

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
Sheraton Cavalier Hotel at
Saskatoon, Saskatchewan

On Wednesday, November 23rd, 2005

Volume 97

Inquiry Proceedings



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Mr. Eamon O'Keefe, Esq., **for** Mr. Larry Fisher
Mr. David Frayer, Q.C., **for** Minister of Justice
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Transcript of Proceedings

(Reconvened at 9:00 a.m.)

COMMISSIONER MacCALLUM: Good morning.

ALL COUNSEL: Good morning.

RICHARD ALLAN PEARSON, continued:

MR. HODSON: Mr. Pearson, when we broke yesterday we were in the time frame of September 1991, and I think you had just covered discussions with Mr. Williams about getting Larry Fisher to take another polygraph and some discussions you had with him, and then I think on September 20th, '91 advised that Mr. Fisher would not undergo a further polygraph or any further police interviews, then I took you through your September 23, 1991 report. So if we could just carry on chronologically, if we could call up 114855. 114855?

(Discussion off the record)

BY MR. HODSON:

Q Mr. Pearson, is there anything that you can tell me that we don't need documents for? I'm afraid I can't ask you anything either. I think we'll just be a moment here. 114855, thank you.

This is a September 23rd, 1991 fax from you to the Commissioner, the RCMP Records



1 Management in Ottawa, and if we could just call
2 out the bottom part, please. And it looks as
3 though, on this date, you are checking with your
4 records and data banks to determine if there's any
5 police files for the -- the first eight are the
6 sexual assault victims listed in the second 690
7 application; is that correct?

8 A That appears to be so, yes.

9 Q And then as well for Larry Fisher and David
10 Milgaard. What, can you tell us what, what
11 records and data banks would be checked?

12 A I'm not, I'm not certain, to be honest with you,
13 what is archived. I really don't know what they
14 --

15 Q Yeah. We have seen before, at least dealing with
16 the four Saskatoon offences in '68 and '70, we
17 have seen copies of some lab reports, and
18 certainly in the Gail Miller investigation we saw
19 copies of RCMP lab reports being obtained by the
20 police in that investigation. Would it be fair to
21 say that this check would be to see whether the
22 RCMP had any records whatsoever related to these
23 victims, the first eight?

24 A Yes, well that's -- that was what the attempt was,
25 to see if there was anything at all that would be



1 archived in those names.

2 Q And at the time, sir, did you have any knowledge
3 as to how long the RCMP kept -- or do you know,
4 today, how long these records were kept?

5 A No, I don't. Like I say, there might be an
6 archiving guideline for keeping things
7 indefinitely, and others there may be destruction
8 policies, but I really don't know.

9 Q And similarly for Larry Fisher and David Milgaard;
10 would you be looking for any lab work records or
11 data in the system that --

12 A Just anything in the system that --

13 Q If we could go back to 056804, which is part of
14 056743, your office chronology.

15 COMMISSIONER MacCALLUM: 743?

16 MR. HODSON: Right.

17 BY MR. HODSON:

18 Q 743 is the doc. ID, and to page 056804. And
19 again, this is September 23, and it looks as
20 though you got a call back from your request from
21 Jean Roney that:

22 "... there are no files. There is some
23 material indicating blood work was done
24 on ... (V10)-, but nothing indicating
25 any work done on Fisher. She also



1 indicated there may be some very brief
2 general note material of Bruce Paynter,
3 who was involved in the *Milgaard* case,
4 however she states there was nothing
5 which would enlighten this Inquiry. She
6 states the notes are not specific or
7 detailed enough to understand."

8 And so I take it that would have been the
9 response to your inquiry?

10 A It appears so, yes.

11 Q And we covered, the last sitting the Inquiry, an
12 Audrey Bouton, I had put this paragraph to you, I
13 don't think we need to cover it.

14 If we could then go on to the
15 24th and 25th, if you can just scroll down. If we
16 go to Gary Treble and Bill Graham, Sask. Police
17 Commission, I take it from these notes, sir, that
18 you had some meetings with them? They were the
19 Police Commission investigators looking into the
20 missing files.

21 A Yeah, that's right, I had contact with them.

22 Q And then if we could go, paragraph 278 says you
23 met with Gary Treble, and then you say here:

24 "I provided them whatever information I
25 had which would assist them in locating



1 the so-called missing Fisher files. At
2 this time I also made a copy of the
3 (V5)--- file which Bill Graham had, as I
4 did not believe I had the complete file
5 on this matter, after seeing the thick
6 material he possessed."

7 And, again, are you able to elaborate on that
8 statement at all, Mr. Pearson?

9 A Well the only recollection I have is that, during
10 our discussion in my office, he did have this --
11 several files, and he had one file that was,
12 looked fairly thick, and he referred it to as a
13 (V5)--- file, and it just looked like he had a lot
14 more information than I had so I was -- got a copy
15 of it.

16 Q I think we earlier saw a note where Inspector
17 Quinn had given you a copy of the (V5)--- file, is
18 that right, or you had previously got a copy from
19 the Saskatoon City Police; is that right?

20 A I think the (V5)--- file, as I recall, surfaced
21 during the microfiche search of the files. I
22 don't -- my recollection is they never had a
23 physical file. That's just my recollection now.

24 Q I'm sorry, would it be a copy of the microfiche?

25 A I believe that's what -- where it came from.



1 Q So that --

2 A Because initially, as I recall, there was a
3 partial (V1)- file was the only one that was
4 initially available, to the best of my
5 recollection.

6 Q Are you able to assist us here in telling us,
7 before this meeting with Treble and Graham, when
8 you say "... I did not believe I had the complete
9 file on this matter ..." are you telling us that
10 you had nothing on (V5)-- (V5)--- prior to this,
11 or did you have something?

12 A I must have had something because it looks like,
13 just from the comments, I'm not going from memory
14 here, I'm just going from what I am reading, it
15 looked like I had some material but it didn't look
16 like I had as much as they had.

17 Q And the material you had, whether it was the file
18 or microfiche or whatever, do you recall who you
19 would have got that from?

20 A I'm only assuming the city police, but again, I
21 don't, I don't recall.

22 Q And did you ever compare what you received from
23 Treble and Graham to what you had already had
24 from, presumably, the city police?

25 A I don't recall if I made a page-by-page



1 comparison.

2 Q And then, if we go down to 279, you say:

3 "I also provided a photocopy of one page
4 of the Application under Section 690 ...
5 regarding the alleged City Police source
6 that was deleted out. I explained to
7 Gary and Bill I would share with them
8 the results of the Crime Lab
9 documentation examination when they were
10 known."

11 And if we could just call up, the page number is
12 008457, and I think that's part of doc ID 008400.
13 And this is the page you are referring to, I take
14 it?

15 A Yes.

16 Q And then if we can go back to 056804, which is
17 part of doc. ID 056743, it appears here you
18 explained to Treble and Graham that you are doing
19 -- and I'll get to this a bit later -- but that
20 you had submitted this page to your lab to see if
21 they could determine the name that had been
22 blacked out; is that correct?

23 A I was interested in knowing what the blacked-out
24 portion of this was, yes.

25 Q And would you have had any discussion with Treble



1 and Graham about this? I think you told us
2 yesterday that you believed the blacked-out name
3 was a confidential police source that either the
4 Milgaard family or their counsel had within the
5 Saskatoon City Police; is that right?

6 A Yes.

7 Q Do you recall any discussion with Treble and
8 Graham about this issue at this time?

9 A Oh, I'm sure I had discussion with them, but to
10 recall that discussion, no, I just can't.

11 Q And we'll come to some notes a bit later on, Mr.
12 Pearson, that may assist you on the timing. And I
13 take it though, at this time, you would have
14 provided a copy of that to Treble and Graham and
15 made them aware that a member of the Saskatoon
16 City Police was providing, or appeared to be
17 providing, copies of files, and in fact the
18 (V5)--- file, to the Milgaard investigators; is
19 that right?

20 A I believe that's true, yes.

21 Q Paragraph 280, you then say:

22 "I also went over file material provided
23 by Saskatoon City Police regarding the
24 examination they made of sex offences
25 from the late 1960's and early 1970's."



1 And if we can call up 012700, and this is a
2 letter August 28th, 1991 I think from Lorne
3 Gelowitz to Chief Penkala, and I believe this is
4 the Analysis of Sex Crimes. It's a lengthy
5 document, it's appended to one of your reports,
6 and we've looked at this document before, but it
7 just talks about the reported cases of rape and
8 sexual assault and the number of incidents where
9 a weapon was used, and would this have been the
10 document, then, that you had reviewed?

11 A Yes, it must have been, yes.

12 Q Do you -- actually, if we can go to the next page
13 for a moment, the concluding paragraph is:

14 "After analyzing all of the
15 above-mentioned occurrences, there was
16 no suspect mentioned as being
17 responsible for more than one offence,
18 nor was there any clear trend or method
19 of attack evident in the files
20 examined."

21 And do you recall, Mr. Pearson, whether this
22 report and the analysis, what if anything you did
23 with it or where it fit in with your
24 investigation?

25 A You know, I don't recall whether this had much



1 effect on anything, I don't know what could have
2 been drawn from it, but I just can't recall what
3 transpired here. I do believe this was the one
4 that was requested directly by Mr. Williams
5 through Chief Penkala if I'm not mistaken.

6 Q Yes, you are correct.

7 A It is also I believe the same one that I had
8 initiated by Mr. Williams through my side. I
9 think we kind of both -- I didn't at the time
10 realize that they had been approached by Mr.
11 Williams on it, but later it seems that he did, so
12 I think this is the document we've been talking
13 about.

14 Q And again, are you able to shed any light on what
15 value if any this would have in your analysis of
16 the similar fact evidence or the similar fact
17 analysis you were doing of the Fisher crimes
18 compared to Gail Miller?

19 A Well, his conclusion was that there was, you know,
20 no real trend or method of attack evident in the
21 files that he reviewed in what he gained, but to
22 say what impact that had on me at the time, gee, I
23 just don't recall, but I do know I passed this on
24 again on to Mr. Williams. I'm not sure what kind
25 of impact it had on him.



1 Q Okay. If we could go back to 056804, but would
2 again, would this document be something where you
3 might compare the '68 to '70 Fisher rapes and his
4 modus operandi with other rapes and sexual assault
5 offences committed in the time frame with a view
6 to looking at whether or not his rapes were unique
7 when compared to others?

8 A Yes, possibly, but I don't recall doing that. I
9 don't recall doing that.

10 Q Do you know if that was the purpose that this
11 information was obtained for Mr. Williams?

12 A I would believe there had to be some statistical
13 analysis he was doing or some review that he was
14 doing, but --

15 Q And again just as an investigator, if you are
16 trying to look at Larry Fisher's crimes and trying
17 to identify a modus operandi and similarities and
18 then compare it to the Gail Miller murder, would
19 one factor to look at be other rapes going on in
20 the city at the time?

21 A Oh, yes.

22 Q Committed by people other than Larry Fisher?

23 A Yes.

24 Q And one scenario on the one end might be that if
25 all the other rapes are similar to the ones



1 committed by Larry Fisher, his may not be unique,
2 or his method; correct?

3 A Yeah, I suppose you could read a lot of things
4 into it, yes.

5 Q And on the other side of the spectrum, if the
6 other rapes are committed with different modus
7 operandi quite different from Mr. Fisher's rapes,
8 you might conclude that his pattern is distinct;
9 is that fair?

10 A Yes, that's fair, that's fair.

11 Q Now, I think you've told us that you didn't, you
12 yourself didn't follow up and use this information
13 that way; is that correct?

14 A That's fair.

15 Q But as far as an investigator, what I have put to
16 you is something that might be of use with this
17 information in looking at the similar fact
18 analysis?

19 A Yes, to a degree. This was more of a statistical
20 analysis as opposed to a detailed analysis of the
21 similarities of crimes.

22 Q If we can go back to -- I'm sorry, we're at 804,
23 if we can just go down to 281, it says:

24 "Graham indicated to me that he has
25 taken possession of the micro-fiche



1 tapes to determine if they had been
2 tampered with or if the files had ever
3 been entered into the system. Not much
4 I can do to assist in this regard, but I
5 did express to them the fact that the
6 Saskatoon City Police officials have
7 been extremely cooperative with me in my
8 requests of them, and I am left with the
9 impression they would like nothing
10 better than to get this matter cleared,
11 as the publicity is putting them in a
12 bad light."

13 Can you elaborate on that comment?

14 A I -- you know, over this entire time period, over
15 the entire time I was in Saskatoon I had a lot of
16 contact with the Saskatoon Police Service and I
17 knew them fairly well from a working relationship
18 and just the general impression was that they
19 weren't happy with what was happening as far as
20 the publicity and the negativity that was going on
21 suggesting that there was a cover-up and things
22 like that, so I think, you know, the people that I
23 associated with left me with the impression that
24 they would like nothing better than to get this
25 matter cleared up and dealt with.



1 Q And as far as the missing files, and I think we're
2 fairly clear on what those are, I think the,
3 ultimately part of the (V1)- file was found, but
4 not its entirety, and (V2)----- and (V3)----- I
5 think statements were found, but the files were
6 not located, and the (V5)--- file, and again I
7 think it was the entire file, although there might
8 still be a bit of debate on that, but of the four
9 Saskatoon Fisher assaults, at least three of the
10 four files were not found in their complete state.
11 Does that accord with your recollection?

12 A That's my recollection, yes.

13 Q And in your dealings with the Saskatoon City
14 Police, did you observe anything, Mr. Pearson, or
15 hear anything or come to any conclusion that any
16 police officers may have been involved in
17 destroying the file or hiding the file or doing
18 anything improper with any of those files?

19 A Nothing like that was ever related to me.

20 Q And in your dealings with the police officers, and
21 again your discussions with them, I'm just talking
22 about your observations and dealings, did you get
23 any sense as to whether the police officers that
24 you were dealing with, and I think your words were
25 would like nothing better than to get this behind



1 them or to get them, did you get the sense that
2 they would like to find the files as well, the
3 missing files?

4 A Well, just generally speaking, you know, most of
5 the people, or a lot of the people around were not
6 familiar with the Milgaard case, so to speak, 20
7 years before, a lot of the people weren't even on
8 the department at that time. A lot of them had no
9 knowledge of this investigation, you know. There
10 was Chief Penkala and a few of the older members
11 that were about to retire had some knowledge, but
12 the general view was that, you know, the people
13 that I was dealing with, they had no knowledge or
14 direct involvement in this at all, all they were
15 living with was the present bad publicity they
16 were getting over it and they just wanted this
17 thing resolved.

18 Q Did it strike you as being unusual, Mr. Pearson,
19 at this time, that of -- and again I don't recall
20 the exact number, but there were many files that
21 were located, but of the ones that were not
22 located, three out of the four Fisher files fell
23 into that category, and I think that's -- and I
24 don't want to go to the media reports, but
25 certainly that was what was being suggested, that



1 it wasn't a case of all files be destroyed, but
2 only a small number compared to the grand total
3 and it happened to be three out of the four. Do
4 you recall hearing things of that nature?

5 A Yes.

6 Q And again, did that cause you any concern, that --

7 A It does cause you to think, it sure does, and, you
8 know, I think the Sask Police Commission and their
9 inquiry for the tapes that they reviewed, I think
10 there's something like 38 files that were missing.
11 I don't have the details on what those files were
12 all about or what they were related to, but there
13 were other files. Now, was that to do with
14 anything that was, you know, being done illegally
15 or under the table or was that just administration
16 of file conversion from paper to microfiche, I
17 don't know, the Police Commission I believe put a
18 report in in that regard, but when you say, yeah,
19 there were some files missing, I suppose the
20 natural thing is to scratch your head and say,
21 well, where are they and why are some of these the
22 Fisher files.

23 Q And again, as far as your dealings, you mentioned
24 the, I think at the last sitting the fact that the
25 Fort Garry files related to Fisher's convictions,



1 at least the police files were destroyed; however,
2 copies or remnants of them were on Mr. Fisher's
3 penitentiary file. Did you ever have any
4 suspicions or concerns about the manner in which
5 the Fort Garry police files were destroyed?

6 A No, I didn't, just based on the fact that, you
7 know, if the files are out and out destroyed at
8 the end of the holding period and they are no
9 longer there, that's really what the
10 administrative process would have called for, but,
11 you know, in this case it's a little different I
12 suppose in that the files were being converted
13 into microfiche and they didn't show up, so I
14 suppose there's a bit of a difference there.

15 Q As far as your work in both of the Section 690
16 applications, your investigation work, did the
17 fact that you did not have complete copies of the
18 four Saskatoon files related to the Larry Fisher
19 assaults hamper in any way your investigation?

20 A Well, I think when I got to the point of a similar
21 fact analysis, it would have, yes.

22 Q And what about the Fort Garry files, again I think
23 you, I think there were --

24 A I think you could say the same there as far as not
25 having complete file versus a partial file.



1 Q Go back to your chronology and it looks as though
2 you went to Winnipeg, and I think this is going to
3 Mountain Prison, to look at Larry Fisher's prison
4 records, and I think you met Eugene Williams there
5 and it appears that on the same trip Mr. Williams
6 had dealt with Nichol John, and I stand to be
7 corrected, but I think this date coincides with
8 when Nichol John was hypnotized by Lee Pulos, and
9 your note here suggests that you became aware of
10 that after it happened; is that right?

11 A Yes, and that was -- we didn't go to Winnipeg,
12 that was British Columbia we went to.

13 Q To Vancouver.

14 A Yeah, Agassiz we went to as far as Mountain
15 Institution.

16 Q Yes. So just to back up, do I take it from this
17 note that when you arrived in Vancouver to meet
18 with Williams to go see Larry Fisher in Mountain
19 Prison, you became aware that Mr. Williams had met
20 with Nichol John earlier that day and had her
21 under hypnosis, and in particular --

22 A I'm not sure what he told -- I must have, yes, I
23 must have been aware of that or he must have told
24 me.

25 Q And were you any part of that process or



1 interview?

2 A No, I wasn't, no.

3 Q And again, did you think you should have been or
4 was that --

5 A No, I don't believe so. I mean, this was part of
6 what he was pursuing and I didn't feel that I
7 should have or had to be there. I never felt left
8 out if that's what you mean.

9 Q And do you recall any discussion with Mr. Williams
10 about what he said about the session?

11 A Oh, we did have, we did have some discussion in
12 the room. The details I really --

13 Q Anything that sticks out in your mind?

14 A No, I'm sorry, I just can't recall, but I do
15 know -- I remember being in the room with him and
16 I remember there was some discussion on hypnosis.

17 Q And would you agree, sir, that in looking at Larry
18 Fisher as a suspect at this time, that Nichol
19 John's state of mind or her recollection at this
20 time would be important, and let me go a bit
21 further, that if at this time Nichol John, that it
22 was determined that her statement back in 1969
23 where she witnessed, where she said she witnessed
24 David Milgaard grab and stab a girl, if it had
25 been determined through some process that that was



1 not credible and that she acknowledged that or
2 that it didn't happen, would that cause you to
3 have more suspicion with respect to Larry Fisher?

4 A Well, I never really examined Nichol John
5 material.

6 Q I'm sorry, I'm not asking you to judge Nichol
7 John, I'm just -- from your perspective, looking
8 at Larry Fisher as a suspect, and I think you've
9 told us on a number of previous occasions that if
10 David Milgaard did it Larry Fisher couldn't have;
11 if David Milgaard didn't do it, then Larry Fisher,
12 I think you said, and correct me if I'm wrong,
13 might be more of a suspect. In other words, if
14 you could undo the conviction, then you might have
15 more suspicion?

16 A Yes, that's --

17 Q Is that fair?

18 A That's fair.

19 Q And so in doing that, would it be fair to say that
20 when you were looking at Mr. Fisher as a suspect
21 during this time, the fact that Mr. Milgaard had
22 been convicted of the crime was something that was
23 always there in your mind that had to be balanced
24 with anything that you got from Mr. Fisher?

25 A I think it had to be weighed, and it was being



1 weighed continually I think by everyone.

2 Q And so back on, and I'm not asking you to judge
3 Nichol John, but simply two scenarios, one where
4 it's concluded by someone that Nichol John's eye
5 witness account in the statement turns out to be
6 not credible or a false memory or something like
7 that, in other words, that's off the table, and I
8 think you told us the other day that an eye
9 witness would be a link between a suspect and the
10 murder; correct?

11 A Sure, yes.

12 Q So let's assume that that's off the table. Would
13 that factor, just in your work looking at Larry
14 Fisher, would that cause you to be more suspicious
15 or have, treat Larry Fisher as more of a suspect
16 in the murder of Gail Miller if you knew that
17 Nichol John's eye witness account was no longer a
18 factor?

19 A Oh, yes, absolutely.

20 Q And conversely, if through some process, and again
21 I'm not asking you to judge how, but if someone
22 came back and said Nichol John now recalls it or
23 somehow her recollection or her eye witness
24 account is somehow given more credibility at the
25 time again back in 1991, would that change your



1 views on how you looked at Larry Fisher as a
2 suspect?

3 A It potentially could I suppose, yes.

4 Q So again would you agree that, and even though you
5 weren't involved in what was happening with Nichol
6 John and others, that the, for lack of a better
7 word, status or the integrity of David Milgaard's
8 conviction was a factor in your mind in looking at
9 Larry Fisher as a suspect, would you agree with
10 that?

11 A Yes, that's fair.

12 Q So if we can then go back to the visit at the
13 Mountain Institution, if we can scroll down just a
14 bit, and it looks here that you reviewed nine
15 files, and I believe it says you were given access
16 to all files except the medical file; is that
17 right?

18 A Yes.

19 Q And you say:

20 "There was nothing in the Fisher
21 material that I reviewed which would
22 suggest there is any association to the
23 Miller murder or to the death of any
24 other person whose identity is unknown.
25 In summary, the material was not very



1 revealing so far as Mr. Fisher's
2 criminal activity prior to entering the
3 correctional system."

4 And again, I think there was some reference as
5 well that although you didn't see the medical
6 file, someone there reviewed it and advised you
7 that there was nothing in the medical file that
8 related to the Gail Miller murder; is that
9 correct?

10 A I believe that's correct, yes.

11 Q And then you talk about the analytical work on the
12 similar fact comparison to be done by Friday as
13 there's some urgency and then as well it was
14 agreed that you would interview Inspector Parker
15 concerning his comments about moccasin tracks
16 being found at the Miller scene, and then:

17 "Mr. Williams suggested that I may be
18 called upon to re-interview the Fisher
19 victims to ensure complete details are
20 secured for the purposes of this
21 review."

22 And would you have had a discussion with Mr.
23 Williams about that?

24 A Yes, I believe so.

25 Q And at this time, Mr. Pearson, what was your view



1 about whether or not the previous -- that the
2 Fisher sexual assault victims should be
3 re-interviewed?

4 A Well, it stemmed basically on the issue with the
5 (V14)- matter, in the way that surfaced it caused
6 some questions in my mind as to whether the
7 information that was forwarded was really that
8 accurate and I thought because of the information
9 now before, you know, gone up the channels, I
10 thought that there should be some way to validate
11 some of the information and by reviewing some of
12 the victims to confirm.

13 Q Now, at this time, this is September 26th, '91,
14 you had not interviewed (V14)-- (V14)- yet. Prior
15 to -- prior to dealing with her, learning of the
16 (V14)- matter, and I'll deal with that a bit later
17 this morning, but did you have any view as to
18 whether or not the -- again, apart from the (V14)-
19 concerns which I'll deal with you -- did you have
20 any other reason to think that these people ought
21 to be re-interviewed?

22 A Nothing that stands out in my mind at the moment.
23 Maybe at the time I did, but really the one that
24 stands out is the (V14)- matter.

25 Q And again, the fact that Mr. Williams says that



1 you might be called upon to re-interview the
2 Fisher victims, is that something that would have
3 been Mr. Williams' decision or your decision or a
4 shared decision? Are you able to tell us?

5 A I really don't recall whose idea or suggestion it
6 was. It could have been both of ours.

7 Q Could you --

8 A But it says that Mr. Williams suggested that I may
9 be, so that's the way it's written, so it may have
10 been his idea. I --

11 Q Could you have -- oh, I'm sorry.

12 A I really don't recall.

13 Q Could you have gone out at this time, Mr. Pearson,
14 on your own and made your own decision that
15 lookit, I want to talk to -- putting aside
16 (V14)- -- I want to talk to the other seven
17 assault victims of Fisher and go interview them,
18 is that something you could have or would have
19 done without talking to Mr. Williams?

20 A I think I was, you know, this was something that
21 was under the 690 process and was, you know, in a
22 level above me, I don't think I was going to go
23 too far off on my own, but, you know, I'm not
24 saying I was restricted and I couldn't, but I was
25 trying to follow along where we should go with



1 this through Mr. Williams, but that's not to say
2 that he ever suggested to me don't do anything
3 unless I tell you, I don't think that was the
4 relationship at all.

5 **Q** And were you comfortable with the relationship
6 with Mr. Williams as to what you could or couldn't
7 do, was there any issues you had about -- did you
8 feel at all restricted in what you could do by
9 anything he said or did or didn't do?

10 **A** There were some things that I thought we could do
11 when we started talking about the polygraph or
12 even talking about these victims, there was some
13 areas that I wanted to maybe pursue, and he had
14 some, you know, his reasons why he didn't want to
15 do it maybe at that time, but no great differences
16 as such. I got along well with Mr. Williams.

17 **Q** Go back to the analysis here, this is September
18 30, it looks as though a call to Sergeant Mike
19 Thorpe about this analysis, and if I could call up
20 016241, and this is a note from your superior
21 Superintendent Goodman to the officer in charge,
22 criminal operations, and this is just about the
23 similar fact analysis, and the comment here, it
24 says:

25 "Unfortunately this will have to be done



1 on the basis of information/files
2 available to us. We do not have the
3 files on most of the Fisher offences and
4 the analysis will therefore not be as
5 complete as would otherwise be the case.
6 Arrangements are also in-place for Sgt.
7 Pearson to review the prison files on
8 Fisher."

9 So again, and I think you've alluded to this
10 earlier, that the fact that you did not have
11 complete files might have hindered a bit this
12 similar fact analysis?

13 A Yes.

14 Q If we could go back to doc ID 056743 and go to
15 page 056806, and it looks as though on October 1
16 Sergeant Thorpe was in Saskatoon and you arranged
17 with Superintendent Simpson at the city police to
18 have your analytical people go and attend and
19 review file material at the Saskatoon police
20 station; is that right?

21 A Yes.

22 Q And in fact I think you went and gave them access
23 to the file at the city police station; is that
24 right?

25 A Well, I made the introductions to the -- well, as



1 we indicate there, to Deputy Chief Montague, and
2 they then continued on with the review of the file
3 to gather whatever information they required for
4 their analysis.

5 Q And if we go down to paragraph 290, you say:

6 "I discussed with Thorpe and Derkach the
7 similar fact analysis that we hoped can
8 be completed and that we do not want
9 opinions on the results, we want only a
10 similarity of facts pulled from each
11 file and placed in some order that is
12 understandable and easily referred to.
13 We will leave the value of the facts and
14 their similarities up to those qualified
15 to determine whether or not it is in
16 fact evidence."

17 Why did you make that request, Mr. Pearson?

18 A Well, I think it was, we wanted to make a factual
19 comparison as opposed to having an opinion because
20 this was, I suppose, a legal assessment made by --
21 someone had to make a determination as to whether
22 or not the facts really do convert into something
23 that could be termed as evidence and I suppose
24 these decisions would maybe be better made by a
25 lawyer, so to speak, than the opinion of a



1 policeman.

2 Q And just so that I understand this, I thought when
3 we talked about these people earlier, that their
4 skill set was to do analyses of other crimes with
5 a view to trying to connect it to an unsolved
6 crime. Was that not their job, so to speak, or
7 their skill set?

8 A Yes, I suppose. Yes.

9 Q And in regular day investigations that's what
10 these people would be doing, would be to look at
11 other crimes of an accused or a suspect and try
12 and see if there's anything in those other crimes
13 that might link the suspect or accused to a crime
14 under investigation; is that a fair summary?

15 A In 1990 I'm not sure how refined it was at that
16 point, but it is today. Back in 1990 it's
17 possible. I'm not sure, but it sounds reasonable.

18 Q And do you know if this request not to have them
19 express an opinion, was that something that came
20 from Eugene Williams or was it from you or do you
21 know where that originated?

22 A I'm not sure where it originated. Quite possibly
23 from me.

24 Q And again 291, just to point out that again
25 October 4th you are still waiting for the (V14)-



1 file material from the 1968 investigation, so by
2 this time you still have not looked at the file,
3 nor interviewed her; is that correct?

4 A That appears so, yes.

5 Q And then scroll down, please, August 15th, '91,
6 the analyst's report from Thorpe and Derkach was
7 faxed today to Ottawa, and if we can go to 009033,
8 and this is your fax of October 10, 1991 to
9 Mr. Williams and attached the requested fact
10 analysis which was recently completed by our
11 analytical unit. Then you say:

12 "It will be left to your department to
13 assess whether the comparison equates
14 into anything resembling "similar fact"
15 evidence, as advanced in the Section 690
16 Application."

17 And again, is that what you were referring to
18 earlier as far as the analysis?

19 A I believe so, yes.

20 Q And so was it your view that this would be done by
21 Eugene Williams or others at justice department?

22 A Yes, that's right.

23 Q And then you say:

24 "A separate investigation is being
25 conducted into the (V14)-- (V14)- case.



1 It is believed file material exists,
2 however, to date has not been provided
3 from Sask Justice to our Force. You
4 will note the (V14)- case was not
5 included in this report as it remains
6 unknown at this time who the suspects
7 were."

8 So I take it at this time (V14)-, unlike the
9 other seven cases, in the (V14)- case there had
10 been no conviction of Larry Fisher; is that
11 correct?

12 A Yes.

13 Q And I think at this stage, other than the
14 information you had from the Centurion Ministries,
15 you had not received the RCMP file or talked to
16 her; is that correct?

17 A That's correct, yes.

18 Q If we can then go to the next page, which I think
19 is the cover page of the report, if we can just
20 call out that part, please, and Thorpe and Derkach
21 I think you told us were officers that were in
22 this analytical division and this was their
23 regular duties as RCMP officers, was to do work of
24 this nature; is that right?

25 A I think that was in part. I'm not sure this is



1 the entire duty they had at that time, but yes,
2 this was one of their jobs.

3 Q If we can go to 009036, please, of this document,
4 and would you at the time, Mr. Pearson, have gone
5 and reviewed this document and gone through it do
6 you think?

7 A Yes, I would think so.

8 Q And prior to this, and this document, and I'll go
9 through parts of it with you, compares in some
10 parts what's in the victims' original statements,
11 what is in the statements, or the information
12 obtained by Centurion Ministries and what's on the
13 police file and does a comparison to try and get a
14 picture of each of the seven assaults. Is that a
15 fair summary of what's in the document?

16 A Yes.

17 Q Is that something that you yourself did, apart
18 from this analysis, did you ever go back and
19 follow up on, putting aside (V14)-, but on the
20 other seven assaults to look at what information
21 had been put forward, how this compared to what
22 was on the files, etcetera, or did you rely on
23 this report?

24 A I relied on this report.

25 Q And if we can just go through parts of this, they



1 talk about seven sex related offences which Fisher
2 is known to have been involved in, and then it
3 says:

4 "This project was undertaken at the
5 request of Sgt. Pearson, Saskatoon
6 General Investigation Section of the
7 Royal Canadian Mounted Police, for the
8 purpose of:

9 (i) analyzing the modus operandi of
10 Larry Fisher in offences he is known to
11 have committed.

12 (ii) comparing similarities and
13 differences in these offences to the
14 details of the Gail Miller murder.

15 For the purpose(s) of this
16 report, when available victim statements
17 and police reports made at the time of
18 the incidents were utilized."

19 So then again to the next page:

20 "Problem Areas."

21 If you could just highlight that, it says:

22 "The majority of Larry Fisher's offences
23 occurred between 1968 and 1970 and in
24 some cases police reports are not
25 available. Centurion Ministries ...



1 have conducted their own investigation
2 by interviewing victims in 1991. These
3 files have also been made available to
4 compile this report. When comparing
5 statements given by victims at the time
6 of the incident ...",

7 could we get over to the full page or is that:

8 "When comparing statements given by
9 victims at the time of the incident and
10 those given to Centurion there appear to
11 be glaring differences which is not
12 surprising since more than twenty years
13 have elapsed. Those files which were
14 complete and intact were the (V10)
15 (V10)- Attempted Murder in 1980, and the
16 Gail Miller murder in 1969.

17 In some instances a lack of
18 detail made it impossible to effectively
19 perform any analytical function.

20 Another problem was the
21 inability to interview victims or
22 investigators to clarify discrepancies,
23 and also the quality of the report made
24 it difficult to read.

25 If more lead time had been



1 allowed, an indepth study would have
2 been possible."

3 And then:

4 "Regarding the Assault on (V14)-- (V14)-
5 ... Centurion recently interviewed her
6 and have submitted their report. The
7 RCMP are in the process of conducting
8 their own investigation. If a report is
9 required it will be submitted in due
10 course."

11 So it looks like the (V14)- matter is excluded
12 from this report; is that correct?

13 A Yes.

14 Q Just going back to these problem areas identified,
15 the fact that there appeared to be differences --
16 and, again, I'll go through some of them --
17 between what the Centurion Ministries people
18 report the victim said to them in 1991 versus what
19 may have been said back in 1968 or 1970 -- and
20 again, Mr. Pearson, this report says that's:

21 "... not surprising since more than
22 twenty years have elapsed."

23 And, again, would you agree with that comment?

24 A In general terms, yes, I think in 20 years
25 memories fade and things change, that, I agree



1 with that.

2 Q And then they say as the:

3 "Another problem was the inability to
4 interview victims or investigators to
5 clarify discrepancies ...",

6 and was there a reason that that wasn't done at
7 this time?

8 A To interview victims?

9 Q 'To interview victims or investigators to clarify
10 discrepancies?'

11 A Well, I don't know about interviewing victims, I'm
12 not sure just what time frame this fits into?

13 Q This is October 10th, and this is before you have
14 interviewed (V14)- (V14)-.

15 A Okay, because there were some discussions I had
16 with Mr. Williams about wanting to interview the
17 victims, and he was reluctant to do that.

18 Q And do you know why that was?

19 A Well I can only, you know, make a reference to one
20 of my notes where he was of the -- seemed to be of
21 the view that, unless there was an association
22 between Larry Fisher and the Gail Miller crime,
23 that I think the term was 'there was no merit in
24 doing that'. I think that's the position that --
25 and he'll have to explain that -- but that was, I



1 believe, the position that he took so --

2 Q Anyways, I'm sorry, was that a note, I think we
3 looked at that yesterday, is that the one you are
4 referring to?

5 A Well yes, there are several references in my
6 notebook --

7 Q Yes.

8 A -- about the conversations we had --

9 Q Yes.

10 A -- about the possibility of following up with the
11 victim interviews.

12 COMMISSIONER MacCALLUM: Sorry, unless
13 there was an association between what? Unless
14 there was an association between what?

15 A Between Larry Fisher and the Gail Miller homicide.

16 BY MR. HODSON:

17 Q And so, again, as far as the interview -- now we
18 know that later on, Mr. Pearson, you interviewed
19 two of the victims, but again at this time, apart
20 from your comments you've just provided, was there
21 any reason that you did not go and talk to
22 investigators to clarify discrepancies?

23 A Well I think a lot of the investigators here were
24 Centurion Ministries people, but I never did
25 pursue --



1 Q I see.

2 A -- pursue them. But if you could just go to my
3 notes --

4 Q Sure.

5 A -- on the 11th of October, '91.

6 Q Is that in your notebook or?

7 A Yeah, go to my notebook there, and just see what
8 that says about this issue of interviewing the
9 victims.

10 Q If we can call up 058331, it's on the left-hand
11 side at the bottom:

12 "3:00 p.m. Discussed with Williams. I
13 am interested in interviewing victims as
14 laid out ...",

15 next page, please, maybe call that out:

16 "... as laid out in Application re
17 Fisher. Williams advises there is no
18 ...",

19 need:

20 "... in pursuing victims unless ...",

21 A That's "merit".

22 Q Oh, I'm sorry:

23 "... there is no merit in pursuing
24 victims unless we know of a relationship
25 between Fisher & Miller.



1 Also discussed (V14)- matter,
2 Parker to be contacted ...",
3 etcetera. So that's October 11th, which I think
4 is the day after you faxed this report; is that
5 right?

6 A Umm, I'm not sure when I faxed the report.

7 Q Yeah, the date of the report that you sent to Mr.
8 Williams is October 10th, '91.

9 A Okay.

10 Q So is it fair to say, at this time, that you
11 wished to interview the Fisher victims?

12 A Yes.

13 Q And that Mr. Williams said that 'there is no merit
14 in pursuing them until -- of a known -- unless we
15 know of a relationship between Fisher and
16 Miller'; --

17 A Right.

18 Q -- is that fair?

19 A Yeah. And go to my notes of the 18th of October,
20 '91, as well.

21 Q If we could go to 058335, and this is a note of
22 October 18th:

23 "called Williams & advised him contact
24 will be made with (V14)-. Williams does
25 not wish for me to contact Saskatoon



1 victims on behalf of Justice - ...",
2 does that say:

3 "... maybe later."

4 A Yes.

5 Q So there is two references.

6 A Then go to notes for the 1st of November, '91.

7 Q You and I are going to have to change spots, Mr.
8 Pearson. November 1, 058344. And again the doc.
9 ID of all of these, Mr. Commissioner, is 058291,
10 which is the notebook, and these are just page
11 numbers.

12 COMMISSIONER MacCALLUM: What's that, 058?

13 MR. HODSON: Yeah, 058291 is the doc. ID,
14 and I'm just referring to page numbers. It's a
15 lengthy notebook.

16 COMMISSIONER MacCALLUM: Thank you.

17 BY MR. HODSON:

18 Q And then on November 1? I'm sorry, is there
19 something -- okay. If you can go to page 058346,
20 and at the bottom -- again this is November 1 --
21 it says:

22 "We also talked again of the need to
23 interview ...",

24 and then to the next page, if we can call that
25 out:



1 "... any of the Saskatoon victims as the
2 'biased' approach by Joyce Milgaard to
3 (V14)- may be involved in contact with
4 the other victims."

5 And, again, I think by November 1 you had
6 interviewed (V14)-- (V14)-; is that correct?

7 A I believe so, yes.

8 Q Yeah, and I'll be going through that this morning,
9 Mr. Pearson, and I'll just get you to comment at
10 that time.

11 A Okay. And just go to one more note reference
12 there, on the 20th of November, '91.

13 Q 20th November?

14 A Yes.

15 Q 058380. And the doc. ID of this, Mr.
16 Commissioner, is 058371, and I think it's on the
17 right-hand side. I'm sorry, is there something
18 there that -- is it November 20th? Do you know
19 where that is, Mr. Pearson, in the --

20 A Keep -- it must be in there someplace, can you
21 scroll through some more?

22 Q Okay, yeah. If we can go to page 058383, and
23 again call out the bottom part, it says:

24 "I expressed to Williams the need to
25 eventually re-interview Fisher victims



1 for additional detail and accuracy of
2 Centurion report in view of what appears
3 to be a bias so far as Joyce Milgaard's
4 and Centurion's approach and reporting
5 of their interview with (V14)-. Are the
6 victim reports totally accurate, keeping
7 in mind we do have file material for
8 some of these. Williams does not feel
9 it is necessary to conduct interviews
10 with victims yet but is not ruling out
11 the necessity."

12 So that would be in October-November, so there's
13 four notes there where you would have raised it
14 with Mr. Williams, and it appears that he would
15 have told you "no, not yet" or "not at all"; is
16 that fair?

17 A That's fair, yes.

18 Q Yeah. And I'll go, when we go through the (V14)-
19 materials I'll get you to elaborate further on
20 your comments about the biased approach you talk
21 about in your notes.

22 If we can go back to 009037, and
23 again this is the Analytical Report, was there
24 also some -- it also says:

25 "If more lead time had been allowed, an



1 indepth study would have been possible."

2 But was time a concern, at this point, as far as
3 getting this done sooner rather than later?

4 A I think there probably, probably was some, some,
5 maybe some pressure on them, you know. There is
6 some reference in my notes that we were talking
7 about this when we were in Vancouver, that we were
8 going to go back and try and have them get this
9 analysis done, so there may have been some time
10 pressure under the conditions that these people
11 were operating under.

12 Q And if we can go to the next page, please. They
13 talk about Sources of Information, assigning them
14 from 1 to 8, and then the:

15 "Files include:"

16 number 1 would be (V1)--- (V1)- and:

17 "Larry Fisher plead guilty to this rape
18 which occurred in Saskatoon ...

19 Information supplied for analyses
20 includes:",

21 so the original victim's statement of October
22 1968:

23 "Police investigational report which is
24 unreadable."

25 And I think that was the occurrence report from



1 microfiche that we have seen before in these
2 proceedings. And then:

3 "The Centurion interview of victim dated
4 91-May-01 and their subsequent report.

5 Areas of discrepancies would
6 appear to be:

7 (1) The police report suggests incident
8 occurred shortly after 2230 hours while
9 the Centurion report suggests the time
10 is 1930 hours."

11 Again, a difference of about three hours; would
12 that be something in your view, sir, that would
13 be of any significance?

14 A Possibly.

15 Q "(2) Police report makes no mention of a
16 knife being inserted into the victim's
17 vagina; yet Centurion report claims
18 there was a knife inserted into her
19 vagina."

20 Again, would that discrepancy be important?

21 A Yeah, I think it's fairly important.

22 Q And as far as the fact that it's not in the police
23 report but in the Centurion report, what, if
24 anything, does that tell you or concern you?

25 A Well it seems to be fairly significant information



1 that's coming into play 20 years later, which is a
2 little unusual.

3 Q "(3) Police statement indicates there was
4 intercourse for 10 minutes yet Centurion
5 claims there was never penal
6 penetration."

7 And, again, is that something that would cause
8 you concern, that discrepancy?

9 A Well, again, 20 years later they are interviewing
10 someone and, you know, they don't want to go back
11 to their past, and maybe they don't know this
12 Centurion investigator that well, they don't want
13 to start talking about their personal issues. So,
14 you know, that's something that may have been a
15 personal decision by the victim.

16 Q And, again, you had mentioned earlier about the
17 fact that 20 years later, talking to these
18 victims, would you expect there to be some
19 variation in what they say 20 years later --

20 A Absolutely.

21 Q -- than what they did earlier?

22 A Absolutely, yes.

23 Q On some of the details and the timing, for
24 example?

25 A Just on what you can recall, sure.



1 Q And, secondly, I think you referred to the fact
2 that some of these victims might be -- might not
3 be prepared to be forthcoming with some of the
4 worst details of the attack; is that fair?

5 A That's fair. I mean people get on with their
6 lives, and they don't want to relive this, and
7 they just put a lot of it in the back of their
8 mind.

9 Q And in fact we have seen, I think in some of
10 reports, where some of the victims do not want to
11 acknowledge that either penetration or the rape
12 took place because they don't want to admit it; is
13 that --

14 A That's fair, yes.

15 Q And, again, that would be something where a
16 victim, victim as opposed to the investigator,
17 might not want to be forthcoming; is that fair?

18 A That's fair.

19 Q And:

20 "(4) Police statement suggests Fisher
21 took her jeans and left when finished.
22 Centurion claims she put her jeans on
23 and ran to the nearest house after
24 assailant was frightened off."

25 And, again, any significance in that detail being



1 different between the two statements?

2 A Again, it might be the victim not wanting to be
3 humiliated, so she is saying that she never had
4 her jeans stolen.

5 Q And then an Observation, when they talk about the
6 "Culprit ...",?
7 being Fisher appears:

8 "... to be righthanded as he grabbed her
9 with his left hand and placed the knife
10 at her chest in his right hand.

11 Interesting point is that even though
12 she bit his finger he never cut her with
13 the knife."

14 And, again, are you able to elaborate why that
15 would be an interesting point?

16 A Well possibly the fact that there was never any
17 intent to go past the fear stage, possibly, even
18 though something was done to possibly hurt or
19 anger the assailant there was never any intention
20 to carry it beyond that. That's one possibility.

21 Q And then we go down to number 2, (V2) (V2)-
22 (V2)-----, it indicates:

23 "There are no police reports available
24 ..."

25 And I think at this time, I know we have seen her



1 original statement of Ms. (V2)-----, but I
2 presume that it wasn't available at this time;
3 are you able to comment on that?

4 A I -- I just don't recall.

5 Q Go to the next page. And with respect to (V3)--
6 (V3) (V3)-----, it says:

7 "Fisher plead guilty to this assault
8 which occurred in Saskatoon 68-Nov-29.
9 There is no police report available and
10 information utilized is from Centurion
11 report dated 91-May-05. The Centurion
12 report claims that victim never saw the
13 knife Fisher claimed to have yet in
14 their summary of the interview they
15 describe it as being "like a paring
16 knife".

17 And, again, are you able to comment on that
18 observation?

19 A Centurion is claiming:

20 "... that victim never saw the knife
21 Fisher claimed to have yet in their
22 summary of the interview they describe
23 it as being "like a paring knife".

24 Well maybe it's a conflict within their own
25 report.



1 Q Again, is that something that you would have
2 followed up on, or did that cause you any concern?

3 A Well, again, it's a discrepancy in the report. I
4 guess what I thought of it at the time I don't
5 know, I just can't recall.

6 Q And then with (V5)-- (V5)--- it says:

7 "(V5)---' recollection of the incident
8 as given to Centurion has changed
9 somewhat from her original statement to
10 police however not felt unusual, given
11 the time frame."

12 And again, I think that's what you talked about
13 before, that it would not be unusual to have
14 versions of events change over 20 years?

15 A I don't think that's unusual.

16 Q And then under Observations Thorpe and Derkach
17 write:

18 "Centurion report indicates Fisher
19 warned her he had a knife which she
20 could feel pressing against her neck.
21 We are unable to find any mention of a
22 knife in the police report.

23 Centurion report suggests she
24 was hit numerous times to the extent she
25 was unrecognizable."



1 Oh, I'm sorry, I've jumped ahead here to (V7)
2 (V7)---. The number 5 is in Winnipeg, and it
3 talks about Fort Garry, and you will recall there
4 were some reports available, and then the
5 observations about the (V7) (V7)---:

6 "Centurion report indicates Fisher
7 warned her he had a knife which she
8 could feel pressing against her neck.
9 We are unable to find any mention of a
10 knife in the police report.

11 Centurion report suggests she
12 was hit numerous times to the extent she
13 was unrecognizable. The police report
14 states she received medical attention
15 that night including multiple
16 superficial abrasions to back and chest,
17 soft tissue injury to jaw and neck,
18 abrasion to upper lip and teeth marks to
19 the nipple of the right breast. Appears
20 to be the first incident where bindings
21 were used and the attack seems to be
22 more aggressive than ones he admitted to
23 earlier."

24 Again, any comment on this observation, anything
25 there cause you any concern?



1 A Nothing I can say, other than the fact that their
2 report is putting in a lot of the assault detail,
3 but that's maybe the only source because there was
4 limited file material.

5 Q And then to the next page. It talks about the
6 second Winnipeg assault, the (V8)-- (V8)---, and
7 the only observation that Fisher is apprehended at
8 the scene.

9 And then it talks about the
10 (V10) (V10)- file, and then under Observation it
11 says:

12 "This attack appears much more severe
13 than any others that Fisher is known to
14 have committed. To this point ...",
15 what's the rest of the document say:

16 "To this point we have been unable to
17 find any of his victims having actually
18 been intentionally injured with a
19 knife."

20 Again what would be the significance, if any, of
21 that comment?

22 A Well that just appears to be an escalation of his
23 activities.

24 Q And then the last one is the Gail Miller file, and
25 it says:



1 "We utilized Nichol John's statement as
2 a witness given to the police and
3 outlined in the preliminary inquiry. We
4 also relied on lt/Ident. J. Penkala's
5 Identification Section report in an
6 attempt to understand the crime scene
7 and the results of the autopsy."

8 And, again, do you know why they would have used
9 Nichol John's statement?

10 A Well, because I think she was probably believed to
11 be the eyewitness.

12 Q Okay. And at the time at trial, though, she did
13 not repeat her eyewitness evidence before the --
14 before the Court, and I'm just wondering if --

15 A I'm not sure if they were aware of that, you know,
16 in the analysis.

17 Q And under Observations:

18 "It is felt that it is important to
19 remember this offence occurred in 1969.
20 Of all the offences studied in 1968 and
21 1970 this one is much more brutal. It
22 might appear to be a case of overkill.
23 Also, we are not completely satisfied
24 sex was a motive in this case."

25 And, again, are you able to comment on what may



1 have been meant by this comment:

2 "It might appear to be a case of
3 overkill."?

4 A Well it, again I'm not positive what they meant,
5 but it was a situation where there was a lot of
6 superficial cutting and some knife activity going
7 on before the fatal stab wounds took place, and
8 again a much more brutal and aggressive crime, and
9 like I say, based on the fact that it was a deeper
10 problem than sexual satisfaction, it would appear
11 that there was a bigger problem in this
12 individual.

13 Q And then the last comment, it says:

14 "Also, we are not completely satisfied
15 sex was a motive in this case."

16 Are you able to elaborate on what --

17 A Well, that's what I mean, I think maybe sex might
18 not have been the motivation, it might have been
19 part of the overall satisfaction this person was
20 getting from the domination and the cutting and
21 the attacking and the humiliating and the sex, and
22 then the actual homicide, so there may be -- sex
23 may be only part of this.

24 Q Then go to the next page, and it says:

25 "The following is an outline of the



1 incidents that are to be analysed."

2 And go to the next page. I won't go through
3 these, but they are listed by date, location,
4 victim, and then modus operandi, and I take it
5 these are the items that are being put out so
6 someone can analyse the similarities and
7 differences; is that fair?

8 A Yes, that's fair.

9 Q And then if we can skip ahead to page -- so that,
10 the report has that for each of the eight
11 incidents. If you could then go to 00903 --
12 009048, then the report says:

13 "The following is a chart comparing
14 incidents."

15 And then go to the next page, and again I don't
16 propose to go through these, but what the report
17 sets out as I think comparators, is what they are
18 called, for each of the victims is age, and with
19 respect -- or age of the victim, and with respect
20 to the offence, the date, time, area, initial
21 contact, scene -- if we can go to the next
22 page -- the following comparators with respect to
23 the crime; the initial approach, physical force
24 used, injuries inflicted, type of assault -- and
25 the next page -- precautions used by offender,



1 weapon used, clothing removed by, and bindings,
2 and I think then for each of the eight offences
3 the report goes through and comments on that; is
4 that correct?

5 A That's right, yes.

6 Q And then if we can go to page 009055, and the
7 conclusion is:

8 "Writers have attempted to objectively
9 outline known modus operandi of given
10 offences and to design the report in
11 such a way that its readers can arrive
12 at their own conclusions."

13 And that, was that, were those your instructions
14 to Thorpe and Derkach from you -- by you then?

15 A Yes, I believe that's accurate.

16 Q If we can then go back to 056806, and then this is
17 where we left off, about the analyst's report
18 being sent. And then October 11th:

19 "Placed a call to Insp. Wass ...
20 Division Contract Officer, and we
21 discussed the (V14)- report that he
22 received from Sask Justice. There is
23 not much in the way of police material
24 on this file, but it does include a
25 statement from the victim, (V14)-, and



1 there is no evidence that a sexual
2 assault took place. He will be sending
3 me a copy ASAP."

4 So it looks as though the original police file
5 was found and it was being sent to you; is that
6 right?

7 A Yes, there was a request through Division to find
8 this file if there was any out there, and this is
9 what the results were.

10 Q Next page, please. Now this is a note of October
11 11th, and I think this coincides with what was in
12 your notebook, sir, that you asked me to bring up
13 for you a few minutes ago.

14 A Okay.

15 Q It's:

16 "Had a further discussion with Mr.
17 Williams, indicating that I am
18 interested in interviewing the Fisher
19 victims, as laid out in the Application.
20 Mr. Williams advises there is no merit
21 in pursuing the victims unless we know
22 of a relationship between Fisher and
23 Miller."

24 Again, I think that's consistent or identical to
25 what you had in your notebook for that day; is



1 that correct?

2 A Yes.

3 Q It looks like you then next:

4 "... called Insp. Quinn, City Police,
5 and learned that nothing more had been
6 found regarding the Fisher files.",
7 and that they are checking over 61,600 files on
8 micro-film; is that correct?

9 A Yes.

10 Q If we can then go to 011861. Back to -- and this
11 is your October 16th, 1991 report to your
12 superiors with a, and I think with a request to
13 send a copy to Mr. Williams. If we can scroll
14 down, please, and again you just talk about:

15 "The search for the missing files ...",
16 and again I think that's captured in your notes.
17 And then (b) you go:

18 "Attached is a page from the recent
19 Section 690 ... Application, which
20 suggests that the investigator from
21 Centurion Ministries had access to one
22 of the Saskatoon City Police files in
23 question. The portion of the page which
24 potentially identifies the individual
25 who accessed the file material and



1 supplied it to Centurion Ministries, has
2 been vetted out."

3 And then you attach a copy. Next page:

4 "The vetted copy has been sent to the
5 Regina Forensic Laboratory, however the
6 document expert could not identify what
7 was typed under the vetted out portion.
8 We have since received the earliest
9 generation of copy available, which is
10 taken from the application package
11 received by the Federal Justice
12 Department in Ottawa. This document has
13 since been turned over to the Forensic
14 Lab in Regina and we currently await the
15 results of this second examination."

16 So I take it, at this point, you were interested
17 in finding out who that source was?

18 A Yes.

19 Q And had you, had you asked Mr. Asper to give you
20 that name?

21 A Umm, during the -- during the, and I don't know
22 the time frame, but I think on -- I think it was
23 documented in my notes.

24 Q Yeah, and I'll take you through those documents.

25 A All right. Yes, I did ask Mr. Asper if he would



1 provide the information again on his source, --

2 Q And --

3 A -- and he indicated that he would not, or that he
4 would consider it, at the end of the day he
5 decided he wouldn't.

6 Q And I'll take you through that a bit later. And
7 if we can scroll down, you then talk about the
8 analysis, and you say:

9 "It is being left to the legal experts
10 with the Federal Justice Department to
11 determine if the facts surrounding
12 Fisher's criminal activity during the
13 time of Gail Miller's murder has any
14 value as "similar fact" evidence as
15 outlined in the Section 690 ...

16 Application."

17 And I think that's what you told us earlier; is
18 that right?

19 A Yes.

20 Q And did you play any further role in that as far
21 as their analysis or was that something that they
22 did do you know?

23 A I don't recall having any -- anything to do with
24 the decision made on what was evidence and what
25 wasn't.



1 Q Go to the next page, please, and again -- no, the
2 next page, 011863, under (f) you talk about your
3 visit to the Mountain Institution and you say:

4 "Other than the fact Fisher has serious
5 personal problems associated to sadistic
6 sexual behaviour, nothing was located
7 which would suggest he ever knew Gail
8 Miller or David Milgaard, and nothing to
9 suggest he was involved in a murder."

10 And I take it that would have been your
11 conclusion from reviewing the file?

12 A Yes, in brief summary, yes.

13 Q Would the fact that he had problems associated to
14 sadistic sexual behaviour and seven convictions
15 for sexual related assaults and one of attempted
16 murder with (V10) (V10)-, would that be something
17 that might suggest he was involved in a murder?

18 A Sure.

19 Q And again I'm just -- when your comment here that
20 there's nothing in the file to suggest he was
21 involved in a murder, are you referring to --

22 A Nothing in there that indicated that he admitted
23 to killing someone.

24 Q I'm sorry, maybe I misread this, Mr. Pearson. So
25 what you are saying is that -- let's take the last



1 point first. There was nothing on his file to
2 suggest he was involved in a murder?

3 A Yes.

4 Q And then you say other than the fact that he has
5 serious personal problems associated to sadistic
6 sexual behaviour, are you saying that that could
7 be something that would suggest he was involved in
8 a murder?

9 A Yes, it's certainly part of the suspicion.

10 Q Okay. And here's the comment about:

11 "Access to Fisher's medical file was
12 denied due to legal restrictions,
13 however, we were advised it contained no
14 reference to the Miller/Milgaard case,
15 nor reference to any homicide."

16 And that in fact was the case; is that right?

17 A Yes, as I recall.

18 Q And then you talk, if you can scroll down, you
19 talk about Nichol John undergoing hypnosis and you
20 indicate this office was not directly involved in
21 this particular investigative procedure. That's
22 accurate is it?

23 A Yes.

24 Q Then the next page, you say:

25 "Summary



1 a) to date, no evidence has been
2 uncovered which would suggest Larry Earl
3 Fisher was involved in any way in the
4 death of Gail Miller."

5 Again, would that have been your view at the
6 time, sir?

7 A In reference to evidence, yes.

8 Q Go back to 056807, and again I think we touched on
9 this earlier, records from Ottawa, you were
10 looking for locations of file material from the
11 RCMP, nothing was there, and if we can scroll
12 down, October 18th, and I think this is one of the
13 notes from your notebook you brought up earlier:

14 "Had a discussion with Mr. Williams and
15 advised him that contact had been made
16 with Mrs. (V14)- and inquiries were
17 developing in this regard. Williams
18 states he does not wish for me to
19 contact the Saskatoon victims on behalf
20 of the Justice Department at this time,
21 maybe later."

22 Again, I think that's consistent with what you
23 read from your notebook; is that right?

24 A Yes.

25 Q And it looks as though on October 21st you



1 received the (V14)- materials and arranged for a
2 time and date to interview her?

3 A Yes.

4 Q And then as well did a vehicle registration check
5 to see what vehicles were registered to the
6 Milgaards in '68 and interested in a green truck
7 which was parked at (V14)- (V14) during the (V14)-
8 complaint and advised there's no records available
9 prior to '97 (sic), and we'll see when we go
10 through the police reports a reference to this
11 vehicle, so I take it you were doing some
12 preliminary leg work were you?

13 A No records prior to 1977, yes.

14 Q And then down at the bottom:

15 "Had a discussion with Mr. Williams, we
16 talked about the sex crime complaints
17 lodged with the City Police in 1968 to
18 1970 and that I will be faxing him a
19 copy of this report."

20 And as well the (V14)- report. And then the next
21 page it says Mr. Williams called wishing to have
22 one of the 1970 files, it's the (V16)----- file,
23 and if I can get a publication ban on that name,
24 Mr. Commissioner, this is I think one of the --
25 in the review done by the city police of all of



1 the '68 to '70 rape files, there was attached a
2 list of victims, I think there's already a ban in
3 place on that document, but just to confirm it
4 for this name, and it says:

5 "This is a sexual assault where a knife
6 was used, wondering if it has any
7 relationship. I then called Insp.

8 Quinn, asking him to locate this file.

9 He suggests that may be with the Sask

10 Police Commission, he will let me know."

11 And so it looks as though that one of the files
12 in, when the police did their review, caught Mr.
13 Williams' attention; is that -- do you recall
14 this at all, Mr. Pearson?

15 A I'm sorry, I was --

16 Q No, that's fine. It looks as though on the
17 (V16)----- -- maybe I can call up 058032.

18 COMMISSIONER MacCALLUM: There will be a
19 ban there.

20 BY MR. HODSON:

21 Q Thank you. This is your letter to Eugene Williams
22 attaching the file, the (V16)----- sexual assault:

23 "From reading the Saskatoon police file

24 I am confident this crime has no

25 association to Larry Fisher's criminal



1 activity during this time period."

2 And do you have any recollection of this, Mr.
3 Pearson?

4 A No, I don't actually.

5 Q Would it be fair to say that one of the assaults
6 looked at, Mr. Williams wanted a further look to
7 see whether it might be a crime committed by Larry
8 Fisher?

9 A Yes, he was obviously reviewing the statistical
10 report and he was interested in this particular
11 file and it was accessed and I had this opinion
12 and then it was forwarded to him.

13 MR. HODSON: This is probably an
14 appropriate spot to break, Mr. Commissioner.

15 COMMISSIONER MacCALLUM: Okay.

16 (Adjourned at 10:22 a.m.)

17 (Reconvened at 10:46 a.m.)

18 BY MR. HODSON:

19 Q Mr. Pearson, I now want to deal with the, your
20 dealings with (V14)-- (V14)-, and rather than go,
21 Mr. Commissioner, through the chronology which I
22 have been doing to date, I want to just deal with
23 the significant dealings that Mr. Pearson had
24 with, initially with Ms. (V14)- and then
25 subsequent, and would it be fair to say, Mr.



1 Pearson, that in the work that you did on your
2 second, on the second 690 application, would a
3 significant part of your efforts have been devoted
4 to dealing with (V14)-- (V14)- and issues related
5 to her assault and the inclusion in the 690
6 application? Is that fair?

7 A That's fair.

8 Q And that you would have spent a great deal of time
9 both in personal contact with her and on the phone
10 with her and family members; is that fair?

11 A Yes.

12 Q And I want to go back and start at 056803 and I'll
13 try and go through chronologically your dealings
14 with the (V14)- file and with her, and we've
15 touched on some of these points already, but
16 you'll recall when we left off, I think we were
17 around October 20th, just when you had made
18 arrangements to meet with her, and here on
19 September 20th, '91 -- actually, scroll down a
20 bit, please, and I had already covered this, you
21 will recall that Mr. Fisher was not giving you
22 access and that through Mr. Williams through to
23 Mr. Pick through to Mr. Fisher he said he didn't
24 know where (V14) (V14) is located and doesn't know
25 what we are referring to when we talk of this



1 incident, i.e., (V14)-, and I think you told us
2 yesterday that this wasn't an ideal way to
3 question Mr. Fisher about the assault, but under
4 the circumstances that's what you had; is that
5 fair, so that he -- you had his denial?

6 A That's fair, yes.

7 Q And at the outset of your, when you embarked on
8 investigating Ms. (V14)-, what was your
9 understanding of what it was you were doing and
10 why you were investigating her and her complaint
11 in connection with David Milgaard's application?

12 A Well, it was included in the application and from
13 reading it, it appeared that there was no clear
14 association to Larry Fisher as far as a conviction
15 is concerned, so it was still somewhat of an open
16 investigation.

17 Q Was it your understanding that at least from the
18 Milgaard application that they alleged Larry
19 Fisher had committed this assault?

20 A That's what I believed it to be, yes.

21 Q So then if we can go ahead to 056806, again we
22 touched on this a bit, I don't need to go through
23 them again, but here's your efforts in October to
24 try and get the file, and then as well if I could
25 call up 008396, it looks as though, and this is a



1 letter from Constable Rudderham from the (V14)--
2 Detachment, and do you recall dealing with
3 Constable Rudderham?

4 A Yes.

5 Q And it looks as though he, and I presume you would
6 have asked him to contact all of the people
7 involved in the initial report?

8 A I'm not sure how that came about to be quite
9 honest with you, but yes, there was follow-up by
10 him.

11 Q And so does this document, are you able to tell us
12 where or how this initiated or what it is?

13 A I didn't -- this is not my document I don't
14 believe, you know. This is a document that he
15 generated?

16 Q Yes. What it suggests is that:

17 "Upon speaking to the above noted
18 persons who may have had knowledge of
19 the incident, they could not recall the
20 offence or who may have been the
21 investigating member(s)."

22 A This is going back to the history of trying to
23 determine who may have been involved in the
24 investigation of this initial offence.

25 Q It looks as though someone with the RCMP tried to



1 find out who may have been involved and who may
2 have a recollection of the '68 incident; is that
3 fair?

4 A Yes.

5 Q And would that have been for your assistance?

6 A In part.

7 Q So again, before you went and interviewed (V14)--
8 (V14)-, again from the notes it would appear that
9 you had two sources of information, one would be
10 the original investigation file from the RCMP and,
11 two, the Centurion Ministries report that was
12 included in the second 690 application?

13 A I think we had part of the police file.

14 Q Part of the police file?

15 A Yes.

16 Q And prior to going to interview (V14)-- (V14)-,
17 would you have reviewed the documents you had,
18 both the police file, the partial police file and
19 the Centurion Ministries file?

20 A Yes.

21 Q I'll maybe start and we'll just go through the
22 police file and if we could call up 058092, and
23 this is October 23, '91, the day before your
24 interview with Ms. (V14)-, and it's a fax to
25 Eugene Williams, it just says further to our



1 telephone conversation, please find appended the
2 1968 (V14)- report, is that what that says, or am
3 I misreading that?

4 A No, that's not (V14)-, that's -- oh, Farian I
5 think.

6 Q Oh, Farian, I'm sorry. Okay.

7 A One of the analysts I believe.

8 Q And then number 2:

9 "I will be interviewing victim (V14)-
10 tomorrow and will advise you how it
11 went."

12 If we can then call up 012050, this is Appendix K
13 in your reports, it's a document originating in
14 October, 1968, and at the bottom it looks as
15 though a copy is sent to you. Is that -- that's
16 your addressee; is that right?

17 A Yes.

18 Q And:

19 "... are reports from (V14)----
20 Detachment which outlines the
21 investigation conducted in 1968."

22 A They also sent a copy to the analyst people.

23 Q I see. That's the D.C.I.A.S.?

24 A Yes.

25 Q And if we can go to the next page, please, and



1 this is a type of report I think we have seen
2 before on other matters, would this be the
3 occurrence report or an investigation report?

4 A This is a crime report that in those days there
5 was a requirement to report these types of
6 offences through channels.

7 Q And I just want to go through parts of this and
8 highlight it. c/n I presume is the complainant;
9 is that right?

10 A Yes.

11 Q And it says:

12 "The c/n did not see her assailant's
13 face at all, only his feet and lower
14 portion of his pants."

15 And then talks about:

16 "The suspect vehicle a light green half
17 ton truck, has not been seen in the area
18 since ... there are no suspects to this
19 offence. As all avenues of
20 investigation have been covered, no
21 further action is being taken ..."

22 Then if we can go to the next page, please, and
23 it looks -- go back to the full page. That's
24 fine. Authority granted to return exhibits and
25 conclude the file September of '68; is that



1 right?

2 A Yes.

3 Q And it appears from this form that the file would
4 be concluded in September, 1968; is that a correct
5 reading of this document?

6 A Yes, it looks like they are in the process of
7 returning exhibits, so I guess, I think the
8 offence took place in May and it looks like they
9 were over and returning exhibits in September.

10 Q Yeah. If we just look at this, it says paragraph
11 3 is noted, if we can just go to the previous
12 page:

13 "It is requested that the exhibits, in
14 this regard be returned ..."

15 A Yes.

16 Q So would it be correct to look at this and say
17 that September 23rd, '68 Constable Vincent said I
18 want to conclude the file and return the exhibits?

19 A Yes.

20 Q And then the next page, Inspector Smith appears to
21 give him authority to do that?

22 A Yes.

23 COMMISSIONER MacCALLUM: Are (V14) and
24 (V14)- the same person?

25 BY MR. HODSON:



1 Q Yes. Oh, I'm sorry, I should have identified
2 that, or asked you that question. (V14)- is the
3 married name of (V14)-- (V14); is that correct?

4 A Yes.

5 Q And so some of the reports refer to (V14)-- (V14),
6 some refer to (V14)-- (V14)-; is that correct?

7 A In the name of (V14) (V14), which is the son, she
8 retained the original aboriginal name.

9 Q And then if we can go to the next page, and again
10 this is another report of Vincent, this is July,
11 '68, so this is a bit earlier, all avenues of
12 investigation have met with negative results,
13 the light green half-ton truck, complainant has
14 been re-interviewed on several occasions, and
15 again that would be an ongoing investigation
16 report; is that right?

17 A Yes.

18 Q Skip over to 012055. Go back to the full page,
19 please. And again this looks to be the original
20 occurrence report; is that right? Are you
21 familiar with this type of document?

22 A Yes. That would be the occurrence report.

23 Q And then if we can go to, it looks as though this
24 was the original call received advising of the
25 assault and stabbing by an unknown assailant, and



1 then --

2 A This is actually the crime report.

3 Q Crime report?

4 A This is the original crime report, it's the first
5 one, and then the subsequent ones, yeah, are
6 after.

7 Q Right. So this would be a report prepared when
8 the investigation is started; is that fair?

9 A Yes.

10 Q And paragraph 2 says:

11 "A patrol was made to the scene by me
12 and Cst. Walsh. It was further learned
13 that (V14), did not see her assailants
14 face at all, only his feet and lower
15 portion of his pants. She described him
16 as being over six feet tall, wearing
17 dark pants very muddy and wet and black
18 shoes with an overlapping ridge of
19 leather around the toe area of the
20 shoe."

21 And then scroll down, I won't go through all the
22 details, but talks about being stabbed with a
23 paring, it doesn't say knife, but assuming that's
24 a knife, and being stabbed in the legs, and then
25 it says here:



1 "I never once saw the culprits face only
2 his hands which appeared to be the hands
3 of a white man and were all dirty."

4 And then it went on, and I don't think this
5 initial report detailed anything about an actual
6 rape, is that correct, just a stabbing and an
7 assault?

8 A That's right, yes.

9 Q And then if we can go to the next page, and
10 there's a reference here on a follow-up
11 interview --

12 A Could you just go to paragraph 9 there for a
13 second?

14 Q Yes. It looked like there was maybe a suspect at
15 the military base?

16 A Yes.

17 Q Is there anything there that you wish to comment
18 on?

19 A No.

20 Q Just go down to paragraph 10 and we'll see this in
21 the statements, but there's a reference that
22 Ms. (V14)- says that sometime during the morning
23 of the assault,

24 "... she had put four T-bone steaks out
25 to thaw on her kitchen counter in cabin



1 #10."

2 And I think she was working cleaning at a resort;
3 is that right?

4 A Yes.

5 Q "These steaks were found scattered on
6 the ground by cabin #1 and a blanket
7 from her cabin was found in front of
8 cabin #9. The complainant's four year
9 old daughter was questioned and all that
10 I could learn from her was that she saw
11 a man with a blanket in cabin #10. It
12 was not known if these cabins were
13 entered before or after the assault."

14 And again -- so some reference to the
15 complainant's four-year-old daughter being talked
16 to; is that right?

17 A Yes.

18 Q Go to the next page, paragraph 13, scroll down,
19 May 21, '68, a fellow was interviewed and that he
20 and his wife had driven to the cottage sometime
21 before noon on the day of the assault and there
22 was a green (light) half-ton truck parked by the
23 roadway to the cottage and two years old, maybe a
24 Mercury, etcetera, so there's a reference to a
25 green half-ton truck, and you recall that being an



1 item of interest in your investigation of the
2 matter, that a green truck was seen in the area?

3 A Yes.

4 Q Then if we can call up 056537, this is a newspaper
5 report from the (V14)---- (V14)-, May, '68, that
6 was sent to Constable Rudderham, there's a
7 reference here about the rape, it says:

8 "The man believed to be white about six
9 feet tall and wearing dark clothing, had
10 not been found by presstime Wednesday."

11 And went on to talk about the investigation, and
12 as well 056538, and I'm sorry, I'm not sure which
13 newspaper this is from, but again, the same
14 description, and actually it's the (V14)----
15 (V14), and again:

16 "A man believed to be white, about six
17 feet tall and wearing dark clothing, had
18 not been found by presstime Wednesday."

19 Were you -- did you see these press reports back
20 at the time you were dealing with this matter do
21 you recall?

22 A Yes, I believe I would have.

23 Q Then if we can go ahead to -- so I take it that
24 police file, that would have been something you
25 read before your interview with Ms. (V14)-?



1 A Yes, I'm sure I would have.

2 Q If we can then go and call up 008400, which is the
3 application, the second application filed by Mr.
4 Milgaard, and go to page 008443, and this is the
5 part of the 690 application, and I believe this
6 document was prepared by Centurion Ministries that
7 sets forward their dealings and interview with
8 Ms. (V14)-, and would this be a document you would
9 have read at the time before you went out to
10 interview Ms. (V14)-?

11 A Yes, sure.

12 Q And I'll go through parts of it here, and again
13 this is not, I don't think it's a statement signed
14 by her, but rather I think this is just her, I
15 believe it to be Mr. Henderson's document based on
16 a discussion with her, it says:

17 "There was a lodge and about twelve
18 cabins. Her husband was the manager and
19 he and the owner were working with some
20 heavy equipment at the lodge. She had
21 put her baby to bed and left with her
22 four-year-old daughter, (V14)--. She
23 told her to come and get her if the baby
24 woke up. She went over to the cabin to
25 clean. She took supplies with her. It



1 was about a block from the lodge. She
2 was bending over the stove using a
3 paring knife to take the screw out of
4 the burner when she heard someone come
5 in. She thought it was her husband or
6 one of their group, and when he grabbed
7 her from behind she laughed. He then
8 put his hand over her mouth. They
9 struggled for quite a while. He grabbed
10 the knife from her. He dragged her into
11 the bedroom by her hair, pulled off her
12 jeans and blouse, he said, "Be quiet or
13 I'll kill you." They continued to
14 fight. She crawled into a large
15 cupboard on the floor level. He stabbed
16 her in the back and on her legs, slashed
17 them. He told her to stay there. She
18 pulled her clothes back on and ran to
19 the lodge. She later found out he had
20 gone to the other cabin and taken the
21 three steaks she had put out to defrost
22 for supper and a blanket."

23 Scroll down, please.

24 "Her little girl had chased him, and she
25 got a large scratch on her stomach. She



1 ran and hid in a garbage can. The RCMP
2 investigated. There was only two roads
3 out. They took her to the hospital in
4 (V14)----. She was also in the
5 (V14)---- Hospital with a nervous
6 breakdown. Couldn't talk after that.
7 Has had a speech problem ever since.
8 Last time she was in (V14)-- Hospital
9 for two months. Has been treated there
10 three or four times. She relives it
11 every night. Can't sleep more than 15
12 minutes at a time. She has panic
13 attacks that someone might hurt her, and
14 has been worse since she read about the
15 David Milgaard case and the possibility
16 that he was innocent. She looked at
17 Larry Fisher's picture and said it could
18 be him, but she especially remembered
19 his hair longer, dirtier and not so
20 clean cut as in the picture. She
21 described him as just slightly taller
22 than her, maybe 5'5". She said he was
23 part native, and since she is a Cree,
24 was quite certain on that point and that
25 he wore work clothes and work boots.



1 Her daughter saw a red truck. The
2 police brought her clothes back about a
3 year and a half later and said she would
4 not be a good witness because of her
5 nervous condition, but it didn't matter
6 because David Milgaard had done it and
7 he was being charged for murder in
8 another case, and even would be
9 convicted or was convicted."

10 Scroll down.

11 "When we asked her about the rape part,
12 she said she wasn't sure and that it was
13 all hazy. She got very agitated, so we
14 left it alone.

15 She had wanted to come to
16 Winnipeg to see David and see if she
17 could identify him."

18 And the next page:

19 "THE ATTACK

20 She recalls that it occurred on May 7 or
21 8. At the time, (V14)-- was married to
22 a man who managed a cabin resort at
23 (V14) (V14) near (V14)----, Sask. (From
24 the map, (V14)---- appears to be about
25 75 miles southeast of (V14)--. It is



1 only about 30 miles from Langenburg, a
2 very small town where the Milgaards were
3 living in 1968. Joyce was not sure
4 whether David was still living at home
5 in May 1968. As she recalled, this was
6 the year he dropped out of school and
7 hit the road.)

8 The vacation season was still a
9 month away and the resort was deserted.
10 (V14)-- put her infant child to sleep in
11 one cabin and left her 4-year-old
12 daughter (V14)-- there to watch over the
13 child. (V14)-- then went to another
14 cabin to clean it up. Her husband and
15 the resort owner were at the main lodge,
16 which was quite a distance away.

17 (V14)-- was in the kitchen,
18 using a paring knife to remove burners
19 from the stove. The cabin door was
20 open. Without warning, someone grabbed
21 her around the shoulders from behind.
22 She thought it was her husband and
23 laughed. The assailant put his hand
24 over her mouth and grabbed the knife she
25 was holding. Then he dragged her by her



1 hair into the bedroom and yanked off her
2 jeans, shirt and bra, popping buttons in
3 his haste.

4 (V14)-- said she screamed and
5 fought. Whether the assailant was able
6 to penetrate was not clear; (V14)--
7 couldn't (or wouldn't) talk about the
8 part. Anyway, at some point she managed
9 to break free and fall to the floor.
10 (V14)-- said she scrambled on hands and
11 knees into the kitchen and tried to
12 protect herself by crawling into a
13 floor-level cupboard. The assailant
14 followed, stabbing her in the back and
15 slashing her bare legs with the same
16 paring knife.

17 It was probably following this
18 that the attacker went to the other
19 cabin. There he stole four steaks that
20 (V14)-- had placed on the counter before
21 leaving, as well as taking a blanket,
22 (V14)-- says here 4-year-old witnessed
23 this and actually chased the man when he
24 fled.

25 (V14)-- describes the



1 assailant as being part Indian (which
2 Larry Fisher is) and wearing a red
3 headband (which Fisher did), as well as
4 wearing work clothes and boots (which
5 Fisher always wore). The 4-year-old
6 daughter claimed that he drove off in a
7 red truck. We believe that the company
8 trucks Fisher would have had access to
9 also were red. More importantly, Jake
10 Kettler, the company foreman Fisher
11 worked directly under, told Joyce that
12 he believed the company had a
13 construction contract at the (V14)-
14 (V14) near (V14)---- at about the same
15 time. Unfortunately, the masonry
16 company went out of business in 1978 and
17 all the records have been destroyed.
18 (I've suggested that Joyce try and see
19 if she can learn something from the
20 mining company, if it's still in
21 business.)

22 Finally, (V14)-- described the
23 assailant as being slightly taller than
24 herself. She is 5-4. This also fits
25 Larry Fisher.



1 Information provided by (V14)--
2 would appear to eliminate David
3 Milgaard. Most significant: he's not a
4 native Canadian. Also, at the time of
5 this attack he was only 15 and had no
6 vehicle or even a driver's licence.
7 (V14) (V14) is in the boonies, totally
8 secluded, and it's highly improbable
9 that Milgaard would have driven there
10 alone in a borrowed truck.

11 Conclusion

12 (V14)-- says she was treated
13 for the knife wounds at (V14)----
14 Hospital then hospitalised later that
15 summer in (V14)---- after suffering a
16 nervous breakdown. She claimed she's
17 been hospitalised for mental problems
18 stemming from the attack three
19 additional times, once at Weyburn
20 hospital for two months. She also told
21 us she worked for 10 years as a
22 probation officer for the Justice
23 Department for 10 years. Now, (V14)--
24 said, she's on a permanent disability.
25 I didn't have a hard time believing



1 this. This woman is a quivering,
2 shaking mess.

3 "I relive it every night," she
4 told us, adding that she still can't
5 sleep and is prone to panic attacks.
6 (V14)-- added that her mental problems
7 exacerbated by the recent publicity
8 surrounding Milgaard. She said she
9 contacted the RCMP in (V14)-- and asked
10 for copies of the crime report. They
11 told her everything had been destroyed."

12 So again from this report, Mr. Pearson, before
13 you went to meet Ms. (V14)- were you aware that
14 some reference to David Milgaard was involved in
15 her incident as well?

16 A I believe so, yes.

17 Q Now I want to call up another document that is
18 222196. And actually if you could put, put that
19 on the left-hand side and call up 008443, that's a
20 page number of 008400, on the right-hand side.
21 First of all, this document on the left-hand side
22 should be 008443.

23 COMMISSIONER MacCALLUM: 443?

24 MR. HODSON: 443.

25 BY MR. HODSON:



1 Q And that's, the doc. ID of the document on the
2 left, Mr. Commissioner, is 008400, that's the 690
3 application, and the document on the right-hand --
4 actually the document on the right-hand side
5 should be 222196. Okay. Now I lost my left-hand
6 side. Yeah, 008443 on the left, okay. So what we
7 have on the left-hand side is the (V14)-- (V14)-
8 complaint or incident that's part of the Section
9 690 application, and I've just read you the entire
10 three pages; on the right-hand side is a document
11 I believe prepared by Mr. Henderson of his
12 interview dated May 5, 1991, and if on the
13 left-hand side you could just -- actually, if on
14 the right, on the document on the right, if you
15 could just go to the second page, you will see
16 there's Background, and more background, go to the
17 third page, The Attack; and if on the left-hand
18 document you can go to the second page, The
19 Attack. And I haven't compared them verbatim, but
20 it appears that the document on the right, being
21 the interview notes, that the pages 3 and 4, if
22 you could actually go to the next page on the
23 right-hand document, the Conclusion; and on the
24 left-hand document, Conclusion. So again, if you
25 can go back to page 1 of each of the documents,



1 what it appears is that in the memorandum on the
2 right-hand side, that the first two pages of this
3 document were replaced by this page and filed with
4 the application, and again, we'll hear from Mr.
5 Henderson and others on this point. As far as the
6 document on the right, this memorandum, being I
7 think Mr. Henderson's memorandum of the interview,
8 do you recall -- and again I'll go through it with
9 you, Mr. Pearson -- are you able to say whether or
10 not you would have received this in the course of
11 your investigation? I know I showed it to you in
12 preparation for testifying, and if you wish to
13 wait until we go through it, I can ask you then.

14 A Yeah, you better, I don't recall.

15 Q Okay. If we can maybe just go back, we'll have
16 the document on the right just up on the screen,
17 please, just as a single document. So, again,
18 this is May 5, 1991, person interviewed (V14)--
19 (V14)-, go through parts of this paragraph. If
20 you could just call out the top:

21 "Within the past year, David Asper
22 received a call from a man who claimed
23 to be an attorney representing a woman
24 who was attacked by a rapist in the
25 (V14)-- area in May of 1968. According



1 to the caller, police later told the
2 woman that the case had been solved with
3 the arrest of David Milgaard in
4 Saskatoon in 1969 (Note: (V14)-- is
5 some 200 miles east of Saskatoon).

6 The caller declined to identify
7 the woman. Also, when challenged by
8 Asper, he admitted to not really being
9 an attorney. Enroute to Saskatoon last
10 week, Joyce Milgaard and I stopped in
11 (V14)-- and searched for a story on this
12 rape at the local newspaper. No article
13 on such a crime could be found.

14 Ironically, we'd been in
15 Saskatoon just a day when we learned
16 that the woman herself had called
17 Joyce's house in Winnipeg. She'd
18 identified herself as (V14)-- (V14)-.
19 Joyce called her back and (V14)--
20 related the following: (1.) She'd been
21 raped by a knife-wielding assailant 20
22 or so years ago near (V14)--. (2.) The
23 crime went unsolved until David Milgaard
24 was arrested in the Gail Miller murder
25 and authorities told (V14)-- that



1 Milgaard was the person responsible for
2 attacking her. (3.) Recent publicity
3 surrounding the Milgaard case had
4 resurrected her memories of the rape
5 ordeal. (4.) She was determined to
6 resolve the matter and and planned to
7 visit David Milgaard in prison and see
8 if she recognized him.

9 (V14)-- (V14)- also told Joyce
10 that she'd worked for 10 years for the
11 Canadian Justice Department. When Joyce
12 told the woman we were going to be
13 leaving for Regina in a few days, she
14 agreed to meet us there to talk about
15 her case. Something about the woman
16 didn't seem right. It was starting to
17 smell like a possible setup.

18 We arrived on Saturday evening
19 and called (V14)-- at her motel. She
20 initially agreed to meet with us that
21 night but said she had to cancel dinner
22 with a friend she was visiting in
23 Regina. One and a half hours passed and
24 the woman still hadn't called. I drove
25 with Joyce's son Chris to the motel. We



1 located the room registered to (V14)--
2 (V14)-. At the rear of the motel, the
3 curtain to the window of this room was
4 partially open and we could make out
5 silhouette of a short, overweight woman
6 moving about inside.

7 In the meantime, Joyce had
8 received a call from (V14--'s friend
9 (who we suspect is the same person who
10 initially called David Asper.) To
11 Joyce, he sounded either drunk or
12 stoned. She told him we were planning
13 to meet with (V14)-- the following
14 afternoon but noted that our time would
15 be limited because of our plans to drive
16 to Moose Jaw. He became belligerent
17 and, in essence, told Joyce to go to
18 hell.

19 Chris Milgaard stayed at home
20 the following morning. (V14)-- failed
21 to call. At about 12:30 p.m., we called
22 the motel and learned that she'd checked
23 out. (V14)-- had told Joyce she was
24 catching a bus for (V14)-- at 6 that
25 night. We arrived at the bus station at



1 5:15 p.m. and approached virtually in
2 sight. As the bus was preparing to
3 leave, Joyce also went aboard and called
4 out (V14)-- (V14)-' name. At one minute
5 to six, a short, overweight Indian woman
6 carrying a small suitcase showed up at
7 the gate. She looked like the woman I'd
8 seen inside the motel room. Joyce
9 approached her and she stepped aside and
10 acknowledged that she was (V14)--.
11 Without identifying the person, we
12 showed her the photo-booth strip of
13 (four) Larry Fisher pictures. She
14 studied the photos and commented, "His
15 hair was longer." It should be noted
16 that Fisher was uncharacteristically
17 well groomed in the these photos and
18 that all the other rape victims
19 described his hair as being long.

20 (V14)-- told the driver to
21 leave without her and we went into the
22 restaurant to talk. She told us that it
23 was sometime after the attack that the
24 RCMP returned her clothes (which
25 apparently had been taken for evidence)



1 and told her that the case had been
2 closed with the arrest of David
3 Milgaard. She remembers that both she
4 and her husband were angered over the
5 way this was handled. Apparently she
6 had waited for a long time without
7 hearing anything from the authorities
8 who investigated her case. By my
9 reckoning, it would have been over two
10 years. The attack on (V14)-- (V14)- was
11 in May 1968, a year earlier than we had
12 thought.

13 This was a very strange woman,
14 seemingly fraught with a fear that left
15 her momentarily speechless at times
16 during the interview. (V14)-- told us
17 that her ability talk has been severely
18 impeded since she was raped and knifed
19 23 years ago. After all these years,
20 she appears to remain genuinely
21 traumatized. She is also a pathetic
22 figure - seemingly far too simple to be a
23 part of any government conspiracy
24 against David Milgaard.

25 We talked for about an hour.



1 Her plan was to spend another night in
2 Regina and take the bus home in the
3 morning. I believe we were able to
4 convince her that Larry Fisher is a far
5 more probable suspect than David
6 Milgaard. Strangely though, she still
7 expressed a desire to view David in
8 prison."

9 Now those two pages appear to be part of the
10 memorandum that was prepared, I don't believe
11 those first two pages were included in the
12 Section 690 application that you would have
13 received. Do you recall whether the two pages
14 that I read to you, sir, was that something you
15 would have received at the time, back in 1992;
16 are you able to -- or '91, are you able to tell
17 us?

18 A I just don't recall, I really don't.

19 Q If we could call up 114857, and this is a letter
20 of June 3, 1991 from David Asper to Ms. (V14)-,
21 that I will just go through parts of. It says:

22 "As you may well be aware, I am counsel
23 to the Milgaard family, and I would
24 firstly very much like to express my
25 thanks to you for agreeing to meet with



1 Mrs. Milgaard and Paul Henderson. The
2 information that you have provided is
3 most useful and we are still in the
4 process of analysing all of it to
5 determine where we go from here. I can
6 assure you that we are treating your
7 discussions in the strictest confidence.

8 Mrs. Milgaard advises that you
9 would be prepared to assist in the
10 obtaining of your original police
11 reports from the investigating
12 authorities. To that end, I am
13 enclosing a "Request Form" that I would
14 ask you to sign and return to me in the
15 enclosed self-addressed envelope. I am
16 including a number of copies since I may
17 need to send them to more than one
18 police department.

19 Again, thank you very much for
20 your co-operation, and if I can be of
21 any assistance to you, please feel free
22 to contact me at my office number noted
23 above."

24 Now, when you went to meet Ms. (V14)-, were --
25 had you been aware that she had been in touch



1 with Paul Henderson, Joyce Milgaard, and David
2 Asper?

3 A Yes.

4 Q If we could then call up 012058, please. And this
5 is the typewritten statement taken October 24,
6 1991 by you, is that correct, --

7 A Yes.

8 Q -- of (V14)-- (V14)-?

9 A Yes.

10 Q And we'll go through that, well actually I'll go
11 through it in its entirety, and I'll have some
12 questions for you. Just generally, without
13 getting into the details, what was your assessment
14 of Ms. (V14)- when you first met her?

15 A Umm, she was a very, appeared to be a very
16 traumatized or troubled person. She articulated
17 fairly well but she did have appeared to be some
18 fears, emotional difficulties. It was obvious
19 from talking with her that there was a lot of
20 things that she had problems with emotionally.

21 Q Okay. We'll go through the statement. It says:
22 "In the spring of 1968 I was living
23 common-law with (V14)- (V14)-. (V14)-
24 was working at the (V14)---- (V14)-
25 (V14) and we lived in (V14)---- during



1 the previous winter. We moved to (V14's
2 (V14) Resort early in the Spring. The
3 resort is on (V14) (V14). We had one of
4 the resort cabins to live in during the
5 summer. During this particular Spring,
6 (V14)- was not working at the (V14).
7 (V14)- and I were hired by the resort
8 owner, (V14) (V14)-, to maintain the
9 place.

10 I don't remember the exact
11 date, but it was early in May 1968, I
12 was living in cabin #11. I went to a
13 cabin four down and went inside to clean
14 it. It was in the afternoon, because
15 the kids were in bed for their afternoon
16 nap. My oldest daughter, who was four
17 at the time, was up when I left. She
18 was instructed to come and tell me if
19 the other children woke up."

20 Scroll down.

21 "The cabin I was working in
22 had two bedrooms with a combined kitchen
23 and dinette. I was standing in front of
24 a four burner propane stove with my back
25 to the door. I had a small kitchen



1 paring knife in my hand and was using it
2 to lift the burners so I could clean
3 them. I heard the door open. My
4 immediate thought was it was (V14)-- and
5 the kids were awake. I then heard heavy
6 footsteps and thought it was my husband
7 coming in. I said something like, "It's
8 cold in here, get me a sweater". I
9 recall even thinking there must be an
10 easier way to clean the stove.

11 I was immediately grabbed from
12 behind with both hands coming around to
13 the front of my chest. Just before this
14 happened I was struck on the back of the
15 head. It was not a sharp blow, but I
16 was dazed, not knocked out. I dropped
17 to the floor and crawled under the open
18 counter. While I was still crawling
19 through the cupboard, I got hit on the
20 backs of the head again. I don't know
21 what happened to the ...",

22 actually, if you can go to -- you went too far,
23 one page back, please:

24 "I got hit in the back of the head
25 again. I don't know what happened to



1 the knife I had in my hand. I don't
2 know if I dropped it or if he got it
3 from me. I crawled through the open
4 cupboard and half crawled and half ran
5 into the bedroom. I ran into the
6 closest bedroom and tried to close the
7 door. He pushed the door open. The
8 rooms are very small and he pushed me
9 onto the bed. I was screaming at him to
10 leave me alone. The guy jumped on me
11 while I was on the bed and grabbed my
12 long hair and pulled it across my face
13 and held me down. He had a knife in his
14 other hand, I can't remember if it was
15 my knife or one he had. I cannot
16 remember the details of the assault on
17 the bed. I was screaming and he was
18 telling me to shut. My blouse was
19 ripped open and my bra pushed up. My
20 jeans and underpants were pulled down.
21 The fellow forced himself on me and had
22 intercourse with me.

23 During the time I was being
24 assaulted I pulled a red bandanna off
25 the guy's head. It was the farmer type



1 handkerchief that was wine or red and
2 white polka dots. When I pulled the
3 bandanna off, I also pulled off a
4 necklace around the guy's neck. I don't
5 remember what the jewellery looked like.
6 It was a chain type piece of jewellery,
7 possibly silver. When I pulled the
8 jewellery off, it broke. I don't know
9 if there was anything on the chain. It
10 seems there was something different
11 about the chain, but it doesn't come to
12 me.

13 When I broke the chain he said,
14 "You bitch, you're going to pay for
15 this." I thought he said something
16 about it being a gift, but I'm not sure.
17 He seemed very upset when the chain got
18 broken. He took the chain away from me.
19 Actually I believe I pulled the bandanna
20 down around his neck and not off of his
21 head. I should add that when the chain
22 broke, he said that he would kill me,
23 and that I would pay for it.

24 During the time he had sex with
25 me, he held the knife in his hand. I



1 feel I must have blacked out for a very
2 short time. I was continually screaming
3 and hysterical up to this time. When I
4 came to, I pushed him aside and rolled
5 off the bed. He took a swipe at me with
6 the knife and cut me on the left breast.
7 The cut was not deep, but the left
8 nipple is damaged and there is still a
9 slight scar.

10 I got up and struggled to get
11 my clothes on. Because of the hysteria,
12 I thought I'd black out again. I ran
13 out of the bedroom and fell and crawled
14 into the open cupboard. I crawled into
15 the cupboard because the guy blocked me
16 from going out the door. When I crawled
17 into the cupboard, the guy came up and
18 started stabbing at me. I got several
19 cuts and still have scars to show for
20 it. While he stabbed me he told me not
21 to tell anyone or he would be back. I
22 was screaming continually. The fellow
23 ran out the door. I don't know how long
24 I stayed in the cupboard.

25 I went to the window to see if



1 anyone was around. I tried to fix my
2 clothes and get dressed. I did not stop
3 to clean up. I ran out of the cabin and
4 into the middle of the parking lot.
5 That is where (V14)- and (V14) saw me.
6 When they approached, I tried to run
7 away from them. I was in shock. I
8 remember asking where the kids were.
9 The men went to check and found (V14)--
10 hiding either inside or beside the
11 garbage can. Heather said that an
12 Indian man was stealing our meant and he
13 scratched her. (V14)-- had a slight
14 scratch on her stomach area. The men
15 took me to the (V14)---- Hospital.

16 The fellow that attacked me had
17 dark brown hair, he was a white person.
18 He was about 5'6" or 5'7". His hands
19 were small and did not seem to be a
20 working man's hands as they were not
21 muscular or thick. I saw this person's
22 face for a short time during the
23 struggle. The person was of slim build
24 with no belly. The only clothes I
25 remember is blue jeans. I don't



1 remember the kind of shoes he wore. He
2 wore a red bandanna and had hair that
3 was not quite shoulder length with a
4 slight wave, not curly. His voice was
5 that of a young man, not a mature adult.

6 I do not recall seeing any
7 strange vehicles, but (V14)-- said she
8 saw a red truck, but at this time
9 everything was red to (V14)--. I
10 couldn't understand why (V14)-- would
11 say she saw an "Indian" stealing our
12 meat, but the bandanna probably reminded
13 her of an Indian."

14 Next page:

15 "This assault was reported to
16 the (V14)---- or (V14)---- RCMP. I did
17 not tell the investigating officer of
18 the sexual assault on me as I just
19 couldn't bring myself to talk about it.
20 Actually I didn't tell anyone, not even
21 my husband, of the sexual assault until
22 last year. Over the years I've had a
23 lot of personal problems associated to
24 this assault, however it has not been
25 until the last year that I talked about



1 it.

2 One of the reasons I started
3 thinking about this again is because of
4 the publicity around the *Milgaard* case.
5 Sometime after the investigation, the
6 police returned my clothes in a brown
7 bag. My husband said something like,
8 "Thanks a lot for nothing, it sure and
9 hell took you long enough" and he threw
10 the clothes in the garbage. I'm not too
11 sure what the police officer said but it
12 was something like, "We got the guy, he
13 doesn't live far from here." I never
14 heard the policeman say anything about
15 David Milgaard. I was left with the
16 impression that David Milgaard was
17 responsible for my assault, but I'm not
18 sure where I got that, but it may have
19 been by the police, I'm not sure.

20 In recent months, because of
21 the publicity that Milgaard may get out
22 of jail, I became scared. Last February
23 when I was released from the General
24 Hospital, Regina, I was being driven
25 home by a good friend, Harold Smith,



1 Regina, when I told him the assault was
2 much worse than I ever told anyone. I
3 did tell him that I had been raped
4 during the 1968 assault, although I
5 didn't tell him the details. He knew I
6 was having a lot of personal problems
7 and knew I wasn't getting any better and
8 that is when I told Harold the assault
9 was more than stabbing and that I had
10 been raped. I never did tell my
11 psychiatrist the details of the sexual
12 assault.

13 Harold and I communicated back
14 and forth and I was having nightmares of
15 the assault. The *Milgaard* case was on
16 the news again, so I asked Harold to
17 phone Milgaard's lawyer. Harold told me
18 he talked to Mr. Asper who said this
19 case was not relevant to the Milgaard
20 case. I told Harold I was not satisfied
21 with that and that I wanted to see David
22 Milgaard to see if it was he who
23 assaulted me. Harold said he would
24 drive me if it would make me feel
25 better, but I would have to make a



1 visitation appointment. I then phoned
2 Mrs. Milgaard in Winnipeg and talked to
3 her daughter and told her I was a victim
4 and wanted to talk to Joyce. The
5 daughter told me that Joyce was in
6 Saskatchewan talking to some people.
7 She said Joyce would get back to me.
8 That same day I got a call from Joyce
9 who said she wanted to meet me at my
10 house. I said "no" and that I would
11 come into Regina. I phoned Harold and
12 asked that he be with me during my
13 interview with Joyce. He said he would.
14 I left for Regina the same day,
15 Saturday, and checked into the Relax
16 Inn, Regina."

17 Scroll down:

18 "Joyce had given me her son's phone
19 number, Chris., and I could contact her
20 through Chris. I gave Chris my hotel
21 number. In the meantime I arranged for
22 Harold to come to the hotel. While I
23 was waiting for Harold I got two calls
24 from Joyce Milgaard, who wanted to come
25 to the hotel to interview me. I said to



1 Joyce I did not want to be interviewed
2 alone. When Harold arrived he phoned
3 Mrs. Milgaard and told her he was going
4 to be present during the interview
5 because I had gone through a traumatic
6 experience and was recovering. The next
7 thing I knew Harold was standing with
8 the phone receiver, saying Joyce had
9 hung up on him. After talking with
10 Harold, I was left with the impression
11 she wanted to interview me alone and
12 would not be coming down. Harold stayed
13 for awhile to settle me down and that
14 things would be ok. He then left. I
15 stayed overnight and took a cab the next
16 day to the Bus Depot. I was actually on
17 board the bus to (V14)--."

18 Scroll down, please:

19 "Mrs. Milgaard and Paul Henderson came
20 up to me and asked if I was (V14)--
21 (V14)- and asked if they could talk to
22 me. I told them ok, then went with them
23 to the Bus Depot coffee shop.

24 I talked with them for about
25 one hour. They asked if they could



1 drive me some place, I refused to go
2 with them. I asked Joyce if she had
3 pictures of her son David. She showed
4 me a picture. I looked at it, turned
5 away and said, this was not the person.
6 Joyce said, "Yes, this is the man who
7 attacked you" and that he was a serial
8 rapist and that he had admitted to
9 attacking other women and killing Gail
10 Miller.

11 When I looked at the picture
12 and turned away, saying it was not him,
13 Paul Henderson said something like,
14 "Yes, I think she recognized him." I
15 was left with the impression that Joyce
16 wanted me to agree with everything she
17 was saying. I asked Joyce if I could
18 see David and she said "no" and that he
19 was having problems and was presently on
20 a psychiatric ward and didn't want to
21 see anyone. Joyce made excuses for me
22 not to see David and she didn't show me
23 photos of David like she said she would
24 when I talked to her on the phone.

25 Joyce talked on and on about all the



1 crimes Fisher had been involved in and
2 that they were all native victims.

3 Several times during my contact
4 with Joyce Milgaard, she said she had a
5 video she wanted to show me. I have no
6 idea what it is about, but she has never
7 followed up on her promise to send it.
8 I even called David Asper's office to
9 get the video, but received no response.

10 I would like to add that the
11 fellow who assaulted me was fine
12 featured, somewhat like David Milgaard.
13 Also, I heard David Milgaard's voice on
14 the Shirley Show and it had a sound that
15 I relate to the person who assaulted
16 me."

17 Now is that an accurate recording of what
18 Ms. (V14)- would have told you on October 24th,
19 1991?

20 A Yes, as I recall.

21 Q Is there anything else that you recall from that
22 initial interview with Ms. (V14)- that's not
23 reflected in the statement?

24 A Well, like I say, she was a troubled -- a troubled
25 individual, she had difficulty talking about some



1 aspects of this. And actually when the, the
2 statement was, was over and we were having a
3 discussion, she then wanted to tell me something
4 in confidence, and she said that she was
5 traumatized by an event that took place. And she
6 said that she had actually given birth to a child,
7 and the child had died and was buried on the
8 reserve cemetery in Saskatchewan, and she was very
9 traumatized by all of this and was having
10 difficulty relating this and was crying, and she
11 wanted me to promise I wouldn't tell anyone, and
12 it was strictly between her and I. And so she
13 thought possibly this child was conceived during
14 the sexual attack on her. And so that's kind of
15 where it was left, and so I moved forward with the
16 investigation, at one point thinking that I would
17 exhume the body and see if there was some -- you
18 know, as DNA evolved in this, thinking that at
19 some future date there may be some possibility to
20 make, make a link. That was one of the early
21 thoughts that went on, and it didn't show up in
22 this statement, but it showed up in the
23 conversation after the statement.

24 And during this time she had
25 talked about all the counselling she had and so I,



1 you know, I listened and encouraged her to
2 continue on with her counselling, and that was
3 kind of one of the final conversations we had on
4 that first interview.

5 Q And I intend to go through them in some detail,
6 but would you agree generally, Mr. Pearson, that
7 the information in the statement taken by you from
8 Ms. (V14)-, compared to Mr. Henderson's memorandum
9 of what he reports Ms. (V14)- told him, are
10 significantly different; would that be a fair
11 statement?

12 A There are some differences, yes.

13 Q And in your dealings with Ms. (V14)- did she,
14 again with this interview and this statement, I
15 think you told us that you were going there to
16 investigate this assault as one of Larry Fisher's
17 assaults, and whether there was similarities to
18 the Gail Miller murder; did she say anything in
19 the interview with you, sir, that would cause you
20 to think that Larry Fisher was a suspect in that
21 assault?

22 A That she mentioned --

23 Q Let me rephrase that. Did she say to you anything
24 that, in her mind, she thought Larry Fisher was a
25 suspect in the assault?



1 A No.

2 Q And did she tell you that she thought David
3 Milgaard was the person who had assaulted her?

4 A She told me many times subsequently to this and --
5 that she believed David Milgaard did it.

6 Q Can you tell us what, what was your reaction after
7 having talked to her, based upon what you had read
8 in the police report and what you had read in Mr.
9 Henderson's report compared to what she had given
10 you?

11 A Well there were, there were some differences, you
12 know. From reading the report it was -- it
13 certainly appeared that she was shown a picture of
14 Larry Fisher that she didn't recognize as the
15 person that assaulted her, that was her first
16 reaction. Umm, I don't know what else I can --
17 you know, you are going to have to ask me a
18 question.

19 Q Maybe if we could go through, if we could maybe
20 have up on the screen 222196 on the left side, and
21 that's -- I'll use the memorandum as opposed to
22 the application materials -- and the statement
23 that you took is 012058. So the statement on the
24 left is Mr. Pearson's and the statement on the
25 right is Mr. Henderson's, I think, or the



1 memorandum.

2 Just back on your statement, did
3 you -- do you have a recollection, did you -- was
4 this a narrative statement, question and answer?

5 A It was a narrative statement after having a
6 discussion with her. Like I say, she was having a
7 lot of emotional difficulties and she was
8 emotional during this time and, you know, it was a
9 process of getting her confidence I think and
10 listening to her and talking with her and really
11 summarizing what she had to say in a narrative
12 statement.

13 Q If we can go to, on the right-hand statement, if
14 we can go to the third page, 222198, call out that
15 portion, and actually just call out this and then
16 we'll go to the next page. Here in this statement
17 to Mr. Henderson -- actually, you have to bring it
18 over this way a bit.

19 COMMISSIONER MacCALLUM: I thought that was
20 Pearson's?

21 MR. HODSON: Sorry, the one on the
22 right-hand side is Mr. Henderson's.

23 COMMISSIONER MacCALLUM: 222198?

24 MR. HODSON: Yes. No, 222196 is the doc ID
25 for the Henderson memo, and I'm sorry, I had it



1 on the left-hand side before, I now have it on
2 the right-hand side.

3 COMMISSIONER MacCALLUM: And 012058 is
4 Pearson?

5 MR. HODSON: Yes.

6 COMMISSIONER MacCALLUM: Okay.

7 BY MR. HODSON:

8 Q Again, the document on the right, Paul
9 Henderson -- I'll leave that. In the Henderson
10 memo she describes the assailant as being part
11 Indian and wearing a red headband as well as
12 wearing work clothes and boots, and then if we can
13 go to the next page of the Henderson statement --
14 sorry, the next page, page 4 -- we're going to
15 have to back up. I think we've got both sides --
16 the left-side document ID should be 012058. Now
17 we've got them switched around here. If you can
18 go -- if we can maybe keep them on the -- this is
19 how we had it originally, so the document on the
20 right is 012058, this is Mr. Pearson's statement,
21 the document on the left is Mr. Henderson's, so if
22 we can leave it like that and don't move them back
23 and forth. So the document on the left-hand side
24 I had gone on page 3 and then as well finally,
25 about the assailant as being slightly taller than



1 herself and that he is native, and then if we can
2 go back to -- if we can go on the Pearson
3 statement, the document on the right, if we can
4 just go back one page to 060, and again the
5 description, call out that, and so the bottom
6 document is Pearson, the top one is Henderson, and
7 there's a previous page that I had here about
8 being native, and again there appears to be a
9 significant difference, Mr. Pearson, in your
10 description of the assailant, in Mr. Henderson's
11 memo it is slightly taller than five foot four,
12 Indian, work clothes, work boots, and in your
13 statement she describes him as a white person,
14 five six, five seven, hands were small, not seemed
15 to be a working man's hands, and no recollection
16 of clothing or boots other than jeans and a
17 bandanna and the shoulder length hair with a
18 slight wave, and I'm wondering, Mr. Pearson, your
19 statement was about four months after her
20 discussion with Mr. Henderson. Did you have
21 concerns with the fact that -- one of two things I
22 suppose, either she said different things to Mr.
23 Henderson than she said to you or the two of you
24 recorded them somehow differently. Would that be
25 fair?



1 A That would be fair, but I have to also say that,
2 you know, she was extremely upset with the way she
3 was dealt with by the approach by Mrs. Milgaard
4 and Mr. Henderson at the time and she was
5 distraught over this whole, the way this whole
6 thing came down and that --

7 Q What did she tell you was bothering her?

8 A Well, she -- like I say, she had David Milgaard
9 imprinted in her mind as to being the person that
10 had been responsible and it would seem this had
11 come back from the original investigation when she
12 was left with that impression, that seems to be
13 where this came from, and when she wanted to
14 pursue, to confirm in her own mind that it was
15 David Milgaard or not, she was then presented with
16 this photograph of someone else who, you know, we
17 know it is Fisher, and she felt she was being,
18 they were trying to convince her it was Fisher and
19 not Milgaard, and she also had some issues with
20 the fact that it was a belief that all his victims
21 were native and she thought no, that wasn't true,
22 but -- and I had many, many conversations with
23 this lady over the years attempting to develop the
24 blood work that was eventually done and this was a
25 common theme of hers in that she struggled with



1 this, the fact that she thought in her mind it was
2 David Milgaard.

3 Q Okay. Putting aside the name, let's just talk a
4 white person versus a native person.

5 A Yes.

6 Q Did she ever tell you or did you put to her when
7 you interviewed her, ask her whether she ever told
8 Paul Henderson and Joyce Milgaard that the person
9 who assaulted her was native?

10 A I don't recall.

11 Q And again, if she would have told you -- let me
12 back up. Would you have had -- would you have put
13 at any point the discrepancies between Mr.
14 Henderson's memorandum and the statement she gave
15 to you to her and say lookit, here's what Mr.
16 Henderson says you told him?

17 A No, I don't believe I was challenging her on what
18 she had said previously. I was talking to her and
19 asking her to provide me what she had. I don't
20 recall ever trying to challenge her and quiz her
21 about why she said things differently at this
22 point, I just don't recall that.

23 Q If we could then go back to just the main pages of
24 the statements, if we can go on the dealings with
25 the vehicle and the daughter, if you can go to



1 222198 on the Henderson memo and call out that
2 paragraph, and just maybe move that up to the top,
3 please, and then the bottom part here right down
4 to the bottom. That's not going to fit.

5 Actually, why don't we just go through this part
6 first. In the statement to Henderson it talks
7 about (V14)-- said her four year old witnessed the
8 theft of steaks and actually chased the man when
9 he fled and then talked about the daughter claimed
10 that he drove off in a red truck, and just on that
11 point, did you ever, do you recall ever following
12 up with Jake Ketler about the colour of trucks
13 that Fisher may have had access to or whether he
14 had worked at the (V14)- (V14) near (V14)---- at
15 about this time?

16 A The trucks they had, the company trucks, as I
17 recall, were a white or an off white colour.

18 Q And what about the fact that Larry Fisher -- what
19 about the fact that Mr. Ketler's company, the
20 company that Larry Fisher worked for, did you ever
21 follow up to find out whether they were working
22 near (V14)---- in May of 1968?

23 A My recollection is they weren't sure exactly when,
24 but they did believe that there was work that they
25 had done there, and whether or not Larry Fisher



1 was there I don't think was confirmed, but could
2 very well have been.

3 Q And then as far as the, your statement, just on
4 this point just at the bottom, and in the
5 statement to you she says:

6 "I do not recall seeing any strange
7 vehicles, but (V14)-- said she saw a red
8 truck, but at this time everything was
9 red to (V14)--."

10 So I take it on that point she told you and --
11 appears to have told you and Mr. Henderson the
12 same thing about at least the colour of the
13 trucks?

14 A Yes.

15 Q Next if we can go back on the left-hand statement,
16 and I don't propose to go through it in detail,
17 but if we could go to the second page of the
18 left-hand statement, 222197, and I read both of
19 them, so I don't think I need to repeat it, but in
20 Mr. Henderson's memo he talks about the failure of
21 the parties to meet at the motel room the night
22 before and in his memorandum suggests that --
23 well, that it didn't take place I think in part
24 due to (V14)-- (V14)- not, or her friend hanging
25 up the phone on Joyce Milgaard. In her statement



1 to you it appears that there's a different story,
2 that she was there waiting and they didn't come
3 and she thought that's because they wanted to
4 interview her alone, and again just generally,
5 without going through the details, I read them
6 both, would you agree there appears to be a
7 discrepancy there between what Mr. Henderson
8 reports about the initial meeting and what
9 Mrs. (V14)- told you?

10 A Yes, there does seem to be a discrepancy there.

11 Q And did Mrs. (V14)- express concern to you, did
12 you say, about the meeting, the meeting she had
13 with Mrs. Milgaard and Mr. Henderson?

14 A Yes, she did, on a number of occasions over the
15 time period she raised it, the way she was in
16 contact with Mrs. Milgaard and Henderson.

17 Q If we can go back again to the front page of the
18 Henderson memorandum, was there anything in
19 particular that she told you that bothered her
20 about the meeting?

21 A Well, she just mentioned that she thought that,
22 you know, they wanted to convince her something
23 other than what she had in her mind.

24 Q If we can just go back to the point here about her
25 information about David Milgaard being involved,



1 and go to page, actually on this statement go to
2 page 061, the next page on that, and just this
3 paragraph here, if you can call that out. So in
4 the statement to, or the memorandum of Mr.
5 Henderson she says that the crime went unsolved
6 until David Milgaard was arrested and authorities
7 told (V14)-- that Milgaard was the person
8 responsible for attacking her, and in the
9 statement she gave to you she said:

10 "I never heard the policeman say
11 anything about David Milgaard. I was
12 left with the impression that David
13 Milgaard was responsible for my assault,
14 but I'm not sure where I got that, but
15 it may have been by the police, I'm not
16 sure."

17 And again, was that anything that you probed
18 further with her or with the police?

19 A With the police?

20 Q Well, to find out whether the 1968 RCMP would have
21 told her that?

22 A Oh, I don't recall -- I don't recall this being
23 pursued to be quite honest with you. I just have
24 no recollection of it.

25 Q Now, when I went through earlier the police file,



1 the note that you identified as the concluding
2 report was September, 1968. Do you recall going
3 through that this morning?

4 A Yes, yes.

5 Q Which would be I guess five months prior. Did you
6 ever make any inquiries of any officers to see
7 whether after the file was concluded there were
8 any discussions with --

9 A I don't think we ever found an officer that had
10 any knowledge of this matter.

11 Q And then next if you could go on the statement on
12 the left and go to the second page, 222197, call
13 out that portion, and then if you can go to page
14 012063 on the right-hand statement and call out
15 the top part -- actually, can we get right down to
16 there? Just move the bottom part down. So on
17 the -- the bottom part here, this is what she said
18 to Mr. Henderson about the, being shown the
19 photographs. Mr. Henderson writes:

20 "Without identifying the person, we
21 showed her the photo-booth strip of
22 (four) Larry Fisher pictures. She
23 studied the photos and commented, "His
24 hair was longer." It should be noted
25 that Fisher was uncharacteristically



1 well groomed in these photos and that
2 all other rape victims described his
3 hair as being long."

4 And then in your statement at the top, and
5 actually from the previous page it starts off:

6 "She showed me --"

7 Being Joyce Milgaard,

8 "-- a picture. I looked at it, turned
9 away and said, this was not the person.
10 Joyce said, "Yes, this is the man who
11 attacked you" and that he was a serial
12 rapist and that he had admitted to
13 attacking other women and killing Gail
14 Miller.

15 When I looked at the picture
16 and turned away, saying it was not him,
17 Paul Henderson said something like, "Yes
18 I think she recognized him."

19 And again there appears to be a discrepancy
20 between what she told you and what Mr. Henderson
21 reported about, (a), whether she did or didn't
22 identify Larry Fisher's picture; is that correct?

23 A That's correct, yes.

24 Q And secondly, comments attributed to Mr.
25 Henderson; correct?



1 A Yes.

2 Q And again, did that cause you any concern, that
3 difference?

4 A Well, yeah, you know, that is a problem when you
5 are talking to someone that has information and
6 you are trying to get them to acknowledge
7 something different. Yeah, that is a problem.

8 Q So after this meeting with Ms. (V14)-, if we just
9 go back to what it was you went to see her about
10 and the work you were doing, you were
11 investigating whether Larry Fisher was a suspect
12 in the rape and murder of Gail Miller and under
13 the second 690 application you were being asked by
14 counsel for David Milgaard in the application to
15 look at other offences committed by Larry Fisher
16 and to compare similarities from those offences to
17 the Gail Miller murder to try and make a link
18 between Larry Fisher and the murder, and it would
19 now appear, based on the statement Ms. (V14)- gave
20 to you, that the one offence that Mr. Milgaard was
21 relying upon in his application as a comparator,
22 that the victim was now saying something different
23 than what was in the application to the minister;
24 is that fair?

25 A Well, she was talking about the belief that David



1 Milgaard was the one that had assaulted her and
2 that's the belief she had and that's what she was
3 interested in confirming in her own mind.

4 Q Did you get any sense from your discussions with
5 her, Mr. Pearson, as to whether she had, prior to
6 meeting with you, said to anybody that she maybe
7 thought Larry Fisher had committed the assault on
8 her?

9 A I have no knowledge of that, no.

10 Q Do you have any explanation as to why there
11 appears to be two different stories in the
12 Henderson memo and your statement -- and different
13 version of events, I didn't mean to say stories,
14 but two different -- let me back up. If you read
15 Mr. Henderson's memo, would you get the impression
16 that she thought maybe Mr. Fisher had committed
17 the assault?

18 A Who --

19 Q Let me go back.

20 A Clarify that because --

21 Q If you read Mr. Henderson's memorandum about his
22 interview with (V14)-- (V14)- --

23 A Yes.

24 Q -- would it be fair to say that a reading of that
25 might suggest that Larry Fisher had committed the



1 assault on (V14)-- (V14)-; correct?

2 A You could infer that, yes.

3 Q And because he said she identified him as a five,
4 slightly taller than five foot four, construction
5 boots, construction clothes, part Indian and had
6 been working on a job in that area and likely had
7 a red truck from his company; correct?

8 A Yes.

9 Q And that it was witnessed by the victim's
10 daughter?

11 A If he had no other information, yes.

12 Q And if you read the statement that she gave to
13 you, would it be a fair reading of that to say
14 that -- that the person that, according to that
15 statement, she thinks committed the assault, was
16 not Larry Fisher, but perhaps David Milgaard?

17 A Yes.

18 Q And again, how do you -- did you ever reconcile
19 that or how do you explain, if you are able to,
20 that difference?

21 A Well, I suppose the only difference you can show
22 here is how it's actually written and the
23 difference being that it would appear that when
24 she was approached by Mrs. Milgaard and Mr.
25 Henderson, that they had introduced Larry Fisher



1 into the mix with the, just by reading the
2 documentation, attempting to show that the
3 probable assailant was not David Milgaard, but it
4 was Larry Fisher, and that's the only explanation
5 I can give.

6 **Q** This is probably an appropriate spot to break. I
7 should just mention, Mr. Commissioner, just for
8 the record, in dealing with this issue with
9 Ms. (V14)-, of course we're only concerned about
10 what impact it had on the investigation and the
11 reopening and the evidence being called on this
12 point is certainly not to suggest that either Mr.
13 Fisher or Mr. Milgaard did or didn't commit the
14 rapes, and I appreciate that the reason that we're
15 getting into this is that it bears upon the work
16 that Mr. Pearson was doing, not to try and
17 establish any improper conduct on either Mr.
18 Milgaard or Mr. Fisher because -- confirm, Mr.
19 Pearson, no one was ever charged or convicted of
20 the (V14)- rape; is that correct? No one was ever
21 charged or convicted?

22 **A** No.

23 **Q** And just if I could clarify that point for the
24 record.

25 COMMISSIONER MacCALLUM: Yes, that's



1 helpful, thanks.

2 MR. HODSON: We can maybe adjourn for
3 lunch.

4 (*Adjourned at 11:59 a.m.*)

5 (*Reconvened at 1:30 p.m.*)

6 BY MR. HODSON:

7 Q Good afternoon, Mr. Pearson. If we could pick up
8 where we left off, I just finished going through
9 the statement that you obtained from (V14)--
10 (V14)- on October 24th, 1991. If we can go back
11 to your chronology, page 056808 which is part of
12 doc. ID 056743, and this is your note at 304:

13 "Departed for (V14)--, arrived Imperial
14 400 Motel and interviewed (V14)--

15 (V14)-. See her statement for details.

16 Mrs. (V14)- has severe emotional

17 problems and is depressed about the

18 crime committed against her in 1968.

19 She revealed to me that the attack was

20 definitely a vicious sexual one and that

21 a child was born to her nine months

22 after this attack, and died shortly

23 thereafter. (V14)-- is in urgent need

24 of personal counselling and her story is

25 one of a horrendous life of



1 victimization as a result of this
2 offence against her."

3 And I take it is that an accurate note, then, of
4 what your synopsis was of the interview?

5 A Yes, I think that's probably how I felt at the
6 time, yes.

7 Q And then if we could go to 012065. And this is
8 October 29th, '91, a fax to Eugene Williams, if I
9 can scroll down to 1, and it looks like you talked
10 to Mr. Williams by phone the day before, you
11 attached the statements and you say:

12 "... that during (V14--'s original
13 complaint in 1968, she did not report
14 that she had been raped. Approximately
15 eight months after the rape, (V14)--
16 gave birth to a child which died shortly
17 thereafter. The baby was buried on an
18 Indian Reserve cemetery in Saskatchewan.
19 At this time the victim does not know if
20 the child was conceived during the rape
21 or if it was fathered by her husband.
22 (V14)-- has since been divorced ...",
23 and had not shared the rape, etcetera.

24 And in paragraph 2 you talk
25 again about her problems, and then in the fourth



1 line:

2 "During the 1968 attack, the victim had
3 long hair which was used by the attacker
4 to hold her down during the rape. Since
5 that time, she has worn her hair very
6 short, fearful that a similar crime may
7 re-occur."

8 And, again, would that be information that you
9 received from her?

10 A Yes.

11 Q And the next page, paragraph 3:

12 "Just prior to sending this fax, ...",
13 so this is October 29th, this is five days after
14 the statement:

15 "... I received a call from (V14)-- and
16 she is currently in a Saskatchewan
17 hospital, suffering from depression and
18 fearful of what is happening in the
19 Milgaard case. (V14)-- now tells me she
20 has seen TV and newspaper pictures of
21 Milgaard and believes strongly it was he
22 who committed the offence upon her. She
23 also indicates the photo she was shown
24 of Larry Fisher, by Joyce Milgaard, was
25 not the person who attacked her."



1 And, again, is that an accurate note of what you
2 were told at the time?

3 A As I recall.

4 Q And what, what, Mr. Pearson, did that -- I mean
5 again, as far as just taking a step back, the work
6 that you were doing on the second 690 application
7 and looking at a number of offences, including
8 this one as an offence committed by Larry Fisher,
9 and comparing the details with the Gail Miller
10 murder, what did this information in paragraph
11 3 -- how did that impact the work that you were
12 doing?

13 A Well I guess it brought into question the accuracy
14 of the information that may have been submitted as
15 one of the concerns.

16 Q Accuracy in what way?

17 A Well in that in this case, you know, it's obvious
18 that I think the application material was making a
19 reference to Larry Fisher, and she was believing
20 it was David Milgaard, there's an obvious conflict
21 here.

22 Q And then in paragraph 4:

23 "I have included the above in addition
24 to the statement material only to
25 highlight an example of crime



1 victimization. (V14--'s value as a
2 witness is certainly questionable
3 because of the tenuous state of her
4 mental health."

5 And can you just elaborate on that?

6 A Well, like I say, I -- just by talking with her
7 it's obvious that she had a lot of emotional
8 mental issues on her plate. She, she would
9 certainly carry a rational conversation but she
10 was very emotional and, you know, she had talked
11 about this stuff that she had been carrying along
12 for many many years and she was disclosing, but
13 you know, she was obviously having a lot of
14 personal problems.

15 Q And what about her credibility; were you able,
16 either at this time or based on subsequent
17 dealings, to make any assessment in your own mind
18 of the credibility of what she was saying?

19 A It was, reflecting back, I think it was difficult.
20 I mean I didn't know her very well, I was taking
21 it for what I saw it, I'm not too sure I was
22 assessing her credibility. She was -- well, I'm
23 sure I was, but I mean to come to a conclusion
24 that I knew that she was unreliable or reliable, I
25 don't know. I was just taking it at face value,



1 trying to figure out what, what we had here, and
2 she was obviously in need of emotional care.

3 Q Over the course of the following number of months,
4 and maybe it was a year or two, your reports --
5 and we will be touching on some of them -- but it
6 appears that you talked to Ms. (V14)- frequently
7 after your initial interview; is that fair?

8 A Yes, she --

9 Q But --

10 A She called me quite often over the, actually
11 probably a couple of years, or I'm not sure of the
12 time frame but it was quite lengthy.

13 Q If we can go back to 056808, scroll down please,
14 and then we move to November the 1st, 1991. It
15 says:

16 "Mr. (V14)-- (V14)-- ... counsel for
17 (V14)-, phoned and requested police
18 files concerning the sexual assault upon
19 Mrs. (V14)-, as apparently criminal
20 charges are going to be initiated. Mr.
21 (V14)-- wants police reports and
22 statements. I requested that he make
23 his request in writing and I will
24 respond appropriately. I explained to
25 Mr. (V14)-- that identity in this case



1 was certainly a problem and he seems to
2 understand this, however, wishes to
3 access further information."

4 And then:

5 "Called Mr. Williams to advise that
6 Mrs. (V14)- is pursuing criminal action
7 against David Milgaard in this regard,
8 which may create additional sensitivity
9 over this entire investigation."

10 And I take it that happened, that discussion with
11 Mr. (V14)--?

12 A Oh yes, yes, uh-huh.

13 Q And you mentioned here that you explained that
14 'identity in this case was certainly a problem',
15 and what, what were you meaning by that?

16 A I -- there was no, no proper police line-up or a
17 formal way of identifying who was responsible. I
18 think Mrs. (V14)- had this idea in her mind that
19 it was David Milgaard, and at the same time she
20 was shown some photographs of Larry Fisher, and,
21 you know, the way she reacted to the photographs,
22 I just think all in all that identity and the
23 tenuous state of the lady's emotions would
24 certainly create some real problems.

25 Q And you would have conveyed that to her counsel?



1 A Yes. I talked to several counsel on this over the
2 years.

3 Q And then you go on, in paragraph 308:

4 "Mr. Williams and I also talked again of
5 the need to interview any of the
6 Saskatoon victims of Larry Fisher, as
7 the biased approach used by
8 Mrs. Milgaard during her contact with
9 Mrs. (V14)- may have coloured somewhat
10 the application under Section 690 ... to
11 ensure the information is as accurate as
12 we can get, the possibility of the
13 victims being re-interviewed should not
14 be overlooked."

15 And what did you mean when you talked about the
16 'biased approach used by Mrs. Milgaard during her
17 contact with Mrs. (V14)-?

18 A Well I guess the issue of showing, showing a
19 photograph of Larry Fisher when Mrs. (V14)- was
20 really believing that it was someone else, and
21 then the information received seems to have been
22 that, at least according to Mrs. (V14)-, that she
23 was trying to be convinced that it was someone
24 other than who she thought it was, and that there
25 was some pressure on her to, to change the



1 identity of -- or the person that she thought
2 might have been involved. So in view of that.
3 And I think that's where I come to that conclusion
4 that there was maybe a biased approach in
5 Mrs. Milgaard's approach to Mrs. (V14)-, believing
6 that David was innocent and that Larry Fisher was
7 probably involved.

8 Q And then you also say that it:

9 "... may have coloured somewhat the
10 application under Section 690 ...",
11 what did you mean by that?

12 A I think possibly, if this was the approach that
13 she used here, was there other approaches that
14 maybe influenced victims to say things that
15 weren't accurate.

16 Q And was that a view you held at the time, sir?

17 A Yes, I believe so.

18 Q And so, again, I think we touched on this in the
19 note:

20 "... the possibility of the victims
21 being re-interviewed should not be
22 overlooked."

23 What would be -- did the information you learned
24 from Mrs. (V14)- cause you to change any views
25 you had about the information with respect to the



1 other victims of Larry Fisher in the second
2 application?

3 A I don't -- at the end of the day?

4 Q At this time, and at the end of the day?

5 A Well, at the end of the day I, it ended up that we
6 interviewed or I interviewed two victims that
7 there was no file material on, and for the most
8 part they were accurate representations that I
9 received, as had Centurion Ministries.

10 Q Now I take it with the other seven offences, I
11 don't think there was any dispute that Mr. Fisher
12 had committed the crimes, he had been convicted of
13 them; is that correct?

14 A Yes, that's correct, uh-huh.

15 Q And so again, when you talk about the victims and
16 the re-interviewing them, what would be, again at
17 this time, what would be your concerns about
18 information from the victims, if any?

19 A Only to ensuring that what they had to say was
20 what was said in the past and what was said in the
21 690 material that was forwarded by Centurion
22 Ministries. I think it was a confirmation, I
23 suppose, of Centurion Ministries' information that
24 was the basis of the 690 material.

25 Q And again at this time, and just looking at your



comment here where you describe it as the 'biased approach used during the contact with Mrs. (V14)-', and based on your interview with Mrs. (V14)- and your review of Mr. Henderson's memorandum did you have concerns at this time, around November 1991, about the approach used by Paul Henderson and Joyce Milgaard with (V14)-- (V14)-?

A Umm, according to the information I received from Mrs. (V14)-, yes.

Q And what would those concerns be?

A Well, just the fact that they were putting to Mrs. (V14)- the person that they thought committed the offence, and trying to convince her that her view that it was David Milgaard was wrong.

Q Okay.

A I guess influencing, I suppose, what this person had to say.

Q If we can then go to the next page, please, and then it appears, 309 and 310 here, again this is November 1, '91 and November 4, '91:

"Contacted (V14) (V14)----, Social Services, requesting he check any data banks they may have for records on David Milgaard. If any are located, we will



1 then discuss how these can properly be
2 accessed if in fact they have any value
3 to this inquiry."

4 And then:

5 "Received a call from Langenburg High
6 School registry office, indicating David
7 was in school at that location from 1965
8 to 1966 in grade 8. In 1966/67, David
9 was in school with his last attendance
10 being Nov 03, records show a transfer.
11 The principal's secretary was a student
12 with David and thought he moved to
13 Winnipeg after leaving that community."

14 And, again, what would be the purpose of
15 gathering this information about David Milgaard?

16 A He was doing it to get some background information
17 on him as far as if he was in school at that time.
18 I'm assuming. It's more of a background gathering
19 of information.

20 Q Would this relate to where he was in May of 1968
21 and related to the (V14)- matter?

22 A It could be. I just don't recall. It's possible,
23 but it could be for other reasons as well. I just
24 don't know.

25 Q And did you, and we'll go through some of the



1 notes, but did you investigate Ms. (V14)- '
2 complaint or suggestion or allegation and
3 investigate to see whether or not David Milgaard
4 may have committed the assault as she alleged?

5 A Well, there's more to the story here, but --

6 Q Yeah. I'm just talking generally.

7 A Yes, I did.

8 Q And why would that be relevant to the work that
9 you were doing on the Section 690 application?

10 A Continuing the investigation?

11 Q Yes.

12 A Because it was an unsolved crime.

13 Q Yes?

14 A There was no person identified. One was the name
15 Fisher that had come through the 690 and the other
16 was because she believed it was David Milgaard, so
17 I think the two names were at play here.

18 Q If the (V14)- complaint had not been included in
19 David Milgaard's second application under Section
20 690, are you able to tell us whether you would
21 have investigated the (V14)- complaint as part of
22 the Section 690 work?

23 A I wouldn't have known about it.

24 Q If you had become aware of it --

25 A Through the 690?



1 Q No, my question is this. I think we saw that it
2 was part of the Section 690 application?

3 A Yes.

4 Q And I think you are saying in the course of your
5 investigating the Section 690 application you
6 obviously became aware of Ms. (V14)- and the
7 complaint because the Milgaards alleged Larry
8 Fisher committed the assault; correct?

9 A Yes.

10 Q And you pursued that, and I think you then went on
11 to say you investigated David Milgaard as a
12 suspect because the complaint was part of the
13 Section 690 process, or because it was part of the
14 application; correct?

15 A That's fair, yes.

16 Q And my question is if it had not been included in
17 the Section 690 application, in other words, there
18 had been no suggestion that this crime had been
19 committed by Larry Fisher, are you able to tell
20 us, and I'm not, and I'll maybe put this to other
21 witnesses as well, but are you able to tell us,
22 Mr. Pearson, whether, if it had not been included
23 in the second application, whether this is
24 something, simply Mrs. (V14)-' complaint that she
25 thought David Milgaard raped her in 1968, is that



1 something you would have pursued wearing your
2 Section 690 hat and doing the work for Mr.
3 Williams?

4 A I think so. I think if information came that it
5 was believed that he was involved in this crime
6 and it was unsolved, I think that would be
7 something that needs to be looked at, yes.

8 Q And so apart from its inclusion in the Section 690
9 application, the fact that someone was suggesting
10 or accusing Mr. Milgaard of an assault in 1968 is
11 a matter that would be of interest in your work
12 doing the investigation; is that correct?

13 A Run that by me again? That's getting complicated
14 here now.

15 Q Sure, I'll try. The simple fact that a rape
16 occurred in 1968 and the complainant said that she
17 thought David Milgaard had committed the rape,
18 would that, in and of itself, be a matter that
19 would concern you as an investigator investigating
20 the second Section 690 application?

21 A Oh, it's something that, yeah, I think you would
22 pursue, yes.

23 Q And would that have any effect on, in your mind,
24 or in your role as an investigator, in Mr.
25 Milgaard's responsibility for Gail Miller's



1 murder? Let me maybe ask it this way. Why would
2 that be relevant if you are investigating Gail
3 Miller's murder?

4 A Is that a complicated question, because I don't
5 see it. Give it to me again because --

6 Q I'm trying to fine out, I think you said yes, in
7 the course of investigating on a Section 690 that
8 Mrs. (V14)-' complaint would be relevant, and I'm
9 just trying to find out why it would be relevant
10 in the work you were doing on the Section 690.

11 A Well, it's involved in the material that was
12 forwarded.

13 Q Okay. And I think if you can put aside the fact
14 that it was in the Section 690 material, just the
15 simple fact that you have a complainant, a lady
16 saying David Milgaard I think committed a rape on
17 me in 1968, May of '68, eight months before the
18 murder of Gail Miller --

19 A Yeah.

20 Q -- in the work that you were doing investigating
21 Larry Fisher and other matters during the course
22 of the Section 690, would that incident and her
23 allegation, would that be relevant to you in the
24 work that you were doing?

25 A Sure.



1 Q And how and why?

2 A Well, it's a complaint that should be followed up
3 in that there's a complainant who has the name of
4 an individual that she thinks is involved.

5 Q And what effect if any would that have on your
6 thinking or your investigation as to whether or
7 not David Milgaard was the person who had killed
8 Gail Miller?

9 A Oh, I'm not sure that I could associate that to
10 Gail Miller. This was an unsolved offence that
11 may be somewhat separate all together from
12 everything else. I'm not sure that my
13 investigating Mrs. (V14)-' complaint and assuming
14 that it was David Milgaard that was involved, how
15 that would associate to Gail Miller's death, I
16 don't know if there's an association there, if
17 that's the answer to your question.

18 Q That's the question I'm putting to you, Mr.
19 Pearson, is I'm trying to understand -- I think
20 you've told us the reason it became part of your
21 investigation was because it was part of the
22 application filed by David Milgaard?

23 A Yes.

24 Q And I'm trying to get at if it had not been part
25 of the application and you had simply become aware



1 that she made this allegation and had nothing to
2 do with Larry Fisher --

3 A Uh-huh.

4 Q -- solely with respect to David Milgaard, and I
5 think you said you would investigate it, is that
6 wearing your police officer's hat; in other words,
7 here's --

8 A Yes, I think it is, yes.

9 Q And wearing your hat as working on the David
10 Milgaard application, would that assault -- and I
11 think what you've told us is no, you don't think
12 it would have much to do with that investigation?

13 A No, I don't think it would, you know. I'm not
14 sure how you could make that association back to
15 the Gail Miller murder in Saskatoon.

16 Q No, that was the question I was --

17 A Sorry I couldn't have given you the answer
18 quicker.

19 Q It may have been in the delivery of the question,
20 sir.

21 A No, not entirely.

22 Q If we can go back to then 056809 and, as I stated
23 earlier, I'm going to go through and try and deal
24 with the (V14)- matters on their own, and so
25 there's some other matters here on other subjects



1 that we'll come back with. If I could just call
2 up 012073, and this is a memorandum to file of
3 Eugene Williams, November 1, 1991, where he is
4 putting in memo form the highlights of a telephone
5 call he had received, or you had received from
6 Ms. (V14)-, and I just want to go through this and
7 get your comment on its accuracy. It says:

8 "Ms. (V14)- had been interviewed by Mrs.
9 Joyce Milgaard and Centurion Ministries.
10 A summary of the interview was forwarded
11 to the Minister of Justice with David
12 Milgaard's second application for the
13 mercy of the Crown.

14 Ms. (V14)- advised Sergeant
15 Pearson that she was upset at the
16 treatment that she had received from
17 Mrs. Milgaard. Initially, Ms. (V14)-
18 had contacted counsel for David Milgaard
19 to secure a photograph of Mr. Milgaard.
20 Ms. (V14)- suspected that Milgaard
21 sexually assaulted her in 1968. Counsel
22 had referred Ms. (V14)- to Mrs.
23 Milgaard, and the women met in Regina
24 some time later. Ms. (V14)- attended
25 the meeting believing that she could



1 resolve the suspicions that she had
2 harboured for over 20 years. Instead,
3 the conversation revolved around Larry
4 Fisher.

5 Mrs. Milgaard produced a
6 photograph of Larry Fisher and asked
7 Ms. (V14)- whether Fisher had assaulted
8 her. (V14)- denied that Fisher was her
9 assailant."

10 Let me pause there. Is that -- and again this is
11 what Mr. Williams is writing based on what you
12 told him, and is that accurate?

13 A I think generally it is, yes.

14 Q Is there anything in there that you take issue
15 with?

16 A No, I don't, not that I recall.

17 Q And then:

18 "Ms. (V14)- has also consulted (V14)--
19 (V14)- a lawyer in the same law firm
20 which (V14)- (V14)----- is a partner.
21 Mr. (V14)- called Sgt. Pearson and told
22 Pearson that he had been retained to
23 determine if there were sufficient
24 grounds to launch a private prosecution
25 of David Milgaard for the 1968 assault



1 on Ms. (V14)-. Pearson advised (V14)-
2 that if there was any evidence linking
3 Milgaard to the assault of Ms. (V14)-,
4 it would be pursued. However, Pearson
5 also said that he had not found any
6 evidence to link Milgaard to (V14)-."

7 And is that true and accurate?

8 A Yes, I believe it is.

9 Q And again we talk here, and these are Mr.
10 Williams' words, but evidence to link Milgaard to
11 (V14)-. Would that be again the same issues or
12 principles we talked about when we were looking at
13 linking Mr. Fisher to the murder of Gail Miller;
14 in other words, something to link the suspect to
15 the crime?

16 A I would think so. This was very early in the
17 process here, so there's not much real
18 investigation had gone on other than I believe the
19 interview, but that's generally true.

20 Q And then scroll down:

21 "Sgt. Pearson had earlier interviewed
22 Ms. (V14)-. He learned that she has
23 been hospitalized in a psychiatric
24 facility on several occasions to treat
25 an illness that was spawned by the 1968



1 assault. She has encountered a number
2 of setbacks in her personal life, and
3 has not fully recovered, emotionally,
4 from the injuries she suffered during
5 the attack. Consequently, Sgt. Pearson
6 has been cautious in his assessment of
7 the information that Ms. (V14)- has
8 provided. Where possible, it will be
9 examined to determine if it can be
10 confirmed by other sources before any
11 additional steps are taken.

12 Nevertheless, he felt that the
13 Department should be alerted to the fact
14 that Ms. (V14)- has sought legal counsel
15 to determine whether she may launch a
16 private prosecution of David Milgaard
17 for a sexual assault that occurred in
18 1968."

19 And again, would that be an accurate summary of
20 -- did he record properly what you told him?

21 A I believe he did, yeah.

22 Q If we can then go to 002077, this is a letter of
23 November 4th, 1991 from Mr. (V14)-- to you, it
24 talks about the telephone conversation of November
25 1 and says:



1 "We've had the opportunity to discuss
2 the assault with Mrs. (V14)- and she
3 understands the problems with identity
4 which you pointed out during the course
5 of our telephone conversation.

6 Mrs. (V14)- wishes to proceed with the
7 prosecution against Mr. Milgaard. To
8 this end, she will interview persons who
9 were present in the area at the time
10 that the assault occurred and who may
11 have further information which will
12 assist with the identity problem.

13 We ask that you provide us with
14 the statement that Mrs. (V14)- gave in
15 1968 and any subsequent statements made
16 by her. We also ask that you provide us
17 with any other file material that you
18 have to allow us to fully assess the
19 case against Mr. Milgaard. Your
20 co-operation in this matter is greatly
21 appreciated."

22 I take it this would have been a letter that you
23 got from Mr. (V14)--?

24 A Yeah. I don't remember the letter, but reading it
25 here, yes, obviously.



1 Q When you met with Mrs. (V14)- on October 24th, did
2 you share with her, and I may have asked you this,
3 if I have I apologize, but did you share with her,
4 either give her a copy of what Mr. Henderson
5 recorded or give her the contents of what was in
6 that statement?

7 A I don't believe I would have, no.

8 Q And what would be the reason for that?

9 A Well, I wanted to just get the information from
10 her as she wanted to relate it to me.

11 Q And go back to 056810, and this is now November 5,
12 1991, so this is the day after the letter from Mr.
13 (V14)--, you say:

14 "Met with Supt. Goodman, advised him of
15 the (V14)- situation and that request
16 was made for file material. My position
17 so far as any sexual assault
18 investigation launched against David
19 Milgaard by Mrs. (V14)- is concerned,
20 should be completely separate from my
21 task of examining the Milgaard case
22 under the provisions of the Section 690
23 Application. At this point I am
24 assisting the Federal Department of
25 Justice and should not complicate my



1 involvement with carrying out a main
2 investigation of a sexual assault that
3 is now coming forward. I believe the
4 potential exists for my involvement in
5 both sides of this matter to have the
6 appearance of the Force or the Justice
7 Department orchestrating a criminal
8 investigation against David Milgaard for
9 some ulterior motive. Even though it
10 has not developed into that, I see the
11 potential for future difficulties and do
12 not believe I should carry the (V14)-
13 complaint as part of my responsibility.
14 I will be submitting a memo to "F"
15 Division HQ for guidance and offering my
16 suggestions.

17 315. I also believe it is
18 appropriate to ensure Provincial Justice
19 is made aware of the (V14)- matter, as
20 any publicity/investigation surrounding
21 Milgaard in a criminal investigation in
22 Saskatchewan will impact on them and
23 they should be made aware of what is
24 taking place. I will include this
25 concern in my memo to HQ."



1 And again, can you elaborate on what's stated
2 there at all, Mr. Pearson?

3 A No. I just felt that, you know, there was a
4 development going on here that now involved an
5 accusation against David Milgaard and my 690
6 application was, you know, being worked on and I
7 just felt that if out of the blue came a charge
8 against David Milgaard, that there would be some
9 perception that that was somehow because of some
10 bias or some cover-up or some suspicion on behalf
11 of whatever party that maybe something was,
12 somebody was out to frame David Milgaard, and I
13 just didn't feel that, I didn't feel comfortable
14 being caught in the middle of that, and I thought
15 it wouldn't be appropriate for me to carrying both
16 investigations and then one of them end up in a
17 criminal charge being laid against David Milgaard,
18 so I just wanted to step away from that I guess.

19 Q And at this time, or around this time, did you
20 ever give any thought as to why the (V14)- matter
21 would have been included in the second 690
22 application in light of what you heard from Mrs.
23 (V14)-?

24 A Well, it really was an unusual one and, you know,
25 there was some thought given to it was a wild card



1 out there that maybe would, had the potential to
2 look bad for David Milgaard and maybe it was
3 included to try and deal with it in some other
4 way, but it really was an unusual one, but because
5 there was no, there was no conviction for it,
6 there was no person that this hadn't been tagged
7 onto Larry Fisher, but I suppose based on maybe
8 some similarities of criminal activity, that it
9 was felt that there could have been an association
10 to Larry Fisher.

11 COMMISSIONER MacCALLUM: On whose behalf,
12 sir?

13 A I'm sorry?

14 COMMISSIONER MacCALLUM: Who would have
15 felt that?

16 A I'm assuming Mrs. Milgaard and the people that
17 were working with her.

18 COMMISSIONER MacCALLUM: Thank you.

19 BY MR. HODSON:

20 Q Did you have a concern, Mr. Pearson, that someone
21 might say that maybe Mr. Henderson's memorandum of
22 the events was accurate and that what you got from
23 Ms. (V14)- was not accurate, was that a concern
24 that you had?

25 A I don't recall that being a concern I had, no.



1 Q Do you recall if anybody ever alleged that or
2 suggested that to you, that maybe your version of
3 events that you got in her statement was less
4 accurate than what Mr. Henderson got?

5 A No, that was never suggested that I recall. I
6 mean, there's no doubt, there was no doubt that,
7 you know, this incident took place. There was
8 some variances in the descriptors and some
9 differences in the actual commission of the crime,
10 but it was obvious that a crime had been
11 committed, it wasn't like it was fabricated.

12 Q Okay. If we could go and call up 012033, and this
13 is a document, again I talked to you about your
14 November 5, 1991 meeting with Superintendent
15 Goodman, and this appears to be, and I'll go
16 through parts of this, it's a four page report to
17 officer in charge, Saskatoon sub/division, and I
18 think it is expressing the concerns in writing
19 that you had expressed to Superintendent Goodman;
20 is that fair?

21 A Yes.

22 Q And I can go through it, that's the document that
23 you would have sent to your superiors saying I've
24 got, we've got an issue here with this development
25 and it needs to be addressed?



1 A Yes, that's right.

2 Q And then just parts of this, you say in paragraph
3 3:

4 "Mrs. (V14)-, during the 1968
5 investigation, was left with the
6 impression the person responsible for
7 the assault was David Milgaard. Today,
8 Mrs. (V14)- is not certain where she
9 developed this belief, however, seems to
10 think it is associated to comments made
11 by the investigating RCMP officer at the
12 time that her clothing was returned to
13 her. Mrs. (V14)- is vague on this
14 point."

15 And the next page, and then it again details the
16 statement, the fact that she gave birth to a son
17 approximately nine months after the sexual
18 assault, and then it says here:

19 "Mrs. (V14)- believes strongly her son,
20 now 22 years of age, was conceived
21 during the sexual attack. Mrs. (V14)-
22 is currently separated from her husband
23 and has never told him or their son of
24 this sexual attack."

25 I think in the earlier report, Mr. Pearson, we



1 saw that she had told you that the child had
2 died. Did that change, did that --

3 A Yes, it did, she disclosed to me that in fact the
4 son that she believed was conceived during this,
5 or had the potential to be conceived during this
6 attack was actually alive and well.

7 Q And so again I think there was a reference before
8 that she had a child, I think it was eight months
9 or nine months after the attack?

10 A Yes.

11 Q And so now at this point she had told you that her
12 son was alive and that she was concerned that he
13 may have been conceived during the sexual attack?

14 A Yes.

15 Q And that she had not told her husband or her son
16 of this?

17 A Yes.

18 Q Is that correct at this time?

19 A Yes.

20 Q If we can then scroll down, and it talks again
21 about the call from Mr. (V14)--, and then you say
22 here:

23 "During my initial conversation with Mr.
24 (V14)--, it was pointed out that the
25 identity of the attacker is uncertain



1 and the fact that Mrs. (V14)- has viewed
2 several newspaper and TV photos of
3 Milgaard, would make the value of a
4 photo line-up questionable. Mr. (V14)--
5 is well aware of various problems in
6 initiating a prosecution at this late
7 date, however, wishes to assess the
8 facts before providing his final advice
9 to Mrs. (V14)-."

10 And can you just elaborate a bit on the issue
11 here about the troubles with Mrs. (V14)-
12 identifying her attacker after having viewed
13 newspaper and TV photos of Mr. Milgaard?

14 A Well, I think, you know, to get a proper line-up
15 there has to be some choices being made as to who
16 you believe is involved as opposed to in her mind
17 she had David Milgaard based on some possible
18 discussions she had with an RCMP officer many,
19 many years before, and then to then look at a
20 photograph or a newspaper article and say, you
21 know, that's who I think it is, and in view of all
22 the emotional difficulties that she is going
23 through, it makes it very troublesome.

24 Q It makes it what?

25 A Very troublesome for trying to, you know,



1 determine with certainty that it's a good
2 identification.

3 Q And as a police officer then, the fact that she is
4 telling you that yes, I've -- first of all she
5 says I think it's Mr. Milgaard who committed the
6 assault, I've now seen pictures of him in the
7 paper and now I think it's him, that type of
8 identification causes you some concern?

9 A Yeah, I think it does.

10 Q The reliability of it I mean?

11 A The reliability aspect of it, yes, there is some
12 weaknesses there.

13 Q And is that what you would be expressing to Mr.
14 (V14)-- then in this memorandum?

15 A Yes, and I'm not sure if it was here, but during
16 this process there was also, and I told this
17 directly to Mrs. (V14)-, about a credibility
18 problem that would also exist here because during
19 the initial complaint she never talked of a sexual
20 assault, the sexual nature of her complaint wasn't
21 included based on reasons that, you know, she said
22 she couldn't bring herself to talk about it at
23 that time because she was ashamed of it and such,
24 but for her to now say these things happened,
25 there is a credibility issue, and then you tie



1 that into all of the emotional issues that were
2 going on with her, there were some definite
3 difficulties with this.

4 Q And then you go on in paragraph 8:

5 "The circumstances described above now
6 lead the Milgaard case into an area
7 which has the potential to impact on the
8 RCMP. To this time, the Section 690
9 Application was based on making
10 inquiries into a criminal investigation
11 originally conducted by the Saskatoon
12 City Police. The fact Mrs. (V14)- is
13 now pursuing a prosecution based on a
14 1968 crime which took place in RCMP
15 jurisdiction, leaves the Force in the
16 position of having to pursue this with a
17 maximum of diplomacy and sensitivity.
18 It must be stressed that Mrs. (V14)-
19 does not wish to have the sexual aspect
20 formally investigated until she can tell
21 her son of this crime. Mrs. (V14)- will
22 liaise with me as she works through her
23 family dilemma, and when the time is
24 appropriate, a criminal investigation
25 can be initiated."



1 And again, anything to elaborate on that
2 paragraph, Mr. Pearson?

3 A Not really, other than the fact that Mrs. (V14)-
4 was confiding in me some things that happened and
5 she was struggling with how she was going to pass
6 this from herself onto the family and she didn't
7 want to have anybody poking around investigating
8 while she worked her way through this.

9 Q And just again on the, you talk about "leaves the
10 Force in a position of having to pursue this with
11 a maximum of diplomacy and sensitivity," and you
12 also refer to the fact that the crime took place
13 in RCMP jurisdiction, is it fair to say that when
14 you went to see Mrs. (V14)- to interview her, you
15 were -- I mean, you are always wearing your RCMP
16 hat, but you were wearing your RCMP hat as
17 assisting Eugene Williams and the Federal Justice
18 Minister in the Section 690 application; is that
19 fair? When you went there, that was the purpose?

20 A Yes, yes.

21 Q And that in the course of the interview, I think
22 what you are saying, and please correct me if I'm
23 wrong, that you learned of information that the
24 RCMP generally, because this was within their
25 jurisdiction, might need to become involved in in



1 some way, and I'm not suggesting charges or
2 anything, but become involved in; is that fair?

3 A Yes, that's fair.

4 Q And that you didn't want to be wearing both hats
5 at the same time; is that a fair way of putting
6 it?

7 A That's a fair way of putting it, yes.

8 Q And again your concern, let's just talk about the
9 work you are doing with Federal Justice, what was
10 your concern if you had become involved in a
11 criminal investigation relating to (V14)-- (V14)-'
12 complaint, what were you concerned about how that
13 might impact the work that you were doing for the
14 Federal Justice Minister?

15 A Well, I just thought that there was a potential
16 that it may look like there was maybe some bias on
17 my part if this came to the point of initiating a
18 criminal charge against David Milgaard, if it
19 should have come to that. I just felt that for me
20 to be totally independent of that and to only --
21 because these two could very well be in conflict
22 with one other, I just felt that that really
23 should be something done by someone else.

24 Q And we'll touch on this a bit later in some of
25 your notes, but what did the information that Mrs.



1 (V14)- provided to you in your interview, did that
2 have an effect on the ability to use the (V14)-
3 assault as a comparator in looking at Larry
4 Fisher's crimes and comparing them to the Gail
5 Miller murder?

6 A You say did that restrict me from --

7 Q I'm just wondering, let me go back. With the
8 other seven crimes where he was convicted, I take
9 it there was no issue that Mr. Fisher had
10 committed those crimes; is that fair?

11 A Yes.

12 Q And you then looked at those and said I think what
13 you are saying is here's how he committed his
14 other crimes, let's look at the similarities?

15 A Yes.

16 Q Let's look at the characteristics and compare them
17 with the Gail Miller murder and identify
18 similarities and differences?

19 A Yes.

20 Q And I'm asking, in light of what you learned from
21 (V14)-- (V14)-, what effect did that have on your
22 ability to take the (V14)- complaint and compare
23 that to the Gail Miller murder?

24 A I think it could have been done. I do believe,
25 just because there was some conflicting



1 information here about was it Fisher or was it
2 Milgaard, both names were at play, it just seemed
3 to be an odd crime that was put into the similar
4 fact package to examine whether Larry Fisher could
5 have committed the Miller murder.

6 Q Uh-huh.

7 A It seemed to be one that was floating out there on
8 its own and it really wasn't something that had
9 definitely been associated through a conviction to
10 Larry Fisher.

11 Q And so would it be, just so that I understand
12 this, would it be qualified in the sense that if
13 Mr. Fisher committed this offence, then here are
14 the characteristics that compare to the Gail
15 Miller murder?

16 A Yes.

17 Q Then you go -- go to the next page, and again if
18 we can just scroll down, I think paragraph 10 are
19 your suggestions, questions/comments worthy of
20 consideration bearing in mind the publicity
21 surrounding anything associated to the Milgaard
22 case, and again, was that a concern you had about
23 publicity relating to this coming out?

24 A Yes, there was, because, you know, again this was
25 a very sensitive relationship that I had with Mrs.



1 (V14)- that was very personal and, you know, she
2 hadn't been able to disclose this to her own
3 family, and I just believed that we had to respect
4 this until we could move on according to how she
5 felt.

6 Q And if we can go through the suggestions,
7 paragraph (a), I think you say that a subsequent
8 investigation based on the (V14)- complaint should
9 be brought to the immediate attention of the
10 Provincial Justice Department and you are
11 requesting "F" division officer in charge to
12 liaise with the Provincial Justice Department, so
13 someone other than you; is that correct?

14 A Yes.

15 Q And then (b), regarding Mr. (V14)--' request for
16 the statements, you say there is no problem
17 releasing the most recent statement provided by
18 Mrs. (V14)-, however, the statement she provided
19 in 1968 is contained on a C-237 police report, and
20 then you talk about the Section 690 application
21 submitted by Milgaard's counsel, which includes
22 interview material gathered from Mrs. (V14)-, and
23 you say:

24 "In my opinion, Mr. (V14)--' request for
25 the Milgaard application material should



1 be directed to Mr. David Asper. The
2 statement contained in the police
3 report, in my opinion, can be provided,
4 with the remainder of the detail vetted
5 out."

6 And so that was your view in response, that if he
7 wants the Henderson memo, he can get that from
8 Mr. Asper, you'll give him your statement and
9 then the 1968 statement it would be appropriate
10 to give?

11 A I believe that's what I thought at the time.

12 Q And if we can scroll down, you say in c):

13 "I am concerned that any criminal
14 investigation now launched by
15 Mrs. (V14)- against David Milgaard and
16 investigated by myself, will have the
17 appearance of being orchestrated by
18 either the Force or the Justice
19 Department, for the purpose of swaying
20 public opinion in the *Milgaard* case. As
21 the crime against Mrs. (V14)- took place
22 in the (V14)-- Sub/Division, and as the
23 complainant is from (V14)--, my
24 suggestion is that a member from the
25 (V14)-- Sub/Division GIS should be



1 tasked with pursuing the (V14)-
2 complaint."

3 Go back to the previous page please, down at the
4 bottom. And did, what you write here, did you
5 have that concern at the time then, Mr. Pearson,
6 that an investigation launched by her against
7 David Milgaard would have the appearance of being
8 orchestrated by either the RCMP or the Justice
9 Department?

10 A Yes, I did have, it concerned me, I documented it
11 there.

12 Q And if we can go to 001888.

13 A Sorry, could you just go to the last page of that
14 document?

15 Q Sure. Next page?

16 A What was that all about?

17 Q If you want to just go back you can read the --

18 A No, that's okay.

19 Q Actually, it starts off:

20 "This approach will keep my involvement
21 in the Milgaard inquiry separate from
22 the (V14)- sexual assault complaint. I
23 wish to stress, however, that
24 Mrs. (V14)- does not want the case
25 investigated until she has resolved this



1 with her son. As Mrs. (V14)- will be
2 keeping in touch with me, I can advise
3 the assigned investigator when to
4 initiate further inquiries."

5 Is there anything there that you wish to comment
6 on?

7 A No, no, that's good.

8 Q If we can then go to 001888, please. And this is
9 November 8th, 1991, and it looks -- go back to the
10 full page, please -- looks like Superintendent
11 Goodman is sending a letter to the (V14)--
12 subdivision, officer in charge, and as well
13 officer in charge, criminal operations; is that
14 right?

15 A Yes. That's in Regina, yes, headquarters.

16 Q And then if we could go to the bottom, and it
17 appears that this is the document that sent it to
18 the (V14)-- subdivision to deal with, is that
19 right?

20 A Yes.

21 Q And you say:

22 "I wish ...",

23 or Mr. Goodman says:

24 "I wish to distance this Sub-Division
25 and Sgt. Pearson from the (V14)-



1 complaint in order to avoid any
2 perception whatsoever of the RCMP and
3 the Federal Department of Justice
4 conspiring through (V14)- to bring
5 Milgaard's 690 ... application into
6 disrepute. Towards this end I am
7 requesting that you address the 91-11-04
8 letter from Mr. (V14)-- ... (V14)--."

9 And so I take it, from this point on, did the
10 (V14)-- subdivision then become involved in the
11 formal investigation of that?

12 A They had opened a file and carried a file on it.
13 I think the investigation, for the most part,
14 centred around some blood testing that was going
15 to confirm or eliminate, and this was kind of the
16 crux of whether or not this investigation would
17 move forward or not.

18 Q And we'll go through some of these notes. I take
19 it that, notwithstanding the fact that this was
20 sent to the (V14)-- subdivision, did Mrs. (V14)-
21 continue to contact you?

22 A Yes. I was the one that had the relationship with
23 Mrs. (V14)- and the investigators, the
24 investigator assigned to this file, as I
25 understand, didn't. Based on the sensitivity of



1 the information that I had received, and the fact
2 that I had an ongoing relationship with this lady
3 and seemed to have her confidence and trust, it
4 was agreed that I would develop this as far as I
5 could regarding the family matters that were
6 involved and a subsequent blood test.

7 Q And I'll deal with those a bit later, but I think
8 there was some investigation done to determine who
9 the father -- whether there could be testing done
10 to determine who was the father, or whether or not
11 the child was conceived during the sexual attack,
12 and if so who the father was or who might be
13 eliminated; is that right?

14 A Yes.

15 Q And I understand that ultimately there, or
16 initially there was a blood test done that
17 erroneously excluded the father, the person that
18 Mrs. (V14)- thought was the father, and that
19 subsequent DNA tests confirmed that he was the
20 natural father; is that correct?

21 A Yes.

22 Q And I think that was in about 1993 or thereabouts?

23 A It was quite some time later, before it got to
24 that point, yes.

25 Q Yes. And just on that point, I take it that that



1 test concluded that the child was not conceived
2 during the sexual assault, is that correct?

3 A Yes.

4 Q Okay. And so that's where it ended up?

5 A Yes.

6 Q If we can then go back to 056811, and again we're
7 talking November 7th, 1991, and you talked about:

8 "I called Forensic Lab in Regina and
9 discussed the potential for a comparison
10 between (V14)-, Milgaard and Fisher re:
11 DNA."

12 Okay. And I take it, and we'll see this in a
13 number of spots in the notes, Mr. Pearson, that
14 people were taking steps to see whether blood
15 and/or DNA analysis could either eliminate Mr.
16 Fisher and/or Mr. Milgaard, or identify whether
17 or not the child was conceived during the sexual
18 assault, is that correct?

19 A Yes, that would be that entry.

20 Q And if the DNA or the test -- I guess it would be
21 DNA -- had established Larry Fisher as the father,
22 that would likely mean he was the perpetrator of
23 the assault, is that fair?

24 A That's fair, yes.

25 Q And similarly with Mr. Milgaard, if that had been



1 the result, that would be the likely conclusion?

2 A Yes.

3 Q And, again, were those matters relevant for the
4 work you were doing under Section 690?

5 A I believe so, yes.

6 Q And, again, this is a note -- if we can just
7 scroll down -- and this is November 8th, this is
8 when:

9 "Mrs. (V14)- called, advising that her
10 son is not deceased, but alive. This
11 was somewhat surprising, as I had been
12 left with the impression during my
13 initial interview with Mrs. (V14)- that
14 the child she believed was conceived
15 during the sexual attack had died
16 shortly after birth ...",

17 and then went on to give the birth date, and:

18 "... she believes strongly that he was
19 conceived during the sexual assault on
20 her."

21 So this is when you would have learned from
22 Mrs. (V14)- about the existence of a child?

23 A Yes.

24 Q And then again at the bottom:

25 "(V14)-- indicated in her statement she



1 wanted to talk to Mrs. Milgaard to
2 determine if it was in fact David
3 Milgaard who attacked her. Mrs. (V14)-
4 believes strongly that her attacker was
5 in fact David Milgaard. Mrs. (V14)-
6 advises that she has told no one else of
7 the fact that she had (V14) under these
8 sexual assault circumstances."

9 And then it goes on to talk about her psychiatric
10 treatment. And I take it that, throughout your
11 dealings with her, Mrs. (V14)- was under the
12 care, medical care for some psychiatric problems;
13 is that fair?

14 A Yes, and I had talked to some of her doctors that
15 were caring for her at the time.

16 Q If we can again go to 011848. And this is your
17 report of November 14th, 1991, I think this is one
18 of your standard reports, and this is on the 690
19 application; is that correct?

20 A Yes.

21 Q And if we can go to page 011850, actually to the
22 next page, please. At the bottom you talk about
23 Further Investigation, you say:

24 "The 1968 assault on Mrs. (V14)- is
25 included in the ... 690 ... Application.



1 Milgaard's counsel is of the opinion the
2 sexual attack was committed by Larry
3 Fisher, while Mrs. (V14)- is of the
4 belief the offence was perpetrated by
5 David Milgaard."

6 And, again, would that be an accurate summary of
7 the situation at the time?

8 A Yes, I believe it is.

9 Q If we can go to the next page, and at the top you
10 talk, you indicate:

11 "As Milgaard's Section 690 ...
12 Application is based on the theory that
13 Larry Fisher is responsible for the
14 (V14)- assault, he may feel compelled to
15 establish his innocence by voluntarily
16 providing a blood sample. In the event
17 Milgaard is eliminated as a suspect,
18 Fisher will then be approached."

19 And it goes on to talk about getting blood
20 samples from Mr. Fisher and Mr. Milgaard to do
21 these tests; is that correct?

22 A Yes.

23 Q And then down, if we could, at the bottom. I
24 think there is two paragraph b's, but the second
25 paragraph:



1 "b) It is noted in the 1968 police
2 report that a light green half ton truck
3 was seen in the immediate vicinity of
4 the (V14)- assault."

5 And you say:

6 "There is a strong possibility the light
7 green half ton truck belonged to the
8 assailant. Inquiries are currently
9 being made to determine the type of
10 vehicle Milgaard/Fisher had access to
11 during this time."

12 And we see in the notes, and we'll see some of
13 them, and I'll go through only some of them, but
14 it appears, sir, that you took a number of steps
15 trying to identify what vehicles Mr. Fisher had
16 at the time, and whether Mr. Milgaard had any
17 vehicles at the time that matched this
18 description of a green half ton truck; is that
19 correct?

20 A Yes.

21 Q What about the red truck that was referenced in
22 Mr. Henderson's statement; do you recall whether
23 any efforts were made to locate a red truck?

24 A I don't believe there was, I just -- I don't
25 recall.



1 Q And then down at the bottom you say in paragraph:

2 "c) It is also noted in the recent
3 statement of Mrs. (V14)- that her
4 assailant wore a head bandanna, as well
5 as a necklace of some type. Nicole
6 John, who was an associate of David
7 Milgaard's in the late 1960's, recently
8 confirmed that during that time, David
9 wore a headband and necklace, the
10 description of which is unknown.
11 Records from the arrest of Milgaard
12 contained on the Saskatoon City Police
13 file reveal that Milgaard had a
14 medallion at the time of arrest, but no
15 reference is made of him wearing a
16 headband at that time."

17 And again, this is under Further Investigation,
18 do I take it that -- actually, let me just go to
19 the next page. You say:

20 "d) Inquiries are ongoing through Social
21 Services, in an attempt to locate a
22 psychiatric assessment which was
23 completed on Milgaard shortly prior to
24 the death of Gail Miller. This report
25 may provide an insight into Milgaard's



1 personal problems at the time, and
2 possibly reveal involvement in other
3 related criminal activities such as the
4 (V14)- assault."

5 So at this point, Mr. Pearson, would you be
6 pursuing both Mr. Fisher and Mr. Milgaard in the
7 sense of trying to find evidence and information
8 that would either eliminate them or provide a
9 link to the (V14)- assault?

10 A I believe so.

11 Q And if we can go to 012038. This is a November
12 21, 1991 memorandum from -- now Egan is what, what
13 is he, what was his role?

14 A He was in charge of criminal operations for the
15 Province of Saskatchewan, which is F Division.

16 Q And so this is a memo to Saskatoon Sub/Division,
17 officer in charge, is that right, "OC"?

18 A He was my boss in Saskatoon, yes.

19 Q And he says, if we could just call out paragraph
20 2:

21 "I am in total agreement that the
22 investigation into this complaint is
23 totally separate and apart from
24 Milgaard's application under Section 690
25 of the *Criminal Code*. I have



1 corresponded with the OC of (V14)--
2 Sub/Division and asked that he assign an
3 investigator into (V14)-' allegations
4 and, that his investigator contact Sgt.
5 Pearson for any pertinent details."

6 And:

7 "I have supplied the Executive Director,
8 Public Prosecutors, Saskatchewan Justice
9 with a copy of the report as well as
10 pertinent material from Mr. (V14)--. I
11 have asked Saskatchewan Justice to
12 correspond with him regarding his
13 request for statements, particulars,
14 etc."

15 So it appears that Mr. (V14)-- was directed to
16 Saskatchewan Justice?

17 A It would appear that, yes.

18 Q If we can then go back to 056811 -- oh, sorry,
19 056814. And this is now November 20th, paragraph
20 338, you say:

21 "I also expressed to Williams the need
22 to eventually re-interview Fisher
23 victims for additional detail and
24 accuracy, as per Centurion's report, and
25 in view of what appears to be concerns



1 expressed by Mrs. (V14)-."

2 Can you explain what you are referring to there?

3 A Well, again, it's going back to Mrs. (V14)-
4 expressing concern about the way she was
5 approached, and the fact that they wanted her to
6 believe something different than what she had in
7 mind.

8 Q And how, how did that relate to the Centurion's
9 report about the other Fisher victims then?

10 A Well I just wanted to ensure that the detail was
11 accurate that would -- that was being submitted by
12 Centurion, so the accuracy and the approach was
13 kind of coming into question.

14 Q And then it says:

15 "Williams does not feel it necessary to
16 conduct interviews with victims yet, but
17 is not ruling out the necessity."

18 And I think this is a note we referred to this
19 morning from the notebook?

20 A Yes.

21 Q And at this time is it fair to say that you wanted
22 to interview all of the Fisher victims, and Mr.
23 Williams was saying "not yet, maybe later"?

24 A In a nutshell, yes.

25 Q And then if we can go to 056815, October 22nd, or



1 pardon me, November 22nd, '91:

2 "Received a telephone call from Cst.

3 John MacDonald, RCMP GIS (V14)--, to say
4 that he had been assigned to investigate
5 the (V14)- sexual assault complaint."

6 And then you go on to say:

7 "I explained to the Cst. that no
8 investigation should take place until
9 (V14)-- has taken care of her personal
10 problems, and that I have been dealing
11 personally with her and that I will
12 attempt to advise him when an official
13 police investigation can be launched.
14 The emotional state and the personal
15 sensitivity of this investigation is
16 paramount."

17 Would that have been an accurate recording of
18 what you would have said at the time?

19 A Well I don't, I just have to go by what's written
20 there, I would think so.

21 Q And at this time you are telling Constable
22 MacDonald to hold off on an investigation into the
23 -- into her complaint until she can take care of
24 her personal problems?

25 A That's right, yes.



1 Q And would you have been in touch with Mrs. (V14)-
2 about this type of matter?

3 A Oh yes, yes, I was in touch with her quite often.

4 Q And then go to page 056817, down at the bottom,
5 December 2nd, 1991:

6 "(V14)-- (V14)- called, making
7 statements to the effect that if she had
8 been stronger at the time and had
9 reported this, she may have prevented
10 the death of Gail Miller. (V14)-- seems
11 to be going through a period of guilt.
12 (V14)-- also advises she saw a picture
13 of Milgaard in a newspaper on Saturday,
14 saying, "I knew it was him. His hair
15 then was a little longer then." I
16 questioned (V14)-- about previous
17 pictures she had seen of David, she said
18 she saw pictures on TV before but not in
19 the newspaper. One of the TV pictures
20 was of a side shot, not a good look. I
21 also asked (V14)-- if she had heard from
22 her lawyer; she talked to the lawyer
23 last Friday and was waiting for ... file
24 material ..."

25 And again, this discussion about her identifying



1 the photographs, did you have the same concerns
2 on December 2nd, 1991 as previously when you
3 talked to her about the photo identification?

4 A Yes.

5 Q Next page, and this is December 2nd, you say:

6 "I called Sgt. Thorpe, Division Analyst,
7 requesting that a "similar fact"
8 analysis be completed on the (V14)-
9 material, in view of the pending review
10 of the Supreme Court ...",

11 and, again, this would be a few days after the
12 Minister of Justice announced the Supreme Court
13 reference?

14 A Uh-huh.

15 Q And you say:

16 "... even though this particular case is
17 a bit of a wild card, as it is unknown
18 who committed the crime. A request is
19 being made to send the results to me and
20 I will see how Justice wants to handle
21 the (V14)- "similar fact" analysis
22 portion of the Section 690 ...
23 Application."

24 I think that's what you told us a bit earlier,
25 that you would throw it into the mix on the



1 similar fact analysis with the caveat that you
2 weren't sure who committed the crime, is that
3 fair?

4 A Yeah, that's fair.

5 Q Go to 056820, December 5, 361:

6 "Called Jake Ketler, ex-boss of Larry
7 Fisher, from Masonry Contractors, who
8 confirmed that Fisher purchased a
9 company truck and the truck was snow
10 white. Ketler cannot recall Fisher ever
11 driving a red or green truck. Ketler
12 stated that his company did work on the
13 (V14) site of the (V14)---- (V14)-
14 (V14), Jake was sub/contractor to a
15 general contractor and did not work
16 directly for the (V14)- company. He did
17 not recall the names of the general
18 contractors. Jake does not remember Ken
19 Shoemaker, stating that there were
20 approximately 100 - 150 men working at
21 any given time. Again, Ketler states
22 there are no records of employment
23 available.

24 362. Ketler also states he has received
25 several calls from reporters and



1 Milgaard investigators and he is left
2 with the feeling they want him to say
3 things about matters of which he has no
4 recollection. Ketler is very
5 cooperative but has limited information
6 of value at this time."

7 And, again, you will recall when I showed you the
8 Henderson memorandum that talked about Larry
9 Fisher having a red truck?

10 A Yes.

11 Q And what did you make of Mr. Ketler's comments
12 here when you talked to him?

13 A In paragraph 362?

14 Q 361 and 362?

15 A Well, you know, again he is indicating that people
16 are trying to get him to say things that, that he
17 had got nothing to say, and he left me with the
18 impression that, you know, he was being asked
19 things that he had no answers to.

20 Q As far as the Larry Fisher's access to a green
21 truck or a red truck, again, would that -- would
22 the purpose --

23 A Yeah, well that was, that was -- the truck was
24 described as being red, but I do think that came
25 from a very young child and, you know, there is



1 some question mark there.

2 **Q** And the green truck that was identified in the
3 police report; is that why you would have asked
4 Mr. Ketler?

5 **A** Yes, yes, yes, uh-huh.

6 **Q** And then the next page, please. It's appears this
7 is the next day, this says:

8 "I received a telephone call from Jake
9 Ketler, who was responding to my request
10 to determine if he could recall Larry
11 Fisher ever wearing a chain or medallion
12 around his neck, or a bandanna around
13 his head. Ketler, in a very vague way,
14 recalls Fisher may have worn something
15 around his neck, however, there is a lot
16 of uncertainty in his recollection.
17 Jake does not recall Fisher wearing a
18 bandanna on his head, as he states all
19 employees were required to wear a hard
20 hat."

21 So I take it, from that, you were following up
22 with him to try and get information to see if Mr.
23 Fisher wore a red bandanna and had a chain with a
24 medallion as Mrs. (V14)- had identified in her
25 statement; --



1 A Yes.

2 Q -- is that fair? Go to 056824, this is December
3 10th, 1992, if you get the date. If you go to the
4 next page, please, and it talks about a phone call
5 with (V14)-- (V14)-, and it talks about:

6 "... her son (V14) is apparently going
7 to contact Joyce Milgaard and give her
8 "hell" for the trouble he caused and the
9 way she treated (V14)--. I encouraged
10 (V14)-- to attempt to convince (V14)
11 that nothing would be accomplished by
12 this action and that a future
13 opportunity will be available for
14 discussion with Mrs. Milgaard, but now
15 is certainly not the time because of his
16 emotional state and the current status
17 of the (V14)- assault investigation."

18 And (V14), I take it, is the son --

19 A Is the son yes.

20 Q -- that was born in 1969?

21 A Yes.

22 Q And again, just for the record Mr. Commissioner,
23 the publication ban specifically covers the names
24 of all family members as well.

25 COMMISSIONER MacCALLUM: It does, yes.



1 BY MR. HODSON:

2 Q And then it goes on to say:

3 "In effect, there is no evidence that
4 Milgaard was responsible, just as there
5 is no evidence Fisher is responsible."

6 And was that your view at the time, Mr. Pearson?

7 A Yes, it was.

8 Q And did that remain your view throughout your
9 dealings with Mrs. (V14)-?

10 A Yes.

11 Q If we can go to 056834 again, this is a call on
12 December 24th, 1991.

13 And again, I'm not touching on
14 all of the contacts, Mr. Pearson, there were many
15 more than I'm showing, is that correct, where she
16 would call you and --

17 A Yes.

18 Q -- express her displeasure with matters; is that a
19 fair way of putting it?

20 A Yes, and just sometimes phoning to talk, it was a
21 more of a kind of a counselling session, but yes,
22 there was lots of different varieties of calls.

23 Q And again it looks, here she says:

24 "(V14)-- believes strongly that David
25 Milgaard is responsible for her assault



1 and certainly hasn't changed her mind in
2 this regard. Mrs. (V14)- seemed
3 depressed that no one was believing her.
4 I assured her that I believed what she
5 had to say, however, the matter of
6 proper identity in this matter is
7 causing concern and it is risky to
8 prosecute based on the circumstances as
9 they are known today. (V14)-- again
10 repeated her experience at the Bus Depot
11 and seems to be deeply offended and
12 angered over the way she was treated
13 during this contact."

14 And, again, was this a subject matter that he had
15 brought up with you from time to time?

16 A Yes.

17 Q And what was her concern about the incident at the
18 bus depot?

19 A I -- she just didn't like the way she was dealt
20 with, and that the photograph was presented to
21 her, and just the entire way it was handled I --
22 as I recall.

23 Q If we can go to 056858, and this is getting
24 into -- if we can just go to the page previous and
25 get the date, this is January 22nd, 1992, so the



1 Section 690 Supreme Court reference has started.
2 If we go to the next page, it's referenced at the
3 bottom:

4 "There is also correspondence indicating
5 that Mr. Williams in Ottawa called at
6 1:45 pm today, stating that Fisher's
7 lawyer, Brian Beresh, is claiming
8 publicly in and out of court that
9 Milgaard was (V14)-'s assailant.

10 Williams believes it would be prudent if
11 I contacted (V14)-- (V14)- first so she
12 would hear of this revelation from me
13 rather than from the press, keeping in
14 mind her very fragile emotional state.
15 At this time I am unaware of what has
16 been disclosed by Federal Justice to the
17 Supreme Court and various counsel
18 regarding Mrs. (V14)-' current
19 situation."

20 Then it goes on, you telephoned her to pass on
21 the message to (V14)-- to keep her posted, then
22 you say:

23 "At this point I am at a loss as to why
24 this information has been released and
25 it is, to say the least, very unsettling



1 to Mrs. (V14)-."

2 Just scroll down:

3 "Mr. Williams asked if I had been in
4 touch with Brian Beresh, Fisher's
5 lawyer, or his office while I was in the
6 Edmonton area. I stated I had not, I
7 didn't know Beresh and had never met the
8 man. I asked Williams what was up and
9 he explained that Beresh wanted to
10 question Milgaard on the (V14)- case but
11 Court would not permit this examination.
12 Beresh then claimed in Court that he had
13 a statement or possibly correspondence
14 he received from the RCMP in Edmonton.
15 Beresh was apparently being interviewed
16 outside the Supreme Court by the press,
17 claiming he was in possession of
18 material which, up to that time, he had
19 been denied. Mr. Beresh was claiming
20 that the material he possessed had been
21 obtained from myself. If Mr. Beresh
22 possesses a copy of (V14)-- (V14)-'s
23 statement given to me, I wish to know
24 how he came into possession of it, as he
25 is leaving the inference that the



1 information was provided directly to him
2 and not via Federal Justice, which is
3 leaving me in an uncomfortable position.
4 I asked Mr. Williams to have the Sask
5 Justice lawyers in Court telephone me,
6 as I wish to ensure that this point was
7 clarified and that any information
8 Beresh may have was certainly not
9 obtained from me, and as far as I know,
10 not from the RCMP."

11 And then:

12 "The relationship of trust developed
13 between myself and Mrs. (V14)- is
14 certainly on the line. I wish to ensure
15 that this matter is resolved in our
16 favour. Mr. Williams will be checking
17 with the Court to ensure this point is
18 clarified, and will advise me."

19 And do you recall this incident coming up?

20 A Yes. Yeah, I do.

21 Q And I think -- I'll find the document. The
22 concern was that Mr. Beresh had raised the matter
23 in Court and had attributed that he got something
24 from you; is that correct?

25 A Well, I think where it kind of looked like it may



1 have involved me was the fact that I think just
2 prior to this I had gone up into St. Albert, which
3 is just out of Edmonton, and interviewed Sharon
4 Williams and, you know, I suppose there could have
5 been an inference that I was up in Edmonton and
6 maybe given Mr. Beresh something, but I believe
7 that might have been how this unfolded, and I was
8 really ripped by this to be honest with you
9 because it was putting the relationship I had with
10 Mrs. (V14)- on the line and had the potential to,
11 you know, cause embarrassment to her.

12 Q And I think if we could -- and just for the
13 record, Mr. Pearson, and Mr. Commissioner, the
14 statements of (V14)-- (V14)-, certainly the
15 memorandum from Paul Henderson in the original
16 application was part of the Supreme Court
17 reference binders as was -- and just for the
18 record, it was in Volume 6, tab 5. The statement
19 taken by Mr. Pearson was in, also part of the
20 Supreme Court reference and it was in Volume 18,
21 tab 2 under the heading additional materials
22 relating to the alleged culpability of Larry
23 Fisher, and I'm not sure, I think that the second
24 (V14)- statement may have been added partway
25 through the proceeding, but if I can maybe call up



1 067076 -- actually, just go back to 056860 for a
2 moment and here's the reference again of another
3 call with (V14)-- (V14)-:

4 "... updated (V14)-- on what I learned
5 earlier from Mr. Williams. I told her
6 that Fisher's lawyer, Mr. Brian Beresh,
7 is claiming the RCMP provided him with
8 material on her case. I assured Mrs.
9 (V14)- that it did not come from me and
10 I would hope this did not damage the
11 trust that she has in me."

12 And then to the next page, 056864, again there's
13 a reference here to another call with her where
14 you ask her whether maybe her lawyer gave it to
15 Mr. Beresh, and so I take it you were trying to
16 take steps to figure out how it was that Mr.
17 Beresh got the statement; is that right?

18 A Yes.

19 Q And now if we could go to 067076, this is a
20 letter, January 29th, 1992, go to the next page,
21 please, from Mr. Williams to Mr. Beresh -- scroll
22 down -- and it says:

23 "Accompanying this letter is a photocopy
24 of page 316 of the proceedings in the
25 above captioned matter. On January 22,



1 1992, in requesting the Court's
2 permission to cross-examine David
3 Milgaard you had referred to a statement
4 from Victim 1 and said:

5 I was provided with a
6 subsequent statement yesterday from
7 Staff Sergeant Pearson which appears to
8 directly contradict -- or certainly be
9 inconsistent with this statement.

10 Your statement could lead one
11 to conclude that Sgt. Pearson had sent
12 you or caused to be sent, the statement
13 from Victim 1.

14 My concern stems from the fact
15 that disclosure in this matter has been
16 provided only by counsel for the
17 Attorney General of Canada and by
18 counsel for the Attorney General of
19 Saskatchewan. If my understanding is
20 incorrect, please advise of the
21 circumstances in which you received the
22 statement from Victim 1 so that
23 appropriate actions can be taken."

24 And then the next page:

25 "On the other hand, if you did not



1 receive the statement from Sgt. Pearson
2 or from any other police officer, please
3 advise. In addition, I would anticipate
4 that you would take the earliest
5 opportunity to correct on the record,
6 any misleading impressions that may have
7 been created by your remarks."

8 And then if we can go to the next page, and here
9 is the excerpt from the transcript where Mr.
10 Beresh is seeking permission to I think
11 cross-examine David Milgaard and here's the
12 comment where he says:

13 "I was provided with a subsequent
14 statement yesterday from Staff Sergeant
15 Pearson which appears to directly
16 contradict -- or certainly be
17 inconsistent with this statement."

18 And then Lamer, C.J.:

19 "How can Mr. Milgaard help you in that
20 regard?"

21 Mr. Beresh:

22 "He is, I suggest, implicated in the
23 statement. And the allegation put
24 forward, not even subtly connecting my
25 client in the matter, I suggest, now



1 flies in Mr. Milgaard's face and
2 implicates him."

3 So this is the transcript from the proceeding.
4 And then if we could call up --

5 COMMISSIONER MacCALLUM: What was that
6 number, I'm sorry, Mr. Hodson?

7 MR. HODSON: This is all part of 067076.

8 COMMISSIONER MacCALLUM: Okay.

9 BY MR. HODSON:

10 Q So that's the doc ID, and goes right to 067079,
11 and I think, is that all one doc -- I think it's
12 all one doc ID, so those are together.

13 Now if I can call up 067075, so
14 it would appear at this point that at the Supreme
15 Court reference Mr. Beresh brought up the fact
16 that he was suggesting that Mr. Milgaard was
17 implicated in the assault of (V14)-- (V14)-; is
18 that fair?

19 A Yes.

20 Q And then here's Mr. Beresh's letter to Mr.
21 Williams, it says:

22 "I acknowledge receipt of your letter of
23 January 29, 1992. The reference at page
24 116 --"

25 And I can't make out



1 "-- lines 9 to 13 is that the statement
2 came from Sgt. Pearson as he was the
3 individual involved in the taking of the
4 statement.

5 Had I suggested on the record
6 that the statement was provided by Sgt.
7 Pearson then I could appreciate your
8 concerns more fully.

9 To confirm for your information
10 the statement was provided to me by the
11 Department of Justice and I have not to
12 date received any documents directly
13 from Sgt. Pearson.

14 I apologize if my abbreviated
15 comment caused you any concern."

16 So I take it that that issue was subsequently
17 clarified by Mr. Williams and Mr. Beresh; is that
18 right?

19 A Yes.

20 Q If we can go back to 056871 -- actually, go to
21 883, and this -- just maybe to get a date, maybe
22 just go to the previous page. This is February
23 14th, 1992, and go to the next page, there's a
24 report here that:

25 "(V14) (V14), Star Phoenix reporter,



1 called, asking about statements made by
2 victim (V14)-- (V14)--, claiming his info
3 is that Joyce Milgaard showed (V14)--
4 photos of Fisher, saying it was her son.
5 (V14) states Brian Beresh told him this.
6 I told (V14) not to run with this story
7 because it is not fully accurate,
8 however I was in no position to confirm
9 or deny any information that is coming
10 out of this process, and have really
11 nothing to pass on to (V14)."

12 And again, what would be not fully accurate in
13 what Mr. (V14) says Mr. Beresh told him -- or let
14 me just back up. Can you recall this discussion
15 with --

16 A No, I don't. I'm just reading here for a minute.

17 Q Sure, maybe just --

18 A I don't recall the discussion. I'm just really
19 kind of reading it like everyone else. Of course
20 the issue here is her showing the photo of Fisher
21 saying it was her son is the area I think where we
22 were talking about the inaccuracy.

23 Q And was that the case or is that wrong or
24 inaccurate?

25 A As I recall, it was wrong.



1 Q And what was your recollection of what Ms. (V14)-
2 told you happened with the photos?

3 A My recollection is it was a picture of, ended up
4 being a picture of Larry Fisher.

5 Q Right, and I think that's what Mr. (V14) is
6 saying, that pictures of Fisher were shown, but
7 that the info is that Joyce Milgaard said it was
8 her son.

9 A Yes. I don't recall this conversation. I mean,
10 I'm just -- I don't want to start assuming here.

11 Q No, let me just back up. Putting aside what Mr.
12 (V14) said, when you took the statement from Mrs.
13 (V14)-, which we went through, where she said that
14 she was shown pictures and asked do you recognize
15 this person and she said no, and I think
16 Mrs. Milgaard said, yes, you do, or something like
17 that, I think the question is did she ever tell
18 you that she thought she was being shown a picture
19 of David Milgaard or that she was told that they
20 were pictures of David Milgaard when in fact they
21 were pictures of Larry Fisher?

22 A I have no recollection of that, no.

23 Q And again as far as this discussion with Mr.
24 (V14), were you concerned about information being
25 put in the media about Mrs. (V14)-?



1 A Yes, I was concerned.

2 MR. HODSON: I see it's three o'clock.

3 There is probably an appropriate spot to break.

4 COMMISSIONER MacCALLUM: I think so.

5 *(Adjourned at 2:57 p.m.)*

6 *(Reconvened at 3:15 p.m.)*

7 BY MR. HODSON:

8 Q Again, Mr. Pearson, just to finish up on the
9 (V14)- matter, and I think you may have touched on
10 this already, I understand that after the April,
11 1992 reference was completed and Mr. Milgaard's
12 conviction was set aside, some further work was
13 done that eventually determined that the child of
14 (V14)-- (V14)- was not conceived during the sexual
15 assault, but the natural, the person who was
16 believed to be the natural father was in fact the
17 natural father; is that correct?

18 A That's how it concluded, yes.

19 Q And no criminal charges were processed against
20 anybody in connection with the assault; is that
21 fair?

22 A I believe that's accurate, yes.

23 Q If we can now just go back, and I know everybody
24 is going to be disappointed that we're moving from
25 paragraph 500 back to paragraph 305, but I've



1 covered a whole bunch in the interim. If we could
2 go to 056808 -- actually 809, please, and this
3 talks about your dealings with Jack Parker, and
4 you had some interviews and dealings with Jack
5 Parker about a couple of matters; is that correct?

6 A Yes.

7 Q And down at the bottom, paragraph 312, and we've
8 had Mr. Parker testify before the Commission and
9 went through this, but he -- and again I think
10 yesterday or the day before there was a note where
11 your superior, Superintendent Goodman, said that
12 he encountered Mr. Parker at a social function and
13 advised you that he may have some information
14 about moccasin footprints or something of that
15 nature; is that right?

16 A Yes.

17 Q And it looks as though you contacted him and:

18 "Parker also stated that he recalled
19 seeing some footprints in the snow that
20 looked like moccasin tracks, this was in
21 the east/west lane, going west away from
22 the location where the vehicle was
23 stuck. Parker states, "I remember
24 smooth tracks on the north side of the
25 east/west lane. No sign of a scuffle in



1 the area." And that he was called off
2 the investigation early to work on break
3 and enters. Parker states there were
4 only a couple of moccasin-like tracks,
5 he never connected tracks to Milgaard's
6 stocking feet until quite some time
7 after."

8 And if I can pause there, am I correct that --
9 this information came forward in 1991, that
10 Mr. Parker was connecting moccasin tracks to the
11 fact that David Milgaard had been, or possibly
12 connected to the fact that David Milgaard had
13 been in stocking feet at the Trav-a-leer Motel;
14 is that right?

15 A Moccasin-like tracks, yes, that seems to be what
16 he was saying there.

17 Q And then we'll see on some of the notes later it
18 appeared that you then pursued a line of checking
19 whether Larry Fisher had moccasins or wore mukluks
20 at the time and made some inquiries of Linda
21 Fisher and others to see if the moccasin-like
22 tracks might connect to Larry Fisher; is that
23 right?

24 A Yes.

25 Q And as well did you pursue the possibility as well



1 that it may have been David Milgaard in stocking
2 feet at that time?

3 A Well, that was the -- Parker's information was
4 that he had related it to information about David
5 Milgaard being in stocking feet. I think that's
6 what Parker's view was.

7 Q Go to the next page. Mr. Commissioner, in
8 paragraph 313, you'll recall when Mr. Parker
9 testified as a witness there were, there was a
10 statement that he made regarding an observation
11 that he had of David Milgaard when he was in the
12 prison cells --

13 COMMISSIONER MacCALLUM: I recall that.

14 MR. HODSON: -- in 1969, and I believe
15 there was a partial publication ban, although I
16 think Mr. Wolch then examined Mr. Parker on some
17 of the areas about the comments, and I believe,
18 Mr. Commissioner, you indicated that since
19 Mr. Parker did not tell anybody or rely upon it
20 in 1969, that it wasn't relevant at that time
21 period and that when Mr. Pearson was on the
22 stand, if it turned out that he relied upon it in
23 any way if it was relevant, then the relevance
24 might weigh out, outweigh the prejudicial effect.

25 COMMISSIONER MacCALLUM: Yes.



1 MR. HODSON: And so I would propose to just
2 ask Mr. Pearson about that, whether he received
3 the information and to what extent he may have
4 relied upon it and then perhaps we can revisit
5 the issue of whether -- what happens with the
6 publication ban if that's all right?

7 COMMISSIONER MacCALLUM: I don't recall if
8 there was a publication ban imposed the first
9 time it came around because Mr. Wolch raised the
10 second part of the declaration; that is to say,
11 Parker's response to the supposed declaration of
12 Milgaard, and I think he raised that in open
13 Court.

14 MR. HODSON: I think the second part, I
15 think the comments about -- Parker's comments to
16 David Milgaard about the pen I think were brought
17 out in cross-examination, I think it was the
18 first part, Mr. Milgaard's --

19 COMMISSIONER MacCALLUM: Yes, but he
20 couldn't, he didn't -- he didn't mention the
21 second part in isolation from the first part;
22 that is, Mr. Wolch I don't think.

23 MR. HODSON: If there's no publication
24 ban --

25 COMMISSIONER MacCALLUM: I don't believe



1 there was. Mr. Wolch, do you --

2 MR. WOLCH: I don't recall that.

3 COMMISSIONER MacCALLUM: I don't think so,
4 no. It was sort of a trade-off between --

5 MR. HODSON: There was a bit of confusion,
6 I think there was a ban, initially a ban to see
7 if it became relevant and then Mr. Wolch went
8 into part of it and I think with the risk that if
9 he went through part of it maybe it all came out,
10 but in any event --

11 COMMISSIONER MacCALLUM: I think it --

12 MR. HODSON: Fair game?

13 COMMISSIONER MacCALLUM: Well, it
14 appears -- certainly the witness can read it over
15 and tell you if he took any note of it in his
16 work.

17 MR. HODSON: Sure. Maybe I can just go
18 through this, and again, if any party wishes
19 after I'm done to -- just so that we're clear for
20 the media, I take it there's no ban on the
21 publication of any of this information unless and
22 until someone asks for it?

23 COMMISSIONER MacCALLUM: That's right.

24 BY MR. HODSON:

25 Q So paragraph 313, your notes say:



1 "Another thing Parker stated and that he
2 had never mentioned before, was that
3 during the investigation he went to see
4 another prisoner in the cells and at
5 that time he observed Milgaard in the
6 cells holding his penis in his hand,
7 saying something like, "I'll screw her
8 again", or "I'll give her more". Parker
9 then made a comment something like,
10 "They'll look after you in the Pen, they
11 like young boys." Parker cannot recall
12 the name of the prisoner he visited at
13 the time."

14 And do you have a recollection of getting this
15 information from Mr. Parker?

16 A I have a faint recollection of having a discussion
17 in this regard, yes.

18 Q And did this information have any effect on any of
19 the work that you did in 1991 or thereafter, Mr.
20 Pearson?

21 A Well, it -- as I recall, we went looking through
22 notes to determine if this was ever anything that
23 had been documented by him, Mr. Parker, and I
24 don't believe we found any reference to this
25 comment or anything like this, and surfacing at



1 this late date, I'm not sure what I did with it to
2 be quite honest with you.

3 Q I think on the first point, I think Mr. Parker
4 acknowledged that he did not put it in his notes
5 in 1969 and I believe he also testified before
6 this Commission that I don't think he told anybody
7 about it, but again, just back when you are
8 investigating, let me ask you two questions. As
9 far as your work investigating under the Section
10 690 application, did this information from
11 Mr. Parker cause you to think any differently
12 about David Milgaard as a suspect in the murder of
13 Gail Miller?

14 A Boy, I'll tell you, I don't know what I thought at
15 the time. I think it probably could have had
16 influence on me by the statements being given, but
17 again, the fact that it was coming out for the
18 first time 20 years later had to be weighed in as
19 well, and the fact that there was eventually no
20 notes or anything mentioned of it, you know, I'm
21 not sure that it really had that much influence on
22 anything.

23 Q And would that be -- the fact that there was no
24 notes and the timing, would you have some concerns
25 or suspect the comments then, is that --



1 A Well, I suppose you might question it, the fact
2 that this detail would come up at this late date
3 in an investigation like this that he was involved
4 in, and the stocking feet, or the moccasin-like
5 tracks that he saw, that I don't think they were
6 mentioned --

7 Q I think that's correct, yes.

8 A -- at the initial investigation or no reference in
9 his notes to this, so there was some significant
10 details there that he would have thought would
11 have come out a lot earlier than this.

12 Q And so again you tied this into the stocking feet,
13 that was again a recollection that came later that
14 was not in the notes. Did you view the two, the
15 two later recollections the same then in the sense
16 of having some concerns about their accuracy or
17 their credibility?

18 A I can't say I consciously thought that way because
19 I just don't recall, I'm kind of relying on what's
20 here, although I do know that based on the
21 information of what he said he saw, I was asking
22 about the potential that Larry Fisher may have,
23 knowing that he was a Metis and there's some
24 cultural footwear connections to moccasins and
25 mukluks and such, I thought possibly Larry Fisher



1 may have worn something similar.

2 Q When Mr. Parker told you about the footprints, was
3 he suggesting that they may be connected to Mr.
4 Fisher or was he saying they were connected to
5 David Milgaard?

6 A I was left with the impression that he was
7 referring to Milgaard.

8 Q And so again the fact that there were these types
9 of footprints in the area being new information,
10 are you telling us you then pursued, pursued
11 anybody you could to see if that fit in anywhere
12 in the investigation? I shouldn't say anybody,
13 but Mr. Fisher and the moccasins and I think Mr.
14 Milgaard and the stocking feet.

15 A Yes.

16 Q And then again this comment about, that Mr. Parker
17 attributes to Mr. Milgaard, "I'll screw her again"
18 or "I'll give her more," apart from the fact that
19 it came 20 years later, would this be something,
20 and again if you can't recall or aren't able to
21 answer please tell me, but again would this be
22 something that would fit anywhere in your
23 assessment of the conviction of David Milgaard or
24 any investigation of him as a suspect?

25 A Yeah, again, I -- I would be guessing here because



1 I just don't recall the detail.

2 Q The second --

3 A I'm going with what I'm reading here.

4 Q And I guess the second question then, as far as
5 your work in investigating under Section 690, did
6 the comment that Mr. Parker said he made in reply,
7 that, "They'll look after you in the Pen, they
8 like young boys," did that have any effect on your
9 views of either Mr. Milgaard or of the police or
10 of Mr. Parker or anything of that nature, did it
11 have any influence in the work you were doing
12 under the Section 690 review?

13 A I can't say it influenced me, no.

14 Q Can we go down to the bottom, go to the next page,
15 again 318 you say:

16 "Had a conversation with Supt. Simpson,
17 who is making inquiries to determine if
18 Parker's notebooks exist. He indicated
19 some have been located and one had a
20 notation, "No clear footprints" was
21 written in his notes. Also trying to
22 determine what Milgaard was wearing
23 around his neck at the time, re: Mrs.
24 (V14)-'s recollection. Simpson advises
25 that the records reveal that Milgaard



1 was wearing a medallion at the time of
2 his arrest. No description available."
3 So again, I take it you would have been following
4 up with Inspector Simpson on both of those
5 points?

6 A Yes.

7 Q Next page, this is now November 13, it says:
8 "I received a telephone call from a
9 Mr. Bill Graham, Sask Police Commission,
10 asking is the City Police had ever
11 investigated Linda Fisher's 1980
12 complaint suggesting that Larry Fisher
13 may have been involved in this murder.
14 I indicated that, to my knowledge, this
15 investigation was never re-opened and
16 that the statement had been taken by Ken
17 Wagner and passed to other
18 investigators."

19 Did you ever, and we spent some time before in
20 your interview with Linda Fisher, and she would
21 have told you about going into the police in
22 1980; is that correct?

23 A Yes.

24 Q Yeah. And did you find it again unusual that, as
25 a police officer, that that information would not



1 be followed up on, did you ever yourself check
2 into that to see what happened with the
3 information?

4 A I never investigated it, but it -- I think it can
5 be said to be somewhat unusual, yes.

6 Q And why is that?

7 A Well, it's a serious offence coming into a police
8 operation and there was quite a detailed statement
9 provided. I would think it would be worthy of
10 having a look at.

11 Q And scroll down, 325:

12 "Supt. Simpson called and advised that
13 notebooks, at least some of them for
14 Kleiv and Parker, are available. Notes
15 for Karst, Short and Mackie "destroyed
16 and not available". I arranged to
17 contact Simpson next week."

18 Again, this is 1991. Did you find anything
19 unusual with the fact that officers' notebooks
20 from 1969, 1970 would be destroyed?

21 A No. You know, the issue of officers' notebooks is
22 really one in the police community that I don't
23 think is -- is well managed. You know, policemen
24 take their notes as their very personal property
25 and policy is usually that it's the property of



1 the department and I think most policemen want to
2 hang onto their notes because if they don't, they
3 may not be able to locate them, so -- and I'm not
4 sure what the city police policy was at the time,
5 but that didn't surprise me at all that notes were
6 not available and notebooks couldn't be found
7 because generally it is a policy that is, you
8 know, policemen hang onto their notebooks
9 themselves, but it looks in this case -- if they
10 had notebooks to begin with, I don't know, but
11 they left them with the system and I'm not sure
12 how their system operated.

13 Q I think actually we heard evidence from
14 Mr. Penkala, again I'm not sure if it -- I think
15 the views were divided, I think his evidence was
16 that it was department policy that the notebooks
17 stay at the police station, although some
18 individual officers felt differently and took them
19 home, and before this Inquiry we have had some
20 officers who had their notebooks and many who
21 don't. And so just again at the time, back in '91
22 when you were looking for the notebooks, did you
23 reach any conclusion or have any concerns with the
24 fact that some officers' notebooks from 1969 were
25 not available?



1 A No, I didn't.

2 Q If we can scroll down, there is a discussion here
3 November 14th:

4 "I met with Bill Graham and Gary Treble
5 of the Sask Police Commission ...",
6 and they were the fellas who were checking into
7 the missing files; is that correct?

8 A Yes.

9 Q "... and at this time Graham provided me
10 with copies of two statements taken by
11 Det. Karst from Fisher in Winnipeg,
12 after Fisher's arrest. At this time I
13 provided copies of early newspaper
14 articles in circulation regarding the
15 news coverage of the Milgaard trial.",
16 and then went on about the microfilm. So would
17 this be the first time you became aware of Mr.
18 Fisher's statements that he gave to Detective
19 Karst in Winnipeg for two of the four Saskatoon
20 files?

21 A I -- I don't think so, but -- gee, I don't recall.

22 Q Do you have a recollection of looking, looking at
23 that issue, Mr. Pearson, about how the Saskatoon
24 City Police got statements from Larry Fisher while
25 he was in Winnipeg and how they dealt with the



1 four charges? I talked to you yesterday about the
2 direct indictment procedure, and you commented
3 that. Just on the issue about getting the
4 statements of Mr. Fisher and who they went and how
5 they went and what they did or didn't do; is that
6 something that you looked at in your work?

7 A No, I didn't.

8 Q If we could call up 011848. This is your November
9 14th, '91 report, I went through parts of this
10 dealing with the (V14)- matter, there is a couple
11 matters here. It confirms that the vetted-out
12 portion -- you will recall we talked about the
13 Centurion Ministries' report that had the
14 confidential source, and it says:

15 "The document examiner has since advised
16 he is unable to determine the identity
17 ...",

18 and then at the bottom:

19 "... attempt to locate records
20 associated to Fisher ..."

21 through the RCMP and no records available; that
22 would be accurate?

23 A As I recall, yes.

24 Q If we could go to the next page, there's just a
25 summary here about your meetings with Mr. Parker



1 and the comment that I just put to you, and:

2 "Parker advised me he has never told
3 much of this incident, as it was not
4 significant at the time, however, he
5 believes it now provides some insight
6 into the character of Milgaard."

7 And, again, that's the comment about the
8 discussion he had with Mr. Milgaard in the jail
9 cells; and was that what Mr. Parker told you at
10 the time?

11 A Yes.

12 Q And again, you may have answered this already, but
13 did you -- what about your views about 'insight
14 into the character of Milgaard'; did that have any
15 effect on you, sir, and what you were looking at?

16 A Not that I recall.

17 Q If we could go to 056813, November 15th, and it
18 looks at this time when you met with Graham and
19 Treble there is reference to the (V2)-----
20 offence, and a description, and a comment that
21 Weir's notebooks are not present. And I think at
22 this time if you recall becoming aware that the
23 (V2)----- original complaint statement was located
24 in the efforts by the Police Commission in
25 reviewing the files?



1 A I just -- I don't remember.

2 Q And just down at the bottom you get a call from
3 Mr. Williams:

4 "... stating that Wolch, Asper and his
5 Federal Justice people met on November
6 11 but he did not reveal to me the
7 discussions that took place at that
8 meeting."

9 And then it goes on to talk about some other
10 matters including Nichol John. And again, you've
11 touched on before your relationship with Mr.
12 Williams, was this a matter that you would have
13 asked him about and he said "no" or are his
14 dealings with Wolch and Asper something that he
15 just didn't share with you?

16 A Just, it wasn't shared with me.

17 Q And did you have any concerns about that?

18 A Umm, well, I don't really think I did. There was
19 you know, I'm sure, communication going on between
20 the applicant, the people putting the application
21 in, and Mr. Williams and Federal Justice. I'm
22 sure there probably was a lot of communication
23 that went between them that I wasn't privy to, and
24 --

25 Q If we can go back to 001803, and this is a letter



1 of November 20th, 1991 from you to Mr. Williams;
2 is that correct?

3 A That appears to be. It's hard to see.

4 Q And, again, it talks about Parker's notes and some
5 other information. If we can go to the next page,
6 please, and again this is November 20th. Call out
7 paragraph 6, it says:

8 "I will await the developments in
9 Milgaard's Application before deciding
10 whether it will be appropriate to
11 approach the Fisher victims to obtain
12 details as they recollect them. You
13 will recall in a previous telephone
14 discussion, our common concern that, in
15 view of Joyce Milgaard's approach to
16 (V14)-- (V14)-, there may be a built-in
17 bias in the details provided in the most
18 recent Application, suggesting that
19 Larry Fisher is responsible. Depending
20 on what the Justice Department is doing
21 with the information currently
22 possessed, I am of the view it would be
23 appropriate to talk with the victims to
24 ensure that all details available are in
25 the hands of the Justice Department. I



1 await a response from you in this
2 regard."

3 And, again, we touched on this earlier about the
4 concern you had about the manner in which (V14)--
5 (V14)- was dealt with; is there anything
6 different in this letter or is this the same
7 concern?

8 A I think it's just a continuation of the same
9 issue.

10 Q Now this is November 20th, and I think it is eight
11 days before the Federal Justice Minister issued an
12 order sending the matter to the Supreme Court of
13 Canada. Would you have been aware, generally,
14 that something might be happening in the second
15 application, or how did you find out that the
16 matter was going to the Court for a reference?

17 A I really don't know, to be honest with you I am
18 not sure how I, how or when I knew that, unless
19 there is something --

20 Q No, I'm just -- I take it you did find out at some
21 point that the matter was going to go to The Court
22 for a reference?

23 A Oh yes, yes.

24 Q If we can then go back to --

25 A I'm sorry, what's the date of this memo?



1 Q November 20th.

2 A November the 20th, '91?

3 Q Yes.

4 A Is this a fax or a memo?

5 Q Umm, I think it's a letter, I'm not sure if it's a
6 fax.

7 A Just bring it up to the --

8 Q First page?

9 A -- first page. It looks like a memo. It may have
10 been faxed. Would you bring up my notes for that
11 date, November 20th, 1991?

12 Q 058380. The doc. ID is 058371, and actually if
13 you can go to 058381, and on the right-hand
14 side -- sorry, if we can go to page 058383, this
15 is the part that you are referring to; is that
16 what you are looking for?

17 A Yeah, okay, just --

18 Q And then the next page, please.

19 A Okay. Thank you.

20 Q So, again, I think my question was whether you
21 became aware, around this time, about a matter
22 being -- going to the Supreme Court to be dealt
23 with?

24 A Yeah, and I, I just don't know how or when I
25 determined that.



1 MR. GIBSON: That's paragraph 347.

2 A Paragraph?

3 MR. HODSON: I was getting there.

4 MR. GIBSON: Sorry.

5 BY MR. HODSON:

6 Q Thanks. Your counsel has indicated paragraph 347,
7 056817, and here appears to be the answer.
8 November 29th:

9 "Returned a call to Mr. Williams, who
10 stated that Ms. Kim Campbell will be
11 making a news release very shortly, the
12 decision being that the matter will be
13 referred to the Supreme Court for review
14 of opinion evidence."

15 And:

16 "Williams is now requesting that Fisher
17 victims be re-interviewed to determine
18 the accuracy of Centurion Ministries'
19 report, for the purposes of the Supreme
20 Court review of the facts."

21 So is that what happened then?

22 A Yes, that seems to be.

23 Q And if we can call up 001805, and this is a fax
24 from Bruce MacFarlane to you with a copy of the --
25 maybe just go to the next page -- a copy of the



1 Privy Council order, so it looks as though on that
2 date you were advised by Mr. Williams that it was
3 going to The Court, and were you then given the
4 authority or the request to go ahead and
5 re-interview the Fisher victims?

6 A Yes.

7 Q If we could just go back to page 056816, and just
8 go back to November 26th, 1991, and it says:

9 "I called Bill Graham, Sask Police
10 Commission, and attempted to determine
11 if he had any luck in locating the
12 Fisher files. He had nothing more to
13 report."

14 You say:

15 "I suggested to Graham that he should go
16 to the source of the Application
17 material and ask for the identity of the
18 City Police officer vetted out in the
19 Application. The possibility exists
20 that if the Fisher files were removed on
21 this one occasion, other Fisher files
22 and in fact other police files, may have
23 been removed by this same person. In
24 fairness to all interests in the
25 Milgaard/Fisher investigation, it would



1 be appropriate to have this information.
2 Graham was going to discuss this aspect
3 with his boss. My position is the fact
4 that the vetted out information may
5 indirectly harm the Milgaard cause. I
6 am actually quite concerned about this
7 omitted information, which may be the
8 keel the key to the whole inquiry being
9 conducted by the Sask Police Commission.
10 I will let them run their investigation
11 before I make a decision on what I
12 should do."

13 And can you elaborate on that, please?

14 A Well I just believe it was strange to receive
15 vetted-out information which indicated that a
16 source in the city police had provided material
17 that was relevant to the application that was now
18 going to the Supreme Court, and at the same time
19 there was coverup allegations and missing files,
20 and the thought was that possibly a lot of this
21 missing files was from the very people who had
22 provided the information that was now the basis of
23 the application material to some degree. And it
24 was kind of gone full circle, and it came back to
25 the city police individual, and we thought it's



1 information that probably should be known because
2 if information went out the door on one file,
3 what, what's happening here. And --

4 Q When you say 'out the door on one file' are you
5 referring to the information that was given --

6 A Yeah, the one file being the file that was
7 referred to in Centurion Ministries' report?

8 Q The (V5)--- file?

9 A Yeah, I believe that was a (V5)--- file, and so
10 when you say 'if this file is there and there are
11 Fisher files that are missing, could that same
12 source be responsible for those files being
13 removed'. And not knowing all the moves that the
14 Sask. Police Commission had made regarding their
15 search, it was a thought that crossed my mind,
16 that we should have this information.

17 Q So just on that point, I think you are saying here
18 that 'if the Fisher files were removed on this one
19 occasion', and again you are referring to the
20 Milgaard source; is that right, that occasion?

21 A The source reference, yes.

22 Q Yeah, 'that they may have been removed by this
23 same person', are you then referring to the
24 yet-to-be-located Fisher files?

25 A Well, the files that were unaccounted for.



1 Q And then you say here:

2 "My position is the fact that the vetted
3 out information may indirectly harm the
4 Milgaard cause."

5 What did you mean by that?

6 A Well by not knowing who the individual was who was
7 involved in this, if we knew who that was and
8 could determine possibly that he had, he or she
9 had other files or other information --

10 Q Did you suspect that the missing files may have
11 indirectly harmed the Milgaard cause?

12 A Well I think it's a logical conclusion, that if
13 there's files out there that are missing, are they
14 missing from the same source that provided this
15 one file to them. It was just a circle that I
16 think had to be completed.

17 Q And so at this time -- so I take it November 26th,
18 1991 you would have had these suspicions, then, or
19 these concerns about -- about the confidential
20 source?

21 A Well it was -- it was, you know, obvious reference
22 to the material that was submitted on the
23 application and, you know, it was something that
24 we were attempting, or I was attempting, to
25 identify.



1 Q And so here you've told Mr. Graham that he should
2 go ask the Milgaards or Mr. Asper and ask for the
3 identity of the officer; is that right?

4 A Yes.

5 Q And then at the bottom you say:

6 "I will let them run their investigation
7 before I make a decision on what I
8 should do."

9 A Yes. And I don't know, I don't know at this point
10 if I had already talked about this, I -- there is
11 references in my notes, --

12 Q Yeah.

13 A -- I'm not sure of the time frames, --

14 Q Yeah.

15 A -- I don't know if it was before or after this.

16 Q And I will get to that in a moment, we can cover
17 that.

18 A Okay.

19 Q And then if we can go to 056818, and this is
20 December the 4th, 1991, and:

21 "S/Sgt. Hluska, "F" Division HQ, called.
22 He and senior management had attended a
23 Justice Committee with the Provincial
24 A.G.'s Dept. and a Provincial prosecutor
25 will be contacting me for details of my



1 involvement in this file. One of the
2 lawyers is Murray Brown, the other
3 unknown at this time. S/Sgt. Hluska
4 asked me to make two copies of my file
5 material and forward them to HQ's, and
6 one copy is to be available for
7 Provincial Justice when they contact
8 me."

9 And I take it, this is shortly after the order
10 sending the matter to the Supreme Court, and I
11 take it, sir, that you would have been advised
12 that the Provincial Attorney General's Department
13 would be involved in the process in some way, and
14 specifically Murray Brown?

15 A Yes.

16 Q And I take it, thereafter, you had some
17 involvement with Murray Brown and Eric Neufeld in
18 connection with the Supreme Court reference?

19 A Yes, yes.

20 Q What did -- what was your understanding of what
21 role they were playing in the reference?

22 A Well they were representing the Province of
23 Saskatchewan.

24 Q If we can go to 056819, and I don't propose to go
25 through this. There are a number of references in



1 your notes, Mr. Pearson, starting -- or around
2 this time trying to identify vehicles that Larry
3 Fisher had and where he worked, etcetera, so I
4 take it you would have spent some of your time
5 following up to see if you could get any evidence
6 that would link Larry Fisher to the (V14)-
7 assault?

8 A That's fair, yes.

9 Q And again the vehicle, I suspect, was also
10 important -- whether Mr. Fisher had a vehicle was
11 also important for the Gail Miller murder; is that
12 right?

13 A Yes, I believe so.

14 Q And then just down at the bottom there is a
15 reference, and we've heard a bit of evidence about
16 this from Cliff and Anita Pambrun, about Larry
17 Fisher being involved in an assault on his
18 landlady back in 1969 or '70; do you have any
19 recollection of that playing any part in the work
20 that you did?

21 A I -- I don't have any recollections. I know of
22 the -- by reading it, I reviewed this, but I don't
23 have a direct recollection what that was about.
24 Can you go to the next page, please?

25 Q Yes. And if I can assist, the evidence we heard,



1 that there was an incident with the landlady, he
2 went to Court, and the charges I think were thrown
3 out, and I don't think there was any, at least I
4 don't think we heard any evidence of the precise
5 nature of the alleged assault, but I'm just
6 wondering if you have any recollection of that
7 fitting in in anything that you were doing?

8 A Well it's obvious I had something to do with it, I
9 just don't recall.

10 Q If we can again go to 056822, it says December
11 9th, if we can scroll down to 374. And we've gone
12 through this statement before, but it appears that
13 you then took a statement from (V2) (V2)--, whose
14 maiden name is (V2)-----, who was one of the
15 Fisher victims; correct?

16 A Yes.

17 Q And it says here:

18 "The conclusion is that the ...",
19 let me back up. You say:

20 "I explained to her the reasons and she
21 provided me a statement."

22 Would that be the reasons for getting the
23 statement?

24 A Yes.

25 Q And what, do you recall what, what were the



1 reasons; did you tell her that it was related to
2 the Supreme Court reference or was it to verify
3 what Centurion Ministries had?

4 A No, I don't think I would have told her that it
5 was to challenge other information, I just believe
6 I told her it was assisting the Federal Justice
7 Department, I believe, in getting the details of
8 what she had to say.

9 Q And then you --

10 A That's, but on the other hand my recollection is
11 that -- I don't know if I showed her a previous
12 statement there, there may be something in there,
13 I may have shown her something, it just rings a
14 bell that maybe I did but I'm not positive.

15 Q Yeah, and I'll just bring that up in a moment, I
16 think you did.

17 A Okay.

18 Q So your statement here:

19 "The conclusion is that the Application
20 ...",

21 and I presume that's the 690 Application, the
22 Centurion Ministries' report?

23 A Yes.

24 Q "... for the most part, is an accurate
25 reflection of what she told me today.



1 One discrepancy is that (V2) states she
2 never did see a knife, and only "felt a
3 sharp object". She makes no reference
4 to the object being a knife, let alone a
5 paring knife."

6 If we can bring up document 008644, and this is
7 the statement that you took from her on December
8 9th, 1991?

9 A Yes, this appears to be.

10 Q And just the first part:

11 "I've read the three pages of material
12 that was sent as part of David
13 Milgaard's application for a review
14 ...",

15 A Yes.

16 Q "... so far as my assault is concerned.
17 For the most part it is accurate."

18 A Okay.

19 Q So I take it you would have shown her the
20 Centurion Ministries' report and asked her to
21 comment on it?

22 A Yes, yes.

23 Q And then if you want to just scroll down a bit and
24 this is the part where she says:

25 "I did not see the object and do not



1 know if it was a knife or some other
2 sharp, pointed object."

3 And that would be the reference in your report as
4 being a discrepancy from the --

5 A Yes.

6 Q -- Centurion Ministries' report? Okay. If we
7 could then go to 056823, and this I think is
8 December 9th, '91:

9 "Mr. Williams called me at home,
10 advising the Supreme Court of Canada
11 process will be developed as it goes.
12 He stated that disclosure is to be made
13 by January 16, 1992, the latest date
14 being January 21st. He stated the
15 adversarial role will be handled by Sask
16 Justice, Murray Brown and Eric Neufeld,
17 and they are currently in Ottawa and
18 will be contacting me at a later date.
19 Williams and I discussed any problems I
20 had with disclosure and I stated I have
21 none at this time, however, will
22 determine this as we go along. Williams
23 is also asking me if the City Police
24 file was ready to be accessed and I said
25 it was available at any time and the



1 City Police management can deal directly
2 with Sask Justice on the release and in
3 what form."

4 So at this time, Mr. Pearson, what did you
5 understand your role was going to be as far as
6 putting together the Supreme Court reference and
7 the conducting of that reference?

8 A I was -- continued on just providing assistance
9 wherever I was required.

10 Q Yeah.

11 A I just looked at myself as someone who would
12 facilitate what was needed by Mr. Williams.

13 Q Now, and we'll go through some of these, it looks
14 like you also did some follow-up work for probably
15 everybody involved in the process, and let me just
16 go through, and I -- we'll see this in your notes
17 where you did some follow-up work at Mr. Asper's
18 request throughout the 690 process -- or the
19 Supreme Court reference process; is that correct?

20 A I believe I did some, yes.

21 Q And for Mr. Williams you did some work, --

22 A I did some, yes.

23 Q -- some follow-up? And for Saskatchewan Justice,
24 Murray Brown and Eric Neufeld, you did some
25 follow-up?



1 A Yes.

2 Q And for Brian Beresh I think you did some
3 follow-up on some prison inmates and some evidence
4 and some other work; is that correct?

5 A That's correct, yeah.

6 Q And so, again, was it your role to simply follow
7 up and investigate for who -- for anybody who was
8 involved in the process or --

9 A I felt, at that point, that I was available to go
10 wherever I had to go with this, you know, and --

11 Q Were you taking any sides, if I can call it that,
12 in the matter?

13 A No, I don't think -- I don't believe I was, I --

14 Q Okay.

15 A -- I didn't feel I was.

16 Q And, again, this role that you were taking; did
17 Mr. Williams ask you to take this role or did it
18 just happen that you ended up being contacted by
19 --

20 A I think it was just part of the ongoing evolution
21 of this, it's not like it really stopped, it just
22 continued on.

23 Q And then just go to the next page, please. This
24 is now December 10th, and you had a follow-up
25 with, it says:



1 "I called Sask Police Commission and
2 talked to Gary Treble, asking him if the
3 Sask Police Commission investigation had
4 contact with Asper and Wolch for details
5 surrounding their source in the City
6 Police. Gary Treble states that he
7 believes that Bob Laing, Commission
8 chairman, had made contact with Hersh
9 Wolch, however, it is unknown if it was
10 on this particular point."

11 And, again, it -- and I'll go later to your
12 dealings with Mr. Asper on this issue -- but at
13 this time were you still following up with the
14 Police Commission about whether they had obtained
15 the source from Mr. Asper and Mr. Wolch?

16 A Yes.

17 Q Next page, paragraph 384, Mr.:

18 "Williams called, advising that full
19 disclosure will be made to Milgaard's
20 counsel. He was checking with me to
21 determine if authority has been secured
22 from the Penitentiary system for the
23 release of material obtained from the
24 Fisher file. I will take care of this."

25 And again, as far as full disclosure, would you



1 have given everything you had to -- to the
2 process, or to Mr. Williams, or how did you
3 handle full disclosure of what you had done?

4 A Umm, I didn't, I didn't fully disclose everything
5 I had as far as sending the material to Mr.
6 Williams on my file, is that what you are taking
7 about, my file, or the penitentiary file?

8 Q Of anything you had. Did you send, other than
9 your notes, did you send every document or other
10 information that you had, would that have been
11 sent to Mr. Williams or --

12 A Not that I recall. I don't believe it was, not as
13 far as a photocopy of everything that was on the
14 file, I don't think that I was ever asked for it.

15 Q And, again, are you able to tell us, then, the:

16 "... full disclosure will be made to
17 Milgaard's counsel.",

18 as to what he may have been referring to?

19 A I'm assuming his file, and the material that I
20 sent him, and the material that he possessed.

21 Q Go to 056826, again this issue about the source,
22 December 12th, you say:

23 "I met with Sask Police Commission
24 investigators and arranged to attend
25 their office next week to view various



1 notes they may have accessed during the
2 Fisher/Miller review. I asked if they
3 had checked Asper for the source who
4 leaked the file material, apparently the
5 Commission chairman, Laing, contacted
6 Asper asking if there was any more info
7 to be provided, and apparently Asper
8 stated there was not, and the matter
9 rests there."

10 So December, 1991 it appears that you learned the
11 Sask Police Commission did not get the source
12 from Mr. Asper?

13 A That seems to be what it says, yes.

14 Q Go to 056826, and again we -- I've seen your notes
15 in a number of spots, this is an example, December
16 13th, 1991, returned a call to Staff Sergeant
17 Bertrand, city police, a Crime Stopper tip about
18 Herb Poitras picking up Larry Fisher on the
19 morning of the murder and Fisher had blood on his
20 clothes, etcetera, and then I think later on in
21 your notes we see you follow up on this; is that
22 right? I can show it to you later.

23 A I believe so. I'm just --

24 Q And Mr. Poitras does not corroborate the Crime
25 Stopper tip, but again, throughout this process,



1 Mr. Pearson, did you get a number of calls and
2 pieces of information from various sources that
3 either tended to incriminate or exculpate Larry
4 Fisher and either tended to incriminate or
5 exculpate David Milgaard?

6 A Yeah, there was a variety of information that had
7 come out.

8 Q And I don't propose to go through it all, but I
9 take it you would follow it up and if it led to
10 anything of significance, you would pass it on to
11 Mr. Williams or to whoever asked you to follow up;
12 is that fair?

13 A That's fair. I'm not going to swear that I was
14 able to follow up on everything that was done --

15 Q No.

16 A -- but generally speaking, yes.

17 Q And I don't propose to go through all of your
18 notes on this because there are many, many
19 inquiries that you made that ended up with
20 evidence, if you can call it that, that wasn't
21 used in the reference and sort of didn't go
22 anywhere, but it seems from the notes that you
23 were kept quite busy following up on various
24 leads; is that fair?

25 A That's fair, yes, and of course this is over quite



1 a long period of time.

2 Q Yes. So this is December, '91, and:

3 "Contacted Mike Burns, Stony Mountain,
4 asking if he could assist in locating
5 Ben Dozenko, the subject of the book
6 material."

7 And do you recall doing some work following up on
8 Ben Dozenko and some statements that he had made?
9 He was a prison guard that had worked with David
10 Milgaard or looked after him. Do you remember
11 this?

12 A As a result, that was a request of Mr. Williams.

13 Q Yes. And if we can call up 008646, this is a
14 letter, December 13th, 1991 from you to the Deputy
15 Commissioner of Correctional Services; is that
16 correct?

17 A Yes.

18 Q And if we can just scroll down, it talks about
19 your role in the investigation and then you
20 enclose copies of three pages of a book published
21 which describes the investigation, Court case and
22 history of David Milgaard.

23 "You will note that a reference is made
24 to Ben Dozenko who is said to have been
25 Milgaard's living unit officer at Stony



1 Mountain Penitentiary from 1976 to 1980.
2 According to the book material, Dozenko
3 is adamant that Milgaard admitted his
4 guilt to Dozenko three or four times.
5 Dozenko further claims he recorded his
6 admissions in his written reports.

7 In view of Dozenko's claims
8 that Milgaard admitted his guilt several
9 times, and as this case is now going
10 before the Supreme Court of Canada for a
11 review, it would be appropriate to
12 conduct an all-encompassing file review
13 to include all official and unofficial
14 documentation, as well as unit log
15 books, observation reports, and all file
16 and data bank material associated to
17 Milgaard's incarceration at the
18 locations he has occupied."

19 Then the next page:

20 "The purpose for the review is to
21 determine if in fact Dozenko's reports
22 are on file and to determine if there
23 are other admissions of guilt which may
24 have been filed by other institutional
25 employees who had access to Milgaard



1 during his time of incarceration."

2 So again, what would be the -- I think you said

3 Mr. Williams asked you to follow up on this?

4 A Mr. Williams, as I recall, made the request based
5 on him coming into possession of this material in
6 a book by Dozenko.

7 Q And maybe if we can just go to the next -- 008649,
8 these are the pages from the books, and I think
9 this is -- yeah, "When Justice Fails" is the book,
10 and this is the reference here:

11 "Dozenko says adamant --"

12 Go back up.

13 "Dozenko says adamantly that Milgaard
14 admitted his guilt to him three or four
15 times during conversations inside the
16 prison, between 1977 and 1980."

17 And then it goes on to discuss it. And then at
18 the bottom:

19 "Every time Milgaard made his admission
20 to him, Dozenko claims he reported it in
21 his written reports. He also says his
22 superiors would have had access to these
23 reports. But there is no evidence that
24 anyone else inside the prison system
25 knew anything about a confession by



1 Milgaard in any of Dozenko's reports."

2 And so was it this book then that prompted the
3 check with Dozenko or the follow-up with Dozenko?

4 A Yes.

5 Q And we know that Mr. Dozenko testified at the
6 Supreme Court reference and I take it that
7 Mr. Williams or others viewed that his evidence
8 about his conversations with Mr. Milgaard were
9 relevant on the reference matter?

10 A I'm assuming so. I don't know --

11 Q I'm sorry?

12 A I don't know what happened after that.

13 Q And I think your role, and I'll go through some of
14 this, was to follow up and try and get statements
15 from Mr. Dozenko and various other people; is that
16 right?

17 A That's right, yes.

18 Q And we'll see in the documents that RCMP in
19 Winnipeg were involved in taking statements from,
20 I think Clare Hoffer, Jack Hewitt, a Mr. Lott, Mr.
21 Dozenko, various people who worked in the
22 institution verifying and commenting on each
23 other's evidence or statements about what
24 happened; is that fair?

25 A That's fair, yeah.



1 Q And would your role in that be, and I don't mean
2 to diminish it, but would be to either be a
3 statement taker or to coordinate the taking of
4 statements from these people?

5 A After receiving the initial request regarding the
6 book, mine would have been more, I believe,
7 coordinating the people who maybe could add
8 anything to it.

9 Q And I don't think, and correct me if I'm wrong, I
10 don't think you ever interviewed Dozenko yourself
11 did you?

12 A No, I didn't.

13 Q Or any of the other people?

14 A No, I didn't, no.

15 Q Go to 056828, paragraph 399, and this is December
16 13th, and I won't go through it, this is just your
17 follow-up with Herb Poitras, the Crime Stopper
18 tip, and:

19 "I found nothing from Herb to suspect
20 him of having direct knowledge of
21 Fisher's activities on or after Gail
22 Miller's murder."

23 I take it that would be an accurate follow-up?

24 A Yeah, as I recall.

25 Q Go to the next page, 056829, and the date on this



1 is December 16th, 1991:

2 "Williams called, he said Murray Brown
3 had a request from Wolch, asking for
4 access to the police investigation file.
5 I have no idea what is developing in
6 this regard and Williams did not
7 elaborate."

8 And again on that, up until this time had you
9 been asked by Mr. Asper or Mr. Wolch for access
10 to the Saskatoon City Police investigation file?

11 A I don't believe so. I can't recall.

12 Q And if you had been asked, is that something that
13 you think you would have or could have responded
14 to?

15 A If they had asked to have contacted --

16 Q Yes.

17 A Accessed the police file?

18 Q Yes.

19 A Oh, I would have gone up to my superiors and got
20 some direction on that, I'm not sure I would have
21 just opened it up to them on my own, but I
22 certainly would have passed the request on.

23 Q And would you have any concerns yourself about
24 allowing access to the Saskatoon City Police file
25 when you were doing the work on the two 690



1 applications to counsel for Mr. Milgaard? Let me
2 rephrase that. At this time, December of 1991, on
3 the second application --

4 A Uh-huh.

5 Q -- we went through earlier the first application
6 under Section 690 and I think you told me you only
7 had discussions with Mr. Asper. If you would have
8 been asked to arrange access to the Saskatoon City
9 Police file, I think you said you would have gone
10 to your superiors, but would you have had any
11 concerns with allowing access to Mr. Milgaard's
12 legal counsel to look at the Saskatoon City Police
13 file?

14 A I don't believe so. I didn't look at this as --
15 this was an issue that was under 690, I think I
16 was fairly open about it, if that would have
17 happened. No, I certainly would have got some
18 guidance along the way, but going into another
19 police department's filing system is not something
20 that I would have authorized myself, but I
21 probably could have facilitated it.

22 Q No, and I appreciate it would be the Saskatoon
23 City Police Service who would have at least the
24 decision not to do it, but I'm just wondering from
25 your end if that was something that you had any



1 difficulty with?

2 A No, I don't believe so.

3 MR. HODSON: I think we're near the end of
4 1991, Mr. Commissioner, and that might be an
5 appropriate spot to break for the day and start
6 with a new year tomorrow.

7 (Adjourned at 4:12 p.m.)

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OFFICIAL QUEEN'S BENCH COURT REPORTERS' CERTIFICATE:

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

_____, CSR

Karen Hinz, CSR

Official Queen's Bench Court Reporter

_____, RPR, CSR

Donald G. Meyer, RPR, CSR

Official Queen's Bench Court Reporter



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