

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

\*\*\*\*\*

Transcript of Proceedings

and

Testimony before the Commission  
sitting at the  
Delta Bessborough Hotel at  
Saskatoon, Saskatchewan

\*\*\*\*\*

On Tuesday, April 19th, 2005

Volume 42

Inquiry Proceedings



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  **for** Mr. Larry Fisher  
Mr. David Frayer, Q.C.,       **for** Minister of Justice  
  (Canada), The Hon. Irwin Cotler



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Transcript of Proceedings

(Reconvened at 9:00 a.m.)

COMMISSIONER MacCALLUM: Morning.

ALL COUNSEL: Morning.

09:05

MR. HODSON: The next witness, Mr.

Commissioner, is (V3)-- (V3)--- whose maiden name is (V3)-----, and our -- (V3)----- will be testifying from another room, and the Clerk is just going to swear her in, so it will just take a moment.

09:05

And I might just state for the record, this relates to an assault that took place on November 29, 1968, and it was an indecent assault charge and conviction. And, as well, (V3)----- -- or pardon me -- (V3)----- name is subject to the publication ban granted yesterday.

09:05

COMMISSIONER MacCALLUM: Thank you.

(V3), sworn:

09:06

BY MR. HODSON:

Q Good morning, (V3)----- . Thank you for agreeing to testify before this Commission.

22

I understand that your maiden name is (V3)-----; is that correct?

23

24

09:06

A That is.

25



1 Q And that your date of birth is April the 1st,  
2 1949?

3 A That's right.

4 Q And I will be questioning you about an assault  
09:06 5 that took place on November 29, 1968, and you are  
6 familiar with that assault; --

7 A Yes.

8 Q -- is that correct?

9 A Yes.

09:07 10 Q And you were 19 years of age at the time; is that  
11 correct?

12 A Yes.

13 Q Firstly, I would like to go through a brief  
14 chronology of who you dealt with and when you  
09:07 15 dealt with people over the years. Starting,  
16 first, with the incident in November of 1968, I  
17 understand that you gave a written statement to  
18 the Saskatoon City Police; is that correct?

19 A That is right.

09:07 20 Q And that you then had some further dealings with  
21 the police, which I will get into a bit later, is  
22 that correct, in the course of the investigation?

23 A Yes.

24 Q And then I understand that it was sometime later  
09:07 25 that you became aware that Larry Fisher was



1 convicted for the -- for assaulting you; is that  
2 correct?

3 A That's right.

4 Q And when was that that you would have learned  
09:07 5 about that?

6 A That was about May 1991.

7 Q And who did you learn that from?

8 A From Joyce Milgaard.

9 Q And then I understand that you interviewed, or  
09:07 10 were interviewed by Sergeant Pearson of the RCMP  
11 in 1992 in relation to some proceedings at that  
12 time; is that correct?

13 A That's right.

14 Q And then, again, in 1993 the RCMP interviewed you  
09:08 15 in connection with an investigation; is that  
16 right?

17 A Yes.

18 Q And then, finally, you testified at the -- at a  
19 voir dire at Larry Fisher's trial; is that  
09:08 20 correct?

21 A Yes, that's right.

22 Q And that was in the absence of the jury; is that  
23 right?

24 A Yes.

09:08 25 Q And my understanding is that you did not testify



1 at the trial before the jury; is that correct?

2 A That's right.

3 Q If we could just go back and I'll call up your  
4 original statement, it's 065330, please. And you  
09:08 5 will see it on the screen there in a moment,  
6 (V3)-----.

7 A Yes, it's here.

8 Q In blue. If we could just go to the fourth page,  
9 please, and if we could just call out that  
09:08 10 signature; is that your signature? It's faint  
11 there but is that your signature?

12 A Yes it is.

13 Q And you recall giving a statement to the police at  
14 the time?

09:09 15 A Right, I do.

16 Q And you have read this statement prior to coming  
17 here this morning; is that correct?

18 A That's right.

19 Q And is the statement accurate?

09:09 20 A Yes.

21 Q Now, if we go back to the first page, it has, as a  
22 witness, I believe that's Morality Detective Mann;  
23 do you recall the names of any police officers  
24 that you dealt with back in 1968 and 1969?

09:09 25 A No, I don't know the names at all.





1 Q Now just about the incident on November 1968, it's  
2 been described in your statement and elsewhere, I  
3 would like to ask you; were you able to see your  
4 attacker's face to be able to identify him in a  
09:09 5 photo or a line-up?

6 A I did see his face but I, I'm not very observant,  
7 I don't pay much attention to people that I don't  
8 know.

9 Q Okay. Would -- and just back to, and again back  
09:10 10 at the time based on what you observed during the  
11 attack, would you have been able to identify the  
12 attacker in a photograph or in a line-up based on  
13 what you observed?

14 A I wasn't able to, no.

09:10 15 Q Okay. Now just dealing back with your dealings  
16 with the police at or around the time, at and  
17 after this incident, do you recall how many times  
18 you would have met with the police?

19 A Umm, well when it happened, and then after Gail  
09:10 20 Miller's murder, and then in, I guess, '92. Is  
21 that what you mean?

22 Q Yes.

23 A Yes, '92 and '93.

24 Q Okay. So let's just go back --

09:10 25 A Okay.



1 Q -- to the Saskatoon City Police, you would have  
2 met with them, then, on the day of the incident;  
3 is that correct?

4 A Right, that's right.

09:10 5 COMMISSIONER MacCALLUM: What day was that?  
6 I couldn't read it on --

7 MR. HODSON: Oh, I'm sorry, it was November  
8 29th, 1968.

9 COMMISSIONER MacCALLUM: Was that the date  
09:10 10 of the statement?

11 MR. HODSON: Yes, that's the date of the  
12 statement and date of the incident.

13 COMMISSIONER MacCALLUM: Thanks. So you  
14 met with the police that day?

09:11 15 A Yes.

16 COMMISSIONER MacCALLUM: Thanks.

17 BY MR. HODSON:

18 Q Do you recall being shown photographs of suspects  
19 by the police back in 1968 or 1969?

09:11 20 A Yes, I remember looking at lots of mug shots that  
21 night when I went there.

22 Q And did you look at any photos subsequent? I  
23 think you said you met with the police after Gail  
24 Miller's murder.

09:11 25 A And I think I looked at the photographs and the



1 mug shots again, but --

2 Q Okay.

3 A -- I couldn't --

4 Q And do you recall if you are were able to identify  
09:11 5 anybody from those mug shots?

6 A No, I wasn't able to.

7 Q If I could call up 039527, please. And this is a  
8 newspaper article from The StarPhoenix on December  
9 14th, 1968, and I showed this to you this morning;  
09:11 10 do you recall whether you would have read this at  
11 the time, or read a news story about these  
12 incidents?

13 A No. I didn't get the newspaper at that time so I  
14 wouldn't have remembered reading it.

09:12 15 Q Do you recall -- and, again, back at and around  
16 the time of your assault in 1968 -- were you aware  
17 of any other assaults, sexual assaults in the  
18 Saskatoon area that you became aware of?

19 A Right offhand I would have to say "no". I don't  
09:12 20 know whether the police would have told me there  
21 had been others before, I don't remember.

22 Q Okay. Do you recall hearing about the Gail Miller  
23 murder?

24 A Yes.

09:12 25 Q And how and from whom did you learn about that?



1 A Well, I don't know, but I do know my mum picked up  
2 on it right away and said "that could have been  
3 you".

4 Q And at the time then, (V3)-----, did you  
09:12 5 think -- did you think that the person who  
6 assaulted you may have been the person involved in  
7 the Gail Miller murder?

8 A I -- I don't remember thinking much about it, but  
9 I think circumstances were fairly similar, so --

09:12 10 Q And this comment from your mother; was that at the  
11 time, then, in 19 --

12 A Exactly, right after she heard it.

13 Q Okay. Do you recall any discussion with any  
14 police officer, around the time of Gail Miller's  
09:13 15 murder, about your assault and the Gail Miller  
16 murder, or any connection?

17 A I don't -- I don't think so, however, that may  
18 have been why they called me back to look at  
19 pictures.

09:13 20 Q Okay.

21 A To see if I could recognize anybody.

22 Q And when you say they called you back, this would  
23 have been after the Gail Miller murder; is that  
24 right?

09:13 25 A I think so, yes.



1 Q And can you tell us how long, would it have been  
2 weeks, days, months; are you able to tell us?

3 A I would guess within a couple of weeks, but that's  
4 a guess, I don't know.

09:13 5 Q Okay. And then, after that meeting with the  
6 police, did you meet with anybody from the  
7 Saskatoon City Police after that?

8 A No.

9 COMMISSIONER MacCALLUM: Could I just ask  
09:13 10 you, Mr. Hodson, did I take this down wrong; I  
11 thought she was questioned again by the police on  
12 the day of the Gail Miller murder?

13 MR. HODSON: The day of?

14 COMMISSIONER MacCALLUM: The day of, yeah?

15 BY MR. HODSON:

16 Q I think she said after, she was called in after  
17 the Gail Miller murder; is that correct,  
18 (V3)-----?

19 A Yes. I don't remember being called the day of her  
09:14 20 murder, I think it was afterwards.

21 COMMISSIONER MacCALLUM: Thanks very much  
22 then.

23 BY MR. HODSON:

24 Q I think her evidence about the day of the murder;  
09:14 25 was that when you had the discussion with your



1 mother?

2 A Well whenever she heard about it, and probably  
3 called and said that, yeah.

4 MR. HODSON: Does that clarify it,  
09:14 5 Mr. Commissioner?

6 COMMISSIONER MacCALLUM: Thanks, yes.

7 BY MR. HODSON:

8 Q I understand, (V3)-----, that you moved away  
9 from Saskatoon in 19 -- is it 1970; is that  
09:14 10 correct?

11 A That's right.

12 Q And it would have been in the summer of 1970?

13 A Yes.

14 Q I'm going to show you a document, 012639, and this  
09:14 15 is a document dated October 22nd, 1970, and it's a  
16 statement or a confession from Larry Fisher, and I  
17 won't go through the statement but in the  
18 statement he acknowledges assaulting you in  
19 November of 1968. And, (V3)-----, were you  
09:15 20 aware, or have you seen this statement prior to  
21 Commission's staff showing it to you for the  
22 purposes of these proceedings?

23 A No, I never seen it before.

24 Q Were you aware, prior to dealings with Commission  
09:15 25 staff in connection with these proceedings, that



1 Larry Fisher had admitted or confessed to the  
2 assault -- to assaulting you?

09:15 3 A Not officially. Joyce Milgaard told me that he  
4 had but I hadn't heard officially from any  
5 policeman.

6 Q Okay. I'm going to show -- call up document  
7 047051. And this is the Information, it's dated  
8 December 30, 1970, and it's where Mr. Fisher is  
9 charged -- just call out that portion -- with  
09:16 10 intending to commit the indictable offence of rape  
11 with respect -- or assaulting (V3)-- (V3)-----  
12 with the intent to commit the indictable offence  
13 of rape. And, (V3)-----, were you aware, at or  
14 around this time, that Mr. Fisher had been charged  
09:16 15 with this offence in relation to you?

16 A No.

17 Q If I could call up 001763, please. And this is a  
18 Conviction, (V3)-----, that shows on December  
19 21, 1971 that Mr. Fisher was convicted and  
09:16 20 sentenced to six months concurrent to an existing  
21 sentence for the assault on you, and at the time,  
22 or rather around that time, were you aware that  
23 Mr. Fisher had been convicted for assaulting you?

24 A No, I wasn't aware of that.

09:17 25 Q If I could call up document 261053, please. This



1 is a letter dated March 17th, 1971 from the Deputy  
 2 Chief of Police to the Deputy Attorney General  
 3 relating to some charges against Larry Fisher.  
 4 And if you could go to the next page, please,  
 09:17 5 261054. And in this letter, (V3)-----, which I  
 6 showed you previously, it describes a summary of  
 7 the offence as it relates to you, and then at the  
 8 bottom, or the last sentence says:

9 "This man was described as being in his  
 09:17 10 early twenties, small, and could not be  
 11 identified from Police photo as being  
 12 the culprit in this case."

13 And is that accurate?

14 A That's right.

09:17 15 Q I'm done with that document. If we could go  
 16 ahead, then, to 1991; can you tell us,  
 17 (V3)-----, what you recall about your meeting  
 18 with Joyce Milgaard?

19 A She just arrived at my house one afternoon,  
 09:18 20 knocked on the door and said she wanted to talk to  
 21 me, and I said, "Oh, sure, come on in". And so  
 22 then she said she wanted to talk to me in private,  
 23 so I said, "Well we can go out on the sun deck".  
 24 And so she came out on the sun deck and told me  
 09:18 25 she was Joyce Milgaard and said, "Does that mean





1 anything", and I said "No". And, "Does David  
 2 Milgaard mean anything", and I said, "No". And so  
 3 then she said, "Well you were the victim of an  
 4 attack in Saskatoon, is that correct", and I said,  
 09:18 5 "Yes". And so she wondered if she could talk to  
 6 us, she told me it was Larry Fisher that had done  
 7 it and he had admitted to it, and she wanted to  
 8 discuss it with us, so I said, "Okay". So she and  
 9 I think it was Paul Henderson that was with her  
 09:18 10 came into the house, or onto the deck, and we sat  
 11 and visited for about half an hour to  
 12 three-quarters of an hour and just recounted the  
 13 incident and --

14 Q Did it upset you at this time, (V3)-----, to  
 09:18 15 learn about Mr. Fisher's conviction of your  
 16 assault?

17 A I sort of put the whole incident in the back of my  
 18 mind and haven't given it much thought and it  
 19 wasn't a traumatic situation, so no, I hadn't  
 09:18 20 thought about it one way or the other at all.

21 Q I'm going to call up a couple of letters here,  
 22 first 156584, and this is a letter I believe, is  
 23 it, from you, (V3)----- it says Mr. Casper, I  
 24 think it should be to Mr. Asper, who was David  
 09:19 25 Milgaard's lawyer at the time. That's your



1 writing is it?

2 A Yes, that's my writing.

3 Q And it appears, and there's some other letters  
4 I'll show you, that you had been asked to sign a  
09:19 5 form; is that right?

6 A That's right.

7 Q And was there something in the form that you  
8 weren't comfortable signing?

9 A Yes. It just said it named the person as being  
09:19 10 Larry Fisher and I said I didn't know who had done  
11 the attack, I wasn't informed, so I couldn't sign  
12 anything, that I didn't know who it was.

13 Q And then if I could just call out that last  
14 paragraph, it says:

09:19 15 "I can verify I was attacked on that day  
16 - but would not be able to identify the  
17 man as to his appearance or his name."

18 And is that accurate?

19 A Yes, that's right.

09:20 20 Q And just for the record, if we could call up  
21 156586, and this is a letter from Mr. Asper back  
22 to you, (V3)-----, with the revised form; is  
23 that correct?

24 A Yes.

09:20 25 Q And then if we could call up 156588, and that's



1 your signature is it?

2 A Yes, it is.

3 Q And I take it that what you signed there, the  
4 description of the indecent assault, you were fine  
09:20 5 with signing that; is that correct?

6 A Uh-huh, that's right.

7 Q Next, I think your next involvement was with  
8 Sergeant Pearson; is that correct?

9 A That's right.

09:21 10 Q From the RCMP?

11 A Yes.

12 Q And do you recall what he was speaking to you for  
13 or what proceedings were on at the time that he  
14 needed to talk to you?

09:21 15 A I don't know. Was that getting information for  
16 going to the Supreme Court? I don't know.

17 Q That's fine, no, at the time Mr. Milgaard had  
18 applied to the federal Minister of Justice to  
19 review his conviction and Sergeant Pearson was  
09:21 20 interviewing witnesses. Does that sound right to  
21 you as to what his purpose was in meeting with  
22 you?

23 A Yes.

24 Q I'm going to call up 268444, please, and if we  
09:21 25 could go to page 448. Is that your signature



1           there?

2           A           Yes, it is.

3           Q           It appears to be January 14, 1992 with Sergeant  
4           Pearson. Does that sound about the right time?

09:21 5           A           Yes.

6           Q           And did you tell Sergeant Pearson your best and  
7           truthful recollection of events?

8           A           Yes.

9           Q           And you've read this statement before have you?

09:22 10          A           Yes.

11          Q           And it is accurate?

12          A           Yes.

13          Q           Next I believe you were interviewed by the RCMP in  
14          1993, I'll just get a date here --

09:22 15          A           I think it was about May was it?

16          Q           I think it's June 15th, 1993.

17          A           Okay.

18          Q           Does that sound right?

19          A           Yes.

09:22 20          Q           And if we could call up document 035651, please,  
21          and I believe it may have been Cunningham. Does  
22          that name ring a bell?

23          A           Yes, uh-huh.

24          Q           And again at that time you would have given, or  
09:22 25          would you have given the RCMP your best and



1 truthful recollection of events?

2 A Yes.

3 Q If we could go to page 035654, just call out this,  
4 and this is the officer's notes here, starting  
09:23 5 there it says:

6 "She did provide a statement to police  
7 at their station. She was shown several  
8 "mug shots" but never did identify  
9 anyone as her assailant. She went on to  
09:23 10 say that she was asked to return to the  
11 police station sometime after the Gail  
12 Miller murder to look at more photos.  
13 Again she was unable to identify anyone.  
14 She stated that they, the police, never  
09:23 15 did mention any suspect's name to her.  
16 In fact she was never told that anyone  
17 had been charged and convicted, until  
18 Mrs. Milgaard came to see her on the 5th  
19 of May, 1991."

09:23 20 And is that truthful and accurate?

21 A That's right.

22 Q Next I understand that you testified at the *voir*  
23 *dire* at Larry Fisher's trial, and maybe just call  
24 up quickly document 253597, and this is the  
09:24 25 transcript from those proceedings under oath and,



1 (V3)-----, did you tell the truth to the best of  
2 your recollection at the Fisher proceedings?

3 A Yes.

4 MR. HODSON: Thank you, (V3)-----, those  
09:24 5 are all my questions. Other counsel may have  
6 questions if you want to just hold on for a  
7 moment. Mr. Gibson? Anybody else? Mr. Lockyer.  
8 It looks as though two. They will identify who  
9 they are and who they are acting for.

09:24 10 **BY MR. GIBSON:**

11 Q Good morning, (V3)-----, my name is Bruce  
12 Gibson, I act as counsel for the RCMP, and I  
13 believe in your testimony this morning you've  
14 mentioned that you do recall meeting with a few  
09:24 15 RCMP officers in the 1990s; is that right?

16 A That's right.

17 Q And Mr. Hodson showed you a statement, it was the  
18 handwritten statement that you gave to Sergeant  
19 Rick Pearson in January of 1992 and I believe you  
09:25 20 said you recalled meeting with Sergeant Pearson?

21 A Yes.

22 Q And I'm wondering, and I don't know if I have the  
23 same document number, but if we could put up  
24 008727 is the document number I have for the typed  
09:25 25 version of that statement, and you should see that



1 on the monitor in front of you.

2 A Yes.

3 Q Were you living in Moose Jaw, Saskatchewan at the  
4 time?

09:25 5 A No. I was going to university in Saskatoon.

6 Q Okay. But the address listed there is Moose Jaw,  
7 so is that your residence at the time?

8 A Oh, you mean 1992?

9 Q 1992, I'm sorry.

09:25 10 A Sorry, yes.

11 Q Okay. And it says that that interview commenced  
12 at 1700 hours at the top. I take it you don't  
13 really recall roughly how long that interview was?

14 A No, I don't.

09:25 15 Q Okay. And then at the bottom, if we turn to page  
16 087289, it concludes at 1805 hours, so it looks  
17 like it was about an hour that you spent with  
18 Sergeant Pearson?

19 A That sounds right.

09:26 20 Q And if we look at the last paragraph there, I'm  
21 just going to read that into the record, it says:

22 "I never heard from the police whether  
23 they ever found out who was responsible  
24 for my attack. It wasn't until

09:26 25 Mrs. Milgaard came to my house that I



1 learned from her that Larry Fisher was  
2 charged and convicted for the assault.

3 That's just what she told me.

4 Mrs. Milgaard asked if I could identify  
09:26 5 my attacker and I said I couldn't."

6 And I believe you said that that was the first  
7 time you heard about that; is that correct?

8 A That's right, uh-huh.

9 Q And in your discussions with Sergeant Pearson, did  
09:26 10 he confirm that with you, that that was in fact  
11 the case, that Mr. Fisher had been --

12 A Yes.

13 Q He did?

14 A I'm pretty sure he did, yeah.

09:26 15 Q Okay. And again you had subsequent contact with  
16 the RCMP in 1993?

17 A Right.

18 Q And again it was your understanding that Mr.  
19 Fisher had been convicted of that offence?

09:26 20 A Right.

21 MR. GIBSON: Thank you very much.

22 BY MR. LOCKYER:

23 Q Hi, (V3)-----, James Lockyer, I'm here for  
24 Joyce Milgaard.

09:27 25 You dealt with the police, you





1           said the RCMP, in 1992 and 1993. Did you deal  
2           with the police as well, did you talk to them in  
3           1999 before and after testifying at Larry Fisher's  
4           trial?

09:27 5           A           I don't remember. I don't think so.

6           Q           You don't think so. Did you speak to the  
7           prosecutor before testifying at Larry Fisher's  
8           trial? Did you have a meeting with him before?

9           A           I think so.

09:27 10          Q           Yes. You did, you say you think so?

11          A           I think so.

12          Q           Yes. And in those dealings both in '92 and '93  
13          with the police and '99 with the prosecutor, did  
14          anyone ever give you an explanation for why it was  
15          you had never been informed of Larry Fisher's  
16          apprehension and conviction and confession and  
17          conviction for the crime he committed on you?

18          A           I never thought about it. Actually, it was  
19          something that I put at the back of my mind and  
09:28 20          didn't want to even think about it and so I don't  
21          think I even wondered why I hadn't heard from the  
22          police whether they had caught anybody or whether  
23          they hadn't. It wasn't an issue with me I guess.

24          Q           Having found out when you did from Mrs. Milgaard,  
09:28 25          did you subsequently ever, were you ever told by



1 the police why it was that you hadn't been told  
2 for those 19 years that they apprehended someone  
3 for the crime?

4 A I guess I never asked. When the RCMP came I don't  
09:28 5 think I even asked them why I hadn't been told.

6 Q You didn't ask and they didn't tell you either?

7 A No, I don't think so.

8 MR. LOCKYER: All right. Thank you.

9 MR. HODSON: There's no re-exam. Thank you  
09:29 10 very much, (V3)-----, for the courtesy extended  
11 to Commission staff prior to these proceedings  
12 and as well thank you for agreeing to testify  
13 today.

14 COMMISSIONER MacCALLUM: Thank you,  
09:29 15 (V3)-----, you are excused.

16 MR. HODSON: I'm wondering,  
17 Mr. Commissioner, if we could adjourn for a bit.  
18 Our next witness is (V4)-----, she will be  
19 testifying in the hearing room and we just need a  
09:29 20 few moments to set up and I believe she was going  
21 to be here at 10 and we will maybe get her here  
22 sooner. As soon as we're ready to go we can  
23 reconvene.

24 COMMISSIONER MacCALLUM: That's fine, thank  
09:29 25 you. Just call me when you are ready.



1 (Adjourned at 9:30 a.m.)

2 (Reconvened at 10:00 a.m.)

3 MR. HARDY: Good morning, Mr. Commissioner.

4 COMMISSIONER MacCALLUM: Mr. Hardy.

09:59 5 MR. HARDY: We're ready to proceed with our  
6 next witness, (V4)-----.

7 (V4), sworn:

8 BY MR. HARDY:

9 Q Good morning, (V4)-----.

10:00 10 A Hi.

11 Q And I am pronouncing your last name correctly am  
12 I?

13 A That's correct.

14 Q And let me begin by thanking you for attending  
10:00 15 today to provide testimony at this Commission of  
16 Inquiry. I understand that you were living in  
17 Saskatoon as of January of 1969?

18 A Yes, I was.

19 Q And can you tell us what your address was at that  
10:00 20 time?

21 A 331 Avenue H South.

22 Q And you were living with your parents?

23 A That's correct.

24 Q And how old were you in January of 1969?

10:01 25 A 19.



1 Q And can you tell us what you were doing at that  
2 time?

3 A I was going to university at the University of  
4 Saskatchewan.

10:01 5 Q And had you been going since the previous fall  
6 then?

7 A That's correct.

8 Q And, (V4)-----, I understand that you have some  
9 recollection of the events of January 31st, 1969?

10:01 10 A Uh-huh.

11 Q And can you perhaps tell us what you were doing  
12 that morning, please?

13 A I had left for school to catch the university bus  
14 first thing in the morning and was on my way to  
10:01 15 school, on the way to the bus.

16 Q And perhaps you can just give us a sense of what  
17 your regular morning routine would have been on a  
18 school day?

19 A My regular morning routine was to get up, have  
10:01 20 breakfast, gather my stuff and walk to Avenue H  
21 and 22nd where I caught the -- it was a group of  
22 busses that took us to the university and I would  
23 have caught, I think it was the white bus at a  
24 specific time.

10:02 25 Q And do you have a recollection of your regular



1 departure time and perhaps the time that the bus  
2 arrived at Avenue H and 22nd?

3 A My regular departure time was usually around seven  
4 I think and I usually tried to catch the bus, I  
10:02 5 think it came usually around 7:10 or 7:20. It  
6 depended what time I had classes.

7 Q And am I picturing this correctly, and we'll look  
8 at a map in a moment, but we're talking about  
9 three or four blocks to the bus stop from your  
10:02 10 house then?

11 A Yes. We lived at Avenue H and 19th and the bus  
12 was at H and 22nd.

13 Q And can you recall, with respect to January 31st,  
14 1969, what time you would have departed for the  
10:02 15 bus that morning?

16 A Well, it probably would have been around seven  
17 o'clock to the best of my recollection, usually it  
18 would have been around then, and I had left a  
19 little bit earlier that morning, so the seven  
10:03 20 o'clock time frame would have been a little bit,  
21 it might have been a couple of minutes earlier,  
22 I'm not quite sure, so it was that time that I  
23 left.

24 Q When you departed from your home. And do you  
10:03 25 recall what time the bus arrived at that bus stop?



1 A Again, it was probably 7:10 to 7:20, in that area,  
 2 because my first class was at 8:30, so I got that  
 3 bus, the earliest bus I could.

4 Q And what is your recollection today in terms of  
 10:03 5 how long it would have taken you to travel from  
 6 your home to the bus stop?

7 A Between 10 and 12 minutes I would think, max.

8 Q Now, (V4)-----, I understand that you were  
 9 attacked by an individual that morning and I  
 10:03 10 wanted to pause for a moment. You and I have  
 11 talked about this matter and I understand that you  
 12 are comfortable sharing details with us today  
 13 respecting that experience?

14 A Absolutely.

10:03 15 Q Can you tell us, please, what happened?

16 A Well, I had left home to go catch the bus to go to  
 17 university that morning and it was, I was a little  
 18 bit concerned about being late, so -- because it  
 19 was incredibly cold that morning and foggy which  
 10:04 20 was really unusual for Saskatoon, and as I was  
 21 walking on the way to the stop I normally waved at  
 22 my friend's mom in the window, so it was at 7:07  
 23 that I had looked up because I had just done my  
 24 thing about waving to her and became aware that  
 10:04 25 between where my girlfriend lived and the alley



1           somebody had come out of a yard and started  
2           walking towards me and as I was walking I became  
3           aware that this person was coming towards me and I  
4           tried to move over closer to the fence thinking  
10:04 5           the person would just walk past me and they didn't  
6           and as I kept walking forward the person came  
7           towards me and made grunting noises and came at me  
8           sort of head on and ran his hand up the inside of  
9           my thigh and pushed against me. I was carrying my  
10:05 10          books like this -- sorry, I just get really  
11          emotional about this.

12          **Q**       Take your time please.

13          **A**       I was carrying my books like that, which was how  
14          we always did it in those days, and my lunch bag,  
10:05 15          which was a paper bag, was on top and when he came  
16          at me I screamed and threw everything up in the  
17          air because I was scared and then I -- for some  
18          reason he wasn't sort of in my immediate range at  
19          that point, I started to pick up my books and just  
10:05 20          tried to focus on getting to where I had to go and  
21          started walking towards the bus stop, turned  
22          around and he was there and I turned around again  
23          and he had, as I recall, gone up the alley. I  
24          have no sense of direction, so up the alley to me  
10:06 25          would have been along the railway tracks, would



1           have been towards Avenue N, M, that area, and I  
2           just continued walking to the bus stop.

3           Q        I understand then from what you told me, he came  
4           from in front of you?

10:06 5           A        Yes, that's correct.

6           Q        And walked towards you from the north then, he  
7           would have come as you were walking --

8           A        I have no direction of north and south, no sense  
9           of that, but yes, he was walking towards me.

10:06 10          Q        Again --

11                        COMMISSIONER MacCALLUM: Mr. Hardy, just  
12           for the record, when the witness was describing  
13           the position of her books, we should have  
14           something on the record to show what she was  
15           showing us.

10:06

16           BY MR. HARDY:

17          Q        Thank you, Mr. Commissioner. As you were  
18           describing the books, I believe, would it be  
19           correct to say that you were holding them with  
20           both of your hands approximately at the height of  
21           your chest in front of you?

10:06

22          A        That's correct.

23                        COMMISSIONER MacCALLUM: Thank you.

24           BY MR. HARDY:

10:07 25          Q        Thank you. I think you had mentioned a time to us





1 when you recalled this happening. Did you mention  
2 7:07 a.m.?

3 A That's correct.

4 Q And how is it that you recall that time precisely?

10:07 5 A Because I was concerned about the bus, which was  
6 somewhat erratic, and I had looked at my watch to  
7 make sure I was still sort of running on time.  
8 7:07 sticks out for me because I was very clear  
9 that I had to be at the bus between 7:10 and 7:20  
10:07 10 and I always set my watch three or four minutes  
11 ahead to give myself a little bit of extra time,  
12 so it was very clear to me when I looked and it  
13 said 7:07 that I still had a little bit of, I was  
14 on track with getting to school, getting to the  
10:07 15 bus.

16 Q And do you recall what your assailant looked like,  
17 can you provide us with a description?

18 A Sure. He was wearing a jacket, probably a  
19 three-quarter, half-length, three-quarter length  
10:07 20 jacket. I don't know whether it was suede or  
21 leather, it was brown, or it was dark to the best  
22 of my knowledge. He was about -- I'm five, five,  
23 so maybe that height, a little bit, maybe half an  
24 inch bigger, I can't exactly remember, but he was  
10:08 25 not tall. I think, yes, it had a fur collar on it



1 and it was very obvious to me at that point in  
2 time that he was wearing a glove on his left hand  
3 and nothing on his right hand, so his right hand  
4 had nothing on it, and I thought there was  
10:08 5 something in his right hand, but I wasn't 100  
6 percent sure. He was stocky build, was not  
7 wearing a hat and again darker I guess I would be  
8 saying now. I think at that time I would have  
9 described him what I thought to be Metis, but I'm  
10:09 10 not, I don't know if I described him as that in  
11 those days.

12 Q Anything else other than those descriptors that  
13 you can recall?

14 A He didn't speak, so I think that's -- no, I think  
10:09 15 that's pretty much it.

16 Q And after the attack, I think you started to  
17 describe this for us, but if you can perhaps give  
18 us detail again, what exactly happened after the  
19 confrontation?

10:09 20 A I threw my books up in the air, I bent down to  
21 pick up my books and I looked behind me and as I  
22 recall he was still there and then I looked behind  
23 again. As I kept walking towards the bus stop, I  
24 sort of picked up my pace and the next time I  
10:09 25 looked there was, it looked like he was going down



1 that alley along, parallel to the railway tracks.

2 Q And do you recall whether there was anyone else in  
3 the vicinity at the time?

4 A There was nobody else in the vicinity.

10:09 5 Q And where did you go?

6 A I went to the bus stop, waited for the bus. I had  
7 looked around for a gentleman that, a student that  
8 I often met while we were talking, he would walk  
9 past my place, and I hadn't seen him that morning,  
10:10 10 and as I recall he showed up at the bus stop and  
11 he had been behind me and said I heard you scream,  
12 and then the bus came, I went to university and  
13 met a friend of mine for coffee and told her what  
14 had happened.

10:10 15 Q The first individual you mentioned, do you recall  
16 what his name was?

17 A It was Ray and I can't remember whether it was  
18 Anderson or Johnston. He was taking I think  
19 agriculture and living in a basement apartment or  
10:10 20 something in the area.

21 Q I'm going to refer you to a map, (V4)-----, and  
22 it is document ID 164351 and I'll let you just  
23 generally get your bearings on this map. It's a  
24 map of Saskatoon.

10:11 25 A You could have me get my bearings all you want. I



1 am absolutely totally directionally challenged, so  
2 this is a bunch of squares to me.

3 Q We'll take this slow then and hopefully you'll be  
4 able to get a sense of matters a little more  
10:11 5 clearly.

6 A Don't use north, south, east, west.

7 Q Okay, thank you. Maybe we can square in on this  
8 portion here, please, and take your time looking  
9 at this.

10 A Sure.

11 Q We see 22nd Street here and I believe you  
12 mentioned you lived on Avenue H?

13 A H and 19th.

14 Q Which is here, you see 19th here. And you were in  
10:11 15 the 300 block then of Avenue H; is that correct?

16 A It looks about where that X is, yes.

17 Q I'm guessing that's what that X was. And if we  
18 move forward, we pass 20th Street and I see a dot  
19 with your name, it looks like it's beside some  
10:11 20 tracks. Is that the approximate location of where  
21 the attack occurred?

22 A Yes.

23 Q And we see 22nd Street and Avenue H and that's  
24 where your bus stop then was?

10:12 25 A That's right.



1 Q And you had mentioned where your attacker had come  
2 from. Relative again perhaps to this map, can you  
3 tell us what your recollection is?

4 A My recollection is that he came out of a yard that  
10:12 5 was fairly close to the tracks. The people that  
6 lived there at that point, I knew their two  
7 daughters, the last name was Cannon, and that's  
8 where he came out of.

9 Q Was it from this direction that he came?

10:12 10 A Yes.

11 Q From this side of the street?

12 A The same side of the street that I was walking on,  
13 yes, so I guess, yes, that's the direction.

14 Q Thank you. And you started to tell us about the  
10:12 15 recollection of the rest of your day. Can you  
16 continue with that, please?

17 A Sure. I met my friend and told her what had  
18 happened and we had a conversation about what had  
19 happened at that point in time and we then joked a  
10:13 20 little bit in a sort of ha ha, not ha ha way,  
21 because, and I can certainly say it now, I was  
22 having my period at that time and we were sort of  
23 going, "Oh, my gosh, the guy probably ran into  
24 this major pad and didn't want to go any further,"  
10:13 25 so we talked about that and then just continued on



1 with our day because I was pretty upset and  
2 decided I just better go to classes. On my way  
3 home from university that day I stopped in at my  
4 friend's place, Sandra Ochwat, and she was in  
10:13 5 secretarial school at that point, I stopped off on  
6 the way home from university and I said, "A really  
7 bizarre thing happened to me this morning," told  
8 her the story, and she said, "Maggie, you really  
9 have to tell your parents about this because a  
10:13 10 nurse was murdered just down the way and I think  
11 you better tell your mom and dad," so I went home  
12 and told my parents.

13 Q And I want to talk to you about that in a moment.

14 A Okay.

10:14 15 Q What was the name of the first individual you  
16 mentioned, the first friend that you talked to?

17 A Her name then was Loretta Williams, now it's  
18 Loretta Polishchuk.

19 Q Okay. And that discussion took place while you  
10:14 20 were at school that day?

21 A That's correct.

22 Q And the second discussion with Sandy Ochwat, that  
23 was later in the day?

24 A That's correct.

10:14 25 Q And where did that discussion take place?



1 A At her parents' home where she lived which was 223  
2 Avenue H South.

3 Q And what did you do next then with the information  
4 that you had?

10:14 5 A I went home and told my parents.

6 Q And what happened from there?

7 A My father called the police and, as I recall, the  
8 police then came to my parents' home.

9 Q And that was that evening then?

10:14 10 A As far as I remember, yeah.

11 Q And can you tell us what you recall of your  
12 interaction then with the police that evening?

13 A I recall being questioned, I recall the  
14 conversations that they had with me, I recall some  
10:15 15 of the comments that they made to me and I'm  
16 pretty sure it was that same night that I was  
17 taken down to the police station to look at  
18 pictures.

19 Q In terms of the officers who visited your home, do  
10:15 20 you recall the names of those officers?

21 A No I don't.

22 Q And you indicated that you recalled some of the  
23 comments that were made, some of the discussion  
24 that took place; can you share your recollection  
10:15 25 with us?



1 A Umm, I guess the one that has always stood out for  
2 me was the one where one of the police had said to  
3 me that -- how lucky I was that I was wearing  
4 slacks that day, and the comment was, "You were  
10:16 5 wearing slacks", you know, "You were very lucky  
6 you were wearing slacks that day because somebody  
7 got it right after you and they were wearing a  
8 dress". So that was one of the comments that has  
9 always stuck with me.

10:16 10 Q You specifically recall that comment then?

11 A Oh, absolutely.

12 Q And was there any other specific mention of the  
13 murder that had taken place nearby?

14 A Not that I recall.

10:16 15 Q Any other comments that you can recall passing  
16 back and forth between yourself and the officers?

17 A No.

18 Q Okay. And where was this discussion taking place?

19 A Umm, in my parents' living room.

10:16 20 Q Okay. And I understand that you provided a  
21 statement to the police?

22 A Correct.

23 Q Do you recall that?

24 A Yes.

10:16 25 Q And you mentioned something about looking at some





1 photos; was there -- can you take us through that  
2 again, please, in detail?

3 A Umm, the details, for me, are relatively sketchy.  
4 I was pretty, I was pretty scared. Got taken down  
10:17 5 to the Saskatoon Police station, as I recall, and  
6 had to look through, I think, pages of pictures  
7 and asked if I could identify any of them as the  
8 person that had attacked me.

9 Q And do you recall identifying anyone in those  
10:17 10 photographs?

11 A I don't think so.

12 Q I'm going to show you some of the documents that  
13 existed on the police file at that time,  
14 (V4)----- . I'll refer, firstly, to your  
10:17 15 statement, it's document ID 006404. And you will  
16 see your name at the top, it's a witness statement  
17 form, I think they have accurately indicated your  
18 address, the day being January 31st, 1969, the  
19 time 5:45 p.m. First of all, is that your writing  
10:18 20 on this statement, in terms of the body of the  
21 statement?

22 A No.

23 Q Okay. Perhaps we could focus in on the bottom of  
24 the page at the signed portion; do you recognize  
10:18 25 that signature as your own?



1 A Yes I do.

2 Q Okay. I would like to take you through a portion  
3 of this statement, and perhaps we can begin by  
4 focusing on that information there, please. And  
10:18 5 I'll read this to you, it states:

6 "This morning at 7:07 a.m. January 31st,  
7 1969 I was walking north on Avenue H  
8 from my house. I had just checked my  
9 time so I know it was 7:07 a.m. In the  
10:18 10 200 block Avenue H South, while walking  
11 north, I noticed a male person come out  
12 of a yard between 223 Avenue H South and  
13 the alley next to the CPR railway. This  
14 man walked south towards me. As we met  
10:19 15 I moved over towards the fence or inside  
16 of sidewalk. When this man or male met  
17 me, he lunged at me. He ran his hands,  
18 or possibly used only one hand, up and  
19 down my leg. I screamed and threw my  
10:19 20 books down. He quit, I picked up my  
21 books and started walking again. I  
22 looked back and he was following me. I  
23 then started to half run and next time I  
24 looked back he was gone. I could not  
10:19 25 see him.



1 I would describe him as - Not  
2 young or old. Wearing dark jacket 3/4  
3 or 1/2 length, possibly a Dark brown  
4 suede and could have a fur collar. 5'5"  
10:19 5 or 5'6" tall. Heavy build. Seemed dark  
6 comp. Dark hair with no hat. Did not  
7 speak."

8 Does that sound like an accurate account of the  
9 information that you provided on January 31st,  
10:20 10 1969?

11 A Pretty much, although I find it ironic that they  
12 used words like 'north' and 'south' when we all  
13 know that I wouldn't have had a clue what  
14 direction north and south were. Umm, pretty  
10:20 15 accurate except for, as I think I have mentioned  
16 repeatedly, I had -- and I'm absolutely positive  
17 about this -- stated that he was, that the person  
18 that attacked me was wearing a glove on one hand  
19 and not wearing a glove on another hand, and that  
10:20 20 struck me as very strange at that point because it  
21 was so cold out.

22 Q And you recall, then, providing that information  
23 to the police --

24 A It was --

10:20 25 Q -- on January 31st?



1 A It was very important to me.

2 Q Okay. And I think you mentioned, earlier,  
3 something about noticing, perhaps, that the  
4 individual had something in his hand; if you could  
10:20 5 describe that to us again, please?

6 A I wasn't sure whether he had something in his  
7 hand. When he was coming towards me it looked  
8 like he was holding something down in the right  
9 hand that did not have a glove on it.

10:21 10 Q Okay. And in terms of this statement, is there  
11 any other information that you provided to the  
12 police on January 31st that was not included in  
13 the statement?

14 A I don't think so.

10:21 15 Q And I believe that it was witnessed by Detective  
16 Bennett; I don't know if that name sounds familiar  
17 to you at all?

18 A No.

19 Q No? And in terms of the description of the  
10:21 20 assailant, would that be an accurate description  
21 as you provided at that time?

22 A Umm, yes, absolutely. I just can't remember  
23 whether I used the word Metis or not.

24 Q Okay. And why do you say that?

10:21 25 A I only say that because in Saskatoon, at that



1 point in time, one of the things I was taking in  
2 university was I was working on my teaching  
3 certificate and I was going to be minoring with  
4 the intent of working on native reserves so I was  
10:22 5 very intent on -- that we had a lot of native  
6 population, and I was taking courses and  
7 information on the different cultural aspects  
8 between Metis and treaty natives.

9 Q And how is that information, then, significant for  
10:22 10 your experience?

11 A I don't know if it's significant, it's just  
12 something that I had noticed, I don't know whether  
13 I would have described the person as just having a  
14 dark complexion, I may have described him as Metis  
10:22 15 thinking that that was my description.

16 Q But am I correct gathering, from what you are  
17 saying, that your recollection is that he may have  
18 been Metis?

19 A Uh-huh.

10:22 20 Q Okay. And that was your thought at that time?

21 A That's correct.

22 Q I'll refer you next to the investigation report  
23 that accompanied this statement, it's document ID  
24 106110. You will note, at the top, Saskatoon  
10:22 25 Police Department Investigation Report dated



1           January 31st, 1969, filed by Detective Bennett,  
 2           and if we can focus just on this top corner,  
 3           please, for a moment, you will note it states:  
 4                       "Murder (200 block Avenue N South)",  
 10:23 5           and it is our understanding that this particular  
 6           document was included on the Gail Miller murder  
 7           investigation, and it does not appear that a file  
 8           respecting your occurrence was separately opened,  
 9           and that's where this document was located. I do  
 10:23 10          want to refer you to portions of the document.  
 11          Perhaps we could start at the text at the top of  
 12          the page, again, I'll read these portions to you:

13                       "A radio call was received to see a  
 14                       (V4)----- of 331 Avenue H South,  
 10:23 15           in regards to an incident that took  
 16           place at 7:07 a.m. this date.

17                       I interviewed her in regards to  
 18           this and a witness statement was taken  
 19           from her. There is no separate report  
 10:23 20           made on this as she would not have  
 21           complained about this until hearing of  
 22           the murder."

23           Perhaps I'll pause there for a moment; is that an  
 24           accurate statement?

10:24 25          A           Umm, I guess. Yes, yes, I never told my parents,



1 because I hadn't gone home yet, I had stopped off  
2 at my girlfriend's place and told her and --

10:24 3 Q Specifically, it was not your intent to have the  
4 police contacted with respect to your experience,  
5 and that changed?

6 A I don't think I gave it any thought. I probably  
7 would have told my parents that evening that  
8 something had happened but it would only have been  
9 in the context of "this happened to me this  
10:24 10 morning". I had no way of -- I would have had no  
11 way, in those days, of contacting my mum at work.  
12 Once I got to school I was at school.

13 Q So as much as you can say is that, without the  
14 connection to the murder, you would have advised  
10:24 15 your parents of your experience that evening?

16 A That something had happened, sure.

17 Q Okay. I'll read forward from there:

18 "Her storey is that she was on the way  
19 to catch her bus on 22nd Street, to the  
10:25 20 University she was assaulted by a male  
21 person. This person came out of a yard  
22 (after taking her back there) of 201  
23 Avenue H South, and walked towards her."

24 Now pause there. Is that an accurate account of  
10:25 25 your experience as you would have indicated to



1 the police officers on January 31st?

2 A Absolutely, absolutely not, I was never taken  
3 anywhere.

4 Q So it's that particular portion of that statement  
10:25 5 that concerns you then?

6 A Absolutely.

7 Q Meaning that you were not taken back in a yard, or  
8 otherwise, by the assailant?

9 A No.

10:25 10 Q Okay. I'll read forward from there:

11 "This male person then grabbed her and  
12 ran his hand up and down her legs. She  
13 screamed and this person then moved  
14 back. She had laid or thrown her books  
10:25 15 down and she picked them up and  
16 continued on North to 22nd Street, She  
17 did look back and he was following her.  
18 She quickened her pace and the next time  
19 she looked back he was gone."

10:26 20 And would that be the information that you  
21 provided to officers on January 31st as best you  
22 can recall?

23 A I would think so.

24 Q Read forward from there:

10:26 25 "(V4)----- was transported to the





1 police station and groups of photos  
2 shown to her.

3 Her description of this person  
4 is as follows/

10:26 5 Not young our old, possibly near 30  
6 years, of age

7 Height five feet five inches or six  
8 inches

9 Heavey set very stockey or well built

10:26 10 Dark complexion

11 Black or dark hair not too long

12 Did not speak

13 Wearing a 3/4 or 1/2 length suede coat,  
14 dark brown in colour

10:26 15 Coat could have had a fur collar."

16 Just two things struck me out of those comments,

17 (V4)-----, that I didn't see in your

18 statement. I note reference to the individual

19 possibly being near 30 years of age; do you

10:26 20 remember indicating that at the time?

21 A I'm not sure that I would have said 30 years of  
22 age, although I do recall saying that the person  
23 was not young or not old. I was 18, 19, whatever  
24 at that period of time, and I didn't think he was  
10:27 25 somebody that was my age, he was older.



1 Q And the second portion that I noted was the  
2 description:

3 "Black or dark hair not too long."

4 And I think you had mentioned dark hair --

10:27 5 A Yes.

6 Q -- in your statement, the reference to it not  
7 being too long; is that an accurate account of the  
8 information you would have provided?

9 A Umm, yes.

10:27 10 Q Okay. I'll move down, we can skip over the next  
11 portion, I think it's referring to you being shown  
12 some photos and then some follow-up with  
13 Mrs. Cannon, who -- I take it that was the yard  
14 where, approximately, the assailant had come from  
10:27 15 on the morning in question?

16 A Uh-huh.

17 Q And I also note reference to a call to  
18 Mrs. Ochwat, and that is the Mrs. Ochwat that you  
19 referred to earlier?

20 A That's correct.

21 Q And it is her daughter, Sandy, who you spoke to  
22 later on in the day?

23 A That's correct.

24 Q And then the last portion I see it states:

10:28 25 "Received call from Polly Ochwat that



1 she recalls (V4)---- going by shortly  
2 after 7:00 a.m."

3 And Polly Ochwat is Mrs. Ochwat; that's correct?

4 A That's correct.

10:28 5 Q Okay. And were you aware that Polly Ochwat had  
6 provided the police with this information --

7 A No.

8 Q -- at that time?

9 A No.

10:28 10 Q Okay. I refer you to another investigation report  
11 from 1969, it's document 250597, it's a report  
12 that was done by Corporal Rasmussen of the RCMP in  
13 Saskatoon who were assisting at this time with the  
14 investigation, and I'll turn your attention to  
10:28 15 page 250602 -- actually, I'm sorry, perhaps we'll  
16 go back to the first page, if we could go to  
17 250598, just identify this. The report is dated  
18 May 7th, 1969, again with reference to the murder  
19 of Gail Miller, RCMP. And again, then, if we  
10:29 20 could turn, please, to 250602. And I'm just  
21 noting the March 10th, 1969 date there for  
22 reference, and if we turn to the very next page,  
23 please, 250603, and we'll see reference to  
24 yourself at the top of the page in paragraph 15.  
10:29 25 Perhaps we could call that paragraph out. And I



1 believe that the information is basically the same  
2 as we read out of the investigation report that  
3 the Saskatoon Police officer had filed, other  
4 than -- and I'll read these portions to you, just  
10:29 5 the very last couple of sentences, starting there.

6 I note:

7 "She apparently did not look back and  
8 could not say where this person went."

9 And I think, in the investigation report, it  
10:30 10 indicated that you had indicated that you had  
11 looked back --

12 A I had --

13 Q -- and you did see?

14 A I absolutely had looked back.

10:30 15 Q Okay. So you disagree with this particular  
16 comment, then, in the report?

17 A I do.

18 Q And I'm sorry, I'm going over this over and over  
19 again, but I just want to have it clear in my  
10:30 20 mind; you say you saw the assailant leave, and  
21 which direction was he heading when you last saw  
22 him that on that morning?

23 A When I looked I would have looked over my left  
24 shoulder and going, he would have been going along  
10:30 25 the tracks towards Avenue N, that area.



1 Q So, in effect, back towards the direction that he  
2 had originally come from?

3 A That's correct.

4 Q Back to this report. I'll read this next sentence  
10:30 5 as well:

6 "(V4)--- was again interviewed by  
7 Inspector Riddell, however she was  
8 unable to enlarge on any of the  
9 information already given to the ...  
10:31 10 Police."

11 Do you recall a meeting with an Inspector  
12 Riddell?

13 A No.

14 Q Do you recall a second meeting with RCMP officers  
10:31 15 at all?

16 A I recall a meeting with RCMP officers, umm, but I  
17 -- it's been really hard for me to put that into  
18 context as to when that happened.

19 Q Was it subsequent to your initial interaction with  
10:31 20 the Saskatoon Police?

21 A As far as I recall, yes.

22 Q And after your initial report then and your  
23 initial dealings with the police that you've  
24 mentioned to us, did you have any further contact  
10:31 25 with the police with respect to your occurrence?



1 A No.

2 Q None at all?

3 A No.

4 Q When then would have been the next time that this  
10:31 5 matter surfaced in a formal sort of way for you?

6 A I guess formally was when I was in the Supreme  
7 Court of Canada in 1992.

8 Q Okay, and I want to back up from there. When did  
9 the incident come to your attention in a  
10:31 10 significant way prior to that testimony?

11 A In 1991.

12 Q 1991? And maybe I'll just ask you a couple of  
13 questions about the interim period then. Were you  
14 aware of the David Milgaard name prior to 1991?

10:32 15 A No.

16 Q That name meant nothing to you?

17 A Absolutely.

18 Q What about the name Gail Miller?

19 A The name Gail Miller vaguely, but not really.

10:32 20 Q Had you followed the trial relating to the murder  
21 of that nurse at all?

22 A Absolutely nothing.

23 Q You knew nothing of it?

24 A No.

10:32 25 Q And am I correct though that at the time of your



1 experience, that you in effect had made a  
2 connection between your occurrence and the murder  
3 of the nurse nearby?

4 A The only thing I recall is that I had been told by  
10:32 5 one of my friends or somebody that they had --  
6 they I guess meaning the police -- had caught the  
7 person who had killed the nurse, Gail Miller, and  
8 my assumption always was that it was the same  
9 person that had attacked me.

10:33 10 Q Had you ever had any further discussions with  
11 police in the years that followed with an interest  
12 in following up on your matter, determining  
13 whether anything had been resolved?

14 A No.

10:33 15 Q So that brings us to 1991 and perhaps you could  
16 share with us the specific occurrence of events in  
17 1991 that brought this matter back to your  
18 attention.

19 A What truly brought the matter back to my attention  
10:33 20 more consciously than anything else was when I --  
21 a friend of mine had called me and there had been  
22 I guess a couple of articles in Toronto papers. A  
23 friend of mine had called me because when I had  
24 first moved to Toronto we were talking about our  
10:33 25 lives and all that and I had said that I had been



1 assaulted by somebody when I was young and he had  
2 called me and told me to look at an article in the  
3 *Toronto Star* that day and he told me to turn over  
4 the page and so I did and at that point I saw a  
10:34 5 picture of Larry Fisher and I started crying and  
6 said, oh, my God, that's the person that attacked  
7 me, and then I looked at the article and went, oh  
8 my gosh, something is very strange here, that's  
9 the person that attacked me, and who's that,  
10:34 10 meaning David Milgaard. I had never known there  
11 was anybody else.

12 Q And do you perhaps remember the specific date of  
13 that article?

14 A August -- I think it was August. I'm pretty sure  
10:34 15 it was August the 11th, 1991.

16 Q And you mentioned that a friend had called you to  
17 tell you about the article. Help me understand  
18 that, why would the friend have thought that this  
19 article was significant for your purposes?

10:35 20 A I guess because -- I can't recall what was in the  
21 article at that point in time, but I think because  
22 there must have been something about the inquiry,  
23 an inquiry or somebody looking into whether an  
24 injustice had happened and the person that I had  
10:35 25 described to him when I was younger did not fit





1 the description of the person that was being  
2 talked about in the newspaper article and he just  
3 thought it might be a point of interest for me.

4 Q So you had had some sort of discussion with him  
10:35 5 about your experience?

6 A Sure, when I was 20 years old or 21, 22, whenever  
7 it was that I moved to Toronto.

8 Q But I take it he had enough information somehow to  
9 know that this matter may be of some interest to  
10:35 10 you?

11 A Only in as much as it was from Saskatoon and I was  
12 from Saskatoon, so it was a news item from back  
13 home kind of thing.

14 Q Okay. And I'm going to refer to that article in a  
10:35 15 moment, but I think you had mentioned a couple of  
16 articles. Was there another article previous to  
17 this article that you had reviewed?

18 A I hadn't reviewed it. There was an article in the  
19 *Toronto Sun* and that was in July of 1991 and that  
10:36 20 was a Sunday paper also and I had not -- I mean, I  
21 had read this article I think or skimmed over it,  
22 but it didn't have any connection to me, it had a  
23 picture of I think I recall David Milgaard with  
24 his head pushed up against some bars and I can  
10:36 25 remember looking at this article and going, yeah,



1 that's okay, but it had no significance for me.  
2 The article that had the significance was the one  
3 in the *Toronto Star* when it had the picture of  
4 Larry Fisher in it.

10:36 5 Q And in terms of the July 7th article, do you  
6 recall what that article was about?

7 A No.

8 Q But you say you recall it did have a picture of  
9 David Milgaard?

10:36 10 A Yeah.

11 Q But it didn't strike you as any significance?

12 A Absolutely not.

13 Q But the article of August 11th did?

14 A Yes, it did, because there was a picture.

10:37 15 Q And share with us, when you saw the picture of  
16 Larry Fisher, how certain were you that this was  
17 the individual who had attacked you?

18 A I'm absolutely 100 percent sure. I just -- like I  
19 was there all over again.

10:37 20 Q And perhaps I'll show the articles, I think we've  
21 been able to locate the articles that you've been  
22 referring to, and I'll refer firstly to document  
23 226884, and I note in the corner reference to the  
24 *Sunday Sun* and the date July 7th, 1991. Does that  
10:37 25 look like the article that you were referring to



1 that you reviewed on July 7th?

2 A Yes.

3 Q And again this article didn't strike you with any  
4 significance at the time; is that correct?

10:38 5 A I don't even remember reading the article, just  
6 going okay, who's David Milgaard.

7 Q I refer you next to document 012250. You have to  
8 tilt your head here a bit, but I note reference to  
9 the *Toronto Star*, it looks like the date is August  
10:38 10 11th, 1991, author of the article, Peter Edwards  
11 of the *Toronto Star*, and perhaps we'll flip  
12 through the pages one by one if we could, I think  
13 there are only three or four. Move to the next  
14 page, please, and I'll generally let you take a  
10:38 15 look at that, (V4)----, and please take your time.

16 A That's fine.

17 Q Are you doing okay?

18 A I'm doing fine, thank you.

19 Q Just let us know if you need to take a break.

10:39 20 A Okay.

21 Q And perhaps we'll refer to the next page then, and  
22 the next page, please.

23 A Okay.

24 Q I believe that's the last page, and I see a  
10:39 25 picture of Larry Fisher in the bottom corner. Is



1           that the picture that you saw on August 11th,  
2           1991?

3           A           That's correct.

4           Q           And I take it the picture was a little bit better  
10:39 5           quality than what we're showing to you and I  
6           apologize for that.

7           A           That's okay, I still recognize it.

8           Q           You do recognize that picture as your assailant?

9           A           Absolutely, absolutely.

10:39 10          Q           And did you do anything immediately following  
11          review of this article, (V4)----?

12          A           Other than cry, no. I think I may have talked to  
13          a couple of friends about it, certainly my friend  
14          Glenn, and -- yeah, I was just still really upset.

10:40 15          Q           And forgive me for probing, but can you just share  
16          with us what your thought process was at the time  
17          after you had reviewed this article?

18          A           I was pretty confused. I had no idea what this  
19          meant and what it was all about and I think my  
10:40 20          whole thing at that point was I guess if somebody  
21          is ever going to contact me, I mean, I knew I had  
22          made a statement and so I was just prepared to sit  
23          and wait because I had no idea what would be  
24          happening.

10:40 25          Q           So you didn't contact anybody necessarily



1 immediately following this article?

2 A No, sir.

3 Q Can you tell us then what happened next?

4 A Carried on with my life and then there was another

10:40 5 article, I think it was the 17th of August, also

6 in the *Toronto Star*, and in that one there was

7 David Asper's name was mentioned and it was at

8 that point that I thought something is just so not

9 right here because I was reading the article at

10:41 10 that point and I decided that maybe I should

11 contact somebody and say, like, I think I might

12 have some information that may be relevant to

13 this, and I didn't know what to do at that point,

14 so I contacted the Toronto police.

10:41 15 Q Okay. And I'm going to ask again, and just bear

16 with me, but you mentioned you thought yourself

17 something is so not right here and can you explain

18 that point for me, please?

19 A Well, I guess from what I was reading, that it

10:41 20 sounded like somebody named David Milgaard had

21 gone to jail for this murder and it had been so

22 very clear to me that any of the comments that I

23 had ever heard, that whoever it was, I just had

24 always assumed that whoever had attacked me was

10:42 25 the same person that had killed Gail Miller, and



1 when I was reading this information and when I had  
2 seen the picture of Larry Fisher, I just thought,  
3 no, like, where is the stuff about Larry Fisher  
4 and any connection to the murder, there must be  
5 something missing here.

10:42

6 Q Okay. And I found an August 17th article, and  
7 maybe I'll refer it to you, it's document 216930,  
8 and I note again written sideways reference to the  
9 *Toronto Star*, I believe the date August 17th,  
10 1991. Does that appear to be the article that you  
11 were speaking to us about?

10:42

12 A Yes.

13 Q Perhaps we can focus in on the top portion. I  
14 only do so to note, I see David Asper's name, and  
15 is that something that caught your attention then  
16 upon reviewing this article?

10:43

17 A Yes. Well, actually it didn't catch my attention  
18 at that point, it became, after I contacted the  
19 Toronto police, I then went back to the article  
20 and called David Asper.

10:43

21 Q Okay. I want to cover that with you then. So  
22 some contact was made then subsequent to this  
23 article?

24 A Yes.

10:43

25 Q And can you tell us specifically then what that



1 contact was?

2 A What I did was I called the Toronto City Police  
3 and said I think I've read this article and I  
4 think I may have some information that might be  
10:43 5 relevant to this, who do I talk to, and they asked  
6 if I had been smoking drugs and said that they had  
7 no information and, by the way, if it was in the  
8 paper, lady, then maybe there's somebody's name  
9 mentioned, so I went back to the article and saw  
10:44 10 David Asper's name and dialled 4-1-1 and got his  
11 home phone number out of the phone directory and  
12 called him.

13 Q And what do you recall then, I take it you then  
14 contacted David Asper?

10:44 15 A Yes, I contacted him at home.

16 Q And what do you recall of that conversation?

17 A Not a lot. I recall that I told him who I was and  
18 that I had read the article and that I had seen  
19 this picture of Larry Fisher and that I had been  
10:44 20 attacked in 1969 on that particular morning and I  
21 didn't know what to do about that information, but  
22 that I was sure that there was a statement that I  
23 had -- I mean, I'm sure that I had given a  
24 statement and that I just wanted to let somebody  
10:44 25 know.



1 Q Okay. And just help us understand your thought  
2 process. Why was it that you chose David Asper to  
3 contact?

4 A His name was in the paper.

10:44 5 Q Did you contact the Saskatoon City Police with  
6 this information?

7 A No.

8 Q And can you tell us then what happened from there  
9 following that conversation with Mr. Asper?

10:45 10 A Mr. Asper I think asked me to go over a number of,  
11 went through some scenarios I remember and asked  
12 me, you know, what the details were of what I  
13 remembered and where I had lived again and if I  
14 had given a statement and said he would get back  
10:45 15 to me at some point and said thank you very much  
16 and I'm really glad you came forward and we went  
17 from there.

18 Q Okay. And what happened next?

19 A Umm, subsequent to that, and I can't remember the  
10:45 20 exact time frames, I was contacted by Mr. Asper  
21 again and was told that they couldn't find any  
22 record of my statements and would I be prepared  
23 to, you know, make a statement to a lawyer in  
24 Toronto. So I said "absolutely", and I was then  
10:46 25 put in contact with a lawyer in Toronto, who I





1 gave a statement to of what I had recollected.

2 Q Okay. Who was that lawyer?

3 A Earl Levy.

4 Q I'm going to refer you briefly to a document,  
10:46 5 (V4)----- it's document ID 159648. And if we  
6 could move, please, to page 159649, the document  
7 is a little bit out of order, but I think this  
8 page I am going to show you was the first page.  
9 It's correspondence to Mr. Levy, Earl Levy, and I  
10:46 10 believe that's the individual you have identified  
11 for us, --

12 A Uh-huh.

13 Q -- from David Asper, August 26th, 1991. And  
14 perhaps if we could just focus in on the first two  
10:47 15 paragraphs, I'll read those for reference.

16 Mr. Asper writes:

17 "As I mentioned to you over the  
18 telephone last week, a woman from  
19 Toronto has contacted me and indicated  
10:47 20 that she might have been attacked on the  
21 morning of the murder by an individual  
22 who matches the description of the  
23 person who we believe is truly  
24 responsible for this crime. The attack  
10:47 25 apparently occurred approximately



1 fifteen to twenty minutes prior to the  
2 time that the deceased also would have  
3 been attacked. I am told that it  
4 occurred about six blocks from where the  
10:47 5 body of Gail Miller was found.

6 I have a source within the  
7 Saskatoon Police Department, and had  
8 this person search for the relevant  
9 file. Evidently it does not exist as  
10:47 10 the complainant's name does not appear  
11 anywhere in the computer records. I  
12 have independently confirmed with the  
13 girl's mother and her best friend that  
14 police officers were definitely involved  
10:47 15 in this case and that they most  
16 certainly took a report from this  
17 victim."

18 He then notes that he is enclosing a  
19 transcription of the notes that he had taken  
10:48 20 during his conversation with you. And I take it,  
21 then, that you met with Mr. Levy?

22 A Yes I did.

23 Q And you provided a statement to him, did you,  
24 about your experience as best you could recall?

10:48 25 A That's correct.



1 Q And I'm going to refer to that document, it's  
2 document ID 156129, and the first page of that  
3 document, I'll quickly note, is a letter dated  
4 August 28th, 1991 from Mr. Levy to Mr. Asper  
10:48 5 indicating that he is enclosing a copy of the  
6 statement that you had provided to him. If we  
7 turn to the next page, please, I'll review some of  
8 the portions of this statement with you, (V4)----.  
9 Focus in initially on that paragraph. Again, I'll  
10:48 10 read to you:

11 "On August 11th, 1991 I saw a Toronto  
12 Star article written by Peter Edwards  
13 dealing with the Milgaard case, which  
14 also carried a picture of Larry Fisher.  
10:48 15 When I saw the picture of Larry Fisher,  
16 I got a clunk in my stomach as this was  
17 the man I recognized as assaulting me in  
18 late January, 1969. I was upset and I  
19 did not want to read the article. On  
10:49 20 August 17th another article appeared in  
21 the Toronto Star with a picture of David  
22 Milgaard and David Asper's name. I read  
23 the article and decided to contact  
24 Mr. Asper and advised him of the sexual  
10:49 25 assault upon me by Larry Fisher."



1 I'll pause there for a moment. I note that there  
2 is no reference to your contact with the police  
3 in that paragraph, (V4)----. Do you recall  
4 whether that was information that you had  
10:49 5 provided to Mr. Levy when you had met with him?

6 You --

7 A I certainly would have told him that, because I  
8 had been told by the police that they weren't  
9 going to be doing anything.

10:49 10 Q And again, right, I'm talking about contact with  
11 the Toronto police?

12 A That's correct.

13 Q You would have advised them of that?

14 A Of course.

10:49 15 Q Okay. And is the information I read to you,  
16 otherwise, an accurate account of your  
17 recollection as it would have existed in 1991?

18 A Uh-huh, yes.

19 Q And accurate for purposes of today?

10:50 20 A Yes, sir.

21 Q Okay. I'll skip that next paragraph and start  
22 reading that paragraph:

23 "In September of 1968, I enrolled at the  
24 University of Saskatchewan in the  
10:50 25 Faculty of Arts. I continued to reside



1 at my parents home on Avenue H, and  
 2 routinely took a special University of  
 3 Saskatchewan shuttle bus that I caught  
 4 at the corner of Avenue H and 22nd  
 10:50 5 Street. I normally caught the bus some  
 6 time between 7 a.m. and 7:10 a.m. The  
 7 bus was somewhat irregular."

8 And I'll pause there for a moment. Is that your  
 9 recollection in terms of the information you  
 10:50 10 provided in 1991, (V4)----, with respect to the  
 11 times that I noted?

12 A I'm pretty sure that would have been close to it,  
 13 yes.

14 Q Okay. And that continues to be your recollection  
 10:50 15 today; does it?

16 A Uh-huh.

17 Q Okay. I'll just read forward from there:

18 "It usually took me approximately ten  
 19 minutes to get to the bus stop, and I  
 10:51 20 would walk straight up Avenue H to 22nd  
 21 Street."

22 Next page:

23 "This was approximately three city  
 24 blocks from my home, and I believe that  
 10:51 25 I normally left for school somewhere



1                   around 6:45 a.m. to 6:50 a.m."

2                   Again, I'll pause there. Do you have any  
3                   comments with respect to the times noted?

4           A           Well I think we've discussed it before, I always  
10:51 5           had my watch running a little bit fast, and I -- I  
6           can't imagine me having left my home at 6:45  
7           because it wouldn't have taken me that long to  
8           walk. Umm, I recall that I was always standing at  
9           the door around that time looking to see if Ray  
10:51 10           was walking by so I could catch up to him, so I  
11           probably left home closer to, I don't know, five  
12           to 7:00, 7:00.

13           Q           Okay. So, in terms of the times noted here, you  
14           are telling me that you would have left later than  
10:51 15           the times noted?

16           A           It wouldn't have been 6:45 that I would have left  
17           my parents' home, so it would have been after  
18           that, but certainly before 7:00.

19           Q           Okay. Would these, though, have been the times  
10:52 20           that you provided to Mr. Levy in 1991?

21           A           May have.

22           Q           Okay. Just reading forward:

23                       "Occasionally a person named Ray  
24                       Johnston, who also took the shuttle bus,  
10:52 25                       would pass by my house and we would walk



1                   together to the bus."

2                   I think you have mentioned Ray for us, and I take  
3                   it that's accurate information then?

4           A           Uh-huh.

10:52 5           Q           Reading forward to the next paragraph:

6                   "On a very cold and foggy day in late  
7                   January of 1969 during my first year at  
8                   university I recall leaving home earlier  
9                   than usual to get to the bus stop. The  
10:52 10                  buses ran approximately every hour and  
11                   owing to the cold I wanted to ensure  
12                   that I did not miss the 7 a.m. bus. Ray  
13                   Johnston had not yet walked past my  
14                   house and I estimate that I left home  
10:52 15                  approximately 6:40 ... to 6:45 a.m.."

16                  I realize, (V4)-----, we're covering this in  
17                  some detail but, again, do you have any comment  
18                  with respect to the times noted in that  
19                  paragraph?

10:52 20           A           Only that in hindsight, and I think we've  
21                  discussed it, that it would have been very  
22                  difficult for me to have been leaving at 6:45 with  
23                  the expectation that I -- you know, it just would  
24                  have been too much time for me to have. The only  
10:53 25                  real time that sticks in my mind is the 7:07 time.



1 Q So, again, these times were perhaps earlier than  
2 what you would recall today in terms of your  
3 departure time?

4 A Sure, they were estimates only.

10:53 5 Q Okay. I'm going to move towards the bottom of the  
6 page, please, and there is a discussion before  
7 that respecting the confrontation. And I'm going  
8 to begin reading for you here, it states:

9 "I screamed and threw my books into the  
10:53 10 air, causing my attacker to flee into  
11 the laneway. He fled towards Avenue I  
12 South. Ray Johnston came along. I  
13 believe he heard my screams and I told  
14 him I was attacked."

10:53 15 And does that fit, basically, with what you have  
16 told us today in terms of what your recollection  
17 is --

18 A Yes.

19 Q -- as to that aspect?

10:54 20 A Yes.

21 Q I didn't see a reference, here, to your attacker  
22 following you for any portion of time; was that  
23 information that you would have provided to  
24 Mr. Levy in 1991?

10:54 25 A May. I can't remember. It was, you know, I





1 remember the attack and a lot of the things  
2 leading up to it, --

3 Q Okay.

4 A -- but I can't remember, sorry.

10:54 5 Q Okay. I'm going to move down the page a little  
6 bit, please, starting to read there:

7 "As far as I can recall, the police  
8 asked that I go to the station to make a  
9 report. My father was adamant that the  
10:54 10 police come to our home and ultimately  
11 they did. I described my attacker as  
12 follows: Native or Metis, 5'5", stocky  
13 build, long dark hair, may have been  
14 wearing a brown parka, but not sure of  
10:54 15 this, made low grunting noises, had only  
16 one glove on his left hand, had  
17 something in his right hand, but can't  
18 say what as I was too scared - the glove  
19 looked like a leather "farmer-type"  
10:55 20 glove - one that might be worn when  
21 working on the farm getting wood or  
22 something - a work glove."

23 And would this be an accurate account of your  
24 recall in terms of a description of your  
10:55 25 assailant as of 1991?



1 A Yes. Yes. Umm, I know that in there I say long  
2 dark hair, and in my statement of 1969 I think I  
3 had said it was neither long nor short, and we did  
4 need to clarify that. It was about that length,  
10:55 5 from what I recall.

6 Q And you are pointing to your neck?

7 A Yes.

8 Q Approximately mid-way up your neck?

9 A Yeah, yeah, it was not -- when I was describing  
10:55 10 long dark hair, for me, that was long.

11 Q Okay.

12 A So it was not --

13 Q That was long, again, you are referring to the  
14 middle of your neck?

10:55 15 A Yeah, it was not real, real short cropped hair.

16 Q Okay. And that's your comment in terms of  
17 clarifying those --

18 A The long dark, yes.

19 Q -- two points? Otherwise, is the description  
10:56 20 accurate?

21 A Yes.

22 Q And is this the first time that -- perhaps I'll  
23 state it this way -- I think this is the first  
24 time that we see it in writing, in any sort of  
10:56 25 official manner, respecting the reference to the



1 one glove. I just want to confirm. You -- your  
2 position is that you did provide that information  
3 to the police in 1969?

10:56 4 A Absolutely. It just, it's one of those things  
5 that just totally stuck out for me.

6 Q And I don't mean to press you too much on this,  
7 (V4)-----, but do you have any explanation as to  
8 why it wasn't in your statement in 1969, that  
9 information?

10:56 10 A I have no idea, I --

11 Q I'll turn you to the next page of this document,  
12 please, beginning at the top of the page. I'll  
13 read that to you:

14 "When the Saskatoon Police arrived at my  
10:56 15 home they took a statement from me and  
16 also took me to where the assault  
17 occurred. Later, at the police station  
18 I was shown some photographs. I do not  
19 recall if I recognized any of the  
10:57 20 pictures. I believe there were two  
21 different sets of police who spoke to  
22 me. The Saskatoon police had said that  
23 the R.C.M.P. would be talking to me but  
24 I do not recall if they did."

10:57 25 And would that be accurate information, as you



1 provided it in 1991, to the best of your  
2 recollection?

3 A To the best of my recollection, yes.

4 Q I'm going to read forward from there:

10:57 5 "I can recall a conversation with the  
6 police officers with some of the  
7 following comments being made:

8 1. 'The reason you didn't get it was  
9 because you were wearing pants',  
10:57 10 which was made in the context of the  
11 murder victim having worn a dress."

12 And do you still recall this comment being made?

13 A I absolutely do, because the rest of the comment  
14 was around the reason I didn't get it was because  
10:57 15 I was wearing pants, and they had stated that the  
16 person -- that the person that had been murdered,  
17 and they had said after me, was wearing a dress.

18 Q Okay. And I'll read that next point, number 2:

19 "'That the timing was right on, given  
10:58 20 the attack on the nurse'. They were  
21 relating my attack to the murder."

22 And do you recall a comment of that nature being  
23 made to you by the police officers in 1969?

24 A Yes.

10:58 25 Q Okay. And again, outside of the quotes noted in



1 that point, the reference to:

2 "They were relating my attack to the  
3 murder.";

4 had they said anything in specific that you  
10:58 5 recall beyond what's stated here?

6 A Only that they were talking about the fact that I  
7 was reporting this and that a nurse had been  
8 killed that day.

9 Q Okay. I'll read you point number 3:

10:58 10 "The police asked me about the head gear  
11 worn by the attacker but I could not  
12 recall anything about it."

13 And do you recall this as well, still today, as a  
14 comment being made by the police at that time?

10:59 15 A From what I recall, I didn't remember the -- Larry  
16 Fisher, the person that attacked me, I did not  
17 recall them wearing anything on their head.

18 Q Do you remember being asked about that at that  
19 time?

10:59 20 A I can't remember specifically if I was asked about  
21 that.

22 Q Do you think you had that recollection in 1991 at  
23 the time you provided the statement?

24 A Had the recollection of being asked about it?

10:59 25 Q Yes?



1 A I'm not sure.

2 Q Okay. I'll read you the last paragraph. It  
3 states:

4 "The police comments suggesting that the  
10:59 5 culprit had attacked me first and then  
6 had gone on to kill the nurse scared me  
7 a great deal, and I recall that comment  
8 to this day."

9 And what specific comment was made to you in that  
10:59 10 respect, (V4)----?

11 A That is the one that we had just referred to,  
12 about the reason I hadn't gotten it was because I  
13 was wearing pants, and that they had killed  
14 somebody just a few minutes later.

10:59 15 Q Okay.

16 A And they had talked about the nurse.

17 Q Okay. Thank you for clarifying that. And that  
18 signature at the bottom of the page; is that your  
19 signature?

11:00 20 A Yes it is.

21 Q Okay. And did you understand, or have an  
22 understanding, in terms of how this statement was  
23 going to be used or what use it was going to be  
24 put to?

11:00 25 A Not at that time, no.



1 Q I refer you next to a letter, it's document ID  
2 156122, it's a letter dated January 9th, 1992 --  
3 and I'm not sure if we noted for the record the  
4 date of your statement was August 29th, 1991 --  
11:00 5 this letter dated January 9th, 1992 from Earl Levy  
6 to David Asper. And I'm just going to read you a  
7 portion of this letter, (V4)----, if we could  
8 focus in, please, just starting at the top here.  
9 It states as follows:

11:01 10 "On December 27th Sergeant Rick Pearson  
11 of the Saskatoon R.C.M.P. left a message  
12 on (V4)----- answering machine that  
13 he wished to talk with her regarding the  
14 above-captioned matter. As a result  
11:01 15 (V4)----- telephoned me and I in turn  
16 contacted Sergeant Pearson. His concern  
17 was whether or not (V4)----- wished  
18 to proceed with charges against Mr.  
19 Fisher having regard to the statement  
11:01 20 which she gave. I advised Sergeant  
21 Pearson that we hadn't really directed  
22 our attention to that aspect of the  
23 matter and that I would consult with my  
24 client about it. I then spoke with  
11:01 25 (V4)----- and telephoned Sergeant



1 Pearson back the same day to advise that  
2 (V4)----- did not wish to relive the  
3 incident any more than she had to. She  
4 realized that she would probably have to  
5 do this with respect to the proceedings  
6 in Ottawa and was content to do so in  
7 the interests of justice. She was not  
8 interested in going through the  
9 experience twice in a courtroom."

11:01

10 And do you recall, firstly, this telephone call  
11 from Sergeant Pearson or receiving a message as  
12 noted --

11:02

13 A Yes, I do.

14 Q -- in this letter?

11:02

15 A Yes.

16 Q And is the information that Mr. Levy otherwise  
17 provides accurate to the best of your  
18 recollection?

19 A Yes.

11:02

20 Q Okay. I'll refer you to the bottom of the page,  
21 I'm going to start reading there, it states:

22 "I can't remember how the matter arose  
23 but I did mention something to Sergeant  
24 Pearson about a newspaper article  
25 appearing in the Toronto papers

11:02





1 concerning the contents in a general way  
 2 of (V4)----- statement. The officer  
 3 asked me how that article came about and  
 4 I said that I did not know, however, it  
 5 struck me later that I had in fact been  
 6 called by the press and did offer some  
 7 incite into what (V4)----- could say  
 8 without naming her."

11:02

9 And he notes at the bottom of that paragraph that  
 10 he is enclosing a photocopy of that particular  
 11 article, and if we turn to page 156127 of that  
 12 document I note there's an article -- and perhaps  
 13 we can focus in on the top, please -- the Toronto  
 14 Star, September 1st, 1991. This would have been  
 15 two or three days, I guess, after your statement,  
 16 *Metro woman may hold key to convict's bid for*  
 17 *retrial*; do you recall this particular article,  
 18 (V4)----?

11:02

11:03

A Oh yes.

11:03

Q And did you know that this article was coming?

A No.

Q Okay. And just if we could go back to the main  
 body, please, I think in most -- for the most part  
 the article speaks for itself, I'm just going to  
 highlight a couple portions for you, (V4)----. If

11:03



1 we could highlight this paragraph here, please. I  
2 note it states:

3 "She's coming forward because she's  
4 concerned," Levy said. She had always  
11:03 5 said that the man that attacked her was  
6 the man that murdered Gail Miller. Now,  
7 she finds this is not so."

8 And that was accurate information that Mr. Levy  
9 was relaying at that point, (V4)----?

11:03 10 A I didn't talk to Mr. Levy about it, so yes, I  
11 guess so.

12 Q And I'll read the next paragraph, it states, and  
13 this isn't in quotes:

14 "The woman was hauled into an alley but  
11:03 15 was able to repel her attacker before he  
16 could rape her, according to her  
17 statement. Miller's body was found in  
18 an alley near her home."

19 I take it from what you have told us today, that  
11:04 20 you would take some issue with that paragraph?

21 A It's totally not true.

22 Q Okay. And just so we can be clear, in what  
23 respect?

24 A I was not hauled into any alley and I don't think  
11:04 25 I repelled my attacker and I'm not sure whether he



1 was going to rape me.

2 Q Okay. And then I'll just move down a little bit  
3 further, I think it's up there perhaps, this  
4 paragraph here, states:

11:04 5 "If it was Fisher and it was the morning  
6 of the murder, that's profound,"  
7 Milgaard's lawyer David Asper said. "I  
8 think this is extremely important  
9 information."

11:04 10 Did you have a sense at the time, (V4)----, that  
11 you perhaps had important information with  
12 respect to this matter?

13 A When I talked to David Asper, I started to get  
14 more of a sense that this might be important.

11:04 15 Q Okay. So I understand then that your next formal  
16 involvement in this matter would have been  
17 testifying at the Supreme Court of Canada; is that  
18 correct?

19 A Yes.

11:05 20 Q And I'm going to look at that testimony in a  
21 moment, I believe that you testified on March  
22 10th, 1992, but I wanted you to take a look at a  
23 couple of documents before we go to the  
24 transcript, and if -- first of all, do you recall  
11:05 25 in the context of the Supreme Court hearing



1 leading up to that hearing, leading up to your  
2 testimony or in the course of your testimony,  
3 being shown any other photographs of Larry Fisher?

4 A Not that I recall.

11:05 5 Q Okay. I'm going to refer you to a document, it's  
6 document ID 302766, and if you'll just bear with  
7 me, (V4)----, I'll take you through this. If we  
8 can turn to 302768 of that document, it looks to  
9 be a memo with it noted at the top, Larry Earl  
11:05 10 Fisher 1969 photos, and I see it's, it was  
11 completed by Fran Stevenson dated November 18th,  
12 1997. We know that Mr. Stevenson was a Staff  
13 Sergeant with the RCMP involved in the  
14 investigation of Larry Fisher leading up to his  
11:06 15 trial in 1999, and I'll refer to the first  
16 paragraph, it states:

17 "I have been unable to locate the 1969  
18 photo's of Larry Fisher. In a letter  
19 dated March 9th, 1992 Sergeant Pearson  
11:06 20 refers to 5 photo's sent to Eugene  
21 Williams in Ottawa."

22 I'm going to skip down a little bit and just read  
23 from this paragraph, it states:

24 "Mr. Williams recalls the photo's and  
11:06 25 stated they would have been shown to the



1 witnesses during the --

2 I assume that means Supreme Court of Canada  
3 hearing, and it refers, as we note, to a letter  
4 by Sergeant Pearson and I took a look for that  
11:06 5 letter, and if we could turn to the next page,  
6 please, 302769, you see a letter noting RCMP at  
7 the top to the Department of Justice, attention  
8 Mr. Eugene Williams, dated March 9th, 1992, and  
9 in paragraph 2, just for reference sake, I note  
11:07 10 it states:

11 "Also enclosed please find five photo's  
12 recently obtained from Linda Fisher."

13 Now, unfortunately we could not find the second  
14 page to this letter, but attached to the document  
11:07 15 that I did find were copies of some photographs  
16 and perhaps what we can do, if we can put the  
17 letter that I just referred to on a split screen  
18 on the left and move firstly to the next page,  
19 302770, and we see a copy of what I understand to  
11:07 20 be a picture of Larry Fisher, and if we note the  
21 caption in the letter March 9, 1992 we see:

22 "Taken at 334 Avenue O South Saskatoon.  
23 Excluding the poncho and sombrero, the  
24 black long-sleeve sweater and black  
11:08 25 jeans were one of the two outfits Larry



1                   wore in 1969."

2                   And if we could keep the letter on that side, I  
3                   think we've found a colour version of that  
4                   photograph, and that's 091119, please. I'm just  
11:08 5                   going to take you through some of these photos,  
6                   (V4)----, and just take our time through them,  
7                   and if we turn back to the letter, the next page  
8                   of the letter, again on the split screen, page  
9                   302771, you'll see a picture again, a copy, and  
11:08 10                  number 2 below that and the caption in the letter  
11                  that reads:

12                   "Larry Fisher and Cliff Pambrum standing  
13                   besides Cliff's car, which Larry had  
14                   access to while in Saskatoon, a 1958  
11:09 15                  Chev 2 door hard top black/red."

16                  And again I think we have a colour version of  
17                  that photo, if we can go to 091118, please. If  
18                  we go back to the letter, to page 302772, please,  
19                  we'll see a third picture, the caption reading:

11:09 20                  "This is a photo of Larry taken in the  
21                  winter of 1969, '70. This shows the  
22                  black leather jacket he wore at the  
23                  time, as well as the second pair of  
24                  pants he wore. Also note the footwear."

11:09 25                  I think we have a colour version of that photo,



1 091117, and if we go back to the letter, page  
2 302773, picture number 4, unfortunately we don't  
3 have the second page of the letter, I'm not sure  
4 what the caption reads, but we were able to  
11:10 5 locate a colour version of that photograph, if we  
6 could go to 091122, please, and then back to the  
7 letter to page 302774, and the colour version of  
8 that picture noted with the number 5 is 091121,  
9 and again, (V4)----, do you recall being shown  
11:10 10 any of these photos in and around the time of  
11 your testimony at the Supreme Court of Canada?

12 A I recall being shown some photos. I can't recall  
13 all of the photos that I was shown.

14 Q And in terms of the photos that I've shown you, do  
11:10 15 you recognize the person in any of those photos?

16 A Only one.

17 Q And which one is that, please?

18 A The one where Larry Fisher is standing with a  
19 child.

11:11 20 Q If we could go back to 091117, please?

21 A That one.

22 Q That's the picture?

23 A That's the one.

24 Q And what is it that you recognize about that  
11:11 25 picture, (V4)----?



1 A The coat and the -- sorry. The coat and the hair  
2 length and the height, what the person looked like  
3 was what the person who attacked me looked like.

4 Q Have you seen this specific photo previously?

11:11 5 A I can't say for sure. I think I must have.

6 Q Okay. Thank you, (V4)----. I am going to turn  
7 you now to your testimony from the Supreme Court  
8 of Canada.

9 Mr. Commissioner, I'm not sure  
11:11 10 what you had wanted us to do in terms of a break  
11 or if you want me to just continue forward. I'll  
12 leave that to your discretion.

13 COMMISSIONER MacCALLUM: How much time do  
14 you have left?

11:12 15 MR. HARDY: I have a fair bit still to go  
16 through.

17 COMMISSIONER MacCALLUM: Well, I think  
18 perhaps a break, a short break would be in order,  
19 say 10 minutes or so.

11:12 20 *(Adjourned at 11:12 a.m.)*

21 *(Reconvened at 11:25 a.m.)*

22 BY MR. HARDY:

23 Q (V4)----, I'm going to next refer you to some of  
24 your testimony as provided in the Supreme Court of  
11:25 25 Canada in 1992. I refer you to portions of that





1 testimony and I'm going to turn firstly to the  
2 document which is 040398, your name, you are being  
3 examined by Mr. Wolch, and if we could turn,  
4 please, to page 040399, begin at that portion, the  
11:25 5 testimony, and read that to you:

6 "Q And recently you recounted again your  
7 best memory today of that event? You  
8 have recounted it again?

9 A That's correct.

11:26 10 Q My understanding is that when you  
11 recounted it this time, you didn't have  
12 the benefit of the older statement to  
13 refresh your memory.

14 A That's correct.

11:26 15 Q So you did it purely by your current  
16 memory without the aid of any prompting  
17 from an older statement?

18 A That's correct."

19 And is that accurate, (V4)----, then at the time  
11:26 20 you provided your statement to Mr. Levy, you had  
21 not seen your statement from 1969?

22 A That's correct.

23 Q I turn you next to page 040402 and at the top of  
24 the page, please, and you are describing the  
11:26 25 incident at this point in your testimony and I'll



1 read:

2 "He caught up to me and said he had  
3 heard me scream and said that he thought  
4 I had just slipped on some ice. So I  
11:27 5 told him I had been attacked and didn't  
6 think anything of that. I got on the  
7 university bus and went to university  
8 and told my best girlfriend that I had  
9 been attacked or grabbed. We made a bit  
11:27 10 of a joke about it at that point and  
11 then when I was coming home that night  
12 from university, I went past my  
13 girlfriend's place at 223 Avenue H  
14 South."

11:27 15 I'll stop there. (V4)----, do I gather from this  
16 comment that you were not taking the matter  
17 particularly seriously at the time, and I don't  
18 want to misstate that, but there are a couple of  
19 comments in this particular paragraph that might  
11:27 20 lead one to that conclusion. Can you clarify  
21 that for me?

22 A Certainly. At that point in time, I don't know  
23 how best to describe it, it was frightening, it  
24 was scary what had just happened, but in my mind  
11:27 25 nothing had happened. It was what we used to say



1 in those days, it was a grope, and whereas it was  
2 frightening and horrible, it wasn't anything else  
3 other than that to me at that point.

4 Q Okay, thank you. I'll turn you next to page  
11:28 5 040403, again at this portion here, it states:

6 "Q When you were talking to the police, was  
7 the subject of the Gail Miller killing  
8 part of the conversation?

9 A Well, what they said was that the  
11:28 10 reason I didn't get it was because I  
11 was wearing slacks and that a nurse  
12 had been murdered just up the road  
13 from where I had gotten it, and they  
14 were telling me how lucky I was that  
11:28 15 it wasn't me.

16 Q Was there any follow-up with the police  
17 after that day in terms of speaking to  
18 you?

19 A From what I remember, they had told me  
11:28 20 that I would be questioned by the  
21 RCMP. I can't remember -- I remember  
22 being questioned by somebody else  
23 because the questioning was far more  
24 detailed. I also remember going down  
11:29 25 to the police station and having to



1 look at pictures. I also remember  
2 somebody from the police -- I don't  
3 know whether it was the Saskatoon  
4 police or the RCMP -- taking me to  
11:29 5 where it had happened and having to  
6 show them where my books had gone up  
7 in the air, and things like that."

8 And that's accurate information as you provided  
9 it at that time, (V4)----?

11:29 10 A Yes.

11 Q And I'll just read further down the page, just a  
12 little bit starting here:

13 "Q Can you describe the individual in as  
14 much detail as you can in terms of  
11:29 15 everything from height to body shape to  
16 complexion, anything you can remember of  
17 the individual?

18 A Do I have to look at you or can I look  
19 down? All right.

11:29 20 Q I know you are a little nervous; so take  
21 it easy.

22 A A little?

23 This is hard to go through.  
24 He came at me and I remember, as I  
11:29 25 told you -- I am very conscious of



1 liking taller men and so in Saskatoon  
2 at that point in time, there were two  
3 groups of people that we knew about  
4 which were Ukrainians and Indians and  
11:30 5 the other sub-group which were Metif,  
6 and we called them half-breeds.

7 This person came towards me  
8 and he was about 5'5", 5'6". He had  
9 something in his right hand and was  
11:30 10 wearing a glove on his left hand, to  
11 the best of my knowledge. He had a  
12 dark coat on. He wasn't wearing a  
13 hat. He was a heavier, stockier  
14 build, was about my height because my  
11:30 15 reaction at that point was, "Oh, god!  
16 This isn't going to happen to me by  
17 somebody shorter than me and by a  
18 Metif."

19 Q I take it you don't mean that in a  
11:30 20 racial way. That was just the way in  
21 those days --

22 A No, no. It was just the way -- I  
23 instantly recognized that this person  
24 was Metis because I had grown up in  
11:30 25 that particular culture.



1 My instant reaction was, the  
2 person was my height or shorter.  
3 Darn! I think his coat was either  
4 brown swede and I think it may have  
5 had a fur collar on it, but I can't  
6 totally remember. The glove on his  
7 left hand was sort of like a  
8 farmer-type kind of glove, a heavier  
9 kind of mitt or glove. Actually, it  
10 was a glove, not a mitt. Yes, that's  
11 about it, other than that he grunted."

12 And that would be an accurate account of your  
13 recollection as provided in 1992?

14 A Yes.

15 Q And still accurate today?

16 A Yes.

17 Q I'll turn you to page 040407, I'll start reading  
18 at this portion here:

19 "Q Did you ever go from the scene of your  
20 attack to where Gail Miller had been  
21 murdered?

22 A Yes.

23 Q Can you tell the Court the circumstances  
24 of that?

25 A That was later on. My girlfriend and



1 I -- and, actually, a couple of  
2 friends -- at one point decided that  
3 we wanted to see how long it would  
4 have taken to go from where I was  
11:32 5 attacked to where Gail Miller was  
6 attacked because we were quite  
7 interested in what the timing was as  
8 kids. So we would run it or walk it  
9 just to see how long it would take.

11:32 10 Q How long did it take?

11 A Well, if we ran, we could do it under  
12 15 minutes. If we just doddled  
13 around, it was 20-25 minutes."

14 And that was accurate information that you were  
11:32 15 provided at this time and you recall --

16 A Yeah, I can recall.

17 Q -- measuring the time of that distance?

18 A Sort of going it's about this, about that, yeah.

19 Q Actually walking the length of that distance?

11:32 20 A (No audible response).

21 Q I'll turn you to page 040409, start reading that  
22 portion:

23 "Q You would have been aware, I would  
24 assume, of the trial involving Mr.  
11:32 25 Milgaard, etcetera, etcetera?"



1 A At that time?

2 Q Later on when it happened. Did you  
3 follow it at all?

4 A I never saw anything on it.

11:33 5 Q Were you aware that somebody was  
6 convicted for the matter?

7 A I was aware that somebody was  
8 convicted, yes, but I assumed that the  
9 person that was convicted was the  
11:33 10 person who attacked me."

11 I think that fits with what you told us thus far  
12 today. Is that your recollection, (V4)----?

13 A That's correct.

14 Q I turn you next to page 040410, please, beginning  
11:33 15 at the bottom of the page, referring to when you  
16 saw the picture of Larry Fisher:

17 "Q When you saw the picture, can you give  
18 us more detail as to your reaction when  
19 you saw his picture?

11:33 20 A I saw the picture and I didn't know  
21 whether it was him now or him years  
22 ago. All I know is that I recognized  
23 this person. My stomach did just  
24 exactly what it is doing now. It just  
11:33 25 sort of sunk in and I got very shaky





1 and started to cry on the telephone to  
2 my friend and said, "My god! This is  
3 the person that did it to me in 1969."

4 So I kept closing the paper.  
11:34 5 I didn't want it read the article and  
6 every time I would open up the paper,  
7 I would see this picture again and I  
8 would start crying and get really,  
9 really upset.

11:34 10 Then, after that, on August  
11 the 17th another article appeared in  
12 the Toronto Star and that had a  
13 picture of David Milgaard in it and it  
14 had David Asper's name. By that time,  
11:34 15 I thought, "Wait a minute. Something  
16 isn't connecting here." What happened  
17 to me may have happened on exactly the  
18 same day because I went through in my  
19 head how old I was in university and  
11:34 20 things like that and how many 40 below  
21 days there were in Saskatoon that were  
22 foggy where a nurse was killed, and I  
23 didn't think there were very many."

24 And is this an accurate account in terms of what  
11:34 25 was going through your head at the time of the



1 article?

2 A Absolutely.

3 Q I'll keep reading from there.

4 "So I called the Toronto police and  
11:34 5 asked them how I would get in contact  
6 with David Asper, and they just said,  
7 "Well, look him up in the phone book."  
8 So that's exactly what I did. So I got  
9 David's number and called him."

11:35 10 And on this last portion, I don't think that's  
11 exactly what you've told us in terms of the  
12 lead-up to contacting David. Were you calling  
13 the police in an effort to try and locate David  
14 Asper so you could contact him?

11:35 15 A No, I called the Toronto police and said that I  
16 had read this article and that I had some  
17 information, or I thought I had some information  
18 and what do I do now, and that was when they, you  
19 know, didn't have any idea why I was calling them  
11:35 20 and when I told them about the article and they  
21 had said, well, if there's a name of a person in  
22 there, contact that person.

23 Q So that would be your version of events in  
24 contrast to what's stated here then?

11:35 25 A Uh-huh.



1 Q I'll turn you next to page 040417 and what we've  
2 moved into at this portion of your testimony is  
3 the examination conducted by Brian Beresh and  
4 there's just a small portion I want to show you at  
11:36 5 the top, part of a question and the answer, it  
6 notes:

7 "Q The person didn't appear to have a car?  
8 That is, he didn't appear to come from a  
9 car or go from a car?

11:36 10 A There was no car."

11 Does that fit with your recollection as well,  
12 that there was no car in the vicinity relating to  
13 your attacker on January 31st, 1969?

14 A Yeah, there was no car that I saw that was running  
11:36 15 that was anywhere near where I was.

16 Q Okay. I turn you next to page 040431, this is Mr.  
17 Beresh continuing, focus in on this portion,  
18 please:

19 "Q Did the police, in addition to asking  
11:37 20 you for a verbal description of the  
21 individual's features, ever ask you to  
22 go to a physical line-up where you might  
23 see people behind a one-way glass or  
24 people physically standing in front of  
11:37 25 you?



1 A That's where I have explained it gets  
2 really vague.

3 At one point, I remember  
4 being taken to the Saskatoon police  
11:37 5 station and looking at lots of  
6 pictures, and I can't remember whether  
7 I was ever asked to identify anybody  
8 in a line-up at that point. Part of  
9 my memory says "yes", but that could  
11:37 10 be something -- I mean, it is just not  
11 totally clear.

12 Q You don't recall that?

13 A I don't recall it enough to be able to  
14 say something positive.

11:37 15 Q Do you recall ever providing information  
16 to someone like a sketch artist who  
17 might try to recreate what the person  
18 looks like?

19 A Again, that is vague and, again, it  
11:37 20 seems to me that that was what may  
21 have happened when I was in the  
22 Saskatoon police station. I don't  
23 remember whether that was the same  
24 night or another day."

11:38 25 And is this accurate in terms of the vague



1 recollection you were having of the subsequent  
2 dealings with police?

3 A Yes.

4 Q And are you just speculating about the providing  
5 information to a sketch artist or is that  
6 something that you do vaguely recall?

7 A It's way in the back of my head and I honestly  
8 can't say whether it happened or didn't happen.  
9 There's something that says something to that  
10 effect may have happened, but I can't recall  
11 enough of it to say for sure.

12 Q I turn you next to page 040433, please, focus in  
13 beginning at the bottom of the page, Mr. Beresh  
14 continuing:

15 "Q You said earlier in your evidence that  
16 you and a girlfriend went to the scene  
17 of Gail Miller's death.

18 A We didn't go to the scene. We ran up  
19 the alley to see how long it would  
20 take us to get to the approximate  
21 place where it happened.

22 Q I guess that was my question. How would  
23 you have known the location to go to?

24 A We heard that it had happened around  
25 20th Street and whatever. So we never



1                   went to the exact scene because we  
2                   didn't know where the scene was, but  
3                   we just tried to see how long it would  
4                   take to run to that basic area.

11:39 5                   Q    Do you know from what source you heard  
6                   that?

7                   A    I have no idea.

8                   Q    Was it from the police as opposed to the  
9                   media?

11:39 10                  A    The only way that I can remember where  
11                   I would have got that is from the  
12                   police, because I never read anything  
13                   in the paper or heard anything on the  
14                   radio."

11:39 15                  And was this accurate information that you were  
16                   providing during your testimony?

17                  A    Uh-huh.

18                  Q    It remains accurate today?

19                  A    Yes.

11:39 20                  Q    To the best of your recollection?

21                  A    Yes.

22                  Q    I turn you to page 040438, please, just pulling  
23                   out this portion, and I believe this is referring  
24                   to the friend that called you respecting the one  
11:40 25                   newspaper article:



1 "Q Who was this friend?"

2 And again Mr. Beresh is asking these questions.

3 "Q Who was this friend?"

4 A He was a friend of mine in Toronto.

11:40 5 Q A person who knew about the case,  
6 though?

7 A I don't know if he knew about the  
8 case.

9 Q I am just wondering: Why would that  
11:40 10 person phone you and say, "There might  
11 be an article you would be interested  
12 in?"

13 A He is my best friend and so we share a  
14 lot of information together.

11:40 15 Q Including the Milgaard case?

16 A Why not?

17 Q I am just wondering. Is that correct?

18 A Sure.

19 Q Did that person draw your attention to  
11:40 20 the photograph?

21 A What my friend said was, "There is an  
22 article and there is a picture," and  
23 he said, "Turn the page over." So I  
24 turned the page over and saw that  
11:40 25 picture."



1 Again, that would be accurate information then to  
2 the best of your recollection, (V4)----?

3 A Uh-huh.

4 Q I think you talked to us earlier about the friend  
11:41 5 and your recollection in terms of the reasons why  
6 perhaps he would have called you about that  
7 article?

8 A That's correct.

9 Q Do you have anything to add to that at all?

11:41 10 A Only that we wouldn't have talked about the  
11 Milgaard case, we never talked about Milgaard, we  
12 talked about how I had been sexually assaulted or  
13 indecently assaulted when I was young and that the  
14 person had gone to jail for murder of a nurse,  
11:41 15 that was it, we never talked about the Milgaard  
16 case.

17 Q Okay. I'll turn you to page 040441, please, and  
18 again this is Mr. Beresh continuing, if we can  
19 focus in on this portion:

11:41 20 "Q When you called the Toronto police, I  
21 take it that it was the Metro police?

22 A That's correct.

23 Q Did you ever offer them a statement and  
24 say, "I have some information which  
11:42 25 might be of benefit"?





1 A I called the Toronto police and said,  
2 "I think I may have some information.  
3 What do I do about it?" Their initial  
4 response was, "Are you a kook?" Their  
11:42 5 next response was, "Whose Milgaard?"

6 Further to that, I got put  
7 onto somebody else who said, "Call the  
8 Supreme Court," and I said, "It's  
9 Saturday or Sunday," whatever it was,  
11:42 10 "How would you like me to do that?"  
11 And they said, "Lady, there must be a  
12 name in the paper," and that was when  
13 I said, "Thank you very much," and  
14 learned how to read David Asper's  
11:42 15 number.

16 Q I am afraid to ask this next question,  
17 but did you ever call the Saskatoon  
18 police with this new information?

19 A Absolutely not."

11:42 20 That's accurate information that you were  
21 providing at the time of your testimony then,  
22 (V4)----?

23 A Yes, it is.

24 Q And your answer to that last question "absolutely  
11:42 25 not", were you stating that with some assertion at



1 the time?

2 A Yes.

3 Q And is there a reason behind that?

4 A I would have had no reason to call the Saskatoon  
11:43 5 police, there just wouldn't have been any reason  
6 for me to call the Saskatoon police. I knew that  
7 I had been attacked and that I had given a  
8 statement, so I wouldn't have known who to call or  
9 why, I just knew that something was not right.

11:43 10 Q Not to push you too far on that, but did you  
11 consider that perhaps that information might be  
12 relevant for the Saskatoon City Police given that  
13 the occurrence was in Saskatoon?

14 A The Saskatoon City Police never entered my brain.  
11:43 15 Relevant, not relevant, I just -- I was very  
16 concerned that something was not right and that an  
17 injustice had been done and I'm very, very active  
18 in my community and was even then and very intent  
19 on seeing if there was anything that I could do to  
11:43 20 help or I might have some information. The  
21 Saskatoon police didn't come into it.

22 Q Okay. I'm going to turn to the examination by Mr.  
23 Neufeld and it's on the same page, if we move down  
24 just a bit, please, I'm going to start here at  
11:44 25 that paragraph:



1 "Q When Mr. Wolch asked you questions when  
2 you started your testimony, he said that  
3 you indicated that this attack upon you  
4 took place at about 7:07. Do you  
11:44 5 remember him saying that and you  
6 agreeing with that?

7 A That's in my original statement, yes.

8 Q Right. But, in fact, it was exactly  
9 7:07. Isn't that true? That's what you  
11:44 10 have told us and told everybody up until  
11 now, because you checked your watch. Is  
12 that correct?

13 A It was exactly 7:07 in 1969 according  
14 to the watch, yes.

11:44 15 Q All right. So it wasn't about; it was  
16 exact and there is no doubt about that  
17 in your mind?

18 A (No response)."

19 And does that remain your recollection today,  
11:44 20 (V4)----?

21 A Yes.

22 Q In terms of the time of the attack?

23 A In terms of the time when I looked at my watch  
24 just prior to the attack, it was 7:07.

11:45 25 Q And can you perhaps give us an idea of how much



1 time lapsed then from the point you looked at your  
2 watch until the time of the attack?

3 A Under a minute.

4 Q So it was a matter of seconds then?

11:45 5 A It wasn't a huge amount of time.

6 Q Okay. Those are all the portions I'm going to  
7 read you from your testimony, (V4)----.

8 I'll next refer you to a  
9 document, it's document ID 156135, and it's a  
11:46 10 handwritten letter. If we focus in just at the  
11 top of the page, looks like it's:

12 "Dear Hersh",

13 and it's March 18th, 1992, I believe. And if we  
14 could go back to the full page, please, is that  
11:46 15 your handwriting and your signature at the bottom  
16 of the page, (V4)----?

17 A Yes it is.

18 Q Okay. I just wanted to have you take a look at  
19 the middle paragraph, if we could focus in on that  
11:46 20 paragraph, please. It states:

21 "Now I have a question - will you/could  
22 you, when all this is over - explain why  
23 the thinking about Gail Miller being  
24 killed before was attacked? And the car  
11:46 25 thing... if G.M. was killed first why



1                   was Larry Fisher coming out of a  
2                   yard/alley where I was on foot? Where  
3                   was the car? I know there must be some  
4                   sort of logic about this but darned if I  
11:46 5                   can figure it all out. If maybe you  
6                   could explain it to me?"

7                   And do you recall writing this letter --

8           A           Uh-huh.

9           Q           -- to Hersh?

11:47 10          A           Yes.

11          Q           And perhaps just let us know what was going  
12                   through your mind? I take it that you had some  
13                   outstanding issues or questions relating to your  
14                   involvement in the Supreme Court; what was going  
11:47 15                   through your mind at the time of this letter?

16          A           I had never read anything or done any exploration  
17                   of any of the information that had been happening,  
18                   umm, so when I had been to the Supreme Court of  
19                   course then I started reading and had heard things  
11:47 20                   about cars and all that, and it was just a  
21                   curiosity, because this was just all news to me  
22                   and I was just curious as to how everything fit  
23                   together.

24          Q           So your interest in the overall matter had piqued  
11:47 25                   then, I take it, from your testimony at the



1 Supreme Court; you were interested in the  
2 occurrences and how your testimony might fit into  
3 the matter?

4 A That's right.

11:48 5 Q Should I ask; did you receive a response back to  
6 this letter?

7 A No.

8 Q Okay.

9 A I never wrote another letter asking how come.

11:48 10 Q Okay. And am I correct that your next formal  
11 involvement in this matter, then, would have been  
12 when you met with RCMP officers in 1993?

13 A Yes.

14 Q Okay. And do you recall those meetings?

11:48 15 A Yes I do.

16 Q I'm going to refer you to some notes that the RCMP  
17 officers took with respect to that meeting or  
18 those meetings. I'll firstly refer you to  
19 document ID 049248. And, again, this is the form  
11:48 20 that we have become accustomed to that RCMP  
21 officers were taking notes on with respect to  
22 meetings with witnesses such as yourself, and I  
23 see your name at the top, and perhaps we could  
24 turn to 049267, please. And it notes:

11:49 25 "Interview of (V4)-----"



1 at the top of that page. I'm just going to refer  
 2 you to some of the portions of these notes. If  
 3 we could turn, please, to 049265, and just the  
 4 paragraph at the very top, I'll read that  
 5 paragraph to you:

11:49

6 "Another point that is forgotten in her  
 7 first statement but mentioned in second  
 8 statement is where she says that her  
 9 assailant was wearing a glove on one  
 10 hand and the other one (right hand) was  
 11 bare. She felt that she may have  
 12 mentioned this in 1969 but cannot  
 13 recall."

11:49

14 I think you have shared your information with  
 15 respect to that recollection with us, (V4)----,  
 16 and perhaps you covered this, but I note the  
 17 reference to 'right hand'. Is your recall quite  
 18 specific in terms of which hand the glove was on?

11:49

19 A The glove was on his left hand and there was  
 20 nothing on his right hand.

11:49

21 Q Okay. I'll turn you, next, to page 049261 and  
 22 refer you to the paragraph starting at the bottom  
 23 of that page, it states:

24 "She was also questioned as to whether  
 25 or not other people could catch the

11:50



1 University bus. She felt that only  
2 students could take same. She also  
3 mentioned that she normally took the bus  
4 between 7-7:10 a.m."

11:50 5 Next page at the top:

6 "(V4)---- also recalled that on the  
7 morning of the murder she left home  
8 earlier than usual that being 6:45 a.m.  
9 She remembered that because it was cold  
11:50 10 the morning of the murder."

11 And you have clarified those times for us a bit  
12 today, but I take it that at the time of your  
13 meeting with the RCMP in 1993, your times -- and  
14 correct me if I'm wrong -- are consistent with  
11:50 15 what you had indicated to Mr. Levy in 1991?

16 A They seem to be, yup.

17 Q Okay. And were you still under the impression  
18 that those times were accurate, then, in 1993?

19 A I don't think I ever said they were exactly 6:45.  
11:51 20 I think I have said repeatedly that I estimated  
21 but I wasn't sure. The only time I totally know  
22 for sure was 7:07 on my watch.

23 Q And when you say you estimated you are referring  
24 to your meetings with, for example, RCMP officers  
11:51 25 in 1993?





1 A That's right. Umm, I know very definitely I would  
2 be standing at the door talking to my mum before  
3 it was time for me to head for the bus, and it was  
4 around that time or a little bit later.

11:51 5 Q And 'that time' you are referring to is 6:45?

6 A 6:45-7:00, yes, around there.

7 Q And I'll refer you to page 049263, please. Bottom  
8 of the page it states:

9 (V4)--- advised that it usually took  
11:51 10 10-12 minutes ...",

11 next page:

12 "... to make the trip to the bus stop."

13 And would that be accurate in terms of your  
14 recollection, ten to 12 minutes?

11:52 15 A I think it was about that.

16 Q That was from your house to the bus stop?

17 A I think it was about that, maybe it was a few  
18 minutes less, but probably around ten minutes.

19 Q Okay. I'll turn you now to page 049258. Starting  
11:52 20 at the bottom of the page, paragraph 31, I'll read  
21 that to you:

22 "One thing (V4)--- did bring up was the  
23 fact that if she was positive on her  
24 I.D. ...",

11:52 25 next page, just at the top there, I'll read from



1 the previous page:

2 "One thing (V4)--- did bring up was the  
3 fact that if she was positive on her  
4 I.D. of Fisher as her assailant, could  
11:53 5 she lay charges against Fisher. I  
6 advised her that I would have to  
7 research this matter and I advised her  
8 that in all likelihood matter would have  
9 to be referred to Saskatoon P.D.  
11:53 10 (V4)--- to be recontacted on this  
11 point."

12 And is that accurate that you were expressing  
13 that inquiry at the time of your meeting with the  
14 RCMP officer?

11:53 15 A Uh-huh.

16 Q And I'll turn to page 049256, please, and this is  
17 in the synopsis portion of this document, so it's  
18 the officer's comments following the meeting with  
19 you, if we could focus in on that portion, please:

11:53 20 "Re: 6:45 a.m. - leaving home.  
21 (V4)---- claims she left for school at  
22 6:45 a.m. The first time she brought  
23 this up was in her 1991 statement to  
24 Levy. There was no mention of this time  
11:54 25 in her 1969 statement. If (V4)--- left



1 her residence at 6:45 a.m. to walk  
2 towards bus stop it would seem logical  
3 that it would not take 22 minutes to  
4 walk the distance she said she did. One  
11:54 5 of her neighbours who lived close to her  
6 waved to her shortly after 7:00 a.m. I  
7 think that based on the above facts she  
8 could not have left her residence at  
9 6:45 a.m. as she has sworn to."

11:54 10 And I take it, from what you have told us today,  
11 that you would agree with that assessment?

12 A Absolutely.

13 Q Okay. I'll turn you, now, to page 049252 of that  
14 document. It's still referring to your name but  
11:55 15 it's some actions taken by the officers subsequent  
16 to their meeting with you, and I'm just going to  
17 read this in for the sake of reference. If we  
18 could focus in on the top paragraph, please, it  
19 states:

11:55 20 "Myself and Corporal Gagne attended to  
21 Saskatoon and conducted some field tests  
22 with regards to various times that are  
23 somewhat in question. Tests conducted  
24 and times are contained in below noted  
11:55 25 synopsis."



1 If we move down:

2 "1. From (V4)---'s' residence located  
3 at 331 Avenue H South. to bus stop at  
4 Avenue H South and 22nd Street

11:55 5 (V4)--- residence - 3:47 p.m.

6 Mrs. Ochwat residence - 3:49 p.m.

7 Bus stop (Avenue H and 22nd) - 3:53  
8 p.m.

9 Total Time = 6 min.

11:55 10 This time is quite different  
11 from the 25 minutes as indicated by  
12 (V4)--- in her testimony."

13 If we turn to the next page, please, read this  
14 paragraph here, paragraph number 3:

11:56 15 "From murder scene to (V4)--- assault.

16 (By foot)

17 murder scene - 4:24 p.m.

18 (V4)--- assault - 4:32 p.m.

19 Total = 8 minutes

11:56 20 631 paces."

21 Just at the bottom of the page, one further note:

22 "While walking distances, pace was  
23 normal walking pace."

24 And I believe, of that same document, I'm going  
11:56 25 to refer you also to page 049250. Again, I'll



1 just read this information in for reference, it's  
 2 still in connection with meetings had with you,  
 3 and then just that top portion of the page,  
 4 please:

11:56 5 "Review of report this date.

6 Joe Burns, Saskatoon Transit  
 7 has provided the bus schedule which  
 8 indicates the bus arrived at the 22nd  
 9 Street and Avenue H location at 7:07  
 11:56 10 a.m. He also advised that passes were  
 11 issued to students, faculty and staff to  
 12 catch this bus. It would be unlikely  
 13 for anyone else other than a pass-holder  
 14 to utilize this bus."

11:57 15 And (V4)----, if Joe Burns is correct -- and  
 16 that's not in evidence at this point in time --  
 17 that the time of arrival for that bus was 7:07  
 18 a.m. -- well perhaps I should ask you first; is  
 19 that your recollection, that the bus arrived at  
 11:57 20 that bus stop at 7:07 a.m.?

21 A I can't recall exactly what time the bus arrived.  
 22 It normally arrived somewhere, I thought, from  
 23 7:10 to whatever time it arrived. It was somewhat  
 24 irregular, so that wouldn't be out of sync, what  
 11:57 25 he is saying in terms of the approximation of the



1 time.

2 Q Okay. And bear with me, I note that 7:07 time has  
3 stuck out in your mind; is it possible that it  
4 stuck out in your mind at the time, and  
11:57 5 subsequently, because it was the time that the bus  
6 arrived at the bus stop?

7 A Not for me. I have never seen this before, so  
8 7:07 was when I looked at my watch, and that was  
9 the time that stuck out for me.

11:58 10 Q And I think briefly earlier on -- and I should  
11 have covered it at that point -- I think you made  
12 reference to the fact that your watch, did you  
13 say, --

14 A I --

11:58 15 Q -- was set ahead of time.

16 A I always kept my watch a couple of minutes ahead  
17 so that I knew that I would have a little bit of  
18 extra time wherever I was going. Sort of my own  
19 little game.

11:58 20 Q And that was the case in 1969 then?

21 A Yup.

22 Q Okay. I'm going to refer you, I understand that  
23 you also provided a statement to the RCMP officers  
24 in 1993, the document reference is 023164. I just  
11:58 25 note:



1 "Statement of (V4)-----",  
 2 March 25th, 1993 taken by Constable Homeniuk, and  
 3 I'm not going to go through much of that  
 4 statement, it's only a two-page statement. I  
 5 will refer you, though, to the last page, 023166.  
 6 Just this last, or second-last question and  
 7 answer, I'll read that to you, (V4)----:

8 "Q (V4)----, after reviewing all the  
 9 documentation with us tonight, is there  
 10 anything else that is forgotten or  
 11 misrepresented?"

12 A In my first statement there was no  
 13 mention of the glove and I'm sure I  
 14 mentioned it at the time and it was  
 15 important to me."

16 And I think you have told us everything you can  
 17 about that matter, but that would be accurate  
 18 information that you were providing --

19 A Yes.

20 Q -- to the RCMP?

21 A Yes.

22 Q Thank you. I'll refer you, as well, to one  
 23 further document that arose from the 1993 RCMP  
 24 investigation relating to you, that's document  
 25 040393. I'm sorry, the document ID is 040391 and



1 the page, if you could go to it please, is 040393.  
 2 This is subsequent to those initial meetings with  
 3 you, and it looks like there was further contact  
 4 with you April 19th, 1993, and if we could just  
 12:00 5 start -- or focus in on the top of the page,  
 6 please, it states:

7 "Contacted (V4)----- this date by  
 8 telephone. I discussed the matter of  
 9 laying charges with her and advised her  
 12:00 10 that if she wished to pursue the matter  
 11 she would have to contact the Saskatoon  
 12 P.D. (V4)---- advised that she has  
 13 thought further on this matter and  
 14 decided not to pursue the matter any  
 12:00 15 further.

16 The timing aspect was also  
 17 discussed with (V4)---. She was advised  
 18 that we had walked same out and found  
 19 that it took considerably less time.  
 12:00 20 (V4)---- now states that possibly she  
 21 erred on the time and in fact felt she  
 22 left closer to 7:00 a.m.

23 I also advised (V4)--- that I  
 24 would be sending a photo of Fisher taken  
 12:01 25 in 1969/1970 to have her look at same to





1 see if this was how Fisher looked at the  
2 time of the assault. She advised us to  
3 send same down via the mail and she  
4 would look at same."

12:01 5 And if we could go down just a little bit  
6 further, on a subsequent date, April 23rd:

7 "(V4)--- contacted myself this date and  
8 advised that the picture of Fisher I had  
9 forwarded she still identified as her  
12:01 10 attacker. She said he looked a little  
11 scruffier at the time of the attack."

12 And is that generally accurate information, then,  
13 as you would have provided in 1993?

14 A Yes it is.

12:01 15 Q Including the reference to the apparent error that  
16 you had made in terms of time?

17 A (Witness nods).

18 Q Okay. Just about through, (V4)----. I'm going to  
19 -- and perhaps, Mr. Commissioner, what I will do  
12:01 20 is I'm going to refer to a couple of other RCMP  
21 documents, I don't propose to take (V4)----  
22 through them at all, but there is notes of a  
23 meeting with Sandra Ochwat by the RCMP officers,  
24 the individual that (V4)---- has referred to, and  
12:02 25 I'll just give you a document ID reference, that's



1 049273.

2 COMMISSIONER MacCALLUM: We, we're at our  
3 adjournment hour, are you going to be long?

4 MR. HARDY: No. Actually, I'm quite close  
12:02 5 to being finished, Mr. Commissioner.

6 COMMISSIONER MacCALLUM: Okay, finish then,  
7 please.

8 BY MR. HARDY:

9 Q And I'll also refer to the notes arising from the  
12:02 10 meeting with Loretta Polishchuk in terms of RCMP  
11 contact in 1993, and that document is 035042. And  
12 am I correct, (V4)----, that your next formal  
13 contact in this matter would have been in  
14 approximately 1997 when you met with an Inspector  
12:02 15 Orem?

16 A Yes.

17 Q And that was in the context of the investigations  
18 that were being conducted in relation to the Larry  
19 Fisher charges?

12:02 20 A That's correct.

21 Q And you recall that meeting?

22 A Yes I do.

23 Q And where did that meeting take place?

24 A The Skydome Hotel.

12:03 25 Q Okay. I'm going to refer you to that document,



1 and just refer you to a couple of portions from  
2 that document, it's document ID 072280 and the  
3 page is 0 -- actually, I think we've covered off  
4 that information, I can skip ahead.

12:03 5 There is a bit of a further  
6 discussion respecting time, (V4)----, and if you  
7 can just bear with me through this, it's page  
8 072289, focusing in on that portion there, please.  
9 It notes, question, "That's fine, that's basically  
12:03 10 all I have, (V4)----. If I were to suggest to you  
11 that you had left your house that morning at  
12 somewhere around quarter to seven would that be".  
13 Answer, "Boy you know that's far, because I also  
14 thought it was around 7:07". Question, "Okay, why  
12:04 15 do you say 7:07". Answer, "Or around that because  
16 that number sort of sticks, or 7:07 comes to mind,  
17 and again I know it's, I know it's statement, from  
18 what I recall maybe it was between quarter two and  
19 10 to 7 and I can't honestly right now recall what  
20 I said in my statement." Question, "Okay, and  
21 that you caught the bus somewhere, there's 7:00,  
22 that University bus". Answer, "Between 7 and 7:20  
23 I think it was". Question, "Between 7 and 7:20 -  
24 so the bus was what supposed to be there at 7, but  
12:04 25 it usually". Answer, "Oh boy, you know, like -



1           like this is 25 or 28 years ago". Question, "yeah  
 2           yeah". Answer, "I mean I remember, you know, the  
 3           person, the attacking me, but boy, do I remember  
 4           exactly what time the white bus came and the blue  
 12:04 5           bus came - no."

6                           And would that be accurate in  
 7           terms of your recollection as you were providing  
 8           it in 1997?

9           A           Sure.

12:05 10          Q           If you can just give me a moment, I'm going to  
 11           look at a couple other portions I had marked, I  
 12           think we've covered them.

13                           And, (V4)----, I understand that  
 14           you were not called to testify in the context of  
 12:05 15           the Larry Fisher legal proceedings; is that  
 16           correct?

17          A           That's correct.

18          Q           And, beyond your meeting with Inspector Orem, you  
 19           had no other informal involvement in the matter?

12:05 20          A           That's correct.

21          Q           Okay. Thank you, (V4)----, those are all the  
 22           questions I have for you. My Friends will have  
 23           some questions for you but I imagine we will be  
 24           breaking, now, for the lunch hour.

12:05 25                           COMMISSIONER MacCALLUM: Yes. 1:30,



1 please.

2 (Adjourned at 12:06 p.m.)

3 (Reconvened at 1:30 p.m.)

4 COMMISSIONER MacCALLUM: Mr. Beresh?

01:32 5 **BY MR. BERESH:**

6 **Q** Mr. Commissioner, thank you. (V4)-----, we've  
7 met before, I'm Brian Beresh. I have a few  
8 questions for you this afternoon, if you will bear  
9 with me, please. I have reviewed all of the  
01:32 10 material that I think exists in relation to your  
11 evidence, and I just wanted to confirm some things  
12 that are clear and have remained consistent, and  
13 the first is it appears that you left your home  
14 early on the 31st of January, 2000 -- 1969; is  
01:32 15 that correct?

16 **A** Earlier than I normally would have, yes, sir.

17 **Q** Yes. You were headed to the University?

18 **A** That's correct.

19 **Q** You travelled by bus, and you had a special pass  
01:32 20 for the bus, and the bus was what we might call a  
21 direct-route bus?

22 **A** Yes.

23 **Q** On route, on the white route, as it turns out?

24 **A** Okay.

01:33 25 **Q** Is that correct?



1 A Yes, sir, as far as I know.

2 Q That bus, to our knowledge, travelled in a  
3 direction down 22nd Street, out west, and made a  
4 circle back to the University?

01:33 5 A (No audible response).

6 Q You were an art student at the time?

7 A Yes, sir.

8 Q You had obviously gone through examinations in the  
9 first semester ending in December of 1968?

01:33 10 A I guess.

11 Q Presumably, right, correct?

12 A Yes.

13 Q And what is important for our purposes is that you  
14 had an 8:30 start for class; is that correct?

01:33 15 A All right, as far as I recall I had classes that  
16 started at 8:30, yes.

17 Q Again, we're just trying to get things that have  
18 been absolutely clear throughout the passages of  
19 the many years. My understanding is that you  
01:33 20 travelled north from your home to catch the bus;  
21 that was your normal route?

22 A Yes, sir.

23 Q And that was your route on the morning of the 31st  
24 as well?

01:33 25 A Correct.



1 Q Caught the bus, and then went off to university?

2 A Correct.

3 Q Now I take it that we agree on this; the person  
4 that you encountered was someone who you believed  
01:34 5 to be a total stranger?

6 A He was a total stranger, I --

7 Q That's what I am asking; he was a total stranger?

8 A Absolutely.

9 Q Okay. And the morning of the 31st of January, we  
01:34 10 understand that the weather was less than perfect,  
11 is that fair?

12 A That's correct.

13 Q At 6:45, 7:00, it was dark outside; is that  
14 correct?

01:34 15 A It was foggy. I don't know how dark it was. It  
16 was very foggy.

17 Q Okay. Well I take it the sun wasn't up; was it?

18 A No, I don't think so.

19 Q Okay. It was difficult to see?

01:34 20 A It wasn't difficult for me to see.

21 Q Pardon me?

22 A It wasn't difficult for me to see where I was  
23 going.

24 Q It wasn't difficult?

01:34 25 A It wasn't difficult for me to see where I was



1 going, no.

2 Q Okay. I'm just wondering, looking down the  
3 street, was it difficult to see?

4 A I guess. I had never thought about it being  
01:35 5 difficult to see. There was a lot of fog so --

6 Q Okay. Well see, (V4)-----, the reason I ask is  
7 in that document --

8 A Sorry, it's (V4)---.

9 Q Pardon?

01:35 10 A It's (V4)---.

11 Q Thank you very much.

12 A Thank you.

13 Q The reason I ask is I have looked at your own  
14 words about the description and I just want to be  
01:35 15 clear. If I could have 072293, please. Do you  
16 remember being questioned by the police, this was  
17 in 1997?

18 A Yes.

19 Q They asked you about looking around that morning,  
01:35 20 and in particular they asked you about when you  
21 screamed, and they asked you where your friend Ray  
22 was, and Mr. Fairhead or Constable Fairhead said:

23 "So Ray wasn't close enough to see for  
24 himself?"

01:36 25 Answer:





1 "You couldn't see anything - you  
2 couldn't see ..."

3 Now are those your words?

4 A If they are in there --

01:36 5 Q Okay.

6 A -- then I guess they must be.

7 Q And I take it they accurately reflect your best  
8 recollection at the time?

9 A In terms of being able to see a lot forward  
01:36 10 because of the fog, yes.

11 Q Well you didn't say 'a lot forward', did you, you  
12 said --

13 A I can see as I was walking, just as I can see  
14 where you are or I can see anybody else right now,  
01:36 15 if I was looking way forward the fog was there.

16 Q Well, (V4)-----, did you say you couldn't see  
17 anything to the police?

18 A I can't recall if those were the exact words that  
19 I said, "can't see anything".

01:36 20 Q But I take it you had no reason, in 1997, to  
21 distort anything you said to the police?

22 A Of course not, no.

23 Q Okay. Was this also correct:

24 "I hadn't seen Ray because I had never  
01:36 25 been exposed to that kind of weather in



1                   Saskatoon."

2                   Did you say that to the police?

3           A           I have no idea if I said that to the police  
4                   directly.  If I did it was in the context of it  
01:37 5                   being very, very unusual for it to be 40 below and  
6                   having a lot of fog in the morning like that.

7           Q           Uh-huh?

8           A           That was not a usual circumstance in terms of the  
9                   weather.

01:37 10          Q           Okay.  Just so we're clear --

11          A           Uh-huh.

12          Q           -- by this time you had graduated from university,  
13                   you were a successful business person, 1997?

14          A           Oh, am I -- I guess I was a successful business  
01:37 15                   person, sure.  I worked.  I worked.

16          Q           And I gather that you were indicating your best  
17                   recollection at the time?

18          A           That's correct.

19          Q           Okay.  Now, is it correct that this event that  
01:37 20                   occurred, occurred very quickly?

21          A           Yes.

22          Q           That is, a person appeared, the event occurred,  
23                   books went flying and then it was over?

24          A           Yes.

01:38 25          Q           Would you agree there was a very brief period of



1 time?

2 A Yes.

3 Q Okay. Now, I take it that as you described it  
4 this morning and have described it in the past, it  
01:38 5 was like what people used to say, using your  
6 words, it was like somebody trying to cop a feel?

7 A Uh-huh.

8 Q Yes?

9 A Yes. Yes, sir.

01:38 10 Q Okay. And it wasn't such a big deal at the time;  
11 is that correct?

12 A I guess it wasn't a big deal in that nothing  
13 happened to me was my interpretation of it. I  
14 wasn't hurt.

01:38 15 Q I appreciate that, and I'm not trying to change  
16 the complexion of it, I'm trying to change or  
17 trying to understand your thoughts about it. It  
18 didn't, for example, cause you to go to any of the  
19 homes along the way to stop in, ask for help,  
01:38 20 report it to anyone; is that correct?

21 A My gosh, no, I was too scared. No.

22 Q Sorry?

23 A No, I was too scared. I wouldn't have done that.

24 Q Well, you had been using that bus route for what,  
01:39 25 probably 10, 15 years?



1 A No, sir, I had not, I was not in university for 10  
2 or 15 years.

3 Q No, I appreciate that. You had used Avenue H to  
4 go up to the bus to catch the bus on 20th when you  
01:39 5 were still in school?

6 A No, sir, I caught the bus on 22nd Street to catch  
7 the bus when I was still in school.

8 Q Have you in the past told the police or any  
9 authorities that you knew many of the people who  
01:39 10 lived along Avenue H?

11 A I may have told them that because I did know the  
12 people who lived along that particular block.

13 Q That you would see a light on and you would feel  
14 comfortable enough to wave to those people?

01:39 15 A My best friend lived in the house where I waved to  
16 that person, her mother, yes, sir.

17 Q Just so we're clear, you didn't go to any of those  
18 houses?

19 A No, sir.

01:39 20 Q Okay. Got to the bus, didn't say anything to the  
21 bus driver?

22 A No, sir.

23 Q See, the reason I ask that is by the time you got  
24 home you discovered that someone had died on the  
01:40 25 west end of Saskatoon; is that correct?



1 A That's correct.

2 Q Okay. And I take it that that would be a pretty  
3 shocking event?

4 A Yes.

01:40 5 Q Certainly one which caught your attention?

6 A Yes.

7 Q Okay. So when the police came to talk to you, you  
8 were aware of this death at that point?

9 A That was the reason why -- yes.

01:40 10 Q Yes?

11 A Yes.

12 Q Okay. And I take it that you knew when the police  
13 questioned you about the event you spoke of, that  
14 they were involved in the investigation?

01:40 15 A I'm not sure how I would know that they were  
16 involved in the investigation, but I knew they  
17 were questioning me because my dad had called  
18 because I had told them what had happened.

19 Q And your dad insisted they come to your house?

01:40 20 A As far as I understand, yes.

21 Q And I take it you probably hadn't had a lot of  
22 dealings with the police before this?

23 A Not ever that I recall.

24 Q That's what I would suspect. So it was a pretty  
01:41 25 unique event that they would come to your house



1 and talk to you?

2 A I don't know if that's a unique event. I just  
3 know that my dad asked them to come to the house.

4 Q Sorry, in your life it was a unique event?

01:41 5 A Oh, yes.

6 Q And your parents were present I understand?

7 A My father was.

8 Q Father, fair enough. And you sat and talked to  
9 the police officer?

01:41 10 A As far as I know.

11 Q Was it Constable Bennett?

12 A I don't remember the names, I'm sorry.

13 Q Okay. But in any event, you knew what Constable  
14 Bennett was doing, asking you questions?

01:41 15 A Yes, yes, he was asking me questions, yes, sir.

16 Q I mean, he seemed serious about what he was doing?

17 A Yes.

18 Q You knew the seriousness of the situation?

19 A Presumably I knew that it was serious, yes.

01:41 20 Q Presumably you wanted to help the police?

21 A Of course.

22 Q And you provided to them as much detail as you  
23 could recall?

24 A That's correct.

01:41 25 Q Is that correct?



1 A That's correct.

2 Q Okay. And in fact it appears you provided the  
3 information to them orally as you spoke to the  
4 officer and then afterwards a statement was taken  
01:42 5 from you?

6 A Uh-huh.

7 Q Yes. And you've been referred to that; is that  
8 correct?

9 A That's correct.

01:42 10 Q Okay. And I wonder if I can have on split screen,  
11 please, 006404 and 106110. So we appear to have  
12 the two operative documents that were generated at  
13 the time, that is, January 31st, and by my  
14 calculation, if the time on the statement is  
01:42 15 correct, this would be 10 plus hours after the  
16 event; is that approximately fair?

17 A If that's what it says, then that's fair. I was  
18 not, like, keeping track of time at that point in  
19 time.

01:42 20 Q I understand. Let's look at the bottom of the  
21 page. I take it that you've confirmed before  
22 that's your signature?

23 A Uh-huh.

24 Q Yes?

01:43 25 A Yes, sir.



1 Q My understanding is that the practice was to take  
2 a statement like this, have the person read it and  
3 then sign it?

4 A All right, yes.

01:43 5 Q Is that what occurred at that time?

6 A Yes, yes.

7 Q And of course being in university, you could read  
8 the statement; is that correct?

9 A I could read it, yes, sir.

01:43 10 Q Okay. And the information you provided,  
11 particularly at the bottom of the page, came  
12 directly from you; that is, not from some other  
13 person?

14 A That's correct.

01:43 15 Q Okay. And then it also appears that you provided  
16 some other description or provided a description  
17 on the other document; correct?

18 A I understand, yes, sir.

01:43 19 Q Okay. So if we look at the two, they appear to be  
20 the cumulative effect or cumulative recollection  
21 that you had on January 31st, 1969 of the  
22 individual?

23 A Yes, sir.

01:44 24 Q Okay. If we look at either or both of those  
25 documents, we get some physical description?





1 A Uh-huh.

2 Q Obviously.

3 A Yes.

4 Q But would you agree with me that the description  
01:44 5 in either or both of those is very vague?

6 A To me it doesn't seem very vague, but I don't --  
7 for me it doesn't seem very vague.

8 Q Well, let's go through what's not there. I don't  
9 see anywhere in either of those documents an  
01:44 10 estimate of the individual's weight; is that  
11 correct?

12 A That's absolutely correct, sir.

13 Q I don't see anywhere in either of those documents  
14 any indication of facial description; that is, was  
01:44 15 it a round face, was it a square face, was it a  
16 long face, anything like that do we?

17 A And again you are 100 correct, sir, that does not  
18 say that.

19 Q I don't see in either of those descriptions any  
01:45 20 facial features given, long nose, short nose;  
21 correct?

22 A You know, I was not looking at that at that point.  
23 Thank you, no, you are right.

24 Q I don't see anywhere in that description eye  
01:45 25 colour?



1 A Excuse me? I'm sorry.

2 Q Eye colour.

3 A You are right, there's no eye colour listed there.

4 Q I don't see any description in there or any  
01:45 5 suggested indication of whether or not there was  
6 any facial hair?

7 A You are right, we're reading the same document,  
8 you are right, it doesn't say that, correct.

9 Q I don't see any description, you give a  
01:45 10 description to hair, but I don't see any hair  
11 style?

12 A I wasn't aware of style at that point, sir.

13 Q Well --

14 A That was not the biggest thing on my mind when  
01:45 15 somebody was coming towards me --

16 Q I --

17 A -- to wonder about the colour of his eyes or what  
18 the style his hair was.

19 COMMISSIONER MacCALLUM: Mr. Beresh, I  
01:46 20 wonder if you can give us an idea where this is  
21 leading us?

22 MR. BERESH: Well, it leads up to the  
23 *Toronto Star* news article, sir, and I think I  
24 have to lay the foundation for it.

01:46 25 COMMISSIONER MacCALLUM: I mean, in terms,



1 with regard to the terms of reference of our  
2 inquiry as opposed to some interest you might  
3 have on your client's behalf in demonstrating  
4 that it wasn't him.

01:46 5 MR. BERESH: I appreciate that. I think  
6 that you have to make the factual foundation in  
7 relation to evidence of every witness.

8 COMMISSIONER MacCALLUM: Yes.

9 MR. BERESH: The evidence of every witness  
01:46 10 has to be tested before that can occur and I  
11 think this is part of that testing process.

12 COMMISSIONER MacCALLUM: Well, I'm sure you  
13 are testing, but I just want to know what the  
14 purpose of the cross-examination is. I don't  
01:46 15 want to get into a purely collateral matter as  
16 I'm sure you realize.

17 MR. BERESH: I don't either. I contemplate  
18 how some of the parties might try and use this  
19 evidence if it is not tested before you and I'm  
01:46 20 thinking ahead, I'm not thinking ahead about  
21 final argument and I'm thinking about --

22 COMMISSIONER MacCALLUM: Well, as long as  
23 you can assure me that it somehow relates to our  
24 terms of reference to Mr. Milgaard's wrongful  
01:47 25 conviction.



1 MR. BERESH: Absolutely.

2 COMMISSIONER MacCALLUM: All right.

3 BY MR. BERESH:

4 Q Thank you. You see, I appreciate His Lordship's  
01:47 5 position, I guess what I'm looking at is there's  
6 more that's not given in the description than is  
7 given in the description except some very vague  
8 outline; is that fair?

9 A I guess that's fair, sir. Right now I'm wondering  
01:47 10 if you know what colour my eyes are.

11 Q That's right, because I'm 20 feet from you. Is  
12 that right?

13 A I don't know.

14 Q If we look at the description of clothing, would  
01:47 15 you agree with me that at best you give a vague  
16 description of clothes in either of those?

17 A Well, to me it's not vague.

18 Q Well, what kind of pants was the person wearing,  
19 even in terms of colour?

01:48 20 A I wasn't looking at his pant colour, sir.

21 Q No?

22 A I was focusing on the parts of his body that were  
23 coming at me, at a person who was approximately my  
24 height, so -- or a little bit bigger, so I would  
01:48 25 not be looking at his pants at that point in time,



1 I was looking at being afraid.

2 Q And because the person just came in front of you  
3 almost instantaneously, you wouldn't have had a  
4 chance to see the colour of the pants; is that  
01:48 5 what you are telling us?

6 A I don't know. All I'm saying is I was not  
7 focusing on his pants at that time.

8 Q But one thing is clear, isn't it, that in none of  
9 the descriptions that you gave in '69 or since did  
01:48 10 you ever describe the individual having any  
11 substance on the clothing which might be reddish  
12 colour, blood colour or anything else; is that  
13 correct?

14 A No, I have never described that, sir.

01:48 15 Q Never any suggestion that there was any wetness on  
16 the clothing that was apparent to you; is that  
17 correct?

18 A Not -- I've never described that, sir.

19 Q Sure. Now, I want to ask you, because this was  
01:49 20 touched on before, it appears as though the police  
21 showed you some photographs, but what's not clear  
22 to me is when that occurred, and are you able to  
23 help us there, was it that day or some other day?

24 A It's very vague to me. I thought that it might  
01:49 25 have been that night, but I am not 100 percent



1           sure and I think I've stated that.

2           **Q**       And are you able to tell us if that occurred,  
3           where it occurred?

4           **A**       As far as I understand, it was not in my home, it  
01:49 5           was at the Saskatoon City Police station.

6           **Q**       Okay. And do I gather that after that event, that  
7           is, the photograph viewing, where ever it  
8           happened, you had no other contact with the  
9           Saskatoon police in 1969?

01:49 10          **A**       Not that I can recall.

11          **Q**       And I take it, I don't think you've ever been  
12          asked this, but you've never kept any sort of  
13          journal or diary, independent recollection of  
14          these events?

01:50 15          **A**       No, sir.

16          **Q**       Never recorded in any fashion like that?

17          **A**       No, sir.

18          **Q**       And I take it, as you said in 1997 to Detective  
19          Orem, you put this out of your mind in essence?

01:50 20          **A**       I certainly tried to.

21          **Q**       So nothing happened in 1970, '71, in the years  
22          that followed, which assisted in renewing or  
23          refreshing your memory; is that correct, until  
24          1991?

01:50 25          **A**       That's correct.



1 Q So by my count, that's about 22 years, nothing  
2 happened in that intervening time to assist you in  
3 terms of refreshing your memory or adding some new  
4 information to your memory; is that correct?

01:50 5 A Not that I recall, sir.

6 Q Okay. Now, this morning you were asked about the  
7 *Toronto Star* article and I wasn't sure if I  
8 understood how it came to your attention. Did you  
9 say that a friend called you?

01:51 10 A I think that's fairly well documented. Yes, a  
11 friend of mine called me.

12 Q And do we know who this friend is?

13 A I don't know if you do. I do.

14 Q Who is that?

01:51 15 A His name is Glenn.

16 Q Okay. And I guess if he called you, he had to  
17 know that you had some interest in this?

18 A Absolutely not, absolutely not. I think I've  
19 explained it many times, my friend called because  
01:51 20 when I had first moved to Toronto we were talking  
21 about things we had done in our lives, etcetera,  
22 etcetera, etcetera, and I had mentioned that I had  
23 been assaulted at some point in my life,  
24 indecently assaulted, and that the person who had  
01:51 25 assaulted me had gone to jail for the murder of a



1 nurse that was killed the same day and that was my  
2 big claim to fame.

3 Q And that was your claim to fame?

4 A You know, well, I'm just saying that now. Like,  
01:52 5 it was a conversation, you know, what have you  
6 done with your life, what have you done with your  
7 life, you know, that kind of a thing.

8 Q And can you put a date to that conversation in  
9 terms of a year?

01:52 10 A No, no.

11 Q When did you move to Toronto, please?

12 A I moved to Toronto I think -- I taught -- let me  
13 see. I think it was '70 -- the summer of '71 I  
14 moved to Toronto.

01:52 15 Q So is that about the time you had this discussion?

16 A I have no idea. I met my friend Glenn through my  
17 then boyfriend and they were all students going to  
18 school. I have no idea when that conversation  
19 would have occurred.

01:52 20 Q Well, so when you said it was your claim to fame,  
21 what was the basis for the knowledge of the  
22 conviction?

23 A I'm sorry?

24 Q How did you know anyone was convicted?

01:53 25 A How did I know anybody has been convicted?





1 Q Yes.

2 A I think I've gone through that many times, that it  
3 was my understanding that the person who had, that  
4 I was aware I think -- I can't remember '69,  
01:53 5 whenever it was, I have no idea when David  
6 Milgaard was convicted, I had been told or had  
7 been told by a friend, whatever, I can't remember  
8 the circumstances, that the person who had killed  
9 the nurse had been convicted and put in jail and I  
01:53 10 had always assumed that it was the same person who  
11 had attacked me who fit the description of Larry  
12 Fisher.

13 Q So then how does this claim to fame arise?

14 A The claim to fame -- I'm sorry, that was a silly  
01:53 15 comment to make. It was meant as the context that  
16 my friends and I may have been chatting was as  
17 have you ever met anybody famous, have you ever  
18 done anything, possibly had some wine and chicken  
19 wings, I don't know.

01:53 20 Q Surely you are not telling us that you didn't  
21 follow the Milgaard case?

22 COMMISSIONER MacCALLUM: Didn't what?

23 MR. BERESH: Didn't follow the Milgaard  
24 case.

01:54 25 A I'm sorry, I'm absolutely telling you I never



1 followed the Milgaard case.

2 BY MR. BERESH:

3 Q But, witness, you said in the Supreme Court that  
4 you and a friend had tried to go to the area where  
01:54 5 it happened on more than one occasion.

6 A That was not following the Milgaard case.

7 Q Madam, after January 31st, 1969 did you and a  
8 friend try to go to find the place where you  
9 thought Gail Miller had died?

01:54 10 A We tried to find the area to see how long it would  
11 take.

12 Q And you are saying you didn't follow the Milgaard  
13 case in the news?

14 A No, sir, I did not follow the Milgaard case in the  
01:54 15 news and I think I've gone through that many  
16 times. With most respect, sir, we did not get the  
17 newspaper, it was never ever talked about in my  
18 family, it was never talked about with my friends  
19 and to the best of my knowledge my mother wasn't  
01:54 20 even aware of all of the circumstances.

21 Q Never talked about by your university friends who  
22 caught the bus at Avenue H and 22nd?

23 A I have no idea, sir. I was always a very insular,  
24 shy person. I had two close friends.

01:55 25 Q Well, could we have document 156135, please. Can



1 you highlight the first portion for me, please.

2 You were shown this document this morning?

3 A I was.

4 Q And I can't read what's above Dear Hersh. Do you

01:55 5 remember or can you read what that small

6 inscription is?

7 A Dear Hersh. Do you want me to read the whole

8 thing, sir?

9 Q No, I just want -- it appears to be the date, but

01:55 10 correct me if I'm wrong.

11 A Oh, it looks like the date.

12 Q What's the date, please?

13 A I can't read it, I'm sorry. I can't see it,

14 sorry.

01:55 15 Q Okay. Obviously it's after the Supreme Court of

16 Canada?

17 A That's correct.

18 Q Okay. And so do you write -- I take it this is

19 totally in your handwriting?

01:56 20 A Yes, it is.

21 Q So I read it, it says:

22 "Dear Hersh:

23 Thanks for making me feel at ease last

24 week."

01:56 25 Was that a reference to the reference, Supreme



1 Court of Canada reference attendance?

2 A As far as I recall, sir, because that was the only  
3 time I would have met Mr. Wolch.

4 Q You wrote that?

01:56 5 A Yes, I did.

6 Q "I appreciate it. I enjoyed watching  
7 you."

8 Did you write that?

9 A I think I've already said I wrote the whole thing,  
01:56 10 yes, sir.

11 Q Okay.

12 "It was a real treat to watch someone  
13 who so effectively uses silence and  
14 whose questioning techniques are A-1."

01:56 15 Did you write that?

16 COMMISSIONER MacCALLUM: She said she wrote  
17 the whole thing.

18 A Yes, I wrote that, sir, in my handwriting.

19 BY MR. BERESH:

01:56 20 Q "Thanks for the honour and privilege."

21 Is that correct? Am I reading it right?

22 A Yes, sir.

23 Q If we can scroll to the bottom, please, the last  
24 paragraph, second last paragraph:

01:57 25 "It was a pleasure meeting you. Maybe



1                   we'll chat again sometime. Then you can  
2                   answer my questions?! I'll watch for  
3                   you in the paper."

4                   Did I read it correctly?

01:57 5           A           That's what it says, yes, sir.

6           Q           The paragraph above it:

7                   "You and your colleagues must be getting  
8                   pretty tired. Hope you give yourself a  
9                   vacation after this."

01:57 10          Did you write that?

11          A           I'm sorry, I feel really strange. I've said over  
12                   and over I wrote this, it's my writing. Yes, sir,  
13                   I did write that. Yes, you are reading it  
14                   correctly.

01:57 15          Q           See, the reason I have to put that to you and ask  
16                   you is it appears that you see yourself there as  
17                   part of somebody's team.

18          A           I guess maybe you are putting that into that, sir.  
19                   I was writing a note. I had no idea around the  
01:58 20                   protocols or what one has to do or say or the  
21                   behaviours. I had just testified at the Supreme  
22                   Court and I felt very strongly that I had been  
23                   treated with respect by the people who had  
24                   questioned me, i.e., Mr. Wolch, and that was the  
01:58 25                   extent of it, sir.



1 Q What I'm suggesting is this letter is very  
2 personal for a witness to write and you've  
3 developed some sympathy for the Milgaard team.

4 A Sir, if I would have been questioned by you and  
01:58 5 had spent time talking with you, I would have sent  
6 you probably a thank you card also. That's the  
7 way I do things, sir, and I did not think for one  
8 second that I was not allowed to write a personal  
9 note because nobody told me there were rules about  
01:58 10 writing a personal note, so I did not have any  
11 kind of a personal anything other than I was  
12 writing a note.

13 Q Okay. Let's look, if we can, a split screen,  
14 please, 106110 and 156132. You see, the reason I  
01:59 15 ask is it appears that when you meet with Mr. Levy  
16 your description of the events seems to change  
17 from 1969, and let's look at it. 1991 you say the  
18 person -- this is after you've seen the  
19 photographs in the *Toronto Star*; is that correct?

01:59 20 A Yes, sir.

21 Q After you've seen Mr. Fisher's photograph?

22 A Yes, sir.

23 Q After you've seen the caption under it, vicious  
24 serial killer or serial rapist?

01:59 25 A I'm sorry, could you show that? I don't remember



1           that particular statement, but maybe it's in the  
2           clippings.

3           Q       It was in the *Toronto Star*.

4           A       Okay.

02:00 5           Q       The caption under the photograph you said at the  
6           Supreme Court you identified.

7           A       Correct, I remember the photograph. I don't  
8           remember all the things that were under the  
9           photograph.

02:00 10          Q       Let's look at how the description changes from '69  
11          to 1991. You mention there the person is native  
12          or Metis. No mention of that in 1969; is that  
13          correct?

14          A       Nothing that seemed to be recorded, sir.

02:00 15          Q       I take it you didn't say that to the police, did  
16          you, in '69?

17          A       I would have thought that I would have -- I'm not  
18          sure whether I said native or Metis, I can't  
19          actually recall, because again, it was in my  
02:00 20          parents' home and I was pretty scared, so I  
21          thought that I had said that and it got reflected  
22          as dark complexion. I don't totally recall.

23          Q       If you didn't say it in '69, then it may well be  
24          that you adopted it into your memory after you saw  
02:01 25          the photograph in the *Toronto Star*?



1 A I don't think so.

2 Q Is there any explanation why it's not recorded in  
3 either your statement or the police notes we have?

4 A Possibly the police didn't write down everything  
02:01 5 that I said verbatim. I don't know.

6 Q Or it wasn't in your memory?

7 A I would guess that's up for interpretation, sir.

8 Q You say that the person in 1991 had long dark  
9 hair, but in '69 you said not too long?

02:01 10 A And I think you and I went through exactly that  
11 same questioning technique at the Supreme Court of  
12 Ontario, or Supreme Court, sir, when at that point  
13 I had pointed to another member in the courtroom  
14 and described the length of hair at that time.

02:01 15 Things have changed in terms of how we define long  
16 hair, short hair, medium hair from 1969 to the  
17 Supreme Court hearing.

18 Q My suggestion is that the only way you would have  
19 changed it to long hair is as a result of the  
02:02 20 photograph in the *Toronto Star*; isn't that  
21 correct?

22 A I -- I -- personally I'm not agreeing with that,  
23 sir, so if that's your interpretation, fine. I  
24 think I pointed out this morning about the length,  
02:02 25 of what I perceived the length of hair to be, so





1           whether it's around the terminology of long hair  
2           or short hair, I'm sorry, I can't help you there.

3           Q       Did you say to the police that the main reason you  
4           selected or thought it was Mr. Fisher in 1991 was  
02:02 5           the length of hair?

6           A       Possibly. It's starting to get pretty vague at  
7           this point. Thank you.

8           Q       Could we have document 049258, please. Again your  
9           discussion, and it appears this is 1993, with a  
02:03 10          police officer, did you state to that officer  
11          that, "She readily identified Fisher from the  
12          photos shown, said the closest likeness was the  
13          one taken in the *Toronto Star* in '91 mainly  
14          because of the length of his hair." My question,  
02:03 15          did you state that to the police officer?

16          A       I think -- it looks as if I did, sure.

17          Q       And was that the truth?

18          A       Yes, sir, it was the truth.

19          Q       Okay. Is it correct that -- if we can go back to  
02:03 20          the split screen again please, quickly, the 1991  
21          statement makes reference to the glove on the left  
22          hand specifically as a leather farmer-type glove;  
23          correct?

24          A       Yes, sir.

02:04 25          Q       But absolutely no reference to that in 1969?



1 A That's correct.

2 Q It makes reference, 1991 statement makes reference  
3 to the fact that there was something in his right  
4 hand; correct?

02:04 5 A Correct.

6 Q And no reference whatsoever to that in 1969?

7 A That's correct.

8 Q But of course this is after you've read the  
9 article in the *Toronto Star* where there's a  
02:04 10 suggestion that Mr. Fisher may have been involved  
11 in incidents where there was a knife?

12 A I'm sorry, sir, I don't know if I've ever stated  
13 that I've read those articles.

14 Q Did you read those articles?

02:04 15 A To the best of my knowledge, I did not spend a lot  
16 of time reading any of those articles. I looked  
17 at the picture of Larry Fisher.

18 Q Did you read those articles, please?

19 A To the best of my knowledge, I don't recall  
02:05 20 reading all the articles. There's some that I  
21 totally know that I did not read.

22 Q What's the explanation for 1991 adding something  
23 in the right hand when it 1969 there's absolutely  
24 no reference to it?

02:05 25 A The explanation for me, sir, is that I am



1 absolutely adamant that the person that attacked  
2 me was wearing a glove on one hand and not wearing  
3 a glove on another hand. I had thought that he  
4 might have -- his hand was, from what I could  
02:05 5 recall, like that which indicated to me that there  
6 may have been something in it. If it was not  
7 recorded, then I'm sorry, I don't know why.

8 Q The problem is in 1969 there's no reference to  
9 either hand.

02:05 10 A That's correct. It doesn't mean I didn't say it.

11 Q In 1991 you've now moved the allegation to one of  
12 somebody grabbing your crotch; correct?

13 A I think we're getting into some semantics here,  
14 but I know it's not up to me to make a question of  
02:06 15 that. I guess for me that whole area when  
16 somebody is coming at you, and I can reenact it,  
17 like, pretty quickly if you would like me to do  
18 that, of somebody running their hands up your  
19 legs, into your genital area, is feeling you up,  
02:06 20 groping you, grabbing your crotch, whatever word  
21 you want to be calling it, sir.

22 Q All I'm suggesting is that in 1969 you said he  
23 grabbed your leg and it appears--

24 COMMISSIONER MacCALLUM: No, she didn't say  
02:06 25 that. She said that somebody ran his hand up and



1 down her legs.

2 MR. BERESH: Well, okay, grabbed/ran.

3 COMMISSIONER MacCALLUM: Well, grabbed or  
4 ran, obviously there is a difference.

5 BY MR. BERESH:

6 Q Well, but no indication of any genital touching in  
7 1969; is that correct?

8 A Sir, I would not have used the words 'genital  
9 touching' in front of my father, I would never  
02:06 10 have discussed those kinds of things with a bunch  
11 of men who I had never seen before when I was  
12 having my period wearing a very thick pad, thank  
13 you.

14 Q The statement to Mr. Levy follows the Toronto Star  
02:07 15 articles, is that correct, in terms of time?

16 A That's correct.

17 Q When you met with Mr. Levy did you have the  
18 articles with you or did he have the articles with  
19 you -- with him?

02:07 20 A I don't recall.

21 Q If we can go back, please, to 156135, and if we  
22 could highlight this portion, please. You were  
23 asked this question this morning, in essence it's  
24 your question about timing, is that fair to say,  
02:07 25 'how could things happen to Gail Miller and then,



1 at a different location, things happen to you'; do  
2 you remember being asked this this morning?

3 A Yes I do, sir, yes.

4 Q Okay. And you said that Mr. Wolch never explained  
02:07 5 that to you?

6 A I never got --

7 Q Is that right?

8 A I never got a reply to that particular letter.

9 Q All right. And your inquiry about that timing  
02:08 10 continued when you met with Detective Orem in  
11 1997; is that correct?

12 A I guess.

13 Q Okay. If we can go to document 072290, and at  
14 this point the detective is asking you about time,  
02:08 15 and my question is did you ask the officer this  
16 near the bottom of that page:

17 "well I guess from my point of view -  
18 why is it so important about the time of  
19 you know, the bus, when the bus came,"

02:08 20 And my question is do you recall asking that  
21 question?

22 A Yes.

23 Q Okay.

24 A I mean I must have, it's there, and I was  
02:08 25 certainly curious, yes.



1 Q Okay. So then let's go to the issue of timing,  
2 finally, if I can, please. You said to Mr. Levy  
3 or recorded in this statement, I presume you  
4 stated it and he had somebody type the statement  
02:09 5 for you, that your recollection was that you left  
6 your house at about 6:45 to 6:50; is that correct?

7 A I think, sir, based on all the things that we've  
8 gone through this morning, I have, you know, gone  
9 through it in terms of I don't exactly know what  
02:09 10 time I left my parents' home. It was a little bit  
11 earlier than normal. I would have been standing,  
12 talking to my mum in the porch around 6:45 or  
13 6:50, waiting to see if Ray was going to go by.

14 Q Well --

02:09 15 A The only time that I am sure of, for me, is the  
16 7:07 time that I saw on my watch.

17 Q Well, --

18 A I'm sorry, I can't give any more information about  
19 that.

02:09 20 Q -- except when you spoke to Mr. Levy, your  
21 statement was given before the Supreme Court  
22 reference; is that correct?

23 A Yes.

24 Q It would -- appears to have been given before  
02:09 25 anyone raised to you any concern about the time?



1 A I --

2 Q Is that correct?

3 A I can't recall that, sir. You are probably 100  
4 percent right.

02:09 5 Q Okay. Because I have looked at the map numerous  
6 times, and it appears that if you were in the 300  
7 block Avenue H --

8 A Uh-huh.

9 Q -- then your route to the bus would be up 300,  
02:10 10 into 200, and then 100 would meet 22nd Street; is  
11 that correct?

12 A Yes, sir.

13 Q Right. So you would have walked less than three  
14 blocks?

02:10 15 A I think it was around three blocks, yes.

16 Q Yeah. Well, you weren't at the end of the block,  
17 --

18 A That's right.

19 Q -- you were somewhat in the block?

20 A That's right.

21 Q So you had to walk that portion of the 300 block,  
22 into the 200 block, and then 100?

23 A And as you recall it's a significantly long block,  
24 the 200 block, as I recall.

02:10 25 Q Sure. We can check. But we're talking about



1 walking three blocks?

2 A Uh-huh.

3 Q Correct?

4 A That's correct.

02:10 5 Q You heard this morning that the bus transit  
6 employee or manager suggested that the bus left at  
7 7:07 a.m. from H and 22nd?

8 A I heard that, sir, yes.

9 Q Okay. That bus was the bus that you caught to get  
02:11 10 you there in time for the 8:30 class?

11 A Yes sir.

12 Q Okay. If it took you five to ten minutes to walk  
13 there, obviously you would be leaving, or be  
14 getting there sometime before 7:07 if you wanted  
02:11 15 to make sure you caught it?

16 A Usually, yes.

17 Q Okay.

18 A It was also fairly irregular.

19 Q Oh, I appreciate that, but you wouldn't want to  
02:11 20 guess on the bus being late on a cold day; would  
21 you?

22 A I would hope not.

23 Q You said to Constable Orem or Detective Orem that  
24 you left early because of the weather?

02:11 25 A That's correct.





1 Q So you would want to catch the bus?

2 A That's correct.

3 Q Okay. So I take it that the time to go from your  
4 house may well have been closer to 7:00 a.m. when  
02:11 5 this event occurred; is that correct?

6 A I think we've talked about that this morning, yes,  
7 sir.

8 Q Okay. If you left at 6:45. Now, finally, I just  
9 wanted to clarify that the person who came towards  
02:12 10 you was not an individual who was running?

11 A No.

12 Q Didn't run, walked?

13 A He was not running, sir.

14 Q Okay. Nowhere have you ever described the  
02:12 15 individual as being out of breath or apparently  
16 exhausted?

17 A I wasn't looking for that.

18 Q No.

19 A That's so correct, yes.

20 Q Yes.

21 A Nobody appeared to be exhausted.

22 Q Nothing suggested --

23 A I don't know.

24 Q Okay. And the individual, just so we're clear,  
02:12 25 did not come from behind you?



1 A That's correct.

2 Q The individual did not grab you by the face or  
3 mouth in any way?

4 A That's correct.

02:12 5 Q The person didn't threaten you in any way? I  
6 understand you say he didn't say anything.

7 A Grunting. That was about it.

8 Q No threats at all, of any kind, though?

9 A Not that I recall, sir.

02:12 10 Q Sure. The individual didn't appear to pull you in  
11 any direction or push you in any direction?

12 A No, sir.

13 Q No. And the event was over in a very short period  
14 of time?

02:13 15 A That's correct, sir.

16 Q Okay. Those are the questions I have,  
17 Mr. Commissioner, thank you very much.

18 COMMISSIONER MacCALLUM: Okay, Mr. Beresh,  
19 thanks.

02:13 20 I must say, sir, that I --  
21 whatever point you were trying to make on behalf,  
22 relating to the Milgaard Inquiry, was lost on me.

23 MR. BERESH: It will be found in final  
24 argument, I can guarantee that, sir.

02:13 25 COMMISSIONER MacCALLUM: Thank you.



1 BY MR. WOLCH:

2 Q I just have a couple of questions for you. The  
3 first is did I understand correctly your evidence  
4 was that when you first spoke to Mr. Asper it was  
02:13 5 clear that he had never heard of you or didn't  
6 know anything about what you were talking about  
7 when you raised it with him?

8 A That was my understanding.

9 Q And --

02:14 10 A Sorry, could I just take a second?

11 COMMISSIONER MacCALLUM: Oh yes. We'll  
12 take a break.

13 MR. WOLCH: Sir, I will be finished in  
14 about a minute.

02:14 15 COMMISSIONER MacCALLUM: Well she is not  
16 able to answer you at the moment.

17 A I'm sorry, I just --

18 MR. WOLCH: Oh, I'm sorry.

19 *(Adjourned at 2:14 p.m.)*

02:21 20 *(Reconvened at 2:21 p.m.)*

21 BY MR. WOLCH:

22 Q I just wanted to let you know that I appreciated  
23 the letter that you sent to us, it meant a lot  
24 then, and I sincerely apologize to you for not  
02:22 25 getting back to you.



1 A It's a little bit late, sir.

2 Q Well, once we're done here, I'm happy to meet with  
3 you out there and tell you everything that I can  
4 about whatever you want to know.

02:22 5 And I would like to also, on  
6 behalf of the Milgaards, thank you for having come  
7 forward the way you did, and I know it's been an  
8 emotional strain for you, and you have handled it  
9 remarkably well.

02:22 10 And I also know something,  
11 perhaps, that most people don't know, but it's  
12 also been a financial strain for you; that is you  
13 have taken time off of work for the Supreme Court,  
14 for interviews, and it's cost you money, hired a  
02:22 15 lawyer, all the things that you have done, and  
16 without complaining, and we sincerely thank you  
17 for it all. Thanks.

18 A Thank you.

19 COMMISSIONER MacCALLUM: Any further  
02:22 20 cross-examination? Any re-examination?

21 MR. HARDY: Just one very quick point,  
22 Mr. Commissioner.

23 COMMISSIONER MacCALLUM: Okay.

24 **BY MR. HARDY:**

02:23 25 Q If we could bring up, please, document 106110, if



1 we could just focus in at the top of the page  
2 please. Just in case I had left the wrong  
3 impression in terms of my questions, the comment  
4 I'm reading to you, (V4)----, starts here and  
02:23 5 indicates:

6 "This person came out of a yard (after  
7 taking her back there) of 201 Avenue H  
8 South, and walked towards her."

9 And if the intent of that comment is to indicate  
02:23 10 that the police had actually taken you back to  
11 the scene where this incident had occurred I take  
12 it you would agree with that comment, then, as an  
13 accurate comment?

14 A Yes.

02:23 15 Q And I do -- do you follow me on that question?

16 A I think so.

17 Q We had previously talked about it, and I think the  
18 presumption perhaps had been made that that might  
19 be indicating that the perpetrator had taken you  
02:23 20 back there, --

21 A Right.

22 Q -- back in the yard?

23 A Yes.

24 Q And that's one interpretation. If it's read the  
02:23 25 way that I have just mentioned to you that would



1 be an accurate account?

2 A As of the police taking me back there?

3 Q That's right.

4 A Yes, as opposed to me reading it as the  
02:24 5 perpetrator had taken me back there, yes.

6 Q Okay. Thank you very much.

7 COMMISSIONER MacCALLUM: Just a second, I'm  
8 just going to make sure I got the -- it was  
9 ambiguous, of course, --

02:24 10 A Uh-huh.

11 COMMISSIONER MacCALLUM: -- had come out of  
12 the yard and went...

13 Thank you very much,  
14 (V4)-----, you are excused.

02:24 15 A Thank you.

16 COMMISSIONER MacCALLUM: Thank you.

17 MR. HODSON: Mr. Commissioner, the next  
18 witness is (V5)-----, one of the assault  
19 victims. She is scheduled to be here tomorrow  
02:25 20 morning. As I alluded to on Monday, or last  
21 Thursday, it was important for these assault  
22 victims to have a certain time as to when they  
23 were here testifying. (V5)----- lives outside  
24 the city and I did not want to have her here  
02:25 25 waiting for a day when she would not get on, so I



1 gave her a certain time tomorrow and, in fact,  
2 I'm meeting with her later today, so she is not  
3 here to give evidence in person, she will be here  
4 tomorrow morning. However, I have not yet read  
02:25 5 in the details of her evidence, which I did for  
6 the first three victims, so what I would like to  
7 do now, and it will take maybe 15 minutes, is to  
8 just go through and put on the record the  
9 documents and some of the statements and reports  
02:25 10 and, in particular, go through some of the  
11 details of the assaults.

12 You will recall that when I  
13 call Ms. -- actually her married name is  
14 (V5)----- but her maiden name is (V5)--- -- when  
02:25 15 I call her tomorrow I will not be going through  
16 the details of the attacks with her, and so what  
17 I will do is just go through some of the  
18 documents.

19 I should also point out that,  
02:26 20 for this matter, there appears to be either a  
21 complete police file, or fairly close to a  
22 complete police file, so there are many  
23 investigation reports. I do not propose to go  
24 through all of them. When we have police  
02:26 25 officers testifying we will go through those.



1 So, as I say, I'll just be touching on some of it  
2 to give the Commission and the public some  
3 understanding of where, and what happened, so  
4 that I don't have to go through it with the  
02:26 5 witness.

6 **SEXUAL ASSAULTS, Read-ins by Mr. Hodson**

7 BY MR. HODSON: The first document is the first  
8 police report, which is 105204, and this is a  
9 report dated February 22nd, 1970, and this is  
02:26 10 about three weeks after Mr. Milgaard's conviction  
11 for the murder of Gail Miller. And this is a  
12 report from Constable Blaney, and if we could  
13 just call out the bottom part there, please, and  
14 this report details -- actually, scroll up to the  
02:27 15 top, please -- just details a telephone call from  
16 (Redacted), who was the father of (V5)-----,  
17 and it appears that Mr. Blaney talked to  
18 (V5)----- on the phone and says:

19 "I asked her if she could describe the  
02:27 20 suspect, to which she replied that he  
21 was wearing orange boots, burgandy  
22 pants, black jacket, and had black hair.  
23 She also stated that this person had  
24 proceeded South in the lane after the  
02:27 25 offence. I had no further discussion





1 with this person."

2 The next document is the occurrence report  
3 itself, which is 070545, and this is -- you will  
4 see the occurrence number 1183/70, which is the  
02:27 5 file number assigned to this file, and the  
6 officers attending are Officers Weir and  
7 Lindgren, and I won't go through all of this  
8 other than you will see, in the first paragraph,  
9 it talks about (V5)-----, date of birth, and  
02:28 10 the report of rape. And then if we could scroll  
11 down to here, please, it says:

12 "She advised us that the attack had  
13 taken place at the rear of Stachniaks'  
14 house and was found to be 209 Avenue V  
02:28 15 South.

16 She described her assailant as  
17 19 years old, 5'6" tall, 140-150 pounds,  
18 med. dark complexion, long black and  
19 dirty hair. The girl emphasized the  
02:28 20 fact that the hair was extremely dirty.  
21 She stated that it was not shoulder  
22 length but was quite long. He wore no  
23 hat or glasses. He was wearing a black  
24 jacket, possibly quilted and possibly of  
02:29 25 nylon material. Wearing burgandy color



1 trousers and she again stated  
2 emphatically that these were not  
3 bell-bottom type trousers. He was  
4 wearing orange colored leather heavy  
02:29 5 construction boots.

6 She states that she has seen  
7 this person before, she cannot recall  
8 where, and that she would recognize him  
9 if she saw him again.

02:29 10 I contacted Staff Sergeant  
11 McAdam and advised him of what we had  
12 learned and requested the services of  
13 Sergeant Passet. I also requested the  
14 services of car number 30 with Morality  
02:29 15 Officer Valila and Constable Abrahamson  
16 who subsequently arrived at the house  
17 and proceeded to the scene of the attack  
18 to await Sergeant Passet."

19 Next page, please. Call out that:

02:29 20 "At 10:15 p.m. I contacted St. Paul's  
21 Emergency and advised them to watch for  
22 anyone requesting treatment for a  
23 severely injured finger, as the  
24 complainant indicated she had bitten her  
02:30 25 assailant.



1 At 10:54 p.m. I received from  
2 Dr. Kavanagh two glass tubes with green  
3 plastic tops marked number 1 and number  
4 2. These were sealed with white tape  
02:30 5 and initialed by the doctor and  
6 initialed and dated by myself. Dr.  
7 Kavanagh stated that these tubes contain  
8 a portion of a solution which was  
9 injected into the vaginal cavity of  
02:30 10 (V5)----- and then withdrawn. He  
11 stated number 2 contained some blood  
12 from (V5)----- resulting from being  
13 picked with a needle in this process:  
14 If we could then go to 070548 of this, please,  
02:30 15 and this is, again, the original occurrence  
16 report. It says:  
17 "I then took (V5)-- to the Ident.  
18 Section where Identification Officer  
19 Simpson took some pictures and had her  
02:30 20 identify some articles which he had  
21 recovered.  
22 She then looked through the  
23 Acme System from 1953 to 1945 with  
24 negative results."  
02:31 25 And I presume those are dates of birth.



1                   The next document is 105212,  
2                   and this is the handwritten version of her  
3                   statement given February 21, 1970 at 11:25 p.m.,  
4                   and I do have a typed, written version that we  
02:31 5                   can go through, that I will go through, it's at  
6                   018798, please. And, again, this is the  
7                   statement of (V5)----- the date of the  
8                   attack. It says:

9                   "On Saturday February 21st ... I left  
02:31 10                  the City Hospital about 8:25 p.m. I  
11                  caught the bus about 8:40 p.m. I rode  
12                  the bus to 2nd Avenue and 23rd Street.  
13                  I got off at the stop in front of the  
14                  King George Hotel and transferred to the  
02:32 15                  Pleasant Hill Bus. After I got on I  
16                  noticed a guy got on with a pair of  
17                  orange coloured heavy work boots. He  
18                  sat directly across from me. I was  
19                  sitting about the middle of the bus. As  
02:32 20                  I was riding along I was looking out the  
21                  window. I noticed the reflection of  
22                  this person in the window. And I  
23                  noticed his boots again. I don't know  
24                  why."

02:32 25                  Next page, please, just down to here. It says:



1 "I rang the bell to get off at Avenue V  
2 and 20th Street. I got up and went to  
3 the back door. This guy got up and  
4 followed.

02:32 5 (I was sitting on the left side  
6 and he was on the right seat.)

7 After I left the bus I started  
8 to walk north. On the east side of the  
9 street and the I crossed over to the  
02:32 10 West side. I looked behind to see if  
11 this guy was following me and he was so  
12 I started to walk faster. At this time  
13 he was walking down the east side of the  
14 street. I would be about halfway down  
02:33 15 the block. Then he started to run. And  
16 got ahead of me and he crossed the  
17 street to the west side and ran into  
18 "...",

19 And then there's a name of the yard, or the name  
20 has been deleted, but:

21 "... yard at 209 Avenue V South. He  
22 disappeared by the side of the house.  
23 He reappeared and started to walk toward  
24 the sidewalk. He got there at the same  
02:33 25 time as I did. He kind of bumped into



1 me and I thought he was just brushing  
2 by. Then he grabbed me from behind. He  
3 held my arms down and put his hand over  
4 my mouth.

02:33 5 He said 'Don't scream and  
6 Co-operate with me', or words to that  
7 effect. I was struggling and I got his  
8 hand away, and I said. I know the man  
9 that lives here. He didn't say  
02:33 10 anything. I tried to scream and he kept  
11 saying don't scream. He put his hand  
12 over my mouth and I couldn't breathe.

13 He dragged me into Stachniaks  
14 yard and told me to put my purse and  
02:33 15 lunch bag on a bench and cooperate.  
16 This was beside a little shack right at  
17 the back of Stachniaks property - next  
18 to the lane.

19 He threw me down on a path  
02:33 20 beside this shack. I yelled McInnis  
21 name. He kept telling me not to yell  
22 and cooperate with him. When I would  
23 yell, he would hit me with his fist and  
24 he would say. Do you want some more of  
02:34 25 that."



1 Next page:

2 "He hit me four or five times I can't  
3 remember - at least four times. He held  
4 my face and I was trying to kick him. I  
02:34 5 pulled his hair. He held my face back  
6 while I was laying on the snow and he  
7 reached in the top of my sweater and  
8 tore my braziere off. I think he let me  
9 stand up. I don't know how that  
02:34 10 happened but we did. Then I tried to  
11 yell. He covered my mouth and I kept  
12 telling him I couldn't breath and he  
13 kept asking me to cooperate with him.

14 He threw me down again. And he  
02:34 15 pushed my sweater up. and pulled my  
16 skirt up. and. pull my panties and  
17 panty hose down. I kept struggling. He  
18 lay on top of me and I felt him having  
19 intercourse with me. I was so tense and  
02:34 20 struggling it is hard to say how far he  
21 got. He made entry to my private parts  
22 with his, but not all the way. He was  
23 there for a while and I kept pulling his  
24 hair and hitting him.

02:34 25 He got up first and I got up



1 right away. He told me to turn around  
2 and stay there. I started to move and  
3 he grabbed me, so I stayed because I was  
4 scared. I saw him turn around and move  
02:35 5 as if doing up his pants.

6 I pulled up my panties and  
7 stockings and. I reached for my purse  
8 and bag and he said, "O.K. you can get  
9 it" I went to go out the front and he  
02:35 10 grabbed me, and led me through the back  
11 gate. Then he told me to turn facing my  
12 house (north). I then started to run  
13 toward home. I looked back and he  
14 disappeared and I couldn't see him."

02:35 15 Actually, there's one more page, if you can go to  
16 070500, which I think is part of doc ID 070498,  
17 and this is the seventh page. I'm sorry, I'm  
18 going to two documents that have been typed up,  
19 but this is the remainder of the statement:

02:36 20 "Sometime during the struggle, I  
21 remember I bit his finger and he hit me  
22 on the chin to make me let go.

23 When I got home I told my dad  
24 to phone the police.

02:36 25 I would describe this man as





1 about 5 foot 6 inches tall. About 140  
2 to 150 pounds. He was wearing a black  
3 quilted jacket. Burgundy pants and  
4 orange colored work boots. He had long  
02:36 5 black dirty hair - he wore no hat. He  
6 did not wear glasses. He was about  
7 medium complexion and would be about 19  
8 years old. I could recognize him if I  
9 saw him again. I think I have seen him  
02:36 10 someplace before."

11 So that's the original statement.

12 If we could next go to document  
13 105205, and again this is a report of February  
14 22nd and it's the ident report of Officer  
02:37 15 Simpson, and if you could just go down to the  
16 bottom part and just point out that this is where  
17 ident picked up particles and at 1:15 ident  
18 picked up the two vials containing a fluid from  
19 Officer Weir and those are the two vials that  
02:37 20 Weir I believe had obtained from Dr. Cavanaugh  
21 based on the examination of (V5)----- at the  
22 hospital.

23 Next if we could call up 001857  
24 and again this is not very legible, but it's  
02:37 25 dated February 21, 1970 and it's the police dog



1 case report and if you can call out that part and  
2 it states:

3 "On February 21/70, at 10:00 p.m.,  
4 instructions were made to proceed to  
02:38 5 Avenue V South, re alleged rape. At  
6 this point Valila and Abramson. I was  
7 then shown --"

8 I think it says,

9 "-- the location where the alleged  
02:38 10 offence had taken place in the lane."

11 And then goes on to talk about the dog picking up  
12 the track, etcetera.

13 The next document to call up is  
14 152587 and this is not a good copy, but it's a  
02:38 15 document we've seen in other files and it's the  
16 requisition for I think exhibits or physical  
17 evidence and just point out that here is the  
18 reference to the two vials of fluid which were  
19 referred to previously.

02:38 20 Next go to 105207 and this is a  
21 police report of February 22nd and this is a  
22 Morality Officer Henschel:

23 "At 10:35 a.m. we called at 326 Montreal  
24 Avenue South where we interviewed Tim  
02:39 25 Chykowski. Chykowski states that he



1 boarded the Pleasant Hill bus at the  
2 King George Hotel corner just before  
3 9:00 p.m. February 21/70. He stated  
4 that he had noted a girl get on the bus  
02:39 5 ahead of him as she had dropped a  
6 quarter and he had bent down to help her  
7 look for it. He had paid no further  
8 attention to her and can give no  
9 description of her. He stated further  
02:39 10 that he also noted a male person on the  
11 bus wearing orange colored work boots.  
12 He paid no attention to this person and  
13 can give no description of him. He does  
14 not know where either of these persons  
02:39 15 got off the bus or if in fact, they got  
16 off together."

17 And scroll down here:

18 "At 11:15 a.m. we returned to the  
19 station where we made up a group of  
02:40 20 eleven photos including that of Robert  
21 Saccucci. At 11:40 a.m. this group of  
22 photos was shown to (V5)----- at  
23 her home at 137 Avenue V South. She  
24 viewed these photos twice and stated  
02:40 25 that none was that of her assailant.



1 She stated further that she knew Robert  
2 Saccucci from hanging around the Mitsana  
3 residence and that it was definitely not  
4 him."

02:40 5 And then next page, this is the same report of  
6 Henschel, it says:

7 "A full description of the person  
8 responsible has been given to all duties  
9 and all persons interviewed will contact  
02:40 10 us immediately should they observe  
11 anyone of this description about the  
12 city."

13 Next, 105201, and this is a report of Lindgren on  
14 February 22nd, 1970, call out that paragraph, I  
02:41 15 don't propose to read it, other than it refers to  
16 contacting the transit bus about the driver and  
17 the description of the persons on the bus.

18 Next, 105209, please, this is a  
19 report dated February 22nd, 1970 and this is by  
02:41 20 Morality Officer Valila, and if you could go  
21 to -- actually, just at the top it shows here  
22 that the file is assigned morality to Weir, but  
23 if we go to the next page, please, and the last  
24 paragraph, it says:

02:41 25 "Upon returning to the police station, I



1                   advised Morality Sergeant Arndt and  
2                   Detective Sergeant R. Mackie, regarding  
3                   our investigation at 115 Avenue V South,  
4                   and this matter was then left up to them  
02:42 5                   for further investigation as they deemed  
6                   fit."

7                   Next, 105211, and we've seen this report before,  
8                   I think on Albert Cadrain's read-ins, February  
9                   22nd, 1970, it's a report of Detective Sergeant  
02:42 10                  Mackie, it says:

11                   "On this date Detective Karst and myself  
12                   contacted Mr. Wood at the King George  
13                   Hotel. Mr. Wood had been working at the  
14                   hotel on the evening of February 21st,  
02:42 15                   and had seen many of the young people  
16                   who occasionally frequent the beverage  
17                   room at the King George. He could not,  
18                   however, recall seeing any person around  
19                   their premises, fitting the description  
02:42 20                   of that given by (V5)-----."

21                   And then scroll down to about the fourth  
22                   paragraph, it says:

23                   "Albert Cadrain, 334 Avenue O South, was  
24                   interviewed in regards to any  
02:43 25                   information he might be able to supply



1                   concerning this suspect, without  
2                   success."

3                   The next report is 254935, and again just a  
4                   further report of February 23, 1970, this one is  
02:43 5                   also, this is from Morality Officer Lindgren and  
6                   just point out, I don't propose to go through it,  
7                   parts there about inquiries made in the  
8                   neighbourhood of I think all of Avenue V.

9                   The next document is 105222 and  
02:43 10                  this is a statement of (V5)----- dated  
11                  February 24th, 1970, so three days after her  
12                  first statement, or two days after, and I'll go  
13                  to a typewritten version, 070507 and read parts  
14                  of this. It says:

02:44 15                  "(V5)----- states - on February  
16                  24/70 I reviewed what Morality Officer  
17                  Weir described as the Acme system in the  
18                  police station. I did not recognize  
19                  anyone from the pictures I saw.

02:44 20                  I was shown other pictures and  
21                  did not recognize any of them as similar  
22                  to my assailant."

23                  And then go down to the bottom, please, and it  
24                  says:

02:44 25                  "The only other things I remember him



1 saying were "Don't yell" "Are you going  
2 to co-operate" "Do you want some more",  
3 pertaining to him hitting me - and "I  
4 could easily break your neck."

02:44 5 This is all I can remember."

6 So that's the statement of February 24th. And if  
7 I can go to 105224, this is a report of Officer  
8 Weir, it's dated February 25th, 1970, and refers  
9 here, call out the bottom part, about the  
02:45 10 February 24th, the second statement, and then it  
11 goes on to say:

12 "She was again shown the ACME system and  
13 made no identification. It was  
14 attempted to have her make a composite  
02:45 15 picture without success.

16 She was shown a group of  
17 pictures selected by myself of those,  
18 she identified Ernie Stewart and Barry  
19 Reddekopp as known to her personally and  
02:45 20 she states it was definitely not them."

21 And some other comments which I won't go through.

22 If I could then go to 105226,  
23 and again this is a report of March 1, 1970 by  
24 Officer Weir, and I won't go through it other  
02:46 25 than the first paragraph, this report refers to



1 an interview of (V5)-----' boyfriend at the  
2 time, Raymond (-Redacted-), and a statement was  
3 taken from him.

4 Document 105233, this is a  
02:46 5 report of March 5th, 1970, again Officer Weir,  
6 and the last paragraph refers to a suspect they  
7 were looking at:

8 "This person had black fairly long hair,  
9 has a pair of orange construction type  
02:46 10 boots with a rubber sole, however the  
11 soles appear to be well worn to coincide  
12 with the footprints found at the scene  
13 and further to this the boots are  
14 extremely dirty and possibly due to  
02:47 15 working in the service station. Also  
16 this person would appear to be too tall  
17 as described by the complainant."

18 Next go to 230708 and I just propose to refer to  
19 this, this is March 10, 1970 and this is an RCMP  
02:47 20 lab report dealing with hair samples of  
21 (V5)----- and hair found at the scene. I  
22 don't propose to go through that.

23 Next to go to 012162, again a  
24 report of Officer Weir, this is March 11th, 1970  
02:48 25 I believe, first paragraph, it says:





1                   "(V5)----- contacted the writer on  
2                   March 8/70 reporting that she had seen  
3                   the person as she identified as  
4                   assailant at Asquith, Sask., on March 6,  
02:48 5                   1970. Subsequent investigation by her  
6                   through a cousin Robert McTavish of  
7                   Asquith, Sask. indicated that this  
8                   person's name could possibly be Bob  
9                   Hayes, address unknown, stating at that  
02:48 10                  time with the Sask. Pool Elevator agent  
11                  at \_\_\_\_\_, Sask. whose name is  
12                  presently unknown."

13                  And this name Hayes was found in a few of the  
14                  other reports following. 10 -- hang on a second,  
02:48 15                  we'll go to 105242, please, and as I mentioned,  
16                  Mr. Commissioner, there are other police reports  
17                  between these dates which I have not shown, they  
18                  will go on the record and likely be discussed  
19                  with other witnesses. I don't propose to refer  
02:49 20                  to them now. This is June 3rd, 1970, it says:

21                         "With the communication received from  
22                         the RCMP --"

23                  I'm not sure which detachment,  
24                         "-- as of May 14th/70 they sent a  
02:49 25                  picture of the suspect Robert Hay. This



1 picture was taken to the ident branch.  
2 Small copies were made up for the  
3 writer. This copy was put in a group of  
4 ten photographs #1-10, the picture of  
02:49 5 the suspect Hay was #6. On May 29th/70  
6 I called at the home of (V5)-----  
7 where the pictures were shown to her in  
8 the numerical order of 1-10. When  
9 (V5)----- looked at the group, she  
02:49 10 never even hesitated but went  
11 immediately to #6 at which time I  
12 observed what in my opinion was some  
13 genuine agitation on the part of the  
14 complainant. Her immediate exclamation  
02:50 15 was that was him. Followed by the fact  
16 that she could not be exactly sure but  
17 it sure looked like him."

18 COMMISSIONER MacCALLUM: Who is number 6,  
19 do we know that?

02:50 20 MR. HODSON: Robert Hay.

21 COMMISSIONER MacCALLUM: Okay.

22 MR. HODSON: Bob Hay. I think right there  
23 it says number 6.

24 And then to 105243 and this is  
02:50 25 a statement of (V5)-----, May 29th, 1970,



1 and this says:

2 "(V5)----- states at 1:10 p.m. I  
3 was shown a group of photographs by M.O.  
4 Weir at my home.

02:50 5 The photo with the number 6  
6 (six) looks like the person who  
7 assaulted me, but I am not sure if it is  
8 him or not."

9 So that coincides with the last report.

02:50 10 Next, 105245, again this is a  
11 report of Weir of July 14th, 1970:

12 "On July 12th, 1970, I called at the  
13 complainant's address where she was  
14 shown a group of pictures containing  
02:51 15 among them, a picture of John Charles  
16 Rychyk, Saskatoon Dept. #L 13036. She  
17 stated that the assailant was definitely  
18 not among these photos. Following this,  
19 I pointed specifically to the picture of  
02:51 20 Rychyk and she stated definitely that  
21 this person was not her assailant."

22 I should point out that in the reports I believe  
23 that they concluded that Hayes was not the  
24 suspect, Mr. Commissioner, in a subsequent  
02:51 25 report.



1                   The next document I wish to  
2 refer to is 012642, and this is dated October  
3 22nd, 1970 and this is the statement of Larry  
4 Fisher re the rape of (V5)----- in the  
02:52 5 Saskatoon -- or in Saskatoon on the 21st day of  
6 February, 1970, and if we could just go down,  
7 halfway down, and this is an interview I believe  
8 by Mr. Karst, it says:

9                   "Q I have talked about a rape to you on the  
02:52 10 night of February 21 around Avenue U and  
11 V in Saskatoon. Are you responsible for  
12 this offence?

13                   A Yes, I am.

14                   Q On that date do you remember where you  
02:52 15 were living?

16                   A Yes, I lived at 1824 Avenue D North.

17                   Q Where did you first see this girl?

18                   A On the bus which I caught on 2nd  
19 Avenue and 20th Street, I think.

02:52 20                   Q Where were you going?

21                   A I was going to visit a friend,  
22 Mrs. Francis LaPointe, who lived off  
23 of 20th Street West on Avenue E, I  
24 think.

02:52 25                   Q Did you go there then?



1 A No, I never, I seen the girl on the  
2 bus so I stayed on the bus till she  
3 got off at about 7 blocks past the St.  
4 Paul's Hospital."

02:53 5 Scroll right down, please.

6 "Q What happened then?

7 A We were both off the bus and she went  
8 across the street and I stayed on  
9 other going north for about three  
02:53 10 quarters of a block, then I ducked  
11 into a yard and came out so I met her  
12 on the street. I grabbed her as I met  
13 her coming out of this yard and we got  
14 to the back of this yard, either I  
02:53 15 pulled or dragged her.

16 Q Where did the offence take place?

17 A Right in the back yard close to the  
18 lane.

19 Q After the rape what happened?

02:53 20 A I just remember going out the back and  
21 down the lane and leaving. I went  
22 towards the hospital, then through the  
23 lanes to Mrs. LaPointe's place.

24 Q What did you do there?

02:53 25 A I took off my boots, I think they were



1 my cowboy boots, had coffee with  
2 Mrs. LaPointe, cleaned up, combed my  
3 hair, stayed for about 15 minutes and  
4 then walked downtown to the bus depot  
02:53 5 and got a ticket for North Battleford.  
6 Then I went to the King George and got  
7 24 beer and put it in a box in the bus  
8 depot and shortly after left for North  
9 Battleford where my wife was."

10 Next page:

11 "Q Would you know this girl if you were to  
12 see her again?

13 A No, I would not.

14 Q Had you seen or planned this incident  
02:54 15 before it happened?

16 A No.

17 Q About these boots - do you know  
18 positively which ones you wore?

19 A I couldn't say for sure, I just don't  
02:54 20 remember if I was working that day or  
21 if we were on the Nipawin job or at  
22 the university.

23 Q Is this a true statement to the best of  
24 your recollection?

02:54 25 A Yes, it is."



1 And so that's the statement of Larry Fisher on  
2 October 22nd, 1970.

3 056385 is the information,  
4 we've seen this with the other victims, dated  
02:54 5 December 30th, 1970, and it's charging Larry  
6 Fisher with having sexual intercourse with  
7 (V5)----- without her consent.

8 The next document is 105246,  
9 this is a police report dated February 5, 1971 of  
02:55 10 Officer Weir, it says:

11 "On February 4/71 I returned the  
12 articles seized from the complainant on  
13 the evening of the occurrence. A signed  
14 receipt was obtained for all of these  
02:55 15 articles and is attached to this  
16 occurrence.

17 This complainant has since been  
18 married. Her married name now being  
19 (-Redacted-). This couple now resides  
02:55 20 at 209 Vancouver Avenue South in a  
21 basement suite.

22 The situation concerning this  
23 occurrence and the alleged mental  
24 condition of the accused was explained  
02:55 25 to this girl and her parents. At the



1 present time these people appear to be  
2 completely satisfied with the actions  
3 taken re this occurrence. This  
4 therefore is a concluding report."

02:55 5 That's Officer Weir.

6 The next document is 010718 and  
7 this is a document that we have referred to other  
8 witnesses, the March 17th, 1971 letter from the  
9 police to the Attorney General. If you can go to  
02:56 10 the second page, please, just call out the bottom  
11 two lines, and this is referring to  
12 (V5)----- and it says:

13 "(V5)--- described this man as being  
14 about 20 years old, small, with a dark  
02:56 15 complexion. She has viewed police  
16 photos, including one of Fisher, and  
17 states that he appears similar to her  
18 assailant, however, it appears that her  
19 identification is extremely weak."

02:57 20 Next, 222178, and this is a report, I believe  
21 it's a summary prepared by investigator Paul  
22 Henderson relating to an April 30th, 1991  
23 interview with (V5)----- and it goes through  
24 the incident, call out that part, please, and the  
02:57 25 report says:





1 "At the time a tall skinny detective  
2 mentioned it was very similar to the  
3 Gail Miller case."

02:57 4 And again I believe this is a summary prepared by  
5 Mr. Henderson.

6 Next is 070584 and this is the  
7 middle page of a three page report that also  
8 appears to be relating to Mr. Henderson's  
9 interview of her on April 30, 1991. I don't  
02:58 10 propose to go through any of that, but simply to  
11 identify that document for the record.

12 Next if I can call up 012250.

13 COMMISSIONER MacCALLUM: Was that last one  
14 a Henderson, part of the Henderson report?

02:58 15 MR. HODSON: Yes, it is, I believe, and  
16 actually this is the same article that was  
17 referred to the previous witness, (V4)-----,  
18 it's an article from the *Toronto Star*, I believe  
19 August the 11th, 1991, and if we can go to page  
02:58 20 012252, call out that, and again this article  
21 says:

22 "Three weeks after Milgaard was  
23 sentenced, Larry Fisher attacked an  
24 18-year-old high school student on  
02:59 25 February 21, 1970. She worked part-time



1 as a Canadian National Institute of the  
2 Blind canteen worker at City Hospital.  
3 She was attacked a block from home.

4 She later recalled someone in  
02:59 5 the Saskatoon police remarking the  
6 attack was "similar to the Gail Miller  
7 case."

8 So that's August, 1991.

9 Next if I could call up 039421,  
02:59 10 please, and this is an article or part of an  
11 article, May 2, 1992, call out that portion,  
12 please, and there's a reference here:

13 "A second victim, "(V5)- (V5)-----," who  
14 was raped on February 21, 1970 --"

03:00 15 And I'm presuming that's (V5)-----,  
16 "-- says she identified Mr. Fisher as  
17 her attacker when she was shown a single  
18 photograph of him by Detective Weir in  
19 the fall of 1970. (Standard police  
03:00 20 procedure is to place suspects in a  
21 "gallery-pack" of mug shots.) "It was  
22 one of those Polaroid pictures of Fisher  
23 alone," she recalled in an interview  
24 from her rural Saskatchewan home last  
03:00 25 week. "It was just one picture. Just



1 him. I identified him. I was sure.

2 Then they told me he was responsible for  
3 two other rapes in Saskatoon. They told  
4 me he was in a mental institution. Then  
03:00 5 they left."

6 And to page 034906, this is an RCMP report of an  
7 interview with Dave Roberts, a writer with The  
8 Globe and Mail, and says:

9 "According to Roberts, (V5)--- told him  
03:01 10 that Weir had mentioned that the fellow  
11 was being held in a mental institution  
12 in Winnipeg. That she would not have to  
13 go through the strain of having to  
14 testify. That there would be no trial."

03:01 15 And then carrying on:

16 "That (V5)--- stated that Weir said that  
17 they think that the accused was  
18 responsible or the several others. (I  
19 took this to mean other rapes.)"

03:01 20 Next, if I could go to doc. ID 254911 and go to  
21 page 254920, and this is the RCMP report, the  
22 Flicker report. And, Mr. Commissioner, I propose  
23 to go through most of this. I'm not sure if this  
24 is something the witness will be comfortable  
03:02 25 going through tomorrow, I may try and go through



1 it as well with her, but I think I will go  
2 through most of it now. It talks about her  
3 interview with (V5)----- . It says:

4 "(V5)-- was open to discuss the matter  
03:02 5 however admitted that she'd been trying  
6 to put the matter behind her. As a  
7 matter of fact everything had been going  
8 along fine until Mrs. J Milgaard & Paul  
9 Henderson approached her in (V5)- ----,  
10 Sask.

11 Mrs. Milgaard told her that  
12 Fisher had probably killed Gail Miller  
13 as his attack on her had been similar.

14 Mrs. Milgaard became somewhat  
03:02 15 disturbed when she told her that she  
16 didn't want a thing to do with her  
17 investigation and that she didn't  
18 know/care who had done the murder.

19 (V5)-- remembered looking at a  
03:02 20 number of photo books at the SCP ...",  
21 which I presume is Saskatoon City Police:

22 "... in order to see if her assailant  
23 could be identified.

24 She also recalled contacting  
03:02 25 Detective Weir and telling him of a



1 possible suspect in Asquith,  
2 Saskatchewan. This person was later  
3 identified as Robert Hay and after  
4 further scrutiny of his picture she  
03:03 5 eliminated him as a suspect.

6 (V5)-- stated that she was also  
7 shown other line-ups (photos) with  
8 negative results.

9 She does remain adamant that in  
03:03 10 the fall of 1970 Detective Weir came to  
11 her residence and produced a single  
12 photo of a man which she identified as  
13 her assailant. This man was Larry  
14 Fisher and Detective Weir told her that  
03:03 15 he had admitted to her assault and  
16 others. Also he had informed her that  
17 Fisher was presently in a mental  
18 institution or something to that effect.

19 She couldn't recall if  
03:03 20 Detective Weir had mentioned anything  
21 about charges being laid and as a matter  
22 of fact she didn't care to know as she  
23 was trying to forget the assault.

24 (V5)-- couldn't remember the  
03:03 25 date when Detective Weir last contacted



1 her but it was when they had returned  
2 some of her articles. During their talk  
3 she remembers Weir's partner saying  
4 something to the effect 'Fisher usually  
03:04 5 admits to his crimes'.

6 When shown Weir's police report  
7 dated 71/02/05 she remembers the  
8 comments concerning the alleged mental  
9 condition of the accused but can't  
03:04 10 remember if she was told that charges  
11 had been laid.

12 She does remember that her  
13 ex-husband had been present at the time  
14 and he may remember more. They had been  
03:04 15 divorced, they had been divorced for  
16 sometime however she was able to provide  
17 the following:"

18 Next paragraph:

19 "During the whole investigation (V5)--  
03:04 20 admits that all SCP members and  
21 Detective Weir treated properly and had  
22 no complaints.

23 She did admit that she hadn't  
24 been advised of the disposition of the  
03:04 25 charge against Fisher and really didn't



1 care as she put it as she wanted to  
2 forget the whole thing.

3 (V5)-- couldn't add anything  
4 further however expressed hope that this  
03:05 5 was the last of it. She did mention  
6 that if we had anything further to ask  
7 that she would speak to us but is not  
8 interested to talk to the Milgaard  
9 family."

03:05 10 And then the rest is the RCMP synopsis which  
11 we'll deal with through RCMP witnesses.

12 Next is the evidence at the  
13 Fisher trial, and if I could call up 253568, and  
14 this is at the voir dire. I'll go to page 253571  
03:05 15 and I'll just go through parts of this. This is  
16 her evidence under oath about the attack. She  
17 says:

18 "A I walked down the east side of the  
19 street, north, to my house.

03:05 20 Q So that would be the east side of Avenue  
21 V, you mean?

22 A Yes.

23 Q Northbound?

24 A Yes.

03:06 25 Q What about this guy who got off behind



1                                   you?

2                                   A    He ran ahead on the west side, and  
3                                   into a yard and out again.

4                                   Q    Go on.

03:06 5                                  A    And then I crossed the street to the  
6                                  west side, two houses away from my  
7                                  house, and he ran out of the yard.

8                                  Q    What did he do?

9                                  A    He grabbed me from behind and covered  
03:06 10                                 my mouth.

11                                 Q    How did he grab you from behind, (V5)--?

12                                 A    He went by me, came out running and he  
13                                 went by me and he turned around really  
14                                 quick and grabbed me.

03:06 15                                Q    When you say he went by you, was he  
16                                going in the same direction as you at  
17                                that point or in the opposite direction?

18                                A    I was going north and he came running  
19                                out and he was going south, and he  
03:06 20                                bumped me and turned around and

21                                grabbed me.

22                                Q    Okay. Do you remember how he grabbed  
23                                you; what part of your body he grabbed?

24                                A    I just remember him covering my face.

03:06 25                                Q    With what?





1 A His hand."

2 Just carrying on:

3 "Q Can you describe how hard or soft he  
4 grabbed you?

03:06 5 A Hard. I couldn't breathe.

6 Q Couldn't breathe. Did you do anything  
7 about that?

8 A I tried to break away.

9 Q Go on.

03:07 10 A He started taking me into the yard,  
11 and his hand came away and I told him  
12 I knew who lived there, and then he  
13 told me to shut up, and put his hand  
14 over my face again.

03:07 15 Q Go on.

16 A He took me into the back yard.

17 Q From the front street into the back yard  
18 of this place?

19 A Mhmm.

03:07 20 Q Go on.

21 A And then he threw me down. I tried to  
22 scream, and every time I screamed he  
23 would hit me in my face.

24 Q What did he hit you with?

03:07 25 A His fist.



1 Q How many times did he strike you?

2 A Four or five.

3 Q What happened then?"

4 And then an intervention by the Court.

03:07 5 "A Okay. Then he got me down. He tore off  
6 my bra and lifted up my skirt and pulled  
7 everything down. And at one point I  
8 tried screaming, he threatened that he  
9 would break my neck, and I bit him and  
03:07 10 he hit me in the chin.

11 Q Where did you bite him?

12 A In the hand.

13 Q How did you come to be biting him in the  
14 hand?

03:07 15 A When he has his --

16 Q His hand over top of your mouth again?

17 A Mhmm. And every time I yelled he  
18 would hit me.

19 Q What happened then?

03:08 20 A He tried to rape me, and --

21 Q What do you mean he tried to rape you?

22 A He tried.

23 Q How far did he get?

24 A I don't know. Not -- he didn't enter  
03:08 25 me.



1 MR. BERESH: I'm sorry, I didn't the answer  
2 at all.

3 A He didn't go in.

4 Q How far then did he get?

03:08 5 A Too close.

6 Q What do you mean? And I appreciate it's  
7 difficult on you, but it's important  
8 that His Lordship hears what he did.

9 A He almost entered me.

03:08 10 Q Did anything prevent him?

11 A I think the only thing is the  
12 neighbour came home and -- with a  
13 boyfriend and I was yelling, I tried  
14 to scream. I think that's the only  
03:08 15 thing that would have been there ...

16 Q What did he do then, (V5)--?

17 A He let me go."

18 And if we could go on to page 253579, again this  
19 is Mr. Johnston:

03:08 20 "Q Where you injured in any apart from the  
21 actual assault?

22 A My face was all bruised.

23 Q And that was from?

24 A Him hitting me.

03:09 25 Q Him hitting you. What did he hit you



1 with?

2 A His fist.

3 Q His fist. Did you ever see a weapon?

4 A No.

03:09 5 Q Did he ever say anything about a weapon?

6 A I remember him saying that he would  
7 break my neck. I don't know, I have  
8 blocked it out, I can't -- can't  
9 remember."

03:09 10 And that's the only transcript, I don't have -- I  
11 don't propose to go through Mr. Justice  
12 Allbright's decision, that's already on the  
13 record, and he did not allow her evidence to go  
14 ahead at the trial in front of the jury.

03:09 15 So that's the extent of the  
16 read-ins for (V5)-----, she will be here  
17 tomorrow -- or (V5)----- . I should reiterate  
18 that all of the -- I -- the name (V5)--- and  
19 (V5)----- is subject to the publication ban.  
03:10 20 Tomorrow I will go through some of this evidence  
21 again with the witness here.

22 I would ask that we would  
23 adjourn until tomorrow at 9:00, and I should add  
24 that I expect that -- I guess it depends on  
03:10 25 cross-examination -- but I suspect the evidence



1 of (V5)----- might take no more than an hour,  
2 hour and a half, and so we should be done early  
3 tomorrow, and we have then decided that, the next  
4 phase is the police evidence, and we've decided  
5 to wait until May 30th to start that. So, the  
6 bottom line, we should be done early tomorrow.

03:10

7 COMMISSIONER MacCALLUM: Thanks,  
8 Mr. Hodson. 9:00 tomorrow.

9 *(Adjourned at 3:10 p.m.)*

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**OFFICIAL QUEEN'S BENCH COURT REPORTERS' CERTIFICATES :**

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

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Karen Hinz, CSR

Official Queen's Bench Court Reporter

\_\_\_\_\_, RPR, CSR

Donald G. Meyer, RPR, CSR

Official Queen's Bench Court Reporter



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