Page 7865

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 Thursday, April 14th, 2005

Volume 40

Inquiry Proceedings



— Meyer CompuCourt Reporting

Appearances Milgaard Inquiry Vol 40 - Thursday, April 14th, 2005

## = Page 7866 =

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= Page 7867 =

## Appearances:

Mr.	Hersh Wolch, Q.C.,	for	<b>r</b> Mr. David Milgaard
Mr.	James Lockyer, Esq.,	for	<b>r</b> Ms. Joyce Milgaard
Ms.	Lana Krogan,	for	<b>r</b> Government of Saskatchewan
Ms.	Catherine Knox,	for	<b>r</b> Mr. T.D.R. (Bobs) Caldwell
Mr.	Garrett Wilson, Q.C.,	for	<b>r</b> Mr. Serge Kujawa
Mr.	Rick Elson, Esq., and	Mr.	. Pat Loran, Esq., <b>for</b> the
		Sas]	skatoon Police Service
Mr.	Aaron Fox, Q.C.,	for	<b>r</b> Mr. Eddie Karst
	Aaron Fox, Q.C., Bruce Gibson, Esq.,		
Mr.		for	<b>r</b> the RCMP
Mr. Mr.	Bruce Gibson, Esq.,	for for	<b>r</b> the RCMP



Meyer CompuCourt Reporting =

Page 7868	+0 - muisuay, April 14(1, 2)
INDEX OF PROCEEDINGS	
DESCRIPTION:	PAGE:
JOHN DONALD ROBERTSON	
- BY MR. HARDY	7869
- BY MR. GIBSON	7893
- BY MR. FOX	7898
- BY MS. KNOX	7903
MR. HODSON	
- SEXUAL ASSAULTS THAT DATE BACK TO	7916
1968-1970	



John Donald Robertson by Mr. Hardy Vol 40 - Thursday, April 14th, 2005

	r	Vol 40 - Thursday, April 14th, 2005 Page 7869
		Tage 7007
	1	Transcript of Proceedings
	2	(Reconvened at 10:00 a.m.)
	3	COMMISSIONER MacCALLUM: Good morning.
	4	MR. HARDY: Morning. Good morning
09:04	5	Mr. Commissioner.
	6	COMMISSIONER MacCALLUM: Good morning.
	7	MR. HARDY: We're ready to proceed with our
	8	first witness, I'll call forward Don Robertson,
	9	please.
09:04	10	JOHN DONALD ROBERTSON, sworn:
	11	BY MR. HARDY:
	12	<b>Q</b> Good morning, Mr. Robertson.
	13	A Good morning.
	14	<b>Q</b> I would like to thank you for attending with us to
09:04	15	testify at this Commission of Inquiry this
	16	morning. Can you tell us where you currently
	17	reside?
	18	A In Winnipeg, Manitoba.
	19	<b>Q</b> And can you tell us, please, what you are doing
09:04	20	there?
	21	A I'm retired, have been for the last two years.
	22	<b>Q</b> I want to take your attention back to 1969; can
	23	you tell us where you were employed in 1969?
	24	A I was employed by the Department of Social
09:05	25	Services, or the Department of Welfare I should
		Meyer CompuCourt Reporting

	r		Vol 40 - Thursday, April 14th, 2005 Page 7870
			Fage 7070
	1		say, in Regina, Saskatchewan.
	2	Q	And can you tell us what your position was?
	3	А	My position at that time was probation officer
	4		with also providing public assistance to those
09:05	5		clients I was assigned to who were on provincial
	6		welfare.
	7	Q	So I understand, then, that you would have a
	8		roster of clients; is that correct?
	9	А	Yes.
09:05	10	Q	And what would bring you into contact with these
	11		individuals?
	12	А	Those who were assigned on probation services part
	13		of the Court conviction.
	14	Q	And can you tell us what your general duties would
09:05	15		be in that position?
	16	А	Umm, part of the probation orders were that they
	17		report to a probation officer on a regular basis
	18		over a designated period of time, and my job was
	19		to interview them, ascertain whether they were
09:06	20		being of good behaviour and in fact attempting to
	21		improve themselves, and counsel them in some ways
	22		over the period of probation service they were on.
	23	Q	And do you recall an individual by the name of
	24		Nichol John?
09:06	25	А	I do now. I say that because at the time when I

			Vol 40 - Thursday, April 14th, 2005
			Page 7871
	1		was first questioned about this, I didn't recall
	2		the name, and it took a little bit of thinking.
	3		That was back in 1993.
	4	Q	That was with the RCMP during an investigation
09:06	5		they were conducting?
	6	A	That's correct.
	7	Q	And what would have brought you into association,
	8		then, with Nichol John in 1969?
	9	А	She was assigned, I can't remember for what
09:06	10		reason, but assigned to my case load.
	11	Q	And am I correct, then, that it would have been a
	12		probationary matter, it wouldn't have been just a
	13		matter of public assistance?
	14	А	That's correct.
09:07	15	Q	In other words, Ms. John would have committed an
	16		offence of some sort, and this would have been
	17		part of the disposition of that offence?
	18	А	That's correct.
	19	Q	And do you recall how often you would have been
09:07	20		seeing Nichol John?
	21	А	I can only make an assumption. There's usually a
	22		minimum assigned period of once a month, and I
	23		am can only assume that's what Nichol would
	24		have been assigned, I don't know exactly.
09:07	25	Q	And I want to be sure; during this first six
			Meyer CompuCourt Reporting

Page 7872 : 1 months of 1969 you were in the position that you 2 have been speaking to us about? 3 Umm, during the first period of my employment with Α the Department of Welfare on Cornwall I had a 4 5 public assistance case load of around 360 09:07 6 employable employables, and it was only after that 7 time that this case -- the probation officer role 8 came open, and I applied for that and took an 9 in-service transfer over to the probation case 10 load public assistance work. 09:08 11 Q And can you be specific with us as to the time 12 period, then, that you would have acted in that 13 probation role? 14 Umm, approximately from the early 19 -- it would Α 15 be in 1968 where I took a transfer. I had been 09:08 16 working at Saskatchewan Boys School and obtained 17 by B.A. and five years service and transferred 18 My position was called a lighthouse with that. 19 one in that it set the pace for group workers like 20 myself to transfer into a day-type job with 09:08 21 provincial welfare, and I would ascertain about 22 roughly six to eight months, because in September 23 I left to go to another job. 24 0 So you were --25 September of 1969. 09:09 Α

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			Vol 40 - Thursday, April 14th, 2005
			Page 7873
	1	Q	So you are referring to six to eight months prior
	2		to that date
	3	А	Yes.
	4	Q	would have been the time period you were
09:09	5		working in that probation role?
	6	А	No. For the first little while I worked for the
	7		public assistance case load, for two or three
	8		months, and then transferred over to the probation
	9		officer, so it was approximately six months I was
09:09	10		in the probation officer role.
	11	Q	Counting back from September of 1969?
	12	А	That's correct. That's correct.
	13	Q	And in your dealings with Nichol John, then, can
	14		you just give us a general sense of what the
09:09	15		nature of your discussions with her would be?
	16	А	To ascertain whether Nichol was, in fact, keeping
	17		to the terms of her probation, that she was
	18		attempting to better herself, to part of our
	19		discussions would have definitely been around and
09:09	20		how what she was doing during the time since I
	21		had last seen her. Umm, by that, if I'm working
	22		back six to eight months back from September, that
	23		would have probably been, I had taken the job on
	24		roughly around the earlier part, the earlier part
09:10	25		of 1969, I would have I make the assumption
			1

Page 7874 = 1 that Nichol was probably one of the newer people that had been assigned to my case load, so I would 2 3 have been dealing with her on an initial basis about what she was doing, how she felt about the 4 5 conviction she was facing -- she had faced and was 09:10 on probation, and explaining the terms of 6 7 probation to her. So it would have been very much 8 of an initial discussion with her. 9 And perhaps we will try to clarify the time frame 0 10 to a further extent. I'm going to refer you to a 09:10 document, it's ID 009304, first identify the first 11 12 page as a letter dated June 20th, 1969 from 13 Lieutenant Penkala of the Saskatoon Police force, 14 and he is seeking criminal record, fingerprints 15 and photographs with respect to Ron Wilson, Nichol 09:11 16 John, and Albert Cadrain, writing to the RCMP. 17 And if we turn, please, to page 009307 of that 18 document we see reference to an identification 19 form respecting Nichol John, and I see an arrest 20 date noted on that form of March 22nd, 1969. 09:11 And 21 if we turn as well, please, to page 009306 of that 22 document we see a couple of sentence dates noted 23 at the top; the first one being April 11th, 1969, 24 the charge of theft under \$50, and I note the 09:12 25 disposition one day and \$50 bond for one year; I

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Page 7875 1 note with respect to the second sentence, April 2 22nd, it appears the matter was withdrawn. 3 Looking at those documents is it likely, Mr. 4 Robertson, that your relationship with Ms. John 5 would have begun after the date of her sentence 09:12 noted on this document, April 11th, 1969? 6 7 Yes, that's correct. Α 8 0 Okay. And I'll just show you one further page on 9 this document, 009305, and I apologize for the 10 quality but we understand this to be a photo of 09:12 11 Nichol John. And if we could perhaps focus --12 thank you -- I note the date, March 22nd, 1969; 13 does that individual appear familiar to you? 14 I actually wouldn't have recognized her, it -- I Α 15 think her hair might have been a little shorter, 09:13 16 that's all I can --17 Do you have any recollection, generally, of 0 Okay. 18 what your thoughts were of Nichol John at the 19 time; had you made an assessment of her? 20 Nothing really stood out about Nichol aside from 09:13 Α 21 she seemed very almost shy, almost sort of -- I 22 didn't know if it was like the first-time jitters 23 in coming in to see your probation officer, and 24 that would have been my job, was to try and put

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her somewhat at ease.

25

09:13

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I mean the Court had made

Page 7876 : 1 an adjudication on the fact that she had to see a 2 probation officer, my position then was one of 3 simply ensuring that she kept the terms of her 4 probation and trying to ease her into that, 5 letting her realize that that was what -- she had 09:14 to keep her terms, and the discussion that we got 6 7 into could be very much determined by what she 8 wanted out of it. Umm, that was probably my 9 initial assessment of Nichol, that she -- she 10 didn't stand out. Umm --09:14 11 Q And perhaps just give us a general sense, when you 12 are sitting down with a client such as Nichol, how 13 long are you sitting down with them at a given time? 14 15 Normally 40 to 45 minutes. 09:14 Α 16 I'm going to ask you now, Mr. Robertson, do you Q 17 recall Ms. John ever making reference to a David 18 Milgaard? 19 Α Umm, yes I do. 20 And can you tell us what you recall Nichol John 09:10 0 21 saying in that regard, please? 22 Α I hesitated about that only in that she made 23 reference, not so much to David Milgaard, but 24 about David Milgaard, and said something, as close 25 as I can recall, to the fact that she had -- I 09:15

— Meyer CompuCourt Reporting

= Page 7877 =

	1		asked her how she had been doing since the time of
	2		her conviction at Court. Fine. Had anything, how
	3		was she managing, and she said, well, I've been up
	4		to Saskatoon. Now, that alone triggered something
09:15	5		about maybe her going out of the jurisdiction of,
	6		you know, she wasn't supposed to be leaving Regina
	7		area without advising, but I was relatively new in
	8		my job too and I just noted that, but she
	9		mentioned knowing something about, in a third,
09:15	10		almost in a third-hand way and it sounded like she
	11		was name dropping in that she said something about
	12		talking to some other person about David Milgaard
	13		and that person being, going up to Saskatoon.
	14		My is that a sufficient answer for what you are
09:16	15		asking?
	16	Q	Yes, absolutely. I was going to ask you next, how
	17		did you recognize the name David Milgaard?
	18	А	I can't tell you that exactly. I thought either I
	19		had heard it or picked it up in the system.
09:16	20		Saskatoon was where I was from originally and I
	21		had heard the name David Milgaard and my ears
	22		pricked up at the fact that she had used this
	23		name.
	24	Q	And when you say you picked it up in the system, I
	25		think that's what I heard you say, what are you
			Meyer CompuCourt Reporting

	Г		Page 7878
	1		referring to?
	2	А	I mean within the service, within probation
	3		services or within I can't really identify
	4		exactly where I heard it, but I was aware of the
09:16	5		name David Milgaard.
	6	Q	And did you know in what manner that name had any
	7		significance?
	8	А	Well, that there was something about David being
	9		mentioned as a possible person involved in the
09:17	10		murder of Gail Miller here in Saskatoon, but it
	11		was, there was nothing definite on it, it was one
	12		of those things that he was one of the people
	13		being considered.
	14	Q	And what was your response to Nichol then when she
09:17	15		raised this information?
	16	А	My initial response in listening to her, because
	17		as I said she was rather shy and withdrawn, was
	18		that she was purposely bringing in some
	19		attention-getting thing, that this people who
09:17	20		come in on probation on their first or second
	21		interview are still, the majority of them,
	22		especially first offenders, are still rather shy
	23		or withdrawn, they are not really sure what it's
	24		all about. I thought she was name dropping and
09:18	25		what I said to her then was, after I listened to
			1

	,		Vol 40 - Thursday, April 14th, 2005
			Page 7879
	1		her, I said do you have any direct information
	2		that you either saw or witnessed or have firsthand
	3		information about David Milgaard and the David
	4		Milgaard situation, or words to that effect. She
09:18	5		responded, well, no, not really, and I thought,
	6		well, at this point my assessment was she was name
	7		dropping, it was simply a way of diverting
	8		attention to herself and I went on to a different
	9		subject. That's all in the interview.
09:18	10	Q	Were you concerned at all that she did have
	11		information at the time?
	12	А	No. In my mind, when she responded as she did, I
	13		thought we just dealt with something like this,
	14		that she name dropped and I didn't jump into that
09:19	15		one. My role as probation officer was really to
	16		talk about Nichol, not about something that was
	17		kind of hearsay or not definite, and I made that
	18		judgment call at that time. I, after the
	19		interview, went in and talked it over with my
09:19	20		supervisor Bob Larson to make sure, because I was
	21		a relatively new probation officer, make sure that
	22		what I had done he approved of and to get his
	23		perspective on it and he agreed. I kind of just
	24		let it go at that.
09:19	25	Q	And perhaps just clarify that. What concern or
	1	11	

	-		Vol 40 - Thursday, April 14th, 2005
			Page 7880
	1		thoughts had motivated you to speak with your
	2		supervisor after that meeting?
	3	А	Mine was a judgment call. If he felt I should
	4		have proceeded a little bit more I knew the
09:19	5		name, so that's how I dealt with it and I thought,
	6		well, I'll use his expertise. He was an excellent
	7		supervisor and I appreciated his opinion and I
	8		thought I'm not sure, this is how I'm dealing with
	9		it, I only hope that's the way it stayed in my
09:20	10		mind though. If she would have brought it up
	11		again, then I would have pursued the issue a
	12		little bit more and involved Bob Larson probably.
	13	Q	And I think you just mentioned the name of the
	14		supervisor. Can you state that again, please?
09:20	15	А	Robert Larson, Bob Larson.
	16	Q	And did you record this information that you
	17		received from Nichol?
	18	А	Yes, of course I would record it in my probation
	19		officer file.
09:20	20	Q	And that would have been kept in a file specific
	21		to Nichol John; is that correct?
	22	А	Yes.
	23	Q	Mr. Commissioner, I can advise we've made attempts
	24		to locate those records I think quite exhaustively
09:20	25		and have been unable to locate any materials of
			Meyer CompuCourt Reporting

Page 7881 : 1 that nature. 2 Was there ever another occasion, 3 Mr. Robertson, when you would have had a discussion with Nichol John respecting David 4 5 Milgaard? 09:21 6 Α No. David's name never came up again in whatever 7 interviews I had with Nichol. 8 0 So you are quite certain that this exchange took 9 place just on one occasion? 10 Α Yes, I am. 09:21 And perhaps just generally advise us in terms of 11 Q 12 your obligations and duties at the time were you 13 to come into information relating to a criminal 14 investigation. What was your course of action or 15 what would have been your course of action? 09:21 16 Could you repeat the question, please? Α 17 I'm talking on a general basis, if you had made 0 18 the judgment call, so to speak, that indeed you 19 had received information that was significant 20 perhaps for a criminal investigation, what would 09:21 21 have been your approach to a situation of that 22 nature? 23 Α My first approach would have been I would have 24 gone to my supervisor and advised him that I had 09:22 25 information that -- as a probation officer I was a

— Meyer CompuCourt Reporting

Page 7882 1 Court officer -- that needed to be brought to the 2 Court's attention and we would have pursued it 3 from that point. 4 0 And would there have been contact with authorities 5 then in some manner? 09:22 I'm absolutely sure of that. 6 Α 7 Mr. Robertson, do you recall being questioned by Q 8 police officers about Nichol John? 9 No, I don't. Α 10 I'm going to refer you to a document, it's 09:22 0 document ID 025169, you'll see it's a Saskatoon 11 12 Police Department investigation report dated May 13 25th, 1969. The author of this particular report, 14 we'll see from the last page, is Detective Karst. 15 I just want to bring your attention to two 09:22 16 paragraphs in particular. If we can focus in on 17 those two paragraphs, please, and perhaps I'll 18 read those to you, Mr. Robertson. 19 "On Wednesday, May 21st, Detective 20 Sergeant Mackie and myself and Constable 09:23 21 Walters attended at 1769 Cornwall 22

Street, Regina, which is the Department of Welfare where Nickel John's social worker was interviewed. Nickel John being a female and will hereafter in

—— Meyer CompuCourt Reporting

23

24

25

09:23

			Vol 40 - Thursday, April 14th, 2005
			Page 7883
	1		this report be referred to by her
	2		nickname which is "Nickey".
	3		The interview was taped for
	4		further use, and although the social
09:23	5		worker interviewed, "Mr. Don Robertson",
	6		stated there were certain interviews he
	7		had had with this girl since he has
	8		worked with her, since the time of the
	9		alleged offence in Saskatoon, which is
09:23	10		of a confidential nature, he is not
	11		prepared to devulge to us, he, however,
	12		did say that she stated she was not
	13		personally involved in a murder."
	14		And I'll ask you firstly, Mr. Robertson, does any
09:23	15		of this information refresh your memory as to a
	16		meeting with police officers in 1969?
	17	А	No, it doesn't.
	18	Q	And the address noted there, I take it that was
	19		the address of your employment; is that correct?
09:24	20	А	As much as
	21	Q	The 1769 Cornwall Street?
	22	А	As much as I can remember. I don't know the exact
	23		address, but it was on Cornwall Street.
	24	Q	Okay. You don't have a recollection at all of
09:24	25		meeting with officers or being tape recorded
			Mayor CompuCourt Departing

			Vol 40 - Thursday, April 14th, 2005
			Page 7884
	1		during an interview of that nature?
	2	А	No, I don't.
	3	Q	And you've had a chance I take it to read the
	4		paragraph. Perhaps I'll first ask you, what about
09:24	5		the names Detective Sergeant Mackie, Constable
	6		Walters or Detective Karst, do those names ring a
	7		bell at all with you?
	8	А	No, they don't.
	9	Q	And in terms of the second paragraph in
09:24	10		particular, you've had an opportunity to review
	11		that paragraph. Do you have any comments with
	12		respect to that paragraph?
	13	А	No.
	14	Q	Okay. You don't recall advising officers of
09:25	15		information that you had that Ms. John had advised
	16		you that she was not personally involved in a
	17		murder?
	18	А	No, I don't recall that.
	19	Q	Was this a common occurrence, to speak with
09:25	20		officers in a situation of this nature? Do you
	21		recall interviews with officers respecting
	22		investigations that they may have been conducting?
	23	А	There may have been occasions where I would talk
	24		with police officers in respect to information,
09:25	25		but very seldom would there be an instance where
			Mover CompuCourt Peperting

= Page 7885 =

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	1		the police officers attended our office on
	2		Cornwall or wanted to speak to a probation
	3		officer, and in this case where there are two or
	4		three officers involved on this, Detective
09:26	5		Sergeant Mackie and Constable Walters, and I
	6		thought there was a third person, I'm not sure who
	7		compiled the report, but if that had been the
	8		case, I would have probably involved because I
	9		was a relatively inexperienced probation
09:26	10		officer I would have involved my supervisor Bob
	11		Larson and I would have remembered this I'm sure.
	12	Q	It surprises you then that you do not recall this
	13		information?
	14	А	It doesn't surprise me I don't recall it. I have
09:26	15		no recollection of it at all.
	16	Q	I'm going to refer you to another document, Mr.
	17		Robertson, it's document ID 106676, and I'll refer
	18		you first of all I'll identify the document,
	19		another Saskatoon Police Department investigation
09:26	20		report dated May 29th, 1969. This particular
	21		report is authored by Detective Sergeant Raymond
	22		Mackie and I'm going to turn your attention to
	23		page 106677 of that document and I just note a
	24		single sentence at the tail-end of that first
09:27	25		paragraph, if we could call that out, please.
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			Vol 40 - Thursday, April 14th, 2005
			rage 7000
	1		I'll read that to you.
	2		"On May 26th, I called at the Welfare
	3		Department where I interviewed Robert
	4		Larsen in regards to the return of
09:27	5		Ronald Wilson and Nichol John to
	6		Regina."
	7		And again I think you indicated to us that your
	8		supervisor was Robert Larson?
	9	А	That's correct.
09:27	10	Q	Do you have any recollection of the information
	11		contained in that sentence that I just read to
	12		you?
	13	А	No, but I normally wouldn't have been involved in
	14		something like that if they are dealing with Bob
09:27	15		Larson who may have simply been advised, because
	16		both people, assuming Ronald Wilson was also on
	17		probation, was out of jurisdiction of their
	18		respective probation officers, so Bob would be
	19		if that's the case, they would have simply advised
09:28	20		him, so it would come up as a potential breach of
	21		probation for leaving the area.
	22	Q	And that is what you would surmise as to the
	23		likely purpose of Mr. Larson's interview as noted
	24		in that sentence?
09:28	25	А	Yeah, and that's what it is, is a surmising on my
			1

	Г		Vol 40 - Thursday, April 14th, 2005
	1		part, but I hadn't been involved directly with
	2		that.
	3	Q	Do you recall learning at any subsequent point in
	4		your dealings with Nichol John that she was a
09:28	5		witness in a murder trial?
	6	А	No. At that time, as I mentioned, I left the
	7		service as a probation officer in September to
	8		take a job with the Public Health Department,
	9		Saskatchewan Public Health at Wascana Centre it
09:29	10		was called, South Saskatchewan Hospital Centre, as
	11		a rehab worker and part of that was on the basis
	12		that I had to work for a year to obtain a bursary
	13		to attend university in Vancouver, University of
	14		B.C. At that time I also remarried, on June 11th,
09:29	15		my wife and stepson were living here in Saskatoon
	16		and I was driving back and forth. I was, in
	17		effect, attempting to pull my life together and in
	18		September we went and left for Vancouver and I
	19		heard no further information related really to the
09:29	20		Milgaard case.
	21	Q	When you mentioned September, September of what
	22		year?
	23	А	September of 1970.
	24	Q	Okay. And just give us a snapshot then in terms
09:29	25		of where you are in September of 1969 and also in
			Meyer CompuCourt Reporting

	[		Page 7888
	1		January of 1970?
	2	A	In September of '69 I left let's see. In
	3		September of '70 I of course started attending
	4		university in Vancouver, so in September of '69 I
09:30	5		started my new job with, as a rehab worker at
	6		Wascana Centre, South Saskatchewan Hospital Centre
	7		I think it is, in Regina, and worked for that
	8		following year in Regina.
	9	Q	Okay. Do you recall following the David Milgaard
09:30	10		trial at all?
	11	А	No, I didn't. During that time I was with South
	12		Saskatchewan Hospital Centre I went on a course
	13		I was commuting back and forth because my wife was
	14		living here in Saskatoon on the weekends and
09:30	15		working in Regina during the week. As summer
	16		approached in 1970 I hadn't been married as yet,
	17		on June 11th we got married, and then my wife
	18		moved down to Regina for the month of August and
	19		we had my two daughters from a previous marriage
09:31	20		come and stay with us and then left for Vancouver
	21		in September of 1970, or that's when we arrived in
	22		Vancouver, and I was out there for a two year
	23		period.
	24	Q	Okay. So in any event, you do not recall
09:31	25		associating Nichol John with the David Milgaard
			<b>1</b>

	Г		Page 7889
	1		trial at the time?
	2	А	No, I didn't.
	3	Q	And when would have been the next time that you
	4		had any formal contact with respect to this
09:31	5		matter, Mr. Robertson?
	6	А	In 1993 when the two RCMP officers contacted me in
	7		Winnipeg.
	8	Q	And can you just generally tell us what you recall
	9		of your meetings with RCMP officers on that
09:31	10		occasion?
	11	А	At first I didn't recognize the name Nichol,
	12		Nichol and Nichol John at all, I had no
	13		remembrance at all of it. They referred to her as
	14		Nicky and it didn't jog my memory at all. When
09:32	15		they met with me of course it was during, I was
	16		employed by Family Services in Winnipeg,
	17		vocational rehab services was the specific branch,
	18		and at that time because it was during our office
	19		hours I asked my supervisor to attend the meeting
09:32	20		with me, which she did. It was only in
	21		retrospect I started thinking more and more about
	22		this and I recalled Nicky and I recalled as much
	23		as I divulged to you at this point really of what
	24		my association had been with her, but I had no
09:33	25		idea up to that point of what had been going on.

AS.

	[		Page 7890
	1		
	1	Q	I'm going to refer you to the notes from that
	2		conversation, Mr. Robertson, taken by RCMP
	3		officers in 1993. If we could turn to document ID
	4		035832, please, and perhaps I'll just make note
09:33	5		for the record, if we could turn to page 035837.
	6		Mr. Robertson, this isn't for you, but I wanted to
	7		note it appears that the RCMP officers as well had
	8		made an effort to locate files with respect to
	9		this matter and, as was the case with our efforts,
09:33	10		were not able to locate any documentation, and
	11		I'll turn your attention to page 035836. Perhaps
	12		we'll just focus in starting at the top of the
	13		page. I'll read this for you.
	14		"Don Robertson interviewed at the RCMP
09:34	15		headquarters building in Winnipeg. Also
	16		present during the interview was
	17		Robertson's supervisor, Carmen
	18		Hemmersbach."
	19		And that was the supervisor that you had just
09:34	20		referred to then?
	21	А	That's correct.
	22	Q	"Mr. Robertson worked for the Department
	23		of Welfare on Cornwall Street in Regina
	24		from sometime in 1968 to the summer of
09:34	25		1969. During that time he worked with
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			Vol 40 - Thursday, April 14th, 2005
			Page 7891
	1		public assistance and later as a
	2		probation officer.
	3		Robertson claims he does not
	4		remember a Nichol John or "Nicky".
09:34	5		Although he did have occasional contact
	6		with the police at that time, he does
	7		not specifically recall being
	8		interviewed about a girl and/or a
	9		murder."
09:34	10		And I think what you are telling us is that would
	11		have been an accurate account of the information
	12		that you had for the RCMP officers at that time?
	13	А	Yes, that's correct.
	14	Q	I'll read on from there.
09:35	15		"Mr. Robertson suggested the
	16		investigators speak with a Bob Larson as
	17		he may have something about this."
	18		Turning to the next page:
	19		"Review of the Saskatoon Police
09:35	20		Department file B-170 indicates
	21		Detective Sergeant Mackie interviewed a
	22		Bob Larson from the welfare department.
	23		Attached report does not indicate the
	24		outcome of that interview.
09:35	25		Writer was left with the
			Meyer CompuCourt Reporting

			Vol 40 - Thursday, April 14th, 2005
			Page 7892
	1		impression in speaking with Mr.
	2		Robertson on the phone prior to the
	3		interview and during the interview that
	4		he was somewhat guarded. Stated
09:35	5		Mrs. Hemmersbach accompanied him for
	6		moral support."
	7		Do you have a comment on that last paragraph at
	8		all, Mr. Robertson?
	9	А	Well, as I stated, it was also on company time and
09:36	10		although I appreciated my, much the same way as I
	11		valued Bob Larson's supervisory capacity, I also
	12		valued Carmen's, and it was a way of it was on
	13		company time, at least my supervisor was there, so
	14		moral support may have been part of it, but most
09:36	15		of all it was accountability for my own job too in
	16		meeting with the officers.
	17	Q	Do you recall though being guarded in terms of
	18		that interview?
	19	А	I'm not sure if it was guarded or really trying to
09:36	20		wrestle with the fact that, of who Nichol John
	21		was, and maybe my answers were what might appear
	22		to be evasive, I didn't mean them to be like that.
	23		When I was contacted I mentioned Carmen
	24		Hemmersbach's name and suggested this Commission
09:36	25		be in touch with her and see what her opinion was
			Meyer CompuCourt Reporting

1 on it. 2 And am I correct then that your memory with 0 3 respect to Nichol John was refreshed subsequent to 4 this meeting with the RCMP officers? 5 Α Yes, you are correct. 09:36 And have you had any other formal involvement in 6 Q 7 this matter since that time, Mr. Robertson? 8 Only to your queries with me in the last few Α 9 months. 10 MR. HARDY: Thank you, those are all my 09:37 11 questions. My friends may have some questions 12 for you, Mr. Robertson. 13 Α Thank you. 14 I guess I'm the director here. MR. HODSON: 15 Mr. Fox, you do? Mr. Gibson? Ms. Knox? 09:37 So Fox, 16 Gibson and Knox in whatever order you wish. 17 BY MR. GIBSON: 18 Mr. Robertson, my name is Bruce Gibson and I act Q 19 for the RCMP. 20 Mr. Hardy went through a 09:37 21 document from 1993 when you were contacted by the 22 RCMP and I think now you recall that discussion? 23 Α Yes. 24 0 And he was asking you particularly about a comment 25 about you being somewhat guarded, or at least the 09:38 Meyer CompuCourt Reporting

Page 7893

Page 7894 : 1 officers' perception that you were somewhat 2 quarded, and I quess the impression from that is 3 that perhaps you had more information than you 4 were first relaying. Do you recall those 5 questions from Mr. Hardy, you recall --09:38 Yes, I recall those questions from Mr. Hardy. 6 Α 7 And one thing I'm wondering about is you've Q Yes. 8 worked in public service for many years now? 9 Subsequent to that, yes, I did. Α 10 Yes. And I guess even hearkening back to the 09:38 0 earlier document, the 1969 contact with the 11 12 police, you were guarded about how much 13 information you could share from your files; is that fair to say? 14 There was always privacy 15 concerns and what information could just be handed 09:38 16 over about clients? 17 Had that been the case, and as I say I didn't Α 18 recall that meeting at all, but in a case where we 19 had had visitation from someone, from police to 20 our office, I would have directly involved my 09:39 21 supervisor in that meeting and there was no 22 mention of him being in there, so -- and I didn't

recall anything about it at all, so I can't really comment on what you are saying.

**Q** Right. But if I can just speak in a general way

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09:39

— Meyer CompuCourt Reporting

Page 7895 : 1 then, over the course of your time in public 2 service when you are dealing with government 3 documents, when people make requests for access to that information you have to be careful about what 4 5 information you can give out in accordance with 09:39 the legislation and what that provides? 6 7 I couldn't give any information out without my Α 8 supervisor being involved; therefore, I would have 9 involved him right there, even probably in the 10 meeting. 09:39 And what I'm wondering about is in your 11 Q Right. 12 discussion with the RCMP, and please correct me if 13 I'm wrong, but I'm just trying to figure out why 14 you may have been somewhat hesitant or guarded or 15 whatever, and maybe you weren't, but maybe that's 09:39 16 just the officers' impression, but whether there 17 is some play in there as to whether you were 18 concerned about what information you could give 19 out from the past, government records that you 20 would have had access to. 09:40 21 I couldn't recall, quite frankly I couldn't recall Α 22 the information, and for all I knew no one said 23 the records couldn't be found at that point. Ι 24 was hoping the records would clarify for their 25 knowledge as well as my own. 09:40

—— Meyer CompuCourt Reporting

	,		Vol 40 - Thursday, April 14th, 2005
			Page 7890
	1	Q	Yes. And again I don't think it's necessary to
	2		put up the document, but you were contacted by
	3		telephone about six days prior to the RCMP
	4		actually coming to see you?
09:40	5	А	Actually, I went to see them, but that's
	6	Q	Okay. But prior to actually sitting down and
	7		speaking face to face with them?
	8	А	Yes.
	9	Q	During that time did you try to jog your memory as
09:40	10		to who Nichol John was?
	11	А	I tried. I had no recollection at all of who
	12		Nichol John was at that point.
	13	Q	Okay. And then once you had the discussion with
	14		the RCMP, when did that information start to come
09:40	15		to you, that you had some recollection about
	16		Nichol John?
	17	А	Later, because what came out of it was the David
	18		Milgaard mentioning, that was related to the David
	19		Milgaard incident, and not many clients walk in
09:41	20		and talk to me and say something like that. I
	21		disposed of it as I felt was appropriate at that
	22		point and made sure of it by talking it over with
	23		my supervisor and, as I said, if the name would
	24		have come up again, we would have pursued it
09:41	25		probably further than that.

	,		Vol 40 - Thursday, April 14th, 2005
			Page 7097
	1	Q	I'm thinking in 1993 you told the RCMP you had no
	2		recall and yet today you are able to tell us a
	3		little bit, and have been helpful in that regard,
	4		as to what you recall about those circumstances in
09:41	5		1969. When did you start to have that information
	6		return to you after 1993, because you clearly
	7		didn't have it in 1993.
	8	А	I can't tell you that for sure exactly. I knew
	9		I thought very much about it and the information
09:42	10		just started to come back, but it was very
	11		minimal, selective information I guess, which I've
	12		tried to relay here.
	13	Q	And I take it that you didn't contact the RCMP
	14		once some of this information came back to you
09:42	15		then?
	16	А	No, I didn't, aside from the fact that I guess I
	17		made an assumption that the situation had resolved
	18		itself. I didn't recall a heck of a lot more
	19		except that I knew who Nichol John was, I recalled
09:42	20		having met her to a minimal amount on my case
	21		load.
	22	Q	And I guess that's fair to say, that in your view
	23		of things you thought, well, how important could
	24		that information be. Could that be one of the
09:42	25		reasons that you never contacted the police as
			Meyer CompuCourt Reporting

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	1		well?
	2	А	I, quite frankly, didn't think it was that
	3		important, that I recalled a little bit at least
	4		who she was. I didn't pay attention to this one.
09:43	5		If I'm remiss in anything, it's that I didn't
	6		follow this through in terms of what was happening
	7		in the David Milgaard situation. As I said, my
	8		life was taking on I got quite, if you want,
	9		quite selfish in looking after my own life at that
09:43	10		point and going on to training and a new marriage
	11		and that was it.
	12	Q	Okay. And again I'm just thinking of 1993, and I
	13		won't belabour the point, but after that when the
	14		information came, started to come back to you,
09:43	15		again if I understand your evidence correctly, and
	16		please tell me if I'm wrong, you did not think
	17		that the information that you did have, that you
	18		were able to recall now was that significant and
	19		you never did call the RCMP back in relation to
09:43	20		their investigation?
	21	А	You are correct in that.
	22		MR. GIBSON: Okay. Thank you.
	23	BY	MR. FOX:
	24	Q	I think I'm up next, Mr. Commissioner. Mr.
09:44	25		Robertson, my name is Aaron Fox, I'm the lawyer
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			Vol 40 - Thursday, April 14th, 2005 Page 7899
			raye 7099
	1		for former Detective Eddie Karst. He's the author
	2		of the report that Mr. Hardy showed you earlier in
	3		your testimony. I've just got a few questions.
	4		I take it at this point in time
09:44	5		you do have a bit of a recollection in your mind
	6		about what Nichol John looked like or at least
	7		some observations you made of her when you met
	8		with her in 1969?
	9	А	Yes.
09:44	10	Q	And you had indicated to Mr. Hardy that she seemed
	11		sort of very shy or first-time jitters, I think
	12		those were the words you used?
	13	А	Yes.
	14	Q	Somewhat reserved?
09:44	15	А	I believe I said something like that, yes.
	16	Q	Okay. You then mention that you said that she
	17		mentioned the name David Milgaard or somehow that
	18		came up, the name David Milgaard?
	19	А	Yes.
09:45	20	Q	And your first impression at that time was perhaps
	21		a bit of name dropping?
	22	А	She had said something along the lines of coming
	23		up to Saskatoon and talking with someone or
	24		associating with someone that knew David Milgaard
09:45	25		or something along the something like that. It
			Meyer CompuCourt Reporting

			Vol 40 - Thursday, April 14th, 2005
			Page 7900
	1		was like she was talking about another person. It
	2		wasn't it was Nichol mentioning what another
	3		person had relayed to her.
	4	Q	Okay. And at that point in time, when she said
09:45	5		the name David Milgaard, that was a name you
	6		recognized, you didn't have to ask her, for
	7		example, "who's David Milgaard" or "what's this
	8		about", you would have recognized that for some
	9		reason or other, you were familiar with that name?
09:45	10	А	That's right.
	11	Q	I take it Mr. Robertson, from what you said, when
	12		you had this conversation with Nichol John, at
	13		that point in time and maybe you are not even
	14		aware now but let me back up a bit.
09:45	15		The allegation against Mr.
	16		Milgaard was that on January 31st, 1969, early in
	17		the morning, he had made a trip to Saskatoon with
	18		a couple of friends, and eventually encountered
	19		Gail Miller, and was responsible for her death.
09:46	20		That was the basic allegation against Mr.
	21		Milgaard.
	22		Nichol John was one of the two
	23		friends that had accompanied him from Regina to
	24		Saskatoon and was with him, and so on, throughout
09:46	25		the trip, and then eventually ended up back in
			Meyer CompuCourt Reporting

Page 7901 = 1 I take it, when Nichol John mentioned the Regina. name David Milgaard to you, you weren't familiar 2 with the extent of her involvement with Mr. 3 Milgaard and the trip to Saskatoon? 4 5 Α That's correct. 09:46 And you had indicated when you answered, because 6 0 7 you asked her if she knew anything, and I take it 8 at that time, from the question you asked her, you 9 were aware that Mr. Milgaard was at least being 10 investigated in relation to the murder of Gail 09:46 Miller or some murder in Saskatoon? 11 12 Α I knew, yes, he was one of the people being 13 suspected or involved. 14 And you asked her if she had any knowledge or Q 15 first-hand information, and I think I have got it 09:47 16 down correctly when you answered Mr. Hardy, you 17 recall her answer was "well, no, not really"? 18 Or words close to that effect. Α 19 0 Words to that effect? Fair enough. And then you 20 said, I thought I understood you to say later on 09:47 21 that when you, sort of looking back on it, if you 22 -- when you knew more, maybe you would have 23 followed it up if you had had that information at 24 the time, have I got that correctly? 25 Α What I said is, having talked it over with 09:47 No.

— Meyer CompuCourt Reporting

Page 7902 = 1 Bob Larson and also putting it in my file, if 2 Nichol would have mentioned the name Milgaard 3 again then it would have -- then it would have queued something else in me, a different response, 4 5 and I would have followed it up. It wasn't just 09:47 6 name-dropping then, it may well have been 7 something that was worthy of further discussion, 8 further examination. 9 Umm, back, going back to the occasion when 0 Sure. 10 she spoke those words to her in -- to you in 09:48 11 answer to your question do you think, if you had 12 had the information at that time that she in fact 13 had been with him on that trip to Saskatoon such 14 that she wasn't name-dropping but actually had 15 been along with him on the trip, whatever took 09:48 16 place on the trip, do you think you might have 17 followed up the discussion further at that time? 18 I'm sure --Α 19 0 Do you understand the question I'm putting to you? 20 I'm sure I would have, because I would have been 09:48 Α 21 able to pass that on, that's why I brought Bob 22 Larson into it right off the bat, right after the 23 interview was concluded for that time. 24 0 Okay. So when she made the comment, at that time, 25 to your knowledge she had no involvement 09:48

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1 whatsoever so you just sort of let it pass. Had 2 you had the knowledge that she wasn't just 3 name-dropping but had actually been with David Milgaard on that trip to Saskatoon, you likely 4 5 would have followed it up with further questions? 09:48 If I had had any further confirmation and, 6 Α Yes. 7 of it than that, and that's why I made a judgement 8 call on it, but I discussed it with my supervisor 9 as to if he agreed with my way of handling it at that point. 10 09:49 And, to your recollection, that's the last of any 11 Q 12 discussions you had with Nichol John about what 13 may or may not have happened with David Milgaard? 14 That's correct. Α 15 Do you recollect, did you have any direct dealings 09:49 0 16 with David Milgaard, yourself, in your job? 17 No. Α 18 Did you know the name Ron Wilson? Q 19 Α No, I didn't know the name Ron Wilson at all. 20 Okay, thank you, those are all the questions I 09:49 0 21 Thanks a lot. have. 22 BY MS. KNOX: 23 0 Mr. Robertson, my name is Catherine Knox, and I'm 24 actually the lawyer who represents the man who was 25 the prosecutor at the trial, whom I'm assuming you 09:49

Page 7903

— Meyer CompuCourt Reporting

Page 7904 : 1 don't know except you may have heard his name in 2 the paper or something or seen his name in the 3 paper in relation to this. And before I start to 4 ask you some questions there is a couple things I 5 want to say to you. 09:50 A couple of times you have 6 7 characterized your answers to questions in -- by saying "if I have been remiss", and I want to 8 9 start by saying to you that I am not standing here 10 to ask you any questions because I have any 09:50 11 thought in my mind or any notion that in any way 12 you were remiss in your work as a probation 13 officer back in 1969, and I'm never going to 14 suggest that to you. 15 And another thing I'm going to 09:50 16 say to you is I actually used to be a probation 17 officer and I have some admiration for you. Ι 18 worked as a probation officer between August of 19 '79 and December -- '77, sorry, December '79, and 20 I was sitting back there as I was listening to you 09:50 21 and trying to remember the name of a single 22 client, and I can't even come up with the name of 23 a single client that I had over a 2 1/2-year 24 period a lot less long ago that you've had, so I 25 have a certain degree of sympathy for you, and I'm 09:50

— Meyer CompuCourt Reporting

Page 7905

not here to criticize you. Okay?

A Okay.

1

2

3 The first thing I want to ask you a little bit 0 about is just to get some clarification as to what 4 5 the essence of your evidence today is and, in 09:51 6 particular, with respect to the context that 7 Constable -- or sorry -- Detective Karst and 8 Detective Sergeant Mackie say they had with you. 9 You have seen the reports, and we can bring them 10 up again, Detective Karst says that three of them, 09:51 11 including Constable Walters, went and saw you at 12 your office on May 21st or 22nd of '69. You are 13 saying that you don't remember meeting with them, 14 but is it your evidence that the meeting didn't 15 happen? 09:51

16AI said I don't remember meeting with them and to17my knowledge, if you are asking for my opinion on18that, that would be it, that I don't believe it19happened.

20 But you also said this morning, did you 09:51 0 Okay. 21 not, that when you talked to the RCMP in 1993 you 22 told them you didn't remember Nichol John, but 23 after they left you started to remember, and you 24 used the term, 'selective pieces'? 25 I started to remember parts of it. 09:52 Α

— Meyer CompuCourt Reporting

<b>Q</b> Y	eah?
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1

2 A All right, selected pieces.

3 And I'm going to suggest to you that that's in 0 4 fact what happens with our memory as time passes, 5 what -- there's lots of people who study how we 09:52 remember things, and what the experts are telling 6 7 us is that we don't save memory like film clips, 8 and when we go back to think about something 9 everything doesn't come back to us, we get bits 10 and pieces back but we don't get everything; do 09:52 11 you agree with that, that when you try to look 12 back on events in your life you get bits and 13 pieces but you don't get everything? 14 I agree with that. Α 15 And sometimes, would you agree, that when you go 09:52 0 16 back and you get bits and pieces, without 17 realizing you are doing it, you try to get the 18 bits and pieces to make sense, and you make 19 assumptions about it that aren't necessarily 20 correct? 09:52 21 All right. Α 22 Q Yeah. And in fact what happened with you with the RCMP in 1993 is a little bit like that; because 23 24 you couldn't remember it your presumption at this 25 point in time is you never had contact with her,

Page 7906

— Meyer CompuCourt Reporting

			Vol 40 - Thursday, April 14th, 2005
			Page 7907
	1		but after, when you started to think about it,
	2		little pieces came back to you?
	3	А	That's true.
	4	Q	Okay. Now again, just in terms of what we know
09:53	5		about memory and I am how memory works, I'm
	6		going to suggest to you that sometimes when we
	7		think back and we try to remember bits and pieces,
	8		not only do we try to re put a spin on it
	9		and I don't mean in a bad way but just
09:53	10		unconsciously if we start thinking of it in a
	11		way and it begins to make sense to us because we
	12		think that's the way it happened, but sometimes
	13		down the road we find out that in fact what we
	14		honestly in our heart and soul believe was the way
09:53	15		something happened wasn't the way it happened?
	16		Did you ever have that happen to you that, you
	17		know, somebody said something to you that you
	18		thought to be correct and you realized, after,
	19		that it was wrong, you were taking their thoughts
09:53	20		on it or you were remembering it in a way
	21		different from what it was really like?
	22	А	I can agree with that.
	23	Q	Yeah. Now there is a couple of things that stand
	24		out for me and, I'm going to suggest to you, might
09:53	25		be indications that all that's happened here is
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	1		that simply in some ways, when the police came to
	2		you in '93 and when the Inquiry started and all
	3		this that's gone on, that without meaning to, in
	4		your own mind, you became maybe just a little bit
09:54	5		defensive? Because implicit in what you are
	6		saying to us today, a couple of times, has been
	7		you saying to us that, you know, "if I had known
	8		anything I would have acted on it". Do you have a
	9		little bit of sense that maybe somebody is going
09:54	10		to be critical of you because, in 1969, all you
	11		did was made or you didn't do anything in
	12		particular in relation to Nichol John and the
	13		comment that you now remember her making to you
	14		about David Milgaard?
09:54	15	А	But I did do something about that.
	16	Q	Yes, that's but you didn't go to the police or
	17		anything?
	18	А	No.
	19	Q	You just talked to your supervisor?
09:54	20	A	That's correct.
	21	Q	Okay.
	22	А	That's exactly what I did.
	23	Q	Now I'm going to suggest to you that maybe one of
	24		the reasons why all you did was talk to your
09:54	25		supervisor at the time was because, within days or
			Meyer CompuCourt Reporting

Γ		Page 7909
1		maybe even hours after Nichol John saying
2		something to you about David Milgaard, the police
3		might have come to your office and asked you
4		questions about her? If they came in early May,
5		as the or in mid-May, as the report indicates,
6		you would have had knowledge by then, immediately,
7		that "eh, I don't need to be concerned about this
8		as a probation officer because the police already
9		know she might know something about it"?
10	А	For the same reason I involved my supervisor
11		shortly after, and certainly on the same day
12	Q	Yeah?
13	А	that I would have met with Nichol, I would have
14		involved my supervisor on that meeting with
15		police.
16	Q	Yeah?
17	А	Because he had been involved with me in a decision
18		to let it stand like that, I would have brought
19		him in, I wouldn't have met with those three
20		police officers without his presence. That's why
21		I feel assured that that meeting, in my opinion,
22		didn't go on.
23	Q	Okay, Mr. Robertson, let's take a simple example.
24		What about if your supervisor was on a week's
25		holidays and all that happened is there was three
		Meyer CompuCourt Reporting
	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	2         3         4         5         6         7         8         9         10         A         11         12         Q         13         14         15         16         Q         13         14         15         16         Q         17         A         18         19         20         21         23         Q         23         24

			Page 7910
	1		nice policemen there, they want to ask you a
	2		couple of questions, would you have refused to
	3		talk to them back in 1969?
	4	А	There would have been someone delegated to be the
09:56	5		supervisor while he was on holidays.
	6	Q	Okay. But what the police report says is you did
	7		what you said would be the normal protocol, you
	8		said to them, "it's con like my relationship
	9		with Nichol is confidential, to a large extent,
09:56	10		and I have information that I can't give you".
	11		That's what the police report documents on that
	12		first visit, isn't it, that you, as the parole
	13		probation officer, said "I have confidential
	14		information I can't share with you"?
09:56	15	А	I don't recall that meeting at all.
	16	Q	No, but if the meeting had taken place and your
	17		supervisor wasn't available, would you not agree
	18		with me that what, according to the protocol as
	19		you understood it, you would have done is you
09:56	20		would have said to them, "listen guys, you know,
	21		she is a probationer, I have a relationship with
	22		her that requires me to be confidential with her,
	23		I can't tell you", and you might have said to
	24		them, but they didn't put it in the report, "I
09:57	25		would have to get the approval of my supervisor"?

	1	А	What I have said I'll repeat again. If, if, as
	2		you suggest, Bob Larson might have been on
	3		holidays, someone in our office would have been
	4		delegated as my immediate supervisor, and I would
09:57	5		have had that person in with me. I have also said
	6		I wasn't a probation officer for very long, and
	7		during that time
	8	Q	Uh-huh?
	9	A	I was a novice, I was learning, and I would
09:57	10		have made sure that someone came in with me,
	11		because at that point it might have to be a
	12		departmental decision, not just my decision to
	13		share the information but a departmental one, in
	14		accessing that information there and then.
09:57	15	Q	Okay. Does it strike you as curious at all that
	16		the next time the police made a visit, they didn't
	17		go to see you, they went to see your supervisor?
	18	А	No, simply because he that was I wasn't the
	19		only probation officer involved. I don't remember
09:58	20		the other name at all on the that was suggested
	21		there. Bob was the supervisor for that region,
	22		and it would be appropriate for them to talk to
	23		him about it, he would simply advise the two
	24		probation officers.
09:58	25	Q	Okay. Would you think for a minute that there's

= Page 7911 =

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= Page 7912 =

	1	any possibility that what happened is this,
	2	because I mean if these meetings didn't happen
	3	there is two things that would have had to have
	4	happened here, is two police officers would have
09:58	5	had to write false reports in 1969 about something
	6	so inconsequential that it really was of no
	7	importance to them; number 1, that they had met
	8	with you; and subsequently, that they had met with
	9	Mr. Larson. So they would have had to write false
09:58	10	reports if these meetings didn't happen, as you
	11	suggest is your best memory, but look at what
	12	really happened. The first time they go to you
	13	and they document, they not knowing the policies
	14	of the probation department, document in that
09:58	15	first report that you claim confidentiality in
	16	your relationship with Nichol John. You said that
	17	what you would have said to them, "I can't tell
	18	you without the approval of my supervisor, who is
	19	Bob Larson", or you that's what you would have
09:59	20	said to them, and a few days later, when a police
	21	officer has to come back, lo and behold, he
	22	doesn't ask to speak to the probation officer who
	23	can't really talk to him without the approval of
	24	the supervisor, but when he is making up his false
09:59	25	report he says, "I went and saw the supervisor,

Page 7913 : 1 Pretty odd coincidences, aren't Robert Larson". 2 they? 3 Initially I said I don't recall that meeting at Α 4 all. You are --5 Q And I'm suggesting to you, Mr. Robertson, that the 09:59 6 meetings happened and that, simply, you don't 7 remember it? 8 You asked if I believed they happened and I said Α 9 because -- I don't believe it would happen, 10 because I would have -- wouldn't have gone into a 09:59 11 meeting like that without someone, either my immediate supervisor or someone designated. 12 13 0 But having been shown the reports that we have in 14 this file would you agree with me that if the 15 meeting didn't happen, for some strange reason 09:59 16 that makes no sense to anybody, a police officer 17 would have made up a false report about meeting 18 with you in 1969? 19 Α I don't know how to comment on that one. You are, 20 you are suggesting that, and I --10:00 21 Yeah, well it's really the only other explanation, Q 22 because you know the report exists and it says the 23 meeting took place? 24 Α I'm saying I don't remember that meeting at all 25 and under those conditions, unless I had had 10:00

— Meyer CompuCourt Reporting -

	-		Vol 40 - Thursday, April 14th, 2005
			Page 7914
	1		someone else present, I wouldn't have gone into a
	2		meeting like that.
	3	Q	Okay.
	4	А	And that's what I base my
10:00	5	Q	Mr. Larson (sic), you indicated that you got
	6		married in June of 1970?
	7	А	You said 'Mr. Larson'?
	8	Q	I'm sorry. Mr. Robertson, you got married in June
	9		of 1970?
10:00	10	А	Yes, before going out to
	11	Q	And you indicated that your wife was, lived here
	12		in Saskatoon, that you and you were commuting
	13		back and forth?
	14	А	That's correct.
10:00	15	Q	Okay. And I'm not meaning to be personal, but
	16		when did you start commuting back and forth,
	17		approximately, prior to your marriage?
	18	А	Umm, I we were married on June the 11th and
	19	Q	How
10:01	20	А	I would
	21	Q	long were you dating before you got married?
	22	А	I would imagine six months or so, six to eight
	23		months, something like that.
	24	Q	So you were commuting
10:01	25	А	My mother was living up here, in Saskatoon, so I
			<b>1</b>

			Vol 40 - Thursday, April 14th, 2005 Page 7915
			Page 7915
	1		was coming up to see her also.
	2	Q	So you had a connection to Saskatoon that was a
	3		pretty current connection through the summer of
	4		'69, the fall of '69, '70; right up until when you
10:01	5		got married in June of '70 you were back and
	6		forth, would it be fair to say, on a regular if
	7		not a frequent basis?
	8	А	Coming up sometimes on Friday night or Saturday
	9		and then driving back on Sunday in order to be at
10:01	10		work.
	11	Q	Okay. And I take it you have no memory of the
	12		discussion or the topics of conversation that were
	13		going on in a small town like Saskatoon, as it was
	14		then, about a big event, the murder of this young
10:01	15		woman, the preliminary inquiry which happened in
	16		August of 1969? And we know from the trial
	17		transcript that it was there was reporting of
	18		the evidence at the preliminary inquiry, and you
	19		have no memory of noticing or paying attention to
10:02	20		all of the reporting that was done around the
	21		trial in January of 1970?
	22	А	No, really, I do not.
	23	Q	Just like whether or not you ever spoke with the
	24		police officers, from your memory didn't hear
10:02	25		anything whatsoever about anything to do with Gail
			Meyer CompuCourt Reporting

			Page 7916
			Page 7910
	1		Miller, David Milgaard, or Nichol John, either
	2		through the preliminary inquiry in this in
	3		August of '69 or the trial in 1970?
	4	А	No, I don't. When I was coming up, I was coming
10:02	5		up to see my wife and subsequent stepson and my
	6		mother,
	7	Q	Uh-huh?
	8	А	and going back.
	9	Q	And I'm not
10:02	10	А	That's the point.
	11	Q	Yeah, I'm not saying anything happened, but in all
	12		that time not a sniff, nothing that the name David
	13		Milgaard got used to cause you to think back to
	14		your conversation with Nichol, or the name Nichol
10:02	15		John never, to your memory, ever would cross your
	16		ears as it were?
	17	А	That's correct.
	18	Q	Okay. Thank you.
	19		MR. HARDY: No questions on re-exam.
10:03	20		COMMISSIONER MacCALLUM: Thank you, Mr.
	21		Robertson, you are excused.
	22	А	Thank you.
	23		MR. HODSON: Our next area,
	24		Mr. Commissioner, is to deal with the sexual
10:03	25		assaults that date back to 1968-1970, and that is
			Meyer CompuCourt Reporting

Page 7917 =

in fact the last part of phase 1.

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2 Before I do that I do wish to 3 make a request to the Commission for a partial publication ban for the names and images of some 4 5 of the victims who will be testifying before the 10:03 Commission next week. If I could put up on the 6 7 screen a letter, it's a letter dated April 11th, 8 2005 that I wrote to I think all of the media 9 outlets in the province on our own list advising 10 of my request, it's been put in our database as 10:04 11 325550, and I wrote to the media outlets to give 12 them notice of my intention to ask for this 13 partial publication ban because I think it's my 14 obligation to do so. I simply -- and I don't 15 propose to go through the letter other than to 10:04 16 say I advised them of my intention and that I 17 would be seeking a ban on publication of, you 18 will see here, names and images of the witnesses 19 and, as well, indicating in the next paragraph --20 and I'll touch on this in a moment -- that the 10:04 21 names of these witnesses would remain in our 22 transcript and exhibits and any official record 23 but, beyond that, there would be no publication. 24 And you will see, in the last paragraph, that I 25 asked any media outlet who had any concerns or 10:04

— Meyer CompuCourt Reporting

Sexual Assaults Read-ins by Mr. Hodson Vol 40 - Thursday, April 14th, 2005

Page 7918 : 1 questions to contact the Commission by yesterday 2 at 5:00, I received no contact, nor did Candace 3 Congram. So, with that, I would proceed. 4 And I have prepared sort of a 5 draft order to put before you, if I could call up 10:05 or ask to be put up document 325551, and this is 6 7 the publication ban that I propose: 8 "It is hereby ordered that the names and 9 images of the following witnesses shall 10 not be published, broadcast or 10:05 11 disseminated by anyone in any way:", 12 and then it lists a number of names which I'll go 13 through in a moment. And, then, paragraph 2, 14 that: 15 "The names of these witnesses shall be 10:05 16 included in the official transcript of 17 these proceedings. The names of these 18 witnesses shall not be redacted from 19 documents which become exhibits in these 20 proceedings." 10:05 21 And: 22 "This order does not preclude the 23 posting of the official transcript and 24 exhibits on the Commission's web site". And I want to address that for a moment, 25 10:05 Meyer CompuCourt Reporting



= Page 7919 =

	1	Mr. Commissioner. And what, what will happen if
	2	this order is granted is that in this Commission
	3	hearings over next week, and indeed when we get
	4	into the police officers and other witnesses, it
10:06	5	will be necessary for counsel to refer to these
	6	assaults by the names of the victim. They have
	7	been referred that way for some time. There are
	8	many, many records that have those names in
	9	there. It was not practical, in our view, to go
10:06	10	through and substitute names. The records are
	11	what they are. I might also add that I believe
	12	most of these victims have testified in public
	13	proceedings and their names may well be in the
	14	public domain already. So what I am seeking here
10:06	15	is just a partial limitation so that, when these
	16	women come to testify before the Commission, that
	17	their names and images are not put out in the
	18	media beyond the official record.
	19	So, if I could, I have advised
10:06	20	the parties, I think a week or so ago, of my
	21	intentions to seek this. I don't I have not
	22	been advised if anybody wishes to address this
	23	point and so, if I could, I would ask for this
	24	publication ban
10:07	25	COMMISSIONER MacCALLUM: Yes, it's granted,
		Meyer CompuCourt Reporting



= Page 7920 = 1 yes. 2 MR. HODSON: Now what, maybe, I can do is just go through these names and just identify a 3 bit about who they are. 4 5 (V1)-----, her maiden name 10:07 is (V1)-, is an assault victim from October 21, 6 7 1968, she will be testifying here Monday at 1:00. (V2)-----, maiden name 8 9 (V2)----, she was assaulted on November 13th, 10 1968, and she will be here Monday afternoon, 10:07 11 Tuesday morning. 12 And both of those, for both of 13 those assaults, they were -- Mr. Fisher pled 14 quilty in 1971 and was convicted, they were 15 called rapes at that time. 10:07 (V3)-----, whose maiden 16 17 name was (V3)-----, was assaulted on November 18 29th, or 1968, I think at that time it was an 19 indecent assault, she will be here on Tuesday. (V4)----- was the woman 20 10:08 21 who was assaulted on the morning of Gail Miller's 22 murder, January 31 shortly after 7:00 a.m., and 23 she will be testifying here likely on Tuesday, 24 perhaps Wednesday. 25 The fourth is (V5)-----10:08 Meyer CompuCourt Reporting =



Sexual Assaults Read-ins by Mr. Hodson Vol 40 - Thursday, April 14th, 2005

Page 7921 = her maiden names is (V5)---, and she was assaulted on February 21, 1970, which was about three weeks after Mr. Milgaard's conviction, and Larry Fisher confessed to that and pled guilty to that and was convicted for that offence, she will be here on Wednesday. (V6)---- and (V9)-----, you will see there, are people who made complaints to the police back in 1969 about attempted assaults in and around the time of the Gail Miller murder. We will be reading in the evidence of (V9)-----, and (V6)----- we have been unable to locate, and other than a police report or some notes back then, we will be reading those in. The other two names, (V7)----, maiden name (V7)---, and (V8)----- are the two victims who were

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10:08

19 sexually assaulted by Larry Fisher in Winnipeg in 20 1970, and he was convicted of those offences in 10:09 21 1971. I haven't decided yet whether those two 22 individuals need to testify before the 23 Commission, I have included them in the 24 publication ban. 25 The last name that is not in 10:09

— Meyer CompuCourt Reporting =



Page 7922 = 1 here is (V10)----, maiden name (V10)--, I believe Mr. Fisher was convicted of sexually 2 3 assaulting and I think there was a further charge as well in 1980. That is in the public domain. 4 5 I have not included her in this publication ban. 10:09 At the stage when we deal with that, she -- and I 6 7 have not yet decided whether -- to what extent we need evidence from her, but it may be that I will 8 9 address a further publication ban for her at that 10 time. 10:09 11 I have prepared, to assist us a 12 bit this morning and next week and throughout, a 13 listing of these victims with location and dates, and if I could have document 325549, please. 14 And what I have done -- and these are the five that 15 10:10 we will be focusing on in the coming week. 16 And 17 again the first one is (V1)----- and you will 18 see I have put the maiden name in brackets, she 19 now goes by (V1); there is the date of the 20 assault, the location, 18th Street between 10:10 21 Avenues G and H -- and I'll have a map here in a 22 moment -- and the police file, and then carrying 23 on for (V2)-----, (V3)-----, 24 (V4)-----, and (V5)-----. 25 I should comment about the 10:10

— Meyer CompuCourt Reporting =

= Page 7923 =

	1	police files. We, and we will be hearing
	2	evidence about this a little later on in these
	3	proceedings, but the police file for (V1)-,
	4	(V2), and (V3) are not in existence
10:11	5	other than a couple documents which I'll touch
	6	on, and back I think in 1990 efforts were made by
	7	the police, and in fact I think the Police
	8	Commission conducted an investigation and
	9	concluded that these files were destroyed at some
10:11	10	earlier date, and so there are limited documents
	11	from (V1)-, (V2) and (V3)
	12	We do have the original
	13	statements that they gave and in the case of
	14	(V1)- I think we have one police report that I
10:11	15	think they were obtained from other sources from
	16	other files; in the case of (V2),
	17	there is some reference on the Gail Miller murder
	18	file and investigation reports that touch on
	19	that; and for the (V3) matter all we've got
10:11	20	is the statements; (V4), there was no
	21	police file opened as far as I'm aware, and I
	22	think the investigation, if I can call it that,
	23	of her was dealt with on the Gail Miller file;
	24	the (V5) file, there is a well,
10:12	25	there is a file with a number of investigation
		Meyer CompuCourt Reporting



= Page 7924 =

		с.
	1	reports and statements, so that file appears to
	2	be more or less intact. So I have put the police
	3	file numbers here because we do refer to them
	4	from time to time. So I'll come back to this
10:12	5	document, I think this is helpful, so that we can
	6	keep the dates, times, and particulars.
	7	The locations, these are my
	8	words from the reports, I think they are fairly
	9	accurate as to the location where the incidents
10:12	10	took place. If I could maybe call up the map, I
	11	have got a document ID as 164351, please. Sorry,
	12	164351. And I'm sorry, I don't know who the
	13	author is of this map but it's a print of a City
	14	of Saskatoon map, and if we can just go through
10:13	15	them in order, and I will try and identify.
	16	So the (V1)- assault, which was
	17	October 21, 1968, there's an X there it's not
	18	a very good and that's 18th Street between
	19	Avenue G and H. And the other landmarks, I
10:14	20	should just point out here, they are X for
	21	Miller, that is where her body was found right in
	22	the circle there, the X Miller is her home, and
	23	the X Fisher is the Cadrain residence. So I
	24	think maybe if we can just blow up that area, we
10:14	25	have seen that before, and so again the dot there
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1 is where Gail Miller's body was found in the back alley, the X being her house on Avenue O, and 2 3 Fisher being the Cadrain residence. If we could just go back to the 4 5 main map we will also hear some evidence that at, 10:14 I think it was actually November 13th, 1968, 6 7 thereabouts, that Larry Fisher moved to the Cadrain house on Avenue O, and I think prior to 8 9 that he was in Avenue E or Avenue F over in this 10 vicinity. Again, we'll get evidence about that, 10:15 11 as to where he lived at the time prior to the 12 Cadrain residence. So I think at the time of 13 the -- the (V1)- was the first assault, Avenue E 14 and F; the next one was (V2)---- about three weeks later, and I believe that is right there, 15 10:15 16 Avenue E between -- 18th Street between Avenue E 17 and F; and then November 29th, 1968 was 18 (V3)-----, which is over here -- and we will 19 hear some evidence that, at the time, Mr. Fisher 20 was employed at the university working on 10:15 21 construction -- (V4)----- is right in that 22 vicinity, and she reported on the morning of Gail 23 Miller's murder at, and I believe her statement 24 says 7 :07 a.m., that she was assaulted or 25 accosted by an individual on the street and a 10:16

Page 7925 =

— Meyer CompuCourt Reporting

Sexual Assaults Read-ins by Mr. Hodson Vol 40 - Thursday, April 14th, 2005

Page 7926 1 number of years later she identified Larry Fisher 2 as the person who did that, and there was no 3 charge laid for that to my knowledge. 4 And the last one is 5 (V5)----- over here on Avenue V and that was 10:16 February 21, 1970 and that was after Mr. 6 7 Milgaard's conviction, and we'll be hearing 8 evidence later about, that should be Pambrum, not 9 Pamprum, and that is a relative of Mr. Fisher's, 10 and there's some evidence about whether or not 10:16 11 Mr. Fisher may have accessed a vehicle from 12 Mr. Pambrum and again we'll hear some evidence 13 about that. 14 COMMISSIONER MacCALLUM: One was on 15 Temperance Street, Mr. Hodson. Where is that? 10:16 Temperance? 16 MR. HODSON: Maybe we can blow 17 up this area for -- sorry for using that term, 18 Ms. Knox -- but Temperance is the (V3)----- and 19 it was on -- I'll just get my bearings here. 20 (V3)----- was on Temperance and Wiggins, right 10:17 21 in that vicinity, and I believe that's the 22 apartment block and this may have been -- no, 23 it's actually in this vicinity on Temperance and 24 Wiggins. 25 COMMISSIONER MacCALLUM: 10:17 Okay.

——— Meyer CompuCourt Reporting -



		Page 7927
	1	MR. HODSON: That's over in the university
	2	area, and that was the attempted assault and a
	3	car came along and the assailant, Mr. Fisher,
	4	fled the scene.
10:17	5	I'm informed that the author of
	6	this map is Mrs. Milgaard. You spelled Pambrum
	7	wrong.
	8	With that, let me just tell
	9	you, Mr. Commissioner, what I propose to do today
10:18	10	and next week and how I propose to put this
	11	evidence in.
	12	As we all can appreciate, there
	13	is some sensitivity with these victims in having
	14	to go through the details of the attacks and the
10:18	15	evidence is necessary before this Commission to
	16	find out what happened and how they described the
	17	incident and the assailant, etcetera, it's
	18	important for this Commission to hear that.
	19	Rather than have the witness on the stand and
10:18	20	have me go through the details with them, they
	21	have all already told their story on a number of
	22	occasions and all of them I believe except
	23	perhaps (V4) have told them at the Fisher
	24	trial under oath and they've described the
10:18	25	circumstances and been cross-examined by Mr.

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= Page 7928 =

	1	Fisher's counsel, so I propose to read in today
	2	and in part next week those particulars. The
	3	witnesses have asked not to be present when that
	4	gets read in, so although it may be a bit out of
10:19	5	the ordinary, what I propose to do is to read in
	6	some of the evidence today and then when the
	7	witnesses are called I will not have to go
	8	through in detail all the documents as I have
	9	done with other witnesses.
10:19	10	As well, when they are here
	11	next week, the arrangements that we have made
	12	with them, they have expressed a reluctance to be
	13	in this room with us and so we will have them in
	14	a room upstairs at this hotel, they will be sworn
10:19	15	in and we will have a video camera with a monitor
	16	here for examining counsel to see and for the
	17	Commissioner to see and they will have a computer
	18	screen and we'll be able to examine them without
	19	them having to be present in the room. I've also
10:19	20	indicated to them that I do not intend to go
	21	through any of the explicit details of the
	22	attack, although I will have to touch on some of
	23	the statements and that, and I've also indicated
	24	to counsel that if they feel the need to ask
10:20	25	questions about the actual incidents, that they

Page 7929 = 1 seek your permission before they do so and I 2 think that's been agreed by all. 3 So today I propose to go through just three of the assault victims, if I 4 5 can call them that, and that's the first three, 10:20 (V1)-, (V2)----- and (V3)-----.These all 6 7 predated Gail Miller's murder, they were within a 8 couple of months, so I propose to go through the 9 documents and identify the important documents 10 for the parties and for the Commission and then 10:20 when we lead their evidence it will not be 11 12 necessary for me to go through these in the same 13 detail. 14 With (V4)-----, I don't 15 think it's necessary, I think I can go through 10:20 16 with her all of the documents when she's on the 17 stand and I propose to do that. With the last 18 witness, (V5)-----, that is a 19 post-conviction assault and so prior to 20 (V5)----- taking the stand next week I'll 10:21 21 probably take an hour while she's not here and 22 simply go through her documents, but I don't 23 propose to do that this morning. 24 I should also, just a couple of 25 other comments about sort of where this evidence 10:21

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1 fits in in this Commission and what it is that I 2 propose to have these witnesses tell us. 3 Obviously, and I think I said this at the outset, the issue -- these sexual assaults are an issue 4 5 in various aspects of what we're looking into and 10:21 we will certainly hear from police officers and 6 7 others as to what they did and how they reacted 8 and what effect these assaults had on the Gail 9 Miller matter. In our documents we have all 10 kinds of comparisons, summaries, reports where 10:22 11 people analyse and compare the dates, the times, 12 the incidents, the modus operandi, etcetera, of 13 these assaults, and that is all something we will 14 deal with. However, most of it is not something 15 that I will be getting out of these witnesses. 10:22 16 They are here to tell us what they know, what 17 they recall, what they went through. Later we'll 18 be calling others to say, okay, here's a 19 comparison of the five or the four. I do not 20 propose to put to each witness here's what Mr. 10:22 21 Fisher did to another victim, is this close to 22 what he did with you and to go through that, so 23 again by not going through that, I'm not saying 24 that it won't be done, but it just won't be done 25 through these witnesses. And as well on the 10:22

Page 7930 :

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Page 7931 = documents I have not, and I don't intend at this 1 2 point to go through the various comparisons. Α 3 number of parties, the RCMP, Mr. Henderson, the 4 Milgaard family, a number of counsel, there are a 5 great number of analyses of the various assaults 10:23 6 and those documents and, as I say, those we'll go 7 through later. 8 I'm wondering, 9 Mr. Commissioner, before I dive into the 10 documents, whether now might be an appropriate 10:23 11 time to break for the morning? I can go for 12 another --13 COMMISSIONER MacCALLUM: It would. 15 14 minutes, please. 15 (Adjourned at 10:23 a.m.) 16 (Reconvened at 10:45 a.m.) 17 MR. HODSON: So we'll start, Mr. Commissioner, with the documents and what I 18 19 propose to do is identify for the most part for 20 the record the documents we have, what they are 10:45 21 for. In some cases I will be reading short 22 portions of it, in other cases I'll be simply 23 identifying as to what they are. 24 I propose to go through

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10:45

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chronologically starting in 1968 and I'll be



		Vol 40 - Thursday, April 14th, 2005 Page 7932
		Fage 1932
	1	dealing with (V1)-, (V2) and (V3)
	2	together and then once we get to 1993 and into
	3	their evidence at the Fisher trial I'll deal with
	4	them separately.
10:45	5	So the first document is 074797
	6	and this is (V1) this is an investigation
	7	report, it's not a very good copy, but maybe if
	8	we could just enlarge that area, please, and I
	9	believe this is there may be one other
10:45	10	document, but I believe this is the only
	11	investigation report from the (V1)- file. You'll
	12	see the occurrence number at the top, 10173,
	13	which refers to that file, and it's (V1)
	14	and it's October 22nd, 1968, 2:25 in the morning,
10:46	15	and morality Sergeant Vern Passet, it's his
	16	report, and he says that he received a call from
	17	a Constable Bolton, requested that he attend at
	18	the station with the tracking dog in regards to
	19	an alleged rape.
	20	"Upon arrival at the station I was met
	21	by Morality Sergeant Gryba and we
	22	proceeded to the scene where the alleged
	23	offence was to have taken place. At
	24	this time it was learned that the
10:46	25	morality section was interested in
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1 locating a pair of blue jeans owned by 2 the complainant." 3 And then he goes on to describe with the tracking dog and what he found. So this is an 4 5 investigation report with respect to the (V1)-10:46 rape as it was called at that time. 6 7 Next if I could call up 182921 8 and these are Officer Cressman, and Ben Cressman, 9 and we will be hearing from Mr. Cressman at the 10 police phase next month, or in June, and these 10:47 11 are from his notebook that he -- you'll see at 12 the top I think in 1991 he handed that over to 13 Sergeant Pearson and this details his attendance 14 at 11:35 p.m. at 528 Avenue G South, which is 15 where (V1)----- was, and goes through the 10:47 16 I don't propose to go through these notes notes. 17 in detail because they end up, I think they 18 basically parallel what's in (V1)------19 statement, but if I could go to 182924, please, 20 and you'll see here the description of the 10:47 21 suspect in Mr. Cressman's notes, 5'2" to 5'4", 22 small build, dark hair, dark sweater and slack s. 23 Hair hung down over face - short at back, and 24 then I think 12 midnight and what he took 25 possession of, and the other details, as I say, 10:48

Page 7933 :

— Meyer CompuCourt Reporting

= Page 7934 =

are in the statement.

1

	•	
	2	The next document is in fact
	3	(V1) statement and that's 042504 and
	4	again you can't see it very well, but I think
10:48	5	it has the occurrence number, maybe we can just
	6	zoom in the top right, I believe that's the
	7	occurrence number. Maybe not. Yeah, that is,
	8	10173 I think, October 22nd. Just back to the
	9	main document. And it's (V1) handwritten
10:48	10	statement, and you'll see at the bottom morality
	11	officer Cressman took the statement. We do have
	12	a typewritten version of this which will assist
	13	me in going through it, if I can call up 042522,
	14	and you'll see this is (V1) statement,
10:49	15	she's 22 years of age at the time and she talks
	16	about the
	17	"On Monday night, October 21st at about
	18	10 p.m., I left the house 528 - Avenue G
	19	South with my 12 year old cousin
10:49	20	(Redacted) of the same address."
	21	If we can just scroll down, please, and I will go
	22	through I think her description of the attack so
	23	that we have this on the record. She says:
	24	"When I got to Avenue G and 18th Street
10:49	25	I heard a sniff and thought it was a
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Sexual Assaults Read-ins by Mr. Hodson Vol 40 - Thursday, April 14th, 2005

		Page 7935
	1	dog, I didn't see anyone. I then walked
	2	west on 18th Street on the north side of
	3	the street. There is no sidewalk only a
	4	footpath. When I got to the lane which
10:49	5	runs north and south between Avenue G
	6	and H a man grabbed me with his last
	7	hand. He put his left hand over my
	8	mouth and put a knife in front of my
	9	chest with his right hand, holding it
10:50	10	close to me. When he put his hand over
	11	my mouth I screamed as loud as I could
	12	and bit his fingers as hard as I could.
	13	He said don't you dare say anything or
	14	I'll have you with the knife. I also
10:50	15	tried to push him away and run away but
	16	I couldn't. He grabbed me harder by the
	17	mouth and waved the knife in front of
	18	me. My glasses broke and fell on the
	19	ground when he put his hand on my mouth,
10:50	20	either him or he stepped on them when
	21	they were on the ground. I struggled to
	22	get away and it seems to me he pushed me
	23	on the ground but I was real scared and
	24	I can't really remember.
10:50	25	He pushed me with his body down
		Mover CompuCourt Penerting

Sexual Assaults Read-ins by Mr. Hodson Vol 40 - Thursday, April 14th, 2005

= Page 7936 =

	1	the lane towards 19th Street and I
	2	stopped so he waved the knife in front
	3	of me and said keep going. I said
	4	something about my glasses and he
10:50	5	replied never mind about the glasses
	6	keep going. I stopped several times
	7	going down the lane; he'd say keep going
	8	and give me a push. He always kept
	9	behind me so I couldn't see his face.
10:50	10	He took me about halfway down the lane
	11	and told me to undress. I said I
	12	wouldn't so he stuck the knife in my
	13	back and I took my coat off and put my
	14	purse on the ground along with my coat.
10:51	15	Then he said in a rough voice take
	16	everything right off. He made me stand
	17	with his back to him. I took everything
	18	off except my two nylon stockings. He
	19	told me to lie down on my coat and when
10:51	20	I lied down on the coat he took my
	21	blouse and turned away so I couldn't see
	22	his face. Then he laid on top of me. I
	23	was lying down on my back. Just before
	24	he put the blouse in my mouth I said
10:51	25	where's the knife, and he said just
		Meyer CompuCourt Reporting



= Page 7937 =

never mind the knife.

1

	'	nevel mind the knile.
	2	He held my right hand with one
	3	of his hands above my head, and with his
	4	other hand he was trying to spread my
10:51	5	legs apart. I was trying to kick him.
	6	I asked him about the knife and he said
	7	he didn't have it in his hands. He told
	8	me to feel his hands and I did, the
	9	knife wasn't in them. He forced his
10:51	10	penis into me and had intercourse for
	11	about 10 minutes. When he was finished
	12	he got up and said keep that shirt on
	13	your face, I'll just see if anyones
	14	coming. I lifted my head to get a look
10:51	15	at him but I couldn't see too good and
	16	could only see his long hair hanging
	17	down over his face. He told me to put
	18	my head down and keep quiet. Then he
	19	grabbed my blue jeans and I tried to see
10:52	20	what he was taking as I thought he was
	21	after my purse but I could only see his
	22	outline through my blouse. He also said
	23	stay there till I come back. I heard
	24	him moving in the leaves and then I
10:52	25	couldn't hear him any more so I peaked
		Meyer CompuCourt Reporting

= Page 7938 =

	1	around the corner of the two garages and
	2	I couldn't see him. When he left he was
	3	standing at the north end of the garage.
	4	When he told me to lie down it
10:52	5	was between two garages. When I got up
	6	I quickly put on my panties and picked
	7	up my shoes, brazier, girdle and put my
	8	coat around me and ran to a house on
	9	Avenue G right near where this happened.
10:52	10	There was a light on at this house but
	11	no one answered when I knocked. I
	12	didn't see where this man went after he
	13	left me.
	14	When I got no reply at this
10:52	15	house on Avenue G in the 400 block I ran
	16	home, and unlocked the front door and
	17	ran upstairs and told my Aunty that I
	18	was walking by a lane and some man had
	19	put his hand over my mouth and showed me
10:52	20	a knife. I never told her he had raped
	21	me, only that he took my jeans. I was
	22	crying at the time, then I went in my
	23	bedroom, and she said I'll go phone the

10:53 25

24

I threw my coat on my bed and

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police.



Page 7939 : 1 my Aunt noticed some blood on it. Ι 2 also noticed some blood on my panties 3 after this. I might add that I am a virgin and when he had intercourse with 4 5 me it was very painful even after I got 10:53 The blood on my panties and coat 6 home. 7 was flesh blood from this. 8 I am not presently 9 menstruating, and my last period was 10 about 2 weeks ago. 10:53 My aunt phoned the police and 11 12 they arrived in a few minutes, about 5 13 minutes later a plainclothes policeman 14 arrived and took all my underclothing 15 and coat. 10:53 16 As far as I can remember I 17 arrived home about 11:15 a.m. 18 I did not wash any part of me 19 before or after the police got there." 20 And then just down at the bottom, please: 10:53 21 "The man who grabbed me in the lane 22 would be quite young about 18 years old, 23 he had dark hair hanging or down over 24 his face, short at the back was about 25 5'2"-4" tall, quite small not very 10:53

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		Vol 40 - Thursday, April 14th, 2005
		Page 7940
	1	heavy, wore dark coloured clothing,
	2	trousers and sweater, no hat or glasses.
	3	I might add he only undid his
	4	zipper and pulled his pants down
10:54	5	partway.
	6	I might also add, when he was
	7	on top of me he said, I've seen you lots
	8	of times before; I said where and he
	9	said, Oh! around.
10:54	10	Before the policeman took me to
	11	the hospital I showed him where it
	12	happened in the lane and he found my
	13	glasses broken in the lane near 18th
	14	Street and my bottle of 7 Up and one
10:54	15	nylon between the two garages."
	16	So that's the statement of (V1) given to
	17	the police on that day.
	18	The next document is 042511 and
	19	again this has the same occurrence number and
10:54	20	it's a Saskatoon police exhibit and seized
	21	articles record and I'll refer to some of these
	22	later, so I just wish to go through, and it's
	23	Officer Cressman in morality who signed this, but
	24	there's nylon stockings, a pair of blue panties,
10:54	25	a girdle, blouse, and down here at the bottom, a
		Never CompuCourt Peperting

= Page 7941 =

	1	blue checked cloth coat that were seized from
	2	(V1) or found at the scene and the
	3	purpose of the seizure is examination for seminal
	4	stains and here for corroborative evidence, and
10:55	5	again we'll come back to this a bit later.
	6	So next in the sequence of
	7	events is the (V2) assault which
	8	took place on November November 13th, 1968.
	9	We do have a police statement from her, it's
10:55	10	039935, and so this is her handwritten statement.
	11	We'll just on the top right, expand that, and
	12	you'll see the occurrence number there of 10910
	13	of '68 and this is November 14, 1968. Go back to
	14	the main document. And this is Morality Sergeant
10:55	15	Gryba I believe who took this, Mr. Gryba is
	16	deceased, and we do have a typewritten version of
	17	this at 071269. Probably there's a different doc
	18	ID for that. I may have taken a partial. So for
	19	the record, 071267, if we could go to that's
10:56	20	the doc ID and this is, I'll be dealing with this
	21	later, this is her 1991 statement, but attached
	22	to that is a typed version of the 1968 statement.
	23	My apologies for not giving the doc ID. So here
	24	we have part of that document, 071269 is someone
10:57	25	has typed (V2) statement and I'll go
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Page 7942 : 1 through parts of that, and again this is November 2 14th, the statement, and this is referring to November 13th as the date of the incident. 3 She 4 says: 5 "At about 7:40 p.m. or 7:45 p.m. 10:57 November 13, 1968 I left home to go see 6 7 my boyfriend at 523 Avenue H South. Ι 8 walked south on Avenue D to 18th Street 9 West, then I was walking west on the 10 south side of 18th Street, when I was 10:57 between Avenue E and Avenue F I saw a 11 12 person coming towards me, when this 13 person just got passed me he turned 14 around and grabbed me from the back, his 15 left hand over my mouth and the right 10:57 16 hand which was holding a knife was against my throat. I noticed that this 17 18 person smelled of oil and gasoline. 19 This man then dragged me down 20 the alley south between Avenue E and 10:58 21 Avenue F 500 block, he dragged me in 22 beside a garage and then he made me take 23 my clothes off. A white trench coat 24 with brown trim at collar and (pockets?) 25 and brown buttons, then he took my dress 10:58

— Meyer CompuCourt Reporting -

= Page 7943 =

	1	off bright orange color, my bra was ther
	2	taken off, white color, then slip orange
	3	color, then my black panties and girdle.
	4	He had his arm around my neck while he
10:58	5	undressed me. He then put the coat on
	6	the ground and forced me down onto it.
	7	This person then got on top of me and
	8	had intercourse at this time the knife
	9	was right above my head, I turned my
10:58	10	head and I noticed that the knife was a
	11	jackknife with a silver color handle
	12	with 2 block dots on it.
	13	When this person was through he
	14	got up, and told me to sit up and turn
10:58	15	my head towards 18th Street. I took a
	16	look at this person and it was the same
	17	person who I had met on 18th Street.
	18	Then he told me to stand up. This
	19	person then picked up my coat, dress and
10:59	20	my bra and ran north towards 18th
	21	Street. I then grabbed my shoes and rar
	22	to the house in front of the garage this
	23	is 523 Avenue E so I told the people
	24	there what had happened and to call the
10:59	25	police. I then phoned my boyfriend
		Meyer CompuCourt Reporting

Page 7944 : 1 Robert Pencenda(?). I would describe the person who 2 3 attacked me as follow, 5'5" to 5'6", 4 quite young possibly 18 to 25 years, 5 medium build, dark hair kind of curly 10:59 hanging over his forehead, thin face, 6 7 harsh voice wearing white hard hat, not 8 perfectly clean, jacket was a rough 9 cloth material with gold and black 10 checks, dark trousers was wearing work 10:59 11 boots. This person smelled of oil and 12 gas. 13 I would recognize this person 14 if I saw him again. 15 When this person first grabbed 10:59 16 me I screamed, this person told me to 17 shut up or he would slit my throat, so I 18 didn't do any more screaming. 19 I was not a virgin at the time of this attack." 20 10:59 21 And that's signed before Officer Gryba. The 22 next -- and there's no police report for either 23 of the (V1) - or (V2) ---- statement as we've seen 24 in other cases that details those incidents. 25 The next one is the (V3)-----11:00

— Meyer CompuCourt Reporting =

= Page 7945 =

	1	statement and if I could call up 065330, and
	2	unfortunately this isn't a very legible copy and
	3	I was not able to locate a typed version. I will
	4	have our staff prepare a typed version next week
11:00	5	when the witness is here, and you'll see at the
	6	top that this is referencing the (V3) file
	7	number 11435 of '68. Go back to the main
	8	document, please, and it's Morality Detective
	9	Mann, the bottom there, who is the witness to the
11:00	10	statement, and if we could just call this out and
	11	I'll go through parts of this. It says:
	12	"At approximately 9:55 p.m. evening
	13	November 29, 1968 I left the U of S
	14	library and commenced to walk home via
11:01	15	Wiggins Avenue. I was walking south on
	16	the east sidewalk in the 200 block north
	17	and as I approached Temperance Street I
	18	was approached by the following
	19	described male person. About 20 years
11:01	20	old, 5'6", rather long dark hair ear
	21	length with side burns curling up at the
	22	ends, medium build, wearing a dark waist
	23	length jacket, soft material. At about
	24	this same time I observed a lady whom I
11:01	25	believe is Miss Brown who teaches oral
		Meyer CompuCourt Reporting

Page 7946 : 1 French at the university. Miss Brown 2 was approaching the stairs at the west 3 end of the apartment block situated at 4 the northeast corner of Wiggins and 5 Temperance Street. The male person 11:01 asked me if I knew where the Ferguson 6 7 block or some such place was -- " 8 And I can't make out the rest, those words there, 9 I'm not sure it matters, 10 "-- trying to locate his uncle." 11:02 I think: 11 12 "-- as he was trying to locate his 13 uncle. I told him maybe the name of the block was on the other door and 14 15 suggested he should try the phone 11:02 16 directory and I left. I continued 17 walking south in the 100 block Wiggins 18 Avenue by the drug store and then 19 realized he was following. He was 20 mumbling something under his breath and 11:02 21 I said I think there are no apartment 22 blocks up further as I know." 23 I think this says: 24 "When having walked past the drug store 25 and about the -- " 11:02

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Page 7947 = 1 I can't make out that word, 2 "-- I was grabbed -- " 3 Again I can't make it out, "-- grabbed across the mouth from 4 5 behind. He told me not to make a sound 11:02 as he had a knife. I was then forced 6 7 down the alley and dropped my books. He 8 again told me to remain quiet and forced 9 me to the ground. He then sat on me 10 holding my hands ordering me to go with 11:03 him or he would use the knife. 11 He said 12 this wouldn't be the first time he had 13 used it. I continued to struggle to 14 free myself. He was holding a small 15 knife in his right hand and threatened 11:03 to use it if I didn't remain still and 16 17 keep quiet. My glasses had fallen off 18 and I was trying to pick them up and get 19 up when he said I didn't need to get up 20 to put my glasses on. It was then that 11:03 21 he unzippered my coat and I kept calling 22 for help and to try to free myself. 23 Suddenly the lights of a vehicle came 24 from the west end of the lane. Не 25 placed his hands over my mouth ordering 11:03

— Meyer CompuCourt Reporting –

Page 7948 : 1 me to keep quiet. The lights came close and he jumped up and ran away. 2 Two 3 young gentlemen approached me from the car and I asked for help requesting that 4 5 they take me home. I picked up my books 11:04 and upon arrival at -- " 6 7 I can't make out the address, 8 "-- I called the police. At least my 9 landlord called you." 10 And the statement completed and then at the 11:04 11 bottom it says: 12 "I should add, he was quite strong for 13 his size and said something about he 14 really liked it when he had to fight." 15 So that's the (V3)----- statement. 11:04 16 There's no other documents from the police file 17 or from any file that we have. 18 The next document in the 19 sequence is a newspaper article, 039527, and this 20 is a Star-Phoenix article, December 14th, 1968, 11:04 21 so this would be a couple of weeks after the 22 (V3)----- incident, and it says, the headline: 23 "Women Given Warning 24 Police have issued a warning to 25 11:04 women not to talk to strangers or walk

— Meyer CompuCourt Reporting =

	-	Vol 40 - Thursday, April 14th, 2005
		Page 7949
	1	in dark areas of the city if they can
	2	avoid it.
	3	They issued this warning after
	4	two instances of alleged rape and one
11:05	5	assault were brought to their attention.
	6	Police said the alleged rapes took place
	7	in Riversdale area and the assault took
	8	place in the university district.
	9	They said the alleged assailant
11:05	10	first talks to women and then takes them
	11	into alleys."
	12	Next, chronologically, we go to February 1, 1969,
	13	which is the day after Gail Miller's murder, and
	14	call up 106142. And the occurrence number here
11:05	15	is the Gail Miller file, 641, this is a report of
	16	Detective Sergeant Ray Mackie, and the date,
	17	again, February 1, 1969. And, actually, I
	18	referred to this paragraph when I was examining
	19	Mr. Spence yesterday and read the part about Nick
11:06	20	Canton, and he says here:
	21	"As a result of this",
	22	and again he is talking to his discussion about
	23	Les Spence and the Cantons:
	24	" a girl who is one of the
11:06	25	complainants in one of the rape files,
		Meyer CompuCourt Reporting

		Vol 40 - Thursday, April 14th, 2005 Page 7950
		Tage 7730
	1	(V2), was contacted and
	2	brought to Morality office where
	3	Morality Sergeant Oleksyn and I
	4	interviewed her and showed her a group
11:06	5	of photographs of assorted people which
	6	she was unable to identify anyone. The
	7	photo of Canton was then pointed out but
	8	she claimed that it did not look like
	9	the person who was responsible for the
11:06	10	rape of which she complained."
	11	So this would be February 1, 1969, and I believe
	12	it's either Jack Canton or Nick Canton that they
	13	talked to (V2) about.
	14	The next document, 106204, and
11:06	15	again this is February 4th, 1969, this is the
	16	Gail Miller file and Detective Sergeant Mackie,
	17	and it appears that he is this is the second
	18	report about the same meeting with (V2)
	19	Call out the bottom paragraph. It says:
11:07	20	"At 8:30 p.m., (V2), 412
	21	Avenue D South who had been a rape
	22	victim was brought to the Morality
	23	office where Morality Sergeant Oleksyn
	24	and myself showed her a group of photos
11:07	25	which included two colour photographs
		Meyer CompuCourt Reporting



		Vol 40 - Thursday, April 14th, 2005
		Page 7951
	1	which included the Canton brothers. Due
	2	to no identification being made of
	3	either of these two men, Morality
	4	Officer Lindgren and Phillips were
11:07	5	instructed to take this girl to
	6	Identification Department where a
	7	composite photo was made up by her."
	8	And, again, we have not, in our records, been
	9	able to locate the composite photo referred to in
11:07	10	this report.
	11	COMMISSIONER MacCALLUM: What was the date
	12	of that report?
	13	MR. HODSON: This is February 4th, 1969
	14	COMMISSIONER MacCALLUM: Okay.
11:07	15	MR. HODSON: but it refers to the
	16	February 1, 1969 meeting.
	17	COMMISSIONER MacCALLUM: Oh.
	18	MR. HODSON: The next document is 106566
	19	and, again, this is about three weeks after Gail
11:08	20	Miller's murder. And this is a document, a
	21	police report, and you will see at the top this
	22	is actually from (V2)'s file, or at least
	23	the investigation file, 10910/68. It's a
	24	document, Mr. Commissioner, that was provided to
11:08	25	us by the Saskatoon City Police as part of the
		Meyer CompuCourt Reporting

Page 7952 : 1 Gail Miller file, and again it's only my 2 speculation, but it appears that a copy of this 3 was sent to Detective Sergeant Mackie, and it may, may be -- as I say it's only my speculation 4 5 -- that a copy of this was put on the Miller file 11:08 at that time, and that's why we have a copy of it 6 7 and not other (V2)---- files. And the relevant 8 part here, and again this is from Morality 9 Officer Lewis who we will be hearing from in the 10 police phase. Actually if we could just go up to 11:08 11 the top please, I'm sorry, he says: 12 "Since last reporting on this file I 13 have had occasion to show the 14 complainant numerous photos of persons 15 that have come to our attention. 11:09 None 16 of the photos shown were identified as 17 the person responsible. On February 21st, 1969 after 18 19 having received information from 20 Inspector Nordstrum and Detective 11:09 21 Sergeant Mackie regarding a Chevy II Red 22 in colour bearing S.L. 243-755 and 23 operated by Martin Schluster, that had 24 been reported following females in the

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25

11:09

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City Park Area, it was arranged to have

		Vol 40 - Thursday, April 14th, 2005
		Page 7953
	1	(V2) taken to the Tech
	2	College 33rd and Idylwyld Drive north to
	3	view the students as they left classes
	4	between 3:45 and 4:45 p.m.
11:10	5	(V2) had a chance to
	6	see numerous persons emerge from the
	7	school and when the suspect enter his
	8	auto at approximately 4:35 p.m. she
	9	showed no signs of knowing him at all,
	10	she was then asked if the man in the
	11	auto was anything like the person
	12	responsible for raping her and she
	13	replied that it was not him nor did he
	14	look anything like the person."
11:10	15	So, again, that's one copy from the (V2)
	16	file.
	17	The next document that I wish
	18	to call up is 324671. And this, I should explain
	19	Mr. Commissioner, this is a new document that we
11:10	20	obtained from Mr. Joe Penkala, who will be a
	21	witness in the next phase, and when we
	22	interviewed Mr. Penkala a week or so ago he
	23	provided us with two binders of his own documents
	24	that he had. We have made copies of them, we
11:10	25	have numbered them, and they are in the process
		Mover CompuCourt Reporting

= Page 7954 =

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	1	of being put in the database for all counsel.
	2	There are approximately 20, if I can call them,
	3	new documents or documents that we haven't seen
	4	before, and it may be it may be Tuesday next
11:11	5	week before they are up on CaseVault so we will
	6	today, or at the latest tomorrow morning, Email
	7	to all parties copies of the new documents so
	8	that they have them for next week, and hopefully
	9	they will be up on CaseVault early next week.
11:11	10	Having said that, this is one
	11	of the documents that we obtained from
	12	Mr. Penkala that we had not received elsewhere.
	13	You will see at the top it has got two occurrence
	14	numbers, and those are the $(V1)$ - and $(V2)$
11:11	15	files, it's a letter dated March 18th, 1969, and
	16	it's from Lieutenant Penkala to Kerr with the
	17	RCMP. And we have seen letters similar to this
	18	where the police are requesting the RCMP lab to
	19	do work. And you will see in the caption, if we
11:11	20	could just call out and scroll down, it's re:
	21	Alleged rape (V2) and
	22	(V1), and it says "the following
	23	exhibits are being forwarded this date by
	24	personal delivery by Lieutenant C. Short." And
11:12	25	Exhibit A, it says glass slide containing vaginal
		Maure Courte Darastian

Page 7955 = 1 smear of (V2)-----; Exhibit B, one 2 pair of ladies green panties, stained, and those 3 are from the (V1)- -- you will recall earlier I showed you the exhibit list from (V1)-----, 4 5 and they described it as blue but I believe it's 11:12 the same garment; and Exhibit C, one ladies blue 6 7 plaid lined jacket, fur collar, bearing stain on inside lining, and that is, as well, one of the 8 9 exhibits the police obtained from (V1)-. It says 10 Purpose, examine Exhibits A the slide, B the 11:12 11 ladies panties, and C the ladies jacket for the 12 presence of human semen and if present attempt to 13 establish ABO agglutinogens, or something like 14 And then the Remarks, it says "this that. 15 examination may be investigatively related to 11:13 16 previous examinations conducted by your 17 laboratory in connection with Exhibit I, sample 18 of liquid, see your report number 138-69, March 19 12, 1969". 20 And so this report here of

March 12th, if I could call that up, it's 041 -let me just pause before we call that up. This is the letter with (V2)---- vaginal smear and two garments from (V1)- being sent to the lab. If we could then go to 041919, and this is the

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11:13 25

— Meyer CompuCourt Reporting =



= Page 7956 =

	1	March 12th report that Mr. Penkala was referring
	2	to in the letter, he referenced file 138-69, and
	3	this is an earlier report that the RCMP had
	4	provided relating to the murder of Gail Miller
11:13	5	and this is a it talks about "the following
	6	exhibits were received personally from Ident.
	7	Officer Kliev on February 7th", and if you could
	8	just go down to Exhibit I, which was what
	9	Mr. Penkala had referred to in his letter, and
11:14	10	that's the sample of liquid received frozen, and
	11	those are in fact the frozen lumps of snow that
	12	Mr. Penkala found shortly after Gail Miller's
	13	murder. If we could go to the next page of that
	14	document you will see where the lab had concluded
11:14	15	and reported to the police that Exhibit I was
	16	human seminal fluid highly probable from a
	17	secretor of Group A was found in Exhibit I1, the
	18	sample of liquid, and so that would be March
	19	18th.
11:14	20	The next document that I wish
	21	to refer to is an RCMP report, and it covers all
	22	three of these complainants, and we have seen
	23	this before. It's 250597, if we could go to the
	24	next page, please, and this is an RCMP report of
11:15	25	May 7th, 1969. And we've referred this through a
		Meyer CompuCourt Reporting

Page 7957 = 1 number of witnesses, it was prepared by Corporal 2 Rasmussen of the RCMP, and we will be hearing 3 from him in the police phase, and if we could go 4 to page 250602. 5 And just so that we have the 11:15 dates in order, the letter from Officer Penkala 6 7 to the lab was March 18th, 1969, that was the one sending the (V2)---- and (V1)- garments, and so 8 9 this date -- and this is a chronology of -- is 10 March 10th, 1969. If we could just go to the 11:15 11 next page, please, and this is talking about, if 12 we scroll down to paragraph 18, and this is in 13 relation to the Gail Miller matter and the --14 this is the RCMP talking. It says: 15 "Our Crime Detection Laboratory at 11:16 16 Regina advised that seminal fluid found 17 at the scene was very probably from a 18 secretor of Group 'A'. The Lab. defined 19 a 'secretor' as a person who secretes 20 their 'AB' blood grouping substance and 11:16 21 other body fluids. Copy of Lab. report 22 attached." 23 And that was the March 12th report that I just 24 referred to that talked about Exhibit I and the

existence of antigens. And then the report

25

11:16

— Meyer CompuCourt Reporting

Page 7958 = 1 carries on: 2 "It is mentioned that during the late 3 fall of 1968 the local police department 4 had reports of two rapes and one 5 attempted rape. These investigations 11:16 were conducted by the City Police with 6 7 negative results. Persons involved were as follows:" 8 9 Next page, and just scroll up at the top, and we 10 had previously looked at this document and had 11:17 11 redacted these names and so here are the three 12 referenced: (V1)----- and the offence 13 took place at approximately 8:00 p.m. of October 31, 31 October '68, which is wrong, it's October 14 21, in a lane of the 400 block between Avenue G 15 11:17 16 and H; B, (V2)----- and the 17 offence occurred November 13th, '68 in lane off 18 the 500 Block Avenue E South; and last Sheryl Lee 19 (V3)-----, offence reportedly took place 1960 --20 November 29th, '68. The report goes on to say: 11:17 21 "In these three instances the M.O. was 22 similar in that the male approached his 23 victim from the rear, covered their 24 mouth with his hand and pointed a knife into their back, forcing them down the 11:17 25

— Meyer CompuCourt Reporting =

Page 7959 = 1 lane. The descriptions of the assailant given by all three were very similar and 2 3 it appeared that the same person was involved. The assailant would force his 4 5 victim to undress at knifepoint and 11:18 always managed to stay in the shadows or 6 7 behind them in order that his identity 8 would not be detected. He would then 9 have the victim lie on her coat at which 10 time intercourse would take place. 11:18 In 11 the (V3)----- case, the assailant was 12 scared away as a result of lights of a 13 vehicle approaching down the lane." 14 And: 15 "As none of the exhibits obtained in any 11:18 16 of the above cases have been analyzed by 17 our Laboratory, ...", 18 and, again, the above cases being those three: 19 "... it was suggested that this be done 20 in order to establish whether or not the 11:18 21 person responsible in these incidents 22 was the same one responsible for the 23 Miller murder. Accordingly, on 20 March 24 '69 exhibits obtained from 11:18 25 (V2)----- and (V1)-----

— Meyer CompuCourt Reporting =

Page 7960 : 1 were transported to the C.D.L., Regina 2 for serological examination. These 3 included two smears on microscope 4 slides, one pair of blue panties and one 5 plaid jacket. Results of this 11:19 examination indicated agglutinogens of 6 7 Type 'A' were found on the blue panties 8 and plaid jacket. No attempt could be 9 made to determine the agglutinogens on 10 the slides as they did not provide 11:19 enough sample for the tests." 11 12 If I could just pause there, so that was the -- I 13 think that date of March 20 might be wrong, it 14 may have been March 18th, but in any event that's 15 the report, Penkala's letter, that I referred to 11:19 16 earlier. It carries on here: 17 "It is not known if (V1) - is a Group 'A' 18 secretor however, an attempt is being 19 made by the Saskatoon City Police to 20 obtain further samples such as saliva 11:19 21 for further examination. Statements 22 originally obtained from these girls by 23 the Saskatoon City Police are attached." 24 And then the report says: 25 "As a result of the foregoing, it is 11:19

Meyer CompuCourt Reporting

		Page 7961
	1	felt there is a strong possibility the
	2	three rapes and the murder are directly
	3	connected. In view of this, extensive
	4	interrogation was conducted with
11:19	5	(V2) with negative results. She,
	6	however, did indicate and named a person
	7	who was later interrogated and submitted
	8	to a blood test which indicated he was a
	9	member of the 'O' Group. These three
11:20	10	girls have been interviewed at length to
	11	no avail. All stated that they have not
	12	seen a person as described in their
	13	statement nor have they any idea who may
	14	have been responsible."
11:20	15	If we could then go to page 250607, and again
	16	this is still part of the same report but we skip
	17	ahead to March 28th, '69, and if we could call
	18	out paragraph 31. It says:
	19	"It is mentioned that FPS number 83968A,
11:20	20	Kenneth Arthur Dechenes, who has a
	21	lengthy record of sex offences, was
	22	observed in this City by Corporal Mosher
	23	approximately one week prior to this
	24	offence. Even though subject does not
11:21	25	fit the description of the suspected
		Meyer CompuCourt Reporting

= Page 7962 =

	1	attacker as given by (V1)-, (V2)
	2	and (V3), extensive inquiries were
	3	conducted throughout this province in an
	4	attempt to locate him but without
11:21	5	result. Records of the local Red Cross
	6	indicate subject to be a member of the
	7	'A' Group, therefore the Saskatoon City
	8	Police are continuing their efforts to
	9	locate him in order that he may be
11:21	10	interviewed. Also George Leslie
	11	Ryan, who has a record of rape and
	12	indecent assaults, was interviewed in
	13	this regard by our Regina GIS. shortly
	14	after this offence, and has been
11:21	15	eliminated. Subject also does not fit
	16	the description as given in the
	17	statement of the foregoing girls.
	18	Records at the local Red Cross reveal
	19	Ryan is a member of 'A' Group."
11:21	20	Then down at the bottom:
	21	"As it was believed that the rapes which
	22	occurred in this area in the late fall
	23	of 1968 were definitely connected to
	24	this offence and were committed by the
11:21	25	same person, local individuals who have
		Meyer CompuCourt Reporting

Page 7963 : 1 been interrogated have fitted the descriptions as given by (V2)----, 2 3 (V1) - and (V3) -----. Attempts to uncover further information in this 4 5 respect have been to no avail. 11:22 Searches, etcetera have been conducted 6 7 in an effort to recover clothing lost by 8 the victims, also without result. After 9 extensive investigation it is felt that 10 the person responsible was unknown to 11:22 Miller in view of statements of 11 12 immediate friends, family and 13 acquaintances." 14 At the top, please: 15 "I have recently been advised that the 11:22 16 Saskatoon City Police have recovered 17 approximately 15 pairs of womens' 18 panties, brassieres, pyjamas, etcetera 19 which were hidden under an old home made 20 raft in the lane in the 400 block, 18th 11:22 21 Street West, Saskatoon. Immediate 22 enquiries by the City Police have proven 23 negative. They advise that they are 24 presently carrying out further 11:22 25 investigation to establish the

— Meyer CompuCourt Reporting



	I	Vol 40 - Thursday, April 14th, 2005 Page 7964
	1	owner(s)."
	2	And I could add, Mr. Commissioner, that we've
	3	been unable to find any reference to this in any
	4	of the other documents, the part I just read. So
11:22	5	that's the RCMP report.
	6	If I could next go to document
	7	324672. And again, I should identify, this is a
	8	new document as well, and this is a document that
	9	we received from Mr. Penkala in the last while,
11:23	10	and you will see at the top it has occurrence
	11	numbers referencing the (V1)- and (V2)
	12	files, it's dated April 1, 1969, it has a
	13	received stamp Saskatoon Police Department of
	14	April 3, 1969. And if we could just call out
11:23	15	that, and just scroll down, please. You will see
	16	it's (V2) and (V1)
	17	alleged rape, and it says "the following exhibits
	18	were received personally from Lieutenant Short of
	19	Saskatoon City Police, at the Regina Crime
11:23	20	Detection Laboratory on March 18th, 1969",
	21	and there's Exhibit A, B, and C, and you will
	22	recall I went through those documents in the
	23	March 18th letter. The two smears on the
	24	microscope slides were from the (V2) matter,
11:24	25	and the blue panties and the plaid jacket were

	1	from (V1) And scroll down, please, it says the
	2	Purpose, to conduct a serological examination on
	3	Exhibits A, B and C, it says here they were
	4	examined for the presence of human seminal fluid
11:24	5	and the conclusion was human seminal fluid was
	6	found on all three exhibits. If we could go to
	7	the next page, please, and paragraph 4, call out
	8	that. It says "agglutinogens of type A were
	9	found in the stained areas tested on Exhibits A,
11:24	10	B, and C", and those are the (V1)- exhibits. And
	11	the Remarks, if we could just scroll down to
	12	paragraph 3 or, pardon me, paragraph 1, with
	13	reference to paragraph 2 of the Conclusions "this
	14	indicates that some portions of the stained areas
11:24	15	were produced by a group or by a person of
	16	group A, however there is no way of knowing
	17	whether this portion was the seminal fluid,
	18	blood, or both". It says "no attempt could be
	19	made to determine the presence of agglutinogen on
11:25	20	Exhibit A as the smear on the slides does not
	21	provide enough sample for the test", so that was
	22	(V2) And 3, "the above results would
	23	become more significant, however, if it were
	24	known whether or not (V1) was a group A
11:25	25	secretor. In order to determine this, it is

= Page 7965 =

= Page 7966 =

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	1	suggested that a blood sample and saliva sample
	2	from this person be submitted for examination.
	3	The saliva sample could be best obtained by
	4	having (V1) chew lightly on a piece of
11:25	5	clean cloth, such as the corner of a clean
	6	handkerchief for a few seconds, mark the area,
	7	then allow this to dry at room temperature before
	8	submitting to the laboratory. Exhibits A, B and
	9	C are being retained. Partially completed
11:25	10	diary-dated reply forms are attached." So this
	11	is April 1, 1969.
	12	If I could next go to 106 or
	13	pardon me at 106652, and again just to go
	14	through chronologically, this is a report, it's
11:26	15	actually dated April 7th, it doesn't show up
	16	there, and it's Detective Sergeant Mackie. Just
	17	call out the last paragraph, it says:
	18	"Clell Crook stated that he had never
	19	been to 130 Avenue O South and did not
11:26	20	know Gail Miller or any of the other
	21	people that resided at 130 Avenue O
	22	South. Crook could offer no information
	23	as to any possible suspects in regards
	24	to these offences. Crook was questioned
11:26	25	in regard to the two rapes which were
		Meyer CompuCourt Reporting

Page 7967 = 1 reported in the fall of 1968 and Crook 2 indicated that he was aware of these and 3 he was acquainted with the (V1)- girl. Crook was not aware of his blood 4 5 grouping." 11:26 And another report of the same date, if we call 6 7 up 004100, and again it's a reference, I think, 8 to the same discussion, if we could just call out 9 that paragraph. And this is a report of 10 Detective Sergeant Mackie: 11:27 "On March 31 ....", 11 12 Actually, that may be: 13 "... Cecil Joseph Crook ... was 14 interviewed with regards to this murder. 15 Crook was unable to offer any assistance 11:27 16 and denied being responsible. Crook did 17 not know his blood grouping but believed 18 that on the morning of this offence he 19 was at home. When interviewed in regard 20 to his associations and knowledge of 11:27 (V2)---- and (V1)-, rape occurrences, 21 22 Crook was acquainted with the (V1)-23 family and denied being responsible for 24 either of these offences also. He was 25 unable to supply with his blood grouping

— Meyer CompuCourt Reporting =

= Page 7968 =

		3
	1	and as he was a prisoner he was not
	2	taken to Red Cross for this to be done."
	3	Next if we could go to 025157. And this is a
	4	report, you will note it's the Gail Miller
11:28	5	occurrence report or the occurrence number April
	6	15th, and it's a report prepared by Morality
	7	Officer Bev Cressman, and he was the officer who
	8	took the statement from (V1) And I'll
	9	just go through parts of this, and so this is:
11:28	10	"Regarding this file, on April 7th, I
	11	called at 210 Avenue N South, the home
	12	of (V1) aunt and located
	13	(V1) She was advised that I
	14	wished to show her some pictures in
11:28	15	regards to the (V1)- rape file, and that
	16	I wished a Saliva Test and a blood test
	17	from her. She agreed to this and was
	18	transported to the Police station. At
	19	the Police station (V1) was shown
11:28	20	a group of 19 photos - snapshots of
	21	various people picked at random from the
	22	Morality Office Drawer. Amongst these
	23	photos was included one of David
	24	Milgaard, (this last photo was obtained
11:29	25	from Detective Sergeant R. Mackie).
		Meyer CompuCourt Reporting

Page 7969 : 1 (V1) ----- looked at these photos which were all placed on the desk at one time, 2 3 and immediately picked out the photo of David Milgaard and one other male person 4 5 whose identity at this time is not known 11:29 She stated that she had 6 to me. 7 definitely seen both these persons 8 around before somewhere however couldn't 9 remember where or when. She could not 10 identify any of these persons as the one 11:29 11 who may have raped her. The position of 12 these photos was noted in my memo book. 13 Both the photos which were picked out 14 were initialed by (V1)----- and myself 15 and the time and date placed on back of 11:29 16 They are presently stored in an them. 17 envelope in my locker in the Morality 18 Office along with the other 17 photos. 19 A Saliva test (sample) was then 20 taken from (V1)----- on the corner of 11:29 21 two sheets of Kleenex tissue as per 22 instructions from the Crime Lab. in 23 Regina. The Kleenex were taken from a 24 new sealed package of Kleenex ... placed 25 in a clean plastic bag, initialed ... ", 11:30

— Meyer CompuCourt Reporting =

Page 7970 = 1 etcetera. 2 "(V1)----- was then transported to St. 3 Paul's Hospital emergency, where I met Dr. Brand. A blood sample in a vial was 4 5 received from Dr. Brand at 8:50 p.m. 11:30 taken from (V1)----- at 8:45 p.m." 6 7 And then so the next page, please. Actually, 8 sorry, if we could just do back to the first 9 page, if we could just go back to the bottom 10 paragraph. It says: 11:30 "Information had been received from an 11 12 informant that there was a man who 13 appeared at the Bus Depot on several 14 occasions when (V1)----- worked at this 15 location and it was believed by 11:30 16 (V1) ----- that this was the person who 17 had raped her, and was the same one who 18 was responsible for the murder of Gail 19 Miller. (V1)----- was questioned 20 regarding this information on a previous 11:30 21 occasion however denied any knowledge of 22 same. It was suggested by the informant 23 that (V1)----- was afraid to come fourth with this information to the 24 25 Police. 11:31

— Meyer CompuCourt Reporting



		Vol 40 - Thursday, April 14th, 2005
		Page 7971
	1	(V1) was again questioned
	2	regarding this information on April 7th
	3	and the following information was
	4	received.
11:31	5	(V1) states that she worked at the
	6	Bus Depot from approximately the middle
	7	of June till the end of June in 1968.
	8	During this time there was a young man
	9	who used to frequent the Bus Depot in
11:31	10	the afternoon before 4:00 p.m., and all
	11	hours of the evening. (V1) states
	12	that she worked in the kitchen however
	13	she had noticed this person in the cafe.
	14	(V1) further states that she only
11:31	15	knew that this man's first name was
	16	believed to be Vince (not known if this
	17	was a nick name), last name not known to
	18	her.
	19	she apparently used to see this male
11:31	20	person on the street and he would say
	21	hellow and they didn't converse any
	22	further. She had also seen him driving
	23	a red coloured delivery car for either
	24	Toons Kitchen or Canton, in either May
11:31	25	or June of 1968.
		Mayor CompuCaurt Paparting

Page 7972 = 1 she further advised that this person 2 used to talk to a waitress by the name 3 of Peggy - last name not known." And then some further information about this 4 5 individual which I don't need to go through. 11:32 And then down at the bottom: 6 7 "The blood sample was placed in my 8 locker M7 in the Morality Office. On 9 April 8th, this blood sample was wrapped 10 in a box along with the Saliva Samples 11:32 11 on the Kleenex, the box was sealed with 12 sealing wax, and initialed by myself and 13 turned over to ... L. Grant at 11:40 14 p.m., April 8/69 in regards to having 15 this parcel sent to the Crime Lab in 11:32 16 Regina. 17 (V1)----- was advised to 18 contact me should she remember where she 19 might have seen the two persons she 20 picked out. It might be noted that the 11:32 21 two pictures (V1)----- picked out were 22 not the same as the person who described 23 above had frequented the Bus Depot." 24 So, next, if we could go to 025566, and this is a 25 crime lab report, it's got the Gail Miller 11:33

— Meyer CompuCourt Reporting

1 occurrence file there, it's dated April 11th, 1969, and it references (V2)---- and (V1)-. 2 And 3 you will see under -- if we could just call out 4 that part, we don't have a -- you will recall 5 from the report I just read was April 7th, when 11:33 he obtained the blood and saliva sample from 6 7 (V1)----, we don't have, at least I don't believe we have a letter of transmittal from the city 8 9 police to the RCMP but this appears to be the 10 response back. 11:33 It says: "The following exhibits were received at 11 12 the Regina Crime Detection Laboratory, 13 via Registered Mail from the Saskatoon 14 City Police Department, on April 10, 15 1969:", 11:33 16 And it's Exhibit D "one liquid blood sample" and 17 E "one saliva sample", again those were both 18 taken from (V1)----- on April 7th. Purpose, 19 "to conduct a serological examination", and 20 carrying on under Data "Exhibit D was examined to 11:34 21 determine its blood group" and "Exhibit E was 22 examined for the presence of agglutinogens of 23 blood groups A and B". And under Conclusions, 24 Exhibit D, one liquid blood sample was found to 25 be of group O, and that was (V1)-----11:34

Page 7973 =

— Meyer CompuCourt Reporting

1 blood; and, second, no agglutinogens of blood 2 groups A or B were found in the saliva sample. 3 So that is April 11th, 1969. The next reference to the (V1)-4 5 rape, if I could call up 001499, and this is a 11:34 document that we have seen before, it's the five 6 7 page summary or document that has been put to a 8 few witnesses, and just at the top, and we don't 9 have a date for this, it's believed to be in May 10 of 1969, and I am certain we will be hearing 11:34 further evidence about this document from the 11 12 police, and it says: 13 "(V1)- rape, lane 400 block, Avenue G and H South, October 21, 1968. 14 15 Description 18 years, 5'2", tall, small, 11:35 16 dark hair, short at back and over face 17 at front. Dark sweater and slacks." 18 And then Miller file and some page references, 19 which we will be hearing more about in the police 20 phase, it says: 11:35 21 "(V1) - shown 19 spread on table from 22 which she picked Milgaard and another. 23 Done on April 7, 1969. 24 (V1) - blood group "O". 25 (V1) - clothing revealed to crime 11:35

Page 7974 =

— Meyer CompuCourt Reporting

1 laboratory that her attacker was "A" 2 group secretor." 3 So the next reference, moving chronologically, is document 042513, and this is a little bit 4 5 difficult to read, but this is on the (V1)- file, 11:36 6 if we can just zoom in the top right-hand corner, 7 it's got the occurrence number, you can't see it 8 very well, but it's 10173 I believe and it was 9 May 26th, 1969. If you can go back to the main document, and again Cressman, who was the fellow 10 11:36 who I believe was in charge of this file, and 11 12 there's some reference here, which I won't read, 13 about investigations, you'll recall that last 14 report about this fellow Vince who frequented the 15 Bus Depot, there's reference to that. I wonder 11:36 16 if I can just go down to the bottom. It says: 17 "To date I have been unable to locate Vince Silvester. 18 19 I would respectfully suggest 20 that due to the length of time this file 11:36 21 has been open and all leads have been 22 followed up, and nothing further has 23 been learned about the person 24 responsible this file be closed. In the 25 event that any new information comes to 11:37

Page 7975

— Meyer CompuCourt Reporting

	ĺ	Page 7976
	1	light this file could then be opened."
	2	So again that is I'm not quite sure of the
	3	source of that document, but that is a document
	4	that is from the (V1)- police file.
11:37	5	Next chronologically, skip
	6	ahead to October, 1970, and 012639, and the date
	7	of this is October 22nd, 1970 and we will be
	8	hearing evidence from other witnesses about Mr.
	9	Fisher having committed offences in Winnipeg and
11:37	10	with interviews with Saskatoon police officers in
	11	Winnipeg and then subsequent criminal
	12	proceedings, and this statement is October 22nd,
	13	1970, it's a typewritten version, and you'll see
	14	down at the bottom it's signed by Larry Fisher,
11:38	15	witnessed by E. Karst, and it's maybe we'll
	16	just go through this, it says:
	17	"You'll be charged with the assault and
	18	intended rape of (V3)
	19	of Saskatoon around the university area
11:38	20	on November 29, 1968."
	21	And just scroll down, please, and there's a
	22	warning there in the statement:
	23	"Q Do you understand the charge I have read
	24	to you?
11:38	25	A Yes.

	1	Page 7977
	1	Q The warning?
	2	A Yes."
	3	And then here:
	4	"Q Did you live in Saskatoon around
11:38	5	November of 1968?"
	6	And Mr. Fisher says:
	7	"A Yes, probably at 512 Avenue F South"
	8	And again when I showed the map earlier, I
	9	believe it was around November 13th, 1968 that
11:38	10	Mr. Fisher moved from Avenue F to the basement of
	11	the Cadrain house, and he carries on:
	12	"A or 1530 Avenue C North.
	13	Q Do you remember this assault we are
	14	talking about?
11:38	15	A Yes, but it doesn't seem that long
	16	ago.
	17	Q How did you get to this area of the
	18	city?
	19	A I don't remember, but I recall - now I
11:39	20	do remember getting off the bus at the
	21	set of lights past the top of the
	22	bridge.
	23	Q Then where did you go?
	24	A I walked towards the next set of
11:39	25	lights on College Drive and then seen

			Page 7978
			5
	1		a girl so I followed her up Wiggins
	2		towards 8th Street.
	3	Q	What did this girl wear?
	4	A	I think she was wearing something with
11:39	5		a zipper on the front.
	6	Q	Was she young or old?
	7	А	I think she was fairly young -
	8		probably in her twenties.
	9	Q	Do you remember anything else about her?
11:39	10	А	Yes, she was carrying books because
	11		they dropped when I grabbed her.
	12	Q	Where did you grab her?
	13	А	I think it was around or behind the
	14		drug store, past the apartment blocks.
11:39	15		I dragged her to the back alley and I
	16		think there was a ditch there I put
	17		her in and then I think I undid her
	18		sweater and I think I was on top of
	19		her when a car pulled up and I got up
11:39	20		and ran.
	21	Q	Do you remember having a knife when you
	22		grabbed this girl?
	23	А	I think I had it in my back pocket,
	24		I'm not sure, I don't know for sure if
11:39	25		I threatened her with it or not.
			9

			Vol 40 - Thursday, April 14th, 2
			——————————————————————————————————————
	1	Q	Where would you have got this knife
	2		from?
	3	А	From home.
	4	Q	What kind of knife was it?
11:40	5	А	I think it was a pocketknife which was
	6		in a drawer.
	7	Q	Where is the knife now?
	8	A	I lost it when I was running away that
	9		night.
11:40	10	Q	Where did you go then?
	11	А	I went to Five Corners and ran down
	12		the bridge and then I don't remember
	13		where I went.
	14	Q	Had you seen this girl before?
11:40	15	А	No, never.
	16	Q	Had you planned this ahead of time?
	17	А	I don't really remember.
	18	Q	Is this a true statement?
	19	А	Yes, it is.
11:40	20	Q	Given of your own free will without
	21		promises or threats?
	22	А	Yes."
	23	So that's	s Mr. Fisher's confessed statement for
	24	the (V3)-	matter of October 22, 1970.
11:40	25		There is also at that time,
			Meyer CompuCourt Reporting



Page 7980 = 1 which I'll be referring to next week, a similar 2 statement for the (V5)----- assault that was 3 given at the same time. There was no, at least 4 to our knowledge, no confession or statement at 5 that time by Mr. Fisher about the (V1)- or 11:40 (V3) ----- pardon me, the (V1) - or (V2) -----6 7 rapes. 8 The next document, going 9 chronologically, is 260945, and this is an 10 information, and if we could look down at the 11:41 11 bottom, it's sworn December 30th, 1970. We'll go back to the main document. And it charges Larry 12 13 Fisher of the offence of having sexual 14 intercourse with (V1)----- on October -- I 15 think it says 21st, 1968. 11:41 16 Call up 110535 and again just 17 zoom in here, it's the same date, December 30th, 18 1970 and it's the same officer, Elmer Goa, who is 19 the informant, and this is charging Larry Fisher 20 with the rape of (V2)----- on November 11:42 21 13th, 1968, and lastly, and I apologize, I think 22 I'm probably giving you not the doc ID, but the 23 page number, 047051, and again --24 COMMISSIONER MacCALLUM: Mr. Hodson, excuse 11:43 25 me, could you give me the ID on (V2) ----?

— Meyer CompuCourt Reporting

		Vol 40 - Thursday, April 14th, 2005
		Page 7981
	1	MR. HODSON: (V2) is 110535. Now, is
	2	that the doc ID or is that a page number?
	3	SANDRA BOSWELL: We actually gave you
	4	080854 because it's on CaseVault.
11:43	5	MR. HODSON: So 080854 is the doc ID for
	6	the (V2) information and here is the
	7	(V3) information which is 047051, and again
	8	this is charging Larry Fisher with assaulting, or
	9	indecent assault with the intent to commit the
11:43	10	offence of rape of (V3) on November
	11	29th, 1968.
	12	I won't put it up now, but I
	13	can also advise you, Mr. Commissioner, that there
	14	was a similar information charging Larry Fisher
11:44	15	for the rape of (V5) that was sworn on
	16	that date as well.
	17	Next if I could call up 261053,
	18	please, and this is a document as well I think we
	19	have referred to before, this is a letter dated
11:44	20	March 17th, 1971 from Deputy Chief of Police
	21	Corey to Mr. MacKay, Crown solicitor, and we'll
	22	be hearing from other witnesses on this. I
	23	simply wish to point out in this letter the
	24	references to the witnesses that we'll be hearing
11:44	25	next week and it says:

		Vol 40 - Thursday, April 14th, 2005
		Page 7982
	1	"During March 16th, 1971"
	2	Let me pause there. It's talking about Fisher
	3	who is in custody in Manitoba.
	4	"During March 16, 1971, I was contacted
11:45	5	by Mr. T.D.R. Caldwell, agent of the
	6	Attorney General, who requested that I
	7	forward to you a summary of the facts
	8	relating to offences of rape allegedly
	9	committed by the above-named."
11:45	10	Scroll down.
	11	"At the present time there are four
	12	criminal charges outstanding in
	13	Saskatoon against Larry Earl Fisher."
	14	And they are the four that I've talked about,
11:45	15	(V1)-, (V2), (V3) and (V5), and
	16	next page, please, and the letter states:
	17	"The facts relating to these charges are
	18	as follows.
	19	In relation to charge number
11:45	20	one, at approximately 11:00 p.m.,
	21	October 21, 1968, (V1) (22
	22	years), 528 Avenue G South, was walking
	23	along 18th Street West when she was
	24	grabbed from behind and, at knife point,
11:45	25	forced down a lane. She was forced to
		Meyer CompuCourt Reporting



		Vol 40 - Thursday, April 14th, 2005
		Page 7983
	1	remove most of her clothing and was then
	2	raped. (V1)- described her assailant as
	3	a male in his early twenties, dark hair
	4	and of small stature. The knife
11:46	5	appeared similar to a paring knife.
	6	During the investigation of
	7	this offence (V1) viewed police
	8	photos, including that of Fisher, and
	9	was unable to identify him as her
11:46	10	assailant.
	11	With respect to charge number
	12	two, at approximately 8:10 p.m.,
	13	November 13, 1968, (V2)
	14	(17 years), 412 Avenue D South, was
11:46	15	walking along 18th Street West when she
	16	was grabbed by a man carrying a knife
	17	and forced down a lane where her coat
	18	and dress were removed and then, at
	19	knife point, he raped her. (V2)
11:46	20	described this man as being in his early
	21	twenties, 5 feet 5 inches tall, and
	22	carrying a small jackknife.
	23	(V2) was unable to
	24	identify Fisher from police photos as
11:46	25	her assailant.
		Meyer CompuCourt Reporting

= Page 7984 =

	1	On charge number three, at
	2	approximately 10:00 p.m., November 29,
	3	1968, (V3) (19 years),
	4	1305 - 12th Street East, was walking
11:47	5	along the 200 block Wiggins Avenue when
	6	she was approached by a man who asked
	7	directions, stating that he was looking
	8	for a certain apartment block. This
	9	block was unfamiliar to (V3) and
11:47	10	she suggested to this man that he
	11	consult a telephone directory.
	12	(V3) continued on for a short
	13	distance before she realized that she
	14	was being followed by this man and as
11:47	15	she reached a point near a lane, she was
	16	grabbed from behind and forced into the
	17	lane. This man was armed with what
	18	appeared to be a paring knife and
	19	threatened to use it if (V3)
11:47	20	failed to co-operate. (V3)
	21	resisted and was forced to the ground.
	22	Suddenly, an automobile appeared in the
	23	lane and her assailant fled. This man
	24	was described as being in his early
11:47	25	twenties, small, and could not be
		Meyer CompuCourt Reporting

Page 7985 : 1 identified from police photo as being 2 the culprit in this case." 3 The (V5)--- reference I'll refer to next week. 4 If we can go to the next page, 5 please, it says: 11:47 "During October 22, 1970, members of our 6 7 force interviewed Fisher while he was 8 confined to cells at the Fort Garry, 9 Manitoba, police station. Fisher 10 admitted being responsible for the rape 11:47 11 of (V5)----- on February 12 21, 1970, and also the attempted rape of 13 (V3)----- on November 29, 14 1968. Fisher was questioned about the 15 offences committed on October 21 and 11:48 16 November 13, 1968, and denied any 17 knowledge of same. 18 Police investigation revealed 19 that Fisher lived within a block of the 20 locations where these rapes occurred, 11:48 21 the description of the culprit is very 22 similar and the modus operandi is the same in all four cases. Fisher claims 23 24 that he had never heard of these 25 offences being committed, which is hard 11:48

— Meyer CompuCourt Reporting =

Page 7986 : 1 to believe as they happened within a 2 three week period in the same area and 3 received wide publicity." 4 And I believe there, Mr. Commissioner, it's these 5 two, the (V1)- and (V2)---- rapes that are being 11:48 referred to in that paragraph. 6 It says: 7 "(V5)---, (V1)- and (V2)----- were 8 examined by their family doctors and in 9 each case the doctors reported finding 10 evidence consistent with rape." 11:48 The next document is 039601 and this is the 11 12 indictment filed, I think the date is December 9, 13 1971, against Mr. Fisher, and if you could go to the third page, 039603, and I won't go through 14 15 them, but there are the four charges. 11:49 If you 16 could go to the next page, please, and the next 17 page, please. So these are the four charges and 18 that's dated December 8th, 1971 signed by Allan 19 Blakeney, acting Attorney General, and this 20 indictment is preferred pursuant to Section 507 11:49 21 of the Criminal Code. 22

Next if I could call up 039619 and this is the conviction that was entered on December 21, 1971 and this relates to -- again of Mr. Fisher, this relates to the (V1)- rape, and

— Meyer CompuCourt Reporting

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11:50

= Page 7987 =

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		Page 7987
	1	he was imprisoned for a term of four years
	2	concurrent to the sentence the accused is now
	3	serving, and I believe it's on the record that
	4	Mr. Fisher received I believe 13 years for two
11:50	5	assaults or three assaults committed in Manitoba,
	6	so he was serving time, and I believe that that's
	7	the sentence referred to in this conviction.
	8	Next if I could call up 047041
	9	and this is a similar conviction, December 21,
11:50	10	1971, this one is for (V2), and
	11	again he received a term of four years concurrent
	12	to sentence accused is now serving.
	13	Last, the (V3) conviction
	14	is 001763 and again that's (V3)
11:51	15	and imprisoned for a term of six months
	16	concurrent, and there is a similar one as well
	17	for (V5) that I'll refer to next week.
	18	So that's 1971.
	19	The next document in the
11:51	20	chronology here is July of 1990 and if I could
	21	call up document 043139 and this is a memorandum
	22	of July 3, 1990, it's from David to the Milgaard
	23	file. I believe it to be David Asper. If I can
	24	call that out, please, it's re: Larry Fisher
11:52	25	victims, and July of 1990 would be while Mr.
		Meyer CompuCourt Reporting



Page 7988 : 1 Milgaard's first application was still pending 2 before the federal Minister of Justice and we've 3 heard evidence about various interviews, 4 etcetera, that were going on in July, in and 5 around July of 1990. The memo says: 11:52 "I spoke with Carl Karp at the CBC 6 7 during the weekend of July 1st, 1990 and 8 obtained the names and some of the 9 addresses of Larry Fisher's victims. 10 They are as follows:" 11:52 11 And you'll see there we have (V1)-, (V2)----, 12 (V3)-----, (V5)-----, and then Bernice 13 (V7) --- and (V8) ----- are the two Winnipeg 14 convictions, and it says: 15 "The latter two victims are the subject 11:52 16 of the Lorne Huff investigation on 17 behalf of the Winnipeg city police. Huff indicates that he has no access to 18 19 incident reports but suggests that 20 perhaps we might communicate with the 11:52 Chief of Police and ask that he provide 21 22 us with these records. 23 Note that Fisher committed 24 three of the rapes within a couple of 25 months preceding the death of Gail 11:53

— Meyer CompuCourt Reporting

		Vol 40 - Thursday, April 14th, 2005 Page 7989
		Fage 7909
	1	Miller, but then appears to take almost
	2	a full year off and does not commit
	3	another one until three weeks after
	4	Milgaard is convicted on January 31,
11:53	5	1970."
	6	If I could next call up 010019 and this is a
	7	memorandum, it's July 5, 1990, it's from Eugene
	8	Williams to the file, and he says:
	9	"On July 4, 1990, I learned from Bruce
11:53	10	MacFarlane that Hersh Wolch had the
	11	names of four Saskatoon rape victims
	12	allegedly assaulted by Larry Fisher.
	13	This information did not accord with the
	14	information we had earlier received from
11:53	15	the RCMP and the Saskatoon City Police,
	16	who advised us that there were not any
	17	incidents of rape attributed to Larry
	18	Fisher, which occurred in Saskatoon.
	19	During a telephone conversation
11:54	20	with Mr. Wolch, he identified the
	21	following victims."
	22	Again, I don't propose to go through those, but
	23	those are the four that we've talked about. It
	24	says:
11:54	25	"Mr. Wolch requested copies of the
		Meyer CompuCourt Reporting

occurrence reports and the witness 1 2 statements relating to these offences. 3 He noted that the information about these victims came from a CBC 4 5 documentary which was recently aired." 11:54 6 And then the next page there's a reference there: 7 "After speaking with Mr. Wolch, I asked 8 Sergeant Pearson to search the Saskatoon 9 City Police files to determine whether 10 Larry Earl Fisher was convicted, as 11:54 11 alleged of the rapes and indecent 12 assaults of the victims noted above. Τf 13 there was a link, I requested that he 14 send occurrence reports and witness 15 statements, where available, which 11:54 16 relate to the offences. He agreed to do 17 so." 18 If I can then go ahead, the next set of documents 19 are --20 MR. LOCKYER: The last paragraph. 11:55 21 MR. HODSON: I'm sorry? 22 MR. LOCKYER: In the previous document, the last paragraph. 23 24 If you MR. HODSON: What about it? Oh. 25 11:55 could call up the last document, I'm sorry, I Meyer CompuCourt Reporting

Page 7990 :

Page 7991 = 1 didn't see that. I might add that I'm only 2 reading in what I thought needs to be read in. 3 The documents are all part of the record. The 4 last paragraph: 5 "In a later conversation that day, 11:55 Sergeant Pearson noted that the 6 7 convictions registered in Regina 8 apparently occurred in Saskatoon. He 9 will redouble his efforts to locate the 10 files and provide the materials I 11:55 requested." 11 12 I think the paragraph before refers to Melnyk and 13 Lapchuk which we may have heard about. So the next documents relate to 14 15 interviews that Paul Henderson, I believe it was 11:55 16 Paul Henderson and perhaps Mrs. Milgaard had with 17 these victims, and the first one, if I could call 18 up 054511, and this is again (V1)-----, and 19 the interview date is May 1, 1991 and I believe 20 this is Mr. Henderson's report. If we can just 11:56 21 go through parts of that. It says: 22 "This was the first of six sexual 23 assaults to which Larry Fisher pleaded guilty in 1970." 24 25 And then just carrying on here: 11:56

— Meyer CompuCourt Reporting

Page 7992 : 1 "In the case of Gail Miller, it's 2 probable that Fisher knew or knew of the 3 victim before he attacked and murdered 4 For one thing, they lived less her. 5 than three blocks apart. It's also 11:56 highly likely that he would have 6 7 encountered her at the bus stop and on 8 the bus. Both took the bus to work. 9 They caught it at the same stop and at 10 the same time." 11:57 And then carrying on to the attack, it says: 11 12 "(V1)--- recalled that it was about 7:30 13 at night. She was walking on the 14 sidewalk when "someone came out of 15 nowhere." Fisher had a large knife 11:57 16 (which she described as a "bread 17 knife"), put his hand over her mouth and threatened to kill her if she tried to 18 19 scream. She recalls him telling her 20 "You do as a say or else," or words to 11:57 21 that effect. She recalls trying to push 22 Fisher's hand away from her mouth, but 23 didn't resist otherwise. 24 Fisher dragged her into a 25 nearby alley and she removed her own 11:57

Meyer CompuCourt Reporting

= Page 7993 =

	1	clothes - top and bottom. While (V1)
	2	was lying naked on the ground, Fisher
	3	inserted the knife into her vagina. She
	4	recalls being cut in the vaginal area,
11:57	5	but apparently the cut was minor.
	6	(V1) said she doesn't think Fisher
	7	penetrated her with his penis before
	8	being frightened by something and
	9	fleeing. She put her jeans back on and
11:57	10	ran to the nearest house. No one was
	11	home. She ran to the next house where
	12	there was a light on but no one answered
	13	the door. Then she ran to her own house
	14	1 1/2 blocks away.
11:58	15	"I didn't think I was going to
	16	get up alive," she said."
	17	Now, if I can pause there, and I'll be referring
	18	a bit later when she testifies at the Fisher
	19	trial, (V1) does give evidence that she was
11:58	20	in fact raped by Mr or that there was
	21	intercourse that took place with Mr. Fisher. And
	22	summary, it says:
	23	"We interviewed (V1) at her home in
	24	St. Louis, a very small town about 100
11:58	25	miles north of Saskatoon. Compared to
		Meyer CompuCourt Reporting

= Page 7994 =

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	1	several of the Fisher victims, she
	2	handled the interview with minimal
	3	difficulty. Nonetheless, it was
	4	apparent that Fisher left his mark on
11:58	5	(V1) for life. After the
	6	attack, (V1) said she had trouble
	7	sleeping and was afraid to walk anywhere
	8	alone. The fear has never gone away and
	9	haunts her even in St. Louis, a rural
11:58	10	river hamlet where crime and violence
	11	are undoubtedly quite rare.
	12	(V1) was never notified of
	13	Fisher's arrest and confession. Like
	14	his other three Saskatoon victims, she
11:59	15	learned this from us 21 years after the
	16	fact."
	17	Then the next document is 054513 and this appears
	18	to be a summary prepared and it's referred to in
	19	the Fisher proceedings, so I'll just go through
11:59	20	it, and again it summarizes what I just read and
	21	the fact that things added about Detective Ben
	22	Cressman interviewed her. Other than that, I
	23	think it's a summary of what was in the earlier
	24	statement.
11:59	25	The next is a similar statement
		Meyer CompuCourt Reporting

		Page 7995
		Page 7995
	1	for (V2) and it's 056482, and again this is
	2	the next day, May 2, 1991. This has had some
	3	last names whited out and addresses for other
	4	purposes, but this is (V2), and again these
12:00	5	are, I believe, interview notes or a summary
	6	prepared by Mr. Henderson and it describes:
	7	"It occurred sometime between 6:30 and 8
	8	p.m. and she was walking from her house
	9	to meet her boyfriend. As was the case
12:00	10	with several other victims, she
	11	encountered Fisher while walking on the
	12	sidewalk. He walked by her, saying
	13	nothing, then grabbed her from behind.
	14	Fisher put his hand over her mouth and a
12:00	15	knife to her throat and told her, "If
	16	you want to live do as I say," or
	17	something similar to that. She recalls
	18	the assailant smelling like oil.
	19	Fisher dragged her into a
12:00	20	darkened yard and ordered to undress,
	21	which she did. (V2) recalls he told
	22	her not to scream and to "lie still and
	23	don't move." She said she never saw the
	24	knife but felt it at her throat
12:00	25	throughout the rape. "I just laid there
		Meyer CompuCourt Reporting

	1	Vol 40 - Thursday, April 14th, 2005 Page 7996
		Tage 7790
	1	and obeyed. All I told him was, 'Don't
	2	kill me," she recalled.
	3	(V2) said that after
	4	completing the act Fisher was "up and
12:00	5	gone like a shot out of hell." With him
	6	he took her orange sweater, dress, bra,
	7	panty hose and shoes. She got up and
	8	ran to her home 1 1/2 blocks away."
	9	And summary:
12:01	10	"Saskatoon police never informed (V2)
	11	that the case had been solved with
	12	Fisher's arrest. It would have been
	13	easier, she said, if they had."
	14	And then some comments from Mr. (V2)
12:01	15	Again, these documents were put to the witness at
	16	the Larry Fisher trial, so we'll see them a bit
	17	later, and just for the record, the next is a
	18	summary, 048152, and again this is just again a
	19	summary that I believe was prepared by Mr.
12:01	20	Henderson about the interview and contains much
	21	of the same information.
	22	Finally, for (V3), it's
	23	054505, and this is a report of May 5, 1991 of
	24	(V3) The interview, and I don't
12:02	25	propose to go through this in great detail, it
		Meyer CompuCourt Reporting

1 describes the attack in that document and again I 2 don't propose to read that. It's similar to what 3 we have seen before. Actually, I should add one 4 point here, there is a couple of comments. "This was the final documented incident 5 12:02 attributed to Fisher before the Gail 6 7 Miller murder. It differed from the 8 others in two respects: (1) It occurred 9 on the east side of Saskatoon, opposed 10 to the west. (2) Based on what he told 12:02 11 the victim, Fisher may have had a 12 vehicle in this case. 13 There's a probable explanation 14 for why Fisher was operating out of his 15 own neighbourhood in this case. 12:02 His 16 former foreman, Jake Ketler, told us 17 that the company had a construction 18 contract at the University of 19 Saskatchewan during this same period of 20 time." 12:02 21 And so if we could just go ahead to 054507, and 22 again that's a similar summary for the (V3)-----23 interview that we saw for the other two that will be referred to later. 24 25 Next if I could go to document 11:34 = Meyer CompuCourt Reporting =

Page 7997 =

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Page 7998 = 1 156584, and this is a letter from (V3)-----2 who is (V3)-----, June 7th, 1991. It's to 3 Mr. Casper, I think that should be Asper, and it 4 says: 5 "I received your letter the other day. 12:03 There is a correction to be made - my 6 7 maiden name is misspelled - (V3)-----. 8 I cannot sign the form because 9 I don't know the name of the man who 10 committed the attack. I can verify I 12:03 was attacked on that day - but would not 11 12 be able to identify the man as to his 13 appearance or his name." 14 And, next, 156586. This is just the letter from 15 Mr. Asper back to (V3)----- saying that the 12:04 16 request form has been amended, and it's 156588 is 17 the request form, and this is a request form 18 where she requests and authorizes the statement 19 taken by (V3)----- from the police to be given 20 to Mr. Asper. 12:04 21 Next is 016097, and this is a 22 memorandum from Mr. Williams to the file of 23 September 9, 1991, and it just details some 24 issues about the files: 25 "On September 9, 1991, Inspector Quinn 12:04 Meyer CompuCourt Reporting

		Vol 40 - Thursday, April 14th, 2005
		Page 7999
	1	called to advise that a portion of
	2	(V1) file number 101734/68 had
	3	been located. It contained the
	4	statement of (V1) and two
12:05	5	investigation reports."
	6	And I think we've seen both of those.
	7	"The 1970 file of (V5) had
	8	also been retrieved. He added that the
	9	computerised file listing displayed the
12:05	10	names of (V5) and
	11	(V2) However, (V2)
	12	file had not been located. The search
	13	for it was still underway.
	14	Further, he added that
12:05	15	(V4) file had not been located.
	16	Inspector Quinn said that an analyst
	17	would be assigned to examine all the
	18	microfiche documents for 1968, 1969 and
	19	1970 to locate the sexual assault files
12:05	20	involving Larry Fisher. In addition, an
	21	analyst is examining all reported sexual
	22	assaults between 1968 and 1970 to
	23	catalogue the number of cases involving
	24	the use of a weapon and the type of a
	25	weapon that was used."
		Meyer CompuCourt Reporting



Page 8000 = 1 And, Mr. Commissioner, that will be done in the 2 police phase. 3 And, next, if I could move 4 to -- there is a couple of interviews by 5 (V2)---- and (V3)----- by, I believe it was by 12:06 Sergeant Pearson as part of the Section 690 6 7 investigation. The first is 071267, and this is a statement taken December 9th, 1991 by Sergeant 8 9 Pearson, and it starts off saying: 10 "I have read the three pages of material 12:06 11 that was sent as part of David 12 Milgaard's application for a review, so 13 far as my assault is concerned." 14 And I believe those are the three pages that Paul 15 Henderson prepared, being the memorandum and the 12:06 16 summary, I believe that's what the record shows 17 was sent to her. And she says: 18 "For the most part it is accurate." 19 And then it carries on. I don't propose to go 20 through all this, but she goes on to describe the 12:07 21 incident again, and if you could just scroll down 22 to the bottom paragraph and pause there. And it 23 says here: 24 "While he had me on the ground, he had a 25 sharp object held against my throat. 12:07 Ι Meyer CompuCourt Reporting

Page 8001 = 1 did not see the object and do not know if it was a knife or some other sharp, 2 3 pointed object." And I should point out that in her original 4 5 statement she identified a knife and in fact at 12:07 the Fisher proceedings, as we'll see, she also 6 7 said that she had recalled seeing a knife. And 8 if we could go to the next page, please, it says: 9 "The fellow who assaulted me had collar 10 length hair. I'm not sure of the color. 12:08 11 His footwear seemed like a hiking boot, 12 definitely not a sneaker type boot. Ι 13 don't think he had a jacket. I believe 14 the shirt was the plaid type lumber 15 jack, I don't recall any color. 12:08 16 The police investigated this 17 and I was at the police station numerous 18 times looking at mug shoots and 19 line-ups, but I knew I couldn't identify 20 the person because it was dark. 12:08 I never got a clear look at his face. 21 I don't 22 remember the policemen involved, there 23 were several during the initial stages, 24 then one Detective was on the case. The 25 police took me to the scene and to the 12:08

— Meyer CompuCourt Reporting

= Page 8002 =

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		1 dgc 0002
	1	old oil refinery at shift change,
	2	thinking that the fellow may have worked
	3	there. The fact of the matter is, I
	4	could not identify this fellow. The
12:08	5	investigation was very active until the
	6	end of November or so, then died away.
	7	I was never told that Larry Fisher plead
	8	guilty to this matter until
	9	Mrs. Milgaard came to my house. I did
12:09	10	not know Larry Fisher. I did not get
	11	pregnant as a result of this assault."
	12	The next is
	13	COMMISSIONER MacCALLUM: Will you be much
	14	longer, Mr. Hodson?
12:09	15	MR. HODSON: Well I was just going to say I
	16	have got two more statements that I could get
	17	through, and then what I have got left is the '93
	18	and the Fisher matter. Just wondering what the
	19	plans are for a break. I held out to some that
12:09	20	we would have an earlier afternoon, and I think
	21	we will, I may have another hour. And maybe one
	22	suggestion, if we break now and come back with a
	23	shortened lunch, with a view of
	24	COMMISSIONER MacCALLUM: Okay.
12:09	25	MR. HODSON: I'm thinking of those who are
		Meyer CompuCourt Reporting

		Vol 40 - Thursday, April 14th, 2005
		Page 8003
	1	travelling away, I'm prepared to shorten the
	2	lunch and get done early.
	3	COMMISSIONER MacCALLUM: 1:15 then?
	4	MR. HODSON: Sure.
12:09	5	COMMISSIONER MacCALLUM: Okay.
	6	(Adjourned at 12:09 p.m.)
	7	(Reconvened at 1:15 p.m.)
	8	COMMISSIONER MacCALLUM: Good afternoon.
	9	MR. HODSON: I'll carry on. What I have
01:18	10	got left to do is a bit of the RCMP review with
	11	the three victims and then their evidence at the
	12	Fisher trial.
	13	If I could call up 268444,
	14	please, and this is a typed page, I only have one
01:18	15	page so I'll go to the written document which is
	16	the next page, please. And this is a statement
	17	of (V3), maiden name is (V3), and
	18	this is given to Sergeant Pearson in January of
	19	1992 so this was part of the Section 690 review.
01:19	20	And again, much like the (V2) interview, she
	21	has been asked to read the materials submitted
	22	under David Milgaard's application for a Court
	23	review, and those are the the materials
	24	referred to there are the Paul Henderson
01:19	25	statements and summaries I referred to earlier.

And she says	:
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	2	"The details I have read are an accurate
	3	reflection of what I recall except that
	4	at the time of the attack I did not feel
01:19	5	I was going to be killed. I thought he
	6	had rape on his mind but did not see a
	7	reason to kill me."

Page 8004 :

8 And there was a reference in Mr. Henderson's 9 document about attributing to (V3) ----- that 10 she thought she would be killed. And again, just 01:19 scroll down please, I don't propose to go through 11 12 this but -- and again, to Sergeant Pearson, she gives a description of the incident which is 13 similar in nature to her earlier statements. 14 And 15 if we could go to the next page, please, and 01:20 16 there is just a reference here, and we'll see a 17 bit more about this later where she talks --18 tells Pearson: 19 "During this time I was screaming ... ",

01:20

20

1

or I'm sorry, it says:

21 "I don't recall seeing a knife, but he 22 did tell me he had one. Later I noticed 23 my left glove had been cut between -24 between the thumb and finger." 01:20 25 So there is reference there. And the next page,

— Meyer CompuCourt Reporting =

Page 8005 : 1 and the reference here about her dealings with 2 the police: 3 "The Saskatoon City Police came, I don't recall the names of any of the officers. 4 5 They took me to the station and viewed 01:20 I don't think I identified 6 muq shots. 7 I believe while I was at the anyone. 8 police station, I was told the police 9 dogs followed the fellow's tracks to 10 Grosvenor Park United Church." 01:21 11 So that's the statement, and as well just for 12 reference on 268449 which is part of this, it 13 appears that Pearson or someone has drawn a map 14 of where things took place, and I don't propose 15 to go through that now. 01:21 16 Next, if we could move ahead to 17 the RCMP and the 1993 Flicker investigation, if I 18 could call up 254882. And now, Mr. Commissioner, 19 I propose I will go through the (V1)-, I'll go 20 through her 1993 dealings with the RCMP and then 01:21 21 her Fisher evidence, and I'll do that for each of 22 the three. In this case, in April of 1993, the 23 RCMP contacted (V1) - by phone, and I won't go 24 through this, but it appears here that (V1)-----01:22 25 does not wish to talk to them. And then if we

— Meyer CompuCourt Reporting

= Page 8006 =

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	1	could go to the next page it says here:
	2	"Discussed the (V1)- file with Sergeant
	3	Williams. Under the circumstances, no
	4	further attempts will be made to contact
01:22	5	(V1) Reasonable attempts have been
	6	made and have failed in affording us an
	7	opportunity to see her. Unless it is
	8	felt otherwise. I see no point in
	9	keeping these files open. We certainly
01:22	10	cannot force (V1) to see us and I
	11	would be concerned that any further
	12	attempts at contacting her might be seen
	13	as unnecessary pressure being applied
	14	and not appropriate under the
01:22	15	circumstances."
	16	So I could not locate, and I don't believe there
	17	is, an interview of (V1) by the RCMP as
	18	part of Flicker.
	19	Next if I could move ahead and
01:22	20	call up document 308113, and this is a transcript
	21	of a voir dire at the Larry Fisher trial, maybe
	22	I'll just give a bit of background.
	23	As part of the Larry Fisher
	24	criminal proceedings the Crown, the Crown sought
01:23	25	to introduce similar-fact evidence of previous
		Meyer CompuCourt Reporting

= Page 8007 =

	1	assaults committed by Larry Fisher, and that was
	2	with respect to the Gail Miller criminal
	3	proceeding, and so they held a voir dire with
	4	respect to a number of the victims including the
01:23	5	victims that I am talking about now, (V1)-,
	6	(V2), (V3) and (V5), as well
	7	as the two Winnipeg victims and (V10) So
	8	the evidence that I am going to read here is from
	9	the voir dire.
01:23	10	I will also take you to Mr.
	11	Justice Allbright's ruling on the voir dire, and
	12	I can tell you that he did not allow all of these
	13	victims to testify at trial, it was only some of
	14	them. So this is from the voir dire. And I
01:24	15	should point out I don't propose to go through in
	16	great detail where they described the
	17	circumstances of the attack. I should point out,
	18	though, that in each of the case these victims
	19	are under oath, and they give an account of the
01:24	20	attack and are cross-examined by Mr. Beresh on
	21	behalf of Mr. Fisher, so they will be on the
	22	record and I don't in I don't propose to read
	23	it all in, I'll just touch on parts.
	24	If we could go to page 308115,
01:24	25	and this is (V1) or (V1) at the time,
		Meyer CompuCourt Reporting

1 describing the attack. And she says: 2 I heard some noise. " A And I thought it 3 was a dog, so I just didn't pay no 4 Then I heard somebody come attention. 5 behind me and grab me by the mouth. 01:24 Then he told me not to say anything or 6 7 not to scream, and he had a knife with 8 Pointed it in front of me, told me him. 9 not to say anything or else he would 10 have me with the knife. And he kept 01:25 11 pushing me and pushing me more, and he I tried to 12 pushed me into an alley. 13 push him away but I couldn't, because he 14 kept pushing me and hanging on tight. 15 We got to about half way down the alley 01:25 16 and he told me to undress. Told me to 17 take everything off. And I wouldn't, 18 but he said I had to, or else he would 19 have me with that knife. Made me 20 undress, took everything off except my 21 nylon stockings. Then he gagged me with 22 my shirt, covered my shirt, my face with 23 the shirt. 24 What did he do then? 0 25 Then he laid down on my coat. Then he 01:25 Α

Page 8008 :

— Meyer CompuCourt Reporting

		Page 8009
	1	got after me, telling me to open my
	2	legs. Then he got on top of me,
	3	forced me, after about 10 minutes then
	4	heard some noise, and he got off and I
01:25	5	guess he grabbed my jeans when he took
	6	off, or my slacks. Then I just stayed
	7	there for a few minutes to make sure
	8	he was gone, and he told me not to
	9	move because he'd be back. So I just
01:25	10	stayed there for a bit then I half
	11	dressed up with the rest of my
	12	clothes, ran to the first house with a
	13	light on, knocked on the door, but
	14	nobody would answer. So I ran all the
01:26	15	way home."
	16	Go to the next page, please, and a question here,
	17	it says:
	18	"Q You mentioned, (V1), that you were
	19	walking down 18th when this first
01:26	20	came up and grabbed you around the
	21	mouth, I think were your words. Do you
	22	remember which hand it was he grabbed
	23	your mouth with?
	24	A The left one.
01:26	25	Q And what about his right hand?
		Meyer CompuCourt Reporting



= Page 8010 =

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	1		A	He had it sort of in front of me with
	2			a knife.
	3		Q	With a knife. Do you remember anything
	4			about the knife, (V1), big, small,
01:26	5			colour, anything like that?
	6		A	No, I don't. Can't remember."
	7	And	the	next page, please, and there it says:
	8		"Q	Between a garage and a fence? And you
	9			told us that he forced you to take all
01:26	10			your clothes off and then made you lie
	11			down on your coat?
	12		A	On my coat.
	13		Q	When what did he do to you when you
	14			lied (sic) down, (V1), and I
01:26	15			appreciate it is difficult for you, but
	16			what did he do?
	17		A	Why he wanted me to take everything
	18			off, and he gagged me with my shirt,
	19			and then he got on top of me.
01:27	20		Q	What did he do when he got on top of
	21			you?
	22		A	Forced me to open my legs.
	23		Q	And what did he do then?
	24		A	He forced himself on me, in me.
01:27	25		Q	You said, (V1), that he put you, your
				Mever CompuCourt Reporting

Page 8011 = 1 blouse over your face? How did he do 2 that? 3 Well, he just put it on my face and he Α 4 shoved it in my mouth." 01:27 5 Then if we could carry on to -- or actually just 6 sort of carrying on, scroll down a bit, please, 7 and: 8 You said he forced his way in you? "0 9 Yes, he did. Α 10 How long did that last? 01:27 0 About 10 minutes. 11 Α 12 Q Do you know whether or not he 13 ejaculated, (V1)---? 14 No, I don't. Α 15 What happened then? 01:27 0 Then he -- is when he heard the 16 Α 17 noise." 18 And then if we could carry on to the next page 19 there is a reference here: 20 Did he take anything else besides your "0 01:27 21 pants that you remember? 22 Α No, not that I recall." 23 And then next page, please, it's asked here: 24 "Ο Did he say anything to you about that? 25 Yes, he said he had seen me around a 01:28 Α

— Meyer CompuCourt Reporting =

Page 8012 = 1 lot, and I said where and he wouldn't 2 say." 3 And then scroll down to the bottom, and here is Mr. Beresh's cross-examination at the voir dire: 4 01:28 5 "O (V1)----, I have just a few questions for you this afternoon. I take it that 6 7 you are telling us that although you saw 8 the man you couldn't identify him, is 9 that fair to say? 10 Α Well, I didn't see his face hardly at 01:28 all." 11 12 And if we could go to page 308123 Mr. Beresh 13 asks: 14 "O If that person wanted to hurt Okay. 15 you, obviously you would have been 01:28 16 pretty much defenceless, is that fair to 17 (inaudible) say? 18 Α Well, if I probably tried to fight 19 back more he probably would have hurt 20 me more." 01:28 21 Next page: 22 "Q But as I see from your notes you weren't 23 cut anywhere? 24 Α No. 25 Okay. So the person didn't attempt to 01:29 0

— Meyer CompuCourt Reporting -

				Vol 40 - Thursday, April 14th, 2005
				Page 8013
	1			stab you (inaudible)
	2		А	Well, as long as I did what he told me
	3			to do, probably.
	4		Q	I appreciate that. In none of the
01:29	5			statements I've looked at, just so you
	6			know where I'm coming from, have you
	7			suggested he tried stabbing you?
	8		A	No, but he poked the knife in my
	9			chest.
01:29	10		Q	I appreciate that",
	11			" in none of the statements I've
	12			looked at, just so you know where I'm
	13			coming from, have you suggested he tried
	14			stabbing you?
	15		A	No, but he poked the knife in my
	16			chest.
	17		Q	I appreciate that, but didn't try to
	18			stab you, you know what I mean to stab
	19			you?
01:29	20		A	No. He didn't.
	21		Q	No, none of that, no. And the skin was
	22			never broken anywhere, correct?
	23		A	Correct."
	24	And	then	skip ahead to page 303130, and this is
01:29	25	Mr.	Berea	sh's cross-examination about
				Mever CompuCourt Reporting

Page 8014 = 1 (V1)----- dealings with the police, and: 2 On about how many occasions after that "0 3 night (inaudible). For example, did you 4 see him the next day?" 5 And that's the officer: 01:30 "A Yes, I think I did. 6 7 And did you talk with him? 0 8 Yes, I did Α 9 And did you provide information to him? 0 10 Α Maybe some I hadn't given him the 01:30 11 night before. 12 0 Okay." 13 And down at the bottom: 14 "O And did you meet with Officer Creston 15 again after the next day?" 01:30 16 And I think that should be Cressman: 17 "A Yes, I did." 18 Next page: 19 "0 What would you estimate, you met with 20 him between 5 to 10 times, 10 to 20 01:30 21 times in total? 22 Α No. 23 Q How many do you think? 24 Α Not that often. 25 Five to ten, would that be fair? 01:30 0

—— Meyer CompuCourt Reporting =

	1		Page 8015
			5
	1	А	About, I would say.
	2	Q	Okay
	3	А	I'm not sure.
	4	Q	Okay, fair enough. It's just a
01:30	5		guesstimate. Is that fair?
	6	А	Yes, I four or five times.
	7	Q	Okay. On those occasions when you met
	8		with him did you provide him with
	9		information about the event?
01:30	10	А	Well, he just asked me questions, and
	11		I think some of them were the same
	12		questions he had asked me before."
	13	Scroll d	lown to the bottom:
	14	"Q	Okay. Did he, at any time, show you any
01:31	15		photographs of individuals who might be
	16		suspects?
	17	А	Yes.
	18	Q	On how many occasions?
	19	А	I think it was once."
01:31	20	Next pag	ge:
	21	"Q	And there was no identification, I
	22		understand?
	23	А	Not from the photographs, but I had to
	24		go down to the police station and look
01:31	25		at a line-up.

Page 8016 = 1 Q So we'll come to that in a Okay. 2 minute. There was a photographic -- you 3 looked at a group of photographs? 4 Α Yes. And Creston was there during that 01:31 5 0 Okay. time? 6 7 Yes. Α 8 Q Okay. And then there was an actual 9 line-up? 10 Α Yes. 01:31 11 When did that occur, please? 0 Okay. How 12 long after the event? 13 Α Oh, I'm not really sure." 14 If we could go ahead to page 308146, and just to 15 -- if we could go down to the bottom, and this is 01:32 16 again Mr. Beresh still at the voir dire, pardon 17 me: 18 "O Fair enough, okay. Let's go to the next 19 page. If I understand what you said to 20 the prosecutor, you said that this man 01:32 21 did have sexual contact with you, that 22 you recall? 23 Α Yes. 24 0 Did penetrate you? 25 01:32 Α Yes.

— Meyer CompuCourt Reporting

Page 8017 = 1 Q Right? Yes. Well, let me read from 2 this statement." 3 And again this statement, Mr. Commissioner, is the Paul Henderson statement of 1991 that I 4 5 referred to earlier and the statement, I actually 01:32 6 think it's a summary as opposed to a statement, 7 but it says: 8 "(V1)--- said that she doesn't think 9 Fisher penetrated her with his penis 10 before being frightened by someone and 01:32 11 fleeing. 12 It's possible that you said that to her? 13 Α It's possible that I didn't." And when it's to 'her' I believe that's to 14 15 Mrs. Milgaard. Carrying on: 01:33 16 Well, except I take it you'd agree with "O 17 me that's a pretty unique event. Only 18 you would have knowledge of that, you 19 and the perpetrator would know about 20 that. 01:33 21 I can't recall telling this Α 22 Mrs. Miller (ph) any -- whatever her 23 name is, Milgaard, all this 24 information, 'cause I didn't want to 25 tell her anything. 01:33

— Meyer CompuCourt Reporting

			Page 8018
			Page outo
	1	Q	Right. Except it's kind of unique,
	2		isn't it, that there was a noise and he
	3		fled without penetrating you. That
	4		seems pretty unique to me, doesn't seem
	5		like something someone would make up,
	6		does it?
	7	А	No, but he did get inside of me.
	8	Q	Well, my question would be my
	9		question is simply this.",
01:33	10	And the	n to the next page and she says:
	11		"Mrs. Milgaard might have misunderstood,
	12		or I'm sure I didn't tell her all
	13		these things that it's not even what
	14		really happened."
01:33	15	And the	n Mr. Beresh:
	16	"Q	I understand. My question is simply is
	17		it possible you told her that, that
	18		there was no penetration because someone
	19		came along and he fled. Is it possible?
01:34	20	A	No, I wouldn't have, no I don't think
	21		I did tell her that."
	22	And the	n to the next page, 308149, and again
	23	question	ning on that statement from Mr. Henderson:
	24		"Also, in the statement there's the
01:34	25		expression:
			Meyer CompuCourt Reporting

Page 8019 = 1 Something frightened him and he ran. 2 She put her jeans back on and ran to 3 the closest house and banged on the 4 door. 5 Is it possible you told Mrs. Milgaard 01:34 that? 6 7 I dressed up, I didn't put my jeans Α 8 back on 'cause I didn't have my pants. 9 My slacks. 10 Ο Well, is it possible you told her that? 01:34 Possible I made a mistake by telling 11 Α 12 her that. 13 Q So, maybe you told her, but you say if 14 you told her it was a mistake? 15 Well, people come to your house and 01:34 Α 16 ask you questions you don't want to 17 really answer, things you don't want 18 to bring back, and she was trying to 19 get information out of me that I 20 didn't want to give her. 01:34 21 Yes, I understand. But it seems 0 22 important that: 23 She put her jeans back on and ran to 24 the closest house. 25 and you're not saying that she suggested 01:34

— Meyer CompuCourt Reporting =

Page 8020 = 1 you say that, did she? No, because I didn't put my jeans back 2 Α on." 3 4 If we could then go to the next page, please. 5 And again, this is Mr. Beresh at the 01:35 6 cross-examination, just scroll up one line, 7 please: 8 You can still see, obviously -- " "0 Okay. 9 And this is a question about whether she could 10 see the perpetrator: 11 "A No, not really. 'Cause he had my face 12 covered. 13 Q Oh. Or was it because his hair was in 14 his eyes and you couldn't see his hair 15 -- his face? 01:35 16 No, I didn't see his face. Through Α 17 the shadows through the shirt, he had 18 long hair. 19 Q And finally, you said something about 20 biting him? 01:35 21 Yes, I bit his fingers. Α 22 Q Okay. Just so we know, after you bit 23 him you weren't stabbed or anything? 24 Α No. 25 That is -- or you weren't struck with a 01:35 0

— Meyer CompuCourt Reporting =

Page 8021 = 1 fist? 2 No, but I was pushed around, shoved Α 3 around. 4 I understand, but there wasn't any Q 5 direct retaliation for the bite, like a 01:35 6 stab or a punch or anything like that? 7 Α No." 8 So that is the voir dire. If I could now go to 9 document 268473 and this is the transcript of the 10 oral ruling of Mr. Justice Allbright at the 01:36 11 Fisher proceedings, it's dated September 10th, 12 1999, and if I could go to page 268479. 13 Actually, go to the next page, please, and I'll 14 just do the Court and this is just the 15 introduction. 01:36 16 "THE COURT: The Crown takes the view 17 that there are strong similarities 18 between these kinds of matters, that 19 it's a pattern of similarity that 20 reaches that kind of certainty or 01:36 21 likelihood or striking similarity or 22 absence of a likely other alternative 23 excuse, that brings it within the ambit 24 of the language and articulation of Cory 25 J in Arp (ph). The pattern is such that 01:36

— Meyer CompuCourt Reporting =

			Voi 40 - Thursuay, April 14th, 2005
			Page 8022
	1		it's likely they were committed by the
	2		same person rather than some potential
	3		other explanation.
	4		The defence takes the view that
01:37	5		there are very significant differences
	6		between all of these matters."
	7	And then	carrying on:
	8		"I have reviewed my assessment of the
	9		evidence in relation to these witnesses
01:37	10		and I am mindful of the Crown's view of
	11		what the evidence says to me, and I am
	12		mindful of the defence's evidence in
	13		relation to this. In my view, in this
	14		matter, before the similar fact evidence
01:37	15		can be admissible, the circumstances of
	16		this case call for a high degree of
	17		similarity. The potential prejudice is
	18		demonstrable here in relation to it and,
	19		indeed, in relation to the Arp decision,
01:37	20		those are the kind of balances that I
	21		must bring to bear. Accordingly, before
	22		I will admit something as similar fact
	23		evidence, I must be satisfied that it
	24		establishes a high degree of similarity
01:37	25		between the acts, because of the issue
			<b>1</b>

		Vol 40 - Thursday, April 14th, 2005
		Page 8023
	1	of the potential for prejudice to the
	2	accused for a jury to hear the kind of
	3	evidence that I have heard and the
	4	impact that I have talked about."
01:37	5	And then he goes on to say he has reached
	6	different conclusions in relation to different
	7	witnesses.
	8	If we can go to page 268479 and
	9	at the top, and this is Mr. Justice Allbright
01:38	10	has gone through those witnesses that he will not
	11	allow similar fact evidence, and then says:
	12	"There are three witnesses, however,
	13	that I have concluded differently on,
	14	and I have reached this conclusion very
01:38	15	carefully, bearing in mind the concept
	16	of potential prejudice that I have
	17	referred to on several occasions this
	18	morning and this afternoon.
	19	The first is the matter
01:38	20	involving (V1) that I have
	21	referred to, formerly (V1) I am
	22	satisfied that in this particular regard
	23	the degree of similarity is very high
	24	and is striking in relation to it. One
01:38	25	of the obvious dissimilarities certainly

= Page 8024 =

	1		to the, I'm sure, observer, an obvious
	2		dissimilarity is that (V1) survived
	3		this particular attack. But the
	4		similarities surrounding that attack
01:38	5		reach the quality, the threshold quality
	6		that is referred to in R. v. Arp and, in
	7		my view, that high degree of similarity
	8		and the number of pattern issues or
	9		characteristics that can be found there
01:39	10		and in the likely scenario involving
	11		Ms. Miller's death, are such that it
	12		falls into that category which I will
	13		again refer to, that there may well be
	14		exceptions but, as a general rule, if
01:39	15		there is such a degree of similarity
	16		between the act that it is likely that
	17		they were committed by the same person,
	18		then the similar fact evidence will
	19		ordinarily have sufficient probative
01:39	20		force to outweigh its prejudicial effect
	21		and may be admitted, and I find that to
	22		be the case with that particular
	23		witness. The Crown will be entitled to
	24		lead that evidence as similar fact."
01:39	25	And then	if I could go ahead to document 311953
			Meyer CompuCourt Reporting

Page 8025 : 1 and, Mr. Commissioner, this is the transcript of 2 (V1)--- (V1)'s evidence at Larry Fisher's trial, 3 and I'll go to page 311954, and I won't read it, but just at line 23 it starts, she gives her 4 5 account of the incident again, and then the next 01:40 page, please, and again I won't read it, but down 6 7 to about line 14 she gives her account under oath 8 of the circumstances of the attack which is 9 similar to what she has said before. Then to page 311957 and she's asked: 10 01:40 Do you remember which of his hands was 11 "Ο 12 over your mouth? His left hand. 13 Α 14 His left hand. And did you ever see a 0 15 knife or did he just tell you he had a 01:40 16 knife? 17 I seen it." Α Oh, no. 18 Next page, the question at the top. 19 "0 You are motioning with your fingers, 20 (V1)----. How long would you say the 01:41 21 knife was? 22 Α About 10, 12 inches long." And then scroll down a bit: 23 24 "0 Did you ever lose any of your items of 25 clothing or dress at all during this 01:41

Meyer CompuCourt Reporting

		Page 8026
	1	attack?
	2	A Yes, I lost my jeans."
	3	Next page, right at the top, and again (V1)
	4	confirms for the Court that there was intercourse
01:41	5	during the assault, says:
	6	"A He forced me to have sex with him, and I
	7	wouldn't.
	8	Q Did he force you to have sex with him?
	9	A Yes, he did."
01:41	10	And then just scrolling down a bit about the
	11	clothing:
	12	"Q What happened to your jacket? What did
	13	you do, did you take your jacket off?
	14	A Yes, I took my jacket off and he told
01:41	15	me to lay on it.
	16	Q He told you to lay on your jacket. Did
	17	you do that?
	18	A Yes, I did."
	19	If we could then go to 311966, again this is Mr.
01:42	20	Beresh cross-examining at the trial, and it says.
	21	"Q and you told, I think, a number of
	22	police officers that you couldn't
	23	identify what the person was wearing, is
	24	that fair to say?
01:42	25	A That's right.



= Page 8027 =

	[	Page 8027
	1	Q Okay. And do I understand as well that
	2	you were asked to describe his face, and
	3	you said that you didn't see his face or
	4	you couldn't see his face?
01:42	5	A No. Like, I seen his face vaguely but
	6	I know he had long hair.
	7	Q Okay. That's it?
	8	A Yes.
	9	Q So when you said to the police "I
01:42	10	couldn't see his face" that was
	11	accurate?
	12	A That's right."
	13	Then if we could go to I think that's it for
	14	(V1)
01:43	15	If we can now move to
	16	(V2) and call up document
	17	03547 pardon me, 035481, I think that's the
	18	doc ID. I'm sorry, it's 035474 and this one goes
	19	backwards, but this is the RCMP report. If you
01:43	20	could go to page 035478 and this is an interview
	21	of May 28th, 1993 and just call that out, please,
	22	and (V2), nee (V2), etcetera,
	23	interviewed at her residence this date.
	24	Interview not taped. No one else present. And
01:44	25	if you could just go down to the bottom, please:
		Meyer CompuCourt Reporting
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		Voi 40 - Thursday, April 14th, 200
		Page 8028
	1	"(V2) vividly recalls the assault and
	2	spoke openly about the incident. She
	3	stated that she met man in the street.
	4	Once he passed by her he grabbed her
01:44	5	from behind and forced her into a
	6	secluded area and to take her own
	7	clothes off."
	8	Next page at the top. It's actually 77:
	9	"(V2) at no time saw a weapon but her
01:44	10	attacker held something sharp to her
	11	throat during the assault. The attacker
	12	did not utter death threats to her. She
	13	did not resist."
	14	And then down at the bottom:
01:45	15	"(V2) later dealt with a plainclothes
	16	SPD member who she felt was Sergeant Ray
	17	Mackie. She had several contacts with
	18	the investigator for about 1 month and
	19	never heard anything further following
01:45	20	that. (V2) does not recall ever being
	21	at the police station, being shown
	22	photos by the police or attending a
	23	photo line-up but indicated that she may
	24	have and just can't recall."
01:45	25	The next page:
		Mover CompuCourt Departing

Page 8029 1 "(V2)-- was never aware that her 2 assailant had been caught until she was 3 approached by Mrs. Milgaard and a private investigator in Saskatoon. 4 5 She recalls the murder of Gail 01:45 Miller and felt that she had been very 6 7 fortunate not to have been killed by a 8 rapist. 9 (V2)-- later saw a photograph 10 of Larry Fisher in the paper but could 01:45 not ID him as she had never seen her 11 12 attacker's face. She did feel that when 13 she saw Fisher on TV that he fit the 14 general description of the man who had 15 attacked her, short legs, stocky." 01:46 16 That is the '93 report. 17 Next we'll go ahead to the voir dire, it's 253483, and again this is the same 18 19 voir dire at the Fisher trial as to whether or not (V2)----- or (V2)----- evidence could be 20 01:46 21 put in as similar fact evidence, and again at 22 line 17 she describes the event. I won't read 23 through that. 24 Go to the next page, please. 25 Actually, I'm sorry, just go back up to the top. 01:46

			——————————————————————————————————————
	1	This par	t here, she answers:
	2	"A	Then he dragged me down the back alley.
	3		About the middle of the alleyway by the
	4		garage he took my coat off, laid it on
01:47	5		the ground, made me take my clothes off,
	6		told me to lie down, and proceeded to
	7		have rape me. I turned my head to
	8		the right and that's when I noticed the
	9		knife, a silver jackknife with two black
01:47	10		dots on it."
	11	And then	carrying down to the bottom, please,
	12	scroll d	lown, it says:
	13	"Q	Okay. You mentioned you say a knife,
	14		(V2)?
01:47	15	A	Yes.
	16	Q	Do you recall what the knife looked
	17		like?
	18	A	It was a silver jackknife with black
	19		dots, two block dots on it.
01:47	20	Q	When did you see that knife? When did
	21		you take notice of it?
	22	A	When I was on the ground and he was on
	23		top of me.
	24	Q	And where was the you motioned, and I
01:47	25		don't know if His Lordship saw, (V1),
			Mover CompuCourt Penerting

		Page 8031		
	1			but you motioned
	2		A	It was to the right side of me.
	3		Q	And where was the knife in relation to
	4			your head or your face?
01:47	5		A	My throat.
	6		Q	Your throat.
	7		A	He told me if I didn't stop screaming
	8			he was going to slit my throat.
	9		Q	You mentioned that he raped you, (V1)?
01:48	10		A	Yes."
	11	And	then	carrying on:
	12		"Q	What happened then?
	13		A	Then he told me to sit up. I sat up
	14			and he told me to stand up and not to
01:48	15			say anything. He picked up all my
	16			belongings and he ran. And then I
	17			noticed all that I was left with was a
	18			slip and my shoes. I picked those up
	19			and I went to the house in front of
01:48	20			the garage and I asked them to call
	21			the police, told them what happened to
	22			me. So they took me in the house and
	23			they called the police, and the police
	24			came."
01:48	25	Go 1	to the	e next page, please, just down at the
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			Dogo 9022
			Page 8032
	1	bottom:	
	2	"Q	So he then raped you. You said he was
	3		holding the knife during the rape?
	4	А	Yes."
01:48	5	Next pag	e at the top:
	6	"Q	What all, during the course of the whole
	7		incident, (V2), do you remember
	8		him saying to you, if you can remember
	9		any of the words he used?
01:49	10	A	The only thing he told me was that if
	11		I didn't stop screaming he would slit
	12		my throat. He might have muffled
	13		(sic) words, I don't know, but that's
	14		what sticks."
01:49	15	Next pag	e, 253488:
	16	"Q	Apart from being raped, were you injured
	17		in any way?
	18	A	Just minor scratches from being
	19		dragged and that. No. Bruises and
01:49	20		that's it."
	21	Then nex	t to Mr. Beresh's cross-examination, page
	22	253495,	and he asks:
	23	"Q	Okay. Do you remember the police coming
	24		to see you several times after that?
01:49	25	A	Yes.

Page 8033 = 1 Q Okay. 2 They used to pick me up, take me down, Α 3 look at "mug shots" and that. 4 The Saskatoon Police Oh, I see. Q 01:50 5 Service? Yeah. 6 Α 7 Okay. And I take it you'd talk to them 0 8 as well? 9 Yes." Α 10 Go to page 253511, and again this is Mr. Beresh's 01:50 11 cross-examination and he's cross-examining the 12 witness on the statement to Mr. Henderson, or Mr. 13 Henderson's summary: 14 "O Now, you said to Mr. Johnston initially 15 you thought it was a jackknife; correct? 01:50 16 (No audible response). Α 17 But in the statement to Centurion Ο 18 Ministries you say "it was a small 19 knife, a paring knife". 20 I might have said like a paring knife, 01:51 Α 21 I don't know. 22 Q But you agree that's what this statement 23 says, "it was small knife --24 Small knife. Α 25 ... a paring knife"? 01:51 0

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Page 8034 = 1 That's what it says there. Α 2 Well, my suggestion is that they 0 Yes. 3 told you that that's what they thought 4 it was, or they may have, I take it? 01:51 5 Α They may have. 6 Okay. Sure. You may have been Q 7 influenced by what they said? 8 Possibility. Α 9 Okay. Now, you said to 0 Sure. 10 Mr. Johnston this morning something 01:51 11 about being dragged down an alley, 12 correct? 13 Α Mhmm. Yes." Next to page 253520, and just down at the bottom, 14 15 Mr. Beresh asks: 01:51 16 "O But one thing is clear, isn't it, Sure. 17 whoever did this or however it was 18 one --" 19 Done, 20 "-- no one tried to stab you? 01:52 21 Pardon me. Α 22 Q No one tried to stab you? 23 Α Oh, no." 24 And if I could go back to Mr. Allbright's oral 25 ruling, 268473, and go to page 268479 and just 01:52

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Page 8035 : 1 down at the bottom, Mr. Justice Allbright's 2 rules: 3 "The second one that I have reached a 4 similar conclusion on is the evidence of 01:52 5 (V1) (V2)---- in this particular 6 matter." 7 And to the next page, please, and there: 8 "I am satisfied that that reaches that 9 standard, and the Crown will be entitled 10 to introduce that into evidence." 01:53 11 If we can then go to document 311923 and this is 12 the transcript of (V1)----- evidence at Larry 13 Fisher's trial. If you could go to page 311932, 14 please, and I don't propose to go through it, but 15 starting at about line 9 and down is her 01:54 16 description to the Court under oath about what 17 happened, the incident. 18 If you go to the next page, 19 please, and then down at the bottom: 20 "0 After she was on the ground what did he 01:54 21 do? 22 Α Then he -- do I have to say. 23 Q Yes, you do." 24 Mr. Beresh says that he can lead on this. Go to 25 the next page at the top: 01:54

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Page 8036 : 1 "0 It's important that you tell the members 2 of the jury what he did in your own 3 words. 4 Had intercourse. Α 01:54 5 0 What did you do during this time? Did 6 you say anything? 7 No. Α 8 Ο Why not? 9 Because he told me not to. I wanted Α 10 to live." 01:54 11 Page 311937, and again this is where the Crown 12 asks her to describe the knife and she describes 13 it: 14 "A It was similar like a jackknife, or 15 silver with two dots, black dots. 01:55 16 On what? 0 17 On the handle part." Α 18 And maybe just down to the bottom and she says: 19 "0 Okay. That's why I'm asking you, to 20 give the jury some suggestion of how 01:55 21 long it was. We won't hold you to the 22 absolute accuracy of it, (V1). 23 Α Yeah. Average of a jackknife, paring 24 knife, whatever. 25 You're holding your fingers up four, 01:55 0

Meyer CompuCourt Reporting -



		Page 8037
		Fage 6037
	1	five, six inches?
	2	A I guess so."
	3	Go to page 311947 and this is Mr. Beresh's
	4	cross-examination, and you'll recall, Mr.
01:56	5	Commissioner, when I read you the RCMP interview,
	6	I think it was Sergeant Pearson that had been
	7	given, and Mr. Beresh is examining on that, and
	8	he says:
	9	"Q Did you say to the police officer:
01:56	10	"While he had me on the ground he had a
	11	sharp object held against my throat. I
	12	did not see the object and do not know
	13	if it was a knife or some other sharp
	14	pointed object." Did you say that to
01:56	15	the police officer?
	16	A I'm sorry. Right here?
	17	Q Yes, please?
	18	A Okay."
	19	And then down at the bottom:
01:56	20	"Q I'm just asking that if those are your
	21	words. Did you say that to the police
	22	officer, please?
	23	A I guess that's what he said I said.
	24	But I can't I mean, I know there
01:56	25	was a knife.



	r	Page 8038
	1	Q Okay. But did you say that to the
	2	police officer, please, in 1991?
	3	A Not that I can recall.
	4	Q Okay. He'll be called later. I
01:57	5	appreciate that. And again, did you say
	6	to the police officer during this
	7	meeting, which was December 9, 1991:
	8	"During the sex act the fellow never
	9	became any rougher or gentler"?
01:57	10	A Yes.
	11	Q And that's correct?
	12	A Yes."
	13	That's all the evidence I propose to read of
	14	(V2)
01:57	15	The last one is (V3) If
	16	I could call up the RCMP report, 035 and I
	17	think it's 482 might be the doc ID. And if you
	18	could go to page 035484 where it starts and this
	19	is June, 1993, having researched documents they
01:58	20	refer to Sergeant Pearson's statement of January
	21	14, '92. If you go to the next page, which is
	22	483, and there's a reference there,
	23	"Due to these comments it is clear that
	24	(V3) was not advised by Saskatoon
01:58	25	City Police that Fisher had been caught,

Page 8039 = 1 charged and convicted for her assault." And I don't believe there's any -- I'm sorry, 2 3 there's another document, there is a contact. Ιf we could go to 035651, please, and go to page 4 5 035656, and down at the bottom, June 3rd of '93: 01:58 "I called the (V3)--- residence this 6 7 date but (V3) -- won't be home till noon 8 today." 9 If we can then go ahead to 035654 and this is 10 part of the notes of the interview and it says 01:59 11 starting here: 12 "She did provide a statement to police 13 at their station. She was shown several 14 "mug shots" but never did identify 15 anyone as her assailant. She went on to 01:59 say that she was asked to return to the 16 police station sometime after the Gail 17 18 Miller murder to look at more photos. 19 Again she was unable to identify anyone. 20 She stated that they, the police, never 01:59 21 did mention any suspect's name to her. 22 In fact she was never told that anyone 23 had been charged and convicted, until 24 Mrs. Milgaard came to see her on the 5th 25 01:59 of May, 1991. Then Sergeant Pearson

— Meyer CompuCourt Reporting =

	i	Vol 40 - Thursday, April 14th, 2005 Page 8040
		Tage 0040
	1	confirmed this in his statement from
	2	(V3) on 92-01-14."
	3	Next if I could go to the voir dire at the Fisher
	4	proceedings, and that's 253597, and just at the
02:00	5	bottom:
	6	"Q And I understand something happened that
	7	evening, November 29"
	8	And then full page, please, and just go back, and
	9	here again she describes under oath what happened
02:00	10	to her on that day, and then the next page,
	11	please, and here she answers, this part here:
	12	" and then I just kept crying for
	13	help and struggling. And my glasses had
	14	sort of gone up on top of my forehead
02:00	15	and there was just a little cut there,
	16	and there was a cut in my gloves between
	17	the index finger and my thumb, but I
	18	didn't see a knife, but he said he had a
	19	knife."
02:01	20	Then to page 253602 and here:
	21	"Q Right. So how did he grab you?
	22	A I just stepped down and his I'm
	23	sure it was his right arm, came over
	24	my mouth, and he said "don't say
02:01	25	anything, I have a knife."
		Meyer CompuCourt Reporting



		Page 8041	
	1	And then	scroll down here:
	2		
		"Q	Did you ever see a knife?
	3	A	No. But my glove did get cut with
	4		something. I had on some cotton
02:01	5		gloves."
	6	Page 253	606:
	7	"Q	You've told us as well at one point he
	8		said "don't make another sound or you're
	9		dead", or words to that effect. Do you
02:02	10		remember him saying anything else to you
	11		during that attack?
	12	А	Just not to say anything. That was
	13		all."
	14	And then	if I could go to Mr. Justice Allbright's
02:02	15	ruling a	t 268473 and go to page 268477, he says:
	16		"I turn next to the evidence of
	17		(V3) that I have referred
	18		to in this particular regard. And,
	19		again, I apologize to these individuals
02:02	20		for confusing names that they formerly
	21		went under and their current names.
	22		(V3) name is now, of course,
	23		(V3) This particular attack
	24		occurred not in the west side area of
02:03	25		Saskatoon in the area where Ms. Miller
			1

= Page 8042 =

	1	was killed, where her assault occurred,
	2	but rather occurred in the Wiggins
	3	Avenue/university area. I'm satisfied
	4	that there is simply very little
02:03	5	evidence regarding a knife. I recognize
	6	that this particular individual said she
	7	didn't see a knife but later discovered
	8	a cut in her glove between her thumb and
	9	her finger. In this particular matter
02:03	10	there was no attempt to use a knife, no
	11	attempt to suggest a knife, and I'm
	12	sorry, in this particular matter there
	13	was a comment about not to say anything
	14	because there was a knife in relation to
02:03	15	it, but she did not see the knife and,
	16	in my view, was not used. The
	17	distinguishing factor of this particular
	18	matter is location. And while I come to
	19	a Winnipeg matter that I am allowing the
02:03	20	Crown to enter into evidence, the query
	21	might come forward is that one is in
	22	Winnipeg and one is in Saskatoon, the
	23	fact of the matter is that this is in a
	24	significantly different area of
02:03	25	Saskatoon, far removed from the other
		Meyer CompuCourt Reporting

= Page 8043 =

		č
	1	area. The assailant in this case, whom
	2	we know again to be Mr. Fisher,
	3	indicated that he wanted her to come
	4	with him in relation to it, and there
02:04	5	was no attempt made to hide his identity
	6	or anything else. I've concluded that
	7	the evidence of this witness, again
	8	traumatic and dramatic evidence, and
	9	emotional evidence, does not reach that
02:04	10	degree of similarity which I believe it
	11	must to outweigh the prejudicial effect
	12	that would result by its introduction to
	13	the jury, and that will not be allowed."
	14	So that is the (V3) ruling and, of course,
02:04	15	she did not testify at trial.
	16	Those are the documents I
	17	propose to read in today, Mr. Commissioner, and
	18	so Monday at 1:00 we will start with
	19	(V1) or (V1), and I believe as far as
02:04	20	scheduling purposes, I will probably also try and
	21	start (V2) on Monday as well. It's
	22	difficult to anticipate how long counsel will
	23	need to cross-examine these witnesses but all
	24	five will be available next week.
02:04	25	COMMISSIONER MacCALLUM: Okay. Monday at
		Meyer CompuCourt Reporting

	Page 8044	
1	1:00, please.	
2	(Adjourned at 2:04 p.m.)	
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1 The

	Page 8045
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6	notes taken herein to the best of our knowledge, skill,
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= Page 8045 =

	I		Т	
	<b>065330</b> - 7945:1	<b>164351</b> - 7924:11,	7980:11, 7980:18,	<b>253602</b> - 8040:20
\$	<b>07</b> - 7925:24	7924:12	7985:6, 7985:12,	<b>253606</b> - 8041:6
Ψ	<b>071267</b> - 7941:19,	<b>16th</b> - 7982:1	7989:5, 7991:24,	<b>254882</b> - 8005:18
<b>\$50</b> - 7874:24, 7874:25	8000:7	<b>17</b> - 7969:18, 7983:14,	7999:7, 7999:19,	<b>25th</b> - 7882:13
	<b>071269</b> - 7941:17,	8029:22	7999:22	<b>260945</b> - 7980:9
•	7941:24	<b>1769 -</b> 7882:21,	<b>1971</b> - 7920:14,	<b>261053</b> - 7981:17
	<b>074797</b> - 7932:5	7883:21	7921:21, 7981:20,	<b>268444</b> - 8003:13
<b>'68</b> - 7941:13, 7945:7,	<b>080854</b> - 7981:4,	17th - 7981:20	7982:1, 7982:4,	<b>268449</b> - 8005:12
7958:14, 7958:17,	7981:5	<b>18</b> - 7939:22, 7944:4,	7986:13, 7986:18,	<b>268473</b> - 8021:9,
7958:20		7957:12, 7974:15	7986:24, 7987:10,	8034:25, 8041:15
<b>'69</b> - 7888:2, 7888:4,	1	182921 - 7933:7	7987:18	<b>268477</b> - 8041:15
7905:12, 7915:4,	1	<b>182924</b> - 7933:19	<b>1980</b> - 7922:4	<b>268479</b> - 8021:12,
7916:3, 7959:24,	<b>1</b> - 7912:7, 7917:1,	18th - 7922:20,	<b>1990</b> - 7923:6,	8023:8, 8034:25
7961:17	7949:12, 7949:17,	7924:18, 7925:16,	7987:20, 7987:22,	26th - 7886:2, 7975:9
<b>'70</b> - 7888:3, 7915:4,	7950:11, 7951:16,	7934:24, 7935:2,	7987:25, 7988:5,	28th - 7961:17,
7915:5	7964:12, 7965:12,	7940:13, 7942:8,	7988:7, 7989:7, 7989:9	8027:21
<b>'77</b> - 7904:19	7966:11, 7991:19,	7942:10, 7943:15,	<b>1991</b> - 7933:12,	<b>29</b> - 7945:13, 7976:20,
<b>'79</b> - 7904:19	7993:14, 7996:8,	7943:17, 7943:20,	7941:21, 7991:19,	7984:2, 7985:13,
<b>'92</b> - 8038:21	7997:8, 8028:18	7954:15, 7956:19,	7995:2, 7996:23,	8040:7
<b>'93</b> - 7908:2, 8002:17,	1/2 - 7993:14, 7996:8	7957:7, 7960:14,	7998:2, 7998:23,	<b>29th</b> - 7885:20,
8029:16, 8039:5	1/2-year - 7904:23	7963:20, 7964:20,	7998:25, 8000:8,	7920:18, 7925:17,
<b>'a'</b> - 7957:18, 7960:7,	<b>10</b> - 7934:18, 7937:11,	7964:23, 7982:23,	8017:4, 8038:2, 8038:7,	7958:20, 7981:11
7960:17, 7962:7,	7973:14, 8009:3,	7983:15, 8009:19	8039:25	<b>2:04</b> - 8044:2
7962:19	8011:11, 8014:20,	<b>19</b> - 7872:14, 7968:20,	<b>1992</b> - 8003:19	<b>2:25</b> - 7932:14
'ab' - 7957:20	8025:22	7974:21, 7984:3	<b>1993</b> - 7871:3, 7889:6,	
'her' - 8017:14	100 - 7946:17, 7993:24	<b>1960</b> - 7958:19	7890:3, 7893:21,	3
'mr - 7914:7	<b>10173</b> - 7932:12,	<b>1968</b> - 7872:15,	7897:1, 7897:6, 7897:7,	5
<b>'o'</b> - 7961:9	7934:8, 7975:8	7890:24, 7920:7,	7898:12, 7905:21,	<b>3</b> - 7964:14, 7965:12,
<b>'s</b> - 7951:22	<b>101734/68</b> - 7999:2	7920:10, 7920:18,	7906:23, 7932:2,	7965:22, 7987:22
'secretor' - 7957:19	<b>106</b> - 7966:12	7924:17, 7925:6,	8005:17, 8005:20,	<b>303130</b> - 8013:24
'selective - 7905:24	106142 - 7949:14	7925:17, 7931:25,	8005:22, 8027:21,	308113 - 8006:20
	<b>106204</b> - 7950:14	7932:14, 7941:8,	8038:19	<b>308115</b> - 8007:24
0	106566 - 7951:18	7941:13, 7941:22,	<b>1999</b> - 8021:12	<b>308123</b> - 8012:12
U	<b>106652</b> - 7966:13	7942:6, 7945:13,	<b>19th</b> - 7936:1	<b>308146</b> - 8016:14
<b>001499</b> - 7974:5	<b>106676</b> - 7885:17	7948:20, 7958:3,	<b>1:00</b> - 7920:7, 8043:18,	<b>308149</b> - 8018:22
<b>001763</b> - 7987:14	<b>106677</b> - 7885:23	7962:23, 7967:1,	8044:1	<b>30th</b> - 7980:11,
<b>004100</b> - 7967:7	<b>10910</b> - 7941:12	7971:7, 7971:25,	1:15 - 8003:3, 8003:7	7980:17
<b>009304</b> - 7874:11	<b>10910/68</b> - 7951:23	7974:14, 7976:20,	1st - 7988:7	<b>31</b> - 7920:22, 7958:14,
009305 - 7875:9	<b>10:00</b> - 7869:2, 7984:2	7977:5, 7977:9,		7961:18, 7967:11,
009306 - 7874:21	<b>10:23</b> - 7931:15	7980:15, 7980:21,	2	7989:4
009307 - 7874:17	<b>10:45</b> - 7931:16	7981:11, 7982:21,	۷.	<b>311923</b> - 8035:11
<b>010019</b> - 7989:6	<b>10th</b> - 7957:10,	7983:13, 7984:3,	<b>2</b> - 7904:23, 7918:13,	<b>311932</b> - 8035:13
<b>012639</b> - 7976:6	8021:11	7985:14, 7985:16,	7939:10, 7943:12,	<b>311937</b> - 8036:11
016097 - 7998:21	<b>110535</b> - 7980:16,	7999:18, 7999:22	7965:13, 7995:2,	<b>311947</b> - 8037:3
<b>025157</b> - 7968:3	7981:1	<b>1968-1970</b> - 7868:10,	7997:10	<b>311953</b> - 8024:25
<b>025169</b> - 7882:11	<b>11435</b> - 7945:7	7916:25	<b>20</b> - 7945:19, 7954:2,	<b>311954</b> - 8025:3
025566 - 7972:24	<b>11:00</b> - 7982:20	<b>1969</b> - 7869:22,	7959:23, 7960:13,	<b>311957</b> - 8025:10
035 - 8038:16	<b>11:15</b> - 7939:17	7869:23, 7871:8,	8014:20	<b>311966</b> - 8026:19
03547 - 8027:17	<b>11:35</b> - 7933:14	7872:1, 7872:25,	200 - 7945:16, 7984:5	<b>31st</b> - 7900:16
035474 - 8027:18	<b>11:40</b> - 7972:13	7873:11, 7873:25,	<b>2005</b> - 7865:21, 7917:8	<b>324671</b> - 7953:18
035478 - 8027:20	<b>11th</b> - 7874:23, 7875:6,	7874:12, 7874:20,	<b>20th</b> - 7874:12	<b>324672</b> - 7964:7
<b>035481</b> - 8027:17	7887:14, 7888:17,	7874:23, 7875:6,	<b>21</b> - 7920:6, 7921:2,	<b>325549</b> - 7922:14
035484 - 8038:18	7914:18, 7917:7,	7875:12, 7882:13,	7924:17, 7926:6,	<b>325550</b> - 7917:11
035651 - 8039:4	7973:1, 7974:3	7883:16, 7885:20,	7958:15, 7974:14,	<b>325551</b> - 7918:6
035654 - 8039:9	<b>12</b> - 7933:24, 7934:19,	7887:25, 7890:25,	7982:21, 7985:12,	<b>33rd</b> - 7953:2
035656 - 8039:5	7955:19, 8025:22	7894:11, 7897:5,	7985:15, 7986:24,	<b>360</b> - 7872:5
<b>035832</b> - 7890:4	<b>12:09</b> - 8003:6	7899:8, 7900:16,	7987:9, 7994:15	<b>3:45</b> - 7953:4
035836 - 7890:11	<b>12th</b> - 7955:21, 7956:1,	7904:13, 7908:10,	<b>210</b> - 7968:11	<b>3rd</b> - 8039:5
<b>035837</b> - 7890:5	7957:23, 7984:4	7910:3, 7912:5,	<b>21st</b> - 7882:19,	
<b>039527</b> - 7948:19	<b>13</b> - 7942:6, 7983:13,	7913:18, 7915:16,	7905:12, 7934:17,	Λ
<b>039601</b> - 7986:11	7985:16, 7987:4	7921:9, 7949:12,	7952:18, 7980:15	4
<b>039603</b> - 7986:14	<b>130</b> - 7966:19, 7966:21	7949:17, 7950:11,	<b>22</b> - 7934:15, 7979:24.	<b>4</b> - 7965:7, 7989:9
<b>039619</b> - 7986:22	<b>1305</b> - 7984:4	7950:15, 7951:13,	7982:21, 7985:6	<b>40</b> - 7865:22, 7876:15
<b>039935</b> - 7941:10	<b>138-69</b> - 7955:18,	7951:16, 7952:18,	<b>22nd</b> - 7874:20,	<b>400</b> - 7938:15,
<b>041</b> - 7955:21	7956:2	7954:15, 7955:19,	7875:2, 7875:12,	7958:15, 7963:20,
<b>041919</b> - 7955:25	<b>13th</b> - 7920:9, 7925:6,	7956:25, 7957:7,	7905:12, 7932:14,	7974:13
<b>042504</b> - 7934:3	7941:8, 7942:3,	7957:10, 7964:12,	7934:8. 7976:7.	<b>412</b> - 7950:20, 7983:14
<b>042511</b> - 7940:18	7958:17, 7977:9,	7964:14, 7964:20,	7976:12	<b>45</b> - 7876:15
<b>042513</b> - 7975:4	7980:21	7966:11, 7973:2,	<b>23</b> - 8025:4	<b>482</b> - 8038:17
<b>042522</b> - 7934:13	<b>14</b> - 7941:13, 8025:7,	7973:15, 7974:3,	<b>243-755</b> - 7952:22	<b>483</b> - 8038:22
<b>043139</b> - 7987:21	8038:21	7974:10, 7974:23,	<b>25</b> - 7944:4	<b>4:00</b> - 7971:10
<b>047041</b> - 7987:8	<b>14th</b> - 7865:21, 7942:2,	7975:9, 7999:18	<b>250597</b> - 7956:23	<b>4:00</b> - 7971:10 <b>4:35</b> - 7953:8
<b>047051</b> - 7980:23,	7948:20	<b>1970</b> - 7887:23,	<b>250602</b> - 7957:4	<b>4:45</b> - 7953:4
7981:7	<b>15</b> - 7931:13, 7963:17	7888:1, 7888:16,	<b>250602</b> - 7957.4 <b>250607</b> - 7961:15	<b>4:45</b> - 7953:4 <b>4th</b> - 7950:15, 7951:13
<b>048152</b> - 7996:18		7888:21, 7914:6,		<del></del>
	<b>1530</b> - 7977:12 <b>156584</b> - 7998:1		<b>253483</b> - 8029:18 <b>253488</b> - 8032:15	F
<b>054505</b> - 7996:23	156584 - 7998:1 156586 - 7998:14	7914:9, 7915:21, 7916:3, 7921:2,	<b>253488</b> - 8032:15 <b>253495</b> - 8032:22	5
<b>054507</b> - 7997:21	<b>156586</b> - 7998:14		<b>253495</b> - 8032:22	
<b>054511</b> - 7991:18	<b>156588</b> - 7998:16	7921:20, 7926:6,	<b>253511</b> - 8033:10	<b>5</b> - 7939:12, 7983:21,
<b>054513</b> - 7994:17	<b>15th</b> - 7968:6	7976:6, 7976:7,	<b>253520</b> - 8034:14	7989:7, 7996:23,
<b>056482</b> - 7995:1	<b>16</b> - 7982:4	7976:13, 7979:24,	<b>253597</b> - 8040:4	8014:20



Page 2

<b>5'2</b> - 7933:21, 7974:15	accompanied -	7965:19	apologies - 7941:23	aside - 7875:20,
<b>5'2"-4</b> - 7939:25	7892:5, 7900:23	agglutinogens -	apologize - 7875:9,	7897:16
<b>5'4</b> - 7933:21	accord - 7989:13	7955:13, 7960:6,	7980:21, 8041:19	aspects - 7930:5
<b>5'5</b> - 7944:3	accordance - 7895:5	7960:9, 7965:8,	apparent - 7994:4	<b>Asper</b> - 7987:23,
<b>5'6</b> - 7944:3, 7945:20	according - 7910:18	7973:22, 7974:1	appear - 7875:13,	7998:3, 7998:15,
<b>500</b> - 7942:21, 7958:18	Accordingly - 7959:23,	ago - 7904:24,	7892:21	7998:20
<b>507</b> - 7986:20	8022:21	7919:20, 7939:10,	appearance - 7998:13	assailant - 7927:3,
<b>512</b> - 7977:7	accosted - 7925:25	7953:22, 7977:16	Appearances - 7867:1	7927:17, 7949:9,
<b>523</b> - 7942:7, 7943:23	account - 7891:11,	agree - 7906:11,	appeared - 7959:3,	7959:1, 7959:4,
<b>528</b> - 7933:14,	8007:19, 8025:5,	7906:14, 7906:15,	7970:13, 7983:5,	7959:11, 7983:2,
7934:18, 7982:22	8025:7	7907:22, 7910:17,	7984:18, 7984:22	7983:10, 7983:25,
<b>5:00</b> - 7918:2	accountability -	7913:14, 8017:16,	application - 7988:1,	7984:23, 7995:18,
<b>5th</b> - 8039:24	7892:15	8033:22	8000:12, 8003:22	8029:2, 8039:15,
	accuracy - 8036:22	agreed - 7879:23,	applied - 7872:8,	8043:1
6	accurate - 7891:11,	7903:9, 7929:2,	8006:13	assault - 7920:6,
0	7924:9, 8000:18,	7968:17, 7990:16	appreciate - 7927:12,	7920:19, 7922:20,
<b>641</b> - 7949:15	8004:2, 8027:11	ahead - 7961:17,	8010:15, 8013:4,	7924:16, 7925:13,
		7976:6, 7979:16,		7927:2, 7929:4,
<b>690</b> - 8000:6, 8003:19	accused - 7987:2,		8013:10, 8013:17,	
<b>6:30</b> - 7995:7	7987:12, 8023:2	7990:18, 7997:21,	8038:5	7929:19, 7941:7,
	<ul> <li>acquaintances -</li> </ul>	8005:16, 8006:19,	appreciated - 7880:7,	7949:5, 7949:7,
7	7963:13	8013:24, 8016:14,	7892:10	7976:17, 7977:13,
-	acquainted - 7967:3,	8024:25, 8029:17,	approach - 7881:21,	7980:2, 7981:9,
<b>7</b> - 7925:24, 7940:14,	7967:22	8039:9	7881:23	7999:19, 8000:13,
7974:23	act - 7893:18, 7996:4,	aired - 7990:5	approached - 7888:16,	8002:11, 8026:5,
77 - 8028:8	8024:16, 8038:8	Albert - 7874:16	7945:17, 7945:18,	8028:1, 8028:11,
<b>7869</b> - 7868:4	acted - 7872:12,	alive - 7993:16	7948:3, 7958:22,	8039:1, 8042:1
<b>7893</b> - 7868:5	7908:8	Allan - 7986:18	7984:6, 8029:3	assaulted - 7920:9,
<b>7898</b> - 7868:6	acting - 7986:19	Allbright - 8021:10,	approaching - 7946:2,	7920:17, 7920:21,
<b>7903</b> - 7868:7	action - 7881:14,	8023:9	7959:13	7921:2, 7921:19,
<b>7916</b> - 7868:9	7881:15	Allbright's - 8007:11,	appropriate - 7896:21,	7925:24, 7989:12,
7:00 - 7920:22	active - 8002:5	8034:24, 8035:1,	7911:22, 7931:10,	8001:9
<b>7:30</b> - 7992:12	acts - 8022:25	8041:14	8006:14	assaulting - 7922:3,
<b>7:40</b> - 7942:5	actual - 7928:25,		approval - 7910:25,	7981:8
		allegation - 7900:15,		
<b>7:45</b> - 7942:5	8016:8	7900:20	7912:18, 7912:23	Assaults - 7868:9
<b>7th</b> - 7956:7, 7956:25,	add - 7919:11, 7939:3,	Alleged - 7954:21	approved - 7879:22	assaults - 7916:25,
7966:15, 7968:10,	7940:3, 7940:6,	alleged - 7883:9,	<b>April</b> - 7865:21,	7919:6, 7920:13,
7971:2, 7973:5,	7948:12, 7964:2,	7932:19, 7932:22,	7874:23, 7875:1,	7921:10, 7930:4,
7973:18, 7998:2	7991:1, 7997:3	7949:4, 7949:6, 7949:9,	7875:6, 7917:7,	7930:8, 7930:13,
	added - 7994:21,	7964:17, 7990:11	7964:12, 7964:14,	7931:5, 7962:12,
•	7999:8, 7999:14	allegedly - 7982:8,	7966:11, 7966:15,	7987:5, 7990:12,
8	addition - 7999:20	7989:12	7968:5, 7968:10,	7991:23, 7999:22,
<b>9</b> 7005.7				
8 - 7995:7	address - 7883:18,	alley - 7925:2,	7971:2, 7972:9,	8007:1
<b>8/69</b> - 7972:14	7883:19, 7883:23,	7942:20, 7947:7,	7972:14, 7973:1,	assessment - 7875:19,
<b>83968a</b> - 7961:19	7918:25, 7919:22,	7978:15, 7992:25,	7973:5, 7973:14,	7876:9, 7879:6, 8022:8
<b>8:00</b> - 7958:13	7922:9, 7934:20,	8008:12, 8008:15,	7973:18, 7974:3,	assigned - 7870:5,
<b>8:10</b> - 7983:12	7948:7	8030:2, 8034:11	7974:23, 8005:22	7870:12, 7871:9,
8:30 - 7950:20	addresses - 7988:9,	alleys - 7949:11	area - 7877:7, 7886:21,	7871:10, 7871:22,
<b>8:45</b> - 7970:6	7995:3	alleyway - 8030:3	7916:23, 7924:24,	7871:24, 7874:2,
<b>8:50</b> - 7970:5	Adjourned - 7931:15,	allow - 7966:7,	7926:17, 7927:2,	7999:17
8th - 7972:9, 7978:2,	8003:6, 8044:2	8007:12, 8023:11	7932:8, 7949:7,	assist - 7922:11,
7986:18	adjudication - 7876:1	allowed - 8043:13	7962:22, 7966:6,	7934:12
	admiration - 7904:17	allowing - 8042:19	7976:19, 7977:17,	assistance - 7870:4,
9	admissible - 8022:15	<b>almost</b> - 7875:21,	7986:2, 7993:4, 8028:6,	7871:13, 7872:5,
	admit - 8022:22	7877:10, 7989:1	8041:24, 8041:25,	7872:10, 7873:7,
<b>9</b> - 7986:12, 7998:23,	admitted - 7985:10,	alama 7077.4 7004.0		
	aumitteu - 7905.10,	alone - 7877:4, 7994:8	8042:3, 8042:24,	7891:1, 7967:15
7998:25, 8035:15,	8024:21	alternative - 8021:22	8042:3, 8042:24, 8043:1	7891:1, 7967:15 Assistant - 7866:3,
7998:25, 8035:15, 8038:7				
8038:7	8024:21 advise - 7880:23,	alternative - 8021:22 ambit - 8021:23	8043:1 <b>Area -</b> 7952:25	<b>Assistant</b> - 7866:3, 7866:6
8038:7 <b>92-01-14</b> - 8040:2	8024:21 <b>advise</b> - 7880:23, 7881:11, 7911:23,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16	8043:1 <b>Area</b> - 7952:25 <b>areas</b> - 7949:1, 7965:9,	Assistant - 7866:3, 7866:6 associating - 7888:25,
8038:7 <b>92-01-14</b> - 8040:2 <b>9:55</b> - 7945:12	8024:21 <b>advise</b> - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24
8038:7 <b>92-01-14</b> - 8040:2	8024:21 advise - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7,
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8	8024:21 <b>advise</b> - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 <b>advised</b> - 7881:24,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7931:5	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8	8024:21 <b>advise</b> - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 <b>advised</b> - 7881:24, 7884:15, 7886:15,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7931:5 analyst - 7999:16,	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19,	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations -
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8	8024:21 <b>advise</b> - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 <b>advised</b> - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7931:5 analyst - 7999:16, 7999:21	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 <b>A</b> Aaron - 7867:9,	8024:21 <b>advise</b> - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 <b>advised</b> - 7881:24, 7884:15, 7886:15,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7931:5 analyst - 7999:16, 7999:21 analyzed - 7959:16	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19,	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8	8024:21 <b>advise</b> - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 <b>advised</b> - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7931:5 analyst - 7999:16, 7999:21	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 Aaron - 7867:9, 7898:25	8024:21 <b>advise</b> - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 <b>advised</b> - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7931:5 analyst - 7999:16, 7999:21 analyzed - 7959:16	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 <b>A</b> Aaron - 7867:9,	8024:21 advise - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 advised - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7930:11 analyses - 7931:5 analyst - 7999:16, 7999:21 analyzed - 7959:16 answer - 7877:14, 7901:17, 7902:11,	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assuming - 7886:16,
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 Aaron - 7867:9, 7898:25 ability - 8045:7 able - 7890:10, 7897:2,	8024:21 advise - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 advised - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1, 7972:17, 7989:16,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7930:11 analyses - 7931:5 analyst - 7999:16, 7999:21 analyzed - 7959:16 answer - 7877:14, 7901:17, 7902:11, 8009:14, 8019:17	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11 arrest - 7874:19,	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assuming - 7886:16, 7903:25
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 Aaron - 7867:9, 7898:25 ability - 8045:7 abile - 7890:10, 7897:2, 7898:18, 7902:21,	8024:21 advise - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 advised - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1, 7972:17, 7989:16, 8038:24	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7931:5 analyst - 7999:16, 7999:21 analyzed - 7959:16 answer - 7877:14, 7901:17, 7902:11, 8009:14, 8019:17 answered - 7901:6,	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11 arrest - 7874:19, 7994:13, 7996:12	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assuming - 7886:16, 7903:25 assumption - 7871:21,
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 Aaron - 7867:9, 7898:25 ability - 8045:7 able - 7890:10, 7897:2, 7898:18, 7902:21, 7928:18, 7945:3,	8024:21 advise - 7880:23, 7881:11, 7911:23, 7993:1 advised - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1, 7972:17, 7989:16, 8038:24 advising - 7877:7,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7931:5 analyst - 7999:16, 7999:21 analyzed - 7959:16 answer - 7877:14, 7901:17, 7902:11, 8009:14, 8019:17 answered - 7901:6, 7901:16, 7938:11,	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11 arrest - 7874:19, 7994:13, 7996:12 arrival - 7932:20,	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assuming - 7886:16, 7903:25 assumption - 7871:21, 7873:25, 7897:17
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 Aaron - 7867:9, 7898:25 ability - 8045:7 able - 7890:10, 7897:2, 7898:18, 7902:21, 7928:18, 7945:3, 7951:9, 7998:12	8024:21 advise - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 advised - 7881:24, 7886:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1, 7972:17, 7989:16, 8038:24 advising - 7877:7, 7884:14, 7917:9	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7930:11 analyses - 7931:5 analyst - 7959:16 answer - 7877:14, 7901:17, 7902:11, 8009:14, 8019:17 answered - 7901:6, 7901:16, 7938:11, 7993:12	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11 arrest - 7874:19, 7994:13, 7996:12 arrival - 7932:20, 7948:6	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assuming - 7886:16, 7903:25 assumption - 7871:21, 7873:25, 7897:17 assumptions -
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 Aaron - 7867:9, 7898:25 ability - 8045:7 able - 7890:10, 7897:2, 7898:18, 7902:21, 7928:18, 7945:3, 7951:9, 7998:12 Abo - 7955:13	8024:21 advise - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 advised - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1, 7972:17, 7989:16, 8038:24 advising - 7877:7, 7884:14, 7917:9 affording - 8006:6	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7930:11 analyses - 7931:5 analyst - 7999:16, 7999:21 analyzed - 7959:16 answer - 7877:14, 7901:17, 7902:11, 8009:14, 8019:17 answered - 7901:6, 7901:16, 7938:11, 7993:12 answers - 7892:21,	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11 arrest - 7874:19, 7994:13, 7996:12 arrival - 7932:20, 7948:6 arrived - 7888:21,	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assuming - 7886:16, 7903:25 assumption - 7871:21, 7873:25, 7897:17 assumptions - 7906:19
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 Aaron - 7867:9, 7898:25 ability - 8045:7 able - 7890:10, 7897:2, 7898:18, 7945:3, 7951:9, 7998:12 Abo - 7955:13 above-named - 7982:9	8024:21 advise - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 advised - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1, 7972:17, 7989:16, 8038:24 advising - 7877:7, 7884:14, 7917:9 affording - 8006:6 afraid - 7970:23,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyse - 7930:11 analyses - 7931:5 analyst - 7999:16, 7999:21 analyzed - 7959:16 answer - 7877:14, 7901:17, 7902:11, 8009:14, 8019:17 answered - 7901:6, 7901:16, 7938:11, 7993:12 answers - 7892:21, 7904:7, 8030:1,	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11 arrest - 7874:19, 7994:13, 7996:12 arrival - 7932:20, 7948:6 arrived - 7888:21, 7939:12, 7939:14,	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assuming - 7886:16, 7903:25 assumption - 7871:21, 7873:25, 7897:17 assumptions - 7906:19 assured - 7909:21
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 Aaron - 7867:9, 7898:25 ability - 8045:7 able - 7890:10, 7897:2, 7898:18, 7902:21, 7928:18, 7945:3, 7951:9, 7998:12 Abo - 7955:13	8024:21 advise - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 advised - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1, 7972:17, 7989:16, 8038:24 advising - 7877:7, 7884:14, 7917:9 affording - 8006:6 afraid - 7970:23, 7994:7	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7930:11 analyses - 7930:15 analyst - 7999:16, 7999:21 analyzed - 7959:16 answer - 7877:14, 7901:17, 7902:11, 8009:14, 8019:17 answered - 7901:6, 7901:16, 7938:11, 7993:12 answers - 7892:21, 7904:7, 8030:1, 8040:11	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11 arrest - 7874:19, 7994:13, 7996:12 arrival - 7932:20, 7948:6 arrived - 7888:21, 7939:12, 7939:14, 7939:17	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assuming - 7886:16, 7903:25 assumption - 7871:21, 7873:25, 7897:17 assumptions - 7906:19
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 Aaron - 7867:9, 7898:25 ability - 8045:7 able - 7890:10, 7897:2, 7898:18, 7945:3, 7951:9, 7998:12 Abo - 7955:13 above-named - 7982:9	8024:21 advise - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 advised - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1, 7972:17, 7989:16, 8038:24 advising - 7877:7, 7884:14, 7917:9 affording - 8006:6 afraid - 7970:23,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyse - 7930:11 analyses - 7931:5 analyst - 7999:16, 7999:21 analyzed - 7959:16 answer - 7877:14, 7901:17, 7902:11, 8009:14, 8019:17 answered - 7901:6, 7901:16, 7938:11, 7993:12 answers - 7892:21, 7904:7, 8030:1,	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11 arrest - 7874:19, 7994:13, 7996:12 arrival - 7932:20, 7948:6 arrived - 7888:21, 7939:12, 7939:14,	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assuming - 7886:16, 7903:25 assumption - 7871:21, 7873:25, 7897:17 assumptions - 7906:19 assured - 7909:21
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 Aaron - 7867:9, 7898:25 ability - 8045:7 able - 7890:10, 7897:2, 7898:18, 7902:21, 7928:18, 7945:3, 7951:9, 7998:12 Abo - 7955:13 above-named - 7982:9 absence - 8021:22 absolute - 8036:22	8024:21 advise - 7880:23, 7881:11, 7911:23, 7993:1 advised - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1, 7972:17, 7989:16, 8038:24 advising - 7877:7, 7884:14, 7917:9 affording - 8006:6 afraid - 7970:23, 7994:7 afternoon - 7920:10,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7931:5 analyst - 7999:16, 7999:21 analyzed - 7959:16 answer - 7877:14, 7901:17, 7902:11, 8009:14, 8019:17 answered - 7901:6, 7901:16, 7938:11, 7993:12 answers - 7892:21, 7904:7, 8030:1, 8040:11 anticipate - 8043:22	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11 arrest - 7874:19, 7994:13, 7996:12 arrival - 7932:20, 7948:6 arrived - 7888:21, 7939:12, 7939:14, 7939:17 Arthur - 7961:20	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assumption - 7871:21, 7873:25, 7897:17 assumptions - 7906:19 assured - 7909:21 attached - 7941:21, 7957:22, 7960:23,
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 Aaron - 7867:9, 7898:25 ability - 8045:7 able - 7890:10, 7897:2, 7898:18, 7902:21, 7928:18, 7945:3, 7951:9, 7998:12 Abo - 7955:13 above-named - 7982:9 absence - 8021:22 absolute - 8036:22 absolute - 7877:16,	8024:21 advise - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 advised - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1, 7972:17, 7989:16, 8038:24 advising - 7877:7, 7884:14, 7917:9 affording - 8006:6 afraid - 7970:23, 7994:7 afternoon - 7920:10, 7971:10, 8002:20,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7930:11 analyses - 7930:15 analyset - 7959:16 answer - 7877:14, 7901:17, 7902:11, 8009:14, 8019:17 answered - 7901:6, 7901:16, 7938:11, 7993:12 answers - 7892:21, 7904:7, 8030:1, 8040:11 anticipate - 8043:22 antigens - 7957:25	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11 arrest - 7874:19, 7994:13, 7996:12 arrival - 7932:20, 7948:6 arrived - 7888:21, 7939:12, 7939:14, 7939:17 Arthur - 7961:20 article - 7948:19,	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assuming - 7886:16, 7903:25 assumption - 7871:21, 7873:25, 7897:17 assumptions - 7906:19 assured - 7909:21 attached - 7909:21 attached - 7941:21, 7957:22, 7960:23, 7966:10
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 Aaron - 7867:9, 7898:25 ability - 8045:7 able - 7890:10, 7897:2, 7898:18, 7902:21, 7958:18, 7945:3, 7951:9, 7998:12 Abo - 7955:13 above-named - 7982:9 absence - 8021:22 absolute - 8036:22 absolutely - 7877:16, 7882:6	8024:21 advise - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 advised - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1, 7972:17, 7989:16, 8038:24 advising - 7877:7, 7884:14, 7917:9 affording - 8006:6 afraid - 7970:23, 7994:7 afternoon - 7920:10, 7971:10, 8002:20, 8003:8, 8012:6,	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7930:11 analyses - 7931:5 analyst - 7999:16, 7999:21 analyzed - 7959:16 answer - 7877:14, 7901:17, 7902:11, 8009:14, 8019:17 answered - 7901:6, 7901:16, 7938:11, 7901:16, 7938:11, 7903:12 answers - 7892:21, 7904:7, 8030:1, 8040:11 anticipate - 8043:22 antigens - 7957:25 apart - 7937:5, 7992:5	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11 arrest - 7874:19, 7994:13, 7996:12 arrival - 7932:20, 7948:6 arrived - 7888:21, 7939:12, 7939:14, 7939:17 Arthur - 7961:20 article - 7948:19, 7948:20	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assuming - 7886:16, 7903:25 assumption - 7871:21, 7873:25, 7897:17 assumptions - 7906:19 assured - 7909:21 attached - 7941:21, 7957:22, 7960:23, 7966:10 Attached - 7891:23
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 A Aaron - 7867:9, 7898:25 ability - 8045:7 able - 7890:10, 7897:2, 7898:18, 7902:21, 7928:18, 7945:3, 7951:9, 7998:12 Abo - 7955:13 above-named - 7982:9 absence - 8021:22 absolute - 8036:22 absolutely - 7877:16, 7882:6 access - 7895:3,	8024:21 advise - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 advised - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1, 7972:17, 7989:16, 8038:24 advising - 7877:7, 7884:14, 7917:9 affording - 8006:6 afraid - 7970:23, 7994:7 afternoon - 7920:10, 7971:10, 8002:20, 8003:8, 8012:6, 8023:18	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7930:11 analyses - 7930:15 analyst - 7999:16, 7999:21 analyzed - 7959:16 answer - 7877:14, 7901:17, 7902:11, 8009:14, 8019:17 answered - 7901:6, 7901:16, 7938:11, 7993:12 answers - 7892:21, 7904:7, 8030:1, 8040:11 anticipate - 8043:22 antigens - 7957:25 apart - 7937:5, 7992:5 Apart - 8032:16	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11 arrest - 7874:19, 7994:13, 7996:12 arrival - 7932:20, 7948:6 arrived - 7888:21, 7939:12, 7939:14, 7939:17 Arthur - 7961:20 article - 7948:19, 7948:20 articles - 7940:21	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assuming - 7886:16, 7903:25 assumption - 7871:21, 7873:25, 7897:17 assumptions - 7906:19 assured - 7909:21 attached - 7941:21, 7957:22, 7960:23, 7966:10 Attached - 7891:23 attack - 7928:22,
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 Aaron - 7867:9, 7898:25 ability - 8045:7 abile - 7890:10, 7897:2, 7898:18, 7902:21, 7928:18, 7945:3, 7951:9, 7998:12 Abo - 7955:13 above-named - 7982:9 absence - 8021:22 absolute - 8036:22 absolutely - 7877:16, 7882:6 access - 7895:3, 7895:20, 7988:18	8024:21 advise - 7880:23, 7881:11, 7911:23, 7993:1 advised - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1, 7972:17, 7989:16, 8038:24 advising - 7877:7, 7884:14, 7917:9 affording - 8006:6 afraid - 7970:23, 7994:7 afternoon - 7920:10, 7971:10, 8002:20, 8003:8, 8012:6, 8023:18 age - 7934:15	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7931:5 analyst - 7959:16 answer - 7877:14, 7991:17, 7902:11, 8009:14, 8019:17 answered - 7901:6, 7901:16, 7938:11, 7993:12 answers - 7892:21, 7904:7, 8030:1, 8040:11 anticipate - 8043:22 antigens - 7957:25 apart - 7937:5, 7992:5 Apart - 8032:16 apartment - 7926:22,	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11 arrest - 7874:19, 7994:13, 7996:12 arrival - 7932:20, 7948:6 arrived - 7888:21, 7939:12, 7939:14, 7939:17 Arthur - 7961:20 articles - 7940:21 articulation - 8021:24	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assuming - 7886:16, 7903:25 assumption - 7871:21, 7873:25, 7897:17 assumptions - 7906:19 assured - 7909:21 attached - 7941:21, 7957:22, 7960:23, 7966:10 Attached - 7891:23 attack - 7928:22, 7934:22, 7944:20,
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 Aaron - 7867:9, 7898:25 ability - 8045:7 able - 7890:10, 7897:2, 7898:18, 7902:21, 7928:18, 7945:3, 7951:9, 7998:12 Abo - 7955:13 above-named - 7982:9 absence - 8021:22 absolute - 8036:22 absolute - 8036:22 absolutely - 7877:16, 7882:6 access - 7895:3, 7895:20, 7988:18 accessed - 7926:11	8024:21 advise - 7880:23, 7881:11, 7911:23, 7963:23, 7981:13, 7999:1 advised - 7881:24, 7886:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1, 7972:17, 7989:16, 8038:24 advising - 7877:7, 7884:14, 7917:9 affording - 8006:6 afraid - 7970:23, 7994:7 afternoon - 7920:10, 7971:10, 8002:20, 8003:8, 8012:6, 8023:18 age - 7934:15 agent - 7982:5	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7930:11 analyses - 7930:15 analyzed - 7959:16 answer - 7877:14, 7901:17, 7902:11, 8009:14, 8019:17 answered - 7901:6, 7901:16, 7938:11, 7993:12 answers - 7892:21, 7904:7, 8030:1, 8040:11 anticipate - 8043:22 antigens - 7957:25 apart - 7937:5, 7992:5 Apart - 8032:16 apartment - 7926:22, 7946:3, 7946:21,	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11 arrest - 7874:19, 7994:13, 7996:12 arrival - 7932:20, 7948:6 arrived - 7888:21, 7939:12, 7939:14, 7939:17 Arthur - 7961:20 article - 7948:19, 7948:20 articles - 7940:21 articulation - 8021:24 ascertain - 7870:19,	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assuming - 7886:16, 7903:25 assumption - 7871:21, 7873:25, 7897:17 assumptions - 7906:19 assured - 7909:21 attached - 7941:21, 7957:22, 7960:23, 7966:10 Attached - 7891:23 attack - 7928:22, 7934:22, 7944:20, 7992:11, 7994:6,
8038:7 92-01-14 - 8040:2 9:55 - 7945:12 9th - 8000:8 Aaron - 7867:9, 7898:25 ability - 8045:7 abile - 7890:10, 7897:2, 7898:18, 7902:21, 7928:18, 7945:3, 7951:9, 7998:12 Abo - 7955:13 above-named - 7982:9 absence - 8021:22 absolute - 8036:22 absolutely - 7877:16, 7882:6 access - 7895:3, 7895:20, 7988:18	8024:21 advise - 7880:23, 7881:11, 7911:23, 7993:1 advised - 7881:24, 7884:15, 7886:15, 7886:19, 7917:16, 7919:19, 7919:22, 7957:16, 7963:15, 7968:13, 7972:1, 7972:17, 7989:16, 8038:24 advising - 7877:7, 7884:14, 7917:9 affording - 8006:6 afraid - 7970:23, 7994:7 afternoon - 7920:10, 7971:10, 8002:20, 8003:8, 8012:6, 8023:18 age - 7934:15	alternative - 8021:22 ambit - 8021:23 amended - 7998:16 amount - 7897:20 analyse - 7930:11 analyses - 7931:5 analyst - 7959:16 answer - 7877:14, 7991:17, 7902:11, 8009:14, 8019:17 answered - 7901:6, 7901:16, 7938:11, 7993:12 answers - 7892:21, 7904:7, 8030:1, 8040:11 anticipate - 8043:22 antigens - 7957:25 apart - 7937:5, 7992:5 Apart - 8032:16 apartment - 7926:22,	8043:1 Area - 7952:25 areas - 7949:1, 7965:9, 7965:14 arm - 7943:4, 8040:23 armed - 7984:17 Arp - 8021:25, 8022:19, 8024:6 arranged - 7952:25 arrangements - 7928:11 arrest - 7874:19, 7994:13, 7996:12 arrival - 7932:20, 7948:6 arrived - 7888:21, 7939:12, 7939:14, 7939:17 Arthur - 7961:20 articles - 7940:21 articulation - 8021:24	Assistant - 7866:3, 7866:6 associating - 7888:25, 7899:24 association - 7871:7, 7889:24 associations - 7967:20 assorted - 7950:5 assume - 7871:23 assuming - 7886:16, 7903:25 assumption - 7871:21, 7873:25, 7897:17 assumptions - 7906:19 assured - 7909:21 attached - 7941:21, 7957:22, 7960:23, 7966:10 Attached - 7891:23 attack - 7928:22, 7934:22, 7944:20,



8004:4, 8007:17, 8007:20.8008:1. 8024:3, 8024:4, 8025:8, 8026:1, 8041:11, 8041:23 attacked - 7944:3, 7992:3. 7998:11. 8029:15 attacker - 7962:1, 7975:1, 8028:10, 8028:11 attacker's - 8029:12 attacks - 7927:14 attempt - 7955:12, 7960:8, 7960:18, 7962:4, 7965:18, 8012:25, 8042:10, 8042:11, 8043:5 attempted - 7921:10, 7927:2, 7958:5, 7985:12 **attempting** - 7870:20, 7873:18, 7887:17 **attempts** - 7880:23, 8006:4, 8006:5, 8006:12 Attempts - 7963:3 attend - 7887:13, 7889:19, 7932:17 attendance - 7933:13 attended - 7882:21, 7885: attending - 7869:14, 7888:3, 8028:22 attention - 7869:22, 7878:19, 7879:8, 7882:2, 7882:15, 7885:22, 7890:11, 7898:4, 7915:19, 7949:5, 7952:15, 8008:4 attention-getting -7878:19 Attorney - 7982:6, 7986:19 attributed - 7989:17, 7997:6 attributing - 8004:9 audible - 8033:16 Audio - 7866:14 August - 7888:18, 7904:18, 7915:16, 7916:3 Aunt - 7939:1 aunt - 7939:11, 7968:12 Aunty - 7938:17 author - 7882:13, 7899:1, 7924:13, 7927:5 authored - 7885:21 authorities - 7882:4 authorizes - 7998:18 auto - 7953:8, 7953:11 automobile - 7984:22 avail - 7961:11, 7963:5 available - 7910:17, 7990:15, 8043:24 Avenue - 7924:19, 7925:2, 7925:8, 7925:9, 7925:13, 7925:16, 7926:5, 7933:14, 7934:18, 7934:24, 7935:5, 7938:9, 7938:15, 7942:7, 7942:8, 7942:11, 7942:20, 7942:21, 7943:23, 7945:15, 7946:18, 7950:21, 7958:15, 7958:18

7966:19, 7966:21, 7968:11, 7974:13, 7977:7, 7977:10, 7977:12, 7982:22, 7983:14, 7984:5 Avenue/university -8042.3 Avenues - 7922:21 Average - 8036:23 avoid - 7949:2 aware - 7878:4 7900:14, 7901:9, 7923:21, 7967:2, 7967:4, 8029:1 В B-170 - 7891:20 Ba - 7872:17 background - 8006:22 backwards - 8027:19 bad - 7907:9 bag - 7969:25 balances - 8022:20 ban - 7917:4, 7917:13, 7917:17, 7918:7, 7919:24, 7921:24, 7922:5, 7922:9 banged - 8019:3 base - 7914:4 Based - 7997:10 basement - 7977:10 basic - 7900:20 basis - 7870:17, 7874:3, 7881:17, 7887:11, 7915:7 bat - 7902:22 Bc - 7887:14 bear - 8022:21 bearing - 7952:22, 7955:7, 8023:15 bearings - 7926:19 became - 7908:4, 8038:9 become - 7918:19, 7965:23 bed - 7938:25 bedroom - 7938:23 begins - 7907:11 begun - 7875:5 behalf - 7988:17, 8007:21 behaviour - 7870:20 **behind** - 7936:9, 7947:5, 7959:7, 7978:13, 7982:24, 7984:16, 7995:13, 8008:5, 8028:5 behold - 7912:21 Beitel - 7866:10 belabour - 7898:13 bell - 7884:7 belongings - 8031:16 Ben - 7933:8, 7994:21 Bench - 8045:1, 8045:3, 8045:14, 8045:20 Beresh - 8007:20, 8012:12, 8016:16, 8018:15, 8020:5, 8026:20, 8034:15, 8035:24, 8037:7 Beresh's - 8012:4, 8013:25, 8032:21, 8033:10, 8037:3 Bernice - 7988:12 beside - 7942:22 Bessborough -7865:16 best - 7912:11, 7966:3

8045:6 better - 7873:18 between - 7904:18, 7922:20, 7924:18, 7925:16, 7935:5, 7938:5, 7940:15, 7942:11, 7942:20, 7953:4, 7958:15, 7995:7, 7999:22, 8004:23, 8004:24, 8014:20, 8021:18, 8022:6, 8022:25, 8024:16, 8040:16, 8042:8 Between - 8010:8 Bev - 7968:7 bevond - 7917:23. 7919:18 big - 7915:14, 8010:4 binders - 7953:23 bit - 7871:2, 7880:4, 7880:12, 7897:3, 7898:3, 7899:5, 7899:21, 7900:14, 7905:3, 7906:23, 7908:4, 7908:9, 7920:4, 7922:12, 7928:4, 7935:12, 7941:5, 7975:4, 7993:18, 7996:16, 8003:10, 8004:17, 8006:22, 8009:10, 8011:6, 8020:21, 8020:22 8025:23, 8026:10 bite - 8021:5 **biting** - 8020:20 **bits** - 7906:9, 7906:12, 7906:16, 7906:18, 7907:7 black - 7943:3, 7944:9, 8030:9, 8030:18, 8036:15 Blakeney - 7986:19 block - 7926:22, 7938:15, 7942:21, 7943:12, 7945:16, 7946:3, 7946:7, 7946:14, 7946:17, 7958:15, 7963:20, 7974:13, 7984:5, 7984:8, 7984:9, 7985:19, 8030:19 Block - 7958:18 blocks - 7946:22, 7978:14, 7992:5, 7993:14, 7996:8 **blood** - 7939:1, 7939:2, 7939:6, 7939:7, 7957:20, 7961:8, 7965:18, 7966:1, 7967:4, 7967:17, 7967:25, 7968:16, 7970:4, 7972:7, 7972:9, 7973:6, 7973:16, 7972:21, 7973:23 7973:21, 7973:23, 7973:24, 7974:1, 7974:24 blouse - 7936:21, 7936:24, 7937:22, 7940:25, 8011:1 blow - 7924:24, 7926:16 **blue** - 7933:1, 7937:19, 7940:24, 7941:1, 7955:5, 7955:6, 7960:4, 7960:7, 7964:25 **Bob** - 7879:20, 7880:12, 7880:15, 7885:10, 7886:14, 7886:18, 7891:16,

7891:22, 7892:11, 7902:1, 7902:21, 7911:2, 7911:21, 7912:19 Bobs - 7867:5 **body** - 7924:21, 7925:1, 7935:25, 7957:21 Bolton - 7932:17 bond - 7874:25 book - 7969:12 books - 7947:7, 7948:5, 7978:10 boot - 8001:11, 8001:12 boots - 7944:11 Boswell - 7866:5. 7981:3 bottle - 7940:14 **bottom** - 7934:10, 7939:20, 7940:25, 7945:9, 7948:11, 7950:19, 7962:20, 7970:9, 7972:6, 7975:16, 7976:14, 7980:11, 7993:1, 8000:22, 8012:3, 8014:13, 8015:13, 8016:15, 8027:25, 8028:14, 8030:11, 8032:1, 8034:14, 8035:1, 8035:19, 8036:18, 8037:19, 8039:5, 8040:5 box - 7972:10, 7972:11 boyfriend - 7942:7, 7943:25, 7995:9 Boys - 7872:16 **bra** - 7943:1, 7943:20, 7996:6 brackets - 7922:18 branch - 7889:17 Brand - 7970:4, 7970:5 brassieres - 7963:18 brazier - 7938:7 breach - 7886:20 bread - 7992:16 break - 7931:11, 8002:19, 8002:22 breath - 7946:20 bridge - 7977:22, 7979.12 bright - 7943:1 bring - 7870:10, 7882:15, 7905:9, 8019:18, 8022:21 bringing - 7878:18 brings - 8021:23 broadcast - 7918:10 broke - 7935:18 broken - 7940:13, 8013:22 brothers - 7951:1 brought - 7871:7, 7880:10, 7882:1, 7902:21, 7909:18, 7949:5, 7950:2, 7950:22 brown - 7942:24, 7942:25 Brown - 7945:25, 7946:1 Bruce - 7867:10, 7893:18, 7989:9 Bruises - 8032:19 build - 7933:22, 7944:5, 7945:22 building - 7890:15 burns - 7945:21 bursary - 7887:12

bus - 7977:20, 7992:7, 7992:8 Bus - 7970:13, 7971:6, 7971:9, 7972:23, 7975:15 buttons - 7942:25 С Cadrain - 7874:16, 7924:23, 7925:3, 7925:8, 7925:12, 7977:11 cafe - 7971:13 Caldwell - 7867:5, 7982:5 camera - 7928:15 Canada - 7867:13 Candace - 7866:4, 7918:2 cannot - 7998:8. 8006:10 Canton - 7949:20, 7950:7, 7950:12, 7951:1, 7971:24 Cantons - 7949:23 capacity - 7892:11 **caption** - 7954:19 **car** - 7927:3, 7948:4, 7971:23, 7978:19 careful - 7895:4 carefully - 8023:15 Carl - 7988:6 Carmen - 7890:17, 7892:23 Carmen's - 7892:12 carries - 7958:1, 7960:16, 7977:11, 8000:19 carry - 8003:9, 8011:5, 8011:18 Carrying - 8017:15 **carrying** - 7922:22, 7963:24, 7973:20, 7978:10, 7983:16, 7983:22, 7991:25, 7992:11, 8011:6, 8022:7, 8030:11, 8031:11 **case** - 7871:10, 7872:5, 7872:7, 7872:9, 7873:7, 7874:2, 7885:3, 7885:8, 7886:19, 7887:20, 7890:9, 7894:17, 7894:18, 7897:20, 7923:13, 7923:16, 7959:11 7985:2, 7986:9, 7992:1, 7995:9, 7996:11, 7997:12, 7997:15 8001:24, 8005:22, 8007:18, 8022:16, 8024:22, 8043:1 **cases** - 7931:21, 7931:22, 7944:24, 7959:16, 7959:18, 7985:23, 7999:23 Casevault - 7954:5, 7954:9, 7981:4 Casper - 7998:3 catalogue - 7999:23 category - 8024:12 Catherine - 7867:5, 7903:23 caught - 7992:9, 8029:2. 8038:25 **Cbc** - 7988:6, 7990:4 **Cdl** - 7960:1 Cecil - 7967:13 cells - 7985:8





Centre - 7887:9, 7887:10. 7888:6. 7888:12 Centurion - 8033:17 **certain** - 7881:8, 7883:6, 7904:25, 7974:10, 7984:8 certainly - 7909:11, 7930:6, 8006:9, 8023:25 certainty - 8021:20 Certificates - 8045:1 certify - 8045:4 chance - 7884:3, 7953:5 change - 8002:1 characteristics -8024:9 characterized - 7904:7 **charge** - 7874:24, 7922:3, 7926:3, 7975:11, 7976:23, 7982:19, 7983:11, 7984:1 charged - 7976:17, 8039:1, 8039:23 charges - 7980:12, 7982:12, 7982:17, 7986:15, 7986:17 **charging** - 7980:19, 7981:8, 7981:14 checked - 7941:1 checks - 7944:10 chest - 7935:9, 8013:9, 8013:16 Chevy - 7952:21 chew - 7966:4 Chief - 7981:20, 7988:21 chronologically -7931:25, 7949:12, 7966:14, 7975:3, 7976:5, 7980:9 chronology - 7957:9, 7987:20 Church - 8005:10 circle - 7924:22 circumstances -7897:4, 7927:25, 8006:3, 8006:15, 8007:17, 8022:15, 8025:8 **city** - 7949:1, 7973:8, 7977:18, 7988:17 **City**- 7924:13, 7951:25, 7952:25, 7958:6, 7960:19, 7960:23, 7961:22, 7962:7, 7963:16, 7963:22, 7964:19, 7973:14, 7989:15, 7990:9, 8005:3, 8038:25 claim - 7912:15 claimed - 7950:8 claims - 7891:3, 7985:23 clarification - 7905:4 **clarify** - 7874:9, 7879:25, 7895:24 classes - 7953:3 clean - 7944:8, 7966:5, 7969:25 clear - 8001:21, 
 Clearly - 5001.2 r,

 8034:16, 8038:23

 clearly - 7897:6

 Cleil - 7966:18

 Clerk - 7866:10

 client - 7876:12
 client - 7876:12, 7904:22, 7904:23

clients - 7870:5, 7870:8. 7894:16. 7896:19 clips - 7906:7 close - 7876:24, 7901:18, 7930:21, 7935:10, 7948:1 closed - 7975:24 closest - 8019:3, 8019:24 cloth - 7941:1, 7944:9, 7966:5 clothes - 7942:23, 7993:1, 8009:12, 8010:10, 8028:7, 8030:5 **clothing** - 7940:1, 7963:7, 7974:25, 7983:1, 8025:25, 8026:11 **co** - 7984:20 co-operate - 7984:20 **coat** - 7936:13, 7936:14, 7936:19, 7936:20, 7938:8, 7938:25, 7939:6, 7939:15, 7941:1, 7942:23, 7943:5, 7943:19, 7947:21, 7959:9, 7983:17, 8008:25, 8010:11, 8010:12, 8030:4 **Code**- 7986:21 coincidences - 7913:1 **collar** - 7942:24, 7955:7, 8001:9 College - 7953:2, 7977:25 **color** - 7943:1, 7943:2, 7943:3, 7943:11, 8001:10, 8001:15 **colour** - 7950:25, 7952:22, 8010:5 coloured - 7940:1, 7971:23 Coming - 7915:8 coming - 7875:23, 7896:4, 7899:22, 7915:1, 7916:4, 7922:16 - 7927:14 7922:16, 7937:14, 7942:12, 8013:6. 8013:13, 8032:23 commenced - 7945:14 comment - 7892:7, 7893:24, 7894:24, 7902:24, 7908:13, 7913:19, 7922:25, 8042:13 comments - 7884:11, 7929:25, 7996:14, 7997:4, 8038:23 Commission - 7865:2, 7865:14, 7866:1, 7866:2, 7866:3, 7866:10, 7869:15, 7892:24, 7917:3, 7917:6, 7918:1, 7919:2, 7919:16, 7921:23, 7923:8, 7927:15, 7927:18, 7929:10, 7930:1 Commission's -7918:24 Commissioner -7869:3, 7869:5, 7869:6, 7880:23, 7898:24, 7916:20, 7916:24, 7919:1, 7919:25, 7926:14, 7926:25, 7927:9, 7928:17,

7931:9, 7931:13, 7931:18, 7951:11, 7951:14, 7951:17, 7951:24, 7953:19, 7964:2, 7980:24, 7981:13, 7986:4, 8000:1, 8002:13. 8002:24, 8003:3, 8003:5, 8003:8, 8005:18, 8017:3, 8025:1, 8037:5, 8043:17, 8043:25 commit - 7981:9, 7989:2 committed - 7871:15, 7962:24, 7976:9, 7982:9, 7985:15, 7985:25, 7987:5, 7988:23, 7998:10, 8007:1, 8022:1, 8024:17 common - 7884:19 communicate -7988:20 commuting - 7888:13, 7914:12, 7914:16, 7914:24 **company** - 7892:9, 7892:13, 7997:17 compare - 7930:11 Compared - 7993:25 comparison - 7930:19 comparisons 7930:10, 7931:2 compiled - 7885:7 complainant - 7933:2. 7952:14 complainants · 7949:25, 7956:22 complained - 7950:10 complaints - 7921:9 completed - 7948:10, 7966:9 completing - 7996:4 composite - 7951:7, 7951:9 computer - 7928:17 computerised -7999:9 **con** - 7910:8 concept - 8023:15 concern - 7879:25 concerned - 7879:10, 7895:18, 7909:7, 8000:13, 8006:11 concerns - 7894:15, 7917:25 concluded - 7902:23, 7923:9, 7956:14, 8023:13, 8043:6 conclusion - 7965:5, 8023:14, 8035:4 conclusions - 8023:6 Conclusions -7965:13, 7973:23 concurrent - 7987:2, 7987:11, 7987:16 conditions - 7913:25 conduct - 7965:2, 7973:19 conducted - 7923:8, 7955:16, 7958:6, 7961:4, 7962:3, 7963:6 conducting - 7871:5, 7884:22 confessed - 7921:4. 7979:23 confession - 7980:4, 7994:13 confidential - 7883:10,

7910:9, 7910:13, 7910:22 confidentiality -7912:15 confined - 7985:8 confirmation - 7903:6 confirmed - 8040:1 confirms - 8026:4 confusing - 8041:20 Congram - 7866:4, 7918:3 connected - 7961:3, 7962:23 connection - 7915:2, 7915:3, 7955:17 considered - 7878:13 consistent - 7986:10 Constable - 7882:20, 7884:5, 7885:5, 7905:7, 7905:11, 7932:17 construction -7925:21, 7997:17 consult - 7984:11 **contact** - 7870:10, 7882:4, 7889:4, 7891:5, 7894:11, 7897:13, 7906:25, 7918:1, 7918:2, 7972:18, 8006:4, 8016:21, 8039:3 contacted - 7889:6, 7892:23, 7893:21, 7896:2, 7897:25, 7950:1, 7982:4, 8005:23 contacting - 8006:12 contacts - 8028:17 contain - 8045:5 contained - 7886:11, 7999:3 containing - 7954:25 contains - 7996:20 context - 7905:6 continued - 7946:16, 7947:13, 7984:12 continuing - 7962:8 contract - 7997:18 conversation - 7890:2, 7900:12, 7915:12, 7916:14, 7989:19, 7991:5 converse - 7971:21 convicted - 7920:14, 7921:5, 7921:20, 7922:2, 7989:4, 7990:10, 8039:1, 8039:23 conviction - 7870:13, 7874:5, 7877:2, 7921:3, 7926:7, 7929:19, 7986:23, 7987:7, 7987:9, 7987:13 Conviction - 7865:4 convictions - 7988:14, 7991:7 **copies** - 7953:24, 7954:7, 7989:25 **copy** - 7932:7, 7945:2, 7952:2, 7952:5, 7952:6, 7953:15 Copy - 7957:21 Corey - 7981:21 **corner** - 7938:1, 7946:4, 7966:5, 7969:20, 7975:6 Corners - 7979:11 Cornwall - 7872:4, 7882:21, 7883:21, 7883:23, 7885:2, 7890:23

Corporal - 7957:1, 7961:22 Correct - 8013:23 **Correct** - 8013/23 **correct** - 7870:8, 7871:6, 7871:11, 7871:14, 7871:18, 7873:12, 7875:7, 7880:21, 7883:19, 7886:9, 7890:21, 7891:13, 7893:2 7891:13, 7893:2, 7893:5, 7895:12, 7898:21, 7901:5, 7903:14, 7906:20, 7907:18, 7908:20, 7914:14, 7916:17, 8013:22, 8033:15, 8034:12, 8038:11, 8045:5 correction - 7998:6 correctly - 7898:15, 7901:16, 7901:24 corroborative - 7941:4 Cory-8021:24 Cotler - 7867:13 cotton - 8041:4 counsel - 7870:21, 7919:5, 7928:1, 7928:16, 7928:24, 7931:4, 7954:1, 8043:22 Counsel - 7866:2, 7866:3 Counting - 7873:11 **couple** - 7874:22, 7900:18, 7904:4, 7904:6, 7907:23, 7908:6, 7910:2, 7923:5, 7920:8, 7020:24 7929:8, 7929:24, 7948:21, 7988:24, 7997:4, 8000:4 course - 7880:18, 7881:14, 7881:15, 7888:3, 7888:12, 7889:15, 7895:1, 8032:6, 8041:22, 8043:14 **Court** - 7866:11, 7870:13, 7875:25, 7877:2, 7882:1, 8003:22, 8021:14, 2024:45, 8026:4 8021:16, 8026:4, 8035:16, 8045:1, 8045:3, 8045:14, 8045:20 Court's - 7882:2 cousin - 7934:19 covered - 7958:23, 8008:22, 8020:12 covers - 7956:21 Cox - 7867:12 Cressman - 7933:8, 7933:9, 7934:11, 7940:23, 7968:7, 7975:10, 7994:22, 8014:16 Cressman's - 7933:21 Creston - 8014:14, 8016:5 **crime** - 7972:25, 7974:25, 7994:10 Crime - 7957:15, 7964:19, 7969:22, 7972:15, 7973:12 Criminal - 7986:21 criminal - 7874:14, 7881:13, 7881:20, 7976:11, 7982:12, 8006:24, 8007:2 critical - 7908:10

criticize - 7905:1



<b>Crook</b> - 7966:18,	8021:11
7966:22, 7966:24,	dates - 7874:22,
7967:1, 7967:4, 7967:13, 7967:15,	7922:13, 7924:6, 7930:11, 7957:6
7967:16, 7967:22	dating - 7914:21
<b>cross</b> - 7916:15,	daughters - 7888:19
7927:25, 8007:20,	David - 7865:4, 7867:2,
8012:4, 8013:25, 8020:6, 8026:20,	7876:17, 7876:23,
8032:21, 8033:11,	7876:24, 7877:12, 7877:17, 7877:21,
8037:4, 8043:23	7878:5, 7878:8, 7879:3,
<b>Cross</b> - 7962:5,	7881:4, 7888:9,
7962:18, 7968:2 cross-examination -	7888:25, 7896:17, 7896:18, 7898:7,
8012:4, 8013:25,	7899:17, 7899:18,
8020:6, 8032:21,	7899:24, 7900:5,
8033:11, 8037:4	7900:7, 7901:2, 7903:3,
cross-examine - 8043:23	7903:13, 7903:16, 7908:14, 7909:2,
cross-examined -	7916:1, 7916:12,
7927:25, 8007:20	7968:23, 7969:4,
cross-examining -	7987:22, 7987:23,
8026:20, 8033:11 Crown - 7981:21,	8000:11, 8003:22 <b>David's</b> - 7881:6
8006:24, 8021:16,	day-type - 7872:20
8024:23, 8035:9,	days - 7896:3,
8036:11, 8042:20 <b>Crown's</b> - 8022:10	7908:25, 7912:20 dead - 8041:9
crying - 7938:22,	deal - 7916:24, 7922:6,
8040:12	7930:14, 7932:3
<b>Csr</b> - 7866:11, 7866:12,	dealing - 7874:3,
8045:2, 8045:12, 8045:13, 8045:18,	7880:8, 7886:14, 7895:2, 7932:1,
8045:19	7941:20
culprit - 7985:2,	dealings - 7873:13,
7985:21	7887:4, 7903:15,
curious - 7911:15 curling - 7945:21	8005:1, 8005:20, 8014:1
curly - 7944:5	dealt - 7879:13,
current - 7915:3,	7880:5, 7923:23,
8041:21	8028:15
8041:21 custody - 7982:3	8028:15 death - 7900:19,
8041:21 custody - 7982:3 cut - 7993:4, 7993:5,	8028:15
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16
8041:21 custody - 7982:3 cut - 7993:4, 7993:5, 8004:23, 8012:23,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19,
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11,
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19,
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10.	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21,
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10.	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17,
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence - 8022:4
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence - 8022:4 defence's - 8022:12
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence - 8022:4 defence's - 8022:12 defenceless - 8012:16 defensive - 7908:5
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence - 8022:4 defence's - 8022:12 defences - 8012:16 defensive - 7908:5 defined - 7957:18
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10, 7954:1	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence - 8022:4 defence's - 8022:12 defenceless - 8012:16 defensive - 7908:5 definied - 7957:18 definite - 7878:11,
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence - 8022:12 defence - 8022:12 defenceless - 8012:16 defensive - 7908:5 definite - 7877:18 definite - 7877:19,
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10, 7954:1 <b>Date</b> - 7868:9 <b>date</b> - 78673:2, 7874:20, 7875:5, 7875:12,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence - 8022:4 defence's - 8022:12 defence's - 8022:12 defence's - 8012:16 defensive - 7908:5 definite - 7878:11, 7879:17 definitely - 7873:19, 7962:23, 7969:7,
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10, 7954:1 <b>Date</b> - 7868:9 <b>date</b> - 78673:2, 7874:20, 7875:5, 7875:12, 7916:25, 7922:19,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence's - 8022:4 defence's - 8022:12 defences - 8012:16 defensive - 7908:5 definite - 7878:11, 7879:17 definitely - 7873:19, 7962:23, 7969:7, 8001:12
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10, 7954:1 <b>Date</b> - 7868:9 <b>date</b> - 7873:2, 7874:20, 7875:5, 7875:12, 7916:25, 7922:19, 7923:10, 7942:3,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence's - 8022:4 defenceless - 8012:16 defensive - 7908:5 definite - 7878:11, 7879:17 definitely - 7873:19, 7962:23, 7969:7, 8001:12 degree - 7904:25,
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7945:20, 7945:22, 7949:1, 7974:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10, 7954:1 <b>Date</b> - 7868:9 <b>date</b> - 7873:2, 7874:20, 7875:5, 7875:12, 7916:25, 7922:19, 7923:10, 7942:3, 7949:16, 7951:11, 7954:23, 7957:9,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence's - 8022:4 defence's - 8022:12 defences - 8012:16 defensive - 7908:5 definite - 7878:11, 7879:17 definitely - 7873:19, 7962:23, 7969:7, 8001:12
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10, 7954:1 <b>Date</b> - 7868:9 <b>date</b> - 7868:9 <b>date</b> - 7868:9; <b>date</b> - 7873:2, 7874:20, 7875:5, 7875:12, 7916:25, 7922:19, 7923:10, 7942:3, 7949:16, 7951:11, 7954:23, 7957:9, 7960:13, 7967:6,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence - 8022:4 defence's - 8022:12 defence's - 8022:24 8023:23, 8024:7, 8024:15, 8043:10
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10, 7954:1 <b>Date</b> - 7868:9 <b>date</b> - 7873:2, 7874:20, 7875:5, 7875:12, 7916:25, 7922:19, 7923:10, 7942:3, 7949:16, 7951:11, 7954:23, 7957:9, 7960:13, 7967:6, 7969:15, 7974:9,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence's - 8022:4 defence's - 8022:12 defences - 8012:16 defensive - 7908:5 definite - 7878:11, 7879:17 definitely - 7873:19, 7962:23, 7969:7, 8001:12 degree - 7904:25, 8022:16, 8022:24, 8023:23, 8024:7, 8024:15, 8043:10 delegated - 7910:4,
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7943:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10, 7954:1 <b>Date</b> - 7868:9 <b>date</b> - 7863:2, 7874:20, 7875:5, 7875:12, 7916:25, 7922:19, 7923:10, 7942:3, 7949:16, 7951:11, 7954:23, 7957:9, 7960:13, 7967:6, 7965:15, 7974:9, 7975:17, 7976:6,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence - 8022:4 defence's - 8022:12 defence's - 8022:24 8023:23, 8024:7, 8024:15, 8043:10
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10, 7954:1 <b>Date</b> - 7868:9 <b>date</b> - 7873:2, 7874:20, 7875:5, 7875:12, 7916:25, 7922:19, 7923:10, 7942:3, 7949:16, 7951:11, 7954:23, 7974:9, 7960:13, 7967:6, 7960:15, 7974:9, 7975:17, 7976:6, 7980:17, 7981:16, 7986:12, 7991:19,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence - 8022:4 defence's - 8022:12 defenceless - 8012:16 defensive - 7908:5 definite - 7878:11, 7879:17 definitely - 7873:19, 7962:23, 7969:7, 8001:12 degree - 7904:25, 8022:16, 8022:24, 8023:23, 8024:7, 8024:15, 8043:10 delegated - 7910:4, 7911:23
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7973:20 <b>database</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10, 7954:1 <b>Date</b> - 7868:9 <b>date</b> - 7868:9 <b>date</b> - 78675:2, 7874:20, 7875:5, 7875:12, 7916:25, 7922:19, 7923:10, 7942:3, 7949:16, 7951:11, 7954:3, 7957:9, 7960:13, 7967:6, 7969:15, 7974:9, 7975:17, 7976:6, 7980:17, 7981:16, 7986:12, 7991:19, 8027:23, 8039:7	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence - 8022:4 defence's - 8022:12 defence's - 8022:12 defenceise - 8012:16 defensive - 7908:5 definitel - 7878:11, 7879:17 definitely - 7873:19, 7962:23, 7969:7, 8001:12 degree - 7904:25, 8022:16, 8022:24, 8022:24, 8023:23, 8024:7, 8024:15, 8043:10 delegated - 7910:4, 7911:4 delivery - 7954:24, 7971:23 Delta - 7865:16
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10, 7954:1 <b>Date</b> - 7868:9 <b>date</b> - 7868:9 <b>date</b> - 7873:2, 7874:20, 7875:5, 7875:12, 7916:25, 7922:19, 7923:10, 7942:3, 7949:16, 7951:11, 7954:23, 7957:9, 7960:13, 7967:6, 7960:15, 7974:9, 7975:17, 7976:6, 7980:17, 7981:16, 7986:12, 7991:19, 8027:23, 8039:7 <b>dated</b> - 7874:12,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence's - 8022:4 defence's - 8022:12 defences - 8012:16 defensive - 7908:5 definite - 7878:11, 7879:17 definitely - 7873:19, 7962:23, 7969:7, 8001:12 degree - 7904:25, 8022:16, 8022:24, 8023:23, 8024:7, 8024:15, 8043:10 delegated - 7910:4, 7911:4 delivery - 7954:24, 7971:23 Delta - 7865:16 demonstrable -
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10, 7954:1 <b>Date</b> - 7868:9 <b>date</b> - 7873:2, 7874:20, 7875:5, 7875:12, 7916:25, 7922:19, 7923:10, 7942:3, 7949:16, 7951:11, 7954:23, 7957:9, 7960:13, 7967:6, 7960:15, 7974:9, 7975:17, 7976:6, 7980:17, 7981:16, 7986:12, 7991:19, 8027:23, 8039:7 <b>dated</b> - 7874:12, 7882:12, 7885:20, 7917:7, 7954:15,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence - 8022:4 defence's - 8022:12 defenceless - 8012:16 defensive - 7908:5 definite - 7878:11, 7879:17 definitely - 7873:19, 7962:23, 7969:7, 8001:12 degree - 7904:25, 8022:16, 8022:24, 8023:23, 8024:7, 8024:15, 8043:10 delegated - 7910:4, 7911:4 delivery - 7954:24, 7971:23 Delta - 7865:16 demonstrable - 8022:18 denied - 7967:16,
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10, 7954:1 <b>Date</b> - 7868:9 <b>date</b> - 7868:9 <b>date</b> - 7873:2, 7874:20, 7875:5, 7875:12, 7916:25, 7922:19, 7923:10, 7942:3, 7949:16, 7951:11, 7954:23, 7957:9, 7960:13, 7967:6, 7969:15, 7974:9, 7960:13, 7967:6, 7980:17, 7981:16, 7986:12, 7991:19, 8027:23, 8039:7 <b>dated</b> - 7874:12, 7882:12, 7885:20, 7917:7, 7954:15, 7964:12, 7966:10,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence - 8022:4 defence's - 8022:12 defenceless - 8012:16 defensive - 7908:5 definite - 7878:11, 7879:17 definitely - 7873:19, 7962:23, 7969:7, 8002:16, 8022:24, 8022:14, 8022:24, 8022:24, 8022:24, 8022:24, 8022:24, 8022:24, 8022:24, 8022:24, 8022:24, 8022:24, 8022:24, 8023:23, 8024:7, 8024:15, 8043:10 delegated - 7910:4, 7971:23 Delta - 7865:16 demonstrable - 8022:18 denied - 7967:16, 7967:23, 7970:21,
8041:21 <b>custody</b> - 7982:3 <b>cut</b> - 7993:4, 7993:5, 8004:23, 8012:23, 8040:15, 8040:16, 8041:3, 8042:8 <b>D</b> <b>dare</b> - 7935:13 <b>dark</b> - 7933:22, 7939:23, 7940:1, 7944:5, 7944:10, 7945:20, 7945:22, 7949:1, 7974:16, 7983:3, 8001:20 <b>Dark</b> - 7974:17 <b>darkened</b> - 7995:20 <b>Data</b> - 7973:20 <b>database</b> - 7917:10, 7954:1 <b>Date</b> - 7868:9 <b>date</b> - 7873:2, 7874:20, 7875:5, 7875:12, 7916:25, 7922:19, 7923:10, 7942:3, 7949:16, 7951:11, 7954:23, 7957:9, 7960:13, 7967:6, 7960:15, 7974:9, 7975:17, 7976:6, 7980:17, 7981:16, 7986:12, 7991:19, 8027:23, 8039:7 <b>dated</b> - 7874:12, 7882:12, 7885:20, 7917:7, 7954:15,	8028:15 death - 7900:19, 7988:25, 8024:11, 8028:12 deceased - 7941:16 December - 7904:19, 7948:20, 7980:11, 7980:17, 7986:12, 7986:18, 7986:24, 7987:9, 8000:8, 8038:7 Dechenes - 7961:20 decided - 7921:21, 7922:7 decision - 7909:17, 7911:12, 8022:19 defence - 8022:4 defence's - 8022:12 defenceless - 8012:16 defensive - 7908:5 definite - 7878:11, 7879:17 definitely - 7873:19, 7962:23, 7969:7, 8001:12 degree - 7904:25, 8022:16, 8022:24, 8023:23, 8024:7, 8024:15, 8043:10 delegated - 7910:4, 7911:4 delivery - 7954:24, 7971:23 Delta - 7865:16 demonstrable - 8022:18 denied - 7967:16,

department - 7891:22, difficulty - 7994:3

7912:14, 7958:3 Department - 7869:24. 7869:25, 7872:4, 7882:12, 7882:22, 7885:19, 7886:3, 7887:8, 7890:22, 7891:20, 7951:6, 7964:13, 7973:14 departmental -7911:12, 7911:13 Depot - 7970:13, 7971:6, 7971:9, 7972:23, 7975:15 Deputy - 7981:20 describe - 7933:3, 7944:2, 8000:20, 8027:2, 8036:12 described - 7927:16. 7927:24, 7945:19, 7955:5, 7961:12, 7972:22, 7983:2, 7983:20, 7984:24 7992:16, 8007:16 describes - 7995:6, 7997:1, 8029:22, 8036:12, 8040:9 describing - 8008:1 description - 7933:20, 7934:22, 7961:25, 7962:16, 7985:21, 8004:13, 8029:14, 8035:16 Description - 7868:2, 7974 15 descriptions - 7959:1, 7963:2 designated - 7870:18, 7913:12 desk - 7969:2 destroyed - 7923:9 detail - 7928:8, 7929:13, 7933:17, 7996:25, 8007:16 details - 7927:14, 7927:20, 7928:21, 7933:13, 7933:25, 7944:24, 7998:23, 8004:2 detected - 7959:8 Detection - 7957:15, 7964:20, 7973:12 Detective - 7882:14, 7882:19, 7884:5, 7884:6, 7885:4, 7885:21, 7891:21, 7899:1, 7905:7, 7905:8, 7905:10, 7945:8, 7949:16, 7950:16, 7952:3, 7952:20, 7966:16, 7967:10, 7968:25, 7994:21, 8001:24 determine - 7960:9, 7965:19, 7965:25, 7973:21, 7990:9 determined - 7876:7 devulge - 7883:11 diary - 7966:10 diary-dated - 7966:10 died - 8002:6 differed - 7997:7 differences - 8022:5 different - 7879:8, 7902:4, 7907:21, 7941:17, 8023:6, 8042:24 differently - 8023:13 difficult - 7975:5, 8010:15, 8043:22

dire - 8006:21, 8007:3, 8007:9.8007:11. 8007:14, 8012:4, 8016:16, 8021:8, 8029:18, 8029:19, 8040:3 direct - 7879:1 7903:15, 8021:5 directions - 7984:7 **directly** - 7887:1, 7894:20, 7961:2 Director - 7866:4 director - 7893:14 directory - 7946:16, 7984:11 discovered - 8042:7 discussed - 7903:8 Discussed - 8006:2 discussion - 7874:8. 7876:6, 7881:4, 7893:22, 7895:12, 7896:13, 7902:7, 7902:17, 7915:12, 7949:22, 7967:8 discussions 7873:15, 7873:19, 7903:12 displayed - 7999:9 disposed - 7896:21 disposition - 7871:17, 7874:25 disseminated -7918:11 dissimilarities -8023:25 dissimilarity - 8024:2 distance - 7984:13 distinguishing -8042:17 district - 7949:8 ditch - 7978:16 dive - 7931:9 diverting - 7879:7 divulged - 7889:23 **doc** - 7941:17, 7941:20, 7941:23, 7980:22, 7981:2. 7981:5, 8027:18, 8038.17 doctors - 7986:8, 7986.9 document - 7874:11, 7874:18, 7874:22, 7875:6, 7875:9, 7882:10, 7882:11, 7885:16, 7885:17, 7885:18, 7885:23, 7890:3, 7893:21, 7894:11, 7896:2, 7912:13, 7912:14, 7918:6, 7922:14, 7924:5, 7924:11, 7932:5, 7932:10, 7934:2, 7934:9, 7940:18, 7941:14, 7941:24, 7945:8, 7948:18, 7950:14, 7951:18, 7951:20, 7951:24, 7953:17, 7953:19, 7956:14, 7956:20, 7958:10, 7964:6, 7964:8, 7974:6, 7974:7, 7974:11, 7975:4, 7975:10, 7976:3, 7980:8, 7980:12, 7981:18, 7986:11, 7987:19, 7987:21, 7990:22, 7990:25, 7994:17, 7997:1, 7997:25,

8003:15, 8004:9, 8006:20, 8021:9, 8024:25, 8027:16, 8035:11, 8039:3 Document - 7866:5, 7866:6 documentary - 7990:5 documentation -7890:10 documented - 7997:5 documents - 7875:3, 7895:3, 7910:11, 7918:19, 7923:5, 7923:10, 7928:8, 7929:9, 7929:16, 7929:22, 7930:9, 7931:1, 7931:6, 7931:10, 7931:18, 7931:20, 7948:16, 7953:23, 7954:3, 7954:7, 7954:11, 7964:4, 7964:22, 7990:18, 7991:3, 7991:14, 7996:15, 7999:18, 8038:19, 8043:16 **dog** - 7932:18, 7933:4, 7935:1, 8008:3 dogs - 8005:9 domain - 7919:14, 7922:4 **Don** - 7866:12, 7869:8, 7883:5, 7890:14 Donald - 7868:3, 7869:10, 8045:2, 8045:19 Done - 7974:23, 8034:19 done - 7879:22, 7910:19, 7915:20, 7922:15, 7928:9, 7930:24, 7959:19 7968:2, 8000:1, 8003:2 door - 7938:16, 7946:14, 7993:13, 8009:13, 8019:4 dot - 7924:25 dots - 7943:12 8030:10, 8030:19, 8036:15 Douglas - 7866:2 down - 7876:12, 7876:13, 7888:18, 7896:6, 7901:16, 7907:13, 7933:23, 7934:21, 7935:25, 7936:7, 7936:10, 7936:19, 7936:20, 7936:23, 7937:17, 7937:18, 7938:4, 7939:20, 7939:23, 7940:4, 7940:25, 7942:19, 7943:6, 7947:7, 7954:20, 7956:8, 7957:12, 7958:25, 7959:13 7962:20, 7964:15, 7965:1, 7965:11, 7972:6, 7975:16, 7976:14, 7976:21, 7979:11, 7980:10, 7982:10, 7982:25, 7983:17, 8000:21, 8004:11, 8008:15, 8008:25, 8009:19, 8010:11, 8010:14, 8011:6, 8012:3, 8014:13, 8015:13, 8015:24, 8016:15,

8025:6, 8025:23,



		-		
8026:10, 8027:25,	7887:17, 7901:18,	7925:10, 7925:19,	7965:3, 7965:9, 7966:8	7949:17, 7950:11,
8028:14, 8030:2,	7901:19, 7930:8,	7926:8, 7926:10,	existence - 7923:4,	7950:15, 7951:13,
8030:6, 8030:11,	7992:21, 8024:20,	7926:12, 7927:11,	7957:25	7951:16, 7952:18,
8030:12, 8031:25,	8041:9, 8043:11	7927:15, 7928:6,	exists - 7913:22	7956:7, 7985:11
8033:2, 8034:11,	effort - 7890:8, 7963:7	7929:11, 7929:25,	expand - 7941:11	federal - 7988:2
8034:14, 8035:1,	efforts - 7890:9,	7932:3, 7941:4,	expertise - 7880:6	feet - 7983:21
8035:15, 8035:19,	7923:6, 7962:8, 7991:9	7974:11, 7976:8,	experts - 7906:6	fell - 7935:18
8036:18, 8037:19,	eight - 7872:22,	7986:10, 7988:3,	explain - 7953:18	<b>fellow</b> - 7975:10,
8039:5, 8040:22,	7873:1, 7873:22,	7993:19, 8003:11,	explaining - 7874:6	7975:14, 8001:9,
8041:1	7914:22	8005:21, 8006:25,	explanation - 7913:21,	8002:2, 8002:4, 8038:8
<b>Dr</b> - 7970:4, 7970:5 <b>draft</b> - 7918:5	either - 7877:18, 7879:2, 7913:11,	8007:8, 8022:9,	7997:13, 8022:3	fellow's - 8005:9 felt - 7874:4, 7880:3,
dragged - 7942:19,	7916:1, 7935:20,	8022:11, 8022:12, 8022:14, 8022:23,	explicit - 7928:21 expressed - 7928:12	7896:21, 7961:1,
7942:21, 7978:15,	7944:22, 7950:12,	8023:3, 8023:11,	expression - 8018:25	7963:9, 7995:24,
7992:24, 7995:19,	7951:3. 7967:24.	8024:18, 8024:24,	extensive - 7961:3,	8006:8, 8028:16,
8030:2, 8032:19,	7971:23, 7971:24	8025:2, 8029:20,	7962:2, 7963:9	8029:6
8034:11	ejaculated - 8011:13	8029:21, 8035:4,	<b>extent</b> - 7874:10,	female - 7882:25
dramatic - 8043:8	eliminated - 7962:15	8035:10, 8035:12,	7901:3, 7910:9, 7922:7	females - 7952:24
Drawer - 7968:22	Elmer - 7980:18	8038:13, 8041:16,	eyes - 8020:14	fence - 8010:8
drawer - 7979:6	elsewhere - 7954:12	8042:5, 8042:20,	-	Ferguson- 7946:6
drawn - 8005:13	Elson - 7867:7	8043:7, 8043:8, 8043:9	F	few - 7893:8, 7899:3,
dress - 7942:25,	<b>Email</b> - 7954:6	exact - 7883:22		7912:20, 7939:12,
7943:19, 7983:18,	emerge - 7953:6	exactly - 7871:24,	face - 7896:7, 7933:23,	7966:6, 7974:8, 8009:7,
7996:6, 8025:25	emergency - 7970:3	7877:18, 7878:4,	7936:9, 7936:22,	8012:5
dressed - 8009:11,	emotional - 8043:9	7897:8, 7908:22	7937:13, 7937:17,	<b>fight</b> - 7948:14,
8019:7	employable - 7872:6	exam - 7916:19	7939:24, 7944:6,	8012:18
Drive - 7953:2, 7977:25	employables - 7872:6	examination - 7902:8,	7974:16, 8001:21,	figure - 7895:13
driving - 7887:16,	employed - 7869:23,	7941:3, 7955:15,	8008:22, 8011:1,	file - 7880:19, 7880:20,
7915:9, 7971:22	7869:24, 7889:16,	7960:2, 7960:6,	8011:3, 8012:10,	7891:20, 7902:1,
dropped - 7879:14,	7925:20	7960:21, 7965:2,	8020:11, 8020:15,	7913:14, 7922:22,
7947:7, 7978:11	employment - 7872:3, 7883:19	7966:2, 7973:19,	8020:16, 8027:2, 8027:3, 8027:4, 8027:5,	7923:3, 7923:18, 7923:21, 7923:23,
dropping - 7877:11, 7878:24, 7879:7,		8012:4, 8013:25, 8020:6, 8032:21,	8027:10, 8029:12,	7923:24, 7923:25,
7899:21, 7902:6,	encountered - 7900:18, 7992:7,	8033:11, 8037:4	8031:4	7924:1, 7924:3,
7902:14, 7903:3	7995:11	examinations -	faced - 7874:5	7932:11, 7932:13,
drug - 7946:18,	end - 7885:24,	7955:16	facing - 7874:5	7945:6, 7948:16,
7946:24, 7978:14	7933:17, 7938:3,	examine - 7928:18,	fact - 7870:20,	7948:17, 7949:15,
dry - 7966:7	7946:3, 7947:24,	7955:10, 7999:17,	7873:16, 7876:1,	7950:16, 7951:22,
Due - 7951:1, 8038:23	7971:7, 8002:6	8043:23	7876:25, 7877:22,	7951:23, 7952:1,
due - 7975:20	ended - 7900:25	examined - 7927:25,	7892:20, 7897:16,	7952:5, 7952:12,
during - 7871:4,	ends - 7945:22	7965:4, 7973:20,	7902:12, 7906:4,	7953:16, 7956:2,
7871:25, 7872:3,	enlarge - 7932:8	7973:22, 7986:8,	7906:22, 7907:13,	7968:10, 7968:15,
7873:20, 7884:1,	enquiries - 7963:22	8007:20	7917:1, 7923:7, 7934:2,	7973:1, 7974:18,
7888:15, 7889:15,	ensuring - 7876:3	examining - 7928:16,	7956:11, 7993:20,	7975:5, 7975:11,
7889:18, 7890:16,	enter - 7953:7,	7949:18, 7999:21,	7994:16, 7994:21,	7975:20, 7975:24,
7892:3, 7911:7, 7958:2,	8042:20	8026:20, 8033:11,	8001:5, 8002:3,	7976:1, 7976:4,
7988:7, 7997:19,	entered - 7986:23	8037:7	8006:25, 8022:14,	7987:23, 7989:8,
8001:23, 8016:5,	entitled - 8024:23,	<b>example</b> - 7900:7,	8022:22, 8023:11,	7998:22, 7999:2,
8025:25, 8026:5,	8035:9	7909:23, 8014:3	8024:18, 8024:24,	7999:7, 7999:9,
8028:11, 8032:3,	envelope - 7969:17	excellent - 7880:6	8029:21, 8039:22,	7999:12, 7999:15,
8032:6, 8036:5, 8038:6,	especially - 7878:22	Except - 8018:1	8042:23	8006:2
8041:11 During 7999:11	<b>Esq</b> - 7866:3, 7867:3, 7867:7, 7867:10,	except - 7897:19, 7904:1, 7927:22,	factor - 8042:17	filed - 7986:12 files - 7890:8, 7894:13,
<b>During -</b> 7888:11, 7890:25, 7896:9,	7867:11	7936:18, 8004:3,	facts - 7982:7, 7982:17	
			failed - 708/1.20	
7971.8 7982.1 7982.4			failed - 7984:20, 8006:6	7923:1, 7923:9,
7971:8, 7982:1, 7982:4, 7983:6, 7985:6	essence - 7905:5	8008:20, 8017:16	8006:6	7923:1, 7923:9, 7923:16, 7949:25,
7983:6, 7985:6,		8008:20, 8017:16 exceptions - 8024:14	8006:6 <b>Fair</b> - 7901:19, 8016:18	7923:1, 7923:9,
	essence - 7905:5 establish - 7955:13,	8008:20, 8017:16	8006:6	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15,
7983:6, 7985:6, 7989:19, 8004:19,	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8	8006:6 Fair- 7901:19, 8016:18 fair - 7894:14, 7897:22,	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9,
7983:6, 7985:6, 7989:19, 8004:19, 8038:8	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24,	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5,	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24,
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14,	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final - 7997:5
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 <b>duties</b> - 7870:14, 7881:12	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, - 7930:12, 7963:6, 7963:18, 7970:1,	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final - 7997:5 finally - 8020:19
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 E	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, 7930:12, 7963:6, 7963:18, 7970:1, 7988:4, 8027:22	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25,	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3,	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final - 7997:5 finally - 8020:19 Finally - 7996:22
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 E Eamon - 7867:11	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, - 7930:12, 7963:6, 7963:18, 7970:1, - 7988:4, 8027:22 Eugene - 7989:7	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:1, 7955:6,	8006:6 Fair- 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final - 7997:5 finally - 8020:19 Finally - 7996:22 Fine-7877:2
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 Eamon - 7867:11 ear - 7945:20	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, - 7930:12, 7963:6, 7963:18, 7970:1, - 7988:4, 8027:22 Eugene - 7989:7 evasive - 7892:22	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:1, 7955:6, 7955:17, 7956:8,	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1 fallen - 7947:17	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final - 7997:5 finally - 8020:19 Finally - 7996:22 Fine- 7877:2 finger - 8004:24,
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 Eamon - 7867:11 ear - 7945:20 Earl - 7982:13, 7990:10	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, 7930:12, 7963:6, 7963:18, 7970:1, - 7988:4, 8027:22 Eugene - 7989:7 evasive - 7892:22 evening - 7945:12,	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:17, 7955:6, 7955:17, 7956:8, 7956:15, 7956:17,	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1 fallen - 7947:17 falls - 8024:12	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final - 7997:5 finally - 8020:19 Finally - 7996:22 Fine- 7877:2 finger - 8004:24, 8040:17, 8042:9
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 Eamon - 7867:11 ear - 7945:20 Earl - 7982:13, 7990:10 early - 7872:14,	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, 7930:12, 7963:6, 7963:18, 7970:1, - 7988:4, 8027:22 Eugene - 7989:7 evasive - 7892:22 evening - 7945:12, 7971:11, 8040:7	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:17, 7955:6, 7955:17, 7956:8, 7956:15, 7956:17, 7957:24, 7964:21,	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1 fallen - 7947:17 falls - 8024:12 false - 7912:5, 7912:9,	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final - 7997:5 finally - 8020:19 Finally - 8020:19 Finally - 7996:22 Fine - 7877:2 finger - 8004:24, 8040:17, 8042:9 fingerprints - 7874:14
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 Eamon - 7867:11 ear - 7945:20 Earl - 7982:13, 7990:10 early - 7872:14, 7900:16, 7909:4,	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, 7930:12, 7963:6, 7963:18, 7970:1, 7988:4, 8027:22 Eugene - 7989:7 evasive - 7892:22 evening - 7945:12, 7971:11, 8040:7 event - 7888:24,	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:17, 7956:6, 7955:17, 7956:8, 7956:15, 7956:17, 7957:24, 7964:21, 7965:20, 7973:16,	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1 fallen - 7947:17 falls - 8024:12 false - 7912:5, 7912:9, 7912:24, 7913:17	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final y - 7997:5 finally - 8020:19 Finally - 7996:22 Fine- 7877:2 finger - 8004:24, 8040:17, 8042:9 fingerprints - 7874:14 fingers - 7935:12,
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 Eamon - 7867:11 ear - 7945:20 Earl - 7982:13, 7990:10 early - 7872:14, 7900:16, 7909:4, 7954:9, 7983:3,	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, - 7930:12, 7963:6, 7963:18, 7970:1, - 7988:4, 8027:22 Eugene - 7989:7 evasive - 7892:22 evening - 7945:12, 7971:11, 8040:7 event - 7888:24, 7915:14, 7960:14,	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:17, 7956:6, 7955:17, 7956:8, 7956:15, 7956:17, 7956:4, 7964:21, 7966:20, 7973:16, 7973:20, 7973:21,	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1 fallen - 7947:17 falls - 8024:12 falls - 8024:12 falls - 7912:5, 7912:9, 7912:24, 7913:17 familiar - 7875:13,	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final - 7997:5 finally - 8020:19 Finally - 7996:22 Fine-7877:2 finger - 8004:24, 8040:17, 8042:9 fingerprints - 7874:14 fingers - 7935:12, 8020:21, 8025:19,
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 Eamon - 7867:11 ear - 7945:20 Earl - 7982:13, 7990:10 early - 7872:14, 7900:16, 7909:4, 7954:9, 7983:3, 7983:20, 7984:24,	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, - 7930:12, 7963:6, 7963:18, 7970:1, - 7988:4, 8027:22 Eugene - 7989:7 evasive - 7892:22 evening - 7945:12, 7971:11, 8040:7 event - 7888:24, 7915:14, 7960:14, 7975:25, 8015:9,	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:17, 7955:6, 7955:17, 7956:8, 7956:15, 7956:17, 7956:20, 7973:16, 7973:20, 7973:21, 7973:24	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1 fallen - 7947:17 falls - 8024:12 false - 7912:5, 7912:9, 7912:24, 7913:17 familiar - 7875:13, 7900:9, 7901:2	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final - 7997:5 finally - 8020:19 Finally - 7996:22 Fine- 7877:2 finger - 8004:24, 8040:17, 8042:9 fingerprints - 7874:14 fingers - 7935:12, 8020:21, 8025:19, 8036:25
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 Eamon - 7867:11 ear - 7945:20 Earl - 7982:13, 7990:10 early - 7872:14, 7900:16, 7909:4, 7954:9, 7983:3, 7983:20, 7984:24, 8003:2	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, 7930:12, 7963:6, 7963:18, 7970:1, - 7988:4, 8027:22 Eugene - 7989:7 evasive - 7892:22 evening - 7945:12, 7971:11, 8040:7 event - 7888:24, 7915:14, 7960:14, 7975:25, 8015:9, 8016:12, 8017:17,	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:1, 7955:6, 7955:17, 7956:8, 7956:15, 7956:17, 7957:24, 7964:21, 7965:20, 7973:16, 7973:20, 7973:21, 7973:24 exhibit - 7940:20,	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1 fallen - 7947:17 falls - 8024:12 false - 7912:5, 7912:9, 7912:24, 7913:17 familiar - 7875:13, 7900:9, 7901:2 family - 7931:4,	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final - 7997:5 finally - 8020:19 Finally - 7996:22 Fine- 7877:2 finger - 8004:24, 8040:17, 8042:9 fingerprints - 7874:14 fingers - 7935:12, 8020:21, 8025:19, 8036:25 finished - 7937:11
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 Eamon - 7867:11 ear - 7945:20 Earl - 7982:13, 7990:10 early - 7872:14, 7900:16, 7909:4, 7954:9, 7983:3, 7983:20, 7984:24, 8003:2 ears - 7877:21,	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, 7930:12, 7963:6, 7963:18, 7970:1, - 7988:4, 8027:22 Eugene - 7989:7 evasive - 7892:22 evening - 7945:12, 7971:11, 8040:7 event - 7888:24, 7915:14, 7960:14, 7975:25, 8015:9, 8016:12, 8017:17, 8029:22	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:17, 7956:8, 7956:15, 7956:17, 7955:24, 7964:21, 7965:20, 7973:16, 7973:20, 7973:21, 7973:24 exhibit - 7940:20, 7955:4	8006:6 Fair- 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1 fallen - 7947:17 falls - 8024:12 false - 7912:5, 7912:9, 7912:24, 7913:17 familiar - 7875:13, 7900:9, 7901:2 family - 7931:4, 7963:12, 7967:23,	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final - 7997:5 finally - 8020:19 Finally - 8020:19 Finally - 7996:22 Fine - 7877:2 finger - 8004:24, 8040:17, 8042:9 fingerprints - 7874:14 fingers - 7935:12, 8020:21, 8025:19, 8036:25 finished - 7937:11 first - 7869:8, 7871:1,
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 Eamon - 7867:11 ear - 7945:20 Earl - 7982:13, 7990:10 early - 7872:14, 7900:16, 7909:4, 7954:9, 7983:3, 7983:20, 7984:24, 8003:2 ears - 7877:21, 7916:16	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, - 7930:12, 7963:6, 7963:18, 7970:1, - 7988:4, 8027:22 Eugene - 7989:7 evasive - 7892:22 evening - 7945:12, 7971:11, 8040:7 event - 7888:24, 7915:14, 7960:14, 7975:25, 8015:9, 8016:12, 8017:17, 8029:22 events - 7906:12,	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:17, 7955:6, 7955:17, 7956:8, 7955:17, 7956:8, 7956:15, 7956:17, 7957:24, 7964:21, 7965:20, 7973:16, 7973:20, 7973:21, 7973:24 exhibit - 7940:20, 7955:4 exhibits - 7917:22,	8006:6 Fair- 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1 fallen - 7947:17 falls - 8024:12 falls - 7912:5, 7912:9, 7912:24, 7913:17 familiar - 7875:13, 7900:9, 7901:2 family - 7931:4, 7963:12, 7967:23, 7986:8	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final - 7997:5 finally - 8020:19 Finally - 7996:22 Fine- 7877:2 finger - 8004:24, 8040:17, 8042:9 fingerprints - 7874:14 fingers - 7935:12, 8020:21, 8025:19, 8036:25 finished - 7937:11 first - 7869:8, 7871:1, 7871:25, 7872:3,
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 Eamon - 7867:11 ear - 7945:20 Earl - 7982:13, 7990:10 early - 7872:14, 7900:16, 7909:4, 7954:9, 7983:3, 7983:20, 7984:24, 8003:2 ears - 7877:21, 7916:16 ease - 7875:25, 7876:4	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, - 7930:12, 7963:6, 7963:18, 7970:1, - 7988:4, 8027:22 Eugene - 7989:7 evasive - 7892:22 evening - 7945:12, 7971:11, 8040:7 event - 7888:24, 7915:14, 7960:14, 7975:25, 8015:9, 8016:12, 8017:17, 8029:22 events - 7906:12, 7941:7	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:17, 7956:6, 7955:17, 7956:8, 7956:15, 7956:17, 7956:4, 7964:21, 7966:20, 7973:16, 7973:20, 7973:21, 7973:24 exhibit - 7940:20, 7955:4 exhibits - 7917:22, 7918:19, 7918:24,	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1 fallen - 7947:17 falls - 8024:12 falls - 8024:12 falls - 7912:5, 7912:9, 7912:24, 7913:17 familiar - 7875:13, 7900:9, 7901:2 family - 7931:4, 7963:12, 7967:23, 7986:8 Family - 7889:16	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7997:5 finally - 8020:19 Finally- 7996:22 Fine- 7877:2 finger - 8004:24, 8040:17, 8042:9 fingerprints - 7874:14 fingers - 7935:12, 8020:21, 8025:19, 8036:25 finished - 7937:11 first - 7869:8, 7871:1, 7871:25, 7872:3, 7873:6, 7874:11,
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 Eamon - 7867:11 ear - 7945:20 Earl - 7982:13, 7990:10 early - 7872:14, 7900:16, 7909:4, 7954:9, 7983:3, 7983:20, 7984:24, 8003:2 ears - 7877:21, 7916:16	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, - 7930:12, 7963:6, 7963:18, 7970:1, - 7988:4, 8027:22 Eugene - 7989:7 evasive - 7892:22 evening - 7945:12, 7971:11, 8040:7 event - 7888:24, 7915:14, 7960:14, 7975:25, 8015:9, 8016:12, 8017:17, 8029:22 events - 7906:12,	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:17, 7956:8, 7955:17, 7956:8, 7956:15, 7956:17, 7956:20, 7973:16, 7973:20, 7973:21, 7973:24 exhibit - 7940:20, 7955:4 exhibit - 7917:22, 7918:19, 7918:24, 7954:23, 7955:9,	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1 fallen - 7947:17 falls - 8024:12 false - 7912:5, 7912:9, 7912:24, 7913:17 familiar - 7875:13, 7900:9, 7901:2 family - 7931:4, 7963:12, 7967:23, 7986:8 Family- 7889:16 far - 7923:21, 7939:16,	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7907:5 finally - 8020:19 Finally - 7996:22 Fine- 7877:2 finger - 8004:24, 8040:17, 8042:9 fingerprints - 7874:14 fingers - 7935:12, 8020:21, 8025:19, 8036:25 finished - 7937:11 first - 7869:8, 7871:1, 7871:25, 7872:3, 7873:6, 7874:11, 7874:23, 7875:22,
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 Eamon - 7867:11 ear - 7945:20 Earl - 7982:13, 7990:10 early - 7872:14, 7900:16, 7909:4, 7954:9, 7983:3, 7983:20, 7984:24, 8003:2 ears - 7877:21, 7916:16 ease - 7875:25, 7876:4 easier - 7996:13 East - 7984:4	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, 7930:12, 7963:6, 7963:18, 7970:1, 7988:4, 8027:22 Eugene - 7989:7 evasive - 7892:22 evening - 7945:12, 7971:11, 8040:7 event - 7888:24, 7915:14, 7960:14, 7975:25, 8015:9, 8016:12, 8017:17, 8029:22 events - 7906:12, 7941:7 eventually - 7900:18, 7900:25	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:17, 7956:6, 7955:17, 7956:8, 7956:15, 7956:17, 7956:4, 7964:21, 7966:20, 7973:16, 7973:20, 7973:21, 7973:24 exhibit - 7940:20, 7955:4 exhibits - 7917:22, 7918:19, 7918:24,	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1 fallen - 7947:17 falls - 8024:12 falls - 8024:12 falls - 7912:5, 7912:9, 7912:24, 7913:17 familiar - 7875:13, 7900:9, 7901:2 family - 7931:4, 7963:12, 7967:23, 7986:8 Family - 7889:16	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7997:5 finally - 8020:19 Finally- 7996:22 Fine- 7877:2 finger - 8004:24, 8040:17, 8042:9 fingerprints - 7874:14 fingers - 7935:12, 8020:21, 8025:19, 8036:25 finished - 7937:11 first - 7869:8, 7871:1, 7871:25, 7872:3, 7873:6, 7874:11,
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 Eamon - 7867:11 ear - 7945:20 Earl - 7982:13, 7990:10 early - 7872:14, 7900:16, 7909:4, 7954:9, 7983:3, 7983:20, 7984:24, 8003:2 ears - 7877:21, 7916:16 ease - 7875:25, 7876:4 easier - 7996:13	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, - 7930:12, 7963:6, 7963:18, 7970:1, - 7988:4, 8027:22 Eugene - 7989:7 evasive - 7892:22 evening - 7945:12, 7971:11, 8040:7 event - 7888:24, 7915:14, 7960:14, 7975:25, 8015:9, 8016:12, 8017:17, 8029:22 events - 7906:12, 7941:7 eventually - 7900:18,	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:1, 7955:6, 7955:17, 7956:8, 7956:15, 7956:17, 7957:24, 7964:21, 7965:20, 7973:16, 7973:20, 7973:21, 7973:24 exhibit - 7940:20, 7955:4 exhibits - 7917:22, 7918:19, 7918:24, 7956:6, 7959:15,	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1 fallen - 7947:17 falls - 8024:12 false - 7912:5, 7912:9, 7912:24, 7913:17 familiar - 7875:13, 7900:9, 7901:2 family - 7931:4, 7963:12, 7967:23, 7986:8 Family - 7889:16 far - 7923:21, 7939:16, 8000:13, 8042:25,	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final - 7997:5 finally - 8020:19 Finally - 7996:22 Fine - 7877:2 finger - 8004:24, 8040:17, 8042:9 fingerprints - 7874:14 fingers - 7935:12, 8020:21, 8025:19, 8036:25 finished - 7937:11 first - 7869:8, 7871:1, 7871:25, 7872:3, 7873:6, 7874:11, 7874:23, 7875:22, 7878:20, 7878:22,
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 Eamon - 7867:11 ear - 7945:20 Earl - 7982:13, 7990:10 early - 7872:14, 7900:16, 7909:4, 7954:9, 7983:3, 7983:20, 7984:24, 8003:2 ears - 7877:21, 7916:16 ease - 7875:25, 7876:4 easier - 7996:13 East - 7984:4 east - 7945:16, 7997:9	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, - 7930:12, 7963:6, 7963:18, 7970:1, - 7938:4, 8027:22 Eugene - 7989:7 evasive - 7892:22 evening - 7945:12, 7971:11, 8040:7 event - 7888:24, 7915:14, 7960:14, 7975:25, 8015:9, 8016:12, 8017:17, 8029:22 events - 7906:12, 7941:7 eventually - 7900:18, 7900:25 evidence - 7898:15,	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:1, 7955:6, 7955:17, 7956:8, 7956:15, 7956:17, 7957:24, 7964:21, 7965:20, 7973:16, 7973:20, 7973:21, 7973:24 exhibit - 7940:20, 7955:4 exhibits - 7917:22, 7918:19, 7918:24, 7956:6, 7955:15, 7959:24, 7964:17,	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8015:4, 8015:5, 8026:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1 fallen - 7947:17 falls - 8024:12 false - 7912:5, 7912:9, 7912:24, 7913:17 familiar - 7875:13, 7900:9, 7901:2 family - 7931:4, 7963:12, 7967:23, 7986:8 Family- 7889:16 far - 7923:21, 7939:16, 8000:13, 8042:25, 8043:19	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final - 7997:5 finally - 8020:19 Finally - 7996:22 Fine- 7877:2 finger - 8004:24, 8040:17, 8042:9 fingerprints - 7874:14 fingers - 7935:12, 8020:21, 8025:19, 8036:25 finished - 7937:11 first - 7869:8, 7871:1, 7873:6, 7874:11, 7873:6, 7874:11, 7874:23, 7875:22, 7878:20, 7878:22, 7881:23, 7884:4,
7983:6, 7985:6, 7989:19, 8004:19, 8038:8 duties - 7870:14, 7881:12 <b>E</b> Eamon - 7867:11 ear - 7945:20 Earl - 7982:13, 7990:10 early - 7872:14, 7900:16, 7909:4, 7954:9, 7983:3, 7983:20, 7984:24, 8003:2 ears - 7877:21, 7916:16 ease - 7875:25, 7876:4 easier - 7996:13 East - 7984:4 east - 7945:16, 7997:9 Eddie - 7867:9, 7899:1	essence - 7905:5 establish - 7955:13, 7959:20, 7963:25 establishes - 8022:24 estimate - 8014:19 etcetera - 7927:17, - 7930:12, 7963:6, 7963:18, 7970:1, - 7988:4, 8027:22 Eugene - 7989:7 evasive - 7892:22 evening - 7945:12, 7971:11, 8040:7 event - 7888:24, 7915:14, 7960:14, 7975:25, 8015:9, 8016:12, 8017:17, 8029:22 events - 7906:12, 7941:7 eventually - 7900:18, 7900:25 evidence - 7898:15, 7905:5, 7905:14,	8008:20, 8017:16 exceptions - 8024:14 exchange - 7881:8 excuse - 7980:24, 8021:23 excused - 7916:21 Executive - 7866:4 exhaustively - 7880:24 Exhibit - 7954:25, 7955:17, 7956:6, 7955:17, 7956:8, 7956:15, 7956:17, 7956:20, 7973:16, 7973:20, 7973:21, 7973:24 exhibit - 7940:20, 7955:4 exhibits - 7917:22, 7918:19, 7918:24, 7954:23, 7955:9, 7956:6, 7959:15, 7959:24, 7964:17, 7965:6, 7955:10,	8006:6 Fair - 7901:19, 8016:18 fair - 7894:14, 7897:22, 7915:6, 8012:9, 8012:16, 8014:25, 8016:24 fairly - 7924:8, 7978:7 fall - 7915:4, 7958:3, 7962:22, 7967:1 fallen - 7947:17 falls - 8024:12 false - 7912:5, 7912:9, 7912:24, 7913:17 familiar - 7875:13, 7900:9, 7901:2 family - 7931:4, 7963:12, 7967:23, 7986:8 Family- 7889:16 far - 7923:21, 7939:16, 8002:13, 8042:25, 8043:19 fear - 7994:8	7923:1, 7923:9, 7923:16, 7949:25, 7952:7, 7954:15, 7964:12, 7990:9, 7991:10, 7998:24, 7999:19, 8006:9 film - 7906:7 final y - 8020:19 Finally - 7996:22 Fine- 7877:2 finger - 8004:24, 8040:17, 8042:9 fingerprints - 7874:14 fingers - 7935:12, 8020:21, 8025:19, 8036:25 finished - 7937:11 first - 7869:8, 7871:1, 7871:25, 7872:3, 7873:6, 7874:11, 7874:23, 7875:22, 7881:23, 7884:4, 7885:18, 7885:24,



Page 7

7901:15, 7905:3,
7910:12, 7912:12,
7925:13, 7929:5.
7932:5, 7944:15,
7901:15, 7905:3, 7910:12, 7912:12, 7912:15, 7922:17, 7925:13, 7929:5, 7932:5, 7944:15, 7947:12, 7949:10, 7970:8, 7971:15,
7970:8, 7971:15, 7988:1, 7991:17,
7991:22, 8000:7,
8009:12, 8009:19,
8023:19 first-hand - 7901:15
first-time - 7875:22,
7899:11
firsthand - 7879:2
firstly - 7883:14 Fisher- 7867:11,
7920:13, 7921:4,
7921:19, 7922:2,
7925.7, 7925.19
7926:1, 7926:11,
7927:3, 7927:23,
7930:21, 7932:3, 7976:9_7976:14
7977:6, 7977:10,
7980:5, 7980:13,
7924:23, 7925:3, 7925:7, 7925:19, 7926:1, 7926:11, 7927:3, 7927:23, 7930:21, 7932:3, 7976:9, 7976:14, 7977:6, 7977:10, 7980:5, 7980:13, 7980:19, 7981:8, 7981:14, 7982:2
7981:14, 7982:2, 7982:13, 7983:8, 7983:24, 7985:7, 7985:9, 7985:14, 7985:19, 7985:23, 7986:13, 7986:25, 7987:4, 7087:24
7983:24, 7985:7,
7985:9, 7985:14,
7985:19, 7985:23, 7986:13, 7986:25
7987:4, 7987:24, 7988:23, 7989:12, 7989:18, 7990:20
7988:23, 7989:12,
7989:18, 7990:10, 7901:23, 7002:2
7991:23, 7992:2, 7992:15, 7992:24,
7993.2, 7993.0, 7993:18, 7993:21, 7994:1, 7994:4, 7994:19, 7995:11, 7005:14, 7095:10
7994.1, 7994.4, 7994.19, 7995.11
1995.14, 1995.19,
7996:4, 7996:16, 7997:6, 7997:11,
7997:6, 7997:11, 7997:14, 7999:20,
8001:6, 8002:7,
8002:10. 8002:18.
8003:12, 8005:21, 8006:21, 8006:23,
8007:1, 8007:21,
8017:9, 8021:11,
8029:10, 8029:13, 8029:19, 8038:25,
8040:3, 8043:2
Fisher's- 7926:9
7928:1, 7979:23, 7988:9, 7992:22, 7994:13, 7996:12,
7988.9, 7992.22, 7994.13, 7996.12
8025:2, 8035:13
fist - 8021:1
fit - 7961:25, 7962:15, 8029:13
fits - 7930:1
fitted - 7963:1
<b>five</b> - 7872:17, 7922:15, 7930:19,
7974:6, 8015:6, 8037:1,
8043:24
Five- 7979:11, 8014:25 fled - 7927:4, 7984:23,
fled - 7927:4, 7984:23, 8018:3, 8018:19
fleeing - 7993:9,
8017:11
flesh - 7939:7 Flicker- 8005:17,
8006:18
fluid - 7956:16,
7957:16, 7965:4,

7965:5, 7965:17 fluids - 7957:21 focus - 7875:11, 7882:16, 7890:12 focusing - 7922:16 follow - 7898:6, 7944:3 followed - 7901:23, 7902:5, 7902:17, 7903:5, 7975:22, 7978:1, 7984:14, 8005:9 **following** - 7888:8, 7888:9, 7918:9, 7945:18, 7946:19, 7952:24, 7954:22, 7956:5, 7964:17, 7971:3, 7973:11, 7989:21, 8028:19 follows - 7958:8, 7982:18, 7988:10 footpath - 7935:4 footwear - 8001:11 force - 7874:13, 7959:4, 7985:7, 8006:10, 8024:20, 8026.8 Forced- 8010:22 forced - 7937:9, 7943:6, 7947:6, 7947:8, 7982:25, 7983:17, 7984:16, 7984:21, 8009:3, 8010:9, 8010:24, 8011:8, 8026:6, 8028:5 forcing - 7958:25 foregoing - 7960:25, 7962:17, 8045:4 forehead - 7944:6, 8040:14 foreman - 7997:16 form - 7874:19, 7874:20, 7998:8, 7998:16, 7998:17 formal - 7889:4, 7893.6 former - 7899:1, 7997:16 formerly - 8023:21. 8041:20 forms - 7966:10 Fort- 7985:8 forth - 7887:16, 7888:13, 7914:13, 7914:16, 7915:6 fortunate - 8029:7 forward - 7869:8, 7982:7, 8042:21 forwarded - 7954:23 four - 7930:19, 7982:11, 7982:14, 7985:23, 7986:15, 7986:17, 7987:1, 7987:11, 7989:11, 7989:23, 8015:6, 8036:25 fourth - 7920:25, 7970:24 Fox- 7867:9, 7868:6, 7893:15, 7898:23, 7898.25 Fps- 7961:19 frame - 7874:9 frankly - 7895:21, 7898:2 **free** - 7947:14, 7947:22, 7979:20 French- 7946:1 frequent - 7915:7, 7971:9 frequented - 7972:23,

7975:14 Friday- 7915:8 friends - 7893:11, 7900:18, 7900:23, 7963:12 frightened - 7993:8, 8017:10, 8019:1 front - 7935:8, 7935:17, 7936:2, 7938:16, 7943:22, 7974:17, 7978:5, 8008:8, 8010:1, 8031:19 frozen - 7956:10, 7956:11 full - 7989:2, 8040:8 fur - 7955:7 G gagged - 8008:21, 8010:18 Gail - 7878:10 7900:19, 7901:10, 7915:25, 7920:21, 7921:11, 7923:17, 7923:23, 7925:1, 7925:22, 7929:7, 7930:8, 7949:13, 7949:15, 7950:16, 7951:19, 7952:1, 7956:4, 7956:12, 7957:13, 7966:20, 7968:4, 7970:18, 7972:25, 7988:25, 7992:1, 7997:6, 8007:2, 8029:5, 8039:17 **garage** - 7938:3, 7942:22, 7943:22, 8010:8, 8030:4, 8031:20 garages - 7938:1, 7938:5, 7940:15 garment - 7955:6 garments - 7955:24, 7957:8 Garrett - 7867:6 Garry - 7985:8 gas - 7944:12 gasoline - 7942:18 general - 7870:14, 7873:14, 7876:11, 7881:17, 7894:25, 8024:14, 8029:14 General - 7982:6, 7986:19 generally - 7875:17, 7881:11, 7889:8 gentlemen - 7948:3 gentler - 8038:9 George - 7962:10 Gibson - 7867:10. 7868:5, 7893:15, 7893:16, 7893:17, 7893:18, 7898:22 girdle - 7938:7 7940:25, 7943:3 girl - 7883:7, 7891:8, 7949:24, 7951:5, 7967:3, 7978:1, 7978:3, 7978:22, 7979:14 girls - 7960:22, 7961:10, 7962:17 **Gis** - 7962:13 Given - 7948:23, 7979:20 **given** - 7876:13, 7940:16, 7959:2, 7962:1, 7962:16, 7963:2, 7980:3,

7998:19, 8003:18, 8014:10.8037:7 glass - 7954:25 glasses - 7935:18, 7936:4, 7936:5, 7940:2, 7940:13, 7947:17, 7947:20. 8040:13 glove - 8004:23, 8041:3, 8042:8 gloves - 8040:16, 8041:5 Goa - 7980:18 gold - 7944:9 Government - 7867:4 government - 7895:2, 7895:19 grab - 7978:12, 8008:5, 8040:21 **grabbed** - 7935:6, 7935:16, 7937:19, 7939:21, 7942:14, 7943:21, 7944:15, 7947:2, 7947:4, 7978:11, 7978:22, 7982:24, 7983:16, 7984:16, 7995:13, 8009:5, 8009:20, 8009:22, 8028:4 Grant - 7972:13 **granted** - 7919:2, 7919:25 **great** - 7931:5, 7996:25, 8007:16 green - 7955:2 **Grosvenor** - 8005:10 ground - 7935:19, 7935:21, 7935:23, 7936:14, 7943:6, 7947:9, 7984:21, 7993:2, 8000:24, 8030:5, 8030:22, 8035:20, 8037:10 Group- 7956:17 7957:18, 7960:17, 7961:9, 7962:7, 7962:19 **group** - 7872:19, 7950:4, 7950:24, 7965:15, 7965:16, 7965:24, 7968:20, 7073:21, 7073:25 7973:21, 7973:25, 7974:24, 7975:2, 8016:3 grouping - 7957:20, 7967:5, 7967:17, 7967:25 **groups** - 7973:23, 7974:2 Gryba - 7932:21, 7941:15, 7944:21 guarded - 7892:4, 7892:17, 7892:19, 7893:25, 7894:2, 7894:12, 7895:14 **guess** - 7893:14, 7894:2, 7894:10, 7897:11, 7897:16, 7897:22, 8009:5, 8037:2, 8037:23 guesstimate - 8015:5 **guilty** - 7920:14, 7921:4, 7991:24, 8002:8 guys - 7910:20 Н Hair - 7933:23 hair - 7875:15, 7933:22, 7937:16,

7939:23, 7944:5, 7945:20, 7974:16, 7983:3, 8001:10, 8020:13, 8020:14, 8020:18, 8027:6 half - 8008:15, 8009:10 halfway - 7936:10 hamlet - 7994:10 hand - 7837:10, 7901:15, 7935:7, 7935:9, 7935:10, 7935:19, 7937:2, 7937:4, 7938:19, 7942:15, 7942:16, 7947:15, 7958:24, 7975:6, 7992:17, 7992:22, 7995:14, 8009:22, 8009:25, 8025:13, 8025:14 handed - 7894:15, 7933:12 handkerchief - 7966:6 handle - 7943:11, 8036:17 handled - 7994:2 handling - 7903:9 hands - 7937:3, 7937:7, 7937:8, 7947:10, 7947:25, 8025:11 handwritten - 7934:9, 7941:10 hanging - 7937:16, 7939:23, 7944:6, 8008:14 hard - 7935:12, 7944:7, 7985:25 harder - 7935:16 hardly - 8012:10 Hardy - 7866:3, 7868:4, 7869:4, 7869:7, 7869:11, 7893:10, 7893:20, 7894:5, 7894:6, 7899:2, 7899:10, 7901:16, 7916:19 harsh - 7944:7 hat - 7940:2, 7944:7 haunts - 7994:9 head - 7937:3, 7937:14, 7937:18, 7943:9, 7943:10, 7943:15, 8030:7, 8031:4 headline - 7948:22 headquarters -7890:15 Health - 7887:8, 7887:9 7887:9 hear - 7915:24, 7925:5, 7925:19, 7926:12, 7927:18, 7930:6, 7937:25, 8023:2 heard - 7877:19, 7877:21, 7877:25, 7879:4, 7897:10 7878:4, 7887:19, 7904:1, 7934:25 7937:23, 7985:24, 7988:3, 7991:13, 8008:2, 8008:4, 8009:4, 8011:16, 8023:3, 8028:19 hearing - 7923:1, 7926:7, 7933:9, 7952:9, 7957:2, 7974:10, 7974:19, 7976:8, 7981:22, 7981:24 hearings - 7919:3 hearkening - 7894:10 hearsay - 7879:17





heart - 7907:14 heavy - 7940:1 heck - 7897:18 held - 7937:2, 8000:25, 8002:19, 8007:3, 8028:10.8037:11 hell - 7996:5 hellow - 7971:21 help - 7947:22, 7948:4, 8040:13 helpful - 7897:3, 7924:5 Hemmersbach -7890:18, 7892:5 Hemmersbach's -7892:24 Henderson - 7931:3. 7991:15, 7991:16, 7995:6, 7996:20, 8000:15, 8003:24, 8017:4, 8018:23, 8033 12 Henderson's -7991:20, 8004:8, 8033:13 hereafter - 7882:25 hereby - 7918:8, 8045:4 herein - 8045:6 herself - 7873:18, 7879:8 Hersh - 7867:2, 7989:10 hesitant - 7895:14 hesitated - 7876:22 hidden - 7963:19 hide - 8043:5 high - 8022:16 8022:24, 8023:23, 8024:7 highly - 7956:16, 7992:6 hiking - 8001:11 himself - 8010:24 Hinz - 7866:11, 8045:2, 8045:13 Hodson - 7866:2, 7868:8, 7893:14, 7916:23, 7920:2, 7926:15, 7926:16, 7023:1, 7021:17 7927:1, 7931:17, 7951:13, 7951:15, 7951:18, 7980:24, 7981:1, 7981:5, 7990:21, 7990:24, 8002:14, 8002:15, 8002:25, 8003:4, 8003:9 hold - 8036:21 holding - 7935:9, 7942:16, 7947:10, 7947:14, 8032:3, 8036:25 **holidays** - 7909:25, 7910:5, 7911:3 home - 7924:22, 7938:16, 7939:6, 7939:17, 7942:6, 7945:14, 7948:5 7963:19, 7967:19, 7968:11, 7979:3, 7993:11, 7993:23, 7996:8, 8009:15, 8039:7 Hon - 7867:13 honestly - 7907:14 Honourable - 7865:6 hope - 7880:9 hopefully - 7954:8 hoping - 7895:24

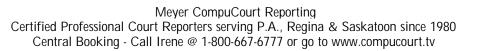
hose - 7996:7 hospital - 7940:11 Hospital - 7887:10, 7888:6, 7888:12, 7970:3 hotel - 7928:14 Hotel - 7865:16 hour - 7929:21, 8002:21 hours - 7889:19, 7909:1, 7971:11 house - 7925:2, 7925:8, 7934:18, 7938:8, 7938:10, 7938:15, 7943:22, 7977:11, 7993:10, 7993:11, 7993:13, 7995:8, 8002:9, 8009:12, 8019:3, 8019:15, 8019:24, 8031:19, 8031:22 Huff - 7988:16, 7988:18 human - 7955:12, 7956:16, 7965:4, 7965:5 hung - 7933:23 hurt - 8012:14, 8012:19 L **I1** - 7956:17 **Id** - 7874:11, 7882:11, 7885:17, 7890:3, 7924:11, 7941:18, 7941:20, 7941:23, 7080:32, 7090:32 7980:22, 7980:25, 7981:2, 7981:5, 8027:18, 8029:11, 8038:17 idea - 7889:25, 7961:13 Ident - 7956:6 identification 7874:18, 7951:2, 8015:21 Identification - 7951:6 identified - 7926:1, 7952:16, 7985:1, 7989:20, 8001:5. 8005:6 identify - 7874:11, 7878:3, 7885:18, 7920:3, 7924:15, 7929:9, 7931:19, 7950:6, 7964:7, 7969:10, 7983:9, 7983:24, 7998:12, 8001:19, 8002:4, 8012:8, 8026:23, identifying - 7931:23 identify: 7959:7, 7969:5, 8043:5 Idylwyld - 7953:2 li - 7952:21 images - 7917:4, 7917:18, 7918:9, 7919:17 imagine - 7914:22 immediate - 7911:4, 7913:12, 7963:12 Immediate - 7963:21 immediately - 7909:6, 7969:3 impact - 8023:4 implicit - 7908:5 importance - 7912:7 important - 7897:23,

7898:3, 7927:18, 7929:9, 8019:22, 8036:1 impression - 7892:1, 7894:2, 7895:16, 7899:20 imprisoned - 7987:1, 7987:15 improve - 7870:21 in-service - 7872:9 inaudible - 8012:17, 8013:1, 8014:3 inches - 7983:21, 8025:22, 8037:1 incident - 7896:19, 7927:17, 7942:3, 7948:22, 7988:19, 7997:5, 8000:21, 8004:13, 8025:5, 8028:2, 8032:7, 8035:17 incidents - 7924:9, 7928:25, 7930:12, 7944:24, 7959:21, 7989:17 included - 7918:16, 7921:23, 7922:5, 7950:25, 7951:1, 7960:3, 7968:23 including - 7905:11, 7983:8, 8007:4 inconsequential -7912:6 indecent - 7920:19, 7962:12, 7981:9, 7990:11 indeed - 7881:18, 7919:3, 8022:19 index - 8040:17 Index - 7868:1 indicate - 7891:23, 7961:6, 7962:6 indicated - 7886:7, 7899:10, 7901:6, 7914:5, 7914:11, 7928:20, 7928:23 7960:6, 7961:8, 7967:2, 8028:23, 8043:3 **indicates** - 7891:20, 7909:5, 7965:14, 7988:18 indicating - 7917:19 indications - 7907:25 indictment - 7986:12, 7986:20 individual - 7870:23, 7875:13, 7925:25, 7972:5, 8042:6 individuals - 7870:11, 7921:22, 7962:25, 8015:15, 8041:19 inexperienced -7885:9 influenced - 8034:7 informant - 7970:12, 7970:22, 7980:19 information - 7878:15, 7879:1, 7879:3, 7879:11, 7880:16, 7881:13, 7881:19, 7881:25, 7883:15, 7884:15, 7884:24, 7885:13, 7886:10, 7887:19, 7891:11, 7894:3, 7894:13, 7894:15, 7895:4, 7895:5, 7895:7, 7895:18, 7895:22, 7896:14, 7897:5, 7897:9, 7897:11,

7897:14, 7897:24, 7898:14, 7898:17, 7901:15, 7901:23, 7902:12, 7910:10, 7910:14, 7911:13, 7911:14, 7952:19, 7963:4, 7966:22, 7970:20, 7970:24 7971:2, 7971:3, 7972:4, 7975:25, 7980:10, 7981:6, 7981:7, 7981:14, 7989:13, 7989:14, 7990:3, 7996:21, 8014:9, 8015:9, 8017:24, 8019:19 Information - 7970:11 informed - 7927:5, 7996:10 **initial** - 7874:3, 7874:8, 7876:9, 7878:16, 8001:23 initialed - 7969:14, 7969:25, 7972:12 injured - 8032:16 Inland - 7866:14 inguiries - 7962:2 **inquiry** - 7915:15, 7915:18, 7916:2 Inquiry - 7865:2, 7865:23, 7869:15, 7908:2 inserted - 7993:3 inside - 7955:8, 8018:7 Inspector - 7952:20, 7998:25, 7999:16 instance - 7884:25 instances - 7949:4, 7958:21 instructed - 7951:5 instructions - 7969:22 intact - 7924:2 intend - 7928:20, 7931:1 intended - 7976:18 intent - 7981:9 intention - 7917:12, 7917:16 intentions - 7919:21 intercourse - 7937:10, 7939:4, 7943:8, 7959:10, 7980:14, 7993:21, 8026:4, 8036:4 interested - 7932:25 interrogated - 7961:7, 7963:1 interrogation - 7961:4 interview - 7870:19, 7878:21, 7879:9, 7879:19, 7883:3, 7884:1, 7886:23, 7890:16, 7891:24, 7892:3, 7892:18, 7902:23, 7991:19, 7994:2, 7995:5, 7996:20, 7996:24, 7997:23, 8003:20, 8006:17, 8027:20, 8037:5, 8039:10 Interview - 8027:24 interviewed - 7882:24, 7883:5, 7886:3, 7890:14, 7891:8, 7891:21, 7950:4, 7953:22, 7961:10, 7962:10, 7962:12, 7967:14, 7967:19, 7985:7, 7993:23, 7994:22, 8027:23

interviews - 7881:7, 7883:6. 7884:21. 7976:10, 7988:3, 7991:15, 8000:4 introduce - 8006:25, 8035:10 introduction -8021:15, 8043:12 investigated -7901:10, 8001:16 investigation - 7871:4, 7881:14, 7881:20, 7882:12, 7885:19, 7898:20, 7923:8, 7923:18, 7923:22, 7923:25, 7932:6, 7932:11, 7933:5, 7951:23, 7963:9, 7963:25, 7983:6 7963:25, 7983:6, 7985:18, 7988:16, 7999:5, 8000:7, 8002:5, 8005:17 investigations -7884:22, 7958:5, 7975:13 investigatively -7955:15 investigator - 8028:18, 8029:4 investigators -7891:16 involved - 7878:9. 7880:12, 7883:13, 7884:16, 7885:4, 7885:8, 7885:10, 7886:13, 7887:1, 7894:20, 7895:8, 7005:0, 7004:12 7895:9, 7901:13, 7909:10, 7909:14, 7909:17, 7911:19, 7958:7, 7959:4, 8001:22 involvement - 7893:6, 7901:3, 7902:25 **involving** - 7999:20, 7999:23, 8023:20, 8024:10 Irene - 7866:10 Irwin - 7867:13 Isabelle - 7866:6 **issue** - 7880:11, 7930:4, 8022:25 issued - 7948:24, 7949:3 issues - 7998:24, 8024:8 items - 8025:24 itself - 7897:18 J

jack - 8001:15 Jack- 7950:12 **jacket** - 7944:8, 7945:23, 7955:7, 7955:11, 7960:5, 7960:8, 7964:25, 8001:13, 8026:12, 8026:13, 8026:14, 8026:16 jackknife - 7943:11, 7983:22, 8030:9, 8030:18, 8033:15, 8036:14, 8036:23 Jake- 7997:16 James- 7867:3 **January-** 7888:1, 7900:16, 7915:21, 7920:22, 7989:4, 8003:18, 8038:20





<b>jeans</b> - 7933:1,	7936:3, 7936:6, 7936:7,	<b>known</b> - 7908:7,	7952:12, 7958:18,	light - 7938:10,
7937:19, 7938:21,	7937:12, 7937:18,	7960:17, 7965:24,	7964:9, 7966:17,	7976:1, 7993:12,
7993:9, 8009:5, 8019:2,	7947:17, 7948:1	7969:5, 7971:16,	7968:24, 7971:17,	8009:13
8019:7, 8019:23,	keeping - 7873:16,	7971:17, 7972:3	7972:3, 7975:13,	lighthouse - 7872:18
8020:2, 8026:2	8006:9	Knox - 7867:5, 7868:7,	7990:20, 7990:23,	lightly - 7966:4
Jennifer- 7867:12	Kenneth - 7961:20	7893:15, 7893:16,	7990:25, 7991:4,	lights - 7947:23,
<b>Jerry</b> - 7866:13				
	<b>kept</b> - 7876:3, 7880:20,	7903:22, 7903:23,	7995:3, 8011:10,	7948:1, 7959:12,
jitters - 7875:22,	7936:8, 7947:21,	7926:18	8038:15	7977:21, 7977:25
7899:11	8008:10, 8008:14,	<b>Krogan</b> - 7867:4	lastly - 7980:21	likelihood - 8021:21
<b>job</b> - 7870:18, 7872:20,	8040:12	<b>Kujawa</b> - 7867:6	late - 7958:2, 7962:22	likely - 7875:3,
7872:23, 7873:23,	<b>Kerr</b> - 7954:16	-	latest - 7954:6	7886:23, 7903:4,
7875:24, 7877:8,	Ketler - 7997:16		latter - 7988:15	7920:23, 7992:6,
7887:8, 7888:5,	kick - 7937:5		lawyer - 7898:25,	8021:22, 8022:1,
7892:15, 7903:16	kill - 7992:18, 7996:2,	Lab- 7957:18, 7957:21,	7903:24	8024:10, 8024:16
<b>Joe</b> - 7953:20	8004:7	7969:22, 7972:15	lay - 8026:15, 8026:16	limitation - 7919:15
jog - 7889:14, 7896:9				
	killed - 8004:5,	<b>lab</b> - 7954:18, 7955:24,	lead - 7929:11,	limited - 7923:10
<b>John</b> - 7868:3,	8004:10, 8029:7,	7956:14, 7957:7,	8024:24, 8035:24	Lindgren- 7951:4
7869:10, 7870:24,	8042:1	7972:25	leads - 7975:21	line - 8001:19,
7871:8, 7871:15,	<b>kind</b> - 7879:17,	laboratory - 7955:17,	learned - 7932:24,	8015:25, 8016:9,
7871:20, 7873:13,	7879:23, 7944:5,	7966:8, 7975:1	7975:23, 7989:9,	8020:6, 8025:4, 8025:7,
7874:16, 7874:19,	7979:4, 8018:1,	Laboratory- 7957:15,	7994:15	8028:23, 8029:22,
7875:4, 7875:11,	8021:20, 8022:20,	7959:17, 7964:20,	learning - 7887:3,	8035:15
7875:18, 7876:17,	8023:2	7973:12	7911:9	line-up - 8015:25,
7876:20, 7880:21,	kinds - 7930:10,	ladies - 7955:2,	least - 7892:13,	8016:9, 8028:23
7881:4, 7882:8,	8021:18	7955:6, 7955:11	7893:25, 7898:3,	line-ups - 8001:19
7882:24, 7884:15,			7899:6, 7901:9, 7948:8,	lined - 7955:7
	kitchen - 7971:12	lady - 7945:24		
7886:5, 7887:4,	Kitchen - 7971:24	laid - 7926:3, 7936:22,	7951:22, 7973:7,	lines - 7899:22
7888:25, 7889:12,	<b>Kleenex</b> - 7969:21,	7995:25, 8008:25,	7980:3	lining - 7955:8
7891:4, 7892:20,	7969:23, 7969:24,	8030:4	leaves - 7937:24	link - 7990:13
7893:3, 7896:10,	7972:11	Lana- 7867:4	leaving - 7877:6,	liquid - 7955:18,
7896:12, 7896:16,	Kliev - 7956:7	landlord - 7948:9	7886:21	7956:10, 7956:18,
7897:19, 7899:6,	knife - 7935:8,	landmarks - 7924:19	Lee- 7958:18	7973:16, 7973:24
7900:12, 7900:22,	7935:14, 7935:17,	lane - 7935:4, 7936:1,	left - 7872:23, 7887:6,	list - 7917:9, 7955:4
7901:1, 7903:12,	7936:2, 7936:12,	7936:7, 7936:10,	7887:18, 7888:2,	listen - 7910:20
7905:22, 7908:12,	7936:25, 7937:1,	7938:18, 7939:21,	7888:20, 7891:25,	listened - 7878:25
7909:1, 7912:16,	7937:6, 7937:9,	7940:12, 7940:13,	7905:23, 7934:18,	listening - 7878:16,
7916:1, 7916:15	7938:20, 7942:16,	7947:24, 7958:15,	7935:7, 7938:2,	7904:20
<b>John's</b> - 7882:23	7943:8, 7943:10,	7958:17, 7959:1,	7938:13, 7942:6,	listing - 7922:13,
Johnston- 8033:14,	7947:6, 7947:11,	7959:13, 7963:20,	7942:15, 7945:13,	7999:9
8034:10	7947:15, 7958:24,	7974:13, 7982:25,	7946:16, 7953:3,	lists - 7918:12
Jordan- 7866:3	7978:21, 7979:1,	7983:17, 7984:15,	7994:4, 8002:17,	live - 7977:4, 7995:16,
Joseph- 7967:13	7979:4, 7979:7,	7984:17, 7984:23	8003:10, 8004:23,	8036:10
<b>Joyce</b> - 7867:3	7982:24, 7983:4,	language - 8021:24	8009:24, 8025:13,	lived - 7914:11,
judgement - 7903:7	7983:5, 7983:16,	Lapchuk- 7991:13	8025:14, 8031:17	7925:11, 7985:19,
	7983:19, 7984:18,			7992:4
judgment - 7879:18,		large - 7910:9, 7992:15	legible - 7945:2	
7880:3, 7881:18	7992:15, 7992:17,	Larry- 7866:14,	legislation - 7895:6	living - 7887:15,
<b>July</b> - 7987:20,	7993:3, 7995:15,	7867:11, 7921:4,	<b>legs</b> - 7937:5, 8009:2,	7888:14, 7914:25
7987:22, 7987:25,	7995:24, 8001:2,	7921:19, 7925:7,	8010:22, 8029:15	<b>lo</b> - 7912:21
7988:4, 7988:5, 7988:7,	8001:5, 8001:7,	7926:1, 7976:14,	length - 7945:21,	load - 7871:10, 7872:5,
7989:7, 7989:9	8004:21, 8008:7,	7980:12, 7980:19,	7945:23, 7961:10,	7872:10, 7873:7,
jump - 7879:14	8008:10, 8008:19,	7981:8, 7981:14,	7975:20, 8001:10	7874:2, 7897:21
jumped - 7948:2	8010:2, 8010:3, 8010:4,	7982:13, 7987:24,	lengthy - 7961:21	local - 7958:3, 7962:5,
June- 7874:12,	8013:8, 8013:15,	7988:9, 7989:12,	Les- 7949:23	7962:18, 7962:25
7887:14, 7888:17,	8025:15, 8025:16,	7989:17, 7990:10,	Leslie- 7962:10	locate - 7880:24.
7914:6, 7914:8,	8025:21, 8030:9,	7991:23, 7996:16,	less - 7904:24, 7924:2,	7880:25, 7890:8,
7914:18, 7915:5,	8030:13, 8030:16,	7999:20, 8002:7,	7992:4	7890:10, 7921:13,
7933:10, 7971:7,	8030:20, 8031:3,	8002:10, 8006:21,	letter - 7874:12,	7945:3, 7946:10,
7971:25, 7998:2,	8032:3, 8033:19,			7946:12, 7951:9,
		8006:23, 8007:1,	7917:7, 7917:15,	
8038:19, 8039:5	8033:20, 8033:23,	8025:2, 8029:10,	7954:15, 7955:23,	7962:4, 7962:9,
jurisdiction - 7877:5,	8033:24, 8033:25,	8035:12	7956:2, 7956:9, 7957:6,	7975:17, 7991:9,
7886:17	8036:12, 8036:24,	Larsen- 7886:4	7960:15, 7964:23,	7999:19, 8006:16
jury - 8023:2, 8036:2,	8037:13, 8037:25,	Larson- 7879:20,	7973:8, 7981:19,	located - 7968:12,
8036:20, 8043:13	8040:18, 8040:19,	7880:12, 7880:15,	7981:23, 7982:16,	7999:3, 7999:12,
Justice- 7865:6,	8040:25, 8041:2,	7885:11, 7886:8,	7998:1, 7998:5,	7999:15
7867:12, 7988:2,	8042:5, 8042:7,	7886:15, 7891:16,	7998:14	locating - 7933:1
8007:11, 8021:10,	8042:10, 8042:11,	7891:22, 7902:1,	letters - 7954:17	location - 7922:13,
8023:9, 8035:1,	8042:14, 8042:15	7902:22, 7911:2,	letting - 7876:5	7922:20, 7924:9,
8041:14	knifepoint - 7959:5	7912:9, 7912:19,	Lewis- 7952:9	7970:15, 8042:18
	<b>knocked</b> - 7938:11,	7913:1, 7914:5	library - 7945:14	locations - 7924:7.
17	8009:13		lio 7026.10 7020.14	7985:20
K		Larson'- 7914:7	<b>lie</b> - 7936:19, 7938:4,	
	<b>knowing</b> - 7877:9,	Larson's- 7886:23,	7959:9, 7995:22,	<b>locker</b> - 7969:17,
Kara - 7866:6	7912:13, 7953:9,	7892:11	8010:10, 8030:6	7972:8
<b>Karen</b> - 7866:11,	7965:16	Last- 7987:13	lied - 7936:20, 8010:14	Lockyer- 7867:3,
8045:2, 8045:13	knowledge - 7895:25,	last - 7869:21,	Lieutenant- 7874:13,	7990:20, 7990:22
Karp - 7988:6	7901:14, 7902:25,	7873:21, 7882:14,	7954:16, 7954:24,	<b>look</b> - 7906:11,
Karst - 7867:9,	7903:2, 7905:17,	7892:7, 7893:8,	7964:18	7912:11, 7937:14,
7882:14, 7884:6,	7909:6, 7926:3,	7903:11, 7917:1,	life - 7887:17, 7898:8,	7943:16, 7950:8,
7899:1, 7905:7,	7967:20, 7970:21,	7917:24, 7921:25,	7898:9, 7906:12,	7953:14, 7980:10,
7905:10, 7976:15	7980:4, 7985:17,	7926:4, 7929:17,	7994:5	8001:21, 8015:24,
keep - 7876:6, 7924:6,	8017:18, 8045:6	7935:6, 7939:9,	lifted - 7937:14	8033:3, 8039:18
<b>Noop</b> - 1010.0, 1324.0,	0017.10,00-0.0	1000.0, 1000.0,	mtou - 1301.14	0000.0,0000.10



looked - 7899:6, 7958:10. 7969:1. 8013:5, 8013:12, 8016:3, 8030:16 Looking- 7875:3 looking - 7898:9, 7901:21, 7930:5, 7984:7, 8001:18 Loran- 7867:7 Lordship- 8030:25 Lorne- 7988:16 lose - 8025:24 lost - 7963:7, 7979:8, 8026:2 loud - 7935:11 Louis- 7993:24, 7994:9 lumber - 8001:14 lumps - 7956:11 lunch - 8002:23, 8003.2 lying - 7936:23, 7993:2 Μ M7 - 7972:8 Maccallum - 7865:7, 7869:3, 7869:6,

7916:20, 7919:25,

7926:14, 7926:25,

7931:13, 7951:11,

7951:14, 7951:17,

7980:24, 8002:13,

Macfarlane - 7989:10

Mackay - 7981:21

Mackie - 7882:20,

7884:5, 7885:5, 7885:22, 7891:21,

7905:8, 7949:16,

7950:16, 7952:3, 7952:21, 7966:16, 7967:10, 7968:25,

maiden - 7920:5,

7920:8, 7920:16, 7921:1, 7921:17,

7922:1, 7922:18, 7998:7, 8003:17

Mail - 7973:13

7941:14, 7945:7,

7975:9, 7980:12

7969:4, 7971:19,

7939:21, 7942:19, 7953:10, 7970:12, 7971:8, 7983:16,

7983:20, 7984:6,

7984:10, 7984:14,

7984:17, 7984:23, 7998:9, 7998:12,

8012:8, 8016:20,

8028:3, 8029:14

man's - 7971:15

Mann - 7945:9

7882:5 map - 7922:21

manner - 7878:6.

managed - 7959:6

Manager - 7866:5

managing - 7877:3 Manitoba - 7869:18

7982:3, 7985:9, 7987:5

7983:3

**majority** - 7878:21 **male** - 7945:19, 7946:5, 7958:22,

main - 7925:5, 7934:9,

**man** - 7903:24, 7935:6, 7938:12, 7938:18,

8002:24, 8003:3,

8003:5, 8003:8,

8043.25

8028:17

mark - 7966:6, 7994:4 **marriage** - 7888:19, 7898:10, 7914:17 **married** - 7888:16, 7888:17, 7914:6, 7914:8, 7914:18, 7914:94, 7015 5 7914:21, 7915:5 Martin - 7952:23 material - 7944:9, 7945:23, 8000:10 materials - 7880:25, 7991:10, 8003:21, 8003:23 matter - 7871:12, 7871:13, 7875:2, 7889:5, 7890:9, 7893:7, 7923:19, 7930:9, 7957:13, 7964:24, 7979:24, 8002:3, 8002:8, 8002:18, 8022:14, 8023:19, 8035:6, 8042:9, 8042:12, 8042:18, 8042:19, 8042:23 matters - 7946:9, 8021:18, 8022:6 **mean** - 7875:25, 7878:2, 7892:22, 7907:9, 7912:2, 8013:18, 8037:24 meaning - 7908:3, 7914:15 media - 7917:8, 7917:11, 7917:25, 7919:18 medium - 7944:5, 7945:22 meet - 7995:9, 8014:14 meeting - 7880:2, 7883:16, 7883:25, 7889:19, 7892:16, 7893:4, 7894:18, 7894:21, 7895:10, 7905:13, 7905:14, 7905:16, 7909:14, 7909:21, 7910:15, 7910:16, 7913:3, 7913:11, 7913:15, 7913:17, 7913:23, 7913:24, 7914:2, 7950:18, 7951:16, 8038:7 **meetings** - 7889:9, 7912:2, 7912:10, 7913:6 Melnyk - 7991:12 member - 7961:9, 7962:6, 7962:19, 8028:16 members - 7985:6, 8036:1 memo - 7969:12, 7988:5 memorandum -7987:21, 7989:7

7924:10, 7924:13, 7924:14, 7925:5, 7927:6, 7977:8,

**March** - 7874:20, 7875:12, 7954:15, 7955:18, 7955:21,

7956:1, 7956:18, 7957:7, 7957:10, 7957:23, 7959:23,

7960:13, 7960:14,

7961:17, 7964:20,

7964:23, 7967:11,

7981:20, 7982:1,

7982:4

8005:13

7998:22, 8000:15 8000:12, 8003:22 **memory** - 7883:15, 7889:14, 7893:2, 7896:9, 7906:4, 7906:7, 7907:5, 7912:11, 7045:44, 7045:40 7915:11, 7915:19, 7915:24, 7916:15 men - 7951:3 menstruating - 7939:9 mention - 7894:22, 7899:16, 8039:21 mentioned - 7877:9, 7878:9, 7880:13, 7887:6, 7887:21, 7892:23, 7899:17, 7901:1, 7902:2, 7958:2, 7961:19, 8009:18, 8030:13, 8031:9 mentioning - 7896:18, 7900:2 met - 7889:15, 7897:20, 7899:7, 7909:13, 7909:19, 7912:7, 7912:8, 7932:20, 7943:17, 7970:3, 8014:19, 8015:7, 8028:3 **Meyer** - 7866:12, 8045:2, 8045:19 Mhmm - 8034:13 microfiche - 7999:18 microscope - 7960:3, 7964:24 mid - 7909:5 mid-may - 7909:5 middle - 7971:6, 8030.3 midnight - 7933:24 **might** - 7875:15, 7892:21, 7902:16, 7907:24, 7909:3, 7909:9, 7910:23, 7911:2, 7911:11, 7919:11, 7931:10, 7939:3, 7940:3, 7940:6, 7960:13, 7972:19, 7972:20, 7988:20, 7991:1, 8006:12, 8015:15, 8018:11, 8032:12, 8033:20, 8038:17, 8042:21 miles - 7993:25 Milgaard - 7865:4, 7867:2, 7867:3, 7876:12, 7876:23, 7876:24, 7877:12, 7877:17, 7877:21, 7878:5, 7879:3, 7879:4, 7881:5, 7887:20, 7888:9, 7888:25, 7896:18, 7896:19, 7898:7, 7899:17, 7899:18, 7899:24, 7900:5, 7900:7, 7900:16, 7900:21 7901:2, 7901:4, 7901:9, 7902:2, 7903:4, 7903:13, 7903:16, 7908:14, 7909:2, 7916:1, 7916:13, 7927:6, 7931:4, 7968:24, 7969:4 7974:22, 7987:22, 7989:4, 7991:16, 8002:9, 8017:15, 8017:23, 8018:11, 8019:5, 8029:3, 8039:24 Milgaard's - 7921:3,

Miller - 7878:10. 7900:19, 7901:11, 7916:1, 7921:11, 7923:17, 7923:23, 7924:21, 7924:22, 7930:9, 7949:15, 7950:16, 7952:1, 7952:5, 7956:4, 7957:13, 7959:23, 7963:11, 7966:20, 7968:4, 7970:19, 7972:25, 7974:18, 7989:1, 7992:1, 7997:7, 8007:2, 8017:22, 8029:6, 8039:18, 8041:25 Miller's - 7920:21, 7925:1, 7925:23, 7929:7, 7949:13, 7951:20, 7956:12, 8024:11 **mind** - 7879:12, 7880:10, 7899:5, 7904:11, 7908:4 7936:5, 7937:1, 8004:6, 8023:15 mindful - 8022:10, 8022:12 Mine - 7880:3 minimal - 7897:11, 7897:20, 7994:2 minimum - 7871:22 Minister - 7867:12, 7988.2 Ministries - 8033:18 minor - 7993:5, 8032:18 minute - 7911:25, 8016:2 minutes - 7876:15, 7931:14, 7937:11, 7939:12, 7939:13, 8009:3, 8009:7, 8011:11 Miss - 7945:25, 7946:1 misspelled - 7998:7 mistake - 8019:11, 8019.14 misunderstood -8018:11 Mo - 7958:21 modus - 7930:12, 7985:22 moment - 7917:20, 7918:13, 7918:25, 7922:22 **Monday** - 7920:7, 7920:10, 7934:17, 8043:18, 8043:21, 8043:25 **monitor** - 7928:15 **month** - 7871:22, 7888:18, 7933:10, 8028:18 months - 7872:1, 7872:22, 7873:1, 7873:8, 7873:9, 7873:22, 7893:9, 7914:22, 7914:23, 7929:8, 7987:15, 7988:25 moral - 7892:6, 7892:14 **morality** - 7932:15, 7932:25, 7934:10, 7940:23 **Morality** - 7932:21, 7941:14, 7945:8, 7950:2, 7950:3,

7950:22, 7950:23, 7951:3, 7952:8, 7968:6, 7968:22, 7969:17, 7972:8 **morning** - 7869:3, 7869:4, 7869:6, 7869:12, 7869:13, 7869:16, 7900:17, 7005:20 7905:20, 7920:11, 7920:21, 7922:12, 7925:22, 7929:23, 7931:11, 7932:14, 7954:6, 7967:18, 8023:18, 8034:10 Morning - 7869:4 Mosher - 7961:22 **most** - 7892:14, 7919:12, 7930:14, 7931:19, 7983:1, 8000:18 mother - 7914:25. 7916.6 motioned - 8030:24, 8031:1 motioning - 8025:19 motivated - 7880:1 mouth - 7935:8, 7935:11, 7935:17, 7935:19, 7936:24, 7938:19, 7942:15, 7947:4, 7947:25, 7958:24, 7992:17, 7992:22, 7995:14, 8008:5, 8009:21, 8009:23, 8011:4, 8025:12, 8040:24 **move** - 7995:23, 8000:3, 8005:16, 8006:19, 8009:9, 8027:15 moved - 7888:18, 7925:7, 7977:10 moving - 7937:24, 7975:3 muffled - 8032:12 mug - 8001:18, 8005:6, 8033:3, 8039:14 mumbling - 7946:20 murder - 7878:10, 7883:13, 7884:17, 7887:5, 7891:9, 7901:10, 7901:11, 7915:14, 7920:22, 7921:11, 7923:17, 7925:23, 7929:7, 7949:13, 7951:20, 7956:4, 7956:13, 7959:23, 7961:2, 7967:14, 7970:18, 7997:7, 8029:5, 8039:18 murdered - 7992:3 **must** - 8022:21, 8022:23, 8043:11 Ν naked - 7993:2 name - 7870:23, 7871:2, 7877:11 7877:17, 7877:21,

7877:23, 7878:5, 7878:6, 7878:24, 7879:6, 7879:14, 7880:5, 7880:13,

7881:6, 7889:11, 7892:24, 7893:18,

7896:23, 7898:25, 7899:17, 7899:18,

Meyer CompuCourt Reporting Certified Professional Court Reporters serving P.A., Regina & Saskatoon since 1980 Central Booking - Call Irene @ 1-800-667-6777 or go to www.compucourt.tv

7926:7, 7988:1

		i ago i i		
7899:21, 7900:5,	newspaper - 7948:19	7908:12, 7909:1,	nowhere - 7992:15	October - 7920:6,
7900:9, 7901:2, 7902:2,	Next - 7933:7, 7949:12,	7909:13, 7910:9,	number - 7912:7,	7924:17, 7932:14,
7902:6, 7902:14,	7958:9, 7968:3, 7976:5,	7912:16, 7916:1,	7918:12, 7923:25,	7934:8, 7934:17,
7903:3, 7903:18,	7981:17, 7986:22,	7916:14	7926:1, 7927:21,	7958:13, 7958:14,
7903:19, 7903:23,	7987:8, 7997:25,	<b>Nick</b> - 7949:19,	7931:3, 7931:4, 7931:5,	7974:14, 7976:6,
7904:1, 7904:2,	7998:21, 8005:16,	7950:12	7932:12, 7934:5,	7976:7, 7976:12,
7904:21, 7904:22,	8006:19, 8012:21,	nick - 7971:17	7934:7, 7940:19,	7979:24, 7980:14,
7911:20, 7916:12,	8014:18, 8015:20,	Nickel - 7882:23,	7941:12, 7945:7,	7982:21, 7985:6,
7916:14, 7920:5, 7920:8, 7920:17,	8025:18, 8026:3, 8028:8, 8029:17,	7882:24 Nickey - 7883:2	7949:14, 7955:18, 7957:1, 7961:19,	7985:15 odd - 7913:1
7921:17, 7921:25,	8032:5, 8032:15,	nickname - 7883:2	7968:5, 7975:7,	offence - 7871:16,
7922:1, 7922:18,	8034:14, 8040:3	Nicky - 7889:14,	7980:23, 7981:2,	7871:17, 7883:9,
7946:13, 7971:15,	next - 7877:16, 7889:3,	7889:22, 7891:4	7982:19, 7983:11,	7921:5, 7932:23,
7971:17, 7972:2,	7891:18, 7898:24,	night - 7915:8,	7984:1, 7999:2,	7958:12, 7958:17,
7972:3, 7998:7, 7998:9,	7911:16, 7916:23,	7934:17, 7979:9,	7999:23, 8007:4,	7958:19, 7961:24,
7998:13, 8003:17,	7917:6, 7917:19,	7992:13, 8014:3,	8024:8, 8026:21	7962:14, 7962:24,
8017:23, 8039:21,	7919:3, 7922:12,	8014:11	numbered - 7953:25	7967:18, 7980:13,
8041:22	7925:14, 7927:10,	nobody - 8009:14	numbers - 7924:3,	7981:10, 7983:7
name-dropping -	7928:2, 7928:11,	<b>noise</b> - 8008:2, 8009:4,	7954:14, 7964:11	offences - 7921:20,
7902:6, 7902:14, 7903:3	7929:20, 7933:10,	8011:17, 8018:2	numerous - 7952:14,	7961:21, 7966:24,
<b>named</b> - 7961:6,	7934:2, 7940:18, 7941:6, 7944:22,	<b>none</b> - 7959:15, 8013:4, 8013:11,	7953:6, 8001:17 nylon - 7936:18,	7967:24, 7976:9, 7982:8, 7985:15,
7982:9	7944:25, 7945:4,	8013:21	7940:15, 7940:24,	7985:25, 7990:2,
names - 7884:5,	7948:18, 7950:14,	None - 7952:15	8008:21	7990:16
7884:6, 7917:4,	7951:18, 7953:17,	Nonetheless - 7994:3		offenders - 7878:22
7917:18, 7917:21,	7953:21, 7954:4,	noon - 8039:7	0	offer - 7966:22,
7918:8, 7918:12,	7954:8, 7954:9,	Nordstrum - 7952:20		7967:15
7918:15, 7918:17,	7956:13, 7956:20,	normal - 7910:7	O'keefe - 7867:11	office - 7885:1,
7919:6, 7919:8,	7956:24, 7957:11,	Normally - 7876:15	oath - 7927:24,	7889:18, 7894:20,
7919:10, 7919:13,	7964:6, 7965:7,	normally - 7886:13	8007:19, 8025:7,	7905:12, 7909:3,
7919:17, 7920:3,	7966:12, 7970:7, 7972:24, 7974:4,	<b>north</b> - 7935:2, 7935:5,	8035:16, 8040:9	7911:3, 7950:2, 7950:23
7921:1, 7921:16, 7958:11, 7988:8,	7975:3, 7977:24,	7938:3, 7943:20, 7945:16, 7953:2,	obeyed - 7996:1 object - 8000:25,	
7989:11, 7995:3,	7980:1, 7980:8,	7993:25	8001:1, 8001:3,	<b>Office</b> - 7968:22, 7969:18, 7972:8
7999:10, 8005:4,	7981:25, 7982:16,	North - 7977:12	8037:11, 8037:12,	officer - 7870:3,
8041:20, 8041:21	7985:3, 7985:4,	northeast - 7946:4	8037:14	7870:17, 7872:7,
nature - 7873:15,	7986:11, 7986:16,	Note - 7988:23	obligation - 7917:14	7873:9, 7873:10,
7881:1, 7881:22,	7987:17, 7987:19,	note - 7874:24,	obligations - 7881:12	7875:23, 7876:2,
7883:10, 7884:1,	7989:6, 7990:6,	7875:1, 7875:12,	observations - 7899:7	7879:15, 7879:21,
7884:20, 8004:14	7990:18, 7991:14,	7885:23, 7890:4,	observed - 7945:24,	7880:19, 7881:25,
<b>near</b> - 7938:9, 7940:13,	7993:11, 7994:17,	7890:7, 7968:4	7961:22	7882:1, 7885:3,
7984:15	7994:25, 7995:2,	notebook - 7933:11	observer - 8024:1	7885:10, 7887:7,
nearby - 7992:25	7996:17, 7998:14,	<b>noted</b> - 7874:20,	<b>obtain</b> - 7887:12, 7960:20	7891:2, 7904:13,
nearest - 7993:10 necessarily - 7906:19	8000:3, 8001:8, 8002:12, 8003:16,	7874:22, 7875:6, 7877:8, 7883:18,	obtained - 7872:16,	7904:17, 7904:18, 7909:8, 7910:13,
necessary - 7896:1,	8004:15, 8004:25,	7886:23, 7969:12,	7923:15, 7953:20,	7911:6, 7911:19,
7919:5, 7927:15,	8006:1. 8009:16.	7972:20, 7990:3,	7954:11, 7955:9,	7912:21, 7912:22,
7929:12, 7929:15	8010:7, 8011:18,	7990:12, 7991:6	7959:15, 7959:24,	7913:16, 7934:11,
neck - 7943:4	8011:23, 8014:4,	notes - 7890:1,	7960:22, 7966:3,	7968:7, 7980:18,
nee - 8027:22	8014:15, 8016:18,	7921:14, 7933:16,	7968:24, 7973:6,	8014:5, 8037:9,
<b>need</b> - 7909:7,	8018:10, 8018:22,	7933:21, 7995:5,	7988:8	8037:15, 8037:22,
7921:22, 7922:8,	8020:4, 8021:13,	8012:22, 8039:10,	obvious - 8023:25,	8038:2, 8038:6
7928:24, 7947:19,	8025:5, 8028:25,	8045:6	8024:1	<b>Officer</b> - 7866:13,
7972:5, 8043:23	8029:24, 8031:25,	Nothing - 7875:20	Obviously - 7930:3	7933:8, 7940:23,
needed - 7882:1 needs - 7991:2	8032:21, 8035:7, 8035:18, 8035:25,	nothing - 7878:11, 7916:12, 7975:22,	<b>obviously</b> - 8012:15, 8020:8	7944:21, 7951:4, 7952:9, 7956:7, 7957:6,
negative - 7958:7,	8038:21, 8040:10,	7995:13	occasion - 7881:2,	7968:7, 8014:14
7961:5, 7963:23	8041:16, 8043:24	<b>notice</b> - 7917:12,	7881:9, 7889:10,	officers - 7882:8,
neighbourhood -	nice - 7910:1	8030:21	7902:9, 7952:13,	7883:16, 7883:25,
7997:15	Nichol - 7870:24,	noticed - 7939:1,	7970:21	7884:14, 7884:20,
<b>never</b> - 7881:6,	7871:8, 7871:20,	7939:2, 7942:17,	occasional - 7891:5	7884:21, 7884:24,
7897:25, 7898:19,	7871:23, 7873:13,	7943:10, 7971:13,	occasions - 7884:23,	7885:1, 7885:4,
7904:13, 7906:25,	7873:16, 7874:1,	8004:22, 8030:8,	7927:22, 7970:14,	7886:18, 7889:6,
7916:15, 7936:5,	7874:15, 7874:19,	8031:17	8014:2, 8015:7,	7889:9, 7890:3, 7890:7,
7937:1, 7938:20, 7966:18, 7979:15	7875:11, 7875:18,	noticing - 7915:19	8015:18, 8023:17	7891:12, 7892:16, 7893:4, 7909:20,
7966:18, 7979:15, 7985:24, 7994:8,	7875:20, 7876:9, 7876:12, 7876:20,	notified - 7994:12 notion - 7904:11	occur - 8016:11 occurred - 7958:17,	7911:24, 7912:4,
7994:12, 7995:23,	7878:14, 7879:16,	November - 7920:9,	7962:22, 7985:20,	7915:24, 7919:4,
7996:10, 8001:20,	7880:17, 7880:21,	7920:17, 7925:6,	7989:18, 7991:8,	7930:6, 7976:10,
8002:7, 8013:22,	7881:4, 7881:7, 7882:8,	7925:17, 7941:8,	7995:7, 7997:8,	8005:4, 8026:22
8028:19, 8029:1,	7886:5, 7887:4,	7941:13, 7942:1,	8041:24, 8042:1,	officers' - 7894:1,
8029:11, 8038:8,	7888:25, 7889:11,	7942:3, 7942:6,	8042:2	7895:16
8039:14, 8039:20,	7889:12, 7891:4,	7945:13, 7958:17,	occurrence - 7884:19,	official - 7917:22,
8039:22	7892:20, 7893:3,	7958:20, 7976:20,	7932:12, 7934:5,	7918:16, 7918:23,
<b>new</b> - 7877:7, 7879:21,	7896:10, 7896:12,	7977:5, 7977:9,	7934:7, 7940:19,	7919:18
7888:5, 7898:10,	7896:16, 7897:19,	7980:20, 7981:10,	7941:12, 7949:14,	<b>Official</b> - 7866:11,
7953:19, 7954:3,	7899:6, 7900:2, 7900:12, 7900:22,	7983:13, 7984:2, 7985:13, 7985:16,	7954:13, 7964:10, 7968:5, 7973:1, 7975:7,	8045:1, 8045:3, 8045:14, 8045:20
7954:7, 7964:8, 7969:24, 7975:25	7900:12, 7900:22, 7901:1, 7902:2,	8002:6, 8040:7	7908.5, 7973.1, 7975.7, 7990:1, 7990:1, 7990:14	often - 7871:19,
newer - 7874:1	7903:12, 7905:22,	novice - 7911:9	occurrences - 7967:21	8014:24
				· ·



Page 12

		1 490 12		
<b>oil</b> - 7942:18, 7944:11,	7947:25	7955:2, 7960:4	7942:1, 7945:11,	7877:13, 7878:9,
7995:18, 8002:1	orders - 7870:16	pairs - 7963:17	7968:9, 7991:21,	7885:6, 7900:1, 7900:3,
old - 7934:19, 7939:22,	ordinarily - 8024:19	<b>Pambrum</b> - 7926:8,	8007:23	7911:5, 7926:2,
7945:20, 7963:19,	ordinary - 7928:5	7926:12, 7927:6	partway - 7940:5	7942:12, 7942:13,
7978:6, 8002:1	original - 7923:12,	Pamprum - 7926:9	pass - 7902:21, 7903:1	7942:18, 7943:7,
<b>Oleksyn</b> - 7950:3,	8001:4	<b>panties</b> - 7938:6,	<b>passed</b> - 7942:13,	7943:13, 7943:16,
7950:23	originally - 7877:20,	7939:2, 7939:6,	8028:4	7943:17, 7943:19,
Once - 8028:4	7960:22 otherwise - 7992:23,	7940:24, 7943:3, 7955:2, 7955:11,	passes - 7906:4 Passet - 7932:15	7944:2, 7944:11, 7944:13, 7944:15,
once - 7871:22, 7896:13, 7897:14,	8006:8	7960:4, 7960:7,	past - 7895:19,	7944:16, 7945:19,
7932:2, 8015:19	outcome - 7891:24	7963:18, 7964:25	7946:24, 7977:21,	7946:5, 7950:9,
<b>One</b> - 7926:14, 8023:24	outlet - 7917:25	pants - 7940:4,	7978:14	7952:17, 7953:11,
one - 7872:19, 7874:1,	outlets - 7917:9,	8011:21, 8019:8	Pat - 7867:7	7953:14, 7957:19,
7874:23, 7874:25,	7917:11	panty - 7996:7	pattern - 8021:19,	7959:3, 7959:21,
7875:8, 7876:2,	outline - 7937:22	paper - 7904:2,	8021:25, 8024:8	7961:6, 7961:12,
7878:11, 7878:12,	outset - 7930:3	7904:3, 8029:10	<b>Paul</b> - 7991:15,	7962:25, 7963:10,
7879:15, 7881:9,	outstanding - 7982:12	<b>paragraph</b> - 7884:4,	7991:16, 8000:14,	7965:15, 7966:2,
7894:7, 7895:22,	outweigh - 8024:20,	7884:9, 7884:11,	8003:24, 8017:4	7969:4, 7970:16,
7897:24, 7898:4, 7900:22, 7901:12,	8043:11 own 7802:15	7884:12, 7885:25, 7892:7, 7917:19,	Paul's - 7970:3	7971:13, 7971:20, 7972:1, 7972:22,
7908:23, 7911:13,	own - 7892:15, 7895:25, 7898:9,	7917:24, 7918:13,	<b>pause</b> - 7955:22, 7960:12, 7982:2,	7975:23, 8001:20,
7913:19, 7922:17,	7908:4, 7917:9,	7949:18, 7950:19,	7993:17, 8000:22	8012:14, 8012:25,
7923:14, 7925:14,	7953:23, 7979:20,	7957:12, 7961:18,	pay - 7898:4, 8008:3	8022:2, 8024:17,
7926:4, 7932:9, 7937:2,	7992:25, 7993:13,	7965:7, 7965:12,	paying - 7915:19	8026:23
7938:11, 7940:14,	7997:15, 8028:6,	7965:13, 7966:17,	peaked - 7937:25	personal - 7914:15,
7944:25, 7949:4,	8036:2	7967:9, 7970:10,	<b>Pearson</b> - 7933:13,	7954:24
7949:24, 7949:25,	owned - 7933:1	7986:6, 7990:20,	7990:8, 7991:6, 8000:6,	personally - 7883:13,
7953:15, 7954:10,	<b>owner(s</b> - 7964:1	7990:23, 7991:4,	8000:9, 8003:18,	7884:16, 7956:6,
7955:1, 7955:6, 7955:8, 7957:7, 7958:4,	B	7991:12, 8000:22 paragraphs - 7882:16,	8004:12, 8004:18, 8005:13, 8037:6,	7964:18 persons - 7952:14,
7959:22, 7960:4,	P	- 7882:17	8039:25	7953:6, 7969:7,
7961:23, 7968:23,	pace - 7872:19	parallel - 7933:18	Pearson's - 8038:20	7969:10, 7972:19
7969:2, 7969:4,	package - 7969:24	parcel - 7972:15	Peggy - 7972:3	Persons - 7958:7
7969:10, 7970:17,	page - 7874:12,	Pardon - 8034:21	Pencenda - 7944:1	perspective - 7879:23
7973:16, 7973:17,	7874:17, 7874:21,	pardon - 7965:12,	pending - 7988:1	<b>ph</b> - 8017:22, 8021:25
7973:24, 7982:20,	7875:8, 7882:14,	7966:13, 7980:6,	penetrate - 8016:24	phase - 7917:1,
7987:10, 7987:16,	7885:23, 7890:5,	8016:16, 8027:17	penetrated - 7993:7,	7933:10, 7952:10,
7989:3, 7991:17,	7890:11, 7890:13,	<b>paring</b> - 7983:5,	8017:9	7953:21, 7957:3,
7992:4, 7993:10,	7891:18, 7956:13,	7984:18, 8033:19,	penetrating - 8018:3	7974:20, 8000:2
7993:12, 7997:3, 8001:24, 8002:21,	7956:24, 7957:4, 7957:11, 7958:9,	8033:20, 8033:25, 8036:23	penetration - 8018:18 penis - 7937:10,	Phillips - 7951:4 phoenix - 7948:20
8003:14, 8004:22,	7961:15, 7965:7,	<b>Park</b> - 7952:25,	7993:7, 8017:9	phone - 7892:2,
8009:24, 8020:6,	7970:7, 7970:9, 7974:7,	8005:10	<b>Penkala</b> - 7874:13,	7938:23, 7946:15,
8027:18, 8027:24,	7974:18, 7980:23,	parole - 7910:12	7953:20, 7953:22,	8005:23
8034:16, 8034:18,	7981:2, 7982:16,	part - 7870:12,	7954:12, 7954:16,	phoned - 7939:11,
8034:20, 8034:22,	7985:4, 7986:14,	7870:16, 7871:17,	7956:1, 7956:9,	7943:25
8035:3, 8038:15,	7986:16, 7986:17,	7873:18, 7873:24,	7956:12, 7957:6,	<b>photo</b> - 7875:10,
8041:7, 8042:21,	7990:6, 8001:8,	7887:1, 7887:11,	7964:9	7950:7, 7951:7, 7951:9,
8042:22	8003:14, 8003:15,	7892:14, 7917:1,	Penkala's - 7960:15	7968:24, 7969:3,
<b>open</b> - 7872:8, 7975:21, 8006:9,	8003:16, 8004:15, 8004:25, 8006:1,	7928:2, 7931:19, 7939:18, 7941:24,	<b>people</b> - 7874:1, 7878:12, 7878:19,	7985:1, 8028:23 photograph - 8029:9
8009:1, 8010:22	8007:24, 8009:16,	7949:19, 7951:25,	7886:16, 7895:3,	photographic - 8016:2
opened - 7923:21,	8010:7, 8011:18,	7952:8, 7961:16,	7901:12, 7906:5,	photographs -
7976:1	8011:23, 8012:12,	7964:4, 7973:4, 7991:3,	7921:8, 7930:11,	7874:15, 7950:5,
openly - 8028:2	8012:21, 8013:24,	8000:6, 8000:11,	7943:23, 7950:5,	7950:25, 8015:15,
operandi - 7930:12,	8014:18, 8015:20,	8000:18, 8003:19,	7966:21, 7968:21,	8015:23, 8016:3
7985:22	8016:14, 8016:19,	8005:12, 8006:18,	8019:15	<b>photos</b> - 7950:24,
operate - 7984:20	8018:10, 8018:22, 8020:4, 8021:12,	8006:23, 8030:1,	per - 7969:21	7952:14, 7952:16, 7968:20, 7968:23.
operated - 7952:23 operating - 7997:14	8020:4, 8021:12, 8021:12, 8021:13, 8023:8,	8036:17, 8039:10, 8040:11	perception - 7894:1 perfectly - 7944:8	7968:20, 7968:23, 7969:12,
opinion - 7880:7,	8025:3, 8025:6,	partial - 7917:3,	perhaps - 7874:9,	7969:13, 7969:18,
7892:25, 7905:17,	8025:10, 8025:18,	7917:13, 7919:15,	7875:11, 7876:11,	7983:8, 7983:24,
7909:21	8026:3, 8027:20,	7941:18	7879:25, 7881:11,	8028:22, 8039:18
opportunity - 7884:10,	8028:8, 8028:25,	Partially - 7966:9	7881:20, 7882:17,	pick - 7947:18, 8033:2
8006:7	8029:24, 8031:25,	particular - 7882:13,	7890:4, 7894:3,	<b>picked</b> - 7877:19,
opposed - 7997:9,	8032:5, 8032:15,	7882:16, 7884:10,	7899:20, 7920:24,	7877:24, 7938:6,
8017:6	8032:21, 8033:10, 8034:14, 8034:25,	7885:20, 7905:6, 7908:12, 8023:22,	7927:23, 7988:20, 7991:16	7943:19, 7948:5, 7968:21, 7969:3,
oral - 7945:25, 8021:10, 8034:24	8035:7, 8035:13,	8024:3, 8024:22,	<b>Perhaps -</b> 7884:4,	7969:13, 7972:20,
orange - 7943:1,	8035:18, 8035:25,	8035:5, 8041:18,	7890:11	7972:21, 7974:22,
7943:2, 7996:6	8037:3, 8038:18,	8041:23, 8042:6,	period - 7870:18,	8031:15, 8031:18
order - 7893:16,	8038:21, 8039:4,	8042:9, 8042:12,	7870:22, 7871:22,	pictures - 7968:14,
7915:9, 7918:5,	8040:8, 8040:10,	8042:17	7872:3, 7872:12,	7972:21
7918:22, 7919:2,	8040:20, 8041:15	particularly - 7893:24	7873:4, 7888:23,	<b>piece</b> - 7966:4
7924:15, 7957:6,	Page - 7868:2,	particulars - 7924:6,	7904:24, 7939:9,	<b>pieces</b> - 7906:2,
7959:7, 7959:20, 7962:9, 7965:25	8036:11, 8041:6 pages - 8000:10,	7928:2	7986:2, 7997:19	7906:10, 7906:13, 7906:16, 7906:18,
ordered - 7918:8,	8000:14, 8045:4	<b>parties</b> - 7919:20, 7929:10, 7931:3,	permission - 7929:1 perpetrator - 8017:19,	7907:2, 7907:7
7995:20	painful - 7939:5	7954:7	8020:10	pieces' - 7905:24
ordering - 7947:10,	pair - 7933:1, 7940:24,	parts - 7905:25,	person - 7877:12,	place - 7881:9,
	,			· · · · · · · · · · · · · · · · · · ·



7902:16, 7910:16,
7913:23, 7924:10,
7902:16, 7910:16, 7913:23, 7924:10, 7932:23, 7941:8, 7046:2, 7040:6, 7040:8
7946:7, 7949:6, 7949:8, 7958:13, 7958:19, 7959:10, 7993:21,
7958:13, 7958:19,
7959:10, 7993:21,
8005:14
<b>placed</b> - 7947:25,
7969:2, 7969:15, 7969:24, 7972:7
<b>plaid</b> - 7955:7, 7960:5,
7960:8, 7964:25,
8001:14
plainclothes -
7939:13, 8028:15
planned - 7979:16
plans - 8002:19
plastic - 7969:25
<b>play</b> - 7895:17
plead - 8002:7
pleaded - 7991:23
<b>pled</b> - 7920:13, 7921:4
<b>Pm</b> - 7933:14, 7934:18,
7942:5, 7945:12, 7950:20, 7953:4,
7953.8 7958.13
7953:8, 7958:13, 7970:5, 7970:6,
7971:10, 7972:14
7971:10, 7972:14, 7982:20, 7983:12, 7094:2, 7095:8, 9002:6
1984.2. 1995.8. 8003.8.
8003:7, 8044:2
pocket - 7978:23
pocketknife - 7979:5
pockets - 7942:24
<b>point</b> - 7879:6, 7882:3,
<b>point</b> - 7879:6, 7882:3, 7887:3, 7889:23, 7889:25, 7895:23,
7889:25, 7895:23,
7896:12, 7896:22, 7898:10, 7898:13, 7898:4, 7898:13,
7898:10, 7898:13, 7899:4, 7900:4,
7099.4, 7900.4,
7900:13, 7903:10, 7900:25, 7911:11, 7916:10, 7919:23, 7924:20, 7931:2, 7981:23, 7982:24, 7983:19, 7984:15, 7907:4, 8001:4, 8006:8
7916.10 7919.23
7924:20, 7931:2.
7981:23, 7982:24.
7983:19, 7984:15,
7997:4, 8001:4, 8006:8,
8007:15, 8007:17,
8041:7
pointed - 7950:7,
7958:24, 8001:3,
8037:14
Pointed - 8008:8
<b>poked</b> - 8013:8,
8013:15 police - 7882:8
<b>police</b> - 7882:8, 7883:16, 7884:24,
7885:1. 7891:6
7885:1, 7891:6, 7894:12, 7894:19, 7894:12, 7894:19,
7897:25, 7908:1,
7897:25, 7908:1, 7908:16, 7909:2,
7909:8, 7909:15,
7909:8, 7909:15,
7909:8, 7909:15, 7909:20, 7910:6, 7910:11, 7911:16,
7909:8, 7909:15, 7909:20, 7910:6, 7910:11, 7911:16, 7912:4, 7912:20.
7909:8, 7909:15, 7909:20, 7910:6, 7910:11, 7911:16, 7912:4, 7912:20, 7913:16, 7915:24,
7909:8, 7909:15, 7909:20, 7910:6, 7910:11, 7911:16, 7912:4, 7912:20, 7913:16, 7915:24,
7909:8, 7909:15, 7909:20, 7910:6, 7910:11, 7911:16, 7912:4, 7912:20, 7913:16, 7915:24, 7919:4, 7921:9, 7921:14, 7922:22.
7909:8, 7909:15, 7909:20, 7910:6, 7910:11, 7911:16, 7912:4, 7912:20, 7913:16, 7915:24, 7919:4, 7921:9, 7921:14, 7922:22.
7909:8, 7909:15, 7909:20, 7910:6, 7910:11, 7911:16, 7912:4, 7912:20, 7913:16, 7915:24, 7919:4, 7921:9, 7921:14, 7922:22, 7923:1, 7923:3, 7923:7, 7923:14, 7923:21,
7909:8, 7909:15, 7909:20, 7910:6, 7910:11, 7911:16, 7912:4, 7912:20, 7913:16, 7915:24, 7919:4, 7921:9, 7921:14, 7922:22, 7923:1, 7923:3, 7923:7, 7923:14, 7923:21, 7924:2, 7930:6, 7933:10, 7938:24.
7909:8, 7909:15, 7909:20, 7910:6, 7910:11, 7911:16, 7912:4, 7912:20, 7913:16, 7915:24, 7919:4, 7921:9, 7921:14, 7922:22, 7923:1, 7923:3, 7923:7, 7923:14, 7923:21, 7924:2, 7930:6, 7933:10, 7938:24.
7909:8, 7909:15, 7909:20, 7910:6, 7910:11, 7911:16, 7912:4, 7912:20, 7913:16, 7915:24, 7919:4, 7921:9, 7921:14, 7922:22, 7923:1, 7923:3, 7923:7, 7923:14, 7923:21, 7924:2, 7930:6, 7933:10, 7938:24.
7909:8, 7909:15, 7909:20, 7910:6, 7910:11, 7911:16, 7912:4, 7912:20, 7913:16, 7915:24, 7919:4, 7921:9, 7921:14, 7922:22, 7923:1, 7923:3, 7923:7, 7923:14, 7923:21, 7924:2, 7930:6, 7933:10, 7938:24.
7909:8, 7909:15, 7909:20, 7910:6, 7910:11, 7911:16, 7912:4, 7912:20, 7913:16, 7915:24, 7919:4, 7921:9, 7921:14, 7922:22, 7923:14, 7922:22, 7923:14, 7923:21, 7923:14, 7923:21, 7924:2, 7930:6, 7933:10, 7938:24, 7939:11, 7939:19, 7940:17, 7940:20, 7941:9, 7943:25, 7944:22, 7948:8,
7909:8, 7909:15, 7909:20, 7910:6, 7910:11, 7911:16, 7912:4, 7912:20, 7913:16, 7915:24, 7919:4, 7921:9, 7921:14, 7922:22, 7923:14, 7922:22, 7923:14, 7923:21, 7923:14, 7923:21, 7924:2, 7930:6, 7933:10, 7938:24, 7939:11, 7939:19, 7940:17, 7940:20, 7941:9, 7943:25, 7944:22, 7948:8,
7909:8, 7909:15, 7909:20, 7910:6, 7910:11, 7911:16, 7912:4, 7912:20, 7913:16, 7915:24, 7919:4, 7921:9, 7921:14, 7922:22, 7923:14, 7923:21, 7923:14, 7923:21, 7924:2, 7930:6, 7933:10, 7938:24, 7939:11, 7939:19, 7940:17, 7940:20, 7941:9, 7943:25, 7944:22, 7948:8, 7948:16, 7951:21, 7952:10, 7954:18,
7909:8, 7909:15, 7909:20, 7910:6, 7910:11, 7911:16, 7912:4, 7912:20, 7913:16, 7915:24, 7919:4, 7921:9, 7921:14, 7922:22, 7923:14, 7922:22, 7923:14, 7923:21, 7923:14, 7923:21, 7924:2, 7930:6, 7933:10, 7938:24, 7939:11, 7939:19, 7940:17, 7940:20, 7941:9, 7943:25, 7944:22, 7948:8,

7974:12, 7974:19, 7976:4, 7976:10, 7983:7, 7983:24, 7985:1, 7985:9, 7988:17, 7996:10, 7998:19, 8000:2, 8001:16, 8001:17 8001:25, 8005:2, 8005:8, 8014:1, 8015:24, 8026:22, 8027:9, 8028:21, 8028:22, 8031:21, 8031:23, 8032:23, 8037:9, 8037:15, 8037:21, 8038:2, 8038:6, 8039:12, 8039:17, 8039:20 Police - 7867:8, 7874:13, 7882:12, 7885:19, 7891:19, 7923:7, 7948:24, 7949:6, 7951:25, 7958:6, 7960:19, 7960:23, 7962:8, 7963:16, 7963:22, 7964:13, 7964:19, 7968:18, 7968:19, 7970:25, 7973:14, 7981:20, 7985:18, 7988:21, 7989:15, 7990:9, 8005:3, 8033:4, 8038:25 policeman - 7939:13, 7940:10 policemen - 7910:1, 8001:22 policies - 7912:13 portion - 7965:17, 7999:1 portions - 7931:22, 7965:14 position - 7870:2, 7870:3, 7870:15, 7872:1, 7872:18, 7876:2, 7969:11 possession - 7933:25 **possibility** - 7912:1, 7961:1 Possibility - 8034:8 Possible - 8019:11 possible - 7878:9, 7966:23, 8017:12, 8017:13, 8018:17, 8018:19, 8019:5, 8019:10 possibly - 7944:4 post - 7929:19 post-conviction -7929:19 posting - 7918:23 potential - 7886:20, 8022:2, 8022:17, 8023:1, 8023:16 practical - 7919:9 preceding - 7988:25 preclude - 7918:22 predated - 7929:7 preferred - 7986:20 pregnant - 8002:11 Prehodchenko -7866:14 prejudice - 8022:17, 8023:1, 8023:16 prejudicial - 8024:20, 8043:11 preliminary - 7915:15, 7915:18, 7916:2 prepare - 7945:4 prepared - 7883:11, 7918:4, 7922:11,

7957:1, 7968:6, 7994:18, 7995:6 7996:19, 8000:15, 8003:1 **presence** - 7909:20, 7955:12, 7965:4, 7965:19, 7973:22 present - 7890:16, 7914:1, 7928:3, 7928:19, 7955:12, 7982:11, 8027:24 presently - 7939:8, 7963:24, 7969:16 pressure - 8006:13 presumption -7906:24 Pretty - 7913:1 pretty - 7915:3, 8012:16, 8017:17, 8018:4 **previous** - 7888:19, 7955:16, 7970:20, 7990:22, 8006:25 previously - 7958:10 pricked - 7877:22 print - 7924:13 prisoner - 7968:1 privacy - 7894:14 private - 8029:4 **probable** - 7956:16, 7992:2, 7997:13 probation - 7870:3, 7870:12, 7870:16, 7870:17, 7870:22, 7872:7, 7872:9, 7872:7, 7872:9, 7872:13, 7873:5, 7873:8, 7873:10, 7873:17, 7874:6, 7874:7, 7875:23, 7876:2, 7876:4, 7878:2, 7878:20, 7879:15, 7879:21, 7880:18, 7881:25, 7885:2, 7885:9, 7886:17, 7886:18, 7886:21, 7887:7, 7891:2, 7904:12, 7904:16, 7904:18, 7909:8, 7910:13, 7911:6, 7911:19, 7911:24 7912:14, 7912:22 probationary 7871:12 probationer - 7910:21 probative - 8024:19 proceed - 7869:7, 7918:3 proceeded - 7880:4, 7932:22, 8030:6 proceeding - 8007:3 Proceedings -7865:12, 7865:23, 7868:1, 7869:1 proceedings -7918:17, 7918:20, 7919:13, 7923:3, 7976:12, 7994:19, 8001:6, 8006:24, 8021:11, 8040:4 process - 7953:25 produced - 7965:15 promises - 7979:21 propose - 7917:15, 7918:7, 7927:9, 7927:10, 7928:1, 7928:5, 7929:3, 7929:8, 7929:17, 7929:23, 7930:2, 7930:20, 7931:19, 7931:24, 7933:16, 7989:22

7996:25, 7997:2, 8000:19.8004:11. 8005:14, 8005:19, 8007:15, 8007:22, 8035:14, 8038:13, 8043:17 prosecutor - 7903:25, 8016:20 protocol - 7910:7, 7910:18 proven - 7963:22 **provide** - 7960:10, 7965:21, 7988:21, 7991:10, 8014:9, 8015:8, 8039:12 provided - 7951:24, 7953:23, 7956:4 provides - 7895:6 providing - 7870:4 Province - 8045:3 province - 7917:9, 7962:3 provincial - 7870:5, 7872:21 Public - 7887:8, 7887:9 public - 7870:4, 7871:13, 7872:5, 7872:10, 7873:7, 7891:1, 7894:8, 7895:1, 7919:12, 7919:14, 7922:4 publication - 7917:4, 7917:13, 7917:17, 7917:23, 7918:7, 7919:24, 7921:24, 7922:5, 7922:9 publicity - 7986:3 published - 7918:10 pull - 7887:17 pulled - 7940:4, 7978:19 punch - 8021:6 purpose - 7886:23, 7941:3 Purpose - 7955:10, 7965:2, 7973:18 purposely - 7878:18 purposes - 7995:4, 8043:20 purse - 7936:14, 7937:21 pursuant - 7986:20 pursued - 7880:11, 7882:2, 7896:24 push - 7935:15, 7936:8, 7992:21, 8008:13 pushed - 7935:22, 7935:25, 8008:12, 8021:2 pushing - 8008:11, 8008:14 **put** - 7875:24, 7896:2, 7907:8, 7910:24, 7917:6, 7917:10, 7918:5, 7918:6, 7919:17, 7922:18, 7924:2, 7927:10, 7930:20, 7935:7, 7935:8, 7935:10, 7935:19, 7936:13, 7936:24, 7937:17, 7938:6, 7938:7, 7938:19, 7943:5, 7947:20, 7952:5, 7954:1, 7974:7, 7978:16, 7981:12, 7992:17, 7993:9, 7995:14, 7996:15

8010:25, 8011:3, 8019:2, 8019:7, 8019:23, 8020:2, 8029:21 putting - 7902:1, 7902:19 pyjamas - 7963:18

## Q

Qb - 7866:11 Qc - 7867:2, 7867:6, 7867:9 quality - 7875:10, 8024:5 Queen's - 8045:1, 8045:3, 8045:14, 8045:20 queries - 7893:8 query - 8042:20 questioned - 7871:1, 7882:7, 7966:24, 7970:19, 7971:1, 7985:14 questioning - 8018:23 questions - 7893:11, 7894:5, 7894:6, 7899:3, 7903:5, 7903:20, 7904:4, 7904:7, 7904:10, 7909:4, 7910:2, 7916:19, 7918:1, 7928:25, 8012:5, 8015:10, 8015:12, 8019:16 queued - 7902:4 quickly - 7938:6 quiet - 7937:18, 7947:8, 7947:17, 7948:1 Quinn - 7998:25, 7999:16 quite - 7880:24, 7881:8, 7895:21, 7898:2, 7898:8, 7898:9, 7939:22, 7939:25, 7944:4, 7948:12, 7976:2, 7994:11

## R

raft - 7963:20 raised - 7878:15 ran - 7938:8, 7938:15, 7938:17, 7943:20, 7943:21, 7948:2, 7978:20, 7979:11, 7993:10, 7993:11, 7993:13, 7996:8, 8009:12, 8009:14, 8019:1, 8019:2 8019:23, 8031:16 random - 7968:21 rape - 7932:19, 7933:6, 7949:4, 7949:25, 7950:10, 7950:21, 7954:21, 7958:5, 7962:11, 7964:17 7967:21, 7968:15, 7974:5, 7974:13, 7976:18, 7980:20, 7981:10, 7981:15, 7982:8, 7985:10, 7985:10, 7985:10, 7985:12, 7986:10, 7986:25, 7989:11, 7989:17, 7995:25, 8004:6, 8030:7, 8032:3 **raped** - 7938:20, 7969:11, 7970:17, 7983:2, 7983:19, 7993:20, 8031:9,





8032:2, 8032:16
<b>rapes</b> - 7920:15, 7949:6, 7958:4, 7961:2,
7949:6, 7958:4, 7961:2,
7902.21, 7900.23,
7949.6, 7958.4, 7961.2, 7962:21, 7966:25, 7980:7, 7985:20, 7986:5, 7988:24,
7990:11
raping - 7953:12
rapist - 8029:8
rare - 7994:11
Rasmussen- 7957:2
rather - 7878:17, 7878:22, 7945:20,
8022:2, 8042:2
Rather- 7927:19
<b>Ray-</b> 7949:16, 8028:16 <b>Raymond-</b> 7885:21
Raymond- 7885:21
Rcmp- 7867:10, 7871:4 7874:16
7889.6 7889.9 7890.2
Raymond- 7885:21 Rcmp- 7867:10, 7871:4, 7874:16, 7889:6, 7889:9, 7890:2, 7890:7, 7890:14, 7893:12, 7893:4, 7893:19, 7893:22, 7895:12, 7896:3, 7896:14, 7897:1, 7897:13, 7898:19, 7905:21, 7906:23, 7931:3, 7954:17, 7954:18, 7956:3.
7891:12, 7893:4,
7893:19, 7893:22,
7895:12, 7896:3,
7896.14, 7897.1,
7097.13,7090.19, 7905:21 7906:23
7931:3, 7954:17.
7954:18, 7956:3, 7956:21, 7956:24,
7956:21, 7956:24,
7957:2, 7957:14, 7964:5, 7973:9,
7964:5, 7973:9,
7989:15, 8003:10,
8005:17, 8005:20, 8005:23, 8006:17,
8027:19, 8037:5,
8038:16
re - 7907:8, 7916:19,
7954:20, 7987:24
re-exam - 7916:19 reach - 8024:5, 8043:9
reached - 7984:15,
8023:5, 8023:14,
8035:3
reaches - 8021:20,
8035:8
reacted - 7930:7 read - 7882:18, 7884:3,
7886:1, 7886:11.
7886:1, 7886:11, 7890:13, 7891:14,
7928:1, 7928:4, 7928:5, 7949:19, 7964:4, 7973:5, 7975:5,
7949:19, 7964:4,
7973:5, 7975:5,
7975:12, 7976:23, 7991:2, 7994:20, 7997:2, 8000:10,
7997:2, 8000:10
8003:21, 8004:2,
8007:8, 8007:22,
8017:1. 8025:3. 8025:6.
8029:22, 8037:5,
8038:13, 8043:17
reading - 7921:11, 7921:15, 7931:21,
7991:2
ready - 7869:7 real - 7935:23
realize - 7876:5
<b>realized</b> - 7907:18, 7946:19, 7984:13
realizing - 7906.17
really - 7875:20,
realizing - 7906:17 really - 7875:20, 7878:3, 7878:23, 7879:5, 7879:15, 7897:10, 7890:02
7879:5, 7879:15,
7092.19,7094.23, 7901.17 7907.21
7912:6, 7912:12.
7912:23, 7913:21,
7892:19, 7894:23, 7901:17, 7907:21, 7912:6, 7912:12, 7912:23, 7913:21, 7915:22, 7935:24, 7049:14, 7070:47
7948:14, 7979:17,

8016:13, 8018:14, 8019:17.8020:11 rear - 7958:23 **reason** - 7871:10, 7900:9, 7909:10, 7913:15, 8004:7 Reasonable- 8006:5 reasons - 7897:25. 7908:24 recalled - 7889:22, 7897:19, 7898:3, 7992:12, 7996:2, 8001:7 received - 7880:17, 7881:19, 7918:2, 7932:16, 7952:19, 7954:12, 7956:6, 7956:10, 7964:9, 7964:13, 7964:18, 7970:5, 7970:11, 7971:4, 7973:11, 7986:3, 7987:4, 7987:11, 7989:14, 7998.5 recently - 7963:15, 7990:5 recognize - 7877:17, 7889:11, 7944:13, 8042:5 **recognized** - 7875:14, 7900:6, 7900:8 recollect - 7903:15 recollection - 7875:17, 7883:24, 7885:15, 7886:10, 7896:11, 7896:15, 7899:5, 7903.11 Reconvened- 7869:2, 7931:16, 8003:7 record - 7874:14 7880:16, 7880:18, 7890:5, 7917:22, 7919:18, 7931:20, 7934:23, 7940:21, 7941:19, 7961:21, 7962:11, 7987:3, 7991:3, 7996:17, 8000:16, 8007:22 recorded - 7883:25 records - 7880:24, 7895:19, 7895:23, 7895:24, 7919:8, 7919:10, 7951:8, 7988:22 Records- 7962:5, 7962:18 recover - 7963:7 recovered - 7963:16 Red- 7952:21, 7962:5, 7962:18, 7968:2 red - 7971:23 redacted - 7918:18, 7958:11 Redacted- 7934:20 redouble - 7991:9 refer - 7874:10, 7882:10, 7885:16, 7885:17, 7890:1, 7919:5, 7924:3, 7940:21, 7956:21, 7985:3, 7987:17 8024:13, 8038:20 reference - 7874:18, 7876:17, 7876:23, 7923:17, 7964:3, 7965:13, 7967:7, 7974:4, 7975:3, 7975:12, 7975:15, 7985:3, 7990:6, 8004:8, 8004:16, 8004:25

8005:1, 8005:12, 8011:19.8038:22 referenced - 7956:2, 7958:12 references - 7973:2, 7974:18, 7981:24 referencing - 7945:6, 7964:11 **referred** - 7883:1, 7889:13, 7890:20, 7919:7, 7949:18, 7951:9, 7956:9, 7956:25, 7957:24, 7960:15, 7981:19, 7986:6, 7987:7 7994:18, 7997:24, 8003:24, 8003:25, 8017:5, 8023:17, 8023:21, 8024:6, 8041:17 **referring** - 7873:1, 7878:1, 7942:2, 7956:1, 7980:1, 7993:17 refers - 7932:13 7951:15, 7991:12 refinery - 8002:1 reflection - 8004:3 refresh - 7883:15 refreshed - 7893:3 refused - 7910:2 regard - 7876:21, 7897:3, 7962:13, 7966:25, 7967:19, 8023:22, 8041:18 **regarding** - 7952:21, 7970:20, 7971:2, 8042:5 **Regarding-** 7968:10 **regards -** 7886:4, 7932:18, 7966:23, 7967:14, 7968:15, 7972:14 Regina- 7870:1, 7877:6, 7882:22, 7886:6, 7888:7, 7888:8, 7888:15, 7888:18, 7890:23, 7900:23, 7901:1, 7957:16, 7960:1, 7962:13, 7964:19, 7969:23 7972:16, 7973:12, 7991:7 region - 7911:21 Registered- 7973:13 registered - 7991:7 regular - 7870:17, 7915:6 **rehab** - 7887:11, 7888:5, 7889:17 relate - 7990:16, 7991:14 **related** - 7887:19, 7896:18, 7955:15 relates - 7986:24, 7986:25 **relating** - 7881:13, 7956:4, 7982:8, 7982:17, 7990:2 **relation** - 7898:19, 7901:10, 7904:3, 7908:12, 7957:13, 7982:19, 8022:9, 8022:13, 8022:18, 8022:19, 8023:6, 8023:24, 8031:3, 8042:14, 8043:4 relationship - 7875:4, 7910:8, 7910:21,

relatively - 7877:7, 7879:21, 7885:9 relay - 7897:12 relayed - 7900:3 relaying - 7894:4 relevant - 7952:7 reluctance - 7928:12 remain - 7917:21, 7947:8, 7947:16 Remarks- 7955:14, 7965:11 remarried - 7887:14 remember - 7871:9, 7883:22, 7891:4, 7904:21, 7905:13, 7905:16, 7905:22, 7905:16, 7905:22, 7905:23, 7905:25, 7906:6, 7906:24, 7907:7, 7908:13, 7911:19, 7913:7, 7913:24, 7935:24, 7939:16, 7969:9, 7972:18, 7977:13, 7977:19, 7977:20, 7978:9, 7978:21, 7979:12, 7979:17, 8001:22, 8009:22, 8010:3, 8010:6, 8011:21, 8025:11, 8032:7, 8032:8, 8032:23, 8041:10 remembered - 7885:11 remembering -7907:20 remembrance -7889:13 remiss - 7898:5, 7904:8, 7904:12 remove - 7983:1 removed - 7983:18, 7992:25, 8042:25 repeat - 7881:16, 7911:1 replied - 7936:5, 7953:13 **reply** - 7938:14, 7966:10 report - 7870:17, 7882:12, 7882:13, 7883:1, 7885:7, 7885:20, 7885:21, 7891:23, 7899:2, 7909:5, 7910:6, 7910:11, 7910:24, 7912:15, 7912:25, 7913:17, 7913:22, 7921:14, 7923:14, 7932:7, 7932:11, 7932:16, 7933:5, 7944:22, 7949:15, 7950:18, 7951:10, 7951:12, 7951:21, 7955:18, 7955:20, 7956:1, 7956:3, 7956:21, 7956:24, 7957:21, 7957:23, 7957:25, 7958:20, 7960:15, 7960:24, 7961:16, 7964:5, 7966:14, 7967:6, 7967:9, 7968:4, 7968:5, 7968:6, 7972:25, 7973:5, 7975:14, 7991:20, 7996:23, 8027:19, 8029:16, 8038:16 reported - 7925:22, 7952:24, 7956:15, 7967:1, 7986:9, 7999:21

reportedly - 7958:19 Reporter- 8045:14, 8045:20 Reporters- 7866:11, 8045:3 **Reporters'**- 8045:1 **reporting** - 7915:17, 7915:20, 7952:12 **reports** - 7905:9, 7912:5, 7912:10, 7913:13, 7923:18, 7924:1, 7924:8, 7930:10, 7958:4, 7988:19, 7990:1, 7990:14, 7999:5 represents - 7903:24 request - 7917:3, 7917:10, 7998:16, 7998:17 requested - 7932:17, 7982:6, 7989:25, 7990:13, 7991:11 requesting - 7948:4, 7954:18 requests - 7895:3, 7998:18 requires - 7910:22 researched - 8038:19 reserved - 7899:14 reside - 7869:17 resided - 7966:21 residence - 7924:23, 7925:3, 7925:12, 8027:23, 8039:6 resist - 7992:23, 8028:13 resisted - 7984:21 resolved - 7897:17 respect - 7874:15, 7875:1, 7884:12, 7884:24, 7889:4, 7890:8, 7893:3, 7905:6, 7933:5, 7963:5, 7983:11, 8007:2 8007:4 respectfully - 7975:19 respecting - 7874:19, 7881:4, 7884:21 respective - 7886:18 respects - 7997:8 responded - 7879:5, 7879:12 response - 7878:14, 7878:16, 7902:4, 7973:10, 8033:16 responsible - 7900:19, 7950:9, 7952:17, 7953:12, 7959:21, 7959:22, 7961:14, 7963:10, 7967:16, 7967:23, 7970:18, 7975:24, 7985:10 rest - 7946:8, 8009:11 result - 7949:21, 7959:12, 7969:25, 7962:5, 7963:8, 8002:11, 8043:12 results - 7958:7, 7961:5, 7965:22 Results- 7960:5 retained - 7966:9 retaliation - 8021:5 retired - 7869:21 retrieved - 7999:8 retrospect - 7889:21 return - 7886:4. 7897:6, 8039:16 reveal - 7962:18 revealed - 7974:25, 7985:18

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7912.16

relative - 7926:9



		-		
review - 7884:10,	Saskatchewan -	sealing - 7972:12	sense - 7873:14,	Sheryl - 7958:18
8000:12, 8003:10,	7865:17, 7867:4,	search - 7990:8,	7876:11, 7906:18,	shift - 8002:1
8003:19, 8003:23	7870:1, 7872:16,	7999:12	7907:11, 7908:9,	<b>shirt</b> - 7937:12,
Review- 7891:19	7887:9, 7887:10,	Searches - 7963:6	7913:16	8001:14, 8008:22,
reviewed - 8022:8	7888:6, 7888:12,	secluded - 8028:6	sensitivity - 7927:13	8008:23, 8010:18,
<b>Rick</b> - 7867:7	7997:19, 8045:4	<b>second</b> - 7875:1,	<b>sent</b> - 7952:3, 7955:24,	8020:17
right-hand - 7975:6	<b>Saskatoon</b> - 7865:17,	7878:20, 7884:9,	7972:15, 8000:11,	shoes - 7938:7,
ring - 7884:6	7867:8, 7874:13,	7950:17, 7974:1,	8000:17	7943:21, 7996:7,
river - 7994:10	7877:4, 7877:13,	8035:3	<b>sentence</b> - 7874:22,	8031:18 shaata 8001:18
Riversdale- 7949:7 road - 7907:13	7877:20, 7878:10, 7882:11, 7883:9,	seconds - 7966:6 secretes - 7957:19	7875:1, 7875:5, 7885:24, 7886:11,	shoots - 8001:18 Short - 7954:24,
<b>Robert-</b> 7880:15,	7885:19, 7887:15,	secretor - 7956:17,	7886:24, 7987:2,	7964:18
7886:3, 7886:8, 7913:1,	7888:14, 7891:19,	7957:18, 7960:18,	7987:7, 7987:12	<b>short</b> - 7931:21,
7944:1	7899:23, 7900:17,	7965:25, 7975:2	separately - 7932:4	7933:23, 7939:24,
Robertson- 7868:3,	7900:24, 7901:4,	Section - 7986:20,	September - 7872:22,	7974:16, 7984:12,
7869:8, 7869:10,	7901:11, 7902:13,	8000:6, 8003:19	7872:25, 7873:11,	8029:15
7869:12, 7875:4,	7903:4, 7914:12,	section - 7932:25	7873:22, 7887:7,	shorten - 8003:1
7876:16, 7881:3,	7914:25, 7915:2,	Security - 7866:13	7887:18, 7887:21,	shortened - 8002:23
7882:7, 7882:18,	7915:13, 7924:14,	<b>see</b> - 7874:18,	7887:23, 7887:25,	shorter - 7875:15
7883:5, 7883:14,	7940:20, 7951:25,	7874:19, 7874:22,	7888:2, 7888:3, 7888:4,	shorthand - 8045:5
7885:17, 7889:5,	7960:19, 7960:23,	7875:23, 7876:1,	7888:21, 7998:23,	<b>shortly</b> - 7909:11,
7890:2, 7890:6,	7962:7, 7963:16,	7882:11, 7882:14,	7998:25, 8021:11	7920:22, 7956:12,
7890:14, 7890:22, 7891:3, 7891:15,	7963:21, 7964:13, 7964:19, 7973:13	7888:2, 7892:25,	<b>sequence</b> - 7941:6, 7948:19	7962:13
7891:3, 7891:15, 7892:8, 7893:7,	7964:19, 7973:13, 7976:10, 7976:19,	7896:4, 7896:5, 7911:17, 7915:1,	-	<b>shot</b> - 7996:5 <b>shots</b> - 8005:6,
7893:12, 7893:18,	7977:4, 7982:13,	7916:5, 7917:18,	Serge - 7867:6 Sergeant - 7882:20,	8033:3, 8039:14
7898:25, 7900:11,	7989:11, 7989:15,	7917:24, 7921:8,	7884:5, 7885:5,	shoved - 8011:4,
7903:23, 7909:23,	7989:18, 7990:8,	7922:18, 7928:16,	7885:21, 7891:21,	8021:2
7913:5, 7914:8,	7991:8, 7993:25,	7928:17, 7932:12,	7905:8, 7932:15,	show - 7875:8,
7916:21	7994:14, 7996:10,	7933:11, 7933:20,	7932:21, 7933:13,	7952:13, 7966:15,
Robertson's- 7890:17	7997:9, 8005:3, 8029:4,	7934:4, 7934:10,	7941:14, 7949:16,	7968:14, 8015:14
role - 7872:7, 7872:13,	8033:4, 8038:24,	7934:14, 7935:1,	7950:3, 7950:16,	showed - 7899:2,
7873:5, 7873:10,	8041:25, 8042:22,	7936:9, 7936:21,	7950:23, 7952:3,	7938:19, 7940:11,
7879:15	8042:25	7937:13, 7937:15,	7952:21, 7966:16,	7950:4, 7950:24,
<b>Ron</b> - 7874:15,	sat - 7947:9, 8031:13	7937:16, 7937:19,	7967:10, 7968:25,	7953:9, 7955:4, 7977:8
7903:18, 7903:19	satisfied - 8022:23,	7937:21, 7938:2,	7990:8, 7991:6, 8000:6,	shown - 7913:13,
<b>Ronald</b> - 7886:5, 7886:16	8023:22, 8035:8,	7938:12, 7941:12,	8000:8, 8003:18,	7952:16, 7968:19,
<b>room</b> - 7928:13,	8042:3 Saturday - 7915:8	7942:6, 7945:5, 7951:21, 7953:6,	8004:12, 8006:2, 8028:16, 8037:6,	7974:21, 8028:21, 8039:13
7928:14, 7928:19,	save - 7906:7	7954:13, 7954:19,	8038:20, 8039:25	shows - 8000:16
7966:7	saw - 7879:2, 7905:11,	7955:18, 7956:14,	serological - 7960:2,	shut - 7944:17
roster - 7870:8	7912:25, 7942:11,	7964:10, 7964:15,	7965:2, 7973:19	shy - 7875:21,
rough - 7936:15,	7944:14, 7995:23,	7971:19, 7973:3,	service - 7870:22,	7878:17, 7878:22,
7944:8	7997:23, 8012:7,	7975:7, 7976:13,	7872:9, 7872:17,	7899:11
rougher - 8038:9	8028:9, 8029:9,	7988:11, 7991:1,	7878:2, 7887:7, 7894:8,	<b>sic</b> - 7914:5, 8010:14,
roughly - 7872:22,	8029:13, 8030:25	7996:16, 8001:1,	7895:2	8032:13
7873:24	scared - 7935:23,	8001:6, 8004:6,	<b>Service</b> - 7867:8,	<b>side</b> - 7935:2, 7942:10,
<b>Rpr</b> - 7866:12, 8045:2,	7959:12	8004:16, 8006:7,	8033:5	7945:21, 7997:9,
8045:18, 8045:19	scenario - 8024:10	8006:8, 8006:10,	<b>Services</b> - 7869:25,	8031:2, 8041:24
rule - 8024:14	scene - 7927:4,	8012:10, 8012:22,	7889:16	sidewalk - 7935:3,
rules - 8035:2	7932:22, 7941:2, 7957:17, 8001:25	8014:4, 8020:8,	services - 7870:12, 7878:3, 7889:17	7945:16, 7992:14, 7995:12
ruling - 8007:11, 8021:10, 8034:25,	scheduling - 8043:20	8020:10, 8020:14, 8020:16, 8025:14,	serving - 7987:3,	sign - 7998:8
8041:15, 8043:14	Schluster - 7952:23	8027:3, 8027:4,	7987:6, 7987:12	signed - 7940:23,
run - 7935:15	School - 7872:16	8027:10, 8030:20,	set - 7872:19, 7977:21,	7944:21, 7976:14,
running - 7979:8	school - 7953:7	8032:24, 8033:4,	7977:24, 7990:18	7986:18
<b>runs</b> - 7ั935:5	scratches - 8032:18	8037:12, 8039:24,	several - 7936:6,	significance - 7878:7
rural - 7994:9	scream - 7992:19,	8040:18, 8041:2,	7970:13, 7994:1,	significant - 7881:19,
<b>Ryan</b> - 7962:11,	7995:22, 8008:7	8042:7, 8042:15	7995:10, 8001:23,	7898:18, 7965:23,
7962:19	screamed - 7935:11,	<b>seeing</b> - 7871:20,	8023:17, 8028:17,	8022:5
	7944:16	8001:7, 8004:21	8032:24, 8039:13	significantly - 8042:24
S	screaming - 7944:18, 8004:19, 8031:7,	seek - 7919:21, 7929:1 seeking - 7874:14,	<b>sex</b> - 7961:21, 8026:6, 8026:8, 8038:8	signs - 7953:9 silver - 7943:11.
Saliva - 7968:16,	8032:11	7917:17, 7919:14	sexual - 7916:24,	8030:9, 8030:18,
7969:19, 7972:10	screen - 7917:7,	seem - 7977:15.	7930:4, 7980:13,	8036:15
saliva - 7960:20.	7928:18	8018:4	7991:22, 7999:19,	Silvester - 7975:18
7966:1, 7966:3, 7973:6,	Scroll - 7982:10,	seized - 7940:20,	7999:21, 8016:21	similar - 7954:17,
7973:17, 7974:2	8015:13	7941:1	Sexual - 7868:9	7958:22, 7959:2,
sample - 7955:17,	scroll - 7934:21,	seizure - 7941:3	sexually - 7921:19,	7980:1, 7981:14,
7956:10, 7956:18,	7954:20, 7957:12,	seldom - 7884:25	7922:2	7983:5, 7985:22,
7960:11, 7965:21,	7958:9, 7964:15,	selected - 7906:2	<b>shadows</b> - 7959:6,	7987:9, 7987:16,
7966:1, 7966:3,	7965:1, 7965:11,	selective - 7897:11	8020:17	7994:25, 7995:17,
7969:19, 7970:4,	7976:21, 8000:21,	selfish - 7898:9	shall - 7918:9,	7997:2, 7997:22,
7972:7, 7972:9, 7973:6,	8004:11, 8011:6,	semen - 7955:12	7918:15, 7918:18	8004:14, 8006:25,
7973:16, 7973:17,	8012:3, 8020:6,	seminal - 7941:3,	share - 7894:13,	8022:14, 8022:22,
7973:24, 7974:2 Samples - 7972:10	8025:23, 8030:12, 8041:1	7956:16, 7957:16, 7965:4, 7965:5,	7910:14, 7911:13 sharp - 8000:25,	8023:11, 8024:18, 8024:24, 8025:9,
samples - 7960:20	scrolling - 8026:10	7965:17	8001:2, 8028:10,	8029:21, 8035:4,
Sandra - 7866:5,	sealed - 7969:24,	send - 7990:14	8037:11, 8037:13	8036:14
7981:3	7972:11	sending - 7957:8	sheets - 7969:21	similar-fact - 8006:25
			· · · · · · · · · · · · · · · · · · ·	



similarities - 8021:17,	7911:10, 7913:11,	stamp - 7964:13	sticks - 8032:14	8034:2, 8036:20
8024:4	7913:12, 7914:1,	stand - 7876:10,	still - 7878:21,	suggests - 7988:19
similarity - 8021:19,	7941:24, 7992:14,	7907:23, 7909:18,	7878:22, 7947:16,	summaries - 7930:10,
8021:21, 8022:17,	8005:13, 8017:10,	7927:19, 7929:17,	7961:16, 7988:1,	8003:25
8022:24, 8023:23,	8018:5, 8018:18	7929:20, 7936:16,	7995:22, 7999:13,	summarizes - 7994:20
8024:7, 8024:15,	sometime - 7890:24,	7943:18, 8031:14	8016:16, 8020:8	summary - 7974:7,
8043:10	7995:7, 8039:17	standard - 8035:9	stockings - 7936:18,	7982:7, 7993:22,
simple - 7909:23	sometimes - 7906:15,	standing - 7904:9,	7940:24, 8008:21	7994:18, 7994:23,
<b>simply -</b> 7876:3,	7907:6, 7907:12,	7938:3	stocky - 8029:15	7995:5, 7996:9,
7879:7, 7886:15,	7915:8	<b>Star</b> - 7948:20	<b>stood</b> - 7875:20	7996:18, 7996:19,
7886:19, 7908:1,	Somewhat - 7899:14	Star-phoenix -	<b>stop</b> - 7992:7, 7992:9,	7997:22, 8000:16,
7911:18, 7911:23,	somewhat - 7875:25,	7948:20	8031:7, 8032:11	8017:6, 8033:13
7913:6, 7917:14,	7892:4, 7893:25,	start - 7896:14,	stopped - 7936:2,	summer - 7888:15,
7929:22, 7931:22,	7894:1, 7895:14	7897:5, 7904:3, 7904:9,	7936:6	7890:24, 7915:3
7981:23, 8018:9,	somewhere - 7969:8	7907:10, 7914:16,	store - 7946:18,	<b>Sunday</b> - 7915:9
8018:16, 8042:4	Sorry - 7924:11	7931:17, 8043:18,	7946:24, 7978:14	supervisor - 7879:20,
<b>single</b> - 7885:24,	<b>sorry</b> - 7904:19,	8043:21	stored - 7969:16	7880:2, 7880:7,
7904:21, 7904:23	7905:7, 7914:8,	started - 7888:3,	story - 7927:21	7880:14, 7881:24,
<b>sit</b> - 7943:14, 8031:13	7924:12, 7926:17,	7888:5, 7889:21,	strange - 7913:15	7885:10, 7886:8,
<b>site</b> - 7918:24	7952:11, 7970:8,	7897:10, 7898:14,	strangers - 7948:25	7889:19, 7890:17,
sitting - 7865:15,	7990:21, 7990:25,	7905:23, 7905:25,	street - 7925:25,	7890:19, 7892:13,
7876:12, 7876:13,	8004:20, 8027:18,	7907:1, 7908:2	7935:3, 7971:20,	7894:21, 7895:8,
7896:6, 7904:20	8029:25, 8037:16,	starting - 7890:12,	8028:3	7896:23, 7903:8,
situated - 7946:3	8039:2, 8042:12	7931:25, 8035:15,	Street - 7882:22,	7908:19, 7908:25,
situation - 7879:4,	<b>sort</b> - 7871:16,	8039:11	7883:21, 7883:23,	7909:10, 7909:14,
7881:21, 7884:20,	7875:21, 7899:11,	starts - 8000:9,	7890:23, 7922:20,	7909:24, 7910:5,
7897:17, 7898:7	7901:21, 7903:1,	8025:4, 8038:18	7924:18, 7925:16,	7910:17, 7910:25,
<b>six</b> - 7871:25, 7872:22,	7918:4, 7929:25,	state - 7880:14	7926:15, 7934:24,	7911:4, 7911:17,
7873:1, 7873:9,	8010:1, 8011:6,	statement - 7925:23,	7935:2, 7936:1,	7911:21, 7912:18,
7873:22, 7896:3,	8040:14	7933:19, 7934:1,	7940:14, 7942:8,	7912:24, 7912:25,
7914:22, 7987:15,	sought - 8006:24	7934:3, 7934:10,	7942:10, 7943:15,	7913:12
7991:22, 8037:1	<b>soul</b> - 7907:14	7934:11, 7934:14,	7943:17, 7943:21,	supervisory - 7892:11
size - 7948:13	sound - 7947:5,	7940:16, 7941:9,	7945:17, 7946:5,	supply - 7967:25
skill - 8045:6	8041:8	7941:10, 7941:21,	7963:21, 7978:2,	Support - 7866:9
skin - 8013:21	sounded - 7877:10	7941:22, 7941:25,	7982:23, 7983:15,	support - 7892:6,
skip - 7961:16, 7976:5,	source - 7976:3	7942:2, 7944:23,	7984:4	7892:14
8013:24	sources - 7923:15	7945:1, 7945:10,	strike - 7911:15	supposed - 7877:6
<b>SI</b> - 7952:22	South - 7887:10,	7948:10, 7948:15,	striking - 8021:21,	surmise - 7886:22
slack - 7933:22	7888:6, 7888:11,	7961:13, 7962:17,	8023:24	surmising - 7886:25
slacks - 7974:17,	7933:14, 7934:19,	7968:8, 7976:12,	strong - 7948:12,	surprise - 7885:14
8009:6, 8019:9	7942:7, 7950:21,	7976:22, 7979:18,	7961:1, 8021:17	surprises - 7885:12
sleeping - 7994:7	7958:18, 7966:19,	7979:23, 7980:2,	struck - 8020:25	surrounding - 8024:4
slide - 7954:25,	7966:22, 7968:11,	7980:4, 7994:24,	struggle - 7947:13	survived - 8024:2
7955:10	7974:14, 7977:7,	7994:25, 7998:18,	struggled - 7935:21	suspect - 7933:21,
slides - 7960:4,	7982:22, 7983:14	7999:4, 8000:8, 8001:5,	struggling - 8040:13	7953:7
7960:10, 7964:24,	south - 7935:5,	8003:16, 8005:11,	stuck - 7936:12	suspect's - 8039:21
7965:20	7942:8, 7942:10,	8017:2, 8017:3, 8017:4,	students - 7953:3	suspected - 7901:13,
slip - 7943:2, 8031:18	7942:20, 7945:15,	8017:5, 8017:6,	study - 7906:5	7961:25
<b>slit</b> - 7944:17, 8031:8,	7946:17	8018:23, 8018:24,	subject - 7879:9,	suspects - 7966:23,
8032:11	<b>Spd</b> - 8028:16	8033:12, 8033:17,	7961:24, 7962:6,	8015:16
small - 7915:13,	speaking - 7872:2,	8033:22, 8038:20,	7988:15	sweater - 7933:22,
7933:22, 7939:25,	7892:1, 7896:7, 7990:7	8039:12, 8040:1	Subject - 7962:15	7940:2, 7974:17,
7947:14, 7974:15,	specific - 7872:11,	statements - 7923:13,	submitted - 7961:7,	7978:18, 7996:6
7983:4, 7983:22,	7880:20, 7889:17	7923:20, 7924:1,	7966:2, 8003:21	sworn - 7869:10,
7984:25, 7993:24,	specifically - 7891:7	7928:23, 7963:11,	submitting - 7966:8	7928:14, 7980:11,
8010:4, 8033:18,	speculation - 7952:2,	7990:2, 7990:15,	Subsequent - 7894:9	7981:15
8033:23	7952:4	8002:16, 8003:25,	subsequent - 7887:3,	sympathy - 7904:25
Small - 8033:24	spelled - 7927:6	8004:14, 8013:5,	7893:3, 7916:5,	system - 7877:19,
smear - 7955:1,	<b>Spence</b> - 7949:19,	8013:11	7976:11	7877:24
7955:23, 7965:20	7949:23	Statements - 7960:21	subsequently - 7912:8	
smears - 7960:3,	<b>spin</b> - 7907:8	states - 7971:5,	substance - 7957:20	Т
7964:23	spread - 7937:4,	7971:11, 7971:14,	substitute - 7919:10	l
smelled - 7942:18,	7974:21	7982:16	Suddenly - 7947:23,	table - 7974:21
7944:11	St - 7970:2, 7993:24,	stating - 7984:7	7984:22	tail - 7885:24
smelling - 7995:18	7994:9	station - 7932:18,	sufficient - 7877:14,	tail-end - 7885:24
snapshot - 7887:24	stab - 8013:1, 8013:18,	7932:20, 7968:18,	8024:19	talks - 7934:15,
snapshots - 7968:20	8021:6, 8034:20,	7968:19, 7985:9,	suggest - 7904:14,	7949:10, 7956:5,
sneaker - 8001:12	8034:22	8001:17, 8005:5,	7906:3, 7907:6,	8004:17
sniff - 7916:12,	stabbed - 8020:23	8005:8, 8015:24,	7907:24, 7908:23,	tall - 7939:25, 7974:15,
7934:25	stabbing - 8013:7,	8028:21, 8039:13,	7911:2, 7912:11,	7983:21
snow - 7956:11	8013:14	8039:17	7975:19, 8042:11	tape - 7883:25
social - 7882:23,	staff - 7945:4	stature - 7983:4	suggested - 7891:15,	taped - 7883:3,
7883:4	Staff - 7866:1, 7866:9	stay - 7888:20,	7892:24, 7911:20,	8027:24
Social - 7869:24	stage - 7922:6	7937:23, 7959:6	7946:15, 7959:19,	Tdr- 7867:5, 7982:5
soft - 7945:23	stages - 8001:23	stayed - 7880:9,	7966:1, 7970:22,	teaches - 7945:25
solicitor - 7981:21	stain - 7955:7	8009:6, 8009:10	7984:10, 8013:7,	Tech- 7953:1
solved - 7996:11	stained - 7955:2,	stepped - 7935:20,	8013:13, 8019:25	Technician- 7866:14
someone - 7894:19,	7965:9, 7965:14	8040:22	suggesting - 7913:5,	telephone - 7896:3,
7899:23, 7899:24,	stains - 7941:4	stepson - 7887:15,	7913:20	7984:11, 7989:19
7910:4, 7911:3,	stairs - 7946:2	7916:5	suggestion - 8002:22,	Temperance- 7926:15,
·	-			•



7926:16, 7926:18, 7926:20, 7926:23,       today - 7897:2, 7905:5, 7928:6, 7922:9, 7928:1,       7932:3, 7993:19, 7932:3, 7993:19,       7941:12, 7945:3, 7932:1, 7932:3, 7993:19,       7941:12, 7945:3, 7945:17, 7945:5,       7924:24, 7926:17, 7933:17, 7933:17,         tem perature - 7966:7 ten - 8014:25       together - 7887:17, 7932:2,       8039:8, 8043:17       8006:21, 8007:13, 8025:2, 8026:20, 8025:2, 8026:20, 8025:2, 8026:20, 8025:2, 8026:20, 8025:2, 8026:20, 8025:2, 8026:20, 7943:11, 7987:1,       together - 7887:17, 7933:17, 7933:14, 7943:18, 7943:14, 7943:14, 7943:18, 7943:14, 7943:14, 7943:14, 7943:14, 7943:14, 7943:14, 7945:12, 7937:19, 7945:12, 7945:12, 7937:19, 7936:11, 7887:12, 7876:3, 7876:6, 7902:15, 7913:23, 7937:19, 7992:18, 7887:12, 7837:14, 7946:2, 7947:19, 7944:2, 7946:22, 7947:18, 7887:21, 7876:3, 7876:10, 7876:19, 7936:16, 7907:4       T936:13, 7936:17, 7936:13, 7936:17, 7936:13, 7936:17, 7936:21, 7936:21, 7936:16, 7907:4       Umm - 7870:16, 7947:19, 7948:2, 7902:19, 7803:13, 7876:10, 7876:19, 7952:10, 7902:13, 7905:21, 7902:13, 7905:21, 7962:16, 7907:4       Umm - 7870:16, 7966:16, 7967:7, 7956:22, 7958:9, 7955:22, 7958:9, 7955:22, 7984:15, 7962:16, 7906:15, 7964:3, 7967:15, 7964:3, 7967:15, 7964:3, 7967:15, 7974:19, 7965:22, 7983:17, 7975:17, 7974:5, 7975:17, 7974:5, 7975:17, 7974:5, 7975:22, 7983:17, 7978:19, 7983:19, 7983:12, 7980:16, 7981:12, 7983:19, 7983:23, 7980:16, 7981:12, 7986:16, 7967:7, 7983:9, 7983:23, 7980:16, 7986:7, 7990:13, 7992:14, 7990:216, 7907:1, 7983:9, 7983:23, 7980:16, 7983:12, 7986:17, 79975:17, 7973:23, 8009:22, 7986:17, 79975:17, 7973:23, 8009:23, 8007:13, 8003:14, 8005:14, 8003:12, 8003:12, 8007:13, 8003:12, 8007:13, 8003:15, 8007:13, 8003:12, 8007:13, 8003:12, 8007:13, 8003:12, 8003:13, 8005:14, 8003:12, 8003:20, 8003:13, 8005:18, 8006:14, 8007:19, 8003:13, 8003:12, 8003:13, 8003:12, 8003:13, 8003	7
7945:17, 7946:5       7928:6, 7929:3, 7954:6,       7996:16, 8003:12,       7945:4, 8003:14       7934:13, 7937:12,         temperature - 7966:7,       8039:8, 8043:17       8006:21, 8007:13,       8005:22, 8026:20,       7945:16, 7976:13       7943:14, 7943:18,         term - 7905:24,       7932:2       8029:19, 8035:13,       8029:19, 8035:13,       8043:15       7943:14, 7943:18,       7943:14, 7943:18,         7987:11, 7987:15       took - 7871:2, 7872:8,       tried - 7896:11,       Umm - 7870:16,       7945:1, 7945:21,         7874:6, 7876:3, 7876:6,       7902:15, 7913:23,       7937:19, 7992:18,       7873:21, 7876:8,       7945:1, 7948:2,         7888:6, 7907:4       7936:13, 7936:17,       8034:2, 8013:13,       7876:10, 7876:19,       7955:21,         7986:16, 7969:19       7936:12, 7938:21,       triggered - 7877.4       unable - 7880:25,       7955:22, 7955:21,         7968:16, 7969:19       7942:6, 7949:7,       7900:25, 7901:14,       7902:79, 7975:17,       7974:5, 7975:22,         7968:16, 7999:12       794:6, 7949:7,       7900:25, 7901:4,       7992:76, 7975:17,       7974:5, 7975:22,         7968:16, 7991:12       794:6, 7949:7,       7900:25, 7901:4,       7902:7, 7975:17,       7974:5, 7975:22,         7968:16, 7991:12       7946:6, 7992:13, 7905:6,       7994:6, 7992:14, 7992:16, 7933:4,       790	7
7945:17, 7946:5       7928:6, 7929:3, 7954:6,       7996:16, 8003:12,       7945:4, 8003:14       7934:13, 7937:12,         temperature - 7966:7       8039:8, 8043:17       8006:21, 8007:13,       8005:22, 8026:20,       7941:16, 7976:13       7943:14, 7943:18,         term - 7905:24,       7932:2       8029:19, 8035:13,       8029:19, 8035:13,       8043:15       7943:14, 7943:18,       7943:14, 7943:18,         terms - 7873:17,       7876:6, 7876:3, 7876:6,       7902:15, 7812:2,       8029:19, 8035:13,       8043:15       7945:1, 7945:21,         terms - 7873:17,       7876:3, 7876:6,       7902:15, 7913:23,       7937:19, 7992:18,       7872:3, 7872:14,       7948:5, 7949:14,         7881:11, 7884:19,       7924:10, 7933:24,       8008:12, 8012:18,       7873:21, 7876:8,       7951:7, 7952:10,         7885:6, 7907:4       7936:13, 7936:17,       8034:2, 8013:13,       7876:10, 7876:19,       7955:21,         7986:16, 7969:19       7939:14, 7940:10,       trim - 7942:24       7902:9, 7914:18,       7955:22, 7955:27,         7968:16, 7969:19       7942:25, 7943:15,       7900:25, 7901:14,       7962:25, 7975:17,       79745:7, 7975:22,         7968:16, 7969:19       7942:25, 7943:15,       7900:25, 7901:4,       7902:16, 7903:4       8039:19       7985:16, 7867:2,         7919:16, 7991:12       7949:6, 7494:7	7
temperature - 7966:7         8039:8, 8043:17         8006:21, 8007:13, 8025:2, 8026:20, 8025:2, 8026:20, 8025:19, 8035:13, 8029:19, 8035:13, 7941:16, 7976:13         typewritten - 7934:12, 7941:16, 7976:13         7938:5, 7938:7, 7943:18, 7943:18, 7943:14, 7943:18, 7943:17, 7877:15           726:17, 7887:1, 7987:11, 7887:15         tomorrow - 7954:6 took - 7871:2, 7872:8, 7872:15, 7881:8, 7897:12, 7935:15, 7887:24, 7892:17, 7934:11, 7936:10, 7887:24, 7892:17, 7938:6, 7907:4         tomorrow - 7954:6 rest - 7961:8, 7965:21, 7938:24, 7892:17, 7938:11, 7936:10, 7887:24, 7892:17, 7938:13, 7936:17, 7938:13, 7936:17, 7938:14, 7938:24, 7938:6, 7907:4         Umm - 7870:16, 7872:3, 7872:14, 7872:3, 7872:14, 7872:1, 7876:19, 7952:10, 7875:19, 7953:18, 7954:5, 7908:6, 7907:4         7943:19, 7943:14, 7948:5, 7949:14, 7936:20, 7938:21, 7938:20, 7938:21, 7968:16, 7965:21, 7938:20, 7938:21, 7968:16, 7965:21, 7938:14, 7941:15, trip - 7900:17, 7968:16, 7965:9         Umm - 7870:16, 7952:22, 7958:9, 7968:16, 7965:17, 7974:5, 7975:17, 7974:5, 7975:17, 7974:1, 7986:13, 7980:16, 7981:12, 7983:9, 7983:23, 7980:16, 7981:12, 7993:13, 7958:13, 8003:13, 8003:14, 8003:20, 8003:13, 8003:18, 8003:12, 8003:13, 8003:14, 8003:20, 8003:13, 8003:18, 8003:18, 8003:4, 8031:22, 8003:13, 8003:18, 8003:18, 8003:4, 8031:22, 8003:13, 8003:18, 8003:18, 8000:14, 8003:4, 8003:22, 8003:13, 80	7
ten - 8014:25         together - 7887:17, 7932:2         8025:2, 8026:20, 8029:19, 8035:13, 8029:19, 7935:14, 7945:17, 7945:12, 7945:15, 7887:61, 7876:19, 7945:17, 7952:10, 7947:19, 7948:2, 7947:19, 7948:2, 7947:19, 7948:2, 7947:19, 7948:2, 7947:19, 7948:2, 7947:19, 7948:2, 7947:10, 7876:19, 7947:10, 7876:19, 7955:22, 7947:18, 7956:10, 7876:19, 7955:22, 7945:10, 7955:22, 7945:10, 7955:22, 7945:10, 7955:22, 7945:10, 7955:22, 7945:10, 7956:16, 7967:17, 7955:22, 7945:10, 7964:3, 7967:15, 79741:17, 7978:19, 7964:3, 7967:15, 7974:15, 7976:15, 7977:17, 7978:19, 7978:19, 7964:3, 7967:15, 7974:15, 7978:19, 7964:3, 7967:15, 7974:15, 7978:19, 7964:3, 7967:15, 7974:10, 7964:3, 7967:15, 7974:17, 7978:19, 7964:3, 7967:15, 7974:10, 7987:8, 7987:19, 7985:14, 7986:8, 7992:8, trousle - 7994:6, trousle - 7994:6, trousle - 7994:6, 7946:13, 7987:8, 7987:21, 7987:8, 79873:20, 80031:13, 8003:13, 8005:18, 80031:13, 8005:18, 80031:13,	7
term - 7905:24,         7932:2         8029:19, 8035:13,         7943:19, 7944:17,           7926:17, 7987:1,         tomorrow - 7954:6         8043:15         8043:15         7945:1, 7945:21,           7887:11, 7987:15         took - 7871:2, 7872:8,         tried - 7896:11,         7945:1, 7945:2, 7942:12,           7874:6, 7876:3, 7876:6,         7902:15, 7913:23,         7937:19, 7992:18,         7872:1, 7872:14,         7948:5, 7949:14,           7887:17, 7887:24, 7892:17,         7936:13, 7936:17,         8013:7, 8013:13,         7873:21, 7876:8,         7951:7, 7952:10,           7887:24, 7892:17,         7936:13, 7936:17,         8034:20, 8034:22         7902:9, 7914:18         7954:9, 7955:21,           7986:6, 7907:4         7936:13, 7936:17,         8034:20, 8034:22         7902:9, 7914:18         7954:9, 7955:22, 105           7986:16, 7965:21,         7936:20, 7938:21,         triggered - 787:4         unable - 7880:25,         7955:22, 7958:9,           7968:16, 7969:19         7939:14, 7940:10,         trim - 7942:24         7902:9, 7914:18,         7964:3, 7967:15,         7974:5, 7975:22,           7968:16, 7965:9         7942:25, 7943:15,         7902:16, 7903:4         8039:19         7981:17, 7986:16,         7966:16, 7967:7,         7978:1, 7978:19,           testified - 7919:12         79494:6, 7949:7,         79902:16, 7903:4	7
7926:17, 7987:1, 7987:11, 7987:15,         tomorrow - 7954:6 took - 7871:2, 7872:8, 7874:6, 7876:3, 7876:6,         8043:15         U         7945:1, 7945:21, 7946:22, 7947:18, 7872:15, 7881:8,           7874:6, 7876:3, 7876:6, 7887:12, 7892:17,         792:15, 7913:23, 7924:10, 7933:24,         7937:19, 7992:18, 8008:12, 8012:18,         7872:3, 7872:14, 7873:21, 7876:8,         7945:1, 7948:2, 7948:5, 7949:14,           7887:24, 7892:17, 7886:6, 7907:4         7936:13, 7936:17, 7936:13, 7936:17,         8034:20, 8034:22         7902:9, 7914:18         7954:9, 7955:21,           7888:6, 7907:4         7936:13, 7936:17, 7936:13, 7936:17,         8034:20, 8034:22         7902:9, 7914:18         7954:9, 7955:22,           7888:6, 7907:4         7936:13, 7936:17, 7936:13, 7930:14, 7940:10,         trim - 7942:24         7921:13, 7950:6,         7966:15, 7967:7,           7968:16         7941:8, 7941:15,         trip - 7900:17,         7964:3, 7967:15,         79774:5, 7975:22,           tested - 7965:9         7942:25, 7943:15,         7900:25, 7901:4,         7996:13, 7902:15,         7983:9, 7983:23,         7980:16, 7981:12,           testifies - 7931:18         7956:33, 7952:4,         trousers - 7940:2,         7946:13,         7987:16, 7987:8, 7987:24,           7991:16, 7991:22,         7993:21, 7996:6,         trousers - 7940:2,         7946:13,         7996:4, 7996:7,           7991:16, 7991:38,         8009:126, 8005	7
7987:11, 7987:15         took - 7871:2, 7872:8, 7872:6, 7876:3, 7876:6, 7874:6, 7876:3, 7876:6, 7902:15, 7881:8,         tried - 7896:11, 7897:12, 7935:15, 7897:12, 7935:15, 7897:12, 7935:15, 7887:6, 7876:3, 7876:10, 7888:11, 7884:9, 7988:16, 7907:4         Took - 7871:2, 7872:8, 7932:14, 7933:24, 8008:12, 8012:18, 8013:7, 8013:13, 7875:10, 7876:10, 7876:19, 7936:12, 7936:17, 7936:13, 7936:17, 7936:13, 7936:17, 7936:10, 7936:12, 7936:16, 7965:21, 7936:16, 7965:21, 7936:16, 7965:21, 7936:16, 7966:16         Topk: 7936:12, 7936:20, 7938:21, 7936:20, 7938:21, 7936:20, 7938:21, 7936:16, 7966:16         Topk: 7936:12, 7936:20, 7938:21, 7936:20, 7938:21, 7936:20, 7938:21, 7936:14, 7940:10, 7931:4, 7940:10, 7941:8, 7947:5, 7957:22, 7936:32, 7941:4; 7900:25, 7901:4, 7900:25, 7901:4, 7966:3, 7967:15, 7968:3, 7957:52, 7958:13, 7958:19, 7902:16, 7903:4         Umm - 7870:10, 7974:5, 7955:22, 7958:9, 7955:22, 7958:9, 7955:22, 7958:9, 7955:22, 7955:27, 7936:15, 7975:22, 7956:15, 7975:17, 7974:5, 7975:17, 7978:1, 7975:22, 7980:16, 7931:12, 7958:13, 7958:19, 7902:16, 7903:4         Unable - 7880:25, 7961:12, 7975:17, 7981:17, 7978:19, 7996:16, 7931:12, 7981:17, 7986:12, 7998:17, 7986:12, 7998:17, 7986:12, 7998:18, 7958:19, 7902:16, 7991:6, 8001:25, 8005:5, 7944:10         Tousers - 7940:2, 7946:13         Tops: 7874:23, 7990:16, 7991:18, 7991:18, 7983:16, 7991:18, 7992:16, 7991:18, 7992:12, 7996:4, 7992:3, 8003:4, 8031:22         Tousers - 7940:2, 7944:10         Tousers - 7940:2, 7946:13         Tops: 7874:23, 8003:24, 8003:22, 8003:14, 8003:12, 8003:14, 8003:12, 8003:14, 8003:12, 8003:14, 8003:12, 8003:14, 8003:12, 8006:20, 8005:14, 8003:14, 8003:12, 8006:20, 8009:11, 8006:20, 8009:11, 8006:20, 8009:11, 8006:20, 8009:11, 8006:20, 8009:11, 8006:20, 8009:11, 8006:20, 8009:11, 8006:20, 8009:11, 8006:20, 8009:11, 8006:20, 8009:12, 7946:13, 7942:2, 7973:3, 7973:20, 8008:23, 8002:25, 8003:12, 8003:22,	7
7987:11, 7987:15       took - 787:12, 7872:8, 7872:8,       tried - 7895:15,       7947:19, 7948:2, 7947:18,         7874:6, 7876:3, 7876:6,       7902:15, 7913:23,       7937:19, 7992:18,       7872:3, 7872:14,       7948:5, 7949:14,         7881:11, 7884:9,       792:15, 7913:23,       7937:19, 7992:18,       7872:3, 7872:14,       7948:5, 7949:14,         7887:24, 7892:17,       7934:11, 7936:10,       8013:7, 8013:13,       7876:61, 786:19,       7953:18, 7955:21,         7898:6, 7907:4       7936:13, 7936:17,       8034:20, 8034:22       7902:9, 7914:18       7954:9, 7955:21,         7968:16, 7969:19       7939:14, 7940:10,       trim - 7942:24       7921:13, 7950:6,       7966:15, 7967:7,         7968:16       7941:8, 7941:15,       trip - 7900:17,       7964:3, 7967:15,       79747:5, 7975:22,         testified - 7919:12       7949:67, 7949:7,       7900:215, 7901:4,       7967:25, 7975:17,       79781:1, 7986:19,         testifies - 7993:18       7958:13, 7958:19,       7902:16, 7903:4       8039:19       7981:17, 7986:22,         testify - 7869:15,       7968:8, 7992:8,       trouble - 7994:6       uncle - 7946:10,       7987:8, 7887:21,         7991:16, 7921:22,       7993:21, 7996:6,       trousers - 7940:2,       7946:13,       79896:6, 7900:25,         7991:16, 7921:22,       7993:21, 7996:6,	7
7874:6, 7876:3, 7876:6, 7887:24, 7882:11, 7884:9, 7887:24, 7892:17,       7902:15, 7913:23, 7924:10, 7933:24, 7934:11, 7936:10, 7887:24, 7892:17, 7934:11, 7936:10, 7887:24, 7892:17, 7887:24, 7892:17, 7887:24, 7892:17, 7887:24, 7892:17, 7887:24, 7892:17, 7887:24, 7892:17, 7876:10, 7876:19, 7876:10, 7876:19, 7953:18, 7954:5, 7955:22, 7958:19, 7968:16, 7969:19, 7939:14, 7940:10, <b>trim</b> - 7942:24, 7900:25, 7901:4, 7900:25, 7901:4, 7900:25, 7901:4, 7900:25, 7901:4, 7967:25, 7975:17, 7978:1, 7978:1, 7978:19, 7900:16, 7903:18, 7983:9, 7883:23, 7980:16, 7981:17, 7986:22, <b>testified</b> - 7919:12, 7949:6, 7949:7, 7968:13, 7958:19, 7902:13, 7902:15, 7944:10, <b>trousers</b> - 7940:2, 7946:13, 7987:10, 7989:6, 7990:25, 8007:13, 8043:15, 8001:25, 8005:5, 8007:13, 8043:15, 8001:25, 8005:5, 8007:13, 8043:15, 8001:25, 8005:5, 8007:13, 8043:15, 8003:12, 8009:5, 8026:14, 8045:5, 7944:10, <b>unconsciously</b> - 7991:18, 7989:6, 7990:25, 7944:10, 7996:4, 7996:7, 7996:4, 7996:17, 7997:10, 7996:4, 7996:7, 7996:4, 7996:17, 7997:10, 7996:4, 7996:7, 7996:4, 7996:17, 7997:10, 7997:10, 7997:10, 799	7
7881:11, 7884:9,       7924:10, 7933:24,       8008:12, 8012:18,       7873:21, 7876:8,       7951:7, 7952:10,         7887:24, 7892:17,       7936:13, 7936:10,       8013:7, 8013:13,       7876:10, 7876:19,       7953:18, 7954:5,         7898:6, 7907:4       7936:13, 7936:17,       8034:20, 8034:22       7902:9, 7914:18       7955:22,         test - 7961:8, 7965:21,       7936:20, 7938:21,       triggered - 7877:4       unable - 7880:25,       7955:22, 7945:5,         7968:16, 7969:19       7939:14, 7940:10,       trim - 7942:24       7921:13, 7950:6,       7966:15, 7967:7,         Test - 7968:16       7941:8, 7941:15,       trip - 7900:17,       7964:3, 7967:15,       7978:1, 7978:19,         testified - 7919:12       7949:6, 7949:7,       7902:13, 7902:15,       7983:9, 7983:23,       7980:16, 7981:12,         testifies - 7993:18       7958:13, 7958:19,       7902:16, 703:4       8033:19       7981:17, 7986:22,         testify - 7869:15,       7968:8, 7992:8,       trouble - 7946:6       uncle - 7946:10,       7987:8, 7987:21,         7910:16, 7921:22,       7993:21, 796:6,       trousers - 7940:2,       794:13       7996:4, 7996:7,         7920:23       8005:5, 8026:14,       8045:5       uncover - 7963:4       8003:13, 8003:16,         testifying - 7971:23,       8030:4, 8031:22       try	7
7887:24, 7892:17, 7898:6, 7907:47934:11, 7936:10, 7936:13, 7936:17, 7936:13, 7936:17, 8034:20, 8034:228013:7, 8013:13, 7902:9, 7914:187876:10, 7876:19, 7902:9, 7914:187953:18, 7954:5, 7955:21, 7955:22, 7958:9, 7955:22, 7958:9, 7956:10, 7960:15, 7967:7, 7966:16, 7966:197939:14, 7940:10, 7939:14, 7940:10, trim - 7942:247921:13, 7950:6, 7921:13, 7950:6, 7964:3, 7967:15, 7977:5, 7974:5, 7975:22, 7974:5, 7975:22, 7978:1, 7978:10, 7978:10, 7978:10, 7978:10, 7978:10, 7978:10, 7978:10, 7978:10, 7978:10, 7978:10, 7978:10, 7978:10, 7978:10, 7981:12, 7902:13, 7902:15, 7983:9, 7983:23, 7980:16, 7981:12, 7902:13, 7951:6, 7993:187966:3, 7967:15, 7974:5, 7975:22, 7978:1, 7978:10, 7978:10, 7978:10, 7981:14, 7986:22, 7980:16, 7981:12, 7993:187968:8, 7992:8, 7902:13, 7902:15, 7983:9, 7983:23, 7980:16, 7981:12, 7902:13, 7902:15, 7994:67986:6, 7987:21, 7988:6, 7990:25, 7941:10, 7987:8, 7987:21, 7919:16, 7921:22, 7933:21, 7996:6, 7941:10, 7987:8, 7979:18, 8003:13, 8003:14, 8008:20, true - 7907:3, 7979:18, 7920:7, 7920:238009:5, 8026:14, 8045:58045:5 906:11, true - 7907:3, 7979:18, 7907:108006:20, 8009:11, 7996:4, 8003:13, 8005:18, 8009:20, 8015:25, 8006:11, testifying - 7917:247867:9, 7906:11, 7907:7, 7913:25, 7927:24, 8009:20, 8015:25, 8006:20, 8009:11, 8009:20, 8015:25, 8006:20, 8009:11, 7907:8, 7924:15, 7946:20, 7963:19, 8020:6, 8027:16, 7946:20, 7973:20, 8028:23, 8029:25, 7946:13, 7945:10, 7973:20, 8028:23, 8029:25, 7946:13, 7945:10, 7973:20, 8028:23, 8029:25, 7946:13, 7945:17, 7973:20, 8028:23, 8029:25, 7945:70, 7945:6, 7951:21, 7945:6, 7951:21	7
7898:6, 7907:47936:13, 7936:17,8034:20, 8034:227902:9, 7914:187954:9, 7955:21,test - 7961:8, 7965:21,7936:20, 7938:21,triggered - 7877:4unable - 7880:25,7955:22, 7958:9,7968:16, 7969:197939:14, 7940:10,trim - 7942:247921:13, 7950:6,7966:15, 7967:7,Test - 7965:167941:8, 7941:15,trip - 7900:17,7964:3, 7957:15,7974:5, 7975:22,testified - 7919:127949:6, 7949:7,7902:13, 7902:15,7983:9, 7983:23,7980:16, 7981:12,testifies - 7993:187958:13, 7958:19,7902:16, 7903:48039:197981:17, 7986:22,testify - 7869:15,7968:8, 7992:8,trouble - 7994:6uncle - 7946:10,7987:8, 7987:21,7990:7, 7920:7, 7920:7, 7920:7, 7920:7, 7920:7,7945:13, 7980:6, 7990:25,7944:107991:18, 7993:16,testifying - 7917:5,8005:14, 8008:20,true - 7907:3, 7979:18,r907:107996:4, 7996:7,7920:7, 7920:7, 7920:238009:5, 8026:14,8045:5uncover - 7963:48003:13, 8005:18,testimony - 7899:38030:4, 8031:22try - 7874:9, 7875:24,Under - 8006:38006:20, 8009:11,tests - 7960:11top - 7874:23,7906:17, 7907:7,7913:25, 7927:24,8016:9, 8018:5, 801therefore - 7870:217933:12, 7934:6,7907:8, 7924:15,7946:20, 7963:19,8020:6, 8027:16,therefore - 7895:8,7940:7,8013:17, 8043:207973:23, 8003:22,8031:13, 8031:14,therefore - 7895:8,7940:7,8013:17, 8043:207973:23, 8003:22,8031:13, 8031:14,testi	7
test - 7961:8, 7965:21, 7968:16, 7969:197936:20, 7938:21, 7939:14, 7940:10, 7939:14, 7940:10,triggered - 7877:4 trim - 7942:24unable - 7880:25, 7921:13, 7950:6, 7921:13, 7950:6, 7966:15, 7967:7, 7966:15, 7967:7, 7974:5, 7975:22, 7958:9, 7966:15, 7867:7, 7974:5, 7975:22, 7958:9, 7966:15, 7867:7, 7974:5, 7975:22, 7958:9, 7966:15, 7867:7, 7966:15, 79775:22, 7974:5, 7975:22, 7975:17, 7978:1, 7978:19, 7900:25, 7901:4, 7900:25, 7901:4, 7902:15, 7983:9, 7983:9, 7983:23, 7980:16, 7981:12, 7985:13, 7958:19, 7992:16, 7902:15, 7992:16, 7903:4 8039:19uncle - 7946:10, 7987:8, 7987:21, 7987:8, 7987:21, 7987:8, 7987:21, 7989:6, 7944:10uncle - 7946:10, 7987:8, 7987:21, 7989:6, 7990:25, 7946:13Togs 7992:6, 7946:13trougers - 7940:2, 7946:13Togs 79, 7987:8, 7987:21, 7989:6, 7990:25, 7946:13Togs 79, 7987:8, 7987:21, 7987:8, 7987:21, 7989:6, 7990:21, 7996:6, 7944:10uncle - 7946:10, unconsciously - 7991:18, 7989:316, 7997:10Togs 79, 7993:21, 7996:6, 7996:4, 7996:7, 7996:4, 7996:7, 7992:7, 7820:23true - 7907:3, 7979:18, 8009:5, 8026:14, 8003:13, 8003:122true - 7907:3, 7979:18, 7946:55Togs 796:4, 7996:7, 80045:5Uncover - 7963:4 8006:12, 8003:13, 8005:18, 8006:20, 8009:11, uncover - 7963:48006:20, 8009:11, 8006:12, 8009:20, 8015:25, 8006:14, 8008:20, 7946:15, 7947:22, 7946:15, 7947:22, 7946:20, 7963:19, 7946:20, 7963:19, 8020:6, 8027:16, 8028:23, 8003:22, 8031:13, 8031:14, 8031:15, 8031:14, 8031:15, 8031:14, 80331:14, 80331:14, 7962:7Togs 78, 795121, 7945:6, 7951:21, 7945:6, 7951:21, 7946:15, 7947:22, 7973:23, 8003:22, 7973:23, 8003:22, 8028:23, 8033:22, 8031:13, 8031:14, 80331:14, 8	7
test - 7961:8, 7965:21, 7968:16, 7969:197936:20, 7938:21, 7939:14, 7940:10, 7939:14, 7940:10,triggered - 7877:4 trim - 7942:24unable - 7880:25, 7921:13, 7950:6, 7921:13, 7950:6, 7966:15, 7967:7, 7966:15, 7967:7, 7974:5, 7975:22, 7958:9, 7966:15, 7867:7, 7974:5, 7975:22, 7958:9, 7966:15, 7867:7, 7974:5, 7975:22, 7958:9, 7966:15, 7867:7, 7966:15, 79775:22, 7974:5, 7975:22, 7975:17, 7978:1, 7978:19, 7900:25, 7901:4, 7900:25, 7901:4, 7902:15, 7983:9, 7983:9, 7983:23, 7980:16, 7981:12, 7985:13, 7958:19, 7992:16, 7902:15, 7992:16, 7903:4 8039:19uncle - 7946:10, 7987:8, 7987:21, 7987:8, 7987:21, 7987:8, 7987:21, 7989:6, 7944:10uncle - 7946:10, 7987:8, 7987:21, 7989:6, 7990:25, 7946:13Togs 7992:6, 7946:13trougers - 7940:2, 7946:13Togs 79, 7987:8, 7987:21, 7989:6, 7990:25, 7946:13Togs 79, 7987:8, 7987:21, 7987:8, 7987:21, 7989:6, 7990:21, 7996:6, 7944:10uncle - 7946:10, unconsciously - 7991:18, 7989:316, 7997:10Togs 79, 7993:21, 7996:6, 7996:4, 7996:7, 7996:4, 7996:7, 7992:7, 7820:23true - 7907:3, 7979:18, 8009:5, 8026:14, 8003:13, 8003:122true - 7907:3, 7979:18, 7946:55Togs 796:4, 7996:7, 80045:5Uncover - 7963:4 8006:12, 8003:13, 8005:18, 8006:20, 8009:11, uncover - 7963:48006:20, 8009:11, 8006:12, 8009:20, 8015:25, 8006:14, 8008:20, 7946:15, 7947:22, 7946:15, 7947:22, 7946:20, 7963:19, 7946:20, 7963:19, 8020:6, 8027:16, 8028:23, 8003:22, 8031:13, 8031:14, 8031:15, 8031:14, 8031:15, 8031:14, 80331:14, 80331:14, 7962:7Togs 78, 795121, 7945:6, 7951:21, 7945:6, 7951:21, 7946:15, 7947:22, 7973:23, 8003:22, 7973:23, 8003:22, 8028:23, 8033:22, 8031:13, 8031:14, 80331:14, 8	7
7968:16, 7969:197939:14, 7940:10, 7941:18, 7941:15, testified - 7919:12trim - 7942:24 7942:25, 7943:15, 7900:25, 7901:4, 7900:25, 7901:4, 7902:15, 7902:15, 7983:9, 7983:23, 7983:9, 7983:23, 7980:16, 7981:12, 7980:16, 7981:12, 7980:16, 7981:12, 7980:16, 7981:12, 7992:13, 7958:19, 7902:16, 7903:4 testifies - 7993:18 testifies - 7993:18 testifies - 7993:18, 7966:15, 7968:8, 7992:8, testifying - 7917:5, 8007:13, 8043:15 testifying - 7917:5, 8005:14, 8008:20, testifying - 7917:5, 8005:14, 8008:20, testifying - 7917:5, 8005:14, 8008:20, testifying - 7917:5, testifor - 7899:3 8003:12, 8005:55, testifying - 7917:5, 8003:14, 8008:20, testifying - 7917:5, 8003:14, 8008:20, testifying - 7917:5, testifor - 7980:26, 8005:5, testifying - 7917:5, 8003:14, 8008:20, testifying - 7917:5, 8003:14, 8008:20, testifying - 7917:5, 8003:14, 8008:20, testiform - 7894:24 testifying - 7917:5, testiform - 7899:3 8003:14, 8008:20, testifying - 7917:5, 8009:514, 8008:20, testiform - 7896:4, testiform - 7874:24, testiform - 7874:24, testiform - 7874:24, testiform - 7874:24, testiform - 7874:24, tests - 7960:11 thereabouts - 7925:7 testif, 793:12, 7932:12, testif, 7907:8, 7924:15, testif, 7946:20, 7963:19, s003:12, 8009:20, 8018:5, 801 thereabouts - 7925:7 thereabouts - 7925:7 testifor - 7895:8, thereabouts - 7925:7 testife - 7895:8, testife - 7895:8, testife - 7895:8, testife - 7895:8, testife - 7895:8, testife - 7895:8, testife - 7955:121, testife - 7895:13, testife - 7895:13, testife - 7895:13, testife - 7895:13, testife -	7
Test- 7968:167941:8, 7941:15,trip - 7900:17,7964:3, 7967:15,7974:5, 7975:22,tested - 7965:97942:25, 7943:15,7900:25, 7901:4,7967:25, 7975:17,7978:1, 7978:19,testified - 7919:127949:6, 7949:7,7902:13, 7902:15,7983:9, 7983:23,7980:16, 7981:12,testifies - 7993:187958:13, 7958:19,7902:16, 7903:48039:197981:17, 7986:22,testify - 7869:15,7968:8, 7992:8,trouble - 7994:6uncle - 7946:10,7987:8, 7987:21,7919:16, 7921:22,7993:21, 7996:6,trousers - 7940:2,7946:137989:6, 7990:25,8007:13, 8043:158001:25, 8005:5,7944:10unconsciously -7991:18, 7936:7,testifying - 7917:5,8005:14, 8008:20,true - 7907:3, 7979:18,7907:107996:4, 7996:7,testimony - 7865:14Toons - 7971:247896:9, 7906:11,under - 7874:24,8003:13, 8009:11,tests - 7960:11top - 7874:23,7906:17, 7907:7,7913:25, 7927:24,8016:9, 8018:5, 801theft - 7874:247890:12, 7932:12,7907:8, 7924:15,7946:20, 7963:19,8020:6, 8027:16,thereabouts - 7925:77936:22, 7940:7,8013:17, 8043:207973:23, 8003:22,8031:13, 8031:14,therefore - 7895:8,7941:11, 7943:7,trug - 7876:4,8006:14, 8007:19,8031:15, 8031:14,therefore - 7895:8,7945:6, 7951:21,7892:19, 7895:13,8025:7, 8035:16,8033:2, 8036:25,	7
tested - 7965:97942:25, 7943:15,790:25, 7901:4,7967:25, 7975:17,7978:1, 7978:1, 7978:19,testified - 7919:127949:6, 7949:7,7902:13, 7902:15,7983:9, 7983:23,7980:16, 7981:12,testifies - 7993:187958:13, 7958:19,7902:16, 7903:48039:197981:17, 7986:22,testify - 7869:15,7968:8, 7992:8,trouble - 7994:6uncle - 7946:10,7987:8, 7997:22,testifying - 7917:5,8001:25, 8005:5,7944:10unconsciously -7991:18, 7996:6,testifying - 7917:5,8005:14, 8008:20,true - 7907:3, 7979:18,7907:107996:4, 7996:7,7920:7, 7920:238009:5, 8026:14,8045:5uncover - 7963:48003:13, 8005:18,testimony - 7899:38030:4, 8031:22try - 7874:9, 7875:24,Under - 8006:38006:20, 8009:11,tests - 7960:11top - 7874:23,7906:17, 7907:7,7913:25, 7927:24,8016:9, 8018:5, 801theft - 7874:247890:12, 7932:12,7907:8, 7942:15,7946:20, 7963:19,8020:6, 8027:16,thereabouts - 7925:77936:22, 7940:7,8013:17, 8043:207973:3, 7973:20,8028:23, 8029:25,therefore - 7895:8,7941:11, 7943:7,try - 7876:4,8006:14, 8007:19,8031:13, 8031:14,7962:77945:6, 7951:21,7892:19, 7895:13,8025:7, 8035:16,8033:2, 8036:25,	7
testified - 7919:127949:6, 7949:7, 7958:13, 7958:19, 7958:13, 7958:19, 7919:16, 7921:22,7902:13, 7902:15, 7902:16, 7903:4 7902:16, 7903:4 8039:197983:9, 7983:23, 8039:197980:16, 7981:12, 7981:17, 7866:22, 7987:8, 7987:21, 7993:21, 7996:6, 8007:13, 8043:15 8007:13, 8043:157968:8, 7992:8, 8005:5, 7944:10Trouble - 7994:6 trousers - 7940:2, 7946:13uncle - 7946:10, 7946:137987:8, 7987:21, 7987:8, 7987:21, 7989:6, 7993:21, 7996:6, 8007:13, 8043:157943:15 8005:5, 8005:5, 7944:108039:197987:8, 7987:21, 7946:137987:8, 7987:21, 7946:137987:8, 7987:21, 7946:137989:6, 7990:25, 7946:107987:8, 7987:21, 7996:6, 7946:137997:10 7996:4, 7990:25, 7946:137996:4, 7990:25, 7996:4, 7996:7, 8003:13, 8005:18, 8003:13, 8005:18, 8006:20, 8015:26, 8003:13, 8005:18, 8006:20, 8015:26, 18, 7996:117907:10 1000000000000000000000000000000000000	7
testifies - 7993:187958:13, 7958:19, 7968:8, 7992:8, 7991:16, 7902:16, 7903:48039:197981:17, 7986:22, 7987:8, 7987:21, 7987:8, 7987:21, 7998:6, 7992:22, 7993:21, 7996:6, 8007:13, 8043:157968:8, 7992:8, 8005:5, 7944:10uncle - 7946:10, 7946:137987:8, 7987:21, 7998:6, 7992:23, 8009:5, 8026:14, 8009:5, 8026:14, 8009:5, 8026:14, testimony - 7899:37907:10 8007:13, 8043:1227907:3, 7979:18, 7907:3, 7979:18, 7907:10, 7996:4, 7996:7, 907:107907:10 7996:4, 7996:7, 7996:4, 7996:7, 907:107996:4, 7996:7, 7996:4, 7996:7, 8003:13, 8005:18, 8009:20, 80015:25, 8009:20, 80015:25, 8009:20, 8015:25, 7946:15, 7944:15, 7960:110707:10 1000000000000000000000000000000000000	7
testify - 7869:15, 7919:16, 7921:22,7968:8, 7992:8, 7993:21, 7996:6,trouble - 7994:6 trousers - 7940:2,uncle - 7946:10, 7946:137987:8, 7987:21, 7989:6, 7990:25,8007:13, 8043:158001:25, 8005:5, 8005:14, 8008:20,7944:10unconsciously - 7997:18,7991:18, 7993:16, 7996:4, 7996:7, 7996:4, 7996:7, 996:4, 7996:347991:18, 7993:16, 7996:4, 7996:4, 7996:7, 7996:4, 7996:7, 7996:4, 7996:347907:107996:4, 7996:7, 7996:4, 7996:7, 7996:4, 7996:20, 8003:13, 8003:12, 8009:514, 8003:14, 8031:22true - 7907:3, 7979:18, 8030:4, 8031:22uncover - 7963:4 Under - 8006:38006:20, 8009:11, 8006:20, 8009:11, under - 7874:24, 8009:20, 8015:25, 8009:20, 8015:25, 8006:11, tests - 7960:11Toons - 7971:24 7896:9, 7906:17, 7907:7, 7913:25, 7927:24, 7913:25, 7927:24, 8016:9, 8016:9, 8018:5, 801 theft - 7874:24, thereabouts - 7925:77936:22, 7940:7, 7936:22, 7940:7, 7936:22, 7940:7, 8013:17, 8043:207973:23, 8003:22, 7973:23, 8003:22, 8003:13, 8031:14, 8003:12, 8031:13, 8031:14, 8031:15, 8031:18, 8025:7, 8035:16,8033:2, 8036:25, 8033:2, 8036:25,	7
7919:16, 7921:22, 8007:13, 8043:157993:21, 7996:6, 8007:13, 8043:15trousers - 7940:2, 7946:137946:137989:6, 7990:25, 7991:18, 7993:16, 7991:18, 7993:16, 7992:7, 7920:23testifying - 7917:5, 7920:7, 7920:238009:5, 8005:5, 8009:5, 8005:14, 8008:20, 8009:5, 8026:14, 8009:5, 8026:14, testimony - 7869:3true - 7907:3, 7979:18, 8030:4, 8031:22mconsciously - 7907:107996:4, 7996:7, 7996:34Testimony - 7865:14 tests - 7960:11Toons - 7971:24try - 7874:9, 7875:24, 7906:17, 7907:7,Under - 8006:3 7913:25, 7927:24, 7913:25, 7927:24, 8016:9, 8016:9, 8018:5, 801theft - 7874:24 thereabouts - 7925:77890:12, 7932:12, 7936:22, 7940:7, 7936:22, 7940:7, 8013:17, 8043:207946:20, 7963:19, 7973:23, 8003:22, 8006:14, 8003:124, 8031:14, 8031:13, 8031:14, 8031:15, 8031:18, 7962:78013:1, 7943:7, 7945:6, 7951:21, 7945:6, 7951:21,7892:19, 7895:13, 7895:13,8025:7, 8035:16, 8025:7, 8035:16,	7
8007:13, 8043:158001:25, 8005:5, testifying - 7917:5, 7920:7, 7920:7, 7920:238005:14, 8008:20, 8009:5, 8026:14, 8009:5, 8026:14, 8009:5, 8026:14, 8030:4, 8031:227944:10unconsciously - 7907:107991:18, 7993:16, 7907:107920:7, 7920:7, 7920:7, 7920:7, 7920:7, 7920:7, 7920:7, 7920:38009:5, 8026:14, 8009:5, 8026:14, 8030:4, 8031:228045:5uncover - 7963:4 Under - 8006:38003:13, 8005:18, 8006:20, 8009:11, Under - 7874:24, 8006:20, 8009:20, 8015:25, 1009:20, 8015:25, 1009:20, 8015:25, 1009:20, 8015:25,Testimony - 7865:14Toons - 7971:24 tests - 7960:117896:9, 7906:11, top - 7874:23, 1000:12, 7932:12, 7907:8, 7924:15, 1007:8, 7924:15,7913:25, 7927:24, 7946:20, 7963:19, 8020:6, 8027:16, 103:17, 8043:208016:9, 8018:5, 801 133:11, 8031:14, 14, 8033:114, 8031:14, 8033:115, 8031:14, 14, 7962:7therefore - 7895:8, 7945:6, 7951:21,7942:19, 7895:13,8025:7, 8035:16, 8025:7, 8035:16,8033:2, 8036:25,	7
testifying - 7917:5,8005:14, 8008:20,true - 7907:3, 7979:18,7907:107996:4, 7996:7,7920:7, 7920:238009:5, 8026:14,8045:5uncover - 7963:480031:3, 8005:18,testimony - 7899:38030:4, 8031:22try - 7874:9, 7875:24,Under - 8006:38006:20, 8009:11,Testimony - 7865:14Toons - 7971:247896:9, 7906:11,under - 7874:24,8009:20, 8015:25,tests - 7960:11top - 7874:23,7906:17, 7907:7,7913:25, 7927:24,8016:9, 8018:5, 801theft - 7874:247890:12, 7932:12,7907:8, 7942:15,7946:20, 7963:19,8020:6, 8027:16,themselves - 7870:217933:12, 7934:6,7946:15, 7947:22,7973:3, 7973:20,8028:23, 8029:25,thereabouts - 7925:77936:22, 7940:7,8013:17, 8043:207973:23, 8003:22,8031:13, 8031:14,therefore - 7895:8,7945:6, 7951:21,7892:19, 7895:13,8026:7, 8035:16,8033:2, 8036:25,	7
7920:7, 7920:238009:5, 8026:14, testimony - 7899:38009:5, 8026:14, 8030:4, 8031:228045:5uncover - 7963:48003:13, 8005:18, 8006:20, 8009:11, under - 7874:24,Testimony - 7865:14Toons - 7971:247896:9, 7906:11, 7906:17, 7907:7,under - 7874:24, 7913:25, 7927:24,8009:20, 8015:25, 8009:20, 8015:25,tests - 7960:11top - 7874:23, 7890:12, 7932:12,7906:17, 7907:7, 7907:8, 7924:15,7913:25, 7927:24, 7946:20, 7963:19, 8020:6, 8027:16,8016:9, 8018:5, 801 8020:6, 8027:16,theft - 7874:247890:12, 7932:12, 7933:12, 7933:12, 7932:12,7907:8, 7924:15, 7946:15, 7947:22,7946:20, 7963:19, 7973:3, 7973:20,8020:6, 8027:16, 8028:23, 8029:25, 8028:23, 8029:25,thereabouts - 7925:77936:22, 7940:7, 7946:20, 7945:6, 7951:21,8013:17, 8043:207973:23, 8003:22, 7895:13,8031:15, 8031:14, 8025:7, 8035:16,7962:77945:6, 7951:21,7892:19, 7895:13,8025:7, 8035:16,8033:2, 8036:25,	7
7920:7, 7920:238009:5, 8026:14, testimony - 7899:38009:5, 8026:14, 8030:4, 8031:228045:5uncover - 7963:48003:13, 8005:18, 8006:20, 8009:11, under - 7874:24,Testimony - 7865:14Toons - 7971:247896:9, 7906:11, 7906:17, 7907:7,under - 7874:24, 7913:25, 7927:24,8009:20, 8015:25, 8009:20, 8015:25,tests - 7960:11top - 7874:23, 7890:12, 7932:12,7906:17, 7907:7, 7907:8, 7924:15,7913:25, 7927:24, 7946:20, 7963:19, 8020:6, 8027:16,8016:9, 8018:5, 801 8020:6, 8027:16,theft - 7874:247890:12, 7932:12, 7933:12, 7933:12, 7932:12,7907:8, 7924:15, 7946:15, 7947:22,7946:20, 7963:19, 7973:3, 7973:20,8020:6, 8027:16, 8028:23, 8029:25, 8028:23, 8029:25,thereabouts - 7925:77936:22, 7940:7, 7946:20, 7945:6, 7951:21,8013:17, 8043:207973:23, 8003:22, 7895:13,8031:15, 8031:14, 8025:7, 8035:16,7962:77945:6, 7951:21,7892:19, 7895:13,8025:7, 8035:16,8033:2, 8036:25,	7
testimony - 7899:38030:4, 8031:22try - 7874:9, 7875:24,Under - 8006:38006:20, 8009:11,Testimony - 7865:14Toons - 7971:247896:9, 7906:11,under - 7874:24,8009:20, 8015:25,tests - 7960:11top - 7874:23,7906:17, 7907:7,7913:25, 7927:24,8016:9, 8018:5, 801theft - 7874:247890:12, 7932:12,7907:8, 7924:15,7946:20, 7963:19,8020:6, 8027:16,themselves - 7870:217933:12, 7934:6,7946:15, 7947:22,7973:3, 7973:20,8028:23, 8029:25,thereabouts - 7925:77936:22, 7940:7,8013:17, 8043:207973:23, 8003:22,8031:13, 8031:14,therefore - 7895:8,7941:11, 7943:7,trying - 7876:4,8006:14, 8007:19,8031:15, 8031:18,7962:77945:6, 7951:21,7892:19, 7895:13,8025:7, 8035:16,8033:2, 8036:25,	7
Testimony - 7865:14 tests - 7960:11Toons - 7971:247896:9, 7906:11, 7906:17, 7907:7,under - 7874:24, 7913:25, 7927:24,8009:20, 8015:25, 8016:9, 8018:5, 801theft - 7874:247890:12, 7932:12, 7933:12, 7932:12,7906:17, 7907:7, 7907:8, 7924:15,7913:25, 7927:24, 7946:20, 7963:19, 8020:6, 8027:16, 8028:23, 8029:20, 8018:5, 801themselves - 7870:217933:12, 7934:6, 7936:22, 7940:7,7946:15, 7947:22, 8013:17, 8043:207973:23, 8003:22, 7973:23, 8003:22, 8003:113, 8031:14, 8031:15, 8031:18, 8025:7, 8035:16,8033:2, 8036:25, 8033:2, 8036:25,	7
tests - 7960:11top - 7874:23, 7890:12, 7932:12,7906:17, 7907:7, 7907:8, 7924:15,7913:25, 7927:24, 7946:20, 7963:19, 8020:6, 8027:16, 8020:6, 8027:16, 8020:6, 8027:16, 8020:6, 8027:16, 8028:23, 8029:25, 8031:13, 8031:14, therefore - 7895:8, 7945:6, 7951:21,7906:17, 7907:7, 7907:8, 7907:7, 7946:15, 7947:22, 7946:15, 7947:22, 7973:3, 7973:20, 7973:3, 7973:20, 7973:23, 8003:22, 8031:13, 8031:14, 	7
theft - 7874:247890:12, 7932:12,7907:8, 7924:15,7946:20, 7963:19,8020:6, 8027:16,themselves - 7870:217933:12, 7934:6,7946:15, 7947:22,7973:3, 7973:20,8028:23, 8029:25,thereabouts - 7925:77936:22, 7940:7,8013:17, 8043:207973:23, 8003:22,8031:13, 8031:14,therefore - 7895:8,7941:11, 7943:7,trying - 7876:4,8006:14, 8007:19,8031:15, 8031:18,7962:77945:6, 7951:21,7892:19, 7895:13,8025:7, 8035:16,8033:2, 8036:25,	
themselves - 7870:21 thereabouts - 7925:7 therefore - 7895:8, 7962:77933:12, 7934:6, 7936:22, 7940:7, 7936:22, 7940:7, 7936:22, 7940:7, 8013:17, 8043:207973:3, 7973:20, 7973:23, 8003:22, 8031:13, 8031:14, 8006:14, 8007:19, 8025:7, 8035:16,8028:23, 8029:25, 8031:13, 8031:14, 8031:15, 8031:18, 8033:2, 8036:25,	- ,
thereabouts - 7925:7 therefore - 7895:8, 7941:11, 7943:7,7936:22, 7940:7, 7941:11, 7943:7, 7962:78013:17, 8043:20 trying - 7876:4, 7892:19, 7895:13,7973:23, 8003:22, 8006:14, 8007:19, 8025:7, 8035:16,8031:13, 8031:14, 8031:15, 8031:18, 8033:2, 8036:25,	
therefore - 7895:8, 7962:77941:11, 7943:7, 7945:6, 7951:21,trying - 7876:4, 7892:19, 7895:13,8006:14, 8007:19, 8025:7, 8035:16,8031:15, 8031:18, 8033:2, 8036:25,	
7962:7         7945:6, 7951:21,         7892:19, 7895:13,         8025:7, 8035:16,         8033:2, 8036:25,	
<b>they've</b> 7927:24 7952:11 7954:13 7904:21 7937:4 8040:9 8041:21 8038:16 8040:14	
thin - 7944:6 7958:9, 7963:14, 7937:5, 7946:10, <b>underclothing</b> - <b>Up</b> - 7940:14	
thinking - 7871:2, 7964:10, 7974:8, 7946:12, 7947:18, 7939:14 ups - 8001:19	
7889:21, 7897:1, 7975:6, 7977:21, 7992:21, 8019:18 understood - 7901:20, upstairs - 7928:14,	
7898:12, 7907:10, 7978:18, 7993:1, <b>Tuesday</b> - 7920:11, 7910:19 7938:17	
8002:2, 8002:25 8009:2, 8010:19, 7920:19, 7920:23, <b>underway</b> - 7999:13 <b>utter</b> - 8028:12	
third - 7877:9, 8010:20, 8023:9, 7954:4 undid - 7940:3,	
7877:10, 7885:6,         8025:18, 8026:3,         turn - 7874:17,         7978:17         V           7986:14         8028:8, 8029:25,         7874:21, 7885:22,         undoubtedly -         V	
thoughts - 7875:18, 8035:25, 8040:14 7890:11, 7943:14, undress - 7936:11, 7922:17, 7922:19, 7021:14, 7943:14, 7021:14, 7	
7880:1, 7907:19 topics - 7915:12 8041:16 7959:5, 7995:20, 7923:3, 7923:11,	
threatened - 7947:15, total - 8014:21 turned - 7936:21, 8008:16, 8008:20 7923:14, 7924:16, 7923:14, 7924:16,	
7978:25, 7984:19, touch - 7892:25, 7942:13, 7943:9, undressed - 7943:5 7925:13, 7929:6,	
7992:18 7917:20, 7923:5, 7972:13, 8030:7 <b>unfamiliar</b> - 7984:9 7932:1, 7932:6,	
threats - 7979:21, 7923:18, 7928:22, Turning - 7891:18 unfortunately - 7945:2 7932:11, 7932:13,	
8028:12 8007:23 <b>Tv</b> - 8029:13 <b>unique</b> - 8017:17, 7933:5, 7933:15,	
three - 7873:7, 7885:4, towards - 7936:1, twenties - 7978:8, 8018:1, 8018:4 7933:18, 7934:3,	
7905:10, 7909:19, 7942:12, 7943:15, 7983:3, 7983:21, <b>United</b> - 8005:10 7934:9, 7934:14,	
7909:25, 7921:3, 7943:20, 7977:24, 7984:25 <b>university</b> - 7887:13, 7940:16, 7941:2,	
7925:14, 7929:4, 7978:2 <b>two</b> - 7869:21, 7873:7, 7888:4, 7925:20, 7944:23, 7954:14,	
7929:5, 7951:19, town - 7915:13, 7882:15, 7882:17, 7927:1, 7946:1, 7949:8, 7954:22, 7955:3,	
7956:22, 7958:11, 7993:24 7885:3, 7888:19, 7976:19 7956:4, 7955:4, 7955:9,	
7958:22, 7959:2, tracking - 7932:18, 7888:22, 7889:6, University - 7887:13, 7955:24, 7957:8,	
7959:18, 7961:2, 7933:3 7900:22, 7911:23, 7997:18 7958:12, 7958:12, 7959:25,	
7961:9, 7965:6, 7984:1, tracks - 8005:9 7912:3, 7912:4, unknown - 7963:10 7960:17, 7962:1,	
7986:2, 7987:5, training - 7898:10 7921:16, 7921:18, Unless - 8006:7 7963:3, 7963:3, 7964:11,	
7992:5, 7994:14, 7917:22, 7918:16, 7938:1, 7938:5, <b>unlocked</b> - 7938:16 7965:10, 7965:24, 7069:10, 7965:24, 7069:20	
8000:10, 8000:14, 7918:23, 8006:20, 7940:15, 7949:4, <b>unnecessary</b> - 7966:4, 7967:3, 7067:02	
8003:11, 8005:22, 8021:9, 8025:1, 7950:25, 7951:3, 8006:13 7967:22, 7950:25, 7951:42 7950:25, 7950:25, 7951:42 7950:25, 7950:25, 7950:25, 7951:42 7950:25, 7950:2	
8035:12 8035:12 7953:23, 7954:13, <b>unzippered</b> - 7947:21 7968:8, 7968:12, 7953:23, 7954:13, <b>unzippered</b> - 7947:21 7968:8, 7968:12, 7953:23, 7954:13, 7954:13, 7954:13, 7954:14, 7954:1	
threshold - 8024:5 Transcript - 7865:12, 7955:24, 7958:4, up - 7877:3, 7877:13, 7968:13, 7968:15,	
threw - 7938:25 7869:1 7960:3, 7964:23, 7877:19, 7877:22, 7968:19, 7969:1,	
throat - 7942:17, transcription - 8045:5 7966:25, 7969:21, 7877:24, 7880:10, 7969:14, 7969:20,	
7944:17, 7995:15, transfer - 7872:9, 7972:19, 7972:21, 7881:6, 7886:20, 7970:2, 7970:2, 7970:6,	
7995:24, 8000:25, 7872:15, 7872:20 7983:12, 7986:5, 7889:25, 7896:2, 7970:14, 7970:16,	
8028:11, 8031:5, transferred - 7872:17, 7987:4, 7988:13, 7896:24, 7898:24, 7970:19, 7970:23,	
8031.6, 8031.8, 7873.8 7983.15, 7997.8, 7899.18, 7899.23, 7971.1, 7971.5,	
803212, 8037.11 transmittal - 7973:8 7997.23, 7999.4, 7900.14, 7900.25, 7971.11, 7971.14,	
throughout - 7900:24, transported - 7960:1, 8002:16, 8007:7, 7901:23, 7902:5, 7972:17, 7972:21,	
792:12, 7962:3, 7968:18, 7970:2 8030:9, 8030:19, 7902:17, 7903:5, 7973:2, 7973:2, 7973:7,	
7995:25 traumatic - 8043:8 8036:15 7904:22, 7905:10, 7973:18, 7973:25,	
traveling - 8004:24, traveling - 8003:1 Two- 7948:2 7912:24, 7913:17, 7974:4, 7974:13, 7974:04, 7974:13, 7974:14, 7974:1	
8040:17, 8042:8 trench - 7942:23 type - 7872:20, 7965:8, 7914:25, 7915:1, 7974:21, 7974:24, 7974:24, 7914:25, 7915:1, 7974:24, 7974;7974:24, 7974;7974;7974;7974;7974;7974;7974;7974	
Thursday-7865:21 trial - 7887:5, 7888:10, 7999:24, 8001:12, 7915:4, 7915:8, 7916:4, 7974:25, 7975:5, 7975:5, 7975:5, 7975:5, 7916:4, 7915:4, 7	
tight - 8008:14 7889:1, 7903:25, 8001:14 7916:5, 7917:6, 7918:5, 7976:4, 7980:5, 798	
tissue - 7969:21 7915:16, 7915:21, Type- 7960:7 7918:6, 7924:10, 7980:14, 7982:15,	6,



7982:21, 7983:2, 7983:7, 7986:5, 7986:7, 7986:25, 7988:11, 7991:18, 7992:12, 7993:1. 7993:6. 7993:19, 7993:23, 7994:5, 7994:6, 7994:12, 7999:2 7999:4, 8005:19 8005:23, 8005:24, 8006:2, 8006:5, 8006:10, 8006:17, 8007:5, 8007:25, 8009:18, 8010:4, 8010:14, 8010:25, 8011:13, 8012:5, 8014:1, 8017:8, 8023:20, 8023:21, 8024:2, 8025:2, 8025:20, 8026:3 8027:14, 8030:25, 8031:9, 8035:5, 8035:12, 8036:22, 8043:19 V1)'s - 8025:2 **V10** - 7922:1, 8007:7 **V2** - 7920:8, 7920:9, 7922:23, 7923:4, 7923:11, 7923:16, 7925:14, 7929:6, 7932:1, 7941:7, 7941:25, 7944:23, 7950:13, 7950:18, 7950:20, 7951:22, 7952:7, 7953:1, 7953:5, 7953:15, 7954:14, 7954:21, 7955:1, 7955:23, 7957:8, 7958:16, 7959:25 7961:5, 7962:1, 7963:2, 7964:11, 7964:16, 7964:24, 7965:22, 7967:21, 7973:2, 7980:6, 7980:20, 7980:25, 7981:1, 7981:6, 7982:15, 7983:13, 7983:19, 7983:23, 7986:5, 7986:7, 7987:10, 7988:11, 7995:1, 7995:4, 7995:21, 7996:3, 7996:10, 7996:14, 7999:11, 8000:5, 8003:20, 8007:6, 8027:16, 8027:22, 8028:1, 8028:9, 8028:15, 8028:20, 8029:1, 8029:9, 8029:20, 8030:14, 8032:7, 8035:5, 8038:14, 8043:21 **V3** - 7920:16, 7920:17, 7922:23, 7923:4, 7923:11, 7923:19, 7925:18, 7926:18, 7926:20, 7929:6, 7932:1, 7944:25, 7945:6, 7948:15, 7948:22, 7958:19, 7959:11, 7962:2, 7963:3, 7976:18, 7979:24, 7980:6, 7981:7, 7981:10, 7982:15, 7984:3, 7984:9, 7984:12, 7984:19, 7984:20, 7985:13, 7987:13, 7987:14, 7988:12,

7996:22, 7996:24, 7997:22, 7998:1, 7998:2, 7998:7, 7998:15, 7998:19, 8000:5, 8003:17, 8004:9, 8007:6, 8038:15, 8038:24 8039:6, 8039:7, 8040:2, 8041:17, 8041:22, 8041:23, 8043:14 V4 - 7920:20, 7922:24, 7923:20, 7925:21, 7927:23, 7929:14, 7999:15 V5 - 7920:25, 7921:1, 7922:24, 7923:24, 7926:5, 7929:18, 7929:20, 7980:2, 7929:20, 7980:2, 7981:15, 7982:15, 7985:3, 7985:11, 7986:7, 7987:17, 7989:12, 70097 7988:12, 7999:7 7999:10, 8007:6 V6 - 7921:7, 7921:12 V7 - 7921:17, 7988:13 **V8** - 7921:18, 7988:13 **V9** - 7921:8, 7921:12 vagina - 7993:3 vaginal - 7954:25, 7955:23, 7993:4 vaguely - 8027:5 valued - 7892:11, 7892:12 Vancouver - 7887:13, 7887:18, 7888:4, 7888:20, 7888:22 various - 7930:5, 7931:2, 7931:5, 7968:21, 7988:3 vehicle - 7926:11, 7947:23, 7959:13, 7997:12 verify - 7998:10 Vern - 7932:15 **version** - 7934:12, 7941:16, 7941:22, 7945:3, 7945:4, 7976:13 via - 7945:14, 7973:13 vial - 7970:4 vicinity - 7925:10, 7925:22, 7926:21, 7926:23 victim - 7919:6, 7920:6, 7930:21, 7950:22, 7958:23 7959:5, 7959:9, 7992:3, 7997:11 victims - 7917:5. 7919:12, 7921:18, 7922:13, 7927:13, 7929:4, 7963:8, 7987:25, 7988:9, 7988:15, 7989:11, 7989:21, 7990:4, 7990:12, 7991:17, 7994:1, 7994:14, 7995:10, 8003:11 8007:4, 8007:5, 8007:7, 8007:13, 8007:18 video - 7928:15 view - 7897:22, 7919:9, 7953:3, 7961:3, 7963:11, 8002:23, 8021:16, 8022:4, 8022:10, 8022:13, 8024:7, 8042:16 viewed - 7983:7, 8005:5 Vince - 7971:16

7975:14, 7975:18 violence - 7994:10 virgin - 7939:4, 7944:19 visit - 7910:12, 7911:16 visitation - 7894:19 vividly - 8028:1 vocational - 7889:17 voice - 7936:15, 7944:7 voir - 8006:21, 8007:3, 8007:9, 8007:11, 8007:14, 8012:4, 8016:16, 8021:8, 8029:17, 8029:19, 8040:3 Volume - 7865:22 w waist - 7945:22 waitress - 7972:2 walk - 7896:19, 7945:14, 7948:25, 7994:7 walked - 7935:1, 7942:8, 7946:24, 7977:24, 7995:12 walking - 7938:18, 7942:9, 7945:15, 7946:17, 7982:22, 7983:15, 7984:4, 7992:13, 7995:8, 7995:11, 8009:19 Walters - 7882:21, 7884:6, 7885:5, 7905:11 Warning - 7948:23 warning - 7948:24, 7949:3, 7976:22, 7977:1 Wascana - 7887:9, 7888:6 wash - 7939:18 waved - 7935:17, 7936:2 wax - 7972:12 ways - 7870:21, 7908:1 weapon - 7999:24, 7999:25, 8028:9 wear - 7978:3 wearing - 7944:7, 7944:10, 7945:22, 7978:4, 8026:23 web - 7918:24 Wednesday - 7882:19, 7920:24, 7921:6 week - 7888:15, 7917:6, 7919:3, 7919:20, 7922:12, 7922:16, 7927:10, 7928:2, 7928:11, 7929:20, 7945:4, 7953:22, 7954:5, 7954:8, 7954:9, 7961:23, 7980:1 7981:25, 7985:3, 7986:2, 7987:17, 8043:24 week's - 7909:24 weekend - 7988:7 weekends - 7888:14 weeks - 7921:3, 7925:15, 7939:10, 7948:21, 7951:19, 7989:3 Welfare - 7869:25, 7872:4, 7882:23,

7886:2, 7890:23 welfare - 7870:6, 7872:21, 7891:22 West - 7942:9, 7963:21, 7982:23, 7983:15 west - 7935:2, 7942:9, 7946:2, 7947:24, 7997:10, 8041:24 whatsoever - 7903:1, 7915:25 white - 7942:23, 7943:2, 7944:7 whited - 7995:3 whole - 8032:6 wide - 7986:3 wife - 7887:15, 7888:13, 7888:17, 7914:11, 7916:5 Wiggins - 7926:20, 7926:24, 7945:15, 7946:4, 7946:17, 7978:1, 7984:5, 8042:2 Wilde - 7866:13 Williams - 7989:8, 7998:22, 8006:3 Wilson - 7867:6, 7874:15, 7886:5 7886:16, 7903:18, 7903:19 **Winnipeg** - 7869:18, 7889:7, 7889:16, 7890:15, 7921:19, 7976:9, 7976:11, 7988:13, 7988:17, 8007:7, 8042:19, 9042:22 8042:22 **wish** - 7893:16, 7917:2, 7940:22, 7953:17, 7956:20, 7981:23, 8005:25 wished - 7968:14, 7968:16 wishes - 7919:22 withdrawn - 7875:2, 7878:17, 7878:23 witness - 7869:8, 7887:5, 7927:19, 7929:18, 7930:20, 7945:5, 7945:9, 7953:21, 7990:1, 7990:14, 7996:15, 8024:23, 8033:12, 8043:7 witnessed - 7879:2, 7976:15 witnesses - 7917:18, 7917:21, 7918:9, 7918:15, 7918:18, 7919:4, 7928:3, 7928:7, 7928:9, 7930:2, 7930:15, 7930:25, 7957:1, 7974:8, 7976:8, 7981:22, 7981:24, 8022:9, 8023:7. 8023:10, 8023:12, 8043:23 Wolch - 7867:2 7989:10, 7989:20, 7989:25, 7990:7 woman - 7915:15, 7920:20 **women** - 7919:16, 7948:25, 7949:10 Women - 7948:23 womens' - 7963:17 wonder - 7975:15 wondering - 7894:7, 7895:11, 7931:8, 8002:18

word - 7947:1 words - 7871:15. 7879:4, 7899:12, 7901:18, 7902:10, 7924:8, 7946:8, 7992:20, 8009:21, 8032:9, 8032:13, 8036:3, 8037:21, 8041:9 Words - 7901:19 wore - 7940:1 worker - 7882:24, 7883:5, 7887:11, 7888:5 workers - 7872:19 works - 7907:5 worthy - 7902:7 wrapped - 7972:9 wrestle - 7892:20 write - 7912:5, 7912:9 Writer - 7891:25 writing - 7874:16 written - 8003:15 Wrongful - 7865:3 wrote - 7917:8, 7917:11

## Υ

yard - 7995:20 year - 7874:25, 7887:12, 7887:22, 7888:8, 7888:22, 7934:19, 7989:2 years - 7869:21, 7872:17, 7894:8, 7926:1, 7934:15, 7939:22, 7944:4, 7945:19, 7974:15, 7982:22, 7983:14, 7984:3, 7987:1, 7987:4, 7984:3, 7987:1, 7987:4, 7984:15 yesterday - 7918:1, 7949:19 young - 7915:14, 7939:22, 7944:4, 7938:3, 7971:8, 7978:6, 7978:7 yourself - 7903:16

## Ζ

**zipper** - 7940:4, 7978:5 **zoom** - 7934:6, 7975:6, 7980:17

