

Commission of Inquiry
Into the Wrongful
Conviction of David Milgaard
before
THE HONOURABLE MR. JUSTICE
EDWARD P. MacCALLUM

Transcript of Proceedings
and
Testimony before the Commission
sitting at the
Sheraton Cavalier Hotel at
Saskatoon, Saskatchewan

On Monday, November 21st, 2005

Volume 95

Inquiry Proceedings



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INDEX OF PROCEEDINGS

DESCRIPTION:

PAGE:

RICHARD ALLAN PEARSON, CONTINUED

- BY MR. HODSON

19263



Transcript of Proceedings

(Reconvened at 1:35 p.m.)

COMMISSIONER MacCALLUM: Afternoon.

ALL COUNSEL: Afternoon.

MR. HODSON: Good afternoon, Mr.

Commissioner. If I could just have a short indulgence of Mr. Pearson for a moment before we resume his examination, I just want to report on matters relating to David Milgaard's attendance as a witness before this Inquiry.

On October the 25th of this year you made a ruling regarding Mr. Milgaard's attendance and indicated that his counsel would have two weeks to come back with an under -- a suitable undertaking that Mr. Milgaard would appear as a witness. On November 8th the matter was raised again and Mr. Wolch provided a report from Mr. Milgaard's therapist and indicated that he intended to bring an application to have David Milgaard exempted from giving evidence on medical grounds, and at that time, Mr. Commissioner, you granted a further extension of the time limit for Mr. Wolch to show cause why standing and funding should not have been removed, and you put in place some conditions. And I'll just quickly go



1 through those, and those are in the transcript
2 from November 8th:

3 (1) That a meeting must take place on
4 November 19th, or sooner, with David
5 Milgaard to be interviewed as a
6 prospective witness;

7 (2) Mr. Wolch will file a notice of motion
8 with the Commission returnable on a date
9 satisfactory to Commission Counsel,
10 together with affidavits in support of
11 his application for David Milgaard to be
12 excused from testifying on medical or
13 psychological grounds;

14 (3) Mr. Milgaard will undertake to abide by
15 the Commissioner's ruling on the above
16 motion. If he is found to be fit he
17 will testify or lose his standing;

18 (4) The hearing of evidence will proceed as
19 scheduled. Until the motion is decided,
20 the scope of cross-examination by
21 counsel for David Milgaard and counsel
22 for Joyce Milgaard may be restricted
23 upon application by other parties or by
24 other counsel for parties with standing.

25 Now I did have an interview with David Milgaard



1 last Thursday that was arranged by Mr. Wolch.
2 Prior to that interview I had a meeting of all
3 counsel before the Commission on Wednesday to
4 discuss this issue generally and, as well, I
5 advised the parties, including Mr. Wolch, that I
6 was putting together a list of subject matters
7 that I felt required the evidence of David
8 Milgaard. And we're in the process of finalizing
9 that document and they are areas where, if Mr.
10 Milgaard is found medically fit to testify, would
11 be areas that I would intend to canvass with him,
12 and they are matters that relate to his personal
13 knowledge. The most obvious example is the
14 discussions that he had with his defence counsel
15 at the time, Mr. Tallis, the discussions back and
16 forth. So, again, I'm putting that document
17 together to address the question that has been
18 posed both, before the Commission and in the
19 public domain, as to whether or not David
20 Milgaard can add anything to this Inquiry by way
21 of evidence. And as I've stated my position
22 before and I repeat it today, I believe that Mr.
23 Milgaard, subject to the issue of his medical
24 fitness, does indeed have personal knowledge of
25 facts that may assist the Commission. So that is



1 happening.

2 The interview took place on
3 Thursday, and I thank Mr. Wolch for arranging
4 that. It was a productive interview and, indeed,
5 Mr. Milgaard signed an undertaking, it is
6 document 332559, if I could just have that called
7 up. And this was one of the conditions, Mr.
8 Commissioner, that you put forward on November
9 the 8th, and this is a document signed by Mr.
10 Milgaard where he, in part:

11 "If the Commissioner concludes that I am
12 fit to testify, I undertake to appear
13 and testify as a witness before the
14 Commission of Inquiry on the terms
15 directed by the Commissioner."

16 So our next step is to complete the list of
17 subject areas that I will provide to Mr. Wolch
18 and to other counsel, and I will continue
19 discussions with Mr. Wolch this week regarding a
20 date for the hearing of his application, and I
21 suspect we may have to come back for some
22 direction on that, Mr. Commissioner, but again to
23 find a date that Mr. Wolch can bring forward his
24 application.

25 So with that, unless you have



1 any questions, that's simply to bring you up to
2 date as to where we are at.

3 COMMISSIONER MacCALLUM: No, I don't have
4 any questions, Mr. Hodson. Thanks to you and to
5 Mr. Wolch for your efforts.

6 MR. HODSON: Thank you. So, with that, I
7 will resume with Mr. Pearson.

8 **RICHARD ALLAN PEARSON, continued:**

9 BY MR. HODSON:

10 Q Mr. Pearson, if we could just go back to where we
11 were last week, or I guess ten days ago, and if I
12 could call up 332532 please. And just so that we
13 can refresh our minds as to where we are at and
14 where we left off, I was questioning you about
15 your engagement by Federal Justice and your
16 dealings with Eugene Williams starting on February
17 28th of 1990, and you testified that your first
18 involvement in this matter came on February 28th,
19 1990 when Eugene Williams telephoned you and asked
20 for your assistance in pursuing information
21 related to Larry Fisher. And you told this
22 Commission, when you testified last, that you had
23 not heard of the *David Milgaard* case, the *Gail*
24 *Miller* case, or Larry Fisher prior to that first
25 call, and then we spent some time outlining what



1 your arrangements were with Mr. Williams, and we
2 went through chronologically and we got, I think,
3 through the interview of Linda Fisher, we talked a
4 bit about your contacts, initial contacts with
5 Larry Fisher. And again, just for the benefit of
6 the Commissioner and parties, we were primarily
7 going through your chronology document, which is
8 056743, and that was your running chronology of
9 tasks I think. If we can maybe call that document
10 up, and I think where we left off, if we could go
11 to page 056774.

12 And so where I will be going
13 today, Mr. Pearson, again we're in May 1990, this
14 is just prior to your -- the polygraph and
15 interview with Larry Fisher, we will go through
16 that and go right through until the end of the
17 first application, which I think was dealt with by
18 Kim Campbell in February of 1991. And I think,
19 when we left off, I had talked about your
20 discussions with Stephen Carter, the lawyer for
21 Larry Fisher. And again, if we could just scroll
22 down to the bottom, and I think we had also
23 indicated -- I had put to you, Mr. Pearson, just
24 to refresh your memory, some newspaper articles
25 that indicated in May of 1990 the issue came up, I



1 think it was Member of Parliament John Harvard
2 brought it up in a Justice Committee, and there
3 was a newspaper report where he indicated that the
4 RCMP had interviewed an inmate, I think it
5 identified the Prince Albert Penitentiary, it
6 didn't identify Mr. Fisher's name but indicated
7 that another suspect was being pursued, and you
8 recall us touching on that last time?

9 A Yes.

10 Q And then here, if we can pick it up on May 24th,
11 1990, and it looks like you were dealing with
12 another matter and you got a call from Sergeant
13 Chris Bergman, Ottawa Federal Enforcement Section:

14 "... Bergman was seeking answers to
15 several questions, as apparently the
16 Commissioner had been questioned by the
17 members of the Standing Justice
18 Committee. The following questions were
19 asked of me:"

20 And I understand that the Commissioner was Norman
21 Inkster, is that right, at the time?

22 A I believe that's right, yes.

23 Q And that he was being questioned by the
24 politicians or at the government level by the
25 justice standing committee; is that right?



1 A That's my understanding.

2 Q And it looks as though these questions were asked
3 of you, is that correct, by Sergeant Bergman?

4 A Yes.

5 Q And again, if we could just scroll down, and it
6 appears your answer here:

7 "I advised Cpl. Bergman that I was
8 currently involved in a murder
9 investigation and unable to provide
10 immediate answers to his questions,
11 however a secure fax would be sent in
12 due course. He indicates there is no
13 urgency in providing the information."

14 And, again, if we could call up document 067 --
15 or let me just back up. I take it these are
16 questions back -- looking for background
17 information to assist the Commissioner in dealing
18 with these questions?

19 A I believe that's probably what it was all about,
20 yes.

21 Q If we could call up 067324, please, and to the
22 full page please. And this is your fax, I think
23 it's May 31, 1990, to Sergeant Bergman; is that
24 right?

25 A Yes.



1 Q And it appears that you have gone through and
2 answered the questions that he put to you; is that
3 correct?

4 A Yes.

5 Q We'll just go through some of those. Again:

6 "... in response to your telephone call
7 requesting answers to questions asked of
8 Commissioner Inkster by members of the
9 Commons Standing Justice Committee.

10 Q1. Any thought given to using the DNA
11 technique?

12 A1. Yes, however, there is no human tissue
13 or past tissue analysis available from
14 the victim which would assist in
15 applying the DNA technique."

16 And I'm wondering at this time, Mr. Pearson, had
17 you -- had efforts been made, to your knowledge,
18 to try and determine whether DNA could be done?

19 A I don't, I don't recall if efforts, at that time,
20 had been made, I just can't recall.

21 Q I wonder if we could go to the next page.

22 A Because, you know, at that time DNA had not yet
23 really been involved in the operational end of
24 policing, it was just in the -- it was just
25 something that was beginning to be used.



1 Q Right. I think, and we've heard other evidence
2 and we'll hear some more evidence, I think around
3 1989-1990 DNA became known as an investigative
4 tool but was still at the early stages; is that
5 right?

6 A That's -- yeah, that's right. We weren't using it
7 operationally, it was in the lab system, it was
8 science that was coming at us but we really
9 weren't up to speed on it on the operational end.

10 Q And a little later I will be taking you through in
11 the 1992 time frame where I believe, sir, you were
12 involved in transporting exhibits down to North
13 Carolina for DNA testing; is that right?

14 A That's correct, yes.

15 Q And then here, at this time, the question:

16 "Q4. Is there any criticism of RCMP expected
17 from the media, or anyone?

18 A4. There have been no negative comments
19 directed towards the Force, and, in my
20 opinion, there is no reason for the RCMP
21 to be criticized. I have been keeping
22 both the Federal Justice Department and
23 the Milgaard family lawyer apprised, via
24 telephone, of progress so far as my
25 inquiries of Fisher are concerned."



1 And, again, would that be an accurate statement
2 at the time, sir?

3 A Yes, I believe it is.

4 Q Did you ever receive any negative feedback or
5 criticism from the Milgaard family during this
6 time frame, 1990 to 1992 as far as what you were
7 doing?

8 A I have no recollection of receiving anything like
9 that, no.

10 Q If we can go down to question 6, you are asked:

11 "Q6. Are Milgaard and/or Fisher willing to
12 provide blood samples and/or submit to a
13 polygraph examination?"

14 and the answer:

15 "A Milgaard's blood type is known and yes,
16 he is willing to provide blood samples.
17 Fisher has agreed to talk with me "after
18 the end of May". Attempts being made to
19 obtain blood sample and statement.

20 Mr. Asper, Milgaard's lawyer,
21 indicates David Milgaard will submit to
22 a polygraph examination. On my next
23 visit to Fisher at the Prince Albert
24 Penitentiary, I hope to determine if
25 Fisher will submit to a polygraph



1 examination.

2 Note: I have concerns about
3 polygraph use in this case because of
4 the strong possibility of "inconclusive"
5 results on both individuals, which would
6 fuel suspicion and settle nothing.
7 Opinion of our polygraphist will assist
8 me with this aspect of our
9 investigation."

10 Can you explain that comment, sir?

11 A Yes. Well I believe quite strongly in the
12 polygraph as a way to potentially have a meeting
13 with someone who is skilled at dealing with
14 people, and at the end of the day there are some
15 issues that do come into play, and when we talk
16 about doing a polygraph on both individuals, and
17 they are both inconclusive, I suppose you scratch
18 your head and say, you know, "what are we
19 accomplishing". So I had some questions in my
20 mind, and I wanted to clarify that by talking to
21 the professionals that were trained in this area,
22 the polygraphist.

23 Q Right. And at this time you still didn't have Mr.
24 Fisher's blood type; is that correct?

25 A That's correct, yes.



1 Q Now there is a comment here as well about Mr.
2 Milgaard's lawyer indicating that David Milgaard
3 would submit to a polygraph examination, and I
4 don't believe that ever happened, are you aware as
5 to why or what transpired with that request?

6 A There was a, I don't recall all the details, but
7 there was an effort made to go to the penitentiary
8 system and access some of the history on David
9 Milgaard in an attempt to determine if he would be
10 a suitable subject, and at the end of the day that
11 did not happen, and maybe the documents will
12 refresh my memory as to why that didn't happen.
13 But I know at one time we had looked at possibly
14 doing that, but no, it didn't take place.

15 Q And do you have any recollection or knowledge as
16 to why it didn't?

17 A I could probably find out for you, but right off
18 the top of my head, I don't.

19 Q And I wasn't able to find anything in your
20 documents, sir, to assist you on that, and maybe
21 we can come back to that later if we find it in
22 the documents, but you don't have any recollection
23 of what happened with that -- with this issue?

24 A No, no I don't.

25 Q And then down at the bottom, number 7:



1 "What is the present status of the
2 file?"

3 Answer:

4 "The Saskatoon City Police file is being
5 reviewed (it consists of seven large
6 binders), plus I am working on gaining
7 Fisher's cooperation in providing
8 answers to the suspicions raised."

9 And I take that would have been the status of the
10 file at the time? That's accurate?

11 A Yes.

12 Q And then if we can go back to 056775 and we're now
13 May 24th, 1990, and just to put this in the time
14 frame, sir, this is after you've had contact with
15 Larry Fisher but before the deposition, before the
16 polygraph, and on May 24th, 1990 there are press
17 reports, the RCMP are investigating an unnamed
18 individual as a suspect, and this individual being
19 in prison, but Mr. Fisher isn't named until June
20 22nd, so on this date your notes indicate a:

21 "Telephone call was placed to Linda
22 Fisher at her residence in Cando, she
23 had called me earlier on in the day.
24 She was concerned because Joyce Milgaard
25 and a reporter with the Winnipeg Free



1 Press made a surprise visit to her at
2 her school class at North Battleford.
3 Linda indicated that Mrs. Milgaard
4 wanted to obtain a photograph of Larry
5 Fisher, however this was not given.
6 Linda Fisher is concerned about this
7 type of contact by Mrs. Milgaard.
8 Mrs. Milgaard will be staying in
9 Saskatoon for the next couple of days,
10 however it is uncertain if she will be
11 contacting myself."

12 And I'm just wondering whether you are able to
13 elaborate on what Linda Fisher's concern was
14 about this contact?

15 A That's very difficult to recall exactly what her
16 concern was other than the fact that she was
17 being, I suppose, pressed by Mrs. Milgaard to
18 provide photographs of Larry Fisher, possibly she
19 didn't want this out there in the public, and I'm
20 making the assumption here that this was going
21 public and going to a place that Linda didn't want
22 to go.

23 Q Go down to the next paragraph:

24 "During our telephone discussion, Linda
25 also related to me that she now recalls



1 losing a second knife from her
2 residence. She is not sure exactly when
3 this went missing, but it would have
4 been around the time of the Miller
5 murder, but she's not nearly as specific
6 about the time as she was on the
7 description of the previous knife she
8 mentions. She did indicate this was a
9 bone handled hunting type knife and it
10 is one which she has the mate of yet.
11 She will turn it over to me if I wish to
12 have it. It should be noted that during
13 the investigation of the Miller murder,
14 a second knife was located by the
15 investigators, hidden under a fence in a
16 residential area close to the murder
17 scene. This was eventually turned over
18 to the prosecutor and it is unknown just
19 where it actually went. I wish to
20 recover the knife from Linda and
21 determine if it in fact has a similarity
22 to the knife that was found by the
23 investigator, just as a long shot to
24 determine if there is a possibility that
25 the bone handled knife may have been



1 removed from the Fisher residence in
2 1969 by Larry. This is somewhat of a
3 long shot and I am not sure if the two
4 actually can be compared."

5 So again, does that accurately record what
6 discussion you would have had with her at the
7 time?

8 A Yes, I do, but I just -- something twigs me here
9 on the hunting type knife, and could you bring up
10 my handwritten notes, because I'm not sure if that
11 was a hunting type knife or if it was a steak
12 knife.

13 Q I think, and if this will assist you, once you
14 pick up the knife, and we've actually marked it as
15 an exhibit here, it is a steak knife and I
16 think --

17 A Do my notes say that or did my notes say hunting
18 knife?

19 Q I believe your notes say hunting knife, but I can
20 check.

21 A Let's not hold up, it doesn't mean anything,
22 but -- what was that date again?

23 Q May 24th. Call up 058251 and it's on the
24 right-hand side.

25 A Oh, yeah.



1 Q Actually, if we can go to page 55. Actually,
2 yours are bone-handled butcher knife. Is that
3 page 55?

4 A Okay. Yes, I have a bone-handled butcher knife as
5 opposed to hunting knife, and I don't know if that
6 was a typographical transmission error, but my
7 notes describe it as a butcher knife.

8 Q Now, this information, if we could just go back to
9 056775 at the bottom, and it appears this
10 information about the knife comes from the same
11 telephone call where she was telling you about the
12 visit from Joyce Milgaard; is that correct?

13 A Yes, I believe that's correct.

14 Q Did you have any concerns at the time, Mr.
15 Pearson, about why she didn't tell you about this
16 knife on your earlier visit with her?

17 A I just don't recall what I thought at the time in
18 that regard. I just can't recall.

19 Q And do you have a recollection of getting the
20 knife and making a determination as to whether or
21 not the missing bone-handled butcher knife,
22 hunting knife or steak knife was in any way
23 connected to the Gail Miller murder?

24 A I recovered the knife from Linda Fisher and I also
25 was in contact with Mr. Williams to advise him of



1 it and he advised me that all knives associated
2 with this had been accounted for is all I recall.

3 Q If we can go on to the next page, please, and the
4 next page. Again, we're now getting into May of
5 1990 and you advised him that Fisher's lawyer does
6 not want me talking with Larry until after the end
7 of this month.

8 "Also advised Mr. Williams of the
9 look-alike knife that Linda Fisher is
10 now claiming that she lost sometime
11 during the time she was with Larry
12 Fisher. Williams advised that the
13 murder weapon and other knives have been
14 accounted for. I will still arrange to
15 pick up this knife."

16 And then it goes on to talk in paragraph 153
17 about a report from Peter Markesteyn and the
18 Ferris report about the semen being found not
19 belonging to Milgaard. It says:

20 "Williams will be receiving a copy of
21 the report in due course and will be
22 forwarding same."

23 Now, did you have any involvement, sir, in
24 reviewing or dealing with the forensic issues put
25 forward on behalf of David Milgaard by Peter



1 Markesteyn and Dr. Ferris?

2 A No, I did not.

3 Q And would this be just as a matter of interest
4 then that you would be discussing this with
5 Mr. Williams?

6 A Yes, I think it was just probably a curiosity or a
7 courtesy. I wasn't involved in the forensics.

8 Q And so as far as reviewing and analysing the
9 secretor issue, the forensic issue and the
10 information put forward by Drs. Markesteyn and
11 Ferris, is it your evidence, sir, that you had
12 little or nothing to do with that?

13 A I had nothing to do with that.

14 Q And then scroll down, June 1 of '90, you picked up
15 the, you've got it here, a bone-handled steak
16 knife:

17 "... stating it is from the same set as
18 the one that she lost, probably while
19 she lived with Larry. The knife she
20 lost was actually larger than the one
21 Linda showed me. Linda had no specific
22 information on when, where or the
23 circumstances the knife went missing."

24 And then it looks as though you took possession
25 of it; is that correct?



1 A Yes.

2 Q Now, again, June 6 of 1990, and I think we had,
3 the last time, at the last sitting we've gone
4 through your dealings with Stephen Carter and
5 Larry Fisher and I think at that time, Mr.
6 Pearson, Mr. Fisher and/or his lawyer were telling
7 you lookit, wait until the end of May and then
8 I'll talk to you; is that right?

9 A Yes.

10 Q So here we are June 6th and you:

11 "Patrolled to the Prince Albert
12 Penitentiary and made contact with
13 Security personnel Lafleur and Coleman
14 who escorted me inside the Penitentiary.
15 However, by the time I was able to clear
16 security, Fisher had returned to his
17 work site and left the message that he
18 would talk to me, however, wished to
19 have his lawyer present."

20 And then you tried to reach Mr. Carter who wasn't
21 available until the following Friday; is that
22 correct?

23 A That's correct, yes.

24 Q And then here, June the 7th of '90:

25 "Returned a telephone call to Mr.



1 Williams, who indicated he had spoken
2 with Chief Penkala of Saskatoon City
3 Police yesterday, requesting file
4 material and notes on the interview that
5 Wilson had with the investigators.
6 Indications are that Wilson was
7 interviewed first by the RCMP Insp.
8 Riddell and then two Saskatoon members
9 attended Regina ..."

10 And then it goes on to describe information
11 relating to Ron Wilson, and I'm wondering, would
12 this, and again if you want to read it to
13 yourself there, Mr. Pearson, you may, but I'm
14 just wondering whether -- again, I think you told
15 us on a previous day that you would have had
16 little or nothing to do with reviewing the Ron
17 Wilson evidence; is that correct?

18 A That's correct, I never reviewed the Wilson/John
19 matters at all.

20 Q So again can you tell us, are you able to tell us
21 what the purpose would be of you and Eugene
22 Williams discussing this at this time?

23 A Oh, I think it was just a communication back and
24 forth between what was happening at his end and my
25 end.



1 Q And so he would be filling you in on some of the
2 details about what he had learned with Ron Wilson?

3 A Yes, I believe that's fair.

4 Q Scroll down, please, to 157, and that:

5 "Williams wishes to attend Saskatoon on
6 June 12th for the purpose of reviewing
7 police file material and interviewing
8 police investigators, prior to taking a
9 legal deposition from Mr. Wilson. I
10 have this arranged through City Police
11 Insp. John Quinn."

12 And I should have mentioned, Mr. Pearson, I think
13 it was either June the 4th or June the 6th that
14 Ron Wilson had provided a statement to Paul
15 Henderson recanting some of his original trial
16 evidence. Do you remember hearing about that?

17 A Yes, yes, I do.

18 Q And then scroll down to June 8th, again went to
19 Prince Albert and met with Fisher's lawyer Stephen
20 Carter at the Prince Albert Penitentiary admin
21 building, made contact with Larry Fisher, Carter
22 talked to him for 10 minutes at which time, it
23 says:

24 "... I was permitted to interview Fisher
25 who stated he wanted to answer questions



1 only once and mentioned making a legal
2 deposition. As Fisher did not wish to
3 be interviewed twice, it was agreed we
4 would arrange for the taking of a legal
5 deposition. Fisher gave me the
6 impression he was stalling, however I am
7 at a disadvantage as publicity is
8 building and access to Fisher is
9 difficult."

10 If I can just pause there. Can you elaborate on
11 what you mean by that?

12 A Well, I think at this point the media was -- I
13 think at this point the media had the story out
14 there if I'm not mistaken and I just can't put it
15 all into a time frame.

16 Q If I can assist you, at this time there were a
17 number of stories in the media indicating that a
18 suspect, an unnamed suspect was being interviewed,
19 it was June the 22nd, 1990 that Larry Fisher's
20 name first appeared in the media, so this would be
21 identifying a suspect, and I think the media
22 articles that we have seen to date indicate that
23 they reported that the RCMP had interviewed Mr.
24 Fisher I think on three occasions and that he was
25 a suspect and there may have been other reports



1 about some of his other crimes. Does that assist
2 you?

3 A Yes, and, you know, the concern was that the
4 publicity being brought into this would possibly
5 affect the relationship I could have with him and
6 the information I could get from him and as well
7 he was in an institution and we certainly knew
8 where he was at, but, you know, accessing him was
9 sometimes difficult. If he didn't want to be
10 available, then he wasn't.

11 Q And did you have concerns at this time, Mr.
12 Pearson, that Mr. Fisher was starting to clam up?

13 A I'm not sure if I could say that at that point. I
14 just -- I can't recall, but I did have some
15 concerns about the publicity starting to build out
16 there.

17 Q And did the publicity at this time hamper or
18 hinder your investigation of Larry Fisher in any
19 way?

20 A Well, I don't know if it did, but that was a
21 concern I had, that it would, based on the fact
22 that he was getting information through the media
23 and he was obviously becoming, would become
24 alarmed by it, that may have some influence on
25 what relationship I would have with him or maybe



1 what he would tell me or that sort of thing.

2 **Q** Now, you also state here that you had the
3 impression he was stalling, and I think when we
4 looked back in April when we were talking about
5 April, 1990, I think you had similar feelings at
6 that time that he was not as forthcoming as you
7 thought an innocent person or a person who said he
8 was innocent might be?

9 **A** Yes, it just didn't fit what, you know, an
10 innocent person would react to. Again, I tried to
11 rationalize that in giving him the benefit of the
12 doubt by looking at the environment that he has
13 been in for 20 years, a federal institution with
14 hardened criminals and possibly he didn't trust
15 the system and maybe didn't trust me thinking I
16 would alter anything that he did provide, but I
17 did have the gut feeling that he really wasn't
18 coming forward, that there was a stall going on
19 here.

20 **Q** And then it looks as though at this meeting
21 Mr. Carter or Mr. Fisher told you that lookit, you
22 get one chance at asking questions as opposed to
23 continuous interviews; is that a fair reading of
24 that?

25 **A** Yes, there was conditions put on this, it wasn't



1 going to be free-wheeling, there was some
2 parameters.

3 Q And then you state:

4 "I must continue to maintain his
5 cooperation in order to get certain
6 questions answered. His soft spot seems
7 to be his daughter Tammy and this will
8 be kept in mind. I conversed with and
9 questioned Fisher, however, it was
10 apparent he did not wish to talk to me.
11 I explained to Fisher that a legal
12 deposition may not be necessary if
13 nothing comes of the initial interview.
14 Carter seemed disappointed in Fisher's
15 lack of desire to talk. Fisher advised
16 he will not submit to a polygraph
17 examination or provide a blood sample.
18 I explained the suspicion that has been
19 cast upon him and if he is innocent to
20 cooperate so we can ensure his name and
21 name of Tammy is cleared prior to his
22 release from prison. Fisher states he
23 has already been identified as the
24 person being talked about, however I
25 reminded him none of this has come yet



1 via the press and that any suspicion on
2 him has come from within his own
3 institution."

4 And again, is that an accurate statement of
5 what --

6 A Yes, as I recall at the time that's accurate, yes.

7 Q And I think you had said last day that one of the
8 tactics or one of the techniques that you would
9 use with Mr. Fisher was to try and convince him
10 that he should cooperate with you so that he could
11 clear his name; is that right?

12 A Well, that was one. The other one, he seemed to
13 have a special feeling for his daughter Tammy and
14 I thought possibly this was an entry point where
15 he might want to stay on the good side and clear
16 his name if in fact he was innocent.

17 Q And this note suggests, Mr. Pearson, that Mr.
18 Fisher is telling you that within the prison walls
19 he's being identified as the person responsible.
20 Do you recall Mr. Fisher expressing -- telling you
21 that or expressing concerns about that?

22 A On this specific occasion I can't, but in general
23 terms that was the continual concern he seemed to
24 raise, but to be accurate on this particular
25 visit, I just don't recall.



1 Q Just generally though do you recall him expressing
2 concern to you that within the prison other
3 inmates were --

4 A Yes, he definitely had a concern about what was
5 going on in the institution.

6 Q And the knowledge that other inmates may have of
7 him being a suspect in the murder and rape?

8 A And he was scared for his own safety.

9 Q And scroll down to 160:

10 "I fully explained my position to Fisher
11 and Carter and in various ways attempted
12 to take the position I wished to clear
13 Fisher's name, however, he was reluctant
14 to cooperate, but did agree to provide a
15 legal deposition. I explained the
16 deposition would be before a Federal
17 Justice lawyer from Ottawa and I wanted
18 Fisher's assurance he would not change
19 his mind when the time came for the
20 lawyer to be present. Fisher assured me
21 he would provide answers to our
22 questions at that time."

23 And then:

24 "After exiting the Pen I had a
25 conversation with Carter, who expressed



1 surprise at Fisher's reluctance to talk,
2 citing suspicion of the police, paranoia
3 and fear of the system as probably
4 reasons why he would not talk to me."

5 And then you conclude:

6 "We have a start, Fisher has agreed to
7 further contact; i.e., legal deposition.
8 I will arrange with Williams to attend
9 the Pen once Carter let's me know his
10 available dates."

11 So I take it on this visit, Mr. Pearson, when you
12 went in Mr. Fisher said he wouldn't talk to you
13 any more, wouldn't take a polygraph, wouldn't
14 give statements, and when you went out he agreed
15 to at least give a deposition; is that fair?

16 A That's fair, yes.

17 Q Just scroll down to the 12th and it looks as
18 though you would have arranged for Mr. Williams,
19 Eugene Williams to meet with Inspector Quinn of
20 the Saskatoon City Police to review files; is that
21 correct?

22 A Yes, yes.

23 Q And I don't believe from your notes that you would
24 have been in attendance. Would Inspector Quinn
25 have been your main contact with the Saskatoon



1 City Police at that time?

2 A Very early in the investigation I had contact with
3 McCorrison and I also had contact with Frank
4 Simpson and Inspector Quinn was the main contact
5 as this unfolded.

6 Q And if we can then go to 015803, please, and so
7 this is a letter June 11th, 1990, your visit at
8 the penitentiary with Larry Fisher and Stephen
9 Carter was on June the 8th, and so here's June
10 11th, Mr. Carter is writing to you -- I'm sorry,
11 your meeting was on June 8th, the interview, he
12 describes it as a brief interview and he goes on
13 to say:

14 "As far as the arrangements for the
15 sworn deposition are concerned, please
16 be advised that you should not make any
17 such arrangements at the present time."

18 It goes on to indicate that Mr. Fisher is being
19 transferred to the Regional Psychiatric Centre
20 and that he will be there for about seven months.
21 While in Saskatoon, Mr. Pick will represent him,
22 and then down at the bottom, discussed the
23 situation with Mr. Pick and with Mr. Fisher.

24 "My instructions from Mr. Fisher are to
25 provide Mr. Pick with a complete written



1 list of each and every question that you
2 intend to put to Mr. Fisher. That list
3 will then be considered by Mr. Fisher on
4 the advice and counsel of Harold Pick
5 and it will then be determined which, if
6 any, questions will be answered by Mr.
7 Fisher."

8 And then it indicates that he's leaving for three
9 months and you should deal with Mr. Pick; is that
10 right?

11 A There was --

12 Q And I'll deal with the undertaking in a moment.

13 A There was memos back and forth before --

14 Q Yes.

15 A -- I think we got to this point, but this is
16 accurate.

17 Q And so it looks as though when you met with Mr.
18 Fisher he agreed to a deposition and now through
19 his lawyer he's saying give me a list of the
20 questions in advance and I'll tell you which ones
21 I'm going to answer; is that fair?

22 A Yes. He didn't want a face-to-face interview, I
23 think he wanted to answer the questions via
24 documentation.

25 Q And did that cause you any concern?



1 A Well, sure it did, we wanted to have a
2 face-to-face interview.

3 Q And what would be wrong with him just answering
4 the questions in writing in response to your
5 written questions?

6 A I don't think you can get a sense or a feel for
7 the individual if it's on a question and answer
8 piece of paper.

9 Q And then down at the bottom, Mr. Carter is
10 providing you with a written undertaking that you
11 sign. Just go to the next page. It would appear
12 that -- next page, please, full page -- that you
13 were asked to provide an undertaking by
14 Mr. Carter; is that right?

15 A Yes. Just prior to walking into the penitentiary
16 he indicated that he wanted me to sign an
17 undertaking. This was what it is. There was, you
18 know, some concern expressed that the interview
19 may go beyond just the talk of Larry Fisher's
20 involvement.

21 Q It looks as though that you agreed that any
22 information obtained from Larry Fisher shall be
23 used by the RCMP solely for the purposes of
24 investigating the Milgaard case?

25 A Yes.



1 Q Was his concern that it not be used against him in
2 the event that he said something that might cause
3 you to pursue him?

4 A Well, I got the impression that there may be other
5 information that he thought we may vie for. I'm
6 not sure if he was hiding other things, but that's
7 just speculation, but he wanted to ensure that we
8 stayed on topic. Maybe he had other things to
9 hide.

10 Q So this letter that I touched on was June 11th,
11 1990. If we can go to 010035, please, this is a
12 letter June 12th, 1990 and this is from David
13 Asper to Mr. Eugene Williams, and I'm not sure if
14 this was ever provided to you. I just want to go
15 through a couple of parts. Paragraph 1), if you
16 can call that out, please, Mr. Asper says:

17 "1) We have heard through sources in
18 the Office of the Minister of Justice
19 that the investigation into Larry Fisher
20 is complete, and has been complete since
21 the middle of May of 1990. Would you
22 please confirm that it is either
23 complete or ongoing."

24 And at that time, Mr. Pearson, June 12th, 1990,
25 was the investigation into Larry Fisher complete?



1 A No. No, it wasn't.

2 Q And had you had contact -- again, and I think I've
3 touched on in your notes your contact with Mr.
4 Asper prior -- would you have been telling him
5 what you were doing with respect to Larry Fisher,
6 or some of the things?

7 A I think in a very general way I was updating him
8 as to where the investigation was. I don't think
9 I provided great detail, but there was some
10 communication.

11 Q And do you know who would have been the source in
12 the office of the Minister of Justice that might
13 have told Mr. Asper that your investigation was
14 done in the middle of May, 1990?

15 A I had no idea.

16 Q And at this time, again June 12th, I think the
17 notes indicate you had a legal deposition arranged
18 subject to some conditions; correct?

19 A Yes.

20 Q You were still waiting to get the blood type from
21 him; correct?

22 A Yes.

23 Q And three, you had talked about a polygraph and he
24 had, I think at the last note that I showed you,
25 you had said no, but you were still working on it;



1 is that fair?

2 A That's fair, yes.

3 Q Now, again this is June of 1990. I think you
4 started your work March of 1990. Can you tell
5 us -- so about three months you had been pursuing
6 Mr. Fisher. Was that -- were things going slower
7 than you expected, Mr. Pearson, or can you give us
8 some sense of whether this was standard or normal
9 time frame, slow, fast, where it fit in?

10 A Well, from the point of developing the interview
11 with Larry Fisher, I would say it was going fairly
12 slow. Under normal circumstances if you were
13 going to be approaching someone on the suspicion
14 of murder and they were innocent, they would be
15 moving fairly quickly to try and clear their name.
16 Even though Mr. Fisher was in a federal
17 institution, it made some difficulty accessing
18 him, but I don't believe that got in the way of
19 anything that was really pertinent here. At the
20 end of the day it was stalling on his part in my
21 opinion.

22 Q And so is it your evidence that it was slow, but
23 it was slow because Larry Fisher was stalling or
24 not cooperating?

25 A Yeah, I think primarily that's accurate, yes.



1 Q Scroll down to the bottom, please, and the letter
2 says, and this is a letter to Eugene Williams, it
3 says:

4 "Finally, further to our conversation
5 with respect to the witnesses whom your
6 investigator has interviewed, we can
7 advise that these witnesses were left
8 with a very negative impression about
9 your investigator. Specifically, Debra
10 Hall tells us that she was made to feel
11 as though she was wasting the
12 investigator's time. She felt that the
13 investigator was twisting everything
14 that she said, and made her feel "like
15 an ass". Moreover, she indicates that
16 this investigator made her feel like she
17 was not being believed, and in fact was
18 somehow lying about the contents of her
19 Affidavit. Essentially, her impression
20 was that even though she had nothing to
21 gain by coming forward, she was simply
22 trying to say that Messrs. Melnik and
23 Labchuk were lying when they gave their
24 evidence at the trial, and that for
25 coming forward, she was made to feel



1 "useless in this whole thing".

2 Now, did you interview Deborah Hall at all?

3 A Well, when they talk here of the, about your
4 investigator, I'm not -- they wouldn't have been
5 talking about me because I never did interview
6 Deborah Hall, I never did involve myself in an
7 affidavit, so I'm assuming they are talking about
8 someone else and they don't really name who that
9 person is.

10 Q We'll hear from Mr. Asper on that at a later date.
11 The next line says:

12 "We understand that Linda Fisher had
13 much the same feeling after your
14 investigators visited with her."

15 And you have told us that you did, you were
16 involved in meeting with Linda Fisher; correct?

17 A Oh, yes, I met with Linda Fisher a number of
18 times.

19 Q Yeah. Now, in fairness, I'm not sure whether this
20 reference is a reference to you or a reference to
21 Eugene Williams with respect to dealings with
22 Linda Fisher, and maybe just go on to the next
23 paragraph, Mr. Asper states:

24 "From these reports, it would appear
25 that your investigator in essence



1 cross-examined these people in what we
2 understand to be a non-adversarial
3 process, at least for the time being.
4 None of these people had counsel
5 present, and they had no idea that they
6 were going to be subject to what
7 ultimately occurred.

8 If your Department is taking
9 the view that credibility is in issue
10 and that your Department is in the
11 process of weighing evidence, then we
12 would respectfully suggest that your
13 Department's activities are beyond the
14 purview contemplated within Section 690.
15 Fundamental justice requires that if you
16 are going about the process of having an
17 informal hearing, that the "hearing" be
18 one where both sides are fairly
19 represented. As we have said from the
20 outset, this should occur in the
21 courtroom and not by virtue of in camera
22 interviews."

23 Now, again, I just want to go back, as far as
24 your dealings as an investigator with Linda
25 Fisher, did you -- did Linda Fisher ever express



1 to you that she had feelings that you were not
2 treating her properly in your interviews?

3 A No. I had a number of contacts with Linda Fisher
4 and I think we had a very good relationship as far
5 as, you know, how well we knew each other. She
6 was very open, it was -- she had no hesitation in
7 calling me and she did on occasion. I contacted
8 her on a number of occasions and at no time did I
9 ever sense that there was anything in our
10 relationship that would give her the feeling that
11 she was being pushed around or not believed or
12 things like that, so no, I just don't think Linda
13 Fisher, or the investigator they were talking here
14 is me, and I would be very surprised if Linda
15 Fisher had ever said anything negative in the
16 relationship that we had.

17 Q And I put this to Linda Fisher at the Inquiry, Mr.
18 Pearson, and she confirmed what you said, I don't
19 think -- again, this isn't her letter, but she did
20 not express those sentiments about her dealings
21 with you. Again, did you -- do you know whether
22 or did you ever observed any -- or did you have
23 any concerns with your observations of any of
24 Eugene Williams' dealings with Linda Fisher that
25 you observed?



1 A No, I, I never observed -- and I think we touched
2 on that last time.

3 Q We talked about it, about the May 20 -- or March
4 24th interview.

5 A Yes.

6 Q I'm talking more generally, up until this point in
7 time after that interview, and I'm not sure
8 whether Mr. Williams had any further direct
9 dealings with her. But --

10 A I don't, after that interview in North Battleford,
11 I don't think he had any contact with her,
12 that's -- that's my recollection.

13 Q If we could go back to 056780, please. And again,
14 it looks as though we're now June 14th of '90,
15 further discussions with Mr. Carter, and I take it
16 that it looks as though Mr. Carter was taking a
17 three-month leave and that you would have to deal
18 with someone else in your dealings with Larry
19 Fisher; is that correct?

20 A Yes.

21 Q I now go on to paragraph 167:

22 "Mr. Williams is also requesting my
23 assistance in obtaining a statement from
24 Celine Armstrong (nee Cadrain), now of
25 Edam, Sask., ... who was present the



1 morning Milgaard came to the Cadrain
2 house. Get as much detail as possible,
3 plus cover the time period by which
4 Celine came downstairs and saw Milgaard
5 in clean clothes, whereas Albert
6 Cadrain, Crown witness, said he saw
7 Milgaard in bloodied clothes. The
8 explanation for the difference may be
9 that Milgaard may have changed between
10 the times that Albert saw him and when
11 Celine actually came downstairs."

12 So it would appear at this point, June 14th,
13 1990, Mr. Williams has now asked you to pursue a
14 matter or an area unrelated to Larry Fisher as a
15 suspect; is that fair?

16 A Yes.

17 Q And so he would have asked you to go and follow up
18 with one of the -- with a potential witness; is
19 that fair?

20 A That's fair, yes.

21 Q And then scroll down to June 15th, it talks about
22 a call with Mr. Pick:

23 "Mr. Pick ...",

24 is now -- or:

25 "... seems to be objecting to a legal



1 deposition being provided."

2 And you say:

3 "I know Mr. Pick well and I am sure we
4 can arrange some suitable solution to
5 this problem."

6 And had you known Mr. Pick from other situations?

7 A Yes, yes, he was a defence lawyer in the Court and
8 around the province in the early days.

9 Q And then again, we've touched on this before, but
10 it's Mr. Fisher's position that he:

11 "... does not wish to have a
12 face-to-face interview and instead wants
13 to be provided with a list of questions
14 ..."

15 You say:

16 "I am not happy with this arrangement
17 and am optimistic I can get something
18 more suitable arranged through
19 consultation with Mr. Pick."

20 Now that, in fact, happened; is that correct?

21 A Yes.

22 Q And how did you go about getting Mr. Fisher to go
23 from wanting to give you written answers to
24 written questions to getting him to agree to be
25 deposed under oath and have it recorded?



1 A That was really through the relationship with
2 Mr. Pick.

3 Q Did you have to convince him that this was an
4 appropriate way to go?

5 A I don't recall the exact details but, again, I
6 think we were talking about, if this person is
7 innocent, then there should be no problem in
8 moving this forward.

9 Q Go to the next page, paragraph 173, we're now at
10 June 19th. And, again, this is three days before
11 Larry Fisher's name is made public by the media.
12 It says I:

13 "Returned a telephone call to Linda
14 Fisher, who was expressing concern that
15 the Winnipeg CBC crew are asking her to
16 tell her story about this case. She is
17 seeking advice. My advice to her is not
18 to talk to anyone at this time. She can
19 have her press stories at a later date,
20 however, now is not the time as any
21 publicity in this case may attract
22 unfounded suspicion on Larry which will
23 indirectly affect Linda. The timing
24 right now would be counter-productive to
25 the overall interest of everyone



1 involved."

2 And let me just go back. So I take it she was
3 looking for advice as to what to do?

4 A Yes, she phoned me up asking whether or not she
5 should be talking to the press, and she was being
6 pressured to tell a story -- or tell her story,
7 and she was asking me what I thought, and I just
8 indicated to her that there is really no upside
9 for anybody at this point and the story can be
10 told at any time in the future.

11 Q And you say here:

12 "... however, now is not the time as any
13 publicity in this case may attract
14 unfounded suspicion on Larry which will
15 indirectly affect Linda."

16 What did you mean by "unfounded supervision"?

17 A Well if it ended up that he was innocent, and his
18 name was public and that Linda was in some way
19 instrumental in bringing this out, I just don't
20 think it would be in her interests or anyone's at
21 that point.

22 Q And at this time -- again, June 19th, 1990, this
23 is before the polygraph and you have had a couple
24 of interviews with Larry Fisher -- at this time,
25 sir, what was your thinking on whether or not



1 Larry Fisher was a suspect, was the killer, or
2 somewhere in between?

3 A Well it's, all through this it's a gut feeling you
4 get, it's hard to put a finger on it and you say,
5 well, you convert suspicion into evidence. But
6 there was certainly something that didn't feel
7 right, and I guess that's what suspicion is, it's
8 based on a gut feeling with some of the
9 circumstances that flow from that, and the fact
10 that he had a serious record of violence against
11 women, and the fact that he was giving me the
12 impression that he was stalling in trying to clear
13 his name.

14 Q If we can just go down to the next paragraph, and
15 I just want to -- here you say:

16 "The timing right now would be
17 counter-productive to the overall
18 interest of everyone involved."

19 And then it talks about:

20 "Received a telephone call from Cecil
21 Rosner of CBC, who is currently in
22 Saskatoon, asking about the *Milgaard*
23 case and wishing to put me on TV for an
24 interview, wanting to know what I could
25 tell him. I gave him no information,



1 other than a suspect is being handled by
2 Legal Aid and I had interviewed the
3 suspect twice and there would be further
4 contact. No names were exchanged."

5 And I take it at this time, Mr. Pearson, you were
6 not prepared to publicly state that Larry Fisher
7 was being investigated or was a suspect?

8 A No.

9 Q And why not?

10 A Well there was no -- first of all, you couldn't
11 put his name out there under these circumstances,
12 and --

13 Q And why not?

14 A Because he is, he is not charged with the crime,
15 he is -- at this point in my mind was a suspect
16 that we were working with, and I just believed
17 that publicity would complicate everything that,
18 you know, we were trying to do.

19 Q And can you elaborate on that last point; in what
20 way might it complicate matters?

21 A Well it would certainly escalate the tension for
22 Larry Fisher and I just don't see that there was
23 any upside in having him stirred up with
24 accusations that he was involved in the crime if
25 he was, in fact, innocent.



1 Q And at that time, sir, was that a possibility in
2 your mind?

3 A That he was innocent?

4 Q Yes?

5 A Sure it was.

6 Q And again if we can just go back, as the police
7 officer who has been asked to investigate Larry
8 Fisher as a suspect for the purposes of a Section
9 690 application, was there any upside, from your
10 perspective, of publicly naming Larry Fisher as
11 either a suspect or, even further, naming him as
12 the person who killed Gail Miller?

13 A At the time I didn't believe there was an upside,
14 an upside to this at all, as far as developing the
15 investigation.

16 Q And apart from what you have already told us about
17 the downside were there any other downsides, in
18 your mind, of publicly naming Larry Fisher either
19 as a suspect or, further, as the person who killed
20 Gail Miller?

21 A Not that I can think of, roughly, off the top of
22 my head.

23 Q And you've touched on a couple already, and in
24 your previous testimony, but is there any -- I
25 just wondered if there was anything else, and I



1 take it at this time you can't think of anything
2 further; is that --

3 A I just can't think of anything further right now.

4 Q Then we go down to June 21, 1990:

5 "Received a telephone call from S/Sgt.
6 Bonnar, RCMP HQ, stating he was getting
7 our Commissioner out of hot water
8 because of statements made in the
9 Commons Justice Committee meeting on the
10 *Milgaard* case. He wanted to know how we
11 were making out on our interview with
12 Fisher. I told him."

13 At this time were you getting -- are you able to
14 tell us, Mr. Pearson, whether the RCMP was
15 getting political pressure or pressure from
16 external sources about what you were doing on
17 this case?

18 A I'm not so sure that they were getting pressure
19 from what I was doing, I think they were just
20 being -- fielding questions that were being raised
21 at the political high level of government, from my
22 reading is at the Commissioner's level, which is
23 the highest level of the RCMP, and the --

24 Q And --

25 A -- Commons Justice Committee is a Committee, I



1 believe, that discusses these issues. So they
2 were coming back to the source, myself, wanting
3 some clarification on what was happening, more of
4 an update, I guess.

5 Q Was it unusual, just again generally in your
6 experience investigating cases for the RCMP, was
7 it common to have inquiries like this from a
8 political level about the work you were doing?

9 A I had never had, that I can recall, anything that
10 came directly from the Commissioner asking me
11 about a case.

12 Q Again, did that have any effect, positive or
13 negative, on the work you were doing in this case?

14 A I don't believe so.

15 Q Then down, June 20th, it says:

16 "I returned a call to David Asper who
17 was enquiring about our progress with
18 Fisher. I explained to him what was
19 taking place to date and that a meeting
20 has been set up with Fisher and a new
21 lawyer next week. We also talked about
22 the Justice Dept. lawyer being in B.C.
23 making inquiries. Asper also stated he
24 has insufficient funds to continue the
25 investigation with their American



1 investigators, however they wish to
2 continue this investigation."

3 And, again, do you know what; do you have any
4 recollection of what the B.C. matters might have
5 been?

6 A No, I -- I -- I don't recall. But, you know, Mr.
7 Williams was obviously in B.C. -- I believe it's
8 Mr. Williams.

9 Q At this time I think he was interviewing -- in
10 June of 1990 Ron Wilson had given --

11 A Yes, yes.

12 Q -- his recantation, --

13 A Yes.

14 Q -- and I think on June 20th Albert Cadrain may
15 have given a statement I think on that date to
16 Paul Henderson, and so -- and I think Dennis
17 Cadrain was around that time frame; does that
18 assist your memory at all? Do you remember
19 discussing --

20 A I have -- I don't think that that was something
21 that I was aware of, of what was going on then,
22 but I may have, I just don't recall.

23 Q And, again, do you have any recollection, beyond
24 what is in the note, about the fact that the --
25 Mr. Asper said that they didn't have sufficient



1 funds to continue with the American investigators,
2 who I'm assuming is the Centurion Ministries?

3 A Yes, I knew very little about Centurion
4 Ministries, I really didn't really, at that point,
5 have the details as to what he was referring to,
6 but it was -- he obviously had some investigator
7 looking into their interest.

8 Q If we can go to the next page, please, and this is
9 now June 21, 1990:

10 "Returned a call to Linda Fisher who
11 again is expressing concern about the
12 fact the CBC has come to her house
13 wanting to interview her. Linda
14 apparently refused and placed a note on
15 the door indicating such, then left for
16 the night. Her 15 year old son Kim
17 apparently allowed CBC reporters into
18 the house after they spent several hours
19 outside the building. Kim eventually
20 allowed the reporters to take
21 photographs of a photo album of Larry
22 Fisher's picture. Indications from
23 Linda that the CBC crew was on site for
24 approximately eight hours and did not
25 leave the Fisher residence until after



1 midnight. Linda complained that the CBC
2 came into her house, taking advantage of
3 their 15 year old son, particularly when
4 she had told them she did not want to be
5 interviewed. Linda also expressed
6 concern for her own safety and does not
7 want it to be exposed by the press that
8 she has gone to the police on this
9 matter. I advised Linda if she has a
10 complaint to contact North Battleford
11 Detachment and lodge it for further
12 investigation into the actions of the
13 CBC crew."

14 Again, would that be an accurate note of your
15 discussion with Ms. Fisher at the time?

16 A Yes, I believe it is accurate.

17 Q And, again, do you know whether or not she --
18 anything was followed up with the RCMP detachment
19 in North Battleford?

20 A I'm -- I placed a phone call to Sergeant Cousins,
21 who was one of the plainclothes investigators in
22 Battleford, and advised him the fact that Linda
23 would be coming in to make a complaint, and I
24 think we set up a time, and he said that he would
25 take the complaint from her. And as I recall I



1 contacted her, I believe, and advised her that she
2 could go in and there would be a member that would
3 be aware of this complaint she had.

4 Q And, again, the information that Linda Fisher
5 conveyed to you on this date; did the contents of
6 that cause you any concern as the individual
7 investigating Larry Fisher as a suspect?

8 A Well it was quite obvious that there was some
9 aggressive action going on here to get Larry
10 Fisher's picture and photo out in the public, that
11 seems to be the basis of what they were attempting
12 to do, and at the same time wanting to interview
13 Linda, who didn't want the publicity, and she was
14 concerned about safety issues, obviously, and she
15 just didn't want to go the publicity route.

16 Q And then scroll down to 179, pardon me, 178:

17 "S/Sgt. Bonnar Ottawa ...",
18 and he's the fellow who has previously
19 communicated with you about the Commissioner's
20 concerns:

21 "... called again, about DNA
22 examination. I referred him to
23 Williams, who has researched the DNA
24 aspect of this inquiry."

25 And I take it that would be Eugene Williams; is



1 that right?

2 A Yes.

3 Q And was he, in fact, looking at the DNA aspect of
4 the inquiry?

5 A Yes. As I mentioned, this was in the very early
6 stages of the science of DNA, and the only lab
7 that was doing it in the RCMP was in the crime lab
8 in Ottawa, and the other labs at this point -- I
9 stand to be corrected -- were not involved in the
10 DNA examination. So Mr. Williams, being in
11 Ottawa, was dealing with the people there.

12 Q And then June 22nd, 1990, which I believe is the
13 date that the CBC aired a story naming Larry
14 Fisher, and you have a call:

15 "Mr. Pick, Fisher's lawyer, called and
16 expressed concern about the recent CBC
17 news item about his client. Pick will
18 be meeting with his client in the next
19 few days and will call me after that
20 time. Pick is suggesting he may advise
21 his client to take a polygraph
22 examination through a private
23 investigator, possibly Mike Robinson,
24 ex-RCMP, currently of Saskatoon."

25 And I think you had told us last sitting that you



1 were trying to get a polygraph of Mr. Fisher with
2 a member of the police force; is that correct?

3 A Well that's what, that's what I had wanted, and it
4 was mentioned to Mr. Pick. It wasn't something
5 that took a lot of discussion based on the fact
6 that Mr. Pick was in the driver's seat, was making
7 decisions on his client, and we were gonna take
8 basically whatever we could get, and this was the
9 route that he was going to take with Larry Fisher.

10 Q And as an investigator, as a police investigator,
11 Mr. Pearson, were there -- or let me rephrase
12 that. Would it have been preferable to have a
13 polygraph of Mr. Fisher conducted by a police
14 officer with your involvement?

15 A That was my preference. And it has nothing to do
16 with Mike Robinson, he is a well-respected
17 polygraph operator, however I just believed that
18 the post-test interrogation potential to probe any
19 deception would probably be more aggressively
20 pursued through a police polygraph operator as
21 opposed to one that was called by the defence, so
22 to speak.

23 Q And I think you said the words were that Mr. Pick
24 was in the driver's seat; is that right?

25 A Well yes, that's right, he was the person who was



1 going to say "yes" or "no" to whatever our
2 requests were, on behalf of his client.

3 Q And then scroll down, June 25, 1990:

4 "Celine Armstrong was interviewed a few
5 days ago and her statement is currently
6 being typed."

7 So I take it you interviewed Celine Armstrong?

8 A Yes.

9 Q If we could call up 301116, full page, and this is
10 Appendix BB to one of your reports; would this be
11 the typewritten version of the statement you
12 obtained from Celine Armstrong?

13 A Yes.

14 Q What was your practice, Mr. Pearson, as far as
15 recording statements and having them typed?

16 A They would be handwritten and the handwritten
17 version would be provided to my secretary, who
18 would type up the documents, and I would scan the
19 typed version. I, I'm not going to say that I
20 proofread it word for word, but that was basically
21 the process that we went through.

22 Q And just generally what was the purpose of getting
23 a statement from Celine Armstrong at this time in
24 1990?

25 A Well that was on the request of Mr. Williams.



1 Q And do you recall specifically what, what it was
2 he was looking for or you were supposed to be
3 looking for?

4 A I believe that he was talking about the blood and
5 just general details of what she could recall on
6 the morning that Milgaard was at the Cadrain
7 house.

8 Q And then again if we can go to, we've been through
9 this statement before, if we can go to the next
10 page. And I think Ms. Armstrong is, at this
11 point, saying that she was in bed upstairs but
12 could hear this discussion, and:

13 "The male and female friend with Hoppie
14 came into the house as well. Almost
15 immediately the fellow called "Hoppie"
16 was asking for a pair of pants. Albert
17 was obviously not looking for pants for
18 Hoppie, who continuously raised the
19 concern that he wanted a pair of pants.
20 It took Albert quite a while to finally
21 get a pair of pants for Hoppie."

22 Then scroll down:

23 "I came downstairs when it seemed like
24 Albert was going to leave with Hoppie.
25 When I got downstairs, Albert introduced



1 everyone to me, but I don't remember
2 their names or what they looked like.
3 The fellow by the name of Hoppie was
4 wearing dark coloured pants."

5 And then here:

6 "The pants I saw Hoppie wearing were not
7 ripped and did not have any blood on
8 them."

9 And so, again, would that have been the relevant
10 information?

11 A Yes, in part, sure.

12 Q And what, if anything, did that tell you Mr.
13 Pearson?

14 A Well, the fact that she came down and didn't see
15 any blood on his clothes. Now whether he had
16 already changed, I'm not sure.

17 Q And, again, I take it you would have prepared this
18 statement and then sent it off to Mr. Williams --

19 A Yes.

20 Q -- for further use?

21 A Yes.

22 Q Go back to 056782, and down at the bottom,
23 paragraph 182. This is again June 25th, if you
24 could just go to 181:

25 "Mr. Williams also called, indicating he



1 has not yet been able to locate Art
2 Roberts, the polygraphist on Wilson. I
3 will make inquiries. Williams is
4 interested in accessing any recollection
5 or notes that Roberts may possess on his
6 involvement in this matter."

7 And other than perhaps locating Mr. Roberts did
8 you have any involvement in Mr. Williams, or
9 anybody else's, interview of Art Roberts and his
10 involvement in the original investigation?

11 A I, all I did was locate Mr. Roberts, and asked him
12 -- talked to him on the phone, asked him if he had
13 any notes or records, he said he did not, and I
14 indicated to him that a Federal Justice lawyer,
15 Mr. Williams, will probably be contacting him
16 because he had some questions for him. I was not
17 directly involved in any of the interviews with
18 Mr. Roberts.

19 Q And then paragraph 182:

20 "Amy Ehman of CBC called, wanting to
21 confirm if I was going to interview
22 Larry Fisher. I did not deny or confirm
23 the fact Fisher was the person I was
24 pursuing. I explained to her I was not
25 attempting to stonewall her efforts but



1 was merely respecting the identities of
2 those people involved."

3 And can you tell us, elaborate on that Mr.
4 Pearson, what was -- what position were you in at
5 the time as far as talking to the media about
6 Larry Fisher by name?

7 A I -- I wasn't talking to the media at this point,
8 well at any point actually, but I didn't discuss
9 with the media what I was doing. I wanted to keep
10 this as low-key as I could possibly do it for the
11 benefit of attempting to bring Larry Fisher along,
12 and at the same time the media were on the story,
13 obviously.

14 Q And, again, did you have concerns about your word
15 here that you were not stonewalling or attempting
16 to stonewall her efforts, did you -- can you
17 elaborate on that concern?

18 A Well I -- you know, the press has an important
19 role to play, and I didn't want to make it sound
20 like, you know, it was none of their business. I
21 just felt at this point it wasn't appropriate, at
22 this point, to start granting interviews in the
23 middle of a police investigation and, as
24 diplomatically as I could, I tried to put her off.

25 Q And then the next page, please, go down to 184:



1 "Had a telephone conversation ...",
2 this is June 26th:

3 "... with Mr. Williams and passed on to
4 him the locate of Roberts. Also advised
5 Mr. Williams that local TV had footage
6 of Albert Cadrain claiming to have been
7 pressured by Saskatoon City Police in
8 1969, which caused him to have mental
9 problems after the Court case. Cadrain
10 did maintain he saw blood on Milgaard's
11 clothes."

12 And do you have a recollection of this event, Mr.
13 Pearson?

14 A No, I don't, --

15 Q Okay.

16 A -- I really don't.

17 Q And it looks as though you, at least from this
18 note, that you were telling Mr. Williams about
19 television coverage of Mr. Cadrain; is that --

20 A Yes, that -- well yeah that's obviously, you know,
21 what I was doing, but I don't have a recollection
22 of it.

23 Q Yeah. And are you able to tell us whether or not
24 you knew Mr. Williams was already aware of that
25 information or whether you were telling him for



1 the first time?

2 A I -- I don't know.

3 Q And scroll down to 185:

4 "I received a phone call from Insp.
5 Simpson, Saskatoon City Police, advising
6 one of their members, Cst. Hartman, had
7 been approached by an individual
8 identified as Ken Cadrain who was six
9 years old at the time of the Miller
10 murder, and recalls Milgaard coming to
11 the Cadrain home on the morning of the
12 crime, and recalls seeing blood on
13 Milgaard's pants. Some indication Ken
14 is interested in talking to police.
15 Insp. Quinn believes someone other than
16 City Police should interview Cadrain
17 ...",

18 and then goes on to give his address. So, again,
19 do you have a recollection of receiving that
20 information?

21 A Yeah, yes I do, uh-huh.

22 Q And would you have passed that information on,
23 then, to Mr. Williams?

24 A I probably did, but I also initiated a -- an
25 interview with Ken Cadrain.



1 Q And would that be something that you did on your
2 own, or is that something that you would have
3 cleared with Mr. Williams, or are you able to tell
4 us?

5 A I can't really tell you, but it's something that I
6 could very well have done on my own.

7 Q And then if we can go to -- just on the date, this
8 is June 26th, 1990 -- if we can go to 151310, and
9 this is your June 26th, 1990 report, and I'm
10 sorry, "PCR" is 'previous'?

11 A 'Previous crime report'.

12 Q Previous Crime Report April 17th, 1990, we've
13 already gone through that, so again if we can just
14 touch on parts of this. And I think, last day
15 when you were testifying, you indicated that these
16 reports were to your superiors with copies to
17 Eugene Williams and they summarized and provided a
18 synopsis of the work that you had done in the
19 previous period; is that correct?

20 A Yes, and they were reports that they forwarded to
21 Mr. Williams, I didn't forward them direct, --

22 Q Yeah.

23 A -- they went up through channels.

24 Q Correct, I'm sorry, that you would send to your
25 superiors with the requests that they forward them



1 to Mr. Williams?

2 A Yes.

3 Q And I think we saw, when we went through a few
4 earlier ones, there is a fair bit of repetition
5 between what's in these reports and what's in your
6 office chronology; is that fair?

7 A That's fair, yeah.

8 Q And part (b), as far as complaint:

9 "The aspect of the Application which
10 involved the Force in Saskatoon is that
11 a new suspect, Larry Fisher, may have
12 been responsible fo the murder.",
13 and then your previous report outlined
14 investigation to that time. And then if we can
15 go to 151313, sorry, 313, 151313. And we see,
16 down at the bottom, 4. Further Investigation, you
17 are saying:

18 "(a) Currently steps ...",

19 and this is June 26th:

20 "... are being taken to deal with Mr.
21 Fisher through his recently appointed
22 counsel. During recent telephone
23 conversations with Mr. Pick, he is
24 suggesting he will be encouraging his
25 client to cooperate and that a polygraph



1 examination through a private firm is
2 being considered."

3 And if we can go to 151312, which I think is the
4 next page, under 5. Summary:

5 "Larry Fisher indicates he wishes to
6 cooperate ...",

7 maybe just call that out at the top, please:

8 "... however, backs away from the
9 opportunity to answer questions when
10 there is a face to face confrontation.
11 He began by wanting a lawyer, then
12 wanting a lawyer present, then providing
13 a legal deposition, then backing away
14 further by having written questions
15 provided through his counsel. As well,
16 Mr. Fisher has refused to provide a
17 blood sample or polygraph examination.
18 Mr. Fisher will be pursued until all
19 avenues of opportunity are closed to the
20 investigator."

21 And then scroll down under 6(a), and these are
22 your comments, sir, is that right, at the time,
23 it says:

24 "(a) Much can be read into Mr. Fisher's
25 reluctance to be personally interviewed.



1 One must question why an innocent
2 person, if being suspected of a murder,
3 would not avail himself of every
4 opportunity to eliminate the suspicion.
5 While Mr. Fisher certainly has the right
6 to remain silent and is innocent until
7 proven otherwise, his reluctance to
8 cooperate in clearing the air leaves me
9 with two opposing thoughts:

10 (i) Mr. Fisher has spent 20 years
11 confined in a penitentiary environment.
12 He associates daily with hardened
13 criminals and has developed a total
14 mistrust and fear of the judicial
15 system, believing that any blood,
16 polygraph or interview evidence will be
17 manipulated and used against him.

18 (ii) Mr. Fisher was involved in the
19 murder of Gail Miller."

20 And I take it, sir, that would have been your
21 view at the time?

22 A Yes. Yes.

23 Q And can you tell us, compared to when you first
24 became aware of Mr. Fisher as a possible suspect
25 back when you received the information from



1 Mr. Williams back in March of 1990, to this point,
2 and based on your dealings with Mr. Fisher, and in
3 particular your observations and concerns about
4 his reluctance to be interviewed, was he any more
5 or less of a suspect than you thought so
6 initially?

7 A No, I think initially the suspicion was rooted in
8 the history of the individual as far as his
9 criminal activity, plus the other things of being
10 at the same location that Milgaard was on the
11 morning and what was being said by Linda Fisher,
12 but as the contact with Larry Fisher progressed,
13 my thoughts I think are well laid out right here
14 in that if this person is innocent he's not
15 behaving like an innocent person and I was trying
16 to rationalize why he would think that way. You
17 see, there he's been in the environment and he's
18 got total mistrust and won't cooperate with
19 anybody, or because he's involved in this
20 homicide, and, yeah, I was suspicious.

21 Q And were you more suspicious in June of 1990 than
22 you were in, let's say, March of 1990 after you
23 interviewed Linda Fisher, or are you able to tell
24 us?

25 A It's hard to say, but I think this was progressing



1 along. I mean, there were times I'm sure I
2 wavered. There was, you know, David Milgaard on
3 the other side who had been convicted through the
4 justice system and so I had suspicion, but I was
5 weighing a lot of things.

6 Q Right. If we can maybe go to the next page,
7 please, and under (d):

8 "The Milgaard case is currently being
9 re-examined on three fronts:
10 (i) Pursuing the new suspect, Larry
11 Fisher. This aspect of the
12 investigation is being handled by
13 Saskatoon GIS."

14 And that was you; correct?

15 A Yes.

16 Q And then:

17 "(ii) One of the main Crown witnesses
18 at the Milgaard trial, Ronald Wilson,
19 recently recanted his original testimony
20 after being interviewed by a private
21 investigator hired by the Milgaard
22 family. This aspect of the
23 investigation is being handled by
24 Kelowna, B.C. GIS."

25 I take it that's the RCMP in Kelowna?



1 A Yes.

2 Q Did you have any dealings with them or any
3 involvement with the work they were doing with Ron
4 Wilson?

5 A No. I had no knowledge of another RCMP agency
6 being involved in this until I believe there was
7 some questions being raised at the government
8 level and the Commissioner level and it was at
9 that time that Mr. Williams advised me that there
10 was actually an RCMP member in Kelowna who was
11 doing some work for him and later I found that to
12 be, I believe, dealing with Wilson.

13 Q And I think would that be, I think when I went
14 through in May of 1990 and June of 1990 when you
15 were asked to answer those questions for the
16 Commissioner, was it through that process that you
17 learned --

18 A Yes.

19 Q -- about the Kelowna involvement? Is that
20 correct?

21 A Yes, that's correct.

22 Q And then number (iii) you talk about, and I won't
23 go through it, but the original forensic reports
24 and the Markesteyn and Ferris information and you
25 conclude:



1 "This aspect of the investigation is
2 being pursued by Mr. Williams of the
3 Federal Justice Department."

4 And I take it that was the case at the time?

5 A Yes.

6 Q And then lastly in this report:

7 "Also find attached a statement recently
8 obtained from Celine Armstrong, nee
9 Cadrain, who was 20 years of age at the
10 time of the murder and who relates
11 certain activities of Milgaard on the
12 morning of the Miller murder. The
13 significance of her recollection is that
14 Milgaard was anxiously looking for a
15 pair of pants to change to when he
16 arrived at the Cadrain residence. Once
17 the change of pants took place, he was
18 then anxious to leave, and seemed to be
19 extremely excited."

20 And again, was this a piece of information --
21 where did this fit in, Mr. Pearson, as far as
22 trying to weigh things for Mr. Milgaard as a
23 suspect?

24 A I just think it came out as someone who was in a
25 hurry to leave and I suppose you could build some



1 suspicion into that, why he would be so anxious to
2 leave the area. He was extremely excited and
3 again that may mean something, it may not.

4 MR. HODSON: This might be an appropriate
5 spot to break, Mr. Commissioner.

6 *(Adjourned at 2:57 p.m.)*

7 *(Reconvened at 3:20 p.m.)*

8 BY MR. HODSON:

9 Q When we adjourned, Mr. Pearson, we had touched on
10 your June 26th, 1990 report. I want to go ahead
11 to June 28th, if we can call up 010016, and this
12 is Mr. Williams' memo to his file of June 28th,
13 1990 about a discussion with Mr. Pick, but I just
14 want to ask you, the second paragraph says
15 Mr. Pick -- it talks about a call that Eugene
16 Williams had with Mr. Pick and that:

17 "Mr. Pick indicated that he had
18 conducted a one and a half hour
19 interview with his client, and has
20 scheduled a further interview for
21 Tuesday July 3, 1990. Mr. Pick also
22 noted that Mr. Fisher feels insecure
23 about his own safety and is afraid to
24 return to the Prince Albert
25 penitentiary. Fisher had received



1 threats from other inmates, while he was
2 in the Prince Albert penitentiary. It
3 appears that his guilt has already been
4 determined by his fellow prisoners,
5 perhaps due to the media accusations
6 levelled against him."

7 And again this is Mr. Williams' memorandum. Can
8 you tell me what -- whether this is something you
9 thought or observed at the time, Mr. Pearson, or
10 whether you learned this from Larry Fisher at the
11 time or around the time?

12 A Larry Fisher had expressed concerns that -- I do
13 recall the call that I had from Mr. Pick over the
14 publicity that I think -- well, the program was
15 out and he talked rather, he was concerned about
16 the issue of bringing his client, Mr. Fisher, into
17 the picture. Whether I had knowledge of threats
18 to Larry, I know he was, there was ongoing concern
19 that -- to be specific, I just don't recall.

20 Q If we can just go down to the bottom of this memo,
21 and again this is June 28th, and we've been back
22 and forth a bit on the deposition and the
23 polygraph, but on this date Mr. Williams writes:

24 "However, Mr. Fisher's current emotional
25 and psychological state, is such that



1 Mr. Fisher is not yet prepared to be
2 interviewed or to undergo the polygraph
3 test."

4 And then the next page:

5 "I told --"

6 This being Mr. Williams,

7 "-- Mr. Pick that I would consider our
8 position in relation to the scope of an
9 undertaking in relation to the
10 interview. As a result of our
11 discussions, Mr. Pick said that he would
12 call to advise me of the results of his
13 meeting with Mr. Fisher on or before
14 July 5, 1990. It appears that Sgt.
15 Pearson has developed a good rapport
16 with Mr. Pick and with Mr. Fisher, so
17 that his attendance at any future
18 meeting could facilitate a frank
19 disclosure by Mr. Fisher."

20 And again, did you believe, Mr. Pearson, that you
21 had established a good rapport with Mr. Pick and
22 Mr. Fisher at this time?

23 A Well, I believe I had a rapport for many years
24 with Mr. Pick, you know, on a professional level I
25 suppose. With Mr. Fisher it was evolving. Like I



1 say, there was a reluctance, I'm not sure if you
2 can read that into him not really wanting to trust
3 me or -- but I felt that we were making some
4 progress.

5 Q If we can go back to 056783, and again just down
6 at the bottom, just pick it up on July the 3rd now
7 and a discussion with Mr. Williams where he asked
8 you to locate George Lapchuk and Greg, that should
9 be Craig Melnyk, it says:

10 "These two were present with Milgaard
11 and at a party in May 1969 in a motel
12 room, in which Milgaard had apparently
13 went through an enactment, making some
14 suggestions that he was involved in the
15 Miller murder."

16 So I take it at this time you were asked to
17 locate Melnyk and Lapchuk; is that right?

18 A Yes, he wanted some assistance in finding these
19 people because I believe he wanted to talk with
20 them.

21 Q And apart from finding them, did you have any
22 further dealings with interviews of Melnyk and
23 Lapchuk?

24 A I had nothing to do with Lapchuk or Melnyk.

25 Q Go to the next page, and again this is July 3rd of



1 '90, and it says:

2 "Mr. Harold Pick called, saying he had
3 an interview with his client Fisher. It
4 was agreed that myself and Mr. Williams
5 could interview Fisher. It was also
6 arranged by Mr. Pick to have private
7 polygraph operator Mike Robinson take a
8 test of Mr. Fisher. If the charts are
9 clean and in favour of his client, it
10 will be released to us, however they are
11 not conclusive or if Fisher fails, then
12 we will get nothing but the interview.
13 Mr. Pick does not "think" his client
14 involved. Fisher feels concerned about
15 returning to the P.A. Pen and wants to
16 transfer to Mountain Prison in B.C.
17 Mr. Pick wanted me to initiate contact
18 with the Prince Albert Correctional
19 system to determine if there could be a
20 move generated. I will be in touch with
21 P.A. Security, explaining the concerns
22 Fisher has; i.e., publicity, threats for
23 his safety, etc."

24 I'm wondering if you can just comment, and we
25 heard from Mr. Robinson already on this point, on



1 the conditions, that if Mr. Fisher failed the
2 polygraph you wouldn't know about it; is that --
3 or you wouldn't get the results. I suppose you
4 could infer that he failed.

5 A That was my understanding, that we wouldn't be
6 provided any of the documentation.

7 Q And what was your reaction to the terms that were
8 being put forward by Mr. Pick?

9 A Well --

10 Q For the polygraph?

11 A What was my reaction?

12 Q Yes.

13 A Well, like I say, he was setting the parameters by
14 which we were going to be able to interview. I
15 indicated that I would have preferred to have a
16 police polygraph operator and I guess he wasn't
17 going to provide anything that might be
18 detrimental to Mr. Fisher and that's about all I
19 can say on that really.

20 Q So if Mr. Fisher passed the polygraph, in other
21 words, he denied involvement in the murder and
22 passed, then that might be something that would
23 assist the investigation in eliminating him as a
24 suspect; is that fair?

25 A That would assist, yes.



1 Q And would that be conclusive?

2 A I don't believe it would be conclusive, but it
3 would have to be something that you would weigh.
4 I mean, the polygraph is not an exacting tool.

5 Q And so that's one scenario. The second scenario
6 is that he fails the polygraph, in other words,
7 his denial of being involved in the murder would
8 be determined to be deceptive and in that
9 scenario, according to this, you would never know
10 that, or you would never have the charts; is that
11 fair?

12 A That's fair, yes. I believe that was the
13 arrangement.

14 Q And I suppose if the polygraph was done and
15 Mr. Pick phoned you and said I'm sorry, I can't
16 give you the charts, you might infer from that
17 that he failed; is that --

18 A Yes.

19 Q Although you don't have the charts, you would
20 know, or have a pretty good idea of what happened
21 at the test; is that fair?

22 A Well, according to the conditions he said he would
23 operate by, if the charts were clean we would get
24 them. If we didn't get them, I guess that means
25 there was another problem.



1 Q And I guess the third scenario is that they would
2 be inconclusive and they wouldn't be helpful
3 either way?

4 A That's right.

5 Q And I take it then as well in this scenario that
6 you would not have an opportunity, or anybody else
7 on behalf of the RCMP or on behalf of the
8 authorities, to use the polygraph results to
9 question or interrogate Mr. Fisher further?

10 A No.

11 Q And that was something you had strived for or
12 sought when you first contacted Mr. Fisher; is
13 that correct?

14 A Well, personally that's what I wanted. It had
15 been run by Mr. Pick during conversation, but he
16 had indicated that this is the way he was going to
17 go, with the private polygraph operator.

18 Q And then scroll down, please, paragraph 190, we're
19 now July 4th, 1990:

20 "Mr. Williams called, wanting to confirm
21 if Saskatoon City Police had any
22 information on convictions of Fisher in
23 Saskatoon in 1968 to 1970. It was
24 originally believed these were Regina
25 offences but is now believed Fisher went



1 to court in Regina and the offences
2 actually took place in Saskatoon.

3 I called Saskatoon Provincial
4 Court, Bob Taylor, and also Regina
5 Provincial Court, Shirley Newels. It
6 was determined that QB Court held
7 records in Regina. I called Maggie
8 Pelletier, Regina QB, who confirmed she
9 had conviction records for Fisher on the
10 following dates:"

11 And then it lists the four complainants. If I
12 can just pause there. Up until this point, at
13 least in your notes, it appears, Mr. Pearson,
14 that you are operating under the assumption or
15 basis that Mr. Fisher's 1968 offences took place
16 in Regina; is that correct?

17 A That's right.

18 Q And there was one document that I showed you last
19 sitting, one of your reports that talked about the
20 1968 offences in Regina and a reference to
21 Saskatoon. I think that was in one of your
22 reports. Do you remember that, going over that?

23 A Yes.

24 Q And I also, when we went over your evidence
25 earlier, it looked as though the reference to the



1 Regina offences may have come from a CPIC, either
2 yours or Mr. Asper's or somewhere else, is that
3 fair, and I think you told us you weren't sure but
4 it could have been you who first put forward that
5 they were Regina offences?

6 A Yes, I believe that's fair.

7 Q And I went over in your evidence last sitting, I
8 think there was a note where you made inquiries of
9 the Regina police to get their records for these
10 offences and found nothing. Can you tell us, do
11 you have a recollection of learning of this from
12 Mr. Williams about these offences being in
13 Saskatoon?

14 A You know, I don't, other than what is written
15 there, which is, I believe, accurate, where he was
16 wanting confirmation of the City of Saskatoon
17 convictions of Fisher.

18 Q If you had -- if you had been aware -- or if you
19 had been aware prior to this date that the Fisher
20 rape offences had occurred in Saskatoon rather
21 than Regina, would you have done anything
22 differently in your previous months' work, or few
23 months previous?

24 A No, I'm not sure. You know, I know a lot hinges
25 on these previous offences, but, you know, going



1 back to the time that I was involved in developing
2 and working with Larry Fisher, I was looking at
3 his criminal record as really the basis of
4 suspicion and it's not common police practice to
5 go and find all of the police files that are
6 associated with the criminal record unless you are
7 going to do something like what was eventually
8 done, a similar fact analysis, and I can say at
9 that point that was not something that I had
10 initiated, it's not something that was asked of me
11 by Mr. Williams.

12 Q If we can go to 010019, and this is a July 5, 1990
13 memorandum from Eugene Williams to the file, and
14 if we can just go to the top, please, it says:

15 "On July 4, 1990, I learned from Bruce
16 MacFarlane that Hersh Wolch had the
17 names of four Saskatoon rape victims,
18 allegedly assaulted by Larry Fisher.
19 This information did not accord with the
20 information we had earlier received from
21 the R.C.M.P. and the Saskatoon City
22 Police, who advised us that there were
23 not any incidents of rape attributed to
24 Larry Fisher, which occurred in
25 Saskatoon."



1 And it appears at least from this memorandum, Mr.
2 Pearson, that the Saskatoon City Police did not
3 have any, or did not provide any information to
4 you up until this point about incidents of rape
5 attributed to Larry Fisher. Do you know if
6 that's the case?

7 A Yes. There was, as I recall, no record at all
8 with the city police pertaining to Larry Fisher.

9 Q And so do you believe that inquiries would have
10 been made of the Saskatoon City Police by you or
11 Mr. Williams?

12 A Oh, yes.

13 Q By you saying have you got anything on Larry
14 Fisher?

15 A Yes.

16 Q So the fact that you thought they were Regina
17 offences, is it your evidence, sir, that you still
18 made inquiries with the Saskatoon police about
19 files relating to Larry Fisher?

20 A Oh, I'm -- I don't have a recollection of it, I'm
21 only assuming that that would be the natural thing
22 you do, but I can't really say that I can remember
23 a date or a specific person I was talking to.

24 Q And then I think, and as we'll see when we go
25 through the records, that you subsequently, and



1 again I'll go through this in more detail, but
2 subsequently when you went to try and find the
3 files relating to Larry Fisher, they were not
4 readily available and in fact some never were
5 located; is that fair?

6 A My recollection is that staff sergeant -- or
7 Sergeant Bertrand at the time had one partial
8 file, I think it was the (V1)- file, and if I'm
9 not mistaken there was 10, 11, 12 pages of a
10 report, a partial report, and at that time that's
11 all that was available of the four Saskatoon
12 offences that Larry Fisher had been involved in is
13 my recollection.

14 Q So if we can just scroll down, it looks as though
15 the names of the victims were provided and that
16 Mr. Wolch asked Mr. Williams for copies of the
17 occurrence reports and the witness statements
18 relating to these offences.

19 "He noted that the information about
20 these victims came from a C.B.C.
21 documentary which was recently aired.

22 He also wanted to know when the
23 investigation would be completed, and
24 whether we had interviewed Larry Fisher.
25 He repeated his beliefs that his client



1 was innocent, and indicated that he
2 wanted to use the occurrence reports to
3 establish a pattern of similar act, to
4 identify Larry Fisher as Gail Miller's
5 assailant."

6 And so just pause there. At the time what was
7 your familiarity with this concept of similar act
8 or similar fact evidence?

9 A I was familiar with it, yes.

10 Q And what was your understanding, just generally,
11 of what, as an investigative tool, similar fact,
12 or here similar act --

13 A I think -- I think at this point, and I think this
14 is a fairly important point in this, is that --
15 again, I'm just going back to Mr. Williams'
16 position of the necessity to establish an
17 association between Larry Fisher and Gail Miller
18 and I think maybe this is where this part of it
19 wasn't pursued on our part as far as a similar
20 act. I certainly used the criminal record as the
21 basis of my suspicion for Larry Fisher, but
22 converting that suspicion into evidence through an
23 analysis of similar fact, that jump wasn't made,
24 and it wasn't asked by me to make it, by either
25 Mr. Wolch or Mr. Williams, and it wasn't something



1 I initiated on my own.

2 Q And again as an investigator, and we'll get to
3 this I think in the second application that was
4 something that was pursued; is that correct?

5 A Yes, it was.

6 Q And again just as an investigator, Mr. Pearson,
7 what would that tell you, if you looked at -- I
8 mean, you've already told us that at this time you
9 think Larry Fisher is a suspect and I think what
10 you've told us, the fact that he was, (a), lived
11 in the area, a block and a half away from where
12 the murder took place; (b), had a criminal record
13 of a number of rapes, is that correct, some with a
14 knife --

15 A Yes.

16 Q -- and (c), the information of Linda Fisher that
17 suggested that he was not at work that morning?

18 A That's correct, yes.

19 Q And so again, and I think you said that was the
20 basis of your suspicion and that you were
21 investigating trying to turn suspicion into
22 evidence that would link him to the Gail Miller
23 murder, or words to that effect. Do you recall
24 giving that evidence?

25 A Yes.



1 Q And so again would looking at previous rape
2 offences of Larry Fisher provide a link to the
3 murder of Gail Miller or would it be in the
4 suspicion category?

5 A I believe it would be in the suspicion category as
6 far as I guess lawyers and people who know a lot
7 better than I, but I believe that I was looking
8 for something that linked Larry Fisher to the
9 homicide of Gail Miller.

10 Q And there is in the documents, and we've heard
11 some evidence, and we'll hear more evidence about
12 the extent to which the seven previous convictions
13 are similar and not similar to the Gail Miller
14 murder, but putting that aside, if the *modus*
15 *operandi* or the previous offences of Mr. Fisher
16 were very similar to the Gail Miller murder, take
17 that as an assumption, again I want you to tell us
18 as an investigator, does that at some point
19 provide you with the necessary link to the Gail
20 Miller murder and give you enough to say okay,
21 there's now enough evidence for a charge, or does
22 it simply raise your suspicions?

23 A I think it raises the suspicions. I don't
24 believe that -- and again, this is not something
25 I'd initiate on my own, but I'm sure if I went and



1 talked to Crown counsel based on the similarities,
2 I doubt very much that I would ever get authority
3 or support to initiate a charge based on that, on
4 that alone, but that's just my opinion.

5 **Q** Right. So again, and I think you've told us in
6 your earlier evidence that the fact that he was in
7 the vicinity of where the murder took place and
8 had a disposition to commit rapes with a knife,
9 and I think you said it doesn't matter where the
10 rapes take place, what was important is where he
11 was on the morning of the murder and the type of
12 person he was, or words to that effect; is that
13 correct?

14 **A** Yes. I think when you put all those together, it
15 does create a suspicious set of circumstances, and
16 as far as his record was concerned, the fact that
17 he had been in Winnipeg, Saskatoon and North
18 Battleford, I mean, he committed these offences
19 wherever he was as opposed to all being in his
20 neighbourhood in Saskatoon.

21 **Q** I want to ask you, and again I appreciate this is
22 Mr. Williams' memorandum where he says I told Mr.
23 Wolch that our interviews had not been completed,
24 and actually, if I can just go back -- actually,
25 just go back to the previous page down at the



1 bottom, and Mr. Williams is saying that Mr. Wolch
2 also wanted to know when the investigation would
3 be completed and whether we had interviewed Larry
4 Fisher. Then if we can go to the next page, he
5 says:

6 "I told Mr. Wolch that our interviews
7 had not been completed, partly because
8 of the intervention of his office - a
9 suggestion he denied - and would not be
10 completed until all the submissions had
11 been received and examined."

12 Now, in fairness, I'm not sure if Mr. Williams is
13 referring to interviews of Larry Fisher or of
14 other witnesses, but, Mr. Pearson, did you
15 have -- was there any delay in your arranging, or
16 your work in trying to complete the interviews of
17 Larry Fisher, were they in any way hindered by
18 the actions of Mr. Milgaard's counsel, Mr. Asper
19 or Mr. Wolch at the time?

20 A I don't believe so.

21 Q And then the memo -- or it goes on to say:

22 "After speaking with Mr. Wolch, I asked
23 Sgt. Pearson to search the Saskatoon
24 City Police files to determine whether
25 Larry Earl Fisher was convicted, as



1 alleged of the rapes and indecent
2 assaults of the victims noted above. If
3 there was a link, I requested that he
4 send occurrence reports and witness
5 statements, where available, which
6 relate to the offences. He agreed to do
7 so."

8 And I think from your notes that's in fact what
9 happened; is that right?

10 A Yes.

11 Q And then it looks as though:

12 "In a later conversation that day, Sgt.
13 Pearson noted that the convictions
14 registered in Regina apparently occurred
15 in Saskatoon. He will redouble his
16 efforts to locate the files and provide
17 the materials I requested."

18 And I think is that a fair statement of what took
19 place between you and Mr. Williams?

20 A I believe so.

21 Q Then if we can go to 010033, please, and this is a
22 July 5, 1990 letter from Mr. Wolch to
23 Mr. Williams, and again it refers to the July 4th,
24 1990 discussion with Mr. Williams, and then this
25 paragraph here at the bottom, it says:



1 "It is also disconcerting that the
2 entire nature of the review
3 investigation appears to be directed at
4 trying to maintain the status quo and is
5 not directed at obtaining any
6 information that would exonerate David.
7 All of the information which exonerates
8 David has come from our sources.
9 Keeping in mind that we have no
10 financial support at all we cannot help
11 but wonder what we would achieve if we
12 had the same resources that you have."

13 Let me just pause there, and again this is a
14 letter to Mr. Williams, not to you, but as far as
15 your work in the investigation, being directed to
16 maintain the status quo and not being directed at
17 obtaining any information that would exonerate
18 David, was that in fact what you were doing, Mr.
19 Pearson?

20 A No, I believe I was actively attempting to --
21 first of all, I was tracking down the -- well, the
22 blood type for Larry Fisher, I was going through
23 his counsel in attempting to get an interview with
24 Mr. Fisher, we know how that progressed, and I was
25 also talking about a legal deposition or interview



1 with him, so that was being pursued, you know, as
2 aggressively or as quickly as it would unfold for
3 me, so I don't really agree with maintaining the
4 status quo.

5 Q And if you found information or evidence that
6 would exonerate David, again, is that something
7 that was part of what you were looking for?

8 A Oh, sure, yes.

9 Q Then down at the bottom of this paragraph Mr.
10 Wolch writes:

11 "It was somewhat disturbing to learn
12 that as of this date you are not totally
13 familiar with the nature and substance
14 of the record of Larry Fisher. Clearly
15 you would have better access to the
16 record and the police reports than we
17 would, and yet in spite of the fact that
18 we furnished the information some time
19 ago, it appears that you either did not
20 receive the information or received
21 wrong information in this regard."

22 I'm just wondering, your comment about Mr.
23 Wolch's concern there, Mr. Pearson, about -- and
24 I think what he's saying is in July of 1990 you
25 and/or Mr. Williams or whoever did not have Mr.



1 Fisher's accurate record of what offences he had
2 committed?

3 A The -- we had a record of his offences, we had his
4 criminal record, it's just that we didn't have the
5 police files, and when we did go to Q.B. Court, I
6 mean, those are not police files, they were, I
7 think, a direct indictment and informations and
8 some of the official Court records, that they
9 themselves didn't really, as I recall, say
10 anything about the police investigation, and then
11 when we determined where these offences did take
12 place, the files were not available based on the
13 fact that only a partial file was found during our
14 initial attempts to find -- or get them.

15 Q If we can go to 011841, please. And this is a
16 letter from Mr. Williams to Harold Pick that
17 confirms the topics, and I think Mr. Pick had
18 wanted some idea of what was going to be asked, is
19 that right, before the deposition?

20 A Yes, uh-huh.

21 Q And that you were going to go with Mr. Williams,
22 and the following topics, the convictions that are
23 contained on the record, so in other words that
24 you were going to question him about his record
25 and those offences, the movements around the time



1 of the murder, and his personal and employment
2 history; is that right?

3 A Go back up. Who is this one addressed to?

4 Q This is from Eugene Williams to Harold Pick on
5 July 6th, 1990, and it's setting out -- Mr. Pick
6 had asked for the topics that were going to be the
7 subject of the deposition.

8 A I don't recall this, but --

9 Q That --

10 A Is this a memo that I have?

11 Q No.

12 A No?

13 Q This would be a letter from Mr. Williams to
14 Mr. Pick, but again, wondering as far as having
15 the topics that would be discussed. I think
16 earlier, when we looked at some notes, Mr. Pick
17 had said, and/or Mr. Carter, "before you interview
18 Mr. Fisher he wants the questions", or "he wants
19 to know what you are gonna ask him"?

20 A This could be. I don't recall, I don't recall
21 this, but it's possible. I mean, it's something
22 that Mr. Williams generated, so I am assuming
23 that's what the facts were.

24 Q If we can go down, next, to 056785. And, again,
25 at the top we then go into July 9 of 1990:



1 "Mr. Williams called, indicating he had
2 requested access to the file material on
3 Milgaard and has been in touch with
4 Mr. Wolch and it was ok to info from
5 Milgaard concerning psychiatric reports,
6 etc. We should access this information
7 which may assist in determining if
8 Milgaard is a suitable candidate for a
9 polygraph examination, and to determine
10 if he has any disorder which would bring
11 such an examination into question. As
12 well, such access may provide
13 information concerning details if
14 Milgaard ever wavered from his course of
15 denial in the Miller murder."

16 And, again, I take it at this time you would be
17 investigating prison records of Mr. Milgaard for
18 those two purposes?

19 A Yes, I believe that's what this was about, I
20 believe we did look to access some records of that
21 nature, yes.

22 Q And then if we can just scroll down, I won't go
23 through all of this, but there is a reference
24 about getting the information without consent of
25 the inmate, and that you contacted Mr. Williams in



1 Ottawa, and you say here:

2 "I asked Mr. Williams if he had obtained
3 permission from Wolch, which he said he
4 had. To me it sounds as though this was
5 a telephone agreement, nothing in
6 writing. I await further direction in
7 this regard."

8 So did you -- I take it at this time you were
9 pursuing, then, prison records of Mr. Milgaard?

10 A Yes, that seems to be what's going on here.

11 Q And as a police officer, or as an investigator,
12 did -- was that sometimes a source where you might
13 find information about what a prisoner may have
14 said about an offence that he or she is in for or
15 some other offence?

16 A Yes. I haven't had a whole lot of experience in
17 this particular area, but it was a potential
18 source, yes.

19 Q If we can then go to the next page, and this is at
20 the top, you:

21 "Received a telephone call from
22 Mr. Pick, who advised the polygraph test
23 had been attempted on Fisher, however
24 the operator could not get proper
25 readings which could be interpreted with



1 any accuracy. Apparently Fisher tried,
2 but could not provide readings which
3 would give conclusive results. Mr. Pick
4 would not agree the tests were
5 inconclusive but rather the polygraph
6 operator could not interpret the
7 readings. I am not too sure what the
8 difference is and exactly what he meant.
9 He didn't elaborate, even though I did
10 question him on this."

11 And then:

12 "... still have our meeting set for 2:00
13 pm with Fisher.",

14 so that would be the deposition. What was your
15 understanding, Mr. Pearson, of what the polygraph
16 results meant, if anything?

17 A On this particular test?

18 Q Yes.

19 A Well I -- I think, at the time, I knew that the
20 charts weren't going to be released to us because
21 the results were not conclusive, and I guess you
22 still have the same suspicion, that nothing has
23 really been cleared up, it's pretty well the same.
24 And, you know, I just wanted to add as well that
25 just a few days before this test I did meet with



1 Mike Robinson and provided him with the
2 information that he wanted, he asked to review the
3 files, and got the material that he thought was
4 necessary to do the test as well as he could.

5 Q And, again, did you reach any conclusions or have
6 any concerns that Mr. Fisher may have deliberately
7 caused the test to be inconclusive?

8 A Well that's always, that's always a potential, I
9 mean that's a given that's always there, that you
10 can have someone who will do what they can to
11 maybe make it look like they are co-operating but
12 they are never gonna give you a good result, I
13 mean that's a risk that's always there.

14 Q There has been suggestions somewhere in the
15 materials, and I believe maybe even partly in Mr.
16 Fisher's evidence, that the media attention and
17 the fact that Mr. Fisher was scared, if I can used
18 that term, of other inmates in the prison, that
19 all the -- all of the media attention surrounding
20 him being a suspect caused his physical condition
21 to be less than satisfactory, and that that may
22 have contributed to his inability to be tested.
23 And, again, was that something that you either
24 thought of or discussed with him or with others at
25 the time?



1 A No. There were two issues, I mean there was some,
2 you know, medical condition, but there was also
3 this ongoing issue and fear that he had about his
4 own safety. I mean before we -- very early in
5 dealing with Mr. Pick one of the conditions was
6 that I check to determine what -- the safety
7 issue, and I think they were looking at a transfer
8 at that time, I was wondering if maybe we were --
9 they were looking for something in return for the
10 interview, getting a transfer out of the
11 penitentiary in Prince Albert to another location,
12 but there was an ongoing concern expressed by
13 Larry Fisher about -- about his safety.

14 Q And then again, just 196, Mr. Williams talked to
15 you about a call he had with the acting warden
16 about the release of information, and I think this
17 relates to David Milgaard, and if we could call up
18 001907. And this is a letter of the same date,
19 July 10th, 1990, to Acting Warden Graceoffo -- I'm
20 not sure if I pronounce that right. This is your
21 letter, and talks about the 690, and then:

22 "The case is currently being examined on
23 several fronts, one of them being the
24 pursuance of a suspect currently
25 incarcerated in the Prince Albert



1 Penitentiary."

2 And then:

3 "One aspect of the investigation is the
4 eventual testing of Mr. Milgaard on the
5 polygraph if it is determined he is a
6 suitable subject for such an
7 examination. To determine the
8 psychiatric/character profile of
9 Milgaard, could I please be provided
10 with Milgaard's institution reports
11 covering the time period 1970 to 1977.
12 I understand such reports contain
13 details of the inmate's behaviour,
14 discipline, and psychiatric assessment.
15 In addition, may I also be provided with
16 copies of psychiatric reports completed
17 upon Milgaard's return from the
18 Diagnostic Centre in Calgary, Alberta,
19 during Aug 1986."

20 So apart from the polygraph, Mr. Pearson, would
21 there be any other reason, or to look at the
22 suitability for polygraph, would there be any
23 other reason that you would want to be getting
24 the psychiatric/character profile of Milgaard, of
25 Mr. Milgaard, at this time?



1 A I suppose at that time I was also interested to
2 know if there was any, I think at all, any mental
3 condition, so to speak, that he may, you know,
4 have this continual denial, possibly something
5 that he was involved in, or if there was any
6 condition that might enlighten us as to what his
7 innocence was all about, more of a gaining
8 information on the psychiatric and mental, you
9 know, condition of David Milgaard.

10 Q You told us a bit earlier that, when you were
11 looking at Larry Fisher as a suspect, that his
12 record -- and then I think we'll see where you
13 think you went and looked at his prison file as
14 well -- but information about Larry Fisher and his
15 character, etcetera, would be something that you
16 would consider in, in identifying him as a
17 possible suspect, or words to that effect?

18 A Yes.

19 Q Do you remember telling us that?

20 A Yes, yes.

21 Q Would, again at this time, getting the same or
22 similar types of information about Mr. Milgaard;
23 would that be, again, a tool used by you in
24 looking at whether it favours or does not favour
25 Mr. Milgaard as a suspect?



1 A I don't know if that was the primary focus here at
2 that time, to be quite honest with you, I think we
3 were looking at whether or not he was someone who
4 we could test on a polygraph and determine if
5 there was something there that could assist us.
6 And this would be an in -- this would be a
7 decision that I don't think I was capable of
8 making, I'm not a polygraph operator as such, but
9 it's just getting some more information.

10 Q And just generally, moving on from the polygraph,
11 I think you talked earlier about getting --
12 looking at prison records to see whether or not
13 there would be any admissions on the file?

14 A Yes.

15 Q And that was true for both Mr. Fisher and Mr.
16 Milgaard?

17 A Well, sure, yeah.

18 Q And I take it that if you looked at the prison
19 file and found an admission -- let's look at Mr.
20 Fisher for a moment -- if you looked at his prison
21 file and found something on there that was
22 suspicious, that maybe he had admitted to
23 somebody, and assuming the information is
24 credible, that that might be something that you
25 could use to --



1 A That would be very significant, yes.

2 Q Significant? And again, if there was nothing in
3 the prison file of Mr. Fisher, that might be
4 something that --

5 A Well I don't think that means anything.

6 Q -- probably would have little value; is that
7 right?

8 A That's right.

9 Q And if we look at Mr. Milgaard, who's in jail
10 convicted of the offence, I take it if you found
11 something in the prison file that suggested an
12 admission on his part, or something of that
13 nature, that might be significant in your
14 assessment?

15 A I would think so, yes.

16 Q And conversely, if the prison file showed that Mr.
17 Milgaard had denied his involvement in the murder
18 throughout his stay in prison, what significance,
19 if any, would that have in your review of his
20 situation?

21 A Well under the circumstances I think it's
22 something that, you know, you would have to, when
23 you start talking about the suspicion or lack of
24 suspicion of David Milgaard, I mean if he had
25 denied this all his life and this is now



1 refocusing on a new suspect and the suspect is
2 someone that you really do suspect, I think it
3 certainly is a circumstance that has some value.

4 Q Okay. If we can go back to page 056786. And just
5 down at the bottom, we're talking July 12th, and
6 this is the deposition of Larry Fisher and I'll
7 just read your summary, here, ask you some
8 questions. But you:

9 "Met Larry Fisher and Harold Pick at the
10 Regional Psychiatric Centre and
11 commenced a taped interview with Fisher.
12 The interview did not reveal anything
13 significant which would indicate Larry
14 was involved in the Miller murder.
15 Fisher's recollection of what he was
16 doing at the time, meaning January 1969,
17 was not bad. He answered questions in a
18 direct way. He had very little to offer
19 regarding activities surrounding the
20 murder, possibly because he does not
21 know anything about it, or he is
22 involved but not prepared to reveal
23 anything which would be checked out. I
24 left the interview with doubts about
25 Fisher, and am not totally convinced in



1 my mind exactly what to believe as
2 Fisher is such a good suspect, but based
3 on the evidence of the trial, I am
4 inclined to keep an open mind and pursue
5 this in an effort to come up with the
6 truth, if that is possible after such a
7 long time. Mr. Fisher's co-operation
8 can be best termed as "reluctant" at
9 this time and I am somewhat perplexed by
10 this position. Mr. Pick has been
11 extremely helpful in providing the
12 opportunity for an interview with his
13 client. The tapes will be sent to Mr.
14 Williams as I do not have steno services
15 at the present time."

16 And, again, would that be an accurate summary of
17 what you thought at the time about Mr. Fisher's
18 interview?

19 A I'm going with what's documented there and I have
20 to say that's how I probably felt at the time. I
21 don't know what more I can really add to that.

22 Q Did you expect, going into the interview, that you
23 would get -- or let me back up. What did you
24 expect to get from Mr. Fisher that might help shed
25 some light on your investigation?



1 A Well I -- you don't know, you don't know with --
2 you just don't know what you are going to get.
3 You know, I guess optimistically you think you are
4 going to get him telling you a lot of interesting,
5 valuable, incriminating things, but -- or he is
6 going to convince you that he is absolutely
7 innocent and he has got nothing to do with it in a
8 convincing way, but at the end of the day I still
9 had this doubt about him based on the fact that he
10 didn't really clear the air. And, you know, some
11 of the difficulty of course going back, this is 20
12 years later, I mean it's not like it happened last
13 week, so we were always at a disadvantage of
14 knowing what he was doing at the particular time,
15 so it was hard to really find a way that you could
16 put him in a corner so to speak. So again, the
17 suspicion is there, but I'm not sure we made much
18 progress on the actual interview.

19 Q And again, we now know that Mr. Fisher has been
20 convicted of this crime, and again just going back
21 to this interview -- and I'll go through parts of
22 it with you -- based on your experience in
23 interviewing people who are subsequently
24 convicted, is it unusual to have them deny
25 involvement initially, or not only initially but



1 throughout?

2 A In a crime?

3 Q Yes?

4 A Oh, absolutely, I mean people deny crimes all the
5 time.

6 Q And so the fact that Mr. Fisher, at this time,
7 says "no, I wasn't involved", I take it at this
8 time you weren't prepared to accept that as an
9 answer?

10 A Umm, no, I wasn't prepared to take, really at face
11 value, much of what he says of not being involved,
12 because again, it's hard to put your hand on it
13 and say that "this is specifically the reason
14 why". It's just that you get this gut feeling
15 over a lot of circumstances that were at play here
16 and it's just a feeling you have.

17 Q And you say here that "Fisher is such a good
18 suspect", what did you mean by that, or why did
19 you think he was a such a good suspect?

20 A Well, again I'm going back to what I thought was
21 important to me, and that was the fact that he
22 exhibited violence, he was a violent individual
23 and he had a record of violence around the time of
24 these offences and subsequent ones, and that in
25 itself, you know, I mean I know there were other



1 circumstances, but that in itself is pretty
2 compelling in my view --

3 Q What --

4 A -- and that's one of the reasons why I had a hard
5 time believing anything he'd tell me. And then
6 the other factors of course, again, are the
7 proximity of David Milgaard and him on the day of
8 the murder, and again Linda Fisher who I've always
9 had a lot of confidence in, I just, I believed the
10 lady --

11 Q And --

12 A -- in what she was trying to articulate to me.

13 Q And, again, at this time you were saying that he
14 was a good suspect, or even stronger than that,
15 and putting aside the issue that we'd talked about
16 last sitting, the fact that you were simply
17 investigating and reporting to Eugene Williams and
18 that there was an existing conviction, and I think
19 you went over that your mandate here was a little
20 bit different than if you had been investigating
21 the murder of Gail Miller initially; correct?

22 A Yeah, yes, I was not directing the investigation.

23 Q Yeah. So if, for a moment, if you were, if there
24 had been no conviction and you were investigating,
25 trying to find the person who committed the rape



1 and murder of Gail Miller, at this time when you
2 said "Fisher is such a good suspect" were you in a
3 position, at that time would you have been, to
4 charge him or was there something that --

5 A No, no. Again, you know, until DNA came along
6 that kind of put a finality to all this, I think
7 myself and everyone else that was going through
8 this process at the time were scratching our heads
9 trying to say "well, you know, who did it?" I
10 know some people were totally convinced it was
11 Larry Fisher, others were convinced it was David
12 Milgaard, some were thinking they probably could
13 have both done it, and everyone had, I believe, a
14 view based on what they knew of the case. But I
15 do think that there was no evidence to charge
16 Larry Fisher with this homicide at that time.

17 Q And --

18 A And really, you know, DNA was a science then, of
19 course we all know, that would put a stamp on
20 this.

21 Q And again, just as an investigator, what did the
22 DNA bring to the table that you didn't have from
23 another source?

24 A Well it put, it put Larry Fisher in contact with
25 Gail Miller at the scene of the crime.



1 Q If we can go back to this comment, you say:

2 "... Fisher is such a good suspect, but
3 based on the evidence of the trial ...";
4 are you speaking of David Milgaard's trial?

5 A Yes.

6 Q And can you just explain what you are saying
7 there?

8 A Well, like I say, he was convicted by, you know,
9 the Canadian justice system, he had been through
10 defence lawyers and prosecutors and judges and
11 juries and appeal courts, and I, I think we all
12 take that seriously. And that was in place, and
13 that was certainly something that factored into my
14 thinking. I never thought that David Milgaard did
15 not do it, I -- I was never at that position in my
16 thinking, and Larry Fisher was certainly a good
17 suspect. But based on all of the things that
18 happened, you know, we were all trying to weigh
19 this, and I think we all struggled with this,
20 really, to attempt to rationalize just what do we
21 have here, because memories are, you know, fading,
22 and it's 20 years later, and there's evidence that
23 comes up at a late date and how do you -- I mean
24 this was a difficult task for the people in Ottawa
25 to make. It wasn't my decision to make this, but



1 I certainly can appreciate the difficulty in
2 trying to weigh all of this. And I didn't have
3 the full circle of all the issues that were at
4 play here, but I do believe that the Canadian
5 justice system certainly carries a big impact when
6 you are an investigator and there is somebody
7 convicted, and Larry Fisher was a good suspect.

8 Q Yeah. You made a comment, sir, and I think you
9 said that you didn't think -- and correct me if
10 I'm wrong -- I think you said you didn't think
11 that David Milgaard had not done it; is that
12 right?

13 A No, I had nothing to exonerate David Milgaard
14 personally.

15 Q And were you looking at -- I mean we've touched on
16 some of the involvement, the Celine Cadrain
17 interview and a few others, but, again, did you
18 sit down and take a full look at all the evidence
19 against David Milgaard and try and reach a
20 conclusion as to whether or not you --

21 A I was not analysing, I was not analysing the trial
22 evidence and the evidence that was in play that
23 convicted David Milgaard, and I was not involved,
24 like I say, in the players that were being re --
25 re-interviewed in 1990, like Lapchuk, Melnyk,



1 Wilson, John, those people. So that part of it I
2 was not putting into the weighing of what was
3 really the main influence here.

4 Q Okay.

5 A I was --

6 Q Yeah?

7 A -- trying to keep an open mind, I thought, and
8 moving this forward.

9 Q And you stated, sir, just a few minutes ago, "at
10 the time some people believed Mr. Fisher, some
11 believed Mr. Milgaard, and some believed both".
12 Putting the latter one aside for a moment, when
13 you are looking at Fisher as a suspect, if you got
14 to the point where you felt that there was a basis
15 to charge him, would that -- would that in your
16 mind say that "okay, well then that's enough, in
17 my mind, to exonerate Mr. Milgaard"?

18 A Well that wouldn't be my decision to make, but I
19 mean if you have some evidence that he convicted
20 this -- or that he committed this crime, I would
21 certainly think that if he did, then David
22 Milgaard didn't. I mean that's just kind of a
23 logical conclusion you have to come to.

24 Q And at this time, again when you -- and again,
25 maybe this is a question that is better put to



1 other witnesses, and the -- at the time, the fact
2 that you considered Larry Fisher to be a suspect,
3 did you have any concerns or doubts about Mr.
4 Milgaard's conviction at the time? In other words
5 I'm not saying 'exonerate', but did you have
6 concerns that, with Mr. Fisher being out there as
7 a suspect, that this might somehow fit into the
8 mix as to whether or not David Milgaard should get
9 either a new hearing or have his conviction set
10 aside? And again, I only want to know from your
11 own knowledge, whether that's something that you
12 thought about at the time?

13 A Yeah. Well I really can't say that I thought
14 about it at the time. I was feeding information
15 to Mr. Williams based on the Fisher aspect, plus
16 the other tasks that he had asked me to do, other
17 people were weighing the totality of what they had
18 and how it applied to the 690 process. Analysing
19 that really wasn't something that I participated
20 in. But, you know, I think just common sense and
21 logic would say that, you know, if you have
22 evidence that Larry Fisher committed the murder,
23 you know, it stands to say that the person is
24 convicted -- that was convicted of it didn't,
25 unless they were both participating in it.



1 Q Yeah. But what if you just had suspicions that
2 Larry Fisher may have committed the murder?

3 That's my question. What, if anything, does that
4 cause you to think about Mr. Milgaard's
5 conviction?

6 A I don't think that reaches out far enough, you
7 know, there's -- it's easy, I suppose, to suspect;
8 it's very difficult to gather evidence to charge
9 someone.

10 Q And again I'm just wondering, Mr. Pearson,
11 whether -- whether your work, whether that's
12 something that you considered at the time, or
13 pursued?

14 A What's that?

15 Q The question of -- the fact that you had Mr.
16 Fisher as a suspect, but I think you said you
17 couldn't get it to the level of saying "there is
18 evidence to link him to Gail Miller" I think was
19 your evidence, "or to charge him", and so I think
20 you were left with just the suspicion. And I'm
21 wondering if, again back in 1990-1991, whether
22 you, in your role in this process, ever conveyed
23 to anybody or said -- said -- expressed any
24 thought as to what this suspicion may do to the
25 integrity of David Milgaard's conviction?



1 A Gee, I can't, I can't recall how -- whether I had
2 that kind of a conversation.

3 Q And --

4 A I just can't recall.

5 Q That's fine. If we could call up 061960, please.
6 And this is the transcript of the interview with
7 Larry Fisher. Go to the next page. And I think,
8 for the most part, you were present during the
9 entire interview; were you?

10 A Yes.

11 Q And it looks like Mr. Pick swore Mr. Fisher; is
12 that right?

13 A Yes.

14 Q And then I think at the start, if I could just
15 scroll down to the bottom, Mr. Pick has a
16 preliminary statement that:

17 "... these discussions will be held in
18 private, and, are solely for assisting
19 the Department of Justice and the
20 government of Canada in its assessment
21 of Mr. David Milgaard's application for
22 mercy. Therefore, there will be no
23 publication of any kind outside the
24 Department of Justice or outside this
25 room of the contents of these



1 discussions except insofar as may be
2 necessary to assess the application of
3 David Milgaard for mercy, or, to further
4 the investigation to formulate a
5 recommendation to the Minister of
6 Justice of Canada for the deposition of
7 Mr. Milgaard's application."

8 And I think, just for the record, I think we have
9 heard or will hear evidence that these conditions
10 were altered at the time of the Supreme Court
11 reference, because I think this ended up being
12 used, but I take it at the time there were some
13 restrictions put in place?

14 A Yes.

15 Q If we can go to 061975. I just want to touch on
16 parts of this. I take it, going in, that it was
17 agreed that Mr. Williams would be doing the
18 majority of the questioning?

19 A Yes.

20 Q And what was your role at the deposition?

21 A Well I -- I -- I was the one that had, I suppose,
22 facilitated the deposition through the agreement
23 of Larry Fisher and Mr. Pick and, you know, being
24 part of the interviewing process I was, I was with
25 Mr. Williams, I -- I didn't say that I wasn't



1 going to do any part of this and I think I was
2 just part of the --

3 Q Did you --

4 A -- part of the team.

5 Q I'm sorry. Did you, prior to this deposition, did
6 you sit down with Mr. Williams and go through a
7 strategy or questions or areas or anything like
8 that?

9 A There must have been -- I don't recall, but we
10 must have -- I'm sure we had some discussion on
11 the interview process, but I think a lot of it was
12 we were just trying to get whatever we could
13 through a discussion with him and bringing him
14 along. Like I say, you know, were we open for a
15 confession or whatever? Well, I guess you'll take
16 whatever you can get, but one of the difficulties
17 of course was that we had very little information
18 on the movements of Larry Fisher at the time and
19 pinning him down to something, to catch him lying
20 to you or avoiding you so that you could put him
21 in a corner and maybe go after him, but it was not
22 that easy.

23 Q And so, for example, and we've heard some evidence
24 about this before, whether he was at work that
25 morning?



1 A That was one of the issues, yes.

2 Q And again I just want to touch on a couple of the
3 areas, I won't go through all the questions, but
4 page 15, Mr. Williams asks about the relationship
5 of the marriage, the relationship between Larry
6 and Linda Fisher and alcohol, etcetera, and I
7 think Larry described the problems between he and
8 Linda, and again, what would be the purpose of
9 that type of question, what --

10 A Well, Mr. Williams I think is probably in a better
11 position to answer that, but I would think he is
12 trying to get some background about the
13 relationship and what it was like.

14 Q Was there -- you had already had Linda Fisher's
15 statement of the fight with Larry. Would one of
16 the questions you may have is whether or not Linda
17 Fisher might be trying to get even with Larry or
18 there might be some issue there, is that something
19 that you might probe?

20 A That's possible, but I never had that concern.
21 Maybe Mr. Williams did, maybe that's what he was
22 trying to accomplish there, but as far as doubting
23 what Linda said, we did probe that, and in the
24 statement I believe Larry Fisher did acknowledge
25 that he remembered that, but I think these



1 interview -- these questions, as such here, is
2 just getting some background, what influenced --

3 Q Was there anything -- I'm sorry. Was there
4 anything, during the course of the interview, that
5 you had any concerns with, any of the questions
6 that were asked or weren't asked?

7 A No. Well, when you go back you can always, you
8 can always, you know, look at things and say,
9 well, gee, I should have asked for, I should have
10 developed that more, there's -- we had very little
11 information to really go with. When you start
12 talking about the previous offences that Larry
13 Fisher was involved in, you know, at that time we
14 had no file material to really know the background
15 and he was at times ready to walk out of the
16 interview, there was some areas there where he was
17 ready to walk out and leave, one in particular.

18 Q And what was that?

19 A Just that he was pressed on something or he was
20 asked a question and he was going to leave the
21 interview, so he left us with the impression that
22 he wasn't really going to share much information
23 with us and he would shut the interview down
24 before he ever gave us anything of value, but when
25 we talked about the previous offences that were



1 committed by him in Saskatoon, we had no
2 information really on these offences and he, I
3 think, used the out if he had some information he
4 would be able to tell us more, but -- and again in
5 hindsight, you know, we could have been more
6 aggressive possibly there and pressured him, but
7 you can always analyse your statements and come
8 back with all sorts of questions you could have
9 done differently. That's just the way it is.

10 Q If you can go to 061979, and again we'll see, and
11 I don't propose to go through it all, but there's
12 questions there about a car, and if you can go to
13 061981 and the question did you ever borrow
14 Clifford's car, and I take it, Mr. Pearson, that
15 Mr. Fisher's access to a vehicle on the morning of
16 the murder was an issue that was being pursued; is
17 that fair?

18 A That's fair, yes.

19 Q And then again 061983, and the questions that
20 follow, I won't go through them, but trying to
21 question Mr. Fisher about the clothes he wore, and
22 I take it, sir, that would relate to Linda
23 Fisher's statement about Larry having his good
24 clothes on the morning of the murder; is that --

25 A Yes.



1 Q And then to 061990, questions about a toque, and I
2 take it that that would be related to at least the
3 toque that was found near the Cadrain home?

4 A Yes.

5 Q The Fisher home?

6 A Yes.

7 Q And then again 061993, and there's a series of
8 questions about what time he went to work and what
9 bus he caught. I take it that would be to try and
10 verify what his version of events were compared to
11 what Linda said, or perhaps some other known
12 facts?

13 A Yes, that's true.

14 Q And then 062010, and Mr. Williams is questioning
15 him about the meeting that Mr. Fisher had with the
16 police a few days after the murder at the bus stop
17 and he's asked:

18 "Do you recall a policeman coming up to
19 you and asking you questions about where
20 you had been the previous Friday?"

21 Etcetera. Just on that point, and I take it that
22 would be something where you would be again
23 trying to get his version of events because you
24 would have some known facts from a police report?

25 A Yes.



1 Q And did the fact that -- let me ask you a couple
2 of questions relating to that. Did the fact that
3 he remembered that encounter with the police cause
4 you any interest or concern that he would remember
5 that?

6 A Well, I don't know if it causes concern. It
7 didn't tell us much other than the fact that he
8 did confirm that he was approached that morning.

9 Q Well, let me put it a different way. Was it
10 suspicious that he would remember that fact from
11 20 years earlier?

12 A It didn't cause me too much suspicion at that time
13 because I'm not sure how often he was approached
14 by the police at that stop and if it was a big
15 event at the time. I'm assuming that he knew very
16 well he got stopped, but it didn't cause me to be
17 suspicious on that statement alone.

18 Q And secondly, the fact that he -- and again now
19 knowing with Mr. Fisher's conviction the fact that
20 he would have provided the information that he did
21 to the police officers a couple of days after the
22 murder, how did you assess that? Again, let me go
23 back at the time, at the time of the interview
24 your view is he's a suspect. Did the fact that he
25 appeared to cooperate with the police, give his



1 name and where he worked, did that factor any way
2 in your suspicions about him being a suspect?

3 A I don't believe so, you know. He was approached
4 at that time and I think he had to be honest in
5 what he was saying about where he worked. Of
6 course the potential was that the police could
7 have, at that time, followed up to determine if he
8 was in fact working, that was some potential that
9 existed at that time that we never had when we
10 interviewed him, based on the fact that we
11 couldn't determine if he was at work or not.

12 Q And I think he said either in this interview, or
13 maybe it was a subsequent media interview, Larry
14 Fisher said that, basically to the effect that
15 lookit, they talked to me a couple of days after
16 the murder, I told them who I was, where I was and
17 I had nothing to hide, and again I think when he
18 was saying that he was saying that that was more
19 consistent with his innocence, and I'm just
20 wondering whether at the time when you are
21 investigating this, whether you put any
22 significance one way or the other on the fact that
23 he gave what appears to be truthful information
24 about where he worked and his name and his
25 address. Not that he was at work that morning,



1 but who he was, enough information for someone to
2 follow up on him?

3 A Yes. You know, I really can't say. There was a
4 certain amount of risk there for him if he wasn't
5 at work that morning to tell the police that he
6 was and if the police did follow through and find
7 out he wasn't at work, then I'm assuming that he
8 could have been a suspect at that time.

9 Q And then if we can go to 062042, and I won't go
10 through all of this, this is where Mr. Williams
11 asks him the question did you have any role to
12 play in the murder, and he answers, "No, I did
13 not." And if you can scroll down, and then I
14 think Mr. Williams goes on to compare and puts to
15 Mr. Fisher comparing Larry Fisher as a suspect
16 versus David Milgaard and he talks about the
17 sexual assault cases, and if we can just scroll to
18 the next page and just leave it on the full page,
19 please, and it talks about them using a knife, and
20 go to the next page -- actually, go to 062045, and
21 then I think Mr. Fisher sums it up saying:

22 "Six rapes, one indecent assault, one
23 attempted murder, one year for carrying
24 an offensive weapon, and a ten year ban
25 on weapons all totalled."



1 And then to the next page, Mr. Williams says:
2 "People are going to say to me look it,
3 you got two people. You've got a fresh
4 faced 16 year old kid no criminal record
5 who's been sitting in jail for 21-22 odd
6 years and he says he didn't do it. He
7 says he didn't stab this woman. And
8 we've got another guy whose got six
9 rapes, one indecent assault and his M.O.
10 is similar to that which surrounds the
11 death of Gail Miller. Faced with that
12 Williams don't you think you've got the
13 wrong guy in jail because the real
14 killer is Larry Fisher?"

15 "Pardon?"

16 And then scroll down, please, next page:

17 "Because the real killer is Larry
18 Fisher."

19 He answers:

20 "No way."

21 And then the next page, and then here he says:

22 "If you're sitting in my spot what would
23 you say to that?"

24 Fisher says:

25 "I'm not you and I can't say anything."



1 "But?"

2 And then he says:

3 "I am leaving and I have already said
4 it."

5 Would this be where he --

6 A Yes.

7 Q -- got up to leave?

8 A Yes.

9 Q And then it appears, although it's not all there,
10 but it appears that Mr. Fisher acknowledges that
11 he would be a likely suspect. Do you remember
12 that?

13 A I don't remember what's in the blank there, you
14 know, I don't.

15 Q And I think in a later media interview Mr. Fisher
16 says the same thing, he can see why he might be a
17 suspect?

18 A Yes.

19 Q Do you remember him ever telling you that? If you
20 can go to 062051, and here's where Mr. Williams is
21 going back to February 4th, '69. This is the
22 Monday morning. It should actually be February
23 3rd when he's at the bus stop three days before,
24 and then scroll down, please, Mr. Fisher says:

25 "I've been thinking."



1 "All right. We haven't finished yet."

2 "I've been thinking ever since this hit
3 the news media."

4 And then question:

5 "And you're telling me under oath, you
6 had nothing to do with it."

7 "Absolutely nothing."

8 And again, did you ever get the impression, Mr.
9 Pearson, that Mr. Fisher had sort of thought
10 through how he would answer all these questions
11 prior to the interview?

12 A That is really difficult to say, you know. I
13 really don't know if I could really add much to
14 this.

15 Q And then maybe just to the next page, again about
16 as far as the details, and then he talks about
17 being all over the news, and then scroll down
18 further and he says:

19 "Oh, they showed everything where the
20 body was found and what was hidden out
21 there, and who was connected and who's
22 trying to accuse who of who, and who's
23 doing time in P.A. and the reason why."

24 And again, did the fact that Mr. Fisher may have
25 had information about the crime cause you any



1 concern in your questioning of him or the
2 questioning of him by Mr. Williams?

3 A Well, you know, sure, I'm sure he had information
4 based on maybe the news media and the internal
5 pipeline and his own thoughts, I'm sure he was
6 thinking about this for quite some time, and I
7 have no idea what went on between he and his
8 lawyer over all of this, but I'm sure he was
9 prepared to answer whatever we gave him, if he
10 wasn't going to do anything to incriminate
11 himself.

12 Q And just one more, go to page 062077, and it looks
13 at this point Mr. Williams asks you to ask if you
14 have any questions and then you question him about
15 the Pambrum vehicle and a few other things; is
16 that right?

17 A Yeah.

18 Q So you were given a chance to question him?

19 A Yes.

20 MR. HODSON: This is probably -- it's 4:30,
21 Mr. Commissioner. We can break here.

22 COMMISSIONER MacCALLUM: Okay.

23 *(Adjourned at 4:32 p.m.)*

24

25



OFFICIAL QUEEN'S BENCH COURT REPORTERS' CERTIFICATE:

We, Karen Hinz, CSR, and Donald G. Meyer, RPR, CSR,
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notes taken herein to the best of my knowledge, skill, and
ability.

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Karen Hinz, CSR

Official Queen's Bench Court Reporter

_____, RPR, CSR

Donald G. Meyer, RPR, CSR

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<p>'69 [1] - 19384:21 '90 [4] - 19278:14, 19279:24, 19299:14, 19334:1 'exonerate' [1] - 19371:5 'previous [1] - 19322:11 'previous' [1] - 19322:10</p>	<p>12 [1] - 19342:9 12th [6] - 19281:6, 19288:17, 19292:12, 19292:24, 19293:16, 19362:5 14th [2] - 19299:14, 19300:12 15 [3] - 19310:16, 19311:3, 19376:4 151310 [1] - 19322:8 151312 [1] - 19324:3 151313 [2] - 19323:15 153 [1] - 19277:16 157 [1] - 19281:4 15th [1] - 19300:21 16 [1] - 19383:4 160 [1] - 19287:9 167 [1] - 19299:21 173 [1] - 19302:9 178 [1] - 19312:16 179 [1] - 19312:16 17th [1] - 19322:12 181 [1] - 19317:24 182 [2] - 19317:23, 19318:19 184 [1] - 19319:25 185 [1] - 19321:3 190 [1] - 19337:18 19263 [1] - 19258:4 196 [1] - 19357:14 1968 [3] - 19337:23, 19338:15, 19338:20 1969 [4] - 19275:2, 19320:8, 19333:11, 19362:16 1970 [2] - 19337:23, 19358:11 1977 [1] - 19358:11 1986 [1] - 19358:19 1989-1990 [1] - 19268:3 1990 [51] - 19263:17, 19263:19, 19264:13, 19264:25, 19265:11, 19266:23, 19269:6, 19272:13, 19272:16, 19277:5, 19279:2, 19282:19, 19284:5, 19289:7, 19292:11, 19292:12, 19292:21, 19292:24, 19293:14, 19294:3, 19294:4, 19300:13, 19303:22, 19307:4, 19309:10, 19310:9, 19313:12, 19315:3, 19315:24, 19322:8, 19322:9, 19322:12, 19326:1, 19326:21, 19326:22, 19328:14, 19330:10, 19330:13, 19330:21,</p>	<p>19332:14, 19337:19, 19340:12, 19340:15, 19348:22, 19348:24, 19350:24, 19352:5, 19352:25, 19357:19, 19369:25 1990-1991 [1] - 19372:21 1991 [1] - 19264:18 1992 [2] - 19268:11, 19269:6 19th [3] - 19260:4, 19302:10, 19303:22 1:35 [1] - 19259:2</p>	<p>4</p> <p>4 [3] - 19260:18, 19323:16, 19340:15 4:30 [1] - 19386:20 4:32 [1] - 19386:23 4th [4] - 19281:13, 19337:19, 19348:23, 19384:21</p>	<p>19273:12, 19279:15, 19280:20, 19307:13, 19318:1, 19320:23, 19322:3, 19326:23, 19335:14, 19378:4 absolutely [2] - 19364:6, 19365:4 Absolutely[1] - 19385:7 accept [1] - 19365:8 access [8] - 19271:8, 19282:8, 19350:15, 19353:2, 19353:6, 19353:12, 19353:20, 19378:15 accessing [3] - 19283:8, 19294:17, 19318:4 accomplish [1] - 19376:22 accomplishing [1] - 19270:19 accord [1] - 19340:19 according [2] - 19336:9, 19336:22 accounted [2] - 19277:2, 19277:14 accuracy [1] - 19355:1 accurate [12] - 19269:1, 19272:10, 19286:4, 19286:6, 19286:24, 19290:16, 19294:25, 19311:14, 19311:16, 19339:15, 19351:1, 19363:16 accurately [1] - 19275:5 accusations [2] - 19305:24, 19331:5 accuse [1] - 19385:22 achieve [1] - 19349:11 acknowledge [1] - 19376:24 acknowledges [1] - 19384:10 act [4] - 19343:3, 19343:7, 19343:12, 19343:20 acting [1] - 19357:15 Acting[1] - 19357:19 action [1] - 19312:9 actions [2] - 19311:12, 19347:18 actively [1] - 19349:20 activities [3] - 19297:13, 19329:11, 19362:19 activity [1] - 19326:9 actual [1] - 19364:18 add [4] - 19261:20, 19355:24, 19363:21, 19385:13</p>
<p>0</p> <p>001907 [1] - 19357:18 010016 [1] - 19330:11 010019 [1] - 19340:12 010033 [1] - 19348:21 010035 [1] - 19292:11 011841 [1] - 19351:15 015803 [1] - 19289:6 056743 [1] - 19264:8 056774 [1] - 19264:11 056775 [2] - 19272:12, 19276:9 056780 [1] - 19299:13 056782 [1] - 19317:22 056783 [1] - 19333:5 056785 [1] - 19352:24 056786 [1] - 19362:4 058251 [1] - 19275:23 061960 [1] - 19373:5 061975 [1] - 19374:15 061979 [1] - 19378:10 061981 [1] - 19378:13 061983 [1] - 19378:19 061990 [1] - 19379:1 061993 [1] - 19379:7 062010 [1] - 19379:14 062042 [1] - 19382:9 062045 [1] - 19382:20 062051 [1] - 19384:20 062077 [1] - 19386:12 067 [1] - 19266:14 067324 [1] - 19266:21</p>	<p>15th [1] - 19300:21 16 [1] - 19383:4 160 [1] - 19287:9 167 [1] - 19299:21 173 [1] - 19302:9 178 [1] - 19312:16 179 [1] - 19312:16 17th [1] - 19322:12 181 [1] - 19317:24 182 [2] - 19317:23, 19318:19 184 [1] - 19319:25 185 [1] - 19321:3 190 [1] - 19337:18 19263 [1] - 19258:4 196 [1] - 19357:14 1968 [3] - 19337:23, 19338:15, 19338:20 1969 [4] - 19275:2, 19320:8, 19333:11, 19362:16 1970 [2] - 19337:23, 19358:11 1977 [1] - 19358:11 1986 [1] - 19358:19 1989-1990 [1] - 19268:3 1990 [51] - 19263:17, 19263:19, 19264:13, 19264:25, 19265:11, 19266:23, 19269:6, 19272:13, 19272:16, 19277:5, 19279:2, 19282:19, 19284:5, 19289:7, 19292:11, 19292:12, 19292:21, 19292:24, 19293:14, 19294:3, 19294:4, 19300:13, 19303:22, 19307:4, 19309:10, 19310:9, 19313:12, 19315:3, 19315:24, 19322:8, 19322:9, 19322:12, 19326:1, 19326:21, 19326:22, 19328:14, 19330:10, 19330:13, 19330:21,</p>	<p>2</p> <p>2 [1] - 19260:7 20 [7] - 19284:13, 19299:3, 19325:10, 19329:9, 19364:11, 19368:22, 19380:11 2005 [1] - 19255:21 20th [2] - 19308:15, 19309:14 21 [2] - 19307:4, 19310:9 21-22 [1] - 19383:5 21st [1] - 19255:21 22nd [3] - 19272:20, 19282:19, 19313:12 24th [5] - 19265:10, 19272:13, 19272:16, 19275:23, 19299:4 25 [1] - 19315:3 25th [2] - 19259:11, 19317:23 26th [5] - 19320:2, 19322:8, 19322:9, 19323:19, 19330:10 28th [5] - 19263:17, 19263:18, 19330:11, 19330:12, 19331:21 2:00 [1] - 19355:12 2:57 [1] - 19330:6</p>	<p>5</p> <p>5 [4] - 19324:4, 19332:14, 19340:12, 19348:22 55 [2] - 19276:1, 19276:3</p> <p>6</p> <p>6 [2] - 19269:10, 19279:2 6(a) [1] - 19324:21 690 [4] - 19297:14, 19306:9, 19357:21, 19371:18 6th [3] - 19279:10, 19281:13, 19352:5</p> <p>7</p> <p>7 [1] - 19271:25 7th [1] - 19279:24</p> <p>8</p> <p>8th [6] - 19259:16, 19260:2, 19262:9, 19281:18, 19289:9, 19289:11</p> <p>9</p> <p>9 [1] - 19352:25 95 [1] - 19255:22</p>	<p>A</p> <p>A1 [1] - 19267:12 A4 [1] - 19268:18 abide [1] - 19260:14 ability [1] - 19387:7 able [11] - 19271:19,</p>
<p>1</p> <p>1 [4] - 19260:3, 19278:14, 19292:15, 19292:17 10 [2] - 19281:22, 19342:9 10th [1] - 19357:19 11 [1] - 19342:9 11th [3] - 19289:7, 19289:10, 19292:10</p>	<p>3</p> <p>3 [2] - 19260:14, 19330:21 301116 [1] - 19315:9 31 [1] - 19266:23 313 [1] - 19323:15 332532 [1] - 19263:12 332559 [1] - 19262:6 3:20 [1] - 19330:7 3rd [3] - 19333:6, 19333:25, 19384:23</p>	<p>3</p> <p>2 [1] - 19260:7 20 [7] - 19284:13, 19299:3, 19325:10, 19329:9, 19364:11, 19368:22, 19380:11 2005 [1] - 19255:21 20th [2] - 19308:15, 19309:14 21 [2] - 19307:4, 19310:9 21-22 [1] - 19383:5 21st [1] - 19255:21 22nd [3] - 19272:20, 19282:19, 19313:12 24th [5] - 19265:10, 19272:13, 19272:16, 19275:23, 19299:4 25 [1] - 19315:3 25th [2] - 19259:11, 19317:23 26th [5] - 19320:2, 19322:8, 19322:9, 19323:19, 19330:10 28th [5] - 19263:17, 19263:18, 19330:11, 19330:12, 19331:21 2:00 [1] - 19355:12 2:57 [1] - 19330:6</p>	<p>6</p> <p>6 [2] - 19269:10, 19279:2 6(a) [1] - 19324:21 690 [4] - 19297:14, 19306:9, 19357:21, 19371:18 6th [3] - 19279:10, 19281:13, 19352:5</p>	<p>9</p> <p>9 [1] - 19352:25 95 [1] - 19255:22</p>



<p>addition [1] - 19358:15 address [3] - 19261:17, 19321:18, 19381:25 addressed [1] - 19352:3 adjourned [1] - 19330:9 Adjourned [2] - 19330:6, 19386:23 admin [1] - 19281:20 admission [2] - 19360:19, 19361:12 admissions [1] - 19360:13 admitted [1] - 19360:22 advance [1] - 19290:20 advantage [1] - 19311:2 adversarial [1] - 19297:2 advice [4] - 19290:4, 19302:17, 19303:3 advise [4] - 19276:25, 19295:7, 19313:20, 19332:12 advised [15] - 19261:5, 19266:7, 19277:1, 19277:5, 19277:8, 19277:12, 19285:15, 19289:16, 19311:9, 19311:22, 19312:1, 19320:4, 19328:9, 19340:22, 19354:22 advising [1] - 19321:5 affect [3] - 19283:5, 19302:23, 19303:15 Affidavit[1] - 19295:19 affidavit [1] - 19296:7 affidavits [1] - 19260:10 afraid [1] - 19330:23 Afternoon[2] - 19259:3, 19259:4 afternoon [1] - 19259:5 age [1] - 19329:9 agency [1] - 19328:5 aggressive [2] - 19312:9, 19378:6 aggressively [2] - 19314:19, 19350:2 ago [4] - 19263:11, 19315:5, 19350:19, 19370:9 agree [4] - 19287:14, 19301:24, 19350:3, 19355:4 agreed [9] - 19269:17, 19282:3, 19288:6, 19288:14, 19290:18, 19291:21, 19334:4, 19348:6, 19374:17 agreement [2] - 19354:5, 19374:22</p>	<p>ahead [1] - 19330:10 Aid[1] - 19305:2 air [2] - 19325:8, 19364:10 aired [2] - 19313:13, 19342:21 alarmed [1] - 19283:24 Albert[18] - 19265:5, 19269:23, 19279:11, 19281:19, 19281:20, 19300:5, 19300:10, 19309:14, 19316:16, 19316:20, 19316:24, 19316:25, 19320:6, 19330:24, 19331:2, 19334:18, 19357:11, 19357:25 Alberta[1] - 19358:18 album [1] - 19310:21 alcohol [1] - 19376:6 alike [1] - 19277:9 Allan [2] - 19258:3, 19263:8 alleged [1] - 19348:1 allegedly [1] - 19340:18 allowed [2] - 19310:17, 19310:20 Almost[1] - 19316:14 alone [2] - 19346:4, 19380:17 alter [1] - 19284:16 altered [1] - 19374:10 American[2] - 19308:25, 19310:1 amount [1] - 19382:4 Amy[1] - 19318:20 analyse [1] - 19378:7 Analysing [1] - 19371:18 analysing [3] - 19278:8, 19369:21 analysis [3] - 19267:13, 19340:8, 19343:23 Answer[1] - 19272:3 answer [12] - 19266:6, 19269:14, 19281:25, 19290:21, 19290:23, 19291:7, 19324:9, 19328:15, 19365:9, 19376:11, 19385:10, 19386:9 answered [4] - 19267:2, 19285:6, 19290:6, 19362:17 answering [1] - 19291:3 answers [8] - 19265:14, 19266:10, 19267:7, 19272:8, 19287:21, 19301:23, 19382:12, 19383:19</p>	<p>anxious [2] - 19329:18, 19330:1 anxiously [1] - 19329:14 apart [3] - 19306:16, 19333:21, 19358:20 apparent [1] - 19285:10 appeal [1] - 19368:11 appear [5] - 19259:16, 19262:12, 19291:11, 19296:24, 19300:12 Appearances[1] - 19257:1 appeared [2] - 19282:20, 19380:25 Appendix[1] - 19315:10 Application[1] - 19323:9 application [11] - 19259:19, 19260:11, 19260:23, 19262:20, 19262:24, 19264:17, 19306:9, 19344:3, 19373:21, 19374:2, 19374:7 applied [1] - 19371:18 applying [1] - 19267:15 appointed [1] - 19323:21 appreciate [2] - 19346:21, 19369:1 apprised [1] - 19268:23 approached [4] - 19321:7, 19380:8, 19380:13, 19381:3 approaching [1] - 19294:13 appropriate [3] - 19302:4, 19319:21, 19330:4 April[3] - 19284:4, 19284:5, 19322:12 area [6] - 19270:21, 19274:16, 19300:14, 19330:2, 19344:11, 19354:17 areas [6] - 19261:9, 19261:11, 19262:17, 19375:7, 19376:3, 19377:16 Armstrong [7] - 19299:24, 19315:4, 19315:7, 19315:12, 19315:23, 19316:10, 19329:8 arrange [4] - 19277:14, 19282:4, 19288:8, 19301:4 arranged [6] - 19261:1, 19281:10, 19288:18,</p>	<p>19293:17, 19301:18, 19334:6 arrangement [2] - 19301:16, 19336:13 arrangements [3] - 19264:1, 19289:14, 19289:17 arranging [2] - 19262:3, 19347:15 arrived [1] - 19329:16 Art[2] - 19318:1, 19318:9 articles [2] - 19264:24, 19282:22 articulate [1] - 19366:12 aside [4] - 19345:14, 19366:15, 19370:12, 19371:10 aspect [9] - 19270:8, 19312:24, 19313:3, 19323:9, 19327:11, 19327:22, 19329:1, 19358:3, 19371:15 Asper[11] - 19269:20, 19292:13, 19292:16, 19293:4, 19293:13, 19296:10, 19296:23, 19308:16, 19308:23, 19309:25, 19347:18 Asper's [1] - 19339:2 ass [1] - 19295:15 assailant [1] - 19343:5 assault [3] - 19382:17, 19382:22, 19383:9 assaulted [1] - 19340:18 assaults [1] - 19348:2 assess [2] - 19374:2, 19380:22 assessment [3] - 19358:14, 19361:14, 19373:20 assist [13] - 19261:25, 19266:17, 19267:14, 19270:7, 19271:20, 19275:13, 19282:16, 19283:1, 19309:18, 19335:23, 19335:25, 19353:7, 19360:5 assistance [3] - 19263:20, 19299:23, 19333:18 Assistant[2] - 19256:5, 19256:6 assisting [1] - 19373:18 associated [2] - 19277:1, 19340:6 associates [1] - 19325:12</p>	<p>association [1] - 19343:17 assuming [7] - 19296:7, 19310:2, 19341:21, 19352:22, 19360:23, 19380:15, 19382:7 assumption [3] - 19273:20, 19338:14, 19345:17 assurance [1] - 19287:18 assured [1] - 19287:20 attached [1] - 19329:7 attempt [2] - 19271:9, 19368:20 attempted [3] - 19287:11, 19354:23, 19382:23 attempting [6] - 19312:11, 19318:25, 19319:11, 19319:15, 19349:20, 19349:23 Attempts[1] - 19269:18 attempts [1] - 19351:14 attend [2] - 19281:5, 19288:8 attendance [4] - 19259:9, 19259:13, 19288:24, 19332:17 attended [1] - 19280:9 attention [2] - 19356:16, 19356:19 attract [2] - 19302:21, 19303:13 attributed [2] - 19340:23, 19341:5 Audio[1] - 19256:14 Aug[1] - 19358:19 authorities [1] - 19337:8 authority [1] - 19346:2 avail [1] - 19325:3 available [8] - 19267:13, 19279:21, 19283:10, 19288:10, 19342:4, 19342:11, 19348:5, 19351:12 avenues [1] - 19324:19 avoiding [1] - 19375:20 await [1] - 19354:6 aware [7] - 19271:4, 19309:21, 19312:3, 19320:24, 19325:24, 19339:18, 19339:19</p>
<p>B</p>				
<p>background [4] - 19266:16, 19376:12,</p>				



<p>19377:2, 19377:14 backing [1] - 19324:13 backs [1] - 19324:8 bad [1] - 19362:17 ban [1] - 19382:24 based [16] - 19283:21, 19304:8, 19314:5, 19326:2, 19346:1, 19346:3, 19351:12, 19363:2, 19364:9, 19364:22, 19367:14, 19368:3, 19368:17, 19371:15, 19381:10, 19386:4 basis [6] - 19312:11, 19338:15, 19340:3, 19343:21, 19344:20, 19370:14 Battleford [6] - 19273:2, 19299:10, 19311:10, 19311:19, 19311:22, 19346:18 Bb [1] - 19315:10 Bc [5] - 19308:22, 19309:4, 19309:7, 19327:24, 19334:16 became [2] - 19268:3, 19325:24 become [1] - 19283:23 becoming [1] - 19283:23 bed [1] - 19316:11 began [1] - 19324:11 beginning [1] - 19267:25 behalf [4] - 19277:25, 19315:2, 19337:7 behaving [1] - 19326:15 behaviour [1] - 19358:13 Beitel [1] - 19256:10 beliefs [1] - 19342:25 believes [1] - 19321:15 belonging [1] - 19277:19 Bench [4] - 19387:1, 19387:3, 19387:14, 19387:18 benefit [3] - 19264:5, 19284:11, 19319:11 Bergman [5] - 19265:13, 19265:14, 19266:3, 19266:7, 19266:23 Bertrand [1] - 19342:7 best [2] - 19363:8, 19387:6 better [4] - 19345:7, 19350:15, 19370:25, 19376:10</p>	<p>between [9] - 19280:24, 19300:9, 19304:2, 19323:5, 19343:17, 19348:19, 19376:5, 19376:7, 19386:7 beyond [3] - 19291:19, 19297:13, 19309:23 big [2] - 19369:5, 19380:14 binders [1] - 19272:6 bit [5] - 19264:4, 19323:4, 19331:22, 19359:10, 19366:20 blank [1] - 19384:13 block [1] - 19344:11 blood [15] - 19269:12, 19269:15, 19269:16, 19269:19, 19270:24, 19285:17, 19293:20, 19316:4, 19317:7, 19317:15, 19320:10, 19321:12, 19324:17, 19325:15, 19349:22 bloodied [1] - 19300:7 Bob [1] - 19338:4 Bobs [1] - 19257:5 body [1] - 19385:20 bone [6] - 19274:9, 19274:25, 19276:2, 19276:4, 19276:21, 19278:15 bone-handled [4] - 19276:2, 19276:4, 19276:21, 19278:15 Bonnar [2] - 19307:6, 19312:17 borrow [1] - 19378:13 Boswell [1] - 19256:4 bottom [15] - 19264:22, 19271:25, 19276:9, 19289:22, 19291:9, 19295:1, 19317:22, 19323:16, 19331:20, 19333:6, 19347:1, 19348:25, 19350:9, 19362:5, 19373:15 Boychuk [1] - 19257:8 break [2] - 19330:5, 19386:21 brief [1] - 19289:12 bring [7] - 19259:19, 19262:23, 19263:1, 19275:9, 19319:11, 19353:10, 19367:22 bringing [3] - 19303:19, 19331:16, 19375:13 brought [2] - 19265:2, 19283:4 Bruce [2] - 19257:9, 19340:15</p>	<p>build [2] - 19283:15, 19329:25 building [3] - 19281:21, 19282:8, 19310:19 bus [3] - 19379:9, 19379:16, 19384:23 business [1] - 19319:20 butcher [4] - 19276:2, 19276:4, 19276:7, 19276:21</p> <p style="text-align: center;">C</p> <p>Cadrain [17] - 19299:24, 19300:1, 19300:6, 19309:14, 19309:17, 19316:6, 19320:6, 19320:9, 19320:19, 19321:8, 19321:11, 19321:16, 19321:25, 19329:9, 19329:16, 19369:16, 19379:3 Caldwell [1] - 19257:5 Calgary [1] - 19358:18 camera [1] - 19297:21 Campbell [1] - 19264:18 Canada [3] - 19257:12, 19373:20, 19374:6 Canadian [2] - 19368:9, 19369:4 Candace [1] - 19256:3 candidate [1] - 19353:8 Cando [1] - 19272:22 cannot [1] - 19349:10 canvass [1] - 19261:11 capable [1] - 19360:7 car [2] - 19378:12, 19378:14 Carolina [1] - 19268:13 carries [1] - 19369:5 carrying [1] - 19382:23 Carter [17] - 19264:20, 19279:4, 19279:20, 19281:20, 19281:21, 19284:21, 19285:14, 19287:11, 19287:25, 19288:9, 19289:9, 19289:10, 19291:9, 19291:14, 19299:15, 19299:16, 19352:17 case [18] - 19263:23, 19263:24, 19270:3, 19291:24, 19302:16, 19302:21, 19303:13, 19304:23, 19307:10, 19307:17, 19308:11, 19308:13, 19320:9, 19327:8, 19329:4, 19341:6, 19357:22,</p>	<p>19367:14 cases [2] - 19308:6, 19382:17 cast [1] - 19285:19 catch [1] - 19375:19 category [2] - 19345:4, 19345:5 caught [1] - 19379:9 caused [3] - 19320:8, 19356:7, 19356:20 causes [1] - 19380:6 Cavalier [1] - 19255:16 Cbc [11] - 19302:15, 19304:21, 19310:12, 19310:17, 19310:23, 19311:1, 19311:13, 19313:13, 19313:16, 19318:20, 19342:20 Cecil [1] - 19304:20 Celine [9] - 19299:24, 19300:4, 19300:11, 19315:4, 19315:7, 19315:12, 19315:23, 19329:8, 19369:16 Centre [3] - 19289:19, 19358:18, 19362:10 Centurion [2] - 19310:2, 19310:3 certain [3] - 19285:5, 19329:11, 19382:4 certainly [11] - 19283:7, 19304:6, 19305:21, 19325:5, 19343:20, 19362:3, 19368:13, 19368:16, 19369:1, 19369:5, 19370:21 Certificate [1] - 19387:1 certify [1] - 19387:4 chance [2] - 19284:22, 19386:18 change [3] - 19287:18, 19329:15, 19329:17 changed [2] - 19300:9, 19317:16 channels [1] - 19322:23 character [1] - 19359:15 charge [7] - 19345:21, 19346:3, 19367:4, 19367:15, 19370:15, 19372:8, 19372:19 charged [1] - 19305:14 charts [6] - 19334:8, 19336:10, 19336:16, 19336:19, 19336:23, 19355:20 check [2] - 19275:20, 19357:6 checked [1] - 19362:23 Cheryl [1] - 19256:6</p>	<p>Chief [1] - 19280:2 Chris [2] - 19257:8, 19265:13 chronologically [1] - 19264:2 chronology [3] - 19264:7, 19264:8, 19323:6 circle [1] - 19369:3 circumstance [1] - 19362:3 circumstances [8] - 19278:23, 19294:12, 19304:9, 19305:11, 19346:15, 19361:21, 19365:15, 19366:1 citing [1] - 19288:2 city [1] - 19341:8 City [14] - 19272:4, 19280:2, 19281:10, 19288:20, 19289:1, 19320:7, 19321:5, 19321:16, 19337:21, 19339:16, 19340:21, 19341:2, 19341:10, 19347:24 claiming [2] - 19277:10, 19320:6 clam [1] - 19283:12 clarification [1] - 19308:3 clarify [1] - 19270:20 class [1] - 19273:2 clean [3] - 19300:5, 19334:9, 19336:23 clear [7] - 19279:15, 19286:11, 19286:15, 19287:12, 19294:15, 19304:12, 19364:10 cleared [3] - 19285:21, 19322:3, 19355:23 clearing [1] - 19325:8 Clearly [1] - 19350:14 Clerk [1] - 19256:10 client [13] - 19313:17, 19313:18, 19313:21, 19314:7, 19315:2, 19323:25, 19330:19, 19331:16, 19334:3, 19334:9, 19334:13, 19342:25, 19363:13 Clifford's [1] - 19378:14 close [1] - 19274:16 closed [1] - 19324:19 clothes [6] - 19300:5, 19300:7, 19317:15, 19320:11, 19378:21, 19378:24 co [2] - 19356:11, 19363:7</p>
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<p>co-operating [1] - 19356:11</p> <p>co-operation [1] - 19363:7</p> <p>Coleman[1] - 19279:13</p> <p>coloured [1] - 19317:4</p> <p>coming [8] - 19268:8, 19284:18, 19295:21, 19295:25, 19308:2, 19311:23, 19321:10, 19379:18</p> <p>commenced [1] - 19362:11</p> <p>comment [6] - 19270:10, 19271:1, 19334:24, 19350:22, 19368:1, 19369:8</p> <p>comments [2] - 19268:18, 19324:22</p> <p>Commission[12] - 19255:2, 19255:14, 19256:1, 19256:2, 19256:10, 19260:8, 19260:9, 19261:3, 19261:18, 19261:25, 19262:14, 19263:22</p> <p>Commissioner[20] - 19259:3, 19259:6, 19259:21, 19262:8, 19262:11, 19262:15, 19262:22, 19263:3, 19264:6, 19265:16, 19265:20, 19266:17, 19267:8, 19307:7, 19308:10, 19328:8, 19328:16, 19330:5, 19386:21, 19386:22</p> <p>Commissioner's [3] - 19260:15, 19307:22, 19312:19</p> <p>commit [1] - 19346:8</p> <p>committed [7] - 19346:18, 19351:2, 19366:25, 19370:20, 19371:22, 19372:2, 19378:1</p> <p>Committee[6] - 19265:2, 19265:18, 19267:9, 19307:9, 19307:25</p> <p>committee [1] - 19265:25</p> <p>common [3] - 19308:7, 19340:4, 19371:20</p> <p>Commons[3] - 19267:9, 19307:9, 19307:25</p> <p>communicated [1] - 19312:19</p> <p>communication [2] -</p>	<p>19280:23, 19293:10</p> <p>compare [1] - 19382:14</p> <p>compared [3] - 19275:4, 19325:23, 19379:10</p> <p>comparing [1] - 19382:15</p> <p>compelling [1] - 19366:2</p> <p>complainants [1] - 19338:11</p> <p>complained [1] - 19311:1</p> <p>complaint [5] - 19311:10, 19311:23, 19311:25, 19312:3, 19323:8</p> <p>complete [7] - 19262:16, 19289:25, 19292:20, 19292:23, 19292:25, 19347:16</p> <p>completed [6] - 19342:23, 19346:23, 19347:3, 19347:7, 19347:10, 19358:16</p> <p>complicate [2] - 19305:17, 19305:20</p> <p>concept [1] - 19343:7</p> <p>concern [24] - 19273:13, 19273:16, 19283:3, 19283:21, 19286:23, 19287:2, 19287:4, 19290:25, 19291:18, 19292:1, 19302:14, 19310:11, 19311:6, 19312:6, 19313:16, 19316:19, 19319:17, 19331:18, 19350:23, 19357:12, 19376:20, 19380:4, 19380:6, 19386:1</p> <p>concerned [8] - 19268:25, 19272:24, 19273:6, 19289:15, 19312:14, 19331:15, 19334:14, 19346:16</p> <p>concerning [2] - 19353:5, 19353:13</p> <p>concerns [15] - 19270:2, 19276:14, 19283:11, 19283:15, 19286:21, 19298:23, 19312:20, 19319:14, 19326:3, 19331:12, 19334:21, 19356:6, 19371:3, 19371:6, 19377:5</p> <p>conclude [2] - 19288:5, 19328:25</p> <p>concludes [1] -</p>	<p>19262:11</p> <p>conclusion [2] - 19369:20, 19370:23</p> <p>conclusions [1] - 19356:5</p> <p>conclusive [5] - 19334:11, 19336:1, 19336:2, 19355:3, 19355:21</p> <p>condition [5] - 19356:20, 19357:2, 19359:3, 19359:6, 19359:9</p> <p>conditions [8] - 19259:25, 19262:7, 19284:25, 19293:18, 19335:1, 19336:22, 19357:5, 19374:9</p> <p>conducted [2] - 19314:13, 19330:18</p> <p>confession [1] - 19375:15</p> <p>confidence [1] - 19366:9</p> <p>confined [1] - 19325:11</p> <p>confirm [5] - 19292:22, 19318:21, 19318:22, 19337:20, 19380:8</p> <p>confirmation [1] - 19339:16</p> <p>confirmed [2] - 19298:18, 19338:8</p> <p>confirms [1] - 19351:17</p> <p>confrontation [1] - 19324:10</p> <p>Congram[1] - 19256:3</p> <p>connected [2] - 19276:23, 19385:21</p> <p>consent [1] - 19353:24</p> <p>consider [2] - 19332:7, 19359:16</p> <p>considered [4] - 19290:3, 19324:2, 19371:2, 19372:12</p> <p>consistent [1] - 19381:19</p> <p>consists [1] - 19272:5</p> <p>consultation [1] - 19301:19</p> <p>contact [19] - 19272:14, 19273:7, 19273:14, 19276:25, 19279:12, 19281:21, 19288:7, 19288:25, 19289:2, 19289:3, 19289:4, 19293:2, 19293:3, 19299:11, 19305:4, 19311:10, 19326:12, 19334:17, 19367:24</p> <p>contacted [4] -</p>	<p>19298:7, 19312:1, 19337:12, 19353:25</p> <p>contacting [2] - 19273:11, 19318:15</p> <p>contacts [3] - 19264:4, 19298:3</p> <p>contain [2] - 19358:12, 19387:5</p> <p>contained [1] - 19351:23</p> <p>contemplated [1] - 19297:14</p> <p>contents [3] - 19295:18, 19312:5, 19373:25</p> <p>continual [2] - 19286:23, 19359:4</p> <p>continue [5] - 19262:18, 19285:4, 19308:24, 19309:2, 19310:1</p> <p>Continued[1] - 19258:3</p> <p>continued [1] - 19263:8</p> <p>continuous [1] - 19284:23</p> <p>continuously [1] - 19316:18</p> <p>contributed [1] - 19356:22</p> <p>conversation [6] - 19287:25, 19295:4, 19320:1, 19337:15, 19348:12, 19373:2</p> <p>conversations [1] - 19323:23</p> <p>conversed [1] - 19285:8</p> <p>conversely [1] - 19361:16</p> <p>convert [1] - 19304:5</p> <p>converting [1] - 19343:22</p> <p>conveyed [2] - 19312:5, 19372:22</p> <p>convicted [11] - 19327:3, 19347:25, 19361:10, 19364:20, 19364:24, 19368:8, 19369:7, 19369:23, 19370:19, 19371:24</p> <p>Conviction[1] - 19255:4</p> <p>conviction [8] - 19338:9, 19366:18, 19366:24, 19371:4, 19371:9, 19372:5, 19372:25, 19380:19</p> <p>convictions [5] - 19337:22, 19339:17, 19345:12, 19348:13,</p>	<p>19351:22</p> <p>convince [3] - 19286:9, 19302:3, 19364:6</p> <p>convinced [3] - 19362:25, 19367:10, 19367:11</p> <p>convincing [1] - 19364:8</p> <p>cooperate [8] - 19285:20, 19286:10, 19287:14, 19323:25, 19324:6, 19325:8, 19326:18, 19380:25</p> <p>cooperating [1] - 19294:24</p> <p>cooperation [2] - 19272:7, 19285:5</p> <p>copies [3] - 19322:16, 19342:16, 19358:16</p> <p>copy [1] - 19277:20</p> <p>corner [2] - 19364:16, 19375:21</p> <p>Correct[1] - 19322:24</p> <p>correct [32] - 19266:3, 19267:3, 19268:14, 19270:24, 19270:25, 19276:12, 19276:13, 19278:25, 19279:22, 19279:23, 19280:17, 19280:18, 19288:21, 19293:18, 19293:21, 19296:16, 19299:19, 19301:20, 19314:2, 19322:19, 19327:14, 19328:20, 19328:21, 19337:13, 19338:16, 19344:4, 19344:13, 19344:18, 19346:13, 19366:21, 19369:9, 19387:5</p> <p>corrected [1] - 19313:9</p> <p>Correctional[1] - 19334:18</p> <p>Cotler[1] - 19257:13</p> <p>counsel [14] - 19259:13, 19260:21, 19260:24, 19261:3, 19261:14, 19262:18, 19290:4, 19297:4, 19323:22, 19324:15, 19346:1, 19347:18, 19349:23</p> <p>Counsel[3] - 19256:2, 19259:4, 19260:9</p> <p>counter [2] - 19302:24, 19304:17</p> <p>counter-productive [2] - 19302:24, 19304:17</p> <p>couple [8] - 19273:9, 19292:15, 19303:23,</p>
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<p>19306:23, 19376:2, 19380:1, 19380:21, 19381:15 course [9] - 19266:12, 19277:21, 19353:14, 19364:11, 19366:6, 19367:19, 19375:17, 19377:4, 19381:6 court [1] - 19338:1 Court[13] - 19256:11, 19301:7, 19320:9, 19338:4, 19338:5, 19338:6, 19351:5, 19351:8, 19374:10, 19387:1, 19387:3, 19387:14, 19387:18 courtesy [1] - 19278:7 courtroom [1] - 19297:21 courts [1] - 19368:11 Cousins[1] - 19311:20 cover [1] - 19300:3 coverage [1] - 19320:19 covering [1] - 19358:11 Cox[1] - 19257:11 Cpic[1] - 19339:1 Cpl[1] - 19266:7 Craig[1] - 19333:9 create [1] - 19346:15 credibility [1] - 19297:9 credible [1] - 19360:24 crew [3] - 19302:15, 19310:23, 19311:13 Crime[1] - 19322:12 crime [10] - 19305:14, 19305:24, 19313:7, 19321:12, 19322:11, 19364:20, 19365:2, 19367:25, 19370:20, 19385:25 crimes [2] - 19283:1, 19365:4 criminal [7] - 19326:9, 19340:3, 19340:6, 19343:20, 19344:12, 19351:4, 19383:4 criminals [2] - 19284:14, 19325:13 criticism [2] - 19268:16, 19269:5 criticized [1] - 19268:21 cross [2] - 19260:20, 19297:1 cross-examination [1] - 19260:20 cross-examined [1] - 19297:1 Crown[3] - 19300:6, 19327:17, 19346:1 Csr[8] - 19256:11,</p>	<p>19256:12, 19387:2, 19387:12, 19387:13, 19387:16, 19387:17 Cst[1] - 19321:6 curiosity [1] - 19278:6 current [1] - 19331:24</p> <p style="text-align: center;">D</p> <p>daily [1] - 19325:12 dark [1] - 19317:4 date [20] - 19260:8, 19262:20, 19262:23, 19263:2, 19272:20, 19275:22, 19282:22, 19296:10, 19302:19, 19308:19, 19309:15, 19312:5, 19313:13, 19322:7, 19331:23, 19339:19, 19341:23, 19350:12, 19357:18, 19368:23 dates [2] - 19288:10, 19338:10 daughter [2] - 19285:7, 19286:13 David [40] - 19255:4, 19257:2, 19257:11, 19259:9, 19259:19, 19260:4, 19260:11, 19260:21, 19260:25, 19261:7, 19261:19, 19263:23, 19269:21, 19271:2, 19271:8, 19277:25, 19292:12, 19308:16, 19327:2, 19349:6, 19349:8, 19349:18, 19350:6, 19357:17, 19359:9, 19361:24, 19366:7, 19367:11, 19368:4, 19368:14, 19369:11, 19369:13, 19369:19, 19369:23, 19370:21, 19371:8, 19372:25, 19373:21, 19374:3, 19382:16 days [11] - 19263:11, 19273:9, 19301:8, 19302:10, 19313:19, 19315:5, 19355:25, 19379:16, 19380:21, 19381:15, 19384:23 deal [4] - 19290:9, 19290:12, 19299:17, 19323:20 dealing [7] - 19265:11, 19266:17, 19270:13, 19277:24, 19313:11,</p>	<p>19328:12, 19357:5 dealings [1] - 19263:16, 19279:4, 19296:21, 19297:24, 19298:20, 19298:24, 19299:9, 19299:18, 19326:2, 19328:2, 19333:22 dealt [1] - 19264:17 death [1] - 19383:11 Deborah [2] - 19296:2, 19296:6 Debra [1] - 19295:9 deception [1] - 19314:19 deceptive [1] - 19336:8 decided [1] - 19260:19 decision [3] - 19360:7, 19368:25, 19370:18 decisions [1] - 19314:7 defence [4] - 19261:14, 19301:7, 19314:21, 19368:10 definitely [1] - 19287:4 delay [1] - 19347:15 deliberately [1] - 19356:6 denial [3] - 19336:7, 19353:15, 19359:4 denied [4] - 19335:21, 19347:9, 19361:17, 19361:25 Dennis [1] - 19309:16 deny [3] - 19318:22, 19364:24, 19365:4 Department [6] - 19268:22, 19297:8, 19297:10, 19329:3, 19373:19, 19373:24 Department's [1] - 19297:13 deposed [1] - 19301:25 deposition [24] - 19272:15, 19281:9, 19282:2, 19282:5, 19285:12, 19287:15, 19287:16, 19288:7, 19288:15, 19289:15, 19290:18, 19293:17, 19301:1, 19324:13, 19331:22, 19349:25, 19351:19, 19352:7, 19355:14, 19362:6, 19374:6, 19374:20, 19374:22, 19375:5 Dept[1] - 19308:22 describe [2] - 19276:7, 19280:10 described [1] - 19376:7 describes [1] -</p>	<p>19289:12 description [1] - 19274:7 Description [1] - 19258:2 desire [1] - 19285:15 Detachment [1] - 19311:11 detachment [1] - 19311:18 detail [3] - 19293:9, 19300:2, 19342:1 details [8] - 19271:6, 19281:2, 19302:5, 19310:5, 19316:5, 19353:13, 19358:13, 19385:16 determination [1] - 19276:20 determine [13] - 19267:18, 19269:24, 19271:9, 19274:21, 19274:24, 19334:19, 19347:24, 19353:9, 19357:6, 19358:7, 19360:4, 19381:7, 19381:11 determined [6] - 19290:5, 19331:4, 19336:8, 19338:6, 19351:11, 19358:5 determining [1] - 19353:7 detrimental [1] - 19335:18 developed [3] - 19325:13, 19332:15, 19377:10 developing [3] - 19294:10, 19306:14, 19340:1 Diagnostic [1] - 19358:18 difference [2] - 19300:8, 19355:8 different [2] - 19366:20, 19380:9 differently [2] - 19339:22, 19378:9 difficult [6] - 19273:15, 19282:9, 19283:9, 19368:24, 19372:8, 19385:12 difficulties [1] - 19375:16 difficulty [3] - 19294:17, 19364:11, 19369:1 diplomatically [1] - 19319:24</p>	<p>direct [4] - 19299:8, 19322:21, 19351:7, 19362:18 directed [6] - 19262:15, 19268:19, 19349:3, 19349:5, 19349:15, 19349:16 directing [1] - 19366:22 direction [2] - 19262:22, 19354:6 directly [2] - 19308:10, 19318:17 Director [1] - 19256:3 disadvantage [2] - 19282:7, 19364:13 disappointed [1] - 19285:14 discipline [1] - 19358:14 disclosure [1] - 19332:19 disconcerting [1] - 19349:1 discuss [2] - 19261:4, 19319:8 discussed [3] - 19289:22, 19352:15, 19356:24 discusses [1] - 19308:1 discussing [3] - 19278:4, 19280:22, 19309:19 discussion [10] - 19273:24, 19275:6, 19311:15, 19314:5, 19316:12, 19330:13, 19333:7, 19348:24, 19375:10, 19375:13 discussions [8] - 19261:14, 19261:15, 19262:19, 19264:20, 19299:15, 19332:11, 19373:17, 19374:1 disorder [1] - 19353:10 disposition [1] - 19346:8 disturbing [1] - 19350:11 Dna [14] - 19267:10, 19267:15, 19267:18, 19267:22, 19268:3, 19268:13, 19312:21, 19312:23, 19313:3, 19313:6, 19313:10, 19367:5, 19367:18, 19367:22 document [8] - 19261:9, 19261:16, 19262:6, 19262:9, 19264:7, 19264:9,</p>
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<p>19266:14, 19338:18 Document [3] - 19256:4, 19256:5, 19256:6 documentary [1] - 19342:21 documentation [2] - 19290:24, 19335:6 documented [1] - 19363:19 documents [5] - 19271:11, 19271:20, 19271:22, 19315:18, 19345:10 domain [1] - 19261:19 Don [1] - 19256:12 Donald [2] - 19387:2, 19387:17 done [10] - 19267:18, 19293:14, 19322:6, 19322:18, 19336:14, 19339:21, 19340:8, 19367:13, 19369:11, 19378:9 door [1] - 19310:15 doubt [3] - 19284:12, 19346:2, 19364:9 doubting [1] - 19376:22 doubts [2] - 19362:24, 19371:3 Douglas [1] - 19256:2 down [46] - 19264:22, 19266:5, 19268:12, 19269:10, 19271:25, 19273:23, 19278:14, 19281:4, 19281:18, 19287:9, 19288:17, 19289:22, 19291:9, 19295:1, 19300:21, 19304:14, 19307:4, 19308:15, 19312:16, 19315:3, 19316:22, 19317:14, 19317:22, 19319:25, 19321:3, 19323:16, 19324:21, 19331:20, 19333:5, 19337:18, 19342:14, 19346:25, 19349:21, 19350:9, 19352:24, 19353:22, 19362:5, 19369:18, 19373:15, 19375:6, 19375:19, 19377:23, 19382:13, 19383:16, 19384:24, 19385:17 downside [1] - 19306:17 downsides [1] - 19306:17 downstairs [4] -</p>	<p>19300:4, 19300:11, 19316:23, 19316:25 Dr [1] - 19278:1 driver's [2] - 19314:6, 19314:24 Drs [1] - 19278:10 due [3] - 19266:12, 19277:21, 19331:5 During [2] - 19273:24, 19323:22 during [8] - 19269:5, 19274:12, 19277:11, 19337:15, 19351:13, 19358:19, 19373:8, 19377:4</p>	<p>19333:13 encounter [1] - 19380:3 encouraging [1] - 19323:24 end [12] - 19264:16, 19267:23, 19268:9, 19269:18, 19270:14, 19271:10, 19277:6, 19279:7, 19280:24, 19280:25, 19294:20, 19364:8 ended [2] - 19303:17, 19374:11 Enforcement [1] - 19265:13 engagement [1] - 19263:15 enlighten [1] - 19359:6 enquiring [1] - 19308:17 ensure [2] - 19285:20, 19292:7 entire [2] - 19349:2, 19373:9 entry [1] - 19286:14 environment [3] - 19284:12, 19325:11, 19326:17 error [1] - 19276:6 escalate [1] - 19305:21 escorted [1] - 19279:14 Esq [4] - 19257:5, 19257:7, 19257:8, 19257:10 essence [1] - 19296:25 Essentially [1] - 19295:19 Esson [1] - 19256:13 establish [2] - 19343:3, 19343:16 established [1] - 19332:21 etc [2] - 19334:23, 19353:6 etcetera [2] - 19359:15, 19376:6 Etcetera [1] - 19379:21 Eugene [14] - 19263:16, 19263:19, 19280:21, 19288:19, 19292:13, 19295:2, 19296:21, 19298:24, 19312:25, 19322:17, 19330:15, 19340:13, 19352:4, 19366:17 event [3] - 19292:2, 19320:12, 19380:15 events [2] - 19379:10, 19379:23 eventual [1] - 19358:4</p>	<p>eventually [3] - 19274:17, 19310:19, 19340:7 evidence [41] - 19259:20, 19260:18, 19261:7, 19261:21, 19268:1, 19268:2, 19278:11, 19280:17, 19281:16, 19294:22, 19295:24, 19297:11, 19304:5, 19325:16, 19338:24, 19339:7, 19341:17, 19343:8, 19343:22, 19344:22, 19344:24, 19345:11, 19345:21, 19346:6, 19350:5, 19356:16, 19363:3, 19367:15, 19368:3, 19368:22, 19369:18, 19369:22, 19370:19, 19371:22, 19372:8, 19372:18, 19372:19, 19374:9, 19375:23 evolving [1] - 19332:25 ex [1] - 19313:24 ex-rcmp [1] - 19313:24 exact [1] - 19302:5 exacting [1] - 19336:4 exactly [4] - 19273:15, 19274:2, 19355:8, 19363:1 examination [15] - 19259:8, 19260:20, 19269:13, 19269:22, 19270:1, 19271:3, 19285:17, 19312:22, 19313:10, 19313:22, 19324:1, 19324:17, 19353:9, 19353:11, 19358:7 examined [4] - 19297:1, 19327:9, 19347:11, 19357:22 example [2] - 19261:13, 19375:23 except [1] - 19374:1 exchanged [1] - 19305:4 excited [2] - 19329:19, 19330:2 excused [1] - 19260:12 Executive [1] - 19256:3 exempted [1] - 19259:20 exhibit [1] - 19275:15 exhibited [1] - 19365:22 exhibits [1] - 19268:12 existed [1] - 19381:9 existing [1] - 19366:18</p>	<p>exiting [1] - 19287:24 exonerate [5] - 19349:6, 19349:17, 19350:6, 19369:13, 19370:17 exonerates [1] - 19349:7 expect [2] - 19363:22, 19363:24 expected [2] - 19268:16, 19294:7 experience [3] - 19308:6, 19354:16, 19364:22 explain [2] - 19270:10, 19368:6 explained [6] - 19285:11, 19285:18, 19287:10, 19287:15, 19308:18, 19318:24 explaining [1] - 19334:21 explanation [1] - 19300:8 exposed [1] - 19311:7 express [2] - 19297:25, 19298:20 expressed [7] - 19287:25, 19291:18, 19311:5, 19313:16, 19331:12, 19357:12, 19372:23 expressing [5] - 19286:20, 19286:21, 19287:1, 19302:14, 19310:11 extension [1] - 19259:22 extent [1] - 19345:12 external [1] - 19307:16 extremely [3] - 19329:19, 19330:2, 19363:11</p>
E				
<p>Eamon [1] - 19257:10 Earl [1] - 19347:25 early [5] - 19268:4, 19289:2, 19301:8, 19313:5, 19357:4 easy [2] - 19372:7, 19375:22 Edam [1] - 19299:25 Eddie [1] - 19257:8 Edward [1] - 19255:7 effect [5] - 19308:12, 19344:23, 19346:12, 19359:17, 19381:14 effort [2] - 19271:7, 19363:5 efforts [6] - 19263:5, 19267:17, 19267:19, 19318:25, 19319:16, 19348:16 Ehman [1] - 19318:20 eight [1] - 19310:24 either [11] - 19281:13, 19292:22, 19306:11, 19306:18, 19337:3, 19339:1, 19343:24, 19350:19, 19356:23, 19371:9, 19381:12 elaborate [6] - 19273:13, 19282:10, 19305:19, 19319:3, 19319:17, 19355:9 eliminate [1] - 19325:4 eliminating [1] - 19335:23 Ellerman [1] - 19256:6 Elson [1] - 19257:7 emotional [1] - 19331:24 employment [1] - 19352:1 enactment [1] -</p>				
F				
<p>face [9] - 19290:22, 19291:2, 19301:12, 19324:10, 19365:10 face-to-face [3] - 19290:22, 19291:2, 19301:12 faced [1] - 19383:4 Faced [1] - 19383:11 facilitate [1] - 19332:18 facilitated [1] - 19374:22 fact [47] - 19273:16, 19274:21, 19283:21,</p>				



<p>19286:16, 19295:17, 19301:20, 19304:9, 19304:11, 19305:25, 19309:24, 19310:12, 19311:22, 19313:3, 19314:5, 19317:14, 19318:23, 19340:8, 19341:16, 19342:4, 19343:8, 19343:11, 19343:23, 19344:10, 19346:6, 19346:16, 19348:8, 19349:18, 19350:17, 19351:13, 19356:17, 19364:9, 19365:6, 19365:21, 19366:16, 19371:1, 19372:15, 19380:1, 19380:2, 19380:7, 19380:10, 19380:18, 19380:19, 19380:24, 19381:8, 19381:10, 19381:22, 19385:24 factor [1] - 19381:1 factored [1] - 19368:13 factors [1] - 19366:6 facts [4] - 19261:25, 19352:23, 19379:12, 19379:24 fading [1] - 19368:21 failed [3] - 19335:1, 19335:4, 19336:17 fails [2] - 19334:11, 19336:6 fair [23] - 19281:3, 19284:23, 19288:15, 19288:16, 19290:21, 19294:1, 19294:2, 19300:15, 19300:19, 19300:20, 19323:4, 19323:6, 19323:7, 19335:24, 19336:11, 19336:12, 19336:21, 19339:3, 19339:6, 19342:5, 19348:18, 19378:17, 19378:18 fairly [4] - 19294:11, 19294:15, 19297:18, 19343:14 fairness [2] - 19296:19, 19347:12 familiar [2] - 19343:9, 19350:13 familiarity [1] - 19343:7 family [3] - 19268:23, 19269:5, 19327:22 far [20] - 19268:24, 19269:6, 19278:8, 19289:14, 19297:23, 19298:4, 19306:14, 19315:14, 19319:5,</p>	<p>19323:8, 19326:8, 19329:21, 19343:19, 19345:6, 19346:16, 19349:14, 19352:14, 19372:6, 19376:22, 19385:16 fast [1] - 19294:9 favour [2] - 19334:9, 19359:24 favours [1] - 19359:24 fax [2] - 19266:11, 19266:22 fear [3] - 19288:3, 19325:14, 19357:3 February[5] - 19263:16, 19263:18, 19264:18, 19384:21, 19384:22 federal [2] - 19284:13, 19294:16 Federal[6] - 19263:15, 19265:13, 19268:22, 19287:16, 19318:14, 19329:3 feedback [1] - 19269:4 feeding [1] - 19371:14 feelings [2] - 19284:5, 19298:1 fellow [4] - 19312:18, 19316:15, 19317:3, 19331:4 felt [6] - 19261:7, 19295:12, 19319:21, 19333:3, 19363:20, 19370:14 female [1] - 19316:13 fence [1] - 19274:15 Ferris[4] - 19277:18, 19278:1, 19278:11, 19328:24 few [9] - 19313:19, 19315:4, 19323:3, 19339:22, 19355:25, 19369:17, 19370:9, 19379:16, 19386:15 fielding [1] - 19307:20 fight [1] - 19376:15 file [20] - 19260:7, 19272:2, 19272:4, 19272:10, 19280:3, 19281:7, 19330:12, 19340:13, 19342:8, 19351:13, 19353:2, 19359:13, 19360:13, 19360:19, 19360:21, 19361:3, 19361:11, 19361:16, 19377:14 files [10] - 19288:20, 19340:5, 19341:19, 19342:3, 19347:24, 19348:16, 19351:5,</p>	<p>19351:6, 19351:12, 19356:3 filling [1] - 19281:1 finality [1] - 19367:6 finalizing [1] - 19261:8 Finally[1] - 19295:4 finally [1] - 19316:20 financial [1] - 19349:10 fine [1] - 19373:5 finger [1] - 19304:4 finished [1] - 19385:1 firm [1] - 19324:1 first [11] - 19263:17, 19263:24, 19264:17, 19280:7, 19282:20, 19305:10, 19321:1, 19325:23, 19337:12, 19339:4, 19349:21 Fisher[225] - 19257:10, 19263:21, 19263:24, 19264:3, 19264:5, 19264:15, 19264:21, 19268:25, 19269:11, 19269:17, 19269:23, 19269:25, 19272:15, 19272:19, 19272:22, 19273:5, 19273:6, 19273:18, 19275:1, 19276:24, 19277:9, 19277:12, 19279:5, 19279:6, 19279:16, 19281:21, 19281:24, 19282:2, 19282:5, 19282:8, 19282:24, 19283:12, 19283:18, 19284:21, 19285:9, 19285:11, 19285:15, 19285:22, 19286:9, 19286:18, 19286:20, 19287:10, 19287:20, 19288:6, 19288:12, 19289:8, 19289:18, 19289:23, 19289:24, 19290:2, 19290:3, 19290:7, 19290:18, 19291:22, 19292:19, 19292:25, 19293:5, 19294:6, 19294:11, 19294:16, 19294:23, 19296:12, 19296:16, 19296:17, 19296:22, 19297:25, 19298:3, 19298:13, 19298:15, 19298:17, 19298:24, 19299:19, 19300:14, 19301:22, 19302:14, 19303:24, 19304:1, 19305:6, 19305:22, 19306:8, 19306:10, 19306:18, 19307:12,</p>	<p>19308:18, 19308:20, 19310:10, 19310:25, 19311:15, 19312:4, 19312:7, 19313:14, 19314:1, 19314:9, 19314:13, 19318:22, 19318:23, 19319:6, 19319:11, 19323:11, 19323:21, 19324:5, 19324:16, 19324:18, 19325:5, 19325:10, 19325:18, 19325:24, 19326:2, 19326:11, 19326:12, 19326:23, 19327:11, 19330:22, 19330:25, 19331:10, 19331:12, 19331:16, 19332:1, 19332:13, 19332:16, 19332:19, 19332:22, 19332:25, 19334:3, 19334:5, 19334:8, 19334:11, 19334:14, 19334:22, 19335:1, 19335:18, 19335:20, 19337:9, 19337:12, 19337:22, 19337:25, 19338:9, 19339:17, 19339:19, 19340:2, 19340:18, 19340:24, 19341:5, 19341:8, 19341:14, 19341:19, 19342:3, 19342:12, 19342:24, 19343:4, 19343:17, 19343:21, 19344:9, 19344:16, 19345:2, 19345:8, 19345:15, 19347:4, 19347:13, 19347:17, 19347:25, 19349:22, 19349:24, 19350:14, 19352:18, 19354:23, 19355:1, 19355:13, 19356:6, 19356:17, 19357:13, 19359:11, 19359:14, 19360:15, 19360:20, 19361:3, 19362:6, 19362:9, 19362:11, 19362:25, 19363:2, 19363:24, 19364:19, 19365:6, 19365:17, 19366:8, 19367:2, 19367:11, 19367:16, 19367:24, 19368:2, 19368:16, 19369:7, 19370:10, 19370:13, 19371:2, 19371:6, 19371:15, 19371:22, 19372:2, 19372:16, 19373:7, 19373:11, 19374:23, 19375:18,</p>	<p>19376:6, 19376:17, 19376:24, 19377:13, 19378:21, 19379:5, 19379:15, 19381:14, 19382:15, 19382:21, 19383:14, 19383:18, 19383:24, 19384:10, 19384:15, 19384:24, 19385:9, 19385:24 Fishers [29] - 19265:6, 19270:24, 19272:7, 19273:13, 19277:5, 19281:19, 19282:19, 19285:14, 19287:13, 19287:18, 19288:1, 19291:19, 19301:10, 19302:11, 19310:22, 19312:10, 19313:15, 19324:24, 19331:24, 19338:15, 19351:1, 19356:16, 19362:15, 19363:7, 19363:17, 19376:14, 19378:15, 19378:23, 19380:19 fit [7] - 19260:16, 19261:10, 19262:12, 19284:9, 19294:9, 19329:21, 19371:7 fitness [1] - 19261:24 Fitzpatrick[1] - 19256:14 flow [1] - 19304:9 fo [1] - 19323:12 focus [1] - 19360:1 follow [4] - 19300:17, 19378:20, 19382:2, 19382:6 followed [2] - 19311:18, 19381:7 following [4] - 19265:18, 19279:21, 19338:10, 19351:22 footage [1] - 19320:5 Force[2] - 19268:19, 19323:10 force [1] - 19314:2 foregoing [1] - 19387:4 forensic [3] - 19277:24, 19278:9, 19328:23 forensics [1] - 19278:7 formulate [1] - 19374:4 forth [4] - 19261:16, 19280:24, 19290:13, 19331:22 forthcoming [1] - 19284:6 forward [13] - 19262:8, 19262:23, 19277:25, 19278:10, 19284:18, 19295:21, 19295:25,</p>
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<p>19302:8, 19322:21, 19322:25, 19335:8, 19339:4, 19370:8 forwarded [1] - 19322:20 forwarding [1] - 19277:22 four [3] - 19338:11, 19340:17, 19342:11 frame [6] - 19268:11, 19269:6, 19272:14, 19282:15, 19294:9, 19309:17 Frank[1] - 19289:3 frank [1] - 19332:18 Frayner[1] - 19257:11 Free[1] - 19272:25 free [1] - 19285:1 free-wheeling [1] - 19285:1 fresh [1] - 19383:3 Friday[2] - 19279:21, 19379:20 friend [1] - 19316:13 fronts [2] - 19327:9, 19357:23 fuel [1] - 19270:6 full [6] - 19266:22, 19291:12, 19315:9, 19369:3, 19369:18, 19382:18 fully [1] - 19287:10 Fundamental[1] - 19297:15 funding [1] - 19259:23 funds [2] - 19308:24, 19310:1 furnished [1] - 19350:18 future [2] - 19303:10, 19332:17</p>	<p>gee [1] - 19377:9 Gee[1] - 19373:1 general [3] - 19286:22, 19293:7, 19316:5 generally [7] - 19261:4, 19287:1, 19299:6, 19308:5, 19315:22, 19343:10, 19360:10 generated [2] - 19334:20, 19352:22 George[1] - 19333:8 Gibson[1] - 19257:9 Gis[2] - 19327:13, 19327:24 given [6] - 19267:10, 19273:5, 19309:10, 19309:15, 19356:9, 19386:18 gonna [3] - 19314:7, 19352:19, 19356:12 Government[1] - 19257:4 government [4] - 19265:24, 19307:21, 19328:7, 19373:20 Graceoffo [1] - 19357:19 granted [1] - 19259:22 granting [1] - 19319:22 great [1] - 19293:9 Greg[1] - 19333:8 grounds [2] - 19259:21, 19260:13 guess [10] - 19263:11, 19304:7, 19308:4, 19335:16, 19336:24, 19337:1, 19345:6, 19355:21, 19364:3, 19375:15 guilt [1] - 19331:3 gut [4] - 19284:17, 19304:3, 19304:8, 19365:14 guy [2] - 19383:8, 19383:13</p>	<p>19327:12, 19327:23 handwritten [3] - 19275:10, 19315:16 happy [1] - 19301:16 hard [5] - 19304:4, 19326:25, 19364:15, 19365:12, 19366:4 hardened [2] - 19284:14, 19325:12 Harold [5] - 19290:4, 19334:2, 19351:16, 19352:4, 19362:9 Hartman [1] - 19321:6 Harvard [1] - 19265:1 head [3] - 19270:18, 19271:18, 19306:22 heads [1] - 19367:8 hear [5] - 19268:2, 19296:10, 19316:12, 19345:11, 19374:9 heard [7] - 19263:23, 19268:1, 19292:17, 19334:25, 19345:10, 19374:9, 19375:23 hearing [6] - 19260:18, 19262:20, 19281:16, 19297:17, 19371:9 held [2] - 19338:6, 19373:17 help [2] - 19349:10, 19363:24 helpful [2] - 19337:2, 19363:11 Henderson [2] - 19281:15, 19309:16 hereby [1] - 19387:4 herein [1] - 19387:6 Hersh [2] - 19257:2, 19340:16 hesitation [1] - 19298:6 hidden [2] - 19274:15, 19385:20 hide [2] - 19292:9, 19381:17 hiding [1] - 19292:6 high [1] - 19307:21 highest [1] - 19307:23 himself [2] - 19325:3, 19386:11 hinder [1] - 19283:18 hindered [1] - 19347:17 hindsight [1] - 19378:5 hinges [1] - 19339:24 Hinz [3] - 19256:11, 19387:2, 19387:13 hired [1] - 19327:21 history [3] - 19271:8, 19326:8, 19352:2 hit [1] - 19385:2 Hodson[9] - 19256:2,</p>	<p>19258:4, 19259:5, 19263:4, 19263:6, 19263:9, 19330:4, 19330:8, 19386:20 hold [1] - 19275:21 home [3] - 19321:11, 19379:3, 19379:5 homicide [3] - 19326:20, 19345:9, 19367:16 Hon [1] - 19257:13 honest [2] - 19360:2, 19381:4 Honourable [1] - 19255:6 hope [1] - 19269:24 Hoppie [7] - 19316:13, 19316:15, 19316:18, 19316:21, 19316:24, 19317:3, 19317:6 hot [1] - 19307:7 Hotel [1] - 19255:16 hour [1] - 19330:18 hours [2] - 19310:18, 19310:24 house [6] - 19300:2, 19310:12, 19310:18, 19311:2, 19316:7, 19316:14 Hq [1] - 19307:6 Hugh [1] - 19256:13 human [1] - 19267:12 hunting [7] - 19274:9, 19275:9, 19275:11, 19275:17, 19275:19, 19276:5, 19276:22 hurry [1] - 19329:25</p>	<p>important [4] - 19319:18, 19343:14, 19346:10, 19365:21 impression [8] - 19282:6, 19284:3, 19292:4, 19295:8, 19295:19, 19304:12, 19377:21, 19385:8 inability [1] - 19356:22 incarcerated [1] - 19357:25 incidents [2] - 19340:23, 19341:4 inclined [1] - 19363:4 including [1] - 19261:5 inconclusive [5] - 19270:4, 19270:17, 19337:2, 19355:5, 19356:7 incriminate [1] - 19386:10 incriminating [1] - 19364:5 indecent [3] - 19348:1, 19382:22, 19383:9 indeed [2] - 19261:24, 19262:4 Index [1] - 19258:1 indicate [6] - 19272:20, 19274:8, 19282:22, 19289:18, 19293:17, 19362:13 indicated [16] - 19259:13, 19259:18, 19264:23, 19264:25, 19265:3, 19265:6, 19273:3, 19280:1, 19291:16, 19303:8, 19318:14, 19322:15, 19330:17, 19335:15, 19337:16, 19343:1 indicates [5] - 19266:12, 19269:21, 19290:8, 19295:15, 19324:5 indicating [5] - 19271:2, 19282:17, 19310:15, 19317:25, 19353:1 indication [1] - 19321:13 Indications [2] - 19280:6, 19310:22 indictment [1] - 19351:7 indirectly [2] - 19302:23, 19303:15 individual [7] - 19272:18, 19291:7, 19312:6, 19321:7,</p>
G			I	
<p>Gail[18] - 19263:23, 19276:23, 19306:12, 19306:20, 19325:19, 19343:4, 19343:17, 19344:22, 19345:3, 19345:9, 19345:13, 19345:16, 19345:19, 19366:21, 19367:1, 19367:25, 19372:18, 19383:11 gain [1] - 19295:21 gaining [2] - 19272:6, 19359:7 Garrett[1] - 19257:6 gather [1] - 19372:8</p>	H	<p>half [2] - 19330:18, 19344:11 Hall[3] - 19295:10, 19296:2, 19296:6 hamper [1] - 19283:17 hand [2] - 19275:24, 19365:12 handled [9] - 19274:9, 19274:25, 19276:2, 19276:4, 19276:21, 19278:15, 19305:1,</p>	<p>idea [5] - 19293:15, 19297:5, 19336:20, 19351:18, 19386:7 identified [4] - 19265:5, 19285:23, 19286:19, 19321:8 identify [2] - 19265:6, 19343:4 identifying [2] - 19282:21, 19359:16 identities [1] - 19319:1 ii [2] - 19325:18, 19327:17 iii [1] - 19328:22 immediate [1] - 19266:10 immediately [1] - 19316:15 impact [1] - 19369:5</p>	<p>idea [5] - 19293:15, 19297:5, 19336:20, 19351:18, 19386:7 identified [4] - 19265:5, 19285:23, 19286:19, 19321:8 identify [2] - 19265:6, 19343:4 identifying [2] - 19282:21, 19359:16 identities [1] - 19319:1 ii [2] - 19325:18, 19327:17 iii [1] - 19328:22 immediate [1] - 19266:10 immediately [1] - 19316:15 impact [1] - 19369:5</p>



<p>19326:8, 19365:22 individuals [2] - 19270:5, 19270:16 indulgence [1] - 19259:7 infer [2] - 19335:4, 19336:16 influence [2] - 19283:24, 19370:3 influenced [1] - 19377:2 info [1] - 19353:4 informal [1] - 19297:17 information [56] - 19263:20, 19266:13, 19266:17, 19276:8, 19276:10, 19278:10, 19278:22, 19280:10, 19283:6, 19283:22, 19291:22, 19292:5, 19304:25, 19312:4, 19317:10, 19320:25, 19321:20, 19321:22, 19325:25, 19328:24, 19329:20, 19337:22, 19340:19, 19340:20, 19341:3, 19342:19, 19344:16, 19349:6, 19349:7, 19349:17, 19350:5, 19350:18, 19350:20, 19350:21, 19353:6, 19353:13, 19353:24, 19354:13, 19356:2, 19357:16, 19359:8, 19359:14, 19359:22, 19360:9, 19360:23, 19371:14, 19375:17, 19377:11, 19377:22, 19378:2, 19378:3, 19380:20, 19381:23, 19382:1, 19385:25, 19386:3 informations [1] - 19351:7 initial [3] - 19264:4, 19285:13, 19351:14 initiate [3] - 19334:17, 19345:25, 19346:3 initiated [3] - 19321:24, 19340:10, 19344:1 Inkster [2] - 19265:21, 19267:8 Inland [1] - 19256:14 inmate [2] - 19265:4, 19353:25 inmate's [1] - 19358:13 inmates [4] - 19287:3, 19287:6, 19331:1, 19356:18 innocence [2] -</p>	<p>19359:7, 19381:19 innocent [16] - 19284:7, 19284:8, 19284:10, 19285:19, 19286:16, 19294:14, 19302:7, 19303:17, 19305:25, 19306:3, 19325:1, 19325:6, 19326:14, 19326:15, 19343:1, 19364:7 inquiries [7] - 19268:25, 19308:7, 19308:23, 19318:3, 19339:8, 19341:9, 19341:18 inquiry [2] - 19312:24, 19313:4 Inquiry [6] - 19255:2, 19255:23, 19259:10, 19261:20, 19262:14, 19298:17 insecure [1] - 19330:22 inside [1] - 19279:14 insobar [1] - 19374:1 Insp [4] - 19280:7, 19281:11, 19321:4, 19321:15 Inspector [3] - 19288:19, 19288:24, 19289:4 instead [1] - 19301:12 institution [6] - 19283:7, 19284:13, 19286:3, 19287:5, 19294:17, 19358:10 instructions [1] - 19289:24 instrumental [1] - 19303:19 insufficient [1] - 19308:24 integrity [1] - 19372:25 intend [2] - 19261:11, 19290:2 intended [1] - 19259:19 interest [5] - 19278:3, 19302:25, 19304:18, 19310:7, 19380:4 interested [3] - 19318:4, 19321:14, 19359:1 interesting [1] - 19364:4 interests [1] - 19303:20 internal [1] - 19386:4 interpret [1] - 19355:6 interpreted [1] - 19354:25 interrogate [1] - 19337:9</p>	<p>interrogation [1] - 19314:18 intervention [1] - 19347:8 interview [63] - 19260:25, 19261:2, 19262:2, 19262:4, 19264:3, 19264:15, 19280:4, 19281:24, 19285:13, 19289:11, 19289:12, 19290:22, 19291:2, 19291:18, 19294:10, 19296:2, 19296:5, 19299:4, 19299:7, 19299:10, 19301:12, 19304:24, 19307:11, 19310:13, 19312:12, 19318:9, 19318:21, 19321:16, 19321:25, 19325:16, 19330:19, 19330:20, 19332:10, 19334:3, 19334:5, 19334:12, 19335:14, 19349:23, 19349:25, 19352:17, 19357:10, 19362:11, 19362:12, 19362:24, 19363:12, 19363:18, 19363:22, 19364:18, 19364:21, 19369:17, 19373:6, 19373:9, 19375:11, 19377:1, 19377:4, 19377:16, 19377:21, 19377:23, 19380:23, 19381:12, 19381:13, 19384:15, 19385:11 interviewed [20] - 19260:5, 19265:4, 19280:7, 19282:3, 19282:18, 19282:23, 19295:6, 19305:2, 19311:5, 19315:4, 19315:7, 19324:25, 19326:4, 19326:23, 19327:20, 19332:2, 19342:24, 19347:3, 19369:25, 19381:10 interviewing [4] - 19281:7, 19309:9, 19364:23, 19374:24 interviews [11] - 19284:23, 19297:22, 19298:2, 19303:24, 19318:17, 19319:22, 19333:22, 19346:23, 19347:6, 19347:13, 19347:16 introduced [1] - 19316:25</p>	<p>investigate [1] - 19306:7 investigated [1] - 19305:7 investigating [10] - 19272:17, 19291:24, 19308:6, 19312:7, 19344:21, 19353:17, 19366:17, 19366:20, 19366:24, 19381:21 Investigation [1] - 19323:16 investigation [29] - 19266:9, 19270:9, 19274:13, 19283:18, 19289:2, 19292:19, 19292:25, 19293:8, 19293:13, 19306:15, 19308:25, 19309:2, 19311:12, 19318:10, 19319:23, 19323:14, 19327:12, 19327:23, 19329:1, 19335:23, 19342:23, 19347:2, 19349:3, 19349:15, 19351:10, 19358:3, 19363:25, 19366:22, 19374:4 investigative [2] - 19268:3, 19343:11 investigator [21] - 19274:23, 19295:6, 19295:9, 19295:13, 19295:16, 19296:4, 19296:25, 19297:24, 19298:13, 19310:6, 19313:23, 19314:10, 19324:20, 19327:21, 19344:2, 19344:6, 19345:18, 19354:11, 19367:21, 19369:6 investigator's [1] - 19295:12 investigators [7] - 19274:15, 19280:5, 19281:8, 19296:14, 19309:1, 19310:1, 19311:21 involve [1] - 19296:6 involved [27] - 19266:8, 19267:23, 19268:12, 19278:7, 19296:16, 19303:1, 19304:18, 19305:24, 19313:9, 19318:17, 19319:2, 19323:10, 19325:18, 19326:19, 19328:6, 19333:14, 19334:14, 19336:7, 19340:1, 19342:12, 19359:5,</p>	<p>19362:14, 19362:22, 19365:7, 19365:11, 19369:23, 19377:13 involvement [13] - 19263:18, 19277:23, 19291:20, 19314:14, 19318:6, 19318:8, 19318:10, 19328:3, 19328:19, 19335:21, 19361:17, 19364:25, 19369:16 Irene [1] - 19256:10 Irwin [1] - 19257:13 Isabelle [1] - 19256:5 issue [13] - 19261:4, 19261:23, 19264:25, 19271:23, 19278:9, 19297:9, 19331:16, 19357:3, 19357:7, 19366:15, 19376:18, 19378:16 issues [7] - 19270:15, 19277:24, 19308:1, 19312:14, 19357:1, 19369:3, 19376:1 item [1] - 19313:17 itself [2] - 19365:25, 19366:1</p>
J				
<p>jail [3] - 19361:9, 19383:5, 19383:13 January[1] - 19362:16 Jennifer[1] - 19257:11 Joanne[1] - 19257:3 John[3] - 19265:1, 19281:11, 19370:1 Joyce[4] - 19257:3, 19260:22, 19272:24, 19276:12 judges [1] - 19368:10 judicial [1] - 19325:14 July[14] - 19330:21, 19332:14, 19333:6, 19333:25, 19337:19, 19340:12, 19340:15, 19348:22, 19348:23, 19350:24, 19352:5, 19352:25, 19357:19, 19362:5 jump [1] - 19343:23 June[42] - 19272:19, 19278:14, 19279:2, 19279:10, 19279:24, 19281:6, 19281:13, 19281:18, 19282:19, 19289:7, 19289:9, 19289:11, 19292:10,</p>				



19292:12, 19292:24, 19293:16, 19294:3, 19299:14, 19300:12, 19300:21, 19302:10, 19303:22, 19307:4, 19308:15, 19309:10, 19309:14, 19310:9, 19313:12, 19315:3, 19317:23, 19320:2, 19322:8, 19322:9, 19323:19, 19326:21, 19328:14, 19330:10, 19330:11, 19330:12, 19331:21 juries [1] - 19368:11 Justice [18] - 19255:6, 19257:12, 19263:15, 19265:2, 19265:17, 19267:9, 19268:22, 19287:17, 19292:18, 19293:12, 19307:9, 19307:25, 19308:22, 19318:14, 19329:3, 19373:19, 19373:24, 19374:6 justice [5] - 19265:25, 19297:15, 19327:4, 19368:9, 19369:5	19274:14, 19274:20, 19274:22, 19274:25, 19275:9, 19275:11, 19275:12, 19275:14, 19275:15, 19275:18, 19275:19, 19276:2, 19276:4, 19276:5, 19276:7, 19276:10, 19276:16, 19276:20, 19276:21, 19276:22, 19276:24, 19277:9, 19277:15, 19278:16, 19278:19, 19278:23, 19344:14, 19346:8, 19382:19 knives [2] - 19277:1, 19277:13 knowing [2] - 19364:14, 19380:19 knowledge [9] - 19261:13, 19261:24, 19267:17, 19271:15, 19287:6, 19328:5, 19331:17, 19371:11, 19387:6 known [5] - 19268:3, 19269:15, 19301:6, 19379:11, 19379:24 Krogan [1] - 19257:4 Kujawa [1] - 19257:6	19292:25, 19293:5, 19294:11, 19294:23, 19299:18, 19300:14, 19302:11, 19302:22, 19303:14, 19303:24, 19304:1, 19305:6, 19305:22, 19306:7, 19306:10, 19306:18, 19310:21, 19312:7, 19312:9, 19313:13, 19314:9, 19318:22, 19319:6, 19319:11, 19323:11, 19324:5, 19326:12, 19327:10, 19331:10, 19331:12, 19331:18, 19340:2, 19340:18, 19340:24, 19341:5, 19341:8, 19341:13, 19341:19, 19342:3, 19342:12, 19342:24, 19343:4, 19343:17, 19343:21, 19344:9, 19345:2, 19345:8, 19347:3, 19347:13, 19347:17, 19347:25, 19349:22, 19350:14, 19357:13, 19359:11, 19359:14, 19362:6, 19362:9, 19362:13, 19367:11, 19367:16, 19367:24, 19368:16, 19369:7, 19371:2, 19371:22, 19372:2, 19373:7, 19374:23, 19375:18, 19376:5, 19376:7, 19376:15, 19376:17, 19376:24, 19377:12, 19378:23, 19381:13, 19382:15, 19383:14, 19383:17 last [16] - 19261:1, 19263:11, 19263:22, 19265:8, 19279:3, 19286:7, 19293:24, 19299:2, 19305:19, 19313:25, 19322:14, 19338:18, 19339:7, 19364:12, 19366:16 lastly [1] - 19329:6 late [1] - 19368:23 latter [1] - 19370:12 lawyer [19] - 19264:20, 19268:23, 19269:20, 19271:2, 19277:5, 19279:6, 19279:19, 19281:19, 19287:17, 19287:20, 19290:19, 19301:7, 19308:21, 19308:22, 19313:15,	19318:14, 19324:11, 19324:12, 19386:8 lawyers [2] - 19345:6, 19368:10 learn [1] - 19350:11 learned [4] - 19281:2, 19328:17, 19331:10, 19340:15 learning [1] - 19339:11 least [6] - 19288:15, 19297:3, 19320:17, 19338:13, 19341:1, 19379:2 leave [10] - 19299:17, 19310:25, 19316:24, 19329:18, 19329:25, 19330:2, 19377:17, 19377:20, 19382:18, 19384:7 leaves [1] - 19325:8 leaving [2] - 19290:8, 19384:3 left [9] - 19263:14, 19264:10, 19264:19, 19279:17, 19295:7, 19310:15, 19362:24, 19372:20, 19377:21 legal [10] - 19281:9, 19282:1, 19282:4, 19285:11, 19287:15, 19288:7, 19293:17, 19300:25, 19324:13, 19349:25 Legal [1] - 19305:2 less [2] - 19326:5, 19356:21 letter [12] - 19289:7, 19292:10, 19292:12, 19295:1, 19295:2, 19298:19, 19348:22, 19349:14, 19351:16, 19352:13, 19357:18, 19357:21 level [9] - 19265:24, 19307:21, 19307:22, 19307:23, 19308:8, 19328:8, 19332:24, 19372:17 levelled [1] - 19331:6 life [1] - 19361:25 light [1] - 19363:25 likely [1] - 19384:11 limit [1] - 19259:22 Linda [47] - 19264:3, 19272:21, 19273:3, 19273:6, 19273:13, 19273:21, 19273:24, 19274:20, 19276:24, 19277:9, 19278:21, 19296:12, 19296:16,	19296:17, 19296:22, 19297:24, 19297:25, 19298:3, 19298:12, 19298:14, 19298:17, 19298:24, 19302:13, 19302:23, 19303:15, 19303:18, 19310:10, 19310:13, 19310:23, 19311:1, 19311:5, 19311:9, 19311:22, 19312:4, 19312:13, 19326:11, 19326:23, 19344:16, 19366:8, 19376:6, 19376:8, 19376:14, 19376:16, 19376:23, 19378:22, 19379:11 line [1] - 19296:11 link [5] - 19344:22, 19345:2, 19345:19, 19348:3, 19372:18 linked [1] - 19345:8 list [6] - 19261:6, 19262:16, 19290:1, 19290:2, 19290:19, 19301:13 lists [1] - 19338:11 lived [2] - 19278:19, 19344:10 local [1] - 19320:5 locate [6] - 19318:1, 19318:11, 19320:4, 19338:8, 19333:17, 19348:16 located [2] - 19274:14, 19342:5 locating [1] - 19318:7 location [2] - 19326:10, 19357:11 lodge [1] - 19311:11 logic [1] - 19371:21 logical [1] - 19370:23 look [9] - 19277:9, 19353:20, 19356:11, 19358:21, 19360:19, 19361:9, 19369:18, 19377:8, 19383:2 look-alike [1] - 19277:9 looked [9] - 19271:13, 19284:4, 19317:2, 19338:25, 19344:7, 19352:16, 19359:13, 19360:18, 19360:20 looking [2] - 19266:16, 19284:12, 19303:3, 19310:7, 19313:3, 19316:2, 19316:3, 19316:17, 19329:14, 19340:2, 19345:1, 19345:7, 19350:7,
K				
Kara [1] - 19256:5 Karen [3] - 19256:11, 19387:2, 19387:13 Karst [1] - 19257:8 keep [3] - 19319:9, 19363:4, 19370:7 keeping [1] - 19268:21 Keeping [1] - 19349:9 Kelowna [4] - 19327:24, 19327:25, 19328:10, 19328:19 Ken [3] - 19321:8, 19321:13, 19321:25 Kennedy [1] - 19257:5 kept [1] - 19285:8 key [1] - 19319:10 kid [1] - 19383:4 killed [2] - 19306:12, 19306:19 killer [3] - 19304:1, 19383:14, 19383:17 Kim [3] - 19264:18, 19310:16, 19310:19 kind [4] - 19367:6, 19370:22, 19373:2, 19373:23 knife [33] - 19274:1, 19274:7, 19274:9,	L	lab [3] - 19268:7, 19313:6, 19313:7 Labchuk [1] - 19295:23 labs [1] - 19313:8 lack [2] - 19285:15, 19361:23 lady [1] - 19366:10 Lafleur [1] - 19279:13 laid [1] - 19326:13 Lana [1] - 19257:4 Lapchuk [5] - 19333:8, 19333:17, 19333:23, 19333:24, 19369:25 large [1] - 19272:5 larger [1] - 19278:20 Larry [102] - 19257:10, 19263:21, 19263:24, 19264:5, 19264:15, 19264:21, 19272:15, 19273:4, 19273:18, 19275:2, 19277:6, 19277:11, 19278:19, 19279:5, 19281:21, 19282:19, 19283:18, 19289:8, 19291:19, 19291:22, 19292:19,		



19357:7, 19357:9, 19359:11, 19359:24, 19360:3, 19360:12, 19369:15, 19370:13 lookit [3] - 19279:7, 19284:21, 19381:15 looks [14] - 19265:11, 19266:2, 19278:24, 19284:20, 19288:17, 19290:17, 19291:21, 19299:14, 19299:16, 19320:17, 19342:14, 19348:11, 19373:11, 19386:12 lose [1] - 19260:17 losing [1] - 19274:1 lost [3] - 19277:10, 19278:18, 19278:20 low [1] - 19319:10 low-key [1] - 19319:10 lying [3] - 19295:18, 19295:23, 19375:19	matter [8] - 19259:16, 19263:18, 19265:12, 19278:3, 19300:14, 19311:9, 19318:6, 19346:9 matters [6] - 19259:9, 19261:6, 19261:12, 19280:19, 19305:20, 19309:4 Mccorriston [1] - 19289:3 Mclean [1] - 19257:3 mean [23] - 19275:21, 19282:11, 19303:16, 19327:1, 19330:3, 19336:4, 19344:8, 19346:18, 19351:6, 19352:21, 19356:9, 19356:13, 19357:1, 19357:4, 19361:24, 19364:12, 19365:4, 19365:18, 19365:25, 19368:23, 19369:15, 19370:19, 19370:22 meaning [1] - 19362:16 means [2] - 19336:24, 19361:5 meant [2] - 19355:8, 19355:16 media [19] - 19268:17, 19282:12, 19282:13, 19282:17, 19282:20, 19282:21, 19283:22, 19302:11, 19319:5, 19319:7, 19319:9, 19319:12, 19331:5, 19356:16, 19356:19, 19381:13, 19384:15, 19385:3, 19386:4 medical [4] - 19259:20, 19260:12, 19261:23, 19357:2 medically [1] - 19261:10 meet [2] - 19288:19, 19355:25 meeting [13] - 19260:3, 19261:2, 19270:12, 19284:20, 19289:11, 19296:16, 19307:9, 19308:19, 19313:18, 19332:13, 19332:18, 19355:12, 19379:15 Melnik [1] - 19295:22 Melnyk [5] - 19333:9, 19333:17, 19333:22, 19333:24, 19369:25 member [3] - 19312:2, 19314:2, 19328:10 Member [1] - 19265:1	members [4] - 19265:17, 19267:8, 19280:8, 19321:6 memo [4] - 19330:12, 19331:20, 19347:21, 19352:10 memorandum [4] - 19331:7, 19340:13, 19341:1, 19346:22 memories [1] - 19368:21 memory [3] - 19264:24, 19271:12, 19309:18 memos [1] - 19290:13 mental [3] - 19320:8, 19359:2, 19359:8 mentioned [4] - 19281:12, 19282:1, 19313:5, 19314:4 mentions [1] - 19274:8 mercy [2] - 19373:22, 19374:3 merely [1] - 19319:1 message [1] - 19279:17 Messrs [1] - 19295:22 met [3] - 19281:19, 19290:17, 19296:17 Met [1] - 19362:9 Meyer [3] - 19256:12, 19387:2, 19387:17 middle [3] - 19292:21, 19293:14, 19319:23 midnight [1] - 19311:1 might [21] - 19284:8, 19286:15, 19292:2, 19293:12, 19305:20, 19309:4, 19330:4, 19335:17, 19335:22, 19336:16, 19354:12, 19359:6, 19360:24, 19361:3, 19361:13, 19363:24, 19371:7, 19376:17, 19376:18, 19376:19, 19384:16 Mike [4] - 19313:23, 19314:16, 19334:7, 19356:1 Milgaard [82] - 19255:4, 19257:2, 19257:3, 19259:15, 19259:20, 19260:5, 19260:11, 19260:14, 19260:21, 19260:22, 19260:25, 19261:8, 19261:10, 19261:20, 19261:23, 19262:5, 19262:10, 19263:23, 19268:23, 19269:5, 19269:11, 19269:21, 19271:2, 19271:9, 19272:24,	19273:3, 19273:7, 19273:8, 19273:17, 19276:12, 19277:19, 19277:25, 19291:24, 19300:1, 19300:4, 19300:7, 19300:9, 19304:22, 19307:10, 19316:6, 19321:10, 19326:10, 19327:2, 19327:8, 19327:18, 19327:21, 19329:11, 19329:14, 19329:22, 19333:10, 19333:12, 19353:3, 19353:5, 19353:8, 19353:14, 19353:17, 19354:9, 19357:17, 19358:4, 19358:9, 19358:24, 19358:25, 19359:9, 19359:22, 19359:25, 19360:16, 19361:9, 19361:17, 19361:24, 19366:7, 19367:12, 19368:14, 19369:11, 19369:13, 19369:19, 19369:23, 19370:11, 19370:17, 19370:22, 19371:8, 19374:3, 19382:16 Milgaard's [17] - 19259:9, 19259:12, 19259:18, 19269:15, 19269:20, 19271:2, 19320:10, 19321:13, 19347:18, 19358:10, 19358:17, 19368:4, 19371:4, 19372:4, 19372:25, 19373:21, 19374:7 Miller [24] - 19263:24, 19274:4, 19274:13, 19276:23, 19306:12, 19306:20, 19321:9, 19325:19, 19329:12, 19333:15, 19343:17, 19344:22, 19345:3, 19345:9, 19345:13, 19345:16, 19345:20, 19353:15, 19362:14, 19366:21, 19367:1, 19367:25, 19372:18, 19383:11 Miller's [1] - 19343:4 mind [12] - 19270:20, 19285:8, 19287:19, 19305:15, 19306:2, 19306:18, 19349:9, 19363:1, 19363:4, 19370:7, 19370:16, 19370:17	minds [1] - 19263:13 Minister [4] - 19257:11, 19292:18, 19293:12, 19374:5 Ministries [2] - 19310:2, 19310:4 minutes [2] - 19281:22, 19370:9 missing [3] - 19274:3, 19276:21, 19278:23 mistaken [2] - 19282:14, 19342:9 mistrust [2] - 19325:14, 19326:18 mix [1] - 19371:8 Mo [1] - 19383:9 modus [1] - 19345:14 moment [5] - 19259:7, 19290:12, 19360:20, 19366:23, 19370:12 Monday [2] - 19255:21, 19384:22 month [2] - 19277:7, 19299:17 months [4] - 19289:20, 19290:9, 19294:5, 19339:23 months' [1] - 19339:22 Moreover [1] - 19295:15 morning [14] - 19300:1, 19316:6, 19321:11, 19326:11, 19329:12, 19344:17, 19346:11, 19375:25, 19378:15, 19378:24, 19380:8, 19381:25, 19382:5, 19384:22 most [2] - 19261:13, 19373:8 motel [1] - 19333:11 motion [3] - 19260:7, 19260:16, 19260:19 Mountain [1] - 19334:16 move [1] - 19334:20 movements [2] - 19351:25, 19375:18 moving [4] - 19294:15, 19302:8, 19360:10, 19370:8 murder [42] - 19266:8, 19274:5, 19274:13, 19274:16, 19276:23, 19277:13, 19287:7, 19294:14, 19321:10, 19323:12, 19325:2, 19325:19, 19329:10, 19329:12, 19333:15, 19335:21, 19336:7,
M				
Maccallum [4] - 19255:7, 19259:3, 19263:3, 19386:22 Macfarlane [1] - 19340:16 Maggie [1] - 19338:7 main [4] - 19288:25, 19289:4, 19327:17, 19370:3 maintain [4] - 19285:4, 19320:10, 19349:4, 19349:16 maintaining [1] - 19350:3 majority [1] - 19374:18 male [1] - 19316:13 Manager [1] - 19256:4 mandate [1] - 19366:19 manipulated [1] - 19325:17 March [4] - 19294:4, 19299:3, 19326:1, 19326:22 marked [1] - 19275:14 Markesteyn [4] - 19277:17, 19278:1, 19278:10, 19328:24 marriage [1] - 19376:5 mate [1] - 19274:10 material [5] - 19280:4, 19281:7, 19353:2, 19356:3, 19377:14 materials [2] - 19348:17, 19356:15				



19344:12, 19344:23, 19345:3, 19345:14, 19345:16, 19345:20, 19346:7, 19346:11, 19352:1, 19353:15, 19361:17, 19362:14, 19362:20, 19366:8, 19366:21, 19367:1, 19371:22, 19372:2, 19378:16, 19378:24, 19379:16, 19380:22, 19381:16, 19382:12, 19382:23 must [5] - 19260:3, 19285:4, 19325:1, 19375:9, 19375:10	19376:20, 19381:9 new [5] - 19308:20, 19323:11, 19327:10, 19362:1, 19371:9 Newels [1] - 19338:5 news [4] - 19313:17, 19385:3, 19385:17, 19386:4 newspaper [2] - 19264:24, 19265:3 next [32] - 19262:16, 19267:21, 19269:22, 19273:9, 19273:23, 19277:3, 19277:4, 19291:11, 19291:12, 19296:11, 19296:22, 19302:9, 19304:14, 19308:21, 19310:8, 19313:18, 19316:9, 19319:25, 19324:4, 19327:6, 19332:4, 19333:25, 19347:4, 19352:24, 19354:19, 19373:7, 19382:18, 19382:20, 19383:1, 19383:16, 19383:21, 19385:15 night [1] - 19310:16 non [1] - 19297:2 non-adversarial [1] - 19297:2 none [2] - 19285:25, 19319:20 None [1] - 19297:4 normal [2] - 19294:8, 19294:12 Norman [1] - 19265:20 North [6] - 19268:12, 19273:2, 19299:10, 19311:10, 19311:19, 19346:17 Note [1] - 19270:2 note [7] - 19286:17, 19293:24, 19309:24, 19310:14, 19311:14, 19320:18, 19339:8 noted [5] - 19274:12, 19330:22, 19342:19, 19348:2, 19348:13 notes [16] - 19272:20, 19275:10, 19275:17, 19275:19, 19276:7, 19280:4, 19288:23, 19293:3, 19293:17, 19318:5, 19318:13, 19338:13, 19348:8, 19352:16, 19387:6 nothing [18] - 19270:6, 19278:12, 19278:13, 19280:16, 19285:13,	19295:20, 19314:15, 19333:24, 19334:12, 19339:10, 19354:5, 19355:22, 19361:2, 19364:7, 19369:13, 19381:17, 19385:6, 19385:7 notice [1] - 19260:7 November [5] - 19255:21, 19259:16, 19260:2, 19260:4, 19262:8 number [7] - 19271:25, 19282:17, 19296:17, 19298:3, 19298:8, 19328:22, 19344:13	offences [25] - 19337:25, 19338:1, 19338:15, 19338:20, 19339:1, 19339:5, 19339:10, 19339:12, 19339:20, 19339:25, 19341:17, 19342:12, 19342:18, 19345:2, 19345:15, 19346:18, 19348:6, 19351:1, 19351:3, 19351:11, 19351:25, 19365:24, 19377:12, 19377:25, 19378:2 offensive [1] - 19382:24 offer [1] - 19362:18 office [3] - 19293:12, 19323:6, 19347:8 Office [1] - 19292:18 officer [3] - 19306:7, 19314:14, 19354:11 Officer [1] - 19256:13 officers [1] - 19380:21 official [1] - 19351:8 Official [5] - 19256:11, 19387:1, 19387:3, 19387:14, 19387:18 often [1] - 19380:13 old [4] - 19310:16, 19311:3, 19321:9, 19383:4 once [3] - 19275:13, 19282:1, 19288:9 Once [1] - 19329:16 one [38] - 19262:7, 19271:13, 19274:10, 19278:18, 19278:20, 19284:22, 19286:7, 19286:8, 19286:12, 19297:18, 19300:18, 19311:21, 19314:21, 19315:10, 19321:6, 19330:18, 19336:5, 19338:18, 19338:19, 19338:21, 19342:7, 19352:3, 19357:5, 19357:23, 19366:4, 19370:12, 19374:21, 19375:16, 19376:1, 19376:15, 19377:17, 19381:22, 19382:22, 19382:23, 19383:9, 19386:12 One [3] - 19325:1, 19327:17, 19358:3 ones [3] - 19290:20, 19323:4, 19365:24 ongoing [4] - 19292:23, 19331:18, 19357:3, 19357:12	open [4] - 19298:6, 19363:4, 19370:7, 19375:14 operandi [1] - 19345:15 operate [1] - 19336:23 operating [2] - 19338:14, 19356:11 operation [1] - 19363:7 operational [2] - 19267:23, 19268:9 operationally [1] - 19268:7 operator [8] - 19314:17, 19314:20, 19334:7, 19335:16, 19337:17, 19354:24, 19355:6, 19360:8 opinion [3] - 19268:20, 19294:21, 19346:4 Opinion [1] - 19270:7 opportunity [5] - 19324:9, 19324:19, 19325:4, 19337:6, 19363:12 opposed [4] - 19276:5, 19284:22, 19314:21, 19346:19 opposing [1] - 19325:9 optimistic [1] - 19301:17 optimistically [1] - 19364:3 order [1] - 19285:5 original [4] - 19281:15, 19318:10, 19327:19, 19328:23 originally [1] - 19337:24 otherwise [1] - 19325:7 Ottawa [7] - 19265:13, 19287:17, 19312:17, 19313:8, 19313:11, 19354:1, 19368:24 outlined [1] - 19323:13 outlining [1] - 19263:25 outset [1] - 19297:20 outside [3] - 19310:19, 19373:23, 19373:24 overall [2] - 19302:25, 19304:17 own [11] - 19286:2, 19287:8, 19311:6, 19322:2, 19322:6, 19330:23, 19344:1, 19345:25, 19357:4, 19371:11, 19386:5	
N		O			
name [17] - 19265:6, 19282:20, 19285:20, 19285:21, 19286:11, 19286:16, 19287:13, 19294:15, 19296:8, 19302:11, 19303:18, 19304:13, 19305:11, 19317:3, 19319:6, 19381:1, 19381:24 named [1] - 19272:19 names [4] - 19305:4, 19317:2, 19340:17, 19342:15 naming [4] - 19306:10, 19306:11, 19306:18, 19313:13 natural [1] - 19341:21 nature [4] - 19349:2, 19350:13, 19353:21, 19361:13 near [1] - 19379:3 nearly [1] - 19274:5 necessary [4] - 19285:12, 19345:19, 19356:4, 19374:2 necessity [1] - 19343:16 nee [2] - 19299:24, 19329:8 negative [5] - 19268:18, 19269:4, 19295:8, 19298:15, 19308:13 neighbourhood [1] - 19346:20 never [13] - 19280:18, 19296:5, 19296:6, 19299:1, 19308:9, 19336:9, 19336:10, 19342:4, 19356:12, 19368:14, 19368:15,	O'keefe [1] - 19257:10 oath [2] - 19301:25, 19385:5 objecting [1] - 19300:25 observations [2] - 19298:23, 19326:3 observed [4] - 19298:22, 19298:25, 19299:1, 19331:9 obtain [2] - 19269:19, 19273:4 obtained [4] - 19291:22, 19315:12, 19329:8, 19354:2 obtaining [3] - 19299:23, 19349:5, 19349:17 obvious [2] - 19261:13, 19312:8 obviously [7] - 19283:23, 19309:7, 19310:6, 19312:14, 19316:17, 19319:13, 19320:20 occasion [2] - 19286:22, 19298:7 occasions [2] - 19282:24, 19298:8 occur [1] - 19297:20 occurred [4] - 19297:7, 19339:20, 19340:24, 19348:14 occurrence [3] - 19342:17, 19343:2, 19348:4 October [1] - 19259:11 odd [1] - 19383:5 offence [3] - 19354:14, 19354:15, 19361:10	name [17] - 19265:6, 19282:20, 19285:20, 19285:21, 19286:11, 19286:16, 19287:13, 19294:15, 19296:8, 19302:11, 19303:18, 19304:13, 19305:11, 19317:3, 19319:6, 19381:1, 19381:24 named [1] - 19272:19 names [4] - 19305:4, 19317:2, 19340:17, 19342:15 naming [4] - 19306:10, 19306:11, 19306:18, 19313:13 natural [1] - 19341:21 nature [4] - 19349:2, 19350:13, 19353:21, 19361:13 near [1] - 19379:3 nearly [1] - 19274:5 necessary [4] - 19285:12, 19345:19, 19356:4, 19374:2 necessity [1] - 19343:16 nee [2] - 19299:24, 19329:8 negative [5] - 19268:18, 19269:4, 19295:8, 19298:15, 19308:13 neighbourhood [1] - 19346:20 never [13] - 19280:18, 19296:5, 19296:6, 19299:1, 19308:9, 19336:9, 19336:10, 19342:4, 19356:12, 19368:14, 19368:15,	O'keefe [1] - 19257:10 oath [2] - 19301:25, 19385:5 objecting [1] - 19300:25 observations [2] - 19298:23, 19326:3 observed [4] - 19298:22, 19298:25, 19299:1, 19331:9 obtain [2] - 19269:19, 19273:4 obtained [4] - 19291:22, 19315:12, 19329:8, 19354:2 obtaining [3] - 19299:23, 19349:5, 19349:17 obvious [2] - 19261:13, 19312:8 obviously [7] - 19283:23, 19309:7, 19310:6, 19312:14, 19316:17, 19319:13, 19320:20 occasion [2] - 19286:22, 19298:7 occasions [2] - 19282:24, 19298:8 occur [1] - 19297:20 occurred [4] - 19297:7, 19339:20, 19340:24, 19348:14 occurrence [3] - 19342:17, 19343:2, 19348:4 October [1] - 19259:11 odd [1] - 19383:5 offence [3] - 19354:14, 19354:15, 19361:10	offences [25] - 19337:25, 19338:1, 19338:15, 19338:20, 19339:1, 19339:5, 19339:10, 19339:12, 19339:20, 19339:25, 19341:17, 19342:12, 19342:18, 19345:2, 19345:15, 19346:18, 19348:6, 19351:1, 19351:3, 19351:11, 19351:25, 19365:24, 19377:12, 19377:25, 19378:2 offensive [1] - 19382:24 offer [1] - 19362:18 office [3] - 19293:12, 19323:6, 19347:8 Office [1] - 19292:18 officer [3] - 19306:7, 19314:14, 19354:11 Officer [1] - 19256:13 officers [1] - 19380:21 official [1] - 19351:8 Official [5] - 19256:11, 19387:1, 19387:3, 19387:14, 19387:18 often [1] - 19380:13 old [4] - 19310:16, 19311:3, 19321:9, 19383:4 once [3] - 19275:13, 19282:1, 19288:9 Once [1] - 19329:16 one [38] - 19262:7, 19271:13, 19274:10, 19278:18, 19278:20, 19284:22, 19286:7, 19286:8, 19286:12, 19297:18, 19300:18, 19311:21, 19314:21, 19315:10, 19321:6, 19330:18, 19336:5, 19338:18, 19338:19, 19338:21, 19342:7, 19352:3, 19357:5, 19357:23, 19366:4, 19370:12, 19374:21, 19375:16, 19376:1, 19376:15, 19377:17, 19381:22, 19382:22, 19382:23, 19383:9, 19386:12 One [3] - 19325:1, 19327:17, 19358:3 ones [3] - 19290:20, 19323:4, 19365:24 ongoing [4] - 19292:23, 19331:18, 19357:3, 19357:12	open [4] - 19298:6, 19363:4, 19370:7, 19375:14 operandi [1] - 19345:15 operate [1] - 19336:23 operating [2] - 19338:14, 19356:11 operation [1] - 19363:7 operational [2] - 19267:23, 19268:9 operationally [1] - 19268:7 operator [8] - 19314:17, 19314:20, 19334:7, 19335:16, 19337:17, 19354:24, 19355:6, 19360:8 opinion [3] - 19268:20, 19294:21, 19346:4 Opinion [1] - 19270:7 opportunity [5] - 19324:9, 19324:19, 19325:4, 19337:6, 19363:12 opposed [4] - 19276:5, 19284:22, 19314:21, 19346:19 opposing [1] - 19325:9 optimistic [1] - 19301:17 optimistically [1] - 19364:3 order [1] - 19285:5 original [4] - 19281:15, 19318:10, 19327:19, 19328:23 originally [1] - 19337:24 otherwise [1] - 19325:7 Ottawa [7] - 19265:13, 19287:17, 19312:17, 19313:8, 19313:11, 19354:1, 19368:24 outlined [1] - 19323:13 outlining [1] - 19263:25 outset [1] - 19297:20 outside [3] - 19310:19, 19373:23, 19373:24 overall [2] - 19302:25, 19304:17 own [11] - 19286:2, 19287:8, 19311:6, 19322:2, 19322:6, 19330:23, 19344:1, 19345:25, 19357:4, 19371:11, 19386:5



<p>P</p> <p>page [33] - 19264:11, 19266:22, 19267:21, 19276:1, 19276:3, 19277:3, 19277:4, 19291:11, 19291:12, 19302:9, 19310:8, 19315:9, 19316:10, 19319:25, 19324:4, 19327:6, 19332:4, 19333:25, 19346:25, 19347:4, 19354:19, 19362:4, 19373:7, 19376:4, 19382:18, 19382:20, 19383:1, 19383:16, 19383:21, 19385:15, 19386:12</p> <p>Page [1] - 19258:2</p> <p>pages [2] - 19342:9, 19387:4</p> <p>pair [4] - 19316:16, 19316:19, 19316:21, 19329:15</p> <p>Pambrum [1] - 19386:15</p> <p>pants [9] - 19316:16, 19316:17, 19316:19, 19316:21, 19317:4, 19317:6, 19321:13, 19329:15, 19329:17</p> <p>paper [1] - 19291:8</p> <p>paragraph [12] - 19273:23, 19277:16, 19296:23, 19299:21, 19302:9, 19304:14, 19317:23, 19318:19, 19330:14, 19337:18, 19348:25, 19350:9</p> <p>Paragraph [1] - 19292:15</p> <p>parameters [2] - 19285:2, 19335:13</p> <p>paranoia [1] - 19288:2</p> <p>pardon [1] - 19312:16</p> <p>Pardon [1] - 19383:15</p> <p>Parliament [1] - 19265:1</p> <p>part [14] - 19262:10, 19294:20, 19317:11, 19323:8, 19343:18, 19343:19, 19350:7, 19361:12, 19370:1, 19373:8, 19374:24, 19375:1, 19375:2, 19375:4</p> <p>partial [3] - 19342:7, 19342:10, 19351:13</p> <p>participated [1] -</p>	<p>19371:19</p> <p>participating [1] - 19371:25</p> <p>particular [6] - 19286:24, 19326:3, 19354:17, 19355:17, 19364:14, 19377:17</p> <p>particularly [1] - 19311:3</p> <p>parties [4] - 19260:23, 19260:24, 19261:5, 19264:6</p> <p>partly [2] - 19347:7, 19356:15</p> <p>parts [4] - 19292:15, 19322:14, 19364:21, 19374:16</p> <p>party [1] - 19333:11</p> <p>passed [4] - 19320:3, 19321:22, 19335:20, 19335:22</p> <p>past [1] - 19267:13</p> <p>Patrolled [1] - 19279:11</p> <p>pattern [1] - 19343:3</p> <p>Paul [2] - 19281:14, 19309:16</p> <p>pause [4] - 19282:10, 19338:12, 19343:6, 19349:13</p> <p>Pcr [1] - 19322:10</p> <p>Pearson [43] - 19258:3, 19259:7, 19263:7, 19263:8, 19263:10, 19264:13, 19264:23, 19267:16, 19276:15, 19279:6, 19280:13, 19281:12, 19283:12, 19286:17, 19288:11, 19292:24, 19294:7, 19298:18, 19305:5, 19307:14, 19314:11, 19315:14, 19317:13, 19319:4, 19320:13, 19329:21, 19330:9, 19331:9, 19332:15, 19332:20, 19338:13, 19341:2, 19344:6, 19347:14, 19347:23, 19348:13, 19349:19, 19350:23, 19355:15, 19358:20, 19372:10, 19378:14, 19385:9</p> <p>Pelletier [1] - 19338:8</p> <p>Pen [3] - 19287:24, 19288:9, 19334:15</p> <p>penitentiary [7] - 19271:7, 19289:8, 19291:15, 19325:11, 19330:25, 19331:2, 19357:11</p>	<p>Penitentiary [6] - 19265:5, 19269:24, 19279:12, 19279:14, 19281:20, 19358:1</p> <p>Penkala [1] - 19280:2</p> <p>People [1] - 19383:2</p> <p>people [15] - 19270:14, 19297:1, 19297:4, 19313:11, 19319:2, 19333:19, 19345:6, 19364:23, 19365:4, 19367:10, 19368:24, 19370:1, 19370:10, 19371:17, 19383:3</p> <p>perhaps [3] - 19318:7, 19331:5, 19379:11</p> <p>period [3] - 19300:3, 19322:19, 19358:11</p> <p>permission [1] - 19354:3</p> <p>permitted [1] - 19281:24</p> <p>perplexed [1] - 19363:9</p> <p>person [18] - 19284:7, 19284:10, 19285:24, 19286:19, 19296:9, 19302:6, 19306:12, 19306:19, 19314:25, 19318:23, 19325:2, 19326:14, 19326:15, 19341:23, 19346:12, 19366:25, 19371:23</p> <p>personal [3] - 19261:12, 19261:24, 19352:1</p> <p>personally [3] - 19324:25, 19337:14, 19369:14</p> <p>personnel [1] - 19279:13</p> <p>perspective [1] - 19306:10</p> <p>pertaining [1] - 19341:8</p> <p>pertinent [1] - 19294:19</p> <p>Peter [2] - 19277:17, 19277:25</p> <p>phone [3] - 19311:20, 19318:12, 19321:4</p> <p>phoned [2] - 19303:4, 19336:15</p> <p>photo [2] - 19310:21, 19312:10</p> <p>photograph [1] - 19273:4</p> <p>photographs [2] - 19273:18, 19310:21</p> <p>physical [1] - 19356:20</p> <p>pick [4] - 19265:10, 19275:14, 19277:15, 19333:6</p>	<p>Pick [50] - 19289:21, 19289:23, 19289:25, 19290:4, 19290:9, 19300:22, 19300:23, 19301:3, 19301:6, 19301:19, 19302:2, 19313:15, 19313:17, 19313:20, 19314:4, 19314:6, 19314:23, 19323:23, 19330:13, 19330:15, 19330:16, 19330:17, 19330:21, 19331:13, 19332:7, 19332:11, 19332:16, 19332:21, 19332:24, 19334:2, 19334:6, 19334:13, 19334:17, 19335:8, 19336:15, 19337:15, 19351:16, 19351:17, 19352:4, 19352:5, 19352:14, 19352:16, 19354:22, 19355:3, 19357:5, 19362:9, 19363:10, 19373:11, 19373:15, 19374:23</p> <p>picked [1] - 19278:14</p> <p>picture [3] - 19310:22, 19312:10, 19331:17</p> <p>piece [2] - 19291:8, 19329:20</p> <p>pinning [1] - 19375:19</p> <p>pipeline [1] - 19386:5</p> <p>place [16] - 19259:25, 19260:3, 19262:2, 19271:14, 19273:21, 19308:19, 19329:17, 19338:2, 19338:15, 19344:12, 19346:7, 19346:10, 19348:19, 19351:12, 19368:12, 19374:13</p> <p>placed [3] - 19272:21, 19310:14, 19311:20</p> <p>plainclothes [1] - 19311:21</p> <p>play [6] - 19270:15, 19319:19, 19365:15, 19369:4, 19369:22, 19382:12</p> <p>players [1] - 19369:24</p> <p>plus [4] - 19272:6, 19300:3, 19326:9, 19371:15</p> <p>Pm [4] - 19259:2, 19330:6, 19330:7, 19386:23</p> <p>pm [1] - 19355:13</p> <p>point [30] - 19282:12, 19282:13, 19283:13,</p>	<p>19286:14, 19290:15, 19294:10, 19299:6, 19300:12, 19303:9, 19303:21, 19305:15, 19305:19, 19310:4, 19313:8, 19316:11, 19319:7, 19319:8, 19319:21, 19319:22, 19326:1, 19334:25, 19338:12, 19340:9, 19341:4, 19343:13, 19343:14, 19345:18, 19370:14, 19379:21, 19386:13</p> <p>police [31] - 19281:7, 19281:8, 19288:2, 19306:6, 19311:8, 19314:2, 19314:10, 19314:13, 19314:20, 19319:23, 19321:14, 19335:16, 19339:9, 19340:4, 19340:5, 19341:8, 19341:18, 19350:16, 19351:5, 19351:6, 19351:10, 19354:11, 19379:16, 19379:24, 19380:3, 19380:14, 19380:21, 19380:25, 19381:6, 19382:5, 19382:6</p> <p>Police [14] - 19257:7, 19272:4, 19280:3, 19281:10, 19288:20, 19289:1, 19320:7, 19321:5, 19321:16, 19337:21, 19340:22, 19341:2, 19341:10, 19347:24</p> <p>policeman [1] - 19379:18</p> <p>policing [1] - 19267:24</p> <p>political [3] - 19307:15, 19307:21, 19308:8</p> <p>politicians [1] - 19265:24</p> <p>polygraph [43] - 19264:14, 19269:13, 19269:22, 19269:25, 19270:3, 19270:12, 19270:16, 19271:3, 19272:16, 19285:16, 19288:13, 19293:23, 19303:23, 19313:21, 19314:1, 19314:13, 19314:17, 19314:20, 19323:25, 19324:17, 19325:16, 19331:23, 19332:2, 19334:7, 19335:2, 19335:10, 19335:16, 19335:20,</p>
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<p>19336:4, 19336:6, 19336:14, 19337:8, 19337:17, 19353:9, 19354:22, 19355:5, 19355:15, 19358:5, 19358:20, 19358:22, 19360:4, 19360:8, 19360:10 polygraphist [3] - 19270:7, 19270:22, 19318:2 posed [1] - 19261:18 position [11] - 19261:21, 19287:10, 19287:12, 19301:10, 19319:4, 19332:8, 19343:16, 19363:10, 19367:3, 19368:15, 19376:11 positive [1] - 19308:12 possess [1] - 19318:5 possession [1] - 19278:24 possibility [3] - 19270:4, 19274:24, 19306:1 possible [6] - 19300:2, 19325:24, 19352:21, 19359:17, 19363:6, 19376:20 possibly [10] - 19271:13, 19273:18, 19283:4, 19284:14, 19286:14, 19313:23, 19319:10, 19359:4, 19362:20, 19378:6 post [1] - 19314:18 post-test [1] - 19314:18 potential [6] - 19300:18, 19314:18, 19354:17, 19356:8, 19381:6, 19381:8 potentially [1] - 19270:12 practice [2] - 19315:14, 19340:4 preferable [1] - 19314:12 preference [1] - 19314:15 preferred [1] - 19335:15 preliminary [1] - 19373:16 prepared [7] - 19305:6, 19317:17, 19332:1, 19362:22, 19365:8, 19365:10, 19386:9 present [10] - 19272:1, 19279:19, 19287:20, 19289:17, 19297:5,</p>	<p>19299:25, 19324:12, 19333:10, 19363:15, 19373:8 press [6] - 19272:16, 19286:1, 19302:19, 19303:5, 19311:7, 19319:18 Press [1] - 19273:1 pressed [2] - 19273:17, 19377:19 pressure [3] - 19307:15, 19307:18 pressured [3] - 19303:6, 19320:7, 19378:6 pretty [3] - 19336:20, 19355:23, 19366:1 Previous [1] - 19322:12 previous [15] - 19274:7, 19280:15, 19306:24, 19322:19, 19323:13, 19339:22, 19339:23, 19339:25, 19345:1, 19345:12, 19345:15, 19346:25, 19377:12, 19377:25, 19379:20 previously [1] - 19312:18 primarily [2] - 19264:6, 19294:25 primary [1] - 19360:1 Prince [10] - 19265:5, 19269:23, 19279:11, 19281:19, 19281:20, 19330:24, 19331:2, 19334:18, 19357:11, 19357:25 Prison [1] - 19334:16 prison [15] - 19272:19, 19285:22, 19286:18, 19287:2, 19353:17, 19354:9, 19356:18, 19359:13, 19360:12, 19360:18, 19360:20, 19361:3, 19361:11, 19361:16, 19361:18 prisoner [1] - 19354:13 prisoners [1] - 19331:4 private [6] - 19313:22, 19324:1, 19327:20, 19334:6, 19337:17, 19373:18 probe [3] - 19314:18, 19376:19, 19376:23 problem [3] - 19301:5, 19302:7, 19336:25 problems [2] - 19320:9, 19376:7 proceed [1] - 19260:18 Proceedings [4] -</p>	<p>19255:12, 19255:23, 19258:1, 19259:1 process [11] - 19261:8, 19297:3, 19297:11, 19297:16, 19315:21, 19328:16, 19367:8, 19371:18, 19372:22, 19374:24, 19375:11 productive [3] - 19262:4, 19302:24, 19304:17 professional [1] - 19332:24 professionals [1] - 19270:21 profile [2] - 19358:8, 19358:24 program [1] - 19331:14 progress [4] - 19268:24, 19308:17, 19333:4, 19364:18 progressed [2] - 19326:12, 19349:24 progressing [1] - 19326:25 pronounce [1] - 19357:20 proofread [1] - 19315:20 proper [1] - 19354:24 properly [1] - 19298:2 propose [1] - 19378:11 prosecutor [1] - 19274:18 prosecutors [1] - 19368:10 prospective [1] - 19260:6 proven [1] - 19325:7 provide [19] - 19262:17, 19266:9, 19269:12, 19269:16, 19273:18, 19284:16, 19285:17, 19287:14, 19287:21, 19289:25, 19291:13, 19324:16, 19335:17, 19341:3, 19345:2, 19345:19, 19348:16, 19353:12, 19355:2 provided [15] - 19259:17, 19281:14, 19292:14, 19293:9, 19301:1, 19301:13, 19315:17, 19322:17, 19324:15, 19335:6, 19342:15, 19356:1, 19358:9, 19358:15, 19380:20 providing [5] - 19266:13, 19272:7,</p>	<p>19291:10, 19324:12, 19363:11 Province [1] - 19387:3 province [1] - 19301:8 Provincial [2] - 19338:3, 19338:5 proximity [1] - 19366:7 psychiatric [4] - 19353:5, 19358:14, 19358:16, 19359:8 Psychiatric [2] - 19289:19, 19362:10 psychiatric/character [2] - 19358:8, 19358:24 psychological [2] - 19260:13, 19331:25 public [6] - 19261:19, 19273:19, 19273:21, 19302:11, 19303:18, 19312:10 publication [1] - 19373:23 publicity [11] - 19282:7, 19283:4, 19283:15, 19283:17, 19302:21, 19303:13, 19305:17, 19312:13, 19312:15, 19331:14, 19334:22 publicly [3] - 19305:6, 19306:10, 19306:18 purpose [4] - 19280:21, 19281:6, 19315:22, 19376:8 purposes [3] - 19291:23, 19306:8, 19353:18 pursuance [1] - 19357:24 pursue [3] - 19292:3, 19300:13, 19363:4 pursued [9] - 19265:7, 19314:20, 19324:18, 19329:2, 19343:19, 19344:4, 19350:1, 19372:13, 19378:16 Pursuing [1] - 19327:10 pursuing [4] - 19263:20, 19294:5, 19318:24, 19354:9 purview [1] - 19297:14 pushed [1] - 19298:11 put [29] - 19259:24, 19262:8, 19264:23, 19267:2, 19272:13, 19277:24, 19278:10, 19282:14, 19284:25, 19290:2, 19298:17, 19304:4, 19304:23, 19305:11, 19319:24, 19335:8, 19339:4,</p>	<p>19346:14, 19364:16, 19365:12, 19367:6, 19367:19, 19367:24, 19370:25, 19374:13, 19375:20, 19380:9, 19381:21 puts [1] - 19382:14 putting [5] - 19261:6, 19261:16, 19345:14, 19366:15, 19370:2 Putting [1] - 19370:12</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>Q1 [1] - 19267:10 Q4 [1] - 19268:16 Q6 [1] - 19269:11 Qb [4] - 19256:11, 19338:6, 19338:8, 19351:5 Qc [3] - 19257:2, 19257:6, 19257:11 Queen's [4] - 19387:1, 19387:3, 19387:14, 19387:18 questioned [3] - 19265:16, 19265:23, 19285:9 questioning [5] - 19263:14, 19374:18, 19379:14, 19386:1, 19386:2 questions [45] - 19263:1, 19263:4, 19265:15, 19265:18, 19266:2, 19266:10, 19266:16, 19266:18, 19267:2, 19267:7, 19270:19, 19281:25, 19284:22, 19285:6, 19287:22, 19290:6, 19290:20, 19290:23, 19291:4, 19291:5, 19301:13, 19301:24, 19307:20, 19318:16, 19324:9, 19324:14, 19328:7, 19328:15, 19352:18, 19362:8, 19362:17, 19375:7, 19376:3, 19376:16, 19377:1, 19377:5, 19378:8, 19378:12, 19378:19, 19379:1, 19379:8, 19379:19, 19380:2, 19385:10, 19386:14 quickly [3] - 19259:25, 19294:15, 19350:2 Quinn [5] - 19281:11,</p>
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19288:19, 19288:24, 19289:4, 19321:15 quite [5] - 19270:11, 19312:8, 19316:20, 19360:2, 19386:6 quo [3] - 19349:4, 19349:16, 19350:4	19307:22 readings [3] - 19354:25, 19355:2, 19355:7 ready [2] - 19377:15, 19377:17 real [2] - 19383:13, 19383:17 really [36] - 19267:23, 19268:8, 19284:17, 19294:19, 19296:8, 19302:1, 19303:8, 19310:4, 19320:16, 19322:5, 19333:2, 19335:19, 19340:3, 19341:22, 19350:3, 19351:9, 19355:23, 19362:2, 19363:21, 19364:10, 19364:15, 19365:10, 19367:18, 19368:20, 19370:3, 19371:13, 19371:19, 19377:11, 19377:14, 19377:22, 19378:2, 19382:3, 19385:12, 19385:13 reason [5] - 19268:20, 19358:21, 19358:23, 19365:13, 19385:23 reasons [2] - 19288:4, 19366:4 recantation [1] - 19309:12 recanted [1] - 19327:19 recanting [1] - 19281:15 receive [2] - 19269:4, 19350:20 Received [3] - 19304:20, 19307:5, 19354:21 received [6] - 19321:4, 19325:25, 19330:25, 19340:20, 19347:11, 19350:20 receiving [3] - 19269:8, 19277:20, 19321:19 recent [2] - 19313:16, 19323:22 recently [4] - 19323:21, 19327:19, 19329:7, 19342:21 recollection [17] - 19269:8, 19271:15, 19271:22, 19276:19, 19299:12, 19309:4, 19309:23, 19318:4, 19320:12, 19320:21, 19321:19, 19329:13, 19339:11, 19341:20, 19342:6, 19342:13,	19362:15 recommendation [1] - 19374:5 Reconvened [2] - 19259:2, 19330:7 record [19] - 19275:5, 19304:10, 19340:3, 19340:6, 19341:7, 19343:20, 19344:12, 19346:16, 19350:14, 19350:16, 19351:1, 19351:3, 19351:4, 19351:23, 19351:24, 19359:12, 19365:23, 19374:8, 19383:4 recorded [1] - 19301:25 recording [1] - 19315:15 records [10] - 19318:13, 19338:7, 19338:9, 19339:9, 19341:25, 19351:8, 19353:17, 19353:20, 19354:9, 19360:12 recover [1] - 19274:20 recovered [1] - 19276:24 redouble [1] - 19348:15 reference [7] - 19296:20, 19338:20, 19338:25, 19353:23, 19374:11 referred [1] - 19312:22 referring [2] - 19310:5, 19347:13 refers [1] - 19348:23 refocusing [1] - 19362:1 refresh [3] - 19263:13, 19264:24, 19271:12 refused [2] - 19310:14, 19324:16 regard [3] - 19276:18, 19350:21, 19354:7 regarding [3] - 19259:12, 19262:19, 19362:19 Regina [14] - 19280:9, 19337:24, 19338:1, 19338:4, 19338:7, 19338:8, 19338:16, 19338:20, 19339:1, 19339:5, 19339:9, 19339:21, 19341:16, 19348:14 Regional [2] - 19289:19, 19362:10 registered [1] - 19348:14 relate [3] - 19261:12,	19348:6, 19378:22 related [3] - 19263:21, 19273:25, 19379:2 relates [2] - 19329:10, 19357:17 relating [6] - 19259:9, 19280:11, 19341:19, 19342:3, 19342:18, 19380:2 relation [2] - 19332:8, 19332:9 relationship [9] - 19283:5, 19283:25, 19298:4, 19298:10, 19298:16, 19302:1, 19376:4, 19376:5, 19376:13 release [2] - 19285:22, 19357:16 released [2] - 19334:10, 19355:20 relevant [1] - 19317:9 reluctance [5] - 19288:1, 19324:25, 19325:7, 19326:4, 19333:1 reluctant [2] - 19287:13, 19363:8 remain [1] - 19325:6 remember [11] - 19281:16, 19309:18, 19317:1, 19338:22, 19341:22, 19359:19, 19380:4, 19380:10, 19384:11, 19384:13, 19384:19 remembered [2] - 19376:25, 19380:3 reminded [1] - 19285:25 removed [2] - 19259:24, 19275:1 repeat [1] - 19261:22 repeated [1] - 19342:25 repetition [1] - 19323:4 rephrase [1] - 19314:11 report [13] - 19259:8, 19259:17, 19265:3, 19277:17, 19277:18, 19277:21, 19322:9, 19323:13, 19329:6, 19330:10, 19342:10, 19379:24 Report [1] - 19322:12 report' [1] - 19322:11 reported [1] - 19282:23 reporter [1] - 19272:25 Reporter [2] - 19387:14, 19387:18 reporters [2] -	19310:17, 19310:20 Reporters [2] - 19256:11, 19387:3 Reporters [1] - 19387:1 reporting [1] - 19366:17 reports [18] - 19272:17, 19282:25, 19296:24, 19315:10, 19322:16, 19322:20, 19323:5, 19328:23, 19338:19, 19338:22, 19342:17, 19343:2, 19348:4, 19350:16, 19353:5, 19358:10, 19358:12, 19358:16 represent [1] - 19289:21 represented [1] - 19297:19 request [2] - 19271:5, 19315:25 requested [3] - 19348:3, 19348:17, 19353:2 requesting [3] - 19267:7, 19280:3, 19299:22 requests [2] - 19315:2, 19322:25 required [1] - 19261:7 requires [1] - 19297:15 researched [1] - 19312:23 residence [5] - 19272:22, 19274:2, 19275:1, 19310:25, 19329:16 residential [1] - 19274:16 resources [1] - 19349:12 respect [3] - 19293:5, 19295:5, 19296:21 respected [1] - 19314:16 respectfully [1] - 19297:12 respecting [1] - 19319:1 response [2] - 19267:6, 19291:4 responsible [2] - 19286:19, 19323:12 restricted [1] - 19260:22 restrictions [1] - 19374:13 result [2] - 19332:10, 19356:12 results [7] - 19270:5,
R				
raise [2] - 19286:24, 19345:22 raised [5] - 19259:17, 19272:8, 19307:20, 19316:18, 19328:7 raises [1] - 19345:23 rape [7] - 19287:7, 19339:20, 19340:17, 19340:23, 19341:4, 19345:1, 19366:25 rapes [6] - 19344:13, 19346:8, 19346:10, 19348:1, 19382:22, 19383:9 rapport [3] - 19332:15, 19332:21, 19332:23 rather [3] - 19331:15, 19339:20, 19355:5 rationalize [3] - 19284:11, 19326:16, 19368:20 rcmp [1] - 19313:24 Rcmp [19] - 19257:9, 19265:4, 19268:16, 19268:20, 19272:17, 19280:7, 19282:23, 19291:23, 19307:6, 19307:14, 19307:23, 19308:6, 19311:18, 19313:7, 19327:25, 19328:5, 19328:10, 19337:7, 19340:21 re [3] - 19327:9, 19369:24, 19369:25 re-examined [1] - 19327:9 re-interviewed [1] - 19369:25 reach [3] - 19279:20, 19356:5, 19369:19 reaches [1] - 19372:6 react [1] - 19284:10 reaction [2] - 19335:7, 19335:11 read [4] - 19280:12, 19324:24, 19333:2, 19362:7 readily [1] - 19342:4 reading [2] - 19284:23,				



19332:12, 19335:3, 19337:8, 19355:3, 19355:16, 19355:21 resume [2] - 19259:8, 19263:7 return [3] - 19330:24, 19357:9, 19358:17 returnable [1] - 19260:8 returned [2] - 19279:16, 19308:16 Returned [3] - 19279:25, 19302:13, 19310:10 returning [1] - 19334:15 reveal [2] - 19362:12, 19362:22 review [4] - 19288:20, 19349:2, 19356:2, 19361:19 reviewed [2] - 19272:5, 19280:18 reviewing [4] - 19277:24, 19278:8, 19280:16, 19281:6 Richard [2] - 19258:3, 19263:8 Rick [1] - 19257:7 Riddell [1] - 19280:8 right-hand [1] - 19275:24 ripped [1] - 19317:7 risk [2] - 19356:13, 19382:4 Robert [1] - 19257:5 Roberts [7] - 19318:2, 19318:5, 19318:7, 19318:9, 19318:11, 19318:18, 19320:4 Robinson [5] - 19313:23, 19314:16, 19334:7, 19334:25, 19356:1 Rochelle [1] - 19257:9 role [4] - 19319:19, 19372:22, 19374:20, 19382:11 Ron [6] - 19280:11, 19280:16, 19281:2, 19281:14, 19309:10, 19328:3 Ronald [1] - 19327:18 room [2] - 19333:12, 19373:25 rooted [1] - 19326:7 Rosner [1] - 19304:21 roughly [1] - 19306:21 route [2] - 19312:15, 19314:9 Rp [4] - 19256:12, 19387:2, 19387:16, 19387:17	ruling [2] - 19259:12, 19260:15 run [1] - 19337:15 running [1] - 19264:8 S S/sgt [2] - 19307:5, 19312:17 safety [8] - 19287:8, 19311:6, 19312:14, 19330:23, 19334:23, 19357:4, 19357:6, 19357:13 sample [3] - 19269:19, 19285:17, 19324:17 samples [2] - 19269:12, 19269:16 Sandra [1] - 19256:4 Sask [1] - 19299:25 Saskatchewan [3] - 19255:17, 19257:4, 19387:4 Saskatoon [36] - 19255:17, 19257:7, 19272:4, 19273:9, 19280:2, 19280:8, 19281:5, 19288:20, 19288:25, 19289:21, 19304:22, 19313:24, 19320:7, 19321:5, 19323:10, 19327:13, 19337:21, 19337:23, 19338:2, 19338:3, 19338:21, 19339:13, 19339:16, 19339:20, 19340:17, 19340:21, 19340:25, 19341:2, 19341:10, 19341:18, 19342:11, 19346:17, 19346:20, 19347:23, 19348:15, 19378:1 satisfactory [2] - 19260:9, 19356:21 saw [6] - 19300:4, 19300:6, 19300:10, 19317:6, 19320:10, 19323:3 scan [1] - 19315:18 scared [2] - 19287:8, 19356:17 scenario [5] - 19336:5, 19336:9, 19337:1, 19337:5 scene [2] - 19274:17, 19367:25 scheduled [2] - 19260:19, 19330:20 school [1] - 19273:2	science [3] - 19268:8, 19313:6, 19367:18 scope [2] - 19260:20, 19332:8 scratch [1] - 19270:17 scratching [1] - 19367:8 scroll [21] - 19264:21, 19266:5, 19278:14, 19281:18, 19287:9, 19288:17, 19300:21, 19312:16, 19315:3, 19316:22, 19321:3, 19324:21, 19337:18, 19342:14, 19353:22, 19373:15, 19382:13, 19382:17, 19383:16, 19384:24, 19385:17 Scroll [2] - 19281:4, 19295:1 search [1] - 19347:23 seat [2] - 19314:6, 19314:24 second [5] - 19274:1, 19274:14, 19330:14, 19336:5, 19344:3 secondly [1] - 19380:18 secretary [1] - 19315:17 secretor [1] - 19278:9 Section [3] - 19265:13, 19297:14, 19306:8 secure [1] - 19266:11 security [1] - 19279:16 Security [3] - 19256:13, 19279:13, 19334:21 see [9] - 19305:22, 19317:14, 19323:15, 19326:17, 19341:24, 19359:12, 19360:12, 19378:10, 19384:16 seeing [1] - 19321:12 seeking [2] - 19265:14, 19302:17 semen [1] - 19277:18 send [2] - 19322:24, 19348:4 sense [4] - 19291:6, 19294:8, 19298:9, 19371:20 sent [3] - 19266:11, 19317:18, 19363:13 sentiments [1] - 19298:20 Serge [1] - 19257:6 sergeant [1] - 19342:6 Sergeant [5] - 19265:12, 19266:3, 19266:23, 19311:20, 19342:7 series [1] - 19379:7	serious [1] - 19304:10 seriously [1] - 19368:12 Service [1] - 19257:7 services [1] - 19363:14 set [6] - 19278:17, 19308:20, 19311:24, 19346:15, 19355:12, 19371:9 setting [2] - 19335:13, 19352:5 settle [1] - 19270:6 seven [3] - 19272:5, 19289:20, 19345:12 several [3] - 19265:15, 19310:18, 19357:23 sexual [1] - 19382:17 Sgt [3] - 19332:14, 19347:23, 19348:12 shall [1] - 19291:22 share [1] - 19377:22 shed [1] - 19363:24 Sheraton [1] - 19255:16 Shirley [1] - 19338:5 short [1] - 19259:6 shorthand [1] - 19387:5 shot [2] - 19274:23, 19275:3 show [1] - 19259:23 showed [5] - 19278:21, 19293:24, 19338:18, 19361:16, 19385:19 shut [1] - 19377:23 side [3] - 19275:24, 19286:15, 19327:3 sides [1] - 19297:18 sign [2] - 19291:11, 19291:16 signed [2] - 19262:5, 19262:9 significance [3] - 19329:13, 19361:18, 19381:22 significant [3] - 19361:1, 19361:13, 19362:13 Significant [1] - 19361:2 silent [1] - 19325:6 similar [14] - 19284:5, 19340:8, 19343:3, 19343:7, 19343:8, 19343:11, 19343:12, 19343:19, 19343:23, 19345:13, 19345:16, 19359:22, 19383:10 similarities [1] - 19346:1 similarity [1] - 19274:21 simply [4] - 19263:1, 19295:21, 19345:22,	19366:16 Simpson [2] - 19289:4, 19321:5 sit [2] - 19369:18, 19375:6 site [2] - 19279:17, 19310:23 sitting [8] - 19255:15, 19279:3, 19313:25, 19338:19, 19339:7, 19366:16, 19383:5, 19383:22 situation [2] - 19289:23, 19361:20 situations [1] - 19301:6 six [2] - 19321:8, 19383:8 Six [1] - 19382:22 skill [1] - 19387:6 skilled [1] - 19270:13 slow [4] - 19294:9, 19294:12, 19294:22, 19294:23 slower [1] - 19294:6 soft [1] - 19285:6 solely [2] - 19291:23, 19373:18 solution [1] - 19301:4 someone [1] - 19270:13, 19294:13, 19296:8, 19299:18, 19321:15, 19329:24, 19356:10, 19360:3, 19362:2, 19372:9, 19382:1 sometime [1] - 19277:10 sometimes [2] - 19283:9, 19354:12 somewhat [3] - 19275:2, 19350:11, 19363:9 somewhere [3] - 19304:2, 19339:2, 19356:14 son [2] - 19310:16, 19311:3 sooner [1] - 19260:4 sorry [7] - 19289:10, 19322:10, 19322:24, 19323:15, 19336:15, 19375:5, 19377:3 sort [2] - 19284:1, 19385:9 sorts [1] - 19378:8 sought [1] - 19337:12 sound [1] - 19319:19 sounds [1] - 19354:4 source [5] - 19293:11, 19308:2, 19354:12,
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19354:18, 19367:23 sources [3] - 19292:17, 19307:16, 19349:8 speaking [2] - 19347:22, 19368:4 special [1] - 19286:13 specific [5] - 19274:5, 19278:21, 19286:22, 19331:19, 19341:23 specifically [2] - 19316:1, 19365:13 Specifically [1] - 19295:9 speculation [1] - 19292:7 speed [1] - 19268:9 spent [3] - 19263:25, 19310:18, 19325:10 spite [1] - 19350:17 spoken [1] - 19280:1 spot [3] - 19285:6, 19330:5, 19383:22 stab [1] - 19383:7 Staff [2] - 19256:1, 19256:9 staff [1] - 19342:6 stages [2] - 19268:4, 19313:6 stall [1] - 19284:18 stalling [5] - 19282:6, 19284:3, 19294:20, 19294:23, 19304:12 stamp [1] - 19367:19 stand [1] - 19313:9 standard [1] - 19294:8 standing [4] - 19259:23, 19260:17, 19260:24, 19265:25 Standing [2] - 19265:17, 19267:9 stands [1] - 19371:23 start [5] - 19288:6, 19319:22, 19361:23, 19373:14, 19377:11 started [1] - 19294:4 starting [3] - 19263:16, 19283:12, 19283:15 state [4] - 19284:2, 19285:3, 19305:6, 19331:25 statement [18] - 19269:1, 19269:19, 19281:14, 19286:4, 19299:23, 19309:15, 19315:5, 19315:11, 19315:23, 19316:9, 19317:18, 19329:7, 19348:18, 19373:16, 19376:15, 19376:24, 19378:23, 19380:17	statements [6] - 19288:14, 19307:8, 19315:15, 19342:17, 19348:5, 19378:7 states [2] - 19285:22, 19296:23 stating [2] - 19278:17, 19307:6 status [5] - 19272:1, 19272:9, 19349:4, 19349:16, 19350:4 stay [2] - 19286:15, 19361:18 stayed [1] - 19292:8 staying [1] - 19273:8 steak [4] - 19275:11, 19275:15, 19276:22, 19278:15 steno [1] - 19363:14 step [1] - 19262:16 Stephen [4] - 19264:20, 19279:4, 19281:19, 19289:8 steps [1] - 19323:18 still [9] - 19268:4, 19270:23, 19277:14, 19293:20, 19293:25, 19341:17, 19355:12, 19355:22, 19364:8 stirred [1] - 19305:23 stonewall [2] - 19318:25, 19319:16 stonewalling [1] - 19319:15 stop [3] - 19379:16, 19380:14, 19384:23 stopped [1] - 19380:16 stories [2] - 19282:17, 19302:19 story [7] - 19282:13, 19302:16, 19303:6, 19303:9, 19313:13, 19319:12 strategy [1] - 19375:7 strived [1] - 19337:11 strong [1] - 19270:4 stronger [1] - 19366:14 strongly [1] - 19270:11 struggled [1] - 19368:19 subject [8] - 19261:6, 19261:23, 19262:17, 19271:10, 19293:18, 19297:6, 19352:7, 19358:6 submissions [1] - 19347:10 submit [5] - 19269:12, 19269:21, 19269:25, 19271:3, 19285:16	subsequent [2] - 19365:24, 19381:13 subsequently [3] - 19341:25, 19342:2, 19364:23 substance [1] - 19350:13 sufficient [1] - 19309:25 suggest [1] - 19297:12 suggested [2] - 19344:17, 19361:11 suggesting [2] - 19313:20, 19323:24 suggestion [1] - 19347:9 suggestions [2] - 19333:14, 19356:14 suggests [1] - 19286:17 suitability [1] - 19358:22 suitable [6] - 19259:15, 19271:10, 19301:4, 19301:18, 19353:8, 19358:6 summarized [1] - 19322:17 summary [2] - 19362:7, 19363:16 Summary [1] - 19324:4 sums [1] - 19382:21 superiors [2] - 19322:16, 19322:25 supervision [1] - 19303:16 support [3] - 19260:10, 19346:3, 19349:10 Support [1] - 19256:9 suppose [9] - 19270:17, 19273:17, 19329:25, 19332:25, 19335:3, 19336:14, 19359:1, 19372:7, 19374:21 supposed [1] - 19316:2 Supreme [1] - 19374:10 surprise [2] - 19273:1, 19288:1 surprised [1] - 19298:14 surrounding [2] - 19356:19, 19362:19 surrounds [1] - 19383:10 suspect [52] - 19262:21, 19265:7, 19272:18, 19282:18, 19282:21, 19282:25, 19287:7, 19300:15, 19304:1, 19305:1, 19305:3, 19305:7,	19305:15, 19306:8, 19306:11, 19306:19, 19312:7, 19323:11, 19325:24, 19326:5, 19327:10, 19329:23, 19335:24, 19344:9, 19356:20, 19357:24, 19359:11, 19359:17, 19359:25, 19362:1, 19362:2, 19363:2, 19365:18, 19365:19, 19366:14, 19367:2, 19368:2, 19368:17, 19369:7, 19370:13, 19371:2, 19371:7, 19372:7, 19372:16, 19380:24, 19381:2, 19382:8, 19382:15, 19384:11, 19384:17 suspected [1] - 19325:2 suspicion [27] - 19270:6, 19285:18, 19286:1, 19288:2, 19294:13, 19302:22, 19303:14, 19304:5, 19304:7, 19325:4, 19326:7, 19327:4, 19330:1, 19340:4, 19343:21, 19343:22, 19344:20, 19344:21, 19345:4, 19345:5, 19355:22, 19361:23, 19361:24, 19364:17, 19372:20, 19372:24, 19380:12 suspicious [5] - 19272:8, 19345:22, 19345:23, 19372:1, 19381:2 suspicious [6] - 19326:20, 19326:21, 19346:15, 19360:22, 19380:10, 19380:17 swore [1] - 19373:11 sworn [1] - 19289:15 synopsis [1] - 19322:18 system [9] - 19268:7, 19271:8, 19284:15, 19288:3, 19325:15, 19327:4, 19334:19, 19368:9, 19369:5	19382:19, 19385:16 Tallis [1] - 19261:15 Tammy [3] - 19285:7, 19285:21, 19286:13 taped [1] - 19362:11 tapes [1] - 19363:13 task [1] - 19368:24 tasks [2] - 19264:9, 19371:16 Taylor [1] - 19338:4 Tdr [1] - 19257:5 team [1] - 19375:4 Technician [1] - 19256:14 technique [2] - 19267:11, 19267:15 techniques [1] - 19286:8 Telephone [1] - 19272:21 telephone [12] - 19267:6, 19268:24, 19273:24, 19276:11, 19279:25, 19302:13, 19304:20, 19307:5, 19320:1, 19323:22, 19354:5, 19354:21 telephoned [1] - 19263:19 television [1] - 19320:19 ten [2] - 19263:11, 19382:24 tenion [1] - 19305:21 term [1] - 19356:18 termed [1] - 19363:8 terms [3] - 19262:14, 19286:23, 19335:7 test [10] - 19314:18, 19332:3, 19334:8, 19336:21, 19354:22, 19355:17, 19355:25, 19356:4, 19356:7, 19360:4 tested [1] - 19356:22 testified [2] - 19263:17, 19263:22 testify [4] - 19260:17, 19261:10, 19262:12, 19262:13 testifying [2] - 19260:12, 19322:15 Testimony [1] - 19255:14 testimony [2] - 19306:24, 19327:19 testing [2] - 19268:13, 19358:4 tests [1] - 19355:4 themselves [1] -
T				
table [1] - 19367:22 tactics [1] - 19286:8 talks [7] - 19300:21, 19304:19, 19330:15, 19357:21, 19382:16,				



19351:9 therapist [1] - 19259:18 Therefore [1] - 19373:22 thinking [8] - 19284:15, 19303:25, 19367:12, 19368:14, 19368:16, 19384:25, 19385:2, 19386:6 third [1] - 19337:1 thoughts [3] - 19325:9, 19326:13, 19386:5 threats [3] - 19331:1, 19331:17, 19334:22 three [8] - 19282:24, 19290:8, 19293:23, 19294:5, 19299:17, 19302:10, 19327:9, 19384:23 three-month [1] - 19299:17 throughout [2] - 19361:18, 19365:1 Thursday [2] - 19261:1, 19262:3 timing [2] - 19302:23, 19304:16 tissue [2] - 19267:12, 19267:13 today [2] - 19261:22, 19264:13 together [4] - 19260:10, 19261:6, 19261:17, 19346:14 Tony [1] - 19256:14 took [10] - 19262:2, 19278:24, 19314:5, 19316:20, 19329:17, 19338:2, 19338:15, 19344:12, 19346:7, 19348:18 tool [4] - 19268:4, 19336:4, 19343:11, 19359:23 top [6] - 19271:18, 19306:21, 19324:7, 19340:14, 19352:25, 19354:20 topic [1] - 19292:8 topics [4] - 19351:17, 19351:22, 19352:6, 19352:15 toque [2] - 19379:1, 19379:3 total [2] - 19325:13, 19326:18 totality [1] - 19371:17 totalled [1] - 19382:25 totally [3] - 19350:12, 19362:25, 19367:10 touch [5] - 19322:14,	19334:20, 19353:3, 19374:15, 19376:2 touched [7] - 19292:10, 19293:3, 19299:1, 19301:9, 19306:23, 19330:9, 19369:15 touching [1] - 19265:8 towards [1] - 19268:19 tracking [1] - 19349:21 trained [1] - 19270:21 transcript [2] - 19260:1, 19373:6 Transcript [2] - 19255:12, 19259:1 transcription [1] - 19387:5 transfer [3] - 19334:16, 19357:7, 19357:10 transferred [1] - 19289:19 transmission [1] - 19276:6 transpired [1] - 19271:5 transporting [1] - 19268:12 treating [1] - 19298:2 trial [7] - 19281:15, 19295:24, 19327:18, 19363:3, 19368:3, 19368:4, 19369:21 tried [4] - 19279:20, 19284:10, 19319:24, 19355:1 true [3] - 19360:15, 19379:13, 19387:5 trust [3] - 19284:14, 19284:15, 19333:2 truth [1] - 19363:6 truthful [1] - 19381:23 try [6] - 19267:18, 19286:9, 19294:15, 19342:2, 19369:19, 19379:9 trying [22] - 19295:22, 19304:12, 19305:18, 19314:1, 19326:15, 19329:22, 19344:21, 19347:16, 19349:4, 19366:12, 19366:25, 19367:9, 19368:18, 19369:2, 19370:7, 19375:12, 19376:12, 19376:17, 19376:22, 19378:20, 19379:23, 19385:22 Tuesday [1] - 19330:21 turn [2] - 19274:11, 19344:21 turned [1] - 19274:17 Tv [2] - 19304:23,	19320:5 twice [2] - 19282:3, 19305:3 twigs [1] - 19275:8 twisting [1] - 19295:13 two [8] - 19259:14, 19275:3, 19280:8, 19325:9, 19333:10, 19353:18, 19357:1, 19383:3 type [11] - 19269:15, 19270:24, 19273:7, 19274:9, 19275:9, 19275:11, 19293:20, 19315:18, 19346:11, 19349:22, 19376:9 typed [3] - 19315:6, 19315:15, 19315:19 types [1] - 19359:22 typewritten [1] - 19315:11 typographical [1] - 19276:6	unusual [2] - 19308:5, 19364:24 Up [1] - 19338:12 up [45] - 19262:7, 19263:1, 19263:12, 19264:10, 19264:25, 19265:2, 19265:10, 19266:14, 19266:15, 19266:21, 19268:9, 19275:9, 19275:14, 19275:21, 19275:23, 19277:15, 19278:14, 19283:12, 19299:6, 19300:17, 19303:4, 19303:17, 19305:23, 19308:20, 19311:18, 19311:24, 19315:9, 19315:18, 19322:23, 19330:11, 19333:6, 19341:4, 19352:3, 19355:23, 19357:17, 19363:5, 19363:23, 19368:23, 19373:5, 19374:11, 19379:18, 19381:7, 19382:2, 19382:21, 19384:7 update [1] - 19308:4 updating [1] - 19293:7 upside [5] - 19303:8, 19305:23, 19306:9, 19306:13, 19306:14 upstairs [1] - 19316:11 urgency [1] - 19266:13 useless [1] - 19296:1	19325:21, 19366:2, 19367:14, 19380:24 violence [3] - 19304:10, 19365:22, 19365:23 violent [1] - 19365:22 virtue [1] - 19297:21 visit [7] - 19269:23, 19273:1, 19276:12, 19276:16, 19286:25, 19288:11, 19289:7 visited [1] - 19296:14 Volume [1] - 19255:22
W				
wait [1] - 19279:7 waiting [1] - 19293:20 walk [2] - 19377:15, 19377:17 walking [1] - 19291:15 walls [1] - 19286:18 wants [4] - 19301:12, 19334:15, 19352:18 warden [1] - 19357:15 Warden [1] - 19357:19 wasting [1] - 19295:11 water [1] - 19307:7 wavered [2] - 19327:2, 19353:14 ways [1] - 19287:11 weapon [2] - 19277:13, 19382:24 weapons [1] - 19382:25 wearing [2] - 19317:4, 19317:6 Wednesday [1] - 19261:3 week [4] - 19262:19, 19263:11, 19308:21, 19364:13 weeks [1] - 19259:14 weigh [4] - 19329:22, 19336:3, 19368:18, 19369:2 weighing [4] - 19297:11, 19327:5, 19370:2, 19371:17 well-respected [1] - 19314:16 Wempe [1] - 19257:9 wheeling [1] - 19285:1 whereas [1] - 19300:5 whole [2] - 19296:1, 19354:16 Williams [88] - 19263:16, 19263:19, 19264:1, 19276:25, 19277:8, 19277:12, 19277:20, 19278:5,				
U				
ultimately [1] - 19297:7 Umm [1] - 19365:10 unable [1] - 19266:9 uncertain [1] - 19273:10 under [10] - 19259:14, 19274:15, 19301:25, 19305:11, 19324:4, 19324:21, 19327:7, 19338:14, 19361:21, 19385:5 Under [1] - 19294:12 undergo [1] - 19332:2 undertake [2] - 19260:14, 19262:12 undertaking [7] - 19259:15, 19262:5, 19290:12, 19291:10, 19291:13, 19291:17, 19332:9 unfold [1] - 19350:2 unfolded [1] - 19289:5 unfounded [3] - 19302:22, 19303:14, 19303:16 unknown [1] - 19274:18 unless [3] - 19262:25, 19340:6, 19371:25 unnamed [2] - 19272:17, 19282:18 unrelated [1] - 19300:14				
V				
V1 [1] - 19342:8 valuable [1] - 19364:5 value [4] - 19361:6, 19362:3, 19365:11, 19377:24 various [1] - 19287:11 vehicle [2] - 19378:15, 19386:15 verify [1] - 19379:10 version [5] - 19315:11, 19315:17, 19315:19, 19379:10, 19379:23 versus [1] - 19382:16 via [3] - 19268:23, 19286:1, 19290:23 vicinity [1] - 19346:7 victim [1] - 19267:14 victims [4] - 19340:17, 19342:15, 19342:20, 19348:2 vie [1] - 19292:5 view [5] - 19297:9,				



<p>19280:1, 19280:22, 19281:5, 19288:8, 19288:18, 19288:19, 19292:13, 19295:2, 19296:21, 19299:8, 19299:22, 19300:13, 19309:7, 19309:8, 19312:23, 19312:25, 19313:10, 19315:25, 19317:18, 19317:25, 19318:3, 19318:8, 19318:15, 19320:3, 19320:5, 19320:18, 19320:24, 19321:23, 19322:3, 19322:17, 19322:21, 19323:1, 19326:1, 19328:9, 19329:2, 19330:16, 19331:23, 19332:6, 19333:7, 19334:4, 19337:20, 19339:12, 19340:11, 19340:13, 19341:11, 19342:16, 19343:25, 19347:1, 19347:12, 19348:19, 19348:23, 19348:24, 19349:14, 19350:25, 19351:16, 19351:21, 19352:4, 19352:13, 19352:22, 19353:1, 19353:25, 19354:2, 19357:14, 19363:14, 19366:17, 19371:15, 19374:17, 19374:25, 19375:6, 19376:4, 19376:10, 19376:21, 19379:14, 19382:10, 19382:14, 19383:1, 19383:12, 19384:20, 19386:2, 19386:13 Williams' [5] - 19298:24, 19330:12, 19331:7, 19343:15, 19346:22 willing [2] - 19269:11, 19269:16 Wilson [14] - 19257:6, 19280:5, 19280:6, 19280:11, 19280:17, 19281:2, 19281:9, 19281:14, 19309:10, 19318:2, 19327:18, 19328:4, 19328:12, 19370:1 Wilson/John [1] - 19280:18 Winnipeg [3] - 19272:25, 19302:15, 19346:17 wish [6] - 19274:11,</p>	<p>19274:19, 19282:2, 19285:10, 19301:11, 19309:1 wished [2] - 19279:18, 19287:12 wishes [2] - 19281:5, 19324:5 wishing [1] - 19304:23 witness [8] - 19259:10, 19259:16, 19260:6, 19262:13, 19300:6, 19300:18, 19342:17, 19348:4 witnesses [5] - 19295:5, 19295:7, 19327:17, 19347:14, 19371:1 Wolch [23] - 19257:2, 19259:17, 19259:23, 19260:7, 19261:1, 19261:5, 19262:3, 19262:17, 19262:19, 19262:23, 19263:5, 19340:16, 19342:16, 19343:25, 19346:23, 19347:1, 19347:6, 19347:19, 19347:22, 19348:22, 19350:10, 19353:4, 19354:3 Wolch's [1] - 19350:23 woman [1] - 19383:7 women [1] - 19304:11 wonder [2] - 19267:21, 19349:11 wondered [1] - 19306:25 wondering [11] - 19267:16, 19273:12, 19280:11, 19280:14, 19334:24, 19350:22, 19352:14, 19357:8, 19372:10, 19372:21, 19381:20 word [3] - 19315:20, 19319:14 words [8] - 19314:23, 19335:21, 19336:6, 19344:23, 19346:12, 19351:23, 19359:17, 19371:4 wore [1] - 19378:21 writes [2] - 19331:23, 19350:10 writing [3] - 19289:10, 19291:4, 19354:6 written [7] - 19289:25, 19291:5, 19291:10, 19301:23, 19301:24, 19324:14, 19339:14 Wrongful [1] - 19255:3</p>	<p style="text-align: center;">Y</p> <p>year [6] - 19259:12, 19310:16, 19311:3, 19382:23, 19382:24, 19383:4 years [9] - 19284:13, 19321:9, 19325:10, 19329:9, 19332:23, 19364:12, 19368:22, 19380:11, 19383:6 yesterday [1] - 19280:3 yourself [1] - 19280:13</p>
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