALL, sworn:

5 BY MR. HODSON:

6 Q Good afternoon, Mrs. Hall. Thank you for
7 testifying before this Commission of Inquiry. I
8 understand that you currently reside in the
9 Saskatoon area; is that correct?

02:03 10 A Yes.

11 Q I understand that on January 31, 1969 you resided
12 at a boarding house at 130 Avenue O South in
13 Saskatoon, Saskatchewan?

14 A Yes.

02:03 15 Q And I understand that your maiden name is Nyczai,
16 N-Y-C-Z-A-I?

17 A Correct.

18 Q And that in 1969 you were not married and you were
19 known by that name?

02:03 20 A That's right.

21 Q And in 1969 you were 20 years of age?

22 A Yes.

23 Q I understand that you knew Gail Miller and that
24 she was a roommate of yours at the boarding house?

02:03 25 A Yes.



1 Q I would like to ask you some questions regarding
2 your recollection of a number of things, one --
3 and I'll follow up with some questions, but just
4 to give you an outline. One, your recollection of
02:03 5 the morning of January 31, 1969; two, your
6 relationship with Gail Miller; three, your
7 recollection of the route normally taken by Gail
8 Miller to catch her bus in the morning; four, the
9 time she usually left for work, and five, your
02:04 10 dealings with police officers at the time and
11 subsequently. I would like to just show you a map
12 of the area and have you confirm a couple of
13 locations, if you could call up map B, and you'll
14 see there, Mrs. Hall, just over on the right is
02:04 15 the boarding house at 130 Avenue O South; is that
16 right?

17 A Yes.

18 Q You've got your bearings. Here's 20th Street,
19 21st Street, Avenue O, Avenue N; correct?

02:04 20 A Yes.

21 Q And then my understanding is right here is the
22 Avenue O and 20th street bus stop; is that right?

23 A Yes.

24 Q And here's the Avenue N bus stop?

02:04 25 A Yes.



1 Q And then I understand there was a back alley
2 coming out behind your house at 130 Avenue O
3 South; is that correct?

4 A Yes.

02:05 5 Q Next I would like to show you a couple of pictures
6 of the boarding house, first document 076388, and
7 if you could just zoom in. I believe this is a
8 photograph taken in or around 1969. Does that
9 look like the boarding house?

02:05 10 A Yes.

11 Q And as well the current or the 1990s photo of that
12 same boarding house, I think it's 241993 and
13 241994. Just show 94, please. Now, does that --
14 now, this picture is taken in the 1990s. Is that
02:05 15 how the back stairs and back of the house was in
16 1969 do you recall?

17 A Yes.

18 Q So that there was a back stairwell off of the
19 second floor; is that correct?

02:05 20 A Yes.

21 Q If you could just go back to the original photo,
22 the 1969 photo, please, and just zoom in. Can you
23 tell me where in the boarding house your room was
24 located?

02:06 25 A I was on the top floor and there was only one room



1 up there.

2 Q So there where I've identified on the monitor?

3 A Actually, I didn't have any windows facing out
4 onto Avenue O, I only had one window of the back,
02:06 5 facing the backyard, so that area where you see
6 the windows on the top, I didn't have access to
7 those windows.

8 Q Now, can you tell me where Gail Miller's room was
9 in the boarding house?

02:06 10 A She was at the back of the house across -- where
11 you saw the stairs -- in that one photo where you
12 saw the back stairs leading down, they went down
13 from a living room area and Gail lived across the
14 hall from that living room area.

02:06 15 Q If you could just call up the photo of the back of
16 the house which is 241994. So there, if you could
17 just -- was she on this side?

18 A Yes, she was.

19 Q And would that window have been the window of her
02:07 20 room?

21 A I'm not sure.

22 Q But she would be in that vicinity?

23 A Yes. I'm not sure if she was in that particular
24 room, but she was on that side.

02:07 25 Q I'm just going to call up a map I think of the --



1 Mr. Commissioner, this is the best kind of map,
2 the back of a napkin map that Ms. Hall drew in the
3 interview just to give us some idea of where
4 everything was and I think it will help matters.
02:07 5 Just to orient everybody, this is Avenue O, north
6 is this way, 21st is here, 20th Street is there
7 with the bus stop and I think you said, it's got
8 here a yellow circle, Gail's room; is that right?

9 A Yes. I'm not sure if she was in the last room on
02:08 10 that side or the second last room on that side.

11 Q Can you describe just briefly the lay-out of that
12 floor area, the second floor area?

13 A Well, there was -- the bathroom, that was the
14 bathroom I went down the stairs to use that
02:08 15 morning.

16 Q Okay. So I think we'll get to that morning. You
17 saw Gail Miller the morning of her murder;
18 correct?

19 A Yes.

02:08 20 Q And so there's the bathroom. Now, is this a
21 hallway in this area?

22 A Yes. It went all the way from the back of the
23 house to the front of the house.

24 Q And this would be the stairway where you would
02:08 25 come down from the third floor?



1 A Correct.

2 Q Perhaps, Ms. Hall, you can tell me your
3 recollection of the morning of January 31, 1969?

4 A Well, it was very, very cold, it was about minus
02:09 5 35 or so Fahrenheit, visibility was very poor,
6 probably across the street. There was a lot of
7 frost in the air. I had come down -- I didn't
8 have a tub in my room, so I had to go down to have
9 a bath, so it was around 6:30 in the morning, so I
02:09 10 was rushing down to have my bath and I saw Gail
11 standing at the end of the hallway looking out
12 onto Avenue O.

13 Q Now, I think there's -- is that the spot where you
14 saw Gail Miller?

02:09 15 A Yes.

16 Q And so there would be a window here facing out
17 onto Avenue O?

18 A Yes.

19 Q And approximately what time did you see her at?

02:09 20 A I got up around 6:30, so it would have been
21 between 6:30 and 6:45, somewhere in there.

22 Q And what do you recall observing about Ms. Miller
23 that morning?

24 A Her back was to me. She was dressed in her white
02:09 25 nurse's uniform, white stockings. She did not



1 have on any shoes or a hat.

2 Q And did you observe what she was doing or form any
3 impressions as to what she was doing?

4 A She was looking out the window and having a
02:10 5 cigarette.

6 Q Now, I understand that later that day when you
7 arrived home there were police officers at your
8 house; is that correct?

9 A Yes. I got home after five, I had labs all
02:10 10 afternoon, and I believe it was Sergeant Mackie
11 was coming down the stairs from the second floor
12 as I was headed up and that was the first time I
13 found out that Gail had been murdered.

14 Q And the police officer advised you of that?

02:10 15 A Yes.

16 Q And then did you have a discussion with the police
17 officer?

18 A I believe I did, although I don't recall, and I
19 believe there were two officers.

02:10 20 Q Perhaps if you could call up document ID 031574.
21 I apologize, this is not a very good copy, but
22 it's the best we have. Perhaps we could just zoom
23 into the top half here. You can't see it very
24 well, but it says Adeline Nyczai there and January
02:11 25 31, 1969, 7:25 p.m. Now, if you could just scroll



1 down a bit, please. Now, is that your
2 handwriting, Mrs. Hall?

3 A No, it's not.

4 Q If I can ask you to go right down, maybe just go
02:11 5 back to the regular document, please, and just
6 zoom in down here. Is that your signature?

7 A Yes, it is.

8 Q If you could just go back to the regular document,
9 please, and zoom in here. It looks as though this
02:11 10 statement was taken by Detective Sergeant Andrew
11 Porter. Does that name sound familiar at all?

12 A No, it doesn't

13 Q The name Mackie you mentioned?

14 A Yes.

02:11 15 Q Go back to the regular document, please, and if
16 you could just call out that part, please, and it
17 says:

18 "I saw Miss Miller this morning in the
19 hallway. I would put the time at between
02:12 20 6:35 and 6:45 a.m. She was dressed for
21 work. She had on her white uniform. I
22 couldn't say if she had shoes on and I'm
23 sure she didn't have her coat on.

24 Miss Miller usually left for work before
02:12 25 seven a.m. "



1 Do you recall providing that statement,
2 Mrs. Hall, or that information?

3 A Yes.

4 Q And would it be fair to say that you would have
5 provided the best recollection of information to
6 the officer at that time?

7 A Yes.

8 Q I ask you to call up next document 006428 and this
9 is a second statement, it's got your name at the
10 top, it's dated February 7th, 1969 at 7:40 p.m.,
11 and if you could just zoom in on the bottom and
12 confirm that that is your signature?

13 A Yes, it is.

14 Q If you just go back to the regular document. It's
15 not clear who took the statement, I think it may
16 have been Labrecque, but that's just my guess.
17 You don't recall who you would have given that
18 statement to?

19 A Yes.

20 Q Do you know who it was, recall?

21 A No, I don't, no.

22 Q Now, to assist, this statement was typed up by
23 somebody, I have a copy here that will assist us
24 in going through, and it's document 070593. Do
25 you recall giving a second statement to the



1 police, Mrs. Hall?

2 A I don't really remember the date, but I know that
3 there was another formal statement taken somewhere
4 else besides 130 Avenue O South.

02:14 5 Q So this was a place other than at home that you
6 gave this statement?

7 A Yes.

8 Q Was it at the police station do you recall?

9 A I don't remember.

02:14 10 Q We'll just go through this. If you could call out
11 that paragraph, please, and it says:

12 "I have never received any prank phone
13 calls. Gail Miller had mentioned about two
14 to three weeks before she was murdered that
02:14 15 she had received some calls, I don't think
16 it was from the same guy. It may have been
17 friends of Les, Betty would know more about
18 these. Gail had also on occasion had other
19 girls answer her phone for her. This may
02:14 20 have been because of Les Spence and the
21 trouble she was having with him."

22 Do you recall providing that information to the
23 police?

24 A I remember that she was having problems with Les
02:14 25 Spence, yes.



1 Q What do you recall of those troubles?

2 A Pardon?

3 Q I say what do you recall of those troubles?

02:15 4 A Just that they were not getting along and I think
5 they were trying to break up.

6 Q And I take it this statement that you would have
7 provided on or about February 7th, 1969, you would
8 have provided your best recollection of events at
9 that time?

02:15 10 A Yes.

11 Q So they also talk in here about prank phone calls.
12 Did they ask you about those or do you remember
13 volunteering that information?

14 A I don't remember if I volunteered or if they
02:15 15 asked, no.

16 Q Then go and call up the next paragraph, please.
17 This says:

18 "On the morning of January 31, 1969 when I
19 last saw Gail, I saw her standing in the
02:15 20 second floor doorway. When I was going up
21 the stairs to my room, I saw her in her
22 white uniform, hair combed. I did not see
23 her face on, but just the profile as she
24 stood there. I doubt if she saw me at this
02:15 25 time. I did not go back to bed but rather



1 got ready to go to class."

2 Now, this statement, again I think this was
3 written down by an officer, it talks about you
4 seeing her standing in the second floor doorway.
5 Is that a different location than by the window
6 that you referred to earlier?

7 A I don't remember the doorway. I remember seeing
8 her standing at the window at the end of the
9 hallway with her back to me.

02:16 10 Q I wonder if we can just call up this map, this
11 here for just a moment, this was the map, and I
12 think you told me that the doorway was right here.
13 Is that where there was a doorway?

14 A Yeah. There was a wall petitioning there and
02:16 15 there had been a door there at one time. That
16 door was removed, but the wall petitions were
17 there, so there was a sort of doorway there.

18 Q Okay. So your recollection is you did not see
19 Gail Miller here, but rather over at the window;
02:16 20 is that right?

21 A Right, yeah, at the window.

22 Q Okay. Go back to the February 7th statement,
23 please. Then it goes on to say, if you could call
24 out those portions, and I take it from that part,
02:17 25 Ms. Hall, that you got a ride to university that



1 day with Hugo as opposed to catching the bus?

2 A That's right.

3 Q And then just scroll down to this paragraph,
4 please. It says:

02:17 5 "I heard no one or saw no one else in the
6 house other than Gail, possibly Betty."

7 I take it, is that Betty Hundt?

8 A Yes.

9 Q We'll be hearing from her tomorrow.

02:17 10 "I heard no one or saw no one in the house
11 other than Gail, possibly Betty, who waits
12 at the front door for her ride. Also Hugo,
13 I don't remember if I went into Hugo's room
14 that morning, but Nick and Jack, Hugo's
02:17 15 roommates, were gone at this time."

16 I take it Hugo, Nick and Jack lived at the
17 boarding house?

18 A That's right, they lived on the main floor.

19 Q And if you could just scroll down to the next
02:17 20 paragraph, it says:

21 "I did not hear anything while in my room
22 with the window open, nor did I see anything
23 in the lane when we drove away. Vision was
24 poor due to the fog that morning."

02:18 25 So if you could just go back to map B, please,



1 and again here is the boarding house and I think
2 you said you got a ride with Mr. Tenezaca, is
3 that right, or Hugo?

4 A Hugo Tenezaca.

02:18 5 Q Can you just tell us where you would have left
6 that morning, through which door and which
7 direction?

8 A Right at the back here and out the alley down here
9 onto this street out to 22nd Street.

02:18 10 Q So you would have gone out the back door of the
11 rooming house, down the back alley to 21st Street,
12 down this way and then over to 22nd; is that
13 right?

14 A That's right.

02:18 15 Q When you came out this way in the vehicle, do you
16 recall seeing anything down this back alley in
17 this area?

18 A No.

19 COMMISSIONER MacCALLUM: Mr. Hodson, will
20 you --

21 BY MR. HODSON:

22 Q I'm sorry. The vehicle was coming this way, this
23 way, this way and I asked whether, when she was
24 coming out in the vehicle, whether she could see
02:19 25 anything down the alley?



1 A No.

2 Q Do you recall what time you would have left that
3 morning?

4 COMMISSIONER MacCALLUM: Just for the
02:19 5 record, the witness was indicating the alley
6 going south from the vehicle she was in.

7 MR. HODSON: Thank you.

8 A About 7:30 in the morning.

9 BY MR. HODSON:

02:19 10 Q Do you recall how far you could see when you
11 were --

12 A Well, the visibility was barely across the street,
13 so we exited the alley behind 130 Avenue O South
14 heading towards 21st Street. I would not have
02:19 15 been able to see into the alley across 21st
16 Street, I would not have been able to see into
17 this alley right here.

18 Q So the witness has pointed out, for the record,
19 that the area south of 21st Street between Avenue
02:20 20 O and N, driving out in the vehicle you could not
21 see into that alley; is that correct, right in
22 this area?

23 A That's right.

24 Q Now, do you know how Gail Miller usually travelled
02:20 25 to work at Saskatoon City Hospital?



1 A She took a bus.

2 Q And do you know what time she normally commenced
3 work when she was on the day shift?

4 A I think she caught the bus around seven.

02:20 5 Q And do you know which bus stop Gail Miller
6 normally used?

7 A The one on 20th Street. It was a number 2 bus.

8 Q And do you know which bus stop she went to?

9 A Pardon?

02:20 10 Q Do you know which bus stop on 20th Street she
11 would have gone to?

12 A Just off the corner of Avenue O and 20th Street,
13 the southwest corner.

14 Q Right. So right where I've shown on the map, the
02:20 15 southwest corner of O and 20th?

16 A That's right. It was right about in here.

17 Q Okay. Now, was there also a bus stop down here on
18 Avenue N and 20th Street?

19 A Yes.

02:21 20 Q Do you know if Gail Miller took that bus stop?

21 A No, I don't.

22 Q Did you ever take the bus on 20th Street?

23 A Yes, I did.

24 Q And which bus stop did you travel to?

02:21 25 A The same one as Gail.



1 Q Avenue O?

2 A Right.

3 Q What about the other men and women who lived at
4 the boarding house, do you know which bus stop
02:21 5 they would normally travel to?

6 A I would assume that would be the one they would
7 take as it was the closest one.

8 Q Do you know if anybody ever went to the Avenue N
9 bus stop?

02:21 10 A Not for sure I don't know.

11 Q Can you think of any reason that anybody living at
12 the boarding house would use the Avenue N bus stop
13 or travel that route?

14 A Well, I did on occasion if I was waiting here and
02:21 15 the bus was not coming, if it was cold or
16 something I would walk down to the next bus stop.

17 Q Down this way?

18 A Right.

19 Q Okay. As far as exiting the house, do you know
02:22 20 which exit Gail Miller would normally use, front
21 or back door?

22 A Front door.

23 Q What about other people who lived in the rooming
24 house?

02:22 25 A Everybody went out the front door except for the



1 guys that had cars in the back.

2 Q I see.

3 A Those were the three guys on the main floor.

4 Q So would cars be parked in the back of the house
02:22 5 in that area where I've marked X?

6 A Right.

7 Q So other than going out to a vehicle there, most
8 residents would go out the front door; is that
9 right?

02:22 10 A That's right.

11 Q Now, I understand, Mrs. Hall, that you had the
12 pleasure of testifying at both the preliminary
13 hearing and trial of David Milgaard as well as the
14 preliminary hearing and trial of Larry Fisher?

02:22 15 A Yes.

16 Q Let's talk about David Milgaard's preliminary
17 hearing and trial. Do you recall whether you had
18 met with anybody in advance of that to prepare,
19 either a police officer or prosecutor or defence
02:23 20 counsel?

21 A I remember talking to somebody, but I don't
22 remember exactly who.

23 Q And this was in connection with the evidence that
24 you were to give?

02:23 25 A Yes.



1 Q Do you recall the nature of those discussions?

2 A No, I don't.

3 Q If you could, I would now like to go through
4 portions of your preliminary hearing transcript.

02:23 5 If you could call up document 007421. Just go to
6 the second page, please, and can you just zoom in
7 a bit on that. At the top it says August 21,
8 1969, Adeline Jean Nyczai, sworn, examined by Mr.
9 Caldwell. So you recall being examined at the
02:24 10 preliminary hearing?

11 A I recall Bobs Caldwell, yes.

12 Q If I could ask you to turn to page 007424 of this
13 transcript. Just go through, if you could call
14 out question and answer 15, please, and I'll just
02:24 15 go through some of this, Ms. Hall. You were
16 asked:

17 "Q To your knowledge, did Miss Miller work
18 during the day?"

19 Your answer was:

02:24 20 "A She changed her shifts, occasionally,
21 she had to be at work at 7:30 in the
22 morning."

23 Is that correct?

24 A If I said it at that time, it was correct. I
02:24 25 don't recall at this moment.



1 Q If you can now go down and just scroll down to 17
2 and 18, please.

3 A That is correct.

4 Q 17 says:

02:25 5 "Q Now, on the morning of Friday, January
6 31st of 1969, did you happen to see her on
7 that morning?

8 A Yes, I did see her.

9 Q And about what time was it?

02:25 10 A Approximately 20 to seven, 25 to seven
11 or quarter to seven."

12 Is that correct?

13 A Yes.

14 Q Go to the next page, please, and again down at
02:25 15 question 25 you are asked to explain the weather
16 that day.

17 "Q What was the situation with the weather
18 and visibility that morning?

19 A It was around 40 below that morning, it
02:25 20 had been very cold all that week and it was
21 very foggy at that time, the visibility was
22 very short, you couldn't see very far."

23 I think that accords with what you told me
24 earlier; correct?

02:25 25 A Yes.



1 Q Now, next if you could just go to page 007426
2 which is the next page and just to identify, just
3 zoom in on that, it appears that this is where you
4 were cross-examined by David Milgaard's lawyer,
02:26 5 Mr. Tallis. Do you remember that?

6 A Yes.

7 Q And if you could turn to page 007431, please, and
8 just call up that part, please. This is just
9 Mr. Tallis questioning you about whether you knew
02:26 10 which time Ms. Miller left for work. Question 54:

11 "Q And are you able to tell us whether or
12 not Miss Miller had left before you had
13 left?

14 A I have no idea.

02:26 15 Q You have no idea?

16 A I mean, I just --

17 Q And perhaps you can assist me here, do
18 you remember her door closing or anything
19 like that?

02:26 20 A I could hear somebody closing the door
21 and running downstairs, but I did not see
22 who it was.

23 Q I see. But did it come from the area
24 where she ordinarily lives?

02:27 25 A Yes.



1 Q And what time would this be that you
2 heard somebody running downstairs?

3 A Oh, in the neighbourhood of seven,
4 perhaps shortly before, I don't really
02:27 5 recall."

6 Is that correct?

7 A If I said it at the time it's correct.

8 Q If you could refer to the next page, please, and
9 again I'll just review this with you, Mrs. Hall,
02:27 10 these are three questions regarding your evidence
11 at the time, about what time she left to work.

12 59:

13 "Q At what time would she have to be at
14 work?

02:27 15 A At seven-thirty.

16 Q Seven-thirty. And when she was taking
17 the seven-thirty shift did she ordinarily
18 leave home about seven in the morning?

19 A Yes, around there. Around shortly
02:27 20 before.

21 Q Give or take a few minutes?

22 A Yes."

23 And I take it that was correct at the time?

24 A Yes.

02:28 25 Q And as well if you could call up page 007435, just



1 call out those questions. For the record, I don't
2 propose to read them, but they are questions 87,
3 88 and 89 on page 007435 and confirm that
4 Mr. Tallis is asking you the same question I asked
02:28 5 you earlier about whether you could see anything
6 down the alley and you answered him the same way;
7 correct?

8 A Yes.

9 Q Now, next if you could call up document 005536.

02:29 10 This is just the front page of a lengthy
11 transcript. I would like you to go to that
12 portion dealing with Mrs. Hall which is 005624. I
13 apologize for the copy here, but this is a scan of
14 an onion skin copy of the transcript. Page
02:29 15 005624. You'll see it's not very good. If you
16 could just zoom in there. It says where Adeline
17 Nyczai is sworn and states, and this is where you
18 are examined at trial. You recall testifying at
19 the trial?

02:29 20 A Yes.

21 Q If I could then ask you to go ahead to page
22 005626, again at the top, call out that part,
23 please, and zoom in. Again the question was:

24 "Q And did you see her that particular
02:30 25 morning January the 31st?



1 A Yes, I did.

2 Q And whereabouts?

3 A On the second floor just outside of her
4 door. I was on my way back up to the third
02:30 5 floor to my suite and she had just come out
6 of her door.

7 Q Right, and was she dressed apparently
8 to go to work at that time or not?

9 A Yes, she was.

02:30 10 Q And what did you see of how she was
11 dressed?

12 A She was wearing a white nurse's
13 uniform."

14 Do you recall giving that evidence, Mrs. Hall?

02:30 15 A I don't recall giving it. I recall that she was
16 wearing her white nurse's uniform when I saw her
17 that morning.

18 Q Okay. And this part here about outside the door,
19 I think you told me a bit earlier that it wasn't
02:31 20 outside her door, but it was at the window that
21 you saw her?

22 A That's right.

23 Q If you could go to page 005628. Actually, just
24 pardon me for one minute. I'm sorry, if you could
02:31 25 go to 005630. Again, this is all part of the



1 Queen's Bench transcript. It looks like Mr.
2 Caldwell is again questioning you here. If you
3 could call out -- whoops, to there. You were
4 asked:

02:32 5 "Q Now, what I wanted to ask you,
6 Ms. Nyczai, is that when you were going
7 south down your alley so to speak I take it
8 that would be facing directly towards the
9 north-south alley in this next block?

02:32 10 A Yes.

11 Q Now, did you have any view into the
12 alley as you went along there in the car?

13 A No. The visibility was very poor, it
14 was very foggy; we couldn't see -- I don't
02:32 15 think the visibility would have been past
16 about here; you couldn't see into that
17 alley."

18 And again that's what you told us this afternoon;
19 correct?

02:32 20 A That's right.

21 Q And then page 638, the next page, which is 005631,
22 and you were asked, if you could call that out,
23 please, asked by Mr. Caldwell if you see anything
24 of any sort going on in the alley onto which the
02:33 25 apartment block backs, which is the alley between



1 21st and 22nd and Avenue O and Avenue N, and your
2 answer was no, there was nothing that we could see
3 that was unusual. That's correct?

4 A That's right.

02:33 5 Q Now, page 005632, and it looks like Mr. Caldwell
6 asked you about your patterns of taking the bus
7 stop. I'll just go through that:

8 "Q Now, do you usually take the bus at all
9 on 20th Street?

02:33 10 A Yes, I take it quite often.

11 Q I see; and as I understand it your
12 usual route is out the front door and down
13 south on Avenue O to 20th Street; is it?

14 A Yes."

02:33 15 Is that correct?

16 A Yes, that's right.

17 Q Now if I could ask you to go to page 005635 and if
18 you could call out this part? It looks as though
19 Chief Justice Bence, the trial judge, had some
02:34 20 questions for you here, and I'll just go through
21 those. Now, they are referring to Exhibit P-1
22 which is the, it's actually the large map in the
23 middle at the back there, if we need go to it we
24 will, but that was the map put in at the Milgaard
02:34 25 trial. He says:



1 "The Court:

2 Q Now, on the right hand side of this P-1
3 is Avenue N?

4 A Yes.

02:34 5 Q On the left hand side is Avenue O?

6 A Yes.

7 Q And you said there was a bus stop on
8 20th both at O and on N?

9 A Yes.

02:34 10 Q That's right -- here and here."

11 I presume he's pointing at the map.

12 "A Well, it depends which way you are
13 going. If you're coming back from down town
14 they would be on --

02:35 15 Q Well, when you are going to the City
16 Hospital.

17 A Yes, on the south side of the street.

18 Q On the south side of the street?

19 A Yes.

02:35 20 Q On both streets?

21 A Yes.

22 Q And you live at 130 Avenue O South and
23 the front door faces on --"

24 And just call out this part, please, and he

02:35 25 carries on:



1 "Q And if you came out the front door your
2 usual route would be to walk straight down
3 O?

4 A Yes.

02:35 5 Q And if you came out the back door -- if
6 you happened to come out the back door,
7 which way would you go to get to a bus?

8 A I'd probably go down O again.

9 Q You would walk back to O?

02:35 10 A Yes.

11 Q Why wouldn't you come straight down
12 through those lanes, or these lanes here?

13 A I wouldn't do that.

14 Q Why?

02:35 15 A Well, I just normally take the street,
16 I wouldn't go down the alley.

17 Q You just don't like going down alleys?

18 A No.

19 Q I see, thank you, I don't blame you."
02:36 20 If you could actually just call up there a bit,
21 scroll it up, or down. Just the remark there,
22 the Court's comment. Do you recall that exchange
23 with the judge at the trial, Ms. Hall?

24 A Yes, I do.

02:36 25 Q Okay. And is that correct?



1 A Yes.

2 Q Now after the trial of David Milgaard was
3 concluded in 1970, do you recall any other
4 dealings with police or authorities with respect
02:37 5 to these matters in subsequent years?

6 A Umm, I was, some years later I had my own company
7 and the RCMP came to talk to me at my office
8 there.

9 Q Okay. It's my understanding, from documents, that
02:37 10 that would have been in 1993 in connection with
11 their investigation, and I would like to call up,
12 it's part of document 104340 but it's page 347,
13 and you will see this is dated March 15th, 1993,
14 and is that your name and address at the time?

02:37 15 A Umm, yes, that's right.

16 Q And it appears that someone by the name of
17 Corporal Templeton of the RCMP would have met with
18 you; does that sound correct?

19 A I don't recall his name, I just recall a gentleman
02:37 20 from the police service being in my office.

21 Q And is that your signature?

22 A Yes it is.

23 Q If you could just turn to the next page, please,
24 104348, and it looks as though -- is this your
02:38 25 handwriting here, Mrs. Hall, do you --



1 A No, it is not.

2 Q Okay. What's recorded here, if you could just
3 call out this question and answer, and it says:

4 "Q How did you come to be involved in this
5 murder investigation?"

6 "A I resided at 130 Avenue O South on
7 January 31, 1969. I saw Gail Miller
8 standing at the end (west) of the
9 second floor hall. She was having a
10 cigarette. She was looking out the
11 window onto Avenue O. This was about
12 6:45 a.m. She was dressed to go to
13 work."

14 Do you recall giving that information to the
15 RCMP?

16 A Yes.

17 Q And when you talked here about the west end of the
18 second floor, that's the same spot we talked about
19 earlier, is it

20 A Yes, looking out onto Avenue O, yes.

21 Q And if you could just go back to the main
22 document, and here you were asked, call that out,
23 it says:

24 "Q Do you wish to change any portion of
25 your original statement that you



1 provided?"

2 And your answer was:

3 "A I don't specifically recall aspects
4 about Gail's boyfriend or any prank
02:39 5 phone calls."

6 Is that what you advised the RCMP about that
7 time?

8 A By that time, I wouldn't have remembered her
9 boyfriend's name or prank calls.

02:39 10 Q Again, if you could just go to the next page,
11 104349 please, and again that's your signature at
12 the bottom; is that right?

13 A Yes it is.

14 Q Next I understand you were called as a witness at
02:40 15 the Larry Fisher preliminary hearing and trial; is
16 that correct?

17 A Yes.

18 Q If I could call up document 315423, which is the
19 transcript of your examination at the preliminary
02:40 20 hearing, if you could go to the second page,
21 315424 -- I apologize, this isn't very good -- if
22 you could call out 12 and 17, please. Question 12
23 is:

24 "Q Right, I understand that you saw her the
02:41 25 morning of January 31, 1969?"



1 "A Yes, I did"

2 Down to question 17:

3 "Q Do you recall what time that was, Ms.
4 Hall?"

02:41 5 "A It was about 25 to 7:00, between 25 to
6 7:00 and quarter to 7:00 in the
7 morning."

8 Is that right?

9 A Yes.

02:41 10 Q And just for the record, Mr. Commissioner, I don't
11 have any questions about it, but the transcript at
12 trial is document 313935, maybe we can just call
13 up the first page of that document. And you
14 recall being examined at trial in Yorkton for the
02:42 15 Larry Fisher matter?

16 A Yes.

17 Q Thank you, Mrs. Hall, those are all of my
18 questions.

19 Now I believe, Mr. Commissioner,
02:42 20 the order of counsel for cross-examination,
21 Mr. Wolch is first.

22 COMMISSIONER MacCALLUM: Mr. Wolch, if all
23 goes well we'll break at 3:15, just so you know.

24 MR. WOLCH: I only have one question,
02:42 25 Mr. Commissioner.



1 COMMISSIONER MacCALLUM: All right.

2 BY MR. WOLCH:

3 Q Ma'am, this day we're focusing on, of course, is
4 January 31st of 1969, and I want to ask you if --
02:43 5 whether you were aware of a number of attacks on
6 women in the general area in the fall leading up
7 to what occurred on January 31st, 1969?

8 A No, I was not.

9 Q You saw no newspaper articles or no one brought to
02:43 10 your attention any danger that women might be in
11 at that time?

12 A No.

13 Q And there was no discussion with Gail Miller about
14 any danger in the area?

02:43 15 A No.

16 Q Those are all my questions. Thank you.

17 COMMISSIONER MacCALLUM: Thanks,
18 Mr. Wolch. Any redirect, Mr. Hodson?

19 MR. HODSON: Not at this time,
02:43 20 Mr. Commissioner.

21 COMMISSIONER MacCALLUM: Thanks.
22 Ms. McLean, do you have any questions?

23 MS. McLEAN: I have a couple, actually.

24 BY MS. McLEAN:

02:44 25 Q Could I have what I think is map B, please. Yup,



1 that's the one. Ms. Hall, when you took the bus
2 you would go down Avenue O to 20th Street; right?

3 A That's right.

4 Q Out front? How long of a walk is that?

02:44 5 A About five minutes.

6 Q Okay. And if you were to come out the back door
7 and come down the alley, this alley down here, --

8 A Right.

9 Q -- am I correct that that alley actually dead-ends
02:45 10 before you get to 20th Street?

11 A That's right.

12 Q So if you wanted to take either bus, either the
13 one that comes here at O and 20th or the one
14 that's -- came to N and 20th, you would have to
02:45 15 come down this alley?

16 A That's right.

17 Q And then back out to O?

18 A That's right.

19 Q And down?

02:45 20 A That's right.

21 Q Or out to N and down?

22 A That's right.

23 Q Now you also said that sometimes when you were at
24 -- I'm sorry, can you clear that, or do I clear
02:45 25 it, I do? I think I did. You also said that



1 sometimes when you were -- if it was very cold and
2 there was no bus coming, when you were waiting
3 here at O and 20th --

4 A That's right.

02:45 5 Q -- if there was no bus coming, you would sometimes
6 walk down towards N?

7 A That's right.

8 Q Now, when you did that, you would still be
9 catching the same bus that you would have; right?

02:46 10 A That's right.

11 Q I wonder, --

12 A The one going downtown.

13 Q Okay. I'm correct that you would only be doing
14 that because you are standing there in the cold
02:46 15 anyway?

16 A That's right.

17 Q If you can't see a bus coming, you won't miss it
18 in the time that you walk up to N?

19 A That's right.

02:46 20 Q And you will, in fact, get on the bus faster?

21 A No, not really.

22 Q The bus is travelling this way?

23 A No, I'm going downtown, so the bus is going the
24 other way.

02:46 25 Q Okay, the bus is going this way?



1 A Yeah, that's right.

2 Q I'm just trying to orientate here. So your,
3 actually, your fastest way of getting on a bus
4 would be this one; right?

02:47 5 A To get on at Avenue O, yes.

6 Q Okay. I'm just trying to understand the geography
7 there.

8 A To my understanding, there would be virtually no
9 reason to walk down the alley between Avenue O and
02:47 10 the next street and then make a detour.

11 Q It kind of looks like it would take you more time
12 in the cold?

13 A There is no reason to walk down here and make a
14 detour either way.

02:47 15 Q And you could be in a position of missing the bus
16 too?

17 A That's right, because you couldn't see it coming,
18 whereas if you were at Avenue O and 20th and the
19 bus isn't there, you are walking down, then you
02:47 20 could see it and flag it down.

21 Q Absolutely. Thank you.

22 COMMISSIONER MacCALLUM: Mr. Hodson,
23 redirect?

24 MR. HODSON: No redirect at this time.

02:47 25 COMMISSIONER MacCALLUM: And Mr. Beresh is



1 on his way already, I see, so that means he has
2 questions.

3 MR. HODSON: Perhaps you want me to go
4 block him.

02:47 5 MR. BERESH: That having not succeeded,
6 I'll commence my questions.

7 BY MR. BERESH:

8 Q Mrs. Hall, just a few questions this afternoon.
9 You recall testifying at the preliminary inquiry
02:48 10 and trial of Larry Fisher; is that correct?

11 A Yes.

12 Q Have you had occasion to review those transcripts
13 recently?

14 A Not from that trial, no.

02:48 15 Q But I take it you have not -- no reason to tell
16 us, today, that what you said under oath at either
17 the preliminary inquiry or the trial in
18 cross-examination is now incorrect?

19 A When I would have said then would have been
02:48 20 correct to my, the best of my knowledge.

21 Q Okay. The morning of which we speak you have
22 described already as a very cold morning?

23 A Yes.

24 Q Absolutely cold?

02:48 25 A Very.



1 Q Even by Saskatoon standards?

2 A Yes.

3 Q Certainly not a morning when you would want to be
4 outside for any length of time or longer than you
02:48 5 had to be?

6 A That's right.

7 Q Certainly not a morning where you would expose
8 yourself to be out in the elements unless
9 necessary?

02:48 10 A That's right.

11 Q Certainly not a morning when you would want to
12 remove clothing, in fact the opposite would be to
13 keep clothing on, I take it?

14 A That's right.

02:48 15 Q Is that fair? I want to ask you quickly about the
16 rooming house, it's been called a rooming house or
17 boarding house?

18 A It's actually a rooming house, not a boarding
19 house.

02:49 20 Q Yes. I understand it had no rules in terms of
21 access to the home at different hours of the day?

22 A No.

23 Q If individuals wanted to come to the home at
24 night, say in the middle of the night, they could
02:49 25 come there.



1 A That's right.

2 Q And tenants who lived there -- and they were
3 numerous in number?

4 A Yes.

02:49 5 Q And they were of a variety of gender, there were
6 men and women there?

7 A Yes.

8 Q And they would often have guests in?

9 A Yes.

02:49 10 Q And in fact, in the statement to the police, you
11 said that Ms. Miller, you recalled about two or
12 three weeks before her death, that Ms. Miller had
13 a number of individuals come in and stay
14 overnight?

02:49 15 A If I said that at that time, that would have been
16 correct, --

17 Q Okay.

18 A -- I don't recall right now.

19 Q I can take you to the statement, you said two or
02:49 20 three people came in, --

21 A Yes.

22 Q -- and some were male individuals.

23 A Yes.

24 Q Okay. My question is this; when you told the
02:49 25 police that there were two or three people who



1 came, some of them were male, they stayed
2 overnight, did they ask you for a description of
3 those people?

4 A No.

02:50 5 Q Did they ask you for any type of detailed
6 description, like hair colour, height, weight,
7 that sort of thing, for which a normal person
8 could identify someone?

9 A No.

02:50 10 Q Did they ask for any description, such as
11 clothing, that the individuals may have worn?

12 A No.

13 Q Did they ever at any time subsequent to when you
14 said that, which I believe was February the 7th of
02:50 15 1969, ever ask you to look at a photographic
16 lineup of individuals?

17 A No.

18 Q Or an actual lineup where you might have people
19 behind a two-way mirror?

02:50 20 A No, definitely no.

21 Q Did they ever ask you to meet with a composite
22 artist who might sketch some of those individuals
23 and try to come up with a likeness?

24 A No.

02:50 25 Q Okay. You indicated in a statement, and



1 Mr. Hodson has touched on it briefly, that you
2 told the police on February 7th about Mr. Spence
3 having difficulties with Ms. Miller and vice
4 versa?

02:51 5 A Yes.

6 Q And it appeared to be as though, at least your
7 impression whether correct or not, was that they
8 were on the verge of a breakup?

9 A Yes, I believe so.

02:51 10 Q But when I look at the statement you provided --
11 and I'm not faulting you -- I don't see that
12 anyone pursued, with you, details about that?

13 A No. I wasn't acquainted with Gail and Les that
14 well, so what I heard would be on the fringes of
02:51 15 what was going on.

16 Q I appreciate your frankness, again, but is it
17 correct that you were never asked about any
18 details, like were there arguments, were there
19 letters that went back and forth, was there
02:51 20 swearing, were there bad words, you weren't asked
21 any of that; is that correct?

22 A No I was not.

23 Q So no detail was inquired of you in that regard?

24 A That's correct.

02:51 25 Q You said to the police, as early as February 7th,



1 1969, that there were prank calls received by Gail
2 Miller?

3 A Yes.

4 Q And I gathered, from what you said to the police,
02:52 5 that they were to the extent that it caused
6 concern within at least the female majority of the
7 home?

8 A Umm, yes.

9 Q And it caused such a concern that you took calls
02:52 10 for her so as to shield her from the prank calls?

11 A Umm, the other girls took calls, I don't recall if
12 I did myself per se.

13 Q I appreciate that, but it became a matter of
14 general knowledge within the home?

02:52 15 A That's right.

16 Q Now, in relation to those prank calls, did the
17 police ever, outside of any of the information we
18 have, ask you for a description of voice, type of
19 individual calling?

02:52 20 A No.

21 Q Did they ever ask whether the person, for example,
22 had an accent, didn't have an accent?

23 A No.

24 Q Spoke in a less-educated/more-educated fashion?

02:52 25 A No.



1 Q I see that they didn't ask you when the calls were
2 placed?

3 A No.

4 Q Or received?

02:52 5 A No.

6 Q Or the frequency of them?

7 A No.

8 Q Or the level of concern it caused to Gail?

9 A No.

02:52 10 Q But it did cause a level of concern to Gail;
11 didn't it?

12 A Yes.

13 Q Okay. Finally, obviously we're trying to patch
14 together a picture from years ago, and I have this
02:53 15 picture of you seeing Gail standing at a window
16 with a cigarette, --

17 A Right.

18 Q -- nurse's uniform on?

19 A Right.

02:53 20 Q She is obviously ready to go to work?

21 A Right.

22 Q You are about a half-hour away from that?

23 A Right.

24 Q And there she is, looking out the window, and you
02:53 25 know what time she generally leaves for work?



1 A Yes.

2 Q You know that she either takes the bus or
3 sometimes she catches a ride?

4 A Right.

02:53 5 Q As you did that morning?

6 A Yes.

7 Q And as you took the bus other mornings?

8 A I took bus on some mornings, yes.

9 Q Okay. So I have that picture in my mind, there
02:53 10 she is by a window, and then a short time
11 thereafter you hear footsteps on the stairs?

12 A Right.

13 Q Like somebody is in a hurry to get downstairs?

14 A Yes, yes.

02:53 15 Q Now I take it you would agree with me that that's
16 not inconsistent with someone waiting for a ride,
17 seeing the ride arrive, and then hustle outside?

18 A That would not be inconsistent, no.

19 Q It would not, would it?

02:54 20 A No.

21 Q And if the ride is coming, then it's not a bus, it
22 would be a vehicle?

23 A That's right.

24 Q Because no busses ran in front of the rooming
02:54 25 house?



1 A That's right.

2 Q Okay. Finally, I take it that when you went down
3 the alley between N and O -- and if I refer to N
4 and O you will know I'm referring to the
02:54 5 avenues --

6 A Yes.

7 Q -- when you went down the alley, I take it what
8 you are telling us is that the density of the fog
9 was such that, if a vehicle had been in the alley
02:54 10 somewhere just ahead of you to the south before
11 you made the turn, you probably wouldn't have seen
12 it?

13 A That's right.

14 Q Whether it had taillights, headlights on, the fog
02:54 15 was of such density you couldn't have seen it?

16 A That's right.

17 Q And I take it, when you went out to catch the ride
18 with Hugo -- and I won't attempt his last name but
19 you know who I am referring to --

02:54 20 A Yes.

21 Q -- when you went out to catch a ride you weren't
22 very long from house to car?

23 A That's right, no, it was just hop-skip, yeah.

24 Q So you wouldn't have had time to hear whether
02:54 25 there was a car motor running in the alley some



1 way down the distance?

2 A No. The morning was very still, though, like
3 there wasn't any wind.

4 Q I take it -- but you did listen for that?

02:55 5 A I didn't listen for it, but I didn't hear
6 anything.

7 Q And I take it you weren't in, you didn't sort of
8 stop and pick the roses at -- in that temperature?

9 A No.

02:55 10 Q You hustled from one place to another?

11 A Right, right.

12 Q Finally, you were asked this at Mr. Fisher's
13 trial, and I want to confirm that Ms. Miller was
14 wearing a black nylon scarf at the time you last
02:55 15 saw her; was she?

16 A I saw her in her white nurse's uniform, I did not
17 see her dressed in outside gear that morning.

18 Q Fair enough. Was it customary for her to wear a
19 black nylon scarf?

02:55 20 A She wore a black scarf, yes.

21 Q Okay. Those are my questions, thank you very
22 much.

23 A I have one clarification to make.

24 Q Yes?

02:55 25 A When Gail or somebody else had people staying



1 over, they, there was a living room where they
2 stayed over and not necessarily in that person's
3 room.

4 Q I wasn't imputing that. I appreciate the
02:56 5 correction.

6 A Yeah.

7 Q But they did stay over?

8 A Yeah, yeah.

9 Q And they were some of the two people who were
02:56 10 there only two or three weeks before?

11 A Yes.

12 Q Okay. Thank you very much.

13 MR. HODSON: If I may, Mr. Commissioner, I
14 do have a couple of re-exams arising out of that.

02:56 15 COMMISSIONER MacCALLUM: Yes.

16 BY MR. HODSON:

17 Q If you could call up document 070593, which is
18 Mrs. Hall's February 7th, 1969 statement, and
19 Mr. Beresh asked you about prank calls and whether
02:56 20 the police asked you for voice, I believe voice
21 identification, recognized the caller, etcetera.
22 I just draw your attention, if you could just call
23 out that portion of the statement where it says:

24 "I have never received any prank phone
02:56 25 calls."



1 Is that correct?

2 A Personally, I did not.

3 Q Right. So you didn't hear any of the voices of
4 any of the callers who may have called?

02:56 5 A That's correct.

6 Q If you could turn to the next page of that
7 statement, please, Mr. Beresh asked you about what
8 the police asked you about the individuals who
9 were at the house. If I could just call out that
02:57 10 paragraph of that statement, and this is your
11 statement to the police, it says:

12 "About 2 or 3 weeks before the murder Gail
13 had three guys in to see her, they stayed
14 overnight, in the front room, I think one
02:57 15 was named Brian, Betty told me that one of
16 the guys had said he had to go to jail the
17 next Monday, this was a Wednesday or a
18 Thursday."

19 So it appears you would have at least given the
02:57 20 police a name of one of the individuals; is that
21 right?

22 A I guess I did. I don't recall now.

23 Q Okay. Those are all my re-exam questions, thank
24 you, Mr. Commissioner.

02:57 25 COMMISSIONER MacCALLUM: Thanks.



1 Mr. Elson?

2 MR. ELSON: I wonder if I could have map B
3 drawn up please.

4 BY MR. ELSON:

02:57 5 Q Before I specifically get to map B, it's my
6 understanding that when you gave the statement of,
7 one of the statements either in January or
8 February of 1969, you may have referred to
9 yourself as being a close friend of Gail Miller;
02:58 10 do you recall whether or not that statement was
11 made by you, or whether or not it was put to you
12 at a later time?

13 A I would not have made that statement. I didn't --
14 I was on the next floor, I was a student, I didn't
02:58 15 party a lot so I didn't -- I wasn't a close
16 friend.

17 Q And speaking specifically, it's my understanding
18 that in 1993 when the RCMP, specifically Constable
19 Templeton or Corporal Templeton, interviewed you,
02:58 20 you made that correction and advised him that you
21 were not a close friend of Gail Miller's?

22 A That's right.

23 Q So you were as good an acquaintance as you could
24 be for the short period of time you lived in the
02:58 25 same rooming house?



1 A That's right.

2 Q So, in terms of knowing the people with whom she
3 was in contact, you would agree with me that there
4 would be other residents of the boarding house or
02:58 5 the rooming house who would be better equipped to
6 answer the kind of questions that Mr. Beresh was
7 addressing?

8 A That's right.

9 Q Specifically, Betty Hundt or Linda Markwart would
02:59 10 be better witnesses to give the kind of answers
11 Mr. Beresh was raising with you, would that be a
12 fair comment?

13 A That's right, Betty and Gail were better friends.

14 Q Now, if we were to refer to map B, you had
02:59 15 indicated that, at the time you saw Gail Miller on
16 the morning of January 31, 1969, she appeared to
17 be looking out the front window of the home on
18 Avenue O South?

19 A That's right.

02:59 20 Q Because she would not have been able to view
21 Avenue O South from a window in her room?

22 A That's right.

23 Q If there was a window in her room, it would either
24 be facing east, or it would be facing south?

02:59 25 A That's right.



1 Q So My Friend, Mr. Beresh, put it to you that it
2 was conceivable she may have been looking out,
3 waiting for a ride, and you indicated that that
4 would be consistent with what you saw; that was
03:00 5 your evidence?

6 A That's correct.

7 Q Now you also testified that there might have been
8 some trouble, to your knowledge, in the
9 relationship between Ms. Miller and Mr. Spence; is
03:00 10 that correct?

11 A Yes.

12 Q Were you aware of any occasion on which it was
13 believed that Mr. Spence was either spying or
14 eliciting -- or getting the services of somebody
03:00 15 else to spy on Ms. Miller on his behalf?

16 A I wasn't aware of that, no.

17 Q You would agree with me that if one was concerned
18 and one living in the rooming house did not wish
19 to be seen, that perhaps one of the ways that
03:00 20 could be avoided would be to walk out the back
21 door of 130 Avenue O South, walk out the back lane
22 and either proceed down 21st to Avenue N, and down
23 Avenue N to the bus stop, or down the back lane,
24 if one did not wish to be seen?

03:01 25 A If a person was trying to hide, yes.



1 Q And so in answering my question, somewhat similar
2 or somewhat analogous to the question Mr. Beresh
3 put to you, walking down the back lane or walking
4 down 21st to Avenue N and taking the bus stop at
03:01 5 Avenue N and 20th, that would also be consistent
6 with somebody wanting to avoid being seen by
7 somebody she was, in turn, trying to avoid?

8 A If someone was sneaking to be not observed, they
9 could do that, yes.

03:01 10 Q Thank you. I have no further questions.

11 MR. HODSON: I have no redirect.

12 COMMISSIONER MacCALLUM: Thanks. Mr. Fox,
13 do you have any questions?

14 BY MR. FOX:

03:01 15 Q Thank you. If I could just have map B up, please?
16 Yes. And I was just curious about this, I think
17 Ms. McLean was trying to cover this point with
18 you, you indicated sometimes if it was cold you
19 would normally go to the bus stop at Avenue O and
03:02 20 20th, but sometimes if it was cold you would walk
21 down to the bus stop at Avenue N?

22 A That's right, I did that on occasion, because I
23 lived at that house for a number of years.

24 Q At the house on?

03:02 25 A 130 O.



1 Q O? Sorry. And can you tell me why, like, what
2 would be the motive, then, for walking down to the
3 bus stop at Avenue N?

4 A To stay warm rather than standing in one spot.

03:02 5 Q Just for the sake of walking and trying to heat
6 up?

7 A Yes.

8 Q Okay.

9 A Yes.

03:02 10 Q There was no particular benefit, like a better bus
11 stop or anything, like?

12 A No. No, actually the one up on Avenue O and 20th
13 was the better bus stop.

14 Q Okay. Could you put up, this would be document
03:02 15 104340, that was I believe the -- either a
16 transcript or, sorry, trial evidence I think, and
17 if you could turn to 104348. Now you indicated
18 that when you testified at the trial, that someone
19 spoke to you before the trial, you are not -- you
03:03 20 can't recall who that was? And this is the trial
21 of Mr. Milgaard.

22 A Okay.

23 Q Do you recall testifying to that today?

24 A I'm sorry, could you repeat the first part of the
03:03 25 question?



1 Q Sure. Prior to testifying at Mr. Milgaard's trial
2 did anyone speak to you about having to testify,
3 giving your evidence, that sort of thing?

4 A I -- I don't recall. I believe that my statement
03:03 5 was gone over, but that's -- I don't recall
6 anything else, any other details.

7 Q Okay. And I take it, at this point in time, you
8 don't recall who you would have spoken to?

9 A I don't know.

03:03 10 Q Okay. Do you have any recollection of anyone
11 trying to influence you, whether a police officer
12 or otherwise, in terms of the evidence you were
13 going to give at your trial?

14 A No.

03:04 15 Q You were asked some questions about a statement
16 you had given at the time of the original
17 investigation in 1969, there were two statements
18 given at that time, one portion of the statement
19 you testified to Gail Miller having had these
03:04 20 three friends who stayed over in the living room
21 on an earlier occasion; did you happen -- did you
22 see those individuals, like, were you able to
23 identify them?

24 A Umm, I probably saw them in passing, but wouldn't
03:04 25 really have known them, you know, their names that



1 well, aside from just a brief mention of somebody.

2 Q Okay. Do you know, at this point in time are you
3 able to say whether, when you spoke to the police
4 in 1969, if you were asked then if you could
03:04 5 describe those individuals; do you know at this
6 point in time whether you were asked that or not?

7 A No I don't.

8 Q So it doesn't -- there is no reference to that in
9 your statement but it may have been that, in your
03:05 10 discussions with them, that could have been
11 discussed?

12 A Umm, I -- I don't remember.

13 Q Okay. Fair enough. And you were asked, then,
14 about the difficulties that Gail Miller may have
03:05 15 been having with Les Spence; was that conveyed to
16 you by Gail Miller or did you hear about that from
17 someone else?

18 A That was probably general hearsay on the second
19 floor.

03:05 20 Q Were you on in a position -- and maybe you can
21 answer this and maybe not -- but in 1969 do you
22 know if you had any details that you could have
23 provided to the police about that beyond the fact
24 that there were some difficulties?

03:05 25 A No, I wouldn't have had any details, no.



1 Q Okay. And I think this has been covered, but in
2 terms of the prank phone calls, I take it from
3 what you have told us, in 1969, you would not have
4 been in a position to give any details to the
03:06 5 police about what the sound of the voice was,
6 whether it was an older or a younger voice, that
7 sort of thing?

8 A No. Again, I was on the third floor, so the
9 chances of my answering Gail's floor -- or Gail's
03:06 10 phone on the second floor would have been slim, so
11 it's unlikely I answered her phone.

12 Q Thank you. Those are all the questions I have,
13 Mr. Commissioner, thank you.

14 COMMISSIONER MacCALLUM: Thanks. Okay,
03:06 15 Mr. Gibson, any questions?

16 MR. GIBSON: Yes.

17 BY MR. GIBSON:

18 Q Thank you. Very briefly, you were asked by
19 Mr. Fox -- and perhaps we could put up 10438,
03:06 20 104348, sorry -- and I believe you have been shown
21 this document before, and again, you met with an
22 RCMP officer in 1993?

23 A Yes.

24 Q And you recall that, and I don't think you
03:06 25 recalled his name, but if I tell you it was a



1 Corporal Templeton; you do recall that meeting?

2 A I recall the meeting in my office, yes.

3 Q And, at that time, did you have an opportunity to
4 review some of the previous statements that you
03:07 5 had given?

6 A I don't remember if he had a copy of my previous
7 statement or not.

8 Q I'm showing you this portion here -- I'm not very
9 good at the arrows yet, I think I have pretty much
03:07 10 messed that up -- if you could just highlight
11 that, it says here:

12 "Q Do you wish to change any portion of
13 your original statement that you
14 provided?"

03:07 15 And there is your answer there. Does that help
16 you recall or does that seem to indicate to you
17 that you may have been shown some of the original
18 materials?

19 A I was probably shown, yes, a copy of the prior
03:07 20 transcript.

21 Q Okay. And then you were asked by Mr. Beresh, and
22 again followed up by Mr. Fox, with respect to
23 providing a description of some of these
24 individuals that may have stayed at the boarding
03:07 25 house at some point in time?



1 A Yeah. I don't recall being questioned about
2 descriptions of any visitors.

3 Q Okay. And let's say that you had been asked those
4 types of questions; is it fair to say, or could
03:08 5 you have recalled in 1993, what any of these
6 individuals could have looked like, or can you
7 recall any of them today?

8 A No. I can't even recall what Les Spence looked
9 like.

03:08 10 Q Thank you.

11 COMMISSIONER MacCALLUM: You can't recall
12 what?

13 A I can't recall what Les Spence looked like, and he
14 was Gail's boyfriend.

03:08 15 MR. GIBSON: Thank you very much.

16 COMMISSIONER MacCALLUM: Mr. Gibson, when
17 was that statement, just yours, the one you were
18 looking at here?

19 MR. GIBSON: My apologies, it was the
03:08 20 statement that was 104348.

21 COMMISSIONER MacCALLUM: Yes?

22 MR. GIBSON: And it was a statement taken
23 by a Corporal Templeton of the RCMP.

24 COMMISSIONER MacCALLUM: I was just
03:08 25 interested in the date?



1 MR. GIBSON: I'm sorry, it was taken,
2 104347, it appears the date was 93-03-15.

3 COMMISSIONER MacCALLUM: 03-15?

4 MR. GIBSON: Correct.

03:09 5 COMMISSIONER MacCALLUM: Thank you.

6 MR. GIBSON: Thank you.

7 COMMISSIONER MacCALLUM: So in '93 she
8 said she wouldn't recognize whom?

9 A Les, Gail's boyfriend.

03:09 10 COMMISSIONER MacCALLUM: Les, let alone
11 somebody else, was that --

12 A That's correct.

13 COMMISSIONER MacCALLUM: Who else was it
14 he was asking you about?

03:09 15 A Pardon?

16 COMMISSIONER MacCALLUM: Who else was he
17 asking you about, then, when you said you
18 couldn't remember Les Spence?

19 A He asked me about prank phone calls.

03:09 20 COMMISSIONER MacCALLUM: Oh, the prank
21 phone calls?

22 MR. GIBSON: I guess, if I may clarify,
23 specifically it was in relation to the questions
24 raised by Mr. Beresh, followed up by Mr. Fox,
03:09 25 about a gentleman that had resided a couple weeks



1 prior to, stayed overnight at the boarding house,
2 and --

3 COMMISSIONER MacCALLUM: I thought there
4 was three gentlemen?

5 MR. GIBSON: Yes.

6 COMMISSIONER MacCALLUM: The three
7 gentlemen?

8 MR. GIBSON: And I asked whether she could
9 provide descriptions of those individuals today,
03:09 10 I believe the response was "no", and then I asked
11 whether that would have been possible, in '93, to
12 provide the descriptions, and again --

13 COMMISSIONER MacCALLUM: I think I have
14 you now. Thank you. Now, Mr. Hodson?

03:09 15 MR. HODSON: No re-exam.

16 COMMISSIONER MacCALLUM: Okay. We're down
17 to, we have five minutes left, Ms. Krogan?
18 Sorry?

19 MS. KROGAN: I have no questions.

03:10 20 COMMISSIONER MacCALLUM: No questions.
21 And Ms. Knox?

22 MS. KNOX: I have no questions.

23 COMMISSIONER MacCALLUM: Thank you very
24 much. Mr. Hodson, I guess that takes us to the
03:10 25 break, does it?



1 MR. HODSON: Yes, Mr. Commissioner that
2 would be fine. Linda Brecelj will be next to
3 testify, she will start at 3:30, and we should
4 get through her this afternoon.

03:10 5 COMMISSIONER MacCALLUM: Thank you. Mrs.
6 Hall, you are excused, and thank you very much
7 for coming.

8 *(Adjourned at 3:10 p.m.)*

9 *(Reconvened at 3:29 p.m.)*

03:30 10 MR. HODSON: Thank you, Mr. Commissioner.
11 The next witness will be Mrs. Linda Brecelj, and
12 that's spelled B-R-E-C-E-L-J, her maiden name is
13 Markwart. Ms. Brecelj, if you could come up to
14 the front, please?

03:30 15 **LINDA BRECELJ**, sworn:

16 BY MR. HODSON:

17 Q Thank you. Good afternoon, Mrs. Brecelj, thank
18 you for testifying before the Commission of
19 Inquiry. I understand that you currently reside
03:31 20 in Saskatoon; is that correct?

21 A Yes.

22 Q I understand that, on January 31, 1969, you
23 resided at a boarding house at 130 Avenue O South
24 in Saskatoon?

03:31 25 A Yes.



1 Q I understand that your maiden name is Markwart and
2 that, in 1969, you were not married and you were
3 known by that name?

4 A Yes.

03:31 5 Q And as well, in January 1969, you were 18 years of
6 age?

7 A Yes.

8 Q I understand that you knew Gail Miller and that
9 she was a roommate of yours at the boarding house;
10 is that right?

11 A Yes.

12 Q I would like to ask you some questions regarding a
13 couple subject matters, your recollection of the
14 morning of January 31, your relationship with Gail
03:31 15 Miller, I want to ask you some questions about the
16 route she took to catch her bus in the morning at
17 the time she left for work, and your dealings with
18 police.

19 I would like to start off with
03:31 20 the map of the area and have you confirm a couple
21 of locations. And again, map B, please. And on
22 this map you will see that north goes that way, we
23 have 20th Street, 21st Street, Avenue O, Avenue N,
24 and right here is 130 Avenue O South; do you see
03:32 25 that?



1 A Yes.

2 Q Now did you catch the bus when you lived at Avenue
3 O South?

4 A Yes, I would go straight down Avenue O onto the
03:32 5 corner of 20th and catch the bus to go to school
6 there.

7 Q And that would be this bus stop on the corner of
8 Avenue O and 20th?

9 A Yup.

03:32 10 Q Now I understand that, at 130 Avenue O South,
11 there was a back alley running behind your house,
12 is that right, running north-south?

13 A I have no recollection of that because I never
14 went towards the back. I did not have a
03:32 15 vehicle, --

16 Q Okay.

17 A -- so I always exited the front door and I never
18 went down the back way, I didn't even know that
19 existed at the back.

03:32 20 Q Okay. Next I would like to show you a couple
21 pictures of the boarding house, first 076388
22 which, I believe, is a picture from 1969; does
23 that look familiar?

24 A Yes.

03:33 25 Q That's the boarding house?



1 A Yes.

2 Q And again, call up 241993 and 94, there is a
3 picture in the '90s, and I'll show you just a
4 picture of the back of the house; does that look
03:33 5 familiar?

6 A I -- the back of the house I do not recognize
7 because I never was at the back of the house.

8 Q Do you remember where, in the house, your room was
9 located?

03:33 10 A At the front.

11 Q At the front, on the second floor?

12 A Yes. If you would go back to the first picture I
13 could --

14 Q Sure, if you would go back to this, and just zoom
03:33 15 it in.

16 A I was right in this corner here.

17 Q Okay. Right here? So that -- was that your
18 window?

19 A Yeah, and I don't know if that suite had two
03:33 20 windows, or if that was two separate suites.

21 Q Okay. But you were in that corner?

22 A Yes.

23 Q Because I could look out onto Avenue O.

24 A Okay.

03:33 25 Q Now I understand, from your statements and police



1 reports, the night before Gail -- the night before
2 Gail Miller's death you attended a party with her;
3 is that correct?

4 A Yes it is.

03:34 5 Q Can you please tell me your recollection of the
6 evening of January 30, 1969?

7 A Just that we -- just from my statements that I
8 have gone over again.

9 Q Yeah, and I will go through those with you.

03:34 10 A Okay.

11 Q But I just thought if you could just give me a
12 general recollection of that night?

13 A Recollection is that Gail, Betty, and I went with
14 some people --

03:34 15 COMMISSIONER MacCALLUM: Who was the
16 second person, please, Betty?

17 A Betty.

18 COMMISSIONER MacCALLUM: Betty?

19 BY MR. HODSON:

03:34 20 Q Sorry, and would that be Betty Hundt?

21 A Yes it would be.

22 Q And for the record that is H-U-N-D-T, her name now
23 is Betty Silverfox, and we will be hearing from
24 her tomorrow morning.

03:34 25 A We were picked up from 130 Avenue O and proceeded



1 to go to a house party, we stopped for cigarettes
2 for Gail, and that's about all I can --

3 Q Okay.

4 A You know.

03:34 5 Q Yeah. I'll go through some statements with you to
6 assist you, Mrs. Brecelj.

7 A Okay, yes.

8 Q First, let's just go to January 31, 1969, the day
9 of her murder. When did you first find out, and
03:35 10 how did you find out, about Gail Miller's death?

11 A Well I had been at the party on the 30th, I did
12 not attend school, my classes that following day,
13 I stayed at the party --

14 Q Yes?

03:35 15 A -- and did not return home until, like to Avenue O
16 South until the 31st, in the evening around 6:00.

17 Q Okay. And do you recall who was at the house?

18 A Well I had -- we had heard numerous things that a
19 nurse had been murdered, we did not know who, then
03:35 20 eventually they had mentioned a girl named Gail
21 and I said "well I know somebody named Gail," so I
22 phoned Betty Hundt's phone number once and a
23 gentleman answered and I hung up, and then I
24 phoned a second time and a gentleman answered
03:35 25 again and I asked for Betty, and he asked who I



1 was, and I said I was Linda, and he said "do you
2 live down the hall," and I said "yes I do," and he
3 said "we would like you to come home as soon as
4 possible, we need to talk to you."

03:36 5 Q Okay.

6 A I did not have a phone in my room, sorry.

7 Q Okay.

8 A Yeah.

9 Q So when you arrived at 130 Avenue O South on
03:36 10 January 31, 1969 were there police officers there
11 waiting?

12 A There were two.

13 Q Okay. Perhaps I can call up document 106116, this
14 is not a very good copy, this is a police report,
03:36 15 maybe you can just zoom in on this area here. And
16 this is a police report dated January 31, 1969.
17 If you could just refer to the second page please,
18 which is 106117, and it's Detective Keith Mackie.

19 And Mr. Commissioner, I'm not
03:36 20 sure if I said this earlier, there were two
21 Mackies with the police force involved, Detective
22 Keith Mackie and Detective Sergeant Raymond
23 Mackie. I'm advised they are no relation, but
24 just when we get into dealing with detectives
03:37 25 Mackie, I'll try to make the distinction.



1 COMMISSIONER MacCALLUM: What was the
2 second fella's name?

3 MR. HODSON: Raymond Mackie and Keith
4 Mackie.

03:37 5 COMMISSIONER MacCALLUM: Okay.

6 BY MR. HODSON:

7 Q If I could then have you call out this portion,
8 and hopefully we can see it a little better, not
9 much. However, there is your name, Linda
03:37 10 Markwart. And I can just read a portion of this.
11 Perhaps you can just highlight right here. It
12 simply states, in this report, that a witness
13 statement was taken from Linda Markwart at 130
14 Avenue O South and completed at 6:50 p.m.;
03:37 15 so that, does that sound about right?

16 A Yes it does.

17 Q Next if you could call up document 045435, and
18 this is a witness statement form, it has your name
19 at the top, Linda Markwart, January 31, '69, 6:25
03:38 20 p.m. If you could zoom out the bottom right,
21 please, is that your signature?

22 A Yes it is.

23 Q Okay. Go back to the main document, please. Is
24 this your handwriting in the document?

03:38 25 A No, it is not.



1 Q And here, at the bottom, it looks as though -- if
2 you could just zoom in on that, please -- and it
3 looks to be Keith Mackie who provided it. Do you
4 recall the names of the officers who you met with?

03:38 5 A No, I'm sorry, I don't.

6 Q That's fine. Let's go back to the main document
7 please. Would it be fair to say, at this time,
8 that you would have provided the police with your
9 best recollection of what they were asking you?

03:38 10 A Yes.

11 Q And if I could call out that part there, please?
12 In this statement you say:

13 "I have lived at 130 Avenue O South since
14 December 1968. My home is at Rosthern. I
03:39 15 have known Gail Miller since I moved into
16 130 Avenue O South, we were very close
17 friends."

18 That's what you would have advised the police at
19 the time?

03:39 20 A Yes.

21 Q And you --

22 A I, that we were very close friends for the short
23 period of time that I lived there, yeah.

24 Q Yeah. At that time you would have considered her
03:39 25 a close friend?



1 A Yes.

2 Q Now if I could just have you scroll down to the
3 next paragraph, it says here, and I can just read
4 it for you:

03:39 5 "On January 30, 1969 I got home just after
6 5:00 p.m. Gail asked me if I wanted to go
7 to a party tonight - I said I would go - she
8 also asked Betty Hundt if she wanted to go
9 to the party."

03:39 10 scroll down to the next paragraph:

11 "Around 9:30 p.m. Forrest Studer 1308
12 Temperance Avenue and Brian Odegard 1308
13 Temperance Avenue called and picked up Gail,
14 Betty and myself. We stopped at a
03:39 15 confectionary and got smokes for Gail. Then
16 we stopped at Forrest's friends place for a
17 little while then went on to 1308 Temperance
18 Street. This was a birthday party for
19 Dennis Elliott - 1308 Temperance Street."

03:40 20 Does that refresh your memory at all; is that
21 what happened, Mrs. Brecelj?

22 A It probably is if that's what I said in my
23 statement. I do not recall none of the names,
24 nothing.

03:40 25 Q So the names don't ring a bell but you recall



1 going to a party?

2 A Right. I only met those people one time and one
3 time only.

4 Q Okay. If you could then go to the next page,
03:40 5 045436, and I think this is what you told me -- if
6 you could call out that paragraph -- it says:

7 "I never returned to 130 Avenue O South
8 until 6:00 p.m. January 31, 1969. I stayed
9 at 1308 Temperance Street and didn't go to
03:40 10 work this morning or afternoon."

11 And I think that's what you told me earlier;
12 correct?

13 A Yes.

14 Q And if you could just go down to the next
03:40 15 paragraph, please, it says:

16 "I know one of Gail's boyfriends his name is
17 Les. Gail told me about the fights they
18 used to have. Last night she told me that
19 Les thought he could take out other girls,
03:41 20 but if she went out with a fellow that he
21 gave her heck and didn't think it was
22 right."

23 So I take it the police would have talked to you
24 about Gail's relationship with Les Spence?

03:41 25 A Right.



1 Q And do you recall, at the time, whether she was
2 dating, or had been dating, a fellow by the name
3 of Les Spence?

4 A Yes.

03:41 5 Q And do you recall if there had been trouble in
6 their relationship?

7 A Pardon me?

8 Q Do you recall if there had been trouble in --

9 A Just from what Gail would have told me. I never
03:41 10 witnessed anything.

11 Q But the police would have asked you about that?

12 A Yes, yup.

13 Q And then to the next page please, 045437, and just
14 call out the last paragraph. It says:

03:41 15 "I don't know - Gail having any enemies, or
16 if anyone had threatened her. She got along
17 with everybody in the house real good."

18 I take it the police would have asked you
19 questions of that nature relating to who she
03:41 20 might have been an enemy with?

21 A Yes.

22 Q Next if I could call up document 106227, and this
23 is a police report, you would not have seen this
24 before unless in the course of reviewing for
03:42 25 proceedings. Up at the top you will see, if you



1 could just zoom in there, it's dated February 5,
2 1969. I won't ask you to flip the next page but,
3 for the record, 106228 shows that this report is
4 prepared by Detective Sergeant R. Mackie, which is
03:42 5 Ray Mackie. If you could go back to the first
6 page, please, and just call out that part. Now
7 although the statement is dated, or investigation
8 report is dated February 5, '69, you will see here
9 that it refers to an interview on February 2nd,
03:42 10 1969 at 10:30 p.m., Linda Markwart. Do you recall
11 talking to the police, again, a couple days after
12 the murder?

13 A Yes.

14 Q And it says:

03:43 15 "She was interviewed in regard to activities
16 of various people that she had been
17 associating with on Thursday, January 30 and
18 her story was basically same as that from
19 other persons."

03:43 20 I can pause there. Do you recall the police
21 asking you who was at the party and what was
22 happening there?

23 A Yes.

24 Q And it goes on to say, right here:

03:43 25 "She also verified that she had stayed with



1 Forrest Struder at 1308 Temperance Street
2 and her story was also consistent by that
3 given by Dennis Elliott of his activities.
4 She also stated that these people at 1308
03:43 5 Temperance Street had not learned of the
6 murder until she was taken home on Friday
7 evening by Dennis Elliot."

8 We could then go on, just go back to the main
9 documents, and call out from there --

03:44 10 Mr. Commissioner, this is a fairly lengthy review
11 here, I think it's probably best that we read
12 through it because I suspect other counsel may
13 ask about it, so I'll just start right here. And
14 this is what the report says, for the record, and
03:44 15 it talks about Ray Mackie's conversation with you
16 as he has recorded it:

17 "In regards to associations of Gail Miller,
18 she was not too familiar with who she had
19 travelled with, but she was acquainted with
03:44 20 Les Spence, and she said that they did
21 disagree a lot, and she also said that they
22 had apparently discussed getting married.
23 She said that Les to her seemed to be very
24 jealous, didn't like Gail Miller going with
03:44 25 other people. She mentioned that on one



1 occasion that Gail had told her that Les
2 Spence and her had been to a dance and on
3 this occasion Spence had kissed some girl on
4 the floor and then Gail Miller had then gone
03:44 5 and kissed the guy who had accompanied the
6 girl which Spence had kissed, and at this
7 Les Spence had became very mad. Les Spence
8 apparently has no license to Markwart's
9 knowledge and he was transported to the city
03:45 10 by Robert Jalbert who she believed operates
11 a blue half-ton truck. Spence had also come
12 to 130 Avenue O South with Bruce Bowering
13 and 2 Brian's who have previously been
14 reported as Brian Forsyth and Brian
03:45 15 Hawthorne. Les Spence has apparently come
16 to 130 Avenue O South between 1:00 and 2:00
17 a.m. on different occasions, and on these
18 occasions has often spent the night, but
19 usually on these occasions Gail Miller was
03:45 20 working night shift. Markwart also stated
21 that Gail Miller had told her that she had
22 given Les a key to her room and to her
23 knowledge she did not have a key to the
24 front or rear entrance to the building.
03:45 25 Gail Miller also mentioned on, Thursday



1 January 30, to her that it was easier for a
2 guy to catch a girl than a girl to catch a
3 guy, and Markwart believed that Miller
4 suspected Les Spence as spying on her and
03:45 5 trying to find her out ..., "

6 just scroll down a little bit more, please, right
7 there:

8 "... trying to find her out with other
9 persons. Markwart also told on one occasion
03:46 10 probably around Christmas time when Les
11 Spence and Robert Jalbert had come into 130
12 Avenue O South and Les had apparently
13 avoided attempting to see Gail Miller and
14 had been seen by her and there was some
03:46 15 disagreement between them as time although
16 apparently to her knowledge Gail had not
17 spoken to Les Spence."

18 Then the report goes on to talk about Betty
19 Hundt. Now do you recall being interviewed at
03:46 20 that time, Mrs. Brecelj?

21 A I recall being interviewed at that time but I
22 don't remember --

23 Q These details?

24 A -- these details.

03:46 25 Q That's fair enough. It's fair to say you would



1 have told the police your best recollection at
2 that time?

3 A Yes.

4 Q And it looks as though, from this report, that you
03:46 5 were being interviewed at your home, and that they
6 went, then the officer or officers then went on to
7 interview Betty Hundt; does that -- do you recall
8 that?

9 A Yes, yes.

03:46 10 Q Now, at this time, did you -- was it your
11 impression that the police were suspecting Les
12 Spence of the crime; do you recall?

13 A No I don't think so, that they were suspecting
14 him, no.

03:47 15 Q But they did ask a number --

16 A They did ask a questions, but then it was about a
17 lot of people.

18 Q Okay.

19 A Yeah.

03:47 20 Q Now next, if I could call up document 045348 --
21 sorry -- 045438, and this is a witness statement
22 dated February 7th, 1969, 7:05 p.m., Linda
23 Markwart, 18 years, 130 Avenue O South, and if you
24 could just zoom in on the bottom right and have
03:47 25 you confirm, Mrs. Brecelj, that was your



1 signature?

2 A Yes.

3 Q Okay. Back to the main document. It looks as
4 though this was Detective Barrett; do you recall
03:47 5 giving a statement on or about February 7th, 1969?

6 A Probably, yes.

7 Q Yes? Okay. It would be fair to say you talked to
8 the police on a number of occasions in and around
9 the time after the death of Gail Miller?

03:48 10 A Yes.

11 Q And is it fair to say, Mrs. Brecelj, at this time
12 you would have given the police, on February 7th,
13 1969, the best of your recollection at the time?

14 A Yes.

03:48 15 Q I'm going to ask you to turn to the second page,
16 045439, and just at the bottom, call that out
17 please, and it says here:

18 "Gail Miller ...,"

19 and I think this is talking about the party on
03:48 20 January 30, 1969:

21 "Gail Miller was Dennis Elliot's date for
22 the night, Betty was with no one in
23 particular, but went home after the ...,"

24 If you could just turn to the next page, please,
03:48 25 it would appear:



1 "... went home with a fella by the name of
2 "Sig". I was with Forrest on occasions
3 throughout the evening."

4 Then if you would just go back to the main page,
03:49 5 please, and just call out that. Again, I think
6 this is talking about January 30, 1969:

7 "Gail and Dennis left the party about 1:15
8 or 1:20 a.m., as Dennis was taking Gail
9 home, because she had to work in the
03:49 10 morning."

11 Do you recall that happening?

12 A No.

13 Q I take it that's --

14 A That's.

03:49 15 Q -- what you would have told the police at the
16 time?

17 A That's what I would have told the police, yes.

18 Q If you could then go to page 045442, call out the
19 top on the statement, it says:

03:49 20 "As far as Gail having intercourse is
21 concerned, I am of the opinion that she had
22 never done that. This is what she had led
23 us to believe, and I can honestly say that I
24 don't know of any time that she may have had
03:50 25 intercourse."



1 I take it the police would have asked you about
2 your knowledge of Gail Miller's relations with
3 other men?

4 A Yes.

03:50 5 Q If you would then go down on the document please,
6 right in there, and your statement says:

7 "When Gail was on morning shift she left for
8 work at about 6:45 to catch the bus on 20th
9 Street. She did take a taxi quite often to
03:50 10 work, especially the evening shift."

11 Does that sound what you would have told the
12 police at the time?

13 A Yes.

14 Q And if you could then go to the next paragraph
03:50 15 please, just scroll down, it says:

16 "Gail never mentioned being followed by any
17 male persons or continually being bugged by
18 anyone in particular, except Les, her
19 boyfriend."

03:50 20 And that's something you would have told the
21 police at the time?

22 A Yes.

23 COMMISSIONER MacCALLUM: Could I ask you
24 just to back up a bit, that statement about 6:45
03:50 25 please, just earlier in the same statement?



1 MR. HODSON: Yes, 045442.

2 COMMISSIONER MacCALLUM: Okay.

3 BY MR. HODSON:

4 Q So this was just her habit, was it, when she was
5 On morning shift she left at 6:45?

6 A That's approximately how I understood, yes.

7 COMMISSIONER MacCALLUM: Okay. Thanks.

8 MR. HODSON: Thank you.

9 BY MR. HODSON:

10 Q And, of course, the morning of January 31, 1969
11 you were not at the boarding house?

12 A No I was not.

13 Q Did you, on occasion, take the bus?

14 A I always took the bus.

15 Q Always took the bus?

16 A Yes.

17 Q And, again, I think you told me that was Avenue O
18 and 20th was the bus stop?

19 A Yes.

20 Q Do you know, if you could just go back to map B
21 please, call it up? Do you know which bus stop
22 Gail Miller would have used when she took the bus
23 to work?

24 A I would just assume it was Avenue O and 20th, the
25 same that I did.



1 Q To your knowledge, did she ever travel to the
2 Avenue N bus stop?

3 A Not, not that I know.

4 Q What about the other ladies in the boarding house,
03:52 5 did some of them take the bus to work as well, or
6 to school?

7 A I'm sure they did, I -- yeah.

8 Q And do you know which bus stop they would have
9 used?

03:52 10 A I would assume it would have been O also.

11 Q Now, after your statement of February 7th, 1969,
12 do you recall any other dealings with the police
13 or authorities with respect to this matter until
14 after Mr. Milgaard's trial?

03:52 15 A None.

16 Q I take it you weren't contacted by the prosecutor
17 or defence counsel?

18 A No.

19 Q And you were not called as a witness --

03:52 20 A No.

21 Q -- at the trial. Now, it's my understanding that
22 your next involvement in this matter came in 1993
23 when you were interviewed by a member of the RCMP.
24 Do you recall talking to the RCMP?

03:52 25 A Yes.



1 Q And I believe it was Constable Cunningham, and if
2 I could have you call up document 045428. Now,
3 these are interview notes prepared by the RCMP. I
4 was not able to locate a statement, but if I could
03:52 5 have you, just at the top here, Ms. Linda
6 Campbell -- would that have been your name at the
7 time?

8 A Yes.

9 Q -- was contacted at Star Beauty Salon and she
03:53 10 advised she would be available, et cetera, for an
11 interview, and I take it the RCMP came to your
12 place of work and interviewed you there?

13 A Yes, they did.

14 Q If you could then turn to page 045429. Now, keep
03:53 15 in mind, Mrs. Brecelj, this is the recording of an
16 RCMP officer of notes based on the interview as
17 opposed to your statements. This is not your
18 handwriting I take it?

19 A No.

03:53 20 Q In fact, I think if you could just call out this
21 portion here. Constable Cunningham's notes say:

22 "Due to the fact Markwart (Campbell)
23 couldn't leave her shop, I did not take a
24 statement from her, but just asked her
03:54 25 questions and made notes. She reread both



1 her statements and while not recalling all
2 the details, she felt it was accurate."

3 I take it, did the RCMP provide you with copies
4 of your earlier statements do you remember?

03:54 5 A He had them with him, yes, and I read them.

6 Q And then they asked you some questions?

7 A Yes.

8 Q And then if you could just go back to the main
9 document and call out that, here it says that, the
03:54 10 officer writes:

11 "She said Gail told her that she usually
12 went straight down Avenue O at around seven
13 a.m."

14 Do you recall making that statement to the RCMP?

03:54 15 A No.

16 Q Now, when I referred to your statements of January
17 31 or February 7th, you had indicated that she
18 left around 6:45 a.m. Are you able to tell us
19 which statement would be accurate or more
03:55 20 accurate?

21 A See, I did not remember what time she started
22 work, so, you know --

23 Q Would it be fair to say that the statement you
24 gave to the police in 1969 --

03:55 25 A Probably the first one I would say would be the



1 more accurate one.

2 Q Okay.

3 A Okay.

4 Q Then if you could just go down, call out that
03:55 5 portion, starting right here, it says:

6 "She didn't think Miller used the back
7 alley, but doesn't know for sure. Gail
8 talked about a shortcut, but nothing
9 specific."

03:55 10 Do you recall discussions about a shortcut?

11 A No, I do not.

12 Q Do you know if you would have said that to the
13 police at the time?

14 A I cannot recall.

03:56 15 Q And then if you could just go just at the bottom
16 here, if you can go top to bottom and just show
17 429 and 430, the next page, please, and just call
18 out that, just the top part and scroll down, it
19 says:

03:56 20 "Gail was naturally pretty and didn't need a
21 lot of make-up. She didn't know if Miller
22 had a compact, nor what it looked like if
23 she did have one."

24 So I take it they would have asked you about Gail
03:56 25 Miller having a compact. Do you recall that?



1 A I'm sure they did ask, but I do not recall it.

2 Q It's my understanding that you were not called as
3 a witness at the Larry Fisher preliminary hearing
4 or trial; is that correct?

03:57 5 A Right.

6 Q And after the discussion with the RCMP in, it
7 looks like in 1993, did you have any discussion
8 with any other police officers, authorities or
9 defence counsel with respect to the Larry Fisher
03:57 10 matter?

11 A No.

12 MR. HODSON: Those are all my questions.
13 Thank you, Mrs. Brecelj. I think some of the
14 other counsel may have questions for you.

03:57 15 COMMISSIONER MacCALLUM: Mr. Wolch?

16 BY MR. WOLCH:

17 Q Ma'am, we've been dealing primarily with in or
18 around January 31st, 1969 when Larry Fisher
19 murdered Gail Miller. Prior to that he had been
03:58 20 attacking women in the area and he hadn't been
21 identified, but there had been some warnings in
22 the newspaper. Had any of those warnings been
23 brought to your attention?

24 A No.

03:58 25 Q Was there any concern voiced among the young women



1 about somebody in the area attacking women or
2 anything like that?

3 A No. I didn't read a paper.

4 Q And nobody brought it to your attention?

03:58 5 A No.

6 MR. WOLCH: Thank you very much.

7 COMMISSIONER MacCALLUM: Mr. Hodson?

8 MR. HODSON: No redirect.

9 COMMISSIONER MacCALLUM: Thank you.

03:58 10 Ms. McLean?

11 MS. McLEAN: No questions.

12 COMMISSIONER MacCALLUM: Mr. Beresh?

13 BY MR. BERESH:

14 Q Ms. Brecelj, just a few questions if you will bear
03:58 15 with me. Although you have, I take it, no
16 independent recollection now of those events in
17 1969, looking at the statements we're able to at
18 least reconstruct some of your memory; is that
19 fair?

03:59 20 A Yes.

21 Q And I take it you would have had no reason to tell
22 the police something that was inaccurate or
23 exaggerated in any fashion?

24 A No.

03:59 25 Q So one of the things I was interested in is you



1 mentioned on more than one occasion that Les
2 Spence was a jealous individual?

3 A Yes.

4 Q And I take it you were aware that Spence was
03:59 5 seeing Ms. Miller?

6 A Yes.

7 Q Okay. But she wasn't seeing him exclusively?

8 A Right.

9 Q Is that fair?

03:59 10 A Yes.

11 Q And I'm wondering in the boarding house had there
12 been occasions when there were other people that
13 came to visit Ms. Miller, say, within the month or
14 so before she died?

03:59 15 A Yes, her brother had been there.

16 Q But other people who might come to see her for
17 personal reasons?

18 A I presume so, yes.

19 Q And I take it the boarding house wasn't locked at
04:00 20 midnight or there was no curfew of any sort at
21 all, it was a place where you can come and go?

22 A Right.

23 Q And people did come and go?

24 A Yes.

04:00 25 Q And I take it that up to a certain hour at night



1 the house was probably not locked at all; is that
2 fair?

3 A I presume so. As I recall, like, I think the last
4 person that was in was to check and make sure
04:00 5 everything was locked, you know, that --

6 Q So that was the only system?

7 A That's right.

8 Q There wasn't a manager present at the premise?

9 A No.

04:00 10 Q So no one went and locked the doors at midnight,
11 one o'clock or anything like that?

12 A No.

13 Q So I take it doors could be left unlocked?

14 A Yes.

04:00 15 Q People could wander into the premises, look around
16 if they so chose?

17 A Yes.

18 Q Okay. And I take it from what you are telling us,
19 that the night before, on the 30th, that Gail was
04:00 20 with Mr. Elliott?

21 A Yes.

22 Q That was her date for the night, if I can use that
23 vernacular. Yes?

24 A Yes.

04:01 25 Q And I take it that Elliott appeared to be someone



1 who was known to her even before?

2 A I presume so for that time, yeah.

3 Q I take it she didn't meet him that night?

4 A No.

04:01 5 Q She knew him from before?

6 A Yes.

7 Q And I take it this would be the sort of event
8 which would make Mr. Spence jealous if he learned
9 of it?

04:01 10 A I presume so.

11 Q And I take it in that context Gail Miller
12 expressed these concerns about his jealousy?

13 A Yes.

14 Q I think her words were seeing other people and
04:01 15 talking to others?

16 A Yes.

17 Q Yes?

18 A Yes.

19 Q And Mr. Spence had been at the house?

04:01 20 A Yes.

21 Q So he would have known her travels, her general
22 commitments, that sort of thing I take it?

23 A I presume so.

24 Q Do you remember around that time an unusual event,
04:01 25 even for 1969 probably unusual, of there being



1 prank calls placed to the house?

2 A That I do not recall at all.

3 Q Were you ever asked that by the police?

4 A No.

04:01 5 Q In 1969 or since then were you ever asked whether
6 you were aware first hand, 15th hand that prank
7 calls were placed at the house?

8 A No, not that I know of.

9 Q But I take it in 1969, being the age you were and
04:02 10 the group of you were, that would have been
11 somewhat disturbing, to have prank calls?

12 A That's right.

13 Q Particularly calls that might either be hang-ups
14 or calls that left some sort of veiled message?

04:02 15 A Right.

16 Q That would cause some disruption, some upset; is
17 that fair?

18 A That would be fair, yes.

19 Q Okay. You haven't been asked this and I suggest
04:02 20 nothing untoward by it. I take it the house
21 wasn't a house where alcohol wasn't permitted?

22 A No.

23 Q So people could have alcohol, could have parties
24 with alcohol?

04:02 25 A Yes.



1 Q And did that go on from time to time there?

2 A There was a common room, like, a living room, and
3 there were a few, but it wasn't excessive.

4 Q I'm not suggesting that.

04:02 5 A Yeah, no, there had been a number of parties.

6 Q I wasn't suggesting it was a frat house.

7 A Yeah. No, no.

8 Q But would that have been then known to the people
9 within the house, that there would be socializing
04:02 10 from time to time?

11 A Yes.

12 Q And would that then be known to the greater
13 community, say those who came to those functions,
14 that there were parties there from time to time?

04:03 15 A Possibly.

16 Q And I take it it was a house predominantly
17 occupied by younger people?

18 A Yes.

19 Q Is that fair?

04:03 20 A Yes.

21 Q So the tolerance for that might be greater there
22 than it might be at some other location?

23 A Yes.

24 Q Is that fair?

04:03 25 A Yes.



1 Q And that might become known publicly?

2 A It could very well be, yes.

3 Q Yes?

4 A Yup.

04:03 5 Q I was interested in the comment that Mr. Hodson
6 referred to you in one of your statements where
7 you suggested that Gail said to you that it was
8 easier for a guy to meet a girl, my words, than it
9 was for a girl to meet a guy. Do you remember
04:03 10 saying that?

11 A I don't recall saying that, but if my statement
12 says that, then at that time I recalled that.

13 Q All I wonder is do you remember the context in
14 which that arose?

04:03 15 A No.

16 Q Was it just general chitchat or something else?

17 A I don't know. Sorry.

18 Q Finally, I take it that as you said in your, one
19 of your former statements, Gail would either go to
04:04 20 work taking the bus, taking a taxi or getting a
21 ride?

22 A Yes.

23 Q And I take it getting a ride would of course be
24 the, probably the most convenient, cost nothing
04:04 25 and you don't have to wait for a bus, it would be



1 the most convenient when it's cold?

2 A Right.

3 Q Yes?

4 A Yes.

04:04 5 Q And I take it you wouldn't know if she had
6 arranged for a ride to pick her up on any one
7 occasion unless you were directly involved?

8 A That's right.

9 Q But that did occur, that people would come to pick
04:04 10 her up?

11 A Yes.

12 Q And I gather looking at the house, particularly in
13 the wintertime, the most convenient place for
14 someone to park if they were picking someone up
04:04 15 would be in front?

16 A That's right.

17 Q And do I gather that looking at the general map,
18 that the best location to see whether someone was
19 at the front on Avenue O would be either from
04:05 20 upstairs looking out a window or downstairs
21 looking out a window?

22 A Yes.

23 Q And you were able to see Avenue O from upstairs?

24 A Yes.

04:05 25 MR. BERESH: Those are my questions. Thank



1 you.

2 MR. HODSON: No redirect.

3 COMMISSIONER MacCALLUM: Thank you. Mr.
4 Elson, please?

04:05 5 MR. ELSON: No questions, Mr. Commissioner.

6 COMMISSIONER MacCALLUM: All right.
7 Mr. Fox?

8 MR. FOX: No questions.

9 COMMISSIONER MacCALLUM: And Mr. Gibson?

04:05 10 MR. GIBSON: None.

11 COMMISSIONER MacCALLUM: Ms. Krogan?

12 MS. KROGAN: No thank you.

13 COMMISSIONER MacCALLUM: And finally
14 Ms. Knox?

04:05 15 MS. KNOX: No questions.

16 COMMISSIONER MacCALLUM: Thank you very
17 much. Ms. Brecelj, thank you very much for
18 coming. You are excused.

19 MR. HODSON: Thank you very much, Mrs.
04:05 20 Brecelj. Our next witness I have set for
21 tomorrow morning, Mr. Commissioner. I wasn't
22 sure how long we were going to be this morning,
23 so I only had two for this afternoon. I do have
24 three lined up for tomorrow, four for Wednesday,
04:06 25 three for Thursday, as well as evidence of three



1 deceased persons that I will read in as required,
2 but perhaps I could suggest we break for the day
3 here.

4 COMMISSIONER MacCALLUM: Thank you very
04:06 5 much, sir. 10 o'clock tomorrow, please.

6 (Adjourned at 4:05 p.m.)
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OFFICIAL QUEEN'S BENCH COURT REPORTER'S CERTIFICATE:

We, Karen Hinz, CSR and Donald G. Meyer, RPR, CSR,
Official Queen's Bench Court Reporters for the Province of
Saskatchewan, hereby certify that the foregoing pages
contain a true and correct transcription of our shorthand
notes taken herein to the best of my knowledge, skill, and
ability.

_____, CSR

Karen Hinz, CSR

Official Queen's Bench Court Reporter

_____, RPR, CSR

Donald G. Meyer, RPR, CSR

Official Queen's Bench Court Reporter



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