

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
Delta Bessborough Hotel at
Saskatoon, Saskatchewan

On Tuesday, August 29th, 2006

Volume 174

Inquiry Proceedings



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Mr. Donald J. Sorochan, Q.C., **for** Mr. David Asper
Mr. Kenneth R. McLeod, Esq., **for** Mr. Eugene Williams



INDEX OF PROCEEDINGS

DESCRIPTION:

PAGE:

DAVID ASPER, CONTINUED

- BY MR. FRAYER	35983
- TAPE OF EXAMINATION OF DEBORAH HALL	35987
- END OF TAPE	36039
- TAPE OF SWORN STATEMENT OF LINDA FISHER	36074
- END OF TAPE	36120

MURRAY SAWATSKY, CONTINUED

- BY MR. HODSON	36166
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Transcript of Proceedings

(Reconvened at 9:04 a.m.)

COMMISSIONER MacCALLUM: Good morning.

MR. FRAYER: Good morning, sir.

DAVID ASPER, continued:

BY MR. FRAYER:

Q Mr. Asper, I would like to go into an area that we touched on briefly yesterday, but we'll go through this in some detail, and this is the background leading up to the interview of Deborah Hall by yourself, the affidavit and then the subsequent interview by Mr. Williams and what followed that, and I would like to start out by drawing your attention to a memorandum that you prepared back on October the 24th of 1986, it's 162421, and if we can just hone in on the bottom part of paragraph 2, bring that up, and the words:

"We have at least one person who was present at the hotel room at Calgary, who did not testify but who apparently gave the police a statement at the time stating that nothing happened. This is Debbie Hall and Peter Carlyle-Gordge knows where she is and has spoken to her."



1 This is a memorandum you prepared for Mr. Wolch
2 in response to one he had sent you on October the
3 24th of 1986. With respect to the information
4 that's contained there, while there are some
09:05 5 inaccuracies you will agree, including where the
6 incident occurred, that this appears to be the
7 first reference to Deborah Hall and your
8 knowledge as to what role if any she played, or
9 were you earlier advised of her and were just
09:05 10 confirming what you believed her evidence to have
11 been?

12 A I can't say that it's the first, but it would
13 certainly be early on just given the date.

14 Q Right. And the facts that you've put in this are
09:05 15 facts that you got from what source?

16 A I can't say for certain. It looks like it may
17 have come from Peter Carlyle-Gordge.

18 Q But it's clear, for example, that where the
19 incident, the motel reenactment occurred, it
09:06 20 didn't occur in Calgary at all?

21 A That's correct.

22 Q So that information may have come from Peter
23 Carlyle-Gordge, but you are not certain?

24 A It may have. I can't be sure.

09:06 25 Q And as a result of your interest in Deborah Hall,



1 it was on the 23rd of November of 1986 that you
2 prepared an affidavit or had prepared an affidavit
3 and had her sign it and we went through that in
4 some brief form yesterday and you outlined for us
09:06 5 the circumstances to the best of your recollection
6 as to how that affidavit was prepared?

7 A Correct.

8 Q And the affidavit itself became part of the basis
9 of your ultimate application filed in December of
09:06 10 1988?

11 A Correct.

12 Q And I'm going to direct you then to 166262 which
13 is a letter dated June the 23rd of 1989, this is
14 sent to Ms. Deborah Hall in Regina, Saskatchewan,
09:07 15 sent by you:

16 "Further to our recent telephone
17 conversation, enclosed herewith please
18 find a photocopy of your Affidavit. As
19 I mentioned to you a Mr. Eugene Williams
09:07 20 from the Federal Department of Justice
21 may be contacting you and making
22 enquiries as to the contents of this
23 Affidavit. I would encourage you to
24 speak freely with him as it would appear
09:07 25 that your Affidavit is assisting in the



1 process of having the Milgaard case
2 re-opened. As indicated to you, if you
3 have any questions whatsoever, please
4 feel free to contact me.

09:07 5 Yours sincerely."

6 Now, what was the background of that, Mr. Asper,
7 what led up to you writing this letter and
8 enclosing a photocopy of the affidavit that you
9 had taken?

09:07 10 A I can't say for certain what the background was.
11 I may have called -- it looks like I called her to
12 tell her that Mr. Williams was going to be
13 contacting her and in the course of that
14 conversation she wanted a copy, to see her
09:08 15 affidavit.

16 Q Now, we know as a result of arrangements that Mr.
17 Williams made, that on November the 6th of 1989,
18 which is some months following this letter, Mr.
19 Williams held an interview of Deborah Hall in
09:08 20 Regina, Saskatchewan?

21 A Correct.

22 Q And what I intend to do this morning is ask that
23 the Commission staff play for us the tape of that
24 particular interview and it is doc. ID 337469. At
09:08 25 the same time I would ask that the transcript of



1 that interview, which is doc. ID 001285, be shown
2 on the screen. This is being played for the first
3 time at this proceeding and I wonder,
4 Mr. Commissioner, given its duration, which is
09:09 5 approximately an hour I'm advised, if I could
6 return to counsel table to sit?

7 COMMISSIONER MacCALLUM: Yes.

8 MR. FRAYER: Thanks very much.

9 *(Tape of Examination of Deborah Hall, November 6,*
10 *1989 having been duly SWORN, states:)*

11 MR. EUGENE WILLIAMS: Deborah, I have
12 before me a six page Affidavit, it appears to be
13 dated November 23, 1986. I notice that it is
14 that of a Deborah Hall. There are corrections in
15 the heading?

16 MS. DEBORAH HALL: Yes.

17 MR. EUGENE WILLIAMS: And there's an
18 initial?

19 MS. DEBORAH HALL: Right.

20 MR. EUGENE WILLIAMS: Is that your initial?

21 MS. DEBORAH HALL: Yes.

22 MR. EUGENE WILLIAMS: I draw your attention
23 to the sixth page, there appears to be a
24 signature, do you recognize that signature?

25 MS. DEBORAH HALL: That's my signature.



1 MR. EUGENE WILLIAMS: And it's sworn the
2 23rd of November, 1986, is that correct?

3 MS. DEBORAH HALL: Yes.

4 MR. EUGENE WILLIAMS: I'd ask you to take a
5 few minutes and read this Affidavit. I will
6 refer to it as hereon in as Exhibit 1, if I may.
7 You've read the Affidavit?

8 MS. DEBORAH HALL: Right, yeah.

9 MR. EUGENE WILLIAMS: Are there any
10 additions or deletions to it, that you would wish
11 to make?

12 MS. DEBORAH HALL: On page five, it says
13 that George Lapchuk and Craig Melnyk were sitting
14 by the television set. Actually, George Lapchuk
15 was on the other side of the bed. He wasn't at
16 all near the TV. Right in the first line here.

17 MR. EUGENE WILLIAMS: So, If I understand
18 you correctly, Lapchuk was on the other side of
19 the bed?

20 MS. DEBORAH HALL: Right. The TV was at
21 the foot of the bed.

22 MR. EUGENE WILLIAMS: Yes?

23 MS. DEBORAH HALL: Craig Melnyk was there,
24 but Lapchuk was on the far side of the bed, at
25 the time.



1 MR. EUGENE WILLIAMS: Now, does the reading
2 of the Affidavit refresh your memory of those
3 events?

4 MS. DEBORAH HALL: I would say it does,
5 yes, yeah.

6 MR. EUGENE WILLIAMS: All right. And it
7 records your past memory, I take it?

8 MS. DEBORAH HALL: Yes.

9 MR. EUGENE WILLIAMS: Okay. The events
10 described in the Affidavit took place in 1969?

11 MS. DEBORAH HALL: Yes.

12 MR. EUGENE WILLIAMS: I draw your attention
13 to page three and to paragraph eight - I'm sorry,
14 page two and paragraph eight. And particularly,
15 you say you "...recall shortly after seeing David
16 Milgaard in late May of 1969. Ute Frank told me
17 that David Milgaard had been arrested but I did
18 not believe her."?

19 MS. DEBORAH HALL: Yes.

20 MR. EUGENE WILLIAMS: Now, when did Ute
21 Frank tell you that Milgaard had been arrested?

22 MS. DEBORAH HALL: It would have been - it
23 would have been sometime in June, because just
24 after - like I'd say about probably the last week
25 in June, I ran away from home. So, it would have



1 been in June of '69. Precisely what day, I
2 couldn't tell you. We were walking down the
3 street at the time, I remember that, just
4 strolling along, gossiping.

5 MR. EUGENE WILLIAMS: I gather that you
6 were very close to Ute Frank?

7 MS. DEBORAH HALL: Yes.

8 MR. EUGENE WILLIAMS: You say you did not
9 believe her, why was that?

10 MS. DEBORAH HALL: Well, I asked her how
11 she knew that, and she said she'd heard that
12 that's what had happened. And she couldn't even
13 remember at the time who she'd heard it from.

14 MR. EUGENE WILLIAMS: I see.

15 MS. DEBORAH HALL: And I thought it was
16 just gossip.

17 MR. EUGENE WILLIAMS: You say you ran away?

18 MS. DEBORAH HALL: Yes.

19 MR. EUGENE WILLIAMS: Where did you go?

20 MS. DEBORAH HALL: I went to Toronto,
21 Montreal. We went to Winnipeg first, you know,
22 but just kind of skipped along to Toronto and
23 Montreal.

24 MR. EUGENE WILLIAMS: And with whom did you
25 go?



1 MS. DEBORAH HALL: A girl named - gee, what
2 was her last name? Her name was Debbie, too.
3 Actually, I didn't even know the girl very well.
4 We just decided we were going to travel together.

5 MR. EUGENE WILLIAMS: And how old were you
6 at that time?

7 MS. DEBORAH HALL: Fifteen.

8 MR. EUGENE WILLIAMS: You ended up in
9 Montreal?

10 MS. DEBORAH HALL: Yes.

11 MR. EUGENE WILLIAMS: When were you in
12 Montreal?

13 MS. DEBORAH HALL: Oh, it would have been
14 late summer, probably by August.

15 MR. EUGENE WILLIAMS: And how did you
16 support yourself?

17 MS. DEBORAH HALL: Handouts. We really -
18 handouts, yeah. Met people along the way that
19 would put us up and feed us, and that's about it.

20 MR. EUGENE WILLIAMS: Then your father came
21 and got you?

22 MS. DEBORAH HALL: Yes.

23 MR. EUGENE WILLIAMS: And you went to
24 Nelson?

25 MS. DEBORAH HALL: Moved to Nelson. As



1 soon as HE took us to drive back, my mum knew - I
2 guess they must have talked on the phone or
3 something, because she had things packed for me,
4 ready to go.

5 MR. EUGENE WILLIAMS: And how long did you
6 stay in Nelson?

7 MS. DEBORAH HALL: I was there
8 approximately a year, not quite a year, because I
9 had problems in school and ended up back home for
10 a short while, in Regina.

11 MR. EUGENE WILLIAMS: Then what happened?

12 MS. DEBORAH HALL: Then I ran away again to
13 go and live with my boyfriend that I'd met in
14 Nelson, at the time.

15 MR. EUGENE WILLIAMS: Where did you live?

16 MS. DEBORAH HALL: We lived in - we ended
17 up going to Vancouver. He moved from Kelowna to
18 Vancouver; I moved with him. He was in a band at
19 the time, so.

20 MR. EUGENE WILLIAMS: And you stayed there
21 for a number of years?

22 MS. DEBORAH HALL: Yes.

23 MR. EUGENE WILLIAMS: How long?

24 MS. DEBORAH HALL: Oh, six years.

25 MR. EUGENE WILLIAMS: And from there?



1 MS. DEBORAH HALL: Kelowna. Moved up to
2 Kelowna again.

3 MR. EUGENE WILLIAMS: How long did you live
4 in Kelowna?

5 MS. DEBORAH HALL: Three years.

6 MR. EUGENE WILLIAMS: And after that?

7 MS. DEBORAH HALL: Back to Regina.

8 MR. EUGENE WILLIAMS: In 1969 when you met
9 David Milgaard, how long had you known him?

10 MS. DEBORAH HALL: I'd known him from
11 around for about six months, you know, just
12 constantly bumping into him as part of the crowd
13 and so on. Ute was quite taken by him, so any
14 time that we did bump into him, she tried to
15 prolong it.

16 MR. EUGENE WILLIAMS: I see. Where are you
17 currently employed?

18 MS. DEBORAH HALL: I'm at Randy's Men's
19 Hairstyling at the Lakeshore Mall, here in
20 Regina.

21 MR. EUGENE WILLIAMS: Now, after you heard
22 that Milgaard had been arrested, even though you
23 didn't believe Ute Frank, weren't you curious
24 about the result?

25 MS. DEBORAH HALL: No. After she told me



1 that, like I say, I passed it off as gossip and I
2 never so much as thought about it again. Nothing
3 was ever mentioned about him. Of course, you
4 see, I ran away from home after that and Ute and
5 I lost touch.

6 MR. EUGENE WILLIAMS: I see. I draw your
7 attention to page three of the Affidavit,
8 paragraph thirteen. Before I go on to paragraph
9 thirteen, how far did you get in school?

10 MS. DEBORAH HALL: I - at that time, you
11 see, I left school before my last term for grade
12 ten. I didn't do my final exams. And then years
13 later, I took night classes and took grade twelve
14 Lit. And Comp. And I have my G. E.D. for grade
15 twelve.

16 MR. EUGENE WILLIAMS: Take a look at
17 paragraphs twelve and thirteen. In paragraph
18 twelve, you say that on this date late in May you
19 ingested what you believed to be a tablet of THC
20 "... which I was advised at the time was some
21 kind of synthetic marijuana."

22 MS. DEBORAH HALL: Yes.

23 MR. EUGENE WILLIAMS: And earlier, you had
24 said that that was the first time you had taken
25 what you considered to be a strong drug?



1 MS. DEBORAH HALL: Yes.

2 MR. EUGENE WILLIAMS: Now, you mentioned
3 strong drug. Had you taken other drugs before
4 that time?

5 MS. DEBORAH HALL: I'd smoked marihuana.

6 MR. EUGENE WILLIAMS: And starting when?

7 MS. DEBORAH HALL: Oh, when I was fourteen.

8 MR. EUGENE WILLIAMS: And how frequently?

9 MS. DEBORAH HALL: Oh, not very. It was
10 usually given to me, when I could get my hands -
11 I didn't have any money of my own, really, to be
12 buying that sort of thing, so.

13 MR. EUGENE WILLIAMS: When you had this
14 tablet of THC, after taking it, did you take it
15 again?

16 MS. DEBORAH HALL: No.

17 MR. EUGENE WILLIAMS: Did you take any
18 other hard drugs?

19 MS. DEBORAH HALL: No.

20 MR. EUGENE WILLIAMS: Not at all?

21 MS. DEBORAH HALL: No. We didn't even have
22 any marihuana to smoke that night.

23 MR. EUGENE WILLIAMS: Okay. And after that
24 night did you take drugs?

25 MS. DEBORAH HALL: For a period of time



1 when I was running away, et cetera, on the road
2 there, I did.

3 MR. EUGENE WILLIAMS: What drugs did you
4 take?

5 MS. DEBORAH HALL: I tried LSD once in
6 Toronto. And marihuana. That's as far as I got
7 with my experimentations.

8 MR. EUGENE WILLIAMS: How frequently did
9 you take marihuana?

10 MS. DEBORAH HALL: Up to - well, once
11 again, like I say, we were, you know, living on
12 handouts, so it was whenever it was available by
13 somebody that had it, really, so.

14 MR. EUGENE WILLIAMS: Did that occur
15 frequently?

16 MS. DEBORAH HALL: I'd say maybe an average
17 of once or twice a week, maybe.

18 MR. EUGENE WILLIAMS: For how many weeks?
19 While you were on the road?

20 MS. DEBORAH HALL: Well, yeah, throughout
21 the summer.

22 MR. EUGENE WILLIAMS: And after coming back
23 --

24 MS. DEBORAH HALL: No.

25 MR. EUGENE WILLIAMS: ...to Nelson.



1 MS. DEBORAH HALL: No. My father was a
2 policeman on the Nelson City Police then.

3 MR. EUGENE WILLIAMS: What effect did the
4 THC have on you?

5 MS. DEBORAH HALL: It seemed to clarify
6 things, like you know, visually. If you looked
7 at something, it was like it was crystal clear,
8 you know, like magnified maybe a little bit.

9 MR. EUGENE WILLIAMS: Distorted?

10 MS. DEBORAH HALL: No. No, it was really
11 clear. Everything was just like you were looking
12 through crystal clear glass at somebody.

13 MR. EUGENE WILLIAMS: Did you hallucinate?

14 MS. DEBORAH HALL: No.

15 MR. EUGENE WILLIAMS: Now, you mentioned it
16 was in late May, '69. Could it have been earlier
17 than that?

18 MS. DEBORAH HALL: Probably maybe mid May,
19 but I don't think any earlier than that. It
20 seems like it was - it didn't seem very long
21 after that night of the party, I'd say a matter
22 of a couple of weeks, and I'd ran away from home.
23 Maybe even three weeks. But it was a short
24 period of time between.

25 MR. EUGENE WILLIAMS: Let's turn our



1 attention to the party. When did it begin, what
2 time?

3 MS. DEBORAH HALL: Well, considering the
4 time it might have taken us from the park and so
5 on, I would say it wouldn't have been before nine
6 o'clock, ten o'clock, because we made a few stops
7 in the cab and, of course, we kind of hung out at
8 the park for a while too. So, it was already
9 getting dark. Maybe even nine-thirty because it
10 was dark by then.

11 MR. EUGENE WILLIAMS: Okay. So, you and
12 Ute Frank met Milgaard in the park?

13 MS. DEBORAH HALL: Yes.

14 MR. EUGENE WILLIAMS: And that was
15 approximately nine o'clock?

16 MS. DEBORAH HALL: No. We were down there
17 quite early. We would have been there maybe
18 seven o'clock, after supper.

19 MR. EUGENE WILLIAMS: You met at seven.
20 Then you went to get some drugs?

21 MS. DEBORAH HALL: Well, I didn't know at
22 the time that's what we were doing, but we were -
23 Dave told us that he was planning to have a
24 little party at his motel room, did we want to
25 come and we thought sure. But when we got the



1 cab, he said he had a few stops to make first.

2 MR. EUGENE WILLIAMS: What time did he
3 initially get the cab to make the stops?

4 MS. DEBORAH HALL: Probably would have been
5 around seven-thirty, eight o'clock. I don't
6 think we were at the park very long before we
7 decided to take off.

8 MR. EUGENE WILLIAMS: How long did the
9 errands take?

10 MS. DEBORAH HALL: Well, considering we
11 were kind of one end of the town to the other -
12 well, not really, mid downtown; we stopped on
13 Scarth Street there somewheres. Yeah, I would
14 say it would probably take him an hour, hour and
15 a half. He met one guy first, and then he met
16 another fellow at a different location, and then
17 we drove down to the motel room.

18 MR. EUGENE WILLIAMS: So, between an hour
19 and an hour and a half from seven-thirty?

20 MS. DEBORAH HALL: Yeah.

21 MR. EUGENE WILLIAMS: That would put it
22 between eight-thirty and nine?

23 MS. DEBORAH HALL: Right.

24 MR. EUGENE WILLIAMS: Did you meet anyone
25 when you arrived in the motel room?



1 MS. DEBORAH HALL: No.

2 MR. EUGENE WILLIAMS: So, Ute, David and
3 yourself went to the motel?

4 MS. DEBORAH HALL: Right.

5 MR. EUGENE WILLIAMS: Then what happened?

6 MS. DEBORAH HALL: Then, I believe George
7 Lapchuk and Melnyk arrived, and after them, Bob
8 Harris. It wasn't very much that elapsed between
9 everybody showing up. It was kind of like all at
10 once, really. It was - I didn't even - I wasn't
11 aware that he'd even said anything to these guys
12 at the park, about having a party.

13 MR. EUGENE WILLIAMS: So, if I understand
14 you correctly, Melnyk and Lapchuk arrived around
15 nine o'clock?

16 MS. DEBORAH HALL: Yeah.

17 MR. EUGENE WILLIAMS: Could it have been
18 later?

19 MS. DEBORAH HALL: It could have been.

20 MR. EUGENE WILLIAMS: As late as --

21 MS. DEBORAH HALL: Now, that's getting, you
22 know - this is going back a long ways now.

23 MR. EUGENE WILLIAMS: Yeah?

24 MS. DEBORAH HALL: I wasn't really thinking
25 of time factors too much. Everything kind of



1 kaleidoscoped in time, you know; everything just
2 kind of fell in.

3 MR. EUGENE WILLIAMS: Right. And what did
4 the people do at the party?

5 MS. DEBORAH HALL: Just sat around smoking
6 cigarettes and chatting and being silly.

7 MR. EUGENE WILLIAMS: When you say being
8 silly, what did that involve?

9 MS. DEBORAH HALL: Well, just goofing off
10 and giggling, and saying stupid things. And Bob
11 Harris took drugs while he was there. I didn't
12 see Lapchuk or Melnyk take anything.

13 MR. EUGENE WILLIAMS: Did anybody else take
14 drugs?

15 MS. DEBORAH HALL: No.

16 MR. EUGENE WILLIAMS: Did Ute Frank take
17 drugs?

18 MS. DEBORAH HALL: Not that I was aware of,
19 no. Not when I was looking at her or around her.
20 She had taken them in the cab with me, the same
21 time as David Milgaard and I, and Ute all took a
22 cap of these drugs in the cab.

23 MR. EUGENE WILLIAMS: Did Ute Frank only
24 take one cap?

25 MS. DEBORAH HALL: I didn't actually see



1 her - how much she ingested, no, I didn't. I
2 know she did, but exactly how much, I don't know.

3 MR. EUGENE WILLIAMS: And when you got to
4 the hotel room, everybody sat around?

5 MS. DEBORAH HALL: Yeah, basically.

6 MR. EUGENE WILLIAMS: At the time, Ute
7 Frank was what, sixteen, seventeen?

8 MS. DEBORAH HALL: About the same age as
9 me. I think maybe she's a little older than me,
10 but I think we're about the same age.

11 MR. EUGENE WILLIAMS: And Milgaard was
12 sixteen?

13 MS. DEBORAH HALL: I believe so, yeah.

14 MR. EUGENE WILLIAMS: You were fifteen?

15 MS. DEBORAH HALL: Mmhmm.

16 MR. EUGENE WILLIAMS: You had a motel room?

17 MS. DEBORAH HALL: Yeah.

18 MR. EUGENE WILLIAMS: There was no liquor?

19 MS. DEBORAH HALL: No.

20 MR. EUGENE WILLIAMS: But drugs.

21 MS. DEBORAH HALL: Just what Milgaard had,
22 I believe, and whatever it was that Bob Harris
23 took.

24 MR. EUGENE WILLIAMS: Was there any sexual
25 activities between the parties in the room?



1 MS. DEBORAH HALL: There was later.

2 MR. EUGENE WILLIAMS: When you say later.

3 MS. DEBORAH HALL: The end of the evening.

4 MR. EUGENE WILLIAMS: What time?

5 MS. DEBORAH HALL: Oh, now, that would have
6 been late. Because we were watching that news
7 broadcast, it would have had to have been eleven
8 o'clock that it was on, and I'd say it could have
9 been at least one, one-thirty in the morning by
10 the time everybody decided it was time to leave,
11 and there was just me and Ute and David Milgaard
12 left in the room.

13 MR. EUGENE WILLIAMS: When Lapchuk and
14 Melnyk arrived, who answered the door?

15 MS. DEBORAH HALL: David Milgaard did, I
16 believe.

17 MR. EUGENE WILLIAMS: And how was he
18 dressed?

19 MS. DEBORAH HALL: Milgaard?

20 MR. EUGENE WILLIAMS: Yeah.

21 MS. DEBORAH HALL: I seem to remember him
22 having a white shirt on.

23 MR. EUGENE WILLIAMS: At the time that he
24 answered the door?

25 MS. DEBORAH HALL: I think so, or slacks.



1 *Maybe he had - no - yes - I'm trying to remember*
2 *if he had his shirt off. No, he was dressed.*

3 MR. EUGENE WILLIAMS: *Is it possible that*
4 *he was naked?*

5 MS. DEBORAH HALL: *Oh, no, not at all, no.*

6 MR. EUGENE WILLIAMS: *During the evening,*
7 *he and Ute Frank were sitting in bed?*

8 MS. DEBORAH HALL: *Yes.*

9 MR. EUGENE WILLIAMS: *Were they naked at*
10 *the time?*

11 MS. DEBORAH HALL: *No, not with everybody*
12 *around.*

13 MR. EUGENE WILLIAMS: *Okay. Did Milgaard*
14 *and Ute Frank have sexual relations while you*
15 *were present?*

16 MS. DEBORAH HALL: *Yes.*

17 MR. EUGENE WILLIAMS: *How often?*

18 MS. DEBORAH HALL: *Well, it went on for a*
19 *few minutes and I wasn't too impressed by the*
20 *whole thing, so I left. There was some - there*
21 *was some petting going on, when other people were*
22 *present, but it was like under covers and I know*
23 *just - I know Ute was dressed, because when she*
24 *got up to go to the washroom, she had clothes on.*
25 *But you knew that they were kind of, you know,*



1 getting a little heavy there and stuff, you know.

2 MR. EUGENE WILLIAMS: Now, in 1981 Chris
3 O'Brien approached you?

4 MS. DEBORAH HALL: Yes.

5 MR. EUGENE WILLIAMS: What transpired then?

6 MS. DEBORAH HALL: Chris had kind of put
7 two and two together as to who I was, I guess.
8 I'd been cutting his hair for some time, and he
9 saw my name on a mirror. And he told me later
10 that they were looking for a Debbie Hull, and the
11 Hull kind of threw him off at first, but he just
12 thought he couldn't lose by asking me. So, he
13 phoned me back a couple of days after I cut his
14 hair and said he had one question to ask me, did
15 I know a Ute Frank. And I said well, yes, we
16 were quite chummy when we were younger. So, he
17 got quite excited and asked me if we could go for
18 lunch, he had something to talk to me about.

19 MR. EUGENE WILLIAMS: Okay. So, you went
20 for lunch; you talked about Ute Frank, you talked
21 about David Milgaard?

22 MS. DEBORAH HALL: Yes, and at first I
23 didn't know who he was talking about, because you
24 see at the time that I knew David Milgaard, I
25 only knew him as Hoppy, period. I didn't know



1 his last name or anything. So, it took him a
2 minute, because he said, you know, he had a
3 nickname Happy or - and I said Hoppy, and it went
4 from there.

5 MR. EUGENE WILLIAMS: What was the
6 background to the nickname Hoppy?

7 MS. DEBORAH HALL: He was very - I think it
8 was because he was such an energetic kind of
9 spastically - I don't know, he just seemed to be
10 constantly moving, you know. He was the type of
11 high energy type of person that you would expect
12 a D.J. to be, or somebody like that, or a
13 salesman, you know; very high energy. He seemed
14 to be on the move a lot.

15 MR. EUGENE WILLIAMS: As a result of your
16 conversation with this Mr. O'Brien, what did you
17 learn?

18 MS. DEBORAH HALL: Well, I was quite
19 surprised to find out that this so-called gossip
20 that I thought was happening at the time Ute told
21 me about David, was true; that he was in jail and
22 I was quite shocked by it all. I couldn't really
23 believe that it had actually happened.

24 MR. EUGENE WILLIAMS: Did you learn
25 anything else?



1 MS. DEBORAH HALL: He took me by his place,
2 because he wanted me to read over the Court
3 transcripts of the night that we were all
4 together at the party. And when I read what
5 Melnyk and Lapchuk said, it just sort of like
6 shocked me, because it just - it was like a slap
7 in the face. I couldn't believe that they'd said
8 what they did.

9 MR. EUGENE WILLIAMS: How long did it take
10 you to read the transcript?

11 MS. DEBORAH HALL: He only - he only
12 flipped it to the area where I was pertaining -
13 you know, I didn't read - it was quite large, and
14 the only part that I read was Lapchuk's and
15 Melnyk's testimony. So, it took me a matter of
16 five, ten minutes, or whatever to read through
17 it.

18 MR. EUGENE WILLIAMS: You say you read
19 Melnyk and Lapchuk's testimony?

20 MS. DEBORAH HALL: Right.

21 MR. EUGENE WILLIAMS: Did you read all of
22 Melnyk's and Lapchuk's testimony?

23 MS. DEBORAH HALL: Yes.

24 MR. EUGENE WILLIAMS: You're certain of
25 that?



1 MS. DEBORAH HALL: Unless there was
2 something further along in the trial where they
3 had him brought back again, or something, I don't
4 know. But he opened it to one particular area
5 and I read through that area of the transcripts.

6 MR. EUGENE WILLIAMS: I have this document,
7 it's an extract of the transcript, from pages
8 1010 to page 1066. Is this what you read?

9 MS. DEBORAH HALL: I didn't read any of the
10 - no, none of this about Melnyk's name or
11 anything like that.

12 MR. EUGENE WILLIAMS: So, you didn't read
13 the entire transcript?

14 MS. DEBORAH HALL: I guess I didn't, no.

15 MR. EUGENE WILLIAMS: To read fifty-six
16 pages would take a little longer than five
17 minutes.

18 MS. DEBORAH HALL: Yes. He just - he just
19 opened it to where they were talking about the
20 night in question itself.

21 MR. EUGENE WILLIAMS: Now, while you were
22 in the room, did you leave the room for any
23 reason?

24 MS. DEBORAH HALL: No.

25 MR. EUGENE WILLIAMS: You stayed from the



1 time you arrived, between eight-thirty and nine,
2 till the time you left?

3 MS. DEBORAH HALL: Exactly, yes.

4 MR. EUGENE WILLIAMS: Now, I'd like to draw
5 your attention again to your Affidavit, and
6 particularly to the bottom of page five, the very
7 last line "Also, I am advised that George Lapchuk
8 said at the trial that he had driven me home that
9 night but, the truth is that I lived
10 approximately four blocks from the motel and
11 walked home."

12 MS. DEBORAH HALL: Yes.

13 MR. EUGENE WILLIAMS: Now, you say you were
14 advised that Lapchuk said certain things. By
15 whom were you advised?

16 MS. DEBORAH HALL: Actually, when I looked
17 at that - Mr. Asper kind of did this all over the
18 phone and I told him that I read in the
19 transcript that George Lapchuk had said that he
20 had driven me home that night.

21 MR. EUGENE WILLIAMS: Yes?

22 MS. DEBORAH HALL: So, actually I am
23 advised, is not really true. Well, other than I
24 read the transcript saying that he had said that.

25 MR. EUGENE WILLIAMS: All right. Did you



1 read page 1050 of the transcript where the Court
2 is asking Mr. Lapchuk, two-thirds of the way
3 down, "What happened to the other girl?" And his
4 answer was "I really can't remember. I believe I
5 drove her home, but I can't really recall what
6 time that was." Do you recall seeing that?

7 MS. DEBORAH HALL: Yes. That's the part
8 that I was referring to in there.

9 MR. EUGENE WILLIAMS: Did you also read at
10 page 1052 when he's being cross-examined by Mr.
11 Tallis, about a third of the way down, and he
12 says:

13 "Q Now you went out on
14 other occasions with other people, did
15 you?

16 A: No, not that I can
17 recall. See, I may have driven Debbie
18 Hull home. That is the only part that I
19 can't really recall when I drove her
20 home.

21 Q: I see. You don't
22 recall whether you drove her home or not
23 that evening?

24 A: No."

25 Did you read that?



1 MS. DEBORAH HALL: Mhmm.

2 MR. EUGENE WILLIAMS: Would you agree with
3 me that from his response, he really - he does
4 not know whether or not he drove you home?

5 MS. DEBORAH HALL: Yes, I would agree with
6 that.

7 MR. EUGENE WILLIAMS: All right. So, that
8 it's not fair to say that --

9 MS. DEBORAH HALL: But --

10 MR. EUGENE WILLIAMS: ... he lied when he
11 said that --

12 MS. DEBORAH HALL: Well, yeah, that's true.
13 But you'd have to understand George Lapchuk too,
14 because George Lapchuk had been sort of after me.

15 MR. EUGENE WILLIAMS: All right.

16 MS. DEBORAH HALL: If you know what I mean.
17 And he would have known darned well whether he
18 drove me home or not.

19 MR. EUGENE WILLIAMS: All right. But his
20 responses under oath is that he did not recall?

21 MS. DEBORAH HALL: Right.

22 MR. EUGENE WILLIAMS: In fact, he doesn't
23 remember, as he said?

24 MS. DEBORAH HALL: That's what he said,
25 yes.



1 MR. EUGENE WILLIAMS: Fine. Now, you say
2 that your memory was enhanced by taking drugs,
3 and that's paragraph thirteen at page three of
4 your Affidavit?

5 MS. DEBORAH HALL: Mhmm.

6 MR. EUGENE WILLIAMS: At what time did Bob
7 Harris leave?

8 MS. DEBORAH HALL: I don't remember. No.

9 MR. EUGENE WILLIAMS: All right.

10 MS. DEBORAH HALL: I don't even remember if
11 he was there when the TV thing was on.

12 MR. EUGENE WILLIAMS: It's possible he
13 could have been gone?

14 MS. DEBORAH HALL: Something tells me he
15 didn't last very long, because he was really
16 impaired. He was quite out of it.

17 MR. EUGENE WILLIAMS: I gather when you
18 mentioned someone gave you drugs, that someone
19 was David Milgaard?

20 MS. DEBORAH HALL: Yes.

21 MR. EUGENE WILLIAMS: During the evening,
22 in addition to what you have described on page
23 five of your Affidavit, as Melnyk accusing
24 Milgaard of doing it; did anyone else mention it
25 - mention the murder to Milgaard, in the same way



1 that Melnyk allegedly did?

2 MS. DEBORAH HALL: Like I say, the whole
3 situation was kind of a cajoling type of - yeah,
4 yeah, yeah, type of thing. Now, whether somebody
5 else was backing up Melnyk, going yeah, yeah, you
6 did, didn't you, I can't really remember that.
7 There was quite a lot of jumble going on.

8 MR. EUGENE WILLIAMS: Okay. Quite apart
9 from someone else chiming in when Melnyk
10 allegedly said that, is it possible that Ute
11 Frank might have separately questioned Melnyk
12 (sic)?

13 MS. DEBORAH HALL: Well, she was --

14 MR. EUGENE WILLIAMS: Or separately
15 questioned Milgaard?

16 MS. DEBORAH HALL: Milgaard, yeah. She was
17 sitting beside him on the bed, like right beside
18 him, and as far as conversation between the two
19 of them, I mean there was sort of whispered
20 things going on between them all night. So, I
21 couldn't really say if she had asked him anything
22 or not, because I might not have heard it.

23 MR. EUGENE WILLIAMS: Now, page five in the
24 first full paragraph a third of the way down, you
25 say that "At one point Craig Melnyk said to David



1 Milgaard 'you did it, didn't you?'"?

2 MS. DEBORAH HALL: Yes.

3 MR. EUGENE WILLIAMS: Where was Melnyk at
4 that point in time?

5 MS. DEBORAH HALL: He was sitting on the
6 floor in front of the TV set, at the foot of the
7 bed.

8 MR. EUGENE WILLIAMS: How far away from
9 Milgaard was he, at that point in time?

10 MS. DEBORAH HALL: From Milgaard?

11 MR. EUGENE WILLIAMS: Yes.

12 MS. DEBORAH HALL: Well, he would have been
13 at the foot of the bed and David was on the bed,
14 so a matter of four or five feet really. It
15 wasn't a very big room.

16 MR. EUGENE WILLIAMS: Where was George
17 Lapchuk at that time?

18 MS. DEBORAH HALL: He was on the far side
19 of the bed.

20 MR. EUGENE WILLIAMS: And how far away from
21 --

22 MS. DEBORAH HALL: He would have been
23 approximately the same distance, because they
24 were both this way.

25 MR. EUGENE WILLIAMS: And where were you in



1 relation to Lapchuk?

2 MS. DEBORAH HALL: On the opposite side of
3 the bed against the wall in a chair.

4 MR. EUGENE WILLIAMS: All right. Is it
5 possible that Melnyk did not accuse Milgaard, as
6 you've described it on page five?

7 MS. DEBORAH HALL: He would have been the
8 only one close enough to the TV, unless you were
9 really honed in on the TV set. Now, George might
10 have been, you know, watching what was going on.
11 But, I would have thought that it was Melnyk
12 because he was the closest to the TV, a matter of
13 feet away from it.

14 MR. EUGENE WILLIAMS: All right. I'm
15 drawing your attention to page 1046 of the
16 transcript, it's the testimony of George Lapchuk
17 when he is asked "All right, on this occasion
18 after that news was on the air, what did you
19 do?"?

20 MS. DEBORAH HALL: Mhmm.

21 MR. EUGENE WILLIAMS: I'd ask you to read
22 that silently from there to the end of the page.

23 MS. DEBORAH HALL: Mhmm.

24 MR. EUGENE WILLIAMS: George Lapchuk says
25 that he accused Milgaard?



1 MS. DEBORAH HALL: He could have.

2 MR. EUGENE WILLIAMS: Could you have been
3 mistaken when you noted in your Affidavit that
4 Melnyk asked that question?

5 MS. DEBORAH HALL: Yeah, could have. There
6 was - like everything was going on at once.
7 People were talking all over the place. I mean
8 like everybody was talking.

9 MR. EUGENE WILLIAMS: All right.

10 MS. DEBORAH HALL: So, it could have been
11 George all right.

12 MR. EUGENE WILLIAMS: Now, four, five
13 teenagers in a room, taking THC, which is a
14 synthesis of marihuana, it's a fairly powerful
15 drug?

16 MS. DEBORAH HALL: Well, I understand now
17 that it was a horse tranquillizer that we
18 actually ingested.

19 MR. EUGENE WILLIAMS: All right. You
20 thought it was THC?

21 MS. DEBORAH HALL: Yes.

22 MR. EUGENE WILLIAMS: It had certain
23 effects on you?

24 MS. DEBORAH HALL: Yes.

25 MR. EUGENE WILLIAMS: You stated in your



1 Affidavit that people were under the influence,
2 correct?

3 MS. DEBORAH HALL: Yes.

4 MR. EUGENE WILLIAMS: You were - you
5 mentioned that Harris was impaired?

6 MS. DEBORAH HALL: Yes.

7 MR. EUGENE WILLIAMS: You've mentioned that
8 by the time you all hit the hotel room you were
9 stoned?

10 MS. DEBORAH HALL: Ute and myself and David
11 were, yes.

12 MR. EUGENE WILLIAMS: You were stoned.
13 Given those conditions, is it possible that your
14 recollection is not accurate?

15 MS. DEBORAH HALL: Not from the drugs,
16 maybe the years. It has been a long time.

17 MR. EUGENE WILLIAMS: All right. Not from
18 the drugs, but from the years?

19 MS. DEBORAH HALL: Mhmm.

20 MR. EUGENE WILLIAMS: Now, I take it that
21 that evening didn't have any particular
22 significance to you at the time?

23 MS. DEBORAH HALL: Well, it was traumatic
24 in a few ways, yes.

25 MR. EUGENE WILLIAMS: How was that?



1 MS. DEBORAH HALL: Well, like I say, it was
2 the first time I ingested anything in a chemical
3 form, so I remember that. I remember the evening
4 because of that.

5 MR. EUGENE WILLIAMS: It had some effect on
6 you?

7 MS. DEBORAH HALL: Yes.

8 MR. EUGENE WILLIAMS: It had a traumatic
9 effect, I would suggest?

10 MS. DEBORAH HALL: Yes, because - well,
11 everything was just - I don't know. How can I
12 explain it.

13 MR. EUGENE WILLIAMS: It wasn't normal?

14 MS. DEBORAH HALL: Well, no.

15 MR. EUGENE WILLIAMS: It was extraordinary?

16 MS. DEBORAH HALL: It was extraordinary,
17 yes.

18 MR. EUGENE WILLIAMS: It was extraordinary
19 because of the impact of the drug?

20 MS. DEBORAH HALL: Yes, I'd say so. And
21 the - and just because of what happened with Ute
22 and David after, I mean --

23 MR. EUGENE WILLIAMS: Well, to what are you
24 referring?

25 MS. DEBORAH HALL: Everybody had left



1 except for the three of us again and they started
2 having sex right in front of me. And she may not
3 have been a virgin at the time, but I was, and I
4 found it kind of disturbing.

5 MR. EUGENE WILLIAMS: All right.

6 MS. DEBORAH HALL: And at one point he got
7 up from the bed naked and sat on my lap and
8 wanted me to join in. So, I found that really
9 upsetting and that's when I left.

10 MR. EUGENE WILLIAMS: All right. Wasn't
11 Melnik in the hotel room at that time?

12 MS. DEBORAH HALL: No.

13 MR. EUGENE WILLIAMS: All right. Now, that
14 happened in 1969 and you made an Affidavit in
15 1986. How did that Affidavit come to be made?

16 MS. DEBORAH HALL: David Asper phoned me
17 and asked me if I would be willing to sign an
18 Affidavit. He explained that they were trying to
19 get the case reopened, because they felt there
20 were just too many conflicting things in
21 evidence, et cetera.

22 MR. EUGENE WILLIAMS: Yes.

23 MS. DEBORAH HALL: And that he had talked
24 to Chris O'Brien about me and what I'd talked to
25 him about at the time, and would I be willing to



1 sign this Affidavit and I said sure. So, like I
2 say, we talked over the phone; I told him what I
3 could remember over the phone, and then he flew
4 out and had me --

5 MR. EUGENE WILLIAMS: Sign the Affidavit?

6 MS. DEBORAH HALL: ... read it over and
7 sign it all, yeah.

8 MR. EUGENE WILLIAMS: I take it you didn't
9 refer to any testimony, other than -- did you
10 refer to any transcripts of evidence in preparing
11 for that Affidavit?

12 MS. DEBORAH HALL: Did I mention to him
13 that I had read the transcripts, do you mean?

14 MR. EUGENE WILLIAMS: Well, did you read
15 any transcripts before you signed the Affidavit?

16 MS. DEBORAH HALL: No, that -- only that
17 time with Chris O'Brien.

18 MR. EUGENE WILLIAMS: And that was five
19 years before?

20 MS. DEBORAH HALL: Right.

21 MR. EUGENE WILLIAMS: And that, as you've
22 told me, was a five minute glance at a portion of
23 the transcript?

24 MS. DEBORAH HALL: About ten minutes maybe,
25 yeah.



1 MR. EUGENE WILLIAMS: Ten minutes?
2 Obviously, that portion of the transcript either
3 didn't include pages 1050 to 1052. Right. Okay.
4 Because had they done so, you would not have made
5 certain statements in there.

6 MS. DEBORAH HALL: Yes.

7 MR. EUGENE WILLIAMS: All right. Now, you
8 have described talking on the phone, Mr. Asper
9 coming out to see you, reading over the material
10 and signing it?

11 MS. DEBORAH HALL: Right.

12 MR. EUGENE WILLIAMS: Between your talk
13 with O'Brien in 1981 and Mr. Asper calling you, I
14 take it shortly before the Affidavit was prepared
15 and completed in 1986, did you read or review or
16 refresh, or think about it at all, during that
17 period of time?

18 MS. DEBORAH HALL: No.

19 MR. EUGENE WILLIAMS: It was not of concern
20 to you?

21 MS. DEBORAH HALL: It - well, I wouldn't
22 say - no, it wasn't like in the forefront of my
23 thoughts. Like I often - you know, at different
24 times, I wondered what was happening with that,
25 because you see at the time I talked to Chris



1 O'Brien, he said they were nowhere with all of
2 this and all he had said was that he had
3 volunteered to help David's mother to try and get
4 things moving for a retrial. And I just often
5 wondered, like where it was going and how come I
6 hadn't heard from anybody or anything.

7 MR. EUGENE WILLIAMS: But it wasn't at the
8 forefront of your thoughts?

9 MS. DEBORAH HALL: No.

10 MR. EUGENE WILLIAMS: It wasn't of very
11 great concern to you?

12 MS. DEBORAH HALL: Well, I wondered if he
13 really should be in there at times, but --

14 MR. EUGENE WILLIAMS: You didn't call Mr.
15 O'Brien?

16 MS. DEBORAH HALL: No. I didn't know where
17 to find him after he left Regina.

18 MR. EUGENE WILLIAMS: You didn't call Mrs.
19 Milgaard?

20 MS. DEBORAH HALL: No, I've never spoken to
21 her or even seen the lady.

22 MR. EUGENE WILLIAMS: You didn't make or
23 try and make contact with Ute Frank?

24 MS. DEBORAH HALL: No. I haven't got a
25 clue where she is now.



1 MR. EUGENE WILLIAMS: All right. So, I
2 guess your concern was more or less curiosity?

3 MS. DEBORAH HALL: Yes, yeah.

4 MR. EUGENE WILLIAMS: And sporadic
5 curiosity?

6 MS. DEBORAH HALL: Yeah.

7 MR. EUGENE WILLIAMS: All right. Now,
8 you've described in the Affidavit certain events
9 which you refer to as fluffing up of the pillow?

10 MS. DEBORAH HALL: Yes.

11 MR. EUGENE WILLIAMS: Do you recall any
12 laughter on the part of Milgaard?

13 MS. DEBORAH HALL: Yes.

14 MR. EUGENE WILLIAMS: At that time?

15 MS. DEBORAH HALL: Yes.

16 MR. EUGENE WILLIAMS: Would you describe
17 the laughter as hysterical?

18 MS. DEBORAH HALL: I'd describe the
19 laughter as stoned.

20 MR. EUGENE WILLIAMS: All right. And just
21 for those of us who might have a hard time
22 visualizing that, what form did this stoned
23 laughter take; how long did it go on?

24 MS. DEBORAH HALL: A high-pitched giggle
25 from a man is kind of a strange thing to hear,



1 but that's what it would have been. A
2 high-pitched kind of a giggle. And --

3 MR. EUGENE WILLIAMS: How long did this
4 giggle last?

5 MS. DEBORAH HALL: I would - it didn't go
6 on forever or anything like that at all.

7 MR. EUGENE WILLIAMS: Five minutes?

8 MS. DEBORAH HALL: No.

9 MR. EUGENE WILLIAMS: Three minutes?

10 MS. DEBORAH HALL: No. A couple of
11 minutes, maybe.

12 MR. EUGENE WILLIAMS: Couple of minutes.
13 You were stoned at the time too?

14 MS. DEBORAH HALL: Yeah, yes.

15 MR. EUGENE WILLIAMS: You weren't giggling?

16 MS. DEBORAH HALL: Yeah, I was giggling at
17 him, sure.

18 MR. EUGENE WILLIAMS: All right.

19 MS. DEBORAH HALL: There was big wide grins
20 all around the room at how silly he was being.

21 MR. EUGENE WILLIAMS: All right. Now,
22 particularly when Lapchuk asked him "you did it,
23 didn't you", was there a stoned giggle
24 accompanying any response to that question?

25 MS. DEBORAH HALL: Yes.



1 MR. EUGENE WILLIAMS: Was there any
2 movement or activity by Milgaard?

3 MS. DEBORAH HALL: He was on his knees, on
4 the bed, fluffing up the pillow.

5 MR. EUGENE WILLIAMS: On his knees, on the
6 bed, fluffing up the pillow?

7 MS. DEBORAH HALL: He was even bouncing a
8 little bit, you know, bouncing.

9 MR. EUGENE WILLIAMS: Now, when you say he
10 was bouncing, what portion of his anatomy was
11 moving?

12 MS. DEBORAH HALL: From the knees up, like
13 he was bouncing on the bed.

14 MR. EUGENE WILLIAMS: Was it vigorous
15 bouncing?

16 MS. DEBORAH HALL: It was in rhythm to him
17 pumping up the pillow.

18 MR. EUGENE WILLIAMS: Pumping up the
19 pillow?

20 MS. DEBORAH HALL: I guess you could say it
21 was vigorous, yeah, because he was bouncing, to
22 raise himself off the bed a couple of inches, you
23 know.

24 MR. EUGENE WILLIAMS: By your motions,
25 you're describing a vertical movement?



1 MS. DEBORAH HALL: Yeah.

2 MR. EUGENE WILLIAMS: Up and down?

3 MS. DEBORAH HALL: Yeah.

4 MR. EUGENE WILLIAMS: Rapid movement?

5 MS. DEBORAH HALL: Yeah.

6 MR. EUGENE WILLIAMS: On a vertical plain?

7 MS. DEBORAH HALL: Exactly.

8 MR. EUGENE WILLIAMS: And I take it at that
9 point in time, the pillow was?

10 MS. DEBORAH HALL: It was - it was in front
11 of him. He had taken it from behind his back in
12 the first place, and was pumping up this pillow
13 when he was asked if he had done it - or told or
14 whatever, that he had done this. He was already
15 - he was already bouncing on the bed and fluffing
16 up this pillow when he was asked.

17 MR. EUGENE WILLIAMS: All right. Now,
18 after the question was put to him, after he was
19 asked that question, he continued, as you say,
20 moving up and down in a vertical motion,
21 vigorously?

22 MS. DEBORAH HALL: Bouncing on the bed,
23 yes.

24 MR. EUGENE WILLIAMS: Yes?

25 MS. DEBORAH HALL: Yeah, and --



1 MR. EUGENE WILLIAMS: His arms were moving?

2 MS. DEBORAH HALL: ...punching the pillow by
3 this time.

4 MR. EUGENE WILLIAMS: He was punching the
5 pillow?

6 MS. DEBORAH HALL: Right. But not - yeah,
7 punching it.

8 MR. EUGENE WILLIAMS: And that punching
9 motion --

10 MS. DEBORAH HALL: Closed fists.

11 MR. EUGENE WILLIAMS: ... was a closed
12 fist. Was it a vertical up and down motion?

13 MS. DEBORAH HALL: No, sideways, sideways.

14 MR. EUGENE WILLIAMS: It was a sideways
15 motion?

16 MS. DEBORAH HALL: Sideways and this ways.

17 MR. EUGENE WILLIAMS: So, you're saying
18 both vertical and horizontal?

19 MS. DEBORAH HALL: Exactly.

20 MR. EUGENE WILLIAMS: And do you recall him
21 saying anything at the time that he was making
22 this sideways and vertical motion?

23 MS. DEBORAH HALL: Something like oh, yeah
24 sure, or oh, yeah, right, in a sarcastic tone.
25 You know, I mean it was something to that effect.



1 MR. EUGENE WILLIAMS: All right. When all
2 this happened, isn't it a fact that this
3 demonstration had a chilling effect on the rest
4 of the people there?

5 MS. DEBORAH HALL: It didn't have one on
6 me, and I don't think it was because I was
7 really, you know, zonkoed or anything, because I
8 was just too much of an innocent just getting
9 into all that scene. I think it would have
10 scared the hell out of me if I believed it.

11 MR. EUGENE WILLIAMS: All right. If you
12 believed it?

13 MS. DEBORAH HALL: If I believed it.

14 MR. EUGENE WILLIAMS: Didn't George
15 Lapchuk, in fact, try and change the subject
16 immediately after that demonstration?

17 MS. DEBORAH HALL: A lot of things that you
18 asked me about George Lapchuk - like I always
19 tried to ignore that man because he creeped me
20 right out.

21 MR. EUGENE WILLIAMS: All right.

22 MS. DEBORAH HALL: So, I would not have
23 honed in on anything that George Lapchuk had to
24 say in the evening at all.

25 MR. EUGENE WILLIAMS: What about Craig



1 Melnyk, did he give you that same reaction?

2 MS. DEBORAH HALL: I think - actually, I
3 think the whole room just started doing its thing
4 or whatever. I think I - I don't know.

5 MR. EUGENE WILLIAMS: Did you tune out?

6 MS. DEBORAH HALL: Yeah, I just tuned it
7 out; just sort of - phew.

8 MR. EUGENE WILLIAMS: And when did you
9 start tuning it out?

10 MS. DEBORAH HALL: Well, just after the
11 whole - he did the thing with the pillow and then
12 he put it back behind his head and crossed his
13 arms, and I seem to remember him looking over at
14 me and giving me a silly smile and I said to him
15 - phew - and he just started giggling again.

16 MR. EUGENE WILLIAMS: And when you say he
17 started giggling again --

18 MS. DEBORAH HALL: Yeah.

19 MR. EUGENE WILLIAMS: ...what form of
20 giggle; what type of giggle?

21 MS. DEBORAH HALL: Just kind of a little
22 titter now, you know, like it wasn't anything
23 like really serious. It was just sort of like -
24 phew, you know.

25 MR. EUGENE WILLIAMS: Now, you were fifteen



1 at the time?

2 MS. DEBORAH HALL: Yeah.

3 MR. EUGENE WILLIAMS: You were under the
4 influence of a narcotic?

5 MS. DEBORAH HALL: Mhmm.

6 MR. EUGENE WILLIAMS: There was a very
7 serious topic on the telephone (sic) a woman, a
8 young woman was brutally murdered.

9 MS. DEBORAH HALL: On the television, you
10 mean?

11 MR. EUGENE WILLIAMS: Yeah, the news report
12 was on that?

13 MS. DEBORAH HALL: Right.

14 MR. EUGENE WILLIAMS: Your response to that
15 wasn't a giggle, was it?

16 MS. DEBORAH HALL: No.

17 MR. EUGENE WILLIAMS: The responses of
18 Melnyk wasn't a giggle, was it?

19 MS. DEBORAH HALL: No.

20 MR. EUGENE WILLIAMS: The response of Ute
21 Frank wasn't a giggle, was it?

22 MS. DEBORAH HALL: No.

23 MR. EUGENE WILLIAMS: The response of
24 Lapchuk wasn't a giggle, was it?

25 MS. DEBORAH HALL: No, not at the time.



1 MR. EUGENE WILLIAMS: Not at the time.
2 Just Milgaard's response was that vigorous
3 bouncing up and down, as you've described it, his
4 hands punching the pillow --

5 MS. DEBORAH HALL: Yeah.

6 MR. EUGENE WILLIAMS: ...both vertically
7 and horizontally, and then finishing it off with
8 a giggle, which you've earlier described as a
9 high-pitched giggle?

10 MS. DEBORAH HALL: Yeah.

11 MR. EUGENE WILLIAMS: And a look over at
12 you?

13 MS. DEBORAH HALL: After he sat back, yeah.

14 MR. EUGENE WILLIAMS: After he sat back.
15 With a --

16 MS. DEBORAH HALL: But everybody was
17 laughing at his response, after.

18 MR. EUGENE WILLIAMS: They were?

19 MS. DEBORAH HALL: Yeah. Smiling,
20 laughing, sort of snickering under their breath,
21 whatever.

22 MR. EUGENE WILLIAMS: You heard that?

23 MS. DEBORAH HALL: Yeah. That's what I
24 did.

25 MR. EUGENE WILLIAMS: All right. You



1 didn't believe it?

2 MS. DEBORAH HALL: No.

3 MR. EUGENE WILLIAMS: You, at that time --

4 MS. DEBORAH HALL: I thought he was a bit
5 sick for his remark, you know, because he said
6 something about - excuse my language but I
7 remember it as such - "fucking her brains, oh,
8 yeah, right. I stabbed her I don't know how many
9 times and then I fucked her brains out. Right."
10 You know, something like in that respect. It was
11 crude; it was crude and it was, you know,
12 sarcastic.

13 MR. EUGENE WILLIAMS: That is your
14 recollection of what Milgaard said?

15 MS. DEBORAH HALL: Mhmm, yeah.

16 MR. EUGENE WILLIAMS: Notwithstanding what
17 you heard, you viewed that as just an innocent
18 example of a young man's crudity?

19 MS. DEBORAH HALL: Yeah, and being silly
20 and stoned.

21 MR. EUGENE WILLIAMS: Now, you're certain
22 today of your recall of those words from Milgaard
23 "I fucked her and I stabbed her"? Can you be --

24 MS. DEBORAH HALL: It was something quite
25 crude like that. It was. It was.



1 MR. EUGENE WILLIAMS: Madam Reporter, can
2 you read back that portion? I want to get the
3 quote.

4 COURT REPORTER: Excuse my language but I
5 remember it as such - "fucking her brains, oh,
6 yeah, right. I stabbed her, I don't know how
7 many times and fucked her brains out." You know,
8 something like in that respect. It was crude.
9 It was crude and it was, you know, sarcastic.

10 MR. EUGENE WILLIAMS: All right. But
11 there's no doubt in your mind that he said that
12 at the time?

13 MS. DEBORAH HALL: No, no doubt.

14 MR. EUGENE WILLIAMS: Okay. And there's no
15 doubt that he said that at or about the time that
16 he was, in your words, pumping up the pillow, as
17 you've described it to us?

18 MS. DEBORAH HALL: Yeah, fluffing up the
19 pillow, punching the pillow.

20 MR. EUGENE WILLIAMS: Punching the pillow?

21 MS. DEBORAH HALL: Yeah.

22 MR. EUGENE WILLIAMS: Both vertically and
23 horizontally?

24 MS. DEBORAH HALL: Right.

25 MR. EUGENE WILLIAMS: Several times this



1 was done?

2 MS. DEBORAH HALL: Yes.

3 MR. EUGENE WILLIAMS: It was done over a
4 period of time?

5 MS. DEBORAH HALL: Couple of minutes,
6 anyway. Like I say, he was already doing it when
7 he was asked if he had done what he did.

8 MR. EUGENE WILLIAMS: How much time elapsed
9 between Lapchuk asking the question, and the
10 puffing up the pillow, or fluffing or punching of
11 the pillow, and the statement?

12 MS. DEBORAH HALL: From when Lapchuk asked
13 him?

14 MR. EUGENE WILLIAMS: Yes.

15 MS. DEBORAH HALL: And response --

16 MR. EUGENE WILLIAMS: Yes.

17 MS. DEBORAH HALL: ...from Milgaard?

18 MR. EUGENE WILLIAMS: Yes.

19 MS. DEBORAH HALL: Seconds.

20 MR. EUGENE WILLIAMS: Okay. And the
21 response of Milgaard took how long?

22 MS. DEBORAH HALL: It wasn't drawn out at
23 all. It was a matter of, you know, what he said
24 and flipping the pillow back and bouncing back on
25 the bed and just crossing his arms.



1 MR. EUGENE WILLIAMS: Would it be ten
2 seconds?

3 MS. DEBORAH HALL: Maybe, yeah. But -
4 yeah. It wasn't prolonged and like a scene of
5 whatever for ten minutes or anything.

6 MR. EUGENE WILLIAMS: All right. Could it
7 have been as long as a minute?

8 MS. DEBORAH HALL: Maybe.

9 MR. EUGENE WILLIAMS: So, anywhere between
10 ten seconds and a minute?

11 MS. DEBORAH HALL: Mhmm.

12 MR. EUGENE WILLIAMS: That is your best
13 recollection?

14 MS. DEBORAH HALL: That's it.

15 MR. EUGENE WILLIAMS: All right. Now,
16 given that response by Milgaard to George
17 Lapchuk's question, do you still maintain that
18 Lapchuk and Melnyk lied when they said that his
19 actions constituted a re-enactment?

20 MS. DEBORAH HALL: Yes.

21 MR. EUGENE WILLIAMS: And you still
22 maintain it because you believe that those
23 actions were just a crude gesture?

24 MS. DEBORAH HALL: Yes.

25 MR. EUGENE WILLIAMS: I understand you to



1 say though, that you don't dispute the fact that
2 there was a pumping motion on the pillow. There
3 was a hitting, striking of the pillow. There was
4 a jumping up on the bed, and that there were
5 words said about the stabbing and the fucking of
6 her brains, by Milgaard at that time?

7 MS. DEBORAH HALL: Right, but it wasn't a
8 one-handed motion. It was two hands on the
9 pillow.

10 MR. EUGENE WILLIAMS: All right. But those
11 events occurred?

12 MS. DEBORAH HALL: Yes.

13 MR. EUGENE WILLIAMS: Okay. And where you
14 take issue with Lapchuk and Melnyk is in what
15 those motions signified?

16 MS. DEBORAH HALL: Yes.

17 MR. EUGENE WILLIAMS: All right. Now, it's
18 fair to say that when all this was going on,
19 David Milgaard was high; he was stoned?

20 MS. DEBORAH HALL: Yes, quite. I believe
21 he was more stoned than I was.

22 MR. EUGENE WILLIAMS: Milgaard was?

23 MS. DEBORAH HALL: Yes.

24 MR. EUGENE WILLIAMS: All right. Now,
25 prior to that time, and when I say prior to that



1 time, before the party, I gather you had no idea
2 that David Milgaard had been spoken to by the
3 police in connection with the murder?

4 MS. DEBORAH HALL: None at all.

5 MR. EUGENE WILLIAMS: He had never
6 discussed it with you?

7 MS. DEBORAH HALL: No.

8 MR. EUGENE WILLIAMS: Have you spoken to
9 him since then?

10 MS. DEBORAH HALL: No.

11 MR. EUGENE WILLIAMS: With the exception of
12 your conversation with Mr. Asper, have you spoken
13 - and with Mr. O'Brien - have you spoken to
14 anyone else about this matter?

15 MS. DEBORAH HALL: I had a lady named
16 Sandra Bartlett from the Fifth Estate approach me
17 about it. That would have been just prior to
18 David Asper by about - gee, almost a year. I
19 think it was October, November almost a year
20 before - no, excuse me, wait. Yeah, it was just
21 prior to him contacting me actually. And said
22 that they were getting something going, or
23 whatever, I don't know. But she wanted to have
24 me go on a program that they were thinking of
25 doing on David Milgaard, I guess.



1 MR. EUGENE WILLIAMS: I see. Now, your
2 conversation with Mr. Asper, without getting into
3 the details of it, how long did that last?

4 MS. DEBORAH HALL: The first time I talked
5 to him?

6 MR. EUGENE WILLIAMS: Yeah.

7 MS. DEBORAH HALL: Oh, I remember thinking
8 that it was an expensive phone bill because he
9 was phoning from Winnipeg. It must have been
10 about an hour.

11 MR. EUGENE WILLIAMS: All right. And were
12 there subsequent conversations, without getting
13 into the details of them, with Mr. Asper
14 concerning the preparation of the Affidavit?

15 MS. DEBORAH HALL: No, no. He just flew
16 out and told me to read it over and make sure it
17 was correct, and I signed it.

18 MR. EUGENE WILLIAMS: And that's the last
19 you heard of it?

20 MS. DEBORAH HALL: Pretty much.

21 MR. EUGENE WILLIAMS: Until I contacted
22 you?

23 MS. DEBORAH HALL: Yes, but he had phoned
24 me a couple of months and said that things were
25 starting - as he put it - things were starting to



1 move a little bit and that I may be contacted by
2 you. And to please be as helpful as I could and
3 everything. So, I said okay, fine. He said just
4 tell the truth and, you know, try and be as
5 accommodating as you can.

6 MR. EUGENE WILLIAMS: Well, I appreciate
7 the accommodation, and I thank you from taking
8 time off from your day off to come down to answer
9 the questions. You've been very patient with me,
10 trying to sort out what transpired. Unless you
11 have questions of me, those are the questions I
12 have on the record.

13 MS. DEBORAH HALL: No, I don't think so.

14 MR. EUGENE WILLIAMS: Thanks.

15 **(End of Tape)**

16 BY MR. FRAYER:

17 Q Mr. Asper, when did you first become aware of the,
18 if I can put it in these terms, the addition to
19 the story that you had been earlier told by
10:06 20 Deborah Hall, when did you first become informed
21 of the words that she said were attributed to
22 David Milgaard during the motel reenactment?

23 A I have a feeling it would have been when we met
24 with the Justice officials at the first meeting.
10:06 25 I can't be --



1 Q Would that be on October the 1st, 1990?

2 A I can't be certain of that, but I think that's the
3 case.

4 Q And what was your reaction when you first heard
10:07 5 that information?

6 A I can't be specific what my reaction was. I don't
7 recall what it was specifically.

8 Q Well, we've had Mr. Williams testify to the fact
9 that he was flabbergasted by it. Would that be
10:07 10 the type of reaction that you might have had when
11 you first saw it?

12 A I have to say that having heard the interview now,
13 there are some differences admittedly. I think
14 you would be flabbergasted if you are looking to
10:07 15 prove guilt. I think if you are on the other side
16 of things, you might not place that kind of
17 emphasis on it, and I think in particular as I go
18 through, as I listen to it and see the questioning
19 and the method of questioning, you know, I would
10:07 20 have some serious questions about that.

21 Q And those serious questions arise in what respect?
22 When you say the questioning, what do you mean by
23 that?

24 A Well, I think it begins, Mr. Frayer, with the
10:08 25 basic situation where Mr. Williams, a person who



1 Ms. Hall would probably see as a person in
2 authority, swears her in, puts her under oath,
3 that's not a natural state of affairs for people,
4 but I can't speak for how Ms. Hall interpreted
10:08 5 that, I can only communicate what she told us or
6 how she felt, but as you look at the questioning,
7 sir, you can see Mr. Williams mischaracterizing
8 what she says, there's a sequence, and I've asked
9 the court monitors to sequester two specific
10:08 10 sections; one, where Mr. Williams refers to the
11 news report coming on. The news report comes
12 on -- Ms. Hall's evidence was the news report
13 comes on, she said Lapchuk, she corrects herself
14 to say Mel -- sorry, the other way around, that
10:08 15 the news report comes on and a comment is made
16 that creates Milgaard's reaction. Look at how Mr.
17 Williams mischaracterizes her evidence.

18 Q Just so we have it for the record, you're at
19 001318, and if I might just go to my hard copy.

10:09 20 A It's at line 225:

21 "MR. EUGENE WILLIAMS: There was a very
22 serious topic on the telephone..."

23 She means television,

24 "...a woman, a young woman was brutally
10:09 25 murdered."



1 She says:

2 "MS. DEBORAH HALL: On the television,
3 you mean?

4 MR. EUGENE WILLIAMS: Yeah, the news report
5 was on that?"

6 Next page:

7 "MR. EUGENE WILLIAMS: Your response to
8 that wasn't a giggle, was it?"

9 That mischaracterizes what she said. It misses
10 the fact that their responses were to what
11 somebody in the room said, not to the news
12 report, so now he puts Ms. Hall in the position
13 of having to admit that she's not going to giggle
14 about the murder because nobody would giggle
10:09 15 about the murder, puts her on her heels and
16 mischaracterizes what in fact she said.

17 Secondly, Mr. Williams
18 characterized at the end Mr. Milgaard as jumping
19 on the bed. Nowhere in Ms. Hall's evidence
10:10 20 during this interview did she say jumping on the
21 bed, she said bouncing on the bed over and over
22 and over, she said he was bouncing even before
23 the news report came on, so he puts words in her
24 mouth.

10:10 25 Q Where are those, where is that found, that



1 specific reference?

2 A Do you have that?

3 Q If we can have that reference, please? 001321, is
4 that where it is, Mr. Asper?

10:10 5 A I'm just trying to -- well, okay, if you look at
6 001321 at line 248:

7 "MR. EUGENE WILLIAMS: Couple of minutes,
8 anyway. Like I say, he was already
9 doing it..."

10:10 10 Sorry.

11 MR. HODSON: Mr. Asper, you can touch the
12 screen.

13 A I don't want to touch it. Okay, line 253:

14 "MS. DEBORAH HALL: It wasn't drawn out
15 at all. It was a matter of, you know,
16 what he said and flipping the pillow
17 back and bouncing back on the bed and
18 just crossing his arms.

19 MR. EUGENE WILLIAMS: Would it be ten
20 seconds?"

21 Etcetera, etcetera. And then if you scroll down,
22 Mr. Williams describes -- I might have missed
23 the -- maybe the next page.

24 Q Yeah, I think you are at 323 if I can see.

10:11 25 A Mr. Williams describes -- ah, here we go, at the



1 top.

2 Q I've got it.

3 A "There was a hitting, striking of the
4 pillow. There was a jumping up on the
5 bed..."

6 Ms. Hall never said that.

7 Q But she agrees with it, she says:

8 "MS. DEBORAH HALL: Right, but it wasn't a
9 one-handed motion."

10:11 10 A Well, he's suggesting evidence to her, he's
11 suggesting evidence to her though. I would
12 suggest to you, Mr. Frayer, that a person in her
13 position has been, it has been put to her that
14 she's not supposed to be giggling, which is
10:12 15 appropriate when the murder comes on, so she's
16 taken off track of what she's actually said at
17 that point, and then she's taken off track here
18 and she agreed with it, so -- and I've got notes
19 of many other instances where Mr. Williams appears
10:12 20 to challenge what Ms. Hall is saying with comments
21 like "you are certain of that" or "I see" and long
22 pauses which, you know, I would just suggest is a
23 tactic that even journalists use, the long pause.

24 Q When you talk about tactics, you don't question
10:12 25 the fact that Mr. Williams had an obligation to



1 make an inquiry into what her evidence was and
2 that inquiry would involve probing questions that
3 are asked of her?

4 A I have no question about probing, there's no doubt
10:13 5 that he should be asking probing questions, but
6 the role of an investigator, and I've got lots of
7 definitions that I can cite for you -- or for you,
8 Mr. Commissioner, as to what the role of an
9 investigator is, it is a neutral, dispassionate
10:13 10 person, and I would suggest to you that Mr.
11 Williams was looking for answers based on the
12 examples that I've given you.

13 Q And it was as a result of Mr. Williams' interview
14 of Deborah Hall that you had some communication
10:13 15 with her I gather after the statement was taken,
16 or after the interview was conducted I should say?

17 A Yes.

18 Q And what -- do you recall the circumstances, who
19 approached who?

10:13 20 A I don't recall.

21 Q I think your evidence was, if I can go back to
22 25526 (sic), you testified on April the 17th, you
23 said, a question by Mr. Hodson:

24 "Q Now do you remember if you -- I think
01:18 25 the record reflects that after Deborah



1 Hall was questioned by Mr. Williams,
2 that you may have had contact with her,
3 do you remember that; did she call you
4 after the interview?

01:18 5 A I -- I can't be certain, but I believe
6 so, yes."

7 And your response further:

8 "A I either called her or she called me,
9 there was contact.

01:18 10 Q And would it be within days, weeks,
11 months of the examination?"

12 Your response:

13 "A Yes."

14 And this is what you eventually incorporated in
10:14 15 your correspondence to Justice in some form.

16 "Q And what do you recall of that
17 discussion?

18 A She was angry.

19 Q And what was she angry about?

01:18 20 A She felt that Mr. Williams had been,
21 umm, aggressive and, umm, cynical with
22 her, and had made her feel, I think
23 she described it as belittling her.

24 Q And did she discuss with you any of the
01:18 25 details of what -- what she said at her



1 examination?

2 A I don't recall that, no."

3 Just if I can interject at this point. Apart
4 from your discussions with her about the conduct
10:14 5 of the Williams' interview, did you have any
6 conversations with her about what she told Mr.
7 Williams?

8 A No.

9 Q And why was that?

10:14 10 A Umm, I don't know.

11 Q Okay.

12 "Q And did she tell you that, in the
13 questions by Mr. Williams, that she gave
14 a different or a broader, different or
15 broader -- and maybe 'broader' is not --
16 a different answer to him about what was
17 attributed to Mr. Milgaard in the motel
18 room than what she had told you she got
19 the affidavit and signed it?

20 A I don't believe she did that. I have
21 to believe that, if she had done that,
22 there would have been some record of
23 me having told somebody about it."

24 So that verifies the fact that it doesn't appear
10:15 25 that you had any questions of her with respect to



1 what she had told Mr. Williams in that interview?

2 A That's correct.

3 Q Nor did you at any stage, it appears, ask Mr.

4 Williams or anybody for either transcript, tape,

10:15 5 or a record of that interview in any way?

6 A I don't think that's correct. We may not have

7 done it in writing, but I believe that Mr. Wolch

8 was asking quite vigorously for the outcome of

9 that interview.

10:16 10 Q You believe Mr. Wolch was?

11 A Yes.

12 Q But, as you've said, there is no written record of

13 that request anywhere?

14 A That's correct.

10:16 15 Q Okay. And it appears too, in part, that, because

16 you didn't ask anything of Ms. Hall that she had

17 told Mr. Williams, that you were focused in really

18 on the manner in which the interview had taken

19 place; that's seemed to be your primary focus?

10:16 20 A I --

21 Q Because your -- because it --

22 A I'm not sure it --

23 Q Because you are obviously writing to the

24 Department of Justice and complaining about Mr.

10:16 25 Williams' conduct; isn't that right?



1 A Right, right.

2 Q Okay. But, if you didn't ask questions about what
3 you were, what Deborah Hall told Eugene Williams
4 during the course of that interview and all you
10:16 5 seemed to be concerned about was the method by
6 which Mr. Williams had conducted that interview,
7 according to what Ms. Hall told you?

8 A Yes, and if -- I guess I'm surmising, but I
9 suppose our thinking probably at the time would
10:17 10 have been that, if in fact Mr. Williams had
11 conducted himself improperly, then the outcome of
12 the interview, by definition, was fruit of the
13 poisonous tree.

14 Q Okay.

10:17 15 COMMISSIONER MacCALLUM: Was what?

16 A Fruit of the poisonous tree.

17 BY MR. FRAYER:

18 Q Let's just look at 010035, this is the letter of
19 June 12th of 1990 that you wrote to Mr. Williams,
10:17 20 and paragraph 3 at the bottom, and on to the next
21 page:

22 "Finally, further to our conservation with
23 respect to the witnesses whom your
24 investigator ...",

10:17 25 and this is directed at Mr. Williams so he is the



1 investigator:

2 "... has interviewed ...",
3 and that was intentional, I understand, somewhere
4 there's a -- you are commenting about having
10:17 5 referred to 'your investigator' when, in fact,
6 this is directed to Mr. Williams, who was the
7 investigator, and you're characterizing it in
8 that form?

9 A Those are the words.

10:18 10 Q Okay. But you're -- wouldn't it have -- okay.
11 But in any event:

12 "... we can advise that these witnesses
13 were left with a very negative
14 impression about your investigator.

10:18 15 Specifically, Debra Hall tells us that
16 she was made to feel as though she was
17 wasting the Investigator's time. She
18 felt that the investigator was twisting
19 everything that she said, and made her
10:18 20 feel "like an ass". Moreover, she
21 indicates that this investigator made
22 her feel like she was not being
23 believed, and in fact was somehow lying
24 about the contents of her Affidavit.

10:18 25 Essentially, her impression was that



1 even though she had nothing to gain by
2 coming forward, she was simply trying to
3 say that Messrs. Melnick and Labchuk
4 were lying when they gave their evidence
10:18 5 at the trial, and that for coming
6 forward, she was made to feel useless in
7 this whole thing."

8 And are those the words that Deborah Hall
9 communicated to you, or are those her words and
10:19 10 her words combined?

11 A I can't recall specifically, but I would have
12 reported exactly what she told me.

13 Q But some of these words could be your words too,
14 am I accurate in that?

10:19 15 A Yes. Well, in between describing her feelings, of
16 course they are my words.

17 Q Okay. And you weren't -- you were upset about
18 what had happened, you were likely angry about
19 what had happened after you'd been told how this
10:19 20 interview had been conducted, and it ended up with
21 this letter being written, Mr. Williams, as a
22 criticism of his interview technique?

23 A Umm, I think probably angry, yeah, probably
24 describes it, yup.

10:19 25 Q Yes. And:



1 "We understand that Linda Fisher had
2 much the same feeling after your
3 investigators visited with her."

4 And that's something we'll touch upon in due
10:19 5 course as we move to Linda Fisher, but if I can
6 take you to what Deborah Hall says about the
7 interview in her testimony on February the 17th
8 of 2005 at page 3405 and following, the next
9 page, 3506 (sic), question by Mr. Hodson:

10 "Q And would that have been the first time,
11 Ms. Hall, that you would have told
12 anybody about those words that you heard
13 said in the motel room?

14 A Probably. Probably was. I thought,
15 by then, that, I mean, this man was
16 from the justice department, I had to
17 tell it exactly like it was that I
18 remembered it.

19 Q Okay."

10:20 20 That's your point, that this was a person in
21 authority, I assume. Her reaction was this was a
22 man from the Justice Department, she had to tell
23 the truth, that's what I read into her response
24 there; would you agree with me?

10:20 25 A Sure.



1 Q Yeah. Nothing wrong with that, is there, that it
2 just happened to be somebody from the Justice
3 Department, she decided that now is the time to
4 tell the truth about what David Milgaard had said?

10:20 5 A Nothing wrong with that at all.

6 Q And then she goes on at page 3413, a question by
7 Mr. Hodson:

8 "Q Why is there a difference? Can you tell
9 me?

10 A Because at that point in time I was
11 really quite confused by the time we
12 got to that part of the interview of
13 Mr? Williams. I kind of allowed him
14 to put words in my mouth."

10:21 15 You've heard what the interview -- you've heard
16 the interview and would you agree with her
17 assertion that he put words in her mouth when she
18 made the response, or the words attributed to
19 David Milgaard? I suggest there is no evidence
10:21 20 of that fact, but --

21 A Well, I'm not sure what she's referring to
22 specifically about putting words in her mouth,
23 I've already given you an example of where he put
24 words into her mouth.

10:21 25 Q But the words that she spoke attributed to David



1 Milgaard were clearly, if you listen to that tape
2 and read the transcript --

3 A Right.

4 Q -- not put into her mouth by Mr. Williams?

10:21 5 A That's correct.

6 Q In fact, Mr. Williams asked that they be read back
7 so that he would have some accurate --

8 A That's correct.

9 Q -- so that it was accurate in terms of what she
10:22 10 said?

11 A Right.

12 COMMISSIONER MacCALLUM: Would you just
13 repeat the exact words so that we have it on the
14 record, sir?

10:22 15 MR. FRAYER: The exact words?

16 COMMISSIONER MacCALLUM: To which you
17 refer.

18 MR. FRAYER: The, I'm sorry, those are the
19 words that appear at the end of the transcript,
10:22 20 Mr. Commissioner, and those are the words that I
21 am referring to where she says:

22 "... but I remember it as such -

23 "fucking her brains, oh, yeah, right. I
24 stabbed her I don't know how many times
25 and then I fucked her brains out.



1 Right." You know, something like in
2 that respect. It was crude; it was
3 crude and it was, you know, sarcastic."

4 COMMISSIONER MacCALLUM: And Mr. Asper
10:22 5 agreed, did he, that Williams did not put these
6 words in her mouth?

7 A Yes.

8 BY MR. FRAYER:

9 Q Yes, he agreed to that, as I understand?

10:22 10 A That's right.

11 Q In other words, these words come out for the first
12 time from Deborah Hall?

13 A Right.

14 Q But apparently not in response to any words that
10:22 15 are put into her mouth by Eugene Williams?

16 A Right.

17 Q And if I can go on, at page 3417:

18 "Okay...",
19 near the centre, line 14:

20 "Q Okay. In your evidence at the Supreme
21 Court of Canada you said that you
22 allowed Eugene Williams to put words in
23 your mouth when you were asked about
24 George Lapchuk and Craig Melnyk and who
25 started bugging Mr. Milgaard first; do



1 you remember that?

2 A Yes.

3 Q And my -- and I think you then said that
4 you were uncomfortable at the interview
5 with Mr. Williams, and my question is
6 when Mr. Williams asked you about what
7 you observed and heard Mr. Milgaard say
8 and do in the motel room that evening,
9 did Mr. Williams put any words in your
10 mouth or tell you to say something that
11 you didn't believe to be true?

12 A No.

13 Q Those were your answers?

14 A Those were my answers.

15 Q And were they in any way influenced by
16 Mr. Williams?

17 A No. I was trying to be a bit
18 argumentative with him but it wasn't
19 working.

20 Q Okay. And why were you trying to be
21 argumentative with him?

22 A Well, like I say, he was -- his whole
23 attitude was -- I had the impression
24 that he already had his mind made up
25 over everything before we even sat



1 down.

2 Q And did you --

3 A So, to me, it was just -- I felt like
4 it was a waste of time to even be
5 there with that man.

6 Q And did you take that from what he had
7 said to you or discussions with you?

8 A It was, it was just his demeanour and
9 tone and, I mean, I guess you could
10 probably construe it as being
11 professional, but I mean I have talked
12 to a few of you lawyer guys along the
13 way, and you are not all that anal, if
14 I could put it that way."

10:24 15 So you have Deborah Hall's evidence with respect
16 to her view of the manner in which the statement
17 was taken, some of which verifies her complaint
18 to you about -- verifies, at least by her words,
19 her complaint to you about the conduct of Mr.
10:24 20 Williams?

21 A Correct.

22 Q And if we can look at what Mr. Williams has to say
23 about the interview of Ms. Hall, and more
24 specifically the words that I've just related that
10:25 25 came out during the course of that interview, if I



1 can take you to 32733 of the transcript of the
2 direct examination of Mr. Williams by Mr. Hodson.
3 Mr. Hodson says at line 4:

4 "Q Can you describe what effect that had on
5 your assessment of her evidence?

6 A Well it certainly informed my
7 assessment of her words that it was,
8 you know, "it was a joke", "it was
9 crudely comical". The topic that they
10 were talking about, the brutal slaying
11 of a young woman, I have never found
12 to be comical, and it struck me, I was
13 flabbergasted. I was flabbergasted
14 from a couple of vantage points. As
15 you see from the transcript, the words
16 came from this witness without any
17 prompting from me, I was surprised
18 that -- I guess later I was surprised
19 that it didn't find its way into the
20 affidavit, but I could understand why
21 it wouldn't, because to any outside
22 observer those types of words
23 describing that action can hardly be
24 considered comical."

10:26 25 A Well I hope Mr. Williams isn't suggesting that I



1 had heard those words and didn't include them?

2 Q I'm not certain whether he is suggesting that at
3 all. I don't think that's the suggestion.

4 A Well, I don't know about any other affidavit.

10:26 5 Q But you -- well, I guess we'll have to ask Mr.
6 Williams about that. And then, further on:

7 "I didn't find it that way, and it
8 certainly informed my assessment of her
9 conclusion that this was a joke, this
10 was a comical event.

11 And to the extent that it was
12 that perception of the actions of David
13 Milgaard which prompted her to conclude
14 that Lapchuk and Melnyk lied, then my
15 assessment was that she was entitled to
16 her opinion, but the accusation of a lie
17 could not be supported by her own words
18 which described, in a similar way, the
19 actions that Melnyk and Lapchuk
10:27 20 testified to at trial."

21 Would you agree with that?

22 A Again, Mr. Frayer, I -- if you look at what Ms.
23 Hall says, the words themselves certainly have
24 some shock value, but her evidence vir -- when
10:27 25 measured against what Melnyk and Lapchuk described



1 at trial is different, and she describes one set
2 of things to Mr. Williams and then winds up
3 adopting another set of facts that he puts to her,
4 so you know, I just don't agree with that
10:27 5 characterization.

6 Q When you prepared the affidavit of Deborah Hall in
7 the first instance, which you've described to us,
8 did -- was this just simply asking her to tell you
9 her version of events which you wrote down and
10:27 10 then incorporated in the affidavit that ended up
11 being filed?

12 A Yes.

13 Q Did you do any probing whatsoever into what she
14 was telling you, or did you accept what she was
10:27 15 saying at face value, and incorporating it without
16 question?

17 A Yes, I believe I had asked her to give me a
18 narrative, and I recorded it.

19 Q And that's what's recorded in the affidavit that
10:28 20 was filed?

21 A Yes.

22 Q Okay. We'll see further on at 32736, and
23 Commissioner McCallum says:

24 "COMMISSIONER MacCALLUM: Okay."

25 And then the response from Mr. Williams:



1 "A I didn't understand Melnyk and Lapchuk's
2 evidence to be, or to include the words
3 "fucking her brains out".

4 COMMISSIONER MacCALLUM: Right.

5 A That's what caught me maybe off guard,
6 because here's a witness who said it
7 never happened --

8 COMMISSIONER MacCALLUM: Right.

9 A -- in one affidavit, and who is
10 telling me now not only did the
11 actions take place but David Milgaard
12 said something else.

13 COMMISSIONER MacCALLUM: Right. So it
14 really caused you to question the
15 veracity of her affidavit?

16 A Yes.

17 COMMISSIONER MacCALLUM: Which was used to
18 support the application?

19 A Yes."

10:29 20 Then Mr. Hodson goes on:

21 "Q And would it be correct to say that the
22 information provided by Deborah Hall in
23 this examination effectively, I don't
24 know what the right word is, but
25 effectively eliminated this ground as an



1 application to be considered by the
2 Minister?

3 A Yes. It certainly didn't support the
4 contention that two witnesses who had
5 testified at trial about an important
6 factual element had lied.

7 Q If this examination that you conducted
8 had been provided in the application, in
9 other words the --"

10 I'm sorry, I don't have the balance of that, it's
11 the same --

12 A It's on the screen.

13 BY MR. FRAYER:

14 Q Okay.

15 " -- same information in an affidavit
16 filed back in 1988, again, would that
17 ground have passed your preliminary
18 assessment?"

19 And his response was:

20 "A No."

21 You still take issue with that?

22 A Oh, I have no doubt that it would not have passed
23 the preliminary assessment. I mean, like the
24 Deborah Hall information was all we had to begin
25 with, as the case unfolded it became the

10:30



1 least-important thing.

2 Q Sure. There is no question it was, as we
3 discussed yesterday, one of the two primary bases
4 upon which the first application was made, that
10:30 5 and the evidence of Dr. Ferris. Now I know that
6 the application contains more than that, but the
7 primary focus appears to have been on those two
8 things?

9 A Correct.

10:30 10 Q Okay. And then at 32745, Mr. Hodson, line 11:

11 "Q And I'm trying to understand whether you
12 noticed any, anything from her
13 perspective, any change in her
14 demeanour --",

15 Talking about Deborah Hall:

16 "-- towards the end of the interview?

17 A There wasn't a significant change, no,
18 that -- she may have realized that
19 perhaps what she had said now differed
20 significantly from what she had put in
21 her affidavit, and perhaps was a bit
22 defensive, but apart from that --

23 Q Okay.

24 A -- no."

10:31 25 And then it goes on, at 32746, question at the



1 top:

2 "Q After the examination was concluded, did
3 you have any further discussions with
4 Deborah Hall that were not reflected on
5 the transcript?

6 A Not about this subject. I believe she
7 got up, took her leave, and we just
8 exchanged pleasantries and I showed
9 her to the door and then I packed up.

10 Q Did she express any concern to you about
11 the manner in which you had questioned
12 her?

13 A Not at that time, no."

14 Down at line 14:

15 "Q Okay. But, before that, was there
16 anything that she said to you about "I
17 didn't like the way you questioned me, I
18 didn't like the way you treated me",
19 anything of that nature; do you recall
20 anything?

21 A No."

22 And at the end of it, as we've heard:

23 "... I appreciate the
24 accommodation ...",

25 thanked her for taking time off work, I



1 thanked her for her patience and trying
2 to sort of what had happened, and then I
3 invited her:

4 "Unless you have questions of
5 me, those are the questions I
6 have on the record."

7 And her answer was:

8 "No, I don't think so."

9 "Thanks.",

10 and that was it.

11 Q Did --

12 A There was precious little
13 communication after that, she left her
14 seat and collected her things and
15 left."

16 "No, I don't think so, thanks."

17 And so that's Mr. Williams' take on the
18 interview. And you'll agree that, after having
19 listened to that interview, apart from perhaps
10:32 20 the impression that Deborah Hall might have had,
21 that some of what you said to Eugene Williams in
22 your letter of June 12th, 1990 might not have
23 been accurate? In other words, you relied on the
24 information she gave you, distilled it into this
10:32 25 form, and I'd suggest to you that it isn't



1 supported by what we've heard here today?

2 A I'm not sure I'd entirely agree with that. I --

3 Q How --

4 A Just listening to it again, there are a number of
10:33 5 things that would actually add to the criticisms.

6 Q Okay.

7 A Now some of what she reported to me may not have
8 been accurate, I agree with that.

9 Q Okay. Where are the differences? Could you just
10:33 10 highlight them, apart from --

11 A If I can see the letter, I can.

12 Q There are two of them in your view? Okay.

13 A Oh, I believe the nature of the questioning
14 itself, leading questions. The fact that she is
10:33 15 put into that environment. You go, and again go
16 back and look at the, one of the reasons why the
17 Marshall Commission, which had been reported at
18 the time of this questioning, one of the reasons
19 why it recommended the creation of an independent
10:33 20 investigative agency would be because of the
21 difficulty of civilians being confronted with
22 persons of authority who they see as having a
23 vested interest in the outcome of the questioning,
24 and I do object to the whole way the investigative
10:34 25 process occurred under our application.



1 Q That process has changed?

2 A Yes, very much, for the better.

3 Q Okay. Thank you. I'm going to move on then,
4 after Deborah Hall, to Linda Fisher, and I have
10:34 5 some questions to ask you with respect to the
6 Linda Fisher interview.

7 I might indicate, Mr.
8 Commissioner, that it's my intention to play the
9 Eugene Williams' interview of Linda Fisher in due
10:34 10 course, it's approximately an hour in duration,
11 and so what I thought we'd do is I might go
12 through, I don't know whether you want to start it
13 now and break or whether we should go through some
14 --

10:34 15 COMMISSIONER MacCALLUM: What is your
16 preference, Mr. Frayer?

17 MR. FRAYER: Well perhaps if we went to
18 quarter to, and then took the 15-minute break,
19 and then we could play it before noon hour?

10:35 20 COMMISSIONER MacCALLUM: Okay.

21 MR. FRAYER: Thank you.

22 COMMISSIONER MacCALLUM: You okay, Mr.
23 Asper, for another 15 minutes?

24 A Sure, sure.

10:35 25 BY MR. FRAYER:



1 Q Now, just with respect to Linda Fisher, we've gone
2 through the comments that you set out in your
3 letter of June 12th of 1990, 010035 at 0036, and
4 you don't go into the same detail as you do with
10:35 5 respect to Deborah Hall's complaint about the
6 conduct of Mr. Williams in the interview. All you
7 say there is:

8 "We understand that Linda Fisher had
9 much the same feeling after your
10:35 10 investigators visited with her."

11 Now can I ask you, Mr. Asper, with respect to
12 drawing the similarities between what Deborah
13 Hall complained about and Linda Fisher complained
14 about, did you personally interview Linda Fisher
10:35 15 after she'd been interviewed by Eugene Williams?

16 A I don't recall.

17 Q Okay. What would the source of the information be
18 that had you come to the -- that had you come to
19 the conclusion that she had much the same feeling?

10:36 20 A If it wasn't from a direct conversation, it could
21 have been from any number of sources.

22 Q Okay. You would agree -- you recall where it came
23 from, you didn't --

24 A I don't recall.

10:36 25 Q Okay. One thing for certain, your recollection is



1 you didn't talk to her personally?

2 A No, that's not what I said, I said I don't
3 recall --

4 Q Okay.

10:36 5 A -- whether I spoke to her or not.

6 Q With respect to Linda Fisher, I suggest that that
7 information might have come from Joyce Milgaard
8 and not from you, and what you were doing was
9 accepting what Mrs. Milgaard told you and
10:36 10 including it in this letter?

11 A As I say, if it wasn't from me directly, it could
12 have been there any number of sources, and that
13 would have included Mr. Smith Milgaard.

14 Q One of whom could have been?

10:36 15 A Yes.

16 Q Okay. Now, without having the benefit of
17 listening to the tape and looking at the
18 transcript, I'd like to just go through a couple
19 of items with you before the break. The first of
10:36 20 these is your evidence back on the 19th of April
21 at 26934, and this appears to be, this is under
22 questioning by Mr. Hodson, and then if we can go
23 to, like at line 16 and down:

24 "Then if we can go to 334961 and this is
25 where you then come into the conversation."



1 This is one of these conversations that Joyce
2 Milgaard recorded to which you were a party, and
3 with respect to those recordings, were they done
4 with your knowledge and were you aware of the
10:37 5 fact that, at the time, they were being taped and
6 subsequently transcribed?

7 A I was aware that some were being taped.

8 Q And that was something that was told to you
9 somewhere in the process? There may have been a
10:38 10 number of conversations that were recorded without
11 your knowledge; would I be accurate in that?

12 A Yes.

13 Q Okay. And, in referring to this:

14 "If we can go to 334963 -- if we go back
15 to 334961, I think, yeah, the call
16 between Mrs. Milgaard and Paul Henderson
17 ended and then a new conversation

18 between you and Mrs. Milgaard; correct?"

19 This conversation was, I believe, on June the 5th
10:38 20 of 1990.

21 "And so then if we can go -- and I think
22 that's this conversation, presumably
23 it's around the time of June 5. If we
24 can go to page 963 and there's just an
25 exchange here that I'm wondering if you



1 might be able to comment on, and you
2 indicate to Mrs. Milgaard that Hersh
3 talked to Williams today, presumably
4 Eugene Williams, and you say, 'And of
5 course Williams now has to see Wilson
6 right away. I haven't been able to get
7 ahold of Wilson.' 'Oh, you're kidding,
8 we've got to get to him before Justice
9 does.' You say, 'Oh, we will, don't
10 worry, they want his address, they want
11 his address, listen to this exchange,
12 this is beautiful, and by the way, I've
13 got to get back to Saskatchewan and
14 you'll hear why.'

15 Hersh and Williams have an
16 exchange which says, Williams, who says,
17 'Give me his address.' Hersh says, 'I
18 don't know if I want to do that.'
19 Williams says, 'Well, I'll tell you, you
20 know, the witnesses that you've provided
21 us so far haven't been so good for you,'
22 and Hersh said, 'Who do you mean?'
23 'Linda Fisher.' And Williams says,
24 'Yeah.' And Hersh says, 'That's because
25 you go in and intimidate her and



1 belittle her and make her feel like a
2 liar.' And he says, 'Williams took a
3 giant step backwards and said I'm
4 interested, but that's what their
5 impression was. The bottom line is I'm
6 going to see both Deborah and Linda
7 because they both felt like dirt after
8 Justice was through there. I mean, you
9 talked to Linda right afterwards didn't
10 you?' 'Right, right, she felt
11 terrible.'

12 Next page. 'And I'm going to
13 get them to give me statements
14 describing the treatment that they got
15 at the hands of the Justice
16 investigators.'"

17 Mr. Asper, did you go through with that, did you
18 go out and take statements, in one case, from
19 Linda Fisher to get her version of events as to
10:40 20 how the interview by Eugene Williams was
21 conducted?

22 A I don't believe I did, no.

23 Q Okay. Do you know why you didn't do it?

24 A I suspect we decided it was a collateral issue, if
10:40 25 it was an issue at all.



1 Q Okay. In any event, you make the assertion that
2 you were going to go out and do it, and your
3 recollection is that you didn't?

4 A Right.

10:40 5 Q For the reasons that you stated?

6 A Right.

7 Q Okay. And the, just for the record with respect
8 to that particular, those particular comments, and
9 they related to Fisher, to both Deborah Hall and
10 Linda Fisher as I understand, in other words you
11 are telling Joyce Milgaard that you are going to
12 go out and interview them and take statements from
13 both of them as to their treatment at Mr.
14 Williams' hands?

10:41 15 A Right.

16 Q And you didn't do it with either of them?

17 A Right.

18 Q Okay. Okay. Thank you. I wonder if this might
19 be an appropriate time to take the recess, Mr.
10:41 20 Commissioner? Thank you.

21 (Adjourned at 10:41 a.m.)

22 (Reconvened at 11:01 a.m.)

23 MR. FRAYER: Mr. Commissioner, it's my
24 intention to have the tape played of the
11:02 25 interview of Linda Fisher that's document 326510.



1 The transcript of that interview is doc. ID
2 016327. I'm advised that it is approximately an
3 hour in duration, which will take us to the noon
4 break. I'm told, too, that at the end of the
5 tape there's about 30 seconds missing, and it's
6 just "thank you, thank you," so to speak, so
7 you'll be able to see that in the transcript but
8 you won't hear it as part of the interview
9 record, but nothing really turns on that at all,
10 so just for your information.

11 COMMISSIONER MacCALLUM: Thank you.

12 MR. FRAYER: Return to counsel seat if I
13 may?

14 COMMISSIONER MacCALLUM: Yes, please.

15 MR. FRAYER: Thank you.

16 **(TAPE OF SWORN STATEMENT OF LINDA FISHER)**

17 COURT REPORTER: March 24, '90.

18 BY MR. WILLIAMS:

19 Q Miss Fisher, I'd like to thank you for coming here
20 today to answer some questions in relation to an
21 inquiry that I am part of, and it concerns an
22 Application under Section 690 of the Criminal
23 Code. It's an application to the Minister of
24 Justice brought on behalf of Mr. David Milgaard.
25 I understand that you may have some information,



1 some evidence to give in relation to that, is that
2 correct?

3 A Yes.

4 Q I understand that you currently reside at Cando,
5 Saskatchewan, is that correct?

6 A Yes.

7 Q And that you were formerly the wife of Larry Earl
8 Fisher?

9 A Yes.

10 Q I understand you were married in North Battleford
11 on December 16th, 1967, is that correct?

12 A Yes.

13 Q And shortly after your marriage you moved to
14 Saskatoon to Avenue F South?

15 A Yes.

16 Q Is that right? Were there any children of your
17 marriage to Mr. Fisher?

18 A Yes.

19 Q And how many?

20 A One.

21 Q And who was that?

22 A Tammy Deanne Fisher.

23 Q And I understand she was born in 1968 on April the
24 25th, is that correct?

25 A Yes.



1 Q Now from your residence on Avenue F South, I
2 understood that you moved to several locations,
3 and by January of 1969 you were living at the
4 Cadrain's residence in Saskatoon, is that correct?

5 A Yes.

6 Q Would you dispute my suggestion to you that the
7 Cadrain's lived at 334 Avenue O South?

8 A I'm not absolutely positive.

9 Q I understood that the Cadrain's lived at the last
10 house on Avenue O South at the corner of Avenue O
11 South and another street, is that correct?

12 A Yes, it was on the 300 block.

13 Q 300 block. And when you were living at the
14 Cadrain's', was Tammy with you?

15 A Yes.

16 Q And how old was she at that time?

17 A She was a baby. She just turned a year while we
18 were living there.

19 Q At the Cadrain's'?

20 A Yeah.

21 Q How long did you live at the Cadrain's'?

22 A I'm not positive. We moved there about four
23 months before Tammy turned a year old and we were
24 in there in the wintertime.

25 Q So if Tammy turned a year on April 25th, would it



1 be fair to say that you moved there in early
2 January?

3 A Either --

4 Q Or late December?

5 A No, I thought we moved -- I thought we moved
6 before that.

7 Q Okay?

8 A We either moved in the fall or the summer. I
9 don't know. I don't think it was winter when we
10 moved.

11 Q Okay. Of which year? 1968?

12 A That would be '68.

13 Q And when did you move out?

14 A We moved out after Tammy turned a year old, and
15 that would be in '69.

16 Q Do you recall when in '69?

17 A No.

18 Q Where did you move to?

19 A I think we moved to Avenue D 1800 block North.

20 Q And how far away from the Cadrain residence was
21 that?

22 A About two miles.

23 Q If I can turn your attention to a little bit
24 later. I understand that you were divorced from
25 Larry, is that correct?



1 A Yes.

2 Q And when was that?

3 A In '78.

4 Q And between 1967 and 1978 you resided as husband
5 and wife while he was in the home?

6 A No. Larry was arrested in 1970, and after that I
7 never lived with Larry.

8 Q Okay. If I can turn your attention to the time
9 that you were living at the Cadrain's, was Larry
10 employed?

11 A Yes.

12 Q Where?

13 A Masonry construction. I called it Jones
14 Construction so --

15 Q What did he do there?

16 A He was a labourer.

17 Q And in January of 1969, do you know where he was
18 working with Jones Construction?

19 A I'm not positive. I think it was down by the
20 university somewhere.

21 Q How did he get to work?

22 A Bus.

23 Q What time did he leave to go to work?

24 A About six-thirty.

25 Q And was that -- how often would he go to work?



1 A Daily.

2 Q Five days a week?

3 A M'hm.

4 Q When you say he was a labourer, did he have any
5 particular skill; for example, drywaller or did he
6 work with cement or?

7 A Oh, yeah. He was bricklayer's helper I think.

8 Q Was his work affected by the weather?

9 A Not very often, but sometimes it might have been.

10 Q And under what circumstances would it be affected
11 by the weather?

12 A Like if they were working on the outside of a
13 building it would have been affected, but if they
14 were working kind of inside, I guess it wouldn't.

15 Q Okay. And what kind of effect would the weather
16 have on him if he were working outside?

17 A Well, he might not go to work if the weather was
18 bad or -- but I think they worked pretty well all
19 -- I don't remember him staying home from work
20 because of the weather.

21 Q Okay. Now at that time you had Tammy?

22 A M'hm.

23 Q Were you working outside the home?

24 A No.

25 Q And I take it she was in January of approximately



1 nine months old?

2 A Yeah. M'hm.

3 Q I take it at that time she was sleeping through
4 the night as well?

5 A M'hm.

6 Q What time did she usually get up in the morning?

7 A Yeah, usually about -- gee, I'm not sure. Maybe
8 five or six, and then I think I was still
9 breastfeeding her when she was nine months old,
10 eight months old so --

11 Q What was the feeding schedule?

12 A I think she slept with me most of the time, so I
13 just popped a tit in and that would -- so I didn't
14 really get up, you know, to feed her so, but I'd
15 say around between five and seven she woke once.

16 Q All right?

17 A And then usually about eleven again she would wake
18 up.

19 Q Okay?

20 A And then I'd feed her the last time at midnight.

21 Q Now I understand that in 1989 you went to the
22 Saskatoon Police, is that correct?

23 A Yeah.

24 Q And you gave the Saskatoon Police a statement?

25 A Yeah.



1 Q Now could you tell me under what circumstances it
2 was that you gave that statement?

3 A There was a flier in the mail from Milgaards
4 saying that their son was innocent, and, well, we
5 had talked about that maybe Larry could have,
6 could have been responsible for the nurse before,
7 and so I thought, well, ten years after, after
8 this guy's still saying he's innocent, you know, I
9 wonder if I should go talk to them, so me and
10 Bryan were -- I was drinking at the time when I
11 gave the statement, and then we got right into it
12 and I was getting upset, so Bryan said, "You
13 should go tonight", and I said, "No". I said, "I
14 will go tomorrow". He says, "Well, you better go
15 tonight or you will never go", so -- so he took me
16 down there and we gave a statement.

17 Q The Bryan to whom you refer, is that Bryan Wright?

18 A Yes.

19 Q I take it at that time that you were living
20 together?

21 A Yes.

22 Q What time of day did you go to give the statement?

23 A It was late at night.

24 Q Late at night?

25 A Yeah.



1 Q Could have been early in the morning?

2 A Could have been, yeah. Could have been anywhere
3 between eleven and two I think. I'm not sure, you
4 know.

5 Q Okay. When you say eleven and two, am I to
6 understand 11 p.m. and 2 a.m.?

7 A Yeah. Yes.

8 Q How long before you arrived at the station had you
9 been drinking?

10 A We probably started about usually eight or nine
11 o'clock when we went out, but could have been ten.
12 I don't know.

13 Q And how much did you have to drink?

14 A Oh, I can't remember, but I know it was -- I mean
15 the alcohol was probably affecting me, because I
16 never talked about this unless I was drinking.

17 Q Were you drinking steadily from eight or nine
18 until the time of your statement?

19 A I'd say probably.

20 Q Did you stop drinking when you left to give the
21 statement?

22 A Yes.

23 Q How long did it take you to go from your residence
24 to the police station?

25 A It would be about fifteen minutes, maybe ten.



1 Q When you arrived at the police station, how long
2 -- how much time elapsed between your arrival at
3 the station and when you gave the statement?

4 A Not much more than a half hour.

5 Q So it's fair to say that from the time you left
6 home to the time you gave your statement, 45
7 minutes elapsed?

8 A It could be.

9 Q When you say could be, am I to understand that 45
10 minutes is a fair approximation?

11 A Yes.

12 Q Would it be as short as a half an hour?

13 A I think the shortest would have been -- be a half
14 hour.

15 Q And the longest would have been what?

16 A An hour.

17 Q So between a half an hour to an hour?

18 A M'hm.

19 Q Elapsed between the last drink and your statement?

20 A M'hm.

21 Q Do you recall your state of sobriety at the time?

22 A I wasn't -- oh, wasn't falling down drunk, but I
23 don't know. I was -- I was feeling -- I don't
24 know.

25 Q Were you feeling good?



1 A I was feeling good, but I wasn't feeling good
2 because I was upset. I don't know how to explain
3 it. I just --

4 Q Well, perhaps you can put it in terms of how many
5 drinks -- what were you drinking?

6 A I'd say I had about six beer.

7 Q You had six beer?

8 A Yeah.

9 Q Were you drinking any hard liquor with it?

10 A No, I very seldom drank hard liquor.

11 Q Were you taking any drugs?

12 A No.

13 Q Now before you gave the statement, did you review
14 the incident with anyone? Did you talk about it?

15 A Yeah. Yes, with Bryan.

16 Q And this is Bryan Wright?

17 A Yeah.

18 Q And you went over all of the details that you were
19 to give the police?

20 A I don't know if I went over all of them.

21 Q Well, you talked about it?

22 A We talked about it.

23 Q Did anyone accompany you when you gave the
24 statement to the police? Was anyone else present
25 in the room?



1 A No. Bryan didn't come in the room.

2 Q Producing and showing to you a photocopy of a
3 three-page document. It's dated August 28, 1980.
4 At the bottom right-hand corner there appears a
5 signature. I would turn your attention to the
6 third page and see whether or not you recognize
7 that photostat of a signature?

8 A Yeah, that's mine.

9 Q The second page?

10 A Looks like mine. And that is mine.

11 Q All right. I'd ask you, if you don't mind, to
12 take a minute and read the statement and tell me
13 whether or not this is the statement you gave to
14 the Saskatoon Police on that date?

15 A I don't know why I told them December 14th.

16 Q You have completed reading the statement?

17 A Yes.

18 Q Am I correct in understanding that that is the
19 statement you provided to the Saskatoon Police?

20 A Yes. The date we were married is wrong on there,
21 but I don't know how. It says the 14th and we got
22 married on the 16th.

23 Q Okay. All right. And you are referring to the
24 date on the fifth line of the statement on page
25 one where it reads December 14th, 1967?



1 A Yes.

2 Q It should be December 16th, 1967?

3 A M'hm.

4 Q Am I correct in understanding that you were born
5 on April the 20th, 1951?

6 A Yes.

7 Q And that as recited on the statement, your
8 telephone number in 1980 was 653-3312?

9 A Yes.

10 Q I draw your attention to the time 0430 hours. Be
11 fair to say that the statement began at 4:30 a.m.
12 in the morning?

13 A It probably did.

14 Q It wasn't 4:30 in the afternoon?

15 A No.

16 Q All right. Now --

17 A He said the address was 329 in there too. I don't
18 know if that's the correct address.

19 Q 329 Avenue 0 South?

20 A Yeah.

21 Q You're not certain of that?

22 A No.

23 Q And by that you are referring --

24 A To the number.

25 Q To the number on the seventh -- oh, I am sorry --



1 the eighth line on page one of the statement?

2 A Yes.

3 Q Reporter, I'd ask that the statement be marked as
4 an exhibit one?

5 A I am not sure. That could be the address.

6 **EXHIBIT 1** - Statement of Linda Fisher given
7 to Saskatoon Police.

8 Q Thank you. Is it fair to say that although you
9 had what you have told us to be six beer at the
10 time, did it affect your recollection of the
11 events?

12 A I don't think so.

13 Q Is it fair to say that when you gave the
14 statements in 1980 that the events were fresher in
15 your mind than they were today?

16 A Probably, yes.

17 Q Is that a yes?

18 A Yes.

19 Q You have read the statement. You have pointed out
20 on page one two inaccuracies. Are there any other
21 inaccuracies in the statement that you wish to
22 draw to our attention?

23 A There probably is. But I said Milgaard was coming
24 to our house, like I meant Cadrain's house. They
25 lived upstairs.



1 Q And you are referring again on page one to?

2 A I don't know if that's right here. I think it's
3 on the next page. I remember it did say "our
4 house" and I thought that was odd that I put "our
5 house". Where is it? Yeah, right here. Twelfth
6 line. Twelfth line it says, "our house".

7 Q All right. So you are referring to page one of
8 Exhibit 1 and the sentence which reads, "David
9 Milgaard was convicted of that murder and was to
10 have come to our house that morning"?

11 A That would be Cadrain's upstairs, not our
12 apartment.

13 Q I see. Anything else?

14 A Nothing that I can see that should be changed.

15 Q I draw your attention to page two. In it you
16 indicated that a knife was missing about the time
17 of the murder, is that correct?

18 A Yes.

19 Q You described the knife as approximately four
20 inches long?

21 A The blade I meant.

22 Q The blade four inches long. The handle was wooden
23 and brown-coloured?

24 A Yes.

25 Q You're certain of that?



1 A Positive.

2 Q By what means was the handle attached to the
3 blade?

4 A Rivets I think.

5 Q You say you think?

6 A I think. I am not positive it was rivets.

7 Q But when you say a brown wooden handle, there is
8 no doubt about that in your mind?

9 A Yes.

10 Q And that knife went missing?

11 A I don't know, the day before -- it wasn't very
12 long -- either the day before or that morning or
13 -- because I used it daily.

14 Q Could you describe the blade in terms of you have
15 talked -- you have mentioned that it's four inches
16 long?

17 A It was -- I don't think there was any edging on
18 it. It was just a --

19 Q Straight blade?

20 A Yeah, you know. Just kind of filed to sharp
21 instead of like a steak knife has those little
22 jags. There was no jaggeds.

23 Q No jagged edge on it?

24 A No.

25 Q Now you mentioned in your statement that you and



1 Larry had an argument?

2 A Yes.

3 Q And you had -- how long did the argument last?

4 A Oh, from the time we got up or I seen him to, I
5 don't know, could have been to dinner time even,
6 you know, just bickering and being mad, maybe not
7 talking for awhile and just, yeah, maybe it could
8 have been through the afternoon. I'm not -- I am
9 not sure how long it lasted, but I know it was
10 over -- it would have been over an hour that we
11 were arguing.

12 Q Okay. So you argued for over an hour?

13 A M'hm.

14 Q When you say you argued, you mean there was a
15 constant exchange of words for an hour?

16 A Well, maybe not constant, no. Like you know --
17 well, let's say I was upset.

18 Q Yes?

19 A Until dinner time. Now I don't know if we
20 constantly hollered at each other or if anything
21 was said or if I spent some time pouting or some
22 time crying or I don't know.

23 Q Okay. Was Larry in the house until dinner time?

24 A I'm not positive, but I think he was.

25 Q All right. How long before dinner did you say to



1 him, "You probably killed that nurse"?

2 A I don't know. It could have been maybe between
3 ten, eleven. Could have been as soon as -- I'm
4 not sure when I said it. Soon as I started
5 arguing or -- it came on the newscast. Whenever
6 it came on the newscast is when I thought of my
7 knife, and I thought of something else to accuse
8 him of. That's -- I was just accusing him of
9 everything.

10 Q All right. You'd never accused him of anything
11 like that before, had you?

12 A No.

13 Q That was quite a serious accusation, wouldn't you
14 agree?

15 A Yes, but I didn't accuse seriously. I was just
16 picking anything that came to mind.

17 Q Okay. You had no reason to suspect him at the
18 time?

19 A No. No.

20 Q So it was done out of anger?

21 A Yes.

22 Q And nothing else?

23 A M'hm.

24 Q All right. Now is it fair to say that on this
25 three-page statement, the first page details your



1 personal history with Larry and your own personal
2 history?

3 A Yes, I think so.

4 Q That the second page from the second full
5 paragraph describes an incident in which you had a
6 fight with Larry and you accused him of --

7 A Yes.

8 Q -- murdering a nurse? And the last paragraph, or
9 I am sorry, the second last paragraph on page two
10 of Exhibit 1 describes the knife, correct?

11 A Yes.

12 Q And the last paragraph on page two discusses how
13 you have spoken with other people about it?

14 A Yes. M'hm.

15 Q And the paragraph on page three tells where you
16 are presently working?

17 A Yes.

18 Q And how long you will be at that location?

19 A Yes.

20 Q And there's nothing further in the statement?

21 A No.

22 Q Okay. Now I understand that on March 10, 1990, at
23 Saskatoon, Saskatchewan, you signed a statement,
24 six handwritten pages, which was witnessed by
25 Joyce Milgaard?



1 A Yes.

2 Q Before I get to that, I want to ask in relation to
3 Exhibit 1, did you obtain or keep a copy of this
4 document Exhibit 1?

5 A No.

6 Q And between the date that you signed it and today,
7 had you seen or referred to it?

8 A No.

9 Q For any reason?

10 A No.

11 Q I would ask you to take a look at the six-page
12 document, which for ease of reference if we may
13 mark it as Exhibit 2. And drawing your attention
14 to the last page, is that your signature?

15 A Yes.

16 Q Ask you to take a few moments and review it and
17 let me know if there are any additions or
18 deletions you wish to make to it?

19 A Well, I don't think I want to change anything.
20 It's not really a note anyway so --

21 Q I'm sorry?

22 A It's not -- the times and that, you know, like I'm
23 not positive of so.

24 Q M'hm. Okay?

25 A It's normal.



1 Q If I may have a moment? I noted something that
2 the pages are not in sequential order. Would you
3 mind if I just rearrange them? Because there are
4 numbers at the bottom of each page. There's six
5 pages, but they are in the order of 1, 4, 5, 3, 2,
6 6?

7 A Excuse me. This was a separate one kind of I
8 thought.

9 Q You gave two statements, one on March 10th and one
10 on March 11th?

11 A Yeah. One was about Larry's statement.

12 Q Oh, Okay. This appears to be the first page of
13 the March 11th statement. Okay. For Exhibit 2,
14 I'm going to present to you a two-page document.
15 I see what has happened. I'd ask you to look at
16 this document. Call it 2A?

17 A That's the way it was.

18 Q This is a correct document. All right. I am in
19 the unenviable position -- producing and showing
20 you a six-page document, which I'd ask marked 2B.
21 It's dated March 10th, and ask you to look at
22 that?

23 **EXHIBIT 2A** - Two-page statement dated March
24 11.

25 **EXHIBIT 2B** - Six-page statement dated March



1 10.

2 A Now I'm not positive he took the a.m. bus even.

3 Q You are referring to something which is on what
4 page?

5 A On page two.

6 Q At what line?

7 A The first line.

8 Q Okay. When you say you're not positive, are you
9 saying he took an earlier bus?

10 A Yeah, if they ran every minutes, he could have
11 took -- he could have took an earlier one.

12 Q Okay?

13 A Because I don't know what time he had to be at
14 work even.

15 Q All right. What time did he normally leave?

16 A I thought he left at six-thirty.

17 Q And between your house and the bus stop, I take it
18 it's a short block?

19 A Yeah.

20 Q And it takes approximately two minutes to walk?

21 A Yeah. If.

22 Q If that?

23 A Yeah.

24 Q And the bus stop is at the corner of Avenue 0
25 South and 28th Street?



1 A Yeah.

2 Q Okay?

3 A Yeah.

4 Q Other than that amendment, are there any matters
5 you wish to change?

6 A No.

7 Q And the amendment is at the first line of page two
8 on what is marked Exhibit B. Now it took you ten
9 years or more before you informed police of this?

10 A M'hm. Yes.

11 Q I draw your attention to page five and to this
12 paragraph, which is second last paragraph on page
13 five. It begins, "I gave the police a one-page
14 statement". I'd ask you to read that please?

15 A Oh, yeah. Actually it was two pages and a little
16 bit.

17 Q Have you read it?

18 A M'hm.

19 Q It reads, "I gave the police a one-page statement
20 listing the reasons I could think of why I felt
21 that David Milgaard was innocent and that Larry
22 Fisher had committed the crime. Since that time,
23 I have not heard from the police concerning the
24 statement I gave them."

25 A Oh, yeah. I have heard. I talked to Mr. Pearson



1 on what day was that? I don't know what day it
2 was. About a week ago.

3 Q Well, was it before you signed this statement?

4 A Before I signed this one.

5 Q Yes?

6 A No, after.

7 Q Okay. Now the statement that you are referring to
8 on Exhibit 2B at page five, am I correct in
9 thinking that it is Exhibit 1?

10 A Yes.

11 Q Can you examine Exhibit 1 and indicate to me the
12 page of reasons or point out to me the reasons why
13 you thought that Milgaard was innocent?

14 A Because my knife was missing and Larry was home.
15 He was charged with rapes.

16 Q Okay. But is --

17 A The page you mean.

18 Q Well, yes, I just want you to identify to me those
19 portions of the statement which list the reasons
20 why you thought Milgaard was innocent?

21 A It would be on page two.

22 Q If you'd mark, just initial the start point on
23 page two?

24 A Just L-F.

25 Q Yes?



1 A To the bottom of it.

2 Q Well, to where you think you've ended it. Okay.
3 In relation to Exhibit 1, you have started with
4 the paragraph beginning, "The day of the murder or
5 the day after, I found my paring knife missing"?

6 A The day -- the day of the murder or the day after,
7 I found my -- yes.

8 Q Okay. Can you help us now as to whether it was
9 the day of the murder or the day after that you
10 found your paring knife missing?

11 A It would have had to be either the day before or
12 the same morning.

13 Q Perhaps you didn't understand my Question. What
14 is written on that paragraph, "the day of the
15 murder or the day after", leaves open two
16 possibilities?

17 A Oh.

18 Q As time has passed, are you able to tell us
19 whether it was the day of the murder or the day
20 after the murder?

21 A Oh, I must have meant the day of -- the day -- you
22 know, like I probably meant the day before or the
23 day after. Like meaning the day of the murder.

24 Q Okay?

25 A Yeah, because our argument happened on the morning



1 of the murder and I had already realized my paring
2 knife was missing. That was --

3 Q And you have said to me that the argument happened
4 on the day of the murder?

5 A Yeah.

6 Q And the reason you say that is because that is
7 when you heard the radio announcement?

8 A Yes.

9 Q Do you know whether the radio announcement was
10 reporting an event of that day or of a preceding
11 day?

12 A Well, it was for that day.

13 Q No, was the announcement reporting a death which
14 occurred that morning or the day before?

15 A It was for that morning.

16 Q Okay. Now you and Larry were not getting along?

17 A No.

18 Q And you said to him, "You probably killed a
19 nurse"?

20 A (No Audible response.) (Witness nods head.)

21 Q You missed the brown wooden-handled paring knife,
22 and that's the only reason why you accused him of
23 killing the nurse?

24 A Well --

25 Q And because you were angry?



1 A Oh, on that day.

2 Q Yeah?

3 A Oh, yes. Yeah.

4 Q You were angry?

5 A I was only mad. I never -- I never expected him
6 to have killed the nurse at all. I just was mad.

7 Q You were furious?

8 A Yeah.

9 Q You didn't know anything about the details of the
10 killing?

11 A No.

12 Q So you didn't know that a knife was involved even?

13 A I think I did know that there was -- she was
14 stabbed.

15 Q Okay. Did you know what kind of weapon?

16 A No.

17 Q And the fact that your paring knife was missing?

18 A That was why I said.

19 Q That was why you said that?

20 A Yeah.

21 Q And from that day onward, even when the trial was
22 going on, you had no reason to believe that Larry
23 had anything to do with it?

24 A No.

25 Q You saw Larry at home that morning?



1 A Yes.

2 Q You're not certain what time it was?

3 A No.

4 Q You didn't hear him come in?

5 A Well, I might have, but now I don't -- I don't

6 remember.

7 Q Okay. If I understand correctly, he went out the

8 night before?

9 A Yes.

10 Q You stayed up 'til approximately 2 a.m.?

11 A Yes.

12 Q You went to bed?

13 A M'hm.

14 Q He wasn't home when you went to bed, was he?

15 A No.

16 Q The next time you saw Larry was you say between

17 nine and ten in the morning?

18 A Yeah, the next time I realized that I seen him.

19 Like he could have came in, crawled into bed, I

20 wouldn't have known or.

21 Q Okay. So he could have come in, crawled into bed;

22 he could have gone out?

23 A Yeah.

24 Q And come back?

25 A Yes.



1 Q And you wouldn't have been the wiser?

2 A No.

3 Q Is it possible that he came in, went to work early
4 that morning, came back early from work because of
5 the weather, and that's when you encountered him?
6 Is that possible?

7 A It's possible.

8 Q Because you had brought a picture indicating that
9 he had his good clothes on when you saw him?

10 A Yes, yes.

11 Q And by his good clothes, are you referring to a
12 multi-coloured pair of jeans and a blue and yellow
13 and green top?

14 A Yes.

15 Q And he had, I take it, two sets of good clothes?

16 A Yes.

17 Q That combination?

18 A And a black combination.

19 Q And a black combination. Now essentially a jeans
20 with a long-sleeved shirt?

21 A M'hm.

22 Q Over which he wore a type of poncho?

23 A Well, no, he never wore the poncho. It was just
24 for a picture.

25 Q I see. Now I take it at that time you were just



1 starting out and Larry didn't have a lot of
2 clothes?

3 A Yes.

4 Q You did the laundry?

5 A Yes.

6 Q And you alone did the laundry?

7 A Yes.

8 Q Now you didn't notice any blood on his good
9 clothes?

10 A No.

11 Q Either set?

12 A No.

13 Q You didn't notice any blood on his work clothes?

14 A No.

15 Q Either set. And you didn't notice any clothes
16 missing?

17 A No.

18 Q Okay?

19 A But his work clothes now were different, because I
20 wouldn't have known how many he had or, you know,
21 because they were all the same. His work clothes
22 were all the same.

23 Q All right. You know, your greens or your beiges?

24 A Yeah. M'hm.

25 Q But you didn't discover any bloodstains on them?



1 A No.

2 Q At that time?

3 A No.

4 Q Or after that time?

5 A No.

6 Q All right. If I may just have a moment. We have
7 been going at it for an hour or so. Is it time
8 for another cigarette and a break?

9 A Yes.

10 (Adjourned at 3:05 PM.)

11 (Reconvened at 3:10 PM.)

12 Mr. Williams continues examining:

13 Q I'd like to draw your attention again to what is
14 marked Exhibit 2A. Earlier you had told me that
15 it was possible that Larry could have come home,
16 slept, left for work, and returned before you
17 realized it?

18 A Yes.

19 Q Because you were asleep?

20 A Yes.

21 Q You did not hear anything?

22 A Not to my knowledge.

23 Q Okay. Did you around nine o'clock or -- in the
24 apartment that you occupied, it was a basement
25 apartment, was it not?



1 A M'hm.

2 Q It was the basement apartment of the Cadrain's?

3 A Yes.

4 Q And I take it that the Cadrain's had a number of
5 children at that time?

6 A Yes, they had quite a few. About six at least.

7 Q Six. Was one of them called Albert Cadrain or
8 Shorty?

9 A Yes.

10 Q And he lived at home at that time?

11 A Yes.

12 Q And he was at home on January the 31st, 1969?

13 A I am not positive. He was living there though,
14 yes.

15 Q Could you hear when people entered or left the
16 Cadrain residence? The upstairs?

17 A I could if I was listening for it.

18 Q Okay. I take it that there was a good deal of
19 sound insulation between --

20 A Yes. M'hm.

21 Q -- the two? So that if three or four people
22 entered, you might not hear it?

23 A Yes.

24 Q And I take it that you did not hear Larry come in
25 even into your own apartment?



1 A No.

2 Q Now having regard to what you have just told me,
3 is it still fair to say that Larry did not go to
4 work that morning that you saw him in his dress
5 clothes?

6 A Well, I don't know whether he had told me he
7 didn't -- why he didn't go to work at the time,
8 but I remember giving him shit for not going, like
9 why didn't you go. And -- and I don't know what
10 excuse he gave me or -- because I figured it was
11 because of his drinking that he didn't go, so
12 that's why I --

13 Q You started giving him -- you started reprimanding
14 him at that time?

15 A Yes.

16 Q In fact, he didn't tell you that he hadn't gone to
17 work?

18 A No.

19 Q You just assumed that?

20 A Yeah.

21 Q Did he tell you at any time that he did not go to
22 work?

23 A I'm not sure.

24 Q You are not sure. Okay. So is it fair to say
25 that when you saw him there when you didn't expect



1 to see him, you assumed it?

2 A Yes.

3 Q You had no way of knowing whether he had gone and
4 come back?

5 A No.

6 Q All right. So that it's not quite correct to say
7 as far as I'm concerned he did not go to work that
8 morning, because you don't know?

9 A Yeah, I don't know.

10 Q Okay?

11 A But he either told me he didn't or that's what I'm
12 going on. I don't know, you know, like why -- why
13 I was so sure he didn't go to work, whether he
14 told me it or whether it was just seeing him, you
15 know.

16 Q All right. So you are assuming that he either
17 told you or that you assumed that he didn't?

18 A Yeah, because I seen him there.

19 Q But am I correct in thinking that you do not know
20 whether he did or did not?

21 A Yes.

22 Q Okay. I'm producing and showing to you this
23 document which is entitled, "Murder Still Under
24 Investigation", and ask you to look at that. My
25 Question is have you seen this document before?



1 A No.

2 Q It reads, "The police department are interested in
3 learning from any householder that may be missing
4 a paring knife of this description: Kitchen
5 paring knife, six inches in length, maroon handle,
6 made in Japan. Anyone having any information,
7 kindly phone 653-1330". Below that text is a
8 depiction of a paring knife. At the time that you
9 went to the police, did you know that a blade from
10 a paring knife had been found beneath the victim's
11 body?

12 A No.

13 Q Did you know that there was blood on that blade?

14 A No.

15 Q Did you know that the blade matched exactly a
16 maroon-handled -- a maroon handle?

17 A No.

18 Q Of a paring knife?

19 A No.

20 Q And did you know that or did you note in this
21 particular photo that the edge of the knife is
22 jagged at the beginning?

23 A Yes.

24 Q How does that jagged edge compare to the edge of
25 the paring knife that you reported missing?



1 A Mine was -- mine was smooth.

2 Q All right. Did you know that a brown-handled
3 paring knife held together by rivets was found in
4 Winnipeg on September 19th, 1970, at the scene of
5 a sexual assault for which Larry was convicted?

6 A No.

7 Q Okay. All right. Did you know that a paring
8 knife with a maroon handle was entered as an
9 exhibit in the trial of David Milgaard and was
10 identified as likely being the murder weapon
11 because of its location to the body?

12 A No.

13 Q Okay. Aside from the fact that Larry was at home
14 when you didn't expect him to be, and aside from
15 the fact that your paring knife was missing, and
16 aside from the fact that when you accused Larry in
17 anger of murdering the girl, he had -- he was
18 silent and turned pale, is there any other fact
19 upon which you base the conclusion that he was
20 responsible for killing that girl?

21 A No other fact.

22 Q No other fact. All right. So it's the missing
23 knife; it is the reaction to your angry
24 accusation?

25 A M'hm.



1 Q And the fact that he was home?

2 A Yes.

3 Q Nothing else?

4 A Nothing else.

5 Q Did Larry take any utensils to Winnipeg when he
6 moved?

7 A Not that I know of.

8 Q No dishes, no forks, no knives?

9 A I don't think so.

10 Q All right. I gather he was in a furnished flat
11 or?

12 A Yeah, he was staying with Ken Shoemaker.

13 Q Initially?

14 A Yeah.

15 Q But isn't it a fact that he moved two or three
16 times while in Winnipeg and they rented a house
17 together?

18 A Yeah, but I don't think he took none of our stuff.
19 Like knives, forks or anything. Like I don't
20 know.

21 Q The fact that a paring knife was found in the
22 vicinity of the victim, and the fact that such a
23 knife likely caused the wounds, does that alter
24 your views as to the importance of your missing
25 knife?



1 A This alters my views.

2 Q In what way?

3 A In that it's not my knife. If that's the murder
4 weapon, that's not my knife. Mine was a wooden
5 handle.

6 Q Okay. And in terms of attaching responsibility to
7 Larry, how does that affect? How is that affected
8 or is it affected?

9 A Well, now I have more doubts, but -- but I still
10 have my suspicions.

11 Q All right. And you have your suspicions I gather
12 because of his shocked reaction to your
13 accusation?

14 A Yes.

15 Q All right. Now this was 1969, early 1969,
16 correct?

17 A Yes.

18 Q Larry had not been in trouble with the law as far
19 as you knew up until that time, correct?

20 A Yes.

21 Q All right. You didn't know that in 1968 he had
22 committed a rape in Regina, did you?

23 A No.

24 Q You later found out that that was the case?

25 A Yes.



1 Q And, in fact, there were two counts of rape in
2 Regina, isn't that a fact?

3 A Yes.

4 Q Thinking back, is it possible that his shocked
5 reaction to the accusation reflected his
6 realization that you may have suspected him of
7 rape in Regina?

8 A It's possible.

9 Q And that might have been an explanation?

10 A M'hm. Yes.

11 Q It's fair to say that he tried to keep those
12 activities hidden from you, isn't that true?

13 A Yes.

14 Q And he went to great lengths to make sure that you
15 didn't find out what he was really up to?

16 A Yes.

17 Q So that when you came a him out of the blue
18 suggesting that, I take it that could have been
19 quite a shock to him?

20 A Yes.

21 Q Viewed in that context, have you -- do you still
22 maintain that the shocked expression on his face
23 could only have come as a result of his
24 implication in Gail Miller's death?

25 A Not only, no. Could have been from the rapes or--



1 Q So that the shock could have reflected a number of
2 other events and not necessarily any involvement
3 in Gail Miller's death; is that a fair statement?

4 A Yes. M'hm.

5 Q Now the fact that he was home, do you recall the
6 temperatures that day?

7 A Yeah, it was storming.

8 Q Storming. Could you describe the conditions
9 outside?

10 A It was cold.

11 Q In terms of temperature?

12 A They said it was 40 below.

13 Q They said it was 40 below?

14 A Yeah.

15 Q Was there a wind blowing, do you recall?

16 A I think so. I don't recall, you know. I just --

17 Q But you heard that it was windy?

18 A Yeah.

19 Q Wind and 40 below in Saskatoon is fairly cold,
20 wouldn't you agree?

21 A Yes.

22 Q It almost stops everything cold, correct?

23 A Yeah.

24 Q And particularly if you are working in
25 construction and working outside, it becomes



1 unbearable, isn't that true?

2 A Yes.

3 Q Is it possible that construction could have been
4 halted that day because of the adverse weather
5 conditions?

6 A No, because my uncle went to work that day.

7 Q Do you know whether he stayed there all day?

8 A I think so. I don't know for a fact, but I know
9 they worked that day.

10 Q All right. They went to work. Do you know how
11 long they stayed at work?

12 A No.

13 Q All right. Those are the questions I have. Is
14 there anything you wish to add?

15 A No, I just wish it could be proved one way or the
16 other.

17 Q I'm not certain I follow you?

18 A I wish Larry could either be proved innocent or
19 guilty or -- or I would know for sure.

20 Q Okay. You say that you wish he could be proved,
21 because of the missing knife?

22 A Because of -- because I think maybe it's not so
23 much the evidence I'm thinking as the -- the --
24 all his other charges and circumstances and
25 everything.



1 Q I get the impression that from the fact that you
2 still maintain a number of his letters that both
3 of you were very much in love at the beginning?

4 A Yes.

5 Q And you were starting off life together with a
6 young child and he was working, correct?

7 A Yes.

8 Q And things seemed to be going well at the start?

9 A Yes.

10 Q And then things started to go badly?

11 A Yes.

12 Q I also get the impression that there was a fair
13 bit of disappointment because things did not work
14 out well?

15 A Well, actually -- well, we didn't get along that
16 great, but I thought everything was going good.
17 You know, like normal, yeah.

18 Q I gather it came as quite a surprise and a shock
19 to you to find out that he had entered pleas of
20 guilty to rapes in Regina and also in Winnipeg?

21 A Yes.

22 Q And it came as quite a shock to you later that to
23 discover that he entered a plea to a rape in
24 Saskatoon, or I am sorry, North Battleford?

25 A Yes.



1 Q And you had never seen any behaviour from him that
2 prompted you to think that he was capable of doing
3 such an act?

4 A No.

5 Q And is it because of those convictions that you
6 have the suspicion that he may also be implicated
7 in other rapes?

8 A Yeah, and his being home that morning.

9 Q And his being home that morning?

10 A Yeah.

11 Q All right. Did you know any of the details
12 surrounding the murder of Gail Miller?

13 A Well, I read. I read the papers and I seen a
14 knife in the paper, but it didn't look like the
15 one in the letter you had. It looked like a steak
16 knife, the one in the newspaper in Saskatoon.

17 Q Okay. Perhaps I should mark this Exhibit 3. That
18 is the --

19 A This is what they consider the murder weapon at
20 Gail Miller's trial.

21 Q A weapon similar in appearance to this was entered
22 in evidence and there was testimony about that
23 weapon. Beyond that, I could not from memory go
24 into the minds of the jury and say what the
25 evidence was. My recollection is that a knife of



1 this type could have caused the wounds that killed
2 the victim?

3 **EXHIBIT 3** - Page with knife description.

4 Q That is the best answer I can give, and the most
5 honest answer I can give to your question. That
6 was a matter for the jury to determine and they
7 came to their conclusion. Is there anything else
8 that we should discuss?

9 SGT. PEARSON: No. No, I am not --

10 A How about his wallet? That was another kind of
11 suspicious thing, but he was out drinking and he
12 could have lost it.

13 Q I understood that the wallet was found on the same
14 block as yours, is that correct?

15 A Yeah.

16 Q And the fact that it was found on that block, what
17 inferences do you draw from that? How do you link
18 that up with something illegal?

19 A Well, I just thought -- well, at the time I
20 thought because he was drinking maybe, you know,
21 stumbling around, dropped it out of his pocket.

22 Q I see. How far away from your house was the
23 wallet found?

24 A I'm not sure.

25 Q But it was found in the 300 block?



1 A Yeah. Yeah.

2 Q I gather there was no money missing or anything?

3 A Well, I don't know if there was money in it or.

4 Q Or not?

5 A But his ID and stuff were.

6 Q Were there?

7 A Yeah.

8 Q So if I understand you correctly, the fact that
9 his wallet was found and he was drinking, how does
10 that link him with anything else?

11 A It doesn't. It's just those are the thoughts that
12 I have kept in mind, you know, all these years in
13 thinking about this. Yeah.

14 Q I see. Was Larry on drugs at that time?

15 A I never knew he was, but he had told me in his
16 letters that -- that he had taken acid.

17 Q Now in those letters, did he tell you what dates
18 he took acid?

19 A No.

20 Q In relation to those letters, isn't it true that
21 he took acid in the days -- the day of --

22 A Two. Two of the rapes, yeah.

23 Q And those were the 1970 rapes in Winnipeg?

24 A I'm not sure which ones they were.

25 Q But those letters were written to you while he was



1 detained in Manitoba?

2 A Yes.

3 Q Correct?

4 A Yes.

5 Q And he was detained in Manitoba pending trial of
6 the Winnipeg rapes, was he not?

7 A Yes.

8 Q And he was arrested for those rapes on September
9 19th, 1970, was he not?

10 A Yeah.

11 Q Now you mentioned that the wallet was found in the
12 300 block. How did you come to that conclusion?

13 A Well, either the kids who brought it home or
14 whoever the kids gave it to. Now I don't even
15 know who received it, whether I received it or
16 somebody else did, they had said that they found
17 it on the block by the big tree, by some tree so--

18 Q Do you know when in relation to your argument with
19 Larry that the wallet was returned?

20 A Either that afternoon or the next day. I'm not
21 sure.

22 Q You are not certain. And if I understand you
23 correctly, the kids --

24 A I assumed it was kids that found it. I'm not
25 positive who found it.



1 Q Did you receive the wallet personally from the
2 finder or from another person?

3 A I am not positive of that either.

4 Q All right. Okay. I wish to thank you very much
5 for coming down, and I ...

6 (End of Tape)

7 MR. FRAYER: Mr. Commissioner, it's now
8 shortly after, five after 12:00, adjourn until
9 1:30?

12:07 10 COMMISSIONER MacCALLUM: Yes.

11 MR. FRAYER: Thank you.

12 A I think there was one issue in the transcript I
13 pointed out to Mr. Hodson. Early in the
14 transcript I think there is a reference to a 1989
12:07 15 visit by Ms. Fisher, Mrs. Fisher to the Saskatoon
16 police, it should be 1980. It wasn't particularly
17 clear on the tape, but her visit was 1980, not
18 '89.

19 COMMISSIONER MacCALLUM: The transcription
12:07 20 was wrong or the audio was wrong?

21 A The transcription was wrong.

22 COMMISSIONER MacCALLUM: There are a number
23 of such errors.

24 MR. HODSON: Yeah, I made a note of it.
12:07 25 And it is 1980, I think is clear, is when it was.



1 COMMISSIONER MacCALLUM: Yes, thank you.

2 (Adjourned at 12:08 p.m.)

3 (Reconvened at 1:35 p.m.)

4 BY MR. FRAYER:

01:35 5 Q Mr. Asper, you've had the opportunity, as have all
6 of us, the opportunity to listen to the interview
7 of Linda Fisher made by Eugene Williams on March
8 the 24th of 1990 and we also have gone over your
9 letter of June 12th of 1990 directed to Mr.
01:35 10 Williams where, after setting out the information
11 you obtained from Deborah Hall, we went through
12 that this morning, you said we understand that
13 Linda Fisher had much the same feeling after the
14 investigators visited with her, and I want to draw
01:35 15 your attention to a conversation that took place
16 on June the 9th of 1990 and it's found at 334970
17 and this particular conversation is headed
18 conversations between Joyce Milgaard and various
19 others. It's from doc. ID 326527, side A, and
01:36 20 it's 334970, and this is a portion of a
21 conversation between yourself and Joyce Milgaard,
22 and I asked you the question this morning as to
23 when you became aware of when Joyce Milgaard was
24 taping conversations between yourself and other
01:36 25 individuals and I'm not certain you were aware



1 what time you were made aware of that fact, but on
2 June, by June the 9th, 1990 would you have been
3 aware of the fact that she was transcribing a
4 conversation with you, or recording?

01:36 5 A Oh, I can't say when I became aware. I don't
6 know.

7 Q In any event, when it was disclosed to the inquiry
8 and it became part of the inquiry record, were you
9 surprised by that?

01:36 10 A I think, to be perfectly honest, a little angry,
11 but surprised might be in there as well.

12 Q And your anger was directed at who?

13 A Mrs. Milgaard.

14 Q Now if I can take you to this conversation, more
01:37 15 specifically about the centre part of the first
16 page after some preamble:

17 "First of all, I spoke with Debbie Hall
18 on Friday...and basically wrote down
19 what she was saying, I don't have it
01:37 20 with me but, she uh, gives a very vivid
21 description of her interview with the
22 Justice investigator...who we know is
23 Williams but we're only going to refer
24 to him as the Justice investigator..."

01:37 25 And that's the conversation I was referring to



1 this morning. And why were you framing it in
2 those terms? What do you mean by that, "we're
3 only going to refer to him as the Justice
4 investigator"?

01:37 5 A I don't know.

6 Q You don't know, okay.

7 A But I think you referred this morning to that
8 letter as being to Mr. Williams.

9 Q Yes.

01:37 10 A I'm not sure it is.

11 Q The letter is directed to Eugene F. Williams and
12 it's signed by yourself and Mr. Wolch.

13 A Okay. It's odd.

14 Q And you go on:

01:38 15 "Um, she said that you know he was
16 condescending and um, uh, made her feel
17 like a lyer and she felt like dirt and
18 uh, you know, he was... Here she is
19 trying to help but he was asking her
01:38 20 questions like what was David wearing on
21 his feet, um, you know, and really, um,
22 sort of specific stupid kinds of
23 questions...and she gave me about 15
24 different variations on that scene about
01:38 25 how she felt after the interview and she



1 was very mad and whatever else."

2 And then you say:

3 "...I've got the first draft of this big
4 letter I'm sending..."

01:38 5 And I would assume by your reference to the first
6 draft of this big letter, that you are referring
7 to 010035?

8 A Probably.

9 Q Because this precedes it by just a few days, I
01:38 10 believe this is the 9th and the letter is authored
11 on the 12th.

12 A Okay.

13 Q So that would appear to be the letter, because you
14 go on:

01:39 15 "...and I'm going to put that stuff in
16 and uh, I think what I'll do is, I'll
17 try to call Linda tonight, um, but I
18 think maybe I don't have to, I'll just
19 sort of generalize, in her case, and say
01:39 20 that she felt the same way. Um, you
21 know which I think she did although she
22 wasn't as sort of vocal as Debbie about
23 how she felt."

24 And then Joyce says, Joyce Milgaard says:

01:39 25 "Oh, she was pretty vocal with Dan and



1 I."

2 And you say:

3 "Yeah, okay. Well I don't think I have
4 to specifically speak to her, yeah..."

01:39 5 So when you sort of encapsulated in your letter
6 to Mr. Williams what Linda Fisher felt about it,
7 you put it in one line, and it would be correct
8 in saying that all you were really doing was
9 generalizing, so --

01:39 10 A Correct.

11 Q So that her concern necessarily didn't match up
12 with what Deborah Hall had told you in terms of
13 the style of the interview?

14 A You may infer that. I don't recall specifically.

01:40 15 Q And if I might move on to Linda Fisher's evidence,
16 15429, which is an excerpt from the transcript of
17 her evidence --

18 COMMISSIONER MacCALLUM: What's the page
19 number, please?

01:40 20 MR. FRAYER: 15429, and it's the direct
21 examination of Linda Fisher by Mr. Hodson on
22 September the 27th, 2005, and looking at the
23 bottom of that first page:

24 "The author of this memo attributes to
02:22 25 you the words that 'Mr. Williams seemed



1 more interested in discrediting you or
2 your statement than gathering evidence
3 against Fisher.'; was that your sense of
4 the interview with Mr. Williams?"

01:40 5 And she replied --

6 A I'm sorry, whose memo was that?

7 Q Well, you know, I don't have a record of that.
8 Mr. Hodson, are you aware of what memorandum they
9 are talking about?

01:41 10 A This may be Mr. Henderson.

11 Q Yes, Mr. Henderson's interview.

12 A Okay.

13 Q And we should have, I suppose for the record, we
14 should have the doc. ID.

01:41 15 MR. HODSON: 185351.

16 MR. FRAYER: Thank you. 185351.

17 MS. McLEAN: 851.

18 MR. HODSON: Sorry, 851.

19 MR. FRAYER: Good, thank you.

01:41 20 COMMISSIONER MacCALLUM: What's that doc.
21 referred to?

22 MR. HODSON: 158851.

23 COMMISSIONER MacCALLUM: And it refers to
24 what?

01:41 25 MR. HODSON: I think this is the memorandum



1 of -- sorry, if I may. I think the question of
2 Mr. Asper was whose memo was it and I think this
3 is a memo that Mr. Henderson prepared and so
4 that's the context in which I asked Linda Fisher
01:42 5 the question.

6 BY MR. FRAYER:

7 Q Thank you, Mr. Hodson. It says:

8 "'Mr. Williams seemed more interested in
9 discrediting you or your statement than
02:22 10 gathering evidence against Fisher.'"; was
11 that your sense of the interview with
12 Mr. Williams?"

13 And to that question Linda Fisher replies:

14 "A Well I felt that he was a -- he --
02:22 15 everything was possible that Larry might
16 not have done it.

17 Q Okay. Did you think he was more
18 interested in discrediting your
19 statement than in gathering evidence
02:22 20 against Larry Fisher?

21 A Well, I don't know, I don't know about
22 that, but I know he just wanted, he
23 wanted all the possibilities.

24 Q Okay. And did you -- did you take that
02:23 25 to mean, by the nature of those



1 questions, that he was -- or what did
2 you construe from that, what meaning, if
3 any?

4 A Well I figure that he thought -- he
02:23 5 wanted -- I don't know. He wanted to
6 know every possibility."

7 And then it goes on at the bottom:

8 "Q Okay. Did you get any sense, based on
9 your interview with him, that he was in
02:23 10 -- that he was trying to discredit your
11 statement?

12 A No, not discredit."
13 She says nothing about her complaint about the
14 conduct of Mr. Williams anywhere in there you'll
01:43 15 agree?

16 A Yes.

17 Q In fact, to the contrary, she seems to suggest
18 that he wasn't out to discredit her or in any way
19 impeach what she had said?

01:43 20 A That's correct.

21 Q And at 15681, which is my examination of Linda
22 Fisher on September the 28th of 2005, 15681, and
23 question 5:

24 "Q Yes. And what was Mr. Williams' style
01:39 25 like? I know Mr. Williams to be a



1 reasonably soft-spoken person. Did he
2 conduct the interview in that manner to
3 the best of your recollection?

4 A Yes.

01:40 5 Q He did. In other words -- and you've
6 already indicated, in fairness, that you
7 weren't intimidated, you didn't feel
8 intimidated by either the fact that you
9 were being interviewed or the manner in
01:40 10 which the questions were asked?

11 A I don't think that I was."

12 So Linda Fisher herself is not suggesting in her
13 evidence anywhere that Mr. Williams' conduct
14 during the course of that investigation was
01:44 15 anything but what appeared to be normal?

16 A Well, Mr. Frayer, that's an equivocal answer.
17 That's not no, he was fine with me, it's I don't
18 think that I was. I'm not suggesting otherwise,
19 but --

01:44 20 Q But you've attributed pretty serious allegations
21 to the manner in which Mr. Williams interviewed
22 Linda Fisher.

23 A Well, if you would like to go to the interview in
24 its totality now that we know how it was
01:44 25 conducted, I do have criticisms of it, yes.



1 Q In what respect? Can you tell us?

2 A Well, let's begin with taking Mrs. Fisher to an
3 RCMP detachment in the presence of an RCMP officer
4 who is actually a trained investigator, I'm not
01:44 5 aware of what Mr. Williams' credentials are in
6 that respect, but conducting an on-the-record,
7 under oath interview under what, as I've said
8 before, what I think are just inappropriate
9 circumstances, especially in light of the
01:45 10 treatment of anybody who wasn't our witness,
11 including Mr. Caldwell and others, so it was
12 dispirit treatment of this witness, that's number
13 1.

14 Number 2, if you listen to the
01:45 15 interview and the transcript, you'll find that Mr.
16 Williams has prepared himself extensively about --
17 and making himself able to suggest alternative
18 possibilities, but yet doesn't even know that Mr.
19 Fisher had committed his crimes in Saskatoon. He
01:45 20 committed the -- Mr. Williams keeps referring to
21 the rapes in Regina over and over.

22 Q That was based on the information you provided him
23 within an earlier letter when you set out his
24 convictions.

01:45 25 A Well, I'll tell you what, Mr. Frayer, I'm sorry,



1 but I happen to believe that Mr. Williams would
2 have been far more able to get accurate
3 information than me in his position with the
4 Department of Justice versus me in a private law
01:46 5 firm.

6 Q And the information that you got actually was from
7 an RCMP source, you got an FDS printout of Larry
8 Fisher's record; am I accurate in that?

9 A That's how we began, yes.

01:46 10 Q Okay. And so --

11 A And I would suggest to you that Mr. Williams was
12 so interested in Mrs. Fisher and the possibility
13 of Mr. Fisher having been an alternate
14 perpetrator, that he did nothing, could have done
01:46 15 nothing to actually do any work in preparation for
16 the possibility that he might have been the
17 perpetrator, because if he had done that, he would
18 have known that the crimes would have been
19 committed in Saskatoon.

01:46 20 I also have a difficulty with
21 the number of times that Mr. Williams comes back
22 over and over again with Mrs. Fisher testing her,
23 the basic facts of her story, and I interpret that
24 as an attempt to try to shake her.

01:46 25 I would also suggest that the



1 offering to her of alternate possibilities is not
2 the proper role of an investigator seeking a
3 narrative from a witness. What he was doing, and
4 what occurred to me was it would be interesting to
01:47 5 compare Mr. Williams' interview with Ms. Fisher
6 with Mr. Beresh's cross-examination of her at
7 Larry Fisher's trial, that's what dawned on me
8 while I was listening to this.

9 The other point that really
01:47 10 surprised me that I didn't know about,
11 Mr. Commissioner, was when Ms. Fisher disclosed
12 that Larry Fisher's wallet had been found outside
13 their home and returned the day of the murder and
14 that took up maybe eight lines of the entire
01:47 15 interview when, at least from my perspective, Mr.
16 Frayer, I would have thought that might have been
17 something that he would have wanted to explore in
18 greater detail.

19 Q Those are your observations on the interview of
01:48 20 Linda Fisher by Mr. Williams?

21 A Yes.

22 Q Let's hear what, read what Sergeant Pearson had to
23 say, and we know that he was present for at least
24 part of the interview I believe his evidence was,
01:48 25 and it's recorded as to when he was there at the



1 beginning, I believe he left and then came back
2 partway through it. If we could look at 19119,
3 and I think this is important to point out because
4 one of the observations you made at the start was
01:48 5 the circumstances in which Linda Fisher was
6 interviewed and being interviewed at an RCMP
7 detachment, and I think the suggestion that you
8 are making, and correct me if I'm wrong, is that
9 by doing that, she would be intimidated by the
01:48 10 surroundings she was in and things of that nature?

11 A Certainly unfamiliar and out of sort of her
12 natural zone.

13 Q But in any event, your argument is that's an
14 intimidating environment?

01:49 15 A It's potentially intimidating.

16 Q Potentially intimidating environment, okay. If we
17 look at page 19119, I asked the, the question was
18 asked by Mr. Hodson at 5:

19 "Q And did you have an opportunity to
11:25 20 observe Eugene Williams and Linda Fisher
21 interact on this day?

22 A During the deposition or.

23 Q Before, during, and after the
24 deposition?

11:26 25 A Like I say, this was a -- this took



1 place at the detachment, the RCMP
2 detachment in North Battleford, which
3 is a large public building. And we
4 entered the building, a uniformed
11:26 5 female member had actually driven out
6 to Cando and picked Linda up and
7 brought her into the office, and I
8 introduced Linda to Mr. Williams, and
9 Sandy Logan was the court reporter and
11:26 10 she was on site. This is a large,
11 open office area, and there were
12 secretaries and policeman and such
13 around, they provided an office for us
14 to set up, and after everything was in
11:26 15 place, and everybody seemed to be
16 fairly jovial and open and everything
17 seemed to be going well as far as the
18 introductions were concerned, then
19 that's about the time that I departed
11:27 20 and Mr. Williams was going to conduct
21 the legal deposition."

22 It goes on:

23 "Q And you had occasion to observe Linda
24 this date, Linda Fisher?

11:27 25 A Yes.



1 Q Did you observe anything with Linda
2 Fisher that was unusual or different
3 than when you observed her in your
4 dealings with her direct?

11:27 5 A No.

6 Q Did you sense that she was in any way
7 intimidated by you on that day?

8 A By me?

9 Q Yes?

11:27 10 A No.

11 Q Did you have any sense or observe that
12 she was intimidated by the surroundings,
13 the location of where this was taking
14 place?

11:27 15 A No. This was an open, an open-office
16 police station that elementary school
17 kids go through, so there's not much
18 intimidating other than the fact it's
19 a police station, but --

11:27 20 Q Did you observe her or get any sense
21 that she might be intimidated by the
22 prospect of being interviewed by Mr.
23 Williams about this matter?

24 A I didn't get the sense that she was.
11:28 25 Maybe she was nervous about the



1 process, but I didn't get a sense that
2 she felt intimidated or frightened, --

3 Q Did you --

4 A -- not that I recall.

11:28 5 Q Did you observe or get any sense that
6 she was in any way intimidated by Eugene
7 Williams?

8 A I never got that sense at all, no."

9 And then at page 19199 (sic) at the top:

11:29 10 "Q What did you observe, and again we will
11 be hearing from Mr. Williams, but what
12 were your observations about the manner
13 in which Eugene Williams treated Linda
14 Fisher on this day?

11:29 15 A Well, like I say, Mr. Williams was
16 always very professional and -- in my
17 dealings with him, and I think he
18 conducted himself very well, to be
19 quite honest with you. I never ever
11:29 20 felt that he was intimidating anyone."

21 And then it goes on, line 14:

22 "I would dispute that Mr. Williams ever
23 intimidated Linda.

24 Q Now what -- and I appreciate that this
11:29 25 was Mr. Williams' deposition or



1 examination and we'll hear from him --
2 but what did you understand as to what
3 the purpose was of this interview; what
4 was it that Mr. Williams was trying to
11:30 5 achieve?

6 A I -- I think on, in the area of
7 responsibility he had, I believe he
8 was there to assess and confirm the
9 information that had been advanced
11:30 10 and, you know, to help him make a
11 determination that he had to
12 eventually make through his
13 department."

14 And then, and if I could just stop there, you
01:52 15 wouldn't disagree with the idea that, in
16 reviewing a 690 application, that Mr. Williams
17 should probe into evidence being relied upon by
18 the applicant? In other words if he doesn't do
19 his due diligence and do the proper interview of
01:52 20 those people that you proposed as potential
21 interviewees for him, he wouldn't be doing his
22 job?

23 A That's correct.

24 Q He wouldn't be giving good advice if he just
01:52 25 simply went with statements that you provided



1 without challenging them?

2 A I agree with that.

3 Q Okay. So that it's not surprising that he would
4 go into an environment like this and challenge a
01:53 5 witness, as he did with Linda Fisher?

6 A Umm, I guess 'challenge the witness', I guess I
7 draw a distinction between challenging a witness
8 and, in my opinion, crossing the line into
9 cross-examination, essentially, --

01:53 10 Q Will you --

11 A -- discrediting the witness. I'm sorry.

12 Q I'm sorry, I missed that?

13 A And attempting to discredit the witness.

14 Q And you've had an opportunity to hear that, that's
01:53 15 why I played the taped interview for you, and I
16 believe you are hearing it here for the first time
17 today; am I accurate in that?

18 A Yes.

19 Q Okay. And there's nothing on, at least apparent
01:53 20 on the record, that suggests that Mr. Williams had
21 an intimidating or aggressive style in either the
22 interview of Deborah Hall or Linda Fisher; would
23 you agree with me on that?

24 A I don't think, by listening to the tape, that one
01:54 25 can determine whether something is intimidating or



1 not. Intimidation is in the mind of the
2 recipient.

3 Q Okay. Nothing to suggest, in fact most of the
4 Deborah Hall interview, I can harken back to that,
01:54 5 Deborah Hall did an awful lot of talking and did
6 it in a very sort of, you know, until it got to
7 the very serious event that she talked about, in a
8 fairly jocular, narrative fashion without
9 appearing to hesitate anywhere?

01:54 10 A Yes.

11 Q In a general sense?

12 A Yes, I think that's true.

13 Q And Linda Fisher did some, much of the same thing,
14 although we have seen her and she was a shyer,
01:54 15 more reticent person than Deborah Hall was, I
16 assume.

17 A Yes, I think that's true.

18 Q And if I can just draw your attention to one last
19 portion of this transcript at 19123, line 20, in
01:54 20 the response to a question asked by -- well, I'll
21 go up to question at 12:

22 "Q Did you have any discussion with Mr.
23 Williams before, during, or after --
24 before or during the deposition, about
25 any agenda he may have had with respect



1 to his interview with Linda Fisher?

2 A What do you mean by "agenda."

3 Q I'm not sure.

4 A Well, no, --

5 Q It's more --

6 A -- I don't -- if you say that there
7 was some, you know, some sinister plan
8 or some kind of plan to change what
9 Linda had, I -- I never ever felt that
10 there was an agenda, so to speak, at
11 least it wasn't discussed with me if
12 there was. But I didn't, I didn't get
13 that sense, I honestly didn't.

14 Q And what sense did you have of what it
15 was that Eugene Williams was trying to
16 get from Linda Fisher?"

17 And his response:

18 "A Well, from my observation of sitting in,
19 he was -- appeared to be probing to
20 determine what it was that she really,
21 really had."

22 So there is a police officer's observation as to
23 the way that Mr. Williams conducted the
24 interview, probing, which I think you'll agree
01:55 25 with me was part of the responsibility he had.



1 Your question is the method by which he did it?

2 A And who he didn't do it with.

3 Q And who he did it with --

4 A Right.

01:56 5 Q -- and the circumstances of it?

6 A That's correct.

7 Q Okay.

8 A All right.

9 Q But you'll agree with me that Sergeant Pearson's
01:56 10 observations of Mr. Williams' conduct isn't
11 inappropriate, it wasn't inappropriate, based on
12 those observations?

13 A That was Sergeant Pearson's observations, yes.

14 Q Yes. And you were relying on what others had told
01:56 15 you about the way he had conducted it, you weren't
16 present?

17 A Well we were relying on people who, as I say, were
18 on the other end of the interview, and that's why
19 I say it's subjective.

01:56 20 Q And just with respect to Deborah Hall -- and I
21 might indicate that the Minister of Justice didn't
22 have standing at the time that Deborah Hall
23 testified here and therefore we weren't given, we
24 didn't have an opportunity to question her on why
01:56 25 she would come back to you and describe the



1 conduct of the interview in the terms that she
2 did -- would you accept it as a possibility that
3 she may have been distressed by the fact that for
4 the first time she told anybody, either you or
01:57 5 anybody associated with the Milgaard application
6 or anybody involved in the investigation, of the
7 words that David Milgaard used in the room during
8 the hotel re-enactment, that that might have been
9 why she said to you she was treated that way?

01:57 10 A I -- Mr. Frayer, you are suggesting that she, that
11 that's the reason why she didn't tell me what she
12 had said, in effect?

13 Q No, no, I'm suggesting to you that that's why,
14 when you had the conversation with her after the
01:57 15 interview by Eugene Williams, --

16 A Right.

17 Q -- that she made all these allegations, ultimately
18 unsupported allegations, about the conduct of Mr.
19 Williams during the course of that interview?

01:57 20 A Well you --

21 Q I'm saying that may very well have been to say
22 "well, you know, I'm embarrassed by this, I didn't
23 tell you about this the first time, Mr. Asper, in
24 the affidavit"?

01:57 25 A Except she didn't tell me.



1 Q I know she didn't. I know.

2 A She didn't tell me what she had said.

3 Q I'm saying --

4 A So the only reason she would make the allegation,
01:57 5 according to your suggestion, is essentially to
6 explain, perhaps, why she had said what she had
7 said.

8 Q Yes, and that's --

9 A But she didn't tell me what she had said.

10 Q No, I --

11 A So who's she explaining it to?

12 Q I appreciate that too.

13 A So who's she explaining it to?

14 Q And you never asked, we know that?

01:58 15 A That's correct.

16 Q And if we could move on to the last of the three
17 women, if I can put it in those terms, we've dealt
18 with Deborah Hall and Linda Fisher, now I want to
19 deal with Ute Frank.

01:58 20 And I'd like to first of all
21 go through transcript of Mrs. Milgaard's
22 examination by Mr. Hodson on May the 9th of 2006,
23 and that's found at page 29881. And near the top,
24 in response to a question, we only have part of
01:58 25 this but this is a question by Mr. Hodson related



1 to what Mrs. Milgaard may have obtained in the
2 form of copies from Mr. Tallis' file, and it goes
3 on at the bottom:

4 "Q And so, and as well Melnyk and
5 Lapchuk --

6 A Yes.

7 Q -- and Ute Frank, the motel room
8 statements?

9 A That's right.

10 Q Those three?

11 A Yes. And I think that's where we
12 discovered Ute Frank, at that point,
13 and that may have been where we
14 discovered Deborah Hall's name."

01:59 15 So it's apparent that when Joyce Milgaard or
16 Mrs. Milgaard first obtained this information
17 relating to Ute Hall (sic), that it came very
18 early on in her inquiry, and I would suggest to
19 you that the Ute Hall (sic) statement --

01:59 20 A Ute Frank.

21 Q -- sorry -- the Ute Frank statement would have
22 formed part of the materials that she gave you
23 because she said she gave you every scrap of
24 paper?

01:59 25 A Umm, I have to believe if we had that statement,



1 we would have used it.

2 Q She says you did?

3 A I don't recall that. It would be odd, in my view,
4 submitting Deborah Hall's information, that we
02:00 5 wouldn't have used Ute Frank.

6 Q Okay.

7 A Because, as I recall, the statement was pretty
8 inconsequential.

9 Q Yeah. But, in any event, it's -- according to
02:00 10 Mrs. Milgaard's evidence you had it, whether you
11 saw it or not, it may -- she said she turned over
12 every single scrap of paper, or every scrap of
13 paper, was her evidence. And she has said under
14 direct examination of Commission Counsel that the
02:00 15 Ute Frank statement was in the materials that she
16 got from Gary Young that had been obtained from
17 Mr. Tallis' file?

18 A I can't respond.

19 Q Can't respond? Okay. And if I can take you to
02:00 20 156668, and this is a letter dated October the 2nd
21 of 1989 to Mr. Carlyle-Gordge, who is then in
22 England and you're sort of bringing him up to date
23 with respect to your work on the Milgaard file,
24 you talk about Ferris in the first paragraph and
02:01 25 then you say:



02:01

02:01

02:01

02:01

02:02

1 "This coupled with the Affidavit
2 evidence of Deborah Hall has kept the
3 Department of Justice apparently busy
4 investigating for the past nine months
5 or so. In addition, I recently
6 discovered that the Department of
7 Justice was in possession of a statement
8 Ute Frank regarding the alleged
9 re-enactment of the crime in a motel
10 room in Regina. That statement
11 describes the scene in the motel room
12 and make no reference whatsoever to any
13 sort of re-enactment by David. The
14 Department of Justice claims that this
15 evidence was made available to the
16 defence at the time and I am still
17 waiting for Mr. Justice Tallis to
18 respond on that issue."

19 And that's clear that you were aware of the
20 existence of the Ute Frank statement, that it was
21 in the possession of the Department of Justice,
22 and that you were making attempts to get it from
23 Mr. Tallis?

24 A That's true.

25 Q Do you recall making any specific attempt of Mr.



1 Tallis to get that document? Did you ask him
2 specifically for the Ute Frank statement?

3 A I don't recall specifically.

4 Q Okay.

02:02 5 A But it would appear that we didn't have it.

6 Q Well, according to Mrs. Milgaard, you did. Then
7 we have the letter of August the 29th of 1989,
8 010056, this is a letter with copy to Mr. Wolch
9 directed to The Honourable Doug Lewis, and on the
02:02 10 final paragraph of the first page:

11 "Finally, Mr. Asper and Mr. Williams
12 were recently discussing the statement
13 provided to the police by Ms. Ute Frank.
14 This is a statement given by a witness
02:02 15 who was never called at the trial but
16 which refutes evidence given at trial to
17 the effect that Milgaard re-enacted the
18 killing some months afterward in a motel
19 room in Regina. One would think that
02:03 20 this statement combined with the
21 Affidavit of Deborah Hall that was filed
22 with our original application would tend
23 to seriously draw into question the
24 veracity of the evidence that was given
02:03 25 at trial. Aside from that issue,



1 however, we were unaware of the
2 existence of the statement of Ms. Frank
3 and would appreciate your forwarding it
4 along with any other information that
02:03 5 you may have in respect of this case at
6 your earliest convenience."

7 So you are told about the existence of the Ute
8 Frank statement by Mr. Williams and you make a
9 request for that statement?

02:03 10 A Yes.

11 Q And then you get your response back, 157019, which
12 is directed -- dated October 2nd, 1989:

13 "Enclosed please find a copy of Ute
14 Frank's statement. Had you the benefit
02:03 15 of reading it before you wrote the
16 Minister on August 29, 1989, you may
17 have avoided improperly characterizing
18 its contents in the last paragraph of
19 page 1 of your letter."

02:04 20 How did you react to that response from Mr.
21 Williams?

22 A Can I see the last paragraph of page 1 again?

23 Q Yes, that's 010056, page 1. Yes, the last
24 paragraph that I read out to you.

02:04 25 A Okay. So, I'm sorry, what was the question again?



1 Q The -- your reaction to Mr. Williams' letter to
2 you, which included the Ute Frank statement and
3 the suggestion to you if you'd had the benefit of
4 reading it you wouldn't have written what you
02:04 5 wrote in the last paragraph?

6 A I don't recall what my specific recollection is, I
7 can imagine what it was.

8 Q Okay. What was the relationship between you and
9 Mr. Williams at that time, because you appeared to
02:04 10 be speaking, at least?

11 A I think that by that time, as I say, I had gotten
12 the sense that Mr. Williams took a pretty dim view
13 of our application and that was -- that he was
14 intransigent in that view.

02:05 15 Q But you are still speaking to him at that time?

16 A Trying to, yes.

17 Q It appears?

18 A Trying to.

19 Q Trying to? Well, in response to the letter that
02:05 20 you sent out, you did eventually get the Ute Frank
21 statement?

22 A Sure.

23 Q And a statement that --

24 A There was plenty, I mean there was plenty of
02:05 25 correspondence.



1 Q Yeah. And a statement that would appear to have
2 been in the file that you had, although your
3 evidence is that you didn't see it, or if it was
4 there --

02:05 5 A Well my, that's not my evidence, my evidence is I
6 don't remember us having it.

7 Q That's the same as "I didn't see it" or "it wasn't
8 there", whatever?

9 A Well --

02:05 10 Q Mrs. Milgaard says you had it?

11 A Okay, and my evidence is I don't recall seeing it.

12 Q Okay. Now the next item is the public
13 pronouncement of the locating of this that
14 appeared under the Dan Lett article in the
02:06 15 *Winnipeg Free Press* on Sunday, October the 22nd of
16 1989, and this is doc. ID 220222. If we can bring
17 that up on the screen, please, and I suppose we
18 have to turn it sideways to look at it. *Statement*
19 *sparks new look at murder trial conviction*, is the
02:06 20 headline by Mr. Lett.

21 "A police statement from a
22 witness who directly refuted damning
23 testimony given at the 1969 murder trial
24 of David Milgaard has been released by
02:06 25 the federal Justice Department 20 years



1 after he was convicted."

2 And then you go on, it goes on:

3 "Milgaard's lawyer, David
4 Asper, said the statement indicates
02:06 5 there were irregularities in the trial
6 and police investigation. It may even
7 prove that two witnesses were lying to
8 protect themselves against criminal
9 charges laid just two weeks before the
02:06 10 trial, he added.

11 'All of this confirms that
12 we're on the right track, that we have
13 some serious concerns about the
14 investigation and trial,' Asper said.
02:07 15 'It also raises serious questions about
16 whether two witnesses who gave damning
17 evidence at the trial were lying.'"

18 And then it goes on, near the bottom of that
19 column:

02:07 20 "The statement, released last
21 week, contradicts testimony from two men
22 who say they saw Milgaard reenact the
23 murder in a Regina hotel room.

24 Asper said the statement was
02:07 25 taken by Saskatoon police in Jan. 1970



1 from Ute Frank, an acquaintance of
2 Milgaard, who was one of the several
3 people in the hotel room in May, 1969."

4 Now the thrust of this article seems to suggest
02:07 5 that this particular Ute Frank statement was
6 withheld by the Department of Justice for over 20
7 years, that's the way it starts out at least, and
8 that it supported the affidavit of Deborah Hall
9 and that it refuted the evidence of Melnyk and
02:08 10 Lapchuk. And if you look at the statement, I
11 would assume that Mr. Lett is making all of these
12 observations he's made I've referred you to on
13 the basis of information you gave him?

14 A Mr. Lett was actually in possession of pretty much
02:08 15 everything that we had.

16 Q But part of that would be an interview of you,
17 because you are directly --

18 A That's correct.

19 Q -- quoted in this article?

02:08 20 A That's right.

21 Q And you gave the Ute Frank statement to him?

22 A That's correct.

23 Q And --

24 A Or I might have shown it to him.

02:08 25 Q And what, if we can bring up the Ute Frank



1 statement which is 277583, I'd like you to look at
2 it. It's a little difficult to read, but it's one
3 page in length taken back in 1970, I think it's
4 January 19th of 1970.

02:08 5 A Scroll down.

6 Q If you look at it, if you can read it, can you
7 tell --

8 A Yeah. Scroll down.

9 Q -- us how that particular statement matches up
02:09 10 with the article by Mr. Lett and the assertions
11 that are made therein by you?

12 A Scroll down? Yes, okay.

13 Q Okay. Where in there, first of all the assertion
14 that:

02:09 15 "'It also raises serious questions about
16 whether two witnesses who gave damning
17 evidence at the trial were lying.'"

18 It goes on:

19 "The statement, released last
02:09 20 week, contradicts testimony from two men
21 who say they saw Milgaard reenact the
22 murder in a Regina motel room."

23 A That's correct.

24 Q Where is -- where do you find, in this particular
02:09 25 statement, the factual support for what Mr. Lett



1 says, if those words are your words and not his?

2 A Well, she was asked what happened and she doesn't
3 describe what they described.

4 Q So it's more by omission than --

02:09 5 A Yes.

6 Q -- inclusion?

7 A Yes. Much like when David and Ron Wilson and
8 Nichol John said nothing happened.

9 Q Near the bottom:

02:10 10 "I recall asking hopy if he killed that
11 nurse they were talking about & he just
12 looked at me and smiled oddly."

13 A That's correct.

14 Q Okay.

02:10 15 A I consider that to be a very significant
16 contradiction from the evidence at trial, hope you
17 do.

18 Q Well, "smiling oddly" may have meant that he did
19 it?

02:10 20 A Okay.

21 Q In any event, the assertions that are made in the
22 Dan Lett article, you'll agree with me, aren't
23 supported by the facts that are in that statement?

24 A I don't agree with you.

02:10 25 Q Okay. That's your interpretation of it?



1 A Yes.

2 Q You communicated that to Mr. Lett and he published
3 that article?

4 A Yes.

02:10 5 Q And the suggestion was made that we were hiding
6 something, that the Department of Justice was
7 hiding something for 20 years?

8 A Well, I didn't make that suggestion.

9 Q No, but Mr. Lett did?

02:10 10 A That may have been his interpretation.

11 Q And did anybody ever attempt to correct that
12 record?

13 A Not me.

14 Q Nor do I understand that you corrected any media
15 report of any sort ever issued out of any of the
16 media sources that you were using?

17 A I can't say I didn't ever correct a story, but not
18 to my recollection.

19 Q Not to your recollection? Okay. Thank you. And
02:11 20 with respect to whether, in advance of looking at
21 the effect of the Deborah Hall evidence and that
22 of Ute Frank as being beneficial to the defence of
23 David Milgaard, your evidence was although there
24 were various attempts, through correspondence and
02:11 25 through contact with Mr. Wolch through to Mr.



1 Tallis to find out file information and things of
2 that nature, that he was never directly asked
3 about Ute Frank and Deborah Hall and what
4 knowledge he had, certainly before any application
02:11 5 was ever filed?

6 A That's correct.

7 Q And maybe not after the application was filed?

8 A Oh, I think there was a time after, but certainly
9 not before.

02:12 10 Q Okay. And we know that he came to the conclusion,
11 if I can just refer to the transcript at 24508,
12 this is a direct examination of Mr. Tallis --

13 COMMISSIONER MacCALLUM: What page, please?

14 BY MR. FRAYER:

02:12 15 Q 24508, February 9th, 2006, direct examination by
16 Commission Counsel of Mr. Tallis, question at 18:

17 "Q Yeah. In your view, would Ms. Frank
18 have been a more damaging witness
19 against David Milgaard than Craig Melnyk
20 or George Lapchuk?

21 A That was certainly my conclusion."
22 That's what he said. And at page 24512, a
23 question at line 15:

24 "Q After you talked to Ute Frank, did you
25 still want to find Deborah Hall?"



1 His response, that is Mr. Tallis' response:

2 "A Frankly, I didn't see how she would be
3 of assistance because David did not have
4 the high regard for her that he had for
5 Ute Frank and I don't know now why he
6 made some comments, but this is the
7 sense that I had."

8 So we know now, in retrospect, that Mr. Tallis
9 had made a determination that, armed with the
02:13 10 statement of Ute Frank, he wasn't going to call
11 her as a witness?

12 A Yes, my recollection or my thinking is that he was
13 concerned about an animus that she had toward
14 David separate from this incident, and didn't want
02:13 15 to risk that.

16 Q And likewise with Deborah Hall, who we've heard
17 information had actually left the jurisdiction,
18 and there never was a statement taken from her
19 until the Milgaard group started doing their own
02:13 20 investigation?

21 A Correct.

22 Q Yeah. But he, he opined that if Ute Frank's
23 evidence and Deborah Hall's evidence were similar,
24 he wasn't interested in having her as a witness
02:13 25 either?



1 A That's correct.

2 Q Thank you. Just with respect to the last series
3 of questions that I have, Mr. Asper.

4 A Right on.

02:14 5 Q And those relate to a cross, an examination or
6 cross-examination of Mrs. Milgaard by Ms. Knox
7 done on June the 13th of 2006, and if I can take
8 you to 33284 this question was asked at line 9:

9 "Q And you knew that in one of those
10 statements, one of those witnesses said
11 that Debbie Hall was no longer in
12 Regina, that she had run away and she
13 was either in, I think they said
14 Vancouver or Toronto?"

02:14 15 And Mrs. Milgaard's response:

16 "A And that's why when we got Debbie Hall
17 and interviewed her, I was so excited
18 about it, and, I mean, if I hadn't
19 believed what Debbie Hall was saying, we
20 would never -- and if Mr. Asper hadn't
21 believed it and Mr. Wolch, we would
22 never have submitted it with our
23 application. When I look back now and
24 see how we relied on that piece of paper
25 and the Ferris piece of paper to free my



1 son at that time and how it literally
2 backfired on us, if I had known now,
3 know what I know now, we would never
4 have submitted it in the first place."

02:15 5 And she went on at page 33286:

6 "Q Mr. Young's advice to you was that you
7 should read the transcript, your advice
8 to Mr. Asper and Mr. Wolch was that they
9 should read the transcript. In black
10 and white in that transcript in your
11 hands from January, 1981 forward was
12 that information; was it not?"

13 And Mrs. Milgaard's response:

14 "A Yes, and obviously we all missed it or
15 we wouldn't have submitted Debbie Hall
16 and been embarrassed at the end of it by
17 having submitted her."

18 A I'm sorry, I'm -- is that in reference to
19 something? I'm missing what this is referring to?

02:15 20 Q I'm sorry?

21 A Are -- I'm sorry, I'm not being smart here, --

22 Q Yeah?

23 A -- I'm just asking is this referring to something
24 specific, these questions?

02:16 25 Q Yeah, these questions are --



1 A Yeah, like what is "it", "we all missed it", at
2 line 4 on the page, "we all missed it", I don't
3 know what "it" is?

4 Q Sorry, what page are you we referring to?

02:16 5 A At page 33287 at line 4 Mrs. Milgaard answers:

6 "Yes, and obviously we all missed it

7 "...",

8 and I don't know what "it" is?

9 Q And I can't answer that question either. But it
02:16 10 would appear that she has characterized the, at
11 least in her words under her examination by Ms.
12 Knox, she has characterized the two main bases
13 upon which the first application was filed, and
14 bearing in mind that you said that that wasn't the
02:16 15 only information that was communicated to the
16 minister, that she talks about it literally
17 backfiring on us and embarrassing her. Do you
18 share that view?

19 A No.

02:16 20 Q And why do you say that?

21 A Well, as I say, we had to get the door open. I
22 will concede that the Deborah Hall evidence, in
23 hindsight, is not particularly strong, in fact
24 it's very weak, and I can understand why you and
02:17 25 others might interpret what she said as



1 corroborative of the evidence at the trial, but we
2 had to get the door open, we had to find
3 something, and that was it.

4 Q Okay. Thank you, Mr. Asper, those are my
02:17 5 questions.

6 MR. HODSON: It's my understanding that Mr.
7 McLeod does not have questions, is that correct?

8 MR. McLEOD: That's correct, Mr. Hodson.
9 Thank you very much, I have no questions, My
02:17 10 Learned Friend has covered everything.

11 MR. HODSON: And it's also my
12 understanding, Mr. SoroChan, do you have, or -- I
13 believe he will be telling us.

14 MR. SOROCHAN: You're right. Mr.
02:18 15 Commissioner, I have no questions of Mr. Asper.

16 I repeat what I said at the
17 outset of his examination, that there has been an
18 application by the Federal Government that there
19 is no authority of this Inquiry to inquire into
02:18 20 Mr. Williams' conduct, and yet we've heard two
21 days of cross-examination trying to make Mr.
22 Williams' conduct look good, and it may be that
23 none of that cross-examination is properly before
24 you, and I reserve my right to make the
02:18 25 submission that the Department of Justice



1 can't -- I think the Scottish term is "approbate
2 and reprobate", "suck and blow at the same time"
3 also comes to mind.

4 COMMISSIONER MacCALLUM: Is that Scottish?

02:18 5 MR. SOROCHAN: They are making a submission
6 that Mr. Williams' conduct cannot be criticized
7 and then spend two days crossing my,
8 cross-examining my client rehabilitating an area
9 that is not, according to them, properly before
02:18 10 this Inquiry, and they do so in a context where
11 they have selectively held back relevant
12 documents from the Inquiry. So I'm just putting
13 the Department of Justice on notice that, at the
14 appropriate time, I may submit that this
02:19 15 cross-examination in these areas, which on their
16 own submissions are irrelevant, is not properly
17 before you.

18 MR. HODSON: Okay. If I might just
19 comment, I don't wish to engage in a debate of an
02:19 20 issue that's not presently before you, the
21 application by the -- the only application by the
22 federal minister before this Commission was
23 simply to limit questions of its two witnesses
24 with respect to advice given or received. That's
02:19 25 the only matter you dealt with. The federal



1 minister has not applied to this Commission, nor
2 taken any position, about the conduct and
3 findings with respect to conduct of federal
4 officials. That may well be a matter that is
02:19 5 dealt with, but that was not an issue that was
6 raised before the Commissioner, and I don't
7 believe, certainly before the Commission,
8 although the application before Chief Justice
9 Laing touched on various matters, the issue of
02:19 10 conduct was not one that was addressed by the
11 Commissioner.

12 MR. SOROCHAN: Mr. Hodson advised Chief
13 Justice Laing that this Commission, subject to
14 appeal -- and I understand there's been no appeal
02:20 15 -- would be guided by the judgement of the Court.
16 The judgement of the Court clearly states that
17 the conduct of a federal employee may not be
18 inquired into by this Inquiry.

19 MR. HODSON: The rest of the sentence says
02:20 20 "subject to a provincial commission of inquiry
21 having a valid provincial purpose". I think is
22 what's in there. And again, Mr. Sorochan, I'm
23 simply stating that you put on the record this
24 issue of conduct, and I simply -- this issue can
02:20 25 be dealt with appropriately. It's an issue that



1 relates to the Federal Minister and to Mr.
2 Williams, and I'm not trying to preclude you or
3 anybody from raising it, I'm simply saying that
4 it was not -- you started by saying that the
02:20 5 Federal Minister had an application to the
6 Commission to limit us in making findings about
7 Mr. Williams' conduct, I'd ask Mr. Frayer to say
8 whether or not they have done that, I don't
9 believe they have.

02:21 10 MR. SOROCHAN: Well, Mr. Frayer wasn't
11 speaking for the federal minister at the judicial
12 review and there has been inconsistent statements
13 between the two counsel. I don't think it's
14 necessary for me to preserve the rights of my
02:21 15 client to do anything more than I said and that
16 is that at the appropriate time it would maybe be
17 my submission that none of this cross-examination
18 is of any relation to this inquiry.

19 COMMISSIONER MacCALLUM: Well, you can say
02:21 20 that. Thank you for your remark. I'm not going
21 to be led into any comment upon what the judgment
22 of Chief Justice Laing meant, whether his
23 references to conduct were ratio or obiter. I
24 just note for the purposes of testimony this
02:21 25 morning and the objection which has been voiced



1 that Mr. Frayer prefaced his remarks by saying he
2 wasn't going to ask the witness about conduct, he
3 was going to ask him about events. Now, there
4 may be a fine line between actions and conduct,
02:22 5 events and conduct, it's not for me to say at
6 this moment, I will do so if necessary when the
7 matter comes up in the context of further
8 evidence, and of course, Mr. Sorochan, I
9 recognize your right to make further
02:22 10 representations as you deem advisable.

11 Thanks, Mr. Asper. Is that
12 all?

13 MR. HODSON: Yes, it is. If I may thank
14 you, Mr. Asper, and your counsel for your
02:22 15 cooperation in testifying before this Commission.
16 A Thank you, and good luck.

17 COMMISSIONER MacCALLUM: Thank you, Mr.
18 Asper.

19 MR. SOROCHAN: Mr. Commissioner, I wonder
02:22 20 if I might be excused? I'm trying to catch a
21 plane back to Vancouver.

22 COMMISSIONER MacCALLUM: Well, perhaps you
23 can wait until after the break, Mr. Sorochan, and
24 I'll think about it, I'll reserve.

02:22 25 MR. HODSON: Mr. Sawatsky is ready to go,



1 but maybe if we take our break now and we'll get
2 him ready.

3 COMMISSIONER MacCALLUM: All right.

4 MR. HODSON: Thanks.

02:23 5 (Adjourned at 2:23 p.m.)

6 (Reconvened at 2:44 p.m.)

7 **MURRAY SAWATSKY, continued:**

8 BY MR. HODSON:

9 Q Welcome back, Mr. Sawatsky.

02:44 10 A Thank you.

11 Q I think, Mr. Commissioner, Mr. Sawatsky is still
12 under oath. I think we can just --

13 COMMISSIONER MacCALLUM: Yes.

14 BY MR. HODSON:

02:44 15 Q -- continue on. If we could call up 023167, which
16 is the RCMP report, and I'll just try and
17 re-acquaint us all with where we left off and what
18 we were doing.

19 Back in June we were going
02:44 20 through the investigation report and having you
21 provide us with certain highlights and where we
22 ended up I think is on the allegations with
23 respect to the Saskatoon City Police. Maybe if we
24 could just start and go back to page 023169, and
02:45 25 just down at the bottom, we were going through the



1 investigation, the RCMP investigation of what the
2 Saskatoon City Police did, and I think we had
3 finished going through the allegation -- or A, B
4 and C, those points, and where I intend to go --
02:45 5 if we can go to the next page -- is I will have
6 you then finish up with the police, we'll go
7 through your investigation of the criminal
8 allegations against Mr. Caldwell, the allegations
9 and the investigation relating to Mr. Kujawa, the
02:45 10 physical/forensic evidence, and then David
11 Milgaard, Larry Fisher, and then I think if we can
12 go to page 023195, and we had touched on this back
13 in June, Mr. Sawatsky and Mr. Commissioner, but
14 just to re-acquaint ourselves with the format of
02:46 15 the report. I think at the start of the report,
16 Mr. Sawatsky, you told us that you outlined all of
17 the allegations and issues that were part of your
18 investigation; is that correct?

19 A That's correct.

02:46 20 Q And you'll see the Saskatoon City Police issues
21 are identified there, one to -- the next page
22 over, I think one to -- the next page -- one to
23 15, and then we have Mr. Caldwell's issues,
24 etcetera, so I'll refer back to those from time to
02:46 25 time. And then if we can go to 023214 and we had



1 gone through -- if you can just call out the top
2 part -- we had had you cover those items under B
3 and C and I think we had just finished up -- if we
4 can just scroll down -- the Linda Fisher
02:47 5 statement, we had gone through those issues. So
6 we'll now go into the allegation D which is
7 *Witnesses Intimidated/Told What To Say*, and I
8 think in this area, correct me if I'm wrong, you
9 looked at three different issues relating to that
02:47 10 allegation, that the police committed criminal
11 wrongdoing by intimidating witnesses and telling
12 them what to say or having them fabricate
13 evidence. Issue one was intense pressure, D.2 was
14 the interaction with the witnesses and the conduct
02:47 15 of the police; is that correct?

16 A That's correct.

17 Q And issue three is the investigative summary which
18 we have been calling the Mackie summary, and the
19 allegation that the Mackie summary was a document
02:47 20 that was part of a criminal wrongdoing in that the
21 police used it as a script to tell the witnesses
22 to give false evidence; is that correct?

23 A That's correct.

24 Q And so then if we can go to 023229, and here is
02:48 25 where we left off, so we'll deal with this



1 allegation, and would it be correct to say that
2 the focus of this allegation would be to look at
3 the interaction between witnesses and the
4 Saskatoon City Police primarily back in the
02:48 5 original investigation?

6 A That's correct.

7 Q And it would be a case of looking at whether the
8 conduct of the police at that time in their
9 dealings with witnesses gave rise to a basis for
02:48 10 criminal charges; is that correct?

11 A That's correct.

12 Q And I think you told us back in June that in
13 addition to looking at conduct for the basis of
14 criminal charges, you also looked at conduct
02:48 15 generally; in other words, your report made
16 conclusions as investigating officers as to what
17 you found?

18 A That's correct.

19 Q And so although conduct may fall short of the
02:49 20 basis for a criminal charge, I think you told us
21 that you would still make findings as to whether
22 it was proper police conduct or misconduct or
23 something short of the criminal standard; is that
24 correct?

02:49 25 A That's correct.



1 Q And I think here the key focus, and correct me if
2 I'm wrong, in this area, would be looking at
3 Cadrain, Wilson and John as being the key people,
4 that was the primary focus of the allegation, it
02:49 5 was that these three people were intimidated and
6 told to give false evidence; is that correct?

7 A That's correct.

8 Q If we can go to the next page. Can you tell us
9 just generally what would be, as an investigator
02:49 10 when you are investigating the allegation that --
11 and let's focus on these three witnesses -- that
12 the police made them lie basically and took -- how
13 do you investigate that to determine whether or
14 not that allegation is warranted?

02:50 15 A I think the initial approach would be to try and
16 sit down with them and find out exactly what they
17 could recall from what evidence they provided; in
18 other words, what their statement was at the time,
19 and then to try and determine if there were places
02:50 20 there where there was inconsistencies that you
21 could perhaps ask about and simply to ask them
22 straight out whether they felt intimidated, were
23 intimidated, were told what to say or were led in
24 any way.

02:50 25 Q Okay. So one focus then would be to talk to the



1 witnesses themselves and ask them how did the
2 police treat you, did the police coerce you, did
3 the police tell you what to say and make you lie;
4 in other words, get their version of events?

02:50 5 A Correct.

6 Q And obviously if a witness said I lied and the
7 police made me lie and here's how they did so and
8 was credible, that would be some evidence to
9 support that allegation?

02:50 10 A That's correct.

11 Q Similarly, if a witness said no, the police
12 treated me fine, they didn't make me lie, I told
13 the truth or I lied for different purposes, again,
14 that would be the counter argument; is that right?

02:51 15 A That's correct, and I think part of our approach
16 here also was to try and get a full statement as
17 to what they recalled to compare that with what
18 they said in other statements, and if there was
19 inconsistencies, to explore perhaps why, because
02:51 20 they may not be forthright in saying that they
21 were mistreated and you may have to look at other
22 ways of trying to determine that.

23 Q And so again, and I'll come back to that in a
24 moment, but you've talked to the witnesses. I
02:51 25 take it, did you also talk to the police officers



1 as well to get their version of events of the
2 interviews?

3 A Yes, we did.

4 Q Now, would you expect the police to come forward
02:51 5 and say yes, we made them lie, was that something
6 that you would expect? Let me back up. If an
7 officer had done that, had gone out criminally and
8 deliberately took steps to have a witness give
9 false evidence, did you expect that you would get
02:51 10 an officer to acknowledge that?

11 A I don't think there would be an immediate
12 admission, I think it would take probably some
13 investigative work and some interview techniques
14 before you may get to that point where an
02:52 15 admission was made.

16 Q So were you prepared to simply accept the word of
17 the officer that I did not do that, was that
18 sufficient for your investigation?

19 A No, it was not.

02:52 20 Q And so would you then take steps to try and find
21 out whether a denial by the officer was credible
22 then?

23 A Yes.

24 Q So apart from talking to the interviewers and the
02:52 25 interviewees, if I can put it that way, or the



1 investigators and the investigates, I think you
2 also talked about looking at the statements, and I
3 think, maybe just explain, what steps would you
4 take to look at what the witnesses said back then
02:52 5 and later and how would that assist you in
6 investigating whether or not they were intimidated
7 and made to lie?

8 A Well, I think it could be that if you asked them
9 to provide you with a statement now and that
02:52 10 statement differed considerably, you would want to
11 explore with them why the statement had changed
12 and it could be that one of the reasons was that
13 they were intimidated and are now telling you the
14 truth. It could be that they have forgotten, it
02:53 15 could be any number of reasons, but I think that
16 would give you some indication, at least a place
17 to start to look at whether or not the witness was
18 trying to hide something from you or wasn't being,
19 you know, totally truthful.

02:53 20 Q And I think in this case with Wilson, Cadrain and
21 John, the essential allegation was that initially
22 their information to the police was nothing
23 happened or it was non-incriminating, and then
24 statements later on ended up being incriminating
02:53 25 or more incriminating, I think subject maybe to



1 Mr. Cadrain, and we'll deal with him more
2 specifically, but that was the general thrust of
3 the allegation; is that correct?

4 A That's correct.

02:53 5 Q And so in that case, if you compared what was said
6 to the police initially before any contact with
7 the police versus what they told the police later
8 and you found a change in evidence, I guess that
9 would be significant; is that right? If they told
02:53 10 the police nothing happened and they later told
11 the police something did happen, that would --
12 would that cause you concern?

13 A Yes, that is significant.

14 Q And then if you -- I take it one step would be to
02:54 15 check the truth of what they said later then; is
16 that right?

17 A That's right, you try, through independent means
18 or other means, to try and determine whether the
19 first statement where they said nothing happened
02:54 20 is true or whether the statement where they
21 eventually gave some information, whether those
22 portions were true.

23 Q And so that after interaction with the police, if
24 a witness gives new information that turns out to
02:54 25 be corroborated by known facts, what does that



1 tell you?

2 A Well, to me that would indicate that I could place
3 more reliability on that statement than on the
4 initial one where they had said nothing happened.

02:54 5 Q And I think you told us back in June that in your
6 experience it was not uncommon for witnesses not
7 to tell everything on the first interview; is that
8 right?

9 A That's correct.

02:54 10 Q And so tell us how that fit in in your look at
11 this situation, where the allegation was Wilson,
12 John, Cadrain say nothing happened at the start
13 and then later give more incriminating
14 information?

02:55 15 A Well, I think it's important here to distinguish
16 between witnesses who are simply someone who
17 observed and are uninvolved or not related to the
18 person who you are investigating because that
19 person you would think would be more forthright,
02:55 20 but someone who is perhaps on the fringes of the
21 crime or may have been part of the crime but
22 simply didn't have a larger part in it, it's very
23 common for those types of witnesses to deny
24 anything happened in the first instance.

02:55 25 Q Okay.



1 A I'm sorry, I'm not sure if I answered your
2 question.

3 Q Let me just -- I'll come back to that. Just on
4 the point of a situation, and let's deal with Ron
02:55 5 Wilson, and I think we've heard a fair bit of
6 evidence about what he said initially and what he
7 said in his statements later, and I think, let's
8 take the issue, or his first statement, there's a
9 couple of points in there, he did not say anything
02:56 10 in his March 3rd statement about stopping a woman
11 for directions and he did not say anything in his
12 first statement about them being stuck after
13 stopping the woman for directions and he and David
14 Milgaard leaving the car, that was not in his
02:56 15 first statement. It ended up being in his May
16 statement, okay, and again, I think there was
17 evidence, at least from Mr. Tallis, that would
18 tend to corroborate both of those in the sense
19 that Mr. Tallis says that's what Mr. Milgaard told
02:56 20 him happened; right? You understand that to be
21 the case?

22 A Yes, that's the case.

23 Q So in other words, let's just focus on those two
24 items, and I take it if you just look at those two
02:56 25 items, the fact that Mr. Wilson did not tell the



1 police initially that they stopped a woman for
2 directions and then later got stuck and David left
3 the car for a time period and then later told the
4 police that and you investigated and determined
02:57 5 that to be true, what if anything would that tell
6 you about whether there was any improper police
7 conduct in getting that information out?

8 A Well, certainly when it's supported, you know, by
9 statements made by an accused to his counsel, it
02:57 10 certainly, to me, I placed a lot of importance on
11 that as being factual. To me it would indicate
12 that there was no, nothing that would support the
13 fact that they had been coerced or told what to
14 say.

02:57 15 Q And so when the changed statement, if I can call
16 it that, turns out to be true or corroborated by
17 other known facts, is it your evidence, sir, that
18 that would tend to suggest that there was not, not
19 coercion or intimidation of the witness?

02:57 20 A That's exactly what it would suggest.

21 Q Or if there was, it worked in getting the truth?

22 A Yes.

23 Q And again, is that, I take it as well, an issue in
24 looking at that, that in some cases witnesses may
02:57 25 complain about treatment by the police that ended



1 up in the witnesses giving the truth; is that
2 fair?

3 A That's fair.

4 Q Okay. Now let's take that example and let's add a
02:58 5 couple more with Ron Wilson and add the later
6 allegations where he said David Milgaard admitted
7 to him stabbing a girl in the back alley and
8 seeing blood, which he then later recanted on and
9 said those weren't true. How do you -- how do you
02:58 10 then test those where some of the later statements
11 that a witness gives end up being corroborated by
12 known facts and others don't, how do you as an
13 investigator deal with that issue?

14 A I think in that particular case I placed sort of
02:58 15 less weight on those two comments because we were
16 sort of, had more difficulty corroborating those
17 two independent means, but certainly other
18 elements of the statement which we were able to
19 corroborate through other means, certainly we
02:58 20 placed more weight on those.

21 Q And I think is it fair to say, Mr. Sawatsky, that
22 the primary focus of this allegation that you were
23 investigating was that the police committed
24 criminal wrongdoing and got witnesses to fabricate
02:59 25 evidence?



1 A That's correct.

2 Q As opposed to the police taking intimidating steps
3 to get the truth, it was, the key part of it was
4 they made witnesses lie?

02:59 5 A Exactly.

6 Q And they knew they were lying and it was
7 deliberate conduct; was that your understanding of
8 the allegation?

9 A Yes.

02:59 10 Q If we can then just go down to a couple of the
11 subheadings, I think the first point, you look at
12 that and you break it down, the first one is the
13 intense pressure and you say here:

14 "Nonetheless..."

02:59 15 They,

16 "...report no unusual public pressure to
17 solve the 1968/69 sexual assaults or the
18 Miller murder. This is not to say their
19 wasn't pressure on the police. Those
02:59 20 involved indicate they were very
21 concerned about the gruesome
22 circumstances surrounding the Miller
23 murder and this created a degree of
24 internal pressure to solve the case."

03:00 25 Can you elaborate and comment on that?



1 A Yeah, and I'm not surprised by that, because quite
2 often the pressure that the police are under is
3 pressure that they put themselves under to try and
4 solve a serious case, so for them to say that they
03:00 5 felt some internal pressure and wanted to solve
6 this case, I wasn't surprised by that, but
7 certainly it indicates that there was no, it
8 doesn't appear that there was pressure from the
9 police board or the chair, chair of the police
03:00 10 board or the mayor or the public which would
11 influence them to try and find an innocent person
12 to hang this on, so to speak.

13 Q And I think, was that not one of the bases of the
14 allegation, that the police were under this
03:00 15 pressure, they needed to find somebody to be
16 convicted, whether or not that person had
17 committed the crime, that was the allegation, and
18 that David Milgaard fit, so they made the case fit
19 him even though they knew he didn't do it because
03:00 20 they had to get somebody because of public
21 pressure, that was the basis of the complaint or
22 the allegation?

23 A Yes, that was the basis of it.

24 Q And in your investigation, sir, did you find any
03:01 25 evidence that would support that allegation in any



1 respect?

2 A No.

3 Q And again, in your experience as a police officer,
4 you talked about it a moment ago, was that
03:01 5 something that, in a murder -- rape/murder of this
6 magnitude, is that something again that -- was
7 there anything unusual in the Gail Miller
8 investigation that you would not see in any other
9 rape/murder investigation?

03:01 10 A No.

11 Q Next, scroll down, the issue here is whether
12 witnesses were intimidated and told what to say,
13 and you say here you divide them into two
14 categories, the first being the cooperative
03:01 15 citizens and the second being the suspects and for
16 various reasons were uncooperative, and would that
17 be the traveling companions and friends of Mr.
18 Milgaard that would be in that latter category?

19 A Yes.

03:01 20 Q And I think you then say the first category of
21 witnesses had no criticism of the police, and
22 without going into great detail, these would be
23 the Danchuks, the Rasmussens, the other witnesses
24 who were not involved or associated with Mr.
03:02 25 Milgaard and his friends, the -- I guess if you



1 can say, disinterested bystanders, those witnesses
2 you put in one group and checked them; is that
3 correct?

4 A That's correct.

03:02 5 Q And I think according to this, you didn't find
6 anything that suggested that the police did
7 anything wrong in their dealings with those
8 witnesses?

9 A No, we did not.

03:02 10 Q And here you say the second category, and really
11 that's I think Wilson, John, Cadrain, these
12 witnesses are the focus of Wolch's allegations; is
13 that correct?

14 A That's correct.

03:02 15 Q And if we can go to the next page, and we'll go
16 through Mr. Cadrain first, we've heard and been
17 through I think everything that's put forward in
18 this report, Mr. Sawatsky, so I'll just briefly go
19 through it so we know what, so we have some
03:02 20 context, but I think the first part here in your
21 report you summarize, and I take it that's from
22 the documents and interviews, sort of what
23 happened, Mr. Cadrain's interaction with the
24 police based upon the documentary record; is that
03:03 25 right?



1 A That's right.

2 Q And just down at the bottom there's a reference to
3 the vagrancy charge in Regina. The next page, I
4 think you recite from reports that Cadrain says in
03:03 5 Regina they "...had some mention made of a
6 murder..." and if we can scroll down and reciting
7 the evidence, and then here's the allegation:

8 "Mr. Wolch claims that when initially
9 interviewed by the police, Cadrain
03:03 10 stated he had no knowledge of the Miller
11 murder and it was during subsequent
12 questioning that he implicated
13 Milgaard."

14 And I believe this initial interview was
03:03 15 reference to Mr. Cadrain's stay in the Regina
16 police cells for vagrancy; is that correct?

17 A That's correct.

18 Q Can you tell us, what did your investigation --
19 what was the significance of Mr. Cadrain's stay in
03:04 20 the Regina cells? Where did you find that that
21 fit in with respect to this allegation?

22 A It didn't appear to have any relationship to that.
23 When Albert Cadrain was picked up in Regina, it
24 was unrelated to this particular file and I think
03:04 25 a comment was made by one of the police officers



1 there that, asking him if he had any knowledge and
2 I think his response was that he didn't.

3 Q And again, just hearkening back to your experience
4 as a police officer, what -- I think the evidence,
03:04 5 or at least some of the evidence before the
6 Commission is that Mr. Cadrain was picked up on a
7 vagrancy charge there, questioned by police and
8 there was some mention made, and we don't have all
9 of the Regina police records, but some mention
03:04 10 made of a murder near your house on the day you
11 left or something like that, and again, were you
12 able to find out what, the extent to which he may
13 have been questioned about the murder in Regina?

14 A I may have to refer --

03:04 15 Q Sure.

16 A -- to my report here just to be accurate, but as I
17 recall, I don't think we were able to sort of
18 track that down, that he -- as to how much he was
19 asked about it. I can say that I know it's not
03:05 20 uncommon for police, if they are aware of a crime
21 somewhere and they encounter someone who may be
22 from that area or that city or whatever, to just
23 say to them, gee, there was a murder in Saskatoon
24 in the area where you live, do you know anything
03:05 25 about it, I wouldn't be surprised at a comment



1 like that, but I don't think we were ever able to,
2 subject to me looking at my report --

3 Q Sure.

4 A -- I don't think we were ever able to go much
03:05 5 further than that.

6 Q I'll just maybe take you through a couple parts of
7 the report and come back to this. I think here
8 you refer to the initial interview as one
9 conducted in Regina and you talk about the
03:05 10 officers, show he was arrested. There's nothing
11 in the report to indicate whether or not he was
12 questioned about a murder.

13 "Juno, a plain clothes officer, states
14 it was common practice for plain clothes
03:05 15 members to question subjects arrested
16 about unsolved crimes."

17 But they don't have any recollection. And then
18 the next page:

19 "In earlier accounts, Cadrain's
03:06 20 explanation for his denial to the Regina
21 City Police is that he was questioned
22 about a murder."

23 And then goes on to talk about his trial
24 evidence. And again, in your experience, if

03:06 25 Mr. Cadrain had been questioned as a suspect or



1 as a witness about the murder in Regina, would
2 you have expected to find records about that in
3 there?

4 A Certainly would have expected that and would have
03:06 5 expected Saskatoon police to likely have been
6 involved at some point in time in the questioning.

7 Q And again -- so I appreciate there's not records,
8 but if the Regina police had actually been
9 questioning him about the murder, were you there,
03:06 10 did you see anything, who were you with, is that
11 something that you would expect a report to be
12 prepared?

13 A Yes.

14 Q And if it on the other hand was an offhand
03:06 15 comment, you know, here's your address, do you
16 know anything about this, did you know, that type
17 of thing, I think you told us that that was common
18 practice was it?

19 A And I think it still is.

03:06 20 Q And so in that practice, would you expect then the
21 Regina police to phone Saskatoon and say lookit,
22 we picked up a guy for vacancy who lived a block
23 and a half away, but he doesn't know anything
24 about the murder?

03:07 25 A Yeah, I wouldn't expect that to happen.



1 Q And then I think the next paragraph, it says here
2 that:

3 "Cadrain was interviewed by our
4 investigators... His account of how he
03:07 5 first came to realize Milgaard could be
6 involved in the murder was unchanged
7 from what he told Detective Karst in his
8 69-03-02 statement. He reiterated the
9 point that when the Regina City Police
03:07 10 arrested him for vagrancy, they asked
11 him about a murder. He denied knowledge
12 of a murder because, at the time, he did
13 not link the circumstances surrounding
14 the visit to his house by Milgaard, John
03:07 15 and Wilson with the Miller murder, or
16 any other murder."

17 And was that an explanation that you and your
18 investigators accepted?

19 A Yes, we accepted that explanation because there
03:07 20 was nothing to sort of refute it.

21 Q And I think -- what do you have to say, Mr.
22 Sawatsky, about the suggestion, and I think
23 Mr. Tallis made it at trial and it has been made
24 many times since, that if Mr. Cadrain had evidence
03:08 25 about the murder on March 2nd, 1969, why didn't he



1 tell the Regina police in early February? In
2 other words, that what happened between early
3 February when he says to the Regina police I don't
4 know anything about the murder, to March 2nd when
03:08 5 he goes into the Saskatoon police and says I think
6 David Milgaard killed Gail Miller --

7 A Exactly, somewhere in there obviously he made the
8 connection, a connection that he didn't make
9 initially.

03:08 10 Q And did you find anything to suggest that between
11 the Regina visit and when he went into the
12 Saskatoon police on March 2nd, 1969, that any
13 police officer, whether it be from Regina,
14 Saskatoon, the RCMP, that anybody had contact with
03:08 15 Mr. Cadrain and took steps to cause him to go into
16 the Saskatoon City Police and give the statement
17 on March 2nd?

18 A No, we didn't find any evidence of that.

19 Q And so was it then your conclusion that
03:09 20 Mr. Cadrain's decision to go into the police was
21 reached by him as opposed to some influence by
22 police?

23 A Correct, except I do believe, if memory serves me
24 correct, that there was a police officer involved
03:09 25 very early on with the priest, and I apologize, I



1 forget his name, who Albert originally talked to,
2 I think they spoke with the neighbourhood police
3 officer there and then he went in. So it was
4 contact from that person.

03:09 5 Q Are you thinking of Father Murphy and the reward?

6 A I am, yes.

7 Q I believe, and I'll show you this a bit later in
8 your report, I believe that came after the
9 conviction, at least the evidence that the
03:09 10 Commission has heard is that the contact by Father
11 Murphy to Albert Cadrain was after Mr. Milgaard
12 was convicted. Does that -- or is there something
13 else?

14 A Maybe I'm incorrect here, but in my mind I'm
03:09 15 thinking that before Albert went in to talk to the
16 police, he talked -- what he believed, he spoke
17 with someone about that, and I believe it was
18 Father Murphy, and I think there was a police
19 officer involved at some point there just in
03:10 20 providing advice for Albert to go forward. I hope
21 I'm not misleading on that, My Lord, but --

22 Q Maybe -- yeah, I think when we get to that part in
23 the report, I can maybe draw that to your
24 attention.

03:10 25 A That would be helpful, thank you.



1 Q If we can just scroll down, here you are talking
2 about Mr. Cadrain's, I think, information that he
3 provided you, that:

4 "... after calling the police, Cadrain
03:10 5 indicates they attended his house,
6 handcuffed him and treated him like a
7 suspect. At the police station he says
8 he was interrogated at length by
9 Detectives Short and Karst, suggesting
03:10 10 they used a 'good cop, bad cop'
11 routine."

12 What significance did you make of this assertion
13 by Mr. Cadrain that they -- that this is how he
14 was treated when he went in with incriminating
03:10 15 information?

16 A I got a sense that the -- and this is not only
17 from what Cadrain said but also from other reports
18 that I read -- that initially that they wanted to
19 be -- I don't think they believed him at first,
03:11 20 and I think they wanted to test him to try and
21 determine whether or not what he was telling them
22 was the truth, so I think they probably used
23 fairly aggressive questioning and -- to, in order
24 to try and get the truth.

03:11 25 Q And so would this be sort of the flip side of the



1 allegation that, whereas Wilson and John say
2 nothing happened and the allegation is that the
3 police intimidated and coerced them to change
4 their story, this is where Mr. Cadrain goes in and
03:11 5 says, gives them incriminating information, and
6 then alleges that the police took steps to
7 challenge him on that?

8 A That's correct.

9 Q And how did you fit those two together, in other
03:11 10 words that -- the Cadrain situation where his
11 initial statement to the Saskatoon City Police is
12 incriminating and then is alleged to have been
13 mistreated by the police, versus the other two who
14 give exculpatory information and then deal with
03:12 15 the police?

16 A Well it's certainly a different motivation. I
17 mean they were, in both instances you were
18 motivated to try and get the truth, but when you
19 speak to a witness and question a witness fairly
03:12 20 aggressively to try and get the truth, that's
21 different than suggesting to someone that they say
22 a certain thing, and there was no evidence of
23 that. In this particular case it was more, in our
24 view reviewing this, was that they were trying to
03:12 25 get what they thought was the truth because they



1 had some doubts about what he was saying.

2 Q What, if any, effect did the Saskatoon City Police
3 treatment of Albert Cadrain, and namely the
4 doubting of his original statement, what role, if
03:12 5 any, did that play in looking at the conduct of
6 the police, your looking at the conduct of the
7 police and their dealings with Wilson and John?

8 A Well, I don't believe this would be evidence of
9 misconduct, I believe there's an expectation that
03:12 10 the police would try to get the truth.

11 Q Okay. And I guess I didn't ask that very well.
12 If the police -- if the police were going to try
13 and get the witnesses to give incriminating
14 evidence to say that David Milgaard committed the
03:13 15 crime, what did you make of the fact that Albert
16 Cadrain came in and gave incriminating evidence
17 and then told at least your investigators "they
18 tried to convince me that I was wrong", in other
19 words that -- did that fly counter to the
03:13 20 suggestion that the police were trying to get
21 witnesses to give incriminating information?

22 A Yes, it did.

23 Q And that's what I wanted you to elaborate on, how
24 did you -- how did the Cadrain situation fit in
03:13 25 with the Wilson and John situation?



1 A Well I know at some point he actually corroborated
2 some of the things that they had said when they
3 were questioned as well, so I think in the overall
4 investigation it showed that his, some of the
03:13 5 things he said were consistent with what the
6 police knew and would learn later as the
7 investigation -- as the investigation evolved.

8 Q Okay. And but would you expect, if the police
9 were out to give -- to make these three witnesses
03:13 10 give incriminating and false statements, would you
11 expect them to challenge Cadrain's incriminating
12 statement initially?

13 A Sorry, I missed your point.

14 Q Yeah.

03:14 15 A Yeah, you are right, I wouldn't expect them to
16 challenge him.

17 Q And was that something that was a factor, when you
18 looked at the police conduct generally, about
19 whether they intimidated witnesses to lie?

03:14 20 A Yes.

21 Q If we can go to the next, or actually the bottom
22 of this page, and I think this is just the part of
23 the investigation Mr. Cadrain gave his version of
24 events and his treatment by the police, and it
03:14 25 appears at the bottom -- I'm sorry, yeah, if we



1 can go, maybe go to the next page, sorry. A
2 couple points. He talks about the treatment by
3 the police, he says:

4 "Now that he is older, ... he
03:14 5 understands the police methods, but at
6 the time he thought he was being
7 persecuted."

8 And there is other support for the suggestion
9 that police were skeptical of Albert, and that
03:15 10 they thought he might be involved in the murder,
11 and that was the case; correct?

12 A Yes.

13 Q In addition to Albert you got information from
14 other sources, police officers, etcetera, that
03:15 15 confirmed they were skeptical of his original
16 allegation; is that right?

17 A That's right.

18 Q And then down at the bottom here is Mr. Karst's or
19 Detective Karst's response to Cadrain's
03:15 20 allegations about his treatment. He:

21 "... disputes Cadrain's account of his
22 interviews with Det. Short and himself.
23 Karst says that Cadrain came in to the
24 police station on his own about ten
03:15 25 times. On other occasions Karst went to



1 see him to verify details provided by
2 other witnesses ..."

3 And was there a bit of a difference, then,
4 between what Mr. Cadrain said, recalled happening
03:15 5 in his dealings with police, versus what the
6 police say happened?

7 A Well, in a general sense, no. It was more, I
8 think, more a difference in interpretation.

9 Q Okay.

03:15 10 A Umm, you know, and I think Mr. Cadrain says that
11 as he got later on in life he began to understand,
12 or understood why the police would be fairly
13 aggressive in their questioning of him.

14 Q And I think the one point that I -- that was
03:16 15 raised at least in that last paragraph, I think
16 Mr. Cadrain said, you know, the police kept coming
17 back to him, whereas Detective Karst says, "no, he
18 kept coming to us"; was that point something that
19 was of any significance to you?

03:16 20 A Not really. I don't think it shows, you know,
21 intimidation or anything like that.

22 Q And if we can go to the next page, you then go
23 through -- and, again, this is just the chronology
24 of the information you gathered -- and you talk
03:16 25 about the statement to Centurion Ministries. It



1 says :

2 "Albert Cadrain provided

3 crucial evidence that when Milgaard came
4 to his house the morning of the Miller
03:16 5 murder, he had blood on his clothing.

6 Cadrain acknowledged that when
7 interviewed by Centurion Ministries
8 investigator Paul Henderson, he told him
9 that he may not have seen blood on

03:16 10 Milgaard's clothes. This was because
11 Cadrain felt pressured by Henderson and
12 his brother Dennis who urged him to sign
13 a statement using words to the that
14 effect that he (Milgaard) '...had done
03:17 15 his time and let him go.' Cadrain

16 maintains that, in fact, he did see
17 blood and that if he told Henderson
18 otherwise it was to 'fuck him up.' "

19 Can you tell us what was the significance of this
03:17 20 information in this part of the investigation?

21 A Well I think it went to Albert's motivation where
22 he had to be encouraged to go get the reward, so
23 in other words it makes his initial statement more
24 believable.

03:17 25 And having read this, My Lord,



1 it clarifies for me my earlier statements were
2 incorrect, that I now got this in perspective.

3 Q Okay. And what about the effect, this comment
4 here about this statement that Albert gave to
03:17 5 Centurion Ministries, I think it was in June of
6 1990. What was the significance, if any, of what
7 your investigators learned about what went on
8 between Mr. Cadrain and Paul Henderson?

9 A I may have to take a moment and review that, I --

03:18 10 Q Sure. If you want to maybe just have a quick
11 read, just read this paragraph on the screen, if
12 you can just read it to yourself and then I'll
13 come back to it.

14 A (Witness reading) Yeah, if one, if one could
03:18 15 believe -- if one believed Mr. Cadrain there, and
16 I think we didn't have any reason to doubt him, it
17 appears that when he was questioned by Mr.
18 Henderson he was put under a lot of pressure and
19 simply said what he felt Mr. Henderson wanted to
03:18 20 hear to sort of get him off his back.

21 Q Okay. And then, as far as your assessment of
22 whether Albert Cadrain was intimidated by the
23 police to lie, what, if any, effect did this
24 Centurion Ministries' interview play with that?

03:19 25 A Yeah, it didn't. I mean Cadrain gives an



1 explanation as to why he said what he said to
2 Henderson, and from what we had seen of some of
3 Mr. Henderson's other questioning techniques, I
4 know that he could be quite aggressive when it
03:19 5 came to conducting interviews.

6 Q And so what, if any -- tell us what, what did you
7 make, then, of what Mr. Cadrain said to Paul
8 Henderson or may have said to Paul Henderson?
9 Where did that fit in? Did you rely upon what Mr.
03:19 10 Henderson obtained from Mr. Cadrain?

11 A Umm, I don't think we did, and I'm not sure if we
12 got very much from Mr. Henderson on Cadrain. I
13 know we didn't on others, and I don't recall
14 exactly what we got on Cadrain, --

03:19 15 Q All right?

16 A -- but I know we interviewed Cadrain extensively
17 and it was the view of the investigators expressed
18 to me there that they believed Albert Cadrain and
19 that they did -- Mr. Henderson had simply been
03:19 20 someone who he had tried to get rid of, or to
21 distance himself from, and had simply said what he
22 thought Henderson wanted to hear to get him to
23 leave him alone sort of thing.

24 Q And would you agree, Mr. Sawatsky, that Albert's
03:20 25 evidence -- and I think the two primary pieces of



1 specific incriminating evidence were, number 1,
2 that he witnessed blood on David Milgaard's pants
3 the morning David arrived at his house, not a
4 significant amount of blood but -- and I can't
03:20 5 remember if it was dollar-sized, but he saw blood
6 on his pants; he gave some other evidence about
7 being in a hurry and also the compact, which I
8 think other witnesses gave. Would you agree that
9 the simple fact that Albert Cadrain saw blood on
03:20 10 David Milgaard's pants does not establish that
11 David Milgaard killed Gail Miller?

12 A No, it does not, and in fact I believe there was
13 even some explanation provided that "I had a
14 virgin" or something like that.

03:20 15 Q Yeah. So in other words there could well -- in
16 other words Albert Cadrain may well have seen
17 blood on David Milgaard's pants on the morning of
18 the murder, but it was blood completely unrelated
19 to Gail Miller, that's a possibility?

03:21 20 A Yes, that's a possibility.

21 Q And, however, in Albert's mind I think you'd agree
22 that he connected the blood to the murder, and on
23 the basis of that he felt that because he saw
24 blood and some other things, that David Milgaard
03:21 25 had killed Gail Miller?



1 A Yes.

2 Q If we can then go to, just go to the next page, I
3 think this is where you finish up the narrative on
4 Albert Cadrain. And let's just go ahead to the
03:21 5 Investigators' Comment which is 023247, and I
6 think what you told us back in June, Mr. Sawatsky,
7 is that your report would be give the chronology
8 of what you found, and then the investigators'
9 comment would be just that, your conclusions or
03:21 10 what you surmised based on what you gathered?

11 A Correct.

12 Q Is that correct?

13 A That's correct.

14 Q And then you say here:

03:22 15 "In Albert's mind the police
16 methods were, arguably, aggressive and
17 intimidating. But, given his character
18 at the time, this approach by the
19 investigators seems to have been
03:22 20 reasonable. By Cadrain's own admission,
21 the police questioning was aimed at
22 ensuring that they had the truth. As
23 well, Cadrain has never said that his
24 statements to the police were anything
03:22 25 but the truth. During the past



1 twenty-three years, whenever he has been
2 asked to relate the details of events
3 occurring from 1969, Cadrain remains
4 steadfast about the fundamental aspects
03:22 5 of what occurred.

6 The methods used and approach
7 taken to Cadrain's disclosure, in
8 themselves, contradict the argument the
9 police were out to contrive a case
03:22 10 against David Milgaard. Had they been
11 so disposed, it is extremely unlikely
12 they would have tested Cadrain's story
13 about Milgaard in the manner described.
14 The investigators first tested Cadrain's
03:22 15 statements implicating Milgaard to
16 ensure he was being truthful and
17 sincere. Once they were satisfied he
18 was truthful, they had a responsibility
19 to obtain all of the details from those
03:23 20 involved - John, Wilson, and Milgaard."

21 Can you just elaborate on that point and that
22 paragraph that I just read?

23 A Yeah, I don't know that I can elaborate much more
24 on it, but simply put it was our view that the
03:23 25 police testing of Cadrain was necessary in order



1 for them to satisfy themselves so they could
2 continue on with the investigation, and then once
3 they were satisfied that they had the truth from
4 him then they would want to go out and try and
03:23 5 find out if they could -- if other witnesses would
6 say the same thing.

7 Q Okay. And I tried to ask this question earlier,
8 I'll try it again. In your investigation you
9 reached the conclusion, as you stated here, with
03:23 10 Albert Cadrain that the methods used contradict
11 the argument that police were out to contrive a
12 case against David Milgaard, had they been so
13 disposed I think what you are saying is they
14 would -- they would not have tested his statement?

03:23 15 A There would have been no need to, that's correct.

16 Q Correct. Now let's take a look at Ron Wilson in
17 isolation. When you then go and say "okay, did
18 the police take steps to contrive and get false
19 evidence out of Ron Wilson by intimidating him and
03:24 20 getting him to say falsehoods", on that specific
21 inquiry my question is, when you looked at that
22 issue, did your findings with respect to the
23 police's treatment of Albert Cadrain factor into
24 it?

03:24 25 A Umm, I'm not sure if I quite understand where



1 you're going with that.

2 **Q** Okay. Well I guess when you then, when you make
3 the conclusions about the police conduct in their
4 dealings with Albert Cadrain --

03:24 5 **A** Correct.

6 **Q** -- you then go and look at Ron Wilson, for
7 example, and look at the police conduct in dealing
8 with Ron Wilson. When you were looking at the
9 police conduct as it related to Ron Wilson, did
03:24 10 you take into account what the police did with
11 Albert Cadrain, was that a factor in your
12 deliberations?

13 **A** It would certainly be in our mind. I don't know
14 that we would necessarily -- and I'm not sure if I
03:24 15 still understand you, Mr. Hodson, but I guess we
16 wouldn't sit back and say "well, because we
17 believe that they, their treatment of Cadrain was
18 fair, therefore we're assuming their treatment of
19 Wilson was fair", I don't think we --

03:25 20 **Q** Okay.

21 **A** -- made that distinction.

22 **Q** So you then went and looked at their dealings with
23 Ron Wilson with a view to checking whether those
24 dealings --

03:25 25 **A** That's correct.



1 Q Okay.

2 A Yeah.

3 Q So we could then go back to 023236. And this is
4 your dealings with Nichol John, and again I think
03:25 5 this part of the report is simply reviewing what
6 is said, and here you make mention that in her
7 first statement to the RCMP:

8 "Nothing is said about the murder except
9 John indicated her friend Barbara Berard
03:25 10 (Wispinski) told her that when David
11 returned to Regina he said to her he was
12 going to be picked up for murder."

13 Now later on we'll deal with the new information
14 I think you got from Barbara Wispinski, but did
03:26 15 that comment in her initial statement cause you
16 any concern that she would be telling the police,
17 "lookit, my friend already told me that she heard
18 from David Milgaard that he was going to be
19 picked up for murder"?

03:26 20 A No. And as I recall, Nichol John was a difficult,
21 very difficult person to deal with throughout this
22 file because of the stress and various problems
23 she had had throughout her life. So, with her, we
24 never -- I was never ever satisfied that we got
03:26 25 everything that we could. I didn't say that well.



1 We got as much as we could from Nichol John, but I
2 always had wished that she had been able to recall
3 better the circumstances of that morning, so with
4 her it was bits and pieces of information sort of
03:26 5 everywhere over a period of a lot -- many number
6 of years, and we tried as best, to put that
7 together as best we could.

8 Q Okay. And then here, this is summarizing what
9 happened back in 1969, and you state here that:

03:27 10 "As part of the interrogation process
11 she is put in a room with Albert
12 Cadrain."

13 And I think this was April of '69, this was after
14 her initial statement but before her May
03:27 15 statement, and:

16 "... after the meeting, she confirmed
17 the information Albert gave the police
18 was true."

19 I would just like your comments on that, about
03:27 20 the idea of putting two witnesses in a room
21 together as part of the interrogation, did you
22 have any concerns about that?

23 A That's commonly done where police officers will be
24 investigating something and they will put two
03:27 25 witnesses -- they will interview one witness,



1 maybe not get very much, interview another one,
2 maybe not get very much, and put them together,
3 and often they will then sort of discuss what they
4 have said and sometimes you are able to get more
03:27 5 information from them that way.

6 In this particular case, these
7 weren't cooperative witnesses, so it wasn't that
8 they --

9 Q Well what --

03:27 10 A Not like a detached witness who would probably
11 give you everything they could initially, that
12 wasn't the case here.

13 Q And what made them uncooperative witnesses, why do
14 you say that?

03:28 15 A Well in Nichol John's case I think it, I'm not
16 sure whether it was because she was simply unable
17 to recall, or sometimes perhaps maybe she felt
18 that she could be somehow implicated, for any
19 number of reasons Nichol John was not forthright
03:28 20 when the police initially interviewed her.

21 Q Okay. And was that based on what you, is that
22 based on what you found that she said later, in
23 other words that since she later gave information
24 to the police that she didn't give initially, and
03:28 25 the later information, at least some of it was



1 corroborated, that meant she wasn't being
2 cooperative?

3 A That's.

4 Q Is that --

03:28 5 A That's correct.

6 Q I mean would you expect, I mean we've heard this
7 comment made before that one of the reasons that
8 Wilson and John and perhaps even Mr. Milgaard did
9 not provide all the details of that morning is
03:28 10 that it was not a significant morning, in other
11 words that they might not remember six weeks later
12 exactly what happened that morning, and that might
13 be an explanation as to why certain facts were
14 omitted in the first statement? I would like your
03:29 15 comment on that.

16 A I think that could be true. I think there's any
17 number of reasons. I think, also, it could be
18 that these were young kids, you know, they were
19 using drugs, they were doing any number of things,
03:29 20 and they probably didn't want to be forthright
21 with the police. You know, at that time, I mean I
22 wasn't a police officer yet but I was a police
23 officer shortly thereafter, there was a bit of a
24 culture, you know, with the youth of perhaps not
03:29 25 wanting to cooperate with the police or not



1 provide the police with information. These were
2 young kids, you know, probably hadn't formed good
3 moral values yet, and, certainly, I wouldn't be
4 surprised that they wouldn't be forthright
03:29 5 immediately.

6 Q And so are you telling us that there might be
7 reasons that Wilson and John and Milgaard did not
8 give police all of the details of the morning on
9 their initial interviews that would be unrelated
03:30 10 to efforts to hide involvement in the crime?

11 A Yes, that's possible.

12 Q Yeah. So that -- and one of them would be, I
13 think you said, just because they are young, the
14 culture, and they don't want to tell the police
03:30 15 everything; that would be one?

16 A Yes.

17 Q I guess another would be that they did not
18 specifically recall certain things, didn't think
19 they were that important?

03:30 20 A Yes.

21 Q And I suppose a third one might be that they
22 weren't asked the specific question, in other
23 words "tell me what happened that morning" as
24 opposed to, you know, "did you stop someone for
03:30 25 directions", "did someone throw out a compact",



1 "did these events happen", so that the form of
2 questioning might have resulted in omissions as
3 well?

4 A That's true.

03:30 5 Q And I think, I think back at the time a fourth
6 interpretation, if I can put it that way, would be
7 that they were involved in the murder, or they
8 were there and they are hiding something, that
9 would be sort of another explanation at the time
03:31 10 as to why this information may not be coming out
11 initially; --

12 A Yes.

13 Q -- is that fair?

14 A That's certainly an explanation.

03:31 15 Q And so when you talked earlier about these
16 witnesses being uncooperative, then, is that in
17 the sense that they are not giving complete
18 information initially and it's taking some effort
19 to get out complete information?

03:31 20 A That's correct.

21 Q And then, if we can scroll down, there is also a
22 reference here about John's statement to the
23 police about Milgaard being a dangerous character
24 and afraid of him, and you say:

03:31 25 "This is an important interview because



1 it was at this point in the
2 investigation when the denials of Nichol
3 John started to break down."

4 Can you just elaborate on that a bit, please?

03:31 5 A Yeah, I just need a moment to read this, please.

6 Q Sure. And I think this was in April when she was
7 put in with Cadrain, she then says I think, and at
8 least in the police reports, lookit, he's a
9 dangerous person or a dangerous character, and
03:32 10 that he forced her to have intercourse with her
11 several times, and in your reports you say:

12 "This is an important interview because
13 ... the denials ... start to break
14 down.",

03:32 15 and that's what I wanted to elaborate on?

16 A I wonder if we could just read on a little bit
17 further and that would help me to --

18 Q Yes, go to the next page, and then I think you go
19 on and say she is interviewed by the police April
03:32 20 14th, and then:

21 "She denied the suggestion that either
22 Milgaard or Wilson left the vehicle long
23 enough to have committed the offence.
24 She stated she felt that Milgaard was
03:32 25 capable of committing such an offence



1 based on her experiences with him. When
2 asked about blood on his clothes, she
3 said she could not recall seeing any.
4 John described Milgaard as behaving in a
03:32 5 'queer' manner in Saskatoon, indicating
6 he was always in a hurry.",
7 they were driving fast, and then a reference of a
8 toque. And so this would be the meeting before
9 the key interviews of May 22nd?

03:33 10 A That's correct.

11 Q And I'm just wondering if you have anything to
12 elaborate on what's stated?

13 A I'm sorry, I'd have to review it to draw that
14 connection.

03:33 15 Q Okay, no, that's fine. What about in your
16 dealings with Nichol John, there's mention in the
17 report on a couple of occasions about either her
18 describing it or officers describing her fear of
19 David Milgaard at the time, and what was your --
03:33 20 where did you see that fitting in and what was the
21 significance, if any, of that?

22 A Yeah, that's something we had been told a number
23 of times, that she was afraid of David Milgaard.

24 Q And then if we can just scroll down. And was that
03:33 25 of any significance, though, or was that just --



1 are you just restating here, "lookit, here's
2 what's in the report and here's what people told
3 us", did that -- did you connect that to anything?

4 A Well, I mean it could have been part of the reason
03:34 5 why she wasn't -- why it was difficult for her to
6 sort of disclose initially.

7 Q Okay. So that that may have been either yours or
8 someone else's, might have said "that might be an
9 explanation as to why she's not more forthcoming";
03:34 10 is that what you are telling us?

11 A Yes.

12 Q And then here, on -- it talks about the May 22nd,
13 '69, John is interviewed by Saskatoon police
14 Detective Mackie and Walters.

03:34 15 "The details of this interview are not
16 documented."

17 And we've got a police report on that that has
18 some details but I take it, Mr. Sawatsky, you
19 would agree that having the details of that
03:34 20 interview would be helpful in understanding what
21 happened and trying to understand what happened
22 after that?

23 A Yes.

24 Q Then you go on and talk about the interview with
03:34 25 the polygraph and you say:



1 "Details of this interview are sketchy."

2 And can you elaborate, why was that the case, and
3 we're talking with Inspector Roberts?

4 A Yeah, I don't recall we were ever able to get any
03:35 5 records from Roberts and, you know, being a
6 polygraphist myself in my past life it was
7 certainly something that I would have been
8 interested in seeing, his charts and the
9 techniques used and any papers, documents, notes,
03:35 10 etcetera, from the interview he had with them. We
11 were never able to get that, so we weren't able to
12 place a lot of -- we weren't able to look into
13 that part of the investigation in very much depth.

14 Q And so as far as looking at, let's focus on two
03:35 15 sets of interactions here, and what we've heard I
16 think in evidence -- I don't think it's
17 controverted -- is that I think Sergeant Ray
18 Mackie was the individual who had the primary
19 contact with Nichol John in this May time period,
03:35 20 it's referenced here May 22nd, '69 he interviews
21 her in Regina, there is no statement taken, there
22 is no notes, I think there is a reference in a
23 police report, but I think you say here the
24 details of the interview are not documented. She
03:36 25 then is interviewed by Inspector Roberts and it



1 was supposed to be, I think, a polygraph, but she
2 was not polygraphed, and I don't believe there was
3 any written records of that interview; is that
4 correct?

03:36 5 A That's correct.

6 Q And then the next day she gave a 10 or 12-page
7 written statement to Sergeant Mackie where she
8 said she witnessed a murder. That would be sort
9 of the third involvement she had in this time
03:36 10 frame; is that correct?

11 A That's correct.

12 Q And I think, apart from the statement, there is no
13 other report or document about what happened,
14 either what happened the morning of the 24th when
03:36 15 she gave this statement, or how it was that she
16 gave the statement the next morning as opposed to
17 the 23rd when she was with Inspector Roberts?

18 A That's correct.

19 Q And then, as far as trying to find out what
03:36 20 happened between Ms. John and let's say Inspector
21 Roberts, I think you said you had difficulty
22 getting from Ms. John a reliable recollection of
23 everything that happened; is that fair?

24 A That was, yes, that was a difficulty throughout.

03:37 25 Q And I think that your investigators talked to



1 Inspector Roberts and had his Supreme Court
2 evidence with his recollection of what happened;
3 is that right?

4 A That's correct.

03:37 5 Q But no charts of the polygraph?

6 A No charts of the polygraph and no notes or records
7 of the interview itself.

8 Q Okay. And then, as well, I think we've heard from
9 Mr. Mackie, and I think this is in your report as
03:37 10 well, that he had little or no recollection of --
11 I shouldn't say no recollection, but not much of a
12 recollection of his taking of the statement from
13 Nichol John, is that correct? And I think that's
14 what your investigators found as well?

03:37 15 A That's correct.

16 Q And can you tell us then as far as, I guess,
17 investigating whether -- to what extent, if any,
18 the police, whether it be Mr. Mackie or Inspector
19 Roberts or anybody else, may have done something
03:38 20 inappropriate in their dealings with Nichol John.
21 Were you satisfied that you were able to get all
22 the information you needed to make that
23 determination?

24 A Well we looked at all the evidence, information
03:38 25 available, and there was nothing to indicate that



1 there had been misconduct. I guess one could
2 argue that if Inspector Roberts had, because
3 Nichol did provide I think some additional
4 information after the interview, after she had
03:38 5 been interviewed by Roberts, that certainly the
6 statement by Mackie was taken the next morning, so
7 I guess one may be able to say, well, the
8 influence from that polygraph hopefully wouldn't
9 be there any more and she had the opportunity to
03:38 10 provide Mackie with a true statement.

11 Q Okay. If we just go take a look at the bottom, I
12 think this is what I think Nichol John -- and I'll
13 summarize and -- what I think is on the record.
14 Before she went in to see Inspector Roberts,
03:38 15 Nichol John had not provided any directly
16 incriminating evidence about Mr. Milgaard. I
17 think she had given information to the police
18 about stopping a woman in the vicinity, getting
19 stuck, I can't recall if she talked about the
03:39 20 compact, but matters that might be suspicious but
21 not directly incriminating. In her interviews
22 with the police, the Saskatoon police before she
23 went in to see Inspector Roberts, I think the
24 evidence is she had every opportunity to say she
03:39 25 witnessed the murder if she had, in fact,



1 witnessed it --

2 A Yes.

3 Q -- but did not?

4 A Yes.

03:39 5 Q And then goes in with Inspector Roberts and then
6 at that time, according to the evidence, says --
7 well, actually in her statement the next day she
8 says "it wasn't until I met with Roberts", I think
9 her words were, "that I now remember that I
03:39 10 witnessed a murder". And so that it would appear
11 that questioning for at least a couple of months,
12 and then two days before her encounter with
13 Inspector Roberts, quite detailed questioning
14 about "what do you have that can assist us in
03:40 15 identifying David Milgaard as the killer or
16 eliminating him", and then to go in with Inspector
17 Roberts and then come out with being an eye
18 witness. And, as a police officer, did that
19 strike you as being somewhat unusual that a
03:40 20 witness would have that revelation, if I can put
21 it that way, in that encounter with Inspector
22 Roberts?

23 A That's not unusual, for something like that to
24 happen, where a skilful interviewer will get very
03:40 25 good evidence from a witness. What I would like



1 to have had the opportunity to see was how that
2 was obtained, and we were never able to do that.

3 Q Okay. So let's just talk generally then as a
4 police officer, that without knowing the
03:41 5 circumstances about what went on in that room with
6 Inspector Roberts, it was not unusual then in your
7 experience, or it wasn't -- didn't mean that
8 something sinister happened in the room for her to
9 come out of that with being an eye witness; is
03:41 10 that fair?

11 A No.

12 Q And that was something --

13 A That's fair, sorry.

14 Q Yeah. And so what would be your explanation for
03:41 15 that as to -- and again I'm just trying to draw on
16 your experience as an investigator and what you
17 know about this case. What might be some of the
18 reasons that she would tell Roberts that she
19 witnessed the murder, but she wouldn't tell Mackie
03:41 20 the day before, or Riddell a month earlier?

21 A It could be simply the skill of the interviewer,
22 was able to convince her that she should tell the
23 truth, you know, through any number of techniques,
24 you know, rationalizing or, you know, any number
03:41 25 of interviewing techniques available to try and



1 get her to tell the truth.

2 Q And so then it may -- are you saying it might be
3 the case that going into the interview she knew
4 she witnessed the murder, she just didn't want to
03:42 5 say, and that one possibility is that the
6 interviewer got her to tell the truth?

7 A That's correct, that's one possibility.

8 Q Okay. And then what about the comment where she
9 says in her statement that I didn't realize until
03:42 10 yesterday that I witnessed a murder; in other
11 words, that -- and I think according to at least
12 the written word in the statement, I'm not sure
13 whether she ever herself elaborated on it more,
14 but it implies that up until May 23rd she didn't
03:42 15 realize she had witnessed a murder, then something
16 happened with Inspector Roberts where she said
17 okay, I now realize I did witness a murder. Did
18 you have any concerns about that or was that
19 something that you felt was, could be quite
03:42 20 proper?

21 A Yeah. I'm not sure how to answer that, because on
22 one hand it's a little bit surprising, but on the
23 other hand it could be that she is telling the
24 truth and simply, you know, withheld that for any
03:43 25 number of reasons and simply told the truth when



1 she was questioned about it by Inspector Roberts.
2 On the other hand, it could be that it wasn't true
3 at all, so -- and like I say, Nichol was always a
4 very difficult witness to interview and had Nichol
03:43 5 had some recall that could have helped us make
6 better, draw better conclusions about that
7 particular piece is something we were not able to
8 do.

9 Q Okay. And let's just go back to Inspector
03:43 10 Roberts, I think you are saying you really didn't
11 know what exactly happened in that room, you
12 didn't have the notes, you had his version, you
13 had some of Nichol's version. I suppose another
14 scenario you might look at is something happened
03:43 15 in that exchange that resulted in her giving a
16 false statement, that would be another scenario;
17 in other words, that investigative techniques were
18 used in Inspector Roberts' interview of her that
19 resulted in her giving a false statement?

03:43 20 A Yes, that's possible.

21 Q And in the absence of notes and information --
22 were you able to make that determination?

23 A No, no, we weren't, and like I mentioned a moment
24 ago, Nichol was, you know, not able to assist us
03:44 25 in making that determination.



1 Q And what -- what did you make of the fact that
2 after she gave -- or let me just go to the
3 statement the next day. Did you draw any
4 conclusions or have any concerns about the fact
03:44 5 that after I think giving Inspector Roberts the
6 incriminating evidence in the interview of May
7 23rd, and I think his evidence was the Supreme
8 Court, that she then said yes, I witnessed the
9 murder, that it wasn't until the next morning that
03:44 10 a written statement was taken, did you find
11 anything unusual about that?

12 A No. Actually, I think that was probably a good
13 move because what it did was provide Nichol with
14 the opportunity to give more thought to what had
03:44 15 taken place and I guess could have given her the
16 opportunity to say to the interviewer the next day
17 lookit, what I said wasn't the truth, this is what
18 happened, so if she had been sort of coerced to
19 say something, she could have suggested or told
03:45 20 the interviewer the next day, and on the other
21 hand, if that was the truth, she could simply tell
22 the interviewer the next day the truth.

23 Q Okay.

24 A So I guess I'm not sure if I'm making myself
03:45 25 clear.



1 Q No, I understand what you are saying.

2 A There's some distance between, there is some time
3 distance between the polygraph test and the time
4 the statement was taken, you know, it was
03:45 5 overnight. It wasn't five minutes or 10 minutes
6 or two minutes where she simply walked out of the
7 room and into the hands of an new interviewer,
8 there was a time lapse in there.

9 Q I think in the absence of a detailed record of
03:45 10 what transpired during Mr. Roberts' interview that
11 evening and the next morning before she gave the
12 statement, I think some have suggested that
13 something nefarious must have happened in there
14 that caused the May 24th statement to be given
03:45 15 under inappropriate circumstances and I think,
16 correct me if I'm wrong, what you are saying is
17 that another suggestion might be that it was a
18 good thing because it gave her a chance to think
19 about it and make sure that it wasn't something --
03:46 20 if it was coerced on the 23rd, on the 24th she had
21 a chance to rethink it, that would be another
22 possibility?

23 A That's another possibility, that's correct.

24 Q What do you make of the fact, or what did you make
03:46 25 of the fact that she did not repeat -- she did not



1 repeat what she said to Inspector Roberts at
2 either the preliminary hearing or the trial of
3 David Milgaard?

4 A Well, again, you know, that certainly causes
03:46 5 questions in one's mind, but, you know, in trying
6 to sort of make sense of all of that, we were
7 never able to come up with a good explanation.
8 Like I said, we didn't have Roberts' notes and
9 Nichol was a very difficult witness and, you know,
03:46 10 didn't recall an awful lot, so, you know, we
11 weren't able to sort of get as far into that as we
12 would like to have.

13 Q Okay. If we can go to the next page, and this
14 summarizes your interview, and we've been
03:47 15 through -- in fact, I think we played the tape of
16 the entire interview that your officers did, it
17 says:

18 "She remembers some of the details
19 surrounding her interviews with the
03:47 20 Saskatoon City Police, but cannot recall
21 certain other events. She does not
22 recall giving a statement to Insp.
23 Riddell...but when shown a copy of the
24 statement, she is able to recall and
03:47 25 confirm some of the events described."



1 She:

2 "...doesn't recall being interviewed at
3 the Regina Correctional Centre along
4 with Albert Cadrain and Ronald Wilson.

03:47 5 Regarding her trip with Det.

6 Mackie from Regina to Saskatoon, John
7 states she was really quiet but recalls
8 little else. Once in Saskatoon, she
9 remembers being lodged in a jail cell
03:47 10 and says she was treated well by the
11 lady guard."

12 Let me just pause there. There has been some
13 evidence on the record suggesting that when she
14 was in the jail cells in Saskatoon, that she was
03:47 15 not treated well and that her treatment in the
16 police cells may have been part of intimidation
17 or part of what may have caused her to give a
18 false statement. Is that something that your
19 people looked at?

03:48 20 A Yes. This shows to me that she was specifically
21 asked those, about that and her response is in the
22 report here.

23 Q And again, did you find anything unusual about
24 that, that she would be, back in 1969, lodged in a
03:48 25 jail cell while she's part of this questioning



1 that's going on? I think actually it was in a
2 matron's -- I've got to be careful here because
3 people have characterized it differently, but I
4 think it was in a -- it was in the police station
03:48 5 in a matron's room and it may have been -- I think
6 the evidence is it was a place where female
7 prisoners were often kept, I don't think it was a
8 jail cell, but did you find anything unusual about
9 that?

03:48 10 A No, in those days it wasn't uncommon for witnesses
11 to be held like that. Certainly today I don't
12 think that practice would occur, but in 1969 that
13 wasn't uncommon.

14 Q Okay. And then it says:

03:49 15 "The next day she was driven around the
16 city by a police officer and recalls
17 being taken to a hotel. She recalls Ron
18 Wilson also being present at this time.
19 However, she has no recollection of
03:49 20 being interviewed in the hotel... When
21 shown her statement from that date, she
22 is able to verify some of the details
23 described.

24 John has no memory

03:49 25 "suggesting" she was told what to say,



1 threatened, coerced, or in any manner
2 mistreated by the Saskatoon City Police.
3 John does not discount the fact that as
4 a young sixteen year old she could have
03:49 5 been intimidated by the police. But on
6 the other hand, she says she would not
7 have given a statement relating to a
8 murder that was not true."

9 And again, would that have been I guess the
03:49 10 conclusion then based on all of the information
11 that you gathered?

12 A That's correct.

13 Q And what did you make of that, that she said
14 lookit, I can't remember a lot of these details,
03:49 15 but I don't think I would have said something that
16 was untrue? Did you put much if any significance
17 on that?

18 A Not a lot. It certainly did contribute to the
19 investigation of coercion and obstruction of
03:50 20 justice in that she certainly didn't provide any
21 evidence that would show us that, you know, she
22 was treated in such a way that we should be
23 looking at charges of obstruction of justice
24 against someone.

03:50 25 Q And then the last paragraph talks about:



1 "Barbara Wispinski (Berard) says when
2 John returned to Regina from Saskatoon
3 and Alberta shortly after the Miller
4 murder they had a conversation about
03:50 5 Milgaard. John told Wispinski that
6 Milgaard killed a girl in Saskatoon and
7 if she said anything about it, she would
8 also be killed. At this point, John had
9 not yet been interviewed by the police."

03:50 10 And we dealt with this I think back in June
11 briefly, it's dealt with specifically in your
12 report later, and I will deal with it later, but
13 can you tell us what -- what was the significance
14 of this information from Barbara Wispinski as far
03:50 15 as looking at whether or not Nichol John was
16 intimidated or coerced by the police?

17 A This certainly shows that there's no evidence
18 there of intimidation or coercion.

19 Q Go to the next page, this talks about I think her
03:51 20 interviews by the prosecutor Mr. Caldwell and she
21 repeated what was in her May 24th statement to the
22 police:

23 "But in court, she refused to say she
24 saw Milgaard stabbing Miller as she had
03:51 25 in her statement. This evidence was



1 heard by the jury when she was declared
2 an adverse witness. Caldwell, in his
3 case summary, expressed the feeling that
4 the jury obviously believed what she had
03:51 5 told the police."

6 And I think we've seen that document, that was
7 his report to his superiors I believe? I think
8 that's what that's referring to, the case
9 summary?

03:51 10 A Yes.

11 Q And then here:

12 "John also made a statement during the
13 Preliminary Inquiry which Caldwell was
14 unable to present in evidence. He was
03:52 15 informed that John was overheard making
16 a comment during the proceedings to the
17 effect, "I don't know why he didn't kill
18 me too. I was right there, and saw it
19 all, but I'm not going to say nothing."

03:52 20 And that is a note that I think we've seen in
21 evidence and I think it was -- we've also heard
22 evidence I think from Peggy Miller, Gail Miller's
23 sister, who was present, and may well have been
24 Albert Cadrain and one other person, but do you
03:52 25 recall that piece of information in your



1 investigation?

2 A I do recall that, yes.

3 Q And can you tell us, what was the significance of
4 that in your investigation about looking at
03:52 5 whether or not the police were involved in
6 coercing Nichol John to tell a lie?

7 A Well, certainly this is an independent statement
8 made to people who aren't persons in authority, so
9 certainly lend credibility to the fact that she
03:52 10 says the police didn't intimidate her. There's no
11 evidence, it provides us no evidence towards
12 obstruction of justice or wrongdoing by the
13 police.

14 Q And just again, though, in looking and trying to
03:53 15 figure out what might have happened, which I think
16 was part of your investigation, is that right,
17 what might have happened to explain Nichol John's
18 statements and evidence, that would have been
19 something your people looked at; is that correct?

03:53 20 A Yes.

21 Q And so I'm wondering where that fit in, this
22 statement in trying to figure out what to make of
23 Nichol John, where did you put this utterance?

24 A I guess at the time it certainly would make her
03:53 25 statements more believable because for her to make



1 a spontaneous comment to someone who is not a
2 person in authority supports statements that she
3 had given previously to the police.

03:53 4 Q And then yet either that day or the next day or
5 right around that time when she goes into court at
6 the preliminary inquiry, she doesn't repeat it,
7 and I think we heard evidence from Mr. Caldwell
8 that he believed that she was afraid of Mr.
9 Milgaard. Did you or your investigators look at
03:54 10 that statement and come to any conclusion about
11 what, an explanation as to why she would make that
12 utterance outside the courtroom and then walk in
13 the courtroom and not repeat it?

14 A I don't recall that we come up with any other
03:54 15 explanation other than what Mr. Caldwell gave as
16 an explanation.

17 Q And then here you reference the evidence at the
18 Supreme Court and the reference case and I think
19 you told us earlier that in your investigation you
03:54 20 would have certainly relied upon what people said
21 when they testified under oath at the Supreme
22 Court; is that right?

23 A Yes.

24 Q And so here your report talks about her comment
03:54 25 about the police:



1 "I don't think they treated me badly."

2 And:

3 "...no recollection of being abused or
4 pressured and thought that if she was
03:54 5 she would remember. John said she had
6 no memory of lying to the police for any
7 reason."

8 And is that something that you would have
9 expected she would recall if she was -- let me
03:55 10 put it this way. If she couldn't recall
11 witnessing the murder, did you expect that she
12 would recall being mistreated by the police?

13 A Yes. She was asked that a number of times.

14 Certainly to say that to the Supreme Court is
03:55 15 important.

16 Q No, but I guess if you go back and she says I have
17 no recollection of being mistreated by the police,
18 but the question is if she doesn't recall
19 witnessing a murder, which she did say earlier
03:55 20 under oath, at least in her statement that she
21 did, when she later says I don't recall being
22 mistreated by police, I'm wondering whether that,
23 whether you ever said, okay, well, that's not
24 reliable, if she can't remember the murder, how
03:55 25 can she remember being mistreated by police; in



1 other words, putting more weight on that
2 recollection than her failed recollection on the
3 events of January 31.

4 A That's certainly one way to look at it. I
03:55 5 think -- I believe that in our investigation we
6 certainly gave her the opportunity to tell us if
7 she recalled and if she didn't recall then it's
8 not evidence of anything anyway, so we were not
9 able to establish I guess conclusively, but her
03:56 10 continual expressions of the fact that she was not
11 mistreated did have to have some weight on our
12 investigation.

13 Q Okay. Then next, if we can scroll down, it
14 appears that your officers talked to her parents,
03:56 15 and we've been through these interviews before,
16 and I think tried to find out from her parents
17 whether she had made any comments to them that
18 might corroborate what she said back in '69, '70;
19 is that correct?

03:56 20 A That's correct.

21 Q And is that something that you would expect to
22 hear from the parents of a 16 or 17 year old, that
23 if she had been mistreated or coerced by the
24 police, that they would have been aware of it?

03:56 25 A You would think that would be something she would



1 certainly tell her parents.

2 Q And then I think there's also a reference here to,
3 at least Mrs. John saying that:

4 "...later - either before or after the
03:57 5 trial - Nichol broke down..."

6 And:

7 "She said she was in the car when "I saw
8 him kill her, I saw him stab her."

9 Again, would that be something that your
03:57 10 investigators would take into the mix in looking
11 at whether or not Nichol John's May 24th
12 statement was something that she came up with on
13 her own or whether it was coerced by the police?

14 A Yes.

03:57 15 Q Next page, and again this just talks about the
16 cell:

17 "Nichol's parents indicate they were
18 aware of the fact she had been kept in a
19 cell at the Saskatoon Police Department,
03:57 20 but they were not concerned and Nichol
21 never talked about the incident."

22 And again, is that something that your people
23 then relied upon in trying to conclude what
24 happened when she was in the jail cell and
03:57 25 whether she was mistreated and that might have



1 contributed to her statement?

2 A Yes, that certainly supports what she had said,
3 what she told us about how she was being treated.

4 Q And again, you then go on to touch on what was
03:58 5 discussed with Mr. and Mrs. John, and then:

6 "When the police came to get Nichol,
7 Michael and Mary both indicate she went
8 willingly and that following their
9 interviews with her she said nothing and
03:58 10 they observed no distress."

11 And again, I think you've touched on that, that
12 would be again information that would go to the
13 question of how she perceived she was treated by
14 the police; is that right?

03:58 15 A That's correct.

16 Q And then if we can go to 023248, please?

17 COMMISSIONER MacCALLUM: Who are Michael
18 and Mary; John?

19 MR. HODSON: Sorry, those are the --

03:58 20 COMMISSIONER MacCALLUM: Parents?

21 A Parents.

22 BY MR. HODSON:

23 Q The parents, I'm sorry, yes, and I think we have
24 as read-ins the interviews they gave to the RCMP
03:58 25 in 1993 and that's where the summaries are derived



1 from. So here we have, this is the investigator's
2 comment on Nichol John, we've just skipped ahead,
3 you say:

4 "John was obviously reluctant to speak
03:59 5 to the police or make admissions during
6 her early encounters. This can be
7 attributed to at least two influences.
8 First, to her fear of Milgaard - as
9 illustrated by her comment to Berard
03:59 10 that if she said anything about David
11 killing a girl she also would be killed.
12 Second, to a sixteen year old 'hippie'
13 youth's normal reluctance to speak to
14 the police about such an affair."

03:59 15 And again, would that be the conclusions that
16 your officers or investigators reached?

17 A That's correct.

18 Q And so here the fear of Milgaard would have been a
19 factor then, that was what was determined that
03:59 20 that would have been, or may have been or would
21 have been a factor in her not being more
22 co-operative with the police?

23 A That's correct, it may have been.

24 Q And then you talk about the Berard/Wispinski, you
03:59 25 say:



1 "If her early disclosure to Berard is
2 true, this would refute the allegation
3 John was told what to say by the police
4 on the most important point - that David
03:59 5 Milgaard killed Gail Miller."

6 And can you expand or elaborate on why you would
7 use the words "if her early disclosure is true"?

8 A Well, in time wise that puts that disclosure
9 before she was interviewed by the police, so
04:00 10 certainly she had already told someone about that.

11 Q Okay.

12 A So that's corroboration from an independent
13 source.

14 Q Right. And I think the evidence we've heard, Ms.
04:00 15 Wispinski did testify, but her statement to your
16 investigators was that when Nichol John returned
17 back from the trip and before she went to, before
18 she was interviewed by the police, she had told
19 Barbara Wispinski or Barbara Berard that David had
04:00 20 killed somebody and that she knew about it or some
21 incriminating information and that's -- correct?

22 A Correct.

23 Q And if that were true, then Nichol John had
24 information about David Milgaard being involved
04:00 25 before the police even talked to her and that's



1 the point you are making here?

2 A That's the point I'm making and that information
3 wasn't planted in her mind by the police.

4 Q Okay. And I guess my question is you say if her
04:00 5 early disclosure to Berard is true, does that mean
6 you are saying we're not sure that it is; in other
7 words, that we're not saying that Berard's
8 evidence is necessarily true?

9 A That's correct.

04:01 10 Q And I'll touch on that a bit later. That was new
11 information that came out in '93 isn't it?

12 A Yes.

13 Q And then if we can, the last paragraph:

14 "It should also be pointed out that
04:01 15 since her 69-05-24 interview by Det.
16 Mackie, John has consistently refused
17 to, or been unable to recall the
18 substance of what she told Mackie. The
19 important details of her activities and
04:01 20 those of Milgaard and Wilson during the
21 morning of Gail Miller's murder have
22 been repressed. Her recall consists of
23 flashbacks of incidents she was a part
24 of or witness to. Numerous interviews
04:01 25 by various individuals and several



1 hypnosis sessions have generated just
2 fragments of the whole story."

3 And just on this issue of her memory being
4 repressed, is it correct to say that what's being
04:02 5 repressed could have nothing whatsoever to do
6 with Gail Miller; in other words, that -- I mean,
7 she's been unable, I think you told us, to relate
8 what happened on the morning of January 31; is
9 that correct?

04:02 10 A Yes.

11 Q And I think some have surmised from that that what
12 she's repressing is something that is
13 incriminating, or was incriminating at the time
14 back when they looked at this, let's go back to
04:02 15 1969, '70 and indeed 1990, and I think the views
16 of some were that because she can't remember,
17 she's repressed something and what it is is she
18 witnessed the murder and it's incriminating to
19 David Milgaard, she just can't remember, that was
04:02 20 a view that some expressed; is that fair?

21 A Yes, that's a view.

22 Q And so here where you are going back and saying
23 lookit, we can't get a full and complete account
24 from Nichol John about what happened that morning,
04:02 25 and I think you say that her memory has been



1 repressed; correct?

2 A Yes, and I think that was the opinion of a number
3 of investigators and interviewers over the years,
4 that she simply wasn't able to recall and, you
04:03 5 know, for any number of reasons.

6 Q And I suppose if she were able to recall, she may
7 well be able to explain what happened that
8 morning, where they were and essentially say,
9 dispute or discount what was in her statement back
04:03 10 in '69; is that fair?

11 A Yes, that's fair. You know, it's unfortunate
12 because there were three people who could provide
13 that and Nichol John was very difficult, Wilson
14 really didn't provide us with anything, nor did
04:03 15 David Milgaard, so it was very difficult for us to
16 sort of try and put together what happened that
17 morning.

18 Q If we can go back to 023240, and again, next we go
19 on to Ron Wilson, just go to the next page, this
04:04 20 is a summary of, I think you just go through his
21 initial statements, and here down at the bottom,
22 and we've been through this on a number of
23 occasions, Mr. Sawatsky, but this talks about I
24 think initially his first statement to the RCMP in
04:04 25 early March of '69, he gives some account of what



1 happened that morning, but nothing incriminating,
2 and I think he says that never any mention about
3 the murder of a girl in Saskatoon, Milgaard wasn't
4 out of his sight for more than one or two minutes,
04:04 5 and I think words to the effect that he didn't
6 have anything to do with the murder. So here, on
7 May 21, '69, Wilson is interviewed and then makes
8 the following changes or additions to his previous
9 accounts, that one:

04:04 10 "While looking for the Cadrain
11 residence, at approximately 6:45 a.m.
12 the car became stuck and Milgaard left
13 the car."

14 Now, I'll just pause there for a moment, and
04:05 15 we've heard from some officers about this. What
16 would you, as an investigator, then, do or
17 conclude if you've got Mr. Milgaard as a suspect,
18 because Albert Cadrain says he saw blood on his
19 pants that morning, you go to a traveling
04:05 20 companion who initially says lookit, nothing,
21 nothing incriminating, and then a couple of
22 months later says lookit, we were in the vicinity
23 looking for Mr. Cadrain's house and we got stuck
24 at around the time of the murder, or 6:45, and
04:05 25 that Milgaard left the car. As an investigator,



1 would you say why didn't you tell me that
2 earlier, what is your reason for not telling me
3 that? Can you elaborate a bit on what that
4 revelation would do to an investigator and how an
04:05 5 investigator might deal with it?

6 A Well, I think it would certainly make an
7 investigator feel that perhaps he or she is on the
8 right direction and certainly would then, would
9 make me want to try and see if I could get more
04:06 10 information from this person to try and piece
11 together what happened that morning.

12 Q And would the fact that this piece of information
13 came two months later after at least a couple of
14 attempts of police questioning, make it more
04:06 15 suspicious and incriminating than if it had been
16 given right at the outset?

17 A In the absence of any explanation, I guess it
18 would, you know, if the explanation was that, you
19 know, they were afraid of the police for any
04:06 20 number of reasons, then perhaps it wouldn't be as
21 suspicious, but certainly I would wonder why they
22 hadn't provided that initially when they were
23 asked.

24 Q And would it cause you as an investigator to think
04:06 25 there might be more information there that's not



1 forthcoming?

2 A Yes.

3 Q And as an investigator, then, and I had asked you
4 this earlier, that I think you agreed that an
04:07 5 omission in the first statement, Ron Wilson's
6 first statement there, there might be a number of
7 innocent explanations, there might be a number of
8 innocent reasons why he would not have told the
9 police that we got stuck at the time of the murder
04:07 10 in the area of the murder and Mr. Milgaard left
11 the car. As an investigator, when it comes to two
12 months later, do you tend to discount the possible
13 innocent explanations for that?

14 A I think I would probably tend to discount the
04:07 15 innocent explanations and think that there's got
16 to be more here.

17 Q And then if we can go to the next page, it goes on
18 to talk again about some of the -- and these are
19 the additional facts that Mr. Wilson I think
04:07 20 provided just before he went in to see Inspector
21 Roberts, but the first one is that Milgaard and
22 Wilson discussed break and enters and rolling
23 someone and purse snatching as a source of money,
24 and again as an investigator, would that be
04:08 25 significant, to have this fact revealed a couple



1 of months after the initial statements?

2 A Yes. It's significant, it's a significant piece
3 of evidence, that's for sure.

4 Q And if the two pieces that I just told you about,
04:08 5 getting stuck in the vicinity and Milgaard leaving
6 the car and discussing purse snatching, if you
7 were later able to corroborate that as being
8 factual, what would that tell you then about
9 whether these two pieces of information came as a
04:08 10 result of improper police questioning or as a
11 result of a witness who, for whatever reason,
12 didn't give the information when first asked?

13 A Well, in the absence of an explanation that there
14 had been coercion in order for him to provide
04:08 15 this, to me there's no indication that there's
16 police wrongdoing here, it's simply providing more
17 information. It shows motive and perhaps
18 opportunity.

19 Q Okay. But I guess my point is if it turns out
04:09 20 that the revealed fact that comes two months later
21 after police questioning turns out to be true or
22 corroborated by other facts, what does that tell
23 you about whether or not those proven, those facts
24 came as a result of intimidation or coercion?

04:09 25 A It appears that they wouldn't have come as a



1 result of intimidation or coercion.

2 Q And then again there's evidence here about the
3 elevator and you are familiar with that
4 information?

04:09 5 A I am, yes.

6 Q And was that of any significance to you and your
7 people in looking at this, that they had broken
8 into an elevator on their way?

9 A Well, it certainly showed that they were looking
04:09 10 for money and supports the fact that they were
11 looking for someone here to rob to get money, so I
12 guess it supports it in sort of a distant way I
13 guess.

14 Q Now, here we go down and this is where Wilson says
04:09 15 to Karst that:

16 "...he could not recall a knife being in
17 the car & he did not see Milgaard bring
18 one from the elevator. In further
19 questioning though he stated that
04:10 20 Milgaard might possibly have picked up a
21 knife from a Champs Hotel where they had
22 eaten and where Nickey had been
23 employed. Wilson did not shed any
24 further light on the aspect of a knife."

04:10 25 And I think the evidence we heard from Detective



1 Karst here was that he questioned Wilson about
2 that, about whether he saw a knife, and he
3 didn't, and he had an opportunity to respond and
4 didn't, and I want to ask you, Mr. Sawatsky, what
04:10 5 you made of the fact that the next day when he
6 goes in to see Inspector Roberts, he now says
7 yes, there was a knife and specifically
8 identifies it. In light of the fact that the day
9 before not only was he asked the specific
04:10 10 question, but he gave other incriminating
11 information, in other words, if he's telling the
12 police we got stuck, he left the car, this is
13 when I think he committed the murder, we were
14 going to roll someone for a purse snatching, we
04:11 15 saw a woman, etcetera, why he wouldn't have at
16 that time said, and oh, by the way, I saw a
17 knife, and I wouldn't mind your comment on what
18 you concluded or observed about that when you
19 looked at Wilson's treatment by the police, both
04:11 20 the Saskatoon City Police and what he said to
21 them and then what he said in that room to
22 Inspector Roberts.

23 A I guess, in the absence of sort of any reason to
24 believe that he was, there was police pressure or
04:11 25 coercion on him, it could be that he simply



1 provided the knife because it was a very skilful
2 interview and the interviewer was able to help him
3 provide that information. It could be that, for
4 any number of reasons, he didn't provide it. It
04:11 5 may have been fear that he didn't provide it in
6 the first instance.

7 I also believe that, the way I
8 interpret Mr. Roberts' comments and what Wilson
9 said about his interview and the polygraph, that
04:11 10 there may have been a test run whereby a
11 description of a knife was put to Mr. Wilson a
12 number of times, it's called a peak of tension
13 test, and I believe a maroon-handled knife was
14 what peaked his tension during that test. So --
04:12 15 and we also know that the murder weapon was a, at
16 the time, believed to be a red-handled knife. So,
17 to me, it looked perhaps that the interview by Mr.
18 Roberts was able to provide more information.

19 Q Sorry, can you just explain that? We've heard
04:12 20 about that 'peak of tension test', and is that a
21 test a polygrapher does?

22 A Yes, it is, and in this particular case, My Lord,
23 probably would have been a test where a number of
24 knives could have been shown to the witness and
04:12 25 then --



1 COMMISSIONER MacCALLUM: Sorry, this is
2 'peak of attention'?

3 A 'Peak of tension'.

4 COMMISSIONER MacCALLUM: Peak of tension?

04:12 5 MR. HODSON: A Scottish term.

6 A What the test is designed to show what the --

7 COMMISSIONER MacCALLUM: Do you mean
8 something that peaks your tension or the summit,
9 the peak of tension?

10 A The tension within the individual, because of
11 course you are attached to the polygraph.

12 COMMISSIONER MacCALLUM: The high point of
13 tension within the individual?

14 A Exactly, a response.

04:13 15 COMMISSIONER MacCALLUM: P-E-A-K of
16 tension? All right.

17 A Yeah. Now there is a number of knives likely
18 would have been laid out on the table, and the
19 examiner may have asked a question along the lines
04:13 20 of "do you know for sure what colour the handle of
21 the knife was that killed Gail Miller", and the
22 person of course would say "no". And then the
23 examiner would say "do you know for sure if it was
24 a yellow-handled knife, blue-handled knife,
04:13 25 pink-handled knife, maroon-handled knife",



1 etcetera, and then you would examine the charts to
2 see whether or not there was a peak of -- a
3 physiological peak at that point. And I'm
4 assuming, only because I've got no independent
04:13 5 corroboration of this, that that may have been the
6 type of test that was run, and I base that on
7 Wilson saying "he asked me the same question over
8 and over and over".

9 BY MR. HODSON:

04:13 10 Q Right, and I --

11 A So I'm just assuming here, I don't know for a fact
12 that that happened, but I'm assuming that's likely
13 what happened.

14 Q That's helpful. And I think the evidence of Mr.
04:13 15 Wilson was that they actually had five knives, and
16 could you run the peak of tension test showing
17 five knives as opposed to describing their colour,
18 in other words "is this knife familiar", "is this
19 knife familiar", etcetera, and then --

04:14 20 A It could be that way, or it could be simply to say
21 what the colours are.

22 Q Okay.

23 A So you could have a number of, a collection of
24 knives on point, or you could simply say "do you
04:14 25 know for sure if it was blue, red, pink",



1 whatever.

2 Q And then I take it that if the subject can
3 identify the knife, sees the knife or has the
4 knife described and says "no", that that would
04:14 5 somehow cause something to trigger on the
6 polygraph?

7 A That's right, there'd be a physiological response,
8 and then you'd ask that same question over two or
9 three series of charts, and then when you look at
04:14 10 the charts, the charts would show a pattern of
11 responses to that particular question.

12 COMMISSIONER MacCALLUM: And could your
13 questions -- I think this was what counsel was
14 driving at, I'm not sure if I understood if you
04:14 15 answered it -- you could accomplish this test by
16 simply describing knives of differing
17 descriptions orally to him, you could do it by
18 showing him actual knives of different
19 configurations, could you?

04:15 20 A That's correct, My Lord.

21 COMMISSIONER MacCALLUM: And accompanied, I
22 suppose, by some verbal indication of what you
23 were doing?

24 A That's correct.

04:15 25 COMMISSIONER MacCALLUM: Okay.



1 A But, in order to set that up, you would need the
2 person to say to you "I don't know what the colour
3 of the knife was" --

4 COMMISSIONER MacCALLUM: Yes?

04:15 5 A -- because you need a lie. And then, so you would
6 then go through the series of knives, and the one
7 that the person lies to, where you would get the
8 physiological response.

9 BY MR. HODSON:

04:15 10 Q Okay.

11 A And like you indicated, it could either be by just
12 suggesting the colours or by actually having the
13 objects there and pointing to them.

14 COMMISSIONER MacCALLUM: I see. Okay.

04:15 15 BY MR. HODSON:

16 Q Now back to my earlier question, though, and I
17 just want to probe it a bit further. You are
18 investigating whether or not any police conduct
19 resulted in any of the witnesses giving false
04:15 20 statements, and I take it, then, one of the things
21 you looked at is what caused Ron Wilson -- or why,
22 I guess, why didn't Ron Wilson say to Detective
23 Karst "I saw a maroon-handled knife" when he give
24 him -- and I apologize for repeating this -- but
04:16 25 when he gave him other incriminating information



1 including "I think this is when he murdered Gail
2 Miller", and that yet when he was with Inspector
3 Roberts, that he did, and let's just probe that a
4 bit. And I suppose, I think what you are saying
04:16 5 is well, the polygraph may have assisted in that
6 Roberts might have said "okay, I did this peak of
7 tension test", if he did it, and you are saying
8 you think he might have because of what Wilson
9 described, but somehow that caused Wilson to say
04:16 10 "okay", either "you got me, I guess I did see a
11 maroon-handled knife", that's one theory?

12 A That's one explanation, yes.

13 Q But I guess what, what would motivate, and I guess
14 what I am asking you as a police officer, did you
04:16 15 look at this and ask yourself, well, what would
16 motivate Ron Wilson to withhold that from
17 Detective Karst the night before he went into the
18 polygraph when he was giving other evidence, like
19 what was it that prompted him to give new
04:17 20 incriminating information when he'd had an
21 opportunity and was giving other incriminating
22 information to the Saskatoon police officers?

23 A Yeah. I could only speculate, you know, I don't
24 know why. It could have been any number of
04:17 25 factors. But I can say that we attempted to get



1 that from Wilson, and we were never able to
2 interview him to find out why, if he could recall
3 why that happened that way.

4 Q And I think you had told us back in June that by
04:17 5 the time you got your investigation -- and I'm
6 paraphrasing, please correct me if I'm wrong --
7 that Ron Wilson as a reliable source of what
8 happened in 1969 was a non-starter?

9 A Yes, correct. You know, he had changed his story
04:17 10 a number of times, he had not provided sort of any
11 explanations, and certainly he had had some
12 problems in the Supreme Court.

13 Q And so I'm not gonna get you to speculate too much
14 here, but just to go back, did you -- you couldn't
04:18 15 get anything from Wilson that happened there,
16 Inspector Roberts didn't have his notes or the
17 charts of what happened, and I think you said that
18 would be pretty important in trying to figure out
19 what may have happened in that room?

04:18 20 A Yes, it would have been very helpful.

21 Q And again, what about this question though, did
22 you think that it was unusual or suspicious that
23 Wilson would make that admission to Roberts but
24 not to Detective Karst?

04:18 25 A As I indicated, I think the same with Nichol, it's



1 not unusual for more admissions to be made during
2 an interview by a, you know, a skilled
3 interviewer. So that, in itself, wasn't
4 surprising.

04:18 5 Q Okay. I'll come back to that when we talk about
6 the admissions because I've got -- well, I'll ask
7 it now, the same question. He says to Inspector
8 Roberts, which he doesn't say to anybody else,
9 that David Milgaard admitted stabbing a girl,
04:18 10 jabbing her with a knife and putting her purse in
11 a garbage can. The same question. If Detective
12 Karst is saying "lookit, you've given me a bunch
13 of incriminating information, do you have anything
14 else", and he doesn't give it, yet he goes to
04:19 15 Inspector Roberts and gives probably the most
16 incriminating information he could give short of
17 witnessing a murder, correct, an admission?

18 A That's right.

19 Q Right?

04:19 20 A That's right.

21 Q And, again, did that -- do you have the same
22 answer for that new piece of information that was
23 given to Inspector Roberts as you would for the
24 knife, sort of the same rationale?

04:19 25 A You know, it could have been two things, it could



1 have been a skilful interviewer who got the truth
2 or it could have been an interviewer who made
3 suggestions that Wilson latched onto. And like I
4 say, we were not able to go any further with that,
04:19 5 because we didn't interview Mr. Wilson to any
6 degree. We did have a short interview with him
7 but we never got into this area.

8 Q And if you -- and again, I'm not asking you to
9 accept Mr. Wilson's credibility on this point, but
04:20 10 if you accept the premise that he did not see a
11 maroon-handled knife and David Milgaard did not
12 admit stabbing Gail Miller to him, when you then
13 look at what could have happened in that room with
14 Inspector Roberts and how that information could
04:20 15 come to be, if it's not something that Wilson saw
16 or heard would the conclusion be, then, that
17 something must have happened to cause him to lie?

18 A Yes.

19 Q And that could be something Inspector Roberts did,
04:20 20 is one explanation?

21 A Yes, either intentionally or inadvertently.

22 Q Or something Ron Wilson did, in other words Ron
23 Wilson could have decided to lie for whatever
24 reason?

04:20 25 A Correct.



1 Q Or some combination of the two?

2 A Correct.

3 Q If we can just go down to this bottom part about
4 the area around Avenue P and 22nd, we've heard
04:21 5 some evidence about --

6 COMMISSIONER MacCALLUM: Just a minute.
7 I'm sorry, Mr. Hodson, I just had to take time to
8 digest the question. What could have showed
9 something -- what could have showed that Ron
04:21 10 Wilson decided to lie? You weren't speaking of
11 the times he was under the polygraph test, are
12 you?

13 A That's correct, My Lord.

14 COMMISSIONER MacCALLUM: Well if he lied it
04:21 15 would show up on the test, wouldn't it?

16 A Yes. But if my understanding is correct, or my
17 assumption is correct, he was only given that peak
18 of tension test. I don't know of any other charts
19 that were run on the actual issue of the murder.

04:21 20 So I think what I was trying
21 to suggest to the Commission before was that he
22 could have been -- there could have been a test
23 conducted on the colour of the handle of the knife
24 and whether he knew what colour the knife was, he
04:21 25 may very well know what colour the knife was



1 because maybe it was inadvertently suggested to
2 him by the examiner.

3 COMMISSIONER MacCALLUM: So you are
4 confining your remarks just to the knife issue?

04:22 5 A Yes, My Lord.

6 COMMISSIONER MacCALLUM: Okay.

7 BY MR. HODSON:

8 Q I think if I can just go further, and we have had
9 a bit of conflicting evidence on what exactly was
04:22 10 polygraphed, I think Inspector Roberts' evidence
11 at the Supreme Court was that the SKY method was
12 used and that Wilson failed on one or two
13 questions. But the incriminating statements, I
14 think Inspector Roberts' evidence was that the
04:22 15 incriminating statement that Wilson gave to the
16 police that day was not verified by the lie
17 detector, in other words that was not tested.
18 We've heard evidence from a number of people,
19 including police officers and the prosecutor, Mr.
04:22 20 Caldwell, who said they believed that that was
21 done. Again, I don't think anybody had the
22 charts.

23 But just back on the question
24 of what may have transpired in that room, if you
04:22 25 start with the premise that Wilson's statement



1 about the knife and the admission are false, then
2 I take it it's -- there is a couple of possible
3 explanations. Number one, it was something
4 Inspector Roberts did, either advertently or
04:23 5 inadvertently, that caused Ron Wilson to lie, is
6 one possible explanation?

7 A Yes, that's an explanation, yes.

8 Q Two, Ron Wilson could have, for whatever reason,
9 lied, not due to anything Inspector Roberts did,
04:23 10 but just decided to lie on those points?

11 A Correct.

12 Q Or some combination of the two?

13 A Correct.

14 Q And since you couldn't find out from Ron Wilson
04:23 15 what happened, and I think you are saying although
16 you had some information from Inspector Roberts,
17 without the notes and the charts, are you telling
18 us that getting to the bottom line as to what
19 happened in that room on May 23rd, 1969 was either
04:23 20 difficult or not possible?

21 A Yes, that's correct.

22 Q Just back on this point about --

23 COMMISSIONER MacCALLUM: So, actually, it
24 was not possible because you didn't get to the
04:24 25 bottom of it; right?



1 A We didn't, that's correct, My Lord.

2 COMMISSIONER MacCALLUM: Okay.

3 BY MR. HODSON:

4 Q Just one last item before we finish for the day.

04:24 5 This is about Wilson being driven around the area
6 and that it was familiar to him, he picked out the
7 Trav-a-leer Motel and some other areas, what --
8 and we've heard evidence about this, that both
9 Nichol John and Ron Wilson were driven around the
04:24 10 area and that that may have somehow contaminated
11 or influenced a recollection of where they were.
12 As a police officer can you describe the methods
13 to determine, if you want to find out whether
14 Nichol John and Ron Wilson were in the vicinity of
04:24 15 the funeral home, is there a way to do it without
16 showing them that area and having them identify
17 it?

18 A No, there isn't, but when you do drive them around
19 it's very important that there is no suggestions
04:24 20 made. So, you know, I mean this, it's either very
21 good police work or very poor police work,
22 depending on how it was done. And if they simply
23 said "lookit, we're going to take you for a drive
24 and we want you to point out certain landmarks if
04:25 25 you recall them", which is what I assumed happened



1 here, that's good police work because it helps
2 them to recall; but secondly it gives you, as the
3 investigator, verification as to certain events
4 that have happened. So, for example, if they
04:25 5 drove Nichol by the funeral home, for example, and
6 she recalled that, or the church, which is
7 something that I know she recalled, as an
8 investigator that would indicate to me that she is
9 pointing out certain landmarks at the crime scene,
04:25 10 and that's important.

11 Q And so, so that I have this right, if you drove
12 around, let's say you go down 22nd Street and
13 start at Avenue M and go up and down the avenues
14 and just say "lookit" -- and the alleys, "tell me
04:25 15 if there's anything that's familiar", there's
16 nothing wrong with that, that's good police work?

17 A No, there's nothing wrong with that, it's done
18 very often.

19 Q And I take it the other extreme would be to drive
04:25 20 into the back alley and say "lookit, isn't this
21 where you were stuck"?

22 A Yes, and to say "this is where the body was and
23 this is where the person was thrown", that would
24 be improper, or could be improper. I think you
04:26 25 have to leave it to the skill of the investigator,



1 because there may be times where it's appropriate
2 to suggest "is" -- or to ask a question "is this
3 where the person was found or is this" -- but,
4 generally speaking, you would hope that that
04:26 5 information was volunteered as you drove around
6 and pointed out or passed various landmarks that
7 you would hope the witness would recall.

8 Q This is probably an appropriate spot to break for
9 the day.

04:26 10 *(Adjourned at 4:26 p.m.)*
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'	023240 [1] - 36239:18 023247 [1] - 36200:5 023248 [1] - 36234:16 0430 [1] - 36086:10	36232:22 162421 [1] - 35983:15 166262 [1] - 35985:12 16th [3] - 36075:11, 36085:22, 36086:2 17 [1] - 36232:22 174 [1] - 35979:22 17th [2] - 36045:22, 36052:7 18 [1] - 36156:16 1800 [1] - 36077:19 185351 [2] - 36126:15, 36126:16 19119 [2] - 36133:2, 36133:17 19123 [1] - 36139:19 19199 [1] - 36136:9 1951 [1] - 36086:5 1967 [4] - 36075:11, 36078:4, 36085:25, 36086:2 1968 [3] - 36075:23, 36077:11, 36111:21 1968/69 [1] - 36179:17 1969 [20] - 35989:10, 35989:16, 35993:8, 36019:14, 36076:3, 36078:17, 36105:12, 36111:15, 36150:23, 36152:3, 36187:25, 36188:12, 36201:3, 36205:9, 36224:24, 36225:12, 36238:15, 36252:8, 36257:19 1970 [7] - 36078:6, 36109:4, 36118:23, 36119:9, 36151:25, 36153:3, 36153:4 1978 [1] - 36078:4 1980 [6] - 36085:3, 36086:8, 36087:14, 36120:16, 36120:17, 36120:25 1981 [3] - 36005:2, 36021:13, 36159:11 1986 [7] - 35983:15, 35984:3, 35985:1, 35987:13, 35988:2, 36019:15, 36021:15 1988 [2] - 35985:10, 36062:16 1989 [10] - 35985:13, 35986:17, 35987:10, 36080:21, 36120:14, 36145:21, 36147:7, 36148:12, 36148:16, 36150:16 1990 [12] - 36040:1, 36049:19, 36065:22, 36068:3, 36070:20,	36092:22, 36121:8, 36121:9, 36121:16, 36122:2, 36197:6, 36238:15 1993 [1] - 36234:25 19th [4] - 36069:20, 36109:4, 36119:9, 36153:4 1:30 [1] - 36120:9 1:35 [1] - 36121:3 1st [1] - 36040:1	36128:22 29 [1] - 36148:16 29881 [1] - 36143:23 29th [2] - 35979:21, 36147:7 2:23 [1] - 36166:5 2:44 [1] - 36166:6 2a [3] - 36094:16, 36094:23, 36104:14 2b [3] - 36094:20, 36094:25, 36097:8 2nd [6] - 36145:20, 36148:12, 36187:25, 36188:4, 36188:12, 36188:17
	1		2	3
'...had [1] - 36196:14 '69 [7] - 36205:13, 36212:13, 36213:20, 36232:18, 36239:10, 36239:25, 36240:7 '70 [2] - 36232:18, 36238:15 '89 [1] - 36120:18 '90 [1] - 36074:17 '93 [1] - 36237:11 'all [1] - 36151:11 'and [2] - 36071:4, 36072:12 'broader' [1] - 36047:15 'challenge [1] - 36138:6 'fuck [1] - 36196:18 'give [1] - 36071:17 'good [1] - 36190:10 'hippie' [1] - 36235:12 'it [2] - 36151:15, 36153:15 'linda [1] - 36071:23 'mr [2] - 36125:25, 36127:8 'oh [2] - 36071:7, 36071:9 'peak [3] - 36246:20, 36247:2, 36247:3 'queer' [1] - 36211:5 'right [1] - 36072:10 'well [1] - 36071:19 'who [1] - 36071:22 'williams [1] - 36072:2 'yeah [1] - 36071:24 'your [1] - 36050:5	1 [15] - 35988:6, 36087:6, 36088:8, 36092:10, 36093:3, 36093:4, 36094:5, 36097:9, 36097:11, 36098:3, 36130:13, 36148:19, 36148:22, 36148:23, 36199:1 10 [4] - 36092:22, 36095:1, 36214:6, 36222:5 1010 [1] - 36008:8 1046 [1] - 36015:15 1050 [2] - 36010:1, 36021:3 1052 [2] - 36010:10, 36021:3 1066 [1] - 36008:8 10:41 [1] - 36073:21 10th [2] - 36094:9, 36094:21 11 [3] - 36063:10, 36082:6, 36094:24 11:01 [1] - 36073:22 11th [2] - 36094:10, 36094:13 12 [1] - 36139:21 12-page [1] - 36214:6 12:00 [1] - 36120:8 12:08 [1] - 36121:2 12th [5] - 36049:19, 36065:22, 36068:3, 36121:9, 36124:11 13th [1] - 36158:7 14 [3] - 36055:19, 36064:14, 36136:21 14th [4] - 36085:15, 36085:21, 36085:25, 36210:20 15 [4] - 36067:23, 36123:23, 36156:23, 36167:23 15-minute [1] - 36067:18 15429 [2] - 36125:16, 36125:20 156668 [1] - 36145:20 15681 [2] - 36128:21, 36128:22 157019 [1] - 36148:11 158851 [1] - 36126:22 16 [2] - 36069:23,	2 [7] - 35983:17, 36082:6, 36093:13, 36094:5, 36094:13, 36101:10, 36130:14 20 [4] - 36139:19, 36150:25, 36152:6, 36155:7 2005 [3] - 36052:8, 36125:22, 36128:22 2006 [4] - 35979:21, 36143:22, 36156:15, 36158:7 20th [1] - 36086:5 21 [1] - 36240:7 220222 [1] - 36150:16 225 [1] - 36041:20 22nd [6] - 36150:15, 36211:9, 36212:12, 36213:20, 36255:4, 36259:12 23 [1] - 35987:13 23rd [8] - 35985:1, 35985:13, 35988:2, 36214:17, 36219:14, 36221:7, 36222:20, 36257:19 24 [1] - 36074:17 24508 [2] - 36156:11, 36156:15 24512 [1] - 36156:22 248 [1] - 36043:6 24th [8] - 35983:15, 35984:3, 36121:8, 36214:14, 36222:14, 36222:20, 36227:21, 36233:11 253 [1] - 36043:13 25526 [1] - 36045:22 25th [2] - 36075:24, 36076:25 26934 [1] - 36069:21 277583 [1] - 36153:1 27th [1] - 36125:22 28 [1] - 36085:3 28th [2] - 36095:25,	3 [4] - 36049:20, 36094:5, 36116:17, 36117:3 30 [1] - 36074:5 300 [4] - 36076:12, 36076:13, 36117:25, 36119:12 31 [2] - 36232:3, 36238:8 31st [1] - 36105:12 323 [1] - 36043:24 326510 [1] - 36073:25 326527 [1] - 36121:19 32733 [1] - 36058:1 32736 [1] - 36060:22 32745 [1] - 36063:10 32746 [1] - 36063:25 329 [2] - 36086:17, 36086:19 33284 [1] - 36158:8 33286 [1] - 36159:5 33287 [1] - 36160:5 334 [1] - 36076:7 334961 [2] - 36069:24, 36070:15 334963 [1] - 36070:14 334970 [2] - 36121:16, 36121:20 337469 [1] - 35986:24 3405 [1] - 36052:8 3413 [1] - 36053:6 3417 [1] - 36055:17 3506 [1] - 36052:9 35983 [1] - 35982:4 35987 [1] - 35982:5 36039 [1] - 35982:6 36074 [1] - 35982:7 36120 [1] - 35982:8 36166 [1] - 35982:10 3:05 [1] - 36104:10 3:10 [1] - 36104:11	
0				
0 [4] - 36076:10, 36086:19, 36095:24 001285 [1] - 35987:1 001318 [1] - 36041:19 001321 [2] - 36043:3, 36043:6 0036 [1] - 36068:3 010035 [3] - 36049:18, 36068:3, 36124:7 010056 [2] - 36147:8, 36148:23 016327 [1] - 36074:2 023167 [1] - 36166:15 023169 [1] - 36166:24 023195 [1] - 36167:12 023214 [1] - 36167:25 023229 [1] - 36168:24 023236 [1] - 36204:3				



3rd ^[1] - 36176:10	36098:18, 36130:17, 36131:2, 36178:18, 36184:12, 36184:17, 36185:1, 36185:4, 36205:2, 36206:4, 36213:4, 36213:11, 36213:12, 36215:21, 36216:7, 36218:2, 36218:22, 36220:7, 36220:22, 36220:24, 36223:7, 36223:11, 36223:24, 36225:22, 36232:9, 36239:4, 36239:6, 36239:7, 36243:7, 36246:2, 36246:18, 36252:1, 36254:4	36112:5 accuse ^[3] - 36015:5, 36091:7, 36091:15 accused ^[6] - 36015:25, 36091:10, 36092:6, 36099:22, 36109:16, 36177:9 accusing ^[2] - 36012:23, 36091:8 achieve ^[1] - 36137:5 acid ^[3] - 36118:16, 36118:18, 36118:21 acknowledge ^[1] - 36172:10 acknowledged ^[1] - 36196:6 acquaint ^[2] - 36166:17, 36167:14 acquaintance ^[1] - 36152:1 act ^[1] - 36116:3 action ^[1] - 36058:23 actions ^[6] - 36035:19, 36035:23, 36059:12, 36059:19, 36061:11, 36165:4 activities ^[3] - 36002:25, 36112:12, 36237:19 activity ^[1] - 36025:2 actual ^[2] - 36249:18, 36255:19 add ^[4] - 36066:5, 36114:14, 36178:4, 36178:5 added ^[1] - 36151:10 addition ^[5] - 36012:22, 36039:18, 36146:5, 36169:13, 36194:13 additional ^[2] - 36216:3, 36242:19 additions ^[3] - 35988:10, 36093:17, 36240:8 address ^[7] - 36071:10, 36071:11, 36071:17, 36086:17, 36086:18, 36087:5, 36186:15 addressed ^[1] - 36163:10 adjourn ^[1] - 36120:8 Adjourned ^[5] - 36073:21, 36104:10, 36121:2, 36166:5, 36260:10 admission ^[6] - 36172:12, 36172:15, 36200:20, 36252:23, 36253:17, 36257:1 admissions ^[3] -	36235:5, 36253:1, 36253:6 admit ^[2] - 36042:13, 36254:12 admitted ^[2] - 36178:6, 36253:9 admittedly ^[1] - 36040:13 adopting ^[1] - 36060:3 advance ^[1] - 36155:20 advanced ^[1] - 36137:9 adverse ^[2] - 36114:4, 36228:2 advertently ^[1] - 36257:4 advice ^[5] - 36137:24, 36159:6, 36159:7, 36162:24, 36189:20 advisable ^[1] - 36165:10 advise ^[1] - 36050:12 advised ^[9] - 35984:9, 35987:5, 35994:20, 36009:7, 36009:14, 36009:15, 36009:23, 36074:2, 36163:12 affair ^[1] - 36235:14 affairs ^[1] - 36041:3 affect ^[2] - 36087:10, 36111:7 affected ^[5] - 36079:8, 36079:10, 36079:13, 36111:7, 36111:8 affecting ^[1] - 36082:15 affidavit ^[19] - 35983:11, 35985:2, 35985:6, 35985:8, 35986:8, 35986:15, 36047:19, 36058:20, 36059:4, 36060:6, 36060:10, 36060:19, 36061:9, 36061:15, 36062:15, 36063:21, 36142:24, 36152:8 Affidavit ^[27] - 35985:18, 35985:23, 35985:25, 35987:12, 35988:5, 35988:7, 35989:2, 35989:10, 35994:7, 36009:5, 36012:4, 36012:23, 36016:3, 36017:1, 36019:14, 36019:15, 36019:18, 36020:1, 36020:5, 36020:11, 36020:15, 36021:14, 36023:8, 36038:14, 36050:24, 36146:1, 36147:21 afraid ^[4] - 36209:24,	36211:23, 36230:8, 36241:19 afternoon ^[3] - 36086:14, 36090:8, 36119:20 afterwards ^[1] - 36072:9 after ” ^[1] - 36098:15 age ^[2] - 36002:8, 36002:10 agency ^[1] - 36066:20 agenda ^[3] - 36139:25, 36140:2, 36140:10 aggressive ^[6] - 36046:21, 36138:21, 36190:23, 36195:13, 36198:4, 36200:16 aggressively ^[1] - 36191:20 ago ^[3] - 36097:2, 36181:4, 36220:24 agree ^[24] - 35984:5, 36011:2, 36011:5, 36052:24, 36053:16, 36059:21, 36060:4, 36065:18, 36066:2, 36066:8, 36068:22, 36091:14, 36113:20, 36128:15, 36138:2, 36138:23, 36140:24, 36141:9, 36154:22, 36154:24, 36198:24, 36199:8, 36199:21, 36212:19 agreed ^[4] - 36044:18, 36055:5, 36055:9, 36242:4 agrees ^[1] - 36044:7 ahead ^[2] - 36200:4, 36235:2 ahold ^[1] - 36071:7 aimed ^[1] - 36200:21 air ^[1] - 36015:18 Albert ^[26] - 36105:7, 36183:23, 36189:1, 36189:11, 36189:15, 36189:20, 36192:3, 36192:15, 36194:9, 36194:13, 36196:2, 36197:4, 36197:22, 36198:18, 36199:9, 36199:16, 36200:4, 36202:10, 36202:23, 36203:4, 36203:11, 36205:11, 36205:17, 36224:4, 36228:24, 36240:18 Albert's ^[4] - 36196:21, 36198:24, 36199:21, 36200:15
4				
4 ^[4] - 36058:3, 36094:5, 36160:2, 36160:5 40 ^[3] - 36113:12, 36113:13, 36113:19 45 ^[2] - 36083:6, 36083:9 4:26 ^[1] - 36260:10 4:30 ^[2] - 36086:11, 36086:14	absence ^[5] - 36220:21, 36222:9, 36241:17, 36243:13, 36245:23 absolutely ^[1] - 36076:8 abused ^[1] - 36231:3 accept ^[5] - 36060:14, 36142:2, 36172:16, 36254:9, 36254:10 accepted ^[2] - 36187:18, 36187:19 accepting ^[1] - 36069:9 accommodating ^[1] - 36039:5 accommodation ^[2] - 36039:7, 36064:24 accompanied ^[1] - 36249:21 accompany ^[1] - 36084:23 accompanying ^[1] - 36024:24 accomplish ^[1] - 36249:15 according ^[8] - 36049:7, 36143:5, 36145:9, 36147:6, 36162:9, 36182:5, 36217:6, 36219:11 account ^[5] - 36187:4, 36194:21, 36203:10, 36238:23, 36239:25 accounts ^[2] - 36185:19, 36240:9 accurate ^[11] - 36017:14, 36051:14, 36054:7, 36054:9, 36065:23, 36066:8, 36070:11, 36131:2, 36131:8, 36138:17, 36184:16 accusation ^[5] - 36059:16, 36091:13, 36109:24, 36111:13,			
5				
5 ^[4] - 36070:23, 36094:5, 36128:23, 36133:18 5th ^[1] - 36070:19				
6				
6 ^[2] - 35987:9, 36094:6 653-1330 ” ^[1] - 36108:7 653-3312 ^[1] - 36086:8 69-03-02 ^[1] - 36187:8 69-05-24 ^[1] - 36237:15 690 ^[2] - 36074:22, 36137:16 6:45 ^[2] - 36240:11, 36240:24 6th ^[1] - 35986:17				
8				
851 ^[2] - 36126:17, 36126:18				
9				
9 ^[1] - 36158:8 963 ^[1] - 36070:24 9:04 ^[1] - 35983:2 9th ^[5] - 36121:16, 36122:2, 36124:10, 36143:22, 36156:15				
A				
ability ^[1] - 36261:7 able ^[37] - 36071:1, 36071:6, 36074:7,				



<p>Alberta [1] - 36227:3 alcohol [1] - 36082:15 allegation [26] - 36143:4, 36167:3, 36168:6, 36168:10, 36168:19, 36169:1, 36169:2, 36170:4, 36170:10, 36170:14, 36171:9, 36173:21, 36174:3, 36175:11, 36178:22, 36179:8, 36180:14, 36180:17, 36180:22, 36180:25, 36183:7, 36183:21, 36191:1, 36191:2, 36194:16, 36236:2 allegations [10] - 36129:20, 36142:17, 36142:18, 36166:22, 36167:8, 36167:17, 36178:6, 36182:12, 36194:20 alleged [2] - 36146:8, 36191:12 allegedly [2] - 36013:1, 36013:10 alleges [1] - 36191:6 alley [2] - 36178:7, 36259:20 alleys [1] - 36259:14 allowed [2] - 36053:13, 36055:22 almost [3] - 36037:18, 36037:19, 36113:22 alone [2] - 36103:6, 36198:23 alter [1] - 36110:23 alternate [2] - 36131:13, 36132:1 alternative [1] - 36130:17 alters [1] - 36111:1 amendment [2] - 36096:4, 36096:7 amount [1] - 36199:4 anal [1] - 36057:13 anatomy [1] - 36025:10 anger [3] - 36091:20, 36109:17, 36122:12 angry [8] - 36046:18, 36046:19, 36051:18, 36051:23, 36099:25, 36100:4, 36109:23, 36122:10 animus [1] - 36157:13 announcement [3] - 36099:7, 36099:9, 36099:13 answer [11] - 36010:4, 36039:8, 36047:16,</p>	<p>36065:7, 36074:20, 36117:4, 36117:5, 36129:16, 36160:9, 36219:21, 36253:22 answered [4] - 36003:14, 36003:24, 36176:1, 36249:15 answers [4] - 36045:11, 36056:13, 36056:14, 36160:5 anyway [4] - 36034:6, 36043:8, 36093:20, 36232:8 apart [6] - 36013:8, 36063:22, 36065:19, 36066:10, 36172:24, 36214:12 Apart [1] - 36047:3 apartment [5] - 36088:12, 36104:24, 36104:25, 36105:2, 36105:25 apologize [2] - 36188:25, 36250:24 apparent [2] - 36138:19, 36144:15 appeal [2] - 36163:14 appear [10] - 35985:24, 36047:24, 36054:19, 36124:13, 36147:5, 36150:1, 36160:10, 36180:8, 36183:22, 36217:10 appearance [1] - 36116:21 Appearances [1] - 35981:1 appeared [4] - 36129:15, 36140:19, 36149:9, 36150:14 appearing [1] - 36139:9 applicant [1] - 36137:18 application [21] - 35985:9, 36061:18, 36062:1, 36062:8, 36063:4, 36063:6, 36066:25, 36074:23, 36137:16, 36142:5, 36147:22, 36149:13, 36156:4, 36156:7, 36158:23, 36160:13, 36161:18, 36162:21, 36163:8, 36164:5 Application [1] - 36074:22 applied [1] - 36163:1 appreciate [6] - 36039:6, 36064:23, 36136:24, 36143:12, 36148:3, 36186:7</p>	<p>approach [5] - 36037:16, 36170:15, 36171:15, 36200:18, 36201:6 approached [2] - 36005:3, 36045:19 approve [1] - 36162:1 appropriate [6] - 36044:15, 36073:19, 36162:14, 36164:16, 36260:1, 36260:8 appropriately [1] - 36163:25 approximation [1] - 36083:10 April [8] - 36045:22, 36069:20, 36075:23, 36076:25, 36086:5, 36205:13, 36210:6, 36210:19 area [17] - 35983:7, 36007:12, 36008:4, 36008:5, 36134:11, 36137:6, 36162:8, 36168:8, 36170:2, 36184:22, 36184:24, 36242:10, 36254:7, 36255:4, 36258:5, 36258:10, 36258:16 areas [2] - 36162:15, 36258:7 arguably [1] - 36200:16 argue [1] - 36216:2 argued [2] - 36090:12, 36090:14 arguing [2] - 36090:11, 36091:5 argument [9] - 36090:1, 36090:3, 36098:25, 36099:3, 36119:18, 36133:13, 36171:14, 36201:8, 36202:11 argumentative [2] - 36056:18, 36056:21 arise [1] - 36040:21 armed [1] - 36157:9 arms [4] - 36027:1, 36029:13, 36034:25, 36043:18 arrangements [1] - 35986:16 arrested [8] - 35989:17, 35989:21, 35993:22, 36078:6, 36119:8, 36185:10, 36185:15, 36187:10 arrival [1] - 36083:2 arrived [8] - 35999:25, 36000:7, 36000:14, 36003:14, 36009:1,</p>	<p>36082:8, 36083:1, 36199:3 article [6] - 36150:14, 36152:4, 36152:19, 36153:10, 36154:22, 36155:3 Aside [2] - 36109:13, 36147:25 aside [2] - 36109:14, 36109:16 asleep [1] - 36104:19 aspect [1] - 36244:24 aspects [1] - 36201:4 Asper [35] - 35981:15, 35982:3, 35983:5, 35983:7, 35986:6, 36009:17, 36019:16, 36021:8, 36021:13, 36037:12, 36037:18, 36038:2, 36038:13, 36039:17, 36043:4, 36043:11, 36055:4, 36067:23, 36068:11, 36072:17, 36121:5, 36127:2, 36142:23, 36147:11, 36151:4, 36151:14, 36151:24, 36158:3, 36158:20, 36159:8, 36161:4, 36161:15, 36165:11, 36165:14, 36165:18 ass [1] - 36050:20 assault [1] - 36109:5 assaults [1] - 36179:17 assertion [4] - 36053:17, 36073:1, 36153:13, 36190:12 assertions [2] - 36153:10, 36154:21 assess [1] - 36137:8 assessment [7] - 36058:5, 36058:7, 36059:8, 36059:15, 36062:18, 36062:23, 36197:21 assist [3] - 36173:5, 36217:14, 36220:24 assistance [1] - 36157:3 Assistant [1] - 35980:5 assisted [1] - 36251:5 assisting [1] - 35985:25 associated [2] - 36142:5, 36181:24 assume [4] - 36052:21, 36124:5, 36139:16, 36152:11 assumed [5] - 36106:19, 36107:1, 36107:17, 36119:24,</p>	<p>36258:25 assuming [5] - 36107:16, 36203:18, 36248:4, 36248:11, 36248:12 assumption [1] - 36255:17 attached [2] - 36089:2, 36247:11 attaching [1] - 36111:6 attempt [3] - 36131:24, 36146:25, 36155:11 attempted [1] - 36251:25 attempting [1] - 36138:13 attempts [3] - 36146:22, 36155:24, 36241:14 attended [1] - 36190:5 attention [19] - 35983:14, 35987:22, 35989:12, 35994:7, 35998:1, 36009:5, 36015:15, 36077:23, 36078:8, 36085:5, 36086:10, 36087:22, 36088:15, 36093:13, 36096:11, 36104:13, 36121:15, 36139:18, 36189:24 attention' [1] - 36247:2 attitude [1] - 36056:23 attributed [6] - 36039:21, 36047:17, 36053:18, 36053:25, 36129:20, 36235:7 attributes [1] - 36125:24 Audible [1] - 36099:20 Audio [1] - 35980:12 audio [1] - 36120:20 August [5] - 35979:21, 35991:14, 36085:3, 36147:7, 36148:16 author [1] - 36125:24 authored [1] - 36124:10 authority [6] - 36041:2, 36052:21, 36066:22, 36161:19, 36229:8, 36230:2 available [4] - 35996:12, 36146:15, 36215:25, 36218:25 Avenue [10] - 36075:14, 36076:1, 36076:7, 36076:10, 36077:19, 36086:19, 36095:24, 36255:4, 36259:13 avenues [1] - 36259:13</p>
---	--	---	--	---



average [1] - 35996:16 avoided [1] - 36148:17 aware [16] - 36000:11, 36001:18, 36039:17, 36070:4, 36070:7, 36121:23, 36121:25, 36122:1, 36122:3, 36122:5, 36126:8, 36130:5, 36146:19, 36184:20, 36232:24, 36233:18 awful [2] - 36139:5, 36223:10 awhile [1] - 36090:7	bearing [1] - 36160:14 beautiful [1] - 36071:12 became [6] - 35985:8, 36062:25, 36121:23, 36122:5, 36122:8, 36240:12 become [2] - 36039:17, 36039:20 becomes [1] - 36113:25 bed [29] - 35988:15, 35988:19, 35988:21, 35988:24, 36004:7, 36013:17, 36014:7, 36014:13, 36014:19, 36015:3, 36019:7, 36025:4, 36025:6, 36025:13, 36025:22, 36026:15, 36026:22, 36034:25, 36036:4, 36042:19, 36042:21, 36043:17, 36044:5, 36101:12, 36101:14, 36101:19, 36101:21 beer [3] - 36084:6, 36084:7, 36087:9 began [3] - 36086:11, 36131:9, 36195:11 begin [3] - 35998:1, 36062:24, 36130:2 beginning [4] - 36098:4, 36108:22, 36115:3, 36133:1 begins [2] - 36040:24, 36096:13 behalf [1] - 36074:24 behaving [1] - 36211:4 behaviour [1] - 36116:1 behind [2] - 36026:11, 36029:12 beiges [1] - 36103:23 Beitel [1] - 35980:8 believable [2] - 36196:24, 36229:25 belittle [1] - 36072:1 belittling [1] - 36046:23 Below [1] - 36108:7 below [3] - 36113:12, 36113:13, 36113:19 Bench [4] - 36261:1, 36261:3, 36261:14, 36261:20 beneath [1] - 36108:10 beneficial [1] - 36155:22 benefit [3] - 36069:16, 36148:14, 36149:3 Berard [6] - 36204:9, 36227:1, 36235:9, 36236:1, 36236:19, 36237:5	Berard's [1] - 36237:7 Berard/wispinski [1] - 36235:24 Beresh's [1] - 36132:6 beside [2] - 36013:17 Bessborough [1] - 35979:16 best [7] - 35985:5, 36035:12, 36117:4, 36129:3, 36205:6, 36205:7, 36261:6 better [5] - 36067:2, 36081:14, 36205:3, 36220:6 Between [1] - 36021:12 between [41] - 35997:24, 35999:18, 35999:22, 36000:8, 36002:25, 36009:1, 36013:18, 36013:20, 36034:9, 36035:9, 36051:15, 36068:12, 36070:16, 36070:18, 36078:4, 36080:15, 36082:3, 36083:2, 36083:17, 36083:19, 36091:2, 36093:6, 36095:17, 36101:16, 36105:19, 36121:18, 36121:21, 36121:24, 36138:7, 36149:8, 36164:13, 36165:4, 36169:3, 36175:16, 36188:2, 36188:10, 36195:4, 36197:8, 36214:20, 36222:2, 36222:3 Beyond [1] - 36116:23 bickering [1] - 36090:6 big [5] - 36014:15, 36024:19, 36119:17, 36124:3, 36124:6 bill [1] - 36038:8 bit [21] - 35997:8, 36025:8, 36032:4, 36039:1, 36056:17, 36063:21, 36077:23, 36096:16, 36115:13, 36176:5, 36189:7, 36195:3, 36207:23, 36210:4, 36210:16, 36219:22, 36237:10, 36241:3, 36250:17, 36251:4, 36256:9 bits [1] - 36205:4 black [3] - 36102:18, 36102:19, 36159:9 blade [8] - 36088:21, 36088:22, 36089:3, 36089:14, 36089:19,	36108:9, 36108:13, 36108:15 block [10] - 36076:12, 36076:13, 36077:19, 36095:18, 36117:14, 36117:16, 36117:25, 36119:12, 36119:17, 36186:22 blocks [1] - 36009:10 blood [17] - 36103:8, 36103:13, 36108:13, 36178:8, 36196:5, 36196:9, 36196:17, 36199:2, 36199:4, 36199:5, 36199:9, 36199:17, 36199:18, 36199:22, 36199:24, 36211:2, 36240:18 bloodstains [1] - 36103:25 blow [1] - 36162:2 blowing [1] - 36113:15 blue [4] - 36102:12, 36112:17, 36247:24, 36248:25 blue-handled [1] - 36247:24 board [2] - 36180:9, 36180:10 Bob [4] - 36000:7, 36001:10, 36002:22, 36012:6 Bobs [1] - 35981:5 body [3] - 36108:11, 36109:11, 36259:22 born [2] - 36075:23, 36086:4 Boswell [1] - 35980:4 bottom [22] - 35983:16, 36009:6, 36049:20, 36072:5, 36085:4, 36094:4, 36098:1, 36125:23, 36128:7, 36144:3, 36151:18, 36154:9, 36166:25, 36183:2, 36193:21, 36193:25, 36194:18, 36216:11, 36239:21, 36255:3, 36257:18, 36257:25 bouncing [12] - 36025:7, 36025:8, 36025:10, 36025:13, 36025:15, 36025:21, 36026:15, 36031:3, 36034:24, 36042:21, 36042:22, 36043:17 Bouncing [1] - 36026:22 Boychuk [1] - 35981:9	boyfriend [1] - 35992:13 brains [8] - 36032:7, 36032:9, 36033:5, 36033:7, 36036:6, 36054:23, 36054:25, 36061:3 break [12] - 36067:13, 36067:18, 36069:19, 36074:4, 36104:8, 36165:23, 36166:1, 36179:12, 36210:3, 36210:13, 36242:22, 36260:8 breastfeeding [1] - 36080:9 breath [1] - 36031:20 bricklayer's [1] - 36079:7 brief [1] - 35985:4 briefly [3] - 35983:8, 36182:18, 36227:11 bring [4] - 35983:17, 36150:16, 36152:25, 36244:17 bringing [1] - 36145:22 broadcast [1] - 36003:7 broaden [2] - 36047:14, 36047:15 broke [1] - 36233:5 broken [1] - 36244:7 brother [1] - 36196:12 brought [5] - 36008:3, 36074:24, 36102:8, 36119:13, 36134:7 brown [3] - 36089:7, 36099:21, 36109:2 brown-handled [1] - 36109:2 brown—coloured [1] - 36088:23 Bruce [1] - 35981:10 brutal [1] - 36058:10 brutally [2] - 36030:8, 36041:24 Bryan [7] - 36081:10, 36081:12, 36081:17, 36084:15, 36084:16, 36085:1 bugging [1] - 36055:25 building [3] - 36079:13, 36134:3, 36134:4 bump [1] - 35993:14 bumping [1] - 35993:12 bunch [1] - 36253:12 bus [4] - 36095:2, 36095:9, 36095:17, 36095:24 Bus [1] - 36078:22 busy [1] - 36146:3
B				
baby [1] - 36076:17 backfired [1] - 36159:2 backfiring [1] - 36160:17 background [4] - 35983:9, 35986:6, 35986:10, 36006:6 backing [1] - 36013:5 backwards [1] - 36072:3 bad [2] - 36079:18, 36190:10 badly [2] - 36115:10, 36231:1 balance [1] - 36062:10 band [1] - 35992:18 Barbara [6] - 36204:9, 36204:14, 36227:1, 36227:14, 36236:19 Bartlett [1] - 36037:16 base [2] - 36109:19, 36248:6 based [10] - 36045:11, 36128:8, 36130:22, 36141:11, 36182:24, 36200:10, 36206:21, 36206:22, 36211:1, 36226:10 basement [2] - 36104:24, 36105:2 bases [3] - 36063:3, 36160:12, 36180:13 basic [2] - 36040:25, 36131:23 basis [8] - 35985:8, 36152:13, 36169:9, 36169:13, 36169:20, 36180:21, 36180:23, 36199:23 Battleford [3] - 36075:10, 36115:24, 36134:2				



buying ^[1] - 35995:12 bystanders ^[1] - 36182:1	36130:11, 36167:8, 36227:20, 36228:2, 36228:13, 36230:7, 36230:15, 36256:20 Caldwells ^[1] - 36167:23 Calgary ^[2] - 35983:19, 35984:20 Calvin ^[1] - 35981:13 Canada ^[2] - 35981:12, 36055:21 Candace ^[1] - 35980:3 Cando ^[2] - 36075:4, 36134:6 cannot ^[2] - 36162:6, 36223:20 cap ^[2] - 36001:22, 36001:24 capable ^[2] - 36116:2, 36210:25 car ^[10] - 36176:14, 36177:3, 36233:7, 36240:12, 36240:13, 36240:25, 36242:11, 36243:6, 36244:17, 36245:12 careful ^[1] - 36225:2 Carlyle ^[4] - 35983:23, 35984:17, 35984:23, 36145:21 Carlyle-gordge ^[4] - 35983:23, 35984:17, 35984:23, 36145:21 case ^[32] - 35986:1, 36019:19, 36040:3, 36062:25, 36072:18, 36111:24, 36124:19, 36148:5, 36169:7, 36173:20, 36174:5, 36176:21, 36176:22, 36178:14, 36179:24, 36180:4, 36180:6, 36180:18, 36191:23, 36194:11, 36201:9, 36202:12, 36206:6, 36206:12, 36206:15, 36213:2, 36218:17, 36219:3, 36228:3, 36228:8, 36230:18, 36246:22 cases ^[1] - 36177:24 catch ^[1] - 36165:20 categories ^[1] - 36181:14 category ^[3] - 36181:18, 36181:20, 36182:10 Catherine ^[1] - 35981:5 caught ^[1] - 36061:5 caused ^[8] - 36061:14,	36110:23, 36117:1, 36222:14, 36224:17, 36250:21, 36251:9, 36257:5 causes ^[1] - 36223:4 Cbc ^[4] - 35980:10, 36261:3, 36261:18, 36261:19 cell ^[6] - 36224:9, 36224:25, 36225:8, 36233:16, 36233:19, 36233:24 cells ^[4] - 36183:16, 36183:20, 36224:14, 36224:16 cement ^[1] - 36079:6 centre ^[2] - 36055:19, 36122:15 Centre ^[1] - 36224:3 Centurion ^[4] - 36195:25, 36196:7, 36197:5, 36197:24 certain ^[28] - 35984:16, 35984:23, 35986:10, 36007:24, 36009:14, 36016:22, 36021:5, 36023:8, 36032:21, 36040:2, 36044:21, 36046:5, 36059:2, 36068:25, 36086:21, 36088:25, 36101:2, 36114:17, 36119:22, 36121:25, 36166:21, 36191:22, 36207:13, 36208:18, 36223:21, 36258:24, 36259:3, 36259:9 Certainly ^[4] - 36133:11, 36186:4, 36225:11, 36231:14 certainly ^[38] - 35984:13, 36058:6, 36059:8, 36059:23, 36062:3, 36156:4, 36156:8, 36156:21, 36163:7, 36177:8, 36177:10, 36178:17, 36178:19, 36180:7, 36191:16, 36203:13, 36208:3, 36209:14, 36213:7, 36216:5, 36223:4, 36226:18, 36226:20, 36227:17, 36229:7, 36229:9, 36229:24, 36230:20, 36232:4, 36232:6, 36233:1, 36234:2, 36236:10, 36241:6, 36241:8, 36241:21, 36244:9, 36252:11	Certificates ^[1] - 36261:1 certify ^[1] - 36261:4 cetera ^[2] - 35996:1, 36019:21 chair ^[3] - 36015:3, 36180:9 challenge ^[5] - 36044:20, 36138:4, 36191:7, 36193:11, 36193:16 challenging ^[2] - 36138:1, 36138:7 Champs ^[1] - 36244:21 chance ^[2] - 36222:18, 36222:21 change ^[8] - 36028:15, 36063:13, 36063:17, 36093:19, 36096:5, 36140:8, 36174:8, 36191:3 changed ^[5] - 36067:1, 36088:14, 36173:11, 36177:15, 36252:9 changes ^[1] - 36240:8 character ^[3] - 36200:17, 36209:23, 36210:9 characterization ^[1] - 36060:5 characterized ^[4] - 36042:18, 36160:10, 36160:12, 36225:3 characterizing ^[2] - 36050:7, 36148:17 charge ^[3] - 36169:20, 36183:3, 36184:7 charged ^[1] - 36097:15 charges ^[5] - 36114:24, 36151:9, 36169:10, 36169:14, 36226:23 charts ^[11] - 36213:8, 36215:5, 36215:6, 36248:1, 36249:9, 36249:10, 36252:17, 36255:18, 36256:22, 36257:17 chatting ^[1] - 36001:6 check ^[1] - 36174:15 checked ^[1] - 36182:2 checking ^[1] - 36203:23 chemical ^[1] - 36018:2 Chief ^[3] - 36163:8, 36163:12, 36164:22 child ^[1] - 36115:6 children ^[2] - 36075:16, 36105:5 chilling ^[1] - 36028:3 chiming ^[1] - 36013:9 Chris ^[6] - 35981:9,	36005:2, 36005:6, 36019:24, 36020:17, 36021:25 chronology ^[2] - 36195:23, 36200:7 chummy ^[1] - 36005:16 church ^[1] - 36259:6 cigarette ^[1] - 36104:8 cigarettes ^[1] - 36001:6 circumstances ^[13] - 35985:5, 36045:18, 36079:10, 36081:1, 36114:24, 36130:9, 36133:5, 36141:5, 36179:22, 36187:13, 36205:3, 36218:5, 36222:15 cite ^[1] - 36045:7 citizens ^[1] - 36181:15 City ^[13] - 35997:2, 36166:23, 36167:2, 36167:20, 36169:4, 36185:21, 36187:9, 36188:16, 36191:11, 36192:2, 36223:20, 36226:2, 36245:20 city ^[2] - 36184:22, 36225:16 civilians ^[1] - 36066:21 claims ^[2] - 36146:14, 36183:8 clarifies ^[1] - 36197:1 clarify ^[1] - 35997:5 classes ^[1] - 35994:13 clear ^[8] - 35984:18, 35997:7, 35997:11, 35997:12, 36120:17, 36120:25, 36146:19, 36221:25 clearly ^[2] - 36054:1, 36163:16 Clerk ^[1] - 35980:8 client ^[2] - 36162:8, 36164:15 close ^[2] - 35990:6, 36015:8 Closed ^[1] - 36027:10 closed ^[1] - 36027:11 closest ^[1] - 36015:12 clothes ^[15] - 36004:24, 36102:9, 36102:11, 36102:15, 36103:2, 36103:9, 36103:13, 36103:15, 36103:19, 36103:21, 36106:5, 36185:13, 36185:14, 36196:10, 36211:2 clothing ^[1] - 36196:5 clue ^[1] - 36022:25 co ^[1] - 36235:22
---	---	--	--	---



<p>co-operative [1] - 36235:22</p> <p>Code[1] - 36074:23</p> <p>coerce [1] - 36171:2</p> <p>coerced [8] - 36177:13, 36191:3, 36221:18, 36222:20, 36226:1, 36227:16, 36232:23, 36233:13</p> <p>coercing [1] - 36229:6</p> <p>coercion [7] - 36177:19, 36226:19, 36227:18, 36243:14, 36243:24, 36244:1, 36245:25</p> <p>cold [3] - 36113:10, 36113:19, 36113:22</p> <p>collateral [1] - 36072:24</p> <p>collected [1] - 36065:14</p> <p>collection [1] - 36248:23</p> <p>colour [6] - 36247:20, 36248:17, 36250:2, 36255:23, 36255:24, 36255:25</p> <p>colours [2] - 36248:21, 36250:12</p> <p>column [1] - 36151:19</p> <p>combination [5] - 36102:17, 36102:18, 36102:19, 36255:1, 36257:12</p> <p>combined [2] - 36051:10, 36147:20</p> <p>comical [4] - 36058:9, 36058:12, 36058:24, 36059:10</p> <p>coming [11] - 35996:22, 36021:9, 36041:11, 36051:2, 36051:5, 36074:19, 36087:23, 36120:5, 36195:16, 36195:18, 36209:10</p> <p>comment [20] - 36041:15, 36071:1, 36162:19, 36164:21, 36179:25, 36183:25, 36184:25, 36186:15, 36197:3, 36200:9, 36204:15, 36207:7, 36207:15, 36219:8, 36228:16, 36230:1, 36230:24, 36235:2, 36235:9, 36245:17</p> <p>Comment[1] - 36200:5</p> <p>commenting [1] - 36050:4</p> <p>comments [8] - 36044:20, 36068:2, 36073:6, 36157:6,</p>	<p>36178:15, 36205:19, 36232:17, 36246:8</p> <p>Commission[18] - 35979:2, 35979:14, 35980:1, 35980:2, 35980:8, 35986:23, 36066:17, 36145:14, 36156:16, 36162:22, 36163:1, 36163:7, 36163:13, 36164:6, 36165:15, 36184:6, 36189:10, 36255:21</p> <p>commission [1] - 36163:20</p> <p>Commissioner [63] - 35983:3, 35987:4, 35987:7, 36045:8, 36049:15, 36054:12, 36054:16, 36054:20, 36055:4, 36060:23, 36060:24, 36061:4, 36061:8, 36061:13, 36061:17, 36067:8, 36067:15, 36067:20, 36067:22, 36073:20, 36073:23, 36074:11, 36074:14, 36120:7, 36120:10, 36120:19, 36120:22, 36121:1, 36125:18, 36126:20, 36126:23, 36132:11, 36156:13, 36161:15, 36162:4, 36163:6, 36163:11, 36164:19, 36165:17, 36165:19, 36165:22, 36166:3, 36166:11, 36166:13, 36167:13, 36234:17, 36234:20, 36247:1, 36247:4, 36247:7, 36247:12, 36247:15, 36249:12, 36249:21, 36249:25, 36250:4, 36250:14, 36255:6, 36255:14, 36256:3, 36256:6, 36257:23, 36258:2</p> <p>committed [11] - 36096:22, 36111:22, 36130:19, 36130:20, 36131:19, 36168:10, 36178:23, 36180:17, 36192:14, 36210:23, 36245:13</p> <p>committing [1] - 36210:25</p> <p>common [3] - 36175:23, 36185:14, 36186:17</p> <p>commonly [1] -</p>	<p>36205:23</p> <p>communicate [1] - 36041:5</p> <p>communicated [3] - 36051:9, 36155:2, 36160:15</p> <p>communication [2] - 36045:14, 36065:13</p> <p>Comp[1] - 35994:14</p> <p>compact [3] - 36199:7, 36208:25, 36216:20</p> <p>companion [1] - 36240:20</p> <p>companions [1] - 36181:17</p> <p>compare [3] - 36108:24, 36132:5, 36171:17</p> <p>compared [1] - 36174:5</p> <p>complain [1] - 36177:25</p> <p>complained [2] - 36068:13</p> <p>complaining [1] - 36048:24</p> <p>complaint [5] - 36057:17, 36057:19, 36068:5, 36128:13, 36180:21</p> <p>complete [3] - 36209:17, 36209:19, 36238:23</p> <p>completed [2] - 36021:15, 36085:16</p> <p>completely [1] - 36199:18</p> <p>concede [1] - 36160:22</p> <p>concern [7] - 36021:19, 36022:11, 36023:2, 36064:10, 36125:11, 36174:12, 36204:16</p> <p>concerned [6] - 36049:5, 36107:7, 36134:18, 36157:13, 36179:21, 36233:20</p> <p>concerning [2] - 36038:14, 36096:23</p> <p>concerns [5] - 36074:21, 36151:13, 36205:22, 36219:18, 36221:4</p> <p>conclude [3] - 36059:13, 36233:23, 36240:17</p> <p>concluded [2] - 36064:2, 36245:18</p> <p>conclusion [12] - 36059:9, 36068:19, 36109:19, 36117:7, 36119:12, 36156:10, 36156:21, 36188:19,</p>	<p>36202:9, 36226:10, 36230:10, 36254:16</p> <p>conclusions [6] - 36169:16, 36200:9, 36203:3, 36220:6, 36221:4, 36235:15</p> <p>conclusively [1] - 36232:9</p> <p>condescending [1] - 36123:16</p> <p>conditions [3] - 36017:13, 36113:8, 36114:5</p> <p>conduct [39] - 36047:4, 36048:25, 36057:19, 36068:6, 36128:14, 36129:2, 36129:13, 36134:20, 36141:10, 36142:1, 36142:18, 36161:20, 36161:22, 36162:6, 36163:2, 36163:3, 36163:10, 36163:17, 36163:24, 36164:7, 36164:23, 36165:2, 36165:4, 36165:5, 36168:14, 36169:8, 36169:13, 36169:14, 36169:19, 36169:22, 36177:7, 36179:7, 36192:5, 36192:6, 36193:18, 36203:3, 36203:7, 36203:9, 36250:18</p> <p>conducted [12] - 36045:16, 36049:6, 36049:11, 36051:20, 36062:7, 36072:21, 36129:25, 36136:18, 36140:23, 36141:15, 36185:9, 36255:23</p> <p>conducting [2] - 36130:6, 36198:5</p> <p>configurations [1] - 36249:19</p> <p>confining [1] - 36256:4</p> <p>confirm [2] - 36137:8, 36223:25</p> <p>confirmed [2] - 36194:15, 36205:16</p> <p>confirming [1] - 35984:10</p> <p>confirms [1] - 36151:11</p> <p>conflicting [2] - 36019:20, 36256:9</p> <p>confronted [1] - 36066:21</p> <p>confused [1] - 36053:11</p> <p>Congram[1] - 35980:3</p> <p>connect [1] - 36212:3</p>	<p>connected [1] - 36199:22</p> <p>connection [4] - 36037:3, 36188:8, 36211:14</p> <p>conservation [3] - 36049:22, 36068:20, 36070:19</p> <p>conservations [1] - 36070:1</p> <p>consider [2] - 36116:19, 36154:15</p> <p>considerably [1] - 36173:10</p> <p>considered [3] - 35994:25, 36058:24, 36062:1</p> <p>considering [2] - 35998:3, 35999:10</p> <p>consistent [1] - 36193:5</p> <p>consistently [1] - 36237:16</p> <p>consists [1] - 36237:22</p> <p>constant [2] - 36090:15, 36090:16</p> <p>constantly [3] - 35993:12, 36006:10, 36090:20</p> <p>constituted [1] - 36035:19</p> <p>construction [3] - 36078:13, 36113:25, 36114:3</p> <p>Construction [2] - 36078:14, 36078:18</p> <p>construe [2] - 36057:10, 36128:2</p> <p>contact [10] - 35986:4, 36022:23, 36046:2, 36046:9, 36155:25, 36174:6, 36188:14, 36189:4, 36189:10, 36213:19</p> <p>contacted [2] - 36038:21, 36039:1</p> <p>contacting [3] - 35985:21, 35986:13, 36037:21</p> <p>contain [1] - 36261:5</p> <p>contained [1] - 35984:4</p> <p>contains [1] - 36063:6</p> <p>contaminated [1] - 36258:10</p> <p>contention [1] - 36062:4</p> <p>contents [3] - 35985:22, 36050:24, 36148:18</p> <p>context [5] - 36112:21,</p>
--	---	--	---	--



<p>36127:4, 36162:10, 36165:7, 36182:20 continual [1] - 36232:10 continue [2] - 36166:15, 36202:2 continued [3] - 35983:5, 36026:19, 36166:7 Continued [2] - 35982:3, 35982:9 continues [1] - 36104:12 contradict [2] - 36201:8, 36202:10 contradiction [1] - 36154:16 contradicts [2] - 36151:21, 36153:20 contrary [1] - 36128:17 contribute [1] - 36226:18 contributed [1] - 36234:1 contrive [3] - 36201:9, 36202:11, 36202:18 controverted [1] - 36213:17 convenience [1] - 36148:6 conversation [17] - 35985:17, 35986:14, 36006:16, 36013:18, 36037:12, 36038:2, 36069:25, 36070:17, 36070:22, 36121:15, 36121:17, 36121:21, 36122:4, 36122:14, 36122:25, 36142:14, 36227:4 conversations [5] - 36038:12, 36047:6, 36070:10, 36121:18, 36121:24 convicted [5] - 36088:9, 36109:5, 36151:1, 36180:16, 36189:12 Conviction [1] - 35979:4 conviction [2] - 36150:19, 36189:9 convictions [2] - 36116:5, 36130:24 convince [2] - 36192:18, 36218:22 cooperate [1] - 36207:25 cooperation [1] - 36165:15 cooperative [3] -</p>	<p>36181:14, 36206:7, 36207:2 cop [1] - 36190:10 cop' [1] - 36190:10 copies [1] - 36144:2 copy [6] - 35986:14, 36041:19, 36093:3, 36147:8, 36148:13, 36223:23 corner [3] - 36076:10, 36085:4, 36095:24 correct [122] - 35984:21, 35988:2, 36017:2, 36038:17, 36048:2, 36048:6, 36048:14, 36054:5, 36054:8, 36061:21, 36070:18, 36075:2, 36075:5, 36075:11, 36075:24, 36076:4, 36076:11, 36077:25, 36080:22, 36085:18, 36086:4, 36086:18, 36088:17, 36092:10, 36094:18, 36097:8, 36107:6, 36107:19, 36111:16, 36111:19, 36113:22, 36115:6, 36117:14, 36125:7, 36128:20, 36133:8, 36137:23, 36141:6, 36143:15, 36152:18, 36152:22, 36153:23, 36154:13, 36155:11, 36155:17, 36156:6, 36158:1, 36161:7, 36161:8, 36167:18, 36167:19, 36168:8, 36168:15, 36168:16, 36168:22, 36168:23, 36169:1, 36169:6, 36169:10, 36169:11, 36169:18, 36169:24, 36169:25, 36170:1, 36170:6, 36170:7, 36171:10, 36171:15, 36174:3, 36174:4, 36175:9, 36179:1, 36182:3, 36182:4, 36182:13, 36182:14, 36183:16, 36183:17, 36188:24, 36191:8, 36194:11, 36200:12, 36200:13, 36202:15, 36203:25, 36207:5, 36209:20, 36211:10, 36214:4, 36214:5, 36214:10, 36214:11, 36214:18, 36215:4, 36215:13, 36215:15,</p>	<p>36219:7, 36222:16, 36222:23, 36226:12, 36229:19, 36232:19, 36232:20, 36234:15, 36235:17, 36235:23, 36236:21, 36237:9, 36238:4, 36238:9, 36239:1, 36249:20, 36249:24, 36252:6, 36252:9, 36253:17, 36255:13, 36255:16, 36255:17, 36257:21, 36258:1, 36261:5 Correct [18] - 35985:7, 35985:11, 35986:21, 36057:21, 36063:9, 36119:3, 36125:10, 36157:21, 36171:5, 36188:23, 36200:11, 36202:16, 36203:5, 36236:22, 36254:25, 36255:2, 36257:11, 36257:13 corrected [1] - 36155:14 Correctional [1] - 36224:3 corrections [1] - 35987:14 correctly [5] - 35988:18, 36000:14, 36101:7, 36118:8, 36119:23 corrects [1] - 36041:13 correspondence [3] - 36046:15, 36149:25, 36155:24 corroborate [4] - 36176:18, 36178:19, 36232:18, 36243:7 corroborated [6] - 36174:25, 36177:16, 36178:11, 36193:1, 36207:1, 36243:22 corroborating [1] - 36178:16 corroboration [2] - 36236:12, 36248:5 corroborative [1] - 36161:1 counsel [6] - 35987:6, 36074:12, 36164:13, 36165:14, 36177:9, 36249:13 Counsel [3] - 35980:2, 36145:14, 36156:16 counter [2] - 36171:14, 36192:19 counts [1] - 36112:1 couple [18] - 35997:22,</p>	<p>36005:13, 36024:10, 36025:22, 36038:24, 36058:14, 36069:18, 36176:9, 36178:5, 36179:10, 36185:6, 36194:2, 36211:17, 36217:11, 36240:21, 36241:13, 36242:25, 36257:2 Couple [3] - 36024:12, 36034:5, 36043:7 coupled [1] - 36146:1 course [14] - 35986:13, 35994:3, 35998:7, 36049:4, 36051:16, 36052:5, 36057:25, 36067:10, 36071:5, 36129:14, 36142:19, 36165:8, 36247:11, 36247:22 Court [19] - 35980:9, 36007:2, 36010:1, 36033:4, 36055:21, 36074:17, 36163:15, 36163:16, 36215:1, 36221:8, 36230:18, 36230:22, 36231:14, 36252:12, 36256:11, 36261:1, 36261:3, 36261:14, 36261:20 court [4] - 36041:9, 36134:9, 36227:23, 36230:5 courtroom [2] - 36230:12, 36230:13 cover [1] - 36168:2 covered [1] - 36161:10 covers [1] - 36004:22 Craig [6] - 35988:13, 35988:23, 36013:25, 36028:25, 36055:24, 36156:19 crawled [2] - 36101:19, 36101:21 created [1] - 36179:23 creates [1] - 36041:16 creation [1] - 36066:19 credentials [1] - 36130:5 credibility [2] - 36229:9, 36254:9 credible [2] - 36171:8, 36172:21 creeped [1] - 36028:19 crime [9] - 36096:22, 36146:9, 36175:21, 36180:17, 36184:20, 36192:15, 36208:10, 36259:9 crimes [3] - 36130:19,</p>	<p>36131:18, 36185:16 Criminal [1] - 36074:22 criminal [9] - 36151:8, 36167:7, 36168:10, 36168:20, 36169:10, 36169:14, 36169:20, 36169:23, 36178:24 criminally [1] - 36172:7 criticism [2] - 36051:22, 36181:21 criticisms [2] - 36066:5, 36129:25 criticized [1] - 36162:6 cross [10] - 36010:10, 36132:6, 36138:9, 36158:5, 36158:6, 36161:21, 36161:23, 36162:8, 36162:15, 36164:17 cross-examination [7] - 36132:6, 36138:9, 36158:6, 36161:21, 36161:23, 36162:15, 36164:17 cross-examined [1] - 36010:10 cross-examining [1] - 36162:8 crossed [1] - 36029:12 crossing [4] - 36034:25, 36043:18, 36138:8, 36162:7 crowd [1] - 35993:12 Crr [4] - 35980:10, 36261:2, 36261:18, 36261:19 crucial [1] - 36196:3 crude [8] - 36032:11, 36032:25, 36033:8, 36033:9, 36035:23, 36055:2, 36055:3 crudely [1] - 36058:9 crudity [1] - 36032:18 crying [1] - 36090:22 crystal [2] - 35997:7, 35997:12 Csr [8] - 35980:9, 35980:10, 36261:2, 36261:12, 36261:13, 36261:18, 36261:19 culture [2] - 36207:24, 36208:14 curiosity [2] - 36023:2, 36023:5 curious [1] - 35993:23 cut [1] - 36005:13 cutting [1] - 36005:8 cynical [1] - 36046:21</p>
--	---	---	--	---



D				
D.2 [1] - 36168:13 Daily [1] - 36079:1 daily [1] - 36089:13 damaging [1] - 36156:18 damning [3] - 36150:22, 36151:16, 36153:16 Dan [3] - 36124:25, 36150:14, 36154:22 Danchuks [1] - 36181:23 dangerous [3] - 36209:23, 36210:9 dark [2] - 35998:9, 35998:10 darned [1] - 36011:17 date [9] - 35984:13, 35994:18, 36085:14, 36085:20, 36085:24, 36093:6, 36134:24, 36145:22, 36225:21 dated [8] - 35985:13, 35987:13, 36085:3, 36094:21, 36094:23, 36094:25, 36145:20, 36148:12 dates [1] - 36118:17 Dave [1] - 35998:23 David [74] - 35979:4, 35981:2, 35981:11, 35981:15, 35982:3, 35983:5, 35989:15, 35989:17, 35993:9, 36000:2, 36001:21, 36003:11, 36003:15, 36005:21, 36005:24, 36006:21, 36012:19, 36013:25, 36014:13, 36017:10, 36018:22, 36019:16, 36036:19, 36037:2, 36037:18, 36037:25, 36039:22, 36053:4, 36053:19, 36053:25, 36059:12, 36061:11, 36074:24, 36096:21, 36109:9, 36123:20, 36142:7, 36146:13, 36150:24, 36151:3, 36154:7, 36155:23, 36156:19, 36157:3, 36157:14, 36167:10, 36176:13, 36177:2, 36178:6, 36180:18, 36188:6, 36192:14, 36199:2, 36199:3, 36199:10,	36199:11, 36199:17, 36199:24, 36201:10, 36202:12, 36204:10, 36204:18, 36211:19, 36211:23, 36217:15, 36223:3, 36235:10, 36236:4, 36236:19, 36236:24, 36238:19, 36239:15, 36253:9, 36254:11 David's [1] - 36022:3 dawned [1] - 36132:7 days [9] - 36005:13, 36046:10, 36079:2, 36118:21, 36124:9, 36161:21, 36162:7, 36217:12, 36225:10 deal [11] - 36105:18, 36143:19, 36168:25, 36174:1, 36176:4, 36178:13, 36191:14, 36204:13, 36204:21, 36227:12, 36241:5 dealing [1] - 36203:7 dealings [12] - 36135:4, 36136:17, 36169:9, 36182:7, 36192:7, 36195:5, 36203:4, 36203:22, 36203:24, 36204:4, 36211:16, 36215:20 dealt [6] - 36143:17, 36162:25, 36163:5, 36163:25, 36227:10, 36227:11 Deanne [1] - 36075:22 death [3] - 36099:13, 36112:24, 36113:3 debate [1] - 36162:19 Debbie [10] - 35983:23, 35991:2, 36005:10, 36010:17, 36122:17, 36124:22, 36158:11, 36158:16, 36158:19, 36159:15 Deborah [321] - 35982:5, 35983:10, 35984:7, 35984:25, 35985:14, 35986:19, 35987:9, 35987:11, 35987:14, 35987:16, 35987:19, 35987:21, 35987:25, 35988:3, 35988:8, 35988:12, 35988:20, 35988:23, 35989:4, 35989:8, 35989:11, 35989:19, 35989:22, 35990:7, 35990:10, 35990:15, 35990:18, 35990:20,	35991:1, 35991:7, 35991:10, 35991:13, 35991:17, 35991:22, 35991:25, 35992:7, 35992:12, 35992:16, 35992:22, 35992:24, 35993:1, 35993:5, 35993:7, 35993:10, 35993:18, 35993:25, 35994:10, 35994:22, 35995:1, 35995:5, 35995:7, 35995:9, 35995:16, 35995:19, 35995:21, 35995:25, 35996:5, 35996:10, 35996:16, 35996:20, 35996:24, 35997:1, 35997:5, 35997:10, 35997:14, 35997:18, 35998:3, 35998:13, 35998:16, 35998:21, 35999:4, 35999:10, 35999:20, 35999:23, 36000:1, 36000:4, 36000:6, 36000:16, 36000:19, 36000:21, 36000:24, 36001:5, 36001:9, 36001:15, 36001:18, 36001:25, 36002:5, 36002:8, 36002:13, 36002:15, 36002:17, 36002:19, 36002:21, 36003:1, 36003:3, 36003:5, 36003:15, 36003:19, 36003:21, 36003:25, 36004:5, 36004:8, 36004:11, 36004:16, 36004:18, 36005:4, 36005:6, 36005:22, 36006:7, 36006:18, 36007:1, 36007:11, 36007:20, 36007:23, 36008:1, 36008:9, 36008:14, 36008:18, 36008:24, 36009:3, 36009:12, 36009:16, 36009:22, 36010:7, 36011:1, 36011:5, 36011:9, 36011:12, 36011:16, 36011:21, 36011:24, 36012:5, 36012:8, 36012:10, 36012:14, 36012:20, 36013:2, 36013:13, 36013:16, 36014:2, 36014:5, 36014:10, 36014:12, 36014:18, 36014:22, 36015:2, 36015:7, 36015:20, 36015:23, 36016:1,	36016:5, 36016:10, 36016:16, 36016:21, 36016:24, 36017:3, 36017:6, 36017:10, 36017:15, 36017:19, 36017:23, 36018:1, 36018:7, 36018:10, 36018:14, 36018:16, 36018:20, 36018:25, 36019:6, 36019:12, 36019:16, 36019:23, 36020:6, 36020:12, 36020:16, 36020:20, 36020:24, 36021:6, 36021:11, 36021:18, 36021:21, 36022:9, 36022:12, 36022:16, 36022:20, 36022:24, 36023:3, 36023:6, 36023:10, 36023:13, 36023:15, 36023:18, 36023:24, 36024:5, 36024:8, 36024:10, 36024:14, 36024:16, 36024:19, 36024:25, 36025:3, 36025:7, 36025:12, 36025:16, 36025:20, 36026:1, 36026:3, 36026:5, 36026:7, 36026:10, 36026:22, 36026:25, 36027:2, 36027:6, 36027:10, 36027:13, 36027:16, 36027:19, 36027:23, 36028:5, 36028:13, 36028:17, 36028:22, 36029:2, 36029:6, 36029:10, 36029:18, 36029:21, 36030:2, 36030:5, 36030:9, 36030:13, 36030:16, 36030:19, 36030:22, 36030:25, 36031:5, 36031:10, 36031:13, 36031:16, 36031:19, 36031:23, 36032:2, 36032:4, 36032:15, 36032:19, 36032:24, 36033:13, 36033:18, 36033:21, 36033:24, 36034:2, 36034:5, 36034:12, 36034:15, 36034:17, 36034:19, 36034:22, 36035:3, 36035:8, 36035:11, 36035:14, 36035:20, 36035:24, 36036:7, 36036:12, 36036:16, 36036:20, 36036:23, 36037:4, 36037:7, 36037:10,	36037:15, 36038:4, 36038:7, 36038:15, 36038:20, 36038:23, 36039:13, 36039:20, 36042:2, 36043:14, 36044:8, 36045:14, 36045:25, 36049:3, 36051:8, 36052:6, 36055:12, 36057:15, 36060:6, 36061:22, 36062:24, 36063:15, 36064:4, 36065:20, 36067:4, 36068:5, 36068:12, 36072:6, 36073:9, 36121:11, 36125:12, 36138:22, 36139:4, 36139:5, 36139:15, 36141:20, 36141:22, 36143:18, 36144:14, 36145:4, 36146:2, 36147:21, 36152:8, 36155:21, 36156:3, 36156:25, 36157:16, 36157:23, 36160:22 Debra [1] - 36050:15 December [6] - 35985:9, 36075:11, 36077:4, 36085:15, 36085:25, 36086:2 decided [8] - 35991:4, 35999:7, 36003:10, 36053:3, 36072:24, 36254:23, 36255:10, 36257:10 decision [1] - 36188:20 declared [1] - 36228:1 deem [1] - 36165:10 defence [2] - 36146:16, 36155:22 defensive [1] - 36063:22 definition [1] - 36049:12 definitions [1] - 36045:7 degree [2] - 36179:23, 36254:6 deletions [2] - 35988:10, 36093:18 deliberate [1] - 36179:7 deliberately [1] - 36172:8 deliberations [1] - 36203:12 Delta [1] - 35979:16 demeanour [2] - 36057:8, 36063:14 demonstration [2] - 36028:3, 36028:16



<p>denial [2] - 36172:21, 36185:20</p> <p>denials [2] - 36210:2, 36210:13</p> <p>denied [2] - 36187:11, 36210:21</p> <p>Dennis [1] - 36196:12</p> <p>deny [1] - 36175:23</p> <p>departed [1] - 36134:19</p> <p>department [3] - 36052:16, 36108:2, 36137:13</p> <p>Department [15] - 35985:20, 36048:24, 36052:22, 36053:3, 36131:4, 36146:3, 36146:6, 36146:14, 36146:21, 36150:25, 36152:6, 36155:6, 36161:25, 36162:13, 36233:19</p> <p>depiction [1] - 36108:8</p> <p>deposition [5] - 36133:22, 36133:24, 36134:21, 36136:25, 36139:24</p> <p>depth [1] - 36213:13</p> <p>derived [1] - 36234:25</p> <p>describe [8] - 36023:16, 36023:18, 36058:4, 36089:14, 36113:8, 36141:25, 36154:3, 36258:12</p> <p>described [20] - 35989:10, 36012:22, 36015:6, 36021:8, 36023:8, 36031:3, 36031:8, 36033:17, 36046:23, 36059:18, 36059:25, 36060:7, 36088:19, 36154:3, 36201:13, 36211:4, 36223:25, 36225:23, 36249:4, 36251:9</p> <p>describes [7] - 36043:22, 36043:25, 36051:24, 36060:1, 36092:5, 36092:10, 36146:11</p> <p>describing [8] - 36025:25, 36051:15, 36058:23, 36072:14, 36211:18, 36248:17, 36249:16</p> <p>description [4] - 36108:4, 36117:3, 36122:21, 36246:11</p> <p>Description [1] - 35982:2</p> <p>descriptions [1] -</p>	<p>36249:17</p> <p>designed [1] - 36247:6</p> <p>Det [3] - 36194:22, 36224:5, 36237:15</p> <p>detached [1] - 36206:10</p> <p>detachment [4] - 36130:3, 36133:7, 36134:1, 36134:2</p> <p>detail [4] - 35983:9, 36068:4, 36132:18, 36181:22</p> <p>detailed [2] - 36217:13, 36222:9</p> <p>details [20] - 36038:3, 36038:13, 36046:25, 36084:18, 36091:25, 36100:9, 36116:11, 36195:1, 36201:2, 36201:19, 36207:9, 36208:8, 36212:15, 36212:18, 36212:19, 36213:24, 36223:18, 36225:22, 36226:14, 36237:19</p> <p>Details [1] - 36213:1</p> <p>detained [2] - 36119:1, 36119:5</p> <p>Detective [9] - 36187:7, 36194:19, 36195:17, 36212:14, 36244:25, 36250:22, 36251:17, 36252:24, 36253:11</p> <p>Detectives [1] - 36190:9</p> <p>detector [1] - 36256:17</p> <p>determination [5] - 36137:11, 36157:9, 36215:23, 36220:22, 36220:25</p> <p>determine [9] - 36117:6, 36138:25, 36140:20, 36170:13, 36170:19, 36171:22, 36174:18, 36190:21, 36258:13</p> <p>determined [2] - 36177:4, 36235:19</p> <p>differed [2] - 36063:19, 36173:10</p> <p>difference [3] - 36053:8, 36195:3, 36195:8</p> <p>differences [2] - 36040:13, 36066:9</p> <p>different [14] - 35999:16, 36021:23, 36047:14, 36047:16, 36060:1, 36103:19, 36123:24, 36135:2, 36168:9, 36171:13, 36191:16, 36191:21,</p>	<p>36249:18</p> <p>differently [1] - 36225:3</p> <p>differing [1] - 36249:16</p> <p>difficult [9] - 36153:2, 36204:20, 36204:21, 36212:5, 36220:4, 36223:9, 36239:13, 36239:15, 36257:20</p> <p>difficulty [5] - 36066:21, 36131:20, 36178:16, 36214:21, 36214:24</p> <p>digest [1] - 36255:8</p> <p>diligence [1] - 36137:19</p> <p>dim [1] - 36149:12</p> <p>dinner [4] - 36090:5, 36090:19, 36090:23, 36090:25</p> <p>direct [8] - 35985:12, 36058:2, 36068:20, 36125:20, 36135:4, 36145:14, 36156:12, 36156:15</p> <p>directed [7] - 36049:25, 36050:6, 36121:9, 36122:12, 36123:11, 36147:9, 36148:12</p> <p>direction [1] - 36241:8</p> <p>directions [4] - 36176:11, 36176:13, 36177:2, 36208:25</p> <p>directly [6] - 36069:11, 36150:22, 36152:17, 36156:2, 36216:15, 36216:21</p> <p>Director [1] - 35980:3</p> <p>dirt [2] - 36072:7, 36123:17</p> <p>disagree [1] - 36137:15</p> <p>disappointment [1] - 36115:13</p> <p>disclose [1] - 36212:6</p> <p>disclosed [2] - 36122:7, 36132:11</p> <p>disclosure [5] - 36201:7, 36236:1, 36236:7, 36236:8, 36237:5</p> <p>discount [4] - 36226:3, 36239:9, 36242:12, 36242:14</p> <p>discover [2] - 36103:25, 36115:23</p> <p>discovered [3] - 36144:12, 36144:14, 36146:6</p> <p>discredit [4] - 36128:10, 36128:12, 36128:18, 36138:13</p> <p>discrediting [4] -</p>	<p>36126:1, 36127:9, 36127:18, 36138:11</p> <p>discuss [3] - 36046:24, 36117:8, 36206:3</p> <p>discussed [5] - 36037:6, 36063:3, 36140:11, 36234:5, 36242:22</p> <p>discusses [1] - 36092:12</p> <p>discussing [2] - 36147:12, 36243:6</p> <p>discussion [2] - 36046:17, 36139:22</p> <p>discussions [3] - 36047:4, 36057:7, 36064:3</p> <p>dishes [1] - 36110:8</p> <p>disinterested [1] - 36182:1</p> <p>dispassionate [1] - 36045:9</p> <p>dispirit [1] - 36130:12</p> <p>disposed [2] - 36201:11, 36202:13</p> <p>dispute [4] - 36036:1, 36076:6, 36136:22, 36239:9</p> <p>disputes [1] - 36194:21</p> <p>distance [4] - 36014:23, 36198:21, 36222:2, 36222:3</p> <p>distant [1] - 36244:12</p> <p>distilled [1] - 36065:24</p> <p>distinction [2] - 36138:7, 36203:21</p> <p>distinguish [1] - 36175:15</p> <p>Distorted [1] - 35997:9</p> <p>distress [1] - 36234:10</p> <p>distressed [1] - 36142:3</p> <p>disturbing [1] - 36019:4</p> <p>divide [1] - 36181:13</p> <p>divorced [1] - 36077:24</p> <p>Dj [1] - 36006:12</p> <p>do?" [1] - 36015:19</p> <p>doc [7] - 35986:24, 35987:1, 36074:1, 36121:19, 36126:14, 36126:20, 36150:16</p> <p>Document [2] - 35980:4, 35980:5</p> <p>document [15] - 36008:6, 36073:25, 36085:3, 36093:4, 36093:12, 36094:14, 36094:16, 36094:18, 36094:20, 36107:23, 36107:25, 36147:1,</p>	<p>36168:19, 36214:13, 36228:6</p> <p>documentary [1] - 36182:24</p> <p>documented [2] - 36212:16, 36213:24</p> <p>documents [3] - 36162:12, 36182:22, 36213:9</p> <p>dollar [1] - 36199:5</p> <p>dollar-sized [1] - 36199:5</p> <p>Don [1] - 35980:10</p> <p>Donald [3] - 35981:15, 36261:2, 36261:19</p> <p>done [22] - 36021:4, 36026:13, 36026:14, 36034:1, 36034:3, 36034:7, 36047:21, 36048:7, 36070:3, 36091:20, 36127:16, 36131:14, 36131:17, 36158:7, 36164:8, 36172:7, 36196:14, 36205:23, 36215:19, 36256:21, 36258:22, 36259:17</p> <p>door [5] - 36003:14, 36003:24, 36064:9, 36160:21, 36161:2</p> <p>doubt [7] - 36033:11, 36033:13, 36033:15, 36045:4, 36062:22, 36089:8, 36197:16</p> <p>doubting [1] - 36192:4</p> <p>doubts [2] - 36111:9, 36192:1</p> <p>Doug [1] - 36147:9</p> <p>Douglas [1] - 35980:2</p> <p>Down [1] - 36064:14</p> <p>down [45] - 35990:2, 35998:16, 35999:17, 36010:3, 36010:11, 36013:24, 36026:2, 36026:20, 36027:12, 36031:3, 36039:8, 36043:21, 36057:1, 36060:9, 36069:23, 36078:19, 36081:16, 36083:22, 36120:5, 36122:18, 36153:5, 36153:8, 36153:12, 36166:25, 36168:4, 36170:16, 36179:10, 36179:12, 36181:11, 36183:2, 36183:6, 36184:18, 36190:1, 36194:18, 36209:21, 36210:3, 36210:14, 36211:24, 36232:13,</p>
---	--	---	---	---



<p>36233:5, 36239:21, 36244:14, 36255:3, 36259:12, 36259:13 downtown [1] - 35999:12 Dr [1] - 36063:5 draft [2] - 36124:3, 36124:6 drank [1] - 36084:10 draw [19] - 35987:22, 35989:12, 35994:6, 36009:4, 36086:10, 36087:22, 36088:15, 36096:11, 36104:13, 36117:17, 36121:14, 36138:7, 36139:18, 36147:23, 36189:23, 36211:13, 36218:15, 36220:6, 36221:3 drawing [4] - 35983:13, 36015:15, 36068:12, 36093:13 drawn [2] - 36034:22, 36043:14 dress [1] - 36106:4 dressed [3] - 36003:18, 36004:2, 36004:23 drink [2] - 36082:13, 36083:19 drinking [11] - 36081:10, 36082:9, 36082:16, 36082:17, 36082:20, 36084:5, 36084:9, 36106:11, 36117:11, 36117:20, 36118:9 drinks [1] - 36084:5 drive [4] - 35992:1, 36258:18, 36258:23, 36259:19 driven [7] - 36009:8, 36009:20, 36010:17, 36134:5, 36225:15, 36258:5, 36258:9 driving [2] - 36211:7, 36249:14 dropped [1] - 36117:21 drove [9] - 35999:17, 36010:5, 36010:19, 36010:22, 36011:4, 36011:18, 36259:5, 36259:11, 36260:5 drug [4] - 35994:25, 35995:3, 36016:15, 36018:19 drugs [17] - 35995:3, 35995:18, 35995:24, 35996:3, 35998:20, 36001:11, 36001:14, 36001:17, 36001:22,</p>	<p>36002:20, 36012:2, 36012:18, 36017:15, 36017:18, 36084:11, 36118:14, 36207:19 drunk [1] - 36083:22 drywall [1] - 36079:5 due [4] - 36052:4, 36067:9, 36137:19, 36257:9 duly [1] - 35987:10 duration [3] - 35987:4, 36067:10, 36074:3 During [4] - 36004:6, 36012:21, 36133:22, 36200:25 during [19] - 36021:16, 36039:22, 36042:20, 36049:4, 36057:25, 36129:14, 36133:23, 36139:23, 36139:24, 36142:7, 36142:19, 36183:11, 36222:10, 36228:12, 36228:16, 36235:5, 36237:20, 36246:14, 36253:1</p>	<p>effects [1] - 36016:23 effort [1] - 36209:18 efforts [1] - 36208:10 eight [9] - 35989:13, 35989:14, 35999:5, 35999:22, 36009:1, 36080:10, 36082:10, 36082:17, 36132:14 eight-thirty [2] - 35999:22, 36009:1 eighth [1] - 36087:1 Either [4] - 36077:3, 36103:11, 36103:15, 36119:20 either [31] - 36021:2, 36046:8, 36048:4, 36073:16, 36077:8, 36089:12, 36098:11, 36107:11, 36107:16, 36114:18, 36119:13, 36120:3, 36129:8, 36138:21, 36142:4, 36157:25, 36158:13, 36160:9, 36210:21, 36211:17, 36212:7, 36214:14, 36223:2, 36230:4, 36233:4, 36250:11, 36251:10, 36254:21, 36257:4, 36257:19, 36258:20 elaborate [10] - 36179:25, 36192:23, 36201:21, 36201:23, 36210:4, 36210:15, 36211:12, 36213:2, 36236:6, 36241:3 elaborated [1] - 36219:13 elapsed [4] - 36000:8, 36034:8, 36083:2, 36083:7 Elapsed [1] - 36083:19 element [1] - 36062:6 elementary [1] - 36135:16 elements [1] - 36178:18 elevator [3] - 36244:3, 36244:8, 36244:18 eleven [5] - 36003:7, 36080:17, 36082:3, 36082:5, 36091:3 eliminated [1] - 36061:25 eliminating [1] - 36217:16 Elson [1] - 35981:7 embarrassed [2] - 36142:22, 36159:16 embarrassing [1] - 36160:17</p>	<p>emphasis [1] - 36040:17 employed [3] - 35993:17, 36078:10, 36244:23 employee [1] - 36163:17 enacted [1] - 36147:17 enactment [3] - 36142:8, 36146:9, 36146:13 encapsulated [1] - 36125:5 enclosed [1] - 35985:17 Enclosed [1] - 36148:13 enclosing [1] - 35986:8 encounter [3] - 36184:21, 36217:12, 36217:21 encountered [1] - 36102:5 encounters [1] - 36235:6 encourage [1] - 35985:23 encouraged [1] - 36196:22 end [11] - 35999:11, 36003:3, 36015:22, 36042:18, 36054:19, 36063:16, 36064:22, 36074:4, 36141:18, 36159:16, 36178:11 End [4] - 35982:6, 35982:8, 36039:15, 36120:6 ended [11] - 35991:8, 35992:9, 35992:16, 36051:20, 36060:10, 36070:17, 36098:2, 36166:22, 36173:24, 36176:15, 36177:25 energetic [1] - 36006:8 energy [2] - 36006:11, 36006:13 engage [1] - 36162:19 England [1] - 36145:22 enhanced [1] - 36012:2 enquiries [1] - 35985:22 ensure [1] - 36201:16 ensuring [1] - 36200:22 entered [7] - 36105:15, 36105:22, 36109:8, 36115:19, 36115:23, 36116:21, 36134:4 enters [1] - 36242:22 entire [3] - 36008:13, 36132:14, 36223:16 entirely [1] - 36066:2</p>	<p>entitled [2] - 36059:15, 36107:23 environment [4] - 36066:15, 36133:14, 36133:16, 36138:4 equivocal [1] - 36129:16 errands [1] - 35999:9 errors [1] - 36120:23 especially [1] - 36130:9 Esq [6] - 35981:7, 35981:9, 35981:10, 35981:13, 35981:16 essential [1] - 36173:21 Essentially [1] - 36050:25 essentially [4] - 36102:19, 36138:9, 36143:5, 36239:8 establish [2] - 36199:10, 36232:9 Estate [1] - 36037:16 et [2] - 35996:1, 36019:21 Etcetera [1] - 36043:21 etcetera [7] - 36043:21, 36167:24, 36194:14, 36213:10, 36245:15, 36248:1, 36248:19 Eugene [294] - 35981:16, 35985:19, 35987:11, 35987:17, 35987:20, 35987:22, 35988:1, 35988:4, 35988:9, 35988:17, 35988:22, 35989:1, 35989:6, 35989:9, 35989:12, 35989:20, 35990:5, 35990:8, 35990:14, 35990:17, 35990:19, 35990:24, 35991:5, 35991:8, 35991:11, 35991:15, 35991:20, 35991:23, 35992:5, 35992:11, 35992:15, 35992:20, 35992:23, 35992:25, 35993:3, 35993:6, 35993:8, 35993:16, 35993:21, 35994:6, 35994:16, 35994:23, 35995:2, 35995:6, 35995:8, 35995:13, 35995:17, 35995:20, 35995:23, 35996:3, 35996:8, 35996:14, 35996:18, 35996:22, 35996:25, 35997:3, 35997:9, 35997:13, 35997:15, 35997:25,</p>
E				
<p>Earl [1] - 36075:7 earliest [1] - 36148:6 Early [1] - 36120:13 early [16] - 35984:13, 35998:17, 36077:1, 36082:1, 36102:3, 36102:4, 36111:15, 36144:18, 36188:1, 36188:2, 36188:25, 36235:6, 36236:1, 36236:7, 36237:5, 36239:25 ease [1] - 36093:12 eaten [1] - 36244:22 Ed [1] - 35994:14 Eddie [1] - 35981:9 edge [4] - 36089:23, 36108:21, 36108:24 edging [1] - 36089:17 Edward [1] - 35979:7 effect [16] - 35997:3, 36018:5, 36018:9, 36027:25, 36028:3, 36058:4, 36079:15, 36142:12, 36147:17, 36155:21, 36192:2, 36196:14, 36197:3, 36197:23, 36228:17, 36240:5 effectively [2] - 36061:23, 36061:25</p>				



35998:11, 35998:14, 35998:19, 35999:2, 35999:8, 35999:18, 35999:21, 35999:24, 36000:2, 36000:5, 36000:13, 36000:17, 36000:20, 36000:23, 36001:3, 36001:7, 36001:13, 36001:16, 36001:23, 36002:3, 36002:6, 36002:11, 36002:14, 36002:16, 36002:18, 36002:20, 36002:24, 36003:2, 36003:4, 36003:13, 36003:17, 36003:20, 36003:23, 36004:3, 36004:6, 36004:9, 36004:13, 36004:17, 36005:2, 36005:5, 36005:19, 36006:5, 36006:15, 36006:24, 36007:9, 36007:18, 36007:21, 36007:24, 36008:6, 36008:12, 36008:15, 36008:21, 36008:25, 36009:4, 36009:13, 36009:21, 36009:25, 36010:9, 36011:2, 36011:7, 36011:10, 36011:15, 36011:19, 36011:22, 36012:1, 36012:6, 36012:9, 36012:12, 36012:17, 36012:21, 36013:8, 36013:14, 36013:23, 36014:3, 36014:8, 36014:11, 36014:16, 36014:20, 36014:25, 36015:4, 36015:14, 36015:21, 36015:24, 36016:2, 36016:9, 36016:12, 36016:19, 36016:22, 36016:25, 36017:4, 36017:7, 36017:12, 36017:17, 36017:20, 36017:25, 36018:5, 36018:8, 36018:13, 36018:15, 36018:18, 36018:23, 36019:5, 36019:10, 36019:13, 36019:22, 36020:5, 36020:8, 36020:14, 36020:18, 36020:21, 36021:1, 36021:7, 36021:12, 36021:19, 36022:7, 36022:10, 36022:14, 36022:18, 36022:22, 36023:1, 36023:4, 36023:7,	36023:11, 36023:14, 36023:16, 36023:20, 36024:3, 36024:7, 36024:9, 36024:12, 36024:15, 36024:18, 36024:21, 36025:1, 36025:5, 36025:9, 36025:14, 36025:18, 36025:24, 36026:2, 36026:4, 36026:6, 36026:8, 36026:17, 36026:24, 36027:1, 36027:4, 36027:8, 36027:11, 36027:14, 36027:17, 36027:20, 36028:1, 36028:11, 36028:14, 36028:21, 36028:25, 36029:5, 36029:8, 36029:16, 36029:19, 36029:25, 36030:3, 36030:6, 36030:11, 36030:14, 36030:17, 36030:20, 36030:23, 36031:1, 36031:6, 36031:11, 36031:14, 36031:18, 36031:22, 36031:25, 36032:3, 36032:13, 36032:16, 36032:21, 36033:1, 36033:10, 36033:14, 36033:20, 36033:22, 36033:25, 36034:3, 36034:8, 36034:14, 36034:16, 36034:18, 36034:20, 36035:1, 36035:6, 36035:9, 36035:12, 36035:15, 36035:21, 36035:25, 36036:10, 36036:13, 36036:17, 36036:22, 36036:24, 36037:5, 36037:8, 36037:11, 36038:1, 36038:6, 36038:11, 36038:18, 36038:21, 36039:6, 36039:14, 36041:21, 36042:4, 36042:7, 36043:7, 36043:19, 36049:3, 36055:15, 36055:22, 36065:21, 36067:9, 36068:15, 36071:4, 36072:20, 36121:7, 36123:11, 36133:20, 36136:6, 36136:13, 36140:15, 36142:15 evening [9] - 36003:3, 36004:6, 36010:23, 36012:21, 36017:21, 36018:3, 36028:24, 36056:8, 36222:11	event [9] - 36050:11, 36059:10, 36073:1, 36099:10, 36122:7, 36133:13, 36139:7, 36145:9, 36154:21 events [20] - 35989:3, 35989:9, 36023:8, 36036:11, 36060:9, 36072:19, 36087:11, 36087:14, 36113:2, 36165:3, 36165:5, 36171:4, 36172:1, 36193:24, 36201:2, 36209:1, 36223:21, 36223:25, 36232:3, 36259:3 eventually [4] - 36046:14, 36137:12, 36149:20, 36174:21 everywhere [1] - 36205:5 evidence [117] - 35984:10, 36019:21, 36020:10, 36041:12, 36041:17, 36042:19, 36044:10, 36044:11, 36045:1, 36045:21, 36051:4, 36053:19, 36055:20, 36057:15, 36058:5, 36059:24, 36061:2, 36063:5, 36069:20, 36075:1, 36114:23, 36116:22, 36116:25, 36125:15, 36125:17, 36126:2, 36127:10, 36127:19, 36129:13, 36132:24, 36137:17, 36145:10, 36145:13, 36146:2, 36146:15, 36147:16, 36147:24, 36150:3, 36150:5, 36150:11, 36151:17, 36152:9, 36153:17, 36154:16, 36155:21, 36155:23, 36157:23, 36160:22, 36161:1, 36165:8, 36167:10, 36168:13, 36168:22, 36170:6, 36170:17, 36171:8, 36172:9, 36174:8, 36176:6, 36176:17, 36177:17, 36178:25, 36180:25, 36183:7, 36184:4, 36184:5, 36185:24, 36187:24, 36188:18, 36189:9, 36191:22, 36192:8, 36192:14, 36192:16, 36196:3, 36198:25,	36199:1, 36199:6, 36202:19, 36213:16, 36215:2, 36215:24, 36216:16, 36216:24, 36217:6, 36217:25, 36221:6, 36221:7, 36224:13, 36225:6, 36226:21, 36227:17, 36227:25, 36228:14, 36228:21, 36228:22, 36229:11, 36229:18, 36230:7, 36230:17, 36232:8, 36236:14, 36237:8, 36243:3, 36244:2, 36244:25, 36248:14, 36251:18, 36255:5, 36256:9, 36256:10, 36256:14, 36256:18, 36258:8 evolved [1] - 36193:7 exact [2] - 36054:13, 36054:15 Exactly [6] - 36009:3, 36026:7, 36027:19, 36179:5, 36188:7, 36247:14 exactly [10] - 36002:2, 36051:12, 36052:17, 36108:15, 36170:16, 36177:20, 36198:14, 36207:12, 36220:11, 36256:9 examination [23] - 36046:11, 36047:1, 36058:2, 36061:23, 36062:7, 36064:2, 36125:21, 36128:21, 36132:6, 36137:1, 36138:9, 36143:22, 36145:14, 36156:12, 36156:15, 36158:5, 36158:6, 36160:11, 36161:17, 36161:21, 36161:23, 36162:15, 36164:17 Examination [2] - 35982:5, 35987:9 examine [2] - 36097:11, 36248:1 examined [1] - 36010:10 examiner [3] - 36247:19, 36247:23, 36256:2 examining [2] - 36104:12, 36162:8 example [8] - 35984:18, 36032:18, 36053:23, 36079:5, 36178:4, 36203:7, 36259:4,	36259:5 examples [1] - 36045:12 exams [1] - 35994:12 except [3] - 36019:1, 36188:23, 36204:8 Except [1] - 36142:25 exception [1] - 36037:11 excerpt [1] - 36125:16 exchange [5] - 36070:25, 36071:11, 36071:16, 36090:15, 36220:15 exchanged [1] - 36064:8 excited [2] - 36005:17, 36158:17 exculpatory [1] - 36191:14 excuse [3] - 36032:6, 36037:20, 36106:10 Excuse [2] - 36033:4, 36094:7 excused [1] - 36165:20 Executive [1] - 35980:3 exhibit [2] - 36087:4, 36109:9 Exhibit [18] - 35988:6, 36087:6, 36088:8, 36092:10, 36093:3, 36093:4, 36093:13, 36094:13, 36094:23, 36094:25, 36096:8, 36097:8, 36097:9, 36097:11, 36098:3, 36104:14, 36116:17, 36117:3 existence [1] - 36148:2 existence [2] - 36146:20, 36148:7 expand [1] - 36236:6 expect [15] - 36006:11, 36106:25, 36109:14, 36172:4, 36172:6, 36172:9, 36186:11, 36186:20, 36186:25, 36193:8, 36193:11, 36193:15, 36207:6, 36231:11, 36232:21 expectation [1] - 36192:9 expected [5] - 36100:5, 36186:2, 36186:4, 36186:5, 36231:9 expensive [1] - 36038:8 experience [6] - 36175:6, 36181:3, 36184:3, 36185:24, 36218:7, 36218:16
---	--	--	--	--



experiences [1] - 36211:1 experimentations [1] - 35996:7 explain [7] - 36018:12, 36084:2, 36143:6, 36173:3, 36229:17, 36239:7, 36246:19 explained [1] - 36019:18 explaining [2] - 36143:11, 36143:13 explanation [22] - 36112:9, 36185:20, 36187:17, 36187:19, 36198:1, 36199:13, 36207:13, 36209:9, 36209:14, 36212:9, 36218:14, 36223:7, 36230:11, 36230:15, 36230:16, 36241:17, 36241:18, 36243:13, 36251:12, 36254:20, 36257:6, 36257:7 explanations [5] - 36242:7, 36242:13, 36242:15, 36252:11, 36257:3 explore [3] - 36132:17, 36171:19, 36173:11 express [1] - 36064:10 expressed [3] - 36198:17, 36228:3, 36238:20 expression [1] - 36112:22 expressions [1] - 36232:10 extensively [2] - 36130:16, 36198:16 extent [3] - 36059:11, 36184:12, 36215:17 extract [1] - 36008:7 extraordinary [3] - 36018:15, 36018:16, 36018:18 extreme [1] - 36259:19 extremely [1] - 36201:11 eye [2] - 36217:17, 36218:9	36028:2, 36028:15, 36036:1, 36040:8, 36042:10, 36042:16, 36044:25, 36047:24, 36049:10, 36050:5, 36050:23, 36053:20, 36054:6, 36066:14, 36070:5, 36100:17, 36106:16, 36109:13, 36109:15, 36109:16, 36109:18, 36109:21, 36109:22, 36110:1, 36110:15, 36110:21, 36110:22, 36112:1, 36112:2, 36113:5, 36114:8, 36115:1, 36117:16, 36118:8, 36122:1, 36122:3, 36128:17, 36129:8, 36135:18, 36139:3, 36142:3, 36160:23, 36176:25, 36177:13, 36192:15, 36196:16, 36199:9, 36199:12, 36216:25, 36221:1, 36221:4, 36222:24, 36222:25, 36223:15, 36226:3, 36229:9, 36232:10, 36233:18, 36241:12, 36242:25, 36243:20, 36244:10, 36245:5, 36245:8, 36248:11 factor [5] - 36193:17, 36202:23, 36203:11, 36235:19, 36235:21 factors [2] - 36000:25, 36251:25 facts [12] - 35984:14, 35984:15, 36060:3, 36131:23, 36154:23, 36174:25, 36177:17, 36178:12, 36207:13, 36242:19, 36243:22, 36243:23 factual [4] - 36062:6, 36153:25, 36177:11, 36243:8 failed [2] - 36232:2, 36256:12 fair [27] - 36011:8, 36036:18, 36077:1, 36083:5, 36083:10, 36086:11, 36087:8, 36087:13, 36091:24, 36106:3, 36106:24, 36112:11, 36113:3, 36115:12, 36176:5, 36178:2, 36178:3, 36178:21, 36203:18, 36203:19, 36209:13, 36214:23, 36218:10, 36218:13, 36238:20, 36239:10, 36239:11 fairly [7] - 36016:14, 36113:19, 36134:16, 36139:8, 36190:23, 36191:19, 36195:12 fairness [1] - 36129:6 fall [2] - 36077:8, 36169:19 falling [1] - 36083:22 false [10] - 36168:22, 36170:6, 36172:9, 36193:10, 36202:18, 36220:16, 36220:19, 36224:18, 36250:19, 36257:1 falsehoods [1] - 36202:20 familiar [5] - 36244:3, 36248:18, 36248:19, 36258:6, 36259:15 far [20] - 35988:24, 35994:9, 35996:6, 36013:18, 36014:8, 36014:18, 36014:20, 36071:21, 36077:20, 36107:7, 36111:18, 36117:22, 36131:2, 36134:17, 36197:21, 36213:14, 36214:19, 36215:16, 36223:11, 36227:14 fashion [1] - 36139:8 fast [1] - 36211:7 Father [3] - 36189:5, 36189:10, 36189:18 father [2] - 35991:20, 35997:1 Fds [1] - 36131:7 fear [4] - 36211:18, 36235:8, 36235:18, 36246:5 February [4] - 36052:7, 36156:15, 36188:1, 36188:3 federal [6] - 36150:25, 36162:22, 36162:25, 36163:3, 36163:17, 36164:11 Federal [4] - 35985:20, 36161:18, 36164:1, 36164:5 feed [3] - 35991:19, 36080:14, 36080:20 feeding [1] - 36080:11 feelings [1] - 36051:15 feet [3] - 36014:14, 36015:13, 36123:21	fell [1] - 36001:2 fellow [1] - 35999:16 felt [25] - 36019:19, 36041:6, 36046:20, 36050:18, 36057:3, 36072:7, 36072:10, 36096:20, 36123:17, 36123:25, 36124:20, 36124:23, 36125:6, 36127:14, 36136:2, 36136:20, 36140:9, 36170:22, 36180:5, 36196:11, 36197:19, 36199:23, 36206:17, 36210:24, 36219:19 female [2] - 36134:5, 36225:6 Ferris [3] - 36063:5, 36145:24, 36158:25 few [9] - 35988:5, 35998:6, 35999:1, 36004:19, 36017:24, 36057:12, 36093:16, 36105:6, 36124:9 fifteen [3] - 36002:14, 36029:25, 36082:25 Fifteen [1] - 35991:7 Fifth [1] - 36037:16 fifth [1] - 36085:24 fifty [1] - 36008:15 fifty-six [1] - 36008:15 fight [1] - 36092:6 figure [4] - 36128:4, 36229:15, 36229:22, 36252:18 figured [1] - 36106:10 file [7] - 36144:2, 36145:17, 36145:23, 36150:2, 36156:1, 36183:24, 36204:22 filed [9] - 35985:9, 36060:11, 36060:20, 36062:16, 36089:20, 36147:21, 36156:5, 36156:7, 36160:13 final [2] - 35994:12, 36147:10 Finally [2] - 36049:22, 36147:11 finder [1] - 36120:2 findings [4] - 36163:3, 36164:6, 36169:21, 36202:22 fine [5] - 36039:3, 36129:17, 36165:4, 36171:12, 36211:15 Fine [1] - 36012:1 finish [3] - 36167:6, 36200:3, 36258:4 finished [2] - 36167:3, 36168:3 finishing [1] - 36031:7 firm [1] - 36131:5 First [2] - 36122:17, 36235:8 first [66] - 35984:7, 35984:12, 35987:2, 35988:16, 35990:21, 35994:24, 35999:1, 35999:15, 36005:11, 36005:22, 36013:24, 36018:2, 36026:12, 36038:4, 36039:17, 36039:20, 36039:24, 36040:4, 36040:11, 36052:10, 36055:11, 36055:25, 36060:7, 36063:4, 36069:19, 36091:25, 36094:12, 36095:7, 36096:7, 36122:15, 36124:3, 36124:5, 36125:23, 36138:16, 36142:4, 36142:23, 36143:20, 36144:16, 36145:24, 36147:10, 36153:13, 36159:4, 36160:13, 36174:19, 36175:7, 36175:24, 36176:8, 36176:12, 36176:15, 36179:11, 36179:12, 36181:14, 36181:20, 36182:16, 36182:20, 36187:5, 36190:19, 36201:14, 36204:7, 36207:14, 36239:24, 36242:5, 36242:6, 36242:21, 36243:12, 36246:6 Fisher [58] - 35982:7, 36052:1, 36052:5, 36067:4, 36067:6, 36067:9, 36068:1, 36068:8, 36068:13, 36068:14, 36069:6, 36071:23, 36072:19, 36073:9, 36073:10, 36073:25, 36074:16, 36074:19, 36075:8, 36075:17, 36075:22, 36087:6, 36096:22, 36120:15, 36121:7, 36121:13, 36125:6, 36125:21, 36126:3, 36127:4, 36127:10, 36127:13, 36127:20, 36128:22, 36129:12, 36129:22, 36130:2, 36130:19, 36131:12, 36131:13, 36131:22,
F		
fabricate [2] - 36168:12, 36178:24 face [3] - 36007:7, 36060:15, 36112:22 fact [66] - 36011:22,		



<p>36132:5, 36132:11, 36132:20, 36133:5, 36133:20, 36134:24, 36135:2, 36136:14, 36138:5, 36138:22, 36139:13, 36140:1, 36140:16, 36143:18, 36167:11, 36168:4 Fishers [4] - 36125:15, 36131:8, 36132:7, 36132:12 fist [1] - 36027:12 fists [1] - 36027:10 fit [8] - 36175:10, 36180:18, 36183:21, 36191:9, 36192:24, 36198:9, 36229:21 fitting [1] - 36211:20 Fitzgerald [1] - 35980:12 five [20] - 35988:12, 36007:16, 36008:16, 36009:6, 36012:23, 36013:23, 36014:14, 36015:6, 36016:12, 36020:18, 36020:22, 36080:8, 36080:15, 36096:11, 36096:13, 36097:8, 36120:8, 36222:5, 36248:15, 36248:17 Five [2] - 36024:7, 36079:2 flabbergasted [4] - 36040:9, 36040:14, 36058:13 flashbacks [1] - 36237:23 flat [1] - 36110:10 flew [2] - 36020:3, 36038:15 flier [1] - 36081:3 flip [1] - 36190:25 flipped [1] - 36007:12 flipping [2] - 36034:24, 36043:16 floor [1] - 36014:6 fluffing [6] - 36023:9, 36025:4, 36025:6, 36026:15, 36033:18, 36034:10 fly [1] - 36192:19 focus [11] - 36048:19, 36063:7, 36169:2, 36170:1, 36170:4, 36170:11, 36170:25, 36176:23, 36178:22, 36182:12, 36213:14 focused [1] - 36048:17 follow [1] - 36114:17</p>	<p>followed [1] - 35983:12 following [4] - 35986:18, 36052:8, 36234:8, 36240:8 foot [3] - 35988:21, 36014:6, 36014:13 forced [1] - 36210:10 forefront [2] - 36021:22, 36022:8 foregoing [1] - 36261:5 forever [1] - 36024:6 forget [1] - 36189:1 forgotten [1] - 36173:14 forks [2] - 36110:8, 36110:19 form [9] - 35985:4, 36018:3, 36023:22, 36029:19, 36046:15, 36050:8, 36065:25, 36144:2, 36209:1 format [1] - 36167:14 formed [2] - 36144:22, 36208:2 formerly [1] - 36075:7 forthcoming [2] - 36212:9, 36242:1 forthright [5] - 36171:20, 36175:19, 36206:19, 36207:20, 36208:4 forward [6] - 36051:2, 36051:6, 36159:11, 36172:4, 36182:17, 36189:20 forwarding [1] - 36148:3 four [8] - 36009:10, 36014:14, 36016:12, 36076:22, 36088:19, 36088:22, 36089:15, 36105:21 fourteen [1] - 35995:7 fourth [1] - 36209:5 fragments [1] - 36238:2 frame [1] - 36214:10 framing [1] - 36123:1 Frank [40] - 35989:16, 35989:21, 35990:6, 35993:23, 35998:12, 36001:16, 36001:23, 36002:7, 36004:7, 36004:14, 36005:15, 36005:20, 36013:11, 36022:23, 36030:21, 36143:19, 36144:7, 36144:12, 36144:20, 36144:21, 36145:5, 36145:15, 36146:8, 36146:20, 36147:2, 36147:13, 36148:2,</p>	<p>36148:8, 36149:2, 36149:20, 36152:1, 36152:5, 36152:21, 36152:25, 36155:22, 36156:3, 36156:17, 36156:24, 36157:5, 36157:10 Frank's [2] - 36148:14, 36157:22 Frankly [1] - 36157:2 Frayer [36] - 35981:11, 35982:4, 35983:4, 35983:6, 35987:8, 36039:16, 36040:24, 36044:12, 36049:17, 36054:15, 36054:18, 36055:8, 36059:22, 36062:13, 36067:16, 36067:17, 36067:21, 36067:25, 36073:23, 36074:12, 36074:15, 36120:7, 36120:11, 36121:4, 36125:20, 36126:16, 36126:19, 36127:6, 36129:16, 36130:25, 36132:16, 36142:10, 36156:14, 36164:7, 36164:10, 36165:1 free [2] - 35986:4, 36158:25 Free [1] - 36150:15 freely [1] - 35985:24 frequently [3] - 35995:8, 35996:8, 35996:15 fresher [1] - 36087:14 Friday..and [1] - 36122:18 friend [2] - 36204:9, 36204:17 Friend [1] - 36161:10 friends [2] - 36181:17, 36181:25 frightened [1] - 36136:2 fringes [1] - 36175:20 front [3] - 36014:6, 36019:2, 36026:10 fruit [1] - 36049:12 Fruit [1] - 36049:16 fucked [4] - 36032:9, 36032:23, 36033:7, 36054:25 fucking [2] - 36036:5, 36061:3 full [4] - 36013:24, 36092:4, 36171:16, 36238:23 fundamental [1] - 36201:4</p>	<p>funeral [2] - 36258:15, 36259:5 furiously [1] - 36100:7 furnished [1] - 36110:10</p> <p>G</p> <p>Gail [16] - 36112:24, 36113:3, 36116:12, 36116:20, 36181:7, 36188:6, 36199:11, 36199:19, 36199:25, 36228:22, 36236:5, 36237:21, 36238:6, 36247:21, 36251:1, 36254:12 gain [1] - 36051:1 garbage [1] - 36253:11 Garrett [1] - 35981:6 Gary [1] - 36145:16 gather [8] - 35990:5, 36012:17, 36037:1, 36045:15, 36110:10, 36111:11, 36115:18, 36118:2 gathered [3] - 36195:24, 36200:10, 36226:11 gathering [3] - 36126:2, 36127:10, 36127:19 gee [4] - 35991:1, 36037:18, 36080:7, 36184:23 general [3] - 36139:11, 36174:2, 36195:7 generalize [1] - 36124:19 generalizing [1] - 36125:9 generally [5] - 36169:15, 36170:9, 36193:18, 36218:3, 36260:4 generated [1] - 36238:1 George [18] - 35988:13, 35988:14, 36000:6, 36009:7, 36009:19, 36011:13, 36011:14, 36014:16, 36015:9, 36015:16, 36015:24, 36016:11, 36028:14, 36028:18, 36028:23, 36035:16, 36055:24, 36156:20 gesture [1] - 36035:23 giant [1] - 36072:3 Gibson [1] - 35981:10 giggle [15] - 36023:24,</p>	<p>36024:2, 36024:4, 36024:23, 36029:20, 36030:15, 36030:18, 36030:21, 36030:24, 36031:8, 36031:9, 36042:8, 36042:13, 36042:14 giggling [6] - 36001:10, 36024:15, 36024:16, 36029:15, 36029:17, 36044:14 girl [9] - 35991:1, 35991:3, 36109:17, 36109:20, 36178:7, 36227:6, 36235:11, 36240:3, 36253:9 girl? [1] - 36010:3 Given [1] - 36017:13 given [23] - 35984:13, 35987:4, 35995:10, 36035:16, 36045:12, 36053:23, 36087:6, 36141:23, 36147:14, 36147:16, 36147:24, 36150:23, 36162:24, 36200:17, 36216:17, 36221:15, 36222:14, 36226:7, 36230:3, 36241:16, 36253:12, 36253:23, 36255:17 glance [1] - 36020:22 glass [1] - 35997:12 gonna [1] - 36252:13 goofing [1] - 36001:9 gordge [4] - 35983:23, 35984:17, 35984:23, 36145:21 gossip [3] - 35990:16, 35994:1, 36006:19 gossiping [1] - 35990:4 Government [2] - 35981:4, 36161:18 go [1] - 36081:15 grade [3] - 35994:11, 35994:13, 35994:14 great [4] - 36022:11, 36112:14, 36115:16, 36181:22 greater [1] - 36132:18 green [1] - 36102:13 greens [1] - 36103:23 grins [1] - 36024:19 ground [2] - 36061:25, 36062:17 group [2] - 36157:19, 36182:2 gruesome [1] - 36179:21 guard [2] - 36061:5, 36224:11</p>
---	--	--	--	--



<p>guess [38] - 35992:2, 36005:7, 36008:14, 36023:2, 36025:20, 36037:25, 36049:8, 36057:9, 36058:18, 36059:5, 36079:14, 36138:6, 36174:8, 36181:25, 36192:11, 36203:2, 36203:15, 36208:17, 36215:16, 36216:1, 36216:7, 36221:15, 36221:24, 36226:9, 36229:24, 36231:16, 36232:9, 36237:4, 36241:17, 36243:19, 36244:12, 36244:13, 36245:23, 36250:22, 36251:10, 36251:13</p> <p>guided [1] - 36163:15</p> <p>guilt [1] - 36040:15</p> <p>guilty [2] - 36114:19, 36115:20</p> <p>guy [2] - 35999:15, 36186:22</p> <p>guys [2] - 36000:11, 36057:12</p> <p>guy's [1] - 36081:8</p>	<p>35992:24, 35993:1, 35993:5, 35993:7, 35993:10, 35993:18, 35993:25, 35994:10, 35994:22, 35995:1, 35995:5, 35995:7, 35995:9, 35995:16, 35995:19, 35995:21, 35995:25, 35996:5, 35996:10, 35996:16, 35996:20, 35996:24, 35997:1, 35997:5, 35997:10, 35997:14, 35997:18, 35998:3, 35998:13, 35998:16, 35998:21, 35999:4, 35999:10, 35999:20, 35999:23, 36000:1, 36000:4, 36000:6, 36000:16, 36000:19, 36000:21, 36000:24, 36001:5, 36001:9, 36001:15, 36001:18, 36001:25, 36002:5, 36002:8, 36002:13, 36002:15, 36002:17, 36002:19, 36002:21, 36003:1, 36003:3, 36003:5, 36003:15, 36003:19, 36003:21, 36003:25, 36004:5, 36004:8, 36004:11, 36004:16, 36004:18, 36005:4, 36005:6, 36005:22, 36006:7, 36006:18, 36007:1, 36007:11, 36007:20, 36007:23, 36008:1, 36008:9, 36008:14, 36008:18, 36008:24, 36009:3, 36009:12, 36009:16, 36009:22, 36010:7, 36011:1, 36011:5, 36011:9, 36011:12, 36011:16, 36011:21, 36011:24, 36012:5, 36012:8, 36012:10, 36012:14, 36012:20, 36013:2, 36013:13, 36013:16, 36014:2, 36014:5, 36014:10, 36014:12, 36014:18, 36014:22, 36015:2, 36015:7, 36015:20, 36015:23, 36016:1, 36016:5, 36016:10, 36016:16, 36016:21, 36016:24, 36017:3, 36017:6, 36017:10, 36017:15, 36017:19, 36017:23,</p>	<p>36018:1, 36018:7, 36018:10, 36018:14, 36018:16, 36018:20, 36018:25, 36019:6, 36019:12, 36019:16, 36019:23, 36020:6, 36020:12, 36020:16, 36020:20, 36020:24, 36021:6, 36021:11, 36021:18, 36021:21, 36022:9, 36022:12, 36022:16, 36022:20, 36022:24, 36023:3, 36023:6, 36023:10, 36023:13, 36023:15, 36023:18, 36023:24, 36024:5, 36024:8, 36024:10, 36024:14, 36024:16, 36024:19, 36024:25, 36025:3, 36025:7, 36025:12, 36025:16, 36025:20, 36026:1, 36026:3, 36026:5, 36026:7, 36026:10, 36026:22, 36026:25, 36027:2, 36027:6, 36027:10, 36027:13, 36027:16, 36027:19, 36027:23, 36028:5, 36028:13, 36028:17, 36028:22, 36029:2, 36029:6, 36029:10, 36029:18, 36029:21, 36030:2, 36030:5, 36030:9, 36030:13, 36030:16, 36030:19, 36030:22, 36030:25, 36031:5, 36031:10, 36031:13, 36031:16, 36031:19, 36031:23, 36032:2, 36032:4, 36032:15, 36032:19, 36032:24, 36033:13, 36033:18, 36033:21, 36033:24, 36034:2, 36034:5, 36034:12, 36034:15, 36034:17, 36034:19, 36034:22, 36035:3, 36035:8, 36035:11, 36035:14, 36035:20, 36035:24, 36036:7, 36036:12, 36036:16, 36036:20, 36036:23, 36037:4, 36037:7, 36037:10, 36037:15, 36038:4, 36038:7, 36038:15, 36038:20, 36038:23, 36039:13, 36039:20, 36041:1, 36041:4, 36042:2,</p>	<p>36042:12, 36043:14, 36044:6, 36044:8, 36044:20, 36045:14, 36046:1, 36048:16, 36049:3, 36049:7, 36050:15, 36051:8, 36052:6, 36052:11, 36055:12, 36057:23, 36059:23, 36060:6, 36061:22, 36062:24, 36063:15, 36064:4, 36065:20, 36067:4, 36068:13, 36073:9, 36121:11, 36122:17, 36125:12, 36138:22, 36139:4, 36139:5, 36139:15, 36141:20, 36141:22, 36143:18, 36144:17, 36144:19, 36146:2, 36147:21, 36152:8, 36155:21, 36156:3, 36156:25, 36157:16, 36158:11, 36158:16, 36158:19, 36159:15, 36160:22</p> <p>Hall's [7] - 36041:12, 36042:19, 36057:15, 36068:5, 36144:14, 36145:4, 36157:23</p> <p>hallucinate [1] - 35997:13</p> <p>halted [1] - 36114:4</p> <p>hand [6] - 36186:14, 36219:22, 36219:23, 36220:2, 36221:21, 36226:6</p> <p>handcuffed [1] - 36190:6</p> <p>handed [1] - 36044:9</p> <p>handle [9] - 36088:22, 36089:2, 36089:7, 36108:5, 36108:16, 36109:8, 36111:5, 36247:20, 36255:23</p> <p>handled [10] - 36109:2, 36246:13, 36246:16, 36247:24, 36247:25, 36250:23, 36251:11, 36254:11</p> <p>Handouts [1] - 35991:17</p> <p>handouts [2] - 35991:18, 35996:12</p> <p>hands [7] - 35995:10, 36031:4, 36036:8, 36072:15, 36073:14, 36159:11, 36222:7</p> <p>handwritten [1] - 36092:24</p> <p>hang [1] - 36180:12</p>	<p>Happy [1] - 36006:3</p> <p>hard [5] - 35995:18, 36023:21, 36041:19, 36084:9, 36084:10</p> <p>hardly [1] - 36058:23</p> <p>harken [1] - 36139:4</p> <p>Harris [5] - 36000:8, 36001:11, 36002:22, 36012:7, 36017:5</p> <p>head [2] - 36029:12, 36099:20</p> <p>headed [1] - 36121:17</p> <p>heading [1] - 35987:15</p> <p>headline [1] - 36150:20</p> <p>hear [14] - 36023:25, 36071:14, 36074:8, 36101:4, 36104:21, 36105:15, 36105:22, 36105:24, 36132:22, 36137:1, 36138:14, 36197:20, 36198:22, 36232:22</p> <p>heard [41] - 35990:11, 35990:13, 35993:21, 36013:22, 36022:6, 36031:22, 36032:17, 36038:19, 36040:4, 36040:12, 36052:12, 36053:15, 36056:7, 36059:1, 36064:22, 36066:1, 36096:23, 36096:25, 36099:7, 36113:17, 36157:16, 36161:20, 36176:5, 36182:16, 36189:10, 36204:17, 36207:6, 36213:15, 36215:8, 36228:1, 36228:21, 36230:7, 36236:14, 36240:15, 36244:25, 36246:19, 36254:16, 36255:4, 36256:18, 36258:8</p> <p>hearing [3] - 36136:11, 36138:16, 36223:2</p> <p>hearkening [1] - 36184:3</p> <p>heavy [1] - 36005:1</p> <p>heels [1] - 36042:15</p> <p>held [4] - 35986:19, 36109:3, 36162:11, 36225:11</p> <p>hell [1] - 36028:10</p> <p>help [6] - 36022:3, 36098:8, 36123:19, 36137:10, 36210:17, 36246:2</p> <p>helped [1] - 36220:5</p> <p>helper [1] - 36079:7</p> <p>helpful [5] - 36039:2,</p>
H				
<p>hair [2] - 36005:8, 36005:14</p> <p>Hairstyling [1] - 35993:19</p> <p>half [7] - 35999:15, 35999:19, 36083:4, 36083:12, 36083:13, 36083:17, 36186:23</p> <p>Hall [333] - 35982:5, 35983:10, 35983:23, 35984:7, 35984:25, 35985:14, 35986:19, 35987:9, 35987:14, 35987:16, 35987:19, 35987:21, 35987:25, 35988:3, 35988:8, 35988:12, 35988:20, 35988:23, 35989:4, 35989:8, 35989:11, 35989:19, 35989:22, 35990:7, 35990:10, 35990:15, 35990:18, 35990:20, 35991:1, 35991:7, 35991:10, 35991:13, 35991:17, 35991:22, 35991:25, 35992:7, 35992:12, 35992:16, 35992:22,</p>				



<p>36189:25, 36212:20, 36248:14, 36252:20 helps [1] - 36259:1 Henderson [16] - 36070:16, 36126:10, 36127:3, 36196:8, 36196:11, 36196:17, 36197:8, 36197:18, 36197:19, 36198:2, 36198:8, 36198:10, 36198:12, 36198:19, 36198:22 Henderson's [2] - 36126:11, 36198:3 her." [1] - 35989:18 hereby [1] - 36261:4 herein [1] - 36261:6 hereon [1] - 35988:6 herewith [1] - 35985:17 herself [3] - 36041:13, 36129:12, 36219:13 Hersh [6] - 35981:2, 36071:2, 36071:15, 36071:17, 36071:22, 36071:24 her" [1] - 36032:23 hesitate [1] - 36139:9 he's [2] - 36010:10, 36081:8 hidden [1] - 36112:12 hide [2] - 36173:18, 36208:10 hiding [3] - 36155:5, 36155:7, 36209:8 high [8] - 36006:11, 36006:13, 36023:24, 36024:2, 36031:9, 36036:19, 36157:4, 36247:12 high-pitched [3] - 36023:24, 36024:2, 36031:9 highlight [1] - 36066:10 highlights [1] - 36166:21 himself [7] - 36025:22, 36049:11, 36130:16, 36130:17, 36136:18, 36194:22, 36198:21 hindsight [1] - 36160:23 Hinz [3] - 35980:9, 36261:2, 36261:13 history [2] - 36092:1, 36092:2 hit [1] - 36017:8 hitting [2] - 36036:3, 36044:3 Hodson [44] - 35980:2, 35982:10, 36043:11,</p>	<p>36045:23, 36052:9, 36053:7, 36058:2, 36058:3, 36061:20, 36063:10, 36069:22, 36120:13, 36120:24, 36125:21, 36126:8, 36126:15, 36126:18, 36126:22, 36126:25, 36127:7, 36133:18, 36143:22, 36143:25, 36161:6, 36161:8, 36161:11, 36162:18, 36163:12, 36163:19, 36165:13, 36165:25, 36166:4, 36166:8, 36166:14, 36203:15, 36234:19, 36234:22, 36247:5, 36248:9, 36250:9, 36250:15, 36255:7, 36256:7, 36258:3 hollered [1] - 36090:20 home [31] - 35989:25, 35992:9, 35994:4, 35997:22, 36009:8, 36009:20, 36010:5, 36010:18, 36010:20, 36010:22, 36011:4, 36011:18, 36078:5, 36079:19, 36079:23, 36083:6, 36097:14, 36100:25, 36101:14, 36104:15, 36105:10, 36105:12, 36109:13, 36110:1, 36113:5, 36116:8, 36116:9, 36119:13, 36132:13, 36258:15, 36259:5 home." [1] - 36009:11 Hon [1] - 35981:12 hone [1] - 35983:16 honed [2] - 36015:9, 36028:23 honest [3] - 36117:5, 36122:10, 36136:19 honestly [1] - 36140:13 Honourable [2] - 35979:6, 36147:9 hope [5] - 36058:25, 36154:16, 36189:20, 36260:4, 36260:7 hopefully [1] - 36216:8 Hopkins [1] - 35981:13 Hoppy [3] - 36005:25, 36006:3, 36006:6 hopy [1] - 36154:10 horizontal [1] - 36027:18 horizontally [2] - 36031:7, 36033:23</p>	<p>horse [1] - 36016:17 hotel [9] - 35983:19, 36002:4, 36017:8, 36019:11, 36142:8, 36151:23, 36152:3, 36225:17, 36225:20 Hotel [2] - 35979:16, 36244:21 hour [19] - 35987:5, 35999:14, 35999:18, 35999:19, 36038:10, 36067:10, 36067:19, 36074:3, 36083:4, 36083:12, 36083:14, 36083:16, 36083:17, 36090:10, 36090:12, 36090:15, 36104:7 hours [1] - 36086:10 house [14] - 36076:10, 36087:24, 36088:10, 36090:23, 36095:17, 36110:16, 36117:22, 36184:10, 36187:14, 36190:5, 36196:4, 36199:3, 36240:23 householder [1] - 36108:3 house" [3] - 36088:4, 36088:5, 36088:6 Hull [3] - 36005:10, 36005:11, 36010:18 hung [1] - 35998:7 hurry [2] - 36199:7, 36211:6 husband [1] - 36078:4 hypnosis [1] - 36238:1 hysterical [1] - 36023:17</p>	<p>36172:11 immediately [2] - 36028:16, 36208:5 impact [1] - 36018:19 impaired [2] - 36012:16, 36017:5 impeach [1] - 36128:19 implicated [3] - 36116:6, 36183:12, 36206:18 implicating [1] - 36201:15 implication [1] - 36112:24 implies [1] - 36219:14 importance [2] - 36110:24, 36177:10 important [13] - 36062:5, 36063:1, 36133:3, 36175:15, 36208:19, 36209:25, 36210:12, 36231:15, 36236:4, 36237:19, 36252:18, 36258:19, 36259:10 impressed [1] - 36004:19 impression [7] - 36050:14, 36050:25, 36056:23, 36065:20, 36072:5, 36115:1, 36115:12 improper [4] - 36177:6, 36243:10, 36259:24 improperly [2] - 36049:11, 36148:17 inaccuracies [3] - 35984:5, 36087:20, 36087:21 inadvertently [3] - 36254:21, 36256:1, 36257:5 inappropriate [5] - 36130:8, 36141:11, 36215:20, 36222:15 inches [5] - 36025:22, 36088:20, 36088:22, 36089:15, 36108:5 incident [6] - 35984:6, 35984:19, 36084:14, 36092:5, 36157:14, 36233:21 incidents [1] - 36237:23 include [3] - 36021:3, 36059:1, 36061:2 included [2] - 36069:13, 36149:2 including [5] - 35984:5, 36069:10, 36130:11, 36251:1, 36256:19</p>	<p>inclusion [1] - 36154:6 inconsequential [1] - 36145:8 inconsistencies [2] - 36170:20, 36171:19 inconsistent [1] - 36164:12 incorporated [2] - 36046:14, 36060:10 incorporating [1] - 36060:15 incorrect [2] - 36189:14, 36197:2 incriminating [31] - 36173:23, 36173:24, 36173:25, 36175:13, 36190:14, 36191:5, 36191:12, 36192:13, 36192:16, 36192:21, 36193:10, 36193:11, 36199:1, 36216:16, 36216:21, 36221:6, 36236:21, 36238:13, 36238:18, 36240:1, 36240:21, 36241:15, 36245:10, 36250:25, 36251:20, 36251:21, 36253:13, 36253:16, 36256:13, 36256:15 indeed [1] - 36238:15 independent [6] - 36066:19, 36174:17, 36178:17, 36229:7, 36236:12, 36248:4 Index [1] - 35982:1 indicate [12] - 36067:7, 36071:2, 36097:11, 36141:21, 36175:2, 36177:11, 36179:20, 36185:11, 36215:25, 36233:17, 36234:7, 36259:8 indicated [6] - 35986:2, 36088:16, 36129:6, 36204:9, 36250:11, 36252:25 indicates [4] - 36050:21, 36151:4, 36180:7, 36190:5 indicating [2] - 36102:8, 36211:5 indication [3] - 36173:16, 36243:15, 36249:22 individual [3] - 36213:18, 36247:10, 36247:13 individuals [2] - 36121:25, 36237:25 infer [1] - 36125:14</p>
I				
<p>Id [7] - 35986:24, 35987:1, 36074:1, 36118:5, 36121:19, 36126:14, 36150:16 idea [3] - 36037:1, 36137:15, 36205:20 identified [2] - 36109:10, 36167:21 identifies [1] - 36245:8 identify [3] - 36097:18, 36249:3, 36258:16 identifying [1] - 36217:15 ignore [1] - 36028:19 illegal [1] - 36117:18 illustrated [1] - 36235:9 imagine [1] - 36149:7 immediate [1] -</p>				



<p>inferences [1] - 36117:17</p> <p>influence [5] - 36017:1, 36030:4, 36180:11, 36188:21, 36216:8</p> <p>influenced [2] - 36056:15, 36258:11</p> <p>influences [1] - 36235:7</p> <p>information [80] - 35984:3, 35984:22, 36040:5, 36061:22, 36062:15, 36062:24, 36065:24, 36068:17, 36069:7, 36074:10, 36074:25, 36108:6, 36121:10, 36130:22, 36131:3, 36131:6, 36137:9, 36144:16, 36145:4, 36148:4, 36152:13, 36156:1, 36157:17, 36159:12, 36160:15, 36173:22, 36174:21, 36174:24, 36175:14, 36177:7, 36190:2, 36190:15, 36191:5, 36191:14, 36192:21, 36194:13, 36195:24, 36196:20, 36204:13, 36205:4, 36205:17, 36206:5, 36206:23, 36206:25, 36208:1, 36209:10, 36209:18, 36209:19, 36215:22, 36215:24, 36216:4, 36216:17, 36220:21, 36226:10, 36227:14, 36228:25, 36234:12, 36236:21, 36236:24, 36237:2, 36237:11, 36241:10, 36241:12, 36241:25, 36243:9, 36243:12, 36243:17, 36244:4, 36245:11, 36246:3, 36246:18, 36250:25, 36251:20, 36251:22, 36253:13, 36253:16, 36253:22, 36254:14, 36257:16, 36260:5</p> <p>informed [5] - 36039:20, 36058:6, 36059:8, 36096:9, 36228:15</p> <p>ingested [4] - 35994:19, 36002:1, 36016:18, 36018:2</p> <p>initial [14] - 35987:18, 35987:20, 36097:22, 36170:15, 36175:4, 36183:14, 36185:8,</p>	<p>36191:11, 36196:23, 36204:15, 36205:14, 36208:9, 36239:21, 36243:1</p> <p>Inland [1] - 35980:12</p> <p>innocent [13] - 36028:8, 36032:17, 36081:4, 36081:8, 36096:21, 36097:13, 36097:20, 36114:18, 36180:11, 36242:7, 36242:8, 36242:13, 36242:15</p> <p>inquire [1] - 36161:19</p> <p>inquired [1] - 36163:18</p> <p>Inquiry [7] - 35979:2, 35979:23, 36161:19, 36162:10, 36162:12, 36163:18, 36228:13</p> <p>inquiry [10] - 36045:1, 36045:2, 36074:21, 36122:7, 36122:8, 36144:18, 36163:20, 36164:18, 36202:21, 36230:6</p> <p>inside [1] - 36079:14</p> <p>Insp [1] - 36223:22</p> <p>Inspector [35] - 36213:3, 36213:25, 36214:17, 36214:20, 36215:1, 36215:18, 36216:2, 36216:14, 36216:23, 36217:5, 36217:13, 36217:16, 36217:21, 36218:6, 36219:16, 36220:1, 36220:9, 36220:18, 36221:5, 36223:1, 36242:20, 36245:6, 36245:22, 36251:2, 36252:16, 36253:7, 36253:15, 36253:23, 36254:14, 36254:19, 36256:10, 36256:14, 36257:4, 36257:9, 36257:16</p> <p>instance [3] - 36060:7, 36175:24, 36246:6</p> <p>instances [2] - 36044:19, 36191:17</p> <p>instead [1] - 36089:21</p> <p>insulation [1] - 36105:19</p> <p>intend [2] - 35986:22, 36167:4</p> <p>intense [2] - 36168:13, 36179:13</p> <p>intention [2] - 36067:8, 36073:24</p> <p>intentional [1] - 36050:3</p>	<p>intentionally [1] - 36254:21</p> <p>interact [1] - 36133:21</p> <p>interaction [4] - 36168:14, 36169:3, 36174:23, 36182:23</p> <p>interactions [1] - 36213:15</p> <p>intercourse [1] - 36210:10</p> <p>interest [2] - 35984:25, 36066:23</p> <p>interested [8] - 36072:4, 36108:2, 36126:1, 36127:8, 36127:18, 36131:12, 36157:24, 36213:8</p> <p>interesting [1] - 36132:4</p> <p>interject [1] - 36047:3</p> <p>internal [2] - 36179:24, 36180:5</p> <p>interpret [3] - 36131:23, 36160:25, 36246:8</p> <p>interpretation [4] - 36154:25, 36155:10, 36195:8, 36209:6</p> <p>interpreted [1] - 36041:4</p> <p>interrogated [1] - 36190:8</p> <p>interrogation [2] - 36205:10, 36205:21</p> <p>interview [100] - 35983:10, 35983:12, 35986:19, 35986:24, 35987:1, 36040:12, 36042:20, 36045:13, 36045:16, 36046:4, 36047:5, 36048:1, 36048:5, 36048:9, 36048:18, 36049:4, 36049:6, 36049:12, 36051:20, 36051:22, 36052:7, 36053:12, 36053:15, 36053:16, 36056:4, 36057:23, 36057:25, 36063:16, 36065:18, 36065:19, 36067:6, 36067:9, 36068:6, 36068:14, 36072:20, 36073:12, 36073:25, 36074:1, 36074:8, 36121:6, 36122:21, 36123:25, 36125:13, 36126:4, 36126:11, 36127:11, 36128:9, 36129:2, 36129:23, 36130:7, 36130:15, 36132:5,</p>	<p>36132:15, 36132:19, 36132:24, 36137:3, 36137:19, 36138:15, 36138:22, 36139:4, 36140:1, 36140:24, 36141:18, 36142:1, 36142:15, 36142:19, 36152:16, 36172:13, 36175:7, 36183:14, 36185:8, 36197:24, 36205:25, 36206:1, 36209:25, 36210:12, 36212:15, 36212:20, 36212:24, 36213:1, 36213:10, 36213:24, 36214:3, 36215:7, 36216:4, 36219:3, 36220:4, 36220:18, 36221:6, 36222:10, 36223:14, 36223:16, 36237:15, 36246:2, 36246:9, 36246:17, 36252:2, 36253:2, 36254:5, 36254:6</p> <p>interviewed [23] - 36050:2, 36068:15, 36129:9, 36129:21, 36133:6, 36135:22, 36158:17, 36183:9, 36187:3, 36196:7, 36198:16, 36206:20, 36210:19, 36212:13, 36213:25, 36216:5, 36224:2, 36225:20, 36227:9, 36236:9, 36236:18, 36240:7</p> <p>interviewees [2] - 36137:21, 36172:25</p> <p>interviewer [11] - 36217:24, 36218:21, 36219:6, 36221:16, 36221:20, 36221:22, 36222:7, 36246:2, 36253:3, 36254:1, 36254:2</p> <p>interviewers [2] - 36172:24, 36239:3</p> <p>interviewing [1] - 36218:25</p> <p>interviews [14] - 36172:2, 36182:22, 36194:22, 36198:5, 36208:9, 36211:9, 36213:20, 36216:21, 36223:19, 36227:20, 36232:15, 36234:9, 36234:24, 36237:24</p> <p>intimidate [2] - 36071:25, 36229:10</p> <p>intimidated [20] -</p>	<p>36129:7, 36129:8, 36133:9, 36135:7, 36135:12, 36135:21, 36136:2, 36136:6, 36136:23, 36170:5, 36170:22, 36170:23, 36173:6, 36173:13, 36181:12, 36191:3, 36193:19, 36197:22, 36226:5, 36227:16</p> <p>Intimidated/told [1] - 36168:7</p> <p>intimidating [11] - 36133:14, 36133:15, 36133:16, 36135:18, 36136:20, 36138:21, 36138:25, 36168:11, 36179:2, 36200:17, 36202:19</p> <p>Intimidation [1] - 36139:1</p> <p>intimidation [6] - 36177:19, 36195:21, 36224:16, 36227:18, 36243:24, 36244:1</p> <p>intransigent [1] - 36149:14</p> <p>introduced [1] - 36134:8</p> <p>introductions [1] - 36134:18</p> <p>investigate [1] - 36170:13</p> <p>investigated [1] - 36177:4</p> <p>investigates [1] - 36173:1</p> <p>investigating [9] - 36146:4, 36169:16, 36170:10, 36173:6, 36175:18, 36178:23, 36205:24, 36215:17, 36250:18</p> <p>investigation [34] - 36129:14, 36142:6, 36151:6, 36151:14, 36157:20, 36166:20, 36167:1, 36167:7, 36167:9, 36167:18, 36169:5, 36172:18, 36180:24, 36181:8, 36181:9, 36183:18, 36193:4, 36193:7, 36193:23, 36196:20, 36202:2, 36202:8, 36210:2, 36213:13, 36226:19, 36229:1, 36229:4, 36229:16, 36230:19, 36232:5, 36232:12, 36252:5</p>
--	---	--	--	---



Investigation ^[1] - 36107:24 investigative ^[5] - 36066:20, 36066:24, 36168:17, 36172:13, 36220:17 investigator ^[28] - 36045:6, 36045:9, 36049:24, 36050:1, 36050:7, 36050:14, 36050:18, 36050:21, 36122:24, 36123:4, 36130:4, 36132:2, 36170:9, 36178:13, 36196:8, 36218:16, 36240:16, 36240:25, 36241:4, 36241:5, 36241:7, 36241:24, 36242:3, 36242:11, 36242:24, 36259:3, 36259:8, 36259:25 investigator ^[1] - 36050:5 investigator's ^[1] - 36235:1 Investigator's ^[1] - 36050:17 investigator...who ^[1] - 36122:22 investigators ^[19] - 36052:3, 36068:10, 36072:16, 36121:14, 36173:1, 36187:4, 36187:18, 36192:17, 36197:7, 36198:17, 36200:19, 36201:14, 36214:25, 36215:14, 36230:9, 36233:10, 36235:16, 36236:16, 36239:3 Investigators ^[1] - 36200:5 investigators ^[1] - 36200:8 invited ^[1] - 36065:3 involve ^[2] - 36001:8, 36045:2 involved ^[13] - 36100:12, 36142:6, 36179:20, 36181:24, 36186:6, 36187:6, 36188:24, 36189:19, 36194:10, 36201:20, 36209:7, 36229:5, 36236:24 involvement ^[3] - 36113:2, 36208:10, 36214:9 Irene ^[1] - 35980:8 irregularities ^[1] -	36151:5 irrelevant ^[1] - 36162:16 Isabelle ^[1] - 35980:5 isolation ^[1] - 36202:17 Issue ^[1] - 36168:13 issue ^[22] - 36036:14, 36062:21, 36072:24, 36072:25, 36120:12, 36146:18, 36147:25, 36162:20, 36163:5, 36163:9, 36163:24, 36163:25, 36168:17, 36176:8, 36177:23, 36178:13, 36181:11, 36202:22, 36238:3, 36255:19, 36256:4 issued ^[1] - 36155:15 issues ^[5] - 36167:17, 36167:20, 36167:23, 36168:5, 36168:9 item ^[2] - 36150:12, 36258:4 items ^[4] - 36069:19, 36168:2, 36176:24, 36176:25 itself ^[5] - 35985:8, 36008:20, 36066:14, 36215:7, 36253:3 it's ^[14] - 35988:1, 36008:7, 36011:8, 36015:16, 36016:14, 36036:17, 36083:5, 36088:2, 36089:15, 36095:18, 36107:6, 36109:22, 36111:3, 36114:22 It's ^[11] - 36012:12, 36074:23, 36085:3, 36093:20, 36093:22, 36093:25, 36094:21, 36102:7, 36112:8, 36112:11, 36118:11	36153:4, 36159:11, 36232:3, 36238:8 Japan ^[1] - 36108:6 jeans ^[2] - 36102:12, 36102:19 Jerry ^[1] - 35980:11 Joanne ^[1] - 35981:3 job ^[1] - 36137:22 jocular ^[1] - 36139:8 John ^[53] - 36154:8, 36170:3, 36173:21, 36175:12, 36182:11, 36187:14, 36191:1, 36192:7, 36192:25, 36201:20, 36204:4, 36204:9, 36204:20, 36205:1, 36206:19, 36207:8, 36208:7, 36210:3, 36211:4, 36211:16, 36212:13, 36213:19, 36214:20, 36214:22, 36215:13, 36215:20, 36216:12, 36216:15, 36224:6, 36225:24, 36226:3, 36227:2, 36227:5, 36227:8, 36227:15, 36228:12, 36228:15, 36229:6, 36229:23, 36231:5, 36233:3, 36234:5, 36234:18, 36235:2, 36235:4, 36236:3, 36236:16, 36236:23, 36237:16, 36238:24, 36239:13, 36258:9, 36258:14 Johrls ^[4] - 36206:15, 36209:22, 36229:17, 36233:11 join ^[1] - 36019:8 joke ^[2] - 36058:8, 36059:9 Jones ^[2] - 36078:13, 36078:18 journalists ^[1] - 36044:23 jovial ^[1] - 36134:16 Joyce ^[11] - 35981:3, 36069:7, 36070:1, 36073:11, 36092:25, 36121:18, 36121:21, 36121:23, 36124:24, 36144:15 judgement ^[2] - 36163:15, 36163:16 judgment ^[1] - 36164:21 judicial ^[1] - 36164:11 jumble ^[1] - 36013:7 jumping ^[4] - 36036:4,	36042:18, 36042:20, 36044:4 June ^[22] - 35985:13, 35989:23, 35989:25, 35990:1, 36049:19, 36065:22, 36068:3, 36070:19, 36070:23, 36121:9, 36121:16, 36122:2, 36158:7, 36166:19, 36167:13, 36169:12, 36175:5, 36197:5, 36200:6, 36227:10, 36252:4 Juno ^[1] - 36185:13 jurisdiction ^[1] - 36157:17 jury ^[4] - 36116:24, 36117:6, 36228:1, 36228:4 Justice ^[31] - 35979:6, 35981:11, 35981:13, 35985:20, 36039:24, 36046:15, 36048:24, 36052:22, 36053:2, 36071:8, 36072:8, 36072:15, 36074:24, 36122:22, 36122:24, 36123:3, 36131:4, 36141:21, 36146:3, 36146:7, 36146:14, 36146:17, 36146:21, 36150:25, 36152:6, 36155:6, 36161:25, 36162:13, 36163:8, 36163:13, 36164:22 justice ^[4] - 36052:16, 36226:20, 36226:23, 36229:12	35993:1, 35993:2, 35993:4 Ken ^[1] - 36110:12 Kenneth ^[1] - 35981:16 kept ^[6] - 36118:12, 36146:2, 36195:16, 36195:18, 36225:7, 36233:18 key ^[4] - 36170:1, 36170:3, 36179:3, 36211:9 kidding ^[1] - 36071:7 kids ^[7] - 36119:13, 36119:14, 36119:23, 36119:24, 36135:17, 36207:18, 36208:2 kill ^[2] - 36228:17, 36233:8 killed ^[14] - 36091:1, 36099:18, 36100:6, 36117:1, 36154:10, 36188:6, 36199:11, 36199:25, 36227:6, 36227:8, 36235:11, 36236:5, 36236:20, 36247:21 killer ^[1] - 36217:15 killing ^[5] - 36099:23, 36100:10, 36109:20, 36147:18, 36235:11 kind ^[26] - 35990:22, 35994:21, 35998:7, 35999:11, 36000:9, 36000:25, 36001:2, 36004:25, 36005:6, 36005:11, 36006:8, 36009:17, 36013:3, 36019:4, 36023:25, 36024:2, 36029:21, 36040:16, 36053:13, 36079:14, 36079:15, 36089:20, 36094:7, 36100:15, 36117:10, 36140:8 kindly ^[1] - 36108:7 kinds ^[1] - 36123:22 Kitchen ^[1] - 36108:4 knees ^[3] - 36025:3, 36025:5, 36025:12 knife ^[65] - 36088:16, 36088:19, 36089:10, 36089:21, 36091:7, 36092:10, 36097:14, 36098:5, 36098:10, 36099:2, 36099:21, 36100:12, 36100:17, 36108:4, 36108:5, 36108:8, 36108:10, 36108:18, 36108:21, 36108:25, 36109:3,
K				
kaleidoscoped ^[1] - 36001:1 Kara ^[1] - 35980:5 Karen ^[3] - 35980:9, 36261:2, 36261:13 Karst ^[12] - 35981:9, 36187:7, 36190:9, 36194:23, 36194:25, 36195:17, 36244:15, 36245:1, 36250:23, 36251:17, 36252:24, 36253:12 Karst's ^[2] - 36194:18, 36194:19 keep ^[2] - 36093:3, 36112:11 keeps ^[1] - 36130:20 Kelowna ^[4] - 35992:17,				



<p>36109:8, 36109:15, 36109:23, 36110:21, 36110:23, 36110:25, 36111:3, 36111:4, 36114:21, 36116:14, 36116:16, 36116:25, 36117:3, 36244:16, 36244:21, 36244:24, 36245:2, 36245:7, 36245:17, 36246:1, 36246:11, 36246:13, 36246:16, 36247:21, 36247:24, 36247:25, 36248:18, 36248:19, 36249:3, 36249:4, 36250:3, 36250:23, 36251:11, 36253:10, 36253:24, 36254:11, 36255:23, 36255:24, 36255:25, 36256:4, 36257:1</p> <p>knives [10] - 36110:8, 36110:19, 36246:24, 36247:17, 36248:15, 36248:17, 36248:24, 36249:16, 36249:18, 36250:6</p> <p>knowing [2] - 36107:3, 36218:4</p> <p>knowledge [9] - 35984:8, 36070:4, 36070:11, 36104:22, 36156:4, 36183:10, 36184:1, 36187:11, 36261:7</p> <p>known [10] - 35993:9, 35993:10, 36011:17, 36101:20, 36103:20, 36131:18, 36159:2, 36174:25, 36177:17, 36178:12</p> <p>knows [1] - 35983:24</p> <p>Knox [3] - 35981:5, 36158:6, 36160:12</p> <p>Krogan [1] - 35981:4</p> <p>Krogan-stevely [1] - 35981:4</p> <p>Kujawa [2] - 35981:6, 36167:9</p>	<p>Laing [3] - 36163:9, 36163:13, 36164:22</p> <p>Lakeshore [1] - 35993:19</p> <p>Lana [1] - 35981:4</p> <p>landmarks [3] - 36258:24, 36259:9, 36260:6</p> <p>language [2] - 36032:6, 36033:4</p> <p>lap [1] - 36019:7</p> <p>Lapchuk [36] - 35988:13, 35988:14, 35988:18, 35988:24, 36000:7, 36000:14, 36001:12, 36003:13, 36007:5, 36009:7, 36009:14, 36009:19, 36010:2, 36011:13, 36011:14, 36014:17, 36015:1, 36015:16, 36015:24, 36024:22, 36028:15, 36028:18, 36028:23, 36030:24, 36034:9, 36034:12, 36035:18, 36036:14, 36041:13, 36055:24, 36059:14, 36059:19, 36059:25, 36144:5, 36152:10, 36156:20</p> <p>Lapchuks [1] - 36061:1</p> <p>Lapchuks [4] - 36007:14, 36007:19, 36007:22, 36035:17</p> <p>lapse [1] - 36222:8</p> <p>large [3] - 36007:13, 36134:3, 36134:10</p> <p>larger [1] - 36175:22</p> <p>Larry [35] - 36075:7, 36077:25, 36078:6, 36078:7, 36078:9, 36081:5, 36090:1, 36090:23, 36092:1, 36092:6, 36096:21, 36097:14, 36099:16, 36100:22, 36100:25, 36101:16, 36103:1, 36104:15, 36105:24, 36106:3, 36109:5, 36109:13, 36109:16, 36110:5, 36111:7, 36111:18, 36114:18, 36118:14, 36119:19, 36127:15, 36127:20, 36131:7, 36132:7, 36132:12, 36167:11</p> <p>Larrys [1] - 36094:11</p> <p>last [31] - 35989:24, 35991:2, 35994:11, 36006:1, 36009:7,</p>	<p>36012:15, 36024:4, 36038:3, 36038:18, 36076:9, 36080:20, 36083:19, 36090:3, 36092:8, 36092:9, 36092:12, 36093:14, 36096:12, 36139:18, 36143:16, 36148:18, 36148:22, 36148:23, 36149:5, 36151:20, 36153:19, 36158:2, 36195:15, 36226:25, 36237:13, 36258:4</p> <p>lasted [1] - 36090:9</p> <p>latched [1] - 36254:3</p> <p>Late [1] - 36081:24</p> <p>late [8] - 35989:16, 35991:14, 35994:18, 35997:16, 36000:20, 36003:6, 36077:4, 36081:23</p> <p>latter [1] - 36181:18</p> <p>laughing [2] - 36031:17, 36031:20</p> <p>laughter [4] - 36023:12, 36023:17, 36023:19, 36023:23</p> <p>laundry [2] - 36103:4, 36103:6</p> <p>law [2] - 36111:18, 36131:4</p> <p>lawyer [2] - 36057:12, 36151:3</p> <p>leading [2] - 35983:10, 36066:14</p> <p>learn [3] - 36006:17, 36006:24, 36193:6</p> <p>Learned [1] - 36161:10</p> <p>learned [1] - 36197:7</p> <p>learning [1] - 36108:3</p> <p>least [26] - 35983:18, 36003:9, 36057:18, 36063:1, 36105:6, 36132:15, 36132:23, 36138:19, 36140:11, 36149:10, 36152:7, 36160:11, 36173:16, 36176:17, 36184:5, 36189:9, 36192:17, 36195:15, 36206:25, 36210:8, 36217:11, 36219:11, 36231:20, 36233:3, 36235:7, 36241:13</p> <p>least-important [1] - 36063:1</p> <p>leave [8] - 36003:10, 36008:22, 36012:7, 36064:7, 36078:23, 36095:15, 36198:23,</p>	<p>36259:25</p> <p>leaves [1] - 36098:15</p> <p>leaving [2] - 36176:14, 36243:5</p> <p>led [3] - 35986:7, 36164:21, 36170:23</p> <p>leer [1] - 36258:7</p> <p>left [26] - 35994:11, 36003:12, 36004:20, 36009:2, 36018:25, 36019:9, 36022:17, 36050:13, 36065:13, 36065:15, 36082:20, 36083:5, 36095:16, 36104:16, 36105:15, 36133:1, 36157:17, 36166:17, 36168:25, 36177:2, 36184:11, 36210:22, 36240:12, 36240:25, 36242:10, 36245:12</p> <p>legal [1] - 36134:21</p> <p>lend [1] - 36229:9</p> <p>length [3] - 36108:5, 36153:3, 36190:8</p> <p>lengths [1] - 36112:14</p> <p>less [2] - 36023:2, 36178:15</p> <p>Lett [9] - 36150:14, 36150:20, 36152:11, 36152:14, 36153:10, 36153:25, 36154:22, 36155:2, 36155:9</p> <p>letter [25] - 35985:13, 35986:7, 35986:18, 36049:18, 36051:21, 36065:22, 36066:11, 36068:3, 36069:10, 36116:15, 36121:9, 36123:8, 36123:11, 36124:4, 36124:6, 36124:10, 36124:13, 36125:5, 36130:23, 36145:20, 36147:7, 36147:8, 36148:19, 36149:1, 36149:19</p> <p>letters [5] - 36115:2, 36118:16, 36118:17, 36118:20, 36118:25</p> <p>let's [1] - 36090:17</p> <p>Lets [1] - 35997:25</p> <p>Lewis [1] - 36147:9</p> <p>liar [1] - 36072:2</p> <p>lie [18] - 36059:16, 36170:12, 36171:3, 36171:7, 36171:12, 36172:5, 36173:7, 36179:4, 36193:19, 36197:23, 36229:6, 36250:5, 36254:17,</p>	<p>36254:23, 36255:10, 36256:16, 36257:5, 36257:10</p> <p>lied [8] - 36011:10, 36035:18, 36059:14, 36062:6, 36171:6, 36171:13, 36255:14, 36257:9</p> <p>lies [1] - 36250:7</p> <p>life [4] - 36115:5, 36195:11, 36204:23, 36213:6</p> <p>light [3] - 36130:9, 36244:24, 36245:8</p> <p>likely [6] - 36051:18, 36109:10, 36110:23, 36186:5, 36247:17, 36248:12</p> <p>likewise [1] - 36157:16</p> <p>limit [2] - 36162:23, 36164:6</p> <p>Linda [47] - 35982:7, 36052:1, 36052:5, 36067:4, 36067:6, 36067:9, 36068:1, 36068:8, 36068:13, 36068:14, 36069:6, 36072:6, 36072:9, 36072:19, 36073:10, 36073:25, 36074:16, 36087:6, 36121:7, 36121:13, 36124:17, 36125:6, 36125:15, 36125:21, 36127:4, 36127:13, 36128:21, 36129:12, 36129:22, 36132:20, 36133:5, 36133:20, 36134:6, 36134:8, 36134:23, 36134:24, 36135:1, 36136:13, 36136:23, 36138:5, 36138:22, 36139:13, 36140:1, 36140:9, 36140:16, 36143:18, 36168:4</p> <p>line [28] - 35988:16, 36009:7, 36041:20, 36043:6, 36043:13, 36055:19, 36058:3, 36063:10, 36064:14, 36069:23, 36072:5, 36085:24, 36087:1, 36088:6, 36095:6, 36095:7, 36096:7, 36125:7, 36136:21, 36138:8, 36139:19, 36156:23, 36158:8, 36160:2, 36160:5, 36165:4, 36257:18</p> <p>lines [2] - 36132:14,</p>
L				
<p>Labchuk [1] - 36051:3</p> <p>labourer [2] - 36078:16, 36079:4</p> <p>lady [3] - 36022:21, 36037:15, 36224:11</p> <p>laid [2] - 36151:9, 36247:18</p>				



<p>36247:19 link [3] - 36117:17, 36118:10, 36187:13 liquor [3] - 36002:18, 36084:9, 36084:10 list [1] - 36097:19 listen [5] - 36040:18, 36054:1, 36071:11, 36121:6, 36130:14 listened [1] - 36065:19 listening [5] - 36066:4, 36069:17, 36105:17, 36132:8, 36138:24 listing [1] - 36096:20 Lit [1] - 35994:14 literally [2] - 36159:1, 36160:16 live [5] - 35992:13, 35992:15, 35993:3, 36076:21, 36184:24 lived [8] - 35992:16, 36009:9, 36076:7, 36076:9, 36078:7, 36087:25, 36105:10, 36186:22 living [7] - 35996:11, 36076:3, 36076:13, 36076:18, 36078:9, 36081:19, 36105:13 locating [1] - 36150:13 location [4] - 35999:16, 36092:18, 36109:11, 36135:13 locations [1] - 36076:2 lodged [2] - 36224:9, 36224:24 Logan [1] - 36134:9 longest [1] - 36083:15 long—sleeved [1] - 36102:20 look [40] - 35994:16, 36031:11, 36041:6, 36043:5, 36049:18, 36057:22, 36059:22, 36066:16, 36093:11, 36094:15, 36094:21, 36107:24, 36116:14, 36133:2, 36133:17, 36150:18, 36150:19, 36152:10, 36153:1, 36153:6, 36158:23, 36161:22, 36169:2, 36171:21, 36173:4, 36173:17, 36175:10, 36176:24, 36179:11, 36202:16, 36203:6, 36203:7, 36213:12, 36216:11, 36220:14, 36230:9, 36232:4, 36249:9, 36251:15,</p>	<p>36254:13 Look [1] - 36041:16 looked [16] - 35997:6, 36009:16, 36116:15, 36154:12, 36168:9, 36169:14, 36193:18, 36202:21, 36203:22, 36215:24, 36224:19, 36229:19, 36238:14, 36245:19, 36246:17, 36250:21 looking [29] - 35997:11, 36001:19, 36005:10, 36029:13, 36040:14, 36045:11, 36069:17, 36125:22, 36155:20, 36169:7, 36169:13, 36170:2, 36173:2, 36177:24, 36185:2, 36192:5, 36192:6, 36203:8, 36213:14, 36226:23, 36227:15, 36229:4, 36229:14, 36233:10, 36240:10, 36240:23, 36244:7, 36244:9, 36244:11 lookit [13] - 36186:21, 36204:17, 36210:8, 36212:1, 36221:17, 36226:14, 36238:23, 36240:20, 36240:22, 36253:12, 36258:23, 36259:14, 36259:20 looks [2] - 35984:16, 35986:11 Looks [1] - 36085:10 Loran [1] - 35981:7 Lord [7] - 36189:21, 36196:25, 36246:22, 36249:20, 36255:13, 36256:5, 36258:1 lose [1] - 36005:12 lost [2] - 35994:5, 36117:12 love [1] - 36115:3 Lsd [1] - 35996:5 luck [1] - 36165:16 lunch [2] - 36005:18, 36005:20 lyer [1] - 36123:17 lying [7] - 36050:23, 36051:4, 36151:7, 36151:17, 36153:17, 36179:6, 36231:6 L-f [1] - 36097:24</p>	<p>36079:22, 36080:2, 36083:18, 36083:20, 36086:3, 36090:13, 36091:23, 36092:14, 36093:24, 36096:10, 36096:18, 36101:13, 36102:21, 36103:24, 36105:1, 36105:20, 36109:25, 36112:10, 36113:4 Maccallum [49] - 35979:7, 35983:3, 35987:7, 36049:15, 36054:12, 36054:16, 36055:4, 36060:24, 36061:4, 36061:8, 36061:13, 36061:17, 36067:15, 36067:20, 36067:22, 36074:11, 36074:14, 36120:10, 36120:19, 36120:22, 36121:1, 36125:18, 36126:20, 36126:23, 36156:13, 36162:4, 36164:19, 36165:17, 36165:22, 36166:3, 36166:13, 36234:17, 36234:20, 36247:1, 36247:4, 36247:7, 36247:12, 36247:15, 36249:12, 36249:21, 36249:25, 36250:4, 36250:14, 36255:6, 36255:14, 36256:3, 36256:6, 36257:23, 36258:2 Mackie [13] - 36168:18, 36168:19, 36212:14, 36213:18, 36214:7, 36215:9, 36215:18, 36216:6, 36216:10, 36218:19, 36224:6, 36237:16, 36237:18 mad [4] - 36090:6, 36100:5, 36100:6, 36124:1 Madam [1] - 36033:1 magnified [1] - 35997:8 magnitude [1] - 36181:6 mail [1] - 36081:3 main [1] - 36160:12 maintain [4] - 36035:17, 36035:22, 36112:22, 36115:2 maintains [1] - 36196:16 Mall [1] - 35993:19 man [5] - 36023:25, 36028:19, 36052:15,</p>	<p>36052:22, 36057:5 Manager [1] - 35980:4 Manitoba [2] - 36119:1, 36119:5 manner [10] - 36048:18, 36057:16, 36064:11, 36129:2, 36129:9, 36129:21, 36136:12, 36201:13, 36211:5, 36226:1 man's [1] - 36032:18 March [15] - 36074:17, 36092:22, 36094:9, 36094:10, 36094:13, 36094:21, 36094:23, 36094:25, 36121:7, 36176:10, 36187:25, 36188:4, 36188:12, 36188:17, 36239:25 marihuana [5] - 35995:5, 35995:22, 35996:6, 35996:9, 36016:14 marijuana. [1] - 35994:21 mark [3] - 36093:13, 36097:22, 36116:17 marked [4] - 36087:3, 36094:20, 36096:8, 36104:14 maroon [8] - 36108:5, 36108:16, 36109:8, 36246:13, 36247:25, 36250:23, 36251:11, 36254:11 maroon-handled [5] - 36246:13, 36247:25, 36250:23, 36251:11, 36254:11 maroon—handled [1] - 36108:16 marriage [2] - 36075:13, 36075:17 married [3] - 36075:10, 36085:20, 36085:22 Marshall [2] - 35981:13, 36066:17 Mary [2] - 36234:7, 36234:18 Masonry [1] - 36078:13 match [1] - 36125:11 matched [1] - 36108:15 matches [1] - 36153:9 material [1] - 36021:9 materials [2] - 36144:22, 36145:15 matron's [2] - 36225:2, 36225:5 matter [12] - 35997:21, 36007:15, 36014:14,</p>	<p>36015:12, 36034:23, 36037:14, 36043:15, 36117:6, 36135:23, 36162:25, 36163:4, 36165:7 matters [3] - 36096:4, 36163:9, 36216:20 mayor [1] - 36180:10 Mccallum [1] - 36060:23 McClean [2] - 35981:3, 36126:17 McLeod [3] - 35981:16, 36161:7, 36161:8 mean [34] - 36011:16, 36013:19, 36016:7, 36018:22, 36020:13, 36027:25, 36030:10, 36040:22, 36042:3, 36052:15, 36057:9, 36057:11, 36062:23, 36071:22, 36072:8, 36082:14, 36090:14, 36097:17, 36123:2, 36127:25, 36140:2, 36149:24, 36158:18, 36191:17, 36197:25, 36207:6, 36207:21, 36212:4, 36218:7, 36237:5, 36238:6, 36247:7, 36258:20 meaning [2] - 36098:23, 36128:2 means [6] - 36041:23, 36089:2, 36174:17, 36174:18, 36178:17, 36178:19 meant [7] - 36087:24, 36088:21, 36098:21, 36098:22, 36154:18, 36164:22, 36207:1 measured [1] - 36059:25 media [2] - 36155:14, 36155:16 meet [1] - 35999:24 meeting [3] - 36039:24, 36205:16, 36211:8 Mel [1] - 36041:14 Melnick [1] - 36051:3 Melnyk [31] - 35988:13, 35988:23, 36000:7, 36000:14, 36001:12, 36003:14, 36007:5, 36007:19, 36012:23, 36013:1, 36013:5, 36013:9, 36013:11, 36013:25, 36014:3, 36015:5, 36015:11, 36016:4, 36019:11,</p>
--	---	--	---	--



<p>36029:1, 36030:18, 36035:18, 36036:14, 36055:24, 36059:14, 36059:19, 36059:25, 36061:1, 36144:4, 36152:9, 36156:19 Melnyk's [3] - 36007:15, 36007:22, 36008:10 member [1] - 36134:5 members [1] - 36185:15 memo [4] - 36125:24, 36126:6, 36127:2, 36127:3 memorandum [4] - 35983:14, 35984:1, 36126:8, 36126:25 memory [9] - 35989:2, 35989:7, 36012:2, 36116:23, 36188:23, 36225:24, 36231:6, 36238:3, 36238:25 men [2] - 36151:21, 36153:20 mention [9] - 36012:24, 36012:25, 36020:12, 36183:5, 36184:8, 36184:9, 36204:6, 36211:16, 36240:2 mentioned [11] - 35985:19, 35994:3, 35995:2, 35997:15, 36012:18, 36017:5, 36017:7, 36089:15, 36089:25, 36119:11, 36220:23 Men's [1] - 35993:18 Messrs [1] - 36051:3 Met [1] - 35991:18 met [8] - 35992:13, 35993:8, 35998:12, 35998:19, 35999:15, 36039:23, 36217:8 method [4] - 36040:19, 36049:5, 36141:1, 36256:11 methods [5] - 36194:5, 36200:16, 36201:6, 36202:10, 36258:12 Meyer [3] - 35980:10, 36261:2, 36261:19 Mhmm [8] - 36011:1, 36012:5, 36015:20, 36015:23, 36017:19, 36030:5, 36032:15, 36035:11 Michael [2] - 36234:7, 36234:17 mid [2] - 35997:18,</p>	<p>35999:12 midnight [1] - 36080:20 might [57] - 35998:4, 36013:11, 36013:22, 36015:9, 36023:21, 36040:10, 36040:16, 36041:19, 36043:22, 36065:20, 36065:22, 36067:7, 36067:11, 36069:7, 36071:1, 36073:18, 36079:9, 36079:17, 36101:5, 36105:22, 36112:9, 36122:11, 36125:15, 36127:15, 36131:16, 36132:16, 36135:21, 36141:21, 36142:8, 36152:24, 36160:25, 36162:18, 36165:20, 36194:10, 36207:11, 36207:12, 36208:6, 36208:21, 36209:2, 36212:8, 36216:20, 36218:17, 36219:2, 36220:14, 36222:17, 36229:15, 36229:17, 36232:18, 36233:25, 36241:5, 36241:25, 36242:6, 36242:7, 36244:20, 36251:6, 36251:8 miles [1] - 36077:22 Milgaard [147] - 35979:4, 35981:2, 35981:3, 35986:1, 35989:16, 35989:17, 35989:21, 35993:9, 35993:22, 35998:12, 36001:21, 36002:11, 36002:21, 36003:11, 36003:15, 36003:19, 36004:13, 36005:21, 36005:24, 36012:19, 36012:24, 36012:25, 36013:15, 36013:16, 36014:1, 36014:9, 36014:10, 36015:5, 36015:25, 36022:19, 36023:12, 36025:2, 36032:14, 36032:22, 36034:17, 36034:21, 36035:16, 36036:6, 36036:19, 36036:22, 36037:2, 36037:25, 36039:22, 36042:18, 36047:17, 36053:4, 36053:19, 36054:1, 36055:25, 36056:7, 36059:13, 36061:11, 36069:7, 36069:9, 36069:13, 36070:2,</p>	<p>36070:16, 36070:18, 36071:2, 36073:11, 36074:24, 36087:23, 36088:9, 36092:25, 36096:21, 36097:13, 36097:20, 36109:9, 36121:18, 36121:21, 36121:23, 36122:13, 36124:24, 36142:5, 36142:7, 36144:1, 36144:15, 36144:16, 36145:23, 36147:6, 36147:17, 36150:10, 36150:24, 36151:22, 36152:2, 36153:21, 36155:23, 36156:19, 36157:19, 36158:6, 36160:5, 36167:11, 36176:14, 36176:19, 36178:6, 36180:18, 36181:18, 36181:25, 36183:13, 36187:5, 36187:14, 36188:6, 36189:11, 36192:14, 36196:3, 36196:14, 36199:11, 36199:24, 36201:10, 36201:13, 36201:15, 36201:20, 36202:12, 36204:18, 36207:8, 36208:7, 36209:23, 36210:22, 36210:24, 36211:4, 36211:19, 36211:23, 36216:16, 36217:15, 36223:3, 36227:5, 36227:6, 36227:24, 36230:9, 36235:8, 36235:18, 36236:5, 36236:24, 36237:20, 36238:19, 36239:15, 36240:3, 36240:12, 36240:17, 36240:25, 36242:10, 36242:21, 36243:5, 36244:17, 36244:20, 36253:9, 36254:11 Milgaard's [10] - 36041:16, 36143:21, 36145:10, 36151:3, 36158:15, 36159:13, 36196:10, 36199:2, 36199:10, 36199:17 Milgaards [1] - 36081:3 Milgaard's [1] - 36031:2 Miller [19] - 36116:12, 36179:18, 36179:22, 36181:7, 36183:10, 36187:15, 36188:6, 36196:4, 36199:11, 36199:19, 36199:25,</p>	<p>36227:3, 36227:24, 36228:22, 36236:5, 36238:6, 36247:21, 36251:2, 36254:12 Miller's [2] - 36228:22, 36237:21 Miller's [3] - 36112:24, 36113:3, 36116:20 mind [18] - 36033:11, 36056:24, 36085:11, 36087:15, 36089:8, 36091:16, 36094:3, 36118:12, 36139:1, 36160:14, 36162:3, 36189:14, 36199:21, 36200:15, 36203:13, 36223:5, 36237:3, 36245:17 minds [1] - 36116:24 Mine [2] - 36109:1, 36111:4 mine [4] - 36085:8, 36085:10, 36109:1 minister [4] - 36160:16, 36162:22, 36163:1, 36164:11 Minister [7] - 35981:11, 36062:2, 36074:23, 36141:21, 36148:16, 36164:1, 36164:5 Ministries [3] - 36195:25, 36196:7, 36197:5 Ministries' [1] - 36197:24 minute [6] - 36006:2, 36020:22, 36035:7, 36035:10, 36085:12, 36255:6 minutes [23] - 35988:5, 36004:19, 36007:16, 36008:17, 36020:24, 36021:1, 36024:7, 36024:9, 36024:11, 36024:12, 36034:5, 36035:5, 36043:7, 36067:23, 36082:25, 36083:7, 36083:10, 36095:10, 36095:20, 36222:5, 36222:6, 36240:4 mirror [1] - 36005:9 mischaracterizes [3] - 36041:17, 36042:9, 36042:16 mischaracterizing [1] - 36041:7 misconduct [3] - 36169:22, 36192:9, 36216:1</p>	<p>misleading [1] - 36189:21 Miss [1] - 36074:19 missed [8] - 36043:22, 36099:21, 36138:12, 36159:14, 36160:1, 36160:2, 36160:6, 36193:13 misses [1] - 36042:9 missing [16] - 36074:5, 36088:16, 36089:10, 36097:14, 36098:10, 36099:2, 36100:17, 36103:16, 36108:3, 36108:25, 36109:15, 36109:22, 36110:24, 36114:21, 36118:2, 36159:19 missing [1] - 36098:5 mistaken [1] - 36016:3 mistreated [10] - 36171:21, 36191:13, 36226:2, 36231:12, 36231:17, 36231:22, 36231:25, 36232:11, 36232:23, 36233:25 mix [1] - 36233:10 Mmhm [1] - 36002:15 moment [9] - 36094:1, 36104:6, 36165:6, 36171:24, 36181:4, 36197:9, 36210:5, 36220:23, 36240:14 moments [1] - 36093:16 money [6] - 35995:11, 36118:2, 36118:3, 36242:23, 36244:10, 36244:11 monitors [1] - 36041:9 month [1] - 36218:20 months [16] - 35986:18, 35993:11, 36038:24, 36046:11, 36076:23, 36080:1, 36080:9, 36080:10, 36146:4, 36147:18, 36217:11, 36240:22, 36241:13, 36242:12, 36243:1, 36243:20 Montreal [4] - 35990:21, 35990:23, 35991:9, 35991:12 moral [1] - 36208:3 Moreover [1] - 36050:20 morning [46] - 35983:3, 35983:4, 35986:22, 36003:9, 36080:6, 36082:1, 36086:12,</p>
---	--	--	---	--



36089:12, 36098:12, 36098:25, 36099:14, 36099:15, 36100:25, 36101:17, 36102:4, 36106:4, 36107:8, 36116:8, 36116:9, 36121:12, 36121:22, 36123:1, 36123:7, 36164:25, 36196:4, 36199:3, 36199:17, 36205:3, 36207:9, 36207:10, 36207:12, 36208:8, 36208:23, 36214:14, 36214:16, 36216:6, 36221:9, 36222:11, 36237:21, 36238:8, 36238:24, 36239:8, 36239:17, 36240:1, 36240:19, 36241:11 morning [1] - 36088:10 most [5] - 36080:12, 36117:4, 36139:3, 36236:4, 36253:15 motel [16] - 35984:19, 35998:24, 35999:17, 35999:25, 36000:3, 36002:16, 36009:10, 36039:22, 36047:17, 36052:13, 36056:8, 36144:7, 36146:9, 36146:11, 36147:18, 36153:22 Motel [1] - 36258:7 mother [1] - 36022:3 motion [8] - 36026:20, 36027:9, 36027:12, 36027:15, 36027:22, 36036:2, 36036:8, 36044:9 motions [2] - 36025:24, 36036:15 motivate [2] - 36251:13, 36251:16 motivated [1] - 36191:18 motivation [2] - 36191:16, 36196:21 motive [1] - 36243:17 mouth [10] - 36042:24, 36053:14, 36053:17, 36053:22, 36053:24, 36054:4, 36055:6, 36055:15, 36055:23, 36056:10 move [9] - 36006:14, 36039:1, 36052:5, 36067:3, 36077:13, 36077:18, 36125:15,	36143:16, 36221:13 Moved [2] - 35991:25, 35993:1 moved [14] - 35992:17, 35992:18, 36075:13, 36076:2, 36076:22, 36077:1, 36077:5, 36077:8, 36077:10, 36077:14, 36077:19, 36110:6, 36110:15 movement [3] - 36025:2, 36025:25, 36026:4 moving [5] - 36006:10, 36022:4, 36025:11, 36026:20, 36027:1 multi—coloured [1] - 36102:12 mum [1] - 35992:1 murder [78] - 36012:25, 36037:3, 36042:14, 36042:15, 36044:15, 36088:9, 36088:17, 36098:4, 36098:6, 36098:9, 36098:15, 36098:19, 36098:20, 36098:23, 36099:1, 36099:4, 36109:10, 36111:3, 36116:12, 36116:19, 36132:13, 36150:19, 36150:23, 36151:23, 36153:22, 36179:18, 36179:23, 36181:5, 36183:6, 36183:11, 36184:10, 36184:13, 36184:23, 36185:12, 36185:22, 36186:1, 36186:9, 36186:24, 36187:6, 36187:11, 36187:12, 36187:15, 36187:16, 36187:25, 36188:4, 36194:10, 36196:5, 36199:18, 36199:22, 36204:8, 36204:12, 36204:19, 36209:7, 36214:8, 36216:25, 36217:10, 36218:19, 36219:4, 36219:10, 36219:15, 36219:17, 36221:9, 36226:8, 36227:4, 36231:11, 36231:19, 36231:24, 36237:21, 36238:18, 36240:3, 36240:6, 36240:24, 36242:9, 36242:10, 36245:13, 36246:15, 36253:17, 36255:19 murdered [3] - 36030:8,	36041:25, 36251:1 murdering [2] - 36092:8, 36109:17 Murphy [3] - 36189:5, 36189:11, 36189:18 Murray [2] - 35982:9, 36166:7 must [5] - 35992:2, 36038:9, 36098:21, 36222:13, 36254:17 M'hm [1] - 36080:5	36022:20, 36037:5, 36044:6, 36058:11, 36061:7, 36078:7, 36081:15, 36082:16, 36091:10, 36100:5, 36102:23, 36116:1, 36118:15, 36136:8, 36136:19, 36140:9, 36143:14, 36147:15, 36156:2, 36157:18, 36158:20, 36158:22, 36159:3, 36200:23, 36204:24, 36213:11, 36218:2, 36223:7, 36233:21, 36240:2, 36252:1, 36254:7 new [8] - 36070:17, 36150:19, 36174:24, 36204:13, 36222:7, 36237:10, 36251:19, 36253:22 news [10] - 36003:6, 36015:18, 36030:11, 36041:11, 36041:12, 36041:15, 36042:4, 36042:11, 36042:23 newscast [2] - 36091:5, 36091:6 newspaper [1] - 36116:16 Next [4] - 36042:6, 36072:12, 36181:11, 36233:15 next [40] - 36043:23, 36049:20, 36052:8, 36088:3, 36101:16, 36101:18, 36119:20, 36150:12, 36167:5, 36167:21, 36167:22, 36170:8, 36182:15, 36183:3, 36185:18, 36187:1, 36193:21, 36194:1, 36195:22, 36200:2, 36210:18, 36214:6, 36214:16, 36216:6, 36217:7, 36221:3, 36221:9, 36221:16, 36221:20, 36221:22, 36222:11, 36223:13, 36225:15, 36227:19, 36230:4, 36232:13, 36239:18, 36239:19, 36242:17, 36245:5 Nichol [36] - 36154:8, 36204:4, 36204:20, 36205:1, 36206:15, 36206:19, 36210:2, 36211:16, 36213:19, 36215:13, 36215:20,	36216:3, 36216:12, 36216:15, 36220:3, 36220:4, 36220:24, 36221:13, 36223:9, 36227:15, 36229:6, 36229:17, 36229:23, 36233:5, 36233:11, 36233:20, 36234:6, 36235:2, 36236:16, 36236:23, 36238:24, 36239:13, 36252:25, 36258:9, 36258:14, 36259:5 Nichols [2] - 36220:13, 36233:17 Nickey [1] - 36244:22 nickname [2] - 36006:3, 36006:6 night [14] - 35994:13, 35995:22, 35995:24, 35997:21, 36007:3, 36008:20, 36009:9, 36009:20, 36013:20, 36080:4, 36081:23, 36081:24, 36101:8, 36251:17 nine [13] - 35998:5, 35998:9, 35998:15, 35999:22, 36000:15, 36009:1, 36080:1, 36080:9, 36082:10, 36082:17, 36101:17, 36104:23, 36146:4 nine-thirty [1] - 35998:9 No. [1] - 36010:24 nobody [1] - 36042:14 non [2] - 36173:23, 36252:8 non-incriminating [1] - 36173:23 non-starter [1] - 36252:8 none [4] - 36008:10, 36110:18, 36161:23, 36164:17 None [1] - 36037:4 Nonetheless [1] - 36179:14 noon [2] - 36067:19, 36074:3 normal [5] - 36018:13, 36093:25, 36115:17, 36129:15, 36235:13 normally [1] - 36095:15 North [4] - 36075:10, 36077:19, 36115:24, 36134:2 note [5] - 36093:20, 36108:20, 36120:24, 36164:24, 36228:20
--	--	--	--	---



<p>noted [2] - 36016:3, 36094:1</p> <p>notes [10] - 36044:18, 36213:9, 36213:22, 36215:6, 36220:12, 36220:21, 36223:8, 36252:16, 36257:17, 36261:6</p> <p>nothing [28] - 35983:22, 36051:1, 36074:9, 36091:22, 36092:20, 36128:13, 36131:14, 36131:15, 36138:19, 36154:8, 36173:22, 36174:10, 36174:19, 36175:4, 36175:12, 36177:12, 36185:10, 36187:20, 36191:2, 36215:25, 36228:19, 36234:9, 36238:5, 36240:1, 36240:20, 36240:21, 36259:16, 36259:17</p> <p>Nothing [8] - 35994:2, 36053:1, 36053:5, 36088:14, 36110:3, 36110:4, 36139:3, 36204:8</p> <p>notice [5] - 35987:13, 36103:8, 36103:13, 36103:15, 36162:13</p> <p>noticed [1] - 36063:12</p> <p>Notwithstanding [1] - 36032:16</p> <p>November [6] - 35985:1, 35986:17, 35987:9, 35987:13, 35988:2, 36037:19</p> <p>nowhere [1] - 36022:1</p> <p>Nowhere [1] - 36042:19</p> <p>Number [2] - 36130:14, 36257:3</p> <p>number [40] - 35992:21, 36066:4, 36068:21, 36069:12, 36070:10, 36086:8, 36086:24, 36086:25, 36105:4, 36113:1, 36115:2, 36120:22, 36125:19, 36130:12, 36131:21, 36173:15, 36199:1, 36205:5, 36206:19, 36207:17, 36207:19, 36211:22, 36218:23, 36218:24, 36219:25, 36231:13, 36239:2, 36239:5, 36239:22, 36241:20, 36242:6, 36242:7, 36246:4, 36246:12, 36246:23,</p>	<p>36247:17, 36248:23, 36251:24, 36252:10, 36256:18</p> <p>numbers [1] - 36094:4</p> <p>Numerous [1] - 36237:24</p> <p>nurse [5] - 36081:6, 36092:8, 36099:23, 36100:6, 36154:11</p> <p>nurse [2] - 36091:1, 36099:19</p>	<p>obviously [7] - 36048:23, 36159:14, 36160:6, 36171:6, 36188:7, 36228:4, 36235:4</p> <p>Obviously [1] - 36021:2</p> <p>occasion [2] - 36015:17, 36134:23</p> <p>occasions [4] - 36010:14, 36194:25, 36211:17, 36239:23</p> <p>occupied [1] - 36104:24</p> <p>occur [3] - 35984:20, 35996:14, 36225:12</p> <p>occurred [7] - 35984:6, 35984:19, 36036:11, 36066:25, 36099:14, 36132:4, 36201:5</p> <p>occurring [1] - 36201:3</p> <p>October [7] - 35983:15, 35984:2, 36037:19, 36040:1, 36145:20, 36148:12, 36150:15</p> <p>odd [3] - 36088:4, 36123:13, 36145:3</p> <p>oddly [2] - 36154:12, 36154:18</p> <p>offence [2] - 36210:23, 36210:25</p> <p>offering [1] - 36132:1</p> <p>offhand [1] - 36186:14</p> <p>office [4] - 36134:7, 36134:11, 36134:13, 36135:15</p> <p>Officer [1] - 35980:11</p> <p>officer [19] - 36130:3, 36172:7, 36172:10, 36172:17, 36172:21, 36181:3, 36184:4, 36185:13, 36188:13, 36188:24, 36189:3, 36189:19, 36207:22, 36207:23, 36217:18, 36218:4, 36225:16, 36251:14, 36258:12</p> <p>officer's [1] - 36140:22</p> <p>officers [13] - 36169:16, 36171:25, 36183:25, 36185:10, 36194:14, 36205:23, 36211:18, 36223:16, 36232:14, 36235:16, 36240:15, 36251:22, 36256:19</p> <p>Official [5] - 35980:9, 36261:1, 36261:3, 36261:14, 36261:20</p> <p>officials [2] - 36039:24, 36163:4</p> <p>often [9] - 36004:17, 36021:23, 36022:4,</p>	<p>36078:25, 36079:9, 36180:2, 36206:3, 36225:7, 36259:18</p> <p>old [10] - 35991:5, 36076:16, 36076:23, 36077:14, 36080:1, 36080:9, 36080:10, 36226:4, 36232:22, 36235:12</p> <p>older [2] - 36002:9, 36194:4</p> <p>omission [2] - 36154:4, 36242:5</p> <p>omissions [1] - 36209:2</p> <p>omitted [1] - 36207:14</p> <p>on-the-record [1] - 36130:6</p> <p>once [7] - 35996:5, 35996:10, 35996:17, 36000:10, 36016:6, 36080:15, 36202:2</p> <p>Once [2] - 36201:17, 36224:8</p> <p>one [89] - 35983:18, 35984:2, 35999:11, 35999:15, 36001:24, 36003:9, 36005:14, 36008:4, 36013:25, 36015:8, 36019:6, 36028:5, 36041:10, 36044:9, 36060:1, 36061:9, 36063:3, 36066:16, 36066:18, 36070:1, 36072:18, 36085:25, 36087:1, 36087:4, 36087:20, 36088:1, 36088:7, 36094:7, 36094:9, 36095:11, 36097:4, 36105:7, 36114:15, 36116:15, 36116:16, 36120:12, 36125:7, 36133:4, 36138:24, 36139:18, 36152:2, 36153:2, 36158:9, 36158:10, 36163:10, 36167:21, 36167:22, 36168:13, 36170:25, 36173:12, 36174:14, 36175:4, 36179:12, 36180:13, 36182:2, 36183:25, 36185:8, 36195:14, 36197:14, 36197:15, 36205:25, 36206:1, 36207:7, 36208:12, 36208:15, 36208:21, 36216:1, 36216:7, 36219:5, 36219:7, 36219:22, 36228:24, 36232:4,</p>	<p>36240:4, 36240:9, 36242:21, 36244:18, 36250:6, 36250:20, 36251:11, 36251:12, 36254:20, 36256:12, 36257:3, 36257:6, 36258:4</p> <p>One [5] - 36068:25, 36069:14, 36075:20, 36094:11, 36147:19</p> <p>one's [1] - 36223:5</p> <p>one-handed [1] - 36044:9</p> <p>ones [1] - 36118:24</p> <p>one-handed [1] - 36036:8</p> <p>one—page [2] - 36096:13, 36096:19</p> <p>one—thirty [1] - 36003:9</p> <p>onward [1] - 36100:21</p> <p>open [7] - 36098:15, 36134:11, 36134:16, 36135:15, 36160:21, 36161:2</p> <p>open-office [1] - 36135:15</p> <p>opened [3] - 35986:2, 36008:4, 36008:19</p> <p>operative [1] - 36235:22</p> <p>opined [1] - 36157:22</p> <p>opinion [3] - 36059:16, 36138:8, 36239:2</p> <p>opportunity [14] - 36121:5, 36121:6, 36133:19, 36138:14, 36141:24, 36216:9, 36216:24, 36218:1, 36221:14, 36221:16, 36232:6, 36243:18, 36245:3, 36251:21</p> <p>opposed [5] - 36179:2, 36188:21, 36208:24, 36214:16, 36248:17</p> <p>opposite [1] - 36015:2</p> <p>orally [1] - 36249:17</p> <p>order [6] - 36094:2, 36094:5, 36190:23, 36201:25, 36243:14, 36250:1</p> <p>original [4] - 36147:22, 36169:5, 36192:4, 36194:15</p> <p>originally [1] - 36189:1</p> <p>otherwise [2] - 36129:18, 36196:18</p> <p>ourselves [1] - 36167:14</p> <p>out. [1] - 36033:7</p>
--	---	--	--	--



<p>outcome [3] - 36048:8, 36049:11, 36066:23</p> <p>outlined [2] - 35985:4, 36167:16</p> <p>outset [2] - 36161:17, 36241:16</p> <p>outside [8] - 36058:21, 36079:12, 36079:16, 36079:23, 36113:9, 36113:25, 36132:12, 36230:12</p> <p>overall [1] - 36193:3</p> <p>overheard [1] - 36228:15</p> <p>overnight [1] - 36222:5</p> <p>own [9] - 35995:11, 36059:17, 36092:1, 36105:25, 36157:19, 36162:16, 36194:24, 36200:20, 36233:13</p>	<p>36160:2, 36160:4, 36160:5, 36166:24, 36167:5, 36167:12, 36167:21, 36167:22, 36170:8, 36182:15, 36183:3, 36185:18, 36193:22, 36194:1, 36195:22, 36200:2, 36210:18, 36223:13, 36227:19, 36233:15, 36239:19, 36242:17</p> <p>Page [2] - 35982:2, 36117:3</p> <p>pages [8] - 36008:7, 36008:16, 36021:3, 36092:24, 36094:2, 36094:5, 36096:15, 36261:5</p> <p>pair [1] - 36102:12</p> <p>pale [1] - 36109:18</p> <p>pants [5] - 36199:2, 36199:6, 36199:10, 36199:17, 36240:19</p> <p>paper [6] - 36116:14, 36144:24, 36145:12, 36145:13, 36158:24, 36158:25</p> <p>papers [2] - 36116:13, 36213:9</p> <p>paragraph [30] - 35983:17, 35989:13, 35989:14, 35994:8, 36012:3, 36012:22, 36013:23, 36015:6, 36015:15, 36015:22, 36042:6, 36043:23, 36049:21, 36052:8, 36052:9, 36053:6, 36055:17, 36070:24, 36072:12, 36085:6, 36085:9, 36085:24, 36087:1, 36087:20, 36088:1, 36088:3, 36088:7, 36088:15, 36091:25, 36092:4, 36092:9, 36092:12, 36092:15, 36093:14, 36094:4, 36094:12, 36094:23, 36095:4, 36095:5, 36096:7, 36096:11, 36096:12, 36097:8, 36097:12, 36097:17, 36097:21, 36097:23, 36122:16, 36125:18, 36125:23, 36133:17, 36136:9, 36143:23, 36147:10, 36148:19, 36148:22, 36148:23, 36153:3, 36156:13, 36156:22, 36159:5,</p>	<p>36109:3, 36109:7, 36109:15, 36110:21</p> <p>park [5] - 35998:4, 35998:8, 35998:12, 35999:6, 36000:12</p> <p>part [40] - 35983:16, 35985:8, 35993:12, 36007:14, 36010:7, 36010:18, 36023:12, 36048:15, 36053:12, 36074:8, 36074:21, 36122:8, 36122:15, 36132:24, 36140:25, 36143:24, 36144:22, 36152:16, 36167:17, 36168:2, 36168:20, 36171:15, 36175:21, 36175:22, 36179:3, 36182:20, 36189:22, 36193:22, 36196:20, 36204:5, 36205:10, 36205:21, 36212:4, 36213:13, 36224:16, 36224:17, 36224:25, 36229:16, 36237:23, 36255:3</p> <p>particular [19] - 35986:24, 36008:4, 36017:21, 36040:17, 36073:8, 36079:5, 36108:21, 36121:17, 36152:5, 36153:9, 36153:24, 36178:14, 36183:24, 36191:23, 36206:6, 36220:7, 36246:22, 36249:11</p> <p>particularly [6] - 35989:14, 36009:6, 36024:22, 36113:24, 36120:16, 36160:23</p> <p>parties [1] - 36002:25</p> <p>parts [1] - 36185:6</p> <p>partway [1] - 36133:2</p> <p>party [8] - 35997:21, 35998:1, 35998:24, 36000:12, 36001:4, 36007:4, 36037:1, 36070:2</p> <p>passed [5] - 35994:1, 36062:17, 36062:22, 36098:18, 36260:6</p> <p>past [4] - 35989:7, 36146:4, 36200:25, 36213:6</p> <p>Pat [1] - 35981:7</p> <p>patience [1] - 36065:1</p> <p>patient [1] - 36039:9</p> <p>pattern [1] - 36249:10</p> <p>Paul [5] - 36070:16, 36196:8, 36197:8,</p>	<p>36198:7, 36198:8</p> <p>pause [3] - 36044:23, 36224:12, 36240:14</p> <p>pauses [1] - 36044:22</p> <p>peak [7] - 36246:12, 36247:9, 36248:2, 36248:3, 36248:16, 36251:6, 36255:17</p> <p>Peak [2] - 36247:4, 36247:15</p> <p>peaked [1] - 36246:14</p> <p>peaks [1] - 36247:8</p> <p>Pearson [3] - 36096:25, 36117:9, 36132:22</p> <p>Pearson's [2] - 36141:9, 36141:13</p> <p>Peggy [1] - 36228:22</p> <p>pending [1] - 36119:5</p> <p>people [25] - 35991:18, 36001:4, 36004:21, 36010:14, 36017:1, 36028:4, 36041:3, 36092:13, 36105:15, 36105:21, 36137:20, 36141:17, 36152:3, 36170:3, 36170:5, 36212:2, 36224:19, 36225:3, 36229:8, 36229:19, 36230:20, 36233:22, 36239:12, 36244:7, 36256:18</p> <p>People [1] - 36016:7</p> <p>perceived [1] - 36234:13</p> <p>perception [1] - 36059:12</p> <p>perfectly [1] - 36122:10</p> <p>perhaps [17] - 36063:19, 36063:21, 36065:19, 36067:17, 36084:4, 36143:6, 36165:22, 36170:21, 36171:19, 36175:20, 36206:17, 36207:8, 36207:24, 36241:7, 36241:20, 36243:17, 36246:17</p> <p>Perhaps [2] - 36098:13, 36116:17</p> <p>period [8] - 35995:25, 35997:24, 36005:25, 36021:17, 36034:4, 36177:3, 36205:5, 36213:19</p> <p>perpetrator [2] - 36131:14, 36131:17</p> <p>persecuted [1] - 36194:7</p> <p>person [25] - 35983:18, 36006:11, 36040:25,</p>	<p>36041:1, 36044:12, 36045:10, 36052:20, 36120:2, 36129:1, 36139:15, 36175:18, 36175:19, 36180:11, 36180:16, 36189:4, 36204:21, 36210:9, 36228:24, 36230:2, 36241:10, 36247:22, 36250:2, 36250:7, 36259:23, 36260:3</p> <p>personal [2] - 36092:1</p> <p>personally [3] - 36068:14, 36069:1, 36120:1</p> <p>persons [2] - 36066:22, 36229:8</p> <p>perspective [3] - 36063:13, 36132:15, 36197:2</p> <p>pertaining [1] - 36007:12</p> <p>Peter [3] - 35983:23, 35984:17, 35984:22</p> <p>petting [1] - 36004:21</p> <p>phew [3] - 36029:7, 36029:15, 36029:24</p> <p>phone [8] - 35992:2, 36009:18, 36020:2, 36020:3, 36021:8, 36038:8, 36108:7, 36186:21</p> <p>phoned [3] - 36005:13, 36019:16, 36038:23</p> <p>phoning [1] - 36038:9</p> <p>photo [1] - 36108:21</p> <p>photocopy [3] - 35985:18, 35986:8, 36085:2</p> <p>photostat [1] - 36085:7</p> <p>physical/forensic [1] - 36167:10</p> <p>physiological [3] - 36248:3, 36249:7, 36250:8</p> <p>picked [8] - 36134:6, 36183:23, 36184:6, 36186:22, 36204:12, 36204:19, 36244:20, 36258:6</p> <p>picking [1] - 36091:16</p> <p>picture [2] - 36102:8, 36102:24</p> <p>piece [8] - 36158:24, 36158:25, 36220:7, 36228:25, 36241:10, 36241:12, 36243:2, 36253:22</p> <p>pieces [4] - 36198:25, 36205:4, 36243:4,</p>
P				
<p>packed [2] - 35992:3, 36064:9</p> <p>page [89] - 35987:12, 35987:23, 35988:12, 35989:13, 35989:14, 35994:7, 36008:8, 36009:6, 36010:1, 36010:10, 36012:3, 36012:22, 36013:23, 36015:6, 36015:15, 36015:22, 36042:6, 36043:23, 36049:21, 36052:8, 36052:9, 36053:6, 36055:17, 36070:24, 36072:12, 36085:6, 36085:9, 36085:24, 36087:1, 36087:20, 36088:1, 36088:3, 36088:7, 36088:15, 36091:25, 36092:4, 36092:9, 36092:12, 36092:15, 36093:14, 36094:4, 36094:12, 36094:23, 36095:4, 36095:5, 36096:7, 36096:11, 36096:12, 36097:8, 36097:12, 36097:17, 36097:21, 36097:23, 36122:16, 36125:18, 36125:23, 36133:17, 36136:9, 36143:23, 36147:10, 36148:19, 36148:22, 36148:23, 36153:3, 36156:13, 36156:22, 36159:5,</p>				



<p>36243:9 pillow [24] - 36023:9, 36025:4, 36025:6, 36025:17, 36025:19, 36026:9, 36026:12, 36026:16, 36027:2, 36027:5, 36029:11, 36031:4, 36033:16, 36033:19, 36033:20, 36034:10, 36034:11, 36034:24, 36036:2, 36036:3, 36036:9, 36043:16, 36044:4 pink [2] - 36247:25, 36248:25 pink-handled [1] - 36247:25 pitched [3] - 36023:24, 36024:2, 36031:9 place [17] - 35989:10, 36007:1, 36016:7, 36026:12, 36040:16, 36048:19, 36061:11, 36121:15, 36134:1, 36134:15, 36135:14, 36159:4, 36173:16, 36175:2, 36213:12, 36221:15, 36225:6 placed [3] - 36177:10, 36178:14, 36178:20 places [1] - 36170:19 plain [3] - 36026:6, 36185:13, 36185:14 plan [2] - 36140:7, 36140:8 plane [1] - 36165:21 planning [1] - 35998:23 planted [1] - 36237:3 play [5] - 35986:23, 36067:8, 36067:19, 36192:5, 36197:24 played [5] - 35984:8, 35987:2, 36073:24, 36138:15, 36223:15 plea [1] - 36115:23 pleas [1] - 36115:19 pleasantries [1] - 36064:8 plenty [2] - 36149:24 Pm [8] - 36082:6, 36104:10, 36104:11, 36121:2, 36121:3, 36166:5, 36166:6, 36260:10 pocket [1] - 36117:21 point [37] - 36013:25, 36014:4, 36014:9, 36019:6, 36026:9, 36044:17, 36047:3, 36052:20, 36053:10,</p>	<p>36097:12, 36097:22, 36132:9, 36133:3, 36144:12, 36172:14, 36176:4, 36179:11, 36186:6, 36187:9, 36189:19, 36193:1, 36193:13, 36195:14, 36195:18, 36201:21, 36210:1, 36227:8, 36236:4, 36237:1, 36237:2, 36243:19, 36247:12, 36248:3, 36248:24, 36254:9, 36257:22, 36258:24 pointed [4] - 36087:19, 36120:13, 36237:14, 36260:6 pointing [2] - 36250:13, 36259:9 points [5] - 36058:14, 36167:4, 36176:9, 36194:2, 36257:10 poisonous [2] - 36049:13, 36049:16 Police [20] - 35981:8, 35997:2, 36080:22, 36080:24, 36085:14, 36085:19, 36087:7, 36166:23, 36167:2, 36167:20, 36169:4, 36185:21, 36187:9, 36188:16, 36191:11, 36192:2, 36223:20, 36226:2, 36233:19, 36245:20 police [187] - 35983:21, 36037:3, 36082:24, 36083:1, 36084:19, 36084:24, 36096:9, 36096:13, 36096:19, 36096:23, 36108:2, 36108:9, 36120:16, 36135:16, 36135:19, 36140:22, 36147:13, 36150:21, 36151:6, 36151:25, 36167:6, 36168:10, 36168:15, 36168:21, 36169:8, 36169:22, 36170:12, 36171:2, 36171:3, 36171:7, 36171:11, 36171:25, 36172:4, 36173:22, 36174:6, 36174:7, 36174:10, 36174:11, 36174:23, 36177:1, 36177:4, 36177:6, 36177:25, 36178:23, 36179:2, 36179:19, 36180:2, 36180:9, 36180:14,</p>	<p>36181:3, 36181:21, 36182:6, 36182:24, 36183:9, 36183:16, 36183:25, 36184:4, 36184:7, 36184:9, 36184:20, 36186:5, 36186:8, 36186:21, 36188:1, 36188:3, 36188:5, 36188:12, 36188:13, 36188:20, 36188:22, 36188:24, 36189:2, 36189:16, 36189:18, 36190:4, 36190:7, 36191:3, 36191:6, 36191:13, 36191:15, 36192:6, 36192:7, 36192:10, 36192:12, 36192:20, 36193:6, 36193:8, 36193:18, 36193:24, 36194:3, 36194:5, 36194:9, 36194:14, 36194:24, 36195:5, 36195:6, 36195:12, 36195:16, 36197:23, 36200:15, 36200:21, 36200:24, 36201:9, 36201:25, 36202:11, 36202:18, 36203:3, 36203:7, 36203:9, 36203:10, 36204:16, 36205:17, 36205:23, 36206:20, 36206:24, 36207:21, 36207:22, 36207:25, 36208:1, 36208:8, 36208:14, 36209:23, 36210:8, 36210:19, 36212:13, 36212:17, 36213:23, 36215:18, 36216:17, 36216:22, 36217:18, 36218:4, 36224:16, 36225:4, 36225:16, 36226:5, 36227:9, 36227:16, 36227:22, 36228:5, 36229:5, 36229:10, 36229:13, 36230:3, 36230:25, 36231:6, 36231:12, 36231:17, 36231:22, 36231:25, 36232:24, 36233:13, 36234:6, 36234:14, 36235:5, 36235:14, 36235:22, 36236:3, 36236:9, 36236:18, 36236:25, 36237:3, 36241:14, 36241:19, 36242:9, 36243:10, 36243:16, 36243:21, 36245:12, 36245:19, 36245:24,</p>	<p>36250:18, 36251:14, 36251:22, 36256:16, 36256:19, 36258:12, 36258:21, 36259:1, 36259:16 police's [1] - 36202:23 policeman [2] - 35997:2, 36134:12 polygraph [12] - 36212:25, 36214:1, 36215:5, 36215:6, 36216:8, 36222:3, 36246:9, 36247:11, 36249:6, 36251:5, 36251:18, 36255:11 polygraphed [2] - 36214:2, 36256:10 polygrapher [1] - 36246:21 polygraphist [1] - 36213:6 poncho [2] - 36102:22, 36102:23 poor [1] - 36258:21 popped [1] - 36080:13 portion [6] - 36020:22, 36021:2, 36025:10, 36033:2, 36121:20, 36139:19 portions [2] - 36097:19, 36174:22 position [5] - 36042:12, 36044:13, 36094:19, 36131:3, 36163:2 positive [11] - 36076:8, 36076:22, 36078:19, 36089:6, 36090:24, 36093:23, 36095:2, 36095:8, 36105:13, 36119:25, 36120:3 Positive [1] - 36089:1 possession [3] - 36146:7, 36146:21, 36152:14 possibilities [4] - 36098:16, 36127:23, 36130:18, 36132:1 possibility [10] - 36128:6, 36131:12, 36131:16, 36142:2, 36199:19, 36199:20, 36219:5, 36219:7, 36222:22, 36222:23 possible [20] - 36004:3, 36012:12, 36013:10, 36015:5, 36017:13, 36102:3, 36102:6, 36102:7, 36104:15, 36112:4, 36112:8, 36114:3, 36127:15,</p>	<p>36208:11, 36220:20, 36242:12, 36257:2, 36257:6, 36257:20, 36257:24 possibly [1] - 36244:20 potential [1] - 36137:20 potentially [1] - 36133:15 Potentially [1] - 36133:16 pouting [1] - 36090:21 powerful [1] - 36016:14 practice [4] - 36185:14, 36186:18, 36186:20, 36225:12 preamble [1] - 36122:16 precedes [1] - 36124:9 preceding [1] - 36099:10 precious [1] - 36065:12 Precisely [1] - 35990:1 preclude [1] - 36164:2 prefaced [1] - 36165:1 preference [1] - 36067:16 Preliminary [1] - 36228:13 preliminary [4] - 36062:17, 36062:23, 36223:2, 36230:6 premise [2] - 36254:10, 36256:25 preparation [2] - 36038:14, 36131:15 prepared [11] - 35983:14, 35984:1, 35985:2, 35985:6, 36021:14, 36060:6, 36127:3, 36130:16, 36172:16, 36186:12 preparing [1] - 36020:10 presence [1] - 36130:3 present [10] - 35983:19, 36004:15, 36004:22, 36084:24, 36094:14, 36132:23, 36141:16, 36225:18, 36228:14, 36228:23 presently [2] - 36092:16, 36162:20 preserve [1] - 36164:14 Press [1] - 36150:15 pressure [13] - 36168:13, 36179:13, 36179:16, 36179:19, 36179:24, 36180:2, 36180:3, 36180:5, 36180:8, 36180:15,</p>
---	--	--	--	---



<p>36180:21, 36197:18, 36245:24</p> <p>pressured [2] - 36196:11, 36231:4</p> <p>presumably [2] - 36070:22, 36071:3</p> <p>pretty [7] - 36079:18, 36124:25, 36129:20, 36145:7, 36149:12, 36152:14, 36252:18</p> <p>Pretty [1] - 36038:20</p> <p>previous [1] - 36240:8</p> <p>previously [1] - 36230:3</p> <p>priest [1] - 36188:25</p> <p>primarily [1] - 36169:4</p> <p>primary [7] - 36048:19, 36063:3, 36063:7, 36170:4, 36178:22, 36198:25, 36213:18</p> <p>printout [1] - 36131:7</p> <p>prisoners [1] - 36225:7</p> <p>private [1] - 36131:4</p> <p>probe [3] - 36137:17, 36250:17, 36251:3</p> <p>probing [6] - 36045:2, 36045:4, 36045:5, 36060:13, 36140:19, 36140:24</p> <p>problems [3] - 35992:9, 36204:22, 36252:12</p> <p>proceeding [1] - 35987:3</p> <p>proceedings [1] - 36228:16</p> <p>Proceedings [4] - 35979:12, 35979:23, 35982:1, 35983:1</p> <p>process [6] - 35986:1, 36066:25, 36067:1, 36070:9, 36136:1, 36205:10</p> <p>Producing [1] - 36085:2</p> <p>producing [2] - 36094:19, 36107:22</p> <p>professional [2] - 36057:11, 36136:16</p> <p>program [1] - 36037:24</p> <p>prolong [1] - 35993:15</p> <p>prolonged [1] - 36035:4</p> <p>prompted [3] - 36059:13, 36116:2, 36251:19</p> <p>prompting [1] - 36058:17</p> <p>pronouncement [1] - 36150:13</p> <p>proper [4] - 36132:2, 36137:19, 36169:22, 36219:20</p>	<p>properly [3] - 36161:23, 36162:9, 36162:16</p> <p>proposed [1] - 36137:20</p> <p>prosecutor [2] - 36227:20, 36256:19</p> <p>prospect [1] - 36135:22</p> <p>protect [1] - 36151:8</p> <p>prove [2] - 36040:15, 36151:7</p> <p>proved [3] - 36114:15, 36114:18, 36114:20</p> <p>proven [1] - 36243:23</p> <p>provide [15] - 36166:21, 36173:9, 36207:9, 36208:1, 36216:3, 36216:10, 36221:13, 36226:20, 36239:12, 36239:14, 36243:14, 36246:3, 36246:4, 36246:5, 36246:18</p> <p>provided [18] - 36061:22, 36062:8, 36071:20, 36085:19, 36130:22, 36134:13, 36137:25, 36147:13, 36170:17, 36190:3, 36195:1, 36196:2, 36199:13, 36216:15, 36241:22, 36242:20, 36246:1, 36252:10</p> <p>provides [1] - 36229:11</p> <p>providing [2] - 36189:20, 36243:16</p> <p>Province [1] - 36261:4</p> <p>provincial [2] - 36163:20, 36163:21</p> <p>public [5] - 36134:3, 36150:12, 36179:16, 36180:10, 36180:20</p> <p>published [1] - 36155:2</p> <p>puffing [1] - 36034:10</p> <p>pumping [4] - 36025:17, 36026:12, 36033:16, 36036:2</p> <p>Pumping [1] - 36025:18</p> <p>Punching [1] - 36033:20</p> <p>punching [7] - 36027:2, 36027:4, 36027:7, 36027:8, 36031:4, 36033:19, 36034:10</p> <p>purpose [2] - 36137:3, 36163:21</p> <p>purposes [2] - 36164:24, 36171:13</p> <p>purse [4] - 36242:23, 36243:6, 36245:14, 36253:10</p> <p>put [44] - 35984:14,</p>	<p>35991:19, 35999:21, 36005:6, 36026:18, 36029:12, 36038:25, 36039:18, 36044:13, 36053:14, 36053:17, 36053:23, 36054:4, 36055:5, 36055:15, 36055:22, 36056:9, 36057:14, 36063:20, 36066:15, 36084:4, 36088:4, 36124:15, 36125:7, 36143:17, 36163:23, 36172:25, 36180:3, 36182:2, 36182:17, 36197:18, 36201:24, 36205:6, 36205:11, 36205:24, 36206:2, 36209:6, 36210:7, 36217:20, 36226:16, 36229:23, 36231:10, 36239:16, 36246:11</p> <p>puts [6] - 36041:2, 36042:12, 36042:15, 36042:23, 36060:3, 36236:8</p> <p>putting [5] - 36053:22, 36162:12, 36205:20, 36232:1, 36253:10</p>	<p>36243:10, 36243:21, 36244:19</p> <p>questions [33] - 35986:3, 36039:9, 36039:11, 36040:20, 36040:21, 36045:2, 36045:5, 36047:13, 36047:25, 36049:2, 36065:4, 36065:5, 36066:14, 36067:5, 36074:20, 36114:13, 36123:20, 36128:1, 36129:10, 36151:15, 36153:15, 36158:3, 36159:24, 36159:25, 36161:5, 36161:7, 36161:9, 36161:15, 36162:23, 36223:5, 36249:13, 36256:13</p> <p>questions...and [1] - 36123:23</p> <p>quick [1] - 36197:10</p> <p>quiet [1] - 36224:7</p> <p>quite [26] - 35992:8, 35993:13, 35998:17, 36005:16, 36005:17, 36006:18, 36006:22, 36007:13, 36012:16, 36013:7, 36032:24, 36036:20, 36048:8, 36053:11, 36091:13, 36105:6, 36107:6, 36112:19, 36115:18, 36115:22, 36136:19, 36180:1, 36198:4, 36202:25, 36217:13, 36219:19</p> <p>Quite [1] - 36013:8</p> <p>quote [1] - 36033:3</p> <p>quoted [1] - 36152:19</p>	<p>rape/murder [2] - 36181:5, 36181:9</p> <p>rapes [9] - 36097:15, 36112:25, 36115:20, 36116:7, 36118:22, 36118:23, 36119:6, 36119:8, 36130:21</p> <p>Rapid [1] - 36026:4</p> <p>Rasmussens [1] - 36181:23</p> <p>ratio [1] - 36164:23</p> <p>rationale [1] - 36253:24</p> <p>rationalizing [1] - 36218:24</p> <p>Ray [1] - 36213:17</p> <p>Rcmp [12] - 35981:10, 36130:3, 36131:7, 36133:6, 36134:1, 36166:16, 36167:1, 36188:14, 36204:7, 36234:24, 36239:24</p> <p>re [7] - 35986:2, 36142:8, 36146:9, 36146:13, 36147:17, 36166:17, 36167:14</p> <p>re-acquaint [2] - 36166:17, 36167:14</p> <p>re-enacted [1] - 36147:17</p> <p>re-enactment [3] - 36142:8, 36146:9, 36146:13</p> <p>re-opened [1] - 35986:2</p> <p>reached [3] - 36188:21, 36202:9, 36235:16</p> <p>react [1] - 36148:20</p> <p>reaction [10] - 36029:1, 36040:4, 36040:6, 36040:10, 36041:16, 36052:21, 36109:23, 36111:12, 36112:5, 36149:1</p> <p>read [51] - 35988:5, 35988:7, 36007:2, 36007:4, 36007:10, 36007:13, 36007:14, 36007:16, 36007:18, 36007:21, 36008:5, 36008:8, 36008:9, 36008:12, 36008:15, 36009:18, 36009:24, 36010:1, 36010:9, 36010:25, 36015:21, 36020:6, 36020:13, 36020:14, 36021:15, 36033:2, 36038:16, 36052:23, 36054:2, 36054:6, 36085:12, 36087:19, 36096:14, 36096:17, 36116:13,</p>
<p>Q</p>				
<p>Qb [1] - 35980:9</p> <p>Qc [4] - 35981:2, 35981:6, 35981:11, 35981:15</p> <p>quarter [1] - 36067:18</p> <p>Queen's [4] - 36261:1, 36261:3, 36261:14, 36261:20</p> <p>questioned [14] - 36013:11, 36013:15, 36046:1, 36064:11, 36064:17, 36184:7, 36184:13, 36185:12, 36185:21, 36185:25, 36193:3, 36197:17, 36220:1, 36245:1</p> <p>questioning [23] - 36040:18, 36040:19, 36040:22, 36041:6, 36066:13, 36066:18, 36066:23, 36069:22, 36183:12, 36186:6, 36186:9, 36190:23, 36195:13, 36198:3, 36200:21, 36209:2, 36217:11, 36217:13, 36224:25, 36241:14,</p>				
<p>R</p>				
<p>radio [2] - 36099:7, 36099:9</p> <p>raise [1] - 36025:22</p> <p>raised [2] - 36163:6, 36195:15</p> <p>raises [2] - 36151:15, 36153:15</p> <p>raising [1] - 36164:3</p> <p>ran [6] - 35989:25, 35990:17, 35992:12, 35994:4, 35997:22, 36095:10</p> <p>Randys [1] - 35993:18</p> <p>rape [4] - 36111:22, 36112:1, 36112:7, 36115:23</p>				



<p>36132:22, 36148:24, 36153:2, 36153:6, 36159:7, 36159:9, 36190:18, 36196:25, 36197:11, 36197:12, 36201:22, 36210:5, 36210:16, 36234:24 read-ins [1] - 36234:24 reading [6] - 35989:1, 36021:9, 36085:16, 36148:15, 36149:4, 36197:14 reads [4] - 36085:25, 36088:8, 36096:19, 36108:2 ready [3] - 35992:4, 36165:25, 36166:2 realization [1] - 36112:6 realize [4] - 36187:5, 36219:9, 36219:15, 36219:17 realized [4] - 36063:18, 36099:1, 36101:18, 36104:17 really [39] - 35991:17, 35995:11, 35996:13, 35997:10, 35999:12, 36000:10, 36000:24, 36006:22, 36009:23, 36010:4, 36010:5, 36010:19, 36011:3, 36012:15, 36013:6, 36013:21, 36014:14, 36015:9, 36019:8, 36022:13, 36028:7, 36029:23, 36048:17, 36053:11, 36061:14, 36074:9, 36080:14, 36093:20, 36112:15, 36123:21, 36125:8, 36132:9, 36140:20, 36140:21, 36182:10, 36195:20, 36220:10, 36224:7, 36239:14 rearrange [1] - 36094:3 reason [16] - 36008:23, 36091:17, 36093:9, 36099:6, 36099:22, 36100:22, 36142:11, 36143:4, 36197:16, 36212:4, 36231:7, 36241:2, 36243:11, 36245:23, 36254:24, 36257:8 reasonable [1] - 36200:20 reasonably [1] - 36129:1 reasons [20] - 36066:16, 36066:18,</p>	<p>36073:5, 36096:20, 36097:12, 36097:19, 36173:12, 36173:15, 36181:16, 36206:19, 36207:7, 36207:17, 36208:7, 36218:18, 36219:25, 36239:5, 36241:20, 36242:8, 36246:4 recalled [5] - 36171:17, 36195:4, 36232:7, 36259:6, 36259:7 recanted [1] - 36178:8 receive [1] - 36120:1 received [3] - 36119:15, 36162:24 recent [1] - 35985:16 recently [2] - 36146:5, 36147:12 recess [1] - 36073:19 recipient [1] - 36139:2 recite [1] - 36183:4 recited [1] - 36086:7 reciting [1] - 36183:6 recognize [3] - 35987:24, 36085:6, 36165:9 recollection [25] - 35985:5, 36017:14, 36032:14, 36035:13, 36068:25, 36073:3, 36087:10, 36116:25, 36129:3, 36149:6, 36155:18, 36155:19, 36157:12, 36185:17, 36214:22, 36215:2, 36215:10, 36215:11, 36215:12, 36225:19, 36231:3, 36231:17, 36232:2, 36258:11 recommended [1] - 36066:19 Reconvened [5] - 35983:2, 36073:22, 36104:11, 36121:3, 36166:6 record [22] - 36039:12, 36041:18, 36045:25, 36047:22, 36048:5, 36048:12, 36054:14, 36065:6, 36073:7, 36074:9, 36122:8, 36126:7, 36126:13, 36130:6, 36131:8, 36138:20, 36155:12, 36163:23, 36182:24, 36216:13, 36222:9, 36224:13 recorded [5] - 36060:18, 36060:19,</p>	<p>36070:2, 36070:10, 36132:25 recording [1] - 36122:4 recordings [1] - 36070:3 records [7] - 35989:7, 36184:9, 36186:2, 36186:7, 36213:5, 36214:3, 36215:6 red [2] - 36246:16, 36248:25 red-handled [1] - 36246:16 reenact [2] - 36151:22, 36153:21 reenactment [2] - 35984:19, 36039:22 refer [12] - 35988:6, 36020:9, 36020:10, 36023:9, 36054:17, 36081:17, 36122:23, 36123:3, 36156:11, 36167:24, 36184:14, 36185:8 reference [16] - 35984:7, 36043:1, 36043:3, 36093:12, 36120:14, 36124:5, 36146:12, 36159:18, 36183:2, 36183:15, 36209:22, 36211:7, 36213:22, 36230:17, 36230:18, 36233:2 referenced [1] - 36213:20 references [1] - 36164:23 referred [5] - 36050:5, 36093:7, 36123:7, 36126:21, 36152:12 referring [19] - 36010:8, 36018:24, 36053:21, 36054:21, 36070:13, 36085:23, 36086:23, 36088:1, 36088:7, 36095:3, 36097:7, 36102:11, 36122:25, 36124:6, 36130:20, 36159:19, 36159:23, 36160:4, 36228:8 refers [2] - 36041:10, 36126:23 reflected [3] - 36064:4, 36112:5, 36113:1 reflects [1] - 36045:25 refresh [2] - 35989:2, 36021:16 refused [2] - 36227:23, 36237:16 refute [2] - 36187:20,</p>	<p>36236:2 refuted [2] - 36150:22, 36152:9 refutes [1] - 36147:16 regard [2] - 36106:2, 36157:4 Regarding [1] - 36224:5 regarding [1] - 36146:8 Regina [38] - 35985:14, 35986:20, 35992:10, 35993:7, 35993:20, 36022:17, 36111:22, 36112:2, 36112:7, 36115:20, 36130:21, 36146:10, 36147:19, 36151:23, 36153:22, 36158:12, 36183:3, 36183:5, 36183:15, 36183:20, 36183:23, 36184:9, 36184:13, 36185:9, 36185:20, 36186:1, 36186:8, 36186:21, 36187:9, 36188:1, 36188:3, 36188:11, 36188:13, 36204:11, 36213:21, 36224:3, 36224:6, 36227:2 rehabilitating [1] - 36162:8 reiterated [1] - 36187:8 relate [3] - 36158:5, 36201:2, 36238:7 related [5] - 36057:24, 36073:9, 36143:25, 36175:17, 36203:9 relates [1] - 36164:1 relating [4] - 36144:17, 36167:9, 36168:9, 36226:7 relation [8] - 36015:1, 36074:20, 36075:1, 36093:2, 36098:3, 36118:20, 36119:18, 36164:18 relations [1] - 36004:14 relationship [2] - 36149:8, 36183:22 released [3] - 36150:24, 36151:20, 36153:19 relevant [1] - 36162:11 reliability [1] - 36175:3 reliable [3] - 36214:22, 36231:24, 36252:7 relied [5] - 36065:23, 36137:17, 36158:24, 36230:20, 36233:23 reluctance [1] - 36235:13 reluctant [1] - 36235:4</p>	<p>rely [1] - 36198:9 relying [2] - 36141:14, 36141:17 remains [1] - 36201:3 remark [2] - 36032:5, 36164:20 remarks [2] - 36165:1, 36256:4 remember [35] - 35990:3, 35990:13, 36003:21, 36004:1, 36010:4, 36011:23, 36012:8, 36012:10, 36013:6, 36018:3, 36020:3, 36029:13, 36032:7, 36033:5, 36038:7, 36045:24, 36046:3, 36054:22, 36056:1, 36079:19, 36082:14, 36088:3, 36101:6, 36106:8, 36150:6, 36199:5, 36207:11, 36217:9, 36226:14, 36231:5, 36231:24, 36231:25, 36238:16, 36238:19 remembered [1] - 36052:18 remembers [2] - 36223:18, 36224:9 rented [1] - 36110:16 reopened [1] - 36019:19 repeat [6] - 36054:13, 36161:16, 36222:25, 36223:1, 36230:6, 36230:13 repeated [1] - 36227:21 repeating [1] - 36250:24 replied [1] - 36126:5 replies [1] - 36127:13 report [36] - 36030:11, 36041:11, 36041:12, 36041:15, 36042:4, 36042:12, 36042:23, 36155:15, 36166:16, 36166:20, 36167:15, 36169:15, 36179:16, 36182:18, 36182:21, 36184:16, 36185:2, 36185:7, 36185:11, 36186:11, 36189:8, 36189:23, 36200:7, 36204:5, 36211:17, 36212:2, 36212:17, 36213:23, 36214:13, 36215:9, 36224:22, 36227:12, 36228:7, 36230:24</p>
---	--	---	---	--



<p>reported [4] - 36051:12, 36066:7, 36066:17, 36108:25</p> <p>Reporter[6] - 36033:1, 36033:4, 36074:17, 36087:3, 36261:14, 36261:20</p> <p>reporter [1] - 36134:9</p> <p>Reporters[2] - 35980:9, 36261:3</p> <p>Reporters[1] - 36261:1</p> <p>reporting [2] - 36099:10, 36099:13</p> <p>reports [4] - 36183:4, 36190:17, 36210:8, 36210:11</p> <p>representations [1] - 36165:10</p> <p>repressed [5] - 36237:22, 36238:4, 36238:5, 36238:17, 36239:1</p> <p>repressing [1] - 36238:12</p> <p>reprimanding [1] - 36106:13</p> <p>reprobate [1] - 36162:2</p> <p>request [2] - 36048:13, 36148:9</p> <p>reserve [2] - 36161:24, 36165:24</p> <p>reside [1] - 36075:4</p> <p>resided [1] - 36078:4</p> <p>residence [6] - 36076:1, 36076:4, 36077:20, 36082:23, 36105:16, 36240:11</p> <p>respect [29] - 35984:3, 36032:10, 36033:8, 36040:21, 36047:25, 36049:23, 36055:2, 36057:15, 36067:5, 36068:1, 36068:5, 36068:11, 36069:6, 36070:3, 36073:7, 36130:1, 36130:6, 36139:25, 36141:20, 36145:23, 36148:5, 36155:20, 36158:2, 36162:24, 36163:3, 36166:23, 36181:1, 36183:21, 36202:22</p> <p>respond [4] - 36145:18, 36145:19, 36146:18, 36245:3</p> <p>response [36] - 35984:2, 36011:3, 36024:24, 36030:14, 36030:20, 36030:23, 36031:2, 36031:17,</p>	<p>36034:15, 36034:21, 36035:16, 36042:7, 36046:7, 36046:12, 36052:23, 36053:18, 36055:14, 36060:25, 36062:19, 36099:20, 36139:20, 36140:17, 36143:24, 36148:11, 36148:20, 36149:19, 36157:1, 36158:15, 36159:13, 36184:2, 36194:19, 36224:21, 36247:14, 36249:7, 36250:8</p> <p>responses [4] - 36011:20, 36030:17, 36042:10, 36249:11</p> <p>responsibility [4] - 36111:6, 36137:7, 36140:25, 36201:18</p> <p>responsible [2] - 36081:6, 36109:20</p> <p>rest [2] - 36028:3, 36163:19</p> <p>restating [1] - 36212:1</p> <p>result [10] - 35984:25, 35986:16, 35993:24, 36006:15, 36045:13, 36112:23, 36243:10, 36243:11, 36243:24, 36244:1</p> <p>resulted [4] - 36209:2, 36220:15, 36220:19, 36250:19</p> <p>rethink [1] - 36222:21</p> <p>reticent [1] - 36139:15</p> <p>Retired[1] - 35981:14</p> <p>retiral [1] - 36022:4</p> <p>retrospect [1] - 36157:8</p> <p>Return[1] - 36074:12</p> <p>return [1] - 35987:6</p> <p>returned [6] - 36104:16, 36119:19, 36132:13, 36204:11, 36227:2, 36236:16</p> <p>revealed [2] - 36242:25, 36243:20</p> <p>revelation [2] - 36217:20, 36241:4</p> <p>review [6] - 36021:15, 36084:13, 36093:16, 36164:12, 36197:9, 36211:13</p> <p>reviewing [3] - 36137:16, 36191:24, 36204:5</p> <p>reward [2] - 36189:5, 36196:22</p> <p>re—enactment [1] - 36035:19</p>	<p>rhythm [1] - 36025:16</p> <p>Rick[1] - 35981:7</p> <p>rid [1] - 36198:20</p> <p>Riddell[1] - 36218:20</p> <p>Riddell..but [1] - 36223:23</p> <p>Right” [2] - 36032:9, 36055:1</p> <p>rights [1] - 36164:14</p> <p>right—hand [1] - 36085:4</p> <p>rise [1] - 36169:9</p> <p>risk [1] - 36157:15</p> <p>Rivets[1] - 36089:4</p> <p>rivets [2] - 36089:6, 36109:3</p> <p>road [2] - 35996:1, 35996:19</p> <p>rob [1] - 36244:11</p> <p>Roberts[39] - 36213:3, 36213:5, 36213:25, 36214:17, 36214:21, 36215:1, 36215:19, 36216:2, 36216:5, 36216:14, 36216:23, 36217:5, 36217:8, 36217:13, 36217:17, 36217:22, 36218:6, 36218:18, 36219:16, 36220:1, 36220:10, 36221:5, 36223:1, 36242:21, 36245:6, 36245:22, 36246:18, 36251:3, 36251:6, 36252:16, 36252:23, 36253:8, 36253:15, 36253:23, 36254:14, 36254:19, 36257:4, 36257:9, 36257:16</p> <p>Roberts [6] - 36220:18, 36222:10, 36223:8, 36246:8, 36256:10, 36256:14</p> <p>role [5] - 35984:8, 36045:6, 36045:8, 36132:2, 36192:4</p> <p>roll [1] - 36245:14</p> <p>rolling [1] - 36242:22</p> <p>Ron[24] - 36154:7, 36176:4, 36178:5, 36202:16, 36202:19, 36203:6, 36203:8, 36203:9, 36203:23, 36225:17, 36239:19, 36242:5, 36250:21, 36250:22, 36251:16, 36252:7, 36254:22, 36255:9, 36257:5, 36257:8, 36257:14, 36258:9, 36258:14</p>	<p>Ronald[1] - 36224:4</p> <p>room [42] - 35983:19, 35998:24, 35999:17, 35999:25, 36002:4, 36002:16, 36002:25, 36003:12, 36008:22, 36014:15, 36016:13, 36017:8, 36019:11, 36024:20, 36029:3, 36042:11, 36047:18, 36052:13, 36056:8, 36084:25, 36085:1, 36142:7, 36144:7, 36146:10, 36146:11, 36147:19, 36151:23, 36152:3, 36153:22, 36205:11, 36205:20, 36218:5, 36218:8, 36220:11, 36222:7, 36225:5, 36245:21, 36252:19, 36254:13, 36256:24, 36257:19</p> <p>routine [1] - 36190:11</p> <p>Rpr[4] - 35980:10, 36261:2, 36261:18, 36261:19</p> <p>run [5] - 36158:12, 36246:10, 36248:6, 36248:16, 36255:19</p> <p>running [1] - 35996:1</p>	<p>36188:5, 36188:12, 36188:14, 36188:16, 36191:11, 36192:2, 36211:5, 36212:13, 36216:22, 36223:20, 36224:6, 36224:8, 36224:14, 36226:2, 36227:2, 36227:6, 36233:19, 36240:3, 36245:20, 36251:22</p> <p>sat [6] - 36001:5, 36002:4, 36019:7, 36031:13, 36031:14, 36056:25</p> <p>satisfied [4] - 36201:17, 36202:3, 36204:24, 36215:21</p> <p>satisfy [1] - 36202:1</p> <p>saw [23] - 36005:9, 36040:11, 36100:25, 36101:16, 36102:9, 36106:4, 36106:25, 36145:11, 36151:22, 36153:21, 36199:5, 36199:9, 36199:23, 36227:24, 36228:18, 36233:7, 36233:8, 36240:18, 36245:2, 36245:15, 36245:16, 36250:23, 36254:15</p> <p>Sawatsky [15] - 35982:9, 36165:25, 36166:7, 36166:9, 36166:11, 36167:13, 36167:16, 36178:21, 36182:18, 36187:22, 36198:24, 36200:6, 36212:18, 36239:23, 36245:4</p> <p>scared [1] - 36028:10</p> <p>Scarth[1] - 35999:13</p> <p>scenario [2] - 36220:14, 36220:16</p> <p>scene [6] - 36028:9, 36035:4, 36109:4, 36123:24, 36146:11, 36259:9</p> <p>schedule [1] - 36080:11</p> <p>school [4] - 35992:9, 35994:9, 35994:11, 36135:16</p> <p>Scottish[3] - 36162:1, 36162:4, 36247:5</p> <p>scrap [3] - 36144:23, 36145:12</p> <p>screen [5] - 35987:2, 36043:12, 36062:12, 36150:17, 36197:11</p> <p>script [1] - 36168:21</p> <p>Scroll[3] - 36153:5,</p>
S				
<p>salesman [1] - 36006:13</p> <p>Sandra[2] - 35980:4, 36037:16</p> <p>Sandy[1] - 36134:9</p> <p>sarcastic [4] - 36027:24, 36032:12, 36033:9, 36055:3</p> <p>Saskatchewan [8] - 35979:17, 35981:4, 35985:14, 35986:20, 36071:13, 36075:5, 36092:23, 36261:4</p> <p>Saskatoon [44] - 35979:17, 35981:8, 36075:14, 36076:4, 36080:22, 36080:24, 36085:14, 36085:19, 36087:7, 36092:23, 36113:19, 36115:24, 36116:16, 36120:15, 36130:19, 36131:19, 36151:25, 36166:23, 36167:2, 36167:20, 36169:4, 36184:23, 36186:5, 36186:21,</p>				



<p>36153:8, 36153:12 scroll [8] - 36043:21, 36168:4, 36181:11, 36183:6, 36190:1, 36209:21, 36211:24, 36232:13 seat [2] - 36065:14, 36074:12 Second [1] - 36235:12 second [7] - 36085:9, 36092:4, 36092:9, 36096:12, 36181:15, 36182:10 Secondly [1] - 36042:17 secondly [1] - 36259:2 Seconds [1] - 36034:19 seconds [4] - 36035:2, 36035:10, 36043:20, 36074:5 secretaries [1] - 36134:12 Section [1] - 36074:22 sections [1] - 36041:10 Security [1] - 35980:11 see [55] - 35986:14, 35990:14, 35993:16, 35994:4, 35994:6, 35994:11, 36001:12, 36001:25, 36005:24, 36010:21, 36021:9, 36021:25, 36038:1, 36040:18, 36041:1, 36041:7, 36043:24, 36044:21, 36058:15, 36060:22, 36066:11, 36066:22, 36071:5, 36072:6, 36074:7, 36085:6, 36088:13, 36088:14, 36094:15, 36102:25, 36107:1, 36117:22, 36118:14, 36148:22, 36150:3, 36150:7, 36157:2, 36158:24, 36167:20, 36181:8, 36186:10, 36195:1, 36196:16, 36211:20, 36216:14, 36216:23, 36218:1, 36241:9, 36242:20, 36244:17, 36245:6, 36248:2, 36250:14, 36251:10, 36254:10 See [1] - 36010:17 seeing [7] - 35989:15, 36010:6, 36107:14, 36150:11, 36178:8, 36211:3, 36213:8 seeking [1] - 36132:2 seem [3] - 35997:20, 36003:21, 36029:13</p>	<p>sees [1] - 36249:3 seldom [1] - 36084:10 selectively [1] - 36162:11 sending [1] - 36124:4 sense [20] - 36126:3, 36127:11, 36128:8, 36135:6, 36135:11, 36135:20, 36135:24, 36136:1, 36136:5, 36136:8, 36139:11, 36140:13, 36140:14, 36149:12, 36157:7, 36176:18, 36190:16, 36195:7, 36209:17, 36223:6 sent [4] - 35984:2, 35985:14, 35985:15, 36149:20 sentence [2] - 36088:8, 36163:19 separate [2] - 36094:7, 36157:14 separately [2] - 36013:11, 36013:14 September [4] - 36109:4, 36119:8, 36125:22, 36128:22 sequence [1] - 36041:8 sequential [1] - 36094:2 sequester [1] - 36041:9 Serge [1] - 35981:6 Sergeant [5] - 36132:22, 36141:9, 36141:13, 36213:17, 36214:7 series [3] - 36158:2, 36249:9, 36250:6 serious [12] - 36029:23, 36030:7, 36040:20, 36040:21, 36041:22, 36091:13, 36129:20, 36139:7, 36151:13, 36151:15, 36153:15, 36180:4 seriously [2] - 36091:15, 36147:23 serves [1] - 36188:23 Service [1] - 35981:8 sessions [1] - 36238:1 set [11] - 35988:14, 36014:6, 36015:9, 36060:1, 36060:3, 36068:2, 36103:11, 36103:15, 36130:23, 36134:14, 36250:1 sets [2] - 36102:15, 36213:15 setting [1] - 36121:10 seven [5] - 35998:18,</p>	<p>35998:19, 35999:5, 35999:19, 36080:15 seven-thirty [2] - 35999:5, 35999:19 seventeen [1] - 36002:7 seventh [1] - 36086:25 several [4] - 36076:2, 36152:2, 36210:11, 36237:25 Several [1] - 36033:25 sex [1] - 36019:2 sexual [4] - 36002:24, 36004:14, 36109:5, 36179:17 Sgt [1] - 36117:9 shake [1] - 36131:24 share [1] - 36160:18 sharp [1] - 36089:20 shed [1] - 36244:23 she's [1] - 36002:9 shirt [3] - 36003:22, 36004:2, 36102:20 shit [1] - 36106:8 shock [5] - 36059:24, 36112:19, 36113:1, 36115:18, 36115:22 shocked [5] - 36006:22, 36007:6, 36111:12, 36112:4, 36112:22 Shoemaker [1] - 36110:12 Short [2] - 36190:9, 36194:22 short [8] - 35992:10, 35997:23, 36083:12, 36095:18, 36169:19, 36169:23, 36253:16, 36254:6 shortest [1] - 36083:13 shorthand [1] - 36261:6 shortly [6] - 35989:15, 36021:14, 36075:13, 36120:8, 36207:23, 36227:3 Shorty [1] - 36105:8 show [6] - 36185:10, 36189:7, 36226:21, 36247:6, 36249:10, 36255:15 showed [5] - 36064:8, 36193:4, 36244:9, 36255:8, 36255:9 showing [7] - 36000:9, 36085:2, 36094:19, 36107:22, 36248:16, 36249:18, 36258:16 shown [5] - 35987:1, 36152:24, 36223:23, 36225:21, 36246:24 shows [4] - 36195:20,</p>	<p>36224:20, 36227:17, 36243:17 shyer [1] - 36139:14 sic [7] - 36013:12, 36030:7, 36045:22, 36052:9, 36136:9, 36144:17, 36144:19 sick [1] - 36032:5 side [8] - 35988:15, 35988:18, 35988:24, 36014:18, 36015:2, 36040:15, 36121:19, 36190:25 sideways [5] - 36027:13, 36027:14, 36027:22, 36150:18 Sideways [1] - 36027:16 sight [1] - 36240:4 Sign [1] - 36020:5 sign [5] - 35985:3, 36019:17, 36020:1, 36020:7, 36196:12 signature [6] - 35987:24, 35987:25, 36085:5, 36085:7, 36093:14 signed [8] - 36020:15, 36038:17, 36047:19, 36092:23, 36093:6, 36097:3, 36097:4, 36123:12 significance [12] - 36017:22, 36183:19, 36190:12, 36195:19, 36196:19, 36197:6, 36211:21, 36211:25, 36226:16, 36227:13, 36229:3, 36244:6 significant [9] - 36063:17, 36154:15, 36174:9, 36174:13, 36199:4, 36207:10, 36242:25, 36243:2 significantly [1] - 36063:20 signified [1] - 36036:15 signing [1] - 36021:10 silent [1] - 36109:18 silently [1] - 36015:22 silly [5] - 36001:6, 36001:8, 36024:20, 36029:14, 36032:19 similar [3] - 36059:18, 36116:21, 36157:23 similarities [1] - 36068:12 Similarly [1] - 36171:11 simple [1] - 36199:9 simply [29] - 36051:2,</p>	<p>36060:8, 36137:25, 36162:23, 36163:23, 36163:24, 36164:3, 36170:21, 36172:16, 36175:16, 36175:22, 36197:19, 36198:19, 36198:21, 36201:24, 36204:5, 36206:16, 36218:21, 36219:24, 36219:25, 36221:21, 36222:6, 36239:4, 36243:16, 36245:25, 36248:20, 36248:24, 36249:16, 36258:22 sincere [1] - 36201:17 sincerely [1] - 35986:5 single [1] - 36145:12 sinister [2] - 36140:7, 36218:8 sister [1] - 36228:23 sit [3] - 35987:6, 36170:16, 36203:16 site [1] - 36134:10 sitting [6] - 35979:15, 35988:13, 36004:7, 36013:17, 36014:5, 36140:18 situation [7] - 36013:3, 36040:25, 36175:11, 36176:4, 36191:10, 36192:24, 36192:25 Six [1] - 36105:7 six [14] - 35987:12, 35992:24, 35993:11, 36008:15, 36078:24, 36080:8, 36084:6, 36084:7, 36087:9, 36092:24, 36094:4, 36105:6, 36108:5, 36207:11 six-thirty [1] - 36078:24 sixteen [4] - 36002:7, 36002:12, 36226:4, 36235:12 sixth [1] - 35987:23 six—page [2] - 36093:11, 36094:20 Six—page [1] - 36094:25 six—thirty [1] - 36095:16 sized [1] - 36199:5 skeptical [2] - 36194:9, 36194:15 sketchy [1] - 36213:1 skilful [3] - 36217:24, 36246:1, 36254:1 skill [4] - 36079:5, 36218:21, 36259:25, 36261:7</p>
--	--	---	---	---



<p>skilled [1] - 36253:2</p> <p>skipped [2] - 35990:22, 36235:2</p> <p>Sky [1] - 36256:11</p> <p>slacks [1] - 36003:25</p> <p>slap [1] - 36007:6</p> <p>slaying [1] - 36058:10</p> <p>sleeping [1] - 36080:3</p> <p>slept [2] - 36080:12, 36104:16</p> <p>smart [1] - 36159:21</p> <p>smile [1] - 36029:14</p> <p>smiled [1] - 36154:12</p> <p>Smiling [1] - 36031:19</p> <p>smiling [1] - 36154:18</p> <p>Smith [1] - 36069:13</p> <p>smoke [1] - 35995:22</p> <p>smoked [1] - 35995:5</p> <p>smoking [1] - 36001:5</p> <p>smooth [1] - 36109:1</p> <p>snatching [3] - 36242:23, 36243:6, 36245:14</p> <p>snickering [1] - 36031:20</p> <p>so-called [1] - 36006:19</p> <p>sobriety [1] - 36083:21</p> <p>soft [1] - 36129:1</p> <p>soft-spoken [1] - 36129:1</p> <p>solve [4] - 36179:17, 36179:24, 36180:4, 36180:5</p> <p>someone [18] - 36012:18, 36013:9, 36175:16, 36175:20, 36184:21, 36189:17, 36191:21, 36198:20, 36208:24, 36208:25, 36212:8, 36226:24, 36230:1, 36236:10, 36242:23, 36244:11, 36245:14</p> <p>sometime [1] - 35989:23</p> <p>sometimes [3] - 36079:9, 36206:4, 36206:17</p> <p>somewhat [1] - 36217:19</p> <p>somewhere [5] - 36050:3, 36070:9, 36078:20, 36184:21, 36188:7</p> <p>somewheres [1] - 35999:13</p> <p>son [2] - 36081:4, 36159:1</p> <p>soon [2] - 35992:1, 36091:3</p>	<p>Soon [1] - 36091:4</p> <p>Sorochan [10] - 35981:15, 36161:12, 36161:14, 36162:5, 36163:12, 36163:22, 36164:10, 36165:8, 36165:19, 36165:23</p> <p>Sorry [7] - 36043:10, 36126:18, 36160:4, 36193:13, 36234:19, 36246:19, 36247:1</p> <p>sorry [25] - 35989:13, 36041:14, 36054:18, 36062:10, 36086:25, 36092:9, 36093:21, 36115:24, 36126:6, 36127:1, 36130:25, 36138:11, 36138:12, 36144:21, 36148:25, 36159:18, 36159:20, 36159:21, 36176:1, 36193:25, 36194:1, 36211:13, 36218:13, 36234:23, 36255:7</p> <p>sort [39] - 35995:12, 36007:5, 36011:14, 36013:19, 36029:7, 36029:23, 36031:20, 36039:10, 36065:2, 36123:22, 36124:19, 36124:22, 36125:5, 36133:11, 36139:6, 36145:22, 36146:13, 36155:15, 36178:14, 36178:16, 36182:22, 36184:17, 36187:20, 36190:25, 36197:20, 36198:23, 36205:4, 36206:3, 36209:9, 36212:6, 36214:8, 36221:18, 36223:6, 36223:11, 36239:16, 36244:12, 36245:23, 36252:10, 36253:24</p> <p>sound [1] - 36105:19</p> <p>source [6] - 35984:15, 36068:17, 36131:7, 36236:13, 36242:23, 36252:7</p> <p>sources [4] - 36068:21, 36069:12, 36155:16, 36194:14</p> <p>South [7] - 36075:14, 36076:1, 36076:7, 36076:10, 36076:11, 36086:19, 36095:25</p> <p>sparks [1] - 36150:19</p> <p>spastically [1] - 36006:9</p> <p>speaking [5] - 36149:10, 36149:15, 36164:11, 36255:10, 36260:4</p>	<p>specific [11] - 36040:6, 36041:9, 36043:1, 36123:22, 36146:25, 36149:6, 36159:24, 36199:1, 36202:20, 36208:22, 36245:9</p> <p>Specifically [1] - 36050:15</p> <p>specifically [14] - 36040:7, 36051:11, 36053:22, 36057:24, 36122:15, 36125:4, 36125:14, 36147:2, 36147:3, 36174:2, 36208:18, 36224:20, 36227:11, 36245:7</p> <p>speculate [2] - 36251:23, 36252:13</p> <p>spend [1] - 36162:7</p> <p>spent [1] - 36090:21</p> <p>spoken [8] - 35983:24, 36022:20, 36037:2, 36037:8, 36037:12, 36037:13, 36092:13, 36129:1</p> <p>spontaneous [1] - 36230:1</p> <p>sporadic [1] - 36023:4</p> <p>spot [1] - 36260:8</p> <p>stab [1] - 36233:8</p> <p>stabbed [5] - 36032:8, 36032:23, 36033:6, 36054:24, 36100:14</p> <p>stabbing [5] - 36036:5, 36178:7, 36227:24, 36253:9, 36254:12</p> <p>staff [1] - 35986:23</p> <p>Staff [2] - 35980:1, 35980:7</p> <p>stage [1] - 36048:3</p> <p>standard [1] - 36169:23</p> <p>standing [1] - 36141:22</p> <p>start [13] - 35983:13, 36029:9, 36067:12, 36097:22, 36115:8, 36133:4, 36166:24, 36167:15, 36173:17, 36175:12, 36210:13, 36256:25, 36259:13</p> <p>started [14] - 36019:1, 36029:3, 36029:15, 36029:17, 36055:25, 36082:10, 36091:4, 36098:3, 36106:13, 36115:10, 36157:19, 36164:4, 36210:3</p> <p>starter [1] - 36252:8</p>	<p>starting [5] - 35995:6, 36038:25, 36103:1, 36115:5</p> <p>starts [1] - 36152:7</p> <p>state [3] - 36041:3, 36083:21, 36205:9</p> <p>Statement [4] - 35982:7, 36074:16, 36087:6, 36150:18</p> <p>statement [150] - 35983:21, 36034:11, 36045:15, 36057:16, 36080:24, 36081:2, 36081:11, 36081:16, 36081:22, 36082:18, 36082:21, 36083:3, 36083:6, 36083:19, 36084:13, 36084:24, 36085:12, 36085:13, 36085:16, 36085:19, 36085:24, 36086:7, 36086:11, 36087:1, 36087:3, 36087:19, 36087:21, 36089:25, 36091:25, 36092:20, 36092:23, 36094:11, 36094:13, 36094:23, 36094:25, 36096:19, 36096:24, 36097:3, 36097:7, 36097:19, 36113:3, 36126:2, 36127:9, 36127:19, 36128:11, 36144:19, 36144:21, 36144:25, 36145:7, 36145:15, 36146:7, 36146:10, 36146:20, 36147:2, 36147:12, 36147:14, 36147:20, 36148:2, 36148:8, 36148:9, 36148:14, 36149:2, 36149:21, 36149:23, 36150:1, 36150:21, 36151:4, 36151:20, 36151:24, 36152:5, 36152:10, 36152:21, 36153:1, 36153:9, 36153:19, 36153:25, 36154:23, 36157:10, 36157:18, 36168:5, 36170:18, 36171:16, 36173:9, 36173:10, 36173:11, 36174:19, 36174:20, 36175:3, 36176:8, 36176:10, 36176:12, 36176:15, 36176:16, 36177:15, 36178:18, 36187:8, 36188:16, 36191:11, 36192:4, 36193:12,</p>	<p>36195:25, 36196:13, 36196:23, 36197:4, 36202:14, 36204:7, 36204:15, 36205:14, 36205:15, 36207:14, 36209:22, 36213:21, 36214:7, 36214:12, 36214:15, 36214:16, 36215:12, 36216:6, 36216:10, 36217:7, 36219:9, 36219:12, 36220:16, 36220:19, 36221:3, 36221:10, 36222:4, 36222:12, 36222:14, 36223:22, 36223:24, 36224:18, 36225:21, 36226:7, 36227:21, 36227:25, 36228:12, 36229:7, 36229:22, 36230:10, 36231:20, 36233:12, 36234:1, 36236:15, 36239:9, 36239:24, 36242:5, 36242:6, 36256:15, 36256:25</p> <p>statements [27] - 36021:5, 36072:13, 36072:18, 36073:12, 36087:14, 36094:9, 36137:25, 36144:8, 36158:10, 36164:12, 36171:18, 36173:2, 36173:24, 36176:7, 36177:9, 36178:10, 36193:10, 36197:1, 36200:24, 36201:15, 36229:18, 36229:25, 36230:2, 36239:21, 36243:1, 36250:20, 36256:13</p> <p>statement [1] - 36096:14</p> <p>states [4] - 35987:10, 36163:16, 36185:13, 36224:7</p> <p>stating [2] - 35983:22, 36163:23</p> <p>station [9] - 36082:8, 36082:24, 36083:1, 36083:3, 36135:16, 36135:19, 36190:7, 36194:24, 36225:4</p> <p>stay [3] - 35992:6, 36183:15, 36183:19</p> <p>stayed [5] - 35992:20, 36008:25, 36101:10, 36114:7, 36114:11</p> <p>staying [2] - 36079:19, 36110:12</p> <p>steadfast [1] - 36201:4</p>
--	--	--	--	---



<p>steadily [1] - 36082:17 steak [2] - 36089:21, 36116:15 step [2] - 36072:3, 36174:14 steps [7] - 36172:8, 36172:20, 36173:3, 36179:2, 36188:15, 36191:6, 36202:18 stevelly [1] - 35981:4 still [16] - 36035:17, 36035:21, 36062:21, 36080:8, 36081:8, 36106:3, 36111:9, 36112:21, 36115:2, 36146:16, 36149:15, 36156:25, 36166:11, 36169:21, 36186:19, 36203:15 Still [1] - 36107:23 stoned [9] - 36017:9, 36017:12, 36023:19, 36023:22, 36024:13, 36024:23, 36032:20, 36036:19, 36036:21 stop [5] - 36082:20, 36095:17, 36095:24, 36137:14, 36208:24 stopped [2] - 35999:12, 36177:1 stopping [3] - 36176:10, 36176:13, 36216:18 stops [4] - 35998:6, 35999:1, 35999:3, 36113:22 storming [1] - 36113:7 Storming [1] - 36113:8 story [7] - 36039:19, 36131:23, 36155:17, 36191:4, 36201:12, 36238:2, 36252:9 straight [1] - 36170:22 Straight [1] - 36089:19 strange [1] - 36023:25 street [2] - 35990:3, 36076:11 Street [3] - 35999:13, 36095:25, 36259:12 stress [1] - 36204:22 strike [1] - 36217:19 striking [2] - 36036:3, 36044:3 strolling [1] - 35990:4 strong [3] - 35994:25, 35995:3, 36160:23 struck [1] - 36058:12 stuck [9] - 36176:12, 36177:2, 36216:19, 36240:12, 36240:23,</p>	<p>36242:9, 36243:5, 36245:12, 36259:21 stuff [4] - 36005:1, 36110:18, 36118:5, 36124:15 stumbling [1] - 36117:21 stupid [2] - 36001:10, 36123:22 style [3] - 36125:13, 36128:24, 36138:21 subheadings [1] - 36179:11 subject [7] - 36028:15, 36064:6, 36163:13, 36163:20, 36173:25, 36185:2, 36249:2 subjective [1] - 36141:19 subjects [1] - 36185:15 submission [3] - 36161:25, 36162:5, 36164:17 submissions [1] - 36162:16 submit [1] - 36162:14 submitted [4] - 36158:22, 36159:4, 36159:15, 36159:17 submitting [1] - 36145:4 subsequent [3] - 35983:11, 36038:12, 36183:11 subsequently [1] - 36070:6 substance [1] - 36237:18 suck [1] - 36162:2 sufficient [1] - 36172:18 suggest [19] - 36018:9, 36044:12, 36044:22, 36045:10, 36053:19, 36065:25, 36069:6, 36128:17, 36130:17, 36131:11, 36131:25, 36139:3, 36144:18, 36152:4, 36177:18, 36177:20, 36188:10, 36255:21, 36260:2 suggested [4] - 36182:6, 36221:19, 36222:12, 36256:1 suggesting [14] - 36044:10, 36044:11, 36058:25, 36059:2, 36112:18, 36129:12, 36129:18, 36142:10, 36142:13, 36190:9,</p>	<p>36191:21, 36224:13, 36225:25, 36250:12 suggestion [12] - 36059:3, 36076:6, 36133:7, 36143:5, 36149:3, 36155:5, 36155:8, 36187:22, 36192:20, 36194:8, 36210:21, 36222:17 suggestions [2] - 36254:3, 36258:19 suggests [1] - 36138:20 summaries [1] - 36234:25 summarize [2] - 36182:21, 36216:13 summarizes [1] - 36223:14 summarizing [1] - 36205:8 summary [6] - 36168:17, 36168:18, 36168:19, 36228:3, 36228:9, 36239:20 summer [3] - 35991:14, 35996:21, 36077:8 summit [1] - 36247:8 Sunday [1] - 36150:15 superiors [1] - 36228:7 supper [1] - 35998:18 support [8] - 35991:16, 36061:18, 36062:3, 36153:25, 36171:9, 36177:12, 36180:25, 36194:8 Support [1] - 35980:7 supported [5] - 36059:17, 36066:1, 36152:8, 36154:23, 36177:8 supports [4] - 36230:2, 36234:2, 36244:10, 36244:12 suppose [8] - 36049:9, 36126:13, 36150:17, 36208:21, 36220:13, 36239:6, 36249:22, 36251:4 supposed [2] - 36044:14, 36214:1 Supreme [8] - 36055:20, 36215:1, 36221:7, 36230:18, 36230:21, 36231:14, 36252:12, 36256:11 surmised [2] - 36200:10, 36238:11 surmising [1] - 36049:8 surprise [1] - 36115:18 surprised [10] -</p>	<p>36006:19, 36058:17, 36058:18, 36122:9, 36122:11, 36132:10, 36180:1, 36180:6, 36184:25, 36208:4 surprising [3] - 36138:3, 36219:22, 36253:4 surrounding [4] - 36116:12, 36179:22, 36187:13, 36223:19 surroundings [2] - 36133:10, 36135:12 suspect [5] - 36072:24, 36091:17, 36185:25, 36190:7, 36240:17 suspected [1] - 36112:6 suspects [1] - 36181:15 suspicion [1] - 36116:6 suspicious [2] - 36111:10, 36111:11 suspicious [5] - 36117:11, 36216:20, 36241:15, 36241:21, 36252:22 swears [1] - 36041:2 sworn [1] - 35988:1 Sworn [3] - 35982:7, 35987:10, 36074:16 synthesis [1] - 36016:14 synthetic [1] - 35994:21</p>	<p>tape [9] - 35986:23, 36048:4, 36054:1, 36069:17, 36073:24, 36074:5, 36120:17, 36138:24, 36223:15 Tape [8] - 35982:5, 35982:6, 35982:7, 35982:8, 35987:9, 36039:15, 36074:16, 36120:6 taped [3] - 36070:5, 36070:7, 36138:15 taping [1] - 36121:24 Tdr [1] - 35981:5 Technician [1] - 35980:12 technique [1] - 36051:22 techniques [6] - 36172:13, 36198:3, 36213:9, 36218:23, 36218:25, 36220:17 teenagers [1] - 36016:13 telephone [4] - 35985:16, 36030:7, 36041:22, 36086:8 television [4] - 35988:14, 36030:9, 36041:23, 36042:2 temperature [1] - 36113:11 temperatures [1] - 36113:6 ten [15] - 35994:12, 35998:6, 36007:16, 36020:24, 36035:1, 36035:5, 36035:10, 36043:19, 36081:7, 36082:11, 36082:25, 36091:3, 36096:8, 36101:17, 36194:24 Ten [1] - 36021:1 tend [5] - 36147:22, 36176:18, 36177:18, 36242:12, 36242:14 tension [12] - 36246:12, 36246:14, 36246:20, 36247:4, 36247:8, 36247:9, 36247:10, 36247:13, 36247:16, 36248:16, 36251:7, 36255:18 tension' [1] - 36247:3 term [3] - 35994:11, 36162:1, 36247:5 terms [10] - 36039:18, 36054:9, 36084:4, 36089:14, 36111:6, 36113:11, 36123:2,</p>
T				
<p>table [2] - 35987:6, 36247:18 tablet [2] - 35994:19, 35995:14 tactic [1] - 36044:23 tactics [1] - 36044:24 talks [8] - 36160:16, 36194:2, 36212:12, 36226:25, 36227:19, 36230:24, 36233:15, 36239:23 Tallis [12] - 35981:13, 36010:11, 36146:17, 36146:23, 36147:1, 36156:1, 36156:12, 36156:16, 36157:8, 36176:17, 36176:19, 36187:23 Tallis [3] - 36144:2, 36145:17, 36157:1 Tammy [6] - 36075:22, 36076:14, 36076:23, 36076:25, 36077:14, 36079:21</p>				



<p>36125:12, 36142:1, 36143:17 terrible [1] - 36072:11 test [17] - 36178:10, 36190:20, 36222:3, 36246:10, 36246:13, 36246:14, 36246:21, 36246:23, 36247:6, 36248:6, 36248:16, 36249:15, 36251:7, 36255:11, 36255:15, 36255:18, 36255:22 test' [1] - 36246:20 tested [4] - 36201:12, 36201:14, 36202:14, 36256:17 testified [5] - 36045:22, 36059:20, 36062:5, 36141:23, 36230:21 testify [3] - 35983:20, 36040:8, 36236:15 testifying [1] - 36165:15 testimony [11] - 36007:15, 36007:19, 36007:22, 36015:16, 36020:9, 36052:7, 36116:22, 36150:23, 36151:21, 36153:20, 36164:24 Testimony[1] - 35979:14 testing [2] - 36131:22, 36201:25 text [1] - 36108:7 thanked [2] - 36064:25, 36065:1 That's [8] - 35987:25, 35996:6, 36010:7, 36011:24, 36031:23, 36035:14, 36091:8, 36094:17 that's [18] - 35990:12, 35991:19, 35998:22, 36000:21, 36011:12, 36012:3, 36019:9, 36024:1, 36038:18, 36085:8, 36086:18, 36088:2, 36099:22, 36102:5, 36106:12, 36107:11, 36111:3, 36111:4 Thc[5] - 35994:19, 35995:14, 35997:4, 36016:13, 36016:20 them." [1] - 36096:24 themselves [6] - 36059:23, 36151:8, 36171:1, 36180:3, 36201:8, 36202:1</p>	<p>theory [1] - 36251:11 there'd [1] - 36249:7 thereafter [1] - 36207:23 therefore [2] - 36141:23, 36203:18 therein [1] - 36153:11 there's [4] - 35987:17, 36033:11, 36033:14, 36092:20 There's [1] - 36094:4 thinking [11] - 36000:24, 36037:24, 36038:7, 36049:9, 36097:9, 36107:19, 36114:23, 36118:13, 36157:12, 36189:5, 36189:15 Thinking[1] - 36112:4 third [5] - 36010:11, 36013:24, 36085:6, 36208:21, 36214:9 thirds [1] - 36010:2 thirteen [4] - 35994:8, 35994:9, 35994:17, 36012:3 thirty [6] - 35998:9, 35999:5, 35999:19, 35999:22, 36009:1, 36078:24 thoughts [3] - 36021:23, 36022:8, 36118:11 threatened [1] - 36226:1 three [18] - 35989:13, 35994:7, 35997:23, 36012:3, 36019:1, 36092:15, 36105:21, 36110:15, 36143:16, 36144:10, 36168:9, 36168:17, 36170:5, 36170:11, 36193:9, 36201:1, 36239:12, 36249:9 Three[2] - 35993:5, 36024:9 three—page [2] - 36085:3, 36091:25 threw [1] - 36005:11 throughout [4] - 35996:20, 36204:21, 36204:23, 36214:24 throw [1] - 36208:25 thrown [1] - 36259:23 thrust [2] - 36152:4, 36174:2 tit [1] - 36080:13 titter [1] - 36029:22 today [8] - 36032:22,</p>	<p>36066:1, 36071:3, 36074:20, 36087:15, 36093:6, 36138:17, 36225:11 Toews[1] - 35981:12 together [13] - 35991:4, 36005:7, 36007:4, 36081:20, 36109:3, 36110:17, 36115:5, 36191:9, 36205:7, 36205:21, 36206:2, 36239:16, 36241:11 tomorrow" [1] - 36081:14 tone [2] - 36027:24, 36057:9 tonight [2] - 36081:15, 36124:17 tonight" [1] - 36081:13 Tony[1] - 35980:12 took [31] - 35989:10, 35992:1, 35994:13, 36001:11, 36001:21, 36002:23, 36006:1, 36007:1, 36007:15, 36034:21, 36064:7, 36067:18, 36072:2, 36081:15, 36095:2, 36095:9, 36095:11, 36096:8, 36110:18, 36118:18, 36118:21, 36121:15, 36132:14, 36133:25, 36149:12, 36170:12, 36172:8, 36188:15, 36191:6 top [6] - 36044:1, 36064:1, 36102:13, 36136:9, 36143:23, 36168:1 topic [3] - 36030:7, 36041:22, 36058:9 toque [1] - 36211:8 Toronto[4] - 35990:20, 35990:22, 35996:6, 36158:14 totality [1] - 36129:24 totally [1] - 36173:19 touch [6] - 35994:5, 36043:11, 36043:13, 36052:4, 36234:4, 36237:10 touched [4] - 35983:8, 36163:9, 36167:12, 36234:11 toward [1] - 36157:13 towards [2] - 36063:16, 36229:11 town [1] - 35999:11 track [4] - 36044:16, 36044:17, 36151:12,</p>	<p>36184:18 trained [1] - 36130:4 tranquillizer [1] - 36016:17 transcribed [1] - 36070:6 transcribing [1] - 36122:3 Transcript[2] - 35979:12, 35983:1 transcript [29] - 35986:25, 36007:10, 36008:7, 36008:13, 36009:19, 36009:24, 36010:1, 36015:16, 36020:23, 36021:2, 36048:4, 36054:2, 36054:19, 36058:1, 36058:15, 36064:5, 36069:18, 36074:1, 36074:7, 36120:12, 36120:14, 36125:16, 36130:15, 36139:19, 36143:21, 36156:11, 36159:7, 36159:9, 36159:10 transcription [3] - 36120:19, 36120:21, 36261:5 transcripts [5] - 36007:3, 36008:5, 36020:10, 36020:13, 36020:15 transpired [4] - 36005:5, 36039:10, 36222:10, 36256:24 traumatic [2] - 36017:23, 36018:8 Trav[1] - 36258:7 Trava-leer [1] - 36258:7 travel [1] - 35991:4 traveling [2] - 36181:17, 36240:19 treat [1] - 36171:2 treated [12] - 36064:18, 36136:13, 36142:9, 36171:12, 36190:6, 36190:14, 36224:10, 36224:15, 36226:22, 36231:1, 36234:3, 36234:13 treatment [14] - 36072:14, 36073:13, 36130:10, 36130:12, 36177:25, 36192:3, 36193:24, 36194:2, 36194:20, 36202:23, 36203:17, 36203:18, 36224:15, 36245:19 tree [4] - 36049:13,</p>	<p>36049:16, 36119:17 trial [27] - 36008:2, 36009:8, 36051:5, 36059:20, 36060:1, 36062:5, 36100:21, 36109:9, 36116:20, 36119:5, 36132:7, 36147:15, 36147:16, 36147:25, 36150:19, 36150:23, 36151:5, 36151:10, 36151:14, 36151:17, 36153:17, 36154:16, 36161:1, 36185:23, 36187:23, 36223:2, 36233:5 tried [9] - 35993:14, 35996:5, 36028:19, 36112:11, 36192:18, 36198:20, 36202:7, 36205:6, 36232:16 trigger [1] - 36249:5 trip [2] - 36224:5, 36236:17 trouble [1] - 36111:18 true [28] - 36006:21, 36009:23, 36011:12, 36056:11, 36112:12, 36114:1, 36118:20, 36139:12, 36139:17, 36146:24, 36174:20, 36174:22, 36177:5, 36177:16, 36178:9, 36205:18, 36207:16, 36209:4, 36216:10, 36220:2, 36226:8, 36236:2, 36236:7, 36236:23, 36237:5, 36237:8, 36243:21, 36261:5 truth [28] - 36009:9, 36039:4, 36052:23, 36053:4, 36171:13, 36173:14, 36174:15, 36177:21, 36178:1, 36179:3, 36190:22, 36190:24, 36191:18, 36191:20, 36191:25, 36192:10, 36200:22, 36200:25, 36202:3, 36218:23, 36219:1, 36219:6, 36219:24, 36219:25, 36221:17, 36221:21, 36221:22, 36254:1 truthful [3] - 36173:19, 36201:16, 36201:18 try [27] - 36022:3, 36022:23, 36028:15, 36039:4, 36124:17, 36131:24, 36166:16,</p>
---	--	--	---	--



36170:15, 36170:19, 36171:16, 36172:20, 36174:17, 36174:18, 36180:3, 36180:11, 36190:20, 36190:24, 36191:18, 36191:20, 36192:10, 36192:12, 36202:4, 36202:8, 36218:25, 36239:16, 36241:9, 36241:10 Trying ^[3] - 36149:16, 36149:18, 36149:19 trying ^[29] - 36004:1, 36019:18, 36039:10, 36043:5, 36051:2, 36056:17, 36056:20, 36063:11, 36065:1, 36123:19, 36128:10, 36137:4, 36140:15, 36161:21, 36164:2, 36165:20, 36171:22, 36173:18, 36191:24, 36192:20, 36212:21, 36214:19, 36218:15, 36223:5, 36229:14, 36229:22, 36233:23, 36252:18, 36255:20 Tuesday ^[1] - 35979:21 tune ^[1] - 36029:5 tuned ^[1] - 36029:6 tuning ^[1] - 36029:9 turn ^[5] - 35997:25, 36077:23, 36078:8, 36085:5, 36150:18 turned ^[6] - 36076:17, 36076:23, 36076:25, 36077:14, 36109:18, 36145:11 turns ^[5] - 36074:9, 36174:24, 36177:16, 36243:19, 36243:21 Tv ^[7] - 35988:16, 35988:20, 36012:11, 36014:6, 36015:8, 36015:9, 36015:12 Twelfth ^[2] - 36088:5, 36088:6 twelve ^[4] - 35994:13, 35994:15, 35994:17, 35994:18 twenty ^[1] - 36201:1 twenty-three ^[1] - 36201:1 twice ^[1] - 35996:17 twisting ^[1] - 36050:18 Two ^[4] - 36094:23, 36118:22, 36257:8 two ^[66] - 35989:14, 36005:7, 36010:2, 36013:18, 36036:8,	36041:9, 36062:4, 36063:3, 36063:7, 36066:12, 36077:22, 36082:3, 36082:5, 36087:20, 36088:15, 36092:9, 36092:12, 36094:9, 36095:5, 36095:20, 36096:7, 36096:15, 36097:21, 36097:23, 36098:15, 36102:15, 36105:21, 36110:15, 36112:1, 36151:7, 36151:9, 36151:16, 36151:21, 36153:16, 36153:20, 36160:12, 36161:20, 36162:7, 36162:23, 36164:13, 36176:23, 36176:24, 36178:15, 36178:17, 36181:13, 36191:9, 36191:13, 36198:25, 36205:20, 36205:24, 36213:14, 36217:12, 36222:6, 36235:7, 36240:4, 36241:13, 36242:11, 36243:4, 36243:9, 36243:20, 36249:8, 36253:25, 36255:1, 36256:12, 36257:12 Two-page ^[1] - 36094:23 two-thirds ^[1] - 36010:2 two—page ^[1] - 36094:14 type ^[10] - 36006:10, 36006:11, 36013:3, 36013:4, 36029:20, 36040:10, 36102:22, 36117:1, 36186:16, 36248:6 types ^[2] - 36058:22, 36175:23	unchanged ^[1] - 36187:6 uncle ^[1] - 36114:6 uncomfortable ^[1] - 36056:4 uncommon ^[4] - 36175:6, 36184:20, 36225:10, 36225:13 uncooperative ^[3] - 36181:16, 36206:13, 36209:16 Under ^[1] - 36107:23 under ^[26] - 36004:22, 36011:20, 36017:1, 36030:3, 36031:20, 36041:2, 36066:25, 36069:21, 36074:22, 36079:10, 36081:1, 36130:7, 36145:13, 36150:14, 36160:11, 36166:12, 36168:2, 36180:2, 36180:3, 36180:14, 36197:18, 36222:15, 36230:21, 36231:20, 36255:11 understood ^[5] - 36076:2, 36076:9, 36117:13, 36195:12, 36249:14 unenviable ^[1] - 36094:19 unfamiliar ^[1] - 36133:11 unfolding ^[1] - 36062:25 unfortunate ^[1] - 36239:11 uniformed ^[1] - 36134:4 uninvolved ^[1] - 36175:17 university ^[1] - 36078:20 Unless ^[3] - 36008:1, 36039:10, 36065:4 unless ^[2] - 36015:8, 36082:16 unlikely ^[1] - 36201:11 unrelated ^[3] - 36183:24, 36199:18, 36208:9 unsolved ^[1] - 36185:16 unsupported ^[1] - 36142:18 untrue ^[1] - 36226:16 unusual ^[11] - 36135:2, 36179:16, 36181:7, 36217:19, 36217:23, 36218:6, 36221:11, 36224:23, 36225:8, 36252:22, 36253:1 up ^[76] - 35983:10,	35983:17, 35986:7, 35991:8, 35991:19, 35992:9, 35992:17, 35993:1, 36000:9, 36004:24, 36013:5, 36019:7, 36023:9, 36025:4, 36025:6, 36025:12, 36025:17, 36025:18, 36026:12, 36026:16, 36026:20, 36027:12, 36031:3, 36033:16, 36033:18, 36034:10, 36036:4, 36044:4, 36051:20, 36056:24, 36060:2, 36060:10, 36064:7, 36064:9, 36080:6, 36080:14, 36080:18, 36090:4, 36101:10, 36111:19, 36112:15, 36117:18, 36125:11, 36132:14, 36134:6, 36134:14, 36139:21, 36145:22, 36150:17, 36152:25, 36153:9, 36165:7, 36166:15, 36166:22, 36167:6, 36168:3, 36172:6, 36173:24, 36176:15, 36178:1, 36178:11, 36183:23, 36184:6, 36186:22, 36196:18, 36200:3, 36204:12, 36204:19, 36219:14, 36223:7, 36230:14, 36233:12, 36244:20, 36250:1, 36255:15, 36259:13 Up ^[2] - 35996:10, 36026:2 upset ^[4] - 36051:17, 36081:12, 36084:2, 36090:17 upsetting ^[1] - 36019:9 upstairs ^[3] - 36087:25, 36088:11, 36105:16 urged ^[1] - 36196:12 useless ^[1] - 36051:6 Ute ^[51] - 35989:16, 35989:20, 35990:6, 35993:13, 35993:23, 35994:4, 35998:12, 36000:2, 36001:16, 36001:21, 36001:23, 36002:6, 36003:11, 36004:7, 36004:14, 36004:23, 36005:15, 36005:20, 36006:20, 36013:10, 36017:10, 36018:21, 36022:23,	36030:20, 36143:19, 36144:7, 36144:12, 36144:17, 36144:19, 36144:20, 36144:21, 36145:5, 36145:15, 36146:8, 36146:20, 36147:2, 36147:13, 36148:7, 36148:13, 36149:2, 36149:20, 36152:1, 36152:5, 36152:21, 36152:25, 36155:22, 36156:3, 36156:24, 36157:5, 36157:10, 36157:22 utensils ^[1] - 36110:5 utterance ^[2] - 36229:23, 36230:12
V				
vacancy ^[1] - 36186:22 vagrancy ^[4] - 36183:3, 36183:16, 36184:7, 36187:10 valid ^[1] - 36163:21 value ^[2] - 36059:24, 36060:15 values ^[1] - 36208:3 Vancouver ^[4] - 35992:17, 35992:18, 36186:22, 36196:18, 36200:3, 36204:12, 36204:19, 36219:14, 36223:7, 36230:14, 36233:12, 36244:20, 36250:1, 36255:15, 36259:13 Up ^[2] - 35996:10, 36026:2 upset ^[4] - 36051:17, 36081:12, 36084:2, 36090:17 upsetting ^[1] - 36019:9 upstairs ^[3] - 36087:25, 36088:11, 36105:16 urged ^[1] - 36196:12 useless ^[1] - 36051:6 Ute ^[51] - 35989:16, 35989:20, 35990:6, 35993:13, 35993:23, 35994:4, 35998:12, 36000:2, 36001:16, 36001:21, 36001:23, 36002:6, 36003:11, 36004:7, 36004:14, 36004:23, 36005:15, 36005:20, 36006:20, 36013:10, 36017:10, 36018:21, 36022:23,				



36027:22 vertically [2] - 36031:6, 36033:22 vested [1] - 36066:23 Vic [1] - 35981:12 vicinity [5] - 36110:22, 36216:18, 36240:22, 36243:5, 36258:14 victim [2] - 36110:22, 36117:2 victim's [1] - 36108:10 view [13] - 36057:16, 36066:12, 36145:3, 36149:12, 36149:14, 36156:17, 36160:18, 36191:24, 36198:17, 36201:24, 36203:23, 36238:20, 36238:21 Viewed [1] - 36112:21 viewed [1] - 36032:17 views [3] - 36110:24, 36111:1, 36238:15 vigorous [3] - 36025:14, 36025:21, 36031:2 vigorously [2] - 36026:21, 36048:8 vir [1] - 36059:24 virgin [2] - 36019:3, 36199:14 visit [4] - 36120:15, 36120:17, 36187:14, 36188:11 visited [3] - 36052:3, 36068:10, 36121:14 visualizing [1] - 36023:22 visually [1] - 35997:6 vivid [1] - 36122:20 vocal [2] - 36124:22, 36124:25 voiced [1] - 36164:25 Volume [1] - 35979:22 volunteered [2] - 36022:3, 36260:5	36117:13, 36117:23, 36118:9, 36119:11, 36119:19, 36120:1, 36132:12 Walters [1] - 36212:14 warranted [1] - 36170:14 was. [1] - 36010:6 washroom [1] - 36004:24 waste [1] - 36057:4 wasting [1] - 36050:17 watching [2] - 36003:6, 36015:10 ways [4] - 36000:22, 36017:24, 36027:16, 36171:22 weak [1] - 36160:24 weapon [7] - 36100:15, 36109:10, 36111:4, 36116:19, 36116:21, 36116:23, 36246:15 wearing [1] - 36123:20 weather [7] - 36079:8, 36079:11, 36079:15, 36079:17, 36079:20, 36102:5, 36114:4 week [6] - 35989:24, 35996:17, 36079:2, 36097:2, 36151:21, 36153:20 weeks [6] - 35996:18, 35997:22, 35997:23, 36046:10, 36151:9, 36207:11 weight [4] - 36178:15, 36178:20, 36232:1, 36232:11 Welcome [1] - 36166:9 whatsoever [4] - 35986:3, 36060:13, 36146:12, 36238:5 whereas [2] - 36191:1, 36195:17 whereby [1] - 36246:10 whispered [1] - 36013:19 white [2] - 36003:22, 36159:10 whole [8] - 36004:20, 36013:2, 36029:3, 36029:11, 36051:7, 36056:22, 36066:24, 36238:2 wide [1] - 36024:19 wife [2] - 36075:7, 36078:5 Wilde [1] - 35980:11 Williams [380] - 35981:16, 35983:12,	35985:19, 35986:12, 35986:17, 35986:19, 35987:11, 35987:17, 35987:20, 35987:22, 35988:1, 35988:4, 35988:9, 35988:17, 35988:22, 35989:1, 35989:6, 35989:9, 35989:12, 35989:20, 35990:5, 35990:8, 35990:14, 35990:17, 35990:19, 35990:24, 35991:5, 35991:8, 35991:11, 35991:15, 35991:20, 35991:23, 35992:5, 35992:11, 35992:15, 35992:20, 35992:23, 35992:25, 35993:3, 35993:6, 35993:8, 35993:16, 35993:21, 35994:6, 35994:16, 35994:23, 35995:2, 35995:6, 35995:8, 35995:13, 35995:17, 35995:20, 35995:23, 35996:3, 35996:8, 35996:14, 35996:18, 35996:22, 35996:25, 35997:3, 35997:9, 35997:13, 35997:15, 35997:25, 35998:11, 35998:14, 35998:19, 35999:2, 35999:8, 35999:18, 35999:21, 35999:24, 36000:2, 36000:5, 36000:13, 36000:17, 36000:20, 36000:23, 36001:3, 36001:7, 36001:13, 36001:16, 36001:23, 36002:3, 36002:6, 36002:11, 36002:14, 36002:16, 36002:18, 36002:20, 36002:24, 36003:2, 36003:4, 36003:13, 36003:17, 36003:20, 36003:23, 36004:3, 36004:6, 36004:9, 36004:13, 36004:17, 36005:2, 36005:5, 36005:19, 36006:5, 36006:15, 36006:24, 36007:9, 36007:18, 36007:21, 36007:24, 36008:6, 36008:12, 36008:15, 36008:21, 36008:25, 36009:4, 36009:13, 36009:21, 36009:25, 36010:9, 36011:2, 36011:7,	36011:10, 36011:15, 36011:19, 36011:22, 36012:1, 36012:6, 36012:9, 36012:12, 36012:17, 36012:21, 36013:8, 36013:14, 36013:23, 36014:3, 36014:8, 36014:11, 36014:16, 36014:20, 36014:25, 36015:4, 36015:14, 36015:21, 36015:24, 36016:2, 36016:9, 36016:12, 36016:19, 36016:22, 36016:25, 36017:4, 36017:7, 36017:12, 36017:17, 36017:20, 36017:25, 36018:5, 36018:8, 36018:13, 36018:15, 36018:18, 36018:23, 36019:5, 36019:10, 36019:13, 36019:22, 36020:5, 36020:8, 36020:14, 36020:18, 36020:21, 36021:1, 36021:7, 36021:12, 36021:19, 36022:7, 36022:10, 36022:14, 36022:18, 36022:22, 36023:1, 36023:4, 36023:7, 36023:11, 36023:14, 36023:16, 36023:20, 36024:3, 36024:7, 36024:9, 36024:12, 36024:15, 36024:18, 36024:21, 36025:1, 36025:5, 36025:9, 36025:14, 36025:18, 36025:24, 36026:2, 36026:4, 36026:6, 36026:8, 36026:17, 36026:24, 36027:1, 36027:4, 36027:8, 36027:11, 36027:14, 36027:17, 36027:20, 36028:1, 36028:11, 36028:14, 36028:21, 36028:25, 36029:5, 36029:8, 36029:16, 36029:19, 36029:25, 36030:3, 36030:6, 36030:11, 36030:14, 36030:17, 36030:20, 36030:23, 36031:1, 36031:6, 36031:11, 36031:14, 36031:18, 36031:22, 36031:25, 36032:3, 36032:13, 36032:16, 36032:21, 36033:1, 36033:10,	36033:14, 36033:20, 36033:22, 36033:25, 36034:3, 36034:8, 36034:14, 36034:16, 36034:18, 36034:20, 36035:1, 36035:6, 36035:9, 36035:12, 36035:15, 36035:21, 36035:25, 36036:10, 36036:13, 36036:17, 36036:22, 36036:24, 36037:5, 36037:8, 36037:11, 36038:1, 36038:6, 36038:11, 36038:18, 36038:21, 36039:6, 36039:14, 36040:8, 36040:25, 36041:7, 36041:10, 36041:17, 36041:21, 36042:4, 36042:7, 36042:17, 36043:7, 36043:19, 36043:22, 36043:25, 36044:19, 36044:25, 36045:11, 36046:1, 36046:20, 36047:7, 36047:13, 36048:1, 36048:4, 36048:17, 36049:3, 36049:6, 36049:10, 36049:19, 36049:25, 36050:6, 36051:21, 36053:13, 36054:4, 36054:6, 36055:5, 36055:15, 36055:22, 36056:5, 36056:6, 36056:9, 36056:16, 36057:20, 36057:22, 36058:2, 36058:25, 36059:6, 36060:2, 36060:25, 36065:21, 36068:6, 36068:15, 36071:3, 36071:4, 36071:5, 36071:15, 36071:16, 36071:19, 36071:23, 36072:20, 36074:18, 36104:12, 36121:7, 36121:10, 36122:23, 36123:8, 36123:11, 36125:6, 36125:25, 36126:4, 36127:8, 36127:12, 36128:14, 36128:25, 36129:21, 36130:16, 36130:20, 36131:1, 36131:11, 36131:21, 36132:20, 36133:20, 36134:8, 36134:20, 36135:23, 36136:7, 36136:11, 36136:13, 36136:15, 36136:22, 36137:4, 36137:16,
W				
wait [2] - 36037:20, 36165:23 waiting [1] - 36146:17 wake [1] - 36080:17 walk [2] - 36095:20, 36230:12 walked [2] - 36009:11, 36222:6 walking [1] - 35990:2 wall [1] - 36015:3 wallet [8] - 36117:10,				



<p>36138:20, 36139:23, 36140:15, 36140:23, 36142:15, 36142:19, 36147:11, 36148:8, 36148:21, 36149:9, 36149:12, 36164:2 Williams' [17] - 36045:13, 36047:5, 36048:25, 36065:17, 36067:9, 36073:14, 36128:24, 36129:13, 36130:5, 36132:5, 36136:25, 36141:10, 36149:1, 36161:20, 36161:22, 36162:6, 36164:7 willing [2] - 36019:17, 36019:25 willingly [1] - 36234:8 Wilson[64] - 35981:6, 36071:5, 36071:7, 36154:7, 36170:3, 36173:20, 36175:11, 36176:5, 36176:25, 36178:5, 36182:11, 36187:15, 36191:1, 36192:7, 36192:25, 36201:20, 36202:16, 36202:19, 36203:6, 36203:8, 36203:9, 36203:19, 36203:23, 36207:8, 36208:7, 36210:22, 36224:4, 36225:18, 36237:20, 36239:13, 36239:19, 36240:7, 36242:19, 36242:22, 36244:14, 36244:23, 36245:1, 36246:8, 36246:11, 36248:7, 36248:15, 36250:21, 36250:22, 36251:8, 36251:9, 36251:16, 36252:1, 36252:7, 36252:15, 36252:23, 36254:3, 36254:5, 36254:15, 36254:22, 36254:23, 36255:10, 36256:12, 36256:15, 36257:5, 36257:8, 36257:14, 36258:5, 36258:9, 36258:14 Wilson's [4] - 36242:5, 36245:19, 36254:9, 36256:25 wind [1] - 36113:15 Wind[1] - 36113:19 winds [1] - 36060:2 windy [1] - 36113:17 Winnipeg[9] -</p>	<p>35990:21, 36038:9, 36109:4, 36110:5, 36110:16, 36115:20, 36118:23, 36119:6, 36150:15 winter [1] - 36077:9 wintertime [1] - 36076:24 wise [1] - 36236:8 wiser [1] - 36102:1 wish [10] - 35988:10, 36087:21, 36093:18, 36096:5, 36114:14, 36114:15, 36114:18, 36114:20, 36120:4, 36162:19 wished [1] - 36205:2 Wisninski[7] - 36204:10, 36204:14, 36227:1, 36227:5, 36227:14, 36236:15, 36236:19 withheld [2] - 36152:6, 36219:24 withhold [1] - 36251:16 Witness[2] - 36099:20, 36197:14 witness [39] - 36058:16, 36061:6, 36130:10, 36130:12, 36132:3, 36138:5, 36138:7, 36138:11, 36138:13, 36147:14, 36150:22, 36156:18, 36157:11, 36157:24, 36165:2, 36171:6, 36171:11, 36172:8, 36173:17, 36174:24, 36177:19, 36178:11, 36186:1, 36191:19, 36205:25, 36206:10, 36217:18, 36217:20, 36217:25, 36218:9, 36219:17, 36220:4, 36223:9, 36228:2, 36237:24, 36243:11, 36246:24, 36260:7 witness' [1] - 36138:6 witnessed [12] - 36092:24, 36199:2, 36214:8, 36216:25, 36217:1, 36217:10, 36218:19, 36219:4, 36219:10, 36219:15, 36221:8, 36238:18 Witnesses[1] - 36168:7 witnesses [45] - 36049:23, 36050:12, 36062:4, 36071:20, 36151:7, 36151:16,</p>	<p>36153:16, 36158:10, 36162:23, 36168:11, 36168:14, 36168:21, 36169:3, 36169:9, 36170:11, 36171:1, 36171:24, 36173:4, 36175:6, 36175:16, 36175:23, 36177:24, 36178:1, 36178:24, 36179:4, 36181:12, 36181:21, 36181:23, 36182:1, 36182:8, 36182:12, 36192:13, 36192:21, 36193:9, 36193:19, 36195:2, 36199:8, 36202:5, 36205:20, 36205:25, 36206:7, 36206:13, 36209:16, 36225:10, 36250:19 witnessing [3] - 36231:11, 36231:19, 36253:17 woke [1] - 36080:15 Wolch[10] - 35981:2, 35984:1, 36048:7, 36048:10, 36123:12, 36147:8, 36155:25, 36158:21, 36159:8, 36183:8 Wolch's [1] - 36182:12 woman [10] - 36030:7, 36030:8, 36041:24, 36058:11, 36176:10, 36176:13, 36177:1, 36216:18, 36245:15 women [1] - 36143:17 wonder [6] - 35987:3, 36073:18, 36081:9, 36165:19, 36210:16, 36241:21 wondered [3] - 36021:24, 36022:5, 36022:12 wondering [4] - 36070:25, 36211:11, 36229:21, 36231:22 wooden [3] - 36088:22, 36089:7, 36111:4 wooden—handled [1] - 36099:21 word [3] - 36061:24, 36172:16, 36219:12 words [76] - 35983:17, 36032:22, 36033:16, 36036:5, 36039:21, 36042:23, 36050:9, 36051:8, 36051:9, 36051:10, 36051:13, 36051:16, 36052:12,</p>	<p>36053:14, 36053:17, 36053:18, 36053:22, 36053:24, 36053:25, 36054:13, 36054:15, 36054:19, 36054:20, 36055:6, 36055:11, 36055:14, 36055:22, 36056:9, 36057:18, 36057:24, 36058:7, 36058:15, 36058:22, 36059:1, 36059:17, 36059:23, 36061:2, 36062:9, 36065:23, 36073:10, 36090:15, 36125:25, 36129:5, 36137:18, 36142:7, 36154:1, 36160:11, 36169:15, 36170:18, 36171:4, 36176:23, 36188:2, 36191:10, 36192:19, 36196:13, 36196:23, 36199:15, 36199:16, 36206:23, 36207:11, 36208:23, 36217:9, 36219:11, 36220:17, 36232:1, 36236:7, 36237:7, 36238:6, 36240:5, 36245:11, 36248:18, 36254:22, 36256:17 wore [2] - 36102:22, 36102:23 worry [1] - 36071:10 wounds [2] - 36110:23, 36117:1 Wright[2] - 36081:17, 36084:16 writing [3] - 35986:7, 36048:7, 36048:23 written [9] - 36048:12, 36051:21, 36098:14, 36118:25, 36149:4, 36214:3, 36214:7, 36219:12, 36221:10 wrongdoing [5] - 36168:11, 36168:20, 36178:24, 36229:12, 36243:16 Wrongful[1] - 35979:3 wrote [5] - 36049:19, 36060:9, 36122:18, 36148:15, 36149:5</p>	<p>36077:14, 36226:4, 36232:22, 36235:12 years [16] - 35992:21, 35992:24, 35993:5, 35994:12, 36017:16, 36017:18, 36020:19, 36081:7, 36096:9, 36118:12, 36150:25, 36152:7, 36155:7, 36201:1, 36205:6, 36239:3 yellow [2] - 36102:12, 36247:24 yellow-handled [1] - 36247:24 yesterday [4] - 35983:8, 35985:4, 36063:3, 36219:10 you?" [1] - 36014:1 young [9] - 36030:8, 36032:18, 36041:24, 36058:11, 36115:6, 36207:18, 36208:2, 36208:13, 36226:4 Young[1] - 36145:16 Young's [1] - 36159:6 younger [1] - 36005:16 yourself [8] - 35983:11, 35991:16, 36000:3, 36121:21, 36121:24, 36123:12, 36197:12, 36251:15 youth [1] - 36207:24 youth's [1] - 36235:13 you" [1] - 36024:23 yup [1] - 36051:24</p>
Z				
zone [1] - 36133:12 zonkoed [1] - 36028:7				
‘				
'68 [1] - 36077:12 '69 [4] - 35990:1, 35997:16, 36077:15, 36077:16 '78 [1] - 36078:3 'til [1] - 36101:10 'you [1] - 36014:1				
“				
“ [1] - 35994:20 “...recall [1] - 35989:15 “all [1] - 36015:17				



“also [1] - 36009:7
“at [1] - 36013:25
“david [1] - 36088:8
“fucking [3] - 36032:7,
36033:5, 36054:23
“i [5] - 36010:4,
36032:23, 36081:13,
36096:13, 36096:19
“murder [1] - 36107:23
“no [1] - 36081:13
“our [3] - 36088:3,
36088:4, 36088:6
“q [1] - 36010:13
“the [3] - 36098:4,
36098:14, 36108:2
“well [1] - 36081:14
“what [1] - 36010:3
“you [4] - 36024:22,
36081:12, 36091:1,
36099:18

—

— [22] - 35991:1,
35995:10, 35996:10,
35998:22, 36004:20,
36007:6, 36011:3,
36017:4, 36018:10,
36018:11, 36020:9,
36028:18, 36029:23,
36032:6, 36032:7,
36033:5, 36037:13,
36037:20, 36054:22,
36087:6, 36094:25

