

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

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

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Volume 64

Inquiry Proceedings



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INDEX OF PROCEEDINGS

DESCRIPTION:

PAGE:

EDDIE ALEXANDER KARST, CONTINUED

- BY MR. BERESH	12667
- BY MR. FOX	12676
- BY MR. HODSON	12773



Transcript of Proceedings

(Reconvened at 1:00 p.m.)

COMMISSIONER MacCALLUM: Good afternoon.

ALL COUNSEL: Good afternoon.

MR. HODSON: I'll give an outline of what's happening this week. Mr. Karst is on the stand, and I believe Mr. Beresh is left to examine the witness, followed by Mr. Fox, and we expect to complete Mr. Karst today; tomorrow we have Gus Weir and Bev Cressman, two morality officers for the day; Wednesday we have Thor Kleiv, an ident officer, and John Malanowich; and then on Thursday we have Elmer Ullrich's evidence which is by way of videotape, which is probably I think 2 1/2 to 3 hours, so we should have no difficulty finishing the police phase this week. And with that, I think, Mr. Beresh?

EDDIE ALEXANDER KARST, continued:

BY MR. BERESH:

Q Thank you, Mr. Commissioner. Mr. Karst, as you know, I represent Mr. Fisher.

A Yes, sir.

Q And I have just a few questions of you this afternoon. I have had the benefit of reviewing the transcript of your evidence from last week,



1 and I'm familiar with your answers, and I'm
2 interested basically in two areas, please. The
3 first is the trip to Winnipeg in 1970 when you
4 interviewed Mr. Fisher.

01:05 5 A Yes, I recall.

6 Q Okay. And I wanted to confirm, because it wasn't
7 clear from the transcript that I had seen, that
8 there are, to your knowledge or in your belief, no
9 other documents that exist or ought to exist that
01:05 10 relate to your attendance there in the interview?

11 A That's true.

12 Q Okay. And I'm interested in this; when you met
13 with Mr. Fisher, obviously you took the statement
14 from him, which we now see?

01:05 15 A Yes.

16 Q Do you have any recollection of whether you had
17 any pre-statement discussions with him, that is a
18 discussion where you wouldn't record anything
19 before starting the actual written statement?

01:05 20 A I just don't recall that, sir.

21 Q Have no recall of that?

22 A No recall whatsoever.

23 Q Okay. But I take it the statement reflects, to
24 the best of your recollection, what was said
01:06 25 between the two of you?



1 A I would think so.

2 Q At least during the portion of those issues
3 discussed in the statement?

4 A I would agree.

01:06 5 Q Okay. And is it fair to say that to your
6 recollection now, given all the documents that you
7 reviewed, that you have no recollection of any
8 consideration being requested by Mr. Fisher for
9 the statement?

01:06 10 A That is correct.

11 Q That is he didn't ask for any break on sentence,
12 he didn't ask for any consideration, it appears,
13 at all?

14 A That's what appears.

01:06 15 Q Likewise, on the other side of the coin, is it
16 fair to say that there was no consideration
17 offered by you or any other person in authority to
18 him in return for providing the statement?

19 A I believe that's true.

01:06 20 Q Okay. That is no consideration offered, to your
21 knowledge, by any other police officer, whether it
22 be a Saskatoon force member or anyone else?

23 A Correct.

24 Q Okay. I take it at no time did Mr. Fisher ever,
01:07 25 during your contact with him, either the taking of



1 the statement, immediately before, immediately
2 thereafter, never asked you not to lay charges?

3 A I have no recollection of that, sir.

4 Q Okay. Certainly no record of that?

01:07 5 A That's correct.

6 Q And nothing for you to believe that that had
7 occurred?

8 A That's correct.

9 Q He did not in any way make it a condition that the
01:07 10 charges, if any were laid, be waived to Manitoba?

11 A No recollection of that at all.

12 Q Nothing has suggested he made any such request of
13 you?

14 A Nothing in the statement that indicates that.

01:07 15 Q Okay. Nothing to suggest that he wanted charges
16 dealt with, if not in Manitoba, someplace other
17 than Saskatoon?

18 A That's correct.

19 Q And I take it you would agree with me that, given
01:07 20 the practice and jurisprudence in 1969-1970, that
21 that would not, even if he had requested it, that
22 that would not have been acceded to?

23 A It wouldn't be my field.

24 Q Okay. Fair enough. Certainly, you wouldn't have
01:08 25 the authority to grant it?



1 A That's right.

2 Q At no time did he request that, if he was charged
3 and if he was sentenced, that the sentence ought
4 to be concealed from the public in any fashion?

01:08 5 A Not that I am aware of.

6 Q That is a private, back-pocket deal?

7 A Not that I am aware of, sir.

8 Q Nothing like that at all?

9 A No.

01:08 10 Q Okay. And I take it, had that been mentioned
11 during the taking of the statement, you probably
12 would have recorded it?

13 A It probably should have been recorded in the
14 statement.

01:08 15 Q Okay. Further, sir, it would not have been
16 unusual, in 1969-1970, for an individual who had
17 committed a number of offences in different
18 geographical locations to want to resolve all of
19 them together in one place?

01:08 20 A I can't say that I can answer that.

21 Q I take it you had seen that occur?

22 A I had seen it occur.

23 Q For example, we know in 1969-1970 there was lots
24 of traffic between, say, North

01:09 25 Battleford-Saskatoon, Prince Albert-Saskatoon,



1 people might get in trouble in North Battleford
2 and Saskatoon, have everything waived to Saskatoon
3 to resolve it at one time?

4 A That's possible.

01:09 5 Q You were aware of that?

6 A I was aware of that.

7 Q And you were aware of the global sentencing
8 principle that existed, at least in a general
9 fashion, as a police officer?

01:09 10 A In a general fashion.

11 Q Okay. The second area, sir, I want to touch on
12 briefly is you were asked about the Linda Fisher
13 situation in terms of her complaining to the
14 police force, and as I read the transcript this
01:09 15 weekend you were aware of it, but it was not
16 presented to you as something to follow up?

17 A I believe I would have been aware of it, but it
18 was not assigned to me, so I can't say anything
19 about the follow-up.

01:09 20 Q But let's talk about people who come into the
21 police station like that, in an unsolicited
22 fashion; that was not an unusual event in
23 1969-'70, was it?

24 A No, I think it would be a common thing.

01:10 25 Q Sure, it would occur from time to time.



1 A Uh-huh.

2 Q And I take it that whether there was a follow-up
3 or not would be discretionary, that discretion
4 being exercised either by the officer who actually
01:10 5 received the complaint, or some superior?

6 A Yes, I would agree with that.

7 Q I mean you couldn't follow up every complaint that
8 came in?

9 A I suppose that's -- any -- anything that was
01:10 10 considered of importance, I think, would have been
11 followed up.

12 Q Well, fair enough, but the discretion as to
13 whether it would be followed up would be exercised
14 by somebody?

01:10 15 A That's correct.

16 Q And I take it what we would expect, and what you
17 as a police officer at that time would have
18 expected, was that the discretion would be
19 exercised based upon a number of factors?

01:10 20 A Yes, umm --

21 Q For example, the viability of the complaint or
22 allegation?

23 A The allegation, yes.

24 Q The viability/credibility of the person making the
01:11 25 complaint?



1 A That would be up to the officer that took the
2 complaint, I guess, --

3 Q Sure.

4 A -- and then a senior officer would decide.

01:11 5 Q Well let's be fair. As a matter of common sense,
6 if somebody comes in on the -- off the street,
7 they are intoxicated, in the middle of the night,
8 you wouldn't take their complaint as seriously as
9 you might somebody who comes in sober at noon?

01:11 10 A I would want to --

11 Q Isn't that fair?

12 A That's fair.

13 Q Sure. If you found out that somebody was a
14 disenchanted spouse, and they were going through a
01:11 15 tough marital time, you would take that into
16 account as a factor --

17 A I would.

18 Q -- in deciding whether to follow up or not?

19 A That's correct.

01:11 20 Q If the person had a psychiatric history which you
21 became aware of, you might take that into account?

22 A It would have a bearing.

23 Q Sure. You might take into account whether or not
24 they had some interest in wanting to see someone
01:11 25 else pursued by the police?



1 A I agree with that.

2 Q There's no doubt that you, in your career, have
3 seen many people who were maliciously fingered by
4 somebody else for their own personal interests?

5 A Correct.

6 Q Sure. And the police have to guard against that?

7 A Yes.

8 Q Okay. Sir, I take it as well in your career that
9 you had dealt with situations where a reward was
01:12 10 offered?

11 A Yes.

12 Q And I understand it wasn't the Saskatoon Police
13 force general policy to offer rewards but there
14 had been, from time to time before 1969-'70, some
01:12 15 rewards offered?

16 A I can't comment on that. I don't know.

17 Q Oh. Do you know if you were aware of any private
18 rewards offered in criminal cases in the '69-'70
19 area?

01:12 20 A I can't recall, sir.

21 Q But I take it as a matter of common sense, if a
22 reward was offered and you were aware of it, --

23 A I would have been aware at the time.

24 Q -- you would certainly be cautious about someone
01:12 25 coming in, offering information which might lead



1 to a reward?

2 A I would.

3 Q Okay. Finally, sir, in terms of what this
4 Commission will recommend in the future, I take it
01:13 5 you don't disagree with the suggestion that, in
6 criminal cases, major witnesses' statements ought
7 to be audio or video recorded?

8 A In what instances are you referring to?

9 Q I'm talking about major cases with major
01:13 10 witnesses.

11 A You mean statements taken by police?

12 Q That's correct.

13 A And they should be which?

14 Q They should be audio taped or videotaped, as
01:13 15 opposed to the old handwritten method, --

16 A I think --

17 Q -- where the equipment is available?

18 A I think it would be a good idea.

19 Q Yeah. Those are my questions, sir, thank you very
01:13 20 much.

21 COMMISSIONER MacCALLUM: Thanks.

22 BY MR. FOX:

23 Q Mr. Karst, I'm of course Aaron Fox, your counsel.
24 I apologize for me keeping you up here a while
01:14 25 longer but we're gonna do that.



1 I just wanted to pick up a
2 little bit with you what Mr. Beresh was just
3 talking to you about. He asked you some questions
4 about your dealings with Larry Fisher in October
01:14 5 of 1970 and, as I understand it, at this point in
6 time you have no recollection of that -- of those
7 dealings at all?

8 A That's correct.

9 Q And you've seen the two typewritten or typed
01:15 10 statements that are attributed to Larry Fisher in
11 which it indicates you are the witness to those
12 statements, and am I correct as well, you have no
13 specific recollection of those statements either?

14 A That's correct, just what I have seen.

01:15 15 Q And I think you've indicated that you are
16 concluding that you did deal with Larry Fisher in
17 October of 1970 because you've seen those two
18 statements?

19 A That's correct.

01:15 20 Q And to your recollection have you seen anything
21 else that indicated you dealt with Larry Fisher in
22 October of 1970, by that I mean any other
23 statements or documents or reports, that sort of
24 thing; do you have any recollection of seeing
01:15 25 anything else?



1 A I believe I recall seeing my written statements in
2 Ottawa.

3 Q Okay. You've not seen them since then?

4 A I have not.

01:15 5 Q Okay. Now officers, police officers, obviously
6 you make notes when you are carrying out
7 investigations and doing work?

8 A Yes.

9 Q And those notes, in your case, would have been
01:16 10 recorded in your notebook and, as per the policy
11 that existed at the time you were a police
12 officer, turned into the department?

13 A That's correct.

14 Q And if you need them again you would expect to go
01:16 15 to the department and retrieve them?

16 A Yes, sir.

17 Q In terms of how long the department keeps them or
18 whether they are going to destroy them at some
19 point in time or whatever, that's their decision,
01:16 20 not your decision?

21 A That's correct.

22 Q Okay. We've seen a number of investigation
23 reports, some that have been referred to and we'll
24 look at them in more detail. Those would be
01:16 25 reports that you would make obviously based on



1 whatever particular task you were assigned to at a
2 given time?

3 A That's correct.

4 Q And you would -- would you use your notes for the
01:16 5 preparation of those reports?

6 A At times. If you were making that report
7 immediately after whatever you were investigating
8 you didn't need to use your notes, it would be
9 fresh in your mind. Other than that you would use
01:17 10 your notebook.

11 Q Are your notes, do you generally attempt to
12 prepare your notes fairly close to the time of the
13 event that's being recorded in the notes?

14 A Yes.

01:17 15 Q So if we see a report that, for example, explains
16 your activities for the previous five days,
17 generally would you expect that you would refer to
18 your notes in preparing that report?

19 A I would expect that.

01:17 20 Q That wouldn't be a situation where you would
21 simply sit down and think back what I did for the
22 last five days?

23 A No.

24 Q You would refer to your notes?

01:17 25 A You should have notes.



1 Q Okay. Now, when officers are called upon to look
2 at their notes or reports, I'm assuming that's in
3 the hope that you will refresh your memory or
4 remember the event that took place?

01:18 5 A That's correct.

6 Q Sometimes you might have to look at the reports
7 and notes a long time after the fact?

8 A Yes.

9 Q And fair to say, for example, if you were asked
01:18 10 about your activities on a specific date and you
11 looked in your notes or your reports and found
12 something listed for that date, occasionally that
13 will trigger your memory?

14 A It has.

01:18 15 Q And you will actually have a specific recollection
16 of what you did that day?

17 A At times, yes.

18 Q Sort of, oh, yeah, I remember being there, I
19 remember talking to that person?

01:18 20 A Correct.

21 Q I assume there are other occasions when even
22 though you see your notes indicate that you did
23 carry out a certain activity, you still don't have
24 any specific recollection of that?

01:18 25 A Depending on the time lapse between the incident.



1 Q So there are occasions when you would look and
2 see, yes, I'm supposed to have done this, but I
3 don't actually recall it?

4 A That's correct.

01:18 5 Q When I refer to those, your dealings with Mr.
6 Fisher in October of 1970, do you have, having
7 looked at those statements that you've been shown
8 in these proceedings, does it trigger any specific
9 recollection?

01:19 10 A Nothing at all, sir.

11 Q So you are prepared to accept, having seen those
12 statements, that you were there in October, 1970?

13 A Oh, yes.

14 Q But no specific recollection in your own mind to
01:19 15 confirm that?

16 A That's correct.

17 Q And to get to where I was asking the questions in
18 terms of what Mr. Fisher put to you, Mr. Fisher
19 asked you a number of things and asked you if you
01:19 20 recalled discussing those with Mr. -- sorry, Mr.
21 Beresh put a number of things to you and asked if
22 you recalled discussing those with Mr. Fisher in
23 October, 1970. Do you recall those questions?

24 A I recall it.

01:19 25 Q He asked, for example, about transferring the



1 charges or was he offered any deal, that sort of
2 thing. Would it be fair to say you have no
3 specific recollection of your discussions with Mr.
4 Fisher?

01:20 5 A That's correct.

6 Q So when you say you have no recollection of those
7 specific topics that Mr. Beresh referred to, the
8 fact of the matter is you have no recollection of
9 those discussions at all?

01:20 10 A That's true.

11 Q Similarly, Mr. Beresh asked about Linda Fisher,
12 and we'll talk a little bit about that in more
13 detail, but he asked you about her visit to the
14 police station and the report she gave and I've
01:20 15 got your answer down that you gave to him, "I
16 believe I would have been aware of it, I believe
17 it was followed up but not assigned to me, so I
18 can't comment." At this point in time do you have
19 any specific recollection of Linda Fisher coming
01:20 20 into the police station?

21 A No, I don't.

22 Q Do you have any specific recollection of seeing
23 either the statement that she gave or the report
24 that was prepared as a result of her visit at the
01:21 25 time going back to 1980?



1 A I don't have any specific recollection, but I'm
2 only going to assume again that I probably seen
3 it.

4 Q So you are assuming because you are a police
01:21 5 officer and you were working there, you were a
6 detective, that you probably would have been aware
7 of it sometime after she came in?

8 A I think so.

9 Q But in terms of again a specific recollection,
01:21 10 none exist?

11 A No, it doesn't.

12 Q And in terms of any knowledge as to what follow-up
13 took place concerning Linda Fisher's report to the
14 police, do you have any recollection of that?

01:21 15 A No, I don't.

16 Q Now, Mr. Karst, I'm going to just go back to March
17 2nd, 1969, Gail Miller was murdered on January
18 31st, 1969, sexually assaulted and murdered.

19 When -- and this has been gone through with you in
01:22 20 a fair bit of detail already, but it appears as
21 though prior to March 2nd, 1969 it doesn't look
22 like you would have had much more than a few
23 hours' involvement in that investigation?

24 A That's true.

01:22 25 Q At this point in time, prior to you being told on



1 March 2nd, 1969 to take a statement from Albert
2 Cadrain, prior to that do you have any
3 recollection of being involved in the Gail Miller
4 investigation?

01:22 5 A No, I do not.

6 Q I'm assuming during that time period from -- well,
7 let me start by this. We see that there were a
8 number of police officers involved in the
9 investigation between January 31st, '69 and March
01:22 10 2nd, '69, we see that from the reports. I'm
11 assuming during that time period you would have
12 been involved in working on other files?

13 A I would believe so.

14 Q Do you have any, and you may not be able to recall
01:23 15 this, but do you have any feel for during that
16 time period what your file load or case load might
17 have been in terms of number of files or if you
18 can give me a range?

19 A They generally averaged from 15 to 25.

01:23 20 Q Now, if we go to March 2nd, '69, when I listen to
21 your evidence it doesn't sound like it was a very
22 good decision that was made to get you involved in
23 that file, it almost appears as though by chance
24 you became involved?

01:23 25 A I was instructed.



1 Q If we look at the reports, Albert Cadrain came in,
2 he spoke to Staff Sergeant Brady, Brady then
3 referred him to Lieutenant Short, Lieutenant Short
4 then directed you to take a statement?

01:23 5 A Yes.

6 Q And that would seem to be your first significant
7 involvement in the Gail Miller murder
8 investigation?

9 A That's correct.

01:24 10 Q Now, I think you've indicated that you had, you do
11 have a recollection of speaking to Albert Cadrain
12 on March 2nd, '69?

13 A I do.

14 Q And do you recall at this time if your impression
01:24 15 of him, after you had spoke to him, was whether
16 you believed him or not?

17 A I must have placed some confidence in what he was
18 saying or otherwise I wouldn't have went further
19 and investigated it.

01:24 20 Q Would it be correct that as a police officer you
21 don't necessarily make any sort of final decision
22 "do I believe him, do I not believe him"?

23 A Generally not.

24 Q But there was enough that he gave you that it was
01:24 25 worth at least following up?



1 A Yes.

2 Q And I'm assuming when somebody comes in with a
3 story or a statement like Mr. Cadrain gave, you
4 are looking for some indicators as you talk to him
01:25 5 and as you follow up as to whether or not this
6 might be true?

7 A Correct.

8 Q Was the fact that he came in voluntarily of any
9 significance?

01:25 10 A I suspect it would have.

11 Q Did you detect from him in speaking with him any
12 sort of obvious motive for him coming in and
13 giving this statement?

14 A No, I do not.

01:25 15 Q For example, was there any display of animosity
16 towards David Milgaard that might make you think,
17 gee, maybe he is just out to get this guy?

18 A No.

19 Q Do you recall if there was any reference to the
01:25 20 reward when you spoke with Albert Cadrain?

21 A Not that I recall.

22 Q And you spoke with, or at least the Saskatoon
23 Police Service, members of the Saskatoon Police
24 Service spoke with Dennis Cadrain, his brother?

01:26 25 A Yes.



1 Q And then there was also a meeting with his parents
2 and other family members at the house?

3 A Spoke to them, yes.

4 Q Okay. And did they more or less confirm the story
01:26 5 in the sense that Albert had told them something
6 similar?

7 A That's right.

8 Q And again, did that -- what effect did that have
9 on you, the fact that he has given you this thing,
01:26 10 now he's talked to his brother, he has talked to
11 his parents, he has told them sort of the same
12 story, did that leave any impression at all?

13 A Yes, I would say we decided it warranted further
14 investigation.

01:26 15 Q You made reference to some, and I think you've
16 described this as a little person, and I think
17 those were the words you used, something like
18 that, being at the Cadrain house saying that they
19 also saw blood. Do you remember that?

01:26 20 A Yes.

21 Q Do you have any recollection whether that was a
22 male or a female, do you know at this point in
23 time?

24 A I can't remember now.

01:27 25 Q And in terms of who that was specifically, you



1 don't have a recollection of that?

2 A No, just a little person.

3 Q So somebody gave you some indication about blood
4 that seemed to confirm what Albert had said?

01:27 5 A Verified what he had said in reports.

6 Q We know from Kenny Cadrain's testimony, and I
7 don't think we need to go to it, but just for the
8 record, Mr. Commissioner, it's at pages 2108 and
9 09 of the transcript of this Inquiry, that he
01:27 10 indicated he had seen blood that day. Are you
11 able to say whether Kenny Cadrain was the young
12 person that you spoke to or not or do you know?

13 A No, I can't remember.

14 Q And Kenny Cadrain, and maybe just -- Kenny Cadrain
01:27 15 at those same pages made reference to the fact of
16 his mother trying to protect him and I think sort
17 of keep him out of this thing. Do you know if --
18 do you recall having any discussions with Estelle
19 Cadrain about trying to keep her kids or the
01:28 20 younger children from being involved in this
21 investigation?

22 A I can't recall that.

23 Q Now, prior to March 2nd, 1969, we know that there
24 are a number of officers involved in the
01:28 25 investigation. Were you aware who the principal



1 officers were sort of leading the investigation?

2 A I'm quite sure I would have been at that time.

3 Q Okay. Do you have a recollection of that now?

4 A I think I do.

01:28 5 Q Okay. Who do you think was leading the
6 investigation?

7 A I think it was Parker, Reid and Mackie.

8 Q Okay. And what would the role of Lieutenant
9 Penkala and Lieutenant Short be in that, in the
01:28 10 investigation?

11 A I would say they were kind of directing and, you
12 know, leading the file at that time.

13 Q So the first three officers that you mentioned,
14 those would be the ones that you would see doing
01:29 15 the leg work, so to speak?

16 A I would think so.

17 Q Going out interviewing witnesses, that sort of
18 thing?

19 A I don't know as Penkala would have interviewed
01:29 20 many witnesses, but he was involved in the blood
21 and hair samples and that kind of thing I think.

22 Q Okay. There was a theory, or a theory that was
23 speculated upon, that the same person who was
24 responsible for the rapes that had occurred in
01:29 25 Saskatoon may have been also responsible for the



1 Gail Miller murder and this was set forth in a
2 number of documents, but if I can just refer to,
3 this would be Lieutenant Penkala's document
4 052923, I think the date of it is February 5th
01:29 5 '69, this is a letter, I think if we go to the
6 next page, it describes the circumstances
7 surrounding the Gail Miller murder, and the next
8 page again, and concludes by stating our
9 department has two unsolved cases dating back to
01:30 10 1968 and again looking for some similarities.
11 This was sent by Lieutenant Penkala, or drafted by
12 him February 5th, 1969, that's just about a month
13 before you became involved. Do you have any
14 recollection of reviewing that document at some
01:30 15 point in time?
16 A I don't at this time.
17 Q Do you have any recollection of anybody sitting
18 down and going through it with you?
19 A No, I do not.
01:30 20 Q Now, it looks like a number of suspects were
21 followed up, if I can go to document 326548, this
22 is a summary of the persons checked, and,
23 Mr. Commissioner, this document has already been
24 referred to, this is just the one that lists the
01:31 25 various suspects and that. I think by, I think



1 the evidence is that there's a total of 208
2 suspects in there and I think all but 39 of them
3 were checked out prior to March 2nd, 1969. Again,
4 do you have a recollection of ever checking out
01:31 5 suspects to see whether or not they might have
6 been involved in a rape or a sexual assault and
7 also the Gail Miller murder?

8 A Other than -- no, other than the fact of having
9 read reports, that I did some door-to-door
10 checking shortly after the crime.

11 Q Okay. And what we see there is that shortly after
12 the crime on January 31st, 1969, a number of
13 officers went door to door in the area of the
14 murder simply seeing if anybody had seen anything,
01:32 15 that sort of thing?

16 A That's correct.

17 Q And you were assigned a certain area and did that
18 as well?

19 A Yes.

01:32 20 Q And I take it you have no recollection about that,
21 but you see from the report and accept you did
22 that?

23 A That's true.

24 Q Would it be correct that's just a normal part of
01:32 25 an investigation, that wasn't looking for a



1 specific rape suspect or something like that?

2 A Just for information, sir.

3 Q Okay. So to go back to my question, prior to
4 March 2nd, 1969 do you have any recollection of
01:32 5 being involved in trying to find a suspect that
6 both may have committed the rapes and also the
7 Gail Miller murder?

8 A I do not.

9 Q And after March 2nd, 1969 do you have any
01:32 10 recollection of being ever tasked to try and find
11 a suspect that may have committed the rapes and
12 also been responsible for the Gail Miller murder?

13 A Nothing other than checking Cadrain's story.

14 Q And checking of Cadrain's story was checking out
01:33 15 whether or not David Milgaard was a suspect?

16 A That's correct.

17 Q Now, during the time period from March 2nd, '69
18 when you became involved to the point in time when
19 Mr. Milgaard was finally charged with murder which
01:33 20 looks like it was about within two months after
21 that, something like that, do you have a
22 recollection who would be overseeing the file, who
23 would be calling the shots, so to speak, if I
24 could describe it that way?

01:33 25 A Several officers, and I'm saying that with regard



1 to Ray Mackie, detective sergeant, Lieutenant
2 Short and Penkala, and what role actually
3 Superintendent Wood played I can't really comment
4 because I never got in on those meetings.

01:34 5 Q Okay. So those officers that you mentioned would
6 have had meetings from time to time --

7 A Yes.

8 Q -- that you would not have been in attendance at?

9 A That's true.

01:34 10 Q Now, I'm assuming, though, you still would have
11 your own opinions or thoughts or suggestions about
12 where the investigation was going?

13 A I'm sure I expressed my opinion.

14 Q And sometimes that might be expressed in a report?

01:34 15 A Yes.

16 Q You might conclude a report by saying I suggest we
17 do this or do that, something like that?

18 A I have done that.

19 Q Sometimes it might be just expressed verbally?

01:34 20 A True.

21 Q But ultimately was it your call to say, okay,
22 we're going to go down this road or we're going to
23 carry out this investigation in a specific area?

24 A No, it was not.

01:34 25 Q Now, I'm going to refer just to some of the



1 records of, and reports that we have, and I'm not
2 aware of any listing you as being a participant in
3 any meetings, but if we could just refer to a
4 couple. Can we bring up document, please, 065399,
01:35 5 this is a report of I believe Inspector Riddell,
6 March 20th, 1969, paragraph 3:

7 "On the afternoon of 21 Feb '69, S/Sgt.
8 Edmondson, Cpl. Rasmussen and myself met
9 with Supt. J. Woods, in charge of the
01:35 10 Saskatoon City Police C.I.D., where we
11 spent several hours going over the
12 particulars of this offence and the
13 results of the investigation to date.
14 We were provided with complete copies of
01:35 15 all investigational reports. At this
16 time the Saskatoon City Police had no
17 real suspects in mind as the
18 investigation to date had failed to turn
19 up any leads of a promising nature."

01:35 20 Now, fair to say by that date, February 21st,
21 '69, you weren't really involved in the
22 investigation at all?

23 A That's correct.

24 Q Do you know whether this meeting took place as
01:36 25 described here?



1 A No, I don't.

2 Q No reason to dispute that it did?

3 A None at all.

4 Q Were you ever involved in briefing the RCMP about
01:36 5 where the Saskatoon investigation was at any point
6 in time?

7 A I was not.

8 Q Do you recall ever sitting down at a meeting with
9 RCMP officers and going over the file, here's what
01:36 10 we found so far, what have you guys found so far,
11 this is where we should go, were you ever involved
12 in that kind of a meeting?

13 A I don't remember, but I would suggest that I
14 expressed my views and talked to them.

01:36 15 Q So you would have talked to -- do you recall what
16 officers you would have talked to?

17 A Generally it was Staff Sergeant Edmondson.

18 Q So you would say -- I'm assuming you would pass on
19 to Staff Sergeant Edmondson information that you
01:36 20 might have found?

21 A Yes.

22 Q And he might pass on to you information that they
23 found?

24 A Correct.

01:37 25 Q That would be of a fairly informal communication?



1 A Yes, verbal.

2 Q Verbal. Was it -- did it lay with the two of you
3 then to decide what should be done with the
4 investigation?

01:37 5 A No, sir.

6 Q So that was just an exchange of information?

7 A Yup, exchange of views.

8 Q Did you know what the role of the RCMP was, you
9 know, in terms of decision-making or that sort of
01:37 10 thing?

11 A Not really, no. As far as I was concerned, they
12 were there for assistance if we needed it.

13 Q And do you have any recollection of meeting with
14 Staff Sergeant Edmondson informally as you've
01:37 15 described and discussing the theory that perhaps
16 the person who had committed the rapes also had
17 killed Gail Miller?

18 A I do not.

19 Q Can we just bring up, if you would, document
01:37 20 106617. Mr. Karst, this is your report of March
21 7th, '69, if we could just turn to 621, this
22 details your, Albert Cadrain coming into the
23 police station, taking a statement from him and
24 then you going to Winnipeg where you and Staff
01:38 25 Sergeant Edmondson met Mr. Milgaard; okay?



1 A All right.

2 Q And just this paragraph here, this is your report:

3 "After a further conversation with Insp.

4 Riddell I was advised that the Milgaard

01:38 5 youth should be released at that time

6 due to insufficient evidence obtaining

7 with with which to lay a charge,

8 consequently on the evening of March 3,

9 the suspect was released to the

01:38 10 Boulevard Motel."

11 Do you recall having any discussions with

12 Inspector Riddell when you were in Winnipeg

13 interviewing Mr. Milgaard?

14 A I was under the impression that it was Staff

01:39 15 Sergeant Edmondson that spoke to him, but

16 obviously I may have spoken to him on the phone

17 too.

18 Q And do you know why Inspector Riddell would be

19 instructing you to release Mr. Milgaard?

01:39 20 A I was under the impression at that time I suppose

21 that he had checked with Ron Wilson and we had

22 nothing further to go on at that time, so --

23 Q Maybe the question I was asking was do you know if

24 you got instructions from the Saskatoon Police

01:39 25 Service, Saskatoon City Police, from anybody



1 there?

2 A Did Riddell?

3 Q Well, Riddell was with the RCMP; right?

4 A Yes.

01:39 5 Q Besides Riddell, do you know if you got
6 instructions from anybody else, did somebody from
7 the Saskatoon City Police, Lieutenant Short or
8 somebody say, yeah, you are right, we don't have
9 enough to lay a charge, release him?

01:39 10 A Not that I'm aware of, no.

11 Q And in terms of what communication Inspector
12 Riddell would have had with the Saskatoon City
13 Police, if any, do you have any knowledge of that?

14 A I do not.

01:40 15 Q I take it whatever the case, when Inspector
16 Riddell said Milgaard should be released, you
17 followed those instructions and released him?

18 A Yes.

19 Q If we could bring up document 250609, to the --
01:40 20 yes, there we are. This is the report of
21 Inspector Riddell again May 21st, 1969. Paragraph
22 3 and the first part of paragraph 4, this refers
23 to a May 16th meeting:

24 "May 16th I --"

01:40 25 That would be Inspector Riddell,



1 "-- attended a meeting at the Saskatoon
2 City Police office for the purpose of
3 reviewing this investigation and
4 deciding what further course of action
01:40 5 was open that would bring this matter to
6 a successful conclusion. Also present
7 at this meeting were Supt. J. Wood, Lt.
8 J. Penkala, Lt. C. Short (Saskatoon CID)
9 and S/Sgt. Edmondson (Saskatoon GIS).
01:41 10 Chief Kettles was not present as he was
11 required to proceed to Moose Jaw on that
12 date."

13 Paragraph 4 goes on:

14 "After a great deal of discussion it was
01:41 15 agreed that David Milgaard could be
16 considered as the prime suspect in this
17 case and that further efforts should be
18 made to eliminate or implicate him in
19 this offence."

01:41 20 Now, first of all, do you have any recollection
21 of ever being at that meeting?

22 A No, I do not.

23 Q Do you have any recollection of that meeting
24 taking place; in other words, do you recall being
01:41 25 told, yes, there has been a meeting and this is



1 what transpired at it?

2 A No, I don't.

3 Q There's a decision made there in paragraph 4 that,
4 and this is now as at May 16th, 1969:

01:41 5 "After a great deal of discussion it was
6 agreed that David Milgaard could be
7 considered as a prime suspect in this
8 case ..."

9 Do you know as at May 16th, 1969 you would have
01:41 10 agreed with that or not?

11 A I believe I would have agreed with it.

12 Q And then it goes on to say:

13 "... and that further efforts should be
14 made to eliminate or implicate him in
01:42 15 this offence."

16 Do you know if you agreed or disagreed with that
17 at that time?

18 A I would have agreed with that.

19 Q If we could go to the next page, please, there's
01:42 20 reference in paragraph 6:

21 "The Saskatoon City Police will be
22 requesting Ronald Wilson and Nichol
23 John to establish what knowledge they
24 have of this offence. They plan on
01:42 25 asking both subjects to submit



1 voluntarily to a "lie detector test" to
2 ascertain if they are being completely
3 truthful as to their knowledge of this
4 matter. The Calgary City Police have a
01:42 5 polygraph machine and an operator and
6 the Saskatoon City Police have been in
7 contact with that Force and arrangements
8 have been made to have the operator come
9 to Saskatoon to conduct such tests
01:43 10 should Wilson and John consent."

11 Now, were you involved in any discussions about
12 bringing in somebody to operate a lie detector?

13 A I was not.

14 Q And do you have a recollection now, when was the
01:43 15 first time that you became aware that Wilson or
16 John were going to be subjected to a polygraph
17 test or a lie detector test?

18 A My recollection is that I was aware of it when it
19 was taking place that day.

01:43 20 Q So when you arrived at the hotel, that's when you
21 found out?

22 A I believe I had instructions to take Wilson there
23 and I was aware of that then.

24 Q And what did you understand this lie detector test
01:43 25 or polygraph was supposed to do?



1 A I understood it was supposed to tell them whether
2 a person that was being examined was telling the
3 truth or telling lies.

4 Q Had you been involved in the use of a polygraph or
01:44 5 lie detector test prior to this investigation?

6 A No, sir.

7 Q So this would have been something new for you?

8 A Yes.

9 Q And I'll -- I'm going to refer you to -- Mr.

01:44 10 Roberts is deceased, but he testified at the
11 Supreme Court of Canada and I'm going to refer you
12 to document 043300 which is the transcript of the
13 Supreme Court testimony and specifically at pages
14 335 to 36. He's discussing his dealings with
01:44 15 Mr. Wilson:

16 "Q All right. Can you tell me anything
17 more that you recall?

18 A Yes, in talking to him he indicated he
19 had got out of the car. I think he was
01:45 20 to seek help to get a tow-truck, or get
21 a push, or something. When he came back
22 he said that the girl in the car, Nichol
23 John was quite agitated. She was upset.
24 He asked her, apparently, what happened,
25 and I'm not too sure of the reply, sir,



1 I would rather not say.

2 Q I don't want you to speculate, as I told
3 you at the beginning. Just go with your
4 recollections.

01:45 5 A As I say, I went on with this, and I
6 asked him, then, would he be prepared
7 now to tell the truth about the
8 matter. Now that he had told me about
9 it, would he now be prepared to tell
01:45 10 the Saskatoon City police about it and
11 give them a statement to this effect,
12 because he was only a witness. He
13 agreed to that. I then, I guess,
14 phoned the Saskatoon City police and
01:45 15 shortly thereafter a detective came
16 and picked him up, and I believe it to
17 be Karst that picked him up."

18 Scroll up:

19 "In front of Karst I said, "Ron has now
01:45 20 told me what had happened. Milgaard
21 told him that he hit a girl or killed a
22 girl in the back alley and he wants to
23 tell you about it." I think my last
24 words to him were, "Thanks, Ron. Make
01:46 25 sure you tell everything"."



1 Okay. Now, just from the point where Mr. Roberts
2 states that he, after dealing with Mr. Wilson,
3 phoned you or phoned and you came and picked him
4 up and he turned him over to you to give this
01:46 5 statement, does that accord with your
6 recollection?

7 A Yes.

8 Q And, just for the record, maybe we can go to Ron
9 Wilson, his transcript evidence, at 5589 and 90 in
01:46 10 these proceedings. And during the questioning of
11 Mr. Roberts that same quotation that I have just
12 read to you was put to Mr. Wilson. If you go to
13 the next page, then, and Mr. Wilson was then
14 asked:

01:47 15 "If I can pause there, do you recall a
16 discussion of that nature with Inspector
17 Roberts?

18 A Yes I do.

19 Q And has he accurately described --

20 A I would say fairly."

21 Mr. Wilson seems to agree as well.

22 I want to turn to Mr. Roberts
23 further at pages -- sorry -- pages of the doc, ID
24 number is 317. Now this is Mr. Roberts'
01:47 25 description of his trip to Saskatoon, I'm going



1 to read through this to page 320, I'll go fairly
2 quickly but:

3 "Q All right. That's fine. In any event,
4 do you recall being in Saskatoon to test
5 some witnesses relative to the Milgaard
6 case?

7 A Yes, I do, sir.

8 Q Can you tell us if you recall -- and,
9 again, only if you recall -- how you
10 ended up being there?

11 A A request was made for my services
12 from the Saskatoon City Police to my
13 Chief. I was directed to go there. I
14 did go there. I think I arrived the
15 evening before and I was met by
16 Superintendent John Wood, who was in
17 charge of the detective division at
18 that time. He spoke to me. He
19 acquainted me with the problem, and I
20 am certain I read over reports. I do
21 believe I was taken to the scene of
22 the crime. I would normally ask to be
23 taken there if it was around so that I
24 could acquaint myself with everything
25 about the crime.



1 Q Is it your recollection that you made
2 every effort to acquaint yourself with
3 the facts of the case as the police knew
4 them at that time?

5 A It is my recollection that I read
6 reports, that I was told by
7 Superintendent Wood certain things,
8 and that I did go to the scene."

9 Now, there, Mr. Roberts is indicating that it
01:49 10 appears as though he received instructions
11 from -- and information from Superintendent Wood;
12 do you have any knowledge of that?

13 A No, sir.

14 Q Were you involved in giving Mr. Roberts any
01:49 15 particulars or instructions or reviewing any
16 reports or the file with him in any way?

17 A I was not.

18 Q Okay. If we can turn to page 324, then. Sorry,
19 I'm sorry, if we can just go back to -- I'm sorry
01:49 20 -- 318 again. Just carrying on from where we
21 were, he said he looked at the reports:

22 "No, sir, I don't believe I ever saw
23 these statements given by the two
24 witnesses.

25 Q All right, so you are aware that



1 statements were given by these
2 witnesses?

3 A Yes, I am aware of these
4 statements.

5 Q To this day you have not seen them?

6 A No, sir. Not to my knowledge. I
7 can't remember ever having seen
8 them.

9 Q All right. So, we have you in
10 Saskatoon. You've met with the
11 Superintendent and you have been told
12 everything they apparently know at that
13 time?

14 A Yes, sir.

15 Q All right. Were you told who the
16 suspect was?

17 A Yes, sir.

18 Q Who was that?

19 A It was a David Milgaard.

20 Q Were you told who they wished you to
21 interview?

22 A Who I was to interview?

23 Q Yes.

24 A Yes, sir.

25 Q Who were those persons?



1 A One was a Ronald Wilson, and a Nichol
2 John, a young girl.

3 Q All right. Would you, then, relate to
4 the Court, and to all present, your
5 recollection of your involvement with
6 Mr. Wilson and Miss John, in as much
7 detail as you can recall?

8 A Yes, sir.

9 Q Please, do that. I may have some
10 questions for you in the course, but
11 please tell us what you recall, what you
12 actually remember.

13 A Yes. Now, my lords, as I have said, I
14 arrived the evening before. That I
15 know. I was spoken to by
16 Superintendent John Wood and, I
17 believe, one other detective. I am
18 not too sure. I was taken to the
19 scene of the crime."

01:50 20 So it looks like now he has added that he spoke
21 to Superintendent Wood and another detective. If
22 you can go to 324. Just, here, Mr. Roberts is
23 answering about his discussions with Wilson and
24 states:

25 "Now, I had previously been told by



1 Superintendent Wood that he did not
2 believe that Wilson had anything to do
3 with the actual murder of Gail Miller.
4 In other words, at the most, he would be
5 a witness and the girl would be a
6 witness."

7 That's Woods telling Roberts that; again, do you
8 recall having any discussion with Mr. Roberts
9 about that?

01:51 10 A No I did not.

11 Q But it was your understanding as well, at the
12 time, that Mr. Wilson was not a suspect?

13 A That's true.

14 Q Now I had referred you to page 320 where there is
15 an indication that Mr. Roberts spoke to
16 Superintendent Wood and he thought one other
17 detective. If we could turn to Mr. Mackie's
18 report of May 29th, '70, 106676, just down to the
19 bottom here if we could. Okay. Now this is
01:52 20 Detective Mackie's report, he states:

21 "At approx. 10:00 PM, ..."

22 this is, I believe, May 22nd or 23rd:

23 "... I proceeded to the Cavalier Hotel
24 where Supt. Wood, Lt. Penkala and I
01:52 25 interviewed Insp. Roberts of Calgary



1 Police, in regards to this file, so that
2 he would be able to interrogate Ronald
3 Wilson and Nichole John for us on the
4 23rd."

01:53 5 If we could just go to the next page of May 24.
6 So it appears as though, from Mr. Roberts'
7 evidence, that he said he got his information
8 from Superintendent Wood and a detective, he
9 didn't know the detective's name; it appears from
01:53 10 Detective Mackie's report, doc 106676, that he
11 met with Superintendent Wood and Mr. Roberts and
12 he thought -- it says that Lieutenant Penkala was
13 there to meet with Mr. Roberts and review with
14 him the upcoming polygraph; would that be
01:53 15 correct, that seems to be what the report says?

16 A That's what it appears to be.

17 Q And there is no record of you ever having any
18 meetings, and you don't have any recollection of
19 having any meetings, --

01:53 20 A That's correct.

21 Q -- with Mr. Roberts? Could I ask that you bring
22 up document 006799, that's the number I'm using, I
23 hope that's a common number. This has been, this
24 has been referred to, this document, by a number
01:54 25 of different names, I'm just going to refer to it



1 more or less as a summary. But if we could just
2 take a look at this, do you recognize this
3 document from these proceedings, having seen this
4 before?

01:54 5 A I do, yes.

6 Q Now going back to 1969, we've heard various bits
7 of evidence about who may have prepared this
8 document, and if we could go to the last page of
9 it, if we could, this is what's been referred to
01:54 10 as the Summary, and I think we've heard evidence
11 from Detective Mackie that he may have prepared or
12 did prepare this last page of it. Going back to
13 May 2nd, to -- going back, sorry, to May of
14 1960 -- May and June of 1969; were you involved in
01:54 15 the preparation of this document?

16 A I was not.

17 Q Do you have any recollection of seeing this
18 document at that time?

19 A I can't recall if I seen it or not.

01:54 20 Q Were you a party to any agreement with any other
21 members of the Saskatoon City Police or the RCMP
22 who might have been involved at that time to sort
23 of put together a theory and let's fabricate
24 evidence to fit that theory?

01:55 25 A No, sir.



1 Q And were you aware of anybody being involved in
2 that kind of activity in 1969?

3 A I was not.

4 Q The last page of the summary under Suggestions,
01:55 5 just if I can go right there:

6 "Nichol John, Wilson and Cadrain be
7 brought to Saskatoon where with all
8 present the true story can be obtained
9 ...",

01:55 10 I think that probably should read:

11 "... even if hypnosis or polygraph are
12 necessary."

13 Now if we assume this was prepared somewhere
14 around May 15th of 1969, that's keeping in mind
01:55 15 that you've met with Wilson in Saskatoon around
16 May 22nd-23rd, would you have agreed with that
17 thought, that suggestion, in May of 1969; let's
18 get the three of them, find out the true story?

19 A I probably would have.

01:56 20 Q Now we've heard a number of suggestions that were
21 put to you or theories that were put to you or
22 arguments that were put to you, a couple of them
23 were that you covered up Larry Fisher's
24 involvement in the death of Gail Miller, and the
01:56 25 second perhaps less sinister suggestion is that



1 you had tunnel vision and either intentionally, or
2 through incompetence, implicated David Milgaard
3 and ignored Larry Fisher. The proposition was put
4 to you that when David Milgaard denied -- sort of,
01:56 5 because he didn't actually outright deny it -- but
6 when he sort of didn't admit to killing Gail
7 Miller on March 2nd, 1969, and Ron Wilson and
8 Nichol John said that he was with them and more or
9 less gave him an alibi, I'm assuming from what you
01:57 10 have said, at that point you weren't compared to
11 sort of just -- or prepared to just forget about
12 David Milgaard?

13 A No I wasn't.

14 Q And there's been all sorts of analysis of the
01:57 15 statements that were given by those three
16 individuals and concerns about time elements and
17 that sort of thing, the fact that Ron Wilson and
18 Nichol John did not mention in their statements
19 that they had spoke to a woman walking on the
01:57 20 streets in Saskatoon when they were driving around
21 in the general area of the murder, did that cause
22 you any concern?

23 A I think so.

24 Q And how does that play out in your mind? You are
01:57 25 getting a statement from them, you've -- know what



1 David Milgaard said, these people don't mention
2 anything about that; how does that play in your
3 mind, what is -- what comes up?

4 A When David says that they had seen an older woman
01:57 5 or a woman -- older woman I believe -- and they
6 don't mention it, it -- maybe they were just
7 trying to conceal something, it -- there was room
8 for investigation.

9 Q So it certainly doesn't mean David Milgaard is
01:58 10 even a suspect necessarily?

11 A That's correct.

12 Q But there is still some sort of nagging question
13 that you would prefer to have answered?

14 A Yes.

01:58 15 Q Umm, David Milgaard, we've heard this car had
16 mechanical problems and it got stuck and we've
17 heard it was minus 41 degrees or Celsius, one of
18 the coldest days ever; when he said that he got in
19 the car after being at the Cadrain residence and
01:58 20 drove it around the block because he likes driving
21 did that send off any -- raise any flags?

22 A It caused me more concern.

23 Q And why was that?

24 A I just couldn't really understand why somebody, on
01:58 25 a cold morning like that, would go out and just



1 drive around for fun.

2 Q Can we just bring up Mr. Milgaard's statement at
3 305273, and if we could go to 280, this is the
4 typed copy of his March 2nd -- March 3rd, '69
01:59 5 statement. If we could go to 280, I believe it
6 is, you asked Mr. Milgaard:

7 "What was the weather like in
8 Saskatoon?"

9 And he said:

01:59 10 "Cool."

11 And you said:

12 "How cool?"

13 And he said:

14 "I don't know."

01:59 15 Do you know if that raised any, just, questions
16 or thoughts?

17 A I suspect it did. If it was cold as it was, and
18 we know it was, I would have thought he might have
19 had some recollection that it was really cold
01:59 20 rather than cool. It wasn't really a vital point
21 but it was just one of those things that you
22 wonder whether his recollection is very good or
23 not.

24 Q Sure. And I'm assuming you certainly wouldn't
01:59 25 expect a young man 16 or 17 years old, a month



1 later, to remember a specific date even, or what
2 day of the week necessarily it was, but if it was
3 the most bitterly cold day of the winter maybe
4 that would leave some impression?

02:00 5 A I would agree with that.

6 Q And, again, it doesn't perhaps point to anything
7 other than 'how come'?

8 A Yeah, yes.

9 Q And if we look at your report March 7th, '69 at
02:00 10 106617, if we can go to page 620, this is a report
11 you prepared after Albert Cadrain had come in,
12 after you had gone to Winnipeg, and so on. At --
13 I think we can go to the next page -- sorry, go
14 back to the previous page, I'm sorry. If we could
02:01 15 just highlight that, this is your report:

16 "My personal feelings after
17 interrogating this youth and after being
18 in conversation with Sgt. Edmunson is
19 that he could be responsible for an
02:01 20 offence of this type and there are many
21 areas which I think should be cleared up
22 further with regards to time element and
23 discrepancies in statements made etc.
24 which I believe should be done before
02:01 25 this person should be eliminated as a



1 suspect with regards to this file."

2 Did that accurately de -- indicate what your
3 thoughts were at that point in time?

4 A Yes it does.

02:02 5 Q Certainly not advocating that he be charged?

6 A Just further investigation.

7 Q Just some questions that maybe we should get
8 answers first?

9 A That's correct.

02:02 10 COMMISSIONER MacCALLUM: What was the date
11 of that again.

12 MR. FOX: March 7th, '69.

13 BY MR. FOX:

14 Q Now the, and I'm not going to go through this, but
02:02 15 the fact of the matter is that David Milgaard,
16 contrary to what has been said, wasn't completely
17 honest with you when he spoke to you on March 2nd,
18 1969, he didn't tell you they had drugs, he didn't
19 tell you they were planning on rolling somebody to
02:02 20 get money, that sort of thing, none of those
21 things were revealed to you; am I correct?

22 COMMISSIONER MacCALLUM: Just a second.

23 MR. WOLCH: I appreciate that My Friend is
24 questioning his own client, and is doing so last
02:02 25 so that nobody can challenge him, but surely



1 there is a limit to leading. What he, My Friend
2 has been doing throughout this examination, just
3 handing answers to the witness that the witness
4 is answering 'yes, that's correct', 'yes, that's
02:03 5 correct'. If the witness -- if My Friend wants
6 to ask the witness what caused him some
7 difficulty, let the witness say it, but for My
8 Friend to say 'David didn't tell you the
9 following; isn't that right?' is cross-examining
02:03 10 and leading your own witness. There should be,
11 if there is going to be some weight to be
12 attached to this witness' evidence when he is
13 being questioned by his own counsel, surely the
14 evidence should come from the witness?

02:03 15 COMMISSIONER MacCALLUM: Well I will say
16 that leading questions can be put.

17 MR. WOLCH: By your own counsel, Mr.
18 Commissioner?

19 COMMISSIONER MacCALLUM: Well, I don't see
02:03 20 why not. It was certainly suggested to him in
21 direct examination by you and Mr. -- well
22 Mr. Lockyer, not you, that what was in those
23 initial statements was simply untrue as matters
24 have developed.

02:03 25 MR. WOLCH: Yeah.



1 COMMISSIONER MacCALLUM: That is John and
2 so forth. So, no, I don't see anything wrong
3 with this at all.

4 MR. WOLCH: So giving him the answers so he
02:04 5 can say 'yes'? I mean I don't mind him
6 re-opening the area and saying to the witness
7 'what do you say about this', but saying to him
8 'this is the evidence', and categorizing,
9 describing things, and I submit somewhat
02:04 10 unfairly --

11 COMMISSIONER MacCALLUM: No, but I think
12 that the point he is trying to address is to
13 counter the position that Mr. Milgaard had told
14 the truth and nothing but the truth in his
02:04 15 statement, he is pointing the witness to
16 instances where that might not be so. But surely
17 there's nothing the matter with that, Mr. Wolch?

18 MR. WOLCH: Well I would just submit that
19 the proper question is 'is there something that
02:04 20 caused you concern in the statement', it's not --

21 COMMISSIONER MacCALLUM: No, I won't limit
22 the form of questions to be asked in
23 cross-examination by any counsel. If I believe
24 that they are gratuitously leading then, of
02:04 25 course, their answer deserves less weight than it



1 otherwise would.

2 MR. WOLCH: I appreciate that, Mr.
3 Commissioner.

4 COMMISSIONER MacCALLUM: Thank you.

02:05 5 MR. FOX: Thank you, Mr. Commissioner.

6 COMMISSIONER MacCALLUM: Would you go
7 through that again, then, please?

8 BY MR. FOX:

9 Q Yes. And the words that were actually put to you
02:05 10 by My Learned Friend Mr. Wolch were that David
11 Milgaard was completely honest when he spoke to
12 you on March 2nd, 1969; looking back on it now do
13 you believe he was completely honest with you on
14 March 2nd, 1969?

02:05 15 A No, not now.

16 Q And why is that?

17 A I would have to read that to let you know why I
18 formed that opinion.

19 COMMISSIONER MacCALLUM: Maybe just repeat
02:05 20 what you said before?

21 BY MR. FOX:

22 Q There was other information that he did not reveal
23 to you such as, for example, the plan to roll
24 somebody to try to get some money?

02:05 25 A That's correct.



1 Q And the fact that they might have been planning to
2 roll somebody or steal a purse to get some money
3 could have relevance to this investigation?

4 A It could lead to something further.

02:05 5 Q Certainly would point towards them as, again,
6 possibly being involved in the activity that led
7 to Gail Miller's murder?

8 A It could well be.

9 Q Okay. Similarly, when you, when you are -- you've
02:06 10 got Albert Cadrain coming in and he says 'I saw
11 blood and Milgaard made these certain admissions',
12 and from that he concluded, Albert Cadrain
13 concluded that David Milgaard was possibly
14 responsible for this murder; when you are looking
02:06 15 to see if there's some corroboration or something
16 to support what Albert Cadrain is looking at, I'm
17 assuming that that would cover a pretty broad
18 range of investigation?

19 A As many points as we could think of.

02:06 20 Q Sure. So some of them would be direct points,
21 like 'yes, I too saw blood on his clothes'?

22 A Yes.

23 Q But some of them might be so direct, but still
24 somewhat corroborative, like confirming that David
02:06 25 Milgaard in fact was in Saskatoon that morning?



1 A That's correct.

2 Q Confirming that he, in fact, did attend at the
3 Cadrain residence and was in the area of the
4 murder?

02:07 5 A Right.

6 Q That he did change his clothes?

7 A Yes.

8 Q The suggestion was put to you that, once Ron
9 Wilson and Nichol John more or less said 'well
02:07 10 David wasn't gone so he couldn't have done it',
11 that you should have dropped David Milgaard as a
12 suspect; could have you done that in light of what
13 Albert Cadrain had said?

14 A Not in my opinion.

02:07 15 MR. WOLCH: Mr. Commissioner, with respect,
16 that was never said.

17 COMMISSIONER MacCALLUM: What wasn't said?

18 MR. WOLCH: That, because the stories
19 jived, he should -- David should be dropped as a
02:07 20 suspect.

21 MR. FOX: What, exactly, did you suggest
22 should be done with them then?

23 MR. WOLCH: Should be given some weight.

24 COMMISSIONER MacCALLUM: I was writing
02:07 25 something else down. Just a moment. Now what is



1 it you object to?

2 MR. WOLCH: My Friend prefaced his remarks
3 by saying that 'it was suggested to you that
4 Milgaard should be dropped as a suspect when the
02:08 5 stories all jived' and --

6 COMMISSIONER MacCALLUM: You are wondering
7 who suggested that to him?

8 MR. WOLCH: Yes. That was never suggested.

9 MR. FOX: So if I've got that incorrectly,
02:08 10 then, am I correct that the position of Mr. Wolch
11 is that notwithstanding that, what Ron Wilson and
12 Nichol John said, it was still appropriate that
13 David Milgaard continued to be investigated as a
14 suspect?

02:08 15 MR. WOLCH: Everybody should be
16 investigated. You don't just drop it.

17 MR. FOX: And if that's the case, if they
18 are not, if -- and I'll try and put that to you.
19 If there is no suggestion -- I gathered from the
02:08 20 cross-examination of Mr. Karst by Mr. Wolch that
21 'here is the statement of Nichol John, here's the
22 statement of Ron Wilson, they somehow seem to
23 jive and they somehow seem to support David that
24 he didn't -- wasn't involved in this'.

02:09 25 COMMISSIONER MacCALLUM: Yes?



1 MR. FOX: 'So why did you carry on with the
2 investigation?'

3 COMMISSIONER MacCALLUM: Yes.

4 MR. FOX: Now if My Learned Friend is
02:09 5 acknowledging that it was quite appropriate to
6 continue considering him a suspect and continue
7 with an investigation, then I don't have any
8 questions.

9 COMMISSIONER MacCALLUM: Well I don't think
02:09 10 he has to acknowledge anything, I just am
11 concerned at this point that you put things to
12 the witness which actually were said in
13 cross-examination. Have you no record of it in
14 the transcript, Mr. Fox?

02:09 15 MR. FOX: No, and I'll -- and I think all
16 that I was leading up to was that what wasn't
17 addressed when this witness was cross-examined
18 was what do you do with Albert Cadrain's
19 evidence. That's where I was getting on this
02:09 20 line of questioning.

21 COMMISSIONER MacCALLUM: All right.

22 MR. FOX: The rest, in large part, is
23 argument in any event.

24 MR. WOLCH: No, I think it is argument.
25 No, I mean I'm having to explain our position to



1 My Friend, but our position basically is that
2 there was a tunnel vision in the investigation,
3 that you only go down one road and everything
4 that's in that direction you follow, but
02:09 5 exonerates you don't even consider. That's the
6 position, if that helps.

7 COMMISSIONER MacCALLUM: That, in general,
8 was the tenor of his cross-examination. But I
9 have no objection at all of you putting things to
02:10 10 the witness which were actually asked by
11 Mr. Wolch --

12 MR. FOX: Sure.

13 COMMISSIONER MacCALLUM: -- but, since he
14 seems ready to challenge you about that, I think
02:10 15 you better look it up --

16 MR. FOX: Sure.

17 COMMISSIONER MacCALLUM: -- if you are
18 going to continue.

19 MR. FOX: Sure.

02:10 20 BY MR. FOX:

21 Q I'm going to ask you this, Mr. Karst. You've just
22 heard Mr. Wolch suggest that, after this, you had
23 total tunnel vision of David Milgaard being a
24 suspect, and whatever pointed towards him you
02:10 25 considered, and whatever pointed some other



1 direction that suggested he wasn't involved you
2 just ignored it; can you comment on that?

3 A I don't believe that's true.

4 Q And to go back to where I was getting at, you,
02:10 5 after March 2nd, '69, have a statement from Wilson
6 and Nichol John, but you still had Albert Cadrain
7 out there, which I'm assuming you had to come to
8 some resolution of?

9 A Yes.

02:11 10 Q Either he is lying or making it up or mistaken or
11 something?

12 A Correct.

13 Q And the logical step would be, after Milgaard,
14 Wilson and Nichol John sort of disagree with what
02:11 15 Cadrain says, is to go back and interview Cadrain
16 again?

17 A Yes.

18 Q If we could bring up document 106640, if we could
19 just go to the next page -- sorry, back to the
02:12 20 first page, I think I've got it, just highlight
21 that portion if we could. Okay. So Detective
22 Short has outlined what's transpired to date
23 starting with Cadrain coming in, giving his
24 statement, speaking to Milgaard and so on:

02:12 25 "On Wed. March 5/69 Albert Cadrain was



1 again brought in by my request and
2 another statement taken from him at
3 which time he verified and stuck with
4 his story and he was interviewed at that
02:12 5 time by several members of this dept.
6 and one Inspector Riddell of the RCMP
7 and also S/Sgt. Edmundson."

8 Now, first of all, were you involved with the
9 re-interview of Mr. Cadrain on April -- or March
02:12 10 5th, 1969?

11 A No, I wasn't.

12 Q Okay. Again, according to this report, Cadrain
13 was brought in at the request of Short; that would
14 be detective -- or Lieutenant Short making the
02:13 15 call that he should be re-interviewed?

16 A Appears that way.

17 Q And that would seem logical to you; would it?

18 A Yes.

19 Q And, according to this report, Short is
02:13 20 sticking -- or Albert Cadrain is sticking to his
21 story?

22 A Appears that way.

23 Q So, looking back, I mean do you have a
24 recollection of kind of -- I'm assuming at some
02:13 25 point in time you'd have become aware of the fact



1 that Cadrain was re-interviewed?

2 A I don't recall that now, but I must have been
3 aware of it at the time.

4 Q So you've got Cadrain sticking to his story,
02:13 5 Wilson and Milgaard saying something different; do
6 you have a recollection at that time of thoughts
7 going through your head about where the
8 investigation might go then?

9 A Yes, I'm sure I was aware there was some conflict
02:13 10 in the evidence we were getting.

11 Q Detective or Lieutenant Short, in his report,
12 states on the second page, this is information
13 coming from Nichol John, she expressed an opinion
14 about Mr. Milgaard, his character, forced
02:14 15 intercourse several times and she was afraid of
16 him; do you recall if you saw that information or
17 received that information

18 A I would have been aware of it at the time.

19 Q Would that mean anything or did it mean anything
02:14 20 to you?

21 A I would suggest that it probably made some
22 impression on me.

23 Q Are you assessing whether or not, and again going
24 back to your report of March 7th, 1969 where you
02:14 25 say 'Mr. Milgaard is the type of person who might



1 be responsible for an offence of this type'; does
2 this -- is this the sort of evidence that would
3 point you in that direction?

4 A Give a little credence to that thought I think.

02:14 5 Q There was a statement given by Sharon Williams to,
6 I think it was, detective Malanowich, her
7 statement is found at 006500 in the Malanowich
8 report; first of all do you recall if you saw this
9 statement at that time?

02:15 10 A I believe I had seen it at that time, yes.

11 Q And his report is 009245, and do you know if you
12 would have seen this report somewhere around that
13 time, it's a report dated March 22nd, '69?

14 A Yes sir.

02:15 15 Q It, again, talks about her dealings with Mr.
16 Milgaard and a variety of allegations against him
17 by her, including forced sexual activity and so
18 on; would you consider that in your assessment as
19 to whether or not you should continue considering
02:15 20 Mr. Milgaard as a suspect?

21 A I would think it had a bearing on my thoughts.

22 Q If I can turn you to document 009254, which is
23 your report of April 18th, '69 -- actually I'm
24 going to have you go to, if I could, 106604. I
02:16 25 didn't give you that number, I don't know if you



1 can get that one up for me or not. Go to the page
2 before -- no, sorry, that's not it -- okay, no,
3 that's fine. If we could bring up document
4 105525. Down in the bottom, here, it looks like
02:16 5 there is a bit of a "K" written there; do you see
6 that?

7 A A bit of a which?

8 Q A "K"?

9 A Yes.

02:17 10 Q Do you know whose writing that is?

11 A No idea whatsoever.

12 Q Is that yours?

13 A No.

14 Q I think we might hear something of this later on,
02:17 15 we see that "K" on a number of documents. That's
16 not your writing?

17 A No, sir.

18 Q Okay. If we can go back to 009254, thanks, and
19 that's Detective Karst's April 18th, '69 report.
02:17 20 Now, in this report, this has been gone through
21 with you in great detail, but in this report you
22 mention that there are a number of unanswered
23 questions, but if Nichol John is to be believed,
24 there is an alibi for Mr. Milgaard. Do you want
02:17 25 me to point that out to you or do you follow that?



1 A I'm aware of it.

2 Q Okay. And if we can go to 255, just highlight
3 this area here:

4 "With regards to the above information
02:18 5 it now appears that further questioning
6 of Cadrain is warranted with regards to
7 the blood as both youths Milgaard and
8 Wilson along with the girl, Nichol John
9 deny that Milgaard had any blood on his
02:18 10 clothing, while Cadrain emphatically
11 states that he observed this blood."

12 That would have been your recommendation at the
13 time?

14 A Yes.

02:18 15 Q And I'm assuming that's because you found some
16 evidence which implicates Mr. Milgaard, which is
17 Albert Cadrain's story?

18 A Yes.

19 Q But you've also got some evidence that refutes
02:18 20 that and seems to exonerate Mr. Milgaard and
21 that's the reference to Nichol John and Ron
22 Wilson?

23 A That's correct.

24 Q So you've got to go back and see, in this case
02:19 25 your recommendation is follow up with Cadrain, see



1 if he's the one who is lying?

2 A Do some more questioning.

3 Q Who decides that? You've pointed out the problem

4 in your report, you've said here I've got Cadrain

02:19 5 saying one thing, I've got Nichol John and she

6 seems believable saying something else, Ron Wilson

7 saying something else, I think we should go back

8 and talk to Cadrain and see if he sticks with his

9 story. Who makes that decision? On April 18th,

02:19 10 1969 when you deliver this report, who's going to

11 decide what course of conduct should be followed?

12 A I suspect it was a decision between Mackie, Short,

13 Penkala and Wood.

14 Q And I'm assuming you would wait your instructions

02:19 15 as to what you should do?

16 A That's correct.

17 Q And if somebody said go and interview Cadrain,

18 would you do it?

19 A I would.

02:19 20 Q And if somebody said we're not doing that, we're

21 going to go some different direction, would you do

22 that?

23 A That's what I would have done.

24 Q If I can turn to document 009264, this is your

02:20 25 report of May 25th, '69, this now details the fact



1 that Ron Wilson has now given an incriminating
2 statement, Nichol John also apparently gave a
3 statement. If I can go to the last page of that
4 document -- sorry, it ends by saying:

02:20 5 "Investigation continuing."

6 Those are your words?

7 A Yes.

8 Q Do you recall if at that time you were of the
9 understanding that the investigation was
02:20 10 continuing?

11 A That was my opinion.

12 Q Had you made any decision in your own mind that
13 David Milgaard should be charged?

14 A I don't think I had come to that conclusion as of
02:20 15 that time.

16 Q Was it your call to make the decision as to
17 whether David Milgaard would be charged?

18 A That's just what I was going to add, I would have
19 to consult with senior officers.

02:21 20 Q And do you have any recollection of being involved
21 in the decision-making process; in other words,
22 sitting down and discussing and making a decision,
23 David Milgaard should be charged, do you have any
24 recollection --

02:21 25 A No, sir.



1 Q There's a court summary that was prepared I think
2 by Mr. Ullrich, 105605, if we could bring that up.
3 Do you recall seeing this document in 1969 or
4 prior to the trial in 1970?

02:21 5 A No, I didn't.

6 Q Were you involved in the preparation of this
7 document?

8 A No, sir.

9 Q Now, if we can go back to the May 25th, '69
02:21 10 statement again, that's 009264?

11 COMMISSIONER MacCALLUM: That document is
12 009254 and you want 64?

13 MR. FOX: 264.

14 COMMISSIONER MacCALLUM: It's up there.

02:22 15 BY MR. FOX:

16 Q If we can go to the third page of that document,
17 266, this is Mr. Wilson, you are relating your
18 dealings with Mr. Wilson on the morning of May
19 22nd, and Wilson is describing to you what
02:23 20 transpired then, but he states that he saw no
21 blood. Do you recall Mr. Wilson telling you at
22 that point in time still that he saw no blood?

23 A I believe so. It's in my report.

24 Q There was no formal statement taken from
02:23 25 Mr. Wilson the morning of May 22nd, at least we



1 haven't seen any; would that be correct?

2 A I believe that's correct.

3 Q So the fact that he -- and as far as I can tell,
4 the record, the only record of somebody saying
02:23 5 that Ron Wilson still on May 22nd, '69 was saying
6 that he still wasn't seeing any blood was what you
7 put in your report?

8 A I believe that's true.

9 Q And you, in making this report, are assuming that
02:24 10 others in the police service are going to see it?

11 A I would think so.

12 Q The Crown prosecutor might see it?

13 A Senior officers that are investigating.

14 Q The Crown prosecutor might see it?

02:24 15 A He may.

16 Q So the problem with blood or no blood, you've
17 recorded it there in your report?

18 A Correct.

19 Q Mr. Wilson then goes on and states that he had
02:24 20 seen blood, and if I can turn to the next page of
21 that document, we know from his statement that he
22 eventually gave you that he saw blood, but you
23 record in your report:

24 "Also in this statement Wilson states
02:24 25 that he had seen blood on Milgaard's



1 trousers when he changed his clothes at
2 the Cadrain residence at 334 Avenue O
3 South on the morning of January 31st,
4 1969. This he had previously denied."

02:24 5 That would be what you had said?

6 A That's right.

7 Q Any reason why you would point that out? Why
8 would you point out that he had previously denied
9 it?

02:24 10 A Probably to show that he is changing his thoughts
11 a little bit.

12 Q You assume your senior officers would review that
13 report?

14 A I am quite sure they would have.

02:25 15 Q And again would make some decision, what are we
16 going to do with this?

17 A Correct.

18 Q How much weight to give it?

19 A Yes.

02:25 20 Q What do we do with the fact that he's saying
21 there's no blood, now he's saying there is blood?

22 A Correct.

23 Q Whatever was going to be done with it, you laid it
24 out there, the good and the bad, so to speak, as
02:25 25 far as Mr. Milgaard was concerned?



1 A The information I had was there.

2 Q I've looked at Nichol John's statement, I don't
3 see anywhere where she said that she saw blood.
4 Do you have any recollection of Nichol John at any
02:25 5 point in time saying she saw blood?

6 A No, I don't.

7 Q I think you had indicated, I think this was to Mr.
8 Hodson, that after Nichol John and Ron Wilson gave
9 their last statements in May of 1969, you awaited
02:26 10 further instructions, I think those were the words
11 you used. Who would you -- who would give you
12 further instructions?

13 A That would be one of the senior officers, Mackie,
14 Short, Wood or Penkala.

02:26 15 Q Mr. Wolch asked you, put some theories to you as
16 to perhaps why Nichol John and Ron Wilson might
17 have lied. Do you recall that line, that line of
18 questioning?

19 A Yes.

02:26 20 Q Based on your years as an investigator and a
21 police officer, can you offer any reasons why
22 people might have lied in circumstances like that?

23 A Sometimes they are afraid and sometimes they just
24 want to cover up for somebody else. Various
02:27 25 reasons.



1 Q Have you ever seen people lie because they don't
2 like the person they are talking about?

3 A I've seen that.

4 Q And have you ever seen people accuse somebody of
02:27 5 something because in their own minds they believe
6 it happened, even if it didn't?

7 A I don't recall if I can say that.

8 Q If I can turn to Ron Wilson's transcript at page
9 5956, Mr. Wilson was asked here about sort of his
02:27 10 state of mind at various times and he was asked
11 the question:

12 "Q So if I stopped you on the street the
13 day before David Milgaard's trial and
14 said "do you think he murdered Gail
02:28 15 Miller" what would you have answered me,
16 truthfully?"

17 He answered:

18 "A Yes."

19 He talks about how he changed his mind
02:28 20 afterwards. Do you have any comment on that, Mr.
21 Wilson's state of mind, whether he did believe or
22 didn't believe?

23 A I didn't know whether to believe him or not most
24 of the time, so I can't say I believed him or I
02:28 25 didn't.



1 Q Was there anything after that caused you to give
2 Mr. Wilson's evidence some weight or testimony
3 some weight?

4 A Well, I suppose when Inspector Roberts had
02:28 5 completed his examination, I placed weight on
6 that.

7 Q If Inspector Roberts hadn't completed his
8 examination, if you are able to do that
9 hypothetically, take Inspector Roberts out of the
02:28 10 equation, what would your view have been on the
11 reliability of Mr. Wilson?

12 A Very dubious.

13 Q Do you know what cryptic means?

14 A Not really.

02:29 15 Q Mr. Wolch asked you if you refer to your notes as
16 cryptic notes. Do you know what that means?

17 A Not really.

18 MR. WOLCH: I never asked that.

19 BY MR. FOX:

02:29 20 Q You put it to him, you had used the word cryptic.
21 At the break I'll find it.

22 I'll ask you this, did you
23 prepare detailed notes as a matter of course, were
24 your notes very brief or can you comment on that?

02:29 25 A I recall them generally quite brief.



1 COMMISSIONER MacCALLUM: I recall the
2 cross-examination. I'm not prepared to say that
3 that adjective was used, but certainly that sense
4 was put to him. Just going back, you took some
02:29 5 comfort in Wilson's statements after the
6 polygraph, that's what you said.

7 BY MR. FOX:

8 Q The questions were put to you in regard to your
9 report of May 25th, '69 and maybe we can just
02:30 10 bring that report up, 009264. This report is
11 dated May 25th, '69 and covers a time period of
12 May 20th, '69. When preparing that report, would
13 have that, do you have a recollection if you would
14 have relied on your notes in completing that
02:30 15 report?

16 A I don't have a recollection, but I always did rely
17 on my notes to give a report.

18 Q So do you think as a matter of practice, would you
19 have referred to your notes in preparing this
02:30 20 report?

21 A That's correct.

22 Q This wouldn't have been a situation of sitting
23 down May 25th, 1969 and just remembering off the
24 top of your head what had gone on in the past five
02:30 25 days?



1 A Not for the past five days, no.

2 Q When Mr. Roberts conducted his polygraph testing,
3 there was evidence -- we've heard there was a room
4 next door where monitoring of that testing was
02:31 5 going on, there may have been taping, at least
6 been attempted of what was going on there. Were
7 you ever in that room?

8 A No, sir.

9 Q If we could bring up document 007029. This is,
02:31 10 was put to you I think by Commission Counsel as --
11 or at least as a meeting, notes of Mr. Caldwell in
12 reference to a:

13 "Mtg. - Tuesday, a.m., 9:45 - advised:"
14 There's check marks by the name Penkala, Short
02:31 15 and Oleksyn, I think, there's no check mark by
16 your name. Do you have any recollection whether
17 you attended a meeting with those officers and
18 Mr. Caldwell?

19 A I don't have any recollection of it, no.

02:32 20 Q I'm jumping around a bit here, Mr. Karst, but bear
21 with me. You were asked about your meetings with
22 Albert Cadrain and you indicate that you met with
23 him a number of times after March 2nd, 1969?

24 A I did.

02:32 25 Q Do you have any recollection of how many times



1 there would have been a formal interview; by that
2 I mean a statement taken, that sort of thing?

3 A I would probably think seven, eight, nine times.

4 Q Okay. That was where you would have talked about
02:32 5 this particular matter?

6 A Yes, when his mother or him would call the house,
7 or call the station and either he would come in or
8 I would go out.

9 Q Of those seven or eight or nine times, how would
02:32 10 those meetings come about; by that I mean who is
11 initiating those meetings?

12 A Generally by Albert Cadrain, he had some other
13 information or his mother would like to clarify up
14 something that he had told her. I can't remember
02:33 15 specifics, but I recall the meetings.

16 Q Who would call to set up those meetings?

17 A Generally Albert would.

18 Q Okay. Did Mrs. Cadrain ever call?

19 A Yes, she did.

02:33 20 Q Do you recall how many meetings you yourself would
21 have initiated with Albert Cadrain?

22 A Probably a couple. Two or three.

23 Q Do you recall meeting the Cadrain residence -- or
24 sorry, the Cadrain family at the Cadrain
02:33 25 residence; by that I mean Albert's parents, his



1 mother and father?

2 A Do I recall meeting them?

3 Q Yes.

4 A Yes.

02:33 5 Q Do you recall meeting any of his brothers and
6 sisters?

7 A Not a sister, but a little brother and Mr. and
8 Mrs. Cadrain.

9 Q Okay. Did anybody, do you have any recollection
02:33 10 of anyone from the Cadrain family leaving the
11 impression with you that Albert shouldn't be
12 believed? In other words, did somebody express to
13 you some concerns about Albert and whether you
14 should believe him or not?

02:34 15 A No, they did not.

16 Q Now, you were asked some questions about Albert
17 Cadrain referring to a gun and possibly wanting to
18 get rid of Nichol John and Ron Wilson and this
19 sounded kind of far fetched and that kind of
02:34 20 thing. Do you recall if a gun was mentioned by
21 anyone else, Albert Cadrain or anyone else
22 previously?

23 A No, I don't.

24 Q I want to just refer you to his statement, 001466,
02:34 25 go to, I think it's 471.



1 COMMISSIONER MacCALLUM: Is this his March
2 2nd?

3 BY MR. FOX:

4 Q Yes. Sorry, Mr. Commissioner. Just the next
02:36 5 page. I'll have to find that after.

6 If we could bring up document
7 006500 and if we could -- this is Sharon Williams'
8 statement, and if we could go to 006505.
9 Ms. Williams refers at the bottom of the page:

02:37 10 "One evening he had a little gun, it was
11 the --"

12 Some person.

13 "It had one bullet and he played Russian
14 Roulette with it."

02:37 15 Do you recall reading that in Ms. Williams'
16 statement?

17 A Not that I recall, no.

18 MR. FOX: Mr. Commissioner, I'm not sure
19 when you want to take a break.

02:37 20 COMMISSIONER MacCALLUM: Let me see now,
21 we've been going for an hour and a half. Yes,
22 this would be a good time.

23 MR. FOX: That would be fine, thank you.

24 (Adjourned at 2:37 p.m.)

03:00 25 (Reconvened at 3:01 p.m.)



1 BY MR. FOX:

2 Q Thank you, Mr. Commissioner. Mr. Commissioner, I
3 do owe Mr. Wolch an apology, he did not refer to
4 Mr. Karst's notes as being cryptic, that reference
03:01 5 was made by Mr. Lockyer, and I think you'll find
6 it at pages -- at page 1258 actually is where the
7 reference to the word cryptic is, and -- sorry,
8 12528, my apologies, of the Inquiry transcript
9 from last Friday, and the reference is made here:

10 "... as best I can understand, are at
11 best cryptic references to what you were
12 reporting on?"

13 This is going through his report:

14 "A I would agree with that."

03:01 15 And then further on:

16 "Q Right, using cryptic notes, all right."
17 And that's where it was sort of left at. I
18 simply wanted to establish whether the witness
19 even knew what cryptic meant.

03:02 20 If we could bring up document
21 001466, that's the statement of Albert Cadrain
22 given March 2nd, '69 and I was referring to the
23 reference about a gun. This is the first
24 statement that he gave. If we can turn to page
03:02 25 474, this portion here is talking about not get



1 around, talked about a gun, he's referring there
2 to Hoppy, which is David Milgaard, talked about a
3 gun once but I never seen one. This is in the
4 very first statement. I don't know if you recall
03:03 5 him mentioning a gun in that first statement or
6 not?

7 A No, I don't.

8 Q So -- but it appears as though he referenced a
9 gun, at least Mr. Milgaard talking about a gun
03:03 10 already in his first statement, Sharon Williams
11 talks about him having a gun at some point in
12 time, so who knows what Mr. Cadrain is referring
13 to, he's not around, but it wasn't the only place
14 that we see -- later on when he talks about the
03:03 15 gun, that wasn't the only place that we saw that?

16 A Correct.

17 Q Okay. I wanted to talk about Larry Fisher just
18 for a minute and I had asked you some questions
19 about that at the outset. Do you have any
03:03 20 recollection, going back to 1969, 1970, about Mr.
21 Fisher being a suspect at all as relates to Gail
22 Miller?

23 A None whatever.

24 Q And I take it from that, do you have any
03:03 25 recollection of him ever living at Avenue O?



1 A No, I don't.

2 Q And by Avenue O, I mean the Cadrain residence. If
3 we can just bring up the (V3)----- statement,
4 that's 012659, and this is referring, it's
03:04 5 referencing an offence that occurred November
6 29th, 1968. That would be the offence, the
7 assault on (V3)-- (V3) (V3)-----, and you ask
8 Mr. Milgaard, at least according to this
9 statement:

03:04 10 "Q Did you live in Saskatoon around
11 November of 1968."

12 And he said:

13 "A Yes, probably at 512 Avenue F South or
14 1530 Avenue C North."

03:04 15 Do you have any recollection of that?

16 A No, sir.

17 Q Okay. And I take it from that you are not able to
18 say whether he was lying to you at that time or
19 trying to hide the fact he lived at Avenue O or
03:04 20 not?

21 A I cannot say.

22 Q But certainly at least according to this
23 statement, November, '68, and you were
24 specifically talking about November 29th, '68, he
03:05 25 was giving you an address on Avenue F or an



1 address on Avenue C?

2 A That's correct.

3 COMMISSIONER MacCALLUM: Whose statement is
4 this?

5 BY MR. FOX:

6 Q This is Mr. Fisher's statement, Mr. Commissioner,
7 that he gave on October 22nd, '70 in Winnipeg.

8 Now, if we could bring up
9 document 067059 and this is just a document that
03:05 10 lists the various residences of Mr. Fisher, and it
11 looks like, according to this document, that he
12 moved into that Avenue O residence on November
13 12th, '68. This was prepared obviously sometime
14 later. Assuming that's correct, it would appear
03:05 15 as though Mr. Fisher was not giving you correct
16 information about where he was living in November
17 of 1968. Again, I take it you have no
18 recollection or knowledge of that?

19 A I do not.

03:06 20 Q When you -- when the -- when the Gail Miller
21 murder trial, the trial involving David Milgaard
22 was completed in early 1970, do you remember what
23 your thoughts were at that time or if you had any
24 thoughts about Mr. Milgaard, the likelihood he was
03:06 25 guilty or not guilty or kind of where your mind



1 was as regards the Gail Miller murder file?

2 A When the trial was over?

3 Q Yes.

4 A There was no thoughts of Milgaard in my mind at
03:06 5 all.

6 Q And what about in terms of further investigation,
7 was there any thought of that at that point in
8 time?

9 A Not in my mind.

03:06 10 Q And was there any thought of, well, we still might
11 have the rapist out there who maybe killed Gail
12 Miller as well, was that thought in your mind at
13 all?

14 A Not in mine, no.

03:07 15 Q When you went to Winnipeg, at least as we see from
16 the record, it appears as though the Winnipeg
17 police already had got a statement from Mr.
18 Fisher, at least casually, and by casually I mean
19 in not much detail, referring to the two rapes he
03:07 20 had committed in Saskatoon. Can you just bring
21 that up, that's document 261186. He says he wants
22 to clear up three more things and two of the
23 things that he clears up are references to sexual
24 assaults or rapes that occurred in Saskatoon. I
03:07 25 don't know if you have any recollection of seeing



1 this statement in 1970 at all?

2 A I don't.

3 Q Okay. Umm, and I take it, logically, you would
4 have been aware, or whoever went to see Mr. Fisher
03:08 5 the next day would have been aware that he has
6 already made some admissions as to the rapes that
7 you are going there to talk to him about?

8 A 'The next day'; you are referring to which?

9 Q October 22nd. He gave this statement to the
03:08 10 Winnipeg police --

11 A Yes.

12 Q -- October 21st, October 22nd there's -- we have
13 the typed copy of the statement you --

14 A I would -- I would assume they made me aware of
03:08 15 it.

16 Q Okay. And when you look at your interview of --
17 your statement, for example if we can go back to
18 012659 this is the (V3)----- statement that you
19 obtained, the statement from Mr. Fisher about the
03:08 20 sexual assault of (V3)-----; now can you -- are
21 you able to comment? Like in looking at the
22 statement now, obviously you've indicated already
23 you have no recollection, but reading it now is it
24 short, long, detailed, normal, regular; anything
03:09 25 jump out at you that comes out when you look at



1 it?

2 A I would say it's quite brief.

3 Q And any thoughts as to why it might be quite
4 brief?

03:09 5 A I guess that's all the information I needed.

6 Q Would that -- could that be, in part, because the
7 Winnipeg Police already had the admission from
8 him?

9 A I don't know.

03:09 10 Q I take it this wouldn't be a situation where
11 you've got to go interrogate somebody to get an
12 admission --

13 A No.

14 Q -- because it looks like it already existed?

03:09 15 A That's true.

16 Q There has been reference made to the fact that Mr.
17 -- an Officer McCorriston interviewed Larry Fisher
18 in January or early February of 1969; I think
19 you've heard of that or become aware of that?

03:09 20 A I'm aware of it.

21 Q Do you have any recollection of being advised of
22 that information in 1969 or '70?

23 A No I don't.

24 Q And do you have any knowledge as to whether Mr.
03:10 25 Fisher was interviewed as a potential witness, or



1 as a potential suspect, or in what capacity
2 Officer McCorriston spoke to him; do you have any
3 knowledge of that?

4 A No, I don't.

03:10 5 Q There is a -- reference was made to an interview
6 with -- between yourself and Gillian Findlay from
7 the CBC?

8 A Yes.

9 Q And some reference -- and that interview, at
03:10 10 least, we don't know when it took place, if -- and
11 Mr. Commissioner, I didn't plan to bring it up,
12 but it's the one that's got the fax date on it of
13 October 12th, 1991, so we're assuming somewhere
14 around there, we don't have the tape and we don't
03:10 15 have a full transcript but that's the fax date on
16 it, October 12th, 1991. Prior to going to speak
17 with Ms. Findlay in Winnipeg for that interview,
18 had the issue of Larry Fisher possibly been --
19 being involved with the death of Gail Miller, was
03:11 20 that already out in the public in terms of being
21 debated, discussed, that sort of thing?

22 A Gee, I don't know, I can't remember.

23 Q Okay. We see that you spoke with Eugene Williams;
24 do you remember speaking with Mr. Williams? That
03:11 25 was the fellow from the Federal Department of



1 Justice.

2 A I don't remember that.

3 Q Okay.

03:11

4 A I remember the other gentleman but I can't
5 remember that one.

6 Q Okay. Mr. Williams was -- was -- I'm looking for
7 the appropriate words.

8 COMMISSIONER MacCALLUM: Well he remembered
9 Mr. Williams the other day.

10 MR. FOX: I thought --

11 COMMISSIONER MacCALLUM: You remembered him
12 as a black man, sir?

13 A Yes, if that's the one, yes.

14 BY MR. FOX:

03:12 15 Q Yes. Do you recall that interview?

16 A Yes.

17 Q Do you know if you discussed Larry Fisher at that
18 interview, or knowledge you had of Larry Fisher?

19 A I have no idea, no, I don't.

03:12 20 Q Okay. And I'm assuming Mr. Williams interviewed
21 you to see what you remembered about Larry Fisher
22 and the Gail Miller murder; that sort of thing?
23 Let me ask you this. Rather than me saying I
24 assume that, do you remember why you were asked to
03:12 25 speak to Mr. Williams?



1 A Is that prior to me going to Ottawa? I can't, I
2 just can't put that in place.

3 Q I believe it was.

4 A And maybe even a discussion of going to Ottawa, I
03:12 5 don't remember.

6 Q Okay. Would it have been in relation to the David
7 Milgaard matter though?

8 A Oh, I'm sure it was.

9 Q Okay. And were you aware that other police
03:12 10 officers were being spoken to as well?

11 A I was not.

12 Q Okay. Did you talk to anybody else, you know for
13 example just casually on the street 'gee, I see
14 there is a newspaper article in the paper about
03:12 15 David Milgaard', do you know if you casually spoke
16 to anybody?

17 A About?

18 Q David Milgaard.

19 A No, I can't -- I don't think so, I can't recall
03:13 20 whether I spoke to anybody.

21 Q You can't recall?

22 A Nope.

23 Q Okay. Do you know, Mr. Karst, when you spoke to
24 Ms. Findlay, and that's the Winnipeg interview --

03:13 25 A Yes.



1 Q -- in 1991, do you know at this time where you had
2 got the information or knowledge that Officer
3 McCorriston had spoke to Larry Fisher; do you know
4 where you got that from?

03:13 5 A Could have been a report, could have been talking
6 to somebody, I just -- I don't remember.

7 Q And do you have any recollection of having that
8 knowledge in 1969 or '70, that Officer McCorriston
9 had spoke to Larry Fisher, --

03:13 10 A No.

11 Q -- or that Larry Fisher resided at 334 Avenue O
12 South?

13 A No, sir.

14 Q Now you were asked some questions about (V4)----
03:14 15 (V4)---. That was the young lady who was, I think
16 at that time called indecent assault, or sexually
17 assaulted the same morning that Gail Miller was
18 killed.

19 A I remember reading it.

03:14 20 Q Okay. Do you remember being asked some questions
21 about that last week, whether or not the same --
22 whether you thought the same person could have
23 killed Gail Miller and then also sexually
24 assaulted or assaulted (V4)---- (V4)---?

03:14 25 A I recall that.



1 Q And you expressed the opinion last week that you
2 didn't think it would be the same person?

3 A In my opinion, no.

4 Q Umm, obviously if that wasn't the same person,
03:14 5 then that would leave the prospect that you are
6 dealing with two different individuals, one who
7 assaulted Ms. (V4)--- and one who killed Gail
8 Miller?

9 A Correct.

03:14 10 Q And, incidentally, the RCMP in their report -- if
11 we could just bring this up, 023167 at page
12 023389 --

13 COMMISSIONER MacCALLUM: The document ID
14 was what, Mr. --

03:15 15 MR. FOX: 023167, and it's at 023389. And
16 I'm -- this is going to be referred to later on
17 at the hearing I'm sure, at the Inquiry, but it's
18 just the report that was done by the RCMP, and
19 they review the possibility that perhaps, if
03:15 20 Larry Fisher assaulted Gail Miller, he also
21 assaulted (V4)---- (V4)---. And if we could just
22 scroll down, the conclusion they draw, at least:

23 "The noted facts and circumstances do
24 not support the theory Fisher is
03:15 25 responsible for both the Miller and



1 (V4)--- assaults."

2 that's their opinion, and they seem to share the
3 same opinion that you did?

4 A All right.

03:15 5 Q What I wanted to ask you is do you know -- are you
6 able to say, going back to 1969, first of all do
7 you know if you had knowledge that (V4)----
8 (V4)--- had been assaulted that morning; do you
9 know if you had that information?

03:16 10 A I don't recall that.

11 Q Okay. Is it possible you did, sir?

12 A I may have.

13 Q Do you know if you made any conclusion or thought
14 that, at that time, that this couldn't have been
03:16 15 the same -- same person?

16 A I'm quite sure I wouldn't have, because I wasn't
17 involved in either aspects there, so I'm sure I
18 didn't make any conclusion.

19 Q Okay. And do you know if subsequently, when you
03:16 20 became involved in the investigation after March
21 2nd, '69, if you would have drawn any conclusion
22 'this must be two different people we're talking
23 about here'?

24 A I can't remember.

03:16 25 Q Okay. Do you know and do you recall if you looked



1 at it and drew any conclusion that 'well, if that
2 -- if there is a rapist out there who had raped a
3 couple of times in Saskatoon and he sexually
4 assaulted (V4)---- (V4)---, and I must have a
03:16 5 different person that then killed Gail Miller,
6 we're talking about two different people'; do you
7 have any recollection of that being discussed or
8 reviewed?

9 A I can't recall coming to any conclusion about
03:17 10 that.

11 Q Mr. Karst, have you been involved in any attempt
12 to cover up Larry Fisher's involvement in the
13 death of Gail Miller?

14 A I have not.

03:17 15 Q Have you been involved in any intentional
16 destruction of material or files or notes or
17 anything of that nature?

18 A No, I have not.

19 Q Are you aware of anyone else being actively
03:17 20 involved in any coverup or destruction of
21 material?

22 A No, sir, I am not.

23 Q Now there was considerable questioning about how
24 Ron Wilson and Nichol John may have come up with
03:17 25 certain information that they relayed to the



1 police in their statements given in May of 1969,
2 umm, and I would suggest in general terms some
3 suggestion that you may have -- somebody involved
4 with the police may have planted evidence or given
03:18 5 them suggestions that they gave back as
6 statements; do you recall that?

7 A I do.

8 Q And I think you indicated that's always a concern,
9 you want to make sure they are giving you original
03:18 10 information, not something that someone has
11 suggested to them?

12 A Right.

13 Q Now do you recall, going back to May of 1969, what
14 knowledge there was on the street, so to speak, or
03:18 15 out in the public at large about what had happened
16 with the death of Gail Miller; do you recall if
17 you -- do you have any recollection?

18 A No, I can't remember that any more.

19 Q I'm just going to refer you to some media reports,
03:18 20 if I can, the first is 159791. This is a report
21 that was from the Regina Leader-Post January 31st,
22 '69, it refers to, in this case it was the Gail
23 Miller matter, and it says:

24 "The body, as yet unidentified, was

03:19 25 reported by police to have knife wounds



1 in throat and abdomen."

2 That's a report there, I don't know, I've -- do
3 you have any recollection of seeing that?

4 A I don't have any, but I'm sure I would have seen
03:19 5 it.

6 Q That was in the *Leader-Post*; would have you seen
7 --

8 A Oh, well that's, I might not have seen that.

9 Q Okay. If I could refer to document 226843.

03:19 10 That -- this, that comes from the *Saskatoon*
11 *Star-Phoenix*, and I think that's January 31st,
12 '69, if I -- it's not very clear but I think
13 that's the date. It states here, highlight that
14 portion, please:

03:20 15 "The body of a young woman was found
16 this morning in an alley behind the 200
17 block of Ave. N, south. Police said the
18 woman was between 18 and 21 years of
19 age."

03:20 20 That would be -- do you have any recollection of
21 a media report like that going out?

22 A I don't, but I'm sure I would have seen it.

23 Q If we can scroll down a little bit further to the
24 second paragraph after that, there we are:

03:20 25 "They reported early this afternoon that



1 the woman had knife wounds in the throat
2 and abdomen area."

3 And then further down, at the very end of that
4 column:

03:20 5 "It was learned later that the woman's
6 body was found by Mary Marcoux of 104
7 Ave. N, south. While still there, she
8 was joined by Mark Hounjet of 227 Ave.
9 N, south, behind whose home the woman
03:20 10 was found, lying on top of the snow."

11 It appeared information was being released to the
12 public about, frankly, how the lady died and the
13 location where she was found?

14 A Right.

03:21 15 Q If we can turn to document 004085, the first
16 paragraph:

17 "Police said the girl had been molested,
18 but not sexually assaulted. She had
19 incurred about 10 stab wounds to the
03:21 20 throat and abdomen. They said she was
21 wearing a coat and her clothing was
22 disarrayed.",

23 I think that should be -- again, do you have a
24 recollection of that being sort of out in the
03:21 25 public?



1 A No, sir.

2 Q This certainly would be the case if this, indeed,
3 was a newspaper article?

4 A Yes.

03:21 5 Q If we could go down to the paragraph below that,
6 umm, and again that just is a repeat, again
7 identifying the area where the body was found,
8 which was, again, behind the Avenue N residence.

9 If we can turn to document
03:22 10 039073, right there:

11 "Miss Miller's body was found in an
12 alley in a lane west of the 200 block of
13 Avenue N, south, Friday. She had
14 incurred about 10 stab wounds to the
03:22 15 throat and abdomen."

16 And if you carry on to, if I can go back to the
17 main document, right there:

18 "Police said the girl had been molested
19 and had her sweater torn completely off,
03:22 20 but she had not been sexually assaulted.

21 A knife blade was found under
22 her body, without a handle, and her
23 purse was missing."

24 That would be information, again, that would seem
03:22 25 to be, now, out in the public domain?



1 A Correct.

2 Q If we can turn to document 218745, the first
3 paragraph:

4 "Police were studying a knife blade,
03:23 5 sweater and snow boot found during the
6 weekend near where the body of Gail
7 Olena Miller, 20, was found Thursday
8 with stab wounds to the throat, chest
9 and abdomen."

03:23 10 Carry on down below. Sorry, yeah, there:

11 "Police identified the weapon as a
12 kitchen knife, minus the handle. All
13 three clues were in a snowbank near the
14 scene."

03:23 15 Again, considerable information out there for the
16 public?

17 A Right.

18 Q If we could turn back to document 004085 again,
19 that paragraph there:

03:24 20 "She left Laura after completing high
21 school, and took her nurse's aid
22 training at City Hospital. She had also
23 worked at a Swift Current hospital."

24 It seems to, again, be conveying to the public
03:24 25 that we're dealing with somebody who is working



1 as a nurse?

2 A Right.

3 Q Agreed? The last item, document I refer to, is
4 document 050614, this is a *StarPhoenix* article
03:25 5 from February 6th, '69, again identifies in that
6 paragraph where:

7 "Miss Miller's body was found ..."
8 with a number:

9 "... about 10 stab wounds to the throat
03:25 10 and abdomen."

11 A Right.

12 Q And, again, if I could go down to the last
13 paragraph on that document:

14 "Miss Miller's purse was missing at the
03:25 15 time she was found but was recovered by
16 police Friday in a garbage can in the
17 area nearby."

18 A All right.

19 Q So it would look like, as of February 6th, '69, it
03:25 20 was being distributed as public knowledge that her
21 purse was found in a garbage can nearby?

22 A It appears that way.

23 Q Now, umm, I'm not -- I'm not going to suggest at
24 any point in time that Nichol John or Ron Wilson
03:25 25 were reading *The StarPhoenix*. Do you have any



1 recollection though, and based on your experience
2 as a police officer -- I'll first ask you if you
3 have any recollection. I want -- Ron Wilson is --
4 David Milgaard, sorry, is questioned March 3rd,
03:26 5 1969 about the death of Gail Miller, Ron Wilson
6 was questioned about March 3rd, '69 as well,
7 Nichol John was questioned March 11th, 1969,
8 obviously Shorty Cadrain is being questioned there
9 as well; do you have any recollection of these
03:26 10 people speaking amongst themselves or an
11 indication that they were even speaking amongst
12 themselves, you know, 'gee, what the heck is going
13 on, David is being questioned about a murder',
14 that sort of thing?

15 A No, I --

16 Q Do you know if that was going on?

17 A I do not.

18 Q Would it surprise you that they might question, or
19 talk to each other, or ask third parties if they
03:26 20 know anything about it?

21 A Yes, for the reason Cadrain was in Saskatoon and
22 the information was that Wilson and Nichol were in
23 Regina, so with the exception of Nichol and
24 Wilson, they may have communicated, I don't know.

03:27 25 Q We saw that Barbara Berard -- do you recall that



1 name?

2 A Yes.

3 Q And there was a reference in a report to her
4 having some information of having spoke to Nichol
03:27 5 John; correct?

6 A Yes, I recall that.

7 Q Would you agree that that would be an indication
8 that Nichol John is speaking to somebody else
9 about the David Milgaard death?

03:27 10 A Yes, it was.

11 Q And I take it you would have no direct knowledge
12 as to what information they might be receiving
13 from other people or what may be conveyed to
14 them --

03:27 15 A None whatsoever.

16 Q -- or whether somebody may have said 'eh, did you
17 know her purse was found in a garbage can'?

18 A True.

19 Q You were asked, and I had asked you some questions
03:28 20 at the outset about Linda Fisher, and I'm not --
21 you've answered your questions about your
22 knowledge or lack of knowledge of that. If we
23 could just bring up her statement, 004921, she
24 describes, down here, a missing knife:

03:28 25 "... short handled ordinary paring knife



1 with a smooth blade about 4 inches long.
2 The handle was wooden and brown
3 coloured."

4 Do you know offhand how that compares to the
03:28 5 knife which -- and the knife handle, the blade
6 and the knife handle that was found and was
7 referred to as the murder weapon in the case of
8 the death of Gail Miller?

9 A I have no personal knowledge at this time.

03:28 10 Q And we'll leave that until -- we've heard Officer
11 Penkala testify to that so we'll just refer to the
12 record in due course about that. Umm, in reading
13 this statement, and it's pretty short, if you
14 could just give it a quick read, is there any --
03:29 15 if you could just take a look and just read
16 through it, if you could.

17 A (Witness reading) I read it.

18 Q Okay. Next page, please. Just looking at that
19 statement, is there anything new in that
03:30 20 statement, in other words does she give you any
21 information about the death of Gail Miller that
22 wasn't already well on public record?

23 A Not that I see.

24 Q You've indicated you don't know what follow-up
03:30 25 took place with this statement?



1 A No, I don't.

2 Q And I take it, from that, you are not aware of any
3 issues that would relate to her credibility?

4 A None at all.

03:30 5 Q Okay. Umm, as an experienced police officer,
6 would the fact that she, for example, came in at
7 4:30 in the morning, and some indication at least
8 of a smell of alcohol on her, not necessarily
9 impaired; might that at least raise a bit of a
03:30 10 question with you?

11 A I think it would.

12 Q The fact that she is coming in ten years later;
13 would that raise a bit of a question?

14 A More so, yes.

03:31 15 Q If there was some indication that she had just
16 become aware that there was a \$10,000 reward for
17 information, might that raise some more --

18 A It may have something to do with it.

19 Q Again, all speculation, because we don't know?

03:31 20 A That's correct.

21 Q Mr. Lockyer asked you about the fact that David
22 Milgaard's statement of March 2nd, 1969 never went
23 to the jury, the jury was never aware of his
24 statement.

03:31 25 A I recall him saying that.



1 Q And he asked you if it might have been helpful for
2 the jury to have seen David Milgaard's statement;
3 do you remember that, those questions?

4 A I remember that.

03:31 5 Q Now as a police officer, a former police officer,
6 would you be aware that there would be no
7 obligation on David Milgaard to testify at his
8 trial?

9 A I didn't, and don't, know the legal aspects of
03:32 10 that.

11 Q Would you know that he is presumed to be innocent
12 until he --

13 A Yes, I was aware of that.

14 Q And that doesn't change unless he is found guilty
03:32 15 beyond a reasonable doubt?

16 A That's correct.

17 Q Were you aware as to whether David Milgaard
18 testified at his trial or not?

19 A I was not aware.

03:32 20 Q Do you know if -- do you know, looking back in
21 1970 at the time of the trial, would have you
22 known at that time whether he testified or not?

23 A I suspect I would have.

24 Q And do you have any recollection as to whether or
03:32 25 not his failure to testify, or decision not to



1 testify, had any bearing on your conclusions about
2 --

3 A I don't think so.

4 Q Finally, Mr. Karst, I'm going to refer you to an
03:32 5 interview that took place with Dan Lett on August
6 21st, 1991, if we could just bring up document
7 039366, please. Now in 1991 I can tell you Mr.
8 Karst, this is common ground, there was no -- the
9 DNA evidence was not yet here exonerating Mr.
03:33 10 Milgaard and implicating Mr. Fisher.

11 A All right.

12 Q This interview took place August 21st, '91. If we
13 can turn to page 393, first of all, do you recall
14 that interview with Mr. Lett?

03:33 15 A No, I don't.

16 Q Okay, but you are not disputing that it took
17 place?

18 A Oh no, not, just --

19 Q I think that's already been established. Okay.
03:33 20 This is your answer at the top of page 393, page
21 28 of the statement, and this is Mr. Lett was
22 asking you whether or not you would accept that
23 Mr. Fisher had done it and so on, and you:

24 "I just - I'd have to - to be convinced
03:34 25 otherwise, I'd have to, I'd like to sit



1 down and talk with Milgaard, Wilson,
2 Cadrain, Lapchuk, the other guy, Nichol
3 - all these people - I'd like to; I'd
4 like to get together and say, you know.
03:34 5 Put me in a room with them altogether
6 and say to them 'What's going on? You
7 guys all lied to give - you know, did
8 you all perjure yourselves or what?'"

9 Can you tell me -- all right. First of all do
10 you recall saying that, or words like that, at
11 some point in time?

12 A I don't recall it but I wouldn't doubt that I said
13 it.

14 Q Do you have any idea what you meant or what you
03:34 15 are talking about there?

16 A Well, obviously, maybe the interviewer was
17 questioning the guilt of Milgaard, and I was
18 questioning why that would be, so I wanted to see
19 all these people to see what was going on.

03:34 20 Q Get to the bottom of it, so to speak?

21 A Exactly.

22 Q Still feel that way today?

23 A Yes.

24 Q I'm going to refer you to page 410, if we could,
03:35 25 if we could just refer to this. Sorry. Mr. Lett



1 is asking you:

2 "Mmhm."

3 And he is talking about a possible Inquiry:

4 "And do you think it was - well, how do

03:35 5 I get around it? You wouldn't - you're

6 not advocating it, but you wouldn't, you

7 know, you wouldn't disagree with some

8 sort of a judicial inquiry?

9 KARST: Not at all. Nope. You're exactly

03:35 10 right. I'm not advocating what they'd

11 do what they are supposed to do, but I

12 have certainly no objection if they had

13 one.

14 LETT: Yeah. And if it were called, you

03:36 15 would certainly support that and ...

16 KARST: Oh, certainly. That - without a

17 doubt I haven't got no qualms about that

18 at all."

19 Is that still your position today?

03:36 20 A It still is, yes.

21 Q Have you had any objection to this Inquiry
22 proceeding?

23 A None whatsoever.

24 Q Have you had any objection to co-operating or
03:36 25 providing information?



1 A None at all.

2 Q Thank you, Mr. Commissioner, those are all the
3 questions I have. Thanks.

4 BY MR. HODSON:

03:36 5 Q I don't think there's any other questions. I had
6 one area, Mr. Commissioner, that I elected, one
7 document I would like to put to Mr. Karst if I
8 may.

9 I had asked you, Mr. Karst, I
03:36 10 put to you when we were talking about the May
11 23rd, '69 meeting with Ron Wilson and when you
12 took statements and I'll just, I put to you what
13 Inspector Roberts had said at the Supreme Court of
14 Canada, what his evidence was about what happened
03:37 15 when he interviewed Ron Wilson, when he called
16 you, etcetera, and I'll just put it up on the
17 screen. I neglected to put to you the statement
18 that he gave to the RCMP a year later, so first
19 I'll just call up the Supreme Court document,
03:37 20 043300, and page 043336, and so this just again, I
21 read through this with you, but this is Inspector
22 Roberts, the Supreme Court of Canada in 1992, and
23 then you recall this part:

24 "In front of Karst I said, "Ron has now
03:37 25 told me what had happened"."



1 And this is when he testified about the
2 polygraph.

3 "Q All right. That was the end of your
4 test process ..."

03:37 5 "Q ... how long you were with Wilson in
6 total time that day?

7 A I would say about two hours the first
8 time. He was taken away and then I
9 think I phoned again and requested him
03:38 10 to come back in the afternoon when
11 Nichol John was there. He came back,
12 and I'm going to say for about another
13 hour, hour-and-a-half with Nichol
14 John. Maybe an hour. And there we
03:38 15 discussed it again. Then, the
16 Saskatoon City police -- we went down
17 for coffee. I remember going
18 downstairs for coffee; buying them
19 coffee. We took a walk in the park,
03:38 20 across from the Sheraton Cavalier, and
21 came back, the three of us. Then I
22 called for the Saskatoon City police
23 and they came and picked him up."

24 And I put that to you and I neglected to put, if
03:38 25 I can call up 035118. You recall me going



1 through that with you, Mr. Karst?

2 A Yes.

3 Q Okay. And then this is an interview that Mr.
4 Roberts gave in I think 1993 to the RCMP, and
03:38 5 these are the notes of the RCMP officers, and if
6 you can just go to the next -- this is backwards,
7 if you can go to 035123, and again these are the
8 RCMP officers of their interview with Mr. Roberts
9 and it's recorded:

03:39 10 "During the polygraph test there was an
11 indication that Wilson was lying to some
12 of the questions. After further
13 discussion Wilson admitted that Milgaard
14 told him he had killed her."

03:39 15 And then if you can go to 035122, and then in
16 paragraph 6 it's recorded:

17 "After this, Roberts called for Ed Karst
18 and he discussed both John's and
19 Wilson's statements in their presence in
03:39 20 order to eliminate the possibility of
21 any discrepancy when they supplied
22 written statement to Karst."

23 And I just wanted to put that to you, Mr. Karst,
24 and ask you whether again you recall being
03:39 25 present when Inspector Roberts interviewed Nichol



1 John or when Inspector Roberts was with Nichol
2 John and Ron Wilson together on May 23rd, 1969?

3 A No, sir, I was not there.

4 MR. HODSON: Thank you. And I'm not sure
03:39 5 if that gives rise to any questions. I don't
6 think it should. Thank you very much, Mr. Karst.

7 A Thank you.

8 COMMISSIONER MacCALLUM: Thank you, Mr.
9 Karst, you can take your seat now.

03:40 10 MR. HODSON: Mr. Commissioner, our next
11 witness I've got scheduled for tomorrow morning
12 at nine a.m., it's Gus Weir and Bev Cressman are
13 on for tomorrow.

14 COMMISSIONER MacCALLUM: Okay.

03:40 15 A I hope I've been of some assistance, Mr.
16 Commissioner.

17 COMMISSIONER MacCALLUM: Thank you very
18 much. So we'll adjourn until tomorrow. Nine
19 o'clock?

03:40 20 MR. HODSON: Yes.

21 (Adjourned at 3:40 p.m.)

22

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OFFICIAL QUEEN'S BENCH COURT REPORTERS' CERTIFICATE:

We, Karen Hinz, CSR, and Donald G. Meyer, RPR, CSR,
Official Queen's Bench Court Reporters for the Province of
Saskatchewan, hereby certify that the foregoing pages
contain a true and correct transcription of our shorthand
notes taken herein to the best of my knowledge, skill, and
ability.

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Karen Hinz, CSR

Official Queen's Bench Court Reporter

_____, RPR, CSR

Donald G. Meyer, RPR, CSR

Official Queen's Bench Court Reporter



\$

\$10,000 - 12768:16

'

'68 - 12747:23,
12747:24, 12748:13
'69 - 12684:9,
12684:10, 12684:20,
12685:12, 12690:5,
12692:17, 12694:7,
12694:21, 12696:21,
12715:4, 12716:9,
12717:12, 12726:5,
12729:13, 12729:23,
12730:19, 12732:25,
12734:9, 12735:5,
12740:9, 12740:11,
12740:12, 12745:22,
12757:21, 12759:22,
12760:12, 12764:5,
12764:19, 12765:6,
12773:11
'69-70 - 12675:18
'70 - 12709:18,
12748:7, 12751:22,
12755:8
'91 - 12770:12
'david - 12718:8
'gee - 12754:13,
12765:12
'here - 12723:21
'how - 12716:7
'is - 12719:19
'it - 12723:3
'mr - 12728:25
'so - 12724:1
'the - 12750:8
'this - 12719:8,
12757:22
'well - 12722:9,
12758:1
'what - 12719:7
'yes - 12718:4,
12721:21
'yes' - 12719:5

O

001466 - 12743:24,
12745:21
004085 - 12761:15,
12763:18
004921 - 12766:23
006500 - 12729:7,
12744:7
006505 - 12744:8
006799 - 12710:22
007029 - 12741:9
009245 - 12729:11
009254 - 12729:22,
12730:18, 12734:12
009264 - 12732:24,
12734:10, 12740:10
012659 - 12747:4,
12750:18
023167 - 12756:11,
12756:15
023389 - 12756:12,
12756:15
035118 - 12774:25
035122 - 12775:15
035123 - 12775:7
039073 - 12762:10
039366 - 12770:7
043300 - 12702:12,
12773:20
043336 - 12773:20

050614 - 12764:4
052923 - 12690:4
065399 - 12694:4
067059 - 12748:9
09 - 12688:9

1

1/2 - 12667:15
10 - 12761:19,
12762:14, 12764:9
104 - 12761:6
105525 - 12730:4
105605 - 12734:2
106604 - 12729:24
106617 - 12696:20,
12716:10
106640 - 12726:18
106676 - 12709:18,
12710:10
10:00 - 12709:21
11th - 12765:7
12528 - 12745:8
1258 - 12745:6
12667 - 12666:4
12676 - 12666:5
12773 - 12666:6
12th - 12748:13,
12752:13, 12752:16
15 - 12684:19
1530 - 12747:14
159791 - 12759:20
15th - 12712:14
16 - 12715:25
16th - 12698:23,
12698:24, 12700:4,
12700:9
17 - 12715:25
18 - 12760:18
18th - 12729:23,
12730:19, 12732:9
1960 - 12711:14
1968 - 12690:10,
12747:6, 12747:11,
12748:17
1969 - 12683:17,
12683:18, 12683:21,
12684:1, 12688:23,
12690:12, 12691:3,
12691:12, 12692:4,
12692:9, 12694:6,
12698:21, 12700:4,
12700:9, 12711:6,
12711:14, 12712:2,
12712:14, 12712:17,
12713:7, 12717:18,
12720:12, 12720:14,
12727:10, 12728:24,
12732:10, 12734:3,
12736:4, 12737:9,
12740:23, 12741:23,
12746:20, 12751:18,
12751:22, 12755:8,
12757:6, 12759:1,
12759:13, 12765:5,
12765:7, 12768:22,
12776:2
1969-70 - 12672:23,
12675:14
1969-1970 - 12670:20,
12671:16, 12671:23
1970 - 12668:3,
12677:5, 12677:17,
12677:22, 12681:6,
12681:12, 12681:23,
12734:4, 12746:20,
12748:22, 12750:1,
12769:21
1980 - 12682:25
1991 - 12752:13,

12752:16, 12755:1,
12770:6, 12770:7
1992 - 12773:22
1993 - 12775:4
1:00 - 12667:2

2

2 - 12667:15
20 - 12763:7
200 - 12760:16,
12762:12
2005 - 12663:21
208 - 12691:1
20th - 12694:6,
12740:12
21 - 12694:7, 12760:18
2108 - 12688:8
218745 - 12763:2
21st - 12694:20,
12698:21, 12750:12,
12770:6, 12770:12
226843 - 12760:9
227 - 12761:8
22nd - 12709:22,
12729:13, 12734:19,
12734:25, 12735:5,
12748:7, 12750:9,
12750:12
22nd-23rd - 12712:16
23rd - 12709:22,
12710:4, 12773:11,
12776:2
24 - 12710:5
25 - 12684:19
250609 - 12698:19
255 - 12731:2
25th - 12732:25,
12734:9, 12740:9,
12740:11, 12740:23
261186 - 12749:21
264 - 12734:13
266 - 12734:17
28 - 12770:21
280 - 12715:3, 12715:5
29th - 12663:21,
12709:18, 12747:6,
12747:24
2:37 - 12744:24
2nd - 12683:17,
12683:21, 12684:1,
12684:10, 12684:20,
12685:12, 12688:23,
12691:3, 12692:4,
12692:9, 12692:17,
12711:13, 12713:7,
12715:4, 12717:17,
12720:12, 12720:14,
12726:5, 12741:23,
12744:2, 12745:22,
12757:21, 12768:22

3

3 - 12667:15, 12694:6,
12697:8, 12698:22
305273 - 12715:3
317 - 12704:24
318 - 12706:20
31st - 12683:18,
12684:9, 12691:12,
12736:3, 12759:21,
12760:11
320 - 12705:1,
12709:14
324 - 12706:18,
12708:22
326548 - 12690:21
334 - 12736:2,
12755:11

335 - 12702:14
36 - 12702:14
39 - 12691:2
393 - 12770:13,
12770:20
3:01 - 12744:25
3:40 - 12776:21
3rd - 12715:4, 12765:4,
12765:6

4

4 - 12698:22,
12699:13, 12700:3,
12767:1
41 - 12714:17
410 - 12771:24
471 - 12743:25
474 - 12745:25
4:30 - 12768:7

5

5/69 - 12726:25
512 - 12747:13
5589 - 12704:9
5956 - 12738:9
5th - 12690:4,
12690:12, 12727:10

6

6 - 12700:20, 12775:16
620 - 12716:10
621 - 12696:21
64 - 12663:22,
12734:12
6th - 12764:5,
12764:19

7

7th - 12696:21,
12716:9, 12717:12,
12728:24

9

90 - 12704:9
9:45 - 12741:13

A

Aaron - 12665:8,
12676:23
abdomen - 12760:1,
12761:2, 12761:20,
12762:15, 12763:9,
12764:10
ability - 12777:7
able - 12684:14,
12688:11, 12710:2,
12739:8, 12747:17,
12750:21, 12757:6
acceded - 12670:22
accept - 12681:11,
12691:21, 12770:22
accord - 12704:5
according - 12727:12,
12727:19, 12747:8,
12747:22, 12748:11
account - 12674:16,
12674:21, 12674:23
accurately - 12704:19,
12717:2
accuse - 12738:4
acknowledge -
12724:10
acknowledging -
12724:5

acquaint - 12705:24,
12706:2
acquainted - 12705:19
action - 12699:4
actively - 12758:19
activities - 12679:16,
12680:10
activity - 12680:23,
12712:2, 12721:6,
12729:17
actual - 12668:19,
12709:3
add - 12733:18
added - 12708:20
address - 12719:12,
12747:25, 12748:1
addressed - 12724:17
adjective - 12740:3
adjourn - 12776:18
Adjourned - 12744:24,
12776:21
admission - 12751:7,
12751:12
admissions - 12750:6
admissions' -
12721:11
admit - 12713:6
admitted - 12775:13
advised - 12697:4,
12741:13, 12751:21
advocating - 12717:5,
12772:6, 12772:10
afraid - 12728:15,
12737:23
afternoon - 12667:3,
12667:4, 12667:24,
12694:7, 12760:25,
12774:10
afterwards - 12738:20
age - 12760:19
agitated - 12702:23
agree - 12669:4,
12670:19, 12673:6,
12675:1, 12704:21,
12716:5, 12745:14,
12766:7
Agreed - 12764:3
agreed - 12699:15,
12700:6, 12700:10,
12700:11, 12700:16,
12700:18, 12703:13,
12712:16
agreement - 12711:20
aid - 12763:21
Albert - 12671:25,
12684:1, 12685:1,
12685:11, 12686:20,
12687:5, 12688:4,
12696:22, 12716:11,
12721:10, 12721:12,
12721:16, 12722:13,
12724:18, 12726:6,
12726:25, 12727:20,
12731:17, 12741:22,
12742:12, 12742:17,
12742:21, 12743:11,
12743:13, 12743:16,
12743:21, 12745:21
Albert's - 12742:25
Albert-saskatoon -
12671:25
alcohol - 12768:8
Alexander - 12666:3,
12667:18
alibi - 12713:9,
12730:24
allegation - 12673:22,
12673:23
allegations - 12729:16
alley - 12703:22,



12760:16, 12762:12
almost - 12684:23
altogether - 12771:5
analysis - 12713:14
animosity - 12686:15
answer - 12671:20,
 12682:15, 12719:25,
 12770:20
answered - 12714:13,
 12738:15, 12738:17,
 12766:21
answering - 12708:23,
 12718:4
answers - 12668:1,
 12717:8, 12718:3,
 12719:4
apologies - 12745:8
apologize - 12676:24
apology - 12745:3
appear - 12748:14
Appearances -
 12665:1
appeared - 12761:11
appreciate - 12717:23,
 12720:2
appropriate -
 12723:12, 12724:5,
 12753:7
approx - 12709:21
April - 12727:9,
 12729:23, 12730:19,
 12732:9
area - 12672:11,
 12675:19, 12691:13,
 12691:17, 12693:23,
 12713:21, 12719:6,
 12722:3, 12731:3,
 12761:2, 12762:7,
 12764:17, 12773:6
areas - 12668:2,
 12716:21
argument - 12724:23,
 12724:24
arguments - 12712:22
arrangements -
 12701:7
arrived - 12701:20,
 12705:14, 12708:14
article - 12754:14,
 12762:3, 12764:4
ascertain - 12701:2
aspects - 12757:17,
 12769:9
assault - 12691:6,
 12747:7, 12750:20,
 12755:16
assaulted - 12683:18,
 12755:17, 12755:24,
 12756:7, 12756:20,
 12756:21, 12757:8,
 12758:4, 12761:18,
 12762:20
assaults - 12749:24,
 12757:1
assessing - 12728:23
assessment -
 12729:18
assigned - 12672:18,
 12679:1, 12682:17,
 12691:17
assistance - 12696:12,
 12776:15
Assistant - 12664:5
assume - 12680:21,
 12683:2, 12712:13,
 12736:12, 12750:14,
 12753:24
Assuming - 12748:14
assuming - 12680:2,
 12683:4, 12684:6,

12684:11, 12686:2,
 12693:10, 12695:18,
 12713:9, 12715:24,
 12721:17, 12726:7,
 12727:24, 12731:15,
 12732:14, 12735:9,
 12752:13, 12753:20
attached - 12718:12
attempt - 12679:11,
 12758:11
attempted - 12741:6
attend - 12722:2
attendance -
 12668:10, 12693:8
attended - 12699:1,
 12741:17
attributed - 12677:10
Audio - 12664:12
audio - 12676:7,
 12676:14
August - 12663:21,
 12770:5, 12770:12
authority - 12669:17,
 12670:25
available - 12676:17
Ave - 12760:17,
 12761:7, 12761:8
Avenue - 12736:2,
 12746:25, 12747:2,
 12747:13, 12747:14,
 12747:19, 12747:25,
 12748:1, 12748:12,
 12755:11, 12762:8,
 12762:13
averaged - 12684:19
awaited - 12737:9
aware - 12671:5,
 12671:7, 12672:5,
 12672:6, 12672:7,
 12672:15, 12672:17,
 12674:21, 12675:17,
 12675:22, 12675:23,
 12682:16, 12683:6,
 12688:25, 12694:2,
 12698:10, 12701:15,
 12701:18, 12701:23,
 12706:25, 12707:3,
 12712:1, 12727:25,
 12728:3, 12728:9,
 12728:18, 12731:1,
 12750:4, 12750:5,
 12750:14, 12751:19,
 12751:20, 12754:9,
 12758:19, 12768:2,
 12768:16, 12768:23,
 12769:6, 12769:13,
 12769:17, 12769:19

B

back-pocket - 12671:6
backwards - 12775:6
bad - 12736:24
Barbara - 12765:25
Based - 12737:20
based - 12673:19,
 12678:25, 12765:1
Battleford - 12671:25,
 12672:1
Battleford-saskatoon
 - 12671:25
bear - 12741:20
bearing - 12674:22,
 12729:21, 12770:1
became - 12674:21,
 12684:24, 12690:13,
 12692:18, 12701:15,
 12757:20
become - 12727:25,
 12751:19, 12768:16

beginning - 12703:3
behind - 12760:16,
 12761:9, 12762:8
Beitel - 12664:8
belief - 12668:8
believable - 12732:6
below - 12762:5,
 12763:10
Bench - 12777:1,
 12777:3, 12777:14,
 12777:18
benefit - 12667:24
Berard - 12765:25
Beresh - 12665:10,
 12666:4, 12667:7,
 12667:17, 12667:19,
 12677:2, 12681:21,
 12682:7, 12682:11
best - 12668:24,
 12745:10, 12745:11,
 12777:6
better - 12725:15
between - 12668:25,
 12671:24, 12680:25,
 12684:9, 12732:12,
 12752:6, 12760:18
Bev - 12667:10,
 12776:12
beyond - 12769:15
bit - 12677:2,
 12682:12, 12683:20,
 12730:5, 12730:7,
 12736:11, 12741:20,
 12760:23, 12768:9,
 12768:13
bits - 12711:6
bitterly - 12716:3
black - 12753:12
blade - 12762:21,
 12763:4, 12767:1,
 12767:5
block - 12714:20,
 12760:17, 12762:12
blood - 12687:19,
 12688:3, 12688:10,
 12689:20, 12721:11,
 12721:21, 12731:7,
 12731:9, 12731:11,
 12734:21, 12734:22,
 12735:6, 12735:16,
 12735:20, 12735:22,
 12735:25, 12736:21,
 12737:3, 12737:5
Bohs - 12665:5
body - 12759:24,
 12760:15, 12761:6,
 12762:7, 12762:11,
 12762:22, 12763:6,
 12764:7
boot - 12763:5
Boswell - 12664:4
bottom - 12709:19,
 12730:4, 12744:9,
 12771:20
Boulevard - 12697:10
Brady - 12685:2
break - 12669:11,
 12739:21, 12744:19
Brian - 12665:10
brief - 12739:24,
 12739:25, 12751:2,
 12751:4
briefing - 12695:4
briefly - 12672:12
bring - 12694:4,
 12696:19, 12698:19,
 12699:5, 12710:21,
 12715:2, 12726:18,
 12730:3, 12734:2,
 12740:10, 12741:9,

12744:6, 12745:20,
 12747:3, 12748:8,
 12749:20, 12752:11,
 12756:11, 12766:23,
 12770:6
bringing - 12701:12
broad - 12721:17
brother - 12686:24,
 12687:10, 12743:7
brothers - 12743:5
brought - 12712:7,
 12727:1, 12727:13
brown - 12767:2
Bruce - 12665:9
bullet - 12744:13
buying - 12774:18

C

Cadrain - 12684:2,
 12685:1, 12685:11,
 12686:3, 12686:20,
 12686:24, 12687:18,
 12688:11, 12688:14,
 12688:19, 12696:22,
 12712:6, 12714:19,
 12716:11, 12721:10,
 12721:12, 12721:16,
 12722:3, 12722:13,
 12726:6, 12726:15,
 12726:23, 12726:25,
 12727:9, 12727:12,
 12727:20, 12728:1,
 12728:4, 12731:6,
 12731:10, 12731:25,
 12732:4, 12732:8,
 12732:17, 12736:2,
 12741:22, 12742:12,
 12742:18, 12742:21,
 12742:23, 12742:24,
 12743:8, 12743:10,
 12743:17, 12743:21,
 12745:21, 12746:12,
 12747:2, 12765:8,
 12765:21, 12771:2
Cadrain's - 12688:6,
 12692:13, 12692:14,
 12724:18, 12731:17
Caldwell - 12665:5,
 12741:11, 12741:18
Calgary - 12701:4,
 12709:25
can' - 12766:17
Canada - 12665:12,
 12702:11, 12773:14,
 12773:22
Candace - 12664:3
cannot - 12747:21
capacity - 12752:1
car - 12702:19,
 12702:22, 12714:15,
 12714:19
career - 12675:2,
 12675:8
Carry - 12763:10
carry - 12680:23,
 12693:23, 12724:1,
 12762:16
carrying - 12678:6,
 12706:20
case - 12678:9,
 12684:16, 12698:15,
 12699:17, 12700:8,
 12705:6, 12706:3,
 12723:17, 12731:24,
 12759:22, 12762:2,
 12767:7
cases - 12675:18,
 12676:6, 12676:9,
 12690:9

casually - 12749:18,
 12754:13, 12754:15
categorizing - 12719:8
Catherine - 12665:5
caused - 12714:22,
 12718:6, 12719:20,
 12739:1
cautious - 12675:24
Cavalier - 12709:23,
 12774:20
Cbc - 12752:7
Celsius - 12714:17
certain - 12680:23,
 12691:17, 12705:20,
 12706:7, 12721:11,
 12758:25
Certainly - 12670:4,
 12670:24, 12717:5,
 12721:5
certainly - 12675:24,
 12714:9, 12715:24,
 12718:20, 12740:3,
 12747:22, 12762:2,
 12772:12, 12772:15,
 12772:16
Certificate - 12777:1
certify - 12777:4
challenge - 12717:25,
 12725:14
chance - 12684:23
change - 12722:6,
 12769:14
changed - 12736:1,
 12738:19
changing - 12736:10
character - 12728:14
charge - 12694:9,
 12697:7, 12698:9,
 12705:17
charged - 12671:2,
 12692:19, 12717:5,
 12733:13, 12733:17,
 12733:23
charges - 12670:2,
 12670:10, 12670:15,
 12682:1
check - 12741:14,
 12741:15
checked - 12690:22,
 12691:3, 12697:21
checking - 12691:4,
 12691:10, 12692:13,
 12692:14
chest - 12763:8
Chief - 12699:10,
 12705:13
children - 12688:20
Cid - 12694:10,
 12699:8
circumstances -
 12690:6, 12737:22,
 12756:23
City - 12694:10,
 12694:16, 12697:25,
 12698:7, 12698:12,
 12699:2, 12700:21,
 12701:4, 12701:6,
 12703:10, 12703:14,
 12705:12, 12711:21,
 12763:22, 12774:16,
 12774:22
clarify - 12742:13
clear - 12668:7,
 12749:22, 12760:12
cleared - 12716:21
clears - 12749:23
Clerk - 12664:8
client - 12717:24
close - 12679:12
clothes - 12722:6,



12736:1
clothes' - 12721:21
clothing - 12731:10,
 12761:21
clues - 12763:13
co - 12772:24
co-operating -
 12772:24
coat - 12761:21
coffee - 12774:17,
 12774:18, 12774:19
coin - 12669:15
cold - 12714:25,
 12715:17, 12715:19,
 12716:3
coldest - 12714:18
coloured - 12767:3
column - 12761:4
come' - 12716:7
comfort - 12740:5
coming - 12675:25,
 12682:19, 12686:12,
 12696:22, 12721:10,
 12726:23, 12728:13,
 12758:9, 12768:12
comment - 12675:16,
 12682:18, 12693:3,
 12726:2, 12738:20,
 12739:24, 12750:21
Commission -
 12663:2, 12663:14,
 12664:1, 12664:2,
 12664:8, 12676:4,
 12741:10
Commissioner -
 12667:3, 12667:20,
 12676:21, 12688:8,
 12690:23, 12717:10,
 12717:22, 12718:15,
 12718:18, 12718:19,
 12719:1, 12719:11,
 12719:21, 12720:3,
 12720:4, 12720:5,
 12720:6, 12720:19,
 12722:15, 12722:17,
 12722:24, 12723:6,
 12723:25, 12724:3,
 12724:9, 12724:21,
 12725:7, 12725:13,
 12725:17, 12734:11,
 12734:14, 12740:1,
 12744:1, 12744:4,
 12744:18, 12744:20,
 12745:2, 12748:3,
 12748:6, 12752:11,
 12753:8, 12753:11,
 12756:13, 12773:2,
 12773:6, 12776:8,
 12776:10, 12776:14,
 12776:16, 12776:17
committed - 12671:17,
 12692:6, 12692:11,
 12696:16, 12749:20
common - 12672:24,
 12674:5, 12675:21,
 12710:23, 12770:8
communicated -
 12765:24
communication -
 12695:25, 12698:11
compared - 12713:10
compares - 12767:4
complaining -
 12672:13
complaint - 12673:5,
 12673:7, 12673:21,
 12673:25, 12674:2,
 12674:8
complete - 12667:9,
 12694:14

completed - 12739:5,
 12739:7, 12748:22
completely - 12701:2,
 12717:16, 12720:11,
 12720:13, 12762:19
completing -
 12740:14, 12763:20
conceal - 12714:7
concealed - 12671:4
concern - 12713:22,
 12714:22, 12719:20,
 12759:8
concerned - 12696:11,
 12724:11, 12736:25
concerning - 12683:13
concerns - 12713:16,
 12743:13
conclude - 12693:16
concluded - 12721:12,
 12721:13
concludes - 12690:8
concluding - 12677:16
conclusion - 12699:6,
 12733:14, 12756:22,
 12757:13, 12757:18,
 12757:21, 12758:1,
 12758:9
conclusions - 12770:1
condition - 12670:9
conduct - 12701:9,
 12732:11
conducted - 12741:2
confidence - 12685:17
confirm - 12668:6,
 12681:15, 12687:4,
 12688:4
confirming - 12721:24
Confirming - 12722:2
conflict - 12728:9
Congram - 12664:3
consent - 12701:10
consequently -
 12697:8
consider - 12725:5,
 12729:18
considerable -
 12758:23, 12763:15
consideration -
 12669:8, 12669:12,
 12669:16, 12669:20
considered -
 12673:10, 12699:16,
 12700:7, 12725:25
considering - 12724:6,
 12729:19
consult - 12733:19
contact - 12669:25,
 12701:7
contain - 12777:5
continue - 12724:6,
 12725:18, 12729:19
Continued - 12666:3
continued - 12667:18,
 12723:13
continuing - 12733:5,
 12733:10
contrary - 12717:16
conversation -
 12697:3, 12716:18
conveyed - 12766:13
conveying - 12763:24
Conviction - 12663:4
convinced - 12770:24
Cool - 12715:10
cool - 12715:12,
 12715:20
copies - 12694:14
copy - 12715:4,
 12750:13
correct - 12669:10,

12670:5, 12670:8,
 12670:18, 12673:15,
 12674:19, 12676:12,
 12677:8, 12677:12,
 12677:14, 12677:19,
 12678:13, 12678:21,
 12679:3, 12680:5,
 12681:4, 12681:16,
 12682:5, 12685:9,
 12685:20, 12691:16,
 12691:24, 12692:16,
 12694:23, 12710:15,
 12710:20, 12714:11,
 12717:9, 12717:21,
 12720:25, 12722:1,
 12723:10, 12731:23,
 12732:16, 12735:1,
 12735:2, 12740:21,
 12748:2, 12748:14,
 12748:15, 12766:5,
 12768:20, 12769:16,
 12777:5
Correct - 12669:23,
 12675:5, 12680:20,
 12686:7, 12695:24,
 12726:12, 12735:18,
 12736:17, 12736:22,
 12746:16, 12756:9,
 12763:1
correct' - 12718:4,
 12718:5
corroboration -
 12721:15
corroborative -
 12721:24
Cotler - 12665:13
Counsel - 12664:2,
 12667:4, 12741:10
counsel - 12676:23,
 12718:13, 12718:17,
 12719:23
counter - 12719:13
couple - 12694:4,
 12712:22, 12742:22,
 12758:3
course - 12676:23,
 12699:4, 12708:10,
 12719:25, 12732:11,
 12739:23, 12767:12
court - 12734:1
Court - 12664:9,
 12702:11, 12702:13,
 12708:4, 12773:13,
 12773:19, 12773:22,
 12777:1, 12777:3,
 12777:14, 12777:18
cover - 12721:17,
 12737:24, 12758:12
covered - 12712:23
covers - 12740:11
coverup - 12758:20
Cox - 12665:11
Cpl - 12694:8
credence - 12729:4
credibility - 12768:3
Cressman - 12667:10,
 12776:12
crime - 12691:10,
 12691:12, 12705:22,
 12705:25, 12708:19
criminal - 12675:18,
 12676:6
cross - 12718:9,
 12719:23, 12723:20,
 12724:13, 12724:17,
 12725:8, 12740:2
cross-examination -
 12719:23, 12723:20,
 12724:13, 12725:8,
 12740:2

cross-examined -
 12724:17
cross-examining -
 12718:9
Crown - 12735:12,
 12735:14
cryptic - 12739:13,
 12739:16, 12739:20,
 12745:4, 12745:7,
 12745:11, 12745:16,
 12745:19
Csr - 12664:9,
 12664:10, 12777:2,
 12777:12, 12777:13,
 12777:16, 12777:17
Current - 12763:23

D

Dan - 12770:5
date - 12680:10,
 12680:12, 12690:4,
 12694:13, 12694:18,
 12694:20, 12699:12,
 12716:1, 12717:10,
 12726:22, 12752:12,
 12752:15, 12760:13
dated - 12729:13,
 12740:11
dating - 12690:9
David - 12663:4,
 12665:2, 12665:11,
 12686:16, 12692:15,
 12699:15, 12700:6,
 12707:19, 12713:2,
 12713:4, 12713:12,
 12714:1, 12714:4,
 12714:9, 12714:15,
 12717:15, 12720:10,
 12721:13, 12721:24,
 12722:10, 12722:11,
 12722:19, 12723:13,
 12723:23, 12725:23,
 12733:13, 12733:17,
 12733:23, 12738:13,
 12746:2, 12748:21,
 12754:6, 12754:15,
 12754:18, 12765:4,
 12765:13, 12766:9,
 12768:21, 12769:2,
 12769:7, 12769:8
day' - 12750:8
days - 12679:16,
 12679:22, 12714:18,
 12740:25, 12741:1
de - 12717:2
deal - 12671:6,
 12677:16, 12682:1,
 12699:14, 12700:5
dealing - 12704:2,
 12756:6, 12763:25
dealings - 12677:4,
 12677:7, 12681:5,
 12702:14, 12729:15,
 12734:18
dealt - 12670:16,
 12675:9, 12677:21
death - 12712:24,
 12752:19, 12758:13,
 12759:16, 12765:5,
 12766:9, 12767:8,
 12767:21
debated - 12752:21
deceased - 12702:10
decide - 12674:4,
 12696:3, 12732:11
decided - 12687:13
decides - 12732:3
deciding - 12674:18,
 12699:4
decision - 12678:19,
 12678:20, 12684:22,
 12685:21, 12696:9,
 12700:3, 12732:9,
 12732:12, 12733:12,
 12733:16, 12733:21,
 12733:22, 12736:15,
 12769:25
decision-making -
 12696:9, 12733:21
degrees - 12714:17
deliver - 12732:10
denied - 12713:4,
 12736:4, 12736:8
Dennis - 12686:24
deny - 12713:5,
 12731:9
Department - 12752:25
department -
 12678:12, 12678:15,
 12678:17, 12690:9
dept - 12727:5
describe - 12692:24
described - 12687:16,
 12694:25, 12696:15,
 12704:19
describes - 12690:6,
 12766:24
describing - 12719:9,
 12734:19
Description - 12666:2
description - 12704:25
deserves - 12719:25
destroy - 12678:18
destruction -
 12758:16, 12758:20
detail - 12678:24,
 12682:13, 12683:20,
 12708:7, 12730:21,
 12749:19
detailed - 12739:23,
 12750:24
details - 12696:22,
 12732:25
detect - 12686:11
Detective - 12709:20,
 12710:10, 12711:11,
 12726:21, 12728:11,
 12730:19
detective - 12683:6,
 12693:1, 12703:15,
 12705:17, 12708:17,
 12708:21, 12709:17,
 12710:8, 12727:14,
 12729:6
detective's - 12710:9
detector - 12701:1,
 12701:12, 12701:17,
 12701:24, 12702:5
developed - 12718:24
died - 12761:12
different - 12671:17,
 12710:25, 12728:5,
 12732:21, 12756:6,
 12757:22, 12758:5,
 12758:6
difficulty - 12667:15,
 12718:7
direct - 12718:21,
 12721:20, 12721:23,
 12766:11
directed - 12685:4,
 12705:13
directing - 12689:11
direction - 12725:4,
 12726:1, 12729:3,
 12732:21
Director - 12664:3
disagree - 12676:5,
 12726:14, 12772:7



disagreed - 12700:16
disarrayed - 12761:22
discrepancies - 12716:23
discrepancy - 12775:21
discretion - 12673:3,
 12673:12, 12673:18
discretionary - 12673:3
discussed - 12669:3,
 12752:21, 12753:17,
 12758:7, 12774:15,
 12775:18
discussing - 12681:20, 12681:22,
 12696:15, 12702:14,
 12733:22
discussion - 12668:18, 12699:14,
 12700:5, 12704:16,
 12709:8, 12754:4,
 12775:13
discussions - 12668:17, 12682:3,
 12682:9, 12688:18,
 12697:11, 12701:11,
 12708:23
disenchanted - 12674:14
display - 12686:15
dispute - 12695:2
disputing - 12770:16
distributed - 12764:20
division - 12705:17
Dna - 12770:9
doc - 12704:23,
 12710:10
Document - 12664:4,
 12664:5
document - 12690:3,
 12690:14, 12690:21,
 12690:23, 12694:4,
 12696:19, 12698:19,
 12702:12, 12710:22,
 12710:24, 12711:3,
 12711:8, 12711:15,
 12711:18, 12726:18,
 12729:22, 12730:3,
 12732:24, 12733:4,
 12734:3, 12734:7,
 12734:11, 12734:16,
 12735:21, 12741:9,
 12744:6, 12745:20,
 12748:9, 12748:11,
 12749:21, 12756:13,
 12760:9, 12761:15,
 12762:9, 12762:17,
 12763:2, 12763:18,
 12764:3, 12764:4,
 12764:13, 12770:6,
 12773:7, 12773:19
documents - 12668:9,
 12669:6, 12677:23,
 12690:2, 12730:15
domain - 12762:25
Don - 12664:10
Donald - 12772:2,
 12777:17
done - 12681:2,
 12693:18, 12696:3,
 12716:24, 12722:10,
 12722:12, 12722:22,
 12732:23, 12736:23,
 12756:18, 12770:23
door - 12691:9,
 12691:13, 12741:4
door-to-door - 12691:9
doubt - 12675:2,

12769:15, 12771:12,
 12772:17
Douglas - 12664:2
down - 12679:21,
 12682:15, 12690:18,
 12693:22, 12695:8,
 12709:18, 12722:25,
 12725:3, 12733:22,
 12740:23, 12756:22,
 12760:23, 12761:3,
 12762:5, 12763:10,
 12764:12, 12766:24,
 12771:1, 12774:16
Down - 12730:4
downstairs - 12774:18
drafted - 12690:11
draw - 12756:22
drawn - 12757:21
drew - 12758:1
drive - 12715:1
driving - 12713:20,
 12714:20
drop - 12723:16
dropped - 12722:11,
 12722:19, 12723:4
drove - 12714:20
drugs - 12717:18
dubious - 12739:12
due - 12697:6,
 12767:12
During - 12775:10
during - 12669:2,
 12669:25, 12671:11,
 12684:6, 12684:11,
 12684:15, 12692:17,
 12704:10, 12763:5

E

early - 12748:22,
 12751:18, 12760:25
Ed - 12775:17
Eddie - 12665:8,
 12666:3, 12667:18
Edmondson - 12694:8,
 12695:17, 12695:19,
 12696:14, 12696:25,
 12697:15, 12699:9
Edmundson - 12727:7
Edmunson - 12716:18
Edward - 12663:7
effect - 12687:8,
 12703:11
effort - 12706:2
efforts - 12699:17,
 12700:13
eight - 12742:3,
 12742:9
Either - 12726:10
either - 12669:25,
 12673:4, 12677:13,
 12682:23, 12713:1,
 12742:7, 12757:17
elected - 12773:6
element - 12716:22
elements - 12713:16
eliminate - 12699:18,
 12700:14, 12775:20
eliminated - 12716:25
Elmer - 12667:13
Elson - 12665:7
emphatically - 12731:10
end - 12761:3, 12774:3
ended - 12705:10
ends - 12733:4
equation - 12739:10
equipment - 12676:17
Esq - 12665:6,
 12665:7, 12665:10

Esson - 12664:11
establish - 12700:23,
 12745:18
established - 12770:19
Estelle - 12688:18
etc - 12716:23
etcetera - 12773:16
Eugene - 12752:23
evening - 12697:8,
 12705:15, 12708:14,
 12744:10
event - 12672:22,
 12679:13, 12680:4,
 12705:3, 12724:23
eventually - 12735:22
evidence - 12667:13,
 12667:25, 12684:21,
 12691:1, 12697:6,
 12704:9, 12710:7,
 12711:7, 12711:10,
 12711:24, 12718:12,
 12718:14, 12724:19,
 12728:10, 12729:2,
 12731:16, 12731:19,
 12739:2, 12741:3,
 12759:4, 12770:9,
 12773:14
evidence' - 12719:8
Exactly - 12771:21
exactly - 12722:21,
 12772:9
examination - 12718:2,
 12718:21,
 12719:23, 12723:20,
 12724:13, 12725:8,
 12739:5, 12739:8,
 12740:2
examine - 12667:7
examined - 12702:2,
 12724:17
examining - 12718:9
example - 12671:23,
 12673:21, 12679:15,
 12680:9, 12681:25,
 12686:15, 12720:23,
 12750:17, 12754:13,
 12768:6
exception - 12765:23
exchange - 12696:6,
 12696:7
Executive - 12664:3
exercised - 12673:4,
 12673:13, 12673:19
exist - 12668:9,
 12683:10
existed - 12672:8,
 12678:11, 12751:14
exonerate - 12731:20
exonerates - 12725:5
exonerating - 12770:9
expect - 12667:8,
 12673:16, 12678:14,
 12679:17, 12679:19,
 12715:25
expected - 12673:18
experience - 12765:1
experienced - 12768:5
explain - 12724:25
explains - 12679:15
express - 12743:12
expressed - 12693:13,
 12693:14, 12693:19,
 12695:14, 12728:13,
 12756:1

F

fabricate - 12711:23
fact - 12680:7,

12682:8, 12686:8,
 12687:9, 12688:15,
 12691:8, 12713:17,
 12717:15, 12721:1,
 12721:25, 12722:2,
 12727:25, 12732:25,
 12735:3, 12736:20,
 12747:19, 12751:16,
 12768:6, 12768:12,
 12768:21
factor - 12674:16
factors - 12673:19
facts - 12706:3,
 12756:23
failed - 12694:18
failure - 12769:25
fair - 12669:5,
 12669:16, 12673:12,
 12674:5, 12674:11,
 12674:12, 12680:9,
 12682:2, 12683:20,
 12694:20
Fair - 12670:24
fairly - 12679:12,
 12695:25, 12704:20,
 12705:1
familiar - 12668:1
family - 12687:2,
 12742:24, 12743:10
far - 12695:10,
 12696:11, 12735:3,
 12736:25, 12743:19
fashion - 12671:4,
 12672:9, 12672:10,
 12672:22
father - 12743:1
fax - 12752:12,
 12752:15
Feb - 12694:7
February - 12690:4,
 12690:12, 12694:20,
 12751:18, 12764:5,
 12764:19
Federal - 12752:25
feelings - 12716:16
fellow - 12752:25
female - 12687:22
fetched - 12743:19
few - 12667:23,
 12683:22
field - 12670:23
file - 12684:16,
 12684:23, 12689:12,
 12692:22, 12695:9,
 12706:16, 12710:1,
 12717:1, 12749:1
files - 12684:12,
 12684:17, 12758:16
final - 12685:21
Finally - 12676:3,
 12770:4
finally - 12692:19
Findlay - 12752:6,
 12752:17, 12754:24
fine - 12705:3,
 12730:3, 12744:23
fingered - 12675:3
finishing - 12667:16
First - 12771:9
first - 12668:3,
 12685:6, 12689:13,
 12698:22, 12699:20,
 12701:15, 12717:8,
 12726:20, 12727:8,
 12729:8, 12745:23,
 12746:4, 12746:5,
 12746:10, 12757:6,
 12759:20, 12761:15,
 12763:2, 12765:2,
 12770:13, 12773:18,

12774:7
Fisher - 12665:10,
 12667:21, 12668:4,
 12668:13, 12669:8,
 12669:24, 12672:12,
 12677:4, 12677:10,
 12677:16, 12677:21,
 12681:6, 12681:18,
 12681:22, 12682:4,
 12682:11, 12682:19,
 12713:3, 12746:17,
 12746:21, 12748:10,
 12748:15, 12749:18,
 12750:4, 12750:19,
 12751:17, 12751:25,
 12752:18, 12753:17,
 12753:18, 12753:21,
 12755:3, 12755:9,
 12755:11, 12756:20,
 12756:24, 12766:20,
 12770:10, 12770:23
Fisher's - 12683:13,
 12712:23, 12748:6,
 12758:12
fit - 12711:24
five - 12679:16,
 12679:22, 12740:24,
 12741:1
flags - 12714:21
follow - 12672:16,
 12672:19, 12673:2,
 12673:7, 12674:18,
 12683:12, 12686:5,
 12725:4, 12730:25,
 12731:25, 12767:24
follow-up - 12672:19,
 12673:2, 12683:12,
 12767:24
followed - 12667:8,
 12673:11, 12673:13,
 12682:17, 12690:21,
 12698:17, 12732:11
following - 12685:25,
 12718:9
force - 12669:22,
 12672:14, 12675:13
Force - 12701:7
forced - 12728:14,
 12729:17
foregoing - 12777:4
forget - 12713:11
form - 12719:22
formal - 12734:24,
 12742:1
formed - 12720:18
former - 12769:5
forth - 12690:1,
 12719:2
Fox - 12665:8, 12666:5,
 12667:8, 12676:22,
 12676:23, 12717:12,
 12717:13, 12720:5,
 12720:8, 12720:21,
 12722:21, 12723:9,
 12723:17, 12724:1,
 12724:4, 12724:14,
 12724:15, 12724:22,
 12725:12, 12725:16,
 12725:19, 12725:20,
 12734:13, 12734:15,
 12739:19, 12740:7,
 12744:3, 12744:18,
 12744:23, 12745:1,
 12748:5, 12753:10,
 12753:14, 12756:15
frankly - 12761:12
Fray - 12665:11
fresh - 12679:9
Friday - 12745:9,
 12762:13, 12764:16



Friend- 12717:23,
12718:1, 12718:5,
12718:8, 12720:10,
12723:2, 12724:4,
12725:1
front - 12703:19,
12773:24
full - 12752:15
fun - 12715:1
future - 12676:4

G

Gail - 12683:17,
12684:3, 12685:7,
12690:1, 12690:7,
12691:7, 12692:7,
12692:12, 12696:17,
12709:3, 12712:24,
12713:6, 12721:7,
12738:14, 12746:21,
12748:20, 12749:1,
12749:11, 12752:19,
12753:22, 12755:17,
12755:23, 12756:7,
12756:20, 12758:5,
12758:13, 12759:16,
12759:22, 12763:6,
12765:5, 12767:8,
12767:21
garbage - 12764:16,
12764:21, 12766:17
gathered - 12723:19
Gee - 12752:22
gee - 12686:17
general - 12672:8,
12672:10, 12675:13,
12713:21, 12725:7,
12759:2
generally - 12679:11,
12679:17, 12684:19,
12739:25
Generally - 12685:23,
12695:17, 12742:12,
12742:17
gentleman - 12753:4
geographical -
12671:18
Gibson - 12665:9
Gillian - 12752:6
girl - 12702:22,
12703:21, 12703:22,
12708:2, 12709:5,
12731:8, 12761:17,
12762:18
Gis - 12699:9
given - 12669:6,
12670:19, 12679:2,
12687:9, 12706:23,
12707:1, 12713:15,
12722:23, 12729:5,
12733:1, 12745:22,
12759:1, 12759:4
global - 12672:7
gonna - 12676:25
Government - 12665:4
grant - 12670:25
gratuitously -
12719:24
great - 12699:14,
12700:5, 12730:21
ground - 12770:8
guard - 12675:6
guess - 12674:2,
12703:13, 12751:5
guilt - 12771:17
guilty - 12748:25,
12769:14
gun - 12743:17,
12743:20, 12744:10,

12745:23, 12746:1,
12746:3, 12746:5,
12746:9, 12746:11,
12746:15
Gus - 12667:9,
12776:12
guy - 12686:17,
12771:2
guys - 12695:10,
12771:7

H

hair - 12689:21
half - 12744:21,
12774:13
handing - 12718:3
handle - 12762:22,
12763:12, 12767:2,
12767:5, 12767:6
handled - 12766:25
handwritten -
12676:15
head - 12728:7,
12740:24
hear - 12730:14
heard - 12711:6,
12711:10, 12712:20,
12714:15, 12714:17,
12725:22, 12741:3,
12751:19, 12767:10
hearing - 12756:17
heck - 12765:12
help - 12702:20
helpful - 12769:1
helps - 12725:6
here - 12757:23
hereby - 12777:4
herein - 12777:6
Hersh - 12665:2
hide - 12747:19
high - 12763:20
highlight - 12716:15,
12726:20, 12731:2,
12760:13
Hinz - 12664:9,
12777:2, 12777:13
history - 12674:20
hit - 12703:21
Hodson - 12664:2,
12666:6, 12667:5,
12737:8, 12773:4,
12776:4, 12776:10,
12776:20
home - 12761:9
Hon - 12665:12
honest - 12717:17,
12720:11, 12720:13
Honourable - 12663:6
hope - 12680:3,
12710:23, 12776:15
Hoppy - 12746:2
Hospital - 12763:22
hospital - 12763:23
hotel - 12701:20
Hotel - 12663:16,
12709:23
Hounjet - 12761:8
hour - 12744:21,
12774:13, 12774:14
hour-and-a-half -
12774:13
hours - 12667:15,
12694:11, 12774:7
hours - 12683:23
house - 12687:2,
12687:18, 12742:6
Hugh - 12664:11
hypnosis - 12712:11
hypothetically -

12739:9

I

Id - 12704:23,
12756:13
idea - 12676:18,
12730:11, 12753:19,
12771:14
ident - 12667:11
identified - 12763:11
identifies - 12764:5
identifying - 12762:7
ignored - 12713:3,
12726:2
immediately -
12670:1, 12679:7
impaired - 12768:9
implicate - 12699:18,
12700:14
implicated - 12713:2
implicates - 12731:16
implicating - 12770:10
importance - 12673:10
impression -
12685:14, 12687:12,
12697:14, 12697:20,
12716:4, 12728:22,
12743:11
inches - 12767:1
incident - 12680:25
incidentally -
12756:10
including - 12729:17
incompetence -
12713:2
incorrectly - 12723:9
incriminating -
12733:1
incurred - 12761:19,
12762:14
indecent - 12755:16
indeed - 12762:2
Index - 12666:1
indicate - 12680:22,
12717:2, 12741:22
indicated - 12677:15,
12677:21, 12685:10,
12688:10, 12702:18,
12737:7, 12750:22,
12759:8, 12767:24
indicates - 12670:14,
12677:11
indicating - 12706:9
indication - 12688:3,
12709:15, 12765:11,
12766:7, 12768:7,
12768:15, 12775:11
indicators - 12686:4
individual - 12671:16
individuals -
12713:16, 12756:6
informal - 12695:25
informally - 12696:14
information -
12675:25, 12692:2,
12695:19, 12695:22,
12696:6, 12706:11,
12710:7, 12720:22,
12728:12, 12728:16,
12728:17, 12731:4,
12737:1, 12742:13,
12748:16, 12751:5,
12751:22, 12755:2,
12757:9, 12758:25,
12759:10, 12761:11,
12762:24, 12763:15,
12765:22, 12766:4,
12766:12, 12767:21,
12768:17, 12772:25

initial - 12718:23
initiated - 12742:21
initiating - 12742:11
Inland - 12664:12
innocent - 12769:11
Inquiry - 12663:2,
12663:23, 12688:9,
12745:8, 12756:17,
12772:3, 12772:21
inquiry - 12772:8
Insp - 12697:3,
12709:25
Inspector - 12694:5,
12697:12, 12697:18,
12698:11, 12698:15,
12698:21, 12698:25,
12704:16, 12727:6,
12739:4, 12739:7,
12739:9, 12773:13,
12773:21, 12775:25,
12776:1
instances - 12676:8,
12719:16
instructed - 12684:25
instructing - 12697:19
instructions -
12697:24, 12698:6,
12698:17, 12701:22,
12706:10, 12706:15,
12732:14, 12737:10,
12737:12
insufficient - 12697:6
intentional - 12758:15
intentionally - 12713:1
intercourse - 12728:15
interest - 12674:24
interested - 12668:2,
12668:12
interests - 12675:4
interrogate - 12710:2,
12751:11
interrogating -
12716:17
interview - 12668:10,
12707:21, 12707:22,
12726:15, 12727:9,
12732:17, 12742:1,
12750:16, 12752:5,
12752:9, 12752:17,
12753:15, 12753:18,
12754:24, 12770:5,
12770:12, 12770:14,
12775:3, 12775:8
interviewed - 12668:4,
12689:19, 12709:25,
12727:4, 12727:15,
12728:1, 12751:17,
12751:25, 12753:20,
12773:15, 12775:25
interviewer - 12771:16
interviewing -
12689:17, 12697:13
intoxicated - 12674:7
investigated -
12685:19, 12723:13,
12723:16
investigating -
12679:7, 12735:13
investigation -
12678:22, 12683:23,
12684:4, 12684:9,
12685:8, 12687:14,
12688:21, 12688:25,
12689:1, 12689:6,
12689:10, 12691:25,
12693:12, 12693:23,
12694:13, 12694:18,
12694:22, 12695:5,
12696:4, 12699:3,
12702:5, 12714:8,

12717:6, 12721:3,
12721:18, 12724:2,
12724:7, 12725:2,
12728:8, 12733:9,
12749:6, 12757:20
Investigation -
12733:5
investigational -
12694:15
investigations -
12678:7
investigator -
12737:20
involved - 12684:3,
12684:8, 12684:12,
12684:22, 12684:24,
12688:20, 12688:24,
12689:20, 12690:13,
12691:6, 12692:5,
12692:18, 12694:21,
12695:4, 12695:11,
12701:11, 12702:4,
12706:14, 12711:14,
12711:22, 12712:1,
12721:6, 12723:24,
12726:1, 12727:8,
12733:20, 12734:6,
12752:19, 12757:17,
12757:20, 12758:11,
12758:15, 12758:20,
12759:3
involvement -
12683:23, 12685:7,
12708:5, 12712:24,
12758:12
involving - 12748:21
Irene - 12664:8
Irwin - 12665:13
Isabelle - 12664:5
issue - 12752:18
issues - 12669:2,
12768:3
it - 12722:10
item - 12764:3

J

January - 12683:17,
12684:9, 12691:12,
12736:3, 12751:18,
12759:21, 12760:11
Jaw - 12699:11
Jay - 12665:6
Jennifer - 12665:11
jive - 12723:23
jived - 12722:19
jived - 12723:5
Joanne - 12665:3
John - 12667:12,
12700:23, 12701:10,
12701:16, 12702:23,
12705:16, 12708:2,
12708:6, 12708:16,
12710:3, 12712:6,
12713:8, 12713:18,
12719:1, 12722:9,
12723:12, 12723:21,
12726:6, 12726:14,
12728:13, 12730:23,
12731:8, 12731:21,
12732:5, 12733:2,
12737:4, 12737:8,
12737:16, 12743:18,
12754:24, 12764:24,
12765:7, 12766:5,
12766:8, 12774:11,
12774:14, 12776:1,
12776:2
John's - 12737:2,
12775:18



joined - 12761:8
Joyce - 12665:3
judicial - 12772:8
jump - 12750:25
jumping - 12741:20
June - 12711:14
jurisprudence -
 12670:20
jury - 12768:23,
 12769:2
Justice - 12663:6,
 12665:12, 12753:1

K

Kara - 12664:5
Karen - 12664:9,
 12777:2, 12777:13
Karst - 12665:8,
 12666:3, 12667:6,
 12667:9, 12667:18,
 12667:20, 12676:23,
 12683:16, 12696:20,
 12703:17, 12703:19,
 12723:20, 12725:21,
 12741:20, 12754:23,
 12758:11, 12770:4,
 12770:8, 12772:9,
 12772:16, 12773:7,
 12773:9, 12773:24,
 12775:1, 12775:17,
 12775:22, 12775:23,
 12776:6, 12776:9
Karst's - 12730:19,
 12745:4
keep - 12688:17,
 12688:19
keeping - 12676:24,
 12712:14
keeps - 12678:17
Kenny - 12688:6,
 12688:11, 12688:14
Kettles - 12699:10
kids - 12688:19
killed - 12696:17,
 12703:21, 12749:11,
 12755:18, 12755:23,
 12756:7, 12758:5,
 12775:14
killing - 12713:6
kind - 12689:11,
 12689:21, 12695:12,
 12712:2, 12727:24,
 12743:19, 12748:25
kitchen - 12763:12
Kleiv - 12667:11
knife - 12759:25,
 12761:1, 12762:21,
 12763:4, 12763:12,
 12766:24, 12766:25,
 12767:5, 12767:6
knowledge - 12668:8,
 12669:21, 12683:12,
 12698:13, 12700:23,
 12701:3, 12706:12,
 12707:6, 12748:18,
 12751:24, 12752:3,
 12753:18, 12755:2,
 12755:8, 12757:7,
 12759:14, 12764:20,
 12766:11, 12766:22,
 12767:9, 12777:6
known - 12769:22
knows - 12746:12
Knox - 12665:5
Krogan - 12665:4
Kujawa - 12665:6

L

lack - 12766:22
lady - 12755:15,
 12761:12
laid - 12670:10,
 12736:23
Lana - 12665:4
lane - 12762:12
Lapchuk - 12771:2
lapse - 12680:25
large - 12724:22,
 12759:15
Larry - 12664:12,
 12665:10, 12677:4,
 12677:10, 12677:16,
 12677:21, 12712:23,
 12713:3, 12746:17,
 12751:17, 12752:18,
 12753:17, 12753:18,
 12753:21, 12755:3,
 12755:9, 12755:11,
 12756:20, 12758:12
last - 12667:25,
 12679:22, 12703:23,
 12711:8, 12711:12,
 12712:4, 12717:24,
 12733:3, 12737:9,
 12745:9, 12755:21,
 12756:1, 12764:3,
 12764:12
Laura - 12763:20
lay - 12670:2, 12696:2,
 12697:7, 12698:9
lead - 12675:25,
 12721:4
Leader - 12759:21,
 12760:6
Leader-post -
 12759:21, 12760:6
leading - 12689:1,
 12689:5, 12689:12,
 12718:1, 12718:10,
 12718:16, 12719:24,
 12724:16
leads - 12694:19
learned - 12761:5
Learned - 12720:10,
 12724:4
least - 12669:2,
 12672:8, 12685:25,
 12686:22, 12734:25,
 12741:5, 12741:11,
 12746:9, 12747:8,
 12747:22, 12749:15,
 12749:18, 12752:10,
 12756:22, 12768:7,
 12768:9
leave - 12687:12,
 12716:4, 12756:5,
 12767:10
leaving - 12743:10
led - 12721:6
left - 12667:7,
 12745:17, 12763:20
leg - 12689:15
legal - 12769:9
less - 12687:4,
 12711:1, 12712:25,
 12713:9, 12719:25,
 12722:9
Lett - 12770:5,
 12770:14, 12770:21,
 12771:25, 12772:14
letter - 12690:5
lie - 12701:1,
 12701:12, 12701:17,
 12701:24, 12702:5,
 12738:1
lied - 12737:17,
 12737:22, 12771:7
lies - 12702:3

Lieutenant - 12685:3,
 12689:8, 12689:9,
 12690:3, 12690:11,
 12693:1, 12698:7,
 12710:12, 12727:14,
 12728:11
light - 12722:12
likelihood - 12748:24
Likewise - 12669:15
limit - 12718:1,
 12719:21
Linda - 12672:12,
 12682:11, 12682:19,
 12683:13, 12766:20
line - 12724:20,
 12737:17
listed - 12680:12
listen - 12684:20
listing - 12694:2
lists - 12690:24,
 12748:10
live - 12747:10
lived - 12747:19
living - 12746:25,
 12748:16
load - 12684:16
location - 12761:13
locations - 12671:18
Lockyer - 12718:22,
 12745:5, 12768:21
logical - 12726:13,
 12727:17
logically - 12750:3
look - 12678:24,
 12680:1, 12680:6,
 12681:1, 12683:21,
 12685:1, 12711:2,
 12716:9, 12725:15,
 12750:16, 12750:25,
 12764:19, 12767:15
looked - 12680:11,
 12681:7, 12706:21,
 12737:2, 12757:25
looking - 12686:4,
 12690:10, 12691:25,
 12720:12, 12721:14,
 12721:16, 12727:23,
 12750:21, 12753:6,
 12767:18, 12769:20
looks - 12690:20,
 12692:20, 12708:20,
 12730:4, 12748:11,
 12751:14
lords - 12708:13
Lt - 12699:7, 12699:8,
 12709:24
lying - 12726:10,
 12732:1, 12747:18,
 12761:10, 12775:11

M

Maccallum - 12663:7,
 12667:3, 12676:21,
 12717:10, 12717:22,
 12718:15, 12718:19,
 12719:1, 12719:11,
 12719:21, 12720:4,
 12720:6, 12720:19,
 12722:17, 12722:24,
 12723:6, 12723:25,
 12724:3, 12724:9,
 12724:21, 12725:7,
 12725:13, 12725:17,
 12734:11, 12734:14,
 12740:1, 12744:1,
 12744:20, 12748:3,
 12753:8, 12753:11,
 12756:13, 12776:8,
 12776:14, 12776:17

machine - 12701:5
Mackie - 12689:7,
 12693:1, 12711:11,
 12732:12, 12737:13
Mackie's - 12709:17,
 12709:20, 12710:10
main - 12762:17
major - 12676:6,
 12676:9
Malanowich -
 12667:12, 12729:6,
 12729:7
male - 12687:22
maliciously - 12675:3
man - 12715:25,
 12753:12
Manager - 12664:4
Manitoba - 12670:10,
 12670:16
March - 12683:16,
 12683:21, 12684:1,
 12684:9, 12684:20,
 12685:12, 12688:23,
 12691:3, 12692:4,
 12692:9, 12692:17,
 12694:6, 12696:20,
 12697:8, 12713:7,
 12715:4, 12716:9,
 12717:12, 12717:17,
 12720:12, 12720:14,
 12726:5, 12726:25,
 12727:9, 12728:24,
 12729:13, 12741:23,
 12744:1, 12745:22,
 12757:20, 12765:4,
 12765:6, 12765:7,
 12768:22
Marcoux - 12761:6
marital - 12674:15
mark - 12741:15
Mark - 12761:8
marks - 12741:14
Mary - 12761:6
material - 12758:16,
 12758:21
matter - 12674:5,
 12675:21, 12682:8,
 12699:5, 12701:4,
 12703:8, 12717:15,
 12719:17, 12739:23,
 12740:18, 12742:5,
 12754:7, 12759:23
matters - 12718:23
Mccorriston -
 12751:17, 12752:2,
 12755:3, 12755:8
Mclean - 12665:3
mean - 12673:7,
 12676:11, 12677:22,
 12714:9, 12719:5,
 12724:25, 12727:23,
 12728:19, 12742:2,
 12742:10, 12742:25,
 12747:2, 12749:18
means - 12739:13,
 12739:16
meant - 12745:19,
 12771:14
mechanical - 12714:16
media - 12759:19,
 12760:21
meet - 12710:13
meeting - 12687:1,
 12694:24, 12695:8,
 12695:12, 12696:13,
 12698:23, 12699:1,
 12699:7, 12699:21,
 12699:23, 12699:25,
 12741:11, 12741:17,
 12742:23, 12743:2,
 12743:5, 12773:11
meetings - 12693:4,
 12693:6, 12694:3,
 12710:18, 12710:19,
 12741:21, 12742:10,
 12742:11, 12742:15,
 12742:16, 12742:20
member - 12669:22
members - 12686:23,
 12687:2, 12711:21,
 12727:5
memory - 12680:3,
 12680:13
mention - 12713:18,
 12714:1, 12714:6,
 12730:22
mentioned - 12671:10,
 12689:13, 12693:5,
 12743:20
mentioning - 12746:5
met - 12668:12,
 12694:8, 12696:25,
 12705:15, 12707:10,
 12710:11, 12712:15,
 12741:22
method - 12676:15
Meyer - 12664:10,
 12777:2, 12777:17
middle - 12674:7
might - 12672:1,
 12674:9, 12674:21,
 12674:23, 12675:25,
 12680:6, 12684:16,
 12686:6, 12686:16,
 12691:5, 12693:14,
 12693:16, 12693:19,
 12695:20, 12695:22,
 12711:22, 12715:18,
 12719:16, 12721:1,
 12721:23, 12728:8,
 12728:25, 12730:14,
 12735:12, 12735:14,
 12737:16, 12737:22,
 12749:10, 12751:3,
 12760:8, 12765:18,
 12766:12, 12768:9,
 12768:17, 12769:1
Milgaard - 12663:4,
 12665:2, 12665:3,
 12686:16, 12692:15,
 12692:19, 12696:25,
 12697:4, 12697:13,
 12697:19, 12698:16,
 12699:15, 12700:6,
 12703:20, 12705:5,
 12707:19, 12713:2,
 12713:4, 12713:12,
 12714:1, 12714:9,
 12714:15, 12715:6,
 12717:15, 12719:13,
 12720:11, 12721:11,
 12721:13, 12721:25,
 12722:11, 12723:4,
 12723:13, 12725:23,
 12726:13, 12726:24,
 12728:5, 12728:14,
 12728:25, 12729:16,
 12729:20, 12730:24,
 12731:7, 12731:9,
 12731:16, 12731:20,
 12733:13, 12733:17,
 12733:23, 12736:25,
 12746:2, 12746:9,
 12747:8, 12748:21,
 12748:24, 12749:4,
 12754:7, 12754:18,
 12756:4, 12766:9,
 12769:7, 12769:17,
 12770:10, 12771:1,
 12771:17, 12775:13



Milgaard' - 12754:15
Milgaard's - 12715:2,
 12735:25, 12738:13,
 12768:22, 12769:2
Miller - 12683:17,
 12684:3, 12685:7,
 12690:1, 12690:7,
 12691:7, 12692:7,
 12692:12, 12696:17,
 12709:3, 12712:24,
 12713:7, 12738:15,
 12746:22, 12748:20,
 12749:1, 12749:12,
 12752:19, 12753:22,
 12755:17, 12755:23,
 12756:8, 12756:20,
 12756:25, 12758:5,
 12758:13, 12759:16,
 12759:23, 12763:7,
 12765:5, 12767:8,
 12767:21
Miller's - 12721:7,
 12762:11, 12764:7,
 12764:14
mind - 12679:9,
 12681:14, 12694:17,
 12712:14, 12713:24,
 12714:3, 12719:5,
 12733:12, 12738:10,
 12738:19, 12738:21,
 12748:25, 12749:4,
 12749:9, 12749:12
minds - 12738:5
mine - 12749:14
Minister - 12665:11
minus - 12714:17,
 12763:12
minute - 12746:18
Miss - 12708:6,
 12762:11, 12764:7,
 12764:14
missing - 12762:23,
 12764:14, 12766:24
mistaken - 12726:10
Mmhm - 12772:2
molested - 12761:17,
 12762:18
moment - 12722:25
Monday - 12663:21
money - 12717:20,
 12720:24, 12721:2
monitoring - 12741:4
month - 12690:12,
 12715:25
months - 12692:20
Moose - 12699:11
morality - 12667:10
morning - 12714:25,
 12721:25, 12734:18,
 12734:25, 12736:3,
 12755:17, 12757:8,
 12760:16, 12768:7,
 12776:11
most - 12709:4,
 12716:3, 12738:23
Motel - 12697:10
mother - 12688:16,
 12742:6, 12742:13,
 12743:1
motive - 12686:12
moved - 12748:12
Mtg - 12741:13
murder - 12685:7,
 12690:1, 12690:7,
 12691:7, 12691:14,
 12692:7, 12692:12,
 12692:19, 12709:3,
 12713:21, 12721:7,
 12721:14, 12722:4,
 12748:21, 12749:1,

12753:22, 12767:7
murder' - 12765:13
murdered - 12683:17,
 12683:18, 12738:14
must - 12685:17,
 12728:2, 12757:22,
 12758:4

N

nagging - 12714:12
name - 12710:9,
 12741:14, 12741:16,
 12766:1
names - 12710:25
nature - 12694:19,
 12704:16, 12758:17
near - 12763:6,
 12763:13
nearby - 12764:17,
 12764:21
necessarily -
 12685:21, 12714:10,
 12716:2, 12768:8
necessary - 12712:12
need - 12678:14,
 12679:8, 12688:7
needed - 12696:12,
 12751:5
neglected - 12773:17,
 12774:24
never - 12670:2,
 12693:4, 12722:16,
 12723:8, 12739:18,
 12746:3, 12768:22,
 12768:23
new - 12702:7,
 12767:19
newspaper -
 12754:14, 12762:3
Next - 12767:18
next - 12690:6,
 12690:7, 12700:19,
 12704:13, 12710:5,
 12716:13, 12726:19,
 12735:20, 12741:4,
 12744:4, 12750:5,
 12750:8, 12775:6,
 12776:10
Nichol - 12700:22,
 12702:22, 12708:1,
 12712:6, 12713:8,
 12713:18, 12722:9,
 12723:12, 12723:21,
 12726:6, 12726:14,
 12728:13, 12730:23,
 12731:8, 12731:21,
 12732:5, 12733:2,
 12737:2, 12737:4,
 12737:8, 12737:16,
 12743:18, 12758:24,
 12764:24, 12765:7,
 12765:22, 12765:23,
 12766:4, 12766:8,
 12771:2, 12774:11,
 12774:13, 12775:25,
 12776:1
Nichole - 12710:3
night - 12674:7
nine - 12742:3,
 12742:9, 12776:12
Nine - 12776:18
nobody - 12717:25
none - 12683:10,
 12717:20
None - 12695:3,
 12746:23, 12766:15,
 12768:4, 12772:23,
 12773:1
noon - 12674:9

normal - 12691:24,
 12750:24
normally - 12705:22
North - 12671:24,
 12672:1, 12747:14
notebook - 12678:10,
 12679:10
noted - 12756:23
notes - 12678:6,
 12678:9, 12679:4,
 12679:8, 12679:11,
 12679:12, 12679:13,
 12679:18, 12679:24,
 12679:25, 12680:2,
 12680:7, 12680:11,
 12680:22, 12739:15,
 12739:16, 12739:23,
 12739:24, 12740:14,
 12740:17, 12740:19,
 12741:11, 12745:4,
 12745:16, 12758:16,
 12775:5, 12777:6
nothing - 12670:6,
 12697:22, 12719:14,
 12719:17
Nothing - 12670:12,
 12670:14, 12670:15,
 12671:8, 12681:10,
 12692:13
notwithstanding -
 12723:11
November - 12747:5,
 12747:11, 12747:23,
 12747:24, 12748:12,
 12748:16
number - 12671:17,
 12673:19, 12678:22,
 12681:19, 12681:21,
 12684:8, 12684:17,
 12688:24, 12690:2,
 12690:20, 12691:12,
 12704:24, 12710:22,
 12710:23, 12710:24,
 12712:20, 12729:25,
 12730:15, 12730:22,
 12741:23, 12764:8
nurse - 12764:1
nurse's - 12763:21

O

o'clock - 12776:19
object - 12723:1
objection - 12725:9,
 12772:12, 12772:21,
 12772:24
obligation - 12769:7
observed - 12731:11
obtained - 12712:8,
 12750:19
obtaining - 12697:6
obvious - 12686:12
obviously - 12668:13,
 12678:5, 12678:25,
 12697:16, 12748:13,
 12750:22, 12756:4,
 12765:8, 12771:16
occasionally -
 12680:12
occasions - 12680:21,
 12681:1
occur - 12671:21,
 12671:22, 12672:25
occurred - 12670:7,
 12689:24, 12747:5,
 12749:24
October - 12677:4,
 12677:17, 12677:22,
 12681:6, 12681:12,
 12681:23, 12748:7,

12750:9, 12750:12,
 12752:13, 12752:16
offence - 12694:12,
 12699:19, 12700:15,
 12700:24, 12716:20,
 12729:1, 12747:5,
 12747:6
offences - 12671:17
offer - 12675:13,
 12737:21
offered - 12669:17,
 12669:20, 12675:10,
 12675:15, 12675:18,
 12675:22, 12682:1
offering - 12675:25
offhand - 12767:4
office - 12699:2
Officer - 12664:11,
 12751:17, 12752:2,
 12755:2, 12755:8,
 12767:10
officer - 12667:12,
 12669:21, 12672:9,
 12673:4, 12673:17,
 12674:1, 12674:4,
 12678:12, 12683:5,
 12685:20, 12737:21,
 12765:2, 12768:5,
 12769:5
officers - 12667:10,
 12678:5, 12680:1,
 12684:8, 12688:24,
 12689:1, 12689:13,
 12691:13, 12692:25,
 12693:5, 12695:9,
 12695:16, 12733:19,
 12735:13, 12736:12,
 12737:13, 12741:17,
 12754:10, 12775:5,
 12775:8
Official - 12664:9,
 12777:1, 12777:3,
 12777:14, 12777:18
old - 12676:15,
 12715:25
older - 12714:4,
 12714:5
Oleksyn - 12741:15
Olena - 12763:7
once - 12722:8,
 12746:3
One - 12708:1,
 12744:10
one - 12671:19,
 12672:3, 12690:24,
 12708:17, 12709:16,
 12714:17, 12715:21,
 12725:3, 12727:6,
 12730:1, 12732:1,
 12732:5, 12737:13,
 12744:13, 12746:3,
 12752:12, 12753:5,
 12753:13, 12756:6,
 12756:7, 12772:13,
 12773:6
ones - 12689:14
open - 12699:5
opening - 12719:6
operate - 12701:12
operating - 12772:24
operator - 12701:5,
 12701:8
opinion - 12693:13,
 12720:18, 12722:14,
 12728:13, 12733:11,
 12756:1, 12756:3,
 12757:2, 12757:3
opinions - 12693:11
opposed - 12676:15
order - 12775:20

ordinary - 12766:25
original - 12759:9
otherwise - 12685:18,
 12720:1, 12770:25
Ottawa - 12678:2,
 12754:1, 12754:4
ought - 12668:9,
 12671:3, 12676:6
outline - 12667:5
outlined - 12726:22
outright - 12713:5
outset - 12746:19,
 12766:20
overseeing - 12692:22
owe - 12745:3
own - 12675:4,
 12681:14, 12693:11,
 12717:24, 12718:10,
 12718:13, 12718:17,
 12733:12, 12738:5

P

Page - 12666:2
page - 12690:6,
 12690:8, 12700:19,
 12704:13, 12705:1,
 12706:18, 12709:14,
 12710:5, 12711:8,
 12711:12, 12712:4,
 12716:10, 12716:13,
 12716:14, 12726:19,
 12726:20, 12728:12,
 12730:1, 12733:3,
 12734:16, 12735:20,
 12738:8, 12744:5,
 12744:9, 12745:6,
 12745:24, 12756:11,
 12767:18, 12770:13,
 12770:20, 12771:24,
 12773:20
pages - 12688:8,
 12688:15, 12702:13,
 12704:23, 12745:6,
 12777:4
paper - 12754:14
Paragraph - 12698:21,
 12699:13
paragraph - 12694:6,
 12697:2, 12698:22,
 12700:3, 12700:20,
 12760:24, 12761:16,
 12762:5, 12763:3,
 12763:19, 12764:6,
 12764:13, 12775:16
parents - 12687:1,
 12687:11, 12742:25
paring - 12766:25
park - 12774:19
Parker - 12689:7
part - 12691:24,
 12698:22, 12724:22,
 12751:6, 12773:23
participant - 12694:2
particular - 12679:1,
 12742:5
particulars - 12694:12,
 12706:15
parties - 12765:19
party - 12711:20
pass - 12695:18,
 12695:22
past - 12740:24,
 12741:1
pause - 12704:15
Penkala - 12689:9,
 12689:19, 12690:11,
 12693:2, 12699:8,
 12709:24, 12710:12,
 12732:13, 12737:14,



12741:14, 12767:11
Penkala's - 12690:3
people - 12672:1,
 12672:20, 12675:3,
 12714:1, 12737:22,
 12738:1, 12738:4,
 12757:22, 12765:10,
 12766:13, 12771:3,
 12771:19
people' - 12758:6
per - 12678:10
perhaps - 12696:15,
 12712:25, 12716:6,
 12737:16, 12756:19
period - 12684:6,
 12684:11, 12684:16,
 12692:17, 12740:11
perjure - 12771:8
person - 12669:17,
 12673:24, 12674:20,
 12680:19, 12687:16,
 12688:2, 12688:12,
 12689:23, 12696:16,
 12702:2, 12716:25,
 12728:25, 12738:2,
 12744:12, 12755:22,
 12756:2, 12756:4,
 12757:15, 12758:5
personal - 12675:4,
 12716:16, 12767:9
persons - 12690:22,
 12707:25
phase - 12667:16
phoenix - 12760:11
phone - 12697:16
phoned - 12703:14,
 12704:3, 12774:9
pick - 12677:1
picked - 12703:16,
 12703:17, 12704:3,
 12774:23
place - 12671:19,
 12680:4, 12683:13,
 12694:24, 12699:24,
 12701:19, 12746:13,
 12746:15, 12752:10,
 12754:2, 12767:25,
 12770:5, 12770:12,
 12770:17
placed - 12685:17,
 12739:5
plan - 12700:24,
 12720:23, 12752:11
planning - 12717:19,
 12721:1
planted - 12759:4
play - 12713:24,
 12714:2
played - 12693:3,
 12744:13
Pm - 12667:2,
 12709:21, 12744:24,
 12744:25, 12776:21
pocket - 12671:6
point - 12677:5,
 12678:19, 12682:18,
 12683:25, 12687:22,
 12690:15, 12692:18,
 12695:5, 12704:1,
 12713:10, 12715:20,
 12716:6, 12717:3,
 12719:12, 12721:5,
 12724:11, 12727:25,
 12729:3, 12730:25,
 12734:22, 12736:7,
 12736:8, 12737:5,
 12746:11, 12749:7,
 12764:24, 12771:11
pointed - 12725:24,
 12725:25, 12732:3

pointing - 12719:15
points - 12721:19,
 12721:20
police - 12667:16,
 12669:21, 12672:9,
 12672:14, 12672:21,
 12673:17, 12674:25,
 12675:6, 12676:11,
 12678:5, 12678:11,
 12682:14, 12682:20,
 12683:4, 12683:14,
 12684:8, 12685:20,
 12696:23, 12703:10,
 12703:14, 12706:3,
 12735:10, 12737:21,
 12749:17, 12750:10,
 12754:9, 12759:1,
 12759:4, 12759:25,
 12764:16, 12765:2,
 12768:5, 12769:5,
 12774:16, 12774:22
Police - 12665:7,
 12675:12, 12686:23,
 12694:10, 12694:16,
 12697:24, 12697:25,
 12698:7, 12698:13,
 12699:2, 12700:21,
 12701:4, 12701:6,
 12705:12, 12710:1,
 12711:21, 12751:7,
 12760:17, 12761:17,
 12762:18, 12763:4,
 12763:11
policy - 12675:13,
 12678:10
polygraph - 12701:5,
 12701:16, 12701:25,
 12702:4, 12710:14,
 12712:11, 12740:6,
 12741:2, 12774:2,
 12775:10
portion - 12669:2,
 12726:21, 12745:25,
 12760:14
position - 12719:13,
 12723:10, 12724:25,
 12725:1, 12725:6,
 12772:19
possibility - 12756:19,
 12775:20
possible - 12672:4,
 12757:11, 12772:3
possibly - 12721:6,
 12721:13, 12743:17,
 12752:18
post - 12759:21,
 12760:6
potential - 12751:25,
 12752:1
practice - 12670:20,
 12740:18
pre - 12668:17
pre-statement -
 12668:17
prefaced - 12723:2
prefer - 12714:13
Prehodchenko -
 12664:12
preparation - 12679:5,
 12711:15, 12734:6
prepare - 12679:12,
 12711:12, 12739:23
prepared - 12681:11,
 12682:24, 12703:6,
 12703:9, 12711:7,
 12711:11, 12712:13,
 12713:11, 12716:11,
 12734:1, 12740:2,
 12748:13
preparing - 12679:18,

12740:12, 12740:19
presence - 12775:19
present - 12699:6,
 12699:10, 12708:4,
 12712:8, 12775:25
presented - 12672:16
presumed - 12769:11
pretty - 12721:17,
 12767:13
previous - 12679:16,
 12716:14
previously - 12708:25,
 12736:4, 12736:8,
 12743:22
prime - 12699:16,
 12700:7
Prince - 12671:25
principal - 12688:25
principle - 12672:8
private - 12671:6,
 12675:17
problem - 12705:19,
 12732:3, 12735:16
problems - 12714:16
proceed - 12699:11
proceeded - 12709:23
proceeding - 12772:22
proceedings -
 12681:8, 12704:10,
 12711:3
Proceedings -
 12663:12, 12663:23,
 12666:1, 12667:1
process - 12733:21,
 12774:4
promising - 12694:19
proper - 12719:19
proposition - 12713:3
prosecutor -
 12735:12, 12735:14
prospect - 12756:5
protect - 12688:16
provided - 12694:14
providing - 12669:18,
 12772:25
Province - 12777:3
psychiatric - 12674:20
public - 12671:4,
 12752:20, 12759:15,
 12761:12, 12761:25,
 12762:25, 12763:16,
 12763:24, 12764:20,
 12767:22
purpose - 12699:2
purse - 12721:2,
 12762:23, 12764:14,
 12764:21, 12766:17
pursued - 12674:25
push - 12702:21
Put - 12771:5
put - 12681:18,
 12681:21, 12704:12,
 12711:23, 12712:21,
 12712:22, 12713:3,
 12718:16, 12720:9,
 12722:8, 12723:18,
 12724:11, 12735:7,
 12737:15, 12739:20,
 12740:4, 12740:8,
 12741:10, 12754:2,
 12773:7, 12773:10,
 12773:12, 12773:16,
 12773:17, 12774:24,
 12775:23
putting - 12725:9

Q

Qb - 12664:9
Qc - 12665:2, 12665:8,

12665:11
qualms - 12772:17
Queen's - 12777:1,
 12777:3, 12777:14,
 12777:18
questioned -
 12718:13, 12765:4,
 12765:6, 12765:7,
 12765:8, 12765:13
questioning -
 12704:10, 12717:24,
 12724:20, 12731:5,
 12732:2, 12737:18,
 12758:23, 12771:17,
 12771:18
questions - 12667:23,
 12676:19, 12677:3,
 12681:17, 12681:23,
 12708:10, 12715:15,
 12717:7, 12718:16,
 12719:22, 12724:8,
 12730:23, 12740:8,
 12743:16, 12746:18,
 12755:14, 12755:20,
 12766:19, 12766:21,
 12769:3, 12773:3,
 12773:5, 12775:12,
 12776:5
quick - 12767:14
quickly - 12705:2
quite - 12689:2,
 12702:23, 12724:5,
 12736:14, 12739:25,
 12751:2, 12751:3,
 12757:16
quotation - 12704:11

R

Radisson - 12663:16
raise - 12714:21,
 12768:9, 12768:13,
 12768:17
raised - 12715:15
range - 12684:18,
 12721:18
rape - 12691:6,
 12692:1
raped - 12758:2
rapes - 12689:24,
 12692:6, 12692:11,
 12696:16, 12749:19,
 12749:24, 12750:6
rapist - 12749:11,
 12758:2
Rasmussen - 12694:8
Rather - 12753:23
rather - 12703:1,
 12715:20
Ray - 12693:1
Rcmp - 12665:9,
 12695:4, 12695:9,
 12696:8, 12698:3,
 12711:21, 12727:6,
 12756:10, 12756:18,
 12773:18, 12775:4,
 12775:5, 12775:8
re - 12719:6, 12727:9,
 12727:15, 12728:1
re-interview - 12727:9
re-interviewed -
 12727:15, 12728:1
re-opening - 12719:6
read - 12672:14,
 12691:9, 12704:12,
 12705:1, 12705:20,
 12706:5, 12712:10,
 12720:17, 12767:14,
 12767:15, 12767:17,
 12773:21
reading - 12744:15,
 12750:23, 12755:19,
 12764:25, 12767:12,
 12767:17
ready - 12725:14
real - 12694:17
really - 12693:3,
 12694:21, 12696:11,
 12714:24, 12715:19,
 12715:20, 12739:14,
 12739:17
reason - 12695:2,
 12736:7, 12765:21
reasonable - 12769:15
reasons - 12737:21,
 12737:25
recalled - 12681:20,
 12681:22
received - 12673:5,
 12706:10, 12728:17
receiving - 12766:12
recognize - 12711:2
recollection -
 12668:16, 12668:24,
 12669:6, 12669:7,
 12670:3, 12670:11,
 12677:6, 12677:13,
 12677:20, 12677:24,
 12680:15, 12680:24,
 12681:9, 12681:14,
 12682:3, 12682:6,
 12682:8, 12682:19,
 12682:22, 12683:1,
 12683:9, 12683:14,
 12684:3, 12685:11,
 12687:21, 12688:1,
 12689:3, 12690:14,
 12690:17, 12691:4,
 12691:20, 12692:4,
 12692:10, 12692:22,
 12696:13, 12699:20,
 12699:23, 12701:14,
 12701:18, 12704:6,
 12706:1, 12706:5,
 12708:5, 12710:18,
 12711:17, 12715:19,
 12715:22, 12727:24,
 12728:6, 12733:20,
 12733:24, 12737:4,
 12740:13, 12740:16,
 12741:16, 12741:19,
 12741:25, 12743:9,
 12746:20, 12746:25,
 12747:15, 12748:18,
 12749:25, 12750:23,
 12751:21, 12755:7,
 12758:7, 12759:17,
 12760:3, 12760:20,
 12761:24, 12765:1,
 12765:3, 12765:9,
 12769:24
recollections -
 12703:4
recommend - 12676:4
recommendation -
 12731:12, 12731:25
Reconvened - 12667:2,
 12744:25
record - 12668:18,
 12670:4, 12688:8,
 12704:8, 12710:17,
 12724:13, 12735:4,
 12735:23, 12749:16,
 12767:12, 12767:22
recorded - 12671:12,
 12671:13, 12676:7,
 12678:10, 12679:13,
 12735:17, 12775:9,
 12775:16
records - 12694:1



recovered - 12764:15
refer - 12679:17,
 12679:24, 12681:5,
 12690:2, 12693:25,
 12694:3, 12702:9,
 12702:11, 12710:25,
 12739:15, 12743:24,
 12745:3, 12759:19,
 12760:9, 12764:3,
 12767:11, 12770:4,
 12771:24, 12771:25
reference - 12686:19,
 12687:15, 12688:15,
 12700:20, 12731:21,
 12741:12, 12745:4,
 12745:7, 12745:9,
 12745:23, 12751:16,
 12752:5, 12752:9,
 12766:3
referenced - 12746:8
references - 12745:11,
 12749:23
referencing - 12747:5
referred - 12678:23,
 12682:7, 12685:3,
 12690:24, 12709:14,
 12710:24, 12711:9,
 12740:19, 12756:16,
 12767:7
referring - 12676:8,
 12743:17, 12745:22,
 12746:1, 12746:12,
 12747:4, 12749:19,
 12750:8
refers - 12698:22,
 12744:9, 12759:22
reflects - 12668:23
refresh - 12680:3
refutes - 12731:19
regard - 12692:25,
 12740:8
regards - 12710:1,
 12716:22, 12717:1,
 12731:4, 12731:6,
 12749:1
Regina - 12759:21,
 12765:23
regular - 12750:24
Reid - 12689:7
relate - 12668:10,
 12708:3, 12768:3
relates - 12746:21
relating - 12734:17
relation - 12754:6
relative - 12705:5
relayed - 12758:25
release - 12697:19,
 12698:9
released - 12697:5,
 12697:9, 12698:16,
 12698:17, 12761:11
relevance - 12721:3
reliability - 12739:11
relied - 12740:14
rely - 12740:16
remarks - 12723:2
remember - 12680:4,
 12680:18, 12680:19,
 12687:19, 12687:24,
 12688:13, 12695:13,
 12707:7, 12708:12,
 12716:1, 12742:14,
 12748:22, 12752:22,
 12752:24, 12753:2,
 12753:4, 12753:5,
 12753:24, 12754:5,
 12755:6, 12755:19,
 12755:20, 12757:24,
 12759:18, 12769:3,
 12769:4, 12774:17

remembered -
 12753:8, 12753:11,
 12753:21
remembering -
 12740:23
repeat - 12720:19,
 12762:6
reply - 12702:25
report - 12679:6,
 12679:15, 12679:18,
 12682:14, 12682:23,
 12683:13, 12691:21,
 12693:14, 12693:16,
 12694:5, 12696:20,
 12697:2, 12698:20,
 12709:18, 12709:20,
 12710:10, 12710:15,
 12716:9, 12716:10,
 12716:15, 12727:12,
 12727:19, 12728:11,
 12728:24, 12729:8,
 12729:11, 12729:12,
 12729:13, 12729:23,
 12730:19, 12730:20,
 12730:21, 12732:4,
 12732:10, 12732:25,
 12734:23, 12735:7,
 12735:9, 12735:17,
 12735:23, 12736:13,
 12740:9, 12740:10,
 12740:12, 12740:15,
 12740:17, 12740:20,
 12745:13, 12755:5,
 12756:10, 12756:18,
 12759:20, 12760:2,
 12760:21, 12766:3
reported - 12759:25,
 12760:25
Reporter- 12777:14,
 12777:18
Reporters- 12664:9,
 12777:3
Reporters'- 12777:1
reporting - 12745:12
reports - 12677:23,
 12678:23, 12678:25,
 12679:5, 12680:2,
 12680:6, 12680:11,
 12684:10, 12685:1,
 12688:5, 12691:9,
 12694:1, 12694:15,
 12705:20, 12706:6,
 12706:16, 12706:21,
 12759:19
represent - 12667:21
request - 12670:12,
 12671:2, 12705:11,
 12727:1, 12727:13
requested - 12669:8,
 12670:21, 12774:9
requesting -
 12700:22
required - 12699:11
resided - 12755:11
residence - 12714:19,
 12722:3, 12736:2,
 12742:23, 12742:25,
 12747:2, 12748:12,
 12762:8
residences - 12748:10
resolution - 12726:8
resolve - 12671:18,
 12672:3
respect - 12722:15
responsible -
 12689:24, 12689:25,
 12692:12, 12716:19,
 12721:14, 12729:1,
 12756:25
rest - 12724:22

result - 12682:24
results - 12694:13
retrieve - 12678:15
return - 12669:18
reveal - 12720:22
revealed - 12717:21
review - 12710:13,
 12736:12, 12756:19
reviewed - 12669:7,
 12758:8
reviewing - 12667:24,
 12690:14, 12699:3,
 12706:15
reward - 12675:9,
 12675:22, 12676:1,
 12686:20, 12768:16
rewards - 12675:13,
 12675:15, 12675:18
Rick- 12665:7
rid - 12743:18
Riddell- 12694:5,
 12697:4, 12697:12,
 12697:18, 12698:2,
 12698:3, 12698:5,
 12698:12, 12698:16,
 12698:21, 12698:25,
 12727:6
rise - 12776:5
road - 12693:22,
 12725:3
Roberts- 12702:10,
 12704:1, 12704:11,
 12704:17, 12704:22,
 12706:9, 12706:14,
 12708:22, 12709:7,
 12709:8, 12709:15,
 12709:25, 12710:11,
 12710:13, 12710:21,
 12739:4, 12739:7,
 12739:9, 12741:2,
 12773:13, 12773:22,
 12775:4, 12775:8,
 12775:17, 12775:25,
 12776:1
Roberts'- 12704:24,
 12710:6
Rochelle- 12665:9
role - 12689:8,
 12693:2, 12696:8
roll - 12720:23,
 12721:2
rolling - 12717:19
Ron- 12697:21,
 12703:19, 12703:24,
 12704:8, 12713:7,
 12713:17, 12722:8,
 12723:11, 12723:22,
 12731:21, 12732:6,
 12733:1, 12735:5,
 12737:8, 12737:16,
 12738:8, 12743:18,
 12758:24, 12764:24,
 12765:3, 12765:5,
 12773:11, 12773:15,
 12773:24, 12776:2
Ronald- 12700:22,
 12708:1, 12710:2
room - 12714:7,
 12741:3, 12741:7,
 12771:5
Roulette- 12744:14
Rpr- 12664:10,
 12777:2, 12777:16,
 12777:17
Russian- 12744:13

S

S/sgt - 12694:7,
 12699:9, 12727:7

samples - 12689:21
Sandra - 12664:4
Saskatchewan -
 12663:17, 12665:4,
 12777:4
saskatoon - 12671:25
Saskatoon - 12663:17,
 12665:7, 12669:22,
 12670:17, 12672:2,
 12675:12, 12686:22,
 12686:23, 12689:25,
 12694:10, 12694:16,
 12695:5, 12697:24,
 12697:25, 12698:7,
 12698:12, 12699:1,
 12699:8, 12699:9,
 12700:21, 12701:6,
 12701:9, 12703:10,
 12703:14, 12704:25,
 12705:4, 12705:12,
 12707:10, 12711:21,
 12712:7, 12712:15,
 12713:20, 12715:8,
 12721:25, 12747:10,
 12749:20, 12749:24,
 12758:3, 12760:10,
 12765:21, 12774:16,
 12774:22
saw - 12687:19,
 12706:22, 12721:10,
 12721:21, 12728:16,
 12729:8, 12734:20,
 12734:22, 12735:22,
 12737:3, 12737:5,
 12746:15, 12765:25
scene - 12705:21,
 12706:8, 12708:19,
 12763:14
scheduled - 12776:11
school - 12763:21
screen - 12773:17
scroll - 12756:22,
 12760:23
Scroll - 12703:18
seat - 12776:9
second - 12672:11,
 12712:25, 12717:22,
 12728:12, 12760:24
Security - 12664:11
see - 12668:14,
 12674:24, 12679:15,
 12680:22, 12681:2,
 12684:7, 12684:10,
 12689:14, 12691:5,
 12691:11, 12691:21,
 12718:19, 12719:2,
 12721:15, 12730:5,
 12730:15, 12731:24,
 12731:25, 12732:8,
 12735:10, 12735:12,
 12735:14, 12737:3,
 12744:20, 12746:14,
 12749:15, 12750:4,
 12752:23, 12753:21,
 12754:13, 12767:23,
 12771:18, 12771:19
seeing - 12677:24,
 12678:1, 12682:22,
 12691:14, 12711:17,
 12734:3, 12735:6,
 12749:25, 12760:3
seek - 12702:20
seem - 12685:6,
 12723:22, 12723:23,
 12727:17, 12757:2,
 12762:24
send - 12714:21
Senior - 12735:13
senior - 12674:4,
 12733:19, 12736:12,

12737:13
sense - 12674:5,
 12675:21, 12687:5,
 12740:3
sent - 12690:11
sentence - 12669:11,
 12671:3
sentenced - 12671:3
sentencing - 12672:7
Serge - 12665:6
Sergeant - 12685:2,
 12695:17, 12695:19,
 12696:14, 12696:25,
 12697:15
sergeant - 12693:1
seriously - 12674:8
Service - 12665:7,
 12686:23, 12686:24,
 12697:25
service - 12735:10
services - 12705:11
set - 12690:1,
 12742:16
seven - 12742:3,
 12742:9
several - 12694:11,
 12727:5, 12728:15
Several - 12692:25
sexual - 12691:6,
 12729:17, 12749:23,
 12750:20
sexually - 12683:18,
 12755:16, 12755:23,
 12758:3, 12761:18,
 12762:20
Sgt - 12716:18
share - 12757:2
Sharon - 12729:5,
 12744:7, 12746:10
Sharon - 12774:20
short - 12750:24,
 12766:25, 12767:13
Short - 12685:3,
 12689:9, 12693:2,
 12698:7, 12699:8,
 12726:22, 12727:13,
 12727:14, 12727:19,
 12728:11, 12732:12,
 12737:14, 12741:14
shorthand - 12777:5
shortly - 12691:10,
 12691:11, 12703:15
Shorty - 12765:8
shots - 12692:23
show - 12736:10
shown - 12681:7
side - 12669:15
significance - 12686:9
significant - 12685:6
similar - 12687:6
similarities - 12690:10
Similarly - 12682:11,
 12721:9
simply - 12679:21,
 12691:14, 12718:23,
 12745:18
sinister - 12712:25
sister - 12743:7
sisters - 12743:6
sit - 12679:21,
 12770:25
sitting - 12663:15,
 12690:17, 12695:8,
 12733:22, 12740:22
situation - 12672:13,
 12679:20, 12740:22,
 12751:10
situations - 12675:9
skill - 12777:6
smell - 12768:8



smooth - 12767:1
snow - 12761:10, 12763:5
snowbank - 12763:13
sober - 12674:9
someone - 12674:24, 12675:24, 12759:10
someplace - 12670:16
sometime - 12683:7, 12748:13
sometimes - 12693:14, 12737:23
Sometimes - 12680:6, 12693:19, 12737:23
somewhat - 12719:9, 12721:24
somewhere - 12712:13, 12729:12, 12752:13
sorry - 12681:20, 12704:23, 12706:19, 12711:13, 12716:13, 12716:14, 12726:19, 12730:2, 12733:4, 12742:24, 12745:7, 12765:4
Sorry - 12706:18, 12744:4, 12763:10, 12771:25
Sort - 12680:18
sort - 12677:23, 12682:1, 12685:21, 12686:12, 12687:11, 12688:16, 12689:1, 12689:17, 12691:15, 12696:9, 12711:22, 12713:4, 12713:6, 12713:11, 12713:17, 12714:12, 12717:20, 12726:14, 12729:2, 12738:9, 12742:2, 12745:17, 12752:21, 12753:22, 12761:24, 12765:14, 12772:8
sorts - 12713:14
sound - 12684:21
sounded - 12743:19
south - 12760:17, 12761:7, 12761:9, 12762:13
South - 12736:3, 12747:13, 12755:12
speaking - 12685:11, 12686:11, 12726:24, 12752:24, 12765:10, 12765:11, 12766:8
specific - 12677:13, 12680:10, 12680:15, 12680:24, 12681:8, 12681:14, 12682:3, 12682:7, 12682:19, 12682:22, 12683:1, 12683:9, 12692:1, 12693:23, 12716:1
specifically - 12687:25, 12702:13, 12747:24
specifics - 12742:15
speculate - 12703:2
speculated - 12689:23
speculation - 12768:19
spent - 12694:11
spoken - 12697:16, 12708:15, 12754:10
spouse - 12674:14
stab - 12761:19, 12762:14, 12763:8, 12764:9
Staff - 12664:1,

12664:7, 12685:2, 12695:17, 12695:19, 12696:14, 12696:24, 12697:14
stand - 12667:6
Star - 12760:11
Star-phoenix - 12760:11
Starphoenix - 12764:4, 12764:25
start - 12684:7
starting - 12668:19, 12726:23
state - 12738:10, 12738:21
statement - 12668:13, 12668:17, 12668:19, 12668:23, 12669:3, 12669:9, 12669:18, 12670:1, 12670:14, 12671:11, 12671:14, 12682:23, 12684:1, 12685:4, 12686:3, 12686:13, 12696:23, 12703:11, 12704:5, 12713:25, 12715:2, 12715:5, 12719:15, 12723:21, 12723:22, 12726:5, 12726:24, 12727:2, 12729:5, 12729:7, 12729:9, 12733:2, 12733:3, 12734:10, 12734:24, 12735:21, 12735:24, 12737:2, 12742:2, 12743:24, 12744:8, 12744:16, 12745:21, 12745:24, 12746:4, 12746:5, 12746:10, 12747:3, 12747:9, 12747:23, 12748:3, 12748:6, 12749:17, 12750:1, 12750:9, 12750:13, 12750:17, 12750:18, 12750:19, 12750:22, 12766:23, 12767:13, 12767:19, 12767:20, 12767:25, 12768:22, 12768:24, 12769:2, 12770:21, 12773:17, 12775:22
statement' - 12719:20
statements - 12676:6, 12676:11, 12677:10, 12677:12, 12677:13, 12677:18, 12677:23, 12678:1, 12681:7, 12681:12, 12706:23, 12707:1, 12707:4, 12713:15, 12713:18, 12716:23, 12718:23, 12737:9, 12740:5, 12759:1, 12759:6, 12773:12, 12775:19
states - 12704:2, 12708:24, 12709:20, 12728:12, 12731:11, 12734:20, 12735:19, 12735:24, 12760:13
stating - 12690:8
station - 12672:21, 12682:14, 12682:20, 12696:23, 12742:7
steal - 12721:2
step - 12726:13
sticking - 12727:20, 12728:4
sticks - 12732:8
Still - 12771:22
still - 12680:23,

12693:10, 12714:12, 12721:23, 12723:12, 12726:6, 12734:22, 12735:5, 12735:6, 12749:10, 12761:7, 12772:19, 12772:20
stopped - 12738:12
stories - 12722:18, 12723:5
story - 12686:3, 12687:4, 12687:12, 12692:13, 12692:14, 12712:8, 12712:18, 12727:4, 12727:21, 12728:4, 12731:17, 12732:9
street - 12674:6, 12738:12, 12754:13, 12759:14
streets - 12713:20
stuck - 12714:16, 12727:3
studying - 12763:4
subjected - 12701:16
subjects - 12700:25
submit - 12700:25, 12719:9, 12719:18
subsequently - 12757:19
successful - 12699:6
suggest - 12670:15, 12693:16, 12695:13, 12722:21, 12725:22, 12728:21, 12759:2, 12764:23
suggested - 12670:12, 12718:20, 12723:3, 12723:7, 12723:8, 12726:1, 12759:11
suggestion - 12676:5, 12712:17, 12712:25, 12722:8, 12723:19, 12759:3
suggestions - 12693:11, 12712:20, 12759:5
Suggestions - 12712:4
summary - 12690:22, 12711:1, 12712:4, 12734:1
Summary - 12711:10
Superintendent - 12693:3, 12705:16, 12706:7, 12706:11, 12707:11, 12708:16, 12708:21, 12709:1, 12709:16, 12710:8, 12710:11
superior - 12673:5
supplied - 12775:21
Support - 12664:7
support - 12721:16, 12723:23, 12756:24, 12772:15
suppose - 12673:9, 12697:20, 12739:4
supposed - 12681:2, 12701:25, 12702:1, 12772:11
Supreme - 12702:11, 12702:13, 12773:13, 12773:19, 12773:22
Supt - 12694:9, 12699:7, 12709:24
surely - 12717:25, 12718:13, 12719:16
surprise - 12765:18
surrounding - 12690:7
suspect - 12686:10, 12692:1, 12692:5,

12692:11, 12692:15, 12697:9, 12699:16, 12700:7, 12707:16, 12709:12, 12714:10, 12715:17, 12717:1, 12722:12, 12722:20, 12723:4, 12723:14, 12724:6, 12725:24, 12729:20, 12732:12, 12746:21, 12752:1, 12769:23
suspects - 12690:20, 12690:25, 12691:2, 12691:5, 12694:17
sweater - 12762:19, 12763:5
Swift - 12763:23

T

talks - 12729:15, 12738:19, 12746:11, 12746:14
tape - 12752:14
taped - 12676:14
taping - 12741:5
task - 12679:1
tasked - 12692:10
Tdr - 12665:5
Technician - 12664:12
ten - 12768:12
tenor - 12725:8
terms - 12672:13, 12676:3, 12678:17, 12681:18, 12683:9, 12683:12, 12684:17, 12687:25, 12696:9, 12698:11, 12749:6, 12752:20, 12759:2
test - 12701:1, 12701:17, 12701:24, 12702:5, 12705:4, 12774:4, 12775:10
testified - 12702:10, 12769:18, 12769:22, 12774:1
testify - 12767:11, 12769:7, 12769:25, 12770:1
testimony - 12688:6, 12702:13, 12739:2
Testimony - 12663:14
testing - 12741:2, 12741:4
tests - 12701:9
themselves - 12765:10, 12765:12
theories - 12712:21, 12737:15
theory - 12689:22, 12696:15, 12711:23, 12711:24, 12756:24
thereafter - 12670:2, 12703:15
third - 12734:16, 12765:19
this' - 12719:7, 12723:24
Thor - 12667:11
thoughts - 12693:11, 12715:16, 12717:3, 12728:6, 12729:21, 12736:10, 12748:23, 12748:24, 12749:4, 12751:3
three - 12689:13, 12712:18, 12713:15, 12742:22, 12749:22, 12763:13, 12774:21
throat - 12760:1,

12761:1, 12761:20, 12762:15, 12763:8, 12764:9
throughout - 12718:2
Thursday - 12667:13, 12763:7
today - 12667:9, 12771:22, 12772:19
together - 12671:19, 12711:23, 12771:4, 12776:2
tomorrow - 12667:9, 12776:11, 12776:13, 12776:18
took - 12668:13, 12674:1, 12680:4, 12683:13, 12694:24, 12740:4, 12752:10, 12763:21, 12767:25, 12770:5, 12770:12, 12770:16, 12773:12, 12774:19
top - 12740:24, 12761:10, 12770:20
topics - 12682:7
torn - 12762:19
total - 12691:1, 12725:23, 12774:6
touch - 12672:11
tough - 12674:15
tow - 12702:20
tow-truck - 12702:20
towards - 12686:16, 12721:5, 12725:24
traffic - 12671:24
training - 12763:22
transcript - 12667:25, 12668:7, 12672:14, 12688:9, 12702:12, 12704:9, 12724:14, 12738:8, 12745:8, 12752:15
Transcript - 12663:12, 12667:1
transcription - 12777:5
transferring - 12681:25
transpired - 12700:1, 12726:22, 12734:20
trial - 12734:4, 12738:13, 12748:21, 12749:2, 12769:8, 12769:18, 12769:21
trigger - 12680:13, 12681:8
trip - 12668:3, 12704:25
trouble - 12672:1
trousers - 12736:1
truck - 12702:20
true - 12668:11, 12669:19, 12682:10, 12683:24, 12686:6, 12691:23, 12693:9, 12709:13, 12712:8, 12712:18, 12726:3, 12735:8, 12751:15, 12777:5
True - 12693:20, 12766:18
truth - 12702:3, 12703:7, 12719:14
truthful - 12701:3
truthfully - 12738:16
try - 12692:10, 12720:24, 12723:18
trying - 12688:16, 12688:19, 12692:5, 12714:7, 12719:12,



12747:19
Tuesday - 12741:13
tunnel - 12713:1,
 12725:2, 12725:23
turn - 12694:18,
 12696:21, 12704:22,
 12706:18, 12709:17,
 12729:22, 12732:24,
 12735:20, 12738:8,
 12745:24, 12761:15,
 12762:9, 12763:2,
 12763:18, 12770:13
turned - 12678:12,
 12704:4
Two - 12742:22
two - 12667:10,
 12668:2, 12668:25,
 12677:9, 12677:17,
 12690:9, 12692:20,
 12696:2, 12706:23,
 12749:19, 12749:22,
 12756:6, 12757:22,
 12758:6, 12774:7
type - 12716:20,
 12728:25
type' - 12729:1
typed - 12677:9,
 12715:4, 12750:13
typewritten - 12677:9

U

Ullrich - 12734:2
Ullrich's - 12667:13
ultimately - 12693:21
umm - 12673:20,
 12759:2, 12762:6,
 12764:23
Umm - 12714:15,
 12750:3, 12756:4,
 12767:12, 12768:5
unanswered -
 12730:22
under - 12697:14,
 12697:20, 12712:4,
 12762:21
understood - 12702:1
unfairly - 12719:10
unidentified -
 12759:24
unless - 12769:14
unsolicited - 12672:21
unsolved - 12690:9
untrue - 12718:23
unusual - 12671:16,
 12672:22
up - 12672:16,
 12672:19, 12673:2,
 12673:7, 12673:11,
 12673:13, 12674:1,
 12674:18, 12676:24,
 12677:1, 12682:17,
 12683:12, 12685:25,
 12686:5, 12690:21,
 12694:4, 12694:19,
 12696:19, 12698:19,
 12703:16, 12703:17,
 12703:18, 12704:4,
 12705:10, 12710:22,
 12712:23, 12714:3,
 12715:2, 12716:21,
 12724:16, 12725:15,
 12726:10, 12726:18,
 12730:1, 12730:3,
 12731:25, 12734:2,
 12734:14, 12737:24,
 12740:10, 12741:9,
 12742:13, 12742:16,
 12744:6, 12745:20,
 12747:3, 12748:8,

12749:21, 12749:22,
 12749:23, 12752:11,
 12756:11, 12758:12,
 12758:24, 12766:23,
 12767:24, 12770:6,
 12773:16, 12773:19,
 12774:23, 12774:25
upcoming - 12710:14
upset - 12702:23

V

V3 - 12747:3, 12747:7,
 12750:18, 12750:20
V4 - 12755:14,
 12755:15, 12755:24,
 12756:7, 12756:21,
 12757:1, 12757:7,
 12757:8, 12758:4
variety - 12729:16
Various - 12737:24
various - 12690:25,
 12711:6, 12738:10,
 12748:10
verbal - 12696:1
Verbal - 12696:2
verbally - 12693:19
verified - 12727:3
Verified - 12688:5
viability - 12673:21
viability/credibility -
 12673:24
video - 12676:7
videotape - 12667:14
videotaped - 12676:14
view - 12739:10
views - 12695:14,
 12696:7
vision - 12713:1,
 12725:2, 12725:23
visit - 12682:13,
 12682:24
vital - 12715:20
Volume - 12663:22
voluntarily - 12686:8,
 12701:1

W

wait - 12732:14
waived - 12670:10,
 12672:2
walk - 12774:19
walking - 12713:19
wants - 12703:22,
 12718:5, 12749:21
warranted - 12687:13,
 12731:6
Watson - 12665:6
weapon - 12763:11,
 12767:7
wearing - 12761:21
weather - 12715:7
Wed - 12726:25
Wednesday - 12667:11
week - 12667:6,
 12667:16, 12667:25,
 12716:2, 12755:21,
 12756:1
weekend - 12672:15,
 12763:6
weight - 12718:11,
 12719:25, 12722:23,
 12736:18, 12739:2,
 12739:3, 12739:5
Weir - 12667:10,
 12776:12
Wempe - 12665:9
west - 12762:12
whatsoever -

12668:22, 12730:11,
 12766:15, 12772:23
Williams - 12729:5,
 12744:9, 12746:10,
 12752:23, 12752:24,
 12753:6, 12753:9,
 12753:20, 12753:25
Williams' - 12744:7,
 12744:15
Wilson - 12697:21,
 12700:22, 12701:10,
 12701:15, 12701:22,
 12702:15, 12704:2,
 12704:9, 12704:12,
 12704:13, 12704:21,
 12708:1, 12708:6,
 12708:23, 12709:2,
 12709:12, 12710:3,
 12712:6, 12712:15,
 12713:7, 12713:17,
 12722:9, 12723:11,
 12723:22, 12726:5,
 12726:14, 12728:5,
 12731:8, 12731:22,
 12732:6, 12733:1,
 12734:17, 12734:18,
 12734:19, 12734:21,
 12734:25, 12735:5,
 12735:19, 12735:24,
 12737:8, 12737:16,
 12738:9, 12739:11,
 12743:18, 12758:24,
 12764:24, 12765:3,
 12765:5, 12765:22,
 12765:24, 12771:1,
 12773:11, 12773:15,
 12774:5, 12775:11,
 12775:13, 12776:2
Wilson's - 12738:8,
 12738:21, 12739:2,
 12740:5, 12775:19
Winnipeg - 12668:3,
 12696:24, 12697:12,
 12716:12, 12748:7,
 12749:15, 12749:16,
 12750:10, 12751:7,
 12752:17, 12754:24
winter - 12716:3
wished - 12707:20
Witness - 12767:17
witness - 12667:8,
 12677:11, 12703:12,
 12709:5, 12709:6,
 12718:3, 12718:5,
 12718:6, 12718:7,
 12718:10, 12718:14,
 12719:6, 12719:15,
 12724:12, 12724:17,
 12725:10, 12745:18,
 12751:25, 12776:11
witness' - 12718:12
witnesses - 12676:10,
 12689:17, 12689:20,
 12705:5, 12706:24,
 12707:2
witnesses' - 12676:6
Wolch - 12665:2,
 12717:23, 12718:17,
 12718:25, 12719:4,
 12719:17, 12719:18,
 12720:2, 12720:10,
 12722:15, 12722:18,
 12722:23, 12723:2,
 12723:8, 12723:10,
 12723:15, 12723:20,
 12724:24, 12725:11,
 12725:22, 12737:15,
 12739:15, 12739:18,
 12745:3
woman - 12713:19,

12714:4, 12714:5,
 12760:15, 12760:18,
 12761:1, 12761:9
woman's - 12761:5
wonder - 12715:22
wondering - 12723:6
Wood - 12693:3,
 12699:7, 12705:16,
 12706:7, 12706:11,
 12708:16, 12708:21,
 12709:1, 12709:16,
 12709:24, 12710:8,
 12710:11, 12732:13,
 12737:14
wooden - 12767:2
Woods - 12694:9,
 12709:7
word - 12739:20,
 12745:7
words - 12687:17,
 12699:24, 12703:24,
 12709:4, 12720:9,
 12733:6, 12733:21,
 12737:10, 12743:12,
 12753:7, 12767:20,
 12771:10
worth - 12685:25
wounds - 12759:25,
 12761:1, 12761:19,
 12762:14, 12763:8,
 12764:9
writing - 12722:24,
 12730:10, 12730:16
written - 12668:19,
 12678:1, 12730:5,
 12775:22
Wrongful - 12663:3

Y

year - 12773:18
years - 12715:25,
 12737:20, 12760:18,
 12768:12
young - 12688:11,
 12708:2, 12715:25,
 12755:15, 12760:15
younger - 12688:20
yourself - 12706:2,
 12742:20, 12752:6
yourselves - 12771:8
youth - 12697:5,
 12716:17
youths - 12731:7
Yup - 12696:7

