

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 Monday, November 28th, 2005

Volume 99

Inquiry Proceedings



Commission Staff:

Mr. Douglas C. Hodson,	Commission Counsel
Ms. Candace D. Congram,	Executive Director
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Appearances:

Mr. Hersh Wolch, Q.C., **for** Mr. David Milgaard
Ms. Joanne McLean, **for** Ms. Joyce Milgaard
Ms. Lana Krogan, **for** Government of Saskatchewan
Ms. Catherine Knox, **for** Mr. T.D.R. (Bobs) Caldwell
Mr. Garrett Wilson, Q.C., **for** Mr. Serge Kujawa
Mr. Rick Elson, Esq., **for** the Saskatoon Police Service
Mr. Chris Boychuk, Esq., **for** Mr. Eddie Karst
Mr. Bruce Gibson and Ms. Rochelle Wempe, **for** the RCMP
Mr. Eamon O'Keefe, Esq., **for** Mr. Larry Fisher
Mr. David Frayer, Q.C. and Ms. Jennifer Cox, for Minister
 of Justice (Canada),
 The Hon. Irwin Cotler



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Transcript of Proceedings

(Reconvened at 1:30 p.m.)

COMMISSIONER MacCALLUM: Good afternoon.

ALL COUNSEL: Afternoon.

RICHARD ALLAN PEARSON, continued:

BY MR. HODSON:

Q Good afternoon, Mr. Pearson. Last Thursday we finished up, I think we got through to the end of your work on the two Section 690 applications and we'd finished up on your final report, which was April 29th, '92, and the two car theories that we went through in some detail. I now just want to finish up and let you know where I'm going to cover.

There is a few tidy-up matters in 1992 and then as well, sir, I will take you through your involvement in the matters involving the allegations by Michael Breckenridge in September of 1992, we'll then touch on your meeting with other RCMP and other government officials predating the Flicker investigation, and then just briefly your involvement in the Larry Fisher proceedings; okay?

A Yes.

Q So if we can call up 248202 or 203, please, which



1 I think it's doc. ID 248202, and go to the second
2 page. And this is a report from you May 25, 1992
3 to the Saskatoon subdivision, and if we could just
4 call out these two paragraphs. And just to put
5 this in a time frame, the Supreme Court decision I
6 believe was April 14th, 1992, and some events that
7 transpired shortly after that, so this is May, May
8 25, about a month, a month and a week later. And
9 you appear to be sending:

10 "... 94 pages of file material
11 associated to the investigation into
12 suspect Larry Fisher. All file material
13 attached is backed up by personal notes
14 retained by myself. All reference to
15 investigation not related to Larry
16 Fisher has been removed, therefore the
17 paragraph numbering is not sequential."

18 And then you say:

19 "Mr. Williams ... has requested details
20 of the investigation of Larry Fisher, as
21 he is preparing a summary of activities
22 regarding the Milgaard review."

23 And then you are asking your people if it's
24 appropriate to send it off to Mr. Williams, and
25 then if we can go to the next -- actually, sorry,



1 go to 248201 -- sorry, 204, the next page please.
2 And this is a letter June 3rd, 1992, so it looks
3 like this is the letter, Mr. Pearson, confirming
4 the request where Mr. Williams -- maybe we can
5 just call out those paragraphs, please, we'll
6 just take a quick moment to read that. And do
7 you have a recollection, Mr. Pearson, of what
8 this was about?

9 A Yes, I do.

10 Q And can you tell us about, about it, please?

11 A As I recall, and it's referenced in my notes, Mr.
12 Williams had made a call asking for a synopsis or
13 a -- information regarding the request that he had
14 made of me by -- regarding Larry Fisher, and I had
15 initially just suggested to him that I send my
16 entire note package to him that I had typed up,
17 and I believe it went, this went to our
18 subdivision, and it was suggested that this
19 request should be made in writing and the notes
20 should be for the request that he made regarding
21 Larry Fisher, the requests that were made in the,
22 in the investigation that was done pertaining to
23 Larry Fisher. And again, going back to the
24 previous correspondence where they talked about
25 the synopsis paragraphs removed and such, I think



1 that was regarding the issues that were not
2 associated with the specific requests that
3 actually had been made. That's my recollection
4 now.

5 Q And I think if we could just go to the next page,
6 there's 94 pages that follow, and I don't propose
7 to go through them.

8 A Yeah.

9 Q But what it appears, sir, is that you took your
10 office chronology and eliminated those note
11 entries that did not relate to Larry Fisher --

12 A Yes.

13 Q -- and then sent this package on; is that correct?

14 A Yeah, I think -- and that was, I believe, on the
15 instructions of my -- I'm sorry -- people upstairs
16 or my boss, because I, in my notes I indicate that
17 I had suggested just sending every -- the synopsis
18 forward, and that may have been because I have a
19 tendency to write notes in a diary form and have
20 personal commentary and such, and that might have
21 been the advice that I got. I just don't recall.

22 Q So am I correct sir, then, that you would have
23 taken your office chronology file, and pulled
24 everything that related to your investigation of
25 Larry Fisher, and sent that off to Eugene



1 Williams, at his request, in late May or early
2 June 1992; is that correct?

3 A I -- I -- I have to assume that, I just -- I'm
4 just going by, again, what I see here and what I
5 recall.

6 Q And do you know what Mr. Williams was gonna do
7 with this or what he was gathering it for, other
8 than what's stated in the letter, if we can just
9 go back to the previous page?

10 A There was some telephone conversation with him,
11 according to my notes, that preceded this request
12 on paper, and it, the request in writing for my
13 notes was at the direction of my superior to have
14 it in writing as to why he wanted my notes and
15 instruction as to what they wanted, and I may have
16 already had the synopsis ready to go before I
17 actually got this memo, I just don't recall how
18 this unfolded, but that in -- that's how I recall
19 it occurring.

20 Q If we could then go next to 047110, and this is a
21 memo to file of your Superintendent Egan September
22 18th, 1992, and this relates to allegations made
23 by an individual by the name of Mike Breckenridge;
24 do you recall being involved for a while in that
25 review, Mr. Pearson?



1 A Yes, uh-huh.

2 Q And in this memo he says:

3 "Sgt. Rick Pearson, Saskatoon GIS
4 advised he had spoken with Eugene
5 Williams, Federal Justice, who is now in
6 receipt of an affidavit which was filed
7 on behalf of Milgaard to have a federal
8 inquiry. He has alleged that a Pat
9 Styles, currently employed at Sask
10 Justice for Mr. John Baker, has provided
11 information to Milgaard's lawyer that
12 during the trial David Wollbaum, who is
13 also employed at Sask Justice,
14 identified to Serge Kujawa, the
15 prosecutor, that there was a major fault
16 with the prosecution. Kujawa inferred
17 that Wollbaum and Styles should remain
18 silent or risk losing their jobs. There
19 is an indication that a further employee
20 in Sask Justice, believed to be Mike
21 Breckenridge, might have some knowledge.

22 Sgt. Pearson has been tasked to
23 locate the people involved and have them
24 interviewed.",

25 and goes on to describe where they are. And I'll



1 take you in a moment, sir, to the interviews you
2 did of Wollbaum and Styles; do you have a
3 recollection of being involved in that?

4 A Yes.

5 Q And this memorandum suggests that it was Mr.
6 Williams that would have made the request to you
7 to follow up with them; is that correct?

8 A Yes.

9 Q If we can go to 117922, and this is a letter
10 September 21, 1992, a few days later, this is from
11 Mr. Egan to Saskatchewan Justice and it's
12 attaching your report, which is on the next page,
13 if we could go to that. And this is September 21,
14 1992 from you to your officer in charge, criminal
15 operations; is that the same people that you
16 reported to when you were doing your 690 work?

17 A Yes.

18 Q Call that out, please. And you say:

19 "Further to our telephone conversation
20 on Friday afternoon, the correspondence
21 referred to has now been sent via Fax
22 from the Federal Justice Department,
23 Ottawa, and is attached as Appendix
24 "A". "

25 And if we can just go to page 004064 -- or sorry,



1 11 -- let me restate that -- 117925, and I think
2 this is the statement, I think that's your -- is
3 your initial at the top? I think that's been cut
4 off, that's Appendix "A", is that right; if we
5 can just call out that top part, please? Oh,
6 maybe it's hard to tell from that.

7 A Can you scroll it up just -- or scroll it --

8 Q No, I think that's the best we can get.

9 A Doesn't look familiar, but --

10 Q I can tell you, sir, from the --

11 A Probably is but I just don't see it.

12 Q Appendix statement A, if you go ahead to 117927 --
13 actually you can't see the 'appendix' --

14 A That, that looks like mine, but --

15 Q Yeah, I'll maybe see if we can find a better copy
16 before you are done, Mr. Pearson, but let's go
17 back to 117923. And I think in paragraph 1 you
18 are identifying the statement, which was the one I
19 showed you from Michael Breckenridge, it wasn't --
20 it didn't have his name on it but there was a
21 signature at the bottom right; do you remember
22 looking at that? That was the initial statement
23 that was sent to the Federal Government?

24 A That's --

25 Q Your --



1 A -- the statement you thought was mine?

2 Q Pardon me?

3 A The previous statement that we just looked at that
4 you thought I could identify?

5 Q Yeah, the one that was Michael Breckenridge, yes.

6 A No, I haven't recognized that one yet as being
7 mine.

8 Q No, it's not yours.

9 A No, --

10 Q It was a statement --

11 A -- no.

12 Q Let me just start over again. Paragraph 1 in your
13 report you are saying to your superiors that you
14 have received correspondence from Federal Justice
15 Department and is attached as Appendix "A"?

16 A That's right, yes.

17 Q And that's the statement that Michael Breckenridge
18 gave to someone else?

19 A Yes, okay, yes, right, uh-huh.

20 Q And then you ended up interviewing Patricia Styles
21 and David Wollbaum based upon what was in that
22 statement; is that correct?

23 A Yes, yes.

24 Q And I'll come back to the Breckenridge statement
25 in a moment. Paragraph 2 you indicate that:



1 "On Saturday ...",
2 which is actually the September 19th, '92, you
3 travelled to Regina and interviewed two
4 individuals named in the Milgaard correspondence,
5 and that's Patricia Styles, and you have her
6 statement as Appendix "B", and Dave Wollbaum
7 attached as Appendix "C"; is that correct, you
8 would have interviewed those two individuals?

9 A Yes, yeah.

10 Q And then down to paragraph 3 you say:

11 "Upon returning to Saskatoon, I
12 contacted Mr. Williams, whom I have been
13 assisting during the Milgaard review.
14 During our conversation he advised that
15 Mrs. Milgaard had recently released to
16 the media allegations that in 1971, now
17 Premier Romanow and Serge Kujawa had
18 covered up information that a problem
19 existed in the prosecution of David
20 Milgaard."

21 Next page:

22 "Mr. Williams advised that the
23 senior --"

24 Call that out, please:

25 "Mr. Williams advised that the senior



1 Federal Justice officials have since
2 contacted senior Force management in
3 Ottawa, I believe to initiate further
4 investigation, but this is not
5 confirmed."

6 Then you say:

7 "From the interviews with Styles and
8 Wollbaum, additional names of
9 individuals who should be interviewed
10 were obtained."

11 And you go on to talk about Dale Richter who
12 worked and associated with Michael Breckenridge
13 and David Wollbaum. Then scroll down to
14 paragraph 5, you say:

15 "Please keep in mind that it has not yet
16 been confirmed that the source of Mrs.
17 Milgaard's information is in fact
18 Michael Breckenridge. Mrs. Milgaard has
19 not provided the name of her source,
20 however, I am personally convinced the
21 signature on the statement she is
22 providing is that of "M. Breckenridge",
23 and to date, no other employee working
24 for the Sask A.G.'s office during the
25 1970's has the initials "M.B"."



1 And then scroll down, paragraph 6:

2 "While there is additional investigation
3 that could be immediately pursued, I
4 await further direction, knowing there
5 will likely be input by senior
6 management."

7 And that you sent the two statements of Wollbaum
8 and Styles to Ottawa. So does that memo
9 accurately summarize the work you did during that
10 couple of day time frame?

11 A I believe so, yes.

12 Q And then if we can just go to 004064, and do you
13 have a recollection, Mr. Pearson, of being made
14 aware, your memo talks generally about the
15 allegation of cover-up involving Mr. Romanow and
16 Mr. Kujawa. Do you have a recollection of what
17 you understood the allegations were at the time?

18 A You know, I probably did. I just don't recollect
19 at the time what I knew or didn't know.

20 Q And here is the statement or the letter that was
21 sent by Mr. Wolch to the Minister of Justice that
22 had attached the two page statement which I think
23 was given by Michael Breckenridge, the one
24 referred to, and do you have a recollection -- I
25 believe this is what was sent to you by Mr.



1 Williams. Do you have a recollection of looking
2 at this before your interview of Wollbaum and
3 Styles, and I'll just read parts of this. It
4 says:

5 "However, new evidence has been obtained
6 which makes it imperative that the
7 Federal Government order an inquiry into
8 the entire Milgaard matter. Briefly,
9 this evidence consists of a witness who
10 was a former employee of the
11 Saskatchewan Attorney General's
12 Department who has come forward with
13 information concerning activities in the
14 Department shortly after David
15 Milgaard's conviction. Enclosed please
16 find a photocopy of the statement which
17 this witness has provided to a private
18 investigator in Saskatchewan.

19 It is clear from this statement
20 that some information came to the
21 attention of this witness which
22 suggested that there was a mistake made
23 in the Milgaard case. This witness
24 brought this information to Mr. Kujawa's
25 attention, and was told to mind his own



1 business if he valued his job. This
2 witness also indicated that by virtue of
3 the filing which was required in his
4 position, he became aware that meetings
5 were held where both the Milgaard and
6 Fisher files were considered together.
7 These meetings were behind closed doors
8 and involved senior attorneys in the
9 Attorney General's office."

10 Next page -- or next paragraph, pardon me:

11 "Mrs. Milgaard, along with the
12 investigator in question, met with this
13 witness to follow up on the information
14 contained in the statement. The witness
15 described an incident which involved his
16 refiling the Milgaard and Fisher files,
17 which were requested for a meeting which
18 was attended by Mr. Romanow, attorneys
19 in the Attorney General's office, and
20 police officials."

21 And do you have a recollection at least generally
22 of the nature of the allegation that was made at
23 this time, Mr. Pearson?

24 A I believe so. I don't recall this memo, but, you
25 know, if it was sent to me I'm sure I read it and



1 I was aware of it. I just don't recall today.

2 Q But do you recall the seriousness of the
3 allegation being made at the time?

4 A Yes. Oh, yes.

5 Q And that it involved the Fisher and Milgaard
6 files, an allegation that they were being
7 considered and dealt with by Mr. Romanow and Mr.
8 Kujawa?

9 A Yes.

10 Q Shortly after Mr. Milgaard's conviction?

11 A Yes.

12 Q And just -- the allegation alone, did that cause
13 you some concern based on what you had
14 investigated on the matter to date?

15 A Yes, I think it was just another phase of what
16 evolved here, but certainly it was an allegation
17 of cover-up by senior government.

18 Q If we can go to 117925, which is the statement of
19 Mr. Breckenridge, and I think in your memo you
20 indicated that the signature you thought, I think
21 you said you were personally convinced this was
22 Michael Breckenridge; is that correct? Call that
23 out, please.

24 A Yes, I must have felt that at the time.

25 Q And I take it, sir, you would have read this -- go



1 back to the full page -- read this statement
2 before interviewing Patricia Styles and David
3 Wollbaum?

4 A Yeah, sure.

5 Q If I can just touch on parts of it,
6 Mr. Breckenridge says he was hired -- we haven't
7 seen this statement before, so I'll just go
8 through parts of it, and it says:

9 "I was hired to the Blakeney gov't in
10 approximately 1970 or 1971."

11 And it goes on to give a job description. Then
12 down at the bottom, and we'll see some of this in
13 your questions to Mr. Wollbaum and Styles,
14 Mr. Breckenridge says -- he's talking about
15 filing correspondence in the Justice Department,
16 he says:

17 "At first this was menial boring work
18 but that changed as we began to get mail
19 marked everything from "Private and
20 Confidential" to "Eyes Only" that was
21 directed to Mr. Romanow."

22 And then the next page and talking about meetings
23 involving the justice minister and lawyers, it
24 says:

25 "We were often aware of these meetings



1 because after we delivered the file the
2 attorneys would meet behind closed doors
3 and our section was told to stay away
4 from that meeting, although, there were
5 times when they would request another
6 file at the same meeting. This often
7 happened with the Milgaard and Fisher
8 files. Also there was a paper shredder
9 kept in the ministers office and it was
10 used quite extensively in cases of very
11 sensitive material that would do damage
12 to the gov't, in such cases, I was told
13 that the gov't could claim ignorance of
14 this matter thereby escaping any
15 political heat."

16 Now, just the fact there that someone would
17 suggest that the Milgaard and Fisher files were
18 at the same meeting back in '70, '71 or around
19 that time period, did that cause you concern,
20 Mr. Pearson?

21 A Well, sure, it's obviously something you would be
22 pursuing here. It's all part of the allegation
23 that's being made, yes.

24 Q And then if we can scroll down, this paragraph,
25 Mr. Breckenridge says:



1 "On the Milgaard case it was brought to
2 my attention by Dave Wollbaum that
3 according to the information we had been
4 receiving it was becoming very evident
5 that the Milgaard case was a mistake."

6 So here Mr. Breckenridge is saying that Dave
7 Wollbaum brought to his attention that the
8 Milgaard case was a mistake; is that a correct
9 reading of that?

10 A Well, I'm reading the same thing everyone else is.

11 Q Yes.

12 A I guess that's what it means, yeah.

13 Q And I just raise that now for when I go to the
14 Wollbaum statement. And then he says:

15 "From the correspondence we were filing
16 our section was convinced that there was
17 error made in the Milgaard case and this
18 was brought Serge Kujawa's attention.
19 We were told basically to mind our own
20 business if we valued our jobs."

21 And then:

22 "This was after being told that our
23 section began to apply for transfers or
24 to find new jobs. This was done by
25 everyone except Patricia Styles, who was



1 the section head."

2 So that's the two page statement. If we can then
3 go to the next page, 117927, and this is a
4 statement in typed form that you took from
5 Patricia Styles in Regina; is that correct?

6 A Yes, uh-huh.

7 Q And if you want, I can just go to -- well, we'll
8 get to the last page that has your name on there,
9 but if we can just go through, go to the second
10 page, and Patricia Styles was the person mentioned
11 in Mr. Breckenridge's statement. You asked:

12 "Q Do you recall anything at all about
13 conversations you may have had in the
14 past about anyone expressing concerns
15 with the Milgaard conviction?

16 A No!

17 Q During 1970, 1971 and 1972 do you recall
18 there being any concerns raised by
19 fellow employees in the general office
20 about the Milgaard case, and in
21 particular if there had been some type
22 of miscarriage of justice?

23 A Nothing!"

24 Now, I see you've got exclamation remarks there.

25 Can you explain -- and there's a few other spots.



1 Was that of any significance?

2 A I don't think it's anything I could ever comment
3 on today.

4 Q And then scroll down, it says:

5 "Q Do you recall anything that Michael
6 Breckenridge may have said to yourself
7 or anyone else about the Milgaard case?

8 A No, if he did I don't recall any of
9 it."

10 And then down at the bottom:

11 "Q When you worked in the general office at
12 the A.G.'s Department do you recall
13 seeing any file material, memos or
14 documents associated to the names Larry
15 Fisher or David Milgaard?

16 A I can't recall specifically seeing
17 those, but I'm sure I must have
18 because we were dealing with these
19 kinds of files at that time."

20 And then scroll down:

21 "Q Can you tell me anything about Michael
22 Breckenridge?

23 A I haven't seen him in years. Many
24 many years ago he dropped by the
25 office to say hello, but I have no



1 idea where he is or what he is doing."

2 And then the next page -- actually, go to the
3 last page, 117931, and then it would appear, sir,
4 that you are reading to her from
5 Mr. Breckenridge's statement:

6 "Q The correspondence I have suggests that
7 the Milgaard case was a mistake. Have
8 you any knowledge of mistakes, cover-ups
9 or a miscarriage of justice taking place
10 with the investigation or prosecution of
11 David Milgaard's matter?

12 A No."

13 And then scroll down, next question:

14 "Q This correspondence suggests that the
15 concerns raised about the Milgaard case
16 were brought to the attention of Serge
17 Kujawa, then told by Mr. Kujawa to mind
18 their own business. Do you have any
19 knowledge of such a concern being raised
20 among the people you worked with at the
21 time?

22 A No."

23 And then:

24 "Q According to the correspondence I have,
25 after being told by Mr. Kujawa to mind



1 their own business, the employees began
2 to apply for transfers or find new jobs
3 and that yourself, Patricia Styles, was
4 the only person who didn't?

5 A I don't recall any massive turnover in
6 staff, just the normal change because
7 most of the positions were Clerk II
8 and III ..."

9 Etcetera.

10 "Q Do you recall any of your fellow workers
11 having any conflicts with Serge Kujawa
12 over the Milgaard file?

13 A No."

14 And there's your name as witness. And that
15 statement, Mr. Pearson, would you have recorded
16 accurately what Patricia Styles would have told
17 you during the course of your interview?

18 A I believe so.

19 Q Do you have any recollection of anything in
20 addition to what's stated in this statement?

21 A No. I'm really going by what I'm reading here as
22 well.

23 Q And would it be fair to conclude that you would
24 have been asking Patricia Styles about questions
25 that arose out of the Michael Breckenridge



1 statement that we had just gone through?

2 A I believe so, yes.

3 Q Go to the next page, the statement of David
4 Wollbaum, it's the same date. Actually, if you
5 can go to 117933, please, and just for the record,
6 I think a couple of these pages are in the wrong
7 order so I'll just go through in the order of the
8 statement. It looks as though the same date,
9 September 19th, '91, 4:10 in Rouleau, David
10 Wollbaum. Do you have a recollection of
11 interviewing him?

12 A I don't.

13 Q Just a couple of parts here, the next page,
14 117934, and again similar questions asked of Mr.
15 Wollbaum:

16 "Q Do you recall the Milgaard file?

17 A Not from that time.

18 Q Does the name Larry Fisher mean anything
19 to you?

20 A There are lots of Fishers in the jail
21 where I work and I have worked with
22 approximately ten different Fishers,
23 so I'm not sure if I relate to the
24 name Larry Fisher or not.

25 Q Do you know Michael Breckenridge?



1 A Yes, we socialized together in those
2 days. We were friends and worked in
3 the same office."

4 And it talks about a trip to Vancouver. If we
5 can then go to 117932:

6 "Q Tell me what you can about Michael
7 Breckenridge?

8 A He had a booze problem. His
9 personality was not well accepted by
10 the other clerks, but Dale and I were
11 the only two who got along with him.
12 He thought he was a friend of Gerry
13 Allbright, the lawyer, and he always
14 poked around the lawyers' offices
15 trying to get brownie points. He did
16 not keep himself neat and clean and
17 often came to work hung over. After
18 Dale and I left, no one would
19 associate with him and I'm not sure
20 how long, but he quit sometime after."

21 And it goes on to talk:

22 "Approximately 11 or 12 years ago was
23 the last time I saw Mike. He called me
24 up and came over for coffee. He had
25 quit drinking and had turned to



1 religion. He began to talk religion and
2 I sensed he was trying to convert me.
3 He indicated he wanted to save and help
4 people. Mike left my place and I've
5 never seen him since."

6 And down at the bottom:

7 "Q Do you have any information at all that
8 a mistake or cover-up may have been made
9 in the David Milgaard police
10 investigation or prosecution of him?"

11 Next page, which is 35, 117935:

12 "A None!

13 Q Did Michael Breckenridge ever tell you
14 about his concerns regarding the
15 Milgaard file?

16 A Not to my recollection."

17 And then:

18 "Q Was Serge Kujawa in that office at the
19 time?

20 A Yes he was, during the entire time I
21 was there. We handled criminal
22 matters. I have the highest respect
23 and admiration for the man."

24 And then:

25 "Q I have correspondence suggesting that



1 Michael Breckenridge ran errands for the
2 minister that were party business. Can
3 you respond to that?

4 A I know nothing about that."

5 And then scroll down:

6 "Q I have correspondence that states, "On
7 the Milgaard case it was brought to my
8 attention by Dave Wollbaum that
9 according to the information we had been
10 receiving, it was becoming very evident
11 that the Milgaard case was a mistake".
12 Respond to that please.

13 A I don't think my memory is that poor,
14 and I know for sure that a case as
15 sensitive as that I would have
16 remembered. I sure don't remember
17 having such a conversation with him on
18 that."

19 And then:

20 "Q I have correspondence that states, "From
21 the correspondence we were filing our
22 section was convinced that there was
23 error made in the Milgaard case and this
24 was brought Serge Kujawa's attention.
25 We were told basically to mind our own



1 business if we valued our jobs." Can
2 you respond to that please."

3 Top of the next page.

4 "A If something like that happened I would
5 remember it and I was never told
6 anything like this. We never had access
7 to the prosecution of matters. Our area
8 was filing, not assessing evidence. I
9 was definitely never told anything like
10 this by Serge Kujawa."

11 And then:

12 "Q I have correspondence that states,
13 "After being told that our section began
14 to apply for transfers or to find new
15 jobs." Can you respond to this please.

16 A The Milgaard case had nothing to do
17 with me leaving the section. It was
18 very hard for me to leave ..."

19 Etcetera. And then down at the bottom:

20 "Q Do you have any information about any
21 mistake or cover-up in the Milgaard
22 prosecution?

23 A None.

24 Q Do you have anything more to add?

25 A I don't see how he could see if there



1 was an error made in the Milgaard case
2 because everything on files such as
3 this is factual. I just can't see
4 there being a cover and I respect
5 Serge beyond question."

6 Now, again, I think you said you don't have a
7 recollection of this interview, but can you tell
8 us, Mr. Pearson, whether you would have recorded
9 what Mr. Wollbaum had to say accurately in this
10 statement?

11 A Yes, I believe that's accurate, yes.

12 Q Next if we can go to 004193, this is September
13 22nd, it's from Murray Brown of public
14 prosecutions to you, if we can go to the next
15 page, please, and it appears that this is a
16 listing of employees of the Department of Attorney
17 General, 1970 to '73. Do you have a recollection
18 of getting this information or at least looking at
19 this issue as to whether Mr. Breckenridge was
20 employed there at the time?

21 A I'm sure I did, but, you know, even seeing this
22 document, I just don't recall it.

23 Q If we can go to 004197, and there's a name blacked
24 out, I believe it to be Mr. Breckenridge's, but it
25 talks about his service commencing April 2nd, '73.



1 Do you have a recollection of this document or
2 learning that information?

3 A I have no recollection of this document. I sure
4 don't.

5 Q And 004 --

6 A Would you go back to page 1 again?

7 Q Yes.

8 A This was dated when and from who?

9 Q From Murray Brown dated September 22nd, 1992. Go
10 back to 004193.

11 A I just don't remember it, but I'm sure it's -- I'm
12 sure it's the information I received, yes.

13 Q If we could go to 004202, and again this is part
14 of the package of materials that appear to have
15 been faxed by Mr. Brown to you, and it appears to
16 be a letter September 12th, 1973 to
17 Mr. Breckenridge confirming that he starts with
18 the Attorney General's office on I guess September
19 12 -- September 12, 1973. Do you have any -- does
20 this refresh your memory at all?

21 A No, it doesn't. If you want to go back to that
22 fax number, I don't even know if I recognize that
23 fax number this was sent to to be honest with you.

24 Q 004193.

25 A It's got faxed to 4709. I'm not just too sure



1 what my fax number was at the time. I just don't
2 remember. I do remember receiving some names of
3 some office people that worked at the time, I
4 remember that, and I might be able to get more
5 clarity by going to my notes on this particular
6 point, but just to say I remember this document, I
7 really don't.

8 Q Do you have a recollection of making inquiries to
9 find out when Mr. Breckenridge worked with the
10 Attorney General's office?

11 A Yes, yes, I do have some recollection of trying to
12 get some background on the other office employees
13 that might have been in there at the time.

14 Q And I've showed you a couple of documents which
15 suggest September 12th, '73 is when he would have
16 started with the Attorney General's office. Do
17 you have a recollection of --

18 A I don't recollect it, but it all sounds
19 reasonable.

20 Q And then if we can go to 057604, and this is again
21 September -- I can't see it very well -- 22nd,
22 1992, and you've got a fax to Mr. Williams where
23 you attach copies of related articles that
24 appeared in the *StarPhoenix* on Monday and Tuesday
25 of this week, and I won't call the documents up,



1 but on Saturday, September 19th, 1992, the same
2 date that you interviewed Mr. Wollbaum and
3 Ms. Styles, Joyce Milgaard, Dave Milgaard and
4 Hersh Wolch had a press conference in Winnipeg
5 that outlined these allegations arising from
6 Mr. Breckenridge's statement and I think in a
7 number of media reports on the following Monday
8 and Tuesday there were articles about the
9 allegations and the request for an inquiry. Do
10 you have a recollection of that being in the news
11 at the time, Mr. Pearson?

12 A No, I don't, I really don't recall it. I know it
13 was certainly out there, but I do, just reviewing
14 my notes, I do recall in my notes that Mr.
15 Williams had indicated that there was going to be
16 something coming in the press or something.

17 Q If we can go to 060879, and this is now September
18 28th, 1992 and this is -- I'm not sure whose
19 document -- this is a -- I'm sorry, this is
20 from --

21 A This looks like -- it looks like the officer of
22 criminal operations in Regina to the officer
23 commanding subdivision. That would be Goodman,
24 Superintendent Goodman.

25 Q If we can scroll down to the second paragraph, and



1 it says here that:

2 "The matter of approaching Mrs. Milgaard
3 is left at the discretion of Sgt.
4 Pearson. She has made numerous public
5 comments about what she is alleging.
6 Any contact with Mrs. Milgaard will in
7 all likelihood create some media
8 attention."

9 Do you have a recollection of being involved in
10 at least considering whether you should interview
11 Mrs. Milgaard with respect to the Breckenridge
12 allegations?

13 A No. As I recall, I was interested in pursuing
14 some of the other people who were employed in the
15 office with Breckenridge and I think my approach
16 to this was to get as much information from other
17 people who worked in and around Breckenridge and I
18 was going to also make an approach to Mrs.
19 Milgaard to try and get as much background before
20 making an approach to Breckenridge. I think that
21 was the position that I was in at the time.

22 Q And so if we could just go to 060880, this is
23 again, this is September 28th, 1992, and this is
24 Mr. Wass, the inspector, is that A. Officer in
25 charge -- call that out, please?



1 A That's assistant officer in charge of criminal
2 operations.

3 Q And go back to the full page, please. And so this
4 is a letter from Mr. Wass to Mr. Quinney who is
5 the acting executive director, public
6 prosecutions, and what he says, scroll down:

7 "Further interviews are to be conducted
8 as an assistance role to the Federal
9 Department of Justice. Breckenridge
10 will be interviewed as to his knowledge
11 of the letter in question; and, I have
12 left the approaching of Mrs. Milgaard to
13 the discretion of Sgt. Pearson."

14 A Again, I think that's what you told us then, you
15 were -- you were going to gather some further
16 information before approaching Mr. Breckenridge;
17 is that right?

18 A Yes.

19 Q And now did you ever interview Mrs. Milgaard or
20 Michael Breckenridge about these incidents?

21 A It never got that far, no.

22 Q And if we can go to 060875, this is your October
23 1, 1992 memo to, it would be the officer in
24 charge, Saskatoon subdivision?

25 A He was my immediate officer, superior.



1 Q And if we can go down to the second paragraph --
2 actually, sorry, go up to the first paragraph and
3 it talks about the secure fax:

4 "... confirming that further interviews
5 should be conducted as an assistance
6 role to the Federal Department of
7 Justice."

8 So let me just pause there. Your interviews of
9 Wollbaum and Styles and your anticipated
10 interviews of others, including possibly Mrs.
11 Milgaard and Michael Breckenridge, were those
12 being done as an assistance to the Federal
13 Department of Justice?

14 A That was the instruction that I believe came from
15 Assistant Commissioner McConnell.

16 Q Yes.

17 A And that was what I was operating under, that
18 these were to be an assistance role to the Federal
19 Department of Justice.

20 Q And I think we saw the first time you became
21 involved in this was when Mr. Williams asked you
22 to go do some interviews; is that right?

23 A Yes.

24 Q And if we can go to paragraph 2:

25 "With the foregoing direction in mind, I



1 contacted Federal Justice Counsel,
2 Mr. Eugene Williams, whom I worked
3 closely with during the Milgaard Supreme
4 Court Review. It was Mr. Williams who
5 faxed the material to me on 92-09-18
6 concerning Mrs. Milgaard's allegations
7 of a Sask Justice cover-up of the
8 Milgaard case. From Sep 18 to Sep 22 I
9 was requested by Mr. Williams to conduct
10 ASAP interviews on behalf of the Federal
11 Justice Department. At 11 15 hrs on 92
12 Sep 23 Mr. Williams called to advise
13 that everything was on hold as he is
14 awaiting further direction from senior
15 Federal Justice officials. At 11 30 hrs
16 92-09-29, Mr. Williams called to advise
17 me he was sending additional material
18 which had not been sent to me with his
19 first fax on 92-09-19 (Breckenridge's
20 statement, etc.) During the Sep 29
21 call, Mr. Williams advised that
22 Milgaard's counsel has reported he
23 possesses additional information that
24 suggests a cover-up up by Sask Justice
25 during the early 1970's."



1 And then see appendices A to I.

2 "As of 92-02-29, Mr. Williams advised he
3 is still waiting to get direction from
4 his superiors."

5 So it looks like that on the 23rd of September
6 Mr. Williams told you to put matters on hold; is
7 that right?

8 A Yes. As I recall, during our -- the initial phase
9 of this, there was a request that we move on this
10 fairly quickly and then there was a hold put on
11 it, and Mr. Williams I believe was taking his
12 direction from his superiors, as was I.

13 Q And do you recall any discussions about whether
14 this should be investigated by the Federal Justice
15 or Saskatchewan Justice or just who should be
16 involved in investigating these allegations? Do
17 you recall that issue coming up?

18 A I don't recall having a discussion on it as to who
19 should or shouldn't do it. There was allegations
20 of senior government being involved and this was
21 elevating now to a level beyond myself and Mr.
22 Williams. I think that's the general --

23 Q Maybe just go to the next page, paragraph 3, you
24 say:

25 "I am well aware of the political



1 sensitivity that exists, however, from
2 where I sit, the investigation that
3 requires doing is rather basic and
4 obvious. What I find unsettling is the
5 change of position taken by senior
6 Federal Justice officials. Two weeks
7 have passed since this matter was raised
8 and the Federal Justice Department has
9 gone from aggressively pursuing this to
10 now placing the interviews on hold. I
11 raise this concern as I do not wish the
12 Force to be perceived as being a party
13 to Federal Justice decisions, which
14 others may later perceive to be
15 politically motivated."

16 Can you tell us what you meant by that paragraph?

17 A Well, I just thought that from a purely
18 investigative police point of view, it was obvious
19 that, you know, we had the names of other people
20 who were working with Breckenridge and the idea
21 was to give some additional information and to
22 approach Mrs. Milgaard and get some basic
23 background information and then move on to
24 interviewing Breckenridge. You know, from a
25 purely investigative point of view, it was fairly



1 straightforward, and obviously at the time it did
2 appear that I had some concerns that maybe this
3 was taking on some political flavour and, you
4 know, in hindsight I have to also say that, you
5 know, the allegations were serious and I'm sure
6 that there were a lot of people that were moving
7 up the structure so to speak, so it was moving
8 beyond my level, in fairness to everything going
9 on here.

10 Q And, if we can just go down to the next paragraph,
11 you say:

12 "Mr. Wolch Milgaard's counsel is
13 alleging a cover-up by the Saskatchewan
14 AG's department in the early 1970's and
15 is pushing for a federal inquiry into
16 the prosecution of David Milgaard."

17 And then -- do you know where he would have got
18 that information from?

19 A No, I really don't.

20 Q Paragraph 6:

21 "Please make senior Force management
22 aware of the additional "Milgaard"
23 material which I did not know was in the
24 hands of Federal Justice officials when
25 my secure fax was forwarded 92-09-21.



1 Please review the additional material
2 attached as Appendices "A" to "I".

3 Unless otherwise advised, I will
4 continue as instructed by A/Comm'r
5 McConnell."

6 Now just go to 054856, full page, please. And
7 this appears to have Appendix "A", and it
8 wasn't -- I must say, Mr. Pearson, and for the
9 benefit of you, Mr. Commissioner, and the
10 parties, we have tried, from the documents we
11 have, to reconstruct what would be appendix --
12 Appendices "A" to "I" in the record. I think
13 they have been -- when the reports were provided
14 to the Commission I think they, the attachments
15 may have been pulled apart, and I suspect that
16 they are in the document database but we, at the
17 present moment, can't fit them together.

18 So this looks to be Appendix
19 "A", and if I can go to 166500, this looks to be
20 Appendix "G". And I'm speculating only, but the
21 other attachments or appendices may in fact be
22 newspaper articles from the time frame and, Mr.
23 Pearson, are you able to shed any light on what
24 may have been in the Appendices "A" to "I"?

25 A No, I -- I just -- I just don't recall them.



1 Q Again, and I don't think it's a case of the
2 appendices not being provided to us, I think
3 rather it's a case that they are in the database
4 somewhere, but not with this report. And there
5 are a number of reports that have other appendix
6 numbers, so in the event that we're able to
7 compile something that's accurate, I will try and
8 file it.

9 But just back on 054856, your
10 report that I just read talked about additional
11 information about the cover-up; do you recall
12 reading the transcript of this press conference
13 September 19, 1992 which talked about the
14 allegations?

15 A I have no recollection of this, no, I don't.

16 Q And, again, if we can go to 05486 -- or 859, and
17 again this is Mrs. Milgaard speaking at the press
18 conference, saying -- and I think talking about
19 Breckenridge:

20 "He told of delivering the Milgaard and
21 Fisher files together, to Serge Kujawa.
22 He told of meetings behind closed doors
23 with Roy Romanow, Kujawa and other
24 senior police and Crown officials with
25 the Milgaard and Fisher files."



1 Do you recall being aware, generally, of this
2 type of allegation being made at the time?

3 A Yes, I believe so.

4 Q Okay. And then go to 060882. And this is a
5 memorandum, I'm not sure if you've seen this, but
6 it's October 1, 1992, and I think this is from Mr.
7 -- the Assistant Commissioner; was that Mr. Wass
8 or Mr. Egan?

9 A That would have been Wass.

10 Q And this is directed to the Commissioner,
11 Attention: Director, Enforcement Services, and so
12 this memo is the same date as your memorandum that
13 I just referred to where you were expressing
14 concern about no action being taken?

15 A Uh-huh.

16 Q And just read this paragraph, it says:

17 "At 15:30 hours, 92 Sep 30, Mr. Richard
18 Quinney, Acting Executive Director,
19 Public Prosecutions, Saskatchewan
20 Justice, called to advise that Mr. Tait,
21 Deputy Minister, Federal Justice, and
22 Mr. Cotter, Deputy Minister,
23 Saskatchewan Justice, had a discussion
24 this date on the noted matter. Concern
25 was expressed about who was in the best



1 position to provide the RCMP
2 investigator in Saskatchewan with legal
3 advice on the latest inquiries underway
4 as a result of Mrs. Milgaard's
5 accusation of a cover-up. It goes
6 without saying Saskatchewan Justice is
7 not in a position to do so, and
8 apparently Mrs. Milgaard has complained
9 the Federal Justice officials have
10 compromised themselves. Therefore, Mr.
11 Tait felt that possibly the Alberta
12 Attorney General should be approached.
13 Apparently Mr. Cotter called Mr. Neil
14 McCrank, Deputy Minister, Alberta
15 Attorney General's Department, and asked
16 for assistance."

17 And, again, do you have any recollection of there
18 being a concern that both Federal Justice and
19 Saskatchewan Justice may not be in a position to
20 give you direction or advice given that there had
21 been complaints against both of them from the
22 Milgaards?

23 A I may have had that knowledge, but I just have no
24 recollection of it, other than I believe there is
25 some reference in my handwritten notes about, in



1 general terms, something about this.

2 **Q** Yeah, and I'll take you to some notes of the
3 October meeting --

4 **A** Yeah.

5 **Q** -- with Mr. McCrank and Mr. Fraser; is that what
6 you are referring to?

7 **A** Well no, I think there was some, I think maybe
8 notes I had in a discussion with Mr. Williams
9 about, talking about some of the discussion that
10 was going on that he was aware of, but I don't
11 know that he was privy to because I think Cotter's
12 name is mentioned and such, but -- so there was
13 some general conversation, probably between
14 Williams and myself, about some of the things that
15 may have been going on above our level.

16 **Q** And then down at the bottom, I'll maybe go to
17 those notes in a minute, it says:

18 "I called Mr. McCrank to establish the
19 contact. I indicated that should our
20 investigator, Sgt. Pearson, require any
21 legal advice that any inquiries would be
22 channelled through this office.

23 Mr. McCrank indicated that he had no
24 concerns about direct contact with the
25 investigator, however I feel the Officer



1 I/C Criminal Operations, "F" Division
2 should be included in any discussions.
3 Mr. McCrank inquired about the status of
4 our latest inquiries concerning Mrs.
5 Milgaard's accusations. I indicated
6 that Sgt. Pearson had interviewed two
7 Saskatchewan Justice employees and would
8 be attempting to interview the author of
9 the letter released by Mrs. Milgaard and
10 one other employee."

11 And then Mr. McCrank talks about a meeting. If
12 we can go to 060842, please. These aren't your
13 notes I don't believe, I believe they are
14 Inspector Sawatzky's, but it talks about a
15 meeting on October the 8th, 1992, if we can call
16 that out. It says, 'Sask Justice officials have
17 asked the A.G. of Alberta to provide legal advice
18 and review this investigation for charges', does
19 that say, 'at its termination. Meeting held in
20 Crim Ops boardroom. Mr. Neil McCrank, Deputy A/G
21 of Province of Alberta, Bruce Fraser, Chief
22 Prosecutor' -- Scroll down -- 'Egan, Johnson,
23 Wass, Pearson, Sergeant Williams, and me', who I
24 believe is Inspector Sawatzky. It says, 'The
25 purpose of the meeting was to fully discuss the



1 Milgaard/Fisher files and to determine protocol
2 for the investigation.'

3 Do you have a recollection of
4 attending that meeting?

5 A I remember being in the boardroom, yes.

6 Q If we can call up 057344. So maybe we'll just
7 back up, these are the notes of your meeting of --
8 they don't show up very well -- but October 8th,
9 1992; is that right?

10 A It appears to be, yes, that's my handwriting.

11 Q And I think that's the same date as the meeting
12 with the parties involved, is that right, with
13 Mr. McCrank and Mr. Fraser?

14 A Yes.

15 Q Maybe we'll just back up. You had mentioned your
16 notes. If we could maybe just go to doc. ID
17 058615, and which is the doc. ID, and go to page
18 058634. And this is September 18th, 1992, and,
19 'Received a call from Eugene Williams advising the
20 Justice Minister had correspondence from Wolch
21 requesting a federal inquiry into the Milgaard
22 case. Info and statement from Michael
23 Breckenridge that he heard from David Wollbaum
24 that it was', is that --

25 A I think 'known'.



1 Q -- 'known/suspected there was something wrong with
2 the conviction of David Milgaard, suggestion that
3 Serge Kujawa was aware and had it' --

4 A 'Kept it quiet'.

5 Q -- 'and kept it quiet. Only other person
6 Williams' -- next page -- 'had called was Murray
7 Brown, Sask Justice. Request that I locate
8 Wollbaum. Another name mentioned in the
9 correspondence to Justice Department, is the name
10 Patricia Styles, who was in the department A.G.'s
11 in 1970. Then went from task force office to' --

12 A No, that's just me commenting. I was in another
13 task force so I just transferred from my office
14 that I was working on to the office to make any
15 inquiries.

16 Q And then at 2:15, advised Egan of your inquiries,
17 and the next page, this says, 'Shortly after
18 hanging up I received a call from Williams who
19 advised he just got off the phone to Murray Brown.
20 Wollbaum worked in AG's office from May '69 to May
21 '72, then to Social Service, then to Corrections
22 Office, Regina, believed to be living in Rouleau.
23 Called Egan back and advised him not to bother
24 with his inquiries as we had a lead on Wollbaum.
25 I then updated Superintendent Goodman and



1 Inspector Murray.' And then here, 'A call
2 received from Murray Brown, he advised that
3 Breckenridge worked for A.G.'s' -- I'm sorry, can
4 you read that for me?

5 A 'A.G.'s department in late '60s'.

6 Q 'In late '60s and early 1970s, human resources
7 person', goes on to give a name and some detailed
8 information about Styles and Wollbaum. Next page,
9 and I think this is September 18th, 'Contacted
10 Dave Wollbaum who will meet me at headquarters
11 4:00 p.m. tomorrow. He did not ask any specifics,
12 but did confirm he worked as A.G.'s office many,
13 many years ago. I explained that his name came up
14 in the Milgaard inquiry and wished to ask him some
15 questions. Dave sounded very up front and
16 cooperative but did say "I remember very little of
17 my employment there". Then later in the evening',
18 next page, 'Pat Styles was contacted, said she
19 had company, left a name and phone number, said
20 she would call me back later that evening.' And
21 it looks like you set up an interview with her.
22 If we can then go to the next page, 058639 -- no,
23 058639. 058639? There is the date of September
24 19th, looks like you set up the meeting with Pat
25 Styles, and then the next page, that part please.



1 This is after the interviews of Wollbaum and
2 Styles, 'Placed call to Eugene Williams advising
3 that Styles and Wollbaum had been interviewed.
4 Williams advised that Mrs. Milgaard had been to
5 the press suggesting there is evidence that
6 Premier Romanow and Serge Kujawa possibly' --

7 A 'Involved'.

8 Q -- 'involved in a coverup, etcetera, will no doubt
9 get more from press tomorrow. I will call
10 Williams Monday morning for further developments.'
11 And then arrangements to have the statement typed,
12 and then the next page. Actually, next page,
13 058643 please. And September 22nd, 'Contacted
14 Inspector Wass, Regina, confirmed that my message
15 from yesterday had been received and that Egan is
16 in Saskatoon and may be discussing' --

17 A 'This further'.

18 Q And then the next page, again this is still
19 September 22nd, 'Have not heard anything so far so
20 called Inspector Murray'; who was that, was that
21 Murray Sawatzky or --

22 A No, Inspector Murray was actually the inspector
23 that was between Goodman and myself, he was
24 actually another officer in there.

25 Q You say, 'I expressed my view that we should be



1 moving on this and that I have names of several
2 people who could' or 'we could interview. I also
3 explained that staffing were making' -- or, sorry,
4 is that --

5 A That's 'staffing'. Our staffing people were
6 making inquiries into Dale Richter, he was the
7 fellow that had gone into the RCMP program, and
8 used to work in that office.

9 Q Yeah. And then down at the bottom, 'Talked via
10 phone with steno Dowler, she had a call from
11 Eugene Williams advising that following info' --

12 A 'For my attention'.

13 Q -- 'for my attention', that's Michael Courtney.
14 Next page, Breckenridge, looks like some address
15 information, and then 'also Murray Brown, A.G.'s
16 department, will be faxing records, etcetera,
17 names of people employed by A.G.'s office at the
18 time for the investigation'.

19 And I think we saw earlier; does
20 that assist, Mr. Pearson?

21 A Yes, yes, that probably fills in the blank there.

22 Q And, 'Note: Federal Justice Williams has
23 requested this matter be investigated quickly, he
24 was advised I am awaiting response from Regina
25 headquarters as they may assign a Regina



1 investigator'; is that correct?

2 A Umm, yes, I think that's probably accurate.

3 Q And then, 'Inspector Murray called the office, I
4 am to brief Goodman tomorrow.' Sorry, no, no,
5 that should go to -- if we can go to 058650, is
6 next, and again this is continuing on September
7 22nd. And then here's the note September 23,
8 'Superintendent Goodman called, do not do anything
9 until further notice.'

10 I think we saw that earlier in
11 your note, that you were asked to hold off on
12 things, is that right?

13 A Yeah, it appears so, yes.

14 Q Then to 058648, and this is again September 23,
15 'Received call from Eugene Williams, he advises he
16 is temp on hold by his boss, sounds like Federal
17 Justice does not want there to be a full inquiry
18 but rather to verify the info provided by
19 Breckenridge, therefore to have Breckenridge
20 interviewed.' Scroll down. 'I explained to
21 Williams that my approach would be to find
22 evidence' or to --

23 A No, 'would be to first interview'.

24 Q -- 'first interview office staff that worked with
25 Breckenridge' --



1 A 'First'.

2 Q '-- first and use that info to' --

3 A -- 'set up an interview with Breckenridge' --

4 Q -- 'as he will probably have to go back to the
5 office staff to verify what Breckenridge has said
6 so we might' -- can you tell us what that top
7 line --

8 A 'Just as well'.

9 Q -- 'just as well' --

10 A -- 'get as much information as possible to conduct
11 the Breckenridge interview completely'.

12 Q 'Completely', and then 'Williams is' --

13 A -- 'awaiting further instructions as am I'.

14 Q Okay. And then down at the bottom, 'Contacted
15 Egan, he has been talking with Federal Justice',
16 or, 'with federal official Bruce MacFarlane and it
17 was originally arranged by Sask that they would
18 ask for a police investigation, however changed
19 their mind, discussion taking place on it' --

20 A 'On the deputy minister level'.

21 Q -- 'on the deputy minister level, apparently Brent
22 Cotter, Deputy Minister, is talking to Tait,
23 Federal Deputy Minister. Egan is waiting for a
24 message to be sent from Deputy Minister to RCMP
25 Commissioner of F Division on the direction.'



1 So, again, I think that's
2 consistent with what we saw in your earlier memo;
3 is that right?

4 A Yes.

5 Q And the next page, again September 25, 'Sergeant
6 Vern Allard, General Enforcement, Ottawa, called
7 wanting to know about the involvement of Eugene
8 Williams in this investigation. I asked Allard if
9 he was familiar with *Milgaard* case. He is. I
10 asked him if he was aware of the' --

11 A 'Latest'.

12 Q -- 'latest publicity re Mrs. Milgaard's
13 allegations against Premier Romanow' --

14 A 'Etcetera'.

15 Q -- 'etcetera. He wasn't. I then explained what
16 was taking place.' And then the next page, I'm
17 not sure if that -- 'I asked Allard what his
18 involvement is. It sounds as though he was
19 preparing a' --

20 A 'Force response/direction'.

21 Q -- 'Force response/direction'; would that be for a
22 media response then?

23 A I'm not certain. Maybe it was a briefing to the
24 Commissioner on what to do, I'm not sure.

25 Q Go to 058655, and this is September 28th, it says



1 'Inspector Murray called, he has fax from F
2 Division that inquiries to continue with interview
3 of Mrs. Milgaard and Breckenridge, we await
4 clarification on point being raised by Inspector
5 Wass re if the direction is from Federal Justice
6 or Saskatchewan Justice.' So, at this time, you
7 are waiting for clarification as to who is
8 directing you, is that right, --

9 A Yeah, that's --

10 Q -- the Feds or Sask.?

11 A That seems to be what I was saying here, I don't
12 recall that directly, but yes.

13 Q Go to 058659, and here's your September 30th note
14 that I think follows your earlier memorandum,
15 'Nothing heard from Fed Justice today. I am
16 unsettled by the lack of direction being provided
17 by Fed Justice. The investigations required is
18 rather basic and we should have been on this by
19 now. Steps could have been taken to confirm the
20 allegations' -- next page -- 'and we could be
21 getting on with this.' You say, 'My personal
22 thoughts are that the decision being made, or lack
23 of, stem from political concerns as opposed to
24 actually examining what really went on at A.G.'s
25 department. My current concerns have been



1 completed in rough and will be typed and forwarded
2 to senior Force management tomorrow to advise them
3 of my concern and to provide them with the
4 additional material received from Federal Justice
5 Williams yesterday.'

6 Again, that would be the
7 memorandum, then, that we talked about earlier,
8 the same type of note?

9 A Yes.

10 Q And 058661, so this is October 1, 'Met
11 Superintendent Goodman/Inspector Goodman and
12 discussed' --

13 A It must have been an error there, it would have
14 been Superintendent Goodman and Inspector Murray,
15 but --

16 Q And does that say, 'And discussed in detail' --

17 A 'Detail'.

18 Q '-- what's taking place regarding the' --

19 A -- 'latest info' --

20 Q -- 'we have on Mrs. Milgaard'.

21 A -- 'release' --

22 Q 'Goodman stated he received a call today,
23 Inspector Wass advising he had been told by
24 Quinney, A.G. Department, Sask., that Force legal
25 advice on this would be coming from Alberta A.G.



1 We discussed various ways in which the
2 investigation should proceed. I believe we should
3 interview several of the office employees at the
4 time to get a background on what was taking place
5 in the office atmosphere and then get all' --

6 A 'Detail'.

7 Q -- 'detail from Wolch/Milgaard, then interview
8 Kujawa and Romanow. After that the investigation
9 may be in a position to get a feel for what has
10 happened. I advised Goodman that we should be
11 determining who we are answerable to, Fed and
12 Provincial Justice, and that Commissioner
13 McConnell should be made aware of the latest info
14 as he provided his directions to assist Justice
15 and may have a different position with the
16 additional info.'

17 Again, that would be an accurate
18 note about what's going on at the time?

19 A I believe it is, yeah.

20 Q Page 058870 -- 058670, this is now October the
21 6th, 'Received call from Williams, he still has no
22 direction on -- as to what, if any, action he is
23 to initiate. He advised his boss is waiting for
24 direction from Minister and Deputy Minister of
25 Justice. He said Minister is' --



1 A 'Minister wants to call the shots'.

2 Q -- 'Minister wants to "call the shots". Also that
3 he had been busy on the constitutional level,
4 etcetera. Williams advised there were informal
5 discussions between fed and provincial A.G.'s at
6 the deputy level. Williams said he reviewed the
7 Milgaard file held by Sask justice and the Fisher
8 prosecution file sometime during the 89/90/91
9 period. No sniff of anything unusual.
10 Williams' --

11 A 'Related'.

12 Q -- 'related that Asper once said that files
13 existed in which witness statements from Fisher
14 witnesses put the association of Milgaard/Fisher
15 together in mind of prosecutor. To further
16 explain Caldwell was asked to produce' --

17 A -- 'association' --

18 Q -- 'of victims of other assaults. Caldwell
19 relayed to city police who provided a list of
20 statements taken during the investigation were
21 then supplied to Caldwell when in turn provided
22 Tallis with statements which may have some
23 "assault association" including (V4)---, etcetera.
24 This was possibly around the time November
25 '68/February '70 that Fisher was inactive. All of



1 the above according to Williams. It seems the
2 above scenario is the basis for Wolch now
3 advancing the position that knowledge existed that
4 a link had been made between the Miller murder and
5 outstanding sexual assaults by the
6 police/prosecutor. Williams will keep in touch.
7 I also advised Williams that blood samples had
8 been obtained from John and steps being taken to
9 have tests completed.'

10 I think that maybe relates to
11 the (V14)- --

12 A (V14)- matter, yes.

13 Q Yeah. And then October 6th, 'Goodman called, I am
14 to brief Egan, Wass, McCrank, his assistant, plus
15 a newly assigned Regina investigator and possibly
16 Inspector Sawatzky. McCrank is Deputy Minister
17 A.G.'s Department who will provide legal advice on
18 the police investigation. Briefing is set for the
19 boardroom.'

20 So, again, does that provide an
21 accurate --

22 A Yes, I think that's --

23 Q -- chronology of what -- of getting to the October
24 8th, 1992 meeting?

25 A Yes, I believe it does, as far as my notes.



1 Q And then I believe just generally after that
2 meeting is when Operation Flicker started, is that
3 right, where the RCMP investigated the
4 Breckenridge allegations as well as a number of
5 other allegations of wrongdoing put forward on
6 behalf of the Milgaard family; is that correct?

7 A Yes, I think that was shaping up at probably this
8 time, yes.

9 Q And that you were involved in another file
10 unrelated to the Milgaard matter, is that right,
11 you had been seconded to Operation Foray?

12 A I guess I was on another task force at this time.

13 Q And again just generally, is it fair to say that,
14 if we can go to 057344, that this would be the
15 meeting, if there was a hand-off, if I can call it
16 that, between what you had done on the
17 Breckenridge matter, that this was the meeting
18 where that took place?

19 A Yes, I was four or five months into this new task
20 force that I was running and the Breckenridge
21 material was kind of running along with that and
22 this was sort of the final handoff of what I was
23 doing on the Fisher/Milgaard matter.

24 Q And would it be fair to say that in addition to
25 the Breckenridge handoff, you also would have



1 commented or talked about what you had done and
2 what you had learned in the course of your work
3 assisting Federal Justice on Section 690; is that
4 correct?

5 A In the briefing?

6 Q Yes.

7 A Yes.

8 Q And again, I don't propose to go through, would
9 these have been notes that you made in advance of
10 the meeting or at the meeting?

11 A No, these would have been notes that I made -- I
12 would have gone back and reviewed the file and
13 made some briefing notes so that I could address
14 these, kind of a chronology or just an overview of
15 my involvement in this entire matter.

16 Q And if we can go to 057348, this is a request for
17 federal inquiry, call that out, and these would be
18 just a summary of dates and what happened; is that
19 right?

20 A Yes, I think just a chronology of significant
21 dates leading up to where we were at the present
22 time.

23 Q And if we can go to the next page, it says
24 conclusions:

25 "1. Investigation currently underway re



1 Wilson's conflicting testimony."

2 Would that be the contempt proceedings from the
3 Supreme Court or what was that relating to?

4 A Yes, that was an RCMP unit, I think the Federal
5 Enforcement Section in Ottawa that had been tasked
6 with looking into the perjury or the conflicting
7 testimony that was provided by Wilson during his
8 Supreme Court appearance.

9 Q And then number 2:

10 "2. Homicide investigation should be
11 re-opened.

12 3. Suspects should be Wilson/John
13 (also) Fisher."

14 Can you explain what you meant by that?

15 A You mean reopening the investigation?

16 Q Yes.

17 A Well, at this point I was suggesting there was
18 enough questions about all of this that the
19 investigation should be reopened and pursued.

20 Q And when you say, "Suspects should be
21 Wilson/John," what did you mean by that?

22 A Well, Wilson and John's behaviour has, you know,
23 the fact that John was a problem from the
24 beginning and Wilson was now lying at the Supreme
25 Court, you know, there was a lot of -- a lot to



1 pursue there, and also regarding Larry Fisher, the
2 fact that, you know, we were just coming out of
3 all of the investigation into Fisher, that there
4 was work to be done here I thought.

5 Q What about David Milgaard as a suspect?

6 A I didn't look at David Milgaard as a suspect that
7 I recall as far as investigating him personally,
8 but the Wilson/John part of it is associated to
9 that, yes.

10 Q And would this be -- we went through last Thursday
11 the car theory where you put forward that Wilson
12 and John might have been involved --

13 A Yes.

14 Q -- and lied at trial to cover their involvement in
15 the Gail Miller murder?

16 A Yes.

17 Q Is that what you are referring to?

18 A Yes. Well, like I say, there was just the whole
19 area of Wilson and John and all the questions that
20 were really not addressed or that were created by
21 the history of John and certainly the evidence or
22 the testimony of Wilson.

23 Q And we may have touched on this a bit last week
24 then. What then, as an investigator, what did you
25 think should have been done on the reopening?



1 Let's just talk about the Wilson/John and/or David
2 Milgaard theory, what further investigative steps
3 did you think needed to occur?

4 A Well, I just thought that there was enough
5 questions being raised by what was happening with
6 Wilson, particularly in view of what happened in
7 the Supreme Court where he was now changing his
8 story, you know, what was the real story, like,
9 what was the truth here, and with Nichol John, she
10 was just such a question mark and, you know, there
11 was nothing that totally exonerated David
12 Milgaard, so I thought that there must be more
13 work we could do to look into this.

14 Q And so again generally that would be focusing on
15 Ron Wilson and Nichol John and trying to find out
16 what --

17 A Well, I think, you know, you focus on basically
18 them being people who may have some knowledge of
19 what really went on that night. They were the
20 only people who were present and, you know, what
21 do they really know here.

22 Q And then secondly, Larry Fisher, and again we've
23 talked about this last week, was it your view at
24 the time, sir, that the investigation into Larry
25 Fisher as a suspect in the death of Gail Miller



1 should have been reopened?

2 A Well, Larry Fisher was never eliminated as a
3 suspect in my mind, there was never any evidence
4 to say that he didn't do it, there was certainly a
5 lot of information to suggest that he had the
6 potential to do it. What could be construed as
7 evidence linking him I guess is the question, but
8 there was certainly I thought more that we could
9 do.

10 Q And what type of steps did you think ought to be
11 taken in the investigation of Larry Fisher as a
12 suspect?

13 A Well, as I mentioned before, you know, there's
14 only so many tools you have and I just felt that,
15 you know, we could look at him as someone that you
16 could create an undercover scenario on to try and
17 gain his confidence, that's one option. You know,
18 intercepting private communication, I mean, those
19 were the two obvious ones that you would try and
20 use to develop some evidence, but again, he was
21 institutionalised, you know, and that did create
22 some complications, but those options were out
23 there, and so that's generally I think the feeling
24 at the time.

25 Q And would that, would your views then generally



1 have been passed on to those people at the
2 meeting?

3 A Well, as I recall, I can only go by what is
4 written here because I have a recall, I recall
5 being in the board room and I'm just going by my
6 reading here.

7 Q And number -- I'm sorry, number 4, you say:
8 "4. Evidence of a "cover-up" next to
9 impossible i.e., everyone has been
10 through the file (and) memories are
11 failing."

12 What did you mean by that?

13 A Well, I just think that, you know, there had been,
14 it has been just a long time ago, I was of the
15 view that it would be very difficult to, you know,
16 determine at this late date, you know, to prove
17 that there was a cover-up from recollecting
18 memories 10 years later.

19 Q And then number 5:
20 "5. (V14)- issue has potential to shed
21 light."

22 What did you mean by that?

23 A Well, this was still an active investigation in
24 that we were attempting to, based on the fact that
25 she had suspicions that the child that she bore



1 may have been from the sexual attack on her and
2 that we were working, or I was working towards
3 getting her family to provide blood samples so
4 that there could be testing to determine if in
5 fact one of the assailants would have been David
6 Milgaard or Larry Fisher or someone unknown.

7 Q And so the results of that, are you saying, could
8 shed some light on the investigation of suspects?

9 A Yes.

10 Q Then go to 060893, and again I won't go through
11 this in detail, but it's an October 13, 1992
12 memorandum, I think from Mr. Egan to the Regina
13 subdivision. If we can just call out the first
14 paragraph, it talks about your involvement in the
15 operation Foray in Saskatoon, and that was the
16 Martensville matter; is that right?

17 A Yes.

18 Q And so you should be relieved of any
19 responsibility for further inquiries on the
20 Milgaard matter and that Inspector Sawatsky and
21 Sergeant Williams conduct the investigation
22 concerning the latest allegations by
23 Mrs. Milgaard, and then talks about the meeting.
24 So is that in fact what happened, you got relieved
25 from further responsibility on these matters?



1 A Yes.

2 Q Next I want to just quickly go ahead to 1997,
3 1999. It's my understanding, sir, that you would
4 have been involved in the prosecution of Larry
5 Fisher and testified at his preliminary hearing
6 and trial; is that correct?

7 A Yes.

8 Q And is it fair to summarize that your evidence was
9 primarily related to exhibit continuity, and in
10 particular the DNA and the coat, etcetera?

11 A Yes, that's right.

12 Q And just for the record, you don't need to call
13 these up, but doc ID 314894 is your evidence at
14 the preliminary hearing, 312237 is your evidence
15 at the trial, and I think you got recalled on the
16 Kenny Cadrain blood issue, but I think that maybe
17 didn't go very far, that's 310879, and I don't
18 propose to go through the transcripts with you,
19 Mr. Pearson, but would -- did you tell the truth
20 to the best of your ability during the Fisher
21 proceedings?

22 A Yes, I did.

23 Q Finally, in conclusion, Mr. Pearson, if we could,
24 we talked right at the outset of your evidence,
25 you had made mention of some systemic issues and



1 you went through that, and I'm just wondering if
2 there's anything further to add now that we've
3 gone through it, and in particular any
4 observations that you had or now have based on the
5 work that you did back in 1990 to 1992 in the
6 Section 690 applications. If you look back with
7 the benefit of hindsight, do you have any
8 observations or suggestions that might assist the
9 Commission in looking at what happened during that
10 time frame?

11 A Well, in very general terms, yes, you know, I
12 suppose you can always look back, hindsight can
13 probably tell you a lot of things. I think every
14 investigation you get into there's always things
15 you could do differently or better or change. I
16 think if I was to go and look at it again and go
17 through this, I would never participate unless we
18 could do it as a team working out of the same
19 office and I believe there was systemically when
20 we were providing assistance to Mr. Williams and
21 we were working at geographical diverse parts of
22 the country, it did create certain communication
23 difficulties, and I will not say it was a
24 communication breakdown, I would say it was just
25 the communication system that was in place by



1 being, two people being at great distances, and I
2 think by not being at the, around the same table
3 on an ongoing basis, there are some inherent
4 difficulties in not getting the same feel where
5 everyone is at and not assessing the information.

6 So having to do it over again,
7 one of the issues would certainly be to be around
8 the same table, and that's not just for Mr.
9 Williams and myself, but I think all the key
10 players here. When you are talking of a wrongful
11 conviction, I do believe that there's a
12 requirement for everyone to -- again, I think I
13 used the term at the very beginning, to lay your
14 cards on the table, and it should really be a very
15 open and transparent process. I think when we are
16 talking about people being wrongfully convicted, I
17 think there certainly should be some system where
18 there is a rapid response to deal with these
19 issues and I think if everyone has their head
20 together as you go through these investigations,
21 it certainly is better than doing it by fax and
22 telephone and all Emails and all the things that
23 are in place today, and so the team concept is
24 really what is the acceptable process.

25 Now, going back 15 years ago, it



1 was there as well, but it's just the nature of the
2 organizational structures, he's with the Justice
3 Department, I'm with the RCMP, we're at different
4 parts of the country, he's a lawyer, I'm a
5 policeman, there's a lot of inherent things that
6 come into play that I think could have been, would
7 have been very beneficial if we worked together,
8 so just the geographic diversity creates an issue,
9 you know.

10 We started talking about all the
11 issues that surfaced during my involvement in this
12 investigation, you know, the missing files and the
13 cover-up and the city police being on the side
14 lines and all of those coordination of key
15 activities as such should have been under the
16 management of a sole agency, and I think a lot of
17 the things that went on here could have been
18 handled much differently, and I think again when
19 you talk about the process of 690, and I know up
20 to this point I knew very little of 690, and it's
21 not a process peace officers get involved in very
22 often, but I do believe that the system should be
23 looked at as more of a complainant system as
24 opposed to an application process. Application
25 suggests that you are applying to be heard and



1 considered by government for a service and I think
2 when we initiate a criminal prosecution we start
3 off with a victim or a complainant and they go
4 through the system and if at the other end it
5 appears that there has been a mistake in the
6 process, I do believe the person should be
7 entitled to complain and have a certain rapid
8 response to that activity, so I just think that
9 systemically there are some issues that we could
10 use to be more transparent. So that's just in a
11 nutshell some thoughts.

12 MR. HODSON: Okay. Thank you very much,
13 Mr. Pearson, for answering my questions. You
14 will have some questions from other counsel. I
15 think maybe it's an appropriate spot to break and
16 I can canvass the order.

17 COMMISSIONER MacCALLUM: Thank you.

18 *(Adjourned at 3:02 p.m.)*

19 *(Reconvened at 3:22 p.m.)*

20 MR. ELSON: Mr. Commissioner, I don't know
21 about the other counsel, but it has been agreed
22 that I will go first. I will have -- I shouldn't
23 be very long and most of my questions are going
24 to be rather general in nature.

25 COMMISSIONER MacCALLUM: Okay.



1 BY MR. ELSON:

2 Q Mr. Pearson, first of all, for the record I should
3 introduce myself, I am Richard Elson and I
4 represent the Saskatoon Police Service and
5 Saskatoon Police Chief Russell Sabo.

6 I want to begin by asking you
7 some questions with respect to your training and
8 experience as a general officer, general
9 investigation officer. Would there be any
10 specific training that you would have taken in the
11 late 1960s after you had joined the force in 1965
12 that dealt specifically with the role of
13 interrogating suspects and interrogating witnesses
14 not otherwise considered to be suspects?

15 A I think in general terms there were probably
16 courses that offered interviewing techniques and
17 such. You know, as a junior and senior constable,
18 I believe there are a number of courses that
19 probably involved that type of work, yes.

20 Q And were there courses specifically that you took
21 around that time, in the late 1960s, dealing with
22 those subjects?

23 A I don't recall if I had those specific courses at
24 that time.

25 Q All right.



1 A Or when I received them, but in general terms, you
2 go on a senior constable or a junior constable
3 course as such maybe for two weeks and they would
4 include in that a number of different topics and
5 one of them would be statement taking and things
6 like that.

7 Q And after the later 1960s or the time related to
8 the investigation of this particular crime, did
9 you receive more specific training in the task of
10 interrogating suspects or interrogating witnesses,
11 not suspects?

12 A I don't recall specific instructions that I
13 received, not like someone that was focused solely
14 on that type of police work, but in general terms
15 I would have, yes.

16 Q I put a question to Mr. Mike Robinson who had
17 testified back in September and asked him whether
18 or not he was familiar with any literature that
19 dealt specifically with the subject and one of the
20 items of literature I referred to Mr. Robinson was
21 a textbook entitled Criminal Interrogation and
22 Confessions which has been in several editions
23 since the 1960s, by a Professor Inbau, spelled
24 I-N-B-A-U, and a Mr. John Reid. Are you familiar
25 at all with the materials written by a Professor



1 Inbau and John Reid from the United States?

2 A No, I'm not, but, you know, speaking with someone
3 like Mike Robinson who is a trained polygraphist,
4 they are much more refined on the art of
5 interrogation and interviews, so they would be
6 much more involved and have much more knowledge
7 and much more reference material than a general
8 investigator would have like myself.

9 Q I appreciate your answer. In the course of your
10 instructions that you received from Mr. Williams
11 to conduct an investigation into this case, do you
12 recall whether or not you were ever asked Mr.
13 Williams' opinion -- or whether or not you were
14 asked by Mr. Williams for your opinion with
15 respect to the manner in which this case was
16 investigated back in 1969, the Gail Miller murder?

17 A No.

18 Q And notwithstanding that you were not asked to
19 provide an opinion with respect to the manner in
20 which this case was investigated in 1969, do you
21 recall whether or not you ever offered him an
22 opinion with respect to the manner of this
23 investigation?

24 A No, I don't believe I ever did.

25 Q Now, again if I could take you back to the 1960s,



1 and you talked about Mr. Robinson and being an
2 experienced polygrapher, do you recall how
3 officers generally regarded polygraphy in the late
4 1960s, how new it was and how it was looked upon
5 by police officers generally who didn't have any
6 specific training in that field?

7 A I believe it was looked upon as certainly a tool
8 and I believe general investigators like myself at
9 the time were looking at polygraphists as people
10 who had expertise, expertise in detecting
11 deception or truth through their training, and
12 also people that had skills in interviewing and
13 interrogating, so we looked at them as a resource.

14 Q Would it be fair to say that general investigation
15 officers such as yourself would give a great deal
16 of deference to a polygrapher at that time,
17 notably in the late 1960s?

18 A I believe that's true, yes.

19 Q And it would be deference not only in the conduct
20 of the polygraph, but perhaps deference also in
21 the interrogation of the witness?

22 A Yes.

23 Q You were aware that former Inspector Roberts at
24 the Calgary Police Service testified at the
25 Supreme Court of Canada in the review in this



1 case; is that correct?

2 A I believe I was aware of that, yes.

3 Q Did you have an opportunity to review Inspector
4 Roberts' testimony before the Supreme Court, of
5 the transcript of his testimony?

6 A No.

7 Q And I take it then that you did not provide Mr.
8 Williams or anyone else in the Department of
9 Justice with an opinion about the manner in which
10 Inspector Roberts conducted the interrogation of
11 Nichol John and Ron Wilson?

12 A No, I never.

13 Q In the course of your review in this case, it's my
14 understanding, from your evidence, and from the
15 documents we've seen, that you did have an
16 opportunity to review the police file maintained
17 in regard to the Gail Miller investigation; is
18 that correct?

19 A At the Saskatoon Police Service?

20 Q Sorry, maintained by the Saskatoon Police Service.

21 A Yes, yes.

22 Q And that would include, to the best of your
23 knowledge, all of the investigation reports in the
24 possession of the police service in 1969?

25 A All I can say is that I reviewed the material that



1 was there. Whether it was there in '69 or what
2 was there, I really don't know, but I can say that
3 I had access to the file and I reviewed it and
4 that's all really I can say.

5 Q I understand. You were aware that there were
6 three members of the Royal Canadian Mounted Police
7 who had been asked to assist in the investigation
8 of the Gail Miller murder; is that correct?

9 A Yes, at some point I certainly came into that
10 information.

11 Q I believe they were Inspector Riddell, Sergeant
12 Edmondson and Corporal Rasmussen I believe is how
13 his name is pronounced?

14 A Yes.

15 Q Were you familiar with those three officers in the
16 course of your own career with the RCMP?

17 A I knew the names, but I didn't know the
18 individuals.

19 Q Do you recall whether or not in the course of your
20 review of the Saskatoon Police Service file,
21 whether or not you also had the opportunity to
22 review investigation reports which would have been
23 authored by either of those three members of the
24 RCMP?

25 A I have no recollection of that.



1 Q And you did not go through any of the RCMP files
2 to examine specifically their role in the
3 investigation of the Gail Miller murder?

4 A I don't remember seeing any RCMP files in that
5 regard.

6 Q Based -- if I could take you back, and I notice
7 that Commission Counsel didn't ask you questions
8 specifically related, or in calling for your
9 opinion with respect to the conduct of this
10 investigation. Without knowing your answer, I'm
11 going to take the liberty of asking you that
12 question. If you were to look at the
13 investigation reports that existed with respect to
14 the Gail Miller murder investigation, do you have
15 an opinion as to whether or not Larry Fisher
16 should have been considered as a suspect in the
17 murder of Gail Miller prior to him coming to the
18 attention of the Saskatoon Police Service as a
19 result of the incidents that took place in
20 Winnipeg in 1970? Do you have an opinion on that?

21 A Well, I think, you know, he was a young man at the
22 time that was being checked out and I know we had
23 all the information about his being checked at the
24 bus stop, but from my information, that there was
25 no record of him being involved at the police that



1 I know of at that time and he would be one of many
2 people that would go through the system that I
3 don't think would attract too much attention at
4 the time he was checked.

5 Q Right. Now, when you say that, I believe that
6 Commission Counsel had brought to your attention
7 the information that had been provided to the
8 Saskatoon police in 1969 from John Husulak, the
9 bus driver, who serviced the 20th Street Pleasant
10 Hill route in January of 1969. You were aware, I
11 take it, that Mr. Husulak had identified one of
12 the passengers commonly on that bus was a
13 gentleman wearing a hard construction hat?

14 A I don't recall, but it could be.

15 Q Perhaps if we could -- I'm not sure whether or not
16 this refreshes your memory, I believe it is
17 document number 106108. If we look, the second
18 paragraph, this is an investigation report from
19 Constable Gabruch, in the second paragraph it
20 states:

21 "Husulak stated that around Ave. 0 and
22 20th St., he would ordinarily have a
23 male passenger at Ave. 0 and 20th St.
24 who appeared to be a construction worker
25 wearing a red hard hat and approx. 20



1 years old, however this morning --"
2 Being January 31, and it says 1968, it should be
3 '69,

4 "-- however this morning the gentleman
5 was not around."

6 Do you have a recollection of having seen that
7 particular investigation report in the course of
8 your review of the file maintained in this
9 investigation?

10 A I have no recollection of that.

11 Q That -- considering that, and considering
12 Mr. Husulak making a reference to a gentleman
13 wearing a hard construction hat and considering,
14 and juxtaposing that with the information gathered
15 by, I believe it was Constable McCorriston, and
16 perhaps we could have that document brought up,
17 041688 -- I've probably got the wrong one. I'm
18 looking for the typewritten investigation report
19 that was produced from these notes. I'm sorry,
20 I've got the wrong number then.

21 MR. HODSON: February 5 report?

22 MR. ELSON: That's the one. I'm sorry, Mr.
23 Pearson, this is my fault. I had the wrong
24 number.

25 A No, it's quite all right.



1 MR. ELSON: I'm sorry, Mr. Commissioner.

2 COMMISSIONER MacCALLUM: That's okay.

3 MS. McLEAN: 106212.

4 BY MR. ELSON:

5 Q We have it now. I believe it is on the next page.

6 Yes, next page.

7 If we were to identify -- I'm
8 not very good at circling these as Mr. Hodson is.
9 You are familiar with this McCorrison
10 investigation report in which he identifies having
11 spoken with Larry Fisher on February the 3rd --

12 A Yeah.

13 Q -- 1969? If we were to take the information
14 gathered by McCorrison on that date and compare
15 it to the information gathered by Constable
16 Gabruch on January 31 from Mr. Husulak, it has
17 been suggested that it was flat out negligent for
18 the police, considering this information, not to
19 have looked upon Larry Fisher as a prime suspect.
20 What is your opinion in response to the suggestion
21 that it was negligent for the police not to have
22 considered him a prime suspect in light of the
23 information gathered in those two reports?

24 A Well, gee, that's a tough one, you know, really to
25 try and say if it's gross negligence, you know.



1 You take a look at the bits and pieces of
2 information you have and you try and put it
3 together to see where it takes you, and again, I'm
4 not sure just how their investigations were
5 conducted in those days, if they sat around and
6 compared information or if they put it into report
7 form and someone else analysed it and assessed it,
8 you know, so much depends on how the investigation
9 is really conducted, and when we start talking
10 about, you know, going back into those days, and
11 I'm not an authority on how they conducted their
12 police investigations, but, you know, today there
13 would certainly be a continual discussion of all
14 the things that you had, there would be an
15 exchanging or a brainstorming of information and
16 these kinds of things maybe would come to light.
17 So in those days, putting it on a piece of paper
18 and maybe going to another level, so it all
19 depends on how the investigation and the paperwork
20 flow goes.

21 Q Now you've talked about "in those days", and
22 you've made reference to the difference in time,
23 I'm instructed that some police forces now have a
24 central registry or a computer registry in which
25 information of the kind generated in these types



1 of police reports is basically fed into a computer
2 and one can identify key words in various reports?
3 For example, one could put in the phrase "hard
4 hat" and find out every place where the words
5 "hard hat" would appear; are you familiar with
6 police forces today, or in the last number of
7 years, having that kind of a process in which they
8 could assimilate information that's gathered in
9 various police reports?

10 A Well I'm sure there are major case management
11 programs now that do that very thing, they can
12 search by different characteristics and assist the
13 investigator to gather the information together,
14 it's probably a very, very standard procedure.
15 Going back in 1969, I doubt that existed, and even
16 going back to 1990 when I was involved this was a
17 manual system that I was using, so -- but today I
18 would suspect that you could do all sorts of
19 comparisons and searches on a database, depending
20 on what you inputted, of course.

21 Q Now I just want to touch a little bit with respect
22 to Linda Fisher. You are, of course, aware that
23 Linda Fisher certainly reported to you, and indeed
24 you've seen the statement, that she had shown up
25 very, very early in the morning in August of 1980



1 and had provided a statement to I believe Officer
2 Wagner -- I can't remember what his rank was
3 specifically at that time -- but had provided a
4 statement to Ken Wagner indicating that she
5 suspected her ex-husband as having been involved
6 in the Gail Miller murder. In the course of your
7 career as a police officer, had you ever heard of
8 a similar thing having happened either before or
9 since, namely a person comes in ten years after
10 someone else has been convicted and says "I think
11 somebody else may be responsible for this
12 offence"; is that -- other than in this case have
13 you ever heard of something anywhere close to
14 similar having happened in another police
15 department or a police force?

16 A Well I have to, I have to say, you know, when you
17 start talking about someone coming in talking
18 about a homicide that happened many years ago and
19 if they are giving you some information that, that
20 they believe that their ex-spouse could have been
21 involved in and it's in the neighbourhood, it's
22 something that certainly you would think would
23 have been pursued.

24 Q You would think would be pursued, it's not --

25 A Would have been pursued, yes.



1 Q Now, having said that, are you aware of this type
2 of thing having occurred in any other case, that
3 you are aware of, in the RCMP or --

4 A Well, you know, it's, I would think it's not
5 common, but it certainly does come forward.
6 People provide you information at a later date
7 that, you know, may say that -- cause you to open
8 an investigation or maybe discard the information.
9 It all depends on, I suppose, on how you, as an
10 individual, accept it, you know, you are assessing
11 a lot of different things and different factors.
12 But, you know, when you start talking about a
13 serious investigation like a homicide, I -- I
14 would think that you would, you would take this
15 seriously. And it certainly appeared that it was
16 serious enough to take a statement and to forward
17 it up the structure, so I would think that she was
18 taken seriously at the door by the policeman that
19 she met, Wagner. So I'm assuming it was serious
20 enough to take the statement so --

21 Q And you are aware of the fact that Officer Wagner
22 passed it further up and it was sent to Detective
23 Parker?

24 A I -- yes, yes.

25 Q And you are further aware that that is where it



1 stopped, it wasn't pursued any further?

2 A That's my understanding, yes.

3 Q And of course at the time that that statement was
4 given, to your knowledge there was only one knife
5 that was referred to by Linda Fisher, and you
6 would agree with me that the knife described by
7 Linda Fisher did not match the knife that was
8 presented as the probable murder weapon at the
9 time of David Milgaard's trial; is that correct?

10 A At, at the time that it was, the statement was
11 given?

12 Q At the time the statement was given?

13 A Yes.

14 Q At the time the statement was given the
15 description of the knife that Linda Fisher said
16 was missing did not match the knife that was
17 presented as an exhibit as the murder weapon at
18 David Milgaard's trial?

19 A Yes.

20 Q You are aware of that?

21 A Yes.

22 Q And indeed, as I understand it from your notes,
23 Linda Fisher, when she discovered that the knife
24 was different, was relieved to note that the knife
25 was different; is that correct?



1 A That's fair.

2 Q Now so much of what a police officer does is based
3 on, in many respects, an impression that one has
4 of the evidence one receives, whether it's
5 credible, whether it's worth pursuing, and in many
6 respects that's a judgement call, there is no set
7 standard as to how one arrives at that judgement?

8 A That's fair.

9 Q Now in this instance you are aware that Detective
10 Parker, then, would have received a statement that
11 would have described a knife that did not resemble
12 the knife identified at David Milgaard's trial;
13 under those circumstances what is your opinion of
14 Detective Parker's decision, apparent decision,
15 not to pursue the matter further?

16 A I don't know if I've really formed an opinion
17 based on his decision. I mean, like I say, you
18 could, in hindsight you could say that he made an
19 error, but at the end of the day, for me to pass
20 an opinion or a judgement, I'm not sure I can
21 really do that.

22 Q Now you also talked about the possibility, the
23 prospect, that this should have been pursued. You
24 would agree with me that certainly in 1980, and
25 perhaps not even today, there wasn't a procedure



1 available for police officers -- or there wasn't a
2 policy that would be known by police officers as
3 to what to do in the event someone comes in
4 post-conviction with information suggesting that
5 someone convicted of an offence may not have been
6 guilty of the offence; there was no procedure,
7 there was no instruction that police officers had,
8 would you agree with that?

9 A As far as policy or law?

10 Q Policy?

11 A I don't, I don't know what existed in the
12 Saskatoon Police Service in that regard.

13 Q Okay.

14 A I mean every police agency would probably have
15 something different if they had anything at all.

16 Q Would the RCMP, at that time, have had anything?

17 A They may have, I -- they had so much policy I
18 still don't know it, but they possibly did, and
19 maybe they didn't, I really don't know.

20 Q It's been suggested, both at this Inquiry and
21 elsewhere, that it would have been incumbent upon
22 the Saskatoon Police to have disclosed the fact
23 that Linda Fisher made the statement she did in
24 August of 1980 to either David Milgaard, his
25 counsel, or David Milgaard's family; what is your



1 view of that suggestion?

2 A Well the real -- are you talking about disclosure?

3 Q That it should have been disclosed to the family,
4 that it should have been disclosed to Mr. Milgaard
5 or his counsel?

6 A Well, going back to 1969, disclosure was a
7 different world then as far as disclosure and
8 police work.

9 COMMISSIONER MacCALLUM: Aren't you talking
10 about 1980?

11 BY MR. ELSON:

12 Q I'm talking about 1980, yes?

13 A Okay, 1980, even then. But to say it should have
14 been disclosed to Milgaard, you know, I don't
15 know. I don't know if I would have disclosed it
16 to Milgaard, I think I would have had it pursued
17 somewhat, but to say that disclosure came up and
18 -- that's a tough one, I'd have to think about
19 that.

20 Q Would you agree with me that perhaps the more
21 prudent thing to do would be to pass it up the
22 line to the Department of Justice or the Attorney
23 General's office in Saskatchewan, as it was then
24 known, and allow them to make the decision?

25 A Well I -- certainly stay within the structure. It



1 should have been pursued, you know, and an
2 assessment made on the investigative level.

3 Q Thank you, Mr. Pearson, I have no further
4 questions.

5 A Okay. Thank you.

6 BY MR. WOLCH:

7 Q Mr. Pearson, I'm Hersh Wolch and I'm David
8 Milgaard's counsel, and I note the hour. I will
9 certainly commence now, and I can tell you I won't
10 finish today, but I hope not to be too long with
11 you and hopefully I'll get to a logical place to
12 break for the afternoon.

13 I might say at the outset that,
14 while I may ask you a number of questions, I can
15 tell you that your integrity is not in question by
16 myself at least and, you know, the quality of your
17 desire to work, and work, is not in question
18 either, if that is of some assistance. So you
19 don't have to be overly guarded that we -- that
20 your integrity is being questioned.

21 Could you advise as to how you
22 got involved right at the very beginning?

23 A It was a telephone call that was placed to my
24 office in Saskatoon, and as I recall there was a
25 message for me to actually return a call to Mr.



1 Williams in Ottawa, and I had not of course met
2 Mr. Williams before and I didn't know him, so I
3 placed a call, and this is how I became involved
4 in this investigation.

5 Q Yeah. Do you know how you were chosen; like why
6 you and not the fellow next door?

7 A Possibly because I was on a general investigation
8 section which did general investigative kind of
9 work for, for this geographical area, so it was in
10 line with the kind of work that we did do in our
11 unit, so that might have been how they got to my
12 particular unit, I was in charge of the section so
13 maybe he got my name as being in charge and phoned
14 me.

15 Q And was it determined that you would have
16 sufficient time, yourself, to do it, that is you
17 had no other cases that you were working on at the
18 same time that might cause you to put this on the
19 back burner so to speak?

20 A No, I don't think, I don't think -- well I don't
21 know what, how Mr. Williams came to me, but I
22 don't think that determination was ever made about
23 my workload.

24 Q Were you able to put other work aside to focus on
25 this or did you have to do other work at the same



1 time?

2 A I had a lot of stuff on the go, you know, I was in
3 charge of the unit and we had five other people on
4 the unit and I was overseeing a lot of different
5 things.

6 Q And in terms of your role, did you feel that you
7 were under the direction of Mr. Williams, is that
8 how you saw it?

9 A Well as I mentioned before, yeah, this is -- it's
10 an unusual investigation for a policeman, the 690,
11 because it's an investigation that begins when the
12 justice system has already been there before you.
13 And usually police investigations are just the
14 opposite, you are leading the investigation to the
15 point of having a charge laid and going into the
16 justice system, so this was a little different as
17 far as my role. I did feel that I was being an
18 assistant to Mr. Williams on the role that he had
19 under 690.

20 Q Did you feel you were free to pursue what you
21 wanted to or that you were to do what he told you
22 to do?

23 A I didn't believe the relationship was one of
24 him -- you know, of me being told, but I did
25 believe that it was being led and overseed and, to



1 a point, directed by the Federal Justice
2 Department and Mr. Williams.

3 Q I would think that normally, as a good police
4 officer when you are looking into a case, you want
5 to go where your brain and your nose take you, you
6 want to go wherever you think you should go?

7 A Yes, I agree with you, and -- but this was not a
8 normal police investigation, this was not like it
9 was a fresh homicide so to speak, it was one that
10 had a component to it looking into Larry Fisher,
11 and then it went into all sorts of different areas
12 as well.

13 Q And so, whatever you would do, you felt
14 constrained to report to Mr. Williams at least;
15 would that be fair?

16 A I'm not sure 'constraint', but I certainly
17 reported to Mr. Williams, and I felt -- I didn't
18 feel that I could not go to certain areas, but I
19 did feel that it was being overseen by the task
20 that he had, yes.

21 Q And in terms of the -- of David Milgaard's
22 counsel, etcetera, what did you feel your role was
23 pertaining to that group?

24 A Well I didn't feel that I had any less of an
25 obligation to them. You know, I had, you know,



1 mentioned earlier on, it's unfortunate we couldn't
2 have all sat around the table and discussed the
3 various points that could be pursued and the
4 issues that were on the table at the time, but I
5 didn't feel that they were -- his counsel was
6 leading the investigation, as was Mr. Williams,
7 that the task was one for Mr. Williams or the
8 Federal Justice Department.

9 Q And --

10 A So when you say which direction did I focus my
11 reporting and such, it definitely was to Mr.
12 Williams.

13 Q Okay. But you didn't feel obliged to give any
14 reports over to the Milgaard group, for example?

15 A I didn't feel the reporting structure was such
16 that it would be distributed that way, that's not
17 the understanding I had of the process.

18 Q And what about Saskatchewan Justice; how did you
19 view your relationship to them?

20 A I didn't really see them as being involved in the
21 process at that point, it was one where I was
22 providing assistance as requested by Mr. Williams.

23 Q And the Saskatoon Police; how did you feel you
24 were related to them?

25 A I didn't have a reporting requirement to them,



1 I -- I had, you know, certainly a courtesy to
2 liaise with them, it was necessary to deal with
3 them because they held the file and they were the
4 jurisdiction in which this crime took place, but
5 as far as formally reporting I did liaise with
6 them and -- but I didn't feel obligated to report
7 to them. The real sense of reporting was up the
8 structure from where this request came.

9 Q And I heard you to say today that, and I think
10 before also, that one of the systemic problems
11 that you saw was Mr. Williams being far away and
12 not there for daily discussion, or every second
13 day, or whatever you might do in a 'normal', if I
14 can use that term, investigation?

15 A I think that's, that's true, in my heart I believe
16 that's --

17 Q Yeah.

18 A -- that's accurate.

19 Q And were you aware of Mr. Williams' personal
20 expertise in terms of directing an investigation?

21 A No.

22 Q Or what his knowledge was?

23 A No, I didn't. I didn't know Mr. Williams before
24 this.

25 Q And you understood him to be working for the



1 Minister of Justice in Ottawa?

2 A That's right, right, yeah.

3 Q And that would have a political component to it?

4 A Well, I don't know, it's -- I never looked at the
5 Federal Justice part as being a political
6 component, I looked at him as being, you know, an
7 investigator for the -- I know he was a lawyer but
8 I looked at him as an investigator with the
9 Federal Justice Department.

10 Q And I think that, when we're dealing with systemic
11 problems, one that I might suggest is -- and this
12 is far from a criticism of you -- is that to put
13 the workload of this case on one person is
14 absolutely a mistake; would you agree with that?

15 A You mean putting the workload on me?

16 Q Yeah, the whole thing on one shoulder --

17 A Yeah.

18 Q -- sounds remarkable?

19 A Yeah. But, you know, but in fairness -- and again
20 if there's -- I suppose I could have went out and
21 accessed additional resources if I felt that I was
22 being overwhelmed so, you know, I'll assume the
23 responsibility where it should be, and I -- at the
24 time you go through these things you are busy, you
25 are working, there is a lot of stuff happening,



1 and as you go through it you are taking one step
2 at a time, and maybe in retrospect you look back
3 years later and say "you know, I sure could have
4 used more help on that because it was overwhelming
5 exercise I was going through", so yeah, you could
6 always use more resources, but that's just the
7 nature of what police work is about, you are
8 always short of the people you need.

9 Q Well when you got involved the focus of your
10 involvement was the revelation about Larry Fisher;
11 would that be fair?

12 A That's fair.

13 Q And were you ever directed or asked to look at the
14 case in totality?

15 A No, umm, I was never asked to do a file analysis
16 of all the components of this, and my involvement
17 was primarily starting off with Larry Fisher.

18 Q See, that's what I am going to suggest to you is a
19 real difficulty and perhaps was not a very wise
20 thing, in the sense that it's really impossible,
21 is it not, to look at one without the other, it --
22 to get a sense of what's going on?

23 A Well the other, the other part, you know, never
24 involved Larry Fisher. I mean Larry, the whole
25 investigation went through without Larry Fisher



1 ever being involved in this, so now Larry Fisher
2 is a new component, and how that fit into all the
3 other components that were in play really was
4 something that was left with, with Mr. Williams.
5 But I think, again when I go back to some of the
6 systemic issues, you know, where a teamwork or a
7 team approach, you were talking about this
8 investigation among ourselves on a day-to-day
9 basis, the full pie would have been put together
10 so to speak. But I was here, and he was there,
11 and I just never had access to all the activities
12 that he was involved in.

13 Q Yes, but what I am getting at is it's really
14 almost impossible to assess one without looking at
15 the other, in a sense of if the case is very
16 strong against one, you might look at the other a
17 little differently?

18 A That's fair.

19 Q And what happened here is you were looking at
20 another individual who had gone through the Court
21 system, had been convicted, exhausted his appeals,
22 and you were assuming there was a lot of credit to
23 be given to that; correct?

24 A On Larry Fisher?

25 Q No, at the very beginning you understood that



1 David Milgaard had been convicted and exhausted
2 all of his appeals?

3 A Yes.

4 Q And that gave you a general sense of comfort that
5 he was rightfully convicted?

6 A I -- yeah, that's fair.

7 Q And wouldn't that impact on how you looked at
8 Fisher?

9 A I, you know, I don't think so. I -- it looked,
10 when you try and weigh, weigh all of this it maybe
11 does, but when you look at Fisher, he certainly
12 was an individual who had the background to be
13 capable of committing this offence.

14 Q Well, no, I give you full credit to your --

15 A Yeah.

16 Q You saw the light.

17 A Yeah.

18 Q But, I mean that's not what I am really getting
19 at, what I am saying is you still had, to Fisher's
20 credit almost, in the back of your mind the
21 thought "well Milgaard had been convicted"?

22 A Yes.

23 Q And that's why I'm saying, on a systemic basis, it
24 would have been helpful for you to know if the
25 Milgaard conviction was based on strong evidence,



1 weak evidence, it -- recanted evidence; that all
2 would have been important to you in your overall
3 assessment of this case?

4 A I -- I can't argue with that.

5 Q And that's a task that one person just can't do in
6 any reasonable period of time; would you not agree
7 with that?

8 A You mean a person could not assess the file?

9 Q Assess the Milgaard file, go through all that, do
10 the Fisher case?

11 A No, it's a big task, I do agree.

12 Q Well let me give you an example. When it came
13 time to prosecute Larry Fisher a lot of the work
14 had been done; correct?

15 A I think so, yes.

16 Q I mean the DNA had been done, the victims had been
17 analysed and re-analysed and --

18 A Yes.

19 Q -- questioned, etcetera. Let me just show you, if
20 we can go to 082070, now this is the Miller task
21 force. And I'm looking at this, and you have a
22 team here, you see that; Inspector Orem, Staff
23 Sergeant Stevenson, Corporal Torgunrud, --

24 A Yes.

25 Q -- Corporal Hopkins, Corporal Fairhead, Constable



1 Appleton, Stringfellow, Breton, Thomson, Legare, I
2 mean that's a huge team to get into this case on
3 the prosecution of Fisher?

4 A Yes.

5 Q You see that?

6 A Yes, yes.

7 Q And there's 22 boxes of files retrieved and all
8 sorts of things. So I'm sort of looking at it,
9 you had a bigger task than they did, you as one
10 man had a bigger job than all of these people;
11 correct?

12 A Well, I had a big job, I didn't compare it how
13 big.

14 Q Well --

15 A I mean the task force was certainly put together,
16 and yes they did have a number of investigators,
17 no doubt about that.

18 Q Oh, I'm not saying they had too many, I'm saying
19 this is the way it should be done.

20 A Yeah, oh, ab -- I agree.

21 Q But in your case there were more RCMP at the Grey
22 Cup yesterday than were working on this case, --

23 A Yes.

24 Q -- if you look at it in terms of the manpower that
25 was going into this case?



1 A Yes.

2 Q And that's the point I'm making.

3 A Sure.

4 Q Is that here you are being handed this file, and
5 not having anywhere near the time to go through
6 everything, that's the point I'm trying to make.

7 A Okay. Point well made.

8 Q Because one of the suggestions you had was that
9 there should be a rapid response, I heard you say
10 to the Commission Counsel 'a rapid response', and
11 I'm sure that later on when we get into it we'll
12 learn about how response times are in 690
13 applications.

14 A Yes.

15 Q But you can't be rapid if you are doing the whole
16 job by yourself?

17 A No, but I think the process, I do believe -- and
18 today, you are asking me about what I would do
19 differently today -- I do think that the process,
20 and I'd be very surprised if a lot of the 690
21 process has not been reworked and renewed since I
22 was involved some 15 years ago, but I do believe
23 that there, if there is a wrongful conviction,
24 there should be a rapid response to the issues.

25 Q Now on that point, wrongful convictions, of course



1 not everybody who complains of a wrongful
2 conviction has been wrongfully convicted?

3 A Oh, everyone in the institution has been wrongly
4 convicted according to them, --

5 Q That's --

6 A -- you know, but -- so there is lots of noise to
7 come out of that. But you are right.

8 Q But I take it what you have to do is, or somebody
9 has to do, is determine if there's an air of
10 reality to the --

11 A Yes.

12 Q -- you know, to the application?

13 A Yes.

14 Q And that would determine where you went with it?

15 A Yes.

16 Q You know, I mean for example if Larry Fisher came
17 to you now and said "I want an inquiry" or "I want
18 you to look into it", you would sort of shake your
19 head and wonder 'where is the air of reality'?

20 A Yes.

21 Q So would you have known, for example, when you
22 started off, that Wilson had recanted?

23 A When I started off?

24 Q When you were first brought into this did you know
25 that one of the key witnesses had recanted his



1 story?

2 A I don't believe I was aware.

3 Q You see, I have some difficulty about you talking
4 about Wilson lying in the Supreme Court or
5 changing his story; do you recall that?

6 A Yes.

7 Q Are you aware he changed his story at trial from
8 his original version?

9 A Umm, he -- I do believe that there was a change in
10 statement from some statements he had made from
11 the very first to the second statement, I believe
12 there was some differences there in what they --

13 Q And were you aware, for example, that Wilson,
14 John, and Milgaard made basically the same
15 statements independently at the very beginning?

16 A Yes, I think I was.

17 Q When would you have learned that?

18 A I think I learned that -- gosh, I'm not sure, you
19 know. I think I was aware of it but I'm not sure
20 when I became aware of it.

21 Q Now, regarding Linda Fisher, you indicated that
22 you found her to be credible I think were your
23 words, in a general sense?

24 A In a general sense, yes.

25 Q That she seemed to be properly motivated, she



1 didn't seem to be out to get anything or she
2 seemed like an honest -- an honest woman?

3 A I stuck with her, yeah.

4 Q And was your feeling of her credibility conveyed
5 to Mr. Williams or to anybody else or was that
6 something you kept to yourself or passed on?

7 A Well, I know we had lots of conversations,
8 telephone conversation with Mr. Williams, you
9 know, what I felt or said, you know. I just don't
10 recall the details of conversations, I just can't
11 recall that.

12 Q You agree with me that in cases of this nature,
13 the investigator's assessment can be quite useful
14 in terms of somebody's credibility?

15 A Oh, absolutely, yes.

16 Q And would this be part of the problem with him
17 being in Ottawa and not here where you could talk
18 every day and you might say, look, she sounds
19 pretty good, I have no reason to doubt her and
20 things like that?

21 A I think that's fair, yes.

22 Q I'm quite troubled by all this emphasis on her
23 getting the knife wrong, so to speak. Tell me
24 this, as a good investigator, if she was able to
25 come into the police station and identify a paring



1 knife 11 years later right down to the T, would
2 that have made you suspicious?

3 A Oh, possibly, possibly, but, I mean, I suppose
4 even when you take a look at the fact that when
5 she eventually did identify this knife, I mean, in
6 Court, how do you assess that, you know. There's
7 so many things to factor in.

8 Q Okay, but what I'm saying is that not being able
9 to identify a paring knife 11 years later is not
10 exactly something that destroys somebody's
11 credibility does it?

12 A Not any more than I suppose being able to identify
13 the knife positively that many years later. I
14 mean, it's just another factor that's in there
15 that's part of the overall assessment.

16 Q Can you identify a paring knife 10 years ago?

17 A I haven't lost one, so I don't know.

18 Q Can you identify one back in your kitchen right
19 now?

20 A No.

21 Q I can't do mine. Can you?

22 A No, I don't think so.

23 Q All I'm saying is that so much emphasis on the
24 fact that this woman can't identify her paring
25 knife strikes me as a bit difficult and



1 problematic, that --

2 A But again, it's like I think everyone interprets
3 things differently and that's just the nature of
4 our whole system, it's run by people, you know. I
5 make my decisions, somebody else makes theirs on
6 what information they have, and sometimes you are
7 right, sometimes you are wrong, collectively you
8 might be right. There's so much human involvement
9 here that it's just really hard to --

10 COMMISSIONER MacCALLUM: Mr. Wolch, you
11 just have to explain that to me a little better,
12 please. I'm not sure of your question. My
13 memory is that Linda Fisher described her paring
14 knife without any trouble. What do you mean she
15 couldn't identify it?

16 MR. WOLCH: What I mean is that she
17 described it and she may have gotten it wrong and
18 that should not, I suggest, destroy her
19 credibility, that's what I'm getting at, is that
20 she's describing to the best of her ability
21 something that may not stick out in your mind 11
22 years later is what I'm getting at. Thank you,
23 Mr. Commissioner.

24 COMMISSIONER MacCALLUM: Thanks.

25 BY MR. WOLCH:



1 Q What I'm saying is that, I don't know if you are
2 aware of this or not, other witnesses who
3 testified against David Milgaard had discrepancies
4 every which way to Sunday that seemed to be
5 overlooked and not looked at as being crucial to
6 their credibility, yet this woman has one thing
7 that isn't all that important, I would suggest, in
8 the overall scheme of things, that this takes away
9 all her value.

10 A Well, if you are asking me, I mean, I didn't
11 discredit her over that.

12 Q Well, that's what I want to get at.

13 A Yeah.

14 Q So you still thought she was a valuable witness?

15 A Yes.

16 Q Now, you first got involved date wise, it was --
17 was it February of --

18 A I think it was the end of February, 1990.

19 Q Now if I can pull up 155610, this is a letter to
20 Eugene Williams and this is enclosing a copy of
21 two statements of Linda Fisher, a statement of her
22 uncle and a newspaper clipping. Now, when a
23 letter like this would go to Mr. Williams, would
24 he call you up or tell you or what was the chain
25 there?



1 A Our communication was primarily by telephone, that
2 was primarily the way we communicated and, you
3 know, he would, you know, fax me material as well,
4 there was no Email in those days, and I don't know
5 of all the material that he may have received from
6 you and the correspondence that went between you
7 and he, you know, but for the most part, if he had
8 a task for me to do or he wanted me to pursue
9 something, he would be in touch with me. That's
10 how I recall the connection.

11 Q Okay. You know at the end:
12 "Should your investigator require any
13 type of information or assistance or
14 whatever, we will cooperate fully."

15 A Okay, yes.

16 Q That was brought to your attention, that there
17 would be full cooperation?

18 A I believe that was out there, yes.

19 Q Did you ever consider interviewing David Milgaard?

20 A I think we did, but I really can't give you the
21 details of what may have been discussed, but I
22 don't remember ever talking to him in view of just
23 getting a general statement about what he thought
24 about what he did or didn't do. I think our
25 involvement with him was more looking at doing a



1 polygraph to confirm, you know, the deception or
2 honesty, I think that's maybe where we were
3 focusing more than anything, but as far as the
4 general statement from him to interview him, I
5 don't recall that being part of something that we
6 had looked at.

7 Q And I take it from what you were looking at,
8 primarily the Fisher matter, there wasn't much to
9 talk to him about?

10 A That's fair, yes.

11 Q That would have been in March, and if I could turn
12 to document 010019, now, this is a July 5th
13 memorandum to file from Mr. Williams regarding
14 conversations with you and I and he says on July
15 the 4th he learned from Mr. MacFarlane that myself
16 had the names of four Saskatoon rape victims, and
17 I'll read a little faster, information did not
18 accord with what we received from the RCMP and
19 Saskatoon who advised us there were not any
20 incidents of rape attributed to Larry Fisher which
21 occurred in Saskatoon. Now, you've been on the
22 file at that point four or five months; correct?

23 A Yes.

24 Q And you were investigating the allegation that
25 Larry Fisher is the person responsible. How is it



1 that four or five months had gone by and with the
2 resources available to you, you did not know that
3 Fisher's attacks had occurred in Saskatoon?

4 A Well, there were no, there was no record of Larry
5 Fisher at all as I recall in the Saskatoon Police
6 Service, there was nothing to associate him to
7 anything, in fact, I don't know if his name was
8 even in their system, and as far as his
9 involvement in previous criminal offences through
10 the name search through the criminal record
11 checks, it identified Regina as the place where
12 the offence took place, or at least where the
13 conviction took place, and because at that point
14 there was really no focus on doing the similar
15 fact analysis portion, there was really no
16 pursuance to find all the old files that were in
17 play, and I think that's really where the mindset
18 was at that particular time, and I think going
19 back to some of the initial contact I had with Mr.
20 Williams, that under 690 the connection was that
21 there had to be some link between Larry Fisher and
22 the Gail Miller murder and I think, you know, the
23 suspicion that I may have had wasn't converted to
24 evidence through the similarity of his crimes and
25 I think that's really where it stopped for me



1 there, at that point.

2 **Q** Well, were you familiar with the concept of
3 similar acts at that time?

4 **A** Well, you know, I think I probably was, but I
5 don't know how much experience I had with it, but,
6 you know, I'm not going to say I didn't have any
7 knowledge of it. I just don't recall the exact
8 knowledge I did have at that time, that's 15 years
9 ago, but I certainly assume I had some knowledge
10 of it.

11 **Q** Well, you understand the principle generally, that
12 you can be identified pretty well if you are doing
13 something reasonably unique over and over again,
14 it can point a pretty good finger at you?

15 **A** Yes, and I think, you know, it can certainly
16 confirm suspicion, and I think that's where I used
17 it, you know. That's where -- I used the
18 similarity of his criminal convictions, i.e., sex
19 and -- sexual assault against women as the basis
20 of suspicion that I had, but to convert it to
21 similar fact so-called evidence, I just -- I
22 didn't take it that step at that time.

23 **Q** Okay. Well, the memo says that the information
24 from RCMP in Saskatoon, that there was not any
25 incidents of rape in Saskatoon. Now --



1 A And that's because the data check with the city
2 police indicated there was no record of it. I
3 think that's really where that came from.

4 Q Okay. Did you ask anybody at all if he had any
5 personal knowledge or anybody in charge or, you
6 know, the chief or anybody who would have been
7 around, even Regina, as to something about Larry
8 Fisher?

9 A I dealt with the city police senior people as well
10 as the working guys, you know. Larry Fisher was a
11 common name by this time.

12 Q Okay.

13 A And I just don't recall.

14 Q Okay. But you might agree with me that four
15 serious sexual assaults in Saskatoon would make
16 the perpetrator somewhat infamous?

17 A If we had known about it, yes, but like I say,
18 there were no files in the Saskatoon Police
19 Service at that time that identified this.

20 Q Might you agree with me that, and leaving aside
21 ulterior conduct or whatever, from the other side
22 of the fence looking at this might cause somebody
23 to wonder what is going on when nobody seems to
24 know anything about this guy committing all these
25 offences in Saskatoon?



1 A Well, you know, if it would have been something,
2 you know, within a year or two when the files were
3 all intact and such, there would have been a
4 database, there would have been a cross
5 referencing, I mean, if the system would have been
6 functioning the way it probably was supposed to in
7 1969 and the fact that the files would have been
8 in place, then it certainly would have been
9 information that I think would have been readily
10 available, but 20 years later it appears that this
11 information was not readily available.

12 Q No, but if you go down, just go down a little
13 more, the information came from a CBC documentary.

14 A You know, I have no idea what the source was, but
15 I didn't have the information obviously at that
16 time.

17 Q And when the investigation would be completed and
18 whether you would, or anybody interviewed Larry
19 Fisher and that Milgaard was innocent, and wanted
20 to use the occurrence reports to establish a
21 pattern of similar act to identify Larry Fisher as
22 Gail Miller's assailant.

23 A Uh-huh.

24 Q I'm just wondering why we have similar acts being
25 considered much later in the game, but here you



1 have, on July the 5th, it clearly being made
2 known, to Mr. Williams at least, that the purpose
3 of this evidence was similar act specifically.

4 A Yeah. I don't know. Like I say, the file
5 material wasn't -- as I recall, the file material
6 wasn't available at this point.

7 Q What I'm getting at is there seems to be some
8 suggestion that similar act, the concept arose
9 much later in the process, but here you have, back
10 on July the 5th, just confirming that the defence
11 wanted that evidence to establish a pattern that
12 would identify Larry Fisher as Gail Miller's
13 assailant.

14 A Yeah. Well, you know, I think as I recall the
15 discussions we had, we talked about similarities,
16 you know, when we compared the file material we
17 did have, we talked about similarities of what
18 the, in the crimes with the (V10) (V10)- file, and
19 I think some of the file material that was found
20 on the penitentiary files from Winnipeg, but -- so
21 there was discussion and examination of details of
22 the similarities, but to convert that into a
23 similar fact pattern chart comparison analysis,
24 that was never something that really came into
25 play here and, you know, in hindsight it



1 certainly --

2 **Q** Do you know why it didn't come into play from the
3 investigation point of view?

4 **A** You know, I do believe, and again Mr. Williams I
5 think maybe will, you know, have to enlighten you
6 more on that, but I do believe it was -- I don't
7 know what the threshold or the test was under 690
8 being applied by Federal Justice, you know, and I
9 just think possibly there was a view that there
10 had to be a link which established Larry Fisher
11 and Gail Miller being associated as opposed to the
12 similarities. Maybe that just wasn't viewed as
13 sufficient to -- I'm just trying to speculate here
14 somewhat, but I do believe that that has to be
15 some part of it, and Mr. Williams might be able to
16 enlighten the Inquiry.

17 **Q** I would hope so. It does say later on if there
18 was a link. I'm trying to get in my own mind
19 clear what a link means.

20 **A** Yeah.

21 **Q** If similar acts is the link.

22 **A** Yes. And I think maybe this is where, if
23 there's -- I'm not talking about confusion here,
24 but I think possibly to consider -- and again, I
25 don't want to speak on behalf of Mr. Williams



1 here, but I do believe that possibly the link is
2 trying to determine a piece of evidence that puts
3 Larry Fisher in contact with Gail Miller, maybe a
4 hard piece of evidence as opposed to similarities
5 of offences that have nothing to do with Gail
6 Miller, and for the purpose of 690 and attempting
7 to establish whether this should be pursued,
8 possibly that's the test that they applied. Like,
9 I don't know that.

10 Q And he does say that the interviews had not been
11 completed partly because of intervention of my
12 office, which was denied. Did you feel you were
13 being hampered by witnesses being interviewed?

14 A By Mrs. Milgaard or by you?

15 Q By anybody. I'm trying to think of a witness that
16 would have been compromised by having been --

17 A Well, I had some real difficulties with the (V14)-
18 matter, you know, there were some issues there
19 that I thought went a little overboard, you know,
20 when it appeared, it almost appeared by Centurion
21 Ministries that, you know, there was a convincing
22 going on that what the witness said was not really
23 accurate, so yeah, there were some issues with
24 that.

25 Q I'll digress a little bit from where I planned to



1 go, that would be (V14)- -- I'm not sure,
2 Mr. Commissioner, looking at the time --

3 COMMISSIONER MacCALLUM: We can go on for
4 five minutes.

5 MR. WOLCH: I'm not sure I can do (V14)- in
6 five minutes, but --

7 COMMISSIONER MacCALLUM: We can stop if you
8 want.

9 BY MR. WOLCH:

10 Q Just dealing with her, Mrs. (V14)- had called the
11 Milgaard group wanting to see David Milgaard to
12 identify him as her assailant; correct?

13 A Yes, I believe that's how it started.

14 Q And as you understood it, it was because she had
15 been told that her assailant was David Milgaard?

16 A I don't know if she ever said she was told. I
17 think that was information that was contained in
18 Centurion Ministries' report that was told, but
19 Mrs. (V14)- didn't indicate that to me. She
20 indicated that there was an inference made by the
21 police officer that had returned the exhibits to
22 her and she had that belief, but I don't believe
23 the name David Milgaard was ever passed on to her.
24 That was what she told me, which is quite, I
25 think, different than what she told Centurion



1 Ministries.

2 Q In any event, what she told the police originally
3 was that she never saw her assailant?

4 A I believe that could be correct.

5 Q Do you not consider it somewhat bizarre that she
6 would call the Milgaards so she could see if David
7 assaulted her as opposed to calling the police or
8 somebody on the sort of other side?

9 A Well, I think you have to take a look, you know,
10 this lady was traumatized and she was going
11 through a lot of emotional difficulties and
12 psychiatric problems, she had a lot of personal
13 issues, so what she wanted to do to resolve that
14 in her own mind, it was very embarrassing and
15 humiliating for her, you know, maybe she didn't
16 want to go to the public route, so to speak.

17 Q Okay. But how can she identify somebody she has
18 never seen?

19 A Well, I think -- again, we have to go to the
20 statements there, but I do think she said she
21 saw -- well, maybe a partial description. Whether
22 or not she said that she saw his face, I just
23 don't recall.

24 Q If we can go to 009098, just highlight that part:
25 "I never once saw the culprits face only



1 his hands which appeared to be the hands
2 of a white man and were all dirty."

3 You see that?

4 A Yes, uh-huh.

5 Q Now, I'm just bewildered how, having given that
6 description at the time, that there could be any
7 suggestion that she was now going to identify her
8 assailant all these years later.

9 A Well, I don't know what's going through her mind,
10 you know. Rationally speaking, we could ask those
11 questions, but, you know, here's a lady that had
12 years of, you know, she had been traumatized and
13 she had a lot of personal issues over this and,
14 you know, maybe she wanted to in some way satisfy
15 herself that she could approach this person and
16 confirm or eliminate, but I do know in her mind
17 this is what she believed, based I guess on what
18 she was left with at the time.

19 Q I appreciate that, but I can't see how somebody
20 who says they never saw the assailant and then
21 goes through personal problems and alcoholism,
22 psychiatric problems, can, many years later,
23 purport to be able to look at somebody and see if
24 that's the person who assaulted them.

25 A I agree with you. I don't disagree with you.



1 Q I'm just wondering why it wasn't just discounted
2 right away as opposed to being followed up and up
3 and up?

4 A Well, I suppose why wasn't she discounted in the
5 690 application. I mean, you know, the same --

6 Q Is there any doubt in your mind that if, if Mrs.
7 Milgaard hadn't gone to talk to her, she would
8 have talked to the media or the police and then
9 Mrs. Milgaard would have been accused of being
10 told the story and keeping it secret?

11 A You know, I really don't know. It would be all
12 speculation. I'm just taking it at face value as
13 to how it unfolded with me. I mean, we could
14 speculate as to what may or may not have been
15 going on in this lady's mind. I really don't
16 know.

17 MR. WOLCH: Mr. Commissioner, this might be
18 the appropriate time.

19 (Adjourned at 4:30 p.m.)
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25



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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