



# Commission of the Inquiry Into the Wrongful Conviction of David Milgaard

Honourable Mr. Justice Edward P. MacCallum, Commissioner

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On Friday, February 20, 2004, Justice Minister Frank Quennel announced that the Honourable Mr. Justice Edward P. MacCallum of the Alberta Court of Queen's Bench will conduct an inquiry into any and all aspects of the conduct of the investigation into the death of Gail Miller and the subsequent criminal proceedings resulting in the wrongful conviction of David Edgar Milgaard. The Commission of Inquiry will also have the responsibility to seek to determine whether the investigation should have been re-opened based on information subsequently received by the police and the Department of Justice.

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## FINAL REPORT

Report of the Commission of Inquiry into the Wrongful Conviction of David Milgaard

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## MANDATE

On February 20, 2004, the Government of Saskatchewan announced the appointment of the Honourable Mr. Justice Edward P. MacCallum of the Alberta Court of Queen's Bench to conduct an inquiry into the wrongful conviction of David Milgaard.

The Commission has a mandate to inquire into and report on any and all aspects of the conduct of the investigation into the death of Gail Miller, and the subsequent criminal proceedings resulting in the wrongful conviction of David Milgaard on the charge that he murdered Gail Miller.

The Commission also has the responsibility to seek to determine whether the investigation should have been re-opened based on information subsequently received by the police and the Department of Justice.

The Commission will report its findings and make such recommendations as it considers advisable relating to the administration of criminal justice in the province of Saskatchewan.

As provided in the Public Inquiries Act, the Commission shall perform its duties without expressing any conclusion or recommendation regarding the civil or criminal liability of any person or organization, and without interfering in any ongoing criminal or civil proceeding.

The Commission will deliver its final report containing its findings, conclusions and recommendations to the Attorney General of Saskatchewan, who will make the report public.



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**THE COMMISSIONER**

## **HONOURABLE MR. JUSTICE EDWARD P. MACCALLUM**

Mr. Justice MacCallum was called to the bar in Alberta in 1965 and appointed to the Court of Queen's Bench in 1983. In addition to his trial court responsibilities in Alberta, Justice MacCallum is a deputy judge in Nunavut, the Yukon Territories and the Northwest Territories. He was chairman of the Alberta Federal Electoral Boundaries Commission and served four terms as a sessional lecturer at the Faculty of Law at the University of Alberta. He was the Chairman of the Fatality Review Board for the Province of Alberta for five years.



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## SCHEDULE

The Public Hearing convened for a total of 191 days between January 17, 2005 and October 4, 2006.

### View the complete schedule of hearing days and locations:

- [Month by Month Schedule](#)

### View the monthly schedule of hearing days and locations:

- [January 2005](#) [February 2005](#) [March 2005](#) [April 2005](#)  
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## PARTIES TO THE COMMISSION

PARTY	COUNSEL	STATUS
<b>Mr. David Milgaard</b>	Mr. Hersh Wolch, Q.C.	Standing and Funding
<b>Mr. Eddie Karst</b>	Mr. Aaron Fox, Q.C.	Standing and Funding
<b>Mr. T.D.R. Caldwell</b>	Ms. Catherine Knox	Standing and Funding
<b>Government of Saskatchewan</b>	Ms. Lana Krogan	Standing
<b>The Association in Defence of the Wrongly Convicted (AIDWYC)</b>	Mr. Melvyn Green	Standing and Funding
<b>Ms. Joyce Milgaard</b>	Mr. James Lockyer	Standing and Funding
<b>RCMP</b>	Mr. Bruce Gibson	Standing
<b>Saskatoon Police Service</b>	Mr. Richard Elson, Q.C.	Standing and Funding
<b>Mr. Larry Fisher</b>	Mr. Brian A. Beresh	Standing and Funding
<b>Mr. Serge Kujawa</b>	Mr. Garrett Wilson, Q.C.	Standing and Funding
<b>Calvin Tallis</b>	Mr. Alexander Pringle, Q.C.	Standing and Funding
<b>Minister of Justice (Canada)</b>	Mr. David Frayer, Q.C.	Standing
<b>Mr. David Asper</b>	Mr. Donald Sorochan, Q.C..	Standing and Funding
<b>Mr. Eugene Williams</b>	Mr. Ken McLeod	Standing



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## CONTACT

**All enquiries should be directed to:**

**Ms. Candace Cook**

Executive Director

Commission of Inquiry Into the Wrongful Conviction of David Milgaard

1000 - 1874 Scarth Street

Regina, SK S4P 4B3

Telephone: (306) 787-0775

Facsimile: (306) 933-8305

[milgaardinquiry@justice.gov.sk.ca](mailto:milgaardinquiry@justice.gov.sk.ca)



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## COMMISSION STAFF

### **MR. DOUGLAS C. HODSON, Q.C.** **Commission Counsel**

Mr. Douglas C. Hodson, Q.C. is a partner with the law firm MacPherson, Leslie & Tyerman in Saskatoon. He earned his Bachelor of Laws from the University of Saskatchewan and was admitted to the bar in 1985. Mr. Hodson's practice focus is on general corporate and commercial litigation. Mr. Hodson services clients ranging from individuals to multi-national corporations. Mr. Hodson's significant contributions to his profession and the community have been recognized on numerous occasions. He received the Canadian Bar Association Community Service Award in 2002, the University of Saskatchewan Alumni Association Humanitarian Award in 2001, and the B'Nai Brith 'Proud of You' Award in 2000.

### **MS. CANDACE D. COOK** **Executive Director**

Ms. Candace Cook graduated from the University of Saskatchewan (B.A. Honours) in 1995. She joined the Commission from the Communications and Public Education branch of Saskatchewan Justice and Saskatchewan Corrections and Public Safety. Ms. Cook has served as Executive Director to the Commission of Inquiry Into Matters Relating to the Death of Neil Stonechild and has held previous positions with private and non-profit agencies.

### **MS. VANESSA MONAR ENWEANI** **Assistant Commission Counsel**

Ms. Vanessa Monar Enweani graduated from the University of Saskatchewan in 1993 (LL.B. and B.A.) and was admitted to the bar in 1994. Ms. Enweani joined the Saskatoon office of MacPherson Leslie & Tyerman LLP in June 1993, and practices in the area of civil litigation with a focus on personal injury, insurance and insolvency law. Ms. Enweani was the winner of a number of prestigious scholarships recognizing academic and athletic achievements during her university career. She is a world-class long jumper who is a World University Games silver medalist, a former senior national champion and a national university champion. She is currently the President of the Jeux Canada Games Foundation Inc. and is a spokesperson for Kidsport.

### **MR. JORDAN P. HARDY** **Assistant Commission Counsel**

Mr. Jordan Hardy graduated from the University of Saskatchewan in 1995 (LL.B. [distinction] and B.A. [great distinction]). Born and raised in Saskatoon, Mr. Hardy was admitted to the bar in 1996 and has practiced law in the Regina office of the law firm MacPherson Leslie & Tyerman LLP since that time. Mr. Hardy practices in the area of civil litigation and has worked for a wide range of clients including individuals, financial institutions, health care boards, professional and general liability insurers, and corporations in the resource, retail and service sectors. Mr. Hardy has considerable trial experience and has appeared before all levels of the courts in Saskatchewan. He has maintained involvement in the Saskatchewan community at large and the Regina legal community, including most recently as President of the Regina Bar Association in 2003.

### **MR. JOHN AGIORITIS** **Assistant Commission Counsel**

John Agioritis graduated from the University of Saskatchewan in 2003 (LL.B. (Distinction) and B.A. (Honours)). Originally from Regina, Mr. Agioritis joined the Saskatoon office of MacPherson Leslie & Tyerman LLP in 2003 and was admitted to the bar in 2004. His primary practice area is litigation, with an expanding emphasis on administrative, criminal and regulatory law. As an associate at MLT, Mr. Agioritis has provided legal services and advice to a variety of individuals and institutional clients on wide range of matters, including issues arising in the construction industry, restructurings under the Companies Creditors' Reorganization Act and taxation. Mr. Agioritis speaks Greek fluently and is an active member of the Greek cultural communities in Saskatoon and Regina. He is also a member of the Canadian Bar Association. Mr. Agioritis won a variety of scholarships and awards during his studies, and he was recognized as the University of Saskatchewan's Most Distinguished Graduate in Public Administration in 2000.

### **MR. DONALD R. CHRISTAL** **Investigator**

Mr. Donald R. Christal served as a peace officer with the Edmonton Police Service from 1970 to 1995. During his policing career Mr. Christal developed his skills as an investigator and supervisor in several operational divisions. Mr. Christal investigated numerous high profile and complex commercial crime cases as a Detective in the Economic Crime Unit during his last ten years of public service. In 1994 Mr. Christal established Christal Consulting Inc., a private investigation firm, through which Mr. Christal has conducted hundreds of investigations on behalf of private and public sector clients in support of criminal and civil litigation. Mr. Christal is noted for his expertise in the areas of, interview and interrogation, statement analysis, case preparation and presentation. Mr. Christal earned a Security Management Certificate from the University of Alberta and has also served on the executive of several professional and community organizations.



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# Commission of the Inquiry Into the Wrongful Conviction of David Milgaard

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## FAQs

### **What is a public inquiry?**

Governments establish public inquiries to investigate and report on matters of substantial public interest related to the good governance or the public business within a jurisdiction. The mandate of each inquiry is set out in its terms of reference and/or the Order in Council which establishes the Commission.

A Commission of inquiry is established and paid for by government, however, it is an independent body.

A public inquiry is not a trial. The Commission performs its duties without expressing conclusions about civil or criminal liability of any person or organization.

Commissions of inquiry hear evidence by way of a public hearing. The hearing functions in much the same way as a court of law, although not all of the same rules apply. Like a judge, the Commissioner presides over the proceedings and hears sworn testimony from witnesses who have been called to testify by Commission Counsel. Parties with standing are allowed to cross examine the witnesses and the public is allowed to attend the hearing.

### **Who heads the inquiry?**

The Lieutenant Governor in Council appoints a Commissioner to head a public inquiry. The Commissioner is responsible for reporting findings and making recommendations relating to the administration of justice in the province. The Commissioner has the power to summon witnesses, require them to give evidence, and require them to produce documents.

The Honourable Mr. Justice Edward P. MacCallum, a judge of the Alberta Court of Queen's Bench, is the Commissioner of the Milgaard Inquiry.

### **Who are "Commission Counsel" and what is their role?**

Commission Counsel are lawyers who work for the Commissioner. Their role is to represent the public interest. Commission Counsel do not represent any particular interest or point of view and, unlike in a trial, their role is neither adversarial nor partisan.

Commission Counsel play a key role in locating, organizing and preparing the presentation of evidence. They are responsible for bringing all relevant evidence to the attention of the Commissioner and, through the public hearing process, to the public at large.

Mr. Doug Hodson, Q.C. is Commission Counsel for the Milgaard Inquiry. He is assisted by Ms. Vanessa Monar Enweani, Mr. Jordan Hardy, and Mr. John Agioritis.

### **Who participates in the inquiry?**

Parties with standing are allowed to participate in the inquiry process. To have "standing" means that the party has demonstrated to the Commissioner that it has a direct and substantial interest in the matters being examined by the inquiry. Parties with standing participate in the public hearing, cross-examine witnesses, and are entitled to other provisions outlined in the Commission's Rules of Practice and Procedure.

### **Who pays for the parties' participation in the inquiry?**

Those parties who apply for standing, are also entitled to apply for funding. If funding is granted, the Commission pays for the parties' costs associated with participation in the inquiry process. Funding is awarded when a party demonstrates that it would not be able to participate without public funding. The aim of funding is to assist parties with standing in presenting their interests and perspectives but it is not intended to compensate for all costs incurred.



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FAQs - Continued

## **Who has standing and funding in the Milgaard Inquiry?**

Fourteen parties have been granted standing in the Milgaard Inquiry. Of those parties, ten have been granted funding.

What is the purpose of the Milgaard Inquiry?

The Milgaard Inquiry has a mandate to inquire into and report on any and all aspects of the conduct of the investigation into the death of Gail Miller, and the subsequent criminal proceedings resulting in the wrongful conviction of David Milgaard on the charge that he murdered Gail Miller.

The Commission also has the responsibility to seek to determine whether the investigation should have been re-opened based on information subsequently received by the police and the Department of Justice.

The Commission will report its findings and make such recommendations as it considers advisable relating to the administration of criminal justice in the province of Saskatchewan.

## **Who will testify at the Milgaard Inquiry?**

Commission Counsel determines who will be called to testify at the inquiry. It is Commission Counsel's responsibility to ensure that all evidence that bears on the public interest is brought to the Commissioner's attention.

The Commission's complete witness list may be viewed on the Witness list page.

## **Are the proceedings open to the public?**

Yes, the Commission is committed to a process of public hearings. Members of the media and the general public are welcome to attend the proceedings. A schedule of dates and locations of the hearing is posted to the Commission web site and will be advertised in the local newspaper.

The terms of reference of the Commission give the Commissioner the power to hold some proceedings in camera (confidential) in special circumstances. The Rules of Practice and Procedure contain additional information about this provision.

## **How long will the inquiry take?**

The Milgaard Inquiry public hearing convened for a total of 191 days between January 17, 2005 and October 4, 2006. The Commissioner is now preparing his final report which will be delivered to the Minister of Justice upon completion.

## **Will the Commissioner's final report be made public?**

The Commissioner is responsible for delivering the final report to the Minister of Justice. It is the responsibility of the Minister of Justice to release the report to the public.



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- [341106](#) Submissions on behalf of Eugene Williams
- [341292](#) Submissions on behalf of Saskatoon Police Service
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# Commission of the Inquiry Into the Wrongful Conviction of David Milgaard

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## TERMS OF REFERENCE

1. The Commission of Inquiry appointed pursuant to this Order will have the responsibility to inquire into and report on any and all aspects of the conduct of the investigation into the death of Gail Miller and the subsequent criminal proceedings resulting in the wrongful conviction of David Edgar Milgaard on the charge that he murdered Gail Miller. The Commission of Inquiry will also have the responsibility to seek to determine whether the investigation should have been re-opened based on information subsequently received by the police and the Department of Justice. The Commission shall report its findings and make such recommendations as it considers advisable relating to the administration of criminal justice in the province of Saskatchewan.
2. The Commission shall perform its duties without expressing any conclusion or recommendation regarding the criminal or civil responsibility of any person or organization, and without interfering in any ongoing criminal or civil proceeding.
3. The Commission shall complete its inquiry and deliver its final report containing its comments, findings, conclusions and recommendations to the Attorney General. The report must be in a form appropriate for release to the public, in accordance with The Freedom of Information and Protection of Privacy Act and other laws.
4. To the extent the Commission considers it advisable, it may rely on any transcript or record of any proceedings from any court in relation to the proceedings referred to above and on such other related material it considers relevant to its duties.
5. The Commission shall have the power to hold public hearings but may, at the discretion of the Commissioner, hold some proceedings in camera.
6. The Commission shall, as an aspect of its duties, determine applications by those parties, if any, or those witnesses, if any, to the public inquiry that apply to the Commission to have their legal counsel paid for by the Commission, and further, determine at what rate such Counsel shall be paid for their services.





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	Ian McDonald	<a href="#">20974-21139</a> (vol 104)
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<a href="#">February 28, 2006</a>	Kenneth MacKay	<a href="#">25914-26086</a> (vol 129)
	Serge Kujawa	<a href="#">26087-26157</a> (vol 129)
<a href="#">March 1, 2006</a>	Serge Kujawa	<a href="#">26162-26375</a> (vol 130)
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<a href="#">September 28, 2006</a>	Ronald Fainstein	<a href="#">39757-40006</a> (vol 190)



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<a href="#">October 4, 2006</a>	Patricia Alain	<a href="#">40453-40541</a> (vol 193)



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December 5	<a href="#">Commission to hear Final Oral Submissions</a>
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October 4	<a href="#">Final Submissions Scheduled</a>
October 4	<a href="#">Witness Testimony Concludes</a>
October 3	<a href="#">**Revised** Witness list (October 2 - 4, 2006)</a>

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August 23	<a href="#">Witness List (August 28-31)</a>
August 21	<a href="#">Williams Applies for Standing</a>
August 21	<a href="#">Queen's Bench Judgment Received</a>

- [July 2006](#)

July 5	<a href="#">Federal Justice serves Commission with Notice of Motion</a>
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June 1	<a href="#">Witness List (June 5 - 8,2006)</a>

- [May 2006](#)

May 25	<a href="#">Witness List (May 29 - June 1, 2006)</a>
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- [April 2006](#)

April 27	<a href="#">Witness List (May 1 - 4, 2006)</a>
April 25	<a href="#">Revised Witness List (April 24 - 28, 2006)</a>
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April 5	<a href="#">Public Hearing Resumes</a>

- [March 2006](#)

March 6	<a href="#">David Milgaard Testimony Complete</a>
March 2	<a href="#">Public Hearing Adjourned Until April 17, 2006</a>
March 1	<a href="#">Decision on Asper Application for Funding Released</a>

- [February 2006](#)

February 27	<a href="#">Commission receives Affidavit in Support of an Application for Funding by David Asper</a>
February 27	<a href="#">**Revised** Witness list (February 27 - March 2, 2006)</a>
February 23	<a href="#">Witness List (February 27 – March 2, 2006)</a>
February 22	<a href="#">Decision on Asper Application for Standing &amp; Funding Released</a>
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February 7	<a href="#">Decision on Milgaard Application</a>
February 7	<a href="#">Hearing Dates Cancelled, Schedule Revised</a>
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- [September 2005](#)

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August 11	<a href="#">Witness List (August 15 -18) REVISED</a>
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- [June 2005](#)

June 16	<a href="#">Hearing Adjourned Until August 15, 2005</a>
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- [May 2005](#)

May 25	<a href="#">Witness List (May 30 – June 2)</a>
May 9	<a href="#">PHASE 2- Witness List Released</a>

- [April 2005](#)

April 20	<a href="#">Hearing Adjourned Until May 30, 2005</a>
April 11	<a href="#">Commission to Request Partial Publication Ban</a> <a href="#">Request for Partial Publication Ban (PDF Document)</a>
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March 23	<a href="#">Hearing Adjourned until April 4, 2005</a>
March 23	<a href="#">Hearing Schedule Revised</a>
March 18	<a href="#">Witness List (March 21 - 24)</a>
March 11	<a href="#">Witness List (March 14 - 17)</a>
March 8	<a href="#">Ruling on Scope of Cross Examination Released</a>
March 6	<a href="#">Federal Minister of Justice Applies for Standing</a>
March 2	<a href="#">Witness List (March 7 - 10)</a>

- [February 2005](#)

February 25	<a href="#">Tallis Applies for Standing and Funding</a>
February 23	<a href="#">Hearing Adjourned Until March 7, 2005</a>
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January 10	<a href="#">Fisher's Standing To Be Reviewed</a>

- [November 2004](#)

November 18	<a href="#">Milgaard Inquiry Schedule Announced</a>
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- [June 2004](#)

June 1	<a href="#">Ruling Released on Additional Standing and Funding</a>
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- [April 2004](#)

April 14	<a href="#">Standing and Funding Hearing</a>
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**MEDIA CENTRE - Media Attendance in the Hearing Room**

## **Media Attendance in the Hearing Room**

1. Tables will be reserved in the hearing room for use by the media. A media feed will be provided.
2. Video taping and photography, using only the available room light, will be permitted. Cameras should be fixed on a tripod and set-up in the designated area within the hearing room. Cameras should be in place prior to the hearing being called into session and should not be removed from the tripod at any time during the hearing. The camera may be removed during a break in the proceedings.
3. Microphones or tape recorders may not be placed at the witness box, counsel tables, clerk's table or on the Commissioner's dais.
4. All cellular phones and pagers are to be turned off when entering the hearing room.
5. The Executive Director will act as the media relations officer for the Commission. All requests for interviews with Commission Counsel should be directed to the Executive Director.
6. Public exhibits may be viewed by the media in the hearing room. Public exhibits will also be available in electronic format at [www.milgaardinquiry.ca](http://www.milgaardinquiry.ca).
7. A complete transcript of the proceedings will be available in electronic format at [www.milgaardinquiry.ca](http://www.milgaardinquiry.ca). Transcripts will be available daily, usually within 4 hours after the proceedings are adjourned for the day.

### **All media requests should be directed to:**

Candace Cook  
Executive Director  
Telephone: (306) 787-0775  
Facsimile: (306) 933-8305  
Email: [milgaardinquiry@justice.gov.sk.ca](mailto:milgaardinquiry@justice.gov.sk.ca)