

**THE INTERNATIONAL SOCIETY FOR THE REFORM
OF CRIMINAL LAW**

20TH INTERNATIONAL CONFERENCE

**Justice for All -
Victims, Defendants, Prisoners
and the Community**

Brisbane Queensland, Australia, July 2 – 6, 2006

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**Wrongful Convictions: Some Case Studies
Preventing Miscarriages of Justice**

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INTRODUCTION

The intent of this seminar is to allow conference delegates to share their ideas and experiences on this most important of topics, the prevention of miscarriages of justice. Our esteemed former President, Michael Hill, QC frequently lamented to those of us planning the Society's conferences that, since we have so many important speakers at our conferences (referred to by Michael in this context as "talking heads" notwithstanding the respect he had for them), we do not make sufficient time to learn from the varied experience of each other at real "workshops" where significant contributions would come from attendees.

This conference will hear a panel discussion on this topic in Plenary 12 on Thursday. For this seminar it was intended to use the Canadian case of David Milgaard as a case study. David Milgaard was a carefree teenaged hippie just passing through Saskatoon on Jan. 31, 1969 - the same bitterly cold (-40 degree) day 22-year old nursing assistant Gail Miller was raped and stabbed to death in a back alley. Milgaard was convicted of killing Gail Miller, in 1969 when he was 16. The chronology of the path to justice for David Milgaard is attached as "Schedule A" to this paper and the details of the case (up until the date of the report) are set forth in the seminar

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Background Paper prepared in 1992 by professors Neil Boyd and Kim Rossmo: "*Milgaard v. The Queen: Finding Justice – Problems and Process*".¹

Eventually, an application for a special review the then Canadian federal Justice Minister was successful and his case was referred to the Supreme Court of Canada where Milgaard's conviction was set aside. Because of the decision of the Supreme Court of Canada, David Milgaard was released on April 17, 1992, Milgaard was not finally exonerated, however, until 1997 when DNA testing confirmed that the real assailant was Larry Fisher, who was subsequently convicted of the offence. The semen and blood traces that exonerated Milgaard and resulted in the conviction of Fisher had been present on exhibits (Fisher's semen on the victims dress and Fisher's blood on one of the victims gloves) for years before being subjected to forensic testing.

The Milgaard case illustrates and confirms the problems found to exist in other cases both in Canada and throughout the world. The second seminar Background Paper is a paper prepared by the Heads of Prosecutions Committee of Justice Canada: the "*Report of the Working Group on the Prevention of Miscarriages of Justice*" following upon the reports of several commissions of inquiry into Canadian Wrongful convictions. The Justice Canada report contains a useful summary of wrongful convictions in several common law criminal justice systems.

While the Milgaard case, by itself, would have acted as a useful case study, events have overtaken the presentation for the seminar. Australia has its own case which is amazingly similar to the Milgaard case. The case is the Western Australian case of Andrew Mallard who was wrongfully convicted of the May 23, 1994 murder of Pamela Lawrence in Perth. As with Milgaard, Andrew Mallard, on February 20, 2006, was released from custody following a decision of the High Court of Australia.

Following his release, Mallard was still regarded as the prime suspect but a new investigation of the crime disclosed that a palm-print lifted from the Lawrence murder scene, but not identified by the authorities or previously disclosed to counsel for Mallard, was the print of one Simon Rochford. Simon Rochford had been convicted of the July 15, 1994 murder of another Perth-area woman, Brigitta Dickens. On April 12, 2006, during a cold-case review of the Lawrence murder, the palm print left at the Lawrence crime scene was matched to Rochford. On May 19, 2006, and while in custody on his original murder conviction, Rochford committed suicide after being confronted by police with the palm print evidence.

Another recent development is the release of the report of the former Chief Justice of Canada, the Rt. Hon. Antonio Lamer, into three cases of miscarriage of justice in the Canadian province of Newfoundland and Labrador.² The three cases reviewed former Chief Justice Lamer, cover a wide variety of problems from throughout the criminal justice system:

¹ A Commission of Inquiry into the Milgaard conviction and the investigation of the murder of Gail Miller was established by the Government of Saskatchewan. See the website of the Commission at <http://www.milgaardinquiry.ca/>

² *The Report of the Lamer Commission of Inquiry Pertaining to the Cases of: Ronald Dalton, Gregory Parsons, Randy Druken* is available at <http://www.justice.gov.nl.ca/just/lamer/LamerReport.pdf>

Gregory Parsons was arrested and charged with the murder of Catherine Carroll, and,

- (a) on 18 January 1991 Gregory Parsons was granted judicial interim release;
- (b) on 15 February 1994 Gregory Parsons was convicted of second degree murder in the death of Catherine Carroll and on 17 February 1994 was sentenced to life without parole for 15 years;
- (c) on 25 March 1994 Gregory Parsons was granted judicial interim release by the Supreme Court of Newfoundland and Labrador, Court of Appeal, pending his Appeal of the conviction of second degree murder;
- (d) on 3 December 1996 the Supreme Court of Newfoundland and Labrador, Court of Appeal, overturned Gregory Parsons' conviction of second degree murder in the death of Catherine Carroll and ordered a new trial;
- (e) in August 1997 certain exhibits used in the trial of Gregory Parsons were released for DNA testing;
- (f) on 26 January 1998 the results of the DNA testing confirmed that the DNA found at the murder scene was not that of Gregory Parsons;
- (g) on 2 February 1998 a Stay of Proceedings was entered on the murder charge against Gregory Parsons;
- (h) on 5 November 1998 Gregory Parsons was acquitted of the charge that he had murdered Catherine Carroll;
- (i) on 5 November 1998, after the Crown called no evidence, the then Minister of Justice and Attorney General, the Honourable Chris Decker, publically apologized to Gregory Parsons and his family and stated that Gregory Parsons had no involvement in the murder of Catherine Carroll. Retired Justice Nathaniel Noel was appointed to investigate the circumstances of Mr. Parsons' arrest and prosecution;
- (j) on 8 January 1999 Gregory Parsons commenced a civil action against Government and, as a result, Justice Noel suspended his investigation;
- (k) on 28 February 2002 Government announced that it had reached an agreement to compensate Gregory Parsons for his arrest and conviction in the death of Catherine Carroll; and
- (l) Brian Doyle was subsequently convicted of second degree murder in the death of Catherine Carroll.

Ronald Dalton was arrested on 17 August 1988 and charged with the murder of Brenda Dalton, and

- (a) on 15 December 1989, following a trial before a judge and jury, Ronald Dalton was convicted of second degree murder in the death of Brenda Dalton;
- (b) on 27 December 1989 Ronald Dalton caused a Notice of Appeal of his murder conviction to be filed with the Supreme Court of Newfoundland and Labrador, Court of Appeal;
- (c) Ronald Dalton's Appeal was heard by the Court of Appeal some eight years later on 8 and 9 January, 1998;
- (d) on 29 May 1998 the Court of Appeal allowed Ronald Dalton's Appeal, overturned his murder conviction and ordered a new trial on the murder charge. In ordering the new trial the Court of Appeal expressed concern over the delay between the filing of the Notice of Appeal and its eventual perfection. In its Reasons for Judgment the court stated: Undoubtedly those charged with the administration of justice and the provision of legal services in this Province will feel constrained in due course, when satisfied that collateral inquiry will not impede the realization of justice on retrial, to receive explanation why a citizen languished in prison for eight years before substantial challenges to the justification of his presence there were brought before this court for hearing.
- (e) following a retrial before judge and jury, on 24 June 2000 Ronald Dalton was acquitted of the murder of Brenda Dalton; and
- (f) on 30 November 2001 Ronald Dalton commenced civil proceedings against Dr. Charles Hutton, alleging that Dr. Hutton was negligent in his opinion that Brenda Dalton had died of strangulation. Government is joined as Dr. Hutton s employer.

Randy Druken was charged on 20 August 1993, with the murder of Brenda Young, and

- (a) on 18 March 1995, following a trial before a judge and jury, Randy Druken was convicted of second degree murder in the death of Brenda Young and on 14 June 1995 was sentenced to a period of life imprisonment with no eligibility of parole for 14 years;
- (b) on 30 June 1995 Randy Druken caused a Notice of Appeal to be filed with the Supreme Court of Newfoundland and Labrador, Court of Appeal;
- (c) on 17 July 1999, following an Application to admit fresh evidence, the Supreme Court of Newfoundland and Labrador, Court of Appeal, overturned the conviction for second degree murder and ordered a new trial;
- (d) on 30 August 2000 the Crown entered a Stay a Proceedings of the charge against Randy Druken in the death of Brenda Young. This Stay expired on 30 August 2001 and to date no further charges have been laid against anyone in the death of Brenda Young; and

- (e) on 29 August 2002 Randy Druken commenced civil proceedings against Government alleging police negligence and malicious prosecution.

It is not intended to examine these Newfoundland cases in detail, since time does not permit us to do so. However, the findings of a former Chief Justice of Canada on the failings of Canada's justice system are significant. He noted: ³

The conviction of innocent people has been established with increasing frequency in Canada in recent years. The Supreme Court of Canada recently referred to "a disturbing Canadian series of wrongful convictions" commencing with Donald Marshall Jr. in 1971 and including David Milgaard, Guy Paul Morin, Thomas Sophonow and Gregory Parsons: *The United States v. Burns* [2001] 1 S.C.R. 283 at paras 97 *et seq.*, commonly referred to as the *Burns and Rafay* case. In each of these wrongful convictions, a Royal Commission, such as this one, was established to determine what "went wrong" in order to determine how such gross miscarriages of justice can be avoided in future.

Chief Justice Lamer's findings are worthy of note and have application beyond Canada. Justice Lamer made these comments about the "criminal justice system" in his report relating to Mr. Dalton: ⁴

A common feature running through Mr. Dalton's sad journey was the narrow focus of so many of the actors. How could they appreciate the injustice that was occurring before their eyes when they did not see him as a person and did not listen to him?

....

However, many of the individuals and the institutions they represented often saw only the narrowest of issues for which they were specifically responsible. They did not recognize that their contributions were only meaningful in the context of the criminal justice "system". Each of us has responsibility not only for our own specific **tasks but also for the results ultimately reached by the "system"**.

This is not a new problem for the criminal justice system. The following passage is taken from an essay written by G.K. Chesterton almost 100 years ago, after he had served on a jury. He was impressed by the fresh perspective that a jury could bring to the work of professionals who could become insensitive because of familiarity:

Now it is a terrible business to mark a man out for the vengeance of men. But it is a thing to which a man can grow accustomed, as he can to other terrible things... And the horrible thing about all legal officials, even the best, about all judges, magistrates, barristers, detectives, and policemen, is not that they are wicked (some of them are good), not that they are stupid (several of them are quite intelligent), it is simply that they have got used to it.

Strictly they do not see the prisoner in the dock; all they see is the usual man in the usual place. They do not see the awful court of judgment they only see their own workshop.

The criminal justice system did not "see" Mr. Dalton for almost eight years and, for that, we are all responsible.

(emphasis in original)

³ The Report of the Lamer Commission of Inquiry Pertaining to the Cases of: Ronald Dalton, Gregory Parsons, Randy Druken, at page 70.

⁴ The Report of the Lamer Commission of Inquiry Pertaining to the Cases of: Ronald Dalton, Gregory Parsons, Randy Druken, at pages 66- 68.

This Society has within its membership, leading practitioners in all aspects of the criminal justice system. It is hoped that this seminar can play some small part of in bringing together the considerable experience of our members and conference delegates in addressing this systemic problem.

AVOIDING MISCARRIAGES OF JUSTICE IS VITALLY IMPORTANT TO THE CRIMINAL JUSTICE SYSTEM

A wrongful conviction is a failure of justice in the most fundamental sense. An innocent person has been erroneously convicted of a crime that he or she did not commit. No matter how many cases are successfully prosecuted every day in our courtrooms, wrongful convictions, regardless of how infrequent, are a reminder of the fallibility of the justice system and a stain on its well-deserved positive reputation.

Public confidence in the administration of justice is fostered by demonstrating that participants in the criminal justice system are willing to take action to prevent future miscarriages of justice. Fair, independent and impartial police investigations and Crown prosecutions are in the public interest. Experience clearly establishes that this is an issue that does not touch on one single province or state or national jurisdiction alone but rather touches all criminal justice systems.

Some problems, themes and mistakes arise time and time again, regardless of where the miscarriage of justice took place. These problems relate to the conduct of police, prosecutors, defence lawyers, judges and forensic scientists, and they are not confined to proceedings in the courtroom.

When a miscarriage of justice occurs, the cases studied clearly establish that it is not usually the result of just one mistake, but rather a combination of events. As Chief Justice Lamer notes in his report, the responsibility to prevent wrongful convictions, therefore, falls on all participants in the criminal justice system. Police officers, prosecutors, forensic scientists, judges and defence counsel all have a role to play in ensuring that innocent people are not convicted of crimes they didn't commit.

RECURRING PROBLEMS

Issues that have been identified time and time again, both in Canada and elsewhere, as the key factors that contribute to wrongful convictions:

- tunnel vision
- mistaken eyewitness identification and testimony
- false confessions
- in-custody informers
- DNA evidence
- forensic evidence and expert testimony

- education

Of these, the core problem appears to be “tunnel vision”.

THE CORE PROBLEM - “TUNNEL VISION”

As noted in the Justice Canada Working Group Report, tunnel vision, and its perverse by-product “noble cause corruption,” have been identified as a leading cause of wrongful convictions in Canada and elsewhere. Tunnel vision has been defined as “the single minded and overly narrow focus on an investigation or prosecutorial theory so as to unreasonably colour the evaluation of information received and one’s conduct in response to the information.” Tunnel vision often occurs when the “hydraulic pressure” of public opinion creates an atmosphere in which state authorities seek to convict someone despite the existence of ambiguous or contradictory evidence.

This “hydraulic pressure” flows from the public outrage in high profile cases which can translate into intense pressure on the police to arrest and on prosecutors to convict, with speed becoming the overriding factor. This can contribute to tunnel vision when the investigative team focuses prematurely, resulting in the arrest and prosecution of a suspect against whom there is some evidence, while other leads and potential lines of investigation go unexplored.

The Canadian wrongful conviction inquiries have all comments on this phenomenon:

- The *Marshall Inquiry* stated:
 - We recognize that cooperative and effective consultation between the police and the Crown is also essential to the proper administration of justice. But under our system, the policing function -- that of investigation and law enforcement -- is distinct from the prosecuting function. We believe the maintenance of a distinct line between these two functions is essential to the proper administration of justice.
- The *Sophonow Inquiry* stated:
 - Tunnel vision is insidious. It can affect an officer or, indeed, anyone involved in the administration of justice with sometimes tragic results. It results in the officer becoming so focussed upon an individual or incident that no other person or incident registers in the officer's thoughts. Thus, tunnel vision can result in the elimination of other suspects who should be investigated. Equally, events that could lead to other suspects are eliminated from the officer's thinking. Anyone, police officer, counsel or judge can become infected by this virus.
- The *Guy Paul Morin Inquiry* stated:
 - Investigating officers should not attain an elevated standing in an investigation through acquiring or pursuing the “best” suspect or lead. This promotes competition between investigative teams for the best lead, results in tunnel vision and isolates teams of officers from each other.

In the Newfoundland Commission report, Chief Justice Lamer noted these findings and added his own: ⁵

These reports and other literature identify a number of recurring features in wrongful conviction cases. These include:

- A crime which is horrible and alarming, giving it a high profile in the community and creating public pressure to find and convict the perpetrator immediately;
- An absence of direct evidence, leading to reliance upon "circumstances" which are subjectively interpreted to draw inferences of guilt; (frequently such inferences are logically weak and are, occasionally, "far-fetched");
- Reliance upon highly questionable evidence such as "jailhouse informants";
- The "denlonzing" of a suspect, who may be a "loner", "outsider" or member of a minority group;
- Exaggeration of adversarial roles on the part of the police and prosecutors, leading to "noble cause corruption". This involves the justification of improper professional practices in order to achieve the perceived "correct" result.

All of these features may contribute to the malaise of "tunnel vision" which, in turn, may reinforce them, creating a vicious circle.

Tunnel vision is rarely the result of malice on the part of individuals. Rather it is generated by a police and prosecutorial culture that allows the subconscious mind to rationalize a biased approach to the evidence. Moreover, it is mutually reinforcing amongst police officers, amongst prosecutors and in the interaction between these groups of professionals. It may even affect judges.

Commissioner Kaufman described tunnel vision as:

... the single one sided and overly narrow focus on a particular investigative or prosecutorial theory, so as to unreasonably colour the evaluation of information received and one's conduct in response to the information.

Commissioner Cory elaborated:

Tunnel Vision is insidious. It can affect an officer or, indeed, anyone involved in the administration of justice with sometimes tragic results. It results in the officer becoming so focussed upon an individual or incident that no other person or incident registers in the officer's thoughts. Thus, tunnel vision can result in the elimination of other suspects who should be investigated. Equally, events which could lead to other suspects are eliminated from the officer's thinking. Anyone, police officer, counsel or judge can become infected by this virus.

Once "locked in" to the theory of their case, it is not difficult to understand how some police officers, with "noble" motivation, may move from mere interpretation of the evidence to more malignant practices. These could include "assisting" witnesses in their recollection, ignoring relevant evidence that does not support their mission and using coercion to attempt to obtain admissions from the single suspect, whose guilt is assumed.

⁵ The Report of the Lamer Commission of Inquiry Pertaining to the Cases of: Ronald Dalton, Gregory Parsons, Randy Druken, at pages 71- 72.

Many of these consequences became visible in the case of Gregory Parsons. It is important to emphasize that these were not the result of personal malice. This "disease" is transmitted through individuals but it does not mean those who carry it are evil. There is no question that the conduct of the professionals "infected by this virus" has inflicted profound pain and suffering on the victims. ...the accused, family and friends. However, in the case of Gregory Parsons, I perceive that it has also caused genuine anguish to those professionals who were misguided by tunnel vision, for the pain and suffering it has caused.

I agree with the submission of Association in Defence of the Wrongfully Convicted (AIDWYC), that "the causes of wrongful convictions are fundamentally systemic". Commissioner Kaufman also emphasized systemic problems:

The case of Guy Paul Morin is not an aberration... What I mean is that the **causes of Morin's** conviction are rooted in systemic problems, as well as the individual failings of individuals. It is no coincidence that the same systemic problems are those identified in wrongful convictions in other jurisdictions worldwide. It is these systemic issues that must be addressed in future.

It is important, therefore, when considering the tragic plight of Gregory Parsons, to bear in mind that many of the individual failings within the criminal justice system may have been driven by systemic forces, primarily, tunnel vision.

Chief Justice Lamer spoke to one wrongfully convicted about the role of the system: ⁶

When Mr. Parsons finished testifying, I made the following statement to him:

At the time of your conviction, I was the Chief Justice of this country, the head of the system that convicted you, and I'm publicly inviting all those that were judges at the time to join me in accepting joint and several responsibility for the system having done to you what it did.

I wish to indulge in this opportunity to extend my apology to all of those who may have suffered injustice in our legal system while I held this role. Since the ultimate problem is inevitably systemic, those of us who form that system cannot simply say that any particular injustice has nothing to do with me.

I hope that the personal observations of Gregory Parsons in this section will help all of us involved in the criminal justice system to give pause. We should consider Oliver Cromwell's plea just before the Battle of Dunbar:

I beseech ye in the bowels of Christ, think that ye may be mistaken.

Justice Learned Hand said decades ago that he would like to have these words written over the portals of every courthouse of the nation. It is an important reminder for all police officers, counsel and judges.

As noted in the Justice Canada Working Group Report, the following practices have been recommended to assist in deterring tunnel vision:

- Crown policies on the role of the Crown should emphasize the quasi-judicial role of the prosecution and the danger of adopting the views and/or enthusiasm of

⁶ The Report of the Lamer Commission of Inquiry Pertaining to the Cases of: Ronald Dalton, Gregory Parsons, Randy Druken, at pages 100 -101.

others. Policies should also stress that Crowns should remain open to alternate theories put forward by defence counsel and other parties.

- All jurisdictions should consider adopting a “best practice,” where feasible given geographic realities, of having a different Crown Attorney prosecute the case than the Crown Attorney who advised that there were grounds to lay the charge. Different considerations might apply with mega-cases.
- In jurisdictions without pre-charge screening, charges should be scrutinized by Crowns as soon as practicable.
- Second opinions and case review should be available in all areas.
- There should be internal checks and balances through supervision by senior staff in all areas with roles and accountabilities clearly defined and a lead Crown on a particular case clearly identified.
- Crown offices should encourage a workplace culture that does not discourage questions, consultations, and consideration of a defence perspective by Crown Attorneys.
- Crowns and police should respect their mutual independence, while fostering cooperation and early consultation to ensure their common goal of achieving justice.
- Regular training for Crowns and police on the dangers and prevention of tunnel vision should be implemented. Training for Crown Attorneys should include a component dealing with the role of the police, and training for police should include a component dealing with the role of the Crown.

In his report, Chief Justice Lamer endorsed the utilization of a “contrarian view” approach to be utilized in major investigations:⁷

I wish to comment on one specific aspect of this Report, related to the Parsons' investigation experience, and one more general observation in support of this Report.

Under the heading of Major Case Management, there is a section entitled, Contrarian View where an analogy is drawn between the "scientific method" and police work. The observation is made that:

Scientists know that the best way to have their research findings accepted is to do everything possible to disprove their own hypothesis.

The absence of such a "contrarian" or "truth-scrutinizing" role was the fatal flaw in this investigation. Everyone simply "jumped on the bandwagon" or "looked the other way". The Report states that this role should be assigned to the leadership role of the case

⁷ *The Report of the Lamer Commission of Inquiry Pertaining to the Cases of: Ronald Dalton, Gregory Parsons, Randy Druken*, at pages 132.

manager. It is by no means a weakness, but is a strength, of leadership to ask: "Are you sure we are not mistaken"?

CONSIDERATION OF REFORMS ARISING FROM THE CASE EXPERIENCES

In this seminar, it is hoped that by a case study of the Milgaard case and the other wrongful conviction cases referred to in this paper and the Justice Canada Working Group Report, the discussion by delegates will play some small part in the development of needed systemic reforms in all of our jurisdictions.

“Schedule A”

**Chronology of Events relating to the
Wrongful conviction of David Milgaard**

- **January 31, 1969**
 - David Milgaard, Ron Wilson and Nicole John travel from Regina to Saskatoon and arrive in the early morning. They become lost and eventually arrive at the home of Albert Cadrain at 334 Ave. 0 South at approximately 9:00 or 9:30 a.m. They leave later that day for Calgary and are joined on the trip by Albert Cadrain.
 - Gail Miller leaves her house at 130 Ave. 0 South at or shortly after 6:45 a.m. Following her departure from home, Gail Miller is sexually assaulted and murdered. Her body is discovered at approximately 8:30a.m.
 - A woman is indecently assaulted on Avenue H between 20th and 21st Street at 7:07 a.m.
 - The Saskatoon City Police (SCP) arrive at the Gail Miller murder scene at approximately 8:40 or 8:50 a.m.
- **February 3,1969**
 - The real killer, Larry Fisher is questioned by Det. McCorriston (SCP) at 6:49 a.m. in the 300 block of Avenue 0 South. Fisher states that on January 31, 1969, he caught the bus to work at 6:30 a.m. (at Ave. 0 and 20th street) and saw nothing unusual.
- **February 4, 1969**
 - Lt. Penkala (SCP) finds two yellow frozen lumps in the snow at the murder scene. They are delivered to the lab and are later determined to contain semen and hair.
 - David Milgaard and his traveling companions return to Regina.
- **February 6, 1969**
 - Albert Cadrain is arrested by the Regina City Police for vagrancy and sentenced to 7 days in jail the next day. He serves the sentence in Regina.
- **February 21, 1969**
 - A woman is sexually assaulted in the 200 block of Avenue V South in Saskatoon. The assault takes place in the evening at approximately 9:00 p.m. It is similar to the previous sexual assaults.
- **March 2, 1969**
 - After returning to Saskatoon, Albert Cadrain contacts the Saskatoon City Police and provides a statement reporting suspicious behaviour by David Milgaard during their trip and indicating that when David Milgaard arrived at his house on the morning of January 31, 1969, he had blood on his clothing.
 - David Milgaard is apprehended in Winnipeg and retained in custody.
- **March 3, 1969**

- David Milgaard is interviewed in the morning by Det. Karst (SCP) and S/Sgt. Edmondson (RCMP). David Milgaard gives particulars of his activities on January 31, 1969.
- Ronald Wilson is interviewed in Regina by Inspector Riddell of the RCMP. Ron Wilson denies knowledge of the Gail Miller murder and indicates that he was not separated from David Milgaard on the morning of January 31, 1969 at any point for any more than one or two minutes.
- **March 11, 1969**
 - Nichol John is interviewed in Regina by Inspector Riddell of the RCMP. She indicates that at no point during the morning of January 31, 1969 was she separated from David Milgaard or Ron Wilson for more than one or two minutes.
- **March 18, 1969**
 - Lt. Short and Det. Karst (SCP) transport Albert Cadrain to Regina, locate Nichol John in Regina, and transport both youths to the Regina jail.
 - Nichol John is placed with Albert Cadrain and that following their meeting she indicates that she believes Albert Cadrain is telling the truth, that everything he says is exactly what happened on the trip and that she was of the opinion that David Milgaard was a dangerous character.
 - Ron Wilson is interviewed at the Regina Correctional Centre by Lt. Short and Det. Karst (SCP). It is reported (Lt. Short - March 22, 1969) that nothing further is learned at this time.
- **April 14, 1969**
 - Nichol John is interviewed in Regina by Det. Karst (SCP). She denies that David Milgaard was apart from the group long enough to commit the offence. She indicates that she does not recall seeing blood on the clothes of David Milgaard. She is reported to state that David Milgaard acted queer on the day in question, and seemed to be in a hurry.
- **April 18, 1969**
 - David Milgaard is interviewed by Det. Barrett (SCP). He denies any involvement in the murder of Gail Miller. He provides blood, hair and saliva samples
- **May 1969**
 - Exact date unknown. Party occurs in Regina motel room with David Milgaard, Craig Melnyk, Ute Frank, Deborah Hall, George Lapchuk, Bob Harris and perhaps others. David Milgaard is alleged by some to have re-enacted the murder of Gail Miller.
- **May 21, 1969**
 - Ron Wilson is interviewed in Regina by Det. Karst and Det. Sgt. Mackie. Reportedly states that David Milgaard left the vehicle when they became stuck at approximately 6:45 a.m., that David Milgaard returned to the vehicle slightly out of breath and Wilson states that he has since thought that this is when David Milgaard was probably involved in the murder.

- **May 22, 1969**
 - Nichol John is interviewed in Regina and then driven to Saskatoon. While in Saskatoon she is transported to 20th St. W. She is reported to have remembered some locations in the vicinity of the crime scene. She is reported to have forgotten much of what she witnessed.
- **May 23, 1969**
 - Ron Wilson is interviewed by Insp. Roberts (polygraph operator) of the Calgary police service and undergoes a polygraph examination. He then provides a statement implicating David Milgaard in the murder of Gail Miller.
 - Nichol John is interviewed by Insp. Roberts of the Calgary police service. She does not undergo a polygraph examination. In her interview, she is reported to have implicated David Milgaard in the murder of Gail Miller
- **May 30, 1969**
 - **David Milgaard is arrested in Prince George, B.C. for the murder of Gail Miller.**
- **June 2, 1969**
 - David Milgaard is formally charged with non-capital murder.
- **January 19, 1970**
 - David Milgaard's trial commences in Saskatoon Court of Queen's Bench before Chief Justice Bence and a jury.
- **January 31, 1970**
 - The jury hands down its verdict finding David Milgaard guilty of the murder of Gail Miller.
- **August 2, 1970**
 - Larry Fisher sexually assaults a woman in Fort Garry, Manitoba
- **September 19, 1970**
 - Larry Fisher is arrested while sexually assaulting a woman in Fort Garry, Manitoba. He confesses to the crime and also confesses to raping and robbing the woman on August 2, 1970. He is charged with sexual assault and is detained in custody.
- **October 21, 1970**
 - Larry Fisher confesses to a rape and an attempted rape in Saskatoon and an attempted rape in Winnipeg.
- **October 22, 1970**
 - Det. Karst (SCP) travels to Winnipeg and interviews Larry Fisher. Larry Fisher admits to the rape of Victim #4 and the attempted rape of Victim #3 in Saskatoon.
- **December 30, 1970**

- **Larry Fisher is charged with the sexual assault of three Saskatoon victims and with the indecent assault of another Saskatoon victims.**
- **January 5, 1971**
 - **David Milgaard’s appeal of his conviction is dismissed by the Saskatchewan Court of Appeal.**
- **May 28, 1971**
 - Larry Fisher pleads guilty in Winnipeg Court to the sexual assaults of Victim #7 and Victim #8. He is sentenced to a total of 13 years.
- **November 15, 1971**
 - David Milgaard’s application for leave to appeal is dismissed by the Supreme Court of Canada.
- **May 28, 1971**
 - Larry Fisher pleads guilty in Winnipeg Court to the sexual assaults of Victim #7 and Victim #8. He is sentenced to a total of 13 years.
- **November 15, 1971**
 - David Milgaard’s application for leave to appeal is dismissed by the Supreme Court of Canada.
- **May 28, 1971**
 - Larry Fisher pleads guilty in Winnipeg Court to the sexual assaults of Victim #7 and Victim #8. He is sentenced to a total of 13 years.
- **November 15, 1971**
 - David Milgaard’s application for leave to appeal is dismissed by the Supreme Court of Canada.
- **December 21, 1971**
 - **Larry Fisher is transferred from the Prince Albert Penitentiary and appears in Regina Court of Queen’s Bench. He pleads guilty to 3 charges of rape and one charge of indecent assault (the Saskatoon offences). He is sentenced to 10 years to be served concurrent with his existing sentence.**
- **August 31, 1977**
 - David Milgaard is formally denied day parole.
- **June 19, 1979**
 - David Milgaard’s parole application is denied.
- **January 26, 1980**
 - Larry Fisher is released from prison.
- **March 31, 1980**
 - Fisher rapes and attempts to murder a woman in North Battleford
- **August 28, 1980**

- Linda Fisher (Larry’s ex-wife) attends at the Saskatoon police station and provides a statement to Inspector Wagner indicating that she has had suspicions about Larry Fisher in relation to the Gail Miller murder.

- She describes events that occurred at her home on the morning of January 31, 1969 respecting an argument with Larry and an accusation surrounding a lost paring knife and the murder of the nurse that morning. She recounts Larry’s reaction and the description of the knife.
- She states that Larry was never questioned about the crime and that she has a feeling that David Milgaard is innocent.

- **August 28, 1980**
 - Larry Fisher is convicted of the attempted murder and rape in North Battleford court. He is sentenced to ten years in prison.

- **March 11, 1986**
 - The Department of Justice opens a file in relation to David Milgaard’s application for mercy pursuant to s.617 of the *Criminal Code*.

- **January 11, 1988**
 - Mr. Justice A.L. Sirois orders that the exhibits at the trial of David Milgaard be release to the care and custody of Dr. Ferris on such terms as set out within the Order.

- **March, 1988**
 - Dr. Ferris indicates that with the then current DNA science that it is unlikely that DNA testing in relation to Gail Miller’s clothing could be successfully conducted.

- **September 13, 1988**
 - Dr. Ferris prepares a written report for Hersh Wolch. Assuming that David Milgaard is a non-secretor, Dr. Ferris concludes that the serological evidence presented at trial excluded Milgaard from being the perpetrator of the murder.
 - Dr. Ferris also states in his report that he had an opportunity to examine Gail Miller’s clothing and to attempt to retrieve DNA from the clothing (the panties and panty girdle) but all of his attempts to obtain sufficient DNA to carry out a genetic typing analysis were unsatisfactory.

- **September 13, 1988**
 - Dr. Ferris advises that there was no accurate means of determining secretor status in 1969/70 at the time of David Milgaard’s conviction. He advises Wolch that the modern method of determining secretor or non-secretor status had not been adopted as a routine laboratory procedure at the time of Milgaard’s conviction.

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- **December 28, 1988**
 - Milgaard's counsel forwards the first s.690 application on behalf of David Milgaard. This application is primarily based upon the affidavit of Deborah Hall and the two reports of Dr. Ferris.
- **August 29, 1989**
 - Milgaard's counsel advises the federal Minister of Justice that it has come to his attention that there may have been reports of an individual harassing nurses in the vicinity where Gail Miller was murdered in the days and weeks proceeding the murder and asks the Minister to make inquiries as to the information that the prosecutor might have had regarding such attacks.
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- **February 28, 1990**
 - Milgaard's counsel advise the federal Department of Justice that they have received a telephone call from an anonymous informant claiming that Larry Fisher from North Battleford, Saskatchewan was responsible for the murder of Gail Miller and that Fisher was currently an inmate in a federal institution.
- **April 2, 1990**
 - Milgaard's counsel advise the federal Department of Justice that they have no further submissions to make and stating that since the filing of their original application in December of 1988 they have also acquired information which they believe establishes the identity of the true killer of Gail Miller (Larry Fisher).
- **June 1, 1990**
 - Dr. Merry advises Milgaard's counsel that a possibility that the frozen yellow substance found near Gail Miller's body was dog urine cannot be excluded, and, that from the manner in which the tests for secretor status was performed, it is not

possible to be certain if David Milgaard is a secretor or non-secretor of blood group “A” antigens.

- **June 4, 1990**
 - Ronald Dale Wilson provides a written statement recanting some of his trial testimony.
- **June 11, 1990**
 - The federal justice lawyer notes that Dr. Ferris’ report is based on the assumption that David Milgaard is a non-secretor and that the non-secretor status attributed to David Milgaard in 1969 may in fact be wrong.
- **June 4, 1990**
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- **June 11, 1990**
 - The federal justice lawyer notes that Dr. Ferris’ report is based on the assumption that David Milgaard is a non-secretor and that the non-secretor status attributed to David Milgaard in 1969 may in fact be wrong.
- **February 27, 1991**
 - The federal minister of justice dismisses David Milgaard’s application to review his conviction pursuant to section 690 of the Criminal Code.
- **August 14, 1991**
 - David Milgaard files a second application to review his conviction pursuant to section 690 of the Criminal Code. In his letter to Kim Campbell, Milgaard’s counsel states that the thrust of the first application was not Larry Fisher. He says that at the time the first application was made they were advised by her department that there were no police reports available on past offences of Mr. Fisher. When they determined to proceed further in investigating Larry Fisher’s possible guilt, they were surprised to learn there was material available (i.e. “including at least on police report concerning previous victims of Fisher”).
- **November 28, 1991**
 - The federal Minister of Justice refers David Milgaard’s case to the Supreme Court of Canada for a hearing.
- **March 23, 1992**
 - Sgt. Pearson travels to Ottawa and takes possession of Milgaard exhibits from RCMP forensic serologist, Ms. Pat Alain. Sgt. Pearson takes the exhibits to Roche Biomedical Laboratory in North Carolina for the purpose of DNA analysis.
- **April 6, 1992**
 - It is reported that attempts at DNA genetic-code testing in the U.S. have produced no conclusive results.
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 - The Supreme Court of Canada Reference Case concludes.
- **April 14, 1992**
 - The decision of the Supreme Court of Canada is released. The Supreme Court of Canada concludes that there has been enough new information placed before them which is reasonably capable of belief and which taken together with the evidence adduced at trial could reasonably be expected to have affected the verdict. The Supreme Court of Canada indicates that they will be directing the Minister to quash the conviction and to direct a new trial.
- **April 16, 1992**
 - A Stay of Proceedings is entered by the Crown in Her Majesty *The Queen v. David Milgaard*. The Government of Saskatchewan states that it will not order a new trial. David Milgaard is released from jail.
- **May 26, 1994**
 - Larry Fisher is released from custody.
- **July 18, 1997**
 - Release of DNA testing report from British laboratory which confirms that the semen samples extracted from certain pieces of clothing belonging to Gail Miller did not originate from David Milgaard and, on the basis of certain stated statistics, were very likely to have originated from Larry Fisher.
- **July 25, 1997**
 - Larry Fisher is arrested and charged with the murder of Gail Miller.
- **November 22, 1999**
 - Larry Fisher is convicted of the rape and murder of Gail Miller in 1969
- **September 29, 2003**
 - Larry Fisher’s appeal to the Saskatchewan Court of Appeal is dismissed.
- **August 26, 2004**
 - Larry Fisher’s application for leave to appeal to the Supreme Court of Canada is dismissed