

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
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Volume 13

Inquiry Proceedings



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INDEX OF PROCEEDINGS

<u>DESCRIPTION:</u>	<u>PAGE:</u>
<u>RITA GIFFORD</u>	
- BY MR. HARDY	2059
- BY MR. WOLCH	2085
- BY MR. O'KEEFE	2089
- BY MR. FOX	2090
- BY MR. ELSON	2101
- BY MR. HARDY	2103
<u>KENNETH PAUL CADRAIN</u>	
- BY MR. HODSON	2105
- NEWS VIDEOTAPE PLAYED	2148
- NEWS VIDEOTAPE STOPPED	2150
- BY MR. WOLCH	2189
- BY MS. MCLEAN	2224
- BY MR. O'KEEFE	2259
- BY MR. FOX	2264
- BY MR. ELSON	2272
- BY MR. HODSON	2275



Transcript of Proceedings

(Reconvened at 10:00 a.m.)

COMMISSIONER MacCALLUM: Good morning.

ALL COUNSEL: Morning.

MR. HARDY: Morning, Mr. Commissioner.

COMMISSIONER MacCALLUM: Mr. Hardy?

MR. HARDY: We're ready to proceed with our first witness this morning, although Mr. Hodson has told me she just went to the washroom, so if we could wait a moment.

Mr. Commissioner, we're ready to proceed now. I'm going to call Rita Gifford, please, to come forward.

RITA GIFFORD, sworn:

BY MR. HARDY:

Q Morning, Rita.

A Good morning.

Q Thank you for agreeing to testify at this Commission of Inquiry this morning.

I understand, Ms. Gifford, that you were previously Rita Cadrain?

A Yes.

Q And that you were the younger sister of Albert Cadrain now deceased?

A That's right.



1 Q And that you now live in Outlook, Saskatchewan?

2 A That's right.

3 Q And that you grew up with your family in
4 Saskatoon?

10:01 5 A Uh-huh.

6 Q And, Rita, can you tell us how old you would have
7 been as of January 1969?

8 A I was ten and nine months, I believe, yeah.

9 Q And where were you and your family residing at
10:01 10 that time?

11 A At 334 Avenue O South.

12 Q And I understand that your mother and father were
13 Estelle and Leonard Cadrain?

14 A That's correct.

10:01 15 Q And you had a number of siblings?

16 A Yes.

17 Q Perhaps you could tell us the names of your
18 siblings from oldest to youngest?

19 A Celine, Marcel, Albert, Dennis, Larry, myself,
10:02 20 Rick, Phil and Ken.

21 Q And, as of 1969, who would have been living in the
22 home?

23 A Well, if I remember correctly, I think we all were
24 except for my brother Marcel.

10:02 25 Q And do you recall what the sleeping arrangements



1 were in your home in 1969?

2 A At that time, I believe my sister and I were in
3 the smaller bedroom upstairs, and the boys were in
4 the larger bedroom.

10:02 5 Q And that --

6 A Across.

7 Q And that was also upstairs?

8 A Upstairs, yes.

9 Q Okay. And, as of 1969, you would have been
10:02 10 attending at St. Mary's School?

11 A Uh-huh.

12 Q And that was across the street from your home?

13 A That's right.

14 Q And very generally, Rita, what do you remember
10:02 15 about the neighbourhood at that time?

16 A Well, at that time there was just a lot of
17 activity and there was a lot of things for us kids
18 to do, and it was a safe place. Like we just felt
19 it was home and, you know, there was lots of
10:03 20 things to do. You could, you know, like I think
21 at that time my mom had started up a youth program
22 at the school, and that was something new and
23 exciting for us and, you know, there was, we would
24 go skating or just do whatever, it was a nice
10:03 25 place.



1 Q And perhaps you can tell us a little bit about
2 what life was like in the Cadrain home at that
3 time?

4 A At that time I believe that we were always very --
10:03 5 we were busy, you know, like we -- we weren't
6 rich, but my mom and dad always gave us kids an
7 opportunity to do whatever we wanted to try,
8 whether it was dance or hockey or wrestling, or
9 whatever, all of us kids had a chance to partake
10:03 10 in whatever interested us, and so it's my belief
11 that we were always coming and going and it was
12 just kind of hectic, you know, it was -- but it
13 was a happy home, you know.

14 Q And I understand that your brothers and Albert --
10:04 15 your brothers, Albert and Dennis, were quite close
16 in age?

17 A Yes, they were.

18 Q And what do you recall about their role in the
19 family at that time?

10:04 20 A Well, at that time, I believe Albert and Dennis
21 were kind of -- I don't know what the word was --
22 but like to me they were kind of rebellious
23 because they were sort of living the hippie-style
24 life, which went against what -- you know, it
10:04 25 caused some stress for mom and dad and it was



1 upsetting, you know. But we -- at that time I
2 felt I still looked up to my brothers, because I
3 felt they were kind of cool, and that's what I
4 remember.

10:04 5 **Q** And what sort of a relationship did they have?

6 **A** I think they were very close. They did a lot of
7 things together.

8 **Q** And, Rita, can you generally describe for us
9 Albert as a person as you remember him at that
10:05 10 time?

11 **A** I can remember my brother being very kind and very
12 giving. And, you know, that's something that I
13 would just like to -- for people to know, is that,
14 you know, the media is portraying him just one way
10:05 15 and I think it's very important that they know
16 that my brother was very, a very kind and giving
17 person.

18 There was times I remember he
19 would just go out and -- like my, for instance
10:05 20 when my brother Rick was starting high school he
21 went and he took him shopping and he bought him a
22 brand new outfit because he just wanted for him to
23 look good, you know. And he just, he would do
24 things like that, he would go and he would just
10:05 25 buy me candy because he knew I liked toffee, you



1 know, or he would -- he was very giving. And I
2 think sometimes, when I think back, I think
3 sometimes he was very giving, that maybe he did
4 get taken advantage of sometimes, but I don't
10:06 5 think he really cared. That's how I see my
6 brother.

7 Q Okay. And, prior to 1969, did you notice any
8 signs of unusual behaviour or mental illness in
9 Albert?

10:06 10 A No.

11 Q Okay. And I want to turn your attention, Rita, to
12 January 31st, 1969?

13 A Uh-huh.

14 Q And I understand, Rita, that you have some
10:06 15 recollections from that day?

16 A Yes, I do.

17 Q Can you tell us, please, about those?

18 A What I can remember of that day is I remember I
19 was on safety patrol, and it was very cold, and I
10:06 20 remember coming off safety patrol and we were
21 going to put our uniforms back up in the safety
22 patrol room, and by doing that we had to go up,
23 all the way up the stairs at St. Mary's and we had
24 to pass the principals's office, and once we got
10:07 25 there I saw Mary Marcoux crouched in the corner



1 white as a ghost and she couldn't respond to me.
2 I asked her "Mary, what's the matter", and she
3 just was -- now I know she was in shock, but she
4 was -- I'll never forget that. And then I
10:07 5 remember knocking on O'Shanek's (ph) door and
6 telling him "there is something wrong with Mary",
7 and he said "yes, I know, Rita." So then we
8 continued on, and by the time I -- we came back
9 taking our uniforms off there was already two
10:07 10 police officers in the principal's office, so --
11 and I just assumed Mary was in there with them at
12 the time because she wasn't in the corner any
13 more. That's what I remember that day.

14 Q And do you have any recollection of Albert's
10:07 15 activities from that day?

16 A No, I do not.

17 Q And do you have any recollection of hearing of
18 Albert's visitors arriving that day or of his trip
19 out of town that day?

10:08 20 A No.

21 Q Okay. And do you remember, Rita, learning about
22 the Gail Miller murder?

23 A I don't really remember. I just think that maybe
24 we probably heard about it that evening on the
10:08 25 news.



1 Q Okay. And did the police talk to you, Rita, at
2 any time during the course of their investigation?

3 A No, I don't believe so.

4 Q And do you have any recollection of Albert going
10:08 5 to see the police or of Albert dealing with
6 investigators during -- at that time?

7 A No, I can't.

8 Q Do you remember any officers coming to the house
9 or speaking to Albert or the family?

10:08 10 A Yes, I do vaguely remember that, you know,
11 different times, of maybe be coming home from
12 school and there would be two police officers,
13 sometimes one, and I didn't know who these men
14 were and remember asking "well who are they", and
10:09 15 it just -- the name Eddie Karst sticks in my mind
16 and the other one I don't remember.

17 Q Okay. And do you have any memories of Albert
18 attending at court to give testimony at the trial
19 of David Milgaard?

10:09 20 A I do remember that there was days that Albert had
21 to get dressed up and go to court but we weren't,
22 as kids we weren't told a whole lot of the
23 details, and I think it was more just so that we
24 wouldn't get more upset over it. So I know very
10:09 25 little. I know he had to go to court and he had



1 to testify, but I didn't read the newspaper and I
2 didn't follow a lot of that, you know.

3 Q Okay. And what are your memories, Rita, of Albert
4 following the Milgaard trial?

10:09 5 A Well, years later I think it really did something
6 to Albert, umm, he -- I believe that he -- you
7 know, just a lot of the stress, I think, has
8 caused, you know, maybe helped -- triggered some
9 mental illness in him. And, you know, it's
10:10 10 just -- it really affected him an awful lot.

11 Q And you recall making observations, then, of this
12 sort of behaviour from Albert following the trial?

13 A I do on one occasion, yes.

14 Q Okay. And I don't want to push you Rita, if you
10:10 15 want to share that occasion with us you can, I --
16 you don't need to though.

17 A Well there was one time that -- and I can't
18 remember when it was, I believe it was the time
19 just when Albert went to the, before he went to
10:11 20 the University Hospital -- and he wanted to
21 celebrate the Last Supper. And he believed he was
22 Jesus and he asked me to go and get some bread and
23 to get some grape juice, and I said "we don't have
24 grape juice", and he said "well then go see if
10:11 25 there's some grape Kool-Aid", and so I went to mom



1 and dad in their bedroom and I said "Albert needs
2 help, he thinks he is Jesus".

3 Q And do you --

4 A And the next day, I believe, he went to the
10:11 5 hospital.

6 Q And do you recall having an understanding of what
7 was happening, did your mother and father speak to
8 you about that at the time?

9 A They, well I think they probably did try to just
10:11 10 say to us that, you know, that he had a breakdown
11 or, you know, he was having problems and --

12 Q Okay. And do you recall visiting with Albert in
13 the hospital?

14 A I do remember going. I used to go to the
10:12 15 university for ballet, and I would stop just to go
16 and say hi to him, and I remember it being
17 difficult for me because I was young and I was,
18 you know, I just didn't know how to deal with
19 this. And he just, you know, we would -- well
10:12 20 "hi, how are you", and it was just very basic, and
21 I never really would stay very long because I did
22 have to get to dance class, but I just wanted to
23 say -- stop in and see him. But we never
24 really -- he never discussed things with me.

10:12 25 Q He never spoke to you about what was bothering



1 him?

2 A No.

3 Q Okay. And after Albert was released from the
4 hospital and in the years that followed, Rita, how
10:12 5 often would you see Albert?

6 A Oh, well, I don't know. It would depend. Like we
7 would see him, you know, at Christmastime and --
8 you know, and he got married. Or like when we got
9 married, he was a chef at the time at the
10:13 10 Bessborough and he made an ice carving for Murray
11 and I for our wedding, and, you know, he did a lot
12 of -- we would see him when he had his kids and at
13 his wedding, and just whenever we would have
14 family get-togethers, and --

10:13 15 Q Okay. And did he ever share any further
16 information with you, Rita, respecting his
17 involvement in the Milgaard investigation and
18 trial?

19 A No, he never really talked to me about it, you
10:13 20 know. I do remember one time we were out on the
21 farm just walking along and there was some new
22 machinery, now I don't remember if it was diskers
23 or if it was a hay rake or what it was, but I
24 remember asking him, you know, and he -- it's my
10:13 25 understanding that he had bought that for the farm



1 and I asked him where he had got the money, and he
2 said he got it from the police, and he didn't want
3 to talk about it.

4 Q Okay.

10:14 5 A So that led me to believe that maybe he received
6 that \$2,000 reward.

7 Q And, Rita, do you recall your parents renting out
8 your basement in and around 1969?

9 A Yes I do.

10:14 10 Q And do you recall who those tenants were?

11 A Umm, Linda and Larry Fisher and their baby Tammy,
12 --

13 Q Okay. Then --

14 A -- I believe her name was. I think it was Tammy.

10:14 15 Q Okay. And what do you recall of the Fishers
16 living in your basement?

17 A Well I don't really recall too much. I do
18 remember that at that time I was just, thought
19 that this little Tammy was just the most beautiful
10:14 20 little baby, and I just remember I wanted to --
21 just couldn't wait to be old enough to babysit so
22 I could, you know, look after this little baby.
23 And I do remember asking permission if I could go
24 down and play with the baby and my mom, I think,
10:15 25 probably did ask Linda if it would be okay because



1 she didn't -- you know, like we were told, "okay,
2 they are living down there, you just, you know,
3 that's their space, you stay away and you don't,
4 you know, trouble them", so -- but I do remember I
10:15 5 really wanted to play with that baby and I do
6 remember, a couple of times, being able to go
7 downstairs and Linda was there. I don't remember
8 Larry ever being there. I do recall, the only
9 thing I really remember much of Larry is maybe
10:15 10 coming home, you know, he would take the bus and
11 coming home carrying a lunch kit --

12 Q Okay.

13 A -- and I believe, maybe, a hard hat.

14 Q Okay.

10:15 15 A So that's what I kind of remembered of Larry.

16 Q And would you have ever spent the night in the
17 basement while the Fishers were still living
18 there?

19 A No.

10:15 20 Q And do you recall, Rita, what the circumstances of
21 their departure were?

22 A Well, it's my understanding that -- like, I do
23 remember them arguing a lot and mom just I think
24 said that it was just maybe time for them to
10:16 25 leave, asked them to leave because of that.



1 Q And do you recall when that would have been?

2 A I don't really recall the date for sure, but I'm
3 thinking it had to be sometime when it was much
4 nicer out and I'm thinking it was more, like, late
10:16 5 springtime.

6 Q Of that same year, 1969?

7 A Of that same year, yes.

8 Q And do you recall, Rita, whether your bedroom
9 arrangements changed after their departure?

10:16 10 A Yes, they did, but not for some time later.

11 Q And how did they change?

12 A After Fishers had moved out, I believe that that
13 fall I moved downstairs into one of the bedrooms.

14 Q And is it possible that you had a bedroom in the
10:17 15 basement while the Fishers were still living
16 there?

17 A No.

18 Q Okay. And you stated, Rita, that you did not
19 speak to investigators at the time of the
10:17 20 investigation into the death of Gail Miller?

21 A Yes.

22 Q And am I correct that your first formal contact
23 with authorities in relation to this matter would
24 have been with the RCMP in approximately 1993?

10:17 25 A That's correct.



1 Q And before I turn your attention to some
2 documents, Rita, I'm wondering if you recall a
3 person by the name of Linda Duffus?

4 A Yes, I do.

10:17 5 Q And who was Linda Duffus?

6 A Linda Duffus was a young girl that lived in our
7 neighbourhood. We lived on the corner of 19th and
8 0 and she lived on the opposite corner across the
9 street on the corner of 0 and 20th and she was a
10:17 10 year younger than I was and she went to Pleasant
11 Hill school, I went to St. Mary's school. Now,
12 her and I, we were friends, but I would say that
13 her and I, we would play ball together in the
14 springtime and if I did play with her, probably it
10:18 15 would be more in the summer because during school
16 we were just always busy doing whatever and I
17 don't really recall playing a whole lot during
18 that time, so that's what I remember of Linda.

19 Q Okay. I want to turn your attention to an RCMP
10:18 20 document, Rita, and you'll see it on your screen,
21 it's document ID 034959.

22 A Uh huh.

23 Q And you'll see these are notes from an RCMP
24 discussion with Linda Duffus in 1993 and if we
10:18 25 could turn to page 034960 of that document,



1 please. Everybody's monitor is on? If we could
2 turn to 034960 and if you could zoom in the bottom
3 portion of the page, please. I'll read that for
4 you, Rita.

10:19 5 "- was friends with Rita Cadrain at the
6 time.

7 - Rita Cadrain told her that around the time
8 of murder (exact date/time to be determined)
9 someone unknown to her was sleeping in her
10:19 10 bedroom.

11 - Rita Cadrain had a bedroom in the basement
12 of the Cadrain house."

13 If we could turn also, please, to page 034963 and
14 if we could zoom in on this portion right here,
10:20 15 please.

16 "Duffus indicated that she was a friend to
17 Rita Cadrain, Albert's younger sister. Rita
18 had told her that she was frightened to stay
19 in her bedroom downstairs because she had
10:20 20 found blood stained clothes in her room.

21 She felt that this had occurred around the
22 time of the Miller murder."

23 Rita, do you recall having a discussion of that
24 nature with Linda Duffus?

10:20 25 A I don't have any recollection of that discussion



1 and it's my belief I don't believe it happened.

2 Q And you have no memory then of the contents of
3 what Linda Duffus speaks of, your finding bloody
4 clothes or anything of that nature?

10:20 5 A No.

6 Q Okay. And do you believe that happened?

7 A I don't believe it happened.

8 Q If we could turn as well, please, to page 034964
9 and zoom in on this portion here. Again, Rita,
10:21 10 I'll just read this too you. And, I'm sorry, can
11 we zoom out again. I believe this is again
12 discussions with Linda Duffus, 1993, and if we
13 could zoom in again to that portion, please.

14 "Rita said 2 days after murder
10:21 15 - afraid to stay in her bedroom - Rita.
16 - Rita room in basement - stairs from
17 kitchen, laundry room, 3 bedrooms
18 - Rita's room away from basement
19 - Rita found a pile of bloody clothes in her
10:21 20 bedroom
21 - had showed clothes to brother
22 - Linda didn't know of any renters
23 - someone unknown in bedroom. She had to
24 sleep elsewhere. Next day found the bloody
10:21 25 clothes. Told Linda."



1 Again, Rita, you have no recollection of any of
2 that information?

3 A No, I don't.

4 Q Okay. If we could turn, please, to document
10:22 5 048978, please, and, Rita, you'll see at the top
6 of this document, I believe these are discussions
7 the RCMP officers had with you at the time of
8 their investigation in 1993 and it's quite a short
9 document. I'll read it to you. It moves
10:22 10 backwards though, so if we could flip to page
11 048980 and reading from the top:

12 "Interviewed Rita Gifford (nee Cadrain) at
13 her residence in Outlook, Saskatchewan.

14 Rita is a sister to Albert Cadrain. Subject
10:22 15 was 11 years old at the time of the murder.

16 - on the morning of the murder Rita recalls
17 Mary Marcoux coming to school looking very
18 pale.

19 - police also came to the school that day.

10:23 20 - does not recall lunch at home on January
21 31, 1969.

22 - was not questioned by police or required
23 to testify.

24 - did not discuss this issue with Albert.

10:23 25 - has not been questioned by any other



1 persons.

2 - feels Albert is afraid of David Milgaard.

3 - the Cadrain family did not talk about the
4 murder very much in front of the children."

10:23 5 If we can move to 048979 and zoom in again,
6 please.

7 "- recalls the Fisher family especially
8 Linda and Tammy.

9 - recalls Linda Duffus but not the incident
10:23 10 of a pile of bloody clothes in her bedroom
11 as alleged by Duffus.

12 - Rita did have a bedroom in the basement
13 but not until well after Fishers left.

14 - at one time Albert bought something for
10:23 15 the farm. Rita asked where he got the money
16 from and Albert said he got it from the
17 police. Albert did not want to talk about
18 it. Investigators feel this may the reward
19 money as other Cadrain family members have
10:24 20 also indicated the reward money went to buy
21 farm machinery.

22 And the last page, please.

23 "- info Rita Gifford provides is very
24 general and does not really address any one
10:24 25 issue.



1 - was not questioned by police at the time.

2 Did not testify.

3 - did not discuss murder with Albert.

4 - has not been questioned by anyone else.

10:24 5 - does not recall pile of bloody clothes in

6 her bedroom as indicated by Linda Duffus.

7 - Rita got a bedroom in the basement after

8 Fishers left."

9 And that's the end of that document. Would that

10:24 10 be an accurate account of the information then

11 that you provided to the RCMP in 1993?

12 A I believe so, yes.

13 Q And the contents are true then, Rita?

14 A Uh huh.

10:24 15 Q Lastly I'm going to show you document 048973 and

16 if we could move to page 048974, please. I

17 believe this is a sketch, Rita, of the basement at

18 your home. Do you recall whether you drew this

19 sketch or does this look familiar to you?

10:25 20 A I don't recall it, but that looks like the layout

21 of our basement.

22 Q And just so we can orient ourselves, I believe

23 it's indicating that Avenue O would run in front

24 of the house here?

10:25 25 A Uh huh.



1 Q I take it the front door would be there on the
2 main floor?

3 A Where are you --

4 Q I'm sorry, I'm pointing right here.

10:25 5 A Okay.

6 Q And it indicates "Rita's" in one corner and if you
7 can orient yourself to the basement, is that where
8 your bedroom would have been when you stayed in
9 the basement?

10:25 10 A Yes.

11 Q And do you understand -- or do you recall what
12 that room was used for by the Fishers when they
13 were living in the basement?

14 A I think they used that as their bedroom too.

10:26 15 Q Okay.

16 A Yeah.

17 Q I'm going to turn your attention now, Rita, to
18 page 048975 of that same document, and again it
19 looks like a discussion you were having with RCMP
10:26 20 officers in 1993, your husband Murray was also
21 present, and if we move to the next page, 048976,
22 and if we could zoom in, please, on this portion,
23 I'm going to read that to you, Rita:

24 "Believes Mrs. Milgaard had contact with her
10:26 25 in '77 through Avon. Mrs. Rutherford name



1 mentioned. Rita sold Avon for a couple of
2 months. Phillip, Rick have been called
3 looking for Albert. No court involvement.
4 Albert is scared of Milgaard, just a feeling
10:27 5 Rita has - related Milgaard's escape and
6 being shot in the butt.

7 Murray helped Albert move
8 several times in Saskatoon."

9 Then moving to the next page, please, and zoom in
10:27 10 at the top.

11 "Mrs. Eleanor Rutherford used to ask Rita
12 about Albert. She works for CBC, secretary.
13 - live on Ferguson 2710.

14 - believes Rutherford and Milgaard were
10:27 15 friends.

16 - Rita used to dance with Rutherford's
17 daughter.

18 - Rutherford suggested Rita try selling
19 Avon.

10:27 20 - believes Mrs. Milgaard was the one who
21 came to her to introduce the product.

22 - did not talk about Albert but Rutherford
23 would ask about Albert - where he lived,
24 etc., although she never knew Albert
10:27 25 before."



1 Do you recall providing that information, Rita,
2 during a discussion with the RCMP in 1993?

3 A Yes, I do, but, like I told them at the time, I
4 just didn't even, I wasn't even sure of it and,
10:28 5 you know, I was under the understanding that
6 Mrs. Milgaard sold Avon as well and this is just
7 what I am thinking, but I can't say for sure, and
8 I don't know if there was any connection, but it
9 just seemed like there was to me.

10:28 10 Q Okay. So would it be fair to say then you don't
11 have a clear recollection of the events that are
12 described or contact that is described in this
13 document?

14 A No.

10:28 15 Q And do you --

16 A Not clear.

17 Q And would you have any other comment that would
18 expand upon that information for us, and that's
19 fine if you don't, Rita.

10:28 20 A No, I really can't say I do.

21 Q And, Rita, I'm going to move on. I understand
22 that Albert passed away in 1995?

23 A That's correct.

24 Q And could you tell us just very briefly what the
10:29 25 circumstances of your brother's passing were?



1 A I was told it was a hunting accident. I guess
2 what I believe to have, what occurred was my
3 brother was out in a bush growing marijuana and he
4 was dressed all in black I was told and he was
10:29 5 busy working and two hunters thought he was a bear
6 and they shot him, and I remember when I heard the
7 news I just felt that I needed some information
8 just to make sure that it was a hunting accident,
9 so I had Gary Toll (ph) at the time, he was an
10:30 10 RCMP in Outlook, look into it for me, and he came
11 back with this information that it was a hunting
12 accident. I didn't go to the police station, my
13 husband went for me. I just needed -- that's all
14 I wanted to know at the time, was to make sure it
10:30 15 was a hunting accident, because deep down I just
16 felt that there was, that it was a murder. Now,
17 when I got that information I had to accept that
18 and I did until you called me in in January to
19 come and speak with you and after that I felt that
10:30 20 I needed to let my brother's oldest daughter Kim
21 just be aware that this inquiry was going to start
22 and so that, you know, the media and the news and
23 the papers, it was all going to be coming up and
24 just to prepare her because I know it's not very
10:31 25 easy for them, and she said, "Well, I hope this



1 inquiry will maybe take another look at my dad's
2 death," and at that time she explained to me about
3 the conversation she had with her dad the day
4 before he died. Now, that conversation troubles
10:31 5 me and it's making me take a good look. Now, was
6 somebody -- was it really a hunting accident?
7 That's one question I really need to be answered.

8 Q And do you want to share with us, Rita, what
9 Albert's daughter had told you during the
10:31 10 conversation?

11 A Well, I would like you to talk to her.

12 Q Okay.

13 A But I can tell you how I remember it, is she had
14 said -- I said, well -- I said, "Kim, it was a
10:32 15 hunting accident," because I had, you know, an
16 RCMP look into it and it was a hunting accident,
17 and she said, "Then why would my dad phone me the
18 day before," and he was telling her, "Kim, I love
19 you very much, I'm very proud of you, please
10:32 20 always remember how much I love you, I have to go
21 away for a while, but I just always want you to
22 know that I'll always love you." And she said at
23 that time she just thought it was kind of funny,
24 like, why is my dad doing this, you know, and the
10:32 25 next day he was dead, and I said, "Did you ever



1 tell the police or did you ever talk to a lawyer
2 or tell anybody?" and she said "no" and our lines
3 got disconnected. Now, I'm saying I don't know, I
4 believe they don't have a very good phone and
10:32 5 maybe the battery went dead, but that was a
6 concern for me, and I think it is for his kids
7 too.

8 Q Okay. Thank you, Rita. Mr. Commissioner, I will
9 make reference to a couple of documents. I don't
10:33 10 believe we need to read them at this point. The
11 first is an inquiry that had been made by the
12 Outlook detachment looking for information on the
13 circumstances of Mr. Cadrain's passing. I believe
14 they were making that request of the Mission
10:33 15 detachment in British Columbia and that's document
16 061854, and I also will make reference to a report
17 that was then produced by the Mission RCMP
18 detachment outlining the circumstances of
19 Mr. Cadrain's passing and that is document 061856.
10:33 20 Thank you, Rita, for answering my questions.
21 Those are all the questions that I have. My
22 friends may have some questions for you.

23 A Okay.

24 COMMISSIONER MacCALLUM: Thanks, Mr. Hardy.
10:34 25 Mr. Wolch, do you have any questions?



1 MR. WOLCH: Just a couple.

2 BY MR. WOLCH:

3 Q Ma'am, can you tell me something about the
4 relationship between your two brothers Albert and
10:34 5 Ken?

6 A I think, you know, Albert was one of the older
7 ones and Kenny was the youngest one and I think
8 they, you know, like, he probably, you know,
9 looked after him that day I'm told, he babysat.

10:34 10 Q I don't mean on the one day, I mean generally.

11 A Generally? I think, you know -- what do you want
12 me to say?

13 Q Well, were they close, were they together a lot,
14 did one look up to the other, things like that?

10:35 15 A I think they were close. I think all of us were
16 close, you know.

17 Q Okay. I'm mainly concerned with those two. Would
18 you say that Ken looked up to Albert as a big
19 brother?

10:35 20 A I would say yes.

21 Q And they spent considerable time together?

22 A I don't know how much time together, but, you
23 know, they probably did spend some time together,
24 yes.

10:35 25 Q Getting back to the important time in question,



1 were you aware that your brother Albert had been
2 picked up in Regina by the Regina police?

3 A No, I wasn't, but that came -- that information I
4 was told, like, about a month ago.

10:35 5 Q You never even knew about that?

6 A No.

7 Q Nobody in the family talked about that or Albert
8 didn't tell you that or --

9 A No.

10:35 10 Q Did Albert talk at all about the treatment he had
11 at the hands of the police?

12 A Well, I believe he did, but he didn't to me.

13 Q I only care about yourself.

14 A No, he never did.

10:36 15 Q He never shared it with you. And you mentioned
16 that he was a kind, a giving, easily led young
17 person; would that be fair?

18 A I wouldn't say he was easily led, I didn't say
19 that I don't believe. I said he was kind and he
10:36 20 was very giving. I believe he lived a very free
21 lifestyle.

22 Q Well, you said he was easily taken advantage of?

23 A Well yes, maybe, I think he could be sometimes.

24 Q And easily influenced?

10:36 25 A Now that I don't know.



1 Q He had difficulty in school academically; did he
2 not?

3 A Yes, I think he did. I don't believe he completed
4 grade 8.

10:36 5 Q And he spent quite a few years in grade 6 I think?

6 A I don't know about that.

7 Q Okay. But he had trouble with schooling?

8 A I think it was grade 8, he spent a few years in
9 grade 8.

10:37 10 Q But academically he couldn't get beyond that
11 level?

12 A No, I don't think so.

13 Q So would it be fair to say that he was a kind,
14 easily influenced young man who was -- I don't say
10:37 15 this in an unkind way -- somewhat of a simple man
16 or boy?

17 A I wouldn't say he was simple. Now, if you want to
18 compare him to my brother Dennis, I would say
19 Dennis maybe had more book smarts, Dennis, you
10:37 20 know, did better in school than Albert, but just
21 remember that Albert, he maybe not have been
22 really smart in school, but he was smart in a lot
23 of ways. Don't tell me that he was simple.

24 Q I'm not telling you anything, I'm asking you.

10:38 25 A No, I don't believe he was simple.



1 Q But you would acknowledge that he had trouble
2 academically, he couldn't get past grade 7 I take
3 it?

4 A I believe it was grade 8, but I don't know.

10:38 5 Q Okay.

6 A But --

7 Q And he was easily influenced?

8 A I don't know if he was easily influenced, I can't
9 tell you that. I don't believe so.

10:38 10 Q I thought those were your words.

11 A I don't know if that's -- if he was easily
12 influenced.

13 Q Easily taken advantage of?

14 A Easily taken advantage of, yes, I could believe
10:38 15 that could happen, just knowing the nature of his
16 personality.

17 Q He would try to appease people?

18 A Well, maybe.

19 Q Well, would you not agree with that?

10:38 20 A Yeah, I agree with that. Like, he was just, you
21 know, he was just nice to people.

22 Q He would try to give people what they wanted if he
23 could?

24 A Yeah, I agree.

10:39 25 MR. WOLCH: Thank you.



1 COMMISSIONER MacCALLUM: Ms. McLean?

2 MS. McLEAN: No thank you.

3 COMMISSIONER MacCALLUM: Mr. O'Keefe, any
4 questions?

10:39 5 **BY MR. O'KEEFE:**

6 **Q** I just want to get back to the issue of the bloody
7 clothing and any conversation that you may have
8 had with Linda Duffus. Your recollection of what
9 was happening around the day of the murder seems
10:39 10 to be relatively clear in many respects; for
11 example, with respect to the Marcoux girl's
12 appearance at school that day?

13 **A** Uh huh.

14 **Q** Would you agree with that?

10:39 15 **A** Yes.

16 **Q** If you had found clothing with blood, articles of
17 clothing with blood on them, that likely, on the
18 day of the murder, would have been the type of
19 thing that you would have remembered more than any
10:40 20 other detail; would you agree with that?

21 **A** Well, it's my -- I would agree with that. I think
22 that if there was blood and I found clothes, I
23 would definitely remember that.

24 **Q** And you are satisfied then with your recollection
10:40 25 today that you never found any articles of



1 clothing with blood on them?

2 A Yes.

3 MR. O'KEEFE: All right, thank you.

4 COMMISSIONER MacCALLUM: Mr. Fox?

10:40 5 BY MR. FOX:

6 Q Is it Mrs. Gifford?

7 A Pardon me?

8 Q Mrs. Gifford?

9 A Yes.

10:40 10 Q Yes. Mrs. Gifford, I'm Aaron Fox, I'm a lawyer
11 representing Eddie Karst in these proceedings. I
12 appreciated you commenting about -- did you call
13 him Shorty or did you call him Albert?

14 A No, we always knew Albert as Albert.

10:41 15 Q Okay.

16 A And until this I wasn't aware that he was called
17 Shorty.

18 Q So in 1969, and January 31st, 1969 as sort of the
19 date that we're talking about, at that time he was
10:41 20 Albert to you?

21 A He's always been Albert to me.

22 Q Okay.

23 A And I don't know why, but that name, it offends me
24 every time I hear it. I don't know. It's just
10:41 25 because it was foreign to me.



1 Q Okay. I want to ask you about Albert in 1969.
2 Yesterday we heard a couple of tape recordings of
3 interviews with him and one I think was 1983 and
4 one was 1995, so it was a long time after 1969, so
10:41 5 I'm going to ask you, if you can sort of, to think
6 back, and you've already done that to some extent
7 already, to the person that you knew in or around
8 the time period of January, 1969.

9 A Uh huh.

10:41 10 Q You've described Albert as being kind and you've
11 made a number of comments about him and you've
12 answered some questions of Mr. Wolch. Could you
13 comment on Albert's honesty?

14 A I believe that my brother was honest and just the
10:42 15 fact that how we were raised and that's something
16 that just really troubles me to this day because I
17 think, knowing my brother, I cannot, in my heart,
18 believe that he would go to the police with this
19 story unless he really believed he had to and, you
10:42 20 know, when I think back, I think how hard that
21 must have been, and so I really honestly believe
22 that he went to the police with good intentions.

23 Q Okay. You described a little bit of the
24 lifestyle, a bit of a hippie lifestyle I think you
10:43 25 referred to it, Albert was at about that age in



1 1969 and he was living then and Dennis and others
2 that you probably saw as well in the community,
3 and I take it from that sort of going to the
4 police with information about a friend being
10:43 5 involved in what was a pretty serious crime, you
6 would have recognized that that would be a
7 difficult decision for Albert to have made?

8 A Well, probably back then, no, but now, yes, and I
9 think -- I don't think that the police really at
10:43 10 that time really liked kids like that --

11 Q Okay.

12 A -- you know, and not that they were all bad kids,
13 but I just think that, you know, they caused
14 problems for the police.

10:43 15 Q Okay. So -- and I think when you said not back
16 then, you are referring to yourself in 1969, it
17 kind of didn't occur to you then, but looking back
18 on it now you realize the difficult decision that
19 would have been to have been made by Albert?

10:43 20 A Uh huh.

21 Q If Albert went to the police, and you don't know
22 what he saw on January 31st, '69 and you don't
23 know what he said to the police, but if we assume
24 for the moment Albert went to the police after
10:44 25 speaking to Dennis and speaking to his parents and



1 told them that he saw blood on David Milgaard's
2 clothes, would there be any doubt in your mind,
3 knowing Albert in 1969 the way he was, that he
4 would be telling the truth?

10:44 5 A No doubt. I would believe that he was telling the
6 truth.

7 Q When you talked about Albert being taken advantage
8 of, would -- and I'm not going to put examples to
9 you, maybe you can tell me what you mean by being
10:44 10 taken advantage of?

11 A Well, I don't know, I would say that, you know,
12 maybe when he was out he had a job and he was
13 working and his friends would still be at school
14 and I remember him always be very generous. He
10:45 15 would be the one that would buy the pop, he would
16 be the one that would just pay for everything.
17 That's what I'm trying to say, is --

18 Q So if he had money -- sorry, I don't mean to cut
19 you off.

10:45 20 A -- and money just didn't seem to be a big thing to
21 Albert, and that's what I'm trying to say, is
22 that, you know, kids would just let him pay for
23 everything and what I believe that day is when
24 David and Nichol and Ron came and found Albert and
10:45 25 they were going to go on a holiday, I believe he



1 went and cleaned out his bank account. That's
2 what I'm trying to say. That's the way Albert
3 was.

4 **Q** And that wouldn't surprise you if that happened,
10:45 5 that somebody that he maybe even wasn't really
6 close friends with might turn to him for some
7 money and Albert would do just that?

8 **A** You bet, you know.

9 **Q** Go down to the bank, get his money out, and use it
10:45 10 for the trip?

11 **A** Yeah.

12 **Q** Umm, you were asked by I believe Mr. Hardy if you
13 had been interviewed by the police or spoke to the
14 police and you said that you had no recollection
10:46 15 of that?

16 **A** Yes.

17 **Q** Going back to that time period, 1969-1970, do you
18 know if you were approached by anybody on behalf
19 of David Milgaard; for example, either he himself,
10:46 20 or someone from his family, or a lawyer or an
21 investigator on his behalf?

22 **A** I don't believe so.

23 **Q** Okay. So, basically, no one came and spoke to
24 you --

10:46 25 **A** No.



1 Q -- on sort of either side of the issue, so to
2 speak?

3 A Not that I remember, no.

4 Q Okay. The -- you talked about you thought that
5 the stress that Albert was under triggered, helped
6 trigger the mental illness that he suffered when
7 he eventually went to hospital, I think you had
8 mentioned stress. In January of 1969, before he
9 had gone to speak to the police or before he had
10 had a visit from David and Ron and Nichol at the
11 house, were you aware of Albert being under any
12 particular stress at that time?

13 A No.

14 Q And can you -- would I be correct in saying that
15 having to go through the process of speaking to
16 the police and then testifying in court at the
17 preliminary hearing and at the trial would have
18 appeared to you to have been a stressful situation
19 for Albert?

20 A I think that it was very stressful for him.

21 Q And simply because it's not an easy thing to do,
22 to become involved in what was a pretty brutal
23 murder investigation, and suggesting he had
24 information that a friend might have been
25 involved?



1 A Yeah. And you have to remember that, you know,
2 there wasn't a whole lot of crimes committed like
3 that in Saskatoon, it was a pretty safe
4 environment.

10:47 5 Q Okay. Can I go back to, just again, to about
6 January 1969. As best you can recall, we've heard
7 a bit, and I'm sure we'll hear more about some
8 evidence of some sexual assaults or rapes, as they
9 were called at that time, having occurred in and
10:48 10 about Saskatoon?

11 A Yes.

12 Q Do you have any recollection of that at that time?

13 A No.

14 Q Like any recollection of, for example, your mom or
10:48 15 your parents saying "you know, got to be safe,"
16 before this murder took place, before then saying
17 "be careful on the streets because something has
18 happened in the city" or something like that; any
19 recollection of that?

10:48 20 A Not so much that, but I mean we were always told
21 to be cautious or whatever, you know. But one
22 thing I do remember is when Albert came back after
23 he had left with David and Ron and Nichol, now I
24 guess he was in Regina, and when he came back he
10:48 25 was going to send -- and I don't know if it was



1 Larry and Rick or Phil or Kenny and I, two of us
2 to St. Paul's Lunch to buy some pop. Now that was
3 a real treat for us because we just didn't get
4 pop, you know, and we weren't allowed to go
10:49 5 because there had been a murder. You just, you
6 know, after school you just -- after supper you
7 were not allowed outside, and that was not just
8 our family, it was everybody. You know, it was --
9 there was a lot of fear in the community.

10:49 10 Q And that would be the Gail murder --

11 A Yes, yes.

12 Q The Gail Miller murder?

13 A Yes.

14 Q Prior to the Gail Miller murder --

10:49 15 A Yes.

16 Q -- you don't recall any such events resulting in
17 any cautions from your parents?

18 A No. I mean we still had our curfew, you know, but
19 I mean we were a little bit -- we weren't living
10:49 20 in fear.

21 Q Sure. Just talking a little bit about Larry
22 Fisher, do you have any feel for how long it was
23 that he lived in the basement of your residence?

24 A I don't know for sure. Like I know they had moved
10:49 25 in, I'm guessing maybe at the most, six months.



1 Q Okay. And again, and I appreciate this is a long
2 time ago and -- but going back to January of 1969,
3 any feel for how long they might have been there
4 then, or how long they were there after January
10:50 5 31st, '69?

6 A I'm sorry, I just don't know, I'm thinking that
7 they were there for maybe three to six months. I
8 don't know.

9 Q So they weren't at your residence very long then?

10:50 10 A No.

11 Q Okay. And, in terms of the basement, did they --
12 did your family still have access to the basement
13 of the house?

14 A No.

10:50 15 Q No? So they kind of, the basement was solely
16 their --

17 A The basement was their living space and we, we
18 didn't go down there.

19 Q Okay. Umm, I wonder if you could just put up,
10:50 20 please, document 061854, please. Umm, what this
21 is, this is a document you are probably not
22 familiar with, but it's a document issued by the
23 RCMP that was sent from the Outlook Detachment out
24 to the F Division Investigations, and this relates
10:51 25 to your concerns at that time about circumstances



1 surrounding the death of Albert, and I'm just
2 reading it:

3 "We understand that your detachment
4 conducted an investigation into the death of
10:51 5 Cadrain who was apparently killed as a
6 result of a hunting accident. His sister,
7 Rita Gifford, has made enquiries at our
8 Outlook detachment respecting the
9 circumstances of his death. She has had to
10:51 10 rely on second hand information from a
11 brother, Dennis Cadrain, Maple Ridge, about
12 what took place. In view of Albert
13 Cadrain's past, Rita is concerned that his
14 death may not be accidental."

10:52 15 Would that be correct in terms of what you would
16 have conveyed to the RCMP?

17 A Yes.

18 Q And then there's reference:

19 "Last year we interviewed Cadrain respecting
10:52 20 his 1969 evidence against David Milgaard as
21 part of our investigation of the trial and
22 allegations of wrongdoing by the Saskatoon
23 City Police. Rita is very familiar with the
24 details of this case and might be suspicious
10:52 25 that Milgaard and others would have reason



1 to kill Cadrain."

2 For this:

3 "Would you be good enough to provide us with
4 some details of this incident so that we can
10:52 5 reassure the family?"

6 And, again, would that have been sort of the
7 concerns that you were expressing to the RCMP at
8 that time?

9 A At that time, yes.

10:52 10 Q Okay. And what you have indicated today is that
11 they then came back to you with some report about
12 what they found through their investigation, and
13 at that -- and as a result you accepted it must
14 have been a hunting accident, and it's only as a
10:52 15 result of -- I'm doing the same thing others have
16 done which is ask two questions at once.

17 The first part, you were
18 satisfied after you received, or at least were
19 prepared to accept the report after you received
10:52 20 it?

21 A I was prepared to accept the report, yes.

22 Q And it's only now, as a result of speaking to
23 Albert's daughter Kim and the conversation she had
24 with her father the day before the death, that you
10:53 25 now have concerns once again?



1 A Well I --

2 Q Or I should say questions?

3 A I have questions, yes.

4 Q Okay. Those are all the questions I have. Thank
10:53 5 you very much.

6 A Okay.

7 COMMISSIONER MacCALLUM: Thanks, Mr. Fox.
8 Ms. Wempe?

9 MS. WEMPE: No questions.

10:53 10 COMMISSIONER MacCALLUM: Okay. Mr. Elson?

11 MR. ELSON: Just one question.

12 **BY MR. ELSON:**

13 Q Mrs. Gifford, my name is Richard Elson, I
14 represent the Saskatoon Police Service in these
10:53 15 proceedings.

16 One question I have for you, and
17 it relates to Mr. Fisher; did you ever have
18 occasion to see Mr. Fisher bring a motor vehicle,
19 a car, to your home?

10:53 20 A No.

21 Q Did you ever have occasion -- and, to your
22 knowledge, he did not own a vehicle?

23 A I don't think so.

24 Q And, to your knowledge, Linda Fisher did not own a
10:54 25 vehicle?



1 A No, I don't believe so.

2 Q And if I could be more specific, and I appreciate
3 that you were at school on January 31st of 1969
4 and you recall having interacted with Mary Marcoux
10:54 5 in the manner you have described, was it later
6 that day you were made aware of the fact that
7 there had been a murder in the neighbourhood?

8 A I believe it was probably after the news, you
9 know, I don't think we even knew about it until
10:54 10 later that night.

11 Q Later that night?

12 A I don't remember.

13 Q All right.

14 A That's what I think.

10:54 15 Q All right. Do you recall coming home and
16 discovering that your brother, Albert, had left
17 the city?

18 A I don't recall.

19 Q You don't recall that?

10:54 20 A No.

21 Q Okay. And let me be more specific, and I
22 appreciate that you have answered the question
23 that you don't recall Mr. Fisher bringing a motor
24 vehicle home; specifically on that day, January
10:54 25 31st, 1969, you don't recall Mr. Fisher having



1 brought a motor vehicle home that day?

2 A Not at all, no.

3 Q Thank you.

10:55

4 COMMISSIONER MacCALLUM: Excuse me,
5 Ms. Krogan?

6 MS. KROGAN: No.

7 COMMISSIONER MacCALLUM: Mr. Kennedy?

8 MR. KENNEDY: No, thank you.

9 COMMISSIONER MacCALLUM: And Mr. Watson?

10:55

10 MR. WATSON: No.

11 COMMISSIONER MacCALLUM: I think that's
12 all, then. Mr. Hardy, any redirect?

13 MR. HARDY: Just one question on
14 re-examination.

10:55

15 **BY MR. HARDY:**

16 Q Rita, you were telling Mr. Fox about Albert's
17 return from what you now understand to be a trip
18 from Regina, and coming back home and a story of
19 asking some of the younger siblings to run and get
10:55 20 some pop?

21 A Uh-huh.

22 Q And was Albert told, at that point, that your
23 parents were not allowing the kids to go out in
24 the evenings?

10:55

25 A Well if I -- how I can remember it is that he had



1 said "okay, who wants to go get some pop for
2 everybody," you know. Well, we were ready to go,
3 and then -- but then we weren't allowed to. And
4 "well, why not," and it was because there had been
10:56 5 a murder, and then I do remember, you know, him
6 asking and then just, you know, discussing. But
7 not a whole lot, like probably didn't pay a whole
8 lot of attention to it after we knew, we just --
9 we couldn't go, and that was it, and then you
10:56 10 probably went off and did your own things. But it
11 was discussed a little bit.

12 Q And did you have the impression that Albert had
13 not heard of the murder prior to that?

14 A I am thinking that this is when he first was aware
10:56 15 of it.

16 Q Okay. Thank you. That was my only question,
17 Mr. Commissioner.

18 COMMISSIONER MacCALLUM: Thanks.

19 Mrs. Gifford, thank you very much for coming, you
10:56 20 are excused.

21 A Okay.

22 MR. HODSON: Mr. Commissioner, the next
23 witness is Ken Cadrain, I'm not sure if you want
24 to start him now or take the morning break? He
10:57 25 will be a while.



1 COMMISSIONER MacCALLUM: We'll take the
2 break.

3 MR. HODSON: The break?

4 COMMISSIONER MacCALLUM: Pardon me, yes,
10:57 5 we'll take 15 minutes break.

6 *(Adjourned at 10:57 a.m.)*

7 *(Reconvened at 11:16 a.m.)*

8 MR. HODSON: The next witness is Kenneth
9 Cadrain, if I could please ask Mr. Cadrain to
11:16 10 please come up to the witness table.

11 **KENNETH PAUL CADRAIN, sworn:**

12 **BY MR. HODSON:**

13 **Q** Morning, Mr. Cadrain, thank you for agreeing to
14 testify at this Commission.

11:17 15 It's my understanding that you
16 are presently 41 years of age; is that correct?

17 **A** Yup.

18 **Q** And that your date of birth is February 22nd,
19 1963?

11:17 20 **A** Yes.

21 **Q** And that you reside in Saskatoon?

22 **A** Yes.

23 **Q** And that you are employed in the construction
24 industry out in Fernie, B.C. at the present time?

11:17 25 **A** Yup.



1 Q And that you are the younger brother of Albert
2 Cadrain; is that correct?

3 A Yes.

4 Q And my understanding is that Albert was
11:17 5 approximately 12 years older than you?

6 A Yup.

7 Q Can you describe your relationship with your
8 brother Albert?

9 A Umm, we were very close throughout, you know. We
11:17 10 were close. He taught me how to cook, he was
11 always doing things with me, or we always found
12 time to spend time together and do things.

13 Q So let's just go back from the '70s and the '80s,
14 when you were a younger child, were you close with
11:18 15 Albert?

16 A Not then. I was, you know, he was my big brother
17 but he had a different -- you know, he was always
18 out and about, and I was five, so, you know, I
19 stayed closer to home.

11:18 20 Q In the later years then, let's say in the '80s and
21 early '90s then, were you closer to Albert then?

22 A Yup, we were a lot more closer then, because he
23 got me my first job.

24 Q In January of 1969 you resided at 334 Avenue O
11:18 25 South; is that correct?



1 A Yes.

2 Q And I'm going to be asking you some questions
3 about January 31, 1969, and on that date you would
4 have been about a month shy of your sixth
11:18 5 birthday, is that correct?

6 A Three weeks.

7 Q Three weeks? Do you recall who was residing in
8 your home at that time, January of 1969, which of
9 your siblings?

11:19 10 A Umm, at that time, yeah, mostly everybody was
11 living there except for Marcel. Older brothers
12 Dennis and Albert, they -- as my sister Rita had
13 said, that they were in the hippie, they were
14 hippies so they travelled lots. They went off,
11:19 15 they ran away once to Vancouver, and I don't know
16 when or what, the periods. That's pretty cloudy
17 back then, at that time, but there was -- we were
18 all living at home at --

19 Q At that time?

11:19 20 A Yeah.

21 Q So the younger kids would have been at home and
22 the teen-aged kids might have been out and about;
23 is that fair?

24 A Yup.

11:19 25 Q Okay. Now do you recall January 31, 1969, the day



1 of Gail Miller's murder?

2 A I recall the morning, I don't remember if it was
3 the murder, but I recall when David came to our
4 house that morning.

11:19 5 Q David Milgaard?

6 A Yes.

7 Q And can you tell me what you recall, please?

8 A There was a knock on the door, brother answered
9 the door and Hoppy came in, he says "hi, Hoppy,
11:20 10 how you doin'", or something like that, and my
11 brother asked him about the blood on his pants and
12 he had said, David had replied "I screwed a virgin
13 last night". That's what I remember.

14 Q Okay. When you say "brother", which brother was
11:20 15 that?

16 A Albert. The only ones I remember that morning
17 were just me and Albert and my sister Celine,
18 upstairs, and she was sleeping.

19 Q Do you recall what time -- I'm sorry, go ahead?

11:20 20 A My sister Celine was upstairs sleeping.

21 Q Do you recall what time of day this was?

22 A In the morning.

23 Q Do you recall what time?

24 A Umm, no, no.

11:20 25 Q Okay. Was it a school day; do you remember?



1 A Yeah, it was a school day.

2 Q And I take it you didn't go to school that day?

3 A Yeah, I don't -- I wasn't at school that day, no.

4 Q Now you mentioned the name Hoppy and David; what
11:21 5 did you hear Albert say?

6 A Hoppy.

7 Q Hoppy? And did you know who Hoppy was?

8 A No.

9 Q Okay. And, when this person arrived at the house,
11:21 10 did you see the person?

11 A Yup.

12 Q Where were you sitting or located when this person
13 arrived?

14 A I was sitting on the couch watching TV.

11:21 15 Q Okay. I think we have a map of the -- 324958. If
16 I could call that up, and this is a map that was
17 put in as an exhibit at the Larry Fisher trial,
18 and I believe it may have been drawn by Celine.
19 Do you recognize this, first of all the
11:21 20 handwriting, Ken?

21 A I don't recognize it, but -- actually, is this the
22 upstairs or the downstairs or --

23 Q Actually, this is the downstairs. If you could go
24 to the next, 324960, please. And this has got
11:21 25 "main floor of 334 Avenue O South", if we could



1 just zoom in on that a bit, and I --

2 A Yeah, that's accurate, yeah. Okay. The couch
3 is -- I don't know where -- if it was in the
4 living room it would be on this side.

11:22 5 Q Okay. Well hang on one second here. So this
6 would be Avenue O, the red line, would that be
7 Avenue O?

8 A Yup.

9 Q Your front door faced Avenue O, and this would be
11:22 10 19th Street going west to east, yes?

11 A Yes.

12 Q Okay. And then so the front door would be where I
13 have circled; is that correct?

14 A Yup.

11:22 15 Q Okay. Now can you, you can just touch on your
16 screen in your living room and maybe just put an X
17 where you say you were?

18 A Right there.

19 Q So right in here, you would be sitting on the
11:22 20 couch in that living room?

21 A Yup.

22 Q Is that correct? And could you see the front door
23 when people came in?

24 A Yes, you -- yeah.

11:22 25 Q Now what did you -- did you observe David Milgaard



1 that morning?

2 A Yes, I did.

3 Q And what did you observe?

4 A I observed blood, bloody clothes, bloody -- blood
11:23 5 on him. I assumed it was blood.

6 Q Okay.

7 A From here to here.

8 Q Okay. You are pointing --

9 A In that area.

11:23 10 Q Okay. You are pointing sort of about six inches
11 down from your chin on your chest?

12 A To this area, yeah, to his thighs kind of in --

13 Q So how about from armpit height to his thighs; is
14 that what you are saying?

11:23 15 A Yeah.

16 Q And do you recall what Mr. Milgaard was wearing?

17 A No.

18 Q Did he have a jacket on?

19 A I don't think so. I don't know, I don't -- I just
11:23 20 remember his -- the blood or the whatever, you
21 know, it looked like blood on his clothes, and he
22 was asking for -- to change his clothes. And I
23 remember where he went --

24 Q Okay.

11:23 25 A -- and what he did. I was kind of -- was



1 interrupted in my Mr. Dressup.

2 Q How much -- you say you think it was blood, is
3 that --

4 A It was red.

11:23 5 Q Okay. And how much was there on the clothing?

6 A Umm, it was enough to -- I can't really remember
7 his -- that's a long time ago, but I remember it
8 was in this area and it was -- my brother had
9 asked "what happened" and, you know, and then that
11:24 10 was what brought my attention to it so I looked.
11 I can't really tell how much, or now it's gone,
12 it's -- memory has faded.

13 Q Okay. And so what were the words that you recall
14 Mr. Milgaard stating to Albert?

11:24 15 A He screwed a virgin.

16 Q Okay. And was there any further discussion that
17 you heard, then, between Mr. Milgaard and Albert?

18 A Not that I recall. But he wanted a change of
19 clothing and my brother assisted him, helped him
11:24 20 get some clothes, and I remember him changing in
21 our hallway.

22 Q Okay. Maybe you could just show me on the map, it
23 says "hallway" here, is that in this area where
24 I've circled?

11:24 25 A Right inside there, right beside the bathroom, in



1 the door to my parents' bedroom.

2 Q Okay. So right in here. I see on the left
3 there's a closet, on the bottom there's a
4 bathroom, and then the door to your parents'
5 bedroom; is that correct?

11:25

6 A Yeah.

7 Q And so he was in that area?

8 A He was right in that area, yes. He wasn't in the
9 bathroom, he wasn't in the bedroom when I had
10 looked, he was right in front of the both doors to
11 both rooms.

11:25

12 Q And what did you observe him doing, Mr. Milgaard?

13 A He was changing.

14 Q And do you know what clothes he changed into?

11:25

15 A I just looked real quick and went back in. He was
16 -- I don't know, I can't remember if he was -- he
17 had some clothes off, he was -- that's a long time
18 ago, I can't really be real clear on it.

19 Q Did he have a suitcase with him, do you recall,
20 when he came in?

11:25

21 A Don't think so.

22 Q Now what do you recall observing next?

23 A Then I -- or after he had changed I saw him, he --
24 it seemed like he was rolling stuff up in a ball,
25 clothes, and carried it away. He went right out

11:26



1 our, to our, I'll call it our back door, and then
2 I went out. I followed, because the door was
3 opened, and I seen him going out behind the
4 garage.

11:26 5 **Q** Okay. If I could just have you look at the map,
6 the back door is right there where I have circled,
7 is it, right off the kitchen?

8 **A** That was -- that is one of the back doors to our
9 porch.

11:26 10 **Q** I see.

11 **A** Yeah, and then there is a set of stairs, and then
12 two more doors to go outside.

13 **Q** Okay. Am I correct -- I'm sorry, so that right
14 there where it says "back porch", is that a
11:26 15 closed-in porch area?

16 **A** Closed-in porch area, yes.

17 **Q** Was it heated?

18 **A** No.

19 **Q** And then there is a set of stairs and then two
11:26 20 more doors right there, is that correct, where I
21 have circled?

22 **A** Yeah.

23 **Q** Okay. So can you tell me where you saw Mr.
24 Milgaard walk that morning?

11:26 25 **A** Well I saw him walking out towards the garage, and



1 from this area right there, and then I heard the
2 garbage truck.

3 Q So you saw him exit the house right where I have
4 put an X?

11:27 5

A Uh-huh.

6 Q Yes?

7 A Yes.

8 Q And you said he was carrying something?

9 A Yeah, he was carrying something.

11:27 10

Q Do you know what it was?

11 A I assumed it was clothes.

12 Q And then what did you see next?

11:27 13

A Then, after he left the door I went out and I saw
14 him walking towards the back of our garage, and I
15 seen a garbage truck coming, it was two or three
16 doors away, and that's it, he came back in and he
17 left.

18 Q Did Albert leave with him?

19 A Not that -- not at that point, no.

11:27 20

Q Do you recall any other persons being with Mr.
21 Milgaard that morning?

22 A No, I don't. I know someone had come later on
23 that morning to pick him up, but I don't, I
24 wasn't -- I can't remember it, I'm not --

11:27 25

Q So you don't recall anybody else coming in the



1 house with him?

2 A Not at that time.

3 Q Do you recall whether there was a -- whether Mr.
4 Milgaard arrived in a vehicle or not?

11:28 5 A I can't be sure about that.

6 Q Now, at the time that you heard this discussion
7 between Mr. Milgaard and your brother Albert about
8 the virgin, what did you think?

9 A I didn't know, I -- all I know was a virgin was
11:28 10 the Virgin Mary, that's -- at that time, that's
11 all I knew about and that. I don't know.

12 Q Did you say anything to Albert that morning about
13 what you observed and heard?

14 A I probably did but I don't recall any more.

11:28 15 Q Had you met Mr. Milgaard prior to this morning?

16 A No, that morning was the only time.

17 Q And do you recall approximately how long he would
18 have been at your house?

19 A Five, ten minutes.

11:29 20 Q And you mentioned your sister Celine was upstairs
21 sleeping; is that correct?

22 A Yup.

23 Q Do you recall her joining the group at any time
24 that morning?

11:29 25 A Umm, I don't recall. Not at that point. It was



1 just me and Albert.

2 Q So then I believe you said that Mr. Milgaard left
3 the house; is that correct?

4 A Yup.

11:29 5 Q And did he return later?

6 A I never saw him return later.

7 Q And did Albert -- what happened with Albert, then,
8 after Mr. Milgaard left?

9 A He was babysitting me.

11:29 10 Q And did he -- and I believe you said he did not
11 leave with Mr. Milgaard?

12 A Not at that point, no.

13 Q Did he at a later point?

14 A He left later on that morning, but I don't -- it
11:29 15 was after when my parents got home, or my mom got
16 home or someone had got home to take care of me or
17 whatever, but he did leave and he was gone for a
18 while after that.

19 Q Did you tell your mother, that morning, of what
11:30 20 you observed and what you heard with respect to
21 Mr. Milgaard?

22 A I don't -- I think I did, and my mom had told me
23 not to say anything at, you know, at -- to nobody,
24 she will -- you know, to not to say anything.

11:30 25 Q So you think you told her that morning?



1 A I'm pretty sure I did, yup.

2 Q Now, do you recall your brother Albert going on a
3 trip at or about this time?

4 A No. I remember he had left, I know that he did
11:30 5 leave, but I know he just left, the car pulled up
6 and he left, and it was a cold morning and you
7 couldn't see out of the windows.

8 Q Do you recall when Albert returned to -- or when
9 Albert returned to the house?

11:30 10 A No, I can't be sure. Like, from Regina you are
11 saying or --

12 Q Well, I think you said that he left that morning.
13 You don't recall whether he went on a trip. Do
14 you recall whether he came back at some later
11:31 15 point?

16 A I know Albert had left, but I don't recall him
17 coming back. Like, I know we had a busy household
18 and that really wasn't a concern to me at that
19 time, you know. I can't be sure.

11:31 20 Q And do you recall hearing anything about the
21 murder of a young woman near your house in or
22 about this time?

23 A No.

24 Q Now, after this time, and I'm going to talk about
11:31 25 March, 1969 and onwards for the following months,



1 do you recall whether or not Albert had any
2 dealings with any police officers?

3 A No.

4 Q Were you aware at that time, Mr. Cadrain, that
5 your brother Albert was involved in a police
6 investigation?

7 A Not really, no, no.

8 Q And were you aware at that time, sir, that Mr.
9 Milgaard had been charged with murder?

10 A No.

11 Q Were you aware that your brother Albert had to go
12 to court to testify at both the preliminary
13 hearing and trial in that matter?

14 A At that time I don't -- everything was kind of
15 sheltered from us, we weren't involved. I knew
16 something was going on, but every time I tried to
17 ask I would be shut down by my parents, saying
18 just --

19 Q What made you think something was going on?

20 A Well, I've got friends that were -- one of my
21 friends, Rick Hounjet, was testifying later on
22 about that, so, you know, we were kids, we would
23 talk, you know, so --

24 Q So you knew something was going on?

25 A Yeah.



1 Q And did you know that your brother Albert was
2 somehow involved?

3 A At that time, yes, yeah, but again, there was
4 nothing that was told to us, so we didn't know.

11:33 5 Q Now, I believe you told me that on this morning
6 you think you would have told your mother about
7 what you observed and heard with respect to David
8 Milgaard and your brother Albert; is that correct?

9 A Yeah, and later on, you know, as I was growing up,
11:33 10 if I would ask anything, she would always put it,
11 you know, tell us not to say. That's not for me,
12 I was too young, so --

13 Q And when you say she, you are referring to your
14 mother?

11:33 15 A Mother, yeah.

16 Q If we can just -- I'm going to ask you to think
17 about again January, 1969 and let's say the year
18 that followed that, and apart from the discussion
19 you believe you had with your mother on January
11:33 20 31, 1969, did you have any further discussions
21 with Albert, any of your siblings or your mother
22 and father about what you observed that morning?

23 A At that time or --

24 Q Yes, at that time.

11:34 25 A No.



1 Q So after January 31, 1969 you would not have
2 talked -- you would not have told anybody about
3 what you heard and observed that morning at least
4 for the following year; is that correct?

11:34 5 A Right. I may have said something to my mother,
6 but she shut it down and it wasn't a big thing in
7 my head anyway at that time. It wasn't until I
8 was 13, 14 years old when I started -- I think it
9 was the first time that David had escaped from the
11:34 10 penitentiary when it was brought up.

11 Q I'm sorry, when it was brought up again?

12 A Brought up again, and that's probably the first
13 time I talked to my brother Albert about what he
14 was involved in.

11:34 15 Q If we could just pause there. And how old do you
16 think you were at that time?

17 A The first time that me and Albert had talked?

18 Q Yes.

19 A 13, 14.

11:34 20 Q So that would be in the early '70s -- pardon me,
21 early '80s?

22 A Early '80s, late '70s, somewhere in there.

23 Q I'm sorry, I think I've got my math wrong. That
24 would be the early to mid '70s, does that sound
11:35 25 right, 13 or 14?



1 A Yeah, around mid '70s.

2 Q Mid '70s?

3 A Yeah.

4 Q And you recall you were about 13 or 14; is that
5 right?

6 A Yeah, roughly. I can't be sure.

7 Q And tell me how this discussion went with Albert?

8 A Well, we just, you know, I asked him, I says, you
9 know, I remember seeing this and we confirmed, "I
10 remember seeing blood on him," and he says, "Well,
11 yeah, he had blood on him," so we just confirmed
12 that kind of talk. That's about it.

13 Q And where did the discussion take place?

14 A You know, I don't remember. I'm sure it was, you
15 know, somewheres. I don't exactly remember the
16 spot. That's going back a few years.

17 Q Would it be in Saskatoon?

18 A In Saskatoon, yeah.

19 Q And you had said earlier that it was around the
20 time that Mr. Milgaard had escaped from prison you
21 think?

22 A I'm thinking that, yeah.

23 Q And so you brought it up with Albert; is that
24 correct?

25 A Yes.



1 Q Prior to you bringing it up with Albert and before
2 you told Albert about your recollection of the
3 morning of January 31, 1969, had you heard Albert
4 talk about, either to you or others, his
11:36 5 recollection of seeing blood on David Milgaard's
6 clothes on the morning of January 31, 1969?

7 A Never.

8 Q So when you raised it with Albert, you hadn't
9 heard his version of that morning?

11:36 10 A No.

11 Q And so what do you recall telling him?

12 A I remember asking about the blood and what he did
13 that morning. Like, I says I remember him going
14 out to the garbage to put this clothes in the
11:37 15 garbage and I remember seeing a garbage truck,
16 that's what I remember. The rest of it is foggy.

17 Q And then what did Albert say to you?

18 A Well, he basically confirmed that's what had
19 happened, but he had other things, you know, it's
11:37 20 been a long time ago again, a lot of water went
21 under that bridge.

22 Q Okay. At that time when you had talked to Albert,
23 I take it you were aware that Mr. Milgaard had
24 been convicted of a murder?

11:37 25 A Yes.



1 Q And it was the murder of Gail Miller?

2 A Yes.

3 Q And were you aware that your brother Albert had
4 been a witness in that proceeding?

11:37 5 A Yes.

6 Q And how and when did you become aware of that?

7 A I think it was when the first, when he had broke
8 out of jail, David Milgaard broke out of jail,
9 that's when, you know -- now, I was old enough to
11:37 10 start talking about this, that's when we started
11 talking about it.

12 Q And did you ask Albert about what he saw and the
13 blood?

14 A I just -- I don't think we never really went over,
11:38 15 you know, the details over it, but I remember
16 seeing blood and I remember where he was that
17 morning. That's about the only thing that we
18 talked. We didn't talk greatly about this until
19 about '93, around '92, '93 --

11:38 20 Q Okay.

21 A -- about this issue.

22 Q So this would be, I think, probably in the early
23 to mid '70s you would have had this discussion
24 with Albert, the first one?

11:38 25 A Yeah.



1 Q Did Albert tell you anything else about the
2 murder, the investigation or Mr. Milgaard other
3 than what the two of you shared about your
4 observations that morning?

11:38 5 A Later on we talked about -- I asked him, you know,
6 there was some accusations that he was -- I have
7 another older brother Dennis that said, you know,
8 the police, the Saskatoon City Police had harassed
9 him and were on him all the time and they
11:39 10 pressured him into making a statement and I had
11 asked Albert about that and he says no, and then
12 we started talking about -- Detective Karst's name
13 came into it and from what I remember he never had
14 anything bad to say about Detective Karst or him
11:39 15 pressuring him to say anything about it. I know
16 that when there was a break it was Detective Karst
17 had phoned Albert and was in communication with
18 him a few times while I was growing up and it was
19 information about the case or for something, I
11:39 20 wasn't in that conversation, but I remember him
21 telling me that he had phoned.

22 Q Now, you were talking about your brother Dennis
23 and this discussion and I think you said that
24 Dennis was saying that Albert was pressured by the
11:40 25 police or words to that effect?



1 A Yeah.

2 Q And was this a discussion that took place then in
3 the '90s or was this in the mid '70s?

4 A I think this is more in the '90s, more when we
11:40 5 were all talking, me, Dennis and Albert.

6 Q Okay. I'm just going to try and go through then
7 chronologically. So after this first discussion,
8 which I think you said when you were 13 or 14, you
9 shared with Albert your recollections of
11:41 10 observations on the morning of the murder;
11 correct?

12 A Yes.

13 Q Did Albert tell you anything else about the murder
14 or about Mr. Milgaard or his trip?

11:41 15 A He told me --

16 Q And again, I'm sorry, I'm talking about the very
17 first time you talked with him, not what he said
18 later.

19 A Okay. No, that's about pretty well what we talked
11:41 20 about, just that we confirmed that I saw, yeah,
21 whatever, that was it, so --

22 Q Did he tell you anything about his trip to Calgary
23 and Edmonton?

24 A Yes.

11:41 25 Q At that time?



1 A At that time, no.

2 Q And then I take it at a later point you would have
3 had further discussions with Albert; is that
4 right?

11:41 5 A Oh, yeah.

6 Q And when would those, time wise, when would those
7 have started?

8 A Late '80s, '90s, early '90s.

9 Q So from when you were 13 or 14, which I think
11:42 10 would be the early '70s, until the mid '80s, would
11 it be fair to say that you didn't have any
12 discussions with Albert about the David Milgaard
13 matter?

14 A Before I was -- until I was about 13, 14 years
11:42 15 old, no, never had no conversation.

16 Q And then you had the one conversation when you
17 were 13 or 14 and then the next one in the mid
18 '80s; is that right?

19 A Yeah, I would say it would be the late '80s.

11:42 20 Q Late '80s?

21 A Later '80s to -- yeah, mid '80s, late '80s.

22 Q So from that period from when you were 13 or 14 to
23 the mid or late '80s, would you have any
24 discussions with Albert about the David Milgaard
11:42 25 matter?



1 A Yes.

2 Q Yes?

3 A From the late '80s to --

4 Q No.

11:42 5 A I'm sorry.

6 Q Sorry. From when you were 13 or 14, so let's say
7 the early '70s, the first discussion you had with
8 him, and then I think you said in the mid to late
9 '80s you started talking to him again about it; is
10 that right?

11:43 11 A That's right.

12 Q And between that time period.

13 A No.

14 Q So from the early '70s to the mid '80s or later
11:43 15 there would have been no discussions between you
16 and Albert about this matter?

17 A No.

18 Q Now, tell me what happened then in the mid to late
19 '80s, would you have had further discussions with
11:43 20 Albert?

21 A From time to time we would share lots of, you
22 know, conversations over, you know -- and at that
23 time he was changing, he was changing at that time
24 with his mental health or what. He was
11:43 25 actually -- he seemed to be going one way at one



1 time after the trial with his sickness and then he
2 would be all, you know, normal again, and whenever
3 the stress would come, that's when he would start
4 going into having different thoughts.

11:43 5 Q Okay. We have heard evidence, Mr. Cadrain, that
6 in 1973 Albert went into the University Hospital
7 for treatment for his mental health. Do you
8 recall that?

9 A I remember the time period when he went into the
11:44 10 hospital and, yeah, he thought he was very
11 religious, and as a Roman Catholic family we used
12 to say the rosary lots and he would always be the
13 one leading us. I didn't think that was --

14 Q Did you make any observations then at that time,
11:44 15 and I appreciate you would have been fairly young,
16 in the early '70s and around 1973, about Albert's
17 mental health?

18 A Yeah. I remember one time -- I remember one time
19 he used to preach lots to us and three to four
11:45 20 hours a night he would preach to the youngest
21 three boys, whoever he could trap, and I remember
22 one time I went downstairs and I told my mom he's
23 going crazy and when I came up he called me Judas,
24 he knew, so at that point I think he was -- I
11:45 25 don't know, I'm not sure.



1 Q And this would have been when you were --

2 A Well, I don't know --

3 Q -- how old?

4 A Around that period, 10.

11:45 5 Q Early '70s?

6 A Yeah.

7 Q 10?

8 A Seven, eight, nine, 10.

9 Q I want to now go ahead to sort of the mid or late
11:45 10 '80s when you and Albert started to talk about
11 this more and I think you told me early on that it
12 was at that time period that you and Albert became
13 closer; is that right?

14 A Yeah. We used to -- there was a time period where
11:45 15 he used to come over to my place just about every
16 day and we would work out or, you know, have
17 coffee or --

18 Q Was this in Saskatoon?

19 A In Saskatoon, yeah.

11:46 20 Q And you think this would be mid to late '80s?

21 A Yeah, that would be -- early '80s.

22 Q Okay.

23 A That we would start to -- the dates, it's been so
24 long.

11:46 25 Q That's fine.



1 A There was a time I guess it would be -- I would
2 say mid to -- the beginning of the '80s, just
3 after the '80s, '81, '82, '83, in that area.

4 Q And did you have discussions with Albert at this
11:46 5 time about the David Milgaard matter?

6 A From time to time, yeah.

7 Q And what do you recall of those discussions?

8 A Not too much.

9 Q Did Albert -- at some point did Albert tell you
11:46 10 more about the David Milgaard case than you had
11 known previously?

12 A Basically our conversations that we did have, some
13 of them that I would say were farfetched, had
14 religious tones to them and, you know, I mean, I
11:47 15 would take my own, you know, idea of it and -- but
16 then basically just to confirm that, you know,
17 what I saw. I remember seeing what I saw and, you
18 know, I don't know why I wasn't asked at the time.
19 I know that my mom had sheltered us, but we never
11:47 20 really discussed too much, too much about it, but
21 other than that morning what I remember I saw. He
22 would say, talk about his trips to Calgary, his
23 trip from Calgary to Regina and what happened to
24 him in Regina.

11:47 25 Q What do you recall him telling you about his trip



1 to Regina?

2 A That they went to a party. I believe that he went
3 with another friend of his and he was, his friend
4 was taking pictures at a party and that was one of
11:48 5 the stories that he told me, he says when he
6 was -- after towards the end of the night when the
7 party was just dying down there was a girl that
8 said she has a place for him and it was above City
9 Hall in Regina and there was a big bag of
11:48 10 marijuana and two guys came in and kicked the
11 other two out and started smoking marijuana with
12 him and pushing all this pot on him and they
13 roughed him up after and the next day when he
14 walked out, he walked 50 feet away from the City
11:48 15 Hall and the police picked him up and arrested him
16 and body searched him.

17 Q Do you know when he told you this story, was he
18 telling you that this was before or after the Gail
19 Miller murder?

11:48 20 A After the Gail Miller murder.

21 Q And did he in any way connect his trip to Regina
22 with David Milgaard in his discussions with you?

23 A He suspected something, but he, you know -- I
24 don't know. I can't be sure.

11:49 25 Q And did you believe Albert's story about his trip



1 to Regina at the time?

2 A I believe something happened there in Regina.

3 Q Was Albert prone to telling stories at this time?

4 A I don't know. I can't be a judge on that. I was
11:49 5 five years old at that time.

6 Q No, I'm sorry, Ken, I'm talking about when you had
7 this discussion with him in the '80s when he told
8 you about his trip to Regina.

9 A Oh, he was a good story teller.

11:49 10 Q What do you mean by that?

11 A Well, he would dramatize. There would be some
12 truth to it, but he would dramatize it.

13 Q A little bit of embellishment?

14 A Yes.

11:49 15 Q And I take it as his brother were you able to
16 identify what was fact and what was embellishment?

17 A Yes.

18 Q And so when he told you this story about Regina,
19 his trip to Regina, what was your impression?

11:50 20 A I figured that was a pretty freaky thing, for him
21 to go through that. He had told me that these
22 gentlemen put him outside a window and sprayed
23 hair spray up his nose and in his eyes and he
24 showed me how they did it and I thought, whoa, and
11:50 25 then he had also told me when he went to court,



1 appeared in court after he was arrested for
2 vagrancy in Regina that the judge had told him, he
3 says, "Son, I'm going to save your butt, I'm going
4 to put you in jail and when you get out, you get
11:50 5 out of town."

6 Q Now, when he was telling you this story, was it in
7 connection with your discussions with him about
8 the David Milgaard matter?

9 A Yes.

11:50 10 Q And how, if at all, did he associate this story
11 with the David Milgaard matter?

12 A I'm not too sure how he linked it.

13 Q Did he link it?

14 A I think he had some link to it, there was
11:51 15 something. He had thought that there was some
16 kind of connection between that point and also
17 Calgary, the trip to Calgary were all connected.

18 Q What did he tell you about his trip to Calgary
19 with Mr. Milgaard?

11:51 20 A He went to a party, and this is from what he had
21 told me, he went to a party and he woke up three
22 days later with a sore head, he can't remember
23 nothing, and he woke up in someone's cellar and
24 didn't know where he was or what, so --

11:51 25 Q And did he say anything else about that incident?



1 A No.

2 Q Did he talk to you about an aerial on their car or
3 the car radio?

4 A Yes.

11:51 5 Q What did he tell you?

6 A That David had broken it and he said there will be
7 no radio on this trip.

8 Q And was this the trip the day of Gail Miller's
9 murder then?

11:51 10 A Yes.

11 Q Did he talk to you about attending a library with
12 Mr. Milgaard?

13 A Yes.

14 Q What did he tell you?

11:52 15 A He said the first place they went to when they
16 arrived in Calgary was the public library and went
17 in to read the *Saskatoon Star-Phoenix*.

18 Q And what else? That's all?

19 A That's it. That's all I can remember now.

11:52 20 Q Did he tell you anything about the Mafia and Mr.
21 Milgaard?

22 A He had said that one time, I don't know when this
23 happened, he said at one point in time that him
24 and David were driving down -- he went with David
11:52 25 because David was a drug dealer is what he said,



1 they were driving down a road and they went, they
2 had -- they met some guys with lights, there was
3 some kind of -- I don't know how much truth there
4 is to that story, but he went with him to meet
11:52 5 with people and they had hats, they had certain
6 hats they wore.

7 **Q** Did he tell you anything about a gun on their
8 trip?

9 **A** No.

11:53 10 **Q** Now, I take it then, and I think you said, whether
11 it's early or mid or late '80s, at some point you
12 and Albert began to have more discussions about
13 the David Milgaard matter; is that correct?

14 **A** That's correct, yeah.

11:53 15 **Q** And would those be numerous?

16 **A** If we were together. Like, he worked in, you
17 know, all over in Western Canada and at points in
18 times when we did get together and did get, you
19 know, there was moments that we were close. Like,
11:53 20 all of us were close.

21 **Q** When you had these discussions with Albert, would
22 Dennis be there, your brother Dennis on occasion?

23 **A** A few times, a few times when I was living in
24 Vancouver, or in New Westminster or Port Coquitlam
11:53 25 Albert also lived with us.



1 Q And did Dennis have a different view of matters
2 than you and Albert?

3 A Yes.

4 Q And what do you recall Dennis' view being?

11:54 5 A Well, Dennis figured that Albert was crazy, nuts,
6 and that there should be no way that they should
7 take his testimony and be able to use his
8 testimony because he was crazy.

9 Q So is it fair to say at this time that at least
11:54 10 Dennis was challenging Albert's credibility?

11 A Yes.

12 Q In 1969?

13 A Yes.

14 Q And were you aware that others --

11:54 15 A I don't know about 1969. I know Dennis was in
16 1993.

17 Q I'm sorry, let me rephrase that, that at that time
18 Dennis was challenging the credibility of Albert's
19 evidence that he gave in 1969?

11:54 20 A Yes.

21 Q And were you aware that others were challenging
22 Albert's credibility and his evidence as well?

23 A I was aware of Joyce Milgaard bringing up -- there
24 was stuff on the news then and such too that she
11:55 25 had brought up, some of the things in this



1 statements in court, that was all coming out.

2 Q So were you aware, sir, then that others -- other
3 than Dennis there were other people, and I think
4 you mentioned Mrs. Milgaard --

11:55 5 A Uh huh.

6 Q -- that were challenging the credibility of your
7 brother Albert's evidence?

8 A Yes.

9 Q And did Albert look to you, Ken, to support him?

11:55 10 A Up until -- no. Up until, let's see, 1988 I think
11 is when we moved back to Saskatoon, up until a
12 month before we moved back into Saskatoon, my wife
13 and I and our daughter, Albert, we've always,
14 pretty well our stories were pretty well close
11:55 15 together. I remember what I saw and that's all I
16 can say. Albert has his story, the version of it,
17 but after about a month after I left Vancouver,
18 Albert, I seen him on TV and I seen him with his
19 head shaved and he seemed stoned and he was on TV
11:56 20 and he was saying things that he never ever said
21 to me before and it seemed to be that he was
22 talking in my brother Dennis' words.

23 Q And what do you recall Albert saying that you
24 thought was unusual?

11:56 25 A That he was harassed by the city police and that's



1 the first time that I've heard that at that point,
2 and we've had a number of conversations about that
3 before and this came up and I thought, well, okay,
4 that's changed.

11:56 5 Q So prior to you observing that video, in your
6 discussions with Albert what had he told you about
7 how he was treated by the Saskatoon City Police?

8 A He knows that, you know, there was no harassment,
9 he didn't -- I asked him if he was ever harassed
11:57 10 and he talked highly of Ed Karst. He was harassed
11 by the police in Regina.

12 Q When you say harassed, what do you mean by that?

13 A When he was picked up for vagrancy, but as far as
14 the vagrancy harassment when he was harassed by
11:57 15 the Regina police and the city police, Saskatoon
16 City Police, I wasn't aware of him saying -- or he
17 had never ever told me that he was harassed by the
18 Saskatoon City Police.

19 Q So I think you said that you saw this television
11:57 20 clip of Albert with a shaved head?

21 A Yeah.

22 Q And you say he appeared stoned?

23 A Yeah, it seemed like -- at that point in time he
24 was using marijuana quite chronically I would say.

11:58 25 Q Chronically?



1 A Yes.

2 Q Meaning every day?

3 A Every day.

4 Q Any other drugs to your knowledge?

11:58 5 A No, not to my knowledge.

6 Q And so you said one matter you thought was unusual
7 is that he was now talking about his treatment by
8 the police differently than he had before?

9 A Right.

11:58 10 Q And I think you said that you thought he was using
11 Dennis' words; is that right?

12 A It sure sounded like it, yeah.

13 Q And why do you say that?

14 A Just because we talked -- the day I left when I
11:58 15 moved back to Saskatoon, we had a brief
16 conversation about -- because we know that this
17 1993 thing in Ottawa was happening and, you know,
18 I supported him on what he believed. Then my
19 brother figures because --

11:58 20 Q I'm sorry, your brother Dennis?

21 A Brother Dennis.

22 Q Yes.

23 A Figured because the way he is now, at that point
24 in time of his life in his mind, that there's no
11:59 25 way that they could or should have used his



1 testimony in court.

2 Q And let me pause there. What observations did you
3 have about Albert's mental condition at that time?

4 A He wasn't -- he seemed like he was drunk or --
11:59 5 when he was on TV he didn't seem to be the brother
6 I knew.

7 Q So that's when you saw him on television. What
8 about generally at that time?

9 A At that time he was having lots of trouble in his
11:59 10 life.

11 Q Such as?

12 A He was going through a divorce, lost his direction
13 it seems.

14 Q Okay. So then, just back time-wise, you had
11:59 15 mentioned around the Supreme Court hearings, I
16 think you had said; is that --

17 A Yup.

18 Q Now I believe those were in 1992; does that --

19 A Around there, yeah.

12:00 20 Q So it was around that time frame. And that is
21 when you think you saw him on television?

22 A Umm, I'm thinking, I'm thinking it was there or it
23 was right after. It was a month after I came back
24 from Port Coquitlam where we lived.

12:00 25 Q So, and I think you said --



1 A And that was in '88, I'm -- no, '89.

2 Q Okay, so in that time frame, and I'll show you the
3 video in a moment and ask you to identify it.

4 A Yeah.

12:00 5 Q So, and I think we've started down this path, you
6 saying that when you moved back, then Albert's
7 story started to change; is that correct?

8 A At, yes, at that time it changed, that one brief
9 time on TV, and I never did see him that much from
12:00 10 then on.

11 Q Okay. Anything else that you have heard from
12 Albert about his story that changed?

13 A Umm, not that I remember, not that I can bring up
14 right now or remember.

12:01 15 Q Now I believe you said that you supported Albert.
16 Were there any occasions when you and Albert and
17 others would be discussing or debating the David
18 Milgaard matter where Albert would look to you to
19 support his position or recollection?

12:01 20 A Umm, no. There was times that we discussed it,
21 umm, umm, my brother Dennis and I and Albert, when
22 we were both -- we were all living out there and,
23 you know, we would have disagreements. But my --
24 I supported whatever, you know, if that's what he
12:01 25 saw. I know I saw what I saw, and that's all I



1 can go with, but he was a little bit more involved
2 in it than I was so --

3 Q Do you recall having any discussions with your
4 brother Albert about visions that he was seeing?

12:01 5 A Briefly, yup. He, one time -- I'm not sure when
6 but this is a lot later -- that he was on the farm
7 and he was praying and he asked the Virgin Mary
8 for a sign and -- in the sky, or a sign, and a
9 cloud formed and it looked like David Milgaard
12:02 10 with hooked ears. So this is what he had said
11 he -- to me, that the vision was that he had saw.

12 Q Okay. If I can pause there, he said that he was
13 on the farm when this happened?

14 A I believe so.

12:02 15 Q Okay. And when did he tell you this? You said
16 "later on," was it --

17 A It would be in the '80s sometime, '80s.

18 Q And did he tell you when it was that he saw this
19 vision at the farm?

12:02 20 A Umm, when?

21 Q Yes?

22 A No. It was after, after, I guess it was after the
23 trial.

24 Q Okay.

12:03 25 A Or in between, or somewheres around that area.



1 Q Okay. So, what, it was around the time of Mr.
2 Milgaard's trial that he told you he saw this
3 vision in the sky, or does that --

4 A It was in that general area. I'm not sure if it
12:03 5 was before or after or what, it was related to it,
6 and it may have been three or four years later, it
7 might have been a year later.

8 Q What do you recall, if anything, about Albert
9 telling you the time frame of that vision?

12:03 10 A Umm, I don't recall, I don't remember.

11 Q And so you think it was in the '80s that he told
12 you about this?

13 A Yup.

14 Q Okay. And did he in some way indicate that -- the
12:03 15 vision he had seen much earlier?

16 A That was -- that's basically what he had said to
17 me. We didn't discuss it. It sounds a little far
18 out for me so, you know, at that time so --

19 Q No, and I appreciate, I'm just trying to
12:04 20 understand what it was that he told you or whether
21 you formed an impression as to when it was that
22 Albert had this vision, the time frame, --

23 A Oh, --

24 Q -- in connection with the Milgaard proceedings?

12:04 25 A -- okay. I don't know when. It was in the '80s,



1 so probably in the '80s sometime when we discussed
2 this, and he told me this is what he saw. I can't
3 say when he said it --

4 Q Fair enough. And so he told you that he looked in
12:04 5 the sky and saw a picture of David Milgaard in the
6 clouds?

7 A Yes.

8 Q And with hooked ears?

9 A Hooked ears.

12:04 10 Q And did he tell you the significance of that or
11 what he interpreted that to mean?

12 A Yeah, umm, basically that he was guilty and, you
13 know, that was his reassurance that he was guilty
14 and he did the right thing.

12:05 15 Q And did he tell you anything else about that
16 vision or any other visions?

17 A Umm, there was one more instance that he was, he
18 was on the farm and he said he saw UFOs. And that
19 was way long, I can't say when or -- this was, but
12:05 20 this was in around that time. I was just a little
21 kid then, I remember him, overhearing him talking
22 about it.

23 Q And did it have any connection at all with the
24 David Milgaard matter?

12:05 25 A No.



1 Q Okay.

2 A No.

3 Q Do you recall having any discussions with Albert
4 about Larry Fisher?

12:05 5 A No.

6 Q Do you remember Larry Fisher living in your home
7 in January of 1969?

8 A Yes.

9 Q And what do you remember of that?

12:06 10 A Umm, Larry, Linda rented our basement.

11 Q Did Larry Fisher have any contact with any of your
12 siblings?

13 A Not that I know of.

14 Q Do you know if he and Albert hung out together or
12:06 15 were friends?

16 A Not that I know of.

17 Q Did Albert ever tell you about seeing Larry Fisher
18 in any of his visions?

19 A No.

12:06 20 Q Did you have any discussion with Albert about his
21 ability to see people's auras?

22 A There was, Albert used to do a lot of yoga, and he
23 would -- whenever he took on something, he was a
24 chef and he was a pretty good chef, and whenever
12:06 25 he did something he did it 100 percent, all the



1 way, and he went at stuff, whether he was learning
2 science or whatever he was doing -- and I have
3 never ever heard him say "auras", talk about
4 auras, he could see people's auras or -- but, I
12:07 5 don't know, I don't -- I remember that -- you
6 know, I don't remember him talking about that,
7 auras.

8 **Q** Now, just back about Albert's discussions with you
9 about the -- his treatment by the police, I think
12:07 10 you said prior to you observing Albert on this
11 television clip with the shaved head; that prior
12 to that, maybe you could just tell me in your own
13 words, what did he tell you about his treatment by
14 the police?

12:07 15 **A** He wasn't -- Detective Karst was helpful, not
16 harassing him, you know. That's the impression I
17 got from our conversations. I can't remember the
18 exact detail.

19 **Q** And then, after you saw this clip on television,
12:08 20 did you have any discussions with Albert about
21 either his television appearance or his comments
22 about treatment by the police?

23 **A** Umm, nope. After that I haven't, I didn't see --
24 I saw him once or twice, I think, since then, and
12:08 25 we basically talked, if we did talk we talked



1 about family matters and probably something else,
2 because he was living in Vancouver at the time.

3 Q So this would have been in the early '90s then?

4 A Yup.

12:08 5 Q And so from the early '90s until his death in 1995
6 would you have had limited contact with him; is
7 that what you are saying?

8 A Yes.

9 Q Did you have a falling-out with him?

12:08 10 A No.

11 Q Just didn't --

12 A In fact he had called me to talk, we would talk,
13 but he called me the night before he passed away
14 as well.

12:08 15 Q Okay. And what was the nature of that discussion?

16 A Just nothing, talking about nothing.

17 Q I'm wondering if I could show the video and just
18 ask -- we'll show it, and then I'll have a few
19 questions for you.

20 (News videotape played)

21 ANCHOR: A key witness in the David
22 Milgaard case now says that Saskatoon Police
23 pressured him when he gave evidence at the
24 original trial. The witness says police pushed
25 him over the edge and he cracked. Allan Habbock



1 (ph) reports.

2 REPORTER: Albert Cadrain says his life has
3 been ruined by the David Milgaard case.

4 20 years ago he was a key
5 witness in the trial. He collected a \$2,000
6 reward for testimony that helped convict Milgaard
7 of the 1969 murder of a Saskatoon nursing
8 assistant. Now, for the first time, Cadrain says
9 Saskatoon Police subjected him to abusive
10 treatment.

11 In a written statement Cadrain
12 says he was questioned 15 or 20 times by police.
13 "This went on for months", he says, "they put me
14 through hell and mental torture. It finally
15 reached the point where I couldn't stand the
16 constant pressure, threats, and bullying any
17 more." He concludes "those detectives pushed me
18 over the edge and I cracked."

19 ALBERT CADRAIN: The police told me "you
20 better hide away for a while and we don't want
21 nothing to happen to our star witness", and that
22 just put more wood on the fire, it make me real
23 worried and I started getting ulcers and spitting
24 blood, every five minutes, I'd just cough and
25 spit.



1 REPORTER: Despite his claims of abusive
2 treatments, Cadrain still maintains he saw blood
3 on Milgaard's clothes the morning of the murder.

4 Cadrain is the second witness
5 to make allegations of pressure by the Saskatoon
6 Police. Two weeks ago ...

7 (News videotape stopped)

8 BY MR. HODSON:

9 Q Is that the video that you would have --

12:10 10 A

Yup.

11 Q Now you heard them talk about hell and torture by
12 the police; had Albert ever shared any of that
13 with you prior to this?

14 A That sure sounds like my brother Dennis.

12:10 15 Q

Okay. So --

16 A That statement, I'm just wondering, that
17 statement, who wrote that statement?

18 Q Well we'll have -- Dennis is here on Monday and
19 we'll have his statement.

12:11 20

21 My question for you, though, is
22 whether Albert talked to you about -- mentioned
23 any of those things to you at any time when he
24 discussed the David Milgaard case, and I'm talking
25 about what he said about how he was treated by the
police?

12:11



1 A Umm, like I said, he -- to me -- this may be true,
2 it may not be, I don't know -- but to me, with me
3 in our conversations, he had never ever talked
4 about being harassed by the Saskatoon City Police.

12:11 5 Q And in your discussions with him would you have
6 asked him, I mean I take it when you talked about
7 this a lot what would you ask him, "what was it
8 like, who did you talk to, what did they say"; did
9 you have those types of discussions?

12:11 10 A Only if he wanted to share stuff with me.

11 Q Okay.

12 A I never really questioned him, I wasn't that
13 interested.

14 Q Okay. Now I understand, Mr. Cadrain, that the
12:11 15 first time you ever spoke to the police about this
16 matter was in 1990 when you were interviewed by
17 Sergeant Pearson of the RCMP; do you recall that?

18 A Yes, I do.

19 Q Okay. If I could have document 001477 please, and
12:12 20 this is a typed statement, Mr. Cadrain. If we
21 could just go to page 001480, which is the last
22 page, this is a typed version, it doesn't have
23 your signature on there, but it's a Sergeant
24 Pearson. Do you remember meeting with either
12:12 25 Sergeant Pearson or someone from the RCMP in 1990?



1 A It was 1990? Yes, I do, and it was actually, it
2 was right around that time or just after that, I
3 think, when I had -- I -- see, right there at that
4 time I had just moved to Saskatoon, so it was
12:12 5 prior to that that I talked to my brother,
6 probably a month or two before that.

7 Q Okay.

8 A That's the time period.

9 Q Okay.

12:12 10 A I remembered that statement also, but I don't
11 remember -- this statement here is, when I was at
12 the Fisher trial it said "did not see", and to me
13 I remember saying "I did see."

14 Q Okay.

12:13 15 A I have always seen.

16 Q You are talking about blood?

17 A Right, the blood on clothes.

18 Q Yeah, I'll go through the statement with you, if
19 we could just go back to the first page please.
12:13 20 And did you reside in McNabb Park in July of 1990?

21 A Yes.

22 Q And so the officer would have come to your home?

23 A Yes.

24 Q And do you recall whether the officer told you
12:13 25 what he was getting a statement for, what it



1 related to?

2 A The Milgaard, that was the -- it was about what I
3 saw.

4 Q And do you know what he needed to get the
5 statement for?

6 A No.

7 Q Do you recall if he told you about David Milgaard
8 making an application to the Federal Minister of
9 Justice to review his conviction?

10 A Umm, no.

11 Q So he called you up and said "I need to talk to
12 you about what you know?"

13 A I believe so.

14 Q Yeah. And I think you said that this would have
15 been about the time where you had your discussion
16 with Albert and maybe have seen the clip?

17 A Yeah.

18 Q The TV clip? If you could just call that out,
19 please. How did -- did the police officer have a
20 tape recorder, did he take notes, do you remember?

21 A I don't remember him with a tape recorder, or at
22 least he never said anything. I believe he was
23 taking notes.

24 Q And he would ask you questions and you would tell
25 him what you knew?



1 A Right.

2 Q Okay. I'll just read parts of this to you, Mr.
3 Cadrain, and then ask a few questions. It says:

4 "I wish to make a statement about what I
12:14 5 recall of the David Milgaard case. On the
6 morning that Gail Miller's body was found, I
7 was 6 years old and lived with my parents at
8 334 Avenue O South, Saskatoon. I was going
9 to school during this time, but on this day
12:14 10 I pretended to be sick so was allowed to
11 stay home. During the morning I was sitting
12 on the couch watching TV. The couch was
13 located by the front door. Sometime after
14 9:00 a.m., probably 9:30 a.m. or so, someone
12:14 15 knocked on the front door. The only people
16 home at the time was my sister Celine, who
17 was in a bedroom upstairs and my brother
18 Albert, who was babysitting me at the time."

19 Is that an accurate statement?

12:15 20 A Yes.

21 Q Next paragraph, it says:

22 "When I heard the knock on the door, Albert
23 answered. Albert answered the door and said
24 something like, "Hoppy, how are you doing."
12:15 25 They seemed excited about seeing each other.



1 Almost immediately, Milgaard either asked
2 for a pair of pants or he had his own, I'm
3 not positive which, but I faintly recall him
4 asking Albert for pants. I don't think
12:15 5 Albert gave him any pants. I don't remember
6 Milgaard carrying anything when he came into
7 the house, but he could have. Milgaard
8 changed pants in the hallway."

9 Let me pause there. Is that accurate?

12:15 10 A That sounds fairly accurate, yup.

11 Q Okay. Next paragraph:

12 "When Milgaard first came into the house and
13 he was talking to Albert, Albert said
14 something like "what happened to your pants"
12:16 15 and Milgaard replied something like "I
16 screwed a virgin" or "I was with a virgin."
17 At the time, I didn't know what virgin
18 meant, and asked Albert what it meant, I
19 don't know if he told me."

20 Is that accurate?

21 A That's accurate.

22 Q Just pause there. Would you have asked Albert
23 what a virgin meant in 1969 or was it later?

24 A Some -- I don't -- it's a long time ago but it
12:16 25 seems to me that I remember that.



1 Q But -- and do you remember what Albert told you?

2 A No.

3 Q Okay. Next paragraph says:

4 "I cannot recall if I saw blood on
12:16 5 Milgaard's clothes or if his clothes were
6 ripped."

7 A That --

8 Q It --

9 A Sorry.

12:16 10 Q No, I can stop there if you like.

11 A Yeah, I just -- the "cannot", I can recall.

12 Q Okay. So what do you remember telling Sergeant
13 Pearson at this interview about your recollection
14 of seeing blood?

12:16 15 A That I saw blood on David Milgaard that morning.

16 Q Yeah, and do you recall telling Sergeant Pearson
17 that?

18 A Yes.

19 Q And then it goes on and says:

12:17 20 "After Milgaard had changed, he almost
21 immediately went out the back door. He was
22 gone for a minute or so and came back in the
23 same door. I recall the time, because it
24 was very cold out and I remember the blast
12:17 25 of cold air. I don't remember if Milgaard



1 was carrying his changed pants when he went
2 out the back door. Sometime during the time
3 Milgaard had gone out the back door, I
4 pushed the front window curtain aside and
12:17 5 noticed a car on the street facing 20th
6 Street, which is north. I could see two
7 heads in the car, I don't know if they were
8 both in the front or back or what and I
9 don't remember anything about the car."

12:17 10 Do you recall saying words to that effect to
11 Sergeant Pearson?

12 A I vaguely remember that, but that sounds fairly
13 accurate.

14 Q And I think you had told me earlier this morning
12:17 15 you don't remember seeing a car out front or any
16 other people; is that right?

17 A I can't be sure that it was that day, so I
18 can't -- I'm not going to -- I don't know how
19 reliable that is.

12:18 20 Q Do you recall whether Mr. Milgaard had any acid on
21 his clothes that morning, or whether his clothes
22 were ripped in any way?

23 A I don't. I just, I remember seeing red and I just
24 assumed that it was blood, you know.

12:18 25 Q So you don't recall; do you know what acid stains



1 look like on clothing?

2 A Yeah.

3 Q Do you recall seeing that on his clothes that
4 morning, Mr. Milgaard's?

12:18 5 A I don't remember, I don't recall that. I, you
6 know, we grew up on a farm or around a farm and I
7 know what blood looked like, and that's what I
8 related it to so -- at that point.

9 Q And your statement carries on:

12:18 10 "When Milgaard came to the front door, he
11 was excited and jumped around. He didn't
12 stay very long the first time and seemed to
13 be in a hurry. It seems to me Milgaard was
14 asking Albert to go with him. Albert told
12:18 15 him to come back in the afternoon because he
16 was babysitting me and mom would not be home
17 until noon or so. Milgaard left the house
18 by the front door and I didn't see him
19 again. As far as I know, the other two
12:19 20 people in the car never came into the house
21 that morning, I'm sure of that."

22 Is that an accurate recording of what you would
23 have told Sergeant Pearson?

24 A I think that seems to be fairly accurate, yes.

12:19 25 Q And is your recollection today consistent with



1 what Sergeant Pearson wrote in that paragraph?

2 A All but the "I cannot", you know, "I cannot see,"
3 or where it says "I cannot" or "I can see," or
4 "did not", or whatever it was, that one part.

12:19 5 Q You -- no, I'm just talking about the paragraph I
6 read you, I --

7 A Okay. Yeah, that seems accurate at that time.

8 Q Okay. And then it goes on here -- so do you
9 remember -- sorry, do you remember David Milgaard
12:19 10 being excited and jumping around?

11 A Yes.

12 Q Carrying on, here, your statement says:

13 "Sometime later, it may have been in the
14 afternoon, Albert left the house and got
12:20 15 into the same car that I saw Milgaard in, in
16 the morning. Albert was watching for the
17 car and left the house when the vehicle
18 pulled up, so I didn't see any of the
19 occupants of the car the second time."

12:20 20 Was that accurate?

21 A Yes.

22 Q Next paragraph:

23 "The rest is history. I was never
24 interviewed by the police. Over the years I
12:20 25 have discussed this case often within the



1 family. I've often talked to Albert about
2 it. Albert and I have been pretty close
3 during the past ten years. Albert's story
4 of the event has always been the same,
12:20 5 except the last five years or so he has
6 begun to get "goofy". He seemed to be
7 looking for attention and would do things in
8 extreme. He puts his mind to things and
9 goes to extremes to prove himself. Albert,
12:20 10 as I recall him in early years, was a stable
11 person and had a good job as a baker in
12 Super Value for eight years or so. He was
13 also a "trouble-shooter" for the chef side
14 of the business for Hy's Steak House chain.
12:21 15 He moved with the business to Duncan, B.C.,
16 Lethbridge, Calgary, then back to Saskatoon,
17 where he got fired."

18 Just pause there. Would you just leave that page
19 up, please, call out that. Is that an accurate
12:21 20 statement recorded there that I just read to you,
21 Mr. Cadrain?

22 A Yes.

23 Q When you talk here, and again this would be 1990
24 so it says that you were pretty close during the
12:21 25 past 10 years, so that would be the decade of the



1 '80s; correct?

2 A Yeah.

3 Q And you then say:

4 "Albert's story of the event has always been
5 the same, except the last five years or so
6 he has begun to get "goofy"."

7 What did you mean by that?

8 A I -- he -- the last five years is about when he
9 separated from his wife and he moved to Vancouver
10 and then he was using more marijuana, I guess, and
11 drinking more.

12 Q Okay.

13 A So things were getting fuzzy and things were
14 getting creative and stories and things were
15 changing, so it wasn't the way -- when we talked
16 about this case, it wasn't the way that he had
17 talked about it before, things were changing.

18 Q And was he making things up, in your mind, about
19 this matter?

12:22 20 A I don't -- I can't tell if he was making things up
21 or not because I wasn't there.

22 Q If you go to the next page, please, call out that
23 paragraph. It says:

24 "Not once did Albert ever complain to me
12:22 25 about being pressured by the Saskatoon City



1 Police during their investigation of the
2 Miller murder. Albert had no hate for the
3 police over the years. After Milgaard had
4 been convicted, he escaped once or twice.
12:22 5 Detective Karst from the City Police would
6 phone him and advise him that Milgaard had
7 escaped. As far as I know, the relationship
8 between Albert and the City Police was
9 normal."

12:22 10 Is that an accurate statement?

11 A Yes.

12 Q Did Albert ever tell you that he was afraid of
13 David Milgaard?

14 A He had, yes. He'd -- at one time he had mentioned
12:23 15 that when he was in court testifying, that after
16 David was convicted that David pointed at him and
17 said, and whispered in words that he was going to
18 kill him, and so this was brought up a few times
19 over the years with Albert, that he was worried
12:23 20 that that was going to happen.

21 Q And so that's what Albert told you; is that right?

22 A Yes.

23 Q And did Albert then tell you that he was concerned
24 about Mr. Milgaard coming after him?

12:23 25 A Yes.



1 Q Scroll down to the next paragraph, please. It
2 says:

3 "I recently saw a TV news program involving
4 my brother Albert and his involvement with
12:23 5 the Milgaard case. I know Albert well, and
6 when I saw him on TV he appeared stoned and
7 shaved his head to probably seek attention
8 or sympathy. Most of the things attributed
9 to Albert on the program I had never heard
10 from Albert himself. I believe there was a
11 power of persuasion used on Albert, who is
12 currently undergoing mental problems. His
13 mind is open to suggestion."

14 Is that a true statement?

12:24 15 A That's true.

16 Q And when you say there you believe that "there was
17 a power of persuasion used on Albert" what did you
18 mean?

19 A Something, somebody was -- I don't know what
12:24 20 happened, but something happened to him, his
21 mental, his mental state at that time was --
22 wasn't at its peak, put it that way.

23 Q And you also say that "his mind is open to
24 suggestion"; had you experienced that in your
12:24 25 dealings with Albert at this time?



1 A Yeah.

2 Q Can you explain that for me?

3 A I could tell him to go that way, he would go that
4 way. He lived with us, at that time, for about
12:24 5 three, four months, and I would tell him "go to
6 your room", because he would be practicing his
7 yoga in the front of the living room and sweating
8 all over the place, and I would tell him "go to
9 your room," he would go. You know, it was just,
10 he didn't want to bother nobody, he was -- he had
11 his own thing that he was doing and wanted to be
12 left to it.

13 Q Okay. Next paragraph, please. Your statement
14 says:

12:25 15 "During the past two years I lived in Port
16 Coquitlam, B.C. and Albert was living with
17 me for three months and various other places
18 in the lower mainland. I maintained contact
19 with him about once per month or so until I
12:25 20 returned to Saskatoon three months ago.

21 I remember people living in the
22 basement suite of our house on 334 Avenue O
23 South. I knew the name Larry Fisher living
24 in the basement suite, but at the time I
12:25 25 didn't know if the Fishers were actually



1 residing there during the time Miller was
2 murdered. I remember the Fishers being a
3 young married couple with a small baby."

4 Is that an accurate recording of --

12:25 5 A Yes.

6 Q And that's true?

7 A True.

8 Q Okay. Next page, please, it says:

9 "The statement above has just been read to
10 me by Sergeant Pearson and I wish to make a
11 point clear. When Milgaard went out the
12 back door of our house on the morning he was
13 there, I saw him carrying something out and
14 when he returned a minute or so later he was
15 not carrying anything. I remember Milgaard
16 asking Albert something about placing
17 something in the garbage, that's when he
18 went out the back door. At that time I
19 presumed he threw his pants away, as he had
20 changed in the hallway, asked about garbage,
21 then went out and came back in the back
22 door."

23 Is that accurate; is that what you would have
24 told Sergeant Pearson?

12:26 25 A That's fairly accurate, yes.



1 Q And is that true?

2 A I believe so, yes.

3 Q Now do you remember what Sergeant Pearson, when he
4 was taking this statement did he actually show you
5 a handwritten statement or did he read something
6 to you, or what do you recall?

7 A You know, I can't really remember. Umm, I don't
8 really remember. I don't remember him taking out
9 a tape recorder and putting it on the table, or
10 nothing, I think he had a notepad and he was
11 writing stuff.

12 Q And then do you recall whether he read something
13 back to you or had you look at something or sign
14 something?

15 A I think he did, and I don't think I really read it
16 that -- I just signed it.

17 MR. HODSON: Mr. Commissioner this is
18 probably an appropriate time to break.

19 If I could remind you, Mr.
20 Cadrain, that you are not to discuss your
21 evidence or this case with anybody until you are
22 done your evidence.

23 A Okay.

24 COMMISSIONER MacCALLUM: 2:00, please.

25 *(Adjourned at 12:27 p.m.)*



1 (Reconvened at 2:00 p.m.)

2 BY MR. HODSON:

3 Q Mr. Cadrain, back to the stand, please. Now,
4 before we adjourned at lunch, Mr. Cadrain, we were
01:59 5 talking about a statement that you gave to
6 Sergeant Pearson of the RCMP in 1990; correct?

7 A Yes.

8 Q Now, do you recall talking to the RCMP again in
9 1993?

01:59 10 A Constable Templeton and Dyck?

11 Q Yes.

12 A Yes.

13 Q And do you recall what they were talking to you
14 about or what the interview was in connection
01:59 15 with?

16 A It was to do with the Milgaard case. I can't
17 remember.

18 Q And did they interview you at your home do you
19 recall?

01:59 20 A I believe we went to a hotel. I think it was the
21 Ramada at the time.

22 Q If I could call up document 035191, please, and
23 these are handwritten notes of the RCMP interview
24 and it just talks about -- it's got a date there,
02:00 25 April 29th, 1993 and it says of Warman,



1 Saskatchewan. Is that where you resided at the
2 time?

3 A Yes.

4 Q And then it talks here, if I could just call that
02:00 5 out, about tape recording your interview. Do you
6 remember that?

7 A Yes.

8 Q If I could call up 022132 and it says statement.
9 Do you remember the RCMP providing you with a
02:00 10 transcript of the interview that you had with
11 them?

12 A Yes.

13 Q Go to the next page, please, 022133, and I think
14 at the top you'll see it was at the Ramada
02:00 15 Renaissance Hotel, does that sound right, on April
16 29th, 1993?

17 A Yes, it is.

18 Q And at this time do you remember where -- where
19 Albert was residing?

02:01 20 A I believe he was in Vancouver at the time.

21 Q And I believe you stated earlier at about this
22 time you would not have had as much contact with
23 Albert has you had in previous years; is that
24 fair?

02:01 25 A That's true, yeah.



1 Q And I just want to go through a few of these
2 questions and answers, and I take it, Mr. Cadrain,
3 that you would have answered the questions the
4 RCMP officers asked you as accurately and truthful
02:01 5 as you could? I'm not asking you this question,
6 just generally, you would have answered the
7 questions that the RCMP officers asked you as
8 truthfully and accurately as you could?

9 A Yes, as best as I could remember, yeah.

02:01 10 Q I'm just going to go through this question, and
11 Mr. Templeton asks you about the morning of
12 January 31, 1969 and it says:

13 "K. CADRAIN uh... I stayed home from
14 school, sick. I was on the couch, my
02:02 15 brother Albert was watching me, babysitting
16 me and uh.. Milgaard come in, knocking on
17 the door. And Albert answered the door and
18 he says hi, hi and uh... he had blood on
19 him. And his story was he had screwed the
02:02 20 virgin, or something that then I didn't
21 understand what it was, but he had screwed a
22 virgin and he had, you know, got blood all
23 over him. So whatever... and then he says
24 he needs to change and he needs some pants,
02:02 25 clean pants and a shirt. So he changed, I



1 don't know, he asked Albert for it... he
2 changed them. I watched him walk outside,
3 he went upstairs, came downstairs and he
4 went in the hallway and changed there, went
02:02 5 around outside to the back door, went
6 outside, came back in. I followed him to
7 the... to the back door and uh... came back
8 in. He had... he was holding his pants. Or
9 when he left, he was holding.. holding his
02:02 10 pants. Then he left and that's all I...
11 that's all I remember. Is like, you know.
12 I just know that's there's lots of
13 investigation after that eh."

14 Now, is that an accurate recording of what you
02:03 15 would have told?

16 A Yes.

17 Q And in this statement, Mr. Cadrain, it talks about
18 going upstairs, you watched him. You see right
19 there, it says watched him walk outside, he went
02:03 20 upstairs, came downstairs, and I don't think you
21 told me that this morning. Do you remember that?

22 A It's been a long time ago. I don't remember.
23 Even the last -- even five, 10 years, whatever,
24 there's lots of time that has been gone through
02:03 25 and I can recall it sounds something like what I



1 had wrote, so, you know --

2 Q What was upstairs at your house at the time?

3 A My sister's bedroom is upstairs.

4 Q If you can go to the next page, 022134, and again
02:03 5 just to call out that portion, and the officer
6 asked:

7 "J. TEMPLETON Did anybody else come to your
8 house that morning?

9 K. CADRAIN Not that I know of. Like not
02:04 10 ... not ... not that time."

11 And then further on down here:

12 "J. TEMPLETON O.K. And you remember
13 specifically that Mr. Milgaard had blood on
14 his clothing?

02:04 15 K. CADRAIN Yeah.

16 J. TEMPLETON And where was that blood?

17 K. CADRAIN It was over here and over his
18 pants. It was over his pants and his uh...
19 shirt.

02:04 20 J. TEMPLETON You're indicating uh... the
21 front of his stomach area....

22 K. CADRAIN Yeah... yeah, around this area,
23 this area here.

24 J. TEMPLETON And you state that Mr. Milgaard
02:04 25 asked your brother Albert for some clothing.



1 Is that right?

2 K. CADRAIN Yes. Some pants. Pants or,
3 you know."

4 Is that an accurate statement, Mr. Cadrain?

02:04 5 A Yes.

6 Q Now, the next page, 022135, I just want to read a
7 question and answer here. Mr. Templeton says:

8 "J. TEMPLETON Just what you've just related
9 to us, Ken. Do you recall specifically from
02:04 10 being, at the time five years old, or is
11 things that you've talked with Albert about?

12 K. CADRAIN No. Well, we talk... we uh...
13 I talked with Albert quite a bit about that
14 before, too. But not till, I guess, I guess
02:05 15 I was about 12, 13, whatever, when I ...
16 you know, when it came up again. Because
17 uh... Karst, Detective Karst would be
18 phoning Albert up and saying uh... Milgaard
19 broke out, or something and he was always
02:05 20 informing Albert and then the topic would
21 come up and we would talk about it. Or
22 someone would be phoning the house or... and
23 at one time there, I just... we started...
24 we started talking about it and his stories
02:05 25 are just kind of wild. I don't know."



1 Is that a truthful statement that you provided
2 the officers at the time?

3 A It sounds like it.

4 Q Now, did the officers at this time or at another
02:05 5 occasion suggest to you, Mr. Cadrain, that your
6 recollection may have been derived from what
7 Albert told you as opposed to what you saw?

8 A Not then, no.

9 Q I think that's what Mr. Templeton is asking you
02:05 10 here, do you recall this from being at the time
11 five years old or is things that you've talked
12 with Albert about, so I guess if I could ask you
13 that, has that not been asked of you before?

14 A That's been asked at the Fisher trial and probably
02:06 15 I guess right here too as well.

16 Q And what is your answer?

17 A I have my own recollection of what happened. It's
18 fading, it's been a long time. I have, you know,
19 yes, I have been influenced by my brother Albert.
02:06 20 He taught me how to cook, he taught me how to do
21 lots of things, I had a lot of respect, and if he
22 said something when I was at a young age, I
23 believed it, you know, but I know what I saw, the
24 events that happened that morning roughly. It's
02:06 25 very foggy now, but that's, you know -- this



1 sounds like something what I might have said, yes.

2 Q Okay. Now next to page 022136 and here's where
3 Mr. Templeton asks you about the clothing and the
4 garbage and I'll just read you a couple portions
5 here. You were asked:

6 "J. TEMPLETON Did you see him take his
7 clothing to the garbage?

8 K. CADRAIN No. I didn't see him take it
9 to the garbage. But I seen him take it
10 to... go out the back door and come back in.
11 I went to the top of the stairs of the
12 house.

13 J. TEMPLETON Could you watch from there out
14 the back?

15 K. CADRAIN No. No. You couldn't see.

16 J. TEMPLETON What period of time had...

17 K. CADRAIN Unless you went down the stairs
18 and looked out the window...

19 J. TEMPLETON How long was he out the house
20 for?

21 K. CADRAIN Oh, just uh... 30 seconds, you
22 know.

23 J. TEMPLETON Do you recall what articles of
24 clothing he would have changed?

25 K. CADRAIN I think it was his pants, I



1 think his pants... uh... might have been his
2 shirt. It wasn't really that... it wasn't
3 really that important at the time, you
4 know... he was just... you know... I see,
02:07 5 yeah he screwed a virgin, what's this mean.
6 You know, I knew it meant something to do
7 with a girl. He did something bad with a
8 girl... but because I had rowdy brothers,
9 eh. But um... you know, they were always...
02:08 10 always had girls over and they were always
11 getting shit from, you know..."

12 What I read you there, is that truthful?

13 A Yeah, it sounds truthful.

14 Q And next to page 022137, just call out the bottom
02:08 15 part, and here Mr. Templeton asks you about when
16 you talked to Albert, and the last question there
17 he says:

18 "J. TEMPLETON When would this be, Ken?

19 K. CADRAIN Uh, o.k. this'd be 88/89,
02:08 20 somewheres around then. It's uh... when I
21 first started... first had a really good
22 talk with him about it. Now, a lot of his
23 things that he says and stuff, aren't the
24 same as what he was telling me before. Like
02:08 25 he told me quite a bit of stuff. Where he



1 seen, he was... he went out to the farm
2 after and he seen uh... all kinds of things
3 in the sky and it was all... his story, like
4 he's, you know, always buffed up the story
02:09 5 so it sounded better, or whatever. I don't
6 know what the heck."

7 If I could just pause there. So you would have
8 told Officer Templeton this?

9 A Yes.

02:09 10 Q And so this talks about '88/'89. This morning you
11 told me that you first talked to Albert I think in
12 the early '70s; is that right?

13 A Yeah.

14 Q And so what you are telling Officer Templeton here
02:09 15 would be the second time you started to talk to
16 Albert which I think you said this morning was the
17 mid '80s?

18 A Yeah. I mean, it's so long ago, the time,
19 dates --

02:09 20 Q Would your recollection of the timing have been
21 better in 1993 than it is today?

22 A I would believe probably would have been a lot
23 better in '93.

24 Q And do you have any reason to believe that what
02:09 25 you would have told Officer Templeton in 1993



1 would not be accurate?

2 A It would be as best as my recollection.

3 Q Okay.

4 A You know.

02:10 5 Q Next page, please, 022138, and Officer Templeton
6 was asking about your discussions with Albert and
7 he says:

8 "J. TEMPLETON Do you recall what else you
9 might have said?

02:10 10 K. CADRAIN Uh... It was just, he was out
11 on the farm and I wanted to hear what he had
12 to say about this. When he went out to the
13 farm, he said he seen a UFO and he seen all
14 these things in the sky and stuff and I
02:10 15 don't know if it was good LSD trip, or
16 something he was on, or... because he... we
17 never really talked too much until he got to
18 Vancouver. When he got to Vancouver and a
19 lot of this started... started flaring up
02:10 20 again. I talked..."

21 Was Albert taking LSD to your knowledge?

22 A Well, back in the '60s I guess they all
23 experimented with kinds of drugs like that.

24 Q Do you know, did Albert ever tell you he took LSD?

02:11 25 A Actually, I don't really know. I don't remember.



1 I just assumed.

2 Q Go to page 022141 and here Officer Templeton asks
3 you about what Albert related about going to the
4 police and the question is:

02:11 5 "J. TEMPLETON: Did Albert talk about going
6 to the... what happened to him when he went
7 to the Saskatoon police to report this
8 murder?

9 K. CADRAIN The first time they just kind
02:11 10 of ignored him. I guess, eh. And later on
11 they, I guess they went down, I don't know
12 if they went down with my parents the
13 second... there was two times that they
14 went, I think and then the second time they
02:12 15 went down and they believed him I guess. Or
16 started looking into it.

17 J. TEMPLETON Is this what Albert told you?

18 K. CADRAIN Uh... no, uh... Albert... yeah,
19 uh.. Albert and kind of Dennis and mom and
02:12 20 dad."

21 Is that an accurate statement?

22 A Yeah.

23 Q And so who told you about what happened when
24 Albert went to the police?

02:12 25 A I guess it would be family. Yeah, it was.



1 Q And what do you recall being told?

2 A That Dennis and Albert both went down to the
3 police station. It's so long ago.

4 Q I appreciate that. I just want to know what you
5 recall being told.

6 A It was one of them. I don't know any more.

7 Q And in your statement to the RCMP in 1993 it says:
8 "The second time they went down and they
9 believed him I guess."

10 Were you told that the first time Albert went in
11 they didn't believe him?

12 A Yeah. I think by Albert. I think that sounds
13 familiar. This is, like, I was five years old,
14 it's getting hard to be reliable and honest, or,
15 you know, to say that's for sure, you know.

16 Q Well, when -- I'm not asking you about what they
17 told you when you were five. I assume from the
18 question and answer that it would be later on that
19 your parents and Dennis told you, or Albert told
20 you about their visit to the police.

21 A Yeah.

22 Q Is that correct?

23 A Albert, I believe it was Albert, and I have talked
24 to my mom and dad about it, other siblings I'm
25 sure.



1 Q And this would be when you were older, not when
2 you were five?

3 A Some things that I remember back when I was five
4 weren't accurate as well. After I get older and
02:13 5 ask questions I found out, oh, you know,
6 there's -- I remember things differently.

7 Q Now next just call that -- Officer Templeton asks
8 you:

9 "J. TEMPLETON When you were talking with
02:14 10 Albert over the years, did he ever talk
11 about what had happened when he went to the
12 police?

13 A. CADRAIN Yeah. Like the police, now
14 that's another thing... when I was in
02:14 15 Vancouver, I left to come back here, I think
16 it was in 90, or 92 or 91, I guess I come
17 back. And when I left I seen him that day
18 and we talked just a bit, you know, just
19 briefly about it, kind of thing. And I know
02:14 20 that STV or one of those T.V. stations was
21 going to come and talk to him. And Albert,
22 he is very persuasive, brother Dennis could
23 tell him to do pretty well anything and
24 he's, you know, and this is when all this,
02:14 25 the witnesses were getting uh... getting,



1 you they were coming back on their
2 statement, on their testimony, saying they
3 were being railroaded into and all this
4 stuff. I don't remember ever Albert, ever
02:14 5 talking bad about Sergeant Karst or any of
6 the investigators... anything. They're
7 saving.. or... they're helping him out,
8 they're saving him but Milgaard's out and he
9 phoned me right away and boom and I remember
02:15 10 that happening twice, or three times where
11 he phoned him and he was giving him some
12 kind of information all the time. I don't
13 remember him ever badly talking about the
14 Saskatoon City Police.

02:15 15 Scroll down, please. It says:

16 "J. TEMPLETON: You said that Albert was
17 persuasive, or do you mean he could be
18 persuaded?

19 K. CADRAIN He could be persuasive...
02:15 20 persuaded into doing or saying anything,
21 pretty well anything eh."

22 And that's a truthful statement, is it,
23 Mr. Cadrain?

24 A At that point in time, yes.

02:15 25 Q And is it still truthful today?



1 A I would say so, yeah.

2 Q Next to page 022143 and again Officer Templeton
3 talks about Albert's television interview that I
4 think you've already told me about and the change
02:16 5 of story and here he asks:

6 "J. TEMPLETON Were you surprised to hear
7 his story change?

8 K. CADRAIN Uh... I knew exactly where...
9 where it came from. It came right, I knew
02:16 10 as soon as I seen him talking on T.V., I
11 knew it came from Dennis."

12 And that's Dennis your brother; is that correct?

13 A Yes.

14 Q And that's what you thought at the time?

02:16 15 A Yeah.

16 Q And that's what you think today?

17 A Yes, I still think that today, yes.

18 Q And Officer Templeton says:

19 "J. TEMPLETON Why do you say that?

02:16 20 K. CADRAIN Cause Dennis was always trying
21 to talk to him, you know, persuade him into,
22 you know, it's like, I'd be... Dennis openly
23 admitted that he, you know, he says I'd
24 be... I'd be pissed off if uh.. a guy like
02:16 25 you put me behind bars, you know I'd be mad



1 too. And well, I don't know, I remember
2 seeing, I remember hearing, you know, Albert
3 saying O.K., explaining why would he have
4 blood on him at 9:00, 9:00, 10:00 in the
02:16 5 morning? All over him, like that and, you
6 know, so I don't know I said and you know.
7 All I see is uh.. him doing is going for
8 uh... uh... some kind of claim, I don't know
9 to get compensated by saying he's innocent
02:17 10 and it's pretty easy to create beyond
11 reasonable doubt after twenty some years.
12 J. TEMPLETON Why do you think Albert would
13 change his story, other than uh... because
14 of Dennis?
02:17 15 K. CADRAIN Well, because of Dennis, I
16 think, yeah, yeah. Dennis is his
17 confidante, type of thing, you know. But
18 Dennis, like he was I don't know why Dennis
19 takes that stand, but that's... that's... I
02:17 20 guess that's Dennis'... contribution."
21 Is that an accurate and truthful statement?
22 A I would say yes.
23 Q Now next I understand that you testified at Larry
24 Fisher's criminal trial into the murder of Gail
02:17 25 Miller; is that correct?



1 A Yes.

2 Q And you were called as a witness by Larry Fisher's
3 counsel, Brian Beresh?

4 A Yes.

02:18 5 Q And I understand you testified only at the trial,
6 not at the preliminary hearing; is that correct?

7 A At the trial, yeah.

8 Q If I could call up document 310282 and this is the
9 transcript of your evidence. There's just a few
02:18 10 parts I would like to show you. If you could go
11 to page 310285. And I believe this was in 1999,
12 does that sound right, that you testified?

13 A Yeah.

14 Q And you are asked here by Mr. Beresh, who is
02:18 15 examining you in chief, about the blood:

16 "Q Would you stand up and show, yes.

17 A From this area, to here. And he asked
18 if he could have a change of clothes,
19 a pair of pants and a shirt. And they
02:18 20 proceeded -- Albert -- my brother
21 Albert would -- he would -- if anyone
22 asked him for anything he would get it
23 for them. So they went and he
24 changed. I was busy watching TV. And
02:19 25 after he changed he went out -- he



1 tried -- he went upstairs. I know he
2 went upstairs."

3 So I pause there. I take it in 1999 you recalled
4 that Mr. Milgaard had gone upstairs?

02:19 5 A Yeah, that sounds familiar, yeah.

6 Q And then you were asked:

7 "Q When you say -- you have to identify
8 people. He went upstairs?

9 A Okay. David Milgaard went upstairs
02:19 10 just for a minute. My sister -- I
11 heard her scream to get out, and he
12 came back downstairs and he changed --
13 he was starting to change inside the
14 hallway where the bathroom was."

02:19 15 Do you remember on the morning of January 31,
16 1969 Mr. Milgaard going upstairs and your sister
17 Celine screaming?

18 A I might have heard that. I don't -- again, I was
19 five. The memories now are fading and fading and
02:19 20 fading, so, you know --

21 Q At the Fisher trial would you have given accurate
22 evidence, truthful evidence to the best of your
23 recollection?

24 A Yes.

02:20 25 Q Now, do you remember at the trial when you were



1 cross-examined -- or when you were examined,
2 pardon me, by Mr. Beresh, about being asked about
3 your 1990 statement to Sergeant Pearson?

4 A Yes.

02:20 5 Q If I could call up 310297 and you'll see at the
6 top Mr. Beresh is referring to a statement that
7 you provided July 18th, 1990. You see that?

8 A Yeah.

9 Q And he says:

02:21 10 "Q Okay. I want to ask you, having
11 reviewed that statement, was there something
12 that was inaccurately described there?

13 A Yeah.

14 Q What was that?

02:21 15 A Well, when it said that I was asked if
16 I seen tattered clothes or blood and I
17 said "No", well I've always stated
18 that I've seen it.

19 Q Okay. So does that statement
02:21 20 accurately --

21 A No, it's not.

22 Q You provided other statements to the
23 RCMP as well, I take it?

24 A Yeah.

02:21 25 Q A Corporal Templeton, Constable Dyck?



1 A Yes.

2 Q And was that accurately recorded?

3 A That's very accurate."

4 Is that correct?

02:21 5 A Yes.

6 Q If you could go to page 310303, and here's where
7 you are being cross-examined by the prosecutor Mr.
8 Sinclair. Do you recall that?

9 A Yes.

02:22 10 Q And Mr. Sinclair asks:

11 "Q And would you agree with me, sir, that
12 when we're talking about trying to
13 remember things that you did, saw, or
14 heard, that long ago, we may be
02:22 15 influenced by things that we saw and
16 heard since?

17 A I agree that can happen. But we never
18 talked -- I never talked to anybody in
19 the family about this incident until I
02:22 20 was 14 years old. And when I said
21 what I remembered, it's been the same,
22 and that's what I remember and it
23 hasn't changed. When I seen the blood
24 it shocked me. And I haven't changed
02:22 25 nothing. It's what I remember and



1 it's what I remember today.

2 Q Your recollection is that you did not
3 discuss this incident until you were
4 about 14 years old?

02:22 5 A Thirteen, 14 years old."

6 Is that accurate and truthful?

7 A Yes.

8 Q Then at page 310304, right at the bottom and the
9 top of the next page:

02:23 10 "Q Okay. All right. And you would agree
11 with me, sir, that it's entirely
12 possible that certain recollections of
13 this may have been influenced by
14 information that you heard from others
02:23 15 in the 30 years since?

16 A That part, no.

17 Q You wouldn't agree?

18 A No. I know what I don't remember and
19 what I do remember."

02:23 20 And is that an accurate and truthful statement?

21 A Yes.

22 MR. HODSON: Those are all of my questions,
23 Mr. Cadrain. Other counsel may have questions,
24 and if I could just remind counsel to introduce
02:24 25 themselves and who they are representing when



1 they cross-examine.

2 **BY MR. WOLCH:**

3 **Q** Mr. Cadrain, I'm Hersh Wolch, I'm David Milgaard's
4 lawyer.

02:24

5 **A** Yes.

6 **Q** I take it you spent many years believing that
7 David was responsible for a murder?

8 **A** That was what I was led -- you know, believed,
9 yes.

02:24

10 **Q** And in fact you may have spent years being
11 somewhat in fear of him?

12 **A** I'm not really fear -- I wasn't in fear of him,
13 no. I think Albert was.

02:25

14 **Q** You mentioned that Albert told you at some point
15 in time that David had verbally threatened him
16 during the trial?

17 **A** That's true.

02:25

18 **Q** Are you aware that Albert had said on a number of
19 occasions that it was body language or looks that
20 he got from David as opposed to verbal
21 communication?

22 **A** He had told me that he used his lips.

23 **Q** Used his lips, does that mean speaking or
24 mouthing?

02:25

25 **A** Mouthing, yeah, that he just -- when he gave him



1 this gesture, he said he was going to kill him, or
2 get him or something. That's the way Albert
3 brought it to me.

4 Q And this would be nothing that was seen by a
02:25 5 court, a judge, a --

6 A I wasn't there.

7 Q -- sorry, a sheriff's officer, that is, did you
8 ask Albert how nobody else saw this or nobody in
9 authority jumped in?

02:26 10 A No, I didn't.

11 Q You just took Albert --

12 A I took his word, yeah.

13 Q You took his word at whatever he said?

14 A Correct.

02:26 15 Q What education do you have, sir?

16 A I have -- well, I guess grade 9. I guess I've
17 completed grade 9, grade 10, grade 11, I've got a
18 bunch of different classes, so I guess I'm
19 completed grade 9.

02:26 20 Q And do you know how far Albert went to school?

21 A Grade 8.

22 Q Did he complete grade 8?

23 A I believe so.

24 Q Did he have difficulty at school in terms of
02:26 25 learning?



1 A He had difficulty I guess going to school, but I
2 don't think he had difficulty at learning. He was
3 a trouble-shooter chef for Hy's Steak House and he
4 went over where people -- he would bring up the
02:26 5 quality of the business in the kitchen, so he was
6 good in some areas and bad in others.
7 Academically he wasn't that great.

8 Q Now, you indicate that on a day that -- sorry, let
9 me back up a little bit. Sorry. You are aware
02:27 10 now that David Milgaard was not responsible for
11 Gail Miller's death?

12 A Yes.

13 Q You accept that fully?

14 A Yes, and -- there's still -- yes, I guess so.

02:27 15 Q You seem to be hesitating.

16 A Well --

17 Q What do you know that nobody else knows?

18 COMMISSIONER MacCALLUM: Just a minute.

19 Sir, make sure that counsel is finished his
02:27 20 question before you begin answering, and he, I am
21 sure, will oblige.

22 BY MR. WOLCH:

23 Q Thank you, sir.

24 A I seen that he was exonerated, so if he's
02:27 25 exonerated, then he's done.



1 Q So you accept that?

2 A Yes.

3 Q Without hesitation?

4 A Without hesitation now.

02:27 5 Q And you accept that Larry Fisher did it?

6 A It sure sounds like it, yes.

7 Q So you accept that, you testified at the trial,
8 you heard that a jury brought in a verdict of
9 guilty?

02:28 10 A DNA.

11 Q Sorry?

12 A The DNA. That confirmed it, did it not?

13 Q Well, whatever confirmed it, he's established as
14 the killer of Gail Miller?

02:28 15 A Yes.

16 Q And you accept that?

17 A Yes.

18 Q So you are not quarrelling with that?

19 A No.

02:28 20 Q You testified for the defence in his trial?

21 A Yes.

22 Q And before you testified did you go over your
23 statements with anybody?

24 A No. I did, but I didn't really read them.

02:28 25 Q I don't understand what that means.



1 A Well, I read them, but I just skimmed through it.

2 Q Well, who gave you your statements?

3 A It would be Brian Beresh I imagine.

02:28 4 Q He gave you the statements you made to the various
5 police officers?

6 A Yes.

7 Q And the one you made to Pearson and the one you
8 made to Templeton and Dyck?

9 A Yes.

02:28 10 Q And you say you didn't read them over?

11 A I read them, but briefly, just to see a few lines,
12 see whether -- it was quick, you know.

13 Q Well, you knew you were testifying at an important
14 trial?

02:29 15 A Well, I was going on what I remember. That's I
16 think the best thing I can do, is go on what I
17 remember.

18 Q But you know your memory weakens with time?

19 A Sure does.

02:29 20 Q And you wouldn't want to refresh yourself as to
21 what you had said almost 10 years earlier?

22 A Well, again, I didn't.

23 Q So you say you didn't refresh yourself?

02:29 24 A I did refresh myself, but just briefly. It was a
25 skim, I skimmed through the page. Yeah, this



1 looks like I read it, and then I caught some
2 things that Sergeant Pearson, it didn't look
3 right, not the same.

4 Q Did you bring that to Mr. Beresh's attention?

02:29 5 A I believe I did.

6 Q Are you sure?

7 A I believe I did.

8 Q Before you testified that one of your statements
9 was wrong?

02:29 10 A Yes, I believe I did to Beresh, Mr. Beresh, yes.

11 Q And did he talk to you about that?

12 A I don't remember what was said. It was brought up
13 in trial and there you go.

14 Q Well, I'm aware that the prosecutor brought it up
02:30 15 and confronted you with the fact that you weren't
16 being consistent; correct?

17 A Yes.

18 Q But you are saying before the prosecutor even
19 brought it up you and Mr. Beresh had talked about
02:30 20 it?

21 A I brought it that the statement doesn't look the
22 same as the first one that I gave, or the second
23 one.

24 Q You were feeling that somehow Sergeant Pearson --
02:30 25 the statement had been altered?



1 A It wasn't how I had said it.

2 Q Well, Sergeant Pearson's statement was read over
3 by you fairly thoroughly?

4 A When I was on the stand. A little bit nervous.

02:30 5 Q No, but when he took it from you, you read it over
6 quite thoroughly before you signed it; did you
7 not?

8 A No, I didn't.

9 Q But you corrected it?

02:31 10 A I was right there. He read it to me and I signed
11 it.

12 Q Did you not make corrections?

13 A I didn't notice it.

14 Q So he read it over to you --

02:31 15 A No, I read it. He gave it to me to read and it
16 was in his handwriting.

17 Q Well, when you talked to Sergeant Pearson was
18 there anything more important than whether or not
19 you saw blood?

02:31 20 A Anything more important?

21 Q To what you were adding to the case?

22 A That's what I saw. That's all I saw.

23 Q That was the most important issue that the
24 sergeant was asking you about? It was more
02:31 25 important as to whether you watched Mr. Dressup



1 that morning or whether you were sick or any of
2 that stuff, the most important thing was whether
3 you saw blood?

4 A Well, that morning I did see it.

02:31 5 Q That's not my question.

6 A Did I read the statement? I didn't read the
7 statement fully. I don't know. I would like to
8 see the original statement myself. I never did
9 get -- I've got a typed version of it.

02:32 10 Q When did you get that?

11 A At the -- just now. Actually, I seen it once at
12 the Larry Fisher trial. I was never given a
13 statement, a copy of the statement from Sergeant
14 Pearson.

02:32 15 Q What did you sign?

16 A I don't even -- you know what, it's been so long
17 ago I don't even really remember if I did sign
18 that one for Pearson. I know Templeton, Constable
19 Templeton and Dyck, I did.

02:32 20 Q Well maybe we can pull up the Pearson statement
21 for a moment, I think it's 001477. Now, firstly,
22 may I -- might I ask you, firstly, how is it that
23 you got to talk to Sergeant Pearson, and what I am
24 getting at is how did he even know you had
02:32 25 something to contribute?



1 A You know, I don't even remember that. I was
2 talking, I know there was, it may be through
3 someone, a police officer I worked for that I
4 did -- I used to drywall and I did a basement for
02:33 5 a police officer, it could be through that, I
6 don't know.

7 Q So you can't remember, now, how it is he got to
8 you in the first place?

9 A No. It's been a long time.

02:33 10 Q Okay. Well, speaking of a longer time ago, going
11 back to 1969, I take it the police didn't ask you
12 a single question back then?

13 A Not a question, not a single question.

14 Q Do you know if they talked to anybody in your
02:33 15 house beside your brother?

16 A Nope.

17 Q You don't know if they talked to the Fishers or
18 anybody in the house as to, generally, what they
19 might have known?

02:33 20 A Nope. I don't know nothing about that.

21 Q Okay. No officer came to you and said "did you
22 see these people arrive that day" or anything like
23 that?

24 A That wasn't until later, not until later.

02:34 25 Q Not until Sergeant Pearson, you mean?



1 A Yup.

2 Q And your memory is that you were home that day;
3 where were you supposed to be?

4 A Well that morning I thought I was supposed to be
02:34 5 at school, but I guess I wasn't, I guess I was --
6 but that morning I thought I was supposed to be at
7 school. I had been going to kindergarten since I
8 was 3, I had been going, my mom taught
9 kindergarten so --

02:34 10 Q Okay. But I'm -- where, why were you home that
11 morning?

12 A Well I thought I was sick. It's a very -- I
13 thought I was sick that morning and I stayed home
14 from school, but I wasn't, that wasn't the truth
02:34 15 as I found out later on, I was just -- had a day
16 off or a morning off from school.

17 Q I'm sorry, what made you think you were sick?

18 A Because I know I -- one time around that time I
19 was sick. I don't -- you know, you can't, I
02:35 20 can't, it's been so long ago I can't really
21 remember.

22 Q You had the day off from school?

23 A Umm, I didn't even have school.

24 Q So there was no school that day?

02:35 25 A I wasn't even in school at that time, I was in



1 kindergarten.

2 Q Well, kindergarten or school, were you obliged,
3 that morning, to be in some -- in front of a
4 teacher?

02:35 5 A No. There was times when I went to school in the
6 morning and sometimes when I went to school in the
7 afternoon --

8 Q Well --

9 A -- only.

02:35 10 Q -- okay, but if you look at your statement to
11 Sergeant Pearson, it says "I pretended to be sick
12 so was allowed to stay home."

13 A That was the best of my recollection.

14 Q Now that's not made up by Sergeant Pearson?

02:35 15 A No, that's, this statement is to the best of my
16 recollection at the time.

17 Q So when you are talking to Sergeant Pearson you
18 remembered pretending to be sick?

19 A Yup.

02:36 20 Q What has changed your mind, now, as to what you
21 were doing when you were five years old?

22 A Well I talked to my older brothers or siblings or,
23 you know, and they said "no, no, it wasn't that,
24 it was this".

02:36 25 Q Who corrected you?



1 A Well, I'm not sure who, I don't remember.

2 Q But that would have happened after 1990?

3 A Maybe my mother.

4 Q Well, somebody corrected you after 1990?

02:36 5 A That's -- that was the -- this statement was the
6 best of my recollection of how I remembered it at
7 that time when it was taken.

8 Q No, that's not my question.

9 A I know.

02:36 10 Q After 1990 somebody corrected you and said
11 "Kenneth, you weren't pretending to be sick that
12 day, there was no school that day?"

13 A Yes, and it was probably my mom.

14 Q So your mom corrected you?

02:36 15 A Could be. I can't remember.

16 Q Do you know what day of the week it was?

17 A Nope. It was during the week, though.

18 Q Okay. You say, in your statement, that you are
19 pretending to be sick so you were allowed to stay
02:37 20 home and "During the morning I was sitting on the
21 couch watching TV." Now you mentioned, this
22 morning, Mr. Dressup; do you actually remember Mr.
23 Dressup that morning?

24 A Umm, Friendly Giant and Mr. Dressup, yeah, there
02:37 25 was -- I remember watching, I was watching TV.



1 Q What time was Mr. Dressup on then?

2 A I don't know. I don't know what, exactly what
3 time, 8:00, 9:00, 10:00, 11:00, I don't know which
4 time or which -- whether it was the second time
02:37 5 that it -- when Albert left when it was on, or
6 what. I remember that -- those -- just little
7 pieces.

8 Q Okay. So you could have been watching Mr. Dressup
9 at 4:00 in the afternoon?

02:38 10 A It wouldn't be 4:00 in the afternoon but it would
11 be before noon.

12 Q So it could have been 11:00 or 12:00?

13 A Could have been.

14 Q And The Friendly Giant could have been in the
02:38 15 afternoon?

16 A Nope.

17 Q What time was The Friendly Giant on?

18 A It was around 9:00 or 10:00 or something like
19 that.

02:38 20 Q So your memory is that these people came to the
21 door -- or no, I'm sorry, just David came to the
22 door?

23 A I just remember David coming to the door.

24 Q Are you saying the other people didn't come to the
02:38 25 door?



1 A I don't remember anyone else coming to the door.
2 I remember someone, there was a car, a carload of
3 people outside, he said "they are here," or, you
4 know, things like that, it's -- the first
02:38 5 instance, when David entered, it was by himself
6 and he stayed very briefly.

7 Q Okay. Well you say "either asked for a pair of
8 shorts or he had his own, I'm not positive which";
9 what do you mean by that?

02:39 10 A I don't know.

11 Q Those are your words?

12 A I don't know, don't remember.

13 Q But those are words you used?

14 A That's to the best of my recollection at that
02:39 15 time.

16 Q Well, when you said it, what did you mean?

17 A I know he changed his pants, I walked around the
18 hallway and I saw him, he was changing.

19 Q Well you say --

02:39 20 A And I remember he asked for some pants or some
21 clothes.

22 Q But you say "either asked for a pair of pants or
23 he had his own?"

24 A I was watching TV. That's a long time ago.

02:39 25 Q Well, I appreciate that, but it's fairly important



1 what you are saying.

2 A Now it is.

3 Q It wasn't when you talked to Sergeant Pearson?

4 A It wasn't when I was, when this all came down
02:40 5 January 31st, it wasn't terribly important to
6 observe.

7 Q Seeing a man covered in blood wasn't important to
8 you?

9 A Well we had blood on our pants many times in our
02:40 10 own family.

11 Q From the chickens?

12 A Chickens, sheep.

13 Q So seeing blood on people was common?

14 A In our family, like, we hunted.

02:40 15 Q Now --

16 A It was pretty common.

17 Q But your talking to Sergeant Pearson was the first
18 time you talked to anybody in authority about what
19 you had seen?

02:40 20 A Yes.

21 Q So it was important that you got it right?

22 A Yes.

23 Q You weren't trying to mislead the police officer?

24 A No.

02:40 25 Q So you said to the police officer "Milgaard either



1 asked for a pair of pants or he had his own"; what
2 did you mean by that? You have no idea?

3 A I don't know. I don't know.

4 Q Well you say "I'm not positive which"; right?

02:41 5 A That's right, I -- I can see that on the
6 statement.

7 Q And you are positive now?

8 A I don't know what I meant by that then, I don't
9 know, I can't remember.

02:41 10 Q Are you positive now?

11 A No, I'm not positive now. I'm positive that I
12 know I saw blood and I saw him, I saw a garbage
13 truck that morning.

14 Q Okay.

02:41 15 A I saw him go out the back door.

16 Q Did you mention the garbage truck at all in this
17 statement?

18 A I wasn't -- no, I didn't mention it that one, I
19 believe in the Templeton I -- one I did.

02:41 20 Q I suggest you didn't mention it in Templeton and
21 Dyck either?

22 A No? Well, I remember the garbage truck.

23 Q I suggest to you the first time you ever mentioned
24 the garbage truck was at the Larry Fisher trial?

02:41 25 A Well, I remember the garbage truck, the garbage



1 truck I have talked --

2 Q Talked to what?

3 A I -- to my brother. I remember a garbage truck
4 coming that morning.

02:42 5 Q Okay. This was Friday morning?

6 A It was also at the Beresh trial -- or the Fisher
7 trial, Mr. Sinclair had asked me, he said "may I
8 suggest that there was no garbage truck scheduled
9 that day," well, I remember seeing a garbage truck
02:42 10 that day.

11 Q Garbage truck was -- delivers on Monday?

12 A I remember seeing a garbage truck that day.

13 Q Were you aware that garbage trucks were delivering
14 or coming around on Monday?

02:42 15 A And what day was that?

16 Q Monday, February the 3rd?

17 A Okay, well that's what I remember, whether it's
18 right or wrong that's what I remember.

19 Q It picked up once a week on Mondays, I suggest to
02:42 20 you, and this was Friday.

21 A Okay, so --

22 Q Are you still sure you saw a garbage truck?

23 A I'm pretty sure, yes.

24 Q Pretty sure?

02:42 25 A Yes.



1 Q And it's something you didn't mention to Pearson
2 and you didn't mention to Templeton and Dyck?

3 A I'm pretty sure I mentioned this to one of them at
4 some point in time but, well, I guess maybe not on
02:43 5 those statements.

6 Q Not in those statements?

7 A No. It's a long time ago.

8 Q So the officers didn't take it down, either one of
9 them, it's not in your statement?

02:43 10 A Well maybe I didn't. If they didn't I didn't
11 mention it then, I don't know, can't -- it's been
12 a while ago. How many years, 36 years, it's -- I
13 remembered those events on that morning, and
14 that's what I remember, it's the best that I can
02:43 15 do and that's -- you know.

16 Q Okay. And you remember that Mr. Milgaard said
17 that he had, quote, "screwed a virgin?"

18 A Yes.

19 Q Now he came in the house and the first thing you
02:43 20 would have seen, I take it, was blood?

21 A I didn't see anything at first.

22 Q When did you first notice the blood?

23 A When he said "what happened to you".

24 Q Where were they standing?

02:43 25 A In the hall, right in the entrance.



1 Q So he was barely into the house?

2 A He was in the house, the door was shut and he is
3 standing in the hallway at the front, right in
4 front of the stairs.

02:44 5 Q Okay. What colour was the shirt?

6 A I don't remember.

7 Q What colour were the pants?

8 A I don't remember.

9 Q Did he have a coat?

02:44 10 A I don't think so, but I don't remember, can't be
11 sure.

12 Q So you think, in 40 below, he came in without a
13 coat?

14 A Don't know, can't remember.

02:44 15 Q And when he said "I screwed a virgin" what did
16 that mean to you?

17 A I don't know, it -- I didn't, I didn't know what
18 that was.

02:44 19 Q Well, something you remembered so long and had not
20 a clue what it meant; is that right?

21 A I asked my brother after and he told me something
22 that, I don't remember what he said, had told me.

23 Q When did you ask him that?

24 A Right after, right after David left.

02:44 25 Q I thought he left with David?



1 A No, he didn't leave with David, not -- not the
2 first time.

3 Q So, soon as David left, you went to Albert and
4 said "what does screwing a virgin mean?"

02:45 5 A Yes.

6 Q And what did Albert tell you?

7 A I don't remember.

8 Q He gave you some kind of explanation?

9 A Yeah.

02:45 10 Q So, obviously, Albert would have heard this
11 "screwing a virgin"?

12 A Well, you know, I was watching TV and I was
13 listening in the background and, I mean, I don't
14 know. That's, that's the best, it's -- I can't be
02:45 15 100 percent sure any more because of all the time
16 that's been gone over.

17 Q Well, sir, it's fairly important what you are
18 telling us. Now are you saying "maybe I heard
19 screw a virgin and maybe I didn't hear?"

02:45 20 A I'm pretty sure that's what I heard.

21 Q So you are not positive?

22 A Not 100 percent.

23 Q You didn't hear it on Mr. Dressup, I can tell you
24 that, so you think you may have heard it or not?

02:45 25 A I'm pretty sure, that's what my memory tells me,



1 that's what it was.

2 **Q** And you are pretty sure you asked Albert what it
3 meant?

4 **A** Yup.

02:46 5 **Q** And you have no idea what he told you?

6 **A** No, I don't remember.

7 **Q** And you were five years old?

8 **A** Yup.

02:46 9 **Q** And the word "virgin" would have meant nothing to
10 you?

11 **A** Virgin Mary.

12 **Q** Other than that, you have no memory of Albert
13 explaining to you what a virgin was?

02:46 14 **A** When he said he screwed a virgin I thought it was
15 something bad with the Virgin Mary. I don't know
16 what, exactly what all that would -- I don't know.

17 **Q** Something bad with the Virgin Mary? Did Albert,
18 from time to time, seem to be preoccupied with
19 virgins?

02:46 20 **A** No.

21 **Q** Talked about bathtubs and virgins and Milgaard and
22 virgins; did he ever bring that to your attention?

23 **A** No.

24 **Q** You had never heard that?

02:46 25 **A** I heard one time, or actually, you know, one time



1 he did say, he says that -- told me that they were
2 -- David had a 13-year-old girl in a bathtub and
3 he was trying to have sex with her, and Albert had
4 punched him in the back of the head, and he just
02:47 5 turned around and smiled at him. That was one of
6 the stories that Albert had told me back then.

7 Q Okay. I take it the word "screwed", you would
8 have no idea what that meant?

9 A Nope.

02:47 10 Q Any idea how Albert explained that to you?

11 A I don't know. As you get older you bring your own
12 ideas, you know, your own thoughts --

13 Q Well --

14 A -- to some of the words, you know, and whatever,
02:47 15 so --

16 Q Well, I understand that, but I wonder if we could
17 just briefly go to 001466. This is a statement
18 that, the very first statement that your brother
19 would have given to the authorities. If you can
02:48 20 turn the page, please, now this area here is
21 Albert talking about David's arrival and, take my
22 word for it if you might, there is not a single
23 mention of any explanation given to screwing a
24 virgin?

02:48 25 A That's what I remember.



1 Q So it -- and they are words that Albert would have
2 heard; correct?

3 A I don't know, what -- what -- could you say that
4 again?

02:49 5 Q Albert went to the police shortly thereafter,
6 within six weeks or so, now when he went to the
7 police he made no mention of David saying "I
8 screwed a virgin"?

9 A That's what I heard.

02:49 10 Q Not only did you hear it, you think Albert
11 explained it to you?

12 A Yeah, I -- it's been a long, so long ago I can't
13 be 100 percent for sure, this is the best I can
14 do.

02:49 15 Q Well a lot of things that you are telling us, I
16 suggest to you, are things you learned from Albert
17 over time; correct?

18 A That's possible.

02:49 19 Q And if Albert had no memory of it, or didn't
20 relate it six weeks later, don't you think maybe
21 you never heard it?

22 A Well what I remember of that morning I do
23 remember, that's how I remember it, so I can't do
24 nothing about it, whether if it's right or wrong,
02:50 25 that's how I remember it.



1 Q Where do you remember clothes being changed?

2 A In the hallway. That's stronger.

3 Q Which hallway; upstairs, downstairs?

4 A Down, the main floor, in by the bathroom in
02:50 5 between the two bedrooms.

6 Q That's where you remember it?

7 A Yeah.

8 Q Okay.

9 A I poked my head around, or in between the door, or
02:50 10 something like that. What he changed into, I
11 don't know, what colour I don't know.

12 Q Could we highlight this part down here? I'm
13 sorry, bring the page up a little bit. Albert
14 said that, the change of clothes, "Ron and he
02:51 15 changed in our living room in front of", and I
16 believe the next word is "everybody". It wouldn't
17 have been in the living room?

18 A Sorry, this says "Ron" --

19 Q "And he"?

02:51 20 A -- "and he changed"? So this wasn't the time
21 when, the first time David came, this would be the
22 second time.

23 Q He changed clothes twice?

24 A Ron Wilson was not -- or Ron whatever -- Ron was
02:51 25 not with, there was only David in the house, David



1 and Albert and me and slim at that time, the first
2 time that I remember.

3 Q Okay. But if Albert said they were all in the
4 house, that's wrong?

02:51 5 A Later on in the morning they were.

6 Q Okay. But Albert says that the change of clothes
7 was in the living room in front of everyone?

8 A I don't have any recollection of that, or I wasn't
9 there, or --

02:52 10 Q Okay, but you said -- well, you were there,
11 supposedly?

12 A I saw David change, I never seen Ron come in the
13 house, I would have remembered someone else, you
14 know.

02:52 15 Q Okay. But, according to you, Ron wasn't in the
16 house?

17 A Not at that time, no.

18 Q Did you ever see Ron change clothes?

19 A No.

02:52 20 Q When you were questioned by Sergeant Pearson did
21 you feel you were just being interviewed normally,
22 or that he wanted to catch you or correct you or
23 grille you or interrogate you, something like
24 that?

02:53 25 A It was pretty casual.



1 Q Okay. And how about Templeton and Dyck; did you
2 think they were just taking you at your word or
3 interrogating you?

4 A Well that was just informational, it seemed it was
02:53 5 done more professionally, it was done with tape
6 recorders and --

7 Q Did you feel they were --

8 A I --

9 Q I apologize, I didn't know you were -- just
02:53 10 finish, I didn't hear you, I couldn't --

11 A Oh, that's okay, go ahead.

12 Q Did you feel that anybody was challenging you at
13 all?

14 A No.

02:53 15 Q I mean you appreciate that what you had to say, on
16 the face of it, is difficult to necessarily accept
17 that a five-year-old is now coming forward and
18 saying "I remember", etcetera, etcetera?

19 A Yeah.

02:53 20 Q I mean especially remembering words that no one
21 ever heard before and the five-year-old wouldn't
22 even understand?

23 A Well, being five, I don't really think that it
24 was -- that it was kept -- it was kept from me
02:54 25 from my parents, but I also -- that's quite a long



1 time ago.

2 Q I appreciate that, but it was in 1990 you were,
3 for the first time, relating what you thought you
4 remembered from 1969 when you were five?

02:54 5 A Right.

6 Q And in between that time you had been talking to a
7 lot of people, including your parents and your
8 brother?

9 A I wouldn't say a lot of people, my brother and
02:54 10 family.

11 Q Yeah. And your brother would have told you many
12 things about what he had seen or done, and that
13 sort of stuff, because you guys were close?

14 A That's true.

02:54 15 Q And you, I think you probably felt quite
16 sympathetic to your brother for what he had gone
17 through?

18 A I was very sympathetic.

19 Q He had been mentally challenged and even put away
02:55 20 for a little while?

21 A Well he was under stress, quite a bit of stress
22 under it, it did a lot. It's --

23 Q Did he ever tell you how many hours the police
24 interrogated him?

02:55 25 A Nope.



1 Q Never shared that with you at all?

2 A Nope.

3 Q Did he ever tell you what happened in Regina?

4 A He told me what happened in Regina.

02:55 5 Q About the police questioning him?

6 A Umm, not about the police questioning him.

7 Q Well, how long was he in custody there?

8 A I think he was a week or two, because I was just
9 young then, I don't know. I don't know, but he

02:55 10 was gone for a while.

11 Q And he couldn't have been too happy about that?

12 A I don't know.

13 Q Well didn't he complain to you about being in
14 jail, I mean, he hadn't done anything wrong?

02:55 15 A He told me that, in Regina, he was at this place
16 where these guys came in with suits and roughed
17 him up.

18 Q Guys in suits?

19 A Guys that were wearing suits when he was living,
02:56 20 staying up above the city hall.

21 Q I suggest those were detectives?

22 A Could be.

23 Q And they roughed him up and they accused him of
24 being involved in a murder; isn't that what he
02:56 25 told you?



1 A I didn't hear about that until later.

2 Q Well what did you hear later?

3 A That he -- about him being questioned about a
4 murder.

02:56 5 Q Tell me about that?

6 A Well, I didn't hear, I just heard today and one
7 more time previous to that.

8 Q I'm interested in what Albert told you?

9 A What happened in Regina?

02:56 10 Q In Regina, or shortly thereafter, in terms of him
11 being a suspect in the murder?

12 A He had never, ever, ever told me that he was a
13 suspect in the murder.

14 Q He never told you that the police questioned him
02:56 15 quite strictly and --

16 A Not in Regina.

17 Q How about in Saskatoon?

18 A In Saskatoon, at first he mentioned something
19 towards that, later on.

02:57 20 Q Well, what did he mention?

21 A But it wasn't -- he wasn't harassed.

22 Q Well, what did he mention to you?

23 A Oh, that's a long time ago.

24 Q Well, that's why you are here.

02:57 25 A Yeah. Umm, umm, he mentioned back then that in



1 Regina there was the incidents there, he said that
2 you -- that it wasn't even linked, the Regina
3 wasn't even linked. That was a vagrancy charge,
4 that wasn't even linked to this Milgaard.

02:57 5 Q I appreciate that, but my understanding is that
6 they brought to his attention that there was a
7 murder around where he lived, now did he share
8 that with you?

9 A No, he didn't.

02:57 10 Q Okay. But he did share with you some, at some
11 point in time, that police were putting him into
12 the category of a suspect in the Gail Miller
13 murder?

14 A I believe that that was later on, yup, and that
02:57 15 was in Saskatoon --

16 Q I --

17 A -- that they had questioned him about that.

18 Q And he was scared about that?

19 A But he had an alibi and he wasn't -- you know, so
02:58 20 --

21 Q What was his alibi?

22 A Well, he was home.

23 Q So you were his alibi?

24 A Umm, I'm sure that someone else was his alibi
02:58 25 besides, I don't think he used me.



1 Q Okay. But he told you that he had an alibi for
2 the murder?

3 A That he had an alibi for the murder?

4 Q Yes?

02:58 5 A That he had an alibi that day, he was home all
6 night and all morning.

7 Q Were you aware he was doing dope the night before?

8 A I don't know. I was five years old. Was he?

9 Q I just asked you if you knew about it.

02:58 10 A Okay.

11 Q Did he sleep on the couch that night or were you
12 on the couch?

13 A Don't know. I don't think I was on the couch.

14 Q Well you were watching TV from the couch?

02:58 15 A Yeah.

16 Q So he couldn't have been sleeping on the couch?

17 A Not at that time, no.

18 Q Okay. And I take it it was obvious to you that he
19 was concerned about being a suspect?

02:59 20 A I don't think so.

21 Q And why do you say that?

22 A Well I don't think he was concerned about him
23 being a suspect, like he was home, he was home
24 then so --

02:59 25 Q But surely he was concerned about the police



1 making him a suspect, not that he did anything,
2 but that they considered him a suspect?

3 A At what point? I'm not, this is all something
4 that I was not even -- I was five years old, I
02:59 5 don't know nothing about, and this was all after.
6 I don't know what exactly, back then, what
7 happened or what the events were with the police
8 or his actions. I know that he didn't have
9 anything bad to say, they treated him well.

02:59 10 Q Well you were five or six at the time?

11 A With our conversations later.

12 Q Okay.

13 A And even our conversations later he never said to
14 me that "they tried to put it on me, blame it to
03:00 15 me". I know he had said that David was trying to
16 plant evidence on him.

17 Q David was trying to plant evidence?

18 A Evidence on Albert.

19 Q Where did that idea come from?

03:00 20 A That's what he was trying to do.

21 Q Where did that idea come from?

22 A Well, for the pants and the shirt, why our place.

23 Q When did he tell you that?

24 A Oh, I'm sure probably in the '90s sometime.

03:00 25 Q Not until the '90s?



1 A Yeah.

2 Q So I'm a little unclear; when did he bring to your
3 attention that he had an alibi to protect him and
4 things like that?

03:00 5 A I'm unclear on that. It was at some point in
6 time.

7 Q So, if he had an alibi, then obviously he was
8 thinking that somebody was pointing a finger at
9 him or questioning him?

03:00 10 A But --

11 Q Well how did that come into the conversation?

12 A When did that come into the conversation?

13 Q When and how?

14 A I would say sometime in the '90s we were talking
03:01 15 just in general about things and stuff, that may
16 have come up, I can't say exactly when and what
17 was said, I don't know.

18 Q Now you did mention that he had some negative
19 things to say about his experience in Regina; now
03:01 20 can you be a little more helpful as to what,
21 exactly, it was that happened there?

22 A Well all I know is that he went to a party, went
23 with a friend from Saskatoon and went to a party
24 out there, that's what he told me, and they needed
03:01 25 a place to stay, this girl gave them a place to



1 stay on -- it was her place above the City Hall,
2 and two guys come in, kicked the other two out,
3 and they started smoking pot with him, putting
4 joints in his -- and making him smoke 'em. Then,
03:01 5 bang, they put him out a window and stuck hair
6 spray up his nose and in his eyes.

7 Q Now what about --

8 A That's the story I -- that he told me.

9 Q Now what about the men in suits?

03:02 10 A That's the men in suits that did it.

11 Q I thought it was four men?

12 A I don't know, there is -- he told me a couple, two
13 guys.

14 Q It was two guys?

03:02 15 A That's what I was told.

16 Q Okay.

17 A So --

18 Q And what did the judge say to him?

19 A Oh, the judge? And the judge, when he was -- when
03:02 20 he was put, when he came out of that, the next day
21 he woke up and he walked out, soon as he got 50
22 feet outside of City Hall the police picked him up
23 and they strip-searched him and they were looking
24 for pot, marijuana, on him.

03:02 25 Q But what --



1 A They didn't find any so they charged him with
2 vagrancy.

3 Q Okay. Wouldn't that be before he ever saw a
4 judge?

03:02 5 A Yes.

6 Q Okay, so --

7 A And then when he was at, when he was at court the
8 judge says "I'm going to save your butt and I'm
9 going to put you in jail," he says "then, when you
03:02 10 get out, you get out of town".

11 Q Okay.

12 A And that's what he told me.

13 Q Okay. And surely you would have asked him, "save
14 your butt from what?"

03:03 15 A Save -- I don't know, I didn't ask surely, I
16 didn't ask surely nothing. There you go.

17 Q Well your brother is telling you that the police
18 strip-searched him, put him in jail, right, and a
19 judge said, in effect, "you are in real danger,
03:03 20 get out of here;" right?

21 A Basically, that's how he told it to me, yeah.

22 Q Okay. And you didn't say to him "you're, like, in
23 danger from who or what?"

24 A I didn't. No, I don't remember, it's -- this is
03:03 25 the story that he told me so I, okay, whatever.



1 Q But whatever happened in Regina made him a
2 frightened person?

3 A I think it was a little hard on him, what happened
4 in Regina, there was something that happened
03:03 5 there. There was lots of things that happened
6 everywhere.

7 Q Those are all my questions. Thank you.

8 A Okay.

9 COMMISSIONER MacCALLUM: Ms. McLean.

03:04 10 **BY MS. McLEAN:**

11 Q Good afternoon, sir. I'm Joanne McLean and I'm
12 here on behalf of Mrs. Joyce Milgaard.

13 A Yes. Hi.

14 Q I just wanted to begin with -- you told Mr. Hersh
03:04 15 (sic) several times in answering his questions
16 about the 1990 statement and what you meant by it,
17 that it's been a long time ago and you didn't know
18 what you meant?

19 A Yes.

03:04 20 Q And that statement was 15 years ago; right?

21 A Yeah.

22 Q And in that statement you were talking about
23 things that had happened 21 years prior to that?

24 A Yes.

03:05 25 Q Okay. Could I have the July 18th statement,



1 please, it's 001477. The very first part of this
2 statement starts off with:

3 "I wish to make a statement about what I
4 recall of the David Milgaard case."

03:05 5 Right?

6 A Yes.

7 Q And then what follows is your statement; right?

8 A Yeah.

9 Q And if we can go to the second page of that, I
03:05 10 think it's only a two pager, or four page,
11 whatever it is. Sorry, it's a four pager, the
12 last one, which would be 480. Yeah. You were
13 talking with Mr. Wolch about whether or not you
14 had read the statement and this says here:

03:06 15 "The statement above has just been read to
16 me by Sergeant Pearson."

17 A Okay, then he read it to me.

18 Q Do you remember him reading it to you?

19 A To the best of my recollection -- it's been such a
03:06 20 long time ago.

21 Q It's 15 years.

22 A Yeah.

23 Q And you say there that it's just been read to me
24 by Sergeant Pearson and I wish to make a point
03:06 25 clear and then you go on in that to specify that



1 you did see David carrying something out and when
2 he came back he wasn't carrying anything; right?

3 A Right.

4 Q And you remember him asking Albert something about
03:06 5 placing something in the garbage and you assume
6 that he threw his pants away; right?

7 A Yes.

8 Q And again nothing in there about a garbage truck;
9 right?

03:07 10 A That's right, yeah.

11 Q Now, this is a typed version, as you've indicated,
12 and on the typed version right at the bottom it
13 says signed Ken Cadrain and the date and the time
14 is on it along with Pearson as the witness, so I'm
03:07 15 going to suggest to you that this is a typed
16 version of the handwritten original.

17 A Handwritten, yes.

18 Q And when we get to the bit about the don't
19 remember blood -- I'm sorry, the first page of it,
03:07 20 001477. Is that where we have the blood? Yes.
21 When Mr. Wolch was questioning you about that part
22 there that's circled, you said that you would like
23 to see the handwritten version. Were you
24 suggesting that it may have been transcribed
03:08 25 wrong?



1 A I'm suggesting that I don't remember it. It
2 doesn't sound like how -- I can't recall -- I
3 cannot recall. There's something doesn't look,
4 that doesn't look how I remember it. I can't
03:08 5 believe that -- maybe it was misunderstood how I
6 said it or something. That's not -- I've always
7 remembered it that morning the way I -- the best I
8 can, you know. I don't know what -- I'm not
9 suggesting anything, but that doesn't look right.

03:08 10 Q Well, when Sergeant Pearson read the statement
11 aloud to you, you did not correct this?

12 A I also had a screaming, crying baby in my house,
13 other things were going on in my house at the time
14 while this was going on, so I was -- you know, I
03:09 15 mean, again, that was 1990. My daughter just had
16 a hernia operation, she was just home for a day
17 already I think. I don't know. I can't remember.
18 It's a while back.

19 Q None of which prevented you from adding on to the
03:09 20 last page that you remembered David taking
21 something out the back door?

22 A Yes.

23 Q I don't have a copy of the handwritten one, but if
24 I could have document 002369 and then within it
03:09 25 there's page number 002372. When this comes up,



1 sir, it's a report prepared by Sergeant Pearson on
2 August the 28th of 1990 and if we could have this
3 part. I hope I've got -- I need to go right to
4 the bottom of the page, this whole number (1).
03:10 5 Now, in this report, which was written roughly a
6 month after Sergeant Pearson spoke to you, he
7 refers to the location and interviewing of you as
8 the most significant development in this
9 investigation since his last report. Did you get
03:10 10 that sense from Sergeant Pearson, that it had been
11 terribly significant to interview you?

12 A No. I wasn't even sure that they would even hear
13 me or listen or think it was important.

14 Q Well, he spent over an hour with you didn't he?

03:11 15 A Abouts, yeah.

16 Q And then you told apparently here, Sergeant
17 Pearson reports that you did not know what the
18 virgin meant and you had actually asked Albert,
19 but he does not recall if he got a response, and
03:11 20 that's different from what you told Mr. Wolch this
21 afternoon, you think you got a response, you just
22 can't recall what it was?

23 A Right.

24 Q And then the very next line says that:

03:11 25 "Ken Cadrain cannot recall if Milgaard had



1 blood on his clothes or if Milgaard's
2 clothes had been ripped. He does recall
3 seeing Milgaard change pants in the hallway
4 of the Cadrain residence."

03:11 5 So it's not that there was any doubt in Sergeant
6 Pearson's mind about what you had said to him;
7 right?

8 A You know, it says here if Milgaard had blood on
9 his clothes or if Milgaard's clothes had been
03:12 10 ripped or tattered, he asked me -- it seems to me
11 that he asked me two different questions here,
12 ripped or tattered or blood on his clothes, and I
13 said no, I don't remember the ripped or tattered,
14 or do I remember the blood. I said yes. Somehow
03:12 15 that seems to be changed around.

16 Q Uh huh. And you seem not to have caught it when
17 he had it read over to you?

18 A Right.

19 Q Okay. Now, you also told Mr. Wolch that -- back
03:12 20 to the Pearson statement, please, 001477. You
21 also said it was inaccurate -- not inaccurately
22 recorded, but an inaccurate statement on your part
23 that you had been playing, effectively playing
24 hooky from kindergarten?

03:13 25 A Yes.



1 Q Your mother was your kindergarten teacher wasn't
2 she?

3 A Yes.

4 Q And your mother had to go somewhere that morning
03:13 5 for a medical reason of her own and she left you
6 to be babysat by Albert; isn't that right?

7 A Yes.

8 Q And that's what your mother told the police in
9 September of 1990 and in 1993 and you testified
03:13 10 about this at the Fisher trial. The reference
11 there is document 310298 and I hope it's at 310282
12 within that. It may be the other way around.
13 Document 310282 and within it 298. This is where
14 you talked to them about, the jury at Mr. Fisher's
03:14 15 trial, you weren't sure about what time of day you
16 went to kindergarten and your mom was off
17 somewhere that morning and you were being babysat
18 and the question was:

19 "Q You weren't sick?

03:14 20 A I don't -- well, I thought I was, but
21 I heard that I wasn't."

22 Right?

23 A Right.

24 Q And that's the first recorded correction in nine
03:14 25 years; is that right?



1 A Yes.

2 Q Back to the -- 001477, July the 18th statement.

3 You were telling us today about your brother's
4 mental health issues that started in, I think you

03:15 5 said 1973. Could I go to the next page on this

6 one, please? You remember testifying this morning
7 about your brother's mental health issues in 1973?

8 A Yeah.

9 Q Yes?

03:15 10 A Yes.

11 Q Is that something you've had recently brought to
12 your attention, sir?

13 A No. That what, his mental health?

14 Q Yes.

03:15 15 A No, I knew about that he was in the place in the
16 fifth floor of the University Hospital back
17 approximately at that time because of his, the way
18 he was acting.

19 Q All right. He was delusional?

03:16 20 A Religious I think, you know, he used to preach to
21 us for three or four hours a night, like, the
22 youngest three boys, and for probably a couple
23 years he did that and, you know --

24 Q A couple of years before he got admitted to the
03:16 25 hospital you mean?



1 A Yeah.

2 Q And he thought he was Jesus?

3 A No, I never ever heard him say he thought he was
4 Jesus, but he was very religious, very religious,
03:16 5 and he had a lot of respect for his Bible.

6 Q Okay. He apparently gave that impression to the
7 mental health professionals, sir. Did you know
8 that they diagnosed him at that time as a
9 schizophrenic?

03:16 10 A No, I didn't.

11 Q Did you know that he had reported to them having
12 visions for at least a year prior?

13 A I remember about him talking about visions that he
14 had.

03:17 15 Q Back in 1973 or earlier?

16 A Yeah, or earlier, '73 or earlier, but after that
17 he never talked about that any more.

18 Q Okay. And you knew back in 1973 that he had been
19 institutionalised?

03:17 20 A Yes.

21 Q I'm curious here, sir, because when you talked to
22 Sergeant Pearson in July of 1990, Albert, as you
23 recall him in the early years, was a stable person
24 and that it's only been in the last five years or
03:18 25 so he's begun to get goofy?



1 A Yeah. There's also a time after the trial where
2 he was having trouble and that's when he was
3 hospitalised.

4 Q So you left that out of talking to Sergeant
5 Pearson?

03:18 6 A How old was I then? I wasn't very old. I don't
7 remember.

8 Q 24 I believe.

9 A Yeah. So at the time when Albert went in the
03:18 10 hospital I wasn't even allowed to go see him.

11 Q So you forgot about it?

12 A Yeah, forgot about it.

13 Q Okay. So that's something that's come to your
14 memory since 1990?

03:18 15 A Since 1990? No. Yeah, that came up later on, you
16 know, that he's -- I forgot about it, that's all.

17 COMMISSIONER MacCALLUM: Are you going to
18 be a little while, Ms. McLean?

19 MS. McLEAN: Yeah, actually. I wasn't
03:18 20 watching the time. It might be appropriate.

21 COMMISSIONER MacCALLUM: Thank you.

22 *(Adjourned at 3:20 p.m.)*

23 *(Reconvened at 3:33 p.m.)*

24 BY MS. McLEAN:

03:33 25 Q Could I have 022142. There is your statement in



1 1993 to Officer Templeton and Dyck given on April
2 29th, 1993. Now, there's a number of changes to
3 your statement, what you said in 1990 and what you
4 said in 1993. I'm going to get to them later, but
03:33 5 first if we could go to 022142 in this document.
6 I think I might have the wrong page number on
7 there. Next page, 143, please. The top of that
8 page, sir, maybe we'll just bring it up, you tell
9 these officers that when you left Albert,
03:34 10 everything that you talked about, since we started
11 talking about it, maybe two years we talked off
12 and on about it, and his story, his story never
13 changed, and then you go on to say that after you
14 had left Vancouver, right, then that's when Albert
03:34 15 did the television program; right?

16 A Yeah.

17 Q So what you are telling the officers there is that
18 every time Albert talked to you about it he gave
19 you the same story?

03:35 20 A Yes.

21 Q And what time period are we talking about, really
22 just over the last couple of years there?

23 A I would say, yeah, the last -- I don't know,
24 three, four, five years, something like that.

03:35 25 Q Okay. From 1993?



1 A From 1993 back.

2 Q Back how far?

3 A It's hard to remember. I didn't start -- we
4 didn't start -- I didn't even ask him anything
03:35 5 about the case until I was about 13 or 14 years
6 old.

7 Q Uh huh.

8 A And then we talked brief, it would be briefly, a
9 few questions here, a few questions there,
03:35 10 different times, I don't know.

11 Q And the first time you talked to him in depth
12 about it was in 1989?

13 A Yeah, around there, yeah.

14 Q That's what you told the officers?

03:35 15 A Yeah.

16 Q It's at page 022137 in that document. Are you
17 aware of any changes in Albert's story from his
18 original 1969 and 1970 versions?

19 A No.

03:36 20 Q Has anybody ever brought to your attention that
21 he's changed his story?

22 A No.

23 Q Staying with this document here and going to page
24 022144, and I hope I've got this one right. I've
03:36 25 done it again, but maybe I'll just try it this



1 way. Do you remember telling Templeton and Dyck
2 that Albert had told you about David ripping the
3 aerial off the car?

4 A Yes.

03:36 5 Q Right. And that's something he told you pretty
6 consistently?

7 A Yes.

8 Q Never told you anything different in respect of
9 that?

03:37 10 A Yes.

11 Q Yes, you agree with me that no, he didn't?

12 A Yes, I agree, that's what he told me.

13 Q And that's all couched as part of David didn't
14 want anybody to be able to hear the news, so he
03:37 15 reached out and he snapped off the aerial?

16 A That was one of his stories.

17 Q Yeah. I'm going to suggest it was a story, sir.
18 At the preliminary inquiry, and the references, I
19 don't think we need to bring them up, unless
03:37 20 anybody wants to, the references are 00786 (sic)
21 and also the trial, it's 174908. Albert's story
22 at that time was that David wanted an aerial put
23 on the car, right, shortly after leaving your
24 residence. Did you know about that?

03:37 25 A No.



1 Q You were aware that they had to have the car towed
2 to a service station; right?

3 A No.

4 Q You didn't even know that?

03:37 5 A No. I don't know nothing about what happened that
6 morning, just the last, you know, since all this
7 is coming up that I've read this stuff somewhere.

8 Q So you don't know anything about David taking the
9 car out for a little spin and damaging somehow the
03:38 10 transmission?

11 A No.

12 Q And you are not aware of your sister Celine having
13 to phone a tow truck for them?

14 A No.

03:38 15 Q At any rate, sir, we've heard evidence and we've
16 had evidence read in from the tow truck places and
17 the garages and stuff like that and the evidence
18 given by your brother in 1969 and in 1970 is that
19 David wanted the aerial put on at that gas station
03:38 20 and that they didn't have any, so that it didn't
21 happen. All right? And the first record that I
22 can find of his change of that evidence is in the
23 1980s. Now, this is the tape with the writer from
24 MacLean's, Mr. Carlyle-Gordge, and that was played
03:39 25 earlier this week. Are you aware of that



1 interview that your brother did with them?

2 A No.

3 Q You had never heard anything about it?

4 A No.

03:39 5 Q And the best timing that we've been able to do
6 with that is that it's sometime in the 1980s,
7 maybe about 1985, and your brother also changed
8 his story about David having to borrow clothes
9 from your household. Did you know that?

03:39 10 A I didn't know that, no.

11 Q All right. On March the 2nd of 1969 is his very
12 first police statement, all right, it's one of the
13 ones that Mr. Wolch brought up for you:

14 "He told the police that the clothes that
03:39 15 David changed into were Ron's."

16 That's Ron Wilson who was the other fellow who
17 was along that day?

18 A (Nods head).

19 Q At the preliminary hearing, the reference there is
03:40 20 007869, but there's no need to bring it up, Albert
21 told the court that David had asked him for
22 clothes, all right, but that his response was that
23 he didn't have any that would fit him. Do you
24 remember any conversation about that?

03:40 25 A No.



1 Q At the trial, the reference is 174908, again your
2 brother said that the pants that David put on came
3 from the suitcase. Don't remember that at all?

4 A No.

03:40 5 Q Never heard that from him?

6 A No.

7 Q And the first reference I can find again is the
8 Carlyle-Gordge interview in the 1980s and that
9 tape was played the other day. Albert told you a
03:40 10 consistent story about what happened to the
11 clothes that David had been wearing did he?

12 A I remember -- well, we talked -- I remember him
13 changing.

14 Q Excuse me?

03:41 15 A I remember David changing in our house.

16 Q Yeah.

17 A I remember him going out the back door.

18 Q Uh huh.

19 A And I just vaguely remember all this.

03:41 20 Q Okay. I'm asking you about your conversations
21 with your brother though, sir, what's he told you
22 about it?

23 A Basically it was same right through.

24 Q The same as what?

03:41 25 A As what I remember.



1 Q Okay. So in 1969 and 1970, right, with varying
2 degrees of certainty, your brother told everyone
3 that the clothes that David was wearing went into
4 a suitcase which went with them on their road trip
03:41 5 and was taken into a hotel in Calgary. Did he
6 ever tell you that?

7 A No.

8 Q Okay. That's what he said on March the 2nd, March
9 the 5th and at the preliminary hearing in 1969.

03:42 10 A Excuse me, he had said this back in 1969?

11 Q Yeah.

12 A Okay.

13 Q And once again the only change I can find to it
14 comes in that same interview that he gave that we
03:42 15 watched the tape of the other day. I appreciate
16 you didn't watch it, but we did see it, and I
17 don't have a document number for the transcript
18 otherwise I would give it. That was in the 1980s
19 and at that time he told the interviewer, Albert
03:42 20 told the interviewer that he thinks the clothes
21 went into the garbage. All right?

22 A Uh huh.

23 Q That's the first time I can find anything like
24 that. And then in 1990, all right, when he was
03:42 25 speaking to Mr. Williams, that's somebody that



1 works for the Department of Justice on the
2 application to release David Milgaard, in 1990 in
3 an interview with Mr. Williams your brother added
4 to his previous account and told him that the
03:43 5 clothing had gone into a garbage container. Now,
6 do you think that's something he got from you?

7 A You know, I don't know. I remember -- that's how
8 I remember it. All I want is the truth and
9 accuracy and that's how I remember it. That's all
03:43 10 -- I'm not out to try and push nothing any which
11 way or persuade.

12 Q Yeah.

13 A But I remember what I remember. Whether if it
14 was -- you know, you told so many things so many
03:43 15 times and you've got a memory of it or what, but
16 that's how I remember it, and I don't know, I
17 can't say what Albert thought or what Albert, you
18 know, believed.

19 Q Okay.

03:43 20 A I wasn't there.

21 Q Well, you were there.

22 A Well, I was there then, but -- if it was now it
23 would be a little bit different story, if it
24 happened, you know, when I was an adult or a
03:44 25 teenager at least, I might have a more accurate --



1 Q Okay. The first time that I can find your brother
2 ever quoted saying -- quoting David Milgaard as
3 saying that he got blood on his clothes was at the
4 preliminary hearing, and that's in 1969, the
03:44 5 summer of 1969. He doesn't say that that was,
6 according to David, because he screwed a virgin,
7 and the first thing I can find anywhere close to
8 that is once again the interview with the
9 MacLean's reporter in the 1980s. At that point he
03:44 10 tells the interviewer that he saw blood on David
11 and he thought it was virgin blood and that he
12 looked at Nichol John, who was standing there with
13 David, and said, "You got yourself another
14 virgin," and that David laughed. Now, that didn't
03:45 15 happen according to you did it?

16 A Not that morning. That's not what I remember.
17 There was only one person in the house at the time
18 and that was David Milgaard.

19 Q Now, according to you the other people never came
03:45 20 into the house at all?

21 A Not that I remember, no.

22 Q You've been much more firm about that, haven't
23 you, they never came into the house?

24 A I don't remember them. Whether I was there or I
03:45 25 was upstairs or where I was if they did come in, I



1 don't know.

2 Q Let's go to your statement in 1993, that's the
3 April 29th one, number 022132. Now in -- maybe
4 I'll work from the hard one. You made a number of
5 additions to your statement, here, between 1990
6 and 1993. Your statement in 1990 says you
7 couldn't remember if you saw any blood on David, I
8 appreciate you say you think you told them that
9 but your statement certainly doesn't contain that;
10 is that right?

11 A That's right.

12 Q In 1993 your statement has that you definitely saw
13 blood on David?

14 A That's correct.

03:46 15 Q Right, notwithstanding that you were unable to
16 describe anything about his clothing?

17 A That's correct.

18 Q Okay. And you add a certainty of David asking
19 your brother for clothes, as opposed to what it
03:46 20 had said in the earlier statement, where you had
21 said that maybe he had his own?

22 A I -- that's what I remember, yeah.

23 Q Okay. And you added to this statement, though it
24 didn't appear in your 1990 one, that David had
03:46 25 gone upstairs, and then came down again, and then



1 had changed his clothes?

2 A Yes.

3 Q Do you remember that?

4 A Yeah.

03:46 5 Q Okay. And I think, in later occasions, you have
6 added that when he was upstairs you remember
7 hearing your sister Celine yell at him to get out?

8 A Umm, I don't remember that any more, but again
9 it's -- right now, what I can remember now is I
03:47 10 barely even remember him even coming to our place
11 now.

12 Q Uh-huh?

13 A It's so many years ago, and going by memory, and
14 it's spotty.

03:47 15 Q Okay.

16 A So --

17 Q Do you remember having conversations with Celine
18 about David and Nichol coming upstairs to the
19 room?

03:47 20 A No.

21 Q All right. And in this statement you also added
22 for the first time that you heard David say that
23 he had screwed a virgin and that was his
24 explanation for having blood all over him?

03:47 25 A Yes.



1 COMMISSIONER MacCALLUM: Which statement,
2 '93?

3 BY MS. McLEAN:

4 Q '93, sir. And in that statement, again it's the
03:47 5 '93 statement, you add for the first time that
6 David had his pants in his hand when he went
7 outside the back door?

8 A I remember him having something when he, rolled up
9 in a ball, and went out our back door.

03:48 10 Q Okay. Well, actually, in 1990 what you said was
11 that you remembered him having something, right;
12 in 1993 you remembered that it was his pants that
13 he had in his hand; and then in 1999 appears to be
14 the first time that you have said that what he had
03:48 15 was his pants and his shirt rolled up in a ball.
16 So you see how your story keeps getting better and
17 better and better?

18 A Yes.

19 Q Okay. Do you think that's a product of the many
03:48 20 conversations that you had with your brother and
21 with your family over the many years?

22 A Might very well be.

23 Q And --

24 A It --

03:48 25 Q Sorry?



1 A It also could be from, you know, talking with more
2 and with, you know, with -- you assume, I assumed
3 it, you know, you assume it. So whether it's
4 accurate or right, I don't know any more, it's
03:48 5 been so long.

6 Q All right. And maybe, when you were talking to
7 the police in 1990 and you thought you had seen,
8 maybe you seen some interchange with David, and
9 when you were talking to the police in 1993 and
03:49 10 you thought that you had seen blood, this may all
11 just be something that you think you remember,
12 that you hadn't actually seen?

13 A Maybe I didn't even see David come that morning.

14 Q Yeah. You had had many, many conversations with
03:49 15 your brother; right?

16 A Yes.

17 Q Okay. Your indulgence, please. It's not worth
18 the trouble of finding out the reference in that
19 one. If I could have document 0221 -- oh, sorry,
03:50 20 it's the same document. And the page number in it
21 is 022146, it's a document, April 29th statement,
22 and the page within it is 146. I'm having that
23 one out, can I have this part here, please? Okay.
24 Now you are talking here to Templeton and Dyck,
03:50 25 still, yes?



1 A Yes.

2 Q Okay. And you remember them asking you about
3 conversations that you and Dennis and Albert had
4 had over the years about these events?

03:50 5 A Umm, yeah.

6 Q Vaguely that they asked you; right?

7 A Yeah.

8 Q All right. Okay. And they asked you about that,
9 and you told them that there's been arguments,
03:50 10 that you and Dennis would argue where Dennis said
11 that "David Milgaard is innocent" and you would
12 say "no, he's not"; remember telling them that?

13 A Yes.

14 Q Okay. And then they asked you if Albert would be
03:51 15 present, and you would say that "yeah, he would be
16 there, and it was probably at Dennis'"; right?

17 A Yes.

18 Q Okay. And then they asked you what Albert's
19 reaction would be when you have these, and that
03:51 20 you told them that he was kind of on your side all
21 the time, right, and then you go on and discuss
22 about how your memory is not too clear but you
23 remember what you remember, and what you remember;
24 right. And you would have this argument, right,
03:51 25 where Dennis would say to you "you are too young,



1 you wouldn't remember it," and then you would talk
2 to Albert, and Albert would remember it, what I
3 seen, or what we'd talked about it," right. And
4 then you go on to say that you personally feel
03:52 5 that the guy is guilty. Now I appreciate you have
6 changed that position now, that's not my question.

7 A Uh-huh.

8 Q But you would actually have conversations with
9 Dennis and with your brother Albert where you
03:52 10 would say "I remember this, this is what I think I
11 saw," all right, and you would ask Albert about it
12 and Albert would say "yes, that's right."

13 A I don't really remember what Albert's position
14 was. I know at that time I would be a lot better
03:52 15 to answer this question than now, so now it's,
16 it's history, it's --

17 Q Okay.

18 A But it's, you know, it's something where I can't
19 be sure any more, you know, I'm -- we had
03:52 20 conversations, exactly what was said, when, where,
21 how and all that stuff is -- we, my brother Dennis
22 and I, had different ideas about it. I was there
23 at the time, that morning, and from what I
24 remember then is what I had said.

03:53 25 Q Yeah, okay, that's --



1 A Now that we're going on, moving on, --

2 Q Yeah?

3 A -- my brother says "well he's crazy so, you know,
4 how could -- how can anyone take his word", and I
03:53 5 said "well, I don't think he was crazy at the
6 time".

7 Q Uh-huh.

8 A So now it's like, well, whatever. I have to
9 respect his, that someone is different, that's
03:53 10 what it is, it's --

11 Q Okay. That's not really what I was asking you.
12 I'm asking you about this part here, all right,
13 and you say "and we'd argue about it and Dennis
14 would say you are too young, you wouldn't remember
03:53 15 it", and there is no discussion there about Albert
16 being crazy; right?

17 A No, no.

18 Q Okay. And then you say "I'd talk to Albert and
19 Albert would remember it, what I had seen", okay,
03:53 20 "or we would talk about it".

21 A What we seen, yeah.

22 Q Yeah. Okay. So my question is really is that how
23 it went, that you would say to Albert "I think I
24 remember this, is this what happened", and Albert
03:54 25 would say "yes"?



1 A We argued as well, like he said "no, it happened
2 this way", or that or this.

3 Q Uh-huh?

4 A And we never got into too, too much detail
03:54 5 about -- I don't know what happened in the first
6 court proceedings, or what, but I --

7 Q Uh-huh. What arguments did you have with Albert
8 about it?

9 A It wasn't really an argument, it was just he
03:54 10 corrected me.

11 Q On what?

12 A On what happened that morning, the events. I
13 thought my -- I thought I was playing sick, you
14 know, I thought I was supposed to be at school
03:54 15 and --

16 Q I thought it was your mother that corrected you on
17 that?

18 A Yeah, or they would be things like that, you know.
19 I don't know.

03:54 20 Q What else?

21 A I can't remember what, I can't remember what we
22 would talk about, but we would have -- he would
23 set me straight.

24 Q Okay.

03:54 25 A As far as he was concerned anyways.



1 Q And that happened at what period of time, anywhere
2 from 1990 and on, 1988 on?

3 A Around 1988 on, yeah, yeah.

4 Q Okay. And just to finish up a little bit here is
03:55 5 further improvements that were -- and this may tie
6 in with what you have just said -- is that it was
7 through further, I don't know if I would call them
8 improvements or additions to your account when you
9 gave it in 1999 at Larry Fisher's trial where you
03:55 10 were a defence witness, and you told the court
11 there -- and as far as I can tell this is for the
12 first time since 1993, right, you have made this
13 change -- that the clothes that David put on came
14 from a closet in your house?

03:55 15 A That's where I saw him standing, so I don't know
16 whether they came from there or not, --

17 Q Okay?

18 A -- but he was by our bathroom --

19 Q Okay.

03:56 20 A -- and there is a closet right there.

21 Q Okay. You did not tell the police in 1993, right,
22 that the clothes came from a closet; you certainly
23 did not tell Sergeant Pearson in 1990, all right,
24 that; in 1999, right, --

03:56 25 A I --



1 Q -- you told them that the clothes came from a
2 closet?

3 A That's where I just assumed they had come from.

4 Q Right. Did you get that from conversations with
5 members of your family, sir?

03:56

6 A No.

7 Q Is it possible?

8 A It's possible, it could be.

9 Q Okay. It's also the first time that you told the
10 story that the clothes that David took off were
11 rolled into a ball --

03:56

12 A Umm, --

13 Q -- that day; is that correct?

14 A That seems familiar to me, I don't know why, but
15 it does.

03:56

16 Q Is that something you talked about with Albert
17 over the years?

18 A Oh yeah, oh yeah.

19 Q Right. Did he have any different position from
20 you on that?

03:56

21 A I don't remember.

22 Q It's also the first time, I believe, that you said
23 that you saw a garbage truck coming down from the
24 north; right?

03:57

25 A Well, that I remember.



1 Q You remember that?

2 A I remember seeing it.

3 Q And do you remember being cross-examined by the
4 Crown attorney at that trial involving David Fish
5 --

03:57

6 A Yes.

7 Q -- or Larry Fisher, sorry, and he told you that
8 evidence had been called at that trial?

9 A He told me that what -- may I suggest that there
10 was a garbage truck scheduled a block from your
11 house on February 3rd, not on -- not on -- in our
12 route, but a block from our house.

03:57

13 Q Heading south on the lane way between Avenues N
14 and O?

03:57

15 A I don't remember. Yeah, I imagine something like
16 that.

17 Q Could we go to document 310282, please, and within
18 it 310313. And I hope I'm right. 310313, it's
19 just at the top, maybe we should go back one page
20 to 12 just to make sure that it didn't start
21 there. Just, please, pull it out. There we go.
22 So you say the garbage truck was coming down the
23 alley, you had no recollection of how often the
24 garbage was pulled up, but you would imagine it
25 was once a week?

03:58

03:58



1 A Yes.

2 Q And then the next page. And then the Crown
3 attorney tells you that the garbage, that:

4 "Q We heard that the garbage was picked up
03:58 5 on February 3 in the back alley behind
6 the 1400 block of 20th Street, that
7 would be a block north of you guys, that
8 was Monday?"

9 A Yes.

03:59 10 Q And he said:

11 "Q You wouldn't have any comment about
12 that, I guess?",
13 and your answer was:

14 "A No."

03:59 15 A If that's when it was, that's when it was.

16 Q Okay. And, just for your assistance, the evidence
17 -- I'm not sure who gave it at the Fisher trial --
18 but the evidence was given at the Milgaard
19 proceedings by Officer Gerald McCorrison, and he
03:59 20 is an officer that had been riding around
21 specifically, right, with the garbage truck people
22 looking in the area of the scene.

23 A Okay.

24 Q The murder happened on Friday the, January the
03:59 25 31st, and the next business day was Monday the



1 3rd.

2 A Okay.

3 Q Okay? So he went with them, having made inquiries
4 about when their route was he goes along behind
03:59 5 them and he watches them as they empty it, and as
6 a result, all right, he found a purse that
7 belonged to the victim. All right?

8 Now at some point between 1969
9 when you were five and 1990 when you were, what,
04:00 10 26, and you gave that statement to Sergeant
11 Pearson, did you realize that your brother's prime
12 importance to the Milgaard's prosecution was that
13 he saw blood?

14 A Umm, I don't know exactly what his involvement was
04:00 15 in the trial back then. I know that I saw
16 blood, --

17 Q Uh-huh?

18 A -- that's what I remember. I don't know. I know
19 he saw it, he was there. Umm, the rest of it, I
04:00 20 don't know what happened in the trial, I don't
21 know.

22 Q Well I didn't really ask you what his involvement
23 was, but did you understand that the most
24 important part, like when Mr. Wolch was asking you
04:01 25 questions certainly the most important part,



1 right, --

2 A Of the evidence, yes.

3 Q -- was whether or not you had seen blood?

4 A Yeah.

04:01 5 Q Right. And did you understand that there was
6 something more important about your brother's
7 evidence than whether or not he had seen blood on
8 David Milgaard?

9 A Umm, I don't -- I don't know.

04:01 10 Q Okay.

11 A I don't know anything about what he -- what his
12 part was inside the trial.

13 Q Despite the many conversations you had with him
14 after 1970?

04:01 15 A Because, yeah, there was many.

16 Q Okay.

17 A Many.

18 Q One of the things that was quite similar is your
19 brother was questioned in 1993, and if we could go
04:01 20 to document 037453 and within it 459, your brother
21 was asked questions by the police, and I think it
22 actually is Templeton and Dyck, the same ones that
23 -- well, certainly Templeton anyway. All right.
24 And they ask him:

04:02 25 "... how big was the blood stain and why did



1 you think it was blood?"

2 All right? And your brother says:

3 "Well, I know what blood looks like because
4 I have killed enough chickens in my life to
04:02 5 know what, on the farm, I know what blood
6 looks like."

7 Okay? And then six years later, document 310282
8 at 310287, six years later when you were giving
9 evidence at the Larry Fisher trial -- sorry, can
04:02 10 we bring it up -- you are asked:

11 "Q ... How do you know it was blood?"

12 All right? And you say:

13 "A Well, he had a farm, and we still have
14 the farm, and we slaughtered lots of
04:03 15 animals and sometimes we'd bring
16 chickens home and slaughter in the -- in
17 our back garage. We were around lots of
18 blood when we were kids. Like, hunting
19 or whatever.

04:03 20 Q Is there any doubt in your mind it was
21 blood?

22 A No. It was blood. We've had blood on
23 our clothes lots, and we just washed
24 them."

04:03 25 Do you remember saying that, sir?



1 A Yes.

2 Q Okay. Do you notice the parallel between what you
3 said and what your brother said six years earlier?

4 A Yes, I do, I see it.

04:03 5 Q Yeah. Do you think that you were repeating
6 something that he had given you as a good
7 explanation for why it was blood?

8 A Actually, I never really talked or discussed that
9 with him, any kind of strategy or anything with
04:03 10 Albert.

11 Q Yeah.

12 A But we both have come from the farm, he was active
13 on the farm as we all were, and I don't know, it's
14 pretty accurate, it's pretty close, the similarity
04:03 15 there.

16 Q Yeah.

17 A I don't see anything that's -- you know.

18 Q Did you know in 1993 he was offering you up as a
19 corroborating witness for himself?

20 A What --

21 Q "Kenny saw blood too"?

22 A Yeah.

23 Q Yeah?

24 A I did.

04:04 25 Q You knew he was doing that?



1 A I didn't know that, no, but I --

2 Q Thank you. Those are all my questions, sir.

3 COMMISSIONER MacCALLUM: All right.

4 Mr. O'Keefe?

04:04 5 **BY MR. O'KEEFE:**

6 Q Good afternoon, Mr. Cadrain.

7 A Hi.

8 Q My name is Eamon O'Keefe and I'm representing
9 Larry Fisher.

04:04 10 I just wanted to take you back
11 to some questions that Mr. Wolch had asked you
12 earlier on this afternoon specifically relating to
13 your attendance at Larry Fisher's trial. Were you
14 subpoenaed to attend trial on behalf of the
04:04 15 defence?

16 A Yes.

17 Q You received a subpoena from Mr. Beresh?

18 A I believe so, yeah.

19 Q Were you a friend of Larry Fisher's?

04:05 20 A No.

21 Q You were never on friendly terms with him
22 throughout any --

23 A No.

24 Q -- time in your life?

04:05 25 A Don't even know him.



1 Q When you attended the Larry Fisher trial I take
2 it, then, you didn't attend as a result of any
3 friendship or feelings of loyalty toward Mr.
4 Fisher?

04:05 5 A Absolutely no.

6 Q Your understanding of the subpoena you received;
7 was that that it was a document requiring you to
8 attend court?

9 A Yes.

04:05 10 Q You didn't understand it, I take it, as a document
11 which invited you to attend if you felt like it?

12 A Umm, no, it was I had to appear.

13 Q When you attended Larry Fisher's trial did you do
14 so because you were subpoenaed?

04:05 15 A Yes.

16 Q And your understanding of your obligation at Larry
17 Fisher's trial was what?

18 A To say what I saw that morning.

19 Q Okay. You answered questions that were posed to
04:06 20 you by Mr. Beresh?

21 A Yeah, posed by Mr. Beresh, yeah.

22 Q And you answered questions that were posed to you
23 by the lawyer for the Crown, Mr. Sinclair?

24 A Yes.

04:06 25 Q At the time you attended Larry Fisher's trial did



1 you do your best to answer those questions
2 honestly?

3 A The best as -- best of my recollection.

4 Q All right. Mr. Wolch had asked you about the
04:06 5 issue of statements that you had previously given
6 to the police; you remember that?

7 A Yes.

8 Q And whether you had seen those statements before
9 testifying at Larry Fisher's trial?

04:06 10 A Yes.

11 Q And he had made the suggestion to you that the
12 first time that reference to those statements, or
13 to discrepancies in those statements, was brought
14 up at the trial was by the Crown?

04:06 15 A Umm, yes.

16 Q Okay. And I believe your answer to that was that
17 you believed it was the Crown that had first
18 raised the issue of discrepancies in the
19 statements?

04:07 20 A Yes, yeah.

21 Q If we could just bring up 310282, please. And
22 this is the trial transcript of Larry Fisher, and
23 if we could go to page 310296, and you will see,
24 at the top of the page, this is the examination of
04:07 25 Kenneth Cadrain by Mr. Beresh?



1 A Yeah.

2 Q And do you recall, from the trial, that Mr. Beresh
3 was the first person to ask you questions?

4 A Yes.

04:07 5 Q After Mr. Beresh was done asking you questions
6 Mr. Sinclair then asked some for the Crown?

7 A Yes.

8 Q Okay. So this was still within Mr. Beresh's set
9 of questions. Just at the bottom of that page, if
04:07 10 we could bring that up, please, Mr. Beresh asks
11 you question:

12 "Q Okay. Sir, in preparing for testifying
13 did you refer -- you referred yourself
14 to a number of statements that you had
04:08 15 provided. Do I understand on July 18,
16 1990 you spoke to a Sergeant Pearson?

17 A Yes, I did.

18 Q Okay. I want to ask you, having
19 reviewed that statement, was there
04:08 20 something that was inaccurately
21 described there?

22 A Yeah.

23 Q What was that?

24 A Well, when it said that I was asked if
04:08 25 I seen tattered clothes or blood and I



1 said "No," well I've always stated
2 that I've seen it.

3 Q Okay. So does that statement accurately
4 --

04:08 5 A No, it's not.

6 Q You provided other statement to the RCMP
7 as well, I take it?

8 A Yeah.

9 Q A Corporal Templeton, Constable Dyck --

04:08 10 A Yes.

11 Q And was that accurately recorded?

12 A That's very accurate."

13 Do you recall giving those answers to those
14 questions?

04:09 15 A Yes.

16 Q And does that refresh your memory as to when the
17 issue of discrepancies in your previous statements
18 first arose at Mr. Fisher's trial?

19 A Yes.

04:09 20 Q With respect to the questions that you have had
21 today regarding the timing of garbage pickup in
22 the area, I take it that you lived on the south
23 side of 20th Street?

24 A Yes.

04:09 25 Q And the 1400 block of Avenue N or O, would that be



1 north of 20th Street?

2 A The 300 block of Avenue O is between 20th and
3 19th, the 1400 block would be on 20th Street,
4 which would be, I'm thinking, around Avenue P.

04:09 5 Q All right. Let me just ask you, are you aware, or
6 were you aware at any time, of whether garbage
7 pickup on the north side of 20th Street took place
8 on the same day as garbage pickup on the south
9 side of that street?

04:10 10 A No.

11 Q You weren't aware of whether that garbage pickup
12 would all have been part of the same route?

13 A No.

04:10 14 Q Were you aware of whether garbage pickup took
15 place on different days for different areas within
16 the city?

17 A At that time, no.

18 Q All right. Thank you.

19 COMMISSIONER MacCALLUM: Mr. Fox?

04:10 20 **BY MR. FOX:**

21 Q Mr. Cadrain, I'm Aaron Fox, I represent Eddie
22 Karst.

23 A All right.

04:10 24 Q You have been here a long time so I'm not going to
25 ask you what coloured socks you were wearing on



1 January 31st, 1969.

2 You mentioned that in January of
3 1969 you were raised in the Roman Catholic faith
4 and were aware of The Blessed Virgin Mary?

04:10 5 A Yes.

6 Q And would have understood that that had some
7 significant religious significance to the Roman
8 Catholic Church and to the faith that you were
9 raised in at that time?

04:11 10 A Yes.

11 Q I take it it would be correct that, as at January
12 31st, 1969, what exactly Blessed Virgin Mary meant
13 would have been something not within your
14 knowledge, you wouldn't have known exactly what
04:11 15 that was about?

16 A No.

17 Q Okay. When you heard the words spoken, and in
18 your 1990 statement which has been referred to
19 repeatedly you indicate a recollection -- and I'm
04:11 20 not sure if Ms. McLean suggested it wasn't in
21 there but it's on the first page -- but that your
22 brother asked Hoppy, as you referred to him, what
23 was the matter with his pants and there was words
24 spoken to the effect of he screwed a virgin or
04:11 25 something like that; now when you heard the word



1 "virgin" used in that context you have testified
2 that the only virgin you knew of was The Blessed
3 Virgin Mary?

4 A Uh-huh.

04:12 5 Q When you heard those words, I mean, did you -- do
6 you recall if you had any impression in the sense
7 "that's funny" or "that's serious" or "this might
8 not be good" or "that's bad", or any kind of
9 recollection of what your impression was?

04:12 10 A I had a feeling it was bad.

11 Q Okay. And would that -- because you thought,
12 because you thought of something to do with The
13 Blessed Virgin Mary, or what; why did you think it
14 might be bad?

04:12 15 A Well "screwed virgin" doesn't sound like a happy
16 feeling or, you know, I don't know. I was just --
17 I was young.

18 Q To your recollection, had you heard that phrase
19 used before?

04:12 20 A No.

21 Q Okay. You talked that, in subsequent years, you
22 had discussions with Albert and your brother David
23 (sic) about Albert's recollection of the events in
24 his testimony at the trial?

04:12 25 A Well, yeah. Brother David?



1 Q Or sorry, brother Dennis, I'm sorry, brother
2 Dennis.

3 A Yes, yeah.

4 Q It's getting late in the day for me too.

04:13 5 A Yeah.

6 Q And it would be fair to say that Dennis at least
7 appeared to you to become convinced that Mr.
8 Milgaard wasn't guilty of the murder of Gail
9 Miller?

04:13 10 A Yes.

11 Q And did he explain some of the reasons why he
12 thought that was the case?

13 A Yes, he did.

14 Q And I take it he had received at least, as he told
04:13 15 you -- and I'm not asking you whether it's
16 accurate or not -- but he had received information
17 from other sources or other people that suggested
18 to him that Mr. Milgaard was not guilty?

19 A Dennis was Albert's age, and he was more aware, he
04:13 20 should have been more aware of what was going on
21 at that time, so he has an argument, you know, so
22 --

23 Q Okay.

24 A -- that's why.

04:13 25 Q Did you know Mr. Paul Henderson; do you know who



1 that is?

2 A Umm, don't really recall.

3 Q Did you hear, did you ever hear that name
4 mentioned, a fellow who was doing investigative
04:14 5 work and spoke to Dennis, perhaps spoke to Albert?

6 A No.

7 Q Were you aware that people had spoke to Dennis
8 about his knowledge of the Gail Miller death?

9 A No.

04:14 10 Q You were asked some questions by Mr. Wolch about
11 whether or not you accepted that David Milgaard
12 should have been exonerated or Larry Fisher should
13 have been guilty. Would it be fair to say there's
14 sort of two aspects to this, one is simply
04:15 15 factually what you know and what you saw and then
16 the second is what conclusions you might draw from
17 that?

18 A Yeah.

19 Q And I take it you are not suggesting in any way,
04:15 20 Mr. Cadrain, that you sort of know all of the
21 facts and circumstances surrounding the
22 allegations against Mr. Milgaard or Mr. Fisher?

23 A No.

24 Q And I take it similarly you are not suggesting
04:15 25 anyway you are in a particular position to judge



1 one or the other?

2 A Correct.

3 Q Would it be fair to say at the end of the day
4 about what you can offer to this Commission is
04:15 5 your recollection of what you saw and observed?

6 A The best that I can, yes.

7 Q There was some questions put to you about whether
8 or not your brother Albert could be persuaded and,
9 for example, Mr. Wolch asked you some questions if
04:16 10 he could be persuaded and you said in one case,
11 referring to an interview that took place of him
12 in 1990, he could be persuaded at that point in
13 time?

14 A Yes.

04:16 15 Q Can you elaborate on what you meant by that?

16 A He was using lots of marijuana and drinking and he
17 just didn't care. He was, I don't know, he wasn't
18 the Albert, the brother that I knew.

19 Q Based on the brother that you knew in 1969 and
04:16 20 through after that, did you have any concerns that
21 he was persuaded, for example, to say that he saw
22 blood on David Milgaard if he actually didn't?

23 A Well, he's the one who -- I don't know, I remember
24 I seen it and we talked about it. I don't think
04:17 25 we persuaded each other about anything about that



1 morning, the events that happened that morning.

2 Q Okay. Was there ever any suggestion to you or did
3 you ever pick up anything in your discussions with
4 Albert that he was, for example, saying he saw
04:17 5 blood as a result of someone else suggesting it to
6 him?

7 A We talked about -- it seems to me we talked about
8 it that morning, but it's been a long time ago. I
9 can't really remember anything.

04:17 10 Q In your situation, Mr. Cadrain, did anybody
11 suggest to you that you saw blood there?

12 A No.

13 Q This is your recollection?

14 A Yes.

04:17 15 Q The police never came to you and said, "Gee,
16 Kenny, you must have been there that morning, you
17 must have saw the blood." No one did that?

18 A I told my parents about it and they told me just
19 to be quiet.

04:17 20 Q Your mother's preference would be, you being the
21 age you were, she would just as soon not have you
22 involved in it?

23 A Right.

24 Q Would it be fair to say your mother was somewhat
04:18 25 anxious about Albert being involved in it?



1 A Yes.

2 Q And we know from the preliminary hearing that
3 reference was made by your brother Albert to the
4 fact that you and your sister Celine were both in
04:18 5 the house on the morning of January 31st, 1969.
6 Did anyone -- did Mr. Milgaard or Mrs. Joyce
7 Milgaard or anybody on behalf of them or a lawyer
8 on behalf of them contact you or to your knowledge
9 contact your parents about speaking to you in 1969
04:18 10 or '70?

11 A In 1969 or '70 did anybody contact us or me?

12 Q Yes, about talking to you.

13 A No.

14 Q And at the end of the day, and you've had a lot of
04:19 15 things pointed out to you over the course of your
16 testimony today, at this point in time is it still
17 your best recollection that when you saw David
18 Milgaard the morning of January 31st, 1969 there
19 was blood on his clothes?

04:19 20 A Yes.

21 Q And that there was a question asked of him of how
22 that had got there and he made reference to the
23 fact of screwing a virgin?

24 A Yes.

04:19 25 MR. FOX: Thank you. Those are all the



1 questions I have.

2 COMMISSIONER MacCALLUM: Thanks. Ms.
3 Wempe?

4 MS. WEMPE: No thank you.

04:19 5 COMMISSIONER MacCALLUM: Mr. Elson?

6 MR. ELSON: I'll be very brief,
7 Mr. Commissioner.

8 **BY MR. ELSON:**

9 **Q** Mr. Cadrain, my name is Richard Elson and I
04:19 10 represent the Saskatoon Police Service in these
11 proceedings.

12 Mr. Wolch asked you some
13 questions with respect to how the RCMP came to
14 know about you and how ultimately you were
04:20 15 interviewed by Officer Pearson in 1990 and it's my
16 recollection of your answer that you couldn't
17 recall specifically how that came about. Do you
18 recall that series of questions with Mr. Wolch?

19 **A** Yes.

04:20 20 **Q** I wonder if I might try to refresh your memory,
21 and in the event that I'm making any suggestions
22 to you that are wrong, please correct me. It's my
23 understanding that in 1990, specifically in the
24 spring and the summer of 1990, you were working as
04:20 25 a drywall installer; is that correct?



1 A That's correct.

2 Q And I also understand that you had occasion to
3 work on the home of a relative of a member of the
4 Saskatoon Police Service. Do you have a
04:20 5 recollection of that?

6 A Yes.

7 Q And specifically the officer in question was an
8 officer by the name of Kirby Harmon. Do you
9 recall ever having had any dealings with an
04:21 10 officer by the name of Kirby Harmon?

11 A I believe that was -- I did some work for his
12 mother.

13 Q That's my understanding as well.

14 A Yeah.

04:21 15 Q My understanding, and again please correct me if
16 I'm wrong, is that you would have been working on
17 Mrs. Harmon's home installing drywall at the same
18 time as the video that was shown earlier took
19 place; is that correct?

04:21 20 A Yes.

21 Q And indeed it was the next day after you had seen
22 that television broadcast that you had indicated
23 to Mrs. Harmon that you were offended by what you
24 saw. Do you have a recollection of that?

04:21 25 A Yes.



1 Q And is it also not correct that Mrs. Harmon
2 advised you that her son was a member of the
3 Saskatoon Police Service?

4 A Yes.

04:21 5 Q And that she -- now, again, it's my understanding
6 that there was some contact then with the
7 Saskatoon Police Service as a result of your
8 conversation with Mrs. Harmon?

9 A I believe I talked to her son and he referred me
04:22 10 or he was going to -- I don't know, I can't
11 remember back then.

12 Q If I could again try to refresh your memory, and
13 again if I'm making any suggestions to you that
14 are wrong, it's my understanding that you did
04:22 15 speak to Officer Harmon, Officer Harmon advised
16 you that the RCMP were in charge of this
17 investigation, and do you have a recollection of
18 that being correct?

19 A Yes.

04:22 20 Q And it was shortly after that that it's my
21 understanding the RCMP contacted you and obtained
22 the statement that they did in the summer of 1990?

23 A Yes.

24 Q In any conversations that you had with the
04:22 25 Saskatoon Police Service prior to your interaction



1 with the RCMP, was there any suggestion from any
2 officer at the Saskatoon Police Service as to what
3 you should say or should not say to the RCMP?

4 A Never.

04:23 5 Q And let me be more specific. Did anyone from the
6 Saskatoon Police Service, whether Officer Harmon
7 or anyone else, make any suggestion to you that
8 you should say that you saw blood on David
9 Milgaard's clothing on the morning of January 31,
04:23 10 1969?

11 A No.

12 MR. ELSON: Thank you. I have no further
13 questions.

14 COMMISSIONER MacCALLUM: Thank you. Ms.
04:23 15 Krogan?

16 MS. KROGAN: No thank you.

17 COMMISSIONER MacCALLUM: Mr. Kennedy?

18 MR. KENNEDY: No thank you.

19 COMMISSIONER MacCALLUM: Mr. Watson?

04:23 20 MR. WATSON: No questions.

21 COMMISSIONER MacCALLUM: Thank you.

22 Redirect?

23 MR. HODSON: Just two questions.

24 BY MR. HODSON:

04:23 25 Q Mr. Cadrain, Mr. Wolch asked you a question, I'm



1 not sure of the exact question, but you said
2 something to the effect that Albert told you that
3 David Milgaard had planted evidence on the
4 Cadraains in clothing?

04:24 5 A No. One time we were talking and when this was
6 going on he was talking about the Regina police
7 were questioning him about the murder and later on
8 in the 1990s, early '90s, Albert was saying I
9 think he was trying to, David was trying to set me
04:24 10 up with the clothes.

11 Q With which clothes?

12 A With the clothes that he had changed --

13 Q Okay.

14 A -- at our place.

04:24 15 Q And that would have been something Albert told you
16 in the '90s?

17 A I would say late '80s, early '90s, somewhere
18 around there.

19 Q And the second matter, just to clarify, Mr. Fox
04:24 20 and Ms. McLean both referred to this, if I could
21 call up 001477 which is the 1990 statement, and I
22 believe there was a question regarding whether or
23 not this statement included a reference to a
24 virgin and I believe it does, I just draw that to
04:25 25 your attention, and I apologize, I'm not sure



1 whether it was suggested to you that it was not in
2 that statement, but if I could just show you that,
3 and is it fair to say, Mr. Cadrain, that in 1990,
4 that paragraph there, that says:

04:25 5 "When Milgaard first came into the house and
6 he was talking to Albert, Albert said
7 something like "what happened to your pants"
8 and Milgaard replied something like "I
9 screwed a virgin" or "I was with a virgin."

04:25 10 Is that correct?

11 A Yes.

12 Q So you would have told that to Sergeant Pearson in
13 1990?

14 A To the best of my recollection, yes.

04:25 15 MR. HODSON: Okay. Those are all my
16 questions, Mr. Commissioner.

17 COMMISSIONER MacCALLUM: Thanks, Mr.
18 Cadrain. You are excused.

19 MR. HODSON: Just one other matter. For
04:25 20 the record, the typed statement of 1990, 001477,
21 we do not have the handwritten copy of that. I
22 think we have 14 typed versions, but we were
23 unable to find any handwritten version.
24 Certainly we will be pursuing, and we will be
04:26 25 hearing from Sergeant Pearson at some point, but



1 our efforts to locate the handwritten version
2 have failed to date.

3 COMMISSIONER MacCALLUM: Thanks. Once
4 again your timing is impeccable.

04:26 5 MR. HODSON: It's getting better.

6 COMMISSIONER MacCALLUM: 10 o'clock
7 tomorrow, please.

8 *(Adjourned at 4:30 p.m.)*

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1 **OFFICIAL QUEEN'S BENCH COURT REPORTERS' CERTIFICATE:**

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<p>\$</p> <p>\$2,000 - 2070:6, 2149:5</p>	<p>048975 - 2079:18 048976 - 2079:21 048978 - 2076:5 048979 - 2077:5 048980 - 2076:11 061854 - 2084:16, 2098:20 061856 - 2084:19</p>	<p>1983 - 2091:3 1985 - 2238:7 1988 - 2138:10, 2251:2, 2251:3 1989 - 2235:12 1990 - 2151:16, 2151:25, 2152:1, 2152:20, 2160:23, 2167:6, 2186:3, 2186:7, 2200:2, 2200:4, 2200:10, 2215:2, 2224:16, 2227:15, 2228:2, 2230:9, 2232:22, 2233:14, 2233:15, 2234:3, 2240:24, 2241:2, 2243:5, 2243:6, 2243:24, 2245:10, 2246:7, 2251:2, 2251:23, 2255:9, 2262:16, 2265:18, 2269:12, 2272:15, 2272:23, 2272:24, 2274:22, 2276:21, 2277:3, 2277:13, 2277:20 1990s - 2276:8 1992 - 2141:18 1993 - 2072:24, 2073:24, 2075:12, 2076:8, 2078:11, 2079:20, 2081:2, 2137:16, 2140:17, 2167:9, 2167:25, 2168:16, 2176:21, 2176:25, 2179:7, 2230:9, 2234:1, 2234:2, 2234:4, 2234:25, 2235:1, 2243:2, 2243:6, 2243:12, 2245:12, 2246:9, 2251:12, 2251:21, 2256:19, 2258:18 1995 - 2081:22, 2091:4, 2148:5 1999 - 2184:11, 2185:3, 2245:13, 2251:9, 2251:24 19th - 2073:7, 2110:10, 2264:3</p>	<p>300 - 2264:2 31 - 2076:21, 2107:3, 2107:25, 2120:20, 2121:1, 2123:3, 2123:6, 2169:12, 2185:15, 2275:9 310282 - 2184:8, 2230:11, 2230:13, 2253:17, 2257:7, 2261:21 310285 - 2184:11 310287 - 2257:8 310296 - 2261:23 310297 - 2186:5 310298 - 2230:11 310303 - 2187:6 310304 - 2188:8 310313 - 2253:18 31st - 2064:12, 2090:18, 2092:22, 2098:5, 2102:3, 2102:25, 2203:5, 2254:25, 2265:1, 2265:12, 2271:5, 2271:18 324958 - 2109:15 324960 - 2109:24 334 - 2060:11, 2106:24, 2109:25, 2154:8, 2164:22 36 - 2206:12 3:20 - 2233:22 3:33 - 2233:23 3rd - 2205:16, 2253:11, 2255:1</p>	<p>Abouts - 2228:15 Absolutely - 2260:5 abusive - 2149:9, 2150:1 academically - 2087:1, 2087:10, 2088:2 Academically - 2191:7 accept - 2082:17, 2100:19, 2100:21, 2191:13, 2192:1, 2192:5, 2192:7, 2192:16, 2214:16 accepted - 2100:13, 2268:11 access - 2098:12 accident - 2082:1, 2082:8, 2082:12, 2082:15, 2083:6, 2083:15, 2083:16, 2099:6, 2100:14 accidental - 2099:14 according - 2213:15, 2242:6, 2242:15, 2242:19 account - 2078:10, 2094:1, 2241:4, 2251:8 accuracy - 2241:9 accurate - 2078:10, 2110:2, 2154:19, 2155:9, 2155:10, 2155:20, 2155:21, 2157:13, 2158:22, 2158:24, 2159:7, 2159:20, 2160:19, 2162:10, 2165:4, 2165:23, 2165:25, 2170:14, 2172:4, 2177:1, 2178:21, 2180:4, 2183:21, 2185:21, 2187:3, 2188:6, 2188:20, 2241:25, 2246:4, 2258:14, 2263:12, 2267:16 accurately - 2169:4, 2169:8, 2186:20, 2187:2, 2263:3, 2263:11 accusations - 2125:6 accused - 2216:23 acid - 2157:20, 2157:25 acknowledge - 2088:1 acting - 2231:18 actions - 2220:8 active - 2258:12 activities - 2065:15 activity - 2061:17 add - 2243:18, 2245:5 added - 2241:3, 2243:23, 2244:6, 2244:21 adding - 2195:21, 2227:19 additions - 2243:5, 2251:8 address - 2077:24 adjourned - 2167:4 Adjoined - 2105:6, 2166:25, 2233:22, 2278:8 admitted - 2182:23, 2231:24 adult - 2241:24 advantage - 2064:4, 2086:22, 2088:13, 2088:14, 2093:7, 2093:10 advise - 2162:6 advised - 2274:2, 2274:15 aerial - 2135:2, 2236:3, 2236:15, 2236:22, 2237:19 affected - 2067:10 afraid - 2075:15, 2077:2, 2162:12 afternoon - 2158:15, 2159:14, 2199:7, 2201:9, 2201:10, 2201:15, 2224:11, 2228:21, 2259:6, 2259:12 age - 2062:16, 2091:25,</p>
<p>'60s - 2177:22 '69 - 2092:22, 2098:5 '70 - 2271:10, 2271:11 '70s - 2106:13, 2121:20, 2121:22, 2121:24, 2122:1, 2122:2, 2124:23, 2126:3, 2127:10, 2128:7, 2128:14, 2129:16, 2130:5, 2176:12 '73 - 2232:16 '77 - 2079:25 '80s - 2106:13, 2106:20, 2121:21, 2121:22, 2127:8, 2127:10, 2127:18, 2127:19, 2127:20, 2127:21, 2127:23, 2128:3, 2128:9, 2128:14, 2128:19, 2130:10, 2130:20, 2130:21, 2131:2, 2131:3, 2133:7, 2136:11, 2143:17, 2144:11, 2144:25, 2145:1, 2161:1, 2176:17, 2276:17 '81 - 2131:3 '82 - 2131:3 '83 - 2131:3 '88 - 2142:1 '88/'89 - 2176:10 '89 - 2142:1 '90s - 2106:21, 2126:3, 2126:4, 2127:8, 2148:3, 2148:5, 2220:24, 2220:25, 2221:14, 2276:8, 2276:16, 2276:17 '92 - 2124:19 '93 - 2124:19, 2176:23, 2245:2, 2245:4, 2245:5 'em - 2222:4</p>	<p>1</p> <p>10 - 2130:4, 2130:7, 2130:8, 2160:25, 2170:23, 2190:17, 2193:21, 2278:6 100 - 2146:25, 2208:15, 2208:22, 2211:13 10:00 - 2059:2, 2183:4, 2201:3, 2201:18 10:57 - 2105:6 11 - 2076:15, 2190:17 11:00 - 2201:3, 2201:12 11:16 - 2105:7 12 - 2106:5, 2172:15, 2253:20 12:00 - 2201:12 12:27 - 2166:25 13 - 2055:23, 2121:8, 2121:19, 2121:25, 2122:4, 2126:8, 2127:9, 2127:14, 2127:17, 2127:22, 2128:6, 2172:15, 2235:5 13-year-old - 2210:2 14 - 2121:8, 2121:19, 2121:25, 2122:4, 2126:8, 2127:9, 2127:14, 2127:17, 2127:22, 2128:6, 2187:20, 2188:4, 2188:5, 2235:5, 2277:22 1400 - 2254:6, 2263:25, 2264:3 143 - 2234:7 146 - 2246:22 15 - 2105:5, 2149:12, 2224:20, 2225:21 174908 - 2236:21, 2239:1 18 - 2262:15 18th - 2186:7, 2224:25, 2231:2 1963 - 2105:19 1969 - 2060:7, 2060:21, 2061:1, 2061:9, 2064:7, 2064:12, 2070:8, 2072:6, 2076:21, 2090:18, 2091:1, 2091:4, 2091:8, 2092:1, 2092:16, 2093:3, 2095:8, 2096:6, 2098:2, 2099:20, 2102:3, 2102:25, 2106:24, 2107:3, 2107:8, 2107:25, 2118:25, 2120:17, 2120:20, 2121:1, 2123:3, 2123:6, 2137:12, 2137:15, 2137:19, 2146:7, 2149:7, 2155:23, 2169:12, 2185:16, 2197:11, 2215:4, 2235:18, 2237:18, 2238:11, 2240:1, 2240:9, 2240:10, 2242:4, 2242:5, 2255:8, 2265:1, 2265:3, 2265:12, 2269:19, 2271:5, 2271:9, 2271:11, 2271:18, 2275:10 1969-1970 - 2094:17 1970 - 2235:18, 2237:18, 2240:1, 2256:14 1973 - 2129:6, 2129:16, 2231:5, 2231:7, 2232:15, 2232:18 1980s - 2237:23, 2238:6, 2239:8, 2240:18, 2242:9</p>	<p>2</p> <p>2 - 2075:14 20 - 2149:4, 2149:12 2005 - 2055:22 2059 - 2058:4 2085 - 2058:5 2089 - 2058:6 2090 - 2058:7 20th - 2073:9, 2157:5, 2254:6, 2263:23, 2264:1, 2264:2, 2264:3, 2264:7 21 - 2224:23 2101 - 2058:8 2103 - 2058:9 2105 - 2058:11 2148 - 2058:12 2150 - 2058:13 2189 - 2058:14 2224 - 2058:15 2259 - 2058:16 2264 - 2058:17 2272 - 2058:18 2275 - 2058:19 22nd - 2105:18 24 - 2233:8 26 - 2255:10 2710 - 2080:13 28th - 2228:2 298 - 2230:13 29th - 2167:25, 2168:16, 2234:2, 2243:3, 2246:21 2:00 - 2166:24, 2167:1 2nd - 2238:11, 2240:8</p>	<p>4</p> <p>40 - 2207:12 41 - 2105:16 459 - 2256:20 480 - 2225:12 4:00 - 2201:9, 2201:10 4:30 - 2278:8</p>	<p>5</p> <p>50 - 2132:14, 2222:21 5th - 2240:9</p>
<p>0</p> <p>001466 - 2210:17 001477 - 2151:19, 2196:21, 2225:1, 2226:20, 2229:20, 2231:2, 2276:21, 2277:20 001480 - 2151:21 002369 - 2227:24 002372 - 2227:25 00786 - 2236:20 007869 - 2238:20 0221 - 2246:19 022132 - 2168:8, 2243:3 022133 - 2168:13 022134 - 2171:4 022135 - 2172:6 022136 - 2174:2 022137 - 2175:14, 2235:16 022138 - 2177:5 022141 - 2178:2 022142 - 2233:25, 2234:5 022143 - 2182:2 022144 - 2235:24 022146 - 2246:21 034959 - 2073:21 034960 - 2073:25, 2074:2 034963 - 2074:13 034964 - 2075:8 035191 - 2167:22 037453 - 2256:20 048973 - 2078:15 048974 - 2078:16</p>	<p>3</p> <p>3 - 2075:17, 2198:8, 2254:5 30 - 2174:21, 2188:15</p>	<p>3</p> <p>3 - 2075:17, 2198:8, 2254:5 30 - 2174:21, 2188:15</p>	<p>6</p> <p>6 - 2087:5, 2154:7</p>	<p>6</p> <p>6 - 2087:5, 2154:7</p>
<p>0</p>	<p>0</p>	<p>7</p> <p>7 - 2088:2</p>	<p>7</p> <p>7 - 2088:2</p>	<p>7</p> <p>7 - 2088:2</p>
<p>0</p>	<p>0</p>	<p>8</p> <p>8 - 2087:4, 2087:8, 2087:9, 2088:4, 2190:21, 2190:22 88/89 - 2175:19 8:00 - 2201:3</p>	<p>8</p> <p>8 - 2087:4, 2087:8, 2087:9, 2088:4, 2190:21, 2190:22 88/89 - 2175:19 8:00 - 2201:3</p>	<p>8</p> <p>8 - 2087:4, 2087:8, 2087:9, 2088:4, 2190:21, 2190:22 88/89 - 2175:19 8:00 - 2201:3</p>
<p>0</p>	<p>0</p>	<p>9</p> <p>9 - 2190:16, 2190:17, 2190:19 90 - 2180:16 91 - 2180:16 92 - 2180:16 9:00 - 2154:14, 2183:4, 2201:3, 2201:18 9:30 - 2154:14 9th - 2055:22</p>	<p>9</p> <p>9 - 2190:16, 2190:17, 2190:19 90 - 2180:16 91 - 2180:16 92 - 2180:16 9:00 - 2154:14, 2183:4, 2201:3, 2201:18 9:30 - 2154:14 9th - 2055:22</p>	<p>9</p> <p>9 - 2190:16, 2190:17, 2190:19 90 - 2180:16 91 - 2180:16 92 - 2180:16 9:00 - 2154:14, 2183:4, 2201:3, 2201:18 9:30 - 2154:14 9th - 2055:22</p>
<p>0</p>	<p>0</p>	<p>A</p> <p>Aaron - 2057:8, 2090:10, 2264:21 ability - 2146:21, 2279:7 able - 2071:6, 2133:15, 2137:7, 2236:14, 2238:5</p>	<p>A</p> <p>Aaron - 2057:8, 2090:10, 2264:21 ability - 2146:21, 2279:7 able - 2071:6, 2133:15, 2137:7, 2236:14, 2238:5</p>	<p>A</p> <p>Aaron - 2057:8, 2090:10, 2264:21 ability - 2146:21, 2279:7 able - 2071:6, 2133:15, 2137:7, 2236:14, 2238:5</p>



<p>2105:16, 2173:22, 2267:19, 2270:21 aged - 2107:22 ago - 2086:4, 2098:2, 2112:7, 2113:18, 2123:20, 2149:4, 2150:6, 2155:24, 2164:20, 2170:22, 2176:18, 2179:3, 2187:14, 2196:17, 2197:10, 2198:20, 2202:24, 2206:7, 2206:12, 2211:12, 2215:1, 2217:23, 2224:17, 2224:20, 2225:20, 2244:13, 2270:8 agree - 2088:19, 2088:20, 2088:24, 2089:14, 2089:20, 2089:21, 2187:11, 2187:17, 2188:10, 2188:17, 2236:11, 2236:12 agreeing - 2059:18, 2105:13 ahead - 2108:19, 2130:9, 2214:11 aid - 2067:25 air - 2156:25 Albert - 2059:23, 2060:19, 2062:14, 2062:15, 2062:20, 2063:9, 2064:9, 2066:4, 2066:5, 2066:9, 2066:17, 2066:20, 2067:3, 2067:6, 2067:12, 2067:19, 2068:1, 2068:12, 2069:3, 2069:5, 2076:14, 2076:24, 2077:2, 2077:14, 2077:16, 2077:17, 2078:3, 2080:3, 2080:4, 2080:7, 2080:12, 2080:22, 2080:23, 2080:24, 2081:22, 2085:4, 2085:6, 2085:18, 2086:1, 2086:7, 2086:10, 2087:20, 2087:21, 2090:13, 2090:14, 2090:20, 2090:21, 2091:1, 2091:10, 2091:25, 2092:7, 2092:19, 2092:21, 2092:24, 2093:3, 2093:7, 2093:21, 2093:24, 2094:2, 2094:7, 2095:5, 2095:11, 2095:19, 2096:22, 2099:1, 2099:12, 2102:16, 2103:22, 2104:12, 2106:1, 2106:4, 2106:8, 2106:15, 2106:21, 2107:12, 2108:16, 2108:17, 2109:5, 2112:14, 2112:17, 2115:18, 2116:7, 2116:12, 2117:1, 2117:7, 2118:2, 2118:8, 2118:9, 2118:16, 2119:1, 2119:5, 2119:11, 2120:1, 2120:8, 2120:21, 2121:13, 2121:17, 2122:7, 2122:23, 2123:1, 2123:2, 2123:3, 2123:8, 2123:17, 2123:22, 2124:3, 2124:12, 2124:24, 2125:1, 2125:11, 2125:17, 2125:24, 2126:5, 2126:9, 2126:13, 2127:3, 2127:12, 2127:24, 2128:16, 2128:20, 2129:6, 2130:10, 2130:12, 2131:4, 2131:9, 2133:3, 2136:12, 2136:21, 2136:25, 2137:2, 2137:5, 2138:9, 2138:13, 2138:16, 2138:18, 2138:23, 2139:6, 2139:20, 2142:12, 2142:15, 2142:16, 2142:18, 2142:21, 2143:4,</p>	<p>2144:8, 2144:22, 2146:3, 2146:14, 2146:17, 2146:20, 2146:22, 2147:10, 2147:20, 2149:2, 2149:19, 2150:12, 2150:21, 2153:16, 2154:18, 2154:22, 2154:23, 2155:4, 2155:5, 2155:13, 2155:18, 2155:22, 2156:1, 2158:14, 2159:14, 2159:16, 2160:1, 2160:2, 2160:9, 2161:24, 2162:2, 2162:8, 2162:12, 2162:19, 2162:21, 2162:23, 2163:4, 2163:5, 2163:9, 2163:10, 2163:11, 2163:17, 2163:25, 2164:16, 2165:16, 2168:19, 2168:23, 2169:15, 2169:17, 2170:1, 2171:25, 2172:11, 2172:13, 2172:18, 2172:20, 2173:7, 2173:12, 2173:19, 2175:16, 2176:11, 2176:16, 2177:6, 2177:21, 2177:24, 2178:3, 2178:5, 2178:17, 2178:18, 2178:19, 2178:24, 2179:2, 2179:10, 2179:12, 2179:19, 2179:23, 2180:10, 2180:21, 2181:4, 2181:16, 2183:2, 2183:12, 2184:20, 2184:21, 2189:13, 2189:14, 2189:18, 2190:2, 2190:8, 2190:11, 2190:20, 2201:5, 2208:3, 2208:6, 2208:10, 2209:2, 2209:12, 2209:17, 2210:3, 2210:6, 2210:10, 2210:21, 2211:1, 2211:5, 2211:10, 2211:16, 2211:19, 2212:13, 2213:1, 2213:3, 2213:6, 2217:8, 2220:18, 2226:4, 2228:18, 2230:6, 2232:22, 2233:9, 2234:9, 2234:14, 2234:18, 2236:2, 2238:20, 2239:9, 2240:19, 2241:17, 2247:3, 2247:14, 2248:2, 2248:9, 2248:11, 2248:12, 2249:15, 2249:18, 2249:19, 2249:23, 2249:24, 2250:7, 2252:16, 2258:10, 2266:22, 2268:5, 2269:8, 2269:18, 2270:4, 2270:25, 2271:3, 2276:2, 2276:8, 2276:15, 2277:6 Albert's - 2065:14, 2065:18, 2074:17, 2083:9, 2091:13, 2100:23, 2103:16, 2129:16, 2132:25, 2137:10, 2137:18, 2137:22, 2138:7, 2141:3, 2142:6, 2147:8, 2160:3, 2161:4, 2182:3, 2235:17, 2236:21, 2247:18, 2248:13, 2266:23, 2267:19 alibi - 2218:19, 2218:21, 2218:23, 2218:24, 2219:1, 2219:3, 2219:5, 2221:3, 2221:7 Allan - 2148:25 allegations - 2099:22, 2150:5, 2268:22 alleged - 2077:11 alley - 2253:23, 2254:5 allowed - 2097:4, 2097:7, 2104:3, 2154:10, 2199:12, 2200:19,</p>	<p>2233:10 allowing - 2103:23 Almost - 2155:1 almost - 2156:20, 2193:21 aloud - 2227:11 altered - 2194:25 Anchor - 2148:21 animals - 2257:15 answer - 2172:7, 2173:16, 2179:18, 2248:15, 2254:13, 2261:1, 2261:16, 2272:16 answered - 2083:7, 2091:12, 2102:22, 2108:8, 2154:23, 2169:3, 2169:6, 2169:17, 2260:19, 2260:22 answering - 2084:20, 2191:20, 2224:15 answers - 2169:2, 2263:13 anxious - 2270:25 anyway - 2121:7, 2256:23, 2268:25 anyways - 2250:25 apart - 2120:18 apologize - 2214:9, 2276:25 appear - 2243:24, 2260:12 appearance - 2089:12, 2147:21 Appearances - 2057:1 appeared - 2095:18, 2134:1, 2139:22, 2163:6, 2267:7 appease - 2088:17 application - 2153:8, 2241:2 appreciate - 2098:1, 2102:2, 2102:22, 2129:15, 2144:19, 2179:4, 2202:25, 2214:15, 2215:2, 2218:5, 2240:15, 2243:8, 2248:5 appreciated - 2090:12 approached - 2094:18 appropriate - 2166:18, 2233:20 April - 2167:25, 2168:15, 2234:1, 2243:3, 2246:21 area - 2111:9, 2111:12, 2112:8, 2112:23, 2113:7, 2113:8, 2114:15, 2114:16, 2115:1, 2131:3, 2143:25, 2144:4, 2171:21, 2171:22, 2171:23, 2184:17, 2210:20, 2254:22, 2263:22 areas - 2191:6, 2264:15 argue - 2247:10, 2249:13 argued - 2250:1 arguing - 2071:23 argument - 2247:24, 2250:9, 2267:21 arguments - 2247:9, 2250:7 armpit - 2111:13 arose - 2263:18 arrangements - 2060:25, 2072:9 arrested - 2132:15, 2134:1 arrival - 2210:21 arrive - 2197:22 arrived - 2109:9, 2109:13, 2116:4, 2135:16 arriving - 2065:18 articles - 2089:16, 2089:25, 2174:23</p>	<p>aside - 2157:4 aspects - 2268:14 assaults - 2096:8 assistance - 2254:16 assistant - 2149:8 Assistant - 2056:3, 2056:6 assisted - 2112:19 associate - 2134:10 assume - 2092:23, 2179:17, 2226:5, 2246:2, 2246:3 assumed - 2065:11, 2111:5, 2115:11, 2157:24, 2178:1, 2246:2, 2252:3 attend - 2259:14, 2260:2, 2260:8, 2260:11 attendance - 2259:13 attended - 2260:1, 2260:13, 2260:25 attending - 2061:10, 2066:18, 2135:11 attention - 2064:11, 2073:1, 2073:19, 2079:17, 2104:8, 2112:10, 2160:7, 2163:7, 2194:4, 2209:22, 2218:6, 2221:3, 2231:12, 2235:20, 2276:25 attorney - 2253:4, 2254:3 attributed - 2163:8 Audio - 2056:13 August - 2228:2 auras - 2146:21, 2147:3, 2147:4, 2147:7 authorities - 2072:23, 2210:19 authority - 2190:9, 2203:18 Avenue - 2060:11, 2078:23, 2106:24, 2109:25, 2110:6, 2110:7, 2110:9, 2154:8, 2164:22, 2263:25, 2264:2, 2264:4 Avenues - 2253:13 Avon - 2079:25, 2080:1, 2080:19, 2081:6 aware - 2082:21, 2086:1, 2090:16, 2095:11, 2102:6, 2104:14, 2119:4, 2119:8, 2119:11, 2123:23, 2124:3, 2124:6, 2137:14, 2137:21, 2137:23, 2138:2, 2139:16, 2189:18, 2191:9, 2194:14, 2205:13, 2219:7, 2235:17, 2237:1, 2237:12, 2237:25, 2264:5, 2264:6, 2264:11, 2264:14, 2265:4, 2267:19, 2267:20, 2268:7 awful - 2067:10</p>	<p>baker - 2160:11 ball - 2073:13, 2113:24, 2245:9, 2245:15, 2252:11 ballet - 2068:15 bang - 2222:5 bank - 2094:1, 2094:9 barely - 2207:1, 2244:10 bars - 2182:25 Based - 2269:19 basement - 2070:8, 2070:16, 2071:17, 2072:15, 2074:11, 2075:16, 2075:18, 2077:12, 2078:7, 2078:17, 2078:21, 2079:7, 2079:9, 2079:13, 2097:23, 2098:11, 2098:12, 2098:15, 2098:17, 2146:10, 2164:22, 2164:24, 2197:4 basic - 2068:20 bathroom - 2112:25, 2113:4, 2113:9, 2185:14, 2212:4, 2251:18 bathub - 2210:2 bathubs - 2209:21 battery - 2084:5 Bc - 2105:24, 2160:15, 2164:16 bear - 2082:5 beautiful - 2070:19 became - 2130:12 become - 2095:22, 2124:6, 2267:7 bedroom - 2061:3, 2061:4, 2068:1, 2072:8, 2072:14, 2074:10, 2074:11, 2074:19, 2075:15, 2075:20, 2075:23, 2077:10, 2077:12, 2078:6, 2078:7, 2079:8, 2079:14, 2113:1, 2113:5, 2113:9, 2154:17, 2171:3 bedrooms - 2072:13, 2075:17, 2212:5 began - 2136:12 begin - 2191:20, 2224:14 beginning - 2131:2 begun - 2160:6, 2161:6, 2232:25 behalf - 2094:18, 2094:21, 2224:12, 2259:14, 2271:7, 2271:8 behaviour - 2064:8, 2067:12 behind - 2114:3, 2182:25, 2254:5, 2255:4 Beitel - 2056:9 belief - 2062:10, 2075:1 Believes - 2079:24 believes - 2080:14, 2080:20 belonged - 2255:7 below - 2207:12 Bench - 2279:1, 2279:3, 2279:14, 2279:19 Beresh - 2184:3, 2184:14, 2186:2, 2186:6, 2193:3, 2194:10, 2194:19, 2205:6, 2259:17, 2260:20, 2260:21, 2261:25, 2262:2, 2262:5, 2262:10 Beresh's - 2194:4, 2262:8 beside - 2112:25, 2197:15 Bessborough - 2069:10 best - 2096:6, 2169:9, 2177:2, 2185:22, 2193:16,</p>
B				
<p>baby - 2070:11, 2070:20, 2070:22, 2070:24, 2071:5, 2165:3, 2227:12 babysat - 2085:9, 2230:6, 2230:17 babysit - 2070:21 babysitting - 2117:9, 2154:18, 2158:16, 2169:15 background - 2208:13 backwards - 2076:10 bad - 2092:12, 2125:14, 2175:7, 2181:5, 2191:6, 2209:15, 2209:17, 2220:9, 2266:8, 2266:10, 2266:14 badly - 2181:13 bag - 2132:9</p>				



2199:13, 2199:15, 2200:6, 2202:14, 2206:14, 2208:14, 2211:13, 2225:19, 2227:7, 2238:5, 2261:1, 2261:3, 2269:6, 2271:17, 2277:14, 2279:6 bet - 2094:8 better - 2087:20, 2149:20, 2176:5, 2176:21, 2176:23, 2245:16, 2245:17, 2248:14, 2278:5 between - 2085:4, 2112:17, 2116:7, 2128:12, 2128:15, 2134:16, 2143:25, 2162:8, 2212:5, 2212:9, 2215:6, 2243:5, 2253:13, 2255:8, 2258:2, 2264:2 beyond - 2087:10, 2183:10 Bible - 2232:5 big - 2085:18, 2093:20, 2106:16, 2121:6, 2132:9, 2256:25 birth - 2105:18 birthday - 2107:5 bit - 2062:1, 2091:23, 2091:24, 2096:7, 2097:19, 2097:21, 2104:11, 2110:1, 2133:13, 2143:1, 2172:13, 2175:25, 2180:18, 2191:9, 2195:4, 2212:13, 2215:21, 2226:18, 2241:23, 2251:4 black - 2082:4 blame - 2220:14 blast - 2156:24 Blessed - 2265:4, 2265:12, 2266:2, 2266:13 block - 2253:10, 2253:12, 2254:6, 2254:7, 2263:25, 2264:2, 2264:3 blood - 2074:20, 2089:16, 2089:17, 2089:22, 2090:1, 2093:1, 2108:11, 2111:4, 2111:5, 2111:20, 2111:21, 2112:2, 2122:10, 2122:11, 2123:5, 2123:12, 2124:13, 2124:16, 2149:24, 2150:2, 2152:16, 2152:17, 2156:4, 2156:14, 2156:15, 2157:24, 2158:7, 2169:18, 2169:22, 2171:13, 2171:16, 2183:4, 2184:15, 2186:16, 2187:23, 2195:19, 2196:3, 2203:7, 2203:9, 2203:13, 2204:12, 2206:20, 2206:22, 2226:19, 2226:20, 2229:1, 2229:8, 2229:12, 2229:14, 2242:3, 2242:10, 2242:11, 2243:7, 2243:13, 2244:24, 2246:10, 2255:13, 2255:16, 2256:3, 2256:7, 2256:25, 2257:1, 2257:3, 2257:5, 2257:11, 2257:18, 2257:21, 2257:22, 2258:7, 2258:21, 2262:25, 2269:22, 2270:5, 2270:11, 2270:17, 2271:19, 2275:8 bloody - 2075:3, 2075:19, 2075:24, 2077:10, 2078:5, 2089:6, 2111:4 Bobs - 2057:5 body - 2132:16, 2154:6, 2189:19 book - 2087:19 boom - 2181:9 borrow - 2238:8	Boswell - 2056:5 bother - 2164:10 bothering - 2068:25 bottom - 2074:2, 2113:3, 2175:14, 2188:8, 2226:12, 2228:4, 2262:9 bought - 2063:21, 2069:25, 2077:14 boy - 2087:16 boys - 2061:3, 2129:21, 2231:22 brand - 2063:22 bread - 2067:22 break - 2104:24, 2105:2, 2105:3, 2105:5, 2125:16, 2166:18 breakdown - 2068:10 Brian - 2184:3, 2193:3 bridge - 2123:21 brief - 2140:15, 2142:8, 2235:8, 2272:6 briefly - 2081:24, 2180:19, 2193:11, 2193:24, 2202:6, 2210:17, 2235:8 Briefly - 2143:5 bring - 2101:18, 2142:13, 2191:4, 2194:4, 2209:22, 2210:11, 2212:13, 2221:2, 2234:8, 2236:19, 2238:20, 2257:10, 2257:15, 2261:21, 2262:10 bringing - 2102:23, 2123:1, 2137:23 British - 2084:15 broadcast - 2273:22 broke - 2124:7, 2124:8, 2172:19 broken - 2135:6 Brother - 2140:21, 2266:25 brother - 2060:24, 2063:11, 2063:16, 2063:20, 2064:6, 2075:21, 2082:3, 2085:19, 2086:1, 2087:18, 2091:14, 2091:17, 2099:11, 2102:16, 2106:1, 2106:8, 2106:16, 2108:8, 2108:11, 2108:14, 2112:8, 2112:19, 2116:7, 2118:2, 2119:5, 2119:11, 2120:1, 2120:8, 2121:13, 2124:3, 2125:7, 2125:22, 2133:15, 2136:22, 2138:7, 2138:22, 2140:19, 2140:20, 2141:5, 2142:21, 2143:4, 2150:14, 2152:5, 2154:17, 2163:4, 2169:15, 2171:25, 2173:19, 2180:22, 2182:12, 2184:20, 2197:15, 2205:3, 2207:21, 2210:18, 2215:8, 2215:9, 2215:11, 2215:16, 2223:17, 2237:18, 2238:1, 2238:7, 2239:2, 2239:21, 2240:2, 2241:3, 2242:1, 2243:19, 2245:20, 2246:15, 2248:9, 2248:21, 2249:3, 2256:19, 2256:20, 2257:2, 2258:3, 2265:22, 2266:22, 2267:1, 2269:8, 2269:18, 2269:19, 2271:3 brother's - 2081:25, 2082:20, 2231:3, 2231:7, 2255:11, 2256:6 brothers - 2062:14, 2062:15, 2063:2, 2085:4, 2107:11, 2175:8, 2199:22	brought - 2103:1, 2112:10, 2121:10, 2121:11, 2122:23, 2137:25, 2162:18, 2190:3, 2192:8, 2194:12, 2194:14, 2194:19, 2194:21, 2218:6, 2231:11, 2235:20, 2238:13, 2261:13 Brought - 2121:12 brutal - 2095:22 buffed - 2176:4 bullying - 2149:16 bunch - 2190:18 bus - 2071:10 bush - 2082:3 business - 2160:14, 2160:15, 2191:5, 2254:25 busy - 2062:5, 2073:16, 2082:5, 2118:17, 2184:24 butt - 2080:6, 2134:3, 2223:8, 2223:14 buy - 2063:25, 2077:20, 2093:15, 2097:2	careful - 2096:17 carload - 2202:2 Carlyle - 2237:24, 2239:8 Carlyle-gordge - 2237:24, 2239:8 carried - 2113:25 carries - 2158:9 carrying - 2071:11, 2115:8, 2115:9, 2155:6, 2157:1, 2165:13, 2165:15, 2226:1, 2226:2 Carrying - 2159:12 carving - 2069:10 case - 2099:24, 2125:19, 2131:10, 2148:22, 2149:3, 2150:23, 2154:5, 2159:25, 2161:16, 2163:5, 2166:21, 2167:16, 2195:21, 2225:4, 2235:5, 2267:12, 2269:10 casual - 2213:25 catch - 2213:22 category - 2218:12 Catholic - 2129:11, 2265:3, 2265:8 caught - 2194:1, 2229:16 caused - 2062:25, 2067:8, 2092:13 cautions - 2097:17 cautious - 2096:21 Cavalier - 2055:17 Cbc - 2080:12 celebrate - 2067:21 Celine - 2060:19, 2108:17, 2108:20, 2109:18, 2116:20, 2154:16, 2185:17, 2237:12, 2244:7, 2244:17, 2271:4 cellar - 2134:23 certain - 2136:5, 2188:12 Certainly - 2277:24 certainly - 2243:9, 2251:22, 2255:25, 2256:23 certainty - 2240:2, 2243:18 Certificate - 2279:1 certify - 2279:4 chain - 2160:14 challenged - 2215:19 challenging - 2137:10, 2137:18, 2137:21, 2138:6, 2214:12 chance - 2062:9 change - 2072:11, 2111:22, 2112:18, 2142:7, 2169:24, 2182:4, 2182:7, 2183:13, 2184:18, 2185:13, 2212:14, 2213:6, 2213:12, 2213:18, 2229:3, 2237:22, 2240:13, 2251:13 changed - 2072:9, 2113:14, 2113:23, 2139:4, 2142:8, 2142:12, 2155:8, 2156:20, 2157:1, 2165:20, 2169:25, 2170:2, 2170:4, 2174:24, 2184:24, 2184:25, 2185:12, 2187:23, 2187:24, 2199:20, 2202:17, 2212:1, 2212:10, 2212:15, 2212:20, 2212:23, 2229:15, 2234:13, 2235:21, 2238:7, 2238:15, 2244:1, 2248:6, 2276:12 changes - 2234:2, 2235:17 changing - 2112:20, 2113:13, 2128:23,	2161:15, 2161:17, 2202:18, 2239:13, 2239:15 charge - 2218:3, 2274:16 charged - 2119:9, 2223:1 chef - 2069:9, 2146:24, 2160:13, 2191:3 chest - 2111:11 chickens - 2203:11, 2257:4, 2257:16 Chickens - 2203:12 chief - 2184:15 child - 2106:14 children - 2077:4 chin - 2111:11 Christmastime - 2069:7 chronically - 2139:24 Chronically - 2139:25 chronologically - 2126:7 Church - 2265:8 circled - 2110:13, 2112:24, 2114:6, 2114:21, 2265:22 circumstances - 2071:20, 2081:25, 2084:13, 2084:18, 2098:25, 2099:9, 2268:21 city - 2096:18, 2102:17, 2138:25, 2139:15, 2216:20, 2264:16 City - 2099:23, 2125:8, 2132:8, 2132:14, 2139:7, 2139:16, 2139:18, 2151:4, 2161:25, 2162:5, 2162:8, 2181:14, 2222:1, 2222:22 claim - 2183:8 claims - 2150:1 clarify - 2276:19 class - 2068:22 classes - 2190:18 clean - 2169:25 cleaned - 2094:1 clear - 2081:11, 2081:16, 2089:10, 2113:18, 2165:11, 2225:25, 2247:22 Clerk - 2056:9 clip - 2139:20, 2147:11, 2147:19, 2153:16, 2153:18 close - 2062:15, 2063:6, 2085:13, 2085:15, 2085:16, 2094:6, 2106:9, 2106:10, 2106:14, 2136:19, 2136:20, 2138:14, 2160:2, 2160:24, 2125:13, 2242:7, 2258:14 closed - 2114:15 Closed - 2114:16 closed-in - 2114:15 Closed-in - 2114:16 closer - 2106:19, 2106:21, 2106:22, 2130:13 closet - 2113:3, 2251:14, 2251:20, 2251:22, 2252:2 clothes - 2074:20, 2075:4, 2075:19, 2075:21, 2075:25, 2077:10, 2078:5, 2089:22, 2093:2, 2111:4, 2111:21, 2111:22, 2112:20, 2113:14, 2113:17, 2113:25, 2115:11, 2123:6, 2123:14, 2150:3, 2152:17, 2156:5, 2157:21, 2158:3, 2184:18, 2186:16, 2202:21, 2212:1, 2212:14, 2212:23, 2213:6, 2213:18, 2229:1, 2229:2,
C				
	Cadrain - 2058:10, 2059:21, 2059:24, 2060:13, 2062:2, 2074:5, 2074:7, 2074:11, 2074:12, 2074:17, 2076:12, 2076:14, 2077:3, 2077:19, 2099:5, 2099:11, 2099:19, 2100:1, 2104:23, 2105:9, 2105:11, 2105:13, 2106:2, 2119:4, 2129:5, 2149:2, 2149:8, 2149:11, 2149:19, 2150:2, 2150:4, 2151:14, 2151:20, 2154:3, 2160:21, 2166:20, 2167:3, 2167:4, 2169:2, 2169:13, 2170:17, 2171:9, 2171:15, 2171:17, 2171:22, 2172:2, 2172:4, 2172:12, 2173:5, 2174:8, 2174:15, 2174:17, 2174:21, 2174:25, 2175:19, 2177:10, 2178:9, 2178:18, 2180:13, 2181:19, 2181:23, 2182:8, 2182:20, 2183:15, 2188:23, 2189:3, 2226:13, 2228:25, 2229:4, 2259:6, 2261:25, 2264:21, 2268:20, 2270:10, 2272:9, 2275:25, 2277:3, 2277:18 Cadrain's - 2084:13, 2084:19, 2099:13 Cadrains - 2276:4 Caldwell - 2057:5 Calgary - 2126:22, 2131:22, 2131:23, 2134:17, 2134:18, 2135:16, 2160:16, 2240:5 Cam - 2056:13 Canada - 2136:17 Candace - 2056:4 candy - 2063:25 cannot - 2091:17, 2156:4, 2156:11, 2159:2, 2159:3, 2227:3, 2228:25 car - 2101:19, 2118:5, 2135:2, 2135:3, 2157:5, 2157:7, 2157:9, 2157:15, 2158:20, 2159:15, 2159:17, 2159:19, 2202:2, 2236:3, 2236:23, 2237:1, 2237:9 care - 2086:13, 2117:16, 2269:17 cared - 2064:5			



2229:9, 2229:12, 2238:8, 2238:14, 2238:22, 2239:11, 2240:3, 2240:20, 2242:3, 2243:19, 2244:1, 2251:13, 2251:22, 2252:1, 2252:10, 2257:23, 2262:25, 2271:19, 2276:10, 2276:11, 2276:12 clothing - 2089:7, 2089:16, 2089:17, 2090:1, 2112:5, 2112:19, 2158:1, 2171:14, 2171:25, 2174:3, 2174:7, 2174:24, 2241:5, 2243:16, 2275:9, 2276:4 cloud - 2143:9 clouds - 2145:6 cloudy - 2107:16 clue - 2207:20 coat - 2207:9, 2207:13 coffee - 2130:17 cold - 2064:19, 2118:6, 2156:24, 2156:25 collected - 2149:5 colour - 2207:5, 2207:7, 2212:11 coloured - 2264:25 Columbia - 2084:15 coming - 2062:11, 2064:20, 2066:8, 2066:11, 2071:10, 2071:11, 2076:17, 2082:23, 2102:15, 2103:18, 2104:19, 2115:15, 2115:25, 2118:17, 2138:1, 2162:24, 2181:1, 2201:23, 2202:1, 2205:4, 2205:14, 2214:17, 2237:7, 2244:10, 2244:18, 2252:23, 2253:22 comment - 2081:17, 2091:13, 2254:11 commenting - 2090:12 comments - 2091:11, 2147:21 Commission - 2055:2, 2055:15, 2056:1, 2056:2, 2056:3, 2056:9, 2059:19, 2105:14, 2269:4 Commissioner - 2059:3, 2059:5, 2059:6, 2059:11, 2084:8, 2084:24, 2089:1, 2089:3, 2090:4, 2101:7, 2101:10, 2103:4, 2103:7, 2103:9, 2103:11, 2104:17, 2104:18, 2104:22, 2105:1, 2105:4, 2166:17, 2166:24, 2191:18, 2224:9, 2233:17, 2233:21, 2245:1, 2259:3, 2264:19, 2272:2, 2272:5, 2272:7, 2275:14, 2275:17, 2275:19, 2275:21, 2277:16, 2277:17, 2278:3, 2278:6 committed - 2096:2 common - 2203:13, 2203:16 communication - 2125:17, 2189:21 community - 2092:2, 2097:9 compare - 2087:18 compensated - 2183:9 complain - 2161:24, 2216:13 complete - 2190:22 completed - 2087:3, 2190:17, 2190:19 concern - 2084:6, 2118:18	concerned - 2085:17, 2099:13, 2162:23, 2219:19, 2219:22, 2219:25, 2250:25 concerns - 2098:25, 2100:7, 2100:25, 2269:20 concludes - 2149:17 conclusions - 2268:16 condition - 2141:3 conducted - 2099:4 confidante - 2183:17 confirm - 2131:16 confirmed - 2122:9, 2122:11, 2123:18, 2126:20, 2192:12, 2192:13 confronted - 2194:15 Congram - 2056:4 connect - 2132:21 connected - 2134:17 connection - 2081:8, 2134:7, 2134:16, 2144:24, 2145:23, 2167:14 considerable - 2085:21 considered - 2220:2 consistent - 2158:25, 2194:16, 2239:10 consistently - 2236:6 Constable - 2167:10, 2186:25, 2196:18, 2263:9 constant - 2149:16 construction - 2105:23 contact - 2072:22, 2079:24, 2081:12, 2146:11, 2148:6, 2164:18, 2168:22, 2271:8, 2271:9, 2271:11, 2274:6 contacted - 2274:21 contain - 2243:9, 2279:5 container - 2241:5 contents - 2075:2, 2078:13 context - 2266:1 continued - 2065:8 contribute - 2196:25 contribution - 2183:20 conversation - 2083:3, 2083:4, 2083:10, 2089:7, 2100:23, 2125:20, 2127:15, 2127:16, 2140:16, 2221:11, 2221:12, 2238:24, 2274:8 conversations - 2128:22, 2131:12, 2139:2, 2147:17, 2151:3, 2220:11, 2220:13, 2239:20, 2244:17, 2245:20, 2246:14, 2247:3, 2248:8, 2248:20, 2252:4, 2256:13, 2274:24 conveyed - 2099:16 convict - 2149:6 convicted - 2123:24, 2162:4, 2162:16 Conviction - 2055:4 conviction - 2153:9 convinced - 2267:7 cook - 2106:10, 2173:20 cool - 2063:3 copy - 2196:13, 2227:23, 2277:21 Coquitlam - 2136:24, 2141:24, 2164:16 corner - 2064:25, 2065:12, 2073:7, 2073:8, 2073:9, 2079:6 Corporal - 2186:25, 2263:9 correct - 2060:14, 2072:22, 2072:25,	2081:23, 2095:14, 2099:15, 2105:16, 2106:2, 2106:25, 2107:5, 2110:13, 2110:22, 2113:5, 2114:13, 2114:20, 2116:21, 2117:3, 2120:8, 2121:4, 2122:24, 2126:11, 2136:13, 2136:14, 2142:7, 2161:1, 2167:6, 2179:22, 2182:12, 2183:25, 2184:6, 2187:4, 2194:16, 2211:2, 2211:17, 2213:22, 2227:11, 2243:14, 2243:17, 2252:13, 2265:11, 2272:22, 2272:25, 2273:1, 2273:15, 2273:19, 2274:1, 2274:18, 2277:10, 2279:5 Correct - 2190:14, 2269:2 corrected - 2195:9, 2199:25, 2200:4, 2200:10, 2200:14, 2250:10, 2250:16 correction - 2230:24 corrections - 2195:12 correctly - 2060:23 corroborating - 2258:19 couch - 2109:14, 2110:2, 2110:20, 2154:12, 2169:14, 2200:21, 2219:11, 2219:12, 2219:13, 2219:14, 2219:16 couched - 2236:13 cough - 2149:24 Counsel - 2056:2, 2056:3, 2059:4 counsel - 2184:3, 2188:23, 2188:24, 2191:19 couple - 2071:6, 2080:1, 2084:9, 2085:1, 2091:2, 2165:3, 2174:4, 2222:12, 2231:22, 2231:24, 2234:22 course - 2066:2, 2271:15 Court - 2056:10, 2141:15, 2279:1, 2279:3, 2279:14, 2279:19 court - 2066:18, 2066:21, 2066:25, 2080:3, 2095:16, 2119:12, 2133:25, 2134:1, 2138:1, 2141:1, 2162:15, 2190:5, 2223:7, 2238:21, 2250:6, 2251:10, 2260:8 covered - 2203:7 cracked - 2148:25, 2149:18 crazy - 2129:23, 2137:5, 2137:8, 2249:3, 2249:5, 2249:16 create - 2183:10 creative - 2161:14 credibility - 2137:10, 2137:18, 2137:22, 2138:6 crime - 2092:5 crimes - 2096:2 criminal - 2183:24 cross - 2186:1, 2187:7, 2189:1, 2253:3 cross-examine - 2189:1 cross-examined - 2186:1, 2187:7, 2253:3 crouched - 2064:25 Crown - 2253:4, 2254:2, 2260:23, 2261:14, 2261:17, 2262:6 crying - 2227:12 Csr - 2056:10, 2056:11,	2279:2, 2279:12, 2279:13, 2279:17, 2279:18 curfew - 2097:18 curious - 2232:21 curtain - 2157:4 custody - 2216:7 cut - 2093:18 D dad - 2062:6, 2062:25, 2068:1, 2083:3, 2083:17, 2083:24, 2178:20, 2179:24 dad's - 2083:1 damaging - 2237:9 dance - 2062:8, 2068:22, 2080:16 danger - 2223:19, 2223:23 date - 2072:2, 2090:19, 2105:18, 2107:3, 2167:24, 2226:13, 2278:2 date/time - 2074:8 dates - 2130:23, 2176:19 daughter - 2080:17, 2082:20, 2083:9, 2100:23, 2138:13, 2227:15 David - 2055:4, 2057:2, 2066:19, 2077:2, 2093:1, 2093:24, 2094:19, 2095:10, 2096:23, 2099:20, 2108:3, 2108:5, 2108:12, 2109:4, 2110:25, 2120:7, 2121:9, 2123:5, 2124:8, 2127:12, 2127:24, 2131:5, 2131:10, 2132:22, 2134:8, 2134:11, 2135:6, 2135:24, 2135:25, 2136:13, 2142:17, 2143:9, 2145:5, 2145:24, 2148:21, 2149:3, 2150:23, 2153:7, 2154:5, 2156:15, 2159:9, 2162:13, 2162:16, 2185:9, 2189:3, 2189:7, 2189:15, 2189:20, 2191:10, 2201:21, 2201:23, 2202:5, 2207:24, 2207:25, 2208:1, 2208:3, 2210:2, 2211:7, 2212:21, 2212:25, 2213:12, 2220:15, 2220:17, 2225:4, 2226:1, 2227:20, 2236:2, 2236:13, 2236:22, 2237:8, 2237:19, 2238:8, 2238:15, 2238:21, 2239:2, 2239:11, 2239:15, 2240:3, 2241:2, 2242:2, 2242:6, 2242:10, 2242:13, 2242:14, 2242:18, 2243:7, 2243:13, 2243:18, 2243:24, 2244:18, 2244:22, 2245:6, 2246:8, 2246:13, 2247:11, 2251:13, 2252:10, 2253:4, 2256:8, 2266:22, 2266:25, 2268:11, 2269:22, 2271:17, 2275:8, 2276:3, 2276:9 David's - 2210:21 days - 2066:20, 2075:14, 2134:22, 2264:15 dead - 2083:25, 2084:5 deal - 2068:18 dealer - 2135:25 dealing - 2066:5 dealings - 2119:2, 2163:25, 2273:9 death - 2072:20, 2083:2, 2099:1, 2099:4, 2099:9, 2099:14, 2100:24, 2148:5,	2191:11, 2268:8 debating - 2142:17 decade - 2160:25 deceased - 2059:24 decision - 2092:7, 2092:18 deep - 2082:15 defence - 2192:20, 2251:10, 2259:15 definitely - 2089:23, 2243:12 degrees - 2240:2 delivering - 2205:13 delivers - 2205:11 delusional - 2231:19 Dennis - 2060:19, 2062:15, 2062:20, 2087:18, 2087:19, 2092:1, 2092:25, 2099:11, 2107:12, 2125:7, 2125:22, 2125:24, 2126:5, 2136:22, 2137:1, 2137:5, 2137:10, 2137:15, 2137:18, 2138:3, 2140:20, 2140:21, 2142:21, 2150:14, 2150:18, 2178:19, 2179:2, 2179:19, 2180:22, 2182:11, 2182:12, 2182:20, 2182:22, 2183:14, 2183:15, 2183:16, 2183:18, 2247:3, 2247:10, 2247:25, 2248:9, 2248:21, 2249:13, 2267:1, 2267:2, 2267:6, 2267:19, 2268:5, 2268:7 Dennis' - 2137:4, 2138:22, 2140:11, 2183:20, 2247:16 Department - 2241:1 departure - 2071:21, 2072:9 depth - 2235:11 derived - 2173:6 describe - 2063:8, 2106:7, 2243:16 described - 2081:12, 2091:10, 2091:23, 2102:5, 2186:12, 2262:21 Description - 2058:2 Despite - 2150:1, 2256:13 detachment - 2084:12, 2084:15, 2084:18, 2099:3, 2099:8 Detachment - 2098:23 detail - 2089:20, 2147:18, 2250:4 details - 2066:23, 2099:24, 2100:4, 2124:15 Detective - 2125:12, 2125:14, 2125:16, 2147:15, 2162:5, 2172:17 detectives - 2149:17, 2216:21 determined - 2074:8 development - 2228:8 diagnosed - 2232:8 died - 2083:4 different - 2066:11, 2106:17, 2129:4, 2137:1, 2190:18, 2228:20, 2229:11, 2235:10, 2236:8, 2241:23, 2248:22, 2249:9, 2252:19, 2264:15 differently - 2140:8, 2180:6 difficult - 2068:17, 2092:7, 2092:18, 2214:16 difficulty - 2087:1, 2190:24, 2191:1, 2191:2
--	--	---	--	--



<p>director - 2141:12 Director/media - 2056:4 disagreements - 2142:23 disconnected - 2084:3 discovering - 2102:16 discrepancies - 2261:13, 2261:18, 2263:17 discuss - 2076:24, 2078:3, 2144:17, 2166:20, 2188:3, 2247:21 discussed - 2068:24, 2104:11, 2131:20, 2142:20, 2145:1, 2150:23, 2159:25, 2258:8 discussing - 2104:6, 2142:17 discussion - 2073:24, 2074:23, 2074:25, 2079:19, 2081:2, 2112:16, 2116:6, 2120:18, 2122:7, 2122:13, 2124:23, 2125:23, 2126:2, 2126:7, 2128:7, 2133:7, 2146:20, 2148:15, 2153:15, 2249:15 discussions - 2075:12, 2076:6, 2120:20, 2127:3, 2127:12, 2127:24, 2128:15, 2128:19, 2131:4, 2131:7, 2132:22, 2134:7, 2136:12, 2136:21, 2139:6, 2143:3, 2146:3, 2147:8, 2147:20, 2151:5, 2151:9, 2177:6, 2266:22, 2270:3 diskers - 2069:22 Division - 2098:24 divorce - 2141:12 Dna - 2192:10, 2192:12 Document - 2056:5, 2056:6, 2230:13 document - 2073:20, 2073:21, 2073:25, 2076:4, 2076:6, 2076:9, 2078:9, 2078:15, 2079:18, 2081:13, 2084:15, 2084:19, 2098:20, 2098:21, 2098:22, 2151:19, 2167:22, 2184:8, 2227:24, 2230:11, 2234:5, 2235:16, 2235:23, 2240:17, 2246:19, 2246:20, 2246:21, 2253:17, 2256:20, 2257:7, 2260:7, 2260:10 documents - 2073:2, 2084:9 doin' - 2108:10 Don - 2056:11 Donald - 2279:2, 2279:18 done - 2091:6, 2100:16, 2166:22, 2191:25, 2214:5, 2215:12, 2216:14, 2235:25, 2262:5 door - 2065:5, 2079:1, 2108:8, 2108:9, 2110:9, 2110:12, 2110:22, 2113:1, 2113:4, 2114:1, 2114:2, 2114:6, 2115:13, 2154:13, 2154:15, 2154:22, 2154:23, 2156:21, 2156:23, 2157:2, 2157:3, 2158:10, 2158:18, 2165:12, 2165:18, 2165:22, 2169:17, 2170:5, 2170:7, 2174:10, 2201:21, 2201:22, 2201:23, 2201:25, 2202:1, 2204:15,</p>	<p>2207:2, 2212:9, 2227:21, 2239:17, 2245:7, 2245:9 doors - 2113:10, 2114:8, 2114:12, 2114:20, 2115:16 dope - 2219:7 doubt - 2093:2, 2093:5, 2183:11, 2229:5, 2257:20 Douglas - 2056:2 down - 2070:24, 2071:2, 2082:15, 2094:9, 2098:18, 2111:11, 2119:17, 2121:6, 2132:7, 2135:24, 2136:1, 2142:5, 2163:1, 2171:11, 2174:17, 2178:11, 2178:12, 2178:15, 2179:2, 2179:8, 2181:15, 2203:4, 2206:8, 2212:12, 2243:25, 2252:23, 2253:22 Down - 2212:4 downstairs - 2071:7, 2072:13, 2074:19, 2109:22, 2109:23, 2129:22, 2170:3, 2170:20, 2185:12, 2212:3 dramatize - 2133:11, 2133:12 draw - 2268:16, 2276:24 drawn - 2109:18 dressed - 2066:21, 2082:4 Dressup - 2112:1, 2195:25, 2200:22, 2200:23, 2200:24, 2201:1, 2201:8, 2208:23 drew - 2078:18 drinking - 2161:11, 2269:16 driving - 2135:24, 2136:1 drug - 2135:25 drugs - 2140:4, 2177:23 drunk - 2141:4 drywall - 2197:4, 2272:25, 2273:17 Duffus - 2073:3, 2073:5, 2073:6, 2073:24, 2074:16, 2074:24, 2075:3, 2075:12, 2077:9, 2077:11, 2078:6, 2089:8 Duncan - 2160:15 during - 2066:2, 2066:6, 2073:15, 2073:17, 2081:2, 2083:9, 2154:9, 2157:2, 2160:3, 2160:24, 2162:1, 2165:1, 2189:16, 2200:17 During - 2154:11, 2164:15, 2200:20 Dyck - 2167:10, 2186:25, 2193:8, 2196:19, 2204:21, 2206:2, 2214:1, 2234:1, 2236:1, 2246:24, 2256:22, 2263:9 dying - 2132:7</p>	<p>2086:18, 2086:22, 2086:24, 2087:14, 2088:7, 2088:8, 2088:11 Easily - 2088:13, 2088:14 east - 2110:10 easy - 2082:25, 2095:21, 2183:10 Ed - 2139:10 Eddie - 2057:8, 2066:15, 2090:11, 2264:21 edge - 2148:25, 2149:18 Edmonton - 2126:23 education - 2190:15 Edward - 2055:7 effect - 2125:25, 2157:10, 2223:19, 2265:24, 2276:2 effectively - 2229:23 efforts - 2278:1 eight - 2130:8, 2160:12 either - 2094:19, 2095:1, 2123:4, 2147:21, 2151:24, 2155:1, 2202:7, 2202:22, 2203:25, 2204:21, 2206:8 elaborate - 2269:15 Eleanor - 2080:11 elsewhere - 2075:24 Elson - 2057:7, 2058:8, 2058:18, 2101:10, 2101:11, 2101:12, 2101:13, 2272:5, 2272:6, 2272:8, 2272:9, 2275:12 embellishment - 2133:13, 2133:16 employed - 2105:23 empty - 2255:5 end - 2078:9, 2132:6, 2269:3, 2271:14 enquiries - 2099:7 entered - 2202:5 entirely - 2188:11 entrance - 2206:25 environment - 2096:4 escape - 2080:5 escaped - 2121:9, 2122:20, 2162:4, 2162:7 especially - 2077:7, 2214:20 Esq - 2056:3, 2057:5, 2057:6, 2057:7, 2057:10 established - 2192:13 Estelle - 2060:13 etc - 2080:24 etcetera - 2214:18 evening - 2065:24 evenings - 2103:24 event - 2160:4, 2161:4, 2272:21 events - 2081:11, 2097:16, 2173:24, 2206:13, 2220:7, 2247:4, 2250:12, 2266:23, 2270:1 eventually - 2095:7 everywhere - 2224:6 evidence - 2096:8, 2099:20, 2129:5, 2137:19, 2137:22, 2138:7, 2148:23, 2166:21, 2166:22, 2184:9, 2185:22, 2220:16, 2220:17, 2237:15, 2237:16, 2237:17, 2237:22, 2253:8, 2254:16, 2254:18, 2256:2, 2256:7, 2257:9, 2276:3 Evidence - 2220:18 exact - 2074:8, 2147:18, 2276:1 exactly - 2122:15, 2182:8, 2201:2, 2209:16,</p>	<p>2220:6, 2221:16, 2221:21, 2248:20, 2255:14, 2265:12, 2265:14 examination - 2103:14, 2261:24 examine - 2189:1 examined - 2186:1, 2187:7, 2253:3 examining - 2184:15 example - 2089:11, 2094:19, 2096:14, 2269:9, 2269:21, 2270:4 examples - 2093:8 except - 2060:24, 2107:11, 2160:5, 2161:5 excited - 2154:25, 2158:11, 2159:10 exciting - 2061:23 Excuse - 2103:4, 2239:14, 2240:10 excused - 2104:20, 2277:18 Executive - 2056:4 exhibit - 2109:17 exit - 2115:3 exonerated - 2191:24, 2191:25, 2268:12 expand - 2081:18 experience - 2221:19 experienced - 2163:24 experimented - 2177:23 explain - 2164:2, 2267:11 explained - 2083:2, 2210:10, 2211:11 explaining - 2183:3, 2209:13 explanation - 2208:8, 2210:23, 2244:24, 2258:7 expressing - 2100:7 extent - 2091:6 extreme - 2160:8 extremes - 2160:9 eyes - 2133:23, 2222:6</p>	<p>2077:3, 2077:7, 2077:19, 2086:7, 2094:20, 2097:8, 2098:12, 2100:5, 2129:11, 2148:1, 2160:1, 2178:25, 2187:19, 2203:10, 2203:14, 2215:10, 2245:21, 2252:5 far - 2139:13, 2144:17, 2158:19, 2162:7, 2190:20, 2235:2, 2250:25, 2251:11 farfetched - 2131:13 farm - 2069:21, 2069:25, 2077:15, 2077:21, 2143:6, 2143:13, 2143:19, 2145:18, 2158:6, 2176:1, 2177:11, 2177:13, 2257:5, 2257:13, 2257:14, 2258:12, 2258:13 father - 2060:12, 2068:7, 2100:24, 2120:22 feared - 2097:9, 2097:20, 2189:11, 2189:12 February - 2055:22, 2105:18, 2205:16, 2253:11, 2254:5 Federal - 2153:8 feelings - 2260:3 feet - 2132:14, 2222:22 fellow - 2238:16, 2268:4 felt - 2061:18, 2063:2, 2063:3, 2074:21, 2082:7, 2082:16, 2082:19, 2215:15, 2260:11 Ferguson - 2080:13 Fernie - 2105:24 few - 2087:5, 2087:8, 2122:16, 2125:18, 2136:23, 2148:18, 2154:3, 2162:18, 2169:1, 2184:9, 2193:11, 2235:9 fifth - 2231:16 Figured - 2140:23 figured - 2133:20, 2137:5 figures - 2140:19 finally - 2149:14 fine - 2081:19, 2130:25 finger - 2221:8 finish - 2214:10, 2251:4 finished - 2191:19 fire - 2149:22 fired - 2160:17 firm - 2242:22 first - 2059:8, 2072:22, 2084:11, 2100:17, 2104:14, 2106:23, 2109:19, 2121:9, 2121:12, 2121:17, 2124:7, 2124:24, 2126:7, 2126:17, 2128:7, 2135:15, 2139:1, 2149:8, 2151:15, 2152:19, 2155:12, 2158:12, 2175:21, 2176:11, 2178:9, 2179:10, 2194:22, 2197:8, 2202:4, 2203:17, 2204:23, 2206:19, 2206:21, 2206:22, 2208:2, 2210:18, 2212:21, 2213:1, 2215:3, 2217:18, 2225:1, 2226:19, 2230:24, 2234:5, 2235:11, 2237:21, 2238:12, 2239:7, 2240:23, 2242:1, 2242:7, 2244:22, 2245:5, 2245:14, 2250:5, 2251:12, 2252:9, 2252:22, 2261:12, 2261:17, 2262:3, 2263:18, 2265:21, 2277:5 firstly - 2196:21, 2196:22 Fish - 2253:4 Fisher - 2057:10,</p>
F				
			<p>face - 2214:16 faced - 2110:9 facing - 2157:5 fact - 2091:15, 2102:6, 2133:16, 2148:12, 2189:10, 2194:15, 2271:4, 2271:23 facts - 2268:21 factually - 2268:15 faded - 2112:12 fading - 2173:18, 2185:19, 2185:20 failed - 2278:2 faintly - 2155:3 fair - 2081:10, 2086:17, 2087:13, 2107:23, 2127:11, 2137:9, 2168:24, 2267:6, 2268:13, 2269:3, 2270:24, 2277:3 Fair - 2145:4 fairly - 2129:15, 2155:10, 2157:12, 2158:24, 2165:25, 2195:3, 2202:25, 2208:17 faith - 2265:3, 2265:8 fall - 2072:13 falling - 2148:9 falling-out - 2148:9 familiar - 2078:19, 2098:22, 2099:23, 2179:13, 2185:5, 2252:14 family - 2060:3, 2060:9, 2062:19, 2066:9, 2069:14,</p>	
E				
	<p>Eamon - 2057:10, 2259:8 early - 2106:21, 2121:20, 2121:21, 2121:24, 2124:22, 2127:8, 2127:10, 2128:7, 2128:14, 2129:16, 2130:11, 2130:21, 2136:11, 2148:3, 2148:5, 2160:10, 2176:12, 2232:23, 2276:8, 2276:17 Early - 2121:22, 2130:5 ears - 2143:10, 2145:8, 2145:9 easily - 2086:16,</p>			



2070:11, 2077:7, 2097:22, 2101:17, 2101:18, 2101:24, 2102:23, 2102:25, 2109:17, 2146:4, 2146:6, 2146:11, 2146:17, 2152:12, 2164:23, 2173:14, 2185:21, 2192:5, 2196:12, 2204:24, 2205:6, 2230:10, 2253:7, 2254:17, 2257:9, 2259:9, 2260:1, 2260:4, 2261:22, 2268:12, 2268:22 Fisher's - 2183:24, 2184:2, 2230:14, 2251:9, 2259:13, 2259:19, 2260:13, 2260:17, 2260:25, 2261:9, 2263:18 Fishers - 2070:15, 2071:17, 2072:12, 2072:15, 2077:13, 2078:8, 2079:12, 2164:25, 2165:2, 2197:17 fit - 2238:23 Five - 2116:19 five - 2106:18, 2133:5, 2149:24, 2160:5, 2161:5, 2161:8, 2170:23, 2172:10, 2173:11, 2179:13, 2179:17, 2180:2, 2180:3, 2185:19, 2199:21, 2209:7, 2214:17, 2214:21, 2214:23, 2215:4, 2219:8, 2220:4, 2220:10, 2232:24, 2234:24, 2255:9 five-year-old - 2214:17, 2214:21 flaring - 2177:19 flip - 2076:10 floor - 2079:2, 2109:25, 2212:4, 2231:16 foggy - 2123:16, 2173:25 follow - 2067:2 followed - 2069:4, 2114:2, 2120:18, 2170:6 following - 2067:4, 2067:12, 2118:25, 2121:4 follows - 2225:7 foregoing - 2279:4 foreign - 2090:25 forget - 2065:4 forgot - 2233:11, 2233:12, 2233:16 formal - 2072:22 formed - 2143:9, 2144:21 forward - 2059:13, 2214:17 four - 2129:19, 2144:6, 2164:5, 2222:11, 2225:10, 2225:11, 2231:21, 2234:24 Fox - 2057:8, 2058:7, 2058:17, 2090:4, 2090:5, 2090:10, 2101:7, 2103:16, 2264:19, 2264:20, 2264:21, 2271:25, 2276:19 frame - 2141:20, 2142:2, 2144:9, 2144:22 freaky - 2133:20 free - 2086:20 Friday - 2205:5, 2205:20, 2254:24 friend - 2074:16, 2092:4, 2095:24, 2132:3, 2221:23, 2259:19 friendly - 2259:21 Friendly - 2200:24, 2201:14, 2201:17 friends - 2073:12,	2074:5, 2080:15, 2084:22, 2093:13, 2094:6, 2119:20, 2119:21, 2146:15 friendship - 2260:3 frightened - 2074:18, 2224:2 front - 2077:4, 2078:23, 2079:1, 2110:9, 2110:12, 2110:22, 2113:10, 2154:13, 2154:15, 2157:4, 2157:8, 2157:15, 2158:10, 2158:18, 2164:7, 2171:21, 2199:3, 2207:3, 2207:4, 2212:15, 2213:7 fully - 2191:13, 2196:7 funny - 2083:23, 2266:7 fuzzy - 2161:13	2232:25 gordge - 2237:24, 2239:8 Government - 2057:4 grade - 2087:4, 2087:5, 2087:8, 2087:9, 2088:2, 2088:4, 2190:16, 2190:17, 2190:19, 2190:22 Grade - 2190:21 grape - 2067:23, 2067:24, 2067:25 great - 2191:7 greatly - 2124:18 grew - 2060:3, 2158:6 grille - 2123:23 group - 2116:23 growing - 2082:3, 2120:9, 2125:18 guess - 2082:1, 2096:24, 2131:1, 2143:22, 2161:10, 2172:14, 2173:12, 2173:15, 2177:22, 2178:10, 2178:11, 2178:15, 2178:25, 2179:9, 2180:16, 2183:20, 2190:16, 2190:18, 2191:1, 2191:14, 2198:5, 2206:4, 2254:12 guessing - 2097:25 guilty - 2145:12, 2145:13, 2192:9, 2248:5, 2267:8, 2267:18, 2268:13 gun - 2136:7 guy - 2182:24, 2248:5 guys - 2132:10, 2136:2, 2215:13, 2216:16, 2222:2, 2222:13, 2222:14, 2254:7 Guys - 2216:18, 2216:19	2273:10, 2273:23, 2274:1, 2274:8, 2274:15, 2275:6 Harmon's - 2273:17 hat - 2071:13 hate - 2162:2 hats - 2136:5, 2136:6 hay - 2069:23 head - 2121:7, 2134:22, 2138:19, 2139:20, 2147:11, 2163:7, 2210:4, 2212:9, 2238:18 Heading - 2253:13 heads - 2157:7 health - 2128:24, 2129:7, 2129:17, 2231:4, 2231:7, 2231:13, 2232:7 hear - 2090:24, 2096:7, 2109:5, 2177:11, 2182:6, 2208:19, 2208:23, 2211:10, 2214:10, 2217:1, 2217:2, 2217:6, 2228:12, 2236:14, 2268:3 heard - 2065:24, 2082:6, 2091:2, 2096:6, 2104:13, 2112:17, 2115:1, 2116:6, 2116:13, 2117:20, 2120:7, 2121:3, 2123:3, 2123:9, 2129:5, 2139:1, 2142:11, 2147:3, 2150:11, 2154:22, 2163:9, 2185:11, 2185:18, 2187:14, 2187:16, 2188:14, 2192:8, 2208:10, 2208:18, 2208:20, 2208:24, 2209:24, 2209:25, 2211:2, 2211:9, 2211:21, 2214:21, 2217:6, 2230:21, 2232:3, 2237:15, 2238:3, 2239:5, 2244:22, 2254:4, 2265:17, 2265:25, 2266:5, 2266:18 hearing - 2065:17, 2095:17, 2118:20, 2119:13, 2183:2, 2184:6, 2238:19, 2240:9, 2242:4, 2244:7, 2271:2, 2277:25 hearings - 2141:15 heart - 2091:17 heated - 2114:17 heck - 2176:6 hectic - 2062:12 height - 2111:13 hell - 2149:14, 2150:11 help - 2068:2 helped - 2067:8, 2080:7, 2095:5, 2112:19, 2149:6 helpful - 2147:15, 2221:20 helping - 2181:7 Henderson - 2267:25 hereby - 2279:4 herein - 2279:6 hernia - 2227:16 Hersh - 2057:2, 2189:3, 2224:14 hesitating - 2191:15 hesitation - 2192:3, 2192:4 hi - 2068:16, 2068:20, 2108:9, 2169:18 Hi - 2224:13, 2259:7 hide - 2149:20 high - 2063:20 highlight - 2212:12 highly - 2139:10 Hill - 2073:11 himself - 2094:19, 2160:9, 2163:10, 2202:5, 2258:19 Hinz - 2056:10, 2279:2, 2279:13	hippie - 2062:23, 2091:24, 2107:13 hippie-style - 2062:23 hippies - 2107:14 history - 2159:23, 2248:16 hockey - 2062:8 Hodson - 2056:2, 2058:11, 2058:19, 2059:8, 2104:22, 2105:3, 2105:8, 2105:12, 2150:8, 2166:17, 2167:2, 2188:22, 2275:23, 2275:24, 2277:15, 2277:19, 2278:5 holding - 2170:8, 2170:9 holiday - 2093:25 home - 2060:22, 2061:1, 2061:12, 2061:19, 2062:2, 2062:13, 2066:11, 2071:10, 2071:11, 2076:20, 2078:18, 2101:19, 2102:15, 2102:24, 2103:1, 2103:18, 2106:19, 2107:8, 2107:18, 2107:21, 2117:15, 2117:16, 2146:6, 2152:22, 2154:11, 2154:16, 2158:16, 2167:18, 2169:13, 2198:2, 2198:10, 2198:13, 2199:12, 2200:20, 2218:22, 2219:5, 2219:23, 2227:16, 2257:16, 2273:3, 2273:17 honest - 2091:14, 2179:14 honestly - 2091:21, 2261:2 honesty - 2091:13 Honourable - 2055:6 hooked - 2143:10, 2145:8 hooked - 2145:9 hooky - 2229:24 hope - 2082:25, 2228:3, 2230:11, 2235:24, 2253:18 Hoppy - 2108:9, 2109:4, 2109:6, 2109:7, 2154:24, 2265:22 hospital - 2068:5, 2068:13, 2069:4, 2095:7, 2129:10, 2231:25, 2233:10 Hospital - 2067:20, 2129:6, 2231:16 hospitalised - 2233:3 hotel - 2167:20, 2240:5 Hotel - 2055:17, 2168:15 Hounjet - 2119:21 hour - 2228:14 hours - 2129:20, 2215:23, 2231:21 House - 2160:14, 2191:3 house - 2066:8, 2074:12, 2078:24, 2095:11, 2098:13, 2108:4, 2109:9, 2115:3, 2116:1, 2116:18, 2117:3, 2118:9, 2118:21, 2155:7, 2155:12, 2158:17, 2158:20, 2159:14, 2159:17, 2164:22, 2165:12, 2171:2, 2171:8, 2172:22, 2174:12, 2174:19, 2197:15, 2197:18, 2206:19, 2207:1, 2207:2, 2212:25, 2213:4, 2213:13, 2213:16, 2227:12, 2227:13, 2239:15, 2242:17, 2242:20, 2242:23,
G				
Gail - 2065:22, 2072:20, 2097:10, 2097:12, 2097:14, 2108:1, 2124:1, 2132:18, 2132:20, 2135:8, 2154:6, 2183:24, 2191:11, 2192:14, 2218:12, 2267:8, 2268:8 garage - 2114:4, 2114:25, 2115:14, 2257:17 garages - 2237:17 garbage - 2115:2, 2115:15, 2123:14, 2123:15, 2165:17, 2165:20, 2174:4, 2174:7, 2174:9, 2204:12, 2204:16, 2204:22, 2204:24, 2204:25, 2205:3, 2205:8, 2205:9, 2205:12, 2205:13, 2205:22, 2226:5, 2226:8, 2240:21, 2241:5, 2252:23, 2253:10, 2253:22, 2253:24, 2254:3, 2254:4, 2254:21, 2263:21, 2264:6, 2264:8, 2264:11, 2264:14 Garbage - 2205:11 Gary - 2082:9 gas - 2237:19 Gee - 2270:15 general - 2077:24, 2144:4, 2221:15 generally - 2061:14, 2063:8, 2085:10, 2141:8, 2169:6, 2197:18 Generally - 2085:11 generous - 2093:14 gentlemen - 2133:22 Gerald - 2254:19 gesture - 2190:1 get-togethers - 2069:14 ghost - 2065:1 Giant - 2200:24, 2201:14, 2201:17 Gifford - 2058:3, 2059:12, 2059:14, 2059:20, 2076:12, 2077:23, 2090:6, 2090:8, 2090:10, 2099:7, 2101:13, 2104:19 Gilbertson - 2056:13 girl - 2073:6, 2132:7, 2175:7, 2175:8, 2210:2, 2221:25 girl's - 2089:11 girls - 2175:10 given - 2185:21, 2196:12, 2210:19, 2210:23, 2234:1, 2237:18, 2254:18, 2258:6, 2261:5 goofy - 2160:6, 2161:6,	H			
Habcock - 2148:25 hair - 2133:23, 2222:5 hall - 2206:25, 2216:20 Hall - 2132:9, 2132:15, 2222:1, 2222:22 hallway - 2112:21, 2112:23, 2155:8, 2165:20, 2170:4, 2185:14, 2202:18, 2207:3, 2212:2, 2212:3, 2229:3 hand - 2099:10, 2245:6, 2245:13 hands - 2086:11 handwriting - 2109:20, 2195:16 handwritten - 2166:5, 2167:23, 2226:16, 2226:23, 2227:23, 2277:21, 2277:23, 2278:1 Handwritten - 2226:17 hang - 2110:5 happy - 2062:13, 2216:11, 2266:15 harassed - 2125:8, 2138:25, 2139:9, 2139:10, 2139:12, 2139:14, 2139:17, 2151:4, 2217:21 harassing - 2147:16 harassment - 2139:8, 2139:14 hard - 2071:13, 2091:20, 2179:14, 2224:3, 2235:3, 2243:4 Hardy - 2056:3, 2058:4, 2058:9, 2059:5, 2059:6, 2059:7, 2059:15, 2084:24, 2094:12, 2103:12, 2103:13, 2103:15 Harmon - 2273:8,				



2251:14, 2253:11, 2253:12, 2271:5, 2277:5 household - 2118:17, 2238:9 hung - 2146:14 hunted - 2203:14 hunters - 2082:5 hunting - 2082:1, 2082:8, 2082:11, 2082:15, 2083:6, 2083:15, 2083:16, 2099:6, 2100:14, 2257:18 hurry - 2158:13 husband - 2079:20, 2082:13 Hy's - 2160:14, 2191:3	2082:17, 2084:12, 2086:3, 2092:4, 2095:24, 2099:10, 2125:19, 2181:12, 2188:14, 2267:16 informational - 2214:4 informing - 2172:20 Inland - 2056:13 innocent - 2183:9, 2247:11 inquiries - 2255:3 Inquiry - 2055:2, 2055:24, 2059:19 inquiry - 2082:21, 2083:1, 2084:11, 2236:18 inside - 2112:25, 2185:13, 2256:12 installer - 2272:25 installing - 2273:17 instance - 2063:19, 2145:17, 2202:5 institutionalised - 2232:19 intentions - 2091:22 interacted - 2102:4 interaction - 2274:25 interchange - 2246:8 interested - 2062:10, 2151:13, 2217:8 interpreted - 2145:11 interrogate - 2213:23 interrogated - 2215:24 interrogating - 2214:3 interrupted - 2112:1 interview - 2156:13, 2167:14, 2167:18, 2167:23, 2168:5, 2168:10, 2182:3, 2228:11, 2238:1, 2239:8, 2240:14, 2241:3, 2242:8, 2269:11 interviewed - 2094:13, 2099:19, 2151:16, 2159:24, 2213:21, 2255:25, 2256:6 Interviewed - 2076:12 interviewer - 2240:19, 2240:20, 2242:10 interviewing - 2228:7 interviews - 2091:3 introduce - 2080:21, 2188:24 investigation - 2066:2, 2069:17, 2072:20, 2076:8, 2095:23, 2099:4, 2099:21, 2100:12, 2119:6, 2125:2, 2162:1, 2170:13, 2228:9, 2274:17 Investigations - 2098:24 investigative - 2268:4 investigator - 2094:21 Investigators - 2077:18 investigators - 2066:6, 2072:19, 2181:6 invited - 2260:11 involved - 2092:5, 2095:22, 2095:25, 2119:5, 2119:15, 2120:2, 2121:14, 2143:1, 2216:24, 2270:22, 2270:25 involvement - 2069:17, 2080:3, 2163:4, 2255:14, 2255:22 involving - 2163:3, 2253:4 Irene - 2056:9 Isabelle - 2056:6 issue - 2076:24, 2077:25, 2089:6, 2095:1, 2124:21, 2195:23, 2261:5, 2261:18, 2263:17 issued - 2098:22	issues - 2231:4, 2231:7 J jacket - 2111:18 jail - 2124:8, 2134:4, 2216:14, 2223:9, 2223:18 January - 2060:7, 2064:12, 2076:20, 2082:18, 2090:18, 2091:8, 2092:22, 2095:8, 2096:6, 2098:2, 2098:4, 2102:3, 2102:24, 2106:24, 2107:3, 2107:8, 2107:25, 2120:17, 2120:19, 2121:1, 2123:3, 2123:6, 2146:7, 2169:12, 2185:15, 2203:5, 2254:24, 2265:1, 2265:2, 2265:11, 2271:5, 2271:18, 2275:9 Jay - 2057:6 Jerry - 2056:12 Jesus - 2067:22, 2068:2, 2232:2, 2232:4 Joanne - 2057:3, 2224:11 job - 2093:12, 2106:23, 2160:11 John - 2242:12 joining - 2116:23 joints - 2222:4 Jordan - 2056:3 Joyce - 2057:3, 2137:23, 2224:12, 2271:6 Judas - 2129:23 judge - 2133:4, 2134:2, 2190:5, 2222:18, 2222:19, 2223:4, 2223:8, 2223:19, 2268:25 juice - 2067:23, 2067:24 July - 2152:20, 2186:7, 2224:25, 2231:2, 2232:22, 2262:15 jumped - 2158:11, 2190:9 jumping - 2159:10 jury - 2192:8, 2230:14 Justice - 2055:6, 2153:9, 2241:1	2093:22, 2103:23, 2107:21, 2107:22, 2119:22, 2257:18 kill - 2100:1, 2162:18, 2190:1 killed - 2099:5, 2257:4 killer - 2192:14 Kim - 2082:20, 2083:14, 2083:18, 2100:23 kind - 2062:12, 2062:21, 2062:22, 2063:3, 2063:11, 2063:16, 2071:15, 2083:23, 2086:16, 2086:19, 2087:13, 2091:10, 2092:17, 2098:15, 2111:12, 2111:25, 2119:14, 2122:12, 2134:16, 2136:3, 2172:25, 2178:9, 2178:19, 2180:19, 2181:12, 2183:8, 2208:8, 2247:20, 2258:9, 2266:8 kindergarten - 2198:7, 2198:9, 2199:1, 2199:2, 2229:24, 2230:1, 2230:16 kinds - 2176:2, 2177:23 Kirby - 2273:8, 2273:10 kit - 2071:11 kitchen - 2075:17, 2114:7, 2191:5 knock - 2108:8, 2154:22 knocked - 2154:15 knocking - 2065:5, 2169:16 knowing - 2088:15, 2091:17, 2093:3 knowledge - 2101:22, 2101:24, 2140:4, 2140:5, 2177:21, 2265:14, 2268:8, 2271:8, 2279:6 known - 2131:11, 2197:19, 2265:14 knows - 2139:8, 2191:17 Kool - 2067:25 Kool-aid - 2067:25 Krogan - 2057:4, 2103:5, 2103:6, 2275:15, 2275:16 Kujawa - 2057:6	2136:11, 2267:4, 2276:17 Late - 2127:8, 2127:20 laughed - 2242:14 laundry - 2075:17 lawyer - 2084:1, 2090:10, 2094:20, 2189:4, 2260:23, 2271:7 layout - 2078:20 leading - 2129:13 learned - 2211:16 learning - 2065:21, 2147:1, 2190:25, 2191:2 least - 2100:18, 2121:3, 2137:9, 2153:22, 2232:12, 2241:25, 2267:6, 2267:14 leave - 2071:25, 2115:18, 2117:11, 2117:17, 2118:5, 2160:18, 2208:1 leaving - 2236:23 led - 2070:5, 2086:16, 2086:18, 2189:8 left - 2077:13, 2078:8, 2096:23, 2102:16, 2113:2, 2115:13, 2115:17, 2117:2, 2117:8, 2117:14, 2118:4, 2118:5, 2118:6, 2118:12, 2118:16, 2138:17, 2140:14, 2158:17, 2159:14, 2159:17, 2164:12, 2170:9, 2170:10, 2180:15, 2180:17, 2201:5, 2207:24, 2207:25, 2208:3, 2230:5, 2233:4, 2234:9, 2234:14 Leonard - 2060:13 Lethbridge - 2160:16 level - 2087:11 Liaison - 2056:4 library - 2135:11, 2135:16 life - 2062:2, 2062:24, 2140:24, 2141:10, 2149:2, 2257:4, 2259:24 lifestyle - 2086:21, 2091:24 lights - 2136:2 likely - 2089:17 limited - 2148:6 Linda - 2070:11, 2070:25, 2071:7, 2073:3, 2073:5, 2073:6, 2073:18, 2073:24, 2074:24, 2075:3, 2075:12, 2075:22, 2075:25, 2077:8, 2077:9, 2078:6, 2089:8, 2101:24, 2146:10 line - 2110:6, 2228:24 lines - 2084:2, 2193:11 link - 2134:13, 2134:14 linked - 2134:12, 2218:2, 2218:3, 2218:4 lips - 2189:22, 2189:23 listen - 2228:13 listening - 2208:13 live - 2060:1, 2080:13 lived - 2073:6, 2073:7, 2073:8, 2080:23, 2086:20, 2097:23, 2136:25, 2141:24, 2154:7, 2164:4, 2164:15, 2218:7, 2263:22 living - 2060:21, 2062:23, 2070:16, 2071:2, 2071:17, 2072:15, 2079:13, 2092:1, 2097:19, 2098:17, 2107:11, 2107:18, 2110:4, 2110:16, 2110:20, 2136:23, 2142:22, 2146:6, 2148:2, 2164:7, 2164:16, 2164:21, 2164:23, 2212:15.
I ice - 2069:10 Id - 2073:21 idea - 2131:15, 2204:2, 2209:5, 2210:8, 2210:10, 2220:19, 2220:21 ideas - 2210:12, 2248:22 identify - 2133:16, 2142:3, 2185:7 ignored - 2178:10 illness - 2064:8, 2067:9, 2095:6 imagine - 2193:3, 2253:15, 2253:24 immediately - 2155:1, 2156:21 impeccable - 2278:4 importance - 2255:12 important - 2063:15, 2085:25, 2175:3, 2193:13, 2195:18, 2195:20, 2195:23, 2195:25, 2196:2, 2202:25, 2203:5, 2203:7, 2203:21, 2208:17, 2228:13, 2255:24, 2255:25, 2256:6 impression - 2104:12, 2133:19, 2144:21, 2147:16, 2232:6, 2266:6, 2266:9 improvements - 2251:5, 2251:8 inaccurate - 2229:21, 2229:22 inaccurately - 2186:12, 2229:21, 2262:20 inches - 2111:10 incident - 2077:9, 2100:4, 2134:25, 2187:19, 2188:3 incidents - 2218:1 included - 2276:23 including - 2215:7 indeed - 2273:21 Index - 2058:1 indicate - 2144:14, 2191:8, 2265:19 indicated - 2074:16, 2077:20, 2078:6, 2100:10, 2226:11, 2273:22 indicates - 2079:6 indicating - 2078:23, 2171:20 indulgence - 2246:17 industry - 2105:24 influenced - 2086:24, 2087:14, 2088:7, 2088:8, 2088:12, 2173:19, 2187:15, 2188:13 info - 2077:23 information - 2069:16, 2076:2, 2078:10, 2081:1, 2081:18, 2082:7, 2082:11,	K Kara - 2056:6 Karen - 2056:10, 2279:2, 2279:13 Karst - 2057:8, 2066:15, 2090:11, 2125:14, 2125:16, 2139:10, 2147:15, 2162:5, 2172:17, 2181:5, 2264:22 Karst's - 2125:12 keeps - 2245:16 Ken - 2060:20, 2085:5, 2085:18, 2104:23, 2109:20, 2133:6, 2138:9, 2172:9, 2175:18, 2226:13, 2228:25 Kennedy - 2057:5, 2103:7, 2103:8, 2275:17, 2275:18 Kenneth - 2058:10, 2105:8, 2105:11, 2200:11, 2261:25 Kenny - 2085:7, 2097:1, 2258:21, 2270:16 kept - 2214:24 key - 2148:21, 2149:4 kicked - 2132:10, 2222:2 kid - 2145:21 kids - 2061:17, 2062:6, 2062:9, 2066:22, 2069:12, 2084:6, 2092:10, 2092:12,	L Lana - 2057:4 lane - 2253:13 language - 2189:19 larger - 2061:4 Larry - 2057:10, 2060:19, 2070:11, 2071:8, 2071:9, 2071:15, 2097:1, 2097:21, 2109:17, 2146:4, 2146:6, 2146:10, 2146:11, 2146:17, 2164:23, 2183:23, 2184:2, 2192:5, 2196:12, 2204:24, 2251:9, 2253:7, 2257:9, 2259:9, 2259:13, 2259:19, 2260:1, 2260:13, 2260:16, 2260:25, 2261:9, 2261:22, 2268:12 last - 2077:22, 2108:13, 2151:21, 2160:5, 2161:5, 2161:8, 2170:23, 2175:16, 2225:12, 2227:20, 2228:9, 2232:24, 2234:22, 2234:23, 2237:6 Last - 2067:21, 2099:19 Lastly - 2078:15 late - 2072:4, 2121:22, 2127:19, 2127:21, 2127:23, 2128:3, 2128:8, 2128:18, 2130:9, 2130:20,		



<p>2212:17, 2213:7, 2216:19 locate - 2278:1 located - 2109:12, 2154:13 location - 2228:7 look - 2063:23, 2070:22, 2078:19, 2082:10, 2083:1, 2083:5, 2083:16, 2085:14, 2114:5, 2138:9, 2142:18, 2158:1, 2166:13, 2194:2, 2194:21, 2199:10, 2227:3, 2227:4, 2227:9 looked - 2063:2, 2085:9, 2085:18, 2111:21, 2112:10, 2113:10, 2113:15, 2143:9, 2145:4, 2158:7, 2174:18, 2242:12 looking - 2076:17, 2080:3, 2084:12, 2092:17, 2160:7, 2178:16, 2222:23, 2254:22 looks - 2078:20, 2079:19, 2189:19, 2194:1, 2257:3, 2257:6 lost - 2141:12 love - 2083:18, 2083:20, 2083:22 lower - 2164:18 loyalty - 2260:3 Lsd - 2177:15, 2177:21, 2177:24 lunch - 2071:11, 2076:20, 2167:4 Lunch - 2097:2</p>	<p>Mary - 2064:25, 2065:2, 2065:6, 2065:11, 2076:17, 2102:4, 2116:10, 2143:7, 2209:11, 2209:15, 2209:17, 2265:4, 2265:12, 2266:3, 2266:13 Mary's - 2061:10, 2064:23, 2073:11 math - 2121:23 matter - 2065:2, 2072:23, 2119:13, 2127:13, 2127:25, 2128:16, 2131:5, 2134:8, 2134:11, 2136:13, 2140:6, 2142:18, 2145:24, 2151:16, 2161:19, 2265:23, 2276:19, 2277:19 matters - 2137:1, 2148:1 Mccorriston - 2254:19 Mclean - 2057:3, 2058:15, 2089:1, 2089:2, 2224:9, 2224:10, 2224:11, 2233:18, 2233:19, 2233:24, 2245:3, 2265:20, 2276:20 Mcnabb - 2152:20 mean - 2085:10, 2093:9, 2093:18, 2096:20, 2097:18, 2097:19, 2131:14, 2133:10, 2139:12, 2145:11, 2151:6, 2161:7, 2163:18, 2175:5, 2176:18, 2181:17, 2189:23, 2197:25, 2202:9, 2202:16, 2204:2, 2207:16, 2208:4, 2208:13, 2214:15, 2214:20, 2216:14, 2227:15, 2231:25, 2266:5 Meaning - 2140:2 means - 2192:25 meant - 2155:18, 2155:23, 2175:6, 2204:8, 2207:20, 2209:3, 2209:9, 2210:8, 2224:16, 2224:18, 2228:18, 2265:12, 2269:15 media - 2063:14, 2082:22 medical - 2230:5 meet - 2136:4 meeting - 2151:24 member - 2273:3, 2274:2 members - 2077:19, 2252:5 memories - 2066:17, 2067:3, 2185:19 memory - 2075:2, 2112:12, 2193:18, 2198:2, 2201:20, 2208:25, 2209:12, 2211:19, 2233:14, 2241:15, 2244:13, 2247:22, 2263:16, 2272:20, 2274:12 men - 2066:13, 2222:9, 2222:10, 2222:11 mental - 2064:8, 2067:9, 2095:6, 2128:24, 2129:7, 2129:17, 2141:3, 2149:14, 2163:12, 2163:21, 2231:4, 2231:7, 2231:13, 2232:7 mentally - 2215:19 mention - 2204:16, 2204:18, 2204:20, 2206:1, 2206:2, 2206:11, 2210:23, 2211:7, 2217:20, 2217:22, 2221:18 mentioned - 2080:1,</p>	<p>2086:15, 2095:8, 2109:4, 2116:20, 2138:4, 2141:15, 2150:21, 2162:14, 2189:14, 2200:21, 2204:23, 2206:3, 2217:18, 2217:25, 2265:2, 2268:4 met - 2116:15, 2136:2 Meyer - 2056:11, 2279:2, 2279:18 mid - 2121:24, 2122:1, 2124:23, 2126:3, 2127:10, 2127:17, 2127:21, 2127:23, 2128:8, 2128:14, 2128:18, 2130:9, 2130:20, 2131:2, 2136:11, 2176:17 Mid - 2122:2 Might - 2245:22 might - 2094:6, 2095:24, 2098:3, 2099:24, 2107:22, 2144:7, 2174:1, 2175:1, 2177:9, 2185:18, 2196:22, 2197:19, 2210:22, 2233:20, 2234:6, 2241:25, 2266:7, 2266:14, 2268:16, 2272:20 Milgaard - 2055:4, 2057:2, 2057:3, 2066:19, 2067:4, 2069:17, 2077:2, 2079:24, 2080:4, 2080:14, 2080:20, 2081:6, 2094:19, 2099:20, 2099:25, 2108:5, 2110:25, 2111:16, 2112:14, 2112:17, 2113:12, 2114:24, 2115:21, 2116:4, 2116:7, 2116:15, 2117:2, 2117:8, 2117:11, 2117:21, 2119:9, 2120:8, 2122:20, 2123:23, 2124:8, 2125:2, 2126:14, 2127:12, 2127:24, 2131:5, 2131:10, 2132:22, 2134:8, 2134:11, 2134:19, 2135:12, 2135:21, 2136:13, 2137:23, 2138:4, 2142:18, 2143:9, 2144:24, 2145:5, 2145:24, 2148:22, 2149:3, 2149:6, 2150:23, 2153:2, 2153:7, 2154:5, 2155:1, 2155:6, 2155:7, 2155:12, 2155:15, 2156:15, 2156:20, 2156:25, 2157:3, 2157:20, 2158:10, 2158:13, 2158:17, 2159:9, 2159:15, 2162:3, 2162:6, 2162:13, 2162:24, 2163:5, 2165:11, 2165:15, 2167:16, 2169:16, 2171:13, 2171:24, 2172:18, 2185:4, 2185:9, 2185:16, 2191:10, 2203:25, 2206:16, 2209:21, 2218:4, 2224:12, 2225:4, 2228:25, 2229:3, 2229:8, 2241:2, 2242:2, 2242:18, 2247:11, 2254:18, 2256:8, 2267:8, 2267:18, 2268:11, 2268:22, 2269:22, 2271:6, 2271:7, 2271:18, 2276:3, 2277:5, 2277:8 Milgaard's - 2080:5, 2093:1, 2123:5, 2144:2, 2150:3, 2156:5, 2158:4, 2181:8, 2189:3, 2229:1, 2229:9, 2255:12, 2275:9 Miller - 2065:22, 2072:20, 2074:22, 2097:12, 2097:14, 2124:1, 2132:19, 2132:20, 2162:2, 2165:1, 2183:25, 2192:14,</p>	<p>2218:12, 2267:9, 2268:8 Miller's - 2108:1, 2135:8, 2154:6, 2191:11 mind - 2066:15, 2093:2, 2140:24, 2160:8, 2161:18, 2163:13, 2163:23, 2199:20, 2229:6, 2257:20 Minister - 2153:8 minute - 2156:22, 2165:14, 2185:10, 2191:18 minutes - 2105:5, 2116:19, 2149:24 mislead - 2203:23 Mission - 2084:14, 2084:17 misunderstood - 2227:5 mom - 2061:21, 2062:6, 2062:25, 2067:25, 2070:24, 2071:23, 2096:14, 2117:15, 2117:22, 2129:22, 2131:19, 2158:16, 2178:19, 2179:24, 2198:8, 2200:13, 2200:14, 2230:16 moment - 2059:10, 2092:24, 2142:3, 2196:21 moments - 2136:19 Monday - 2150:18, 2205:11, 2205:14, 2205:16, 2254:8, 2254:25 Mondays - 2205:19 money - 2070:1, 2077:15, 2077:19, 2077:20, 2093:18, 2093:20, 2094:7, 2094:9 monitor - 2074:1 month - 2086:4, 2107:4, 2138:12, 2138:17, 2141:23, 2152:6, 2164:19, 2228:6 months - 2060:8, 2080:2, 2097:25, 2098:7, 2118:25, 2149:13, 2164:5, 2164:17, 2164:20 morning - 2059:3, 2059:8, 2059:17, 2059:19, 2076:16, 2104:24, 2108:2, 2108:4, 2108:16, 2108:22, 2111:1, 2114:24, 2115:21, 2115:23, 2116:12, 2116:15, 2116:16, 2116:24, 2117:14, 2117:19, 2117:25, 2118:6, 2118:12, 2120:5, 2120:22, 2121:3, 2123:3, 2123:6, 2123:9, 2123:13, 2124:17, 2125:4, 2126:10, 2131:21, 2150:3, 2154:6, 2154:11, 2156:15, 2157:14, 2157:21, 2158:4, 2158:21, 2159:16, 2165:12, 2169:11, 2170:21, 2171:8, 2173:24, 2176:10, 2176:16, 2183:5, 2185:15, 2196:1, 2196:4, 2198:4, 2198:6, 2198:11, 2198:13, 2198:16, 2199:3, 2199:6, 2200:20, 2200:22, 2200:23, 2204:13, 2205:4, 2205:5, 2206:13, 2211:22, 2213:5, 2219:6, 2227:7, 2230:4, 2230:17, 2231:6, 2237:6, 2242:16, 2246:13, 2248:23, 2250:12, 2260:18, 2270:1, 2270:8, 2270:16, 2271:5, 2271:18, 2275:9 Morning - 2059:4,</p>	<p>2059:5, 2059:16, 2105:13 most - 2070:19, 2097:25, 2195:23, 2196:2, 2228:8, 2255:23, 2255:25 Most - 2163:8 mostly - 2107:10 Mother - 2120:15 mother - 2060:12, 2068:7, 2117:19, 2120:6, 2120:14, 2120:19, 2120:21, 2121:5, 2200:3, 2230:1, 2230:4, 2230:8, 2250:16, 2270:24, 2273:12 Mission's - 2270:20 motor - 2101:18, 2102:23, 2103:1 mouthing - 2189:24 Mouthing - 2189:25 move - 2077:5, 2078:16, 2079:21, 2080:7, 2081:21 moved - 2072:12, 2072:13, 2097:24, 2138:11, 2138:12, 2140:15, 2142:6, 2152:4, 2160:15, 2161:9 moves - 2076:9 moving - 2080:9, 2249:1 murder - 2065:22, 2074:8, 2074:22, 2075:14, 2076:15, 2076:16, 2077:4, 2078:3, 2082:16, 2089:9, 2089:18, 2095:23, 2096:16, 2097:5, 2097:10, 2097:12, 2097:14, 2102:7, 2104:5, 2104:13, 2108:1, 2108:3, 2118:21, 2119:9, 2123:24, 2124:1, 2125:2, 2126:10, 2126:13, 2132:19, 2132:20, 2135:9, 2149:7, 2150:3, 2162:2, 2178:8, 2183:24, 2189:7, 2216:24, 2217:4, 2217:11, 2217:13, 2218:7, 2218:13, 2219:2, 2219:3, 2254:24, 2267:8, 2276:7 murdered - 2165:2 Murray - 2069:10, 2079:20, 2080:7 must - 2091:21, 2100:13, 2270:16, 2270:17</p>
M				
<p>Ma'am - 2085:3 Maccallum - 2055:7, 2059:3, 2059:6, 2084:24, 2089:1, 2089:3, 2090:4, 2101:7, 2101:10, 2103:4, 2103:7, 2103:9, 2103:11, 2104:18, 2105:1, 2105:4, 2166:24, 2191:18, 2224:9, 2233:17, 2233:21, 2245:1, 2259:3, 2264:19, 2272:2, 2272:5, 2275:14, 2275:17, 2275:19, 2275:21, 2277:17, 2278:3, 2278:6 machinery - 2069:22, 2077:21 Maclean's - 2237:24, 2242:9 mad - 2182:25 Mafia - 2135:20 main - 2079:2, 2109:25, 2212:4 mainland - 2164:18 maintained - 2164:18 maintains - 2150:2 man - 2087:14, 2087:15, 2203:7 Manager - 2056:5 manner - 2102:5 map - 2109:15, 2109:16, 2112:22, 2114:5 Maple - 2099:11 Marcel - 2060:19, 2060:24, 2107:11 March - 2118:25, 2238:11, 2240:8 Marcoux - 2064:25, 2076:17, 2089:11, 2102:4 marijuana - 2082:3, 2132:10, 2132:11, 2139:24, 2161:10, 2222:24, 2269:16 married - 2069:8, 2069:9, 2165:3</p>				
N				
				<p>name - 2066:15, 2070:14, 2073:3, 2079:25, 2090:23, 2101:13, 2109:4, 2125:12, 2164:23, 2259:8, 2268:3, 2272:9, 2273:8, 2273:10 names - 2060:17 nature - 2074:24, 2075:4, 2088:15, 2148:15 near - 2118:21 necessarily - 2214:16 nee - 2076:12 need - 2067:16, 2083:7, 2084:10, 2153:11, 2228:3, 2236:19, 2238:20 needed - 2082:7, 2082:13, 2082:20, 2153:4, 2221:24 needs - 2068:1, 2169:24 negative - 2221:18 neighbourhood - 2061:15, 2073:7, 2102:7 nervous - 2195:4 Never - 2123:7, 2216:1, 2236:8, 2239:5, 2275:4 never - 2065:4, 2068:21,</p>



<p>2068:23, 2068:24, 2068:25, 2069:19, 2080:24, 2086:5, 2086:14, 2086:15, 2089:25, 2117:6, 2124:14, 2125:13, 2127:15, 2131:19, 2138:20, 2139:17, 2142:9, 2147:3, 2151:3, 2151:12, 2153:22, 2158:20, 2159:23, 2163:9, 2177:17, 2187:17, 2187:18, 2196:8, 2196:12, 2209:24, 2211:21, 2213:12, 2217:12, 2217:14, 2220:13, 2232:3, 2232:17, 2234:12, 2238:3, 2242:19, 2242:23, 2250:4, 2258:8, 2259:21, 2270:15 New - 2136:24 new - 2061:22, 2063:22, 2069:21 News - 2058:12, 2058:13, 2148:20, 2150:7 news - 2065:25, 2082:7, 2082:22, 2102:8, 2137:24, 2163:3, 2236:14 newspaper - 2067:1 next - 2068:4, 2079:21, 2080:9, 2083:25, 2104:22, 2105:8, 2109:24, 2113:22, 2115:12, 2127:17, 2132:13, 2161:22, 2163:1, 2168:13, 2171:4, 2172:6, 2174:2, 2175:14, 2180:7, 2183:23, 2188:9, 2212:16, 2222:20, 2228:24, 2231:5, 2254:2, 2254:25, 2273:21 Next - 2075:24, 2154:21, 2155:11, 2156:3, 2159:22, 2164:13, 2165:8, 2177:5, 2182:2, 2234:7 nice - 2061:24, 2088:21 nicer - 2072:4 Nichol - 2093:24, 2095:10, 2096:23, 2242:12, 2244:18 night - 2071:16, 2102:10, 2102:11, 2108:13, 2129:20, 2132:6, 2148:13, 2219:6, 2219:7, 2219:11, 2231:21 nine - 2060:8, 2130:8, 2230:24 Nobody - 2086:7 nobody - 2117:23, 2164:10, 2190:8, 2191:17 None - 2227:19 noon - 2158:17, 2201:11 normal - 2129:2, 2162:9 normally - 2213:21 north - 2157:6, 2252:24, 2254:7, 2264:1, 2264:7 nose - 2133:23, 2222:6 notepad - 2166:10 notes - 2073:23, 2153:20, 2153:23, 2167:23, 2279:6 nothing - 2120:4, 2134:23, 2148:16, 2149:21, 2166:10, 2187:25, 2190:4, 2197:20, 2209:9, 2211:24, 2220:5, 2223:16, 2226:8, 2237:5, 2241:10 notice - 2064:7, 2195:13, 2206:22, 2258:2 noticed - 2157:5 notwithstanding - 2243:15 number - 2060:15,</p>	<p>2091:11, 2139:2, 2189:18, 2227:25, 2228:4, 2234:2, 2234:6, 2240:17, 2243:3, 2243:4, 2246:20, 2262:14 numerous - 2136:15 nursing - 2149:7 nuts - 2137:5</p> <p style="text-align: center;">O</p> <p>o'clock - 2278:6 O'keefe - 2057:10, 2058:6, 2058:16, 2089:3, 2089:5, 2090:3, 2259:4, 2259:5, 2259:8 O'shanek's - 2065:5 obligation - 2260:16 oblige - 2191:21 obliged - 2199:2 observations - 2067:11, 2125:4, 2126:10, 2129:14, 2141:2 observe - 2110:25, 2111:3, 2113:12, 2203:6 observed - 2111:4, 2116:13, 2117:20, 2120:7, 2120:22, 2121:3, 2269:5 observing - 2113:22, 2139:5, 2147:10 obtained - 2274:21 obvious - 2219:18 obviously - 2208:10, 2221:7 occasion - 2067:13, 2067:15, 2101:18, 2101:21, 2136:22, 2173:5, 2273:2 occasions - 2142:16, 2189:19, 2244:5 occupants - 2159:19 occur - 2092:17 occurred - 2074:21, 2082:2, 2096:9 offended - 2273:23 offends - 2090:23 offer - 2269:4 offering - 2258:18 office - 2064:24, 2065:10 Officer - 2056:12, 2176:8, 2176:14, 2176:25, 2177:5, 2178:2, 2180:7, 2182:2, 2182:18, 2234:1, 2254:19, 2272:15, 2274:15, 2275:6 officer - 2152:22, 2152:24, 2153:19, 2171:5, 2190:7, 2197:3, 2197:5, 2197:21, 2203:23, 2203:25, 2254:20, 2273:7, 2273:8, 2273:10, 2275:2 officers - 2065:10, 2066:8, 2066:12, 2076:7, 2079:20, 2119:2, 2169:4, 2169:7, 2173:2, 2173:4, 2193:5, 2206:8, 2234:9, 2234:17, 2235:14 Official - 2056:10, 2279:1, 2279:3, 2279:14, 2279:19 often - 2069:5, 2159:25, 2160:1, 2253:23 old - 2060:6, 2070:21, 2076:15, 2121:8, 2121:15, 2124:9, 2127:15, 2130:3, 2133:5, 2154:7, 2172:10, 2173:11, 2179:13, 2187:20, 2188:4, 2188:5, 2199:21, 2209:7, 2214:17, 2214:21, 2219:8, 2220:4, 2233:6, 2235:6</p>	<p>Older - 2107:11 older - 2085:6, 2106:5, 2125:7, 2180:1, 2180:4, 2199:22, 2210:11 oldest - 2060:18, 2082:20 Once - 2278:3 once - 2064:24, 2100:16, 2100:25, 2107:15, 2147:24, 2161:24, 2162:4, 2164:19, 2196:11, 2205:19, 2240:13, 2242:8, 2253:25 One - 2101:16, 2256:18, 2276:5 one - 2063:14, 2066:13, 2066:16, 2067:13, 2067:17, 2069:20, 2072:13, 2077:14, 2077:24, 2079:6, 2080:20, 2083:7, 2085:6, 2085:7, 2085:10, 2085:14, 2091:3, 2091:4, 2093:15, 2093:16, 2094:23, 2096:21, 2101:11, 2103:13, 2110:5, 2114:8, 2119:20, 2124:24, 2127:16, 2127:17, 2128:25, 2129:13, 2129:18, 2129:22, 2132:4, 2135:22, 2135:23, 2140:6, 2142:8, 2143:5, 2145:17, 2159:4, 2162:14, 2172:23, 2179:6, 2180:20, 2193:7, 2194:8, 2194:22, 2194:23, 2196:18, 2198:18, 2204:18, 2204:19, 2206:3, 2206:8, 2209:25, 2210:5, 2214:20, 2217:6, 2225:12, 2227:23, 2231:6, 2235:24, 2236:16, 2238:12, 2242:17, 2243:3, 2243:4, 2243:24, 2246:19, 2246:23, 2253:19, 2268:14, 2269:1, 2269:10, 2269:23, 2270:17, 2277:19 ones - 2085:7, 2108:16, 2238:13, 2256:22 onwards - 2118:25 open - 2163:13, 2163:23 opened - 2114:3 openly - 2182:22 operation - 2227:16 opportunity - 2062:7 opposed - 2173:7, 2189:20, 2243:19 opposite - 2073:8 orient - 2078:22, 2079:7 original - 2148:24, 2196:8, 2226:16, 2235:18 otherwise - 2240:18 Ottawa - 2140:17 ourselves - 2078:22 outfit - 2063:22 outlining - 2084:18 Outlook - 2060:1, 2076:13, 2082:10, 2084:12, 2098:23, 2099:8 outside - 2097:7, 2114:12, 2133:22, 2170:2, 2170:5, 2170:6, 2170:19, 2202:3, 2222:22, 2245:7 overhearing - 2145:21 own - 2101:22, 2101:24, 2104:10, 2131:15, 2147:12, 2155:2, 2164:11, 2173:17, 2202:8, 2202:23, 2203:10, 2204:1, 2210:11, 2210:12, 2230:5, 2243:21</p>	<p style="text-align: center;">P</p> <p>Page - 2058:2 page - 2073:25, 2074:3, 2074:13, 2075:8, 2076:10, 2077:22, 2078:16, 2079:18, 2079:21, 2080:9, 2151:21, 2151:22, 2152:19, 2160:18, 2161:22, 2165:8, 2168:13, 2171:4, 2172:6, 2174:2, 2175:14, 2177:5, 2178:2, 2182:2, 2184:11, 2187:6, 2188:8, 2188:9, 2193:25, 2210:20, 2212:13, 2225:9, 2225:10, 2226:19, 2227:20, 2227:25, 2228:4, 2231:5, 2234:6, 2234:7, 2234:8, 2235:16, 2235:23, 2246:20, 2246:22, 2253:19, 2254:2, 2261:23, 2261:24, 2262:9, 2265:21 pager - 2225:10, 2225:11 pages - 2279:4 pair - 2155:2, 2184:19, 2202:7, 2202:22, 2204:1 pale - 2076:18 pants - 2108:11, 2155:2, 2155:4, 2155:5, 2155:8, 2155:14, 2157:1, 2165:19, 2169:24, 2169:25, 2170:8, 2170:10, 2171:18, 2172:2, 2174:25, 2175:1, 2184:19, 2202:17, 2202:20, 2202:22, 2203:9, 2204:1, 2207:7, 2220:22, 2226:6, 2229:3, 2239:2, 2245:6, 2245:12, 2245:15, 2265:23, 2277:7 Pants - 2172:2 papers - 2082:23 paragraph - 2154:21, 2155:11, 2156:3, 2159:1, 2159:5, 2159:22, 2161:23, 2163:1, 2164:13, 2277:4 parallel - 2258:2 Pardon - 2090:7, 2105:4 pardon - 2121:20, 2186:2 parents - 2070:7, 2092:25, 2096:15, 2097:17, 2103:23, 2117:15, 2119:17, 2154:7, 2178:12, 2179:19, 2214:25, 2215:7, 2270:18, 2271:9 parents' - 2113:1, 2113:4 Park - 2152:20 part - 2099:21, 2100:17, 2159:4, 2175:15, 2188:16, 2212:12, 2225:1, 2226:21, 2228:3, 2229:22, 2236:13, 2246:23, 2249:12, 2255:24, 2255:25, 2256:12, 2264:12 partake - 2062:9 particular - 2095:12, 2268:25 parts - 2154:2, 2184:10 party - 2132:2, 2132:4, 2132:7, 2134:20, 2134:21, 2221:22, 2221:23 pass - 2064:24 passed - 2081:22, 2148:13 passing - 2081:25, 2084:13, 2084:19 past - 2088:2, 2099:13, 2160:3, 2160:25, 2164:15</p>	<p>path - 2142:5 patrol - 2064:19, 2064:20, 2064:22 Paul - 2058:10, 2105:11, 2267:25 Paul's - 2097:2 pause - 2121:15, 2141:2, 2143:12, 2155:9, 2155:22, 2160:18, 2176:7, 2185:3 pay - 2093:16, 2093:22, 2104:7 peak - 2163:22 Pearson - 2151:17, 2151:24, 2151:25, 2156:13, 2156:16, 2157:11, 2158:23, 2159:1, 2165:10, 2165:24, 2166:3, 2167:6, 2186:3, 2193:7, 2194:2, 2194:24, 2195:17, 2196:14, 2196:18, 2196:20, 2196:23, 2197:25, 2199:11, 2199:14, 2199:17, 2203:3, 2203:17, 2206:1, 2213:20, 2225:16, 2225:24, 2226:14, 2227:10, 2228:1, 2228:6, 2228:10, 2228:17, 2229:20, 2232:22, 2233:5, 2251:23, 2255:11, 2262:16, 2272:15, 2277:12, 2277:25 Pearson's - 2195:2, 2229:6 penitentiary - 2121:10 people - 2063:13, 2088:17, 2088:21, 2088:22, 2110:23, 2136:5, 2138:3, 2154:15, 2157:16, 2158:20, 2164:21, 2185:8, 2191:4, 2197:22, 2201:20, 2201:24, 2202:3, 2203:13, 2215:7, 2215:9, 2242:19, 2254:21, 2267:17, 2268:7 people's - 2146:21, 2147:4 per - 2164:19 percent - 2146:25, 2208:15, 2208:22, 2211:13 perhaps - 2062:1, 2268:5 Perhaps - 2060:17 period - 2091:8, 2094:17, 2127:22, 2128:12, 2129:9, 2130:4, 2130:12, 2130:14, 2152:8, 2174:16, 2234:21, 2251:1 periods - 2107:16 permission - 2070:23 person - 2063:9, 2063:17, 2073:3, 2086:17, 2091:7, 2109:9, 2109:10, 2109:12, 2160:11, 2224:2, 2232:23, 2242:17, 2262:3 personality - 2088:16 personally - 2248:4 persons - 2077:1, 2115:20 persuade - 2182:21, 2241:11 persuaded - 2181:18, 2181:20, 2269:8, 2269:10, 2269:12, 2269:21, 2269:25 persuasion - 2163:11, 2163:17 persuasive - 2180:22, 2181:17, 2181:19 ph - 2065:5, 2082:9, 2149:1</p>
---	---	---	--	--



<p>Phil - 2060:20, 2097:1 Phillip - 2080:2 phoenix - 2135:17 phone - 2083:17, 2084:4, 2162:6, 2237:13 phoned - 2125:17, 2125:21, 2181:9, 2181:11 phoning - 2172:18, 2172:22 phrase - 2266:18 pick - 2115:23, 2270:3 picked - 2086:2, 2132:15, 2139:13, 2205:19, 2222:22, 2254:4 pickup - 2263:21, 2264:7, 2264:8, 2264:11, 2264:14 picture - 2145:5 pictures - 2132:4 pieces - 2201:7 pile - 2075:19, 2077:10, 2078:5 pissed - 2182:24 place - 2061:18, 2061:25, 2096:16, 2099:12, 2122:13, 2126:2, 2130:15, 2132:8, 2135:15, 2164:8, 2197:8, 2216:15, 2220:22, 2221:25, 2222:1, 2231:15, 2244:10, 2264:7, 2264:15, 2269:11, 2273:19, 2276:14 places - 2164:17, 2237:16 placing - 2165:16, 2226:5 plant - 2220:16, 2220:17 planted - 2276:3 play - 2070:24, 2071:5, 2073:13, 2073:14 played - 2148:20, 2237:24, 2239:9 Played - 2058:12 playing - 2073:17, 2229:23, 2250:13 Pleasant - 2073:10 Pm - 2166:25, 2167:1, 2233:22, 2233:23, 2278:8 point - 2084:10, 2103:22, 2115:19, 2116:25, 2117:12, 2117:13, 2118:15, 2127:2, 2129:24, 2131:9, 2134:16, 2135:23, 2136:11, 2139:1, 2139:23, 2140:23, 2149:15, 2158:8, 2165:11, 2181:24, 2189:14, 2206:4, 2218:11, 2220:3, 2221:5, 2225:24, 2242:9, 2255:8, 2269:12, 2271:16, 2277:25 pointed - 2162:16, 2271:15 pointing - 2079:4, 2111:8, 2111:10, 2221:8 points - 2136:17 poked - 2212:9 Police - 2057:7, 2099:23, 2101:14, 2125:8, 2139:7, 2139:16, 2139:18, 2148:22, 2149:9, 2150:6, 2151:4, 2162:1, 2162:5, 2162:8, 2181:14, 2272:10, 2273:4, 2274:3, 2274:7, 2274:25, 2275:2, 2275:6 police - 2065:10, 2066:1, 2066:5, 2066:12, 2070:2, 2076:19, 2076:22, 2077:17, 2078:1, 2082:12, 2084:1, 2086:2, 2086:11, 2091:18, 2091:22, 2092:4, 2092:9, 2092:14, 2092:21, 2092:23, 2092:24, 2094:13, 2094:14, 2095:9, 2095:16, 2119:2, 2119:5, 2125:8, 2125:25, 2132:15, 2138:25, 2139:11, 2139:15, 2140:8, 2147:9, 2147:14, 2147:22, 2148:24, 2149:12, 2149:19, 2150:12, 2150:25, 2151:15, 2153:19, 2159:24, 2162:3, 2178:4, 2178:7, 2178:24, 2179:3, 2179:20, 2180:12, 2180:13, 2193:5, 2197:3, 2197:5, 2197:11, 2203:23, 2203:25, 2211:5, 2211:7, 2215:23, 2216:5, 2216:6, 2217:14, 2218:11, 2219:25, 2220:7, 2222:22, 2223:17, 2230:8, 2238:12, 2238:14, 2246:7, 2246:9, 2251:21, 2256:21, 2261:6, 2270:15, 2276:6 pop - 2093:15, 2097:2, 2097:4, 2103:20, 2104:1 porch - 2114:9, 2114:14, 2114:15, 2114:16 Port - 2136:24, 2141:24, 2164:15 portion - 2074:3, 2074:14, 2075:9, 2075:13, 2079:22, 2171:5 portions - 2174:4 portraying - 2063:14 posed - 2260:19, 2260:21, 2260:22 position - 2142:19, 2248:6, 2248:13, 2252:19, 2268:25 positive - 2155:3, 2202:8, 2204:4, 2204:7, 2204:10, 2204:11, 2208:21 possible - 2072:14, 2188:12, 2211:18, 2252:7, 2252:8 pot - 2132:12, 2222:3, 2222:24 power - 2163:11, 2163:17 practicing - 2164:6 praying - 2143:7 preach - 2129:19, 2129:20, 2231:20 preference - 2270:20 preliminary - 2095:17, 2119:12, 2184:6, 2236:18, 2238:19, 2240:9, 2242:4, 2271:2 preoccupied - 2209:18 prepare - 2082:24 prepared - 2100:19, 2100:21, 2228:1 preparing - 2262:12 present - 2079:21, 2105:24, 2247:15 presently - 2105:16 pressure - 2149:16, 2150:5 pressured - 2125:10, 2125:24, 2148:23, 2161:25 pressuring - 2125:15 presumed - 2165:19 pretended - 2154:10, 2199:11 pretending - 2199:18, 2200:11, 2200:19</p>	<p>pretty - 2092:5, 2095:22, 2096:3, 2107:16, 2118:1, 2126:19, 2133:20, 2138:14, 2146:24, 2160:2, 2160:24, 2180:23, 2181:21, 2183:10, 2203:16, 2205:23, 2206:3, 2208:20, 2208:25, 2209:2, 2213:25, 2236:5, 2258:14 Pretty - 2205:24 prevented - 2227:19 previous - 2168:23, 2217:7, 2241:4, 2263:17 previously - 2059:21, 2131:11, 2261:5 prime - 2255:11 principal's - 2065:10 principals's - 2064:24 prison - 2122:20 problems - 2068:11, 2092:14, 2163:12 proceed - 2059:7, 2059:12 proceeded - 2184:20 proceeding - 2124:4 Proceedings - 2055:13, 2055:24, 2058:1, 2059:1 proceedings - 2090:11, 2101:15, 2144:24, 2250:6, 2254:19, 2272:11 process - 2095:15 produced - 2084:17 product - 2080:21, 2245:19 professionally - 2214:5 professionals - 2232:7 program - 2061:21, 2163:3, 2163:9, 2234:15 prone - 2133:3 prosecution - 2255:12 prosecutor - 2187:7, 2194:14, 2194:18 protect - 2221:3 proud - 2083:19 prove - 2160:9 provide - 2100:3 provided - 2078:11, 2173:1, 2186:7, 2186:22, 2262:15, 2263:6 provides - 2077:23 providing - 2081:1, 2168:9 Province - 2279:3 public - 2135:16 pull - 2196:20, 2253:21 pulled - 2118:5, 2159:18, 2253:24 punched - 2210:4 purse - 2255:6 pursuing - 2277:24 push - 2067:14, 2241:10 pushed - 2148:24, 2149:17, 2157:4 pushing - 2132:12 put - 2064:21, 2093:8, 2098:19, 2109:17, 2110:16, 2115:4, 2120:10, 2123:14, 2133:22, 2134:4, 2149:13, 2149:22, 2163:22, 2182:25, 2215:19, 2220:14, 2222:5, 2222:20, 2223:9, 2223:18, 2236:22, 2237:19, 2239:2, 2251:13, 2269:7 puts - 2160:8 putting - 2166:9, 2218:11, 2222:3</p>	<p>Q</p>	<p>Qb - 2056:10 Qc - 2057:2, 2057:8 quality - 2191:5 quarrelling - 2192:18 Queen's - 2279:1, 2279:3, 2279:14, 2279:19 questioned - 2076:22, 2076:25, 2078:1, 2078:4, 2149:12, 2151:12, 2213:20, 2217:3, 2217:14, 2218:17, 2256:19 questioning - 2216:5, 2216:6, 2221:9, 2226:21, 2276:7 questions - 2084:20, 2084:21, 2084:22, 2084:25, 2089:4, 2091:12, 2100:16, 2101:2, 2101:3, 2101:4, 2101:9, 2107:2, 2148:19, 2153:24, 2154:3, 2169:2, 2169:3, 2169:7, 2180:5, 2188:22, 2188:23, 2224:7, 2224:15, 2229:11, 2235:9, 2255:25, 2256:21, 2259:2, 2259:11, 2260:19, 2260:22, 2261:1, 2262:3, 2262:5, 2262:9, 2263:14, 2263:20, 2268:10, 2269:7, 2269:9, 2272:1, 2272:13, 2272:18, 2275:13, 2275:20, 2275:23, 2277:16 quick - 2113:15, 2193:12 quiet - 2270:19 quite - 2062:15, 2076:8, 2087:5, 2139:24, 2172:13, 2175:25, 2195:6, 2214:25, 2215:15, 2215:21, 2217:15, 2256:18 quote - 2206:17 quoted - 2242:2 quoting - 2242:2</p>	<p>2195:5, 2195:10, 2195:14, 2195:15, 2196:6, 2225:14, 2225:15, 2225:17, 2225:23, 2227:10, 2229:17, 2237:7, 2237:16 reading - 2076:11, 2099:2, 2225:18 ready - 2059:7, 2059:11, 2104:2 real - 2097:3, 2113:15, 2113:18, 2149:22, 2223:19 realize - 2092:18, 2255:11 really - 2064:5, 2065:23, 2067:5, 2067:10, 2068:21, 2068:24, 2069:19, 2070:17, 2071:5, 2071:9, 2072:2, 2073:17, 2077:24, 2081:20, 2083:6, 2083:7, 2087:22, 2091:16, 2091:19, 2091:21, 2092:9, 2092:10, 2094:5, 2112:6, 2112:11, 2113:18, 2118:18, 2119:7, 2124:14, 2131:20, 2151:12, 2166:7, 2166:8, 2166:15, 2175:2, 2175:3, 2175:21, 2177:17, 2177:25, 2189:12, 2192:24, 2196:17, 2198:20, 2214:23, 2234:21, 2248:13, 2249:11, 2249:22, 2250:9, 2255:22, 2258:8, 2268:2, 2270:9 reason - 2099:25, 2176:24, 2230:5 reasonable - 2183:11 reasons - 2267:11 reassurance - 2145:13 reassure - 2100:5 rebellious - 2062:22 recalled - 2185:3 received - 2070:5, 2100:18, 2100:19, 2259:17, 2260:6, 2267:14, 2267:16 recently - 2163:3, 2231:11 recognize - 2109:19, 2109:21 recognized - 2092:6 recollection - 2065:14, 2065:17, 2066:4, 2074:25, 2076:1, 2081:11, 2089:8, 2089:24, 2094:14, 2096:12, 2096:14, 2096:19, 2123:2, 2123:5, 2142:19, 2156:13, 2158:25, 2173:6, 2173:17, 2176:20, 2177:2, 2185:23, 2188:2, 2199:13, 2199:16, 2200:6, 2202:14, 2213:8, 2225:19, 2253:23, 2261:3, 2265:19, 2266:9, 2266:18, 2266:23, 2269:5, 2270:13, 2271:17, 2272:16, 2273:5, 2273:24, 2274:17, 2277:14 recollections - 2064:15, 2236:15 reconvened - 2059:2, 2105:7, 2167:1, 2233:23 record - 2237:21, 2277:20 recorded - 2160:20, 2187:2, 2229:22, 2230:24, 2263:11 recorder - 2153:20, 2153:21, 2166:9</p>
--	---	-----------------	---	--



<p>recorders - 2214:6 recording - 2158:22, 2165:4, 2168:5, 2170:14 recordings - 2091:2 red - 2110:6, 2112:4, 2157:23 redirect - 2103:12 Redirect - 2275:22 refer - 2262:13 reference - 2084:9, 2084:16, 2099:18, 2230:10, 2238:19, 2239:1, 2239:7, 2246:18, 2261:12, 2271:3, 2271:22, 2276:23 references - 2236:18, 2236:20 referred - 2091:25, 2262:13, 2265:18, 2265:22, 2274:9, 2276:20 referring - 2092:16, 2120:13, 2186:6, 2269:11 refers - 2228:7 refresh - 2193:20, 2193:23, 2193:24, 2263:16, 2272:20, 2274:12 regarding - 2263:21, 2276:22 Regina - 2086:2, 2096:24, 2103:18, 2118:10, 2131:23, 2131:24, 2132:1, 2132:9, 2132:21, 2133:1, 2133:2, 2133:8, 2133:18, 2133:19, 2134:2, 2139:11, 2139:15, 2216:3, 2216:4, 2216:15, 2217:9, 2217:10, 2217:16, 2218:1, 2218:2, 2221:19, 2224:1, 2224:4, 2276:6 relate - 2211:20 related - 2080:5, 2144:5, 2153:1, 2158:8, 2172:8, 2178:3 relates - 2098:24, 2101:17 relating - 2215:3, 2259:12 relation - 2072:23 relationship - 2063:5, 2085:4, 2106:7, 2162:7 relative - 2273:3 relatively - 2089:10 release - 2241:2 released - 2069:3 reliable - 2157:19, 2179:14 Religious - 2231:20 religious - 2129:11, 2131:14, 2232:4, 2265:7 rely - 2099:10 remember - 2060:23, 2061:14, 2063:4, 2063:9, 2063:11, 2063:18, 2064:18, 2064:20, 2065:5, 2065:13, 2065:21, 2065:23, 2066:8, 2066:10, 2066:14, 2066:16, 2066:20, 2067:18, 2068:14, 2068:16, 2069:20, 2069:22, 2069:24, 2070:18, 2070:20, 2070:23, 2071:4, 2071:6, 2071:7, 2071:9, 2071:23, 2073:18, 2082:6, 2083:13, 2083:20, 2087:21, 2089:23, 2093:14, 2095:3, 2096:1, 2096:22, 2102:12, 2103:25, 2104:5, 2108:2, 2108:13, 2108:16,</p>	<p>2108:25, 2111:20, 2111:23, 2112:6, 2112:7, 2112:20, 2113:16, 2115:24, 2118:4, 2122:9, 2122:10, 2122:14, 2122:15, 2123:12, 2123:13, 2123:15, 2123:16, 2124:15, 2124:16, 2125:13, 2125:20, 2129:9, 2129:18, 2129:21, 2131:17, 2131:21, 2134:22, 2135:19, 2138:15, 2142:13, 2142:14, 2144:10, 2145:21, 2146:6, 2146:9, 2147:5, 2147:6, 2147:17, 2151:24, 2152:11, 2152:13, 2153:20, 2153:21, 2155:5, 2155:25, 2156:1, 2156:12, 2156:24, 2156:25, 2157:9, 2157:12, 2157:15, 2157:23, 2158:5, 2159:9, 2164:21, 2165:2, 2165:15, 2166:3, 2166:7, 2166:8, 2167:17, 2168:6, 2168:9, 2168:18, 2169:9, 2170:11, 2170:21, 2170:22, 2171:12, 2177:25, 2180:3, 2180:6, 2181:4, 2181:9, 2181:13, 2183:1, 2183:2, 2185:15, 2185:25, 2187:13, 2187:22, 2187:25, 2188:1, 2188:18, 2188:19, 2193:15, 2193:17, 2194:12, 2196:17, 2197:1, 2197:7, 2198:21, 2200:1, 2200:15, 2200:22, 2200:25, 2201:6, 2201:23, 2202:1, 2202:2, 2202:12, 2202:20, 2204:9, 2204:22, 2204:25, 2205:3, 2205:9, 2205:12, 2205:17, 2205:18, 2206:14, 2206:16, 2207:6, 2207:8, 2207:10, 2207:14, 2207:22, 2208:7, 2209:6, 2210:25, 2211:22, 2211:23, 2211:25, 2212:1, 2212:6, 2213:2, 2214:18, 2223:24, 2225:18, 2226:4, 2226:19, 2227:1, 2227:4, 2227:17, 2229:13, 2229:14, 2231:6, 2232:13, 2233:7, 2235:3, 2236:1, 2238:24, 2239:3, 2239:12, 2239:15, 2239:17, 2239:19, 2239:25, 2241:7, 2241:8, 2241:9, 2241:13, 2241:16, 2242:16, 2242:21, 2242:24, 2243:7, 2243:22, 2244:3, 2244:6, 2244:8, 2244:9, 2244:10, 2244:17, 2245:8, 2246:11, 2247:2, 2247:12, 2247:23, 2248:1, 2248:2, 2248:10, 2248:13, 2248:24, 2249:14, 2249:19, 2249:24, 2250:21, 2252:21, 2252:25, 2253:1, 2253:2, 2253:3, 2253:15, 2255:18, 2257:25, 2261:6, 2269:23, 2270:9, 2274:11 remembered - 2071:15, 2089:19, 2152:10, 2187:21, 2199:18, 2200:6, 2206:13, 2207:19, 2213:13, 2215:4, 2227:7, 2227:20, 2245:11, 2245:12</p>	<p>remembering - 2214:20 remind - 2166:19, 2188:24 Renaissance - 2168:15 rented - 2146:10 renters - 2075:22 renting - 2070:7 repeatedly - 2265:19 repeating - 2258:5 rephrase - 2137:17 replied - 2108:12, 2155:15, 2277:8 report - 2084:16, 2100:11, 2100:19, 2100:21, 2178:7, 2228:1, 2228:5, 2228:9 reported - 2232:11 Reporter - 2149:2, 2150:1, 2279:14, 2279:19 reporter - 2242:9 Reporters - 2056:10, 2279:3 Reporters' - 2279:1 reports - 2149:1, 2228:17 represent - 2101:14, 2264:21, 2272:10 representing - 2090:11, 2188:25, 2259:8 request - 2084:14 required - 2076:22 requiring - 2260:7 reside - 2105:21, 2152:20 resided - 2106:24, 2168:1 residence - 2076:13, 2097:23, 2098:9, 2229:4, 2236:24 residing - 2060:9, 2107:7, 2165:1, 2168:19 respect - 2089:11, 2117:20, 2120:7, 2173:21, 2232:5, 2236:8, 2249:9, 2263:20, 2272:13 respecting - 2069:16, 2099:8, 2099:19 respects - 2089:10 respond - 2065:1 response - 2228:19, 2228:21, 2238:22 responsible - 2189:7, 2191:10 rest - 2123:16, 2159:23, 2255:19 result - 2099:6, 2100:13, 2100:15, 2100:22, 2255:6, 2260:2, 2270:5, 2274:7 resulting - 2097:16 return - 2103:17, 2117:5, 2117:6 returned - 2118:8, 2118:9, 2164:20, 2165:14 review - 2153:9 reviewed - 2186:11, 2262:19 reward - 2070:6, 2077:18, 2077:20, 2149:6 rich - 2062:6 Richard - 2101:13, 2272:9 Rick - 2057:7, 2060:20, 2063:20, 2080:2, 2097:1, 2119:21 Ridge - 2099:11 riding - 2254:20 ripped - 2156:6, 2157:22, 2229:2, 2229:10, 2229:12, 2229:13 ripping - 2236:2</p>	<p>Rita - 2058:3, 2059:12, 2059:14, 2059:16, 2059:21, 2060:6, 2061:14, 2063:8, 2064:11, 2064:14, 2065:7, 2065:21, 2066:1, 2067:3, 2067:14, 2069:4, 2069:16, 2070:7, 2071:20, 2072:8, 2072:18, 2073:2, 2073:20, 2074:4, 2074:5, 2074:7, 2074:11, 2074:17, 2074:23, 2075:9, 2075:14, 2075:15, 2075:16, 2075:19, 2076:1, 2076:5, 2076:12, 2076:14, 2076:16, 2077:12, 2077:15, 2077:23, 2078:7, 2078:13, 2078:17, 2079:17, 2079:23, 2080:1, 2080:5, 2080:11, 2080:16, 2080:18, 2081:1, 2081:19, 2081:21, 2083:8, 2084:8, 2084:20, 2099:7, 2099:13, 2099:23, 2103:16, 2107:12 Rita's - 2075:18, 2079:6 road - 2136:1, 2240:4 Robert - 2057:5 Rochelle - 2057:9 role - 2062:18 rolled - 2245:8, 2245:15, 2252:11 rolling - 2113:24 Roman - 2129:11, 2252:3, 2265:7 Ron - 2093:24, 2095:10, 2096:23, 2212:14, 2212:18, 2212:24, 2213:12, 2213:15, 2213:18, 2238:16 Ron's - 2238:15 room - 2064:22, 2074:20, 2075:16, 2075:17, 2075:18, 2079:12, 2110:4, 2110:16, 2110:20, 2164:6, 2164:7, 2164:9, 2212:15, 2212:17, 2213:7, 2244:19 rooms - 2113:11 rosary - 2129:12 roughed - 2132:13, 2216:16, 2216:23, 2216:26, 2122:6, 2173:24, 2228:5 route - 2253:12, 2255:4, 2264:12 rowdy - 2175:8 Rpr - 2056:11, 2279:2, 2279:17 ruined - 2149:3 run - 2078:23, 2103:19 Rutherford - 2079:25, 2080:11, 2080:14, 2080:18, 2080:22 Rutherford's - 2080:16</p>	<p>2130:18, 2130:19, 2135:17, 2138:11, 2138:12, 2139:7, 2139:15, 2139:18, 2140:15, 2148:22, 2149:7, 2149:9, 2150:5, 2151:4, 2152:4, 2154:8, 2160:16, 2161:25, 2164:20, 2178:7, 2181:14, 2217:17, 2217:18, 2218:15, 2221:23, 2272:10, 2273:4, 2274:3, 2274:7, 2274:25, 2275:2, 2275:6 satisfied - 2089:24, 2100:18 save - 2134:3, 2223:8, 2223:13 Save - 2223:15 saving - 2181:7, 2181:8 saw - 2064:25, 2092:2, 2092:22, 2093:1, 2113:23, 2114:23, 2114:25, 2115:3, 2115:13, 2117:6, 2124:12, 2126:20, 2131:17, 2131:21, 2138:15, 2139:19, 2141:7, 2141:21, 2142:25, 2143:11, 2143:18, 2144:2, 2145:2, 2145:5, 2145:18, 2147:19, 2147:24, 2150:2, 2153:3, 2156:4, 2156:15, 2159:15, 2163:3, 2163:6, 2165:13, 2173:7, 2173:23, 2187:13, 2187:15, 2190:8, 2195:19, 2195:22, 2196:3, 2202:18, 2204:12, 2204:15, 2205:22, 2213:12, 2223:3, 2242:10, 2243:7, 2243:12, 2248:11, 2251:15, 2252:23, 2255:13, 2255:15, 2255:19, 2258:21, 2260:18, 2268:15, 2269:5, 2269:21, 2270:4, 2270:11, 2270:17, 2271:17, 2273:24, 2275:8 scared - 2080:4, 2218:18 scene - 2254:22 scheduled - 2205:8, 2253:10 schizophrenic - 2232:9 School - 2061:10 school - 2061:22, 2063:20, 2066:12, 2073:11, 2073:15, 2076:17, 2076:19, 2087:1, 2087:20, 2087:22, 2089:12, 2093:13, 2097:6, 2102:3, 2108:25, 2109:1, 2109:2, 2109:3, 2154:9, 2169:14, 2190:20, 2190:24, 2191:1, 2198:5, 2198:7, 2198:14, 2198:16, 2198:22, 2198:23, 2198:24, 2198:25, 2199:2, 2199:5, 2199:6, 2200:12, 2250:14 schooling - 2087:7 science - 2147:2 scream - 2185:11 screaming - 2185:17, 2227:12 screen - 2073:20, 2110:16 screw - 2208:19 screwed - 2108:12, 2112:15, 2155:16, 2169:19, 2169:21, 2175:5, 2206:17, 2207:15, 2209:14, 2210:7, 2211:8, 2242:6, 2244:23, 2265:24,</p>
S				
<p>safe - 2061:18, 2096:3, 2096:15 safety - 2064:19, 2064:20, 2064:21 Sandra - 2056:5 Saskatchewan - 2055:18, 2057:4, 2060:1, 2076:13, 2168:1, 2279:4 Saskatoon - 2055:18, 2057:7, 2060:4, 2080:8, 2096:3, 2096:10, 2099:22, 2101:14, 2105:21, 2122:17, 2122:18, 2125:8,</p>				



<p>2266:15, 2277:9 screwing - 2208:4, 2208:11, 2210:23, 2271:23 Scroll - 2163:1, 2181:15 searched - 2132:16, 2222:23, 2223:18 second - 2099:10, 2110:5, 2150:4, 2159:19, 2176:15, 2178:13, 2178:14, 2179:8, 2194:22, 2201:4, 2212:22, 2225:9, 2268:16, 2276:19 seconds - 2174:21 secretary - 2080:12 Security - 2056:12 see - 2064:5, 2066:5, 2067:24, 2068:23, 2069:5, 2069:7, 2069:12, 2073:20, 2073:23, 2076:5, 2101:18, 2109:10, 2110:22, 2113:2, 2114:10, 2115:12, 2118:7, 2138:10, 2142:9, 2146:21, 2147:4, 2147:23, 2152:3, 2152:12, 2152:13, 2157:6, 2158:18, 2159:2, 2159:3, 2159:18, 2168:14, 2170:18, 2174:6, 2174:8, 2174:15, 2175:4, 2183:7, 2186:5, 2186:7, 2193:11, 2193:12, 2196:4, 2196:8, 2197:22, 2204:5, 2206:21, 2213:18, 2226:1, 2226:23, 2233:10, 2240:16, 2245:16, 2246:13, 2258:4, 2258:17, 2261:23 seeing - 2122:9, 2122:10, 2123:5, 2123:15, 2124:16, 2131:17, 2143:4, 2146:17, 2154:25, 2156:14, 2157:15, 2157:23, 2158:3, 2183:2, 2203:13, 2205:9, 2205:12, 2229:3, 2253:2 Seeing - 2203:7 seek - 2163:7 seem - 2093:20, 2141:5, 2191:15, 2209:18, 2229:16 selling - 2080:18 send - 2096:25 sense - 2228:10, 2266:6 sent - 2098:23 separated - 2161:9 September - 2230:9 Serge - 2057:6 Sergeant - 2151:17, 2151:23, 2151:25, 2156:12, 2156:16, 2157:11, 2158:23, 2159:1, 2165:10, 2165:24, 2166:3, 2167:6, 2181:5, 2186:3, 2194:2, 2194:24, 2195:2, 2195:17, 2196:13, 2196:23, 2197:25, 2199:11, 2199:14, 2199:17, 2203:3, 2203:17, 2213:20, 2225:16, 2225:24, 2227:10, 2228:1, 2228:6, 2228:10, 2228:16, 2229:5, 2232:22, 2233:4, 2251:23, 2255:10, 2262:16, 2277:12, 2277:25 sergeant - 2195:24 series - 2272:18 serious - 2092:5, 2266:7 service - 2237:2 Service - 2057:7, 2101:14, 2272:10, 2273:4,</p>	<p>2274:3, 2274:7, 2274:25, 2275:2, 2275:6 set - 2114:11, 2114:19, 2250:23, 2262:8, 2276:9 Seven - 2130:8 several - 2080:8, 2224:15 sex - 2210:3 sexual - 2096:8 share - 2067:15, 2069:15, 2083:8, 2128:21, 2151:10, 2218:7, 2218:10 shared - 2086:15, 2125:3, 2126:9, 2150:12, 2216:1 shaved - 2138:19, 2139:20, 2147:11, 2163:7 sheep - 2203:12 sheltered - 2119:15, 2131:19 Sheraton - 2055:17 sheriff's - 2190:7 shirt - 2169:25, 2171:19, 2175:2, 2184:19, 2207:5, 2220:22, 2245:15 shit - 2175:11 shock - 2065:3 shocked - 2187:24 shooter - 2160:13, 2191:3 shopping - 2063:21 short - 2076:8 shorthand - 2279:5 shortly - 2211:5, 2217:10, 2236:23, 2274:20 shorts - 2202:8 Shorty - 2090:13, 2090:17 shot - 2080:6, 2082:6 show - 2078:15, 2112:22, 2142:2, 2148:17, 2148:18, 2166:4, 2184:10, 2184:16, 2277:2 showed - 2075:21, 2133:24 shown - 2273:18 shut - 2119:17, 2121:6, 2207:2 shy - 2107:4 siblings - 2060:15, 2060:18, 2103:19, 2107:9, 2120:21, 2146:12, 2179:24, 2199:22 sic - 2224:15, 2236:20, 2266:23 sick - 2154:10, 2169:14, 2196:1, 2198:12, 2198:13, 2198:17, 2198:19, 2199:11, 2199:18, 2200:11, 2200:19, 2230:19, 2250:13 sickness - 2129:1 side - 2095:1, 2110:4, 2160:13, 2247:20, 2263:23, 2264:7, 2264:9 sign - 2143:8, 2166:13, 2196:15, 2196:17 signature - 2151:23 signed - 2166:16, 2195:6, 2195:10, 2226:13 significance - 2145:10, 2265:7 significant - 2228:8, 2228:11, 2265:7 signs - 2064:8 similar - 2256:18 similarity - 2258:14 similarly - 2268:24 simple - 2087:15,</p>	<p>2087:17, 2087:23, 2087:25 simply - 2095:21, 2268:14 Sinclair - 2187:8, 2187:10, 2205:7, 2260:23, 2262:6 single - 2197:12, 2197:13, 2210:22 sister - 2059:23, 2061:2, 2074:17, 2076:14, 2099:6, 2107:12, 2108:17, 2108:20, 2116:20, 2154:16, 2185:10, 2185:16, 2237:12, 2244:7, 2271:4 sister's - 2171:3 sitting - 2055:16, 2109:12, 2109:14, 2110:19, 2154:11, 2200:20 situation - 2095:18, 2270:10 six - 2097:25, 2098:7, 2111:10, 2211:6, 2211:20, 2220:10, 2257:7, 2257:8, 2258:3 sixth - 2107:4 skating - 2061:24 sketch - 2078:17, 2078:19 skill - 2279:6 skim - 2193:25 skimmed - 2193:1, 2193:25 sky - 2143:8, 2144:3, 2145:5, 2176:3, 2177:14 slaughter - 2257:16 slaughtered - 2257:14 sleep - 2075:24, 2219:11 sleeping - 2060:25, 2074:9, 2108:18, 2108:20, 2116:21, 2219:16 slim - 2213:1 small - 2165:3 smaller - 2061:3 smart - 2087:22 smarts - 2087:19 smiled - 2210:5 smoke - 2222:4 smoking - 2132:11, 2222:3 snapped - 2236:15 socks - 2264:25 sold - 2080:1, 2081:6 solely - 2098:15 someone - 2074:9, 2075:23, 2094:20, 2115:22, 2117:16, 2151:25, 2154:14, 2172:22, 2197:3, 2202:2, 2213:13, 2218:24, 2249:9, 2270:5 sometime - 2072:3, 2143:17, 2145:1, 2220:24, 2221:14, 2238:6 Sometime - 2154:13, 2157:2, 2159:13 sometimes - 2064:2, 2064:3, 2064:4, 2066:13, 2086:23, 2199:6, 2257:15 somewhat - 2087:15, 2189:11, 2270:24 somewhere - 2121:22, 2230:4, 2230:17, 2237:7, 2276:17 somewheres - 2122:15, 2143:25, 2175:20 Son - 2134:3 son - 2274:2, 2274:9</p>	<p>soon - 2182:10, 2208:3, 2222:21, 2270:21 sore - 2134:22 sorry - 2075:10, 2079:4, 2093:18, 2098:6, 2108:19, 2114:13, 2121:11, 2121:23, 2126:16, 2128:5, 2133:6, 2137:17, 2140:20, 2159:9, 2190:7, 2191:8, 2198:17, 2201:21, 2212:13, 2226:19, 2246:19, 2253:7, 2257:9, 2267:1 Sorry - 2128:6, 2156:9, 2191:9, 2192:11, 2212:18, 2225:11, 2245:25 sort - 2062:23, 2063:5, 2067:12, 2090:18, 2091:5, 2092:3, 2095:1, 2100:6, 2111:10, 2130:9, 2215:13, 2268:14, 2268:20 sound - 2121:24, 2168:15, 2184:12, 2227:2, 2266:15 sounded - 2140:12, 2176:5 sounds - 2144:17, 2150:14, 2155:10, 2157:12, 2170:25, 2173:3, 2174:1, 2175:13, 2179:12, 2185:5, 2192:6 sources - 2267:17 south - 2253:13, 2263:22, 2264:8 South - 2060:11, 2106:25, 2109:25, 2154:8, 2164:23 space - 2071:3, 2098:17 speaking - 2066:9, 2092:25, 2095:15, 2100:22, 2189:23, 2197:10, 2240:25, 2271:9 speaks - 2075:3 specific - 2102:2, 2102:21, 2275:5 specifically - 2102:24, 2171:13, 2172:9, 2254:21, 2259:12, 2272:17, 2272:23, 2273:7 specify - 2225:25 spend - 2085:23, 2106:12 spent - 2071:16, 2085:21, 2087:5, 2087:8, 2189:6, 2189:10, 2228:14 spin - 2237:9 spit - 2149:25 spitting - 2149:23 spoken - 2265:17, 2265:24 spot - 2122:16 spotty - 2244:14 spray - 2133:23, 2222:6 sprayed - 2133:22 spring - 2272:24 springtime - 2072:5, 2073:14 St - 2061:10, 2064:23, 2073:11, 2097:2 stable - 2160:10, 2232:23 Staff - 2056:1, 2056:8 stain - 2256:25 stained - 2074:20 stains - 2157:25 stairs - 2064:23, 2075:16, 2114:11, 2114:19, 2174:11, 2174:17, 2207:4 stand - 2149:15, 2167:3,</p>	<p>2183:19, 2184:16, 2195:4 standing - 2206:24, 2207:3, 2242:12, 2251:15 Star - 2135:17 star - 2149:21 Star-phenix - 2135:17 start - 2082:21, 2104:24, 2124:10, 2129:3, 2130:23, 2235:3, 2235:4, 2253:20 started - 2061:21, 2121:8, 2124:10, 2125:12, 2127:7, 2128:9, 2130:10, 2132:11, 2142:5, 2142:7, 2149:23, 2172:23, 2172:24, 2175:21, 2176:15, 2177:19, 2178:16, 2222:3, 2231:4, 2234:10 starting - 2063:20, 2185:13 starts - 2225:2 state - 2163:21, 2171:24 statement - 2125:10, 2149:11, 2150:16, 2150:17, 2150:19, 2151:20, 2152:10, 2152:11, 2152:18, 2152:25, 2153:5, 2154:4, 2154:19, 2158:9, 2159:12, 2160:20, 2162:10, 2163:14, 2164:13, 2165:9, 2166:4, 2166:5, 2167:5, 2168:8, 2170:17, 2172:4, 2173:1, 2178:21, 2179:7, 2181:2, 2181:22, 2183:21, 2186:3, 2186:6, 2186:11, 2186:19, 2188:20, 2194:21, 2194:25, 2195:2, 2196:6, 2196:7, 2196:8, 2196:13, 2196:20, 2199:10, 2199:15, 2200:5, 2200:18, 2204:6, 2204:17, 2206:9, 2210:17, 2210:18, 2224:16, 2224:20, 2224:22, 2224:25, 2225:2, 2225:3, 2225:7, 2225:14, 2225:15, 2227:10, 2229:20, 2229:22, 2231:2, 2233:25, 2234:3, 2238:12, 2243:2, 2243:5, 2243:6, 2243:9, 2243:12, 2243:20, 2243:23, 2244:21, 2245:1, 2245:4, 2245:5, 2246:21, 2255:10, 2262:19, 2263:3, 2263:6, 2265:18, 2274:22, 2276:21, 2276:23, 2277:2, 2277:20 statements - 2138:1, 2186:22, 2192:23, 2193:2, 2193:4, 2194:8, 2206:5, 2206:6, 2261:5, 2261:8, 2261:12, 2261:13, 2261:19, 2262:14, 2263:17 stating - 2112:14 station - 2082:12, 2179:3, 2237:2, 2237:19 stations - 2180:20 stay - 2068:21, 2071:3, 2074:18, 2075:15, 2154:11, 2158:12, 2199:12, 2200:19, 2221:25, 2222:1 stayed - 2079:8, 2106:19, 2169:13, 2198:13, 2202:6 staying - 2216:20 Staying - 2235:23 Steak - 2160:14, 2191:3 sticks - 2066:15</p>
--	---	---	--	--



<p>still - 2063:2, 2071:17, 2072:15, 2093:13, 2097:18, 2098:12, 2150:2, 2181:25, 2182:17, 2191:14, 2205:22, 2246:25, 2257:13, 2262:8, 2271:16</p> <p>stomach - 2171:21</p> <p>stoned - 2138:19, 2139:22, 2163:6</p> <p>stop - 2068:15, 2068:23, 2156:10</p> <p>Stopped - 2058:13</p> <p>stopped - 2150:7</p> <p>stories - 2132:5, 2133:3, 2138:14, 2161:14, 2172:24, 2210:6, 2236:16</p> <p>story - 2091:19, 2103:18, 2132:17, 2132:25, 2133:9, 2133:18, 2134:6, 2134:10, 2136:4, 2138:16, 2142:7, 2142:12, 2160:3, 2161:4, 2169:19, 2176:3, 2176:4, 2182:5, 2182:7, 2183:13, 2222:8, 2223:25, 2234:12, 2234:19, 2235:17, 2235:21, 2236:17, 2236:21, 2238:8, 2239:10, 2241:23, 2245:16, 2252:10</p> <p>straight - 2250:23</p> <p>strategy - 2258:9</p> <p>Street - 2110:10, 2157:6, 2254:6, 2263:23, 2264:1, 2264:3, 2264:7</p> <p>street - 2061:12, 2073:9, 2157:5, 2264:9</p> <p>streets - 2096:17</p> <p>stress - 2062:25, 2067:7, 2095:5, 2095:8, 2095:12, 2129:3, 2215:21</p> <p>stressful - 2095:18, 2095:20</p> <p>strictly - 2217:15</p> <p>strip - 2222:23, 2223:18</p> <p>strip-searched - 2222:23, 2223:18</p> <p>stronger - 2212:2</p> <p>stuck - 2222:5</p> <p>stuff - 2113:24, 2137:24, 2147:1, 2151:10, 2166:11, 2175:23, 2175:25, 2177:14, 2181:4, 2196:2, 2215:13, 2221:15, 2237:7, 2237:17, 2248:21</p> <p>Stv - 2180:20</p> <p>style - 2062:23</p> <p>Subject - 2076:14</p> <p>subjected - 2149:9</p> <p>subpoena - 2259:17, 2260:6</p> <p>subpoenaed - 2259:14, 2260:14</p> <p>subsequent - 2266:21</p> <p>suffered - 2095:6</p> <p>suggest - 2173:5, 2204:20, 2204:23, 2205:8, 2205:19, 2211:16, 2216:21, 2226:15, 2236:17, 2253:9, 2270:11</p> <p>suggested - 2080:18, 2265:20, 2267:17, 2277:1</p> <p>suggesting - 2095:23, 2226:24, 2227:1, 2227:9, 2268:19, 2268:24, 2270:5</p> <p>suggestion - 2163:13, 2163:24, 2261:11, 2270:2, 2275:1, 2275:7</p> <p>suggestions - 2272:21, 2274:13</p>	<p>suitcase - 2113:19, 2239:3, 2240:4</p> <p>suite - 2164:22, 2164:24</p> <p>suits - 2216:16, 2216:18, 2216:19, 2222:9, 2222:10</p> <p>summer - 2073:15, 2242:5, 2272:24, 2274:22</p> <p>Super - 2160:12</p> <p>supper - 2097:6</p> <p>Supper - 2067:21</p> <p>support - 2138:9, 2142:19</p> <p>Support - 2056:8</p> <p>supported - 2140:18, 2142:15, 2142:24</p> <p>supposed - 2198:3, 2198:4, 2198:6, 2250:14</p> <p>supposedly - 2213:11</p> <p>Supreme - 2141:15</p> <p>surely - 2219:25, 2223:13, 2223:15, 2223:16</p> <p>surprise - 2094:4</p> <p>surprised - 2182:6</p> <p>surrounding - 2099:1, 2268:21</p> <p>suspect - 2217:11, 2217:13, 2218:12, 2219:19, 2219:23, 2220:1, 2220:2</p> <p>suspected - 2132:23</p> <p>suspicious - 2099:24</p> <p>sweating - 2164:7</p> <p>sworn - 2059:14, 2105:11</p> <p>sympathetic - 2215:16, 2215:18</p> <p>sympathy - 2163:8</p>	<p>2196:18, 2196:19, 2204:19, 2204:20, 2206:2, 2214:1, 2234:1, 2236:1, 2246:24, 2256:22, 2256:23, 2263:9</p> <p>ten - 2060:8, 2116:19, 2160:3</p> <p>tenants - 2070:10</p> <p>terms - 2098:11, 2099:15, 2190:24, 2217:10, 2259:21</p> <p>terribly - 2203:5, 2228:11</p> <p>testified - 2183:23, 2184:5, 2184:12, 2192:7, 2192:20, 2192:22, 2194:8, 2230:9, 2266:1</p> <p>testify - 2059:18, 2067:1, 2076:23, 2078:2, 2105:14, 2119:12</p> <p>testifying - 2095:16, 2119:21, 2162:15, 2193:13, 2231:6, 2261:9, 2262:12</p> <p>testimony - 2066:18, 2137:7, 2137:8, 2141:1, 2149:6, 2181:2, 2266:24, 2271:16</p> <p>Testimony - 2055:15</p> <p>themselves - 2188:25</p> <p>thereafter - 2211:5, 2217:10</p> <p>thighs - 2111:12, 2111:13</p> <p>thinking - 2072:3, 2072:4, 2081:7, 2098:6, 2104:14, 2122:22, 2141:22, 2221:8, 2264:4</p> <p>thinks - 2068:2, 2240:20</p> <p>Thirteen - 2188:5</p> <p>this'd - 2175:19</p> <p>thoroughly - 2195:3, 2195:6</p> <p>thoughts - 2129:4, 2210:12</p> <p>threatened - 2189:15</p> <p>threats - 2149:16</p> <p>three - 2098:7, 2115:15, 2129:19, 2129:21, 2134:21, 2144:6, 2164:5, 2164:17, 2164:20, 2181:10, 2231:21, 2231:22, 2234:24</p> <p>Three - 2107:6, 2107:7</p> <p>threw - 2165:19, 2226:6</p> <p>throughout - 2106:9, 2259:22</p> <p>tie - 2251:5</p> <p>time-wise - 2141:14</p> <p>timing - 2176:20, 2238:5, 2263:21, 2278:4</p> <p>today - 2089:25, 2100:10, 2158:25, 2176:21, 2181:25, 2182:16, 2182:17, 2188:1, 2217:6, 2231:3, 2263:21, 2271:16</p> <p>toffee - 2063:25</p> <p>together - 2063:7, 2073:13, 2085:13, 2085:21, 2085:22, 2085:23, 2106:12, 2136:16, 2136:18, 2138:15, 2146:14</p> <p>togethers - 2069:14</p> <p>Toll - 2082:9</p> <p>tomorrow - 2278:7</p> <p>tones - 2131:14</p> <p>took - 2063:21, 2096:16, 2099:12, 2126:2, 2146:23,</p>	<p>2177:24, 2190:11, 2190:12, 2190:13, 2195:5, 2252:10, 2264:7, 2264:14, 2269:11, 2273:18</p> <p>top - 2076:5, 2076:11, 2080:10, 2168:14, 2174:11, 2186:6, 2188:9, 2234:7, 2253:19, 2261:24</p> <p>topic - 2172:20</p> <p>torture - 2149:14, 2150:11</p> <p>touch - 2110:15</p> <p>tow - 2237:13, 2237:16</p> <p>toward - 2260:3</p> <p>towards - 2114:25, 2115:14, 2132:6, 2217:19</p> <p>towed - 2237:1</p> <p>town - 2065:19, 2134:5, 2223:10</p> <p>transcribed - 2226:24</p> <p>Transcript - 2055:13, 2059:1</p> <p>transcript - 2168:10, 2184:9, 2240:17, 2261:22</p> <p>transcription - 2279:5</p> <p>transmission - 2237:10</p> <p>trap - 2129:21</p> <p>travelled - 2107:14</p> <p>treat - 2097:3</p> <p>treated - 2139:7, 2150:24, 2220:9</p> <p>treatment - 2086:10, 2129:7, 2140:7, 2147:9, 2147:13, 2147:22, 2149:10</p> <p>treatments - 2150:2</p> <p>trial - 2066:18, 2067:4, 2067:12, 2069:18, 2095:17, 2099:21, 2109:17, 2119:13, 2129:1, 2143:23, 2144:2, 2148:24, 2149:5, 2152:12, 2173:14, 2183:24, 2184:5, 2184:7, 2185:21, 2185:25, 2189:16, 2192:7, 2192:20, 2193:14, 2194:13, 2196:12, 2204:24, 2205:6, 2205:7, 2230:10, 2230:15, 2233:1, 2236:21, 2239:1, 2251:9, 2253:4, 2253:8, 2254:17, 2255:15, 2255:20, 2256:12, 2257:9, 2259:13, 2259:14, 2260:1, 2260:13, 2260:17, 2260:25, 2261:9, 2261:14, 2261:22, 2262:2, 2263:18, 2266:24</p> <p>tried - 2119:16, 2185:1, 2220:14</p> <p>trigger - 2095:6</p> <p>triggered - 2067:8, 2095:5</p> <p>trip - 2065:18, 2094:10, 2103:17, 2118:3, 2118:13, 2126:14, 2126:22, 2131:23, 2131:25, 2132:21, 2132:25, 2133:8, 2133:19, 2134:17, 2134:18, 2135:7, 2135:8, 2136:8, 2177:15, 2240:4</p> <p>trips - 2131:22</p> <p>trouble - 2071:4, 2087:7, 2088:1, 2141:9, 2160:13, 2191:3, 2233:2, 2246:18</p> <p>trouble-shooter - 2160:13, 2191:3</p> <p>troubles - 2083:4, 2091:16</p> <p>truck - 2115:2, 2115:15, 2123:15, 2204:13,</p>	<p>2204:16, 2204:22, 2204:24, 2204:25, 2205:1, 2205:3, 2205:8, 2205:9, 2205:11, 2205:12, 2205:22, 2226:8, 2237:13, 2237:16, 2252:23, 2253:10, 2253:22, 2254:21</p> <p>trucks - 2205:13</p> <p>true - 2078:13, 2151:1, 2163:14, 2163:15, 2165:6, 2166:1, 2168:25, 2189:17, 2215:14, 2279:5</p> <p>True - 2165:7</p> <p>truth - 2093:4, 2093:6, 2133:12, 2136:3, 2198:14, 2241:8</p> <p>truthful - 2169:4, 2173:1, 2175:12, 2175:13, 2181:22, 2181:25, 2183:21, 2185:22, 2188:6, 2188:20</p> <p>truthfully - 2169:8</p> <p>try - 2062:7, 2068:9, 2080:18, 2088:17, 2088:22, 2126:6, 2235:25, 2241:10, 2272:20, 2274:12</p> <p>trying - 2093:17, 2093:21, 2094:2, 2144:19, 2182:20, 2187:12, 2203:23, 2210:3, 2220:15, 2220:17, 2220:20, 2276:9</p> <p>turn - 2064:11, 2073:1, 2073:19, 2073:25, 2074:2, 2074:13, 2075:8, 2076:4, 2079:17, 2094:6, 2210:20</p> <p>turned - 2210:5</p> <p>Tv - 2109:14, 2138:18, 2138:19, 2141:5, 2142:9, 2153:18, 2154:12, 2163:3, 2163:6, 2180:20, 2182:10, 2184:24, 2200:21, 2200:25, 2202:24, 2208:12, 2219:14</p> <p>twenty - 2183:11</p> <p>twice - 2147:24, 2162:4, 2181:10, 2212:23</p> <p>two - 2065:9, 2066:12, 2082:5, 2085:4, 2085:17, 2097:1, 2100:16, 2114:12, 2114:19, 2115:15, 2125:3, 2132:10, 2132:11, 2152:6, 2157:6, 2158:19, 2164:15, 2178:13, 2212:5, 2216:8, 2222:2, 2222:12, 2222:14, 2225:10, 2229:11, 2234:11, 2268:14, 2275:23</p> <p>Two - 2150:6</p> <p>type - 2089:18, 2183:17</p> <p>typed - 2151:20, 2151:22, 2196:9, 2226:11, 2226:12, 2226:15, 2277:20, 2277:22</p> <p>types - 2151:9</p>
T				
<p>table - 2105:10, 2166:9</p> <p>talks - 2167:24, 2168:4, 2170:17, 2176:10, 2182:3</p> <p>Tammy - 2070:11, 2070:14, 2070:19, 2077:8</p> <p>tape - 2091:2, 2153:20, 2153:21, 2166:9, 2168:5, 2214:5, 2237:23, 2239:9, 2240:15</p> <p>tattered - 2186:16, 2229:10, 2229:12, 2229:13, 2262:25</p> <p>taught - 2106:10, 2173:20, 2198:8</p> <p>Tdr - 2057:5</p> <p>teacher - 2199:4, 2230:1</p> <p>Technician - 2056:13</p> <p>teen - 2107:22</p> <p>teen-aged - 2107:22</p> <p>teenager - 2241:25</p> <p>television - 2139:19, 2141:7, 2141:21, 2147:11, 2147:19, 2147:21, 2182:3, 2234:15, 2273:22</p> <p>teller - 2133:9</p> <p>Templeton - 2167:10, 2169:11, 2171:7, 2171:12, 2171:16, 2171:20, 2171:24, 2172:7, 2172:8, 2173:9, 2174:3, 2174:6, 2174:13, 2174:16, 2174:19, 2174:23, 2175:15, 2175:18, 2176:8, 2176:14, 2176:25, 2177:5, 2177:8, 2178:2, 2178:5, 2178:17, 2180:7, 2180:9, 2181:16, 2182:2, 2182:6, 2182:18, 2182:19, 2183:12, 2186:25, 2193:8,</p>	<p>table - 2105:10, 2166:9</p> <p>talks - 2167:24, 2168:4, 2170:17, 2176:10, 2182:3</p> <p>Tammy - 2070:11, 2070:14, 2070:19, 2077:8</p> <p>tape - 2091:2, 2153:20, 2153:21, 2166:9, 2168:5, 2214:5, 2237:23, 2239:9, 2240:15</p> <p>tattered - 2186:16, 2229:10, 2229:12, 2229:13, 2262:25</p> <p>taught - 2106:10, 2173:20, 2198:8</p> <p>Tdr - 2057:5</p> <p>teacher - 2199:4, 2230:1</p> <p>Technician - 2056:13</p> <p>teen - 2107:22</p> <p>teen-aged - 2107:22</p> <p>teenager - 2241:25</p> <p>television - 2139:19, 2141:7, 2141:21, 2147:11, 2147:19, 2147:21, 2182:3, 2234:15, 2273:22</p> <p>teller - 2133:9</p> <p>Templeton - 2167:10, 2169:11, 2171:7, 2171:12, 2171:16, 2171:20, 2171:24, 2172:7, 2172:8, 2173:9, 2174:3, 2174:6, 2174:13, 2174:16, 2174:19, 2174:23, 2175:15, 2175:18, 2176:8, 2176:14, 2176:25, 2177:5, 2177:8, 2178:2, 2178:5, 2178:17, 2180:7, 2180:9, 2181:16, 2182:2, 2182:6, 2182:18, 2182:19, 2183:12, 2186:25, 2193:8,</p>	<p>2196:18, 2196:19, 2204:19, 2204:20, 2206:2, 2214:1, 2234:1, 2236:1, 2246:24, 2256:22, 2256:23, 2263:9</p> <p>ten - 2060:8, 2116:19, 2160:3</p> <p>tenants - 2070:10</p> <p>terms - 2098:11, 2099:15, 2190:24, 2217:10, 2259:21</p> <p>terribly - 2203:5, 2228:11</p> <p>testified - 2183:23, 2184:5, 2184:12, 2192:7, 2192:20, 2192:22, 2194:8, 2230:9, 2266:1</p> <p>testify - 2059:18, 2067:1, 2076:23, 2078:2, 2105:14, 2119:12</p> <p>testifying - 2095:16, 2119:21, 2162:15, 2193:13, 2231:6, 2261:9, 2262:12</p> <p>testimony - 2066:18, 2137:7, 2137:8, 2141:1, 2149:6, 2181:2, 2266:24, 2271:16</p> <p>Testimony - 2055:15</p> <p>themselves - 2188:25</p> <p>thereafter - 2211:5, 2217:10</p> <p>thighs - 2111:12, 2111:13</p> <p>thinking - 2072:3, 2072:4, 2081:7, 2098:6, 2104:14, 2122:22, 2141:22, 2221:8, 2264:4</p> <p>thinks - 2068:2, 2240:20</p> <p>Thirteen - 2188:5</p> <p>this'd - 2175:19</p> <p>thoroughly - 2195:3, 2195:6</p> <p>thoughts - 2129:4, 2210:12</p> <p>threatened - 2189:15</p> <p>threats - 2149:16</p> <p>three - 2098:7, 2115:15, 2129:19, 2129:21, 2134:21, 2144:6, 2164:5, 2164:17, 2164:20, 2181:10, 2231:21, 2231:22, 2234:24</p> <p>Three - 2107:6, 2107:7</p> <p>threw - 2165:19, 2226:6</p> <p>throughout - 2106:9, 2259:22</p> <p>tie - 2251:5</p> <p>time-wise - 2141:14</p> <p>timing - 2176:20, 2238:5, 2263:21, 2278:4</p> <p>today - 2089:25, 2100:10, 2158:25, 2176:21, 2181:25, 2182:16, 2182:17, 2188:1, 2217:6, 2231:3, 2263:21, 2271:16</p> <p>toffee - 2063:25</p> <p>together - 2063:7, 2073:13, 2085:13, 2085:21, 2085:22, 2085:23, 2106:12, 2136:16, 2136:18, 2138:15, 2146:14</p> <p>togethers - 2069:14</p> <p>Toll - 2082:9</p> <p>tomorrow - 2278:7</p> <p>tones - 2131:14</p> <p>took - 2063:21, 2096:16, 2099:12, 2126:2, 2146:23,</p>	<p>2177:24, 2190:11, 2190:12, 2190:13, 2195:5, 2252:10, 2264:7, 2264:14, 2269:11, 2273:18</p> <p>top - 2076:5, 2076:11, 2080:10, 2168:14, 2174:11, 2186:6, 2188:9, 2234:7, 2253:19, 2261:24</p> <p>topic - 2172:20</p> <p>torture - 2149:14, 2150:11</p> <p>touch - 2110:15</p> <p>tow - 2237:13, 2237:16</p> <p>toward - 2260:3</p> <p>towards - 2114:25, 2115:14, 2132:6, 2217:19</p> <p>towed - 2237:1</p> <p>town - 2065:19, 2134:5, 2223:10</p> <p>transcribed - 2226:24</p> <p>Transcript - 2055:13, 2059:1</p> <p>transcript - 2168:10, 2184:9, 2240:17, 2261:22</p> <p>transcription - 2279:5</p> <p>transmission - 2237:10</p> <p>trap - 2129:21</p> <p>travelled - 2107:14</p> <p>treat - 2097:3</p> <p>treated - 2139:7, 2150:24, 2220:9</p> <p>treatment - 2086:10, 2129:7, 2140:7, 2147:9, 2147:13, 2147:22, 2149:10</p> <p>treatments - 2150:2</p> <p>trial - 2066:18, 2067:4, 2067:12, 2069:18, 2095:17, 2099:21, 2109:17, 2119:13, 2129:1, 2143:23, 2144:2, 2148:24, 2149:5, 2152:12, 2173:14, 2183:24, 2184:5, 2184:7, 2185:21, 2185:25, 2189:16, 2192:7, 2192:20, 2193:14, 2194:13, 2196:12, 2204:24, 2205:6, 2205:7, 2230:10, 2230:15, 2233:1, 2236:21, 2239:1, 2251:9, 2253:4, 2253:8, 2254:17, 2255:15, 2255:20, 2256:12, 2257:9, 2259:13, 2259:14, 2260:1, 2260:13, 2260:17, 2260:25, 2261:9, 2261:14, 2261:22, 2262:2, 2263:18, 2266:24</p> <p>tried - 2119:16, 2185:1, 2220:14</p> <p>trigger - 2095:6</p> <p>triggered - 2067:8, 2095:5</p> <p>trip - 2065:18, 2094:10, 2103:17, 2118:3, 2118:13, 2126:14, 2126:22, 2131:23, 2131:25, 2132:21, 2132:25, 2133:8, 2133:19, 2134:17, 2134:18, 2135:7, 2135:8, 2136:8, 2177:15, 2240:4</p> <p>trips - 2131:22</p> <p>trouble</</p>	

<p>2143:20, 2144:10, 2145:17, 2146:10, 2147:23, 2151:1, 2153:10, 2166:7, 2198:23, 2200:24, 2216:6, 2217:25, 2218:24, 2244:8, 2247:5, 2252:12, 2255:14, 2255:19, 2256:9, 2260:12, 2261:15, 2268:2 unable - 2243:15, 2277:23 unclear - 2221:2, 2221:5 under - 2081:5, 2095:5, 2095:11, 2123:21, 2215:21, 2215:22 undergoing - 2163:12 understood - 2265:6 uniforms - 2064:21, 2065:9 University - 2067:20, 2129:6, 2231:16 university - 2068:15 unkind - 2087:15 unknown - 2074:9, 2075:23 unless - 2091:19, 2236:19 Unless - 2174:17 unusual - 2064:8, 2138:24, 2140:6 Up - 2138:10 up - 2060:3, 2061:21, 2063:2, 2064:21, 2064:22, 2064:23, 2066:21, 2082:23, 2085:14, 2085:18, 2086:2, 2098:19, 2105:10, 2109:16, 2113:24, 2115:23, 2118:5, 2120:9, 2121:10, 2121:11, 2121:12, 2122:23, 2123:1, 2125:18, 2129:23, 2132:13, 2132:15, 2133:23, 2134:21, 2134:23, 2137:23, 2137:25, 2138:11, 2139:3, 2139:13, 2142:13, 2153:11, 2158:6, 2159:18, 2160:19, 2161:18, 2161:20, 2162:18, 2167:22, 2168:8, 2172:16, 2172:18, 2172:21, 2176:4, 2177:19, 2184:8, 2184:16, 2186:5, 2191:4, 2191:9, 2194:12, 2194:14, 2194:19, 2196:20, 2199:14, 2205:19, 2212:13, 2216:17, 2216:20, 2216:23, 2221:16, 2222:6, 2222:21, 2222:22, 2227:25, 2233:15, 2234:8, 2236:19, 2237:7, 2238:13, 2238:20, 2245:8, 2245:15, 2251:4, 2253:24, 2254:4, 2257:10, 2258:18, 2261:14, 2261:21, 2262:10, 2270:3, 2276:10, 2276:21 upset - 2066:24 upsetting - 2063:1 upstairs - 2061:3, 2061:7, 2108:18, 2108:20, 2109:22, 2116:20, 2154:17, 2170:3, 2170:18, 2170:20, 2171:2, 2171:3, 2185:1, 2185:2, 2185:4, 2185:8, 2185:9, 2185:16, 2212:3, 2242:25, 2243:25, 2244:6, 2244:18 Upstairs - 2061:8</p>	<p style="text-align: center;">V</p> <p>vagrancy - 2134:2, 2139:13, 2139:14, 2218:3, 2223:2 Vaguely - 2247:6 vaguely - 2066:10, 2157:12, 2239:19 Value - 2160:12 Vancouver - 2107:15, 2136:24, 2138:17, 2148:2, 2161:9, 2168:20, 2177:18, 2180:15, 2234:14 various - 2164:17, 2193:4 varying - 2240:1 vehicle - 2101:18, 2101:22, 2101:25, 2102:24, 2103:1, 2116:4, 2159:17 verbal - 2189:20 verbally - 2189:15 verdict - 2192:8 version - 2123:9, 2138:16, 2151:22, 2196:9, 2226:11, 2226:12, 2226:16, 2226:23, 2277:23, 2278:1 versions - 2235:18, 2277:22 victim - 2255:7 video - 2139:5, 2142:3, 2148:17, 2150:9, 2273:18 Videotape - 2058:12, 2058:13 videotape - 2148:20, 2150:7 view - 2099:12, 2137:1, 2137:4 Virgin - 2116:10, 2143:7, 2209:11, 2209:15, 2209:17, 2265:4, 2265:12, 2266:3, 2266:13 virgin - 2108:12, 2112:15, 2116:8, 2116:9, 2155:16, 2155:17, 2155:23, 2169:20, 2169:22, 2175:5, 2206:17, 2207:15, 2208:4, 2208:11, 2208:19, 2209:9, 2209:13, 2209:14, 2210:24, 2211:8, 2228:18, 2242:6, 2242:11, 2242:14, 2244:23, 2265:24, 2266:1, 2266:2, 2266:15, 2271:23, 2276:24, 2277:9 virgins - 2209:19, 2209:21, 2209:22 vision - 2143:11, 2143:19, 2144:3, 2144:9, 2144:15, 2144:22, 2145:16 visions - 2143:4, 2145:16, 2146:18, 2232:12, 2232:13 visit - 2095:10, 2179:20 visiting - 2068:12 visitors - 2065:18 Volume - 2055:23</p>	<p>wants - 2104:1, 2236:20 Warman - 2167:25 washed - 2257:23 washroom - 2059:9 watch - 2174:13, 2240:16 watched - 2170:2, 2170:18, 2170:19, 2195:25, 2240:15 watches - 2255:5 watching - 2109:14, 2154:12, 2159:16, 2169:15, 2184:24, 2200:21, 2200:25, 2201:8, 2202:24, 2208:12, 2219:14, 2233:20 water - 2123:20 Watson - 2057:6, 2103:9, 2103:10, 2275:19, 2275:20 ways - 2087:23 weakens - 2193:18 wearing - 2111:16, 2216:19, 2239:11, 2240:3, 2264:25 wedding - 2069:11, 2069:13 Wednesday - 2055:22 week - 2200:16, 2200:17, 2205:19, 2216:8, 2237:25, 2253:25 weeks - 2107:6, 2107:7, 2150:6, 2211:6, 2211:20 Wempe - 2057:9, 2101:8, 2101:9, 2272:3, 2272:4 west - 2110:10 Western - 2136:17 Westminster - 2136:24 whispered - 2162:17 white - 2065:1 whoa - 2133:24 whole - 2066:22, 2073:17, 2096:2, 2104:7, 2228:4 wife - 2138:12, 2161:9 wild - 2172:25 Wilde - 2056:12 Williams - 2240:25, 2241:3 Wilson - 2212:24, 2238:16 window - 2133:22, 2157:4, 2174:18, 2222:5 windows - 2118:7 wise - 2127:6, 2141:14 wish - 2154:4, 2165:10, 2225:3, 2225:24 witness - 2059:8, 2104:23, 2105:8, 2105:10, 2124:4, 2148:21, 2148:24, 2149:5, 2149:21, 2150:4, 2184:2, 2226:14, 2251:10, 2258:19 witnesses - 2180:25 woke - 2134:21, 2134:23, 2222:21 Wolch - 2057:2, 2058:5, 2058:14, 2084:25, 2085:1, 2085:2, 2088:25, 2091:12, 2189:2, 2189:3, 2191:22, 2225:13, 2226:21, 2228:20, 2229:19, 2238:13, 2255:24, 2259:11, 2261:4, 2268:10, 2269:9, 2272:12, 2272:18, 2275:25 woman - 2118:21 wonder - 2098:19, 2210:16, 2272:20 wondering - 2073:2,</p>	<p>2148:17, 2150:16 wood - 2149:22 word - 2062:21, 2190:12, 2190:13, 2209:9, 2210:7, 2210:22, 2212:16, 2214:2, 2249:4, 2265:25 words - 2088:10, 2112:13, 2125:25, 2138:22, 2140:11, 2147:13, 2157:10, 2162:17, 2202:11, 2202:13, 2210:14, 2211:1, 2214:20, 2265:17, 2265:23, 2266:5 wore - 2136:6 works - 2080:12, 2241:1 worried - 2149:23, 2162:19 worth - 2246:17 wrestling - 2062:8 writer - 2237:23 writing - 2166:11 written - 2149:11, 2228:5 wrongdoing - 2099:22 Wrongful - 2055:3 wrote - 2150:17, 2159:1, 2171:1</p> <p style="text-align: center;">Y</p> <p>year - 2072:6, 2072:7, 2073:10, 2099:19, 2120:17, 2121:4, 2144:7, 2214:17, 2214:21, 2232:12 years - 2067:5, 2069:4, 2076:15, 2087:5, 2087:8, 2105:16, 2106:5, 2106:20, 2121:8, 2122:16, 2127:14, 2133:5, 2144:6, 2149:4, 2154:7, 2159:24, 2160:3, 2160:5, 2160:10, 2160:12, 2160:25, 2161:5, 2161:8, 2162:3, 2162:19, 2164:15, 2168:23, 2170:23, 2172:10, 2173:11, 2179:13, 2180:10, 2183:11, 2187:20, 2188:4, 2188:5, 2188:15, 2189:6, 2189:10, 2193:21, 2199:21, 2206:12, 2209:7, 2219:8, 2220:4, 2224:20, 2224:23, 2225:21, 2230:25, 2231:23, 2231:24, 2232:23, 2232:24, 2234:11, 2234:22, 2234:24, 2235:5, 2244:13, 2245:21, 2247:4, 2252:17, 2257:7, 2257:8, 2258:3, 2266:21 yell - 2244:7 Yesterday - 2091:2 yoga - 2146:22, 2164:7 young - 2068:17, 2073:6, 2086:16, 2087:14, 2118:21, 2120:12, 2129:15, 2165:3, 2173:22, 2216:9, 2247:25, 2249:14, 2266:17 younger - 2059:23, 2073:10, 2074:17, 2103:19, 2106:1, 2106:14, 2107:21 youngest - 2060:18, 2085:7, 2129:20, 2231:22 yourself - 2079:7, 2086:13, 2092:16, 2193:20, 2193:23, 2242:13, 2262:13 youth - 2061:21</p>	<p>Yup - 2105:17, 2105:25, 2106:6, 2106:22, 2107:24, 2109:11, 2110:8, 2110:14, 2110:21, 2116:22, 2117:4, 2141:17, 2144:13, 2148:4, 2150:10, 2198:1, 2199:19, 2209:4, 2209:8 yup - 2118:1, 2143:5, 2155:10, 2218:14</p> <p style="text-align: center;">Z</p> <p>zoom - 2074:2, 2074:14, 2075:9, 2075:11, 2075:13, 2077:5, 2079:22, 2080:9, 2110:1</p>
<p style="text-align: center;">W</p> <p>wait - 2059:10, 2070:21 walk - 2114:24, 2170:2, 2170:19 walked - 2132:14, 2202:17, 2222:21 walking - 2069:21, 2114:25, 2115:14</p>				

