

*Commission of Inquiry*  
*Into the Wrongful*  
*Conviction of David Milgaard*  
*before*  
**THE HONOURABLE MR. JUSTICE**  
**EDWARD P. MacCALLUM**

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

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On Tuesday, May 31st, 2005

Volume 45

Inquiry Proceedings



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Transcript of Proceedings

(Reconvened at 9:04 a.m.)

COMMISSIONER MacCALLUM: Good morning.

GERARD H. CHARTIER, continued:

BY MR. HODSON:

Q Good morning, Mr. Chartier. Yesterday we left off at the adjournment dealing with a newspaper article you wrote on May 8th, 1992 and if I could call that up again, please, it's 077817, and I think we had left off talking about the sex offenders, I think that's the last question I had on this article, and I would like to just move over and if we could call out the fourth column, please, and these are your words, I'll just read you parts of this and have some questions for you. You say:

"I recall talk of the investigation and the possibility of charging Milgaard if police were convinced the witnesses were telling the truth. To that end, Art Roberts of the Calgary police was asked to perform a polygraph test on Ron Wilson.

I was involved in setting up the test."



1 If I could pause there. What did you mean when  
2 you said you were involved in setting up the  
3 test?

4 A Well, I'm sure we had instructions from someone.  
09:05 5 The file wasn't ours, so we were support service,  
6 so someone asked that we listen into the  
7 conversation between Roberts and --

8 Q I'm sorry?

9 A Yeah.

09:05 10 Q When you used the words setting up the test, I  
11 guess I read that one of two ways, one, it would  
12 be you calling Art Roberts and saying look, would  
13 you come here, or two, setting up your microphone  
14 as you described to us yesterday.

09:06 15 A Yes, we set up the room and that, but we didn't  
16 set up the test. Someone in higher authority made  
17 arrangements with Roberts, got him down here.

18 Q So when you used the words setting up the test,  
19 were you referring to setting up the microphone --

09:06 20 A Yes.

21 Q -- next door? And then you say:

22 "When it was completed Roberts advised  
23 us and indicated Wilson was telling the  
24 truth in his statement to the police."

09:06 25 And I presume "it" is referring to the polygraph



1 and I'm wondering if you could explain that in  
2 light of your comment yesterday that I think you  
3 said that you believed Roberts had not conducted  
4 the polygraph.

09:06 5 A Well, I believe I heard conversation in that room  
6 and what it was. I wasn't listening directly to  
7 the deal, I'm sure other investigators were, and I  
8 don't know how well they heard, but indicated  
9 Wilson was telling the truth in his statement to  
09:07 10 the police. I always assumed up until a number of  
11 years ago that no polygraph test was actually  
12 taken because, as I stated to you yesterday, I  
13 asked Mr. Roberts afterwards and I think maybe I  
14 assumed something there when I said, asked why  
09:07 15 didn't you do the test.

16 Q Okay.

17 A He probably -- as an individual he didn't do it, I  
18 understand, after reading the documents.

19 Q The evidence of Mr. Roberts before the Supreme  
09:07 20 Court of Canada was that he conducted the test on  
21 Ron Wilson, but not on Nichol John.

22 A Yes.

23 Q Your statement, your evidence yesterday, Mr.  
24 Chartier, I believe was to the effect that after  
09:08 25 Roberts was done, you said to him why didn't you



1 do the polygraph or words to that effect.

2 A Yeah.

3 Q And he said something to the effect I didn't have  
4 to because they were telling me the truth.

09:08 5 A Yes.

6 Q Is that what you told us yesterday basically?

7 A Yes, and I took the two, and maybe two wasn't  
8 right. I -- my understanding over all these  
9 years, it wasn't done.

09:08 10 Q It appears then in May of 1992, based on what's  
11 here, that -- did your view change or your  
12 understanding change when you wrote this article?

13 A No, not at this particular time it hadn't. After  
14 you showed me the documents and that --

09:08 15 Q And I guess my question, Mr. Chartier, and maybe  
16 I'm reading this wrong, you say you were involved  
17 in setting up the test, it talks about the  
18 polygraph test, and you say:

19 "Roberts advised us it indicated Wilson  
09:09 20 was telling the truth in his statement  
21 to the police."

22 And as I read that, and please correct me if I'm  
23 wrong, what you are saying is Roberts told you  
24 that the polygraph test indicated Wilson was  
09:09 25 telling the truth. Am I reading that right?





1 A He didn't say Wilson or anyone, he said I didn't  
2 have to because I know they are telling the truth.  
3 Now, he might have said she is telling the truth,  
4 something like that.

09:09 5 Q If you could just take a look at this paragraph  
6 here in this article and my question to you is it  
7 appears, and please correct me if I'm wrong, on  
8 this date that you are of the view that Roberts  
9 did conduct the polygraph test on Ron Wilson?

09:09 10 A Well, it doesn't fit with the statement I, over  
11 time, believed was the statement.

12 Q And that's my question --

13 A Yup.

14 Q -- as to why it doesn't fit with that.

09:09 15 A My understanding of it at that time, I didn't  
16 believe a polygraph test was taken.

17 Q Did you subsequently come to believe that?

18 A Yes, in particular when you showed me the  
19 documents later on.

09:10 20 Q When you wrote this article in February of --  
21 pardon me, in May of 1992, and it appears that you  
22 are saying a polygraph was done, and I guess I'm  
23 trying to find out what was it that caused you in  
24 May of 1992 to write that paragraph suggesting  
09:10 25 that a polygraph had been done?



1 A It just indicates there's nothing in there that  
2 suggests a polygraph, that it fit with my  
3 understanding that he knew they were telling the  
4 truth. What that truth was I don't know, but I  
09:10 5 asked the question at that time why it wasn't done  
6 and it was just an understanding I had I'm sure at  
7 that time because I wouldn't have asked the  
8 question.

9 Q I see. If we could then go down to the next  
09:11 10 paragraph, it says:

11 "The evidence police gathered satisfied  
12 prosecutor Bobs Caldwell and he advised  
13 us that Milgaard should be charged."

14 What do you -- what knowledge do you have of  
09:11 15 that, Mr. Chartier, your dealings?

16 A Bobs never told me directly, I'm just going as us,  
17 the police service was getting this I gathered.

18 "... satisfied prosecutor Bobs Caldwell  
19 and he advised us that Milgaard should  
09:11 20 be charged."

21 When I say us, the service and that, not me  
22 directly. I can't remember talking to Bobs  
23 about --

24 Q What did you understand or know at the time about  
09:11 25 Mr. Caldwell's involvement in the decision to



1 charge David Milgaard?

2 A Well, he was the Crown on that particular case.

3 Well, my understanding that no one was involved up  
4 until someone decided whether Milgaard should be  
09:12 5 arrested and that. Up to this point I wasn't  
6 aware of many of these other things that were  
7 taking place.

8 Q Do you know if Mr. Caldwell was involved prior to  
9 the May 23rd meeting with Mr. Roberts?

09:12 10 A No, I've never, had no meetings with Caldwell or  
11 knew what was going on or whether he was actually  
12 going to be the Crown if something happened.

13 Q I recall yesterday you saying you had a  
14 conversation or someone told you that I think all  
09:12 15 the I's had to be dotted, the T's crossed and that  
16 came from Mr. Caldwell; is that right?

17 A Well, I believe that over time and that is not so,  
18 I found that out. I've talked to Bobs and he said  
19 no, he had never told me that, so it had to be an  
09:12 20 investigator, one of our investigators that  
21 mentioned that.

22 Q So on what basis are you saying here, Mr.  
23 Chartier, that prosecutor Bobs Caldwell advised  
24 the police service that Milgaard should be  
09:13 25 charged?



1 A Well, I think that would have been conversation we  
2 had within the day or weeks after this particular  
3 deal. How much longer after that I don't know.  
4 After the polygraph test was he charged?

09:13 5 Q Yes, the record shows that he was charged within a  
6 few days and arrested the week after.

7 A After that?

8 Q Yes.

9 A Yes. I seem to remember that it wasn't too long,  
09:13 10 but I can't remember the details.

11 Q Just carrying on, and I'll read you a portion  
12 here, you write:

13 "Eddie Karst, another target of derision  
14 by the Milgaard forces, was one of the  
09:13 15 most effective investigators the  
16 Saskatoon police had.

17 Milgaard forces question why  
18 Karst would travel to Winnipeg to  
19 interview Larry Fisher about certain  
09:13 20 rape cases when he was a homicide  
21 detective.

22 At the time, this was common  
23 practice. Because of his competence,  
24 Karst was sent to many jurisdictions to  
09:14 25 interview or escort prisoners back to



1 Saskatoon."

2 And I take it, Mr. Chartier, you are referring to  
3 the interview that Mr. Karst did of Larry Fisher  
4 in October of 1970 with respect to some sexual  
09:14 5 assault charges?

6 A I was basing this document on what I had read in  
7 papers and that over time. I was not aware of  
8 Eddie Karst being in Winnipeg personally.

9 Q Okay. What -- let me just go back, and I  
09:14 10 apologize if I asked you this yesterday, but let's  
11 talk 1969, 1970, within a few months before Gail  
12 Miller's murder and approximately the year or two  
13 after. Do you have any recollection of any sexual  
14 assaults in Saskatoon that were being  
09:14 15 investigated?

16 A A few years after, yes. In fact, I was involved  
17 with some later on and working in morality that I  
18 was, but --

19 Q Let me be a bit more specific. There were four  
09:15 20 assaults, three sexual assaults, one indecent  
21 assault that Larry Fisher pled guilty to in  
22 December of 1971. Three of them took place prior  
23 to Gail Miller's murder, within a couple of  
24 months, one took place in February of 1970 about  
09:15 25 three weeks after Mr. Milgaard was convicted. Do



1           you recall or have any knowledge at that time of  
2           those assaults or the investigations?

3           A       No.

4           Q       Now, and I think the record reflects, and we've  
09:15 5           heard some evidence about this and we're going to  
6           certainly hear more, that Mr. Karst went in  
7           October of 1970, Mr. Fisher was in jail in  
8           Winnipeg and indicated that he committed two  
9           rapes, they were called at the time -- or one  
09:15 10          rape, one attempted rape they were called at the  
11          time, in Saskatoon, and Inspector Nordstrom and  
12          Detective Karst travelled to Winnipeg to take a  
13          statement from Mr. Fisher; and are you aware, now,  
14          of that having taken place?

09:16 15          A       Oh, through the paper. I never --

16          Q       Were you aware, at the time, of that?

17          A       No, I wasn't.

18          Q       And based upon what you knew of the force and how  
19          it operated at that time did you see anything  
09:16 20          unusual about Detective Karst, being a homicide  
21          detective, going with Inspector Nordstrom of  
22          morality to Winnipeg to take a statement from  
23          someone who was confessing to a rape and an  
24          attempted rape?

09:16 25          A       No, that was, he made many trips to many



1 jurisdictions I recall.

2 Q Okay. And that, would that include cases out --  
3 including morality-type cases?

4 A Yes.

09:16 5 Q You also go on to state, here:

6 "Milgaard's lawyers also ask why  
7 Fisher's victims were never told charges  
8 had been laid against him. This, too,  
9 was not unusual.

09:17 10 The system for keeping victims  
11 informed about progress in their case  
12 has improved since introduction of a  
13 restitution program in the 1980s. As  
14 community policing and victims' services  
09:17 15 are put in place across the country,  
16 this problem will be eliminated."

17 If I can pause there, I think you say it was not  
18 unusual that the victims of Larry Fisher's  
19 assaults would not be informed about the  
09:17 20 progress; is that right?

21 A I -- policing in those days I thought had -- could  
22 be improved, and since that time I have spoken  
23 about that. But it wasn't unusual, I speak for  
24 myself here, that many times you have many houses  
09:17 25 broken into, you investigate those and you never,



1 at that time, went back and -- you know, you might  
2 seize many articles and you knew it involved many  
3 complainants, but often you did not -- because  
4 that wasn't a police-type of thing to do at that  
09:18 5 time. You caught someone and locked them up or  
6 charged 'em, and the rest you forgot about, and  
7 files kept coming in and --

8 Q So in your personal experience, then, --

9 A Yeah.

09:18 10 Q -- in 1969-1970, then, are -- was it common  
11 practice then, based upon what you observed, --

12 A Well --

13 Q -- that victims would not be informed?

14 A -- I expected, with something like this, it's  
09:18 15 possible that if it was tied together -- we didn't  
16 have an analyst -- in '84, so I worked at trying  
17 to get an analyst within the department.

18 Q What's an analyst?

19 A Who reads all the files, know what's going on. I  
09:19 20 can explain about other incidents. But that  
21 was -- we needed something like that, and we've  
22 got that in place now, and I -- it was in place  
23 when I wrote this article, and this is something  
24 good that happened, that -- well we'll take an  
09:19 25 example.





1 I come to work in the morning,  
2 okay, I get there early, I go through all the  
3 files overnight, then you start tying these things  
4 together. That was the detective staff sergeant's  
09:19 5 job, but we were in silos then or stove-pipes,  
6 each department, and you looked at your own and  
7 that was it.

8 An analyst looks at the whole,  
9 all the files within the department that, say,  
09:19 10 come in overnight and say, well, one time is an  
11 incident but when you see over a period of time of  
12 two weeks the same, similar incidents happening,  
13 then you know you have got a problem, you should  
14 investigate these particular deals.

09:20 15 I think that is what happened  
16 with Milgaard, I'm sure that happened with  
17 Thrienen, there was a number of serious deals like  
18 that, it didn't matter whether it was minor or  
19 serious, the stove-piping of the time.

09:20 20 Q Let's deal with that a bit, you had raised this  
21 yesterday, when you talk about stove-piping. And  
22 maybe we can go back and call up the  
23 organizational chart, please, I think it is  
24 document ID 325569. Just turn it over on the  
09:20 25 side. And I think, we'll take a look at that,



1 Mr. Chartier, you had used the term 'stove-pipe',  
2 can you tell me what you -- or 'silo'; what do you  
3 mean by that?

4 A Silos, yeah. Each department was an entity unto  
09:21 5 itself and I remember, even starting the job, that  
6 there was no communications. In reality, what we  
7 always used to say, the grunts on the street knew  
8 more what was going on than the people upstairs.  
9 And you did, the patrol division are the people  
09:21 10 that have more intelligence than anyone else, so  
11 you never really tie in the patrol section with  
12 detectives or morality or even traffic or any of  
13 these things, though traffic and patrol was  
14 somewhat more similar, you had a uniform. But  
09:21 15 it's -- it was a common problem, we see that in a  
16 lot -- many other places, in our government and  
17 everything else where this happens, so it wasn't  
18 an unusual thing. But, you see, I started  
19 studying community policing back -- this in fact,  
09:22 20 1969, changed my way of thinking about policing.

21 Umm --

22 Q What was it in 1969?

23 A Well --

24 Q Was it the Gail Miller case?

09:22 25 A Not -- it's how that came about and what I was



1           doing at the time, NCIU, I kind of, what, secret  
2           squirrel -- I never looked at it like that at that  
3           time -- but that wasn't how to do police work.  
4           You had to become part of the community, work in  
09:22 5           the community to do it, just like the patrol  
6           police officers and that do. And one of the six  
7           precepts of community-based policing is internal  
8           communication, and I believe that our department  
9           has got to that, but it wasn't the case at that  
09:22 10          time.

11       Q           Okay. Let's talk at that time if I could.

12       A           Yeah.

13       Q           So we'll go back to 1969, and just help me out  
14           here, you talked about stove-pipe and silos?

09:23 15       A           Okay.

16       Q           Are you referring, then, to like the detective  
17           division being a silo; is that --

18       A           Yup.

19       Q           And I don't want to put words in your mouth, but  
09:23 20           --

21       A           No, that's right.

22       Q           And similarly with morality?

23       A           Morality, right.

24       Q           And identification, traffic, patrol, --

09:23 25       A           Right.



1 Q -- is that -- was that your evidence?

2 A Right.

3 Q And tell us, I think you said that everything went  
4 up, and did you say things didn't go sideways,  
09:23 5 there wasn't -- what was the -- what -- how was  
6 communication made, for example, between detective  
7 division and morality division in 1969?

8 A Well basically we had what we called the yellow  
9 sheet, it was a yellow piece of paper, and if as a  
09:23 10 patrolman person you had some information or  
11 something you wrote it out on that to the chief of  
12 police and then it went up this typical ladder,  
13 up, and you never did hear anything back about it  
14 unless someone was arrested. It was --

09:23 15 Q Who used the yellow sheets; was it the patrol?

16 A The officer. If I was an officer and I suspected  
17 something for whatever reason, that someone is  
18 going to break in, I would leave a yellow sheet to  
19 the chief of police and that would, in my  
09:24 20 understanding, go up to the chief and then to the  
21 department that would be involved. Say it was a  
22 break and enter, or possible break and enter, it  
23 would go to -- I would suspect that information  
24 would go to the superintendent from the chief, so  
09:24 25 forth. But as people on the ground doing the, or



1 getting the information, you never had a  
2 connectiveness.

3 Q What was the difference between this yellow piece  
4 of paper and an investigation report?

09:24 5 A Well it was just an information to the chief.

6 Q Yeah?

7 A Anything. If you, at that time we checked doors,  
8 and if we missed a break-in overnight we had to  
9 leave a yellow sheet. This was kind of a common  
09:24 10 deal back in the '60s, leaving yellow sheets.

11 Q What observations did you have, Mr. Chartier, in  
12 1969 as it related to the Gail Miller murder  
13 investigation, about these issues you are talking  
14 about? And I want you to focus on the Gail Miller  
09:25 15 murder investigation and what you observed; was  
16 there anything that you observed or knew about  
17 relating to communication between these divisions,  
18 detective, morality, ident., patrol?

19 A We were stove-piped, NCIU was a stove-pipe, and  
09:25 20 we, you know, had our job, particular job, being a  
21 support or looking at national issues, so, you  
22 know, we were no better. And that's why I say, at  
23 this time is when, because of other things that  
24 happened a few years later, I came to the  
09:25 25 understanding that things weren't being done right



1 and I -- I -- I don't know how to use the term but  
2 I felt, and I made my concerns known within the  
3 department and in the Board of Police  
4 Commissioners at that time, that things should be  
09:26 5 looked at to be done differently.

6 Q And I guess what I am interested in are matters  
7 specific to the Gail Miller murder investigation?

8 A No, I'm -- you know, our job was someone directed  
9 us to do this, to -- so --

09:26 10 Q That's --

11 A -- no one else knew what we were doing, or would  
12 have known what we were doing, we were a silo.

13 Q Okay. What was your understanding in 1969, and in  
14 connection with the Gail Miller murder  
09:26 15 investigation, about the degree of communication  
16 between the detective division and the morality  
17 division?

18 A I suspect it was the same, though I had no  
19 personal --

09:26 20 Q Yeah. Had you worked in detectives prior to that  
21 time?

22 A I had worked in detectives, well both with -- well  
23 Morrison and myself, over the years we were -- we  
24 were city people, we came from the community of  
09:27 25 Saskatoon, --



1 Q Yeah?

2 A -- so as patrolmen and that we were assigned  
3 certain duties throughout the years, from the '60s  
4 on, in detectives or in morality and that. I  
09:27 5 think that's where we got an understanding how the  
6 --

7 Q And, again, what was your understanding, then, of  
8 communication generally between the detective  
9 division and morality division?

09:27 10 A There was no communications as far as I was --  
11 appropriate communications, as far as I was  
12 concerned.

13 Q Was there some, to your knowledge, was there some  
14 communication?

09:27 15 A Oh, I'm sure there was, you know, the people in  
16 charge would get together and talk and that,  
17 but -- to analyse. We were incident-driven.  
18 Something happened, you go and try to solve that  
19 particular deal then instead of problem-solving,  
09:28 20 'why are all these things starting to happen'.

21 Q Okay. If we could just go back, I don't need to  
22 call up the newspaper article, but I believe in  
23 response to that article you received a letter  
24 from Hersh Wolch, counsel for David Milgaard?

09:28 25 A Yes I did.



1 Q And if we can call up 159156, and is this the  
2 letter that you would have received from  
3 Mr. Wolch? I don't propose to go through it,  
4 maybe we could go to the --

09:28 5 A Yes, I'm looking at the first paragraph, yeah.

6 Q Yeah. And he is referring to your May 8th  
7 article?

8 A Yeah.

9 Q And down here Mr. Wolch says:

09:28 10 "There is nothing in the statement of  
11 Albert Cadrain which suggests that  
12 Cadrain's mother had washed the blood  
13 out of Milgaard's pants."

14 And I apologize if I asked you this yesterday but  
09:29 15 I'll ask it again; what is your recollection of  
16 this point here about whether Albert Cadrain told  
17 you that?

18 A Well I -- oh, I -- that particular night when he  
19 came, evening, came into the detective office, and  
09:29 20 this is -- was one of the comments he made to me  
21 at that particular time, and I never saw a  
22 statement or anything, I had very little, or  
23 neither one of us had much to do with that file  
24 except little bits and pieces.

09:29 25 Q Do you recall Albert Cadrain telling you that his





1 mother had washed the blood out of Milgaard's  
2 pants?

3 A Yes.

4 Q You have a recollection of that?

09:29 5 A Yes.

6 Q And just back, we touched on this a bit yesterday,  
7 you didn't record any of that interview with  
8 Albert Cadrain; is that correct?

9 A No.

09:29 10 Q And I think you also told us yesterday, in your  
11 describing your role with NCIU, that basically to  
12 the effect that you weren't to get involved in the  
13 file so you wouldn't get into the Court, or words  
14 to that effect; is that right?

09:30 15 A Right.

16 Q And therefore you didn't prepare investigation  
17 reports and you didn't have notes and you didn't  
18 take statements; is that fair?

19 A Basically that's true, though there is a number of  
09:30 20 statements I -- which I have forgotten all about,  
21 I took in regards to this case, because I was  
22 asked by a superior to go and do it.

23 Q Did the fact that you were with NCIU affect your  
24 decision, in March of 1969, not to take a  
09:30 25 statement or make any notes of your meeting with



1 Albert Cadrain?

2 A Oh, definitely, but I recall that night fairly  
3 clearly --

4 Q Yeah?

09:30 5 A -- and at no time did I even think of taking a  
6 statement. He's -- he never said Milgaard did it,  
7 he, you know, he believed it's a possibility that  
8 this person he knew might have done it.

9 Q But you told us yesterday?

09:30 10 A So I didn't --

11 Q -- that your practice in taking witness statements  
12 was to write everything down?

13 A Well if I was taking a statement or, you know, I  
14 was asked to take a statement or I was  
09:31 15 investigating a file, I would do that. This  
16 was -- like I say, the yellow sheet which goes in,  
17 which we all did, every police officer at that  
18 time, if I -- I probably knew Mackie was coming  
19 back because I told him, Cadrain, that night,  
09:31 20 'tomorrow, and I'm working tomorrow, I'll turn  
21 this information over to Mackie and let him deal  
22 with you', so --

23 Q And just back to my original question then. If  
24 you had not been in NCIU at all, you had nothing  
09:31 25 to do with the secret organization or the NCIU



1 service, okay, you are a regular constable or  
2 detective, --

3 A Yeah.

4 Q -- would you have made a note of your meeting with  
09:31 5 Albert Cadrain when he came into the police  
6 station?

7 A It would have been in my book, if I was just  
8 another officer on patrol or anything else, this  
9 stuff he told me I would have written in my  
09:32 10 notebook.

11 Q So can we assume from that, Mr. Chartier, that the  
12 reason you didn't write in your notebook that  
13 Albert Cadrain had been in to see you, and that  
14 you did not make any notes of what he told you,  
09:32 15 that the reasons you didn't do that was because  
16 you were a member of NCIU; is that correct?

17 A That's basically, or not altogether correct, but  
18 basically that's -- I was having no part of that  
19 particular file, so it was just knowledge, Mackie  
09:32 20 had to discern what knowledge Cadrain really had  
21 and had to take it down, so --

22 Q But apart from your service in NCIU, the fact that  
23 you weren't involved in a file, if you had  
24 information helpful to it you would record it?

09:32 25 A Yeah, that's a police officer's duty.



1 Q Yeah?

2 A But if you look at my notebooks, the time I report  
3 and get off duty and then the actual hours worked,  
4 it --

09:33 5 Q Your answer to my last question was 'not quite  
6 correct' so let me try this again. The fact that  
7 you were involved and a member of NCIU; would that  
8 have been a factor in your decision not to record  
9 any notes or statement about your meeting with  
09:33 10 Albert Cadrain when he came to the police station  
11 in March of '69?

12 A I suspect it might have been. I can't recall.

13 Q And any other reason why you wouldn't have  
14 recorded simply the fact that he came in to see  
09:33 15 you?

16 A The -- I can't say, it's --

17 Q Now I believe, Mr. Chartier, you were interviewed  
18 by the RCMP in or about 1993 in connection with an  
19 investigation they were conducting?

09:33 20 A Yes.

21 Q And I believe there may have been a couple of  
22 meetings, does that sound right, or a follow-up  
23 call?

24 A I think there was follow-up calls if I recall.

09:34 25 Q Yeah. If we could call up --



1 A I'm not sure.

2 Q Oh, sorry?

3 A If -- I think you are right that there was a  
4 follow-up call or a meeting, I'm not quite sure,  
09:34 5 but it seems to me there was.

6 Q If we could call up document ID 043968 and go to  
7 page 043977, and this is a handwritten RCMP note,  
8 it relates to a file in their Flicker  
9 investigation 1993. It has a date over here of  
09:34 10 February 10th, 1998, which I believe is a mistake,  
11 I believe that would have been 1993. Do you  
12 remember meeting with the RCMP in 1998 in  
13 connection with the Larry Fisher prosecution?

14 A I remember meeting with RCMP, I would not put a  
09:35 15 date or a year on it, I kind of -- I assume it was  
16 after '92 but --

17 Q Yeah. I believe, we'll hear from another source  
18 on this to clarify the date, but I believe that to  
19 be in 1993. Anyway it's -- and the officers  
09:35 20 involved, I think, are Gagne; do you remember  
21 Officer Gagne?

22 A Umm, whatever signed. I remember I met them at a  
23 hotel in the north end, and I can't remember,  
24 Travelodge maybe.

09:35 25 Q Okay. And this, yes, this note says:



1 "Chartier attended our motel room and  
2 openly discussed the 'Milgaard' matter.  
3 It was soon apparent that he was not  
4 happy with the Star-Phoenix's  
09:36 5 version/reporting on this matter. He  
6 even forwarded an editorial to the  
7 Star-Phoenix blasting them about their  
8 one sided reporting and in time he  
9 received a three page letter from  
09:36 10 Mr. Wolch disputing his comments."

11 And I take it you would have told the RCMP that?

12 A Yes.

13 Q And it goes on, if you could scroll down:

14 "Chartier started by saying that  
09:36 15 'Shorty' Cadrain had come to the City  
16 Police office and had been directed to  
17 his office. This was at night."

18 And you would have told the RCMP that?

19 A Yes.

09:36 20 Q And then if you could go, 75, and then it goes on  
21 to say:

22 "He remembers the incident vividly as  
23 the Cadrain's lived in his community +  
24 attended the same church. Also  
09:36 25 'Shorty's' mom was a school teacher and



1 his brother Larry took gymnastics with  
2 Chartier's son. He described 'Shorty'  
3 as the rounder type -- a bit tougher and  
4 was not involved in the gym lessons.  
09:37 5 Therefore he very comfortable talking to  
6 him."

7 Would you have told the RCMP that?

8 A Yes.

9 Q And that's accurate, is it?

10 A Yes.

11 Q "'Shorty' told him that he felt Milgaard  
12 (at the time Shorty called him by a  
13 nickname - possibly Hoppy) could have  
14 been responsible for the crime."

15 A Could have been or, yeah, is that 'could' or  
16 'would'?

17 Q Would you have told the RCMP that?

18 A 'Could have been', because this was the impression  
19 Shorty left me that night, that it was just a  
09:37 20 possibility that this person, Milgaard, may be  
21 responsible.

22 Q Okay. If we go to the next page, please, it says:  
23 "Chartier then stated that at that time  
24 the structure in the City Police was  
09:37 25 kind different. He was on NCIU and



1 members had been told that this file had  
2 to be handled by the person responsible  
3 for it. At the time he felt Ray Mackie  
4 should interview 'Shorty' and told him  
09:37 5 that he would pass it on to Detective  
6 Mackie. Chartier drove 'Shorty' home  
7 that night."

8 And I think that's consistent with what you told  
9 us yesterday afternoon; is that right?

09:38 10 A Yes.

11 Q If you could just scroll back up, what were you  
12 referring to here when you said:

13 "... the structure in the City Police  
14 was ... different ..."

09:38 15 at that time?

16 A Well about '92 and '93 we were getting more -- we  
17 had analysts, we -- the service was working more  
18 cooperatively between departments and things like  
19 that.

09:38 20 Q And there is a bit of a reference to that later,  
21 --

22 A Oh.

23 Q -- and I'll get to that in a moment. If we could  
24 scroll down to the bottom it says:

09:38 25 "The next day he attended with Mackie to





1 the Cadrain residence and 'Shorty'  
2 voluntarily accompanied them and  
3 Chartier didn't remember but he felt  
4 'Shorty' gave Mackie a statement.  
09:38 5 Chartier didn't see the statement.

6 'Shorty was' was driven home. Chartier  
7 stated that 'Shorty' was not forced to  
8 say anything as he had approached them  
9 and freely gave them his story.

09:39 10 Chartier is positive that 'Shorty' was  
11 not pressured and made to say things."

12 Did you tell the RCMP that?

13 A Yeah, probably, I can't remember the words  
14 exactly --

15 Q Is that --

16 A -- but he wrote it.

17 Q Is that --

18 A That's my intent, yeah.

19 Q Is that what you remember?

09:39 20 A That was the intent, yes.

21 Q Is that what you -- is that your position and your  
22 belief today?

23 A Yeah.

24 Q And what do you base that on?

09:39 25 A Well I didn't pressure Shorty, he was doing the



1 talking, in fact. Umm, Ray Mackie -- and I have,  
2 have a lot of respect for Ray, like I say, these  
3 periods of time changed my thinking -- Ray Mackie  
4 and Eddie Karst were called or were community  
09:39 5 officers, they talked to people, they were out in  
6 the community, they knew what was going on, they  
7 didn't depend on specialists to do this and that  
8 and everything else, so the service had gotten  
9 away from what Peel had decided in 1829 it should  
09:39 10 be, and since that time, like I say, that's when  
11 my mindset changed.

12 Q Okay.

13 A But it is now going the way towards -- in a  
14 direction not --

09:40 15 Q And I'm interested, Mr. Chartier, in what caused  
16 you to say, at this time, that you are positive  
17 that Shorty was not pressured and made to say  
18 things; was it based on your experience with him?

19 A Well I only dealt with him once when he came in  
09:40 20 that night, or twice, and then that next day  
21 picked him up. I never pressured him, I never  
22 heard Mackie pressure him about anything driving  
23 back, I wasn't in the office when --

24 Q You go on to say, here:

09:40 25 "If 'Shorty' would have been pressured



1                   he is positive that Mrs. Cadrain would  
2                   have contacted him."

3                   And is that your belief today?

4           A        Yeah, I knew his mother and, you know, would see  
09:40 5           her every week, every Sunday at the gym classes  
6           and that, or just about every week, and I'm sure  
7           if Shorty had been -- he came in, I can't  
8           understand the pressuring part, he's the one  
9           telling people. But she would have said something  
09:41 10          to me, I'm sure.

11          Q        Do you recall any discussions with Mrs. Cadrain  
12          about the Gail Miller case at all?

13          A        No.

14          Q        And I believe you said yesterday that you knew the  
09:41 15          Cadrains reasonably well?

16          A        Yes.

17          Q        Did you know, at the time of the Gail Miller  
18          murder, that Larry and Linda Fisher and their  
19          young child was living in their basement?

09:41 20          A        No.

21          Q        Did you know that they had people living in their  
22          basement?

23          A        There was always extended family, or 'extended', I  
24          would say other people and that. It was a fair  
09:41 25          full house full. Even if I had known Larry Fisher



1 was there I could never recall Fisher being  
2 involved with anything, so if he had lived in the  
3 basement, I didn't know about it. It was some  
4 years after that I have heard or found this out,  
09:41 5 not through the police service, but the media.

6 Q Okay. Just scroll down, please. And you say:

7 "Chartier freely admitted that the inner  
8 structure of the police department at  
9 that time was not good."

09:42 10 And did you tell the RCMP that?

11 A Oh, I'm sure I did, because it was after the fact,  
12 and that's part of the reason why I retired was to  
13 find better ways to work at this particular  
14 deal --

09:42 15 Q Yeah?

16 A -- and they are moving in a different --

17 Q Yeah. Let me just read you comments on the next  
18 page and then I'll ask you to explain a bit  
19 further what you meant. You say:

09:42 20 "Quite often Morality members would be  
21 working on files that may have been  
22 similar to ones being investigated by  
23 the Detectives. There was no  
24 correspondence between both depts. and  
09:42 25 it may be added one group was on the 1st



1 floor while the other was on the 3rd  
2 floor.

3 It doesn't surprise him that a  
4 person admitting to some offences would  
09:43 5 not be considered for other unrelated  
6 offences or even similar offences that  
7 were being investigated by different  
8 members. as there was no  
9 'interdepartmental' correspondence."

09:43 10 Now did you tell the RCMP words to that effect?

11 A Probably.

12 Q Yeah?

13 A He wrote it so I'm sure. I have told many people,  
14 though, so --

09:43 15 Q And is this consistent, sir, with your thoughts  
16 then and now, or beliefs about how the police  
17 service operated in 1969?

18 A Yes, I -- I have got a personal example, but that  
19 -- it was a few years later, but --

09:43 20 Q And what was that, is it --

21 A Umm, the -- in 1975 my partner at that time, I was  
22 no longer in NCIU, I was working in  
23 investigations, a young girl was found south of  
24 the city ten miles and left for dead out there.  
09:44 25 She didn't die. My partner and I worked, started



1 on the investigation, we -- my partner identified  
2 the car and that from the description of the young  
3 girl, he was a real crackerjack with cars, and we  
4 came in that night and we were advised by a  
09:44 5 supervisor that we had to go and work on this  
6 other particular file. There had been a break-in  
7 at the Legion and a bunch of liquor was stolen, so  
8 we were told we had to go there, and we would  
9 leave this other deal with morality. Well later  
09:44 10 that summer four young children were murdered in  
11 the city by the same person that had left that  
12 girl, and what I say, morality were corporals, we  
13 were sergeants, you don't -- which are people  
14 things, morality was people things, and we gave  
09:45 15 less -- showed less interest in that than objects  
16 like booze or break-ins, a TV or something like  
17 that. So that just reinforced my thinking of how  
18 the system should work.

19 Q If we could just go back to 1969, just go back to  
09:45 20 this, the top of this page please. You say:

21 "Quite often Morality members would be  
22 working on files that may have been  
23 similar to ones being investigated the  
24 Detectives."

09:45 25 What did you mean by that? And I believe --



1           sorry -- I believe your comments to the RCMP were  
2           relating to the time period 1969, which is the  
3           time period I would like to have you focus your  
4           attention on?

09:46 5       A       Well, you see, morality was people files,  
6           abductions and files that dealt with people, that  
7           was for morality, that wasn't detective work.  
8           Detectives were to investigate break-ins, murder,  
9           that's the only thing that it ever -- or robbery  
09:46 10       with violence, so it had to do with things and not  
11       people as much and that's what I'm referring to  
12       there.

13       Q       And this would be based upon your observations at  
14       the time; is that right?

09:46 15       A       Yes.

16       Q       And then if we could go to 043970, please, and  
17       you'll see this is March 2nd, '93 and Chartier  
18       contacted to clear up a few points, and that's why  
19       I think the document I showed you earlier,  
09:47 20       February 10th, was likely 1993. That seems to  
21       make sense doesn't it?

22       A       Yes.

23       Q       Yeah, that this would be a follow-up call.

24       A       Yeah.

09:47 25       Q       And it says:



1 "Chartier contacted to clear up a few  
2 points. He still feels that Albert  
3 Cadrain was picked up by Detective  
4 Mackie and himself on the 5th of March,  
09:47 5 1969 for the purpose of obtaining a  
6 statement. However he is not sure if  
7 Detective Mackie did in fact take the  
8 statement once they were at the SCP  
9 office."

09:47 10 Did you tell the RCMP that?

11 A Yes.

12 Q Then it says:

13 "Chartier is still adamant that Albert  
14 Cadrain had come to the office the  
09:47 15 preceding Sunday and talked to him.  
16 That would have been sometimes in the  
17 evening.

18 Again he explained that he had  
19 been told not to get involved in this  
09:47 20 matter by his superiors and therefore he  
21 hadn't taken a statement that evening.  
22 He is positive that he had referred the  
23 matter to Lieutenant Short."

24 Did you tell the RCMP that?

09:48 25 A Yes.





1 Q There's a couple of things here I want to ask you  
2 about, one, you are referencing here that he had  
3 come the preceding Sunday, which I think was March  
4 2nd, and you recall yesterday I went through those  
09:48 5 reports that showed on March 2nd Cadrain had been  
6 in to see Detective Karst, Lieutenant Short and  
7 gave a statement and we went through your notebook  
8 and it had an entry for Saturday and Monday but  
9 not Sunday and I think you told us that you think  
09:48 10 probably or almost for certain you wouldn't have  
11 worked that day; is that correct? You recall --

12 A Right.

13 Q And then I think you told us that it was likely  
14 the Tuesday night, the March 4th of '69 that  
09:48 15 Albert Cadrain came into the police station?

16 A I'm positive it was the night before that he came  
17 up to the office. Sunday sticks in my mind  
18 because there was nothing going on, I mean, we  
19 shut the place down on the weekends, so I'm --

09:48 20 Q If we could just -- that's fine, no, I just  
21 wanted -- if we could go back just to the previous  
22 page, please, down at the bottom. It says:

23 "Again he explained that he had been  
24 told not to get involved in this matter  
09:49 25 by his superiors."



1 Which superiors told you not to get involved in  
2 this matter and why?

3 A It was our particular job, we were told -- not  
4 this particular incident in itself, and possibly  
09:49 5 the officer understood that I was referring to  
6 that, but our particular job, we were not to get  
7 involved directly with any file, but to be of  
8 assistance to anyone.

9 Q So your comment here then is what you told us  
09:49 10 yesterday about the fact that NCIU, you were told  
11 not to get involved, to get dragged into Court or  
12 words to that effect?

13 A Right.

14 Q Is that what you are referring to here?

09:49 15 A Right.

16 Q And it says:

17 "... therefore he hadn't taken a  
18 statement that evening."

19 And does that suggest that that's -- the NCIU  
09:50 20 involvement is one of the reasons you didn't take  
21 a statement?

22 A Yes, that's -- you are thinking my job is this and  
23 I know Mackie is going to be back tomorrow and I  
24 told Cadrain at that time that he is the  
09:50 25 investigating officer, I'm sure I mentioned his



1 name, and that I'd have him see Shorty.

2 Q And then you go on to say:

3 "He is positive that he had referred the  
4 matter to Lieutenant Short."

09:50 5 A Yes.

6 Q And I think yesterday you told us it was Mackie.  
7 Is it --

8 A Yeah, it was Mackie. Short was second in charge  
9 who was working during the day and that. No doubt  
09:50 10 I talked to Short about it.

11 Q Do you recall any discussion with Lieutenant  
12 Short?

13 A No, not directly.

14 Q Now, I haven't gone through these reports, every  
09:50 15 word of them, but there are two RCMP interviews  
16 and there's nothing written down in these  
17 interviews about you setting up a hidden tape and  
18 microphone in the room that Art Roberts  
19 interviewed Nichol John and Ron Wilson. You would  
09:51 20 agree with that?

21 A I didn't see anything.

22 Q Do you recall telling the RCMP in '93 about that?

23 A No, I don't.

24 Q And if it's not in the notes, let me suggest  
09:51 25 that -- or is there a reason you wouldn't tell



1           them about that?

2           A        I think they were asking the questions and I was  
3                    responding to them. I would have -- if there was  
4                    some suggestion by them, I would have responded to  
09:51 5                    it, but if there wasn't -- I didn't think this  
6                    was -- I'm sure it wouldn't be an unusual  
7                    situation to forget something that you are doing.  
8                    That was our particular job. They were more  
9                    concerned it seemed with interviews, and that,  
09:52 10                  that they were having with people. I can't  
11                  recall, you know, what --

12          Q        Do you recall telling the RCMP about --

13          A        No, and if they didn't have it on there, I'm sure  
14                    I didn't.

09:52 15          Q        Okay. Did you not at that time think that that  
16                    was important?

17          A        I never did think it was too important. There was  
18                    no way whatever was used on there could have been  
19                    used in any Court. If someone was admitting  
09:52 20                  something, then it would be Art Roberts and  
21                  someone else doing it, so --

22          Q        I'm sorry?

23          A        This was just made for someone to hear what Art  
24                    Roberts was doing and it seemed like a normal  
09:52 25                  situation as far as I can remember.



1 Q Were you aware in 1992 or thereabouts -- I take it  
2 you followed the Milgaard matter in the media?

3 A Well, that's right, I read the paper over the  
4 years.

09:53 5 Q And were you aware at that time that David  
6 Milgaard had applied to the Federal Minister of  
7 Justice to have his conviction reviewed?

8 A Yes.

9 Q And that there was a hearing before the Supreme  
09:53 10 Court of Canada where they heard evidence about  
11 whether or not his conviction should be set aside?

12 A Yes.

13 Q And were you aware that Art Roberts had testified  
14 at that hearing?

09:53 15 A No, I wasn't.

16 Q And Nichol John and Ron Wilson, were you aware  
17 that they had testified?

18 A Something seems to -- I think that was in the  
19 paper, but, you know, I can't remember.

09:53 20 Q Were you aware at or about that time that Ron  
21 Wilson had recanted the evidence that he gave at  
22 David Milgaard's trial, or some of it, pardon me?

23 A Yes, I heard that in the media. I can never  
24 recall ever talking to a police officer, say,  
09:53 25 Eddie Karst or Ray Mackie, about this, but --



1 Q So just back in 1993 then when you met with the  
2 RCMP, would you have been aware then generally of  
3 the fact that David Milgaard was disputing his  
4 conviction? I think by that time, in fact, it had  
09:54 5 been set aside and he was released from prison;  
6 correct? That's what the record reflects.

7 A Yeah. The dates and times have slipped past me.

8 Q You can take it from me that prior to meeting with  
9 the RCMP Mr. Milgaard's conviction had been set  
09:54 10 aside and he had been released from prison.

11 A Yes, okay.

12 Q And so is it fair to say you would have known that  
13 at the time you met with the RCMP?

14 A Yes, I would have.

09:54 15 Q And you would have been aware that Ron Wilson had  
16 recanted his statement or parts of his statement  
17 and that was one of the basis put forward at the  
18 Supreme Court?

19 A Well, I'm sure I was told or understood it  
09:54 20 somewhere along the line.

21 Q And were you aware at that time of Nichol  
22 John's -- two things, one, that her evidence at  
23 trial, and I touched on this yesterday, the fact  
24 that she did not recall certain statements that  
09:55 25 were in her police statements, she was not able to



1 repeat those at her trial and did not repeat  
2 those. Were you aware of that at some point?

3 A I think I probably was, but I can't recall.

4 Q And I guess my question is back on the importance  
09:55 5 of your role in listening or setting up equipment  
6 to listen and record the interview of Art Roberts  
7 on Ron Wilson and Nichol John. Would it be fair  
8 to say that you knew, let's say, in 1993 that Art  
9 Roberts' interview of Nichol John and Ron Wilson  
09:55 10 was an important part of the investigation?

11 A Well, the media seemed to say that. I never  
12 considered it an important part myself at that  
13 particular time, it was just to, for the  
14 investigating officers to know what was being  
09:55 15 discussed.

16 Q I appreciate that, but prior to Art Roberts, prior  
17 to May 23rd, you knew that David Milgaard was a  
18 suspect, you knew he had not been arrested?

19 A Yes.

09:56 20 Q And you knew that they were bringing in Wilson and  
21 John to do a polygraph?

22 A Yes.

23 Q And you knew that six days later they arrested  
24 him, or thereabouts?

09:56 25 A Yes.



1 Q And you knew that Art Roberts told you that he got  
2 the truth out of them and you knew that they had  
3 given, at some point in that time frame, some  
4 incriminating statements; is that fair?

09:56 5 A Somewhere in that time I would have been made  
6 aware of that.

7 Q And so is it fair to say that you would have known  
8 that the interview by Art Roberts of Ron Wilson  
9 and Nichol John would have been an important part  
09:56 10 or where Wilson and John gave the incriminating  
11 statements?

12 A That's part -- and whoever set this up probably  
13 too because, as you know, you can't use polygraph  
14 evidence in Court as such, so that possibly might  
09:57 15 have been the investigator's determination if we  
16 could hear someone say that.

17 Q And I appreciate your point, Mr. Chartier, that  
18 you've said on a couple of occasions that there  
19 were other investigators there that were listening  
09:57 20 and were dealing with the case and you've told us  
21 that your role was primarily to set up the  
22 equipment, but my question relates to what you  
23 understood about the role and the importance of  
24 the Art Roberts' interview of Ron Wilson and  
09:57 25 Nichol John in the grand scheme of things, that's





1 all.

2 A Like I said, I don't think in my opinion it was  
3 that important. As an investigator I wouldn't  
4 have thought that.

09:57 5 Q And so let's again go to 1993 and let's look at  
6 Ron Wilson's recantation. The fact that you  
7 listened in on an interview with an officer with  
8 Ron Wilson where he either did or didn't undergo a  
9 polygraph and that he later recants on parts of  
09:57 10 his statement, did you not think that the fact  
11 that you had listened in and recorded parts or all  
12 of that statement might be important?

13 A Well, might have been important to the  
14 investigators and that. You see, my involvement  
09:58 15 was bits and pieces here and there and the  
16 technical end of setting up the machine. The  
17 rest --

18 Q Let me -- let's say important in the 1990s,  
19 important in 1993, important in looking back at  
09:58 20 what happened, did it not come to your mind that  
21 what you had participated in may have been  
22 important?

23 A I think so, in the grand scheme of things many  
24 years later, and I think I told you in your office  
09:58 25 there that is there -- I asked you the question,



1 was there a tape. I can't even remember that, if  
2 there was a tape, so it wasn't something that I  
3 thought was of grand importance then. Yes,  
4 throughout this whole deal it became an important  
09:59 5 deal, but at that time it was just another piece  
6 of work you were doing.

7 Q Okay. Did you ever tell anybody about the fact  
8 that you had taped, or participated in the  
9 interview by Art Roberts?

09:59 10 A Oh, I think I mentioned it to a few police  
11 officers. I remember even in this statement I  
12 didn't make a point of it.

13 Q Okay. And so again the reason then that you  
14 wouldn't have -- I mean, I think you said the RCMP  
09:59 15 didn't ask you. Is there any reason you didn't  
16 offer it to them in 1993 and tell them about it?

17 A Well, there again, I can't remember, but if  
18 something would have come along that, the  
19 questioning would have come along in that line, I  
09:59 20 would have said something to them. As they are  
21 quite aware of NCIU, I don't even know what it's  
22 called now, I think they still have an  
23 intelligence unit, but --

24 Q Mr. Chartier, just some general questions here  
10:00 25 then as we finish up. I'm wondering if you can



1 tell us whether you played any role in the  
2 decision to pursue David Milgaard as a suspect in  
3 the murder of Gail Miller?

4 A Pursue him?

10:00 5 Q Yes, as a suspect. Did you play any role in that  
6 decision?

7 A No.

8 Q Did you play any role in the decision to charge  
9 David Milgaard with the murder of Gail Miller?

10:00 10 A No.

11 Q At that time, and I'm talking in 1969, did you  
12 have any belief about David Milgaard's  
13 responsibility for the murder of Gail Miller?

14 A After talking to police officers and understanding  
10:00 15 what went on, I believe until DNA came out that he  
16 was responsible.

17 Q And was that based on what you heard from other  
18 officers?

19 A Yes, and the media and --

10:01 20 Q If I go back, I'm sorry, to May of 1969, based on  
21 what you were involved in, did that -- was your  
22 belief formed on what you heard from other  
23 officers as opposed to what you yourself observed  
24 and read?

10:01 25 A I think most of the belief was formed in those



1 first few months of 1969 and talking to Larry  
2 Cadrain -- or Shorty Cadrain, and what bits and  
3 pieces I picked up from investigators and what the  
4 polygraph test and in my opinion the competence of  
10:01 5 the officers involved, that he was, plus that I  
6 also go to identification, Joe Penkala, who was in  
7 there, I had great faith in him, he was a  
8 meticulous person about his job and always was  
9 over the years, so --

10:02 10 Q One of the mandates of this Commission of Inquiry  
11 is to inquire into the conduct of the  
12 investigation into the death of Gail Miller and,  
13 as you know, Larry Fisher has been convicted of  
14 the rape and murder of Gail Miller and the  
10:02 15 Government of Saskatchewan has exonerated David  
16 Milgaard and declared him to be factually innocent  
17 of this crime and, Mr. Chartier, if you could look  
18 back at your role in the investigation into the  
19 death of Gail Miller, is there anything that you  
10:02 20 believe you could have or should have done  
21 differently?

22 A No. I did my job and I'm satisfied. My  
23 conscience is clear as far as I'm concerned.  
24 Others might not think so, but --

10:02 25 Q And this next question, and you've touched on a



1           number of issues already and so I'm looking for,  
2           when I ask you this question, for anything else,  
3           but if you look back at the original police  
4           investigation in its entirety back in 1969, not  
10:02 5           just your role, and based on your observations or  
6           personal knowledge of the investigation, what do  
7           you think could have or should have been done  
8           differently, and again if you've already told us,  
9           I don't want you to repeat that, but is there  
10:03 10          anything else?

11          A       No, I'm satisfied that's how the work was done,  
12           and hindsight is a great deal, you know, 20 or 30  
13           years later, and I was a proponent of looking at  
14           things different, but at that time I had great  
10:03 15           respect for the people involved in it, they were  
16           always people of, I figured, great knowledge about  
17           their job and how it should be done and I always  
18           respected that.

19                   MR. HODSON: Thank you, Mr. Chartier, those  
10:03 20           are all my questions. Mr. Commissioner, I know  
21           that there are at least four, perhaps five  
22           counsel who wish to cross-examine. I'm not sure  
23           if they've agreed upon order and whether we wish  
24           to break now or just pause for a moment and I can  
10:03 25           check. It's 10 o'clock.



1 COMMISSIONER MacCALLUM: We can take a 15  
2 minute break.

3 (Adjourned at 10:04 a.m.)

4 (Reconvened at 10:25 a.m.)

10:26 5 MR. HODSON: Mr. Commissioner, the order of  
6 cross-examination has been agreed to by counsel  
7 and I've put it on your desk. I think Bruce  
8 Gibson from the RCMP will be first, followed by  
9 Mr. Elson, Mr. Fox, Mr. Wolch and Mr. Lockyer,  
10:27 10 and I just remind counsel to maybe introduce who  
11 they are and who they represent before they  
12 start.

13 COMMISSIONER MacCALLUM: Thank you, Mr.  
14 Hodson.

10:27 15 **BY MR. GIBSON:**

16 Q Good morning, Mr. Chartier, my name is Bruce  
17 Gibson and I represent the RCMP in this inquiry.  
18 Just a very few brief questions  
19 with you, but I just wanted to touch a little bit  
10:27 20 on some of the discussion you had recently with  
21 Mr. Hodson. You had mentioned -- I guess I'll  
22 have to back up a little bit. You had mentioned  
23 in your first day of testimony that you worked  
24 with the National Criminal Intelligence Unit  
10:27 25 within the Saskatoon Police Service?



1 A Yes.

2 Q And I think you said you took a course in  
3 gathering information and that was part of your  
4 responsibility in that unit?

10:27 5 A Yes.

6 Q And I believe you also indicated that you helped  
7 out with regular police work, you just didn't do  
8 NCIU work; is that right?

9 A Yes.

10:28 10 Q Now, part of your NCIU work, and correct me if I'm  
11 wrong here, is that you had developed a bit of  
12 expertise in gathering information and part of  
13 that expertise was, I guess, planting listening  
14 devices in rooms; is that fair to say?

10:28 15 A Yes.

16 Q And it would be for that reason, your expertise in  
17 doing the technical aspect of putting that device  
18 in a room, that the regular members, if I can call  
19 them that within SPS, contacted you for setting up  
10:28 20 a device or listening devices for the May 23rd  
21 interview; correct?

22 A Yes.

23 Q So it really didn't have anything to do with your  
24 capacity as a person in the NCI unit within the  
10:28 25 Saskatoon Police Service, like, there was no



1 national perspective to a murder investigation of  
2 a young woman in Saskatoon; correct?

3 A No.

4 Q Because that's the kind of thing that, and again  
10:29 5 correct me if I'm wrong, but the NCIU would be  
6 concerned about organized crime and then trends  
7 across Canada and that type of thing?

8 A Yes.

9 Q So with respect to what you did in the morning, or  
10:29 10 whatever time you put in the listening device for  
11 May 23rd, that was under the direction of the  
12 Saskatoon Police Service and not the RCMP;  
13 correct?

14 A Oh, the RCMP had nothing to do with it whatsoever.

10:29 15 Q And as far then as reporting what occurred during  
16 that time, your reporting would then have been  
17 within the Saskatoon Police Service and not to the  
18 RCMP; correct?

19 A That's right.

10:29 20 Q Okay. And again getting back to your  
21 conversations with the RCMP in 1993, Mr. Hodson  
22 went through what knowledge you may have had at  
23 that time with respect to the status of David  
24 Milgaard, if I can call it that, he was out of  
10:30 25 jail at that time, the RCMP were investigating





1           allegations of misconduct by the Saskatoon Police  
2           Service during the original Gail Miller  
3           investigation. You were aware of that?

4           A       Yes.

10:30 5           Q       And that there were some allegations with respect  
6           to pressure being put on some witnesses to say  
7           things and they were asking you questions about  
8           that?

9           A       There might have been allegations. I'm not aware.  
10:30 10          I was going by the media. I left the service in  
11          '88, so --

12          Q       Okay. I can rephrase that, but again, and I'm not  
13          going to go back to the document, but the RCMP  
14          asked you about whether Mr. Cadrain had been  
10:30 15          pressured because you responded in saying no, I  
16          didn't think he was pressured, he came forth to  
17          me?

18          A       Right.

19          Q       And again Mr. Hodson went through the status of  
10:31 20          Ron Wilson and that he had recanted at that point  
21          in time and you indicated that you were aware of  
22          that?

23          A       I was probably aware of it, you know, I can't say  
24          specifically when, but I read the paper and that  
10:31 25          in those days, so somewhere I would have --



1 Q So you were aware then that the investigation was  
2 to look into whether there had been, and I don't  
3 want to use the word tampering, but some sort of  
4 influence on these witnesses and what they would  
10:31 5 have said back in 1969?

6 A That's right.

7 Q And the RCMP were following up on that?

8 A Right.

9 Q Now, you indicated that you never told the RCMP  
10:31 10 that there had been this task undertaken by you in  
11 May to install listening devices, you never  
12 indicated that to them?

13 A Not that I can remember, and I see it's not on the  
14 report, but it's something they -- I don't know, I  
10:32 15 can't remember, but if they said I didn't and it's  
16 not on a piece of paper --

17 Q And there's no indication of that in the  
18 continuation report?

19 A No.

10:32 20 Q And for that matter, and I stand to be corrected,  
21 but there's no indication of that in any of the  
22 Saskatoon Police Service reports that I've seen.  
23 Are you aware of any indication of that?

24 A No. I saw very little of that file.

10:32 25 Q And you said the RCMP never asked you point blank



1 about whether you reported or -- and I guess you  
2 indicated you don't even know if there was a tape  
3 recording?

4 A This day I can't tell you, I can't remember  
10:32 5 listening to a tape or if people were talking and  
6 that, so --

7 Q You indicated that the RCMP never inquired with  
8 respect to what you may have done on May 23rd --

9 A No.

10:32 10 Q -- as far as the listening devices go?

11 A No.

12 Q And would you agree with me then that if there was  
13 no NCIU perspective to the work you did that day,  
14 it would be unreasonable for the RCMP to even sort  
10:33 15 of ask if there was some sort of other report that  
16 may have been filed through some process with the  
17 SPS that was more secretive?

18 A That's right, they wouldn't have.

19 MR. GIBSON: Thank you very much.

10:33 20 COMMISSIONER MacCALLUM: Mr. Elson?

21 BY MR. ELSON:

22 Q Thank you, Mr. Commissioner. Mr. Chartier, my  
23 name is Richard Elson, I represent Chief Sabo and  
24 the Saskatoon Police Service in this inquiry.

10:33 25 I wanted to talk a little bit



1 with you about some of the changes that had taken  
2 place between 1969 and 1988 when you retired from  
3 the police service. It would be fair to say that  
4 by the time you retired from the police service,  
10:33 5 there had been a great many changes in police  
6 practices between 1969 and 1988; would that be  
7 fair?

8 A That's fair.

9 Q And specifically one of the things in which there  
10:34 10 would be changes is there would be changes with  
11 respect to the training that officers would  
12 receive either before being sworn in as officers  
13 and also training on the job; would that be fair?

14 A Definitely.

10:34 15 Q And specifically would you agree with me that  
16 there has been significant changes in the degree  
17 of education and the degree of training that  
18 Saskatoon police officers receive with respect to  
19 investigation techniques?

10:34 20 A Yes.

21 Q And specifically the investigation of homicide?

22 A I can't go into specifics, but I know I went on a  
23 course myself while I was still in the service, so  
24 it has been improving is my understanding.

10:34 25 Q And it would also be fair to say that, as the



1 editorial you wrote to the *Saskatoon StarPhoenix*  
2 suggests, that you have been actively following  
3 police practices in Saskatoon since your  
4 retirement in 1988?

10:35 5 A Yes, and prior.

6 Q And prior?

7 A Yeah.

8 Q And even since 1988 there have been changes in  
9 police practices with respect to investigation  
10:35 10 techniques?

11 A Well, yes, DNA back in '69 --

12 Q Unheard of at that time?

13 A Unheard of.

14 Q Would you also agree with me that there had been  
10:35 15 changes in interviewing techniques and training  
16 for police officers in conducting interviews not  
17 only of suspects, but also of witnesses?

18 A Yes, I understand it's videoed and taped and  
19 everything now, but I wasn't -- that was after the  
10:35 20 time I left, so I'm not aware of what goes on.  
21 They watch every one of us somewhere, not the  
22 police, but society.

23 Q Right. And one of the reasons is to ensure that  
24 whatever information may be received from a  
10:36 25 suspect or from a witness has not been coerced in



1 any way?

2 A That's right.

3 Q Now, I believe Mr. Hodson asked you a question  
4 during his direct examination with respect to  
10:36 5 something known as a suspect book. Are you aware  
6 of a practice of using a suspect book in the late  
7 1960s and the early 1970s within the Saskatoon  
8 Police Department?

9 A Not a book. Like I say, I recall in those years  
10:36 10 if I was out on the street working and understood  
11 someone could be a possible suspect, I believe  
12 what was known then, it was a common term, leave a  
13 yellow sheet to the chief, it goes up there, up  
14 and then down to whoever has to look at it, and  
10:37 15 then we had vagrancy cards that you filled out  
16 when you were working at night and I assume went  
17 to someone on high who could look and see what  
18 might have transpired, but I think those went the  
19 way of the Dodo too. I think the new modern  
10:37 20 technology, everything is --

21 Q We may be talking about the same thing, but just  
22 so that we're clear, Mr. Hodson --

23 A A suspect book, I can't recall one.

24 Q And I'm specifically referring to that term. Is  
10:37 25 that term a term that you recall having been used



1           during the time you were working with the  
2           Saskatoon Police Service?

3           A       No.

4           Q       I am instructed, and please correct me if you  
10:37 5           believe my instructions are wrong, is that there  
6           was a method of recording information with respect  
7           to suspects and with respect to informants, and  
8           whether it is a suspect book or whether it is a  
9           yellow sheet as you describe, that that practice  
10:38 10          did exist in one form or another?

11          A       Well, I was involved with -- you set up a task  
12          force when there was a serious type of deal. I  
13          don't know, I can't -- the Gail Miller  
14          investigation was not a task force, but yes, when  
10:38 15          you were investigating something, you had a book  
16          that you would get the phone calls and you mark  
17          the name down. It could be called a suspect book  
18          I guess. I can't recall the term whatsoever.  
19          Well, in Miller for sure I can't.

10:38 20          Q       If it would be something in which that kind of  
21          information be recorded, it's my understanding,  
22          and again please correct me if I'm wrong, that the  
23          book or whatever where this information would be  
24          recorded would not be specific to a particular  
10:39 25          case under investigation? In other words, there



1           wouldn't be a Gail Miller murder suspect book, it  
2           would be a book that would be maintained generally  
3           with respect to a multiple number of  
4           investigations?

10:39 5       A       I suspect that's possible. I personally, and I  
6           think many of my fellow workers, depended on the  
7           staff sergeant, detective who you reported to to  
8           keep you informed on what was going on. If not,  
9           your mind would be going bonkers, you know, so  
10:39 10       that was the person who was on top of a case and  
11           really knew what was going on in it, which in this  
12           case would have been Ray Mackie, and a book  
13           with -- I can never recall seeing one.

14       Q       I appreciate that. In any event, whether there's  
10:40 15           a book or a yellow sheet or whatever where this  
16           information would be recorded, would you agree  
17           with me that whatever information would be in that  
18           book or that yellow sheet would not be in addition  
19           to information that would be contained either in a  
10:40 20           statement or in an investigation report?

21       A       No, I can't see why, if someone took a statement  
22           and then -- well, like I say, it would depend, I  
23           would think, on the staff sergeant and that. I  
24           know in some of the task forces we had on  
10:41 25           different incidents you had the staff sergeant. I





1 never depended on a book to go and try to find  
2 something, I just depended on my superior officer  
3 to make me aware of what could be done, should be  
4 done. Like in the -- I took some witness  
10:41 5 statements in regard to this, I was instructed to  
6 go out and take these, I didn't just go in a book  
7 and look, someone instructed me.

8 Q I appreciate that. My point is, though, is if  
9 there was information put in a suspect book or in  
10:41 10 a yellow sheet, it would not be information that  
11 wasn't otherwise available in a statement or an  
12 investigation report, it wouldn't be new  
13 information?

14 A I couldn't help you there because I'm not aware of  
10:42 15 a suspect book.

16 Q I appreciate that. Within the -- pursuing, also,  
17 the practices that may have changed -- actually,  
18 before I leave the recording of information, you  
19 would agree with me that as technology developed  
10:42 20 and as computers developed there was a different  
21 method of tracking information and suspects other  
22 than hard copies and notes on paper; would you  
23 agree with that?

24 A Definitely.

10:42 25 Q And would you agree with me that that made the



1 ability to follow suspect chains, if I can use  
2 that phrase, significantly easier than it was in  
3 1968, '69, or 1970?

4 A Definitely.

10:42 5 Q And again pursuing the aspect to which things have  
6 changed, in answering Mr. Hodson's questions --  
7 and you also referred to it in the editorial in  
8 May of 1992 -- you indicated that the practice of  
9 keeping victims informed was very different in  
10:43 10 1969, 1970 and 1971 than it was prior to your  
11 retirement in 1988?

12 A Definitely. There was victims' services came into  
13 being.

14 Q And I wanted to pursue that. It's my  
10:43 15 understanding from the Saskatoon Police Service  
16 web site and from information I have received from  
17 my client that victims' services formally became a  
18 section within the Saskatoon Police Service in  
19 1993; is that correct?

10:43 20 A I don't know if it was a police function or a  
21 community function. But yes, the police, I think  
22 they still have it, I don't know if it's out at  
23 the police department or not.

24 Q Now, and while it existed formally in 1993, you  
10:43 25 would agree with me that it existed informally



1 prior to your retirement in 1988?

2 A Formally?

3 Q Informally?

4 A Informally? Well the -- it was kind of a people

10:44 5 -- yeah, people should be informed. I don't -- I

6 can't -- and I don't want to answer that because I

7 -- as an investigator you did what you thought,

8 and if other people should know I think you would

9 go about doing that, and I think we were moving in

10:44 10 that direction. I remember, in the '80s and that,

11 some sign of it.

12 Q And in fact you have talked about community

13 policing and you have made no secret of the fact,

14 within the service and in comments and in edit --

10:44 15 letters to the editor that I have seen you write,

16 that you are very much an advocate of community

17 policing; is that correct?

18 A Yes.

19 Q And a form of community policing was brought into

10:44 20 existence in Saskatoon in 1979; would you agree

21 with that?

22 A No.

23 Q You would disagree with that?

24 A I would disagree with that, which I publicly have

10:45 25 disagreed with.



1 Q All right. And you would agree, though, that in  
2 1979 there was a process of assigning police  
3 officers to given districts within the City of  
4 Saskatoon?

10:45 5 A That's right.

6 Q And it was held out at the time that that was a  
7 form of community policing, perhaps you didn't  
8 agree with that, but it was held out at the time  
9 that that was a form of community policing?

10:45 10 A It's not that I didn't agree with it, that's all  
11 the practitioners, which go back to Robert  
12 Trojanowicz in the University of Michigan who set  
13 it down. But, yes, that was geographic stability.  
14 But two things that we -- well, three; reduced use  
10:45 15 of specialists, in other words my job or there  
16 were a number of other ones, you know, that  
17 specialized in the whole section, or the whole  
18 department should have been; but decentralization  
19 of authority, and it's plainly spoken through in  
10:46 20 council and that that didn't happen because of  
21 what they called the 12-hour shift; internal  
22 communications started to improve so that was  
23 saying that -- but there are six precepts.

24 Q If I can just -- I didn't want to get into a  
10:46 25 detailed analysis.



1 A Okay.

2 Q I appreciate that you might not have accepted that  
3 it was community policing. My point is, though,  
4 is that, with the assignment of police officers to  
10:46 5 given districts within the city, one of the things  
6 that arose from that is that there was more  
7 contact with victims and there was more follow-up  
8 with victims in terms of knowing what the  
9 consequences were of the cases that were being  
10:46 10 investigated?

11 A Umm, I would be a little prone to disagree with  
12 that, because community policing is a philosophy  
13 and not a practice.

14 Q But you would agree with me, though, that,  
10:47 15 irrespective of whether or not we called it  
16 community policing, there definitely was an  
17 informal practice, prior to your retirement in  
18 1988, of following up with victims more so than  
19 had been done previously?

10:47 20 A Oh, I believe that's true.

21 Q And with the formation of --

22 A But the 'formally' part I don't know, but --

23 Q I appreciate that. And in those days there was no  
24 such thing as victim impact statements in Court;  
10:47 25 is that correct?



1 A That's correct.

2 Q And you are aware that that exists today?

3 A Yes.

4 Q And, in fact, the practice in 1969, 1970 and 1971,  
10:47 5 is that once the police had determined a charge  
6 ought to be laid and the file was referred to the  
7 Crown, it was the understanding of investigating  
8 police officers that whatever contact would take  
9 place with the victim would be the contact  
10:47 10 initiated by the Crown because, after all, the  
11 victim would have to be called as a witness, and  
12 that was your understanding?

13 A Yes.

14 Q And that was the general practice at that time, is  
10:48 15 that any contact with the victim would be  
16 initiated by the provincial Crown?

17 A That's pretty broad. All right, I believe that's  
18 a fair statement, it's -- I could discuss it but  
19 we'll leave it at that.

10:48 20 Q And not only would that be a fair statement with  
21 respect to the City of Saskatoon, your work with  
22 NCIU allowed you to have contact with police  
23 officers in other departments; is that --

24 A Jurisdictions.

10:48 25 Q In other municipal departments?



1 A Yes.

2 Q Would it be your sense that the practice I have  
3 just described, of interaction with victims in  
4 other police services, to the best of your  
10:48 5 knowledge was not much different, different than  
6 it was in Saskatoon in 1969, 1970, and 1971?

7 A No, the police culture is the same right across  
8 Canada, it's a systemic deal. As improvements  
9 come the whole -- as you have saw the other day on  
10:49 10 racism in Kingston, Kingston or Kitchener or  
11 wherever it was, where empirical studies were done  
12 to say, you know, how race -- and then I saw the  
13 chief on TV and the first time I have ever seen a  
14 chief more or less pound the table and say 'we're  
10:49 15 going to do something about that', so it's going  
16 to be systemic, it will happen.

17 Q So I assume your answer to my question is 'yes, --

18 A Yes.

19 Q -- 'this was likely the same practice elsewhere'?

10:49 20 A Yes.

21 Q Now when you wrote the editorial or the letter to  
22 the editor, whichever way we choose to describe  
23 it, to *The StarPhoenix* I believe in May of 1992,  
24 May 8th of 1992, did you -- you were retired at  
10:50 25 that time; is that correct?



1 A Yes.

2 Q Did you go to the police service and ask for an  
3 opportunity to review any of the documents  
4 relative to the investigation of Mr. Cadrain's  
10:50 5 statement, or relative to the investigation of Ron  
6 Wilson and Nichol John, prior to writing that  
7 particular letter or editorial?

8 A No I didn't.

9 Q And so it would be fair to say that you did not  
10:50 10 have an opportunity to refresh your memory with  
11 respect to those events?

12 A That's right.

13 Q Having regard to the investigation report of  
14 Charles Short, and I believe the number for  
10:50 15 that -- and I'm sorry, I should have indicated  
16 this -- I believe the number for that is 106640,  
17 and I'm not referring to any specific passage in  
18 that investigation report, but that is the report,  
19 I believe, of Detective Short -- and I'm sorry, I  
10:51 20 may have his rank incorrect --

21 A Inspector.

22 Q -- that is the report that refers to Dennis and  
23 Albert Cadrain attending at the police service on  
24 March 2nd, 1969, and also refers to the  
10:51 25 interaction with, specifically, Albert (Shorty)





1           Cadrain on that occasion, and I believe you  
2           testified, in answering Mr. Hodson's questions,  
3           that you did not see this particular investigation  
4           report and were not aware it existed until it had  
10:51 5           been produced to you in the course of the work  
6           leading up to your testimony in the last two days;  
7           is that correct?

8           A       That's right.

9           Q       Having seen that investigation report, do you now  
10:51 10           accept that you were perhaps honestly mistaken as  
11           to whether or not you were the first member of the  
12           Saskatoon Police Department to have contact with  
13           Shorty Cadrain?

14          A       Umm, I know what happened as far as Shorty  
10:52 15           Cadrain, who I knew, and it was the night before  
16           that I took Sergeant Ray Mackie there. The --  
17           this surprised me, but it wouldn't be unusual,  
18           it's -- we've dealt with all kinds of people who  
19           try to pull things over on police services and  
10:52 20           that, so he well may have been in, and I can't  
21           recall if there were rewards or anything at that  
22           time, it doesn't make any difference, but I cannot  
23           recall Short or anyone else telling me that this  
24           person had been in before.

10:52 25          Q       I understand. I wonder if I could have



1 Mr. Chartier's notebook, and specifically it is  
2 the notes with respect to 324618 or document  
3 number 324618, and if we could turn to the next  
4 page, 324619. Now I have before you a note, and  
10:53 5 it doesn't specifically relate to this case, but  
6 there is an excerpt or a portion of your notebook  
7 covering the date Wednesday, April 30th, 1969, and  
8 it indicates 'report for duty 8:00 a.m., assigned  
9 to detectives'. Now was it the purpose of making  
10:53 10 that notation that you were assigned to  
11 detectives, that on that day the work that you  
12 would be doing would, for the most part, not be  
13 related to the NCIU work but would, rather, be  
14 specifically related to detective work?

10:54 15 A It was -- the chart shows that it was the  
16 detective division under Superintendent Wood, and  
17 we were at the tail end of that chart, so the  
18 detective office is where we came and reported for  
19 duty. The detective. The only information and  
10:54 20 that from the detectives, that staff sergeant, so  
21 that was our office, the whole office.

22 Q So you would write the words 'assigned to  
23 detective office' irrespective of whether or not  
24 you were wearing your NCIU hat that day?

10:54 25 A We would never have had NCIU, it was always



1           detective, because that was the section that we  
2           worked on.

3           Q       It would be fair --

4                    COMMISSIONER MacCALLUM: I'm not clear on  
10:54 5           his answer; could you maybe go over it with him  
6           again?

7           BY MR. ELSON:

8           Q       Okay. I'm sorry, I did -- when it would say  
9           'assigned to detective' in the notebook, or  
10:55 10          'assigned to detective office', --

11          A       Yes.

12          Q       -- would you record that irrespective of whether  
13          or not you would be specifically performing NCIU  
14          tasks on that day?

10:55 15          A       No, it would always be 'detective'.

16          Q       So if you were doing non-NCIU work in the  
17          detectives' office you would say 'assigned to  
18          detectives office'?

19          A       That's right.

10:55 20          Q       And if you were doing NCIU work it would, you  
21          would also put 'assigned to detectives office' in  
22          your notebook?

23          A       Yes, that's right.

24          Q       So, really, there is nothing from your notebook  
10:55 25          that really assists us, on this day or any other



1 day, in determining whether or not you were doing  
2 specifically NCIU work on that specific day; is  
3 that right?

4 A That's right, because this series of notebooks I  
10:55 5 think ended somewhere in about June, that there  
6 was no longer any kept.

7 Q Now when we -- and Mr. Gibson touched upon this to  
8 some extent -- when we talk about NCIU work, is it  
9 fair for me to describe NCIU as being, in one form  
10:56 10 or another, the precursor to CSIS which we know  
11 today?

12 A No.

13 Q It would not be?

14 A No, not -- well my understanding, no, of CSIS.

10:56 15 Q In any event it was the purpose of the NCIU to  
16 conduct surveillance and gather intelligence  
17 primarily with respect to organized criminal  
18 activity; correct?

19 A That's right.

10:56 20 Q You would agree with me that the investigation of  
21 the Gail Miller murder was not an investigation  
22 into organized criminal activity?

23 A That's right.

24 Q There was nothing leading up to May 23, 1969 to  
10:56 25 suggest that?



1 A That's right.

2 Q And part of the work that would be done within the  
3 NCIU unit would be the surreptitious gathering of  
4 information from individuals who have no idea the  
10:57 5 police are specifically watching them?

6 A That's a very small part of it. Our job was to be  
7 out talking to people, known people, who could be  
8 connected with crime. The, this surreptitious  
9 deal is a very small part, in fact I'm not a  
10:57 10 technical person at all. And so there are a lot  
11 more things to -- involved in investigation  
12 than -- you or anyone else could put a microphone,  
13 and especially in this day and age, so that part  
14 of the job was minimal.

10:57 15 Q Right.

16 A And only because that was part of our job, we had  
17 to be directed by someone, a superior officer  
18 somewhere to do this, so --

19 Q I understand. And thank you for clarifying that.

10:58 20 So when some type of surreptitious recording was  
21 to be undertaken involving the insertion of a  
22 microphone in a hotel room, or the insertion of a  
23 microphone or some other listening device in any  
24 other kind of room, the purpose of doing that, you  
10:58 25 would agree, would be for the purpose of gathering



1 information from individuals who would otherwise  
2 have no idea that they were providing information  
3 to the police?

4 A That's right.

10:58 5 Q Now you would agree with me that on May 23, 1969  
6 it was made clear, or you understood at least it  
7 was made clear to Ron Wilson and Nichol John that  
8 Art Roberts, Inspector Roberts was a member of the  
9 Calgary Police Service on loan to the Saskatoon  
10:58 10 Police Service for the purposes of investigating  
11 the murder of Gail Miller?

12 A Yes.

13 Q And, with that information having been  
14 communicated to Mr. Wilson and Ms. John, they  
10:59 15 would know that whatever information they were  
16 providing to Mr. Roberts would be gathered not  
17 only by Inspector Roberts but also by the  
18 Saskatoon Police Service?

19 A I'm sure they weren't made aware of that. Art  
10:59 20 Roberts was aware of it and, for all I know, he  
21 might have been a person who was part of saying  
22 'well maybe we should do this'. I don't know.

23 Q You were also aware that Mr. Wilson and Ms. John  
24 had been picked up in Regina; were you not?

10:59 25 A Umm, I -- the details of that I can't recall at



1 all, how they got there or the dealings. I never  
2 saw them throughout this whole deal so I can't  
3 help you there, I don't know how they got there,  
4 and --

11:00 5 Q And you don't know how they got there and you  
6 don't know whether they knew that this was part of  
7 a police investigation?

8 A No, I can't tell you that.

9 Q All right. There was -- do you know whether or  
11:00 10 not there was a polygraph machine in the room?

11 A No, I couldn't tell you that neither.

12 Q Now my understanding is that before May 23, 1969,  
13 you had gone to Calgary, and I understand that you  
14 had met with Inspector Roberts?

11:00 15 A That's right.

16 Q And the purpose of meeting with Inspector Roberts  
17 was for the purpose of setting up, to use your  
18 words in the letter you wrote to *The StarPhoenix*,  
19 setting up a polygraph session with Ron Wilson and  
11:00 20 Nichol John?

21 A I suspect that was the reason we went there.

22 Q All right. And so Art Roberts, to your knowledge,  
23 brought a polygraph machine with him --

24 A Yes.

11:00 25 Q -- and -- but you did not go in the room and you



1 don't know whether --

2 A I can't recall. I am next to positive I didn't,  
3 after the fact, go into that room or see what was  
4 there, but I could be mistaken. I can't recall  
11:01 5 that.

6 Q You would agree with me, though, that if Ron  
7 Wilson and Nichol John were told that the purpose  
8 of them being questioned on that day was for the  
9 purpose of gathering information to be used in the  
11:01 10 investigation of the murder of Gail Miller, that  
11 if they knew that, there would be no point in any  
12 surreptitious listening of the conversation  
13 between those two witnesses, or either of them,  
14 and Art Roberts?

11:01 15 A Yeah, that's right, except that Art Roberts, we  
16 assume, takes notes and knows what's going on and  
17 he would be the witness to whatever, but also with  
18 the knowledge that if you take a polygraph it  
19 can't be used. So this was a case that, if  
11:02 20 somebody else heard this conversation, that they  
21 could -- depends on the Court.

22 Q Were you aware at the time, Mr. Chartier, that,  
23 while polygraph information could not be used in  
24 Court, the information given in answer to  
11:02 25 questions could be?





1 A That's what I am saying, I suspect that was  
2 possibly the reason, that if somebody else knew  
3 this conversation went on. And I, there again I  
4 say at that time, you have got to remember  
11:02 5 evidence, no matter how obtained, was evidence.  
6 It was '82 that that changed or thereabouts. So,  
7 you know, there were all different ways of getting  
8 evidence at that time that could be used in courts  
9 and that, which is altogether different now.

11:02 10 Q In answering Mr. Hodson's questions yesterday --  
11 and the media made some issue of it in the  
12 coverage last evening, in the electronic coverage  
13 last evening and also in the newspaper today --  
14 you are not saying, Mr. Chartier, that Ron Wilson  
11:03 15 and Nichol John did not say anything to Inspector  
16 Roberts to incriminate David Milgaard, you are  
17 simply saying you don't recall --

18 A Yeah.

19 Q -- anything said; is that correct?

11:03 20 A That's right. And if -- I haven't seen the media,  
21 I don't get it any more, I just heard a quick  
22 blurb, but what I did see I, I don't take as fact  
23 from the media. That's why I wrote that  
24 particular deal, because Bill Peterson is a friend  
11:03 25 of mine and he got the community involved how to



1 dispense information, but --

2 Q I don't want to get into a debate with you --

3 A Yeah.

4 Q -- about the quality of the media, with all due  
11:03 5 respect, --

6 A Well.

7 Q -- but having said that, it was my understanding  
8 that you don't recall --

9 A No.

11:03 10 Q -- either Mr. Wilson or Ms. John saying anything  
11 to incriminate David Milgaard?

12 A No I don't.

13 Q Is it entirely possible that you did not listen to  
14 --

11:04 15 A That's --

16 Q -- any part of that conversation?

17 A That's right, I suspect I didn't listen to too  
18 much of it, because that would be the  
19 investigating officer. What they said didn't make  
11:04 20 much difference to me. That it came through and  
21 that -- and for some reason there is a niggling  
22 feeling that things weren't working as well as  
23 they should, but I won't go any further there,  
24 it's just kind of something that sits in the back  
11:04 25 of my mind.



1 Q And I don't mean to be disrespectful in asking you  
2 this question, Mr. Chartier, but would you agree  
3 with me that your memory of the specific events  
4 that occurred that day may not be quite as sharp  
11:04 5 as you would like it?

6 A No, no. If -- something that happened yesterday I  
7 have a problem with, so yeah, I agree. There are  
8 just about three specific incidents that have,  
9 over the years, stuck in my mind in regards to  
11:04 10 this -- plus the work that the investigating  
11 officers done, that was a separate deal -- but  
12 things that stuck in my mind over that time.

13 Q You would agree with me, though, that there would  
14 have been, as I understand it there would have  
11:05 15 been other occasions in which officers within the  
16 NCIU in Saskatoon would have drilled holes into  
17 walls in order to insert listening devices other  
18 than what you describe having taken place on May  
19 23, 1969 in other investigations?

11:05 20 A Yes.

21 Q Is it possible -- and, again, I don't mean to be  
22 disrespectful in asking you this question -- is it  
23 possible that you have confused this occasion with  
24 one of those other occasions in which there was  
11:05 25 the practice of drilling a hole through a hotel



1 wall, or any other wall, and inserting a listening  
2 device?

3 A No.

4 Q Detective Karst you described in your letter to  
11:06 5 the editor -- and I use your words, not mine --  
6 as:

7 "... one of the most effective  
8 investigators the Saskatoon Police had."  
9 And that was a comment you made in May of 1992; I  
11:06 10 take it you stand by that comment today?

11 A Yes, I do, because Eddie Karst supervised me for  
12 many years after that and I have a lot of respect  
13 for him.

14 Q And would you agree with me that not only was that  
11:06 15 an opinion that you held, but that opinion was  
16 generally held within the Saskatoon Police Service  
17 during the time that Detective Karst worked for  
18 the service?

19 A Well I can't speak about the management end, which  
11:06 20 I suspect had to be because he was sent to  
21 these -- but as far as the working grunts he was  
22 --

23 Q Among your colleagues?

24 A That's right.

11:06 25 Q And, as an effective investigator, would you agree



1 with me that you would expect Detective Karst to  
2 record as complete an investigation report as  
3 possible of any matter in which he was directly  
4 involved?

11:06 5 A Yeah, I believe so.

6 Q All right. When we look at the investigation  
7 report 0092 -- I should put my glasses on -- 64,  
8 and I don't mean to go through the entire report,  
9 but I take it you have seen the investigation  
11:07 10 report of Detective Karst dated May 25, 1969 which  
11 covered the picking up of Ron Wilson and Nichol  
12 John in Regina, the transport to Saskatoon, and  
13 also covered the events that took place at the  
14 Sheraton Cavalier on May 23rd, 1969; I take it  
11:07 15 that in preparation for your giving evidence at  
16 this Inquiry you have had an opportunity to review  
17 this report?

18 A Yes. It was a month, month and a half ago, and I  
19 read it. There's things, like I say, yesterday  
11:07 20 that I forget but I did read the report.

21 Q You would agree with me that in the description --  
22 and we can highlight it for you if you wish, I  
23 believe it will be the third page of the  
24 investigation report, I'm wrong, if we go one more  
11:08 25 page, yes, if we could, I'm not as good at this as



1 Mr. Hodson is but I'm getting better -- in  
2 identifying that paragraph and also the subsequent  
3 paragraph we don't, you would agree with me that  
4 we don't see anything in the investigation report  
11:08 5 about any electronic listening to the conversation  
6 or the conversations, plural, between Ron Wilson  
7 and Inspector Roberts, or between Nichol John and  
8 Inspector Roberts?

9 A I agree. I can't recall seeing anything in there.

11:09 10 Q Nor was there anything said in Inspector Roberts'  
11 testimony before the Supreme Court of Canada about  
12 a listening device having been employed at the  
13 time of the interview done in the Sheraton  
14 Cavalier; is that correct?

11:09 15 A That's correct.

16 Q And you have had an opportunity to review that?

17 A I went through that, I can't recall seeing it.

18 Q And as My Friend Mr. Gibson has pointed out in  
19 asking you questions this morning, there was  
11:09 20 nothing -- and as Mr. Hodson has also pointed out  
21 -- there was nothing in the information you gave  
22 to the RCMP in 1993 with respect to a listening  
23 device having been used?

24 A That's right.

11:09 25 Q In light of the fact that it is not in Detective



1 Karst' investigation report, in light of the fact  
2 that it is not in Inspector Roberts' testimony  
3 before the Supreme Court of Canada, in light of  
4 the fact that it was not in information you  
11:10 5 provided to the RCMP in 1993 -- and, again, I  
6 don't mean to be disrespectful -- is it not  
7 possible that you are mistaken, perhaps honestly  
8 mistaken, with respect to whether or not the room  
9 was, if I might use the word, 'bugged' --

11:10 10 A No.

11 Q -- on May 23, 1969?

12 A No.

13 Q You are certain?

14 A Yes.

11:10 15 Q And you have no explanation as to why Inspector  
16 Roberts would not have identified that, Detective  
17 Karst didn't identify that, and you yourself did  
18 not identify that?

19 A I have got no explanation. It's something we  
11:10 20 didn't do.

21 Q You also indicated -- and if we could have the  
22 notes again, and I'm, I will be more specific with  
23 respect to the page -- notes 324618, and  
24 specifically the notes of May 23 which are 324642.  
11:11 25 I believe, when you were answering Mr. Hodson's



1           questions, you indicated that the reason there  
2           were no significant notes beyond that which you  
3           recorded for May 23, 1969 is because you were  
4           wearing your NCIU hat that day?

11:11 5           A           We made an installation in that hotel.

6           Q           Right. My understanding, though, is that the NCIU  
7           was created for the purpose of investigating  
8           organized crime and collecting information which  
9           would be shared with other police services and  
11:11 10          with the RCMP; correct?

11          A           If that would have been the case it would have  
12          been great, but in practice that was not the case.  
13          We were used for many -- well, internal, all kinds  
14          of investigations.

11:11 15          Q           Right. But there would be nothing specifically  
16          privileged or sensitive about the fact that the  
17          information or the interview with respect to  
18          Mr. Wilson and Ms. John was recorded?

19          A           Well, to this day I can't tell you if it was or it  
11:12 20          wasn't, but if we put a tape recorder in, and like  
21          I say, at that particular time my partner was  
22          technologically inclined, but I wasn't, and how  
23          that thing was working or didn't work and what  
24          happened to it, I can't help you there. I just  
11:12 25          don't remember.





1 COMMISSIONER MacCALLUM: Mr. Elson, could  
2 you have the witness interpret that last entry,  
3 please?

4 MR. ELSON: Yes. There is the entry on the  
11:12 5 notebook before you, Mr. Chartier. I believe,  
6 Mr. Commissioner, you are referring to everything  
7 after Mr. Chartier's name referred to?

8 COMMISSIONER MacCALLUM: That's correct.

9 MR. ELSON: Yeah. If you could clarify.

11:12 10 A That's the occurrence today where the lie detector  
11 rooms were identified and --

12 COMMISSIONER MacCALLUM: What does it say,  
13 sir.

14 A Lie detector room.

11:12 15 COMMISSIONER MacCALLUM: No, just --

16 MR. ELSON: Perhaps I could help, Mr.  
17 Commission, if I may?

18 COMMISSIONER MacCALLUM: Please.

19 BY MR. ELSON:

11:13 20 Q Please correct me if I'm wrong, but as I read it,  
21 Mr. Chartier, the first entry is OCC, which is the  
22 abbreviation for occurrence?

23 A Right.

24 Q And then afterwards it would say re lie detector  
11:13 25 Cavalier hotel?



1 A Right.

2 Q And I've read that correctly?

3 A That's right.

4 MR. ELSON: Mr. Commissioner, I believe  
11:13 5 that's --

6 COMMISSIONER MacCALLUM: Thanks very much.

7 BY MR. ELSON:

8 Q So you knew this wasn't an NCIU matter and yet you  
9 perceived that because there was some listening  
11:13 10 device inserted, that it ought to be treated the  
11 same as an NCIU matter; is that correct?

12 A Well, I was an investigator detective in NCIU  
13 which, if there was work -- and in Saskatoon, the  
14 little City of Saskatoon, we didn't have that much  
11:13 15 organized crime, so either you sat on your duff  
16 all day and wait for something to happen or you  
17 were involved with the regular ongoing  
18 investigations.

19 Q I appreciate that. What I'm getting at though,  
11:14 20 and because there wasn't a lot of NCIU work, that  
21 was the reason that you would assist in other  
22 investigations not specifically related to the  
23 NCIU?

24 A Well, I wouldn't say that. Our job was to help  
11:14 25 investigators if they needed assistance in



1 technical ways to try to get information, so it  
2 was a mix. We were working in the detective  
3 office, but we could be working for a patrolman or  
4 anyone else if they needed assistance. We got  
11:14 5 that direction from our superior.

6 Q How would you make the judgment that the task I'm  
7 doing right now, I'm putting myself in your shoes,  
8 how would you make the judgment that the task I'm  
9 doing now is an NCIU task and the task I'm doing  
11:15 10 an hour from now is a non-NCIU task?

11 A It didn't make any difference. It's an  
12 investigative work. NCIU -- that's why I say,  
13 specialist in stove-piping is, you know, you are  
14 within that, it's police work. Police work is on  
11:15 15 overall, over-arching system of generalists.

16 Q But you, and I appreciate your answer, but as I  
17 understand your answering Commission Counsel's  
18 questions, you did not record certain information  
19 in your notebook --

11:15 20 A No.

21 Q -- because it was an NCIU matter and the recording  
22 of NCIU matters was to be done differently?

23 A Yes, we had a special report, yes.

24 Q So how did you decide whether it was an NCIU  
11:15 25 matter and therefore ought to be recorded



1 differently?

2 A I didn't, my superior somewhere along the line.  
3 Who that was I can't recall.

4 Q So you would have been instructed that this was an  
11:16 5 NCIU matter?

6 A No, I would be instructed to do this work, my  
7 partner and I to do this work, and I'm sure we  
8 were advised along the way it's in regards to  
9 Milgaard, the Gail Miller murder, but the details  
11:16 10 and that just, I can't tell you, but there's no  
11 separating NCIU from detectives, morality or the  
12 patrol department or anything else. It was a  
13 service within the department to help people do  
14 police work.

11:16 15 Q But there was a separation for recording purposes  
16 and documentation purposes?

17 A We didn't sign in when we came in, we worked such  
18 hours when we were instructed to work whatever it  
19 might be, and as you notice in my notebook, the  
11:16 20 time is usually always the same, but the hours  
21 could be anywhere, and there the department  
22 trusted us, took our word for it that we weren't  
23 swinging the lead.

24 Q I understand. Mr. Chartier, in your editorial,  
11:17 25 and we don't need to pull it up, Mr. Hodson asked



1           you a question about Mr. Caldwell's involvement  
2           and I believe you've indicated today that it is  
3           now your understanding that Mr. Caldwell was not  
4           involved in the pre-charge discussions with  
11:17 5           respect to David Milgaard, that he was not  
6           involved in the discussions leading up to Mr.  
7           Milgaard being charged?

8           A       That part I didn't know. Along over the years I  
9           had a mindset that it was Bobs that told me that  
11:17 10           he wanted every "T" crossed, but in hindsight, I  
11           think something else kind of twigged in along the  
12           way. I think it was Ray Mackie because it had to  
13           do with Ray going out of town or something because  
14           I brought up the question, how come this fellow  
11:18 15           Milgaard, nothing has been done about, I haven't  
16           heard a thing and here it is May, and that's when  
17           he responded that the Crown wants the thing done  
18           properly.

19                       MR. ELSON: Thank you very much. I have no  
11:18 20           further questions.

21                       COMMISSIONER MacCALLUM: Mr. Fox?

22           **BY MR. FOX:**

23           Q       Mr. Chartier, I'm Aaron Fox, I'm the lawyer for  
24           Eddie Karst. I'm fighting a little bit of a cold  
11:18 25           today, so if you can't understand something I'm



1 asking you, you make sure you tell me.

2 A Okay.

3 Q I mumble a little bit once in a while too. I'm  
4 going to cover a few things, most of which have  
11:19 5 already been covered, but I'll try not to repeat  
6 myself too much in terms of the areas we've talked  
7 about. I just want to talk a little bit about  
8 Albert Cadrain for the moment. Mr. Hodson covered  
9 this off with you, but as I understand it, the  
11:19 10 suggestion that Albert Cadrain may have come to  
11 the police station on March 2nd, 1969 and been  
12 directed by I think at that time an Officer Brady  
13 to see Inspector Short who in turn directed Eddie  
14 Karst to get a statement from him, I take it you  
11:19 15 are not disputing that one way or another, it's  
16 just something you weren't aware of?

17 A I was not aware of it.

18 Q Okay. But you do recall speaking with Shorty and  
19 then the next day attending with Ray Mackie to  
11:19 20 bring him back to the police station and at which  
21 time you understood that Mr. Mackie took a  
22 statement from him, or Sergeant Mackie took a  
23 statement from him?

24 A That's right.

11:20 25 Q And I think we saw a statement taken by Sergeant



1 Mackie March 5th, 1969 and again that might have  
2 been about correct, I take it you are not specific  
3 about the dates, that sort of thing?

4 A No. It was not practice to sit in the rooms where  
11:20 5 statements were taken by other officers on their  
6 file. I mean, they are the ones who know the  
7 file. A statement by me wouldn't have been worth  
8 a tweet.

9 Q Maybe you can just answer this yourself. During  
11:20 10 the period 1969 what would have been your role in  
11 the investigation of the Gail Miller murder and  
12 are you able to sort of describe that? Like, I'm  
13 trying to get a bit of a feel for --

14 A I had no role in it. I was what you might call a  
11:20 15 gopher because I was instructed to go and take  
16 statements in regards to the Gail Miller which,  
17 you know, over time I had forgotten all about  
18 until Mr. Hodson showed me some of the statements  
19 and parts I had to play in it. I can't recall  
11:21 20 those.

21 Q Okay. So when, for example, you've been asked  
22 questions about discussing with the Crown whether  
23 a charge should be laid or not, I take it that's  
24 not a role that you fulfilled or participated in  
11:21 25 in this investigation?



1 A Not at all. You know, like I say, I questioned  
2 that and why isn't something happening because of  
3 what I knew what happened on the 5th, so --

4 Q Sure. So that's simply a circumstance where  
11:21 5 because you had been tasked to participate, or at  
6 least you had received some information from  
7 Albert Cadrain which pointed to David Milgaard as  
8 a suspect, you simply were wondering what had  
9 happened to that, was Milgaard ultimately charged?

11:21 10 A Right.

11 Q And you mentioned the hierarchy that existed at  
12 that time, and by that I mean the sort of  
13 progression of authority. Below the chief would  
14 have been Deputy Chief Woods?

11:22 15 A No, he was Superintendent Woods.

16 Q Sorry, Superintendent Woods.

17 A He was in charge of criminal investigations, but  
18 each department had their own superintendent. The  
19 deputy comes under the chief.

11:22 20 Q Sorry, right. So that would have been  
21 Superintendent Wood and then below that at least  
22 in the detective division, that would have been  
23 then Lieutenant Short?

24 A That's right.

11:22 25 Q And then the next section would be the detective





1 sergeants and that's where we would find Detective  
2 Sergeant Mackie, Detective Sergeant Reid?

3 A Right.

4 Q And then below that we've got a large accumulation  
11:22 5 of detectives, that's where we find Detective  
6 Karst and a number of other detectives?

7 A Right.

8 Q Your rank would have been below that?

9 A I was a constable.

11:22 10 Q At that point in time?

11 A Yes.

12 Q That would have been your rank?

13 A Yes, and Karst would have been a sergeant.

14 Q Now, in terms of your discussions, just thinking  
11:23 15 back to March of 1969 when you spoke to Albert  
16 Cadrain, can you tell me your impressions in terms  
17 of believe him or not believe him or this should  
18 be followed up or how would you approach that when  
19 information like that came in generally and what  
11:23 20 were your thoughts when he spoke to you  
21 specifically?

22 A Well, like I say, I knew of the murder, I had been  
23 advised in Ottawa about it, but I can't recall  
24 having anything directly to do and I don't think  
11:23 25 up to that point I didn't -- I might have taken a



1 statement or something, but, you know, we had to  
2 talk to people. Whether you believe -- you work  
3 by your guts a lot of the time and plus knowing  
4 the kids and having dealt with a lot of young  
11:24 5 people, I had no reason to believe him or  
6 disbelieve him. All I knew is that he's saying  
7 something in regards to this file who I knew Ray  
8 Mackie, it was his file, should at least talk to  
9 him and see what goes on and that's why I took him  
11:24 10 there the next day.

11 Q Did you have any feeling at that point in time  
12 that, any indication of mental instability on the  
13 part of Albert Cadrain in 1969 when you knew him  
14 and spoke with him?

11:24 15 A No.

16 Q And I take it obviously as you've indicated, you  
17 wouldn't have taken what he said necessarily as  
18 gospel truth, but you weren't rejecting it for any  
19 reason either?

11:24 20 A No. It sounded quite reasonable what he said to  
21 me, but it wasn't for me to make the  
22 determination.

23 Q And you would have expected, though, it certainly  
24 would be followed up on?

11:25 25 A Oh, that's why it was directly I like to tell



1           whoever, and I was the only one in the office that  
2           particular night unaware of these other contacts  
3           that allegedly --

4           Q       Okay. And that would have ultimately led to you  
11:25 5           questioning Ray Mackie sometime after that or at  
6           least asking him sort of what had happened, had  
7           there been a charge laid, that sort of thing?

8           A       Oh, you mean later, a couple of months later?

9           Q       After.

11:25 10          A       Yes, that's why I was wondering, and there's no  
11           doubt, you know, we have shop talk, people talk  
12           and that, but I can't recall, and all I do -- I  
13           remember one incident where Ray Mackie had gone  
14           out or was going out to see the father of this  
11:25 15          particular person, that's the only thing that kind  
16           of even likely sticks in my head right now, but it  
17           was just talk of an investigation.

18          Q       Sure. You had personal knowledge of this  
19           information coming from Albert Cadrain, so you  
11:26 20          asked the person in charge of the file --

21          A       That's right.

22          Q       -- what's happening with it?

23          A       Yeah, because it would seem when we worked patrol,  
24           you always wondered when you shot information up,  
11:26 25          you never heard about it, but unless you went and



1 got it yourself or talked to someone, you didn't  
2 know what happened to it.

3 Q Would it be fair to say, whether you were working  
4 in patrol or working as sort of a street constable  
11:26 5 or even here working in -- and I'm not sure if I  
6 can call it the NCIU area or surveillance area,  
7 you are involved in a multitude of investigations  
8 where you get a little piece of information and  
9 pass it on to somebody else and the next day you  
11:26 10 might be involved in another investigation and  
11 pass it on to somebody else? You're not the ones,  
12 at least at that stage of your career, who was  
13 sort of putting the big picture together on any  
14 one investigation?

11:27 15 A Oh, no, that was Ray Mackie's job, plus the  
16 morning detective sergeant, Les Bocking at that  
17 time, who always did a -- I think he probably knew  
18 as much about Ray Mackie's file in some way and he  
19 would keep us who came in the morning pretty well  
11:27 20 apprised of what was going on I'm sure. Like I  
21 say, I can't remember details, but I know the man.

22 Q And when you talk about this was Ray Mackie's  
23 file, you are referring to the Gail Miller murder  
24 investigation?

11:27 25 A Yes.



1 Q Having said that, there would be other files  
2 belonging to, that other officers would be in  
3 charge of that you would be working on throughout  
4 that time period as well?

11:27 5 A Yes.

6 Q And the same sort of thing, whatever you were  
7 tasked to do, whether it would be interview a  
8 witness or conduct some sort of surveillance, you  
9 would do it and pass the information on and what  
11:27 10 they do with it is up to them?

11 A That's right.

12 Q You mentioned -- I just want to talk about your  
13 work as NCIU, because you mentioned that you were  
14 in Ottawa. Do I understand that right, you were  
11:28 15 in Ottawa at the time the murder took place?

16 A Yes, February -- well, we were on a train to  
17 Ottawa probably when the murder -- although I'm  
18 not quite sure about that. Instead of flying to  
19 Winnipeg in those days we thought we would take  
11:28 20 the train. We got to Winnipeg and decided to fly  
21 from there because it got stuck. Anyhow, I wasn't  
22 here, but one of my cohorts called me in Ottawa  
23 and told me about it.

24 Q I understand from looking at your service record,  
11:28 25 and what I'm looking at I think is document



1 325555, and it indicates special surveillance  
2 April 21st, 1969. Would that have been -- do you  
3 want to just take a look? It's at 325556  
4 actually.

11:29 5 A Okay.

6 Q Would --

7 A Special surveillance. I think I might have kind  
8 of an idea what that's about. It had nothing  
9 relating to this particular deal.

11:29 10 Q But was that your assigned responsibility? Like,  
11 it looks like up to October 4th, '63 you are made  
12 a first class constable, next you are listed as  
13 April 21st, '69, special surveillance, remained  
14 there until '72, morality officer.

11:29 15 A Well, I was in NCIU at that time as a constable  
16 and this special surveillance, I think I know what  
17 it is and had nothing to do with this case  
18 whatsoever.

19 Q And I don't think this suggests it is, I think  
11:29 20 this is just a service record. When did you go  
21 into NCIU?

22 A Oh, December 28th -- November, December of 1968.

23 Q And I think that's on document 324650 and I was  
24 just trying to sort of figure out the two. If we  
11:30 25 could put that one up and have you take a look at



1           that, I think that's got the date that you are  
2           referring to.

3       A       Yeah.

4       Q       Do you want to take a look at that document, Mr.  
11:30 5       Chartier, November 25th, '68?

6       A       That's when we were advised, I think it was the  
7       chief who told us, though I'm not sure, and then  
8       we worked not really knowing what the job was  
9       about until they sent us to Ottawa on February  
11:30 10       3rd.

11       Q       So it would have been --

12       A       Sort of generalist work.

13       Q       So sort of after February, after that course in  
14       Ottawa, and that would have been February, '69?

11:30 15       A       That we got back, yeah.

16       Q       And then you would have started working sort of in  
17       the NCIU?

18       A       Yeah, right.

19       Q       Now, I'm taking it that by May of '69 when you  
11:31 20       attended at the Cavalier hotel, had you been  
21       involved in many installations up until then, or  
22       are you able to say?

23       A       If I was -- like I say, at that particular time we  
24       were flying by the seat of our pants and we  
11:31 25       didn't, at least I didn't, my partner was quite



1 good at some of that stuff, but myself, and I  
2 can't recall of any installation prior to that.

3 Q Okay. And you mentioned that, as I understand it,  
4 whatever equipment you had didn't amount to very  
11:31 5 much, and by you, I mean the Saskatoon Police  
6 Service?

7 A Can you repeat?

8 Q Yeah, the technical installation equipment, that  
9 sort of thing --

11:31 10 A Right.

11 Q -- the listening devices, the recording devices,  
12 did the Saskatoon Police Service have that  
13 equipment in May of '69?

14 A No, they didn't.

11:31 15 Q So where would you get that equipment from?

16 A Well, I think some of that stuff we had to go and  
17 buy at any electronics store and that. It wasn't  
18 class equipment, I can tell you that, and it  
19 wasn't good equipment, which I learned years  
11:32 20 later, and I know many times problems involved  
21 with it. If I didn't have a partner, I would  
22 never have been able to handle it myself.

23 Q So your recollection, or this sort of niggling  
24 recollection that you have that things weren't  
11:32 25 working very well that day in terms of recording





1 anything, that's more or less consistent with your  
2 level of experience and the level of equipment you  
3 were using?

4 A Right.

11:32 5 Q You used the words, when you answered Mr. Hodson's  
6 questions, that you were involved at least in a  
7 case like this, or that task that day, in  
8 installation, not gathering information. Do you  
9 remember saying that?

11:33 10 A I said what?

11 Q That you were involved, your role would have been  
12 installation as opposed to information?

13 A Oh, yeah, the information, you know, normally if  
14 I'm a straight investigator, you note everything  
11:33 15 you do. That wasn't our purpose, it was support  
16 and, like I say, that special surveillance is one  
17 of them, it was to support some other branch  
18 technically.

19 Q So you are trying to sort of set up the technical  
11:33 20 mechanism that somebody might be able to, in this  
21 case, listen to what's going on in the other room,  
22 that's the extent of what you are doing?

23 A That's right.

24 Q The recording or the obtaining of that  
11:33 25 information, the use of that information or what's



1 going to be done with it, that was not your role?

2 A That's the investigator's role.

3 Q Okay. When you went to Calgary to see Mr. Roberts  
4 about the polygraph, and I think you indicated you  
11:34 5 have a recollection of that?

6 A It's in my memo book.

7 Q Do you have a personal recollection of that?

8 A Yes, I do.

9 Q And do you recall if that was to talk about a  
11:34 10 polygraph test being taken at the Cavalier  
11 involving the Gail Miller case or do you know if  
12 that was --

13 A I can't tell you. I suspect, looking at my memo  
14 book, that's probably the reason.

11:34 15 Q Yeah. And I think when you answer my questions,  
16 if you can try and let me know if you are stating  
17 from a recollection or a conclusion, please  
18 distinguish the two.

19 A That's all I can say, is I suspect that's the  
11:34 20 reason. I mean, we didn't decide to fly there,  
21 someone instructed us to go there.

22 Q Clearly.

23 A Yeah.

24 Q Talking then about May 23rd, 1969, do you have any  
11:34 25 recollection at this time of sort of the nature of



1 the installation that took place, like, the  
2 technical equipment that was used? Do you have  
3 any recollection of that?

4 A Well, it would have been --

11:35 5 Q Again, I know what you are telling me --

6 A Yeah. All I know is the type of equipment we had  
7 wasn't class equipment. I recall the hole being  
8 drilled in there and just an ordinary mike that  
9 you get with any reel-to-reel tape being installed  
11:35 10 in there. I remember hearing conversation, but  
11 details of the conversation and that I can't --  
12 and I can't say whether it was taped. I would  
13 suspect it should have been or could have been,  
14 but I don't know.

11:35 15 Q When you say you would have heard conversation,  
16 this would have been from the other room, do you  
17 know how that conversation was being projected  
18 into the room you were in?

19 A I can't recall any, you know, particular blurbs or  
11:36 20 anything like that. It wasn't a noisy deal. What  
21 I recall is him talking to people in there or  
22 persons.

23 Q That would be Mr. Roberts?

24 A Yes, but never in any tone or anything to suggest  
11:36 25 coercion or anything else. That is why I asked



1 the question afterwards, well why didn't you do  
2 the -- but that's progress going on because I  
3 didn't have a clue about a polygraph or how they  
4 worked or anything at that time.

11:36 5 Q So you could, fair to say, you could hear Mr.  
6 Roberts talking in the room next door --

7 A With some --

8 Q -- with some people. In terms of who he was  
9 talking to or what the other people were saying,  
11:36 10 for the most part you couldn't hear that?

11 A Well, I heard conversation with another party. I  
12 can't ever recall seeing either one of those two  
13 people. I believe, and it kind of strikes me that  
14 it was in the hallway and I asked him after we  
11:37 15 were finished, could be wrong there, but it seems  
16 to me that's where I was and I said, well, why  
17 didn't you polygraph them. Now, I may have only  
18 been referring to one person or two people, I  
19 don't know, but the conversation I got blurbs of  
11:37 20 suggests to me he was just talking to them.

21 Q So you didn't hear all that was being said  
22 obviously in the other room?

23 A No.

24 Q Further, I think you fairly said you may have been  
11:37 25 absent from the adjoining room for a period of



1 time as well?

2 A It's possible.

3 Q And again, because it's not your investigation and  
4 not you who is interested in getting the  
11:37 5 information per se, that quite possibly you could  
6 have left for a period of time?

7 A That's right. I took no notes because it would  
8 have been on that same memo book.

9 Q I think you've indicated that your impression is  
11:37 10 that it was two females that were being dealt with  
11 in the other room, that's sort of, at least the  
12 impression you were left with?

13 A For years.

14 Q Yup.

11:38 15 A And I knew of Ron Wilson and that, but for some  
16 reason that's -- and maybe it was an effeminant  
17 voice or something, but it was an impression that  
18 was left with me.

19 Q So certainly you are not suggesting that you had  
11:38 20 any detailed ability to hear everything that was  
21 being conversed in that room next door?

22 A No.

23 Q Or that you were present for all of the  
24 conversation that took place in that room next  
11:38 25 door?



1 A No.

2 Q And the reason why I ask that, and Mr.

3 Hodson touched -- or Mr. Elson touched on this a  
4 bit, is that some may have got the impression

11:38 5 yesterday that you were saying Nichol John and Ron

6 Wilson, assuming they were the two people in the

7 room next door, never said anything that might

8 have implicated David Milgaard in the murder of

9 Gail Miller and I think you are saying that's not

11:38 10 what you meant to convey in your testimony

11 yesterday, you don't know whether they did or not?

12 A No, I think it's -- I think I answered it would

13 have stuck in my mind if someone had -- I would

14 have thought, maybe not, but I can't recall --

11:39 15 Q They may very well have said something that you

16 did not hear or weren't present when it was

17 spoken?

18 A That's right.

19 Q And we've heard -- for example, do you recall

11:39 20 hearing either one of them say that they travelled

21 with David Milgaard from Regina to Saskatoon?

22 A No.

23 Q Did you hear either one of them say that they

24 travelled then from Saskatoon onto Calgary and

11:39 25 Edmonton?



1 A Well, I was aware of this from --

2 Q I'm asking you what you heard.

3 A I didn't hear from that room those statements.

4 Q Ron Wilson has listed a great number of facts that

11:39 5 he related to the police on that occasion, there's

6 much debate as to whether or not he was lying at

7 the time or not lying at the time, but in terms of

8 Ron Wilson, for example, telling the police that

9 they got stuck, which he says he did tell the

11:40 10 police that, you have no specific recollection of

11 him saying that?

12 A No.

13 Q Him saying that David Milgaard was gone for 10 or

14 15 minutes and came back puffing, you have no

11:40 15 recollection of that?

16 A I have no recollections of conversation that went

17 on in there that struck me one way or the other.

18 Q So we've heard Ron Wilson testify as to what he

19 says he related to the police then, you just don't

11:40 20 have a recollection of what it was he said?

21 A No.

22 Q Now, in terms of -- you were asked this very early

23 in the testimony yesterday by Mr. Hodson in terms

24 of your recollection of the officers who were

11:40 25 present on May 23rd, 1969 at the Cavalier. Can



1           you just relate to me what your recollection is of  
2           that?

3           A       Well I recall Superintendent Wood and Ray Mackie  
4           and Bob and myself and, you know, even Eddie Karst  
11:41 5           I haven't got -- though I know Eddie was quite  
6           involved in it, there is something kind of locks  
7           out there, was he there or was he not there, or --  
8           I know he was involved with probably even making  
9           these arrangements that brought you here and that,  
11:41 10          but Superintendent Wood, I know, was there.

11          Q       Do you know if Detective Sergeant Mackie was  
12          there?

13          A       Yes.

14          Q       Okay. So you have a specific recollection of  
11:41 15          Superintendent Wood, Inspector Short, --

16          A       Yeah.

17          Q       -- Detective Sergeant Mackie?

18          A       Yeah, oh yeah.

19          Q       You would -- you knew that Eddie Karst was  
11:42 20          involved in the investigation --

21          A       I can't --

22          Q       -- but no sort of specific recollection of him  
23          being there?

24          A       You know, I can see Superintendent Woods sitting  
11:42 25          in a chair, that's quite definitive, but like I





1           can't place Eddie in any way, shape or form in  
2           that room, but --

3       Q       Do you have any recollection, Mr. Chartier, what  
4           time of day you first went to the room?

11:42 5       A       No, I haven't.

6       Q       Okay. In Mr. Karst' report of May 25th, 1969, and  
7           I think it's document 009264 -- I hope I have got  
8           the right document that we're using, yes -- but if  
9           we turn to the fourth page of that report, now  
11:42 10          this is a couple paragraphs we're talking about.  
11          First of all he, Detective Karst, does note that  
12          you and Constable Morrison were present there, he  
13          has got that in his report?

14       A       Yeah, so --

11:43 15       Q       That would be consistent with your recollection as  
16           well?

17       A       -- I'm trying to place him, you know.

18       Q       Yeah.

19       A       I know that the --

11:43 20       Q       But I guess what I am getting at, it looks, he  
21           says he attended, he refers to he was there,  
22           states:

23                   "... at 3:00 PM I called at room #610

24                   ...",

11:43 25           there is reference to Roberts, some knives, and



1           then:

2                   "Wilson was then brought to the police  
3                   station and at 3:30 PM, a statement was  
4                   taken from him ...",

11:43 5           and I think if we pull up Ron Wilson's statement  
6           -- we don't have to do it --

7       A       Uh-huh.

8       Q       -- but if you look at Ron Wilson's statement it  
9           has a time of 3:30 p.m. indicated on it. Is it  
11:43 10          possible based on your recollection, Mr. Chartier,  
11          that Detective Karst may have shown up at about  
12          3:00 p.m. and then taken Mr. Wilson, at that time,  
13          for a statement; is that a possibility based on  
14          your recollection?

11:44 15       A       Yeah. I can't remember him leaving with someone,  
16          or not leaving with someone, I can't help you  
17          there.

18       Q       Just no recollection of him --

19       A       No.

11:44 20       Q       -- specifically being there --

21       A       No.

22       Q       -- while you are listening --

23       A       No.

24       Q       -- to what's going on in the other --

11:44 25       A       No.



1 Q -- room?

2 A No.

3 Q Okay. You mentioned, and I think I understood  
4 this right yesterday, you remember something about  
11:44 5 a knife, or a subject of a knife coming up  
6 somewhere along the way; did I get that right from  
7 you yesterday?

8 A And do you know what it's referring? I can't  
9 recall. Like I say, yesterday is -- I can't  
11:45 10 recall anything in regards -- I know knives were  
11 --

12 Q Yes, I could be wrong about that. There was a  
13 reference to this report and the reference to a  
14 knife, and I take it you are saying you have no  
11:45 15 specific recollection of a knife? And I'm just  
16 asking you, I'm not -- I may have got that  
17 wrong, --

18 A Uh-huh.

19 Q -- but Mr. Hodson referred you to the report and  
11:45 20 some knives being identified, and I thought I  
21 understood -- and I could be corrected -- you said  
22 there was something about a knife, perhaps, and  
23 have I got that wrong?

24 A Can't say whatever, I can't -- like I say,  
11:45 25 yesterday is a long time for this old head.



1 Q No, that's fine, and I may have taken it down  
2 wrong in my notes as well.

3 A I can't recall.

4 Q Can I just ask you, based on what recollection you  
11:45 5 have of that day, do you recall anything that  
6 suggested to you that Officer Roberts or any of  
7 the other police officers who may have been there  
8 were coercing or putting pressure on people to say  
9 something that was incorrect; do you have any  
11:46 10 recollection or any feel of that occurring on that  
11 occasion?

12 A I worked with these people a long time and I can't  
13 recall any specific incident. And, like I say, in  
14 those days interviewing was a little different  
11:46 15 than you do now but I have -- there was nothing in  
16 my presence, or where I could know about, where  
17 there was any coercion whatsoever. But we didn't  
18 go into rooms where other people were taking  
19 statements or things like that, so that will have  
11:46 20 to stand on its own, but I --

21 Q And --

22 A The people involved with the file didn't work,  
23 basically, work like that.

24 COMMISSIONER MacCALLUM: Mr. Fox, just on  
11:46 25 the previous point, Mr. Hodson referred him to



1 the Karst report and to the statement therein  
2 that Wilson picked out a knife, and the witness  
3 said that he recalled the statement but he  
4 couldn't recall the context, he had no  
11:47 5 independent recollection.

6 BY MR. FOX:

7 Q And maybe that's what I was getting at.

8 A Yes, it's in a statement there somewhere, but I  
9 have no --

11:47 10 Q Okay. So you recall reading the report?

11 A Oh, yes, I was shown these reports by Mr. Hodson.

12 Q Okay. But in terms of a recollection of a knife,  
13 or a knife being discussed or Ron Wilson  
14 discussing a knife, --

11:47 15 A Oh, no.

16 Q -- no recollection of that?

17 A No.

18 Q Okay. And, again, you are not suggesting that Ron  
19 Wilson didn't discuss the presence of a knife on  
11:47 20 David Milgaard's -- David Milgaard being in  
21 possession of a knife, you are not suggesting that  
22 wasn't discussed by Ron Wilson on that occasion,  
23 you have -- did you follow that convoluted  
24 question I just put to you?

11:47 25 A Yeah, well, but I heard, you know, the discussion



1           that took place in that room, except for general,  
2           it was coming through at least at times, it was a  
3           normal conversation, I thought it was a  
4           conversation.

11:47 5       Q       And is it possible that Mr. Wilson -- and I take  
6           it you don't even know if you, Mr. Wilson was in  
7           the room when you --

8       A       I wouldn't know Mr. Wilson if I walked into him.

9       Q       Or Nichol John for that matter?

11:48 10      A       No.

11      Q       Okay. So when we keep talking about you listening  
12           to Nichol John and Ron Wilson, that's simply your  
13           surmise as that that's who was in the other room?

14      A       That's right, that's what these reports say, but I  
11:48 15      --

16      Q       Okay. Mr. Wilson, or whoever was in that room  
17           might have discussed a knife or David Milgaard  
18           being in possession of a knife, that's a  
19           possibility and you simply didn't hear it or  
11:48 20      weren't present when it was discussed?

21      A       That's right.

22      Q       Umm, were you party to any discussions in terms of  
23           what was hoped to be accomplished at this meeting  
24           that took place on May 23rd, 1969? Like  
11:49 25      Mr. Hodson asked you some questions about it, but



1           were you a party to sort of a group meeting of the  
2           investigators or Sergeant Mackie, 'here's what we  
3           are trying to do, here's what we're trying to  
4           accomplish'?

11:49 5           A           I can never remember a meeting like that.

6           Q           Okay. You were asked if the purpose was to gather  
7           incriminating evidence; do you know if the purpose  
8           was to gather incriminating evidence?

9           A           No, it was to do a polygraph and to listen on  
11:49 10          what's going on in that room. Like I say, I  
11          wasn't responsible for making this happen, we were  
12          directed to do what we were supposed to do, but  
13          the information and that I can't help you with  
14          there.

11:49 15          Q           Were you aware of any plan to try and get evidence  
16          that incriminated David Milgaard versus evidence  
17          that perhaps suggested he was not guilty?

18          A           Umm, police officers investigate, basically they  
19          have a belief that someone is guilty for whatever  
11:50 20          reason, and what that might be in this particular  
21          case I don't know, so you assume these things and  
22          you work down that line. So I can never recall  
23          anyone saying that he was guilty or wasn't guilty,  
24          the -- I think most investigators, and myself  
11:50 25          included, believed David Milgaard was guilty.



1 Q Does that mean, Mr. Chartier, that you ignore  
2 evidence that suggests he was not guilty?

3 A No way, because I had many files where I had to  
4 make a right turn quickly from what I believed,  
11:50 5 like, and many police officers had that  
6 circumstance.

7 Q And the police officer, for example Detective  
8 Karst that you were dealing with, did you have any  
9 concerns about his ability to make that right  
11:51 10 turn, so to speak, if it was directed?

11 A I sure didn't. I had experience with Ed over the  
12 years on other investigations where he supervised  
13 me and he was very helpful to get my head in the  
14 right direction.

11:51 15 Q The last question I wanted to ask you,  
16 Mr. Chartier, Mr. Hodson asked you some questions  
17 about a suspect book, and correct me if I'm wrong,  
18 but that if you were involved or if the Saskatoon  
19 Police Service was involved in a major  
11:51 20 investigation, and by that I mean a homicide for  
21 example, or a murder, would somebody keep some  
22 sort of ledger or record of who has been spoken to  
23 and who hasn't been spoken to?

24 A Well when you speak to anyone you leave an  
11:52 25 investigation report --





1 Q Right?

2 A -- and that goes on the file, and then your staff  
3 sergeant or the morning staff sergeant would pass  
4 it, because it would suggest something that should  
11:52 5 be carried on.

6 Q Right?

7 A More investigation, whatever.

8 Q Right?

9 A Now a book, what these staff sergeants kept, I  
11:52 10 know some of them had different ways of doing  
11 things so it could have been.

12 Q What I am getting at is if, for example on a  
13 particular file, if a name came up, Tim Brown, and  
14 you wanted to look to see if that person had ever  
11:52 15 been spoken to in that investigation, might the  
16 staff sergeant have sort of a list, 'yeah, we did  
17 speak to Tim Brown, here is the report, you can go  
18 look at it' as opposed to having to go through  
19 everything and see if he has been spoken to; do  
11:52 20 you know if that was ever done?

21 A You know, I can't recall that, but all -- if I  
22 wanted some information about a file I was working  
23 on I would ask the staff sergeant --

24 Q Okay.

11:53 25 A -- and he is the one that would pass the



1 information on.

2 Q So in terms of what record the staff sergeant  
3 would have or how he would be recording it, that  
4 would be -- or at least that's where you would  
11:53 5 turn to?

6 A How he was recording it, his job, but basically it  
7 worked the other way around, he would tell me  
8 'hey, this is to be done, there is a suspect or a  
9 statement to take' or something.

11:53 10 Q He would give you the direction of who to speak  
11 to?

12 A That's right, yeah.

13 Q In this particular file, the Gail Miller file, who  
14 would that person be?

11:53 15 A Well there was -- this is a little under -- not --  
16 for a serious file I can see two people. It was,  
17 I believe, assigned to Mackie and Reid. I knew of  
18 Mackie and that's who I always thought was the  
19 lead investigator. It's -- it's not good to  
11:53 20 assign a file to two people, immediately you set  
21 up a conflict in that, but a serious case like  
22 this, I think so, they covered the whole  
23 eight-hour period or 16-hour period where  
24 investigators were basically working.

11:54 25 Q Okay. And even if you had somebody assigned, in



1 other words if a particular investigator was  
2 assigned to look after a file, that would still be  
3 subject to the sort of overview by the  
4 superintendent or the inspector?

11:54 5 A Yeah, definitely. That's where we used to get our  
6 information from, you know, either it was Charlie  
7 Short or Ray Mackie on this particular file, but  
8 Les Bocking, I know many files I had and when I  
9 came back the next day 'this is what you have got  
11:54 10 to do.'

11 Q Somebody would have --

12 A Yeah.

13 Q Some superior would --

14 A Experienced, yeah.

11:54 15 Q -- would have looked at that and given you  
16 direction 'this is where you need to go'?

17 A That's right. This is what Karst did for me in  
18 years, because I worked in what was called special  
19 services later, and he directed and guided us.

11:55 20 Q And, now, and you are talking after 1969?

21 A Oh yes, this is over the years.

22 Q When you moved into detectives and that?

23 A Yes, and other factions.

24 Q Yes. And if a decision, or if you were  
11:55 25 investigating a murder investigation, a murder,



1           who makes the decision to lay a charge? And I'm  
2           not sure if you can answer that in general terms  
3           or not because I suppose there's some variance  
4           from case to case, but who -- who makes the call  
11:55 5           that 'we're going to charge somebody with murder'?

6           A       Basically the investigator, but that's made in  
7           concert with -- at least in my case, I remember  
8           many times going over to the Crown's office and  
9           talking to the prosecutor, 'is there anything else  
11:55 10          we need', because at that time Elmer Ulrich -- I  
11          can't remember when he came on, looked at the  
12          files and determined all this, umm, I'm pretty  
13          sure in '69, maybe he just started. I'm not sure  
14          who put everything together. But my own case, in  
11:56 15          my own alone, if I had a little doubt or something  
16          I would talk to a prosecutor, not necessarily the  
17          one who is going to do it, but talk about it.

18          Q       All right. And that would be all the more so if  
19          we were talking about a murder charge, say, versus  
11:56 20          something less serious?

21          A       Oh, certainly, I would want to know if there was  
22          other things that the Crown would need to put this  
23          together.

24          Q       Those are all the questions I have. Thanks a lot,  
11:56 25          Mr. Chartier.



1 COMMISSIONER MacCALLUM: 1:30 then, I  
2 guess, Mr. Wolch. We'll break for lunch.

3 (Adjourned at 11:56 a.m.)

4 (Reconvened at 1:40 p.m.)

01:39 5 COMMISSIONER MacCALLUM: Mr. Wolch?

6 BY MR. WOLCH:

7 Q Thank you, Mr. Commissioner. Mr. Chartier, I'm  
8 Hersh Wolch, I'm David Milgaard's lawyer.

9 A Yes.

01:39 10 Q You, in your testimony, talked about your fellow  
11 officers to some degree and I formed the  
12 impression that you considered them to have been  
13 good investigators?

14 A Yes.

01:39 15 Q Good investigators is my term, but what would you  
16 consider are the traits of a good investigator as  
17 compared to a bad investigator?

18 A One who goes out and talks to people and searches  
19 out the truth.

01:40 20 Q And would one of the traits of a good investigator  
21 be the ability to get the truth out of people?

22 A Oh, certainly, like I say, a good communicator who  
23 can talk to people to get to the truth.

24 Q And you thought or considered that the officers  
01:40 25 involved in this investigation had that ability?



1 A Yes.

2 Q And might I ask what would be the need for  
3 Inspector Roberts in that case?

4 A Well, I think, as you know, you bring to the  
01:40 5 courts as much information as you can, so I think  
6 they probably wanted to be satisfied that what  
7 they've been told was truth.

8 Q I understand that, but as I understood from you,  
9 these are people whose judgment you trust and the  
01:41 10 ability to talk to people and have a sense of  
11 truth or not truth. What does Roberts contribute,  
12 what would he be adding to the mix?

13 A Well, in Saskatoon in particular, but the  
14 beginning of that new technology, polygraphs,  
01:41 15 which I don't -- we may have had experience with,  
16 I didn't, and it was supposed to be something that  
17 could tell the truth about people.

18 Q Well, it would determine if a person was telling  
19 the truth?

01:41 20 A Yes.

21 Q Presumably?

22 A Yes. Well --

23 Q And when you went to talk to Roberts at that time,  
24 the young people, as you understood it, had not  
01:41 25 implicated David Milgaard at all?



1 A Not as I understood it. I had nothing to do with  
2 it except a minimum amount of --

3 Q I appreciate that, but in going to Calgary you  
4 must have had something to do with it?

01:42 5 A Well, someone must have told us. We didn't fly  
6 there on our own, that we should go and visit  
7 Roberts. I also knew that Roberts wrote the  
8 polygraph book for Canada and the RCMP, so it was  
9 information we were trying to glean and what was  
01:42 10 required I suspect.

11 Q It seemed to me, and you may wish to correct me,  
12 that if the young people were saying nothing that  
13 implicated David Milgaard, Roberts would be coming  
14 to see if they are telling the truth about that?

01:42 15 A I suspect that was one of the reasons. I don't  
16 know.

17 Q Like, are they telling the truth when they say  
18 nothing happened of any noteworthiness?

19 A That's right. A lot of investigators I know, and  
01:42 20 I happen to know our polygraph operators, a couple  
21 of them, they get an instinct from people, and I  
22 suspect you in your profession and that get to  
23 know when people are telling the truth and that,  
24 so it's just a supportive tool.

01:43 25 Q But I take it though that when you would have



1           talked to Roberts in Calgary, the discussion would  
2           have focused on the mechanics of the polygraph,  
3           i.e., where would it be held, what's required,  
4           that sort of thing?

01:43 5           A           I can't tell you that. When I saw it in my book I  
6           didn't even know that's the reason we went.

7           Q           But I'm only guessing, and you can tell me if I'm  
8           wrong, but I would expect he would have said to  
9           you, look, we'll do it in a hotel, we'll get a  
01:43 10          room or things like that?

11          A           It's possible. I can't remember the -- I remember  
12          the room and him showing us stuff in the room, but  
13          I can't remember any conversation.

14          Q           Any idea why this would be held at a hotel and not  
01:44 15          in the police station or something like that?

16          A           Well, we would have had no place in the police  
17          station to do it, and another thing, important  
18          things you don't do within a police station, you  
19          should do it outside of that because, you know,  
01:44 20          they used to have boards of police commission  
21          meetings in the police station, absolutely wrong  
22          place, so it was decided with two rooms next to  
23          each other, and I can't tell you that, I didn't  
24          get the room as far as I know.

01:44 25          Q           I want to pause there for a second. I'm a little





1           puzzled by your comment that the police station  
2           wouldn't accommodate a polygraph.

3           A       Well, people -- it's like the white coat syndrome  
4           from blood pressure when you go to see a doctor,  
01:44 5           you know, they want to say sit down for a while.  
6           It's like going into a police station, what am I  
7           going there for, what are they going to do and  
8           that, and I know of other investigations that took  
9           place outside of the police service.

01:45 10          Q       Well, is it your point that there's no space for  
11          it physically or --

12          A       Well, I --

13          Q       Let me finish the question -- that there's no  
14          space for it physically or is it your point it's  
01:45 15          not a good place to do it or both?

16          A       I don't know what the reason was that they got  
17          those hotel, or that hotel room or the two hotel  
18          rooms. The reason behind it, if I did know, I  
19          can't remember.

01:45 20          Q       But going back by memory, was there no place in  
21          the police station to do a polygraph test?

22          A       There probably would have been better places in  
23          one sense that you could have put someone in a  
24          small room and fix it up within the department to  
01:45 25          have a recorder and everything right in the same



1 room, but I can't tell you that.

2 Q But there is room in the police station to  
3 interview accused people, witnesses and that sort  
4 of thing I would think?

01:45 5 A Oh, there's interview rooms, yes.

6 Q But the hotel was chosen?

7 A Because it's more calming, you can sit down, you  
8 have a full room and that. A police station, when  
9 people come in there, they naturally tense, so  
01:46 10 that's one thing about a polygraph, you don't want  
11 to. Now they've got a suite at the station I  
12 understand, they did have some years later.

13 Q And I take it the room was specifically rented  
14 next door to allow for the eavesdropping?

01:46 15 A Yes.

16 Q That's the only reason why you would have two  
17 rooms?

18 A That's right.

19 Q One next door to the other?

01:46 20 A Right.

21 Q Do you think that was something that Roberts and  
22 you had discussed in Calgary in terms of setup?

23 A I can't recall, but it's possible.

24 Q And from what I've seen in this investigation and  
01:46 25 in most police forces, money is tight and you



1 don't rent two rooms at a hotel without good  
2 reason?

3 A Well, police services have been strapped in the  
4 last few years for money, but back in those times,  
01:47 5 rental of a suite, I don't know what the  
6 arrangements were, maybe for the police station it  
7 was a little better, but that wouldn't have been a  
8 factor, the amount of money for the rental of the  
9 room.

01:47 10 Q Renting two rooms in a hotel?

11 A Yes, that wouldn't have been a factor in my  
12 opinion.

13 Q Okay. But the second room was specifically rented  
14 to eavesdrop?

01:47 15 A Well certainly, we would be in that room. Like I  
16 say, if it was at the police station with somewhat  
17 of a threatening deal to people, you do it in a  
18 single room, and I think they still do that,  
19 although I don't know.

01:47 20 Q Now, there were approximately seven police  
21 officers there; would that be fair? Inspector  
22 Wood, Lieutenant Short --

23 A Short.

24 Q Detective Sergeant Mackie?

01:48 25 A Mackie. Karst.



1 Q Karst?

2 A Six or seven, yeah.

3 Q Yourself, Morrison and Roberts?

4 A Yeah.

01:48 5 Q If you count Roberts. I count seven with Roberts.

6 A Oh, in the other room?

7 Q Yeah, six in one room, one in the other?

8 A Yeah.

9 Q And obviously seven police officers weren't  
01:48 10 necessary for just to have the polygraph go on,  
11 there's just two young kids there?

12 A It takes one polygraph to have it go on and the  
13 others were listening.

14 Q Yeah. And you and Morrison were only there  
01:48 15 because of your expertise?

16 A Well, if you call it expertise. We put the  
17 microphone in and did that and that was our  
18 expertise.

19 Q There was no other reason for you and Morrison to  
01:48 20 be there?

21 A No.

22 Q You weren't main investigators, you were barely  
23 conversant with the file?

24 A That's right.

01:49 25 Q And you already had the inspector, the lieutenant,



1 two detectives, all those people were there as it  
2 was?

3 A Right.

4 Q So your only purpose there of you and Morrison was  
01:49 5 to eavesdrop in the other room, to facilitate the  
6 listening --

7 A To facilitate.

8 COMMISSIONER MacCALLUM: Please be careful,  
9 Mr. Chartier, to wait with your answer until his  
01:49 10 question is finished, okay.

11 A He said facilitate. That's the word.

12 BY MR. WOLCH:

13 Q Yeah, to facilitate the listening process, that  
14 was your purpose?

01:49 15 A That's right.

16 Q And that's why you are so knowledgeable that you  
17 did it because you know you did it and that's why  
18 you were there?

19 A Yes.

01:49 20 Q And in terms of the listening process, you have no  
21 memory of any one of the various officers that we  
22 talked about being there saying to you I'm having  
23 trouble hearing or can you turn up the volume or  
24 make it better or anything like that?

01:50 25 A That's possible. I can't remember it.



1 Q But if somebody was really adamant that it was all  
2 going wrong, you would remember that wouldn't you?

3 A If something struck me. There was only one  
4 conversation and that's with Art Roberts that I  
01:50 5 remember directly I can say.

6 Q Sure, sure. And do I understand you correctly  
7 that while you can't remember specifically the  
8 taping of it, the common practice of how you did  
9 things makes you believe that it was taped?

01:50 10 A Well, I know we put a tape machine in and a  
11 microphone. Like I mentioned earlier, we didn't  
12 have good instruments and that, I know we had  
13 problems not only there, but other times, so I  
14 don't know if it taped or didn't tape. I don't  
01:50 15 even, I don't think -- I can't recall, and maybe I  
16 shouldn't, that I took the machine away or Bob  
17 took the machine away.

18 Q Now the fact that you would do this kind of thing,  
19 tape and whatever else, do I take it that wouldn't  
01:52 20 normally find its way into a police report in  
21 those days?

22 A As far as the tape and that, that was a very  
23 uncommon practice, technology was just starting to  
24 come about then.

01:52 25 Q Oh, no, I mean the eavesdropping idea?



1 A Oh, we, policemen eavesdrop all the time.

2 Q But don't --

3 A They may not necessarily with the machine but,  
4 right now, reporters, they have little instant  
01:52 5 mic's and everything else, it works good now, but  
6 then you didn't have that.

7 Q No, but hear me out on this. In 1969 and  
8 thereabouts, when you would be called to help out  
9 to eavesdrop or listen or plant a device to listen  
01:53 10 to something, that wouldn't normally be something  
11 that would be put into a police report?

12 A Oh, it's possible. I wouldn't have been putting  
13 it in --

14 Q Okay.

01:53 15 A -- but the investigator, if they found it  
16 necessary, would be putting it in.

17 Q It's their choice to put it in or not?

18 A Yes.

19 Q But you and Morrison wouldn't put it in?

01:53 20 A No, no.

21 Q But what you can tell is that, when the report  
22 says you two were there, there was only one  
23 possible purpose?

24 A Yes, well I had it in my notebook there, the lie  
01:53 25 detector, --



1 Q Right?

2 A -- and I recall that particular part of it.

3 Q And everybody was obviously interested in what was  
4 going on in that room?

01:53 5 A I would hope so.

6 Q It was very important?

7 A Yes.

8 Q Now earlier on you mentioned, in answer to I  
9 forget whose question, that you felt that Shorty  
01:53 10 Cadrain was not coerced into saying whatever he  
11 said?

12 A When I was with him, I --

13 Q Sorry, --

14 A When I was with him --

01:54 15 Q -- let me interrupt you, we'll go a little better  
16 if you just answer the question.

17 A Yeah.

18 Q Okay?

19 A Shorty --

01:54 20 Q I'm just asking you if you recall saying that for  
21 the moment?

22 A Yes.

23 Q Okay.

24 A As far as I'm concerned.

01:54 25 Q Yeah, that's what I wanted to hear.





1 A Yeah.

2 Q Okay. My next question, then, is why would it be  
3 important if Cadrain was coerced or not?

4 A Well I didn't ask the question, but coercion is  
01:54 5 where you threaten people, and as you as a defence  
6 lawyer are probably quite aware that this has  
7 happened and probably still does happen, it isn't  
8 the way you do police work. I --

9 Q I understand that, but why would you consider it  
01:54 10 important --

11 A Well I --

12 Q -- whether Mr. Cadrain was coerced or not; what is  
13 the importance of that?

14 A Well it's important that people don't confess  
01:55 15 because someone is sitting over them with a club  
16 or something.

17 Q Right. Because the confession may or may not be  
18 true; right?

19 A Well, that's possible. It happens every day yet.

01:55 20 Q Okay. Would you agree with me that the concept is  
21 that if a person says something voluntarily, they  
22 are more likely telling the truth than if they  
23 were coerced, is that a --

24 A Oh, certainly.

01:55 25 Q So you would agree with that?



1 A I would agree with that.

2 Q And you are aware of the fact, I take it, that the  
3 evidence of Wilson and John was very important to  
4 this case?

01:55 5 A I believe it must have been.

6 Q And --

7 A I see that after the fact, after I read these  
8 reports.

9 Q Yeah, and whether they were truthful or not is  
01:55 10 really important?

11 A Oh, certainly.

12 Q And so whether they were coerced or not would be  
13 important, would it not?

14 A Yes.

01:56 15 Q And that's why I'm a little puzzled by your lack  
16 of appreciation for the importance of the  
17 discussion between Roberts and the two teenagers?

18 A Because what went on there wasn't my concern. My  
19 concern was working to get this thing operating,  
01:56 20 and what might have happened, I can't recall any  
21 -- usually coercion takes loud voices and banging  
22 on tables, like Arar when he goes to Iran and  
23 things like that, so I, myself, saw no coercion  
24 from anyone, including myself.

01:56 25 Q For -- well let me ask you this. If, for example,



1 the kids, or one of them or both of them, were  
2 shown blood-stained clothing, were shown  
3 photographs of a murder victim, things like that,  
4 that wouldn't necessarily cause loud voices; would  
01:57 5 it?

6 A I don't know.

7 Q Coercion doesn't require loud voices?

8 A No, but often it comes with that.

9 Q But you can threaten very quietly, can you not?

01:57 10 A Umm, there's investigative techniques and that,  
11 and quietness is --

12 Q Yeah, but threats can be quiet, threats can be  
13 loud, but the point I'm making is that I'm still  
14 bewildered by your -- the sense I'm getting that  
01:57 15 you are saying that it really isn't that important  
16 what transpired in that room between Roberts and  
17 the kids?

18 A To me what transpired was a requirement of the  
19 officers who were looking for that particular  
01:57 20 information, not to me.

21 Q Do you appreciate, though, that it should be  
22 important to the investigators and to the  
23 investigation what took place in that room?

24 A Well, I imagine they knew what took place in that  
01:57 25 room, I --



1 Q I'm asking you if you appreciate --

2 A Yeah.

3 Q -- that it would be, and should be, important to  
4 everyone as to what took place in that room?

01:58 5 A I just don't quite --

6 Q Well --

7 A Umm, okay.

8 Q Later on --

9 A What took place in that room that you are  
01:58 10 concerned about that I might --

11 Q Well let us say at the end of the day -- and I'll  
12 make this up -- let us say at the end of the day  
13 Inspector Roberts takes the stand and says 'I  
14 didn't say a word to them, they blurted these  
01:58 15 things out', and the kids take the stand and say  
16 'Roberts pulled a gun and put it to my head and  
17 said I'll blow your brains out'; wouldn't having a  
18 tape of that settle the issue?

19 A Well they do that now, there's no doubt, but  
01:58 20 that's a hypothetical question and, like I say, I  
21 don't know what happened, I'm only speaking for  
22 myself and my knowledge and --

23 Q No, but do you not appreciate the importance of  
24 having a recording or notes as to what took place  
01:58 25 in that particular room?



1 A I think I have been a supporter of that for many  
2 years within the police department, and so it is  
3 now we know in hindsight, we didn't have the  
4 ability to do some of those things in those days.

01:59 5 Q Would you concede with me, with hindsight, you see  
6 that having a tape recording or notes as to what  
7 took place --

8 A Yes.

9 Q -- between Roberts and the kids would be very  
01:59 10 crucial in this case?

11 A I don't know, it would be knowledge that you need,  
12 I don't know if it's crucial or not. But I agree  
13 that would have been a great deal to have tape  
14 recorders and video and all these wonderful  
01:59 15 things, but --

16 Q At any time after this incident did you bring it  
17 to anyone's attention, prior to Commission Counsel  
18 in this hearing, that Roberts and the kids had  
19 been listened to by four or five police officers?

02:00 20 A To -- you mean outside of the time that --

21 Q Well --

22 A -- the time period? I don't -- I can't recall  
23 ever saying it to anyone but I might have.

24 Q Well let's back up. Inspector Wood would have  
02:00 25 known --



1 A Yes.

2 Q -- that there was eavesdropping?

3 A Yes, and --

4 Q And Short would have known, Mackie would have

02:00 5 known, you knew, Morrison knew, Karst would have

6 known?

7 A Yes.

8 Q This is a very basic thing?

9 A Yes, yeah, we were in there for one thing.

02:00 10 Q You were there for one purpose, as we said, --

11 A Yeah.

12 Q -- and it was quite important?

13 A Yeah.

14 Q But they all knew?

02:00 15 A Yeah.

16 Q Before you told Commission Counsel were you aware

17 of anybody in authority being, other than police

18 officers, being told this? I'm thinking of the

19 prosecutor, the Supreme Court, --

02:00 20 A No.

21 Q -- anybody?

22 A No. I wasn't even called to the original.

23 Q Have you discussed it with any of the officers

24 involved prior to now?

02:00 25 A Oh, I'm sure I have discussed that, because I have



1 always been disappointed, not with what went on  
2 with the Supreme Court and that because I don't  
3 know, until I read this material I wasn't aware of  
4 that, I wasn't aware of Roberts being there, so  
02:01 5 what went on. I had very little connection with  
6 the police service directly from the time I left  
7 and, after that, I can't recall any specific  
8 details or mentioning to anyone or talking to  
9 anyone about it. We didn't make a point of taking  
02:01 10 our work home or to other deals.

11 Q No, I appreciate that, but what I am saying is  
12 because of the vast media coverage, --

13 A Yes.

14 Q -- and you would have seen that Wilson was saying  
02:01 15 certain things and people are making allegations  
16 of possible --

17 A I saw that.

18 Q -- coercion and all that, did you ever go to  
19 anybody and say 'look, there might be a tape  
02:01 20 available and people would have heard what went on  
21 there'?

22 A I, you know, I can speak about other incidents,  
23 and that has happened before. Up until he was  
24 exonerated through DNA I always believed he was  
02:02 25 guilty.



1 Q Well --

2 A That's a sense in my head so I can't change that.

3 Q Yeah. And I take it, with DNA and the conviction  
4 of Larry Fisher, you are satisfied in your own  
02:02 5 mind, now, that --

6 A Yes.

7 Q Of the innocence of Mr. Milgaard?

8 A Like I always said, it's a good thing he has got a  
9 mother that believes in him, it's a good thing  
02:02 10 that there is no such thing as capital punishment,  
11 and I have never heard of evidence being kept as  
12 long it has in an old cart in the basement of the  
13 courthouse, I know we were always advised 'get rid  
14 of that after all the Court and that is over  
02:02 15 with'. So he was quite fortunate. It's like BSE,  
16 science will rule out here, and it has.

17 Q Okay. Well I won't get --

18 A No, you don't have to, but I --

19 Q I won't get into a debate whether he's been  
02:03 20 fortunate or not.

21 A Well, it's fortunate, yeah.

22 Q Yeah. Some might think 23 years in jail is  
23 unfortunate, but --

24 A Yeah, I know, but a lot of people have gone  
02:03 25 further than that, like I say.





1 Q Well, in any event, the question I was trying to  
2 ask you was this; did you make any efforts, prior  
3 to Mr. Hodson, to letting anybody know that there  
4 might be a tape out there, or notes, or people  
02:03 5 would know something that might explain why these  
6 kids lied?

7 A No.

8 Q Now I would like to turn to the issue of advising  
9 complainants as to the results of an  
02:04 10 investigation, and you use as an analogy break-ins  
11 where you retrieve property and may not bring it  
12 to the attention of the victim; is that right?

13 A Well that's -- often people were arrested and they  
14 admitted to a number of things, and I remember  
02:04 15 myself in fact not advising people that had a  
16 break-in and stuff stolen and that got --  
17 disappeared through the pawn shop or something, so  
18 --

19 Q Okay, but if you retrieved it you take it back,  
02:04 20 presumably?

21 A Pardon?

22 Q If you got the property back you would give it  
23 back to them?

24 A Oh, certainly, yeah.

02:04 25 Q Okay. But you might agree with me, though, that



1 sexual assault and break and enter are really very  
2 different matters?

3 A I agree completely.

4 Q And the frequency also is different? I don't  
02:04 5 remember the statistics but there might be only a  
6 handful, fortunately, of sexual assaults in a year  
7 in Saskatoon, and many of them the perpetrator is  
8 known, that is the victim knows who the  
9 perpetrator is?

02:05 10 A Yes.

11 Q The unknown perpetrator might be four or five a  
12 year, three or four, I don't know, but very few?

13 A Yes.

14 Q But are you saying back then, if you were  
02:05 15 investigating a sexual assault and they caught the  
16 guy, you wouldn't go to the victim and say 'we  
17 caught the guy'?

18 A Oh, certainly, because they are required to take  
19 the fellow to Court, or girl to Court, or whatever  
02:05 20 the case might be.

21 Q Okay. Well, and I'm -- I appreciate that we now  
22 have victim units and all that stuff but I'm  
23 suggesting back in '69, that if you caught a  
24 rapist, you would tell -- you would normally tell  
02:05 25 the victim you caught him because the woman --



1 A Yes.

2 Q -- is worried out of her mind?

3 A Yes.

4 Q Yeah, of course.

02:05 5 A We would.

6 Q Yeah?

7 A At least I would.

8 Q Yeah. And you would expect any reasonable police  
9 officer to do that?

02:05 10 A Right, yes.

11 Q Now I don't intend to spend any particular time on  
12 the letter you wrote to the newspaper but might I  
13 ask you this; when you wrote this letter, were you  
14 in consultation with other officers, or did you do  
02:06 15 it on your own?

16 A As they all know, I'm not in consultation with  
17 them, we could go into length in that but, no, I  
18 was not.

19 Q What I am saying is this was you on your own and  
02:06 20 not --

21 A That was me on my own.

22 Q It wasn't a number of you fellows getting together  
23 and one saying 'come on, Rusty, go write a letter,  
24 we don't like what's going on'?

02:06 25 A I would never work like that. People have tried



1 to make that happen, I would never do it.

2 Q And -- and I take it, when you wrote this letter,  
3 you were of the view that David Milgaard was  
4 guilty?

02:06 5 A Yes. Like I say, until I saw his exoneration, I  
6 believed that right until that time.

7 Q But it would seem to me, though, that your  
8 knowledge of the case was somewhat limited?

9 A Yes, except for my time back then and what people  
02:07 10 told me then, like the Cadraings and the -- from  
11 that point on. I have gone to Court on  
12 circumstantial evidence before, and I thought this  
13 was even more, but -- and a jury found the same  
14 way, and the justices found the same way, and we  
02:07 15 all make mistakes, there is no doubt about it,  
16 including policemen and sometimes lawyers make a  
17 mistake, you know, it's just a fact of life. It  
18 was a different time, a different way of gathering  
19 intelligence and information than we have now, and  
02:07 20 20 years from now it's going to be that much  
21 better.

22 Q Well you were upset with the role of the media?

23 A I -- the media was the part that annoyed me,  
24 that's why I read -- wrote that viewpoint.

02:07 25 Q And the media -- and what in particular?



1 A Well we as a community, where I'm involved in a  
2 large core area of the community and other people,  
3 had a meeting with Bill Peterson who was trying to  
4 get an understanding in what's the best ways to  
02:08 5 serve them, and Bill was a very honest, good  
6 publisher, but I -- my personal opinion, I kept  
7 seeing the writings that kept coming, that to me,  
8 myself, didn't seem fair and balanced. And I  
9 think that's the impression, because that's the  
02:08 10 headline they put there and that's what I felt,  
11 the media was not -- I can go back to one year on  
12 other than a criminal deal, I'm not -- I think  
13 they could do a better job, like policing I always  
14 believed could and I have worked at trying to  
02:09 15 improve that, but all things can be done better.

16 Q Well the media was pursuing the fact that there  
17 was an injustice in David's case?

18 A Yes.

19 Q And that possibly Larry Fisher was guilty?

02:09 20 A Yes.

21 Q And they were right.

22 A Yeah. That's good, and I'm glad, because like I  
23 say, at one time, with capital punishment around,  
24 because I'm not a believer in capital punishment  
02:09 25 and never have been, I believe in justice and



1 fairness and that, and up until DNA said otherwise  
2 I believed David Milgaard was guilty. Now I,  
3 after I saw these files and these statements and  
4 that, many of those things I was never aware of,  
02:09 5 I'm only going by my knowledge and the way the  
6 paper put it.

7 Q I can pull up the article if you want but I just  
8 have, I have very few questions on it, --

9 A Yeah.

02:10 10 Q -- but I'm interested in a line, I'll read it to  
11 you, if you want to see it I'll show it to you.  
12 You say:

13 "Although I did not see it at the time,  
14 I have learned Kujawa is right, as I am  
02:10 15 sure he is in the Milgaard case. He  
16 will never be compromised."

17 Do you want to see the whole paragraph or --

18 A No, no, I remember that.

19 Q But I don't understand --

02:10 20 A Serge Kujawa, he was the prosecutor.

21 Q No, but you say he was right, and I'm not sure  
22 what you mean he was right about; and he won't be  
23 compromised, I want to know what you are talking  
24 about?

02:10 25 A Well he was right, you know, there was the trial



1 and everything and he took this forward, he was  
2 right taking it forward, and the final  
3 determination came about. But I also know that  
4 Serge Kujawa would never be compromised by anyone  
02:10 5 or anybody, so --

6 Q But I am just unclear as to what was compromising  
7 him. You say he will never be compromised and he  
8 was right; and I'm not sure really sure what you  
9 are talking about?

02:11 10 A Well, it's going back to the media, not to you or  
11 anyone else. The media, how they put things make  
12 it seem like this Justice Department should have  
13 known what was going on or should have been done  
14 right, and I could tell you that wouldn't have  
02:11 15 happened under his care.

16 Q Okay. You say in the article, this is the last  
17 question I'll ask you about the article:

18 "There is no way the Milgaard forces  
19 will ever be satisfied."

02:11 20 A That's right.

21 Q What do you mean by that?

22 A That's right. Well it was, it seemed to me  
23 media-wise that was going on continually, and I  
24 think the last -- no, it couldn't have been the  
02:11 25 last deal -- but where things changed when



1 Mrs. Milgaard talked to Brian Mulroney and then  
2 things changed from that point on, and I still  
3 have a feeling politicians are our most important  
4 people but you do not get it involved with police  
02:12 5 work and that, and it seemed to me it was done for  
6 a political reason and not for a just or right  
7 reason. In hindsight I was wrong, you know, and  
8 -- but --

9 Q Okay.

02:12 10 A -- but I still, to that day when he was  
11 exonerated, I had that belief.

12 Q Just a -- one more issue, and I won't take you  
13 through the letter that I wrote to you, but in  
14 that letter a number of, perhaps, factual errors  
02:12 15 in your letter are pointed out; you have seen  
16 that?

17 A Right.

18 Q And there was an invitation to you to talk to me  
19 privately to clarify misconceptions you might have  
02:13 20 and I note that you never took me up on that  
21 offer?

22 A No. I probably -- I can't say why I didn't. I  
23 wouldn't be inclined because you are on the --  
24 it's a confrontational-type deal, but it's just  
02:13 25 the same as being in this room, I'm continually





1 being advised 'don't talk to any other witnesses'  
2 and everything else, and that's the same thing.  
3 If it was an ongoing deal, I wouldn't, because I  
4 can't speak for the Eddie Karsts or the Ray  
02:13 5 Mackies or Wood, or any of those, so I just left  
6 it, --

7 Q What I am getting at is --

8 A -- I didn't answer you.

9 Q But your article in the media clearly has some  
02:13 10 factual mistakes; you have to agree with that?

11 A There is a few in there that, in hindsight, the  
12 wording I think more than anything else is --

13 Q But I'm noting a person who is so critical of the  
14 media makes no effort to correct what's wrong in  
02:13 15 the media in your own article?

16 A Well for one thing, it isn't exactly how I read  
17 it, if you have written to the papers and that you  
18 know they edit, and I think there was some editing  
19 done in that. I think that's another reason why  
02:14 20 --

21 Q But whether Cadrain came to you first or said his  
22 mother washed the clothes, that's not stuff that  
23 the editor put in there?

24 A No, no, and that's what he told me that night and  
02:14 25 the night before, and as far as I know I was the



1 first one to hear the name Milgaard. But I could  
2 be shown or proven wrong, I don't know, I never  
3 heard anything around that police station.

4 Q Those are my questions, sir.

02:13 5 COMMISSIONER MacCALLUM: Thank you.

6 BY MR. LOCKYER:

7 Q Yes, Mr. Chartier, I want to sort of carry on  
8 where Mr. Wolch left off and go to this, what Mr.  
9 Wolch has referred to as a letter, it was really  
02:14 10 more of an article by you; was it not?

11 A A viewpoint.

12 Q A viewpoint, fair enough. It's at 039351, and  
13 while that's being brought up, sir, are you in  
14 touch with any of your old colleagues whose names  
02:14 15 you've heard today, Mr. Morrison for example?

16 A In passing.

17 Q Mr. Karst, are you in touch with him?

18 A I see him, he comes to the farmers market. I see  
19 him there the occasional time.

02:14 20 Q Are you socially active with any of the people  
21 whose names we've heard today?

22 A No.

23 Q Have you talked to any of them recently about this  
24 issue of the May 23rd conversation being bugged?

02:15 25 A No.



1 Q Now, if we look at this, and if we could just  
2 highlight this section, please, or enlarge it,  
3 this article, sir, or viewpoint we'll call it, you  
4 wrote on, or it appeared in the paper on May the  
02:15 5 8th of 1992; is that right?

6 A Yup.

7 Q And that's four years or so after you had left the  
8 police service; is that right, sir?

9 A Yes.

02:15 10 Q It was in fact written a matter of three weeks  
11 after the Supreme Court of Canada had handed down  
12 its decision releasing David Milgaard, or at least  
13 quashing his conviction and ordering a new trial.  
14 Do you remember that?

02:15 15 A If that's what you say, that's the case.

16 Q That happened on April the 14th of 1992, so it was  
17 about three weeks later that this article appeared  
18 in the paper.

19 A You see, I can't attest to that because sometimes  
02:16 20 it's a month or more when they will write -- I  
21 probably have -- is the date on -- no, I guess it  
22 isn't. When I write it the date and that's on, so  
23 I won't argue with you about that.

24 Q I was actually going to suggest that there's a  
02:16 25 fair chance that you wrote it much closer to the



1 decision of the Supreme Court of Canada and it  
2 didn't get in the paper for several days or a  
3 couple of weeks.

4 A Yeah, it's possible.

02:16 5 Q But it's clear that this is written after the  
6 decision of April 14th, '92?

7 A Yeah. If you say that's the case, it is.

8 Q That's when it came out. And presumably as well,  
9 sir, you would have followed the media at that  
02:16 10 time?

11 A That's right.

12 Q When the Supreme Court of Canada decision came  
13 down?

14 A I was getting the paper in those years.

02:16 15 Q It was a major national story; right?

16 A Yes, I would think so. Like I say, I can't  
17 remember the details, but --

18 Q It would certainly have been a big Saskatoon  
19 story?

02:17 20 A Yeah, and that's probably why I -- yeah.

21 Q And you would likely have seen the reaction of the  
22 then chief of police as reported in the media both  
23 when the Supreme Court of Canada decision came  
24 down and indeed a couple of days later as well  
02:17 25 when proceedings against David was subsequently



1 stayed; is that fair?

2 A I can't recall that.

3 Q No, I'm not asking you to recall it, but it's  
4 pretty safe to say you would have read the police  
02:17 5 reaction to those two events?

6 A If there was some police reaction. I was getting  
7 the paper in those days.

8 Q I think we're going to hear from the witness after  
9 next, Penkala, he was the chief on April the 14th  
02:17 10 of 1992 and I think we're going to see at least  
11 one of his press releases --

12 A Okay.

13 Q -- that he gave out then.

14 A I don't disagree.

02:17 15 Q And it was just two days later if you remember,  
16 sir, on April the 16th that the proceedings in the  
17 Queen's Bench of Saskatchewan were stayed against  
18 David. Do you remember that?

19 A I recall the incident. I don't know when or --

02:18 20 Q Now, you had played yourself no part whatsoever in  
21 the post-conviction process that David had had to  
22 deal with; is that right?

23 A No.

24 Q And the best you knew about new evidence was what  
02:18 25 you had gleaned from what you may have read in the



1 newspapers?

2 A Basically that would have been the case.

3 Q And perhaps from colleagues up to 1988 and old  
4 colleagues after you left in 1988?

02:18 5 A It's possible, but I can't recall any discussions.  
6 I never took our -- around the shop you talked.  
7 When you got away from it, it's --

8 Q Now, you said in this story, and this is the piece  
9 I've sort of highlighted, I don't think it has  
02:19 10 been read to you, you said:

11 "There is no way the Milgaard forces  
12 will ever be satisfied. When the  
13 Milgaards went to the Supreme Court,  
14 they did not get the answer they wanted.  
02:19 15 So they will go elsewhere.

16 And they will be accepted  
17 because they have managed to get the  
18 powerful media with their "scandal sells  
19 papers" bias on their side.

02:19 20 What a sad day for justice. I  
21 will be thoroughly disappointed if our  
22 government caves in to this insanity."

23 Do you remember that part of what you wrote, sir?

24 A That's what I wrote.

02:19 25 Q You remember it?



1 A Yes.

2 Q And would I be right in saying, sir -- I mean, you  
3 told us that when you wrote this you were still,  
4 you were convinced that David had committed the  
02:19 5 crime of murdering Gail Miller; right?

6 A Yes. I must have been or I wouldn't have put it  
7 in there.

8 Q Right. And the way I read that piece there, you  
9 really display, to say the least, a certain amount  
02:19 10 of resentment towards both David Milgaard and, as  
11 you call it, the Milgaard forces who have managed  
12 to get his conviction quashed; is that fair?

13 A Well, the powerful media, I was speaking more to  
14 the media and the way they present fairness and  
02:20 15 equality and what is said is on there is what I  
16 believed.

17 Q No, but don't you think it expresses a certain  
18 amount of resentment, sir, towards David himself  
19 and the people backing him, perhaps the people  
02:20 20 backing him more than anything, the Milgaard  
21 forces, that they will go elsewhere because they  
22 didn't get the answer they wanted?

23 A I'm sorry, I had no resentment one way or the  
24 other in regards to this case, I never have with  
02:20 25 anyone, and I've dealt with a lot of people.



1 Q And you don't think that the way that's written  
2 displays a resentment on your part?

3 A Well, the resentment was to the media, how it was  
4 put, and I can't remember what it was, but over  
02:20 5 time, and I could write the same thing again about  
6 just about any issue that I've been involved with  
7 in the last number of years.

8 Q You don't think that perhaps rather than write the  
9 Milgaard forces, you might have put the people who  
02:21 10 believed David Milgaard is innocent might be --

11 A I'm not a --

12 Q -- a less resentful way of putting it?

13 A That's not my -- this is what I felt and what I  
14 wrote. Certainly there's usually two sides and  
02:21 15 somewhere in between the truth, so at that  
16 particular time when I read that, that's how I  
17 still felt and believed.

18 Q There weren't two sides to what you wrote, were  
19 there, sir, and there aren't two sides to who  
02:21 20 killed Gail Miller either?

21 A Well somewhere, no, that got corrected. What I  
22 couldn't understand, couldn't believe is that Joe  
23 Penkala, who I really respected as an  
24 identification officer, always did a great job in  
02:21 25 identification, plus I believe I was told that





1           this stuff went to Regina to the crime lab and  
2           I've always respected the RCMP crime lab, so I  
3           can't quite balance those two, and then it gets --  
4           I think there was some suggestion, didn't it go to  
02:22 5           England for DNA tests and that and apparently I  
6           read in the paper, didn't hear it from you or  
7           anyone else, that they found a great big blob of  
8           semen or semen stain and that I found hard to  
9           believe, but --

02:22 10        Q           Are you now questioning the DNA results?

11        A           No, I'm not questioning.

12        Q           You sort of got off on this little tangent.

13        A           No, no, I'm telling you at that particular time,  
14           Joe Penkala, who I had great respect for --

02:22 15        Q           What time are we talking about, may I ask you? I  
16           don't know what you are talking about.

17        A           Prior to the -- him getting off on DNA.

18        Q           Getting off, what an odd way to put it. But  
19           anyway, you moved away from '92 and I'm not sure  
02:23 20           why, sir. I'm asking you about what you wrote in  
21           '92. I don't know quite what you are doing.

22                    COMMISSIONER MacCALLUM: Why don't you stop  
23           and just ask the question again, please.

24        BY MR. LOCKYER:

02:23 25        Q           I will. Going back to what you wrote in 1992,



1           sir, you don't think that a reader of what -- put  
2           it this way, someone reading that would sense that  
3           you are resentful of the people who were believing  
4           that David Milgaard was innocent of the crime?

02:23 5           A           No, I'm not.

6           Q           Uh-huh. Would I be right in saying -- sorry, you  
7           also just mentioned to Mr. Wolch as well that you  
8           were, I'm not sure what word you used, but  
9           certainly at a minimum you were pretty upset about  
02:23 10          the way that David's case had got back into the  
11          legal system, you thought it was just a political  
12          move on the part of Brian Mulroney; is that right?

13          A           Well, political, it seemed to me that it was being  
14          done for a political reason by him, not by anyone  
02:24 15          else, by him for political reasons, not for reason  
16          that was just and fair and that, so I've seen  
17          this, I know politicians and it's --

18          Q           You've been one?

19          A           Pardon?

02:24 20          Q           You've been one yourself, have you not, or tried  
21          to be?

22          A           No, I've not been a politician.

23          Q           You tried to be?

24          A           Yeah, once upon a time on policing issues to get  
02:24 25          us going in a different direction.



1 Q Would I be right in saying, sir, that as far as  
2 you knew when you wrote this piece, it was  
3 reflective of the Saskatchewan police service's  
4 views as a whole?

02:24 5 A I couldn't tell you that.

6 Q Well, do you have any reason to think, sir, that  
7 there were people in the Saskatoon Police Service  
8 in 1992 who had any qualms about David's guilt?

9 A Oh, I'm sure there is some, and I think I've  
02:25 10 heard, I don't know about policemen, but people  
11 who feel he's still guilty and I contradict that,  
12 you know, science proved otherwise.

13 Q I'm sorry, could you just stay on the question.  
14 The question is, sir, do you have any reason to  
02:25 15 believe that there were police officers in the  
16 Saskatchewan police service in 1992 who had any  
17 qualms about their beliefs that David was guilty?

18 A Yeah, I don't know about police officers.

19 Q That's all I'm asking.

02:25 20 A I'm sure I've talked to them, but I know there's  
21 people who have talked to me about it knowing that  
22 I was an ex-police officer. Police officers, I  
23 can't recall, I can't even recall the people, but  
24 all I know is there has been conversation.

02:25 25 Q And were you -- did you follow the media, sir, in



1 July of 1997 when the DNA results came out?

2 A Follow the media when the results came out?

3 Q Did you read the media?

4 A Yeah, I was still reading the paper then.

02:26 5 Q And did you read the reaction, at least the  
6 official reaction being presented by the Saskatoon  
7 Police Service --

8 A Well, I must have.

9 Q -- of those results?

02:26 10 A Yeah.

11 Q Please don't interrupt.

12 COMMISSIONER MacCALLUM: Just a second.

13 Mr. Chartier, in your eagerness to be helpful,  
14 you tend to interfere with the question that's  
02:26 15 being put to you and it's upsetting for the  
16 questioner, but it's more serious for the  
17 reporters who are trying to get all this down, so  
18 just make sure that you can hear a period before  
19 you say anything.

02:26 20 BY MR. LOCKYER:

21 Q Thank you. Do you remember, sir, reading the  
22 reaction, the official reaction, at least I assume  
23 it was, by a spokesperson for the Saskatoon Police  
24 Service when the DNA results were first, first  
02:27 25 came out?



1 A I must have, but I can't remember.

2 Q The position of the Saskatoon Police Service  
3 spokesman was that the DNA results didn't mean  
4 that David Milgaard didn't kill Gail Miller. You  
02:27 5 don't remember that?

6 A No. Well, I must have read it, but I can't  
7 remember. Who was the spokesman?

8 Q As I recall, his name was Hole, but I may be  
9 wrong.

02:27 10 A Like I say --

11 Q I'm remembering back many years, eight years.

12 A The name again?

13 Q Hole. If anyone else --

14 A It doesn't make any difference. I can't remember  
02:27 15 directly.

16 Q Because, and I'm trying to make a point here  
17 ultimately, in the article that you wrote or the  
18 viewpoint that you wrote in just a couple of weeks  
19 or three weeks after the Supreme Court of Canada  
02:27 20 decision, sir, if one had to sort of try and  
21 summarize what you were saying, you were really  
22 accusing the media of having demonstrated the  
23 worst kind of tunnel vision in this case; is that  
24 fair?

02:28 25 A I haven't changed, yes.



1 Q Yes. When in fact as we now look back on it, call  
2 it 20/20 hindsight, whatever you want to call it,  
3 if the suggestion I put to you is right that it  
4 wasn't just you but every member of the Saskatoon  
02:28 5 Police Service who knew anything about the case  
6 believed without doubt that David Milgaard was  
7 guilty up to and even after the DNA results in  
8 some cases, it really demonstrates the most  
9 extraordinary tunnel vision on the part of the  
02:28 10 Saskatoon Police Service don't you think?

11 A Well, I can tell you, I told you at the beginning,  
12 until DNA came out, I believed David Milgaard was  
13 guilty.

14 Q But I'm trying to move it away from you and  
02:29 15 suggest to you that if I --

16 A I can't speak for other people.

17 Q But I'm going to -- don't you think at least then  
18 you were guilty of the worst kind of tunnel  
19 vision?

02:29 20 A I don't think so. When DNA, there was no problem.  
21 I had run into situations like that before. I was  
22 sure I was right. Turned out to be wrong.

23 Q Well, in determining that you were sure you were  
24 right, you weren't really finding out what new  
02:29 25 evidence there was, were you, to see whether in



1 fact your previous belief was right or wrong?

2 A It was DNA I understood was the new evidence.

3 Q No, in '92, all right, when you wrote that piece  
4 in '92, a lot of new evidence had come out in the  
02:29 5 meantime?

6 A Well, I wasn't aware of a lot of what you say, new  
7 evidence.

8 Q So your --

9 A I wasn't convinced until DNA said otherwise.

02:29 10 Q So your belief in David Milgaard's guilt was such  
11 that you didn't feel it necessary to see whether  
12 or not there was new evidence that might undermine  
13 that belief?

14 A No. If people can find new evidence on anything,  
02:30 15 I'm in full agreement with that.

16 Q Listen to the question, sir.

17 A Yes.

18 Q Your belief in his guilt didn't cause you, before  
19 you even wrote that piece in '92, to examine  
02:30 20 whether there was any new evidence that might  
21 undermine your belief?

22 A No.

23 Q You didn't see the need to do that?

24 A No. I wasn't a police officer or anything else,  
02:30 25 I'm a citizen who reads the paper and --



1 Q Do you think as a police officer, sir, you might  
2 have done that, one who was involved in the  
3 original case if you had still been there in '92,  
4 you might have felt some obligation to say, well,  
02:30 5 what new evidence is there that's influenced the  
6 Supreme Court of Canada to hand down the decision  
7 that they did?

8 A Well, I would have known some of this evidence  
9 that I read in the last month and I don't know  
02:31 10 what I would have done at that particular time,  
11 but the circumstances are --

12 Q And if we assume, sir, that the other Saskatoon  
13 police officers that we're going to hear from who  
14 played a role, a significant role back in the 1969  
02:31 15 investigation, if we hear from each one of them  
16 that like you they were absolutely convinced of  
17 David's guilt until, we'll assume, until the day  
18 the DNA results came out, do you think that  
19 demonstrates that there's a problem here amongst  
02:31 20 the police, sir, that they could, to a person, all  
21 be wrong?

22 A Well, I don't think so. I think --

23 Q You don't?

24 A That investigation and at that time it was done  
02:31 25 thoroughly and by competent people, so that's my





1 belief. You said to me I was too kind coming in  
2 here to my fellow officers. I worked with people,  
3 credible people who were quite honest to their job  
4 and that. I disagreed with many, including the  
02:32 5 chiefs of police and that, I was never afraid to  
6 annunciate that to the chiefs or to the sergeants  
7 or anything else, but the people I worked with and  
8 knew, and I knew some of the other side too, we  
9 won't go into that, but the people who worked on  
02:32 10 this case, I was a kid when Ray Mackie used to  
11 come around and help us as kids and talk to us and  
12 things like that, so I have full belief that they  
13 knew what was going on and they didn't do anything  
14 untoward.

02:32 15 Q Presumably back in 1969, sir, you were aware that  
16 there was a serial rapist at work in Saskatoon?

17 A To tell you the truth, I can't remember that. I  
18 can't even remember the name Fisher.

19 Q Let me try this. Presumably --

02:32 20 A I wasn't aware.

21 Q -- back in 1969 you would have been aware of the  
22 existence of a serial rapist if there was one  
23 around?

24 A I don't think so.

02:33 25 Q You don't?



1 A Like I say, I can't remember the name or the  
2 incidents or anything else like that.

3 Q Did you know, sir, you said actually yesterday  
4 that you found it, and I think I'm quoting you,  
02:33 5 this is what you said to Mr. Hodson, "Surprising  
6 that I had never known about this Fisher guy."

7 A He lived in Cadrain's house. No, I do find it  
8 surprising, but I cannot recall knowing about him  
9 or what was involved.

02:33 10 Q Ever until, at the earliest, sometime in the '90s?

11 A Oh, yeah, later on.

12 Q In the '90s?

13 A '80s or '90s, somewhere in there.

14 Q So Karst never told you, for example, this man who  
02:33 15 you learned so much from, never told you that he  
16 had solved a serial -- crimes committed by a  
17 serial rapist just a year or so before, he never  
18 mentioned that to you?

19 A Not to me he didn't. Why would he mention it.

02:34 20 Q I don't know, maybe in the course of working so  
21 closely with you as you've described.

22 A Working so closely with me?

23 Q Yeah.

24 A He was my supervisor later on and in that time I  
02:34 25 never remember discussing anything with Karst



1 about the Milgaard --

2 Q Did you know, sir, that before David Milgaard's  
3 name came up, that the investigators had already  
4 associated and indeed come to the conclusion that  
02:34 5 the person who had been committing these rapes was  
6 likely, most likely the person who had killed Gail  
7 Miller? Did you know that?

8 A No, I didn't.

9 Q Yes. But once David Milgaard became the culprit,  
02:35 10 that whole notion was abandoned. Did you know  
11 that, sir?

12 A You mean at the police station and that, you mean  
13 the investigation?

14 Q If you go back to all the '69 reports.

02:35 15 A Okay, I can't speak to that at all.

16 Q I'm just telling you that's what happened, sir.

17 A Okay.

18 Q I'm asking if you knew that.

19 A No, I didn't.

02:35 20 Q If you had been the investigator of this case,  
21 sir, back in 1969, and you had originally  
22 concluded that the killer of Gail Miller was the  
23 same man who had been committing a series of rapes  
24 in Saskatoon around the same time and in the same  
02:35 25 area and with the same kind of *modus operandi* --



1 do you follow me?

2 A Yeah.

3 Q If you had made that conclusion and then arrested  
4 David Milgaard who was an out-of-towner who  
02:35 5 clearly didn't fit as being a person sort of  
6 coming from Regina to Saskatoon once a month to  
7 rape and then heading back to Regina -- you see  
8 the point?

9 A Yeah.

02:35 10 Q He didn't fit the bill as being the rapist as well  
11 as the murder. Do you follow?

12 A Well, you can't --

13 Q I'm going to ask you a question. Are you staying  
14 with me, that's all, are you following me?

02:36 15 A I can't follow you there because I don't --

16 Q I'm telling you that's what happened, sir.

17 A Well --

18 Q If that had been you, listen to the question,  
19 because I just needed a premise before I asked the  
02:36 20 question, if that had been you, would you have  
21 disclosed to the defence your original theory?

22 A Remember at that time defence didn't get any  
23 disclosure. That's one of the good things that's  
24 happened in the justice system.

02:36 25 Q So your answer is no?



1 A Pardon?

2 Q Your answer is no, you wouldn't have disclosed it?

3 A Well, I don't know. I would have been --

4 Q Well --

02:36 5 MR. FOX: Mr. Commissioner, I'm wondering  
6 if this witness can be afforded the same thing  
7 that he had been admonished, and that is the  
8 opportunity to finish answering the question when  
9 it has been asked.

02:36 10 MR. LOCKYER: He tends to wander a bit and  
11 I'm just trying to keep this moving along.

12 COMMISSIONER MacCALLUM: I do wish,  
13 Mr. Lockyer, that you would, when you refer to  
14 the investigators having been convinced that  
02:36 15 there was a common source for both the rapes and  
16 the murder, a common perpetrator, that you would  
17 say which investigators you meant, please,  
18 because I'm sure from my reading of the file --

19 MR. LOCKYER: Most likely was the  
02:37 20 expression.

21 COMMISSIONER MacCALLUM: Well, no, it was  
22 stronger than that, and you did say  
23 investigators, plural, implying that it was a  
24 commonly held belief amongst the Saskatoon Police  
02:37 25 Service. I recall the evidence that Rasmussen,



1 for example, held that theory.

2 MR. LOCKYER: For example, yes.

3 COMMISSIONER MacCALLUM: For example, but  
4 if --

02:37 5 MR. LOCKYER: Saskatoon officers as well.

6 COMMISSIONER MacCALLUM: If you mean  
7 someone else, please specify.

8 MR. LOCKYER: I'm sorry, I can't remember  
9 exactly who is who as we go through the reports,  
02:37 10 but there were several reports from different  
11 officers in the Saskatoon police and, as you  
12 pointed out, the RCMP as well making the links as  
13 well as Penkala certainly made the link, he  
14 submitted all the exhibits if you remember to the  
02:37 15 RCMP lab to see if they matched, so there's an  
16 example.

17 COMMISSIONER MacCALLUM: Well, I think they  
18 were live to the possibility in terms of the  
19 evidence that I've heard, they were live to the  
02:38 20 possibility, but I can't recall them having made  
21 such a determination or conclusion.

22 MR. LOCKYER: Well, okay, Mr. Commissioner,  
23 convince was your word, most likely was my words,  
24 and I stand by my words certainly.

02:38 25 COMMISSIONER MacCALLUM: Okay. Ask the



1 question again. I don't think the witness knows  
2 for one thing.

3 MR. GIBSON: If I may, I guess my concern  
4 here is the context of the question in relation  
02:38 5 to time frame. I mean, we've heard that there  
6 was a connection by Rasmussen or a theory that  
7 that may be true, that there was a common  
8 connection between the rapes prior to and the  
9 death of, the murder of Gail Miller, but again,  
02:38 10 that was, I guess in fairness, there has to be  
11 some time frame put to the witness because of  
12 course other information came to light later on  
13 that changed some of those views.

14 COMMISSIONER MacCALLUM: The examination  
02:38 15 has boiled down to this, the witness didn't know,  
16 for one thing. He's now being asked a  
17 theoretical question as I take it, had he known  
18 would he as a policeman have disclosed the  
19 theories to the defence.

02:39 20 BY MR. LOCKYER:

21 Q All right. The period, just to respond to what my  
22 friend just said for the RCMP, the time frame was  
23 before the arrest of Mr. Milgaard, or before Mr.  
24 Milgaard became the culprit I think was the words  
02:39 25 I used, so that's the time frame, and yes, I am



1 asking the witness a hypothetical, that if he had  
2 been the investigator in this case, would you have  
3 disclosed the fact of the other rapes as certainly  
4 once being a part of the theory that whoever  
02:39 5 perpetrated those rapes was most likely also the  
6 killer of Gail Miller?

7 A I can't --

8 Q That's the question.

9 A I can't answer that.

02:39 10 Q One of the features one might say about Gail  
11 Miller's murder, sir, was that -- would you agree  
12 it was, the circumstances of the crime were  
13 extremely unusual? Would you agree with that?

14 A Coldest day of the year I understand.

02:40 15 Q I'm sorry?

16 A Coldest day of the year I was told.

17 Q Yes.

18 A And the circumstances.

19 Q Coldest day of the year, in a public, very public  
02:40 20 place?

21 A Yeah, in the lane.

22 Q And the hour of the day as well?

23 A Yes.

24 Q And time?

02:40 25 A Yes.





1 Q I mean, certainly in my experience, I don't  
2 remember ever dealing with a rape allegation that  
3 took place at seven o'clock in the morning, not a  
4 rape allegation of a stranger on a stranger in any  
02:40 5 event.

6 A I don't know about that, but the area and the  
7 temperature and that I think doesn't sound quite  
8 right, but --

9 Q It strikes you as a very odd, a very unusual case,  
02:40 10 you agree, because of that?

11 A Every case is unusual.

12 Q Fine.

13 A I always found that there's something different  
14 about every one.

02:41 15 Q And under those circumstances, sir, would you say  
16 that the -- just thinking about it in terms of  
17 your own mind and likelihoods, that the likelihood  
18 that someone else would be doing the same thing in  
19 the same area at the same time on the same day was  
02:41 20 pretty remote?

21 A No, I wouldn't think like that, you know. Whoever  
22 did it did it at that, in that way, but I had  
23 learned a long time before that in my career that  
24 things are never what they seem to be and I kind  
02:41 25 of judged how I worked from that point. You see



1 something and -- well, I have this discussion with  
2 my wife all the time, I say things are not always  
3 what they seem to be and, you know, the fact that  
4 Fisher lived in Cadrain's house, who I knew and  
02:42 5 the family and that, it all seemed who would  
6 believe that if someone said it, but it's a fact,  
7 and things are never what they seem to be, and one  
8 other thing I learned from another officer, not  
9 directly, is that the door to door stopped just  
02:42 10 prior before getting to Cadrain. I don't know if  
11 that's true or not, but a police officer told me  
12 that, so, you know, that's what happens in this  
13 world, that's circumstance.

14 Q Do you think, sir, if you had found out as a  
02:42 15 police officer, and I'm just using your experience  
16 as a police officer here, that some 20 minutes  
17 after Gail Miller's murder and within somewhere  
18 between four and six blocks of where she had been  
19 murdered another lady had been attacked sexually  
02:42 20 the same morning --

21 A I wasn't aware of that.

22 Q No, no, I'm saying if you had been aware of  
23 that --

24 A Yeah.

02:43 25 Q -- would you have felt that that was something



1           that should have been disclosed to the defence  
2           before David Milgaard's trial?

3       A       At that particular time I would have said no. Now  
4           it's a requirement, but someone six blocks away,  
02:43 5           it could have been a coincidence, you know. I  
6           live by that and this particular, or that  
7           particular job at that time --

8       Q       So you wouldn't --

9       A       You don't take it for granted.

02:43 10      Q       You wouldn't have disclosed it to the defence?

11      A       Well, I probably wouldn't have.

12      Q       You wouldn't have, I see. But you say the rules  
13           changed, you've been saying that quite a lot in  
14           the course of your evidence, that the rules have  
02:43 15           changed since 1969, sir? Is that right, you said  
16           that to Mr. Elson quite a lot; right?

17      A       1982 changed a lot of rules when we got the  
18           Charter.

19      Q       But there's a bit of a problem there, sir, if you  
02:44 20           are going to say the rules changed, because change  
21           they might have, but if they really did change  
22           they certainly didn't benefit David Milgaard a  
23           whole lot, no one disclosed to him ever the  
24           existence of a woman being sexually assaulted 20  
02:44 25           minutes after Gail Miller's murder a matter of a



1           few blocks from where she had been murdered, that  
2           was never disclosed to him.

3       A       Well, I probably wouldn't have disclosed it, you  
4           know. It doesn't --

02:45 5       Q       But it wasn't disclosed after 1982, sir, --

6       A       Okay, yeah.

7       Q       -- when you are talking about all these changes  
8           that took place, they don't seem to have done a  
9           whole lot?

02:45 10      A       I won't answer those because I don't know what the  
11           circumstance, but myself, I am thinking at that  
12           time I would not have presented that because that  
13           was a separate deal. We know, now, different, and  
14           we have analysts and we have a bigger and better  
02:46 15           picture in policing than we used to have in that  
16           day.

17      Q       So I'm going to suggest to you, sir, that what we  
18           have here is, number 1, a man saying 'I have been  
19           convicted of a crime I didn't commit', to which  
02:46 20           the response from the Saskatoon Police is 'oh yes  
21           you did, we don't believe a word of it', and that  
22           the Saskatoon Police, for all those years that  
23           David was protesting his innocence, didn't come  
24           forward with any of the information that they  
02:46 25           hadn't disclosed in 1969, and they continued not



1 to disclose it right through David's applications  
2 to the justice ministers; were you aware of that,  
3 sir?

4 A I can't help you there because I don't know.

02:46 5 Q Uh-huh. And you talk of David Milgaard's good  
6 fortune, his good fortune surely had nothing to do  
7 with the Saskatoon Police, his good fortune was  
8 dependent on an anonymous phone call about Larry  
9 Fisher and on, God bless them, the media, who did  
02:47 10 a story which had a picture of Larry Fisher in it  
11 which a lady called (V4)---- (V4)--- happened to  
12 see as she sat at her home in Toronto; did you  
13 know that, sir?

14 A No I didn't.

02:47 15 Q And don't you think, sir, that that reflects some  
16 very serious systemic issues that have arisen in  
17 this case in terms of the Saskatoon Police's  
18 non-reaction or reaction, whatever you want to  
19 call it, to David's claims of innocence? All they  
02:47 20 said was 'bah, we don't believe a word of it', and  
21 right in their files is the evidence that they  
22 have never disclosed --

23 A Well --

24 Q -- which would lead towards his innocence?

02:47 25 A -- it is -- so hopefully the system is being



1 improved.

2 Q Well, it's funny, because you kept saying to Mr.  
3 Elson that everything had changed since, and I  
4 kind of wonder whether it has. Certainly up until  
02:48 5 1992 things don't seem to have changed at all,  
6 because all the information that David gleaned in  
7 his quest to prove his innocence happened despite  
8 the Saskatoon Police, not because of them. You  
9 understand?

02:48 10 A Yeah, I understand what you are saying.

11 Q Uh-huh. And do you think, sir, that's a bit of a  
12 reflection of -- and I'm sure we've all heard the  
13 phrase before -- a reflection of police culture?

14 A I'll agree with the police -- there is a police  
02:48 15 culture, yes.

16 Q And a police culture, in this case, particularly  
17 came into play as they came to resent the media  
18 stories, David's claims of innocence, and that  
19 year by year he seemed to be maybe getting  
02:49 20 somewhere in projecting those claims of innocence,  
21 and the police culture was to fight that as much  
22 as possible; is that right, sir?

23 A Yeah, I believe there's some truth to that.

24 COMMISSIONER MacCALLUM: Ms. Knox?

02:49 25 MS. KNOX: Mr. Commissioner, I rise I guess



1 to raise a question, and I'm not attempting to  
2 circumscribe the mandate or the information to  
3 come forth in the Inquiry, but I'm considering  
4 the terms of reference, and also, as I have in  
02:49 5 the past, want to take the position that if  
6 information is to be put to witnesses, that  
7 accurate and full information should be put to  
8 them.

9 And one of the concerns I have  
02:49 10 at the moment, in terms of the information that's  
11 being put to Mr. Chartier, is that certain  
12 information about Mr. Fisher came about as a  
13 result of an anonymous phone call. We have  
14 documentation in our file, or in the materials  
02:50 15 that have been disclosed to us, that show that  
16 Larry Fisher was known as a resident of the  
17 Cadrain basement convicted of rape as early as  
18 1983 -- if I'm in fact getting my date right --  
19 as early as 1983, that that information was in  
02:50 20 the possession of the Milgaards, so it certainly  
21 was in their possession before they prepared to  
22 go to the Supreme Court of Canada.

23 MR. LOCKYER: I'm sorry, My Friend is  
24 completely wrong on the facts, she's totally  
02:50 25 wrong.



1 MS. KNOX: In any event, there's  
2 correspondence in the file between a law firm,  
3 private investigators, where they're attempting  
4 to locate Linda Fisher. So that's information  
02:50 5 that I believe -- and if I'm wrong, I didn't  
6 bring the material with me, I wasn't expecting to  
7 have to deal with it today -- but as early as  
8 1983 there were efforts to find Linda Fisher  
9 through a private investigation agency and a law  
02:50 10 firm in Regina on behalf of the Milgaard family,  
11 as I recollect it.

12 MR. LOCKYER: Sir, My Friend is just wrong,  
13 it's just that simple.

14 MR. HODSON: If I may speak to that, Mr.  
02:50 15 Commissioner, there are documents which I can  
16 find. Tony Merchant, who was counsel for Joyce  
17 Milgaard in 1983, made efforts to find Linda  
18 Fisher. There are documents we can produce and,  
19 as well, there is a 1983 with a reference to the  
02:51 20 Fishers living in the Cadrain basement, so there  
21 are documents that, in due course, will be put  
22 in.

23 MR. LOCKYER: But no knowledge of the rape  
24 convictions, and the rapes, and so on and so  
02:51 25 forth.





1 MR. HODSON: Yes, there is a letter I  
2 believe -- I will get it and I stand to be  
3 corrected -- there is a letter from Mr. Tony  
4 Merchant to a process server to find Linda Fisher  
02:51 5 and refers to her husband being incarcerated for  
6 rapes, or words to that effect.

7 MR. LOCKYER: Perhaps Mr. Wolch can speak  
8 to that, he was there, I wasn't.

9 MR. HODSON: Well if you would like, at a  
02:51 10 break, I can get the documents.

11 MR. WOLCH: Mr. Commissioner, this is the  
12 first that I have heard of that particular  
13 letter. The -- I received an anonymous phone  
14 call in the late '80s and the name Larry Fisher  
02:51 15 was given to me. I had never heard it before, I  
16 spoke to Mrs. Milgaard, she had never heard it  
17 before, that -- that I do know. Whether  
18 Mr. Merchant was looking for something I don't  
19 know.

02:52 20 MR. HODSON: If I could maybe call up  
21 213627.

22 MS. KNOX: That's the document that I was  
23 referring to.

24 MR. LOCKYER: What's that got to do with  
02:52 25 the Saskatoon Police giving information out,



1           that's what I am not --

2           MR. HODSON: I believe the question was,  
3           Ms. Knox had indicated that Mr. Fisher was known  
4           prior to 1990, and this is a letter from  
02:52 5           Mr. Merchant, who was counsel for either Joyce or  
6           David Milgaard at the time, with a reference to  
7           him. I think that was the point.

8           MR. LOCKYER: Well it still doesn't relate  
9           to the Saskatoon Police giving out information,  
02:53 10          and that's what the, the focus of what I have  
11          been asking.

12          COMMISSIONER MacCALLUM: Well I thought  
13          your question had to do with the Mrs. Milgaard's  
14          knowledge of the Fishers being disclosed to them?

02:53 15          MR. LOCKYER: No, no, I didn't know about  
16          this letter, first of all, and nor did Mr. Wolch.  
17          But, leaving that aside, the focus of the  
18          question to the witness was that there was a  
19          police culture here, that the police culture  
02:53 20          never disclosed any information to the Milgaards  
21          about the Fishers -- about Fisher, rather, or  
22          about (V4)---- (V4)--- or about the rapes, and  
23          that it was only through good fortune that they  
24          found out about them, it certainly wasn't  
02:53 25          anything to do with the Saskatoon Police, and the



1 witness has acknowledged that there was that  
2 police culture which probably played a  
3 significant role in it.

4 COMMISSIONER MacCALLUM: Well he said  
02:53 5 'there could be some truth in what you say', that  
6 was his answer.

7 MR. LOCKYER: Okay, well however he put it,  
8 he acknowledged that it may well have played some  
9 role.

02:54 10 COMMISSIONER MacCALLUM: But I think the  
11 other counsel were trying to point out to you  
12 that issue that it wasn't solely as a result of a  
13 fortuitous telephone call that they were put onto  
14 the Fishers, that they were put onto the  
02:54 15 Fishers --

16 MR. LOCKYER: Well I don't know what  
17 Mr. Merchant knew.

18 COMMISSIONER MacCALLUM: Well, he was  
19 acting for Mrs. Milgaard, so the letter speaks  
02:54 20 for itself.

21 MR. HODSON: If I might indicate, the  
22 Commission received this letter from Joyce  
23 Milgaard.

24 MR. LOCKYER: So be it, but it still isn't  
02:54 25 anything that meets the point. The point was



1 about the Saskatoon Police not providing  
2 information. I'm trying to deal with systemic  
3 issues, Mr. Commissioner, not very well, but  
4 that's what I am trying to do.

02:54 5 COMMISSIONER MacCALLUM: Well perhaps you  
6 don't have a very appropriate witness for the  
7 purpose.

8 MR. LOCKYER: Well that's a good question.  
9 This is a witness who had some knowledge of the  
02:54 10 case, had some involvement in it, acknowledges  
11 quite nicely, now, David Milgaard's innocence and  
12 his own mistakes, which I don't know if all the  
13 other witnesses will be as candid as that but  
14 that remains to be seen, and went fairly high in  
02:55 15 the Saskatoon Police, is no longer a member of  
16 that service, and may be a good witness for that  
17 kind of question. That's certainly the  
18 submission that I would make.

19 COMMISSIONER MacCALLUM: Well he didn't get  
02:55 20 as high as a non-commissioned officer rank, I  
21 believe.

22 MR. LOCKYER: Yeah, if you have problems  
23 with what I am asking, Mr. Commissioner, I'm sure  
24 you can stop me. I don't understand what you are  
02:55 25 trying to say here?



1 COMMISSIONER MacCALLUM: I didn't raise any  
2 problems. I wish you would just continue.

3 MR. LOCKYER: Well, I will. You are  
4 addressing me and I'm responding to you.

02:55 5 BY MR. LOCKYER:

6 Q Tell me this, sir; do you think in a case like  
7 this, where a person is saying 'look, I was  
8 convicted of a crime I didn't commit', that  
9 perhaps the police force which was involved in  
02:55 10 that conviction and whose work led to it -- in  
11 this case primarily of the Saskatoon Police, the  
12 RCMP played a limited role -- do you think, sir,  
13 it might be a good idea to take that police force  
14 out of the equation and put some independent  
02:56 15 agency into place to assist with the investigation  
16 of the case?

17 A You have got a lot of -- you know, if I had time I  
18 could sit here and explain what I felt and thought  
19 about that, but a police service is one of the  
02:56 20 most important functions in a functioning society,  
21 and my personal opinion, and at that time I know  
22 you didn't give the defence one inch to walk on in  
23 courts, and that, at that particular time. In  
24 some ways, thankfully, it's -- and I'm agreeing,  
02:57 25 I'm in agreement with an open society and access



1 to information by everything, including the  
2 courts, which I have worked at through the system,  
3 through the Board of Police Commissioners and  
4 that. And I brought materials just in case, but I  
02:57 5 would go on too long if I had to read some of this  
6 stuff to you, but I believe police services are  
7 getting better. But there was complete integrity,  
8 there was no conspiracy that I am aware of, or  
9 even came close, because I know I would have been  
02:57 10 speaking out about it. Because you can talk to  
11 morality officers, Inspector Penkala, if I didn't  
12 agree with something he knew about it.

13 COMMISSIONER MacCALLUM: Mr. Chartier, I'm  
14 sorry, that's not responsive to the question.  
02:57 15 I'm not sure you can answer the question anyway  
16 but what counsel was after was your opinion on  
17 the establishment of an independent commission or  
18 body to look into cases of claimed wrongful  
19 conviction.

02:58 20 MR. LOCKYER: No, no, no, no, you have  
21 misunderstood the question, Mr. Commissioner.

22 COMMISSIONER MacCALLUM: Oh, well, please  
23 ask it again then.

24 BY MR. LOCKYER:

02:58 25 Q The question was whether an independent body



1 shouldn't take over the case in the sense of  
2 rather than the Saskatoon Police being relied upon  
3 to provide information, an independent body, be it  
4 another police force, come in, look at the  
02:58 5 information the Saskatoon Police has, and then  
6 provide that to people who need it?

7 A You make some good points, but I disagree with it,  
8 just like the Aboriginal community want to set up  
9 their own policing. I think we've got to make the  
02:58 10 police service we've got in this country work  
11 right.

12 Q But certainly if we take the Saskatoon Police in  
13 this case right up to '92 -- and indeed  
14 thereafter, really, but let's just go up to '92,  
02:58 15 I'll limit the question to that -- they weren't  
16 providing information to David's counsel --

17 A I can't --

18 Q -- that would enable him to further his  
19 application?

02:59 20 A I can't answer that.

21 Q Uh-huh?

22 A That's their business.

23 Q Well it's, perhaps it shouldn't be their business,  
24 that's the point, sir. That's the question I'm  
02:59 25 putting to you, that it shouldn't have been their



1 business, because they were too intricately  
2 involved in the case from the beginning?

3 A Well, I think there is a little bit of truth to  
4 that, but even governments, you know, when they  
02:59 5 set up commissions and that or investigate someone  
6 else, the RCMP they brought came in from Alberta  
7 just for the perception, but I -- I'm --  
8 personally, I don't believe that's how policing  
9 should be done. The police officer, no matter who  
02:59 10 he is, he does his job the way Peel set it up in  
11 1829 and will not change from that.

12 Q Talking of media, sir, your story that you put in  
13 the media, the police back in 1969 were  
14 media-conscious; is that fair to say? Like they,  
03:00 15 for example they would put out announcements  
16 through the media that they had apprehended  
17 someone for a homicide, right?

18 A Umm, I'm sure that happened.

19 Q Of course.

03:00 20 A I know of cases that did. I can't remember this.

21 Q They would always do it, wouldn't they, when they  
22 arrested somebody?

23 A Certainly.

24 Q Pardon?

03:00 25 A Certainly.





1 Q Yes. So they were media-conscious in the sense of  
2 making announcements to put the public at ease  
3 that someone, a particular crime that the  
4 community would be particularly interested in, had  
03:00 5 been solved?

6 A Umm, --

7 Q By an arrest?

8 A -- by and large that's the case --

9 Q Yes?

03:00 10 A -- because media presence help, but there is a lot  
11 of things. Police, for some reason, became a  
12 secret society that -- what we did, but it's  
13 opening up and getting better.

14 Q But solving a serious case would generally be  
03:01 15 followed by a public announcement in the media;  
16 right?

17 A As far as I know that's how it works.

18 Q Yeah. The apprehension of a serial rapist for  
19 four sexual assaults committed in Saskatoon in a  
03:01 20 fairly short period of time would be the kind of  
21 thing that you would expect the police to announce  
22 to the media; am I not right?

23 A Yeah. Was it in the media? I, like I say, I  
24 don't know.

03:01 25 Q Just answer the question.



1 A Yeah, I would think that --

2 Q Yes?

3 A Yeah, I can't answer that because I don't know if  
4 it was in the media.

03:01 5 Q You would expect it, you would say, in a normal  
6 case?

7 A I think that I would expect it, but not --

8 Q Yeah. So you would have expected the apprehension  
9 of Larry Fisher and his guilty plea to being a  
03:01 10 serial rapist in Saskatoon would be something that  
11 the Saskatoon Police would be proud to announce to  
12 the media, and would want to announce to the  
13 media, to alleviate people's concerns?

14 A Well there's -- I can't, like I say, I would need  
03:02 15 to know the circumstances but I agree with you  
16 there.

17 Q Yes. And can you think of any circumstances where  
18 that wouldn't be --

19 A Well I don't --

03:02 20 Q -- expected to happen?

21 A I know I have -- I cannot recall the name Fisher  
22 from that particular time, --

23 Q Yes?

24 A -- so in the overall scheme of things I don't know  
03:02 25 where he became known, how he became known or



1 anything like that, so -- in fact I would have  
2 thought Mrs. Cadrain, somewhere along the line,  
3 would have said 'well this ...' -- no, she wasn't  
4 very well by that time.

03:02 5 Q But that's the point, sir, there wasn't any public  
6 announcement as far as I know, unless I get  
7 surprised, of any sort when Larry Fisher pleaded  
8 guilty to being a serial rapist in Saskatoon,  
9 there was no announcement whatsoever?

03:02 10 A I don't know that.

11 Q I'm telling you there wasn't, sir.

12 A Okay, then there wasn't.

13 Q Can you think of any reason why there wouldn't?

14 A Well, I don't know.

03:03 15 Q That's all I was --

16 A Is the media, or I mean the media waits for  
17 someone to send them over a note, and 'this is  
18 happening'. We now have, I think on this police  
19 service, a person that comes.

03:03 20 Q All right.

21 A But the media has been shrunk, like police  
22 services and everything else, and they way wait  
23 for information to come to them and they write  
24 about it.

03:03 25 Q Right?



1 A So I, I don't know the circumstances, so I won't  
2 comment. I think all things in society have to  
3 take a look.

4 Q Media can only announce what they know; right,  
03:03 5 sir?

6 A That's right.

7 Q And if the police don't tell them they are not  
8 going to know?

9 A The media, in my opinion, is the closest thing to  
03:03 10 an investigating officer. That's their job, to go  
11 out and question and talk to people and that, not  
12 to wait for things to come to them.

13 Q Tell me this; the fact that certainly some of the  
14 victims of Larry Fisher's rapes were never told  
03:04 15 that the culprit had been apprehended, but we keep  
16 hearing that there was no policy, then, to notify  
17 victims of crimes when an arrest was made, and I'm  
18 wondering, sir -- and perhaps I'll throw this  
19 question out at large -- if you know of any other  
03:04 20 case of a serious sexual assault that ever  
21 happened in Saskatoon where a person was  
22 apprehended and the victims weren't notified? Do  
23 you know of any other case?

24 A I can't remember, --

03:04 25 Q Yeah?



1 A -- but I could always go back through my memo  
2 books and find if --

3 Q You --

4 A I can't, I can't recall sitting here.

03:04 5 Q If you could find one, sir, I would love to hear  
6 about it, because I question whether there was  
7 ever any one --

8 A Yeah.

9 Q -- except in the case of Larry Fisher?

03:04 10 A Yeah, I don't know.

11 Q Uh-huh.

12 COMMISSIONER MacCALLUM: It's time for a  
13 brief break, Mr. Lockyer.

14 MR. LOCKYER: Yes.

03:05 15 COMMISSIONER MacCALLUM: 15 minutes.

16 *(Adjourned at 3:05 p.m.)*

17 *(Reconvened at 3:23 p.m.)*

18 BY MR. LOCKYER:

19 Q Umm, yes, I just want to ask you, a couple more  
03:24 20 areas I want to ask you about. One is you have  
21 been asked a lot about your role on May the 23rd  
22 in the hotel room and putting the hole in the  
23 wall, and I think it was pointed out to you first  
24 by, perhaps by Mr. Gibson on behalf of the RCMP,  
03:24 25 that -- and then Mr. Wolch followed up on it, that



1           you and Morrison had no other reason to be there  
2           other than for what you have described you did,  
3           right, putting the audio equipment in so that  
4           people in one room could hear what was going on in  
03:24 5           the other room?

6           A           That's right.

7           Q           And to record it as well?

8           A           That's right.

9           Q           And, indeed, we saw that -- I think we found,  
03:24 10           heard this when Mr. Hodson was questioning you on  
11           May 30th, you record yourself as having returned  
12           the recording to Mackie; remember that in your  
13           notes?

14          A           I think I said 'recorder' in the --

03:25 15          Q           Yes, I think you may be right. It was one or the  
16           other in any event?

17          A           The recorder.

18          Q           On May 30th?

19          A           Yes.

03:25 20          Q           A few days, a week later, in fact?

21          A           Right.

22          Q           And you assumed that referred to the same --  
23           referred to what -- to the May 23rd?

24          A           I assumed that's right.

03:25 25          Q           Yes. All right. Umm, now do you remember, sir,



1 if you were told by Roberts at your -- well you, I  
2 guess you won't remember this from the week before  
3 because you don't even remember going to see him,  
4 but do you have any memory, sir, of discovering  
03:25 5 that it was polygraphy practice that interviews in  
6 which polygraph machines were used should  
7 generally be tape-recorded?

8 A No, I can't remember that.

9 Q You can't remember hearing that?

03:26 10 A No.

11 Q Or finding that out in some form or another?

12 A No. I never read that book Roberts wrote, but it  
13 was an RCMP kind of Bible, so it could easily  
14 enough have been.

03:26 15 Q All right.

16 A But I'm not aware of it.

17 Q Umm, I actually didn't know he had written a book;  
18 did he write a book on it?

19 A On polygraph, yeah.

03:26 20 Q Okay.

21 A Yeah.

22 Q I didn't know that.

23 A Yeah.

24 Q Now by May 23rd, sir, I know your involvement had  
03:26 25 been fairly limited in the case, but perhaps I can



1           just take you through a series of propositions and  
2           see if you agree with them. I think the first one  
3           is going to be pretty easy to agree with. This  
4           was a particularly nasty and unpleasant homicide;  
03:26 5           right?

6           A       The Gail Miller?

7           Q       Yes?

8           A       Yes it was.

9           Q       Yes. And by May 23rd it's remained unsolved for  
03:26 10          close to four months?

11          A       Yes.

12          Q       And does it -- is it fair to say that, in a case  
13          as unpleasant as this, that there would be a lot  
14          of pressure on the police to solve it, both  
03:27 15          publicly --

16          A       There is always pressure to solve all crime, you  
17          know, --

18          Q       Yes?

19          A       -- but there's many crimes that are never solved  
03:27 20          so --

21          Q       But the more serious the crime --

22          A       The public, you are speaking the public interest,  
23          or as far as the police?

24          Q       I'm talking both, really, the more -- a crime like  
03:27 25          this, not only is there a lot of public pressure





1 on the police to solve the crime, but the people,  
2 the police working on the crime are going to feel  
3 a lot of internal pressure just from their own  
4 selves to solve such a nasty crime?

03:27 5 A I think that's it.

6 Q Is it?

7 A When you investigate something you want to get it  
8 cleaned up.

9 Q Develop -- well probably a bit more than that in a  
03:27 10 case like this, sort of a personal involvement  
11 that you -- this was a really unpleasant murder  
12 and if there's one person you want to get it's the  
13 person who did this; is that right?

14 A Well when you have got a stack of files, you have  
03:28 15 got 20 or 30 files there, you've got numerous  
16 other things that you are thinking about now, and  
17 when you are on a murder file you concentrate on  
18 digging up all the information you can in the  
19 beginning --

03:28 20 Q Right?

21 A -- and then over time it's developing things, and  
22 that's happened a great majority of the time.

23 Q And in this case, sir, at least up until perhaps  
24 we should say May 22nd, arguably there really  
03:28 25 didn't seem -- it didn't seem the police were



1           having a whole lot of success solving the crime;  
2           was that your impression as of the 23rd of May?

3       A       I think that's why I asked the question of someone  
4           'is he going to be charged?'

03:28 5       Q       Right.

6       A       You know, and --

7       Q       And there were a whole lot of officers there, as  
8           Mr. Wolch pointed out to you, seven if you count  
9           Roberts and yourself; right?

03:28 10      A       Yeah, well I never saw Roberts in the room, I saw  
11           him in a hallway but --

12      Q       And that must have made you appreciate, at the  
13           time, that what was going on on May 23rd was  
14           perceived as possibly a very significant  
03:29 15      development in the case; you wouldn't have seven  
16           officers in the same place otherwise?

17      A       Well there -- Robin's Donuts.

18      Q       True.

19      A       You know, it's --

03:29 20      Q       But not the sixth floor, or whatever floor it was,  
21           at the Sheraton hotel?

22      A       It's not unusual to have a group of police  
23           officers because, like you said before, there is a  
24           culture and you talk about these things.

03:29 25      Remembering it becomes another thing. That's why



1           they give us those memory books, and hopefully  
2           they jar one's memory, but --

3       Q       Could --

4       A       -- I wouldn't call this unusual.

03:29 5       Q       Could we focus it on Gail Miller's case, sir. We  
6           had all --

7       A       I would --

8       Q       -- the senior officers involved in the  
9           investigation, --

03:29 10      A       Yes.

11      Q       -- at least as best as I can tell, were there;  
12           Wood, Short, Mackie and Karst, all four of them  
13           were there; you have a chap which had come from  
14           Calgary, which today might not seem like a long  
03:30 15           way but then seemed like a bit further if you go  
16           back to '69; and then you and your partner as  
17           well? It was suggested that there was kind of a  
18           hope that something may happen that day that could  
19           cause a break in the Gail Miller murder  
03:30 20           investigation?

21      A       I would suspect that was some of the --

22      Q       Fair enough?

23      A       -- feeling, yes.

24      Q       Yes. And you don't recall, sir, any sense of  
03:30 25           excitement or relief or like a breakthrough, you



1 don't recall anything like that occurring that  
2 day; is that right?

3 A No. I can only, in any case I have -- there's  
4 only one case I can remember over the years that  
03:30 5 there was kind of a celebration when it got -- it  
6 ended, but -- or getting close to being terminated  
7 -- wrong word. Anyhow, I can't say I felt  
8 anything like that.

9 Q All right.

03:31 10 A I didn't know what was going to happen.

11 Q And do you think, sir, if there had been a major  
12 break in the case which you were privy to and  
13 present at when it took place, that you would  
14 likely recall it?

03:31 15 A Record?

16 Q Recall it?

17 A Recall?

18 Q Remember it, sorry?

19 A Oh, if there would have been something there  
03:31 20 that -- you know, a few things jar my memory which  
21 I remember to this day, and many of the things you  
22 are asking me now I cannot truthfully answer and  
23 so --

24 Q So I'm not quite sure you answered my question.

03:31 25 A Yeah, well no, I can't.



1 Q I know you can't. I'm saying do you think it  
2 would have happened that you would likely remember  
3 it if in fact, in your presence, a major  
4 breakthrough had occurred in the Gail Miller  
03:31 5 homicide investigation?

6 A To you it might seem insignificant, the things I  
7 do remember which I have remembered all these  
8 years, but these things that you are putting to me  
9 I can't remember.

03:32 10 Q I'll give up.

11 A Except the ones in my notes and I can say 'well  
12 here's the note that I made'.

13 Q All right. Well I give up, sir, I'll go on to  
14 something else.

03:32 15 I want to go on to a couple  
16 things you told the RCMP in 1993. If we could go  
17 to 043968, please, and then move to 043974,  
18 towards the bottom of the page. This is a, an  
19 extract of the RCMP's record of your interview  
03:32 20 with them, sir, on February 10th, it says '98 but  
21 as Mr. Hodson points out it's obviously February  
22 10th of 1993. And you said there, at the bottom  
23 of that page right here, that:

24 "Chartier freely admitted that the inner  
25 structure of the police department at



1                   that time was not good."

2                   If we then turn to the next page, 73:

3                   "Quite often Morality members would be  
4                   working on files that may have been  
5                   similar to ones being investigated by  
6                   the Detectives. There was no  
7                   correspondence between both depts. and  
8                   it may be added one group was on the 1st  
9                   floor while the other was on the 3rd  
10                  floor."

11                 Umm, does that mean, sir, that, if we assume that  
12                 you are right that Mackie was the one in charge  
13                 of this case at the hands-on level, all right,  
14                 that's what you think?

03:33 15         A         Right.

16         Q         Are you suggesting he wouldn't have been seeing  
17                   the morality police reports, they wouldn't have  
18                   come across his desk?

19         A         The morality files?

03:33 20         Q         Yes?

21         A         No.

22         Q         They wouldn't have come across his desk?

23         A         No.

24         Q         He wouldn't have seen them?

03:33 25         A         No.



1 Q So it was sort of like the left hand working on  
2 floor 1, and the right hand working on floor 3,  
3 and never the twain shall meet?

4 A Well I can go back to '75 and an identical thing  
03:34 5 at that particular time, so no, he wouldn't have  
6 been, and he wouldn't have been reading it,  
7 because, call it what you want, the culture,  
8 that's how we did things in those days.

9 Q I don't understand a culture which deprives itself  
03:34 10 of information on purpose? I don't understand.

11 A Well detectives were specialists, which I have  
12 always complained, morality were corporals. This  
13 is a ranking, you know, you get the rank corporal  
14 you are a morality officer, you get the rank  
03:34 15 sergeant you are a detective or a patrol sergeant,  
16 whatever.

17 Q Maybe we're at crossed purposes.

18 A And I ended as a sergeant, other than what you  
19 might have believed earlier.

03:34 20 Q Yeah.

21 A Anyhow, it's --

22 Q Can I cut you off, because I think we may be at  
23 crossed purposes here. My question is where the  
24 two groups, morality and the detectives, are  
03:34 25 working on the same case would they not share



1           their reports?

2       A       Well, they wouldn't be working on the same case, a  
3           file is assigned to someone --

4       Q       Okay?

03:35 5       A       -- and that's that person who has -- now did Ray  
6           Mackie go and talk to -- I can't tell you that.

7       Q       Well morality was, as I understand morality  
8           officers were doing work on the Gail Miller  
9           homicide, and if Mackie is in charge of that  
03:35 10          wouldn't he at least see their reports that they  
11          generate? Surely he would.

12      A       I -- on that file, yes, the Gail Miller file would  
13          have gone up.

14      Q       That was the question.

15      A       Yes.

16      Q       So that's why I thought we might be at crossed  
17          purposes, it just seemed --

18      A       Oh, if it was Gail Miller, yes, constables worked  
19          on that one, and as a constable you would leave an  
03:35 20          investigation report, Gail Miller, it would go up  
21          to Mackie. He would see everything that's --

22      Q       All right. So whether it was generated by a  
23          morality officer, or by a detective, or by a PC,  
24          work on the Gail Miller file would have ended up  
03:35 25          with the officer in charge?





1 A The occurrence number and the file would have gone  
2 to him as he was assigned that file of the Gail  
3 Miller murder.

4 Q Okay, that makes sense to me, and I couldn't  
03:34 5 believe that wasn't the case. My question is  
6 going to take it one step further. We also know,  
7 sir, that the RCMP was working on this case;  
8 right?

9 A I believe they always helped anywhere they could.

03:35 10 Q Well, on this case they actually had some --

11 A I don't know. I can't remember any direct --

12 Q I'm telling you they had some assignments on the  
13 Gail Miller homicide which they carried out which  
14 generated RCMP police reports. You understand me?

03:35 15 A Yes.

16 Q Can I -- why are you pointing --

17 A This one here you are talking about or --

18 Q Which one where? I don't know what you mean.

19 A Well, the one up on my screen. This was the RCMP  
03:35 20 who left this particular --

21 Q No, no, I'm talking about the Gail Miller murder  
22 in 1969. This is '93.

23 A I'm not aware of any of --

24 Q I'm telling you, can you accept it as a fact?

03:35 25 A I'll accept it.



1 Q That in '69 the RCMP were asked to help, they  
2 agreed to help and they generated reports as a  
3 part of helping. You follow me?

4 A Yes.

03:35 5 Q Can I safely assume, sir, that an RCMP report on  
6 the Gail Miller homicide would also get before  
7 Mackie, assuming he's the officer in charge?

8 A It should. If it was the Gail Miller murder file,  
9 it would have gone to that investigator.

03:36 10 Q So there was a sharing both within the Saskatoon  
11 Police Service and also if the RCMP got directly  
12 involved in the same case, a sharing from the RCMP  
13 with the Saskatoon Police Service as well?

14 A Yes, or any police service.

03:36 15 Q Or any other police service for that matter?

16 A Yes.

17 Q All right, that's what I wanted to know. So I can  
18 actually finish with that. Could you bring it  
19 back, please?

03:36 20 A I thought that was what you were referring to  
21 because I was looking at that.

22 Q No, I was referring to what you said and then  
23 trying to relate it back to '69, that's what I was  
24 doing. Was there -- insofar as there was a lack  
03:36 25 of communication, sir, which you have suggested,



1 I'm not quite sure what it was now in the context  
2 of what you said in '93, but insofar as there was  
3 a lack of communication between the first floor  
4 and the third floor, all right, which is what you  
03:37 5 talk about here --

6 A Yes.

7 Q -- was that partly a question of rivalry between  
8 two separate branches of the Saskatoon police?

9 A I wouldn't say branches, but there is no doubt we  
03:37 10 as patrol officers and that always felt that we as  
11 patrol might have got information handed on, up to  
12 wherever, or down to wherever, and we could never  
13 get anything back, or officers at that particular  
14 time, some of them, seemed to be very, "That's my  
03:37 15 file, I'm going to look after it, my informants,"  
16 and it usually centred around informants than  
17 anything else, because if you developed an  
18 informant you didn't want, at that time you didn't  
19 want anyone else to know about it, so you are  
03:38 20 partially right, but not all together because  
21 there were a lot of officers at that time who were  
22 very good at sharing information and moving it  
23 back and forth, so --

24 Q Sort of the exception proves the rules, sir?

03:38 25 A Yes.



1 COMMISSIONER MacCALLUM: I'm sorry, I have  
2 to ask the witness, when you use the term  
3 officers, sir, are you speaking in general about  
4 any policemen or about the commissioned officers?

03:38 5 A The officers are usually from the commissioned  
6 rank down. I'll speak of the commissioned rank  
7 are the supervisors.

8 COMMISSIONER MacCALLUM: So when you talk  
9 about a rivalry, you mean amongst patrolmen or  
03:38 10 constables or anybody like that?

11 A Well, not constables. We as patrolmen always felt  
12 that detectives or morality or wherever seemed to  
13 keep secret what we felt should have been spread  
14 throughout the whole service, so this goes back to  
03:39 15 those '60s era. That came to be improved over  
16 time.

17 BY MR. LOCKYER:

18 Q So I'm not quite clear what you are saying. Are  
19 you saying then that there was this sense of  
03:39 20 rivalry amongst many, as between many officers or  
21 indeed as between the first floor and the third  
22 floor?

23 A Not rivalry, secrecy, we didn't want them knowing  
24 what we were doing type of deal because of -- and  
03:39 25 usually that centred around informants, because



1           someone didn't want this officer to know who the  
2           informant was.

3           Q       Well, was it ever that one -- did you ever get a  
4           sense that there was a desire on the part of, say,  
03:40 5           morality if they were investigating a crime, that  
6           they wanted to be the ones to solve it rather than  
7           have the detectives, I'm not sure if it was  
8           detectives upstairs or downstairs, I don't know  
9           who was on the first and third floors, but  
03:40 10          whichever way around it was, they didn't want the  
11          detectives to get credit for solving it?

12          A       Well, I think there was self interest in some  
13          cases.

14          Q       And while we're on that page, sir, I just want to  
03:40 15          read the next paragraph. This is how the RCMP  
16          recorded what you said to them or how they  
17          paraphrased it.

18                    "It doesn't surprise him --"

19          Meaning you obviously,

03:40 20                   "-- that a person admitting to some  
21                   offences would not be considered for  
22                   other unrelated offences or even similar  
23                   offences that were being investigated by  
24                   different members as there was no  
03:40 25                   'interdepartmental' correspondence."



1 Now, I assume that what you are talking about  
2 there is that the RCMP have raised with you the  
3 fact that Larry Fisher had admitted to a bunch of  
4 rapes which had never been connected to Gail  
03:41 5 Miller's murder. Is that right, is that the  
6 predicate of what's reported there? It would  
7 seem to be. I can't make sense of it.

8 A Did they talk to me about Fisher? You know, I  
9 can't recall. Is there anything on this thing  
03:41 10 talking about this being related to Fisher,  
11 because --

12 Q No, but when it talks about a person admitting to  
13 some offences, it immediately raises the antenna  
14 that they are talking about Fisher admitting to  
03:41 15 the rapes, right, so if I can translate how I  
16 would interpret this --

17 A Didn't --

18 Q -- you are saying it doesn't surprise me that  
19 Fisher having admitted to the rapes wouldn't be  
03:42 20 considered for Gail Miller's murder that was being  
21 investigated by different members, that's how I  
22 would read what's written there. Is that a fair  
23 reading?

24 A Well, I can name a person right now who's still  
03:42 25 incarcerated in B.C. who at that particular time



1 was doing the same thing, so --

2 Q Is that a fair reading of what happened here, sir,  
3 of this conversation?

4 A It's -- I don't know what these officers were  
03:42 5 thinking. I say it's a possibility because --

6 Q All right. I'm just asking you, sir, is that the  
7 conversation that you had with the RCMP in 1993  
8 that led to this?

9 A Like you said, they are paraphrasing it also.

03:42 10 Q Right.

11 A They've written it. They weren't taking notes as  
12 I talked to them and they left this report  
13 sometime after.

14 Q But do you remember saying to them in effect that  
03:42 15 it didn't surprise you that, the fact that Larry  
16 Fisher had admitted to a bunch of rapes wasn't  
17 considered --

18 A Did they say that to me?

19 Q No, I'm asking you if you said this, that in the  
03:43 20 course of the conversation you said to them it  
21 didn't surprise you that the Larry Fisher rapes  
22 that he admitted to hadn't been connected with the  
23 Gail Miller murder. Did you say that to them or  
24 words to that effect?

03:43 25 A I can't recall saying that at all because I didn't



1 know Fisher or of Fisher and --

2 Q Well, you would have by '93, sir.

3 A Well, possibly. Like I say, it doesn't ring a  
4 bell at that time or along the way until this  
03:43 5 thing, I would say, somewhere in the '90s.

6 Q But by this time David Milgaard has already been  
7 set free by the Supreme Court of Canada --

8 A Yeah.

9 Q -- primarily on the basis of Larry Fisher having  
03:43 10 committed the rapes, so you would have known that.

11 A Right, but I don't know what they are referring to  
12 if in fact that was Larry Fisher or are they  
13 talking generally how the department operated.

14 Q See, the problem --

03:44 15 A If you show the previous paragraph there where I  
16 talk about how we're set up and that and how I  
17 know many times I didn't know information that I  
18 would have liked to have known about, so did they  
19 say Fisher to me? They might have. I'm not  
03:44 20 denying that.

21 Q If I can, if we can assume for a moment, and I  
22 think it's a fair assumption, that this was said  
23 in the context of the Larry Fisher admissions to  
24 being the serial rapist in Saskatoon, all right,  
03:44 25 are you with me?





1 A Well --

2 Q Would it affect what you had said, sir, if you had  
3 known, when you said this, that the officer who  
4 had taken the admissions from Larry Fisher was one  
03:44 5 of the officers who was deeply involved in the  
6 investigation of Gail Miller's murder. You didn't  
7 need interdepartmental correspondence unless you  
8 were going to send it to yourself. Do you see  
9 what I mean?

03:45 10 A I had nothing to do with it, so I can't respond to  
11 that. I'm just describing how the place operated  
12 at that particular time.

13 Q Because it might have affected how you would have  
14 answered that if you had realized that it was  
03:45 15 Karst who had got the admissions from Larry Fisher  
16 who was the same person who had been deeply  
17 involved in the Gail Miller murder investigation.  
18 You see the point?

19 A It was years later that I learned that Karst was  
03:45 20 that closely involved with that thing. That's --

21 Q I see. So when you spoke to the RCMP in '93, you  
22 didn't realize that Karst had played a role in the  
23 Gail Miller murder?

24 A Yes, Gail Miller murder, but the Fisher part is  
03:45 25 not where I'm connecting somehow or other.



1 MR. LOCKYER: All right, that's all.

2 Thanks.

3 MR. HODSON: I understand that Mr. Wilson  
4 wishes to question and I believe Ms. Knox may  
03:46 5 wish to.

6 MS. KNOX: In one area.

7 MR. HODSON: So --

8 MR. LOCKYER: Is this sort of a  
9 re-examination? We would be last.

03:46 10 MR. HODSON: Mr. Wilson advised me, based  
11 on evidence I believe that came out in either  
12 your cross-examination or Mr. Wolch's  
13 cross-examination, that he now has questions that  
14 relate to his client, and I don't know what  
03:46 15 Ms. Knox wishes to address.

16 MS. KNOX: I would be happy for Commission  
17 Counsel to do it.

18 MR. HODSON: I can deal with Ms. Knox's  
19 concern on re-exam, it just relates to a document  
03:46 20 that I think I did put to the witness, and I'm  
21 not sure what Mr. Wilson -- Mr. Wilson can  
22 address what he wishes to cross-examine on.

23 COMMISSIONER MacCALLUM: Yes, Mr. Wilson?

24 **BY MR. WILSON:**

03:46 25 **Q** Thank you, Mr. Commissioner. I apologize for not



1           having been present this morning or it might have  
2           been in a different order, but I don't think what  
3           I'm about to do will offend anyone.

4                       Mr. Chartier, my name is Garrett  
03:47 5           Wilson and I represent Serge Kujawa, and I take it  
6           from the viewpoint article that you've heard so  
7           much about today, that you knew Mr. Kujawa during  
8           his time as director of public prosecutions in the  
9           Province of Saskatchewan?

03:47 10          A           Yes.

11          Q           And you in fact worked with him?

12          A           Yes.

13          Q           And you had some opinions about Mr. Kujawa's  
14           ability and competence as a prosecutor?

03:47 15          A           As a police officer, I thought he was too  
16           perfectionist because of dealings I've had with  
17           him on other deals, but I learned over time that  
18           he was a very wise man.

19          Q           What about his principles, was he highly  
03:48 20           principled?

21          A           Untouchable.

22          Q           High standards of integrity?

23          A           Yes. Like I said, at one time, like, judges and  
24           lawyers and that, as a young officer you were  
03:48 25           critical about these people, but wisdom sometimes



1 takes over along the way and you understand what  
2 they talked about and were about was right.

3 Q So I take it that you had a very high regard for  
4 him as a prosecutor?

03:48 5 A Yes, I did.

6 Q Can you tell us whether or not your opinion was  
7 generally shared amongst others in the criminal  
8 justice system?

9 A I couldn't tell you that.

03:48 10 Q Can you say anything about his reputation  
11 generally other than --

12 A Oh, I can't recall any detrimental things from  
13 people, politicians or prosecutors that really  
14 were down on Serge at all. They always respected  
03:49 15 him for what he was.

16 MR. WILSON: Thank you.

17 BY MR. HODSON:

18 Q I just have a couple of points in re-exam. The  
19 first was raised by Ms. Knox and I think I touched  
03:49 20 on this in my direct exam, if you could call up  
21 document 106616, and I think you had testified  
22 that you were not aware of the RCMP being involved  
23 in this investigation and I think I raised this  
24 with you, I will just raise it with you again, it  
03:49 25 appears --



1 A Yes, I remember that deal.

2 Q With Corporal Rasmussen, and I think you told us  
3 that you checked someone out of town?

4 A That's right, to go out of town we had to contact  
03:49 5 an RCMP officer to take us out of town. We  
6 couldn't investigate anything out of the  
7 perimeters of Saskatoon, so --

8 Q And the other point, Mr. Wolch -- I had asked you  
9 the question about your attendance in Calgary to  
03:50 10 see Inspector Roberts before he came to Saskatoon  
11 and I think you said that you and Morrison went to  
12 Calgary for a day or two to visit him and the  
13 polygraph; is that correct?

14 A That's right.

03:50 15 Q And I wasn't clear, based on the answer you gave  
16 to me and the answer you gave to Mr. Wolch, as to  
17 whether or not that visit was connected to the  
18 Gail Miller murder investigation?

19 A I can't say definitively, but I assume it was  
03:50 20 because of the time frame. I remember the visit  
21 and talking to him there, but --

22 Q And I believe I had asked you yesterday, and I may  
23 have not got this right, whether you were just  
24 going there for training or education in your role  
03:50 25 as NCIU or whether it was in connection with, at



1 least in part, to do with the Gail Miller murder  
2 case, and I think you've said that you think it's  
3 the latter?

4 A Yeah, I think it must have, plus the polygraph  
03:51 5 was, at least to Saskatoon, kind of new, so we  
6 probably wanted to know a little bit about it, but  
7 how it came about I can't tell you. Someone did  
8 direct us, but who and what I don't know.

9 MR. HODSON: Thank you. Those are all the  
03:51 10 questions in redirect I had.

11 COMMISSIONER MacCALLUM: Thank you. Mr.  
12 Chartier, thank you very much for coming. You  
13 are excused.

14 MR. HODSON: Thank you very much. The next  
03:51 15 witness in Bob Morrison.

16 ROBERT G. MORRISON, sworn:

17 BY MR. HODSON:

18 Q Good afternoon, Mr. Morrison. Can you tell us  
19 your age and residence, please?

03:52 20 A I'm 66 and I live at 210 Whitney Avenue North in  
21 Saskatoon.

22 Q And I understand that you were a member of the  
23 Saskatoon Police Service from 1961 to 1997?

24 A That's correct.

03:52 25 Q And that you retired as a superintendent; is that



1 correct?

2 A That's correct.

3 Q And if I could call up document 325555 and go to  
4 page 59 and, Mr. Morrison, this is a record that  
03:53 5 the Saskatoon Police Service has recently provided  
6 to us, and does this accurately set out your dates  
7 and positions or ranks held with the police  
8 service during your career with them?

9 A Yes.

03:53 10 Q And I note April 21st, 1969, special surveillance  
11 unit, what was that about?

12 A That was when I was in NCIU.

13 Q Now, I understand that you have been present for  
14 all or most of Mr. Chartier's evidence before this  
03:53 15 inquiry; is that correct?

16 A Yes, I have.

17 Q And we've heard about this National Criminal  
18 Intelligence Unit and he described how you were  
19 his partner; is that correct?

03:53 20 A Yes.

21 Q And do you recall when you would have started  
22 that?

23 A I don't recall the date, but Mr. Chartier said it  
24 was in 1968 and I would have to go along with his.

03:54 25 Q He also talked about going to Ottawa in February



1 for a course. Did you go to that?

2 A Yes, I did.

3 Q And does that time frame sound correct to you?

4 Are you able to tell us --

03:54 5 A Yes, it does.

6 Q And can you tell us in your own view, sir, what  
7 was the National Criminal Intelligence Unit about,  
8 what was your role in that?

9 A I'm not sure it was National Criminal, I think it  
03:54 10 was National Crime.

11 Q Okay, I'm sorry.

12 A NCIU.

13 Q National Crime Intelligence Unit?

14 A Yes, and it was to do with major crimes across  
03:54 15 Canada.

16 Q When you say major crimes, what did you mean by  
17 that?

18 A Something that was going on in all the provinces.

19 Q Would it relate to intelligence?

03:54 20 A Gathering.

21 Q Intelligence gathering?

22 A Yes.

23 Q How would it be different than other major crimes  
24 in each local police force? Let me give it --  
03:55 25 when you say major crimes, are you talking about





1 homicides, are you talking about a specific type  
2 of crime or a network of crimes?

3 A No, I think back in those days it was mainly  
4 gambling. I think we might have been involved in  
03:55 5 some drug work at the same time.

6 Q And who -- and again how long did you, were you  
7 active in the NCIU?

8 A I think just a couple of years.

9 Q And who did you report to?

03:55 10 A Superintendent Wood.

11 Q And can you tell us, was there any secrecy that  
12 surrounded the work that you were doing in NCIU at  
13 that time?

14 A I wouldn't consider it secrecy. I think it was on  
03:55 15 a need-to-know basis.

16 Q And what does that mean, who fits in the need to  
17 know?

18 A Whoever Superintendent Wood would decide should be  
19 aware of what we were doing or if somebody asked  
03:56 20 for our assistance to help investigate a file,  
21 they would be in on what we were doing.

22 Q So that if you were involved in an investigation,  
23 is what you are telling us that only those  
24 officers who needed to know for some reason would  
03:56 25 know, otherwise it was secret?



1 A Yes.

2 Q And why was that?

3 A I think the whole department didn't need to, you  
4 know, from the lowest constable right up to the  
03:56 5 chief, there was no need for them to have that  
6 kind of information.

7 Q And can you tell us, help us understand what the  
8 purpose was of keeping it secret from others in  
9 the police force?

03:56 10 A In case the information leaked out.

11 Q And what information would you be referring to?

12 A Anything that we had gained.

13 Q And would this practice or this secrecy, for lack  
14 of a better word, would that be different than  
03:57 15 other work you would have done with the police  
16 force, non-NCIU work if I can call it that?

17 A Anything else we would have done would have been  
18 quite open.

19 Q What about your practice at NCIU for reporting  
03:57 20 what you did, was it the same as your regular  
21 police work, if I can call it that?

22 A Do you mean in written notes?

23 Q Yeah. Let me try that again. When I refer to  
24 regular police work, I'm talking about your duties  
03:57 25 as an officer when you were not doing NCIU work.



1 Do you understand that reference?

2 A Yeah.

3 Q And so as a non-NCIU officer, as a regular  
4 officer, was it your practice to record in your  
03:57 5 notebook what you did?

6 A Yes, everything.

7 Q Everything. And was it your practice to prepare  
8 investigation reports?

9 A Yes.

03:57 10 Q And that would be detailing what you did?

11 A Yes.

12 Q And the purpose of that report would be to tell  
13 others who were involved as to what you did and  
14 what you found; is that fair?

03:58 15 A That's correct.

16 Q Now, in your NCIU work, what were your practices  
17 with respect to recording your notes in your  
18 notebook and preparing reports?

19 A We didn't make any notes in our book. We kept a  
03:58 20 log in our office as to what we were working on.

21 Q And what was the, what was your understanding as  
22 to -- first of all, were you told by someone not  
23 to take notes or make reports?

24 A That's correct.

03:58 25 Q And who told you that?



1 A Superintendent Wood.

2 Q And did you have an understanding as to why you  
3 should not be taking notes and writing reports?

4 A Again, if the reports were sent in, they would be  
03:58 5 typed by the civilian staff in central registry  
6 and then funneled back to the department where  
7 they -- so there would be a chance for too many  
8 people to read them.

9 Q And so you had a log then, and where was the log  
03:59 10 located?

11 A In our office downstairs.

12 Q And that was an office you shared with Mr.  
13 Chartier was it?

14 A Yes.

03:59 15 Q And who would see that log?

16 A Superintendent Wood and Rusty and I.

17 Q Now, help me understand, I take it during this  
18 time that you did other police work, non-NCIU  
19 work; is that fair?

03:59 20 A Yes.

21 Q And I think you said the NCIU work was a certain  
22 type of investigation that would put it under the  
23 umbrella of NCIU; is that fair?

24 A Yes.

03:59 25 Q And would that be gambling, organized crime, those



1 sorts of things?

2 A Yes.

3 Q And in those cases you would need to be, keep  
4 things a little more secret than you otherwise  
03:59 5 would; is that fair?

6 A That's correct.

7 Q And I take it as well that in NCIU that you  
8 developed skills in surveillance and other things  
9 that would be used more in the NCIU type of work?

04:00 10 A Yes.

11 Q And would it be fair to say that -- let's talk  
12 about surveillance and hidden microphones and  
13 things like that. Was that something, a skill  
14 that you required to do your NCIU work?

04:00 15 A Yes.

16 Q And did you get some training in that?

17 A Some, and most of it on the job.

18 Q Now, I take it there would be occasions then,  
19 would there, where you would take this skill and  
04:00 20 use it on a file that didn't fit within the NCIU  
21 umbrella; in other words, it wasn't a national  
22 crime file on gambling or organized crime. Do you  
23 understand what I mean?

24 A Yes.

04:00 25 Q And that you would simply be doing -- let me give



04:00 1           you an example. Someone asked you to go out and  
2           do surveillance on a suspect or something and you  
3           were picked to do that because you had that skill  
4           set because of your NCIU background, that  
5           happened?

6           A           Yes.

7           Q           And let's say it's on a break and enter or a  
8           break-in or a robbery or something like that. Do  
9           you understand what I'm saying?

04:01 10          A           That's correct.

11          Q           And so in that case you would be doing work not on  
12          an NCIU matter, but you would be using your NCIU  
13          skills; is that fair?

14          A           That's correct.

04:01 15          Q           In that case, what was your practice about making  
16          notes and preparing reports?

17          A           We would do those.

18          Q           You would do reports?

19          A           Yes.

04:01 20          Q           And why would you do those reports?

21          A           To let the investigator know what we had come up  
22          with.

23          Q           Now I want to turn your attention to the Gail  
24          Miller murder investigation. Do you recall the  
04:01 25          Gail Miller murder and the subsequent



1 investigation?

2 A Yes.

3 Q You remember it happening, you were in the police  
4 force?

04:01 5 A I remember it happening.

6 Q Do you recall whether you were involved in that  
7 investigation?

8 A No.

9 Q In particular, and I will go to document 009264  
04:02 10 and I will go to the fourth page, 009267, and if  
11 we could call out that paragraph, and this is a  
12 report of May 25, '69 prepared by a Detective  
13 Karst and it talks about on Friday, May 23rd, I  
14 attended at 608 Cavalier Motel in the company with  
04:02 15 Inspector Wood, Lieutenant Short, Detective  
16 Sergeant Mackie, Constable Chartier and Morrison,  
17 and at 3:00 p.m. I called at room 610, etcetera.  
18 Now, you've been here to listen to Mr. Chartier's  
19 evidence, so I won't go through everything he said  
04:02 20 about what he recalls of that day. You heard his  
21 evidence about setting up a listening device in  
22 the next room where Inspector Roberts interviewed  
23 some witnesses?

24 A Yes, I did.

04:03 25 Q Do you recall being present at that time?



1 A No, I didn't.

2 Q You didn't or you don't recall?

3 A I don't recall being -- I read this when I was  
4 interviewed and I don't recall being there.

04:03 5 Q Do you have any reason to dispute, (a), this  
6 report that says, this police report that says you  
7 were there on that date?

8 A Well, that's the only thing I can go on. If it  
9 said I was there --

04:03 10 Q Well, I --

11 A I don't recall it at all.

12 Q I appreciate that, but I'm asking you whether you  
13 have any reason to dispute this report saying you  
14 were there?

04:03 15 A No.

16 Q And do you have any reason to dispute Mr.  
17 Chartier's version of events what happened that  
18 day as you heard them before this inquiry about  
19 the setting up of the recorder, the drilling the  
04:03 20 hole in the wall and setting up the mike?

21 A I don't remember that at all.

22 Q I appreciate that. Do you have any reason --

23 A No.

24 Q -- to dispute it?

04:04 25 A No, no reason to dispute it.





1 Q And did you keep a notebook?

2 A I did.

3 Q And I understand that you no longer have it?

4 A No.

04:05 5 Q And that was destroyed some time ago; is that --

6 A Yes it was.

7 Q Was that when you left the force?

8 A I had some that I took with me, and some were left  
9 at the station, and I believe all the ones at the  
04:05 10 station were destroyed when they were making room  
11 for new space.

12 Q Do you have any recollection of going to Calgary  
13 with constable -- or Mr. Chartier, Constable  
14 Chartier at the time, to see Art Roberts?

04:05 15 A I didn't, but when I was listening to his  
16 testimony I can say yes, I was in Calgary with  
17 him.

18 Q Okay. So hearing him tell about that refreshed  
19 your memory; is that right?

04:06 20 A Yes it did.

21 Q All right. And what do you remember?

22 A Just going to see Inspector Roberts at the Calgary  
23 City Police station. We went down into the  
24 polygraph suite of his, took a look at the way it  
04:06 25 was set up, and that's all that remains with me.



1 Q And do you recall meeting Inspector Roberts back  
2 in Saskatoon at any time after that?

3 A Yes.

4 Q Okay.

04:06 5 A Umm, I remember him coming to the police station  
6 and I think he did some in-service training.

7 Q And can you tell us when that would have been in  
8 relation to the Gail Miller investigation?

9 A I think it was after the Gail Miller  
04:06 10 investigation.

11 Q And so you recall him coming and giving training;  
12 was it on the polygraph?

13 A No, surveillance, I think it was to do with  
14 surveillance techniques.

04:06 15 Q And do you remember who else was there?

16 A No I don't.

17 Q And you attended the training?

18 A Yes I did.

19 Q Now back, and again back to your time when you  
04:07 20 were on NCIU, do you recall bugging rooms and  
21 listening in on interviews or discussions on other  
22 cases?

23 A I can recall doing rooms but not listening in on  
24 other investigations.

04:07 25 Q Okay, or I'm sorry, let me rephrase that. When



1           you say you 'recall doing rooms', I don't know if  
2           that 'bugging' is the right word, but putting a  
3           mic' in a room and listening to what's going on;  
4           was that something that was a practice --

04:07 5           A           Yes.

6           Q           -- that was fairly common for you?

7           A           Yes.

8           Q           And so it would not be unusual for you to set up a  
9           hidden microphone in a room to secretly tape or  
04:07 10          record, at least from some of the people in the  
11          room, what's going on?

12          A           Yes.

13          Q           And so that would be common practice?

14          A           Yes.

04:08 15          Q           And would you and Mr. Chartier be doing that then?

16          A           Yes.

17          Q           Okay.

18          A           Yes.

19          Q           Do you recall what kind of equipment you had for  
04:08 20          that?

21          A           Poor equipment.

22                   MR. LOCKYER:   Sorry, I couldn't hear?

23                   MR. HODSON:    Poor.

24                   MR. LOCKYER:    Poor.

04:08 25          BY MR. HODSON:



1 Q Do you have any recollection of discussion amongst  
2 officers relating to the investigation into Gail  
3 Miller's murder and the charging and prosecution  
4 of David Milgaard?

04:08 5 A No.

6 Q And I -- have you been asked, Mr. Morrison, about  
7 your involvement in the May 23, '69 interview or  
8 interview by Art Roberts at the Sheraton Cavalier  
9 Hotel, have you been asked that, your involvement  
04:09 10 in that by anyone else prior to this Commission of  
11 Inquiry?

12 A No.

13 Q Those are all my questions, Mr. Morrison, I will  
14 canvass the ranks. Who -- Hersh does, Rick,  
04:09 15 Aaron, Doug? Hersh and Aaron?

16 MR. FOX: Maybe if I can -- Mr.  
17 Commissioner, I don't really have any questions  
18 for this witness, but we see occasionally some  
19 pretty broad strokes that are painted in this  
04:10 20 Inquiry and some broad-based questions such as  
21 with the last witness; 'would it be the position  
22 of the police force that' -- and my only concern,  
23 of course, is with Mr. Karst. When those  
24 broad-based questions are asked and not directed  
04:10 25 towards specific officers, then I'm left in the



1 position of well now should I be rising and  
2 asking to specify whether or not that relates to  
3 Mr. Karst. To that extent, I'm not rising to ask  
4 those questions now, but if something comes out  
04:10 5 like that and I feel like I have to rise and ask  
6 the witness 'does that apply to Mr. Karst as  
7 well', so I rise to mention that now, because if  
8 we see the same sort of broad-based questions  
9 that were put to the last witness I might want to  
04:10 10 rise at that point in time and ask how that  
11 relates to Mr. Karst specifically. I hope you  
12 understand what I am trying to get at.

13 COMMISSIONER MacCALLUM: Well, I think so,  
14 but it -- you know, systemic questions are not  
04:10 15 disallowed at this stage of the Inquiry.

16 MR. FOX: No, I'm not suggesting they are,  
17 but if you want to sort of -- for example the  
18 suggestion was put to the last witness 'would it  
19 be correct that really, up until the DNA came  
04:11 20 out, the position of the members of the Saskatoon  
21 Police Service were that they in fact were trying  
22 to convince people David Milgaard was still  
23 responsible and discouraging that from being  
24 pursued'. I can leave that until Mr. Karst gets  
04:11 25 on the stand, and his record and his interviews



1 or whatever will establish what they are, but I'm  
2 put in the difficult position that I feel as  
3 though I should be asking this witness or the, in  
4 the case of Mr. Chartier who doesn't have any  
04:11 5 knowledge of either one of the answers, whether  
6 or not he is aware of statements that were made  
7 by Mr. Karst that would suggest otherwise. I  
8 don't think there's any point in me leading with  
9 this witness by asking those broad-based  
04:11 10 questions but, if they come up again, I will  
11 arise and ask to be able to question the witness.

12 COMMISSIONER MacCALLUM: Well I wish you  
13 would use your discretion in what sort of  
14 questions you put to witnesses, if you perceive  
04:12 15 they have no knowledge, then for goodness sakes  
16 don't ask.

17 MR. FOX: Well, having said that, the last  
18 witness was asked many questions of which he has  
19 no knowledge, there was all sorts of propositions  
04:12 20 put to him, and that's where we have to sit back  
21 and try and decide whether we want to respond to  
22 that or not.

23 COMMISSIONER MacCALLUM: Well you have to  
24 use your own discretion in that.

04:12 25 MR. FOX: Thank you.



1 COMMISSIONER MacCALLUM: Yes, Mr. Wolch?

2 BY MR. WOLCH:

3 Q Just a couple of questions for you, sir. We had a  
4 fair bit of questions, earlier, about your  
04:12 5 partner's letter to the -- or article in the  
6 newspaper. Were you aware of that article when it  
7 was published?

8 A No, sir.

9 Q Your partner offered an opinion as to his own  
04:13 10 beliefs on the guilt or innocence of Mr. Milgaard.  
11 Have you had a view that has been in place at one  
12 time and changed over time or do you maintain an  
13 opinion on the subject?

14 A I never had one to start with, sir.

04:13 15 Q You never formed an opinion of guilt or innocence?

16 A No, I didn't.

17 Q And you have never publicly expressed an opinion  
18 on that subject?

19 A Did I?

04:13 20 Q Yeah. Have you been --

21 A No.

22 Q Would it be fair, then, to say -- and I take it  
23 this comes a fair bit from hearing evidence  
24 earlier and trying to recollect -- that your role  
04:13 25 in this case was really, really limited to your



1 expertise in, I don't want to use the word  
2 'eavesdropping', but whatever the word is, your  
3 role in this case was limited to that?

4 A Yes, sir.

04:14 5 Q Thank you. Those are all my questions, sir.

6 COMMISSIONER MacCALLUM: Thanks, Mr. Wolch.

7 MR. HODSON: No re-exam, so thank you very  
8 much, Mr. Morrison.

9 COMMISSIONER MacCALLUM: Thanks,  
04:14 10 Mr. Morrison, you are excused.

11 MR. HODSON: Mr. Commissioner, it's 4:15,  
12 our next witness is Joe Penkala. He will be  
13 lengthy and I'm wondering if it might be  
14 appropriate to start him tomorrow morning at  
04:14 15 9:00.

16 COMMISSIONER MacCALLUM: I think so. We're  
17 adjourned.

18 (Adjourned at 4:14 p.m.)

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