

A. I might have heard the girls talking about it. 1

Q. Okay. You didn't hear Gail talking about it? 2

A. Not specifically, no. 3

MR. BERESH: Okay. Thank you very much, Ms. Hall. 4

No further questions. 5

THE COURT: Thank you, Mr. Beresh. Mr. Johnston. 6

MR. JOHNSTON: I have no re-direct. 7

THE COURT: Thank you. Ms. Hall, thank you very much 8

for your attendance. You're excused. 9

Mr. Beresh -- could I return this to Mr. 10

Beresh, please. 11

MR. BERESH: Thank you. 12

13

DENNIS ELLIOT, having 14
been duly SWORN, states: 15

MR. JOHNSTON: **EXAMINATION-IN-CHIEF:** 16

Q. Thank you for coming and staying as long as you have, Mr. Elliot. 17

Would you mind telling us your date of birth, please. 18

A. January 29, 1946. 19

Q. That would have made you 23 years and two days on January 31, 20

1969? 21

A. Yes, I was. 22

Q. I understand back in those days you knew a lady by the name of Gail 23

Miller? 24

A. Yes, I did. 25

Q. How long had you known Gail? 26

EXAM
DENNIS
ELLIOTT

JOHNSTON

- A. About two weeks. 1
- Q. And I understand you saw her the evening of January 30, 1969? 2
- A. Yes, I did. 3
- Q. Can you just tell the Members of the Jury how you came to see Gail that night and what your plans were? 4
5
- A. There was a party going on at the apartment building I was at, and I 6
phoned her up and asked her if she would like to go, and she agreed to 7
go. So, I was working late that day so I sent another guy over, Brian 8
Odegard (ph) to pick her up and bring her back to the party. 9
- Q. Did he do that? 10
- A. Yes, he did. 11
- Q. Did anyone else come with Gail and Brian? 12
- A. I think a couple of her friends came. 13
- Q. Was this a big party, or just one of the things -- parties you have when you're 20 or 23, Mr. Elliot? 14
15
- A. It wasn't a big party. It was just a medium party. 16
- Q. All right. Do you remember any of Gail's friends that came? 17
- A. Not really, no. 18
- Q. What did you do at the party? 19
- A. Just mostly sat around, talked, ate, drank. 20
- Q. I understand you and Gail and some others left the party for a period of time? 21
22
- A. Yes, we left at about midnight. 23
- Q. To do what? 24
- A. We went down to the Windsor Hotel and picked up a case of beer. 25
- Q. Did you pick up anyone else at the Windsor? 26

- A. I picked up a lady by the name of Diane Hoffner (ph), she was a
barmaid, and I dropped her off at the address where she wanted to go.
And then I dropped a friend of Gail's off at some other address that I
don't remember, and we went back to the party.
- Q. So who all went back to the party then?
- A. I think there was Gail, Brian Odegard, Siegfried Holley (ph) and myself.
- Q. And do you remember what time it was that you dropped Gail's friend
off, approximately?
- A. It would be around 12:30, one o'clock, somewhere in that area.
- Q. In the morning?
- A. Yeah.
- Q. So, you all went back to the party then. How long did you stay at the
party?
- A. To about 1:30.
- Q. What happened then?
- A. Gail wanted to go home, so I drove her home.
- Q. Did she tell you why she wanted to go home?
- A. We both had to work the next day, so it was time.
- Q. What --
- MR. BERESH: I didn't object.
- MR. JOHNSTON: Sorry, My Lord.
- THE COURT: I missed it, so --
- EXAMINATION-IN-CHIEF OF DENNIS ELLIOT (CONTINUES):
- Q. Sorry, Mr. Elliot. You drove Gail home at what time?
- A. Around 1:30 in the morning.
- Q. Was there just you and Gail together?

- A. Yes. 1
- Q. And I don't mean to pry, but if you would just explain what happened 2
when you went to her place, and what -- 3
- A. Well, I drove her home, parked in front of her place, and we stayed 4
and talked until around 2:00. And I walked her to the door and said 5
I'd pick her up at eight o'clock the next night, and I left. 6
- Q. So you made a date for the next night? 7
- A. Yeah. 8
- Q. You left her at two o'clock in the morning? 9
- A. Between 2:00 and 2:30. 10
- Q. Did you ever see Gail again? 11
- A. No, I didn't. 12
- Q. In what sort of spirits was she when she left you, Mr. Elliot? 13
- A. Fairly good spirits. 14
- Q. Were either of you intoxicated? 15
- A. No. 16
- Q. You mentioned that you parked in front of the house talking for a 17
while. Do you remember where Gail lived, by the way? 18
- A. I believe we were on Avenue O. 19
- Q. Do you remember what the house looked like from the outside? 20
- A. Two storey, white house. 21
- Q. What -- were you ever inside? 22
- A. Just -- well, the day after when I went and made a statement with the 23
city police. 24
- Q. How long were you parked outside the house before you walked Gail 25
to the door? 26

- A. Between a half an hour and an hour. 1
- Q. Anything unusual happen while you were there? 2
- A. Just a car parked on the opposite side of the street, running. 3
- Q. Running? 4
- A. Running, yeah. Watching us. 5
- Q. Did you see who was in it, or anything like that? 6
- A. Just one lone occupant. 7
- Q. Did you ever approach the car or do anything about it, Dennis? 8
- A. No, I didn't. 9
- Q. Did Gail? 10
- A. No. 11
- Q. So you simply said goodbye, made a date for the next night? 12
- A. Yes. 13
- Q. And you never saw Gail again? 14
- A. No. 15
- MR. JOHNSTON: I have no further questions, Mr. Elliot. If 16
you would answer Mr. Beresh's questions, please. 17
- THE COURT: Thank you, Mr. Johnston. Mr. Beresh, 18
please. 19
- MR. BERESH:** **CROSS-EXAMINATION OF DENNIS ELLIOT:** 21
- Q. Mr. Elliot, at that time you operated a Fury? 22
- A. Yes. 23
- Q. Plymouth Fury? 24
- A. Yes. 25
- Q. You know your cars pretty well, obviously? 26

X EXAM
DENNIS
ELLIOTT

BERESH

- A. Yes. 1
- Q. You sat outside the house, as I understand your evidence, for at least
a half hour, was it? 2
3
- A. Yes. 4
- Q. Maybe longer? 5
- A. Maybe. 6
- Q. Forty-five minutes? 7
- A. Between half an hour and an hour. 8
- Q. Okay. Fair enough. For that 30 to 60 minutes the car across the
street continuously stayed out there, didn't it? 9
10
- A. Yes. 11
- Q. Now, it must have been minus 40 degrees? 12
- A. Yes. 13
- Q. Or colder? 14
- A. Yes. 15
- Q. Okay. Do you mind coming down off the witness stand for a moment.
The house you stopped at, I believe (inaudible - not near microphone)
the house that we understand you stopped in front of was 130, is that
correct? 16
17
18
19
- A. I can't remember. 20
- Q. In any event, it was Gail's house. Let's assume that's the house and
the lot. 21
22
- A. Okay. 23
- Q. Would you just take that marker and just point where you saw this
car? 24
25
- A. Which one is Avenue O, this one here? 26

- Q. Yes. Just take your time and orient -- 1
- A. Okay. 2
- Q. This is Avenue O. 3
- A. Okay. This is the house here. 4
- Q. Yes. 5
- A. Front entrance is here. 6
- Q. Yes. 7
- A. Okay. I was parked right here. Right here. And the other car was
parked right over here. 8
9
- THE COURT: If there is some way that he can make a 10
mark on the diagram I think it should be made, indicating where the 11
vehicles were so that it's permanent. 12
- Q. Yes. So let's do one in green and then we'll do one in red, if that's 13
okay. 14
- THE COURT: Perhaps he could do his car in green. 15
- Q. Thank you. 16
- A. Okay. I was parked there. 17
- Q. Okay. And here is the red, please. 18
- A. And the other car was parked here. 19
- Q. Okay. So just to identify it for the record, your car is the green, the 20
other car is the red? 21
- A. Yes. 22
- Q. Okay. You can retake the stand. It stayed there so long, sir, that you 23
were able to get the year, the make, and the model of the car? 24
- A. Yes. 25
- Q. And you described it to the police as a 1963 Pontiac Parisienne. 26

- A. That's right. 1
- Q. Okay. Now, obviously after you learned the police were involved they
took a statement from you? 2
3
- A. Yes. 4
- Q. And that would be, as I understand, in February of 1969? 5
- A. They took the first statement from me on the evening that Gail Miller
was murdered. 6
7
- Q. Okay. So that would be the 31st? 8
- A. The 31st, yes. 9
- Q. In the evening. And then they met again with you, I understand, in
February? 10
11
- A. Yes. 12
- Q. Okay. And is it correct that you said to the police that you were very
concerned about this car? 13
14
- A. I thought it strange to be sitting out there idling at that time of the
morning, for that long. 15
16
- Q. Okay. Well, in fact, isn't it correct, sir, that your suspicions were
raised more because every time you looked over to the car the person
in the car looked away from you? 17
18
19
- A. Could have been. I can't remember. 20
- Q. Okay. Well, let's go back to your original statement if you would,
please. Do you have a copy with you? 21
22
- A. No, I don't. 23
- Q. Okay, I'll get the entire document. Sir, I produce for your examination
a seven page statement, and ask that you look at that first of all, sir,
and tell us whether or not that's the statement you appear to have 24
25
26

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given on February 6, 1969, please. 1

THE COURT: And, Mr. Elliot, what I would suggest is 2
that we have the time, so please take the time and read it all to make 3
sure that you know what's in front of you. 4

MR. BERESH: Thank you, My L ord. 5

PAUSE IN PROCEEDINGS 6

CROSS-EXAMINATION OF DENNIS ELLIOT (CONTINUES): 7

Q. Is that the statement you gave to the police? 8

A. Yes. 9

Q. And I take it that when you gave this statement your memory of the 10
events was very fresh? 11

A. Yes. 12

Q. Certainly fresher than it is 30 years later? 13

A. Yes. 14

Q. Okay. I want to ask you about the statement before you, I want to 15
clarify this; if I understand your evidence correctly, your car, at that 16
point of which we now speak, was facing north? 17

A. Yes. 18

Q. The other car was facing south? 19

A. Yes. 20

Q. So then the other car's driver's side would be close to yours? 21

A. Yes. 22

Q. You could see this person well? 23

A. Not well, but I could see him. 24

Q. Okay. That's what I wanted to ask you. One thing, it was a man? 25

A. Yes. 26

Q.	Yes. You described the person as being five foot ten to the police?	1
A.	Yes.	2
Q.	Five feet ten inches tall?	3
A.	Yes.	4
Q.	A hundred and sixty pounds?	5
A.	Yes.	6
Q.	You said, and I take it this is your recollection:	7
	The person kept looking towards us while we were parked and would look away when I looked towards him.	8 9 10
A.	Yes.	11 12
Q.	That's your recollection?	13
A.	Yes.	14
Q.	Okay. You described the vehicle, sir, and I take it this is your recollection, as a reddish brown on the bottom and light colour on the top?	15 16 17
A.	Yes.	18
Q.	So rusty brown colour on the bottom with a white roof?	19
A.	Yes.	20
Q.	Or, lighter coloured roof? Yes?	21
A.	Yes.	22
Q.	The light coloured top was not snow or frost. I take it that mean there was no snow or frost on it?	23 24
A.	No.	25
Q.	The left rear was quite badly damaged?	26
A.	Yes.	27
Q.	Just tell us -- I think that we know what you mean, but when you say	28

- the rear of the vehicle, what part? 1
- A. Back quarter panel 2
- Q. Back quarter panel. Okay. And then you said to the police that the 3
damage was on the whole quarter panel? 4
- A. Yes. 5
- Q. What's the difference? 6
- A. From the door back. 7
- Q. From the door back? 8
- A. From the door back to the back bumper. 9
- Q. So, all of these observations you were able to make at that time? 10
- A. Yes. 11
- Q. And it appeared that the person in the car was watching or looking at 12
the Miller house? 13
- A. Yes. 14
- Q. For all this period of time? 15
- A. Yes. 16
- Q. Okay. Sir, have you ever met a person by the name of Les Spence? 17
- A. No, I haven't. 18
- Q. Did Gail Miller ever talk about Les Spence? 19
- A. Not to me, no. 20
- Q. You mentioned to the police a person by the name of Dwayne 21
Longdo? 22
- A. Yes. 23
- Q. L-O-N-G-D-O. Is that how you pronounce it? 24
- A. I can't remember if that's how he pronounced it. That's how we said 25
it, Longdo. 26

- Q. Longdo. Okay. Who was he? 1
- A. Actually, I don't know. He was just somebody that showed up at the 2
apartment every once in a while when Gail was there. I met him 3
through the other roommates I lived with. 4
- Q. Okay. Without telling us conversations, tell us what you observed, 5
please. What do you mean; would show up at the apartment? 6
- A. Well, he would show up, like, visiting some of the other guys there 7
once in a while, and I met him. 8
- Q. And who would he be visiting? 9
- A. Well, he could have been visiting Brian Odegard. I think he was a 10
friend of Brian's. He would be visiting there, and I was introduced to 11
him. 12
- Q. On occasions when you were there, did he appear to know Gail Miller? 13
- A. Yes, he did. 14
- Q. Did you ever go to the apartment and he was there before you arrived? 15
- A. Yes. 16
- Q. How frequent would you go to the Miller house? 17
- A. I had never been to the Miller house except the one night. 18
- Q. Just so we're not confusing you, you went to a party at Temperance 19
Street that night? 20
- A. Yes. 21
- Q. House or apartment? 22
- A. Apartment. 23
- Q. Had you seen Gail Miller there before? 24
- A. Yes. 25
- Q. Okay. So I don't want to confuse you. The other times when you 26

saw Longdo was at that Temperance Street? 1

A. Yes. 2

Q. Okay. And she was there? 3

A. Yes. 4

Q. And other people were there? 5

A. Yes. 6

Q. Okay. And I take it, sir, that the conduct of this car that was near the
Miller house was so suspicious you mentioned it to the police 7
immediately upon them questioning you the next day? 8
9

A. No. I remembered the car about a week later. 10

Q. Okay. And then mentioned it to the police? 11

A. Then I mentioned it to the police. 12

MR. BERESH: Okay. Thank you very much, sir. 13

THE COURT: Thank you. Any re-examination? 14

MR. JOHNSTON: No, My Lord. Thank you. 15

THE COURT: Yes. Mr. Elliot, thank you very much for
your attendance. You are excused, sir. 16
17

DENNIS ELLIOT: Okay. 18

MR. JOHNSTON: Thanks a lot. My Lord, I appreciate it's
kind of late in the day, I just want to test, I guess, the Court's 19
20
patience too. Vicky Fountaine has been here for a couple days. She 21
22
is, of course, from Saskatoon, like many of the witnesses are, and if
the Court and the Jury is able to do it, I would call her. If you think 23
24
it's too late in the day that's fine, My Lord, we will certainly call her in
the morning. 25

THE COURT: Thank you, Mr. Johnston. Ladies and 26

Gentlemen of the Jury, you will recall we talked about potential times, 1
 and I indicated there may be an occasion when the 13 of us would 2
 collectively make a decision to sit a little longer or a little shorter. 3
 We've made some decisions to sit a little shorter, it seems to me that 4
 it would be worthwhile for us to hear this one witness, and I'm 5
 wondering if you could just sort of nod some heads or whatever. Is 6
 everybody pretty much in agreement with that? 7

NO AUDIBLE RESPONSE 8

THE COURT: All right. Is there -- I think I've got a 9
 unanimous response. 10

MR. JOHNSTON: I was going to say she -- she is not going to 11
 be a particularly lengthy witness either, My Lord. 12

THE COURT: Yes. Thank you, Ladies and Gentlemen. 13
 I appreciate that. We'll hear from the witness then. 14

MR. JOHNSTON: Vicky Fountaine, please. 15
 16

***VICKY FOUNTAINE, having
 been duly SWORN, states:*** 17
 18

MR. JOHNSTON: **EXAMINATION-IN-CHIEF:** 19

Q. Ms. Fountaine, thank you for indulging us for the last couple of days. 20
 Your full name is? 21

A. The whole name? 22

Q. Yes. 23

A. Vicky Lynn Germaine Fountaine. 24

Q. And forgive me for asking, but what is your present age? 25

A. Fifty -- 26

EXAM
 VICKY
 FOUNTAINE
 JOHNSTON