

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 75

Inquiry Proceedings



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Transcript of Proceedings

(Reconvened at 9:00 a.m.)

COMMISSIONER MacCALLUM: Good morning

ALL COUNSEL: Good morning.

MR. HODSON: Morning, Mr. Commissioner.

The first witness this morning is Ken Wagner.

KENNETH ARTHUR WAGNER, sworn:

BY MR. HODSON:

Q Morning, Mr. Wagner.

A Morning.

Q Thank you for agreeing to testify before this Commission. I understand that you reside in Saskatoon; is that correct?

A Yes.

Q And your current age?

A 74.

Q And I understand, sir, that you were a member of the Saskatoon City Police Service from 1957 until your retirement in 1991; is that correct?

A Yes.

Q And that in January, and specifically January 31, 1969, the date of Gail Miller's murder, you were a sergeant in traffic duty; is that right?

A Either a corporal or a sergeant, I can't remember, but I think it was a sergeant.



1 Q And for the time period 1969-1970 you were in
2 traffic; is that correct?

3 A Yes.

4 Q And, just briefly, can you tell us what duties
09:03 5 traffic officers performed?

6 A Well the traffic section dealt primarily with
7 traffic-related incidents. If I was a sergeant at
8 that time I would have been assigned mainly
9 inside, at the desk, and my responsibility at that
09:03 10 time was to oversee the accident investigation
11 portion of the traffic section.

12 Q Did you have any involvement in the investigation
13 into the death of Gail Miller?

14 A Not at that time, no.

09:04 15 Q And we'll talk about your dealings in 1980 a bit
16 later, but as far as '69-'70, the initial
17 investigation, I take it, sir, you are telling us
18 you had no involvement?

19 A None whatsoever.

09:04 20 Q And at or around that time, as a police officer,
21 did you become aware that David Milgaard was
22 convicted of the murder of Gail Miller?

23 A Yes.

24 Q And were you aware generally, at that time, about
09:04 25 the evidence against Mr. Milgaard?



1 A Well, just very generally, a lot of shop talk of
2 course.

3 Q Yeah. And I wasn't looking for any specifics from
4 you, but you would have been aware generally,
09:04 5 based on discussions with other officers, about
6 some of the evidence that was led against him or
7 the basis of the conviction; is that a fair
8 comment?

9 A Yes.

09:04 10 Q Okay. I want to now turn to August of 1980, and I
11 understand at that time, sir, you were an
12 inspector; is that right?

13 A Yes.

14 Q And can you tell us what your duties were at that
09:05 15 time?

16 A I was a platoon inspector and at that time I
17 worked with a platoon of the patrol section, A
18 platoon, and we worked two weeks on each shift,
19 night shift midnight to 8:00 in the morning, or a
09:05 20 day shift 8:00 to 4:00 in the afternoon, and
21 afternoon shift 4:00 to 12:00. And one of our
22 functions was all the files that came through,
23 that after they were typed by central records
24 personnel, came to the duty officer's desk, we
09:05 25 reviewed them and assigned them to the various



1 divisions or sections, as the case might be.

2 Q Okay. Let's just back up for a minute. Between
3 the time in traffic in 1969-'70 and then 1980,
4 when you were in patrol, I understand that you
09:06 5 served in detectives from about 1971 to 1977; is
6 that right?

7 A That's correct.

8 Q So, again, in 1980, just so that I understand this
9 correctly, you would be in the patrol division at
09:06 10 that time?

11 A Yes.

12 Q And, again, what would patrol be responsible for?

13 A Well the, it would be the general uniformed
14 officers ranging from staff sergeant down to
09:06 15 special constables, I believe we had a couple of
16 special constables at that time in central
17 records.

18 Q So the officers who would be walking the street,
19 things of that nature?

09:06 20 A The street constables, the detention staff,
21 central records -- or not central records, but the
22 dispatching staff, all worked on the same platoon.

23 Q Okay. And so you were an inspector of the A
24 platoon; is that right?

09:07 25 A That's correct.



1 Q And would that be fair to say, then, that you had
2 a group of people that worked the same shift over
3 a period of time; is that right?

4 A That's correct.

09:07 5 Q And there would be, I take it that at all times,
6 24 hours a day, there would be one platoon that
7 would be working; is that right?

8 A Yes, we had a four-platoon system.

9 Q And so that it would vary between, I think you
09:07 10 called them, days, afternoons, and evenings?

11 A That's correct.

12 Q And evenings was the midnight until 8:00 a.m.?

13 A That's correct. Some of them came out at 11:00.

14 Q Okay.

09:07 15 A Half of our shift started at 11:00 at night and
16 half of our shift started at midnight so that we
17 had some overlap.

18 Q Right. And then so you've described for us what
19 patrol does. As inspector, I take it would that
09:07 20 be the most senior ranking person for your
21 platoon, you were the person in charge?

22 A That's correct.

23 Q And then, in addition to supervising platoon A and
24 the officers who worked underneath you, what were
09:08 25 your responsibilities in the administration of



1 matters at the police station as an inspector?

2 A Well after, when the chief was away, we were
3 actually the chief.

4 Q So you were the second --

09:08 5 A We were the chief officer on duty.

6 Q Okay. You told us about, and I'm not sure if
7 these were your words, but not a clearing house,
8 but that the duty inspectors were responsible to
9 review reports and assign them; is that right?

09:08 10 A Yes, that's correct, the -- all the reports came
11 through, occurrence reports and investigation
12 reports came through, went over our desk, and we
13 assigned them out to the various sections where we
14 felt they belonged.

09:08 15 Q Okay. And when you say 'we' that would be you and
16 the other inspectors of other platoons who did the
17 same thing you did?

18 A That's correct. There was four of us.

19 Q Do you remember who they were in 1980?

09:09 20 A Not offhand, no.

21 Q So, and those duty inspectors, would they be all
22 inspectors in the patrol division then?

23 A Yes.

24 Q So am I correct, sir, that there would be four
09:09 25 duty inspectors in patrol, one of those patrol



1 duty inspectors would be on at the police station
2 at all times, 24 hours a day?

3 A That's the way it was at that time, yes.

4 Q And one of the functions of the duty inspector was
09:09 5 to review all occurrence reports or new matters
6 and assign them to the appropriate division; is
7 that correct?

8 A That's correct.

9 Q And so for example if, while you are on as duty
09:09 10 inspector, a theft came in, a theft complaint
11 occurrence report, tell me, what would you do with
12 that?

13 A Well if it was a fairly major theft it would be
14 assigned to the detective division at that -- we
09:10 15 called it detective division at that time.

16 Q And so just walk me through, mechanically, how you
17 would do that. You would have the occurrence
18 report, and let's assume you are going to assign
19 that file to detectives, what -- who would you
09:10 20 give it to and how would you give it to them?

21 A It would be a, somebody would write on there what
22 division or section it should be, it would be
23 assigned to, and then it would be placed in the
24 appropriate basket off of central records.

09:10 25 Q So that you would write on there, for example,



1 'detectives', it would go to central records, and
2 would someone then deliver it to detectives?

3 A Well they usually picked, their detective staff
4 sergeant would likely pick it up out of there and
09:10 5 take it into his office, and then either reassign
6 it to a detective or whatever the case might be.

7 Q So that let's just talk a bit about the mechanics,
8 there was an administrative procedure in place
9 that ensured that paper got to where it was
09:11 10 supposed to go, is that right?

11 A That's correct.

12 Q And, based on your involvement and knowledge, did
13 that work?

14 A I felt it worked very well.

09:11 15 Q And so that for example on a regular basis the
16 detective sergeant in detectives would know where
17 new matters were that were assigned to detectives
18 and they would pick them up and deal with them?

19 A That's correct.

09:11 20 Q And so again on the theft situation for
21 detectives, a major theft, it would be in central
22 records, the detective sergeant in detectives
23 would pick it up, and would it be their
24 responsibility, then, to decide who should deal
09:11 25 with it and what should be done with it?



1 A The -- yes, that's how it would work.

2 Q And so if it was something for morality then the
3 morality detective sergeant would do the same
4 thing; --

09:11 5 A Yes.

6 Q -- is that right?

7 A Yes.

8 Q And when you were working the midnight to 8:00
9 a.m. shift, I think you called it the evening
09:12 10 shift, would there be detectives on duty?

11 A Umm, there could be if something major occurred
12 and they were called out, but normally I believe
13 they went home about 2:00 in the morning, was the
14 last shift.

09:12 15 Q Yeah.

16 A Finished at about 2:00 in the morning at that
17 time, if my memory serves me correctly.

18 Q I want to take you now to August 28th of 1990; do
19 you have a recollection of meeting with a lady by
09:12 20 the name of Linda Fisher?

21 UNIDENTIFIED SPEAKER: '80.

22 BY MR. HODSON:

23 Q Did I say '90? 1980, I'm sorry. That's the
24 fourth time. August 28th, 1980, do you have a
09:12 25 recollection of meeting with Linda Fisher?



1 A Yes, I met with a lady who said she was Linda
2 Fisher.

3 Q Can you tell us what you recall about that
4 meeting? And we'll go through the documents, sir,
09:12 5 with you in a moment but if you could just tell us
6 your general recollection?

7 A Well, as I recall, the constable at the front
8 desk, which meets the public when they come in the
9 front door, came to my office, which is just a few
09:13 10 feet away from where he works or she works, and
11 said there was a lady that wished to speak to the
12 officer in charge.

13 Q Okay.

14 A And --

09:13 15 Q And was that -- and you would have been the
16 officer in charge at that time?

17 A Yes.

18 Q Okay. Carry on?

19 A Umm, usually when we got somebody came in like
09:13 20 that it was a complaint about somebody that had
21 been mistreated or something on the street, and we
22 dealt with a lot of those, so I asked him to send
23 this lady in. I met her and she identified
24 herself. She apologized for having liquor on her
09:13 25 breath but she said that was so that she had



1 enough nerve to come in to see me, and she had
2 something on her mind that she wanted to get off
3 her mind, --

4 Q Okay.

09:13 5 A -- off her chest. So she started relating about
6 her former husband, Larry Fisher. I spoke to her
7 for a while and then I took a statement from her
8 and advised her that probably somebody would come
9 to see her at a -- later on that was more familiar
09:14 10 with the case than I was.

11 Q Had you heard the name Larry Fisher before she
12 mentioned it to you?

13 A Not that I can recall.

14 Q And you said that she had apologized for having
09:14 15 alcohol or liquor on her breath; is that right?

16 A Yes.

17 Q Did you form an impression as to whether she was
18 drunk, or had just had a few drinks, or what was
19 your impression of her?

09:14 20 A No, I, other than just the slight smell of liquor
21 on her breath I would not say that she was
22 intoxicated at all. She was coherent, her speech
23 wasn't slurred or anything like that.

24 Q And did you form any impression as to whether she
09:14 25 was being sincere?



1 A I felt she was being very sincere.

2 Q And --

3 A That's why I took the time to take the statement
4 from her.

09:15 5 Q And did you, based on your meeting with her, make
6 any -- have any impressions or conclusions
7 regarding her credibility?

8 A Well, I didn't really form an opinion one way or
9 the other, but I felt it was worthy of following
09:15 10 up.

11 Q Okay. Mr. Wagner, would there be cases, other
12 cases where people would come in to the police
13 station, perhaps in the middle of the night, with
14 stories that on occasion officers might not take
09:15 15 as seriously as others because of the time of day
16 and things of that nature?

17 A I suppose that's possible.

18 Q So there were occasions when you would get some
19 people in with stories or complaints that you
09:15 20 might not take as seriously as others because of
21 the circumstances under which they came in?

22 A Yeah.

23 Q Is that --

24 A Well I had cases where they, people came in
09:15 25 complaining about a police officer, but their



1 condition was such that I suggested they come back
2 the next day when they sober up.

3 Q Okay.

4 A Sometimes they came back, sometimes they didn't.

09:16 5 Q And what about the fact that this -- and I believe
6 this was 4:30 in the morning; is that correct?

7 A Yeah, it was after four.

8 Q And did you find that to be unusual, the time of
9 day?

09:16 10 A I didn't think too much of it because the way
11 she -- she explained that she had to get, pick up
12 a lot of nerve to come in, so I accepted her for
13 that.

14 Q And as far as taking this statement, and we'll go
09:16 15 to that in a moment, you took the statement from
16 her; is that right?

17 A Yes, I did, in my own handwriting.

18 Q And would there have been -- would there have been
19 other officers on duty, detectives, and you may
09:17 20 already have said there would be no detectives on,
21 but anybody else that would be normally assigned
22 the task of taking the statement?

23 A In this case I decided I should take it because
24 she wanted to speak to the officer in charge.

09:17 25 Q Okay. If we could call up 105324, please, and



1 this is the statement of Linda Fisher, August
2 28th, 1980, and that is your handwriting, sir?

3 A Yes, it is.

4 Q And on the bottom left that is your signature?

09:17 5 A Yes.

6 Q And would this be the statement that you took from
7 Linda Fisher on the morning of August 28th, 1980?

8 A Well, there's more than one page I believe.

9 Q I'm sorry, I'll show you -- why don't we go to the
09:17 10 last page, page -- there -- and there's your
11 signature there; is that correct?

12 A Yes.

13 Q Linda Fisher's signatures at the bottom?

14 A Yes.

09:17 15 Q So I think it's three pages of handwriting; is
16 that correct?

17 A Two or three. I'm not sure. I can't remember.

18 Q I'm sorry, let's just go back through. We'll go
19 back to the first page, go to the second page,
09:18 20 that's your signature at the bottom left?

21 A Yes.

22 Q And then the third page, that's your signature?

23 A Yes.

24 Q So it appears to be a three page statement in your
09:18 25 writing?



1 A Yes.

2 Q And do you remember how long you would have spent
3 with Linda Fisher that morning?

4 A I can't remember, but it was -- it was quite a
09:18 5 while.

6 Q And had you had previous experience when you were
7 in detectives and other divisions in interviewing
8 witnesses, taking statements?

9 A Yes.

09:18 10 Q Would it be fair to say you took many statements
11 previous to this one?

12 A Quite a few, yes.

13 Q And so if we take a look at this, it looks as
14 though you captured her address, date of birth,
09:18 15 phone number; is that right?

16 A Yes.

17 Q And the date and time. Now, this occurrence
18 number 641/69, can you tell me how -- is that in
19 your writing?

09:19 20 A Yes.

21 Q And how did you get that occurrence number?

22 A From Central Records.

23 Q And just explain -- did you get it that morning
24 then?

09:19 25 A Right, yes.



1 Q And when you were done talking to Linda Fisher, or
2 do you remember how that --

3 A I can't remember whether I wrote 641/69 on that
4 statement before, as I started the statement or
09:19 5 after I finished the statement.

6 Q But you would have obtained that from Central
7 Records?

8 A That's correct.

9 Q And would you have gone to Central Records, would
09:19 10 you have -- how would -- how would -- or what
11 information did you need to get an occurrence
12 number from Central Records?

13 A I would have needed the name David Milgaard or
14 Gail Miller.

09:19 15 Q So that you knew this was in connection -- I take
16 it when you talked to Linda Fisher, you knew it
17 was in connection with the David Milgaard matter?

18 A Yes. I remembered that name.

19 Q And so I take it, sir, you would have gone to
09:20 20 Central Records to get the occurrence number for
21 the Gail Miller murder?

22 A That's correct.

23 Q And then do you recall, as far as the taking of
24 the statement, was it a question and answer or was
09:20 25 it a narrative of sort of telling her story, do



1 you recall how you went about getting this
2 information?

3 A Well, I had a fairly good conversation with her
4 before I ever started the statement to get, you
09:20 5 know, to find the gist of which way I was going.

6 Q Right.

7 A And then I started writing it down and she
8 probably -- I may have asked the odd question.

9 Q Yes.

09:20 10 A And then put it down in narrative form.

11 Q And then did you read it back to her, do you
12 remember, have her read it?

13 A Yes, she read it.

14 Q Let's just go through parts of it. It says:

09:20 15 "Linda Fisher states my maiden name was
16 Pambrun."

17 I'm not sure what -- what is that?

18 A Linda.

19 Q Oh, sorry, Linda Pambrun.

09:21 20 "My adopted father was Hugh McDonald.

21 He lives at Cando, Sask.

22 I married Larry Earl Fisher,
23 born Aug. 21, 1949, at North Battleford,
24 on Dec. 14, 1967."

09:21 25 Would this birth date, is that something you



1 would have asked her to give?

2 A Yes.

3 Q And why is birth date -- I see you've got it for
4 her date of birth as well. Why is that important?

09:21 5 A Well, that was the way I did things. I always put
6 in ages and birth dates.

7 Q Did that assist you in getting information on
8 suspects, if you had a date of birth?

9 A And for follow-up investigators to have some
09:21 10 information. That was the purpose of taking the
11 witness statement.

12 Q It says born August 21 at North Battleford,
13 married, sorry, on December 14, 1967.

14 "Larry was born and raised in North
09:21 15 Battleford. His mother, Marcy Fisher,
16 still resides there."

17 It says:

18 "We were living at 329 -- "

19 And then it looks like Avenue O or Q South, and
09:22 20 then O with a question mark. Do you know what
21 that -- was there some uncertainty about that?

22 A I think she started out saying Q and then O or
23 something, I can't remember, but it looks to me
24 like I put in Q at first and then wrote O over the
09:22 25 top of it.



1 Q And at the time of taking this statement,
2 Mr. Wagner, were you aware that in the
3 investigation and prosecution of David Milgaard,
4 that one of the witnesses, Albert Cadrain,
09:22 5 testified that David Milgaard was at his house the
6 morning of the murder and that he lived at 324
7 Avenue O South. Were you aware of that at the
8 time you talked to Linda Fisher?

9 A Well, I heard the name Cadrain, but I didn't know
09:22 10 the exact address.

11 Q Right. And I guess my question is when you took
12 this statement, do you remember if this address,
13 and I believe it's incorrect, but did this address
14 cause you to draw a connection in your mind with
09:23 15 Albert Cadrain or anything of that nature?

16 A Only as a result of what she told me.

17 Q Okay. So what she told you later about her
18 husband and, her ex-husband and her suspicions,
19 you then became familiar -- I guess just back to
09:23 20 the address. Do you remember if the address had
21 any significance in your mind at the time?

22 A Only that it was in the general area. Like, I'm
23 not sure whether, what Cadrain's address was, but
24 I know it was down in that area.

09:23 25 Q Okay. And then it says:



1 "We were living at 329 Ave. O South when
2 that nurse was found murdered. David
3 Milgaard was convicted of that murder
4 and was to have come to our house that
09:23 5 morning. He apparently knew the Cadrain
6 family who lived upstairs in that house.
7 We lived in the basement suite. The
8 police have never talked to me about
9 this murder."

09:24 10 So I take it from that you would have become
11 aware that David Milgaard had, according to her,
12 supposedly been at her house the morning of the
13 murder?

14 A Yes.

09:24 15 Q And that he apparently knew the Cadrain family who
16 lived upstairs in that house, so I take it that
17 you would have known the Cadrain -- or did you
18 know whether the Cadrains, one of the Cadrains was
19 involved in the investigation and prosecution of
09:24 20 David Milgaard?

21 A Yes.

22 Q And it says:

23 "The police have never talked to me
24 about this murder."

09:24 25 Is that something you would have asked her then?



1 A Yes, probably.

2 Q And why would that be important?

3 A Well, I wanted to get as much information as I
4 could, so no doubt I was asking questions while I
09:24 5 was taking the statement, or I asked them before I
6 started taking the statement, I can't remember.

7 Q And then it says:

8 "I divorced Larry 2 years ago while he
9 was serving time for rape. He has been
09:25 10 involved in several cases of rape. The
11 last time was last March in North
12 Battleford when he slashed a 56 year old
13 woman and raped her while he was out of
14 prison on parole. I think he is back in
09:25 15 jail now."

16 And so again I take it that would have been
17 information she provided you?

18 A Yes.

19 Q And at that time were you aware of the North
09:25 20 Battleford rape?

21 A Well, I had heard of a case through the media, but
22 I didn't make any connection.

23 Q Okay. Now, let me just back up. Back in 1969 --
24 '68, '69, '70 when you were in traffic, at or
09:25 25 about the time of the Gail Miller murder and prior



1 to that and after, within a year before and after,
2 do you have any recollection of being aware of any
3 rapes taking place in Saskatoon?

4 A No.

09:26 5 Q And so then here Linda Fisher tells you that he
6 was serving time for rape, he's been involved in
7 several cases of rape. Do you recall whether or
8 not she provided any particulars about those
9 rapes, as to where they were, when they were,
09:26 10 other than the North Battleford one?

11 A No, but I remember when she first came -- when she
12 first came to my office, I asked her why she
13 suspected her former husband and she stated
14 because of this incident in North Battleford --

09:26 15 Q Yes.

16 A -- and a paring knife she was missing.

17 Q Okay.

18 A And that's when I started getting into things,
19 into more detail.

09:26 20 Q Okay. If we can go to the next page, please, you
21 see at the top there, page 2, and you write:

22 "Something has been bothering me about
23 that murder ever since it happened. I
24 should have come forward long ago."

09:27 25 And I presume that's referring to the Gail Miller



1 murder?

2 A Yes.

3 Q "The day of the murder or the day after
4 I found my paring knife missing.

09:27 5 Larry and I were not getting
6 along well and I said to him, "you
7 probably killed that nurse". He went
8 very pale but at that time I didn't
9 think any more of it.

09:27 10 It has been bothering me ever
11 since, especially when Larry started
12 raping women."

13 And again, is that -- those are the words or
14 generally that Linda Fisher would have advised
09:27 15 you?

16 A Yes.

17 Q And then it says:

18 "The description of the missing knife is
19 as follows: It was a short handled
09:27 20 ordinary paring knife with a smooth
21 blade about 4 inches long. The handle
22 was wooden and brown colored."

23 And if I can just pause there. It looks like you
24 had a "silver color" and crossed it out; is that
09:27 25 right?



1 A Yes.

2 Q Do you remember, do you have any recollection as
3 to whether she said silver --

4 A She changed -- it's hard to remember, but I was
09:28 5 going into quite some detail to get a description
6 of that knife and whether I wrote the wrong thing
7 down or whether she changed it, I don't know.

8 Q Okay. So it ends up:

9 "The handle was wooden and brown
09:28 10 colored. I have never found that
11 knife."

12 And did the -- those two items, the fact of her
13 confrontation with Larry Fisher and the missing
14 knife, did that cause you any concern, or tell us
09:28 15 what you thought about that information when she
16 provided it to you?

17 A Well, I remembered from talk that the officers
18 that were investigating at the scene, if my memory
19 serves me correctly, and I was going by strictly
09:28 20 memory and hearsay, is that a broken paring knife
21 or a broken knife of some description was found
22 near the body of Gail Miller and that's why I
23 wanted to get a good description of this knife
24 because I had no way of knowing what kind of knife
09:29 25 was found there.



1 Q Okay. So it would be fair to say this information
2 about a missing paring knife was significant in
3 your mind?

4 A Yes.

09:29 5 Q And what about the fact that they lived in the
6 same house that David Milgaard had visited the
7 morning of the murder, did you view that as being
8 significant information?

9 A Yes.

09:29 10 Q And the fact that Larry Fisher had committed at
11 least a rape in North Battleford and I think it
12 says other rapes, was that significant?

13 A Yes.

14 Q And do you think you would have or do you recall
09:29 15 probing her to get as much information as you
16 could about the rapes, the Cadrain house and the
17 knife?

18 A I didn't go into much detail about the other rapes
19 because I really knew nothing about them and my
09:30 20 main interest was the knife when I got into this
21 statement.

22 Q Did you -- at the time, Mr. Wagner, when you were
23 taking this statement, was it your view, sir, that
24 someone else would likely be following up with
09:30 25 Linda Fisher to get more information?



1 A Definitely.

2 Q So then we go down to, it says:

3 "I have spoken to Dr. McGettigan about
4 this matter being on my mind. Larry was
09:30 5 never questioned about this case. I
6 have a feeling that Milgaard was
7 innocent of that crime. I don't know
8 Milgaard. I have never seen him."

9 And so I think you've already told us that you
09:30 10 were aware of Milgaard being convicted for Gail
11 Miller's murder; is that correct?

12 A Yes.

13 Q Go to the next page, it says:

14 "I am presently a cook on Argo Rock
09:30 15 Construction camp, at Robsart, Sask. in
16 the Maple Creek area.

17 I will be home until Sunday,
18 Aug. 31 if the detectives wish to see
19 me."

09:31 20 And again, was that something you would have --
21 were those her words, "detectives," or yours?

22 A Those were my words as a result of asking her
23 where she would be in case the detectives wanted
24 to get a hold of her in the next day or two.

09:31 25 Q Okay. And I think August 28th, 1980 was a



1 Thursday, and so she said she would be home until
2 Sunday and then away for a bit; is that right?

3 A Well, she would be going back, as I understood it,
4 back to her job at this construction camp.

09:31 5 Q Now if we could call up 105323, please, and I
6 believe, sir, that this is an investigation
7 report, typed report. That's your name at the
8 bottom; is that correct?

9 A Yes. I wouldn't have typed this. This would have
09:32 10 been typed by the Central Records staff.

11 Q If we can just call up the bottom left-hand
12 corner. It says transcribed by SES, time 6:34
13 a.m., August 28. Can you tell us what that means?

14 A That would be the time that the Central Records
09:32 15 staff typed it, and I don't know -- I can't
16 remember now whether it would have been 6:34 a.m.
17 when I dictated this report or whether it's the
18 time that it was typed.

19 Q Okay. So your practice would be then to dictate a
09:32 20 report?

21 A Yes, on the Dictaphones that we had throughout the
22 building.

23 Q And then someone at Central Records would
24 transcribe the report?

09:32 25 A That's correct, and then that report would end up



1 back on the same desk that I occupied.

2 Q Okay. So tell me about that, the duty inspector
3 desk is right next to the front entrance of the
4 police station at the time?

09:32 5 A Yes, and right next to Central Records.

6 Q And would that desk be occupied by one of the four
7 duty inspectors who is on at all times?

8 A Yes, or their relief in case of illness, there
9 would be an acting inspector in there.

09:33 10 Q So this report would be get transcribed and put
11 back on the desk of the duty inspector?

12 A That's correct.

13 Q And so the person who followed your shift then or
14 at some -- did you ever get this report back to
09:33 15 hand out?

16 A No.

17 Q Based on what your understanding was of how things
18 worked, would this have gone to another duty
19 inspector to be assigned?

09:33 20 A It probably went to whoever relieved me that was
21 on --

22 Q The day shift?

23 A On the day shift.

24 Q So you were done at eight a.m., another duty
09:33 25 inspector would be on from about eight to four?



1 A Yeah.

2 Q And another one from about four to 12; is that
3 right?

4 A That's correct.

09:33 5 Q And as far as the turn-around of these records,
6 was it your experience that when you dictated a
7 report like this, it would be done fairly quickly,
8 within a day?

9 A Oh, yes, usually in a day.

09:34 10 Q So that it's -- are you telling us that it's
11 likely one of the two duty inspectors that
12 followed you then that likely received this
13 report?

14 A Probably.

09:34 15 Q Would it come back to you to proofread or read or
16 did that happen?

17 A Not unless somebody asked for it. I would never
18 see it again.

19 Q This handwriting here that I think says Gail
09:34 20 Miller and Cadrain, is that your handwriting?

21 A No.

22 Q Do you know whose handwriting it is?

23 A No, sir.

24 Q Go back up to the top, please. Under divisional
09:34 25 assignment it says D/Sgt. Parker. Is that your



1 handwriting?

2 A No.

3 Q Do you know whose it is?

4 A No, sir.

09:34 5 Q So let's just go back to the full page, please.

6 This would be -- we have spent a fair bit of time
7 looking at investigation reports from 1969. Am I
8 correct, sir, that this would just be a revised
9 form, the typed form that was being used in 1980,
09:35 10 that this would be a standard investigation
11 report?

12 A This was a standard investigation report, and if
13 you look at the top corner, I dictated the report
14 at 5:40.

09:35 15 Q Okay, thank you. So there, 5:40 is the time of
16 the report, so that's when you would have dictated
17 it, and then you think at 6:34 a.m. is when it
18 would have been typed?

19 A That's when the central record person typed that.

09:35 20 Q And the statement, we don't have to go back to it,
21 but the statement says at 4:30 a.m. is when you
22 took the statement, so 4:30 a.m. you took the
23 statement, 5:40 you dictated the report, 6:34
24 Central Records would have typed it?

09:35 25 A Yes.



1 Q And again I think you've maybe already answered
2 this, but did this report come back to you before
3 the end of your shift?

4 A No, not that I can recall. It may have been in
09:35 5 the basket.

6 Q But you wouldn't have -- would you have dealt with
7 it?

8 A I don't think I did because it's not my writing on
9 the top.

09:36 10 Q Okay. If you were to -- let's say that you are
11 the duty inspector that comes on at eight a.m. and
12 you have this report, without Detective Sergeant
13 Parker's name there what would you do with it?

14 A I would have assigned it to the detective staff
09:36 15 sergeant at that time whoever was on that shift.

16 Q And at that time was Parker a detective sergeant
17 in detectives?

18 A Detective staff sergeant, yes.

19 Q And so would one of the detective staff sergeant
09:36 20 -- or detective staff sergeant was he, or
21 detective sergeant?

22 A Well, we called them detective sergeants, but they
23 were actually a staff sergeant rank.

24 Q Okay. And what was their responsibility at the
09:36 25 time?



1 A They were supervising the detectives who were
2 sergeants.

3 Q If there was a matter, a new matter that came in
4 that required detectives to look into it, who
09:37 5 would be responsible in the detectives division to
6 receive it, review it and assign it?

7 A The detective staff sergeant.

8 Q So if you came in as duty inspector, got this
9 report, is it your evidence, sir, that you would
09:37 10 then assign it to the detective sergeant on duty?

11 A That's the way it usually worked, unless there was
12 something in the report that suggested it should
13 go to a specific officer.

14 Q So --

09:37 15 A A specific staff sergeant I should say.

16 Q So if it was a matter where someone came in and
17 said 'lookit, I talked to Detective Smith three
18 years ago about this and, you know, I have further
19 information,' is that the type of thing as a duty
09:37 20 inspector you might look at that report and say
21 'lookit, this should go to Smith in detectives'?

22 A We would send it to the staff sergeant. We didn't
23 assign the file to an individual detective, that
24 was the -- the supervisor should know what his
09:38 25 officers' case loads are and it was up to that



1 detective staff sergeant to say, oh, this is
2 something that Smith dealt with and he would in
3 all probability assign it to Smith.

4 Q Okay. So as a duty inspector, you've told us on
09:38 5 the one hand you are there to receive information,
6 correct, and in this case you did receive it?

7 A Yes.

8 Q And then secondly, to ensure that once information
9 from any source comes in, that it gets sent to the
09:38 10 right division?

11 A Yes.

12 Q And it would be up to the division to decide what
13 to do and who should do it, when to do it,
14 etcetera?

09:38 15 A Yes.

16 Q And so when you normally, again as a duty
17 inspector, if you would have had this
18 investigation report come across your desk without
19 Detective Sergeant Parker's name in there, would
09:38 20 you normally write something in the divisional
21 assignment or have it typed in detectives, or what
22 was your practice?

23 A We would write it in just the way this one is
24 written in there.

09:39 25 Q So you would write it in as to which detective



1 sergeant you were sending it to?

2 A Yeah, because we would know who was on duty, eh.

3 It would usually go to the detective staff

4 sergeant that was on duty.

09:39 5 Q Right. So in case --

6 A I believe at that time we had, there was two of

7 them, I can't remember for sure, and they worked

8 eight to four and four to 12.

9 Q Okay. Can we conclude from this document that one

09:39 10 scenario would be that whoever received this

11 report following you, the duty inspector, that

12 Detective Sergeant Parker would have been on duty?

13 A Probably was on day shift.

14 Q Okay. And so the practice would be then that the

09:39 15 duty inspector would write Detective Sergeant

16 Parker's name on it and then this report would go

17 to the detective division; is that right?

18 A That's right.

19 Q And what about the statement, would the statement

09:39 20 be attached?

21 A It would be attached.

22 Q And then as far as this report is concerned,

23 Mr. Wagner, do you have any information to suggest

24 that what was supposed to happen happened?

09:40 25 A Well, the only thing I can recall is when I got



1 off of the night shift, and I don't know how many
2 days after that was, I went to the detectives
3 section division. Parker was on then in the
4 office and I asked him whether he had seen my
09:40 5 report and the statement I took from Linda Fisher
6 and he acknowledged that he had.

7 Q Okay.

8 A My next question to him was what about the knife,
9 does that match the description with what you
09:40 10 fellows found at the scene.

11 Q Yes.

12 A His reply was no, it doesn't even come close.

13 COMMISSIONER MacCALLUM: Just go over that
14 again, please?

09:41 15 A He said words to the effect, "No, it doesn't even
16 come close to what we found," so I left it at
17 that.

18 COMMISSIONER MacCALLUM: And your question
19 was?

09:41 20 A "The knife that is described in the statement,
21 does it fit the description of the knife that you
22 found at the scene?"

23 COMMISSIONER MacCALLUM: Okay. Just a
24 second. Okay, thank you.

09:41 25 BY MR. HODSON:



1 Q Were you aware at that time, when you had the
2 discussion with Detective Sergeant Parker, that he
3 had been involved in the Gail Miller
4 investigation?

09:41 5 A Well I remembered, from talk, that I believe it
6 was George Reid and Parker that were the two
7 detectives at the scene out in -- working in the
8 alley there in the snow, and I recalled seeing TV
9 pictures of Parker and Reid digging in the snow
09:42 10 there.

11 Q Okay.

12 A So that's --

13 Q Okay.

14 A That was one of the reasons I saw Parker. I
09:42 15 didn't know that he had, it had been assigned to
16 him, but I asked him whether he had seen it.

17 Q I see. So at the time you went and talked to him
18 you are telling us you weren't aware that it had
19 been assigned to him; is that right?

09:42 20 A Well I assumed that it had -- it wasn't
21 necessarily assigned to him, but it was assigned
22 to his office, he -- it was up to him to reassign
23 it if he wasn't going to do it himself.

24 Q Yeah. I think you told us that there may have
09:42 25 been two detective sergeants on and depending on



1 the shift?

2 A That's correct.

3 Q And so do you remember who the other detective
4 sergeant was?

09:42 5 A I can't remember, no.

6 Q So I take it, please correct me if I'm wrong, that
7 the duty inspector that followed you would have
8 given this report to either Detective Sergeant
9 Parker or another detective sergeant who happened
09:43 10 to be on the shift when the report came in; is
11 that fair?

12 A Well if it would have been assigned from our
13 office --

14 Q Yes?

09:43 15 A -- to the detective division, and it would go to
16 Parker --

17 Q Okay?

18 A -- or the other one, depending on who was on day
19 shift.

09:43 20 Q All right.

21 A From this I can only assume, and I could be wrong,
22 that Parker was on day shift when --

23 Q Okay.

24 A -- I was on in nights.

09:43 25 Q And what --



1 A And he was probably on afternoon shifts when I got
2 off the night shift to afternoon shift.

3 Q But when you went to talk to him the reason you
4 picked him to talk to, or did you just go to
09:43 5 detectives and he was one of the first that you
6 saw, or did you specifically go to Parker?

7 A I went to his office, to the detective staff
8 sergeant's office, and Parker was there.

9 Q Okay.

09:43 10 A And that's why I asked him whether he had seen the
11 report.

12 Q And why did you do that?

13 A Because I was curious to see whether there was
14 follow-up on it.

09:44 15 Q Now the fact that --

16 A I --

17 Q Oh, I'm sorry, go ahead?

18 A I was curious, because I felt that this woman came
19 in with a sincere, sincere report or whatever you
09:44 20 want to call it, and I felt that it was worthy of
21 looking into.

22 Q The fact that you knew that David Milgaard had
23 been convicted of the murder of Gail Miller, did
24 that in any way influence your decision in your
09:44 25 dealings with Linda Fisher, in other words --



1 well, I'll leave it at that. Do you understand my
2 question?

3 A Yes I do. I felt that this woman came in, and
4 because of the way she came in and she wanted to
09:44 5 get something off her chest and she felt it was
6 worthy looking into, I felt it was worthy looking
7 into as well, and that's why I took the time to
8 take a statement and left a report. And then I
9 did go back, when I got off the night shift, to
09:45 10 the detective staff sergeant's office to ensure
11 that the file came through, and when he said the
12 knife doesn't even match the description or not --
13 doesn't even come close, or words to that effect,
14 I let it go at that and I never thought another
09:45 15 thing of it.

16 Q Okay. At the time she came in and talked to you
17 did you say anything to her, to Linda Fisher, to
18 the effect that "lookit, this case is solved, we
19 don't need any more information" or anything like
09:45 20 that?

21 A No, I said nothing like that. I told her when she
22 left that a detective would probably, or somebody
23 from our department would probably be in touch
24 with her to get more information, somebody that
09:45 25 was more knowledgeable with the case than I was.



1 Q Okay. Let's just go through this report. At the
2 top it says:

3 "At approx. 0420 hours, this date, while
4 on duty as Duty officer, I was advised
09:46 5 by Cst. Garnet ... who was the
6 information desk officer that a lady was
7 at the desk and wished to speak to
8 someone in authority. I asked Cst.
9 Garnet send this woman into my office.

09:46 10 This woman identified herself,
11 as Linda Lillian Fisher ...",
12 and goes on to give details.

13 "She related to me that she had
14 something on her mind for the last 10
09:46 15 years, that has been bothering her, and
16 that she wished to speak to someone
17 about it, in case it was of any
18 importance.

19 She then referred to the murder
09:46 20 in question, and advised that she feels
21 that David Milgaard whom she has never
22 met, and does not know, did not commit
23 this murder, that he is serving time,
24 for, and was convicted of, but that
09:46 25 instead that it is her former husband



1 that committed this murder. She advised
2 that at the time, they lived in a
3 basement suite, the address which she
4 thought was 329 Ave. O. So., but is not
09:46 5 sure of, but at any rate, it was the
6 same house that the Cadrain, resided in
7 at the time."

8 And again, if I can just pause there, so this
9 would be your report --

10 A Yes.

11 Q -- about the interview? So is that an accurate
12 account, there, of what you would have discussed
13 with her?

14 A Yes.

09:47 15 Q So --

16 A I gather, from that paragraph, that she wasn't
17 sure of the address.

18 Q But it's was the Cadrain house she was talking
19 about?

09:47 20 A Yes.

21 Q And then the Cadraings lived on the second floor,
22 according to her, and some other people lived on
23 the main floor, and she and her husband lived in
24 the basement; is that -- do you recall her telling
09:47 25 you that?



1 A Well, I don't recall it, but I left this report
2 right after so I'm assuming it's correct.

3 Q Then it says:

4 "She went on to state that Larry Earl
09:47 5 Fisher later started committing rapes,
6 and harming women in Winnipeg, and in
7 various parts, and has been in and out
8 of jail ever since, and she finally got
9 a divorce from him about two years ago.
09:47 10 She advises that the latest incident was
11 last March in North Battleford, while he
12 was out on Parole, when he slashed a 56
13 yrs old woman's throat and raped her,
14 and as far as she knows, he is back in
09:48 15 prison again."

16 And if I can pause there, do you recall her
17 telling you that he had committed rapes in
18 Winnipeg?

19 A I don't recall, but she must have.

09:48 20 Q At that time, Mr. Wagner, in central records,
21 would you have been able to go and search the
22 police records at that time to see whether or not
23 Larry Fisher had ever been investigated, charged,
24 and/or convicted of any rapes in Saskatoon?

09:48 25 A Well, I probably could have looked up to see



1 whether Fisher's name was there.

2 Q Yes.

3 A But I didn't do that.

4 Q Okay. But is that something that could have been
09:48 5 checked by someone at the time?

6 A Yes.

7 Q And just in the system, if you would go in, was
8 central records kept such that if you had the
9 convicted person or accused or suspect's name you
09:48 10 could identify the police investigation file?

11 A You should be able to, yes.

12 Q And why was that, what kind of system was in
13 place?

14 A Well they would be cross-referenced. If a
09:48 15 conviction came in, it would be so indicated on
16 that particular report, and the criminal record
17 file would indicate what the case was.

18 Q And so central records was part of patrol, is that
19 right, it was under your --

09:49 20 A No, central records was under administration
21 division.

22 Q Okay. Do you know, sir, that when a case was
23 concluded in Court after a conviction, was
24 there -- was the prosecutor's file, or the file
09:49 25 used in the prosecution, do you know if it was



1 returned to central records?

2 A Well something came -- would come back,
3 eventually, from the prosecutor to update our
4 files.

09:49 5 Q Okay. So when you went, if you wanted to go and
6 check central records to find out if Larry Fisher
7 had committed any rapes in Saskatoon, firstly
8 you've told us that there would be an index that
9 would have his name referenced to the complainant,
09:49 10 is that right, or an occurrence?

11 A If it was a conviction, yes.

12 Q Yeah. So we've heard evidence that occurrence
13 files, that a number is assigned, and the
14 occurrence is based on the name of the complainant
09:50 15 or the victim; is that right?

16 A Yes.

17 Q And so that once -- so that system, for example
18 641-69 is the Gail Miller file, correct?

19 A Yes.

09:50 20 Q It's not the David Milgaard file?

21 A No, that's the Gail Miller file.

22 Q Right. So, and I think you've answered this, so
23 that if you had the name Larry Fisher and there
24 was a rape victim in Saskatoon from 1968, for
09:50 25 example, where he was convicted of that rape,



1 would you be able, in central records, to find the
2 occurrence number and the name of the complainant
3 just by having the name Larry Fisher?

4 A You should be able to, yes.

09:50 5 Q And then you could go and find, you would get the
6 occurrence number and you could then go look at
7 the file, is that right?

8 A Yes.

9 Q Okay. Was there a system, at the time, that had a
09:51 10 list of convicted rapists or convicted people; was
11 there any system like that?

12 A Well you'd have to use CPIC for --

13 Q Okay.

14 A -- that.

09:51 15 Q And you could then check CPIC to see if someone
16 had a record?

17 A Yes.

18 Q And just again back to the example where you find
19 that Mr. Fisher has been convicted of a rape in
09:51 20 1968, and you went to check the file which would
21 be in the name of the complainant and have that
22 occurrence number, would you expect to find on
23 that file details about the conviction, a report
24 from the prosecutor, for example?

09:51 25 A Not necessarily a report, but you would have a



1 conviction sheet of something on there.

2 Q There would be something on --

3 A Something would be in there to indicate that that
4 file was closed because of a conviction or
09:51 5 whatever.

6 Q And did that come from the prosecutor?

7 A Usually we'd get something from the prosecutors,
8 yes.

9 Q If we can just go back, scroll down a bit, please.
09:52 10 It says:

11 "This woman seems quite sincere. She
12 had a slight order of alcoholic beverage
13 on her breath, but was sober."

14 And, again, I think that's what you've told us,
09:52 15 that that was your view at the time?

16 A Yes.

17 Q And your view today?

18 A Still the same.

19 Q Yeah.

09:52 20 "In view of this development, I decided
21 to take a statement from her, and she
22 was advised that the investigating
23 officers that handle the original case,
24 would no doubt be in touch with her, to
09:52 25 obtain further information from her, and



1 probably could enlighten her on the
2 case. to clear her mind. I advised her
3 that it would be better if the
4 investigating officers did it, since I
09:52 5 myself was not that familiar with the
6 case, since I was not directly involved
7 in it at the time."

8 And, again, can you tell us what -- just
9 elaborate on what you have written there?

09:52 10 A Well, that was my opinion at the time, and I felt
11 it was worthy of follow-up.

12 Q And so, again, I think at this time you are
13 suggesting in this report that the investigating
14 officers that handled the original case would be
09:53 15 in touch with her?

16 A That's what I was hoping, yes.

17 Q And was that, was that an assumption that that's
18 who would likely end up getting this report?

19 A Well that, I felt that was the most logical, that
09:53 20 there was no sense sending a young detective that
21 might not have even been on the job at that time.

22 Q Okay. And then it talks about to 'enlighten her
23 and clear her mind'; do I take it from that
24 that -- was she looking to get some feedback from
09:53 25 the police that maybe this wasn't, that her



1 missing knife wasn't the murder weapon?

2 A Well I think she wanted closure, that was my
3 opinion, one way or the other.

4 Q And then it says:

09:53 5 "This report is being left in the event
6 that a follow up is to be done."

7 And I think you've explained that, that this
8 report would go to detectives, or that was your
9 belief that it would go to detectives?

09:54 10 A Yes.

11 Q If we can go to 039633, please. And this, do you
12 remember talking to the RCMP in 1993 as part of an
13 investigation they were doing? And I think the
14 names are Gagne, perhaps. I may have got that
09:54 15 wrong. Do you remember talking to the RCMP in
16 '93?

17 A I remember talking to them several times but I
18 don't know which cases.

19 Q Okay.

09:54 20 A --

21 Q Okay. If we could just go to page --

22 A I think that they did contact me about this --

23 Q Go to page 6 --

24 A -- and speak to me.

09:55 25 Q Oh, I'm sorry, go to page 039635. And this may



1 assist you, Mr. Wagner, it says:

2 "Travel to Ken Wagner's residence at 27
3 Barr Pl. ..."

4 Was that where you lived at the time?

09:55 5 A What --

6 Q 1993.

7 A Yes, I was there then.

8 Q Okay:

9 "... and discuss his participation in
09:55 10 this investigation. Wagner reviewed
11 Linda Fisher's statement of Aug 28/80
12 and he confirmed it's authenticity by
13 identifying his signature.

14 He remembered taking the
09:55 15 statement and assigning the
16 investigation report to Parker as he
17 knew Parker had been involved in the
18 original investigation."

19 And again is that, can you tell us, is that
09:55 20 something you think you would have said to the
21 RCMP? This is their writing of an interview with
22 you, Mr. Wagner, this is what they report?

23 A Yeah, I follow you, but I don't remember ever
24 saying that that was my signature.

09:55 25 Q Okay. It says here, and I think this maybe



1 differs a little bit from what you've told us this
2 morning, it says:

3 "He remembered taking the statement and
4 assigning the investigation report to
5 Parker as he knew Parker had been
6 involved in the original investigation."

7 And I think this morning you said that the duty
8 inspector following you, you think, would have
9 assigned it to him, as opposed to you?

09:56 10 A Well all I can say is that the word the "D/Sgt.
11 Parker" is not in my handwriting.

12 Q And you believe that whoever wrote that on that
13 investigation report is the person who assigned
14 the file to Detective Sergeant Parker?

09:56 15 A I would say yes.

16 Q Okay. So is it your evidence that you didn't
17 write it on there and does that cause you to
18 conclude that you didn't assigned it to him?

19 A That's right.

09:56 20 Q And you --

21 A But --

22 Q Go ahead?

23 A But I went to him because he worked in that
24 particular office where all these files are
09:56 25 assigned to when they go to detective division.



1 Q Yeah, okay. Thank you, Mr. Wagner, those are all
2 my questions and I will see if other counsel have
3 questions.

4 (Discussion off the record)

09:57 5 MR. HODSON: I think we have Joanne McLean
6 on behalf of Joyce Milgaard, Brian Beresh and
7 Rick Elson are the only three who have expressed
8 a desire to cross-examine, and I'm assuming Mr.
9 Elson is last.

09:57 10 COMMISSIONER MacCALLUM: Before I -- before
11 next counsel starts I just want to make sure I
12 got your answer straight.

13 The Mounted Police recorded in
14 their interview with you as having heard you say
09:57 15 you remember assigning the file to Parker because
16 he was involved in the investigation, that's not
17 what you told us this morning, is what the RCMP
18 wrote down wrong?

19 A No, I'm not saying that they are wrong, but
09:58 20 probably what has happened is going by memory
21 rather than taking a good look at it.

22 COMMISSIONER MacCALLUM: When you were
23 talking to the Mounties?

24 A Yes. Because, looking at it closely, that is not
09:58 25 my signature on the assignment.



1 COMMISSIONER MacCALLUM: If you could just
2 put it up on the screen again, please, 039635.

3 MR. HODSON: 105323.

4 COMMISSIONER MacCALLUM: Which isn't your
09:58 5 signature?

6 A Where it says "D/Sgt Parker" in writing.

7 COMMISSIONER MacCALLUM: Oh yes, I realize
8 that, sir. I thought you were referring to the
9 RCMP report, 039635. Would you put that up
09:59 10 please, doc. ID 33.

11 MR. HODSON: I'm wondering if I might, just
12 for assist --

13 COMMISSIONER MacCALLUM: You didn't sign
14 this -- sorry, Mr. Hodson -- yes, he didn't sign
09:59 15 this one, did he?

16 MR. HODSON: No, he did not.

17 COMMISSIONER MacCALLUM: No, okay, yeah.

18 MR. HODSON: Yeah.

19 BY MR. HODSON:

09:59 20 Q This RCMP report is in the RCMP officer's
21 handwriting and you didn't sign this report, I
22 don't think any of these reports were being
23 signed, is that correct?

24 A No.

09:59 25 COMMISSIONER MacCALLUM: Okay. So I have



1 your answer now as probably you just didn't think
2 about it well enough when you spoke to the RCMP?

3 A That's correct.

4 MR. HODSON: And if I may, if you can just
09:59 5 go to the next, to page 35, and it may have been,
6 Mr. Commissioner, the witness' comment, if you
7 can enlarge paragraph 1, I think it was right at
8 the bottom, it says:

9 "... and he had confirmed it's
10:00 10 authenticity by identifying his
11 signature."

12 and I think that refers to the Linda Fisher
13 statement.

14 COMMISSIONER MacCALLUM: Yes.

15 BY MR. HODSON:

16 Q And I think, Mr. Wagner, you said to me you don't
17 remember telling them that, or you made a comment
18 about the signature, and I think that's --

19 A Well I signed every page of Linda Fisher's
10:00 20 statement, yes.

21 Q Okay.

22 A Now that may be where the confusion is, I don't
23 know.

24 Q Yeah.

10:00 25 COMMISSIONER MacCALLUM: When he said



1 "signature" he is referring to that handwriting
2 that said "D/Sgt Parker".

3 MR. HODSON: Yes.

4 COMMISSIONER MacCALLUM: Okay.

10:00 5 Ms. McLean, if I haven't
6 muddled the waters too much now, you can
7 continue.

8 **BY MS. McLEAN:**

9 Q Thank you, sir. My name is Joanne McLean, I
10:00 10 represent Joyce Milgaard.

11 The statement that you took from
12 Linda Fisher in 1980, in August, okay, did not
13 find its way into the hands of David Milgaard or
14 his counsel for about a decade. Is there any, way
10:00 15 that you can think of, that that could have got
16 into the hands of people representing David
17 Milgaard prior to that?

18 A I don't quite follow your question.

19 Q Okay. You took, you took information that you
10:01 20 thought was worthy of a follow-up?

21 A Yes.

22 Q All right, and apparently nobody else did because
23 Linda Fisher was not contacted by anybody else
24 until into the 1990s, the Milgaard family, counsel
10:01 25 for David Milgaard did not learn of Linda Fisher's



1 statement until after 1990. Is there any way, any
2 procedures that were in place or any procedures
3 that you can think of to recommend, that would
4 have got that information to the people that
10:01 5 really needed it?

6 A Well the only way they would have got it is if
7 someone in our department or the Crown prosecutor
8 decided that it was worthy to send it on.

9 Q And was there any, any procedures in place, up
10:02 10 until the time that you left the police
11 department, for conveying that information to the
12 Crown attorney?

13 A Well --

14 Q That type of information I mean?

10:02 15 A Well it would go to the officer in charge, in this
16 case probably the deputy chief or whoever was in
17 charge of the criminal investigation division, or
18 up to the chief's office, and they would then have
19 to decide whether they were going to forward
10:02 20 something to the Crown prosecutor or not. I don't
21 think it would have gone to Milgaard's lawyer, it
22 would have gone to the Crown prosecutor, but I
23 don't know.

24 Q And did the fact that there had been a conviction
10:03 25 and the appeal had already been heard, would that



1 have played a part in whether or not information
2 would go to the Crown attorney?

3 A You'd have to ask the people that are directly
4 affected by that question. I can't answer it.

10:03 5 Q So that would be people at the chief level?

6 A Yes.

7 Q The deputy chief perhaps?

8 A Or the deputy chief, yes.

9 Q What about people that have been involved in the
10:03 10 original investigation; would they play a role in
11 that?

12 A Well it would be if they felt it should be sent
13 on, then they would send it to their superior
14 officer, that would be the chain of command.

10:03 15 Q Okay. In 1980 or thereabouts David Milgaard
16 escaped from custody and was apprehended several
17 months later. Did you hear anything, either
18 through the grapevine or the media, about escapes
19 by David?

10:04 20 A I can't really recall. There may have been
21 something in Toronto.

22 Q Yes.

23 A It would have been a -- I would have heard it
24 through, via the media, if I did. I'm guessing.

10:04 25 Q Okay. I'm not gonna ask the follow-up question to



1 that since your premise was a guess.

2 At any time after 1980 and up
3 until your retirement, which I believe was in
4 1991, was there conversation that you either heard
10:04 5 or participated in at the police division about
6 the application by David Milgaard to be released
7 from custody?

8 A Not that I can recall.

9 Q Okay. And did you have any occasion, after first
10:04 10 taking the statement from Linda Fisher and
11 speaking to Detective Parker after that, did you
12 have any occasion to direct your mind back again
13 to having taken that statement from Linda Fisher?

14 A No, sir, not until the RCMP contacted me.

10:05 15 Q Okay, thank you, those are all my questions.

16 **BY MR. BERESH:**

17 Q Sir, I'm Mr. Beresh, I represent Larry Fisher.

18 I wonder if we could have
19 document 105324, please, and if we can go to the
10:05 20 second page, please. You were asked about -- if
21 we could highlight this portion -- you were asked
22 about this earlier this morning; do you see that,
23 sir?

24 A Yes.

10:06 25 Q And I'm interested in the comment that:



1 "The handle was silver coloured...",
2 and my only question is, sir, I take it from
3 that, because it is so different from what is
4 written later, that that could have been the
10:06 5 first description given by her; is that correct?

6 A I would say that you are probably correct.

7 Q That would be the most likely?

8 A I can't remember, because I obviously stroked it
9 out, and so she must have changed it.

10:06 10 Q Yes, okay. So her first description was silver
11 coloured, then she changed it to brown coloured
12 handle?

13 A Yes.

14 Q Correct?

10:06 15 A Yes.

16 Q And, again, we're talking about the handle part as
17 you record it there?

18 A Yes.

19 Q Okay. Secondly, sir, you had never met this
10:06 20 person before, obviously?

21 A No.

22 Q Difficult to assess someone's character,
23 personality, just on a first meeting; agreed?

24 A Yes, other than first impression.

10:07 25 Q Sure, which can be misleading?



1 A Probably.

2 Q And I take it, sir, you didn't ask this person,
3 before she came to the police station, how many
4 drinks she had?

10:07 5 A No, sir.

6 Q What she drank?

7 A No.

8 Q Whether she had a general drinking problem?

9 A No.

10:07 10 Q Nothing like that?

11 A No.

12 Q Finally, sir, I take it, as a police officer, far
13 too often you've seen people come to talk or
14 complain to the police when they have motivations
10:07 15 which are not made clear to police?

16 A I suppose that could be correct, yes.

17 Q I take it in your years you've seen many people
18 who come to the police simply motivated because
19 they are unhappy in a relationship?

10:07 20 A Yes.

21 Q Unhappy because of what a spouse may have done or
22 how they may have been treated?

23 A Yes.

24 Q And at first impression we get one impression of
10:07 25 somebody, but when we learn the real facts, of



1 course then the complaint takes on a whole
2 different complexion; is that correct?

3 A That could happen, yes.

4 Q And, obviously, you were sort of the first layer
10:08 5 of that onion, if I can call it that, taking this
6 complaint, you left it to the detectives to
7 inquire further?

8 A Yes.

9 Q And you would have expected them, I take it, to
10:08 10 inquire in terms of motivation, why did the person
11 come, that sort of thing?

12 A Well it, I thought it was worthy of doing some
13 follow-up on, whether it's authentic or not.

14 Q I appreciate that.

15 A Yeah.

16 Q But you appreciate that the detectives would then
17 make some determination, you expected they would
18 make a determination about authenticity of this
19 complaint?

10:08 20 A That among other things, yes.

21 Q Yes. Because even with your junior status at the
22 time, I take it that you thought a complaint ten
23 years after the event in -- at 4:30 in the
24 morning, I take it that must have caused you some
10:09 25 concern?



1 A Well that's why --

2 Q Even given your junior status?

3 COMMISSIONER MacCALLUM: What do you mean
4 by 'junior status'? He was an inspector.

10:09 5 BY MR. BERESH:

6 Q Sorry, I didn't mean junior, I meant your
7 non-detective status.

8 A Well I had been in detectives for six years, and I
9 was familiar with statement-taking, and I always
10:09 10 felt that I was fairly good at judging a person --

11 Q I appreciate that.

12 A -- and I felt that her concern was legitimate and
13 I should take the information that she provided.

14 Q Or on its face it appeared legitimate?

10:09 15 A Yes.

16 Q Whether, once we get behind the motivations,
17 whether it was legitimate, whole other thing;
18 would you agree?

19 A It could be.

10:09 20 Q Yes, thank you very much.

21 BY MR. ELSON:

22 Q Mr. Wagner, my name is Richard Elson, and I
23 represent the Saskatoon Police Service in this
24 Commission of Inquiry.

10:10 25 Just to follow up on a question



1 that My Friend Ms. McLean asked of you, the
2 decision as to what ultimately should be done with
3 the information that you would receive from Linda
4 Fisher was not a decision to be left to you, is
10:10 5 that correct?

6 A That, well I felt that yes, it should be -- go to
7 the detective division because it's a criminal
8 investigation.

9 Q And in the event the detective to whom the matter
10:10 10 was assigned -- and we'll ignore the identity,
11 specifically, of that detective for a moment --
12 but in the event the detective to whom the report
13 was assigned felt that the matter deserved further
14 investigation, or felt that the matter should go
10:10 15 up further, that was a decision for that detective
16 to make; is that fair comment?

17 A Yes.

18 Q So in the event it was believed that the
19 investigation was credible by that particular
10:11 20 detective, and in the event it was felt that it
21 was a matter that required further attention, you
22 might reasonably expect that that detective would
23 send the matter further up to one of his
24 superiors; would that be a fair expectation?

10:11 25 A Yes.



1 Q And in the event that detective's superior felt
2 that this matter justified further investigation,
3 and perhaps should be disclosed either to David
4 Milgaard or his then-counsel, one would expect the
10:11 5 report to be given to a Crown prosecutor or
6 someone representing the Attorney General of
7 Saskatchewan?

8 A Yes.

9 Q So the decision as to whether or not that
10:11 10 information was to be provided to David Milgaard,
11 or to anyone on his behalf, that was not a
12 decision that was to be made within the Saskatoon
13 City Police at that time, that was your
14 understanding, would that be fair, it was a
10:12 15 decision that would have to be made by someone in
16 the Attorney General's office?

17 A If it was to go further, yes, that would be my
18 impression.

19 Q Now, you indicated that in 1969 you were generally
10:12 20 aware, and I believe you referred to it as shop
21 talk if my memory serves me correctly, you were
22 generally aware of circumstances relating to the
23 investigation of Gail Miller and the evidence
24 which ultimately led to David Milgaard's
10:12 25 conviction in January of 1970?



1 A Well, I'm not really familiar with the evidence
2 that was presented other than maybe what I had
3 heard.

4 Q Certainly. Now -- and I don't want to
10:12 5 specifically ask you questions relating to the
6 evidence, but it was your understanding, was it,
7 that Detective Parker had some involvement in the
8 investigation?

9 A If my memory serves me correctly, Parker was one
10:13 10 of the officers, plain-clothes officers at the
11 scene of the crime.

12 Q Right.

13 A Or where the body was found anyway.

14 Q And Detective Parker was the only detective that
10:13 15 you spoke to specifically about this investigation
16 report; is that right?

17 A That's correct.

18 Q And he was the only person with whom you
19 specifically spoke about Linda Fisher's statement?

10:13 20 A As far as I know, yes.

21 Q All right. Was there any other detective with
22 whom you had spoken about Linda Fisher's statement
23 and specifically any detective who was directly
24 involved in the investigation?

10:13 25 A No.



1 Q And let me be more specific. For example,
2 Detective Karst, who is here today, you did not
3 have any conversations with Detective Karst with
4 respect to, about Linda Fisher's statement; is
10:14 5 that correct?

6 A Not that I can recall.

7 Q So it's entirely possible that the only two senior
8 officers in the Saskatoon City Police Service who
9 were aware of Linda Fisher's statement would be
10:14 10 you and, according to your evidence, Detective
11 Parker?

12 A That's correct.

13 Q And you came away with the impression that
14 Detective Parker wasn't going to do anything about
10:14 15 that?

16 A No, I didn't come away with that, with that
17 particular idea, I just thought no more of it. He
18 said that the knife didn't fit the description and
19 I left it at that. It was up to him to decide
10:14 20 what -- as far as I was concerned, whether it was
21 going to get further follow-up or -- I didn't even
22 ask him is this going to get further follow-up.

23 Q I appreciate that. Did you get an impression that
24 Detective Parker regarded the information received
10:15 25 from Linda Fisher as being credible?



1 A That would be very difficult to say. I would have
2 to go by memory now. I don't want to say that he
3 sloughed it off or that he was going to do some
4 more follow-up, we just didn't discuss it any
10:15 5 further.

6 Q It would be fair to say, and I'm probably being
7 trite here, that so much of police work is based
8 on, to some extent, objective reflection of the
9 evidence that one sees, but also it's based on a
10:15 10 subjective judgment that is made about that
11 evidence; is that correct?

12 A That's fair, yes.

13 Q And sometimes a detective will make that
14 subjective judgment, not necessarily perhaps --
10:15 15 and I'm not suggesting that this is the way it
16 ought to be, but sometimes a detective will make
17 that subjective judgment based on reports that he
18 receives as opposed to evidence that he actually
19 expects or examines?

10:16 20 A And sometimes it's just a gut feeling too.

21 Q And I'm not here to defend Detective Parker and
22 I'm not even suggesting that what I'm about to put
23 to you is necessarily the correct approach that
24 ought to have been taken, but is it conceivable in
10:16 25 your mind, considering the subjective judgments



1 that police officers are often called to make,
2 that he simply looked at this report, saw that it
3 was a comment made by somebody who appeared to
4 have been drinking, albeit sober but drinking,
10:16 5 presented at four o'clock in the morning, an
6 estranged wife of somebody with whom she was at
7 that time divorced, and it's conceivable, under
8 those circumstances -- and that Detective Parker
9 did not believe that this was credible or, if he
10:16 10 thought it was credible, thought, well, she'll
11 come back and she'll make that complaint again or
12 she'll report this information again?

13 A I suppose that's a fair assumption, but I really
14 don't know what Parker thought.

10:17 15 Q Now, have you since become aware that the knife
16 handle that was found at the scene was a maroon
17 plastic handle?

18 A I have no idea. I never did hear what kind of a
19 knife was found at the scene.

10:17 20 Q And the description that was given to you was a
21 brown wooden-handled paring knife; is that
22 correct?

23 A That's correct.

24 Q So if we were to add to the fact, to the scenario
10:17 25 that I put to you earlier, namely, a woman coming



1 in, having been drinking, four o'clock in the
2 morning, giving a description of the knife that
3 does not fit the description of the knife found at
4 the scene, is it reasonable or is it conceivable
10:18 5 that Detective Parker, assuming he did receive
6 this report, did not regard it as credible and
7 simply filed the report?

8 A That's possible.

9 Q On Gail Miller's investigation file?

10:18 10 A That's possible.

11 Q And again, to the best of your knowledge, no other
12 police officers were aware of Linda Fisher's
13 statement, no other senior officers were aware, to
14 the best of your knowledge, other than yourself
10:18 15 and Detective Parker?

16 A As far as I know, that's right.

17 Q Thank you.

18 A I don't know where the working copy of the file
19 is. I believe the file that we showed here is the
10:18 20 number 1 copy and that's the one that stays in --
21 the file is assigned and then goes back. That
22 number 1 file goes back to Central Records, number
23 2 and 3 go to the investigator.

24 Q And just on that point, and, I'm sorry, you've
10:18 25 flashed something in my mind. If Detective Parker



1 did not feel that this matter required any further
2 investigation and it was simply placed back on the
3 Gail Miller investigation file, because that file
4 was then effectively closed; namely, that there
10:19 5 had been a conviction, it was entirely likely that
6 no other police officer would then come across
7 either the statement or the investigation report
8 that you had prepared?

9 A That's correct.

10:19 10 MR. ELSON: Thank you. I have no further
11 questions.

12 MR. HODSON: No re-exam.

13 **BY COMMISSIONER MacCALLUM:**

14 COMMISSIONER MacCALLUM: I just have one
10:19 15 thing if you don't have any more.

16 Mr. Wagner, I understand from
17 this that you regarded the most substantial
18 detail in Linda Fisher's report as being that
19 relating to the knife; is that fair?

10:19 20 A I was interested in getting the description of the
21 knife.

22 COMMISSIONER MacCALLUM: And when you spoke
23 to Parker about it and he said the description
24 that she gave doesn't even come close to the
10:19 25 description of the knife found at the scene, you



1 thought to yourself, well, that satisfies me
2 because that disposes of the main point of the
3 statement; is that fair?

4 A That's correct.

10:20 5 COMMISSIONER MacCALLUM: What if you had
6 thought otherwise, what if you had thought, well,
7 I'm not satisfied with that, Mr. Parker, I think
8 there's more to this statement, which you've
9 described as having been a sincere one, and I'm
10:20 10 going to do something about it -- now, Parker was
11 your junior in terms of rank -- would it be
12 frowned upon for you to take an initiative then
13 to go to the deputy chief or the head of criminal
14 investigations, for example, and said I think
10:20 15 this needs more looking into no matter what
16 Parker has to say about it?

17 A No, it wouldn't -- it might have been frowned upon
18 by Parker or whoever that particular fellow was
19 assigned to, but it wouldn't have been
10:20 20 unreasonable to do that if I had thought any more
21 of it.

22 COMMISSIONER MacCALLUM: There wasn't any
23 sort of a built-in resistance to initiatives of
24 that sort, was there, amongst the ranks in the
10:21 25 police force?



1 A Oh, I suppose there was in some cases, yes.

2 COMMISSIONER MacCALLUM: Going over
3 people's heads?

4 A Yes.

10:21 5 COMMISSIONER MacCALLUM: And can you tell
6 us if that played any part in this particular
7 matter?

8 A I can't say for sure.

9 COMMISSIONER MacCALLUM: No?

10:21 10 A No.

11 COMMISSIONER MacCALLUM: Parker never told
12 you afterwards?

13 A No.

14 COMMISSIONER MacCALLUM: You never
10:21 15 discussed it?

16 A I never discussed it with Parker again except that
17 short little brief talk we had when I went into
18 his office and then I left and did something else.

19 COMMISSIONER MacCALLUM: Well --

10:21 20 A I didn't form an opinion really from my brief,
21 very brief discussion with Parker whether he was
22 going to do any more or not and I never ever did
23 any follow-up to see whether anything more had
24 been done.

10:21 25 COMMISSIONER MacCALLUM: I see. Was there



1 anything formal in the structure of the police
2 force which encouraged individual actions as
3 opposed to simply passing things through the
4 chain of investigative command?

10:22 5 A It would depend an awful lot what it was. If no
6 further action was required and a file was
7 assigned, the detective sergeant probably would
8 have written on the number 2 copy "no further
9 action filed", but I don't know whether that copy
10:22 10 is available or not.

11 COMMISSIONER MacCALLUM: Umm. Thanks. Is
12 there anything arising from that, counsel?

13 MR. HODSON: Not from me, Mr. Commissioner.

14 COMMISSIONER MacCALLUM: Anyone else?

10:22 15 MR. HODSON: No.

16 COMMISSIONER MacCALLUM: No, okay. Thank
17 you very much, Mr. Wagner, for coming.

18 MR. HODSON: We have two more witnesses
19 this morning, Mr. Commissioner. They will be
10:22 20 about 20 minutes each. I'm wondering if you
21 maybe want to break?

22 COMMISSIONER MacCALLUM: We can do that.

23 MR. HODSON: And we should finish by noon
24 today.

10:22 25 COMMISSIONER MacCALLUM: Okay.



(Adjourned at 10:22 a.m.)

(Reconvened at 10:43 p.m.)

MR. HODSON: The next witness is Sylvia
Poitras.

SYLVIA ANNETTE POITRAS, sworn:

BY MR. HODSON:

Q Good morning, Mrs. Poitras, thank you for agreeing
to testify before this Commission.

I understand you reside in North
Battleford; is that correct?

A Yes, I do.

Q And your current age?

A 58.

Q And your maiden name is Fisher?

A Yes, it is.

Q And you are Larry Fisher's sister; is that
correct?

A Yes, I am.

Q If we could call up 331783, please. Just turn it
to the side. Just to try and get a connection
here, I think this shows here, Mrs. Poitras, your
mother was Marcy Fisher, is Marcy Fisher; is that
right?

A Yes.

Q And that you were married to Herb Poitras; is that



1 correct?

2 A Yes.

3 Q And divorced in 1978 or thereabouts; is that
4 correct?

10:44 5 A '87.

6 Q '87, sorry.

7 A We separated in '78.

8 Q Pardon me?

9 A We separated in '78.

10:44 10 Q Separated in '78 and divorced in '87?

11 A '87.

12 Q And then I understand that Herb's brother James
13 was married to a Pambrun, Doris Pambrun; is that
14 right?

10:44 15 A Yes.

16 Q I just want to ask you some questions about back
17 in 1969 and the residences. We've heard some
18 evidence that Larry and his wife Linda may have
19 lived in your basement for a time period; is that
10:44 20 right?

21 A Yes.

22 Q And do you remember where that was?

23 A On either Avenue B or Avenue C North in Saskatoon.

24 Q If we can call up 067059 and this is a chart,
10:44 25 Mrs. Poitras, that the RCMP prepared based on



1 various information and it suggests that in 1968
2 Larry and Linda Fisher lived at 1530 Avenue C
3 North until they were forced to move out on
4 November 12 after a toaster fire in the suite, and
10:45 5 I believe when they were -- was it in your
6 basement that they had the toaster fire; is that
7 right?

8 A That was the address.

9 Q And 1530 you think is where that was?

10:45 10 A Yeah. I wasn't sure if it was B or C, but yes, it
11 is 1530.

12 Q And it says 1967, 1968. Are you able to verify
13 that or --

14 A I can't remember the year.

10:45 15 Q And then they moved after that to 334 Avenue O
16 South which was a basement suite in the home
17 occupied by the Cadraings. Do you remember that?

18 A I remember they moved, but I wasn't quite sure
19 where they moved to.

10:45 20 Q And at that time, 1968, '69 and '70, did you spend
21 much time with Larry and Linda Fisher?

22 A Not a lot.

23 Q And would you have -- was your relationship with
24 your brother Larry close at that time?

10:45 25 A No. I never had a relationship with my brother.



1 Q Pardon me?

2 A I have never had a relationship with my brother.

3 Q And what about with Linda Fisher?

4 A I kept in touch very vaguely, but I don't have a
10:46 5 problem with Linda.

6 Q Okay. If we can just go back, and again to
7 January, 1969, 1970. Did you become aware that
8 Larry was arrested in Winnipeg?

9 A Yes, my mother told me he was.

10:46 10 Q And your mother -- about that time she told you,
11 your mother? I'm sorry, was it about 1970 when he
12 was arrested that she told you?

13 A Yeah.

14 Q And what did she tell you, do you remember, what
10:46 15 he was arrested for?

16 A Yeah, and she told me it was for armed violence --
17 violence. Armed violence or armed robbery with
18 violence.

19 Q And did you have -- armed robbery with violence.
10:46 20 Was there any mention of any rapes or any women
21 victims?

22 A Not to my knowledge, no.

23 Q And did you become aware at a later date that it
24 was not armed robbery but other offences?

10:47 25 A Yes, I did.



1 Q And when was that?

2 A In March of 1987 when it come over the TV.

3 Q And what do you recall about what happened, what
4 you saw on TV?

10:47 5 A I just saw his -- the dates on the side and his
6 picture.

7 Q And it had to do with a number of rape offences?

8 A I can't even tell you how many were on that, but
9 it was a number of them, yeah.

10:47 10 Q And how did you become aware that that was on
11 television?

12 A I had a call from a friend that told me he would
13 be on TV.

14 Q And the program that you saw showed his picture
10:47 15 and his offences; is that right?

16 A Uh-huh.

17 Q Yes?

18 A Yes, it was.

19 Q Was there any mention made of the Gail Miller
10:47 20 murder in that --

21 A None.

22 Q And so this is March of -- as far as the date, are
23 you fairly certain that that was the time frame?

24 A I don't know why, but that's the only thing I seem
10:47 25 to remember.



1 Q Okay.

2 A And that was the date.

3 Q If we can just go back to 1969. Do you remember
4 at that time hearing about the Gail Miller murder?

10:48 5 A I can't remember.

6 Q Okay. Were you aware of anything in 1969 or 1970
7 that you observed with Larry's behaviour that
8 would cause you to suspect that he might have been
9 involved in either rapes or murders?

10:48 10 A No.

11 Q Now I would like to turn to Linda Fisher. Again,
12 1968 or so, her and Larry lived in your basement
13 for a time period; is that right?

14 A I don't think it was very long, but they were
10:48 15 there, yes.

16 Q We're talking a couple of weeks, a month?

17 A I'm not sure. I'm not sure.

18 Q And were you close with Linda at that time?

19 A No, no.

10:48 20 Q I understand that later in the '70s you had
21 occasion to re-acquaint with Linda Fisher; is that
22 right?

23 A Right.

24 Q And can you tell us about that?

10:48 25 A My husband and I separated and I asked Linda if I



1 could stay at her place until I got a place.

2 Q And was that in about 1978?

3 A That was in '78.

4 Q And why did you pick Linda, had you been in

10:49 5 contact with her from --

6 A Actually, no. She was the only person I knew in
7 Saskatoon.

8 Q Okay.

9 A And I had hoped she would help me.

10:49 10 Q So from about -- from the time that Larry went
11 into jail in 1970 until this occasion in 1978, did
12 you have much contact with Linda?

13 A No, I didn't.

14 Q And so I take it at the time, were you moving into
10:49 15 Saskatoon then?

16 A Yeah.

17 Q And Linda was the only person you knew in
18 Saskatoon?

19 A Uh-huh.

10:49 20 Q Yes?

21 A Yes.

22 Q And so what, you called her and asked if you could
23 move in?

24 A Yeah.

10:49 25 Q And did you?



1 A Yes, I did.

2 Q And who was she -- did she have a relationship at
3 that time with another person?

4 A Yes, Brian Wright.

10:49 5 Q And were they living as spouses or common-law
6 spouses at the time?

7 A Yeah.

8 Q Yes?

9 A Yes, they were.

10:49 10 Q So how long did you live with Linda then?

11 A I can't remember.

12 Q I think I read somewhere six to seven months.
13 Does that sound right?

14 A That could be.

10:50 15 Q And did you spend a fair bit of time with her then
16 when you --

17 A Yes, we did, we did some talking, visited.

18 Q Okay.

19 A I don't know, not a lot of time.

10:50 20 Q And then after you moved out where did you go?

21 A I went to an apartment in Saskatoon at --

22 Q Location doesn't -- somewhere in Saskatoon?

23 A In Saskatoon.

24 Q And did you stay in touch with Linda then?

10:50 25 A No, I didn't.



1 Q And so other than that time period that you lived
2 with her, was there any other time period where
3 you would have been in contact with Linda Fisher?

4 A Umm, I don't remember if I was in that much
10:50 5 contact.

6 Q And when you called her in 1978, were you calling
7 her as a friend or as a sister-in-law or --

8 A I don't know. I just called her. I didn't think
9 about it. I just knew she was here.

10:51 10 Q And there's an affidavit that I'll be referring to
11 you a bit later that talks about this time frame,
12 and can you tell us, were you going through some
13 troubles at this time when you moved in with
14 Linda?

10:51 15 A Yes, I was.

16 Q And was that related to your marriage break-up or
17 your separation?

18 A Yeah, that was part of it.

19 Q And did you have some alcohol problems at the
10:51 20 time?

21 A Yes, I did.

22 Q And what about Linda, was she going through
23 troubles as well?

24 A Yes.

10:51 25 Q And did you spend time talking to her about



1 matters?

2 A I can't remember even what we talked about, but we
3 did talk, yes.

4 Q And would you talk a lot with her then?

10:51 5 A I don't know what you would call a lot. I mean,
6 we lived in the same house.

7 Q Would you confide with each other about matters?

8 A Well, no. I talked an awful lot about my
9 problems, but I'm not a very good listener.

10:52 10 Q Do you recall, do you have any recollection of
11 discussions with Linda at this time regarding
12 Larry Fisher's rape offence?

13 A No, I don't remember anything like that.

14 Q And based on what you told us, at this time in
10:52 15 1978 you would have believed that Larry Fisher was
16 in jail for armed robbery; is that right?

17 A Right.

18 Q Is it fair to say at this time you didn't even
19 know that Larry Fisher was in jail for rapes or
10:52 20 committed rapes?

21 A No. I never knew until 1987.

22 Q Do you recall any discussion with Linda Fisher
23 about her suspicions that Larry Fisher may have
24 been involved in the murder of Gail Miller?

10:52 25 A No, I don't.



1 Q At that time do you know if you would have known
2 about the murder of Gail Miller?

3 A No.

4 Q There is evidence that in August of 1980 Linda
10:52 5 Fisher went into the Saskatoon City Police and
6 gave the police a statement where she said she
7 suspected Larry Fisher for the murder of Gail
8 Miller. Do you have any recollection of Linda
9 telling you about that?

10:53 10 A No, I don't.

11 Q In 1980 Larry Fisher was charged and convicted of
12 the, and a year later, of the attempted murder of
13 (V10) (V10)-. Do you remember that happening?

14 A I remember when that happened, yes.

10:53 15 COMMISSIONER MacCALLUM: What was the date,
16 please?

17 BY MR. HODSON:

18 Q 1980. I think it was March, end of March, 1980
19 that the offence was committed and I think it was
10:53 20 a year later that he was convicted, and would you
21 have been in North Battleford at that time?

22 A No, I wasn't.

23 Q And so I take it you would have been aware of the
24 circumstances of that charge and aware that Larry
10:53 25 had been charged and convicted of that?



1 A Yes, I was.

2 Q And at that time did you become aware of the
3 previous charges relating to rape?

4 A No, I don't recall that.

10:53 5 Q And then just go ahead to the 1990s. At some
6 point in 1990 did you become aware through the
7 media or some other means that Larry Fisher was
8 being associated with the murder of Gail Miller as
9 a suspect?

10:54 10 A Yes, I did.

11 Q And do you remember how that was or where you
12 heard that?

13 A I don't know. Probably TV.

14 Q And so this would be about three years after the
10:54 15 first program you saw about your brother on
16 television; is that right?

17 A Uh-huh.

18 Q Yes?

19 A Yes.

10:54 20 Q The court reporter needs yes. And did you have
21 occasion to talk to some RCMP officers?

22 A I talked to one.

23 Q Was it Sergeant Rick Pearson?

24 A I think that's his name.

10:54 25 Q If we could just call up 063102, please, and go to



1 page 110. And, Mrs. Poitras, these are notes that
2 Rick Pearson made of his dealings with a whole
3 number of witnesses and there's some notes here of
4 conversations that he had with you, and this one I
10:55 5 think is March of 1990, and he says:

6 "Sylvia Poitras, sister of Larry, called
7 and expressed concern that her mother
8 was approached by Milgaard. Sylvia's
9 mother recently had heart surgery and is
10:55 10 in poor health. Sylvia is asking that
11 we advise her in the event that we have
12 to contact her mother again, as it would
13 be advisable to have a family member
14 present. I agreed to this."

10:55 15 Do you have any recollection of that?

16 A Yes, I do.

17 Q And can you tell us, did your mother have concerns
18 or did you have concerns about your mother being
19 contacted about this?

10:55 20 A I had concerns about my mother, my mother's
21 health, her mental state.

22 Q And did you become aware that someone on behalf of
23 David Milgaard had contacted her?

24 A I'm not sure if I was aware of that. I did hear
10:55 25 that later, but at that time I'm not sure.



1 Q It looks like from this note, and again this is
2 Sergeant Pearson's note, that it says that her
3 mother was approached by Milgaard, and I believe
4 that's a reference to Joyce Milgaard or people on
10:56 5 her behalf, and it looks as though you had
6 expressed concern to him that these visits were
7 having an impact on your mother. Is that fair?

8 A That's fair.

9 Q And you recall something of that happening?

10:56 10 A Uh-huh, yes.

11 Q Yes?

12 A Yes, I did.

13 Q Then if we can go to page 063131 and it looks as
14 though -- again this is May of '90, it says:

10:56 15 "I received a telephone call from Sylvia
16 Poitras, Larry Fisher's sister. She
17 stated that she had just heard on the
18 radio that charges were being laid today
19 against the person responsible for the
10:56 20 Miller murder. I assured her that no
21 information was released by me or the
22 Force in this case. She seemed relieved
23 but still seemed to question where this
24 information came from. I did advise
10:56 25 Sylvia that I was continuing with my



1 inquiries involving her brother, however
2 had nothing more to tell her."

3 Do you have a recollection of that happening?

4 A No, I don't.

10:57 5 Q And then the next page, 063181, we're now into
6 January of 1991. Did you become aware at that
7 time that there was going to be a court hearing in
8 Ottawa where the Supreme Court of Canada was going
9 to look at Mr. Milgaard's conviction and review
10:57 10 it? Do you remember hearing about that?

11 A I remember about Ottawa, yeah.

12 Q Okay. And you were aware that Mr. Milgaard was
13 professing his innocence for the crime? Do you
14 remember hearing about that?

10:57 15 A Yes.

16 Q And do you remember hearing in the media that the
17 position taken by the Milgaards and some others
18 was that Larry Fisher may have been the person, or
19 was the person who committed the crime. Do you
10:57 20 remember hearing about that?

21 A Yes.

22 Q And so you would have been generally aware that
23 there was a court case going on and that there was
24 going to be some evidence heard about the matter;
10:58 25 is that fair?



1 A Yes.

2 Q And here Sergeant Pearson says:

3 "Sylvia Poitras, sister to Larry Fisher,
4 returned my call. She sounded very
10:58 5 upbeat and cooperative ..."

6 And it goes on to talk about vehicles. I don't
7 propose to go through it, but do you remember
8 talking to Sergeant Pearson where he asked you to
9 get some information about vehicles Larry Fisher
10:58 10 may have had back in the late '60s? Do you
11 remember anything about that?

12 A No, I don't.

13 Q Any reason to dispute what Sergeant Pearson has
14 written down here? Is it possible this happened
10:58 15 and you don't remember?

16 A Possible. I don't remember.

17 Q Go to 063187, and again this is just another note,
18 '92, and just talks about contacting your
19 stepfather, or checking about what vehicles your
10:59 20 stepfather may have had in the late '60s and early
21 '70s. Do you remember anything about that?

22 A Not too much.

23 Q Would it be fair to say that when Sergeant
24 Pearson, when you had dealings with him, that if
10:59 25 he asked for information or for assistance you



1 would provide it where you could?

2 A I tried to.

3 Q Yes. If I could call up 009691, please, and this
4 is an affidavit, Mrs. Poitras, that's filed in the
10:59 5 Supreme Court of Canada in the reference matter
6 related to David Milgaard. If we can go to the
7 last page, please, is that your signature?

8 A It looks like it.

9 Q And you are familiar with what an affidavit is are
11:00 10 you? Do you want me to explain that for you?

11 A I've kind of got an idea, but you can explain it.

12 Q Sure. The affidavit -- this was filed at the
13 Supreme Court of Canada and it's evidence sworn
14 under oath, typed on a piece of paper, sworn
11:00 15 before somebody as opposed to having a witness
16 testify in person, and do you have a recollection
17 of providing this affidavit in 1992?

18 A And who was this to? Oh, to the Saskatoon RCMP?

19 Q Well, that's what I was going to ask you. On the
11:00 20 front page, the counsel, it appears to be legal
21 counsel for Larry Fisher, and it may have been Mr.
22 Beresh, his firm who obtained the affidavit from
23 you, or it may have been the RCMP or it may have
24 been both. Do you know who -- do you have any
11:00 25 recollection of signing an affidavit?



1 A No, I don't.

2 Q Okay. Do you have -- do you recall being asked to
3 provide some evidence for the hearing in Ottawa?

4 A No, I don't remember.

11:01 5 Q Okay. Let's just, maybe we'll go through parts of
6 this affidavit, and this may assist your memory.
7 If we can go to the next page, please. And I'll
8 just read parts of the affidavit, this is evidence
9 that was sworn by you, Mrs. Poitras, that was
11:01 10 placed before the Court, and it says:

11 "That in 1978 I resided at the same home
12 as Linda Fisher at a location on Avenue
13 E North in Saskatoon. The house was
14 owned by Brian Wright and they occupied
11:01 15 the main floor while I resided in the
16 basement suite."

17 A That's true.

18 Q Is that -- that's accurate?

19 A Yeah.

11:01 20 Q And then paragraph 9, or pardon me, paragraph 8
21 says you were there for six to seven months
22 following which you moved to an apartment at 137
23 Avenue T; is that correct, does that sound right?

24 A That sounds right.

11:01 25 Q Yeah. And then paragraph 9:



1 "That during this period of time I
2 became very close to Linda Fisher.
3 During that time she drank alcohol
4 excessively in and out of the home."

11:02 5 Is that true?

6 A That's true.

7 Q "That throughout the time before we
8 resided together and during the time
9 that we resided together Linda Fisher
11:02 10 and I shared numerous confidences and we
11 spoke freely with one another."

12 Is that true?

13 A That's true.

14 Q "That throughout this period of time
11:02 15 Linda Fisher never once suggested that
16 she believed that Larry Fisher was in
17 any way responsible or connected to the
18 death of Gail Miller. We had discussed
19 numerous topics and it is my belief that
11:02 20 had she believed that Larry was in any
21 way connected to the death of Gail
22 Miller she would have mentioned this to
23 me."

24 Is that true?

11:02 25 A See, I'm not aware of any conversations about



1 Larry --

2 Q Okay.

3 A -- and Gail Miller --

4 Q Right.

11:02 5 A -- with Linda.

6 Q And you don't recall any discussions?

7 A No I don't.

8 Q And this paragraph says that there never were, and
9 are -- is that correct?

11:02 10 A I -- nope, I never had any conversation -- she may
11 have said something but I don't remember.

12 Q Okay. So it's possible she may have said
13 something to you about Larry --

14 A It's possible.

11:03 15 Q -- and you don't remember?

16 A That's possible, yeah.

17 Q Okay. And then next page, please, and then
18 paragraph 17 it says:

19 "That I am now aware of Linda Fisher's
11:03 20 allegations against Larry Fisher and
21 state that she never, until the
22 telephone call approximately two years,
23 ago, suggested that Larry Fisher was in
24 any way responsible for the death of
11:03 25 Gail Miller. During none of our



1 discussions did the name of Gail Miller
2 ever arise."

3 And is that truthful?

4 A You know what, I can't remember.

11:03 5 Q Okay. If we can maybe just go up to paragraph 13,
6 it refers to a phone call, and it says:

7 "During that phone call she said to me
8 ...",

9 this is talking about Linda, and you had called
11:04 10 her to welcome her into I think Alcoholics
11 Anonymous, it says:

12 "During that phone call she said to me
13 that she was going to Prince Albert to
14 ask my brother whether he had been
11:04 15 involved in the death of Gail Miller.
16 At that time I was unaware that Linda
17 Fisher had been contacted by the
18 Milgaard family. I learned after that
19 she had been contacted by David Asper
11:04 20 and Joyce Milgaard. I discovered this
21 from my mother Marie Fisher who had also
22 been contacted by Mr. Asper and Joyce
23 Milgaard."

24 Do you remember any of that?

11:04 25 A I don't remember any of that either.



1 Q Okay. Do you remember getting a call from Linda
2 Fisher in the early '90s about her going to see
3 Larry in prison?

4 A Yes, I remember that.

11:04 5 Q And what do you remember about that?

6 A She was going to confront him and ask him if he
7 did murder Gail Miller.

8 Q And did she phone you to tell you that?

9 A No, I phoned her, actually. I don't think she
11:04 10 phoned me because I was at mum's.

11 Q And why did you phone her?

12 A Just to see how she was doing.

13 Q And at that time was -- were you aware that Larry
14 was a suspect in the Gail Miller murder?

11:05 15 A Obviously, yes, I believe I did then.

16 Q And so you would have phoned her and she would
17 have told you that she was going to go and
18 confront him in jail?

19 A Yeah.

11:05 20 Q And do you know if she ever did that?

21 A I don't know. I never did talk to her again
22 after.

23 Q One last item. Do you have any recollection of
24 your former husband, Herbert Poitras, ever
11:05 25 mentioning to you that he observed blood on the



1 clothing of Larry Fisher's clothes on the morning
2 of Gail Miller's murder?

3 A I have no recollection of that.

4 Q Those are all my questions, Mrs. Poitras.

11:05 5 I'll see if any counsel have any
6 other questions. Mr. Beresh is the only other
7 one.

8 COMMISSIONER MacCALLUM: That was blood on
9 Fisher's?

11:06 10 MR. HODSON: Yeah.

11 COMMISSIONER MacCALLUM: Blood on Fisher.

12 MR. HODSON: Let me just -- and I might
13 just clarify that. There was some report that we
14 will file a bit later that was attributed back to
11:06 15 Herbert commenting about blood, observing blood
16 on the clothes.

17 COMMISSIONER MacCALLUM: Yes.

18 BY MR. HODSON:

19 Q And the question to Mrs. Poitras was whether, at
11:06 20 any time, do you remember your ex-husband telling
21 you anything about what he observed on Larry
22 Fisher; do you remember anything of that nature?

23 A No I don't.

24 COMMISSIONER MacCALLUM: Thank you, sir.

11:06 25 BY MR. BERESH:



1 Q Just a few questions, please. I take it that now,
2 looking at the affidavit, you have a clear recall
3 that for a number of years Linda Fisher had a
4 serious problem with alcohol; is that correct?

11:06 5 A Yes, she did.

6 Q Okay. And which affected her general day-to-day
7 activities, I understand, including --

8 A Yes, alcohol does, yes it does.

9 Q Yeah, I'm thinking about including the raising of
11:07 10 her child Tammy?

11 A I wasn't around for much of her raising of Tammy.

12 Q Okay. What I do gather though, from what you said
13 in the affidavit and have said otherwise, is that
14 you became close, during the late 1970s, to Linda
11:07 15 Fisher?

16 A When I moved in her house, yes.

17 Q Yes.

18 A Yeah.

19 Q Yes. She would be your only contact in Saskatoon?

11:07 20 A Yeah.

21 Q You looked to her because of a difficult time you
22 were going through?

23 A I needed help.

24 Q Okay.

11:07 25 A Yeah.



1 Q And the two of you, as I understand, confided in
2 one another about a number of issues?

3 A Yes we did.

4 Q And do I understand that she never once said to
11:07 5 you she's got something that's been bothering her
6 about a conversation she had with Larry?

7 A She may have, but I don't remember.

8 Q Okay. Do not recall that now?

9 A No.

11:07 10 Q And when you signed the affidavit back in 19 -- in
11 the 1990s you didn't recall that, then, either?

12 A I'm not sure.

13 Q Okay. I take it at no time did she say anything
14 to you about there was a paring knife or a knife
11:08 15 missing from her home that caused her to be
16 suspicious?

17 A No, I never heard anything about a knife.

18 Q And never at any time, when -- in discussions with
19 you, ever suggested a connection between the death
11:08 20 of Gail Miller, either by description of
21 Ms. Miller's occupation or by name, to Larry?

22 A Not to my knowledge, no.

23 Q No. Thank you.

24 MR. HODSON: There is no re-exam.

11:08 25 COMMISSIONER MacCALLUM: Okay.



1 Ms. Poitras, about this problem with alcohol that
2 Linda had, now that was ongoing about 1978; is
3 that your memory?

4 A Yes. We drank together.

11:08 5 COMMISSIONER MacCALLUM: And did she have a
6 very serious problem? How did it affect her
7 daily life?

8 A Well, how did it affect her daily life? The kids,
9 the housework.

11:09 10 COMMISSIONER MacCALLUM: Yes.

11 A Yeah.

12 COMMISSIONER MacCALLUM: And how long did
13 it last, how long did you continue to have close
14 contact with her?

11:09 15 A I left shortly, I didn't even stay there a year
16 and I moved out, and I don't know what she did
17 after that.

18 COMMISSIONER MacCALLUM: What year did you
19 move out, '70 --

11:09 20 A The same year.

21 COMMISSIONER MacCALLUM: '78?

22 A '78, yeah. I just stayed there long enough to
23 find a place.

24 COMMISSIONER MacCALLUM: Did -- I heard
11:09 25 mentioned that you had called her about



1 participation in Alcoholics Anonymous?

2 A I heard she had joined the fellowship.

3 COMMISSIONER MacCALLUM: And when was that?

4 A I can't remember, but --

11:09 5 COMMISSIONER MacCALLUM: After 1978?

6 A Oh yeah, yeah, because I went in in 1980 and she
7 was long after that.

8 COMMISSIONER MacCALLUM: Oh, okay.

9 A Yeah. I can't remember when she went in.

11:10 10 COMMISSIONER MacCALLUM: Okay. Thank you
11 very much.

12 Anything arising, Mr. Hodson?

13 MR. HODSON: No.

14 COMMISSIONER MacCALLUM: Okay.

11:10 15 MR. HODSON: Thank you very much.

16 COMMISSIONER MacCALLUM: Thank you, ma'am,
17 you are excused, and thank you for coming.

18 MR. HODSON: The next witness is Arnold
19 Poitras.

11:11 20 **ARNOLD JOSEPH POITRAS, sworn:**

21 **BY MR. HARDY:**

22 Q Morning, Mr. Poitras.

23 A Morning.

24 Q Am I pronouncing your last name correctly?

11:11 25 A Yes.



1 Q I understand that you currently reside in
2 Battleford?

3 A Yes.

4 Q And that's right next door to North Battleford?

11:11 5 A Umm, yup, right across the river.

6 Q Okay. And how old are you, sir?

7 A 56.

8 Q And am I correct that your brother is Herbert or
9 one of your brothers is Herbert Poitras?

11:11 10 A Yes.

11 Q Who was previously married to Sylvia Fisher, Larry
12 Fisher's sister?

13 A Yes.

14 Q I'm going to have you look at a family chart that
11:11 15 we've put together, the document is 331783. You
16 will note in blue is the Poitras family, and I see
17 your name here, your wife is Mary Poitras?

18 A Yes.

19 Q Am I correct, then, that three brothers, three of
11:12 20 your brothers are noted on this chart; James
21 Poitras, George Poitras, and Herbert Poitras?

22 A Yes.

23 Q And are you the youngest of that group?

24 A Of that group, yes.

11:12 25 Q And who is the oldest?



1 A Herbert.

2 Q And am I correct that you have other siblings,
3 though, that are not noted, though, on this chart?

4 A Yes.

11:12 5 Q And I note as well that it appears that through
6 marriage you are related to the Pambrun family
7 through James' marriage to Doris; is that correct?

8 A Yes.

9 Q And Herbert, I understand, was previously married
11:12 10 to Sylvia Fisher?

11 A Yes.

12 Q You can put the chart down now. When did you
13 first come to know Larry Fisher, Mr. Poitras?

14 A I imagine shortly after Herbert and Sylvia were
11:13 15 married.

16 Q So it was after their marriage?

17 A Uh-huh.

18 Q And how well did you come to know Larry Fisher?

19 A Not well at all, just knew that he was Sylvia's
11:13 20 brother.

21 Q So you didn't see him very often or associate with
22 him then?

23 A No.

24 Q Okay. And am I correct, then, that you would have
11:13 25 come to know the Pambrun family, as well, after



1 James' marriage to Doris?

2 A Yes.

3 Q And do you recall learning of the Gail Miller
4 murder when it occurred in 1969?

11:13 5 A Not really, no.

6 Q Not something that sticks out in your mind?

7 A No.

8 Q Where would you have been living at that time?

9 A North Battleford.

11:13 10 Q And am I correct that that's where you grew up as
11 well, Battleford or North Battleford?

12 A Yes, most of my life.

13 Q Okay. And do you recall learning of Mr. Fisher's
14 conviction for rape and attempted murder arising
11:13 15 out of an attack in North Battleford in 1980?

16 A Umm, yes.

17 Q You do recall that?

18 A Yes.

19 Q And where were you living at that time?

11:14 20 A In Battleford.

21 Q In Battleford?

22 A Battleford.

23 Q And, Mr. Poitras, do you ever recall receiving
24 information from a family member, or otherwise,
11:14 25 that suggested that Larry Fisher may have been



1 involved in the Gail Miller murder?

2 A Umm, later on I guess.

3 Q And what did you -- what did you learn and from
4 who?

11:14 5 A From Herbert.

6 Q Herbert? And what did Herbert tell you?

7 A He told me that Larry Fisher had came home with
8 blood on his clothes and had thrown them away, or
9 threw them in the garbage, or something.

11:14 10 Q And do you know when you received that information
11 from Herbert?

12 A I'm not really sure.

13 Q And if we use the attack in North Battleford as a
14 mark, was it after that attack that you would have
11:14 15 learned that information from Herbert?

16 A I'm not sure. Probably, I would imagine.

17 Q Okay. And do you know where Herbert would have
18 received that information from?

19 A I have no idea.

11:15 20 Q He didn't tell you?

21 A No.

22 Q And you've shared it with us, but can you tell me
23 again exactly what Herbert told you?

24 A Well I don't even quite remember exactly, but just
11:15 25 that he had, Larry had came home with blood on his



1 clothes and had thrown them in the garbage or --

2 Q And was it associated with the Gail Miller murder
3 in some sense?

4 A I think so, yes, it seemed that way.

11:15 5 Q Was Herbert relaying that this information, as he
6 had received it, his understanding was that this
7 had happened the same morning of the Gail Miller
8 murder?

9 A Yes, I think so.

11:15 10 Q Okay. And where would you have been residing
11 through the 1980s, Mr. Poitras?

12 A In Battleford.

13 Q And do you recall a Bruce LaFreniere?

14 A Yes.

11:15 15 Q And how did you know Mr. LaFreniere?

16 A We went to school together in college.

17 Q And would you have been associating with
18 Mr. LaFreniere during the 1980s?

19 A No.

11:16 20 Q No?

21 A No.

22 Q And I believe you are aware that Mr. LaFreniere
23 has indicated on more than one occasion in the
24 past that he received from, some information from
11:16 25 you in or around 1985 which suggested that Larry



1 Fisher may have been involved in the Gail Miller
2 murder, are you aware that Mr. LaFreniere has
3 provided that information in the past?

4 A I'm aware that he had provided it now, yes.

11:16 5 Q Okay. And perhaps what we can do is take a look
6 at Mr. LaFreniere's account as provided on a
7 couple of occasions, first during an interview
8 with the RCMP in 1993 in the course of an
9 investigation that they were conducting, and if we
11:16 10 could look at document 045146, please. And again,
11 Mr. Poitras, these are notes taken by an RCMP
12 officer further to a meeting with Mr. LaFreniere,
13 and the date is June 10th, 1993, and I'll turn,
14 please, to page 045148. Beginning at the bottom
11:17 15 of the page, read this portion to you, the notes
16 indicate that Mr. LaFreniere has provided this
17 information:

18 "- prior to 1984-1986 or near that time,
19 he was informed by Arnold Poitras
11:17 20 (related to Doris Poitras who is an
21 acquaintance of Linda Fisher) that Linda
22 had apparently said that on the morning
23 of the murder on 69 Jan 31, Larry came
24 home with blood on his clothing. This
11:18 25 information concerned LaFreniere so in



1 or around 1986, he decided to do
2 something about it."

3 I'm going to refer you as well to a portion of
4 Mr. LaFreniere's testimony as provided at this
11:18 5 Commission of Inquiry, and if we can turn please
6 to page 14063 from September 15th. And again
7 this is evidence, Mr. Poitras, provided by
8 Mr. LaFreniere at this Commission of Inquiry
9 recently, and we'll start at the bottom of the
11:18 10 page. This is Mr. Hodson, Commission Counsel,
11 examining Mr. LaFreniere, and I'll read a portion
12 of this to you:

13 "Q Okay. I understand that at some point,
14 sir, you had an occasion to discuss Mr.
15 Fisher with Arnold Poitras or Poitras;
16 is that correct?

17 A That's correct.

18 Q And can you tell us about that?

19 A Umm, I'm not remembering the -- I
20 can't remember the exact date. The
21 conversation went somewhat that he
22 told me that someone had told him that
23 his wife, at the time the -- when Gail
24 Miller was murdered, that he came
25 home, changed his clothes, he had



1 blood on his clothes, and went back to
2 work again."

3 And did you provide information of that nature to
4 Mr. LaFreniere, Mr. Poitras, as he has indicated?

11:19 5 A I do recall, now, maybe I had talked to him about
6 that.

7 Q That is a recollection you have?

8 A Uh-huh.

9 Q And I'm going to read forward, I'll have some
11:19 10 further questions for you, but just continuing
11 where we left off:

12 "Q Okay. So let's just back up. So Arnold
13 told you that he had heard, from someone
14 else, this information?

15 A That's correct.

16 Q And did he tell you who he had heard
17 this from?

18 A If I remember correctly it was his
19 sister-in-law.

20 Q And was that Doris Poitras?

21 A Yes.

22 Q And so Arnold told you that he heard
23 from Doris, and Doris had heard from
24 Linda Fisher, is that correct?

25 A That's correct.



1 Q So the information you received from
2 Arnold Poitras, you believe, originated
3 with Linda Fisher; is that correct?

4 A Yes."

11:20 5 And would it be possible that during that
6 conversation with Mr. LaFreniere, Mr. Poitras,
7 that you had indicated that you had received the
8 information from Doris Poitras?

9 A I don't recall that. I don't think so but --

11:20 10 Q You don't think that would have been the case?

11 A I, well, I don't recall mentioning Doris or
12 anything.

13 Q Would you have indicated that you would have
14 received the information from Herbert?

11:20 15 A It's possible. I don't remember if I told him who
16 I heard it from or not.

17 Q And you don't have a recollection of indicating
18 who you had received that information from then?

19 A No.

11:20 20 Q Okay. I'll read forward from that point:

21 "Q And tell us again that Linda Fisher had
22 said what, through Doris, to Arnold, to
23 you?

24 A That Larry had gone to work, came
25 home, changed his clothes because he



1 had blood on them, and then went back
2 to work.

3 Q And is there anything else that you
4 recall Arnold Poitras telling you?

11:20 5 A Umm, no. "

6 And, again, I take it from your previous answer
7 that you'd agree that this was the type of
8 information that you had provided to Mr.
9 LaFreniere on this occasion?

11:21 10 A Well I remember telling him, like, about the blood
11 on his clothes and stuff, but I don't remember
12 saying if Linda had said it or --

13 Q Right, or coming from Doris?

14 A Yeah.

11:21 15 Q But, other than that, the substance of it is
16 accurate in terms of what you recall stating?

17 A Kind of, I guess, yeah.

18 Q I'll read forward from there:

19 "Q And do you remember, time-wise, when
20 this would -- when this discussion would
21 have been with Mr. Poitras, year?

22 A I believe it was in the
23 early/mid-'80s.

24 Q Okay. Do you remember where it took
25 place?



1 A I think, I'm not sure, I think it
2 might have been at the Beaver Hotel in
3 North Battleford but I'm not, I
4 couldn't be certain exactly."

11:22 5 Does any of that information refresh your memory,
6 Mr. Poitras, as to when or where this
7 conversation may have taken place with Mr.
8 LaFreniere?

9 A Well I think it was probably at the Windsor Hotel.

11:22 10 Q And where is the Windsor Hotel?

11 A In Battleford.

12 Q And what about in terms of a time period; it's
13 been suggested here early to mid-1980s?

14 A I can't recall when it was.

11:22 15 Q Okay. So, other than what you have clarified for
16 us in terms of your indication of where the
17 information came from and the other points you
18 mentioned, I take it you take no issue with Mr.
19 LaFreniere's account of his conversation with you?

11:23 20 A No.

21 Q Now we've heard in evidence, Mr. Poitras, from Mr.
22 LaFreniere that he informed the RCMP about this
23 information that he had received in about 1986.
24 Do you recall whether you were contacted by the
11:23 25 RCMP or a police authority in or around that time



1 about this subject matter?

2 A Umm, I don't recall, no.

3 Q No? Did you ever contact a police authority with
4 this information?

11:23 5 A No I didn't.

6 Q And do you know whether Herbert ever contacted a
7 police authority with this information?

8 A I do not know that neither.

9 Q Do you recall speaking with the RCMP in 1993 in
11:23 10 the course of an investigation that they were
11 conducting into the David Milgaard matter?

12 A No I don't.

13 Q You don't recall that?

14 A No.

11:23 15 Q I'm going to refer you to the a document, the ID
16 is 035787. This is similar to what we looked at
17 previously, Mr. Poitras, it's some notes by an
18 RCMP officer, and if we could turn actually to
19 page 035791, please. You will note the date is
11:24 20 June 24th, 1993, and it indicates some inquiries
21 were being made in relation to yourself. It would
22 appear this officer is indicating that he spoke to
23 your wife and that you were away in Neilburg for
24 the day. And if we could move to the next page,
11:24 25 please, 035790, and the officer writes that he



1 attended in North Battleford looking to make
2 suitable arrangements for his meeting with you,
3 which apparently had been arranged, and then just
4 in that second paragraph he states:

11:24 5 "I received a call from Poitras who
6 stated that he was working in the Meota
7 area and would not be able to be
8 interviewed this date."

9 And then going on to the next paragraph:

11:25 10 "This being the case, he was interviewed
11 over the phone."

12 Does that refresh your memory at all,
13 Mr. Poitras, as to a discussion that you had with
14 the RCMP in 1993?

11:25 15 A No, it doesn't.

16 Q Okay. Do you take issue with the fact that a
17 discussion of this nature did take place?

18 A I, no, I guess not.

19 Q You would accept that it's likely that a
11:25 20 conversation with the RCMP did take place?

21 A I -- it looks that way.

22 Q Okay. I'm going to read you some further portions
23 of the report starting at the bottom of the page.
24 The RCMP officer writes as a result of his
11:25 25 conversation with you:



1 "Arnold was very vague but co-operative
2 in terms of answering questions put to
3 him."

4 It then provides an address, and is that an
11:25 5 accurate address as would have been the case in
6 1993, Mr. Poitras?

7 A Yes.

8 Q Then he continues on:

9 "He informed me that:
11:26 10 - he feels Larry Fisher is capable of
11 committing the murder of Gail Miller.
12 This is based on Fisher's record and the
13 North Battleford rape in 1980."

14 And would that have been accurate information in
11:26 15 terms of your thought process in 1993,
16 Mr. Poitras?

17 A Yes, I think so.

18 Q That would have been?

19 A Yes.

11:26 20 Q And reading on:

21 "- he hasn't spoken to Larry about any
22 of the offences. He hasn't seen him in
23 years."

24 And would that have been accurate at that time as
11:26 25 well, Mr. Poitras?



1 A Yes.

2 Q Reading on:

3 "- Sylvia Fisher, Larry's sister, may
4 know something of the offence. Arnold
11:26 5 does not and can't recall discussing
6 Fisher's offences - Miller murder with
7 anyone in particular. It has been
8 discussed within family circles."

9 And does that sound like information you may have
11:27 10 provided to a police authority as of 1993?

11 A Yes, that's possible, I guess.

12 Q And would I be correct, then, that you didn't
13 provide the information about your discussion with
14 Herbert Poitras?

11:27 15 A Umm, I guess not.

16 Q Okay. And would there have been any reason for
17 that at that point in time?

18 A I don't remember.

19 Q Would that have been something that was in your
11:27 20 memory at that point in time, in 1993?

21 A I don't know.

22 Q And maybe just step back for a moment; has your
23 memory been more recently refreshed as to the
24 discussion with Herb Poitras?

11:27 25 A Yes.



1 Q So was that something that wasn't necessarily
2 something you recalled until more recently?

3 A I think, like, I completely forgot about it until
4 all this started again.

11:27 5 Q Okay. So when did, when did your recollection of
6 this information being received from Herb Poitras
7 arise?

8 A Probably within a few months ago.

9 Q Okay. Was it in the course of discussions with
11:28 10 our office and in preparations for this Commission
11 of Inquiry?

12 A Yes.

13 Q Okay. But you are quite certain, that is a clear
14 recollection you have, that that was information
11:28 15 that you received from Herb Poitras?

16 A Yes, I do believe it was.

17 Q Okay. I'll read forward from there:

18 "- he has spoken to his brother Herbert
19 (married to Fisher's sister, I believe)
11:28 20 about the Miller murder and he has
21 followed the case to some degree.
22 "Either of them" (referring to Fisher
23 and Milgaard) could have committed the
24 offence, Arnold suggests."

11:28 25 Does that sound like something you may have



1 communicated to a police authority during a
2 discussion in 1993?

3 A I guess I don't recall the discussion but --

4 Q But would that be an accurate indication of what
11:29 5 your position would be --

6 A Probably.

7 Q -- as of 1993?

8 A Probably.

9 Q And so you were following the case then, through
11:29 10 the years, the Milgaard case?

11 A Not really.

12 Q It wasn't something you followed closely?

13 A No.

14 Q So is this paragraph inaccurate in that respect,
11:29 15 where it indicates that you had been following the
16 case to some degree?

17 A Umm, I don't think so, no. Just whenever I heard
18 about it I --

19 Q Okay. If we read forward to the next paragraph:

11:29 20 "- he knows Linda Fisher but not well.

21 He last saw her about a month ago in

22 Cando and said hello. They have never
23 discussed the case, he said."

24 Again, would that be accurate as of 1993,

11:29 25 Mr. Poitras?



1 A Yes.

2 Q I'll read on from there:

3 "He says he may have spoken to others
4 outside the family about Larry Fisher,
11:30 5 but he can't recall."

6 Again, would that be accurate information as of
7 1993, Mr. Poitras?

8 A Yes.

9 Q I won't read the next paragraph, but you'll see
11:30 10 right at the outset the name Sidney Wilson is
11 mentioned. Does that name mean anything to you,
12 Mr. Poitras?

13 A No, it doesn't.

14 Q The documents would indicate, Mr. Poitras, that
11:30 15 your sister-in-law, Doris Poitras, spoke with the
16 RCMP in 1993 as well. I want to refer you to just
17 some short portions of the officer's notes from
18 that meeting. If we could turn, please, to
19 document 035781. Again, you'll see it's a similar
11:31 20 report, one of the RCMP officers taking notes
21 following a meeting with Ms. Poitras, and if we
22 could turn, please, to page 035783, it's dated
23 June 28th, 1993, the following discussion with
24 Doris Poitras, and this paragraph in particular,
11:31 25 Arnold, I want to draw your attention to. Doris



1 apparently indicated:

2 "- Arnold Poitras is James Poitras'
3 brother. Doris stated that she has
4 discussed Larry and her theories with
11:31 5 Arnold as well as others."

6 And do you recall discussions with Doris about
7 Larry Fisher, Mr. Poitras?

8 A Not really.

9 Q Okay. Do you recall discussing theories in
11:32 10 relation to Larry Fisher?

11 A No.

12 Q I'll move down the page, please, just to this
13 portion, and again notes of the officer from
14 Doris:

11:32 15 "- she has discussed Larry with Linda
16 but Linda never told her at any time
17 that Larry came home the morning of
18 January 31, 1969 with blood on his
19 clothing."

11:32 20 So it's apparent from that that at least in 1993
21 Doris' position was that she had not received
22 that sort of information from Linda Fisher, at
23 least from this report it would appear as such.

24 If we move forward to the next
11:32 25 page, 035782, just starting midway through, a



1 continuation of the notes relating to the meeting
2 with Doris, and it indicates:

3 "She has clarified the point raised by
4 "Sidney Wilson" namely that Linda
11:33 5 apparently said that Larry came home
6 with blood all over him. Doris confirms
7 that this was never mentioned to her by
8 Linda, something which the latter has
9 maintained to this date. It may well be
11:33 10 that as the recollections flowed from
11 person to person, the events may have
12 been embellished to a certain degree.

13 It is apparent from speaking to
14 Doris that she and others from her
11:33 15 immediate family and friends, (including
16 Arnold), have discussed this topic a
17 great deal".

18 Perhaps I'll pause there. Would you take any
19 issue with that comment, Mr. Poitras?

11:33 20 A Yeah. I just don't recall discussing that. Very
21 seldom if we ever did discuss it. Once or twice
22 maybe.

23 Q So you don't recall very many discussions relating
24 to Larry Fisher?

11:34 25 A No.



1 Q Okay. I'll just continue on from there.

2 "I would submit that in all

3 likelihood --"

4 Again this is the RCMP officer writer:

11:34 5 "I would submit that in all likelihood,
6 there was never any attempt by anyone to
7 mislead when reference was made to the
8 effect that Larry was "covered in blood"
9 on January 31, 1969. I see no point at
11:34 10 this time to re-interview "Wilson" or
11 Arnold Poitras."

12 Just stepping back for a moment, Mr. Poitras,
13 this might be a difficult question for you to
14 answer, but in terms of the information that you
11:34 15 received from Herbert, is it possible that this
16 was a story that perhaps passed from person to
17 person over time that maybe did not have a basis
18 in fact?

19 A I guess it is possible, yes.

11:34 20 Q All you know, I guess, is that you received this
21 information from Herbert at some point in time?

22 A Yes.

23 Q I'll refer you briefly as well to another document
24 which is 063110. I'm sorry, it's 063102 and
11:35 25 that's the page I want. These are some notes by a



1 Sergeant Pearson of the RCMP, you'll note the date
2 on the left-hand margin, March 16th, 1990, and if
3 we can turn to the next page, please, Sergeant
4 Pearson writes at the top and indicates that he
11:35 5 has received a collect telephone call from Linda
6 Fisher, that he discussed several points with her,
7 and we'll just look at this middle paragraph here,
8 please:

9 "- there was no blood seen on the
11:35 10 clothing of Larry Fisher, and, as far as
11 she knows, there were no clothes
12 missing. She does recall Larry having a
13 pair of undershorts with blood on them,
14 they were white shorts, however she does
11:35 15 not know whether this was during the
16 Miller death time frame. She is very
17 hazy on this aspect and was not even
18 positive if this even related to Larry,
19 but she just has some recollection of
11:36 20 blood on undershorts."

21 And do you recall, Mr. Poitras, ever receiving
22 that information that I've just read to you?

23 A No.

24 Q And have you had any contact with anyone else
11:36 25 through the years in relation to this matter in



1 terms of an authority or on behalf of the
2 Milgaards?

3 A No.

4 Q And I understand you were not called to testify at
11:36 5 the Larry Fisher legal proceedings in 1999; is
6 that correct?

7 A No.

8 MR. HARDY: Thank you, Mr. Poitras, those
9 are all the questions I have. My Friends may
11:36 10 have some questions for you.

11 BY MR. GIBSON:

12 Q Mr. Poitras, my name is Bruce Gibson, I act for
13 the RCMP. I just want to clarify a little bit
14 some of the contact that you may have had with the
11:37 15 RCMP back in 1993, and if we can go to document
16 035791 and on to 790, please, and if I recall your
17 testimony this morning, I believe you indicated
18 that you can't recall having contact with the RCMP
19 in 1993; is that fair to say?

11:37 20 A No, I don't recall.

21 Q Okay. And again, I guess we're looking at about
22 12 years since that contact would have taken
23 place, so memories can fade over time, I think
24 that's fair to say isn't it?

11:37 25 A Uh-huh, yes.



1 Q And it does indicate at the bottom of 790, it says
2 Arnold was very vague but cooperative, and is it
3 fair to say that when the RCMP contacted you in
4 1993, that your recollections about discussions
11:38 5 that you may have had with others or conversation
6 within the family about Larry Fisher would have
7 been vague for you at that time?

8 A Yes.

9 Q And clearly you were trying your best to cooperate
11:38 10 and provide what information you could, but were
11 taxed because of the time frame and just simply
12 what one's memory can recall; is that fair to say?

13 A Yes.

14 Q And if we can go to the bottom of 789, please, it
11:38 15 says right there:

16 "Arnold does not and can't recall
17 discussing Fisher's offences - Miller
18 murder with anyone in particular. It
19 has been discussed within family
11:39 20 circles."

21 And again, I think your evidence this morning was
22 that you really can't recall discussing that very
23 much within family circles; is that fair to say?

24 A Not very much, no, not that I know.

11:39 25 Q And I'm just trying to clarify for my own



1 understanding, the contact that you may have had
2 with Bruce LaFreniere, I believe you indicated
3 that in the 1980s you didn't associate with Bruce
4 LaFreniere?

11:39 5 A No.

6 Q And I'm just wondering if you recall clearly that
7 you had a discussion with Bruce LaFreniere about
8 the possibility of there being blood on Larry
9 Fisher's clothing or whether you can clarify that
11:39 10 for us?

11 A I vaguely recall talking to him about it.

12 Q And again, speaking about Larry Fisher, but are
13 you sure as to what you may have discussed with
14 him, whether there could have been discussions
11:40 15 with respect to blood on the clothing or whether
16 it could have just been speculation that he
17 somehow could have been involved?

18 A Well, what I can't recall is what I said about --
19 I was told about that by Herbert, that I can
11:40 20 recall mentioning, him mentioning that to me,
21 but --

22 Q And I take it your view of that information was
23 that -- I guess it was a bit of information that
24 was out there, that you weren't sure about the
11:40 25 accuracy of that information; is that fair to say?



1 A Yeah, I can't say. Like I said, it might have
2 been a story, who knows. Possible.

3 Q And in the context where you raised it with
4 Mr. LaFreniere, correct me if I'm wrong, you are
11:40 5 getting together with a friend or an acquaintance
6 and you are having a few beer at a hotel; is that
7 right?

8 A Yes.

9 Q And so you might be talking about a number of
11:41 10 things and one of the discussions that comes up is
11 Larry Fisher that you both would have had some
12 knowledge of?

13 A Uh-huh.

14 Q And you are sort of kicking that around a little
11:41 15 bit?

16 A Yes.

17 Q And I take it that wasn't a serious concern of
18 yours, you never thought that it was appropriate
19 for you to go to the police and raise that issue
11:41 20 with the police at that time?

21 A No.

22 Q And as we've heard through the evidence that was
23 put to you with respect to Doris being contacted
24 by the RCMP that there was never any information
11:41 25 from Doris that Linda had told her about blood on



1 clothing?

2 A Yes, I seen that.

3 Q And again you agreed with Mr. Hardy that that's
4 something that people would talk about, speculate
11:42 5 about, I guess didn't take too seriously because
6 they didn't go to the police; is that fair?

7 A Yes.

8 MR. GIBSON: Thank you very much.

9 MR. HODSON: There's no re-exam.

11:42 10 COMMISSIONER MacCALLUM: Mr. Poitras, is it
11 the case that you only remembered today when you
12 were shown counts by counts some documents, is it
13 the case you only remember today that you spoke
14 to LaFreniere about this matter in the mid '80s?

11:42 15 A Yeah. Well, I don't know, a month or so ago when
16 I was starting to get contacted by the Milgaard
17 Inquiry.

18 COMMISSIONER MacCALLUM: Okay. And you
19 didn't remember about that at all in 1993 when
11:42 20 the RCMP interviewed you?

21 A No.

22 COMMISSIONER MacCALLUM: All right. Thank
23 you.

24 MR. HODSON: Those are all the witnesses
11:42 25 for this week, Mr. Commissioner.



1 COMMISSIONER MacCALLUM: Just a sec,
2 counsel. Mr. Poitras, thanks a lot, you are
3 excused.

4 So I guess we're adjourned,
11:43 5 according to our Irene, until Monday, September
6 26th, at 1:00 p.m. at the Sheraton?

7 MR. HODSON: Yes.

8 COMMISSIONER MacCALLUM: Thank you.

9 (*Adjourned at 11:43 a.m.*)
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