

Vancouver, BC

May 09, 2012

(PROCEEDINGS RECONVENED AT 9:35 A.M.)

THE REGISTRAR: Order. This hearing is now resumed.

MR. VERTLIEB: I believe there is some document marking that
Mr. Giles wants to just place on the record. Mr.
Giles please?

THE COMMISSIONER: All right.

THE REGISTRAR: Yes.

MR. MAJAWA: Yes, Mr. Commissioner, Andrew Majawa for the
Government of Canada. There is a number of
documents that were marked for identification and
assigned a letter that are now ready to be marked
as exhibits proper.

THE COMMISSIONER: All right.

MR. MAJAWA: I've provided a list to the registrar and I
understand that he's going to provide the new
exhibit numbers now.

THE COMMISSIONER: Thank you, Mr. Majawa.

THE REGISTRAR: The documents that are now marked for
identification, I'll read them off by their letter
number, followed by their, by their exhibit
number. For identification B will become Exhibit
164; K will become 165; L will become 166(NR); M
will become 167; M1, 168; M2, 169(NR); M3, 170;

1 M4, 171(NR); U, 172(NR); and V, 173. Thank you.

2 (EXHIBIT NO. 164: Document entitled "Executive
3 Summary regarding Nancy Ann Clark, aka Nancy Ann
4 Greek and Nancy Jasper" - formerly marked Exhibit
5 B for Identification)

6 (EXHIBIT NO. 165: Document entitled "Department
7 of Justice, Documents for Cross-Examination of DCC
8 Doug LePard, Volume 1" - formerly marked Exhibit K
9 for Identification)

10 (EXHIBIT NO. 166(NR): Document entitled
11 "Department of Justice, Documents for
12 Cross-Examination of DCC Doug LePard, Volume 2" -
13 formerly marked Exhibit L for Identification)

14 (EXHIBIT NO. 167: Document entitled "DC Evans:
15 AGC Documents (Volume 1)"- formerly marked Exhibit
16 M for Identification)

17 (EXHIBIT NO. 168: Document entitled "DC Evans:
18 AGC Documents (Volume 2)" formerly marked Exhibit
19 M1 for Identification)

20 (EXHIBIT NO. 169(NR): Document entitled "DC
21 Evans: AGC Documents (Volume 3)" formerly marked
22 Exhibit M2 for Identification)

23 (EXHIBIT NO. 170: Document entitled "DC Evans:
24 AGC Documents (Volume 4)" formerly marked Exhibit
25 M3 for Identification)

(EXHIBIT NO. 171(NR): Document entitled "DC
Evans: AGC Documents (Volume 5)" formerly marked
Exhibit M4 for Identification)

(EXHIBIT NO. 172(NR): Document entitled "AGC
Documents - Lori Shenher" - formerly marked
Exhibit U for Identification)

(EXHIBIT NO. 173: Document entitled "Mike Connor,
AGC Documents" - formerly marked Exhibit V for
Identification)

THE COMMISSIONER: Thank you.

MR. VERTLIEB: Thank you, Mr. Giles.

We have Messrs. Fell and Wolthers to give
evidence. Maybe they could come forward and be
sworn.

THE COMMISSIONER: All right, thank you.

MR. WOODALL: Before that happens, Mr. Commissioner, it's Kevin
Woodall for --

THE COMMISSIONER: Yes.

MR. WOODALL: -- counsel for these officers. We advised
commission counsel quite some time ago, by that I
mean several months ago, about a witness named
Dorothy Fell -- Dorothy McKee, I'm sorry, Dorothy
McKee, not Fell. She has relevant evidence to
give and, as I understand it, commission, the
commission subpoenaed her on Friday but she has

1 not appeared. We have just received a text from
2 her saying that she is feeling -- she is not in a
3 position to -- my friend just received it just
4 moments ago saying:

5 I am now in Ucluelet and I have no e-mail.

6 I'm sorry, but I'm not, I'm not able to do it
7 right now. I'm not in a good way right now.

8 THE COMMISSIONER: Well --

9 MR. WOODALL: I take it that means -- it sounds to me like
10 she's, she's nervous about testifying, but
11 obviously can't go further than that.

12 Her evidence is important to the commission,
13 at least insofar as the commission might make
14 findings contrary to Messrs. Fell and Wolthers in
15 the following two respects. First of all, let me
16 just tell you who she is. She was a SIUSS
17 operator and worked in the Missing Women Task
18 Force and in the room where everyone worked, and
19 she would be able to give evidence about the
20 exclusion of Fell and Wolthers from many meetings
21 dealing with Pickton.

22 And secondly, one of the questions was
23 whether Fell and/or Wolthers advised the
24 investigators about hits being made on a photo
25 array of which Pickton was a member. She was

1 present when that -- when, when the members of the
2 investigative team were told about the hits. She
3 -- and she was scheduled to be on the panel this
4 morning.

5 This has only come to our attention that she
6 is not here, so we have to think about what to do.
7 But I just wanted the commission --

8 THE COMMISSIONER: Okay.

9 MR. WOODALL: -- commissioner to know that, that this is an
10 issue that will have to be addressed in some
11 manner.

12 THE COMMISSIONER: All right. Can I -- I want to hear from, I
13 want to hear from commission counsel on this.

14 MR. VERTLIEB: Mr. Commissioner, this witness has always been
15 someone that Mr. Woodall and Ms. Hatcher have said
16 is important and we've accepted that. They have
17 delivered a will-say and we could see the
18 importance of that and that's why she was
19 referenced in your directive. We have tried,
20 we've always thought, because we've never met her
21 or spoken to her, as far as I know. Ms.
22 McKeachie, who looks after the witness
23 organization and has done a superb job, has not
24 been able to make contact with, with this witness.
25 She's tried. I don't understand the e-mail that

1 just arrived. I haven't seen it. Anyway, I am
2 just telling you that we, we think she would be
3 helpful to you but we can't locate her. So,
4 whoever met her to get the will-say out of her, or
5 spoke to her, is in the best position to make sure
6 she's here.

7 THE COMMISSIONER: Okay. Well --

8 MR. VERTLIEB: If it's an order that you, that you can make, I
9 am sure you would make it to assist. I think she
10 would be helpful if she will come.

11 THE COMMISSIONER: So, how long has this been going on? When
12 was, when was the commission told about her
13 existence?

14 MR. VERTLIEB: Some time ago Ms. Hatcher mentioned it, and it
15 was obvious that the woman had helpful evidence as
16 it relates to the criticisms of their clients. I
17 don't know when Mr. Woodall or Ms. Hatcher dealt
18 with the will-say. We've -- we received it and we
19 could see it was helpful.

20 THE COMMISSIONER: When did you get the will-say.

21 MR. VERTLIEB: I don't have the exact date. I know I have seen
22 it. Ms. Hatcher or Mr. Woodall could tell you. I
23 know I have seen it.

24 THE COMMISSIONER: Okay.

25 MR. VERTLIEB: I didn't know that this e-mail was even out

1 there. I don't know what the situation is with
2 this witness.

3 THE COMMISSIONER: She is in Ucluelet now, is that --

4 MR. WOODALL: Yes, she lives in Ucluelet. We -- this is, this
5 is an issue that we've been bringing to the
6 commission counsel's attention since nearly the
7 beginning of our involvement. Well, that's
8 probably a bit of an exaggeration.

9 THE COMMISSIONER: Yes.

10 MR. WOODALL: Months and months and months. The will-say was
11 only provided, it was only provided April 20th
12 because, at that point, the means by which we
13 could request a witness was formalized.

14 THE COMMISSIONER: Yes.

15 MR. WOODALL: But in terms of ability to contact her, we've
16 asked commission counsel to do whatever they
17 considered necessary.

18 THE COMMISSIONER: Yes.

19 MR. WOODALL: So the, the fact that the will-say was delivered
20 about three weeks ago is, the formal will-say, was
21 only because that's when we were told that that's
22 what was required in order to further this issue.

23 THE COMMISSIONER: All right. Okay. Well, let's get on with
24 the remaining evidence and we will play it by ear
25 and see if efforts can be, can be made to bring

D. Fell and M. Wolthers
(for the Commission)
In chief by Mr. Vertlieb

1 her here at some stage. She is important to you.

2 All right, thank you. All right.

3 MR. VERTLIEB: I think that -- I agree with that. So, we will
4 just wait to hear more from Ms. Woodall -- or Mr.
5 Woodall and Ms. Hatcher on that.

6 So, let's have Mr. Fell and Mr. Wolthers
7 please take the witness stand.

8 THE REGISTRAR: Now, first of all, would you just push the
9 button on the thing there to turn your microphones
10 on please? Thank you.

11 **DOUG FELL, affirmed:**

12 **MARK WOLTERS, affirmed:**

13 MR. FELL: I do, and it's Douglas Fell, detective constable
14 with the City of Vancouver, and my 28th year here,
15 Mr. Commissioner.

16 THE COMMISSIONER: Thank you.

17 MR. WOLTERS: Yes, I do. My name is Mark Wolthers, retired,
18 Vancouver Police Officer 1267.

19 THE REGISTRAR: Thank you. You may be seated. Counsel.

20 MR. VERTLIEB: Thank you, Mr. Giles.

21 **EXAMINATION IN CHIEF BY MR. VERTLIEB:**

22 Q We have CVs from both of these group witnesses,
23 Mr. Commissioner, and we'll make sure they're
24 filed.

25 Very briefly, Detective Fell, you are still

1 with the Vancouver Police Department?

2 MR. FELL: That's correct.

3 Q And you are in your 28th year?

4 MR. FELL: That is correct.

5 Q And when did you start then?

6 MR. FELL: In October 15th, 1984.

7 Q And in the briefest of detail, just tell the
8 commissioner please about the positions you have
9 held in the police department.

10 MR. FELL: I spent my first probably 13 years within the Patrol
11 Division, Mr. Commissioner. I worked extensively
12 in the Downtown Eastside, which would have been a
13 combination of District 4 and District 3 at the
14 time. Now it's referred to as District 2.

15 Uniform, I worked drugs for a couple of years
16 on a small drug unit, and then at that point, I
17 went to the Coordinated Law Enforcement Unit,
18 where I spent a year and-a-half just before the,
19 the, the unit actually shut down. It was closed
20 down, the Coordinated Law Enforcement. I spent a
21 year and-a-half on organized crime, largely
22 predominantly Eastern European organized crime.

23 And then I shot back to my tenure with the
24 Missing Women's Review Team. And then at that
25 point, I left to the Organized Crime Agency, where

1 I worked on a wiretap and interviewing of many
2 things with regards to gang, gang killings.

3 At that point, I went back to the Criminal
4 Intelligence Unit with the City where I, where I
5 gained a specialty in Eastern European organized
6 crime, and I worked there until I took over the, I
7 think it was in -- I can't remember the exact
8 date. But then I, then I took over the Source
9 Development Unit with the City, the registration
10 of all informants for the City and helped them
11 reorganizing over 900 files for the City with
12 informants. I helped develop the first training
13 program for source handling in management.

14 At that point, I was taken, in about 2008,
15 into the Olympics to run their Source Development
16 Unit in the Intelligence Section, and then I came
17 back and I have been working in the Property Crime
18 Section since.

19 Q And you are in line to be deemed an acting
20 sergeant?

21 MR. FELL: I, I'm, at present, an acting sergeant, yes.

22 Q Now, you mentioned this training program for
23 source development. We've heard here from a
24 number of witnesses about informants named Hiscox
25 and Caldwell and potentially Ellingsen. You are

1 familiar with those names as a result of the
2 Pickton investigation work?

3 MR. FELL: I certainly am aware of them since reading the
4 papers from disclosure.

5 Q And just on this, back in 1998 and 1999, was there
6 a training program for police officers in the
7 Vancouver Police Department about the ways to
8 handle informants?

9 MR. FELL: No, there was not.

10 Q Okay. Mr. Wolthers, you have a degree from the
11 University of British Columbia?

12 MR. WOLTERS: That's correct, a bachelor of commerce degree.

13 Q A bachelor of commerce. And when did you complete
14 that?

15 MR. WOLTERS: In 1983.

16 Q And following that, what did you do?

17 MR. WOLTERS: In 1984, I joined the Vancouver Police
18 Department. And I was, I am a second-generation
19 police officer. My father was a detective for the
20 Vancouver Police. He was probably one of the best
21 informant handlers ever on the VPD, and when I
22 joined the police department, he was training me
23 about informants when I was in basic training.

24 And to give you some idea of my dad's
25 ability, when he retired, he had approximately 18

1 to 20 informants. To give you an example, one of
2 them, he had identified a Vancouver -- a member
3 from the New York mob who moved to Vancouver to
4 take over the gambling. His name was Carmen
5 Barrese. You will see him on the back of a book,
6 *Murder Incorporated*. It was the first CLEU
7 project, Project 29, and that was named after,
8 because there was 29 officers involved. So, you
9 can understand and appreciate my father's
10 extensive knowledge of informants and sources, and
11 from Day 1, he was teaching me.

12 Q When did you leave the VPD?

13 MR. WOLTERS: Uh, in 2009.

14 Q So, 25 years with the VPD?

15 MR. WOLTERS: Yes. Before, when I was going through
16 university, I worked at CLEU and I was listening
17 to wiretaps and also as a security, yeah.

18 Q Now, the first topic I want to cover is the issue
19 about the Missing Women Review Team, or Project
20 Amelia as we've also heard it referred to, and how
21 you came to be part of it. And I would like both
22 of your comments, because we've heard, there's
23 been a suggestion that the two of you came as a
24 pair to that work. So, I would like you just to
25 tell the commissioner about how it is you came to

1 be involved in the Missing Women Review Team?

2 MR. WOLTERS: Well, it started actually, I was in a drug unit,
3 and I was working with Peter Sadler. This drug
4 unit was -- consisted of about eight to 10
5 officers, including two policewomen. At that
6 time, I believed it was the most productive unit
7 in the whole police department. We were arresting
8 450 drug traffickers a year and it was
9 approximately 17 percent of all the traffic
10 arrests in the Province of British Columbia. It
11 was a great unit, one of the best times in my
12 career.

13 On May 25th, my partner at the time, Peter
14 Sadler, we had been partnered for at least seven
15 years, and we checked a, a suspect, POI 390, and
16 at that time, he was with a sex trade worker. And
17 from there, I developed -- I did some work on him.
18 I contacted -- for example, he was from
19 Lethbridge, Alberta. I contacted Constable Robin
20 Peoples, that used to be a Vancouver member and
21 had moved and become a Lethbridge officer, and I
22 contacted him and he was able to give me some
23 reports on this individual.

24 I contacted Doug and asked him if he could
25 check PIRS, because he had access to that. I did

1 all the background checks in Vancouver and I
2 learned a lot of things about this individual. In
3 particular, he was the main suspect, or a suspect
4 in the homicide of a sex trade worker in Calgary.

5 Q This is Mr. N you are talking about?

6 MR. WOLTERS: That's correct. And that was, that occurred in
7 1986.

8 Q So, you said May 25. What year?

9 MR. WOLTERS: That was 1999.

10 Q So, you were working with a Vancouver police
11 officer named "Sadler"?

12 MR. WOLTERS: Yes, Peter Sadler, 1181.

13 Q And so is it fair to say, from that background,
14 that you had developed an interest in the missing
15 women of Vancouver?

16 MR. WOLTERS: Well, it was -- I had worked down in, at that
17 time, in District 2 for 10 years. I had worked --
18 Pete and I had walked the beat, and at that time,
19 I mean, you knew the area really well. And I
20 think for me, the turning point, when you have --
21 every time I would go to the jail, because we're
22 arresting people, you kept seeing these posters up
23 of missing women.

24 And we're going, like, Angela Jardine, for
25 example, she used to be kind of a fixture down

1 there and would be at certain blocks and stuff
2 like that. When she went missing, based on my
3 experience, being down there for a long time, it
4 was obvious that these girls weren't missing. I
5 believed they were murdered right off the bat.

6 And so from there, I started writing a -- I
7 prepared a report, but I went out to the
8 Provincial Unsolved Unit and I talked to Sergeant
9 Honeybourn, and Sergeant Honeybourn had been my
10 sergeant for a couple of years. And also there
11 was Ryan Ball, who had also, Detective Ryan Ball
12 had been my corporal, and I spoke to him and I
13 said, "Here's what I have got." And they said to
14 me, "No, you have to go through your own police
15 department."

16 And so I then -- Doug and I were involved in
17 a situation with a media thing and we were talking
18 to Sergeant Frail and he suggested we try and go
19 to the Missing Women Review Team. And I, at that
20 time, I was like this. I didn't want to really
21 leave. And basically what happened was, I got
22 into an argument with my partner, 1181 Sadler. We
23 had been working for seven years, and I said,
24 "Something has got to be done about this. This is
25 getting ridiculous."

1 Q An argument about what though?

2 MR. WOLTERS: The missing women. And I said that, "The
3 Vancouver Police has to do something here," and --

4 Q And what was the argument about?

5 MR. WOLTERS: I said that it didn't appear that anything was
6 being done. And so he said to me, "Well, why
7 don't you get off your ass and do something?"

8 THE COMMISSIONER: Wait a minute. Who did, who did you say
9 this to?

10 MR. WOLTERS: This was Constable Peter Sadler.

11 THE COMMISSIONER: Oh.

12 MR. VERTLIEB:

13 Q At that time, you were working with Sadler, not,
14 not Doug Fell?

15 MR. WOLTERS: That's correct. I had worked for the last seven
16 years with Peter Sadler. So, from there, I
17 thought, well, I will. So, I phoned up Doug and I
18 said, "Doug, would you be interested if we'd try
19 to go into the Missing Women Review Team?"

20 Q Why did you phone Mr. Fell?

21 MR. WOLTERS: Because Doug was a previous partner and, uhm,
22 Peter didn't want to leave. He loved the Drug
23 Squad. And so, uhm, Doug and I worked good
24 previous and so -- and Doug said, "sure." We
25 ended up going to Deputy Chief McGuinness and

1 presented him with the information that I had
2 obtained on 390 and he said --

3 Q That's Mr. N?

4 MR. WOLTERS: That's correct.

5 Q And you thought he could be a suspect in --

6 MR. WOLTERS: Yeah, and I, I wrote on the report, I thought he
7 could be a suspect and I said he should be
8 followed. So, then we presented that to Deputy
9 Chief McGuinness and he said, "Well," he says,
10 "it's" --

11 THE COMMISSIONER: Just stop right there. Yes?

12 MR. GRATL: Mr. Commissioner, Jason Gratl for Downtown Eastside
13 interests.

14 THE COMMISSIONER: Yes.

15 MR. GRATL: I don't see any reason why we can't name this
16 suspect. He's the -- he was, he was convicted in
17 open court of crimes for which he's been mentioned
18 in this evidence, and to somehow anonymize (sic)
19 his name, despite being a convicted offender, --

20 THE COMMISSIONER: No, I agree that --

21 MR. GRATL: -- it's unnecessary.

22 THE COMMISSIONER: Yes.

23 MR. GRATL: And it, it lends itself, lends this commission to
24 criticism that it sustains a level of secrecy for
25 no good reason.

1 THE COMMISSIONER: Well, I think that's a bit over the top to
2 say it goes to secrecy. I mean, this is hardly a
3 secret event, Mr. Gratl. But I, I get your point
4 that, that if someone has been convicted, there is
5 no reason not to, to mention their name. I agree
6 with you.

7 MR. VERTLIEB: I share that concern. But just so you know,
8 Mr. Commissioner, I raised this with the policing
9 authorities. VPD has no concern about it, but
10 apparently DoJ has some concern about him being
11 identified in a more fulsome way. So, I just
12 respected that. I don't see much to-do about it,
13 frankly.

14 MR. MAJAWA: Andrew Majawa for the Government of Canada. I am
15 in your hands, Mr. Commissioner. I will speak --

16 THE COMMISSIONER: No --

17 MR. MAJAWA: Perhaps after the hearings are, are complete
18 today, we can consider whether or not redactions
19 would need to be made from the transcript. There
20 is no concern with respect to, to what he's been
21 convicted of. There may be concerns with respect
22 to, to being a suspect in other matters that are
23 still under investigation. So, perhaps we can
24 look at the transcript afterwards and determine
25 whether or not something needs to be --

1 THE COMMISSIONER: Well, no, no. The point is --

2 MR. MAJAWA: -- redacted at that point.

3 THE COMMISSIONER: No, that's not the point. The point raised
4 by Mr. Gratl is a valid one. Why are we tiptoeing
5 around his identity if he's already been convicted
6 as a matter of public record?

7 MR. MAJAWA: And as I said, with respect to his conviction, I
8 don't see that as a problem. It's just with
9 respect to whether or not, there is mention of him
10 being a suspect in other matters that are still
11 under investigation, which can be looked at
12 afterwards with respect to the transcript.

13 THE COMMISSIONER: All right.

14 MR. WOODALL: I think it highly unlikely that they will be
15 asked about anything that is presently under
16 investigation regarding this individual or even
17 other matters that were under investigation at the
18 relevant time.

19 THE COMMISSIONER: Yes.

20 MR. WOODALL: My clients don't have any objection to using his
21 name.

22 THE COMMISSIONER: Okay. Well, let's -- yes, I agree with you.

23 MR. VERTLIEB:

24 Q So we are talking about Mr. Niedermier then?

25 MR. WOLTERS: Yes.

1 MR. VERTLIEB: Are you more comfortable, Mr. Commissioner,
2 using his name? It doesn't matter to --

3 THE COMMISSIONER: Well, Niedermier's name has been prominently
4 mentioned here throughout these proceedings and --

5 MR. VERTLIEB: I agree. We were being respectful of the DoJ
6 concern because we didn't see any reason to --

7 THE COMMISSIONER: Yes.

8 MR. VERTLIEB: -- not be respectful there. All right. So, if
9 the name comes out, no one is being going to be
10 too concerned.

11 Q So, you were -- you believed that Niedermier might
12 be a viable suspect in what you were concerned
13 about as happening in the Downtown Eastside?

14 MR. WOLTERS: Yes, based on his background. I will give you,
15 I'll give you one example that someone stands out,
16 is that this individual goes into the Downtown
17 Eastside and parks his car and walks into the 100
18 block East Hastings. He meets a, a girl, a sex
19 trade worker, and they discuss about buying drugs
20 and sharing drugs. He ultimately ends up taking
21 her to North Vancouver where he sexually assaults
22 her and she gets out of the car.

23 When you have worked down in the 100 block
24 East Hastings, you will realize that the sex trade
25 workers aren't working in the 100 block East

1 Hastings. It's basically a bazaar for drug
2 dealing and buying and selling of stolen property
3 and everything. Nobody goes to the 100 East
4 Hastings to basically buy sex. So, it was -- I
5 found that odd. So, that was one of several
6 characteristics about this individual.

7 Q So, you wrote up a report after speaking to
8 Honeybourn at the Unsolved Homicide Unit?

9 MR. WOLTERS: That's correct.

10 Q And that report resulted in you having dealings
11 with Deputy Chief McGuinness?

12 MR. WOLTERS: That's correct.

13 Q And as a result, did you request to be involved
14 then in this Missing Women Review Team work?

15 MR. WOLTERS: Well, what happened was that Doug and I were
16 interviewed by Staff Sergeant Giles and Acting
17 Inspector Dureau, and at that time, they said,
18 "You guys seem enthusiastic, energetic about it."
19 Obviously, the suspect that we put forward needed
20 to be worked on. And they also said, "You will
21 have to work on other things and you could be
22 there for a while." And I thought, well, that was
23 okay.

24 Q So, just so the commissioner understands how it is
25 you came to be part of the Missing Women Review

1 Team, what -- how -- what word would you say you
2 could describe why you were there ultimately?

3 MR. WOLTERS: Well, I think that we had a, had put forth a
4 good suspect, but I also think that they needed
5 more bodies in this unit.

6 Q Now, Mr. Fell, just while we're dealing with this,
7 you have heard from your, from your brother
8 officer. Do you wish to add anything to what he
9 said about the background?

10 MR. FELL: Yeah, just a, just a couple of things, Mr.
11 Commissioner. One, we, we did approach Deputy
12 McGuinness at the advice of Sergeant Frail. His
13 response to us was he was pleased with our, our
14 interest in the, in the, in the case of the
15 missing women, but he had advised us we would have
16 to go through an interview process with the MCS
17 detective or MCS brass there, which was Dureau and
18 Giles at the time, and if, if they approved us,
19 then he would certainly facilitate the transfer.

20 Q So you asked for this transfer to the Missing
21 Women Review Team?

22 MR. FELL: That's right. I was at the, near the end of CLEU.
23 Mark, Mark had come and spoken to me with regards
24 -- I was removed for approximately a year and-a-
25 half from the Downtown Eastside at that time, so I

1 was not up to date. I was more focused on my
2 duties of organized crime at the time.

3 When he brought forward his concerns to me,
4 and, you know, he's reiterated the story to you,
5 Mr. Commissioner, with regards to Angela Jardine,
6 which is an individual that, you know, we all
7 knew. And, and then, then he reiterated the story
8 about Mr. Niedermier to me, and one of the most
9 impressive things that he told me with regards to
10 Mr. Niedermier was the fact, when he had spoken to
11 the sex trade worker that Mr. Niedermier had, when
12 they checked, the sex trade worker had actually
13 advised Mr. Wolthers that she felt that he had
14 saved her life.

15 And that's something we never hear as police
16 officers in the Downtown Eastside. Police
17 officers, when you're dealing with a sex trade
18 worker and, and their john, I mean, usually it
19 represents, you know, maybe a loss of business or
20 a loss of something, but it's never a welcomed
21 interjection, right? So, that was something that,
22 after 15 years on the job, that, you know, struck
23 a chord with me. It wasn't the end result, but it
24 was -- certainly struck a cord.

25 Q So, just to back up, how long did you work with

1 Mr. Wolthers as a --

2 MR. FELL: We had a partnership for about four years. I think
3 it was from about -- it was in the late '80s to
4 the early '90s, four or five years, in partnership
5 and patrol.

6 Q So, both, we've heard then from both of you that
7 you, in effect, volunteered for this work on the
8 Missing Women Review Team?

9 MR. WOLTERS: That's correct.

10 Q And what did you understand your role to be then
11 once you were accepted on that team?

12 MR. FELL: Well, the role was that of an investigator.

13 Q And what was your understanding about the other
14 members of the team and how you would work -- what
15 your working relationship would be?

16 MR. FELL: Well, we were a team made up of a file coordinator,
17 a part time -- I know at one time Ms. Clarke came
18 in. She was part time and she was working on some
19 I believe indigent burials and research with
20 regards to statistics and recovery and --

21 Q That's Alex Clarke?

22 MR. FELL: Oh, I'm sorry, yeah, Alex Clarke. And then Ms.
23 Shenher, or Detective Constable Shenher, she was
24 our file coordinator who basically assigned our
25 tips. She also had, you know, had been

1 investigating the missing portions of, you know,
2 the reports that were coming in.

3 We had a, a sergeant, who was Sergeant Field,
4 or I guess now Ms. Powell, and she, she was
5 overseeing us and my partner. And then we had
6 Detective Lepine and Detective Chernoff, who were
7 basically part time. We saw them -- I think we
8 were assigned there with regards, in July of 1999,
9 and they -- we saw them sporadically at meetings
10 once we went into the fall, and they were, always
11 seemed to be called back on a lot of other duties.

12 Q So you started July '99 --

13 MR. FELL: That's correct.

14 Q -- with the review team?

15 MR. FELL: Yes.

16 Q And when did you end?

17 MR. FELL: May of 2000.

18 Q Thank you. Now, Mr. Giles, I think Ms. McKeachie
19 brought you some binders for marking for these
20 witnesses.

21 THE REGISTRAR: She did.

22 MR. VERTLIEB: Perhaps we could produce those. Thank you, Mr.
23 Giles.

24 Q These are some of the documents that either we or
25 others may wish to ask you about. Just turn to

1 the first tab. And maybe this will be marked as
2 an exhibit (NR), Mr. Giles, please.

3 THE REGISTRAR: It will be marked Exhibit 174(NR).

4 MR. VERTLIEB: Thank you.

5 **(EXHIBIT NO. 174(NR): Black binder labelled**
6 **"Missing Women Commission of Inquiry, Project**
7 **Amelia Panel #1 Document Brief")**

8 MR. VERTLIEB:

9 Q So, the first is a memo from Ms. Shenher to Field,
10 June 22, '99. Both of you have seen this, I
11 trust?

12 MR. FELL: Well, this is the first time I have seen it.

13 MR. WOLTERS: That's the same for me, too.

14 Q Okay. So, the first comment, she is requesting an
15 additional six investigators. Okay. Now, just
16 turn to the second page, at the very bottom, in
17 handwriting, "3 added". So, you will see your
18 names there, "Doug Fell - CLEU." So, you had been
19 at CLEU?

20 MR. FELL: That's correct.

21 Q So, that's just a note that you are coming over
22 from CLEU?

23 MR. FELL: It would be I guess.

24 Q And "Mark Wolthers D-2"?

25 MR. WOLTERS: Yes, it's actually, it should have been DEET,

1 Drug Enforcement Education Team.

2 Q Thank you. So, that's how you come to be involved
3 in the work and you have talked about some of the
4 other people there. Tell us about the reporting
5 structure for a few minutes, and you can both.
6 There is no order that we need to follow here.
7 Just tell us how tasks were assigned to you.

8 MR. WOLTERS: Can I, can I add one thing --

9 Q Of course.

10 MR. WOLTERS: -- that was important in a sense, that, uhm, we
11 volunteered to go there, and we're in there, I
12 think Doug went there July 7th and I went there
13 July 13th. I think we were in there a short time.
14 And we were called into Inspector Biddlecombe's
15 office and he basically started barking at us that
16 we had back-ended our way into this unit. And it
17 was very frustrating, because I said to him, I
18 said, "You know we're volunteering here." And I
19 said, "I'm coming from what I believe is the best
20 unit in the police department." And I found that
21 really odd, to be treated that way, so soon into,
22 like, a week into this review team.

23 Q What did you, what did you take that term to mean,
24 back-ended?

25 MR. WOLTERS: Well, it was obvious they needed more people and

1 it was -- like, I, I didn't understand why he said
2 that, because we'd gone through a process. And it
3 was -- that was extremely frustrating.

4 Q Now, just tell us how tasks were assigned to you
5 once you were in the review team?

6 MR. FELL: Basically tasks would be assigned on a lead sheet
7 that would be produced by Ms. Shenher. And you,
8 you would either come to work in the morning, you
9 would have some tasks or, you know, tasks on your
10 desk to look at.

11 We were also verbally, you know, assigned the
12 Barry Niedermier file. And then, from time to
13 time, there would be exigent circumstances where
14 somebody would be in custody that needed to be
15 interviewed whether they were, you know, somebody
16 that was related to a missing that they needed --
17 they had to get caught up with. So, there would
18 be tasks that would come up very quickly. There
19 was -- that's why -- and then you would take your
20 tasks. You would do what you needed to do to
21 complete it, or take it to the furthest point you
22 possibly could. And then you would return it with
23 a, with a report through Detective Constable
24 Shenher's desk, and then that would eventually be
25 processed, I believe, by Ms. Alford.

1 Q So, you have given the sense that tasks were
2 assigned on a, on a daily basis?

3 MR. FELL: Uhm --

4 Q That's what you've said. I just want to have a
5 clear understanding.

6 MR. FELL: To my recollection, I certainly wouldn't say it was
7 a daily basis. I'd just -- you know, they might
8 come in a bunch, they might come in one, but, you
9 know, it was very random.

10 Q Okay. And what was the way you would report back
11 on the tasks assigned?

12 MR. FELL: Well, if, if, if they were tasks that, you know,
13 were a, you know, priority, you know, if I could
14 say that, because I don't have a recollection of a
15 priority task assigned, but, you know, if there
16 was some interest involved in it, you know, I
17 would certainly verbally report on it. But we
18 would complete a document that would be, you know,
19 with our conclusion, or where the, where the
20 actual file stood at the end of the day to
21 Detective Constable Shenher.

22 Q So, you're talking about report back. Would it be
23 in writing --

24 MR. FELL: Absolutely.

25 Q -- or verbally?

1 MR. FELL: Yes. I'm sorry, yes. A combination of all, right?

2 I mean, you would have to put in a final written
3 submission on your file, that's for sure, but you
4 would have team meetings and you may discuss
5 something that you might have viewed as important,
6 but you wouldn't be bogged down in, you know,
7 reporting the minutiae of every file every day.

8 Q I want to come to the photo canvass of Pickton in
9 a moment. Let me just ask you to turn please to
10 the third tab, which is a letter to someone in the
11 United States Department of Justice signed by you,
12 Detective Doug Fell, in '99?

13 MR. FELL: That's right.

14 Q Just, just tell us about this. Was this an
15 assigned task?

16 MR. FELL: This would have been an assigned task. It came up
17 at a meeting on July 9th. So, very early on, you
18 know, when I started working at the tenure. It's
19 to -- actually, we had a package, I believe, I
20 can't recall the actual -- oh, it's right here, 31
21 of the missing women at the time. We wanted to
22 get as much information with the U.S. authorities
23 as possible.

24 And this is a task that David Flaherty, who
25 was a member of U.S. I&NS, and he worked the

1 border, and he was an extremely good working
2 contact of mine from CLEU days. So, we took a
3 package of the missing women down to him. We
4 spoke with regards to, you know, what type of
5 information we were looking for, you know, whether
6 we would have an actual name that went across the
7 border. It would be put into their tech system I
8 believe is what it's called. I couldn't tell you
9 what that stands for.

10 Q Who is the "we"? You said "we took". Who is the
11 "we"?

12 MR. FELL: Oh, I'm sorry, I took it, but it was tasked by "we"
13 as the unit, so.

14 Q And what prompted this action? What was the
15 object of doing this?

16 MR. FELL: The object of doing that is we were trying to narrow
17 down if the women were actually missing as well,
18 right? So, this would be one thing. Did somebody
19 go to the States? They could research all their,
20 their data, their historical data, to see if these
21 girls had ever entered the States at any time, and
22 we could hopefully narrow down the timeframe of
23 reporting, hopefully narrow down and see maybe,
24 maybe somebody is in the States alive, or as a
25 result -- I, I, I don't think our efforts resulted

1 in a lot of information at all from them.

2 And it was also, we were looking too, you
3 know, we had the photos of the missings as well
4 attached with that, put into their system. So, we
5 were hoping for photo likeness, you know, like,
6 people who might have looked like the missings, to
7 be able to investigate and, you know, further down
8 hammer home what, what issues we needed to deal
9 with.

10 Q And look at the third page in tab 3. This is
11 apparently an American document and it comes to us
12 from the RCMP. Do you see this?

13 MR. FELL: Yeah, the RCMP one, missing prostitutes from the
14 Eastside Vancouver?

15 Q Yes.

16 MR. FELL: Yes.

17 Q It references the program, *America's Most Wanted*,
18 and what the women had in common?

19 MR. FELL: Yes.

20 Q Do you see your names at the bottom? Those are
21 your pager numbers?

22 MR. FELL: Those would have been our pager numbers, yes.

23 Q Thank you. There is another letter from you to
24 Revenue Canada, July 21, '99, in tab 4. Did you
25 do this on instruction?

1 MR. FELL: Yes, that would have been very much coupled with,
2 with the U.S. border. Now we're dealing with the
3 Canadian Border Services Agency, which, back then,
4 was of course Revenue Canada Custom Border
5 Services, so.

6 Q Now, turn to Tab 5 please. Anything, Mr.
7 Wolthers, you wanted to add to what Mr. Fell has
8 just --

9 MR. WOLTERS: No, Doug was the one that was doing those.

10 Q Now, I wanted to ask you to look at tab 5, and I
11 recall, and I could be wrong, but I believe this
12 is Ms. Field's writing. Does that look familiar
13 to you as Ms. Field's writing? Or you don't know?

14 MR. WOLTERS: I wouldn't know Sergeant Field's writing.

15 Q Have you seen these notes at all in the years
16 since this work was done? I know you have seen
17 them just very recently when you --

18 MR. WOLTERS: No, I --

19 MR. FELL: Sorry, go ahead.

20 MR. WOLTERS: We -- well, I speak for myself, because I just
21 saw these last week.

22 MR. FELL: That is correct for myself.

23 Q There is a reference at the top, you see that, to
24 a number of people?

25 MR. WOLTERS: Yes.

1 MR. FELL: Yes.

2 Q Now, that's not your writing either?

3 MR. FELL: No.

4 Q That's neither of your writing?

5 MR. WOLTERS: That's correct.

6 Q So, if someone looked at it, it would look as
7 though the people were involved as a group in that
8 meeting?

9 MR. WOLTERS: That's correct.

10 MR. FELL: That's correct.

11 Q And what's your sense of whether that is accurate
12 as to what happened with you and Sergeant Field?

13 MR. WOLTERS: Well, I have looked at the timeline done by
14 Deputy Chief Evans and she lists us as having a
15 Missing Women Review Team meeting September 28th
16 and September 29th. Uhm, September 29th is a
17 Wednesday. We never had any meetings on
18 Wednesday. They were always on Tuesdays. So,
19 from there, I am concerned about having the
20 incorrect date.

21 On September 28th, uh, I noticed that Field
22 has kept her notes saying the N meeting was at
23 1300 hours. On September 28th, which we have in
24 our log having a meeting, at 1 o'clock we were in
25 North Vancouver talking to Constable Bishop.

1 Q Is that your way of saying to the commissioner
2 that you don't accept that these notes mean you
3 were there at that time the way someone might
4 think it refers to you?

5 MR. WOLTERS: That's correct. There's a, there's another part
6 that concerns me, is on the last page of her
7 notes, and it talks about -- can I mention the
8 name here?

9 Q Yes, go ahead.

10 MR. WOLTERS: "Edwin McCaulay," and talks about "Ron and Mark
11 to follow up with that." Doug and I dealt with
12 Edwin McCaulay on August the 4th. This person had
13 phoned into the Vancouver Police and spoken with
14 Inspector Biddlecombe, who then called us into his
15 office and said, "Can you take care of this
16 matter?"

17 We dealt with him and he had some information
18 on a person that was a dangerous offender
19 application. So, we dealt with -- I talked to
20 Constable Paul McCarl of the RCMP and related that
21 information. We actually brought down Edwin to
22 the 312 Main Street and advised him about,
23 particularly Doug, about being an informant and
24 being an agent, because that's what he wanted to
25 do.

1 So, I'm, I'm skeptical about having this in
2 notes on September 29th, when we dealt with this
3 scenario August the 4th of '99.

4 Q Anything you wish to add, Mr. Fell?

5 MR. FELL: No.

6 Q So, the next tab is a report to Crown. This
7 appears to relate to Mr. Niedermier?

8 MR. FELL: That's correct.

9 Q There is nothing that, that we think, on behalf of
10 commission, we need to take you through. We just
11 wanted it there in case either of you, as
12 witnesses, needed to refer to it in some way.

13 MR. FELL: Okay.

14 Q It's only there just for your reference or other
15 counsel.

16 Now, tab 7, this is a memo from Sergeant
17 Field to Acting Inspector Dureau. Now, just so
18 both of you know, we've heard from both Mr. Dureau
19 and Mr. Biddlecombe, and we understand that Mr.
20 Dureau was acting inspector often because of Mr.
21 Biddlecombe's absence during the time he was --
22 his title was the head of Major Crime. So, we are
23 aware of it. But this appears to be a
24 commendation for the two of you, concerning the
25 two of you, for the work you did?

1 MR. FELL: Yeah, this is the first time I have read this.

2 MR. WOLTERS: And that's the same for me.

3 MR. FELL: I was aware of it watching the commission evidence,
4 but the first time I have actually read the
5 documents.

6 Q Now, I wanted to ask you about the next document,
7 tab 8. Can you just look at this comment about
8 the street interviews? "Mark and Doug," that
9 would be the two of you. Do you -- can you help
10 us with what was happening at this time and why
11 you're referenced there?

12 MR. FELL: I'm sorry, Mr. Vertlieb, what's the actual question
13 again?

14 Q You see the reference to "Mark and Doug on street
15 interviews"?

16 MR. FELL: That's correct.

17 Q That would be the two of you?

18 MR. FELL: That would be correct.

19 Q Let me just introduce it this way. You ultimately
20 showed photos of Mr. Pickton in the Downtown
21 Eastside?

22 MR. FELL: That is correct.

23 Q Let's just deal with that then, because we did
24 discuss this. There is a suggestion made that you
25 had information that Pickton was identified but

1 you did not disclose it. You are aware of that --

2 MR. FELL: I certainly am.

3 Q -- criticism? So, let's have you both tell the
4 commissioner your response to that.

5 MR. FELL: Basically, Mr. Commissioner, I certainly have
6 provided no written documentation that was
7 certainly handed in with regards to Mr. Pickton
8 and that, that hit. The photo was only provided
9 to us on the second round of photos. We did a
10 Photo Pack 1 and then we did a Photo Pack 2.

11 Q Let me interrupt you.

12 MR. FELL: Yes.

13 Q The commissioner hasn't heard anything about this
14 round of photos and photo packs. So, let's just
15 talk about that. We are talking about actions
16 taken by the two of you in April of 2000.

17 MR. FELL: Okay.

18 Q Okay. So, tell us about the first photo group.
19 You called it "photo pack".

20 MR. WOLTERS: On September 7th, we, when we got into the unit,
21 there was some --

22 THE COMMISSIONER: December -- or September 7, 1999?

23 MR. WOLTERS: That's correct.

24 THE COMMISSIONER: All right.

25 MR. WOLTERS: When we got into the unit, there were some

1 people of interest. We got their photos, and on
2 that -- for a week, we showed seven photos. So,
3 what happened was that on September -- and it was
4 unbelievable. It was, like, a great resource and
5 it changed things, because Doug and I would pull
6 up in the police car and the girls would look at
7 us and, "yeah, yeah, I'm going, I'm going," and we
8 said, "No, we're not here about that." "Well,
9 what are you here about?" And then they would
10 come over and we would say, "We would like to show
11 you some photos." So, we did this for the first
12 week. It started September 7th. So, it was so
13 successful, on September 15th --

14 Q Tell us about the photos. Just one thing
15 obviously, was Pickton's picture in there?

16 MR. WOLTERS: No.

17 Q Okay. So, what were you doing with the photos?

18 MR. WOLTERS: Uhm, well, let me expand on that, and then I
19 will describe it. So, we noticed that it was --
20 this was a, a great avenue. So, on September
21 15th, we added 17 photos, and we also added the
22 poster.

23 So, what we would do is, we would come up to
24 a sex trade worker and call her over and she would
25 come over and we would say, "Listen, we're here

1 investigating the missing women." And so we would
2 show them the poster and the reaction you got was
3 quite amazing. Uhm, they would go, "She's
4 missing?" And right from Day 1, we said, they're
5 not missing, they're murdered. And so it was --
6 the women were shocked and they were saying, "I
7 can't believe she's missing," and we were getting
8 reactions like that.

9 So, what we would do is we would go through
10 each photo, and they would look at it, and if they
11 picked one out and said, "I know this person," we
12 would jot down items on them. And what happened
13 was that, when we were showing the photos, I would
14 say to the 30 sex trade workers we showed it to,
15 23 were -- picked out Barry Niedermier. It was
16 overwhelming.

17 And so, at the end, we would sit there and we
18 would go through the 17 pictures, and we would say
19 -- they'd say, "Is the guy killing them in these
20 pictures?" And we would say, "We don't know that,
21 but we can tell you one thing. Don't go with any
22 of these guys."

23 And what you also learned that they were, the
24 girls were actually quite astute what was going on
25 and they knew different people, different one of

1 these suspects that we were showing their
2 pictures. And, in fact, one of them, it got back
3 to him, because I guess it was causing problems
4 for him picking up women. He came into the police
5 station and complained about this and he actually
6 -- Constable Shenher interviewed him. I don't
7 know what happened with the interview.

8 Q Do you know why Pickton's picture was not in that
9 group?

10 MR. FELL: Uhm, we weren't provided it. Pickton's picture --
11 well, Pickton's picture -- we had a list of, I
12 think it was 10 to 20 suspects on the board and he
13 was one of 'em. There was two pictures withheld
14 for the first round and we weren't given a reason
15 but his was one of them.

16 Q Did you ever work on Pickton, just while we are on
17 the subject of Pickton?

18 MR. FELL: No.

19 MR. WOLTERS: No.

20 Q And why --

21 MR. FELL: Other than when we went to the second round.

22 Q Okay. So, tell us about the second round.

23 MR. FELL: Okay. Can I just reiterate, Mr. Commissioner? My
24 partner here has discussed the fact of showing
25 the, the poster prior to showing the photo of

1 these POIs and, you know, it's the totality,
2 right? I mean, these girls certainly knew there
3 was a problem going on in the street. It's not
4 that they weren't aware. But when they saw the
5 poster, it brought in a totality to them that they
6 just, you know, almost, you know, there, there was
7 emotion there, right? And so immediately what
8 that represented to them was a, a care and
9 concern, right? And so when we, when we put out
10 the photos, then, then we had their full,
11 undivided attention, and I think it's really
12 important to add.

13 And also what's important to add is that my
14 partner here has told you we went from seven to 17
15 photos within a week. And it's because what
16 happened with the seven photos, the responses we
17 were getting on Mr. Niedermier were very
18 overwhelming, we thought, my goodness, this is a
19 very good opportunity to really hopefully narrow
20 down and learn some more about some more. So,
21 that's why we added the, the 10 to that group. It
22 was very important to us that, you know, we were
23 -- this was a, this was a, a thing that when --
24 this photo pack was very, very well discussed
25 within team meetings and approved by the sergeant

1 to go ahead on. So, we thought it was a very
2 useful tool.

3 Q I just want to be clear on dates. We've heard
4 September. We've heard April.

5 MR. WOLTERS: The first round --

6 MR. FELL: Yes.

7 MR. WOLTERS: -- was started, the picture taking started
8 September 7th, and then we expanded to 17 photos
9 on September 15th. The second round started with
10 the photos, which we had just about under 40, was
11 April the 5th.

12 Q And in April, did you have a picture of Pickton?

13 MR. WOLTERS: Yes, I, I obtained a picture and it was, like, a
14 photocopy of this size.

15 Q That's 8 by 10?

16 MR. WOLTERS: Yeah. I then had to minimize it and had scotch
17 tape around the end of it, and that was, that was
18 the extent of the photograph that we were showing.

19 Q Now, look at tab 9 please. These are handwritten
20 notes and these come from the Vancouver Police.
21 Do you recognize -- look at the second page.

22 MR. FELL: Yes, this is my writing.

23 Q Thank you. And Mr. Fell, read the section that
24 looks -- it appears to say "recognized"?

25 MR. FELL: Recognized Pickton. Tip #30. Took to house

1 in Surrey/Coquitlam. Hot tub. 3 bedroom
2 house? (Subdivision). B.J. provided drugs.
3 Wanted camera with hot tub (refused). [And
4 then] Vehicle?

5 Q And this, this Tip Number 30, tell us what that
6 meant.

7 MR. FELL: Tip Number 30 was the number assigned to Mr. Pickton
8 at the time.

9 Q That's your handwriting?

10 MR. FELL: That is correct. Those are my notes.

11 Q And you see the date at the bottom, April 5, 2000?

12 MR. FELL: That is correct.

13 Q And what does that say?

14 MR. FELL: That's not my handwriting. That's -- somebody has
15 written that on there.

16 Q So, what happened to these notes?

17 MR. FELL: The notes that I had upon departure in May of 2000,
18 I photocopied my notebook along with other, other,
19 other papers and provided it to Detective
20 Constable Shenher.

21 Q Now --

22 MR. WOLTERS: Can I add one other thing here? Is that one of
23 the sex trade workers that picked out Pickton here
24 was one of our victims of Niedermier, and we had
25 interviewed her on December 6th.

1 Q Now, we're discussing whether or not you passed
2 information about Pickton being recognized to the
3 team.

4 MR. FELL: Yeah, that, that, you know, in total honesty, your
5 honour, I have no recollection of particularly
6 passing the information with regards to Pickton as
7 related in my book here. There, there was a lot
8 of circumstance involved that really don't
9 preclude or assist in your decision making here.

10 But really, what it is, is, at the end of the
11 day, quite often, we would go in and we discussed
12 verbally with the squad, whoever was in there at
13 the time, you know, what our results were for the
14 day, if anybody was around, or later on in team
15 meetings. So, I do have a recollection of telling
16 all sorts of stories with all sorts of hits, you
17 know, whether it's regards to one individual who
18 liked to do this, and we didn't consider them a
19 very strong suspect, and so on.

20 So, whether I did pick -- whether I had
21 mentioned Pickton is a possibility, but I have no
22 recollection of, of actually saying anything about
23 him.

24 Q Mr. Wolthers?

25 MR. WOLTERS: I don't remember whether I mentioned Pickton or

1 not. It's unfortunate, but that's it.

2 Q Let's put it to you in this way then. Did you
3 intentionally withhold information about Pickton?

4 MR. WOLTERS: Of course not. If you look at it, if we were
5 intending to withhold information, we wouldn't
6 have put this in our notebook.

7 Q Turn to tab 10 please. Mr. Wolthers, do you
8 recognize this writing?

9 MR. WOLTERS: Yes, those are my chicken scratches.

10 Q And you were PC 1267?

11 MR. WOLTERS: Yes.

12 Q Third page.

13 MR. WOLTERS: That's correct.

14 Q And can -- the date, there is a date handwritten
15 at the bottom, "April 12th." Do you know, can you
16 help us with the date on when these notes were
17 made?

18 MR. WOLTERS: April 12th.

19 Q Okay. On the third page, I can't quite sort it
20 out. Maybe others can. It looks like in the
21 margin "202"?

22 MR. WOLTERS: Yes.

23 Q What would that be? Would that be 2:02 in the
24 morning?

25 MR. WOLTERS: No. It would have been, if it was anything, it

1 would have been in the afternoon. I don't know
2 what the "202" means.

3 Q Okay. What does, what does your note say there?

4 MR. WOLTERS: It says:

- 5 - last saw last year
- 6 - he was walking
- 7 - used to see him walk around Oppenheimer.

8 And we had -- this had come from a sex trade
9 worker that we had interviewed on September 28th
10 also, of '99.

11 Q When you were transferred into the review team,
12 were you given a briefing on the potential
13 suspects that were known to the Vancouver Police
14 regarding the missing women of the Downtown
15 Eastside?

16 MR. FELL: No, other than what was posted on our board. Uh,
17 largely at that time, the suspects that we had
18 were plentiful. There was I believe 20, 10 to 20
19 on the board of -- and favorite picks would be of
20 anybody in the squad. So, we were never given a
21 formalized briefing on anything.

22 My, my introduction to the squad is, I had
23 a -- you know, I was greeted with -- by Detective
24 Lepine who assisted me in setting up an
25 organizational log, told me that, you know, that

1 he had the Pickton file. He felt he was a good
2 suspect. Uhm, he also, you know, told me he had
3 reviewed the Niedermier file, felt he was a good
4 suspect, but also reiterated the fact that, you
5 know, an open mind was a good thing to have when
6 investigating something like this.

7 Q That was Detective Lepine?

8 MR. FELL: Yeah, and that would have been in, you know, early
9 July. We were also advised that, you know, by
10 Sergeant Field, during the day, is to familiar --
11 familiarize ourselves with the documentation that
12 was available to us in the, in the shelving units
13 around. So, periodically, from time to time, we
14 would read up files.

15 Q So, you have opened the discussion on the comment
16 that's been made, that, that perhaps the two of
17 you suffered from tunnel vision as it related to
18 your suspect that you were focusing on, Mr.
19 Niedermier. Now, I saw you react, Mr. Wolthers,
20 when I asked that. So, let's have you tell the
21 commissioner what you wish to say about that
22 comment made about you, the tunnel vision comment.

23 MR. WOLTERS: Well, we talk about tunnel vision. As we worked
24 on Barry Niedermier, the information we were
25 getting from the sex trade workers, it was obvious

1 that we had a lot of serious charges here. But we
2 also worked on many other suspects, and over the
3 course of our time there, uhm, I can outline
4 several more. And then when I left this unit, I
5 also worked on, with another partner, and we
6 obtained many DNA samples of other suspects. So,
7 to comment that we had tunnel vision is absurd.

8 Q What do you want to say about that, Officer Fell?

9 MR. FELL: Well, I certainly echo my partner's, my partner's
10 take on it. I mean, I mean, I can give you some
11 examples, Mr. Commissioner. Just like, like
12 earlier, right? I mean, we didn't take one photo
13 of when we did the photo packs. We took 17. It's
14 because we were working, trying to help the squad
15 eliminate.

16 Yes, Mr. Niedermier was certainly a top
17 priority once the, the sexual assaults and the
18 grievous crimes that he committed came to our
19 attention, but at no time were we just sitting
20 there, you know, pushing everything aside,
21 abandoning things, just for the sake of total
22 focus. It was -- I feel it's a very unfair
23 assessment of our, our work up there. I mean, we
24 will probably be going through our work log here
25 to show that to you later. But, you know, I, I

1 just find it staggering that people would suggest
2 that.

3 Q So, obviously, if your lawyer, who is well
4 briefed, wishes to go through your work log, that
5 would be fine. I just wanted to introduce the
6 discussion.

7 MR. FELL: Yes.

8 MR. WOLTERS: Yes.

9 Q Now, just so we are clear on the photo packs, it
10 was April 5 and April 12th, 2000?

11 MR. WOLTERS: That's correct.

12 Q And you took, the two of you working together,
13 would go to the Downtown Eastside and talk to the
14 sex trade workers and show them --

15 MR. FELL: (Nod)

16 Q -- posters and show them photographs of persons of
17 interest?

18 MR. WOLTERS: That's correct. We started off with a poster
19 and got their feedback from that, and then we
20 showed them the photos.

21 Q And did -- were you of the understanding that
22 other police were asked to do that as well, who
23 were part of the Missing Women Review Team?

24 MR. WOLTERS: No. It was our impression that we were the only
25 ones doing that.

1 Q And were you doing that on your own, outside the
2 organization, or were you asked to do this?

3 MR. WOLTERS: No. We had come up with the idea. And we
4 needed to break the ice, so to speak, break
5 through to the sex trade workers. And when you
6 started, first off, showing a poster and showing
7 the pictures, you would be amazed what happened.
8 It was, like, uhm, their attitude, they looked at
9 us and, "Hey, they give a damn." When you are not
10 sitting there hassling them about drugs or you're
11 hassling them about working a particular area, it
12 was -- and then we actually talked to them about
13 all the missing. And when they looked at them and
14 saw so many, and they knew them, then -- they had
15 no idea. And so it was like it -- they would --
16 you would be standing there and talking there, and
17 they would turn around and call over some other
18 sex trade worker to say, "Come over here and take
19 a look at these pictures."

20 Q I want to just get -- I'm sorry?

21 MR. FELL: Just to follow up on that, it was an approved
22 method. It was brought up at, I think over two
23 squad meetings, where the suggestion was brought
24 up and Sergeant Field approved us to go out and do
25 it. So, it wasn't a freelance operation or

1 anything like that.

2 Q And just tell us about Angela Jardine, because I
3 think it's important. We've heard her name
4 mentioned earlier. When you found out that she
5 was missing, Mr. Wolthers, that had an impact on
6 you?

7 MR. WOLTERS: Well, Angela's world was probably a 10-block
8 radius. And so she lived at the Portland, and she
9 would work up, a couple of blocks up, and she was
10 like a fixture. So, you know, you would be
11 driving down the road and look, "Oh, there's
12 Angela" and, you know, keep driving and that. So,
13 every day, day in and day out, there's Angela.

14 And so when she went missing, the idea
15 presented, hearing rumours, well, they're in
16 carnivals and they're on ships, and I am, like,
17 you know. I said this when I was interviewed by
18 LePard, and I, I don't mean to be disrespectful,
19 but yet you would have had to have your head up
20 your ass to think there wasn't something going on.

21 Q So, just on the comment made earlier, that you
22 knew these women weren't missing, you said to the
23 commissioner you felt they were murdered?

24 MR. WOLTERS: Yes. I mean, it doesn't take much to figure
25 out, basically, if you are not picking up your

1 Welfare cheque, I mean, 95 percent of them, why
2 wouldn't you? It's, it's free money.

3 The second thing, go to their lodgings. I
4 mean, you go there, knock on the door. Get them
5 to open the door. And then you could do things
6 like, hey, they're not there. They could be
7 hanging -- so get out and -- you don't know what's
8 happened to them, so open the door and find out.
9 And then you might place -- do something like
10 place a garbage can on their bed and leave. Come
11 back in a couple of days and see if it's still
12 there. It doesn't take much -- it's not a lot of
13 work to determine that these girls were missing.

14 Q And from your work on the review team, had that
15 kind of activity been done prior to your joining
16 the team?

17 MR. WOLTERS: Uhm --

18 Q That kind of investigative activity?

19 MR. WOLTERS: I think -- I don't believe it was done on the
20 Angela Jardine case. There was, there was an
21 issue with Angela looking like Sereena Abotsway.
22 And so it would go on for a couple of weeks, that
23 apparently they weren't sure who was -- well, just
24 contact a Welfare office and find out which one
25 was not picking up their Welfare cheque, and that

1 would have been a pretty good indicator, in my
2 mind.

3 Q Turn to tab 12 please, and this is a meeting that
4 took place May 4 of 2000, and it seems to be with
5 Ms. Field. You will see the second page signed
6 "Geramy" which we know, of course, is Ms. Field,
7 now Ms. Powell. Now, when did you first see this
8 document?

9 MR. FELL: Again, 12 years later.

10 Q Meaning what?

11 MR. FELL: Meaning through disclosure of the inquiry.

12 MR. WOLTERS: That's the same for me too.

13 Q So, there's a comment, there's a number of
14 comments, but let me just focus on a couple that
15 we have here. This is your opportunity to discuss
16 it. She says, in the fifth or sixth line:

17 Discussed how they had done many things on
18 their own, not telling Lori or me and heading
19 off in their own directions. They were like
20 cowboys. They admitted they do things
21 differently.

22 Do you remember that discussion? I know it's some
23 12 years ago.

24 MR. FELL: I don't remember the discussion, no.

25 Q But take the comment, Officer Fell, about "they

1 admitted they do things differently." This is her
2 words, so you don't have to adopt them, but I do
3 want to ask you if you agree that that's what you
4 have said, or it sounds like something you would
5 have said, and if so, tell us about it.

6 MR. FELL: Well, certainly we, we presented different ideas to
7 the squad, absolutely. The photo pack was
8 different. It was a bit controversial at times
9 because they felt that it had to be a photo
10 line-up. That's, that's an example I can give you
11 with regards to that.

12 Q What's the difficulty with the photo pack? Why --
13 what's the difference between a photo pack and a
14 line-up, as you understood it?

15 MR. FELL: We were gathering information on POIs as opposed to
16 doing an investigation where we had a suspect, a
17 victim, a crime or a witness. So, quite simply,
18 we were gathering intelligence on people of
19 interest and trying to further or not further our,
20 our interest in that, right?

21 You know, I mean, we took all of our POIs,
22 including Niedermier, and our form of
23 investigation was, in those days, is to reverse
24 your investigation. You're trying to prove
25 they're not the person, right, by were they in

1 jail for this period of time when these people
2 were missing, et cetera, et cetera. It was a
3 very, very odd investigation to have to complete.
4 So, these are some of the techniques that you have
5 to go through it, right?

6 And, yeah, no, I mean, we -- it's, it's
7 proactive policing as opposed to reactive, right?
8 This is, this is what, what our interest was, a
9 big interest, because it was, you know, it was a
10 mysterious case, right? And so, proactive
11 measures needed to be put in to do that.

12 MR. WOLTERS: Well, on December 7th, in our logbook, we
13 suggested media usage and a UC operation.

14 On October 5th, I talked to the sergeant, I
15 believe his name was Van Stearns of the Portland
16 Police, and they had a person that had murdered a
17 couple of the sex trade workers. And they had set
18 up a policewoman, a UC, and she was out and she
19 radioed him and said, "This guy is looking at me
20 through a glass building." So, they ended up
21 getting his name and particulars and then they
22 called him into the police station. They asked
23 him, "Do you frequent sex trade workers?" and he
24 said, "no." And they asked for his DNA and he
25 said "no." And subsequently they followed him and

1 that was the person.

2 So, we put forward, let's try a UC operation.
3 We also put forward media usage. And being down
4 there, it didn't take much to figure out it would
5 have been nice to have -- we suggested a camera
6 setup at the Patricia Hotel and also at the
7 Astoria, because a lot of the girls were around
8 those two locations. But those ideas weren't
9 accepted. In fact, in the December 7th meeting,
10 you will see it talks about how there is only a
11 couple of months left for the unit.

12 Q Since you have mentioned that, we've seen
13 reference in words, like "Missing Women Review
14 Team winding down." We've seen that term,
15 "winding down".

16 MR. WOLTERS: That's correct.

17 Q I want to ask you about that. Tell us about that.
18 Did you have the sense that, in fact, it was being
19 wound down?

20 MR. WOLTERS: Uhm, no doubt. Certainly on March 14th, for
21 example, you have a meeting and you are advised
22 that Alex Clarke is going back to General
23 Investigation, Emer Fitzgerald is going back to
24 SOS, and you're, like -- and they're not being
25 replaced. So, you're, like, the writing is on the

1 wall. I mean, you're going. And Doug and I were
2 wondering why this was getting wind, winded down.

3 Q Well, why did you wonder about that? What was on
4 your mind?

5 MR. WOLTERS: Well, we had missings that were -- went -- there
6 was a concern that was, there was no more missings
7 since January of '99. Jacqueline McDonnell was
8 the last one. But by -- when we were being
9 removed from there in May, they had information
10 that there were other missing women.

11 Q Did you agree with the winding down, as you
12 perceived it?

13 MR. WOLTERS: Uhm, we totally disagreed with that. And at no
14 time did I think that, well, it's being -- going
15 to a different phase. Uh, you know, you can sit
16 there and say you're going to plan to take a trip
17 to Hawaii, and it doesn't mean it's going to
18 happen. But if you actually have airline tickets
19 for a certain date, it's going to happen.

20 There was no -- Doug and I never had the
21 impression, well, I didn't have the impression
22 that things were going to be going into another
23 phase. Just being winded down because they felt
24 there wasn't any more missings.

25 Q Mr. Fell?

1 MR. FELL: I do have a recollection certainly of that memo,
2 Mr. Commissioner, and I do remember when Ms. Field
3 provided us with that memo. Uhm, there was a bit
4 of a kerfuffle with Inspector Spencer and he had
5 us sign a, sign one of the memos saying that, you
6 know, that this was a wrongly-worded memo, that
7 the Missing Women's Review Team was just going to
8 be entering into a new, a new phase, right? So,
9 in fairness to them, you know, we, we did sign
10 something like that, I believe, on one of the
11 documents at that time.

12 Q I want to just turn to the next tab, tab 13, and
13 this is apparently from you, both you gentlemen.

14 Subject: MPRT [Missing Person Review Team]
15 Wind Down.

16 Do you see that? Is this part of what you were
17 just discussing, Officer Fell?

18 MR. FELL: That's correct.

19 Q I wanted to ask you about your knowledge of
20 people named Hiscox and Caldwell. Did you have
21 any knowledge or information that had come from
22 those two people?

23 MR. FELL: The only knowledge I've had of Mr. Hiscox and Mr.
24 Caldwell comes from watching this inquiry and
25 reading the LePard report. I was not aware of

1 those two individuals at all prior to that time.

2 Q Mr. Wolthers?

3 MR. WOLTERS: I was not aware of those two individuals at all
4 until I believe 2010 when LePard issued his
5 report.

6 Q And do you know why that is the case?

7 MR. FELL: I, I can only assume that we were excluded from that
8 information. Well, I know we were excluded from
9 that information. It's not an assumption at all.

10 Q Did you ever hear of the name, Ellingsen?

11 MR. FELL: Never.

12 MR. WOLTERS: Never.

13 Q Did you ever hear the name, Menard, Ron Menard?

14 MR. FELL: Never.

15 MR. WOLTERS: Never.

16 Q There is a reference in the memo we just talked
17 about, tab 12, approximately halfway down, it
18 starts:

19 Discussed personality issues. They have a
20 problem with Lori not telling them what's
21 going on, went on to criticize the file and
22 what hasn't been done.

23 Do you see that comment?

24 MR. FELL: Yes.

25 MR. WOLTERS: Yes.

1 Q Ms. Shenher has been here and, of course, gave
2 evidence to the commissioner, and she was critical
3 of you for not telling her what was going on. Are
4 you aware that that's a comment that she has about
5 the events back in the years when they were taking
6 place?

7 MR. FELL: Absolutely, I'm aware that she's given evidence of
8 that.

9 Q And in fairness to you, do you wish to say
10 anything about that subject?

11 MR. FELL: Uhm, you know, I, I think later on in my testimony
12 here, Mr. Commissioner, you will see the -- you
13 will get a lengthy, a lengthy description of our
14 working relationship there and what we did and may
15 have not done. So, I think that's probably the
16 best, to have my counsel go through that at the
17 time, otherwise we're going to be repeating
18 ourselves.

19 Q Fair enough.

20 THE COMMISSIONER: I think, Mr. Vertlieb, we will stop there
21 for the morning break.

22 THE REGISTRAR: The hearing will now recess for 15 minutes.

23 **(PROCEEDINGS ADJOURNED AT 10:49 A.M.)**

24 **(PROCEEDINGS RESUMED AT 11:06 A.M.)**

25 THE REGISTRAR: Order. This hearing is now resumed.

1 MR. VERTLIEB: Thank you, Mr. Commissioner.

2 Q Before the break, we asked you about knowledge of
3 Hiscox and Caldwell and Ellingsen. Did you know
4 that there was disagreement among investigators on
5 the file concerning information as it related to
6 Pickton as a suspect?

7 MR. WOLTERS: Well, we didn't know about Caldwell or Hiscox at
8 all. So, I, I couldn't possibly answer if there
9 was any disagreements.

10 Q All right. We've heard that some of the
11 investigators had different views of Ellingsen's
12 evidence. Did you hear anything about that when
13 you were working as part of the Missing Women
14 Review Team?

15 MR. WOLTERS: No.

16 MR. FELL: No.

17 Q Officer Fell, it struck us, when hearing about the
18 work you do with informants and teaching, and you
19 have a course that you teach police officers?

20 MR. FELL: Yeah, I, I don't presently with the position I'm in,
21 but I was, like you said, I was the source
22 coordinator with the City for several years, and
23 during that time, we produced a three-day, or I'm
24 sorry, a four-day course on source management for
25 those interested; and I also was involved with the

1 RCMP Joint Steering Committee on sources and was
2 partaking as a lecturer and a syndicate leader
3 with joint training there, too, as well.

4 Q So, is it the case that, just because you have a
5 source as a police officer, doesn't mean you know
6 what to do with that source?

7 MR. FELL: That's very correct. That's why the course came
8 about.

9 Q And it's a four-day, full-day course?

10 MR. FELL: Full day, no overtime.

11 Q You talked to police officers?

12 MR. FELL: Talked to police officers. Now I believe it has
13 evolved to other agencies as well.

14 Q So, let me just ask you about this, because one of
15 the pieces of evidence we've heard is that
16 Caldwell, who was an informant, came to a meeting
17 and apparently under the influence of drugs. Now,
18 would it be fair to say that, as police officers,
19 often you are dealing with informants who have
20 drug or alcohol issues?

21 MR. FELL: Oh, yes. I mean, that's very common, especially
22 when you are dealing with an informant that has
23 anything to do with the, the drug trade.

24 Q So, when you have someone show up for an interview
25 who is stoned, what is it you do?

1 MR. FELL: Well, I'd give him, give him time to get into a
2 better condition.

3 Q And are there ways that you can do that as police?

4 MR. FELL: Well, there's a variety of ways. I mean, you know,
5 you can just bed them down in a hotel for a few
6 hours and sleep under a watchful eye. You know, I
7 mean, I would just, you know, I would just pick
8 another time to interview the individual, unless
9 there was an exigent nature to it, of course.

10 Q And would you ever say to the person, "Listen, we
11 can't interview you now. You're not in any
12 condition, but we want to get you in a position
13 where you can come back and do" --

14 MR. FELL: Oh, absolutely. If a person is on the proverbial
15 nod, you know they're not in their right frame of
16 mind.

17 Q So, we heard about a sex trade worker who was on a
18 nod when she was interviewed by Crown. Is it the
19 same for Crown? Have you ever, for example, had
20 to work with Crown on a witness who was under the
21 influence of drugs and worked together with Crown?

22 MR. FELL: Uh, yeah, I have certainly worked on the Niedermier
23 case where there were, those issues would crop up,
24 absolutely.

25 Q So, what supports can you offer when you have got

1 someone who is stoned?

2 MR. FELL: When you've got someone --

3 Q You mentioned a hotel room, for example, getting
4 some sleep.

5 MR. FELL: Getting some sleep, watching over. I mean, I mean,
6 it's just, it's just a mistake to, you know,
7 whether it's stoned or inebriated, it's just a
8 mistake to interview a person in that, in that
9 position. And like I said, unless there is an
10 exigency to it where, you know, life or death is,
11 you know, there, right?

12 Q So, if someone is stoned, does that mean to you
13 they had no credibility?

14 MR. FELL: Absolutely not. I mean, you look at the person on a
15 whole, your honour. As a source handler, you have
16 to remove the information from the person. You
17 have to attach credibility or no credibility to
18 the information.

19 If a person, for example, is unrelia --
20 stated to be unreliable because they don't show up
21 for meetings, then a source handler is comparing
22 their world to that person's world. So, it's very
23 important to start removing yourself. I mean, if
24 you are taking information from a source and you
25 -- what is taught aggressively these days is the

1 digging down of information, right?

2 Q What does that mean?

3 MR. FELL: Where the information came from. How they got the
4 information. Was the person at a party stoned
5 when they got the information. I mean, it just
6 goes to the nth degree, so we can eventually pull
7 that information out and say to, to, to, you know,
8 to a justice and say, "This is what we have and
9 this is how we got it and this is the, you know,
10 the end, end to it," right?

11 So, reliability is attached largely to the
12 information. I mean, personalities,
13 idiosyncrasies, habits, things like that, do have
14 a, do have a play on the source. Of course they
15 do. But it's wrong to just, just say a source's
16 information is wrong because they're, you know,
17 because, you know, they fail to do certain
18 criterias (sic), right? You have to deal with the
19 information and try to separate it.

20 Q Separate the information, as you've said, --

21 MR. FELL: Yes.

22 Q -- from the person?

23 MR. FELL: That's correct.

24 MR. WOLTERS: Dealing with a source is, is like, it's a work
25 of art. And there is a lot of -- the vast, vast

1 majority of police officers are incapable of
2 dealing with sources and they don't want to deal
3 with sources.

4 Q So, just talking about this for a moment, both of
5 you feel free to assist the commissioner. What
6 ways would you use to build relationships with the
7 informants to help develop the case that you feel
8 needs to be developed?

9 MR. FELL: Well, the building of a relationship with a, with a
10 source or an informant, the utmost important part
11 of that is building of trust, that relationship of
12 trust that that informant feels that their
13 information will, one, be protected under the rule
14 of law with regards to, you know, their anonymity,
15 et cetera, not, you know, not in their sense
16 betraying them. Quite often, you will hear from a
17 source that, you know, "I don't want to be viewed
18 as a rat," or things like this, right, which is,
19 you know, just an awful word to a person who is
20 coming forward on their, on behalf of what -- you
21 want to establish with regards to a source their
22 motivations, right? Why are they coming forward
23 to you?

24 And, you know, from the sparse reading I can
25 do out of the LePard report, they had, you know,

1 Caldwell and Hiscox came as sources of conscience,
2 right, which, in itself, lends to credibility in
3 my opinion, right? It's, you know, these are
4 people that think there is a wrong happening.
5 Whether they have the end-all, the be-all
6 information, but they, they're coming because of
7 concern, right?

8 And you see that, even if, even though
9 they're varying lengths of time between when
10 handlers contact and when they don't contact and
11 varying degrees -- I've read, I believe on at
12 least one occasion, maybe twice, where one of the
13 sources actually recontacted the handlers
14 themselves, right? Which, again, lends to a
15 credibility of information, right?

16 So, when you're developing a source and
17 managing them, you know, the basic premise is
18 trust and honesty, right? And you -- we, we, we
19 provide our members with all sorts of information
20 on, you know, not condoning crimes, not condoning
21 participation in crimes, you know. And, and, and
22 it's -- they're, you know, quite often very
23 reluctant because, you know, there is the old
24 standard of, "Well, you know, if you just do a
25 little of this and that, that's okay, you're

1 telling us about the bigger picture."

2 What comes off with the handlers, they don't
3 realize is that when they are individuals that
4 maintain a certain standard and maintain a certain
5 ethic with their sources, it actually furthers the
6 relationship because they know that that handler
7 is rock solid with them, right, and won't be
8 swayed to, you know, start joining in the past,
9 you know, issues that we've seen over the years
10 where, you know, members have fallen off the
11 wayside with sources and become buddies and, you
12 know, gone drinking with them, whatever, right?

13 I mean, we've had some horrific incidents
14 within the City and within Canada where that has
15 happened. So, this is part of the idea of
16 training. This is part of the idea of having
17 oversight with a registry, with a department.

18 So, when the, when the source handler gets
19 the information, you know, whether it be a drug
20 house, whether it be whatever, they have to funnel
21 that through the source unit. And it provides a
22 second set of eyes and oversight to make sure
23 that, you know, you have an expert in there that
24 says, "You know, do you realize that this guy is
25 not quite giving you the full goods," or "maybe

1 you should look at this angle." You know, it's an
2 oversight to make sure we don't get wayward
3 handlers, right? So, there, there is a lot to be
4 said, and I'm probably speaking too much, so.

5 Q So, just following up on this, in the LePard
6 report, he discusses the issues about credibility
7 that arose with the information from someone named
8 "Lynn Ellingsen". Do you recall reading that part
9 of the report, the LePard report?

10 MR. FELL: Yeah. And as I understand with Ellingsen, she was
11 not an informant. That is correct, I believe?

12 Q Yes.

13 MR. FELL: So, you know, I really wouldn't want to venture into
14 it, because I haven't -- I don't have full
15 documentation even to look at that, so.

16 Q So, you said that dealing with an informant is, is
17 more of a work of art.

18 MR. FELL: Yeah.

19 Q So, how so?

20 MR. FELL: Well, you know, you have to be a bit of a salesman,
21 right? I mean, you, you're -- the common belief
22 is that sources only do it for money, right? And
23 they don't. They do it for a myriad of reasons,
24 but when it comes down to it, it comes down to
25 wanting to provide information of something they

1 see is wrong, right?

2 And so, you, you have to, you know, to get
3 that information, I'm probably speaking more on
4 the development side of things, is you have to
5 sell yourself as a person of trust. And that,
6 that takes lots, uhm, especially for a police
7 officer who works day in and day out dealing with,
8 with individuals they're arresting, accused
9 individuals, and now we're talking to an accused,
10 you know, possibly a person who has a, a criminal
11 past and trying to befriend them. So, it becomes
12 a, you know, cognitive dissidence (sic) or, you
13 know, it's that, that mode, okay, he's a police
14 officer, I'm a criminal, now we've got to talk,
15 right? And, and we've got to cross that bridge.
16 And we've got to make sure that person believes we
17 are, you know, in their best interest, and at the
18 same time, upholding, you know, our standard of
19 law, right?

20 Q So, the point is this. Does it take experience to
21 know how to handle it?

22 MR. FELL: It takes a lot of experience. And, you know, you
23 know, over the years, you make a lot of mistakes
24 and bumps on the way and --

25 MR. WOLTERS: It also takes desire. I mean, there is times,

1 for example, we have an informant that was a drug
2 addict downtown, full of AIDS/HIV. We would get
3 into the car, and a lot of police officers don't
4 want them in the car. We would then be talking.
5 They're coughing. They have got colds. I mean,
6 that's part of it. And quite often they sit there
7 and maybe ask for some money or something and we
8 just go down and say, "No, you know what? It
9 looks like you haven't had a meal here in a week."
10 So, we'd go through the drive-through at
11 McDonald's and say, "Order what you want." Uhm,
12 those kinds of things you have to do. And I would
13 guess at least 90 percent of the police department
14 are not interested in doing that.

15 Q So, the reason I wanted to ask you about this, as
16 counsel here for the commissioner, is that we as
17 non-police officers might think a witness and an
18 informant are very similar, but I gather from what
19 you are saying, particularly Officer Fell, that's
20 not the case at all?

21 MR. FELL: No. You know, barring some recent decisions in the
22 BC Supreme Court -- or BC Supreme Court I believe,
23 with regards to witnesses and informants, uh, you
24 know they, they are different, you know. One is
25 providing you evidence and one is providing you

1 information is the basis, right?

2 Q And it came up in the context of, just so you know
3 why I was asking, we've heard that Ms. Shenher was
4 put into the unit, on the missing women
5 investigation, and we covered her background. And
6 she didn't have the training that you now offer to
7 police officers, and that's part of the reason I
8 wanted to have your evidence on the subject.

9 MR. FELL: Yeah.

10 MR. WOLTERS: Well, I think to go a little further with that,
11 is that you don't always have to have the
12 training. You go and get somebody that does have
13 the training. When I first joined the police
14 department, I attended to a fatality. I didn't
15 know how to measure, make the measurements or
16 anything. So, I needed help. And I, you know,
17 asked the sergeant and said, "Get me somebody that
18 can help me out here, because I don't know what I
19 am doing," right? So, if you don't know about
20 informant stuff, there's people that do. And she
21 -- anybody could have approached, those people
22 could have been approached easy.

23 Q Just one other thing on the subject, and more for
24 you, Officer Fell. We've heard about the words --
25 informant. We've covered that. We've also heard

1 about being an agent and we're told there is a
2 difference. Can you give us, in a brief
3 statement, the difference to you between someone
4 who is an informant and then moves to become an
5 agent or --

6 MR. FELL: Yeah. I mean, basically, in a nutshell, is just
7 like I said with a witness. So, one, the source
8 provides you information. The agent is there to
9 perform a contractual duty and provide you with
10 evidence. And then that individual is going to be
11 required to attend court and give evidence on
12 that, if that's part of the, the agreement that's
13 been signed. I am not, by any way or means, an
14 agent handler. I mean, I defer when it comes to
15 that. My expertise is source.

16 Q That's what I wanted to ask you.

17 MR. FELL: Yes.

18 Q Again, because we are non-police, most of us, in
19 this room, we might not think there is a
20 difference between handling an informant and
21 handling an agent, and you have just confirmed
22 that there is, in fact, a significant difference?

23 MR. FELL: Yeah. I mean, if it comes down to basics, it's just
24 your informant provides you with information.
25 Your agent provides you with evidence. That's the

1 very simplistic --

2 Q No, that's helpful. So, just to conclude on that
3 subject, does this mean that informants, that not
4 all informants can become agents?

5 MR. FELL: No, they, they may not want to be. You know, they,
6 they come under, under the guidance of privilege,
7 and, you know, they, they may not want to take
8 that next step themselves, right? And, you know,
9 it's not something that is taken lightly,
10 although, like I say, I'm not an expert of when it
11 takes the next step.

12 Q So, even with your expertise in dealing with an
13 informant, if you were considering that person
14 becoming an agent or undercover operative, you
15 would go to someone that has expertise in that
16 area?

17 MR. FELL: Oh, absolutely, yes.

18 Q Thank you. In the binder, there is a document
19 that seems to outline criticisms of you, both of
20 you, to the way you interviewed Niedermier. I
21 have them in there, but I am not of the view that
22 they, that that needs to be covered for the
23 purposes of our function as counsel. I just want
24 you to know that material is there and the
25 commissioner can hear about that and make his

1 decision on whether he needs to hear it.

2 I wanted to ask you about a memo at tab 22,
3 June 1. It's from Ms. Shenher to Gord Spencer.
4 Tab 22 please. The second paragraph starting,
5 "Yesterday, Dorothy Alford," now, did you see this
6 memo back in the timeframe it's, it's dated?

7 MR. FELL: No, this was not produced to us until disclosure I
8 think through Mr. Hern.

9 MR. WOLTERS: That's the same for me.

10 MR. FELL: And that would have been 2011.

11 Q What's that paragraph? Do you know anything about
12 what that might be discussing?

13 MR. FELL: Which, which paragraph?

14 Q Starting:

15 Yesterday, Dorothy Alford advised me that
16 last week, Det/Cst Mark Wolthers asked her to
17 provide him with photocopies of
18 information --

19 Just have a look at that paragraph. My question
20 is, what's that about?

21 MR. WOLTERS: I believe that's about, on March 31st, 2000,
22 Doug and I attended to North Vancouver RCMP
23 Detachment and we were allowed to go through the
24 effects of Mary Lidguerre, and I don't believe
25 they had been through that.

1 And through different investigation methods,
2 on April the 3rd, we came up with an excellent
3 suspect in her homicide. And I believe that, at
4 that time, that I had asked for vehicle checks and
5 stuff like that. That's what that's about.

6 Q Did you see anything wrong in what you were doing?

7 MR. WOLTERS: Of course not.

8 Q Was there anything you wish to offer, Mr. Fell,
9 about this?

10 MR. FELL: No, I think he, Detective Wolthers has explained it
11 well.

12 Q Now, there's also a reference that we've seen in
13 documents to concerns about your behaviour and
14 there was some internal investigation conducted.
15 We've seen the documents and the recommendations.
16 Did you see those documents back in the day when
17 they were being prepared and the complaints about
18 you and the recommendations made about you?

19 MR. FELL: Which specific documents?

20 Q Well, for example, just look at tab 23, memo June
21 13th, 2000, and if you turn to the third page, you
22 will see "recommendations".

23 MR. FELL: No, I had not seen that until, again, the disclosure
24 from Mr. Hern to our counsel there.

25 MR. WOLTERS: That's the same for me.

1 MR. FELL: And I have had opportunity to review my human
2 resource file as well at the City and there is
3 nothing on there as well.

4 Q What we do know is the two of you authored a
5 complaint of -- a memo to the chief of police, or
6 the acting chief.

7 MR. WOLTERS: It was to the chief of police, Chief Blythe.

8 Q And how do you view the complaint? What drove you
9 to make that? And then let's discuss the
10 consequences, as you view it, from that complaint.
11 So, what drove the two to make that complaint?

12 MR. WOLTERS: Well, it was our concern about the investigation
13 in general, but specifically about Barry
14 Niedermier. Because there was, during the course
15 of our contact with Barry Niedermier in
16 Lethbridge, and we had a couple of psychologists
17 that also interviewed him, there was some, I find
18 some details that came out, uhm, some comments
19 made by him. Uhm --

20 Q Let me just, let me just stop you, not to be
21 unfair to you, but your concern was the Niedermier
22 case when you wrote that memo?

23 MR. WOLTERS: That, that, and we were, we were kind of shocked
24 that we haven't found anybody here and yet we're
25 -- we were under the impression it was being shut

1 down.

2 Q What was being shut down?

3 MR. WOLTERS: The Missing Women Review Team.

4 Q That's what I wanted to hear. Okay. What's your,
5 what's your sense of how your lives, as it were,
6 developed after that complaint to the chief was
7 made?

8 MR. WOLTERS: Well, I can -- to make -- to write a letter to
9 the chief, uhm, you basically put your career, so
10 to speak, on the line. But to be honest with you,
11 uhm, I didn't give a damn about that. I was more
12 concerned about what was going on with these women
13 and I, and I don't know, Doug has his own
14 comments, but at the end of the day, I thought,
15 when I am sitting on the rocking chair, I can say
16 I did the best I did. And so there was a lot of
17 ramifications from writing that.

18 Q Such as?

19 MR. WOLTERS: Well, I, I've seen, for example, how, uhm, I was
20 -- they looked at trying to charge us through
21 Internal. I looked at how we -- they should have
22 access to the human resources when I'm placed in
23 something, in a position, and I'm trying to get a
24 position. And it was -- you know, there was more
25 details that had come out. But at the end of the

1 day, for me, uhm, I, I ended up going to School
2 Liaison because I couldn't take being around
3 policemen anymore. And I tried to retire in 2007,
4 uh, they had a package, but it was turned down,
5 and then the first day I could retire in 2009, I
6 did.

7 Q You went to School Liaison meaning?

8 MR. WOLTERS: Well, what happened was, after I left the
9 Missing Women Review Team, I returned to DEET, and
10 then --

11 Q That's drug enforcement?

12 MR. WOLTERS: Drug enforcement. And then by February of 2001,
13 I wasn't quite finished with the Missing Women
14 Review Team. I wasn't finished with the missing
15 women. And, you know, at that time, what bothered
16 me was that there was more missings. You had
17 Jennifer Furminger. You had Brenda Wolfe. But
18 the -- key too were Donna (sic) Crey, who'd gone
19 missing, reported December 11th; and then the
20 other one was Debra Jones, missing Christmas Day,
21 last seen four days earlier.

22 So, when you're out there and you are getting
23 this information, you realize that the -- I will
24 be brutally honest -- the killings were
25 continuing. So, I approached another policeman,

1 we'd gone to, through university together, Mike
2 Donahue, and I said to him, "Would you like to
3 kind of work on this?" and he said, "sure." So, I
4 ended up leaving DEET and I went back to Patrol
5 and I worked an early day shift where you had to
6 be on the road at 4:45 in the morning, which was
7 actually a good time to see what was going on down
8 on Hastings and that.

9 So, then I worked there and I worked up
10 different suspects and then, ultimately, was told
11 to stop showing pictures and I, I had enough. And
12 that occurred on February 6th of 2002. And so I
13 had to basically, to survive, is to get away from
14 fellow police officers, and I went to School
15 Liaison, which was good, and there was no
16 policemen around.

17 MR. FELL: For my view on the letter there, Mr. Commissioner,
18 when, when we put that letter in, we were under no
19 impression that it would be good for us, but we
20 felt it was important. I actually sat down with
21 my family the night before we put that in, because
22 I was -- felt at the time that I had no idea what
23 direction things would go, right?

24 The letter, in itself, is an honest letter.
25 I would never write a letter to the chief, right?

1 And this was a big step for myself as a constable
2 and I knew that it would be taken very poorly by
3 whoever received it.

4 I also understood the fact that, you know,
5 people did take personal, personal offence to that
6 letter, but it was -- great care was taken in that
7 letter not to individualize any individual in
8 there. It was to, just to -- we wanted to alert
9 the chief. We had no idea what the chief knew and
10 we felt that was our only avenue, that Inspector
11 Spencer at the time, who was in charge of this,
12 left us no opportunity to speak to him after we
13 were given our exit, exit interviews by him to, to
14 -- we felt we had no other avenue.

15 And there is, there is exceptions in the
16 policy of Vancouver where, if you are having
17 trouble with a member of rank, you can go above,
18 right? But we knew that that is never looked on
19 in a kindly manner. It was probably one of the
20 darkest days in my career when I entered that
21 chief's office, and the letter was refused by him
22 and was refused by the deputy chief of the day.

23 And we went back to the office and, of
24 course, you know, we got it in the ear, in a big
25 way, and eventually I was told my career would be

1 affected by it, and that was told to me by
2 Inspector Spencer. Now I have had a good career
3 and I love policing and I continue to police and I
4 don't plan to leave it. But, you know, it was
5 very dark days up there.

6 Q So, just to come back to your comment, because we
7 are close to the end from our, the commission
8 counsel's perspective, I want you to be very clear
9 on what it was that was driving you to write to
10 the chief. And I'm looking at you, Mr. Wolthers.
11 What was your concern? What did you not want to
12 be sitting in a rocking chair feeling badly about?

13 MR. WOLTERS: Well, when -- we ended up interviewing, and then
14 a psychologist interviewed Barry Niedermier, he
15 made some statements, and those statements, to me,
16 are quite overwhelming. And when I returned, I
17 thought we shared this information, everything at
18 the time. I think we've got a problem here, and
19 it was, like, the next thing you know, we're out
20 and Detective Trowski is going to complete the
21 sexual assault portion of Niedermier. But if
22 you're interested, I can say some of the things
23 that were -- Niedermier told us.

24 Q I don't think it matters for our purposes, but if
25 your counsel feels that -- then we will leave

1 that.

2 Is there anything else, before I conclude,
3 that you feel you would like the commissioner to
4 hear, knowing, of course, your own counsel will
5 take you through issues that we haven't covered?

6 MR. FELL: No, that's, that's fine. I'm satisfied. Thank you
7 very much.

8 MR. WOLTERS: (Nod)

9 MR. VERTLIEB: Mr. Commissioner, then you can see that we've
10 concluded.

11 THE COMMISSIONER: All right.

12 MR. VERTLIEB: But let me just take you through some time
13 estimates that we've received. We've received one
14 from Ms. Narbonne for one hour, DoJ 20 minutes,
15 Mr. Crossin 15 minutes, Ms. Hatcher and Mr.
16 Woodall have suggested one and-a-half to two
17 hours, but from a brief discussion with Ms.
18 Hatcher, it may be less since we've covered so
19 much ground in chief. Ms. Bateman had suggested
20 20 minutes, but nothing about her client has come
21 up at all with this evidence, so I wouldn't see
22 any reason she should have any questions. And
23 those are the only estimates we've received. Keep
24 in mind we need to finish this evidence today and
25 we're only sitting till 4:15 for reasons of

1 scheduling.

2 THE COMMISSIONER: All right. Yes, Mr. Gratl?

3 MR. GRATL: Yes, Mr. Commissioner.

4 MR. VERTLIEB: Oh, I'm sorry, Mr. Hira as well needs five
5 minutes. My apologies.

6 MR. GRATL: I expect to be an hour and-a-half to two hours with
7 these witnesses. They're important questions that
8 these witnesses should have an opportunity
9 to speak to, issues of language use within the
10 review team and, of course, to address in a
11 fulsome way what's been said about them by
12 Inspector LePard and Detective Shenher.

13 THE COMMISSIONER: You know, I have no doubt that you have
14 important matters to ask, questions to ask. But
15 is there any reason why you don't give your time
16 estimate to commission counsel?

17 MR. GRATL: I had just no idea what these witnesses were going
18 to say. In lots of ways --

19 THE COMMISSIONER: Well, I think --

20 MR. GRATL: -- Inspector LePard has spoken for them in the past
21 and I just didn't, I just didn't know what they
22 would be, what they would be saying.

23 THE COMMISSIONER: I --

24 MR. GRATL: They weren't, of course they weren't interviewed by
25 Deputy Chief Evans, for reasons quite beyond my

1 understanding, uhm, and it's just difficult to
2 predict what the answers will be sometimes.

3 THE COMMISSIONER: Is it that difficult to predict? We knew
4 that, from the LePard report and some of the other
5 comments we've heard from Shenher, that, that they
6 were criticized, and I would have expected that
7 they would come here and defend themselves. So,
8 in any event --

9 MR. GRATL: No, fair enough. There were also 160 new
10 documents, some of them being new, provided by
11 counsel for Fell and Wolthers yesterday, a package
12 of documents provided by the commission --

13 THE COMMISSIONER: Oh, all right.

14 MR. GRATL: -- counsel a day ago. It's just, trying to make
15 estimates, is sometimes --

16 THE COMMISSIONER: Okay. No, no, I understand. I'm not, I'm
17 not blaming you for this. I am just saying it
18 makes it easier if we --

19 MR. VERTLIEB: Let me suggest --

20 THE COMMISSIONER: Okay, we will do the best we can --

21 MR. VERTLIEB: What I was going to suggest is, let's have,
22 let's have counsel for these two witnesses deal
23 with questions, and over the lunch break, you can
24 reflect on time estimates.

25 THE COMMISSIONER: All right.

1 MR. VERTLIEB: We do need to finish these two witnesses today.

2 MR. WARD: Cameron Ward, counsel for the families.

3 THE COMMISSIONER: Yes.

4 MR. WARD: I didn't provide an estimate either. Having heard
5 -- we didn't have will-says. We are being rushed
6 dramatically here to get this finished by the end
7 of May. It's very unsatisfactory. It's hard to
8 estimate, when you're cross-examining two
9 witnesses at a time, appearing on the same, in the
10 same witness box at once. But I am guessing,
11 guessing, I will need a half-an-hour.

12 THE COMMISSIONER: Mr. Woodall.

13 MR. WOODALL: Yes. I appreciate there's a press of time, but
14 we didn't know what questions were going to be
15 asked. Ms. Hatcher is going to be asking
16 questions and wishes to just make sure she's not
17 going over old ground. So, we just need to stand
18 down for five minutes just so she can --

19 THE COMMISSIONER: You want me to stand down now?

20 MR. WOODALL: Yes, just -- it will speed up her examination.

21 THE COMMISSIONER: All right.

22 THE REGISTRAR: This hearing will now recess for five minutes.

23 **(PROCEEDINGS ADJOURNED AT 11:39 A.M.)**

24 **(PROCEEDINGS RESUMED AT 11:46 A.M.)**

25 THE REGISTRAR: Order. This hearing is now resumed.

1 THE COMMISSIONER: Yes, Ms. Hatcher.

2 MS. HATCHER: Yes. Mr. Commissioner, I have handed up three
3 books. That's my mic.

4 THE COMMISSIONER: Sorry?

5 MS. HATCHER: I've handed up three blue books there, Mr. Giles.

6 THE COMMISSIONER: All right.

7 MS. HATCHER: If two could go to the witnesses and I have
8 distributed copies to other counsel.

9 THE COMMISSIONER: All right.

10 **CROSS-EXAMINATION BY MS. HATCHER:**

11 Q Detective Fell and Mr. Wolthers, and these titles
12 get changed around because one of you is retired
13 and one of you is not, Mr. Vertlieb referred to
14 your CVs and I have included them in this book at
15 tabs 1 and 4, or sorry, 3. So, at the end of the
16 day, they will be marked (NR). And I don't
17 propose to take you through them, because Mr.
18 Vertlieb has done that.

19 What you will find at tabs 2 and 4 of the
20 book are various letters of commendation and
21 appreciation and performance evaluations that you
22 have received over your career. Can you just have
23 a look and confirm that you recognize those?

24 MR. FELL: I certainly do. I believe mines are under, mine are
25 under tab 2.

1 Q I think you need to turn your microphone on.

2 MR. FELL: Oh. I certainly do. Mine are under tab 2.

3 MR. WOLTERS: And I do also. Mine are under tab 4.

4 Q At page 12 of tab 4, if you could turn there,
5 there's a recommendation for a commendation from
6 Sergeant Frail to DCC Unger dated September 19th,
7 2000. Do you see that?

8 MR. FELL: Yes.

9 Q Okay. That was with respect to a fairly high-
10 profile investigation arising out of a murder in
11 Toronto of a young girl; is that right?

12 MR. FELL: That is correct.

13 Q Okay. And you received a large amount of
14 commendation and attention for your part in that,
15 that case. Can you just tell the commissioner a
16 little bit about that?

17 MR. FELL: The case, and I will just refer to it as POI I guess
18 at this point in time, but, it involved -- when
19 Detective Constable Wolthers and myself were
20 working together on Patrol many, many years ago,
21 back I would think it would be the late '80s,
22 early '90s, we had the occasion to take a
23 shoplifter. And the result of a source approach
24 of that shoplifter eventually led to many -- a
25 couple of cases, but the most significant case was

1 the one with regards to the murder and rape of a
2 12-year-old girl in Toronto that had remained
3 unsolved for 10 years. There was a successful
4 conviction.

5 We're not with -- at the time, it's just that
6 we were part of a chain. We had dealt with the
7 source, who led us onto a suspect, and read a lot
8 of documentation and did a lot of research and
9 presented our findings. It wasn't until about
10 seven years past that we actually took those
11 findings again and presented them to a newly-
12 formed unit called "ViCLAS". And ViCLAS took that
13 documentation and forwarded it on through their
14 system and through their, through their means to
15 the Toronto PD and, you know, it resulted in a
16 successful conviction of that individual.

17 Q Anything to add, Mr. Wolthers?

18 MR. WOLTERS: This case was important for ViCLAS, because
19 ViCLAS was trying to get police officers to fill
20 out booklet forms on violent offenders and they
21 weren't doing that. And this case helped them
22 immensely to recognize that. And I think after
23 that, police departments throughout Canada were
24 somewhat ordered to fill out ViCLAS booklets on
25 all of their violent offenders.

1 Q Okay. You are aware of, when you came to the
2 Missing Persons Review Team, are you, that, that
3 you had a bit of a reputation for being cowboys,
4 or you have heard it termed here?

5 MR. FELL: Uhm, that, that's certainly what we were told.

6 Q Right.

7 MR. FELL: Yes.

8 Q This case that you worked on, do you have any
9 knowledge of whether that attention that you
10 received contributed to that or whether there was
11 any negative perceptions of other officers because
12 of this case?

13 MR. FELL: Well, that case, your honour, received negative
14 publicity when it first came out, when this
15 individual was charged with regards to a major
16 crime of the day, and, and our -- and, and the
17 information. It was, you know -- and so there was
18 certainly a history with regards to this
19 particular case that, you know, would be deemed
20 maybe unenviable or unsavvy (sic) with regards to
21 our relationship with some members.

22 Q Have you heard that there might be a perception
23 that you fluked out in helping catch this person?

24 MR. FELL: Oh, yeah, I have heard that. I've heard that. And
25 yes, I would have fluked out getting that

1 shoplifter call for sure. Could have just charged
2 him with a block of cheese, but I didn't.

3 And it's, you know, I mean, it's prevalent,
4 you know, within our culture, that jealousies do
5 have a way of rearing their ugly heads, and
6 that's, you know, that's just human nature
7 unfortunately.

8 MR. WOLTERS: The other thing is that I didn't have any idea
9 of how they felt about us in this unit until after
10 we submitted our report to the chief. And in the
11 last couple of months, I have had the opportunity
12 to read various rebuttals on May 17th from
13 different officers, and I'm, actually, I was
14 stunned at how they felt about us.

15 Q At the time that these rebuttals were -- I think
16 you say you have just read them in the last few
17 weeks. I take it then, you had no opportunity to
18 respond to those memos from Field and Shenher at
19 the time?

20 MR. WOLTERS: That's correct.

21 Q You have both given evidence this morning about
22 the effect that this investigation had on you and
23 your careers afterwards. Is it fair to say that
24 this was the most difficult time in your career?

25 MR. FELL: Oh, a hundred percent it was the most difficult

1 time, especially toward the end.

2 Q Had you had similar difficulties on similar teams
3 before?

4 MR. FELL: No, I had never, I never had been removed from a
5 team. I have, you know -- I mean, basically, your
6 honour, my career of 28 years has gone along like
7 this and then, all of a sudden, it goes like this
8 and just continues along. So, I mean, it was
9 maybe a perfect storm, I don't know, but it's
10 something I have never experienced.

11 Q Okay. So, you have just indicated a straight line
12 and then a little blip.

13 MR. FELL: That's right.

14 Q And that's how you feel about this investigation?

15 MR. FELL: That's, that's correct.

16 Q Okay. Both of you participated in an interview
17 with Deputy Chief Constable LePard. You recall
18 that?

19 MR. FELL: Yes.

20 MR. WOLTERS: Yes.

21 Q It was about March 23rd, 2004, does that sound
22 about right?

23 MR. WOLTERS: Yes.

24 MR. FELL: (Nod)

25 Q And when you started, when you were asked to come

1 in and give an interview, what did you think the
2 purpose was of that interview?

3 MR. WOLTERS: Well, I was under the impression we were coming
4 there and trying to give a -- we would give our
5 two cents' worth on how we can make suggestions,
6 so something like this tragedy doesn't happen
7 again.

8 Q Did you understand that the deputy chief would be
9 inquiring into personal conduct or allegations?

10 MR. WOLTERS: Not at all.

11 Q And you didn't have counsel present, did you?

12 MR. WOLTERS: No.

13 Q I am just going to open it up to you to explain
14 your experience during that interview, and your
15 impressions and your recollections.

16 MR. WOLTERS: Well, for me, it was kind of a bit of an odd
17 interview in terms of, there was, Mr. LePard was
18 sitting there and typing on his laptop. Uhm, Sean
19 Hern was there and didn't say a word. I don't
20 even think he introduced himself. Maybe it was
21 LePard that did that.

22 Uhm, they asked me a little bit about what I
23 felt should be done. And as the interview went
24 on, it started, uhm, LePard got more aggressive in
25 his approach and, uhm, I got frustrated and I --

1 if I had to do it again, I probably would have
2 just got up and walked out.

3 Uhm, it became more, from an interview into
4 an interrogation. And as I look back now, I mean,
5 I'm, I'm shocked that there's no questions in this
6 interview, uhm, the manner it was done, uhm, and
7 should have been videotaped, and, uhm, it was a
8 very frustrating experience.

9 Q Okay. Now, if you'd turn, if you would, to tab 5
10 of the blue book. Do you recognize that document
11 as an e-mail you sent Mr. --

12 MR. WOLTERS: Yes, I do.

13 Q And you have had a chance to read that over?

14 MR. WOLTERS: That's correct.

15 Q And would you mind just actually reading it out to
16 the commissioner and then I will ask you a few
17 questions about it.

18 MR. WOLTERS: It starts off:

19 Subject: Regarding your statement.
20 Doug. I would like 2 things noted regarding
21 my interview. Firstly, before being
22 interviewed I was on holidays for 2 weeks at
23 Palm Springs. I didn't refresh my memory
24 through looking at notebooks or reading
25 reports. It has been 4 years since I was

1 with the Missing Women Task Force, and it has
2 been a challenge to move on. I have moved
3 on. Secondly, regarding our conversation in
4 your office I would state the following. As
5 one who has arrested many individuals, I know
6 the burden of proof for Crown Counsel is
7 high. For the Crown Counsel to have charged
8 Picton, I believe the evidence against him to
9 be very significant. During our
10 investigation of the missing women, Doug and
11 I believed there were a couple of suspects
12 killing these women. We believed that the
13 three Sex Trade Workers found dead in the
14 Agassiz/Mission area were killed by
15 suspect(s) also responsible for some of the
16 missing women. This is the mindset I had
17 during our conversation. Lastly, during my
18 assignment to the missing women investigation
19 and my assignment after, I was involved in 6
20 DNA samples being taken from suspects.
21 Several of the DNA samples were obtained
22 after Niedermier was arrested and the number
23 of missing women continued to climb.
24 Currently, there continues to be some missing
25 women from the Downtown Eastside who have

1 gone missing since Picton's arrest. This
2 case is a Pandora's box.

3 Sincerely, Mark Wolthers.

4 Q Thank you. Just a couple of --

5 THE COMMISSIONER: I think I want to stop there for the noon-
6 hour break.

7 MS. HATCHER: Oh.

8 THE COMMISSIONER: All right.

9 THE REGISTRAR: This hearing is now adjourned until 1:30.

10 **(PROCEEDINGS ADJOURNED AT 11:58 A.M.)**

11 **(PROCEEDINGS RESUMED AT 1:34 P.M.)**

12 THE REGISTRAR: Order. This hearing is now resumed.

13 THE COMMISSIONER: Yes.

14 MS. HATCHER: Thank you, Mr. Commissioner.

15 Q Mr. Wolthers, when we broke, I was just going
16 through an e-mail with you that you had written to
17 DCC LePard. It's at tab 5 of the blue book.

18 MR. WOLTERS: Yes.

19 Q And you've read it out and I was asking you just a
20 couple of points, and the first was in the middle
21 of that -- of your e-mail. You refer to a couple
22 of suspects killing these women.

23 MR. WOLTERS: That's correct.

24 Q And you testified this morning I think that you
25 were always of the view that, that these women

1 were being murdered?

2 MR. WOLTERS: That's correct.

3 Q And during team meetings with the Missing Women's
4 Review Team, do you recall whether you discussed
5 your view about multiple suspects?

6 MR. WOLTERS: I think that the team was aware that we believed
7 in a serial killer, and I think that we were
8 guessing there was maybe two or three. They would
9 have been aware of that information.

10 MR. FELL: And if I could follow up on that.

11 Q Yes.

12 MR. FELL: I do have a clear recollection on two occasions
13 where Detective Wolthers engaged the team with,
14 you know, whom they would suspect would be a good
15 suspect for the killings. So, I mean, there was a
16 lot of talk, you know, amongst and specific
17 engagement by, especially Wolthers, in the, in the
18 units.

19 Q Okay.

20 MR. WOLTERS: The thought with, the thought with the two or
21 more was that we didn't have a benchmark to go
22 from because there was no evidence. And we were
23 using the, basically the evidence from the Valley
24 homicides. They had DNA. So, we were assuming
25 that while it's possible that the person that

1 murdered the three in the Valley was also
2 responsible for the missing women, and it was also
3 felt that there was another serial killer in terms
4 of responsible for the missing women and the
5 person in the Valley had done just those ones.

6 Q Okay. I am going to come back in a few minutes
7 just to those brainstorming sessions, but I just
8 want to finish off with this e-mail. You
9 talked -- you typed there that, that that was your
10 mindset at the time. Can you just elaborate on
11 what you mean by that comment? It's near the end.
12 It's after the vetting. You say:

13 This is the mindset I had during our
14 conversation.

15 Referring to your interview with DCC LePard.
16 Can you expand on that?

17 MR. WOLTERS: Basically the interview with LePard was very
18 frustrating, and I basically was getting fed up
19 and I, like I said earlier, I probably should have
20 got up and left. But I was trying to say, here is
21 what I'm thinking at that time, and, you know, I
22 guess a little bit, you know, as opposed to just
23 shutting down saying, here's what I was thinking
24 at the time.

25 Q The last comment you make in this e-mail is that

1 this case is a Pandora's box. Can you elaborate
2 on that?

3 MR. WOLTERS: Well, I think that, I believe strongly that
4 there's two to three serial killers. Uhm, I don't
5 believe that Robert Pickton is responsible for all
6 of 'em. And I think that if you look back and you
7 look at the women that were murdered, if you can
8 go back, once you hit 1998, '97, you'll see, for
9 example, that out of nine, four were found on the
10 farm. Out of eight, four were found on the farm.
11 Why weren't the other ones at the same time? So,
12 I think the probabilities exist that there was
13 another person active at that time.

14 Q Okay. The interviews that you gave with DCC
15 LePard fed into findings that he made in his
16 report, and you have both read that report, I take
17 it, and -- yes?

18 MR. FELL: Yes.

19 MR. WOLTERS: Yes.

20 Q And you are aware and you have read the criticisms
21 levelled against you?

22 MR. FELL: Certainly have.

23 Q And do you agree with those?

24 MR. FELL: No.

25 MR. WOLTERS: In my opinion, those findings were disgusting,

1 and I can go further. Uhm, this person I don't
2 think should have been writing this report. He's
3 clarified himself at the start saying he knew some
4 of these people. But Mr. Commissioner, him
5 writing this report had consequences, and I would
6 like to explain that.

7 First off, he knew a lot of these
8 investigators. His boss in Sexual Offence was
9 Geramy Field. He worked with Detective Lepine.
10 He worked with Ron Powell. Ron Powell is married
11 to Geramy Field. Ron Powell worked with Mark
12 Chernoff. He worked with Detective Howlett. He
13 worked with Sergeant Paulson. His boss was
14 Inspector Biddlecombe. And lastly, he gave
15 evidence in a civil trial against Kim Rossmo. How
16 can this person remain independent? I can't see
17 how. At the very least, he should have at least
18 said, "I can't interview these people because I
19 know them."

20 And the consequences for that, they are laid
21 out in the interviewing of different people. And
22 let me explain this. The first person that he
23 interviewed with Sean Hern was Lori. The second
24 person was Mark Chernoff. The third person was
25 Geramy Field. He then reinterviews Lori and then

1 he interviews Ron. Now --

2 Q Sorry, Ron? Ron Lepine?

3 MR. WOLTERS: Ron Lepine.

4 Q And you're referring to Lori Shenher?

5 MR. WOLTERS: That's correct. So, now he gets to Alex Clarke.

6 And understand this, and he's described himself,
7 this is Mr. LePard, has described himself on page
8 305 how he's done hundreds of investigations in
9 terms of interviewing, interrogations, statement
10 analysis, he's taught this. He addressed you and
11 said, when he was giving his evidence, that a
12 judge had commented that he had given the best
13 evidence ever.

14 So, here's this person, goes in to interview
15 Alex Clarke. On page 17 of her statement, she
16 says she didn't believe that Doug and I knew about
17 the information, the informant, from Ron and Mark.
18 She says they were excluded, basically. She says
19 they, "When they were around, we weren't to talk
20 about it." I am going to say to you that those
21 ramifications for that were huge in not knowing
22 about that information.

23 And I can -- I will go further with this and
24 describe. Doug and I have described how we showed
25 the picture, pictures of the 17 photos. We sat

1 down and the girls looked at the poster and they
2 looked at the photos. We said to them, at that
3 time, that "Don't go with any of these guys." And
4 they trusted us at that time. They listened to
5 us. The police were actually paying attention.
6 And so everything was going extremely well and I
7 -- I'm losing my train of thought because I am
8 getting a little frustrated here.

9 Q Well, let me just bring you back. I was asking
10 you whether you agreed with the findings, and you
11 said "no," and then you went on to comment about
12 the interview techniques and, and the
13 investigation of LePard.

14 MR. WOLTERS: I'm sorry, but I would like to finish what I was
15 talking about actually, and that will be it.

16 On July 26th, 28th and 30th, Detective Lepine
17 and Mark Chernoff, Constable Chernoff, learned
18 that Robert Pickton was picking up sex trade
19 workers, was having a difficult time picking up
20 sex trade workers. He wasn't -- he had to use a
21 ruse, and that was, the ruse was having another
22 woman along and so that when they stopped and
23 talked to sex trade workers, she said, "Oh, we're
24 going back to his farm, out to Coquitlam and, you
25 know, we're going to tag team him." If, if you

1 can imagine for a minute that a sex trade worker
2 is approached by a car, they're all leery.
3 They're not just jumping into the car. So, to see
4 a woman that is in the car with him, it, it lowers
5 their risk. They're thinking, "Oh, well, she's
6 going, everything is okay."

7 If we had that information, I believe there's
8 a decent chance two of these women would be alive.
9 And I say that because, on September 24th, we
10 interviewed Tiffany Drew. If we had that
11 information, I believe there is a good chance --
12 she deserved to have that information. She would
13 -- I think there's a decent chance she would be
14 alive today.

15 Q So, when you say you were interviewing Tiffany
16 Drew, does that mean in your photo checks?

17 MR. WOLTERS: Exactly. We showed her the poster and we showed
18 her the pictures.

19 And another one on September 24th is Jennifer
20 Furminger. We also showed her the pictures, the
21 poster. If we had -- we would have told her,
22 "Listen, we've got a guy out here. He's driving a
23 S10 Ford pickup truck, all right? He sometimes
24 uses weights. He's with a woman. He would like
25 to take you to Port Coquitlam." All right? "He

1 may say, do you want some cocaine or alcohol or
2 something." But the big thing was, it was the
3 ruse of the female beside him and making the sex
4 trade worker feel comfortable to go with them.

5 Q So, when you say if you had had that information,
6 you are referring really to a theme that we've
7 been exploring here, which is a lack of
8 communication in the team?

9 MR. WOLTERS: Exactly.

10 Q And specifically, that you and Constable Fell were
11 not told about, as Mr. Vertlieb said this morning,
12 the informants, Hiscox and Caldwell --

13 MR. WOLTERS: That's correct.

14 Q -- and Ellingsen. And I just want to take you to
15 some of Sergeant Field's, or now Powell's notes,
16 and this is in the commissioner's book, the black
17 binder that you have in front of you. It's
18 174(NR)?

19 THE REGISTRAR: 174.

20 MS. HATCHER:

21 Q And Mr. Vertlieb took you to these notes this
22 morning?

23 MR. FELL: Which tab is it?

24 Q Tab 5.

25 MR. FELL: 5.

1 Q And this is a meeting of September 29th. Now, Mr.
2 Wolthers, you gave evidence this morning about the
3 time discrepancies and that you were in North
4 Vancouver by the time this meeting supposedly
5 finished. And on page 2, if I can just get you to
6 turn there, you will see an entry under "Ron and
7 Mark". Do you see that there?

8 MR. WOLTERS: Yes, I do.

9 Q And I am reading that, it says:
10 Pickton - ongoing.
11 - problems with Ellingsen - historical.
12 And it goes on from there. Now, were you present
13 when all of this was discussed at this meeting?

14 MR. WOLTERS: No.

15 Q Now, as far as Lepine and Chernoff go, we've heard
16 evidence here that they would take steps to avoid
17 working with you on the team. Do you recall
18 hearing that evidence?

19 MR. FELL: I certainly do.

20 Q Did you have any knowledge of that problem at the
21 time?

22 MR. FELL: No, we did not.

23 Q Okay. We've also heard evidence, and there's a
24 passage in Detective Constable Shenher's memo of
25 May 17th, and I will take you there if we need to,

1 but about this -- an allegation that you had
2 secretive information from Chernoff and Lepine and
3 you were stepping in on a case about the Valley
4 homicides. Do you recall that?

5 MR. FELL: I recall the passage, yes.

6 Q Okay. Do you agree with that? What's your
7 explanation?

8 MR. FELL: No, I don't, because when we worked with regard to
9 the Valley homicide, that was actually assigned
10 for a follow-up when we came into the unit, with,
11 with Detective Lepine and Chernoff and they were
12 working on it. When we had questions on it, you
13 know, with regards to the file, when we were
14 advised to familiarize ourselves with the file by
15 Field, not with that particular file, but the
16 files within the office, we had several questions
17 because, like everybody there, they were looking
18 at it as to a potential, you know, lead, and they
19 gave us permission to actually do some follow-up
20 work on that.

21 As, as -- I came into the unit in July. I
22 was on holidays in August, and by September, they
23 were largely -- they came to meetings, but we
24 didn't see them in the office at all. We were
25 just under the impression and been told that they

1 were working back on homicide files largely.

2 Q We've heard some evidence about a meeting between
3 RCMP members and, and, and Missing Women Review
4 Team members on August 3rd of 1999. Now, I think
5 you went on leave on August 6th; is that --

6 MR. FELL: That is correct, yes.

7 Q Now, were you present at this August 3rd meeting?

8 MR. FELL: I believe we all were present. Is that the one at
9 the RCMP -- can I refer to a note somewhere?

10 Q Yes, yes. Is that okay, Mr. Commissioner? Just
11 to refresh his memory.

12 THE COMMISSIONER: Yes.

13 MR. WOLTERS: I can say that on August 3rd, I was not at that
14 meeting.

15 MS. HATCHER:

16 Q Okay. Thank you, Mr. Wolthers.

17 MR. FELL: No, I was not at any meeting on August 3rd.

18 Q Do you --

19 MR. FELL: No.

20 Q Do you recall any meetings that you attended with
21 the RCMP to discuss Pickton?

22 MR. WOLTERS: That would have been October 27th, 1999.

23 Q And was that to discuss Pickton or something else?

24 MR. WOLTERS: No, that was to discuss Barry Niedermier. On,
25 on October the 19th, the RCMP wanted to have a

1 meet and discuss Barry Niedermier. So, we had a
2 meeting out in Surrey, and in attendance was
3 Superintendent Bass, Paul McCarl, Sergeant
4 Thordarson, Sergeant Paulson, Corporal St. Mars
5 and Kingsbury. From the VPD was Field, Shenher,
6 Wolthers and Fell.

7 And what we did, we introduced Barry
8 Niedermier as a suspect. We talked about the
9 extensive report background. We talked about him
10 being a suspect in a previous homicide in Calgary.
11 We talked about the fact that we were getting
12 numerous hits on him when we were showing his
13 picture. And, actually, the RCMP was quite
14 impressed. Uhm, Sergeant Paulson asked, he said,
15 "We would put Special 'O' on him from Calgary,"
16 and then I advised him that we already had the
17 Lethbridge Police Service were following him for a
18 throwaway DNA.

19 Q We've heard some evidence from Detective Constable
20 Shenher that that meeting was embarrassing and,
21 and I'm paraphrasing, but unproductive. Do you
22 agree with that?

23 MR. WOLTERS: It's almost like she wasn't at that meeting.
24 It, it's, it's truly -- I find -- I found her
25 comments truly embarrassing, and I will explain

1 further.

2 October 28th, the following day, I, I was
3 told by Sergeant Paulson, and he wanted a copy of
4 the report, so I faxed it to him. Sergeant
5 Thordarson phoned me and we talked, and he said he
6 could set up a GPS on his, Niedermier's vehicle in
7 a day and-a-half. And I said to him, "Well, the
8 problem we're having is he's, he's using different
9 vehicles all the time."

10 And then we were contacted by Lethbridge that
11 now said they were following him 24 hours. And
12 soon after that, November 1st, uhm, they had
13 actually got his DNA. And Margaret Kingsbury, who
14 we knew from ViCLAS, she phoned and said, uhm, she
15 had gone through a report, and on July 13th and
16 14th, the RCMP had followed him in 1995, and they
17 observed him to have a bandage on his right hand.

18 So, in terms of, of that meeting, it went
19 really well.

20 Q And --

21 MR. FELL: And --

22 Q Sorry, go ahead.

23 MR. FELL: And I have never since, or post, ever received any
24 criticism until we heard it here at the inquiry.

25 Q Now, you --

1 MR. FELL: With regards to that meeting.

2 Q Yeah. You, yeah, you, Detective Fell, you worked
3 with McCarl before this, didn't you?

4 MR. FELL: Yes. In 1995. When the Tracy Olajide murder
5 happened, Mr. Commissioner, I was working the
6 Patrol Division. I was -- had been down there for
7 quite a while, in that area, the Triumph/Wall
8 Street area. And when McCarl was the original
9 investigator assigned to that out in the
10 Chilliwack Serious Crime, he came down and I was
11 assigned to work with him. I think it was over a
12 period of a couple of days. It may have just been
13 a day. But because of my knowledge of the haunts
14 of where the victim used to be and where the
15 boyfriends, all the associates I knew, I had a
16 good grasp and was able to lead him around and
17 help him find the people he needed to interview.

18 Q Sorry, you have just referred to a name, but
19 that's the Valley homicides you are talking about,
20 right?

21 MR. FELL: That's correct, yes.

22 Q So, you started working really with him in 1995
23 and --

24 MR. FELL: Oh, yes --

25 Q -- is it fair to say that continued?

1 MR. FELL: Yes, I certainly became very aware of it at that
2 point, yes.

3 Q And would he call on you from time to time to
4 assist in that investigation?

5 MR. FELL: I don't have a big recollection after the initial,
6 but there is a possibility.

7 Q And we've heard some evidence here about the
8 schedule of team meetings with the Missing Women's
9 Review Team. Do you have a recollection of how
10 often you would meet as a team?

11 MR. FELL: Well, I, I know our meetings were supposed to be on
12 the Tuesdays, and, and the odd time on a Thursday.
13 Having a recollection of every meeting is
14 certainly not there, a recording of some of the
15 meetings is certainly within my minutes, but it
16 was, you know, it was sporadic at best.

17 MR. WOLTERS: There was also, in November and December, we
18 were asked to work on the Wall Street homicides by
19 MCS. So, we weren't present for meetings then.

20 Q Who asked you to work on those homicides?

21 MR. FELL: Geramy Field requested us.

22 Q How long, in terms of weeks, did you work on those
23 homicides?

24 MR. FELL: It would be several. It would be portions of each
25 shift, but over several weeks. You know, we

1 certainly -- it wasn't the actual homicide
2 investigation. It was the cleanup files, like,
3 seizing a car or following up a related break and
4 enter, or theft from auto that could be related
5 to, you know, suspect information. And then there
6 was one point where we actually were sent out to
7 Surrey Pretrial I believe it was, to interview an
8 individual of interest out there.

9 Q During your meetings with the team, would you
10 update them on, on how you were progressing with
11 your investigations? Not just Niedermier, but in
12 general?

13 MR. FELL: Yes.

14 Q Is it fair to say that, that you were
15 brainstorming with the team about other ideas and
16 other suspects?

17 MR. FELL: We certainly had occasion to, to brainstorm with the
18 team. One you have already heard about, the photo
19 packs, which was discussed over two meetings. We
20 also -- and you have already heard about Detective
21 Wolthers here speaking with regards to the usage
22 of cameras, undercover operations, things like
23 that. So, absolutely, there was brainstorming
24 within the group.

25 Q Did you talk about all of your top picks, or who

1 you thought might be responsible for the missing
2 women?

3 MR. FELL: No. I mean, the engagement twice, that I have
4 recollection of, where Detective Wolthers tried to
5 engage the unit a couple of times on occasion as
6 to who would be your favorite pick. You know,
7 there, there really wasn't a lot of participation
8 in that.

9 Q Did you know who -- did you know whether Lori
10 Shenher had a top pick?

11 MR. FELL: She had a pick, and it would be referred to -- I
12 don't know the number of the POI.

13 Q Not Pickton?

14 MR. FELL: Not Pickton, no. That's -- she expressed that a few
15 times at the meeting with us.

16 MR. WOLTERS: In fact, in her final report, when she was
17 leaving, she is quoted as looking at three
18 suspects of interest, and one of those is the one
19 that she felt was the strongest, and that wasn't
20 Pickton.

21 Q There's been some evidence at the inquiry,
22 particularly from Detective Constable Shenher,
23 about your failure to, to report to the team and
24 your failure to, to keep her updated in
25 particular. Do you have any comment about that

1 allegation?

2 MR. FELL: I think, in all fairness and all honesty, you know,
3 we, we did attempt to communicate, but
4 communication was not a strong point of the team
5 and, and we realized that communication is a
6 two-way street as well. Uhm, you know, we hear
7 allegations of secretive phone calls, not telling
8 people things, et cetera, but, you know, the
9 reality is, we're in a very small room, so there
10 were no secrets. We, we were able to relate --
11 uhm, the manner of meetings which you have, in
12 order to reduce your time and minutiae, is you
13 report on files, their status, important,
14 important parts of the files that you're
15 investigating, and then you would, you know,
16 report that it's finished.

17 But, you know, for, like, an everyday,
18 mundane routine of what you are doing all day
19 long, no, it was just the basics, to get it down
20 and get it pat, so we could get on with our work
21 of the day.

22 Q Detective Constable Shenher testified that she
23 asked you for your notes daily. Do you recall
24 that?

25 MR. FELL: Certainly not.

1 Q Okay.

2 MR. WOLTERS: No.

3 Q Did you have any expectation that you would have
4 to provide your notes every day?

5 MR. FELL: No.

6 Q Were you ever confronted by Lori Shenher or
7 another member of the team about providing your
8 notes?

9 MR. FELL: No.

10 Q And a lack of communication in general, were you
11 ever confronted about that?

12 MR. FELL: No.

13 MR. WOLTERS: We were, we actually were confronted by Sergeant
14 Field on December 9th, --

15 MR. FELL: Yes.

16 MR. WOLTERS: -- '99, and she spoke to us about communication.
17 We had to get along with the team. I noticed in
18 the package that I was given, she's dated that
19 December 11th, which is a Saturday. So, I'm not
20 sure when she wrote it, but December 9th in her
21 logbook has her meeting with us.

22 Q Okay. Well, Detective Constable Fell, you have a
23 note of that meeting as well. So, just if you
24 could pull up that blue book, --

25 MR. FELL: Which?

1 Q -- the blue binder that I have provided.

2 MR. FELL: Yes.

3 Q And at tab 7, this is Sergeant Field's log, and
4 Mr. Wolthers just referred to December 11th, and
5 you have seen this document before, right?

6 MR. FELL: December 11th.

7 Q '99?

8 MR. FELL: Yes.

9 Q It says:

10 Meet with Doug and Mark re duties and tenure.

11 MR. FELL: Tenure, yes.

12 Q Do you recall those topics being discussed at this
13 meeting?

14 MR. FELL: I don't recall the tenure being brought up at that
15 meeting, but I certainly have notes to that
16 meeting.

17 Q Okay. Well, flip over one tab, tab 8 there. Do
18 you recognize these as being your notes?

19 MR. FELL: Those are my notes. And you will notice that it's
20 December 9th, which is, which is a Thursday.
21 December 11th, which is reflected in this log, is
22 a, is a Saturday.

23 Q Okay. And right below that date, "I/C 1267" that
24 means "in company"?

25 MR. FELL: In company of Wolthers, yes.

1 Q Okay. Now, can you just read that, because it's
2 probably easier for you to. Can you read --

3 MR. FELL: Yes. It says:

4 Meet with Sgt. Field. Express views re vice,
5 team development, usage, prison info and more
6 pictures.

7 So, the tenor of that -- the tenor of that
8 meeting was we were expressing our views with
9 regards to how the team could utilize the Vice
10 team. We had expressed that an undercover
11 operation, you know, might be appropriate down
12 there. And there -- I remember there being an
13 expression, you know, that we have heard
14 throughout this inquiry, the lack of resources.

15 At that time, the Vice Section was very, you
16 know, it was in a mode of not stinging sex trade
17 workers, but more going after the people that harm
18 them, like, pimps. So, we thought that possibly
19 that would -- could fall under their mandate.
20 That's something that we discussed.

21 Team development with regards to usage, and I
22 believe probably the next word would have been
23 "usage of media" or, like, the cameras, that's
24 what, you know, a setup, you know, outside the
25 Patricia or certain, certain strolls where we felt

1 that there was more likelihood of maybe,
2 hopefully, capturing a plate or a suspect, you
3 know, picking up a sex trade worker that we were
4 looking at.

5 Q Were the cameras an idea of you or were -- was
6 that a team decision?

7 MR. FELL: I believe that was Detective Wolthers and myself,
8 but I could be wrong.

9 MR. WOLTERS: I mentioned that earlier. I thought it would be
10 a good idea to have cameras at Patricia and at the
11 Astoria.

12 MR. FELL: And then the, the suggestion of prison info was, you
13 know, especially with regards to the, the Valley
14 homicides there and their location to prison and
15 work camps, that it might have been useful to, to
16 get information out of their, you know, former,
17 former inmates that have a background that could
18 be a possible suspect.

19 And then more pictures was discussing
20 furthering on the, furthering on the photo packs.

21 MR. WOLTERS: The prisons had to deal a little bit with Elbow
22 Lake because Tracy Olajide was found up the road
23 from Elbow Lake. So, we were trying to ascertain
24 who might have been at Elbow Lake.

25 Q This meeting with Sergeant Field, would you

1 characterize that as a disciplinary meeting?

2 MR. FELL: Oh, absolutely not. One, one recollection I have of
3 that meeting, it was just more, more along the
4 lines of, you know, to, to, to, I mean, to
5 express, to express our views. She, she did make
6 mention, I believe, in there that she would like
7 us to see -- go for more team coffees or meals or
8 things like that. But, you know, other than that,
9 there was, you know, it had not the form of a
10 disciplinary meeting whatsoever. It was business.

11 Q Individual beefs or complaints from other team
12 members weren't brought to your attention?

13 MR. FELL: No.

14 Q So, moving on from that, in that vein, a large
15 issue with respect to both of you, there have been
16 allegations of inappropriate language and
17 inappropriate behaviour. So, I just want to
18 address that with you.

19 There's an allegation that you, in respect of
20 sex trade workers, used the word "whore" and even
21 "fucking whore" to describe sex trade workers. Do
22 you agree with that?

23 MR. FELL: No. In my, in my statement I believe to Detective
24 LePard, I, I deny using degrading language or
25 being foulmouthed with regards to sex trade

1 workers.

2 Q So, that never happened?

3 MR. FELL: No.

4 Q Is that your evidence?

5 MR. FELL: And I have no -- I absolutely say "no". I mean, the
6 word of "whore" is, is an appalling term, and, you
7 know, that's, the way it states, it comes up in a
8 street vernacular sometimes when you are
9 interviewing people. It comes up in witness
10 statements that I have in my notes. But to use it
11 in direction, at an individual to harm them or
12 insult them, is something I have not done.

13 MR. WOLTERS: I would like to expand with that. We are in a
14 room, I would say, of about 12 by 14. To one of
15 the sides, you go out into the Home Invasion Task
16 Force. The other door you go out and you are into
17 the Homicide Unit, which you have about 20-some
18 investigators there.

19 We'd already -- some of them had slammed the
20 door, because we have loud, boisterous voices,
21 especially me, and I find it ludicrous to suggest
22 that I was sitting in the office and going
23 "fucking whores," and this is an outright lie.

24 Q What about racist comments? Did you ever make any
25 racist comments in the Missing Women Review Team

1 office?

2 MR. FELL: No.

3 MR. WOLTERS: No.

4 Q Detective Constable Fell, Lori Shenher gave some
5 evidence about a story that you apparently
6 recounted about dumping flour on the head of a
7 drug trafficker, a Vietnamese drug trafficker. Do
8 you recall telling that story?

9 MR. FELL: No, I do not recall telling her that story, nor do I
10 recall telling her any version of any story.

11 Q Do you recall any incident that would have
12 underlied (sic) such a story?

13 MR. FELL: Certainly 22 years back, I, you know, I was working
14 with a partner, and I have a vague recollection of
15 dumping flour, whether it was myself or my
16 partner, on a drug trafficker, yes.

17 Q So, you are just saying you don't know whether it
18 was you or your partner?

19 MR. FELL: I don't know whether it was me or my partner. I
20 don't know what was said at the time. I honestly
21 don't know where it occurred or when.

22 Q Did anyone ever confront you about such language
23 or such stories at the time?

24 MR. FELL: No. If I had been able -- if -- nobody ever
25 confronted me. I, I did not hear that till there

1 is an inkling of it in the LePard interview in
2 2004, and then, then it's the direct evidence of
3 Ms. Shenher here at the commission.

4 Q And when you say "inkling," do you mean that there
5 was no specific information given to you by DCC
6 LePard?

7 MR. FELL: No, there was just this -- you know, something about
8 a flour incident, and I said, I did not recall
9 that at the time. I don't know what the questions
10 were with regards to that, because I didn't have
11 access to the questions that LePard asked me at
12 that time.

13 You know, if I, if I had been approached at
14 the time, I would have been able to deal with the
15 comment. I would have been able to deal with the
16 context of the words that I used and, you know,
17 hopefully dealt with whatever issue was there at
18 the time, but unfortunately, I never was given
19 that opportunity.

20 Q I just want to follow from that line of
21 questioning. We've heard some evidence from
22 Detective Shenher that, that sex trade workers had
23 a poor perception of you, of both of you. We've
24 heard sort of generalized allegations about that.
25 Uhm, how would you describe your working

1 relationship with, with sex trade workers and with
2 residents of the Downtown Eastside since you
3 started? I mean, it's a very wide question, but
4 can you just tell us a bit about that?

5 MR. FELL: Well, it certainly is a generalized comment, and I
6 have never had -- you know, I have worked in the
7 Downtown Eastside probably 13 years up until my
8 transfer to CLEU, I worked drugs. I have had
9 many, many interactions, if not hundreds, you
10 know, it could be close to a thousand interactions
11 with sex trade workers down there at the time,
12 and, you know, this is the first time I've heard
13 such a comment.

14 I wouldn't say that these comments would be
15 maybe wrong, because unfortunately, in the
16 position that the Department puts us in down
17 there, is sometimes we are in an adversarial role
18 to what's going on down there. Sometimes we are
19 in a good role. You can be, you know, arresting
20 somebody freshly on a warrant and they're very
21 disturbed about that. You could be, you know, you
22 could be, you know, taking down their drug line,
23 right? You could be -- you know, there's just
24 some -- or other things. But then on the flip
25 side of it, you can be on a very slow night and

1 it's just like, we've discussed different sex
2 trade workers here today, you can pull up the car
3 and you can have a decent conversation for 15, 20
4 minutes and learn about the person.

5 I mean, so, you know, to say there are some
6 people that didn't like me, I am not surprised.
7 And, and to say that there are some people who
8 liked me, absolutely. Because I actually on, you
9 know, as you heard earlier, my, my passion and
10 expertise is in the source development, and I had
11 several, several sex trade workers who were
12 extremely good and very good with assisting me
13 taking down drug trafficking rings when I was
14 working the Drug.

15 So, I mean, it is a generalization.
16 Everything seems to be a generalization when it
17 comes to a lot of these complaints. But, you
18 know, you know, we're not angels. We're put in a
19 position where we have to be protectors and
20 enforcers of the law and, you know, people do take
21 exception to that.

22 MR. WOLTERS: I might add, you might then also call on the six
23 to 10 victims of Barry Niedermier that we
24 processed and ask them how they were treated by
25 us. We treated them with compassion, we knew what

1 they had gone through and we went to bat for them.

2 Q After the Niedermier case was processed and went
3 through court, did you have any continuing contact
4 with the victims that came forward?

5 MR. FELL: Just recently, because I am reintroduced working
6 down in the -- I work down in the Hastings area
7 with property crime now. So, I have had occasion
8 to come across two of the former victims.

9 Q Okay. And how is that relationship?

10 MR. FELL: Well, it's good to see them, but it's not good to
11 see them down where they are.

12 Q During the trial, Detective Fell, did you liaise
13 with the victims, during the trial process?

14 MR. FELL: Yes. You know, it was largely myself and Detective
15 Trowski, Sean Trowski. We worked, you know, many
16 weeks together, you know, making sure our victims
17 were coming to court. We were basically victim
18 management, plus as well as giving evidence in
19 court, so.

20 Q With respect to the photo packs and the interview
21 you did further to that exercise, it seems like
22 you have had, you had quite a bit of success
23 communicating with, with the sex trade workers
24 down there. Is that accurate?

25 MR. FELL: Oh, absolutely. I mean, our last count was 199 sex

1 trade worker interviews on the streets with those
2 photo packs, and one didn't cooperate and one was
3 very drug sick.

4 Q I am just going to finish by referring you to your
5 log, which is at tab 11 of the blue book. And you
6 recognize this as the log you kept during the
7 Missing Women's Review Team?

8 MR. FELL: Yes, and I kept a log for Mark and I, unless I was
9 away on holidays, and then he would be making
10 entries.

11 Q And did you do that contemporaneously?

12 MR. FELL: Uh, some days, it would be contemporaneous. Some
13 days, it would be after a couple of days of being
14 out in the field, we would catch it up. Our notes
15 are contemporaneous and our log is, is a
16 reflection of our notes.

17 Q Okay.

18 MR. FELL: It's, it's, it's just used basically as a finder for
19 us with lots of notes. We can just flip through
20 the log and say, "Okay, this is the date we have
21 to look at."

22 Q One of the issues on this inquiry with, with
23 respect to, and we've heard about it, is a tunnel
24 vision on Niedermier.

25 MR. FELL: Yes, I am aware of that.

1 Q And also a failure to work on other tips or a
2 failure to be willing to, to complete other work.
3 On page 1 of your log, if I can just refer you
4 there, just as an example, at the very bottom,
5 there is an entry at January 13th, and it says:

6 Work on Tip #2 & Tip #5. Notes to file.

7 MR. FELL: That's correct.

8 Q Okay. Now, those tips obviously were separate
9 than Niedermier?

10 MR. FELL: That would be correct.

11 Q Okay. Now, "notes to file," what does that refer
12 to?

13 MR. FELL: It would mean you would take your, either take your
14 notes and put them on a file or you would fill out
15 a report to go to the file. The, the completion
16 of -- whether it was completed or not, you would
17 put an update through Detective Constable Shenher
18 and then that would go to the data entry at that
19 point to be uploaded.

20 Q Now, throughout this log, when you see that, "note
21 to file," or when you see another tip worked on,
22 is it fair to say that that procedure would have
23 been followed?

24 MR. FELL: Yes. That's why it's been noted.

25 Q Okay. There's also been an allegation here by

1 Detective Constable Shenher that you two would
2 hoard information or you would not share it on
3 purpose, and I take it you don't agree with that?

4 MR. FELL: Not at all.

5 Q Where was this log kept?

6 MR. FELL: That was kept on my desktop.

7 Q Okay. Was it accessible to anyone who would want
8 to look at it?

9 MR. FELL: It certainly would be.

10 Q At page 7, if I can just take you there, and I'm
11 referring to the numbers on top that are stamped
12 in, at the very bottom there, at 8:40 hours:

13 12:55 returns call Seattle prosecutor.

14 And then a couple of lines down:

15 Info passed onto Lepine.

16 Do you have any recollection of that tip or that
17 work that you did?

18 MR. FELL: I don't have a recollection of a lot of the tips we
19 worked on, but it would refer to the fact that
20 Detective Lepine was working on the -- it was
21 either a POI or a victim's name in there, and I
22 had obviously a connection with this Seattle
23 prosecutor, who had information that he needed,
24 which got relayed to him.

25 Q Page 14, do you see that? We are at about

1 September the 28th, so the day of the team meeting
2 that we've already talked about. You see in the
3 middle there, on the 29th, it looks like:

4 Work all day on Niedermier report. Draft
5 copies to Sgt. Field and Cst. Shenher.

6 MR. FELL: Yes.

7 Q Do you recall the form of that report?

8 MR. FELL: The form would have been a, a working summary of
9 what we had done to the Niedermier investigation
10 to date --

11 Q Okay.

12 MR. FELL: -- and passed it on. It would have been in a draft
13 form, because it probably was not a completed
14 report, but what had been done to date on
15 Niedermier. That was at the request of, I believe
16 both of them, and we replied to that request, for
17 sure.

18 MR. WOLTERS: I believe that's the report that I also faxed to
19 Sergeant Paulson, October 28th.

20 Q Thank you. Now, turning to page 30, we are at the
21 7th of December, you will see there's an entry for
22 a team meeting there?

23 MR. FELL: That's correct.

24 Q Okay.

25 Re - Niedermier status.

1 Suggestions put forward.

2 - U/C operation

3 - media usage.

4 Have I read that right?

5 MR. FELL: That's correct.

6 Q And you have referred to that meeting just a few
7 minutes ago?

8 MR. FELL: Yes, we have. Yes.

9 Q How often would you update the team on, on the
10 Niedermier investigation?

11 MR. FELL: Uhm, when requested. I mean, especially when we
12 started to do the, do the photo pack and started
13 getting our information off of there, there was
14 daily conversation. Whether it was an absolute,
15 you know, we're having a team meeting about this,
16 or it was more of a conversation from time to
17 time, but the status would be updated at the
18 meetings. And, you know, we, we were under the
19 direction of Sergeant Field at the time who, you
20 know, had us working on that file and, you know,
21 there -- we were an open book and we were
22 reporting as well.

23 MR. WOLTERS: You have just referred to December 7th. Also,
24 below there, at 12 o'clock, we picked up one of
25 our victims of Niedermier, that was Janice, and we

1 took her to PACE and she was helped out by Leonard
2 Cunningham working there. I bring that up because
3 of the accusations about us, you know, towards the
4 sex trade workers.

5 Q Thank you. And I wish that I had time to go
6 through every entry in the log, because there are
7 lots in here, but I am just trying to give the
8 highlights to the commissioner, because we don't
9 have a lot of time.

10 MR. FELL: Yes.

11 Q So, I do appreciate that.

12 As far as tips and, and the sort of
13 allegation that you left a lot of tips undone or
14 you didn't do them, is it about, is it about 69
15 tip lead sheets that you recall completing? Is
16 that --

17 MR. FELL: We had a -- I retained 63 of the tip sheets we had
18 and made comment on each one, given their varying
19 dispositions.

20 Q Okay. Now, just turn to tab 10 of the blue book.
21 Are these -- do you recognize these as your tip
22 lead sheets?

23 MR. FELL: Those are them. Yeah, that would be produced, a
24 computer spit-out, generated tip, and you would
25 either find them on your desk in the morning or

1 they would be presented by Detective Constable
2 Shenher and then, then you would work on them, of
3 course, and conclude them to the best of your
4 ability.

5 Q We've heard evidence from Detective Constable
6 Shenher that there wasn't any bring-forward system
7 or there weren't any deadlines in place, and I
8 just want to clarify this. I see at the top that
9 there seems to be a computer-generated printout of
10 dates, assignment date, requested completion date,
11 and they're exactly a month apart. Do you have
12 any knowledge of, of why that would be?

13 MR. FELL: Yeah, we were advised that it was an automatic
14 printout of the computer system. Some, some, but
15 not many, some of the tips didn't have, didn't
16 have that generated for some reason either. So,
17 it was an arbitrary date assigned by the computer.

18 Q Was there, to your recollection, was there a
19 system in place for Detective Constable Shenher to
20 prioritize tips assigned?

21 MR. FELL: Uh, there is certainly nothing in place with regards
22 to the sheet itself. There was no priority put on
23 them whatsoever. But, you know, verbally, she
24 could put a priority. I think I referred to
25 earlier when we, you know, we had individuals that

1 were in custody that needed to be spoken to
2 quickly, we would go and do that. When
3 Biddlecombe had his, the source that we needed to
4 interview, that was -- these things were all, you
5 know, more of an urgency, to get on top of it
6 right away, that, that's how things rolled out.

7 Q When Detective Shenher asked you to do something
8 on a priority basis, would you do it?

9 MR. FELL: Yes, and -- but, you know, again, with the time of
10 passage, I couldn't refer you to a tip.

11 MR. WOLTERS: Regarding her tips, uhm, in a report of May
12 17th, she outlines that we were assigned tips on
13 August 30th of '99. We were both on annual leave
14 that day.

15 Q Do you have any recollection of Detective
16 Constable Shenher or Sergeant Field taking you to
17 task for not completing your work?

18 MR. FELL: No, nobody took us to task with, with not completing
19 our work because we were working on it. As a
20 partnership, Mr. Commissioner, you know, we, we
21 certainly did set some priorities when we reviewed
22 the files, and, you know, we would try to
23 prioritize in, in the appropriate fashion. If we
24 did see something of an exigent nature, of course
25 it would be taken care of.

1 I largely looked at a lot of the tips myself,
2 because Constable Wolthers was looking at the
3 Barry Niedermier file and a couple of other
4 suspects at the same time. So, we wanted to
5 effectively use our time. As opposed to two
6 members doing one tip, we thought it was more of
7 an effective use of time to split up and go, you
8 know, and then assist each other and, you know, do
9 our little mini meetings at the end of every day
10 and see where we were going at that point.

11 Q Okay. And you gave some evidence a few minutes
12 ago about providing your notes and not being told
13 that you needed to do that on a daily basis. When
14 you left the team, did you provide your notes?

15 MR. FELL: Yes, I did.

16 Q Okay. And did you understand that someone would
17 be reading your notes?

18 MR. FELL: Pardon me?

19 Q Did you understand that someone, Detective Shenher
20 or someone on the team, would be reading your
21 notes and using that information?

22 MR. FELL: Oh, of course. I mean, it's, you know, it's, it's
23 part of every large file. Especially now, you
24 know, everything gets turned in upon your
25 departure. And, you know, I had been on -- I was

1 with the Olympics and you turned in all your
2 originals to them, so.

3 MR. WOLTERS: In the logbook, it also says:

4 See 1267 Wolther's notes, see 1255 Fell's
5 notes.

6 Q What about this investigative log that we're
7 referring to? Did you photocopy that and provide
8 it as well?

9 MR. FELL: Yes, I did.

10 Q Just one follow-up question to that. I have just
11 asked you whether you assumed that people would be
12 reading your notes.

13 MR. FELL: Yes.

14 Q And I take it, because the Pickton references are
15 contained in your notebook, you assumed that that
16 would be read by the team?

17 MR. FELL: I certainly wouldn't proclaim to have an independent
18 thought of that, but I certainly would tell you
19 that I had no, no delusions that my notes would be
20 read for what was written in them, because there
21 are no secrets.

22 Q I'm just going to -- I'm going to be under my
23 time. I'm just going to finish up with a quick
24 synopsis of other work that you completed on the
25 investigation. You worked closely with DEYAS, did

1 you not?

2 MR. WOLTERS: That's correct.

3 Q Okay.

4 MR. WOLTERS: I'll give you an example. On September 29th, we
5 approached DEYAS, I am thinking it might have been
6 the name Judy McGuire bounces out, and I had gone
7 through the bad date sheets a lot and noticed that
8 Barry Niedermier was continually on them, among
9 other suspects, a lot of suspects that were on
10 there. And, uhm, there was three really serious
11 incidents that we noticed. And so we had DEYAS
12 reprint them on September 29th, and we put in
13 there to contact Constable Fell or Dave Dickson,
14 because Dave Dickson was an excellent resource
15 down there and he was well-trusted. And, of
16 course, one of our victims contacted Dave Dickson.
17 He took an initial statement and then that victim
18 we interviewed December 6th.

19 Q And in your log at page 22, there's a reference to
20 Dr. John Lowman. Did you have some discussions
21 with Dr. Lowman about any of your work on this
22 case?

23 MR. WOLTERS: Yes. On November 3rd, we went out to SFU
24 University and we spoke with John Lowman and we
25 asked him if he would be an expert on our case to

1 explain why sex trade workers weren't reporting
2 sexual assaults to the police and stuff like that.
3 He was very receptive and we felt we -- it was
4 good to have an independent person like that to
5 address that.

6 MR. FELL: He brought a lot of clarity to the issues, because
7 in that particular case, Mr. Commissioner, it was
8 very concerning to us to have something to tie
9 these girls in. They're historical crimes that
10 had never been reported, and we knew that going to
11 court, it would be an issue for them, and that
12 support was very, very important for us, to tie in
13 a good piece for the Crown counsel there.

14 Q Did you, at any time, also consult Dr. Rossmo?

15 MR. FELL: We consulted Dr. Rossmo prior to our trip to
16 Lethbridge because of his expertise in sexual
17 predators at the time. We needed, we needed a
18 will-say from him with regards to a collection of
19 trophies. We, we got a very, a very nice will-say
20 to add to our Information to Obtain before we
21 collected a search warrant back there.

22 Q And these things were undertaken, I take it,
23 because you felt you needed some help?

24 MR. FELL: Yes. Also, we --

25 Q You didn't know everything; is that right?

1 MR. FELL: Also, we, we had an old statement that we had been
2 given by Barry Niedermier in the past and we had
3 submitted that into our polygraph team, Sergeant
4 Dennis Paulson. But we never did receive an
5 analysis of that statement. That was hopefully an
6 aid to us down the road.

7 Q And as far as other persons of interest that you
8 devoted a lot of time to, one of those, I
9 understand, was a Wolfgang character, he went by
10 the name of Wolfgang?

11 MR. WOLTERS: Yes.

12 Q Can you just tell us about that?

13 MR. WOLTERS: We had dealt with one of our sources on August
14 the 4th and he -- we checked in the 100 East
15 Hastings. And we talked to him and said, "Listen,
16 we're looking for the missing women and suspects
17 and that." And he produced the name "Wolfgang"
18 and unfortunately, he didn't know any more than
19 that. So, we spent a long time, in a sense,
20 trying to find that person's name.

21 Ultimately, February the 1st, we went down to
22 the Portland Hotel and spoke with Mark Townsend
23 and, who was helpful, and we said, "We're looking
24 for information." He says, "Oh, I will tell you
25 the guy to talk to," and he said -- he told us.

1 So, we went across and this person, I said,
2 "Have you ever heard a guy, Wolfgang?" And he
3 goes, "I know this guy. He, he has been in Angela
4 Jardine's suite. I believe he smacked her
5 around," and items like that. And he says, "I was
6 so concerned," he said, "that I followed him out
7 one day and I wrote down his licence plate." So,
8 at that point, we were able to get his name.

9 And from there, uhm, I did a background check
10 and found that he was involved with -- constantly
11 on the bad date sheets. He was involved with sex
12 trade workers non-stop. And there was an incident
13 in which a police officer had attended to deal
14 with him and had seized some swords and knives and
15 stuff.

16 And on March 22nd of 2000, I went to the
17 property office and took those swords and knives
18 to the RCMP lab to have them examined for DNA.
19 And also on that day, we needed a picture of him,
20 so I wrote up a search warrant to get a picture of
21 him from a -- for a driver's licence.

22 Q Okay. Now, this, and there was a couple of other
23 POIs you worked on as well, one with an initial L
24 as a last name, and I am just going to be careful
25 and not mention his name. But when you left the

1 team, were you completed -- were your
2 investigations on those suspects completed, or
3 those persons of interest completed?

4 MR. WOLTERS: No, they weren't. It was really frustrating,
5 for example, to -- uhm, we attended to the North
6 Van RCMP and looked through Mary Lidguerre's, all
7 her possessions, and we were able to get an
8 excellent suspect from that. And you just started
9 working on that, and we learned that April the
10 3rd. So, there wasn't a lot of time to work on
11 that person. And we ended up, I couriered the
12 information over to Sergeant Booth there on, when
13 I was leaving, on May 17th.

14 Q Now, you have given some evidence already today
15 about the fact that you didn't stop actually
16 working on these missing women. You referred to a
17 report, and I have included it, I think it's at
18 tab 12 of my blue book, and that's a report, Mr.
19 Wolthers, that you wrote to Inspector Frail and
20 it's dated May the 1st, 2002. And I'm not going
21 to go through it with you, but is this reflective
22 of your ongoing concerns for the, for the plight
23 of these missing women?

24 MR. WOLTERS: Yes. I mean, when I, when I ended up leaving
25 DEET, I left DEET February the 4th, and I started

1 working by myself down at District 2, and I was
2 waiting with my partner, my new partner, Mike
3 Donahue, and during that time, you know, suddenly
4 there is three more suspects you are discovering.
5 And so you start investigating them.

6 Uhm, I waited for Mike Donahue to arrive. He
7 arrived. We started working June 3rd. And then
8 on June 4th, we went out and arrested a person
9 that was on the list during the Missing Women Task
10 Force, Missing Women Review Team I mean. And we
11 got him in the morning, got him outside, and, you
12 know, he's under arrest, waiting for the wagon,
13 and he starts smoking a cigarette, and then he
14 horks on the pavement. And me, being a senior to
15 Mike Donahue, he picked it up and we ended up
16 going to the RCMP lab.

17 So, it was -- and we did several more like
18 that. There was a person that is walking around,
19 stops, gets out of his van at 300 block Princess.
20 I had checked him before he walks up Hastings
21 Street at, like, you know, 5 o'clock in the
22 morning. This person had served time for second
23 degree murder, multiple sexual assaults. He lived
24 in Abbotsford and he did time at Elbow Lake. So,
25 when he discarded the cigarette butt, it was

1 pretty easy to pick that up and we then took it to
2 the RCMP lab. There was a couple of other
3 suspects, doing the same thing. It never stopped.

4 Q Now, I expect, when everyone has had a chance to
5 ask you questions, Mr. Commissioner will give you
6 a chance to advise him about any recommendations
7 you might have, but for the moment, those are my
8 questions of you and please answer all my friends'
9 questions.

10 MR. VERTLIEB: Mr. Commissioner.

11 THE COMMISSIONER: Yes.

12 MR. VERTLIEB: I was reflecting on your Process Directive
13 Number 4. Paragraph 4 states:

14 If time estimates for questions for scheduled
15 witnesses are not received as requested by
16 commission counsel, no time will be set aside
17 for that participant to examine witnesses.

18 Now, that was your directive and that was
19 delivered on April 16.

20 What I suggest you do is respect the comments
21 of those who did respond and give them their
22 opportunity now for their time, and then with any
23 remaining time, sort out how you can allocate that
24 to make it work for those who have just now today
25 talked to you. And if that seems reasonable to

1 give effect to your directive, then I would say to
2 you that Ms. Narbonne would be next, and she said
3 15 minutes, Ms. France would be 10 minutes, and
4 DoJ has indicated 20 minutes. And I would think,
5 if we do those three questioning sessions, we can
6 then take a break and see how the remaining time
7 can be allocated, and we can also discuss the
8 affidavit of Mr. McKnight. That would be my
9 suggestion.

10 MR. WARD: Cameron Ward, counsel for the families of 25 missing
11 and murdered women. I respectfully submit you
12 should not accede to that succession -- to that
13 suggestion. I gave an estimate of half-an-hour
14 earlier today and I will, I will do my best to
15 stay within it, and I should not be shut out of
16 the roster of questions, in my respectful
17 submission. It would be outrageous if I were.

18 THE COMMISSIONER: Well, I am not going to shut you out. I can
19 assure you, I can assure you of that.

20 MR. WARD: Well, it's my term so I will go next.

21 THE COMMISSIONER: Well, just a minute. I haven't finished.

22 MR. WARD: I thought you were, I'm sorry.

23 THE COMMISSIONER: No. I am not going to shut you out, but I
24 must say it is, you know, it's a matter of
25 courtesy to other lawyers that you give estimates,

1 and the directive has gone out, and I don't know
2 why you don't follow the directive. Everybody
3 else does. And this idea that -- well, everybody
4 -- you can laugh if you want, but you're not --

5 MR. WARD: Well, that's a false statement, --

6 THE COMMISSIONER: No, let me, let me --

7 MR. WARD: -- Mr. Commissioner.

8 THE COMMISSIONER: -- finish.

9 MR. WARD: That is untrue. That is simply untrue. And, and it
10 is not accurate to say everybody else does.

11 THE COMMISSIONER: Well --

12 MR. WARD: We are all doing our best in this process, and --

13 THE COMMISSIONER: Mr. --

14 MR. WARD: -- Mr. Commissioner, you, you take every opportunity
15 to belittle and discredit me, and you have been
16 doing so since this commission began, and I'm, I'm
17 fed up with it, quite frankly.

18 THE COMMISSIONER: Well, I am not discrediting you at all. All
19 I want is a little courtesy. That's all. And
20 what I want from you, and from all the other
21 lawyers, is to get an estimate of the time. All
22 the other lawyers, except you and Mr. Gratl in
23 this case, have not given estimates. And that's
24 happened before. And this is not only a courtesy
25 to me, but it's a respect and courtesy to all the

1 other lawyers who are here. And I am going to
2 give you an opportunity to, to cross-examine
3 because I know the cross-examination here is
4 important. But, you know, all I'm doing is
5 reminding you of the process, and I don't know why
6 you can't accept the fact that, that out of
7 courtesy to other lawyers here, that you give us a
8 time estimate. That's not asking too much. You
9 do that in a courtroom. You do that everywhere
10 else, and that's all I ask for.

11 I'm not belittling you. I have never
12 belittled you. I want to tell you something. I
13 have too much respect for you to belittle you.
14 And I want you here and you have got an important
15 job to do. All I am asking you is, is to show
16 some courtesy to all the other lawyers, and to
17 myself.

18 MR. WARD: Mr. Commissioner, --

19 THE COMMISSIONER: So go ahead and start cross-examining.

20 MR. WARD: -- we have four or five days left and we've got 19
21 witnesses lined up.

22 THE COMMISSIONER: Yes.

23 MR. WARD: I get hundreds of pages of documents the day before
24 a witness is to take the stand.

25 THE COMMISSIONER: Yes.

1 MR. WARD: I get a flurry of e-mails asking for time estimates
2 and the like. I do my best, and I have always
3 endeavored to be courteous.

4 THE COMMISSIONER: Yes.

5 MR. WARD: If anyone needs a lecture on, on showing counsels
6 courtesies in this process, it is not myself.
7 Your comments are misdirected, with the greatest
8 of respect.

9 THE COMMISSIONER: Well, I am not giving you a lecture. I am
10 merely telling you what the process is, and that's
11 all it is. And, and it doesn't, it doesn't take
12 much to follow the process. Everybody else seems
13 to do it. Okay? Yes?

14 MR. GRATL: Mr. Commissioner, Jason Gratl here. Some implicit
15 criticism was directed my way. I have already
16 explained why I didn't provide a time estimate in
17 advance.

18 THE COMMISSIONER: Okay.

19 MR. GRATL: But just to make sure this sort of thing doesn't
20 happen again, --

21 THE COMMISSIONER: Okay.

22 MR. GRATL: -- I formerly, right now, advise you that I am
23 estimating two hours for each of the remaining
24 witnesses.

25 THE COMMISSIONER: Okay.

1 MR. GRATL: Thank you.

2 THE COMMISSIONER: Okay. Well, all I do is -- I am just asking
3 that you provide some estimate ahead of time. We
4 -- everybody --

5 MR. GRATL: That's what I am saying.

6 THE COMMISSIONER: Just a minute.

7 MR. GRATL: Two hours for the rest of the remaining witnesses.

8 THE COMMISSIONER: Yes, everybody, everybody knows what these
9 witnesses are going to say, because we, we have
10 our -- at least we have a general idea because
11 we've heard allegations throughout as to what they
12 did or what they didn't do. And you had to know
13 that they were probably going to deny all those
14 allegations of, of misconduct, or not misconduct,
15 of some of the things that they are alleged to
16 have done. So --

17 MR. GRATL: I have heard you and I am taking your comments
18 seriously and I am providing a serious estimate --

19 THE COMMISSIONER: Okay.

20 MR. GRATL: -- of two hours for each of the remaining
21 witnesses.

22 THE COMMISSIONER: Well, I will see if we're prepared -- if
23 time will permit that. But it may be that we
24 might have to sit one evening to do it. But I'm,
25 I'm quite prepared to do that. And so it's -- if

1 you think it's important enough that you need that
2 type of time, look, I am prepared to --

3 MR. GRATL: I do think it's that important.

4 THE COMMISSIONER: -- I am prepared to accommodate the lawyers.

5 All I ask is that, that you give the estimates.
6 It's a directive. And, and it doesn't take too
7 much to find out ahead of time. You know what
8 these witnesses were going to say. I mean, you
9 are an experienced lawyer. It's no mystery what
10 they were going to say. You know what's been
11 alleged against them, so you must have a pretty
12 good idea as to how your cross-examination is
13 going to be and where you're going in it. That's
14 all. Thank you. Mr. Ward.

15 MR. WARD: Thank you. And Mr. Commissioner, I'm sorry for
16 expressing frustration, but it's, it's shared by
17 my clients. It's borne out of a sense that we are
18 jamming witnesses into an unreasonably restrictive
19 time schedule and it's making it impossible for
20 counsel to do a proper job. And when we are given
21 very short timeframes to ask questions of
22 witnesses who might have been involved in the file
23 for years, it's hopelessly inadequate.

24 THE COMMISSIONER: Well, Mr. Ward --

25 MR. WARD: I just want to ask one, one thing on the record,

1 because it's unclear to me. Tomorrow we are
2 apparently not sitting at all, despite the fact
3 that we have got a very tight deadline. I would
4 like to know why, because I am certainly
5 available.

6 THE COMMISSIONER: Okay. Because tomorrow there is a policy
7 forum where we are dealing with policy. You may
8 not think that's important, Mr. Ward, but the fact
9 is, we need to hear from people as to what
10 recommendations we make. This, this inquiry is
11 more than just cross-examining witnesses to find
12 out what happened in the actual investigation. We
13 need to provide some recommendations to government
14 and to people out there who are looking for
15 advice. That's an important part of the
16 commission's process. That's why we're not
17 sitting tomorrow. And as a matter of fact, we've
18 had a number of these policy sessions and they
19 have been very fruitful and very productive and I
20 am looking forward to more of them.

21 MR. WARD: Well --

22 THE COMMISSIONER: We've listened to the community and to, to
23 have them tell us where we think we should go as
24 far as policing is concerned.

25 MR. WARD: Well, it's crystal clear to me, Mr. Commissioner,

1 that this commission will not be able to finish
2 its fact-finding mandate in the time that you and
3 the government have allotted. And I, I ask you on
4 behalf of my clients formally today to make a
5 request of the premier and the Solicitor General,
6 or both, for an extension of time so that the
7 important work of this commission can be finished.
8 It's my respectful submission, on behalf of my
9 clients, that jamming witnesses onto panels in
10 short periods of time and denying the families'
11 application for witnesses, which we perceive to be
12 material, is going to do the public a grave
13 disservice in this, in this important matter. So,
14 I ask you today to please make a formal request
15 for an extension of time so that this commission
16 can finish its work.

17 THE COMMISSIONER: Mr. Ward, I can assure you, and the families
18 who are here, all the relevant evidence that I
19 need to hear will be heard. I have done enough
20 fact finding in my days in courts to know what is
21 relevant and what isn't, and I can tell you that
22 if there's any relevant evidence to be heard as to
23 what happened in the investigation, where, where
24 mistakes were made, if there were mistakes made, I
25 will hear all of that evidence. And so, so you

1 can rest assured of that.

2 MR. WARD: Well, that's a relief.

3 THE COMMISSIONER: Yes, so --

4 MR. WARD: Thank you.

5 **CROSS-EXAMINATION BY MR. WARD:**

6 Q All right. Sirs, could I ask you, if you have got
7 Exhibit 174(NR) in front of you, to please turn to
8 tab 22. And this, sirs, is a copy of a memorandum
9 written by Detective Constable Shenher to
10 Inspector Spencer June 1st, 2000. And it starts
11 by the author indicating that Dorothy Alford had
12 been asked by you, Mr. Wolthers, to provide her
13 with some information, or to provide some
14 information, and you see that in the second
15 paragraph. Just stopping there. Is Dorothy
16 Alford the same person as the Dorothy McKee who
17 was mentioned this morning?

18 MR. WOLTERS: Yes.

19 Q All right. And this memo, as you may have already
20 seen if you looked at it, expresses security
21 concerns, and actually contains a recommendation
22 or a request towards the end, second-to-last
23 paragraph, that the door locks be changed because
24 Shenher is concerned about you breaching security
25 of the office after you have left. Have you, have

1 you seen that?

2 MR. FELL: Certainly have, yes.

3 Q All right. Now, she says in the third paragraph,
4 and I will just read it, and of the last sentence:

5 I'm aware they [meaning the two of you]
6 photocopied much of the material in this
7 office prior to leaving, saying it was for
8 their own records.

9 Do you see that?

10 MR. FELL: That's correct. That's what it says.

11 Q And is that a true statement? Did that happen? I
12 will ask both of you that.

13 MR. FELL: We certainly photocopied the work we did in, in
14 preparation for eventual court and in preparation
15 for the much-talked-about inquiry back then that
16 would possibly occur. So, we wanted to have a
17 copy of the work that we had done.

18 Q All right. And when you say "the much-talked-
19 about inquiry," you are referring to, in effect,
20 this inquiry?

21 MR. FELL: That's correct.

22 Q All right. And where is that material today?

23 MR. FELL: It's with Crown. It's our, it's our notes. It's
24 our file of Niedermier. It's our log. It's our
25 -- it's all, it's all with the Department.

1 Q I mean, your, the copies you personally made and
2 took away, where did that end up? Okay. And you
3 have no objection to my seeing it, I trust?

4 MR. FELL: No. No, none whatsoever. This is a copy of my
5 notebooks and a copy of my daily log, the daily
6 log that Ms. Hatcher took us through.

7 Q All right.

8 MR. FELL: And a, and a couple, I didn't bring a couple of
9 these, a couple of memorandums back and forth
10 with, with our departure from the squad.

11 Q All right. Similarly, you don't object to my
12 looking at those?

13 MR. FELL: I don't have those with me, but they are retained
14 within the copy of the binder here.

15 Q Okay, thank you. Now, in the same book, if you'd
16 turn back to Tab 20 please, this is a memorandum
17 prepared a couple of weeks earlier, May 17th, 2000
18 from Shenher to Field, and I want to ask you about
19 something that appears on page 3 please. The
20 second-to-last paragraph on page 3, she, Lori
21 Shenher, is writing about your work and is
22 responding to an earlier -- to you, I believe your
23 letter to the chief, and at the end of the
24 paragraph, she writes this.

25 Mr. Picton is a very good example of a

1 potential suspect. Det/Csts Fell and
2 Wolthers were never interested in him despite
3 the comparatively large amount of information
4 suggesting he is an excellent suspect.

5 Do you see that?

6 MR. FELL: Yes, I do. That's correct, what you have said
7 there.

8 Q All right. So, the question for both of you first
9 is, is it true that neither of you were interested
10 in Pickton, despite, as she puts it, the
11 comparatively large information suggesting he is
12 an excellent suspect?

13 MR. FELL: No, I would, I would disagree with that statement
14 completely because: one, when we started, you
15 know, working with regards to the photo pack, it
16 was a request that, you know, we have everybody's
17 photo, from the top 20s in there, and we were not
18 given the opportunity to take his photo; two, we
19 had no knowledge of the comparatively large
20 information that she is referring to there, at
21 that time.

22 Otherwise, you know, I would have definitely
23 applied his name with my letter to the chief,
24 because what I've seen and I have learned at this
25 inquiry to date, the information was unbelievably

1 good at that time. We were not aware of it.

2 Q Mr. Wolthers, do you have anything to add to that?

3 MR. WOLTERS: Again, I can reiterate the, the scant details we
4 knew about Pickton. We weren't aware of the
5 information from Hiscox, Caldwell. We had no
6 idea.

7 Q All right. Now, you earlier said today, one of
8 you, and I forget which, I'm sorry for that, but
9 one of you testified that the room was small and
10 there were no secrets, words to that effect. Do
11 you recall that testimony?

12 MR. FELL: That would have been me saying that, yes.

13 Q Given that, and given what we now know, that
14 Chernoff and Lepine were spending a fair amount of
15 time on Pickton, can you comment further on your
16 understanding of the work they were doing
17 following up on Pickton as a suspect?

18 MR. FELL: Well, like I said in my evidence earlier,
19 Mr. Commissioner, I, I came in July, I was off for
20 most of August and came back in September, and we
21 probably saw Lepine and Chernoff in the office for
22 a sum total of three weeks. And then they were
23 off and on at meetings. We were certainly aware
24 they held the Pickton file. That is, that is a
25 fact. The only conversation that I ever had with

1 Detective Lepine with regards to the Pickton file
2 was he thought he was a good suspect, that he had
3 a means of disposal, being that he had the pig
4 farm, and that they had had surveillance on him at
5 one sort of time -- one, one time.

6 Sometime during, during my tenure there, I
7 did learn about the victim in '97, right? So, he
8 was a good suspect in relation to that. But that
9 is the sum total of information until I read the
10 LePard report and started listening to this
11 inquiry, that I'm aware of.

12 Q If I can just follow through on that, and I will
13 get to you, Mr. Wolthers, in a moment.

14 MR. WOLTERS: Yes.

15 Q But if I can just follow through on that, just to
16 pinpoint the timing. Your evidence, as I
17 understand it, is before you left the review team
18 in early 2000, --

19 MR. FELL: Mid-2000, yes.

20 Q -- mid-2000, you were aware of Pickton's attack on
21 the '97 victim, --

22 MR. FELL: That is correct.

23 Q -- as well as Lepine's knowledge of a tip that
24 Pickton had means of disposal of bodies and was
25 considered a suspect?

1 MR. FELL: No, he had told me no tip. He just said, because he
2 had a farm, he had a good disposal means.

3 And in the '97 case, I mean, I was familiar,
4 but I was not familiar with the gravity of that
5 case until it came to the inquiry and we read the
6 report with regards to LePard's report. So, I
7 mean, the near-death experience that woman
8 experienced, I was not aware of, but it was a, we
9 knew it was a grievous attack.

10 Q And did either of you know her?

11 MR. FELL: No.

12 MR. WOLTERS: No.

13 Q All right.

14 MR. FELL: I don't believe her name came up in our, in our
15 interviews of sex trade workers.

16 MR. WOLTERS: No.

17 MR. FELL: No.

18 Q All right. And Mr. Wolthers, the same original
19 question to you. What was your understanding of
20 the work that Lepine and Chernoff were doing on
21 Pickton, while you were at the team?

22 MR. WOLTERS: I, I don't know what they were doing. Uhm, I
23 remember we had a meeting and they left halfway
24 through that to head to Coquitlam. A couple of
25 other things. While they had a desk in the area

1 of the room, they also had their desks out in the
2 Major Crime Unit Squad where they had been
3 seconded from.

4 As far as the Pickton file, I had no access
5 to that file. I don't even know where it was. I
6 had read other files but I had no clue where that
7 file was.

8 Q Now, Dorothy Alford, now McKee, as we've heard, is
9 not with us here today, but I want to read from a
10 statement of her anticipated evidence that your
11 lawyers prepared and distributed, and just ask you
12 about this one point that she would have testified
13 to today and may testify about, should she come.
14 And I am reading from the will-say distributed to
15 counsel. According to Dorothy McKee:

16 As the Pickton tip was quite complex, it was
17 decided that a senior analyst would enter and
18 note any linkages. The senior analysts who
19 were assigned on an overtime basis were
20 Detective Carl Vinje, who was at the time
21 assigned to the Home Invasion Task Force;
22 Detective Frank Owen, Robbery Squad analyst;
23 and Detective Barry Pickerell, Sexual Offence
24 Squad analyst.

25 Do either of you recall, given your tenure in the

1 review team, that those three named senior
2 analysts were assigned to enter data about
3 Pickton, given its complexity?

4 MR. FELL: No, myself, I know those two individuals, but I was
5 not aware they were working on anything to do with
6 the Pickton file.

7 Q There were actually three: Vinje, Owen and
8 Pickerell.

9 MR. FELL: Was it Frank Owen?

10 Q Frank Owen.

11 MR. FELL: Okay. Yeah, I know those three individuals, but I
12 was not aware they were working on the Pickton
13 file.

14 MR. WOLTERS: And that applies to me. I wasn't aware they
15 were working on the Pickton file.

16 Q All right. You have both read the LePard report
17 that was published in 2010?

18 MR. FELL: Yes.

19 MR. WOLTERS: Yes.

20 Q And you have testified about aspects of it, but
21 let me ask each of you this. From your
22 perspective of having worked on the Missing Women
23 Review Team when you did, uhm, do you have
24 comments about either the methodology or the
25 conclusions of the LePard report with respect to

1 the investigations generally?

2 MR. WOLTERS: Well, I, I would like to start off, I addressed
3 the issue about LePard being asked to write this
4 report and, uhm, an independent person would have
5 said either, "I can't write this, I know too many
6 people." And then I, as I was describing, I
7 apologize for stammering along here and losing my
8 train of thought, but I think the best example is
9 the interviewing process.

10 Uhm, as I alluded to earlier, LePard started
11 interviewing Lori Shenher, and then he interviewed
12 Mark Chernoff, and then Geramy Field, and then
13 back to Lori Shenher, and then Ron Lepine, and
14 then he got to Alex Clarke.

15 When he interviewed Alex Clarke, she revealed
16 something that was a bombshell, in my opinion, and
17 that was that Doug and I weren't trusted. They
18 were afraid that we would steal their source and
19 information wasn't talked about at that time.

20 Now, as I alluded to earlier about him being
21 in many investigations or interviews and
22 interrogation, there was no follow-up questions on
23 that. And you have to ask yourself, what was he
24 thinking? Like, you're being presented with
25 basically information that could be construed as

1 obstructionist, negligence, that kind of thing,
2 and there is no follow-up question.

3 And so then four or five days later, he then
4 contacts Dorothy and he has a five-minute
5 conversation with her on the telephone. Now,
6 Dorothy is a civilian employee who would be one of
7 the most independent persons you could find. And
8 I would relate, for example, if I go to an assault
9 and I get there and two guys are fighting and I --
10 one guy says, "Oh, he punched me first, punched me
11 first," and then I have got a bus driver over to
12 the side. I would walk over to the bus driver and
13 say, "Did you see what happened?" "Yeah," he
14 said, "the guy in the green jacket sucker-punched
15 him." So, here we have an ideal witness to
16 interview and we spend five minutes on the
17 telephone talking to her?

18 So, the next thing that comes along is we're
19 interviewed, and in my interview, I said to him I
20 knew nothing. He asked me about Pickton. I
21 didn't know anything. You think he would have
22 asked me, "Well, what about the Caldwell
23 information, you know, the source, what can you
24 tell me about that?" I would have said, "Who's
25 Caldwell? What information are you talking about?"

1 What are, what are you talking about?" But that
2 wasn't done. And that was avoided. And that's
3 why, earlier on, I said about the independence.
4 That's why we need a civilian agency, in a sense,
5 for independent investigations. And so he didn't
6 ask any follow-up questions like that.

7 And he did the same when he questioned Doug.
8 I mean, we said we didn't show Pickton's picture
9 until the second round. Well, isn't -- a basic
10 question would have been, "Well, why didn't you
11 show it on the first round?" No questions like
12 that.

13 And so, you, you can imagine, get a feel for
14 what's going on here. And the next two that are
15 interviewed, it comes back is Lori Shenher and
16 Sergeant Field, and, and their statement now, it's
17 now, like, they were at every meeting. They knew
18 this, knew that. If you look from July 26th on,
19 we were at none of these meetings. It's
20 documented. And, in fact, August 10th, Sergeant
21 Field writes in her notes how we're at a meeting
22 and how Ron and Mark are investigating Pickton and
23 everything, and August the 10th, we're on annual
24 leave.

25 Q So, in short, he got facts wrong by, by the way he

1 conducted the -- his investigation; is that right?

2 Is that part of it?

3 MR. WOLTERS: Well, I think it's a little bit more than
4 getting the facts wrong.

5 Q Did he seem to you to have an agenda from the
6 outset?

7 MR. WOLTERS: Well, when he interviewed me, it went from an
8 interview to an interrogation, and I got fed up
9 and I, I basically shut down. Uhm, and, to me, it
10 wasn't a fact finding, and I just illustrated how.
11 I mean, a policeman, you're independent. You're
12 there to find out the facts and the truth.

13 Q When you read the report, did you feel as though
14 the two of you had been scapegoated?

15 MR. WOLTERS: Uhm, I, I think --

16 MR. FELL: You know, it really, Mr. Ward, you know, I've
17 thought about this in the past here. It's really
18 not about police victims here in this inquiry.
19 It's about the victims of the families of the
20 missing women here. So, I would prefer just not
21 to answer that question.

22 Q Fair enough.

23 MR. FELL: Thank you.

24 Q And given that it's about the families, I took
25 both of you to a memorandum that was written in

1 May 2000 by Shenher to Field identifying Pickton
2 as an excellent suspect and saying that there was
3 a comparatively large amount of information about
4 him. Can you, either or both of you, explain to
5 my clients, to the public, why, from your
6 perspective within the team, if he was such an
7 excellent suspect in May of 2000, he wasn't
8 apprehended until February of 2002? Can you shed
9 some insight onto that?

10 MR. FELL: That's really difficult, because all we've had
11 access to is the LePard report. To base any, any
12 assumptions on that, I mean, my -- I mean, all I
13 can say to you, reading the report, reading the
14 information that he provides on Caldwell and
15 Hiscox, and as a person who, you know, that is the
16 main being of my police career, being an informant
17 handler, I, you know, I was blown away. You felt
18 like, you know, you were -- had the bases loaded
19 and then Hiscox came around and gave you the home
20 run. And I, I just, you know, I wasn't there to
21 be part of that. And I really, in -- and of
22 course, this is all hindsight, of course, but I
23 really wish I had been given the opportunity to
24 put my two cents in. Because we have people who
25 discredit information. We have people who just,

1 you know, walk in, you know, from different
2 sections and say, "This is, this is not right."
3 And I think, you know, from the, the small amount
4 I have, it looked very credible. I believed Ms.
5 Shenher actually said that information was
6 credible in her view, right? So, it's, all I can
7 say is, it's really frustrating to view that as a
8 police officer.

9 MR. WOLTERS: It, it never got any better either. Because
10 when I went out, and I was in Patrol now, for me,
11 when 2001 arrived, I, anybody looking at it, I
12 think, for example, Patricia Johnson was missing
13 May 31st and she was last seen March 3rd, 2001.
14 That was a huge one in terms of -- and it's
15 followed by Angela Joesbury, who is missing June
16 8th, last seen June 5th. And then you have
17 Sereena Abotsway missing August 22nd, and then
18 July. I mean, I'm looking there going, what's
19 going on? I, I was asking.

20 And I, on October 17th, I met with Detective
21 Phil Little, and I recorded in my notebook that he
22 said they were focusing on crime scenes, and I
23 said to him, I said, "These girls are being
24 basically hunted down," and I said, "it's about an
25 eight-block radius." And, you know, what do you

1 do? I mean, you are out there, you're trying to
2 do your best. You're getting DNA samples.

3 After his meeting, I got another DNA sample
4 from a person October 26th with Mike Donahue.
5 This guy had been in prison for 10 years for
6 forceable confinement, sexual assaults. He had a
7 tape recorder on him. He had flex cuffs. He had
8 -- the car wouldn't open from the inside. And I'm
9 sitting here, I'm still plugging away. And then
10 at the end, you're sitting there going, uhm -- and
11 then there is a couple more missing. Mona Wilson
12 goes missing. Dianne Rock goes missing.

13 So, on January the 5th, 2002, I then went to
14 Sergeant Frail, that was now an inspector, and I
15 said, "Here's a couple of reports. Can you please
16 put them through?" And he, he did that. Uhm,
17 January 28th, in the bulletin board, it finally
18 comes up. "Have you checked any prostitutes with
19 johns? Please send it to the Missing Women Task
20 Force." February the 5th, I went to the property
21 office and I checked the samples that I had tagged
22 there and they were sitting there being held by a
23 Detective Little.

24 So, at that point, it came to the end and it
25 was, like, uhm, you know, what could you do?

1 February 6th, they told me to stop showing
2 pictures, so I did, and that was it. I just said,
3 "I've got to get out of here."

4 THE COMMISSIONER: I think we'll stop there.

5 THE REGISTRAR: This hearing is now recessed for 10 minutes.

6 **(PROCEEDINGS ADJOURNED AT 3:07 P.M.)**

7 **(PROCEEDINGS RESUMED AT 3:23 P.M.)**

8 THE REGISTRAR: Order. This hearing is now resumed.

9 THE COMMISSIONER: Yes.

10 MS. HATCHER: Mr. Commissioner, I apologize, I neglected to ask
11 that my blue book be marked as the next exhibit.

12 And I think it's 175, Mr. Giles?

13 THE REGISTRAR: Yes, that will be marked as Exhibit 175(NR).

14 MS. HATCHER: Thank you.

15 THE COMMISSIONER: Thank you.

16 **(EXHIBIT NO. 175(NR): Cerlox blue-covered booklet**
17 **entitled "Missing Women Commission of Inquiry,**
18 **Documents in Aid of Direct Examination of**
19 **Constables Fell and Wolthers")**

20 THE COMMISSIONER: Yes, Mr. Ward.

21 MR. WARD:

22 Q Did either or both of you gentlemen read Stevie
23 Cameron's book, *On The Farm*?

24 MR. WOLTERS: I read it.

25 MR. FELL: I did not.

1 MR. WOLTERS: A long time ago.

2 Q All right. I am asking because you mentioned, and
3 again, I apologize, but I forget which one of you,
4 had mentioned interviewing Tiffany Drew before her
5 disappearance, and there's an account of the
6 circumstances of her disappearance in the book.
7 Let me just paraphrase what, what the book says.
8 Tiffany Drew, one of my clients' relatives, went
9 missing in the company of a buddy, and the buddy,
10 who had been accompanying her the previous
11 evening, reported her disappearance the following
12 morning at WISH. And the book said, and there was
13 some evidence about this at this hearing as well,
14 that attempts to report the disappearance by the
15 WISH personnel to, and in particular, a woman
16 named "Elaine Allan" to Dave Dickson, were met
17 with -- were discounted, I will put it that way.

18 So, with that brief summary of Tiffany Drew's
19 disappearance, can either of you shed any further
20 light on, on what happened when she actually
21 disappeared? Did you notice her disappearance?
22 Did you learn of the circumstances of it through
23 any source or did you have any information at all
24 about it?

25 MR. WOLTERS: No, I don't.

1 Q All right.

2 MR. FELL: No.

3 Q Thank you.

4 MR. FELL: I -- sorry, yes.

5 Q Sorry, go ahead. Did you have something to add,
6 sir?

7 MR. FELL: I think it was just on a review for the inquiry that
8 we became aware that she was one of the gals that
9 we had interviewed, in preparation here. Is that
10 not correct?

11 MR. WOLTERS: That's correct.

12 Q All right. So, this was not someone you had
13 encountered, like Angela Jardine, for instance,
14 and noticed once she, she was missing?

15 MR. FELL: That's correct.

16 MR. WOLTERS: That's correct.

17 Q Now, Mr. Wolthers, your experience includes some
18 time with the VPD's Outlaw Motorcycle Gang Unit?

19 MR. WOLTERS: Yes.

20 Q And what was the mandate of that unit?

21 MR. WOLTERS: Uhm, I'm not sure if I can recollect. Mainly,
22 it was meetings that we got together and talked
23 about the Hells Angels a little bit.

24 Q All right. Did you work with Sergeant Larry
25 Butler?

1 MR. WOLTERS: I knew who Sergeant Butler was, yes.

2 Q I am going to ask you about a document that's in
3 evidence. It's at Exhibit 41A, Phase 4, tab 14.
4 I have, Mr. Registrar, it's just a couple of
5 pages. I have an extra copy right here for ease
6 of reference. All right. You're too quick. So,
7 it's Exhibit 40A -- 41A, Phase 4, tab 14. It
8 should be a continuation report.

9 MR. FELL: 40A is it?

10 Q 41A is the exhibit number.

11 MR. FELL: Okay. What tab is it under? I'm sorry.

12 Q Phase 4, Tab 14.

13 MR. FELL: Tab 14.

14 Q And it should be a continuation report from the
15 RCMP dated February 11th, 2000.

16 MR. FELL: Yes.

17 Q And hopefully, if you go down to the bottom third
18 of that page with the entry of 0002-11, time 0900.
19 It's a typewritten document authored by
20 investigator Cater in the lower left. Do you see
21 that?

22 MR. FELL: Yes.

23 Q All right. And I'll just read, read this. This
24 is Cater's account of that date of some tasks that
25 were being taken by the RCMP in Coquitlam, just to

1 put it in context for you. I am sure you haven't
2 seen this before.

3 MR. FELL: No.

4 MR. WOLTERS: No.

5 Q Anyway, he says this:

6 Writer has also learned of a member of the
7 Vancouver Police Department who apparently
8 used to interact with the Picktons as a
9 child, that is, they used to play together.
10 Writer discussed this avenue of investigation
11 with Constable Yurkiw and Corporal McCartney
12 and it was decided that this potential be
13 pursued. The member to be consulted is
14 Sergeant Larry Butler, phone number, message
15 left [and so on].

16 Do you see that?

17 MR. FELL: Yes.

18 MR. WOLTERS: Yes.

19 Q All right. Now, both of you were with the VPD,
20 and actually still with the Missing Women's Review
21 Team in February of 2000, correct?

22 MR. FELL: Absolutely.

23 MR. WOLTERS: Yes.

24 Q And one or both of you knew Sergeant Larry Butler,
25 who is now deceased I understand?

1 MR. FELL: That's correct.

2 Q Do you know, given your involvement in the missing
3 women case at the Vancouver end, whether this
4 contact, this, this source of possible information
5 within the VPD, about the Picktons, was pursued?
6 Did you have any discussions with Sergeant Butler
7 or anything that would shed any light on that?

8 MR. FELL: The first time I ever became aware of Sergeant
9 Butler having anything to do with this was at this
10 inquiry.

11 MR. WOLTERS: That's the same for me.

12 Q All right, thank you. And you, and I'm -- I'll
13 call you "Mr. Fell." I'm sorry for dropping the
14 rank.

15 MR. FELL: That's all right.

16 Q But you also worked with CLEU and with the OCA?

17 MR. FELL: Yes, I did.

18 Q The Organized Crime Agency?

19 MR. FELL: That's correct.

20 Q Focusing on organized crime activities within the
21 Lower Mainland?

22 MR. FELL: That is correct.

23 Q Now, based on your collective experience, Mr.
24 Wolthers, with the Motorcycle Gang Unit of the
25 VPD, and you, Mr. Fell, with CLEU and with the

1 OCA, is it fair to say that law enforcement
2 agencies here closely monitored the activities of
3 the Hells Angels Motorcycle Club and their
4 associates as part of their intelligence-gathering
5 function?

6 MR. FELL: You know, I mean, from experience, I, I never worked
7 in those groups, but I know there were, there were
8 several groups within the RCMP and within the VPD,
9 and I believe they're still there today on --
10 those.

11 Q So, actually groups of individuals were tasked
12 with monitoring the activities of that particular
13 organization, right?

14 MR. FELL: The Hells Angels, ever since I have been on the job,
15 I believe that's been going on.

16 Q Do you concur, Mr. Wolthers?

17 MR. WOLTERS: Yes, I do.

18 Q All right. Here we have received evidence, much
19 in documentary form and some testimony, that David
20 Francis Pickton was associated to members of the
21 Hells Angels. We've received evidence that the
22 Hells Angels frequented parties at a place called
23 "Piggy's Palace" that was owned by the Pickton
24 brothers, David and Robert William; and that
25 across the street from the farm, where the women's

1 remains were found, there was a Hells Angels-owned
2 house that had a marijuana grow operation in it.

3 Given your experience within the Motorcycle
4 Gang Unit, within the CLEU and within the
5 Organized Crime Agency of British Columbia, you
6 would, I suggest, reasonably expect that law
7 enforcement officials would have been monitoring
8 the activities of the Hells Angels people who were
9 frequenting the Pickton properties, fair?

10 MR. FELL: You know, I mean, I can't speak from what they were
11 doing, but I would certainly say that they had a
12 very, you know, they had a very good network of
13 information going during that time, and the
14 members that worked in there were very in tune
15 with the comings and goings of the Hells Angels,
16 for sure.

17 Q And would that be your experience as well, Mr.
18 Wolthers?

19 MR. WOLTERS: Yes.

20 Q All right. And in terms of resources available to
21 police, it would, of course, even today, be
22 possible to do an offline CPIC search of David
23 Francis Pickton and ascertain the contacts that
24 individual had with police over the years; is that
25 right?

1 MR. WOLTERS: Yes.

2 Q And if you had street addresses for, for instance,
3 the properties owned by the Picktons, the places
4 which were frequented by Hells Angels members, you
5 could use police computer resources to ascertain
6 the number of police attendances there and things
7 that were going on there vis-a-vis law
8 enforcement; is that right?

9 MR. FELL: Absolutely, after, after a certain time when the
10 systems came into place.

11 Q All right. So, we're talking about early '90s
12 probably?

13 MR. FELL: Yes.

14 Q And you would agree, Mr. Wolthers?

15 MR. WOLTERS: Yes.

16 MR. WARD: Thank you. Those are my questions.

17 THE COMMISSIONER: Thank you, Mr. Ward.

18 **CROSS-EXAMINATION BY MR. GRATL:**

19 Q My name is Jason Gratl. I am independent counsel
20 for Downtown Eastside interests, including the
21 respective interests of sex workers and drug
22 users, and I am here in the stead of organizations
23 that would otherwise represent them.

24 Uhm, I'm trying to understand the timeline a
25 little bit. Your counsel took, took us to a

1 commendation from your inspector dated March the
2 1st, 2000, and two months later, two and-a-half
3 months later, you're removed from the Missing
4 Women Review Team. What happened in the
5 intervening two-month period, two and-a-half-month
6 period? How did you come, after receiving a
7 commendation on March the 1st, 2000, how did you
8 come to be writing a letter to the Chief Constable
9 criticizing the review team of which you had been
10 a part?

11 MR. FELL: I, I would have to look at -- I know what document
12 you are referring to, but the date on it, and it's
13 not a commendation, right? It's just a letter of
14 thanks, I think, you know, for the work that's
15 been done on that particular file.

16 Q Sure. It says you have done a good job on the
17 Niedermier file and, and it's an official pat on
18 the back for that work?

19 MR. FELL: But it was not the date toward the end. I don't, I
20 don't believe it was, I don't believe it was in
21 the middle of our stay there.

22 Q All right. Let's then turn to the brief of
23 documents filed by commission counsel. Do you
24 have that? It's a 26-volume --

25 MR. FELL: Okay, yes.

1 Q This is another way of getting to the same point.

2 At tab, at tab 8 --

3 MR. FELL: Okay.

4 Q -- is an e-mail sent from Lori Shenher to Sergeant
5 Geramy Field on March the 22nd, 2000. It looks
6 like it's responsive to an inquiry from Sergeant
7 Field as to what things are left to do and who was
8 doing them at the Missing Women Review Team. And
9 there, there Detective Constable Shenher lists a
10 number of things. SIUSS entries have to be done.
11 And then it indicates that you both are assigned
12 to persons of interest on an indefinite basis; is
13 that right?

14 MR. FELL: Yes.

15 Persons of interest - Doug and Mark -
16 indefinite.

17 Yes.

18 Q Okay. So, that, it appears as though, from this
19 e-mail, that Detective Constable Lori Shenher is
20 of the impression that your involvement in the
21 review team will be indefinite as of March the
22 22nd, 2000. Did you share that impression with
23 her?

24 MR. FELL: At that point in time, March 22nd, yes, I would have
25 seen no, no reason why we wouldn't have been going

1 further.

2 MR. WOLTERS: But on March 16th, we were in a meeting and
3 advised that Alex Clarke was heading back to
4 General Investigation, Emer Fitzgerald was heading
5 back to SOS. So, there was a bit of a perception
6 that things were coming to an end, and --

7 Q Sorry, what was that name, Fitzgerald?

8 MR. WOLTERS: Emer Fitzgerald.

9 Q Okay. And when had Emer Fitzgerald joined the
10 review team?

11 MR. WOLTERS: She came over to do data entry and then, and
12 then she was sent back. So when they were not
13 being replaced, I was under the impression that
14 things were winding down.

15 Q All right. So, let's, let's get a sense of the
16 timeline here. Uhm, Chernoff and Lepine joined
17 the review team at what -- on what date?

18 MR. FELL: I have no idea.

19 Q Before you got there, in any event?

20 MR. FELL: They were there, yes, before us.

21 MR. WOLTERS: Yes.

22 Q But they left before you left?

23 MR. WOLTERS: I would say that, by January, they were well
24 gone.

25 Q Okay. Do you remember if they were assigned to

1 the Wall Street murders?

2 MR. FELL: That is correct. That's something we also worked
3 on.

4 MR. WOLTERS: Yes.

5 Q And, and do you remember when their reassignment
6 to the Wall Street murders occurred?

7 MR. FELL: I believe the Wall Street murders occurred in
8 November of '99, but I couldn't give you an exact
9 date.

10 Q So, you didn't see too much of them after November
11 of '99; am I wrong about that?

12 MR. FELL: Well, as I stated in my earlier evidence there, we
13 didn't really see that much from the fall of '99.
14 Like, the beginning of the fall of '99. We knew
15 they were around in their desk office, but we felt
16 that -- we were advised they were working on
17 other, on other homicides.

18 Q Okay. So, Chernoff and Lepine, they're not really
19 around effectively after November '99, or
20 certainly January of 2000, and they're not
21 replaced?

22 MR. FELL: No, not replaced.

23 Q And Detective Constable Clarke is, is not around
24 as of mid-March and --

25 MR. WOLTERS: I believe she left later. But at that time, we

1 are told that she was heading back there.

2 Q Okay.

3 MR. FELL: I think it's unfair to say that they -- maybe Lepine
4 and Chernoff had left, because I know they were
5 available to us, you know, or to the team, but
6 they certainly weren't in participation as, as
7 they were at the very beginning.

8 Q All right. So, but full time on the review
9 team --

10 MR. FELL: Definitely not full time.

11 Q In terms of full-time members of the Vancouver
12 Police Department on the review team at that time,
13 we're down to, to you, Mr. Wolthers, you, Mr.
14 Fell, and Detective Constable Lori Shenher.

15 MR. FELL: That's correct.

16 MR. WOLTERS: That's correct.

17 Q And no one else?

18 MR. FELL: That's correct.

19 MR. WOLTERS: (Nod)

20 Q Okay. So, so, there, as of March 22nd, 2000,
21 Detective Constable Shenher is saying that you are
22 assigned to persons of interest generated from bad
23 date sheets, Dear John letters, lists of all
24 plates run by VPD members and lists of all VTs
25 issued by VPD members. That's vehicle tickets, is

1 it?

2 MR. WOLTERS: What, what this appears to be is that Doug and I
3 came up with an idea to take a list of, of six
4 particular events and have SIUSS run them and see
5 if it could generate any suspects from that. So,
6 those are -- uhm, that's exactly the list.

7 MR. FELL: And subsequently, we met with the, not the creator,
8 but the representative from SIUSS who -- with
9 Detective Constable Shenher and myself and Mark
10 and Dorothy Alford, and there may have been one or
11 two others, to have a meeting that was specific to
12 that purpose, to see if they could modify the
13 system to blend that and produce us a document.

14 Q Okay. But all of that, the bad date sheets, Dear
15 John letters, lists of plates, and lists of all
16 VTs, that's for the purpose of generating persons
17 of interest lists?

18 MR. FELL: Absolutely.

19 Q And then it looks like you are going to follow up
20 by doing street interviews.

21 MR. FELL: Yes. You know, a continuation of our interviews,
22 absolutely.

23 Q And then that will involve, involve showing photos
24 to sex workers and that has the potential to be
25 ongoing?

1 MR. FELL: Oh, yes, absolutely.

2 Q Okay. And then there it says:

3 File Review - Mark and Doug - 2 weeks ? some
4 interviews to do, people to locate.

5 What does that mean, "file review"?

6 MR. FELL: You know, I can only assume that they're doing a
7 file review on something or have asked us to do a
8 file review on a particular file.

9 Q Okay, so --

10 MR. FELL: Yeah.

11 Q But from the appearances of things here, as of
12 March 2000, you are going to carry on doing what
13 you were doing with the Niedermier file with
14 respect to other potential persons of interest,
15 other suspects? That's the plan as of March 2000?

16 MR. FELL: March 2000 is, I believe, I am not too actually sure
17 of the date that we started the second photo
18 packs. It was in April. So, that would have been
19 a discussion to start a new round of --

20 MR. WOLTERS: We started our first round April 5th.

21 MR. FELL: The second, second round.

22 MR. WOLTERS: The second round.

23 MR. FELL: So, that, that would be that there. The Niedermier
24 file was already submitted and done, to Crown
25 counsel at that point in time, I believe.

1 MR. WOLTERS: That's correct.

2 Q So, my question is, if that's what it looks like
3 as of March, and April you are starting your
4 second round, round of showing photos to sex
5 workers, how did you come to be writing the chief
6 constable criticizing the Missing Persons Review
7 Team work?

8 MR. FELL: It's, you know, it's a, it's a fair and extremely
9 good question. You know, I mean, we would
10 probably have to sit here and, you know, and
11 say -- you know, it was a shock to us to have to
12 be able to do that at the time, ourselves.

13 I mean, we had come back from Lethbridge. As
14 far as we concerned, we were concerned, things
15 were going extremely well at that point with
16 regards to the Niedermier file. And then, then
17 the criticism of the file came on us. And we, we
18 were getting marooned from the squad.

19 Q How did the criticism of the file originate?

20 MR. FELL: It, it came through our presentation of what we
21 found, right?

22 Q And to whom did you make that present --

23 MR. FELL: It would be --

24 Q It was, the criticism of the file means the
25 Niedermier file?

1 MR. FELL: The Niedermier file, when it was completed, and he
2 was arrested, he was interviewed, and then we came
3 back from Lethbridge. We had also conducted a
4 search warrant. And then we provided all the
5 documentation, all the results of what we had had
6 to the team and to Sergeant Field at the end.

7 Q Okay. And it, I mean, it seems to me that there
8 was some criticism of you, which might have been
9 fair, about failure to --

10 MR. FELL: Yes --

11 Q -- search warrant?

12 MR. FELL: Yes, we, we did not fail (sic) a search warrant, and
13 we take responsibility for that. But although we
14 have to point out the fact that, you know, as BC
15 police officers, we are unable to swear an
16 information to obtain in Alberta. So, that was
17 done by the Lethbridge Police members, but in no
18 way critical of them, because we missed that point
19 as well.

20 Q All right. So, what -- how does the criticism of
21 the Niedermier file come to your attention?

22 MR. WOLTERS: Well, I think what happens is that May 3rd we're
23 advised that they're winding the review team down.

24 Q That's Sergeant Field?

25 MR. WOLTERS: That's correct. I, I believe that what happened

1 was that they believed that there was no more
2 missings since January of 1999. Jacqueline
3 McDonnell was the last one.

4 And if you look at Sergeant Field's report of
5 May 17th, she says, in a bit of a rebuttal to our
6 report to the chief, that she says there's no
7 serial killer, there is -- it's mainly a
8 suspicion. So, if you stop for a minute and think
9 that's, that's what she's thinking, and there is
10 no more missings, I think it was, like, it's time
11 to wind this down.

12 And I think that we -- they disagreed, of
13 course, with some parts of what we did in
14 Lethbridge and that, but I don't think that would
15 have changed matters. And when, when we were
16 removed, we weren't replaced. And what happened
17 was it went on for more months. And then at that
18 point, they realized that Jennifer Furminger was
19 missing, they realized that Brenda Wolfe was
20 missing. They then, towards the end of the year,
21 you have Donna (sic) Crey missing and Debra Jones.

22 Q Can I stop you just for a second? Jennifer
23 Furminger goes missing. She is reported missing
24 March of 2000.

25 MR. WOLTERS: March 30th.

1 Q Okay. And you know that because you interviewed
2 her in the first round of photo packs?

3 MR. WOLTERS: I didn't -- I wasn't aware that Jennifer
4 Furminger was missing.

5 Q No, but --

6 MR. WOLTERS: When she went missing March 30th, in fact, I
7 have -- I wasn't aware of that. Now, Constable
8 Shenher was involved in investigating her missing.

9 Q Did you know -- when did you find out that
10 Jennifer Furminger was missing?

11 MR. WOLTERS: Probably, I'm guessing, maybe in the summer or
12 the fall.

13 Q And how about Brenda Wolfe, when did you find out
14 that she was missing?

15 MR. WOLTERS: The same.

16 Q Okay. Now -- so the new missings, you didn't
17 raise that as an issue before you were removed
18 from the team?

19 MR. WOLTERS: But we didn't know about that. And it was, and
20 as we were being removed, in LePard's report, he
21 writes that another one, Wendy Crawford, is
22 brought to the attention May 9th of, of missing.
23 It fit our profile. We weren't aware of those.

24 Q You, you were never told that, that the missings
25 were ongoing?

1 MR. WOLTERS: No. Because if that was the case, we would have
2 added that into our report to the chief.

3 Q Okay. And you said that one of the reasons you
4 were inspired to write to the chief constable was
5 something that Barry Niedermier told you during
6 his interview. What was that?

7 MR. WOLTERS: Well, he made, he made some statements and
8 they're, in my opinion, they're very deceptive.

9 Q What do you mean? What --

10 MR. WOLTERS: Okay.

11 Q How does this get to you writing the chief
12 constable?

13 MR. WOLTERS: Uhm, if --

14 Q Because I take it, you were writing to the chief
15 constable telling the chief constable, "Don't wind
16 up the Missing Women Review Team"?

17 MR. WOLTERS: This person, he was initially interviewed by us
18 and then he was videotaped, and then two
19 psychologists interviewed him for six hours.
20 Questions were asked, like:

21 Q Where would you look for these girls?

22 A Start backtracking where I was.

23 Q If you were a consultant, where would you
24 take these women?

25 A The country.

1 He was referring to Julie Young. He said:

2 At the end, she was feisty.

3 Uhm, he said:

4 I'm not saying I killed all of them, to the
5 Vancouver cops. I'm responsible for some of
6 them. If all else fucking fails, [you are
7 apparently sitting across from one of the
8 most, in history] it's easy to kill someone.
9 Just don't tell anyone.

10 At the end, he said:

11 Q Where are these, where do you think these
12 girls are?

13 A In a better place, a better world. I didn't
14 kill anyone. I didn't cut anyone. If I tell
15 you where they're buried, how can I tell you
16 if I didn't do it?

17 And then the last comment he made was:

18 I know what I am. Even my worst critics will
19 be surprised.

20 And I'm thinking, with comments like this, and
21 when we were being -- interviewing him, we had a
22 30-year experienced sergeant from the Lethbridge
23 Police Service, another constable. When the
24 interview was over, the psychologist came out, and
25 was very dramatic, and talked about reasons for

1 this and what had happened. And he, he prepared a
2 report and it was -- it's an eye opener.

3 MR. FELL: I think you also have to look at the context of the
4 day that we wrote that letter, Mr. Commissioner.
5 We, we did not have the knowledge that we would
6 have liked to have had on Pickton.

7 So, when you couple with my, with what
8 Detective Wolthers has said, with some of the
9 statements, although, you know, I mean, it's not
10 perfect, you have the accompanying support of
11 psychologists. You have the culmination of a
12 very, very nasty predator, you know, finally,
13 finally behind bars. And, you know, we, we did
14 write that letter to the chief and we did believe
15 he had responsible -- responsibility for the
16 missing women.

17 But if you look at our letter, we also
18 proceed on page 5 saying that we have no relevant
19 evidence to attach it, to it yet. So, the fact of
20 the matter is, you have two constables who are
21 stating their beliefs and we just felt like we
22 weren't being listened to. That's all it was.
23 And we were not aware of what the chief constable
24 was aware of, and we felt that that was, you know,
25 that was our only avenue. After our exit

1 interviews, we felt like we did not have the ear
2 of a, of a supervisor or an inspector at the time
3 in MCS, so we needed to, we needed to do what we
4 felt was the right thing, and the only thing we
5 could do at that time with that suspect.

6 Q All right. I take it that, from the outset, both
7 of you believed that there was a serial killer?

8 MR. FELL: Absolutely.

9 MR. WOLTERS: Exactly.

10 Q And in fact, Mr. Wolthers, that's why you say you
11 wanted to get involved?

12 MR. WOLTERS: Well, yes, I wanted to get involved. I thought,
13 it was evident to me, because I'm working the
14 skids, right, I am down there and you know things,
15 right? And you know the sex trade workers and
16 you're going -- you know, I think if there was
17 anyone else down there, they would have known that
18 too, right?

19 Q You were aware that the Vancouver Police
20 Department repeatedly put the line out in the
21 media that there's no evidence of a serial killer?

22 MR. FELL: Absolutely we are aware of that.

23 MR. WOLTERS: Yes.

24 Q I take it you disagreed with that assessment?

25 MR. FELL: You know, it's partly, you know, we, we are not

1 people that, you know, really got involved with
2 media or media releases or, you know, potential
3 media releases. But, you know, with the benefit
4 of, of course, hindsight, you know, it's, it's an
5 awful mistake. And if you look at what we do now
6 with anybody, with the duty to warn and the duty
7 to protect, right? I mean, we put out, we put
8 out, you know, alerts to, to people of a sexual
9 predator living in an area, just the
10 neighbourhoods. We, you know, we, we, we just
11 recently put out something about a chronic theft
12 person out into the media. We just put out -- you
13 know, if we get information, when you are a source
14 handler, about a hit coming out on a gangster, you
15 have to hunt down the gangster and, you know, tell
16 him his life is at risk.

17 So, it all flies in the face, in my opinion,
18 and it's only my opinion, that we should have been
19 doing as much as we could to warn, warn the women
20 out there. And on top of that, we felt the, you
21 know, what we were doing as individuals, we were
22 having some success with our individual, with our
23 individual approaches of these girls. You know, I
24 mean, we, we, we made no bones about it with them
25 and, you know, we felt that they, they took heed

1 to the advice. You know, I mean, it's, it's not a
2 perfect world, and whether a person would be safe
3 or not, we could never tell you that. But the --
4 we feel they have the right to know that, right?

5 Q And at the time you were removed from the Missing
6 Women Review Team, I take it you had a long list
7 of potential persons of interest, suspects, that
8 you wanted to create a case?

9 MR. FELL: Yes, there was. And, you know, my unfortunate
10 position is I was removed and sent to basically
11 Richmond to work for the next year. And, you
12 know, only Detective Wolthers can discuss that,
13 you know, and provide evidence on that. I mean, I
14 had lots of phone calls with him over the time
15 but, you know, I was working on a, working on
16 Vietnamese homicides, so.

17 MR. WOLTERS: Well, I, I ended up going back to DEET. Of
18 course, I enjoyed DEET, but I still, I could see
19 the pattern of what was going on and I, I wasn't
20 done at that time. And so, in February, and you
21 could analyze the information, you could see that
22 there was more missings, and I didn't view them as
23 missings. I viewed them as murdered. And I
24 wanted to, I thought, do something about it. And
25 I paired up with Mike Donahue and he felt the same

1 way.

2 Q Now, Mr. Wolthers, you also went to the joint
3 forces operation, Project Evenhanded, to recommend
4 avenues of investigation.

5 MR. WOLTERS: No, uhm, I never went to Evenhanded. What I did
6 was I spoke to Inspector Frail and tried to get
7 him to present a report to Evenhanded. And I
8 also, I think, one day bumped into the inspector
9 who was in District 2 and talked to him about my
10 concerns about the women going missing. But I
11 never had any contact with anybody in Evenhanded.

12 Q In your letter to the chief constable, you write
13 that:

14 There appeared to be no serious attempts at
15 apprehending anyone responsible for the
16 missing sex workers.

17 Was that -- is that -- does that accurately
18 capture what your views were as of May 12th, 2000?

19 MR. FELL: Absolutely.

20 MR. WOLTERS: Yes.

21 Q And you appreciate that, that Project Amelia was
22 intended to move to a more suspect-based
23 investigative strategy, rather than just trying to
24 find the women?

25 MR. FELL: Well, that's -- you know, I, I mean, I know we were

1 part of the suspect drive within Project Amelia
2 but where, where I would have trouble with some of
3 this is that, uhm, we, we've heard throughout the
4 inquiry, you know, the drive to be suspect and,
5 you know, to be suspect driven. But I also, you
6 know, have been criticized for not knowing the
7 mandate of the squad, which is to investigate them
8 as missing.

9 So, I -- some, some of the mandates that I've
10 seen, you know, and obviously there is
11 contemporaneous documentation on that, we, we were
12 not aware. But we knew that we were focused,
13 right? We knew that, you know, there was, you
14 know, an alertness to focus on suspect. But we
15 know if you walked into the, into the MCS
16 environment of the day, they were missing.

17 Q All right.

18 MR. FELL: They were missing. That is the -- it would be kind
19 of like that term that Dr. Rossmo used, "group
20 think," right? You know, you would walk in and
21 the people who were not involved with the missing,
22 and we would go into a room, and it would just be,
23 "Oh, they're off to the circus," or whatever. I
24 mean, not that they're doing these harmful
25 comments, right, but it just struck me that the

1 group think around there, you know, would
2 probably, you know, apply pressure to those who
3 didn't feel like they wanted to step out of that
4 circle and say, "I believe there is a serial
5 killer," right? So, that's what you had up there.

6 Q So, Lepine and Chernoff had conduct of Tip 30
7 while they were part of the team, am I right about
8 that?

9 MR. FELL: That would be the Pickton tip, Tip 30? Yes, that
10 was their tip file.

11 MR. WOLTERS: That's, that's true.

12 Q And who had conduct of Tip 30, the Pickton file,
13 within the review team after Lepine and Chernoff
14 left the team?

15 MR. FELL: Well, I would suspect they -- I would only suspect
16 they, they continued with that, with their other
17 duties. I, I don't know. I mean, either, either,
18 you know, because just by acclamation, Detective
19 Shenher being the file coordinator, would
20 certainly have some control over that file. But
21 the investigative portion, my understanding was
22 always theirs and theirs alone.

23 Q And to your knowledge, of course, Tip 30 was never
24 reassigned to you?

25 MR. FELL: Oh, no.

1 Q To either of you?

2 MR. FELL: No.

3 MR. WOLTERS: We didn't learn about Tip 30 until August 2010,
4 when the report came out.

5 Q All right. Now, I take it that, of course, there
6 was an interview with -- you had an interview with
7 Inspector LePard, each of you?

8 MR. FELL: That's correct.

9 MR. WOLTERS: (Nod)

10 Q And you were asked what you knew about Tip 30; am
11 I right about that?

12 MR. WOLTERS: Yes.

13 MR. FELL: Yes.

14 Q Now, I have a note here that your amended
15 statement, that -- Mr. Fell, I have a note here
16 that, regarding Pickton, these are your words from
17 your amended statement.

18 MR. FELL: Yes.

19 Q You had perused the Pickton file and you knew what
20 was in the office file only.

21 MR. FELL: And, you know, that would be the tip file where you
22 place any tips on. Uhm, I, I -- in that statement
23 there, okay, basically that is certainly what I
24 said. Uhm, I had, you know, I had conferred with
25 Detective Wolthers, because he had done a lot of

1 the reading of files, and I had asked him, and I
2 said, at one point in time, "Have you read the
3 Pickton file?" and he said, "There is nothing
4 there," right? I --

5 Q This is an accordion file, is it?

6 MR. FELL: Pardon me?

7 Q This is a physical accordion file, is it?

8 MR. FELL: So, you know, I would say it was maybe a working
9 file, uhm, you know, a tip file where you would
10 put your files in. There would be a document.
11 But there was no, there was no information in it
12 with regards to the sources, with regards to all,
13 all what we've discussed earlier.

14 Q It was a physical accordion file, was it?

15 MR. FELL: I have no idea. I can't recall --

16 Q Or a file folder?

17 MR. FELL: -- the actual file.

18 Q Do you recall, Mr. Wolthers?

19 MR. WOLTERS: No, I don't.

20 MR. FELL: I know other files where you would just hand it in
21 and they would go into some kind of file, you
22 know, for each tip number.

23 Q Okay. And you are saying that you looked through
24 that file and you didn't see anything dealing with
25 Ellingsen, Caldwell, Hiscox? None of those things

1 were in --

2 MR. FELL: Well, I --

3 Q -- the file when you arrived?

4 MR. FELL: I believe my statement, quite frankly, is incorrect
5 with regards to actually viewing a file. I assume
6 there was a file. I know what I have said in the
7 statement to LePard, but I certainly have never,
8 never seen any documentation with regards to
9 Pickton.

10 Q Okay. I mean, your, your statement to Inspector
11 LePard says that you perused the office file --

12 MR. FELL: Yes.

13 Q -- for Pickton.

14 MR. FELL: Perused the office files or perused the office file?

15 Q The office file for Pickton.

16 MR. FELL: Yeah.

17 Q That's the words you used?

18 MR. FELL: Yeah. And no, and again, I have never viewed any
19 documentation on Pickton.

20 Q Okay. And were you told that all the information
21 dealing with a tip ought to be in the tip file?

22 MR. FELL: Yes.

23 Q Okay. So, you expected that the tip file would
24 contain everything there was dealing with Pickton?

25 MR. FELL: You know, you know, in, in 20/20, as we, we -- I

1 carry forward and work on other, other large
2 projects, yes, you would have the documentation
3 all in a file-coordinated situation where you
4 could peruse them.

5 Q Your, your view was that it wasn't a single serial
6 killer at work; isn't that correct?

7 MR. WOLTERS: Well, our benchmark was the DNA from the Valley
8 homicides. So, that was something you could
9 compare it with. You left open the option, well,
10 the person that did the Valley homicides could be
11 responsible for the missing women, and conversely,
12 he may not be. So, you had to keep an open mind.
13 I think we felt in our thinking that there was two
14 or three.

15 And, you know, unfortunately, if you stop and
16 think, at that point in our careers, we had 15
17 years on the police department. We'd worked all
18 the busy areas. We had arrested lots and lots of
19 people. You have a bit of intuition. You have
20 hunches. You analyze information. And, you know,
21 I don't think that -- it's an art being a bit of a
22 good investigator, and a lot of 'em, a lot of
23 police officers aren't capable of doing it. And
24 so you somewhat get marginalized when you come out
25 with some thoughts like this.

1 Q In and around September of 1999, a report -- let
2 me know if you, if you recall this -- a report
3 came in of a volunteer at the Chinatown Community
4 Policing Office who had been pulled over with a
5 rape kit in his trunk? Do you remember that?

6 MR. FELL: All I can say is it's a vaguely familiar-sounding
7 story, but details, I -- no.

8 Q The, the suspect was wearing a balaclava that was
9 rolled up. He, he had a small duffle bag behind
10 the passenger seat. There was a, a large butcher
11 knife in the duffle bag. He was wearing women's
12 black nylons, and he said he was wearing them
13 because he was cold. He had a butcher knife, a
14 pair of silver handcuffs, a roll of duct tape, a
15 mini mag flashlight, a flash-toned bra, a cream
16 and green dress and a pair of black wool gloves,
17 and he was a volunteer at the Chinatown Community
18 Policing Office at that time. Do you remember
19 now?

20 MR. FELL: I have a vague, vague memory of hearing that story.

21 Q All right. He was added to the list of suspects
22 at the Missing Persons Review Team, correct?

23 MR. FELL: I wouldn't know. I wouldn't even recognize the name
24 at this point, I'm afraid.

25 Q All right, Mr. --

1 MR. WOLTERS: Yes, I don't remember that, so I can't --

2 THE COMMISSIONER: Can you tell me how that's important?

3 MR. GRATL: Well, I am just wondering if this case was
4 investigated, whether they investigated --

5 THE COMMISSIONER: They have already said that -- Detective
6 Wolthers has already said that he believed there
7 were two or three serial killers and that Pickton
8 wasn't responsible for all of them.

9 MR. GRATL: If you are not interested in a potential serial
10 killer suspect within the VPD apparatus,
11 Mr. Commissioner, I'll, I will --

12 THE COMMISSIONER: No, no, I, you know, I just -- I am not
13 trying to cut you off, but I just want, I just
14 want to know how that is important in the overall
15 scheme of things. I want to know where we're
16 going with this, that's all.

17 MR. GRATL: Well, I am just wondering if that individual was
18 investigated, if it was discussed within the
19 Missing Persons Review Team, what to do about that
20 and --

21 THE COMMISSIONER: Okay. We really need -- have to know here
22 why Pickton wasn't investigated earlier, why he
23 wasn't apprehended earlier. That's really what,
24 what we need to know and that's --

25 MR. GRATL: Well, it's a very narrow reading of the terms --

1 THE COMMISSIONER: Yes, yes.

2 MR. GRATL: -- of reference, Mr. Commissioner.

3 THE COMMISSIONER: Well, yes. In any event, maybe I will stop
4 you there since we're at 4:10 now. And how much
5 longer are you going to be?

6 MR. GRATL: I have only got a few minutes left.

7 THE COMMISSIONER: Okay.

8 MR. GRATL:

9 Q What I really wanted to ask these two gentlemen
10 was about resource allocation. Obviously, not
11 enough resources were allocated to the review team
12 to do the work necessary to investigate all the
13 suspects; isn't that right?

14 MR. FELL: That's correct. Absolutely.

15 Q I mean, you knew, at the latest, in September of
16 1999, that you had a lot of suspects on your hands
17 and a lot of them were good suspects?

18 MR. FELL: Absolutely.

19 MR. WOLTERS: Yes.

20 Q And you chose Niedermier because he was the best
21 suspect at the time as a result of a few days'
22 worth of interviews of sex workers. But aside
23 from Niedermier, there were a lot of really good
24 suspects to follow up on?

25 MR. FELL: Yes. I would have loved to have continued working

1 on it.

2 Q Okay. You know that nobody else was there within
3 the review team to do that work? It was work that
4 had to be done; isn't that right?

5 MR. FELL: When we left, I believe that's your last two
6 full-time investigators. I mean, Constable
7 Shenher is a full-time investigator, but with
8 different duties.

9 Q Sure. But, I mean, you picked, you picked
10 Niedermier in and around September of 1999, and
11 you have got, you, both of you do a tremendous job
12 finding witnesses, liaising with those witnesses,
13 persuading them to get involved in the court case
14 and so forth, and he's apprehended in and around
15 February, March, April of 2000. But during that
16 whole period you are working on Niedermier, there
17 are a whole bunch of suspects you are not working
18 on and nobody is, to your knowledge; isn't that
19 right?

20 MR. FELL: Well, there were certainly suspects we are not
21 working on, but we were working on other suspects
22 as well during that time.

23 Q Okay. But not, obviously, not to your
24 satisfaction?

25 MR. FELL: No, that's why you hear Detective Wolthers here

1 carrying on in Patrol trying to conclude files.

2 Q And I take it that you are not staying silent
3 about this? You are saying, "We need more people
4 in the field doing work on these, on these
5 suspects"?

6 MR. WOLTERS: Well, I think that that comes from the sergeant
7 and comes from even the inspector, to ask for more
8 resources. And, you know, you have got to
9 prioritize, right? If we've got a Mounted Squad
10 that has eight officers, right, and we've got
11 potential serial killers, well, you, you shut down
12 the Mounted Squad, move those officers. I mean,
13 it's not rocket science here. I am tired of
14 hearing about, "Well, we're waiting for this, we
15 can't do this, we can't do that." I mean, come
16 on, you prioritize. That's what they do in
17 business, right?

18 Q So, you considered it, with your policing
19 experience, you considered the resource
20 allocations within Vancouver Police Department to
21 be inappropriately allocating resources away from
22 these investigations?

23 MR. WOLTERS: Well, you have to move to an investigation. I
24 mean, people are, people are being murdered. So,
25 you could take most of the traffic enforcement and

1 put -- park the bikes and move a lot of officers
2 from there. They're handing out speeding tickets
3 and seatbelt tickets. We've got a, we've got a
4 serial killer loose here. Prioritize.

5 Q All right.

6 THE COMMISSIONER: I take it your real concern here was that,
7 that Brenda Wolfe and Jennifer Furminger had gone
8 missing, and before that, Dawn Crey, and yet, in
9 May of 2000, Geramy Field has sent a memo shutting
10 down the -- or indicating that the, that the task
11 force was going to shut down?

12 MR. FELL: That was a big concern for us and, you know, it
13 provided us, unfortunately, with an undue sense of
14 urgency to complete what we were doing up there.

15 THE COMMISSIONER: Yes, yes. All right.

16 MR. GRATL:

17 Q Now, were you aware, or did you gather a sense,
18 and if so, where from, that you were being removed
19 from the Missing Persons Review Team because: a)
20 you opposed the review team winding down; and b)
21 you were critical of the work of the review team
22 to date?

23 MR. FELL: Well, to be fair, in our letter, our letter comes
24 basically after we've been told we were being
25 removed.

1 Q Okay.

2 MR. FELL: Right? So, once we're aware we're being removed,
3 then that's when we, we feel we need to take some
4 action. We don't feel individuals, you know, at
5 the highest level, you know, may -- we just feel
6 that the chief needs to hear from us, right, what
7 two constables think.

8 Q All right. So, initially, from your vantage
9 point, your removal from the Missing Persons
10 Review Team didn't have anything to do with the
11 Niedermier investigation? It had everything to do
12 with resource allocations?

13 MR. WOLTERS: Oh, I think that there was aspects of the
14 Niedermier investigation that they felt that we
15 erred and they -- I think it was a reason to
16 remove us. But I, I also felt that they were, you
17 could sense at the March 4th team meeting when
18 Alex starts going back to GIS, and Emer is going
19 back, you sensed what was going on here. It was
20 going to be coming to an end.

21 Q All right. Those are, given the time we have,
22 those are my questions.

23 THE COMMISSIONER: All right, thank you. We will adjourn.

24 MR. RAVI: Mr. Commissioner, I have three questions, maybe
25 four.

1 THE COMMISSIONER: All right. Okay.

2 **CROSS-EXAMINATION BY MR. HIRA:**

3 Q For the record, Ravi Hira. I represent retired
4 Assistant Commissioner Earl Moulton who, at the
5 relevant time, was an inspector in Coquitlam.

6 I just want to deal with one issue. Uhm, Tip
7 30 was, the Pickton tip, was assigned to Chernoff
8 and Lepine; is that correct?

9 MR. WOLTERS: That's correct.

10 Q You went on holidays shortly after August 3, 1999;
11 is that correct?

12 MR. WOLTERS: It was August 6th and August 7th.

13 Q Thank you. And to your knowledge, in early
14 September, 1999, Chernoff and Lepine were no
15 longer working with the review team; is that your
16 evidence?

17 MR. FELL: They certainly were not physically within the review
18 office.

19 Q Thank you. And is it also your evidence that, to
20 your knowledge, they were no longer working on the
21 Pickton tip on a full-time basis or on any basis?

22 MR. WOLTERS: Both. First off, we didn't know anything
23 relative about Pickton. So, I didn't know what
24 they were working on. I can't speculate to say
25 that. As far as them, I, in my mind, I believed

1 that it was more in the case of to December,
2 January, when they, I think their absence, you
3 noticed their absence a lot more, than September.

4 Q What about your knowledge of that proposition,
5 Officer Fell?

6 MR. FELL: Well, I would agree with that. It's just the
7 physical presence of the room is when they left.
8 So, there was a disengagement. You know, they
9 could be working on the Pickton tip. They could
10 be working on a homicide file. There is, there is
11 very little communication there, right?

12 Q Thank you. One last question. I gather both of
13 you had at least five years more experience
14 investigating than Detective Constable Shenher; is
15 that correct?

16 MR. FELL: We were, we were both in our 15th year.

17 MR. WOLTERS: And two of our classmates were in Major Crime
18 Homicide.

19 Q Thank you. Those are my questions. And thank you
20 for the indulgence, Mr. Commissioner.

21 MR. VERTLIEB: Mr. Commissioner, I know it's late, but we
22 should deal with the McKnight situation.

23 THE COMMISSIONER: All right. What is the McKnight situation?

24 MR. VERTLIEB: Well, there is an affidavit that we were
25 proposing to file. We have no questions on the

1 affidavit. We would like to have it filed though
2 because it gives you some more information about
3 the Evenhanded investigation. But as a
4 consequence of filing that, some of the
5 participants have questions. And given the role
6 of the evidence that we have read in the
7 affidavit, we are suggesting that, as has been
8 done elsewhere, that the participants who have
9 questions submit them in writing.

10 The problem in part is Mr. McKnight is gone
11 from Friday to the 20th of May, so he's not
12 available. He's agreed that he will answer
13 questions if he has them from people, and will do
14 it tomorrow. And so that's a thought for you.
15 It's been used in the Cohen Commission and it's
16 one way of dealing with participants who have
17 questions. We, as I say, have none for Mr.
18 McKnight. We are content with the affidavit
19 simply being filed.

20 THE COMMISSIONER: All right.

21 THE REGISTRAR: What do you wish that to be marked, or do you
22 wish it to be marked?

23 THE COMMISSIONER: So, McKnight is an RCMP officer who wishes
24 to file an affidavit regarding the Project
25 Evenhanded?

1 MR. VERTLIEB: He's actually with VPD, you may recall.

2 THE COMMISSIONER: Sorry. What am I -- of course, he's a VPD.

3 MR. VERTLIEB: That's all right.

4 THE COMMISSIONER: Yes.

5 MR. VERTLIEB: No, that doesn't matter.

6 THE COMMISSIONER: Yes.

7 MR. VERTLIEB: But the fact is he worked with --

8 THE COMMISSIONER: He worked on the Evenhanded. Okay.

9 MR. VERTLIEB: Exactly. And he worked with Don Adam, and Mr.

10 Adam referenced his involvement a number of times.

11 THE COMMISSIONER: So, his evidence is corroborative of what --

12 MR. VERTLIEB: He says, he just said what he did in Evenhanded.

13 That's all it was. But it may be of some help to

14 you in understanding Evenhanded because it's

15 obviously one of the, the areas of interest.

16 And so to accommodate his schedule, because

17 he is away, and he is entitled to be away, he is

18 retired, the suggestion is that anybody who has

19 questions simply put them in writing and will

20 answer -- they need to get the questions to him

21 tomorrow by 9 a.m. so he can get them answered

22 tomorrow.

23 THE COMMISSIONER: So, you want counsel to file questions --

24 MR. VERTLIEB: Yes.

25 THE COMMISSIONER: -- that they may have of him?

1 MR. VERTLIEB: Yes.

2 THE COMMISSIONER: And those questions ought to be -- okay.

3 Well, it's -- yes?

4 MS. HUNT: Mr. Commissioner, Elizabeth Hunt and Suzette
5 Narbonne representing the aboriginal interests. I
6 just want to convey, I know there is pressure to
7 have things finished here, but we -- it's, it's,
8 it's quite an epic affidavit --

9 THE COMMISSIONER: Yes.

10 MS. HUNT: -- with extensive exhibits. And in fairness to the
11 catchup that we are trying to undertake here, we
12 would request that whatever the solution that you
13 are going to consider here, factor in that we
14 would like some more time to review it.

15 THE COMMISSIONER: Yes.

16 MS. HUNT: And also I know it's the time pressure to have
17 this person here. It is such a voluminous
18 affidavit, to not have the person here to
19 cross-examine him, wouldn't be fair, in our
20 submission.

21 THE COMMISSIONER: I think -- Mr. Vertlieb, what about if there
22 is more time?

23 MR. VERTLIEB: I'm sorry, Mr. Commissioner?

24 THE COMMISSIONER: What about if counsel are given more time?

25 MR. VERTLIEB: In what way, sir?

1 THE COMMISSIONER: Well, the, the -- Ms. Hunt says that this is
2 a voluminous affidavit and she can't possibly get
3 the questions done by 9 a.m. tomorrow.

4 MR. VERTLIEB: I would have thought the lawyers who had
5 questions would have been ready, because he's been
6 scheduled. He was on the schedule submitted by
7 you as part of your process directive.

8 THE COMMISSIONER: Yes.

9 MR. VERTLIEB: So, everyone would have known he was scheduled
10 for today, that because of the timing, more time
11 was spent with these two witnesses than had been
12 planned. So, there was nothing novel in Mr.
13 McKnight being here today. In fact, he was here
14 expecting to be questioned.

15 Remember, of course, the last week of May is
16 your closing argument. According to your
17 directive, the week before, you have always wanted
18 counsel to have opportunity to prepare their
19 written arguments.

20 THE COMMISSIONER: Yes.

21 MR. VERTLIEB: And next week is, he is not here anyway next
22 week, so it doesn't matter about next week's
23 schedule. The gentleman is just not here. So,
24 the lawyers who had questions would surely have
25 made notes of what those areas would be, I would

1 think. So, it's, it's an option for you. It's
2 your process and you, you obviously should control
3 it in any way you see fit. We are just offering a
4 suggestion to you to try to find a way to
5 accommodate getting you information that may be of
6 assistance to you. It's always your decision on
7 what you should hear.

8 THE COMMISSIONER: No, I, I want to, I want to accommodate
9 everybody here, so we're fair but -- yes?

10 MS. NARBONNE: I, I had my questions ready for Mr. McKnight but
11 -- sorry, Suzette Narbonne, counsel for the
12 aboriginal interests. I don't want -- I would
13 prefer not to submit them in writing. I would
14 like to cross-examine him. I, I -- there's a
15 process to cross-examination that has value in it
16 and I don't want to be just sending him a list of
17 questions and then he takes his time and responds
18 to them. So, my preference would be that he be
19 made available for cross-examination. I won't be
20 lengthy with him, I never am with any of the
21 witnesses, --

22 THE COMMISSIONER: Yes.

23 MS. NARBONNE: -- but it serves a purpose.

24 THE COMMISSIONER: Well, I think the idea is a good one. I am
25 going, I'm going to accede to that. But I am

1 going to give counsel time to, to, to file their
2 questions. Okay.

3 MR. WARD: Sorry, Mr. Commissioner, Cameron Ward, counsel for
4 the families. I would like to be heard on this
5 point.

6 Uhm, I, on behalf of my clients, am opposed
7 to your receiving the sworn evidence of McKnight
8 unless counsel have the opportunity to cross-
9 examine him on his evidence. And cross-
10 examination, at least as far as I'm aware of, does
11 not consist of submitting questions in writing to
12 the witness, having the witness huddle with his
13 own lawyer, and deliver questions or responses in
14 writing back. That's not cross-examination, as I
15 understand it. It is not the way to find facts
16 and it is not the way to get to the truth, and I'm
17 vigorously opposed to the suggestion. I just want
18 to make sure that my submission is heard. Thank
19 you.

20 MR. VERTLIEB: It wasn't intended, Mr. Commissioner, that the
21 witness huddle with a lawyer. The intention would
22 be that the witness would answer the questions and
23 then they could simply be submitted in affidavit
24 form. And if the lawyers wish more time, keep in
25 mind that he is not here from the 11th, which is

1 Friday, until the 20th of May. But the answers
2 could be forthcoming perhaps on his return and
3 then people will have it during that week of
4 preparing closing argument.

5 THE COMMISSIONER: Yes. I think, I think we'll -- I am going
6 to do that. I know Mr. Justice Cohen did that on
7 a number of occasions. But I am going to -- I
8 will do that but -- I will accede to that.
9 However, it may, his affidavit may well go to
10 weight if, if he's filing it. This evidence might
11 well go to weight if he's, you know, if he's
12 filing it by affidavit. I want to make sure that
13 there ought to be -- if he's doing it by writing,
14 then, in fairness, the lawyers ought to have full
15 opportunity to reply and so I'm, I'm concerned
16 about that. But I, I agree with you. Mr. Gratl?

17 MR. GRATL: Mr. Commissioner, I, I recall in November having to
18 stand up and argue for a day that vulnerable
19 witnesses be permitted to submit affidavit
20 evidence.

21 THE COMMISSIONER: Yes.

22 MR. GRATL: That application was opposed strenuously by the
23 Vancouver Police Department --

24 THE COMMISSIONER: Yes.

25 MR. GRATL: -- and it was opposed strenuously by the Government

1 of Canada.

2 THE COMMISSIONER: I don't --

3 MR. GRATL: And then after some long delay, you finally acceded
4 to that, but only on the basis that they're
5 vulnerable and require access to justice. This
6 witness is not vulnerable. And there's no reason,
7 aside from efficacy and convenience, to allow him
8 to testify by affidavit, at all. It falls far
9 below the standard expected of an evidentiary
10 hearing, in my respectful submission.

11 THE COMMISSIONER: Well, there is no question that it's done in
12 order -- for efficacy. I agree with that. But
13 the fact is, that doesn't necessarily make it,
14 make it without merit. The fact is that your,
15 your application was allowed. And I know that
16 they may well have opposed it, but I acceded to
17 your application.

18 MR. GRATL: Yes. All the reasons they opposed it you listened
19 to.

20 THE COMMISSIONER: Well, obviously there was no merit to their
21 opposition.

22 MR. GRATL: Yes. And you'll see that your ruling ultimately
23 says that their affidavit evidence will only be
24 received if it's not contested.

25 THE COMMISSIONER: Yes.

1 MR. GRATL: Right. And so what I'm saying is, these matters
2 are contested --

3 THE COMMISSIONER: Well --

4 MR. GRATL: -- and even vulnerable sex workers are not allowed
5 to testify on contested matters, according to your
6 ruling, --

7 THE COMMISSIONER: Yes, yes.

8 MR. GRATL: -- and to jettison those principles now --

9 THE COMMISSIONER: The principles --

10 MR. GRATL: -- for the sake of efficacy --

11 THE COMMISSIONER: -- are the same, Mr. Gratl. There is,
12 there's nothing inconsistent about that. What
13 we're doing is, is that sometimes we're doing this
14 on an ad hoc basis because all the facts are, the
15 facts are different and the circumstances are
16 different. And I have already said that if
17 there's any unfairness that results, I'll address
18 that.

19 MR. GRATL: I am just saying that, in my respectful
20 submission, --

21 THE COMMISSIONER: Yes.

22 MR. GRATL: -- the basic principles of administrative fairness
23 are being jettisoned for the sake of expediency at
24 the end of this inquiry because there is a
25 shortage of time.

1 THE COMMISSIONER: Okay.

2 MR. GRATL: And that, in my respectful submission, is not
3 appropriate.

4 THE COMMISSIONER: Well, the only -- I do want to reply to you
5 because it hasn't anything to do with
6 administrative fairness. There is, there is -- I
7 have to decide what evidence I need. This is not
8 a question -- a case of someone who is being
9 charged with a crime or someone's rights are being
10 breached. I have to decide what evidence I need
11 in order to, to properly address the terms of
12 reference. And if --

13 MR. GRATL: Sorry, you're saying you need this affidavit --

14 THE COMMISSIONER: Just let me -- don't interrupt me. I didn't
15 interrupt you.

16 If I decide, and if you tell me that you are
17 not able to properly address what is in this
18 lengthy affidavit, I will either not consider it,
19 or I'll, I'll attach the appropriate weight to it.

20 MR. GRATL: I am just saying, Mr. Commissioner, from my vantage
21 point, it looks to me as though you may have
22 already made up your mind about what you need in
23 order to provide an evidentiary foundation --

24 THE COMMISSIONER: You know, that's a totally inappropriate
25 comment --

1 MR. GRATL: Well, I don't know what the --

2 THE COMMISSIONER: -- and it's a ridiculous comment to make. I
3 know -- I have been in this business a lot longer
4 than you, and so I know when I make my mind up,
5 and I haven't made my mind up on anything. You
6 know, you have a habit of making inappropriate
7 comments. And the fact is, I haven't made my mind
8 up. I have tried to bend over backwards so as to
9 accommodate everybody here. I am trying to do
10 that.

11 MR. GRATL: Well, the compressed schedule --

12 THE COMMISSIONER: I haven't made my mind up about anything.

13 MR. GRATL: The compressed schedule here is very suggestive, I
14 will put it that way, Mr. Commissioner.

15 THE COMMISSIONER: Well, no. The -- we don't have unlimited
16 time to do these things. You know, trials are,
17 are now decided on the amount of -- the length of
18 trials is decided on what is fair in the
19 circumstances. You don't have an unlimited amount
20 of time in any trial. You don't have an unlimited
21 time at an inquiry.

22 MR. GRATL: I don't know of an inquiry, a commission of inquiry
23 that has a period of one month from the closure of
24 final submissions to the time of publication of a
25 report, Mr. Commissioner.

1 THE COMMISSIONER: Well, nobody said --

2 MR. GRATL: I just don't know of one.

3 THE COMMISSIONER: Nobody said the, that the report will be
4 published in one month; and secondly, that's a
5 task for me. I will decide -- you know, if it's
6 unfair to me, that's something that I have to
7 decide, whether or not I can get my report done in
8 time. That's not --

9 MR. GRATL: Well, in my respectful submission,
10 Mr. Commissioner, if you can get an extension to
11 complete your report, then you ought to get a
12 small extension of a period of at least a month to
13 get to hear the evidence properly --

14 THE COMMISSIONER: Yes.

15 MR. GRATL: -- that you say is necessary to write your report.
16 And, and what will happen, Mr. Commissioner, in my
17 respectful submission, if you don't get that
18 month, it's going to derogate from the value of
19 the final product.

20 THE COMMISSIONER: You know --

21 MR. GRATL: It won't be received --

22 THE COMMISSIONER: You know --

23 MR. GRATL: -- in the same way it would otherwise be.

24 THE COMMISSIONER: You know, Mr. Gratl, as a lawyer, I've
25 prosecuted and defended many cases. As a judge, I

1 was on the court for 23 years, on the Supreme
2 Court and the Court of Appeal. I know what
3 fairness is. I don't make my mind up
4 precipitously when it comes to fact finding. If I
5 need the extra time, I will do it. You can rest
6 assured that when I took this task on, I knew it
7 was going to be difficult. I know what we are
8 supposed to do here. And for you to suggest that,
9 that the time is not going to -- is not sufficient
10 for me to allow a fair report is just wrong.

11 MR. GRATL: I'm just saying --

12 THE COMMISSIONER: I can do -- you know, I have done -- anyway,
13 I don't need to justify my --

14 MR. GRATL: It's just, Mr. Commissioner --

15 THE COMMISSIONER: Don't interrupt me. I don't know why you
16 find it necessary to interrupt me.

17 I think I know what I'm doing here. I know
18 what the challenge is. I can do this. And I
19 don't need you to question me. Mr. Hira.

20 MR. HIRA: I'm sorry, Mr. Commissioner, but as the most senior
21 member of the bar here, at least at law, uhm, I
22 just cannot believe the submissions that we're
23 hearing and the way that you have to defend
24 yourself. These are not submissions that would be
25 made in a courtroom.

1 THE COMMISSIONER: I know that.

2 MR. HIRA: It is just inappropriate.

3 THE COMMISSIONER: Yes.

4 MR HIRA: It's unseemly. It's not something that, that
5 experienced members of the bar should be doing,
6 and nor should you be forced to engage in your
7 self-defence. The situation is clear. We're
8 proceeding. You're trying to accommodate a
9 variety of interests and I, again, urge my
10 colleagues to bring some respect and decorum to
11 this proceeding. Because if it doesn't have it,
12 then the report won't get it either.

13 THE COMMISSIONER: Well, I can assure everybody here, there
14 will be a fair report. I know that, and --

15 MR HIRA: And nor was I suggesting otherwise.

16 THE COMMISSIONER: All right.

17 MR HIRA: I think that we've got to start to treat each other a
18 lot better, and you should not be defending
19 yourself in this fashion.

20 THE COMMISSIONER: Yes. All right, we will adjourn.

21 THE REGISTRAR: This hearing is now adjourned for the day and
22 will resume Friday morning at 9:30.

23 **(PROCEEDINGS ADJOURNED AT 4:30 P.M.)**

24

25

Reporter's certificate

1 I hereby certify the foregoing
2 to be a true and accurate
3 transcription of the proceedings
4 herein to the best of my skill
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INDEX OF PROCEEDINGS

	PAGE NO.
Proceedings	1
DOUG FELL, MARK WOLTERS (for the Commission)	
Examination in chief by Mr. Vertlieb	8
Proceedings	84
Cross-examination by Ms. Hatcher	88
Proceedings	143
Cross-examination by Mr. Ward	152
Cross-examination by Mr. Gratl	176
Cross-examination by Mr. Hira	208
Proceedings	209

EXHIBITS

NO.	DESCRIPTION	PAGE
	(EXHIBIT NO. 164: Document entitled "Executive Summary regarding Nancy Ann Clark, aka Nancy Ann Greek and Nancy Jasper" - formerly marked Exhibit B for Identification)	2
	(EXHIBIT NO. 165: Document entitled "Department of Justice, Documents for Cross-Examination of DCC Doug LePard, Volume 1" - formerly marked Exhibit K for Identification)	2
	(EXHIBIT NO. 166(NR): Document entitled "Department of Justice, Documents for Cross-Examination of DCC Doug LePard, Volume 2" - formerly marked Exhibit L for Identification)	2
	(EXHIBIT NO. 167: Document entitled "DC Evans: AGC Documents (Volume 1)"- formerly marked Exhibit M for Identification)	2
	(EXHIBIT NO. 168: Document entitled "DC Evans: AGC Documents (Volume 2)" formerly marked Exhibit M1 for Identification)	2
	(EXHIBIT NO. 169(NR): Document entitled "DC Evans: AGC Documents (Volume 3)" formerly marked Exhibit M2 for Identification)	2

(EXHIBIT NO. 170: Document entitled "DC Evans: AGC Documents (Volume 4)" formerly marked Exhibit M3 for Identification)	2
(EXHIBIT NO. 171(NR): Document entitled "DC Evans: AGC Documents (Volume 5)" formerly marked Exhibit M4 for Identification)	3
(EXHIBIT NO. 172(NR): Document entitled "AGC Documents - Lori Shenher" - formerly marked Exhibit U for Identification)	3
(EXHIBIT NO. 173: Document entitled "Mike Connor, AGC Documents" - formerly marked Exhibit V for Identification)	3
(EXHIBIT NO. 174(NR): Black binder labelled "Missing Women Commission of Inquiry, Project Amelia Panel #1 Document Brief")	26
(EXHIBIT NO. 175(NR): Cerlox blue-covered booklet entitled "Missing Women Commission of Inquiry, Documents in Aid of Direct Examination of Constables Fell and Wolthers")	168

<div>#</div>	<div>12^[8] - 54:3, 54:9, 54:23, 60:17, 89:4, 121:14, 131:24, 141:18</div> <div>12-year-old^[1] - 90:2</div> <div>1255^[1] - 136:4</div> <div>1267^[4] - 8:18, 46:10, 117:23, 136:4</div> <div>12:55^[1] - 129:13</div> <div>12th^[4] - 46:15, 46:18, 50:10, 194:18</div> <div>13^[3] - 9:10, 59:12, 124:7</div> <div>1300^[1] - 34:23</div> <div>13th^[4] - 27:13, 77:21, 110:15, 128:5</div> <div>14^[6] - 121:14, 129:25, 171:3, 171:7, 171:12, 171:13</div> <div>143^[1] - 1:10</div> <div>14th^[2] - 57:20, 110:16</div> <div>15^[6] - 23:22, 61:22, 84:15, 125:3, 144:3, 200:16</div> <div>152^[1] - 1:11</div> <div>15th^[5] - 9:6, 39:13, 39:21, 43:9, 209:16</div> <div>16^[1] - 143:19</div> <div>160^[1] - 86:9</div> <div>164^[3] - 1:24, 2:2, 2:5</div> <div>165^[3] - 1:24, 2:6, 2:9</div> <div>166(NR)^[3] - 1:24, 2:10, 2:13</div> <div>167^[3] - 1:25, 2:14, 2:17</div> <div>168^[4] - 1:25, 2:17, 2:20, 3:16</div> <div>169(NR)^[3] - 1:25, 2:20, 2:23</div> <div>16th^[1] - 179:2</div> <div>17^[8] - 13:9, 39:21, 40:18, 42:14, 43:8, 49:13, 102:15, 102:25</div> <div>170^[3] - 1:25, 2:23, 3:1</div> <div>171(NR)^[3] - 2:1, 3:1, 3:4</div> <div>172(NR)^[3] - 2:1, 3:4, 3:7</div> <div>173^[3] - 2:1, 3:7, 3:10</div> <div>174^[1] - 105:19</div> <div>174(NR)^[4] - 26:5, 105:18, 152:7, 3:13</div> <div>174(NR)^[1] - 26:3</div> <div>175^[1] - 168:12</div> <div>175(NR)^[2] - 168:16, 3:16</div>	<div>175(NR)^[1] - 168:13</div> <div>176^[1] - 1:12</div> <div>17th^[7] - 92:12, 106:25, 134:12, 141:13, 154:17, 166:20, 186:5</div> <div>18^[1] - 11:25</div> <div>19^[1] - 146:20</div> <div>1983^[1] - 11:15</div> <div>1984^[2] - 9:6, 11:17</div> <div>1986^[1] - 14:7</div> <div>199^[1] - 126:25</div> <div>1995^[3] - 110:16, 111:4, 111:22</div> <div>1998^[2] - 11:5, 100:8</div> <div>1999^[12] - 11:5, 14:9, 25:8, 38:22, 108:4, 108:22, 186:2, 201:1, 203:16, 204:10, 208:10, 208:14</div> <div>19th^[2] - 89:6, 108:25</div> <div>1:30^[1] - 97:9</div> <div>1:34^[1] - 97:11</div> <div>1st^[6] - 110:12, 139:21, 141:20, 152:10, 177:2, 177:7</div>	<div>2</div> <div>2^[24] - 2:12, 2:18, 9:14, 14:17, 38:10, 88:19, 88:25, 89:2, 95:20, 95:22, 106:5, 128:6, 142:1, 183:3, 194:9, 2:5, 2:9, 2:15, 2:13, 2:17, 2:21, 2:20, 2:23, 3:1</div> <div>20^[9] - 12:1, 41:12, 47:18, 84:14, 84:20, 125:3, 144:4, 154:16</div> <div>20-some^[1] - 121:17</div> <div>20/20^[1] - 199:25</div> <div>2000^[30] - 25:17, 38:16, 44:11, 44:17, 50:10, 54:4, 76:21, 77:21, 89:7, 140:16, 152:10, 154:17, 157:18, 165:1, 165:7, 171:15, 172:21, 177:2, 177:7, 178:5, 178:22, 180:20, 181:20, 183:12, 183:15, 183:16, 186:24, 194:18, 204:15, 206:9</div> <div>2001^[3] - 80:12, 166:11, 166:13</div>	<div>2002^[4] - 81:12, 141:20, 165:8, 167:13</div> <div>2004^[2] - 93:21, 123:2</div> <div>2007^[1] - 80:3</div> <div>2008^[1] - 10:14</div> <div>2009^[2] - 12:13, 80:5</div> <div>2010^[3] - 60:4, 160:17, 197:3</div> <div>2011^[1] - 76:10</div> <div>2012^[1] - 1:2</div> <div>202^[2] - 46:21, 47:2</div> <div>208^[1] - 1:13</div> <div>209^[1] - 1:14</div> <div>20s^[1] - 155:17</div> <div>20th^[3] - 7:11, 210:11, 216:1</div> <div>21^[1] - 32:24</div> <div>22^[6] - 26:10, 76:2, 76:4, 122:13, 137:19, 152:8</div> <div>22nd^[6] - 140:16, 166:17, 178:5, 178:22, 178:24, 181:20</div> <div>23^[3] - 40:15, 77:20, 222:1</div> <div>23rd^[1] - 93:21</div> <div>24^[1] - 110:11</div> <div>24th^[2] - 104:9, 104:19</div> <div>25^[3] - 12:14, 14:8, 144:10</div> <div>25th^[1] - 13:13</div> <div>26^[1] - 3:13</div> <div>26-volume^[1] - 177:24</div> <div>26th^[3] - 103:16, 163:18, 167:4</div> <div>27th^[1] - 108:22</div> <div>28^[1] - 93:6</div> <div>28th^[11] - 8:14, 9:3, 34:15, 34:21, 34:23, 47:9, 103:16, 110:2, 130:1, 130:19, 167:17</div> <div>29^[2] - 12:7, 12:8</div> <div>29th^[7] - 34:16, 36:2, 106:1, 130:3, 137:4, 137:12</div> <div>2:02^[1] - 46:23</div>	<div>3</div> <div>3^[13] - 2:21, 9:13, 26:17, 32:10, 44:1, 88:15, 154:19, 154:20, 208:10, 2:24, 3:4, 3:7, 3:10</div>	<div>30^[11] - 40:14, 44:5, 44:7, 130:20, 196:6, 196:9, 196:12, 196:23, 197:3, 197:10, 208:7</div> <div>30-year^[1] - 189:22</div> <div>300^[1] - 142:19</div> <div>305^[1] - 102:8</div> <div>30th^[4] - 103:16, 134:13, 186:25, 187:6</div> <div>31^[1] - 30:20</div> <div>312^[1] - 35:22</div> <div>31st^[2] - 76:21, 166:13</div> <div>390^[2] - 13:15, 17:2</div> <div>399^[1] - 224:10</div> <div>3:07^[1] - 168:6</div> <div>3:23^[1] - 168:7</div> <div>3rd^[10] - 77:2, 108:4, 108:7, 108:13, 108:17, 137:23, 141:10, 142:7, 166:13, 185:22</div>	<div>4</div> <div>4^[15] - 2:24, 9:13, 32:24, 54:4, 88:15, 88:19, 89:3, 89:4, 95:25, 143:13, 171:3, 171:7, 171:12, 3:2</div> <div>40^[1] - 43:10</div> <div>40A^[2] - 171:7, 171:9</div> <div>41A^[3] - 171:3, 171:7, 171:10</div> <div>450^[1] - 13:8</div> <div>4:10^[1] - 203:4</div> <div>4:15^[1] - 84:25</div> <div>4:30^[1] - 223:23</div> <div>4:45^[1] - 81:6</div> <div>4th^[6] - 35:12, 36:3, 139:14, 141:25, 142:8, 207:17</div>	<div>5</div> <div>5^[12] - 3:2, 33:6, 33:10, 44:11, 50:10, 95:9, 97:17, 105:24, 105:25, 142:21, 190:18, 3:5</div> <div>5th^[6] - 43:11, 56:14, 166:16, 167:13, 167:20, 183:20</div>
--------------	---	---	---	--	--	---	--	---

6	123:15, 140:8, 141:7, 151:1, 184:12, 219:17 aboriginal [2] - 212:5, 214:12 Abotsway [2] - 53:21, 166:17 absence [3] - 36:21, 209:2, 209:3 absolute [1] - 131:14 absolutely [22] - 29:24, 55:7, 61:7, 64:14, 64:24, 65:14, 75:17, 113:23, 120:2, 121:5, 125:8, 126:25, 172:22, 176:9, 182:18, 182:22, 183:1, 191:8, 191:22, 194:19, 203:14, 203:18 absurd [1] - 49:7 accede [3] - 144:12, 214:25, 216:8 acceded [2] - 217:3, 217:16 accept [2] - 35:2, 146:6 accepted [3] - 5:16, 24:11, 57:9 access [6] - 13:25, 79:22, 123:11, 159:4, 165:11, 217:5 accessible [1] - 129:7 acclamation [1] - 196:18 accommodate [6] - 149:4, 211:16, 214:5, 214:8, 220:9, 223:8 accompanying [2] - 169:10, 190:10 according [3] - 159:15, 213:16, 218:5 accordion [3] - 198:5, 198:7, 198:14 account [2] - 169:5, 171:24 accurate [4] - 34:11, 126:24, 145:10, 224:2 accurately [1] - 194:17 accusations [1] - 132:3 accused [2] - 71:8, 71:9 Acting [2] - 21:16, 36:17	acting [4] - 10:19, 10:21, 36:20, 78:6 action [2] - 31:14, 207:4 actions [1] - 38:15 active [1] - 100:13 activities [4] - 173:20, 174:2, 174:12, 175:8 activity [2] - 53:15, 53:18 actual [7] - 29:20, 30:20, 31:6, 37:12, 113:1, 150:12, 198:17 ad [1] - 218:14 Adam [2] - 211:9, 211:10 add [12] - 22:8, 27:8, 33:7, 36:4, 42:12, 42:13, 44:22, 90:17, 125:22, 138:20, 156:2, 170:5 added [5] - 39:21, 42:21, 188:2, 201:21 added" [1] - 26:17 addict [1] - 72:2 additional [1] - 26:15 address [6] - 85:10, 120:18, 138:5, 218:17, 219:11, 219:17 addressed [3] - 5:10, 102:10, 161:2 addresses [1] - 176:2 adjourn [2] - 207:23, 223:20 adjourned [2] - 97:9, 223:21 ADJOURNED [5] - 61:23, 87:23, 97:10, 168:6, 223:23 administrative [2] - 218:22, 219:6 admitted [2] - 54:20, 55:1 adopt [1] - 55:2 advance [1] - 147:17 adversarial [1] - 124:17 advice [3] - 22:12, 150:15, 193:1 advise [2] - 143:6, 147:22 advised [14] - 3:19, 4:23, 22:15, 23:13, 35:22, 48:9, 57:21, 76:15, 107:14, 109:16, 133:13, 179:3, 180:16, 185:23	affected [1] - 83:1 affidavit [17] - 144:8, 209:24, 210:1, 210:7, 210:18, 210:24, 212:8, 212:18, 213:2, 215:23, 216:9, 216:12, 216:19, 217:8, 217:23, 219:13, 219:18 affirmed [2] - 8:11, 8:12 afraid [2] - 161:18, 201:24 afternoon [1] - 47:1 afterwards [3] - 18:24, 19:12, 92:23 Agassiz/Mission [1] - 96:14 AGC [14] - 2:15, 2:18, 2:21, 2:24, 3:2, 3:4, 3:8, 2:17, 2:20, 2:24, 3:1, 3:5, 3:7, 3:11 agencies [2] - 63:13, 174:2 agency [1] - 163:4 Agency [4] - 9:25, 33:3, 173:18, 175:5 agenda [1] - 164:5 agent [8] - 35:24, 74:1, 74:5, 74:8, 74:14, 74:21, 74:25, 75:14 agents [1] - 75:4 aggressive [1] - 94:24 aggressively [1] - 65:25 ago [11] - 3:20, 3:21, 4:4, 6:14, 7:20, 54:23, 86:14, 89:20, 131:7, 135:12, 169:1 agree [16] - 8:3, 17:20, 18:5, 19:22, 20:5, 55:3, 58:11, 100:23, 107:6, 109:22, 120:22, 129:3, 176:14, 209:6, 216:16, 217:12 agreed [2] - 103:10, 210:12 agreement [1] - 74:12 ahead [8] - 33:19, 35:9, 43:1, 110:22, 146:19, 148:3, 149:7, 170:5 aid [1] - 139:6 Aid [2] - 168:18, 3:18 AIDS/HIV [1] - 72:2 airline [1] - 58:18 aka [2] - 2:3, 2:6	Alberta [2] - 13:19, 185:16 alcohol [2] - 63:20, 105:1 alert [1] - 82:8 alertness [1] - 195:14 alerts [1] - 192:8 Alex [9] - 24:21, 24:22, 57:22, 102:5, 102:15, 161:14, 161:15, 179:3, 207:18 Alford [7] - 28:25, 76:5, 76:15, 152:11, 152:16, 159:8, 182:10 alive [3] - 31:24, 104:8, 104:14 Allan [1] - 169:16 allegation [5] - 107:1, 115:1, 120:19, 128:25, 132:13 allegations [6] - 94:9, 115:7, 120:16, 123:24, 148:11, 148:14 alleged [2] - 148:15, 149:11 allocate [1] - 143:23 allocated [2] - 144:7, 203:11 allocating [1] - 205:21 allocation [1] - 203:10 allocations [2] - 205:20, 207:12 allotted [1] - 151:3 allow [2] - 217:7, 222:10 allowed [3] - 76:23, 217:15, 218:4 alluded [2] - 161:10, 161:20 almost [2] - 42:6, 109:23 alone [1] - 196:22 amazed [1] - 51:7 amazing [1] - 40:3 Amelia [5] - 12:20, 26:7, 194:21, 195:1, 3:14 amended [2] - 197:14, 197:17 America's [1] - 32:17 American [1] - 32:11 amount [7] - 89:13, 155:3, 156:14, 165:3, 166:3, 220:17, 220:19 analysis [2] - 102:10, 139:5
----------	--	--	--	---

analyst ^[3] - 159:17, 159:22, 159:24 analysts ^[2] - 159:18, 160:2 analyze ^[2] - 193:21, 200:20 and-a ^[1] - 22:24 and-a-half ^[6] - 9:18, 9:21, 84:16, 85:6, 110:7, 177:2 and-a-half-month ^[1] - 177:5 Andrew ^[2] - 1:10, 18:14 Angela ^[10] - 14:24, 23:5, 52:2, 52:12, 52:13, 53:20, 53:21, 140:3, 166:15, 170:13 Angela's ^[1] - 52:7 Angels ^[9] - 170:23, 174:3, 174:14, 174:21, 174:22, 175:1, 175:8, 175:15, 176:4 angels ^[1] - 125:18 Angels-owned ^[1] - 175:1 angle ^[1] - 70:1 Ann ^[4] - 2:3, 2:6 annual ^[2] - 134:13, 163:23 anonymity ^[1] - 67:14 anonymize ^[1] - 17:18 answer ^[6] - 62:8, 143:8, 164:21, 210:12, 211:20, 215:22 answered ^[1] - 211:21 answers ^[2] - 86:2, 216:1 anticipated ^[1] - 159:10 anyway ^[4] - 6:1, 172:5, 213:21, 222:12 apart ^[1] - 133:11 apologies ^[1] - 85:5 apologize ^[3] - 161:7, 168:10, 169:3 appalling ^[1] - 121:6 apparatus ^[1] - 202:10 Appeal ^[1] - 222:2 appear ^[1] - 16:5 appearances ^[1] - 183:11 appeared ^[2] - 4:1, 194:14 appearing ^[1] - 87:9 application ^[5] -	35:19, 151:11, 216:22, 217:15, 217:17 applied ^[1] - 155:23 applies ^[1] - 160:14 apply ^[1] - 196:2 appreciate ^[4] - 12:9, 87:13, 132:11, 194:21 appreciation ^[1] - 88:21 apprehended ^[3] - 165:8, 202:23, 204:14 apprehending ^[1] - 194:15 approach ^[3] - 22:11, 89:23, 94:25 approached ^[6] - 73:21, 73:22, 80:25, 104:2, 123:13, 137:5 approaches ^[1] - 192:23 appropriate ^[4] - 118:11, 134:23, 219:3, 219:19 approved ^[4] - 22:18, 42:25, 51:21, 51:24 April ^[17] - 7:11, 38:16, 43:4, 43:11, 43:12, 44:11, 46:15, 46:18, 50:10, 77:2, 141:9, 143:19, 183:18, 183:20, 184:3, 204:15 arbitrary ^[1] - 133:17 area ^[9] - 14:19, 51:11, 75:16, 96:14, 111:7, 111:8, 126:6, 158:25, 192:9 areas ^[3] - 200:18, 211:15, 213:25 argue ^[1] - 216:18 argument ^[5] - 15:22, 16:1, 16:4, 213:16, 216:4 arguments ^[1] - 213:19 arising ^[1] - 89:10 arose ^[1] - 70:7 array ^[1] - 4:25 arrest ^[2] - 97:1, 142:12 arrested ^[5] - 96:5, 96:22, 142:8, 185:2, 200:18 arresting ^[4] - 13:7, 14:22, 71:8, 124:19 arrests ^[1] - 13:10 arrive ^[1] - 142:6	arrived ^[4] - 6:1, 142:7, 166:11, 199:3 art ^[3] - 66:25, 70:17, 200:21 ascertain ^[3] - 119:23, 175:23, 176:5 aside ^[4] - 49:20, 143:16, 203:22, 217:7 aspects ^[2] - 160:20, 207:13 ass ^[2] - 16:7, 52:20 assault ^[2] - 83:21, 162:8 assaults ^[5] - 20:21, 49:17, 138:2, 142:23, 167:6 assessment ^[2] - 49:23, 191:24 assigned ^[26] - 1:13, 24:24, 25:8, 27:7, 28:4, 28:6, 28:11, 29:2, 29:11, 29:15, 30:15, 30:16, 44:7, 107:9, 111:9, 111:11, 133:17, 133:20, 134:12, 159:19, 159:21, 160:2, 178:11, 179:25, 181:22, 208:7 assignment ^[3] - 96:18, 96:19, 133:10 assist ^[5] - 6:9, 45:9, 67:5, 112:4, 135:8 assistance ^[1] - 214:6 Assistant ^[1] - 208:4 assisted ^[1] - 47:24 assisting ^[1] - 125:12 associated ^[1] - 174:20 associates ^[2] - 111:15, 174:4 assume ^[3] - 60:7, 183:6, 199:5 assumed ^[2] - 136:11, 136:15 assuming ^[1] - 98:24 assumption ^[1] - 60:9 assumptions ^[1] - 165:12 assure ^[4] - 144:19, 151:17, 223:13 assured ^[2] - 152:1, 222:6 Astoria ^[2] - 57:7, 119:11 astute ^[1] - 40:24 AT ^[10] - 1:3, 61:23, 61:24, 87:23, 87:24,	97:10, 97:11, 168:6, 168:7, 223:23 attach ^[3] - 65:17, 190:19, 219:19 attached ^[2] - 32:4, 66:11 attack ^[2] - 157:20, 158:9 attempt ^[1] - 115:3 attempts ^[2] - 169:14, 194:14 attend ^[1] - 74:11 attendance ^[1] - 109:2 attendances ^[1] - 176:6 attended ^[5] - 73:14, 76:22, 108:20, 140:13, 141:5 attention ^[10] - 5:5, 7:6, 42:11, 49:19, 89:14, 91:9, 103:5, 120:12, 185:21, 187:22 attitude ^[1] - 51:8 August ^[18] - 35:12, 36:3, 107:22, 108:4, 108:5, 108:7, 108:13, 108:17, 134:13, 139:13, 156:20, 163:20, 163:23, 166:17, 197:3, 208:10, 208:12 author ^[1] - 152:11 authored ^[2] - 78:4, 171:19 authorities ^[2] - 18:9, 30:22 auto ^[1] - 113:4 automatic ^[1] - 133:13 available ^[6] - 48:12, 150:5, 175:20, 181:5, 210:12, 214:19 avenue ^[5] - 39:20, 82:10, 82:14, 172:10, 190:25 avenues ^[1] - 194:4 avoid ^[1] - 106:16 avoided ^[1] - 163:2 aware ^[38] - 11:3, 36:23, 37:3, 38:1, 42:4, 59:25, 60:3, 61:4, 61:7, 91:1, 98:6, 98:9, 100:20, 112:1, 127:25, 153:5, 156:1, 156:4, 156:23, 157:11, 157:20, 158:8, 160:5, 160:12,	160:14, 170:8, 173:8, 187:3, 187:7, 187:23, 190:23, 190:24, 191:19, 191:22, 195:12, 206:17, 207:2, 215:10 awful ^[2] - 67:19, 192:5
B				
B.J ^[1] - 44:2 bachelor ^[2] - 11:12, 11:13 back-ended ^[2] - 27:16, 27:24 background ^[8] - 14:1, 14:13, 20:14, 22:9, 73:5, 109:9, 119:17, 140:9 backtracking ^[1] - 188:22 backwards ^[1] - 220:8 bad ^[4] - 137:7, 140:11, 181:22, 182:14 badly ^[1] - 83:12 bag ^[2] - 201:9, 201:11 balaclava ^[1] - 201:8 Ball ^[2] - 15:11 bandage ^[1] - 110:17 bar ^[2] - 222:21, 223:5 barking ^[1] - 27:15 Barrese ^[1] - 12:5 barring ^[1] - 72:21 Barry ^[15] - 28:12, 40:15, 48:24, 78:13, 78:15, 83:14, 108:24, 109:1, 109:7, 125:23, 135:3, 137:8, 139:2, 159:23, 188:5 bars ^[1] - 190:13 base ^[1] - 165:11 based ^[4] - 15:2, 20:14, 173:23, 194:22 bases ^[1] - 165:18 basic ^[4] - 11:23, 68:17, 163:9, 218:22 basics ^[2] - 74:23, 115:19 basis ^[11] - 29:2, 29:7, 73:1, 134:8, 135:13, 159:19, 178:12, 208:21, 217:4, 218:14 Bass ^[1] - 109:3				

<p>bat [2] - 15:5, 126:1 Bateman [1] - 84:19 bazaar [1] - 21:1 BC [4] - 1:1, 72:22, 185:14 BCSRA [1] - 224:10 be-all [1] - 68:5 beat [1] - 14:18 became [4] - 95:3, 112:1, 170:8, 173:8 become [8] - 1:23, 1:24, 1:25, 13:21, 69:11, 74:4, 75:4 becomes [1] - 71:11 becoming [1] - 75:14 bed [2] - 53:10, 64:5 bedroom [1] - 44:1 beefs [1] - 120:11 befriend [1] - 71:11 began [1] - 145:16 beginning [3] - 7:7, 180:14, 181:7 behalf [5] - 36:9, 67:20, 151:4, 151:8, 215:6 behaviour [2] - 77:13, 120:17 behind [2] - 190:13, 201:9 belief [1] - 70:21 beliefs [1] - 190:21 believes [1] - 71:16 belittle [2] - 145:15, 146:13 belittled [1] - 146:12 belittling [1] - 146:11 below [3] - 117:23, 131:24, 217:9 benchmark [2] - 98:21, 200:7 bend [1] - 220:8 benefit [1] - 192:3 beside [1] - 105:3 best [18] - 6:5, 11:20, 13:11, 27:19, 61:16, 71:17, 79:16, 86:20, 102:12, 112:16, 133:3, 144:14, 145:12, 147:2, 161:8, 167:2, 203:20, 224:4 betraying [1] - 67:16 better [5] - 64:2, 166:9, 189:13, 223:18 between [5] - 55:13, 68:9, 74:3, 74:20, 108:2 beyond [1] - 85:25 Biddlecombe [4] -</p>	<p>35:14, 36:19, 101:14, 134:3 Biddlecombe's [2] - 27:14, 36:21 big [6] - 56:9, 82:1, 82:24, 105:2, 112:5, 206:12 bigger [1] - 69:1 bikes [1] - 206:1 binder [6] - 26:5, 75:18, 105:17, 117:1, 154:14, 3:13 binders [1] - 25:19 Bishop [1] - 34:25 bit [20] - 7:8, 18:1, 55:8, 59:3, 70:20, 89:16, 91:3, 94:16, 94:22, 99:22, 119:21, 124:4, 126:22, 164:3, 170:23, 176:25, 179:5, 186:5, 200:19, 200:21 black [5] - 26:5, 105:16, 201:12, 201:16, 3:13 blaming [1] - 86:17 blend [1] - 182:13 blip [1] - 93:12 block [6] - 20:18, 20:23, 20:25, 92:2, 142:19, 166:25 blocks [2] - 15:1, 52:9 blown [1] - 165:17 blue [11] - 88:5, 95:10, 97:17, 116:24, 117:1, 127:5, 132:20, 141:18, 168:11, 168:16, 3:16 blue-covered [2] - 168:16, 3:16 Blythe [1] - 78:7 board [4] - 41:12, 47:16, 47:19, 167:17 bodies [2] - 22:5, 157:24 bogged [1] - 30:6 boisterous [1] - 121:20 bombshell [1] - 161:16 bones [1] - 192:24 book [18] - 12:5, 45:7, 88:14, 88:20, 95:10, 97:17, 105:16, 116:24, 127:5, 131:21, 132:20, 141:18, 154:15, 168:11, 168:23, 169:6, 169:7, 169:12</p>	<p>booklet [3] - 90:20, 168:16, 3:16 booklets [1] - 90:24 books [2] - 88:3, 88:5 Booth [1] - 141:12 border [3] - 31:1, 31:7, 33:2 Border [2] - 33:3, 33:4 borne [1] - 149:17 boss [2] - 101:8, 101:13 bothered [1] - 80:15 bottom [7] - 26:16, 32:20, 44:11, 46:15, 128:4, 129:12, 171:17 bounces [1] - 137:6 box [3] - 87:10, 97:2, 100:1 boyfriends [1] - 111:15 bra [1] - 201:15 brainstorm [1] - 113:17 brainstorming [3] - 99:7, 113:15, 113:23 brass [1] - 22:17 breached [1] - 219:10 breaching [1] - 152:24 break [8] - 51:4, 61:21, 62:2, 86:23, 97:6, 113:3, 144:6 Brenda [4] - 80:17, 186:19, 187:13, 206:7 bridge [1] - 71:15 Brief [2] - 26:7, 3:15 brief [4] - 74:2, 84:17, 169:18, 177:22 briefed [1] - 50:4 briefest [1] - 9:7 briefing [2] - 47:12, 47:21 briefly [1] - 8:25 bring [6] - 7:25, 103:9, 132:2, 133:6, 154:8, 223:10 bring-forward [1] - 133:6 bringing [1] - 7:5 British [3] - 11:11, 13:10, 175:5 broke [1] - 97:15 brother [1] - 22:7 brothers [1] - 174:24 brought [10] - 23:3, 25:19, 35:21, 42:5, 51:22, 51:23, 117:14, 120:12, 138:6, 187:22</p>	<p>brutally [1] - 80:24 buddies [1] - 69:11 buddy [2] - 169:9 build [1] - 67:6 building [3] - 56:20, 67:9, 67:11 bulletin [1] - 167:17 bumped [1] - 194:8 bumps [1] - 71:24 bunch [2] - 29:8, 204:17 burden [1] - 96:6 burials [1] - 24:19 buried [1] - 189:15 bus [2] - 162:11, 162:12 business [4] - 23:19, 120:10, 205:17, 220:3 busy [1] - 200:18 butcher [2] - 201:10, 201:13 Butler [6] - 170:25, 171:1, 172:14, 172:24, 173:6, 173:9 butt [1] - 142:25 button [1] - 8:9 buy [1] - 21:4 buying [2] - 20:19, 21:2 BY [5] - 8:21, 88:10, 152:5, 176:18, 208:2</p>	<p>capture [1] - 194:18 capturing [1] - 119:2 car [11] - 20:17, 20:22, 39:6, 72:3, 72:4, 104:2, 104:3, 104:4, 113:3, 125:2, 167:8 care [4] - 35:15, 42:8, 82:6, 134:25 career [9] - 13:12, 79:9, 82:20, 82:25, 83:2, 88:22, 92:24, 93:6, 165:16 careers [2] - 92:23, 200:16 careful [1] - 140:24 Carl [1] - 159:20 Carmen [1] - 12:4 carnivals [1] - 52:16 carry [2] - 183:12, 200:1 carrying [1] - 205:1 case [36] - 22:14, 36:11, 53:20, 56:10, 60:6, 63:4, 64:23, 67:7, 72:20, 78:22, 89:15, 89:17, 89:25, 90:18, 90:21, 91:8, 91:12, 91:13, 91:19, 97:2, 100:1, 107:3, 126:2, 137:22, 137:25, 138:7, 145:23, 158:3, 158:5, 173:3, 188:1, 193:8, 202:3, 204:13, 209:1, 219:8 cases [2] - 89:25, 221:25 catch [2] - 91:23, 127:14 catchup [1] - 212:11 Cater [1] - 171:20 Cater's [1] - 171:24 caught [1] - 28:17 causing [1] - 41:3 cents [1] - 165:24 cents' [1] - 94:5 cerlox [2] - 168:16, 3:16 certain [8] - 15:1, 58:19, 66:17, 69:4, 118:25, 176:9 certainly [47] - 11:3, 22:19, 23:24, 29:6, 29:17, 38:2, 38:5, 38:7, 42:2, 49:9, 49:16, 55:6, 57:20, 59:1, 64:22, 88:24, 89:2, 91:5, 91:18, 100:22, 106:19, 112:1, 112:14,</p>
C				
<p>Caldwell [13] - 10:25, 59:20, 59:24, 62:3, 62:7, 63:16, 68:1, 105:12, 156:5, 162:22, 162:25, 165:14, 198:25 Calgary [3] - 14:4, 109:10, 109:15 camera [2] - 44:3, 57:5 cameras [4] - 113:22, 118:23, 119:5, 119:10 Cameron [3] - 87:2, 144:10, 215:3 Cameron's [1] - 168:23 camp [1] - 119:15 Canada [7] - 1:11, 18:14, 32:24, 33:4, 69:14, 90:23, 217:1 Canadian [1] - 33:3 cannot [1] - 222:22 canvass [1] - 30:8 capable [1] - 200:23</p>				

<p>112:15, 113:1, 113:17, 115:25, 117:15, 122:13, 124:5, 129:9, 133:21, 134:21, 136:17, 136:18, 150:4, 153:2, 153:13, 156:23, 175:11, 180:20, 181:6, 196:20, 197:23, 199:7, 204:20, 208:17</p> <p>Certified ^[1] - 224:11</p> <p>certify ^[1] - 224:1</p> <p>cetera ^[4] - 56:2, 67:15, 115:8</p> <p>chain ^[1] - 90:6</p> <p>chair ^[2] - 79:15, 83:12</p> <p>challenge ^[2] - 96:2, 222:18</p> <p>chance ^[6] - 95:13, 104:8, 104:11, 104:13, 143:4, 143:6</p> <p>changed ^[4] - 39:5, 88:12, 152:23, 186:15</p> <p>character ^[1] - 139:9</p> <p>characteristics ^[1] - 21:6</p> <p>characterize ^[1] - 120:1</p> <p>charge ^[2] - 79:20, 82:11</p> <p>charged ^[4] - 91:15, 92:1, 96:7, 219:9</p> <p>charges ^[1] - 49:1</p> <p>check ^[2] - 13:25, 140:9</p> <p>checked ^[6] - 13:15, 23:12, 139:14, 142:20, 167:18, 167:21</p> <p>checks ^[3] - 14:1, 77:4, 104:16</p> <p>cheese ^[1] - 92:2</p> <p>cheque ^[2] - 53:1, 53:25</p> <p>Chernoff ^[19] - 25:6, 101:12, 101:24, 103:17, 106:15, 107:2, 107:11, 156:14, 156:21, 158:20, 161:12, 179:16, 180:18, 181:4, 196:6, 196:13, 208:7, 208:14</p> <p>chicken ^[1] - 46:9</p> <p>chief ^[27] - 78:5, 78:6,</p>	<p>78:7, 79:6, 79:9, 81:25, 82:9, 82:22, 83:10, 84:19, 92:10, 94:8, 154:23, 155:23, 184:5, 186:6, 188:2, 188:4, 188:11, 188:14, 188:15, 190:14, 190:23, 194:12, 207:6, 1:7</p> <p>Chief ^[8] - 16:25, 17:9, 21:11, 34:14, 78:7, 85:25, 93:17, 177:8</p> <p>CHIEF ^[1] - 8:21</p> <p>chief's ^[1] - 82:21</p> <p>child ^[1] - 172:9</p> <p>Chilliwack ^[1] - 111:10</p> <p>Chinatown ^[2] - 201:3, 201:17</p> <p>chord ^[1] - 23:23</p> <p>chose ^[1] - 203:20</p> <p>Christmas ^[1] - 80:20</p> <p>chronic ^[1] - 192:11</p> <p>cigarette ^[2] - 142:13, 142:25</p> <p>circle ^[1] - 196:4</p> <p>circumstance ^[1] - 45:8</p> <p>circumstances ^[5] - 28:13, 169:6, 169:22, 218:15, 220:19</p> <p>circus ^[1] - 195:23</p> <p>City ^[8] - 8:14, 10:4, 10:9, 10:10, 10:11, 62:22, 69:14, 78:2</p> <p>civil ^[1] - 101:15</p> <p>civilian ^[2] - 162:6, 163:4</p> <p>clarified ^[1] - 101:3</p> <p>clarify ^[1] - 133:8</p> <p>clarity ^[1] - 138:6</p> <p>Clark ^[2] - 2:3, 2:6</p> <p>Clarke ^[10] - 24:17, 24:21, 24:22, 57:22, 102:5, 102:15, 161:14, 161:15, 179:3, 180:23</p> <p>classmates ^[1] - 209:17</p> <p>cleanup ^[1] - 113:2</p> <p>clear ^[7] - 29:5, 43:3, 50:9, 83:8, 98:12, 150:25, 223:7</p> <p>CLEU ^[11] - 12:6, 12:16, 22:22, 26:18, 26:19, 26:22, 31:2, 124:8, 173:16, 173:25, 175:4</p>	<p>client ^[1] - 84:20</p> <p>clients ^[7] - 6:16, 19:20, 149:17, 151:4, 151:9, 165:5, 215:6</p> <p>clients' ^[1] - 169:8</p> <p>climb ^[1] - 96:23</p> <p>close ^[2] - 83:7, 124:10</p> <p>closed ^[1] - 9:19</p> <p>closely ^[2] - 136:25, 174:2</p> <p>closing ^[2] - 213:16, 216:4</p> <p>closure ^[1] - 220:23</p> <p>Club ^[1] - 174:3</p> <p>clue ^[1] - 159:6</p> <p>cocaine ^[1] - 105:1</p> <p>coffees ^[1] - 120:7</p> <p>cognitive ^[1] - 71:12</p> <p>Cohen ^[2] - 210:15, 216:6</p> <p>cold ^[1] - 201:13</p> <p>colds ^[1] - 72:5</p> <p>colleagues ^[1] - 223:10</p> <p>collected ^[1] - 138:21</p> <p>collection ^[1] - 138:18</p> <p>collective ^[1] - 173:23</p> <p>Columbia ^[3] - 11:11, 13:10, 175:5</p> <p>combination ^[2] - 9:13, 30:1</p> <p>comfortable ^[2] - 20:1, 105:4</p> <p>coming ^[11] - 25:2, 26:21, 27:19, 67:20, 67:22, 68:6, 94:3, 126:17, 179:6, 192:14, 207:20</p> <p>comings ^[1] - 175:15</p> <p>commendation ^[7] - 36:24, 88:20, 89:5, 89:14, 177:1, 177:7, 177:13</p> <p>comment ^[24] - 26:14, 37:7, 48:15, 48:22, 49:7, 52:21, 54:13, 54:25, 60:23, 61:4, 83:6, 99:11, 99:25, 103:11, 114:25, 123:15, 124:5, 124:13, 132:18, 156:15, 189:17, 219:25, 220:2</p> <p>commented ^[1] - 102:12</p> <p>comments ^[16] - 12:22, 54:14, 78:18, 79:14, 86:5, 109:25,</p>	<p>121:24, 121:25, 124:14, 143:20, 147:7, 148:17, 160:24, 189:20, 195:25, 220:7</p> <p>commerce ^[2] - 11:12, 11:13</p> <p>commission ^[24] - 3:20, 3:24, 3:25, 4:12, 4:13, 5:7, 5:13, 6:12, 7:6, 7:16, 17:23, 36:10, 37:3, 83:7, 85:16, 86:12, 123:3, 143:16, 145:16, 151:1, 151:7, 151:15, 177:23, 220:22</p> <p>Commission ^[6] - 26:6, 168:17, 210:15, 1:6, 3:14, 3:17</p> <p>commission's ^[1] - 150:16</p> <p>COMMISSIONER ^[156] - 1:8, 1:15, 1:19, 3:10, 3:15, 3:18, 4:8, 5:8, 5:12, 6:7, 6:11, 6:20, 6:24, 7:3, 7:9, 7:14, 7:18, 7:23, 8:16, 16:8, 16:11, 17:11, 17:14, 17:20, 17:22, 18:1, 18:16, 19:1, 19:3, 19:13, 19:19, 19:22, 20:3, 20:7, 38:22, 38:24, 61:20, 84:11, 85:2, 85:13, 85:19, 85:23, 86:3, 86:13, 86:16, 86:20, 86:25, 87:3, 87:12, 87:19, 87:21, 88:1, 88:4, 88:6, 88:9, 97:5, 97:8, 97:13, 108:12, 143:11, 144:18, 144:21, 144:23, 145:6, 145:8, 145:11, 145:13, 145:18, 146:19, 146:22, 146:25, 147:4, 147:9, 147:18, 147:21, 147:25, 148:2, 148:6, 148:8, 148:19, 148:22, 149:4, 149:24, 150:6, 150:22, 151:17, 152:3, 168:4, 168:9, 168:15, 168:20, 176:17, 202:2,</p>	<p>202:5, 202:12, 202:21, 203:1, 203:3, 203:7, 206:6, 206:15, 207:23, 208:1, 209:23, 210:20, 210:23, 211:2, 211:4, 211:6, 211:8, 211:11, 211:23, 211:25, 212:2, 212:9, 212:15, 212:21, 212:24, 213:1, 213:8, 213:20, 214:8, 214:22, 214:24, 216:5, 216:21, 216:24, 217:2, 217:11, 217:20, 217:25, 218:3, 218:7, 218:9, 218:11, 218:21, 219:1, 219:4, 219:14, 219:24, 220:2, 220:12, 220:15, 221:1, 221:3, 221:14, 221:20, 221:22, 221:24, 222:12, 222:15, 223:1, 223:3, 223:13, 223:16, 223:20</p> <p>commissioner ^[66] - 3:16, 5:9, 5:14, 8:23, 9:8, 9:11, 12:25, 18:8, 18:15, 21:24, 22:11, 23:5, 35:1, 38:4, 38:5, 38:13, 41:23, 48:21, 49:11, 52:23, 59:2, 61:2, 61:12, 62:1, 67:5, 72:16, 75:25, 81:17, 84:3, 84:9, 85:3, 88:2, 89:15, 95:16, 97:14, 101:4, 108:10, 111:5, 132:8, 134:20, 138:7, 143:5, 145:7, 145:14, 146:18, 147:14, 149:15, 150:25, 156:19, 168:10, 190:4, 202:11, 203:2, 207:24, 209:20, 209:21, 212:4, 212:23, 215:3, 215:20, 216:17, 219:20, 220:14, 220:25, 221:10, 221:16</p> <p>Commissioner ^[8] - 1:10, 8:15, 17:12, 20:1, 143:10, 208:4,</p>
--	--	---	---	--

<p>222:14, 222:20 commissioner's ^[1] - 105:16 committed ^[1] - 49:18 Committee ^[1] - 63:1 common ^[3] - 32:18, 63:21, 70:21 communicate ^[1] - 115:3 communicating ^[1] - 126:23 communication ^[6] - 105:8, 115:4, 115:5, 116:10, 116:16, 209:11 Community ^[2] - 201:3, 201:17 community ^[1] - 150:22 company ^[3] - 117:24, 117:25, 169:9 comparatively ^[4] - 155:3, 155:11, 155:19, 165:3 compare ^[1] - 200:9 comparing ^[1] - 65:21 compassion ^[1] - 125:25 complained ^[1] - 41:5 complaint ^[5] - 78:5, 78:8, 78:10, 78:11, 79:6 complaints ^[3] - 77:17, 120:11, 125:17 complete ^[9] - 11:13, 18:17, 28:21, 29:18, 56:3, 83:20, 128:2, 206:14, 221:11 completed ^[7] - 128:16, 130:13, 136:24, 141:1, 141:2, 141:3, 185:1 completely ^[1] - 155:14 completing ^[3] - 132:15, 134:17, 134:18 completion ^[2] - 128:15, 133:10 complex ^[1] - 159:16 complexity ^[1] - 160:3 compressed ^[2] - 220:11, 220:13 computer ^[5] - 132:24, 133:9, 133:14, 133:17, 176:5 computer-generated ^[1] - 133:9 concern ^[13] - 18:7,</p>	<p>18:9, 18:10, 18:20, 20:6, 42:9, 58:6, 68:7, 78:12, 78:21, 83:11, 206:6, 206:12 concerned ^[10] - 20:10, 20:12, 34:19, 79:12, 140:6, 150:24, 152:24, 184:14, 216:15 concerning ^[3] - 36:24, 62:5, 138:8 concerns ^[7] - 18:21, 23:3, 35:6, 77:13, 141:22, 152:21, 194:10 conclude ^[4] - 75:2, 84:2, 133:3, 205:1 concluded ^[1] - 84:10 conclusion ^[1] - 29:19 conclusions ^[1] - 160:25 concur ^[1] - 174:16 condition ^[2] - 64:2, 64:12 condoning ^[2] - 68:20 conduct ^[3] - 94:9, 196:6, 196:12 conducted ^[3] - 77:14, 164:1, 185:3 conferred ^[1] - 197:24 confinement ^[1] - 167:6 confirm ^[1] - 88:23 confirmed ^[1] - 74:21 confront ^[1] - 122:22 confronted ^[4] - 116:6, 116:11, 116:13, 122:25 connection ^[1] - 129:22 Connor ^[2] - 3:7, 3:10 conscience ^[1] - 68:1 consequence ^[1] - 210:4 consequences ^[3] - 78:10, 101:5, 101:20 consider ^[4] - 18:18, 45:18, 212:13, 219:18 considered ^[4] - 7:17, 157:25, 205:18, 205:19 considering ^[1] - 75:13 consist ^[1] - 215:11 consisted ^[1] - 13:4 constable ^[10] - 8:13, 82:1, 184:6, 188:4, 188:12, 188:15, 189:23, 190:23,</p>	<p>194:12 Constable ^[39] - 13:19, 16:10, 24:23, 28:23, 29:21, 34:25, 35:20, 41:6, 44:20, 89:19, 93:17, 103:17, 105:10, 106:24, 109:19, 114:22, 115:22, 116:22, 122:4, 128:17, 129:1, 133:1, 133:5, 133:19, 134:16, 135:2, 137:13, 152:9, 172:11, 177:8, 178:9, 178:19, 180:23, 181:14, 181:21, 182:9, 187:7, 204:6, 209:14 Constables ^[2] - 168:19, 3:18 constables ^[2] - 190:20, 207:7 constantly ^[1] - 140:10 construed ^[1] - 161:25 consult ^[1] - 138:14 consultant ^[1] - 188:23 consulted ^[2] - 138:15, 172:13 contact ^[11] - 5:24, 7:15, 31:2, 53:24, 68:10, 78:15, 126:3, 137:13, 173:4, 194:11 contacted ^[6] - 13:18, 13:19, 13:22, 13:24, 110:10, 137:16 contacts ^[2] - 162:4, 175:23 contain ^[1] - 199:24 contained ^[1] - 136:15 contains ^[1] - 152:21 contemporaneous ^[3] - 127:12, 127:15, 195:11 contemporaneously ^[1] - 127:11 content ^[1] - 210:18 contested ^[3] - 217:24, 218:2, 218:5 context ^[4] - 73:2, 123:16, 172:1, 190:3 continually ^[1] - 137:8 continuation ^[3] - 171:8, 171:14, 182:21 continue ^[1] - 83:3</p>	<p>continued ^[4] - 96:23, 111:25, 196:16, 203:25 continues ^[2] - 93:8, 96:24 continuing ^[2] - 80:25, 126:3 contractual ^[1] - 74:9 contrary ^[1] - 4:14 contributed ^[1] - 91:10 control ^[2] - 196:20, 214:2 controversial ^[1] - 55:8 convenience ^[1] - 217:7 conversation ^[8] - 96:3, 96:17, 99:14, 125:3, 131:14, 131:16, 156:25, 162:5 conversely ^[1] - 200:11 convey ^[1] - 212:6 convicted ^[5] - 17:16, 17:19, 18:4, 18:21, 19:5 conviction ^[3] - 19:7, 90:4, 90:16 cooperate ^[1] - 127:2 coordinated ^[1] - 200:3 Coordinated ^[2] - 9:17, 9:20 coordinator ^[4] - 24:16, 24:24, 62:22, 196:19 copies ^[3] - 88:8, 130:5, 154:1 cops ^[1] - 189:5 copy ^[7] - 110:3, 152:8, 153:17, 154:4, 154:5, 154:14, 171:5 Coquitlam ^[5] - 103:24, 104:25, 158:24, 171:25, 208:5 cord ^[1] - 23:24 corporal ^[1] - 15:12 Corporal ^[2] - 109:4, 172:11 correct ^[72] - 9:2, 9:4, 11:12, 14:6, 16:15, 17:4, 21:9, 21:12, 24:9, 25:13, 26:20, 33:22, 34:5, 34:9, 34:10, 35:5, 36:8, 37:16, 37:18, 37:22,</p>	<p>38:23, 44:10, 44:12, 46:13, 50:11, 50:18, 57:16, 59:18, 63:7, 66:23, 70:11, 89:12, 92:20, 93:15, 95:14, 97:23, 98:2, 102:5, 105:13, 108:6, 111:21, 128:7, 128:10, 130:23, 131:5, 137:2, 153:10, 153:21, 155:6, 157:22, 170:10, 170:11, 170:15, 170:16, 172:21, 173:1, 173:19, 173:22, 180:2, 181:15, 181:16, 181:18, 184:1, 185:25, 197:8, 200:6, 201:22, 203:14, 208:8, 208:9, 208:11, 209:15 corroborative ^[1] - 211:11 coughing ^[1] - 72:5 counsel ^[35] - 3:19, 3:20, 5:13, 7:16, 8:19, 36:15, 61:16, 72:16, 75:23, 77:24, 83:25, 84:4, 85:16, 86:11, 86:14, 86:22, 87:2, 88:8, 94:11, 138:13, 143:16, 144:10, 149:20, 159:15, 176:19, 176:25, 177:23, 183:25, 211:23, 212:24, 213:18, 214:11, 215:1, 215:3, 215:8 Counsel ^[2] - 96:6, 96:7 counsel's ^[2] - 7:6, 83:8 counsels ^[1] - 147:5 count ^[1] - 126:25 country ^[1] - 188:25 couple ^[32] - 9:15, 15:10, 22:10, 52:9, 53:11, 53:22, 54:14, 56:17, 57:11, 78:16, 89:25, 92:11, 96:11, 97:4, 97:20, 97:21, 111:12, 114:5, 127:13, 129:14, 135:3, 140:22, 143:2, 154:8, 154:9, 154:17, 158:24, 167:11, 167:15,</p>
---	---	---	--	---

<p>171:4, 190:7 coupled [1] - 33:1 couriered [1] - 141:11 course [32] - 27:9, 33:4, 46:4, 49:3, 54:6, 61:1, 62:19, 62:24, 63:7, 63:9, 64:9, 66:14, 77:7, 78:14, 82:24, 84:4, 85:10, 85:24, 133:3, 134:24, 135:22, 137:16, 165:22, 175:21, 186:13, 192:4, 193:18, 196:23, 197:5, 211:2, 213:15 Court [4] - 72:22, 222:2 court [9] - 17:17, 74:11, 126:3, 126:17, 126:19, 138:11, 153:14, 204:13, 222:1 courteous [1] - 147:3 courtesies [1] - 147:6 courtesy [6] - 144:25, 145:19, 145:24, 145:25, 146:7, 146:16 courtroom [2] - 146:9, 222:25 courts [1] - 151:20 cover [1] - 12:18 covered [7] - 73:5, 73:25, 75:22, 84:5, 84:18, 168:16, 3:16 cowboys [2] - 54:20, 91:3 CPIC [1] - 175:22 Crawford [1] - 187:21 cream [1] - 201:15 create [1] - 193:8 creator [1] - 182:7 credibility [6] - 65:13, 65:17, 68:2, 68:15, 70:6 credible [2] - 166:4, 166:6 Crey [3] - 80:18, 186:21, 206:8 crime [10] - 9:21, 9:22, 10:6, 23:2, 55:17, 91:16, 126:7, 166:22, 173:20, 219:9 Crime [8] - 9:25, 10:17, 36:22, 111:10, 159:2, 173:18, 175:5, 209:17</p>	<p>crimes [5] - 17:17, 49:18, 68:20, 68:21, 138:9 Criminal [1] - 10:3 criminal [2] - 71:10, 71:14 critierias [1] - 66:18 critical [3] - 61:2, 185:18, 206:21 criticism [9] - 17:24, 38:3, 110:24, 147:15, 184:17, 184:19, 184:24, 185:8, 185:20 criticisms [3] - 6:16, 75:19, 100:20 criticize [1] - 60:21 criticized [2] - 86:6, 195:6 criticizing [2] - 177:9, 184:6 critics [1] - 189:18 crop [1] - 64:23 Cross [8] - 2:7, 2:12, 1:9, 1:11, 1:12, 1:13, 2:10, 2:14 cross [14] - 71:15, 87:8, 146:2, 146:3, 146:19, 149:12, 150:11, 212:19, 214:14, 214:15, 214:19, 215:8, 215:9, 215:14 CROSS [4] - 88:10, 152:5, 176:18, 208:2 cross-examination [5] - 146:3, 149:12, 214:15, 214:19, 215:14 Cross-examination [8] - 2:7, 2:12, 1:9, 1:11, 1:12, 1:13, 2:10, 2:14 CROSS-EXAMINATION [4] - 88:10, 152:5, 176:18, 208:2 cross-examine [3] - 146:2, 212:19, 214:14 cross-examining [3] - 87:8, 146:19, 150:11 Crossin [1] - 84:15 Crown [10] - 36:6, 64:18, 64:19, 64:20, 64:21, 96:6, 96:7, 138:13, 153:23, 183:24 crystal [1] - 150:25 Cst [1] - 130:5</p>	<p>cuffs [1] - 167:7 culmination [1] - 190:11 culture [1] - 92:4 Cunningham [1] - 132:2 custody [2] - 28:14, 134:1 Custom [1] - 33:4 cut [2] - 189:14, 202:13 CVs [2] - 8:22, 88:14</p> <p style="text-align: center;">D</p> <p>D-2 [1] - 26:24 dad's [1] - 11:24 daily [7] - 29:2, 29:7, 115:23, 131:14, 135:13, 154:5 damn [2] - 51:9, 79:11 dangerous [1] - 35:18 dark [1] - 83:5 darkest [1] - 82:20 data [5] - 31:20, 128:18, 160:2, 179:11 date [28] - 6:21, 10:8, 23:1, 34:20, 44:11, 46:14, 46:16, 58:19, 117:23, 127:20, 130:10, 130:14, 133:10, 133:17, 137:7, 140:11, 155:25, 171:24, 177:12, 177:19, 179:17, 180:9, 181:23, 182:14, 183:17, 206:22 dated [6] - 76:6, 89:6, 116:18, 141:20, 171:15, 177:1 dates [2] - 43:3, 133:10 Dave [4] - 137:13, 137:14, 137:16, 169:16 David [4] - 30:24, 174:19, 174:24, 175:22 Dawn [1] - 206:8 days [14] - 31:2, 53:11, 55:23, 65:25, 80:21, 82:20, 83:5, 111:12, 127:12, 127:13, 146:20, 151:20, 162:3 days' [1] - 203:21 DC [10] - 2:14, 2:17, 2:20, 2:23, 3:1, 2:17, 2:20, 2:23, 3:1, 3:4</p>	<p>DCC [9] - 2:7, 2:12, 89:6, 97:17, 99:15, 100:14, 123:5, 2:10, 2:14 dead [1] - 96:13 deadline [1] - 150:3 deadlines [1] - 133:7 deal [11] - 32:8, 37:23, 66:18, 67:2, 86:22, 119:21, 123:14, 123:15, 140:13, 208:6, 209:22 dealing [17] - 4:21, 21:2, 22:6, 23:17, 33:2, 63:19, 63:22, 66:24, 67:2, 70:16, 71:7, 75:12, 150:7, 198:24, 199:21, 199:24, 210:16 dealings [1] - 21:10 dealt [8] - 6:17, 35:11, 35:17, 35:19, 36:2, 90:6, 123:17, 139:13 Dear [2] - 181:23, 182:14 death [2] - 65:10, 158:7 Debra [2] - 80:20, 186:21 deceased [1] - 172:25 December [17] - 38:22, 44:25, 56:12, 57:9, 80:19, 112:17, 116:14, 116:19, 116:20, 117:4, 117:6, 117:20, 117:21, 130:21, 131:23, 137:18, 209:1 decent [3] - 104:8, 104:13, 125:3 deceptive [1] - 188:8 decide [5] - 219:7, 219:10, 219:16, 221:5, 221:7 decided [4] - 159:17, 172:12, 220:17, 220:18 decision [4] - 45:9, 76:1, 119:6, 214:6 decisions [1] - 72:21 decorum [1] - 223:10 deemed [2] - 10:19, 91:19 DEET [7] - 26:25, 80:9, 81:4, 141:25, 193:17, 193:18 defence [1] - 223:7</p>	<p>defend [2] - 86:7, 222:23 defended [1] - 221:25 defending [1] - 223:18 defer [1] - 74:14 definitely [2] - 155:22, 181:10 degrading [1] - 120:24 degree [4] - 11:10, 11:12, 66:6, 142:23 degrees [1] - 68:11 delay [1] - 217:3 deliver [1] - 215:13 delivered [3] - 5:17, 7:19, 143:19 delusions [1] - 136:19 Dennis [1] - 139:4 deny [2] - 120:24, 148:13 denying [1] - 151:10 department [9] - 9:9, 11:22, 13:7, 15:15, 27:20, 69:17, 72:13, 73:14, 200:17 Department [15] - 2:6, 2:11, 9:1, 11:7, 11:18, 30:11, 124:16, 153:25, 172:7, 181:12, 191:20, 205:20, 216:23, 2:9, 2:13 departments [1] - 90:23 departure [3] - 44:17, 135:25, 154:10 Deputy [7] - 16:25, 17:8, 21:11, 22:11, 34:14, 85:25, 93:17 deputy [2] - 82:22, 94:8 derogate [1] - 221:18 describe [5] - 22:2, 39:19, 102:24, 120:21, 123:25 described [2] - 102:6, 102:7, 102:24 describing [1] - 161:6 description [2] - 61:13, 2:3 deserved [1] - 104:12 desire [1] - 71:25 desk [5] - 28:10, 28:24, 132:25, 158:25, 180:15 desks [1] - 159:1 desktop [1] - 129:6 despite [4] - 17:19, 150:2, 155:2, 155:10 Det/Cst [1] - 76:16 Det/Csts [1] - 155:1</p>
--	--	---	--	---

<p>Detachment ^[1] - 76:23</p> <p>detail ^[1] - 9:7</p> <p>details ^[4] - 78:18, 79:25, 156:3, 201:7</p> <p>detective ^[3] - 8:13, 11:19, 22:17</p> <p>Detective ^[64] - 8:25, 15:11, 24:23, 25:6, 28:23, 29:21, 30:12, 44:19, 47:23, 48:7, 77:10, 83:20, 85:12, 88:11, 89:19, 98:13, 101:9, 101:12, 103:16, 106:24, 107:11, 109:19, 111:2, 113:20, 114:4, 114:22, 115:22, 116:22, 119:7, 120:23, 122:4, 123:22, 126:12, 126:14, 128:17, 129:1, 129:20, 133:1, 133:5, 133:19, 134:7, 134:15, 135:19, 152:9, 157:1, 159:20, 159:22, 159:23, 166:20, 167:23, 178:9, 178:19, 180:23, 181:14, 181:21, 182:9, 190:8, 193:12, 196:18, 197:25, 202:5, 204:25, 209:14</p> <p>determine ^[2] - 18:24, 53:13</p> <p>develop ^[2] - 10:12, 67:7</p> <p>developed ^[4] - 13:17, 14:14, 67:8, 79:6</p> <p>developing ^[1] - 68:16</p> <p>Development ^[2] - 10:9, 10:15</p> <p>development ^[5] - 10:23, 71:4, 118:5, 118:21, 125:10</p> <p>devoted ^[1] - 139:8</p> <p>DEYAS ^[3] - 136:25, 137:5, 137:11</p> <p>Dianne ^[1] - 167:12</p> <p>Dickson ^[4] - 137:13, 137:14, 137:16, 169:16</p> <p>difference ^[5] - 55:13, 74:2, 74:3, 74:20, 74:22</p> <p>different ^[17] - 40:25,</p>	<p>55:6, 55:8, 58:15, 62:11, 72:24, 77:1, 81:10, 92:13, 101:21, 110:8, 125:1, 166:1, 204:8, 218:15, 218:16</p> <p>differently ^[2] - 54:21, 55:1</p> <p>difficult ^[7] - 86:1, 86:3, 92:24, 92:25, 103:19, 165:10, 222:7</p> <p>difficulties ^[1] - 93:2</p> <p>difficulty ^[1] - 55:12</p> <p>digging ^[1] - 66:1</p> <p>Direct ^[2] - 168:18, 3:18</p> <p>direct ^[1] - 123:2</p> <p>directed ^[1] - 147:15</p> <p>direction ^[3] - 81:23, 121:11, 131:19</p> <p>directions ^[1] - 54:19</p> <p>Directive ^[1] - 143:12</p> <p>directive ^[8] - 5:19, 143:18, 144:1, 145:1, 145:2, 149:6, 213:7, 213:17</p> <p>disagree ^[1] - 155:13</p> <p>disagreed ^[3] - 58:13, 186:12, 191:24</p> <p>disagreement ^[1] - 62:4</p> <p>disagreements ^[1] - 62:9</p> <p>disappearance ^[6] - 169:5, 169:6, 169:11, 169:14, 169:19, 169:21</p> <p>disappeared ^[1] - 169:21</p> <p>discarded ^[1] - 142:25</p> <p>disciplinary ^[2] - 120:1, 120:10</p> <p>disclose ^[1] - 38:1</p> <p>disclosure ^[4] - 11:4, 54:11, 76:7, 77:23</p> <p>discounted ^[1] - 169:17</p> <p>discovering ^[1] - 142:4</p> <p>discredit ^[2] - 145:15, 165:25</p> <p>discrediting ^[1] - 145:18</p> <p>discrepancies ^[1] - 106:3</p> <p>discuss ^[11] - 20:19, 30:4, 37:24, 54:15, 78:9, 108:21, 108:23, 108:24,</p>	<p>109:1, 144:7, 193:12</p> <p>discussed ^[14] - 41:24, 42:24, 45:11, 54:17, 60:19, 98:4, 106:13, 113:19, 117:12, 118:20, 125:1, 172:10, 198:13, 202:18</p> <p>discusses ^[1] - 70:6</p> <p>discussing ^[4] - 45:1, 59:17, 76:12, 119:19</p> <p>discussion ^[6] - 48:15, 50:6, 54:22, 54:24, 84:17, 183:19</p> <p>discussions ^[2] - 137:20, 173:6</p> <p>disengagement ^[1] - 209:8</p> <p>disgusting ^[1] - 100:25</p> <p>disposal ^[3] - 157:3, 157:24, 158:2</p> <p>dispositions ^[1] - 132:19</p> <p>disrespectful ^[1] - 52:18</p> <p>disservice ^[1] - 151:13</p> <p>dissidence ^[1] - 71:12</p> <p>distributed ^[3] - 88:8, 159:11, 159:14</p> <p>District ^[6] - 9:13, 9:14, 14:17, 142:1, 194:9</p> <p>disturbed ^[1] - 124:21</p> <p>Division ^[2] - 9:11, 111:6</p> <p>DNA ^[11] - 49:6, 56:24, 96:20, 96:21, 98:24, 109:18, 110:13, 140:18, 167:2, 167:3, 200:7</p> <p>document ^[33] - 1:5, 2:2, 2:6, 2:10, 2:14, 2:17, 2:20, 2:23, 3:1, 3:4, 3:7, 29:18, 32:11, 37:6, 54:8, 75:18, 95:10, 117:5, 171:2, 171:19, 177:11, 182:13, 198:10, 2:5, 2:9, 2:13, 2:17, 2:20, 2:23, 3:1, 3:4, 3:7, 3:10</p> <p>Document ^[2] - 26:7, 3:15</p> <p>documentary ^[1] - 174:19</p> <p>documentation ^[10] - 38:6, 48:11, 70:15, 90:8, 90:13, 185:5,</p>	<p>195:11, 199:8, 199:19, 200:2</p> <p>documented ^[1] - 163:20</p> <p>Documents ^[20] - 2:7, 2:11, 2:15, 2:18, 2:21, 2:24, 3:2, 3:5, 3:8, 168:18, 2:10, 2:14, 2:18, 2:21, 2:24, 3:2, 3:5, 3:8, 3:11, 3:18</p> <p>documents ^[13] - 1:12, 1:20, 25:24, 37:5, 59:11, 77:13, 77:15, 77:16, 77:19, 86:10, 86:12, 146:23, 177:23</p> <p>DoJ ^[4] - 18:10, 20:5, 84:14, 144:4</p> <p>Don ^[1] - 211:9</p> <p>Donahue ^[6] - 81:2, 142:3, 142:6, 142:15, 167:4, 193:25</p> <p>done ^[35] - 5:23, 15:24, 16:6, 33:16, 34:13, 53:15, 53:19, 54:17, 60:22, 61:15, 88:18, 94:23, 95:6, 99:5, 102:8, 121:12, 130:9, 130:14, 148:16, 151:19, 153:17, 163:2, 177:15, 177:16, 178:10, 183:24, 185:17, 193:20, 197:25, 204:4, 210:8, 213:3, 217:11, 221:7, 222:12</p> <p>Donna ^[2] - 80:18, 186:21</p> <p>door ^[6] - 53:4, 53:5, 53:8, 121:16, 121:20, 152:23</p> <p>Dorothy ^[13] - 3:22, 76:5, 76:15, 152:11, 152:15, 152:16, 159:8, 159:15, 162:4, 162:6, 182:10</p> <p>doubt ^[2] - 57:20, 85:13</p> <p>DOUG ^[2] - 8:11, 1:6</p> <p>Doug ^[36] - 2:8, 2:12, 13:24, 15:16, 16:14, 16:17, 16:18, 16:21, 16:23, 16:24, 21:15, 26:18, 27:12, 30:12, 33:9, 35:11, 35:23, 37:8, 37:14, 39:5,</p>	<p>58:1, 58:20, 76:22, 79:13, 95:20, 96:10, 102:16, 102:24, 117:10, 161:17, 163:7, 178:15, 182:2, 183:3, 2:10, 2:15</p> <p>Douglas ^[1] - 8:13</p> <p>Down ^[1] - 59:15</p> <p>down ^[71] - 9:19, 9:20, 14:16, 14:25, 15:3, 20:23, 30:6, 31:3, 31:17, 31:22, 31:23, 32:7, 35:21, 40:12, 42:20, 52:11, 57:3, 57:14, 57:19, 58:2, 58:11, 58:23, 60:17, 64:5, 66:1, 70:24, 72:8, 74:23, 79:1, 79:2, 80:4, 81:7, 81:20, 87:18, 87:19, 99:23, 103:1, 111:6, 111:10, 115:19, 118:11, 124:11, 124:16, 124:18, 124:22, 125:13, 126:6, 126:11, 126:24, 129:14, 137:15, 139:6, 139:21, 140:7, 142:1, 164:9, 166:24, 171:17, 179:14, 181:13, 185:23, 186:11, 191:14, 191:17, 192:15, 205:11, 206:10, 206:11, 206:20</p> <p>down" ^[1] - 57:15</p> <p>Downtown ^[13] - 9:12, 17:12, 20:13, 20:16, 22:25, 23:16, 37:20, 47:14, 50:13, 96:25, 124:2, 124:7, 176:20</p> <p>downtown ^[1] - 72:2</p> <p>Dr ^[5] - 137:20, 137:21, 138:14, 138:15, 195:19</p> <p>draft ^[2] - 130:4, 130:12</p> <p>dramatic ^[1] - 189:25</p> <p>dramatically ^[1] - 87:6</p> <p>dress ^[1] - 201:16</p> <p>Drew ^[4] - 104:10, 104:16, 169:4, 169:8</p> <p>Drew's ^[1] - 169:18</p> <p>drinking ^[1] - 69:12</p> <p>drive ^[3] - 72:10, 195:1, 195:4</p> <p>drive-through ^[1] -</p>
--	---	---	---	--

<p>72:10 driven [1] - 195:5 driver [2] - 162:11, 162:12 driver's [1] - 140:21 driving [4] - 52:11, 52:12, 83:9, 104:22 dropping [1] - 173:13 drove [2] - 78:8, 78:11 Drug [3] - 16:22, 27:1, 125:14 drug [18] - 9:16, 13:2, 13:3, 13:8, 21:1, 63:20, 63:23, 69:19, 72:1, 80:11, 80:12, 122:7, 122:16, 124:22, 125:13, 127:3, 176:21 drugs [8] - 9:15, 20:19, 20:20, 44:2, 51:10, 63:17, 64:21, 124:8 duct [1] - 201:14 duffle [2] - 201:9, 201:11 dumping [2] - 122:6, 122:15 Dureau [5] - 21:17, 22:17, 36:17, 36:18, 36:20 during [23] - 36:21, 48:10, 62:23, 78:14, 94:14, 96:9, 96:17, 98:3, 99:13, 113:9, 126:12, 126:13, 127:6, 142:3, 142:9, 157:6, 175:13, 188:5, 204:15, 204:22, 216:3 duties [5] - 23:2, 25:11, 117:10, 196:17, 204:8 duty [3] - 74:9, 192:6</p> <p style="text-align: center;">E</p> <p>e-mail [10] - 4:5, 5:25, 6:25, 95:11, 97:16, 97:21, 99:8, 99:25, 178:4, 178:19 e-mails [1] - 147:1 ear [3] - 7:24, 82:24, 191:1 Earl [1] - 208:4 early [8] - 24:4, 30:17, 48:8, 81:5, 89:22, 157:18, 176:11, 208:13 ease [1] - 171:5</p>	<p>easier [2] - 86:18, 118:2 East [5] - 20:18, 20:24, 20:25, 21:3, 139:14 Eastern [2] - 9:22, 10:5 Eastside [14] - 9:12, 17:12, 20:13, 20:17, 22:25, 23:16, 32:14, 37:21, 47:15, 50:13, 96:25, 124:2, 124:7, 176:20 easy [3] - 73:22, 143:1, 189:8 echo [1] - 49:9 Education [1] - 27:1 Edwin [3] - 35:10, 35:12, 35:21 effect [5] - 24:7, 92:22, 144:1, 153:19, 156:10 effective [1] - 135:7 effectively [2] - 135:5, 180:19 effects [1] - 76:24 efficacy [3] - 217:7, 217:12, 218:10 efforts [2] - 7:25, 31:25 eight [4] - 13:4, 100:10, 166:25, 205:10 eight-block [1] - 166:25 either [22] - 25:24, 28:8, 34:2, 36:11, 87:4, 128:13, 129:21, 132:25, 133:16, 158:10, 159:25, 160:24, 161:5, 165:4, 166:9, 168:22, 169:19, 196:17, 197:1, 219:18, 223:12 elaborate [2] - 99:10, 100:1 Elaine [1] - 169:16 Elbow [4] - 119:21, 119:23, 119:24, 142:24 eliminate [1] - 49:15 Elizabeth [1] - 212:4 Ellingsen [7] - 10:25, 60:10, 62:3, 70:10, 105:14, 106:11, 198:25 Ellingsen" [1] - 70:8 Ellingsen's [1] - 62:11 elsewhere [1] - 210:8</p>	<p>embarrassing [2] - 109:20, 109:25 Emer [5] - 57:23, 179:4, 179:8, 179:9, 207:18 emotion [1] - 42:7 employee [1] - 162:6 encountered [1] - 170:13 end [32] - 22:22, 23:23, 25:16, 29:20, 40:17, 43:17, 45:10, 66:10, 68:5, 79:14, 79:25, 83:7, 87:6, 88:15, 93:1, 99:11, 135:9, 152:22, 154:2, 154:23, 167:10, 167:24, 173:3, 177:19, 179:6, 185:6, 186:20, 189:2, 189:10, 207:20, 218:24 end-all [1] - 68:5 endeavored [1] - 147:3 ended [11] - 16:25, 27:16, 27:24, 56:20, 80:1, 81:4, 83:13, 141:11, 141:24, 142:15, 193:17 ends [1] - 20:20 energetic [1] - 21:18 enforcement [6] - 80:11, 80:12, 174:1, 175:7, 176:8, 205:25 Enforcement [3] - 9:17, 9:20, 27:1 enforcers [1] - 125:20 engage [2] - 114:5, 223:6 engaged [1] - 98:13 engagement [2] - 98:17, 114:3 enjoyed [1] - 193:18 enter [3] - 113:4, 159:17, 160:2 entered [2] - 31:21, 82:20 entering [1] - 59:8 enthusiastic [1] - 21:18 entitled [23] - 2:2, 2:6, 2:10, 2:14, 2:17, 2:20, 2:23, 3:1, 3:4, 3:7, 168:17, 211:17, 2:5, 2:9, 2:13, 2:17, 2:20, 2:23, 3:1, 3:4, 3:7, 3:10, 3:17 entries [2] - 127:10,</p>	<p>178:10 entry [7] - 106:6, 128:5, 128:18, 130:21, 132:6, 171:18, 179:11 environment [1] - 195:16 epic [1] - 212:8 erred [1] - 207:15 especially [8] - 63:21, 71:6, 93:1, 98:17, 119:13, 121:21, 131:11, 135:23 establish [1] - 67:21 estimate [9] - 85:16, 87:4, 87:8, 144:13, 145:21, 146:8, 147:16, 148:3, 148:18 estimates [9] - 84:13, 84:23, 86:15, 86:24, 143:14, 144:25, 145:23, 147:1, 149:5 estimating [1] - 147:23 et [4] - 56:2, 67:15, 115:8 ethic [1] - 69:5 European [2] - 9:22, 10:5 evaluations [1] - 88:21 Evans [12] - 2:14, 2:17, 2:21, 2:23, 3:2, 34:14, 85:25, 2:17, 2:20, 2:23, 3:1, 3:4 Evenhanded [9] - 194:3, 194:5, 194:7, 194:11, 210:3, 210:25, 211:8, 211:12, 211:14 evening [2] - 148:24, 169:11 event [4] - 18:3, 86:8, 179:19, 203:3 events [2] - 61:5, 182:4 eventual [1] - 153:14 eventually [4] - 28:24, 66:6, 82:25, 89:24 everyday [1] - 115:17 everywhere [1] - 146:9 evidence [68] - 3:13, 3:23, 4:12, 4:19, 6:15, 7:24, 17:18, 37:3, 61:2, 61:7, 62:12, 63:15, 72:25, 73:8, 74:10, 74:11, 74:25, 84:21, 84:24,</p>	<p>92:21, 96:8, 98:22, 98:23, 101:15, 102:11, 102:13, 106:2, 106:16, 106:18, 106:23, 108:2, 109:19, 112:7, 114:21, 121:4, 122:5, 123:2, 123:21, 126:18, 133:5, 135:11, 141:14, 151:18, 151:22, 151:25, 156:18, 157:16, 159:10, 169:13, 171:3, 174:18, 174:21, 180:12, 190:19, 191:21, 193:13, 208:16, 208:19, 210:6, 211:11, 215:7, 215:9, 216:10, 216:20, 217:23, 219:7, 219:10, 221:13 evident [1] - 191:13 evidentiary [2] - 217:9, 219:23 evolved [1] - 63:13 exact [3] - 6:21, 10:7, 180:8 exactly [6] - 104:17, 105:9, 133:11, 182:6, 191:9, 211:9 exaggeration [1] - 7:8 examination [11] - 87:20, 146:3, 149:12, 214:15, 214:19, 215:10, 215:14, 1:9, 1:11, 1:12, 1:13 EXAMINATION [5] - 8:21, 88:10, 152:5, 176:18, 208:2 Examination [7] - 2:7, 2:12, 168:18, 1:7, 2:10, 2:14, 3:18 examine [5] - 143:17, 146:2, 212:19, 214:14, 215:9 examined [1] - 140:18 examining [3] - 87:8, 146:19, 150:11 example [20] - 12:1, 13:18, 14:25, 20:15, 55:10, 57:21, 64:19, 65:3, 65:19, 72:1, 77:20, 79:19, 100:9, 128:4, 137:4, 141:5, 154:25, 161:8, 162:8, 166:12</p>
---	--	---	--	--

<p>examples ^[1] - 49:11</p> <p>excellent ^[7] - 77:2, 137:14, 141:8, 155:4, 155:12, 165:2, 165:7</p> <p>except ^[1] - 145:22</p> <p>exception ^[1] - 125:21</p> <p>exceptions ^[1] - 82:15</p> <p>excluded ^[3] - 60:7, 60:8, 102:18</p> <p>exclusion ^[1] - 4:20</p> <p>Executive ^[2] - 2:2, 2:5</p> <p>exercise ^[1] - 126:21</p> <p>exhibit ^[5] - 1:18, 1:22, 26:2, 168:11, 171:10</p> <p>Exhibit ^[26] - 1:23, 2:4, 2:8, 2:13, 2:15, 2:18, 2:22, 2:24, 3:3, 3:6, 3:8, 26:3, 152:7, 168:13, 171:3, 171:7, 2:7, 2:11, 2:15, 2:18, 2:21, 2:24, 3:2, 3:5, 3:8, 3:11</p> <p>EXHIBIT ^[24] - 2:2, 2:6, 2:10, 2:14, 2:17, 2:20, 2:23, 3:1, 3:4, 3:7, 26:5, 168:16, 2:5, 2:9, 2:13, 2:17, 2:20, 2:23, 3:1, 3:4, 3:7, 3:10, 3:13, 3:16</p> <p>exhibits ^[3] - 1:14, 212:10, 2:1</p> <p>exigency ^[1] - 65:10</p> <p>exigent ^[3] - 28:13, 64:9, 134:24</p> <p>exist ^[1] - 100:12</p> <p>existence ^[1] - 6:13</p> <p>exit ^[3] - 82:13, 190:25</p> <p>expand ^[3] - 39:18, 99:16, 121:13</p> <p>expanded ^[1] - 43:8</p> <p>expect ^[3] - 85:6, 143:4, 175:6</p> <p>expectation ^[1] - 116:3</p> <p>expected ^[3] - 86:6, 199:23, 217:9</p> <p>expecting ^[1] - 213:14</p> <p>expediency ^[1] - 218:23</p> <p>experience ^[13] - 15:3, 71:20, 71:22, 94:14, 95:8, 158:7, 170:17, 173:23, 174:6, 175:3, 175:17, 205:19, 209:13</p> <p>experienced ^[5] -</p>	<p>93:10, 149:9, 158:8, 189:22, 223:5</p> <p>expert ^[3] - 69:23, 75:10, 137:25</p> <p>expertise ^[5] - 74:15, 75:12, 75:15, 125:10, 138:16</p> <p>explain ^[6] - 94:13, 101:6, 101:22, 109:25, 138:1, 165:4</p> <p>explained ^[2] - 77:10, 147:16</p> <p>explanation ^[1] - 107:7</p> <p>exploring ^[1] - 105:7</p> <p>express ^[3] - 118:4, 120:5</p> <p>expressed ^[2] - 114:14, 118:10</p> <p>expresses ^[1] - 152:20</p> <p>expressing ^[2] - 118:8, 149:16</p> <p>expression ^[1] - 118:13</p> <p>extension ^[4] - 151:6, 151:15, 221:10, 221:12</p> <p>extensive ^[3] - 12:10, 109:9, 212:10</p> <p>extensively ^[1] - 9:11</p> <p>extent ^[1] - 43:18</p> <p>extra ^[2] - 171:5, 222:5</p> <p>extremely ^[6] - 28:3, 31:1, 103:6, 125:12, 184:8, 184:15</p> <p>eye ^[2] - 64:6, 190:2</p> <p>eyes ^[1] - 69:22</p>	<p>factor ^[1] - 212:13</p> <p>facts ^[6] - 163:25, 164:4, 164:12, 215:15, 218:14, 218:15</p> <p>fail ^[2] - 66:17, 185:12</p> <p>fails ^[1] - 189:6</p> <p>failure ^[5] - 114:23, 114:24, 128:1, 128:2, 185:9</p> <p>fair ^[20] - 14:13, 61:19, 63:18, 86:9, 92:23, 111:25, 113:14, 128:22, 156:14, 164:22, 174:1, 175:9, 184:8, 185:9, 206:23, 212:19, 214:9, 220:18, 222:10, 223:14</p> <p>fairly ^[1] - 89:9</p> <p>fairness ^[8] - 59:9, 61:9, 115:2, 212:10, 216:14, 218:22, 219:6, 222:3</p> <p>fall ^[5] - 25:10, 118:19, 180:13, 180:14, 187:12</p> <p>fallen ^[1] - 69:10</p> <p>falls ^[1] - 217:8</p> <p>false ^[1] - 145:5</p> <p>familiar ^[6] - 11:1, 33:12, 48:10, 158:3, 158:4, 201:6</p> <p>familiar-sounding ^[1] - 201:6</p> <p>familiarize ^[2] - 48:11, 107:14</p> <p>families ^[6] - 87:2, 144:10, 151:17, 164:19, 164:24, 215:4</p> <p>families' ^[1] - 151:10</p> <p>family ^[1] - 81:21</p> <p>far ^[10] - 5:21, 106:15, 132:12, 139:7, 150:24, 159:4, 184:14, 208:25, 215:10, 217:8</p> <p>Farm ^[1] - 168:23</p> <p>farm ^[6] - 100:10, 103:24, 157:4, 158:2, 174:25</p> <p>fashion ^[2] - 134:23, 223:19</p> <p>fatality ^[1] - 73:14</p> <p>father ^[1] - 11:19</p> <p>father's ^[1] - 12:9</p> <p>favorite ^[2] - 47:19, 114:6</p> <p>faxed ^[2] - 110:4,</p>	<p>130:18</p> <p>February ^[11] - 80:12, 81:12, 139:21, 141:25, 165:8, 167:20, 168:1, 171:15, 172:21, 193:20, 204:15</p> <p>fed ^[4] - 99:18, 100:15, 145:17, 164:8</p> <p>feedback ^[1] - 50:19</p> <p>feisty ^[1] - 189:2</p> <p>FELL ^[365] - 8:11, 8:13, 9:2, 9:4, 9:6, 9:10, 10:21, 11:3, 11:9, 22:10, 22:22, 24:2, 24:12, 24:16, 24:22, 25:13, 25:15, 25:17, 26:12, 26:20, 26:23, 28:6, 29:3, 29:6, 29:12, 29:24, 30:1, 30:13, 30:16, 31:12, 31:16, 32:13, 32:16, 32:19, 32:22, 33:1, 33:19, 33:22, 34:1, 34:3, 34:10, 36:5, 36:8, 36:13, 37:1, 37:3, 37:12, 37:16, 37:18, 37:22, 38:2, 38:5, 38:12, 38:17, 41:10, 41:18, 41:21, 41:23, 43:6, 43:22, 43:25, 44:7, 44:10, 44:12, 44:14, 44:17, 45:4, 47:16, 48:8, 49:9, 50:7, 50:15, 51:21, 54:9, 54:11, 54:24, 55:6, 55:15, 59:1, 59:18, 59:23, 60:7, 60:11, 60:14, 60:24, 61:7, 61:11, 62:16, 62:20, 63:7, 63:10, 63:12, 63:21, 64:1, 64:4, 64:14, 64:22, 65:2, 65:5, 65:14, 66:3, 66:21, 66:23, 67:9, 70:10, 70:13, 70:18, 70:20, 71:22, 72:21, 73:9, 74:6, 74:17, 74:23, 75:5, 75:17, 76:7, 76:10, 76:13, 77:10, 77:19, 77:23, 78:1, 81:17, 84:6, 88:24, 89:2, 89:8, 89:12, 89:17, 91:5, 91:7, 91:13, 91:24, 92:25, 93:4, 93:13, 93:15, 93:19, 93:24, 98:10, 98:12, 100:18, 100:22,</p>	<p>100:24, 105:23, 105:25, 106:19, 106:22, 107:5, 107:8, 108:6, 108:8, 108:17, 108:19, 110:21, 110:23, 111:1, 111:4, 111:21, 111:24, 112:1, 112:5, 112:11, 112:21, 112:24, 113:13, 113:17, 114:3, 114:11, 114:14, 115:2, 115:25, 116:5, 116:9, 116:12, 116:15, 116:25, 117:2, 117:6, 117:8, 117:11, 117:14, 117:19, 117:25, 118:3, 119:7, 119:12, 120:2, 120:13, 120:23, 121:3, 121:5, 122:2, 122:9, 122:13, 122:19, 122:24, 123:7, 124:5, 126:5, 126:10, 126:14, 126:25, 127:8, 127:12, 127:18, 127:25, 128:7, 128:10, 128:13, 128:24, 129:4, 129:6, 129:9, 129:18, 130:6, 130:8, 130:12, 130:23, 131:5, 131:8, 131:11, 132:10, 132:17, 132:23, 133:13, 133:21, 134:9, 134:18, 135:15, 135:18, 135:22, 136:9, 136:13, 136:17, 138:6, 138:15, 138:24, 139:1, 153:2, 153:10, 153:13, 153:21, 153:23, 154:4, 154:8, 154:13, 155:6, 155:13, 156:12, 156:18, 157:19, 157:22, 158:1, 158:11, 158:14, 158:17, 160:4, 160:9, 160:11, 160:18, 164:16, 164:23, 165:10, 168:25, 170:2, 170:4, 170:7,</p>
---	---	---	---	--

<p>170:15, 171:9, 171:11, 171:13, 171:16, 171:22, 172:3, 172:17, 172:22, 173:1, 173:8, 173:15, 173:17, 173:19, 173:22, 174:6, 174:14, 175:10, 176:9, 176:13, 177:11, 177:19, 177:25, 178:3, 178:14, 178:24, 179:18, 179:20, 180:2, 180:7, 180:12, 180:22, 181:3, 181:10, 181:15, 181:18, 182:7, 182:18, 182:21, 183:1, 183:6, 183:10, 183:16, 183:21, 183:23, 184:8, 184:20, 184:23, 185:1, 185:10, 185:12, 190:3, 191:8, 191:22, 191:25, 193:9, 194:19, 194:25, 195:18, 196:9, 196:15, 196:25, 197:2, 197:8, 197:13, 197:18, 197:21, 198:6, 198:8, 198:15, 198:17, 198:20, 199:2, 199:4, 199:12, 199:14, 199:16, 199:18, 199:22, 199:25, 201:6, 201:20, 201:23, 203:14, 203:18, 203:25, 204:5, 204:20, 204:25, 206:12, 206:23, 207:2, 208:17, 209:6, 209:16, 1:6</p> <p>Fell [42] - 3:12, 3:22, 3:23, 4:14, 4:20, 4:23, 8:6, 8:13, 8:25, 16:14, 16:20, 22:6, 26:18, 30:12, 33:7, 36:4, 43:23, 49:8, 54:25, 58:25, 59:17, 62:17, 72:19, 73:24, 77:8, 86:11, 88:11, 105:10, 109:6, 111:2, 116:22, 122:4, 126:12, 137:13, 155:1,</p>	<p>168:19, 173:13, 173:25, 181:14, 197:15, 209:5, 3:19</p> <p>Fell's [1] - 136:4</p> <p>fellow [1] - 81:14</p> <p>felt [30] - 23:13, 48:1, 48:3, 52:23, 55:9, 58:23, 81:20, 81:22, 82:10, 82:14, 92:9, 92:14, 94:23, 99:3, 114:19, 118:25, 138:3, 138:23, 165:17, 180:15, 190:21, 190:24, 191:1, 191:4, 192:20, 192:25, 193:25, 200:13, 207:14, 207:16</p> <p>female [1] - 105:3</p> <p>few [10] - 27:5, 64:5, 92:16, 95:16, 99:6, 114:14, 131:6, 135:11, 203:6, 203:21</p> <p>field [5] - 54:5, 54:6, 59:2, 127:14, 205:4</p> <p>Field [30] - 25:3, 26:9, 34:12, 34:21, 36:17, 48:10, 51:24, 92:18, 101:9, 101:11, 101:25, 107:15, 109:5, 112:21, 116:14, 118:4, 119:25, 130:5, 131:19, 134:16, 154:18, 161:12, 163:16, 163:21, 165:1, 178:5, 178:7, 185:6, 185:24, 206:9</p> <p>Field's [5] - 33:12, 33:14, 105:15, 117:3, 186:4</p> <p>field's [1] - 33:13</p> <p>fifth [1] - 54:16</p> <p>fighting [1] - 162:9</p> <p>figure [2] - 52:24, 57:4</p> <p>file [79] - 24:16, 24:24, 28:12, 29:20, 30:3, 30:7, 48:1, 48:3, 60:21, 62:5, 78:2, 107:13, 107:14, 107:15, 128:6, 128:11, 128:14, 128:15, 128:21, 131:20, 135:3, 135:23, 149:22, 153:24, 156:24, 157:1, 159:4, 159:5, 159:7, 160:6, 160:13, 160:15,</p>	<p>177:15, 177:17, 183:3, 183:5, 183:7, 183:8, 183:13, 183:24, 184:16, 184:17, 184:19, 184:24, 184:25, 185:1, 185:21, 196:10, 196:12, 196:19, 196:20, 197:19, 197:20, 197:21, 198:3, 198:5, 198:7, 198:9, 198:14, 198:16, 198:17, 198:21, 198:24, 199:3, 199:5, 199:6, 199:11, 199:14, 199:15, 199:21, 199:23, 200:3, 209:10, 209:25, 210:24, 211:23, 215:1</p> <p>file-coordinated [1] - 200:3</p> <p>filed [4] - 8:24, 177:23, 210:1, 210:19</p> <p>files [14] - 10:11, 48:14, 107:16, 108:1, 113:2, 115:13, 115:14, 134:22, 159:6, 198:1, 198:10, 198:20, 199:14, 205:1</p> <p>filing [3] - 210:4, 216:10, 216:12</p> <p>fill [3] - 90:19, 90:24, 128:14</p> <p>final [4] - 30:2, 114:16, 220:24, 221:19</p> <p>finally [4] - 167:17, 190:12, 190:13, 217:3</p> <p>finder [1] - 127:18</p> <p>findings [6] - 4:14, 90:9, 90:11, 100:15, 100:25, 103:10</p> <p>fine [2] - 50:5, 84:6</p> <p>finish [9] - 84:24, 87:1, 99:8, 103:14, 127:4, 136:23, 145:8, 151:1, 151:16</p> <p>finished [8] - 80:13, 80:14, 87:6, 106:5, 115:16, 144:21, 151:7, 212:7</p> <p>first [33] - 4:15, 8:8, 9:10, 10:12, 12:6, 12:18, 26:1, 26:9, 26:12, 26:14, 37:1,</p>	<p>37:4, 38:18, 39:11, 41:14, 43:5, 51:6, 54:7, 73:13, 80:5, 91:14, 97:20, 101:7, 101:22, 124:12, 155:8, 162:10, 162:11, 163:11, 173:8, 183:20, 187:2, 208:22</p> <p>firstly [1] - 95:21</p> <p>fit [2] - 187:23, 214:3</p> <p>Fitzgerald [5] - 57:23, 179:4, 179:7, 179:8, 179:9</p> <p>five [9] - 24:4, 85:4, 87:18, 87:22, 146:20, 162:3, 162:4, 162:16, 209:13</p> <p>five-minute [1] - 162:4</p> <p>fixture [2] - 14:25, 52:10</p> <p>Flaherty [1] - 30:24</p> <p>flash [1] - 201:15</p> <p>flash-toned [1] - 201:15</p> <p>flashlight [1] - 201:15</p> <p>flex [1] - 167:7</p> <p>flies [1] - 192:17</p> <p>flip [3] - 117:17, 124:24, 127:19</p> <p>flour [3] - 122:6, 122:15, 123:8</p> <p>fluked [2] - 91:23, 91:25</p> <p>flurry [1] - 147:1</p> <p>focus [3] - 49:22, 54:14, 195:14</p> <p>focused [2] - 23:1, 195:12</p> <p>focusing [3] - 48:18, 166:22, 173:20</p> <p>folder [1] - 198:16</p> <p>follow [17] - 27:6, 35:11, 51:21, 98:10, 107:10, 107:19, 123:20, 136:10, 145:2, 147:12, 157:12, 157:15, 161:22, 162:2, 163:6, 182:19, 203:24</p> <p>follow-up [6] - 107:10, 107:19, 136:10, 161:22, 162:2, 163:6</p> <p>followed [7] - 1:22, 17:8, 56:25, 110:16, 128:23, 140:6, 166:15</p> <p>following [10] - 4:15,</p>	<p>11:16, 70:5, 96:4, 109:17, 110:2, 110:11, 113:3, 156:17, 169:11</p> <p>force [1] - 206:11</p> <p>Force [6] - 4:18, 96:1, 121:16, 142:10, 159:21, 167:20</p> <p>forceable [1] - 167:6</p> <p>forced [1] - 223:6</p> <p>forces [1] - 194:3</p> <p>Ford [1] - 104:23</p> <p>foregoing [1] - 224:1</p> <p>forget [2] - 156:8, 169:3</p> <p>form [7] - 55:22, 120:9, 130:7, 130:8, 130:13, 174:19, 215:24</p> <p>formal [2] - 7:20, 151:14</p> <p>formalized [2] - 7:13, 47:21</p> <p>formally [1] - 151:4</p> <p>formed [1] - 90:12</p> <p>former [3] - 119:16, 119:17, 126:8</p> <p>formerly [21] - 2:4, 2:8, 2:13, 2:15, 2:18, 2:21, 2:24, 3:2, 3:5, 3:8, 147:22, 2:7, 2:11, 2:15, 2:18, 2:21, 2:24, 3:2, 3:5, 3:8, 3:11</p> <p>forms [1] - 90:20</p> <p>forth [3] - 22:3, 154:9, 204:14</p> <p>forthcoming [1] - 216:2</p> <p>forum [1] - 150:7</p> <p>forward [12] - 3:13, 21:19, 23:3, 57:2, 57:3, 67:20, 67:22, 126:4, 131:1, 133:6, 150:20, 200:1</p> <p>forwarded [1] - 90:13</p> <p>foulmouthed [1] - 120:25</p> <p>foundation [1] - 219:23</p> <p>four [10] - 24:2, 24:4, 62:24, 63:9, 80:21, 100:9, 100:10, 146:20, 162:3, 207:25</p> <p>four-day [2] - 62:24, 63:9</p> <p>Frail [6] - 15:18, 22:12, 89:6, 141:19, 167:14, 194:6</p>
---	--	---	--	--

frame ^[1] - 64:15 France ^[1] - 144:3 Francis ^[2] - 174:20, 175:23 Frank ^[3] - 159:22, 160:9, 160:10 frankly ^[3] - 18:13, 145:17, 199:4 free ^[2] - 53:2, 67:5 freelance ^[1] - 51:25 frequent ^[1] - 56:23 frequented ^[2] - 174:22, 176:4 frequenting ^[1] - 175:9 freshly ^[1] - 124:20 Friday ^[4] - 3:25, 210:11, 216:1, 223:22 friend ^[1] - 4:3 friends' ^[1] - 143:8 front ^[2] - 105:17, 152:7 fruitful ^[1] - 150:19 frustrated ^[2] - 94:25, 103:8 frustrating ^[6] - 27:17, 28:3, 95:8, 99:18, 141:4, 166:7 frustration ^[1] - 149:16 fuckng ^[3] - 120:21, 121:23, 189:6 full ^[13] - 42:10, 63:9, 63:10, 69:25, 70:14, 72:2, 181:8, 181:10, 181:11, 204:6, 204:7, 208:21, 216:14 full-day ^[1] - 63:9 full-time ^[4] - 181:11, 204:6, 204:7, 208:21 fulsome ^[2] - 18:11, 85:11 function ^[2] - 75:23, 174:5 funnel ^[1] - 69:20 Furminger ^[7] - 80:17, 104:20, 186:18, 186:23, 187:4, 187:10, 206:7 furthering ^[2] - 119:20 further ^[1] - 69:5 furthest ^[1] - 28:21	gals ^[1] - 170:8 gambling ^[1] - 12:4 Gang ^[3] - 170:18, 173:24, 175:4 gang ^[2] - 10:2 gangster ^[2] - 192:14, 192:15 garbage ^[1] - 53:10 gather ^[3] - 72:18, 206:17, 209:12 gathering ^[3] - 55:15, 55:18, 174:4 General ^[3] - 57:22, 151:5, 179:4 general ^[4] - 78:13, 113:12, 116:10, 148:10 generalization ^[2] - 125:15, 125:16 generalized ^[2] - 123:24, 124:5 generally ^[1] - 161:1 generate ^[1] - 182:5 generated ^[4] - 132:24, 133:9, 133:16, 181:22 generating ^[1] - 182:16 generation ^[1] - 11:18 gentleman ^[1] - 213:23 gentlemen ^[3] - 59:13, 168:22, 203:9 Geramy ^[8] - 54:6, 101:9, 101:11, 101:25, 112:21, 161:12, 178:5, 206:9 Giles ^[11] - 1:6, 1:7, 3:11, 8:20, 21:16, 22:18, 25:18, 25:23, 26:2, 88:5, 168:12 girl ^[3] - 20:18, 89:11, 90:2 girls ^[13] - 15:4, 31:21, 39:6, 40:24, 42:2, 53:13, 57:7, 103:1, 138:9, 166:23, 188:21, 189:12, 192:23 GIS ^[1] - 207:18 given ^[28] - 29:1, 41:14, 47:12, 47:20, 61:7, 82:13, 92:21, 102:12, 116:18, 123:5, 123:18, 132:18, 139:2, 141:14, 145:23, 149:20, 155:18, 156:13, 159:25, 160:3, 164:24,	165:23, 173:2, 175:3, 207:21, 210:5, 212:24 glass ^[1] - 56:20 gloves ^[1] - 201:16 goings ^[1] - 175:15 goodness ^[1] - 42:18 goods ^[1] - 69:25 Gord ^[1] - 76:3 government ^[2] - 150:13, 151:3 Government ^[3] - 1:11, 18:14, 216:25 GPS ^[1] - 110:6 grasp ^[1] - 111:16 GRATL ^[55] - 17:12, 17:15, 17:21, 17:23, 85:3, 85:6, 85:17, 85:20, 85:24, 86:9, 86:14, 147:14, 147:19, 147:22, 148:1, 148:5, 148:7, 148:17, 148:20, 149:3, 176:18, 202:3, 202:9, 202:17, 202:25, 203:2, 203:6, 203:8, 206:16, 216:17, 216:22, 216:25, 217:3, 217:18, 217:22, 218:1, 218:4, 218:8, 218:10, 218:19, 218:22, 219:2, 219:13, 219:20, 220:1, 220:11, 220:13, 220:22, 221:2, 221:9, 221:15, 221:21, 221:23, 222:11, 222:14 Gratl ^[11] - 17:12, 18:3, 19:4, 85:2, 145:22, 147:14, 176:19, 216:16, 218:11, 221:24, 1:12 grave ^[1] - 151:12 gravity ^[1] - 158:4 great ^[4] - 13:11, 39:4, 39:20, 82:6 greatest ^[1] - 147:7 Greek ^[2] - 2:4, 2:7 green ^[2] - 162:14, 201:16 greeted ^[1] - 47:23 grievous ^[2] - 49:18, 158:9 ground ^[2] - 84:19, 87:17 group ^[8] - 8:22, 34:7,	38:18, 41:9, 42:21, 113:24, 195:19, 196:1 groups ^[3] - 174:7, 174:8, 174:11 grow ^[1] - 175:2 guess ^[6] - 25:4, 26:23, 41:3, 72:13, 89:17, 99:22 guessing ^[4] - 87:10, 87:11, 98:8, 187:11 guidance ^[1] - 75:6 guy ^[10] - 40:19, 56:19, 69:24, 104:22, 139:25, 140:2, 140:3, 162:10, 162:14, 167:5 guys ^[4] - 21:18, 40:22, 103:3, 162:9	hardly ^[1] - 18:2 harm ^[2] - 118:17, 121:11 harmful ^[1] - 195:24 hassling ^[2] - 51:10, 51:11 Hastings ^[8] - 20:18, 20:24, 21:1, 21:4, 81:8, 126:6, 139:15, 142:20 hatcher ^[4] - 6:14, 6:17, 6:22, 8:5 HATCHER ^[10] - 88:2, 88:5, 88:7, 88:10, 97:7, 97:14, 105:20, 108:15, 168:10, 168:14 Hatcher ^[7] - 5:15, 84:15, 84:18, 87:15, 88:1, 154:6, 1:9 haunts ^[1] - 111:13 Hawaii ^[1] - 58:17 head ^[4] - 36:22, 52:19, 122:6, 158:24 heading ^[4] - 54:18, 179:3, 179:4, 181:1 heads ^[1] - 92:5 hear ^[21] - 5:12, 5:13, 8:4, 23:15, 60:10, 60:13, 62:12, 67:16, 75:25, 76:1, 79:4, 84:4, 115:6, 122:25, 150:9, 151:19, 151:25, 204:25, 207:6, 214:7, 221:13 heard ^[46] - 10:23, 12:20, 12:22, 22:7, 24:6, 36:18, 38:13, 43:3, 43:4, 52:3, 62:10, 63:15, 64:17, 73:3, 73:24, 73:25, 86:5, 87:4, 91:4, 91:22, 91:24, 106:15, 106:23, 108:2, 109:19, 110:24, 112:7, 113:18, 113:20, 118:13, 123:21, 123:24, 124:12, 125:9, 127:23, 133:5, 140:2, 148:11, 148:17, 151:19, 151:22, 159:8, 195:3, 215:4, 215:18 hearing ^[18] - 1:4, 52:15, 61:22, 61:25, 62:17, 87:22, 87:25, 97:9, 97:12, 106:18, 168:5, 168:8,
G	H			
	habit ^[1] - 220:6 habits ^[1] - 66:13 half ^[10] - 9:18, 9:21, 22:25, 84:16, 85:6, 87:11, 110:7, 144:13, 177:2, 177:5 half-an-hour ^[2] - 87:11, 144:13 halfway ^[2] - 60:17, 158:23 hammer ^[1] - 32:8 hand ^[2] - 110:17, 198:20 handcuffs ^[1] - 201:14 handed ^[3] - 38:7, 88:2, 88:5 handing ^[1] - 206:2 handle ^[2] - 11:8, 71:21 handler ^[7] - 65:15, 65:21, 69:6, 69:18, 74:14, 165:17, 192:14 handlers ^[5] - 11:21, 68:10, 68:13, 69:2, 70:3 handling ^[3] - 10:13, 74:20, 74:21 hands ^[2] - 18:15, 203:16 handwriting ^[3] - 26:17, 44:9, 44:14 handwritten ^[2] - 43:19, 46:14 hanging ^[1] - 53:7 hard ^[1] - 87:7			

<p>169:13, 201:20, 205:14, 217:10, 222:23, 223:21 hearings [1] - 18:17 heed [1] - 192:25 Heise [1] - 224:9 held [3] - 9:9, 156:24, 167:22 Hells [9] - 170:23, 174:3, 174:14, 174:21, 174:22, 175:1, 175:8, 175:15, 176:4 help [9] - 37:9, 46:16, 49:14, 67:7, 73:16, 73:18, 111:17, 138:23, 211:13 helped [4] - 10:10, 10:12, 90:21, 132:1 helpful [6] - 6:3, 6:10, 6:15, 6:19, 75:2, 139:23 helping [1] - 91:23 hereby [1] - 224:1 herein [1] - 224:4 Hern [4] - 76:8, 77:24, 94:19, 101:23 high [2] - 89:9, 96:7 highest [1] - 207:5 highlights [1] - 132:8 highly [1] - 19:14 himself [4] - 94:20, 101:3, 102:6, 102:7 hindsight [2] - 165:22, 192:4 Hira [4] - 85:4, 208:3, 222:19, 1:13 HIRA [6] - 208:2, 222:20, 223:2, 223:4, 223:15, 223:17 Hiscox [11] - 10:24, 59:20, 59:23, 62:3, 62:7, 68:1, 105:12, 156:5, 165:15, 165:19, 198:25 historical [3] - 31:20, 106:11, 138:9 history [2] - 91:18, 189:8 hit [3] - 38:8, 100:8, 192:14 hits [4] - 4:24, 5:2, 45:16, 109:12 hoard [1] - 129:2 hoc [1] - 218:14 holidays [4] - 95:22, 107:22, 127:9, 208:10 Home [2] - 121:15,</p>	<p>159:21 home [2] - 32:8, 165:19 Homicide [3] - 21:8, 121:17, 209:18 homicide [7] - 14:4, 77:3, 107:9, 108:1, 109:10, 113:1, 209:10 homicides [11] - 98:24, 107:4, 111:19, 112:18, 112:20, 112:23, 119:14, 180:17, 193:16, 200:8, 200:10 honest [3] - 79:10, 80:24, 81:24 honestly [1] - 122:20 honesty [3] - 45:4, 68:18, 115:2 Honeybourn [3] - 15:9, 21:8 honour [4] - 45:5, 65:15, 91:13, 93:6 hopefully [7] - 31:22, 31:23, 42:19, 119:2, 123:17, 139:5, 171:17 hopelessly [1] - 149:23 hoping [1] - 32:5 horks [1] - 142:14 horrific [1] - 69:13 hot [2] - 44:1, 44:3 Hotel [2] - 57:6, 139:22 hotel [2] - 64:5, 65:3 hour [5] - 84:14, 85:6, 87:11, 97:6, 144:13 hours [10] - 34:23, 64:6, 84:17, 85:6, 110:11, 129:12, 147:23, 148:7, 148:20, 188:19 house [4] - 43:25, 44:2, 69:20, 175:2 Howlett [1] - 101:12 huddle [2] - 215:12, 215:21 huge [2] - 102:21, 166:14 human [3] - 78:1, 79:22, 92:6 hunches [1] - 200:20 hundred [1] - 92:25 hundreds [3] - 102:8, 124:9, 146:23 hunt [2] - 192:15, 213:1</p>	<p>HUNT [3] - 212:4, 212:10, 212:16 Hunt [1] - 212:4 hunted [1] - 166:24</p> <p style="text-align: center;">I</p> <p>I&NS [1] - 30:25 I/C [1] - 117:23 ice [1] - 51:4 idea [20] - 11:24, 51:3, 51:15, 52:14, 69:15, 69:16, 81:22, 82:9, 85:17, 92:8, 119:5, 119:10, 145:3, 148:10, 149:12, 156:6, 179:18, 182:3, 198:15, 214:24 ideal [1] - 162:15 ideas [3] - 55:6, 57:8, 113:15 identification [3] - 1:12, 1:21, 1:23 Identification [20] - 2:5, 2:9, 2:13, 2:16, 2:19, 2:22, 2:25, 3:3, 3:6, 3:9, 2:8, 2:12, 2:16, 2:19, 2:22, 2:25, 3:3, 3:6, 3:9, 3:12 identified [3] - 12:2, 18:11, 37:25 identifying [1] - 165:1 identity [1] - 19:5 idiosyncrasies [1] - 66:13 illustrated [1] - 164:10 imagine [2] - 104:1, 163:13 immediately [1] - 42:7 immensely [1] - 90:22 impact [1] - 52:5 implicit [1] - 147:14 importance [1] - 5:18 important [28] - 4:12, 5:16, 8:1, 27:10, 30:5, 42:12, 42:13, 42:22, 52:3, 65:23, 67:10, 81:20, 85:7, 85:14, 90:18, 115:13, 115:14, 138:12, 146:4, 146:14, 149:1, 149:3, 150:8, 150:15, 151:7, 151:13, 202:2, 202:14 impossible [1] -</p>	<p>149:19 impressed [1] - 109:14 impression [10] - 50:24, 58:21, 78:25, 81:19, 94:3, 107:25, 178:20, 178:22, 179:13 impressions [1] - 94:15 impressive [1] - 23:9 IN [1] - 8:21 inadequate [1] - 149:23 inappropriate [5] - 120:16, 120:17, 219:24, 220:6, 223:2 inappropriately [1] - 205:21 incapable [1] - 67:1 incident [3] - 122:11, 123:8, 140:12 incidents [2] - 69:13, 137:11 included [2] - 88:14, 141:17 includes [1] - 170:17 including [3] - 13:5, 55:22, 176:20 inconsistent [1] - 218:12 Incorporated [1] - 12:6 incorrect [2] - 34:20, 199:4 indefinite [3] - 178:12, 178:16, 178:21 independence [1] - 163:3 independent [8] - 101:16, 136:17, 138:4, 161:4, 162:7, 163:5, 164:11, 176:19 INDEX [1] - 1:2 indicated [2] - 93:11, 144:4 indicates [1] - 178:11 indicating [2] - 152:11, 206:10 indicator [1] - 54:1 indigent [1] - 24:19 individual [19] - 13:23, 14:2, 19:16, 20:16, 21:6, 23:6, 45:17, 64:8, 74:10, 82:7, 90:16, 91:15, 113:8, 120:11, 121:11, 175:24, 192:22, 192:23, 202:17</p>	<p>individualize [1] - 82:7 individuals [12] - 60:1, 60:3, 69:3, 71:8, 71:9, 96:5, 133:25, 160:4, 160:11, 174:11, 192:21, 207:4 indulgence [1] - 209:20 inebriated [1] - 65:7 influence [2] - 63:17, 64:21 info [3] - 118:5, 119:12, 129:15 informant [18] - 11:21, 35:23, 63:16, 63:22, 67:10, 67:12, 70:11, 70:16, 72:1, 72:18, 73:20, 73:25, 74:4, 74:20, 74:24, 75:13, 102:17, 165:16 informants [14] - 10:10, 10:12, 10:24, 11:8, 11:23, 12:1, 12:10, 62:18, 63:19, 67:7, 72:23, 75:3, 75:4, 105:12 information [89] - 17:1, 30:22, 31:5, 32:1, 35:17, 35:21, 37:25, 45:2, 45:6, 46:3, 46:5, 48:24, 55:15, 58:9, 59:21, 60:8, 60:9, 62:5, 65:16, 65:18, 65:24, 66:1, 66:3, 66:4, 66:5, 66:7, 66:12, 66:16, 66:19, 66:20, 67:13, 68:6, 68:15, 68:19, 69:19, 70:7, 70:25, 71:3, 73:1, 74:8, 74:24, 76:18, 80:23, 83:17, 91:17, 98:9, 102:17, 102:22, 104:7, 104:11, 104:12, 105:5, 107:2, 113:5, 119:16, 123:5, 129:2, 129:23, 131:13, 135:21, 139:24, 141:12, 152:13, 152:14, 155:3, 155:11, 155:20, 155:25, 156:5, 157:9, 161:19, 161:25, 162:23, 162:25, 165:3, 165:14, 165:25, 166:5,</p>
--	--	--	---	---

<p>169:23, 173:4, 175:13, 185:16, 192:13, 193:21, 198:11, 199:20, 200:20, 210:2, 214:5</p> <p>Information [1] - 138:20</p> <p>initial [3] - 112:5, 137:17, 140:23</p> <p>inkling [2] - 123:1, 123:4</p> <p>inmates [1] - 119:17</p> <p>inquiring [1] - 94:9</p> <p>Inquiry [4] - 26:6, 168:17, 3:14, 3:17</p> <p>inquiry [22] - 54:11, 59:24, 110:24, 114:21, 118:14, 127:22, 150:10, 153:15, 153:19, 153:20, 155:25, 157:11, 158:5, 164:18, 170:7, 173:10, 178:6, 195:4, 218:24, 220:21, 220:22</p> <p>inside [1] - 167:8</p> <p>insight [1] - 165:9</p> <p>insofar [1] - 4:13</p> <p>inspector [7] - 36:20, 167:14, 177:1, 191:2, 194:8, 205:7, 208:5</p> <p>Inspector [15] - 21:17, 27:14, 35:14, 36:17, 59:4, 82:10, 83:2, 85:12, 85:20, 101:14, 141:19, 152:10, 194:6, 197:7, 199:10</p> <p>inspired [1] - 188:4</p> <p>instance [2] - 170:13, 176:2</p> <p>instruction [1] - 32:25</p> <p>insult [1] - 121:12</p> <p>Intelligence [2] - 10:4, 10:16</p> <p>intelligence [2] - 55:18, 174:4</p> <p>intelligence- gathering [1] - 174:4</p> <p>intended [2] - 194:22, 215:20</p> <p>intending [1] - 46:5</p> <p>intention [1] - 215:21</p> <p>intentionally [1] - 46:3</p> <p>interact [1] - 172:8</p> <p>interactions [2] - 124:9, 124:10</p> <p>interest [21] - 14:14,</p>	<p>22:14, 29:16, 39:1, 50:17, 55:19, 55:20, 56:8, 56:9, 71:17, 113:8, 114:18, 139:7, 141:3, 178:12, 178:15, 181:22, 182:17, 183:14, 193:7, 211:15</p> <p>interested [7] - 16:18, 62:25, 72:14, 83:22, 155:2, 155:9, 202:9</p> <p>interests [6] - 17:13, 176:20, 176:21, 212:5, 214:12, 223:9</p> <p>interjection [1] - 23:21</p> <p>internal [1] - 77:14</p> <p>Internal [1] - 79:21</p> <p>interrogation [3] - 95:4, 161:22, 164:8</p> <p>interrogations [1] - 102:9</p> <p>interrupt [5] - 38:11, 219:14, 219:15, 222:15, 222:16</p> <p>intervening [1] - 177:5</p> <p>interview [32] - 22:16, 41:7, 63:24, 64:8, 64:11, 65:8, 93:16, 94:1, 94:2, 94:14, 94:17, 94:23, 95:3, 95:6, 95:21, 99:15, 99:17, 101:18, 102:14, 103:12, 111:17, 113:7, 123:1, 126:20, 134:4, 162:16, 162:19, 164:8, 188:6, 189:24, 197:6</p> <p>interviewed [25] - 21:16, 28:15, 41:6, 44:25, 47:9, 52:17, 64:18, 75:20, 78:17, 83:14, 85:24, 95:22, 101:23, 104:10, 137:18, 161:11, 161:15, 162:19, 163:15, 164:7, 170:9, 185:2, 187:1, 188:17, 188:19</p> <p>interviewing [10] - 10:1, 83:13, 101:21, 102:9, 104:15, 121:9, 161:9, 161:11, 169:4, 189:21</p> <p>interviews [13] - 37:8, 37:15, 82:13, 100:14, 102:1, 127:1, 158:15,</p>	<p>161:21, 182:20, 182:21, 183:4, 191:1, 203:22</p> <p>introduce [2] - 37:19, 50:5</p> <p>introduced [2] - 94:20, 109:7</p> <p>introduction [1] - 47:22</p> <p>intuition [1] - 200:19</p> <p>Invasion [2] - 121:15, 159:21</p> <p>investigate [3] - 32:7, 195:7, 203:12</p> <p>investigated [4] - 202:4, 202:18, 202:22</p> <p>investigating [8] - 25:1, 40:1, 48:6, 115:15, 142:5, 163:22, 187:8, 209:14</p> <p>Investigation [2] - 57:23, 179:4</p> <p>investigation [33] - 11:2, 18:23, 19:11, 19:16, 19:17, 55:16, 55:23, 55:24, 56:3, 73:5, 77:1, 77:14, 78:12, 89:10, 92:22, 93:14, 96:10, 96:18, 103:13, 112:4, 113:2, 130:9, 131:10, 136:25, 150:12, 151:23, 164:1, 172:10, 194:4, 205:23, 207:11, 207:14, 210:3</p> <p>investigations [7] - 102:8, 113:11, 141:2, 161:1, 161:21, 163:5, 205:22</p> <p>investigative [5] - 5:2, 53:18, 136:6, 194:23, 196:21</p> <p>investigator [5] - 24:12, 111:9, 171:20, 200:22, 204:7</p> <p>investigators [7] - 4:24, 26:15, 62:4, 62:11, 101:8, 121:18, 204:6</p> <p>involve [2] - 182:23</p> <p>involved [20] - 12:8, 13:1, 15:16, 21:13, 27:2, 29:16, 34:7, 45:8, 62:25, 89:18,</p>	<p>96:19, 140:10, 140:11, 149:22, 187:8, 191:11, 191:12, 192:1, 195:21, 204:13</p> <p>involvement [4] - 7:7, 173:2, 178:20, 211:10</p> <p>issue [11] - 5:10, 7:5, 7:22, 12:18, 53:21, 120:15, 123:17, 138:11, 161:3, 187:17, 208:6</p> <p>issued [2] - 60:4, 181:25</p> <p>issues [10] - 32:8, 60:19, 63:20, 64:23, 69:9, 70:6, 84:5, 85:9, 127:22, 138:6</p> <p>items [2] - 40:12, 140:5</p> <p>itself [4] - 17:23, 68:2, 81:24, 133:22</p>	<p>182:15</p> <p>johns [1] - 167:19</p> <p>Johnson [1] - 166:12</p> <p>joined [5] - 11:17, 11:22, 73:13, 179:9, 179:16</p> <p>joining [2] - 53:15, 69:8</p> <p>Joint [1] - 63:1</p> <p>joint [2] - 63:3, 194:2</p> <p>Jones [2] - 80:20, 186:21</p> <p>jot [1] - 40:12</p> <p>judge [2] - 102:12, 221:25</p> <p>Judy [1] - 137:6</p> <p>Julie [1] - 189:1</p> <p>July [13] - 25:8, 25:12, 27:12, 27:13, 30:17, 32:24, 48:9, 103:16, 107:21, 110:15, 156:19, 163:18, 166:18</p> <p>jumping [1] - 104:3</p> <p>June [8] - 26:10, 76:3, 77:20, 142:7, 142:8, 152:10, 166:15, 166:16</p> <p>justice [3] - 66:8, 216:6, 217:5</p> <p>Justice [5] - 2:7, 2:11, 30:11, 2:10, 2:14</p> <p>justify [1] - 222:13</p>
J				
<p>jacket [1] - 162:14</p> <p>Jacqueline [2] - 58:7, 186:2</p> <p>jail [2] - 14:21, 56:1</p> <p>jamming [2] - 149:18, 151:9</p> <p>Janice [1] - 131:25</p> <p>January [8] - 58:7, 128:5, 167:13, 167:17, 179:23, 180:20, 186:2, 209:2</p> <p>Jardine [5] - 14:24, 23:5, 52:2, 53:20, 170:13</p> <p>Jardine's [1] - 140:4</p> <p>Jason [3] - 17:12, 147:14, 176:19</p> <p>Jasper [2] - 2:4, 2:7</p> <p>jealousies [1] - 92:4</p> <p>Jennifer [7] - 80:17, 104:19, 186:18, 186:22, 187:3, 187:10, 206:7</p> <p>jettison [1] - 218:8</p> <p>jettisoned [1] - 218:23</p> <p>job [7] - 5:23, 23:22, 146:15, 149:20, 174:14, 177:16, 204:11</p> <p>Joesbury [1] - 166:15</p> <p>john [1] - 23:18</p> <p>John [4] - 137:20, 137:24, 181:23,</p>				
K				
<p>keep [5] - 52:12, 84:23, 114:24, 200:12, 215:24</p> <p>kept [6] - 14:22, 34:22, 127:6, 127:8, 129:5, 129:6</p> <p>kerfuffle [1] - 59:4</p> <p>Kevin [1] - 3:16</p> <p>key [1] - 80:18</p> <p>kill [2] - 189:8, 189:14</p> <p>killed [2] - 96:14, 189:4</p> <p>killer [9] - 98:7, 99:3, 186:7, 191:7, 191:21, 196:5, 200:6, 202:10, 206:4</p> <p>killers [3] - 100:4, 202:7, 205:11</p> <p>killing [3] - 40:19, 96:12, 97:22</p> <p>killings [3] - 10:2, 80:24, 98:15</p> <p>Kim [1] - 101:15</p>				

<p>kind [9] - 14:25, 53:15, 53:18, 78:23, 81:3, 94:16, 162:1, 195:18, 198:21</p> <p>kindly [1] - 82:19</p> <p>kinds [1] - 72:12</p> <p>Kingsbury [2] - 109:5, 110:13</p> <p>kit [1] - 201:5</p> <p>knife [2] - 201:11, 201:13</p> <p>knives [2] - 140:14, 140:17</p> <p>knock [1] - 53:4</p> <p>knowing [3] - 84:4, 102:21, 195:6</p> <p>knowledge [17] - 12:10, 59:19, 59:21, 59:23, 62:2, 91:9, 106:20, 111:13, 133:12, 155:19, 157:23, 190:5, 196:23, 204:18, 208:13, 208:20, 209:4</p> <p>known [3] - 47:13, 191:17, 213:9</p> <p>knows [1] - 148:8</p> <p style="text-align: center;">L</p> <p>lab [3] - 140:18, 142:16, 143:2</p> <p>labelled [2] - 26:5, 3:13</p> <p>lack [3] - 105:7, 116:10, 118:14</p> <p>laid [1] - 101:20</p> <p>Lake [4] - 119:22, 119:23, 119:24, 142:24</p> <p>language [4] - 85:9, 120:16, 120:24, 122:22</p> <p>laptop [1] - 94:18</p> <p>large [9] - 89:13, 120:14, 135:23, 155:3, 155:11, 155:19, 165:3, 200:1, 201:10</p> <p>largely [7] - 9:21, 47:17, 66:11, 107:23, 108:1, 126:14, 135:1</p> <p>Larry [3] - 170:24, 172:14, 172:24</p> <p>last [23] - 16:15, 33:21, 35:6, 47:5, 58:8, 76:16, 80:21,</p>	<p>92:11, 92:16, 99:25, 126:25, 140:24, 152:22, 153:4, 154:20, 166:13, 166:16, 186:3, 189:17, 204:5, 209:12, 213:15</p> <p>lastly [2] - 96:17, 101:14</p> <p>late [3] - 24:3, 89:21, 209:21</p> <p>latest [1] - 203:15</p> <p>laugh [1] - 145:4</p> <p>law [7] - 67:14, 71:19, 125:20, 174:1, 175:6, 176:7, 222:21</p> <p>Law [2] - 9:17, 9:20</p> <p>lawyer [5] - 50:3, 149:9, 215:13, 215:21, 221:24</p> <p>lawyers [12] - 144:25, 145:21, 145:22, 146:1, 146:7, 146:16, 149:4, 159:11, 213:4, 213:24, 215:24, 216:14</p> <p>lead [5] - 28:6, 107:18, 111:16, 132:15, 132:22</p> <p>leader [1] - 63:2</p> <p>learn [5] - 42:20, 125:4, 157:7, 169:22, 197:3</p> <p>learned [6] - 14:2, 40:23, 103:17, 141:9, 155:24, 172:6</p> <p>least [11] - 4:13, 13:14, 68:12, 72:13, 101:17, 148:10, 209:13, 215:10, 221:12, 222:21</p> <p>leave [9] - 12:12, 15:21, 16:22, 53:10, 83:4, 83:25, 108:5, 134:13, 163:24</p> <p>leaving [5] - 81:4, 114:17, 141:13, 141:24, 153:7</p> <p>lecture [2] - 147:5, 147:9</p> <p>lecturer [1] - 63:2</p> <p>led [2] - 89:24, 90:7</p> <p>leery [1] - 104:2</p> <p>left [26] - 9:25, 49:4, 57:11, 80:8, 82:12, 99:20, 132:13, 135:14, 140:25, 141:25, 146:20, 152:25, 157:17,</p>	<p>158:23, 171:20, 172:15, 178:7, 179:22, 180:25, 181:4, 196:14, 200:9, 203:6, 204:5, 209:7</p> <p>lends [4] - 17:23, 68:2, 68:14</p> <p>length [1] - 220:17</p> <p>lengths [1] - 68:9</p> <p>lengthy [4] - 61:13, 214:20, 219:18</p> <p>Leonard [1] - 132:1</p> <p>LePard [36] - 2:8, 2:12, 52:18, 59:25, 60:4, 67:25, 70:5, 70:9, 85:12, 85:20, 86:4, 93:17, 94:17, 94:21, 94:24, 97:17, 99:15, 99:17, 100:15, 102:7, 103:13, 120:24, 123:1, 123:6, 123:11, 157:10, 160:16, 160:25, 161:3, 161:10, 165:11, 197:7, 199:7, 199:11, 2:11, 2:15</p> <p>LePard's [2] - 158:6, 187:20</p> <p>Lepine [24] - 25:6, 47:24, 48:7, 101:9, 102:2, 102:3, 103:16, 106:15, 107:2, 107:11, 129:15, 129:20, 156:14, 156:21, 157:1, 158:20, 161:13, 179:16, 180:18, 181:3, 196:6, 196:13, 208:8, 208:14</p> <p>Lepine's [1] - 157:23</p> <p>less [1] - 84:18</p> <p>Lethbridge [11] - 13:19, 13:21, 78:16, 109:17, 110:10, 138:16, 184:13, 185:3, 185:17, 186:14, 189:22</p> <p>letter [23] - 1:13, 1:21, 30:10, 32:23, 79:8, 81:17, 81:18, 81:24, 81:25, 82:6, 82:7, 82:21, 154:23, 155:23, 177:8, 177:13, 190:4, 190:14, 190:17, 194:12, 206:23</p>	<p>letters [3] - 88:20, 181:23, 182:15</p> <p>level [2] - 17:24, 207:5</p> <p>levelled [1] - 100:21</p> <p>liaise [1] - 126:12</p> <p>liaising [1] - 204:12</p> <p>Liaison [3] - 80:2, 80:7, 81:15</p> <p>licence [2] - 140:7, 140:21</p> <p>Lidguerre [1] - 76:24</p> <p>Lidguerre's [1] - 141:6</p> <p>lie [1] - 121:23</p> <p>life [3] - 23:14, 65:10, 192:16</p> <p>light [2] - 169:20, 173:7</p> <p>lightly [1] - 75:9</p> <p>likelihood [1] - 119:1</p> <p>likeness [1] - 32:5</p> <p>line [9] - 10:19, 54:16, 55:10, 55:14, 79:10, 93:11, 123:20, 124:22, 191:20</p> <p>line-up [2] - 55:10, 55:14</p> <p>lined [1] - 146:21</p> <p>lines [2] - 120:4, 129:14</p> <p>linkages [1] - 159:18</p> <p>list [8] - 1:16, 41:11, 142:9, 182:3, 182:6, 193:6, 201:21, 214:16</p> <p>Listen [4] - 39:25, 64:10, 104:22, 139:15</p> <p>listened [4] - 103:4, 150:22, 190:22, 217:18</p> <p>listening [2] - 12:16, 157:10</p> <p>lists [7] - 34:14, 178:9, 181:23, 181:24, 182:15, 182:17</p> <p>lived [2] - 52:8, 142:23</p> <p>lives [2] - 7:4, 79:5</p> <p>living [1] - 192:9</p> <p>loaded [1] - 165:18</p> <p>locate [2] - 6:3, 183:4</p> <p>location [1] - 119:14</p> <p>locations [1] - 57:8</p> <p>locks [1] - 152:23</p> <p>lodgings [1] - 53:3</p> <p>log [20] - 34:24, 47:25, 49:24, 50:4, 117:3, 117:21, 127:5, 127:6, 127:8, 127:15, 127:20, 128:3, 128:20,</p>	<p>129:5, 132:6, 136:6, 137:19, 153:24, 154:5, 154:6</p> <p>logbook [3] - 56:12, 116:21, 136:3</p> <p>look [33] - 18:24, 28:10, 32:10, 33:10, 33:12, 34:6, 37:7, 39:6, 40:10, 43:19, 43:21, 46:4, 51:19, 52:11, 65:14, 70:1, 70:15, 76:19, 77:20, 88:23, 95:4, 100:6, 100:7, 127:21, 129:8, 149:2, 163:18, 177:11, 186:4, 188:21, 190:3, 190:17, 192:5</p> <p>looked [16] - 19:11, 32:6, 34:6, 34:13, 51:8, 51:13, 79:20, 79:21, 82:18, 103:1, 103:2, 135:1, 141:6, 152:20, 166:4, 198:23</p> <p>looking [17] - 31:5, 32:2, 53:21, 56:19, 83:10, 95:24, 107:17, 114:17, 119:4, 135:2, 139:16, 139:23, 150:14, 150:20, 154:12, 166:11, 166:18</p> <p>looks [9] - 5:22, 43:24, 46:20, 72:9, 130:3, 178:5, 182:19, 184:2, 219:21</p> <p>loose [1] - 206:4</p> <p>Lori [17] - 3:5, 54:18, 60:20, 101:23, 101:25, 102:4, 114:9, 116:6, 122:4, 154:20, 161:11, 161:13, 163:15, 178:4, 178:19, 181:14, 3:8</p> <p>losing [2] - 103:7, 161:7</p> <p>loss [2] - 23:19, 23:20</p> <p>loud [1] - 121:20</p> <p>love [1] - 83:3</p> <p>loved [2] - 16:22, 203:25</p> <p>lower [1] - 171:20</p> <p>Lower [1] - 173:21</p> <p>lowers [1] - 104:4</p> <p>Lowman [3] - 137:20, 137:21, 137:24</p> <p>Ltd [1] - 224:12</p>
--	--	--	---	--

<p>ludicrous ^[1] - 121:21 lunch ^[1] - 86:23 Lynn ^[1] - 70:8</p>	<p>37:8, 37:14, 76:16, 97:3, 101:11, 101:24, 102:17, 103:17, 117:10, 127:8, 139:22, 161:12, 163:22, 178:15, 182:9, 183:3</p>	<p>214:10, 215:7 MCS ^[5] - 22:16, 22:17, 112:19, 191:3, 195:15 meal ^[1] - 72:9 meals ^[1] - 120:7 mean ^[92] - 3:21, 14:19, 18:2, 23:18, 27:23, 30:2, 35:2, 42:2, 49:10, 49:12, 49:23, 52:18, 52:24, 53:1, 53:4, 55:21, 56:6, 58:1, 58:17, 63:5, 63:21, 64:4, 64:7, 65:5, 65:12, 65:14, 65:23, 66:2, 66:5, 66:12, 69:13, 70:21, 71:25, 72:5, 74:6, 74:14, 74:23, 75:3, 92:3, 93:5, 93:8, 95:4, 98:15, 99:11, 104:16, 114:3, 120:4, 121:5, 123:4, 124:3, 125:5, 125:15, 126:25, 128:13, 131:11, 135:22, 141:24, 142:10, 149:8, 154:1, 158:3, 158:7, 163:8, 164:11, 165:12, 166:18, 167:1, 174:6, 175:10, 183:5, 184:9, 184:13, 185:7, 188:9, 190:9, 192:7, 192:24, 193:1, 193:13, 194:25, 195:24, 196:17, 199:10, 203:15, 204:6, 204:9, 205:12, 205:15, 205:24 meaning ^[4] - 54:10, 54:11, 80:7, 153:5 means ^[10] - 4:9, 7:12, 47:2, 74:13, 90:14, 117:24, 157:3, 157:24, 158:2, 184:24 meant ^[1] - 44:6 measure ^[1] - 73:15 measurements ^[1] - 73:15 measures ^[1] - 56:11 media ^[10] - 15:17, 56:13, 57:3, 118:23, 131:3, 191:21, 192:2, 192:3, 192:12 meet ^[4] - 109:1, 112:10, 117:10,</p>	<p>118:4 meeting ^[44] - 30:17, 34:8, 34:15, 34:22, 34:24, 54:3, 57:9, 57:21, 63:16, 106:1, 106:4, 106:13, 108:2, 108:7, 108:14, 108:17, 109:2, 109:20, 109:23, 110:18, 111:1, 112:13, 114:15, 116:21, 116:23, 117:13, 117:15, 117:16, 118:8, 119:25, 120:1, 120:3, 120:10, 130:1, 130:22, 131:6, 131:15, 158:23, 163:17, 163:21, 167:3, 179:2, 182:11, 207:17 meetings ^[23] - 4:20, 25:9, 30:4, 34:17, 42:25, 45:15, 51:23, 65:21, 98:3, 107:23, 108:20, 112:8, 112:11, 112:15, 112:19, 113:9, 113:19, 115:11, 131:18, 135:9, 156:23, 163:19, 170:22 meets ^[1] - 20:18 member ^[9] - 4:25, 12:2, 13:20, 30:25, 82:17, 116:7, 172:6, 172:13, 222:21 members ^[17] - 5:1, 24:14, 68:19, 69:10, 91:21, 108:3, 108:4, 120:12, 135:6, 174:20, 175:14, 176:4, 181:11, 181:24, 181:25, 185:17, 223:5 memo ^[14] - 26:9, 36:16, 59:1, 59:3, 59:6, 60:16, 76:2, 76:6, 77:20, 78:5, 78:22, 106:24, 152:19, 206:9 memorandum ^[3] - 152:8, 154:16, 164:25 memorandums ^[1] - 154:9 memory ^[3] - 95:23, 108:11, 201:20 memos ^[2] - 59:5,</p>	<p>92:18 Menard ^[2] - 60:13 mention ^[5] - 18:5, 19:9, 35:7, 120:6, 140:25 mentioned ^[13] - 6:14, 10:22, 17:17, 20:4, 45:21, 45:25, 52:4, 57:12, 65:3, 119:9, 152:17, 169:2, 169:4 merely ^[1] - 147:10 merit ^[2] - 217:14, 217:20 message ^[1] - 172:14 Messrs ^[2] - 3:12, 4:14 met ^[5] - 5:20, 6:4, 166:20, 169:16, 182:7 method ^[1] - 51:22 methodology ^[1] - 160:24 methods ^[1] - 77:1 mic ^[1] - 88:3 microphone ^[1] - 89:1 microphones ^[1] - 8:9 mid ^[1] - 180:24 mid-2000 ^[2] - 157:19, 157:20 mid-March ^[1] - 180:24 middle ^[3] - 97:20, 130:3, 177:21 might ^[24] - 4:13, 20:11, 29:7, 29:8, 30:5, 32:6, 35:3, 53:9, 72:17, 74:19, 76:12, 91:22, 114:1, 118:11, 119:15, 119:24, 125:22, 137:5, 143:7, 148:24, 149:22, 185:8, 216:10 Mike ^[8] - 3:7, 81:1, 142:2, 142:6, 142:15, 167:4, 193:25, 3:10 mind ^[15] - 48:5, 54:2, 58:4, 64:16, 84:24, 95:15, 200:12, 208:25, 215:25, 219:22, 220:4, 220:5, 220:7, 220:12, 222:3 mindset ^[3] - 96:16, 99:10, 99:13 mine ^[4] - 31:2, 88:24, 89:2, 89:3 mines ^[1] - 88:24 mini ^[2] - 135:9, 201:15</p>
---	--	---	--	--

<p>minimize ^[1] - 43:16</p> <p>minute ^[6] - 16:8, 104:1, 144:21, 148:6, 162:4, 186:8</p> <p>minutes ^[19] - 27:5, 61:22, 84:14, 84:15, 84:20, 85:5, 87:18, 87:22, 99:6, 112:15, 125:4, 131:7, 135:11, 144:3, 144:4, 162:16, 168:5, 203:6</p> <p>minutiae ^[2] - 30:7, 115:12</p> <p>misconduct ^[2] - 148:14</p> <p>misdirected ^[1] - 147:7</p> <p>missed ^[1] - 185:18</p> <p>Missing ^[44] - 4:17, 9:24, 12:19, 13:1, 15:19, 16:19, 21:14, 21:25, 22:20, 24:8, 26:6, 34:15, 50:23, 57:13, 59:7, 59:14, 62:13, 79:3, 80:9, 80:13, 91:2, 96:1, 98:3, 108:3, 112:8, 121:25, 127:7, 142:9, 142:10, 160:22, 167:19, 168:17, 172:20, 177:3, 178:8, 184:6, 188:16, 193:5, 201:22, 202:19, 206:19, 207:9, 3:14, 3:17</p> <p>missing ^[71] - 14:14, 14:23, 15:2, 15:4, 16:2, 22:15, 25:1, 28:16, 30:21, 31:3, 31:17, 32:13, 40:1, 40:4, 40:5, 40:7, 47:14, 51:13, 52:5, 52:14, 52:22, 53:13, 56:2, 58:10, 73:4, 80:14, 80:19, 80:20, 96:10, 96:16, 96:18, 96:23, 96:24, 97:1, 99:2, 99:4, 114:1, 139:16, 141:16, 141:23, 144:10, 164:20, 166:12, 166:15, 166:17, 167:11, 167:12, 169:9, 170:14, 173:2, 186:19, 186:20, 186:21, 186:23, 187:4, 187:6, 187:8,</p>	<p>187:10, 187:14, 187:22, 190:16, 194:10, 194:16, 195:8, 195:16, 195:18, 195:21, 200:11, 206:8</p> <p>missings ^[12] - 32:3, 32:6, 58:5, 58:6, 58:24, 80:16, 186:2, 186:10, 187:16, 187:24, 193:22, 193:23</p> <p>mistake ^[3] - 65:6, 65:8, 192:5</p> <p>mistakes ^[3] - 71:23, 151:24</p> <p>mob ^[1] - 12:3</p> <p>mode ^[2] - 71:13, 118:16</p> <p>modify ^[1] - 182:12</p> <p>moment ^[4] - 30:9, 67:4, 143:7, 157:13</p> <p>moments ^[1] - 4:4</p> <p>Mona ^[1] - 167:11</p> <p>money ^[3] - 53:2, 70:22, 72:7</p> <p>monitored ^[1] - 174:2</p> <p>monitoring ^[2] - 174:12, 175:7</p> <p>month ^[7] - 133:11, 177:5, 220:23, 221:4, 221:12, 221:18</p> <p>months ^[9] - 3:21, 7:10, 57:11, 92:11, 177:2, 177:3, 186:17</p> <p>morning ^[16] - 5:4, 28:8, 46:24, 61:21, 81:6, 92:21, 97:24, 105:11, 105:22, 106:2, 132:25, 142:11, 142:22, 152:17, 169:12, 223:22</p> <p>Most ^[1] - 32:17</p> <p>most ^[11] - 13:6, 23:8, 74:18, 89:25, 92:24, 92:25, 156:20, 162:7, 189:8, 205:25, 222:20</p> <p>motivations ^[1] - 67:22</p> <p>Motorcycle ^[4] - 170:18, 173:24, 174:3, 175:3</p> <p>Moulton ^[1] - 208:4</p> <p>Mounted ^[2] - 205:9, 205:12</p> <p>move ^[5] - 96:2, 194:22, 205:12,</p>	<p>205:23, 206:1</p> <p>moved ^[3] - 12:3, 13:21, 96:2</p> <p>moves ^[1] - 74:4</p> <p>moving ^[1] - 120:14</p> <p>MPRT ^[1] - 59:14</p> <p>MR ^[743] - 1:5, 1:10, 1:16, 3:11, 3:16, 3:19, 4:9, 5:9, 5:14, 6:8, 6:14, 6:21, 6:25, 7:4, 7:10, 7:15, 7:19, 8:3, 8:13, 8:17, 8:20, 8:21, 9:2, 9:4, 9:6, 9:10, 10:21, 11:3, 11:9, 11:12, 11:15, 11:17, 12:13, 12:15, 13:2, 14:6, 14:9, 14:12, 14:16, 16:2, 16:5, 16:10, 16:12, 16:15, 16:21, 17:4, 17:6, 17:12, 17:15, 17:21, 17:23, 18:7, 18:14, 18:17, 19:2, 19:7, 19:14, 19:20, 19:23, 19:25, 20:1, 20:5, 20:8, 20:14, 21:9, 21:12, 21:15, 22:3, 22:10, 22:22, 24:2, 24:9, 24:12, 24:16, 24:22, 25:13, 25:15, 25:17, 25:22, 26:4, 26:8, 26:12, 26:13, 26:20, 26:23, 26:25, 27:8, 27:10, 27:25, 28:6, 29:3, 29:6, 29:12, 29:24, 30:1, 30:13, 30:16, 31:12, 31:16, 32:13, 32:16, 32:19, 32:22, 33:1, 33:9, 33:14, 33:18, 33:19, 33:20, 33:22, 33:25, 34:1, 34:3, 34:5, 34:9, 34:10, 34:13, 35:5, 35:10, 36:5, 36:8, 36:13, 37:1, 37:2, 37:3, 37:12, 37:16, 37:18, 37:22, 38:2, 38:5, 38:12, 38:17, 38:20, 38:23, 38:25, 39:16, 39:18, 41:10, 41:18, 41:19, 41:21, 41:23, 43:5, 43:6, 43:7, 43:13, 43:16, 43:22, 43:25, 44:7, 44:10, 44:12, 44:14, 44:17, 44:22, 45:4, 45:25, 46:4, 46:9, 46:11, 46:13, 46:18, 46:22, 46:25, 47:4,</p>	<p>47:16, 48:8, 48:23, 49:9, 50:7, 50:8, 50:11, 50:15, 50:18, 50:24, 51:3, 51:21, 52:7, 52:24, 53:17, 53:19, 54:9, 54:11, 54:12, 54:24, 55:6, 55:15, 56:12, 57:16, 57:20, 58:5, 58:13, 59:1, 59:18, 59:23, 60:3, 60:7, 60:11, 60:12, 60:14, 60:15, 60:24, 60:25, 61:7, 61:11, 62:1, 62:7, 62:15, 62:16, 62:20, 63:7, 63:10, 63:12, 63:21, 64:1, 64:4, 64:14, 64:22, 65:2, 65:5, 65:14, 66:3, 66:21, 66:23, 66:24, 67:9, 70:10, 70:13, 70:18, 70:20, 71:22, 71:25, 72:21, 73:9, 73:10, 74:6, 74:17, 74:23, 75:5, 75:17, 76:7, 76:9, 76:10, 76:13, 76:21, 77:7, 77:10, 77:19, 77:23, 77:25, 78:1, 78:7, 78:12, 78:23, 79:3, 79:8, 79:19, 80:8, 80:12, 81:17, 83:13, 84:6, 84:8, 84:9, 84:12, 85:3, 85:4, 85:6, 85:17, 85:20, 85:24, 86:9, 86:14, 86:19, 86:21, 87:1, 87:2, 87:4, 87:13, 87:20, 88:24, 89:2, 89:3, 89:8, 89:12, 89:17, 90:18, 91:5, 91:7, 91:13, 91:24, 92:8, 92:20, 92:25, 93:4, 93:13, 93:15, 93:19, 93:20, 93:23, 93:24, 94:3, 94:10, 94:12, 94:16, 95:12, 95:14, 95:18, 97:18, 97:23, 98:2, 98:6, 98:10, 98:12, 98:20, 99:17, 100:3, 100:18, 100:19, 100:22, 100:24, 100:25, 102:3, 102:5, 103:14, 104:17, 105:9, 105:13, 105:23, 105:25, 106:8, 106:14, 106:19, 106:22, 107:5, 107:8, 108:6, 108:8,</p>	<p>108:13, 108:17, 108:19, 108:22, 108:24, 109:23, 110:21, 110:23, 111:1, 111:4, 111:21, 111:24, 112:1, 112:5, 112:11, 112:17, 112:21, 112:24, 113:13, 113:17, 114:3, 114:11, 114:14, 114:16, 115:2, 115:25, 116:2, 116:5, 116:9, 116:12, 116:13, 116:15, 116:16, 116:25, 117:2, 117:6, 117:8, 117:11, 117:14, 117:19, 117:25, 118:3, 119:7, 119:9, 119:12, 119:21, 120:2, 120:13, 120:23, 121:3, 121:5, 121:13, 122:2, 122:3, 122:9, 122:13, 122:19, 122:24, 123:7, 124:5, 125:22, 126:5, 126:10, 126:14, 126:25, 127:8, 127:12, 127:18, 127:25, 128:7, 128:10, 128:13, 128:24, 129:4, 129:6, 129:9, 129:18, 130:6, 130:8, 130:12, 130:18, 130:23, 131:5, 131:8, 131:11, 131:23, 132:10, 132:17, 132:23, 133:13, 133:21, 134:9, 134:11, 134:18, 135:15, 135:18, 135:22, 136:3, 136:9, 136:13, 136:17, 137:2, 137:4, 137:23, 138:6, 138:15, 138:24, 139:1, 139:11, 139:13, 141:4, 141:24, 143:10, 143:12, 144:10, 144:20, 144:22, 145:5, 145:7, 145:9, 145:12, 145:14, 146:18, 146:20, 146:23, 147:1,</p>
--	--	---	---	---

147:5, 147:14, 147:19, 147:22, 148:1, 148:5, 148:7, 148:17, 148:20, 149:3, 149:15, 149:25, 150:21, 150:25, 152:2, 152:4, 152:5, 152:18, 153:2, 153:10, 153:13, 153:21, 153:23, 154:4, 154:8, 154:13, 155:6, 155:13, 156:3, 156:12, 156:18, 157:14, 157:19, 157:22, 158:1, 158:11, 158:12, 158:14, 158:16, 158:17, 158:22, 160:4, 160:9, 160:11, 160:14, 160:18, 160:19, 161:2, 164:3, 164:7, 164:15, 164:16, 164:23, 165:10, 166:9, 168:21, 168:24, 168:25, 169:1, 169:25, 170:2, 170:4, 170:7, 170:11, 170:15, 170:16, 170:19, 170:21, 171:1, 171:9, 171:11, 171:13, 171:16, 171:22, 172:3, 172:4, 172:17, 172:18, 172:22, 172:23, 173:1, 173:8, 173:11, 173:15, 173:17, 173:19, 173:22, 174:6, 174:14, 174:17, 175:10, 175:19, 176:1, 176:9, 176:13, 176:15, 176:16, 176:18, 177:11, 177:19, 177:25, 178:3, 178:14, 178:24, 179:2, 179:8, 179:11, 179:18, 179:20, 179:21, 179:23, 180:2, 180:4, 180:7, 180:12, 180:22, 180:25, 181:3, 181:10, 181:15, 181:16, 181:18, 181:19, 182:2, 182:7, 182:18,	182:21, 183:1, 183:6, 183:10, 183:16, 183:20, 183:21, 183:22, 183:23, 184:1, 184:8, 184:20, 184:23, 185:1, 185:10, 185:12, 185:22, 185:25, 186:25, 187:3, 187:6, 187:11, 187:15, 187:19, 188:1, 188:7, 188:10, 188:13, 188:17, 190:3, 191:8, 191:9, 191:12, 191:22, 191:23, 191:25, 193:9, 193:17, 194:5, 194:19, 194:20, 194:25, 195:18, 196:9, 196:11, 196:15, 196:25, 197:2, 197:3, 197:8, 197:9, 197:12, 197:13, 197:18, 197:21, 198:6, 198:8, 198:15, 198:17, 198:19, 198:20, 199:2, 199:4, 199:12, 199:14, 199:16, 199:18, 199:22, 199:25, 200:7, 201:6, 201:20, 201:23, 202:1, 202:3, 202:9, 202:17, 202:25, 203:2, 203:6, 203:8, 203:14, 203:18, 203:19, 203:25, 204:5, 204:20, 204:25, 205:6, 205:23, 206:12, 206:16, 206:23, 207:2, 207:13, 207:24, 208:2, 208:9, 208:12, 208:17, 208:22, 209:6, 209:16, 209:17, 209:21, 209:24, 211:1, 211:3, 211:5, 211:7, 211:9, 211:12, 211:24, 212:1, 212:23, 212:25, 213:4, 213:9, 213:21, 215:3, 215:20, 216:17, 216:22, 216:25, 217:3, 217:18,	217:22, 218:1, 218:4, 218:8, 218:10, 218:19, 218:22, 219:2, 219:13, 219:20, 220:1, 220:11, 220:13, 220:22, 221:2, 221:9, 221:15, 221:21, 221:23, 222:11, 222:14, 222:20, 223:2, 223:4, 223:15, 223:17 MS ^[15] - 88:2, 88:5, 88:7, 88:10, 97:7, 97:14, 105:20, 108:15, 168:10, 168:14, 212:4, 212:10, 212:16, 214:10, 214:23 much-talked ^[1] - 153:18 much-talked-about ^[1] - 153:15 multiple ^[2] - 98:5, 142:23 mundane ^[1] - 115:18 murder ^[4] - 89:10, 90:1, 111:4, 142:23 Murder ^[1] - 12:6 murdered ^[10] - 15:5, 40:5, 52:23, 56:16, 98:1, 99:1, 100:7, 144:11, 193:23, 205:24 murders ^[3] - 180:1, 180:6, 180:7 must ^[2] - 144:24, 149:11 myriad ^[1] - 70:23 mysterious ^[1] - 56:10 mystery ^[1] - 149:9	59:20, 70:7, 160:1, 169:16 names ^[3] - 11:1, 26:18, 32:20 Nancy ^[6] - 2:3, 2:4, 2:6, 2:7 Narbonne ^[4] - 84:14, 144:2, 212:5, 214:11 NARBONNE ^[2] - 214:10, 214:23 narrow ^[5] - 31:16, 31:22, 31:23, 42:19, 202:25 nasty ^[1] - 190:12 nature ^[3] - 64:9, 92:6, 134:24 near ^[3] - 22:22, 99:11, 158:7 near-death ^[1] - 158:7 nearly ^[1] - 7:6 necessarily ^[1] - 217:13 necessary ^[4] - 7:17, 203:12, 221:15, 222:16 need ^[26] - 18:19, 27:6, 36:10, 84:24, 87:1, 87:11, 87:17, 89:1, 106:25, 149:1, 150:9, 150:13, 151:19, 163:4, 202:21, 202:24, 205:3, 207:3, 211:20, 219:7, 219:10, 219:13, 219:22, 222:5, 222:13, 222:19 needed ^[22] - 21:19, 22:4, 27:25, 28:14, 28:16, 28:20, 32:8, 36:12, 51:4, 56:11, 73:16, 111:17, 129:23, 134:1, 134:3, 135:13, 138:17, 138:23, 140:19, 191:3 needs ^[7] - 18:25, 67:8, 75:22, 76:1, 85:4, 147:5, 207:6 negative ^[2] - 91:11, 91:13 neglected ^[1] - 168:10 negligence ^[1] - 162:1 neighbourhoods ^[1] - 192:10 nervous ^[1] - 4:10 network ^[1] - 175:12 never ^[35] - 5:20, 23:15, 23:20, 34:17, 47:20, 58:20, 60:11,	60:12, 60:14, 60:15, 81:25, 82:18, 93:4, 93:10, 110:23, 121:2, 123:18, 124:6, 138:10, 139:4, 143:3, 146:11, 155:2, 166:9, 174:6, 187:24, 193:3, 194:5, 194:11, 196:23, 199:7, 199:8, 199:18, 214:20 new ^[8] - 1:17, 59:8, 86:9, 86:10, 142:2, 183:19, 187:16 New ^[1] - 12:3 newly ^[1] - 90:11 next ^[16] - 36:6, 37:6, 59:12, 75:8, 75:11, 83:19, 118:22, 144:2, 144:20, 162:18, 163:14, 168:11, 193:11, 213:21, 213:22 nice ^[2] - 57:5, 138:19 Niedermier ^[56] - 19:24, 20:11, 23:8, 23:10, 23:11, 28:12, 36:7, 40:15, 42:17, 44:24, 48:3, 48:19, 48:24, 49:16, 55:22, 64:22, 75:20, 78:14, 78:15, 78:21, 83:14, 83:21, 83:23, 96:22, 108:24, 109:1, 109:8, 113:11, 125:23, 126:2, 127:24, 128:9, 130:4, 130:9, 130:15, 130:25, 131:10, 131:25, 135:3, 137:8, 139:2, 153:24, 177:17, 183:13, 183:23, 184:16, 184:25, 185:1, 185:21, 188:5, 203:20, 203:23, 204:10, 204:16, 207:11, 207:14 Niedermier's ^[2] - 20:3, 110:6 night ^[2] - 81:21, 124:25 nine ^[1] - 100:9 NO ^[26] - 2:2, 2:6, 2:10, 2:14, 2:17, 2:20, 2:23, 3:1, 3:4, 3:7, 26:5, 168:16,
xviii				

<p>1:3, 2:3, 2:5, 2:9, 2:13, 2:17, 2:20, 2:23, 3:1, 3:4, 3:7, 3:10, 3:13, 3:16</p> <p>no" [1] - 121:5</p> <p>nobody [7] - 21:3, 122:24, 134:18, 204:2, 204:18, 221:1, 221:3</p> <p>non [3] - 72:17, 74:18, 140:12</p> <p>non-police [2] - 72:17, 74:18</p> <p>non-stop [1] - 140:12</p> <p>none [4] - 154:4, 163:19, 198:25, 210:17</p> <p>noon [1] - 97:5</p> <p>North [5] - 20:21, 34:25, 76:22, 106:3, 141:5</p> <p>note [8] - 26:21, 47:3, 108:9, 116:23, 128:20, 159:18, 197:14, 197:15</p> <p>notebook [4] - 44:18, 46:6, 136:15, 166:21</p> <p>notebooks [2] - 95:24, 154:5</p> <p>noted [2] - 95:20, 128:24</p> <p>notes [36] - 33:15, 34:22, 35:2, 35:7, 36:2, 43:20, 44:10, 44:16, 44:17, 46:16, 105:15, 105:21, 115:23, 116:4, 116:8, 117:15, 117:18, 117:19, 121:10, 127:14, 127:16, 127:19, 128:6, 128:11, 128:14, 135:12, 135:14, 135:17, 135:21, 136:4, 136:5, 136:12, 136:19, 153:23, 163:21, 213:25</p> <p>nothing [8] - 36:9, 78:3, 84:20, 133:21, 162:20, 198:3, 213:12, 218:12</p> <p>notice [2] - 117:19, 169:21</p> <p>noticed [7] - 34:21, 39:19, 116:17, 137:7, 137:11, 170:14, 209:3</p> <p>novel [1] - 213:12</p> <p>November [7] -</p>	<p>110:12, 112:17, 137:23, 180:8, 180:10, 180:19, 216:17</p> <p>NR [1] - 26:2</p> <p>NR [1] - 88:16</p> <p>nth [1] - 66:6</p> <p>Number [3] - 44:5, 44:7, 143:13</p> <p>number [17] - 1:11, 1:22, 1:23, 10:24, 33:24, 44:7, 54:13, 96:22, 114:12, 150:18, 171:10, 172:14, 176:6, 178:10, 198:22, 211:10, 216:7</p> <p>numbers [4] - 1:18, 32:21, 32:22, 129:11</p> <p>numerous [1] - 109:12</p> <p>nutshell [1] - 74:6</p> <p>nylons [1] - 201:12</p>	<p>108:25, 110:2, 130:19, 166:20, 167:4</p> <p>odd [5] - 21:5, 27:21, 56:3, 94:16, 112:12</p> <p>OF [1] - 1:2</p> <p>offence [1] - 82:5</p> <p>Offence [2] - 101:8, 159:23</p> <p>offender [2] - 17:19, 35:18</p> <p>offenders [2] - 90:20, 90:25</p> <p>offer [3] - 64:25, 73:6, 77:8</p> <p>offering [1] - 214:3</p> <p>Office [2] - 201:4, 201:18</p> <p>office [22] - 27:15, 35:15, 53:24, 82:21, 82:23, 96:4, 107:16, 107:24, 121:22, 122:1, 140:17, 152:25, 153:7, 156:21, 167:21, 180:15, 197:20, 199:11, 199:14, 199:15, 208:18</p> <p>officer [10] - 11:19, 13:21, 14:11, 22:8, 63:5, 71:7, 71:14, 140:13, 166:8, 210:23</p> <p>Officer [8] - 8:18, 49:8, 54:25, 59:17, 62:17, 72:19, 73:24, 209:5</p> <p>officers [23] - 3:19, 11:6, 12:8, 13:5, 23:16, 23:17, 62:19, 63:11, 63:12, 63:18, 67:1, 72:3, 72:17, 73:7, 81:14, 90:19, 91:11, 92:13, 185:15, 200:23, 205:10, 205:12, 206:1</p> <p>official [1] - 177:17</p> <p>Official [1] - 224:10</p> <p>officials [1] - 175:7</p> <p>offline [1] - 175:22</p> <p>often [8] - 36:20, 45:11, 63:19, 67:16, 68:22, 72:6, 112:10, 131:9</p> <p>Olajide [2] - 111:4, 119:22</p> <p>old [3] - 68:23, 87:17, 139:1</p> <p>Olympics [2] - 10:15,</p>	<p>136:1</p> <p>on] [1] - 172:15</p> <p>once [8] - 24:11, 25:10, 28:5, 49:17, 87:10, 100:8, 170:14, 207:2</p> <p>one [104] - 4:22, 11:20, 12:1, 13:11, 19:4, 20:9, 20:15, 21:5, 22:11, 23:8, 24:17, 27:8, 29:8, 31:18, 32:13, 33:9, 39:14, 40:11, 40:21, 40:25, 41:2, 41:13, 41:15, 44:22, 44:24, 45:17, 49:12, 53:24, 58:8, 59:5, 59:10, 63:14, 67:13, 68:12, 72:24, 72:25, 73:23, 74:7, 80:20, 82:19, 84:13, 84:14, 84:16, 88:12, 88:13, 90:1, 96:5, 104:19, 108:8, 113:6, 113:18, 114:18, 117:17, 120:2, 121:14, 127:2, 127:22, 131:24, 132:18, 135:6, 136:10, 137:16, 139:8, 139:13, 140:7, 140:23, 148:24, 149:25, 155:14, 156:7, 156:9, 157:5, 159:12, 162:6, 162:10, 166:14, 169:3, 169:8, 170:8, 172:24, 181:17, 182:10, 186:3, 187:21, 188:3, 189:7, 194:8, 198:2, 208:6, 209:12, 210:16, 211:15, 214:24, 220:23, 221:2, 221:4</p> <p>ones [3] - 50:25, 99:5, 100:11</p> <p>ongoing [4] - 106:10, 141:22, 182:25, 187:25</p> <p>open [9] - 17:17, 48:5, 53:5, 53:8, 94:13, 131:21, 167:8, 200:9, 200:12</p> <p>opened [1] - 48:15</p> <p>opener [1] - 190:2</p> <p>operation [7] - 51:25, 56:13, 57:2, 118:11, 131:2, 175:2, 194:3</p> <p>operations [1] -</p>	<p>113:22</p> <p>operative [1] - 75:14</p> <p>operator [1] - 4:17</p> <p>opinion [6] - 68:3, 100:25, 161:16, 188:8, 192:17, 192:18</p> <p>Oppenheimer [1] - 47:7</p> <p>opportunity [16] - 42:19, 54:15, 78:1, 82:12, 85:8, 92:11, 92:17, 123:19, 143:22, 145:14, 146:2, 155:18, 165:23, 213:18, 215:8, 216:15</p> <p>opposed [11] - 55:15, 56:7, 99:22, 135:5, 206:20, 215:6, 215:17, 216:22, 216:25, 217:16, 217:18</p> <p>opposition [1] - 217:21</p> <p>option [2] - 200:9, 214:1</p> <p>Order [1] - 72:11</p> <p>order [12] - 1:4, 6:8, 7:22, 27:6, 61:25, 87:25, 97:12, 115:12, 168:8, 217:12, 219:11, 219:23</p> <p>ordered [1] - 90:24</p> <p>organization [3] - 5:23, 51:2, 174:13</p> <p>organizational [1] - 47:25</p> <p>organizations [1] - 176:22</p> <p>organized [5] - 9:21, 9:22, 10:5, 23:2, 173:20</p> <p>Organized [3] - 9:25, 173:18, 175:5</p> <p>original [2] - 111:8, 158:18</p> <p>originals [1] - 136:2</p> <p>originate [1] - 184:19</p> <p>otherwise [5] - 61:17, 155:22, 176:23, 221:23, 223:15</p> <p>ought [5] - 199:21, 212:2, 216:13, 216:14, 221:11</p> <p>ourselves [4] - 48:11, 61:18, 107:14, 184:12</p> <p>Outlaw [1] - 170:18</p>
---	--	--	---	---

<p>outline [2] - 49:3, 75:19</p> <p>outlines [1] - 134:12</p> <p>outrageous [1] - 144:17</p> <p>outright [1] - 121:23</p> <p>outset [2] - 164:6, 191:6</p> <p>outside [3] - 51:1, 118:24, 142:11</p> <p>overall [1] - 202:14</p> <p>overseeing [1] - 25:5</p> <p>oversight [3] - 69:17, 69:22, 70:2</p> <p>overtime [2] - 63:10, 159:19</p> <p>overwhelming [3] - 40:16, 42:18, 83:16</p> <p>Owen [4] - 159:22, 160:7, 160:9, 160:10</p> <p>own [8] - 15:14, 51:1, 54:18, 54:19, 79:13, 84:4, 153:8, 215:13</p> <p>owned [3] - 174:23, 175:1, 176:3</p> <p style="text-align: center;">P</p> <p>P.M [4] - 97:11, 168:6, 168:7, 223:23</p> <p>PACE [1] - 132:1</p> <p>pack [6] - 42:24, 55:7, 55:12, 55:13, 131:12, 155:15</p> <p>Pack [2] - 38:10</p> <p>pack" [1] - 38:19</p> <p>package [5] - 30:19, 31:3, 80:4, 86:11, 116:18</p> <p>packs [9] - 38:14, 49:13, 50:9, 113:19, 119:20, 126:20, 127:2, 183:18, 187:2</p> <p>page [21] - 26:16, 32:10, 35:6, 43:21, 46:12, 46:19, 54:5, 77:21, 89:4, 102:7, 102:15, 106:5, 128:3, 129:10, 129:25, 130:20, 137:19, 154:19, 154:20, 171:18, 190:18</p> <p>PAGE [2] - 1:3, 2:3</p> <p>pager [2] - 32:21, 32:22</p> <p>pages [2] - 146:23, 171:5</p> <p>pair [3] - 12:24, 201:14, 201:16</p>	<p>paired [1] - 193:25</p> <p>Palace [1] - 174:23</p> <p>Palm [1] - 95:23</p> <p>Pandora's [2] - 97:2, 100:1</p> <p>Panel [2] - 26:7, 3:15</p> <p>panel [1] - 5:3</p> <p>panels [1] - 151:9</p> <p>papers [2] - 11:4, 44:19</p> <p>paragraph [10] - 76:4, 76:11, 76:13, 76:19, 143:13, 152:15, 152:23, 153:3, 154:20, 154:24</p> <p>paraphrase [1] - 169:7</p> <p>paraphrasing [1] - 109:21</p> <p>pardon [2] - 135:18, 198:6</p> <p>park [1] - 206:1</p> <p>parks [1] - 20:17</p> <p>part [28] - 12:21, 21:25, 24:17, 24:18, 25:7, 35:5, 50:23, 59:16, 62:13, 67:10, 69:15, 69:16, 70:8, 72:6, 73:7, 74:12, 89:14, 90:6, 135:23, 150:15, 164:2, 165:21, 174:4, 177:10, 195:1, 196:7, 210:10, 213:7</p> <p>partaking [1] - 63:2</p> <p>participant [1] - 143:17</p> <p>participants [3] - 210:5, 210:8, 210:16</p> <p>participated [1] - 93:16</p> <p>participation [3] - 68:21, 114:7, 181:6</p> <p>particular [11] - 14:3, 51:11, 91:19, 107:15, 114:25, 138:7, 169:15, 174:12, 177:15, 182:4, 183:8</p> <p>particularly [4] - 35:23, 45:5, 72:19, 114:22</p> <p>particulars [1] - 56:21</p> <p>parties [1] - 174:22</p> <p>partly [1] - 191:25</p> <p>partner [13] - 13:13, 15:22, 16:21, 25:5, 41:24, 42:14, 49:5, 122:14, 122:16, 122:18, 122:19,</p>	<p>142:2</p> <p>partner's [2] - 49:9</p> <p>partnered [1] - 13:14</p> <p>partnership [3] - 24:2, 24:4, 134:20</p> <p>parts [2] - 115:14, 186:13</p> <p>party [1] - 66:4</p> <p>passage [3] - 106:24, 107:5, 134:10</p> <p>passed [3] - 45:1, 129:15, 130:12</p> <p>passenger [1] - 201:10</p> <p>passing [1] - 45:6</p> <p>passion [1] - 125:9</p> <p>past [6] - 69:8, 71:11, 85:20, 90:10, 139:2, 164:17</p> <p>pat [2] - 115:20, 177:17</p> <p>Patricia [4] - 57:6, 118:25, 119:10, 166:12</p> <p>patrol [1] - 24:5</p> <p>Patrol [6] - 9:10, 81:4, 89:20, 111:6, 166:10, 205:1</p> <p>pattern [1] - 193:19</p> <p>Paul [2] - 35:20, 109:3</p> <p>Paulson [6] - 101:13, 109:4, 109:14, 110:3, 130:19, 139:4</p> <p>pavement [1] - 142:14</p> <p>paving [1] - 103:5</p> <p>PC [1] - 46:10</p> <p>PD [1] - 90:15</p> <p>people [44] - 14:22, 27:4, 27:25, 32:6, 33:24, 34:7, 39:1, 40:25, 50:1, 55:18, 56:1, 59:20, 59:22, 68:4, 73:20, 73:21, 82:5, 101:4, 101:18, 101:21, 111:17, 115:8, 118:17, 121:9, 125:6, 125:7, 125:20, 136:11, 150:9, 150:14, 161:6, 165:24, 165:25, 175:8, 183:4, 192:1, 192:8, 195:21, 200:19, 205:3, 205:24, 210:13, 216:3</p> <p>Peoples [1] - 13:20</p> <p>perceive [1] - 151:11</p> <p>perceived [1] - 58:12</p> <p>percent [4] - 13:9, 53:1, 72:13, 92:25</p>	<p>perception [3] - 91:22, 123:23, 179:5</p> <p>perceptions [1] - 91:11</p> <p>perfect [3] - 93:9, 190:10, 193:2</p> <p>perform [1] - 74:9</p> <p>performance [1] - 88:21</p> <p>perhaps [5] - 18:17, 18:23, 25:22, 48:16, 216:2</p> <p>period [7] - 56:1, 111:12, 177:5, 177:6, 204:16, 220:23, 221:12</p> <p>periodically [1] - 48:13</p> <p>periods [1] - 151:10</p> <p>permission [1] - 107:19</p> <p>permit [1] - 148:23</p> <p>permitted [1] - 216:19</p> <p>Person [1] - 59:14</p> <p>person [46] - 35:12, 35:18, 40:11, 55:25, 56:16, 57:1, 64:10, 64:14, 65:8, 65:14, 65:16, 65:19, 66:4, 66:22, 67:19, 71:5, 71:10, 71:16, 75:13, 91:23, 98:25, 99:5, 100:13, 101:1, 101:16, 101:22, 101:24, 102:14, 125:4, 138:4, 140:1, 141:11, 142:8, 142:18, 142:22, 152:16, 161:4, 165:15, 167:4, 188:17, 192:12, 193:2, 200:10, 212:17, 212:18</p> <p>person's [2] - 65:22, 139:20</p> <p>personal [3] - 82:5, 94:9</p> <p>personalities [1] - 66:12</p> <p>personality [1] - 60:19</p> <p>personally [1] - 154:1</p> <p>personnel [1] - 169:15</p> <p>persons [10] - 50:16, 139:7, 141:3, 162:7, 178:12, 178:15, 181:22, 182:16, 183:14, 193:7</p> <p>Persons [6] - 91:2, 184:6, 201:22, 202:19, 206:19,</p>	<p>207:9</p> <p>perspective [3] - 83:8, 160:22, 165:6</p> <p>persuading [1] - 204:13</p> <p>peruse [1] - 200:4</p> <p>perused [4] - 197:19, 199:11, 199:14</p> <p>Pete [1] - 14:18</p> <p>Peter [6] - 13:3, 13:13, 14:12, 16:10, 16:16, 16:22</p> <p>Phase [2] - 171:3, 171:7</p> <p>phase [4] - 58:15, 58:23, 59:8, 171:12</p> <p>Phil [1] - 166:21</p> <p>phone [4] - 16:20, 115:7, 172:14, 193:14</p> <p>phoned [4] - 16:17, 35:13, 110:5, 110:14</p> <p>Photo [2] - 38:10</p> <p>photo [28] - 4:24, 30:8, 32:5, 38:8, 38:14, 38:18, 38:19, 40:10, 41:25, 42:24, 49:12, 49:13, 50:9, 55:7, 55:9, 55:12, 55:13, 104:16, 113:18, 119:20, 126:20, 127:2, 131:12, 155:15, 155:17, 155:18, 183:17, 187:2</p> <p>photocopied [3] - 44:18, 153:6, 153:13</p> <p>photocopies [1] - 76:17</p> <p>photocopy [2] - 43:14, 136:7</p> <p>photograph [1] - 43:18</p> <p>photographs [1] - 50:16</p> <p>photos [21] - 32:3, 37:20, 38:9, 38:14, 39:1, 39:2, 39:11, 39:14, 39:17, 39:21, 40:13, 42:10, 42:15, 42:16, 43:8, 43:10, 50:20, 102:25, 103:2, 182:23, 184:4</p> <p>physical [3] - 198:7, 198:14, 209:7</p> <p>physically [1] - 208:17</p> <p>pick [6] - 45:20, 64:7, 114:6, 114:10, 114:11, 143:1</p> <p>picked [7] - 40:11,</p>
--	--	--	---	--

<p>40:15, 44:23, 131:24, 142:15, 204:9</p> <p>Pickerell [2] - 159:23, 160:8</p> <p>picking [6] - 41:4, 52:25, 53:25, 103:18, 103:19, 119:3</p> <p>picks [2] - 47:19, 113:25</p> <p>Pickton [67] - 4:21, 4:25, 11:2, 30:8, 37:20, 37:25, 38:7, 41:16, 41:17, 43:12, 43:25, 44:7, 44:23, 45:2, 45:6, 45:21, 45:25, 46:3, 48:1, 62:6, 100:5, 103:18, 106:10, 108:21, 108:23, 114:13, 114:14, 114:20, 136:14, 155:10, 156:4, 156:15, 156:17, 156:24, 157:1, 157:24, 158:21, 159:4, 159:16, 160:3, 160:6, 160:12, 160:15, 162:20, 163:22, 165:1, 174:20, 174:23, 175:9, 175:23, 190:6, 196:9, 196:12, 197:16, 197:19, 198:3, 199:9, 199:13, 199:15, 199:19, 199:24, 202:7, 202:22, 208:7, 208:21, 208:23, 209:9</p> <p>Pickton's [6] - 39:15, 41:8, 41:10, 41:11, 157:20, 163:8</p> <p>Picktons [3] - 172:8, 173:5, 176:3</p> <p>pickup [1] - 104:23</p> <p>Picton [2] - 96:8, 154:25</p> <p>Picton's [1] - 97:1</p> <p>picture [13] - 39:15, 41:8, 41:10, 41:11, 43:7, 43:12, 43:13, 69:1, 102:25, 109:13, 140:19, 140:20, 163:8</p> <p>pictures [13] - 40:18, 40:20, 41:2, 41:13, 51:7, 51:19, 81:11,</p>	<p>102:25, 104:18, 104:20, 118:6, 119:19, 168:2</p> <p>piece [1] - 138:13</p> <p>pieces [1] - 63:15</p> <p>pig [1] - 157:3</p> <p>Piggy's [1] - 174:23</p> <p>pimps [1] - 118:18</p> <p>pinpoint [1] - 157:16</p> <p>PIRS [1] - 13:25</p> <p>place [12] - 1:6, 53:9, 53:10, 54:4, 61:6, 133:7, 133:19, 133:21, 174:22, 176:10, 189:13, 197:22</p> <p>placed [1] - 79:22</p> <p>places [1] - 176:3</p> <p>plan [3] - 58:16, 83:4, 183:15</p> <p>planned [1] - 213:12</p> <p>plate [2] - 119:2, 140:7</p> <p>plates [2] - 181:24, 182:15</p> <p>play [3] - 7:24, 66:14, 172:9</p> <p>pleased [1] - 22:13</p> <p>plentiful [1] - 47:18</p> <p>plight [1] - 141:22</p> <p>plugging [1] - 167:9</p> <p>plus [1] - 126:18</p> <p>POI [4] - 13:15, 89:17, 114:12, 129:21</p> <p>point [35] - 7:12, 9:16, 9:25, 10:3, 10:14, 14:20, 18:3, 19:1, 19:2, 19:3, 28:21, 71:20, 89:18, 112:2, 113:6, 115:4, 128:19, 135:10, 140:8, 159:12, 167:24, 178:1, 178:24, 183:25, 184:15, 185:14, 185:18, 186:18, 198:2, 200:16, 201:24, 207:9, 215:5, 219:21</p> <p>points [1] - 97:20</p> <p>POIs [4] - 42:1, 55:15, 55:21, 140:23</p> <p>Police [18] - 8:18, 9:1, 11:7, 11:17, 11:20, 16:3, 35:13, 43:20, 47:13, 56:16, 109:17, 172:7, 181:12, 185:17, 189:23, 191:19, 205:20, 216:23</p> <p>police [48] - 9:9, 11:6,</p>	<p>11:19, 11:22, 13:7, 14:10, 15:14, 23:15, 23:16, 27:20, 39:6, 41:4, 50:22, 56:22, 62:19, 63:5, 63:11, 63:12, 63:18, 64:3, 67:1, 71:6, 71:13, 72:3, 72:13, 72:17, 73:7, 73:13, 74:18, 78:5, 78:7, 81:14, 83:3, 90:19, 90:23, 103:5, 138:2, 140:13, 164:18, 165:16, 166:8, 175:21, 175:24, 176:5, 176:6, 185:15, 200:17, 200:23</p> <p>policeman [2] - 80:25, 164:11</p> <p>policemen [2] - 80:3, 81:16</p> <p>policewoman [1] - 56:18</p> <p>policewomen [1] - 13:5</p> <p>policing [5] - 18:8, 56:7, 83:3, 150:24, 205:18</p> <p>Policing [2] - 201:4, 201:18</p> <p>policy [4] - 82:16, 150:6, 150:7, 150:18</p> <p>polygraph [1] - 139:3</p> <p>poor [1] - 123:23</p> <p>poorly [1] - 82:2</p> <p>Port [1] - 104:25</p> <p>portion [2] - 83:21, 196:21</p> <p>portions [2] - 25:1, 112:24</p> <p>Portland [3] - 52:8, 56:15, 139:22</p> <p>position [10] - 4:3, 6:5, 62:20, 64:12, 65:9, 79:23, 79:24, 124:16, 125:19, 193:10</p> <p>positions [1] - 9:8</p> <p>possessions [1] - 141:7</p> <p>possibility [2] - 45:21, 112:6</p> <p>possible [5] - 30:23, 98:25, 119:18, 173:4, 175:22</p> <p>possibly [6] - 28:22, 62:8, 71:10, 118:18, 153:16, 213:2</p> <p>post [1] - 110:23</p>	<p>posted [1] - 47:16</p> <p>poster [9] - 39:22, 40:2, 41:25, 42:5, 50:18, 51:6, 103:1, 104:17, 104:21</p> <p>posters [2] - 14:22, 50:16</p> <p>potential [10] - 47:12, 107:18, 155:1, 172:12, 182:24, 183:14, 192:2, 193:7, 202:9, 205:11</p> <p>potentially [1] - 10:25</p> <p>Powell [5] - 25:4, 54:7, 101:10, 101:11</p> <p>Powell's [1] - 105:15</p> <p>precipitously [1] - 222:4</p> <p>preclude [1] - 45:9</p> <p>predator [2] - 190:12, 192:9</p> <p>predators [1] - 138:17</p> <p>predict [2] - 86:2, 86:3</p> <p>predominantly [1] - 9:22</p> <p>prefer [2] - 164:20, 214:13</p> <p>preference [1] - 214:18</p> <p>premier [1] - 151:5</p> <p>premise [1] - 68:17</p> <p>preparation [3] - 153:14, 170:9</p> <p>prepare [1] - 213:18</p> <p>prepared [9] - 15:7, 77:17, 148:22, 148:25, 149:2, 149:4, 154:17, 159:11, 190:1</p> <p>preparing [1] - 216:4</p> <p>presence [1] - 209:7</p> <p>present [9] - 5:1, 10:21, 94:11, 106:12, 108:7, 108:8, 112:19, 184:22, 194:7</p> <p>presentation [1] - 184:20</p> <p>presented [8] - 17:1, 17:8, 52:15, 55:6, 90:9, 90:11, 133:1, 161:24</p> <p>presently [2] - 19:15, 62:20</p> <p>press [1] - 87:13</p> <p>pressure [3] - 196:2, 212:6, 212:16</p> <p>Pretrial [1] - 113:7</p> <p>pretty [3] - 54:1, 143:1, 149:11</p>	<p>prevalent [1] - 92:3</p> <p>previous [4] - 16:21, 16:24, 109:10, 169:10</p> <p>Princess [1] - 142:19</p> <p>principles [3] - 218:8, 218:9, 218:22</p> <p>printout [2] - 133:9, 133:14</p> <p>priorities [1] - 134:21</p> <p>prioritize [5] - 133:20, 134:23, 205:9, 205:16, 206:4</p> <p>priority [6] - 29:13, 29:15, 49:17, 133:22, 133:24, 134:8</p> <p>prison [4] - 118:5, 119:12, 119:14, 167:5</p> <p>prisons [1] - 119:21</p> <p>privilege [1] - 75:6</p> <p>proactive [2] - 56:7, 56:10</p> <p>probabilities [1] - 100:12</p> <p>problem [7] - 19:8, 42:3, 60:20, 83:18, 106:20, 110:8, 210:10</p> <p>problems [2] - 41:3, 106:11</p> <p>procedure [1] - 128:22</p> <p>proceed [1] - 190:18</p> <p>proceeding [2] - 223:8, 223:11</p> <p>proceedings [2] - 20:4, 224:3</p> <p>Proceedings [4] - 1:4, 1:8, 1:10, 1:14</p> <p>PROCEEDINGS [11] - 1:3, 61:23, 61:24, 87:23, 87:24, 97:10, 97:11, 168:6, 168:7, 223:23, 1:2</p> <p>Process [1] - 143:12</p> <p>process [13] - 22:16, 28:2, 126:13, 145:12, 146:5, 147:6, 147:10, 147:12, 150:16, 161:9, 213:7, 214:2, 214:15</p> <p>processed [3] - 28:25, 125:24, 126:2</p> <p>proclaim [1] - 136:17</p> <p>produce [2] - 25:22, 182:13</p> <p>produced [5] - 28:7, 62:23, 76:7, 132:23,</p>
---	--	---	--	--

<p>139:17 product ^[1] - 221:19 productive ^[2] - 13:6, 150:19 profile ^[2] - 89:10, 187:23 program ^[4] - 10:13, 10:22, 11:6, 32:17 progressing ^[1] - 113:10 project ^[1] - 12:7 Project ^[8] - 12:7, 12:19, 26:6, 194:3, 194:21, 195:1, 210:24, 3:14 projects ^[1] - 200:2 prominently ^[1] - 20:3 prompted ^[1] - 31:14 proof ^[1] - 96:6 proper ^[2] - 1:14, 149:20 properly ^[3] - 219:11, 219:17, 221:13 properties ^[2] - 175:9, 176:3 property ^[4] - 21:2, 126:7, 140:17, 167:20 Property ^[1] - 10:17 propose ^[1] - 88:17 proposing ^[1] - 209:25 proposition ^[1] - 209:4 prosecuted ^[1] - 221:25 prosecutor ^[2] - 129:13, 129:23 prostitutes ^[2] - 32:13, 167:18 protect ^[1] - 192:7 protected ^[1] - 67:13 protectors ^[1] - 125:19 prove ^[1] - 55:24 proverbial ^[1] - 64:14 provide ^[16] - 1:17, 68:19, 70:25, 74:9, 76:17, 87:4, 116:4, 135:14, 136:7, 147:16, 148:3, 150:13, 152:12, 152:13, 193:13, 219:23 provided ^[14] - 1:16, 7:11, 38:6, 38:8, 41:10, 44:2, 44:19, 59:3, 86:10, 86:12, 117:1, 185:4, 206:13 provides ^[5] - 69:21,</p>	<p>74:8, 74:24, 74:25, 165:14 providing ^[5] - 72:25, 116:7, 135:12, 148:18 Province ^[1] - 13:10 Provincial ^[1] - 15:8 psychologist ^[2] - 83:14, 189:24 psychologists ^[3] - 78:16, 188:19, 190:11 public ^[3] - 19:6, 151:12, 165:5 publication ^[1] - 220:24 publicity ^[1] - 91:14 published ^[2] - 160:17, 221:4 pull ^[4] - 39:5, 66:6, 116:24, 125:2 pulled ^[1] - 201:4 punched ^[3] - 162:10, 162:14 purpose ^[5] - 94:2, 129:3, 182:12, 182:16, 214:23 purposes ^[2] - 75:23, 83:24 pursued ^[2] - 172:13, 173:5 push ^[1] - 8:8 pushing ^[1] - 49:20 put ^[36] - 21:19, 22:3, 30:2, 31:7, 32:4, 42:9, 46:2, 46:6, 56:11, 57:2, 57:3, 73:4, 79:9, 81:18, 81:21, 109:15, 125:18, 128:14, 128:17, 131:1, 133:22, 133:24, 137:12, 165:24, 167:16, 169:17, 172:1, 191:20, 192:7, 192:11, 192:12, 198:10, 206:1, 211:19, 220:14 puts ^[2] - 124:16, 155:10</p>	<p>84:22, 85:7, 85:14, 86:23, 87:14, 87:16, 95:5, 95:17, 107:12, 107:16, 123:9, 123:11, 143:5, 143:8, 143:9, 143:14, 144:16, 149:21, 161:22, 163:6, 163:11, 176:16, 188:20, 207:22, 207:24, 209:19, 209:25, 210:5, 210:9, 210:13, 210:17, 211:19, 211:20, 211:23, 212:2, 213:3, 213:5, 213:24, 214:10, 214:17, 215:2, 215:11, 215:13, 215:22 quick ^[2] - 136:23, 171:6 quickly ^[2] - 28:18, 134:2 quite ^[21] - 3:20, 40:3, 40:24, 45:11, 46:19, 55:17, 67:16, 68:22, 69:25, 72:6, 80:13, 83:16, 85:25, 109:13, 111:7, 126:22, 145:17, 148:25, 159:16, 199:4, 212:8 quoted ^[1] - 114:17</p>	<p>109:13, 110:16, 140:18, 141:6, 142:16, 143:2, 171:15, 171:25, 174:8, 210:23 re ^[3] - 117:10, 118:4, 130:25 react ^[1] - 48:19 reaction ^[1] - 40:2 reactions ^[1] - 40:8 reactive ^[1] - 56:7 read ^[31] - 1:21, 37:1, 37:4, 43:23, 48:14, 68:11, 90:7, 92:12, 92:16, 95:13, 97:19, 100:16, 100:20, 118:1, 118:2, 131:4, 136:16, 136:20, 153:4, 157:9, 158:5, 159:6, 159:9, 160:16, 164:13, 168:22, 168:24, 171:23, 198:2, 210:6 reading ^[15] - 11:3, 59:25, 67:24, 70:8, 95:15, 95:24, 106:9, 135:17, 135:20, 136:12, 159:14, 165:13, 198:1, 202:25 ready ^[3] - 1:13, 213:5, 214:10 real ^[1] - 206:6 reality ^[1] - 115:9 realize ^[4] - 20:24, 69:3, 69:24, 80:23 realized ^[3] - 115:5, 186:18, 186:19 really ^[27] - 14:19, 15:20, 27:21, 42:11, 42:19, 45:8, 45:10, 70:13, 105:6, 110:19, 111:22, 114:7, 137:10, 141:4, 164:16, 164:17, 165:10, 165:21, 165:23, 166:7, 180:13, 180:18, 192:1, 202:21, 202:23, 203:9, 203:23 Realtime ^[1] - 224:11 rearing ^[1] - 92:5 reason ^[13] - 17:15, 17:25, 18:5, 20:6, 41:14, 72:15, 73:7, 84:22, 85:15, 133:16, 178:25, 207:15, 217:6 reasonable ^[1] -</p>	<p>143:25 reasonably ^[1] - 175:6 reasons ^[6] - 70:23, 84:25, 85:25, 188:3, 189:25, 217:18 reassigned ^[1] - 196:24 reassignment ^[1] - 180:5 rebuttal ^[1] - 186:5 rebuttals ^[2] - 92:12, 92:15 receive ^[1] - 139:4 received ^[17] - 4:1, 4:3, 6:18, 82:3, 84:13, 84:23, 88:22, 89:13, 91:10, 91:13, 110:23, 143:15, 174:18, 174:21, 217:24, 221:21 receiving ^[2] - 177:6, 215:7 recent ^[1] - 72:21 recently ^[3] - 33:17, 126:5, 192:11 receptive ^[1] - 138:3 recess ^[2] - 61:22, 87:22 recessed ^[1] - 168:5 recognize ^[9] - 43:21, 46:8, 88:23, 90:22, 95:10, 117:18, 127:6, 132:21, 201:23 recognized ^[3] - 43:24, 43:25, 45:2 recollect ^[1] - 170:21 recollection ^[17] - 29:6, 29:14, 45:5, 45:15, 45:22, 59:1, 98:12, 112:5, 112:9, 112:13, 114:4, 120:2, 122:14, 129:16, 129:18, 133:18, 134:15 recollections ^[1] - 94:15 recommend ^[1] - 194:3 recommendation ^[2] - 89:5, 152:21 recommendations ^[5] - 77:15, 77:18, 143:6, 150:10, 150:13 recommendations" ^[1] - 77:22 recontacted ^[1] - 68:13 RECONVENED ^[1] -</p>
R				
<p>racist ^[2] - 121:24, 121:25 radioed ^[1] - 56:19 radius ^[2] - 52:8, 166:25 raise ^[1] - 187:17 raised ^[2] - 18:8, 19:3 ramifications ^[2] - 79:17, 102:21 random ^[1] - 29:9 rank ^[2] - 82:17, 173:14 rape ^[2] - 90:1, 201:5 rat ^[1] - 67:18 rather ^[1] - 194:23 RAVI ^[1] - 207:24 Ravi ^[1] - 208:3 RCMP ^[19] - 32:12, 32:13, 35:20, 63:1, 76:22, 108:3, 108:9, 108:21, 108:25,</p>				
Q				
<p>questioned ^[2] - 163:7, 213:14 questioning ^[2] - 123:21, 144:5 questions ^[45] - 4:22,</p>				

<p>1:3</p> <p>record [4] - 1:6, 19:6, 149:25, 208:3</p> <p>recorded [1] - 166:21</p> <p>recorder [1] - 167:7</p> <p>recording [1] - 112:14</p> <p>records [1] - 153:8</p> <p>recounted [1] - 122:6</p> <p>recovery [1] - 24:20</p> <p>redacted [1] - 19:2</p> <p>redactions [1] - 18:18</p> <p>reduce [1] - 115:12</p> <p>refer [8] - 36:12, 89:17, 97:21, 108:9, 128:3, 128:11, 129:19, 134:10</p> <p>reference [10] - 33:23, 36:14, 37:14, 57:13, 60:16, 77:12, 137:19, 171:6, 203:2, 219:12</p> <p>referenced [3] - 5:19, 37:11, 211:10</p> <p>references [2] - 32:17, 136:14</p> <p>referred [10] - 9:14, 12:20, 88:13, 111:18, 114:11, 117:4, 131:6, 131:23, 133:24, 141:16</p> <p>referring [10] - 99:15, 102:4, 105:6, 127:4, 129:11, 136:7, 153:19, 155:20, 177:12, 189:1</p> <p>refers [1] - 35:4</p> <p>reflect [1] - 86:24</p> <p>reflected [1] - 117:21</p> <p>reflecting [1] - 143:12</p> <p>reflection [1] - 127:16</p> <p>reflective [1] - 141:21</p> <p>refresh [2] - 95:23, 108:11</p> <p>refused [2] - 82:21, 82:22</p> <p>refused [1] - 44:3</p> <p>regard [1] - 107:8</p> <p>regarding [10] - 2:3, 19:16, 47:14, 95:19, 95:20, 96:3, 134:11, 197:16, 210:24, 2:6</p> <p>regards [36] - 10:2, 22:23, 23:5, 23:9, 24:20, 25:8, 31:4, 38:7, 45:6, 45:17, 55:11, 67:14, 67:21, 72:23, 90:1, 91:15, 91:18, 91:20, 107:13, 111:1,</p>	<p>113:21, 118:9, 118:21, 119:13, 120:25, 123:10, 133:21, 138:18, 155:15, 157:1, 158:6, 184:16, 198:12, 199:5, 199:8</p> <p>REGISTRAR [19] - 1:4, 1:9, 1:20, 8:8, 8:19, 25:21, 26:3, 61:22, 61:25, 87:22, 87:25, 97:9, 97:12, 105:19, 168:5, 168:8, 168:13, 210:21, 223:21</p> <p>Registrar [1] - 171:4</p> <p>registrar [1] - 1:16</p> <p>registration [1] - 10:9</p> <p>registry [1] - 69:17</p> <p>reinterviews [1] - 101:25</p> <p>reintroduced [1] - 126:5</p> <p>reiterate [2] - 41:23, 156:3</p> <p>reiterated [3] - 23:4, 23:7, 48:4</p> <p>relate [3] - 36:7, 115:10, 162:8</p> <p>related [7] - 28:16, 35:20, 45:7, 48:17, 62:5, 113:3, 113:4</p> <p>relates [1] - 6:16</p> <p>relation [1] - 157:8</p> <p>relationship [8] - 24:15, 61:14, 67:9, 67:11, 69:6, 91:21, 124:1, 126:9</p> <p>relationships [1] - 67:6</p> <p>relative [1] - 208:23</p> <p>relatives [1] - 169:8</p> <p>relayed [1] - 129:24</p> <p>releases [2] - 192:2, 192:3</p> <p>relevant [7] - 3:23, 19:18, 151:18, 151:21, 151:22, 190:18, 208:5</p> <p>reliability [1] - 66:11</p> <p>relief [1] - 152:2</p> <p>reluctant [1] - 68:23</p> <p>remain [1] - 101:16</p> <p>remained [1] - 90:2</p> <p>remaining [6] - 7:24, 143:23, 144:6, 147:23, 148:7, 148:20</p> <p>remains [1] - 175:1</p> <p>remember [13] - 10:7,</p>	<p>45:25, 54:22, 54:24, 59:2, 118:12, 158:23, 179:25, 180:5, 201:5, 201:18, 202:1, 213:15</p> <p>reminding [1] - 146:5</p> <p>removal [1] - 207:9</p> <p>remove [2] - 65:16, 207:16</p> <p>removed [12] - 22:24, 58:9, 93:4, 177:3, 186:16, 187:17, 187:20, 193:5, 193:10, 206:18, 206:25, 207:2</p> <p>removing [1] - 65:23</p> <p>reorganizing [1] - 10:11</p> <p>repeatedly [1] - 191:20</p> <p>repeating [1] - 61:17</p> <p>replaced [5] - 57:25, 179:13, 180:21, 180:22, 186:16</p> <p>replied [1] - 130:16</p> <p>reply [2] - 216:15, 219:4</p> <p>report [65] - 15:7, 17:6, 21:7, 21:10, 28:23, 29:10, 29:17, 29:22, 36:6, 59:25, 60:5, 67:25, 70:6, 70:9, 86:4, 92:10, 100:16, 101:2, 101:5, 109:9, 110:4, 110:15, 114:16, 114:23, 115:13, 115:16, 128:15, 130:4, 130:7, 130:14, 130:18, 134:11, 141:17, 141:18, 157:10, 158:6, 160:16, 160:25, 161:4, 164:13, 165:11, 165:13, 169:14, 171:8, 171:14, 186:4, 186:6, 187:20, 188:2, 190:2, 194:7, 197:4, 201:1, 201:2, 220:25, 221:3, 221:7, 221:11, 221:15, 222:10, 223:12, 223:14</p> <p>reported [4] - 80:19, 138:10, 169:11, 186:23</p> <p>Reporter [2] - 224:10,</p>	<p>224:11</p> <p>reporting [5] - 27:4, 30:7, 31:23, 131:22, 138:1</p> <p>Reporting [1] - 224:12</p> <p>reports [4] - 13:23, 25:2, 95:25, 167:15</p> <p>represent [2] - 176:23, 208:3</p> <p>representative [1] - 182:8</p> <p>represented [1] - 42:8</p> <p>representing [1] - 212:5</p> <p>represents [1] - 23:19</p> <p>reprint [1] - 137:12</p> <p>reputation [1] - 91:3</p> <p>request [9] - 7:13, 21:13, 130:15, 130:16, 151:5, 151:14, 152:22, 155:16, 212:12</p> <p>requested [4] - 112:21, 131:11, 133:10, 143:15</p> <p>requesting [1] - 26:14</p> <p>require [1] - 217:5</p> <p>required [2] - 7:22, 74:11</p> <p>research [3] - 24:19, 31:19, 90:8</p> <p>residents [1] - 124:2</p> <p>resource [6] - 39:4, 78:2, 137:14, 203:10, 205:19, 207:12</p> <p>resources [7] - 79:22, 118:14, 175:20, 176:5, 203:11, 205:8, 205:21</p> <p>respect [17] - 18:20, 18:21, 19:7, 19:9, 19:12, 89:9, 120:15, 120:19, 126:20, 127:23, 143:20, 145:25, 146:13, 147:8, 160:25, 183:14, 223:10</p> <p>respected [1] - 18:12</p> <p>respectful [9] - 20:5, 20:8, 144:16, 151:8, 217:10, 218:19, 219:2, 221:9, 221:17</p> <p>respectfully [1] - 144:11</p> <p>respective [1] - 176:21</p> <p>respects [1] - 4:15</p> <p>respond [2] - 92:18, 143:21</p>	<p>responding [1] - 154:22</p> <p>responds [1] - 214:17</p> <p>response [2] - 22:13, 38:4</p> <p>responses [2] - 42:16, 215:13</p> <p>responsibility [2] - 185:13, 190:15</p> <p>responsible [10] - 96:15, 99:2, 99:4, 100:5, 114:1, 189:5, 190:15, 194:15, 200:11, 202:8</p> <p>responsive [1] - 178:6</p> <p>rest [3] - 148:7, 152:1, 222:5</p> <p>restrictive [1] - 149:18</p> <p>result [6] - 11:1, 21:13, 23:23, 31:25, 89:23, 203:21</p> <p>resulted [3] - 21:10, 31:25, 90:15</p> <p>results [3] - 45:13, 185:5, 218:17</p> <p>resume [1] - 223:22</p> <p>RESUMED [4] - 61:24, 87:24, 97:11, 168:7</p> <p>resumed [5] - 1:4, 61:25, 87:25, 97:12, 168:8</p> <p>retained [2] - 132:17, 154:13</p> <p>retire [2] - 80:3, 80:5</p> <p>retired [5] - 8:17, 11:25, 88:12, 208:3, 211:18</p> <p>return [2] - 28:22, 216:2</p> <p>returned [2] - 80:9, 83:16</p> <p>returns [1] - 129:13</p> <p>revealed [1] - 161:15</p> <p>Revenue [2] - 32:24, 33:4</p> <p>reverse [1] - 55:23</p> <p>Review [37] - 9:24, 12:19, 13:1, 15:19, 16:19, 21:14, 21:25, 22:21, 24:8, 34:15, 50:23, 57:13, 59:7, 59:14, 62:14, 79:3, 80:9, 80:14, 91:2, 98:4, 108:3, 112:9, 121:25, 127:7, 142:10, 160:23, 172:20, 177:4, 178:8, 183:3, 184:6, 188:16, 193:6, 201:22, 202:19,</p>
---	--	--	--	---

206:19, 207:10 review ^[28] - 25:14, 27:22, 28:5, 47:11, 53:14, 78:1, 85:10, 157:17, 160:1, 170:7, 177:9, 178:21, 179:10, 179:17, 181:8, 181:12, 183:5, 183:7, 183:8, 185:23, 196:13, 203:11, 204:3, 206:20, 206:21, 208:15, 208:17, 212:14 reviewed ^[2] - 48:3, 134:21 Richmond ^[1] - 193:11 ridiculous ^[2] - 15:25, 220:2 rights ^[1] - 219:9 rings ^[1] - 125:13 risk ^[2] - 104:5, 192:16 road ^[4] - 52:11, 81:6, 119:22, 139:6 Robbery ^[1] - 159:22 Robert ^[3] - 100:5, 103:18, 174:24 Robin ^[1] - 13:19 Rock ^[1] - 167:12 rock ^[1] - 69:7 rocket ^[1] - 205:13 rocking ^[2] - 79:15, 83:12 role ^[5] - 24:10, 24:12, 124:17, 124:19, 210:5 roll ^[1] - 201:14 rolled ^[2] - 134:6, 201:9 Ron ^[13] - 35:10, 60:13, 101:10, 101:11, 102:1, 102:2, 102:3, 102:17, 106:6, 161:13, 163:22 room ^[9] - 4:18, 65:3, 74:19, 115:9, 121:14, 156:9, 159:1, 195:22, 209:7 Rossmo ^[4] - 101:15, 138:14, 138:15, 195:19 roster ^[1] - 144:16 round ^[16] - 38:9, 38:14, 41:14, 41:21, 41:22, 43:5, 43:9, 163:9, 163:11, 183:19, 183:20,	183:21, 183:22, 184:4, 187:2 routine ^[1] - 115:18 RPR ^[1] - 224:9 rule ^[1] - 67:13 ruling ^[2] - 217:22, 218:6 rumours ^[1] - 52:15 run ^[4] - 10:15, 165:20, 181:24, 182:4 ruse ^[3] - 103:21, 105:3 rushed ^[1] - 87:5 Ryan ^[2] - 15:11	Sean ^[3] - 94:18, 101:23, 126:15 search ^[6] - 138:21, 140:20, 175:22, 185:4, 185:11, 185:12 seat ^[1] - 201:10 seatbelt ^[1] - 206:3 seated ^[1] - 8:19 Seattle ^[2] - 129:13, 129:22 second ^[23] - 11:18, 26:16, 38:9, 41:21, 41:22, 43:9, 43:21, 53:3, 54:5, 69:22, 76:4, 101:23, 142:22, 152:14, 152:22, 154:20, 163:9, 183:17, 183:21, 183:22, 184:4, 186:22 second-generation ^[1] - 11:18 second-to-last ^[2] - 152:22, 154:20 seconded ^[1] - 159:3 secondly ^[3] - 4:22, 96:3, 221:4 secrecy ^[2] - 17:24, 18:2 secret ^[1] - 18:3 secretive ^[2] - 107:2, 115:7 secrets ^[3] - 115:10, 136:21, 156:10 section ^[1] - 43:23 Section ^[3] - 10:16, 10:18, 118:15 sections ^[1] - 166:2 security ^[3] - 12:17, 152:20, 152:24 see ^[70] - 5:17, 6:19, 7:25, 12:5, 17:15, 18:12, 19:8, 20:6, 26:17, 31:20, 31:23, 32:12, 32:20, 33:23, 37:14, 44:11, 47:7, 53:11, 54:5, 54:7, 57:10, 59:16, 60:23, 61:12, 68:8, 71:1, 76:5, 77:6, 77:16, 77:22, 81:7, 84:9, 84:21, 89:7, 100:8, 101:16, 104:3, 106:6, 106:7, 107:24, 120:7, 126:10, 126:11, 128:20, 128:21, 129:25, 130:2, 130:21, 133:8,	134:24, 135:10, 136:4, 144:6, 148:22, 152:14, 153:9, 155:5, 162:13, 171:20, 172:16, 180:10, 180:13, 182:4, 182:12, 193:18, 193:21, 198:24, 214:3, 217:22 seeing ^[2] - 14:22, 154:3 seem ^[2] - 21:18, 164:5 seized ^[1] - 140:14 seizing ^[1] - 113:3 self ^[1] - 223:7 self-defence ^[1] - 223:7 sell ^[1] - 71:5 selling ^[1] - 21:2 send ^[1] - 167:19 sending ^[1] - 214:16 senior ^[5] - 142:14, 159:17, 159:18, 160:1, 222:20 sense ^[13] - 27:10, 29:1, 34:11, 57:18, 67:15, 79:5, 139:19, 149:17, 163:4, 179:15, 206:13, 206:17, 207:17 sensed ^[1] - 207:19 sent ^[6] - 95:11, 113:6, 178:4, 179:12, 193:10, 206:9 sentence ^[1] - 153:4 separate ^[3] - 66:19, 66:20, 128:8 September ^[30] - 34:15, 34:16, 34:21, 34:23, 36:2, 38:20, 38:22, 39:3, 39:12, 39:13, 39:20, 43:4, 43:8, 43:9, 47:9, 89:6, 104:9, 104:19, 106:1, 107:22, 130:1, 137:4, 137:12, 156:20, 201:1, 203:15, 204:10, 208:14, 209:3 Sereena ^[2] - 53:21, 166:17 sergeant ^[9] - 10:20, 10:21, 15:10, 25:3, 42:25, 56:14, 73:17, 189:22, 205:6 Sergeant ^[41] - 15:8, 15:9, 15:18, 21:16,	22:12, 25:3, 33:14, 34:12, 36:16, 48:10, 51:24, 89:6, 101:13, 105:15, 109:3, 109:4, 109:14, 110:3, 110:4, 116:13, 117:3, 119:25, 130:19, 131:19, 134:16, 139:3, 141:12, 163:16, 163:20, 167:14, 170:24, 171:1, 172:14, 172:24, 173:6, 173:8, 178:4, 178:6, 185:6, 185:24, 186:4 serial ^[12] - 98:7, 99:3, 100:4, 186:7, 191:7, 191:21, 196:4, 200:5, 202:7, 202:9, 205:11, 206:4 serious ^[4] - 49:1, 137:10, 148:18, 194:14 Serious ^[1] - 111:10 seriously ^[1] - 148:18 served ^[1] - 142:22 serves ^[1] - 214:23 Service ^[3] - 109:17, 189:23, 224:12 Services ^[2] - 33:3, 33:5 sessions ^[3] - 99:7, 144:5, 150:18 set ^[5] - 56:17, 69:22, 110:6, 134:21, 143:16 setting ^[1] - 47:24 setup ^[2] - 57:6, 118:24 seven ^[7] - 13:14, 15:23, 16:15, 39:2, 42:14, 42:16, 90:10 several ^[12] - 3:21, 21:5, 49:4, 62:22, 96:21, 107:16, 112:24, 112:25, 125:11, 142:17, 174:8 Sex ^[1] - 96:13 sex ^[47] - 13:16, 14:4, 20:18, 20:24, 21:4, 23:11, 23:12, 23:17, 39:24, 40:14, 44:23, 47:8, 48:25, 50:14, 51:5, 51:18, 56:17, 56:23, 64:17, 103:18, 103:20, 103:23, 104:1, 105:3, 118:16,
---	--	--	---	---

<p>119:3, 120:20, 120:21, 120:25, 123:22, 124:1, 124:11, 125:1, 125:11, 126:23, 126:25, 132:4, 138:1, 140:11, 158:15, 176:21, 182:24, 184:4, 191:15, 194:16, 203:22, 218:4</p> <p>sexual [7] - 49:17, 83:21, 138:2, 138:16, 142:23, 167:6, 192:8</p> <p>Sexual [2] - 101:8, 159:23</p> <p>sexually [1] - 20:21</p> <p>SFU [1] - 137:23</p> <p>Sgt [2] - 118:4, 130:5</p> <p>share [3] - 18:7, 129:2, 178:22</p> <p>shared [2] - 83:17, 149:16</p> <p>sharing [1] - 20:20</p> <p>shed [3] - 165:8, 169:19, 173:7</p> <p>sheet [2] - 28:6, 133:22</p> <p>sheets [7] - 132:15, 132:17, 132:22, 137:7, 140:11, 181:23, 182:14</p> <p>shelving [1] - 48:12</p> <p>Shenher [53] - 3:5, 24:23, 26:9, 28:7, 29:21, 41:6, 44:20, 61:1, 73:3, 76:3, 85:12, 86:5, 92:18, 102:4, 109:5, 109:20, 114:10, 114:22, 115:22, 116:6, 122:4, 123:3, 123:22, 128:17, 129:1, 130:5, 133:2, 133:6, 133:19, 134:7, 134:16, 135:19, 152:9, 152:24, 154:18, 154:21, 161:11, 161:13, 163:15, 165:1, 166:5, 178:4, 178:9, 178:19, 181:14, 181:21, 182:9, 187:8, 196:19, 204:7, 209:14, 3:8</p> <p>Shenher's [2] - 28:24, 106:24</p> <p>shift [2] - 81:5, 112:25</p>	<p>ships [1] - 52:16</p> <p>shock [1] - 184:11</p> <p>shocked [3] - 40:6, 78:23, 95:5</p> <p>shoplifter [3] - 89:23, 89:24, 92:1</p> <p>short [4] - 27:13, 149:21, 151:10, 163:25</p> <p>shortage [1] - 218:25</p> <p>shortly [1] - 208:10</p> <p>shot [1] - 9:23</p> <p>show [10] - 39:10, 40:2, 49:25, 50:14, 50:16, 63:24, 65:20, 146:15, 163:8, 163:11</p> <p>showed [8] - 37:20, 39:2, 40:14, 50:20, 102:24, 104:17, 104:20</p> <p>showing [13] - 40:13, 41:1, 41:24, 41:25, 43:18, 51:6, 81:11, 109:12, 147:5, 168:1, 182:23, 184:4</p> <p>shut [9] - 9:19, 78:25, 79:2, 144:15, 144:18, 144:23, 164:9, 205:11, 206:11</p> <p>shutting [2] - 99:23, 206:9</p> <p>sic [8] - 17:18, 66:18, 71:12, 80:18, 91:20, 122:12, 185:12, 186:21</p> <p>sick [1] - 127:3</p> <p>side [3] - 71:4, 124:25, 162:12</p> <p>sides [1] - 121:15</p> <p>sign [3] - 59:5, 59:9</p> <p>signed [3] - 30:11, 54:5, 74:13</p> <p>significant [3] - 74:22, 89:25, 96:9</p> <p>silent [1] - 205:2</p> <p>silver [1] - 201:14</p> <p>similar [3] - 72:18, 93:2</p> <p>similarly [1] - 154:11</p> <p>simplistic [1] - 75:1</p> <p>simply [5] - 55:17, 145:9, 210:19, 211:19, 215:23</p> <p>sincerely [1] - 97:3</p> <p>single [1] - 200:5</p> <p>sirs [2] - 152:6, 152:8</p> <p>sit [5] - 40:17, 58:15, 72:6, 148:24, 184:10</p>	<p>sitting [13] - 49:19, 51:10, 79:15, 83:12, 84:25, 94:18, 121:22, 150:2, 150:17, 167:9, 167:10, 167:22, 189:7</p> <p>situation [6] - 7:1, 15:17, 200:3, 209:22, 209:23, 223:7</p> <p>SIUSS [4] - 4:16, 178:10, 182:4, 182:8</p> <p>six [4] - 26:15, 125:22, 182:3, 188:19</p> <p>sixth [1] - 54:16</p> <p>size [1] - 43:14</p> <p>skeptical [1] - 36:1</p> <p>skids [1] - 191:14</p> <p>skill [1] - 224:4</p> <p>slammed [1] - 121:19</p> <p>sleep [3] - 64:6, 65:4, 65:5</p> <p>slow [1] - 124:25</p> <p>smacked [1] - 140:4</p> <p>small [6] - 9:16, 115:9, 156:9, 166:3, 201:9, 221:12</p> <p>smoking [1] - 142:13</p> <p>Solicitor [1] - 151:5</p> <p>solid [1] - 69:7</p> <p>solution [1] - 212:12</p> <p>someone [19] - 5:15, 18:4, 20:15, 30:10, 34:6, 35:3, 63:24, 65:1, 65:2, 65:12, 70:7, 74:3, 75:15, 135:16, 135:19, 135:20, 170:12, 189:8, 219:8</p> <p>sometime [1] - 157:6</p> <p>sometimes [7] - 86:2, 86:15, 104:23, 121:8, 124:17, 124:18, 218:13</p> <p>somewhat [2] - 90:24, 200:24</p> <p>somewhere [1] - 108:9</p> <p>soon [2] - 27:21, 110:12</p> <p>sorry [30] - 3:22, 4:6, 24:22, 30:1, 31:12, 33:19, 37:12, 51:20, 62:24, 85:4, 88:4, 88:15, 102:2, 103:14, 110:22, 111:18, 144:22, 149:15, 156:8, 170:4, 170:5,</p>	<p>171:11, 173:13, 179:7, 211:2, 212:23, 214:11, 215:3, 219:13, 222:20</p> <p>sort [6] - 46:19, 123:24, 132:12, 143:23, 147:19, 157:5</p> <p>sorts [3] - 45:16, 68:19</p> <p>SOS [2] - 57:24, 179:5</p> <p>sound [1] - 93:21</p> <p>sounding [1] - 201:6</p> <p>sounds [2] - 4:9, 55:4</p> <p>Source [2] - 10:8, 10:15</p> <p>source [28] - 10:13, 10:23, 62:21, 62:24, 63:5, 63:6, 65:15, 65:21, 65:24, 66:14, 66:24, 67:10, 67:17, 67:21, 68:16, 69:18, 69:21, 74:7, 74:15, 89:23, 90:7, 125:10, 134:3, 161:18, 162:23, 169:23, 173:4, 192:13</p> <p>source's [1] - 66:15</p> <p>sources [11] - 12:10, 63:1, 67:2, 67:3, 68:1, 68:13, 69:5, 69:11, 70:22, 139:13, 198:12</p> <p>sparse [1] - 67:24</p> <p>speaking [4] - 21:7, 70:4, 71:3, 113:21</p> <p>Special [1] - 109:15</p> <p>specialty [1] - 10:5</p> <p>specific [4] - 77:19, 98:16, 123:5, 182:11</p> <p>specifically [2] - 78:13, 105:10</p> <p>speculate [1] - 208:24</p> <p>speed [1] - 87:20</p> <p>speeding [1] - 206:2</p> <p>Spencer [5] - 59:4, 76:3, 82:11, 83:2, 152:10</p> <p>spend [1] - 162:16</p> <p>spending [1] - 156:14</p> <p>spent [5] - 9:10, 9:18, 9:20, 139:19, 213:11</p> <p>spit [1] - 132:24</p> <p>spit-out [1] - 132:24</p> <p>split [1] - 135:7</p> <p>spoken [6] - 5:21, 22:23, 23:10, 35:13, 85:20, 134:1</p> <p>sporadic [1] - 112:16</p>	<p>sporadically [1] - 25:9</p> <p>Springs [1] - 95:23</p> <p>Squad [6] - 16:23, 159:2, 159:22, 159:24, 205:9, 205:12</p> <p>squad [9] - 45:12, 47:20, 47:22, 49:14, 51:23, 55:7, 154:10, 184:18, 195:7</p> <p>St [1] - 109:4</p> <p>Staff [1] - 21:16</p> <p>stage [1] - 8:1</p> <p>staggering [1] - 50:1</p> <p>stammering [1] - 161:7</p> <p>stamped [1] - 129:11</p> <p>stand [5] - 8:7, 87:17, 87:19, 146:24, 216:18</p> <p>standard [4] - 68:24, 69:4, 71:18, 217:9</p> <p>standing [1] - 51:16</p> <p>stands [2] - 20:15, 31:9</p> <p>Start [1] - 188:22</p> <p>start [9] - 9:5, 65:23, 69:8, 101:3, 142:5, 146:19, 161:2, 183:19, 223:17</p> <p>started [25] - 13:2, 15:6, 25:12, 27:15, 30:18, 39:12, 43:7, 43:9, 50:18, 51:6, 93:25, 94:24, 111:22, 124:3, 131:12, 141:8, 141:25, 142:7, 155:14, 157:10, 161:10, 183:17, 183:20</p> <p>starting [3] - 76:4, 76:14, 184:3</p> <p>starts [5] - 60:18, 95:18, 142:13, 152:10, 207:18</p> <p>state [1] - 96:4</p> <p>statement [19] - 74:3, 95:19, 102:9, 102:15, 120:23, 137:17, 139:1, 139:5, 145:5, 153:11, 155:13, 159:10, 163:16, 197:15, 197:17, 197:22, 199:4, 199:7, 199:10</p> <p>statements [5] - 83:15, 121:10, 188:7, 190:9</p>
---	--	---	--	--

<p>states [2] - 121:7, 143:13</p> <p>States [4] - 30:11, 31:19, 31:21, 31:24</p> <p>stating [1] - 190:21</p> <p>station [2] - 41:5, 56:22</p> <p>statistics [1] - 24:20</p> <p>status [3] - 115:13, 130:25, 131:17</p> <p>stay [2] - 144:15, 177:21</p> <p>staying [1] - 205:2</p> <p>stead [1] - 176:22</p> <p>steal [1] - 161:18</p> <p>Stearns [1] - 56:15</p> <p>Steering [1] - 63:1</p> <p>step [4] - 75:8, 75:11, 82:1, 196:3</p> <p>stepping [1] - 107:3</p> <p>steps [1] - 106:16</p> <p>Stevie [1] - 168:22</p> <p>still [8] - 8:25, 18:23, 19:10, 53:11, 167:9, 172:20, 174:9, 193:18</p> <p>stinging [1] - 118:16</p> <p>stolen [1] - 21:2</p> <p>stoned [5] - 63:25, 65:1, 65:7, 65:12, 66:4</p> <p>stood [1] - 29:20</p> <p>stop [13] - 17:11, 61:20, 78:20, 81:11, 97:5, 140:12, 141:15, 168:1, 168:4, 186:8, 186:22, 200:15, 203:3</p> <p>stopped [2] - 103:22, 143:3</p> <p>stopping [1] - 152:15</p> <p>stops [1] - 142:19</p> <p>stories [2] - 45:16, 122:23</p> <p>storm [1] - 93:9</p> <p>story [9] - 23:4, 23:7, 122:5, 122:8, 122:9, 122:10, 122:12, 201:7, 201:20</p> <p>straight [1] - 93:11</p> <p>strategy [1] - 194:23</p> <p>Street [7] - 35:22, 111:8, 112:18, 142:21, 180:1, 180:6, 180:7</p> <p>street [8] - 37:8, 37:14, 42:3, 115:6, 121:8, 174:25, 176:2, 182:20</p>	<p>streets [1] - 127:1</p> <p>strenuously [2] - 216:22, 216:25</p> <p>strolls [1] - 118:25</p> <p>strong [2] - 45:19, 115:4</p> <p>strongest [1] - 114:19</p> <p>strongly [1] - 100:3</p> <p>struck [4] - 23:22, 23:24, 62:17, 195:25</p> <p>structure [1] - 27:5</p> <p>stuff [5] - 15:1, 73:20, 77:5, 138:2, 140:15</p> <p>stunned [1] - 92:14</p> <p>subdivision [1] - 44:2</p> <p>subject [7] - 41:17, 59:14, 61:10, 73:8, 73:23, 75:3, 95:19</p> <p>submission [10] - 30:3, 144:17, 151:8, 212:20, 215:18, 217:10, 218:20, 219:2, 221:9, 221:17</p> <p>submissions [3] - 220:24, 222:22, 222:24</p> <p>submit [4] - 144:11, 210:9, 214:13, 216:19</p> <p>submitted [5] - 92:10, 139:3, 183:24, 213:6, 215:23</p> <p>submitting [1] - 215:11</p> <p>subpoenaed [1] - 3:25</p> <p>subsequently [2] - 56:25, 182:7</p> <p>success [2] - 126:22, 192:22</p> <p>successful [3] - 39:13, 90:3, 90:16</p> <p>succession [1] - 144:12</p> <p>sucker [1] - 162:14</p> <p>sucker-punched [1] - 162:14</p> <p>sudden [1] - 93:7</p> <p>suddenly [1] - 142:3</p> <p>suffered [1] - 48:17</p> <p>sufficient [1] - 222:9</p> <p>suggest [7] - 50:1, 86:19, 86:21, 121:21, 143:20, 175:6, 222:8</p> <p>suggested [5] - 15:18, 56:13, 57:5, 84:16, 84:19</p> <p>suggesting [4] - 155:4, 155:11, 210:7, 223:15</p>	<p>suggestion [9] - 12:23, 37:24, 51:23, 119:12, 144:9, 144:13, 211:18, 214:4, 215:17</p> <p>suggestions [2] - 94:5, 131:1</p> <p>suggestive [1] - 220:13</p> <p>suite [1] - 140:4</p> <p>sum [2] - 156:22, 157:9</p> <p>Summary [2] - 2:3, 2:6</p> <p>summary [2] - 130:8, 169:18</p> <p>summer [1] - 187:11</p> <p>superb [1] - 5:23</p> <p>Superintendent [1] - 109:3</p> <p>supervisor [1] - 191:2</p> <p>support [2] - 138:12, 190:10</p> <p>supports [1] - 64:25</p> <p>supposed [2] - 112:11, 222:8</p> <p>supposedly [1] - 106:4</p> <p>Supreme [3] - 72:22, 222:1</p> <p>surely [1] - 213:24</p> <p>surprised [2] - 125:6, 189:19</p> <p>Surrey [2] - 109:2, 113:7</p> <p>Surrey/Coquitlam [1] - 44:1</p> <p>surveillance [1] - 157:4</p> <p>survive [1] - 81:13</p> <p>suspect [47] - 13:15, 14:3, 17:5, 17:7, 17:16, 18:22, 19:10, 20:12, 21:19, 22:4, 45:19, 48:2, 48:4, 48:18, 55:16, 62:6, 77:3, 90:7, 98:14, 98:15, 109:8, 109:10, 113:5, 119:2, 119:18, 141:8, 155:1, 155:4, 155:12, 156:17, 157:2, 157:8, 157:25, 165:2, 165:7, 191:5, 194:22, 195:1, 195:4, 195:5, 195:14, 196:15, 201:8, 202:10, 203:21</p> <p>suspect(s) [1] - 96:15</p>	<p>suspect-based [1] - 194:22</p> <p>suspects [32] - 41:1, 41:12, 47:13, 47:17, 49:2, 49:6, 81:10, 96:11, 96:20, 97:22, 98:5, 113:16, 114:18, 135:4, 137:9, 139:16, 141:2, 142:4, 143:3, 182:5, 183:15, 193:7, 201:21, 203:13, 203:16, 203:17, 203:24, 204:17, 204:20, 204:21, 205:5</p> <p>suspicion [1] - 186:8</p> <p>sustains [1] - 17:24</p> <p>Suzette [2] - 212:4, 214:11</p> <p>swayed [1] - 69:8</p> <p>swear [1] - 185:15</p> <p>swords [2] - 140:14, 140:17</p> <p>sworn [2] - 3:14, 215:7</p> <p>syndicate [1] - 63:2</p> <p>synopsis [1] - 136:24</p> <p>system [7] - 31:7, 32:4, 90:14, 133:6, 133:14, 133:19, 182:13</p> <p>systems [1] - 176:10</p>	<p>task [9] - 29:15, 30:15, 30:16, 30:24, 134:17, 134:18, 206:10, 221:5, 222:6</p> <p>Task [6] - 4:17, 96:1, 121:15, 142:9, 159:21, 167:19</p> <p>tasked [2] - 31:12, 174:11</p> <p>tasks [11] - 27:7, 28:4, 28:6, 28:9, 28:18, 28:20, 29:1, 29:11, 29:12, 171:24</p> <p>taught [2] - 65:25, 102:10</p> <p>teach [1] - 62:19</p> <p>teaching [2] - 12:11, 62:18</p> <p>Team [37] - 9:24, 12:19, 13:1, 15:19, 16:19, 21:14, 22:1, 22:21, 24:8, 27:1, 34:15, 50:23, 57:14, 59:7, 59:14, 62:14, 79:3, 80:9, 80:14, 91:2, 98:4, 108:4, 112:9, 121:25, 127:7, 142:10, 160:23, 172:21, 177:4, 178:8, 184:7, 188:16, 193:6, 201:22, 202:19, 206:19, 207:10</p> <p>team [70] - 5:2, 24:11, 24:14, 24:16, 25:14, 27:22, 28:5, 30:4, 42:25, 45:3, 45:14, 47:11, 53:14, 53:16, 85:10, 93:5, 98:3, 98:6, 98:13, 103:25, 105:8, 106:17, 112:8, 112:10, 113:9, 113:15, 113:18, 114:23, 115:4, 116:7, 116:17, 118:5, 118:9, 118:10, 118:21, 119:6, 120:7, 120:11, 130:1, 130:22, 131:9, 131:15, 135:14, 135:20, 136:16, 139:3, 141:1, 157:17, 158:21, 160:1, 165:6, 177:9, 178:21, 179:10, 179:17, 181:5, 181:9, 181:12, 185:6, 185:23,</p>
T				
<p>tab [37] - 26:1, 30:10, 32:10, 32:24, 33:10, 36:6, 36:16, 37:7, 43:19, 46:7, 54:3, 59:12, 60:17, 76:2, 76:4, 77:20, 88:25, 89:2, 89:3, 89:4, 95:9, 97:17, 105:23, 117:3, 117:17, 127:5, 132:20, 141:18, 152:8, 171:3, 171:7, 171:11, 171:13, 178:2</p> <p>Tab [4] - 33:6, 105:24, 154:16, 171:12</p> <p>tabs [2] - 88:15, 88:19</p> <p>tag [1] - 103:25</p> <p>tagged [1] - 167:21</p> <p>talks [3] - 35:7, 35:10, 57:10</p> <p>tape [3] - 43:17, 167:7, 201:14</p>				

<p>187:18, 196:7, 196:13, 196:14, 203:11, 204:3, 206:20, 206:21, 207:17, 208:15 teams [1] - 93:2 tech [1] - 31:7 techniques [2] - 56:4, 103:12 telephone [2] - 162:5, 162:17 tenor [2] - 118:7 tenure [7] - 9:23, 30:18, 117:10, 117:11, 117:14, 157:6, 159:25 term [5] - 27:23, 57:14, 121:6, 144:20, 195:19 termed [1] - 91:4 terms [11] - 7:15, 94:17, 99:3, 102:9, 110:18, 112:22, 166:14, 175:20, 181:11, 202:25, 219:11 testified [5] - 97:24, 115:22, 156:9, 159:12, 160:20 testify [3] - 159:13, 217:8, 218:5 testifying [1] - 4:10 testimony [3] - 61:11, 156:11, 174:19 text [1] - 4:1 THE [175] - 1:4, 1:8, 1:9, 1:15, 1:19, 1:20, 3:10, 3:15, 3:18, 4:8, 5:8, 5:12, 6:7, 6:11, 6:20, 6:24, 7:3, 7:9, 7:14, 7:18, 7:23, 8:8, 8:16, 8:19, 16:8, 16:11, 17:11, 17:14, 17:20, 17:22, 18:1, 18:16, 19:1, 19:3, 19:13, 19:19, 19:22, 20:3, 20:7, 25:21, 26:3, 38:22, 38:24, 61:20, 61:22, 61:25, 84:11, 85:2, 85:13, 85:19, 85:23, 86:3, 86:13, 86:16, 86:20, 86:25, 87:3, 87:12, 87:19, 87:21, 87:22, 87:25, 88:1, 88:4, 88:6, 88:9, 97:5, 97:8, 97:9, 97:12, 97:13, 105:19, 108:12, 143:11, 144:18, 144:21,</p>	<p>144:23, 145:6, 145:8, 145:11, 145:13, 145:18, 146:19, 146:22, 146:25, 147:4, 147:9, 147:18, 147:21, 147:25, 148:2, 148:6, 148:8, 148:19, 148:22, 149:4, 149:24, 150:6, 150:22, 151:17, 152:3, 168:4, 168:5, 168:8, 168:9, 168:13, 168:15, 168:20, 176:17, 202:2, 202:5, 202:12, 202:21, 203:1, 203:3, 203:7, 206:6, 206:15, 207:23, 208:1, 209:23, 210:20, 210:21, 210:23, 211:2, 211:4, 211:6, 211:8, 211:11, 211:23, 211:25, 212:2, 212:9, 212:15, 212:21, 212:24, 213:1, 213:8, 213:20, 214:8, 214:22, 214:24, 216:5, 216:21, 216:24, 217:2, 217:11, 217:20, 217:25, 218:3, 218:7, 218:9, 218:11, 218:21, 219:1, 219:4, 219:14, 219:24, 220:2, 220:12, 220:15, 221:1, 221:3, 221:14, 221:20, 221:22, 221:24, 222:12, 222:15, 223:1, 223:3, 223:13, 223:16, 223:20, 223:21 theft [2] - 113:4, 192:11 theirs [2] - 196:22 theme [1] - 105:6 themselves [3] - 68:14, 75:8, 86:7 thinking [8] - 99:21, 99:23, 104:5, 137:5, 161:24, 186:9, 189:20, 200:13 third [8] - 30:10, 32:10, 46:12, 46:19,</p>	<p>77:21, 101:24, 153:3, 171:17 Thordarson [2] - 109:4, 110:5 thoughts [1] - 200:25 thousand [1] - 124:10 three [19] - 7:20, 62:23, 88:2, 88:5, 96:13, 98:8, 99:1, 100:4, 114:17, 137:10, 142:4, 144:5, 156:22, 160:1, 160:7, 160:11, 200:14, 202:7, 207:24 three-day [1] - 62:23 throughout [6] - 20:4, 90:23, 118:14, 128:20, 148:11, 195:3 throwaway [1] - 109:18 Thursday [2] - 112:12, 117:20 tickets [4] - 58:18, 181:25, 206:2, 206:3 tie [2] - 138:8, 138:12 Tiffany [5] - 104:10, 104:15, 169:4, 169:8, 169:18 tight [1] - 150:3 timeframe [2] - 31:22, 76:6 timeframes [1] - 149:21 timeline [3] - 34:13, 176:24, 179:16 timing [2] - 157:16, 213:10 Tip [12] - 43:25, 44:5, 44:7, 128:6, 196:6, 196:9, 196:12, 196:23, 197:3, 197:10, 208:6 tip [22] - 128:21, 129:16, 132:15, 132:17, 132:21, 132:24, 134:10, 135:6, 157:23, 158:1, 159:16, 196:9, 196:10, 197:21, 198:9, 198:22, 199:21, 199:23, 208:7, 208:21, 209:9 tips [12] - 24:25, 128:1, 128:8, 129:18, 132:12, 132:13, 133:15, 133:20, 134:11,</p>	<p>134:12, 135:1, 197:22 tiptoeing [1] - 19:4 tired [1] - 205:13 title [1] - 36:22 titles [1] - 88:11 to-do [1] - 18:12 today [18] - 18:18, 84:24, 87:1, 104:14, 125:2, 141:14, 143:24, 144:14, 151:4, 151:14, 153:22, 156:7, 159:9, 159:13, 174:9, 175:21, 213:10, 213:13 together [7] - 50:12, 64:21, 81:1, 89:20, 126:16, 170:22, 172:9 tomorrow [7] - 150:1, 150:6, 150:17, 210:14, 211:21, 211:22, 213:3 toned [1] - 201:15 took [24] - 10:6, 10:8, 31:2, 31:12, 43:25, 49:13, 50:12, 54:4, 55:21, 90:10, 90:12, 105:21, 132:1, 134:18, 137:17, 140:17, 143:1, 154:2, 154:6, 164:24, 176:25, 192:25, 222:6 took" [1] - 31:10 tool [1] - 43:2 top [10] - 18:1, 33:23, 49:16, 113:25, 114:10, 129:11, 133:8, 134:5, 155:17, 192:20 topic [1] - 12:18 topics [1] - 117:12 Toronto [3] - 89:11, 90:2, 90:15 total [4] - 45:4, 49:21, 156:22, 157:9 totality [2] - 42:1, 42:5 totally [2] - 58:13, 219:24 toward [2] - 93:1, 177:19 towards [3] - 132:3, 152:22, 186:20 Townsend [1] - 139:22 Tracy [2] - 111:4, 119:22 trade [41] - 13:16,</p>	<p>14:4, 20:19, 20:24, 23:11, 23:12, 23:17, 39:24, 40:14, 44:23, 47:8, 48:25, 50:14, 51:5, 51:18, 56:17, 56:23, 63:23, 64:17, 103:18, 103:20, 103:23, 104:1, 105:4, 118:16, 119:3, 120:20, 120:21, 120:25, 123:22, 124:1, 124:11, 125:2, 125:11, 126:23, 127:1, 132:4, 138:1, 140:12, 158:15, 191:15 Trade [1] - 96:13 traffic [2] - 13:9, 205:25 trafficker [3] - 122:7, 122:16 traffickers [1] - 13:8 trafficking [1] - 125:13 tragedy [1] - 94:6 train [2] - 103:7, 161:8 training [10] - 10:12, 10:22, 11:6, 11:22, 11:23, 63:3, 69:16, 73:6, 73:12, 73:13 transcript [3] - 18:19, 18:24, 19:12 transcription [1] - 224:3 transfer [3] - 22:19, 22:20, 124:8 transferred [1] - 47:11 treat [1] - 223:17 treated [3] - 27:21, 125:24, 125:25 tremendous [1] - 204:11 trial [4] - 101:15, 126:12, 126:13, 220:20 trials [2] - 220:16, 220:18 tried [6] - 5:19, 5:25, 80:3, 114:4, 194:6, 220:8 trip [2] - 58:16, 138:15 Triumph/Wall [1] - 111:7 trophies [1] - 138:19 trouble [2] - 82:17, 195:2 Trowski [3] - 83:20, 126:15 truck [1] - 104:23 true [4] - 153:11,</p>
--	---	--	---	--

<p>155:9, 196:11, 224:2 truly [2] - 109:24, 109:25 trunk [1] - 201:5 trust [6] - 26:11, 67:11, 67:12, 68:18, 71:5, 154:3 trusted [3] - 103:4, 137:15, 161:17 truth [2] - 164:12, 215:16 try [6] - 15:18, 16:18, 57:2, 66:19, 134:22, 214:4 trying [22] - 31:16, 49:14, 55:19, 55:24, 71:11, 79:20, 79:23, 86:14, 90:19, 94:4, 99:20, 119:23, 132:7, 139:20, 167:1, 176:24, 194:23, 202:13, 205:1, 212:11, 220:9, 223:8 tub [2] - 44:1, 44:3 Tuesdays [2] - 34:18, 112:12 tune [1] - 175:14 tunnel [5] - 48:17, 48:22, 48:23, 49:7, 127:23 turn [18] - 8:9, 25:25, 26:16, 30:9, 33:6, 46:7, 51:17, 54:3, 59:12, 77:21, 89:1, 89:4, 95:9, 106:6, 132:20, 152:7, 154:16, 177:22 turned [3] - 80:4, 135:24, 136:1 turning [2] - 14:20, 130:20 twice [2] - 68:12, 114:3 two [59] - 4:15, 12:23, 13:5, 36:24, 36:25, 37:9, 37:17, 38:16, 41:13, 48:16, 50:12, 51:22, 57:8, 59:22, 60:1, 60:3, 78:4, 78:11, 84:16, 85:6, 86:22, 87:1, 87:8, 88:7, 94:5, 98:8, 98:12, 98:20, 100:4, 104:8, 113:19, 115:6, 126:8, 129:1, 135:5, 147:23, 148:7, 148:20, 153:5, 155:18, 160:4, 162:9,</p>	<p>163:14, 164:14, 165:24, 177:2, 177:5, 182:11, 188:18, 190:20, 200:13, 202:7, 203:9, 204:5, 207:7, 209:17, 213:11 two-month [1] - 177:5 two-way [1] - 115:6 type [2] - 31:4, 149:2 typed [1] - 99:9 typewritten [1] - 171:19 typing [1] - 94:18</p>	<p>unfairness [1] - 218:17 unfortunate [2] - 46:1, 193:9 unfortunately [6] - 92:7, 123:18, 124:15, 139:18, 200:15, 206:13 Unger [1] - 89:6 uniform [1] - 9:15 unit [22] - 9:16, 9:19, 13:2, 13:4, 13:6, 13:11, 22:5, 27:16, 27:20, 31:13, 38:20, 38:25, 49:4, 57:11, 69:21, 73:4, 90:12, 92:9, 107:10, 107:21, 114:5, 170:20 Unit [11] - 9:17, 10:4, 10:9, 10:16, 15:8, 21:8, 121:17, 159:2, 170:18, 173:24, 175:4 United [2] - 30:11, 224:12 units [2] - 48:12, 98:18 University [2] - 11:11, 137:24 university [2] - 12:16, 81:1 unless [4] - 64:8, 65:9, 127:8, 215:8 unlikely [1] - 19:14 unlimited [3] - 220:15, 220:19, 220:20 unnecessary [1] - 17:21 unproductive [1] - 109:21 unreasonably [1] - 149:18 unrelia [1] - 65:19 unreliable [1] - 65:20 unsatisfactory [1] - 87:7 unsavvy [1] - 91:20 unseemly [1] - 223:4 Unsolved [2] - 15:8, 21:8 unsolved [1] - 90:3 untrue [2] - 145:9 up [104] - 14:22, 16:17, 16:25, 20:20, 21:7, 23:1, 23:25, 24:16, 28:17, 28:18, 30:16, 35:11, 39:6, 39:23, 41:4, 47:24, 48:14, 49:23, 51:3, 51:21,</p>	<p>51:22, 51:24, 52:9, 52:19, 52:25, 53:25, 55:10, 55:14, 56:18, 56:20, 63:24, 64:23, 65:20, 70:5, 73:2, 77:2, 80:1, 81:4, 81:9, 83:5, 83:13, 84:21, 87:20, 88:2, 88:5, 94:13, 95:2, 98:10, 99:18, 99:20, 103:18, 103:19, 107:10, 107:19, 110:6, 113:3, 116:24, 117:14, 119:3, 119:22, 121:7, 121:9, 124:7, 125:2, 127:14, 131:24, 132:2, 135:7, 136:10, 136:23, 140:20, 141:11, 141:24, 142:15, 142:20, 143:1, 145:17, 146:21, 154:2, 156:17, 158:14, 161:22, 162:2, 163:6, 164:8, 167:18, 182:3, 182:19, 188:16, 193:17, 193:25, 196:5, 201:9, 203:24, 206:14, 216:18, 219:22, 220:4, 220:5, 220:8, 220:12, 222:3 update [3] - 113:10, 128:17, 131:9 updated [2] - 114:24, 131:17 upholding [1] - 71:18 uploaded [1] - 128:19 urge [1] - 223:9 urgency [2] - 134:5, 206:14 usage [7] - 56:13, 57:3, 113:21, 118:5, 118:21, 118:23, 131:3 useful [2] - 43:2, 119:15 users [1] - 176:22 uses [1] - 104:24 utilize [1] - 118:9 utmost [1] - 67:10</p>	<p>valid [1] - 19:4 Valley [9] - 98:23, 99:1, 99:5, 107:3, 107:9, 111:19, 119:13, 200:7, 200:10 value [2] - 214:15, 221:18 Van [2] - 56:15, 141:6 van [1] - 142:19 Vancouver [30] - 1:1, 8:14, 8:18, 9:1, 11:7, 11:17, 11:20, 12:2, 12:3, 13:20, 14:1, 14:10, 14:15, 16:3, 20:21, 32:14, 34:25, 35:13, 43:20, 47:13, 76:22, 82:16, 106:4, 172:7, 173:3, 181:11, 189:5, 191:19, 205:20, 216:23 vantage [2] - 207:8, 219:20 variety [2] - 64:4, 223:9 various [2] - 88:20, 92:12 varying [3] - 68:9, 68:11, 132:18 vast [2] - 66:25 Vehicle [1] - 44:4 vehicle [3] - 77:4, 110:6, 181:25 vehicles [1] - 110:9 vein [1] - 120:14 venture [1] - 70:13 verbally [5] - 28:11, 29:17, 29:25, 45:12, 133:23 vernacular [1] - 121:8 version [1] - 122:10 Vertlieb [8] - 37:12, 61:20, 88:13, 88:18, 105:11, 105:21, 212:21, 1:7 VERTLIEB [44] - 1:5, 3:11, 5:14, 6:8, 6:14, 6:21, 6:25, 8:3, 8:20, 8:21, 16:12, 18:7, 19:23, 20:1, 20:5, 20:8, 25:22, 26:4, 26:8, 62:1, 84:9, 84:12, 85:4, 86:19, 86:21, 87:1, 143:10, 143:12, 209:21, 209:24, 211:1, 211:3, 211:5, 211:7, 211:9, 211:12, 211:24, 212:1,</p>	
		U			
		<p>U.S [3] - 30:22, 30:25, 33:2 U/C [1] - 131:2 UC [3] - 56:13, 56:18, 57:2 Ucluelet [3] - 4:5, 7:3, 7:4 ugly [1] - 92:5 ultimately [6] - 20:20, 22:2, 37:19, 81:10, 139:21, 217:22 unable [1] - 185:15 unbelievable [1] - 39:4 unbelievably [1] - 155:25 unclear [1] - 150:1 under [26] - 18:23, 19:11, 19:15, 19:17, 43:10, 63:17, 64:6, 64:20, 67:13, 75:6, 78:25, 81:18, 88:24, 88:25, 89:2, 89:3, 94:3, 106:6, 107:25, 118:19, 131:18, 136:22, 142:12, 171:11, 179:13 undercover [3] - 75:14, 113:22, 118:10 underlied [1] - 122:12 understood [2] - 55:14, 82:4 undertake [1] - 212:11 undertaken [1] - 138:22 undivided [1] - 42:11 undone [1] - 132:13 undue [1] - 206:13 unenviable [1] - 91:20 unfair [4] - 49:22, 78:21, 181:3, 221:6</p>			
			V		
			<p>vague [3] - 122:14, 201:20 vaguely [1] - 201:6</p>		

<p>212:23, 212:25, 213:4, 213:9, 213:21, 215:20</p> <p>vetting [1] - 99:12</p> <p>viable [1] - 20:12</p> <p>vice [1] - 118:4</p> <p>Vice [2] - 118:9, 118:15</p> <p>VICLAS [5] - 90:12, 90:18, 90:19, 90:24, 110:14</p> <p>VICLAS [1] - 90:12</p> <p>victim [6] - 55:17, 111:14, 126:17, 137:17, 157:7, 157:21</p> <p>victim's [1] - 129:21</p> <p>victims [10] - 44:24, 125:23, 126:4, 126:8, 126:13, 126:16, 131:25, 137:16, 164:18, 164:19</p> <p>videotaped [2] - 95:7, 188:18</p> <p>Vietnamese [2] - 122:7, 193:16</p> <p>view [10] - 75:21, 78:8, 78:10, 81:17, 97:25, 98:5, 166:6, 166:7, 193:22, 200:5</p> <p>viewed [4] - 30:5, 67:17, 193:23, 199:18</p> <p>viewing [1] - 199:5</p> <p>views [5] - 62:11, 118:4, 118:8, 120:5, 194:18</p> <p>vigorously [1] - 215:17</p> <p>Vinje [2] - 159:20, 160:7</p> <p>violent [2] - 90:20, 90:25</p> <p>vis [2] - 176:7</p> <p>vis-a-vis [1] - 176:7</p> <p>vision [5] - 48:17, 48:22, 48:23, 49:7, 127:24</p> <p>voices [1] - 121:20</p> <p>Volume [14] - 2:8, 2:12, 2:15, 2:18, 2:21, 2:24, 3:2, 2:11, 2:15, 2:18, 2:21, 2:24, 3:2, 3:5</p> <p>voluminous [2] - 212:17, 213:2</p> <p>volunteer [2] - 201:3, 201:17</p> <p>volunteered [2] - 24:7,</p>	<p>27:11</p> <p>volunteering [1] - 27:18</p> <p>VPD [14] - 11:21, 12:12, 12:14, 18:9, 109:5, 172:19, 173:5, 173:25, 174:8, 181:24, 181:25, 202:10, 211:1, 211:2</p> <p>VPD's [1] - 170:18</p> <p>VTs [2] - 181:24, 182:16</p> <p>vulnerable [4] - 216:18, 217:5, 217:6, 218:4</p>	<p>138:21, 140:20, 185:4, 185:11, 185:12</p> <p>watchful [1] - 64:6</p> <p>watching [3] - 37:3, 59:24, 65:5</p> <p>ways [5] - 11:7, 64:3, 64:4, 67:6, 85:18</p> <p>wayside [1] - 69:11</p> <p>wayward [1] - 70:2</p> <p>wearing [3] - 201:8, 201:11, 201:12</p> <p>Wednesday [2] - 34:17, 34:18</p> <p>week [12] - 27:22, 33:21, 39:2, 39:12, 42:15, 72:9, 76:16, 213:15, 213:17, 213:21, 213:22, 216:3</p> <p>week's [1] - 213:22</p> <p>weeks [10] - 7:20, 53:22, 92:17, 95:22, 112:22, 112:25, 126:16, 154:17, 156:22, 183:3</p> <p>weight [3] - 216:10, 216:11, 219:19</p> <p>weights [1] - 104:24</p> <p>welcomed [1] - 23:20</p> <p>Welfare [3] - 53:1, 53:24, 53:25</p> <p>well-trusted [1] - 137:15</p> <p>Wendy [1] - 187:21</p> <p>whatsoever [3] - 120:10, 133:23, 154:4</p> <p>who'd [1] - 80:18</p> <p>whole [4] - 13:7, 65:15, 204:16, 204:17</p> <p>whore [3] - 120:20, 120:21, 121:6</p> <p>whores [1] - 121:23</p> <p>wide [1] - 124:3</p> <p>will-say [10] - 5:17, 6:4, 6:18, 6:20, 7:10, 7:19, 7:20, 138:18, 138:19, 159:14</p> <p>will-says [1] - 87:5</p> <p>William [1] - 174:24</p> <p>willing [1] - 128:2</p> <p>Wilson [1] - 167:11</p> <p>wind [3] - 58:2, 186:11, 188:15</p> <p>Wind [1] - 59:15</p> <p>winded [2] - 58:2, 58:23</p> <p>winding [6] - 57:14,</p>	<p>57:15, 58:11, 179:14, 185:23, 206:20</p> <p>wiretap [1] - 10:1</p> <p>wiretaps [1] - 12:17</p> <p>WISH [2] - 169:12, 169:15</p> <p>wish [11] - 22:8, 25:25, 36:4, 48:21, 61:9, 77:8, 132:5, 165:23, 210:21, 210:22, 215:24</p> <p>wishes [3] - 50:4, 87:16, 210:23</p> <p>withheld [1] - 41:13</p> <p>withhold [2] - 46:3, 46:5</p> <p>witness [20] - 3:21, 5:14, 5:22, 5:24, 7:2, 7:13, 8:7, 55:17, 64:20, 72:17, 74:7, 87:10, 121:9, 146:24, 162:15, 215:12, 215:21, 215:22, 217:6</p> <p>witnesses [30] - 8:22, 10:24, 25:20, 36:12, 72:23, 85:7, 85:8, 85:17, 86:22, 87:1, 87:9, 88:7, 143:15, 143:17, 146:21, 147:24, 148:7, 148:9, 148:21, 149:8, 149:18, 149:22, 150:11, 151:9, 151:11, 204:12, 213:11, 214:21, 216:19</p> <p>Wolfe [4] - 80:17, 186:19, 187:13, 206:7</p> <p>Wolfgang [4] - 139:9, 139:10, 139:17, 140:2</p> <p>Wolther's [1] - 136:4</p> <p>wolthers [2] - 48:19, 52:5</p> <p>WOLTERS [233] - 8:12, 8:17, 11:12, 11:15, 11:17, 12:13, 12:15, 13:2, 14:6, 14:9, 14:12, 14:16, 16:2, 16:5, 16:10, 16:15, 16:21, 17:4, 17:6, 19:25, 20:14, 21:9, 21:12, 21:15, 22:3, 24:9, 26:13, 26:25, 27:8, 27:10, 27:25, 33:9, 33:14, 33:18, 33:20, 33:25,</p>	<p>34:5, 34:9, 34:13, 35:5, 35:10, 37:2, 38:20, 38:23, 38:25, 39:16, 39:18, 41:19, 43:5, 43:7, 43:13, 43:16, 44:22, 45:25, 46:4, 46:9, 46:11, 46:13, 46:18, 46:22, 46:25, 47:4, 48:23, 50:8, 50:11, 50:18, 50:24, 51:3, 52:7, 52:24, 53:17, 53:19, 54:12, 56:12, 57:16, 57:20, 58:5, 58:13, 60:3, 60:12, 60:15, 60:25, 62:7, 62:15, 66:24, 71:25, 73:10, 76:9, 76:21, 77:7, 77:25, 78:7, 78:12, 78:23, 79:3, 79:8, 79:19, 80:8, 80:12, 83:13, 84:8, 89:3, 90:18, 92:8, 92:20, 93:20, 93:23, 94:3, 94:10, 94:12, 94:16, 95:12, 95:14, 95:18, 97:18, 97:23, 98:2, 98:6, 98:20, 99:17, 100:3, 100:19, 100:25, 102:3, 102:5, 103:14, 104:17, 105:9, 105:13, 106:8, 106:14, 108:13, 108:22, 108:24, 109:23, 112:17, 114:16, 116:2, 116:13, 116:16, 119:9, 119:21, 121:13, 122:3, 125:22, 130:18, 131:23, 134:11, 136:3, 137:2, 137:4, 137:23, 139:11, 139:13, 141:4, 141:24, 152:18, 156:3, 157:14, 158:12, 158:16, 158:22, 160:14, 160:19, 161:2, 164:3, 164:7, 164:15, 166:9, 168:24, 169:1, 169:25, 170:11, 170:16, 170:19, 170:21, 171:1, 172:4, 172:18, 172:23, 173:11, 174:17, 175:19, 176:1, 176:15, 179:2, 179:8,</p>
---	--	--	---	--

<p>179:11, 179:21, 179:23, 180:4, 180:25, 181:16, 181:19, 182:2, 183:20, 183:22, 184:1, 185:22, 185:25, 186:25, 187:3, 187:6, 187:11, 187:15, 187:19, 188:1, 188:7, 188:10, 188:13, 188:17, 191:9, 191:12, 191:23, 193:17, 194:5, 194:20, 196:11, 197:3, 197:9, 197:12, 198:19, 200:7, 202:1, 203:19, 205:6, 205:23, 207:13, 208:9, 208:12, 208:22, 209:17, 1:6</p> <p>Wolthers [56] - 3:12, 4:14, 4:20, 4:23, 8:6, 8:17, 11:10, 23:13, 24:1, 26:24, 33:7, 45:24, 46:7, 60:2, 76:16, 77:10, 83:10, 86:11, 88:11, 89:19, 90:17, 97:3, 97:15, 98:13, 98:17, 106:2, 108:16, 109:6, 113:21, 114:4, 117:4, 117:25, 119:7, 135:2, 141:19, 152:12, 155:2, 156:2, 157:13, 158:18, 168:19, 170:17, 173:24, 174:16, 175:18, 176:14, 181:13, 190:8, 191:10, 193:12, 194:2, 197:25, 198:18, 202:6, 204:25, 3:19</p> <p>woman [6] - 6:15, 103:22, 104:4, 104:24, 158:7, 169:15</p> <p>women [42] - 14:15, 14:23, 16:2, 22:15, 30:21, 31:3, 31:17, 32:18, 40:1, 40:6, 41:4, 47:14, 52:22, 58:10, 73:4, 79:12, 80:15, 96:10, 96:12, 96:16, 96:18, 96:23, 96:25, 97:22, 97:25, 99:2, 99:4, 100:7,</p>	<p>104:8, 114:2, 139:16, 141:16, 141:23, 144:11, 164:20, 173:3, 188:24, 190:16, 192:19, 194:10, 194:24, 200:11</p> <p>Women [31] - 4:17, 12:19, 13:1, 15:19, 16:19, 21:14, 21:25, 22:21, 24:8, 26:6, 34:15, 50:23, 57:13, 62:13, 79:3, 80:9, 80:13, 96:1, 108:3, 121:25, 142:9, 142:10, 160:22, 167:19, 168:17, 177:4, 178:8, 188:16, 193:6, 3:14, 3:17</p> <p>Women's [6] - 9:24, 59:7, 98:3, 112:8, 127:7, 172:20</p> <p>women's [2] - 174:25, 201:11</p> <p>wonder [1] - 58:3</p> <p>wondering [3] - 58:2, 202:3, 202:17</p> <p>woodall [4] - 5:15, 8:5, 84:16, 87:12</p> <p>WOODALL [12] - 3:16, 3:19, 4:9, 5:9, 7:4, 7:10, 7:15, 7:19, 19:14, 19:20, 87:13, 87:20</p> <p>Woodall [4] - 3:17, 6:17, 6:22, 8:4</p> <p>wool [1] - 201:16</p> <p>word [6] - 22:1, 67:19, 94:19, 118:22, 120:20, 121:6</p> <p>worded [1] - 59:6</p> <p>words [7] - 55:2, 57:13, 73:24, 123:16, 156:10, 197:16, 199:17</p> <p>worker [14] - 13:16, 14:4, 20:19, 23:11, 23:12, 23:18, 39:24, 47:9, 51:18, 64:17, 104:1, 105:4, 119:3, 127:1</p> <p>workers [32] - 20:25, 40:14, 44:23, 48:25, 50:14, 51:5, 56:17, 56:23, 103:19, 103:20, 103:23, 118:17, 120:20, 120:21, 121:1, 123:22, 124:1,</p>	<p>124:11, 125:2, 125:11, 126:23, 132:4, 138:1, 140:12, 158:15, 176:21, 182:24, 184:5, 191:15, 194:16, 203:22, 218:4</p> <p>Workers [1] - 96:13</p> <p>works [1] - 71:7</p> <p>world [5] - 52:7, 65:22, 189:13, 193:2</p> <p>worst [1] - 189:18</p> <p>worth [2] - 94:5, 203:22</p> <p>wound [1] - 57:19</p> <p>write [9] - 79:8, 81:25, 83:9, 161:3, 161:5, 188:4, 190:14, 194:12, 221:15</p> <p>writer [2] - 172:6, 172:10</p> <p>writes [3] - 154:24, 163:21, 187:21</p> <p>writing [24] - 15:6, 29:23, 33:12, 33:13, 33:14, 34:2, 34:4, 43:22, 46:8, 57:25, 79:17, 101:2, 101:5, 154:21, 177:8, 184:5, 188:11, 188:14, 210:9, 211:19, 214:13, 215:11, 215:14, 216:13</p> <p>written [8] - 30:2, 38:6, 44:15, 97:16, 136:20, 152:9, 164:25, 213:19</p> <p>wrongly [1] - 59:6</p> <p>wrongly-worded [1] - 59:6</p> <p>wrote [8] - 17:6, 21:7, 78:22, 116:20, 140:7, 140:20, 141:19, 190:4</p> <p style="text-align: center;">Y</p> <p>year [11] - 8:14, 9:3, 9:18, 9:21, 13:8, 14:8, 22:24, 47:5, 186:20, 193:11, 209:16</p> <p>years [31] - 9:10, 9:15, 12:14, 13:15, 14:17, 15:10, 15:23, 16:16, 23:22, 24:2, 24:4, 33:15, 54:9, 54:23, 61:5, 62:22, 69:9,</p>	<p>71:23, 89:20, 90:3, 90:10, 93:6, 95:25, 122:13, 124:7, 149:23, 167:5, 175:24, 200:17, 209:13, 222:1</p> <p>Yesterday [1] - 76:5</p> <p>yesterday [2] - 76:15, 86:11</p> <p>York [1] - 12:3</p> <p>Young [1] - 189:1</p> <p>young [1] - 89:11</p> <p>yourself [5] - 65:23, 71:5, 161:23, 222:24, 223:19</p> <p>Yurkiw [1] - 172:11</p>
--	--	---	---